Commission on
Judicial Performance

The Honorable Robert Walter Kiesnowski, Jr.

2014 Judicial Performance Survey Report

17th Judicial District

RESEARCH & POLLING INC

March 26, 2014

The Honorable Robert Walter Kiesnowski, Jr.
Adams County Justice Center
1100 Judicial Center Dr.
Brighton, CO 80601

Dear Judge Kiesnowski:

I am pleased to make available to you the attached copy of your 2014 Judicial Performance Survey Report. This report includes the survey results from three important stakeholder groups: 1) attorneys who have had cases in your court or who are knowledgeable about your judicial performance; 2) appellate judges; and 3) non-attorneys who have observed your performance in court or who have knowledge of your performance as a judge. In addition to this introduction, the report is divided into six main sections:

1. A brief summary of the results of the attorney and non-attorney surveys.
2. The numerical results of the survey of attorneys in both tabular and graphical form. In addition to the numerical results, this section also contains comments attorneys made about your judicial performance. In some instances the comments have been redacted to eliminate respondent identifying information.
3. The numerical results of the survey of appellate judges in tabular form, and any comments the justices and judges might have made about your judicial performance.
4. The numerical results of the survey of non-attorneys in both tabular and graphical form. In addition to the numerical results, this section also contains comments these respondents made on the subject of your judicial performance. In few instances the comments have been redacted to eliminate respondent identifying information.
5. The fifth section of the report discusses the methodology of the surveys.
6. The final section provides copies of the questions or questionnaires that were used for each survey.

If you have any questions about the methodology and how the survey was conducted, please feel free to contact me at 505-821-5454 or by email at *sanderoff@rpinc.com* (please put the words "Judicial Performance" in the subject line), and for any other questions you might have about the survey please call the Executive Director of the Office of Judicial Performance Evaluation, Kent Wagner, at 303-928-7779.

Best regards,

Brian Sanderoff

Brian Sanderoff
President

Summary of Results

Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. On average, Judge Robert Walter Kiesnowski, Jr. received an overall combined average grade of 3.61 in the 2014 Judicial Performance Survey. This is calculated by adding the overall average grade received from attorney respondents, 3.47, to the overall average grade received from non-attorney respondents, 3.75, divided by two.

The average combined grade for all district judges standing for retention in 2014 is 3.50 (not shown below).

Judge Kiesnowski Average Grades (All Years)			
	Combined	**Attorney**	**Non-attorney**
Overall Grade	3.61	3.47	3.75
Sample Size	-	48	74

Table 1

The results presented in this report are based on data collected in 2008, 2009, 2010, 2011, 2012 and 2013. (See Methodology section for description of sampling process.) Table 2 shows Judge Kiesnowski's overall average grades for up to six years (for each year in which survey results are available.) Provisional judges will not have samples for the years prior to their appointment.

Judge Kiesnowski Average Grades by Year					
		Attorney		**Non-Attorney**	
Year	**Combined Average Score**	**Average Score**	**Sample Size**	**Average Score**	**Sample Size**
2008	NA	NA	NA	NA	NA
2009	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA
2011	NA	NA	NA	NA	NA
2012	3.65	3.57	22	3.73	45
2013	3.59	3.39	26	3.79	29
Overall	3.61	3.47	48	3.75	74

Table 2

Comparison of Jurors vs. Non-Jurors Among Non-Attorney Population

Among the non-attorney population, jurors tend to grade judges much higher than non-jurors. The juror overall average grade for all district judges standing for retention in 2014 is 3.80, while the overall average grade awarded by non-jurors is 3.28. The effect of this is that judges with a higher percentage of jurors in their sample tend to have higher average grades in the non-attorney survey than those judges with a small percentage of jurors. The number of jurors in a judge's sample is, of course, closely related to the number of jury trials the judge presides over.

The table below shows Judge Kiesnowski's non-attorney results broken out by jurors and non-jurors. It also shows the overall average juror and non-juror grades for all district judges standing for retention in 2014 (see two columns on far right).

Average Grades for Jurors vs. Non-Jurors (All Years)							
Judge Kiesnowski						All District Judges*	
Jurors			Non-Jurors				
Average Score	Sample		Average Score	Sample		Juror Average	Non-Juror Average
	Size	%		Size	%		
3.81	64	86%	3.38	10	14%	3.80	3.28

Table 3

* Includes only the District judges evaluated during this retention cycle.

Survey of Attorneys Regarding Judge Robert Walter Kiesnowski, Jr.

(Sample Size 48)

Survey of Attorneys Regarding District Judges

Judge Robert Walter Kiesnowski, Jr. Sample Size = 48	A	B	C	D	Fail	DK/NA	Average (0.0 to 4.0 scale) Robert Walter Kiesnowski, Jr.	All District Judges*
1. Case Management:								
1a. Promptly issuing a decision on the case after trial.	48%	10%	6%	2%	0%	33%	3.56	3.44
1b. Maintaining appropriate control over proceedings.	75%	8%	8%	0%	6%	2%	3.49	3.39
1c. Promptly ruling on pre-trial motions.	52%	19%	17%	0%	2%	10%	3.33	3.30
1d. Setting reasonable schedules for cases.	71%	15%	8%	2%	2%	2%	3.53	3.28
						Overall Case Management	3.48	3.35
2. Application and Knowledge of Law:								
2a. Being able to identify and analyze relevant facts.	63%	17%	6%	2%	4%	8%	3.43	3.29
2b. Basing decisions on evidence and arguments.	60%	13%	8%	2%	4%	13%	3.40	3.17
2c. Willing to reconsider error in fact or law.	40%	8%	6%	4%	4%	38%	3.20	2.96
2d. Issuing consistent sentences when the circumstances are similar.	0%	0%	0%	0%	0%	0%	0.00	3.12
						Overall Application and Knowledge of Law	3.34	3.14
3. Communications:								
3a. Making sure all participants understand the proceedings.	73%	17%	8%	0%	2%	0%	3.58	3.50
3b. Providing written communications that are clear, thorough and well reasoned.	54%	25%	6%	2%	6%	6%	3.27	3.30
						Overall Communications	3.43	3.40
4. Demeanor:								
4a. Giving proceedings a sense of dignity.	75%	13%	8%	0%	2%	2%	3.62	3.47
4b. Treating participants with respect.	77%	15%	6%	0%	2%	0%	3.65	3.40
4c. Conducting the courtroom in a neutral manner.	75%	10%	8%	0%	4%	2%	3.55	3.28
4d. Consistently applying laws and rules.	71%	8%	13%	2%	4%	2%	3.43	3.22
						Overall Demeanor	3.56	3.34
5. Diligence:								
5a. Using good judgment in application of relevant law and rules.	69%	13%	10%	4%	4%	0%	3.38	3.16
5b. Doing the necessary "homework" and being prepared for cases.	69%	13%	6%	2%	4%	6%	3.49	3.34
5c. Being willing to handle cases on the docket even when they are complicated and time consuming.	60%	6%	6%	0%	2%	25%	3.64	3.43
						Overall Diligence	3.50	3.31
						Overall Average Grade:	**3.47**	**3.30**

* Includes only the District judges evaluated during this retention cycle.

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A=4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. 'DK/NA' = Don't Know / Not Applicable.

Survey of Attorneys Regarding District Judges

Judge Robert Walter Kiesnowski, Jr.

	Percentage	
	Robert Walter Kiesnowski, Jr.	All District Judges*

Would you say the judge is:

Very biased in favor of the prosecution	0%	11%
Somewhat biased in favor of the prosecution	0%	27%
Completely neutral	0%	46%
Somewhat biased in favor of the defense	0%	9%
Very biased in favor of the defense	0%	2%
Don't know or not sure	0%	5%

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

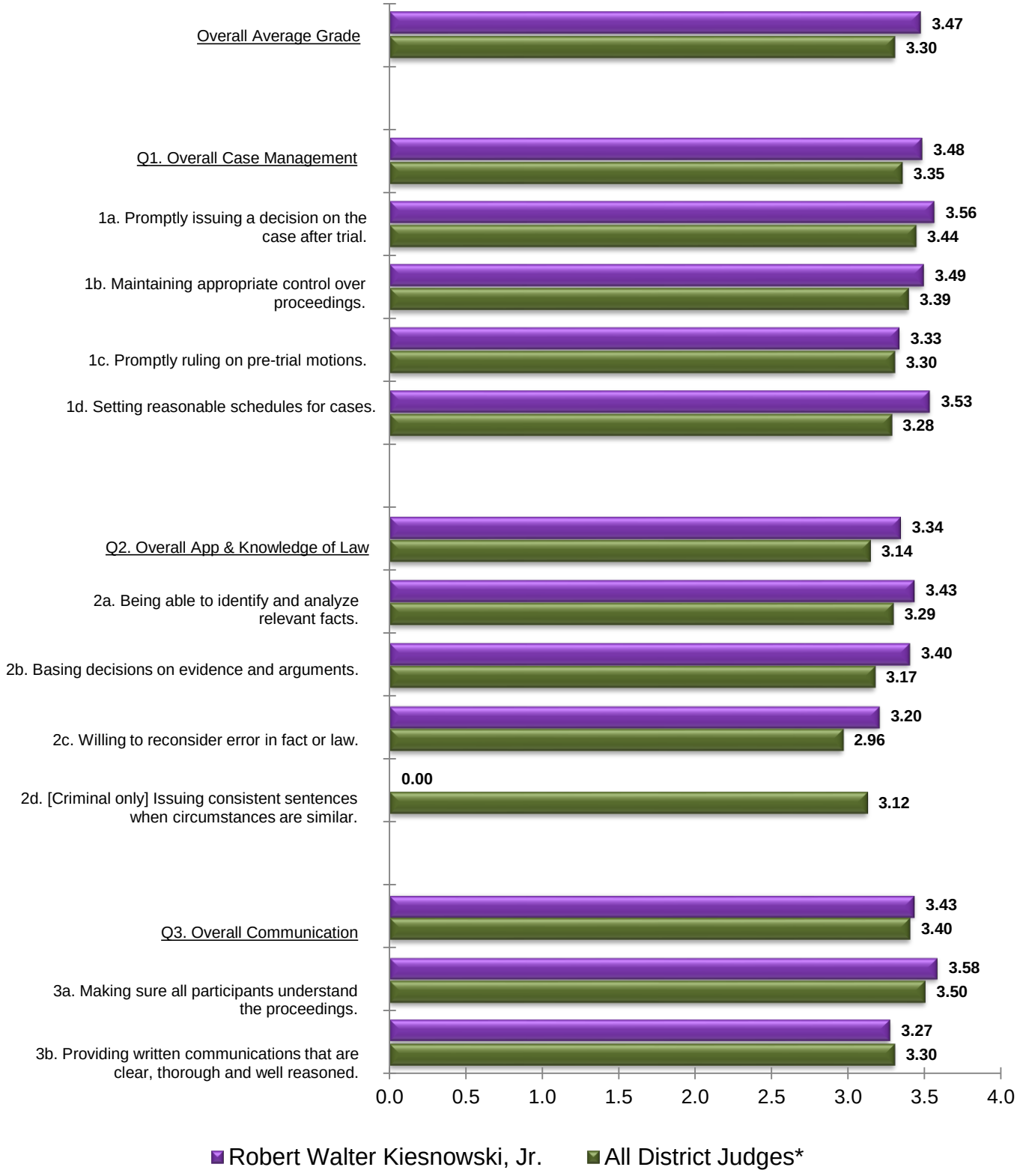
Strongly recommend retain	71%	56%
Recommend retain	13%	24%
Neither recommend nor not recommend retain	8%	8%
Recommend not retain	4%	5%
Strongly recommend not retain	4%	6%
Total Retain	84%	80%
Neither	8%	8%
Total Not Retain	8%	11%

* Includes only the District judges evaluated during this retention cycle.

Judge Robert Walter Kiesnowski, Jr.

Survey of Attorneys Regarding District Judges

Average Grades

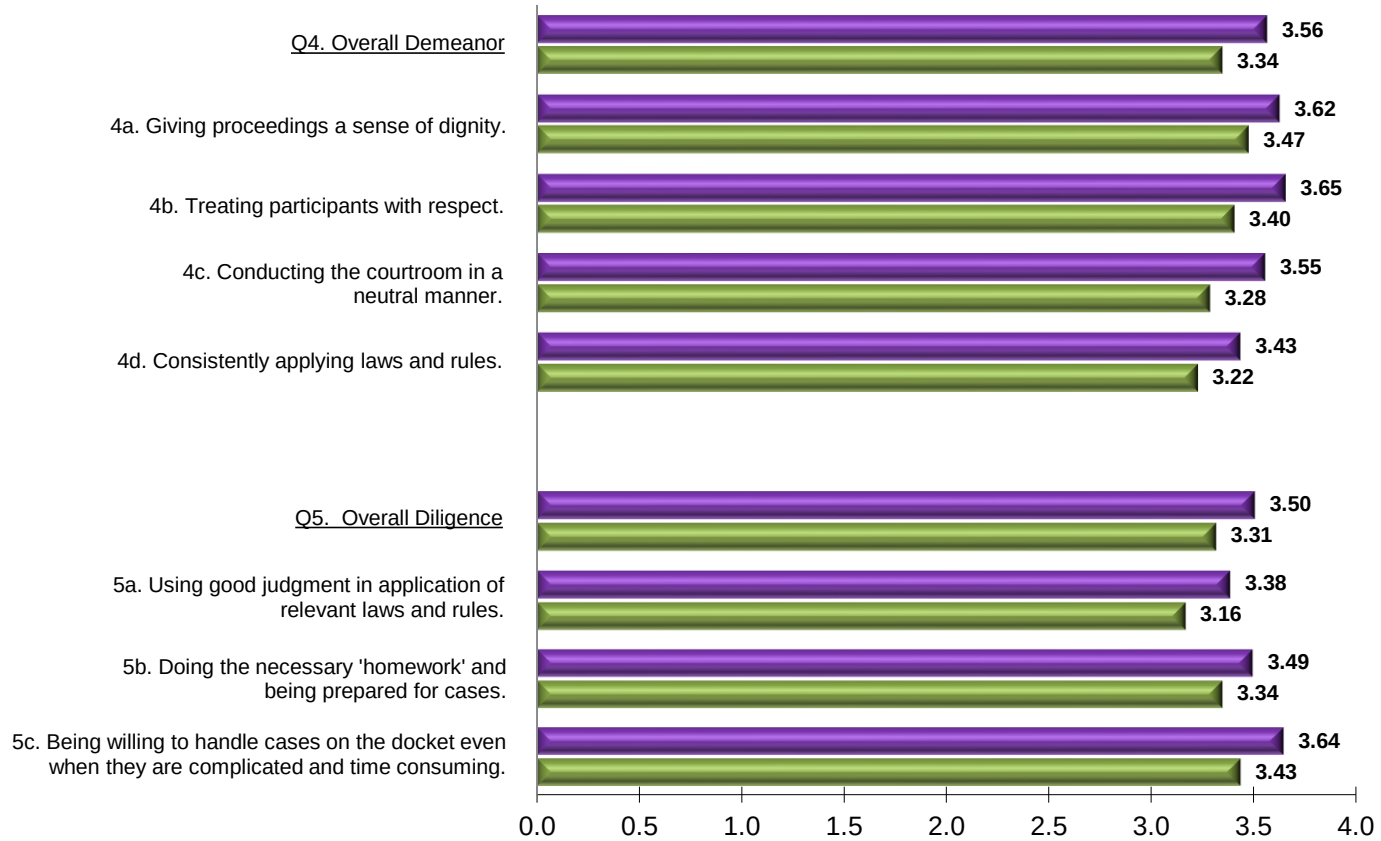


* Includes only the District judges evaluated during this retention cycle.

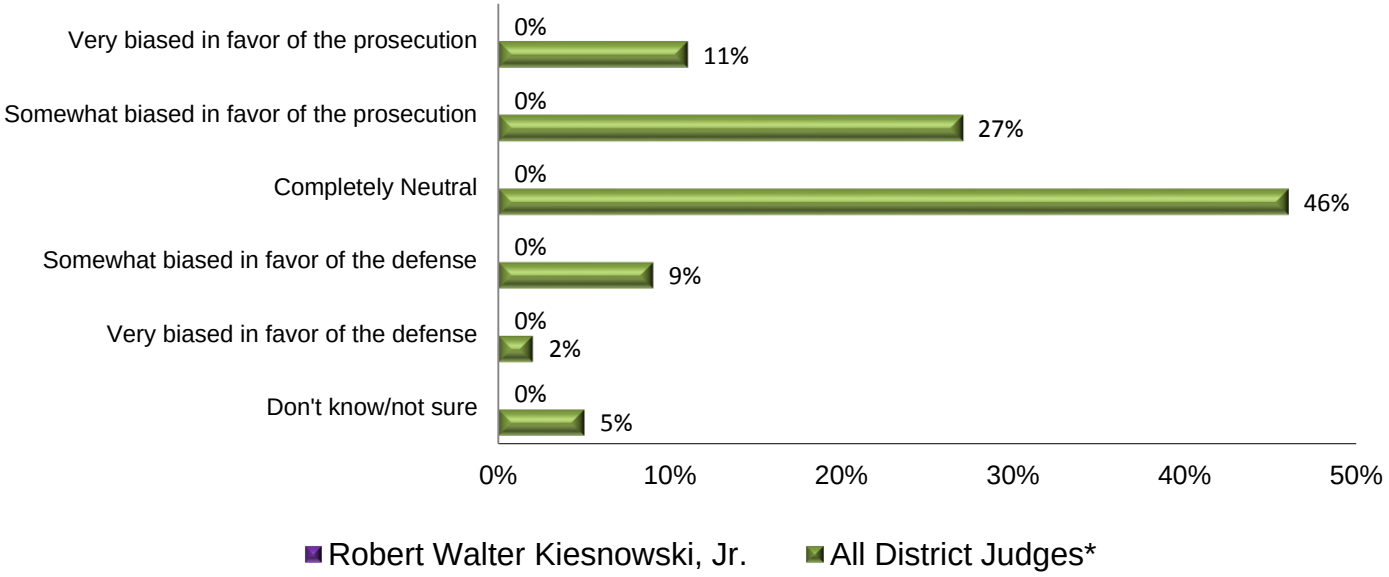
Judge Robert Walter Kiesnowski, Jr.

Survey of Attorneys Regarding District Judges

Average Grades



Biased in favor of prosecution/defense.

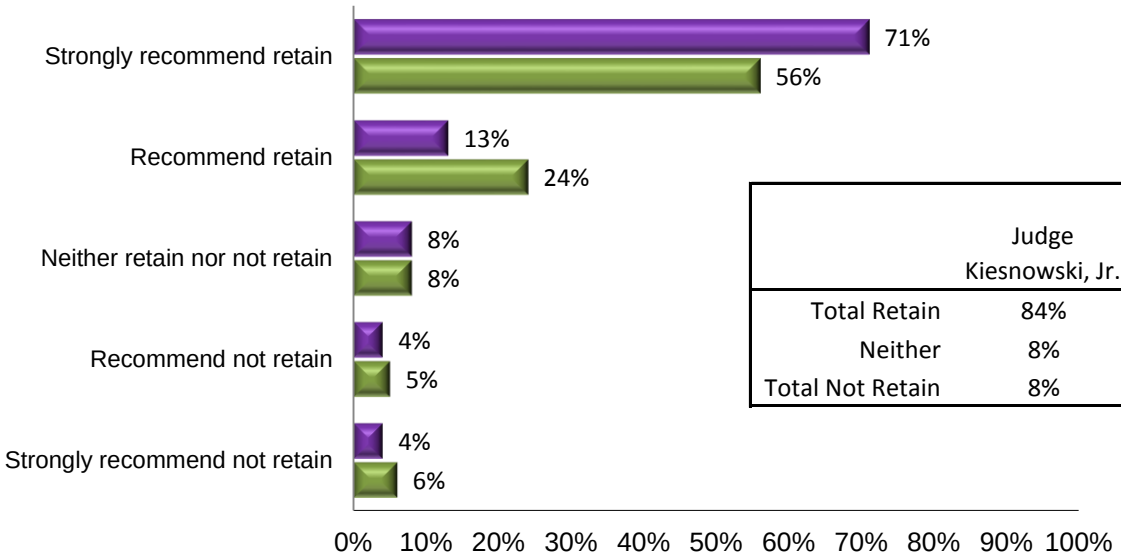


* Includes only the District judges evaluated during this retention cycle.

Judge Robert Walter Kiesnowski, Jr.

Survey of Attorneys Regarding District Judges

How strongly do you recommend that Judge Kiesnowski, Jr. be retained or not retained in office?



	Judge Kiesnowski, Jr.	All Dist Judges*
Total Retain	84%	80%
Neither	8%	8%
Total Not Retain	8%	11%

Robert Walter Kiesnowski, Jr.

* Includes only the District judges evaluated during this retention cycle.

Survey of Appellate Judges Regarding Judge Robert Walter Kiesnowski, Jr.

(Sample Size 16)

Survey of Appellate Judges Regarding District Judges								
Judge Robert Walter Kiesnowski, Jr.							Average	
Evaluations of Judge Kiesnowski, Jr. = 15	A	B	C	D	Fail	No Grade	Robert Walter Kiesnowski, Jr.	All District Judges*
Judge Kiesnowski, Jr. in terms of overall performance as a judge.	13%	0%	0%	0%	0%	87%	4.00	3.46

* Includes only the District judges evaluated during this retention cycle.

Survey of Non-Attorneys Regarding Judge Robert Walter Kiesnowski, Jr.

(Sample Size 74)

Survey of Non-Attorneys Regarding District Judges

Judge Robert Walter Kiesnowski, Jr. Sample Size = 74	A	B	C	D	Fail	DK/NA	Average (0.0 to 4.0 scale) Robert Walter Kiesnowski, Jr.	All District Judges*
1. Demeanor:								
1a. Giving court proceedings a sense of dignity.	84%	12%	4%	0%	0%	0%	3.80	3.72
1b. Treating participants in the case politely and with respect.	86%	8%	4%	1%	0%	0%	3.79	3.73
1c. Conducting the courtroom in a neutral manner.	86%	6%	8%	0%	0%	0%	3.78	3.67
1d. Having a sense of compassion and human understanding for those who appear before the judge.	75%	18%	5%	1%	0%	0%	3.67	3.62
						Overall Demeanor	3.76	3.69
2. Fairness:								
2a. Giving participants an opportunity to be heard.	85%	12%	3%	0%	0%	0%	3.82	3.70
2b. Treating those involved in the case without bias.	85%	9%	4%	1%	0%	0%	3.78	3.66
2c. Treating fairly people who represent themselves.	61%	5%	3%	0%	0%	31%	3.84	3.68
2d. Giving each side enough time to present his or her case.	84%	9%	5%	0%	0%	1%	3.79	3.70
						Overall Fairness	3.81	3.69
3. Communications:								
3a. Making sure participants understand the proceedings, and what's going on in the courtroom.	84%	14%	1%	1%	0%	0%	3.80	3.74
3b. Using language that everyone can understand.	84%	12%	4%	0%	0%	0%	3.80	3.75
3c. Speaking clearly so everyone in the courtroom can hear what's being said.	85%	14%	1%	0%	0%	0%	3.84	3.78
						Overall Communications	3.81	3.76
4. Diligence:								
4a. Beginning court on time.	64%	21%	12%	1%	1%	0%	3.45	3.61
4b. Maintaining appropriate control over proceedings.	82%	12%	5%	0%	0%	0%	3.77	3.76
4c. Setting reasonable schedules for cases.	82%	11%	4%	1%	0%	1%	3.76	3.67
4d. Being prepared for cases.	86%	7%	5%	0%	0%	1%	3.82	3.73
4e. Managing court proceedings so that there is little wasted time.	71%	19%	7%	3%	0%	0%	3.58	3.61
						Overall Diligence	3.68	3.68
5. Application of Law:								
5a. Giving reasons for rulings.	70%	15%	3%	1%	0%	11%	3.72	3.63
5b. Willing to make decision without regard to possible outside pressure.	74%	8%	0%	1%	1%	15%	3.79	3.67
5c. Being able to identify and analyze relevant facts.	77%	7%	4%	3%	0%	10%	3.74	3.64
						Overall Application of Law	3.75	3.65
						Overall Average Grade:	**3.75**	**3.69**

* Includes only the District judges evaluated during this retention cycle.

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A=4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. 'DK/NA' = Don't Know / Not Applicable.

Survey of Non-Attorneys Regarding District Judges

Judge Robert Walter Kiesnowski, Jr.

	Percentage	
	Robert Walter Kiesnowski, Jr.	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	0%	8%
Competely neutral	92%	86%
Biased in favor of the defense total	8%	7%
Average	-0.15	0.05

[A positive average indicates bias toward prosecution, and a negative average indicates a bias toward the defense.]

7. Average Sentencing

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

Harsh sentencing total	0%	8%
Competely neutral	94%	82%
Lenient sentencing total	6%	11%
Average	-0.06	0.01

[A positive average indicates sentences are harsh, and a negative average indicates sentences are lenient.]

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

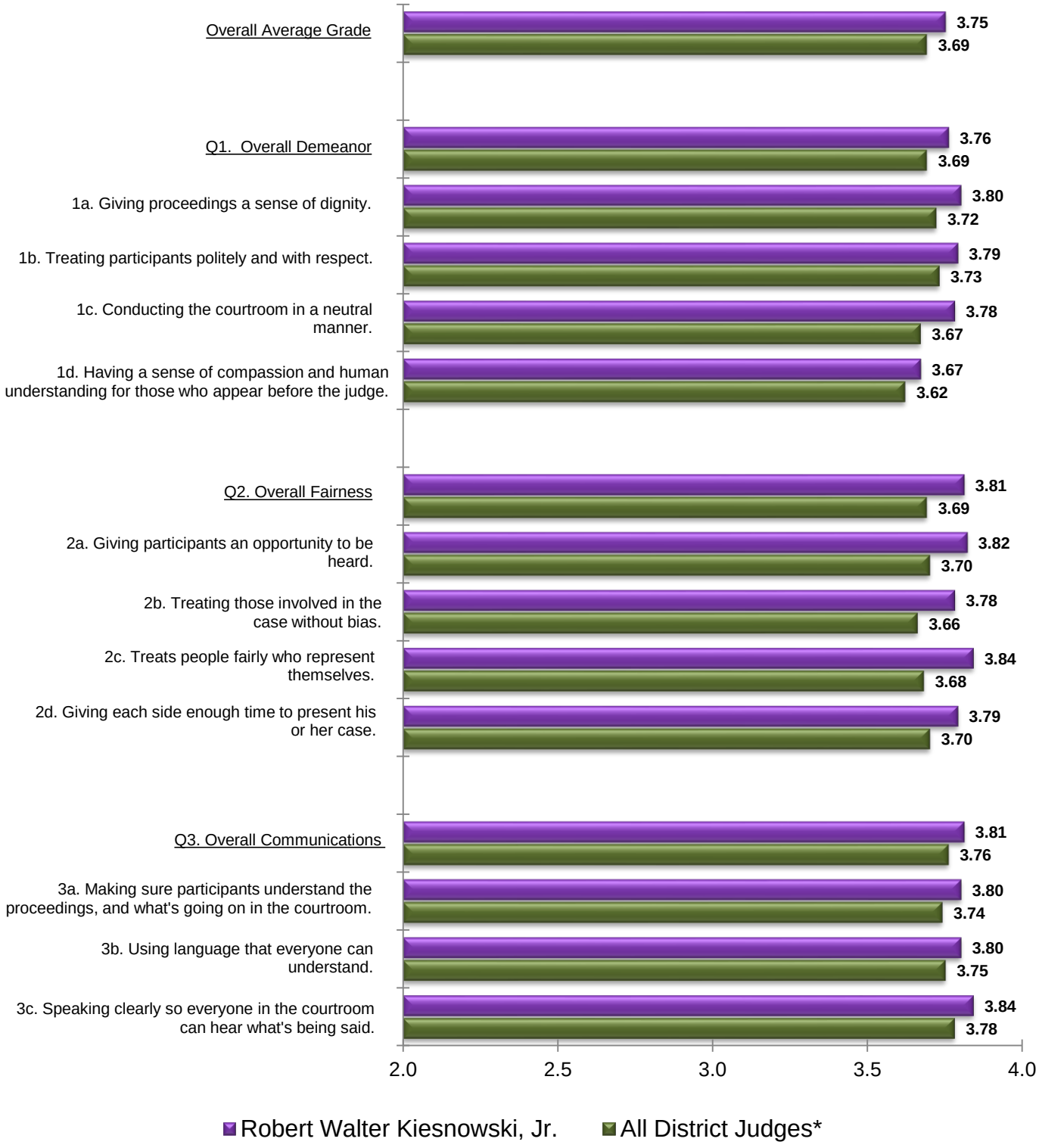
Strongly recommend retain	72%	75%
Recommend retain	24%	13%
Neither recommend nor not recommend retain	4%	6%
Recommend not retain	0%	2%
Strongly recommend not retain	0%	4%
Total Retain	96%	88%
Neither	4%	6%
Total Not Retain	0%	6%

* Includes only the District judges evaluated during this retention cycle.

Judge Robert Walter Kiesnowski, Jr.

Survey of Non-Attorneys Regarding District Judges

Average Grades

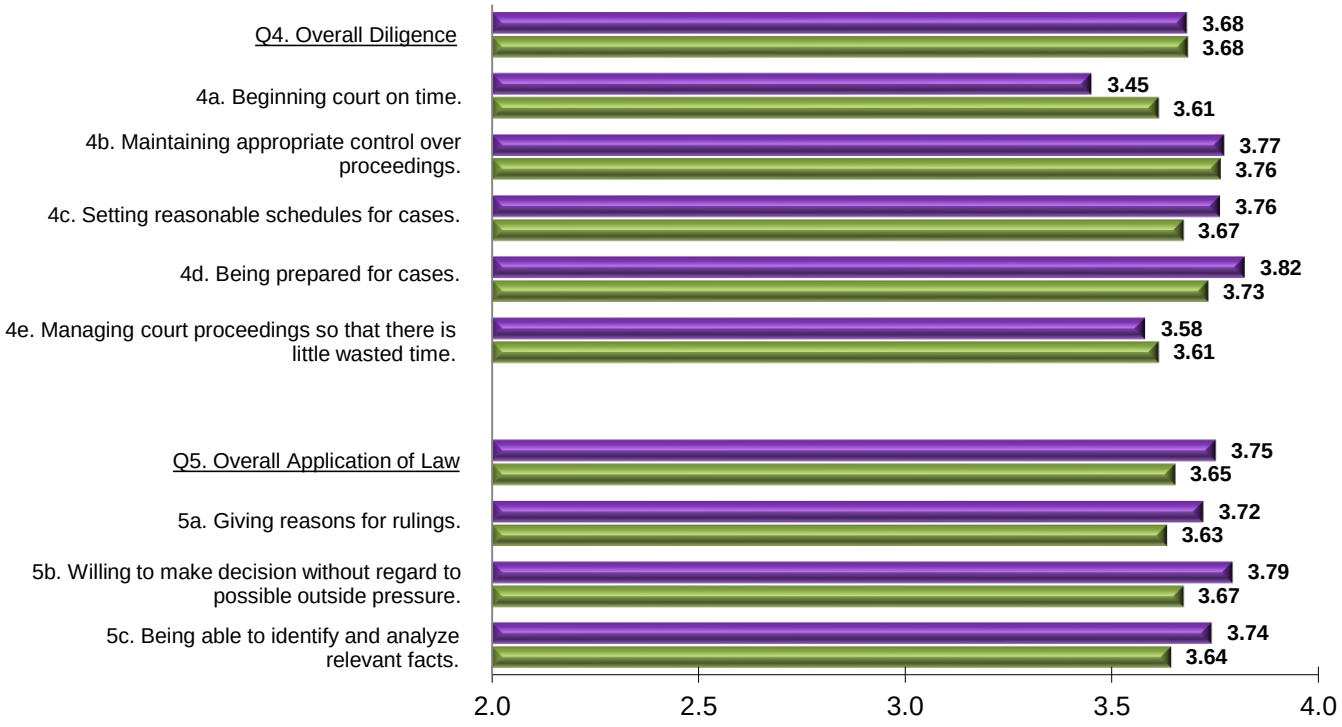


* Includes only the District judges evaluated during this retention cycle.

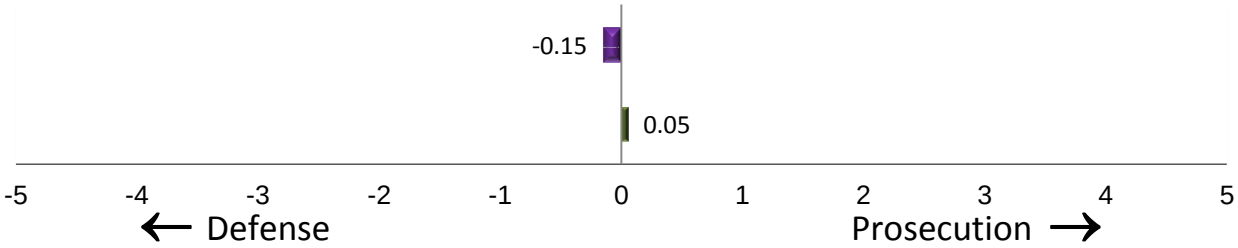
Judge Robert Walter Kiesnowski, Jr.

Survey of Non-Attorneys Regarding District Judges

Average Grades

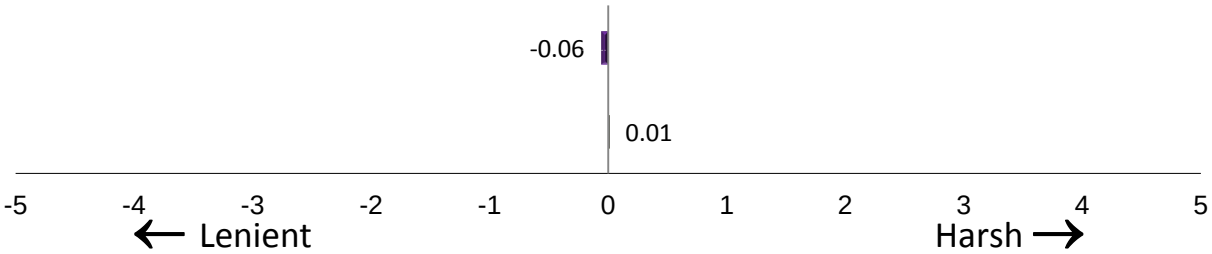


Q6 Biased in favor of prosecution/defense.[1]



1-A negative average score indicates bias toward the defense, and a positive average score indicates bias toward prosecution.

Q7 Lenience or Harshness in Sentencing.[2]



2-A negative average score indicates sentences are lenient, and a positive average score indicates sentences are harsh.

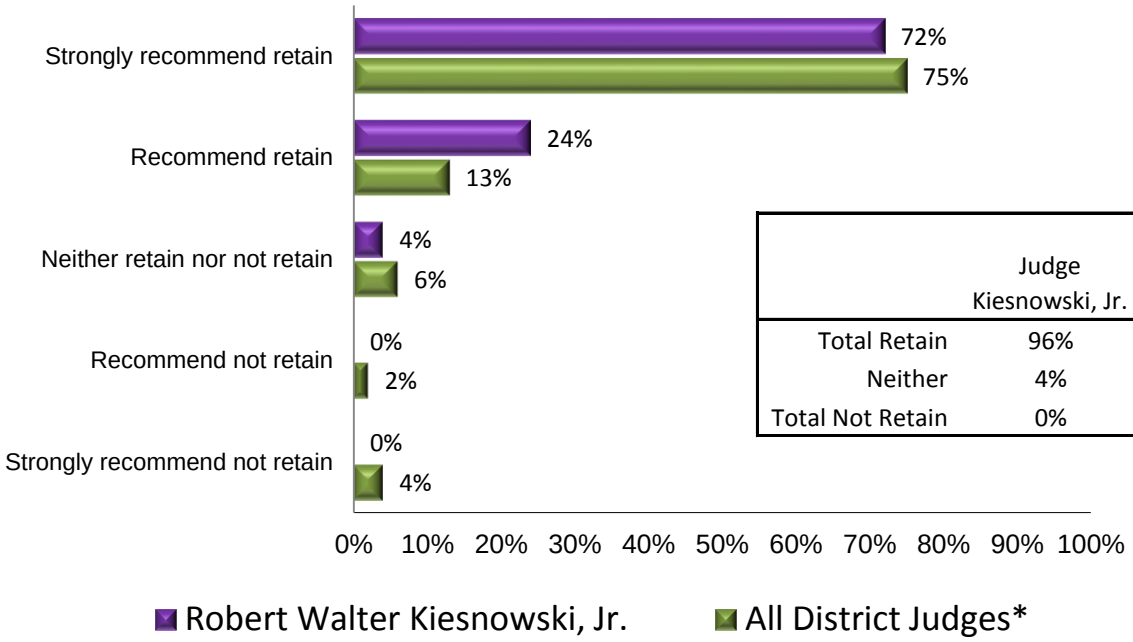
Robert Walter Kiesnowski, Jr. All District Judges*

* Includes only the District judges evaluated during this retention cycle.

Judge Robert Walter Kiesnowski, Jr.

Survey of Non-Attorneys Regarding District Judges

How strongly do you recommend that Judge Kiesnowski, Jr. be retained or not retained in office?



	Judge Kiesnowski, Jr.	All Dist Judges*
Total Retain	96%	88%
Neither	4%	6%
Total Not Retain	0%	6%

* Includes only the District judges evaluated during this retention cycle.

Methodology

Methodology

The results shown in the 2014 Judicial Performance Survey Report are based on three surveys: The Survey of Attorneys Regarding Trial Judges, the Survey of Appellate Judges Regarding District Judges, and the Survey of Non-Attorneys Regarding Trial Judges. Below is a description of the methodology used in the three surveys.

I Attorneys Regarding District Judges

a. Sample:

Research & Polling, Inc. received case data with the names of attorneys who had likely been in each judge's courtroom from the following primary sources:

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

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

Only judges that are due to receive a retention evaluation in 2014 were evaluated during this reporting cycle. The intent was to increase the number of completed attorney evaluations for each judge by excluding those not due to receive a retention evaluation in 2014. The number of possible judges that attorney respondents could evaluate was 10.

Attorneys are first mailed a letter inviting them to complete the survey online. The letter provides the link to the online survey, as well as a unique password to access the survey. Approximately one week later, attorneys are sent an email invitation to complete the online survey, which also provides the Web address and their unique password. About a week after the first email is sent, a reminder email is sent, providing the same information. Potential respondents who do not complete the survey after the second email are then telephoned and asked to either complete the survey by phone, or to complete it online.

Since 2010, the Judicial Performance Survey reports are based on a moving average, or rolling sample, of data collected over a period of time equal to the justice's or judge's term of office: ten years for a Supreme Court justice, eight years for a COA judge, six years for a district judge, and four years for a county judge. To use a district judge as an example: as survey data is collected it is pooled together for six years. After six years, as new data is added to the judge's survey results, the oldest data in the pool is deleted.

b. Questions:

Respondents evaluated judges on 17 aspects of judicial performance using a grade scale of A, B, C, D, or F. (See Questionnaire section.) These grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0. The A through F scale was chosen because it is almost universally recognized and understood. This makes it easy for respondents to complete their questionnaire, and for the public to interpret the results.

Respondents were also asked if they considered the judge biased toward the defense or prosecution in criminal cases. In a final question, respondents were asked to indicate how strongly they would recommend that the judge be retained or not retained in office. For this evaluation cycle, the "Don't know enough to make a recommendation" response category was excluded from the retention question.

c. Analysis:

The Attorneys Regarding District Judges section first shows a table of the percentage distribution for each of the A through F questions, including "don't know/not applicable" responses. The next column to the right shows the judge's average grade for each question. For comparison purposes, averages were also computed for all district judges standing for retention in 2014 and are shown in the furthest right column on the page. Tables showing the percentage distribution for all questions for all district retention judges are located at the end of this methodology section.

The overall question averages are calculated by adding up the averages for each question and dividing by the number of questions.

The next table shows the percentage distribution of the responses to the question about recommending retention. The first column of percentages is for the report-judge and the second column displays the percentages for all district retention judges.

The next page displays the question averages in horizontal bar-graph form. The percentage distribution to the retention question is then presented in the graph on the next page.

The last part of the Attorneys Regarding District Judges section of the report lists the comments the attorneys made about the judge's strengths and weaknesses.

d. Comments:

Respondents were also asked what they considered to be the judge's strengths and weaknesses. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released. Before being given to the judge and the Commission, an attempt is made to redact all respondent identifying information from the comments.

The number to the left of each comment refers to the same attorney respondent in both the strengths section and the weaknesses section.

Most spelling and typographical errors have been corrected.

e. Cooperation Rate:

The overall cooperation rate for the Attorneys Regarding Trial Judges Survey is calculated as the number of completed survey evaluations divided by the number of possible evaluations resulting in an overall response rate of 47.0% for district judges and 40.5% for county judges. An equivalent response rate for an individual judge is computed in the same manner. Undeliverable surveys have been excluded from the cooperation rates.

II Appellate Judges Regarding District Judges

a. Sample:

Twenty-seven appellate judges (Supreme Court and Court of Appeals) were sent a questionnaire asking them to evaluate the district judges eligible to stand for retention in November 2014.

b. Questions:

The questionnaire consisted of one question about each district judge concerning overall performance (see Questionnaire section). The A through F responses were converted to a numerical scores where A = 4, B = 3, C = 2, D = 1 and Fail = 0.

c. Analysis:

The Appellate Judges Regarding District Judges section shows a table of the percentage distribution for the one question, including "don't know/not applicable" responses. The next column to the right shows the judge's average grade for that question. For comparison purposes, the average grade was also computed for all district judges eligible to stand for retention in 2014 and is shown in the furthest right column on the page.

The second part of the Appellate Judges Regarding District Judges lists the judges' and justices' comments, if any.

d. Comments:

In addition to the A through F questions, the appellate judge respondents were given the opportunity to write a comment about each district judge. By statute, these comments are confidential and only provided to the district judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released. Before being given to the district judge and the Commission, an attempt is made to redact all respondent identifying information from the comments. An effort has been made to correct spelling and typographical errors.

e. Cooperation Rate:

In 2014, a questionnaire was sent to 27 Supreme Court justices and Court of Appeals judges. Sixteen questionnaires were returned, though not all 16 showed grades for every district judge.

III Non-Attorneys Regarding District Judges

a. Sample:

Research & Polling, Inc. received case data with the names of non-attorneys who had likely been in each judge's courtroom from the following primary sources:

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

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

Only the judges standing for retention in 2014 were evaluated. The intent was to increase the number of completed non-attorney evaluations for each retention judge by excluding those not standing for retention.

All non-attorneys with courtroom experience were surveyed (i.e. court employees, court interpreters, probation officers, witnesses, law enforcement, jurors, crime victims, etc.). The only exception to this were the criminal defendants and civil litigants for which RPI selected a random sample.

Court staff, probation officers, and court interpreters were asked to complete the survey online. They are sent an email invitation to complete the online survey, which also provides the Web address and their unique password. About a week after the first email is sent, a reminder email is sent, providing the same information.

Other non-attorneys were surveyed via standard mail. First, they were mailed an initial postcard informing the recipient that he or she would be receiving a questionnaire. Two to three weeks after the postcard 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. Questionnaires are barcoded, and if a respondent mailed back two questionnaires, the second one was deleted from the data file.

Since 2010, the non-attorney section of the Judicial Performance Survey reports have been based on a moving average, or rolling sample, of survey results collected over a period of time equal to the judge's term of office: six years for a district judge and four years for a county judge. To use a district judge as an example: as survey data is collected it is pooled together for six years. After six years, as new data is added to the judge's survey results, the oldest data in the pool is deleted.

b. Questions:

Respondents evaluated judges on 19 aspects of judicial performance using a grade scale of A, B, C, D, or F. (See Questionnaire section.) These grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0. The A through F scale was chosen because it is almost universally recognized and understood. This makes it easy for respondents to complete their questionnaire, and for the public to interpret the results.

Respondents were also asked if they considered the judge biased toward the defense or prosecution in criminal cases. In a final question, respondents were asked to indicate how strongly they would recommend that the judge be retained or not retained in office.

A copy of the questionnaire is included in the last section of this report.

c. Analysis:

The Non-Attorneys Regarding District Judges section first shows a table of the percentage distribution for each of the A through F questions, including "don't know/not applicable" responses. The next column to the right shows the judge's average grade for each question. For comparison purposes, averages were also computed for all district judges standing for retention in 2014 and are shown in the furthest right column on the page. Tables showing the percentage distribution for all questions for all district retention judges are located at the end of this methodology section.

The overall question averages are calculated by adding up the averages for each question and dividing by the number of questions.

The next table shows the percentage distribution of the responses to the questions about prosecution or defense bias and recommending retention. The first column of percentages is for the report-judge and the second column displays the percentages for all district retention judges.

The next page displays the question averages in horizontal bar-graph form. The percentage distribution of the prosecution-defense bias and retention questions are then presented in the graph on the next page.

The last part of the Non-Attorneys Regarding District Judges section of the report lists the comments the non-attorneys made about the judge's strengths and weaknesses.

d. Comments:

In addition to the A through F questions, non-attorney respondents were asked what they considered to be the judge's strengths and weaknesses. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released. Before being given to the judge and the Commission, an attempt is made to redact all respondent identifying information from the comments.

The number to the left of each comment refers to the same non-attorney respondent in both the strengths section and the weaknesses section.

e. 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 and 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 with whom they may not have had sufficient experience. 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 Kiesnowski is shown on the following page, and on the next page is a table of the overall cooperation rates for both the Attorney and Non-Attorney Regarding District Judges surveys for all district judges.

Judge Robert Walter Kiesnowski, Jr.

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	1	1	0	0	0	0.0%
Civil						
Attorneys for Litigants	5	4	0	0	1	20.0%
Other Attorneys Civil	150	65	38	0	47	42.0%
Total Attorneys	156	70	38	0	48	40.7%
Non-attorneys						
Criminal						
Law Enforcement	116	73	43	0	0	0.0%
Civil						
Litigant	54	32	15	0	7	17.9%
Jurors	156	85	3	4	64	41.8%
Employees, including Interpreters	8	3	2	0	3	50.0%
Total Non-attorneys	334	193	63	4	74	27.3%
Grand Total:	**490**	**263**	**101**	**4**	**122**	**31.4%**

Note: “Undeliverable/Not Applicable” surveys are removed from the “Total Sent” prior to calculating the cooperation rate.

Total Response Counts by Type of Respondent for All District Judges*

	Total Sent	No Response	Undeliverable/ Not Applicable	Other Non-Responses	Completes	Cooperation Rate
Attorneys						
Criminal						
District Attorneys	3105	1702	353	0	1050	38.2%
Defense Attorneys	4381	2309	386	0	1686	42.2%
Other Attorneys Criminal	164	88	10	0	66	42.9%
Civil						
Attorneys for Litigants	3667	1426	237	0	2004	58.4%
Other Attorneys Civil	4136	1945	378	0	1813	48.2%
GAL	34	11	2	0	21	65.6%
Total Attorneys	15487	7481	1366	0	6640	47.0%
Non-attorneys						
Criminal						
Victim	55	28	18	0	9	24.3%
Witness	5936	3024	1701	304	907	21.4%
Other	58	32	13	3	10	22.2%
Law Enforcement	5118	2861	1236	140	881	22.7%
Defendant	17993	7871	8866	117	1139	12.5%
Civil						
Litigant	8137	4580	1905	149	1503	24.1%
Witness	122	51	34	3	34	38.6%
Other	221	78	56	8	79	47.9%
Jurors	17789	7033	1065	254	9437	56.4%
Employees, including Interpreters	1120	450	172	21	477	50.3%
Probation Officers	65	19	0	5	41	63.1%
Total Non-attorneys	56614	26027	15066	1004	14517	34.9%
Grand Total:	**72101**	**33508**	**16432**	**1004**	**21157**	**38.0%**

* Includes only the District judges evaluated during this retention cycle.

Note: “Undeliverable/Not Applicable” surveys are removed from the “Total Sent” prior to calculating the cooperation rate.

Survey of Attorneys Regarding District Judges

All District Judges* Sample Size = 6640	A	B	C	D	Fail	DK/NA	Average Grade (0.0 to 4.0 scale)
1. Case Management:							
1a. Promptly issuing a decision on the case after trial.	50%	20%	6%	2%	1%	20%	3.44
1b. Maintaining appropriate control over proceedings.	60%	24%	9%	3%	2%	2%	3.39
1c. Promptly ruling on pre-trial motions.	48%	26%	9%	3%	2%	12%	3.30
1d. Setting reasonable schedules for cases.	53%	27%	9%	4%	3%	4%	3.28
						Overall Case Management	3.35
2. Application and Knowledge of Law:							
2a. Being able to identify and analyze relevant facts.	55%	25%	10%	4%	3%	2%	3.29
2b. Basing decisions on evidence and arguments.	52%	24%	11%	6%	4%	3%	3.17
2c. Willing to reconsider error in fact or law.	36%	19%	10%	6%	6%	24%	2.96
2d. Issuing consistent sentences when the circumstances are similar.	41%	26%	11%	5%	4%	14%	3.12
						Overall Application and Knowledge of Law	3.14
3. Communications:							
3a. Making sure all participants understand the proceedings.	63%	24%	7%	2%	1%	3%	3.50
3b. Providing written communications that are clear, thorough and well reasoned.	51%	23%	9%	4%	2%	10%	3.30
						Overall Communications	3.40
4. Demeanor:							
4a. Giving proceedings a sense of dignity.	67%	20%	7%	3%	3%	1%	3.47
4b. Treating participants with respect.	66%	17%	8%	4%	4%	1%	3.40
4c. Conducting the courtroom in a neutral manner.	60%	19%	9%	5%	5%	2%	3.28
4d. Consistently applying laws and rules.	54%	22%	10%	5%	4%	5%	3.22
						Overall Demeanor	3.34
5. Diligence:							
5a. Using good judgment in application of relevant law and rules.	51%	25%	11%	6%	4%	2%	3.16
5b. Doing the necessary "homework" and being prepared for cases.	57%	23%	9%	4%	3%	5%	3.34
5c. Being willing to handle cases on the docket even when they are complicated and time consuming.	55%	18%	6%	3%	2%	15%	3.43
						Overall Diligence	3.31
						Overall Average Grade:	**3.30**

* Includes only the District judges evaluated during this retention cycle.

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. 'DK/NA' = Don't Know / Not Applicable.

Survey of Attorneys Regarding District Judges

All District Judges*	Average Grade (0.0 to 4.0 scale)

Would you say the judge is:

Very biased in favor of the prosecution	11%
Somewhat biased in favor of the prosecution	27%
Completely neutral	46%
Somewhat biased in favor of the defense	9%
Very biased in favor of the defense	2%
Don't know or not sure	5%

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

Strongly recommend retain	56%
Recommend retain	24%
Neither recommend nor not recommend retain	8%
Recommend not retain	5%
Strongly recommend not retain	6%
Total Retain	80%
Neither	8%
Total Not Retain	11%

* Includes only the District judges evaluated during this retention cycle.

Survey of Non-Attorneys Regarding District Judges

All District Judges* Sample Size = 14517	A	B	C	D	Fail	DK/NA	Average Grade (0.0 to 4.0 scale)
1. Demeanor:							
1a. Giving court proceedings a sense of dignity.	81%	13%	3%	1%	1%	1%	3.72
1b. Treating participants in the case politely and with respect.	83%	10%	3%	1%	2%	0%	3.73
1c. Conducting the courtroom in a neutral manner.	81%	11%	3%	2%	3%	1%	3.67
1d. Having a sense of compassion and human understanding for those who appear before the judge.	77%	13%	3%	2%	3%	2%	3.62
					Overall Demeanor		3.69
2. Fairness:							
2a. Giving participants an opportunity to be heard.	81%	11%	3%	1%	2%	1%	3.70
2b. Treating those involved in the case without bias.	80%	11%	3%	2%	3%	2%	3.66
2c. Treating fairly people who represent themselves.	53%	6%	2%	1%	2%	36%	3.68
2d. Giving each side enough time to present his or her case.	79%	11%	3%	1%	2%	3%	3.70
					Overall Fairness		3.69
3. Communications:							
3a. Making sure participants understand the proceedings, and what's going on in the courtroom.	82%	11%	3%	1%	1%	1%	3.74
3b. Using language that everyone can understand.	82%	13%	3%	1%	1%	1%	3.75
3c. Speaking clearly so everyone in the courtroom can hear what's being said.	84%	11%	3%	1%	1%	1%	3.78
					Overall Communications		3.76
4. Diligence:							
4a. Beginning court on time.	71%	19%	5%	1%	1%	2%	3.61
4b. Maintaining appropriate control over proceedings.	83%	11%	3%	1%	1%	1%	3.76
4c. Setting reasonable schedules for cases.	72%	13%	4%	1%	2%	9%	3.67
4d. Being prepared for cases.	80%	10%	3%	1%	2%	5%	3.73
4e. Managing court proceedings so that there is little wasted time.	73%	17%	5%	2%	2%	2%	3.61
					Overall Diligence		3.68
5. Application of Law:							
5a. Giving reasons for rulings.	73%	13%	4%	1%	3%	7%	3.63
5b. Willing to make decision without regard to possible outside pressure.	68%	9%	2%	1%	2%	17%	3.67
5c. Being able to identify and analyze relevant facts.	75%	11%	3%	2%	3%	7%	3.64
					Overall Application of Law		3.65
					Overall Average Grade:		**3.69**

* Includes only the District judges evaluated during this retention cycle.
Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. 'DK/NA' = Don't Know / Not Applicable.

Survey of Non-Attorneys Regarding District Judges

All District Judges*	Average Grade (0.0 to 4.0 scale)

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	8%
Competely neutral	86%
Biased in favor of the defense total	7%
Average	0.05

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	8%
Competely neutral	82%
Lenient sentencing total	11%
Average	0.01

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

Strongly recommend retain	75%
Recommend retain	13%
Neither recommend nor not recommend retain	6%
Recommend not retain	2%
Strongly recommend not retain	4%
Total Retain	88%
Neither	6%
Total Not Retain	6%

* Includes only the District judges evaluated during this retention cycle.

Survey of Appellate Judges Regarding District Judges						
All District Judges* **Sample Size = 16**	A	B	C	D	Fail	DK/ NA
All district judges eligible to stand for retention in 2014.	23%	16%	2%	1%	0%	58%

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

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 2d and the "bias" question between 5 and 6.)*

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

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Judge ***[Last Name]*** on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

1. Case Management:

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

2. Application and Knowledge of Law:

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

3. Communications:

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

4. Demeanor:

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

5. Diligence:

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

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 be retained in office?

Strongly recommend retain in office 5
Recommend retain in office 4
Neither recommend nor not recommend retain in office 3
Recommend not retain in office 2
Strongly recommend not retain 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
Recommend he/she be retained in office	4
Neither recommend nor not recommend h/s be retained in office	3
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.

Barcode

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 or you feel that you do not have sufficient experience with Judge *[Last Name]* to have an opinion on 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	F	DK 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

Commission on Judicial Performance

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the following district judges in terms of each one's *overall performance as a judge* by circling the appropriate letter grade. If you feel that you don't have enough information about a judge to mark a specific grade, please put a check in the box under "No Grade."

If there are any judges you would like to add a comment about, please do so by filling out comment section on pages 3 and 4, or by enclosing a separate sheet with your comments when you return this questionnaire. Please start each comment with the judge's name and district.

Thank you.

1st Judicial District

						No Grade
Randall C. Arp	A	B	C	D	F	☐
Jack W. Berryhill	A	B	C	D	F	☐
Margie L. Enquist	A	B	C	D	F	☐
Ann Gail Meinster	A	B	C	D	F	☐
Lily W. Oeffler	A	B	C	D	F	☐
Tamara S. Russell	A	B	C	D	F	☐
Chistopher C. Zenisek	A	B	C	D	F	☐

2nd Judicial District

Martin F. Egelhoff	A	B	C	D	F	☐
J. Eric Elliff	A	B	C	D	F	☐
A. Bruce Jones	A	B	C	D	F	☐
Elizabeth Leith	A	B	C	D	F	☐
John W. Madden, IV	A	B	C	D	F	☐
Robert L. McGahey, Jr.	A	B	C	D	F	☐
Sheila A. Rappaport	A	B	C	D	F	☐
Elizabeth A. Starrs	A	B	C	D	F	☐
Michael J. Vallejos	A	B	C	D	F	☐

4th Judicial District

William B. Bain	A	B	C	D	F	☐
Edward S. Colt, II	A	B	C	D	F	☐
Jann P. DuBois	A	B	C	D	F	☐

4th Judicial District (cont.)

						No Grade
Barbara L. Hughes	A	B	C	D	F	☐
Thomas K. Kane	A	B	C	D	F	☐
Thomas L. Kennedy	A	B	C	D	F	☐
Michael P. McHenry	A	B	C	D	F	☐
David Prince	A	B	C	D	F	☐
Gregory R. Werner	A	B	C	D	F	☐

5th Judicial District

Frederick W. Gannett	A	B	C	D	F	☐
Russell H. Granger	A	B	C	D	F	☐
Mark D. Thompson	A	B	C	D	F	☐

6th Judicial District

Suzanne F. Carlson	A	B	C	D	F	☐

7th Judicial District

Mary Deganhart	A	B	C	D	F	☐
Charles R. Greenacre	A	B	C	D	F	☐
J. Steven Patrick	A	B	C	D	F	☐
James W. Schum	A	B	C	D	F	☐

8th Judicial District

Julie Kunce Field	A	B	C	D	F	☐
Thomas R. French	A	B	C	D	F	☐
Stephen E. Howard	A	B	C	D	F	☐

9th Judicial District						No Grade
Denise Lynch.....	A	B	C	D	F	☐
10th Judicial District						
William D. Alexander.....	A	B	C	D	F	☐
Victor I. Reyes.....	A	B	C	D	F	☐
11th Judicial District						
David M. Thorson.....	A	B	C	D	F	☐
12th Judicial District						
Michael A. Gonzales	A	B	C	D	F	☐
13th Judicial District						
Kevin L. Hoyer.....	A	B	C	D	F	☐
Douglas R. Vannoy	A	B	C	D	F	☐
14th Judicial District						
Shelley A. Hill	A	B	C	D	F	☐
17th Judicial District						
Robert W. Kiesnowski, Jr.	A	B	C	D	F	☐
John E. Popovich, Jr.	A	B	C	D	F	☐
Ted C. Tow, III.....	A	B	C	D	F	☐
Mark D. Warner.....	A	B	C	D	F	☐
Francis C. Wasserman..	A	B	C	D	F	☐
Craig R. Welling	A	B	C	D	F	☐
18th Judicial District						
Michelle A. Amico.....	A	B	C	D	F	☐
F. Stephen Collins.....	A	B	C	D	F	☐
Paul A. King.....	A	B	C	D	F	☐
Charles M. Pratt	A	B	C	D	F	☐
Gerald J. Rafferty.....	A	B	C	D	F	☐
Theresa M. Slade.....	A	B	C	D	F	☐
Elizabeth B. Volz	A	B	C	D	F	☐
John L. Wheeler	A	B	C	D	F	☐
Vincent R. White	A	B	C	D	F	☐
19th Judicial District						
Timothy G. Kerns	A	B	C	D	F	☐
Marcelo Kopcow.....	A	B	C	D	F	☐

20th Judicial District (cont.)						No Grade
Ingrid S. Bakke.....	A	B	C	D	F	☐
Maria E. Berkenkotter ...	A	B	C	D	F	☐
Patrick D. Butler	A	B	C	D	F	☐
Judith L. LaBuda.....	A	B	C	D	F	☐
Andrew R. Macdonald ..	A	B	C	D	F	☐
21st Judicial District						
David A. Bottger.....	A	B	C	D	F	☐
Thomas M. Deister.....	A	B	C	D	F	☐
Brian J. Flynn	A	B	C	D	F	☐
22nd Judicial District						
Douglas S. Walker	A	B	C	D	F	☐

Please use the following pages or attach a sheet for comments you would like to make about any of these district judges.

Though your name will never be associated with your answers, because each district judge will see a typed transcript of the comments people wrote about him or her, it is important that you do not include information in the comments below that would unintentionally identify you as the author.

Judge Name **Comments**

_____:_____

_____:_____

_____:_____

_____:_____

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Judge Name **Comments**

_____:_____

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