

whether they are active-duty members or reservists.

Consistent with their official exclusion from primary combat positions, women have a mortality rate one-sixth that of men. Largely as a consequence of their lower rank, younger troops are more likely to die in the line of duty than older ones.

Hispanics face a higher risk of

death in Iraq than non-Hispanics. Blacks face less than whites. Part of the reason may be that they are overrepresented in lower-risk categories: 19 percent of blacks in Iraq are women, compared with nine percent of nonblacks, and seven percent are Marines, compared with 11 percent of nonblacks, according to Buzzell and Preston.

Deaths in Iraq—2,706 at the time the authors compiled their data and 3,894 on December 19, 2007—are rare in comparison to woundings. From 2003 to the end of 2006, one of every 31 U.S. troops serving in Iraq was wounded. The pattern of woundings, Buzzell and Preston say, is quite likely to be the same as the demographics of death.

POLITICS & GOVERNMENT

Geezers on the Court

THE SOURCE: “Where Have You Gone, Sherman Minton? The Decline of the Short-Term Supreme Court Justice” by Justin Crowe and Christopher F. Karpowitz, in *Perspectives on Politics*, Sept. 2007.

ARE SUPREME COURT JUSTICES staying on the bench so long that the Court itself is in need of constitutional reform? The average tenure of justices has climbed past a quarter-century. The average age of a justice upon leaving office has soared to 79. Stephen Breyer spent 11 years handling the junior justice’s job of doorman at the Court’s conferences before a new colleague arrived to relieve him of the chore.

Law professors across the political spectrum have discovered something to agree on: Lifetime tenure for Supreme Court justices is a very bad idea and term limits are needed. But “both this diagnosis and the associated remedy are misguided,” contend Justin Crowe and

Christopher F. Karpowitz, political scientists at Pomona College and Brigham Young University, respectively. The problem is not that justices are serving unusually long terms—they aren’t. It’s that a whole breed of judge has

disappeared: the short-term justice.

Before 1970, nearly one in three appointees spent less than about seven years on the bench. Most of the short-termers, in the years before modern medicine, became ill or died, but the next-largest category simply didn’t like the job and walked. John Rutledge, one of George Washington’s original appointees, resigned to become chief justice of the



Sherman Minton (top row, left), with fellow Supreme Court justices in 1955, resigned the next year after only seven years of service. The Court hasn’t had a short-term justice in 38 years.

South Carolina Court of Common Pleas. John Hessin Clarke quit in 1922, complaining that he had spent too much time on trivia such as “whether the digging of a ditch in Iowa was constitutional.” Sherman Minton served barely seven years before a combination of ill health and boredom drove him to retire. President Lyndon Johnson sweet-talked Justice Arthur Goldberg into resigning to take the toothless position of United Nations ambassador so that he could appoint his friend Abe Fortas to the Court. Then Fortas himself was forced to

resign less than four years later because of a financial controversy.

But since 1970, the short-termers have been extinct. Critics contend that ever-lengthening tenure decreases the democratic accountability that occurs with turnovers, increases the politicization of the confirmation process because vacancies occur so rarely, and can result in justices suffering from “mental decrepitude.” (Both William O. Douglas and Thurgood Marshall are widely considered to have been afflicted in this way by the time they stepped down.) As a remedy, some reform-

ers propose to limit Supreme Court justices to 18-year terms.

Crowe and Karpowitz say that such a limit would only marginally increase Court turnover, and would not necessarily lift the “dead hand of the past” from the high bench. More frequent confirmations might merely speed up the cycle of messy, divisive confirmation fights. Besides, the authors note, several of the nation’s most distinguished justices stuck around for some three decades, including John Marshall, Oliver Wendell Holmes, and William Brennan.

EXCERPT

In Search of the Public Interest

Concern for the public interest, the sense of the commonwealth, is largely confined these days to high school civics courses, to the degree they are even offered. An effort by a political leader today to reawaken this ideal would be met with curiosity at best and a good deal of skepticism at worst. We find ourselves, after all, in an age of personal achievement, if not self-aggrandizement. . . . Yet, particularly among the young, there is a lingering feeling that we are all in this together, that we have a lot more in common than we often realize. This latent sense of community is often very near the surface.

—Former senator **GARY HART**, author of *The Shield and the Cloak: The Security of the Commons* (2006)

Over the past 50 years the federal government’s desire to serve the public interest has also led it into areas in which it was not best suited to advance the public good. History has demonstrated that when government acts too aggressively, even in pursuit of a

common goal, it can overreach and actually exacerbate the ills it seeks to reverse.

—**CHRISTINE TODD WHITMAN**, formerly governor of New Jersey, former administrator of the U.S. Environmental Protection Agency, and cochair of the Republican Leadership Council

Conservatives and liberals, both taking pride in their “realism,” argue that the notion of the public interest is nothing but a figment. . . . For conservatives, the rights of the individual trump all; for liberals, it is the rights of the group. A rigid individualism on the one hand and an ideological multiculturalism on the other have hollowed out the public good.

—**ADAM WOLFSON**, editor of the magazine *The Public Interest*, before its demise in 2005

It is always right to ask how the public interest may be promoted. But that is not a question that social scientists or philosophers or theologians can answer. The answer is worked out in the thrust and parry of political competition. Not better theory, but rather better practice is the remedy for the ills that befall the body politic.

—**WILLIAM A. GALSTON**, author of *Public Matters* (2005) and other books

All excerpts are from the Fall 2007 issue of *Daedalus*, whose theme was “On the Public Interest.”