

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

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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 4: Related Cases in Agenda Setting**

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**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 maybe a few hundred more disposed of summarily. Thus, 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 “related” cases have an increased chance of being accepted for review by the Supreme Court. The results show that related cases have a statistically significant higher chance of being granted review by the Supreme Court. This finding is shown to be quite robust when examined in relation to four additional factors.

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

### **Paper 4: Related Cases in Agenda Setting**

This is the fourth 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.

In his book-length examination of Supreme Court agenda setting Perry (1991) noted that aspects of agenda setting have been of interest to judicial scholars at least since Schubert (1959). Perry also noted 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 and agenda setting (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 2007), 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 generally 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.

## “Related” Cases

Those who follow Supreme Court decisions are familiar with the Court’s frequent practice of grouping cases together for argument and the decision on the merits. Many times such cases are combined when the Court issues its decision and opinion and are commonly known by the lead cases. A well-known example of the Court combining cases is *Brown v. Board of Education* (1954). Although *Brown* is the famous lead case, three other cases were combined for the Court’s decision and opinion.<sup>3</sup> In other instances the Court may issue separate opinions for cases that have been grouped together. Here again, *Brown* provides an example because *Bolling v. Sharpe* (1954) was also combined with the *Brown* cases but was decided with a separate opinion and citation.

The *Brown* cases constitute an example where several seemingly unrelated cases were grouped together by the Court because they dealt with a similar issue. Sometimes cases come to the Court already grouped together. An example of this occurred when the US Court of Appeals for the Second Circuit affirmed in part and reversed in part a district court decision in *International Society for Krishna Consciousness v. Lee* (1991). Both parties appealed the portion of the Court of Appeals’ decision in which they lost resulting in two cases before the Supreme Court, *International Society for Krishna Consciousness (ISKCON) v. Lee* (1992) and *Lee v. International Society for Krishna Consciousness* (1992).<sup>4</sup> Because of the fractured nature of the justices’ opinions each case had a separate citation.

Given these and lesser known instances of the Court deciding combined cases one might reasonably ask if cases that are grouped or combined or related in some way have a better chance

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<sup>3</sup> Together with *Brown* were *Briggs v. Elliott* (1954), *Davis v. County School Board of Prince Edward County* (1954), and *Gebhart v. Belton* (1954).

<sup>4</sup> These cases obviously were not decided during the Warren Court, but they provide a good, and fairly well-known, example of this type of related cases.

of being accepted for review by the Court than those that are not. The basic question is whether there is a “strength in numbers” type of factor related to the Court’s agenda setting. The first step in answering this question is to define what constitutes a “related” case where such a factor might apply.

In examining the Supreme Court’s caseload three basic types of related cases emerge. The first type of related case consists of those like the two *ISKCON* cases which both resulted from the same lower court decision. The same lower court decision—as indicated by having the same lower court citation—for two or more cases is perhaps the clearest indication of the cases being related. Of course, like the Court’s treatment of the *ISKCON* cases, cases can be related without having the same citation. Thus, other indicators for related cases include those that may have docket numbers that are sequential or very close,<sup>5</sup> or those that involve one or more of the same parties. In addition, lower court opinions as well as summaries in the *United States Law Week* often indicate when another case is related. Related cases also generally have the same or similar issues usually deriving from the same factual situation. Except in rare circumstances, related cases will reach the Supreme Court from the same lower court.<sup>6</sup>

A second basic type of related case consists of those that adhere to the basic criteria for the first type, but are filed much further apart. For example, *Powell v. National Savings and Trust Co.* (1964) was a case involving construction of a will. The next year *Powell v. Katzenbach* (1965) was a follow up case involving extraordinary remedies involving the same situation as the earlier case. Despite over a year’s difference in filing dates, the two cases can be considered

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<sup>5</sup> Supreme Court docket numbers are assigned based on the order in which cases are filed before the Court. Cases filed the same day would have sequential or very close docket numbers. Of course, related cases are not necessarily filed at the same time, so could have docket numbers that are fairly far apart. For example, the docket numbers for the two *ISKCON* cases were 91-155 and 91-339.

<sup>6</sup> One exception to this is when related cases come to the Supreme Court from both the state and federal courts.

related rather than as a return of a previous case.<sup>7</sup> On the other hand, cases filed so far apart would not fit the strength in numbers notion, particularly for the first case filed. As such, these cases would not fit the idea being examined here that the Court might be more inclined to accept cases for review when they are related.

The third type of related case consists of those like the *Brown* cases. These cases all involved the same basic issue, and some were filed at about the same time, but they came from different states and districts and were only related because the Supreme Court chose to group them together. This type of case runs counter to the basic idea behind why related cases might be a factor in the Court's agenda setting. For these related cases the Court has apparently made its review decision before combining the cases.

### Data

Data for this study were drawn from an ongoing database project involving all cases on the Supreme Court's appellate docket. Data are complete for the Warren Court (1953 through 1968 Terms) and provide a relatively lengthy 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 number 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>8</sup> Included in this number are 308

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<sup>7</sup> The notion of "returning" cases as a factor in the Court's agenda setting will be examined in a later paper.

<sup>8</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



cases that originally appeared on the Court’s miscellaneous docket and were moved to the appellate docket.<sup>9</sup>

## Results

### TABLE 1 ABOUT HERE

Table 1 shows the number of related and unrelated cases that were accepted and denied review by the Court. The row total shows there were 1,738 related cases of the 15,701 in the dataset (11.1%). Of the related cases, 705 were accepted for review by the Court for 40.6%. In contrast, only 2,391 of the 13,963 unrelated cases were accepted for review (17.1%). As the table indicates, this difference is statistically significant at  $p < .001$  using a difference of means test.

Regardless of whether there is an actual “strength in numbers” factor, this result demonstrates that related cases have a distinctly higher acceptance rate than nonrelated cases. Given this result, it is worthwhile to dig a bit deeper into the data to see if the result is related to or consistent with other factors shown to be related to the Court’s agenda setting. More specifically, I will now examine four additional factors: cases filed on certiorari versus appeal, cases coming from federal versus state courts, whether there was disagreement among the judges

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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>9</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>.)

in the courts below, and whether there were reversals in the lower courts as the case made its way to the Supreme Court. I will not go into great detail regarding the reasons for selecting these four factors at this point except to say that in various ways they have been considered as factors relating to whether the Court accepts a case for review. In addition, and to avoid repetition below, each has or will be considered in separate papers examining agenda setting on the Warren Court.

### *Certiorari versus Appeal*

#### TABLE 2 ABOUT HERE

Table 2 separates the data into those cases coming to the Court on a petition for a writ of certiorari versus those on appeal. Overall, and not surprisingly, we see far more cases filed as petitions for writs of certiorari. There were 13,822 certiorari cases but only 1,873 on appeal. In addition, and also not surprisingly, a much higher percentage of cases on appeal were accepted for review, 52.1% (976 of 1,873) versus only 15.3% (2,117 of 13,822) for certiorari cases.

In looking specifically at the certiorari cases we see that although the overall acceptance rate is much lower than for cases on appeal, there is still a statistically significant difference between those cases that were related and those that were not. Over a quarter of related certiorari cases (29.6%) were granted review, whereas only 13.8% of unrelated certiorari cases were granted review.

In contrast to the certiorari cases, those on appeal start with a much higher acceptance rate. Nevertheless, we again see that related cases have a statistically significant higher acceptance rate than unrelated cases. Of the 387 related cases on appeal 304 (78.6%) were granted review.

Although nearly half of the unrelated appeal cases were also granted review (45.2%), that percentage is significantly lower than the percentage for related appeal cases.

Thus, regardless of whether a case came to the Court on a petition for a writ of certiorari or as an appeal, related cases had a statistically significant higher chance of being granted review than unrelated cases.<sup>10</sup>

### *Cases from Federal versus State Courts*

#### TABLE 3 ABOUT HERE

The next factor to examine is whether the case came from a federal or state court. From Table 3 we can see that 11,439 of the cases in the dataset came from lower federal courts, while only 4,262 came from lower state courts. We also see that the overall acceptance rate was higher for cases from federal courts (21.2%) than those from state courts (15.7%).

The top portion of Table 3 considers those cases coming from lower federal courts. Of these federal cases, 1,468 were related and 9,971 were unrelated. As shown in the table, the acceptance rate for related cases was 42.6% while that of unrelated cases was a much lower 18.1%. The bottom portion of the table shows there to have been 270 related cases and 3,992 unrelated cases coming from state courts. As with the federal cases, the acceptance rate for related cases (29.6%) was much higher than that for unrelated cases (14.8%). For both federal and state cases the difference is statistically significant.

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<sup>10</sup> The total of certiorari and appeal cases is 15,695. Two cases not included in this table came to the Court on a petition for a writ of mandamus. They were related and both granted review. Four more cases came to the court on certificate. None were related and only one of the four was granted review.

### *Disagreement Among Lower Court Judges*

#### TABLE 4 ABOUT HERE

The next factor to consider is whether there was any disagreement among the judges in the lower courts. For purposes of this study, such disagreement includes any judges who dissented or dissented in part, but not those who only concurred or concurred in the judgment of the lower courts. From the numbers in Table 4 we see that in 2,338 of the cases (14.9%) there was disagreement among the judges in the lower courts and 13,363 cases (85.1%) in which there was no disagreement.

The top portion of Table 4 contains the numbers for cases with disagreement. Among these cases there were 359 that were related (15.4%) and 1,979 (84.6%) that were not. As the last column shows, the acceptance rate for related cases was 45.7% while that for unrelated cases was a much lower 27.2%. The bottom portion of Table 4 shows the breakdown for those cases without lower court disagreement. Here, there were 1,379 related cases (10.3%) and 11,984 unrelated cases (89.7%). Although the acceptance rates for both related and unrelated cases were lower than for the corresponding cases with disagreement, the 39.2% acceptance rate for related cases was still much higher than the 15.5% for unrelated cases. Once again, the difference was statistically significant for cases with and without disagreement among the judges in the courts below.

### *Reversals in the Lower Courts*

The final factor to consider is whether there was a reversal among the lower courts as a case made its way to the Supreme Court. The notion of a reversal is fairly clear, but there are two points worth noting regarding this factor. The first is that many lower court cases involve

decisions that affirm in part and reverse in part. The key to this factor is whether the part reversed is the part appealed to the Supreme Court. If so, it counts as a reversal for this factor; if not, it does not. The second point to make is that certain types of cases do not allow for reversals to occur. In other words, for a reversal to even be possible the case must have been before at least two lower courts before reaching the Supreme Court. There are, however, certain types of cases that are only heard by one lower court before being filed before the Supreme Court. An example among state courts concerns attorney discipline cases which typically begin in the state's highest court. An example among federal courts concerns cases heard by a federal agency that then go directly to a Court of Appeals.

#### TABLE 5 ABOUT HERE

From Table 5 we see that 12,890 cases without a reversal were appealed to the Supreme Court (82.1%) whereas a much lower 2,811 cases (17.9%) did not have a lower court reversal.

The top portion of Table 5 shows the results for the cases without a lower court reversal. The vast majority of these cases were unrelated; 11,465 (88.9%) versus only 1,425 (11.1%) related cases. Of the related cases, 607 of them (42.6%) were granted review. In contrast, the acceptance rate was less than half that for the unrelated cases at only 17.3%. The bottom portion of the table contains the data for the cases with a lower court reversal. Of these 2,811 cases, 313 were related (11.1%) and 2,498 unrelated (88.9%). Like the cases without a reversal, related cases had a higher acceptance rate than the unrelated cases (31.3% versus 16.4%). The difference is smaller than for any other factor but still reaches statistical significance.

## Vinson Court Comparison

Given the length of the Warren Court period and the increasing number of cases per term, it is somewhat surprising that the results for the Warren Court are so similar to those of the Vinson Court. As a whole, the percentage of related cases was much smaller during the Warren Court, only 11.1% compared to 19.6% during the Vinson Court. The acceptance rates for unrelated cases was nearly equal at 17.7% during the Vinson Court and 17.1% during the Warren Court. For related cases, the acceptance rate was higher during the Warren Court (40.6% compared to 31.5%).

Turning to the four factors, the results for cases on certiorari were very similar. For the cases on appeal, the Warren Court had a slightly lower acceptance rate overall for cases on appeal (52.1% compared to 57.4%) but had a higher acceptance rate for the related cases (78.6% compared to 69.7%) and lower for the unrelated cases (45.2% compared to 53.3%).

The distribution of cases from state and federal courts was very similar between the two periods. In terms of the related cases, however, for both state and federal courts the Vinson Court had a higher percentage of related cases, about 9.7% more for federal cases and 6.1% more for state cases. Here again, the acceptance rate for unrelated cases was very similar between the two periods. Interestingly, although the acceptance rate for federal related cases was higher during the Warren Court (42.6% versus 30.8%) it was lower for related state cases (29.6% versus 34.5%).

In looking at cases with and without a disagreement among lower court judges we again see that the distributions of these cases between the two periods were very similar. We also see that within each category the percentage of related cases is lower during the Warren Court by eight to 10 percent. In considering the acceptance rates, for cases with disagreement the Warren

Court had a lower rate than the Vinson Court (45.7% versus 53.2%), but the opposite was true for cases without disagreement (39.2% versus 25.8%).

The distribution of cases with and without lower court reversals was also similar during the two periods. For both types of cases, the percentage of those that were related was lower during the Warren Court. In contrast, the acceptance rate for both types was higher for related cases during the Warren Court: without reversals 42.6% versus 33.5%, with reversals 31.3 versus 26.7%.

### **Concluding Comments**

As noted at the outset of this paper, there is a continuing interest in discovering factors that affect Supreme Court agenda setting. The purpose of this study is to take an initial, primarily empirical look at a factor that might have such an influence. Although the examination of the extent to which various nonlegal factors influence the justices is based on long-standing behavioralist theories of judicial decision making, whether cases are related or other factors examined here will, at some point, require additional theoretical justification. Nevertheless, it is reasonable to ask, at an initial level, whether there even seems to be a connection between Court behavior and a particular factor. For the notion of related cases, this study answers the question in the affirmative.

The results in Table 1 demonstrated a statistically significant increase in the chance a case would be granted review by the Court if it was related to another case on the Court's docket. Once it was established that there seemed to be something to the notion of related cases being a factor in the Court's agenda setting it was worthwhile to consider this finding relative to some

other factors that also seem to be related the Court's decision to review a case. The general purpose for doing so is to gauge, if even at a basic level, the robustness of the initial finding.

Examining the results for related cases in the context of four additional factors demonstrated the robustness of the initial finding. Whether the case came to the Supreme Court via a petition for a writ of certiorari or on an appeal, from a federal or state court, and regardless of whether there was disagreement among the lower court judges, or if there were reversals in the lower courts, there was a statistically significant increase in the acceptance rate for cases that were related. This suggests, at least for these two-variable comparisons, the robustness of the initial finding.

These results strongly suggest the value of pursuing the notion of related cases further. On one level this means further consideration of why related cases have higher acceptance rates. Is it really just a strength in numbers factor or something else? On another level, further studies should examine additional factors and do so in both bivariate and multivariate contexts. Although it is encouraging to find another factor that is related to Supreme Court agenda setting, there is, as always, more work to be done.



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**Table 1**

**Acceptance Rates for Related and Unrelated Cases  
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>Related</b>	705	1,033	1,738	40.6%*
<b>Unrelated</b>	2,391	11,572	13,963	17.1%
<b>Column Total</b>	3,096	12,605	15,701	19.7%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 2**

**Acceptance Rates for Related and Unrelated Cases  
on the Warren Court's Appellate Docket—Certiorari versus Appeal**

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**A. Cases on Certiorari**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	399	950	1,349	29.6%*
<b>Unrelated</b>	1,718	10,755	12,473	13.8%
<b>Column Total</b>	2,117	11,705	13,822	15.3%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Cases on Appeal**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	304	83	387	78.6%*
<b>Unrelated</b>	672	814	1,486	45.2%
<b>Column Total</b>	976	897	1,873	52.1%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 3**

**Acceptance Rates for Related and Unrelated Cases  
on the Warren Court's Appellate Docket—Federal versus State Cases**

**A. Cases from Federal Courts**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	625	843	1,468	42.6%*
<b>Unrelated</b>	1,802	8,169	9,971	18.1%
<b>Column Total</b>	2,427	9,012	11,439	21.2%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. Cases from State Courts**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	80	190	270	29.6%*
<b>Unrelated</b>	589	3,403	3,992	14.8%
<b>Column Total</b>	669	3,593	4,262	15.7%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 4**

**Acceptance Rates for Related and Unrelated Cases  
on the Warren Court's Appellate Docket—  
Disagreement Among Judges in the Lower Courts**

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**A. Disagreement Among Lower Court Judges**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	164	195	359	45.7%*
<b>Unrelated</b>	538	1,441	1,979	27.2%
<b>Column Total</b>	702	1,636	2,338	30.0%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**B. No Disagreement Among Lower Court Judges**

	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	541	838	1,379	39.2%*
<b>Unrelated</b>	1,853	10,131	11,984	15.5%
<b>Column Total</b>	2,394	10,969	13,363	17.9%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

**Table 5**  
**Acceptance Rates for Related and Unrelated Cases**  
**on the Warren Court's Appellate Docket—**  
**Reversals in the Lower Courts**

<b>A. No Reversals in the Lower Courts</b>				
	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	607	818	1,425	42.6%*
<b>Unrelated</b>	1,982	9,483	11,465	17.3%
<b>Column Total</b>	2,589	10,301	12,890	20.1%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

<b>B. Reversals in the Lower Courts</b>				
	<b>Accepted</b>	<b>Denied</b>	<b>Row Total</b>	<b>Acceptance Rate (%)</b>
<b>Related</b>	98	215	313	31.3%*
<b>Unrelated</b>	409	2,089	2,498	16.4%
<b>Column Total</b>	507	2,304	2,811	18.0%

\*  $p < .001$ , 2-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).