The question of whether the Supreme Court takes into account outside or value-based influences in their decision-making is complicated. We have to wonder whether the Founding Fathers would have wanted this to be the case or not. The control over the court that Congress has certainly seems like it was set up so as to give Congress an influence over their decisions. The Supreme Court seems to take into account values and outside influences in moderation, but not to the extent that the courts’ independence is compromised.

Authors Segal and Cover present their article examining the effects of Supreme Court Justices’ values on the way they vote. The problem that presents itself immediately when trying to figure this out is that “One cannot demonstrate that attitudes affect votes when the attitudes are operationalized from those same votes” (Segal and Cover, 558). They decided to use newspaper articles written between the periods between the justices’ nominations and their Senate Confirmation because they felt that these articles represented the least biased view of the justices’ ideological alignments. Then a quantitative value ranging from a very liberal score of 1 to a very conservative score of -1 was assigned to each justice as his or her ideological score based on the interpretation of the newspaper articles.

The dependent variable in the examination measured the way the justices voted on civil liberties cases during their tenures. Segal and Cover included cases “involving criminal procedure, civil rights, the First Amendment, due process, and privacy” as those which constitute civil liberties cases (Segal and Cover, 561). They decided whether each justice’s voting record was liberal or conservative based on each vote they cast on these civil liberties cases.
What they found is that, basically, Supreme Court justices are in fact influenced by their values when they decide on cases. They found a “correlation of .80 between values and votes” of the justices (Segal and Cover, 562). This is significant because, as the authors point out, if the correlation was significantly higher it would imply that almost nothing other than values influenced the court’s decisions. The correlation they found suggests, however, that while values are certainly influential, they are not the only thing that influences justices when they vote on civil liberties cases.

Danelski, whose article is referenced in the previous article by Segal and Cover as being the “Only one previous effort to derive independent measures of the values of Supreme Court justices,” evaluates the values of Justices Brandeis and Butler in application to their voting record on Laissez Faire Capitalism cases (Segal and Cover, 558). What he is trying to show with this model is that the fundamental reason why two justices, here namely Brandeis and Butler, vote against each other is a disagreement over values which extend back to before they were Supreme Court justices. The first thing he does is to identify the values of highest importance to each of the two justices. This step is done through what he calls evaluations in which he examines “transactions” such as speeches and personal documents (Danelski, 723-724). Through his evaluations he makes a list of the most important values to each of the justices.

Next Danelski lays out “three dimensions- intensity, congruency, and cognitive completeness” by which to evaluate their values. The first, intensity, refers to how strong the value is for the person. So, as an example, he talks about Justice Brandeis as having “an urgent zeal for freedom” and therefore exhibiting that value intensely (Danelski, 728). The second, congruency, refers to how well a specific value is supported by the
justices other relevant values. Finally, cognitive completeness refers to how knowledgeable the justice is in the field of a particular value. A judge who works in a particular area before becoming a justice, for example, would have a more cognitively complete dimension of a value in that area as a justice than one who worked in a completely different area. In this case both justices were had high cognitive completeness on the issue of Laissez Faire.

Danelski examines the voting record of both justices in all cases he deems to be relevant to Laissez Faire. What he finds is that the justices somewhat predictably vote along with their ideologies on Laissez Faire cases and finds them just about equally distant from moderation in their respective positions on the cases. He then concludes by saying that his intention is not to try to predict the decisions of justices but to “understand scientifically the scientific phenomena we call the judicial process” (Danelski, 740).

The final article, written by Toma, examines the effects of Congressional budget oversight of the Supreme Court on the decisions made by the Supreme Court justices. Congressional budget oversight of the Judicial Branch is a key check written into the constitution and it is an important question to ask whether or not budgetary signals influence the way the justices vote on cases. Because of the small number of allocations in the Supreme Court budget every justice is impacted directly and equally by a reduction in the court’s budget by congress and it is, therefore, a serious political question whether or not this budgetary control influences the Supreme Court.

Toma states that justices aim to vote towards reputation and prestige as denoted by the legal profession. Her hypothesis is basically that when Congress wishes the same thing that exhibits legal prestige the court will rule alongside Congress and get high
budgetary benefits. If, however, the Congressional desire and the legally prestigious and reputable one contradict then, Toma says, increases in reputation will be met with budgetary reductions.

To try and figure out this relationship Toma sets up a model using 2327 nonunanimous cases involving economic and civil rights cases. She then categorized decision in the cases as liberal or conservative based on how the justices voted on them. In civil rights cases if they voted in favor of the civil right it was deemed liberal and in economic cases liberal decision were those in favor of the “economic ‘underdog’” (Toma, 137). She then constructs a regression model examining the relation of the difference in the ideological makeup of the court and that of the Congress to variables such as the federal budget, the number of cases filed with the Supreme Court, the year, the amount of time served on the court, and various others.

A variety of results show a significant result in the model. For example, the amount of time served on the Supreme Court was shown to significantly affect the likelihood to vote with the ideology of Congress, suggesting that as a justice serves the court longer they become less likely to vote alongside Congress. Toma points out the problem that all that this model actually shows is that the difference between the Supreme Court and Congress decreases as the budget increases. It says nothing, however, about whether this “Difference narrows because of changes in the Court’s decisions or because of changes in the preferences of Congress” (Toma 142). The data certainly suggest this inference but do not explicitly show the latter to be the case. She concludes by saying simply that the results suggest that Congress uses the budget as a signal of approval or
disapproval. She would likely agree, however, that nothing conclusive was found as to whether the court judges based on Congress’s budgetary signaling.

These three articles suggest a strong correlation between the way Supreme Court justices vote on cases and the influences that affect them. The main problem for me, however, with these models and studies presented by the article is that I find it improper to try to assign quantitative values to something such as personal values. For example, I think that in the Segal and Cover article their assigned ideological value is not something that can really be done accurately. Values are too subjective and cannot be set to any score on a numerical scale as they did in their model. Assigning a number to such a quality seems like it allows far too much room for error.

Another fundamental problem in the Segal and Cover study is the use of newspaper editorials to determine ideological positions of justices. Using just four newspapers’ editorials seems like a flawed way to determine values. The four newspapers they chose were divided with two liberal and two conservative trending papers. The problem here, though, is first of all that the authors can’t really measure how liberal or how conservative any of the papers are. While the Washington Post may be slightly liberal, the LA times might be extremely conservative in its view on a particular justice. The authors do not make any effort to establish the degree of ideology each newspaper exhibits. The other problem is that any of the newspapers is still a very external source on the justice. They still seem prone to having extreme variance in their views of particular justices.

Another problem I see among these models is that in Toma’s article on Congressional budget signaling “the Congress was, on average, more conservative than
the Court” (Toma, 145). This seems like a major flaw in her research because it only accounts for how the more liberal Supreme Court reacted to the more conservative congress. There is no particular reason to think that a more conservative Supreme Court would react in the same ways to a more liberal Congress. Perhaps it would have been more effective for Toma to try to use a time period in which this was the case. It seems flawed to make a general inference about the court from her study when it only examines one half of the possible ideological relationship situations between the Supreme Court and Congress.

The last major problem I have with these studies is directed at Danelski’s article. He only uses two justices in his models. Two justices do not constitute nearly a sufficient sample size to use to try to make an inference about the entire Supreme Court. He would have vastly improved his study by using a statistically viable sample size.

All in all these three articles fit well together as a rough examination of the motivations of the Supreme Court in their decisions. They all could use some modifications in their procedures to eliminate some serious flaws but, generally, they all seem to suggest the same thing. Basically, they all appear to suggest that the Supreme Court justices do in fact vote according to their ideologies and according to Congress’s budget signaling. While there are definitely flaws in the research, the fact they all show the same thing definitely presents a likelihood of a strong correlation.

I definitely agree with the theories of the authors despite the weaknesses in their research discussed here. It seems probable that the justices vote alongside their ideologies and so as to maximize their budget. Though they almost certainly do not vote solely according to these factors, and probably do the legally prestigious or reputable
thing to do in their minds most of the time, they still are very prone to the outside
influence of Congress. They also are just like other humans in that if they believe their
values to be correct they will probably often vote as though their values are the legally
correct way to vote whether they are or not. So, although the research needs some work,
I believe the general conclusions reached by the authors are actually quite accurate
inferences about the Supreme Court’s motivations for voting though it seems the court is
more likely to vote by their values than to vote to keep their budget.