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# The Supreme Spectacle: An Analysis of Public Attendance at the Supreme Court

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**ABSTRACT**

While many are aware that the Supreme Court allocates seats for the public to view oral arguments, substantive analyses that have measured the motivations for attendance are lacking. I analyze who attends oral arguments using a descriptive approach with a novel dataset of public attendance at Supreme Court oral arguments during the 2019 term. A concurrent assessment of interviews conducted on argument days illustrates notable differences among the motivations of prospective attendees. I conclude by noting that although the linkage between latent case salience and the demand for admission to arguments is not neatly discernable, attendance at the Supreme Court offers an interesting divergence from perceptions of attendance in a traditional courtroom setting.

**KEYWORDS**

Supreme court; public opinion; civic engagement

## Introduction

What motivates members of the public to engage with the Supreme Court? To date, most researchers have focused on constructing analyses using public response surveys that investigate how members of the public formulate and express opinions about the Court (e.g., Caldeira 1987; Caldeira and Gibson 1992; Gibson and Caldeira 2009). That is, these studies have routinely been premised on the reality that respondents have never participated in a Supreme Court oral argument – either as counsel or as a bystander observing with other members of a public audience. As a result, scholars have largely framed the dynamics linking the public and the Court as one rooted in indirect interactions because the questions presented to survey respondents are often based on knowledge or experiences that they would have gathered indirectly through intermediary sources like media outlets.

With this, a goal for scholars should be to locate a comparable alternative that links members of the public to the judiciary through some behavior of direct engagement. Specifically, one that would promote some form of a heightened action or behavior that would otherwise require more effort to accomplish than simply consuming and translating information. With this exists a multitude of potential avenues to explore, such as measuring organized protests, social media activity, letter writing, or the publishing of op-eds. However, another avenue that remains under-discussed is physical attendance at oral arguments. Unraveling who attends oral arguments and their motivations for doing so could reveal new understandings of the most direct and personal interaction that members of the public can have with the Court. Yet, examining the dynamic through the lens of individual attendees often presents several empirical obstacles. For one, obtaining data on public attendance at oral arguments is notoriously difficult. Gauging public attendance at any

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argument would almost surely require researchers to physically count attendees in person. Even then, a hand count of attendees reveals little to no substantive understanding of their personal motivations. Instead, a thoughtful analysis of public attendance at the Supreme Court should sensibly consider both the quantitative and qualitative aspects of the dynamic. In this, we find a recent source of data that might offer relief to our search. During the 2019-2020 Supreme Court term, researchers at SCOTUSblog were able to record public line queue populations and conduct personal interviews with prospective attendees on oral argument days.[1] Their work reveals new and interesting insights into the volume of attendees at oral arguments, as well as their personal motivations and strategies for attendance.

The remainder of this article will continue as follows. First, I will offer a brief background of the extant literature concerning the public's engagement with the Supreme Court. Second, I will discuss how measuring public attendance at oral arguments offers a novel representation of why the public engages with the Court. I will subsequently offer a broader discussion of the quantitative and qualitative data collected by SCOTUSblog during the 2019-2020 term. Finally, I will conclude by offering a set of initial findings concerning public attendance at the Court's oral arguments.

## Public Attitudes and the Supreme Court

Analyzing public attitudes toward the Supreme Court has received an abundance of scholarly attention (e.g., Caldeira and Gibson 1992, 2009; Gibson and Caldeira 2009; Hitt and Searles 2018). This research has traditionally analyzed public attitudes towards the justices' decision-making through the lens of divisive and salient issue areas (e.g., Gibson and Caldeira 2011). Further, scholars have considered how framing by intermediary parties like media outlets can impact public perceptions and awareness (e.g., Baird and Gangl 2006; Epstein and Segal 2000; Hitt and Searles 2018; Slotnick and Segal 1999; Vining and Marcin 2014; Zilis 2015).

In this realm of research, consensus among scholars tends to emerge concerning two major premises. First, notwithstanding the political implications of its decision-making, the Court tends to enjoy comfortable degrees of support as an institution (Caldeira and Gibson 1992; Gibson and Caldeira 1992; Gibson and Spence 2003; Jaros and Roper 1980; Nicholson and Howard 2003). However, while institutional – or *diffuse* – support generally remains satisfactory, public support can fluctuate when respondents consider the possibility of partisan elements in their discrete – or *specific* – decision-making (Gibson and Caldeira 2011; Jaros and Roper 1980). This is an interesting contradiction in political behavior that is often unique to the Supreme Court and other judicial institutions. Even when the public supports the legitimacy of the Supreme Court as a political institution, the presence of partisan overtones in their decision-making can potentially hamper support for discrete decision-making.

Second, research also suggests that media coverage and framing influence public perceptions of the Court. Although actors within the other branches of government maintain an organized system of press offices that can frame their public image, the Court lacks a similar system. The Court's Public Information Office surely plays a role in communicating pertinent information, but it is unlikely that it helps to frame its public image or influence its media coverage.[2] This absence forces the institution to rely on media outlets to serve as an intermediary with the public (Clawson and Waltenburg 2003; Davis 1994, 2011; Haider-Markel, Allen, and Johansen 2006; Hitt and Searles 2018; Johnson and Socker 2012; LaRowe and Hoekstra 2014). However, even if the

[1]SCOTUSblog's Courtroom Access Special Feature is retrievable at: https://www.scotusblog.com/category/special-features/courtroom-access-2020/

[2]Vining and Wilhelm (2010) explore this dynamic through the lens of state supreme courts and find that having a public information officer does not influence levels of media coverage.

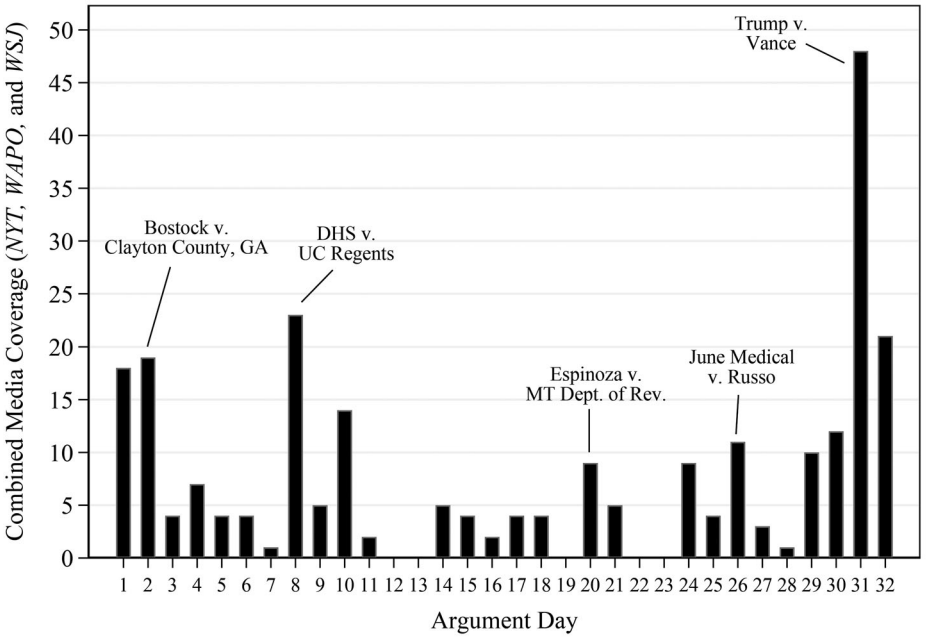
Court aims to continue its tradition of being viewed as an apolitical body, the modern structure of media framing tends to over-sensationalize its decision-making as politically driven (Hitt and Searles 2018; Spill and Oxley 2003; Zilis 2015). That's not to say that the Court is invariably presented as a partisan body, but rather that it has surely become a common theme. Further, as media framing has become more consistent in its presentation of a partisan Court, it has become evident that they have affected the public's perceptions of its politics and legitimacy (Baird and Gangl 2006; Caldeira 1987; Hoekstra 2000; Linos and Twist 2016).

Nonetheless, while prior analyses of public perceptions towards the Court might be pertinent, they do not fully extend to the same questions that this research aims to answer. Even if we possess an extensive understanding of what conditions might motivate the public to change their perceptions of the Court, it does not fully explain where the underlying motivational threshold for attendance is. Namely, it does not explain how perceptions of the Court, or even of individual cases, motivate an individual to view their interest or utility for attendance as great enough to devote the time and resources that attendance would require. Even more, it does not fully illustrate the variation of attendees themselves or their individualistic motivations for attendance. A critical analysis is required to better understand whether these factors are pertinent to an individual's calculus for attendance.

## Attendance at Oral Arguments

Legal proceedings are facilitated by local, state, and federal courts across the United States every day. If a passive observer was asked to consider who might attend oral arguments for deliberations in a case at their local courthouse, the most immediate answer would likely be to assume only those with a vested interest in the case itself. Especially in criminal proceedings, we could expect that those with immediate familial ties to the victim or defendant would be present in the courtroom. The same logic can be applied to civil proceedings if we consider those with an immediate financial or liberty interest in the outcome. Indeed, prior literature has often found that interest in specific cases can be influenced by a person's ability to identify a direct connection to the merits. For example, these works have observed instances where individuals exhibit heightened awareness or interest in specific cases that concern their occupations (Berkson 1978), social or religious beliefs (Franklin and Kosaki 1989), or even their geographic locations (Hoekstra 2000). However, trying to speculate on who will be present in a courtroom becomes more difficult once we move beyond those who are involved in the proceedings or maintain some direct connection to the merits. As such, we might expect that the broader audience of attendees would likely be contingent on perceptions of the case's importance (or saliency). For example, criminal proceedings like those of OJ Simpson between 1994 and 1995 stirred a media frenzy that captured a national audience. Beyond those immediately associated with the case, dozens of reporters and observers actively tried to attend the proceedings. However, cases like this, in addition to landmark or infamous civil litigation like *Bush v. Gore* (2000), represent a unique minority of cases where the demand for public attendance would surely exceed the limited space in any courtroom.

Prior literature has found ample evidence that the public's engagement with the Court's decision-making is tied to a case's coverage and framing by popular media (Baird and Gangl 2006; Haider-Markel, Allen, and Johansen 2006; Hitt and Searles 2018; Johnson and Socker 2012; Linos and Twist 2016). Theory posits that the degree of media coverage and public scrutiny that a case receives is reflective of its newsworthiness (Slotnick and Segal 1999; Vining and Marcin 2014) and latent salience (Clark, Lax, and Rice 2015; Epstein and Segal 2000). As such, cases with implications for landmark rulings would be expected to garner more public attention than those without. However, this leaves many important factors still to be considered. For one, this theory is rooted in indirect forms of engagement with the Court. That is, it answers questions concerning




*Note:* In-person public attendance at oral arguments postponed after Argument Day 26 (COVID-19 Pandemic)

**Figure 1.** Combined media coverage by Argument Day, October Term 2019-2020.

why members of the public might pay more (or less) attention to the coverage of individual cases, but it might not be sufficient to explain what factors motivate members of the public to attend oral arguments. One explanation could be that those attending the arguments are solely those that maintain a direct vested interest or connection to the outcome. Yet, we could just as easily expect that cases with greater degrees of latent salience could just as easily attract a crowd of interested viewers, rather than solely those with direct ties.

Second, in a similar vein, while all Supreme Court cases are important to some sectors of the legal community, they do not share a common degree of latent salience. Not every case will receive unending coverage by mainstream news outlets, nor will many receive more than a few lines in a single column space. For example, Figure 1 offers the total popular media coverage received by cases slated for different argument days during the 2019-2020 Supreme Court term from *The New York Times, The Washington Post,* and *The Wall Street Journal.* The variation is notable. Cases like *Trump v. Vance,* which broadly considered the president's immunity from state-level subpoena power of third-party financial records for criminal proceedings, garnered nearly 50 articles of coverage across the three outlets. Alternatively, there were four argument days across the term where none of the cases on the docket received any popular coverage.

Nonetheless, even when a case does not capture the national headlines, the chamber facilitating oral arguments at the Court is rarely empty. In fact, it is often far from it. Research should thus be devoted to examining the factors that motivate physical attendance at oral arguments. The data provided by SCOTUSblog offers a starting point to answer who attends Supreme Court oral arguments and why.

## SCOTUSblog's Courtroom Access Special Feature

Prior to the onset of the COVID-19 pandemic, a team of researchers at SCOTUSblog led an effort to investigate public attendance at the Supreme Court. As a result, they were able to

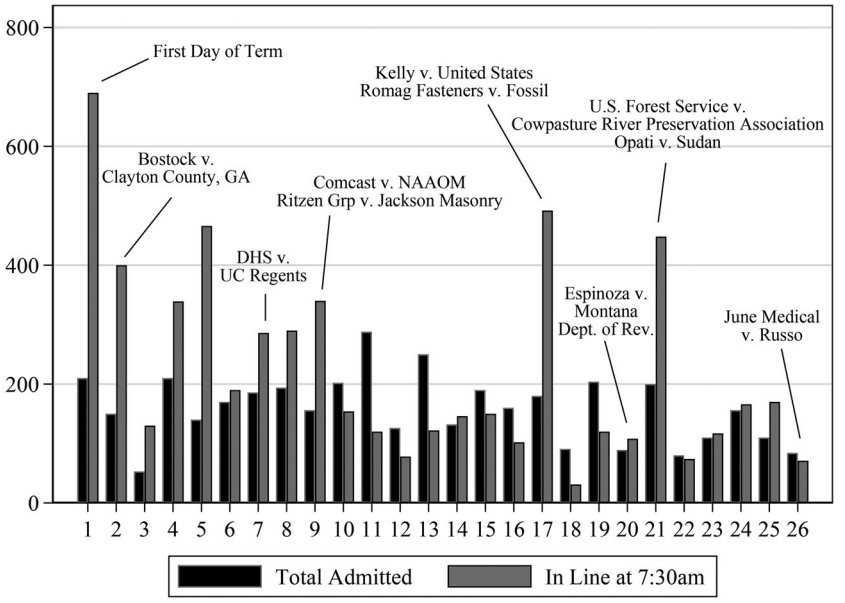



**Figure 2.** Oral Argument Attendance Statistics, October Term 2019-2020.

provide sets of qualitative and quantitative data in the forms of recorded line queues and personal interview excerpts from a majority of the Court's orally argued cases between October 2019 and March 2020.[3] The shuttering of the Court on March 19, 2020, effectively ensured that the organization's research efforts would not be able to include twelve argument days originally slated from March 23 to April 1 and April 20 to April 29. Among these omissions would include notable cases like *Trump v. Vance* (2020) and *Trump v. Mazars* (2020), both of which garnered substantial media attention due to the litigation's direct involvement of President Trump. However, a comparison of summary statistics comparing the 2019 term to 2018 offered no substantial differences – suggesting that the term (pre-COVID) is reflective of a normal court term.[4] As such, while SCOTUSblog's data might not represent a full rendition of the term, it nonetheless provides invaluable insights into argument days at the Court and sufficiently provides a general representation of variation we might expect under normal circumstances.[5]

## *Attendance Statistics*

Figure 2 illustrates public attendance for all Supreme Court argument dates between October 2019 and March 2020. Specifically, it offers a distinction between two primary measures of attendance. *Total Admitted* represents the total number of prospective attendees admitted for oral arguments on a given day. Within the courtroom chamber itself, the total number of available seats is largely dependent upon the discretion of the Court's Marshal. On any given day, only 50 of the 439 seats in the chamber are specifically reserved for public viewers. However, 25 seats are set aside for a "three-minute line" that allows members of the public to view arguments for three

[3]A summary of the cases heard during the 2019-2020 Supreme Court term is available from SCOTUSblog at: https://www.scotusblog.com/case-files/terms/ot2019/

[4]For example, the cross-term comparisons in opinion authorship, majority opinion (coalition) sizes, and issue area designations for the cases did not exhibit any dramatic variation.

[5]Multiple overtures were made to the Office of the Marshal at the Supreme Court for additional information and data related to attendance at the Court's oral arguments, all of which were denied.

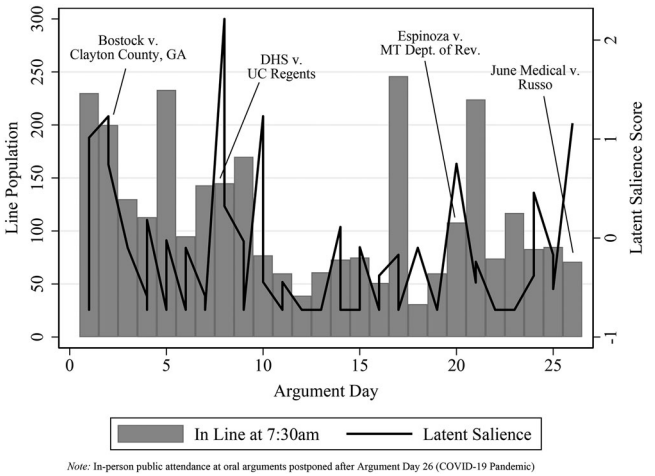



**Figure 3.** Oral Argument Line Queue Population (7:30 am) and Latent Salience.

minutes before being replaced by another group. The remaining seats are generally distributed in the following manner: 36 seats are allocated for members of the press, 37 for retired justices and their guests, 27 for the justices' clerks, and 78 for members of the Supreme Court bar. The remaining 186 seats, as Amy Howe (2020) notes, "… are known as the 'reserved seats' …," which are set aside for special groups of varying distinctions. However, when not specifically reserved, it is expected that this large section of seating is made available to the public. As we can see from Figure 2, the demand for seating routinely exceeds the supply.

*In-Line at 7:30 am* represents the total number of prospective attendees who were in line to receive an admission card when they were first distributed. The Court operates on a first-come, first-serve policy for admission. Every argument day begins at 7:30 am with the distribution of physical cards that must be returned for admission to one of the limited seats in the courtroom chamber. The population of the line queue – i.e., the demand for admission – is prospectively linked to the latent salience of an individual case. Figure 3 appears to reinforce this presumption, though there are some clear deviations. I represent latent salience using principal factor analysis, which provides the means to measure a latent variable – i.e., case salience – as an amalgamation of multiple indicators. The purpose of this approach was to overcome any substantive concerns from measuring salience as a reflection of independent factors. Instead, this strategy allowed me to represent salience on a common scale reflective of the volume of media coverage it received prior to and including the period composing each argument day in *The New York Times, The Washington Post,* and *The Wall Street Journal.* Rather than viewing the notoriety attributed to any argument day according to a single outlet's perceptions of importance, this approach provides a numerical representation of latent salience that considers the volume of aggregate coverage received among outlets whose journalistic focuses vary on issues of importance. As a result, argument days with greater notoriety concurrently observed among the outlets will reflect greater scores on the common scale. Overlaying a case's latent salience with the demand for admission produces a collection of interesting considerations.

Cases with greater degrees of latent salience did not always correspond with greater demand for admission. Even more, this trend appeared to become more pronounced as the term continued. While *Bostock v. Clayton County, GA* illustrates a strong correlation between higher demand and latent salience, three of the other major cases in the term that were identified as illustrating substantial degrees of salience – *DHS v. UC Regents, Espinoza v. Montana Department of Revenue,* and *June Medical v. Russo* – did not illustrate a similar degree of demand for

admission.[6] Similarly, cases slated for Argument Days 5 (*Barton v. Barr* and *Kansas v. Glover*), 17 (*Kelly v. United States* and *Romag Fasteners v. Fossil),* and 21 (*U.S. Forest Service v. Cowpasture River Preservation Association* and *Opati v. Sudan)* all exhibited lesser degrees of latent salience but exceptionally greater degrees of demand for admission. However, the pressing question that emerges from these descriptive results might not be whether the demand for attendance is contingent upon perceptions of latent salience. Instead, we should question what other mitigating factors might promote physical attendance. To fill this gap, we can turn to SCOTUSblog's qualitative data of attendee interviews.

## Personal Interviews

As noted previously, the team at SCOTUSblog interviewed prospective attendees to determine their motivations for attendance and personal strategies to assure their admission. Clearly, they were not able to interview every single attendee. To expect every attendee, or even a sizeable majority, to disclose their reasoning for attending arguments to interviewers is simply not practical. Of the nearly 2,950 attendees recorded in line across the term's argument days, approximately 125 disclosed their purpose for attendance to the team of researchers.[7] Nonetheless, the personal interviews that they were able to record offer insight into the decision-making and strategies of the public. I provide a sample of interview excerpts in Table 1 that were gathered across six argument dates. These were strategically chosen because they provide a framework to discern the various demographics and other characteristics that might serve as indicators for different types of potential attendees. Even more, these examples include the three argument days that required the earliest necessary arrival times to ensure admission, as well as the three latest arrival times. In essence, they represent the three dates with the greatest demand for public admission, as well as the three with the least demand. Each comment corresponds with an individual interviewed outside of the Court and combines general commentary with direct quotes on their reasoning and strategies for attendance.

From these examples and the full dataset of interview responses, it is apparent that respondents offered an informative set of differing reasons for attendance. However, some patterns do begin to emerge. Attendees generally fall into one of three non-mutually exclusive categories based on their association with the case(s): *direct, indirect,* and *passive*. The first group was motivated to attend arguments in large part because they claimed to possess some direct connection to the parties litigating the case. These individuals were often either directly related to the plaintiffs, respondents, or a member of counsel. For example, a respondent interviewed on November 9, 2019, for arguments in *CITGO v. Frescati Shipping Co.* and *Allen v. Cooper* noted that they were directly related to Frederick Allen, the plaintiff in the second case. Likewise, another on the same day noted that their spouse was a member of counsel in the *Allen* case. Examples like this emerge again in *DHS v. UC. Regents* (argued November 12, 2019), where one respondent even noted they were a plaintiff in the original litigation hoping to protect the Deferred Action for Childhood Arrivals (DACA) program. Another in line for *DHS* noted that their "wife is an attorney on the case." This group is especially interesting because they represent the conventional expectation of courtroom attendees. Due to their direct connection to the case, potentially both familial and with the merits, we could expect this group of individuals to be present in support

[6]It should be noted that data drawn from cases slated for March 2020 might have been impacted by the early stages of the pandemic, though deriving a direct causal linkage is not feasible. Most notably, attendance in *June Medical v. Russo* (argued March 4, 2020), a notable case concerning abortion, might have been deterred due to early public health concerns.

[7]This approximation is based on a combination of the direct disclosure of individuals' names recorded by SCOTUSblog to correspond with the interview, as well as times when the researchers included an approximation of the number of attendees in a group interviewed collectively – e.g., "[name omitted] + Georgetown University Law students and professor/TA" or "[name omitted] + 2 peers."

**Table 1.** SCOTUSblog courtroom access sample interview excerpts.

| Argument(s) | Nec. Arrival (Hrs. Prior) | Latent Salience | Respondent Commentary [**Location** (*If Available*)] |
|---|---|---|---|
| Kahler v. Kansas<br>Peter v. NantKwest<br>Ramos v. Louisiana | 25<br>25<br>25 | 0.46<br>−0.72<br>1.01 | • Called her trip to see the argument a *"once in a lifetime trip"*<br>• Has a personal connection to the *Kansas* case – Friends/ colleagues of attorney in the case and came to town just for oral argument **[Kansas].** |
| Bostock v. Clayton County<br>Harris Funeral Homes v. EEOC | 35<br>35 | 1.22<br>0.74 | • A staffer monitoring the line for Title VII arguments offered him, at 7:00am Monday, spot 53 in line for $800 – At that time there were 52 in line, and they would've put a chair down with rotating person to sit in it. **[Boulder, CO]**<br>• Has attended every LGBT argument since Prop 8. **[San Diego, CA]**<br>• *"I'm all about creating change and being the change when voters need to see."* **[Greensboro, NC]** |
| June Medical v. Russo | 25 | 1.15 | • Freshman at high school from **[Gaithersburg, Maryland]** - She skipped school and always wanted to see Court and it is less stress as a freshman than later in high school. She wanted to see a *big case*. History teacher said it was OK to skip, other teachers did not. |
| Rodriguez v. FEC<br>Atlantic Richfield v. Christian | 0<br>0 | −0.75<br>−0.44 | • Called the Court and said [it is not necessary to arrive prior to] 5:00 to 5:30(am) since it *"isn't a big case"*. Came to see the Court in action. **[Southern Virginia]**<br>• [Arrived] as early as she could get up. Came to see RBG and Court in action, but this one the many things she will do in DC. **[Little Rock, AR]** |
| Intel Corp v. Sulyma<br>Bannister v. Davis | 0<br>0 | −0.72<br>−0.72 | • Not a big argument day so they thought they could get in later. [**Washington, D.C.**]<br>• *"Took a best shot at latest time I could get in line and still see case"* She's just here to see Court in action. [**Alexandria, VA**] |
| Kelly v. US<br>Romag Fasteners v. Fossil | 0<br>0 | −0.16<br>−0.72 | • Friends advised her. She's supporting a friend involved in the *Kelly* case. [**Nashville, TN**] |

of one of the litigating parties regardless of if the case was being adjudicated at the Supreme Court or promoting a greater degree of latent salience.

The next group of individuals were those who maintained a connection to the case but without a direct association with the litigation itself. Notable examples of these groups emerge in especially salient cases like *Bostock v. Clayton County, GA* and *DHS v. UC Regents*. These cases, which considered Title VII protections against workplace discrimination on the basis of sexual and gender orientations and legal questions regarding the Deferred Action for Childhood Arrivals (DACA) program, respectively, produced both long line queues and respondent commentary that denoted a sense of personal and civic responsibility. As noted in Table 1, a respondent viewing arguments in *Bostock* noted that they have "attended every LGBT argument since Prop 8." Three separate respondents in line for *DHS* noted that they were in D.C. purely for the argument and to "provide moral support," presumably for those undocumented persons whose legal status in the United States would be in jeopardy if the DACA program were to end. Another even noted that they were in line to reserve space for other people from their human rights organization. What we find here are individuals who, while perhaps not directly related to the litigants or litigation, maintain a vested interest in the merits. However, the degree of that interest also varies. Some might view the case as worthy of attendance purely because of its latent salience. That is, they choose to attend arguments because the case itself is viewed as important, rather than because they feel some social or moral obligation. Others, like those we might be more inclined to see with cases that concern prominent social questions like female reproductive rights or discrimination, gauge their desire to attend because of a moral or social connection to the case – e.g., maybe the individual is an advocate or a member of the social or political community whose

legal rights are tangibly at risk by the case on the docket. It is difficult to gauge what underlying factors motivate this group, but SCOTUSblog's interview data illustrate that these conditions are indeed prevalent.

The final group can be considered *passive* attendees. These are members of the public who view their attendance at oral arguments as more of a tourist experience, rather than fulfilling some familial or civic duty. Interviews from these individuals frequently noted that they attended primarily to experience the Court (and especially Ruth Bader Ginsburg) in action and that they incorporated very little strategy to assure their admission. Likewise, the preponderance of respondents to indicate that they were likely members of this group were found most prevalently on argument days with lesser salient cases. This is not entirely surprising and could largely be explained by considering the limited number of seats within the chamber on argument day. If a *passive* attendee was going to strategize when to attend arguments, it would make sense to do so on a day where you might expect the lowest demand for admission. Alternatively, we must recognize that the Supreme Court is technically a museum that in many respects is as accessible as the Capitol building or the White House. It seems that there is always going to be a collection of attendees who are there primarily to experience the spectacle, rather than as a reflection of some personal connection to the case being argued.

On one hand, it seems apparent that cases with greater latent saliency garner a greater demand for public attendance, though there were some noticeable deviations from this trend as the term progressed. Whether a causal pathway between popular media coverage and attendance exists, or whether it is sufficient to motivate those with a vested interest in the outcome to actually attend arguments, remains difficult to determine definitively. Yet, these data reveal that both conditions are present – insofar as respondents were able to recognize the substantive importance of salient cases on the Court's docket. It initially seemed reasonable to expect that the Court attracts an audience similar to a conventional courtroom setting – i.e., an audience limited to those with a familial or indirect interest in the case itself. Yet, what SCOTUSblog's data reveals is a noticeable deviation from this expectation. Considering that much of the respondent's comments revealed a passive reason for attendance, it is possible that a sizable portion of the occupancy at a Supreme Court oral argument might be nothing more than passive tourists. This seemed especially prevalent on argument days when the docketed case(s) did not promote a strong sense of latent salience or any alternative perception of substantive importance.

## Discussion

This research aimed to analyze attendance at Supreme Court oral arguments through an examination of latent saliency and personal motivations. Data from SCOTUSblog's Courtroom Access Special Feature provided novel quantitative and qualitative measures of public attendance at Supreme Court arguments during the 2019-2020 term. A descriptive approach revealed a collection of interesting considerations. Namely, the latent salience of docketed cases on any given argument day and the preponderance of demand for attendance appear to present nominal degrees of correlation. Cases with exceptionally greater latent salience – as depicted by an underlying measure of popular media coverage – generally produced a high demand for attendance. However, there were some notable deviations throughout the term where high salience was met with lackluster demand for attendance.

Shifting the focus to the qualitative aspects of attendees offers a clearer set of results. Cases with greater latent salience, and especially those considering pertinent social or political questions, often yielded responses from attendees that illustrated a personal connection to the merits. These individuals viewed their attendance as fulfilling some form of familial or civic duty. Alternatively, cases with lesser salience often produced more *passive* attendees that often viewed their time at the Court as a tourist experience. While the notion that a sizeable percentage of attendees for

oral arguments present little-to-no direct investment in the cases themselves might come as a surprise, it illustrates multiple underlying questions that future works should consider.

First, while we might expect the degree that the public is aware of decision-making by the Court to be directly tied to popular media coverage and other measures of latent salience, do the same conditions motivate physical attendance? Simply put, does popular media coverage motivate the public's awareness and desire to attend, or is the linkage potentially backward or entirely non-existent? As noted, the results from this term appear somewhat mixed. Cases with the greatest degrees of latent salience tended to produce the greatest demand for attendance, but there were also a handful of argument days where this was not fully observed. Further, there were argument days with greater demand for attendance that corresponded with lesser salient cases. Disseminating the different types of attendees by group (*direct, indirect,* and *passive*) offered a clearer illustration of who might attend arguments and why, but it does not fully answer whether the latent salience of a case can substantially motivate or deter the demand for attendance.

Another question that begs discussion is the extent to which the proportion of the different types of attendees fills the courtroom on a given day. The sample of respondent comments from this term offer key insights into the emerging patterns mentioned previously, but we must recognize that this sample is surely not the entire population. Understanding a full population of attendees' motivations for attendance, or perhaps even a sizeable majority, might solidify any conclusions about the population of individuals that attend certain arguments. Further, with greater data accumulation comes the ability to apply more rigorous methods to test the preliminary conclusions that emerge from this analysis

While the substantive implications of this work are understandably limited by the sheer lack of observational data, it is my hope that it serves as a first step. Until now, scholars have yet to possess a practical avenue to study the factors that motivate members of the public to attend oral arguments. An analysis of these individuals surely warrants scholarly attention for at least three major reasons. First, understanding public response to elite government action represents a cornerstone of the social sciences. Yet, an analysis that bridges public engagement and responses to judicial decision-making in a fashion similar to observing voter responses to decision-making by the elected branches has not been achievable. This analysis offers an avenue to answer those questions by providing a form of civic engagement that considers how and why members of the public engage with the Supreme Court. Second, it offers key insight into what motivating factors push members of the public to attend arguments. While I find evidence that a sizeable population attends arguments to fulfill some personal or civic duty because of their interest in the merits, a broader collection of quantitative and qualitative data would allow us to understand that linkage more definitively. Finally, it offers the ability to test whether the Supreme Court is a unique judicial institution through an under-discussed lens. It is possible that most individuals might perceive the Court's occupancy on a given day to be the same as their local courthouse. These results reveal that public attendance is by no means limited to those with a vested personal interest in the outcome. Whether they be indirectly connected to the case because of their interest in the merits, or perhaps completely passive in their reason for attending, SCOTUSblog's methodology offers an avenue to explore this dynamic further.

Admittedly, collecting a broader set of data to test these questions and conclusions is easier said than done. One of the primary reasons why this dataset might be interesting is because it is truly unique. The team at SCOTUSblog required a small team of investigators to be stationed at the Court daily to measure accurately, and I would imagine that any further attempts to replicate this analysis would require a similar effort. The difficulty of obtaining data from the Supreme Court assures as much. Multiple overtures were made to the Office of the Marshal to request additional data and other resources pertaining to attendance at the Court's oral arguments, and all were denied. Although a systematic process for admission does exist, it is unclear whether sufficient records are maintained or if the Court would even be willing to disclose any relevant data.

However, while replicating this study for future terms or perhaps conducting a post-hoc survey across a broader and more voluminous demographic of attendees might prove difficult, it is not impossible. SCOTUSblog proved that proper resources and a degree of patience can provide novel data for studies beyond the normal realm of observing the dynamics linking the public and the nation's highest court.

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## References

Baird, V. A., and A. Gangl. 2006. "Shattering the Myth of Legality: The Impact of the Media's Framing of Supreme Court Procedures on Perceptions of Fairness." *Political Psychology* 27(4): 597–614. doi: 10.1111/j.1467-9221.2006.00518.x.

Berkson, L. C. (1978). The Supreme Court and its publics: The communication of policy decisions. Great Source Education Group.

Bush v. Gore, 531 U.S. 98 (2000)

Caldeira, G. A. 1987. "Public Opinion and The U.S. Supreme Court: FDR's Court-Packing Plan." *American Political Science Review* 81(4): 1139–1153. doi: 10.2307/1962582.

Caldeira, G. A., and J.L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36(4): 635–664. doi: 10.2307/2111585.

Clark, T. S., Lax, J. R., & Rice, D. (2015). Measuring the political salience of Supreme Court cases. *Journal of Law and Courts*, *3*(1), 37–65.

Clawson, R. A., and E. N. Waltenburg. 2003. "Support for A Supreme Court Affirmative Action Decision: A Story in Black and White." *American Politics Research* 31(3): 251–279. doi: 10.1177/1532673X03251197.

"Courtroom Access." 2020. *SCOTUSblog.* https://www.scotusblog.com/category/special-features/courtroom-access-2020/

Davis, R. 1994. *Decisions and Images: The Supreme Court and the Press*. Pearson College Div.

Davis, R. 2011. *Justices and Journalists: The U.S. Supreme Court and the Media* Cambridge University Press.

Epstein, L., and J. A. Segal. 2000. "Measuring Issue Salience." *American Journal of Political Science* 44(1): 66–83. doi: 10.2307/2669293.

Franklin, C. H., & Kosaki, L. C. (1989). Republican schoolmaster: The US Supreme Court, public opinion, and abortion. *American Political Science Review*, 83(3), 751–771.

Gibson, J. L., and G. A. Caldeira. 1992. "Blacks and the United States Supreme Court: Models of Diffuse Support." *The Journal of Politics* 54(4): 1120–1145. doi: 10.2307/2132111.

Gibson, J. L., and G. A. Caldeira. 2009. "Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court." *The Journal of Politics* 71(2): 429–441. doi: 10.1017/S0022381609090379.

Gibson, J. L., and G. A. Caldeira. 2011. "Has Legal Realism Damaged the Legitimacy of the U.S. Supreme Court?" *Law and Society Review* 45(1): 195–219. doi: 10.1111/j.1540-5893.2011.00432.x.

Gibson, J. L., Caldeira, G. A., and L. Spence. 2003. "The Supreme Court and the US Presidential Election of 2000: Wounds, Self-Inflicted or Otherwise?" *British Journal of Political Science* 33(4): 535–556.

Haider-Markel, D. P., Allen, M. D., and M. Johansen. 2006. "Understanding Variations in Media Coverage of U.S. Supreme Court Decisions: Comparing Media Outlets in Their Coverage of Lawrence v. Texas." *Harvard International Journal of Press/Politics* 11(2): 64–85. doi: 10.1177/1081180X05286065.

Hitt, M. P., and K. Searles. 2018. "Media Coverage and Public Approval of the U.S. Supreme Court." *Political Communication* 35(4): 566–586. doi: 10.1080/10584609.2018.1467517.

Hoekstra, V. J. 2000. "The Supreme Court and Local Public Opinion." *American Political Science Review* 94(1): 89–100. doi: 10.2307/2586382.

Howe, A. 2020. "Courtroom Access: The Nuts and bolts of courtroom seating – and the lines for public access." SCOTUSblog. https://www.scotusblog.com/2020/04/courtroom-access-the-nuts-and-bolts-of-courtroom-seating-and-the-lines-to-gain-access-to-the-courtroom/

Jaros, D., and R. Roper. 1980. "The U.S. Supreme Court: Myth, Diffuse Support, Specific Support, and Legitimacy." *American Politics Quarterly* 8(1): 85–105. doi: 10.1177/1532673X8000800105.

Johnson, T., and E. Socker. 2012. "Actions, Factions, and Interactions: Newsworthy Influences on Supreme Court Coverage." *Social Science Quarterly* 93(2): 434–463. doi: 10.1111/j.1540-6237.2012.00842.x.

LaRowe, N., and V. Hoekstra. "On and Off the Supreme Court Beat: Differences in Newspaper Coverage of the Supreme Court and the Implications for Public Support." Chapter. In *Covering the United States Supreme Court in the Digital Age*, edited by Richard Davis, 126–52. Cambridge: Cambridge University Press, 2014.

Linos, K., and K. Twist. 2016. "The Supreme Court, the Media, and Public Opinion: Comparing Experimental and Observational Methods." *The Journal of Legal Studies* 45(2): 223–254. doi: 10.1086/687365.

Nicholson, S. P., and R. M. Howard. 2003. "Framing Support for the Supreme Court in the Aftermath of Bush v. Gore." *The Journal of Politics* 65(3): 676–695. doi: 10.1111/1468-2508.00207.

Slotnick, E. E., and J. A. Segal. 1999. *Television news and the Supreme Court: All the news that's fit to air?* New York, USA: Cambridge University Press.

Spaeth, H., Epstein, L., Martin, A. D., Segal, J. A., Ruger, T. J., and S. C. Benesh. 2020. "Supreme Court Database, Version 2020 Release 01." http://Supremecourtdatabase.org

Spill, R. L., and Z. M. Oxley. 2003. "Philosopher Kings or Political Actors-How the Media Portray the Supreme Court." *Judicature* 87(1): 22–29.

Vining, R. L., and P. Marcin. 2014. An Economic Theory of Supreme Court News. *Political Communication* 31(1): 94–111. doi: 10.1080/10584609.2012.747189.

Vining, R. L., and T. Wilhelm. 2010. Explaining High-Profile Coverage of State Supreme Court Decisions. *Social Science Quarterly* 91(3): 703–723 doi: 10.1111/j.1540-6237.2010.00715.x.

Zilis, M.A. 2015. *The Limits of Legitimacy: Dissenting Opinions, Media Coverage, and Public Responses to Supreme Court Decisions*. University of Michigan Press.