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## Heat put on judicial diversity

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ALBANY — After 12 years of Gov. George Pataki, New York's judiciary is very white and very male, according to a report issued Thursday.

In his nearly three terms in office, Pataki has made 45 appointments to New York's two highest levels of the judiciary, the Court of Appeals, New York's highest court, and the Appellate Division, a mid-level venue, according to the report by Senate Democrats. Yet he's nominated just six female and two black judges.

Democrats called the Republican's record "shameful."

"The governor's record of appointments," said Sen. Diane Savino, D-Statens Island, "is absolutely abysmal." She called Pataki's record on appointing blacks and women to the bench "the worst of any governor."

A Pataki spokesman didn't answer the report directly but said the governor was "very proud" of his record of nominating "outstanding jurists."

The Democrats issued the report on a day when a Senate panel reviewed the qualifications of Pataki's latest nominee to the Court of Appeals: Eugene Pigott Jr., 59, who has been presiding justice of the Appellate Division, Fourth Department, which hears appeals cases from western New York in Rochester. Pigott, a white Republican, lives in Grand Island, Erie County.

He will replace George Bundy Smith, the lone black judge on the seven-member Court of Appeals.

Pigott sailed through the hearing without taking many questions. Republicans — who have been angered by recent rulings curtailing the Legislature's power either in fights with the governor or in funding schools — quizzed him about overruling legislative statutes.

Pigott said he's not prone to so-called "judicial activism" and if a law is clear, little interpretation is needed. Asked later if that made him a "strict constructionist" — as conservatives tend to favor — he said: "I tend to think so."

The full Senate is expected to confirm Pigott today. He would likely start hearing cases in October.

Over his nearly 12 years in office, Pataki, a Republican, has made six appointments to the Court of Appeals — none of them a Democrat, none of them a minority.

Smith's 14-year term on the state Court of Appeals is set to end Sept. 24 and he had applied to serve until the end of 2007 when he reached mandatory retirement age, 70. Pataki said the fact that Smith faced mandatory retirement next year limited his appeal.

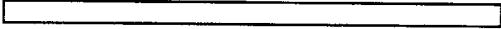
Democrats said the issue went beyond Smith and Pigott, whom they praised. They said Pataki did little to promote a diverse judiciary and promote confidence in the legal system.

"One way to reform the judiciary ... is to have (a judiciary) that looks like New York," said Sen. Jeff Klein, D-Bronx, who also

represents parts of Westchester County.

Republicans defended Pataki, noting that women now hold four of the seven seats on the Court of Appeals. Senate Judiciary Committee Chairman John DeFrancisco, R-Syracuse, said: "I don't think (Pataki) has shown that he weighs the qualifications of men and women differently and I think the same is true of minorities."

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[Back](#)

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