

March 6, 2002



The Honorable Robert B. Smith
Logan County Courthouse
P.O. Box 1907, Third & Ash (Annex)
Sterling, CO 80751

Dear Judge Smith:

Every two years the Colorado Judicial Performance Commission conducts a survey of people who have been in the courtroom of judges who face a retention vote in the next general election. The 2002 survey was conducted by Talmey-Drake Research & Strategy, Inc., who attempted to contact over 55,000 people who had been in these courtrooms in one capacity or another. Over 18,000 people responded — 3,686 to the attorney survey and 14,925 to the non-attorney survey.

This report contains the results of those who were in your courtroom and who responded to the survey. In addition to this introduction, the report is divided into four main sections:

- **Results:** This section contains the average and percentage distribution of responses to each substantive numerical question in the survey. It is divided into two subsections, one for the results of the attorney survey and one for the results of the non-attorney survey.
- **Comments:** Respondents were also asked to comment about each judge on each section of the questionnaire: courtesy, impartiality, communications skills, judicial temperament, diligence, application of the law, retention and general comments. These comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. Again this section has been divided into two subsections, one for attorney comments and one for non-attorney comments.
- **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.

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The Honorable Robert B. Smith
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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,

Handwritten signature of Paul A. Talmey in blue ink.

Paul A. Talmey
President

enc:

Judge Robert B. Smith

Attorney Survey

1a. How would you grade Judge Smith on being courteous toward parties or witnesses?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	64%	65%
B	6%	22%	21%
C	6%	7%	7%
D		3%	3%
Fail	6%	2%	2%
No Grade	12%	2%	3%
<hr/>			
Average Grade	3.5	3.5	3.5
Letter Grade	B+	B+	B+

Judge Robert B. Smith

Attorney Survey

1b. How would you grade Judge Smith on being courteous toward attorneys?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	65%	64%	61%
B	6%	20%	22%
C	6%	7%	8%
D	6%	4%	4%
Fail	6%	3%	3%
No Grade	12%	2%	3%
<hr/>			
Average Grade	3.3	3.4	3.4
Letter Grade	B	B+	B+

Judge Robert B. Smith

Attorney Survey

1c. How would you grade Judge Smith on being courteous toward pro se parties?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	55%	48%
B	12%	17%	14%
C	6%	8%	6%
D		2%	2%
Fail		2%	2%
No Grade	29%	16%	29%
<hr/>			
Average Grade	3.7	3.4	3.5
Letter Grade	A-	B+	B+

Judge Robert B. Smith

Attorney Survey

2a. How would you grade Judge Smith on treating parties equally regardless of race?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	67%	63%
B		15%	12%
C		4%	3%
D		1%	1%
Fail		1%	1%
No Grade	29%	12%	19%
<hr/>			
Average Grade	4.0	3.7	3.7
Letter Grade	A	A-	A-

Judge Robert B. Smith

Attorney Survey

2b. How would you grade Judge Smith on treating parties equally regardless of gender?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	82%	69%	66%
B		16%	14%
C		5%	5%
D		2%	2%
Fail		1%	2%
No Grade	18%	8%	12%
<hr/>			
Average Grade	4.0	3.6	3.6
Letter Grade	A	B+	B+

Judge Robert B. Smith

Attorney Survey

2c. How would you grade Judge Smith on treating parties equally regardless of age?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	82%	70%	66%
B		14%	13%
C		5%	4%
D		1%	1%
Fail			1%
No Grade	18%	10%	15%
<hr/>			
Average Grade	4.0	3.7	3.7
Letter Grade	A	A-	A-

Judge Robert B. Smith

Attorney Survey

2d. How would you grade Judge Smith on treating parties equally regardless of social/economic status?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	66%	65%
B	6%	15%	13%
C		6%	5%
D		3%	2%
Fail		2%	2%
No Grade	24%	10%	13%
<hr/>			
Average Grade	3.9	3.5	3.6
Letter Grade	A-	B+	B+

Judge Robert B. Smith

Attorney Survey

2e. How would you grade Judge Smith on being fair and impartial toward both sides?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	60%	60%
B	6%	18%	17%
C		9%	8%
D	12%	6%	5%
Fail		3%	4%
No Grade	12%	4%	5%
<hr/>			
Average Grade	3.5	3.3	3.3
Letter Grade	B+	B	B

Judge Robert B. Smith

Attorney Survey

2f. How would you grade Judge Smith on treating pro se parties fairly?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	58%	51%
B	6%	14%	11%
C		6%	4%
D		2%	1%
Fail		2%	1%
No Grade	24%	19%	31%
<hr/>			
Average Grade	3.9	3.5	3.6
Letter Grade	A-	B+	B+

Judge Robert B. Smith

Attorney Survey

2g. How would you grade Judge Smith on not engaging in ex parte communications?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	56%	59%
B		15%	12%
C		6%	4%
D		2%	1%
Fail	12%	3%	2%
No Grade	35%	18%	21%
<hr/>			
Average Grade	3.3	3.4	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Attorney Survey

3a. How would you grade Judge Smith on providing written communications that are clear, thorough, and well reasoned?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	24%	29%	37%
B	18%	22%	23%
C		8%	9%
D	6%	3%	2%
Fail		2%	2%
No Grade	53%	37%	27%
<hr/>			
Average Grade	3.3	3.2	3.2
Letter Grade	B	B	B

Judge Robert B. Smith

Attorney Survey

3b. How would you grade Judge Smith on communicating verbally in a clear, thorough, and well reasoned manner?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	47%	51%	54%
B	29%	30%	28%
C	6%	10%	9%
D	6%	4%	4%
Fail	6%	2%	2%
No Grade	6%	3%	3%
<hr/>			
Average Grade	3.1	3.3	3.3
Letter Grade	B	B	B

Judge Robert B. Smith

Attorney Survey

3c. How would you grade Judge Smith on explaining court procedures clearly and thoroughly?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	53%	54%
B	18%	27%	26%
C		10%	9%
D	6%	3%	3%
Fail		2%	2%
No Grade	18%	6%	7%
<hr/>			
Average Grade	3.6	3.3	3.4
Letter Grade	B+	B	B+

Judge Robert B. Smith

Attorney Survey

4a. How would you grade Judge Smith on maintaining a professional demeanor in the courtroom?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	65%	62%	64%
B	18%	21%	21%
C		7%	7%
D		5%	4%
Fail	6%	2%	3%
No Grade	12%	2%	3%
<hr/>			
Average Grade	3.5	3.4	3.4
Letter Grade	B+	B+	B+

Judge Robert B. Smith

Attorney Survey

4b. How would you grade Judge Smith on listening patiently to all testimony and arguments before issuing a ruling?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	57%	57%
B	12%	22%	22%
C	12%	9%	8%
D		5%	5%
Fail		3%	4%
No Grade	18%	3%	4%
<hr/>			
Average Grade	3.6	3.3	3.3
Letter Grade	B+	B	B

Judge Robert B. Smith

Attorney Survey

5a. How would you grade Judge Smith on managing cases and docket efficiently and with minimal delay?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	47%	46%
B	29%	27%	27%
C		11%	11%
D		4%	4%
Fail		3%	4%
No Grade	18%	8%	8%
<hr/>			
Average Grade	3.6	3.2	3.2
Letter Grade	B+	B	B

Judge Robert B. Smith

Attorney Survey

**5b. How would you grade Judge Smith on being
punctual in commencing proceedings?**

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	51%	54%
B	18%	27%	28%
C	6%	11%	9%
D		3%	2%
Fail		3%	2%
No Grade	18%	4%	4%
<hr/>			
Average Grade	3.6	3.3	3.3
Letter Grade	B+	B	B

Judge Robert B. Smith

Attorney Survey

5c. How would you grade Judge Smith on using court time efficiently?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	71%	53%	54%
B	12%	24%	25%
C		11%	10%
D		4%	3%
Fail		3%	3%
No Grade	18%	5%	5%
<hr/>			
Average Grade	3.9	3.3	3.3
Letter Grade	A-	B	B

Judge Robert B. Smith

Attorney Survey

5d. How would you grade Judge Smith on being prepared for all court matters?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	56%	58%
B	18%	25%	23%
C		8%	7%
D	6%	3%	3%
Fail		2%	2%
No Grade	18%	7%	7%
<hr/>			
Average Grade	3.6	3.4	3.4
Letter Grade	B+	B+	B+

Judge Robert B. Smith

Attorney Survey

5e. How would you grade Judge Smith on being willing to handle cases on the docket even when they are complicated and time

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	41%	48%	49%
B	12%	18%	18%
C		7%	7%
D		3%	3%
Fail		3%	3%
No Grade	47%	21%	21%
<hr/>			
Average Grade	3.8	3.3	3.4
Letter Grade	A-	B	B+

Judge Robert B. Smith

Attorney Survey

5f. How would you grade Judge Smith on providing quick access to the court in emergency matters?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	41%	35%	33%
B		14%	13%
C		5%	5%
D	6%	2%	2%
Fail		2%	2%
No Grade	53%	43%	45%
<hr/>			
Average Grade	3.6	3.4	3.3
Letter Grade	B+	B+	B

Judge Robert B. Smith

Attorney Survey

6a. How would you grade Judge Smith on having knowledge of the rules of evidence and procedure?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	47%	47%	53%
B	18%	28%	25%
C	12%	12%	9%
D		4%	3%
Fail	6%	3%	2%
No Grade	18%	7%	7%
<hr/>			
Average Grade	3.2	3.2	3.3
Letter Grade	B	B	B

Judge Robert B. Smith

Attorney Survey

6b. How would you grade Judge Smith on ruling on motions in a timely matter?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	48%	49%
B	12%	24%	25%
C	6%	8%	8%
D		3%	3%
Fail		2%	3%
No Grade	24%	16%	13%
<hr/>			
Average Grade	3.7	3.4	3.3
Letter Grade	A-	B+	B

Judge Robert B. Smith

Attorney Survey

6c. How would you grade Judge Smith on making the correct decision based upon the law and the facts?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	47%	40%	44%
B	24%	30%	29%
C	12%	13%	12%
D		6%	5%
Fail	6%	4%	4%
No Grade	12%	6%	6%
<hr/>			
Average Grade	3.2	3.0	3.1
Letter Grade	B	B	B

Judge Robert B. Smith

Attorney Survey

6d. How would you grade Judge Smith on making decisions without regard to possible criticism?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	41%	49%	50%
B	6%	21%	20%
C		9%	8%
D		4%	3%
Fail	6%	4%	3%
No Grade	47%	14%	15%
<hr/>			
Average Grade	3.4	3.2	3.3
Letter Grade	B+	B	B

Judge Robert B. Smith

Attorney Survey

7. Do you recommend that Judge Smith be retained in office or not be retained in office?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
Retain in office ,	88%	83%	84%
Do not retain in office , . .	12%	11%	11%
No opinion ,		6%	5%

Judge Robert B. Smith

Non-Attorney Survey

1a. How would you grade Judge Smith on being courteous toward everyone in the courtroom?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	65%	67%
B	25%	20%	19%
C	12%	7%	6%
D	5%	2%	2%
Fail	2%	3%	2%
No Grade	2%	4%	4%
<hr/>			
Average Grade	3.2	3.5	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

1b. How would you grade Judge Smith on being courteous toward persons representing themselves?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	43%	49%	47%
B	24%	16%	15%
C	11%	6%	5%
D	3%	2%	2%
Fail	4%	3%	2%
No Grade	15%	24%	30%
<hr/>			
Average Grade	3.2	3.4	3.4
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2a. How would you grade Judge Smith on treating parties equally regardless of race?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	63%	65%
B	24%	15%	14%
C	6%	4%	4%
D	1%	1%	1%
Fail	3%	2%	2%
No Grade	13%	15%	14%
<hr/>			
Average Grade	3.4	3.6	3.6
Letter Grade	B+	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2b. How would you grade Judge Smith on treating parties equally regardless of gender?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	51%	65%	67%
B	28%	16%	16%
C	7%	5%	5%
D	2%	2%	2%
Fail	3%	2%	2%
No Grade	8%	9%	9%
<hr/>			
Average Grade	3.3	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2c. How would you grade Judge Smith on treating parties equally regardless of age?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	51%	64%	67%
B	30%	16%	16%
C	3%	6%	5%
D	3%	2%	1%
Fail	4%	2%	2%
No Grade	8%	10%	10%
<hr/>			
Average Grade	3.3	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2d. How would you grade Judge Smith on treating parties equally regardless of social/economic status?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	51%	64%	66%
B	25%	16%	15%
C	6%	5%	5%
D	4%	2%	2%
Fail	7%	3%	3%
No Grade	7%	10%	9%
<hr/>			
Average Grade	3.2	3.5	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2e. How would you grade Judge Smith on being fair and impartial toward both sides?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	54%	63%	65%
B	20%	16%	16%
C	11%	6%	5%
D	2%	3%	2%
Fail	10%	4%	4%
No Grade	4%	8%	7%
<hr/>			
Average Grade	3.1	3.4	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2f. How would you grade Judge Smith on treating parties without attorneys fairly?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	44%	45%	43%
B	19%	13%	12%
C	7%	5%	4%
D	5%	2%	2%
Fail	8%	4%	3%
No Grade	18%	31%	37%
<hr/>			
Average Grade	3.0	3.4	3.4
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

2g. How would you grade Judge Smith on giving each side enough time to present his or her case?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	50%	60%	63%
B	24%	16%	16%
C	3%	5%	5%
D	5%	2%	2%
Fail	5%	3%	3%
No Grade	14%	14%	11%
<hr/>			
Average Grade	3.3	3.5	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

3a. How would you grade Judge Smith on speaking in a way that is clearly understood?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	59%	68%	70%
B	24%	20%	19%
C	7%	6%	6%
D	4%	2%	2%
Fail	4%	2%	1%
No Grade	2%	2%	2%
<hr/>			
Average Grade	3.3	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

3b. How would you grade Judge Smith on explaining court procedures clearly and thoroughly?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	60%	67%	69%
B	24%	19%	18%
C	7%	6%	6%
D	2%	2%	2%
Fail	6%	2%	2%
No Grade	2%	4%	4%
<hr/>			
Average Grade	3.3	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

4a. How would you grade Judge Smith on maintaining a professional demeanor in the courtroom?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	60%	69%	72%
B	22%	17%	16%
C	11%	6%	5%
D	2%	2%	2%
Fail	5%	3%	2%
No Grade	1%	3%	3%
<hr/>			
Average Grade	3.3	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

4b. How would you grade Judge Smith on listening patiently to all testimony and arguments before issuing a ruling?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	53%	64%	66%
B	23%	18%	17%
C	11%	6%	5%
D	7%	3%	2%
Fail	5%	4%	3%
No Grade	2%	6%	6%
<hr/>			
Average Grade	3.2	3.4	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

5a. How would you grade Judge Smith on managing cases efficiently and with minimal delay?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	45%	55%	56%
B	29%	23%	22%
C	14%	9%	8%
D	3%	2%	3%
Fail	5%	3%	2%
No Grade	4%	9%	9%
<hr/>			
Average Grade	3.1	3.4	3.4
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

5b. How would you grade Judge Smith on starting court on time?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	34%	55%	57%
B	36%	23%	23%
C	20%	9%	9%
D	3%	3%	3%
Fail	6%	3%	2%
No Grade	2%	6%	6%
<hr/>			
Average Grade	2.9	3.3	3.4
Letter Grade	B-	B	B+

Judge Robert B. Smith

Non-Attorney Survey

5c. How would you grade Judge Smith on being prepared for cases?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	47%	61%	64%
B	33%	19%	18%
C	10%	7%	6%
D	2%	2%	2%
Fail	3%	2%	2%
No Grade	5%	9%	9%
<hr/>			
Average Grade	3.2	3.5	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

6a. How would you grade Judge Smith on considering all information presented when making a decision?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	51%	60%	62%
B	30%	17%	16%
C	6%	6%	5%
D	3%	3%	2%
Fail	9%	4%	4%
No Grade	1%	10%	11%
<hr/>			
Average Grade	3.1	3.4	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

6b. How would you grade Judge Smith on having knowledge of the rules of evidence, procedure and the law?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	54%	64%	67%
B	20%	17%	16%
C	10%	5%	5%
D	5%	2%	2%
Fail	4%	2%	2%
No Grade	8%	10%	10%
<hr/>			
Average Grade	3.2	3.5	3.6
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

6c. How would you grade Judge Smith on deciding important matters in a timely way?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	55%	60%	62%
B	23%	19%	18%
C	11%	6%	6%
D	1%	2%	2%
Fail	6%	2%	2%
No Grade	4%	11%	10%
<hr/>			
Average Grade	3.2	3.5	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

6d. How would you grade Judge Smith on making decisions without regard to public criticism?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
A	50%	53%	55%
B	25%	15%	14%
C	5%	5%	5%
D	4%	2%	2%
Fail	5%	3%	3%
No Grade	11%	21%	22%
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Average Grade	3.2	3.4	3.5
Letter Grade	B	B+	B+

Judge Robert B. Smith

Non-Attorney Survey

7. Do you recommend that Judge Smith be retained in office or not be retained in office?

	<u>Judge Smith</u>	<u>All County Judges 2002</u>	<u>All Trial Judges 2002</u>
Retain in office	77%	81%	83%
Do not retain in office ...	12%	9%	8%
No opinion	11%	11%	9%

Methodology

Sample: The Colorado Judicial Department provided Talmey-Drake Research & Strategy, Inc. with a list of cases heard and closed during the two years prior to the summer of 2001 by the 115 justices and judges standing for retention in November 2002.

From this list of cases, Talmey-Drake Research drew a sample of the 250 cases most recently closed for each judge or justice. In some instances where there were an insufficient number of cases (or participants in cases), the time period during which cases could be drawn was lengthened.

For each case selected a list of people associated with the case who had likely appeared in the judge's courtroom were drawn from the Judicial Department's database, ICON, and the Colorado District Attorney's database (Blackstone system). The cases and the associated case participants were divided up among the 22 judicial districts and put on CD ROM. These CD's were distributed to the judicial districts, and district personnel added the names of people who were associated with a case, but whose names and addresses had not been captured electronically.

The data from the judicial districts were then returned to Talmey-Drake Research where the data was combined and cleaned. Included in the data cleaning was the identification of potential respondents in the sample who had appeared in more than two judges' courtrooms. Due to concerns about respondent fatigue, no more than two questionnaires were intended to be sent to any one respondent—though there were a few instances where one respondent did receive more than two questionnaires. Where a person had been in more than two judges' courtrooms, the selection criteria for which judges he or she would be sent questionnaires was: first, for the judge in whose courtroom the potential respondent had been in most often, and two, the judge with the smallest sample of the judges in whose courtroom the potential respondent had been in. Added to this database were a database of jurors and one of court employees.

Survey: In November 2002, each person in the database was mailed a postcard saying they would receive a questionnaire concerning judicial performance and that it was important for them to fill it out and return it. Shortly thereafter, they were sent an initial questionnaire and an introductory letter with a postage-paid return envelope. Those who did not respond to the first questionnaire were then sent a second questionnaire and letter. Non-respondents to the second survey were sent a reminder postcard. At this point, non-responders who had been sent questionnaires about judges who had not yet achieved a target cooperation rate of 40% were sent a third letter and questionnaire—and a follow up postcard. During this process, the sample was augmented for judges with a particularly low number of completed questionnaires.

Questionnaire: The questionnaire used in the 2002 Judicial Performance Survey is identical to the questionnaire used for the 2000 survey. Respondents were asked to use a grade of A, B, C, D, or F (Fail) to assess the justice's or judge's performance in the areas of Courtesy, Impartiality, Communication, Judicial Temperament, Diligence and Application of the Law. These scores 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 as well as the response rate by the different types of respondents.

<u>Attorney Respondents</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
District Attorney	852	511	227	42	72	69.2%
Attorney For Defendant	3,277	1,921	809	223	324	70.4%
Attorney for Plaintiff	1,711	1,001	428	92	190	70.0%
Guardian ad Litem	85	47	22	9	7	68.1%
Unknown Attorney Type	460	206	112	102	40	64.8%
Attorney Total	6,385	3,686	1,598	468	633	69.8%

<u>Non-Attny Respondents</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
Law Enforcement	6,918	2,517	2,648	577	1,176	48.7%
Social Services Casewrkr	117	61	36	15	5	62.9%
Employee	1,946	1,142	526	105	173	68.5%
Defendant	15,701	2,467	7,511	5,109	614	24.7%
Plaintiff	3,276	943	1,538	553	242	38.0%
Juror	12,910	6,565	4,443	776	1,126	59.6%
Victim	3,158	414	1,601	788	355	20.5%
Other	4,611	816	2,288	951	556	26.3%
Non-attorney Total	48,637	14,925	20,591	8,874	4,247	42.0%
Total	55,022	18,611	22,189	9,342	4,880	45.6%

A similar table showing the response count and cooperation rate for your survey is provided at the end of this methodology section.

Results: The results of the Survey are in two main sections: Results and Comments. Within each main section are two subsections, one for each general type of respondent, attorney or non-attorney.

Results: This section shows the percentage distribution of grades you received on each of the substantive questions plus the retain/do not retain question. 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 two comparative columns of results: one comparative column shows the results for that question for all county or district judges (as appropriate) surveyed in 2002, along with a second comparative column showing the results for all trial judges in the 2002 survey.

Comments: Each respondent was encouraged to comment on the judge's performance in the six areas of Courtesy, Impartiality, Communication, Judicial temperament, Diligence, Application of the law as well as the judge's Overall performance. This section contains these comments—again divided between results from attorneys and non-attorneys.

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.

Judge Robert B. Smith

Survey Disposition Report

	<u>Total Sent</u>	<u>Completes</u>	<u>Refusals & Nonresponse</u>	<u>Undeliv- erables</u>	<u>Other Response</u>	<u>Response Rate</u>
District Attorney	9	5	3		1	62.5%
Attorney For Defendant	16	9	2	2	3	81.8%
Attorney for Plaintiff	4	3	1			75.0%
Guardian ad Litem						
Unknown Attorney Type						
Sub Total:	29	17	6	2	4	73.9%
Law Enforcement	50	35	10		5	77.8%
Social Services Caseworker						
Employee	9	5	1	1	2	83.3%
Defendant	186	35	87	55	9	28.7%
Plaintiff	48	16	23	5	4	41.0%
Juror	46	26	17		3	60.5%
Victim	19	3	8	6	2	27.3%
Other	19	3	11	2	3	21.4%
Sub Total:	377	123	157	69	28	43.9%
Total:	406	140	163	71	32	46.2%

1. 'Other Response' predominately includes people who sent back a survey saying they did not appear in the courtroom, and people who are deceased, or otherwise incapable of responding, and people who could not recall the experience.

2. The Response Rate is calculated using the following formula:
$$\frac{\text{Completes}}{(\text{Total Sent} - \text{Undeliverables} - \text{Other Responses})}$$