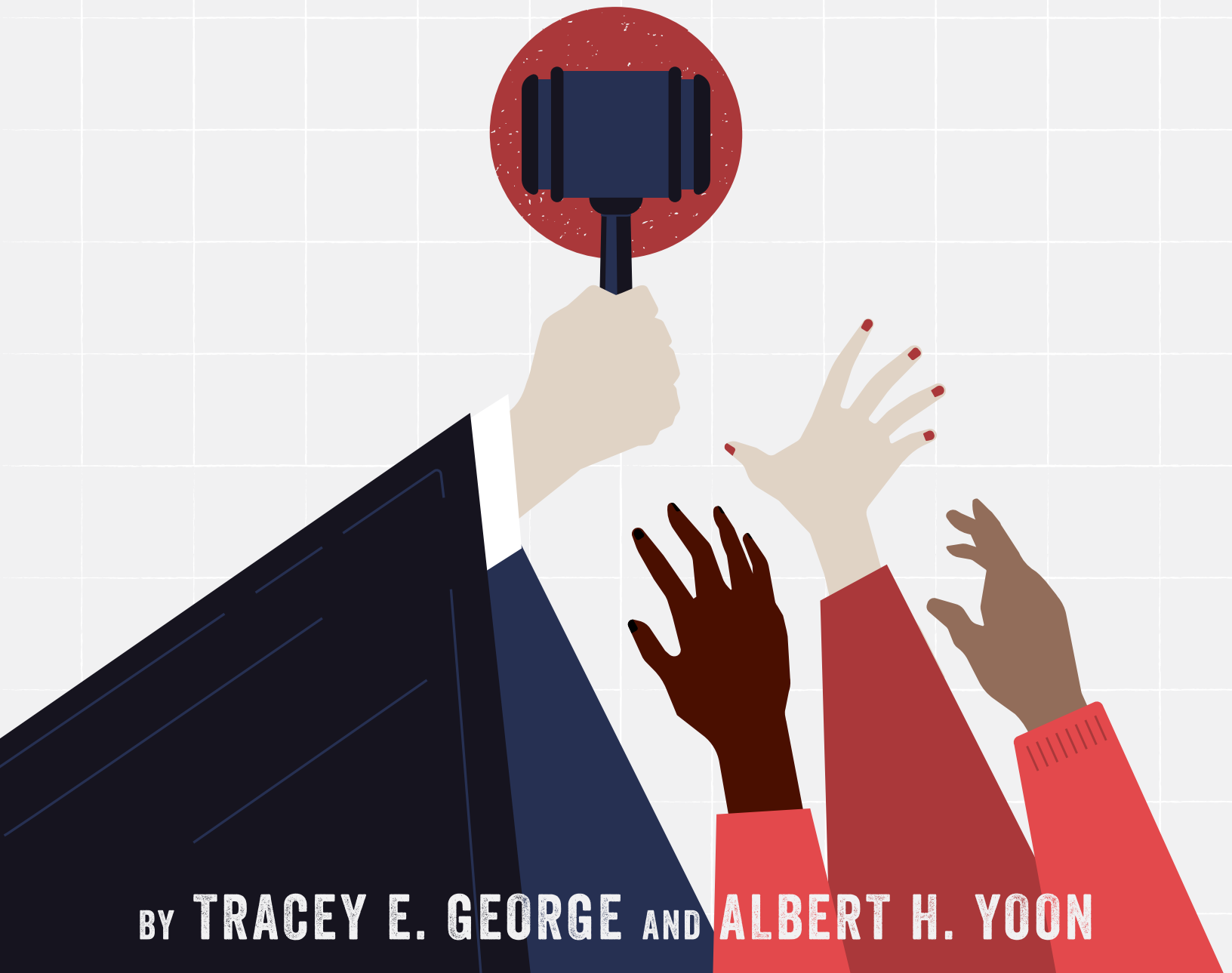


THE GAVEL GAP

WHO SITS IN JUDGMENT ON *STATE COURTS?*



BY TRACEY E. GEORGE AND ALBERT H. YOON

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“FOR MOST INDIVIDUALS AND ORGANIZATIONS, STATE COURTS ARE THE “LAW” FOR ALL EFFECTIVE PURPOSES.”

For most individuals and organizations, state courts are the “law” for all effective purposes. State courts are America’s courts. But, we know surprisingly little about who serves on state courts—i.e., state judges—despite their central and powerful role. This lack of information is especially significant because judges’ backgrounds have important implications for the work of courts. The characteristics of those who sit in judgment can affect the internal workings of courts as well as the external perception of courts and judges. The background of judges can influence how they make decisions and impact the public’s acceptance of those decisions. We need to know more about state judges.

In order to address this serious shortcoming in our understanding of America’s courts, we have constructed an unprecedented database of state judicial biographies. Our dataset—the State Bench Database—includes more than 10,000 current sitting judges on state courts of general jurisdiction. Although state judges are public servants, little is known about them. Unlike their counterparts on the federal courts, much of the information is non-public, and in many instances, not even collected in a systematic way.

Using the State Bench Database, we examine the gender, racial, and ethnic composition of state courts. We then compare the composition of state courts to the composition of the general population in each state. We find that courts are not representative of the people whom they serve—that is, a gap exists between the bench and the citizens. We call this gap the Gavel Gap.

This study’s principal findings are:

Women have entered law schools and the legal profession in large numbers for the last forty years, but are underrepresented on state courts. Women comprise roughly one-half of the U.S. population and one-half of American law students. But, less than one-third of state judges are women. In some states, women are underrepresented on the bench by a ratio of one woman on the bench for every four women in the state. Not a single state has as many women judges as it does men.

“ALTHOUGH STATE JUDGES ARE PUBLIC SERVANTS, LITTLE IS KNOWN ABOUT THEM.”

“WE FIND THAT COURTS ARE NOT REPRESENTATIVE OF THE PEOPLE WHOM THEY SERVE—THAT IS, A GAP EXISTS BETWEEN THE BENCH AND THE CITIZENS.”

People of color make up roughly four in ten people in the country but fewer than two in ten judges; and, in sixteen states, judges of color account for fewer than one in ten state judges.

The story of racial diversity in state courts is one of sharp contrasts. In the five states with the best representation, minorities are represented at roughly the same rate on state courts as they are in the general population (and in a few states, they are even better represented). But, in the five states with the worst representation, minorities appear to be nearly absent from the judiciary.

This study is based on the work of a team of independent researchers at Vanderbilt University and the University of Toronto. With support from the American Constitution Society, the researchers collected and coded biographical data on over 10,000 judges serving on state supreme courts, state intermediate appellate courts, and state general

jurisdiction trial courts. A complete explanation of this study’s methodology is below.

The findings from this study have several important implications. First, they should inform the current method of identifying and selecting judges. Second, they demonstrate that we need a better process for developing a pipeline of women and minorities to serve as judges.

Our courts must be representative in order to fulfill their purposes. Our laws are premised in part on the idea that our courts will be staffed by judges who can understand the circumstances of the communities which they serve. Our judicial system depends on the general public’s faith in its legitimacy. Both of these foundational principles require a bench that is representative of the people whom the courts serve.



“STATE COURTS HANDLE MORE THAN 90% OF THE JUDICIAL BUSINESS IN AMERICA.”

BACKGROUND

STATE COURTS AS AMERICA’S COURTS

The United States Supreme Court is undoubtedly the most visible and well-known court in America. Its decisions, including *Brown v. Board of Education*, *Roe v. Wade*, and *Obergefell v. Hodges*, have had a tremendous impact on the civil rights and liberties of all Americans. But the U.S. Supreme Court’s reach is limited. The Supreme Court decides fewer than 100 cases per year. Moreover, it addresses only questions of federal law. While we often hear a person say that she will take her case “all the way to the Supreme Court,” the reality is that the justices decide few cases and only a subset of legal issues. Accordingly, in nearly every case and for any legal issue, when we think of judges making these decisions in America, we are usually thinking of state judges.

Americans are primarily concerned with matters such as finances, family, health, and safety. State courts have

authority over these basic matters of daily life. If a tenant refuses to pay rent and her landlord threatens to evict her, a state court would hear the dispute. If divorced parents fight over the custody of a child, a state court will resolve the matter. If a car accident leaves a passenger badly injured, the victim will likely go to state court to seek recovery. If a suspect is arrested for assault, a state judge will hold the arraignment and eventually preside over the trial (or more likely take the plea bargain). The work of courts in America is the work of state courts.

What cases do state courts hear?

State courts handle more than 90% of the judicial business in America. According to the Court Statistics Project, a joint effort of the National Center for State Courts and the Conference of State Court Administrators, approximately 94 million cases were brought in American state trial courts in 2013.¹ In a single year, nearly one case was filed for every three people in the United States. Roughly one billion cases entered the state judicial system over the past decade.

“THE MOST SIGNIFICANT PART OF STATE COURT DOCKETS IS COMPRISED OF CRIMINAL PROSECUTIONS AND CIVIL ACTIONS.”

State courts are open to the full range of disputes that arise in this country. State judicial systems are courts of “general jurisdiction” which means they can hear questions of state and federal law. By contrast, federal courts are courts of “limited” jurisdiction which means that they can only hear subjects assigned to them by the U.S. Constitution or federal statute.

The single largest category of state court cases is traffic violations, making up more than half of the courts’ caseloads. Traffic violations are in many ways minor matters, requiring limited time and relatively few court resources. Nevertheless, they can have meaningful implications for individuals who face the possibility of fines and loss of their right to drive. Family law and juvenile matters, both of which have obvious and profound effects on those involved, make up the smallest part of state court dockets. Traffic, domestic, and juvenile cases are usually heard by specialized courts, which hear only those types of cases.

The most significant part of state court dockets is comprised of criminal prosecutions and civil actions. Together, civil and criminal cases account for nearly all non-traffic cases in state court. Civil and criminal litigation also are more likely to have effects beyond the parties to the case. Judicial decisions in civil and criminal cases interpret law, create precedent, and even make law. Civil lawsuits involve the distribution of resources and recognition of rights that can have both direct and indirect effects throughout the economy and society. Criminal prosecutions bring the power of the state to bear on individuals, acknowledge serious harms suffered by victims, punish wrongdoers, and deter future criminal behavior.

How do state courts handle their cases?

Each state judicial system is unique, yet certain patterns emerge. All states have a trial level and at least one appellate level. Trial courts include any court that handles cases when they are first filed. An appellate court reviews decisions of lower courts. Forty-five states have more than one type of trial court (a “divided” trial court structure): a trial court of general jurisdiction and one or more trial courts of limited jurisdiction. Specialized entry-level courts include family courts, juvenile courts, municipal courts, small claims courts, traffic courts, and other courts whose authority is similarly limited to a defined, narrow subject area. In those states, trial courts of general jurisdiction handle civil lawsuits (usually above a minimum-dollar amount threshold) and criminal prosecutions for felonies or other serious crimes. Five states use a single (or “unified”) trial court to handle all matters, although unified court systems may handle the work through divisional sittings, which hear particular types of claims.

State judicial systems handle review of lower courts in a number of ways. Two general features are common. First, every state has at least one appellate court of last resort—the final word on state law—which we will call a “supreme court” for ease of reference. Two states—Oklahoma and Texas—have two such courts, one for civil appeals and one for criminal appeals. Second, 42 states, like the federal courts, have an intermediate appellate court situated between general jurisdiction trial courts and the high court(s). An intermediate appellate court enables the state supreme court to hear fewer cases and to choose which cases to review.

Figure 1. Total Incoming Cases in State Courts, 2013

(Court Statistics Project, National Center for State Courts)

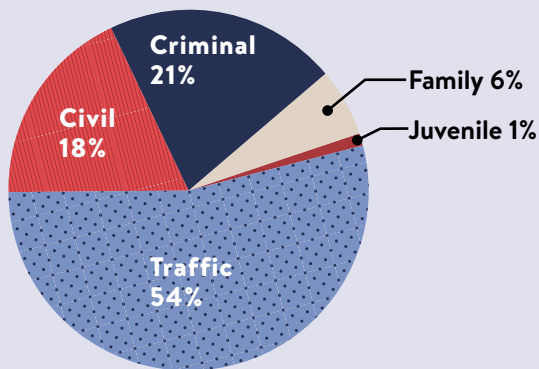
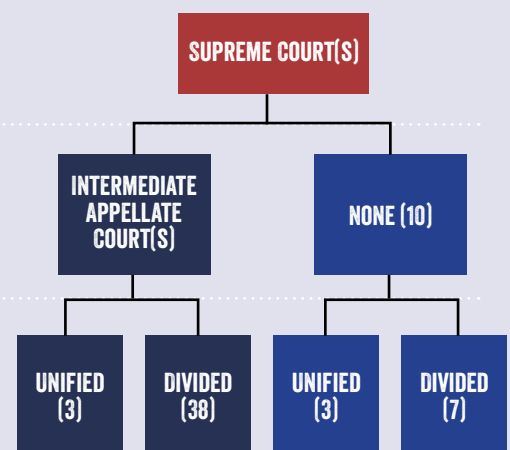


Figure 2. State Court Structures

Final judicial authority on state law

Hears most appeals from trial courts (may be specialized)

Trial courts (either single set or divided into general and specialized)



STATE JUDGES AS AMERICA'S JUDGES

State trial and appellate judges do the work of America's courts. Thus, it is important to understand the process by which states choose the people who will resolve disputes, enforce law, and make law on our behalf. Any process of selection will inevitably have an impact on who is selected. Each state has a distinct selection process for its judicial system. By focusing on the most salient features of those selection systems, however, the states can be grouped into helpful categories.

A state judge may first gain a seat through election (nonpartisan or partisan), appointment by an elected branch (governor and/or legislature), or recommendation by a merit commission. Most states (43) and the District of Columbia use the same method for selecting trial judges and appellate judges. All but two states use the same method for all

appellate judges. The majority of states use elections to staff their trial courts. By contrast, the majority of state appellate courts are filled using some type of appointment process, which can involve a merit commission controlling the slate of nominees or allow the appointing body (either or both elected branches) to select anyone whom they choose.

As reflected in the maps, the American heartland favors choosing judges through a merit process, while the North and the South generally favor election, either partisan or nonpartisan.² The Northeast and the West lack a clear pattern of selection. The key distinction between merit selection and election is citizen participation. The merit process usually requires that the governor, with or without consent of a legislature, pick from a panel of nominees. Election may require party nomination before a vote in a general election.

Figure 3. Selection Method By Court Level

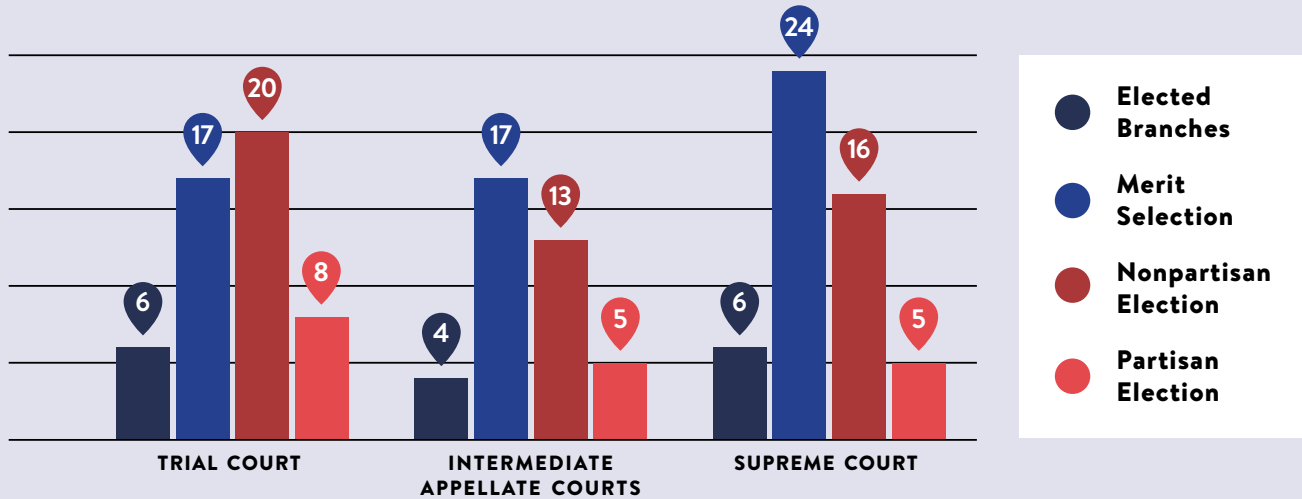


Figure 3. Selection Method By Court Level

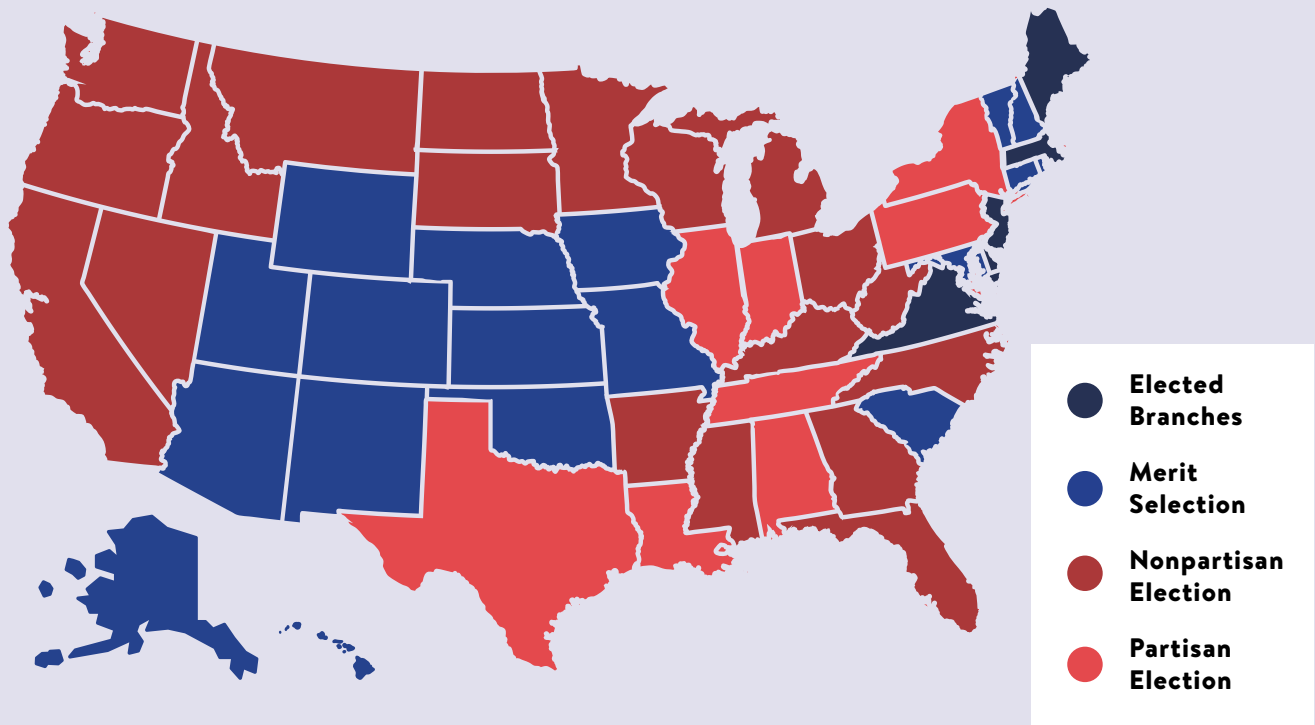
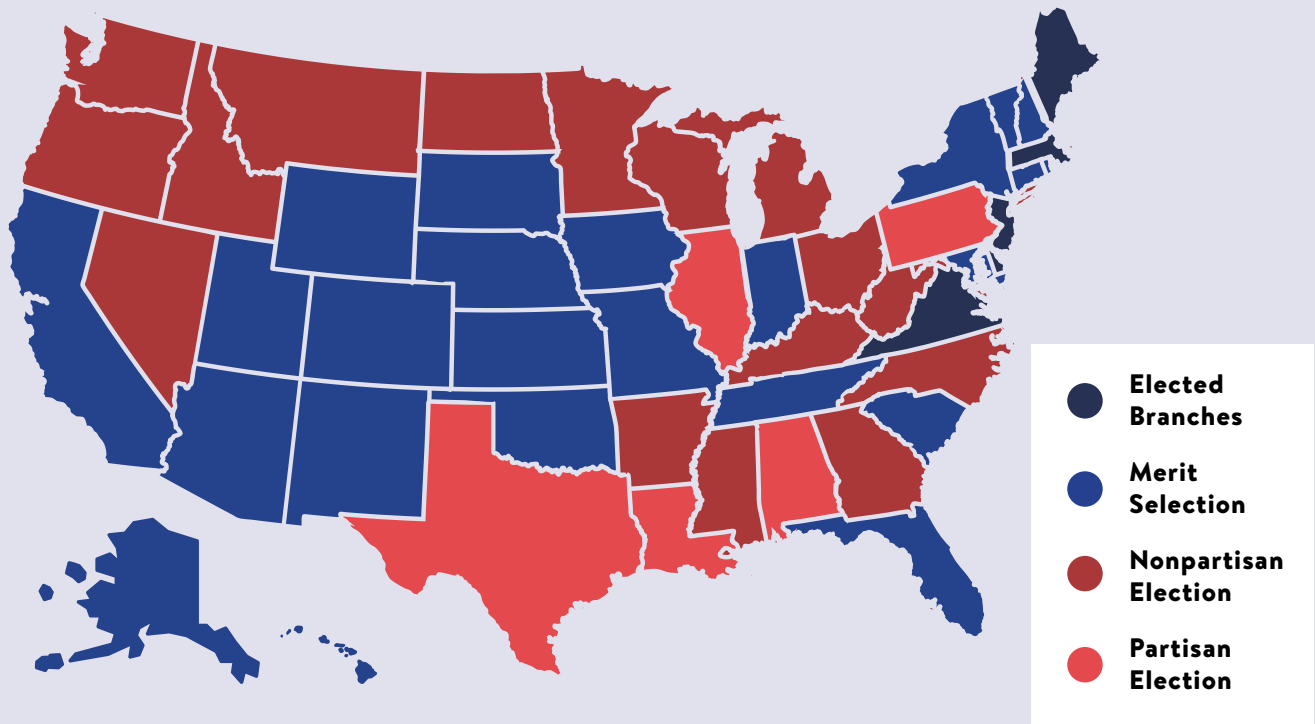


Figure 5. Method of Selecting State Appellate Court Judges





“MORE THAN HALF OF STATE TRIAL JUDGES AND STATE APPELLATE JUDGES ARE WHITE MEN ACCORDING TO THE STATE BENCH DATABASE FIGURES.”

RESULTS

State courts are America’s courts. State judges are powerful public officials. But, we know surprisingly little about the men and women who serve as state judges. Few states release detailed biographical information about their judges. Existing non-government sources generally rely on incomplete or unreliable information. We seek to remedy this shortcoming through the construction of the State Bench Database.

We collected biographical data for every judge sitting on a state appellate court or a state trial court of general jurisdiction as of December 2014. When constructing our dataset, we used only sources that had the hallmarks of credibility and reliability. The sources included state government webpages, press releases, and printed directories; professional association, practitioner, and university publications; academic journals; newspapers; judges’ official campaign websites; judicial directories; and confidential telephone interviews with judges and lawyers.

A note about our calculation on the numbers of women and minorities on the bench. First, our figures are estimates. We are not directly observing these characteristics of the judges but rather collecting it from secondary sources. Second, even after exhausting available sources, we are missing race and ethnicity data on roughly five percent of the judges. We were able to identify gender for nearly all of the judges in the database. Our estimates are based on available data. Third, the database includes only judges who were listed as serving on the court in December 2014. If a state experienced significant turnover in its composition of judges in the interim, our figures may contrast with the state’s current judicial composition.

More than half of state trial judges and state appellate judges are white men according to the State Bench Database figures. We compare our estimates to the U.S. Census Bureau estimates of the representation of all four groups in the U.S. population in 2014.³ Women of color are the most underrepresented group (only 40% of their relative numbers in the general population) while white men are overrepresented (nearly double their relative numbers).

Figure 6. Race & Gender on State Trial Courts

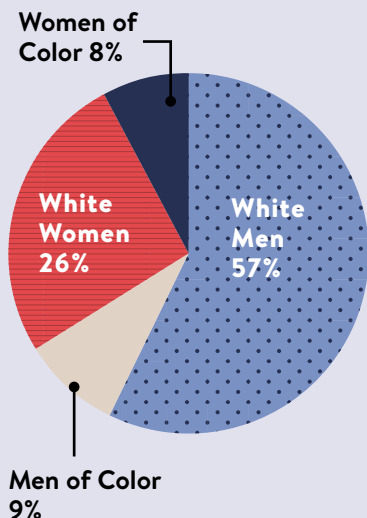


Figure 7. Race & Gender on State Appellate Courts

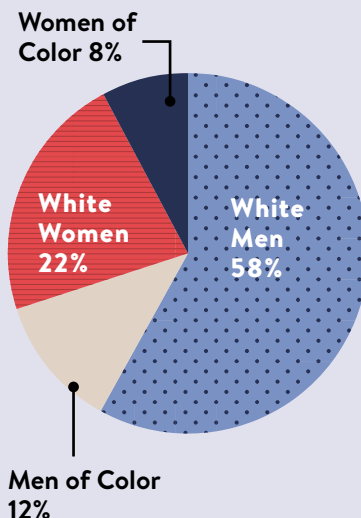
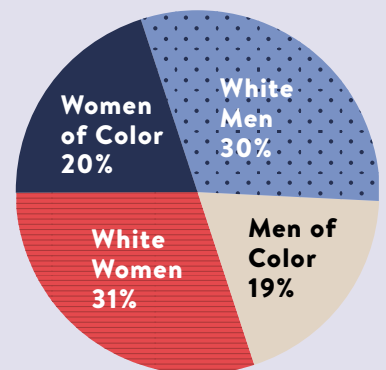


Figure 8. Race & Gender in the United States



REPRESENTATIVENESS OF STATE

JUDICIARIES

For every state, we calculated the gap between the representation of women or minorities on the bench and the representation of each group in the general population. A truly representative judiciary would have the same ratio of women and minorities on the bench as it does in the general population. The Gavel Gap is how much the state falls short of that forecast.

We calculate the Gavel Gap by dividing the difference between the proportion of women and/or minorities on the bench and women and/or minorities in the general population by the proportion of women and/or minorities in the general population. The formula for the Gender Gavel Gap is ((fraction of judges who are women – fraction of general population who are women) ÷ fraction of general population who are women). Thus, if half of a state’s judges were women and half of its general population were women, the state would have no

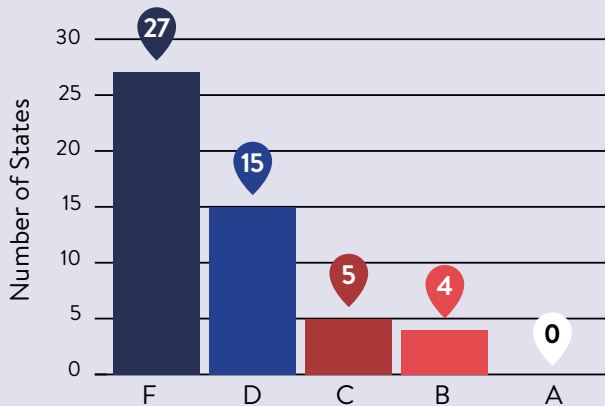
gap $((.50-.50)/.50=0)$. If ten percent of a state’s judges were women and half of its general population were women, the state would have a gap of $-.80 ((.10-.50)/.50=-.80)$. That is, the state has 80% fewer women on the bench than we would have predicted based on its general population. Stated differently, the state has only 20% of the number of women on the bench as we would expect.

The representativeness score is a positive presentation of where a state stands on achieving the proportion of women and/or minorities on the bench as it has in its general population. We rank each state based on the level of representation that it appears to have achieved based on the State Bench Database estimates.

We grade a state as follows:

- A if the state is close to parity (at least 90%),
- B for states that have achieved 80 to 89%,
- C for states that have achieved 70 to 79%,
- D for states that have achieved 60 to 69%, and
- F for states that are below 60%.

Figure 9. Gender Representativeness of State Courts



The very low gender representativeness scores demonstrate that the steady gender balance in law schools has yet to translate to equality on state courts. Women have been attending law school in large numbers for the past forty years. In 1985, the percentage of first year law students who were women crossed the 40% threshold and has been around 50% since 1996. Nevertheless, not a single state has women on the bench in the numbers commensurate with their representation in the general population. In most states, men are overrepresented by a factor of two to one. That is, for nearly half of the states, women comprise fewer than one-

“THE VERY LOW GENDER REPRESENTATIVENESS SCORES DEMONSTRATE THAT THE STEADY GENDER BALANCE IN LAW SCHOOLS HAS YET TO TRANSLATE TO EQUALITY ON STATE COURTS.”

half of the forecasted number of state judges. For example, Mississippi has a majority female population, but less than 18% of its state judges are women. Gender representativeness scores for individual states are reported in our Appendix. New England states generally exhibited higher proportional representation than elsewhere, although individual states in other regions – e.g., Nevada, where women comprise 50% of the general population and 41% of state judges, and Oregon, where women comprise 51% of the general population and 44% of state judges – ranked relatively high.

“NOT A SINGLE STATE HAS WOMEN ON THE BENCH IN THE NUMBERS COMMENSURATE WITH THEIR REPRESENTATION IN THE GENERAL POPULATION.”

The racial and ethnic representativeness of state courts data reveals a flatter distribution for ethnic representation on state courts. In a near majority of states (24), minority judges fell below 50% of proportional representation of the general population. Many of the states which fared poorly on the gender score also performed poorly on ethnic representation. For example, Oklahoma ranked 41st out of 51 on the gender score (with 50% female population but only 21% women judges), and 46th out of 51 on the race and ethnic minority representation score (with 33% minority population but only 8% minority judges).

The general representativeness of state courts is reflected in an overall Gavel Gap index which considers the representation of both women and minorities on state courts. Two small jurisdictions—Hawaii (ranked 1st) and the District of Columbia (2nd)—lead the group. Twenty-six states earn failing scores.



“IN A NEAR MAJORITY OF STATES (24), MINORITY JUDGES FELL BELOW 50% OF PROPORTIONAL REPRESENTATION OF THE GENERAL POPULATION.”

Figure 10. Racial and Ethnic Representativeness of State Courts

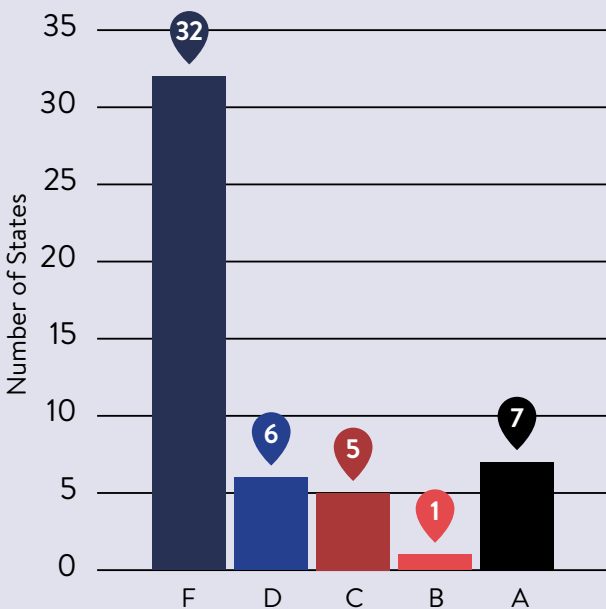
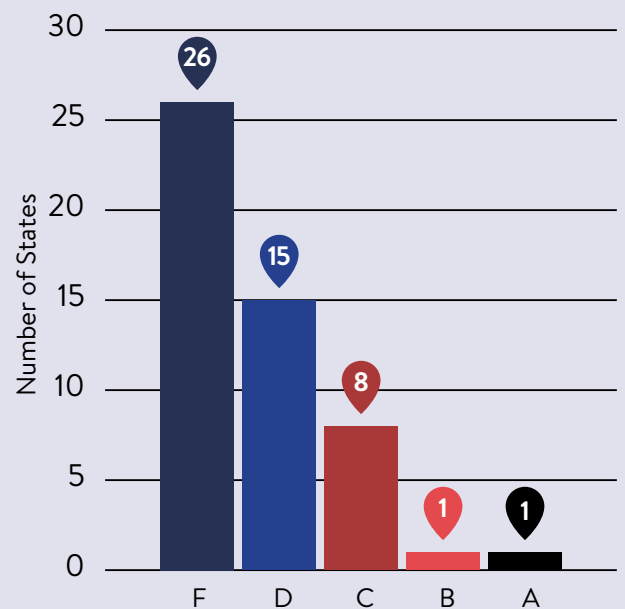


Figure 11. Overall Representativeness of State Courts





“REGIONS VARY DRAMATICALLY IN THE RACIAL AND ETHNIC COMPOSITION OF THEIR COURTS BUT NOT IN THE GENDER COMPOSITION OF THEIR COURTS.”

REGIONAL VARIATION

We can better understand the gap between who lives in the United States and who sits in judgment by focusing on different regions of the country. The U.S. Census divides the country into four regions: Northeast, Midwest, South, and West. We use those regions as they allow comparison to other data collected on a regional basis.

Regions vary dramatically in the racial and ethnic composition of their courts but not in the gender composition of their courts. The estimated percentage of women on state courts is relatively constant across the four

regions: only two percentage points above or below a mean of 30% of state judges are women. We find only a weak regional effect, after controlling for general population, where the Northeast is less likely than other regions to select women judges.

We find stronger regional effects for race and ethnicity of judges. The South and the West, which have higher numbers of racial and ethnic minorities than the Northeast and Midwest, do not have comparably higher numbers of minority judges. In fact, white, non-Hispanics in the general population outnumber white, non-Hispanic judges by about two to one.

Figure 12. United States Census Geographic Regions

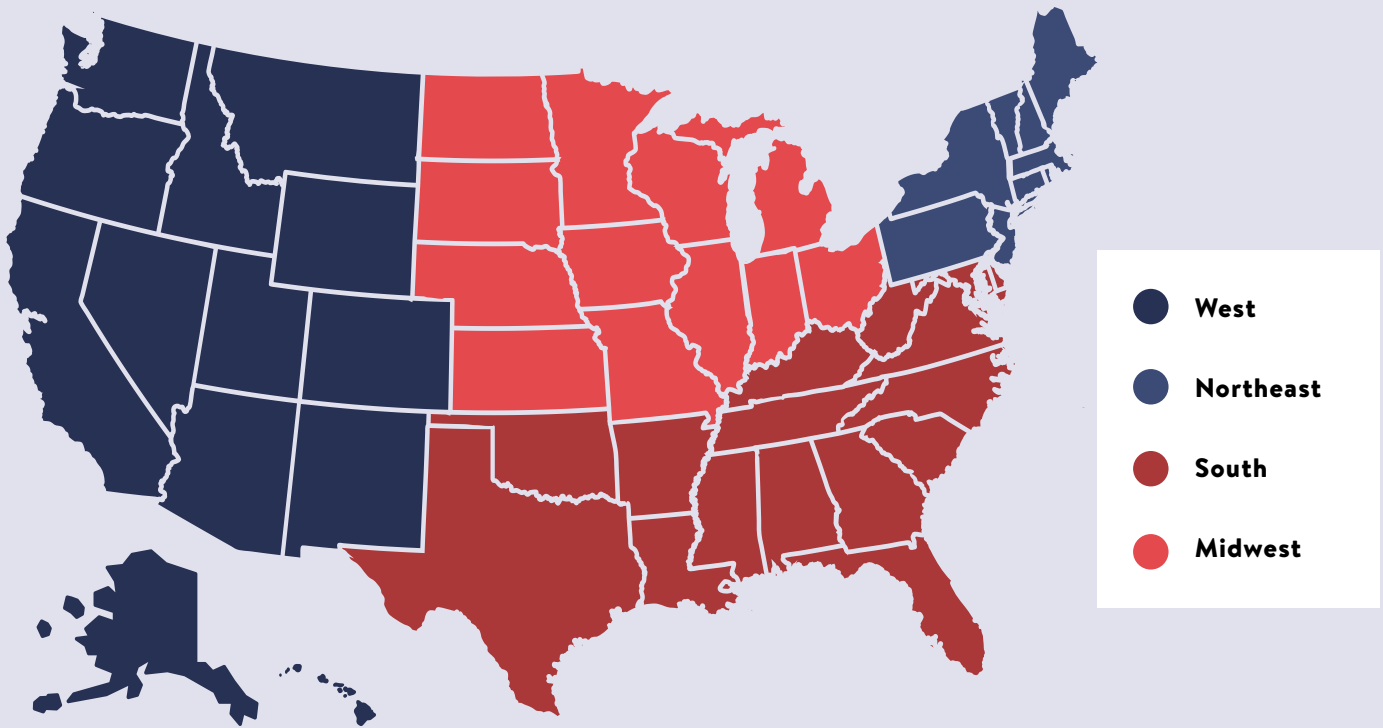


Figure 13. Women as a Percentage of the General Population and of of State Courts by Census Region

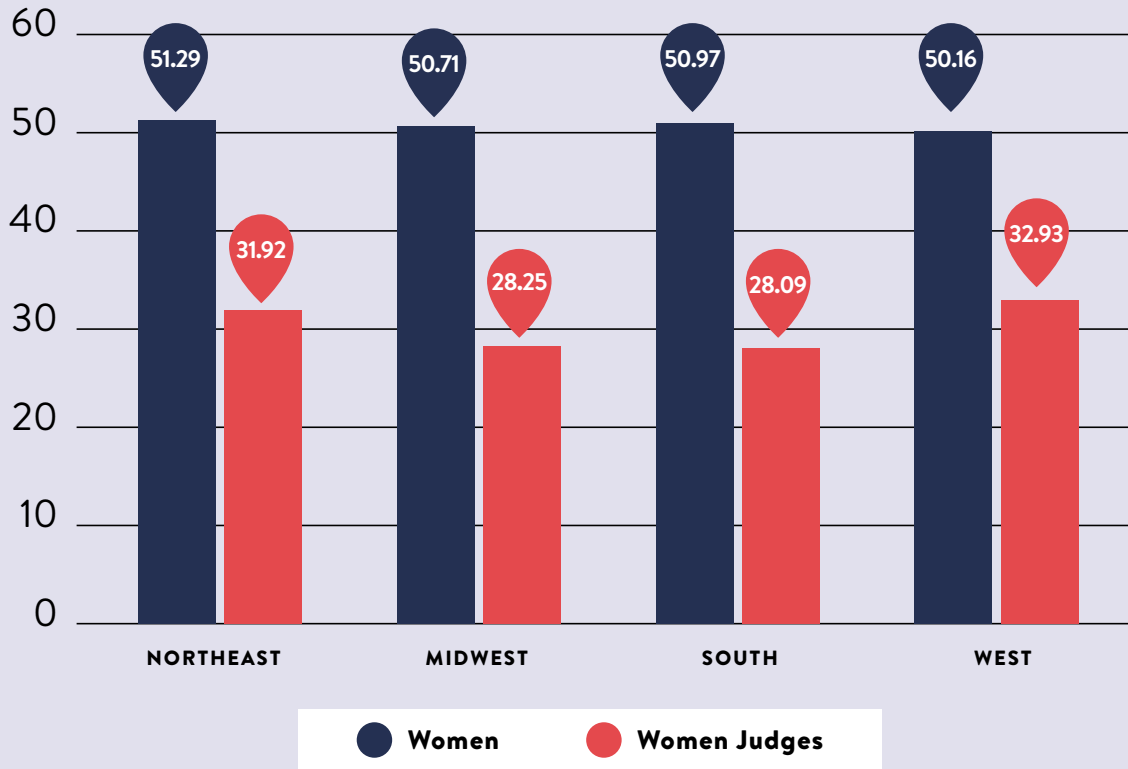
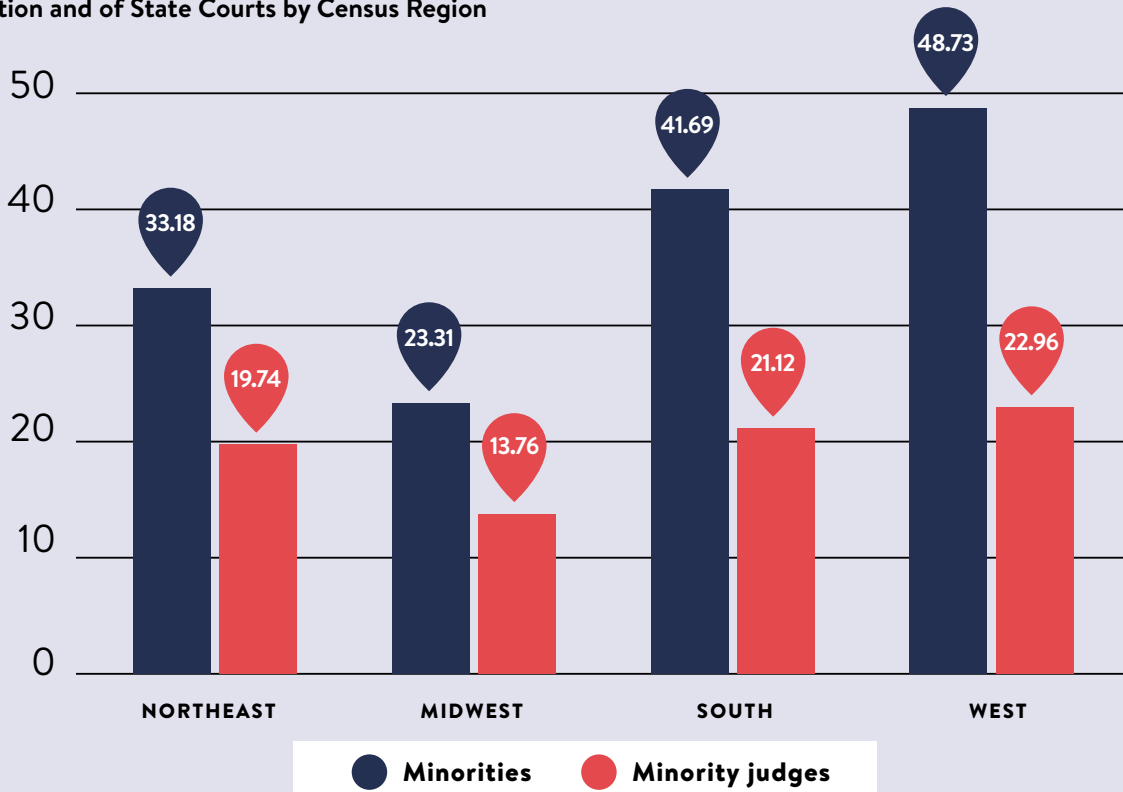


Figure 14. Racial and Ethnic Minorities as a Percentage of the General Population and of State Courts by Census Region





“STATE TRIAL JUDGES HAVE A GREAT DEAL OF AUTHORITY AND DISCRETION OVER CRIMINAL PROSECUTIONS.”

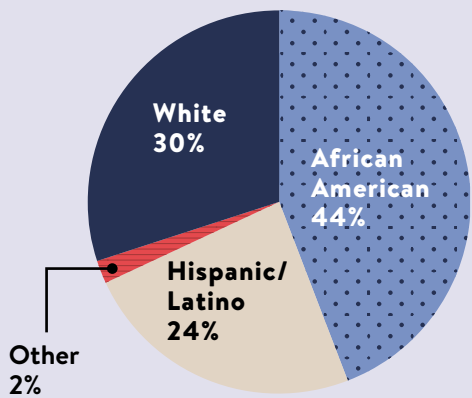
CRIMINAL JUSTICE AND RACE

State trial judges have a great deal of authority and discretion over criminal prosecutions. State appellate courts review only a fraction of criminal convictions, and much of that oversight is limited by design and by necessity. Legal doctrines which govern evidentiary, procedural, and substantive rulings require or result in substantial deference to trial judges by using standards of review such as clearly erroneous and abuse of discretion and by limiting reversal to errors which were likely to affect the outcome. Trial judges play central roles in both plea bargaining and sentencing; however, plea bargaining and sentencing are subject to little appellate oversight. Finally, appellate courts lack the capacity to review the large numbers of criminal rulings made by trial judges on a

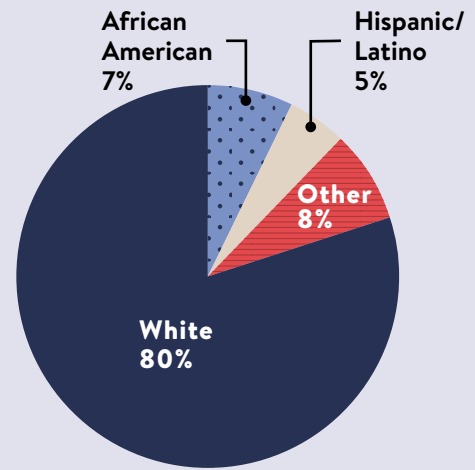
daily basis. Thus, even if appellate courts could closely audit a criminal conviction, they are highly likely to affirm it.

Trial judges are the ultimate authority for almost all criminal defendants. And, those defendants are disproportionately minorities. The Bureau of Justice Statistics estimated that in 2009 in the 75 largest counties, nearly half (44%) of felony defendants were non-Hispanic African Americans and nearly one-quarter (24%) were Hispanic/Latino.⁴ We estimate that more than three-quarters of trial judges are white. As recently as May 2016, the U.S. Supreme Court has found unconstitutional jury-selection practices that produce an all-white jury.⁵ Yet, the reality is that minority defendants face a nearly all-white trial bench in many states.

DEFENDANTS



TRIAL JUDGES



CONCLUSION

President Barack Obama has emphasized the diversity of his appointments to the federal judiciary, including landmark appointments of people of color and LGBT people. As Christopher Kang, who was in charge of the judicial nomination process for President Obama, explained “when the men and women who deliver justice look more like the

communities they serve, there is greater confidence in our justice system overall.”⁶ We find that state courts do not look like the communities they serve, which has ramifications for the functioning of our judicial system and the rule of law. Our findings are particularly important given the vital role state courts play in our democracy, in our economy, and in our daily lives.

ATTRIBUTION

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APPENDIX

TABLE A-1. State Trial Court Structure

Single Set of Trial Courts (Unified)	<i>California, District of Columbia, Illinois, Maine, Minnesota, Vermont</i>
General and Specialized Trial Courts (Divided)	<i>Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming</i>

TABLE A-2. Appellate Court Structure

Two Supreme Courts	<i>Oklahoma, Texas</i>
Two Intermediate Appellate Courts	<i>Alabama, Tennessee</i>
No intermediate appellate court	<i>Delaware, District of Columbia, Maine, Montana, New Hampshire, Rhode Island, South Dakota, Vermont, West Virginia, Wyoming</i>

TABLE A-3. Method of Selection of Trial Judges

One (or both) elected branches select (gubernatorial appointment with legislative confirmation or legislative appointment)	Delaware, District of Columbia, Maine, Massachusetts, New Jersey, Virginia
Merit selection (typically a merit commission nominates a panel of judges from which the Governor and/or the legislature selects one)	Alaska, Arizona*, Colorado, Connecticut, Hawaii, Iowa, Kansas*, Missouri*, Nebraska, New Hampshire, New Mexico, Oklahoma, Rhode Island, South Carolina, Utah, Vermont, Wyoming
Nonpartisan election	Arkansas, California , Florida , Georgia, Idaho, Kentucky, Maryland , Michigan, Minnesota, Mississippi, Montana, Nevada, North Carolina, North Dakota, Ohio, Oregon, South Dakota , Washington, West Virginia, Wisconsin
Partisan election	Alabama, Illinois, Indiana , Louisiana, New York , Pennsylvania, Tennessee , Texas

*These states are categorized as merit selection, but elect a minority of their judges (Arizona: non-partisan elections in counties with a general population less than 250,000; Kansas: partisan elections in counties which have not approved merit; Missouri: smaller, non-urban circuits use partisan elections).

Bolded states choose trial judges using a different method than used for appellate judges.

All categories are based on formal method of initial selection. States vary on how they handle vacancies that occur before a sitting judge completes her term.

TABLE A-4. Method of Selection of Intermediate Appellate Judges*

One (or both) elected branches select	Massachusetts, New Jersey, New York , ⁷ Virginia
Merit selection	Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Indiana, Iowa, Kansas, Maryland, Missouri, Nebraska, New Mexico, Oklahoma, South Carolina, Tennessee**, Utah
Nonpartisan election	Arkansas, Georgia, Idaho, Kentucky, Michigan, Minnesota, Mississippi, Nevada, North Carolina, Ohio, Oregon, Washington, Wisconsin
Partisan election	Alabama, Illinois, Louisiana, Pennsylvania, Texas
No intermediate appellate court	Delaware, District of Columbia, Maine, Montana, New Hampshire, Rhode Island, South Dakota, Vermont, West Virginia, Wyoming

*North Dakota's intermediate appellate court does not have permanent judges. The state supreme court selects three active or retired judges (or attorneys) to serve on the intermediate appellate court for a term not to exceed one year.

**Tennessee changed its method of appellate judge selection in January 2015 from merit selection (a nominating commission submitted a list of three nominees to the governor who picked one) to elected branch selection (gubernatorial nomination with legislative confirmation). None of the judges in the State Bench Database were selected under the new method.

Bolded states choose intermediate appellate judges by a different method than they use for supreme court judges.

All categories are based on formal method of initial selection. States vary on how they handle vacancies that occur during a judicial term.

TABLE A-5. Method of Selection of Supreme Court Judges

One (or both) elected branches select	<i>Delaware, District of Columbia, Maine, Massachusetts, New Jersey, Virginia</i>
Merit selection	<i>Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Indiana, Iowa, Kansas, Maryland, Missouri, Nebraska, New Hampshire, New Mexico, New York, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee*, Utah, Vermont, Wyoming</i>
Nonpartisan election	<i>Arkansas, Georgia, Idaho, Kentucky, Michigan, Minnesota, Mississippi, Montana, Nevada, North Carolina, North Dakota, Ohio, Oregon, Washington, West Virginia, Wisconsin</i>
Partisan election	<i>Alabama, Illinois, Louisiana, Pennsylvania, Texas</i>

*** Tennessee changed its method of appellate judge selection in January 2015 from merit selection (a nominating commission submitted a list of three nominees to the governor who picked one) to elected branch selection (gubernatorial nomination with legislative confirmation). None of the judges in the State Bench Database were selected under the new method.**

All categories are based on formal method of initial selection. States vary on how they handle vacancies that occur before a sitting judge completes her term.

TABLE A-6. Gender Breakdown of All State Courts (2014)

	Percentage Male	Percentage Female	Total Number
State Appellate Judges	.6659	.3341	1,688
State Trial Judges	.7041	.2959	8,607
All State Court Judges	.6978	.3022	10,295
U.S. Population	.4927	.5073	321,000,000

TABLE A-7. Race/ Ethnicity Breakdown of All State Courts (2014)

	Percentage White Non-Hispanic	Percentage African-American	Percentage Hispanic	Percentage Other Race
State Appellate Judges	.8270	.0794	.0515	.0421
State Trial Judges	.7990	.0708	.0550	.0753
All State Court Judges	.8036	.0722	.0544	.0698
U.S. Population	.6172	.1238	.1766	.0824

TABLE A-8. Race and Gender Breakdown of All State Courts (2014)

	Percentage White Men	Percentage Men of Color	Percentage White Women	Percentage Women of Color
State Appellate Judges	.5705	.0954	.2565	.0776
State Trial Judges	.5804	.1237	.2186	.0773
All State Court Judges	.5787	.1191	.2249	.0773
U.S. Population	.3041	.1886	.3131	.1942

TABLE A-9. Population by Census Regions in the United States⁸

REGION States in region	Population	Percentage of U.S. Population
NORTHEAST <i>Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont</i>	56,283,891	17.5%
MIDWEST <i>Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin</i>	67,907,403	21.1%
SOUTH <i>Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia</i>	121,182,847	37.7%
WEST <i>Arizona, Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming</i>	76,044,679	23.7%

TABLE A-10. Estimated Gender Breakdown of State Court Judges By Region

	Female Judges as a Percentage of All Judges	Women as Percentage of Population	Gavel Gap
Northeast	.3192	.5129	-0.3777
Midwest	.2825	.5071	-0.4429
South	.2809	.5097	-0.4489
West	.3293	.5016	-0.3435

TABLE A-11. Estimated Race and Ethnicity Breakdown of State Court Judges By Region

	Judges of Color as a Percentage of All Judges	People of Color as Percentage of Population	Gavel Gap
Northeast	.1974	.3318	-0.4051
Midwest	.1376	.2331	-.4097
South	.2112	.4169	-.4934
West	.2296	.4873	-0.5288

TABLE A-12. Estimated Gender Representativeness Rank of State Courts

State	Female Judges as a Percentage of All State Judges	Women as a Percentage of State Population	Gavel Gap	Representativeness Rank
Alabama	0.2179	0.5154	-0.5771	37
Alaska	0.2200	0.4743	-0.5362	32
Arizona	0.3141	0.5033	-0.3758	16
Arkansas	0.2407	0.5087	-0.5268	30
California	0.3257	0.5034	-0.3531	13
Colorado	0.3000	0.4975	-0.3970	22
Connecticut	0.3056	0.5122	-0.4034	24
Delaware	0.2500	0.5162	-0.5157	28
District of Columbia	0.4308	0.5256	-0.1804	3
Florida	0.3124	0.5112	-0.3889	21
Georgia	0.2297	0.5121	-0.5514	34
Hawaii	0.3590	0.4941	-0.2735	8

TABLE A-12. Estimated Gender Representativeness Rank of State Courts

State	Female Judges as a Percentage of All State Judges	Women as a Percentage of State Population	Gavel Gap	Representativeness Rank
Idaho	0.1698	0.4992	-0.6599	50
Illinois	0.3050	0.5093	-0.4010	23
Indiana	0.2093	0.5074	-0.5875	40
Iowa	0.2362	0.5034	-0.5307	31
Kansas	0.1818	0.5016	-0.6375	47
Kentucky	0.2778	0.5076	-0.4528	26
Louisiana	0.2883	0.5109	-0.4357	25
Maine	0.3182	0.5104	-0.3765	18
Maryland	0.3966	0.5154	-0.2303	6
Massachusetts	0.3704	0.5151	-0.2810	9
Michigan	0.3307	0.5087	-0.3499	12
Minnesota	0.3946	0.5030	-0.2155	5
Mississippi	0.1765	0.5142	-0.6568	49
Missouri	0.2414	0.5095	-0.5262	29
Montana	0.2449	0.4977	-0.5080	27
Nebraska	0.2239	0.5021	-0.5541	35
Nevada	0.4138	0.4974	-0.1682	2
New Hampshire	0.3333	0.5060	-0.3412	11
New Jersey	0.3199	0.5120	-0.3752	15
New Mexico	0.4078	0.5047	-0.1921	4
New York	0.3219	0.5148	-0.3746	14
North Carolina	0.2155	0.5128	-0.5797	38

TABLE A-12. Estimated Gender Representativeness Rank of State Courts

State	Female Judges as a Percentage of All State Judges	Women as a Percentage of State Population	Gavel Gap	Representativeness Rank
North Dakota	0.2157	0.4875	-0.5575	36
Ohio	0.3149	0.5105	-0.3832	19
Oklahoma	0.2065	0.5049	-0.5909	41
Oregon	0.4432	0.5053	-0.1228	1
Pennsylvania	0.3145	0.5109	-0.3844	20
Rhode Island	0.3214	0.5154	-0.3763	17
South Carolina	0.2131	0.5138	-0.5852	39
South Dakota	0.1957	0.4968	-0.6062	44
Tennessee	0.2037	0.5126	-0.6026	43
Texas	0.3476	0.5036	-0.3097	10
Utah	0.1733	0.4972	-0.6514	48
Vermont	0.2308	0.5071	-0.5449	33
Virginia	0.1895	0.5082	-0.6270	46
Washington	0.3791	0.5001	-0.2419	7
West Virginia	0.1127	0.5061	-0.7774	51
Wisconsin	0.2008	0.5033	-0.6012	42
Wyoming	0.1923	0.4898	-0.6074	45

*The Gender Gavel Gap reflects how closely the estimated percentage of women on the state bench matches the predicted percentage. We predict that each state will have the same percentage of women on the state bench as it has women in its general population. The Gavel Gap is the difference between the predicted percentage and the estimated percentage.

TABLE A-13. Estimated Race and Ethnicity Representativeness Rank of State Courts

State	Judges of Color as a Percentage of All State Judges	People of Color as a Percentage of State Population	Gavel Gap*	Representativeness Rank
Alabama	0.1987	0.3381	-0.4123	21
Alaska	0.0200	0.3806	-0.9475	47
Arizona	0.3194	0.4379	-0.2706	12
Arkansas	0.1204	0.2661	-0.5477	32
California	0.2632	0.6155	-0.5724	33
Colorado	0.1100	0.3101	-0.6453	39
Connecticut	0.2698	0.3118	-0.1345	7
Delaware	0.1071	0.3631	-0.7049	43
District of Columbia	0.5385	0.6416	-0.1607	8
Florida	0.1790	0.4419	-0.5950	35
Georgia	0.1532	0.4566	-0.6646	41
Hawaii	0.7949	0.7703	0.0319	4
Idaho	0.1321	0.1719	-0.2318	11
Illinois	0.2683	0.3771	-0.2884	13
Indiana	0.1163	0.1970	-0.4097	20
Iowa	0.0630	0.1290	-0.5119	28
Kansas	0.1080	0.2324	-0.5355	30
Kentucky	0.0926	0.1463	-0.3673	16
Louisiana	0.2774	0.4067	-0.3180	15
Maine	0.0000	0.0624	-1.0000	48
Maryland	0.3240	0.4738	-0.3161	14
Massachusetts	0.1481	0.2572	-0.4239	23
Michigan	0.1518	0.2419	-0.3727	17

TABLE A-13. Estimated Race and Ethnicity Representativeness Rank of State Courts

State	Judges of Color as a Percentage of All State Judges	People of Color as a Percentage of State Population	Gavel Gap*	Representativeness Rank
Minnesota	0.1472	0.1856	-0.2073	9
Mississippi	0.2647	0.4274	-0.3807	18
Missouri	0.1092	0.1988	-0.4508	25
Montana	0.2041	0.1327	0.5374	1
Nebraska	0.1791	0.1951	-0.0821	6
Nevada	0.1954	0.4850	-0.5971	36
New Hampshire	0.0000	0.0872	-1.0000	39
New Jersey	0.2343	0.4315	-0.4571	27
New Mexico	0.3689	0.6109	-0.3961	19
New York	0.2414	0.4347	-0.4446	24
North Carolina	0.2069	0.3591	-0.4238	22
North Dakota	0.0000	0.1340	-1.0000	50
Ohio	0.0938	0.1989	-0.5286	29
Oklahoma	0.0761	0.3298	-0.7693	46
Oregon	0.0973	0.2296	-0.5763	34
Pennsylvania	0.1215	0.2212	-0.4509	26
Rhode Island	0.0714	0.2546	-0.7194	44
South Carolina	0.1148	0.3615	-0.6825	42
South Dakota	0.2391	0.1696	0.4097	2
Tennessee	0.0926	0.2536	-0.6349	38
Texas	0.2568	0.5647	-0.5451	31
Utah	0.0800	0.2066	-0.6127	37
Vermont	0.0000	0.0647	-1.0000	51

TABLE A-13. Estimated Race and Ethnicity Representativeness Rank of State Courts

State	Judges of Color as a Percentage of All State Judges	People of Color as a Percentage of State Population	Gavel Gap*	Representativeness Rank
Virginia	0.2876	0.3686	-0.2198	10
Washington	0.0995	0.2961	-0.6639	40
West Virginia	0.0845	0.0751	0.1259	3
Wisconsin	0.0492	0.1779	-0.7232	45
Wyoming	0.1538	0.1590	-0.0323	5

*The Race and Ethnicity Gavel Gap reflects how closely the estimated percentage of racial and ethnic minorities on the state bench matches the predicted percentage. We predict that each state will have the same percentage of racial and ethnicity minorities on the state bench as it has racial and ethnic minorities in its general population. The Gavel Gap is the difference between the predicted percentage and the estimated percentage.

TABLE A-14. Combined Race and Ethnicity Representativeness Rank of State Courts

State	Women or Minorities as a Percentage of State Judges	Women or Minorities as a Percentage of State Population	OVERALL Gavel Gap*	Representativeness Rank
Alabama	36%	68%	-47%	32
Alaska	24%	67%	-64%	50
Arizona	54%	73%	-26%	6
Arkansas	33%	64%	-48%	34
California	49%	81%	-39%	23
Colorado	37%	67%	-45%	30
Connecticut	46%	65%	-29%	9
Delaware	29%	70%	-59%	43
District of Columbia	72%	84%	-14%	2

TABLE A-14. Combined Race and Ethnicity Representativeness Rank of State Courts

State	Women or Minorities as a Percentage of State Judges	Women or Minorities as a Percentage of State Population	OVERALL Gavel Gap*	Representativeness Rank
Florida	40%	73%	-45%	29
Georgia	32%	74%	-56%	40
Hawaii	85%	88%	-4%	1
Idaho	28%	60%	-53%	38
Illinois	47%	69%	-31%	12
Indiana	32%	61%	-48%	33
Iowa	29%	57%	-49%	36
Kansas	27%	62%	-57%	42
Kentucky	35%	58%	-40%	25
Louisiana	45%	71%	-37%	17
Maine	32%	54%	-41%	26
Maryland	55%	74%	-26%	7
Massachusetts	44%	64%	-30%	11
Michigan	41%	62%	-34%	15
Minnesota	47%	60%	-21%	5
Mississippi	34%	72%	-53%	39
Missouri	31%	61%	-49%	35
Montana	41%	57%	-29%	8
Nebraska	36%	61%	-41%	27
Nevada	52%	74%	-30%	10
New Hampshire	33%	55%	-39%	24
New Jersey	45%	72%	-37%	18
New Mexico	63%	80%	-21%	4

TABLE A-14. Combined Race and Ethnicity Representativeness Rank of State Courts

State	Women or Minorities as a Percentage of State Judges	Women or Minorities as a Percentage of State Population	OVERALL Gavel Gap*	Representativeness Rank
New York	46%	72%	-37%	16
North Carolina	34%	69%	-52%	37
North Dakota	22%	59%	-64%	48
Ohio	36%	60%	-41%	28
Oklahoma	27%	67%	-60%	46
Oregon	50%	63%	-21%	3
Pennsylvania	39%	61%	-37%	19
Rhode Island	39%	63%	-38%	20
South Carolina	28%	70%	-60%	47
South Dakota	39%	60%	-34%	14
Tennessee	26%	64%	-60%	45
Texas	48%	79%	-39%	22
Utah	21%	62%	-66%	51
Vermont	23%	54%	-57%	41
Virginia	42%	69%	-39%	21
Washington	44%	66%	-33%	13
West Virginia	20%	54%	-64%	49
Wisconsin	24%	59%	-59%	44
Wyoming	31%	58%	-47%	31

SOURCES

¹ Court Statistics Project, Examining the Work of State Courts: An Overview of 2013 State Court Caseloads, http://www.courtstatistics.org/~media/Microsites/Files/CSP/EWSC_CSP_2015.ashx (a joint project of the Conference of State Court Administrators and the National Center for State Courts).

² If a state uses a different method for selecting supreme court judges and intermediate appellate court judges, the appellate judge map reflects the state's method of selecting supreme court judges.

³ United States Census Bureau, American Community Survey, <https://www.census.gov/programs-surveys/acs/news/data-releases.html>.

⁴ Bureau of Justice Statistics, Felony Defendants in Large Urban Counties, 2009 Statistical Tables <http://www.bjs.gov/content/pub/pdf/fdluc09.pdf>

⁵ *Foster v. Chatman*, No. 14-8349 (May 23, 2016).

⁶ Christopher Kang, "Editorial: President Obama, Nominate the First Asian-American Supreme Court Justice," NBC News, Feb. 14, 2016, <http://www.nbcnews.com/news/asian-america/editorial-president-obama-nominate-first-asian-american-supreme-court-justice-n518496>.

⁷ The governor of New York appoints judges to its intermediate appellate court (Appellate Division) from the general jurisdiction trial courts (supreme court). The governor appoints judges to the state court of last resort (Court of Appeals) from a nominating commission's list and with the consent of the state senate.

⁸ United States Census Bureau, Regions and Divisions, http://www.census.gov/econ/census/help/geography/regions_and_divisions.html; United States Census Bureau, United States Population Growth by Region, https://www.census.gov/popclock/data_tables.php?component=growth.