

## **Agenda Setting on the Warren Court**

**Timothy M. Hagle**  
**The University of Iowa**

The paper that follows is one of a series of papers I have written regarding agenda setting on the Warren Court. The papers on Warren Court agenda setting follow the pattern and topics of those I wrote on the Vinson Court's agenda setting. As each paper was completed updates and corrections sometimes changed a few of the specific numbers presented in papers that came earlier in the series. Even so, the general results for each paper did not change. The papers for the Vinson Court were eventually combined into a book titled, *Supreme Court Agenda Setting: The Vinson Court* (available on [Amazon.com](https://www.amazon.com)). The papers for the Warren Court will also be combined in a book to be titled *Supreme Court Agenda Setting: The Warren Court*. It will be available on Amazon.com in the summer of 2023. The book will use the final numbers after all the corrections and updates.

**Agenda Setting on the Warren Court**  
**Paper 5: Lower Court Reversals and Dissents as Factors**

**Timothy M. Hagle**  
**The University of Iowa**

**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 Warren Court (1953 to 1968 Terms). The specific question addressed in this paper is whether lower court reversals or disagreement increase the likelihood of a case being accepted for review by the Supreme Court. The results show that for cases coming from both state and federal courts the presence of a reversal or dissent below significantly increases the likelihood of the Supreme Court accepting the case for review.

## **Agenda Setting on the Warren Court**

### **Paper 5: Lower Court Reversals and Dissents as Factors**

This is the fifth in a series of papers examining agenda setting on the Warren Court (1953-1968 Terms). This series of papers will follow the structure and topics contained in the series of papers I wrote examining agenda setting on the Vinson Court (1946-1952 Terms). As such, certain elements of the Vinson Court papers will be repeated in the corresponding papers for the Warren Court. The papers for the Vinson Court were eventually combined in a book titled, *Supreme Court Agenda Setting: The Vinson Court 1946 to 1952 Terms*, which is available in electronic form from [Amazon.com](https://www.amazon.com).

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 appeals (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) was 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 focused more specifically on the ideological preferences of judges (e.g., Segal and Spaeth 2002) and a book by Brenner and Whitmeyer (2009) compared 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 thousands of 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.<sup>1</sup> 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 (2022) provided 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 clearer picture of how the justices set their agenda. To that end, this study will examine all cases on the Warren Court's appellate docket.<sup>2</sup>

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<sup>1</sup> 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. 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.

<sup>2</sup> 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 2022, 90-91). 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.

## Reversals and Dissents in the Lower Courts

One possible signal or cue that justices may use in determining whether to accept a case for review is the existence of disagreement in the lower courts as a case makes its way to the Supreme Court. Such disagreement can take two basic forms: reversals as the case moves up the judicial ladder and dissents among the judges or justices of a particular lower court. Each type of disagreement might signal to the Supreme Court justices that the law is unclear and reasonable legal minds disagree on the issue. This, in turn, might prompt the Supreme Court justices to feel they should accept a case for review to settle the matter.

Although I anticipate cases with such disagreements to have a higher acceptance rate than those without, I recognize that a reasonable counter-argument exists. Specifically, one could argue that such disagreements suggest that the law is not settled sufficiently and that the justices may want to let the issues “percolate” or “ripen” a bit more in the lower courts. One can certainly point to instances where some speculated the Court’s justices chose to not hear a case because the issue was not yet ripe for their review.<sup>3</sup> I believe, however, that such instances are small compared to those where the justices feel a need to clarify the law because of reversals and disagreements below.<sup>4</sup>

### Data

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

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<sup>3</sup> Although the Court granted review to it, the Court’s decision to not resolve the substantive issues in *DeFunis v. Odegaard* (1974) is often seen as an example where the justices wanted to let the affirmative action issue percolate a bit more in the lower courts before they weighed in.

<sup>4</sup> Along similar lines, it is well known that the Court is more likely to grant review to resolve a conflict among the federal circuit courts (Perry 1991, 246-252), which is effectively a form of disagreement (though not one examined here).

(1953 through 1968 Terms) and provide a relatively stable period in which to examine the Court's docket.

Information on the cases was drawn from several sources including the *United States Law Week*, various reporters for the state and federal courts, LEXIS (now called NexisUNI), and other online sources. Every case filed on the Court's appellate docket during the 1953-1968 Terms is included in the dataset. This results in 15,862 cases. Unlike the examinations of the Vinson Court, not included in this number are any cases filed before the 1953 Term that were held over and received a 1953 Term or later docket number.<sup>5</sup> Included in this number are 308 cases that originally appeared on the Court's miscellaneous docket and were moved to the appellate docket.<sup>6</sup>

## Results

I begin by examining cases with one or more reversals versus those without.<sup>7</sup> The first thing to note is that there are many instances where the first court to hear the case is the only one to do so before the case is filed before the Supreme Court. Many cases filed before the Supreme

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<sup>5</sup> Prior to the 1971 Term held over cases 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.

<sup>6</sup> 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 191 cases with a miscellaneous docket number (with an "M" in the DOCKET field, meaning they were not transferred to the appellate docket) during the 1953-1968 Terms. There are also three cases from the Miscellaneous Docket after the numbering changed. Of these 194 cases, 133 were granted some form of review (usually a short per curiam vacating or reversing), but are not included here. On the other hand, this dataset includes 107 cases initially filed on the appellate docket for which the Court granted *in forma pauperis* status to one of the parties (45 of which were granted review). (For this study I made use of 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>.)

<sup>7</sup> Depending on the judicial path the case took to reach the Supreme Court it was possible for it to have more than one reversal in the lower courts. For purposes of this examination I do not distinguish between cases with only one reversal and those with more than one.

Court come from either state or federal trial courts where there would be no opportunity for a reversal. In addition, there are certain types of issues that begin in a state or federal appellate court and then are appealed directly to the Supreme Court. At the state level a common example concerns attorney discipline cases which typically begin in the state's highest court. At the federal level there are many cases that begin in one of the federal courts of appeal and then proceed to the Supreme Court.<sup>8</sup> Removing cases where there is no opportunity for a reversal to occur results in a dataset of 3,973 state cases and 8,883 federal cases, for a total of 12,856 cases.

One additional point is worth noting before proceeding. In many cases the higher court will issue a decision affirming the lower court in part and reversing in part. Whether such cases were coded as a reversal depended on the issue appealed to the Supreme Court. For example, in criminal cases the lower court might affirm on some counts and reverse on others. The defendant who appealed would do so on the basis of the parts of the lower court opinion affirmed rather than those reversed. Such cases would not be coded as having a reversal for purposes of this examination.

#### TABLE 1 ABOUT HERE

Table 1 shows the number of cases accepted or denied review based on whether there were reversals in the lower courts. Of the 12,856 cases where a reversal was possible, 2,751 had a reversal and 10,105 did not. Overall, 1,894 of the 12,856 cases were accepted for review. That produced an overall acceptance rate for these cases of 14.7%, or almost a one in seven chance. For cases with reversals the percentage was a bit higher at 17.4% (477 accepted of 2,751 cases). On the other hand, cases with no reversals had a lower acceptance percentage at 14.0% (1,417 of 10,105 cases). Using a difference of means test (see Wonnacott and Wonnacott 1972, 178), this

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<sup>8</sup> Many such cases come from one of several federal agencies with quasi-judicial powers (e.g., National Labor Relations Board, Securities Exchange Commission). Because the federal agencies are not courts, the Courts of Appeals are the first and only court to hear such cases before they are appealed to the Supreme Court.

difference is significant at  $p < .001$ . Thus, a case with a reversal in the lower courts had a better chance of being accepted for review than one that did not.

Earlier papers in this series have noted differences in how the Supreme Court handles cases coming from the state courts versus those coming from the federal courts. Thus, it is worthwhile to separately examine state and federal cases.

#### TABLE 2 ABOUT HERE

Table 2 separately presents the results for cases coming to the Supreme Court through state and federal court systems.

For state cases (Table 2A) we see that overall 614 of 3,973 cases were granted review for an acceptance rate of 15.5%. Breaking these cases into those with and without reversals we see that only 12.9% of the cases with reversals were accepted (94 of 727), while 16.0% of those without reversals were accepted (520 of 3,246). This difference is contrary to what was expected, but using a 2-tailed test it still reaches statistical significance at  $p < .05$ .

There was a much larger number of federal cases (Table 2B), but the overall acceptance rate of 14.4% (1,280 of 8,883 cases) was relatively close to that of the state cases. Of the cases with reversals the acceptance rate was 18.9% (383 of 2,024 cases), while for those without reversals the acceptance rate was 13.1% (897 of 6,859 cases). The difference is significant at  $p < .001$ .

Although I do not present it in a separate table, it is also interesting to compare the difference in the acceptance rate for state versus federal cases with reversals. Comparing the first row in Table 2A with the first row in Table 2B we see that state cases with reversals had a lower acceptance rate than federal cases with reversals (12.9% compared to 18.9%). This difference is significant at  $p < .05$ .

These results show that for both federal cases, and the combined totals of state and federal cases, cases with a lower court reversal are more likely to be accepted for review than those without one. Moreover, the likelihood of acceptances for federal cases with a reversal is higher than state cases with a reversal.

The second type of lower court disagreement occurs when one or more judges or justices in the lower courts dissent. Here again, we must begin by eliminating cases in which no dissent is possible. At the state court level this would eliminate all trial courts. At the federal level the issue is a little more complicated as federal district courts can have three-judge panels, and the federal Court of Claims hears cases in panels. Taking these factors into consideration leaves 4,198 state cases and 11,073 federal cases, for a total of 15,271 cases with the possibility of a dissent.

#### TABLE 3 ABOUT HERE

In Table 3 we see a very large difference in the acceptance rates between cases with and without a lower court dissent. Of the 2,326 cases with a dissent, 692 were accepted for review (29.8%). In sharp contrast, only 2,081 of the 12,945 cases without a dissent were accepted (16.1%). Not surprisingly, this differences is significant at  $p < .001$ .

#### TABLE 4 ABOUT HERE

As with reversals, it is worthwhile to separate the state and federal cases with dissents and Table 4 presents those results. Table 4A shows the results for state cases with dissents. Here the Supreme Court accepted 162 of 780 cases for an acceptance rate of 20.8%. The acceptance rate for state cases without dissents was much lower at 14.5% (496 of 3,418 cases). Table 4B shows the results for federal cases with and without dissents. As with the state cases, federal cases with dissents had a relatively high acceptance rate of 34.3% (530 of 1,546 cases) which was over

twice the rate for those without dissents (16.6%, 1,585 of 9,527 cases). The difference is significant at  $p < .001$ .

Although not presented in a table, comparing the acceptance rates of state versus federal cases with dissents (the first row from Tables 4A and 4B) we see that like the cases with reversals, federal cases had a higher acceptance rate. This difference is significant at  $p < .001$ .

The final point to consider is whether there is a compound effect for cases with both reversals and dissents. In other words, do cases with both reversals and dissents in the lower courts have a higher acceptance rate than cases with one or the other, or neither. Table 5 presents these results.<sup>9</sup>

#### TABLE 5 ABOUT HERE

Table 5A shows the results of comparing cases with both a reversal and a dissent against those that have either a reversal or a dissent. Table 5B shows the results for comparing cases with both a reversal and a dissent with those that have neither. The top row for both tables is the same. Specifically, there were 663 cases with both a reversal and a dissent and 153 of those were accepted for review (23.1%).

In Table 5A we see that there were 3,276 cases that had either a reversal or a dissent and of those only 638 were granted review (19.5%). This difference compared to the cases having both a reversal and a dissent is significant at  $p < .025$ . The comparison of the both versus neither cases in Table 5B also shows a larger disparity in the acceptance rates. Here, the acceptance rates for the cases with both a reversal and a dissent was nearly twice the rate for neither, which was only 12.4% (1,103 of 8,917 cases). This difference is significant at  $p < .001$ .

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<sup>9</sup> Without going into the details, the total number of cases indicated in Tables 5 through 7 varies due to the different criteria required to produce cases where either a reversal or dissent, or both, was possible.

Proceeding as before, Tables 6 and 7 show the comparisons of Table 5 by examining state and federal cases separately.

#### TABLE 6 ABOUT HERE

Looking first at the state cases, we do not see the pattern from Table 5 repeated. Here there is not a significant difference between those cases that had both a reversal and a dissent versus those with one or the other (Table 6A) or those with neither (Table 6B). In fact, in Table 6A we see that the acceptance rate between cases with both a reversal and a dissent is actually slightly lower than the rate for cases with one or the other (16.3% versus 16.8%). On the other hand, in Table 6B the acceptance rate for cases with neither a reversal nor a dissent in the lower courts is less than cases with both (14.9% versus 16.3%) but the difference does not reach statistical significance.

#### TABLE 7 ABOUT HERE

Turning to the federal cases in Table 7, the pattern seen in Table 5 for cases with both a reversal and a dissent is repeated when those cases are compared against cases with one or the other (Table 7A) and those with neither (Table 7B). The acceptance rate for cases with both a reversal and a dissent is 26.9% (114 of 424 cases). This is higher than the 20.6% acceptance rate for those with one or the other (475 of 2,305 cases) and reaches statistical significance ( $p < .01$ ). It is also more than twice the 11.2% acceptance rate for cases with neither (691 of 6,154 cases;  $p < .001$ ).

### **Discussion**

Working through the various comparisons in Tables 1 through 7 shows that the existence of some form of disagreement in the lower courts, reversals or dissents, is associated with an

increased probability that a case will be accepted for review by the Supreme Court. The increase is fairly robust in that it occurs for both reversals and dissents, but more so for federal than state cases.

When comparing the acceptance rates for state versus federal cases we see a difference between cases with reversals versus those with dissents. For cases with reversals, federal cases had a higher acceptance rate than state cases (18.9% versus 12.9%). Given the findings of prior papers in the series this is as we might have expected. The difference is significant at  $p < .001$ . Cases with dissents also met the expected pattern. In those cases the acceptance rate for federal cases was higher than that for state cases (34.3% versus 20.8%). This difference is also significant at  $p < .001$ .

That both reversals and dissents as indicators of lower court disagreement prove to be associated with higher acceptance rates led to the question of whether there is a cumulative difference when the two factors are both present. Tables 5 through 7 examined this possibility by comparing cases with both factors versus cases that had only one factor or neither. Interestingly, although there was a statistically significant difference between the cases with both a reversal and a dissent versus both those with one or the other or with neither when all cases were considered, it turned out the effect was only present in federal cases. For state cases, the factors made very little difference in the acceptance rates.

Aside from the statistical significance of the results, it is worth considering the actual differences in the acceptance rates when these factors are present. For the cases with reversals, that factor was associated with an increased acceptance rate of about 6% in federal cases. On the other hand, state cases without a reversal were about 3% more likely to be accepted.

The effect was even greater for cases with dissents, and in the expected direction for state cases. For state cases, the presence of a dissent in the lower courts was associated with an increase in the chances of an acceptance by nearly 50% (moving from 14.5% to 20.8%). For federal cases the effect was over 100% (moving from 16.6% to 34.3%).

Without doing the calculations, the associated increases were also dramatic when considering the combined effect of reversals and dissents for the federal cases (Table 7). Given the increases for the individual factors the additional increase when they were both present is a bit surprising, but seems to suggest that an increased notion of disagreement in at least the lower federal courts increases the likelihood of a case being granted review by the Supreme Court.

### **Vinson Court Comparison**

As with previous papers, the results for the Warren Court were fairly similar to those of the Vinson Court despite the longer period and increasing number of cases filed each term. One difference was that the acceptance rates were generally lower. For example, although the acceptance rate for cases with reversals was higher than that for cases without reversals (Table 1), and was statistically significant, the rate for cases with reversals during the Warren Court was lower than the rate during the Vinson Court (17.3% versus 23.1%). The same was true for cases with dissents where the acceptance rate went from 37.6% during the Vinson Court to 29.8% during the Warren Court. We should probably expect such decreases given the increased number of cases filed before the Court. Then again, the acceptance rates for cases without reversals or dissents during the two periods was very similar (cases with reversals, 14.7% during the Vinson Court and 14.0% during the Warren Court; cases with dissents, 16.5% during the Vinson Court and 16.1% during the Warren Court).

Another difference between the two periods was how state cases with reversals were handled. Although state cases with dissents did have a statistically significant higher acceptance rate than those cases without a dissent, state cases with reversals actually had a lower acceptance rate than cases without, and it was statistically significant using a 2-tail test. As a result, when comparing state cases with both a reversal and dissent versus one or the other or neither (Tables 6A and 6B) the effects seemed to cancel out and the differences were very small. In contrast, during the Vinson Court at least the comparison of state cases with both a reversal and a dissent had a statistically significant higher acceptance rate than cases with neither.

### **Conclusion**

The idea that the justices of the Supreme Court look for cues of one sort or another in selecting cases for review is not new. Neither is the belief that they are likely to take cases when there are disagreements among the judges and justices in the lower courts. Such disagreements can be manifested in the occurrence of reversals as a case works through the state or federal court systems to reach the Supreme Court. It can also be manifested in dissents among the lower court judges or justices. The presence of either factor may be a signal to the Supreme Court's justices that the law is unclear or unsettled in some way that is worth their attention. The results show a strong and fairly robust relationship between the presence of these factors and higher acceptance rates. This in turn further informs our understanding of the agenda setting process during the Warren Court years.

As a practical matter, there are several reasons why parties seek Supreme Court review of their cases. For some it is simply a matter of wanting to have the Court reverse an unfavorable lower court ruling. For others it may be a desire to change or test some area of the law.

Litigants who wish for a change in the law often seek test cases that will present their position in the best light possible. Of course, before the Supreme Court can rule on an issue it must first agree to review a case presenting it. That means that litigants must also seek test cases that have the best chance possible of being accepted for review. This study has demonstrated that disagreement in the lower courts, manifested by either reversals or dissents, can, in most instances, dramatically improve a case's chances of being accepted by the Court.

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**Table 1**

**Acceptance Rates for Cases With and Without Reversals  
on the Warren Court's Appellate Docket**

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	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Reversals</b>	477	2,274	2,751	17.3%*
<b>No Reversals</b>	1,417	8,688	10,105	14.0%
<b>Column Total</b>	1,894	10,962	12,856	14.7%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 2**

**Acceptance Rates for Cases With and Without Reversals  
on the Warren Court's Appellate Docket—State and Federal**

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**A. State Cases**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Reversals</b>	94	633	727	12.9%*
<b>No Reversals</b>	520	2,726	3,246	16.0%
<b>Column Total</b>	614	3,359	3,973	15.5%

\*  $p < .05$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Federal Cases**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Reversals</b>	383	1,641	2,024	18.9%*
<b>No Reversals</b>	897	5,962	6,859	13.1%
<b>Column Total</b>	1,280	7,603	8,883	14.4%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 3**

**Acceptance Rates for Cases With and Without Dissents  
on the Warren Court's Appellate Docket**

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	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Dissents</b>	692	1,634	2,326	29.8%*
<b>No Dissents</b>	2,081	10,864	12,945	16.1%
<b>Column Total</b>	2,773	12,498	15,271	18.2%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 4**

**Acceptance Rates for Cases With and Without Dissents  
on the Warren Court's Appellate Docket—State and Federal**

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**A. State Cases**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Dissents</b>	162	618	780	20.8%*
<b>No Dissents</b>	496	2,922	3,418	14.5%
<b>Column Total</b>	658	3,540	4,198	15.7%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Federal Cases**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Dissents</b>	530	1,016	1,546	34.3%*
<b>No Dissents</b>	1,585	7,942	9,527	16.6%
<b>Column Total</b>	2,115	8,958	11,073	19.1%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 5**

**Acceptance Rates for Cases With Both Reversals and Dissents  
on the Warren Court's Appellate Docket**

**A. Both Reversals and Dissents Versus One or the Other**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	153	510	663	23.1%*
<b>One or the Other</b>	638	2,638	3,276	19.5%
<b>Column Total</b>	791	3,148	3,939	20.1%

\*  $p < .025$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Both Reversals and Dissents Versus Neither**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	153	510	663	23.1%*
<b>Neither</b>	1,103	7,814	8,917	12.4%
<b>Column Total</b>	1,256	8,324	9,580	13.1%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 6**

**Acceptance Rates for State Cases With Both Reversals and Dissents  
on the Warren Court's Appellate Docket**

**A. Both Reversals and Dissents Versus One or the Other**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	39	200	239	16.3%
<b>One or the Other</b>	163	808	971	16.8%
<b>Column Total</b>	202	1,008	1,210	16.7%

**B. Both Reversals and Dissents Versus Neither**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	39	200	239	16.3%
<b>Neither</b>	412	2,351	2,763	14.9%
<b>Column Total</b>	451	2,551	3,002	15.0%

**Table 7**

**Acceptance Rates for Federal Cases With Both Reversals and Dissents  
on the Warren Court's Appellate Docket**

**A. Both Reversals and Dissents Versus One or the Other**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	114	310	424	26.9%*
<b>One or the Other</b>	475	1,830	2,305	20.6%
<b>Column Total</b>	589	2,140	2,729	21.6%

\*  $p < .01$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Both Reversals and Dissents Versus Neither**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Both</b>	114	310	424	26.9%*
<b>Neither</b>	691	5,463	6,154	11.2%
<b>Column Total</b>	805	5,773	6,578	12.2%

\*  $p < .001$ , 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).