Agenda Setting on the Vinson Court

Timothy M. Hagle
The University of Iowa

The paper that follows is one of a series of papers I wrote regarding agenda setting on the Vinson Court. As each paper was completed updates and corrections may have changed some of the specific numbers presented in earlier papers, but the general results did not change. The papers were eventually combined into a book titled, *Supreme Court Agenda Setting: The Vinson Court* (available on Amazon.com). The individual papers became chapters in the book and the updated numbers were used for that version.

Again, the paper that follows is the original version. Some numbers may have been updated for the version included as a chapter in the book version, but the changes were usually minor and did not affect the overall results.

Agenda Setting on the Vinson Court
Paper 10: Administrative Parties as a Factor

Timothy M. Hagle
The University of Iowa

Agenda Setting on the Vinson Court
Paper 10: Administrative Parties as a Factor

Abstract

Although thousands of petitions seeking review by the Supreme Court are filed each year, the justices only accept about 150 or fewer for plenary review, with perhaps a few hundred more disposed of summarily. Because of this low acceptance rate scholars have long thought that the justices must use some strategy or process to reduce their workload to manageable levels. Although the examination of agenda setting on the Supreme Court is of continuing interest to judicial scholars, previous studies have usually focused only on cert petitions, specific issues, particular terms, or sampling for their data collection. A more comprehensive examination of the cases filed before the Supreme Court will provide a clearer picture of how the justices set their agenda.

Drawing from an ongoing database project this study examines all cases filed before the Vinson Court (1946 to 1952 Terms) on its appellate docket. The specific question addressed in this paper is whether administrative parties are treated differently by the Court in terms of the review decision. The results show that cases with administrative parties are more likely to be granted review by the Court. This is particularly true if the administrative party is the appellant rather than the appellee. There are also differences between federal, state, or local administrative parties.

Agenda Setting on the Vinson Court
Paper 10: Administrative Parties as a Factor

This is the tenth paper in a series examining agenda setting on the Vinson Court. The examinations are largely empirical, but with a general grounding in familiar aspects of behavioral judicial politics. Although part of a series, I would like each paper to stand on its own. Thus, some explanatory material will be repeated from one paper to the next to provide background or context.

The decisions on the merits of cases made by the justices of the United States Supreme Court may be the most important aspect of judicial policy making, but scholarly examination of other aspects of the judicial decision making process have contributed to our overall understanding of judicial behavior and politics. A few examples of such research includes examination of opinion writing of the Supreme Court justices (Maltzman, Spriggs, and Wahlbeck 2000), acclimation effects of new justices (Hagle 1993), the use of precedent on the Supreme Court (Segal and Spaeth 1999), and dealing with the lack of precedent in the federal courts of appeal (Klein 2002).

Of course, agenda setting and its attendant strategic considerations have also been the focus of many studies. *Marbury v. Madison* (1803) may have been the earliest and most famous example of strategic agenda setting or decision making by the Supreme Court. Despite a general view at the time that judges were not policy makers—at least not along the lines of executives and legislators (see, for example, Spaeth 1979, chapter 1)—histories of the Court have certainly recognized strategic aspects to the Court's

decision making (e.g., Rodell 1955). Walter Murphy's *Elements of Judicial Strategy* (1964) is one of the earliest and most important examinations of how strategic considerations may affect judicial decision making. Other scholars have expanded and refined Murphy's arguments (e.g., Epstein and Knight 1998). A related line of research focuses more specifically on the ideological preferences of judges (e.g., Segal and Spaeth 2002) and a book by Brenner and Whitmeyer (2009) compares various models of strategic judicial behavior.

One aspect of strategic judicial behavior lies in agenda setting, which means how the Supreme Court decides which cases it will take to decide on the merits. Although several thousand petitions seeking review by the Supreme Court are filed each year, the justices only accept about 150 or fewer for plenary review (i.e., full briefs submitted, oral arguments held, and opinions written), with maybe a few hundred more disposed of summarily (i.e., the Court simply affirms, reverses, or vacates in a very short per curiam opinion, sometimes as little as "Judgment affirmed."). Thus, scholars have long thought that the justices must use some strategy or process to reduce their workload to manageable levels (e.g., Hagle 1990).

In his book-length examination of Supreme Court agenda setting Perry (1991) notes that aspects of agenda setting have been of interest to judicial scholars at least since Schubert (1959). Perry also notes that a few years later Tanenhaus, Schick, Muraskin, and Rosen, (1963) formulated "cue theory" as a way of explaining how the justices were able to navigate the "sea of work that must be processed" (1991, 114). As Perry goes on to note, cue theory fell out of favor when later, more sophisticated,

studies failed to replicate the initial results (1991 116). Nevertheless, although a study by Ulmer, Hintze, and Kirklosky rejected two of the three cues Tanenhaus et al., found significant, a third—the federal government as a petitioning party—was significant and the authors concluded that cue theory retained some viability (1972, 642).

Regardless of how cue theory itself has developed, like these two early examinations of the Supreme Court's agenda setting many later studies focused on how the justices deal with the large number of petitions for writs of certiorari.[1] Caldeira and Wright (1988), for example, examined organized interests in agenda setting with respect to the cert petitions filed during the Court's 1982 Term. In a recent edition of his text on the Supreme Court, Baum (2013, 88) provides an example of recent work examining litigant status (Black and Boyd 2012). Thus, although the examination of agenda setting on the Supreme Court is of continuing interest to judicial scholars previous studies have usually focused only on cert petitions (Tanenhaus et al. 1963), specific issues (Caldeira and Wright 1988; Black and Boyd 2012), particular terms (Ulmer, Hintze, and Kirklosky 1972), or sampling for their data collection (Tanenhaus et al. 1963; Perry 1991). A more comprehensive examination of the cases filed before the Supreme Court will provide a

[1] Cases come before the Supreme Court via two basic methods: petitions for writs of certiorari and appeals. Because this study will not distinguish between "cert" petitions and appeals, I hesitate to wade too deeply into their differences. Briefly, however, cert petitions are discretionary, which means that the justices are free to grant or deny them as they see fit. No legal meaning is attached to a denial except that the Supreme Court chose not to hear the case. Technically, the Supreme Court must hear cases that come as appeals, but the justices may avoid review by indicating that a case was not properly presented as an appeal for one reason or another. The Court may then treat the appeal papers as a petition for a writ of certiorari and grant or deny the petition. See Perry (1991, Chapter 2) for more on the difference between cert petitions and appeals. See also Stern and Gressman (1978) for a more extended discussion of the topic. Of course, changes to the law in 1988 (Public Law No: 100-352) removed several categories of the Supreme Court's mandatory jurisdiction in appeals.

clearer picture of how the justices set their agenda. To that end, this study will examine all cases on the Vinson Court's appellate docket.[2]

Administrative Parties as Litigants

In the seventh paper in this series I found that the presence of government parties in cases filed before the Supreme Court was related to the chances that a case would be accepted for review. In many instances there was an increased chance of acceptance, but in a few situations the chances were decreased. In particular, Table 3 in that paper showed that the chances were lessened when the government party was the appellee in the case.[3]

In the eighth paper in this series I began to look at specific types of parties and the focus of that paper was on law enforcement parties.[4] Table 9 of that paper showed the comparison between federal law enforcement and other federal governmental entities and found that federal parties that were not law enforcement had a higher acceptance rate before the Supreme Court than federal law enforcement parties by 20.0% to 16.0%.

---

[2] Until the Court changed its numbering system for filed cases there were essentially three dockets: appellate, miscellaneous, and original. The appellate docket contained what are usually referred to as the "paid" cases, the miscellaneous docket contained the "unpaid" cases (also known as paupers, *in forma pauperis,* or *ifp* cases), and the original docket contained those cases coming to the Court via its limited original jurisdiction. Given my concern about excluding cases on appeal from prior analyses one might reasonably wonder why I do not examine all cases on the Court's three dockets. The original jurisdiction cases can be excluded because they are so few and are of a fundamentally different character. It is well documented that the *ifp* cases on the Court's miscellaneous docket are treated differently, on average, than cases on the appellate docket (e.g., Perry 1991, Chapter 2; Baum 2013, 96-100). Nevertheless, the Court sometimes grants review to unpaid cases (and sometimes grants *in forma pauperis* status to cases on the appellate docket). See below for more on how these cases are treated for this study.

[3] The paper is titled, "Agenda Setting on the Vinson Court, Paper 7: Government Parties as a Factor."

[4] The paper is titled, "Agenda Setting on the Vinson Court, Paper 8: Law Enforcement Parties as a Factor."

Although relatively small as a percentage the difference did reach a traditional level of statistical significance.

In examining the role of government parties and specifically law enforcement parties in the previously mentioned papers I noted that such parties might fall into the notion of "importance" noted by Perry as a criterion for acceptance (1991, 253-260). I also noted how Ulmer, Hintze, and Kirklosky (1972) mention the role of the federal government as a petitioning party. Those factors would still apply to an examination of administrative parties, but from a different perspective. Administrative parties might not be as involved in some of the constitutional and civil rights issues to the same extent as law enforcement parties, but the cases involving them can certainly be important for a wide range of issues.

As with cases involving law enforcement parties, and criminal cases more generally, we can probably expect that the Court will be more willing to accept cases when the administrative party is the appellant rather than the appellee. Similarly, it is likely that we will see differences in the acceptance rates in cases involving federal administrative parties versus those with state or local administrative parties.

As in previous papers, the tables that follow will examine several aspects of how the Court treats cases involving administrative parties.

Data

Data for this study were drawn from an ongoing database project involving all cases on the Supreme Court's appellate docket from the 1946 Term on. Data are

complete for the Vinson Court (1946 through 1952 Terms) and provide a relatively stable period in which to examine the Court's docket.

Information on the cases in the database was drawn from several sources including the *United States Law Week*, various reporters for the state and federal courts, LEXIS, and other online sources. Every case that received an appellate docket number during the 1946-1952 Terms is included in the database. This results in 5,905 cases. Included in this number are 156 cases originally filed before the 1946 Term (the first term of the Vinson Court). The review decision for 95 of these 156 cases was made prior to the 1946 Term and those cases are not included in the dataset for this study. At the end of the Vinson Court 121 cases eventually received a 1953 Term (the first term of the Warren Court) or later docket number.[5] The review decisions for 72 of these 121 cases were made after the 1952 Term but are included in the dataset given that those cases were initially filed during the Vinson Court. Also, included in the dataset are 67 cases that originally appeared on the Court's miscellaneous docket and were moved to the appellate docket.[6] Not included in the dataset are 64 cases that were dismissed on the

---

[5] Prior to the 1971 Term cases held over to the next term, before or after a review decision, were renumbered at the start of each term and there was no two-digit term indicator. For example, *Brown v. Board of Education* was initially filed during the Court's 1951 Term and given the docket number 436. It was held over to the 1952 Term with the new docket number 8, and again for the 1953 Term with the docket number 1.

[6] Through the Vinson and Warren Courts, cases originating on the miscellaneous docket (sometimes referred to as the "pauper's docket") that were granted review were usually moved to the appellate docket (sometimes referred to as the "paid docket") and given a new docket number. The Expanded United States Supreme Court Judicial Database, Harold J. Spaeth principal investigator, lists 26 cases with a miscellaneous docket number (with an "M" in the DOCKET field, meaning they were not transferred to the appellate docket) during the 1946-1952 Terms. Of these, 17 were granted review (with eight of those disposed of in a short per curiam), but are not included here. On the other hand, this dataset includes 19 cases initially filed on the appellate docket for which the Court granted *in forma pauperis* status to one of

motion of the petitioner prior to the review decision, 18 cases that were dismissed by a Supreme Court rule (e.g., late filing, failure to pay fees), and one case where no review decision could be found.[7] This results in a dataset of 5,727 cases.

An additional note on the coding for this examination is necessary before proceeding. As indicated in prior papers government parties are coded based on whether they are federal, state, or local (e.g., county, city, township) entities. An additional aspect of coding governmental parties for the database is to classify them as either law enforcement, administrative, or other. There are two ways a party can be coded as administrative. The first is if the entity is clearly an administrative entity. This would include a variety of federal agencies, bureaus, commissions, and so on. A prime example is the National Labor Relations Board. The same is essentially true for state and local administrative entities. The second way a party can be coded as administrative is when the party is acting in an administrative capacity. A good example here is the Federal Bureau of Investigation. Normally the FBI is considered a law enforcement entity, but if the case was one challenging a personnel decision then it would be coded as administrative. Similarly, when the United States is a party it is coded as law enforcement in criminal cases, administrative when it is acting in an administrative capacity, and "other" for other types of cases (e.g., suing the United States for personal injuries).

---

the parties (only one of which was granted review). (This is an older version of the Supreme Court Database before it was moved online, which, as of this writing, can be viewed at http://scdb.wustl.edu.)

[7] Without going into great detail, it appears that the case in question was withdrawn shortly after filing and refiled a month later with a new docket number. The latter case, *Deena Products Co. v. National Labor Relations Board* (1952) is included in the database and was denied review.

Results

I begin by noting that of the 5,727 cases in the dataset the Court accepted 1,169 of them for review. That results in an overall acceptance rate of 20.4%

Table 1 shows the acceptance rates for cases that have an administrative entity as a party compared with those cases that do not have an administrative entity as a party. No distinction is made between state or federal cases for this and the next two tables.

TABLE 1 ABOUT HERE

As can be seen from Table 1, about 30% of the cases in the dataset have an administrative entity as a party (1,697 of the 5,727 cases). Of the 1,697 cases with an administrative party the Court granted review to 496 of them (29.2%). In contrast, there were 4,030 cases that did not have an administrative party and the Court granted review to only 673 of them (16.7%). Using a simple difference of means test (Wonnacott and Wonnacott (1972)), the difference in the acceptance rates between cases with an administrative party and those without is significant at $p < .001$ using a two-tailed test.

The results in Table 1 are consistent with what we saw in Table 1 of the seventh paper which compared the acceptance rate of cases with any government party to the acceptance rate of cases without a government party.[8] On the other hand, these results are contrary to those of Table 8-1 that involved law enforcement parties. That difference is not unexpected, however, given the large number of cases with law

[8] To make it easier to refer to the tables of the prior papers from this point on I will use the notation indicating the prior paper number and the table number. For example, Table 1 of the seventh paper will be indicated as Table 7-1, and so on.

enforcement parties as appellees and the Court's low acceptance rate for such cases as indicated in Table 8-3 of that paper.

Following the pattern of the previous papers, the next step is to separately examine the acceptance rates for cases with an administrative party as the appellant and as the appellee.

TABLE 2 ABOUT HERE

Table 2 shows the comparison of acceptance rates for cases with an administrative party as the appellant with those cases without an administrative party. Note that the "Without Administrative Party" row is the same as for Table 1. This will also be true for all the tables through Table 12.

In Table 2 we see that there were 377 cases with an administrative party as the appellant and the Court accepted 218 of them for review (57.8%). This acceptance rate is significantly higher than that of cases without an administrative party. It is also very similar to the acceptance rate when the appellant is any kind of government party as shown in Table 7-2 (57.3%), but below that for law enforcement parties as appellants as shown in Table 8-2 (75.0%).

TABLE 3 ABOUT HERE

Table 3 shows the comparison in acceptance rates between cases with an administrative party as the appellee and those without an administrative party. There were 1,358 cases with an administrative party as the appellee and the Court granted review to 293 of them (21.6%). Although the acceptance rate for these cases is less than half of those when the administrative party is the appellant, the rate is still nearly five

points above the acceptance rate of cases without an administrative party and still reaches traditional levels of statistical significance. These results are also a bit different from those of all government parties as appellee (Table 7-3) and for law enforcement entities as appellee (Table 8-3). For both those other examinations the acceptance rates were below the rates for the non-government or non-law enforcement entities (18.1% and 13.7%, respectively), and significantly so.

The next three tables examine the acceptance rates for federal administrative parties.

TABLE 4 ABOUT HERE

Table 4 shows the results of comparing the acceptance rate of cases with a federal administrative parties with those cases without an administrative party. There were 1,239 cases with a federal administrative party and the Court granted review to 357 of them (28.8%). This acceptance rate is only a bit below the rate shown in Table 1 that included state and local administrative entities and is still well above the rate for cases without an administrative entity. This acceptance rate is very similar to the rate for all federal parties shown in Table 7-5 (28.2%) and only a few percentage points higher than the rate for federal law enforcement parties shown in Table 8-4 (25.2%)

TABLE 5 ABOUT HERE

Table 5 shows the results of comparing the acceptance rate for cases when a federal administrative party is the appellant in a case with cases without an administrative party. There were 242 cases with a federal administrative party as the appellant and the Court granted review to 170 of them (70.2%). This is a much higher

rate than we saw in Table 2 that included all administrative entities, which suggests that the rate for state and local administrative entities will be much lower when we see the number below. As a point of comparison, federal law enforcement parties as the appellant had an even higher acceptance rate of 78.9% as shown in Table 8-5.

TABLE 6 ABOUT HERE

To complete the examination of federal administrative parties, Table 6 shows the comparison when these parties are the appellee in cases with those cases without an administrative party. There were 1,000 cases with a federal administrative party as the appellee and the Court accepted 189 of them for review (18.9%). This rate is substantially below the rate shown in Table 3 and is not much different from the rate for cases without an administrative party. The difference fails to reach a traditional level of significance using a two-tailed test. Comparing this rate once again with the corresponding acceptance rate for federal law enforcement (16.0%) as shown in Table 8-6, we see that the rate here is slightly higher. The rate for federal law enforcement parties as the appellee was lower than the rate for cases without a law enforcement party and the difference reached statistical significance unlike the comparison here for federal administrative parties as the appellee.

Before turning to the cases with state and local administrative parties it is worth noting that of the 1,697 cases with an administrative party shown in Table 1, 1,239 of them were federal administrative entities (73.0%). It is not surprising that so many of the cases with administrative entities involved the federal government, but it suggests that the cases with federal administrative parties dominated the numbers shown in

Tables 1 through 3. Thus, we might expect more differences when examining the cases with state and local administrative parties.

Because there are a large enough number of cases to do so I will examine the cases with state and local administrative parties separately. The next two sets of three tables will follow the pattern established above first examining the acceptance rate for all cases at that level and then separately at those when the administrative party is appellant and appellee. As noted previously, the "Without Administrative Party" row for each of these tables is the same as in Table 1.

TABLE 7 ABOUT HERE

Beginning with the cases that have a state administrative party, Table 7 shows the results of comparing these cases with those cases that do not have an administrative party. There were 329 cases with a state administrative party and the Court granted review to 118 of them (35.9%). This rate is above the rate shown in Table 1 for all cases with an administrative entity as a party. Given what we saw in Table 4 for cases with a federal administrative entity, that this rate is higher is to be expected numerically (particularly given, as I will show shortly, the acceptance rate for local administrative parties).

TABLE 8 ABOUT HERE

Table 8 shows the results of comparing cases with a state administrative party as an appellant with those cases that do not have an administrative party. There were only 87 cases with a state administrative party as the appellant and the Court granted review to 38 of them (43.7%). The difference with cases that did not have an

administrative entity as a party reaches statistical significance, but is well below the rate for cases with a federal administrative entity as the appellant as shown in Table 5.

TABLE 9 ABOUT HERE

To complete the state level comparisons, Table 9 shows the comparison of cases with a state administrative party as the appellee to those cases that do not have an administrative party. There were 247 cases with a state administrative party as the appellee and the Court accepted 82 of them for review (33.2%). Interestingly, this rate is well above the rate for cases with a federal administrative entity as the appellee as shown in Table 6, and, unlike the federal rate, reaches statistical significance.

TABLE 10 ABOUT HERE

Turning to the cases with local administrative entities as parties, Table 10 shows the results of comparing all cases with local administrative parties to those cases without an administrative party. There were 153 cases with a local administrative party and the Court granted review to 31 of them (20.3%). This rate is only a few percentage points above the rate for cases without an administrative party and the difference does not reach statistical significance.

TABLE 11 ABOUT HERE

Table 11 shows the results of comparing the acceptance rates of cases with a local administrative party as the appellant with those cases without an administrative entity as a party. There were only 48 cases with a local administrative party as the appellant and the Court accepted 10 of them for review (20.8%). This acceptance rate is only slightly higher than the rate shown in Table 10 and once again does not reach statistical

significance. This rate is also well below the rates for federal and state administrative entities as appellants as shown in Tables 5 and 8.

TABLE 12 ABOUT HERE

In the last of this set of tables, Table 12 shows the results of comparing cases with a local administrative party as the appellee to those cases without an administrative party. There were 111 cases with a local administrative party as the appellee and the Court granted review to 22 of them (19.8%). This acceptance rate is slightly below the rate for all cases with a local administrative party shown in Table 10 and like that rate fails to reach a traditional level of statistical significance. The rate for local administrative parties as appellee is very similar to the federal rate shown in Table 6, which also failed to reach statistical significance. It is also worth noting that unlike the corresponding cases with federal and state administrative parties there is very little difference in the acceptance rates of cases with local administrative entities as appellants and appellees.

Although I do not provide tables for them, I also compared the combined cases with state and local administrative parties with those cases without an administrative party. The larger number of cases with state administrative parties and their significance levels (as shown in Tables 7, 8, and 9) resulted in the combined state and local cases with administrative parties to also reach statistical significance for the three comparisons to cases without an administrative party (all cases, as appellant, and as appellee).

The final three tables provide comparisons of the acceptance rates of cases with federal administrative entities as parties to cases with state or local administrative parties.

TABLE 13 ABOUT HERE

Table 13 shows the results of comparing cases with federal administrative parties to cases with a state or local administrative party. Note that the numbers in the federal row are the same as in Table 4. (This will also be true for the next two tables relative to the prior corresponding Tables 5 and 6.) There were 1,239 cases with a federal administrative entity as a party and the Court granted review to 357 of them (28.8%). As for cases with a state or local administrative party there were 477 of them and the Court granted review to 149 (31.2%). Although the Court was actually a bit more likely to grant review to cases with a state or local administrative entity as a party, the difference was fairly small and does not reach statistical significance.

TABLE 14 ABOUT HERE

Continuing the prior pattern, Table 14 shows the results of comparing cases with a federal administrative party as the appellant with cases having a state or local administrative party as the appellant. There were 242 cases with a federal administrative entity as the appellant and the Court accepted 170 of them for review (70.2%). In sharp contrast, there were 135 cases with a state or local administrative entity as the appellant and the Court granted review to 48 of them (35.6%). This difference is not surprising given what we saw in prior results (Tables 5, 8, and 11) as the Court clearly favors cases with a federal administrative entity as the appellant.

TABLE 15 ABOUT HERE

Finally, Table 15 shows the comparison between cases with a federal administrative party as the appellee to those cases with a state or local administrative party as the appellee. There were 1,000 cases with a federal administrative party as the appellee and the Court granted review to 189 of them (18.9%). There were 358 cases with a state or local administrative party as the appellee and the Court accepted 104 of them for review (29.1%). Recall from Table 6 that the acceptance rate for cases with a federal administrative entity as the appellee was only slightly higher than the rate for cases without an administrative entity and the difference did not reach statistical significance. The state rate shown in Table 9 was much higher and did reach statistical significance. Although the local rate shown in Table 12 was only slightly above the federal rate, the combined acceptance rate for cases with a state or local administrative party as the appellee was still sufficiently above the federal rate to reach statistical significance.

Concluding Comments

The results of this examination clearly show that the Supreme Court treats cases involving administrative parties differently than other cases for purposes of granting review. This was true for the examination of law enforcement parties as shown in the eighth paper, but there are differences between how the Court treats the two different types of parties.

On the whole, the Court is generally more accepting of cases with administrative parties than cases that do not have administrative parties. Not surprisingly, differences emerge when looking at the government level of the administrative party (federal, state, or local) and whether the administrative party was the appellant or appellee.

Regardless of the governmental level, the Court was more accepting of cases with administrative parties than those without. This difference was statistically significant for federal and state administrative parties, but not for local administrative parties. One could reasonably make the argument that parties involving federal and state administrative parties would be more important, on average, than those involving local administrative parties.[9] Of course, before drawing general conclusions about administrative parties we also needed to examine the acceptance rates when such parties were appellants and appellees.

As appellants, administrative parties at all levels had higher acceptance rates than cases without administrative parties. Again, this difference was statistically significant for federal and state administrative parties but not at the local level. Consistent with the findings of prior papers, there was a clear difference in acceptance rates depending on whether the administrative party was the appellant or appellee. For all administrative parties and when separated by level, administrative parties had higher acceptance rates than cases without an administrative party, regardless of whether the administrative party was the appellant or the appellee. Nevertheless, cases with the

[9] Although not decided during the Vinson Court era, *Tinker v. Des Moines Independent Community School District* (1969) is a prime example of an important case involving a local administrative party.

administrative party as the appellant consistently had a higher acceptance rate than those cases with the administrative party as the appellee. This difference was most pronounced at the federal level (Tables 5 and 6), much smaller at the state level (Tables 8 and 9), and minimal at the local level (Tables 11 and 12).

The highest acceptance rate shown in the tables was for federal administrative parties as the appellant at 70.2% (Table 5). This rate is a bit below the also very high rate shown for law enforcement parties in Table 8-5 (78.9%). The higher acceptance rate for law enforcement parties as appellants may come from the additional fact that many cases when there is a law enforcement appellant involve a lower court reversal. In the fifth paper in the series I found that reversals in the courts below was associated with higher acceptance rates (Table 5-1). Cases with administrative parties likely have a smaller number of lower court reversals, but the high acceptance rate suggests that the Court is still very interested in cases with federal administrative parties.

The acceptance rates for state and for local administrative parties as the appellant drop off quickly from the federal rate. At 43.7% (Table 8) the state rate is still statistically significant from the rate for cases without an administrative party. The acceptance rate for local administrative parties is well below the state rate at 20.8% (Table 11) and only a few percentage points above the rate for cases without an administrative party.

Interestingly, when the administrative party is the appellee, the differences between the three governmental levels are far less extreme. In fact, the acceptance rates for federal and local administrative parties as the appellee are within a percentage point

of each other (18.9% and 19.8%, respectively, Tables 6 and 12). The rate for the state level cases is substantially higher at 33.2% (Table 9) and it is the only one of the three that reaches statistical significance relative to the cases without an administrative party.

Although there were far fewer cases with local administrative parties than those with either federal or state administrative parties, the acceptance rates for them, whether as appellant or appellee, vary only slightly from cases without an administrative party (Tables 10, 11, and 12). As noted previously, this suggests the possibility that the Court generally views cases with federal administrative parties as more worthy of review than cases with state or local administrative parties. The last three tables touched on this point.

Interestingly, although there was not much of an overall difference between the acceptance rates for federal versus state and local cases with an administrative party (Table 13), there were clear differences when the cases were examined based on whether the administrative parties were appellants or appellees. In Table 14 we saw that the Court was nearly twice as likely to grant review to a case with a federal administrative party as the appellant compared with a state or local administrative party. In contrast, however, the Court was more likely to grant review to a case involving a state or local administrative party as the appellee than when it was a federal administrative party.

The differences as appellants and appellees were both statistically significant (Tables 14 and 15). This suggests that concepts such as importance or being worthy of review are more nuanced than can be captured in simple difference of means

comparisons. As I have noted in prior papers, these examinations are worthwhile as a starting point but ultimately further multivariate examinations are needed. In particular, it will be worth examining how the Court disposes of the cases it accepts for review and if that is related to government level and whether the party is an appellant or appellee.

References

Baum, Lawrence. 2013. *The Supreme Court*, 11th Edition. Washington, DC: CQ Press.

Black, Ryan C., and Christina L. Boyd. 2012. "U.S. Supreme Court Agenda Setting and the Role of Litigant Status." *Journal of Law, Economics & Organization*, (June 2012): 286-312.

Brenner, Saul, and Joseph M. Whitmeyer. 2009. *Strategy on the United States Supreme Court*. New York: Cambridge University Press.

Brown v. Board of Education, 347 US 483 (1954).

Caldeira, Gregory A., and John R. Wright. 1988. "Organized Interests and Agenda Setting in the U.S. Supreme Court." *American Political Science Review*, 82:1109-1127.

Deena Products Co. v. National Labor Relations Board, 344 US 827 (1952).

Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, DC: CQ Press.

Hagle, Timothy M. 1990. "So Many Cases, So Little Time: Judges as Decision Makers." In *American Politics in the Heartland*, ed. Douglas Madsen, Arthur H. Miller, and James A. Stimson. Dubuque, Iowa: Kendall/Hunt.

Hagle, Timothy M. 1993. "'Freshman Effects' for Supreme Court Justices." *American Journal of Political Science*, 37:1142-1157.

Hagle, Timothy M. 2015. "Agenda Setting on the Vinson Court, Paper 5: Lower Court Reversals and Dissents as Factors." Typescript.

Hagle, Timothy M. 2017a. "Agenda Setting on the Vinson Court, Paper 7: Government Parties as a Factor." Typescript.

Hagle, Timothy M. 2017b. "Agenda Setting on the Vinson Court, Paper 8: Law Enforcement Parties as a Factor." Typescript.

Klein, David E. 2002. *Making Law in the United States Courts of Appeals*. New York: Cambridge University Press.

Maltzman, Forrest, James F. Spriggs II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York: Cambridge University Press.

Marbury v. Madison, 5 US 137 (1803).

Murphy, Walter F. 1964. *Elements of Judicial Strategy*. Chicago: The University of Chicago Press.

Perry, H.W., Jr. 1991. *Deciding to Decide: Agenda Setting in the United States Supreme Court*. Cambridge, MA: Harvard University Press.

Rodell, Fred. 1955. *Nine Men: A Political History of the Supreme Court of the United States from 1790 to 1955*. New York: Random House.

Schubert, Glendon. 1959. "The Certiorari Game." In *Quantitative Analysis of Judicial Behavior*, ed. Glendon Schubert New York: Free Press.

Segal, Jeffrey A., and Harold J. Spaeth. 1999. *Majority Rule or Minority Will: Adherence to Precedent on the U.S. Supreme Court*. New York: Cambridge University Press.

Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.

Spaeth, Harold J. 1979. *Supreme Court Policy Making*. San Francisco: W.H. Freeman.

Spaeth, Harold J. 1998. *Expanded United States Supreme Court Judicial Database, 1946-1968 Terms*. [Computer file]. 4th ICPSR version. East Lansing, MI: Michigan State

University, Dept. of Political Science [producer]. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1999.

Stern, Robert L., and Eugene Gressman. 1978. *Supreme Court Practice*, 5th edition. Washington, DC: The Bureau of National Affairs.

Tanenhaus, Joseph, Marvin Schick, Matthew Muraskin, and Daniel Rosen. 1963. "The Supreme Court's Certiorari Jurisdiction: Cue Theory." In *Judicial Decision Making*, ed. Glendon Schubert. New York: Free Press.

Tinker v. Des Moines Independent Community School District, 393 US 503 (1969).

Ulmer, S. Sidney, William Hintze, and Louise Kirklosky. 1972. "The Decision to Grant or Deny Certiorari: Further Consideration of Cue Theory." *Law and Society*, 6:637-643.

Wonnacott, Thomas H., and Ronald J. Wonnacott. 1972. *Introductory Statistics for Business and Economics*. New York: John Wiley & Sons.

Table 1

Acceptance Rates for Cases With an Administrative Party Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Administrative Party	496	1,201	1,697	29.2%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	1,169	4,558	5,727	20.4%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 2

Acceptance Rates for Cases With an Administrative Party as Appellant Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Administrative Appellant	218	159	377	57.8%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	891	3,516	4,407	20.2%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 3

Acceptance Rates for Cases With an Administrative Party as Appellee Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	**Denied**	**Row Total**	**Acceptance Rate (%)**
With Administrative Appellee	293	1,065	1,358	21.6%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	966	4,422	5,388	17.9%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 4

Acceptance Rates for Cases With a Federal Administrative Party Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Party	357	882	1,239	28.8%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	1,030	4,239	5,269	19.5%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 5

Acceptance Rates for Cases With a Federal Administrative Party as Appellant Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Appellant	170	72	242	70.2%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	843	3,429	4,272	19.7%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 6

Acceptance Rates for Cases With a Federal Administrative Party as Appellee Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Appellee	189	811	1,000	18.9%
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	862	4,168	5,030	17.1%

Table 7

Acceptance Rates for Cases With a State Administrative Party Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With State Administrative Party	118	211	329	35.9%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	791	3,568	4,359	18.1%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 8

Acceptance Rates for Cases With a State Administrative Party as Appellant Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With State Administrative Appellant	38	49	87	43.7%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	711	3,406	4,117	17.3%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 9

Acceptance Rates for Cases With a State Administrative Party as Appellee Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With State Administrative Appellee	82	165	247	33.2%*
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	755	3,522	4,277	17.7%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 10

Acceptance Rates for Cases With a Local Administrative Party Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Local Administrative Party	31	122	153	20.3%
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	704	3,479	4,183	16.8%

Table 11

Acceptance Rates for Cases With a Local Administrative Party as Appellant Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Local Administrative Appellant	10	38	48	20.8%
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	683	3,395	4,078	16.7%

Table 12

Acceptance Rates for Cases With a Local Administrative Party as Appellant Compared With Those Without an Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Local Administrative Appellee	22	89	111	19.8%
Without Administrative Party	673	3,357	4,030	16.7%
Column Total	695	3,446	4,141	16.8%

Table 13

Acceptance Rates for Cases With a Federal Administrative Party Compared With Those With a State or Local Administrative Party on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Party	357	882	1,239	28.8%
With State or Local Administrative Party	149	328	477	31.2%
Column Total	506	1,210	1,716	29.5%

Table 14

Acceptance Rates for Cases With a Federal Administrative Appellant Compared With Those With a State or Local Administrative Appellant on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Appellant	170	72	242	70.2%*
With State or Local Administrative Appellant	48	87	135	35.6%
Column Total	218	159	377	57.8%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 15

Acceptance Rates for Cases With a Federal Administrative Appellee Compared With Those With State or Local Administrative Appellee on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
With Federal Administrative Appellee	189	811	1,000	18.9%*
With State or Local Administrative Appellee	104	254	358	29.1%
Column Total	293	1,065	1,358	21.6%

* $p < .001$, two-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).