

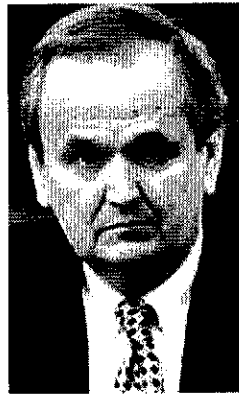
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Sen. George D. Maziarz, above, presided over the hearing with Sen. John L. Sampson, D-Brooklyn.  
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## Complaint of bias against females in naming judges widens

By Robert J. McCarthy  
 NEWS POLITICAL REPORTER

Gov. David A. Paterson apparently caught the attention of the State Senate last December when he complained that no women were recommended to him for a vacancy on the Court of Appeals.

Now the Senate Judiciary Committee wants to avoid a repeat situation. It convened its second of three statewide hearings in County Hall on Thursday to determine how to better represent minorities on the bench, and heard from everyone testifying that the governor's concerns are justified.

"The Court of Appeals nomination process must be reviewed to make sure women and minorities are included," said Karen Richardson of Hamburg, treasurer of New York State Women's Bar Association. "Candidates recommended to the Court of Appeals are not representative of the many qualified candidates there are for that position."

Paterson publicly fumed last year about the list of recommendations he received from a special screening panel, from which he is bound by law to nominate a candidate.

"We're outraged by what we see," he said then. "It seems highly unusual that in a class of seven individuals considered to be capable of supervising the Court of Appeals that not one of them would be a woman, not one. I think it's very unfortunate."

But concern at Thursday's hearing transcended bias against women. Other speakers questioned if the screening panel itself was diverse enough to be sensitive to women and minorities, and a prominent University at Buffalo Law School professor pointed out that the high court needs to expand its "farm system" beyond State Supreme Court and its Appellate Division.

"Although the current method of selecting Court of Appeals judges was designed to be wide open and based entirely on merit," said James A. Gardner, the law school's vice dean for academic affairs, "the selection process . . . is neither. It has instead degenerated into a fundamentally closed competition among a very small number of sitting, experienced justices of the Appellate Division."

Gardner pointed out that Commission on Judicial Nomination records show that it has never received even 50 applications for a Court of Appeals seat in the 32 years that merit selection has guided the process.

"Independent-minded New York lawyers who are not presently sitting on the Appellate Division know they won't get picked for the job and understand that . . . appointment is in fact not based primarily on merit," he said. "Applying is therefore a waste of time."

As he has in the past, Gardner also criticized the way even trial judges in State Supreme Court are chosen in judicial nominating conventions.

"The most significant qualification is obtaining the favor of a local party leader," he said.

Buffalo City Judge Betty Calvo-Torres also testified, pointing out that she is the first Hispanic female elected to any position in the state outside New York City.

"Although Hispanics here in the City of Buffalo are the only population that continues to grow, unfortunately there is not a correlation to representation on the judiciary," she said. "I think it is a shame we continue to be excluded from the process."

And Sheldon K. Smith, a Nixon Hargrave lawyer and vice president of the Western New York Minority Bar Association, said more must be done to reach out to interested minorities whenever vacancies occur.

"I can't say we didn't receive notice of the vacancy that led to these hearings," he said, "but I can say I don't recall it."

Sen. John L. Sampson, D-Brooklyn, chairman of the Judiciary Committee, presided over the hearing along with

Sen. George D. Maziarz, R-Newfane. After the session, he acknowledged a public perception that the commission operates in secrecy and with a lack of diversity. He called “very troubling” Calvo-Torres’ testimony that only one Hispanic serves on the bench in Erie County.

“We understand the judiciary is supposed to be reflective of what society looks like,” Sampson said.

The senator said that while he does not believe in quotas, he expects that legislation will result from the hearings that will diversify membership in nominating commissions and screening panels. He also wants to improve the process by which interested applicants are notified of judicial vacancies, and examine the “pipeline” that feeds high court appointments.

After a previous hearing in Albany and the Thursday session in Buffalo, Sampson said the committee plans one more session in Brooklyn.

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