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ELECTORAL CONSEQUENCES OF COURT EXPANSION ADVOCACY:
CANDIDATE SUPPORT OF COURT EXPANSION DOES NOT HAVE A
STATISTICALLY SIGNIFICANT IMPACT ON VOTING RATES OR
VOTE CHOICE

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ABSTRACT

During the current Democratic presidential primary campaign, candidates have responded to concerns about the Supreme Court by entertaining the possibility of structural alterations, including court expansion. As court expansion emerged as a campaign issue in 2019, some liberal thought leaders became alarmed that candidate endorsements of the reform could lead to negative electoral consequences, and could perhaps cost Democrats the 2020 presidential election. By contrast, advocates of court expansion have argued that campaign discussions of judicial reform will neither motivate higher Republican turnout in the 2020 election nor alienate Independents, and may even prompt Democrats to vote at higher rates. To test competing claims about the political effects of candidate endorsement of court expansion, we designed an experiment involving 2,400 participants from Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin, swing states that are likely to determine the outcome of the 2020 election. For robustness, our research design included multiple specifications of the treatment and outcome variables and multiple control groups and estimation techniques. Our results indicate that Republican and Independent voters are no more likely to vote, or to vote for a Republican candidate, if a Democratic candidate endorses court expansion. Thus, a Democratic candidate's endorsement of court expansion will not produce an electoral backlash. On the other hand, our results indicate that candidate endorsement of court expansion does not prompt Democrats to vote at higher rates, or to become more likely to vote for Democratic candidates. Thus, based on our experimental results, candidate endorsement of court expansion is not expected to produce an electoral disadvantage or benefit in 2020.

KEYWORDS: Supreme Court, court expansion, court packing

Introduction

Democrats have grown increasingly concerned in recent years about the Supreme Court's partisanship and its role in compromising democracy. Following controversial rulings that effectively allowed unlimited dark money to flood the political system and dismantled the Voting Rights Act, Senate Republicans took the unprecedented step of refusing to allow President Obama to fill a vacancy in the wake of the late Justice Antonin Scalia's death in February 2016, in effect reducing the size of the Court to eight members. GOP Senators including Richard Burr (R-NC) indicated at the time that if Hillary Clinton prevailed in the 2016 election, they would freeze the Court's size at no more than eight to prevent her from confirming a justice for the entirety of her presidency.¹ Although such maneuvers are within the Senate's prerogatives, this unprecedented obstruction was widely regarded among Democrats and independent observers as a violation of constitutional norms. Once Donald Trump assumed the presidency and nominated Neil Gorsuch to the seat that had been held open for more than a year, Senate Republicans swiftly confirmed him.

During the 2020 Democratic presidential primary campaign, candidates responded to concerns about the Supreme Court by entertaining the possibility of structural alterations—including court expansion—that would counter the effect of Senate Republicans' manipulation of the size of the Court. Mayor Pete Buttigieg, for example, has discussed a plan to raise the number of justices from nine to fifteen, and a number of other current and former candidates including Senators Elizabeth Warren, Amy Klobuchar, Kamala Harris and Kirsten Gillibrand

¹ See *Citizens United v. FEC* 558 U.S 310 (2009); and *Shelby County v. Holder* 570 U.S 529 (2013). Also see National Public Radio, "If Clinton wins, more in GOP say no to full Supreme Court," November 1, 2018, <https://www.pbs.org/newshour/politics/clinton-wins-gop-say-no-9-supreme-court>.

have stated that they are open to court expansion.² Beyond the campaign trail, former Attorney General Eric Holder endorsed expansion in March 2019, and five Democratic Senators including Richard J. Durbin (IL) filed an August, 2019 amicus brief stating that if the Court continues to act in a partisan fashion, it may need to be “restructured in order to reduce the influence of politics.”³ In December 2019, former Senate Majority Leader Harry Reid published an op-ed titled, “Democrats running for president need a plan for the Supreme Court.”⁴

Prior to 2019, court expansion had not been addressed as a serious possibility since 1937, when President Franklin D. Roosevelt proposed adding six seats to the Supreme Court.⁵ Given widespread perceptions that Roosevelt’s failed attempt undermined the remainder of his presidency, the topic had been regarded as taboo, a so-called third rail of politics, an idea “that would not have dared speak its own name” in previous elections.⁶ Indeed, the first time court expansion was raised during the 2020 campaign, audience members attending a question and answer session with Mayor Buttigieg laughed.⁷ Its unexpected emergence on the campaign trail

² Pema Levy, “How court-packing went from a fringe-idea to a serious Democratic proposal,” *Mother Jones*, March 22, 2019, <https://www.motherjones.com/politics/2019/03/court-packing-2020/>.

³ Sam Stein, “Eric Holder says next Democratic President should consider court packing,” *Daily Beast*, March 7, 2019, <https://www.thedailybeast.com/eric-holder-says-next-democratic-president-should-consider-court-packing>; Robert Barnes, “Warning or Threat? Democrats ignite controversy with Supreme Court brief in gun case,” *Washington Post*, August 16, 2019, https://www.washingtonpost.com/politics/courts_law/warning-or-threat-democrats-ignite-controversy-with-supreme-court-brief-in-gun-case/2019/08/16/2ec96ef0-c039-11e9-9b73-fd3c65ef8f9c_story.html.

⁴ Harry Reid, *The Salt Lake Tribune*, December 14, 2019, <https://www.sltrib.com/opinion/commentary/2019/12/14/harry-reid-democrats/>.

⁵ Jeff Shesol (2010). *Supreme Power: Franklin Roosevelt vs. The Supreme Court*. New York: W.W. Norton & Company.

⁶ Dahlia Lithwick, Amicus, *Slate*, April 5, 2019, <https://slate.com/news-and-politics/2019/04/court-packing-has-become-a-litmus-test-left.html>. Though Roosevelt was unsuccessful in expanding the size of the Court, in part due to his unwillingness to compromise about the scale of the expansion, many historians believe that his effort to add justices to the bench helped preserve his administration’s New Deal policies, and he was subsequently re-elected two more times.

⁷ Sydney Ember and Astead W. Herndon, “Reparations, court packing: Once fringe issues take hold in the Democratic primary race,” *New York Times*, March 12, 2019, <https://www.nytimes.com/2019/03/12/us/politics/reparations-court-packing-filibuster-2020-democrats.html>.

in 2019 reflects the intensity of beliefs among Democrats that the Court was stolen in 2016, and that its rulings have become dangerously partisan.⁸

As court expansion emerged as a campaign issue last year, some liberal thought leaders became alarmed that candidate endorsements of the reform could lead to negative electoral consequences, and could perhaps cost Democrats the 2020 presidential election. According to this perspective, Republican voters care deeply about courts, and if they come to perceive that Democrats plan to expand the Supreme Court, GOP turnout will increase in 2020. At the same time, the theory goes, because Democratic voters tend not to prioritize courts, judicial reform proposals will not motivate them to vote in higher numbers in 2020, and Independents will be alienated by what they perceive as a partisan power grab. As journalist Ed Kilgore wrote, Court expansion proposals “will provide new fodder for the Trump/GOP message that today’s Democrats are dangerously radical and contemptuous of constitutional norms.”⁹ Consistent with these concerns, Republican leaders including President Trump and Senate Majority Leader Mitch McConnell have signaled that they plan to emphasize Democratic proposals to expand the Court during the 2020 campaign.¹⁰



⁸ Senator Sheldon Whitehouse (D-RI) released a recent report analyzing all 73 split-decision rulings in civil cases since 2005 in which GOP donors had a clear interest, and found that the Supreme Court voted in the direction favored by GOP donors in all 73 cases (100 percent). Sheldon Whitehouse (2019). “A Right-Wing Rout: What the ‘Roberts Five’ Decisions Tell Us About the Integrity of Today’s Supreme Court,” American Constitution Society.

⁹ Ed Kilgore, “Should Democrats plan on packing the courts in 2021?” *New York Magazine*, September 17, 2019, <http://nymag.com/intelligencer/2019/09/should-democrats-plan-on-packing-the-courts-in-2021.html>.

¹⁰ Jordain Carney, “Rubio to introduce legislation to keep Supreme Court at 9 seats,” *The Hill*, March, 20, 2019, <https://thehill.com/homenews/senate/434888-rubio-to-introduce-legislation-to-keep-supreme-court-at-nine-seats>.

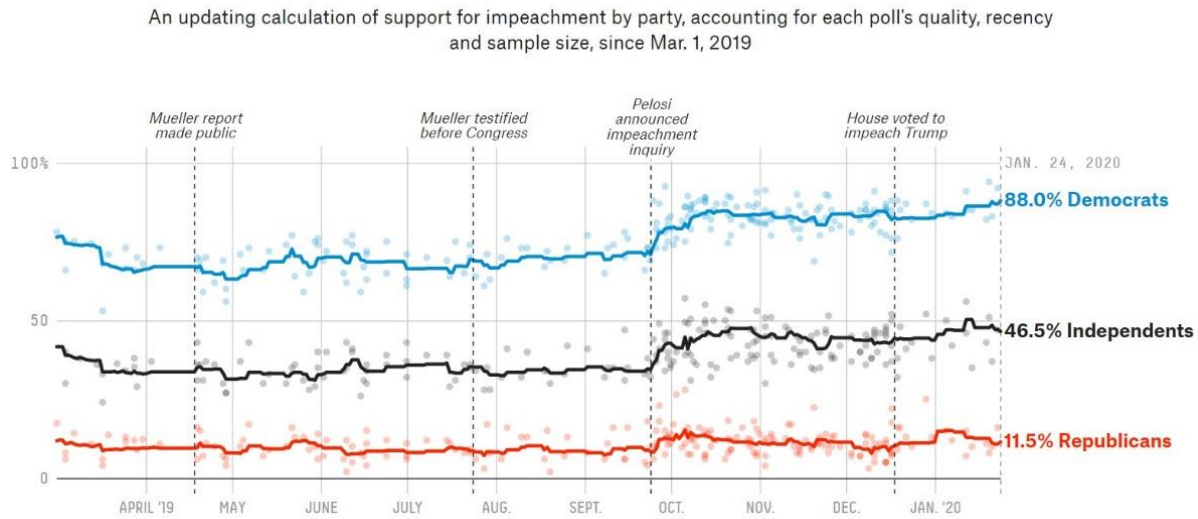
By contrast, advocates of court expansion have argued that campaign discussions of judicial reform will neither motivate higher Republican turnout in the 2020 election nor alienate Independents, and may even prompt Democrats to vote at higher rates.¹¹ According to this perspective, the premise that Republicans might not turn out to vote if Democrats do not antagonize them is a dangerous fantasy that is unsupported by the results of the 2018 election, for which Republicans turned out at an unusually high rate. Polls indicating strong Republican enthusiasm about voting in 2020 arguably undermine the premise as well.¹² Republicans will campaign on protecting courts from Democrats regardless of what Democratic candidates say, and there is no meaningful difference between a Republican pledge to protect courts from Democratically appointed judges and justices than from expansion. Republican candidates' emphasis on the courts is already "baked into" GOP turnout rates because protecting the judiciary from Democrats has been a constant campaign theme for decades. As well, some polls show that even though candidates have not made a strong case for expansion, a plurality of Independents and majority of Democrats already support it.¹³ As was the case with House impeachment hearings, if and when Democratic leaders make a strong case for expansion, support for reform among Democratic voters could increase.

¹¹ Aaron Belkin, "In defense of Court expansion," *Expert Forum*, American Constitution Society, April 2, 2019, <https://www.acslaw.org/expertforum/in-defense-of-court-expansion/>.

¹² Justin McCarthy, "High enthusiasm about voting in U.S. heading into 2020," Gallup, November 17, 2019. <https://news.gallup.com/poll/268136/high-enthusiasm-voting-heading-2020.aspx>.

¹³ For Independents, see Marquette University, "New nationwide Marquette Law School poll finds confidence in U.S. Supreme Court overall, though more pronounced among conservatives," October 21, 2019, <https://www.marquette.edu/news-center/2019/new-nationwide-mu-law-school-poll-finds-confidence-in-us-supreme-court-overall.php>.

Figure 1: Support for Impeachment by Party¹⁴



The stakes of the disagreement over expected electoral consequences of endorsing court expansion are high, because candidates are unlikely to embrace the reform wholeheartedly if a political backlash can be expected, and party strategists' advice to avoid the issue seems to have had a chilling effect on the campaign trail. If candidates strongly endorse expansion and explain that efforts to revitalize democracy will not endure without judicial reform—because, for example, the Roberts majority can be expected to strike down H.R. 1 if Congress passes it—they may be able to build public support for efforts to strengthen the political system. Such mobilization could be a valuable resource for revitalization efforts if Democrats win the White House and Senate and maintain control over the House in 2020. If, however, candidates decline to endorse expansion strongly during the campaign, they may squander their only opportunity to build a coalition for structural reform for quite some time, as there may not be another chance to

¹⁴ The chart is reprinted from Aaron Bycoffe, Ella Koeze, and Nathaniel Rakich, “Do Americans support removing Trump from office,” *FiveThirtyEight*, January 24, 2020, <https://projects.fivethirtyeight.com/impeachment-polls/>.

mobilize support in the foreseeable future.¹⁵ Hence, the stakes of resolving the disagreement over expected electoral consequences of endorsing court expansion are high.

To test competing claims about the political effects of candidate endorsement of court expansion, we designed a robust experiment involving 2,400 participants from Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin, swing states that are likely to determine the outcome of the 2020 election. Our results suggest that neither advocacy of court expansion by Democrats nor a debate over the topic between the two parties would have statistically significant electoral implications. On one hand, our data suggest that Republican and Independent voters are no more likely to vote, or to vote for a Republican candidate, if a Democratic candidate endorses court expansion. Thus, a Democratic candidate's endorsement of court expansion will not produce an electoral backlash. On the other hand, our results suggest that candidate endorsement of court expansion does not motivate Democrats to vote at higher rates or to become more likely to vote for Democratic candidates. Thus, based on our experimental results, candidate endorsement of court expansion is not expected to produce an electoral disadvantage or benefit in 2020.

Research design

Our aim throughout the research design process was to create a robust test of competing claims whose results would warrant high confidence. To do so, we built the following five components into our experiment.

¹⁵ The political agenda is, arguably, ripest for outside-the-box proposals such as court expansion during presidential primaries, when candidates vie for base voters who are most likely to vote, and presidential primaries only take place once every four years.

(1) *Swing state sampling strategy.* We administered our experiment to swing state voters so as to pose a “hard test” for advocates of court expansion. The current advantage Republicans enjoy in the electoral college means that “swing” or “tipping point” states are more Republican than the country overall. If discussion of court expansion is shown not to produce a backlash in swing states that will determine the outcome of the 2020 election, this finding would be highly strategically relevant not only to presidential candidates, but to down-ballot contenders across the nation.

(2) *Multiple outcome variables.* We measured political behavior, the outcome of interest, in four different ways. First, we asked respondents how they felt about their own party and their out-party using a 101-point feeling thermometer, a standard measure of partisan affect.¹⁶ Then, we assessed the likelihood of voting on a seven-point scale from extremely unlikely to extremely likely. Next, for those who indicated even the slightest likelihood of voting, we asked which party they would vote for during the 2020 presidential election (Democratic, Republican, other). Finally, we estimated aversion to the opposition party via a stringent test that invites respondents to take actual action rather than relying on self-reported replies that are prone to social desirability bias. Near the end of our survey, we thanked participants for their time and offered an additional reward which we said was provided by a partnering non-profit organization. Participants had two choices: either to accept a \$1 dollar payment with no strings attached, or accept a \$2 dollar payment, in which case the non-profit would donate \$3 to their out-party’s national committee. By structuring options in this way, we were able to assess whether candidate

¹⁶ James N. Druckman, Samuel R. Gubitz, Matthew S. Levendusky, and Ashley M. Lloyd (2019). “How Incivility on Partisan Media (De-)Polarizes the Electorate,” *Journal of Politics*, 81(1), 291–295. <https://doi.org/10.1086/699912>.

endorsement of court expansion motivates partisans to forgo personal economic gain to avoid benefitting political opponents.¹⁷

(3) *Multiple specifications of treatment (independent) variable.* To test the effects of candidate endorsement of court expansion, we conducted our experiment using different versions of our treatment variable: candidate endorsement of court expansion. The first version of our treatment variable (*court expansion*), consisted of a campaign message describing how and why Democrats want to expand the Supreme Court, but nothing else. The second version of our treatment variable (*competing frames*), consisted of two campaign messages. In one message, a Democrat advocates for improving access to health care, fighting climate change, reversing Trump’s tax cuts for wealthy individuals, instituting common-sense gun safety laws, and expanding the Supreme Court. In the second message, a Republican advocates for cutting taxes, cracking down on illegal immigration, protecting gun rights, supporting judges who make decisions based on the constitution and the law, opposing liberal activist judges, and opposing expansion of the Supreme Court. Our working assumption is that if results of our experiment are found to be consistent regardless of the specification of the independent variable (as turned out to be the case), this would yield more confidence than results derived from a single specification of the variable.

(4) *Multiple control groups:* To test the effects of candidate endorsement of court expansion on political behavior and electoral outcomes, we compared the effects of expansion messages on two distinct control groups. Consistent with standard social scientific practice, we

¹⁷ For other studies that use this approach, see Christopher McConnell et. al. (2018). “The Economic Consequences of Partisanship in a Polarized Era,” *American Journal of Political Science*, 62(1), 5–18. <https://doi.org/10.1111/ajps.12330>; and Ismail White, Chryl Laird, and Troy Allen (2014). “Selling Out?: The Politics of Navigating Conflicts between Racial Group Interest and Self-interest.” *American Political Science Review*, 108(4), 783–800. <https://doi.org/10.1017/S000305541400046X>.

created a “true” control group of swing state voters who were not provided with any message whatsoever, and who were instead directed immediately to the post-treatment questionnaire. To ensure robustness, we created a second group, a “status quo” control group of swing state voters who were provided with the exact same messages used in the competing frames experiment, minus any mention of court expansion. This control group, in other words, was designed to reflect the status quo in which Democratic candidates tend to talk about kitchen table issues but not courts, while Republican candidates tend to talk about courts but not expansion. Because our experimental results were the same, regardless of which control group we used, we report only comparisons to the “true” control group in the body of this report, and include results of comparisons to the “status quo” control group in the Appendix.¹⁸

(5) *Statistical analysis*. Rather than relying exclusively on difference-in-means and likelihood tests to assess the impact of candidate endorsements on swing state voters, we replicated our analyses with multivariate OLS regressions to ensure the robustness of findings. Results of both estimation techniques are the same.¹⁹

Our aim is to test the plausibility of two sets of hypotheses, one representing those who expect candidate endorsement of court expansion to *harm* Democrats and one representing those who expect endorsement to *benefit* Democrats.

Hypothesis 1: Candidate endorsement of court expansion will harm Democrats: Republicans exposed to a message about expanding the Supreme Court will feel less warm toward Democrats, express an increased intention to vote, express an increased willingness to vote for Republicans, and will express an increased willingness to forgo a personal financial reward in order to prevent a contribution from being made to the Democratic National Committee, relative to Republicans not exposed to that information, all else constant, and the same can be expected of Independents.

¹⁸ Changing the comparison to the “status quo” control group changes nothing in the results except to make the one statistically significant result that we report below disappear.

¹⁹ In Table 8, the regression coefficient for the likelihood of voting among Democrats in the “court expansion” treatment group almost approaches statistical significance.

Hypothesis 2: Candidate endorsement of court expansion will benefit Democrats:

Democrats exposed to a message about expanding the Supreme Court will feel less warm toward Republicans, express an increased intention to vote, express an increased willingness to vote for Democrats, and will express an increased willingness to forgo a personal financial reward in order to prevent a contribution from being made to the Republican National Committee, relative to Democrats not exposed to that information, all else constant, and the same can be expected of Independents.

To test our hypotheses, we conducted a survey experiment in which we provided Democratic, Republican, and Independent respondents with court expansion messages and then compared outcome variables between treatment and control groups. Bovitz, a well-regarded research and polling firm, collected data from a non-probability-based sample of swing state residents who are representative of the U.S. public on all key census demographics, using the American Community Survey for its benchmarks to construct the sample.²⁰ Because we required a sufficiently large pool of participants to include adequate numbers of Democrats, Republicans, and true Independents, Bovitz recruited a 2,400-person sample of swing state residents. To ensure an even spread among partisans across our two treatment conditions and two controls, we employed block randomization, which is traditionally used to satisfy this precise type of sample requirement.²¹ Each condition contained more than 200 Republicans and more than 200 Democrats, more than enough to test competing claims. Bovitz administered our survey via the internet.

Using two versions of the treatment variable (candidate endorsement of court expansion) and two versions of the control group, as described above, we conducted difference-in-means and likelihood tests to compare the average or percentage of each outcome variable—partisan

²⁰ Sample demographics can be found in the Appendix.

²¹ Howard Bloom (2008). “The Core Analytics of Randomized Experiments for Social Research.” In Pertti Alasuutari, Leonard Bickman, and Julia Brannen (Eds.), The SAGE Handbook of Social Research Methods. London: SAGE.

affect, likelihood of voting, vote choice, and willingness to forgo a financial reward to prevent the opposition party from receiving a contribution—in the treatment group to the average or likelihood of each outcome variable in the control group. Significance tests are all two-tailed, as they are more stringent, and all variables have been recoded 0-1 for ease of interpretation. Positive values indicate an increased value of that outcome, relative to the control condition. Positive values for likelihood of voting, for example, indicate greater propensity to vote. Negative values, on the other hand, indicate a decreased value of that outcome, relative to the control condition. Thus, negative values for affect indicate less warm feelings toward a political party. (Negative values for the financial reward outcome reflect a trend away from accepting a lesser personal reward so as to prevent the opposition party from receiving a contribution.) As mentioned above, we replicated analyses with multivariate OLS regressions and found no significant departures from our findings described below. Regression models are provided in the Appendix.

‘Court expansion’ version of treatment variable:

To test our hypotheses about the effects of candidate endorsement of court expansion, we provided Democratic, Republican, and Independent respondents of the “court expansion” treatment group with the statement below:

Democratic candidates for president believe we should expand the size of the Supreme Court to make it more representative of America, bring greater balance to the court, and prevent the domination of the Supreme Court by a single political party.

We then compared outcome variables for the “court expansion” treatment group to both control groups. As noted above, given the consistency of results, we only report data from the comparison to the “true” control group in the body of this report, with results from the “status

quo” control group included in the Appendix. As can be seen in Tables 1, 2 and 3, the “court expansion” version of the treatment variable is associated with small marginal effects in absolute terms. However, with one exception—Republican respondents’ affect toward the Republican party—none of the effects are statistically significant. There is no statistically significant effect, in other words, of exposure to a court expansion message on likelihood of voting, vote choice, or willingness to accept a lower personal financial reward so as to withhold economic support from the opposing party.

Table 1: Outcomes for Democrats (Court Expansion Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats’ share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from RNC
Control group (n=301)	.807	.187	.928	.985	.795
Court expansion group (n=300)	.802	.182	.908	.977	.807
Difference	-.005	-.005	-.020	-.008	-.012

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 2: Outcomes for Republicans (Court Expansion Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Republicans’ share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC
Control group (n=221)	.148	.731	.925	.939	.777
Court expansion group (n=221)	.142	.782	.916	.944	.781
Difference	-.006	.051** (p=.038)	-.009	.005	.004

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 3: Outcomes for Independents (Court Expansion Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of 2-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC	Percent preferring lesser personal reward so as to withhold economic support from RNC
Control group (n=89)	.353	.361	.712	.500	.560	.579
Court expansion group (n=95)	.347	.323	.647	.581	.471	.581
Difference	-.006	-.038	-.065	.081	-.089	-.002

Note. *p < 0.10 **p < 0.05 ***p < 0.01

In absolute terms, Democrats in the “court expansion” treatment group feel .5 percent (one-half of one percent) less warm toward the Democratic party than do Democrats in the control group and .5 percent (one-half of one percent) less warm toward the Republican party. They are 2 percent less likely to vote; .8 percent (four-fifth of one percent) less likely to vote for a Democrat; and 1.2 percent less likely to prefer a lesser personal financial reward so as to prevent the Republican National Committee from receiving a financial contribution. Critically, none of the effects reported in this paragraph are statistically significant. While some would predict that an endorsement of court expansion might prompt Democrats to vote at higher rates, our results suggest that this is not the case.

Republicans in this treatment group feel .6 percent (three-fifths of one percent) less warm towards the Democratic party than do Republicans in the control group and 5.1 percent warmer toward the Republican party, and they are .9 percent (nine-tenths of one percent) less likely to vote, .5 percent (one-half of one percent) more likely to vote for a Republican, and .4 percent (two-fifths of one percent) are more likely to prefer a lesser personal financial reward so as to prevent the Democratic National Committee from receiving a financial contribution. As can be seen in Table 2, the only significant effect of the treatment is partisan affect among Republicans,

who feel warmer toward the Republican Party after exposure to the court expansion message ($p < 0.05$). That said, the remaining outcomes are null, as there is no statistically significant effect of the treatment on any of the other outcomes. These findings suggest that while Republicans may feel slightly more warmly toward their in-party following exposure to a court expansion message, there is no electoral implication on likelihood of voting, vote choice, or withholding economic support from the Democratic Party. Indeed, it appears that concerns about Democrats possibly motivating Republicans to turnout if they endorse expanding the Supreme Court are unfounded.

Finally, Independents in this treatment group feel .6 percent (three-fifths of one percent) less warm toward the Democratic party and 3.8 percent less warm toward the Republican party, and they are 6.5 percent less likely to vote; 8.1 percent more likely to vote for a Democrat; 8.9 percent less likely to accept a lower personal financial reward so as to prevent the Democratic National Committee from receiving a financial contribution; and .2 percent (one-fifth of one percent) less likely to accept a lower personal financial reward so as to prevent the Republican National Committee from receiving a financial contribution. None of these effects, however, are statistically significant.²²

‘Competing frames’ version of treatment variable:

Political arguments rarely exist in a vacuum, and if Democrats offer arguments about the benefits of court expansion during the 2020 campaign, Republicans are likely to respond with repudiations explaining why expansion is a bad idea. Democrats are likely to argue that expansion is necessary to restore and revitalize democracy while Republicans are likely to argue

²² However, it should be noted that the sample size of true independents is much smaller than that for Democrats or Republicans.

that expansion threatens the independence of the judicial branch. These *competing frames* emphasize different aspects of the issue at stake.²³ To test these claims, we provided Democratic, Republican, and Independent respondents of the “competing frames” treatment group with the statements below:

Candidate A is a Democrat who wants to improve access to health care for every American, combat climate change, and repeal Trump’s tax cut for millionaires and billionaires. Candidate A supports common-sense gun safety laws, like closing the loophole that allows online gun sales without background checks. *Candidate A thinks we should expand the size of the Supreme Court to make it more representative of America, bring greater balance to the court, and prevent the domination of the Supreme Court by a single political party.*

Candidate B is a Republican who wants to cut taxes, crack down on illegal immigration, and protect gun rights. Candidate B says he will support judges who make decisions based on the constitution and the law, and oppose liberal activist judges who legislate from the bench. *Candidate B opposes expansion of the Supreme Court, calling it a threat to the independence of the judiciary and the rights of all Americans by radical liberals trying to change the rules so a few cities in New York and California can impose their will on the rest of us.*

These statements are precisely the same as those provided to the “status quo” control group, but we added partisan discussions of court expansion (visible in italics).²⁴ We then compared outcome variables for the “competing frames” treatment group to both control groups although, as noted above, we only report comparisons to the “true” control group in the body of this report, given the similarity of results, and include comparisons to the “status quo” control group in the Appendix. Our results indicate that the “competing frames” version of the treatment variable is associated with small marginal effects in absolute terms, but that none of the effects are statistically significant. In other words, there is no statistically significant effect of exposure to “competing frames” court expansion messages and partisan affect, likelihood of voting, vote

²³ Keiichi Kobayashi (2019). “Emphasis Framing Effects of Conflicting Messages.” *Journal of Media Psychology: Theories, Methods, and Applications*. <https://doi.org/10.1027/1864-1105/a000263>.

²⁴ In the survey instrument, we did not use italics. Their use here is intended to allow readers to distinguish the composition of the “status quo” control group from the “competing frames” treatment group.

choice, or willingness to accept a lower personal financial reward so as to prevent the opposing party from receiving a political contribution.

Table 4: Outcomes for Democrats (Competing Frames Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from RNC
Control group (n=301)	.807	.187	.928	.985	.795
Competing frames group (n=236)	.799	.190	.931	.967	.822
Difference	-.008	.003	.003	.018	-.027

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

Table 5: Outcomes for Republicans (Competing Frames Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Republicans' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC
Control group (n=221)	.148	.731	.925	.939	.777
Competing frames group (n=236)	.181	.767	.924	.927	.779
Difference	.033	.036	-.001	-.012	-.002

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

Table 6: Outcomes for Independents (Competing Frames Treatment Group)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of 2-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC	Percent preferring lesser personal reward so as to withhold economic support from RNC
Control group (n=89)	.353	.361	.712	.500	.560	.579
Competing frames group (n=95)	.383	.307	.702	.605	.648	.525
Difference	.030	-.054	-.010	-.105	.088	.054

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

In absolute terms, Democrats in the “competing frames” treatment group feel .8 percent (four-fifths of one percent) less warm toward the Democratic party and .3 percent (~one-third of one percent) warmer toward the Republican party. They are .3 percent (~one-third of one percent) more likely to vote; .18 percent (~one-fifth of one percent) less likely to vote for a Democrat; and 2.7 percent (less likely to prefer a lesser personal financial reward so as to prevent the Republican National Committee from receiving a financial contribution. Critically, none of the effects reported in this paragraph are statistically significant.

Republicans in this treatment group feel 3.3 percent warmer toward the Democratic party and 3.6 percent warmer toward the Republican party, and they are .1 percent (one-tenth of one percent) less likely to vote, 1.2 percent less likely to vote for a Republican, and .2 percent (one-fifth of one percent) less likely to prefer a lesser personal financial reward so as to prevent the Democratic National Committee from receiving a financial contribution. As was the case with Democratic respondents, none of these effects are statistically significant.

Finally, Independents in this treatment group feel 3 percent warmer toward the Democratic party and 5.4 percent less warm toward the Republican party, and they are 1 percent less likely to vote; 10.5 percent more likely to vote for a Democrat; 8.8 percent more likely to accept a lower personal financial reward so as to prevent the Democratic National Committee from receiving a financial contribution; and 5.5 percent more likely to accept a lower personal financial reward so as to prevent the Republican National Committee from receiving a financial contribution. As was the case with Democratic and Republican respondents, none of these effects are statistically significant.

Discussion of results

Court expansion entered mainstream political discourse in 2019 for the first time in almost a century, and as judicial reform became a campaign issue, a high-stakes disagreement emerged between those who expect candidate endorsements of expansion to lead to negative electoral consequences for Democrats, versus those who anticipate that candidate endorsements would have no electoral effect, or may even help Democrats at the ballot box. To test these competing claims, we designed a robust experiment that enabled us to assess the impact of candidate endorsements of court expansion on political behavior.

Our experimental results show that candidate endorsement of court expansion does not produce an electoral backlash or benefit, as it has no statistically significant impact among respondents living in the swing states of Michigan, Ohio, Pennsylvania, Wisconsin, and Minnesota ($n = 2,400$) on likelihood of voting, vote choice, or willingness to forgo a personal financial reward, and only a small statistically significant impact on partisan affect in some conditions. Republican respondents who we provided with endorsements of court expansion were no more likely to vote, or to vote for Republican candidates, than Republicans in our control groups. At the same time, candidate endorsement of court expansion did not motivate Democrats to vote at higher rates, or to become more likely to vote for Democratic candidates, than Democrats in our control groups. Nor did candidate endorsements of expansion motivate Independents to vote at higher rates or to alter their vote choices. Our results, in short, disconfirmed Hypotheses 1 (the expectation that candidate endorsement of court expansion would harm Democrats) *and* Hypothesis 2 (the expectation that candidate endorsement of court expansion would benefit Democrats) with the exception of a small impact on partisan affect in some conditions.

Our findings have a number of significant implications. Perhaps most importantly, it appears that Democratic candidates in favor of court expansion will not face electoral backlash should they advocate for it on the campaign trail. Based on the null effects of our experiment, Democrats face a political landscape in which they may advocate for expansion without reprisal from swing state voters. At the same time, Democratic candidates are unlikely to be rewarded by voters for advocating for court expansion. Democratic candidates who view court reform as necessary for revitalizing democracy and/or fulfilling their legislative agenda may incorporate court expansion into their campaign messages without concern for electoral backlash during the general election, but they will not accrue an electoral advantage. Finally, our research confirms the results of other studies suggesting that voters view the Supreme Court through increasingly partisan lenses.

Although our conclusions reflect a tightly controlled experimental design, the effects of court expansion messages may change over time. Democratic leaders started discussing court expansion in 2019, but judicial reform has not become a central campaign issue. If candidates endorse court expansion more vociferously, their arguments may influence public opinion in new ways. In the current political climate, however, Democratic politicians may advocate for court expansion without electoral penalty in vital, midwestern swing states.

APPENDIX

Table 7. Sample demographics

Female	58.1%
Age 18-34	17.8%
35-44	19.7%
45-64	46.1%
65-84	16.1%
85+	0.2%
Income < \$30,000	26.4%
\$30,000 - \$69,999	39.7%
\$70,000 - \$99,999	18.0%
\$100,000 - \$200,000	13.8%
> \$200,000	2.1%
Less than high school	1.6%
High school graduate	24.1%
Some college	23.5%
2-year degree	13.8%
4-year-degree	26.0%
Advanced degree	11.0%
Michigan resident	19.4%
Minnesota resident	9.1%
Ohio resident	27.8%
Pennsylvania resident	30.8%
Wisconsin resident	12.9%
Democrat	46.7%
Republican	37.4%
Independent	15.9%
Liberal	32.3%
Conservative	33.2%
Moderate	34.5%

**Table 8. Multivariate OLS results for Democrats
(True control group)**

	Dependent Variable				
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional reward
Court Expansion	-0.005 (0.018)	-0.003 (0.015)	-0.030* (0.017)	0.005 (0.012)	-0.004 (0.032)
Competing Frames	0.004 (0.019)	-0.003 (0.016)	-0.007 (0.018)	0.019 (0.013)	-0.024 (0.033)
Age	0.402** (0.172)	0.074 (0.145)	0.539*** (0.162)	0.120 (0.114)	-1.855*** (0.303)
Income	0.002 (0.028)	0.005 (0.024)	0.074*** (0.027)	-0.010 (0.019)	-0.026 (0.050)
Education	-0.040 (0.026)	-0.027 (0.022)	0.108*** (0.024)	-0.005 (0.017)	-0.056 (0.045)
Party ID	0.270*** (0.054)	-0.648*** (0.045)	-0.263*** (0.051)	0.125*** (0.037)	0.173* (0.095)
Constant	0.147*** (0.023)	0.885*** (0.020)	0.840*** (0.022)	0.998*** (0.016)	1.364*** (0.041)
Observations	1,094	1,111	1,122	1,003	1,106
Adjusted R ²	0.023	0.157	0.063	0.008	0.034
F Statistic	4.717*** (df = 7; 1086)	30.514*** (df = 7; 1103)	11.833*** (df = 7; 1114)	2.119** (df = 7; 995)	6.624*** (df = 7; 1098)

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

**Table 9. Multivariate OLS results for Republicans
(True control group)**

	Dependent Variable				
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional reward
Court Expansion	0.036*	-0.004	-0.009	0.002	-0.015
	(0.022)	(0.021)	(0.019)	(0.026)	(0.039)
Competing Frames	0.025	0.034	-0.003	-0.020	-0.007
	(0.021)	(0.021)	(0.018)	(0.025)	(0.038)
Age	0.137	-1.075***	1.189***	0.023	-4.408***
	(0.285)	(0.280)	(0.246)	(0.339)	(0.511)
Income	0.004	-0.024	0.087***	0.045	-0.082
	(0.031)	(0.030)	(0.027)	(0.037)	(0.056)
Education	-0.101***	0.038	0.050*	-0.087**	0.020
	(0.031)	(0.031)	(0.027)	(0.037)	(0.056)
Party ID	0.849***	-0.270***	0.248***	0.337***	-0.366***
	(0.061)	(0.059)	(0.053)	(0.073)	(0.109)
Constant	0.035	0.460***	0.552***	1.673***	1.929***
	(0.062)	(0.061)	(0.054)	(0.075)	(0.112)
Observations	881	875	900	792	885
Adjusted R ²	0.198	0.044	0.062	0.028	0.089
F Statistic	32.039*** (df = 7; 873)	6.767*** (df = 7; 867)	9.542*** (df = 7; 892)	4.259*** (df = 7; 784)	13.310*** (df = 7; 877)

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

**Table 10. Multivariate OLS results for Independents
(True control group)**

	Dependent Variable					
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional reward (GOP)	Additional reward (Dem)
Court Expansion	-0.038 (0.041)	-0.008 (0.045)	-0.065 (0.053)	-0.106 (0.123)	-0.004 (0.108)	0.102 (0.096)
Competing Frames	-0.053 (0.042)	0.027 (0.046)	-0.038 (0.053)	-0.072 (0.117)	0.071 (0.111)	-0.074 (0.095)
Age	0.181 (0.541)	-0.142 (0.589)	2.213*** (0.687)	-0.799 (1.568)	-3.140** (1.349)	-5.152*** (1.308)
Income	0.008 (0.062)	0.086 (0.068)	0.049 (0.079)	-0.268 (0.188)	-0.122 (0.168)	0.063 (0.143)
Education	-0.058 (0.057)	-0.015 (0.063)	0.378*** (0.073)	-0.090 (0.188)	-0.251* (0.146)	0.031 (0.138)
Constant	0.374*** (0.054)	0.348*** (0.059)	0.358*** (0.067)	1.705*** (0.175)	1.803*** (0.138)	1.758*** (0.122)
Observations	349	347	383	143	171	207
Adjusted R ²	-0.004	-0.010	0.118	0.012	0.043	0.061
F Statistic	0.749 (df = 6; 342)	0.425 (df = 6; 340)	9.481*** (df = 6; 376)	1.280 (df = 6; 136)	2.285** (df = 6; 164)	3.226*** (df = 6; 200)

Note. * p < 0.10 ** p < 0.05 *** p < 0.01

Table 11: Outcomes for Democrats (Competing Frames Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from RNC
Standard Politics Control (n=265)	.801	.166	.908	.983	.795
Competing frames group (n=236)	.799	.190	.931	.967	.822
Difference	.002	-.024	-.023	.016	-.027

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 12: Outcomes for Republicans (Competing Frames Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Republicans' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC
Standard Politics Control (n= 226)	.182	.749	.920	.915	.744
Competing frames group (n=236)	.181	.767	.924	.927	.779
Difference	.001	-.018	-.004	-.012	-.035

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 13: Outcomes for Independents (Competing Frames Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of 2-party vote	% preferring lesser personal reward so as to withhold economic support from DNC	% preferring lesser personal reward so as to withhold economic support from RNC
Standard Politics Control (n=106)	.353	.363	.654	.421	.519	0.615
Competing frames group (n=95)	.383	.307	.702	.605	.648	.525
Difference	-.03	.056	-.048	-.184	-.129	.09

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 14: Outcomes for Democrats (Court Packing Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from RNC
Standard Politics Control (n=265)	.801	.166	.908	.983	.795
Court packing (n = 300)	.802	.182	.908	0.977	.807
Difference	-.001	-.016	0.00	.006	-.012

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 15: Outcomes for Republicans (Court Packing Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Republicans' share of two-party vote	Percent preferring lesser personal reward so as to withhold economic support from DNC
Standard Politics Control (n= 226)	.182	.749	.920	.915	.744
Court packing (n =221)	.142	.782	.916	.944	.781
Difference	.04	-.033	0.04	-.029	-0.37

Note. *p < 0.10 **p < 0.05 ***p < 0.01

Table 16: Outcomes for Independents (Court Packing Treatment/Status Quo control)

	Affect toward Democrats	Affect toward Republicans	Likelihood of voting	Democrats' share of 2-party vote	% preferring lesser personal reward so as to withhold economic support from DNC	% preferring lesser personal reward so as to withhold economic support from RNC
Standard Politics Control (n=106)	.353	.363	.654	.421	.519	.615
Court packing (n = 95)	.347	.323	.647	.581	.471	.581
Difference	0.006	0.03	.007	-.16	.048	.034

Note. *p < 0.10 **p < 0.05 ***p < 0.01

**Table 17. Multivariate OLS results for Republicans
(Status Quo control group)**

	Dependent Variable				
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional Reward
Court Packing	0.023 (0.021)	-0.036* (0.021)	-0.007 (0.019)	0.028 (0.026)	-0.029 (0.039)
Competing Frames	0.012 (0.021)	0.002 (0.021)	-0.001 (0.018)	0.006 (0.025)	-0.020 (0.038)
Age	0.127 (0.327)	-0.984*** (0.333)	1.314*** (0.288)	-0.058 (0.397)	-4.325*** (0.597)
Income	0.004 (0.035)	-0.012 (0.035)	0.079** (0.031)	0.028 (0.042)	-0.114* (0.064)
Education	-0.104*** (0.035)	0.056 (0.036)	0.042 (0.031)	-0.104** (0.044)	0.045 (0.065)
Party ID	0.874*** (0.069)	-0.312*** (0.070)	0.197*** (0.061)	0.436*** (0.086)	-0.467*** (0.126)
Constant	0.028 (0.070)	0.507*** (0.071)	0.593*** (0.062)	1.580*** (0.088)	2.022*** (0.129)
Observations	665	660	680	597	671
Adjusted R ²	0.210	0.048	0.052	0.045	0.092
F Statistic	30.371*** (df = 6; 658)	6.478*** (df = 6; 653)	7.148*** (df = 6; 673)	5.724*** (df = 6; 590)	12.256*** (df = 6; 664)

Table 17. Note. * p < 0.10 ** p < 0.05 *** p < 0.01

**Table 18. Multivariate OLS results for Democrats
(Status Quo control group)**

	Dependent Variable				
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional Reward
Court Packing	0.014 (0.018)	-0.002 (0.016)	-0.005 (0.018)	0.002 (0.014)	-0.004 (0.033)
Competing Frames	0.023 (0.019)	-0.002 (0.016)	0.018 (0.019)	0.017 (0.014)	-0.024 (0.034)
Age	0.610*** (0.178)	-0.009 (0.156)	0.495*** (0.178)	0.147 (0.128)	-1.688*** (0.322)
Income	0.007 (0.032)	0.001 (0.028)	0.066** (0.032)	-0.012 (0.023)	-0.063 (0.057)
Education	-0.009 (0.029)	-0.039 (0.025)	0.107*** (0.028)	-0.010 (0.021)	-0.035 (0.052)
Party ID	0.297*** (0.061)	-0.660*** (0.053)	-0.293*** (0.061)	0.134*** (0.046)	0.243** (0.110)
Constant	0.090*** (0.026)	0.899*** (0.023)	0.824*** (0.026)	1.001*** (0.019)	1.342*** (0.047)
Observations	802	815	823	735	809
Adjusted R ²	0.035	0.159	0.062	0.008	0.036
F Statistic	5.784*** (df = 6; 795)	26.654*** (df = 6; 808)	10.086*** (df = 6; 816)	1.983* (df = 6; 728)	6.068*** (df = 6; 802)

Table 18. Note. *p < 0.10 **p < 0.05 ***p < 0.01

**Table 19. Multivariate OLS results for Democrats
(Status Quo control group)**

	Dependent Variable					
	GOP affect	Dem affect	Likelihood to vote	Two-party vote share	Additional Reward (GOP)	
Court Packing	-0.045 (0.040)	-0.011 (0.044)	-0.017 (0.051)	-0.187 (0.123)	0.051 (0.100)	0.038 (0.097)
Competing Frames	-0.060 (0.041)	0.027 (0.044)	0.007 (0.051)	-0.162 (0.116)	0.128 (0.103)	-0.140 (0.096)
Age	-0.249 (0.630)	-0.691 (0.686)	2.512*** (0.806)	-0.812 (1.883)	-3.390** (1.578)	-3.621** (1.528)
Income	0.012 (0.072)	0.098 (0.079)	0.005 (0.092)	-0.225 (0.214)	-0.112 (0.191)	-0.010 (0.166)
Education	-0.041 (0.068)	-0.027 (0.074)	0.437*** (0.086)	-0.070 (0.228)	-0.268 (0.169)	0.052 (0.165)
Constant	0.402*** (0.059)	0.391*** (0.065)	0.273*** (0.074)	1.764*** (0.202)	1.770*** (0.142)	1.724*** (0.144)
Observations	268	267	294	107	133	157
Adjusted R ²	-0.007	-0.007	0.130	0.005	0.050	0.028
F Statistic	0.612 (df = 5; 262)	0.635 (df = 5; 261)	9.736*** (df = 5; 288)	1.106 (df = 5; 101)	2.396** (df = 5; 127)	1.890* (df = 5; 151)

Table 19. Note. *p < 0.10 **p < 0.05 ***p < 0.01



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Since 1999, Belkin has served as founding director of the Palm Center, which the Advocate named as one of the most effective LGBT rights organizations in the nation. He designed and implemented much of the public education campaign that eroded popular support for military anti-gay and anti-transgender discrimination, and when "don't ask, don't tell" was repealed, the president of the Evelyn and Walter Haas Jr. Fund observed that, "this day never would have arrived (or it would have been a much longer wait) without the persistent, grinding work of the Palm Center." Harvard Law Professor Janet Halley said of Belkin that, "Probably no single person deserves more credit for the repeal of 'don't ask, don't tell.'" During a November, 2016 White House ceremony, Deputy Assistant Secretary of Defense Anthony Kurta credited the Palm Center as one of the organizations most responsible for helping the military lift its ban on transgender personnel.

Prior to his arrival at San Francisco State University, Belkin was an associate professor of political science at University of California, Santa Barbara and an associate professor of psychology at City University of New York. He earned his B.A. in international relations at Brown University in 1988 and his Ph.D in political science at the University of California, Berkeley in 1998.



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Druckman has published roughly 100 articles and book chapters in political science, communication, economic, science, and psychology journals. He co-authored the book *Who Governs? Presidents, Public Opinion, and Manipulation* (University of Chicago Press) and co-edited the *Cambridge Handbook of Experimental Political Science*. He has served as editor of the journals *Political Psychology* and *Public Opinion Quarterly* as well as the University of Chicago Press's series in American Politics. He currently is the co-Principal Investigator of Time-Sharing Experiments for the Social Sciences (TESS). He also sits on numerous advisory boards, organizing committees, prize committees, and editorial boards.

Druckman's work has been recognized with numerous awards including over 15 best paper/book awards, and grant support from the National Science Foundation, the McKnight Foundation, the Russell Sage Foundation, and Phi Beta Kappa. He is an elected member of the American Academy of Arts and Sciences, and the recipient of a John Simon Guggenheim Memorial Foundation Fellowship. His teaching/advising has been recognized with the Outstanding Award for Freshman Advising, a Faculty Mentoring Award, and an Outstanding Faculty citation by Northwestern's Associated Student Government. Druckman obtained his BA from Northwestern, majoring in mathematical methods in the social sciences and political science. He received his Ph.D. in Political Science from the University of California, San Diego.