

Table 4 Justice's Values and Votes

Justices	Values	Votes
Marshall	1	80.4
Fortas	1	79.6
Brennan	1	78.4
Hartan	0.75	41.4
Goldberg	0.5	89
Warren	0.5	78.1
Whittaker	0	42.6
Stewart	0	41.2
O'Connor	-0.17	29.4
Kennedy	-0.27	26.1
Stevens	-0.5	57.9
Powell	-0.67	36.9
Blackmun	-0.77	48.1
Burger	-0.77	28.9
Rehnquist-J	-0.91	18.8
Rehnquist-CJ	-0.91	18.4
Scalia	-1	29.5

Values: -1(extremely conservative) to +1(extremely liberal)

Votes: Percentage liberal in civil liberties cases

Values from content analysis of editorials about the Justice during confirmation hearings

Table 5 Specification of Basic Search and Seizure Model**Independent Variables****I. Place of Search**

1. House 1=yes, 0=no
2. Business 1=yes, 0=no
3. Car 1=yes, 0=no
4. Person 1=yes, 0=no

When variables 1-4 all =0, the search took place in an area over which the accused had no control

II. Extent of intrusion

5. Search 1=full search, 0= lesser intrusion

III. Prior Justification

6. Warrant 1=yes, 0=no
7. Probable cause percent of lower court judges finding probable cause

IV. Arrest

8. Incident Lawful Percent of lower court judges finding incident of a lawful arrest
9. After lawful Percent of lower court judges finding search after a lawful arrest
10. Unlawful Percent of lower court judges finding search after an unlawful arrest

V. Exceptions

11. Exceptions The number of the following facts present in any case
 - (a) hot pursuit 1=yes, 0=no
 - (b) search at fixed or functional border: 1=yes, 0=no
 - (c) search statutorily allowed by Congress 1=yes, 0=no
 - (d) evidence not used for criminal trial 1=yes, 0=no
 - (e) evidence in plain view: 1=yes, 0=no
 - (f) permission granted for search by owner or agent

VI. Party to Suit

12. United States 1=yes, 0=no

Dependent Variable

More negative is more unlawful; more positive is more lawful search

Justice White	House	-0.99 **
	Business	-1.54 ***
	Car	-1.44 ***
	Person	-1.09 **
	Search	-0.73 **
	Warrant	0.39
	Probable Cause	0.13
	Incident Lawful Arrest	0.92 *
	After Lawful Arrest	1.04 **
	After Unlawful Arrest	0.54
	Exceptions	0.88 ***
	U.S.	0.58 **

Table 11 Attitudes toward Judicial Lawmaking and Votes in Selected Subjects

Attitudes Toward Judicial Lawmaking				
	Innovator	Realist	Interpreter	Statistically Significant
	% Votes	% Votes	% Votes	
Employee Injury				
pro-employee	63.5	57.8	58.8	no
Other personal injury				
pro-claimant	54.2	44.2	45.2	no
Patent and Copyright				
anti-claimant	61.5	65.9	54.3	no
Labor-management				
defer to agency	64.5	61.7	55.5	no
Income Tax				
pro-government	69.1	73.9	69.8	no
Civil Rights				
pro-individual	65.4	57.1	48.4	almost
Prisoner Petitions				
pro-individual	34.1	25.3	23.3	yes
Criminal				
pro-individual	35.6	22	17.1	yes

Table 12 Comparison of Fluidity in Major and in Nonmajor Cases in Vinson C Counting Actual Votes

	Major Cases	Nonmajor Cases
Strong Fluidity	6% (18)#	10% (572)
Weak Fluidity	3% (8)	4% (196)
No Fluidity	91% (253)	86% (4793)
	100% (279)	100% (5581)

N's of pairs of votes in parentheses.

Strong Fluidity=change from affirm to reverse or reverse to affirm

Weak Fluidity=change from nonparticipation to affirm or reverse.

Major case=case found in one of the numerous constitutional law casebooks.

Table 13 Fluidity by Case in Vinson Court

	Cases	Changes in Outcome
Strong Fluidity	297	48
Weak Fluidity	105	11
No Fluidity	284	
Total	686	59

Howard argues that contrary to results from Guttman Scaling, votes are not indicative of attitudes.

1. Commonplace for Justices to change their votes and permit opinions to be conduits of ideas of others.

2. Intervening variables operating in a collegial court mediate significantly between individual attitudes and behavior.

3. If a vote or opinion has changed prior to public publication, in response to a multiplicity of intracourt influences, how reliable is the vote or opinion as an indicator of attitude or ideology?