



Commission on
Judicial Performance
2004 Judicial Performance Survey

The Honorable John R. Webb

March 22, 2004

The Honorable John R. Webb
Judge, Colorado Court of Appeals
Colorado State Judicial Bldg.
2 East 14th Ave.
Denver, Co. 80203



Dear Judge Webb:


Every two years the Colorado Judicial Performance Commission conducts a survey of attorneys who have had cases with opinions authored or co-authored by those appellate court judges who face a retention vote in the next general election, and a second survey concerning these judges is conducted among all of the State's trial judges.

This report contains the results of these two surveys. 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 overall (the combined average from questions 2a through 2l) Following the graphs, are a series of tables showing the percentage distribution of responses 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. A copy of the attorney questionnaire is at the back of this report.
- **Survey of Trial Judges Results & Comments:** Similar to the Attorney section, this portion of the report contains graphs (again including the overall average of questions 1 through 14 on the Survey of Judges questionnaire), the percentage distribution of responses by the trial judges to each substantive question in the survey. The trial judges 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.
- **Methodology:** The fourth 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, and for any other questions you might have about the survey please call the Director of the Colorado Judicial Performance Program, Michelle Stermer, at 303-837-3665.

Best regards,



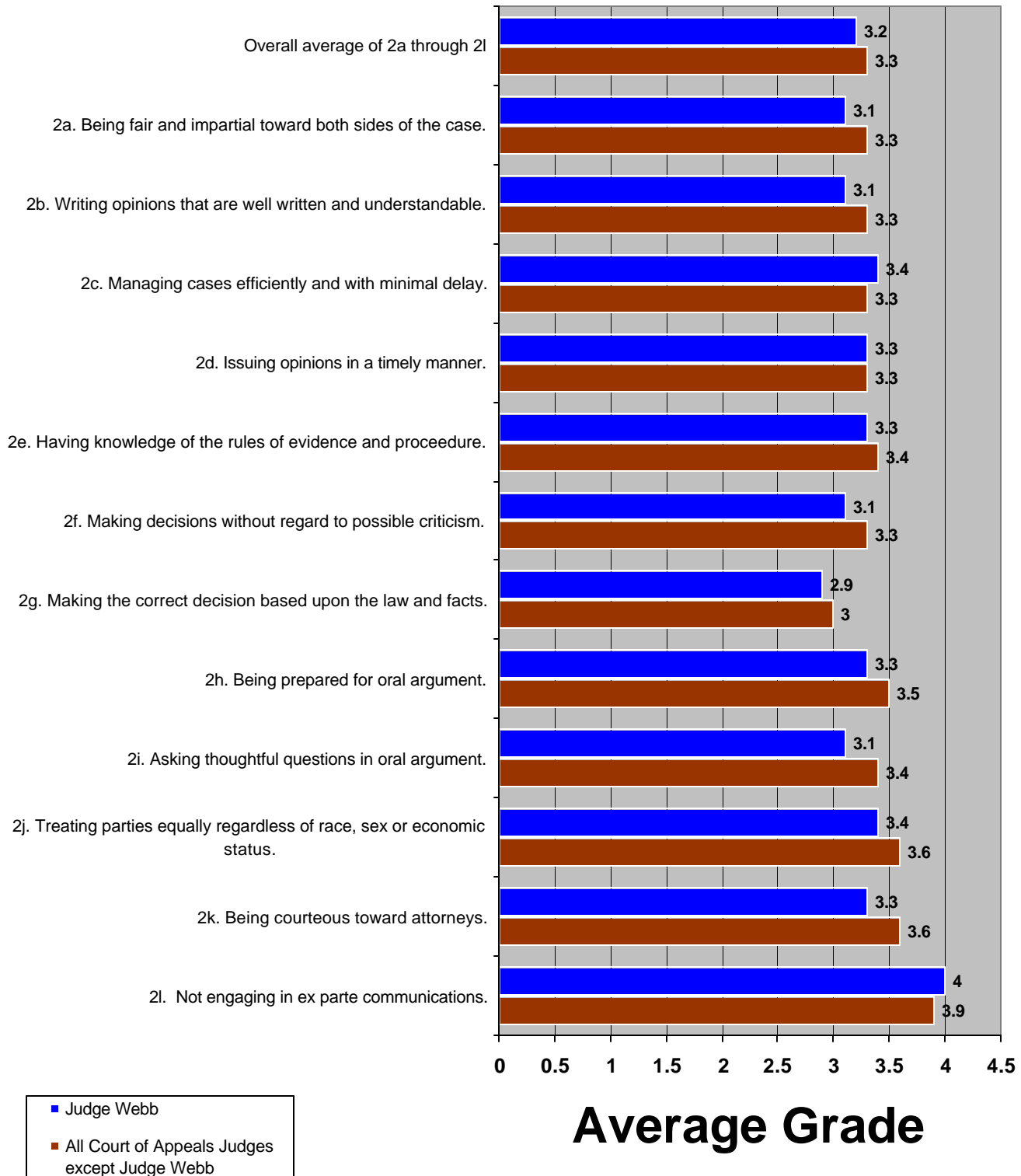
Paul A. Talmey
President

enc:

Judge John Robert Webb

Appeallate Survey

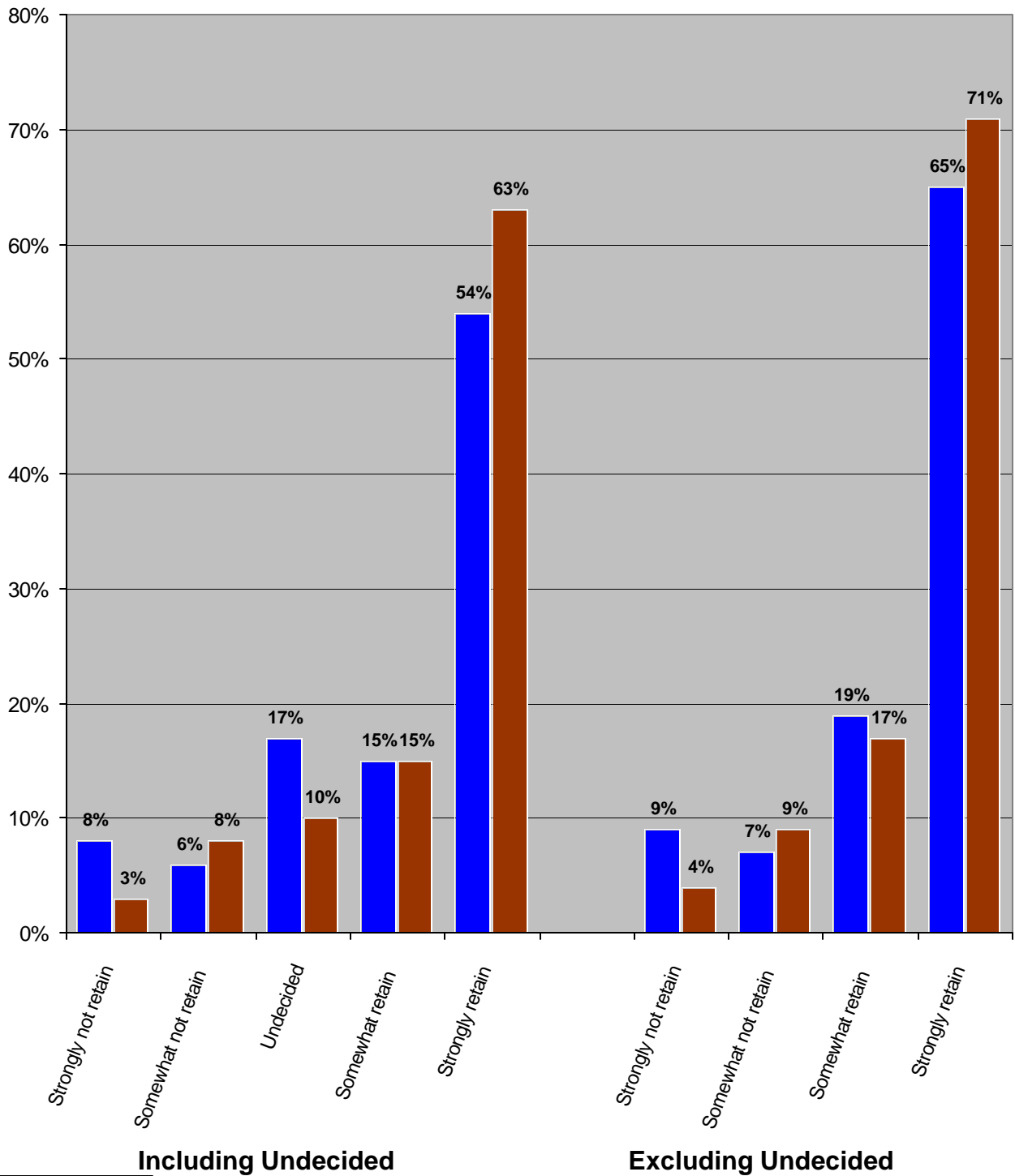
Average Grades: Questions 2a through 2l and Overall Average



Judge John Robert Webb

Appeallate Survey

Retention Recommendation



■ Judge Webb
■ All Court of Appeals Judges
except Judge Webb

Judge John Robert Webb

Attorney Survey

2a. How would you grade Judge Webb on "Being fair and impartial toward both sides of the case?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	47%	57%
B	21%	21%
C	4%	11%
D	11%	5%
Fail	4%	2%
No Grade	14%	4%
<hr/>		
Average	3.1	3.3
Letter Grade	B	B

Judge John Robert Webb

Attorney Survey

2b. How would you grade Judge Webb on "Writing opinions that are well written and understandable?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	42%	52%
B	25%	27%
C	19%	10%
D	5%	4%
Fail		2%
No Grade	9%	4%
<hr/>		
Average	3.1	3.3
Letter Grade	B	B

Judge John Robert Webb

Attorney Survey

2c. How would you grade Judge Webb on "Managing cases efficiently and with minimal delay?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	32%	35%
B	21%	29%
C	5%	8%
D	2%	1%
Fail		0%
No Grade	40%	26%
<hr/>		
Average	3.4	3.3
Letter Grade	B+	B

Judge John Robert Webb

Attorney Survey

2d. How would you grade Judge Webb on "Issuing opinions in a timely manner?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	40%	46%
B	28%	33%
C	9%	10%
D	4%	2%
Fail		0%
No Grade	19%	8%
<hr/>		
Average	3.3	3.3
Letter Grade	B	B

Judge John Robert Webb

Attorney Survey

2e. How would you grade Judge Webb on "Having knowledge of the rules of evidence and procedure?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	39%	43%
B	16%	18%
C	11%	9%
D	5%	2%
Fail		2%
No Grade	30%	27%
<hr/>		
Average	3.3	3.4
Letter Grade	B	B+

Judge John Robert Webb

Attorney Survey

2f. How would you grade Judge Webb on "Making decisions without regard to possible criticism?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	40%	42%
B	9%	17%
C	4%	8%
D	9%	3%
Fail	4%	3%
No Grade	35%	28%
<hr/>		
Average	3.1	3.3
Letter Grade	B	B

Judge John Robert Webb

Attorney Survey

2g. How would you grade Judge Webb on "Making the correct decision based upon the law and facts?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	42%	47%
B	18%	20%
C	14%	16%
D	12%	8%
Fail	5%	6%
No Grade	9%	3%
<hr/>		
Average	2.9	3.0
Letter Grade	B-	B

Judge John Robert Webb

Attorney Survey

2h. How would you grade Judge Webb on "Being prepared for oral argument?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	30%	47%
B	19%	19%
C	7%	8%
D	4%	1%
Fail		
No Grade	40%	25%
<hr/>		
Average	3.3	3.5
Letter Grade	B	B+

Judge John Robert Webb

Attorney Survey

2i. How would you grade Judge Webb on "Asking thoughtful questions in oral argument?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	30%	42%
B	16%	17%
C	9%	11%
D	4%	3%
Fail		
No Grade	40%	27%
<hr/>		
Average	3.1	3.4
Letter Grade	B	B+

Judge John Robert Webb

Attorney Survey

2j. How would you grade Judge Webb on "Treating parties equally regardless of race, sex or economic status?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	44%	52%
B	4%	9%
C	2%	4%
D	7%	1%
Fail	2%	1%
No Grade	42%	33%
<hr/>		
Average	3.4	3.6
Letter Grade	B+	B+

Judge John Robert Webb

Attorney Survey

2k. How would you grade Judge Webb on "Being courteous toward attorneys?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	37%	59%
B	21%	15%
C	5%	5%
D	2%	1%
Fail		
No Grade	33%	20%
<hr/>		
Average	3.3	3.6
Letter Grade	B	B+

Judge John Robert Webb

Attorney Survey

2I. How would you grade Judge Webb on "Not engaging in ex parte communications?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	37%	48%
B		4%
C		2%
D		
Fail		
No Grade	63%	47%
<hr/>		
Average	4.0	3.9
Letter Grade	A	A-

Judge John Robert Webb

Attorney Survey

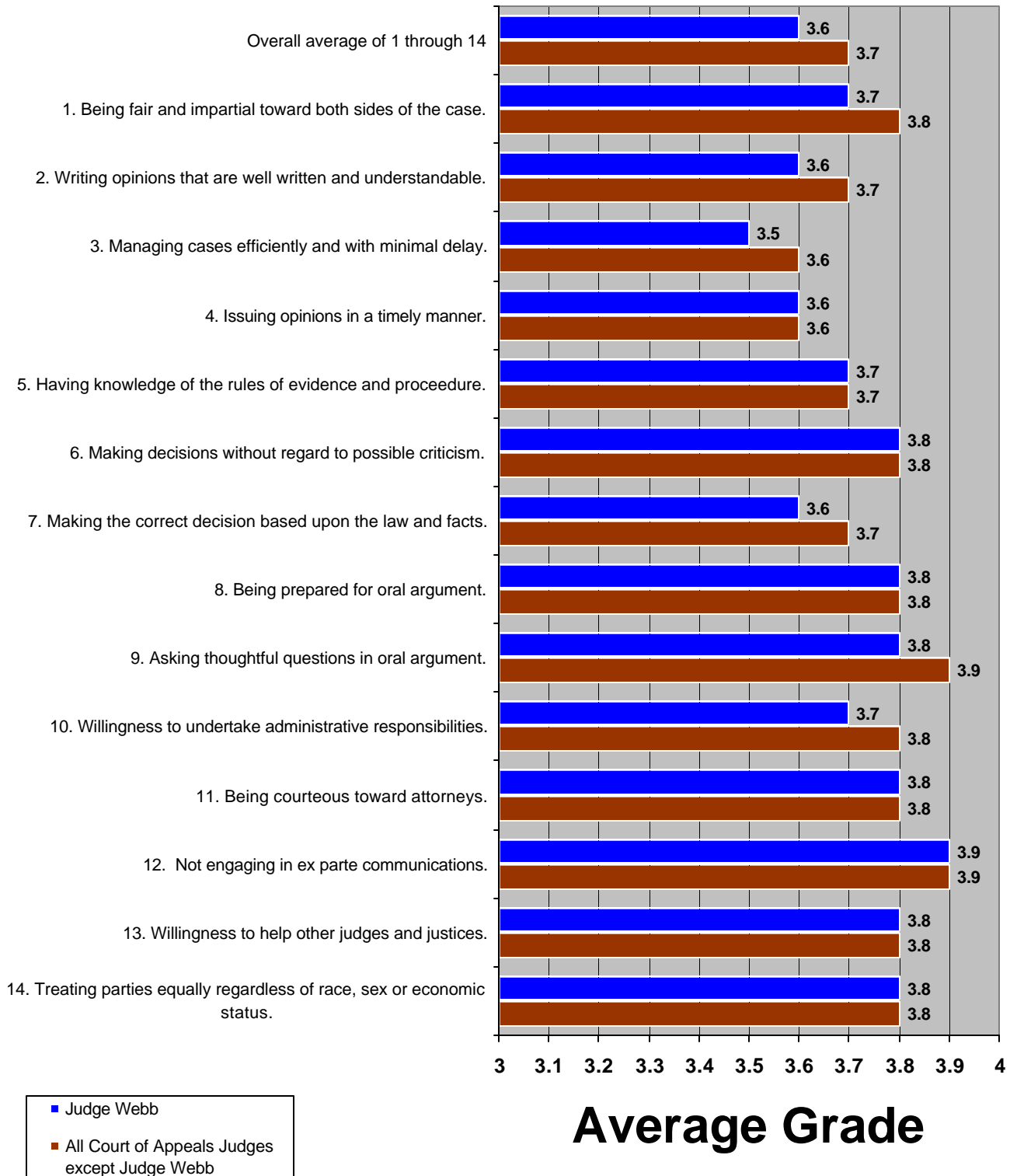
3. Do you recommend that Judge Webb be retained in office or not be retained in office?

	Judge Webb	All Court of Appeals Judges except Judge Webb
Strongly Recommend Retain in office	65%	71%
Somewhat Recommend Retain in office	19%	17%
Somewhat Recommend Not Retain in office	7%	9%
Strongly Recommend Not Retain in office	9%	4%

Judge John Robert Webb

Survey of Judges

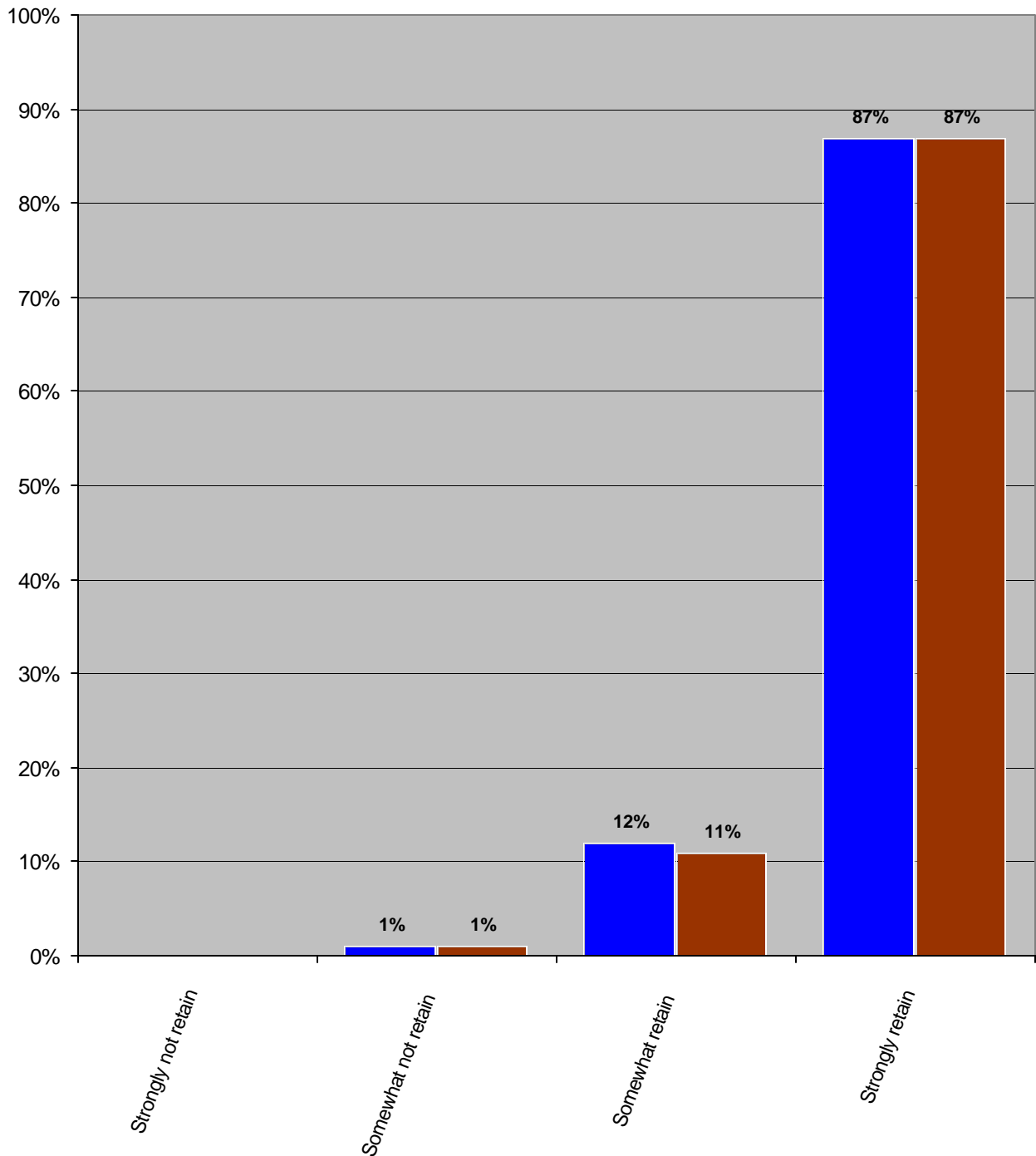
Average Grades: Questions 1 through 14 and Overall Average



Judge John Robert Webb

Survey of Judges

Retention Recommendation



■ Judge Webb
■ All Court of Appeals Judges
except Judge Webb

Judge John Robert Webb

Survey of Judges

1. How would you grade Judge Webb on "Being fair and impartial toward both sides of the case?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	46%	54%
B	12%	10%
C	4%	3%
D		
Fail		
No Grade	39%	33%
<hr/>		
Average	3.7	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

2. How would you grade Judge Webb on "Writing opinions that are well written and understandable?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	51%	57%
B	16%	18%
C	5%	5%
D		0%
Fail		
No Grade	28%	21%
<hr/>		
Average	3.6	3.7
Letter Grade	B+	A-

Judge John Robert Webb

Survey of Judges

3. How would you grade Judge Webb on "Managing cases efficiently and with minimal delay?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	29%	35%
B	16%	16%
C	3%	3%
D		
Fail		
No Grade	52%	47%
<hr/>		
Average	3.5	3.6
Letter Grade	B+	B+

Judge John Robert Webb

Survey of Judges

4. How would you grade Judge Webb on "Issuing opinions in a timely manner?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	33%	37%
B	16%	17%
C	3%	2%
D		0%
Fail		
No Grade	49%	44%
<hr/>		
Average	3.6	3.6
Letter Grade	B+	B+

Judge John Robert Webb

Survey of Judges

5. How would you grade Judge Webb on "Having knowledge of the rules of evidence and procedure?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	52%	57%
B	13%	15%
C	4%	3%
D		0%
Fail	1%	1%
No Grade	30%	25%
<hr/>		
Average	3.7	3.7
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

6. How would you grade Judge Webb on "Making decisions without regard to possible criticism?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	52%	60%
B	8%	9%
C	3%	2%
D		0%
Fail		
No Grade	38%	29%
<hr/>		
Average	3.8	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

7. How would you grade Judge Webb on "Making the correct decision based upon the law and facts?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	46%	55%
B	20%	20%
C	4%	3%
D		0%
Fail		
No Grade	30%	21%
<hr/>		
Average	3.6	3.7
Letter Grade	B+	A-

Judge John Robert Webb

Survey of Judges

8. How would you grade Judge Webb on "Being prepared for oral argument?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	21%	26%
B	3%	3%
C	2%	1%
D		
Fail		
No Grade	74%	70%
<hr/>		
Average	3.8	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

9. How would you grade Judge Webb on "Asking thoughtful questions in oral argument?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	15%	18%
B		1%
C	2%	1%
D		
Fail		
No Grade	83%	80%
<hr/>		
Average	3.8	3.9
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

10. How would you grade Judge Webb on "Willingness to undertake administrative responsibilities?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	19%	23%
B	5%	5%
C	2%	1%
D		
Fail		
No Grade	75%	71%
<hr/>		
Average	3.7	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

11. How would you grade Judge Webb on "Being courteous toward attorneys?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	26%	33%
B	4%	4%
C	2%	1%
D		
Fail		
No Grade	69%	62%
<hr/>		
Average	3.8	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

12. How would you grade Judge Webb on "Not engaging in ex parte communications?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	31%	33%
B	2%	2%
C	1%	1%
D		
Fail		
No Grade	66%	64%
<hr/>		
Average	3.9	3.9
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

**13. How would you grade Judge Webb on
"Willingness to help other judges and justices?"**

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	29%	35%
B	6%	6%
C	2%	1%
D		
Fail		
No Grade	64%	58%
<hr/>		
Average	3.8	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

14. How would you grade Judge Webb on "Treating parties equally regardless of race, sex or economic status?"

	Judge Webb	All Court of Appeals Judges except Judge Webb
A	44%	51%
B	7%	6%
C	2%	2%
D		
Fail		
No Grade	47%	41%
<hr/>		
Average	3.8	3.8
Letter Grade	A-	A-

Judge John Robert Webb

Survey of Judges

15. Do you recommend that Judge Webb be retained in office or not be retained in office?

	Judge Webb	All Court of Appeals Judges except Judge Webb
Strongly Recommend Retain in office	87%	87%
Somewhat Recommend Retain in office	12%	11%
Somewhat Recommend Not Retain in office	1%	1%
Strongly Recommend Not Retain in office		



Methodology

Sample: The Colorado Judicial Department provided Talmey-Drake Research & Strategy, Inc. with names and addresses of attorneys who, in the previous 12 months, had a case decided by the Colorado Court of Appeals, of which the decision had been authored or co-authored by one of the six Court of Appeals judges up for a retention vote in 2004. Talmey-Drake Research was also provided with the list of the 265 Colorado judges and justices.

Two surveys were conducted, one among attorneys who had opinions authored or co-authored by one of the six Court of Appeals judges facing a retention vote in 2004, and a second survey of all Colorado judges and justices.

Questionnaire: Copies of the two questionnaires used are provided at the end of this report. Respondents were asked to use a grade of A, B, C, D, or F (Fail) to assess the judge’s performance in a number of different areas. These grades were then converted to a numerical value where A = 4, B = 3, C = 2, D = 1 and Fail = 0.

Response: The response rate 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 overall response rate for each survey as well as the response rate for your surveys.

Overall Response Rate						
<u>Respondent Type</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
Attorneys	1170	393	21	168		39.2%
Judges	265	135	1	14	1	53.8%

Response Rate for Judge Webb						
<u>Respondent Type</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
Attorneys	198	57	6	32		34.3%
Judges	265	135	1	14	1	53.8%

Results: The results of the Survey are in two main sections: Attorney Respondents and Judge Respondents. Within each main section are three subsections: graphs

displaying average grades for each section and question, the percentage distribution of grades, and respondent comments.

Graphs: The graphs visually display the overall average numerical grades received for all grade questions, each section and each question compared to the combined averages for all the other Court of Appeals judges for which 2004 surveys were conducted.

Percentage Distribution of Grades: This section shows the percentage of each grade received on each question plus the bias, sentencing and retention questions. An average grade point for each graded question is computed and shown in the results section. A letter grade is also assigned to each grade point according to the following scale.

A = 4.00	B = 3.00 to 3.33	C = 2.00 to 2.33	D = 1.00 to 1.33
A— = 3.68 to 3.99	B— = 2.67 to 2.99	C— = 1.67 to 1.99	D— = 0.67 to 0.99
B+ = 3.34 to 3.66	C+ = 2.34 to 2.66	D+ = 1.34 to 1.66	Fail = 0.00 to 0.67

This section also includes a comparative column of results showing the results for that question for all other Court of Appeals judges for which 2004 surveys were conducted.

Comments: Each respondent was encouraged to comment on the judge's performance. This section contains these comments—again divided between results from attorneys and judges.

Sampling Error:

All sample surveys are subject to what is known as sampling error—the extent to which the results of the sample survey may differ from what would be obtained if the entire population being surveyed had been interviewed. The size of the sampling error is almost entirely due to the number of people interviewed for the survey and the variance of responses.

The table below shows the extent of sampling error (95%-confidence interval) for various sizes of random samples and sample percentage results.

	Sample Size					
	<u>25</u>	<u>50</u>	<u>100</u>	<u>150</u>	<u>200</u>	<u>300</u>
Percentages near 10% or 90%	± 11.8%	± 8.3%	± 5.9%	± 4.8%	± 4.2%	± 3.4%
Percentages near 20% or 80%	± 15.7%	± 11.1%	± 7.8%	± 6.4%	± 5.5%	± 4.5%
Percentages near 30% or 70%	± 18.0%	± 12.7%	± 9.0%	± 7.3%	± 6.4%	± 5.2%
Percentages near 40% or 60%	± 19.2%	± 13.6%	± 9.6%	± 7.8%	± 6.8%	± 5.5%
Percentages near 50%	± 19.6%	± 13.9%	± 9.8%	± 8.0%	± 6.9%	± 5.7%

For example, suppose a reported percentage is 80% in a sample size of 150, then one could expect that 95% of the time that a random sample of the same size and collected the same way would include the true population percentage within the range of 80% plus or minus 6.4%.

Averages such as grade points also have a 95% confidence interval, however it is not so easily displayed in a table as confidence intervals about a percentage. Suffice it to say that the confidence interval about a score generally increases with smaller sample size.

Commission on Judicial Performance
2004 Judicial Performance Court of Appeals Questionnaire

Evaluation of
Judge _____

1. Which of the following types of cases have you appealed in which Judge _____ authored or co-authored the decision? *(Please circle all that apply.)*

- Civil..... 1
- Criminal..... 2
- Domestic..... 3
- Juvenile..... 4
- Other..... 5

2. 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, for a specific question you feel that you do not have enough information to grade Judge _____, please circle the number indicating “Can’t Grade.”

	A	B	C	D	F	Can't
						Answer
a. Being fair and impartial toward both sides of the case.....	4	3	2	1	0	9
b. Writing opinions that are well written and understandable.....	4	3	2	1	0	9
c. Managing cases efficiently and withy minimal delay.....	4	3	2	1	0	9
d. Issuing opinions in a timely manner.....	4	3	2	1	0	9
e. Having knowledge if the rules of evidence and procedure.....	4	3	2	1	0	9
f. Making decisions without regard to possible criticism.....	4	3	2	1	0	9
g. Making the correct decision based upon the law and facts.....	4	3	2	1	0	9
h. Being prepared for oral argument.....	4	3	2	1	0	9
i. Asking thoughtful questions in oral argument.....	4	3	2	1	0	9
j. Treating parties equally regardless of race, sex or economic status.....	4	3	2	1	0	9
k. Being courteous toward attorneys.....	4	3	2	1	0	9
l. Not engaging in <i>ex parte</i> communications.....	4	3	2	1	0	9

Continued On Other Side

3. Comments about **Judge** _____ relating to any of your responses to the previous questions:

4. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge _____ 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

4. And why do you think that way about retaining or not retaining Judge _____?

Thank you for your time in completing this questionnaire. Please place it in the self-addressed, postage paid enveloped provided, and place it in the mail. Your participation in this survey is very much appreciated.

9. Asking thoughtful questions in oral argument.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

10. Willingness to undertake administrative responsibilities.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

11. Being courteous toward attorneys.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

12. Not engaging in *ex parte* communications.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

13. Willingness to help other judges and justices.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy.....	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

14. Treating parties equally regardless of race, sex or economic status.

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>No Grade</u>
Judge James S. Casebolt.....	4	3	2	1	0	6
Judge Dennis A. Graham	4	3	2	1	0	6
Judge Robert J. Kapelke.....	4	3	2	1	0	6
Judge Arthur P. Roy.....	4	3	2	1	0	6
Judge Daniel M. Taubman.....	4	3	2	1	0	6
Judge John R. Webb	4	3	2	1	0	6

15. Recommend to be retained/not retained in office.

	<u>Judge Casebolt</u>	<u>Judge Graham</u>	<u>Judge Kapelke</u>
Strongly recommend to retain	5	5	5
Somewhat recommend to retain...	4	4	4
Undecided or don't know enough			
to make recommendation.....	3	3	3
Somewhat recommend not retain.	2	2	2
Strongly recommend not retain....	1	1	1

	<u>Judge Roy</u>	<u>Judge Taubman</u>	<u>Judge Webb</u>
Strongly recommend to retain.....	5	5	5
Somewhat recommend to retain..	4	4	4
Undecided or don't know enough			
to make recommendation.....	3	3	3
Somewhat recommend not retain.	2	2	2
Strongly recommend not retain....	1	1	1