

**JUSTICES AND THEIR BIRTH ORDER:
AN ASSESSMENT OF THE ORIGINS OF PREFERENCES ON THE U.S. SUPREME COURT**

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ABSTRACT

A good deal of evidence documents the link between the preferences of the members of the Supreme Court and their voting behavior, but little is known about the forces that shape those preferences. What accounts for the policy attitudes that the justices bring to the bench? Drawing upon the insights offered by evolutionary psychology, I posit a connection between the justices' birth order and their policy preferences. The results demonstrate not only that birth order is a significant determinant of the justices' attitudes but that birth order also exercises an important independent influence on the justices' votes.

One of the most widely held assumptions within the field of judicial politics is that the members of the U.S. Supreme Court act on the basis of their political preferences. Although there is certainly disagreement over the degree to which those preferences motivate the justices, scholars generally acknowledge that attitudes are a consistent force that animate the various choices that the justices make. It is surprising, therefore, that little attention has been paid to the sources of those attitudes. Stated simply, we know that the justices vote their preferences, but we do not know what accounts for those preferences.

In this paper, I examine one potential explanation, the justices' birth order. Recent innovations within the field of evolutionary psychology posit that, during childhood, individuals engage in adaptive behaviors that are conditioned by the presence of siblings and seek certain niches that maximize parental investment. Specifically, firstborns identify with and emulate their parents and are thereby rewarded for their conscientiousness and respect for authority; laterborns, by contrast, adapt by distinguishing themselves from their elder siblings through rebellion and innovation. As a consequence of these behavioral adaptations, firstborns develop ideologically conservative preferences; laterborns, liberal preferences. Drawing upon these findings, I test the impact of birth order on the preferences of the justices as well as its effect on the voting behavior of

the justices. The results confirm that birth order exerts both indirect and direct effects on the justices' votes.

JUDICIAL BIOGRAPHY AND SOCIAL BACKGROUNDS

Backgrounds matter. The dispositions and actions of adults can often be traced to childhood experiences. For their part, students of judicial decision making have traditionally drawn on this linkage. Not so long ago, in fact, judicial biography was at the center of the study of the Supreme Court. Some of the most important studies of leadership on the Court --- Alpheus T. Mason's biographies of Chief Justices Stone (1956) and Taft (1965), as well as Carl B. Swisher's volumes on Chief Justices Field (1930) and Taney (1935) --- developed their insights from life histories, and they remain classics within the field. In a sense, these biographers were conducting a type of social background analysis, connecting a justice's attitudes, professional demeanor, or leadership style to earlier life experiences.

Gradually, however, these works gave way to empirical research, whereby political scientists would quantify many of the details that were embedded within these thick descriptive studies and deploy them in more parsimonious statistical models.¹ Despite their differences in approach, these traditions move along remarkably similar trajectories. "Both study the same universe of behavior as reflected in votes and opinions, and therefore select the same phenomena as dependent variables to be explained. Both tend to treat the same phenomena as distinctive causes and therefore tend to specify from an indeterminate number the same causal or independent variables" (Howard 1971, 708).

For quantitatively-oriented scholars, the use of biographical characteristics is best exemplified in the use of social background models. Employing such factors as age, religious

¹ Biographies of the justices continue to inform the study of the Court, as more recent volumes on such justices as Douglas (Murphy 2003), Powell (Jeffries), and O'Connor (Biskupic 2005) clearly attest.

affiliation, previous governmental experience, socioeconomic status, and father's occupation, researchers were able to trace various paths to the bench as well as subsequent voting behaviors of federal judges generally and justices of the U.S. Supreme Court in particular (see, e.g., Goldman 1972; Hall 1976; Tate 1981; Tate and Hanberg 1991; Ulmer 1973). Proceeding on the assumption that these background characteristics would dispose judges to vote on an ideological basis, these models often generated impressive results.

There were, of course, skeptics of this approach (see Grossman 1972), but even those who shared the belief that members of the Supreme Court are motivated by factors outside the law were uneasy about representing social background attributes as causal factors. At best, they argued, social attributes were imperfect proxies for the principal determinant of the justices' votes, that is, their policy preferences (Segal and Spaeth 1993, 232). Scholars of the Court had already suggested, if only indirectly, that attitudes explained the justices behavior (Pritchett 1963; Schubert 1965), even if those attitudes were not necessarily observed, and these characteristics, they argued, merely replicated the underlying ideology that motivated the justices. So, for example, that a justice's father was a prosecutor or that a justice grew up under modest economic circumstances were mere stand-ins for a justice's disposition to vote, respectively, in a conservative or liberal direction.

The development of more direct measures of the justices' preferences --- such as ideological scores derived from newspaper editorials (Segal and Cover 1989) --- obviated the need for further reliance upon background characteristics; to the extent that social attributes were proxies for the attitudes of the justices, there was little need to employ them. Why utilize crude indicators when more reliable and valid measures were available? Whether these background characteristics might themselves be responsible for the justices' dispositions was more or less disregarded, and political scientists largely eschewed any exploration of the sources of the justices' attitudes.

Of course, the use of attitudes in statistical models has the great virtue of parsimony, but it also comes at a cost: to the extent that there are social attributes responsible for the formation of the justices' dispositions, scholars have not fully addressed the causes of the justices' behavior. Preferences are vitally important, to be sure. But if the justices have systematic life experiences that, in turn, determine those preferences, then attributing the justices' behavior *solely* to those attitudes --- that is, to the exclusion of their antecedents --- paints an incomplete causal picture. Under the typical modeling strategy, the impact of social attributes must necessarily be channeled through the preferences of the members of the Court. A fuller accounting might assess the causal consequences of the social forces that shape the justices' outlooks. From where do the justices' political preferences originate?

Traditionally, political preferences have been thought to be the product of inter-generational transmission (Campbell et al., 1960), and the current thinking among students of mass behavior is that at least some degree of the public's political orientations --- most notably, partisan affiliation --- is governed by youthful exposure to partisanship (Green, Palmquist, and Schickler 2004; Jennings and Niemi 1981). Younger voters, often lacking prior information and thus needing a standard for making voting decisions, often rely upon the partisanship of their parents (Achen 2002). In this way, early social experiences play a role in forming political dispositions.

What sorts of social experiences are likely to shape the preferences of future members of the U.S. Supreme Court? Judicial biographers have been well-situated to delve into their subjects' early life experiences and the developmental effects wrought on their personalities. Ironically, many biographies have not exploited these linkages to full effect. Surveying the then-current crop of such books, Howard (1971) noted "the limited yield of descriptive biography concerning the personality determinants of judicial behavior," despite the obvious connections between early life experiences and psychological traits:

No Freudian inferences, adolescent identity crises, or psychosomatic illnesses jar these pages, though such concepts are central in psychological analyses of other political leaders, and we know that judges underwent similar experience. Can Justice Miller's intense abolitionist commitment be traced to a childhood trauma of watching his Mammy being flogged? Can Chief Justice Fuller's skill as a presiding officer be attributed to ingratiating traits developed as a result of his parents' 1833 divorce? Individually, biographers suggest several scraps and clues but make little of them. (p.711)

Illustrations such as these suggest a more common connection between the justices' social experiences and their political attitudes as adults; as children, the justices have no particular immunity to the formative forces that pattern personalities more generally. Thus, to the extent that various patterns of social experiences capture such causal variables, it may be possible to assess their influence on the justices' attitudes. Such an assessment would require both a theory about social backgrounds that could be generalizable across justices --- even those serving in different time periods --- and a mechanism for measuring those backgrounds and subjecting them to statistical tests. It is to those two related topics that I now turn.

BIRTH ORDER AND THE NICHE-SEEKING HYPOTHESIS

One of the social science's most widely studied background characteristics is birth order. Psychologists and sociologists, in particular, have long been interested in sibling relationships and their influence on, among other things, ambition, intelligence, and overall personality.² At least since psychologist Alfred Adler (1928) observed the linkage between birth order and a variety of personality attributes, the order of siblings within families has been a topic of intense scholarly interest. Although the topic has not garnered comparable attention from political scientists, it has still informed at least two distinct areas of research (Somit, Peterson, and Arwine 1993). The first concerns the correlates of political recruitment and whether birth order is connected to office-

² The size of the literature of staggering; more than 2,000 articles and books address the subject of birth order (Somit, Peterson, and Arwine 1993). A useful summary of some of the leading findings can be found in Freese, Powell, and Steelman (1999).

seeking: are certain siblings (most often firstborns) overrepresented among elected and appointed office both in the United States and abroad (see, e.g., Andeweg and Van De Berg 2003; Hudson 1990; Newman and Taylor 1994; Rejai and Phillips 1988; Stewart 1992)? The second addresses the impact of birth order on the political preferences of the mass public, assessing its impact on different facets of ideological thinking (Abramowitz and Abramowitz 1971; Broh 1981; Wisdom and Walsh 1975).

Empirically, the ability of birth order to provide a more informed understanding of political life is by no means clear. The results are frequently inconsistent across studies, many of which are evidently dogged by methodological inadequacies (Somit, Peterson, and Arwine 1993). Perhaps more important, these studies have lacked a clear theoretical foundation upon which to build.

Recent advances in the field of evolutionary psychology, however, offer some significant theoretical insights. Evolutionary psychology posits that, just like biological attributes, the human psyche is the product of historical adaptation to changing circumstance; regardless of whether the adaptations are biological or psychological, “the causal process of natural selection builds organic machines that are ‘designed’ to serve only one very specialized end: the propagation into subsequent generations of the inherited design features that comprise the organic machine itself” (Tooby and Cosmides 1995, 53). Thus, how people engage in, say, problem solving, communication, or mate selection is due in large measure to a series of individual adaptations, each of which takes place because it is best suited to a particular environment (Barkow, Cosmides, and Tooby 1995). Rather than take as a given the circumstances under which social behaviors obtain, adherents of this theory first ask what preconditions would produce that context --- and why.

The relevance of this theoretical orientation to the question of birth order has been examined most extensively by Frank J. Sulloway (1997). By his accounting, the psychological variations that are so common among siblings are the product of their competition for the scarce

resources of parental investment, a competition in which firstborns have historically been heavily favored. “Prior to 1800, roughly half of all children succumbed to diseases of childhood.... Having already survived some of the lethal diseases of childhood, elder children were generally better Darwinian bets for passing on their parents’ genes to the next generation (Sulloway 2007, 298). As privileged family members, firstborns are disproportionately rewarded for pleasing their parents, and the combined relative advantages of size, strength, and intelligence, enable firstborns not only to solidify their importance by assuming a variety of parental roles but also to dominate their younger siblings who might otherwise seek to displace them (Sulloway 1997, 68-69). For their part, laterborns realize that they cannot occupy the same position --- or niche --- as their firstborn siblings. As a result, they are forced to seek different ways of maximizing parental attentions by establishing their own niches through distinctive (and sometimes risky) behaviors (Sulloway 1997, 112-117). It is not surprising, therefore, that firstborns such as Jimmy Carter and Bill Clinton successfully aspired to the presidency, while their errant younger brothers, Billy and Roger, respectively, earned infamous public reputations for their disreputable and boorish behavior. In both families, the firstborns charted paths of achievement while the laterborns rebelled.

These niches, it turns out, have consequences for the political orientations of siblings within a family. Because of the different values that siblings must assume when occupying their respective niches, they are necessarily socialized into different forms of ideological thinking:

Firstborns...show a strong motivation to fulfill parental expectations.... Consequently, firstborns tend to be more amenable to their parents’ wishes, values, and standards than their laterborns siblings, as well as...more traditional, conservative, and more likely to endorse conventional morality....Laterborns tend to identify less with their parents and are often subject to domination or bullying by older siblings, which is hypothesized to make them...more likely to empathize with the downtrodden, to be supportive of egalitarian social change, to question the status quo, [and] to resist authority and pressure to conform...(Healy and Ellis 2007, 55)

So, being conscientious rule-followers who are anxious to satisfy authority, firstborns tend to exhibit conservative political preferences, while laterborns --- who are rebellious, apt to challenge the status,

and naturally sympathetic to underdogs --- exhibit more liberal attitudes. Although some social scientists have been skeptical of such a connection (see, e.g., Freese, Powell, and Steelman 1999), a good deal of evidence accumulated, both before and after Sulloway put forth his niche hypothesis, supporting the link between birth order and political ideology.³

With respect to the Supreme Court, birth order seems to have a bearing on who is nominated --- firstborns are clearly overrepresented (Weber 1984) --- and it has proven quite successful in explaining the ideological direction of the justices' votes (Sulloway 1996, 294-296). Social background models have occasionally included birth order in their analyses, typically as an indicator of the justices' preferences (Tate and Handberg 1991; Ulmer 1986). Still, as long as birth order is utilized as a surrogate for the justices' preferences --- rather than as a predictor of those preferences --- it is impossible to sort out its causal impact more precisely. Just what role does birth order play in setting the preferences of the justices?

ANALYSIS

To test the application of the niche-seeking hypothesis, I examine data on the birth order of the justices who were appointed to the U.S. Supreme Court from the beginning of the 20th century to the present (N=54).⁴ If the theoretical orientations about niche-seeking apply, then the experiences that firstborn justices undergo as children --- aligning themselves with parental authority --- should manifest themselves in conservative attitudes later in life. Liberal ideological thinking

³ For some recent findings supporting niche-seeking, see Healy and Ellis (2007) and Zweigenhaft and Von Ammon (2000).

⁴ The data on birth order were very generously provided to me by Professor Frank J. Sulloway, who was remarkably thorough in culling relevant data sources. Although Weber (1984) reports data on the birth order of the members of the Court, Sulloway's replication revealed a non-trivial number of errors in Weber's original analysis. Of course, electronic data sources now facilitate the collection of such information. Nevertheless, birth order data are not always reliably recorded in biographical sources, and this problem is exacerbated for justices appointed in the 18th and 19th centuries, periods for which dependable data may be harder to obtain.

should be prevalent among laterborn justices, a lingering consequence of their youthful efforts to distinguish themselves by deviating from the “conservative” niches already occupied by their older siblings.

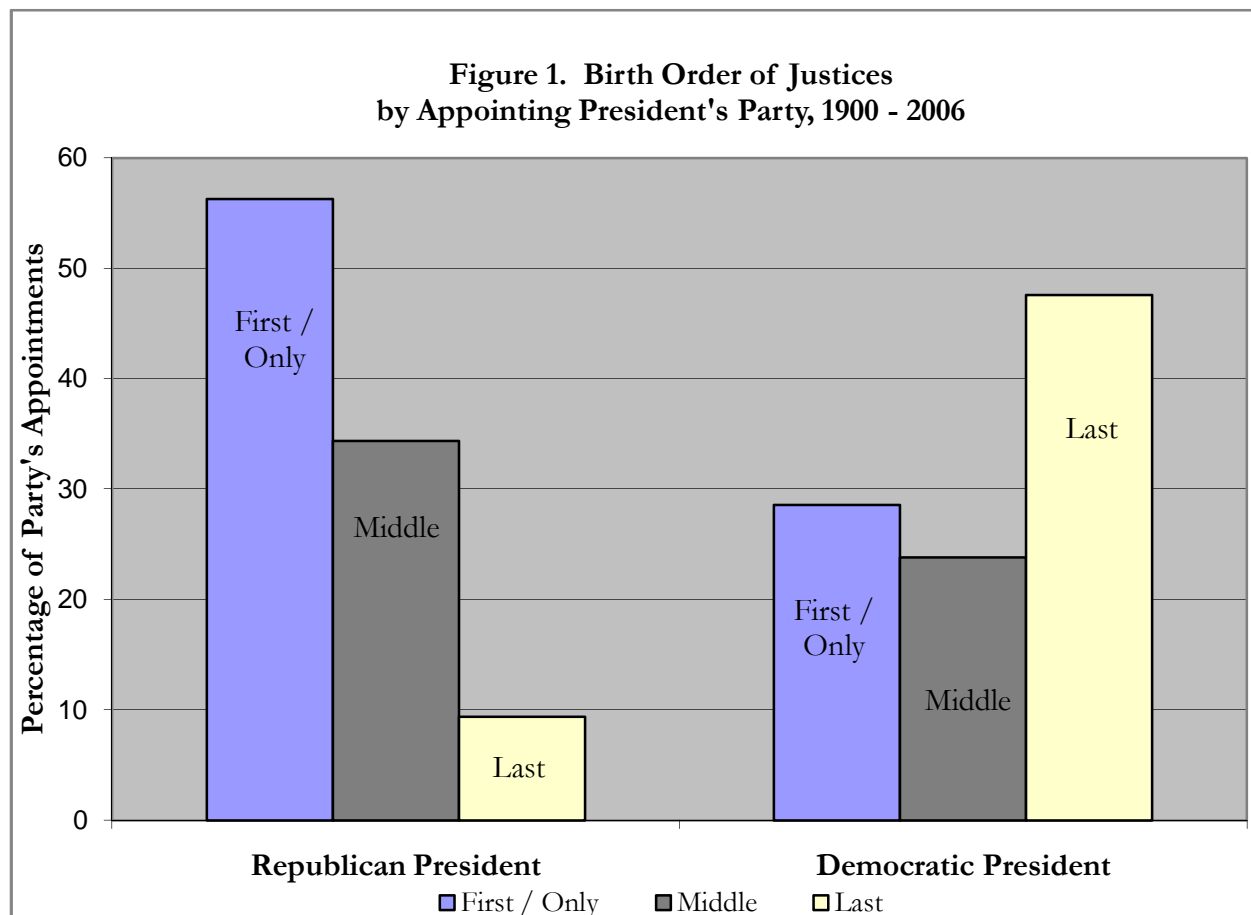
Birth Order’s Impact on Ideology

A simple way to begin the analysis is to survey the justices’ birth orders by the political party of their appointing president. The logic here is simple: if presidents select members of the Court based largely upon ideological considerations (Nemacheck 2007; Yalof 1999), then Republican presidents should favor firstborns; Democrats, lastborns. These data are presented in Figure 1, with birth order presented as a three-category variable.⁵

As expected, the decisions of presidents to seek like-minded justices appear to be reflected systematically in the birth order of the justices. Almost 60% of Republican appointees are firstborns and only children. These numbers include Justice Samuel Alito, Chief Justice William Rehnquist, and Justice Antonin Scalia, each of whose conservative bona fides are well established. At the same time, the most likely liberals are rarely tapped by GOP Presidents; less than 10% of these justices are lastborns. The last two Republican-appointed lastborns are especially noteworthy; one was Chief Justice Earl Warren, easily one of the most liberal justices in the Court’s history, and the other is

⁵ Because of their similarity in parental investment, only children usually exhibit social attitudes similar to firstborns (Sulloway 1997, 23). Depending upon the specific research question, researchers will simply compare firstborns to laterborns or treat birth order as a linear variable, trichotomizing it into firstborns, middleborns, and lastborns. Occasionally, middleborns are hypothesized to exhibit distinctive effects (see Sulloway 1997, 302), but researchers most often expect them to reveal more differentiation, risk-seeking, and openness to experience than firstborns but not as much as lastborns.

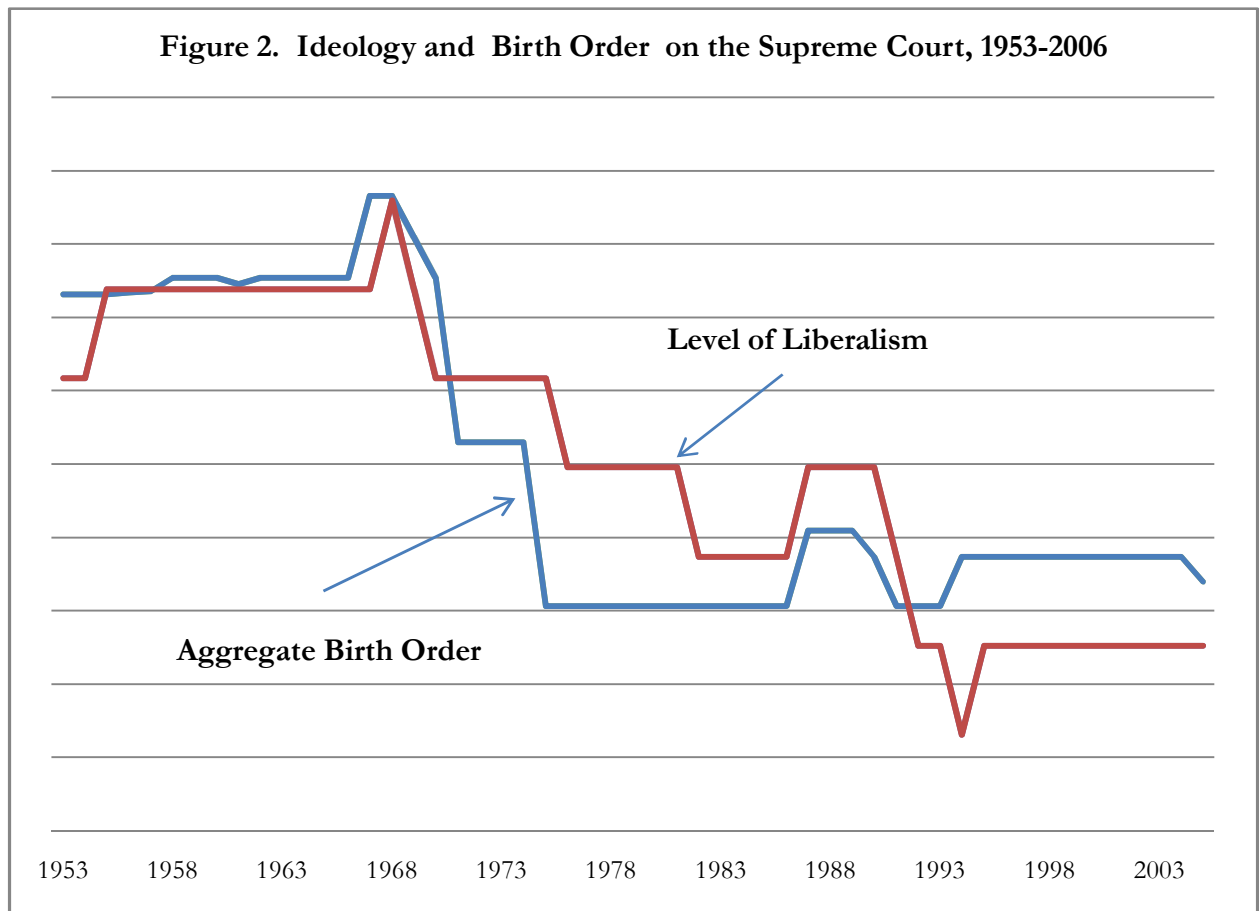
Given the niche-seeking hypothesis, I employ “effective birth order,” rather than “biological birth order.” So, for example, even though Justice Ginsburg was the latterborn of two children, the death of her six-year-old sister when she herself was only one-year-old, rendered Ginsburg an effective only child (Salokar 1996, 79). The same is true of Justice Thomas; though biologically a middleborn, he was raised as a firstborn by his maternal grandfather from the age of seven (Thomas 2007). On the present Court, the effective birth orders of the justices are as follows: firstborns/only children (Alito, Breyer, Ginsburg, Scalia, Souter, Thomas); middleborns (Roberts, Kennedy) and lastborns (Stevens).



Justice John Paul Stevens, who is also highly liberal (albeit largely in the context of the Court's more recent composition).

For Democratic presidents, by comparison, the modal birth order category is lastborns. Nearly half, in fact, have been individuals whom one would expect to be sympathetic to the interests of ideological underdogs. That so many of these individuals are elevated to the Court is significant, because educational achievement is strongly tied to birth order. Being conscientious and keen to secure parental approval, firstborns tend to reach higher levels of academic success (see, e.g., Parker 1998), and they are, therefore, disproportionately represented in leadership positions (Stewart 1992).⁶ So, all else being equal, one would expect to see few lastborns on the Court. Democratic presidents,

⁶ This helps explain the large share of firstborns and only children whom Democrats name to the Court.



Note: Liberalism is the Court’s median Segal/Cover score. Birth order is the percentage of justices who were lastborns. To facilitate comparison, both variables are standardized to a mean of 0 and standard deviation of 1.

though, select able jurists --- nominees who are highly successful, their lastborn niche, notwithstanding --- whom one would expect to embrace liberal social values. In fact, in their search for liberal nominees, Democratic presidents are five times more likely to name lastborns, such as Justices Abe Fortas, Arthur Goldberg, and Thurgood Marshall, than are Republican presidents. Based on this evidence, birth order seems clearly to reveal a good deal about the likely preferences of the justices.

An alternative means of inspecting the relationship between the justices’ birth order and their preferences is to examine these two variables longitudinally. Does aggregate birth order on the

Court follow the ebb and flow of the Court's ideological orientation? In Figure 2, I graph two time-series that reflect the Court's liberalism; one is the ideology of the Court, as measured by the Segal/Cover scores derived from newspaper editorials, and the other is the annual percentage of justices who are lastborns. In each case, higher values should reflect higher levels of liberalism.

For measures derived from such entirely different sources, these two variables show a remarkable correspondence with one another. Both suggest high degrees of liberalism during the tenure of Chief Justice Warren, moving in parallel toward increased conservatism when the Court was led by Chief Justices Burger and Rehnquist. Although one ought not to make causal inferences based strictly on the visual inspection of these data, they certainly conform to expectations: ideology seems to travel with birth order.

These patterns suggest that birth order exercises some degree of influence over the development of political preferences. Does the niche-seeking phenomenon represented by birth order induce the justices to adopt specific ideological orientations? One way to answer this question is to determine whether birth order is a significant predictor of the justices' ideology. To make that assessment, I regress the individual Segal/Cover scores on the three-category birth order measure for the set of justices serving from 1953 to the present. If birth order conditions a justice's preferences --- and birth order quite obviously precedes the development of political ideology --- then birth order should be a significant predictor of those preferences.

Table 1. Impact of Birth Order on the Justices' Ideology

<i>Variable</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>T-ratio</i>
Birth order	.15	.07	2.14 **
Constant	.54	.06	

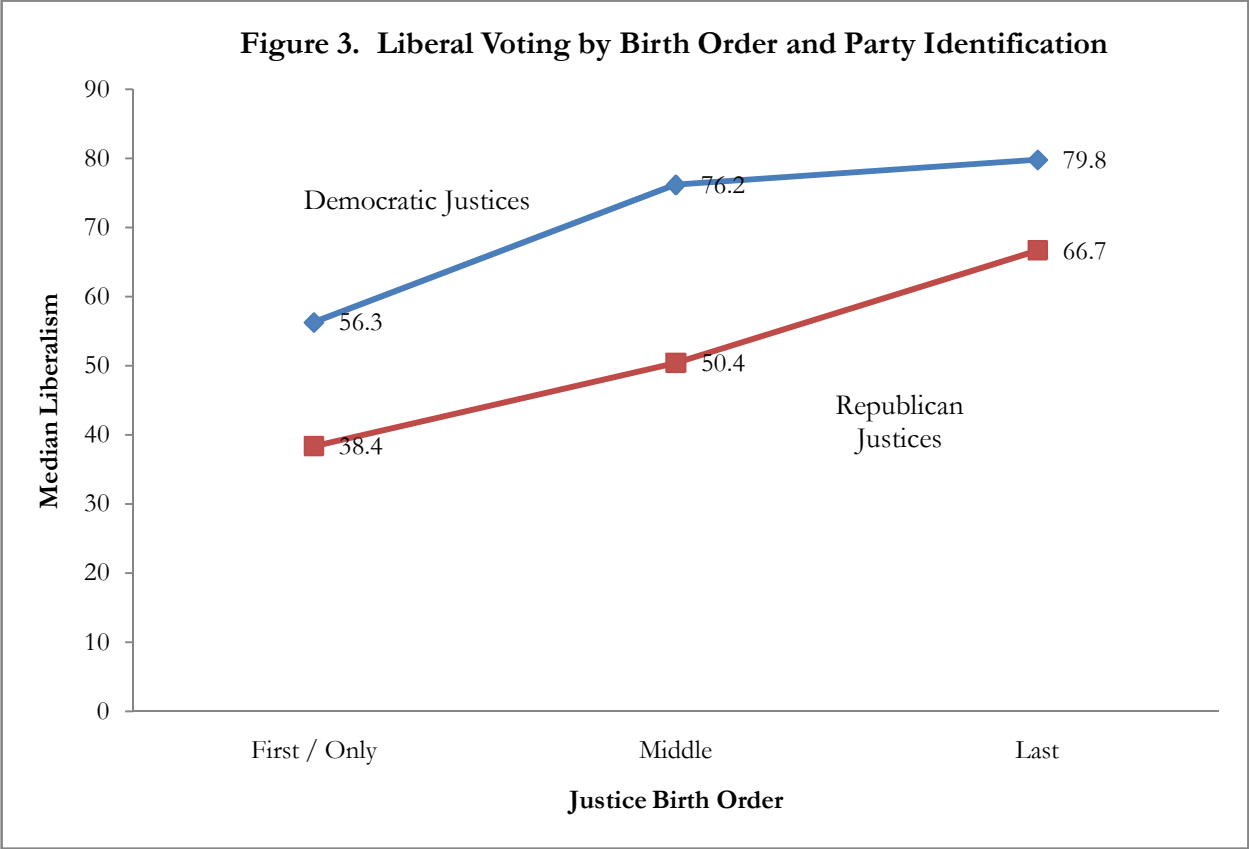
Note: N=31, R-squared=.15; dependent variable is the Segal/Cover ideology score for each justice serving from 1953 to 2008; birth order is coded as firstborn/only child (-1), middleborn (0), lastborn (1).

The results of this exercise appear in Table 1. The model confirms that birth order makes a substantial contribution to the political attitudes of the members of the Court. The measure of attitudes ranges from 0 (extremely conservative) to 1 (extremely liberal). So, an otherwise moderate justice with an ideological score of .5 would have a predicted ideology of .35, if that justice were a firstborn or only child, or .65, if that same justice were a lastborn. By way of substantive illustration, such justices might include, respectively, only child David Souter and lastborn Earl Warren.⁷ To be sure, birth order leaves a good deal of the justices' preferences unexplained. Still, this model provides good preliminary evidence that the niche-seeking in different family environments has lasting and significant consequences.

Birth Order's Direct Effects

The story to this point suggests a connection between birth order and the attitudes of the members of the Court, but it leaves a good deal of causal inquiry unexamined. As researchers have

⁷ A common complication in birth order models is a failure to take account of family socioeconomic status and the number of siblings in the family (or sibship). The less affluent tend to have larger families, thereby increasing the likelihood of someone raised in such circumstances being a laterborn. In the absence of such controls, birth order by itself may be a proxy for socioeconomic circumstance, which is often related to political ideology. Although birth order effects often evaporate when these controls are introduced, that is not the case here. Neither variable is significant, and they leave the impact of birth order unaffected.



shown, birth order can shape a number of different personal values, including support for democratic ideals and the active use of governmental power, as well as a general receptivity to new ideas (Suloway 1997, 284-305). So there is good reason to think that, quite apart from its influence on the justices’ policy preferences, birth order affects the Court directly by capturing other aspects of a justice’s personality.

As a preliminary matter, an effective way to proceed is to separate the justices by their partisan affiliation and examine the voting behavior of the justices in each birth order cohort. As an indicator of political preferences, party identification is admittedly limited, but if birth order is merely an indicator of ideology, then there should be no differences within parties for justices of

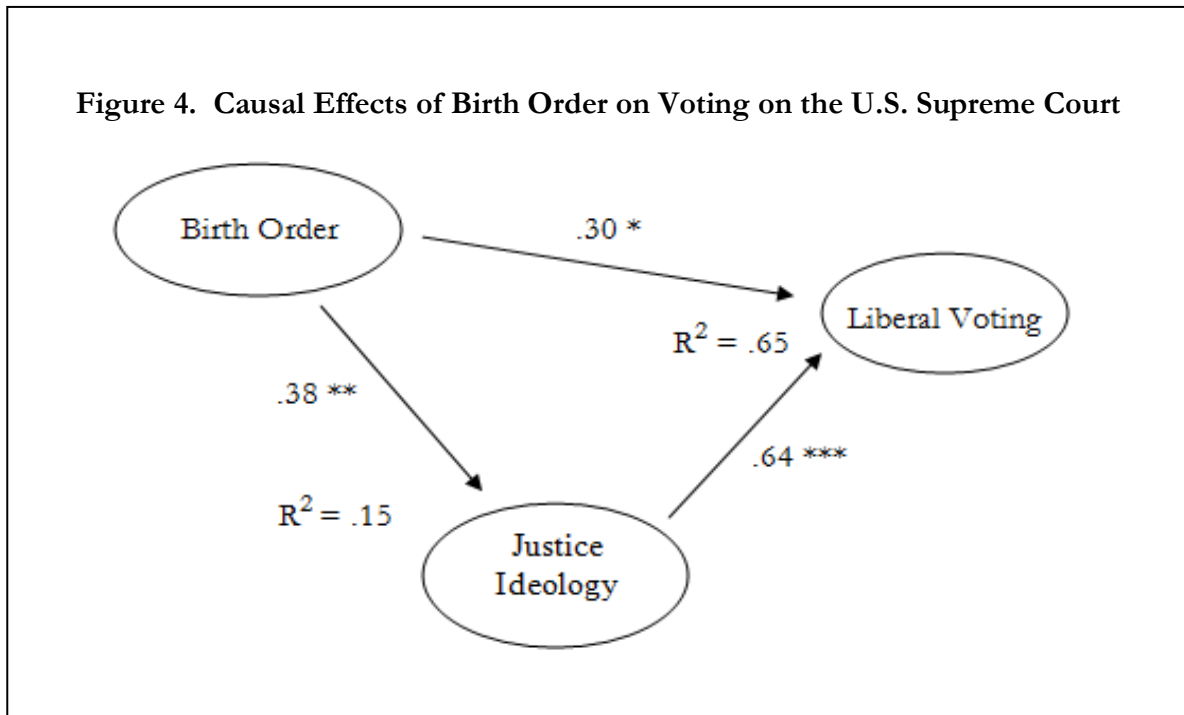
different birth orders. As the data in Figure 3 indicate, however, this is clearly not the case; birth order provides information that party alone does not.⁸

Regardless of political party, the justices vote more liberally within each successive category of birth order. Firstborns and only children show the highest rate of conservatism among both Democratic and Republican justices; middleborns are the more moderate; and lastborns are the most liberal in both parties. The independent effect of birth order is dramatic. Indeed, by these estimates, Republican lastborns vote more liberally than Democratic firstborns! Thus, birth order would help to explain the liberal voting record of lastborn Republican John Paul Stevens as well as the conservative behavior of firstborn Democrat Robert Jackson. Birth order effects manifest themselves, then, even when compared across different ideological orientations. That birth order effects persist within justices of the same political party suggests that birth order may have an independent impact on judicial decision making, over and above its role in forming the justices' preferences. Stated differently, birth order may exercise both indirect and direct effect on the justices' behavior.

Does birth order capture a different attitude that affects the justices' behavior? Path analysis can help sort out this issue. In Figure 4, I present a simple recursive system, one in which birth order is completely exogenous, exercising its influence indirectly (by shaping the policy preferences upon which members of the Court make decisions) and directly (by capturing a disposition that is orthogonal to policy attitudes). The beta weight along each of the paths is represented by a standardized regression coefficient.

⁸ The justices' partisan affiliations are found in *The Supreme Court Compendium*. The voting data are lifetime liberalism, measured as the percentage of votes cast in a liberal direction as coded in the *U.S. Supreme Court Judicial Database*. Because a justice's liberalism has been shown to be more accurately reflected in the subset of cases in which that justice votes to reverse the lower court (McGuire, Vanberg, Smith, and Caldeira 2007), I calculate lifetime liberalism based on those votes.

Figure 4. Causal Effects of Birth Order on Voting on the U.S. Supreme Court



Under the niche-seeking hypothesis, birth order has an indirect effect on the justices' votes by helping to form the preferences of the Court's members. Empirically, this indirect effect is the product of the beta weights along this compound path, $.38 \times .64$, or $.24$. But the niche-seeking that takes place as a consequence of birth order is hypothesized to exercise a more general influence on one's social attitudes. Thus, even after the justices' attitudes are taken into account, birth order exerts its own direct effect on the justices' decision making. With a beta weight of $.30$, the direct effect of birth order is less than half the magnitude of the justices' policy preferences, which is $.64$. When combined with its indirect influence, though, the total causal effect of birth order is $.54$, suggesting a more prominent role for birth order as a determinant of judicial behavior.

CONCLUSIONS

Birth order is important in a number of different contexts with the social sciences, and it seems no less relevant in the case of the U.S. Supreme Court. Not only does birth order tell us a good deal about the justices' likely preferences, it plays an important role in shaping those preferences. The notion of niche-seeking suggests that justices who are conservative are likely to have been firstborns who, as children, aligned themselves with the authority of their parents and were rewarded for their conformity. Liberal justices, the theory likewise suggests, are apt to be laterborns who of necessity needed to be open to new experiences so as to develop innovative aptitudes to distinguish themselves from their older siblings. Aside from their willingness to challenge the status quo, laterborn justices are also prone to empathize with the disadvantaged, having themselves been dominated by older and stronger siblings.

The value of this theoretical orientation is that it invites judicial scholars to think more carefully about the sources of the justices' attitudes. Rather than take them as a given, I have sought to examine what might have produced those preferences and whether that explanation holds promise for accounting for other facets of the justices' behavior. The results suggest not only that the birth order of the justices has, in fact, shaped the contours of their attitudes but that it may also provide additional insights into further aspects of their decision making. Does the impact of birth order vary across different policy areas? Does birth order affect the justices' willingness to assume different guises of the judicial role? More historically, does it explain why some justices have given their support to distinctive legal doctrines, such as the application of the Bill of Rights or substantive due process, while others have not?⁹

Social background models are not as fashionable as they once were in judicial politics. To the extent that social attributes were simply standing in for other unmeasured variables, the decline

⁹ I am presently undertaking an analysis to address precisely this question.

of such models is quite understandable, since scholars have devised ways to tap into those previously elusive qualities. Yet scholars of the Court may have overlooked potential insights by not considering more closely what some of those social attributes have the potential to reveal. The results presented here tend to underscore the continued value of traditional judicial biography --- its ability to help uncover the origins of the views that the justices bring to the bench, thereby informing the development of statistical models.

REFERENCES

- Abramowitz, Stephen I., and Christine V. Abramowitz. 1971. "Birth Order, Sensitivity to Socialization, and Student Activism.." *Journal of Counseling Psychology* 18(2):184-185.
- Achen, Christopher H. 2002. "Parental Socialization and Rational Party Identification." *Political Behavior* 24(2):151-170.
- Adler, Alfred. 1928. *Understanding Human Nature*. New York: Greenberg.
- Andeweg, Rudy B, and Steef B. Van Den Berg. 2003. "Linking Birth Order to Political Leadership: The Impact of Parents or Sibling Interaction?." *Political Psychology* 24(3):605-623.
- Barkow, Jerome H., Leda Cosmides, and John Tooby. 1995. *The Adapted Mind: Evolutionary Psychology and the Generation of Culture*. New York: Oxford University Press.
- Biskupic, Joan. 2005. *Sandra Day O'Connor: How the First Woman on the Supreme Court Became Its Most Influential Justice*. New York: Harper Collins.
- Broh, C. Anthony. 1981. "Siblings and Political Socialization: A Closer Look at the Direct Transmission Thesis." *Political Psychology* 3(1/2):173-183.
- Campbell, Angus, Philip E. Converse, Warren E. Miller, and Donald E. Stokes. 1960. *The American Voter*. Chicago: University of Chicago Press.
- Freese, Jeremy, Brian Powell, and Lala Carr Steelman. 1999. "Rebel Without a Cause or Effect: Birth Order and Social Attitudes." *American Sociological Review* 64:207-31.
- Golman, Sheldon. 1972. "Johnson and Nixon Appointees to the Lower Federal Courts: Some Socio-Political Perspectives." *Journal of Politics* 34(3):934-942.

- Green, Donald, Bradley Palmquist, and Eric Schickler. 2002. *Partisan Hearts and Minds: Political Parties and the Social Identity of Voters*. New Haven: Yale University Press.
- Grossman, Joel B. 1967. "Social Backgrounds and Judicial Decisions: Notes for a Theory." *Journal of Politics* 29(2):334-351.
- Hall, Kermit L. 1976. "Social Backgrounds and Judicial Recruitment: A Nineteenth-Century Perspective on the Lower Federal Judiciary." *Western Political Quarterly* 29(2):243-257.
- Healy, Matthew D., and Bruce J. Ellis. 2007. "Birth Order, Conscientiousness, and Openness to Experience Tests of the Family-Niche Model of Personality Using a Within-Family Methodology." *Evolution and Human Behavior* 28(1):55-59.
- Howard, J. Woodford. 1971. "Judicial Biography and the Behavioral Persuasion." *American Political Science Review* 65(3):704-715.
- Hudson, Valerie M. 1990. "Birth Order of World Leaders: An Exploratory Analysis of Effects on Personality and Behavior." *Political Psychology* 11(3):583-601.
- Jeffries, John. 2001. *Justice Lewis F. Powell: A Biography*. Fordham University Press.
- Jennings, Kent M., and Richard G. Niemi. 1981. *Generations and Politics*. Princeton, NJ: Princeton University Press.
- Mason, Alpheus Thomas. 1956. *Harlan Fiske Stone: Pillar of the Law*. New York: Viking Press.
- Mason, Alpheus Thomas. 1965. *William Howard Taft: Chief Justice*. New York: Simon & Schuster.
- McGuire, Kevin T., Georg Vanberg, Charles E. Smith, Jr., and Gregory A. Caldeira. 2007. "Measuring Policy Content on the U.S. Supreme Court." Typescript.

- Murphy, Bruce Allen. 2003. *Wild Bill: The Legend and Life of William O. Douglas*. New York: Random House.
- Nemacheck, Christine L. 2007. *Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush*. Charlottesville, VA: University of Virginia Press.
- Newman, Joan, and Alan Taylor. 1994. "Family Training for Political Leadership: Birth Order of the United States State Governors and Australian Prime Ministers." *Political Psychology* 15(3):435-442.
- Parker, Wayne D. 1998. "Birth-Order Effects in the Academically Talented." *Gifted Child Quarterly* 42(1):29-38.
- Pritchett, C. Herman. 1963. *The Roosevelt Court: A Study in Judicial Politics and Values, 1937-1947*. New York: Octagon Books.
- Rejai, Mostafa, and Kay Phillips. 1988. "Loyalists and Revolutionaries: Political Elites in Comparative Perspective." *International Political Science Review* 9(2):107-118.
- Salokar, Rebecca Mae. 1996. "Ruth Bader Ginsburg," in *Women in Law: A Bio-Bibliographical Sourcebook*, ed. by Rebecca Mae Salokar and Mary L. Volcansek. Westport, CT: Greenwood Publishing Group.
- Schubert, Glendon A. 1965. *The Judicial Mind; the Attitudes and Ideologies of Supreme Court Justices, 1946-1963*. Evanston, Ill: Northwestern University Press.
- Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83(2):557-565.

- Segal, Jeffrey A., and Harold J. Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. Cambridge: Cambridge University Press.
- Somit, Albert, Steven A. Peterson, and Alan Arwine. 1993. "Birth Order and Political Behavior: Clearing the Underbrush." *International Political Science Review* 14(2):149-160.
- Stewart, Louis H. 1992. *Changemakers: A Jungian Perspective on Sibling Position and the Family Atmosphere*. New York: Routledge.
- Sulloway, Frank J. 1997. *Born to Rebel: Birth Order, Family Dynamics, and Creative Lives*. New York: Vintage.
- Sulloway, Frank J. 2007. "Birth Order and Sibling Competition," in *The Oxford Handbook of Evolutionary Psychology*, ed. by Robin Dunbar and Louise Barrett. New York: Oxford University Press.
- Swisher, Carl Brent. 1936. *Roger B. Taney*. New York: The Macmillan Company.
- Swisher, Carl Brent. 1963. *Stephen J. Field: Craftsman of the Law*. Hamden, CT: Archon Books.
- Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions, 1946-1978." *American Political Science Review* 75(2):355-367.
- Tate, C. Neal, and Roger Handberg. 1991. "Time Binding and Theory Building in Personal Attribute Models of Supreme Court Voting Behavior, 1916-88." *American Journal of Political Science* 35(2):460-480.
- Thomas, Clarence. 2007. *My Grandfather's Son: A Memoir*. New York: Harper Collins.

- Tooby, John and Leda Cosmides. 1995. "The Psychological Foundations of Culture," in *The Adapted Mind: Evolutionary Psychology and the Generation of Culture*, ed. by Jerome H. Barkow, Leda Cosmides, and John Tooby. New York: Oxford University Press.
- Ulmer, S. Sidney. 1973. "Social Background as an Indicator to the Votes of Supreme Court Justices in Criminal Cases: 1947-1956 Terms." *American Journal of Political Science* 17(3):622-630.
- Ulmer, S. Sidney. 1986. "Are Social Background Models Time-Bound?" *American Political Science Review* 80(3):957-968.
- Weber Paul J 1984. "The Birth Order Oddity in Supreme Court Appointments." *Presidential Studies Quarterly* 14:561-68.
- Wisdom, Gayle, and Richard P. Walsh. 1975. "Dogmatism and Birth Order." *Journal of Industrial Psychology* 31:32-36.
- Yalof, David A. 1999. *Pursuit of Justices: Presidential Politics and the Selection of Supreme Court Nominees*. Chicago: University of Chicago Press.
- Zweigenhaft, Richard L., and Jessica Von Ammon. 2000. "Birth Order and Civil Disobedience: A Test of Sulloway's 'Born to Rebel' Hypothesis." *Journal of Social Psychology* 140(5):624-627.