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Representatives in Robes? How California Respondents think of Judicial Representation

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Abstract

Many have identified the tension between conceptualizing judges as legal versus political actors. One dimension of this tension is the extent to which we should or do think of judges as political representatives, both broadly and in ways that are either similar to or distinct from elected political representatives. In this project, we address the role of judges as representatives and then assess whether and to what extent California residents think of judges as representatives. Using public opinion data of California residents from the CalSpeaks survey fielded in the spring of 2021, we find that about a third of respondents do consider judges representatives in some way. While we find no gender differences in perceptions of judicial representation and very limited racial differences, there are strong age differences: younger respondents were significantly more likely to indicate that judges are representatives in some way compared to older respondents. This project informs how Californians understand the role of the courts, which might have consequences for judicial legitimacy and effectiveness.

Introduction

Conventional conceptions of the judiciary portray judges as neutral arbiters of the law. Under this conception, personal beliefs, ideology, or lived experiences are irrelevant to a judge's job of applying the law to a set of facts. In this conventional conception, judges are portrayed as neutral technicians in contrast to the representative, responsive roles of legislatures or executives (Gibson, Caldeira and Spence 2003; Gibson and Caldeira 2009a). As Ifill (1997) writes, "the importance of detachment, disinterest and impartiality to good judging is so deeply imbedded in our legal mythology that acknowledging judges as representatives can be perceived as a threat to the judicial function" (97).

Building on a rich history of legal realism in American jurisprudence (e.g. Frank [1930] 2017; Llewellyn 1962), abundant empirical scholarship indicates that judges are not (or cannot be) fully "neutral." Judges' decisions covary with a number of non-neutral factors, not the least of which is judicial attitudes (Segal and Spaeth 1993) and/or ideology (Segal and Cover 1989). Judges' decisions are also shaped by other judges (Epstein and Knight 1997; Farhang and Wawro 2004; Boyd, Epstein and Martin 2010), other branches of government (Harvey and Friedman 2006; Powe 2000), the public (Casillas, Enns and Wohlfarth 2011), judges' families (Glynn and Sen 2015), and their personal characteristics and experiences (Sotomayor 2002; Collins and Moyer 2008; Collins, Manning, and Carp 2010; Boyd 2016).

Although concern about the possibility of judicial politicization and overreach goes back to the ratification debates of the 1780s, the modern concern about the “counter-majoritarian difficulty” was raised clearly and forcefully by Bickel ([1962] 1986): unelected judges pursuing their own agendas seems to be in conflict with the idea that the government is by, for, and of the people. Current debates over the selection of Supreme Court justices and the ways in which justices’ ideologies and experiences shape their decision-making suggest that members of the news media and the public increasingly perceive the judiciary as non-neutral and political.¹ Within academic circles, the idea that non-legal factors shape judicial decision-making is widely—if not universally—accepted among judicial politics scholars. However, as Bybee (2010) notes, the tension between thinking of judges as political actors versus legal actors remains: “In the Public discourse about the courts, the claims of legal realism are simultaneously proclaimed from the rooftops and disavowed in the streets. The American judiciary is said to be squarely situated *in* politics, yet it is not, somehow, thought to be entirely *of* politics” (p. 4).²

Research on public evaluations of courts further complicates the conceptualization of the judiciary as legal versus political: Gadarian and Strother (2023) show that people who disagree with judicial outcomes are more likely to see the US Supreme Court as “political” while those who agree with outcomes insist that the Court is more “legal” in nature. Barwick and Dawkins (2020) find similar trends at play in the states; they find that people evaluate state supreme courts as more impartial and more legitimate when outcomes are consistent with their own beliefs. This work shows how the very act of identifying whether the institution is political or legal is moderated by policy preferences, which are fundamentally partisan in nature.

One overlooked concept within the tension between thinking of judges as legal versus political actors is the extent to which people do or should think of judges as *political representatives*, both broadly and in ways that are either similar to or distinct from elected political representatives. Thinking about judges as representatives and reflecting on what and how judges represent might provide insight into the conceptual murkiness of judges being legal and/or political actors. While much research addresses public views of the Court in terms of diffuse support or legitimacy (see, for example, Bartels and Johnston 2013); Gibson and Nelson (2015); Krewson and Schroedel (2020)), we know little about how the public thinks about judges and the judiciary in terms of serving representative roles. Investigating how people think about judges and the potential representative role of judges can deepen our understanding of the relationship between citizens and the judiciary and between the judiciary and the other branches of government.

In this project, we focus on the state of California—the most populous state in the USA and home to a large state court system and four US District Courts—to address whether people see

¹ For examples from the news, see Hulse (2021); Pierson (2021); Henninger (2021); Abdelkader (2021); Liptak (2020)

² Dahl (1957)’s description of the Supreme Court almost 70 years ago reflects this same tension: “As a political institution, the Court is highly unusual, not least because Americans are not quite willing to accept the fact that it *is* a political institution and not quite capable of denying it; so that frequently we take both positions at once.”

judges as political representatives. Using public opinion data of California residents from the CalSpeaks Public Opinion survey fielded in the spring of 2021, we test whether and how respondents perceive the judiciary as representative and whether different respondents are more or less likely to perceive the judiciary as representative. We find limited racial differences but strong age differences; younger respondents are much more likely to see judges as representatives relative to older respondents.

The rest of the paper proceeds as follows: first, we provide a broad outline of the concept of political representation. Then, we turn to the question of the representativeness of the judiciary and review existing literature about the extent to which the judiciary does or does not serve representative functions. Finally, we turn to the CalSpeaks Public Opinion Survey data, justify the use of a California-specific sample, and present the results. Before proceeding, we present two clarifying points. First, our project is exploratory and largely descriptive. We are interested in whether people see judges as representatives in some way. While we offer some explanations for why different people may see judges as representatives or not, we are not presenting a normative argument about whether or under what circumstances people *should* see judges as representatives. Second, we leave the definition of a representative largely open and instead let our respondents indicate whether or not judges serve in that role based on respondents' understandings of the term.

The Judiciary and Political Representation

There is a large and complex literature on representation. Indeed, in the canonical *The Concept of Representation*, Pitkin (1967) reflects on the idea that—at least prior to her own work—the concept of representation is so broad and used in so many different ways that the term might lose some of its usefulness (6). Much of the recent writing on representation addresses *how* a representative represents, as opposed to which qualities make an official a representative (e.g. Mansbridge 2003). These distinctions about how one represents and, subsequently whether someone is a good representative, are obviously of great theoretical importance. We hold, however, that before we can address the methods or assess the quality of representation, we must first address the question of whether someone or some post is considered representative at all.

The idea that judges are representatives is implicitly and explicitly addressed in much of the judicial politics and legal literature, but authors have different understandings of what it means for a judge or the judiciary to represent. Marshall (2022), for example, addresses the extent to which the US Supreme Court represents the public by assessing the frequency with which Supreme Court decisions reflect majority public opinion. Representation, for Marshall, is about the reflection of policy preferences in judicial outcomes.³

A growing body of literature addresses the role of “descriptive representation” of the judiciary, noting that judges’ personal characteristics may help to predict case outcomes (Grossman et al. 2016; Peresie 2005; Dawuni 2016; Farhang and Wawro 2004; Boyd, Epstein, and Martin

³ However, Johnson and Strother (2021) suggest the Court may be less responsive to public opinion than Marshall and others expect.

2010). Closely related is the work on symbolic representation that notes how diverse judiciaries affect the feelings toward and perceptions of legitimacy among different segments of the public. Scherer and Curry (2010), for example, find that a greater presence of Black judges increases legitimacy among Black respondents.⁴ Likewise, Badas and Stauffer (2018) show that shared descriptive identities can shape support for judicial nominees. These two literatures treat judges as representatives, but the focus of representing is the representation of salient characteristics by judges or justices.⁵

Ifill (1997) takes a broad view of judicial representation, explaining that judges represent

[T]he legal system, justice, the communities they serve, as well as their own moral values. Judges seek to preserve the authority and consistency of the legal system by respecting precedent and uniformity in applying legal values. Because they are human, judges also represent their own legal, moral, and political visions. Judges also represent the values of the communities they serve (136–137).

From this perspective, judges are expansive in their representative roles. Widner (2023) likewise explicitly addresses the role or representation in the judiciary and “mak[es] the case for thinking about the Court as a representative body” (381). She summarizes how the court has noted—or implied—its representative roles in court decisions over time and how the behavior of judges and other political actors likewise suggests judicial representation.

Of course, not all courts in the US are the same; courts vary in jurisdiction, structure, and symbolism, among other features, and we might likewise expect variation in perceptions of representation. Kritzer (2020)’s work on state court selection methods addresses representationally relevant tensions. Borrowing from the work of Richardson and Vines (1970), Kritzer identifies legal and democratic subcultures in the judiciary and in judicial selection over time. Originally, state judges were almost exclusively appointed (the exception was Vermont). The trend towards electing judges began in the early 1800s. In the early 1900s, non-partisan judicial elections rose in popularity, followed in the mid-20th century by a rise in popularity of the Missouri plan (or other similar commission-assisted selection methods). As Kritzer writes, “most states employ systems of selection and/or retention in which the democratic subculture plays a larger role than it does in the federal system” (9), which could manifest differences in perceptions of representation across state and federal courts. Gibson (2012) likewise focuses on state courts and the consequences of electing judges. He assesses whether judicial campaigns and elections undermine perceived fairness and legitimacy of the courts. Critics of judicial elections argue “that the very legitimacy of the legal system may be

⁴ Granted, a diverse judiciary only increases perceptions of legitimacy if citizens see women and/or racial/ethnic minorities as qualified and deserving of judicial power (Masengu 2021; Shortell and Valdinini 2022). Ono and Zilis (2023; 2022) show that some people stereotype female and Hispanic judges as biased towards their in-groups. In the presence of racism and sexism, an increasingly diverse judiciary may undermine perceptions of the rule of law and judicial legitimacy. Likewise, see Gill, Lazos, and Waters (2011) for a discussion of how gender and racial bias might affect judicial performance evaluations.

⁵ While we focus on the representative role of judges, it is worth noting that judges are not the only actors in the judiciary. Scholars have, for example, addressed descriptive representation of prosecutors (Gunderson 2022) and litigants (Scott, Lane, and Schoenherr 2025) and have addressed diversity within juries (Cornwell and Hans 2011).

eroded as people come to see law and courts as little more than ordinary political institutions and therefore worthy of their contempt and disrespect” (2).⁶ Perhaps surprisingly, Gibson finds that elections actually contribute to legitimacy, presumably by reminding observers that courts are accountable. Despite the legitimacy-enhancing role of elections, some campaigning activity has negative effects on legitimacy. Campaign contributions and political ads that frame judges as self-interested or frame courts as just like other political institutions threaten legitimacy.

Scholars clearly express that judges serve representative roles or that behaviors associated with representing shape assessments of judges and the courts; the question we address here is whether citizens also perceive judges as representatives. Understanding how the public understands the role of judging has important implications for how we understand the relationship between the judiciary and the public and, potentially, judicial legitimacy. If judicial legitimacy depends on narratives of neutrality and impartiality, then a growing belief that the judiciary serves representative functions—or even a blurring between how the public sees the courts in comparison to the elected, political branches—has the opportunity to undermine judicial legitimacy and/or change how people understand the role of the judiciary within separation of powers and checks and balances.

Who might see Judges as Representatives

Regardless of whether or not judges *do* or *should* serve representative roles, why might we expect some observers to perceive judicial representation while others do not? There are at least three broad reasons why there may be systematic variation in perceptions of judicial representation.

First, whether or not someone considers judges to be representatives is tied to their understanding of the term “representation,” which is broad and can vary across context. Different people may give different meaning to the term “representative,” and will therefore see different people as serving as representatives or not. Using the dimensions of representation outlined by Pitkin (1967), for example, people who think of “representation” as descriptive representation—the reflection of salient characteristics—may think of judicial representation in different ways that someone who prioritizes formal representation (representation via formal authorization to act). Advocates of descriptive representation emphasize how the presence of people from diverse backgrounds serves to incorporate different lived experiences into political or legal discourse. Since descriptive representation depends on presence rather than particular qualifications, processes of appointment, or outcomes, we expect that a descriptive conceptualization of representation may be more easily extended or applied to the judiciary. Therefore, we expect those who prioritize descriptive representation to be more likely to view judges as representatives compared to those who prioritize formal or substantive approaches to representation.

⁶ Elections as a method of selection are not unique in bearing criticism; other selection methods are flawed as well. Vining Jr, Bullock III and Boldt (2023) show that campaign contributions to a governor increase the likelihood of interim judicial appointment, and “merit” selection procedures may obscure gender bias in selection (Arrington 2021; Goelzhauser 2018).

Another common approach to differentiating ways of representing is the trustee versus delegate approach to representation. Under the trustee approach to representation, constituents authorize a representative to act on their behalf as the representative best sees fit. Under this approach, representatives have more autonomy. In contrast, under the delegate approach, representatives are authorized to implement only what the constituency wants or instructs the representative to do. Under the delegate approach, representatives are more limited in the breadth of their power and serve as mouthpieces for the constituency. Because many judges are insulated from the preferences of their constituencies, a delegate approach to representation may be difficult to apply to judges. Therefore, people who understand political representation via the delegate approach to representation may have a harder time thinking about judges as representatives and will therefore be less likely to describe judges as representatives than others.

Second, setting aside the variation in how people understand “representation,” people also vary in how they understand or think of the courts. While many factors shape attitudes, research on judicial legitimacy suggests that race and gender are salient characteristics for understanding attitudes towards the courts. This research on legitimacy shows that women and Black respondents consistently view the court as less legitimate than white men (Krewson and Schroedel, 2023, 2020; Gibson and Caldeira, 1992; Gibson and Nelson, 2018). Explanations for this gap vary but focus on the absence of women or Black judges on courts (often the US Supreme Court), on differences in perceptions of fairness of the court, and on socialization. For example, in their work on the gender gap in judicial legitimacy, Krewson and Schroedel (2023) test four mechanisms: descriptive representation, fairness, bias, and the conflictual nature of the court, and find evidence for descriptive representation and fairness. They find that women are more likely than men to respond that the court poorly represents women and are more likely than men to perceive the court as unfair; attitudes about both representation and unfairness are, in turn, associated with legitimacy.

Similar patterns exist for Black observers; Black respondents have less positive attitudes towards the courts than white respondents, including attitudes towards state courts (Cann and Yates 2008). Gibson and Caldeira (1992)’s explanation focuses on cohort effects. They find that Black respondents socialized during the Warren Court era, when the court championed many issues supported by Black Americans, had higher levels of support than their older and younger counterparts, suggesting that the judicial context in which people are socialized has lasting consequences for judicial support. Gibson and Nelson (2018) explain the racial gap in judicial legitimacy via Black respondents’ experiences with police and a sense of linked fate.⁷

In this research about identity and legitimacy, the pattern that women and Black respondents see the court as less legitimate is clearer than *why* women and Black respondents see the court as less legitimate. That said, this work treats representation (sometimes implicitly) as the mechanism through which identity affects legitimacy: women and people of color see the court as being less descriptively and/or substantively representative and therefore see the court as less legitimate, but we know little about why women and people of color hold these different

⁷ Experimental work on attitudes towards specific case outcomes also notes racial and gender differences. People hold judges to different standards depending on who the judges are and what traits they reflect (Nelson 2015), and people tend to doubt the impartiality of judges who do not share their traits (Ono and Zilis 2022; 2023).

representative attitudes towards the court. Indeed, that the courts are less descriptively and substantively representative of women and people of color is treated as fact, and it is presumed that women and people of color are more aware of that fact than their white male counterparts. In other words, the research on identity and legitimacy assumes that women and people of color see the court as—in at least broadly defined ways—representative. This literature on the link between identity and legitimacy notes the role of judicial representation (broadly defined) but leaves it largely unexamined. We contribute to this work by explicitly assessing whether and how women and people of color see courts as representative.

Third, over the last several decades, the idea that judges are not simply neutral arbiters of the law but that judicial decision-making is informed by myriad non-legal factors has become commonplace in judicial politics research and in media portrayals of the judiciary. Moreover, recent Supreme Court nominations and confirmation hearings have in many ways emphasized the political nature of the court. For example, Merrick Garland's nomination to replace Antonin Scalia in 2016 floundered for over eight months amidst disagreements between the Democratic president, the Republican-led Senate Judiciary Committee, and Senate Majority leader Mitch McConnell, who insisted that since President Obama was in his last year in office, the next president should fill the vacancy. In contrast, Amy Coney Barrett was nominated in 2020 less than six weeks before a presidential election, but Senate Republicans no longer objected that vacancies should be held open until after a presidential election (as they had with Garland's nomination) and confirmed her appointment just a month after her nomination and a few days before the presidential election. The media, researchers, and other observers highlighted the various ways in which these nominations and confirmations, the confirmations in between, and the court overall were deeply partisan and ideological.

The portrayal of the court as an arena in which polarization and partisan politics plays out may shape public attitudes towards the court. It seems plausible to us that people whose understandings and beliefs about the court were formed or solidified during a highly polarized political climate may be more likely to see the court as political and see judges as representatives rather than strictly neutral legal actors. Indeed, others have noted relationships between age and relevant attitudes, such as support for the Supreme Court (Carrington and French 2021) and legitimacy of the criminal justice system more broadly (McLean, Wolfe and Pratt 2019). We, therefore, expect that younger people will be more likely to see judges as representatives than older people.

These broad explanations suggest that some people may see judges as representatives while others may not. In the next sections, we use public opinion survey data from the state of California to test whether respondents see judges as representatives and to assess which respondents are most likely to see judges as representatives. Specifically, we address whether preferences over types of representation and whether age, race, and gender are associated with seeing judges as representatives.

Data and Methodology

Data were collected through the CalSpeaks California public opinion survey, a public opinion data collection project hosted by the Institute for Social Research at California State University,

Sacramento (Sacramento State University). The survey uses probability-based sampling to generate a California state-wide panel survey (Nalder 2019). The survey, fielded in the spring of 2021, included several questions about representation and judicial representation added through a fellowship with the Social Science Research & Instructional Center (see Appendix 1 for question text). Table 1 reports summary statistics of the sample. In the following sections, bivariate comparisons are reported from unweighted data. We estimate our regression models using both unweighted and weighted survey data.

California residents offer a relevant population for this study. Not only do California's 39.5 million residents account for almost 12% of the US population overall (U.S. Census Bureau 2024), California courts, as Carrillo and Duvernay (2015) explain,

[H]ave long held national significance thanks to the state's size and national prestige. California's judiciary is the largest in the nation—larger than the entire federal judiciary combined...For many years California courts have been pathfinders on the big issues. True, there is no official ranking order of state high court prestige, so it cannot be said that everyone looks to California to see what its courts think. But the California Supreme Court has long been, and continues to be today, the most 'followed' state high court. And it often has been the case that California decisions influenced the national discussion on an issue (6).

In addition, judges in California are selected via both election (California Superior Court Judges) and appointment (California Superior Court vacancies, Court of Appeals, and Supreme Court), and some face retention election (California Court of Appeals and Supreme Court). This combination of judicial selection methods means that Californians do have some electoral control over judges, but for many judges that electoral control is quite removed.⁸ For example, an appointed Appeals or Supreme Court judge might not face retention election for up to 12 years, and a Superior Court Judge who is unopposed will not appear on the ballot.⁹ These selection mechanisms mirror the representational murkiness of judges being both similar to and distinct from their legislative peers. Given the importance of California to the United States, both in terms of overall population and the work of California courts, beginning an assessment of citizen perceptions of the judiciary among Californians is a fruitful choice.

⁸ To further contextualize these selection methods, California is one of 20 states that use nonpartisan elections for trial court judges. For intermediate appellate courts and the state supreme court, California is one of 17 and 18 states, respectively, that use a Missouri plan, merit selection, or hybrid selection method, although California is somewhat unique in the timing: rather than the governor choosing from a list generated by a commission, the governor selects a judge who then must be confirmed by the Commission on Judicial Appointments. See the Brennan Center for Justice's state selection method webpage for more comparisons between states <https://www.brennancenter.org/judicial-selection-map>.

⁹ See California Courts Newsroom (n.d.) for more detail on California state court selection methods.

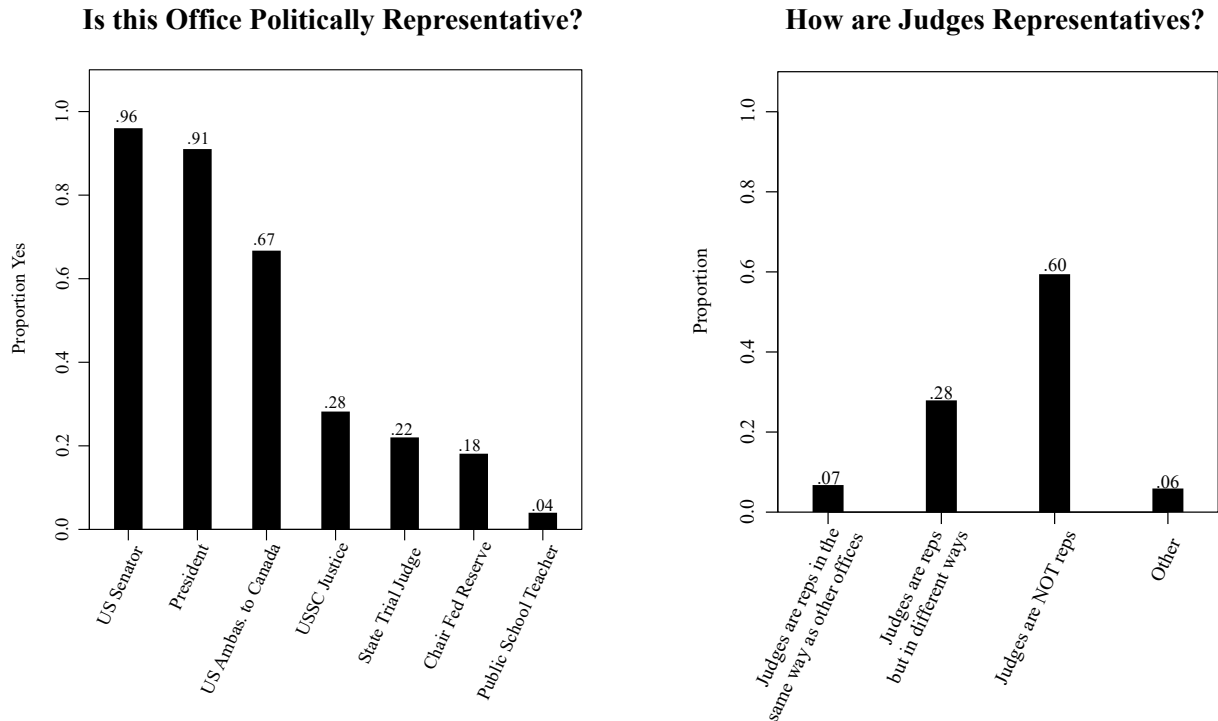
Table 1. Sample Characteristics (with California Census Comparisons)

Gender	Male	Female	Non-Binary	N/A		
	42% (50%)	56% (50%)	1%	1%		
Race + <i>Latino/a</i>	White	Black	Asian/ Pac Isl.	Other/ NA	<i>Latino/a</i>	
	74% (70%)	4% (7%)	11% (17%)	11% (6%)	17% (40%)	
Age	20-29	30-39	40-49	50-59	60-69	70+
	9% (19%)	13% (19%)	15% (17%)	17% (17%)	24% (14%)	22% (13%)
Ideology	Very Cons.	Cons.	Mod.	Prog.	Very Prog.	N/A
	3%	11%	38%	32%	16%	1%
Education	<High School	H. S. Degree	Some College	Assoc. Degree	Bach. Degree	Grad. Degree
	1% (16%)	5% (20%)	16% (21%)	8% (8%)	32% (22%)	38% (13%)
Household Income	<\$50k	\$50- 75k	\$75- 100k	\$100- 200k	>\$200k	NA/ Decline
	23% (30.5%)	14% (15%)	12% (12%)	28% (27%)	9% (15%)	13%

Summary statistics of the CalSpeaks survey sample, n=704. Census (2020) and American Community Survey (2021) data for California are reported in parentheses below our sample average. For age, the census data are percent of the population 20 years old and above for each category. Data on non-binary gender identification were not reported for the Census 2020 or ACS 2021 data. Census data does not include ideology, but our sample leans more liberal/progressive than a Public Policy Institute of California 2021 survey: 7% very conservative, 19% somewhat conservative, 42% middle of the road, 20% somewhat liberal, and 11% very liberal.

Do Respondents See Judges as Representatives?

Before assessing who is most likely to view judges as representative, we first turn to the question of whether respondents see judges as representatives at all. To do so, we ask two questions. First, we ask respondents whether several posts “are supposed to be politically representative” (see Appendix 1 for full survey questions). This question is aimed at identifying whether respondents are more or less likely to perceive of judges—both Supreme Court Justices and State Trial Court Judges—as representatives relative to other posts. The left panel of Figure 1 shows the proportion of respondents who consider different posts representative. Almost all respondents (96%) consider a US Senator to be a political representative, and most respondents (67%) consider the US Ambassador to Canada a political representative, but less than a third (28% and 22%, respectively) consider US Supreme Court Justices and State Trial Court Judges to be political representatives.

Figure 1. Respondents' Views of Representatives

The left panel shows the proportion of respondents ($n=704$) who indicated that each post “is a political representative.” The right panel shows the proportion of respondents who answered each option to the question about whether judges act as representatives ($n=695$).

In a second attempt to measure whether people see judges as representatives, we ask respondents the following question about political representatives and provide four multiple choice responses:

“Which of the following most closely reflects your own views or understanding of whether judges act as political representatives?”

- Judges or justices are political representatives in the same way that the holders of other government offices are representatives.
- Judges or justices are political representatives, but in a way that is different from how the holders of other government offices are representatives.
- Judges or justices are not political representatives.
- Other (please explain)”

By acknowledging that judges might represent but in ways that are different than other representatives, this question allows for more nuance in how respondents think of judging and representation. The right panel of Figure 1 shows the proportion of respondents who selected each choice. Despite the capacity for increased nuance with respect to judicial representation, the results from this question are quite similar to the responses to the previous question. A full 60% of respondents say that judges are not political representatives; 28% indicate that judges

are political representatives, but in ways that are different from other offices, and 7% of respondents see judges as political representatives in the same way as other office holders.

Table 2 compares the answers to the two questions measuring respondent perceptions of judicial representation from Figure 1. As expected, respondents who consider judges as representatives were more likely to also indicate that the office of a US Supreme Court justice is supposed to be politically representative. However, not all respondents were consistent in their answers. There are a few explanations for this inconsistency: what we saw as slight differences in the wording of the questions were less slight to some respondents, there was confusion, some respondent opinions are weak, or some respondents were not paying close attention to the questions. Overall, though, answers to these two questions indicate that about a third of respondents consider judges and justices to be representatives. Next, we assess *who* sees judges as representatives. We first present bivariate comparisons of each independent variable before turning to multiple logistic regression results.

Table 2. Comparing Answers Across Questions

	Yes, USSC Justice is rep	No, USSC Justice not rep	I don't know
Yes, Judges are Reps, Same	39 (.20)	6 (.01)	2 (.06)
Yes, Judges are Reps, Different	116 (.59)	65 (.14)	12 (.36)
No, Judges not Reps	32 (.16)	368 (.79)	12 (.36)
Missing	11 (.06)	32 (.07)	7 (.21)
Total	198	471	33

The number and proportion of respondents who gave answers to the two questions that measure whether they see judges as representatives: "Please indicate whether each of the offices listed below is supposed to be politically representative: United States Supreme Court Justice," (columns) and "Which of the following most closely reflects your own views or understanding of whether judges act as political representatives?" (rows).

Beliefs about Representation and Judicial Representation

There are many ways to think of what representation is or what 'good' or 'correct' representation looks like. Leveraging the concepts of trustee versus delegate approaches to representation and Pitkin (1967)'s dimensions of representation, we assess how respondents understand political representation and whether there is a relationship between how people think of representation and beliefs about judicial representation.

Trustee approach to representation and judicial representation

To assess whether beliefs about a trustee or delegate approach to representation affect beliefs about judicial representation, we ask respondents a multiple choice question about how they think representatives *should* behave (Question 2 in Appendix 1). The multiple choice responses reflect delegate and trustee approaches to representation. Then, we compare responses among

those who selected trustee and delegate representation to the question about whether judges are political representatives in ways that are similar or different from government offices.

Table 3 reports how respondents answered both questions. Of the 301 respondents who chose a delegate approach to representation, 10% see judges as representatives in the same way as other government offices; 29% see judges as representatives but in ways different from other offices, and 55% do not see judges as representatives. Among those who chose a trustee approach to representation, only 4% see judges as representatives in the same way as other offices; 27% view judges as representative but in ways different from other offices, while 62% do not view judges as representative. Here, the patterns suggest the opposite relationship to our expectations: those with a delegate approach to representation are slightly *more* likely to see judges as politically representative than those with a trustee approach to representation. Indeed, among those respondents who say that judges are representatives the same way as other government offices, a hefty 64% have a delegate approach to understanding representation despite the trustee approach being more common among respondents overall.

Table 3. Trustee v. Delegate Approach to Representation and Perceptions of Judicial Representation

	Delegate Approach	Trustee Approach	Don't Know/ Missing
Yes, Judges are Reps, Same	30 (.10)	15 (.04)	2 (.09)
Yes, Judges are Reps, Different	86 (.29)	101 (.27)	7 (.32)
No, Judges not Reps	167 (.55)	237 (.62)	9 (.41)
Other/Missing	18 (.06)	28 (.07)	4 (.18)
Total	301	381	22

This table shows the relationship between a respondent's general approach to representation—either a trustee or delegate approach—and their beliefs about whether judges and justices serve as political representatives. Those who responded “Representatives are supposed to do what their constituents (the people they represent) want them to do” were coded as holding a delegate approach to representation. Those who answered either “Representatives are supposed to listen to their constituents, but ultimately have to make their own decisions” or “Representatives are supposed to do what they think is best, regardless of whether their constituents agree” were coded as having a trustee approach to representation.

Descriptive Representation and Perceptions of Judicial Representation

To test whether those who prioritize descriptive representation are more likely to think of judges as representatives, we included a question meant to capture different approaches to representation in line with Pitkin's (1967) conceptualization of representation. In Question 3, listed below, each of the response options for this question aimed at measuring a particular dimension of representation (formal, substantive, and descriptive). The type of representation each option measured is listed in parentheses in italics. These labels were not included in the text of the survey but are included here for clarity. Of course, measuring respondent understanding of and preferences for complex concepts with a single survey question is imperfect. Nevertheless, we hope that this question gives us some insight into how people prioritize different types of representation:

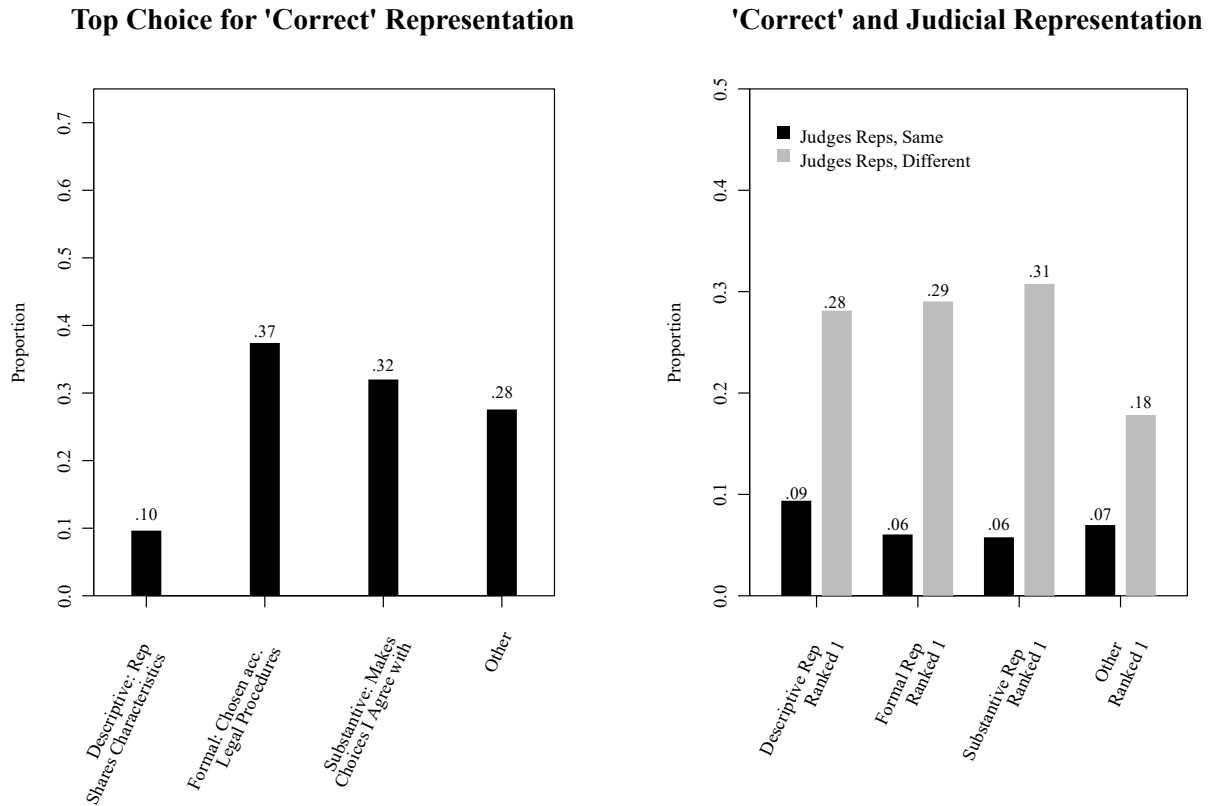
“Think about what makes someone a “good” representative for you personally. Then, please rank the choices below from most important to least important. Please rank your top choice with a value of 1, followed by 2, 3 and 4 for your second, third and fourth choices.

I feel or believe that my representatives are really representing me correctly when:

- They have been chosen for office according to the correct legal procedures. (*Formal Representation*)
- They share important experiences or characteristics with me, such as gender, race/ethnicity, religion, background, or hometown. (*Descriptive Representation*)
- They make decisions that I agree with. (*Substantive Representation*)
- Other (please explain)”

The left panel of Figure 2 shows the proportion of respondents who indicated each approach to representation as the most important (rank 1). A formal approach to representation was the most popular first choice with 37% of respondents ranking it first. Only 10% of respondents ranked descriptive representation as most important. Interestingly, 28% of respondents ranked “Other” as most important, suggesting—correctly—that the three other options provided are far from exhaustive. Looking at the text entries explaining the selection of “Other” shows quite a bit of variation, but many of the responses focus on the process of decision-making (for example, “They work diligently to understand the issues,” “They make informed decisions,” or “they make an effort to find out what their constituents really want on specific issues and do their best to achieve that result”) or on personality/ethical characteristics (for example, “They show integrity and make choices based on sound ethics,” “They should have good values,” or “They make decisions that are ethically defensible and good for humanity”).

The right panel of Figure 2 compares perceptions of judicial representation across those who ranked descriptive, formal, substantive or other representation as most important. We expected those who prioritize descriptive representation to be more likely to see judges as representatives. While those who ranked descriptive representation highest had a marginally greater proportion of respondents indicate that judges are representatives in the same way as other government offices (9% versus 6% or 7%), differences across those who ranked descriptive, formal, and substantive representation as most important were minimal at best. The most marked difference is that those who chose “Other” for how someone is a good or correct representative were less likely to respond that judges are representatives in either way—only 25% in the “Other” group indicated judges were representatives in any way compared to 37%, 35%, and 37% for the other groups. Perhaps this indicates that those who want to be most precise about defining what “correct” or “good” representation is may have narrower conceptions of who is considered a representative. Admittedly, our measurements of Pitkin’s dimensions of representation are very rough; future work should assess how one’s understanding of the concept of representation shapes the extent to which they consider judges representatives with more precision.

Figure 2. Pitkin's Dimensions of Representation and Judicial Representation

The left panel shows the proportion of respondents who indicate each selection as being the most important (rank 1) type of representation. The right panel shows the proportion of respondents within each category of top-ranked dimensions of representation who indicated that judges are representatives (both in the same way as other government offices in black and different from other offices in gray). That is, about 9% of respondents who ranked descriptive representation as the most correct form of representation also consider judges representatives in the same way as other officials.

Identity Characteristics and Perceptions of Judicial Representation

We expect that non-white, non-male, and younger respondents may be more likely to perceive judges as representatives. To assess this expectation, we compare responses to Question 4 about judicial representation across race, gender, and age among respondents. Table 4 reports respondents' views of judicial representation by gender: 36% of those who identify as women or non-binary consider judges to be representative both in ways that are similar to and different from other officials and 33% of those who identify as male responded the same way.

Turning to perceptions of judicial representation by racial/ethnic identity, we see some differences descriptively. As Table 5 shows, 29% of white, non-Hispanic respondents see judges as representatives either in ways similar to or different from other offices and 45% of non-white and/or Hispanic respondents see judges as representatives. Table 5 further disaggregates the non-white and/or Hispanic category and shows the number of respondents within each racial/ethnic group who consider judges to be representatives. While sample sizes

within several racial/ethnic groups are limited, approximately 60% of respondents who identify as either Black or African American or American Indian or Alaskan Native consider judges to be representatives.

Table 4. Gender and Perceptions of Judicial Representation

	Male	Female	Gender- queer/ Non-binary	Other/ Missing
Yes, Judges are Reps, Same	18 (.06)	28 (.07)	0	1 (.11)
Yes, Judges are Reps, Different	77 (.27)	114 (.29)	2 (.4)	1 (.11)
No, Judges are not Reps	180 (.63)	224 (.57)	2 (.4)	7 (.77)
Other/Missing	21 (.07)	28 (.07)	1 (.2)	0
Total	286	394	5	9

Perceptions of judicial representation by respondent gender. 394 respondents identify as female, 5 identify as Genderqueer/Non-binary, and 9 respondents declined to answer information about their gender.

Table 5: Race and Perceptions of Judicial Representation

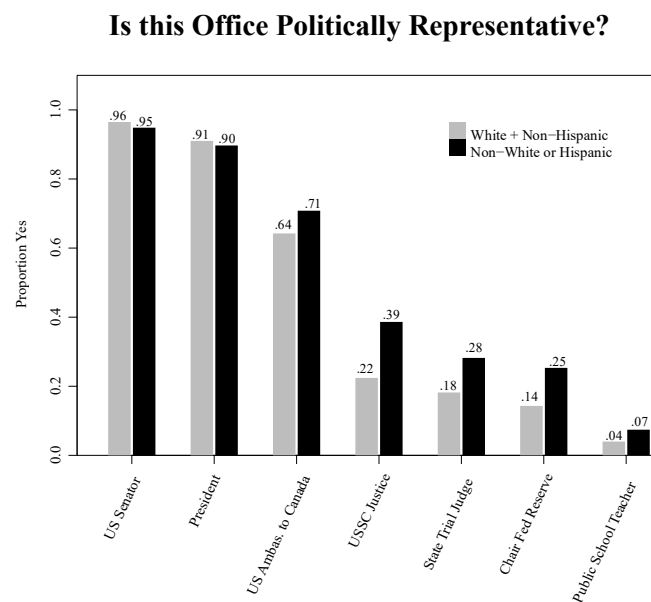
	White, non- Hspnc	Non- wht/ Hspnc/ Other	<u>Disaggregation of Non-white/Hispanic/Other</u>					
			White, Hspnc	Black/ Afr. Am.	Asian/ Pacific Isl.	Middle Eastern/ N. Afr.	Amer. Ind./ Alsk Ntv	Other
Yes, Judges Rep, Same	22 (.05)	23 (.10)	7 (.11)	4 (.15)	5 (.07)	1 (.17)	1 (.20)	5 (.08)
Yes, Judges Reps, Diff.	108 (.24)	84 (.35)	19 (.29)	12 (.44)	30 (.39)	2 (.33)	2 (.40)	19 (.32)
No, Judges Not Reps	289 (.63)	120 (.50)	35 (.54)	9 (.33)	40 (.53)	2 (.33)	2 (.40)	32 (.53)
Other/ Missing	37 (.08)	12 (.05)	4 (.06)	2 (.07)	1 (.01)	1 (.17)	0	4 (.07)
Total	456 (1)	239 (1)	65 (1)	27 (1)	76 (1)	6 (1)	5 (1)	60 (1)

Perceptions of judicial representation by respondent race/ethnicity. Respondents were asked a multiple choice question about their racial identification with the following options: White, Black or African American, American Indian or Alaska Native, Asian, Pacific Islander, Middle Eastern or North African, and Other (please specify). Many of the written responses to "Other" indicated Latina/o racial identification or a geographic-based racial identity such as "Mexican American." Given these responses to "Other" for racial identity, we merged the binary question that asked "Are you of Hispanic, Latina/a, or Spanish Origin?" to generate White Hispanic and White Non-Hispanic categories in addition to the racial categories originally provided to respondents. There were 5

respondents who identified as Hispanic/Latino but left the race category blank. These five individuals were included in the “Other” category.

When we disaggregate perceptions of representation of various public offices by race/ethnicity, we see that non-white and Hispanic respondents are more likely to see a few different posts as representatives compared to their white, non-Hispanic counterparts. Figure 3 replicates Figure 1 disaggregated by race and shows that people of color and those who identify as Hispanic are more likely to see Supreme Court justices, state trial court judges, the chair of the Federal Reserve, and school teachers as serving representative roles relative to white, non-Hispanic respondents, which suggests that racial/ethnic differences in perceptions of representation may not be limited to the judiciary.

Figure 3. Perceptions of Representation by Race/Ethnicity



The proportion of respondents who see each office as serving as a political representative disaggregated by white, non-Hispanic respondents (gray bars) and non-white or Hispanic respondents (black bars).

Finally, Table 6 disaggregates perceptions of judicial representation by respondent age. Younger respondents have lived more of their lives in the highly televised (or social mediated) and highly polarized context in which political motivations of myriad actors are emphasized. As such, we expect younger respondents to be more likely to see judges as representatives. Among 20-to-29-year-olds (the youngest respondents in the sample are 20 years old), 61.2% of respondents indicated that judges were representatives. In contrast, only 21.9% of respondents older than 60 considered judges to be representatives.

Much like with the comparisons between perceptions of representation across positions by race in Figure 3, younger people are more likely to consider various positions as politically representative relative to older people. As Figure 4 shows, a greater proportion of people aged

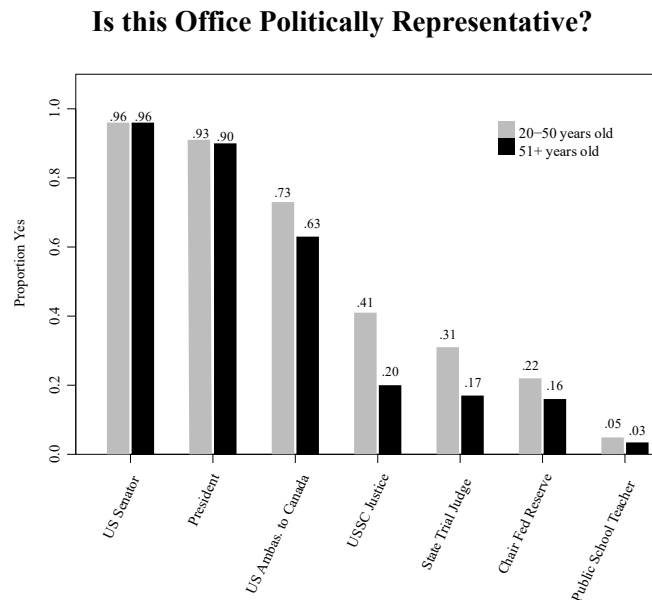
50 years and younger consider the Ambassador to Canada, a US Supreme Court Justice, a state trial judge, and the chair of the Federal Reserve as politically representative compared to older people. To the extent that younger and non-white respondents may be more likely to identify with a liberal or progressive ideology, perhaps the real relationship here is between liberalism and judicial representation? Table 7 shows the proportion of respondents who consider judges representative (both in ways that are similar to and different from other offices) by respondent ideology. Overall, conservative respondents had the lowest proportion of people indicate that judges are representatives (17% across both yes categories) while moderates had the highest proportion of people indicate that judges are representatives (39% across both yes categories).

Table 6: Age and Judges as Representatives

	20-29 years	30-39 years	40-49 years	50-59 years	60-69 years	70+ years
Yes, Judges Reps, Same	9 (.15)	10 (.11)	5 (.05)	12 (.10)	4 (.02)	7 (.05)
Yes, Judges Reps, Diff	29 (.47)	29 (.33)	49 (.45)	30 (.25)	31 (.18)	26 (.17)
No, Judges Not Reps	23 (.37)	47 (.53)	47 (.43)	74 (.61)	115 (.67)	107 (.70)
Other/ Missing	1 (.02)	3 (.03)	8 (.07)	5 (.04)	21 (.12)	12 (.08)
Total	62	89	109	121	171	152

The number and proportion of respondents who see judges as representative by respondent age. The youngest respondents were 20 at the time of the survey; the oldest respondent was 93.

Figure 4. Perceptions of Representation by Age



The proportion of respondents who see each office as serving as a political representative disaggregated by age. Gray bars show the younger respondents (20–50) and black bars show older respondents (51+).

We turn next to a multiple logistic regression to identify the effects of each variable of interest while controlling for the effects of the other variables. Table 8 summarizes the results of our

logistic regression. The dependent variable is a binary measure of whether a respondent indicated that judges are representatives either in ways similar to or different from other offices or not. We include measures outlined above about approaches to representation, gender, age, race, and ideology. In addition, we add control variables to capture additional demographic variation (household income and education levels) as well as controls for political interest¹⁰ and trust in the federal government.¹¹ Existing research shows that knowledge about the Supreme Court is associated with attitudes about the court (Gibson and Caldeira 2011, 2009b). While we do not have measures of judicial knowledge, political interest and trust should capture some of this variation.

Table 7. Ideology and Judges as Representatives

	Very Cons.	Cons.	Mod.	Prog.	Very Prog.
Yes, Judges Reps, Same	1 (.06)	1 (.01)	24 (.09)	14 (.06)	5 (.04)
Yes, Judges Reps, Diff	2 (.11)	21 (.27)	80 (.30)	58 (.26)	31 (.27)
No, Judges Not Reps	14 (.78)	50 (.64)	146 (.55)	133 (.60)	70 (.61)
Other/Missing	1 (.06)	6 (.08)	17 (.06)	18 (.08)	8 (.07)
Total	18	78	267	223	114

The number and proportion of respondents who see judges as representative by ideology. Combining the two yes categories, 17% of very conservative, 28% of conservative, 39% of moderate, 32% of progressive, and 31% of very progressive respondents see judges as representatives in ways that are either similar to or different from other political offices.

Model 1 uses the unweighted survey data, while model 2 uses the weighted data (Lumley 2024). Despite probability-based sampling, our sample is older, more educated, and has far fewer Latino/a identifying respondents than the state of California. The survey weighting adjusts the sample to better reflect the population variation in the California overall. Gender, education level, household income, and trust in government are statistically insignificant across both models. Respondents who are Black are more likely to see judges as representatives, but the p-value in the weighted model is only equal to .06. Likewise, moderates are more likely to see judges as representatives relative to very conservative respondents, but the p-value in the weighted model is .064. In the weighted model, those who talk about politics more often (political interest) are less likely to see judges as representative ($p=.018$). Across both models, age is statistically significant: older respondents are less likely to report that judges are representatives than younger respondents. To better visualize the effect of age on perceptions of representation, Figure 5 shows the predicted probability of seeing judges as representatives by age.

¹⁰ “How many days in the past week did you talk about politics with family or friends (in person or by text or online)? I don’t really discuss politics, 1 day, 2 days, 3 days, 4 days, 5 days, 6 days, 7 days

¹¹ “How much of the time do you think you can trust the federal government in Washington DC to do what is right? Just about always, Most of the time, Only some of the time, Never.

Table 8. Logistic Regression

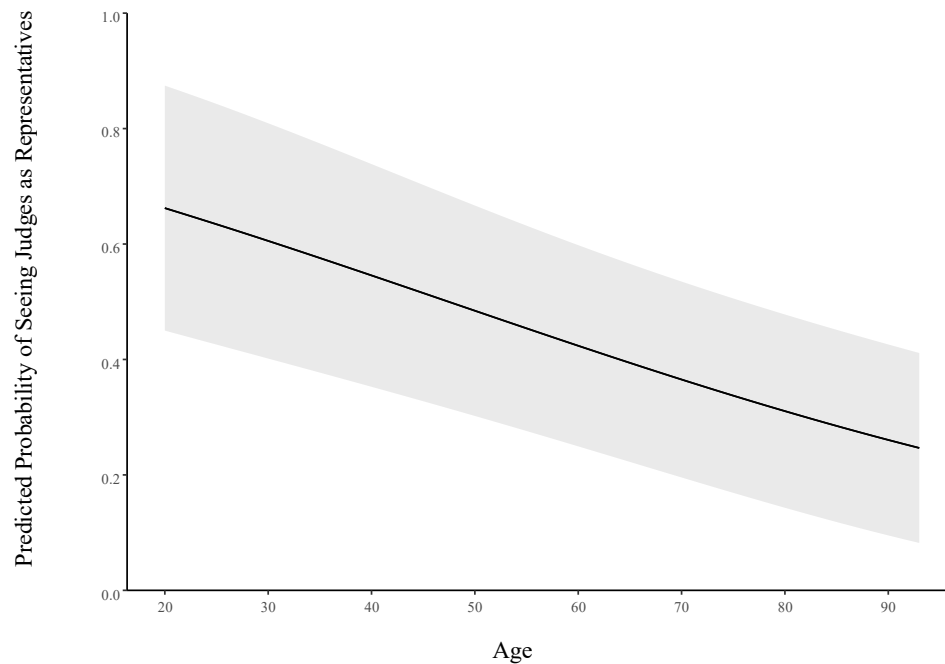
	<i>DV: Respondent Sees Judges as Representatives</i>			
	<u>(1) Unweighted</u>		<u>(2) Survey Weights</u>	
Age	−0.031***	(0.006)	−0.025***	(0.008)
Female or Non-binary	0.172	(0.185)	0.331	(0.269)
Political Interest	−0.051	(0.039)	−0.131**	(0.056)
Trust in Government	−0.033	(0.165)	−0.010	(0.236)
Education (Relative to ≤ High School)				
Some college, no degree	−0.482	(0.468)	−0.255	(0.534)
Associate's degree	−0.441	(0.513)	−0.696	(0.619)
Bachelor's degree	−0.516	(0.446)	−0.452	(0.534)
Postgraduate degree	−0.451	(0.458)	−0.540	(0.562)
Household Income (Relative to <\$50k)				
\$50-100k	0.058	(0.257)	0.446	(0.392)
\$100-200k	0.196	(0.261)	0.589	(0.424)
\$200k or more	0.006	(0.373)	0.316	(0.520)
Decline to answer	−0.050	(0.341)	0.549	(0.453)
Hispanic/Latinx	−0.012	(0.269)	−0.004	(0.368)
Race (Relative to White)				
Black or African American	1.213***	(0.454)	0.999*	(0.531)
American Indian/ Alaska Native	1.108	(0.976)	0.019	(0.921)
Asian	0.254	(0.290)	0.233	(0.393)
Pacific Islander	−0.776	(1.170)	−0.198	(1.070)
Middle Eastern/ North African	1.291	(0.931)	1.874	(1.148)
Other	0.328	(0.344)	0.210	(0.494)
Ideology (Relative to Very Conservative)				
Conservative	0.577	(0.726)	1.613	(1.120)
Moderate, middle of the road	0.869	(0.694)	1.991*	(1.073)
Progressive	0.599	(0.699)	1.636	(1.085)
Very progressive	0.537	(0.718)	1.567	(1.118)
Constant	0.852	(0.850)	−0.649	(1.191)
Observations	634		634	
Log Likelihood	−382.578			
Akaike Inf. Crit.	813.156			

Note:

*p<0.1; **p<0.05; ***p<0.01

Logistic regression results. Model (1) uses un-weighted data; model (2) uses weighted data. These regressions compare both versions of “yes” (judges are representatives in the same and in different ways than other officials) to “no” answers; the “other” category is treated as missing since it is unclear whether “other” is more similar to yes or no here. Re-estimating the models with “other” treated as “no” shows minimal differences (see Table 9 in Appendix 2).

Figure 5. Effect of Age on Probability of Seeing Judges as Representatives



The effect of age on the predicted probability of seeing judges as representatives with other variables held at the mean or mode, using the weighted logistic regression. Generated using “marginaleffects” in r (Arel-Bundock, Greifer, and Heiss 2024).

Discussion and Conclusion

We asked two main questions in this project. First, how many respondents see judges as political representatives? Second, are some respondents more likely to see judges as representatives than others? For the first question, we find that about a third of our respondents see judges as serving representative roles, either in ways that are similar to or distinct from other political offices. Seven percent of our respondents see judges as representatives in the same way as other government offices.

To the second question, we find limited evidence that some respondent characteristics are associated with whether someone considers judges to be representatives. Unlike studies on judicial legitimacy, we find no gender differences in perceptions of judicial representation. Effects of race on perceptions of representation are, at best, mixed. White, non-Hispanic respondents are less likely to see judges as political representatives than others, but those differences only persist when controlling for other factors for Black respondents and are not statistically significant at traditional thresholds when we include survey weights to account for discrepancies between our survey sample and the California population ($p=.06$).

Perhaps the most surprising finding of this study is the robustness with which age is associated with attitudes of judicial representation. In every model and comparison, younger respondents

were more likely to see judges as representatives than their older counterparts. While about a third of respondents see judges as representatives, half of respondents younger than 50 see judges as representatives broadly, and 12.5% of those under 40 see judges as representatives in the same way as other offices.

With only one time period in our study, we cannot know if these patterns have long existed or if they have been changing slowly over time. For example, it is possible that younger and middle-aged people have typically been more likely to see the court as representative and their attitudes change as they age. Or, it is possible that current younger people are different and see judges differently than those who preceded them. Anecdotal evidence seems to suggest that attitudes towards the court may be changing. If current younger and middle-aged people are more likely to see judges as representatives, and those attitudes are stable as they age, over time the court will increasingly be seen as representative. To the extent that judicial legitimacy derives—at least in part—from expectations of neutrality and/or *non*-representativeness, this trend has implications for judicial legitimacy among the public. Moreover, if other political officials come to see the court as representative and/or expect their constituencies to see the court as representative, there might be implications on judicial compliance among political elites.

Does this potential shift in some parts of the polity toward seeing judges as some kind of representatives represent a wholesale public adoption of judicial behavioralism or judicial realism—that is, does it amount to an abandonment of the “legal” model of understanding judges and their choices? We believe that it may not.

We emphasize that this discussion is wholly speculative, but it seems to us irresponsible to offer empirical evidence of what may be a significant change in American politics without offering some thoughts about its possible impact. It seems to us potentially important that judges make and justify their decisions the way that they do—and differently than other political officials—not just because those conventions are old or hallowed but because they constrain what decisions can be made. That is, “traditional” legal reasoning has substantive benefits and reinforces a “theater” of jurisprudence, which has various process benefits.

First, there are substantive benefits. It is simply untrue that a motivated judge can shape the existing body of law and precedent to support any outcome they prefer. To pick what we hope is a non-controversial example: absent a constitutional amendment, no matter how much a judge wants a particular individual to be elected President of the United States, if that individual is only 31 years old, or is not a natural-born citizen, the judge will not be able to express that preference through deciding a case in a way that will be accepted by other lawyers and judges as “legal reasoning.” Especially egregious cases risk sanctions, discipline, and even impeachment and removal. Thus, the forms and customs of legal decision-making do pose real if not perfect barriers to the naked pursuit of a judge’s personal or partisan preferences.

Second, there are process benefits. By insisting that judges justify their decisions publicly, in writing, and subject them both to appellate review and to the criticism of their peers and the public, the forms and customs of legal decision-making deliver benefits. One such benefit is fairly close to the ostensible goal: recognizing and perhaps resolving logical flaws and

contradictions in arguments. The attempt to articulate and defend a decision, and to work out its practical and theoretical implications, can reveal all manner of otherwise hidden problems: contradictions, fallacies, suppressed premises, failures to perceive (or accept) the implications of our ideas, making claims in (unconscious) bad faith, and so on. Systematically exposing and hopefully (at least partially) correcting those problems can only happen if we are committed to some kind of process of making and evaluating legal claims that we expect to be rationally persuasive.

Another kind of benefit is a special seriousness of purpose that people adopt when dealing with issues that have been marked out socially as being especially important or dangerous. Calling our attention to moments when fundamental interests or especially strong emotions are likely to be involved urges us to tread carefully to minimize conflict and violence. The practice of legal reasoning is one way that we both mark some areas of life as requiring moral earnestness and train new generations of lawyers and judges in how to adopt that attitude. Although it seems possible to cultivate moral earnestness in other ways than through legal deliberation (for example, through taboos, myths, and so on), such deliberation is one method of doing so.

Additionally, by creating an institutionalized social practice of legal reasoning, a society establishes a public forum in which dissident views may be heard and considered. The existence of such a forum seems to us to have several related benefits: (1) it allows dissident citizens to express their views and have them taken seriously by experts in the law, thus ideally making those citizens feel less alienated from the society and more hopeful of exercising political or legal agency; (2) it allows the broader society to consider marginal views, thus either moving the society towards accepting the currently unpopular but better view, or towards continuing to reject and marginalize genuinely bad ideas; (3) it gives people who more or less share mainstream views some confidence that their society does not merely reject marginal views out of hand but makes available a socially respected venue in which they can be advocated and assessed. Assuming that it is a social and psychological inevitability that there will always be some people who hold unpopular views, having some respectable, institutionalized, publicly funded forum in which dissident views can be aired seems not only like a nice idea, but like an essential aspect of political legitimation in any democratic society.

These kinds of benefits of the practice of legal reasoning—error correction, moral earnestness, legitimation/minority protection—arise from the process of the practice, rather than from the substance of the arguments devised. But the process benefits only accrue if everyone remains committed to the idea that there is a distinctive kind of reasoning called legal reasoning, one that we engage in to try to uncover or arrive at an obscured but genuine truth. Our research, here, that suggests a potential change in attitudes towards the court in a way that could blur the distinction between legal actors and other politicians and deemphasize the importance of legal reasoning should not be interpreted as a call to set aside legal reasoning in favor of “politicians in robes.” Instead, we hope our research reinvigorates a discussion about the relationship between the judiciary and other branches and between the public and the judiciary.

Importantly, our data only reflect public understandings of judicial representation among a sample of Californians. California is, in many ways, a distinct state, so the extent to which these patterns are universal or persist in other places is unknown. Moreover, this sample reflects

attitudes only in the Spring of 2021. It is possible that our data reflect an unusual time point for judicial attitudes—about six months before the survey was fielded, Amy Coney Barrett was confirmed to the Supreme Court, cementing a 6-3 conservative majority (Malehorn 2020); on January 6th, Trump supporters stormed the US Capitol (Freiman 2021); by March about 70% of California students were still attending school virtually due to the COVID-19 pandemic (Pier et al. 2021); in April, police reform was on the national radar as police officer Derek Chauvin was found guilty for George Floyd’s death (Christen, Kendall and McDonald 2021), and in a California case the same month, Paul Flores was arrested for the murder of Kristen Smart (Schlepp and Alley 2021). The spring of 2021 was a tumultuous time, and our findings could be unique to this period.

Existing literature on judicial decision making suggests that judges act—at least in some ways—like political representatives without asking whether the people those judges ostensibly “represent” see them as representatives of some kind. Our results indicate that a considerable minority of people may indeed see judges as a kind of representative. Future scholarship should address the questions of whether people see judges as representative, whether this view varies among communities and/or over time, and whether seeing judges as representatives shapes judicial legitimacy and the relationship between the public and the judiciary.

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Appendix 1

Survey Questions about Judicial Representation:

1. Our next questions will be about political representatives. Some people who work in government are considered “political representatives.” These people are supposed to represent the will of the people in government – your congressperson, for example, is tasked with representing you in Congress. Other jobs are not considered representative. Instead, these jobs have some other defined area of responsibility. For example, a letter carrier for the United States Post Office is a government employee, but we do not think of letter carriers as political representatives. Interestingly, for some posts there is some disagreement about whether that office is supposed to be politically representative or not. We want to know which posts you generally think of as politically representative. Look below at a list of different kinds of government offices. Please indicate whether each of the offices listed below is supposed to be politically representative. Please be sure that your answer is about the office generally and not about the specific person who currently holds that office.
 - President of the United States
 - Clerk at the Department of Motor Vehicles
 - United States Senator
 - United States Supreme Court Justice
 - United States Ambassador to Canada
 - Member of the State Assembly
 - State Trial Court Judge
 - Public School Teacher
 - Chairperson of the Federal Reserve Bank
2. Which of the following most closely reflects your own views or understanding of how political representatives should behave?
 - Representatives are supposed to do what their constituents (the people they represent) want them to do.
 - Representatives are supposed to listen to their constituents, but ultimately have to make their own decisions.
 - Representatives are supposed to do what they think is best, regardless of whether their constituents agree.
 - I don’t know or I am unsure.
3. Think about what makes someone a “good” representative for you personally. Then, please rank the choices below from most important to least important. Please rank your top choice with a value of 1, followed by 2, 3 and 4 for your second, third and fourth choices. I feel or believe that my representatives are really representing me correctly when:
 - They have been chosen for office according to the correct legal procedures.
 - They share important experiences or characteristics with me, such as gender, race/ethnicity, religion, background, or hometown.
 - They make decisions that I agree with.
 - Other (please explain)

4. Which of the following most closely reflects your own views or understanding of whether judges act as political representatives? (Choose only one)
- Judges or justices are political representatives in the same way that the holders of other government offices are representatives.
 - Judges or justices are political representatives, but in a way that is different from how the holders of other government offices are representatives.
 - Judges or justices are not political representatives.
 - Other (please explain)

Appendix 2

Table 9. Logistic Regression, Altering the “Other” Category

	<i>DV: Respondent Sees Judges as Representatives</i>			
	(1) Other as Missing		(2) Other as No	
	−0.025***	(0.008)	−0.026***	(0.008)
Age				
Female or Non-binary	0.331	(0.269)	0.311	(0.265)
Political Interest	−0.131**	(0.056)	−0.140**	(0.054)
Trust in Government	−0.010	(0.236)	0.055	(0.232)
Education (Relative to ≤ High School)				
Some college, no degree	−0.255	(0.534)	−0.329	(0.527)
Associate’s degree	−0.696	(0.619)	−0.757	(0.607)
Bachelor’s degree	−0.452	(0.534)	−0.414	(0.531)
Postgraduate degree	−0.540	(0.562)	−0.535	(0.555)
Household Income (Relative to <\$50k)				
\$50-100k	0.446	(0.392)	0.534	(0.386)
\$100-200k	0.589	(0.424)	0.649	(0.415)
\$200k or more	0.316	(0.520)	0.273	(0.498)
Decline to answer	0.549	(0.453)	0.557	(0.441)
Hispanic/Latinx	−0.004	(0.368)	0.010	(0.361)
Race (Relative to White)				
Black or African American	0.999*	(0.531)	1.143**	(0.524)
American Indian/ Alaska Native	0.019	(0.921)	0.195	(0.910)
Asian	0.233	(0.393)	0.308	(0.396)
Pacific Islander	−0.198	(1.070)	−0.053	(1.066)
Middle Eastern/ North African	1.874	(1.148)	1.642*	(0.969)
Other	0.210	(0.494)	0.266	(0.497)
Ideology (Relative to Very Conservative)				
Conservative	1.613	(1.120)	1.573	(1.134)
Moderate, middle of the road	1.991*	(1.073)	1.924*	(1.088)
Progressive	1.636	(1.085)	1.606	(1.101)
Very progressive	1.567	(1.118)	1.567	(1.133)
Constant	−0.649	(1.191)	−0.674	(1.197)
Observations	634		674	

Note:

*p<0.1; **p<0.05; ***p<0.01

Logistic regression results using weighted data where the respondents who answered “other” to question 4 are grouped with those who didn’t answer the question (model (1)) and where those who answered “other” are grouped with those who answered “no” (model (2)).