

Gender Ratio of Counsel Appearing in Higher Courts

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GENDER RATIO OF COUNSEL APPEARING IN HIGHER COURTS

REPORT OF THE NEW ZEALAND BAR ASSOCIATION

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1. Introduction

This is a report analysing the gender ratio of counsel appearing in the Court of Appeal and Supreme Court of New Zealand. Data establishing the gender of all counsel appearing in those courts was obtained from judgments issued in the years of 2012–2017, and analysed. This report summarises and provides that data. It is hoped that this data will stimulate reflection and action addressing how and why women are underrepresented in the higher courts compared to their proportionate presence in the legal profession, and how barriers contributing to that position might be addressed.

This report was undertaken and completed with the generous assistance of the New Zealand Law Foundation.

This report provides the results of our analysis. It provides a comprehensive review of the gender ratios of lead and junior counsel and Queen's Counsel who have appeared in New Zealand's Court of Appeal and Supreme Court over the relevant period.

The data is drawn from around 400 cases involving an oral hearing in the Court of Appeal per year, and around 100 delivered judgments in the Supreme Court per year.² The methodology that has been used for identifying the cases, identifying counsel, determining their gender, and filtering the results for various trends is explained in the document explaining in detail the data collection methodology **attached** to this report as **Appendix B**.

The data, in its extracted form, is **attached** as **Appendix A**. It is broken down by each Court, per year, into various categories. These categories have been determined by the report writers as those which most clearly reveal the data that was intended to be identified by this project. The raw data has been retained in its unextracted form in an Excel spreadsheet and the authors are able to provide this if requested. This may enable other categories and levels of analysis to be extracted if considered useful.

Finally, **attached** as **Appendix C** is a series of graphs that demonstrate various categories of data, plotted to establish whether any trends are discernible. It was the stated goal of this research project to determine whether the proportion of women appearing as lead counsel in comparison to men had changed at all over the last six years. These graphs demonstrate that, although there are minor fluctuations, it is difficult to determine any material upwards trend.

² The Supreme Court hears fewer oral hearings per year than the Court of Appeal. It releases a number of leave decisions in respect of which substantive submissions are provided, and prepared by teams of counsel. For the purposes of this data, the listed counsel on the various decisions released by the Supreme Court, whether following an oral hearing or not, have been taken to provide a picture of the counsel who are leading cases that are before the Supreme Court, whether granted leave or otherwise.

2. Summary of results

This work provides the first reliable and comprehensive data showing the gender ratio of counsel appearing before the Court of Appeal and Supreme Court in New Zealand.

In short, the data shows that women appear as lead counsel **significantly less frequently** than men. They also appear as lead counsel in a proportion that is significantly less than their overall representation in the legal profession, which has increased over the period from 2012 to 2018 from approximately 45% to just over 50%.³

In each year in the six year period surveyed (2012-2017) women made up less than 30% of lead counsel appearing in the Court of Appeal.

The figure is subject to greater fluctuation in the Supreme Court, probably due to the smaller number of cases and greater variation in the number of cases heard per year. Even so, for the period surveyed, the proportion of lead counsel appearing who are women has exceeded 30% only once, in 2017, when it was 30.49%. The previous year, 2016, the figure was only 19.21%.

Within these overall figures, there is a material difference in the proportion in which women appear as lead counsel for appellants and respondents and between civil and criminal appeals. Women make up less than 20% of lead counsel for the appellant in either the Court of Appeal or the Supreme Court in every year surveyed. When only civil appeals are analysed, the proportion of women appearing as lead counsel for an appellant drops by at least by 3-4%, and sometimes by significantly greater margins. For example, in 2015, women appeared as lead counsel for the appellant in the Court of Appeal 74 times, or 17.17% of the total. When only civil cases are considered, that figure drops to 20, or 11.98% of the total.

The respondent figures demonstrate a better picture. Women consistently represent around 27–40% of respondent lead counsel in both courts. When only criminal cases are analysed, women's involvement as lead counsel as a proportion of all cases grows, both in appellant and respondent roles. In fact, respondent lead counsel in criminal appeals is the only lead counsel category in which women reached a level of involvement that came near to the level that would reflect the constitution of the legal profession.⁴

The significant differences between the appellant and respondent figures and between civil and criminal appeals led us to consider whether this was related to the presence or absence of the Crown as a party. Crown Law represents the Crown on most, if not all, criminal appeals in the Court of Appeal and Supreme Court. Most criminal appeals involve a criminal defendant appealing, which places the Crown as the respondent. Crown Law also appears for the Crown in civil litigation, but far less frequently.⁵

To investigate this possible connection, the authors re-calculated the figures for all appeals but excluding counsel instructed by Crown Law. The exclusion had a stark effect on the figures. When instructions from Crown Law are excluded, the number of women appearing as lead counsel drops dramatically. For respondent counsel, the decrease is particularly severe. For example, in 2013 in the Court of Appeal, the proportion of female lead counsel for respondent dropped from 35.46% to 10.18%. In 2015, the drop was from 27.31% to 13.01%. In 2017, the drop was from 37.75% to 16.48%.

³ <https://www.lawsociety.org.nz/practice-resources/research-and-insight/practice-trends-and-statistics/slightly-more-male-lawyers-than-female>, NZLS: A Snapshot of the New Zealand Legal Profession, 1 March 2013 (available on <https://www.lawsociety.org.nz>).

⁴ See for example criminal appeals only in the Supreme Court in 2013 and 2014, where women appeared as 55% of respondent lead counsel and in 2017 where women appeared as 57% of respondent lead counsel in the Supreme Court; and 2013, 2014 and 2017 in the Court of Appeal where women appeared at or above 50% of the time as respondent lead counsel in criminal cases.

⁵ The civil/criminal breakdown is recorded for Crown Law's involvement for each year in the data breakdown provided in Appendix A.

The correlation between Crown Law's presence and an increased proportion of women appearing as lead counsel is interesting, and merits further analysis and research. The authors of this report do note, however, that Crown Law has since 2009 adopted a gender equitable briefing policy, having adopted the New Zealand Bar Association's gender equitable briefing policy in that year and having adopted the joint New Zealand Bar Association and New Zealand Law Society Gender Equitable Engagement and Instruction Policy on its launch in 2017. Whether this explains the tangible effect on the data that Crown Law has is hard to determine without more information, but the role Crown Law plays in placing women in leadership roles in the higher courts in New Zealand is notable, and demonstrable.

The figures for female QCs who appear, as a proportion of all QCs appearing across both courts, are very low. Women represent 18.7% of the population of counsel who have taken silk and remain practising in New Zealand.⁶ However women QCs rarely come close to that level as a proportion of QCs appearing in either the Court of Appeal or the Supreme Court. In 2017, female QCs represented only 9.28% of all QCs appearing in the Court of Appeal in that year. That was slightly less than the proportion in 2013 in the same Court, which was 9.57%. In some years, female QCs represented less than 5% of all QCs appearing in a given Court. Consistent with the overall picture, the lowest figures for female QCs are as lead counsel for the appellant in civil cases.

Junior counsel figures show a higher level of representation of women. It is apparent that women often appear as junior counsel, and sometimes in over 50% of cases in which a junior is present at an oral hearing. The average proportion of female junior counsel over the entire period is 46.66% in the Court of Appeal and 38.58% in the Supreme Court. The proportions are similar across both criminal and civil cases, and where Crown Law is excluded from the figures. The outliers tend to be in civil appellant figures, and in the Supreme Court.

Even though appearance as a junior is the most favourable category for women in New Zealand's Court of Appeal and Supreme Court, the report authors considered that the configuration of male and female seniors and juniors was also important to consider. For example, as is demonstrated in the data breakdown, men still appear as juniors to male QCs more frequently than women do, across every year. Conversely, there are very few women who junior for women, and even fewer women who are lead counsel to junior men.

These factors are notable, and important. The lower proportion of women appearing as junior to a male silk may have many reasons, and all of them may be important to the progression of women in the profession. While this did not form part of the study, women as a lower proportion of partners in law firms may have the opportunity to instruct and appear with a male silk on important civil cases far less frequently. Women, if appearing with male QCs on aggregate less frequently than men, are necessarily exposed to fewer opportunities to observe and learn from leading advocates in the field.

Conversely, the trend indicates that women juniors rarely have the experience of appearing alongside women who are appearing as lead advocates, and critically, the same is true for male juniors. Whatever the reasons for that, it is important for meaningful change that the courts, lawyers, and clients are accustomed to seeing women in positions of leadership in advocacy, and that they are seen to lead men as frequently as women are led by men, which – as the data demonstrates – is the overwhelming majority of cases.

Overarching trends

The proportion of women appearing as lead counsel in the Court of Appeal has seen **no discernible trend of improvement** in the six years for which the data has been collected. This is true across civil and criminal cases, and where Crown Law is excluded.

⁶ https://www.lawsociety.org.nz/__data/assets/pdf_file/0020/119270/Snapshot-of-the-Profession-2018.pdf (at 1 February 2018).

The proportion⁷ of women as a percentage of all appellant lead counsel in the Court of Appeal over the entire period is 17.10%. The figure for respondent lead counsel is 35.45%. Where civil appeals alone are isolated, women's representation as a proportion of appellant lead counsel drops to 12.75%. For respondent lead counsel, the figure drops to 22.33%. For criminal appeals only, the average is 19.8%; and 47.78% respectively. When Crown Law is removed, the figures (for both civil and criminal appeals combined) are 16.33% for appellant lead counsel and 17.52% for respondent lead counsel.

In the Supreme Court, there is again **no discernible trend of improvement** in the representation of women as lead counsel. The average proportion of appellant lead counsel which women comprise over the entire period for which data was obtained is 11.42%. For respondent lead counsel, the figure is 32.82%. When civil appeals are isolated, the average across all the years recorded is 7.83% for appellant lead counsel and 25.45% for respondent lead counsel. For criminal appeals only, across the period the appellant's lead counsel was a woman only 17.28% of the time, whereas for respondents the average was 46.19%. When Crown Law is excluded, the average figures taken across all six years are 11.35% for appellant lead counsel, and 15.32% for respondent lead counsel.

In short women appear as lead counsel in New Zealand's higher courts at a significantly disproportionate level compared to their proportion of the profession. Women are heavily underrepresented as lead and senior counsel in the Court of Appeal and Supreme Court. Further, the appellant lead counsel figures, and civil figures, are consistently worse for women than the overall figures.

Women are consistently and disproportionately confined to junior roles in the highest courts in New Zealand. Women do not lead men or women as lead counsel in proportions that reflect their presence and role in the profession. Women do not appear as QCs in proportions that reflect their presence as senior counsel.

This has not changed in any meaningful way in the last 6 years, in either the Court of Appeal or Supreme Court. In the authors' opinion, the lack of any trend towards increased gender equality demonstrates that the problem is not likely to resolve itself and that there is a need for concerted action to identify and address the underlying causes of the disparity, if change is to be achieved.

⁷ The yearly figures can be identified in Appendix A.

3. Background to the Study

Aims of the project

Our stated aims at the outset of this project were:

- to establish what percentage of counsel appearing before the Court of Appeal and Supreme Court in the last 6 years were female;
- to establish what percentage of those female counsel appeared as senior counsel;
- to establish what percentage of those female counsel appeared as junior counsel;
- to establish whether the proportion of women appearing as either senior or junior counsel in those courts has changed over the last 6 years.

Impetus for the research

There is a common perception that women are not instructed as advocates as often as men and that, if they do appear in court, women are more likely to appear as junior counsel than as senior counsel. This perception of differential opportunities granted to male and female advocates is frequently cited as a barrier to the progression of women within the profession and as a gender equity issue.⁸

However, the evidence that this is the case has historically been anecdotal. The Ministry of Justice does not collect data on the gender of counsel appearing in court and we are not aware of any recent New Zealand-specific research on the issue looking at a significant sample size of cases.⁹

Our view was that obtaining this data and encouraging its publication would:

- enable a more informed discussion about gender equity issues within the profession;
- provide an indication of whether the position is changing;
- provide firm data to support initiatives to increase opportunities for women to appear as advocates; and
- provide a baseline against which to measure the future effectiveness of gender equity initiatives aimed at increasing the opportunities for women to appear as advocates.

The reason for focusing on the Court of Appeal and Supreme Court is that they are the senior courts in which the most experienced and senior counsel are likely to appear. If a gender imbalance exists more widely it is very likely to be reflected in the data for these courts. These are also the courts in which cases might be considered “leading” or important, for the purposes of QC appointment (another barrier cited as preventing the progression of women in the profession). From a practical perspective, the decisions from

⁸ See, for example: Baroness Hale “Let’s do more to improve diversity among judges” *The Times*, 30 August 2017; Justice Susan Glazebrook *Gender Equality in the Workforce: A Work in Progress* (speech given to the Canterbury Women’s Legal Association on 22 October 2009) at 9; Justice Susan Glazebrook *Looking Through the Glass: Gender Inequality at the Senior Levels of New Zealand’s Legal Profession* (talk VUWLSA Women in the Law, 16 September 2010) at 4–6; and Justice Susan Glazebrook *It is just a matter of time and other myths*, (speech to NZBA and CWLA 22 November 2013) at 4–5 and 14–16. The discussion has continued overseas: see Justice Shira Scheindlin “Female Lawyers Can Talk, Too” *The New York Times*, 8 August 2017 and 24 August 2017 with Thomson Reuters Legal Executive Institute; George Williams “Female Barristers are barely seen and rarely heard in our High Court” *The Sydney Morning Herald*, 27 February 2017; and Katie Walsh “Women barely speak in Victoria’s Top Court” *Australian Financial Review* 7 September 2017.

⁹ Research on this issue has commenced informally in Australia, by the Dean of UNSW in respect of the High Court of Australia, and prompted by the Victorian Bar Association in respect of the Victorian Appellate Courts: see n 9 above.

the appellate courts were readily available (on Judicial Decisions Online) and the sample size of cases is smaller and more manageable than in the lower courts (such as the Family, District, and Environment courts), which hear many more cases and for which reporting of decisions is sometimes inconsistent.

The collection and analysis of this data was timely, given the recent launch and adoption by a number of major institutions of the Gender Equitable Engagement and Instruction Policy, a joint NZBA and New Zealand Law Society Policy.

It is hoped this data will provide insight into the need for such a policy, the level at which it is pitched, and provide a starting point for analysing how effective the policy will be. Given the role of Crown Law in these Courts, and its implementation of such a policy internally, it may also prove to be instructive as an example of how an equitable engagement policy might influence and positively affect the role of women in these Courts.

We are confident that these goals have been or will be achieved by the research and its publication; and that the original rationale and impetus for it will be justified. We believe that the data collected will provide an invaluable empirical basis for further gender equity initiatives, and for charting progress going forward.

Conclusion

The data demonstrates that there is much work to be done in the legal profession to rectify the imbalance in terms of advocacy roles in court held by men and women. The key roles in advocacy in our highest courts are occupied disproportionately by men. The opportunities that court advocacy provides to build skills, experience and reputation are distributed asymmetrically, in accordance with that imbalance.

That imbalance translates into the disproportion in QC numbers. It is difficult not to see this as a significant road block to the progression of women to roles of leadership and success within the profession. If women are not able to obtain opportunities to speak, develop and grow in their advocacy, and to demonstrate their skills in the public setting of the courtroom, this will not change quickly.

The breakdown of opportunities as between civil and criminal appeals is, in a sense, telling. It is apparent that civil matters in appellate courts are only very infrequently briefed to women. This may reflect the fact that briefing decisions in these cases are made by individual or corporate clients and their solicitors, rather than the Crown, and may also reflect the fact that these are often matters which are financially significant for the clients concerned, which may make them more risk-averse in their choice of counsel, thereby further increasing the barriers for comparatively less experienced women counsel.

Criminal law offers a slightly improved position for the proportion of women who appear in leading positions of advocacy. That improvement is only slight, however. The imbalance is still persistent across lead counsel, and is more pernicious when QCs are factored in.

The figures are difficult to reconcile with the number of women practicing in the profession and with the number of women who have been and are being admitted to the bar as lawyers. In short, opportunities for advocacy in higher courts are not afforded to women to the same extent as men, despite an equivalence of availability, and ability, between candidates from both genders.

The data does not disclose the *reasons* that the imbalance occurs. As with any situation of imbalance or exclusion, the reasons are likely to be complex and varied, and difficult to identify and therefore change. Nonetheless, there is a demonstrable effect on the figures when Crown Law is included, specifically in respect of the proportion of women as lead counsel. Why and how this impact exists is something that more information and research will need to explain. This aspect of the data is, however, hopeful – it suggests that there are steps that can be taken that will positively affect women's progression in the legal profession. It is hoped that measures such as the Gender Equitable Instruction and Engagement Policy, and the possibilities for wider implementation of such a policy, can contribute to real change.

This data demonstrates both the need for, and a clear possibility of, change occurring in terms of advocacy opportunities for women. Whether the next six years can provide a discernible change for the better depends on the willingness of the profession as a whole, and the clients whom it serves, to take steps to ensure that it happens.

4. Acknowledgements

The authors would like to thank the New Zealand Law Foundation for their generous funding and support of this research project. Without it, this valuable data would never have been collected.

This project emanated from the work of the New Zealand Bar Association's Gender Equity Committee and the New Zealand Bar Association's Council, of which the authors were both members in 2017 and 2018. Thank you to the NZBA for its support and logistical assistance in enabling this project to reach completion. A special thanks to Melissa Perkin, the Executive Director of the NZBA for her assistance.

The data was collected over a period of months by two student researchers from the University of Auckland Law School, Rosa Gavey and Bonnie Simmonds. Their work was invaluable and special thanks is extended to them for undertaking such a massive task.

Finally, thank you to Kathryn Beck, Miriam Dean QC, Clive Elliott QC, Janna McGuigan, Hon Rodney Hansen QC and Professor Treasa Dunworth, who kindly acted as referees for the authors of this project in their application to the Law Foundation, and who supported the authors in their endeavours to undertake it.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

A. COURT OF APPEAL DATA

2017

1.	All appeals – all lead counsel	Male	Female ¹	Unknown ²	Female % of total ³
	Appellant ⁴	302	66	3	17.93
	Respondent	254	154	4	37.75
	Total	556	220	7	28.35

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	57	6	-	9.52
	Respondent	31	3	-	8.82
	Total	88	9	-	9.28

3.	All appeals - junior counsel ⁵	Male	Female	Unknown	Female % of total
	Appellant	83	46	2	35.66
	Respondent	65	68	3	51.13
	Total	148	114	5	43.51

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	138	18	1	11.54
	Respondent	164	42	3	20.39
	Total	302	60	4	16.57

¹ **NB:** gender has been determined by assessing the self-identified gender of counsel appearing from their entries on the public Register of Lawyers, their choice of pronoun on the same and on publicly accessible websites, and through their choice of pronoun in the judgments concerned. Where unable to be discerned, counsel has been listed as “unknown”. If there are any counsel whose gender identification has changed, or whose use of pronoun in a judgment or other public resource is mis-recorded, please do not hesitate to contact the authors of this material and the entry can be fixed.

² No. of counsel for whom gender was unable to be determined from publicly available information.

³ This figure shows the number of appearances by women as lead counsel as a percentage of the total of appearances by either men or women as lead counsel in appeals where an appearance was entered, excluding “unknown”. Matters determined on the papers are omitted from these figures.

⁴ “Appellant” and “Respondent” figures include all second, third, fourth and fifth appellants or respondents where each subsequent party was separately represented. Multiple appellants/respondents represented by the same counsel or counsels in the same hearing are not counted as more than one appearance, despite being separate appeals.

⁵ “Junior counsel” includes any counsel appearing as second or subsequent counsel (i.e. not as lead counsel).

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PRIMARY DATA BREAKDOWN

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5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	49	4	-	7.55
	Respondent	24	3	-	11.11
	Total	73	7		8.75

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	74	32	1	30.19
	Respondent	51	60	2	54.05
	Total	125	92	3	42.39

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	162	49	2	23.22
	Respondent	92	112	2	54.90
	Total	255	161	2	38.70

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	7	2	-	22.22
	Respondent	6	0	-	0.00
	Total	13	2	-	13.33

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	20	17	0	45.94
	Respondent	15	15	1	50.00
	Total	35	32	1	47.76

10.	All appeals excluding Crown Law ⁶ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	297	62	3	17.27
	Respondent	147	29	1	16.48
	Total	444	91	4	17.01

⁶ These figures exclude counsel instructed by the Crown Law Office as counsel for either the appellant or respondent. Civil/criminal breakdown for 2017 in Court of Appeal: counsel instructed by Crown Law appeared in 43 civil appeals; 191 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	56	6	-	9.68
	Respondent	23	2	-	8.00
	Total	79	8	-	9.20

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	79	43	2	35.24
	Respondent	45	40	1	48.24
	Total	124	83	3	40.10

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior counsel 27 times (9 QC)
	Male + Male	Male senior appears with male junior counsel 65 times (29 QC)
	Female + Female	Female senior appears with female junior counsel 5 times (3 QC)
	Female + Male	Female senior appears with male junior counsel 7 times (0 QC)

GENDER OF COUNSEL APPEARING – APPENDIX A

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3 September 2018

2016

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	336	78	2	18.84
	Respondent	307	173	3	36.04
	Total	643	251	5	28.08

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	63	9	-	12.5
	Respondent	39	6	-	13.33
	Total	102	15		12.82

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	77	82	3	51.57
	Respondent	83	90	8	52.02
	Total	160	172	11	51.81

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	143	26	0	15.38
	Respondent	176	62	1	26.05
	Total	319	58	1	15.38

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	48	8	-	14.29
	Respondent	32	6	-	15.79
	Total	80	14	-	14.89

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	56	56	1	50.00
	Respondent	71	67	7	48.55
	Total	127	123	8	49.20

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	184	50	2	21.37
	Respondent	124	110	2	47.01
	Total	308	160	4	34.19

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PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	12	0	-	0.00
	Respondent	7	0	-	0.00
	Total	19	0	-	0.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	21	26	1	55.32
	Respondent	11	23	1	67.65
	Total	32	49	2	60.49

10.	All appeals excluding Crown Law ⁷ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	330	73	2	18.11
	Respondent	162	46	1	22.12
	Total	492	119	3	19.48

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	62	7	-	10.14
	Respondent	30	5	-	14.29
	Total	92	12	0	11.54

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	74	78	3	51.32
	Respondent	61	51	4	45.54
	Total	135	129	7	48.86

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior counsel 112 times (28 w QC)
	Male + Male	Male senior appears with male junior counsel 104 times (42 w QC)
	Female + Female	Female senior appears with female junior counsel 37 times (7 w QC)
	Female + Male	Female senior appears with male junior counsel 23 times (4 w QC)

⁷ Crown Law civil/criminal breakdown for 2016: Civil/criminal breakdown: 54 civil appeals; 224 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2015

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	357	74	8	17.17
	Respondent	378	142	7	27.31
	Total	735	216	15	22.71

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	67	7	-	9.46
	Respondent	62	4	-	6.06
	Total	129	11	-	7.86

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	91	60	2	39.74
	Respondent	79	84	7	51.53
	Total	170	144	9	45.86

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	147	20	6	11.98
	Respondent	101	22	5	17.89
	Total	248	42	11	14.48

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	48	7	-	12.73
	Respondent	14	1	-	6.67
	Total	62	8	-	11.43

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	31	19	2	38.00
	Respondent	35	36	7	50.70
	Total	56	55	9	49.55

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	207	49	2	19.14
	Respondent	166	98	2	37.12
	Total	373	147	4	28.27

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3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	18	1	-	5.26
	Respondent	11	0	-	0.00
	Total	29	1	-	3.33

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	24	26	0	52.00
	Respondent	18	23	0	56.10
	Total	42	49	0	53.85

10.	All appeals excluding Crown Law ⁸ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	348	67	8	16.14
	Respondent	214	32	5	13.01
	Total	562	99	13	14.98

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	66	6	-	8.33
	Respondent	62	4	-	6.06
	Total	128	10	-	7.25

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	86	53	2	38.13
	Respondent	60	60	0	50.00
	Total	146	113	2	43.63

13.	Senior and Junior configurations	
	Male + Female	Male senior appeared with female junior 104 times (25 w QC)
	Male + Male	Male senior appeared with male junior 125 times (53 w QC)
	Female + Female	Female senior appeared with female junior 22 times (2 w QC)
	Female + Male	Female senior appeared with male junior 19 times (1 w QC)

⁸ Crown law civil/criminal breakdown for 2015: Civil/criminal breakdown: 48 civil appeals; 243 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2014

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	383	73	10	16.01
	Respondent	344	229	15	39.97
	Total	727	302	25	29.35

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	62	10	-	13.89
	Respondent	51	9	-	15.00
	Total	113	19	-	14.39

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	70	57	10	44.88
	Respondent	69	89	10	56.33
	Total	139	146	20	51.23

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	146	30	2	17.05
	Respondent	200	79	9	28.32
	Total	346	109	11	23.96

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	43	4	-	8.51
	Respondent	45	5	-	10.00
	Total	88	9	-	9.28

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	45	38	6	45.78
	Respondent	67	55	8	45.08
	Total	112	93	14	45.37

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	239	52	8	17.87
	Respondent	147	150	6	50.51
	Total	386	202	14	34.35

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	19	5	-	20.83
	Respondent	7	0	-	0.00
	Total	26	5	-	16.13

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	26	21	4	44.68
	Respondent	3	35	2	92.11
	Total	29	56	6	65.88

10.	All appeals excluding Crown Law ⁹ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	376	70	10	15.70
	Respondent	185	58	12	23.87
	Total	561	128	22	18.58

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	62	10	-	13.89
	Respondent	42	7	-	14.29
	Total	104	17	-	14.05

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	68	51	10	42.86
	Respondent	63	49	3	43.75
	Total	131	100	13	43.29

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior 95 times (23 w QC)
	Male + Male	Male senior appears with male junior 104 times (45 w QC)
	Female + Female	Female senior appears with female junior 36 times (5 w QC)
	Female + Male	Female senior appears with male junior 11 times

⁹ Crown law civil/criminal breakdown for 2014: Civil/criminal breakdown: 51 civil appeals; 278 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2013

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	407	93	28	18.6
	Respondent	404	222	33	35.46
	Total	811	315	61	27.98

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	56	6	-	9.68
	Respondent	48	5	-	9.43
	Total	104	11	-	9.57

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	86	59	17	40.69
	Respondent	104	98	19	48.51
	Total	190	157	36	45.24

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	149	19	1	11.31
	Respondent	222	42	-	15.91
	Total	371	61	1	14.12

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	40	5	-	11.11
	Respondent	44	3	-	6.38
	Total	84	8	-	8.70

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	55	34	10	38.20
	Respondent	71	49	13	40.83
	Total	127	83	23	39.52

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	280	74	1	20.90
	Respondent	187	198	0	51.43
	Total	467	272	1	36.81

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	17	1	0	5.56
	Respondent	6	1	0	14.29
	Total	23	2	0	8.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	32	26	6	44.83
	Respondent	33	48	5	59.26
	Total	65	74	11	53.24

10.	All appeals excluding Crown Law ¹⁰ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	390	84	28	17.72
	Respondent	247	28	33	10.18
	Total	637	112	61	14.95

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	55	6	-	9.84
	Respondent	43	5	-	10.42
	Total	98	11	-	10.09

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	78	51	17	39.53
	Respondent	83	51	14	38.06
	Total	161	102	61	38.78

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior counsel 108 times (20 w QC)
	Male + Male	Male senior appears with male junior counsel 152 times (50 w QC)
	Female + Female	Female senior appears with female junior counsel 40 times (3 w QC)
	Female + Male	Female senior appears with male junior counsel 20 times (4 times w QC)

¹⁰ Crown Law civil/criminal breakdown: Civil/criminal breakdown: 61 civil appeals; 303 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2012

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	363	59	2	13.98
	Respondent	314	179	3	36.31
	Total	677	238	5	26.01

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	39	3	-	7.14
	Respondent	30	2	-	6.25
	Total	69	5	9	6.76

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	88	39	16	30.71
	Respondent	63	66	21	51.16
	Total	151	105	37	41.02

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	146	14	1	8.75
	Respondent	169	50	2	22.83
	Total	315	64	3	16.89

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	34	1	-	2.86
	Respondent	28	2	-	6.66
	Total	62	3	-	4.62

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	59	22	9	27.16
	Respondent	55	51	14	48.11
	Total	114	73	23	39.04

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	219	45	2	17.05
	Respondent	155	129	1	45.42
	Total	374	174	3	31.75

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	5	2	-	28.57
	Respondent	2	0	-	0.00
	Total	7	2	0	22.22

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	29	17	7	36.96
	Respondent	7	15	6	68.18
	Total	36	32	13	47.06

10.	All appeals excluding Crown Law ¹¹ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	354	53	2	13.02
	Respondent	161	44	2	21.46
	Total	515	97	4	15.85

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	37	3	-	7.50
	Respondent	27	1	-	3.57
	Total	64	4	-	5.88

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	83	35	16	29.66
	Respondent	42	41	15	49.40
	Total	125	76	31	37.81

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior 76 times (21 w QC)
	Male + Male	Male senior appears with male junior 112 times (36 w QC)
	Female + Female	Female senior appears with female junior 19 times (1 w QC)
	Female + Male	Female senior appears with male junior 18 times (3 w QC)

¹¹ Crown Law civil/criminal breakdown: 45 civil appeals; 265 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

B. SUPREME COURT DATA

2017

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	65	15	1	18.75
	Respondent	90	53	1	37.06
	Total	155	68	2	30.49

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	26	5	-	16.13
	Respondent	17	1	-	5.56
	Total	43	6	-	12.24

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	31	14	1	31.11
	Respondent	42	40	2	48.78
	Total	73	54	3	42.52

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	46	10	0	17.86
	Respondent	75	29	1	27.88
	Total	121	39	1	24.38

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	24	5	0	17.24
	Respondent	24	1	0	4.00
	Total	48	6	0	11.11

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	30	13	1	30.23
	Respondent	42	29	1	40.85
	Total	72	42	2	36.84

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	19	5	1	20.83

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

	Respondent	15	20	0	57.14
	Total	34	25	1	42.37

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	2	0	0	0.00
	Respondent	0	0	0	0.00
	Total	2	0	0	0.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	1	0	0	0.00
	Respondent	1	11	1	91.66
	Total	2	11	1	84.61

10.	All appeals excluding Crown Law ¹² - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	64	14	1	17.95
	Respondent	60	13	1	17.81
	Total	124	27	2	17.88

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	25	4	-	13.79
	Respondent	15	1	-	6.25
	Total	40	5	-	11.11

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	31	14	1	31.11
	Respondent	26	22	1	45.83
	Total	57	36	2	38.71

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior counsel 28 times (9 w QC)
	Male + Male	Male senior appears with male junior counsel 47 times (27 w QC)
	Female + Female	Female senior appears with female junior counsel 17 times (3 w QC)

¹² Crown Law civil/criminal breakdown: 30 civil appeals; 34 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

	Female + Male	Female senior appears with male junior counsel 8 times (2 w QC)

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2016

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	84	5	1	5.62
	Respondent	101	39	1	27.86
	Total	185	44	1	19.21

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	34	1	-	2.86
	Respondent	28	3	-	9.68
	Total	62	4	-	6.06

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	36	10	1	21.74
	Respondent	46	31	3	40.26
	Total	82	41	4	33.33

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	53	1	0	1.85
	Respondent	77	17	1	18.09
	Total	130	18	1	12.16

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	27	1	-	3.57
	Respondent	26	3	-	10.34
	Total	53	4	-	7.02

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	31	7	1	18.42
	Respondent	41	26	3	38.81
	Total	72	33	4	31.43

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	31	4	1	11.43
	Respondent	24	22	0	47.83
	Total	55	26	1	32.10

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	7	0	-	0.00
	Respondent	2	0	-	0.00
	Total	9	0	-	0.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	5	3	0	37.50
	Respondent	5	5	0	50.00
	Total	10	8	0	44.44

10.	All appeals excluding Crown Law ¹³ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	84	5	1	5.62
	Respondent	53	9	1	14.52
	Total	137	14	2	9.27

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	34	1	-	2.86
	Respondent	22	3	-	12.00
	Total	56	4	-	6.67

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	36	10	1	21.74
	Respondent	26	25	3	49.02
	Total	62	35	4	36.08

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior 24 times (8 w QC)
	Male + Male	Male senior appears with male junior 55 times (33 w QC)
	Female + Female	Female senior appears with female junior 6 times (1 w QC)
	Female + Male	Female senior appears with male junior 6 times (2 w QC)

¹³ Crown law civil/criminal breakdown: 43 criminal appeals; 24 civil appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2015

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	74	4	1	5.13
	Respondent	97	58	5	37.42
	Total	165	62	6	27.31

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	27	1	-	3.57
	Respondent	23	2	-	8.00
	Total	50	3	-	5.66

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	41	16	0	28.07
	Respondent	32	35	10	52.24
	Total	73	51	10	41.13

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	45	3	2	6.25
	Respondent	70	47	4	40.17
	Total	115	50	6	30.30

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	23	1	-	4.17
	Respondent	18	2	-	10.00
	Total	41	3	-	6.82

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	32	14	0	30.43
	Respondent	25	27	10	51.92
	Total	57	41	10	41.84

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	29	1	2	3.33
	Respondent	29	11	2	15.71
	Total	58	12	4	17.14

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	4	0	-	0.00
	Respondent	6	0	-	0.00
	Total	10	0	-	0.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	10	2	0	16.67
	Respondent	9	10	0	52.63
	Total	19	12	0	38.71

10.	All appeals excluding Crown Law ¹⁴ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	74	6	3	7.50
	Respondent	64	10	0	13.51
	Total	138	16	3	10.39

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	27	1	-	3.57
	Respondent	21	2	-	8.70
	Total	48	3	-	5.88

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	39	16	0	29.09
	Respondent	23	13	9	36.11
	Total	62	29	9	31.87

13.	Senior and Junior configurations	
	Male + Female	Male senior appeared with female junior 11 times (2 w QC)
	Male + Male	Male senior appeared with male junior 27 times (16 w QC)
	Female + Female	Female senior appeared with female junior 2 times
	Female + Male	Female senior appeared with male junior 0 times

¹⁴ Crown Law civil/criminal breakdown: 49 civil appeals; 38 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2014

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	84	12	1	12.50
	Respondent	120	52	3	30.23
	Total	204	64	4	23.88

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	24	3	-	11.11
	Respondent	21	4	-	16.00
	Total	45	7	-	13.46

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	39	28	1	41.79
	Respondent	49	45	4	47.87
	Total	88	73	5	45.34

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	63	7	1	10.00
	Respondent	107	36	1	25.17
	Total	170	43	2	20.19

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	17	3	-	15.00
	Respondent	20	5	-	20.00
	Total	37	8	-	17.78

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	32	23	1	41.82
	Respondent	44	32	4	42.11
	Total	76	55	5	41.98

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	21	6	0	22.22
	Respondent	13	16	2	55.17
	Total	34	22	2	39.29

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	6	0	-	0.00
	Respondent	2	0	-	0.00
	Total	8	0	-	0.00

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	6	5	0	45.45
	Respondent	4	12	0	75.00
	Total	10	17	0	62.96

10.	All appeals excluding Crown Law ¹⁵ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	83	12	1	12.63
	Respondent	74	12	1	13.95
	Total	157	24	2	13.26

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	24	3	-	11.11
	Respondent	14	4	-	22.22
	Total	38	7	-	15.56

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	38	28	1	42.42
	Respondent	31	18	2	36.73
	Total	69	46	3	40.00

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior 40 times (8 w QC)
	Male + Male	Male senior appears with male junior 59 times (27 w QC)
	Female + Female	Female senior appears with female junior 11 times (4 w QC)
	Female + Male	Female senior appears with male junior 4 times (1 w QC)

¹⁵ Crown Law civil/criminal breakdown: 44 civil appeals; 32 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2013

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	67	14	2	17.28
	Respondent	66	42	5	38.89
	Total	133	56	7	29.63

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	20	1	-	4.76
	Respondent	20	0	-	0.00
	Total	40	1	-	2.44

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	32	12	0	27.27
	Respondent	32	24	3	42.86
	Total	64	36	3	36.00

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	42	3	1	6.67
	Respondent	46	17	5	26.98
	Total	88	20	6	18.52

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	15	0	-	0.00
	Respondent	18	0	-	0.00
	Total	33	0	-	0.00

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	25	9	1	26.47
	Respondent	25	12	2	32.43
	Total	50	21	3	29.58

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	25	11	1	30.56
	Respondent	20	25	0	55.56
	Total	45	36	1	44.44

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	5	1	-	16.67
	Respondent	2	0	-	0.00
	Total	7	1	-	12.50

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	7	3	0	30.00
	Respondent	7	12	1	63.16
	Total	14	15	1	51.72

10.	All appeals excluding Crown Law ¹⁶ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	67	14	2	17.28
	Respondent	36	9	5	20.00
	Total	103	23	7	16.91

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	20	1	-	4.76
	Respondent	16	0	-	0.00
	Total	26	1	-	2.70

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	32	12	0	27.27
	Respondent	17	5	2	22.73
	Total	49	17	0	25.76

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior counsel 20 times (10 times w QC)
	Male + Male	Male senior appears with male junior counsel 48 times (22 w QC)
	Female + Female	Female senior appears with female junior counsel 9 times (0 w QC)
	Female + Male	Female senior appears with male junior counsel 5 times (1 w QC)

¹⁶ Crown law civil/criminal breakdown: 9 civil appeals; 29 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

2012

1.	All appeals – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	74	6	0	7.50
	Respondent	91	32	0	26.02
	Total	165	38	0	18.72

2.	All appeals - QCs only	Male	Female	Unknown	Female % of total
	Appellant	22	1	-	4.35
	Respondent	23	1	-	4.17
	Total	45	2	-	4.26

3.	All appeals - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	39	13	1	25.00
	Respondent	41	21	5	33.87
	Total	80	34	6	29.82

4.	Civil appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	56	3	0	5.08
	Respondent	78	8	0	9.30
	Total	134	11	0	7.59

5.	Civil appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	19	0	-	0.00
	Respondent	25	0	-	0.00
	Total	44	0	-	0.00

6.	Civil appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	37	13	6	26.00
	Respondent	38	18	5	32.14
	Total	75	31	11	29.25

7.	Criminal appeals only – all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	7	1	0	12.50
	Respondent	10	1	0	9.09
	Total	17	2	9	10.53

GENDER OF COUNSEL APPEARING – APPENDIX A

PRIMARY DATA BREAKDOWN

3 September 2018

8.	Criminal appeals only - QCs only	Male	Female	Unknown	Female % of total
	Appellant	1	0	-	0.00
	Respondent	1	1	-	50.00
	Total	2	1	-	33.33

9.	Criminal appeals only – junior counsel	Male	Female	Unknown	Female % of total
	Appellant	1	0	0	0.00
	Respondent	2	0	0	0.00
	Total	3	0	0	0.00

10.	All appeals excluding Crown Law ¹⁷ - all lead counsel	Male	Female	Unknown	Female % of total
	Appellant	73	6	0	7.59
	Respondent	28	4	0	12.50
	Total	101	10	0	9.01

11.	All appeals excluding Crown Law - QCs only	Male	Female	Unknown	Female % of total
	Appellant	22	1	-	4.35
	Respondent	11	0	-	0.00
	Total	33	1	0	2.94

12.	All appeals excluding Crown Law - junior counsel	Male	Female	Unknown	Female % of total
	Appellant	38	13	1	25.49
	Respondent	27	8	4	22.86
	Total	65	21	5	24.42

13.	Senior and Junior configurations	
	Male + Female	Male senior appears with female junior 24 times (12 w QC)
	Male + Male	Male senior appears with male junior 57 times (24 w QC)
	Female + Female	Female senior appears with female junior 2 times (w QC)
	Female + Male	Female senior appears with male junior 3 times

¹⁷ Crown Law civil/criminal breakdown: 27 civil appeals; 32 criminal appeals.

GENDER OF COUNSEL APPEARING – APPENDIX B

METHODOLOGY AND CATEGORIES

1. Overview of methodology

Data was collated through the online database, Judicial Decisions Online (JDO). Where there were issues with the JDO records, these were cross-referenced with NZLII.¹ All judgments delivered by the Court of Appeal and the Supreme Court between 1 January and 31 December of each year were identified and links compiled. The researchers reviewed each decision to obtain the names or initials of counsel which were then searched through the Register of Lawyers administered by the New Zealand Law Society.

Gender of counsel was deduced by the gender listed on the Register of Lawyers. Where more than one match to the initials was revealed, or gender was not listed on the entry, further steps were taken. The authors then searched across various methods to identify the gender of the individual appearing, namely:

- Website searches of solicitor firms;
- General web searches;
- Internal judgment searches for references by Judges to counsel and the pronoun used.

Where the authors personally knew the gender of individuals, these were entered into the data. If none of these delivered a conclusive gender designation, the entry was recorded as unknown.

For the Court of Appeal, data was collected only for judgments that are delivered following an oral hearing with Counsel appearing. Therefore, decisions that were conducted “on the papers”, or that were merely results judgments accompanying a later, substantive judgment have been recorded as NA in the data entries and excluded from the numbers of counsel appearing. The same method was utilized where there was no appearance for a party, where that party was self-represented party, and where a self-represented has utilized a McKenzie Friend.

Data for counsel appearing in the Court of Appeal covers all individual counsel appearing at a hearing, including for different appeals or appellants heard together. The assumption is that all counsel listed in the counsel appearances section of the judgment covers each counsel present. Where one counsel appears for multiple parties (such as more than one appellant in a criminal case) the gender is recorded once. This is to ensure fidelity to the data, which is the gender of counsel physically appearing and orally addressing the Court. Appearances entered for four appellants but that are in reality one physical “appearance” are recorded as just one, so as to not artificially inflate the numbers of appearances.

The Supreme Court data has been taken in respect of all substantive decisions from the Supreme Court. That includes written decisions declining leave, which may not have occurred pursuant to an oral hearing. This balances the comparatively much fewer oral hearings conducted by the Supreme Court per year, while also capturing the importance and gravity of involvement of counsel in applying for leave to take a case to the Supreme Court. The authors determined this was a fair proxy for involvement and leadership in advocacy as far as the Supreme Court is concerned, and captures the thrust of the issue at hand, namely to what extent women are involved in leading such cases, including applications for leave.

Where counsel has been court-appointed, as amicus, counsel assisting the Court, or as Intervenor, they have been recorded in the lead counsel numbers for either male or female. Where a QC appears for an intervenor or counsel assisting, the entry is recorded in the QC numbers. Similarly,

¹ This occurred only for the years of 2012 and 2013.

GENDER OF COUNSEL APPEARING – APPENDIX B

these have been fed into the “respondent” numbers based on the listing of counsel on the judgments.

2. Explanation of categories

For the purposes of the primary data breakdown, the categories denote as follows:

- (a) **Year and Court** – decisions falling within the calendar year, issued by the Court in question, and accessible via Judicial Decisions Online (JDO);
- (b) **Male and Female** – ascertained from the identified pronoun use of counsel in question on publicly accessible websites and databases;
- (c) **Unknown** – gender unable to be conclusively determined;
- (d) **Lead Counsel** – first listed counsel on the judgment “counsel” entry (counsel assisting and interveners are counted as “lead counsel”);
- (e) **QCs** – counsel identified as QC in the judgment counsel entry, therefore being a QC at the time of the appearance;
- (f) **Appellant and Respondent (senior)** – figures include all appellants and respondents represented by separate counsel or teams at the hearing (e.g. appellant lead counsel captures the lead counsel for the first appellant, second appellant, and third appellant where each of those appellants are represented separately in a hearing).
- (g) **Junior counsel** – any counsel listed consecutively after lead counsel, including second juniors, and where relevant, third juniors.
- (h) **Civil appeals only** – only those appeals that concern civil matters, excluding all appeals within the criminal jurisdiction. This has been deduced from the judgment itself.
- (i) **Criminal appeals only** – as above, except only appeals concerning criminal appeals.
- (j) **Crown law excluded** – where Crown Law Office (Wellington or Auckland) appears as instructing solicitor, this has been recorded in the data collection. Through data analysis, whether Crown Law appeared as appellant or respondent has been recorded, and the gender breakdown for lead, QC and junior counsel recorded and removed from the relevant data set. The counter-party, against which Crown Law appears in the relevant case, remains in the data set.
- (k) **Senior + junior** – records the instances of a particular gender of senior and a particular gender of junior. This has been calculated by screening for each of the senior, then each of the juniors across all appellants and respondents in a given case. Where the junior appears with a senior who is also a QC, this has been recorded in brackets.

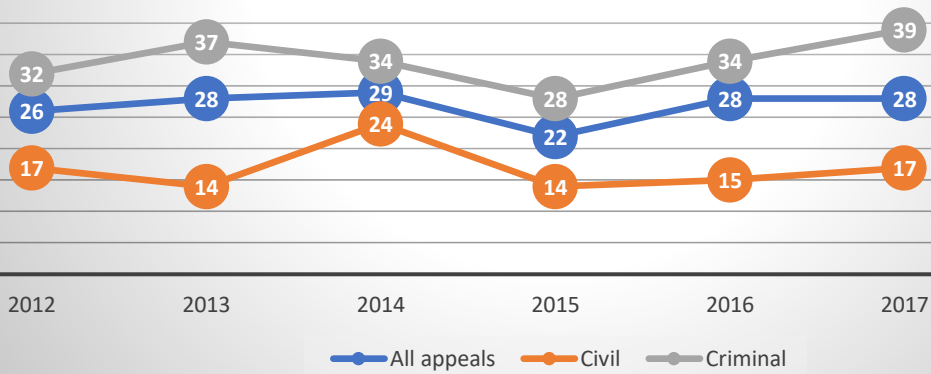
Unknown has not been recorded for QC entries, because where counsel is identified as QC, their gender has also been readily identifiable from public records.

3. The roles of counsel in advocacy before the Court

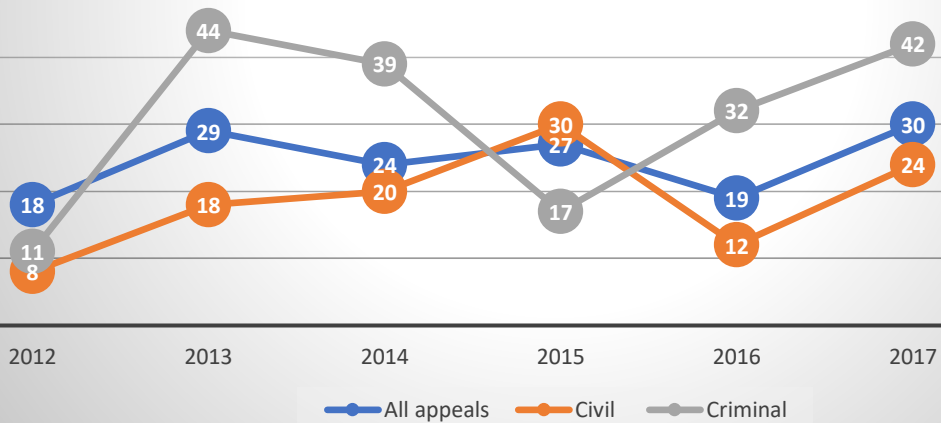
It should be borne in mind that outside the transcripts of hearings for Supreme Court hearings, there is no way of identifying who from a team of counsel in Court has, in fact spoken in Court. The Courts do not record that information. It has been customary (and anecdotally supported) that only senior counsel addresses the Court in most Court of Appeal and Supreme Court hearings. It should be noted that this data was extracted before the Court of Appeal’s practice note as to the role of juniors in oral advocacy in the Court of Appeal was released.

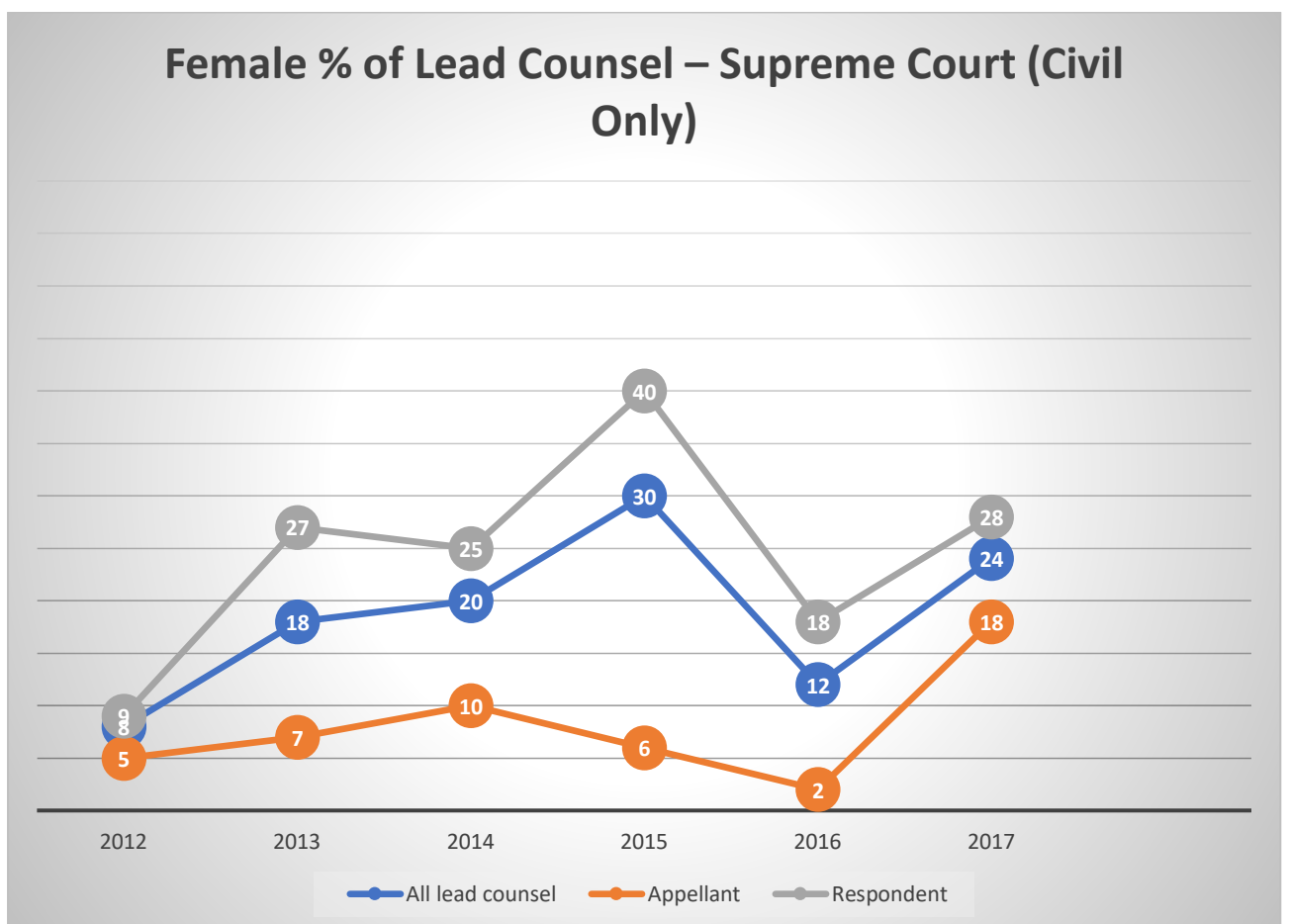
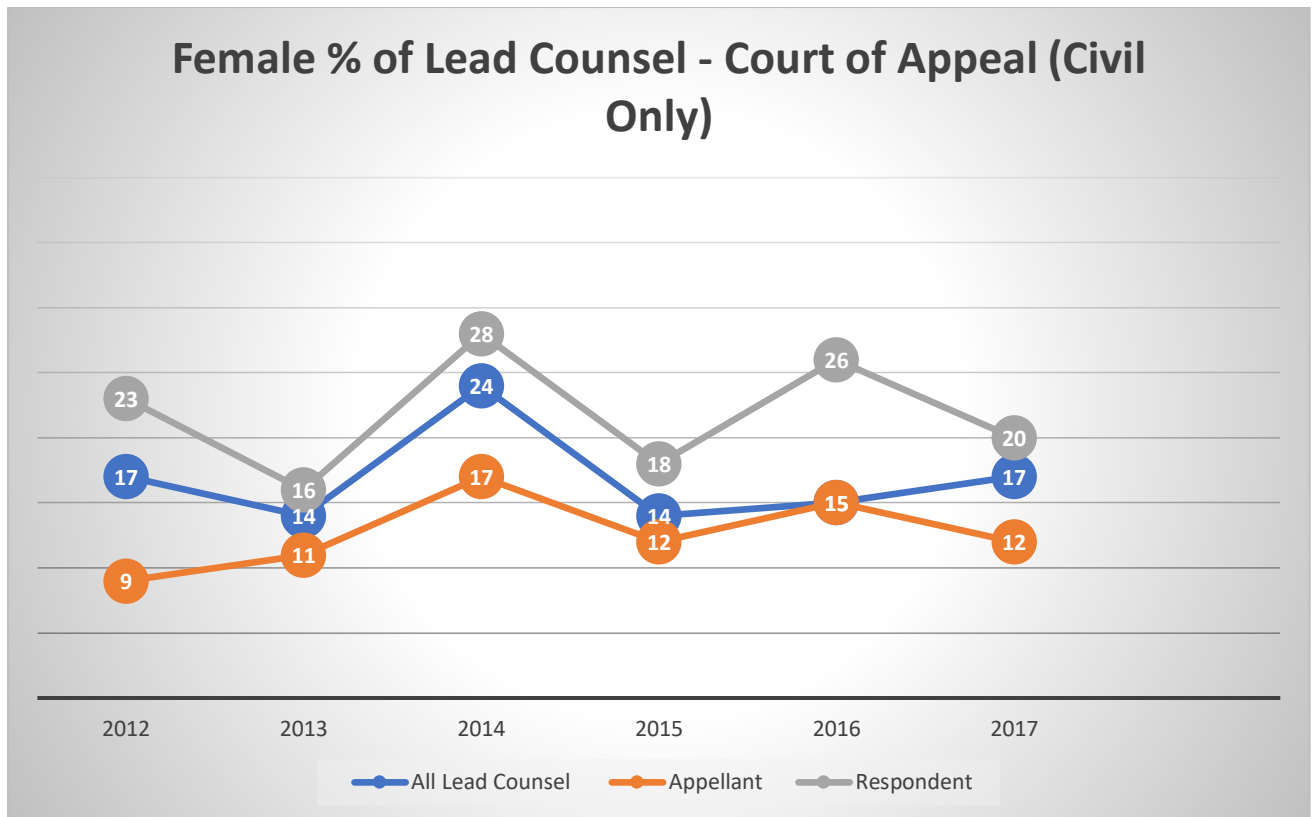
If there are any queries about the data, its extent, or collection methods, or any other queries related to how the conclusions have been reached, please do not hesitate to contact the authors of this report.

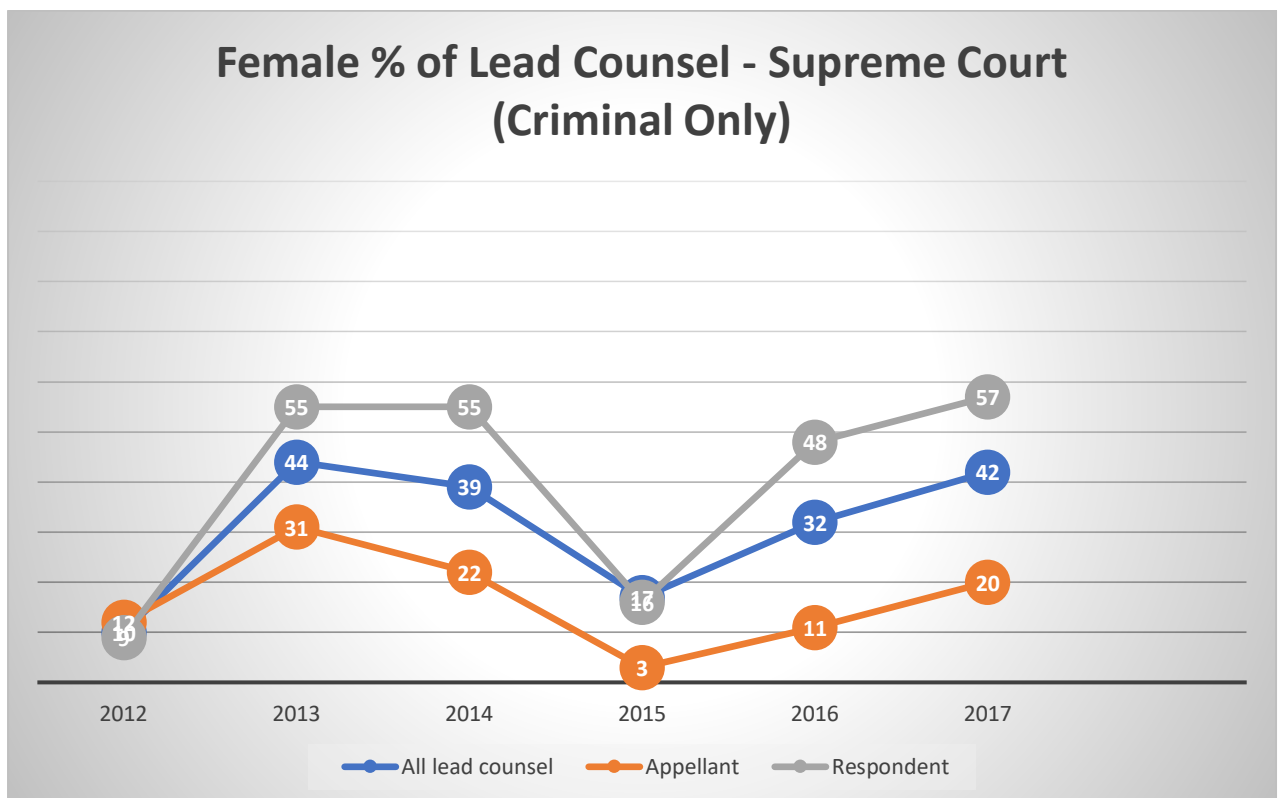
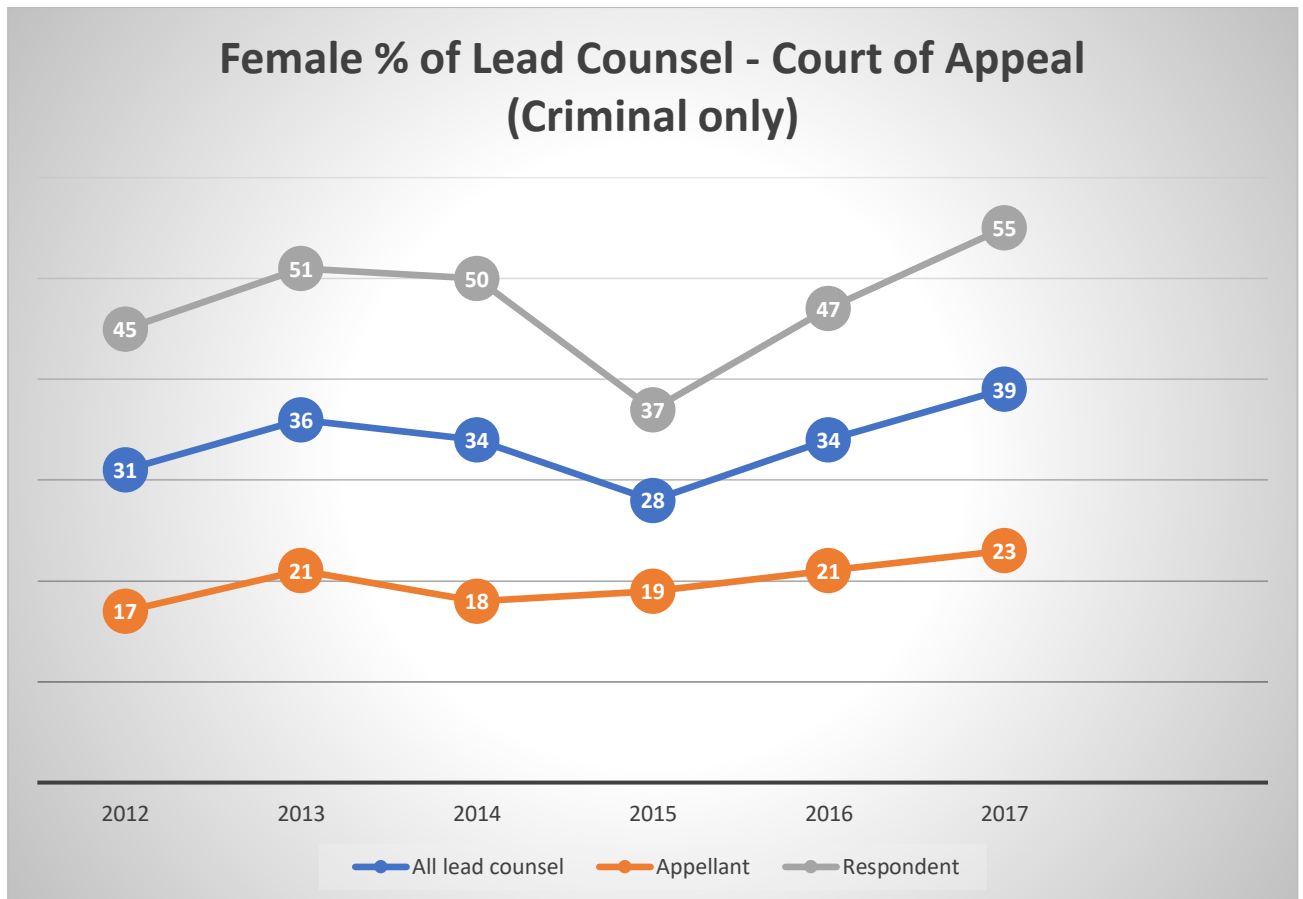
Female % of Lead Counsel – Court of Appeal

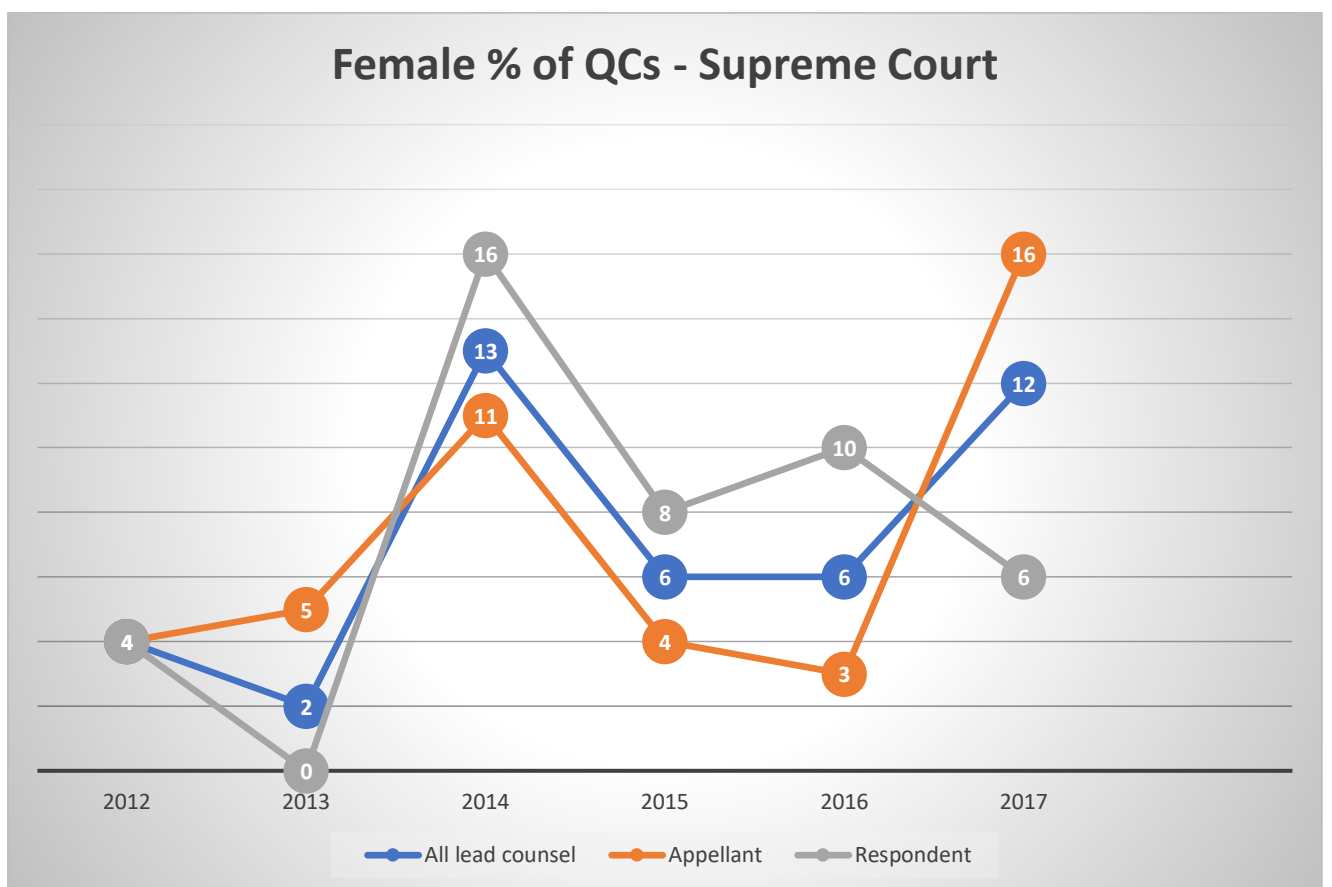
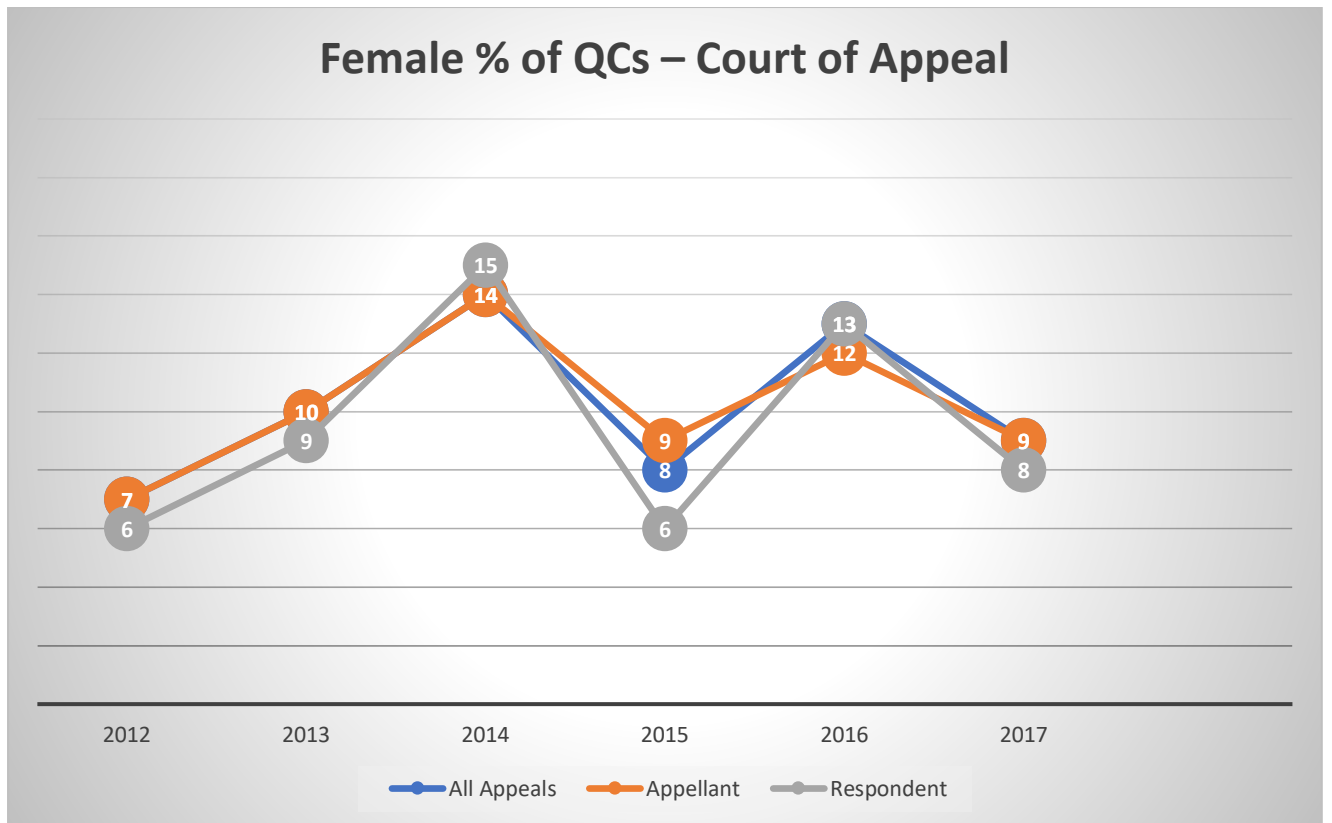


Female % of Lead Counsel - Supreme Court

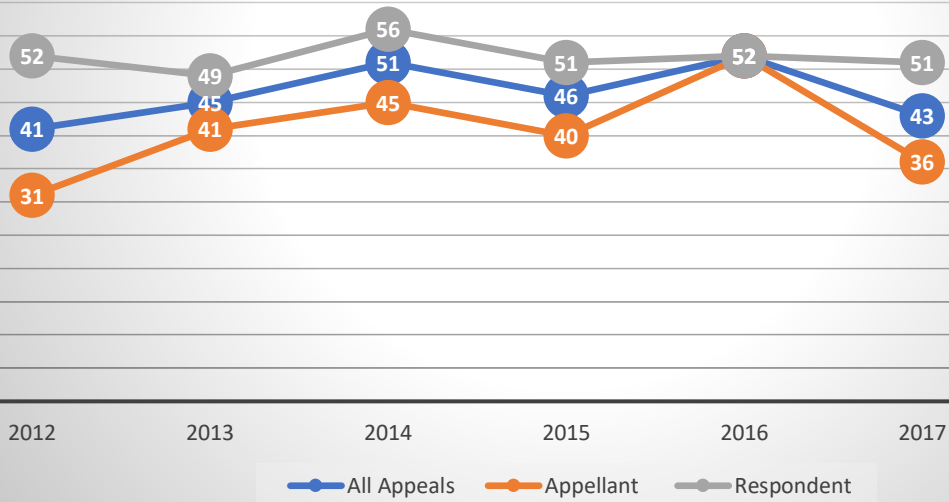








Female % of Junior Counsel - Court of Appeal



Female % of Junior Counsel - Supreme Court

