Commission on
Judicial Performance

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# The Honorable Tamara S. Russell

2009 Interim Judicial Performance Survey

1st Judicial District

Talmey-Drake
research & strategy, inc.

Talmey-Drake
research & strategy, inc.

September 24, 2009

The Honorable Tamara S. Russell
Jefferson County Court & Admin. Facility
Court Section
100 Jefferson County Pkwy.
Golden, CO 80401

Dear Judge Russell:

This year, The State Commission on Judicial Performance has requested Talmey-Drake Research & Strategy to provide interim survey reports concerning all justices and judges. Going forward, there will continue to be survey reports on retention judges in retention election years and interim survey reports on all judges in non-retention years.

Talmey-Drake Research & Strategy conducted the 2009 Interim Judicial Performance Survey among people who have been in a state courtroom in once capacity or another, or who have otherwise been affected by the performance of a judge.

This report contains the results of those who have observed, or who are knowledgeable about, your judicial performance and who responded to the survey. In addition to this introduction, the report is divided into four main sections:

- **Attorney Results & Comments:** This section contains graphs displaying the average grade you received for each question that used an "A" to "F" scale, the average grade for each section of the questionnaire, and an overall average grade for questions 1a through 5c combined. Following the graphs, are a series of tables showing the percentage distribution of grades to each question. Attorney respondents were also asked to comment about your performance. These comments have been transcribed, and in some instances, redacted to eliminate respondent identifying information. The survey of attorneys was conducted online; a copy of the questionnaire is provided at the back of this report.
- **Non-attorney Results & Comments:** Similar to the attorney section, this portion of the report contains graphs (again including the overall average of questions 1a through 5c on the non-attorney questionnaire), tables of the percentage distribution of grades for each substantive question in the survey. The non-attorney respondents were also asked to comment about your performance. Again, these comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. A copy of the non-attorney questionnaire is also at the back of this report.

100 Arapahoe, Suite One, Boulder, CO 80302
Phone 303.443.5300 Fax 303.447.9386

- **Methodology:** The third section of the report discusses the methodology of the survey.
- **Questionnaires:** And the final section provides copies of the questionnaires that were used.

If you have any questions about the methodology and how the survey was conducted, please feel free to contact me at 303-443-5300 ext 1, and for any other questions you might have about the survey please call the Executive Director of the Office of Judicial Performance Evaluation, Jane Howell, at 303-837-3665.

Best regards,

Paul A. Talmey
President

enc:

# Survey of Attorneys Regarding Judge Tamara S. Russell

**(Sample Size 18)**

# Survey of Attorneys Regarding Trial Judges

| Judge Tamara S. Russell<br>Sample Size = 18 | A | B | C | D | Fail | DK/NA | Average: Tamara S. Russell | Average: All District Judges |
|---|---|---|---|---|---|---|---|---|
| **1. Case Management:** | | | | | | | | |
| 1a. Promptly issuing a decision on the case after trial. | 44% | 22% | 6% | 0% | 0% | 28% | 3.54 | 3.38 |
| 1b. Maintaining appropriate control over proceedings. | 67% | 22% | 6% | 0% | 0% | 6% | 3.65 | 3.39 |
| 1c. Promptly ruling on pre-trial motions. | 50% | 33% | 17% | 0% | 0% | 0% | 3.33 | 3.19 |
| 1d. Setting reasonable schedules for cases. | 67% | 17% | 11% | 0% | 0% | 6% | 3.59 | 3.22 |
| **Overall Case Management** | | | | | | | 3.53 | 3.30 |
| **2. Application and Knowledge of Law:** | | | | | | | | |
| 2a. Being able to identify and analyze relevant facts. | 44% | 33% | 17% | 6% | 0% | 0% | 3.17 | 3.28 |
| 2b. Basing decisions on evidence and arguments. | 50% | 33% | 11% | 0% | 6% | 0% | 3.22 | 3.16 |
| 2c. Willing to reconsider error in fact or law. | 39% | 0% | 6% | 6% | 6% | 44% | 3.10 | 2.89 |
| 2d. Issuing consistent sentences when the circumstances are similar. | 25% | 17% | 0% | 8% | 0% | 50% | 3.17 | 3.07 |
| **Overall Application and Knowledge of Law** | | | | | | | 3.17 | 3.10 |
| **3. Communications:** | | | | | | | | |
| 3a. Making sure all participants understand the proceedings. | 76% | 12% | 12% | 0% | 0% | 0% | 3.65 | 3.51 |
| 3b. Providing written communications that are clear, thorough and well reasoned. | 43% | 21% | 7% | 7% | 0% | 21% | 3.27 | 3.28 |
| **Overall Communications** | | | | | | | 3.46 | 3.40 |
| **4. Demeanor:** | | | | | | | | |
| 4a. Giving proceedings a sense of dignity. | 76% | 12% | 12% | 0% | 0% | 0% | 3.65 | 3.46 |
| 4b. Treating parties with respect. | 82% | 18% | 0% | 0% | 0% | 0% | 3.82 | 3.35 |
| 4c. Conducting his/her courtroom in a neutral manner. | 76% | 18% | 0% | 6% | 0% | 0% | 3.65 | 3.25 |
| 4d. Consistently applying laws and rules. | 59% | 24% | 0% | 6% | 0% | 12% | 3.53 | 3.21 |
| **Overall Demeanor** | | | | | | | 3.66 | 3.32 |
| **5. Diligence:** | | | | | | | | |
| 5a. Using good judgment in application of relevant law and rules. | 59% | 18% | 18% | 6% | 0% | 0% | 3.29 | 3.15 |
| 5b. Doing the necessary homework and being prepared for his/her cases. | 59% | 18% | 12% | 6% | 0% | 6% | 3.37 | 3.28 |
| 5c. Being willing to handle cases on the docket even when they are complicated and time consuming. | 53% | 18% | 6% | 6% | 0% | 18% | 3.43 | 3.35 |
| **Overall Diligence** | | | | | | | 3.36 | 3.26 |
| **Overall Average Grade:** | | | | | | | **3.44** | **3.26** |

# Survey of Attorneys Regarding Trial Judges

## Judge Tamara S. Russell

**Sample Size = 18**

| | Percentage | |
|---|---|---|
| | Tamara S. Russell | All District Judges |

Would you say the judge is:

| | | |
|---|---|---|
| Very biased in favor of the prosecution | 25% | 11% |
| Somewhat biased in favor of the prosecution | 25% | 28% |
| Completely neutral | 50% | 46% |
| Somewhat biased in favor of the defense | 0% | 9% |
| Very biased in favor of the defense | 0% | 2% |
| Don't know/not sure | 0% | 4% |

8. How strongly do you recommend that the Judge be retained or not retained in office?

*[Percentages excluding undecided responses.]*

| | | |
|---|---|---|
| Strongly recommend retain in office | 87% | 71% |
| Somewhat recommend retain in office | 7% | 16% |
| Somewhat recommend not retain in office | 0% | 6% |
| Strongly recommend not retain in office | 7% | 7% |
| Total Retain | 94% | 87% |
| Total Not Retain | 7% | 13% |

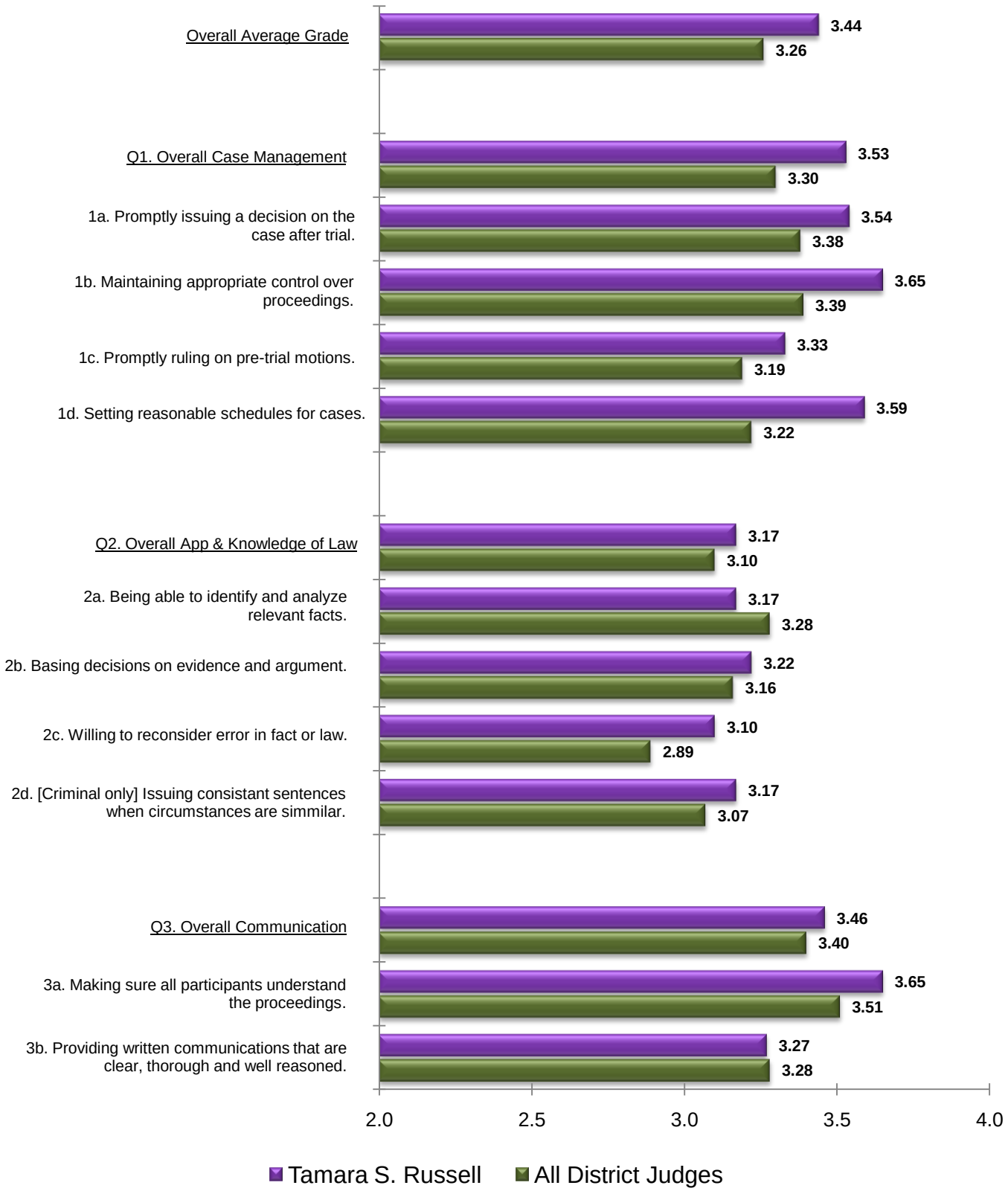
*[Percentages including undecided responses.]*

| | | |
|---|---|---|
| Strongly recommend retain in office | 76% | 68% |
| Somewhat recommend retain in office | 6% | 15% |
| Undecided or dont know enough to make recommendation | 12% | 5% |
| Somewhat recommend not retain in office | 0% | 6% |
| Strongly recommend not retain in office | 6% | 6% |
| Total Retain | 82% | 83% |
| Undecided/Don't Know | 12% | 5% |
| Total Not Retain | 6% | 12% |

# Judge Tamara S. Russell

## Survey of Attorneys Regarding Trial Judges

Average Grades

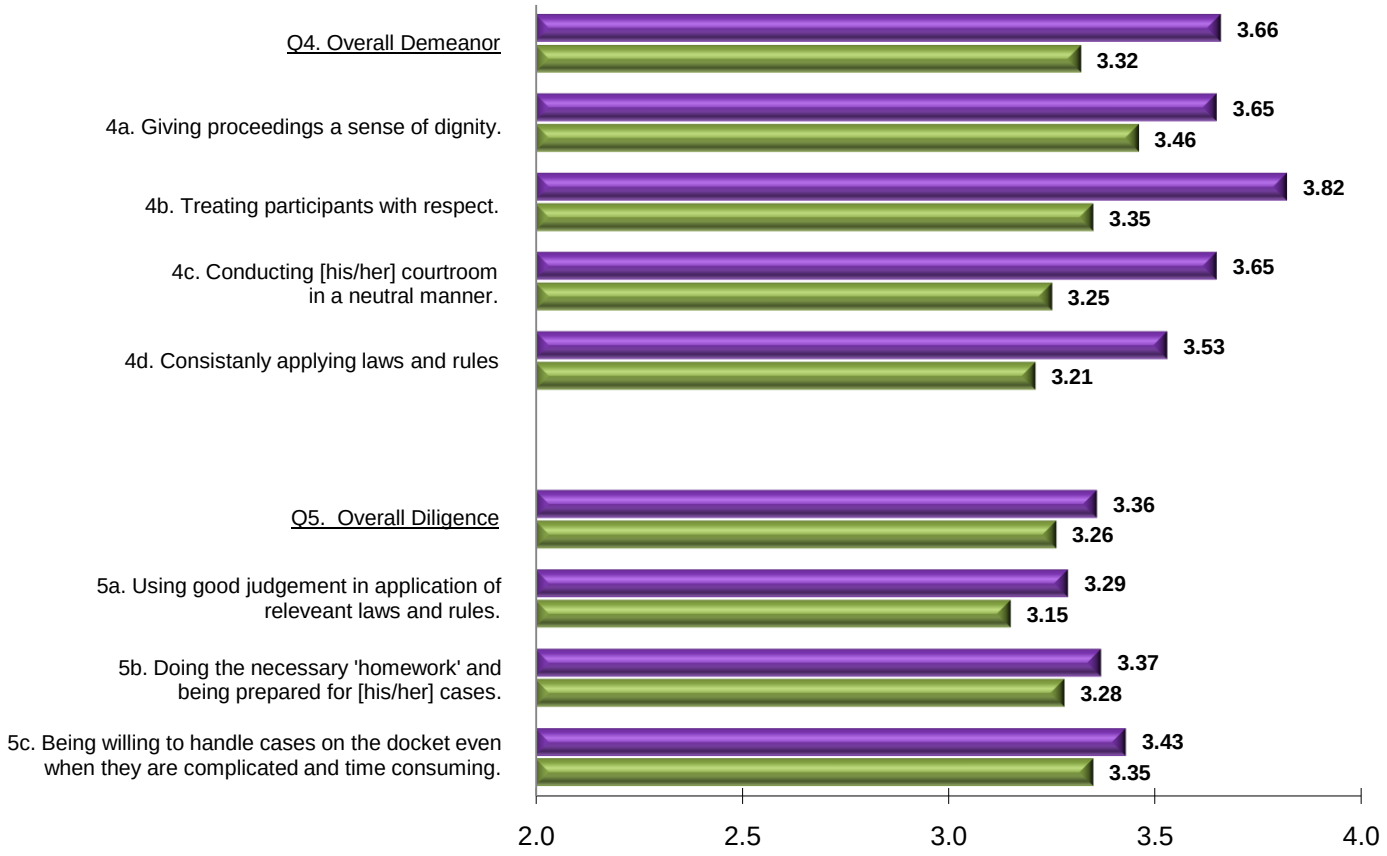



2009 Interim Judicial Performance Survey

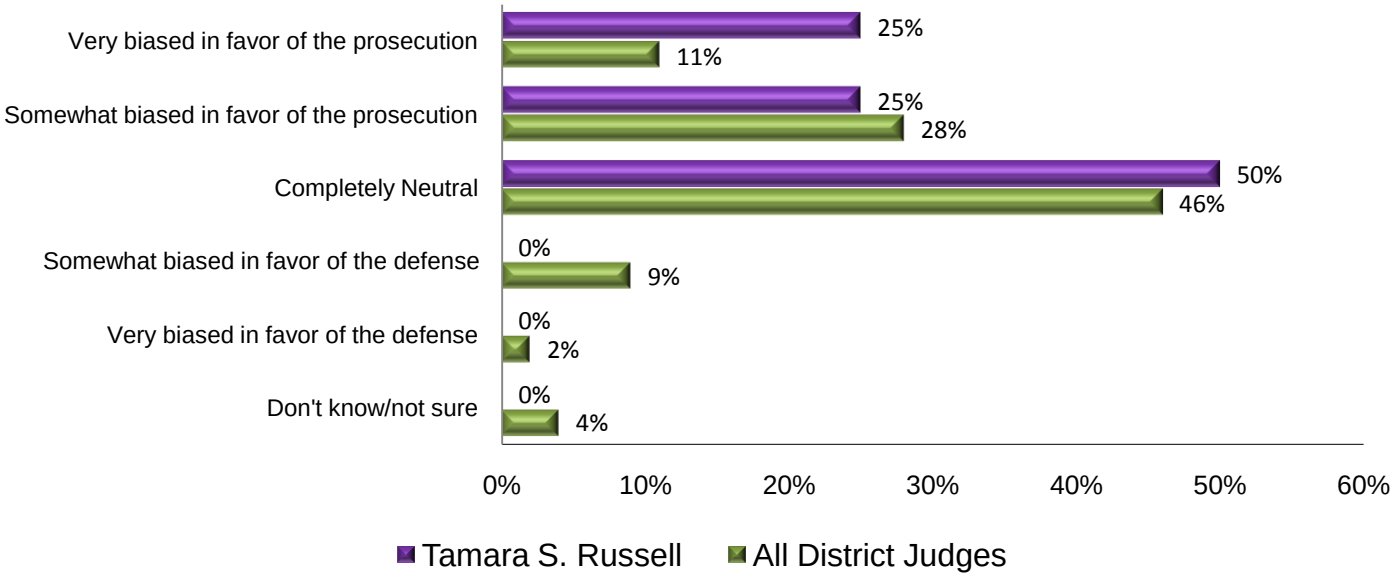
# Judge Tamara S. Russell

## Survey of Attorneys Regarding Trial Judges

Average Grades




Biased in favor of prosecution/defense.

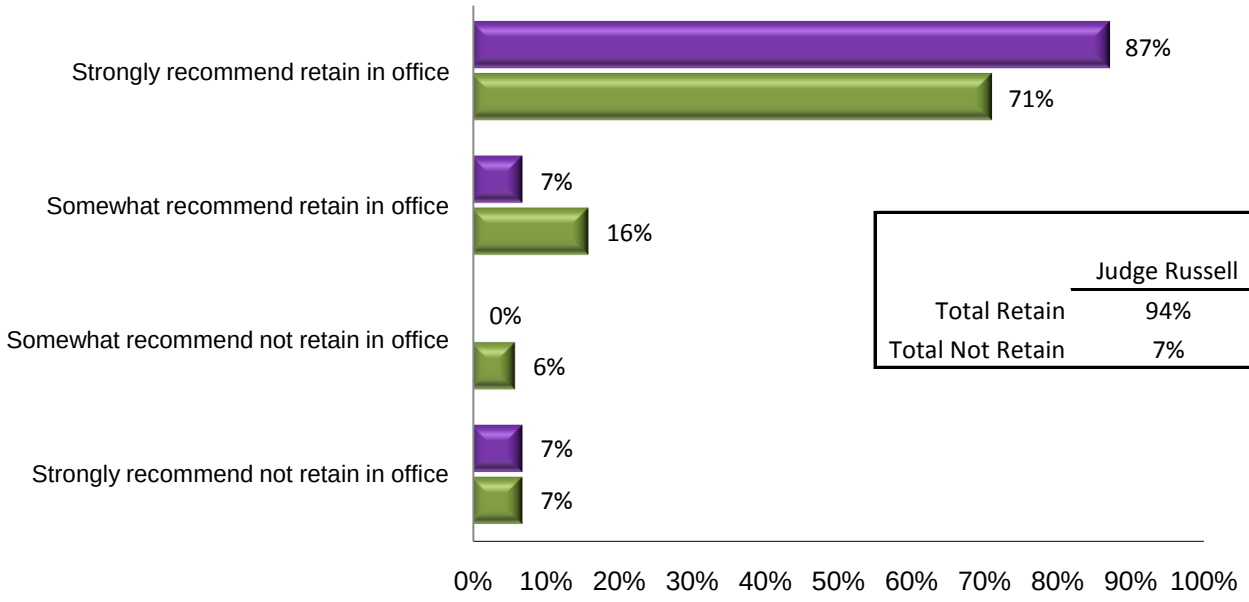


# Judge Tamara S. Russell

## Survey of Attorneys Regarding Trial Judges

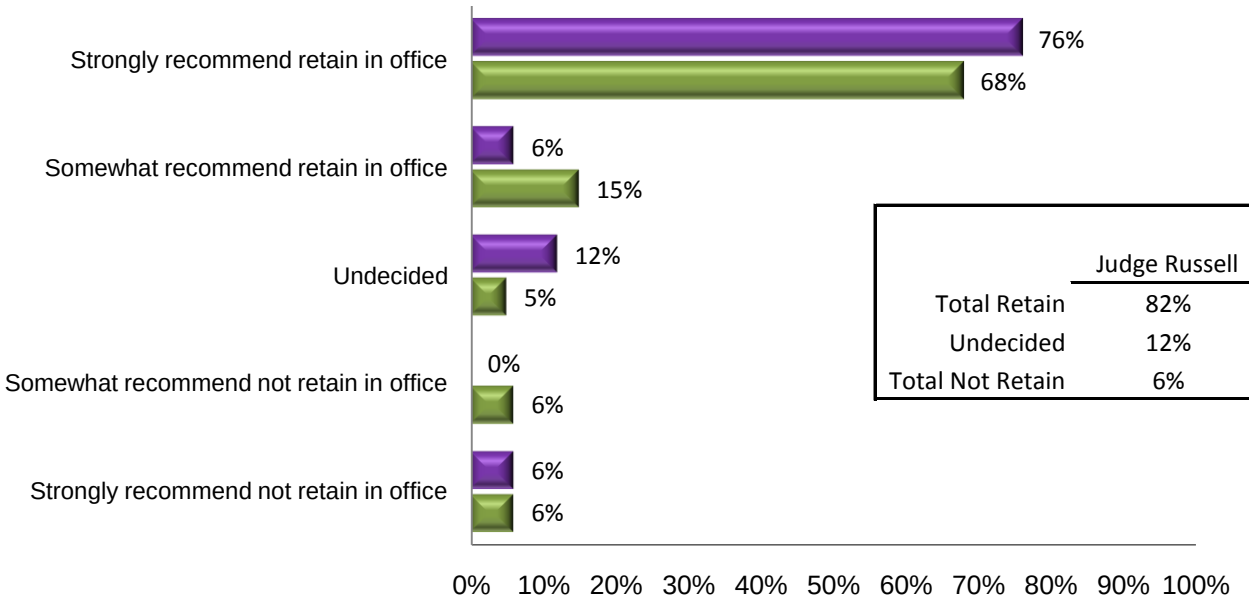
Q8. How strongly do you recommend that Judge Russell be retained or not retained in office?

Excluding Undecided Respondents




| | Judge Russell | All Dist Judges |
|---|---|---|
| Total Retain | 94% | 87% |
| Total Not Retain | 7% | 13% |

Including Undecided Respondents




| | Judge Russell | All Dist Judges |
|---|---|---|
| Total Retain | 82% | 83% |
| Undecided | 12% | 5% |
| Total Not Retain | 6% | 12% |

Tamara S. Russell  All District Judges

# Survey of Non-Attorneys Regarding Judge Tamara S. Russell

**(Sample Size 103)**

# Survey of Non-Attorneys Regarding Trial Judges

| Judge Tamara S. Russell<br>Sample Size = 103 | A | B | C | D | Fail | DK/NA | Average: Tamara S. Russell | Average: All District Judges |
|---|---|---|---|---|---|---|---|---|
| **1. Demeanor:** | | | | | | | | |
| 1a. Giving court proceedings a sense of dignity. | 84% | 11% | 3% | 1% | 1% | 0% | 3.76 | 3.67 |
| 1b. Treating participants in the case politely and with respect. | 88% | 6% | 3% | 1% | 2% | 0% | 3.77 | 3.67 |
| 1c. Conducting court in a neutral manner. | 85% | 6% | 4% | 3% | 2% | 0% | 3.70 | 3.62 |
| 1d. Having a sense of compassion and human understanding for those who appear before the court. | 81% | 12% | 1% | 1% | 5% | 0% | 3.64 | 3.55 |
| | | | | | | **Overall Demeanor** | 3.72 | 3.63 |
| **2. Fairness:** | | | | | | | | |
| 2a. Giving participants an opportunity to be heard. | 90% | 6% | 3% | 0% | 1% | 0% | 3.84 | 3.64 |
| 2b. Treating those involved in the case without bias. | 86% | 5% | 3% | 1% | 5% | 0% | 3.66 | 3.60 |
| 2c. Treating fairly people who represent themselves. | 50% | 5% | 0% | 1% | 4% | 40% | 3.61 | 3.61 |
| 2d. Giving each side enough time to present his or her case. | 84% | 8% | 4% | 1% | 2% | 1% | 3.73 | 3.64 |
| | | | | | | **Overall Fairness** | 3.71 | 3.62 |
| **3. Communications:** | | | | | | | | |
| 3a. Making sure participants understand the proceedings, and what is going on in the courtroom. | 87% | 9% | 3% | 0% | 1% | 0% | 3.81 | 3.69 |
| 3b. Using language that everyone can understand. | 84% | 11% | 2% | 0% | 1% | 2% | 3.81 | 3.71 |
| 3c. Speaking clearly so everyone in the courtroom can hear what is being said. | 88% | 9% | 2% | 0% | 1% | 0% | 3.83 | 3.73 |
| | | | | | | **Overall Communications** | 3.82 | 3.71 |
| **4. Diligence:** | | | | | | | | |
| 4a. Beginning court on time | 78% | 17% | 4% | 0% | 2% | 0% | 3.68 | 3.50 |
| 4b. Maintaining appropriate control over proceedings. | 84% | 11% | 4% | 0% | 1% | 0% | 3.78 | 3.73 |
| 4c. Setting reasonable schedules for cases. | 79% | 11% | 2% | 1% | 1% | 7% | 3.77 | 3.61 |
| 4d. Being prepared for cases. | 81% | 9% | 3% | 1% | 2% | 5% | 3.73 | 3.67 |
| 4e. Managing court proceedings so that there is little wasted time. | 79% | 15% | 4% | 1% | 0% | 1% | 3.74 | 3.55 |
| | | | | | | **Overall Diligence** | 3.74 | 3.61 |
| **5. Application of Law:** | | | | | | | | |
| 5a. Giving reasons for rulings. | 83% | 7% | 5% | 1% | 1% | 3% | 3.76 | 3.56 |
| 5b. Willing to make decisions without regard to possible outside pressure. | 74% | 5% | 5% | 0% | 3% | 14% | 3.69 | 3.59 |
| 5c. Being able to identify and analyze relevant facts. | 78% | 4% | 5% | 3% | 3% | 7% | 3.63 | 3.58 |
| | | | | | | **Overall Application of Law** | 3.69 | 3.58 |
| | | | | | | **Overall Average Grade:** | **3.73** | **3.63** |

# Survey of Non-Attorneys Regarding Trial Judges

## Judge Tamara S. Russell

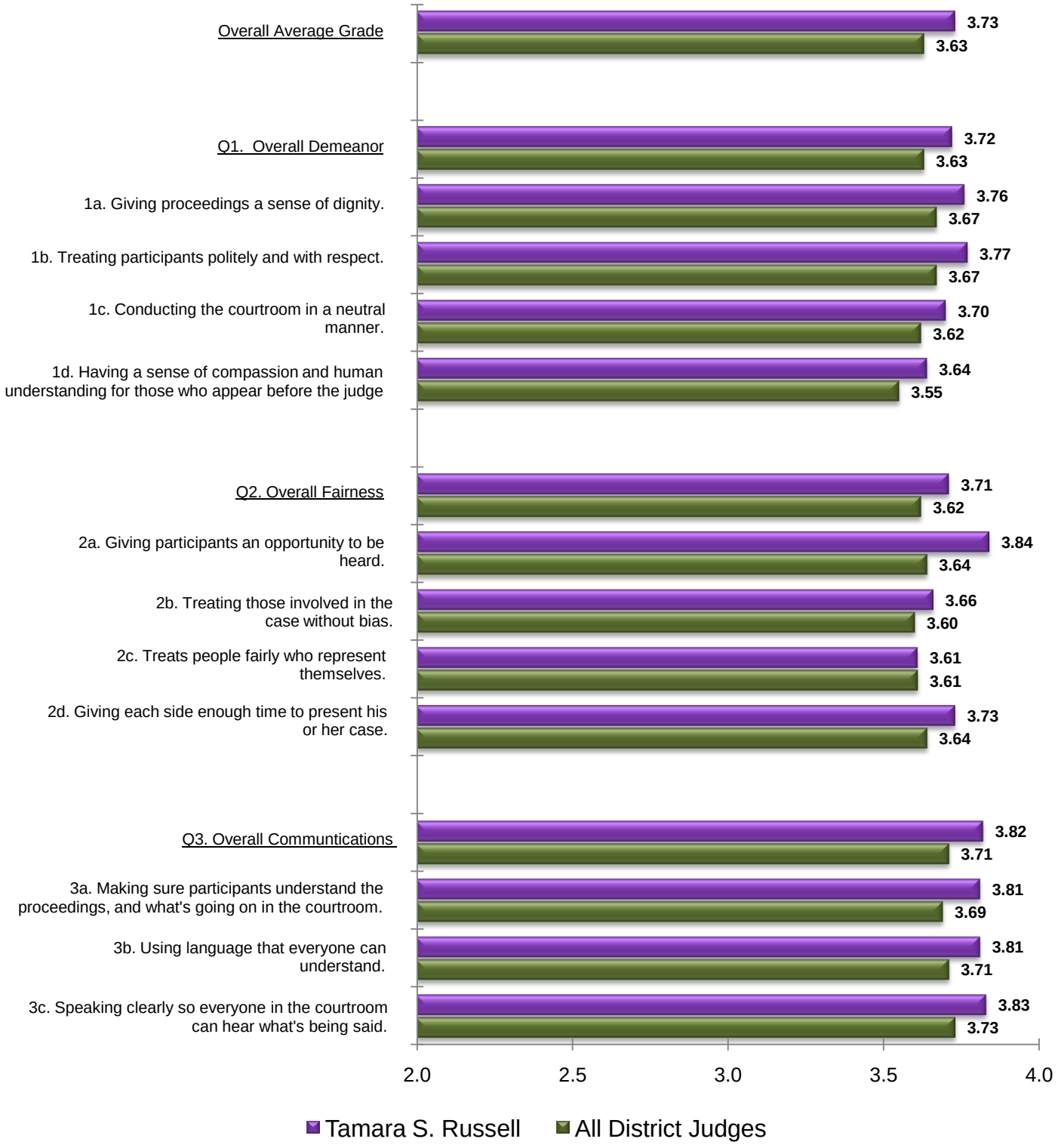
**Sample Size = 103**

| | | Percentage | |
|---|---|---|---|
| | | Tamara S. Russell | All District Judges |
| 6. Average bias | | | |
| *[Please see the questionnaire at the end of report for question wording.]* | Biased in favor of the prosecution total | 4% | 11% |
| | Competely neutral | 92% | 84% |
| | Biased in favor of the defense total | 3% | 7% |
| *[A positive average indicates bias toward prosecution, and a negative average indicates a bias toward the defense.]* | Average | 0.06 | 0.11 |
| 7. Average sentencing | | | |
| *[Please see the questionnaire at the end of report for question wording.]* | Harsh sentencing total | 12% | 11% |
| | Competely neutral | 88% | 80% |
| | Lenient sentencing total | 0% | 10% |
| *[A positive average indicates sentences are harsh, and a negative average indicates sentences are lenient.]* | Average | 0.4 | 0.12 |
| 10. Retain percentage without undecideds. | | | |
| *[Percentages excluding undecided responses.]* | | | |
| | Strongly recommend retain in office | 91% | 87% |
| | Somewhat recommend retain in office | 3% | 6% |
| | Somewhat recommend not retain in office | 3% | 2% |
| | Strongly recommend not retain in office | 3% | 5% |
| | Total Retain | 94% | 93% |
| | Total Not Retain | 6% | 7% |
| *[Percentages including undecided responses.]* | | | |
| | Strongly recommend retain in office | 89% | 82% |
| | Somewhat recommend retain in office | 3% | 6% |
| | Undecided or dont know enough to make recommendation | 2% | 6% |
| | Somewhat recommend not retain in office | 3% | 2% |
| | Strongly recommend not retain in office | 3% | 4% |
| | Total Retain | 92% | 88% |
| | Undecided/Don't Know | 2% | 6% |
| | Total Not Retain | 6% | 6% |

# Judge Tamara S. Russell

## Survey of Non-Attorneys Regarding Trial Judges

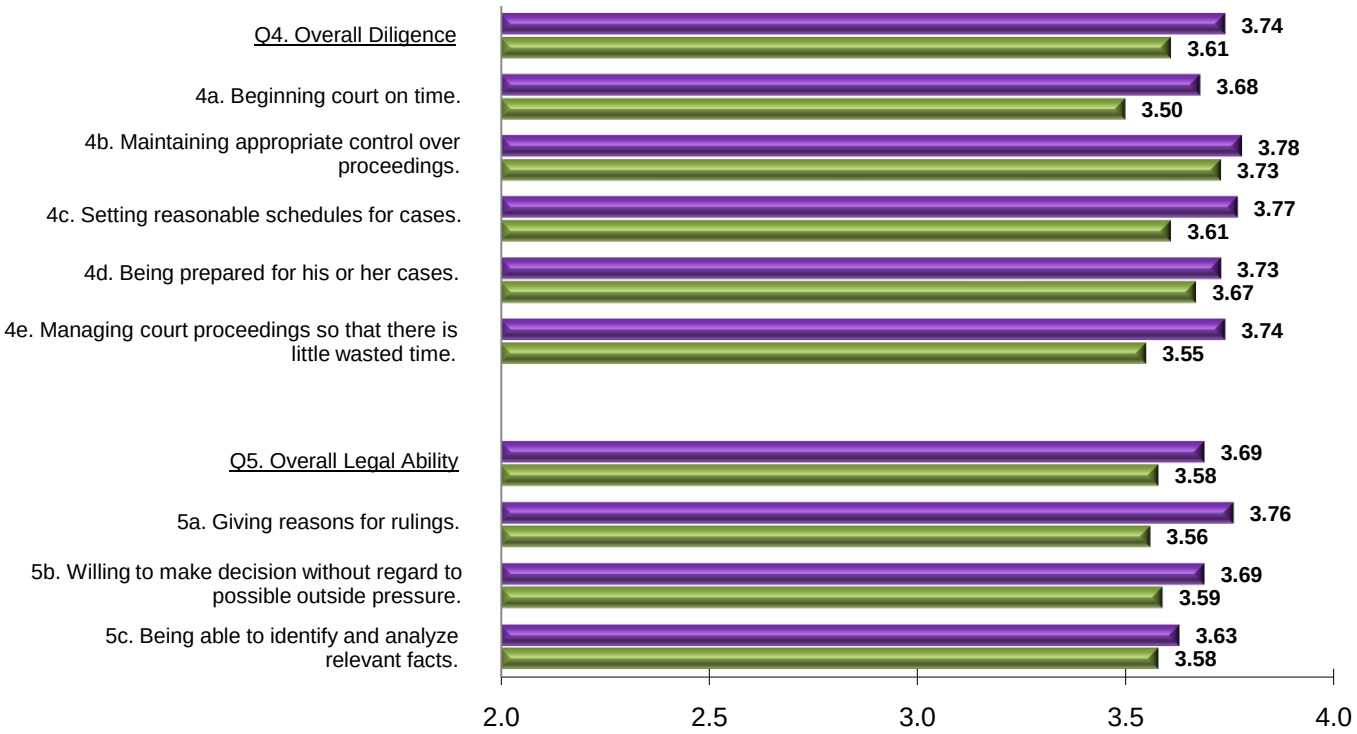
Average Grades



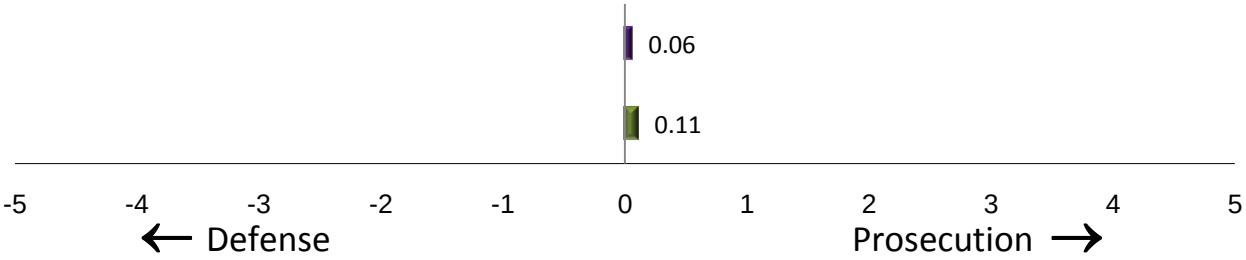
# Judge Tamara S. Russell

## Survey of Non-Attorneys Regarding Trial Judges

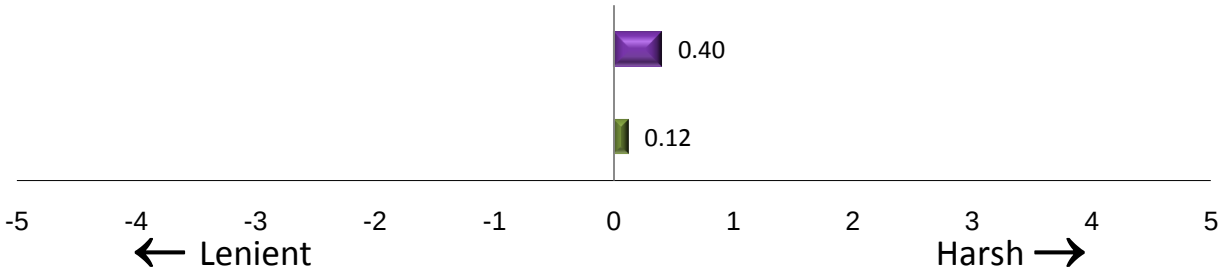
Average Grades




Q6 Biased in favor of prosecution/defense.




Q7 Lenience or Harshness in Sentencing.



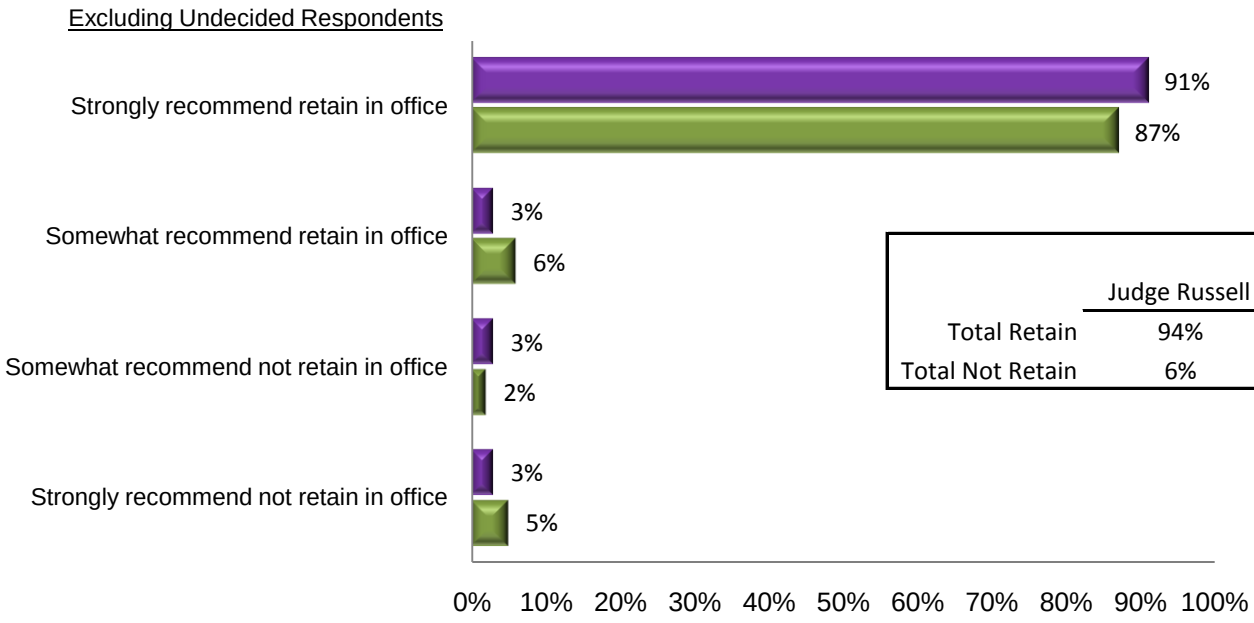

Tamara S. Russell  All District Judges

2009 Interim Judicial Performance Survey

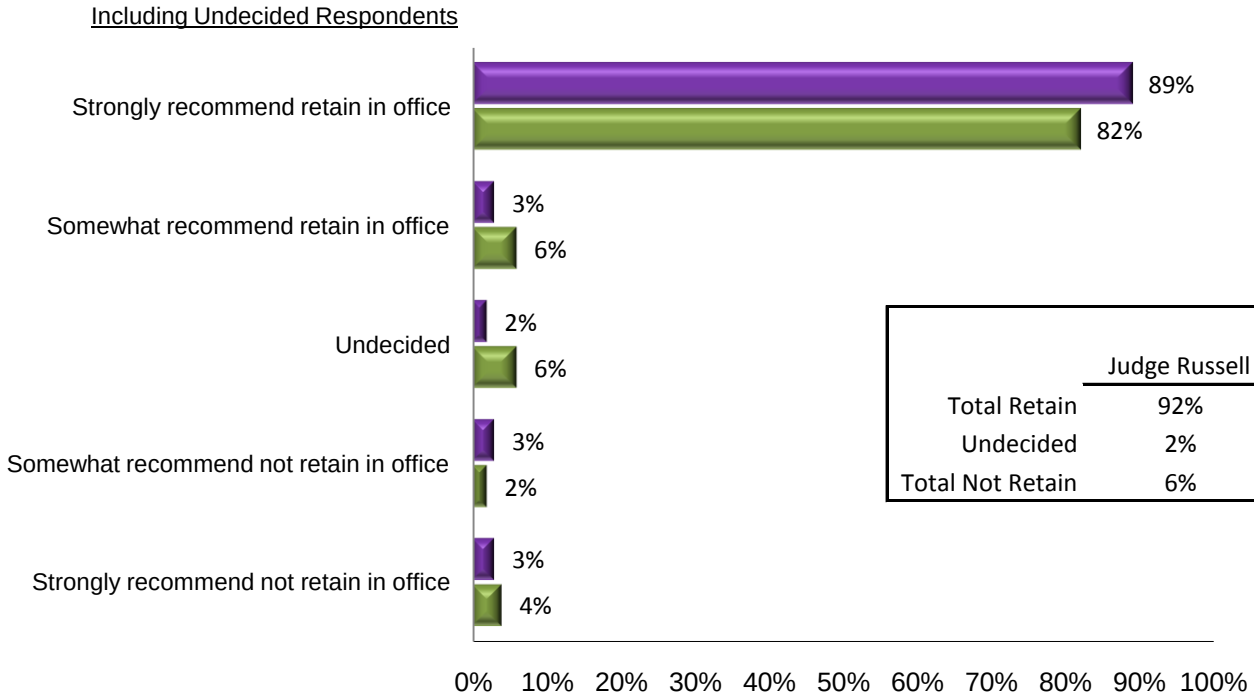
# Judge Tamara S. Russell

## Survey of Non-Attorneys Regarding Trial Judges

Q10. How strongly do you recommend that Judge Russell be retained or not retained in office?




| | Judge Russell | All Dist Judges |
|---|---|---|
| Total Retain | 94% | 93% |
| Total Not Retain | 6% | 7% |




| | Judge Russell | All Dist Judges |
|---|---|---|
| Total Retain | 92% | 88% |
| Undecided | 2% | 6% |
| Total Not Retain | 6% | 6% |

# Methodology

# Methodology

## Data Sources for Sample

Talmey-Drake Research & Strategy received case data that included the names of people who had likely been in each judge's courtroom between July 1, 2008 and March 31, 2009 from five primary sources:

- Colorado Judicial Department,
- Colorado District Attorneys' Council
- Denver County Courts
- District Attorney's Office, Second Judicial District (Denver)
- District Attorney's Office, Ninth Judicial District

Additional information was provided by the State Public Defender's Office and the District Attorney's Office, 15th Judicial District.

The data from these different data sources were then combined, duplicates removed and addresses corrected.

Talmey-Drake then conducted two separate surveys for the 2009 Colorado Interim Judicial Performance Survey concerning district judges: A survey of attorneys and a survey of non-attorneys who had likely been in District Court.

Responses to surveys conducted in prior years that had not been used in a previous Judicial Performance report were combined with the above data to create the total sample used in the 2009 Interim Judicial Performance Survey.

## Attorney Survey

**Attorney Sample:** Talmey-Drake identified all the attorneys who were in the data provided by the organizations listed above, and all identified attorneys were included in the sample. As to be expected many attorneys had appeared in more than one judge's courtroom, so each attorney was assigned from one to five judges to evaluate, depending on how many different judges with whom he or she was associated in the case data. For those attorneys who were in the case data for more than five judges, they were asked to evaluate the five judges they were associated with the most.

**Attorney Survey**: The Attorney Survey was conducted online. Sampled attorneys were first sent a letter introducing them to the Survey and informing them that they would soon be receiving an email with a link to the Survey. The letter also included the Survey's Web address, and a password if the respondent wished to take the survey before receiving the email. Approximately one week after the letter was mailed a first email was sent, and a week after that a second reminder email was sent.

In order to increase the number of attorney responses, particularly for judges with few attorney survey evaluations, attorneys who had not responded after the second email request were telephoned and asked to either go online to take the survey, or if they preferred, to complete the survey by telephone.

**Attorney Questions:** The questions used online for the 2009 Interim Judicial Performance Survey of attorneys asked respondents to use a grade of A, B, C, D, or F (Fail) to assess the judge's performance in five different areas. These areas were Case Management, Application and Knowledge of Law, Communications, Demeanor and Diligence. These scores were then converted to a numerical value where A = 4, B = 3, C = 2, D = 1 and Fail = 0. A list of the questions are included in the last section of this report.

**Attorney Cooperation Rate:** The cooperation rate for the Attorney Survey is calculated as the number of completed survey evaluations divided by the number of possible evaluations for that judges minus the undeliverable emails to attorneys in the sample for that judge. A table of the overall cooperation rates for the 2009 Interim Survey is shown later in this section of the report, as is a table showing the cooperation rates for Judge Russell.

The 2009 Interim Judicial Performance Survey was the first time in which the Attorney regarding Trial Judges survey was conducted online. A total of 4,163 attorneys were asked to participate in the online survey and on average to evaluate 2.81 judges each—a total of 11,688 potential attorney evaluations. Just over fifty-two percent (52.2%) of attorneys surveyed evaluated one or more judges. The average number of judges evaluated per attorney was 2.25 for a total of 4,883 attorney evaluations completed (41.8%). Note, these figures are only for the online survey (plus telephone follow-up interviews) and will not match the numbers in the Total Response Count table below, which include attorney evaluations from prior mail surveys.

## Non-attorney Survey

**Non-Attorney Sample:** Depending on the number of names available to be sampled for each judge, a random sample of names was drawn if the quantity of potential respondents was large. On the other hand, if the count of possible respondents was small, all potential respondents were included in the sample. Where a person had been in more than one judge's courtroom, the selection criteria for which judge he or she would be sent a questionnaire was generally for the judge in whose courtroom the potential respondent had been in most often.

**Non-Attorney Survey:** Each person whose name was sampled for the Non-Attorney Survey was mailed an initial postcard informing the recipient that he or she would be receiving a questionnaire. Two to three weeks after the post card was mailed, the potential respondent was sent a personalized introductory letter and a questionnaire with a postage-paid return envelope. If the person did not respond, a second questionnaire and letter were sent approximately four weeks later.

**Non-Attorney Questions:** The questionnaire used in the 2009 Judicial Performance Survey asked non-attorney respondents to use a grade of A, B, C, D, or F (Fail) to assess the judge's performance in five different areas: Demeanor, Fairness, Communications, Diligence and Application of Law. These scores were then converted to a numerical value where A = 4, B = 3, C = 2, D = 1 and Fail = 0. A copy of the questionnaire is included at the end of this report.

**Non-attorney Cooperation Rate:** The estimated cooperation rate for the Non-attorney Survey is calculated as the number of completed questionnaires divided by the number of eligible respondents who actually received a questionnaire. The following table shows the total number of questionnaires mailed, completed, non-responses & refusals, undeliverables and other responses. The table presents the estimated overall cooperation rate as well as the cooperation rate by the different types of respondents. The true cooperation rates are likely higher than shown because of the percentage of people who were mailed questionnaires about judges who they had not observed. This is due, in part, to many cases being disposed of without the parties having appeared in court, as well as in the case of law enforcement, the data includes all those who were subpoenaed for a case, not just those who appeared.

A table of the response counts by respondent type for Judge Russell is shown below, and immediately following is a table of the overall cooperation rates for the 2009 Interim Survey, again by type of respondent.

# Judge Tamara S. Russell

## Judge Response Counts by Type of Respondent

| *Role Type* | *Total Sent* | *No Response* | *Undeliverable/ Not Applicable* | *Other Non-Responses* | *Completes* | *Coop Rate* |
|---|---|---|---|---|---|---|
| **Attorneys** | | | | | | |
| **Criminal** | | | | | | |
| Defense Attorneys | 8 | 4 | 0 | 0 | 4 | 50.0% |
| Other Attorneys Criminal | 13 | 9 | 0 | 0 | 4 | 30.8% |
| **Civil** | | | | | | |
| Attorneys for Litigants | 12 | 9 | 1 | 0 | 2 | 18.2% |
| Other Attorneys Civil | 18 | 10 | 0 | 0 | 8 | 44.4% |
| **Total Attorneys** | 51 | 32 | 1 | 0 | 18 | 36.0% |
| **Non-attorneys** | | | | | | |
| **Criminal** | | | | | | |
| Defendant | 120 | 60 | 47 | 0 | 13 | 17.8% |
| **Civil** | | | | | | |
| Litigant | 33 | 19 | 6 | 0 | 8 | 29.6% |
| Jurors | 167 | 84 | 0 | 1 | 82 | 49.1% |
| **Total Non-attorneys** | 320 | 163 | 53 | 1 | 103 | 38.6% |
| **Grand Total:** | **371** | **195** | **54** | **1** | **121** | **38.2%** |

| Total Response Counts by Type of Respondent for All Judges | | | | | | |
|---|---|---|---|---|---|---|
| | Total Sent | No Response | Undeliverable/ Not Applicable | Other Non-responses | Completes | Cooperation Rate |
| **Attorney Evaluations** | | | | | | |
| **Criminal** | | | | | | |
| District Attorneys | 2,251 | 1,169 | 82 | 2 | 998 | 46.0% |
| Defense Attorneys | 3,453 | 1,852 | 128 | 6 | 1,467 | 44.1% |
| Other Attorneys Crmnl | 3,283 | 1,887 | 85 | 4 | 1,307 | 40.9% |
| **Civil** | | | | | | |
| Attorneys for Litigants | 3,123 | 1,286 | 219 | 7 | 1,611 | 55.5% |
| Other Attorneys Civil | 2,647 | 1,422 | 94 | 4 | 1,127 | 44.1% |
| Attorneys, Unknown Role | 393 | 29 | 41 | 3 | 320 | 90.9% |
| **Total Attorneys** | 15,150 | 7,645 | 649 | 26 | 6,830 | 47.1% |
| **Non-attorneys** | | | | | | |
| **Criminal** | | | | | | |
| Law Enforcement | 11,127 | 5,895 | 2,627 | 213 | 2,392 | 28.1% |
| Defendant | 56,759 | 28,224 | 22,971 | 543 | 5,021 | 14.9% |
| Victim | 301 | 197 | 82 | 6 | 16 | 7.3% |
| Witness | 9,152 | 4,836 | 3,013 | 376 | 927 | 15.1% |
| Other | 4,225 | 2,481 | 1,151 | 55 | 538 | 17.5% |
| **Civil** | | | | | | |
| Litigant | 20,328 | 11,335 | 4,758 | 289 | 3,946 | 25.3% |
| Witness | 298 | 161 | 45 | 4 | 88 | 34.8% |
| Other | 327 | 165 | 79 | 6 | 77 | 31.0% |
| Non-attnys, Unknown Role | 546 | 276 | 190 | 4 | 76 | 21.3% |
| **Total Non-attorneys** | 103,063 | 53,570 | 34,916 | 1,496 | 13,081 | 19.2% |
| **Others** | | | | | | |
| Jurors | 30,703 | 12,725 | 1,443 | 392 | 16,143 | 55.2% |
| | 30,703 | 12,725 | 1,443 | 392 | 16,143 | 55.2% |
| **Total** | 148,916 | 73,940 | 37,008 | 1,914 | 36,054 | 32.2% |

## Projectability

Most surveys seen by the public are surveys that are intended to be projectable, that is the results from the sample of people surveyed can be used to estimate a percentage or value of the population sampled with a known probability of error. For example, a pre-election poll of 500 likely Colorado voters is used to estimate the percentage of voters who will vote for Candidate A on election day, plus or minus some number of percentage points. The plus or minus amount is usually what is known as the 95%-confidence interval (the known probability of error), or what the media often refers to as the margin-of-error.

The Colorado Judicial Performance Evaluation Survey is not projectable with a known probability of error because the results are calculated from a self-selecting sample that is self-selecting based on the content and subject matter of the survey. In other words, the potential respondent knows the purpose and content of the survey, and based on that, decides whether to respond to the survey.

While projectability within a known probability of error is a highly desirable attribute of a survey, it is often not feasible to achieve. Commercial market research often uses nonprojectable (and small) samples—the most well known of which are for focus groups. Moreover, the federal courts have long accepted, and do not expect, projectable samples for market confusion surveys used in trademark litigation. In other words, one can still use the results of the Judicial Performance Evaluation Survey to estimate how everyone who has observed a judge in the courtroom would grade him or her, just not with a known probability of error.

The Judicial Performance Evaluation Survey is a valuable means, perhaps the only practical means, for the Judicial Performance Commissions to have a summary of structured interviews with a number of people who have courtroom familiarity with the judge being evaluated, and who most often—albeit not always—are responding out of a desire to improve the performance of our state's judicial system.

## Survey Results

The report shows the Attorney and Non-attorney Survey results both graphically and in tables.

**Graphs:** The graphs visually display the average numerical grade for each of the A through F scaled questions (A=4, B=3, C=2, D=1 and F = 0) for the report-judge compared to the average grade for all district judges in the 2009 Interim Survey. Overall averages for each of the five performance components[1] and the total overall average for all grade-scale questions are also graphed for the report-judge and all district judges. In addition to the grade-scale graphs, the questions regarding bias in favor the prosecution or defense, sentencing (non-attorney survey only) and the retention question are also graphed.

**Tables:** This section shows the same information as in the graphs in tabular form plus the percentage distribution of grades and response categories for each question. For comparison purposes, the next four pages—two for the Attorney Survey and two for the Non-attorney Survey—show the combined percentage distribution of grades and grade averages for all district judges.

The overall averages shown in the graphs and tables are calculated by summing the average grade for each question and dividing by the number of questions summed. This gives each question equal weight in computing the overall averages.

The sample size for each survey is shown at the beginning of both the Attorney Survey section and the Non-attorney Survey section and on each of the tables. This is the number of respondents who answered most or all of the questions in the questionnaire. It should be noted, however, that the number of responses for individual questions can vary from the overall sample size. For example, question 2d and the question about prosecution/defense bias in the Attorney Survey were only asked of attorneys who had observed the judge in a criminal case—approximately two-thirds of attorneys surveyed. Similarly, questions 6 and 7 in the Non-Attorney Survey were asked only of respondents acquainted with the judge's performance in criminal cases.

[1] The five performance components measured in the Attorney questionnaire were Case Management, Application and K knowledge of Law, Communications, Demeanor and Diligence, and in the Non-attorney questionnaire the components were Demeanor, Fairness, Communications, Diligence and Application of Law.

# Survey of Attorneys Regarding Trial Judges

| All District Judges<br>Sample Size = 3921 | A | B | C | D | Fail | DK/NA | Average Grade |
|---|---|---|---|---|---|---|---|
| **1. Case Management:** | | | | | | | |
| 1a. Promptly issuing a decision on the case after trial. | 47% | 21% | 7% | 3% | 1% | 21% | 3.39 |
| 1a. Promptly issuing a decision on the case after trial. | 47% | 21% | 7% | 3% | 1% | 21% | 3.38 |
| 1b. Maintaining appropriate control over proceedings. | 59% | 25% | 8% | 4% | 2% | 2% | 3.39 |
| 1c. Promptly ruling on pre-trial motions. | 43% | 26% | 11% | 4% | 2% | 13% | 3.19 |
| 1c. Promptly ruling on pre-trial motions. | 43% | 26% | 11% | 4% | 2% | 13% | 3.20 |
| 1d. Setting reasonable schedules for cases. | 49% | 28% | 11% | 5% | 3% | 4% | 3.22 |
| | | | | **Overall Case Management** | | | 3.30 |
| **2. Application and Knowledge of Law:** | | | | | | | |
| 2a. Being able to identify and analyze relevant facts. | 53% | 28% | 10% | 4% | 2% | 3% | 3.28 |
| 2a. Being able to identify and analyze relevant facts. | 53% | 28% | 10% | 4% | 2% | 3% | 3.29 |
| 2b. Basing decisions on evidence and arguments. | 49% | 27% | 11% | 6% | 3% | 4% | 3.16 |
| 2c. Willing to reconsider error in fact or law. | 29% | 20% | 11% | 6% | 4% | 29% | 2.89 |
| 2d. Issuing consistent sentences when the circumstances are similar. | 30% | 22% | 10% | 4% | 3% | 31% | 3.07 |
| | | | **Overall Application and Knowledge of Law** | | | | 3.10 |
| **3. Communications:** | | | | | | | |
| 3a. Making sure all participants understand the proceedings. | 63% | 25% | 7% | 2% | 1% | 3% | 3.51 |
| 3b. Providing written communications that are clear, thorough and well reasoned. | 46% | 26% | 9% | 4% | 2% | 13% | 3.28 |
| | | | | **Overall Communications** | | | 3.40 |
| **4. Demeanor:** | | | | | | | |
| 4a. Giving proceedings a sense of dignity. | 65% | 22% | 7% | 3% | 2% | 1% | 3.46 |
| 4b. Treating parties with respect. | 63% | 20% | 7% | 4% | 4% | 1% | 3.35 |
| 4c. Conducting his/her courtroom in a neutral manner. | 57% | 22% | 9% | 5% | 4% | 2% | 3.25 |
| 4c. Conducting his/her courtroom in a neutral manner. | 57% | 22% | 9% | 5% | 4% | 2% | 3.26 |
| 4d. Consistently applying laws and rules. | 51% | 26% | 11% | 5% | 3% | 5% | 3.21 |
| | | | | **Overall Demeanor** | | | 3.32 |
| **5. Diligence:** | | | | | | | |
| 5a. Using good judgment in application of relevant law and rules. | 49% | 28% | 11% | 6% | 4% | 3% | 3.15 |
| 5b. Doing the necessary homework and being prepared for his/her cases. | 52% | 26% | 10% | 5% | 2% | 6% | 3.28 |
| 5c. Being willing to handle cases on the docket even when they are complicated and time consuming. | 51% | 20% | 8% | 4% | 2% | 16% | 3.36 |
| 5c. Being willing to handle cases on the docket even when they are complicated and time consuming. | 51% | 20% | 8% | 4% | 2% | 16% | 3.35 |
| | | | | **Overall Diligence** | | | 3.26 |
| | | | **Overall Average Grade:** | | | | **3.26** |

# Survey of Attorneys Regarding Trial Judges

| All District Judges<br>**Sample Size = 3921** | Average Grade |
|---|---|

Would you say the judge is:

| | |
|---|---|
| Very biased in favor of the prosecution | 11% |
| Somewhat biased in favor of the prosecution | 28% |
| Completely neutral | 46% |
| Somewhat biased in favor of the defense | 9% |
| Very biased in favor of the defense | 2% |
| Don't know/not sure | 4% |

8. How strongly do you recommend that the Judge be retained or not retained in office?

*[Percentages excluding undecided responses.]*

| | |
|---|---|
| Strongly recommend retain in office | 71% |
| Somewhat recommend retain in office | 16% |
| Somewhat recommend not retain in office | 6% |
| Strongly recommend not retain in office | 7% |
| Total Retain | 87% |
| Total Not Retain | 13% |

*[Percentages including undecided responses.]*

| | |
|---|---|
| Strongly recommend retain in office | 68% |
| Somewhat recommend retain in office | 15% |
| d or dont know enough to make recommendation | 5% |
| Somewhat recommend not retain in office | 6% |
| Strongly recommend not retain in office | 6% |
| Total Retain | 83% |
| Undecided/Don't Know | 5% |
| Total Not Retain | 12% |

# Survey of Non-Attorneys Regarding Trial Judges

| All District Judges<br>Sample Size = 17850 | A | B | C | D | Fail | DK/NA | Average Grade |
|---|---|---|---|---|---|---|---|
| **1. Demeanor:** | | | | | | | |
| 1a. Giving court proceedings a sense of dignity. | 77% | 15% | 4% | 1% | 2% | 1% | 3.67 |
| 1b. Treating participants in the case politely and with respect. | 80% | 12% | 3% | 2% | 2% | 1% | 3.67 |
| 1c. Conducting court in a neutral manner. | 78% | 13% | 3% | 2% | 3% | 1% | 3.62 |
| 1d. Having a sense of compassion and human understanding for those who appear before the court. | 73% | 15% | 4% | 2% | 4% | 2% | 3.55 |
| | | | | | **Overall Demeanor** | | 3.63 |
| **2. Fairness:** | | | | | | | |
| 2a. Giving participants an opportunity to be heard. | 78% | 13% | 3% | 2% | 3% | 1% | 3.64 |
| 2b. Treating those involved in the case without bias. | 77% | 13% | 3% | 2% | 4% | 2% | 3.60 |
| 2c. Treating fairly people who represent themselves. | 49% | 7% | 2% | 1% | 2% | 38% | 3.61 |
| 2d. Giving each side enough time to present his or her case. | 76% | 13% | 3% | 2% | 3% | 4% | 3.64 |
| | | | | | **Overall Fairness** | | 3.62 |
| **3. Communications:** | | | | | | | |
| 3a. Making sure participants understand the proceedings, and what is going on in the courtroom. | 79% | 13% | 4% | 1% | 2% | 1% | 3.69 |
| 3b. Using language that everyone can understand. | 79% | 15% | 3% | 1% | 1% | 1% | 3.71 |
| 3c. Speaking clearly so everyone in the courtroom can hear what is being said. | 81% | 13% | 3% | 1% | 1% | 1% | 3.73 |
| | | | | | **Overall Communications** | | 3.71 |
| **4. Diligence:** | | | | | | | |
| 4a. Beginning court on time | 65% | 22% | 7% | 2% | 2% | 2% | 3.50 |
| 4b. Maintaining appropriate control over proceedings. | 80% | 13% | 3% | 1% | 1% | 1% | 3.73 |
| 4c. Setting reasonable schedules for cases. | 67% | 15% | 4% | 1% | 2% | 10% | 3.61 |
| 4d. Being prepared for cases. | 75% | 13% | 3% | 1% | 2% | 5% | 3.67 |
| 4e. Managing court proceedings so that there is little wasted time. | 69% | 19% | 6% | 2% | 2% | 2% | 3.55 |
| | | | | | **Overall Diligence** | | 3.61 |
| **5. Application of Law:** | | | | | | | |
| 5a. Giving reasons for rulings. | 69% | 15% | 4% | 2% | 3% | 7% | 3.56 |
| 5b. Willing to make decisions without regard to possible outside pressure. | 64% | 10% | 3% | 2% | 3% | 18% | 3.59 |
| 5c. Being able to identify and analyze relevant facts. | 71% | 13% | 3% | 2% | 3% | 8% | 3.58 |
| | | | | | **Overall Application of Law** | | 3.58 |
| | | | | | **Overall Average Grade:** | | **3.63** |

# Survey of Non-Attorneys Regarding Trial Judges

## All District Judges

**Sample Size = 17850**

| | Average Grade |
|---|---|

6. How biased do you think the Judge is toward the defense or prosecution?

*[Please see the questionnaire at the end of report for question wording.]*

| | |
|---|---|
| Biased in favor of the prosecution total | 11% |
| Competely neutral | 84% |
| Biased in favor of the defense total | 7% |
| Average | 0.11 |

7. How lenient or harsh do you think the sentences generally handed down by Judge are?

*[Please see the questionnaire at the end of report for question wording.]*

| | |
|---|---|
| Harsh sentencing total | 11% |
| Competely neutral | 80% |
| Lenient sentencing total | 10% |
| Average | 0.12 |

10. Retain percentage without undecideds.

*[Percentages excluding undecided responses.]*

| | |
|---|---|
| Strongly recommend retain in office | 87% |
| Somewhat recommend retain in office | 6% |
| Somewhat recommend not retain in office | 2% |
| Strongly recommend not retain in office | 5% |
| Total Retain | 93% |
| Total Not Retain | 7% |

*[Percentages including undecided responses.]*

| | |
|---|---|
| Strongly recommend retain in office | 82% |
| Somewhat recommend retain in office | 6% |
| d or dont know enough to make recommendation | 6% |
| Somewhat recommend not retain in office | 2% |
| Strongly recommend not retain in office | 4% |
| Total Retain | 88% |
| Undecided/Don't Know | 6% |
| Total Not Retain | 6% |

# Questionnaires

# Colorado Judicial Performance
## Attorneys Regarding Trial Judges Survey Questions

_ Which of the following types of cases have you observed Judge (Last Name)'s performance? Please circle all that apply. *(Only respondents who indicate they have observed the judge in "criminal other than traffic" cases will be asked question 2c and question 6.)*

Civil ..... 1
Criminal other than traffic ..... 2
Traffic ..... 3
Domestic ..... 4
Juvenile ..... 5
Probate ..... 6
Other ..... 9

**1. Case Management:**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| a. | Promptly issuing a decision on the case after trial. | A | B | C | D | F | DK/NS |
| b. | Maintaining appropriate control over proceedings. | A | B | C | D | F | DK/NS |
| c. | Promptly ruling on pre-trial motions. | A | B | C | D | F | DK/NS |
| d. | Setting reasonable schedules for cases. | A | B | C | D | F | DK/NS |

**2. Application and Knowledge of Law:**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| a. | Being able to identify and analyze relevant facts. | A | B | C | D | F | DK/NS |
| b. | Basing decisions on evidence and arguments. | A | B | C | D | F | DK/NS |
| c. | Willing to reconsider error in fact or law. | A | B | C | D | F | DK/NS |
| d. | *[Criminal only]* Issuing consistent sentences when the circumstances are similar. | A | B | C | D | F | DK/NS |

**3. Communications:**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| a. | Makings sure all participants understand the proceedings. | A | B | C | D | F | DK/NS |
| b. | Providing written communications that are clear, thorough and well reasoned. | A | B | C | D | F | DK/NS |

**4. Demeanor:**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| a. | Giving proceedings a sense of dignity. | A | B | C | D | F | DK/NS |
| b. | Treating participants with respect. | A | B | C | D | F | DK/NS |
| c. | Conducting his/her courtroom in a neutral manner. | A | B | C | D | F | DK/NS |
| d. | Consistently applying laws and rules. | A | B | C | D | F | DK/NS |

**5. Diligence:**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| a. | Using good judgment in application of relevant law and rules. | A | B | C | D | F | DK/NS |
| b. | Doing the necessary "homework" and being prepared for his/her cases. | A | B | C | D | F | DK/NS |
| c. | Being willing to handle cases on the docket even when they are complicated and time consuming. | A | B | C | D | F | DK/NS |

Having observed Judge (Last Name) in a criminal case, would you say the judge is: *(This question is asked only if respondent indicated at the beginning of the survey he/she observed the judge in a criminal case.)*

Very biased in favor of the prosecution ..... 1
Somewhat biased in favor of the prosecution ..... 2
Completely Neutral ..... 3
Somewhat biased in favor of the defense..... 4
Very biased in favor of the defense..... 5
Don't Know/Not Sure..... 9

6. What would you say are Judge (*Last Name*)'s strengths?

_____
_____
_____

7. What would you say are Judge (*Last Name*)'s weaknesses?

_____
_____
_____

8. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge (Last Name) be retained in office, or not retained in office?

Strongly recommend he be retained in office..... 5
Somewhat recommend he be retained in office..... 4
Undecided or don't know enough to make recommendation..... 3
Somewhat recommend he not be retained in office..... 2
Strongly recommend he not be retained in office ..... 1

9. And what would you say are Judge ***[Last Name]***'s weaknesses?

_____
_____
_____
_____
_____
_____

10. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge ***[Last Name]*** be retained in office, or not retained in office?

| | |
|---|---|
| Strongly recommend he/she be retained in office | 5 |
| Somewhat recommend he/she be retained in office | 4 |
| Undecided or don't know enough to make recommendation | 3 |
| Somewhat recommend he/she not be retained in office | 2 |
| Strongly recommend he/she not be retained in office | 1 |

**Thank you for taking the time to complete this questionnaire. Please place it in the self-addressed, postage-paid envelope provided and place it in the mail. Your participation in this survey is very much appreciated.**

# Commission on Judicial Performance

**Evaluation of**
**JUDGE [FULL NAME]**

**If we have made a mistake and you either were not in Judge *[Last Name]*'s courtroom in the past 18 months, or you feel that you do not have sufficient experience with Judge *[Last Name]* to have an opinion the judge's judicial performance, please just return this questionnaire, unanswered, in the enclosed postage-paid envelope, to stop any further requests to evaluate Judge *[Last Name]*.**

***Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the judge on the following. (If you feel that you don't have experience with the judge in a specific area, or just don't know, please circle the number corresponding to "Don't Know/Not Applicable"—DK/NA).***

| **1. Demeanor:** | **A** | **B** | **C** | **D** | **F** | **DK N/A** |
|---|---|---|---|---|---|---|
| a. Giving court proceedings a sense of dignity. | 4 | 3 | 2 | 1 | 0 | 9 |
| b. Treating participants in the case politely and with respect. | 4 | 3 | 2 | 1 | 0 | 9 |
| c. Conducting his/her courtroom in a neutral manner. | 4 | 3 | 2 | 1 | 0 | 9 |
| d. Having a sense of compassion and human understanding for those who appear before him/her. | 4 | 3 | 2 | 1 | 0 | 9 |

| 2. Fairness: | A | B | C | D | F | DK N/A |
|---|---|---|---|---|---|---|
| a. Giving participants an opportunity to be heard. | 4 | 3 | 2 | 1 | 0 | 9 |
| b. Treating those involved in the case without bias. | 4 | 3 | 2 | 1 | 0 | 9 |
| c. Treating fairly people who represent themselves. | 4 | 3 | 2 | 1 | 0 | 9 |
| d. Giving each side enough time to present his or her case. | 4 | 3 | 2 | 1 | 0 | 9 |

| 3. Communications: | A | B | C | D | F | DK N/A |
|---|---|---|---|---|---|---|
| a. Makings sure participants understand the proceedings, and what's going on in the courtroom. | 4 | 3 | 2 | 1 | 0 | 9 |
| b. Using language that everyone can understand. | 4 | 3 | 2 | 1 | 0 | 9 |
| c. Speaking clearly so everyone in the courtroom can hear what's being said. | 4 | 3 | 2 | 1 | 0 | 9 |

| 4. Diligence: | A | B | C | D | DK F | N/A |
|---|---|---|---|---|---|---|
| a. Beginning court on time. | 4 | 3 | 2 | 1 | 0 | 9 |
| b. Maintaining appropriate control over proceedings. | 4 | 3 | 2 | 1 | 0 | 9 |
| c. Setting reasonable schedules for cases. | 4 | 3 | 2 | 1 | 0 | 9 |
| d. Being prepared for his/her cases. | 4 | 3 | 2 | 1 | 0 | 9 |
| e. Managing court proceedings so that there is little wasted time. | 4 | 3 | 2 | 1 | 0 | 9 |

| 5. Application of Law: | A | B | C | D | F | DK N/A |
|---|---|---|---|---|---|---|
| a. Giving reasons for rulings. | 4 | 3 | 2 | 1 | 0 | 9 |
| b. Willing to make decision without regard to possible outside pressure. | 4 | 3 | 2 | 1 | 0 | 9 |
| c. Being able to identify and analyze relevant facts. | 4 | 3 | 2 | 1 | 0 | 9 |

6. ***[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]*** On the scale below, please indicate by circling the appropriate number how biased you think Judge ***[Last Name]*** is toward the defense or the prosecution. If you feel Judge ***[Last Name]*** is completely unbiased, circle "0."

**Bias toward Defense** — **Completely Neutral** — **Bias toward Prosecution**

**5 4 3 2 1 0 1 2 3 4 5**

7. ***[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]*** On the scale below, please indicate by circling the appropriate number how lenient or how harsh you think the sentences generally handed down by ***[Last Name]*** are. If you feel Judge ***[Last Name]*** generally hands down appropriate sentences, circle "0."

**Sentences Too Light** — **Appropriate Sentences** — **Sentences Too Harsh**

**5 4 3 2 1 0 1 2 3 4 5**

Though your name will never be associated with your answers, because the judge will see a typed transcript of the comments that you and others write, it is important that you do not include information in the comments below that would unintentionally identify you as the author.

8. What would you say are Judge ***[Last Name]***'s strengths?

_____
_____
_____
_____
_____
_____

**Continued on Back Page**