

Personalizing the U.S. Supreme Court Through Attention to Individual Justices

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Objectives. We examine media incentives shaping the nature of U.S. Supreme Court justices' news coverage and, in particular, how those incentives often lead news outlets to concentrate coverage on particular justices on the Court. *Methods.* First, we examine and model aggregate, over time patterns of news attention devoted to individual justices in the *New York Times* over the past four decades. Second, we compare and model temporal variation in individual justice coverage relative to generic coverage of the Supreme Court. *Findings.* The results suggest that particular justices receive disproportionate attention from the national news media. Further, we demonstrate how individual justices have received a greater proportion of print media coverage over time and in a way that is shaped by internal division among the justices. *Conclusion.* The findings provide a more complete and nuanced understanding of how national media utilize resources to maximize journalistic impact and personalize the Court as an institution.

Over the past few decades, political communication scholars have increasingly examined the general nature of news media coverage of the U.S. Supreme Court. Scholars have considered how media devote attention to the Supreme Court relative to other national institutions such as Congress (Cook, 1998), the case attributes that enhance coverage (Hitt and Searles, 2018; Sill, Metzgar, and Rouse, 2013), and the particular legal issues that are likely to attract more media attention (Johnson and Socker, 2012; Slotnick and Segal, 1998). This research also suggests that the Court may have significant agenda-setting effects that can influence both media and the public (Hitt and Searles, 2018; Sill, Metzgar, and Rouse, 2013). Yet, existing research has generally viewed media attention to the Court solely at the macro level of the institution as a whole, with little consideration of media incentives shaping the nature of coverage and attention concentrated on particular justices on the Court.

We consider the incentives of national print media to devote attention to individual justices on the Supreme Court. In particular, why do certain justices receive disproportionately more press attention than others? We base our understanding of how the national media may differentiate attention between members of the Court through consideration of the journalistic norms and values in covering political institutions. Specifically, we argue that media outlets commonly focus on pivotal justices and justices with institutional power in order to personalize and simplify the news product in an informative manner for the average citizen and highlight the policy drama that should make the news more entertaining and attract greater readership (Bennett, 2007; Cook, 1998; Sparrow, 1999). This strategy of reporting enables news outlets to craft continuing narratives around particular

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SOCIAL SCIENCE QUARTERLY, Volume 101, Number 2, March 2020

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DOI: 10.1111/ssqu.12771

justices on the Court in a manner that maximizes reporting efficiency and personalizes the Court's decisions and its policy implications. We contend that the media will often focus coverage on particular justices, most importantly the chief justice and the most probable median justice (who is anticipated to be the decisive swing justice in many case outcomes). We additionally consider how such individualized media attention has shifted over time in response to internal divisiveness on the Court, consistent with the larger temporal change toward more polarized politics in the American political system.

To consider these questions, we examine data on press coverage in the *New York Times* (NYT) highlighting individual justices on the U.S. Supreme Court from 1980 to 2015. We first demonstrate that key justices on the Court receive disproportionately more media attention than other members, even while controlling for various case-specific factors that are likely to influence media attention. Second, we demonstrate that individual justices have received a growing proportion of print media coverage over time—relative to generic, unindividualized attention devoted to the Court and its decisions—that is driven partly by the Court's increasing tendency to issue closely divided decisions.

The results present several important implications for the study of both political communication and the Supreme Court as an institution. First, scholars have relatively little systematic knowledge of the Court's informational environment, how that environment has changed over time alongside shifts toward more polarized national politics, and media incentives to craft coverage concentrated around individual members of the Court. This is especially important given that Supreme Court justices have increasingly pursued individual media strategies during the past few decades (Davis, 2011). Though justices tend to eschew the notion that they are pursuing media attention, some justices do seek to influence public perceptions and influence government officials (Cook, 1998; Davis, 1994; Davis, 2011). Importantly, to our knowledge, this study offers one of the first systematic time-series analyses of media attention to individual justices on the Supreme Court.

Second, media attention to particular justices on the Court is likely to shape public perceptions and understanding of cases and legal policies. Given that the media function as the primary link connecting the mass public to the Court, the manner in which the media craft stories and devote attention to different justices raises important implications for understanding public perceptions of the Court as an institution and public opinion toward particular policy decisions (Hitt and Searles, 2018; Solberg and Waltenburg, 2014; Zilis, 2015). The media's role as an information source about governmental policy is especially important for the Court, given that its authority relies, in large part, on "public confidence" in the institution and its institutional legitimacy.¹ Furthermore, a broader temporal shift toward more individualized media attention that is a function of increasing divisiveness and internal conflict on the Court may have particularly important effects on the extent to which citizens accept decisions with which they disagree (e.g., Salamone, 2014), or whether they perceive the Court as a politicized versus principled institution, thus conferring legitimacy on the institution (see, e.g., Hitt and Searles, 2018; Woodson, 2015).

National News Coverage of the Supreme Court as an Institution

The national news media generally devote less attention to the Supreme Court than to other institutions such as Congress and the president, perhaps due largely to its isolation

¹ See, for example, *Baker v. Carr* (1962) 369 U.S. 186.

from reporters. Aside from oral arguments, all of the justices' critical interactions that help to determine judicial policy are private and far removed from the public eye. Furthermore, justices have not customarily sought press attention and do not frequently give speeches or grant interviews while on the bench. Thus, it is more difficult for journalists to develop narratives surrounding individual members of the Court than it is with the president or members of Congress. This is exacerbated by the fact that the Court's most consequential decisions are often released in only a handful of days and they are often complicated and difficult to understand (Cook, 1998; Davis, 1994; Slotnick and Segal, 1998).

Even though the Court is structurally insulated from heightened press attention, it arguably relies on the media to the same extent, if not more, than the president or Congress for communicating with the public and other government officials. The Court does not have a true, formal enforcement mechanism to ensure compliance with its decisions and thus must rely on both the public's approval and trust for its authority (e.g., Caldeira, 1986; Slotnick and Segal, 1998). The public's perceptions of the Court and its knowledge of the Court's decisions are based largely on media coverage (e.g., Cook, 1998).

Systematic, large-scale empirical studies on media coverage of the Court have, to date, been somewhat limited, especially those that connect coverage of the Court to media incentives that shape coverage (though see Hitt and Searles, 2018; Solberg and Waltenburg, 2014). Some studies have demonstrated that the central issue in a case is an important determinant of whether the Court receives press attention (Haider-Markel, Allen, and Johansen, 2006; Johnson and Socker, 2012; Slotnick and Segal, 1998; Ura, 2009; Vining and Marcin, 2014). For example, Sill, Metzgar, and Rouse (2013) show that the *Times* is more likely to devote attention when the Court declares a law unconstitutional, when there are a large number of amicus curiae participants, and when cases involve issues of privacy. This suggests that the news media consider the degree of elite disagreement, the number of sources available, and public issue interest in deciding what types of cases to cover. Strother (2017) extends this finding by showing that a case's expected legal and political impact significantly explains media coverage of certain Court cases, and in a way that exceeds the importance of decision attributes.

Other recent research has investigated the content and character of media coverage, connecting it to public perceptions of the Court. Hitt and Searles (2018) show how more "game frame," as opposed to principled, media coverage can inhibit the public's agreement with decisions and undermine support for the institution. And, in the study most proximate to our own, Solberg and Waltenburg (2014) argue that contemporary media incentives often lead reporters to define newsworthiness in a way that reflects a "cult of personality," which can significantly affect how the public views the Court. That is, media have increasingly framed news content around various dimensions of justices' personal identities for greater dramatic effect. Despite the many important contributions of previous studies, existing research (with few exceptions—e.g., Solberg and Waltenburg, 2014) has given little systematic consideration to the incentives that lead media to personalize and simplify the Court as an institution by concentrating on particular justices, including the factors that have shaped this personalization over time.

The Personalization of News Media Attention to the Supreme Court and its Justices

Political communication scholars have long detailed journalistic values and norms in defining newsworthiness and how news media craft stories about the government (e.g., Bennett, 1990, 2007; Cook, 1998, 2006; Sparrow, 1999). Among the relevant

characteristics for political news are novelty, timeliness, conflict, elite disagreement, simplification, and identifiable story frames (Tuchman, 1978). Journalists must also heed economic pressures from the corporate side of the news business, thus constraining the shape of the news product (e.g., Hamilton, 2004; Sparrow, 1999; Vining and Marcin, 2014).

In a series of important studies investigating how the media cover the government, Cook (1988, 1989, 1998, 2006) argues that the political news Americans observe each day is a continual co-production between journalists and government officials. That is, there is a “negotiation of newsworthiness,” whether implicitly or explicitly, where journalists and officials bargain over the news product. Government officials are able to control information and access, while journalists control the actual content of stories (Cook, 1998). While this theory works well when explaining how the press covers most of the government, it may not be as satisfying for understanding coverage of the Court and its justices. Most importantly, unlike some institutions such as Congress, journalists have relatively little direct interaction with the justices. Illustrating this point, Liptak (2013), principal Supreme Court reporter for the *New York Times*, notes: “[Reporting on the Supreme Court] is a weird job where you are not using the whole reporters’ toolkit. You’re basically not interviewing people, you’re basically not finding out secret stuff, you’re trying to make to make sense of briefs and arguments and legal decisions.” Consequently, journalists and editors exercise considerably more discretion when crafting stories about the Court. Furthermore, the Court and its decision-making process is rather insulated from public attention, thereby reinforcing the importance of how journalists decide to present information about the Court to the mass public.

Taking into account journalistic production values and norms, we argue that the press commonly personalizes the Court and its justices to increase reporting effectiveness and efficiency. Sometimes referred to as personalization bias or news, the key concept is that the press focuses attention on individual political actors and related events in its reporting on government (Bennett, 2007; Brants and Neijens, 1998; Mazzoleni, 2000; Solberg and Waltenburg, 2014; Sparrow, 1999). This allows the media to communicate abstract and complicated issues in a digestible form for the public; or as Sparrow argues, “personalization makes the news comprehensible and accessible” (1999:125). In particular, we contend that the media seek to personalize the Court through continuing narratives, focusing more attention on particular justices as a means to pursue two primary goals. First, media seek to effectively transmit information to the mass public about the actions of the Supreme Court. One of the main tasks for journalists covering government is to simplify information about an institution’s policy making so that ordinary citizens can understand what is happening (Sparrow, 1999). Furthermore, media also seek to transmit information, including personalization for dramatic appeal (Solberg and Waltenburg, 2014), in a way that will attract readership (e.g., Cook, 1998). Thus, media face the particular challenge of following an insular institution like the Court and packaging its often complex decisions in a manner that is both suitable for and appealing to the public. A primary way to simplify the news of the Court in this manner is to develop narratives around justices with institutional power, authoritative information, and knowledge, and those who are central to the Court’s policy making (Cook, 1998).

Second, the media personalize the news and develop continuing narratives to maximize efficiency. For instance, to simplify the task of daily reporting, these narratives typically involve continuing lines of conflict and sagas with temporary, if any, resolutions (Cook, 1996). Since Supreme Court cases have multiple stages and take a while to come to a resolution, journalists can build continuing narratives focusing on frequently pivotal

justices where it is easy to fill in the blanks and quickly produce stories when demanded (Cook, 1998). As Liptak (2013) notes: “You’ve read all the briefs, gone to the arguments, consulted with experts, you really should know in your bones how the case works and all you’re getting from the justices is their own take on it.” From our understanding of this general strategy to simplify the Court through personalizing the justices, below, we discuss our expectations for the shape of coverage.

Similar to the way that the media focus increased attention on pivotal actors in Congress (Cook, 1986; Kuklinski and Sigelman, 1992; Sellers and Schaffner, 2007), we argue that justices on the Court who are perceived as more vital to, or hold more institutional power in, the judicial process will receive heightened media attention (compared to other justices). Most notably, the media should display disproportionately greater coverage to the justice who they *anticipate* is most likely to be the pivotal median justice. Scholars of judicial politics have long examined the importance of the median justice on the disposition of cases before the Court (e.g., Martin, Quinn, and Epstein, 2005). Some scholars further argue that the median justice is a significant constraint on the legal rule articulated by the opinion author within each case (Hammond, Bonneau, and Sheehan, 2005; Schwartz, 1992). As Martin, Quinn, and Epstein, 2005:1278 explain, “the median justice will . . . be the choice of the Court’s majority.” Furthermore, as the Court has become increasingly divided politically in recent years, the median justice has become even more important as a pivotal determinant of many of the Court’s most controversial decisions (Savage, 2010). By focusing greater attention on this keenly important actor on the Court, the media can develop and build continuing storylines that anticipate the Court’s future decisions and highlight the most frequently pivotal actor. This simplifies reporting tasks for journalists as they can place the median justice as perhaps the central decisionmaker, thereby allowing for a more accessible, personalized narrative in understanding complex legal decisions. This justice, as a result, should receive greater attention from the news media.

Aside from the median justice, the chief justice should also garner disproportionately greater media attention compared to the average justice serving on the Court. The chief justice is perhaps the most prominent and visible justice, generally serving as the Court’s leader and symbolic figurehead over time who stands at the center of the Court’s policy making. As the most visible justice, the media should have an easier task of personalizing the Court through focusing on the chief justice, thereby making this justice a natural focus of continuing narratives to maximize reporting efficiency. Additionally, reporters should often construct continuing storylines by evoking the chief when informing readers about the policy implications of the Court’s decisions, especially in relation to society, the other branches of government, and the Court’s history. In addition to the chief’s greater visibility and centrality to the Court’s perceived policy importance, this justice also enjoys unique responsibilities within the judicial process, including managing oral arguments and assigning majority opinion authorship (so long as he [or she]) votes with the majority coalition. Taken together, due to the position’s unique, prominent role on the Supreme Court, the chief justice should attract significantly greater media attention than the average justice on the Court.

Unlike Congress, members of the Court do not typically seek constant and continuous publicity. Due to this, we expect that the news media rely more heavily on the written opinions (than on public pronouncements) in creating the news product. Hence, a more dynamic factor that should affect press attention is the opinions that individual justices author. As Rohde and Spaeth (1976) explain, the official published opinions represent “the core of the policy-making power of the Supreme Court.” The Court’s majority opinion settles both the individual dispute before the Court and articulates official doctrine intended

to direct the future behavior of lower courts and the Supreme Court itself. Thus, the majority opinion may have important implications for the Court's position in the separation of powers as well as public perceptions of the institution (e.g., Clark, 2009; Zink, Spriggs, and Scott, 2009). Another norm of journalism is the presentation of balance in reporting; that is, both sides of an issue or decision should be quoted and sourced (Tuchman, 1978). In covering the Court, this may include emphasizing the authors of concurring and dissenting opinions that express different perspectives on a case from the majority opinion. Further, the media's desire for political conflict suggests that, at the aggregate level, we should observe more press attention to the Court when there are signals of internal conflict, such as closely divided 5–4 decisions.

Methods and Results

To examine how print media personalize coverage of the Supreme Court, we present two empirical analyses. First, as one empirical implication of the argument that the news media personalize the Court by focusing on particular justices, we analyze the aggregate, over time attention devoted to each individual justice serving on the Court. Such an analysis enables a large-scale, empirical examination of the general degree to which the news media devote more (or less) coverage to particular justices. Second, we consider how the degree of individualized coverage in the aggregate has changed over time, including the factors that have driven those changes. This subsequent analysis, thus, offers a large-scale view of the increasing prominence of individualized media coverage and how it is related to the importance of pivotal actors on the Court.

We examine print news coverage of all sitting justices of the Supreme Court from 1980 to 2015 in the *New York Times*.² We collected coverage in the *Times* using LexisNexis with the justice's full name and the year as the search term.³ Using automated text methods, we split the coverage into five separate measures for each justice, by Court term (October 1 to September 30): (1) total number of articles; (2) total number of editorials; (3) total number of articles where only a single justice appears and no other justice who has been on the bench since 1980; (4) total number of articles where only a single justice appears and no other current justice; (5) and the total number of mentions across all articles. The fourth measure allows us to consider coverage where a justice is being discussed in relation to past justices. Thus, for each justice term, we have a separate count of total print media attention within each of the five measures outlined above and they serve as our outcome variables in the subsequent analyses.

Media Coverage of Individual Justices

Before considering a systematic analysis of coverage of individual justices, we first explore descriptive patterns of individual justice coverage. Figure 1 plots the number of *Times* articles by Court term where only the justice of interest is mentioned and no other justices since 1980. Figure 2 plots the number of mentions a justice receives in the *Times* by Court term.

We see that there are differences in attention both between justices and within justices' tenures. Overall, we see that coverage tends to spike at the beginning and ending of justices'

²LexisNexis coverage of the *Times* begins in 1980. We only included coverage when justices were on the bench, and not before or after their tenures.

³We searched using all versions of a justice's full name and excluded all duplicate stories.

FIGURE 1
NYT Articles with Only One Justice

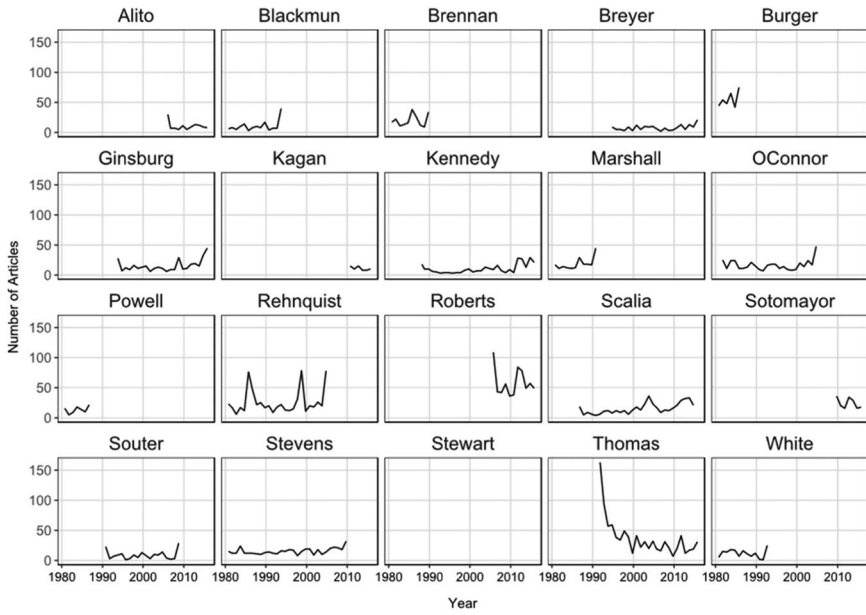
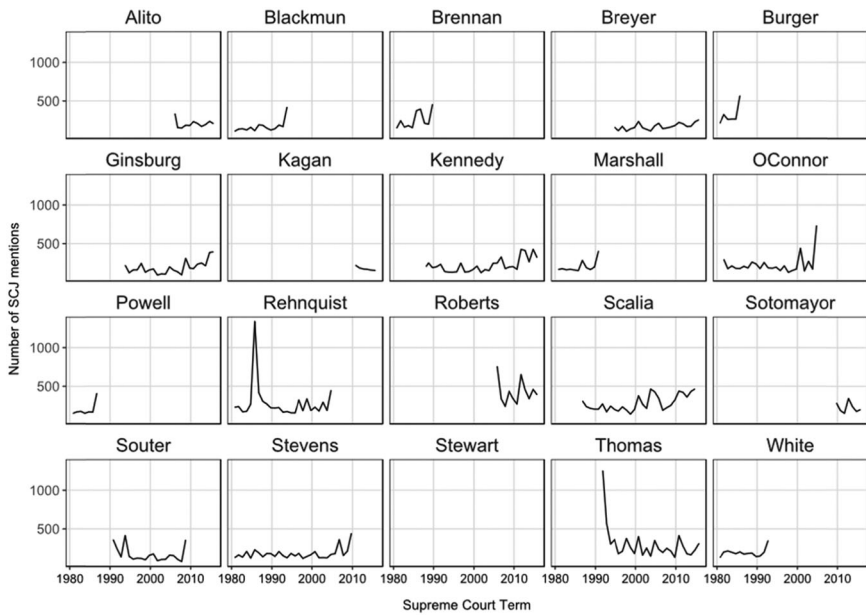


FIGURE 2
Mentions of Justices in NYT



time on the bench. This is particularly the case for Thomas's controversial entrance on the bench and O'Connor's retirement. On average, we find that justices in their first term on the Court receive 34 more solo articles and 647 more mentions compared to other justices. Further, on average, we find that justices in their last term receive 9.5 more solo articles and 170 more mentions than other justices. The figures also demonstrate that coverage of chief justices (Burger, Rehnquist, and Roberts) tends to be higher than other justices throughout their tenures. On average, we find that chief justices receive 16 more solo articles and 106 more mentions compared with associate justices.

To examine systematically how the national media cover individual justices, we model Court term coverage of each justice over time. Thus, the unit of analysis is the justice term. Our outcome variable in this analysis represents the number of news articles (or mentions) for a justice, as outlined above. There were 20 justices sitting on the Court during our 35-year time span. In effect, our data set is an unbalanced panel study of news coverage in the *NYT*; justices leave the Court while others replace them in the same year. To model these outcome variables, we employ a multilevel, cross-sectional time series, negative binomial count model with random intercepts on the justice level (Bell and Jones, 2015; Cameron and Trivedi, 2010; Rabe-Hesketh and Skrondal, 2005).

In our models, we consider both justice-level and Court-level explanatory variables. This allows us to simultaneously examine both static and changing characteristics of individual justices and Court information related to the number and type of cases. One primary explanatory variable is the probability that each justice serves as the pivotal median justice during each term. We utilize the Martin and Quinn (2002) estimate of this probability for each justice during each Court term. The Martin-Quinn model provides dynamic, contemporaneous estimates of justices' (policy-based) ideal points that are based on their votes (among nonunanimous cases). It therefore offers a reliable, aggregate approximation of the general likelihood (from the perspective of the news media) that each justice will serve as the pivotal median justice during each Court term.⁴ Media should devote more attention to the justice who they anticipate is relatively more likely to exert a pivotal influence on the Court's decisions and therefore be a central figure when discussing the policy implications of decisions.

Next, we identify other important attributes that should attract increased media attention consistent with our argument. We include a dichotomous indicator for the chief justice (1 = chief justice; otherwise 0). We include the number of majority opinions written by each justice during each term, as greater opinion authorship should attract increased media coverage.⁵ Additionally, we include the number of concurring and dissenting opinions by each justice during each term. This provides a measure for assessing whether the media employs source balancing through opinions in its coverage of justices.⁶ Taken together, these two predictors—majority and nonmajority opinions—serve as useful measures of supply-side variables for justices in generating increased coverage.

We include several control variables to allow for alternative explanations of factors that might attract more press attention to justices. First, given the significance of Supreme Court appointments and turnover to the larger political landscape, we identify the terms that each justice entered the Court and then subsequently retired from the bench. Since

⁴It is also important to note, however, that the presumed (and actual) identity of the Court's median justice can vary substantially across different legal issue areas and policy dimensions (see Lauderdale and Clark, 2012).

⁵The data used to identify the majority opinion author in each case come from the "majOpinWriter" variable in the Supreme Court Database (available at <http://scdb.wustl.edu/>).

⁶To identify when a justice authored a dissenting or concurring opinion, we used the "vote" and "opinion" variables in the Supreme Court Database.

the news media generally find the “new and novel” to be particularly newsworthy, we should expect increased coverage of retirements and the arrival of freshman justices. As we discussed earlier, initial evidence from Figures 1 and 2 suggests this is indeed the case.

Additionally, we include indicators for whether a justice is a minority (1 = minority; otherwise 0) or a woman (1 = woman; otherwise 0). Given the dominance of white males through most of the Court’s history, the press may find women and minority justices to be unique and newsworthy (Towner and Clawson, 2016). Not only do women and minority justices often have different life stories for how they arrived on the Court, they also often have different worldviews than white male justices. This may alter how coverage of the Court is “indexed” (Bennett, 1990), at least temporarily, thus affecting people’s understanding of the Court and the justices. The press can also build unique human-interest stories surrounding these justices in an attempt to personalize the Court.

We also include three Court-level control predictors that should affect general media attention across all justices from term to term. We include the number of cases, the number of 5–4 decisions, and the overall number of legally salient decisions—identified as those that, according to the Supreme Court Database, alter precedent or strike down congressional, state, or local legislation—issued by the Court each term.⁷ Simply, we expect that the Court will attract greater news coverage as it issues more decisions. The numbers of 5–4 and legally salient decisions provide measures of elite disagreement, including intra-Court conflict as well as external conflict within the judiciary and across national, state, or local institutions. Since these decisions are likely to involve more controversial legal and political issues, they should be more newsworthy and attract greater media attention.

Table 1 presents the results from our five multilevel, cross-sectional time series count models. Each model has a different outcome variable corresponding to the five different coverage measures, mentioned previously, and specifies the same set of predictors. Across all models, we observe that the *NYT* focuses greater coverage on the key justices in the Court’s decision-making process. The *Times* provides disproportionately more attention to those justices who were more likely to be the median and also the chief justice. Importantly, the media consider the median justice to be more newsworthy than other justices, even while controlling for numerous contextual factors that shape coverage toward specific justices and the general Court each term. In other words, the higher the probability that a justice will serve as the pivotal median on the Court, the more coverage that justice is expected to receive.⁸ The results suggest that a justice who is the median with a probability of 1 appears in roughly seven more editorials, six more solo articles, and receives roughly 98 more mentions in the *Times* per term than justices with a zero probability of being the median.⁹ Thus, being recognized as the pivotal median on the Court provides a justice with a unique position and platform to affect the law and, potentially, the public’s perceptions of the Court as well.¹⁰

⁷We utilize the “majVotes” and “minVotes” variables in the Supreme Court Database to identify cases that were decided by a 5–4 vote. We code legal salience using the “precedentAlteration” and “declarationUncon” indicators.

⁸The Martin-Quinn scores show that often there is a singular justice that has a probability near 1 of being the median justice.

⁹See Online Supplementary Information for predicted count figures.

¹⁰We also explored this empirical result further by considering whether this attention is driven by the justice who is often expected to be pivotal versus how often each justice actually did cast the pivotal swing vote. We reestimated our models after including an additional control variable to capture the proportion of cases each term that each justice served as the actual pivotal, case-specific “swing justice” (Enns and Wohlfarth, 2013). Including this control variable does not change the results, nor is it a significant predictor in its own right. This further suggests that media do not merely match their reporting to decision attributes of how often each justice cast the pivotal vote.

TABLE 1

The Personalization of *New York Times* Coverage of the U.S. Supreme Court

	Total Articles	Editorials	SCJ Only (All)	SCJ Only (Term)	Mentions
Justice-level variables					
Median justice probability	0.200* (0.077)	0.467* (0.155)	0.360* (0.163)	0.331* (0.151)	0.360* (0.105)
Chief justice	0.474* (0.093)	0.883* (0.216)	0.680* (0.239)	0.953* (0.205)	0.464* (0.119)
New justice	0.795* (0.097)	1.17* (0.181)	1.08* (0.188)	1.22* (0.182)	1.36* (0.145)
Retiring justice	0.493* (0.101)	1.02* (0.196)	0.578* (0.199)	0.924* (0.186)	0.732* (0.142)
Majority opinions	-0.004 (0.013)	0.040 (0.027)	-0.041 (0.027)	-0.038 (0.025)	-0.007 (0.018)
Nonmajority opinions	0.001 (0.003)	-0.004 (0.007)	-0.010 (0.007)	-0.007 (0.007)	0.002 (0.004)
Minority	0.257* (0.100)	0.369 (0.244)	0.606* (0.270)	0.660* (0.221)	0.203 (0.126)
Woman	0.025 (0.092)	0.014 (0.225)	-0.046 (0.251)	-0.008 (0.206)	-0.093 (0.115)
Court-level variables					
Number of cases	0.002 (0.002)	-0.010* (0.004)	0.009* (0.003)	0.006* (0.003)	0.001 (0.002)
5-4 cases	0.005 (0.003)	0.006 (0.005)	-0.001 (0.005)	0.003 (0.005)	0.007* (0.003)
Legally salient cases	-0.013* (0.004)	-0.011 (0.009)	-0.016 (0.009)	-0.023* (0.009)	-0.011 (0.006)
Intercept	4.31* (0.090)	2.72* (0.216)	2.03* (0.213)	2.45* (0.187)	5.16* (0.117)
Log-likelihood	-1496.27	-1004.84	-1020.39	-1096.73	-1840.22

NOTE: Models are multilevel, cross-sectional time series negative binomial regressions with random effects on the justice level. Cells are coefficients with standard errors in parentheses. The analysis examines coverage from 1980 to 2014 Court terms for the 20 justices serving on the Court during the time span. The total number of observations is 315. * $p < 0.05$, two-tailed.

The results also demonstrate that the *Times* devotes considerable attention to the chief justice on average. We expect the chief justice to be singled out by the media in coverage about the Court since he (or she) represents the central figurehead of the Court, both operationally and symbolically. The results predict that the chief justice receives roughly 15 more editorials, 24 more solo articles, and 131 more mentions in the *Times* than other justices. The media, then, are disproportionately turning to these pivotal justices to develop stories on the Court's cases and the general policy implications of its decisions, thereby personalizing the news of the Court by setting decisions as matters of individual justices and not as solely monolithic institutional decisions.

As suggested in Figures 1 and 2, the *Times* also finds new and retiring justices to be considerably newsworthy. Across all five models, the Court term a justice enters and exits the bench significantly increases the volume of attention the justice receives. We find that while retiring justices receive substantial attention, new justices receive even more coverage in editorials and name mentions. Court turnover naturally attracts increased media attention and conjecture about how a new justice differs from the retiring justice

and the potential for political shifts in the Court's makeup. Justice retirements also provide journalists the chance to examine the justices' careers, examine their major opinions, and speculate on how they have shaped politics, society, and culture. Retiring justices also may be more outspoken, including granting interviews, in order to help define their legacy on the Court (Davis, 2011).

We find that the actions justices take—writing opinions—have null effects across the five models. We also find that minority justices are expected to receive more total coverage and solo articles (all and term) than their white counterparts on the bench; however, there is no discernible difference between male and female justices. The difference in predicted coverage for minority justices compared to white justices is not as large as for the chief justice, new and retiring justices, but the finding is intriguing.

In sum, it appears that media attention to individual justices is driven more by their institutional power and pivotal decision-making position on the Court than by their actions. This contrasts coverage devoted to members of Congress who, along with their institutional positions and prominence, can often increase news attention through actions such as sponsoring bills, issuing press releases, and holding press conferences (Sellers and Schaffner, 2007).

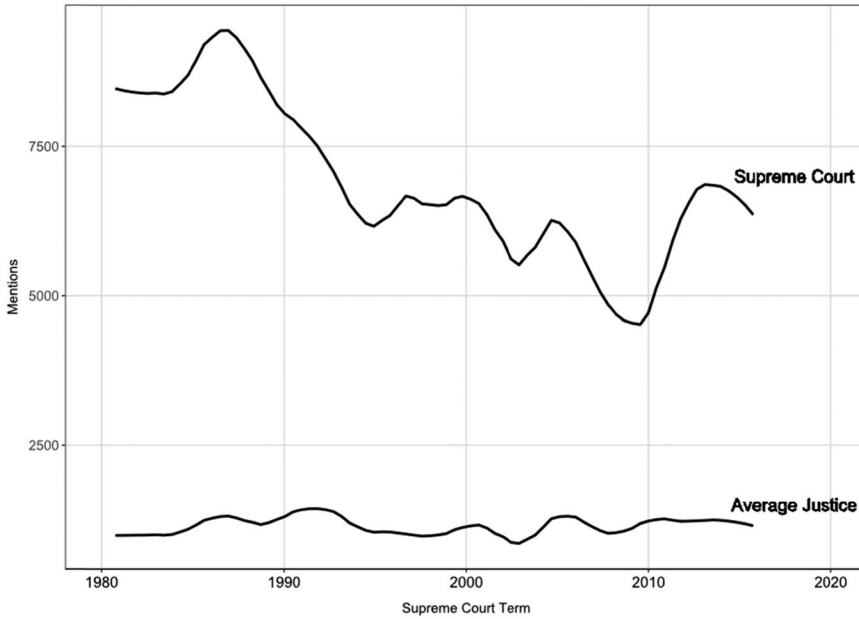
Lastly, we find that the Court-level predictors have varied effects on the amount of coverage in the national media. Although these findings are not the main interest of this analysis, we find that the number of 5–4 decisions has a positive, significant effect on average mentions for all justices. Closely divided 5–4 decisions often represent elite disagreement and conflict on the Court and allow the media to build storylines around how justices voted, with speculation on their contrasting predilections and preferences. We find the number of legally salient cases has a negative, significant effect on average total coverage and solo articles (without anyone in the same term) for all justices. We anticipated that increasing legally salient cases would increase individual coverage, as elite conflict is often the definition of political reporting in Washington (Cook, 1998). Instead, this result may reflect that these cases represent interinstitutional conflict, and lead the media to focus more on the Court as a decision-making body. We explore this aggregate relationship further in the next section.

Intra-Court Division and the Individualization of Coverage Over Time

The previous analysis establishes, in part, that the *NYT* is more likely to personalize coverage around pivotal actors, such as the expected median justice and justices with institutional power, specifically the chief justice. Given this result and the frequency of the Court's closely divided decisions in recent decades (e.g., Savage, 2010), we consider whether this individualized media attention has shifted over time in response to divisiveness on the Court. If pivotal justices receive disproportionate attention in *NYT* coverage, then we should expect to see that the degree of individualized coverage (relative to a focus on the Court as a monolithic institution) is a product of internal division on the Court. That is, the Court's pivotal actors should become increasingly important to decisions when there is more frequent closely divided, internal division on the Court, thereby leading to a greater individualization of media coverage.

To consider this argument, we turn again to our aggregate data on *NYT* coverage over time. First consider Figure 3, which displays the number of times “Supreme Court” is mentioned and the average number of justice mentions in the *Times* per term. Beginning in the late-1980s, the number of Court mentions has trended downward in the *Times*' coverage of justices to, at times, nearly half as many mentions as at the beginning of the

FIGURE 3
SC Versus Average SCJ Mentions



series. This decrease in mentions is potentially a function of an increase in the number of 5–4 Court decisions and justice turnover over the time period; however, the number of mentions of the average justice has remained the same, if not slightly increased, over the same time. Therefore, justices are increasingly making up a larger proportion of news coverage relative to the Court in the aggregate. This suggests that the media are focusing less on the Court as a whole, and more on individual justices.

To gain a deeper understanding of the temporal dynamics evident in Figure 3, we employ an aggregate time series analysis (with the Court term as the unit of analysis) and model the ratio of unindividualized coverage of the Supreme Court as an institution to the frequency of individualized coverage of individual justices in the *NYT*. The ratio, which serves as the outcome variable in this regression model, is simply the number of Supreme Court mentions per term divided by the average number of justices' mentions per term. Thus, larger values of the variable reflect a greater relative focus on the Court as an institution, while smaller values represent a greater tendency toward individualized coverage of justices.

The primary explanatory variable in this analysis represents the percentage of closely divided, 5–4 decisions over time. We measure this predictor, for each Court term, as the number of 5–4 decisions divided by the total number of decisions (multiplied by 100).¹¹ We expect a negative relationship—that is, media should focus on more individualized coverage (and less generic attention to the institution) when the Court exhibits more internal division and issues more closely divided decisions. We also include other important predictors that should affect the media coverage ratio. First, we account for the percentage of legally salient cases each term, measured as the number of legally salient decisions divided by the total

¹¹We include all orally argued decisions (among case citations in the Supreme Court Database). We identify 5–4 decisions consistent with that of the previous analysis.

number of decisions (multiplied by 100). We consider two versions of this variable—one that only considers decisions that alter precedent or strike down congressional legislation and a second that includes decisions that alter precedent or strike down congressional, state, or local legislation. Since legally salient cases often speak to the Court's institutional position within the court system and American government and federalism generally, we expect more attention to the Court relative to justices when the number of legally salient cases increases. Second, we include a predictor for justice turnover that counts the number of justices entering or leaving the Court for each term. This variable ranges from 0 (i.e., no turnover in a term) to 3 (i.e., three justices entering or leaving in a term).¹² We anticipate that turnover, and its potential additive effect, will increase the attention given to justices relative to the Court as a whole. Lastly, we entertain one final control predictor to account for the degree of ideological dispersion on the Court. We measure ideological dispersion as the standard deviation of the justices' Judicial Common Space (JCS) ideal points (as originally generated by Martin and Quinn, 2002) during each term (Epstein et al., 2007).¹³

To analyze these data, we employ a Koyck lagged dependent variable specification, regressing the coverage ratio outcome variable on the predictors outlined above and the lagged value of itself.¹⁴ Table 2 displays the empirical results; Model 1 includes the legal salience measure without those decisions striking down state or local laws while Model 2 includes the legal salience measure based on striking down congressional, state, or local legislation.¹⁵ Across both models, the results show that the *NYT* devotes more attention to justices (relative to its attention to the Court as a whole) as the Court issues a greater percentage of 5–4 decisions. This result is robust to specifying either of the two legal salience measures, which have their own effect of increasing aggregate Court coverage in relation to individual justice coverage. The results in Model 1 indicate that, for every 2SD (11.65) increase in the percentage of 5–4 decisions, the media produce an immediate expected decrease of 10.59 units in the ratio score—a decrease representing more than one-half of its standard deviation.¹⁶ This suggests that media are more likely to individualize coverage when they perceive greater conflict and internal disagreement among the justices—precisely when the pivotal justices should also be perceived as most important to decisions. In short, the Court's increasing tendency to issue closely divided decisions has led to meaningfully more individualized coverage. Among the other predictors, we observe that the *NYT* is more likely to individualize coverage when there is turnover on the Court, and this effect increases based on the number of justices entering or leaving the Court in a given term. As expected, turnover naturally induces more justice-specific attention and how the turnover will affect the Court's composition. Additionally, across both models, the results indicate that media devote more relative attention to the institution when the Court issues more

¹²The 1986 and 2005 terms both featured one justice retirement and two justices entering the Court.

¹³The results are consistent if measuring ideological dispersion using the interquartile range in justices' ideal points each term. We also considered Court curbing measures as controls in our models (using data from Mark and Zilis, 2019). We find that our results are robust to the inclusion of Court curbing measures. For the sake of parsimony, we have excluded these measures from our final models.

¹⁴Prior to estimating the models, we diagnosed the univariate dynamic properties of each predictor using multiple unit root and stationarity tests (i.e., Augmented Dickey Fuller, Phillips-Perron, and KPSS) to ensure that all predictors are stationary (based on the balance of the empirical evidence). In the case of the ideological dispersion measure, the prevailing evidence suggests that it is unlikely to be stationary, and thus we compute the first difference. Given the uncertainty often present when diagnosing univariate time series in small samples, it is important to note that the results are consistent when modeling the outcome variable as fractionally integrated.

¹⁵A Breusch-Godfrey test indicates neither model exhibits significant evidence of serially correlated residuals.

¹⁶The results from Model 2 suggest that a 2SD increase in the percentage of 5–4 decisions leads to an expected decrease of nearly one-half of a standard deviation in the media attention ratio score.

TABLE 2

The Aggregate Individualization of U.S. Supreme Court Coverage by the *New York Times*

	(1)	(2)
Media attention ratio $t-1$	0.42* (0.14)	0.36* (0.013)
Percentage of 5–4 cases	–0.91* (0.38)	–0.65* (0.36)
Percentage of legally salient cases—federal	1.96* (1.10)	– –
Percentage of legally salient cases—all	– –	1.50* (0.60)
Turnover	–5.41* (2.61)	–6.29* (2.38)
Δ Ideological dispersion	193.22* (102.66)	161.40 (98.13)
Constant	42.00* (11.96)	35.94* (11.98)
<i>N</i>	34	34
<i>R</i> ²	0.60	0.64

NOTE: Estimates are OLS regression coefficients with standard errors in parentheses. The analysis examines coverage from 1980 to 2014 Court terms for the 20 justices serving on the Court during the time span. The outcome variable is the ratio of Supreme Court mentions per term compared to the average number of justices' mentions per term in the *New York Times*. * $p < 0.05$, one-tailed.

legally salient decisions. And, lastly, there is mixed evidence that ideological heterogeneity among the justices leads to more Court-focused media attention.

Conclusion

In this article, we set out to determine how the *New York Times*—the preeminent American news outlet—exhibits disproportionate attention to certain important actors in the judicial process. Given that Supreme Court observers generally perceive some justices to be more significant to the Court's decisions and how it functions as an institution, not all justices should receive the same degree of media attention. We argue that the media personalize the news product to simplify complex legal decisions and policy implications, and to maximize reporting efficiency and effectiveness. The results support our argument, demonstrating how the most probable median justice and the chief justice, along with new and retiring justices, all receive significantly more coverage than the average member of the Court. These factors represent the most substantively important determinants of individual media coverage of Supreme Court justices. Furthermore, the degree of individualization of Supreme Court coverage in the *New York Times* has increased substantially over time, and in a way that is driven partly by internal division on the Court.

Overall, this study presents important implications for understanding both public attention to the Supreme Court and the more general study of political communication research on political institutions. The Supreme Court is an institution that is far removed from the public eye, as only one part of the judicial process (i.e., oral arguments) is ever under direct public scrutiny. The nature of media attention to the Court, as a result, is likely to serve as a meaningful (if not principal) source of information for citizens. The manner in which

the media cover the Court has the potential to shape public perceptions of the institution, potentially affecting the Court's institutional legitimacy and general diffuse support. Importantly, a larger temporal shift toward more individualized media attention that is a function of increasing divisiveness and internal conflict on the Court may have particularly important effects on the extent that the public perceives the Court as a politicized versus principled institution.

When considering the nature of media attention at the level of the individual justice, this study is also consistent with existing research on Congress and the desire of the press to direct significant attention toward the most pivotal and important institutional actors. Focusing on important justices, like the median justice, allows the press to personalize the power dynamics on the Court and provide a clearer understanding of the Court's decisions and their implications. We also find that the *Times* is increasingly focusing on individual justices relative to the Court in the aggregate, which can make the Court appear less opaque for average citizens. This is principally propelled by the increase in the number of 5–4 decisions and thus greater conflict and disagreement within the Court.

This study represents an important starting point to develop a more thorough understanding of not simply the attention that the Court receives from the national media, but news incentives to drive coverage around individual justices in a way that will be sufficiently informative for the mass public while maximizing the efficiency of daily news reporting.

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Supporting Information

Additional supporting information may be found online in the Supporting Information section at the end of the article.

Figure 1: Predicted Number of Articles & Mentions Based on Median Justice Probability
Figure 2: Predicted Number of Articles & Mentions of Chief Justice vs. Associate Justices