

## **Supreme Court Influence and the Awareness of Court Decisions<sup>†</sup>**

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## **Supreme Court Influence and the Awareness of Court Decisions**

### **Abstract**

Using survey data collected about public opinion three issues before the Supreme Court during its 2004 term, we seek to measure the impact of oral arguments and decisions issued by the Court on public awareness of Supreme Court cases. We seek to improve upon the methodology typically used in this type of study by using quasi-experimental design with the Court decisions as the stimulus of hypothesized public awareness change. Our work assesses the impact of an elite signal on mass opinion, something difficult for public opinion researchers to do because elite signals tend to be difficult to anticipate.

## **Introduction**

In the wake of the Supreme Court's landmark decision in *Lawrence v. Texas* striking down statutes prohibiting homosexual sodomy, nearly every major public opinion survey tracked a decline in public support for homosexuality as an acceptable behavior (Bowman 2003). This decline reversed a growing acceptance of homosexuality that tracks as far back as most public opinion polls have asked the question. Public opinion may have retreated from growing tolerance of homosexuality not due to the Court decision itself, but because the *Lawrence* decision was characterized as the beginning of a slippery slope toward the legalization of gay marriage.

The movement in tolerance of homosexuality following *Lawrence* only added to the confusion surrounding Supreme Court impact on public opinion. Scholars have long noted that there is a reciprocal relationship between the perception of the Court as an institution and approval of particular decisions (Mondak and Smithey 1997). One side of this relationship has been relatively well explored—the impact of decisions on perception of the Court (see, e.g., Gibson and Caldeira 2006; Gibson, Caldeira and Spence 2003b), and scholars appear to be content with a model that suggests that unpopular decisions may impact evaluations of the Court as an institution, but that impact is temporary (Gibson, Caldeira and Spence 2003b; Mondak and Smithey 1997).

On the other side of the reciprocal relationship—the ability of the Supreme Court to mild public opinion through its decisions—disagreement is far more widespread. Scholars have long searched for evidence that the Supreme Court, as the most highly regarded federal institution in the United States (Kritzer 2005), has a legitimating (positive) effect on public opinion. Because the public believes the law has a “clear, fixed meaning, that legal rules decide cases, and that the judiciary is merely a mouth-piece of self-interpreting, self-enforcing law” (Adamany 1973, 791; internal citations omitted), the Supreme Court is

viewed not as a political institution but as an institution whose “main task is to confer legitimacy on the fundamental policies of the successful coalition” (Dahl 1957, 294).

However, a necessary condition for a Supreme Court decision to have persuasive impact on the individuals in the polity is that citizens must be aware of the case being before the Court. In this paper, we attempt to develop a more complete understanding of the important step prior to that persuasion taking place: explaining the variation in the awareness of Supreme Court cases. We do this using data collected specifically for that purpose, making the argument that the institution of the Court itself, the media, and other group cleavages all play a varying role in how individuals find out about issues before the Court and the decisions that the Court makes.

### **Public Awareness of Political Events**

In recent years, the view of the typical member of the American public as lacking ideological (or any other) constraint or any consistent set of attitudes altogether has been challenged. Even though they possess limited political knowledge, people are capable of making reasoned decisions based on heuristics derived from life experiences or cues from trusted sources of information (Zaller 1992; Sniderman, Brody and Tetlock 1991; Sniderman 1993).<sup>1</sup> Individuals pay a cost for their attention to the news media, and that cost is related to their cognitive capacity; people with greater capacity pay less of a cost to remain abreast of current events, while those with fewer cognitive skills accept more of a cost. As a result, the absorption of news events is uneven across the public, and individuals can only be counted on to absorb that information which they believe will provide them with new knowledge (Sniderman 1993; Sniderman, Brody and Tetlock 1991, Lupia and McCubbins 1998, Baum 2003).

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<sup>1</sup> Not all agree with this perspective, namely Popkin (1994) who has termed this “low information rationality.”

The understanding of how individuals receive and process political information is further complicated by the medium by which the message is communicated. The mechanism by which the public receives information evolves quickly as technology provides ever-increasing and ever-more targeted ways to generate information. Much of what political scientists know about how citizens get their political information occurs in a world dominated by major television networks, not the fractured and polarized media that characterizes the modern news environment.

Despite the fracture of media, individuals retain some skills at processing that information, but scholars do not fully understand the conditions under which individuals pay more or less attention to a particular event. Delli Carpini and Keeter (1996) have demonstrated that the amount of the public's factual knowledge about politics has remained largely consistent over time, suggesting a limited capacity inside an environment with substantially more information. Baum (2003) argues that if individuals' attention capacities have remained fairly constant and their capacity to screen out unwanted information has remained robust, then there remain only two plausible explanations for any change in attentiveness to news events (for Baum, foreign policy crises). First, the perceived benefit/impact of information about issues has increased. Alternatively, the cognitive cost of paying attention to such information may have declined.

The first possibility, according to Baum, is implausible. Public opinion surveys routinely indicate that individuals see little benefit to added information. Despite sea changes in the media environment, political knowledge, and participation in politics have remained largely constant, suggesting Americans adapt to new sources of information in ways not fully understood by political communication scholars (Delli Carpini and Keeter 1996; Niemi et al. 1989, Baum 2003, Bennett 1986). Supreme Court decisions, as discrete and predictable political events, give scholars an opportunity to assess the degree to which

individuals pay attention to the political process. In particular, one might expect that as the media fractures and individuals grow to rely on media sources beyond broadcast networks and newspapers, that the effect of Court decisions on public awareness of an issue would be uneven—increasing salience in some components of the polity and having no effect on others.

### *Supreme Court Decisions as Political Events*

One might suspect uneven dispersion of awareness because there is a widely held belief that knowledge about political issues tends to be domain specific (Iyengar 1990)—meaning that knowledge varies across issue areas, depending upon an individual's personal priorities is more general and not issue-specific (e.g., Zaller 1992). For most Americans, there are *some* political issues that are of interest under *some* circumstances. Such individuals tend to pay attention to politics only when a particularly high profile debate arises involving issue areas where they perceive themselves as having a substantial personal stake (Baum 2003). In the context of Supreme Court cases, different decisions likely affect different subgroups of the populations: African Americans may be more closely attuned to Supreme Court decisions on the death penalty or affirmative action than whites; women and evangelical Christians may follow the Court's abortion jurisprudence more closely than the rest of the public. Accordingly, we argue that attention to Supreme Court decisions may not be universal; rather their impact may be observed in affected populations or groups, which vary from case to case.

There is a fair amount of evidence of this phenomenon in studies of the impact of Supreme Court decisions on public opinion. Franklin and Kosaki find that opinion change in response to Supreme Court decisions is contextual in that it depends on an individual's social interactions. They argue that "homogeneity in the social environment is the key variable in attitude change in response to court decisions" and that those who are "solidly

embedded in their environment...are most likely to be affected by the group norms” (Franklin and Kosaki 1989; 764). In addition, Hoekstra (2000; 2003) argues that awareness of Court decisions is greater in communities from which the cases originate; members of the surrounding community (who are in the same media market) should be exposed to information, but the decisions have low personal salience with those not from the area. Residents of the immediate community, on the other hand, should also be exposed to the higher levels of information but their opinions should not change along the lines suggested by a Court decision because the issue salience is too great.

Work on public awareness of Court decisions has established that Supreme Court decisions can influence the public consciousness (Franklin, Kosaki, and Kritzer 1993; Franklin and Kosaki 1995). Franklin, Kosaki, and Kritzer use a rolling cross-section (60 interviews weekly across a 29-week period) to assess the impact of Supreme Court decisions on public awareness; they find strong evidence that the public is aware of Supreme Court decisions. Focusing on Court decisions in the 1991-92 term, they also find that Court decisions made later in the term tend to produce greater increases in awareness; they speculate that the Court’s tendency to hold more controversial decisions for later in the term helps explain this phenomenon. Relative to presidential events over a different time period (early 1993), they conclude that “Supreme Court decisions draw substantially more limited notice. Even the more visible Court decisions we studied showed only a third to a half the level of awareness as some Presidential events” (Franklin, Kosaki, and Kritzer 1993; 22). Nonetheless, there appears to be less “background noise” (random fluctuation in public awareness) for Court decisions than for presidential events.

Hoekstra (2003) argues that “if citizens learn about different Court decisions based on information available and salient to them, then looking for uniform national level effects is misguided” (2003; 3). She finds that variation in attentiveness to Supreme Court cases

occurs geographically; arguing that those in local communities pay more attention and attach more importance to Supreme Court decisions that affect their community than other communities do (by implication, localities pay more attention to cases that affect them directly than other cases). Hoekstra also finds attentiveness rates higher in affected communities than those reported by Franklin, Kosaki, and Kritzer (1993) for comparable cases, suggesting that attention might vary by level of interest in a particular case.

Whereas Hoekstra establishes the proposition that interest in Supreme Court activity varies geographically, we aim to test the proposition that it varies by issue area. Different subgroups within the population may be more interested in a case than the population as a whole. If, as scholars who study news media and political awareness suggest, news attention is focused on an individual's interests and rarely reflects a broad desire to be an educated participant across the issues of the day, then different classes of individuals should pay more attention to different Supreme Court cases than the rest of the population. This variation on the theme sounded by Hoekstra suggests that concrete interest in community affairs can also manifest itself in a less closely-knit community—citizens who share the same interests but may never interact with one another as they are flung across a nation of diverse attentions and interests.

### *Media Coverage of Supreme Court Decisions*

For Supreme Court decisions to have such an impact, they must overcome media coverage of the Supreme Court that is sporadic, inconsistent, and non-reflective of the diversity of the Supreme Court's docket. In particular, media coverage tends to focus on civil rights and civil liberties issues while ignoring economic cases decided by the Court (or not decided, in the case of high-profile *cert.* denials) (Spill and Oxley 2003; 28). When the media do report Supreme Court decisions, the coverage is often cursory: Spill and Oxley, in their study of print and television coverage of the 1998 term, report that half of the stories

they analyzed were 16 sentences or fewer in length (18.3 sentences, on average, for newspaper stories and only 10.3 sentences for television stories) (2003, 27). Newspaper stories tend to reflect more of the legal components of a case than television stories, adding focus on case facts, issue history and the Court's justification for the decision, while television coverage is more likely to focus on the political implications of the Supreme Court's decisions. These differences in coverage may suggest that individuals who read newspapers receive different information about the Court than those who rely solely on television for their political information. As a result, one might speculate that newspaper readers and television viewers may react differently to the same event; Spill and Oxley raise (yet reject) the possibility that "differing levels of [diffuse] support for the Court between the more and less attentive segments of the public result from the sources of their digested information" (2003; 29).

While there has been considerable attention given to how the media (mis)covers the Supreme Court (Slotnick and Segal 1998; Spill and Oxley 2003), that research has not translated into effective study of the impact of that media coverage, leaving scholars to do little more than speculate on the relationship between media coverage and diffuse support for the Supreme Court. We add one piece to that puzzle, looking at the determinants of public awareness of Supreme Court activity. The argument that the Court impacts public opinion on issues (Franklin and Kosaki 1989; Hoekstra 2003; Johnson and Martin 1998; Scott and Saunders 2006) and that discrete Supreme Court decisions impact the reservoir of support for the Court (Mondak and Smithey 1997; Gibson, Caldeira, and Spence 2003b) presuppose that the public is aware of these Court activities. Grosskopf and Mondak (1998) document, for example, the impact of *Texas v. Johnson* on public evaluations of the Court. Scholars can safely assume that landmark decisions permeate the indifference of the public. But scholars know far less about the impact of less salient decisions on public awareness of

the Court's activities. In this paper, we attempt to address the impact of Court decisions on public awareness. We test response to three Supreme Court decisions from the 2004 Term of the Court: *Van Orden v. Perry* (public display of the Ten Commandments), *Roper v. Simmons* (juvenile death penalty), and *Raich v. Gonzales* (medical marijuana).

## **Hypotheses**

At the core of our argument is the notion that media coverage is essential to public awareness of the decisions, and that not all Supreme Court decisions receive equal amounts of media attention. Accordingly, we first argue:

**Hypothesis 1:** *The public will be more likely to be aware of a Supreme Court case after the Court issues a decision than before the decision.*

**Hypothesis 2:** *The more media attention given a Supreme Court case and decision, the more likely that individuals will be aware of the Court decision.*

Hypothesis 1 sets out the basic premise that the Court can increase issue awareness simply by making a decision. But such a straightforward hypothesis does not tell us much about how media coverage influences public perception of issues where the Court has made a decision. Media attention varies not across individuals, but across cases, requiring analysis of several Supreme Court decisions and the media coverage given each case. Furthermore, one might mistake general attention to the Supreme Court for media attention to a particular case, so respondents may recall hearing something in the news that deals with the Supreme Court (particularly in late June) and attribute it to a particular case. Appropriate research design can certainly test this possibility and consider ways to reduce the problem of spurious results affecting the findings.

Individuals also vary considerably in their attentiveness to current political events. The quantity and quality of the information they receive will certainly influence their ability to appreciate the events of the day. Because Supreme Court decisions generally do not permeate the public consciousness the way major news events (presidential campaigns,

wars) do, and the attention given them in the media is brief rather than extended, we expect that those individuals who pay more attention to the news will be more likely to be aware of Supreme Court decisions.

**Hypothesis 3:** *The more attention individuals pay to the news, the more likely they will be aware of a Supreme Court decision.*

Relatedly, not all news sources are created equal. As Spill and Oxley (2003) demonstrate, coverage of Supreme Court decisions is more thorough in newspapers than in television news. Accordingly, we expect:

**Hypothesis 3a:** *Individuals who read the newspaper regularly will be more likely than those who view television news regularly to demonstrate awareness of Supreme Court decisions.*

Finally, as we suggested above, the impact of Supreme Court decisions will vary across subgroups of the population. Individuals are unlikely to pay full attention to every Supreme Court decision, but much more likely to pay attention to those decisions they perceive to impact their lives more directly. While some have argued that this awareness can be tested in the context of geographic variation of the same case (Hoekstra 2000; 2003), that variation may also occur across cases within different segments of the population.

**Hypothesis 4:** *The more individuals care about a particular issue, the more likely they are to be aware of a Supreme Court decision in that area.*

This hypothesis is largely consistent with the notion that political information is not spread evenly throughout the populace; rather different groups of people have different levels of information about different components of the national political agenda.

**Hypothesis 5:** *Supreme Court oral arguments should increase awareness of an issue.*

Decisions are not the only Supreme Court events that generate news coverage; the Court's decision to grant or deny *certiorari*, the latter of which is often referred to incorrectly as a "decision" by the media (Slotnick and Segal 1998), also generates media attention. Furthermore, oral arguments themselves can be treated as news events by the

national media and local media when a case from “home” is heard by the Court. But coverage of these events is even more sporadic than coverage of decisions, so public awareness of oral arguments in a case may be less likely to increase public awareness of a case than the Court decision itself. Nonetheless, the media coverage may be sufficient to increase public awareness of specific components of Supreme Court activity. Accordingly, we argue that:

### **Methodology**

The potential methodological flaws mentioned earlier suggest that an ideal research strategy requires development of a survey instrument tailored to the purpose of assessing the impact of the many hypothesized factors, including Supreme Court decisions, on awareness of cases before the Court.<sup>2</sup> Doing so involves creating questions that map directly to Supreme Court cases and timing waves of the survey to match important dates in the progression of a Supreme Court case, particularly the day the Court issues a decision. We do so utilizing a quasi-experimental research design that allows us to test the impact of the *Van Orden*, *McCreary County*, *Roper*, and *Gonzales* decisions on public opinion. The predictable nature of the Supreme Court decision cycle allowed us quasi-experimental leverage over the main stimulus in this research design (Cook and Campbell 1979).

We administered a four wave, repeated cross-section survey with approximately 300 respondents in each wave. The survey was an RDD telephone survey of all American

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<sup>2</sup> We discussed these potential flaws in more detail in some of other research we have conducted from this project (see Scott and Saunders 2006). To be brief, previous research has encountered the problem of having as much as a year between waves of a survey (using the General Social Survey, as Franklin and Kosaki (1989) and Johnson and Martin (1998) do, at least in part), we attempt to solve the problem of attribution by increasing proximity of survey administration to the Supreme Court decision. This reduces, but does not eliminate, the possibility that observed change in public opinion can be attributed to some cause other than the Court's decision, but represents a substantial improvement over previous general-use surveys that have been used to study the impact of Court decisions on public opinion

households with home telephones in the continental United States.<sup>3</sup> Respondents were randomly selected within the household once the household was contacted.<sup>4</sup> Average survey length in all four waves (the instrument remained the same for all four waves) was 14 minutes. The first wave occurred February 15-28 2005. The second wave was completed March 8-April 19 2005. The third wave was administered June 28-July 26 2005, followed by a fourth wave administered October 3-24 2005. The waves bracket oral arguments for *Van Orden/McCreary County* (between waves 1 and 2), the decisions in *Van Orden/McCreary County* and *Gonzales* (between waves 2 and 3) and the decision in *Roper* (also between waves 1 and 2). For each model estimated below, the waves are collapsed into pre- and post-decision waves; for *Roper*, Waves 2-4 are post-decision waves, while Waves 3-4 are post-decision waves for the Ten Commandments and medical marijuana cases. For the Ten Commandments cases, we also have pre- and post-oral argument waves, so Wave 1 precedes oral arguments, Wave 2 precedes the decision, and Waves 3 and 4 follow the decision.

Some have criticized the use of repeated cross-sections to measure the impact of Supreme Court decisions, arguing that, among other problems, repeated cross-sections require that between-subject change be measured, whereas panel studies can measure within-subject change (Hoekstra 2003).<sup>5</sup> Aside from the prohibitive cost of panel studies and problems of mortality, panel surveys inevitably serve to cue respondents to pay

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<sup>3</sup> Question wording is provided in Appendix A. Summary statistics for the variables used in this study are provided in Appendix B.

<sup>4</sup> Information about contact and response rates is reported in Appendix C.

<sup>5</sup> One of the greatest problems created by using repeated cross-section design is that one cannot test the hypothesis that those respondents who are more supportive of the Court are more likely to change their positions on an issue as a result of the Court decision. This cannot be tested because one has to assume that the composition of the different groups on the independent variables remains constant before and after the stimulus. While this is a reasonable assumption for most categories (i.e., Catholics before the Court decision are likely to be Catholics after the decision), it is an overly restrictive to assume that Court support will not be affected by the decisions of the Court (Grosskopf and Mondak 1998; Hoekstra 2003). Acknowledging this problem, we note that the one panel study that did test this hypothesis (Hoekstra 2003) found no relationship between support for the Court and opinion change after a Court decision.

attention to external stimuli (here, Supreme Court decisions), thereby introducing bias into our measurement of the dependent variable and creating the possibility that respondents only report having heard of the cases because they were asked about them in an initial wave of the survey. Though there are certainly tradeoffs in the approach, we prefer to use the repeated cross-section approach to avoid priming interview subjects in a way that makes generalizing from the sample to the population problematical.

Finally, we add a question designed to account for the possibility that respondents misrepresent their awareness of an issue or misjudge heightened coverage of the Supreme Court for coverage of a particular issue. In all 4 waves of the survey, respondents were asked about their opinions on same-sex marriage and if they have heard of a Supreme Court case about same-sex marriage. We compare those results to the results for the *real* cases to strengthen our causal claim that it is coverage about a particular decision, not just increased coverage of the Court, that individual respondents report when they answer the question. Several other methods to handle misreporting are possible, including “recall” questions about an issue that do not mention the Supreme Court (Franklin, Kosaki, and Kritzer 1993; Hoekstra 2000; 2003).

### *Measuring Media Coverage*

In order to find the best proxy that we can for salience in the public sphere and provide a context for our further analysis of the effects of these decisions, we performed a content analysis of news stories germane to the policy areas of three Supreme Court cases we will further analyze below. We conducted this analysis using articles found in three nationally circulated newspapers: *The New York Times*, *USA Today*, and the *Washington Post* over the course of the year-long cycle covered by our study by utilizing Lexis-Nexis.<sup>6</sup>

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<sup>6</sup> For each issue area, we coded only germane news stories and opinion pieces. We also coded the “tone” of each of those articles by quantifying the pertinent text that was positive for the issue area/decision, as well as all

Table 1 demonstrates the results of that content analysis. Not surprisingly, the issue area most present in the media coverage over the time period of the three discussed in this paper was the Ten Commandments issue, and by quite a large margin. The other two issues were nearly half as prevalent over the same period. The number of positive or negative stories compared to overall was relatively proportional for two of the cases, while positive or negative coverage languished for medical marijuana.<sup>7</sup>

### **Table 1 Here**

Both in the period prior to the decision and in the overall time period under study for each issue area, the tone in each issue area in the media outlets we studied here was positive. Medical marijuana was the most proportionally positive with the other issue areas being a bit more conflictual, but on balance quite positive.

While not a direct measure, these results seem to validate the idea that there may be an underlying continuum of salience that, in turn, provides a context in which the Supreme Court, when it decides some issues, especially those not frequently discussed in the public sphere but that become salient in it, may be able to affect issue awareness. Hypotheses 1a, then, suggests that the Ten Commandments decisions (*Van Orden* and *McCreary County*) should increase public awareness more than *Raich* and *Roper* do.

## **Results**

Table 2 presents the results of our estimation of models for each of the three “real” Supreme Court decisions and the one case that was inserted in the survey to verify that

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pertinent text that was negative for the issue area. Additional subjective weight was given to text within the headline of the story. In any case where the ratio between positive:negative equaled or exceeded 2:1, the story was coded as positive. Likewise, when the ratio between positive:negative equaled or exceeded 1:2 the story was coded as negative. All other stories were coded as neutral. This measurement rubric is rather standard in content analysis. These choices were made in the interests of methodological conservatism.

For our purposes, positive and negative were coded in line with the decisions themselves. Regarding the juvenile death penalty, positive is defined as “against” the juvenile death penalty or “for” the decision; regarding the issue of medical marijuana, positive means “for” the decision, or “for” medical marijuana; regarding the display of the Ten Commandments, positive means “against” public display.

<sup>7</sup> 20/106 (18.9%) for the Ten Commandments, 10/59 (16.9%) for the juvenile death penalty, while only 5/62 (8%) for medical marijuana).

respondents were not reacting to the general rise in media attention to the Court that comes at the end of the Court's term in June (Franklin and Kosaki 1995).

**Table 2 Here**

The same-sex marriage question also serves to verify the validity of the question used in each of the three models: some criticize a question asking the respondent if they have heard of a particular case as prone to respondents misreporting what they have and have not heard (Franklin, Kosaki and Kritzer 1993; Hoekstra 2003). As these results indicate, there is no significant increase in awareness of a same-sex marriage case following the June decision period for the Court, so it would seem that respondents are responding to real rather than imagined stimuli.

Our first hypothesis is strongly supported by the results. Respondents are significantly more likely to report hearing of a decision in the post-decision waves for each case, and the effects have practical as well as statistical significance. For awareness of the 10 Commandments case, the median respondent (Supreme Court feeling thermometer rating of 60, 5 days a week of television news viewership and newspaper readership, attends church once or twice a month, is politically moderate, has some college, is a white female, and has a political knowledge score of 4/5) has a predicted probability of having heard of the case of 83.3% before the decision. That predicted probability increases by 6.3%, to 89.9%, after the decision. For the other two cases, the effect is more substantial: the median respondent had a predicted probability of hearing of the case of 57.3% before the decision, and 73.5% after the decision, an increase of 16.2%. For the juvenile death penalty case, decided in March and not June, the predicted probability of hearing of the case was 41.1% before the decision and 54.0% after the decision, an increase of 12.9%. These consistent effects strongly suggest that the Court can make itself heard through the noise of other political events and that the effect may actually be greatest not on those

cases, like the Ten Commandments case, that are already the subject of the greatest attention, but on cases that may operate at the margins of the public's (and the media's) attention before the Court issues its ruling.

At the same time, we find an interesting relationship between media coverage and increases in awareness. Media coverage was far greater on the Ten Commandments cases than on the other two cases, but the effect is smaller. One might consider this to be a product of the baselines in a statistical as well as a substantive sense. Statistically, the median respondent is closer to a probability of 1, so any marginal effect calculated using a maximum likelihood technique would be smaller, even if the coefficients were the same for post-decision across models. But evaluation at a .5 probability of awareness still suggests a greater effect for *Raich* (17.7% increase in probability respondent is aware), *Roper* (13.0% increase) than in the 10 Commandments cases (11.8%). In a substantive context, though, the same concern is relevant: the public clearly reports high levels of awareness for the 10 Commandments cases throughout the waves, while the shifts are more noticeable in *Roper* and *Raich*. This may prove to be the situation where the media is most helpful to the Court; not in aiding awareness of decisions at the top of its agenda, but in promoting awareness of those cases that, while salient, may not be “the” case for a term.

Not surprisingly, we reinforce existing findings (Franklin and Kosaki 1995; Hoekstra 2003) in finding that individuals who pay more attention to current events are more likely to demonstrate an awareness of the Court decisions. The effect is consistent across the three cases and it is notable that there is no relationship between attention to news (print or television) and awareness of any Supreme Court decision about same-sex marriage. The effects are substantively modest; an additional day of television news viewing (from 5 to 6 days) increases the probability of hearing about the 10 Commandments case by 1.29%; the same change in newspaper readership results in an increase of 1.24%.

Given the relatively high baseline for this case (83.3% awareness pre-decision for the median respondent), these effects are noteworthy. The results also indicate little differentiation between television news viewership and newspaper readership. Using some of the other control variables (education, political knowledge) to account for the differences in the type of people who watch television news and those who read newspapers, we find that both methods of information gathering are roughly equal in their effect on Supreme Court decision awareness.

We also attempted to assess if avid consumers of information are more likely to report awareness of a case after the decision has been issued by interacting post-decision waves with media consumption. In all three cases, the interaction terms were not significant, though they were nearly significant ( $p=.106$  for newspaper readership post-decision and  $p=.107$  for television news viewership post-decision) for the medical marijuana case. Given the second-tier status the decision in *Raich* played to the 10 Commandments decisions, finding the effect in this case is more likely than the others, especially when a respondent would have to dig much deeper into the news to find quality coverage of the case amidst retirement speculation and coverage of the 10 Commandments decisions.<sup>8</sup>

In an attempt to more generally test the proposition that certain groups might be more activated by a decision (Hypothesis 3) (Hoekstra 2003), we interacted each of the independent variables in each models with the post-decision indicator. The final row of Table 2 reports on the results of joint hypothesis tests on those interaction terms; in no case were the post-decision interactions jointly significant. In fact, no single interaction term was significant on its own (the news attention interactions mentioned above come closest). We suspected, for example, that Evangelical Protestants and/or frequent church attenders

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<sup>8</sup> *Raich* was decided on June 6. The Ten Commandments decisions were issues three full weeks later, on June 27. It is certainly not the case that *Raich* was ignored, as our content analysis indicates, but it did receive less attention.

might be more likely to report awareness of the 10 Commandments case after the decision, but we found no evidence to support that proposition. Similarly, we expected Catholics to be more aware of the death penalty case post-decision, but find no such pattern in the results. It appears that the effect of decisions on public awareness is consistent *across* subgroups of the population, with no groups more or less aware of the case post-decision than other groups of the population. This augurs well for the Supreme Court—the impact of their decisions is widely felt and not confined to particularly interested constituencies, at least in high-profile cases.

### **Table 3 Here**

Finally, we were interested in the effect of oral arguments on issue awareness. As our media coverage data indicate, national media certainly pays heed to Court arguments on a case, so we reestimated the model on the 10 Commandments case to account for the oral arguments and the decision itself. Table 3 presents those results. We find that case awareness rises significantly after the oral arguments in *Van Orden* and *McCreary*. Interestingly, we find no additional effect for post-decision ( $b=.152$ ,  $p=.152$ , two tails) beyond the post-oral argument level. This likely understates the impact of the decision on awareness, as awareness levels after the oral argument, as the predicted awareness level after oral arguments (86.5% for the median respondent described above) is high enough that the decision's effect, though positive, is not significant at conventional levels.

### **Discussion and Conclusion**

Previous attempts to ascertain the impact of Supreme Court decisions on public awareness of the issues surrounding Supreme Court cases have left scholars with a fairly solid impression that Supreme Court decisions can impact awareness of the case. Issuance of the decisions themselves appears to cause an increase in issue awareness, but the nuances of that increase have not been fully explored. We add to the existing literature in

several ways. First, we collect pre-decision data on awareness, something only Franklin, Kosaki and Kritzer (1993) have done before. The pre-decision data allows a stronger causal claim about awareness and the decision itself, and our research design allows us to be more confident in our claim that the issuance of the decision is the proximate cause of the increased issue awareness. Second, we find that the marginal impact on awareness of decisions is actually greater for lower-salience cases. Franklin and Kosaki (1995) argue that greater levels of media coverage translate into greater awareness, but our findings suggest that some cases benefit from already-high levels of awareness and it is less salient cases (still not typical Supreme Court decisions) that benefit the most from the issuance of the decision and the attendant media coverage. We found a greater impact for the decision for the medical marijuana and juvenile death penalty cases than we observed for the Ten Commandments case, which was far and away the leader in media coverage. We certainly do not argue that there is a perfect inverse relationship between media coverage and public awareness, but we do suggest that the benefit Supreme Court cases gain from media coverage is not universal.

Third, our analysis attempted a more refined understanding of who paid attention to Supreme Court decisions. We found that the effects of Court decisions are more widely spread across the public than previously expected; no subgroup of individuals in any of the cases we measured was more or less likely to hear of a Supreme Court case post-decision; the effect was evenly spread, suggesting the Court effectively transcends uneven and incomplete media coverage (Spill and Oxley 2003; Slotnick and Segal 1998). The implications for these findings are heartening from the perspective of concern about the Court's presence in the American public. In the same breath that we are told that more Americans can name the Seven Dwarves than Supreme Court justices, we find that people do attend to the decisions (if not the personalities) of the Court, reinforcing the positivity

bias the Court enjoys (Gibson and Caldeira 2006). Furthermore, we find that oral arguments before the Court, and the attendant media coverage, increase awareness of the Court decisions as well. This serves to reinforce the notion that most of the coverage of the Court is positive coverage. The Court as an institution recovers quickly from controversial decisions (Gibson, Caldeira, and Spence 2003b; Mondak and Smithey 1997); substantial attention to (and awareness of) its activities, as documented here, may aid in that process.

Future research should continue to evaluate the link between media coverage and case salience. One certainly cannot expect the media to closely cover every Supreme Court decision (and many do not merit the coverage), but the true ability of the media may be to raise the level of the Supreme Court decisions that fall behind what may be considered “landmark” decisions—the one or two cases the Court decides each term that define the image of the Court. We suggest here that coverage of the other cases may be the place where the media has its greatest impact in a world marked by increasingly diverse sources of information.

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**Table 1: Media Coverage of the Court and Its Issues**

Time Period	Juvenile Death Penalty			Ten Commandments			Medical Marijuana		
	POS	NEG	TOTAL	POS	NEG	TOTAL	POS	NEG	Total
Dec-Jan	0	0	1	0	0	3	0	0	2
Feb-Mar	6	2	24	7	1	21	0	0	0
Apr-Jun	0	1	22	2	4	33	5	0	38
Jul-Oct	0	0	6	2	3	43	0	0	20
Nov-Dec	1	0	6	1	0	6	0	0	2
<b>Total</b>	<b>7</b>	<b>3</b>	<b>59</b>	<b>12</b>	<b>8</b>	<b>106</b>	<b>5</b>	<b>0</b>	<b>62</b>

Source: The authors performed a content analysis of news stories germane to the policy areas of four Supreme Court cases and three issue areas. We conducted this analysis using articles found in three nationally circulated newspapers: *The New York Times*, *USA Today*, and the *Washington Post* over the course of the year-long cycle covered by our study by utilizing Lexis-Nexis.

**Table 2: Effect of Supreme Court Decisions on Case Awareness: Ten Commandments, Medical Marijuana, Juvenile Death Penalty, and Same-Sex Marriage**

	(1)	(2)	(3)	(4)
	heard of 10C case? 1=yes	heard of Med Mar case? 1=yes	heard of Death Pen <18 case 1=yes	heard of Same Sex case? 1=yes
Post-Decision	0.294** (0.086)	0.443** (0.078)	0.326** (0.088)	0.057 (0.083)
Supreme Court Feeling Thermometer	0.002 (0.002)	-0.001 (0.002)	-0.001 (0.002)	0.000 (0.002)
days read news	0.050** (0.017)	0.049** (0.016)	0.068** (0.015)	0.006 (0.017)
days watched news	0.051** (0.018)	0.055** (0.016)	0.052** (0.016)	0.032 (0.017)
Church Attendance	0.088** (0.026)	-0.032 (0.023)	0.010 (0.023)	-0.001 (0.025)
Evangelical Protestant	-0.115 (0.110)	-0.004 (0.099)	0.057 (0.096)	0.147 (0.108)
Catholic	-0.271* (0.109)	0.115 (0.103)	-0.188 (0.099)	-0.149 (0.105)
Ideology (higher scores more liberal)	-0.029 (0.024)	0.015 (0.022)	0.005 (0.021)	-0.005 (0.023)
Education	-0.017 (0.054)	0.110* (0.050)	-0.050 (0.049)	0.010 (0.053)
Female	0.193* (0.090)	-0.019 (0.082)	-0.028 (0.080)	0.183* (0.086)
White	0.219 (0.118)	-0.020 (0.115)	-0.137 (0.111)	-0.118 (0.125)
Political Knowledge	0.171** (0.034)	0.004 (0.032)	-0.015 (0.031)	-0.027 (0.035)
Constant	-0.737** (0.264)	-0.587* (0.244)	-0.434 (0.243)	0.597* (0.258)
$\chi^2$ test for interaction terms (Pr> $\chi^2$ , 11 df)	9.85 (.5439)	13.01 (.2927)	9.56 (.4799)	--
Observations	1148	1145	1143	1146

Standard errors in parentheses; \* significant at 5%; \*\* significant at 1%

**Table 3: Effect of Oral Arguments and Decision on Ten Commandments Case Awareness**

	heard of 10C case? 1=yes
Oral Arguments	0.274* (0.117)
Post-Decision	0.152 (0.106)
Supreme Court Feeling Thermometer	0.001 (0.002)
days read news	0.050** (0.017)
days watched news	0.050** (0.018)
Church Attendance	0.087** (0.026)
Evangelical Protestant	-0.110 (0.110)
Catholic	-0.281* (0.110)
Ideology (higher scores more liberal)	-0.033 (0.024)
Education	-0.019 (0.055)
Female	0.189* (0.090)
White	0.225 (0.119)
Political Knowledge	0.174** (0.035)
Constant	-0.842** (0.268)

N=1148. Standard errors in parentheses; \* significant at 5%; \*\* significant at 1%

## **Appendix A: Question Wordings and Response Options**

### **Decision Awareness**

- Next, I will ask a few questions about some U. S. Supreme Court cases. First, have you heard or read about the Supreme Court case concerning the Ten Commandments?
- Have you heard or read about the Supreme Court case concerning medical marijuana?
- Have you heard or read about the Supreme Court case concerning the death penalty for people who commit murder before they turn 18?
- Have you heard or read about the Supreme Court case concerning same-sex marriage?

### **Religious Preference**

Do you consider yourself Catholic, Protestant, other Christian, Jewish, Muslim, some other religion, or do you have no religious preference?

(If Protestant, some other religion, or Other Christian) What specific denomination is that?

While we recognize the vast number of ways in which evangelicalism may be defined, we have defined evangelical Protestants by their denominational affiliation. A list of 42 evangelical denominations, compiled by Geoffrey Layman (2001), was used to code whether or not a denomination was evangelical. We coded the following as Protestant evangelical denominations: Seventh Day Adventist, American Baptist Association, Baptist Bible Fellowship, Baptist General Conference, Baptist Missionary Association of America, Conservative Baptist Association of America, General Association of Regular Baptist Churches, National Association of Free Will Baptists, Primitive Baptists, Reformed Baptist, Southern Baptist Convention, Mennonite Church, Evangelical Covenant Church, Evangelical Free Church, Congregational Christian, Brethren in Christ, Mennonite Brethren, Christian and Missionary Alliance, Church of God (Anderson, IN), Church of the Nazarene, Free Methodist Church, Salvation Army, Wesleyan Church, Church of God of Findlay, OH, Plymouth Brethren, Independent Fundamentalist Churches of America, Lutheran Church-Missouri Synod, Wisconsin Evangelical Lutheran Synod, Congregational Methodist, Assemblies of God, Church of God, International Church of the Four Square Gospel, Pentecostal Church of God, Pentecostal Holiness Church, Church of God of the Apostolic Faith, Church of God of Prophecy, Apostolic Pentecostal, Cumberland Presbyterian Church, Presbyterian Church in America, Evangelical Presbyterian, Christian Reformed Church, Adventist, Baptist, Holiness, Church of God, Independent-Fundamentalist, Pentecostal, and the Churches of Christ. We also made other coding decisions for other denominations reported outside of the above coding scheme in the same vein using available research.

### **Religious Attendance**

How often do you go to religious services?

- 0 Never
- 1 A few times a year
- 2 Once or twice a month
- 3 Almost every week
- 4 Once a week
- 5 More often than once a week

### **Ideology**

We hear a lot of talk these days about liberals and conservatives. When it comes to politics, do you usually think of yourself as a liberal, a conservative, a moderate, or haven't you thought about that?

- 1 A strong conservative
- 2 Conservative
- 3 More like a conservative
- 4 Moderate, Neither, Haven't Thought About
- 5 More like a liberal
- 6 A not very strong liberal
- 7 A strong liberal

The measure results from a standard branching NES style question.

### **Political Knowledge**

Just a few more questions. Do you happen to know what job or political office is now held by Dick Cheney?

Whose responsibility is it to determine if a law is constitutional or not? The President, Congress, or the Supreme Court?

How much of a majority is required for the US Senate and House to override a presidential veto?

Do you know which party currently has the most members in the US House of Representatives?

Would you say that one of the parties is more conservative than the other at the national level?

We coded these five questions (correct answer=1, incorrect answer=0) into an additive index of political knowledge, ranging from 0-5. With small exceptions, this follows Delli Carpini and Keeter (1996).

### **Other Notes**

NB: All questions had appropriate refusal and "don't know" categories, but were not reported in here in the interests of space.

Also included in the survey/dataset were standard demographic variables such as gender, age, race and income. All measures were constructed using common codings.

## Appendix B: Summary Statistics

<b>Variable</b>	<b>Mean</b>	<b>s.d.</b>	<b>Min</b>	<b>Max</b>
Awareness of 10 Commandments Case	0.75	0.43	0	1
Awareness of Medical Marijuana Case	0.64	0.48	0	1
Awareness of Juvenile Death Penalty Case	0.49	0.50	0	1
Catholic	0.22	0.42	0	1
Evangelical Protestant	0.29	0.45	0	1
Church Attendance	2.08	1.86	0	5
Ideology	3.65	1.93	1	7
Political Knowledge	3.45	1.42	0	5
Gender	0.55	0.50	0	1
Married	0.57	0.50	0	1
Education (ordinal)	3.06	0.89	1	4
Age	49.01	16.26	17	93
Race (White)	0.85	0.35	0	1

## Appendix C: Notes on Survey Design, Sampling, and Response Rates

The survey data analyzed in this study comes from a nationwide telephone survey of adult US residents conducted by the Indiana University Center for Survey Research in Bloomington, Indiana. (<http://www.indiana.edu/~csr/>).

Average survey length in all four waves (the instrument remained the same for all four waves) was 14 minutes.

The first wave occurred February 15-28 2005. The second wave was completed March 8-April 19 2005. The third wave was administered June 28-July 26 2005, followed by a fourth wave administered October 3-24 2005.

The waves bracket oral arguments for *Van Orden/McCreary County* and *Gonzales* (between waves 1 and 2), the decisions in *Van Orden/McCreary County* and *Gonzales* (between waves 2 and 3) and the decision in *Roper* (between waves 1 and 2).

The response rates over each cross-sectional strobe were compiled using AAPOR standards. These standards (and their definitions) are available at <http://aapor.org>. The various rates are within accepted limits.

<b>Response Rate 3</b>	
$I / ((I+P) + (R+NC+O) + e(UH+UO))$	0.213
<b>Cooperation Rate 3</b>	
$I / ((I+P)+R)$	0.344
<b>Refusal Rate 2</b>	
$R / ((I+P)+(R+NC+O) + e(UH + UO))$	0.405
<b>Contact Rate 2</b>	
$(I+P)+R+O / (I+P)+R+O+NC + e(UH+UO)$	0.654