



**NORTH CAROLINA CENTER FOR
PUBLIC POLICY RESEARCH INC.**

NEWS RELEASE

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**NORTH CAROLINA'S JUDICIARY SLOWLY CHANGING, BUT GOP JUDGES MAKE MORE
PROGRESS THAN WOMEN OR MINORITIES, N.C. CENTER FINDS**

Once a bastion of white male Democrats, North Carolina's 261-member judiciary is slowly changing to reflect the diversity in the state's population, the N.C. Center for Public Policy Research says. However, Republicans are making bigger gains than are blacks, Indians, or women judges, according to new research by the Center. The typical North Carolina judge is still a white Democrat, a middle-aged male, attended law school at the University of North Carolina at Chapel Hill, and was first appointed to the judiciary rather than elected to the bench, the Center says in the latest issue of its magazine, North Carolina Insight.

"This portrait of the state's judiciary shows how the bench has begun changing to mirror the state's population," says Insight editor Jack Betts, "but it also shows how slowly that progress has come. Although the bench has been changing for more than 20 years, fewer than 15 percent of the judges are Republicans and fewer than 10 percent are either women or blacks. Ten years ago, only one Republican and one woman served on a level higher than the District Courts.

"This study also will surprise those who still think North Carolina has an elective judicial system. This study confirms that, the constitution to the contrary, what we've got here is a system where most judges first are appointed to the bench. And they stay there for a long, long time," adds Betts.

According to the latest available figures on political party registration, North Carolina's electorate is 30.8 percent Republican and 64.2 percent Democratic, with 5 percent unaffiliated. By comparison, the Center's study shows the judiciary is 85.4 percent Democratic and 14.6 percent Republican. By race, the state's population is 75.7 percent white, 21.8 percent black, and 1.1 percent Indian, while the judiciary is 90 percent white, 9.2 percent black, and 0.8 percent Indian. And in gender, North Carolina is 48.1 percent male and 51.9 percent female, while the judiciary is 91.6 percent male and 8.4 percent female.

The Center's research examines the four divisions of North Carolina's General Court of Justice -- the District and Superior Courts, which comprise the trial divisions, and the Court of Appeals and the Supreme Court, comprising the appellate division. The results of that research, which appear in the September

1990 Insight in an article by attorney Katherine White, Center Intern Dale McKeel, and Betts, produced the first comprehensive demographic picture of the state's judiciary. For instance:

-- While the state's judiciary was set up to be an elective one, with judicial candidates running for and winning their jobs in partisan elections, the fact is that the majority of the state's judges are first appointed to their posts. The Center found that only 38.7 percent of the judges were first elected to their jobs, and that 61.3 percent were appointed by a governor to fill a vacancy on the bench.

-- Republicans, women, and blacks are having more success at gaining seats on the Court of Appeals than at any other level, and the least success at the Supreme Court level.

-- Gov. Jim Hunt, a Democrat who has been out of office for six years, appointed more of the N.C. judiciary than has his successor, Republican Gov. Jim Martin. Hunt appointed 30.3 percent of the current judiciary while Martin has named just 18 percent. Hunt was in office from 1977-1985, and Martin has served since then. Almost all the judges that Hunt named were Democrats. Martin has also named a large number of Democrats -- primarily at the District Court level -- because by law the successor to a District Court vacancy must be of the same party as the last judge who held it.

-- The average age of a judge in North Carolina is 48.6 years.

-- A majority of North Carolina's judges (52.1 percent) attended law school at UNC-Chapel Hill, but the next largest group (22.6 percent) went to Wake Forest Law School. N.C. Central University counts 6.5 percent of the judges among its graduates, and Campbell University and Duke University trail with 4.2 percent of the judges. Nearly 10 percent of North Carolina's judges went to law school outside the state.

-- Two state judges don't have a law degree. Prior to 1980, the N.C. constitution did not require judges to be licensed to practice law, but the constitution was changed that year. Judges taking office since 1980 must be licensed attorneys. Two judges who had been elected to the bench prior to 1980 -- District Court Judges Stephen M. Williamson of Kenansville and Arnold O. Jones of Goldsboro -- do not have law degrees but remain on the bench.

-- And the state's judiciary does fairly accurately reflect the geographic makeup of the state -- at least in the trial divisions. The Center's research shows that the state's 41 eastern counties have 31.2 percent of the population and 34.3 percent of the trial judges; the 35-county Piedmont region has 54.6 percent of the population and 52.3 percent of the trial judges; and the 24-county western part of the state has 14.2 percent of the population and 13.4 percent of the judges. However, the Piedmont might appear to have more than its share of appellate judges (63 percent) while the eastern and western sections appear to have less than their share of appellate judges (26 percent and 11 percent, respectively).

What difference does all this make? It depends upon how you view the judiciary. Unlike a legislative body, the judiciary traditionally has not been perceived as a group that should be representative of the population, but rather

one that should have certain characteristics that enable it to judge fairly and impartially, regardless of demographics. U.S. Sen. Roman Hruska (R-Nebraska) once argued, in defense of a presidential nomination for an associate justice of the U.S. Supreme Court, that mediocrity deserved representation on the Supreme Court. Hruska's words did not sway his colleagues, who turned down the appointment. They agreed with the traditional view that more importance should be attached to legal training, experience, temperament, and scholarly ability than to one's race, gender, political affiliation, or other demographic characteristics. Yet because there are so many groups in society, many observers believe it's important that society feel that the judiciary is broadly drawn.

As N.C. Supreme Court Chief Justice James G. Exum Jr. puts it, "The bench needs to be broadly representative of the makeup of society generally. Judges are passing daily on the fortunes, the liberties, and on the lives of our citizens. It is important for the public to know they are represented racially, [by gender], and politically."

And Court of Appeals Judge Robert Orr, a Republican, puts it this way: "I think it's important that the judicial system be represented by a broad cross-section of individuals, and that certainly includes gender, race, political affiliation, and judicial philosophy." Still, adds Orr, "I have not seen party affiliation or gender or race play a deciding factor in how a case is decided."

But perhaps a Washington state prosecutor has put it in the most direct terms. Ric Martinez, a Hispanic prosecutor in Seattle, Wash., says, "You can have sensitivity sessions 'til the cows come home. But if you don't have minority faces up on the bench, you're not going to have an impact on the system and its built-in biases. Not only will a minority judge be able to better understand the position of a minority defendant, but that same judge will have a sensitizing effect on his fellow judges."

The N.C. Center for Public Policy Research is an independent, nonpartisan, nonprofit corporation created to examine state government policies and practices. The Center is supported in part by grants from the Z. Smith Reynolds and Mary Reynolds Babcock Foundations, both in Winston-Salem. Other funding comes from 114 corporate contributors and more than 600 individual and organizational members. The N.C. Center publishes a quarterly magazine called North Carolina Insight and issues book-length research reports. The Center has recently conducted studies on campaign finance, school finance, problems with local landfills running out of space, and a comparison of the formal powers of all 50 state governors. The Center also publishes rankings of the most influential lobbyists and of the effectiveness of all 170 legislators, as rated by the legislators themselves, registered lobbyists, and capital news correspondents.

The article and a series of statistical tables showing the Center's research on the judiciary can be found in Vol. 12, No. 4 of North Carolina Insight, available for \$6.30 plus \$1 postage and handling from the N.C. Center for Public Policy Research at 5 W. Hargett St., Raleigh, N.C. 27602, or by calling Sharon Gibson at (919) 832-2839.

Whether Judges Were First Appointed or Elected to Current Position

	Elected		Appointed		Total	
All Judges	101	38.7%	160	61.3%	261	100.0%
Supreme Court	3	42.9%	4	57.1%	7	100.0%
Court of Appeals	4	33.3%	8	66.7%	12	100.0%
Superior Court	26	35.1%	48	64.9%	74	100.0%
District Court	68	41.2%	97	58.8%	165	100.0%
Special Judges	0	0.0%	3	100.0%	3	100.0%

Source: N.C. Center survey in July 1990; and data from *North Carolina Reports*, *North Carolina Court of Appeals Reports*, *North Carolina Manual (1989-1990)*, and the Administrative Office of the Courts.

As of July 31, 1990

Table by Dale McKeel

Party Affiliation of North Carolina Judges

	Democrat		Republican		Total	
All Judges	223	85.4%	38	14.6%	261	100.0%
Supreme Court	7	100.0%	0	0.0%	7	100.0%
Court of Appeals	10	83.3%	2	16.7%	12	100.0%
Superior Court	68	91.9%	6	8.1%	74	100.0%
District Court	138	93.6%	27	16.4%	165	100.0%
Special Judges	0	0.0%	3	100.0%	3	100.0%

Registered Voters in North Carolina	2,019,800	64.2%	969,349	30.8%	3,147,867	100.0%
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Note: 153,718 voters (5.0%) are registered as unaffiliated.

Source: N.C. Center survey in July 1990 based on data from the State Board of Elections, Administrative Office of the Courts, local boards of elections, and interviews with judges.

As of July 31, 1990

Table by Dale McKeel

Minority Judges in North Carolina

	White		Black		Native American		Total
All Judges	235	90.0%	24	9.2%	2	0.8%	261 100.0%
Supreme Court	6	85.7%	1	14.3%	0	0.0%	7 100.0%
Court of Appeals	10	83.3%	2	16.7%	0	0.0%	12 100.0%
Superior Court	63	85.1%	10	13.5%	1	1.4%	74 100.0%
District Court	153	92.7%	11	6.7%	1	0.6%	165 100.0%
Special Judges	3	100.0%	0	0.0%	0	0.0%	3 100.0%

General Population * of North Carolina	5,006,337	75.7%	1,441,719	21.8%	72,748	1.1%	100.0%
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** Note:* The 1988 *County and City Data Book* identifies 1.0% of the state's population as Hispanic, and 0.4% as Asian/Pacific Islander.

Source: 1988 *County and City Data Book*; N.C. Center survey in July 1990; and data from the Administrative Office of the Courts.

As of July 31, 1990

Table by Dale McKeel