

# Judicial Selection and the Underrepresentation of Women on the Pennsylvania Courts of Common Pleas

**Heather Frederick<sup>1</sup>**  
Slippery Rock University

*This article explores several factors affecting the representation of women on Pennsylvania's Courts of Common Pleas. First, it considers whether women are underrepresented as judges on these courts. Second, it investigates whether women are more likely to become judges on these courts through partisan election or through gubernatorial appointment. Third, it examines whether Democratic governors are more likely than their Republican counterparts to appoint female judges to these courts. The article concludes that even though little gender bias is attributable to the method of selecting judges for the Courts of Common Pleas, women are nonetheless greatly underrepresented as judges on this level of the Pennsylvania judiciary. The striking difference between the number of women in the Pennsylvania bar and the number of female judges on the state's Courts of Common Pleas also indicates that women have not achieved parity on the bench and that the size of the eligibility pool is not necessarily a valid explanatory factor.*

In 2008, the nation witnessed the first competitive female candidate for the Democratic Party's presidential nomination and the first female vice presidential nominee for the Republican Party. Yet, media coverage and public discourse during the campaign made little mention of the underrepresentation of women in public office. Even when political scientists address the barriers to female representation, their research focuses mostly on legislative or executive office. In fact, "only when Supreme Court vacancies open is there public dialogue on the feasibility of appointing women" (Tolchin 1977, 877). Although Tolchin wrote these words in the late 1970s, as recently as 2007 Ruth Bader Ginsberg expressed concern over being the sole female justice on the U.S. Supreme Court. The 1970s brought the first organized movement by feminist organizations to increase the number of women on the bench when groups such as the National Organization for Women and the

National Women’s Political Caucus lobbied President Jimmy Carter to appoint a woman to the U.S. Supreme Court—an opportunity he never received (Kenney 2004, 98; Resnik 1996). Building upon existing literature concerning barriers to the representation of women in political institutions, this article examines their representation as judges on the Pennsylvania Courts of Common Pleas.

### **The Underrepresentation of Women in Pennsylvania’s Judicial System**

The Unified Judicial System, created under Pennsylvania’s 1968 constitution, revised the state’s method of judicial recruitment by requiring state judges to run for office in municipal elections. Under Section 13b of the state charter, vacancies on the bench are filled by gubernatorial appointment, subject to the “advice and consent of two-thirds of the members elected to the Senate.” Once their appointed or elected terms have expired, judges may seek to renew their positions through retention elections. Retention elections require merely a “yes” or “no” vote from the electorate in a judicial district; no opposition candidates appear on the ballot.

In 2003, the Pennsylvania Supreme Court’s Commission on Racial and Gender Bias published its Justice System Report, which expressed concern over the denial of equal rights for women and racial minorities within the state’s justice system. Although the report addressed issues of justice and equality for individuals within the judicial system as victims and attorneys, it did not mention women’s participation, representation, or experiences as judges. As the Report concluded:

The committee has recommended that all court personnel throughout the commonwealth receive training in matters such as civility in the courtroom; cultural diversity and its effect upon treatment in the courtroom; what constitutes or can be perceived to constitute racial-, ethnic- and gender-biased language and conduct; the effect of bias on determinations of credibility and confidence; and the stereotypes and cultural impediments that inhibit minorities, persons of different ethnic backgrounds and women from having confidence in and using the state’s judicial system (Marks, Liebenberg, and Goodman 2004, 7).

In addition to discussing whether women and racial minorities believe they have equal access to Pennsylvania's judicial system and that it treats them fairly, the report asserted that existing behavior within the system "compromises the ability of minority and women attorneys to advocate effectively for their clients" (Marks, Liebenberg, and Goodman 2004, 6). It noted too that "disrespectful and biased conduct and attitudes have a serious negative impact on the administration of justice and the public's confidence in the justice system" (Marks, Liebenberg, and Goodman 2004, 6). The report made no recommendation for rectifying these problems, however, other than advocating sensitivity training. There was no suggestion that a more diverse Pennsylvania bench, one that includes representative numbers of women and persons of color, would improve the justice system for all citizens in the Commonwealth.

The existing literature on female judges does not extend to Pennsylvania, nor does the existing literature on Pennsylvania judges analyze women on the bench. The underrepresentation of female judges on the Courts of Common Pleas may reflect the underrepresentation of women in virtually every aspect of public life in Pennsylvania, which ranks forty-fourth among the states in women's representation in elected and appointed office (Pennsylvania Center for Women, Politics, and Public Policy 2008). Inadequate representation of women in public office adversely affects policymaking efforts to aid women in Pennsylvania. According to the Pennsylvania Center for Women, Politics, and Public Policy (2008), "studies have given the state average to failing grades in policy affecting women from working conditions and wages, to support for education and health for women."

### **The Literature on Female Judicial Representation**

Increasing the number of female judges in the Pennsylvania judiciary may translate into substantially less courtroom bias against female lawyers, female litigants, and female victims while increasing the legitimacy of the state's justice system in the eyes of its citizens. Previous studies of multiple levels of courts and multiple state courts have shown that female jurists make a difference in the application of justice. Female judges tend to be more supportive of women's rights issues, even when their political ideology is included as a control variable (Allen and Wall 1987; Cook 1981, 1988; Crowe 2000; Davis,

Haire, and Songer 1993; Kuerstein and Manning 2000; Martin 1990; Songer, Davis, and Haire 1994; but see also Segal 2000; Walker and Barrow 1985). Female judges are also more likely to believe that gender is pertinent in some instances, whereas male lawyers and judges “report that gender has little or no effect, in courtroom or in law firm, on process or on outcome” (Resnik 1996, 963). Female judges, regardless of their political ideology, are more likely than male judges to support women bringing sex discrimination claims (Moyer 2008; Segal Diascro 2008), and they are also more likely to hear such cases (Abrahamson 1993; Angel 1991; Bowman 1998–99; Palmer 2001a, 89; Schafran 1985). “Moreover, even a single woman justice may have a noticeable impact on case outcomes; the mere presence of a woman on the bench is one of the best predictors of decisions in favor of women filing sex-discrimination claims (Gyrski, Main, and Dixon 1986; O’Connor and Segal 1990)” (Palmer 2001b, 237).

Nevertheless, there is scant support for the claim that increasing the number of female judges would transform the justice system from an adversarial, zero-sum game into a cooperative paradise characterized by a “feminine style” of leadership inherently able to resolve conflict and mediate differences (Behuniak-Long 1992, 427). Scholars have found little connection between the presence of female judges on a court and a Carol Gilligan-like “difference jurisprudence” (Davis 1992–93, 171; Finley 1989; Gilligan 1982; Karst 1984; Menkel-Meadow 1985; Palmer 2001b, 237; Sherry 1986).

Two recent studies, however, found noticeable gender differences between male and female judges. Segal Diascro (2008, 8) concluded that when women are plaintiffs in employment discrimination cases in federal district courts, “gender *does* account for differences in judicial rulings.” Segal Diascro’s findings suggest that empathy may play an integral role in such cases. “Female judges vote in support of female plaintiffs more often than [do] their male colleagues because they feel and understand the plight of *these* women in *these* cases” (Segal Diascro 2008, 8). Moyer (2008, 27) applied the “difference jurisprudence” theory to civil rights cases in the U.S. Courts of Appeals and found that female judges are more likely to exhibit their differences when other female judges are present on the panel. “As the proportion of possible mixed panels increases in a circuit, so does the propensity of female judges to support the position of civil rights plaintiffs” (Moyer 2008, 27).

In contrast to research showing the positive effects of female judges, some literature underscores the need for gender balance in the judiciary as a means of combating sexism and sex-based stereotypes. “One study that focused exclusively on evaluations of women judges found that male lawyers perceived women judges as inferior to male judges on every measure used (Sterling 1993)” (Resnik 1996, 971). Women also report bias in judicial selection. For instance, one female lawyer being interviewed by a male legislator for a judicial position in Virginia insisted that he apologize for using “the term ‘femi-Nazi’ during the interview, for asking her about her opinion on abortion and for allegedly implying she should contribute to Republicans” (Minium 2007). Not surprisingly, female lawyers and judges have consistently used the term “old-boys’ network” in characterizing both the state and federal courts (Burleigh 1990; Kenney 2004, 99).

### **The Problem of Majority-Male Judicial Systems**

Male domination of judicial systems not only excludes “women’s perspectives” (Kenney 2004, 100–101), but it also lends credence to the argument that the “old boys’ network” is “to blame for women’s underrepresentation at all levels of the legal profession. The small number of women judges . . . undermines public confidence in the judiciary” (Kenney 2004, 99). Judicial rulings would be deemed more legitimate if the bench reflected the demographic structure of society. The inclusion of historically unrepresented groups within the judicial system fosters descriptive representation and thus the public belief that law and justice are fair, democratic, and unbiased. As the state of Georgia has noted regarding gender bias in its own judicial system:

Determining whether and how gender bias affects the selection of judges is fundamental to the evaluation of gender bias in the judicial system. Public belief that the judiciary is unbiased is essential to the effective and orderly functioning of the court system and to the authority the judiciary exercises over society. Ultimately, the public perception of fairness is critical if the judicial system is to function at all (Commission on Gender Bias in the Judicial System 1992, 7).

The idea that justice is blind and that the personal characteristics and experiences of individual judges have no effect on rulings, judgments, or

viewpoints is untenable. In order for the justice system and the judiciary to be perceived by citizens as impartial, fair, and unbiased, judicial selection systems must contain no gender discrimination, either covert or overt. To assess whether women have equal opportunity to achieve a position on Pennsylvania's Courts of Common Pleas, it is useful to see what other states, municipalities, and nations have concluded about their own systems. The state of Georgia noted in a Task Force Report that, "A judiciary equally open to women and men is essential in achieving justice for the community. It is crucial to remove obstacles to equal opportunity for women attorneys to ascend to the bench" (Commission on Gender Bias in the Judicial System 1992, 768). As the report concluded:

Discrimination on the basis of sex (although perhaps unintentional) is pervasive in the judicial appointment and election processes in Georgia. Some women lawyers have been denied equal opportunity to judicial appointments by a system which results in token appointments. Some male lawyers have been antagonistic to the efforts of women candidates to be elevated to the bench (Commission on Gender Bias in the Judicial System 1992, 769).

Research on female judges in the District of Columbia found that stereotypes and assumptions based on gender and other distinguishing characteristics affect courtroom interactions.

For example, when asked if a federal judge had questioned their status as lawyers or assumed that they were not lawyers, 1% of the white male lawyers responding to a survey of the federal courts within the District of Columbia responded affirmatively, whereas about 10% of the white female lawyers and the male lawyers of color said that they had that experience. In contrast, about a third of the women lawyers of color reported that a judge had questioned their status as lawyers (Resnik 1996, 957).

Similarly, a study by the Office of Court Administration and the State Bar of Texas (1998) revealed that male and female attorneys perceive gender bias from the bench very differently. Only 14% of women attorneys believed courts treat males and females the same compared with 44% of male attorneys. Moreover, 30% of judges and almost half of court staff thought women were underrepresented as judges in Texas. The Georgia study likewise noted that "considering the number of qualified women eligible for judicial appointment, the number

of women who have ascended to the bench (by appointment or by election) demonstrates serious underinclusion—a phenomenon which may result from gender bias” (Commission on Gender Bias in the Judicial System 1992, 768).

Abroad, women’s groups in Great Britain have fought for equal representation in European courts (Kenney 2002). The British women’s movement has demanded more female judges in the judiciary (Frey 2003; Jenness 1995; Kenney 2004, 89; McCann 1994; Spees 2003), and it has argued in court for “a gender-representative bench, applying international treaties mandating gender balance in decision making and equality for women to the composition of the judiciary and challenging the legitimacy of decisions on gender sensitive issues made by an all male panel” (Kenney 2004, 90). Although these efforts were ultimately unsuccessful in court, a dialogue emerged concerning the underrepresentation of women in every aspect of British government.

### **Why Women are Underrepresented**

Incumbency is one explanation for the paucity of women on the bench. In many states, including Pennsylvania and Georgia, judges are not term-limited but may be reelected in a merit retention election. “This provision was designed to remove judges from the pressures of the political arena once they begin their first terms of office” (Pennsylvania’s Unified Judicial System 2008). The benefits of incumbency for sitting judges, most of whom are men, exacerbate the problems women have ascending to the state bench by diminishing their opportunities to campaign for or be appointed to a judicial post.

Another reason for the underinclusion of women on the bench is tokenism. The focus of most research concerning female judges has been on their status as tokens (Kanter 1977; Palmer 2001b, 235; Yoder 1991). The presence of one female judge on state supreme courts significantly lowers the possibility of another woman being elected or selected to fill subsequent vacancies, especially in states that use the appointment method of judicial selection (Bratton and Spill 2000; Palmer 2001a, 94). “For those who are responsible for appointing state judiciaries, the problem of gender diversification is evidently ‘solved’ by the addition of a single woman (Bratton and Spill 2000, 16)” (Palmer 2001a, 94). This effect has been shown to occur on the federal courts as well. President

Clinton “faced increasing resistance to his judicial appointees” (Goldman and Slotnick 1997; Hartley and Holmes 1997; Palmer 2001a, 94). Separate studies by the Citizens for Independent Courts and *The USA Today* found that the Senate took an average of five months to act on Clinton’s male nominees for the federal bench but an average of eight months to act on his female nominees for the same types of positions (Biskupic 2000). To Palmer (2001a), “this suggests that numerical gains by women in the judiciary are not linear or constant. They can actually create a certain amount of backlash” (94). Like incumbency, tokenism as a barrier to women’s representation exists on all levels and throughout all branches of government in the United States.

A third possible cause of the underrepresentation of women in public office is that there are fewer women than men in the “pipeline” or “eligibility pool” from which candidates are chosen for higher office, regardless of whether those doing the choosing are political elites or average voters. As one scholar explains:

In the American electoral arena, there is a hierarchy of political officials. In other words, the typical career path for politicians is law school, private practice, then serving in local and state offices, and then running for Congress. Thus, once women begin attending law school and serving in these lower-level political offices in greater numbers, only then will we see serious increases in the number of women serving in the House and eventually the Senate. . . . A similar explanation has been offered for the dearth of women in the judiciary, known as the “eligibility pool” theory (Cook 1988; Martin 1997) (Palmer 2001b, 235).

The underrepresentation of women in the judiciary has similarly been attributed to the absence of qualified female candidates from which to choose (Alozie 1990; Githens 1995, 1). “The eligible pool theory claims that given the number of qualified female applicants available, there are just too few women to alter the existing gender pattern of judicial appointment” (Githens 1995, 4). Yet, this theory does not completely explain the dearth of female judges (Cook 1981; Martin 1997; Palmer 2001b, 237).

The state of Georgia concluded that the judicial selection process “unintentionally applies different standards and criteria for male and female candidates, e.g., according less weight to traditionally ‘female’ areas of practice with more weight accorded to fields viewed as



predominantly ‘male’” (Commission on Gender Bias in the Judicial System 1992, 770). For appointments to the federal courts, the American Bar Association tends to give higher ratings to attorneys who are older, wealthy, and experienced in the corporate sector, characteristics traditionally associated more with male than female attorneys (Allen 1985; Githens 1995, 6). Such stereotypes about the characteristics and experiences of qualified attorneys disadvantage women since they are more likely to practice law in the public sector. “It is perceived that female candidates for judicial appointments are subject to stereotyped expectations about appropriate experiences, stature, and demeanor which devalue their abilities and background. Inquiries about how candidates handle marital circumstances and children occur with women and not with men” (Commission on Gender Bias in the Judicial System 1992, 770).

In some circumstances, however, these stereotypes and gender differences in law practice may increase the number of female judges. A study of Baltimore judges found that even though “women were attending law schools in greater and greater numbers, life after law school was not particularly promising for them” (Githens 1995, 21). Facing difficulty in being recruited by prominent law firms at which they might eventually win a prestigious partnership, these female lawyers turned to the public sector instead. “Perhaps this accounts for the fact that so many well-qualified women sought appointments to the bench. Similarly, African-Americans had reduced choices in the private sector. Might it not be that for women and African-Americans an appointment to a judgeship represented high status and prestige, whereas for white men prestige meant a partnership?” (Githens 1995, 21). While this may have been the case in Baltimore, the fact remains that female attorneys face greater obstacles in obtaining a seat on the bench. Regardless of whether these obstacles are due to voter stereotypes or to gubernatorial selection, “either the decision makers are discriminating or the criteria are unfair” (Kenney 2004, 90–91).

## **Data and Results**

One of the initial goals of this article was to discover whether female judges on the Pennsylvania Courts of Common Pleas were more likely to achieve their position through election or gubernatorial appointment.

Although evidence shows that gubernatorial appointment systems are more likely to diversify the bench with regard to gender, “this effect operates primarily to diversify all-male courts” (Bratton and Spill 2002, 504). Data compiled for this article included all judges who served at least one day on the bench in the Pennsylvania Courts of Common Pleas between 1995 and 2006. The list of 609 Courts of Common Pleas judges was derived from the 1995–2006 Annual Reports of the Pennsylvania Unified Judicial System. The *Pennsylvania Manual* (1995-2005) provided the biography of each judge, which included whether the judge was appointed by the governor or elected by the voters. Any missing data were sought on the Internet. Fewer than 10 judges were deleted from the data set due to a complete lack of information regarding their method of attaining office.

While most judges on the Courts of Common Pleas are initially elected to the bench by voters, 36% of those serving between 1995 and 2006 obtained their post through gubernatorial appointment. As Table 1 shows, of the 609 Common Pleas judges serving on the bench between 1995 and 2006, 387 had been elected by the voters and 222 had been appointed by the governor prior to a retention election. While voters as well as governors overwhelmingly selected men for the Courts of Common Pleas, there is no significant difference in the percentage of female judges who are elected and appointed.

<b>Table 1</b>					
<b>All Judges Serving on the Pennsylvania Courts of Common Pleas, 1995-2006 (609)</b>					
<b>Elected (387)</b>			<b>Appointed (222)</b>		
Male	305	79%	Male	183	82%
Female	82	21%	Female	39	18%

It might be assumed that more women would win a seat on the Courts of Common Pleas through gubernatorial appointment than through popular election, especially under Democratic governors. The literature supports this assumption. “The conventional wisdom is that women generally fare better in the appointment than the election

process” (Commission on Gender Bias in the Judicial System 1992, 769; also see Fund for Modern Courts 1985). Nevertheless, more women—and a higher percentage of women—achieve their position on the Courts of Common Pleas through election than through gubernatorial appointment. The state of Georgia similarly found that “more women judges in the State and superior courts in Georgia first took office by election, than by appointment” (Commission on Gender Bias in the Judicial System 1992; also see Alozie 1990).

Table 2, which limits the sample to judges elected or appointed since 1995, reveals a pattern relevant to the “pipeline” and “eligibility pool” theories. While female judges in the entire sample were slightly more likely to be elected by the voters than appointed by the governor, those joining the Courts of Common Pleas since 1995 were 6% more likely to have attained their position through gubernatorial appointment than through popular election. These results highlight differences in judges appointed before and after 1995 for which there may be a variety of explanations. The disparity here may suggest voter bias in electing women to the judiciary. A more likely explanation, however, is found in the literature concerning female legislative candidates: women are less likely than men to run for political office. The women most qualified for the bench may have a greater tendency to wait for a gubernatorial appointment than to engage in the adversarial battle of campaign politics. Table 2 also indicates a higher percentage of women joining the bench since 1995. Although women are not becoming judges on the Courts of Common Pleas in proportion to their share of the general population, the data in Table 2 offer some support for the “pipeline” and “eligibility pool” theories. More women are attaining positions in the Pennsylvania judiciary in recent years than was the case previously.

<b>Table 2</b>					
<b>Judges Elected or Appointed to the Pennsylvania Courts of Common Pleas, 1995-2006 (254)</b>					
<b>Elected (186)</b>			<b>Appointed (68)</b>		
Male	140	75%	Male	41	69%
Female	46	25%	Female	21	31%

Although gubernatorial appointment is not an effective method for increasing the number of female judges on Pennsylvania’s Courts of Common Pleas, the political party affiliation of the governor might be thought to affect the number of female judges appointed. The literature supports the hypothesis that Democratic governors may be more likely to appoint women to government positions since “the Democratic Party does enjoy greater support among women and is perceived as being more supportive of women’s issues” (Solowiej, Martinek, and Brunell 2005, 561). As Table 3 shows, however, the party affiliation of the governor has no significant effect on whether a man or a woman is chosen to fill a vacancy on the Courts of Common Pleas. Of the judges serving on the Courts of Common Pleas between 1995 and 2006, 88 were appointed by Republican governors. About 83% of those appointments went to men, while about 17% went to women. The results for Democratic gubernatorial appointments are strikingly identical. Of the 128 judges appointed to the Courts of Common Pleas by Democratic governors, 83% were men and 17% were women. Consequently, there is little evidence that the governor’s party affiliation has any impact on increasing the number of female judges on the Courts of Common Pleas in Pennsylvania.

<b>Table 3</b>					
<b>All Judges Serving on the Pennsylvania Courts of Common Pleas, 1995-2006 (208)</b>					
<b>Appointed by a Democratic Governor (122)</b>			<b>Appointed by a Republican Governor (86)</b>		
Male	101	83%	Male	71	83%
Female	21	17%	Female	15	17%

On the other hand, the data for judges appointed since 1995 show more striking differences. As Table 4 indicates, while Republican governors had the opportunity to appoint almost twice as many judges to the Courts of Common Pleas as did Democratic governors, they appointed 6% fewer female judges. Table 4 also shows that not only are Democratic governors more likely to select women for vacancies on the

Courts of Common Pleas, but since 1995 women in general have been more likely than men to be appointed to the bench. Once again the data support the idea that more women have become judges on the Courts of Common Pleas in recent years because more women have been in the “pipeline” or “eligibility pool” since 1995 than before.

<b>Table 4</b>					
<b>All Judges Serving on the Pennsylvania Courts of Common Pleas, 1995-2006 (68)</b>					
<b>Appointed by a Democratic Governor (23)</b>			<b>Appointed by a Republican Governor (86)</b>		
Male	15	65%	Male	32	71%
Female	8	35%	Female	13	29%

Still, the relatively low number of female judges shows that women are woefully underrepresented as judges in Pennsylvania considering their share of the state’s population. Women account for more than half of Pennsylvania’s citizenry but less than a third of its judges on the Courts of Common Pleas. This gender disparity does little to improve the condition of women in Pennsylvania, and it contributes substantially to the Commonwealth’s forty-fourth place ranking among the states in terms of women’s representation in elected and appointed office.

Women are also underrepresented as judges on the Courts of Common Pleas relative to their share of the organized bar. In 2006, women comprised 28% of the Pennsylvania Bar Association, 31% of lawyers in private firms, 35% of lawyers in district attorneys’ offices, and 35% of lawyers in public defenders’ offices (Pennsylvania Bar Association Commission on Women in the Profession 2006). In the same year, there were no women on the Courts of Common Pleas in 36 of Pennsylvania’s 67 counties. Excluding Philadelphia, which has 43 female Court of Common Pleas judges, or 46% of all Philadelphia judges, women comprise 13% of the Court of Common Pleas judges in the remaining 66 counties (Pennsylvania Bar Association Commission on Women in the Profession 2006).

There is a large disparity in many Pennsylvania counties between the percentage of female judges and the percentage of female American Bar Association (ABA) members. The raw numbers of male and female judges in each Pennsylvania county between 2002 and 2006 are displayed in the Appendix (pp. 30-31). The variance in the number of male and female judges becomes even more striking when the percentage of female judges in each county is compared with the percentage therein of female ABA members.

Only five Pennsylvania counties had a higher percentage of female judges than female ABA members for the entire five-year period (Chester, Monroe, Philadelphia, Union, and Washington). Ten additional counties exhibit at least one year with a higher percentage of female judges than female ABA members (Bucks in 2002; Erie in 2002, 2003, and 2004; Forest in 2006; Indiana in 2004, 2005, and 2006; Juniata in 2005 and 2006; Lycoming in 2003, 2004, and 2005; Perry in 2005 and 2006; Snyder in 2005 and 2006; Susquehanna in 2002, 2003, and 2004; and Warren in 2006). Two Pennsylvania counties (Cameron for the entire five-year period and Forest in 2002 and 2004) stand out for having no female ABA members. This anomaly is due largely to the small population of these counties and their scarcity of attorneys, whether male or female.

Aggregate results for the studied time period show little variance from 2002 to 2006. The five-year average of the number of male judges per county in Pennsylvania is five, whereas the average is 1.35 for female judges. During the five-year period, female judges accounted for only 10.6% of all judges on the Courts of Common Pleas. The average number of female ABA members in all Pennsylvania counties was 21.6, which results in an 11-point disparity between the percentage of female judges and the percentage of female ABA members in the state from 2002 to 2006. These figures do not change significantly when Philadelphia County, which has the largest number of female judges, is excluded from the calculations.

## Conclusions

Women in Pennsylvania are substantially underrepresented on the state's Courts of Common Pleas. A large disparity exists between the number of male and female judges on these courts even when the smaller

“eligibility pool” of women and their narrower “professional pipeline” are taken into consideration. The striking difference between the number of women in the Pennsylvania Bar Association and the number of female judges on the Courts of Common Pleas indicates that women have not achieved parity on the state bench and that the “eligibility pool” and “professional pipeline” explanations are not necessarily determinative. The underrepresentation of women as judges on the Courts of Common Pleas is consistent with their underrepresentation in public office generally in Pennsylvania. This gender disparity may also reflect differences in how men and women pursuing legal careers define and weigh their personal and professional values.

Although women are significantly disadvantaged in obtaining seats on the state’s Courts of Common Pleas, whether through gubernatorial appointment or by popular election, this study finds that little gender bias is attributable to either of these methods of selecting judges. Be that as it may, the fact remains that women are not represented as judges on the Courts of Common Pleas in numbers commensurate with their share of the legal profession, much less their portion of the state population as a whole. Therefore, while Alozie (1996, 124) was right to argue that changing judicial selection systems is not the answer to improving the representation of women on state supreme courts, greater awareness on the part of the electorate and the governor of the underrepresentation of women serving as judges Pennsylvania’s Courts of Common Pleas may aid in rectifying the problem. The findings presented here are intended to contribute to that awareness.

## Notes

<sup>1</sup> Special thanks to Alex McNeill for her tireless ability to obtain data believed to be impossible to locate. An earlier version of this paper was presented in 2008 at the annual meeting of the Pennsylvania Political Science Association Conference in Harrisburg, Pennsylvania.

Appendix

Numbers and Percentages of Male and Female Judges on the Pennsylvania Courts of Common Pleas, Percentages of Female ABA Members, and Percent Difference Between Female Judges and Female ABA Members in Pennsylvania Counties, 2002–2006

County	2002				2003				2004				2005				2006								
	Male Judges	Female Judges	% Female Judges	% Female ABA Members	Percent Difference	Male Judges	Female Judges	% Female Judges	% Female ABA Members	Percent Difference	Male Judges	Female Judges	% Female Judges	% Female ABA Members	Percent Difference	Male Judges	Female Judges	% Female Judges	% Female ABA Members	Percent Difference					
Adams	3	0	0	29	-29	3	0	0	25	-25	3	0	0	28	-28	3	0	0	31	-31	3	0	0	33	-33
Allegheny	32	8	20	27	-7	32	8	20	29	-9	29	10	26	28	-2	29	10	26	29	-3	29	11	28	29	-1
Armstrong	2	0	0	14	-14	2	0	0	18	-18	2	0	0	23	-23	2	0	0	27	-27	2	0	0	21	-21
Beaver	6	0	0	18	-18	6	0	0	18	-18	5	0	0	20	-20	6	0	0	20	-20	6	0	0	21	-21
Bedford	2	0	0	13	-13	2	0	0	12	-12	2	0	0	12	-12	2	0	0	18	-18	2	0	0	32	-32
Berks	10	2	17	22	-5	10	2	17	22	-5	10	2	17	21	-4	10	2	17	23	-6	11	2	15	33	-18
Blair	3	1	25	26	-1	3	1	25	24	1	3	2	40	25	15	2	2	50	26	24	3	2	40	26	14
Bradford	2	0	0	20	-20	2	0	0	20	-20	2	0	0	20	-20	2	0	0	18	-18	2	0	0	26	-26
Bucks	7	3	30	26	4	8	2	20	25	-5	12	2	14	26	-12	12	2	14	26	-12	11	2	15	28	-13
Butler	4	1	20	28	-8	4	1	20	28	-8	4	1	20	29	-9	4	1	20	28	-8	5	1	17	26	-9
Cambria	5	0	0	16	-16	5	0	0	16	-16	5	0	0	18	-18	5	0	0	19	-19	5	0	0	17	-17
Cameron	1	0	0	0	0	1	0	0	0	0	1	0	0	0	0	1	0	0	0	0	1	0	0	0	0
Carbon	2	0	0	28	-28	2	0	0	23	-23	2	0	0	22	-22	1	0	0	23	-23	2	0	0	21	-21
Centre	3	0	0	28	-28	3	0	0	26	-26	3	0	0	27	-27	3	0	0	31	-31	4	0	0	32	-32
Chester	7	4	36	27	9	7	4	36	27	9	9	4	31	27	4	9	4	31	29	-2	9	4	31	27	4
Clarton	1	0	0	9	-9	1	0	0	18	-18	1	0	0	21	-21	1	0	0	20	-20	1	0	0	18	-18
Clearfield	2	0	0	19	-19	2	0	0	18	-18	2	0	0	21	-21	2	0	0	21	-21	2	0	0	20	-20
Clinton	2	0	0	3	-3	2	0	0	3	-3	2	0	0	6	-6	2	0	0	11	-11	2	0	0	8	-8
Columbia	2	0	0	18	-18	2	0	0	24	-24	2	0	0	21	-21	2	0	0	20	-20	2	0	0	23	-23
Crawford	3	0	0	21	-21	3	0	0	24	-24	3	0	0	27	-27	3	0	0	24	-24	3	0	0	26	-26
Cumberland	5	0	0	25	-25	5	0	0	28	-28	5	0	0	29	-29	5	0	0	27	-27	5	0	0	29	-29
Dauphin	7	1	13	30	-17	7	1	12	32	-20	7	1	13	31	-18	7	1	13	32	-19	7	1	13	33	-20
Delaware	14	4	22	26	-4	13	4	24	27	-3	15	4	21	28	-7	15	4	21	29	-8	15	4	21	30	-9
Elk	1	0	0	14	-14	0	0	0	18	-18	1	0	0	19	-19	1	0	0	14	-14	1	0	0	14	-14
Erie	6	2	25	17	8	7	2	22	18	4	7	2	22	19	3	9	2	18	19	-1	9	2	18	20	-2
Fayette	5	0	0	23	-23	6	0	0	27	-27	5	0	0	28	-28	5	0	0	29	-29	5	0	0	27	-27
Forest	2	0	0	0	0	2	0	0	50	-50	2	0	0	2	0	2	0	0	50	-50	1	1	50	25	25
Franklin	3	1	25	28	-3	3	1	25	29	-4	3	1	25	25	0	3	1	25	26	-1	3	1	25	29	-4
Fulton	3	1	25	22	3	3	1	25	25	0	3	1	25	25	0	3	1	25	25	0	3	1	25	40	-15



## Appendix, Continued

Greene	2	0	0	24	-24	2	0	0	21	-21	2	0	0	29	-29	2	0	0	31	-31	2	0	0	28	-28
Huntingdon	1	0	0	12	-12	1	0	0	10	-10	1	0	0	11	-11	1	0	0	4	-4	1	0	0	7	-7
Indiana	2	0	0	20	-20	2	0	0	21	-21	2	1	33	22	12	2	1	33	21	12	2	1	33	22	11
Jefferson	1	0	0	10	-10	1	0	0	14	-14	1	0	0	13	-13	1	0	0	19	-19	1	0	0	19	-19
Juniata	2	0	0	8	-8	2	0	0	7	-7	2	0	0	13	-13	1	1	50	17	33	1	1	50	17	33
Lackawanna	6	1	14	18	-4	6	1	14	19	-5	6	1	14	20	-6	6	1	14	20	-6	7	1	13	21	-8
Lancaster	11	1	8	23	-15	11	1	8	26	-18	12	1	8	25	-17	12	1	8	25	-17	12	1	8	26	-18
Lawrence	3	0	0	17	-17	4	0	0	13	-13	4	0	0	15	-15	3	0	0	16	-16	4	0	0	17	-17
Lebanon	4	0	0	23	-23	4	0	0	26	-26	4	0	0	24	-24	4	0	0	26	-26	4	0	0	26	-26
Lehigh	8	1	11	23	-12	8	1	11	25	-14	8	1	11	25	-14	8	2	20	26	-6	7	2	22	25	-3
Luzerne	8	1	11	18	-7	8	1	11	18	-7	8	1	11	17	-6	8	1	11	18	-7	8	1	11	18	-7
Lycoming	4	1	20	20	0	4	1	20	18	2	4	1	20	18	2	4	1	20	17	3	4	1	20	20	0
McKean	1	0	0	6	-6	1	0	0	6	-6	2	0	0	11	-11	2	0	0	16	-16	2	0	0	14	-14
Mercer	3	0	0	15	-15	3	0	0	16	-16	4	0	0	16	-16	4	0	0	16	-16	4	0	0	17	-17
Mifflin	1	0	0	14	-14	1	0	0	14	-14	1	0	0	14	-14	1	0	0	15	-15	2	0	0	14	-14
Monroe	3	2	40	18	22	3	2	40	19	21	3	2	40	18	22	3	2	40	20	20	4	2	33	18	15
Montgomery	18	2	10	27	-17	17	2	11	27	-16	19	2	10	27	-17	19	2	10	28	-18	19	2	10	28	-18
Montour	2	0	0	37	-37	2	0	0	26	-26	2	0	0	35	-35	2	0	0	35	-35	2	0	0	29	-29
Northampton	4	1	20	21	-1	5	1	17	20	-3	5	1	17	21	-4	7	1	13	20	-7	6	2	25	36	-11
Northumberland	3	0	0	9	-9	3	0	0	13	-13	3	0	0	12	-12	3	0	0	8	-8	3	0	0	9	-9
Perry	2	0	0	37	-37	2	0	0	36	-36	1	0	0	32	-32	1	1	50	25	25	1	1	50	32	18
Philadelphia	54	39	42	30	12	52	38	42	31	11	52	38	42	31	11	51	40	44	32	12	50	43	46	32	14
Pike	1	0	0	27	-27	1	0	0	21	-21	1	0	0	24	-24	1	0	0	32	-32	1	0	0	32	-32
Potter	1	0	0	20	-20	1	0	0	18	-18	1	0	0	6	-6	1	0	0	7	-7	1	0	0	18	-18
Schuylkill	5	1	17	23	-6	5	1	17	22	-5	5	1	17	21	-4	5	1	17	20	-3	5	1	17	23	-6
Snyder	3	0	0	23	-23	3	0	0	22	-22	3	0	0	26	-26	1	1	50	26	24	1	1	50	25	25
Somerset	1	0	0	20	-20	1	0	0	16	-16	1	0	0	17	-17	2	0	0	19	-19	3	0	0	21	-21
Sullivan	1	0	0	20	-20	1	0	0	20	-20	1	0	0	20	-20	1	0	0	17	-17	1	0	0	20	-20
Susquehanna	1	1	50	15	35	1	1	50	15	35	1	1	50	16	34	1	0	0	15	-15	1	0	0	16	-16
Tioga	1	0	0	11	-11	1	0	0	11	-11	1	0	0	9	-9	1	0	0	9	-9	1	0	0	15	-15
Union	1	1	50	24	26	1	1	50	25	25	1	1	50	21	29	1	1	50	21	29	1	1	50	24	26
Venango	2	0	0	14	-14	2	0	0	16	-16	2	0	0	15	-15	2	0	0	16	-16	2	0	0	15	-15
Warren	1	0	0	15	-15	2	0	0	12	-12	2	0	0	20	-20	2	0	0	26	-26	1	1	50	22	28
Washington	3	2	40	25	15	3	2	40	24	16	3	2	40	25	15	2	2	50	25	25	3	3	50	25	25
Wayne	1	0	0	19	-19	1	0	0	22	-22	1	0	0	26	-26	1	0	0	29	-29	1	0	0	26	-26
Westmoreland	9	2	18	22	-4	8	2	18	23	-3	9	2	18	23	-5	11	2	15	25	-10	9	2	18	24	-6
Wyoming	1	0	0	38	-38	1	0	0	38	-38	1	0	0	40	-40	1	0	0	41	-41	1	0	0	42	-42
York	9	2	18	21	-3	9	2	18	21	-3	10	2	17	22	-5	10	2	17	24	-7	11	3	21	24	-3

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