

Topline Data
Statewide Survey of 500 High-Propensity Voters in Missouri

prepared for
The Federalist Society
by the polling company™, inc.

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Field Dates: February 14-18, 2007

Margin of Error: +/-4.38%

- A. Are you 18 years of age or older and currently registered to vote here in Missouri, registered in a different state, or not registered at all?

100% REGISTERED IN MISSOURI

- B. Thinking for a moment about past elections that you have been eligible to vote or participate in, would you say that you have voted in...(READ CHOICES)

70% ALL OR ALMOST ALL ELECTIONS

22% MOST ELECTIONS

7% ABOUT HALF OF ALL ELECTIONS

- ONLY LOCAL ELECTIONS BUT NOT CONGRESSIONAL AND
PRESIDENTIAL ELECTIONS

IMPRESSION OF MISSOURI COURTS

1. How familiar would you say you are with the Missouri State Supreme Court and its rulings and decisions? Are you... (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

40% FAMILIAR (NET)

3% VERY FAMILIAR

37% SOMEWHAT FAMILIAR

59% NOT FAMILIAR (NET)

33% JUST A LITTLE BIT FAMILIAR

26% NOT AT ALL FAMILIAR

1% DO NOT KNOW (VOLUNTEERED)

- REFUSED (VOLUNTEERED)

2. Which of the following do you think best describes how Justices are **first** chosen to serve on the Missouri Supreme Court? [READ AND ROTATED]

39% JUSTICES ARE APPOINTED BY THE GOVERNOR OF MISSOURI AND CONFIRMED BY THE LEGISLATURE
34% JUSTICES ARE NOMINATED BY A JUDICIAL COMMISSION AND APPOINTED BY THE GOVERNOR
2% OTHER (VOLUNTEERED)
25% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

3. Who do you think **should** have the greatest input on who is selected to serve as a Justice on the Missouri State Supreme Court? (READ AND ROTATED, ACCEPTED ONLY ONE RESPONSE)

57% MISSOURI VOTERS
14% MISSOURI STATE LEGISLATURE
12% MISSOURI STATE BAR LAWYERS
10% MISSOURI GOVERNOR
1% OTHER (VOLUNTEERED)
1% ALL OF THE ABOVE (VOLUNTEERED)
- NONE OF THE ABOVE (VOLUNTEERED)
4% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

4. How much trust and confidence do you have in the Missouri State Supreme Court to make decisions based on law and not on political beliefs? (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

68% TOTAL TRUST (NET)
20% A GREAT DEAL
48% SOME
29% TOTAL LACK OF TRUST (NET)
20% JUST A LITTLE BIT
9% NONE AT ALL
3% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

MISSOURI SUPREME COURT APPOINTMENT/ RETENTION & MAKE-UP OF THE APPELLATE JUDICIAL COMMISSION

As you may know, there are seven Justices on the Missouri Supreme Court who are appointed by a process known as the “Missouri Plan.” Under this plan, the Appellate Judicial Commission selects all the judicial nominees for the Supreme Court. The Commission is a seven-member group comprised of one member of the Supreme Court, three members of the general public selected by the Governor, and three members of the state bar association, an association of lawyers in Missouri. Each member of the Commission serves a six-year term. The Commission selects three applicants from which the Governor must nominate a candidate when there is an opening on the Supreme Court.

5. Were you aware that the Missouri Bar Association, the statewide association of lawyers, selects three out of the seven people that serve on the Appellate Judicial Commission which selects all of the Missouri Supreme Court nominees?

10% YES
87% NO

2% DON'T KNOW (VOLUNTEERED)
- REFUSED (VOLUNTEERED)

6. I am now going to read you the opinions of two people regarding this process. Please tell me which one comes closest to your view. (ROTATED)

PERSON 1: It is appropriate that the seven-member judicial nominating commission include a significant number of lawyers picked by the state bar association because lawyers know more than most voters, legislators or the Governor about what qualities a good judge should possess.

PERSON 2: It is not appropriate that the seven-member judicial nominating commission include a significant number of lawyers picked by the state bar association because voters, legislators and the Governor are as qualified as lawyers to decide what qualities a good judge should possess.

42% AGREE PERSON 1 (NET)
18% STRONGLY AGREE PERSON 1
24% SOMEWHAT AGREE PERSON 1

50% AGREE PERSON 2 (NET)
20% SOMEWHAT AGREE PERSON 2
30% STRONGLY AGREE PERSON 2

7% DON'T KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

7. After a Justice serves on the Missouri Supreme Court for one year, voters take part in an up or down/yes or no vote to decide whether or not to “retain” or keep the Justice for a term of 12 years. This is called a “retention election.” No appellate or supreme court judge has ever lost a retention election in Missouri. Based on this information, do you agree or disagree that this system of judicial review is serving its intended purpose of accountability for our judges? And would that be strongly or somewhat agree/disagree?

37% AGREE (NET)

11% STRONGLY AGREE
26% SOMEWHAT AGREE

54% DISAGREE (NET)

22% SOMEWHAT DISAGREE
32% STRONGLY DISAGREE

4% NEED MORE INFORMATION/ NO BASIS TO JUDGE
(VOLUNTEERED)

5% DON'T KNOW (VOLUNTEERED)

1% REFUSED (VOLUNTEERED)

8. Which of the following do you think should be most important in selecting whom to nominate to the Missouri State Supreme Court? (READ AND ROTATED, ACCEPTED ONE RESPONSE)

51% CANDIDATE WHO WILL INTERPRET THE LAW AS IT IS WRITTEN

26% CANDIDATE WHO SHARES THE MORAL AND POLITICAL VALUES OF VOTERS

10% CANDIDATE'S PAST RULINGS AND LEGAL DECISIONS AS A JUDGE

5% CANDIDATE WHO WILL TAKE INTO ACCOUNT HIS OR HER PERSONAL VIEWS AND EXPERIENCES

3% CANDIDATE WHO IS ENDORSED BY THE MISSOURI STATE BAR ASSOCIATION (AN ASSOCIATION OF LAWYERS)

1% OTHER (VOLUNTEERED)

5% DO NOT KNOW (VOLUNTEERED)

* REFUSED (VOLUNTEERED)

9. A number of states have adopted the same process of selecting judicial nominees as Missouri; however, most of them have a judicial nominating commission that includes more input from the Governor, legislature, voters, and other interested parties and less input from lawyers in the State Bar Association. Do you support or oppose changing the way Missouri selects the members of its Commission as other states have? And would that be strongly or somewhat support/oppose?

65% SUPPORT (NET)

33% STRONGLY SUPPORT
32% SOMEWHAT SUPPORT

23% OPPOSE (NET)

14% SOMEWHAT OPPOSE
9% STRONGLY OPPOSE

3% NEED MORE INFORMATION/ NO BASIS TO JUDGE
(VOLUNTEERED)

8% DON'T KNOW/UNSURE (VOLUNTEERED)

1% REFUSED (VOLUNTEERED)

ROLE OF PERSONAL VIEWPOINTS

10. I am again going to read you the opinions of two people. Please tell me which one comes closest to your view.

PERSON 1: Judges should interpret and apply the law as it is written and not take into account their own viewpoints and experiences.

PERSON 2: Judges should go beyond interpreting and applying the law and take into account their own viewpoints and experiences.

81% AGREE PERSON 1 (NET)

63% STRONGLY AGREE PERSON 1
18% SOMEWHAT AGREE PERSON 1

13% AGREE PERSON 2 (NET)

7% SOMEWHAT AGREE PERSON 2
6% STRONGLY AGREE PERSON 2

4% DON'T KNOW (VOLUNTEERED)

1% REFUSED (VOLUNTEERED)

JUDICIAL ACTIVISM/ RESTRAINT

[ROTATED QUESTION SETS 11-12 and 13-14 SO THAT HALF OF ALL VOTERS SURVEYED WERE ASKED ABOUT “JUDICIAL ACTIVISM” FIRST AND HALF WERE ASKED ABOUT “JUDICIAL RESTRAINT” FIRST.]

11. How familiar are you with the concept of “judicial activism”? Would you say you are...
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

24% FAMILIAR (NET)

7% VERY FAMILIAR
17% SOMEWHAT FAMILIAR

74% NOT FAMILIAR

16% JUST A LITTLE BIT FAMILIAR
58% NOT AT ALL FAMILIAR

2% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

“Judicial activism” is a term used to describe when a judge feels that his or her role is not simply to review the law as it is written, but is instead to allow for new or evolving meaning of the law over time.

12. Do you think judicial activism is a (ROTATED) mostly positive or mostly negative thing for the Missouri State Supreme Court?

34% MOSTLY POSITIVE
47% MOSTLY NEGATIVE

18% DO NOT KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

13. And how familiar are you with the concept of “judicial restraint”? Would you say you are...
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

26% FAMILIAR (NET)

4% VERY FAMILIAR
22% SOMEWHAT FAMILIAR

70% NOT FAMILIAR (NET)

19% JUST A LITTLE BIT FAMILIAR
51% NOT AT ALL FAMILIAR

3% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

“Judicial restraint” is a term used to describe when a judge views his or her role solely as an evaluator of whether a law or lower court ruling is in line with the state constitution.

14. Do you think judicial restraint is a (ROTATED) mostly positive or mostly negative thing for the Missouri State Supreme Court?

64%	MOSTLY POSITIVE
17%	MOSTLY NEGATIVE
17%	DO NOT KNOW (VOLUNTEERED)
2%	REFUSED (VOLUNTEERED)

15. Based on the definitions I gave you, would you rather the Missouri Supreme Court practice (ROTATED) judicial activism or judicial restraint?

56%	JUDICIAL RESTRAINT
26%	JUDICIAL ACTIVISM
3%	BOTH (VOLUNTEERED)
1%	NEITHER (VOLUNTEERED)
12%	DO NOT KNOW (VOLUNTEERED)
1%	REFUSED (VOLUNTEERED)

DEMOGRAPHICS

And now some questions for statistical purposes...

16. Which of the following categories best describes your age?

10%	18-24
15%	25-34
17%	35-44
21%	45-54
17%	55-64
17%	65+
3%	REFUSED (VOLUNTEERED)

17. Would you describe your racial or ethnic background as...(READ LIST)?

80% WHITE/CAUCASIAN
12% BLACK/AFRICAN-AMERICAN
3% HISPANIC/LATINO
* ASIAN
* MIDDLE EASTERN

1% OTHER (VOLUNTEERED)
1% DON'T KNOW (VOLUNTEERED)
2% REFUSED (VOLUNTEERED)

18. In politics today, do you consider yourself to be a (ROTATED) Republican, Independent, or Democrat?

36% REPUBLICAN (NET)
19% STRONG REPUBLICAN
10% NOT-SO-STRONG REPUBLICAN
7% INDEPENDENT LEANING REPUBLICAN

22% INDEPENDENT

33% DEMOCRAT (NET)
6% INDEPENDENT LEANING DEMOCRAT
6% NOT-SO-STRONG DEMOCRAT
21% STRONG DEMOCRAT

2% OTHER (VOLUNTEERED)
7% DON'T KNOW/REFUSED (VOLUNTEERED)

19. Thinking for a moment about your political views...Do you consider yourself to be...?

46% CONSERVATIVE (NET)
23% VERY CONSERVATIVE
23% SOMEWHAT CONSERVATIVE

29% MODERATE

16% LIBERAL (NET)
11% SOMEWHAT LIBERAL
5% VERY LIBERAL

1% LIBERTARIAN

7% DON'T KNOW/REFUSED (VOLUNTEERED)

20. And regarding your family's annual income...Please tell me which of the following categories best describes your family's annual income. I don't need a specific amount, a broad range will be fine.

8%	BELOW \$20,000
8%	\$20,000 TO \$24,999
4%	\$25,000 TO \$29,999
12%	\$30,000 TO \$39,999
10%	\$40,000 TO \$49,999
9%	\$50,000 TO \$59,999
8%	\$60,000 TO \$69,999
5%	\$70,000 TO \$79,999
3%	\$80,000 TO \$89,999
12%	\$90,000 AND ABOVE
21%	REFUSED (VOLUNTEERED)

21. Are you...? (READ CATEGORIES)

21%	CATHOLIC
50%	PROTESTANT
1%	JEWISH
3%	AGNOSTIC/ATHEIST
*	MUSLIM
1%	MORMON
11%	OTHER (VOLUNTEERED)
5%	NONE/UNAFFILIATED (VOLUNTEERED)
7%	REFUSED (VOLUNTEERED)

22. How often do you attend religious services?

2%	EVERY DAY
13%	A FEW TIMES PER WEEK
40%	ONCE A WEEK
12%	A FEW TIMES PER MONTH
8%	A FEW TIMES PER YEAR
18%	SELDOM/NEVER
6%	DON'T KNOW/REFUSED (VOLUNTEERED)

23. Gender

47%	MALE
53%	FEMALE

24. Region¹

19%	OZARK
24%	KANSAS CITY AREA
12%	CENTRAL MISSOURI
24%	ST. LOUIS AREA
21%	EASTERN MISSOURI

¹ **Ozark:** Barry, Barton, Bates, Benton, Camden, Cedar, Christian, Dade, Dallas, Dent, Douglas, Greene, Henry, Hickory, Howell, Jasper, Maclede, Lawrence, McDonald, Newton, Oregon, Ozark, Phelps, Pulaski, Shannon, St. Clair, Stone, Taney, Texas, Vernon, Webster, Wright; **Kansas City Area:** Andrew, Atchison, Buchanan, Caldwell, Carroll, Cass, Clay, Clinton, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Johnson, Lafayette, Livingston, Mercer, Nodaway, Platte, Ray, Worth; **Central:** Adair, Audrain, Boone, Callaway, Chariton, Clark, Cole, Cooper, Gasconade, Howard, Knox, Lewis, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Morgan, Osage, Pettis, Putnam, Ralls, Randolph, Saline, Schuyler, Scotland, Shelby, Sullivan; **St. Louis Area:** St. Louis City, St. Louis County; **Eastern Missouri:** Bollinger, Butler, Cape, Girardeau, Carter, Crawford, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, Montgomery, New Madrid, Pemiscot, Perry, Pike, Reynolds, Ripley, Scott, St. Charles, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington, Wayne