COLORADO

Office of Judicial Performance Evaluation

The Honorable Judge Zachary Malkinson
2021 Judicial Performance Survey Report
County Court

Conducted by:

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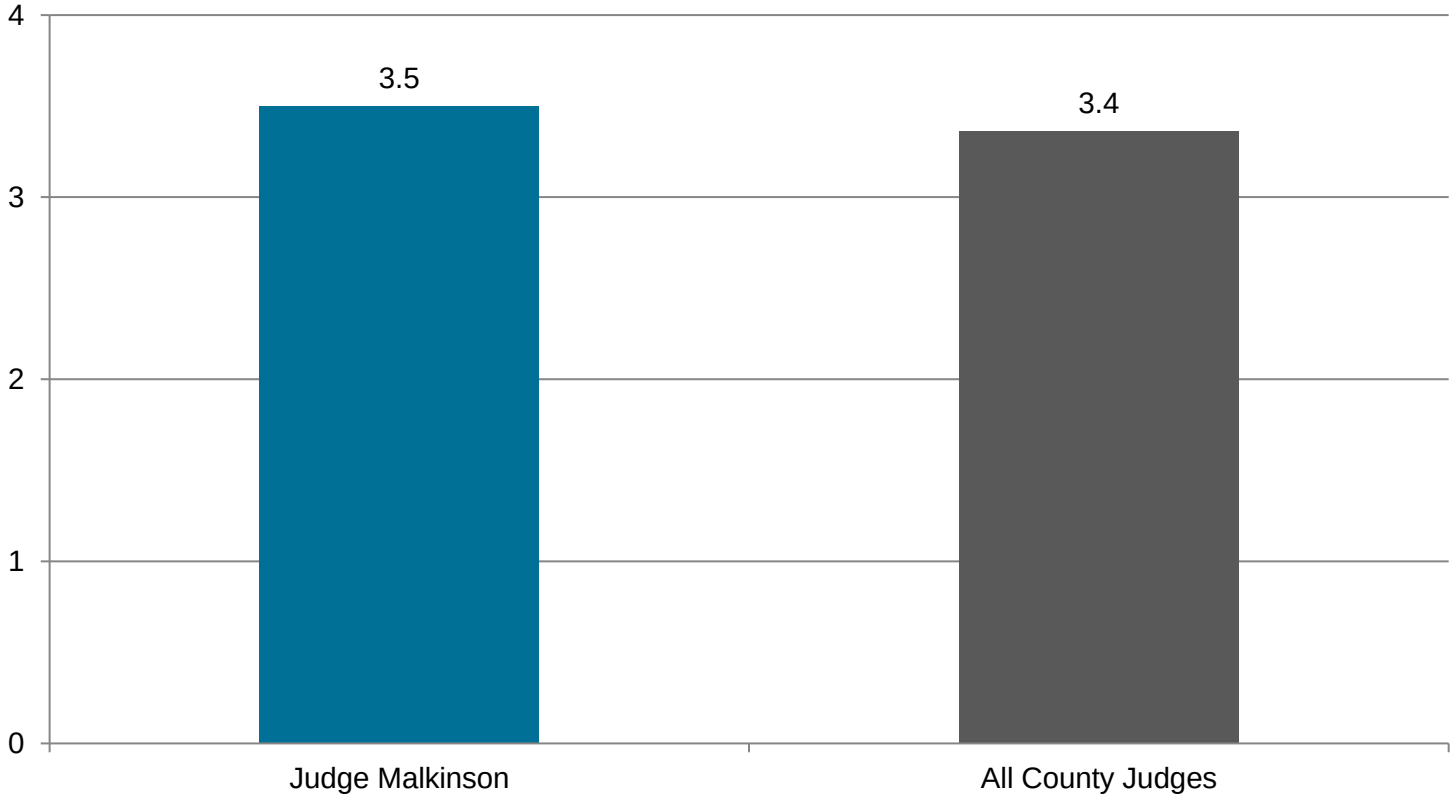
Contents

Summary of Results

For Judge Malkinson, 59 individuals completed surveys with at least a single rating question answered. This report reflects these 59 responses.

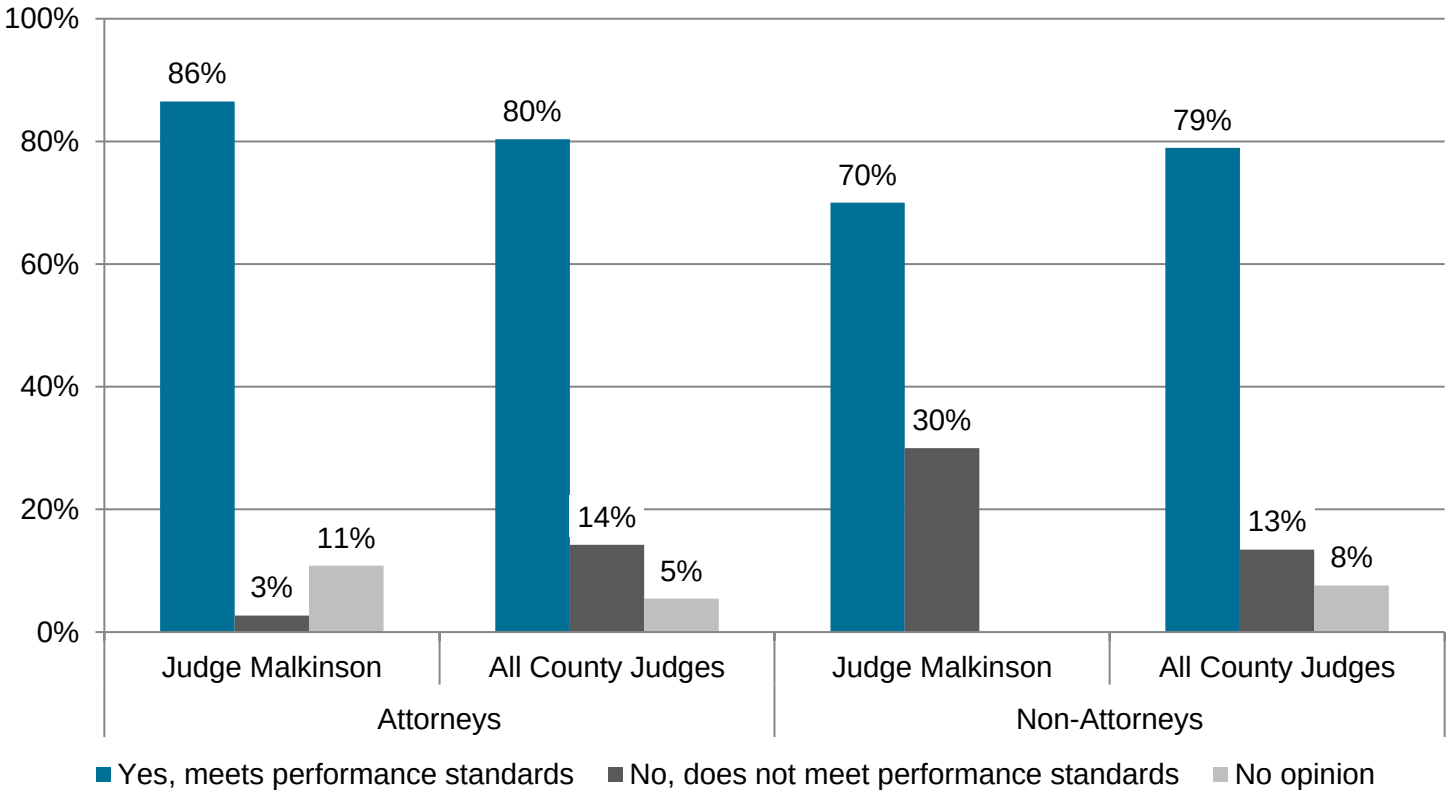
Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to the following numerical scores: A= 4, B=3, C=2, D=1 and Fail=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Overall Score



	Judge Malkinson	All County Judges
Overall Grade	**3.5**	**3.4**

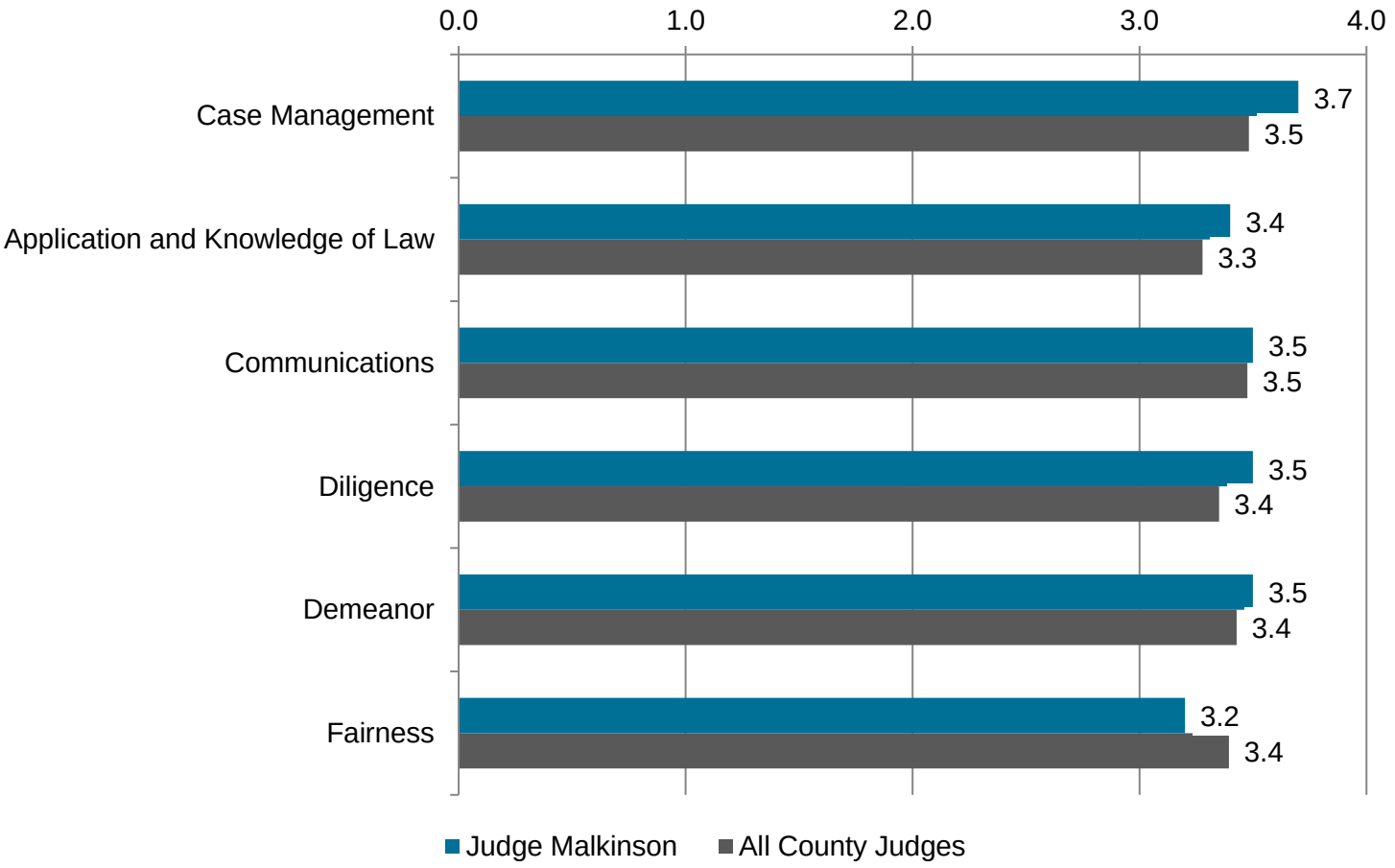
Performance Scores



	Attorneys		Non-Attorneys	
	Judge Malkinson	All County Judges	Judge Malkinson	All County Judges
Yes, meets performance standards	**86%**	**80%**	**70%**	**79%**
No, does not meet performance standards	**3%**	**14%**	**30%**	**13%**
No opinion	**11%**	**5%**	**0%**	**8%**

Note: All percentages in this report are rounded to the nearest percentage point.

Individual Category Scores



	Judge Malkinson	All County Judges
Case Management	3.7	3.5
Application and Knowledge of Law	3.4	3.3
Communications	3.5	3.5
Diligence	3.5	3.4
Demeanor	3.5	3.4
Fairness	3.2	3.4

Summary of Responses

Group	Responses	Response Rate	Percent with Sufficient Knowledge	Number with Sufficient Knowledge
Attorneys	54	22%	74%	40
Non-Attorneys	24	-	-	19

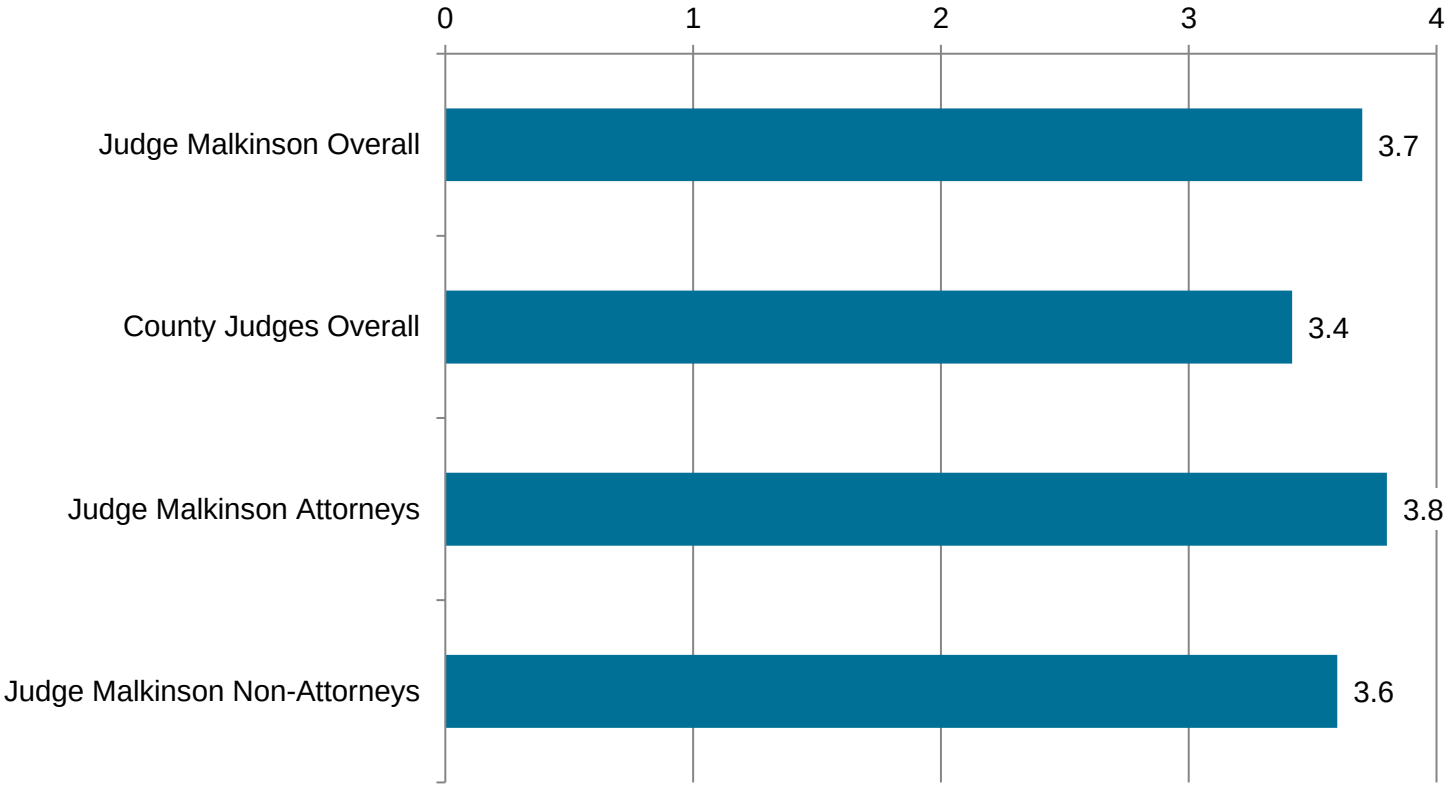
*Some non-attorney evaluations are self-selected, making calculating a response rate impossible.

The non-attorney group includes staff, jurors, litigants, and witnesses including law enforcement officers. It also includes responses provided through the open Citizen feedback survey.

Judge Malkinson received 1 response(s) via the Citizen Feedback survey. Those responses are included with non-attorney results wherever applicable. However, as self-selected evaluations they cannot be included in response rates.

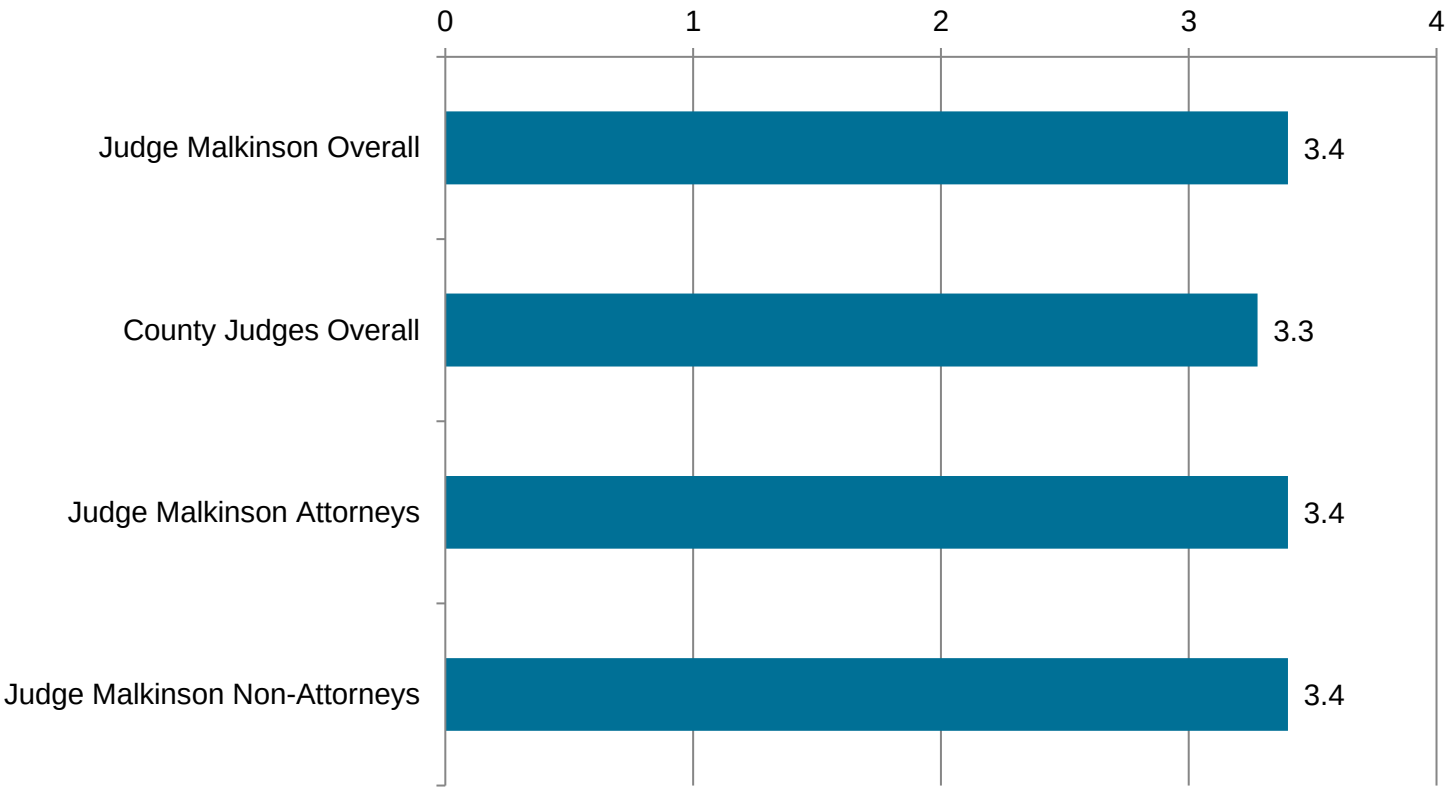
Detailed Report

Case Management



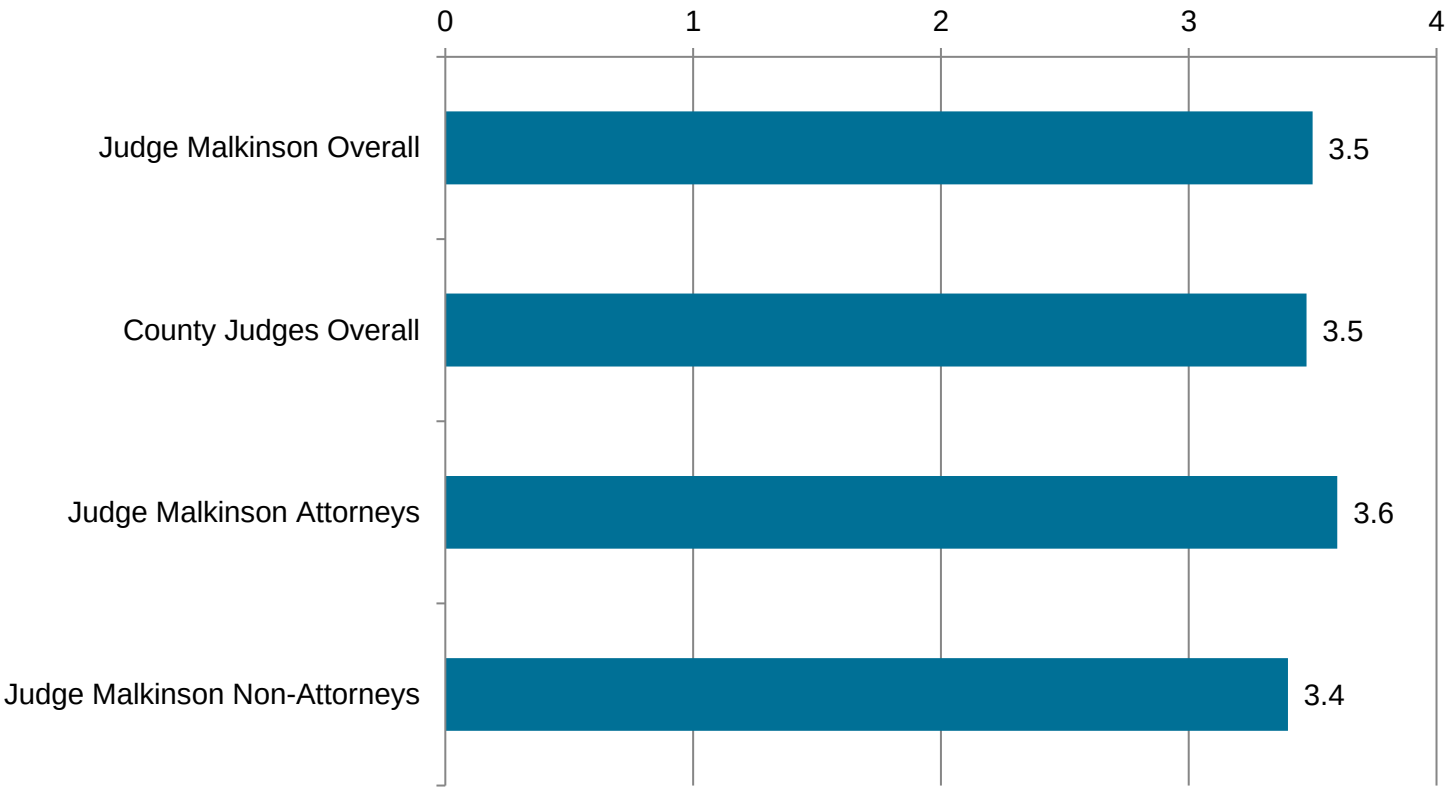
	Judge Malkinson Overall	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Promptly issuing a decision on the case after trial	3.8	3.5	3.9	3.7	44
Maintaining appropriate control over proceedings	3.8	3.4	3.8	3.7	53
Promptly ruling on pre-trial motions	3.6	3.4	3.7	3.5	44
Setting reasonable schedules for cases	3.7	3.4	3.8	3.5	49

Application and Knowledge of Law



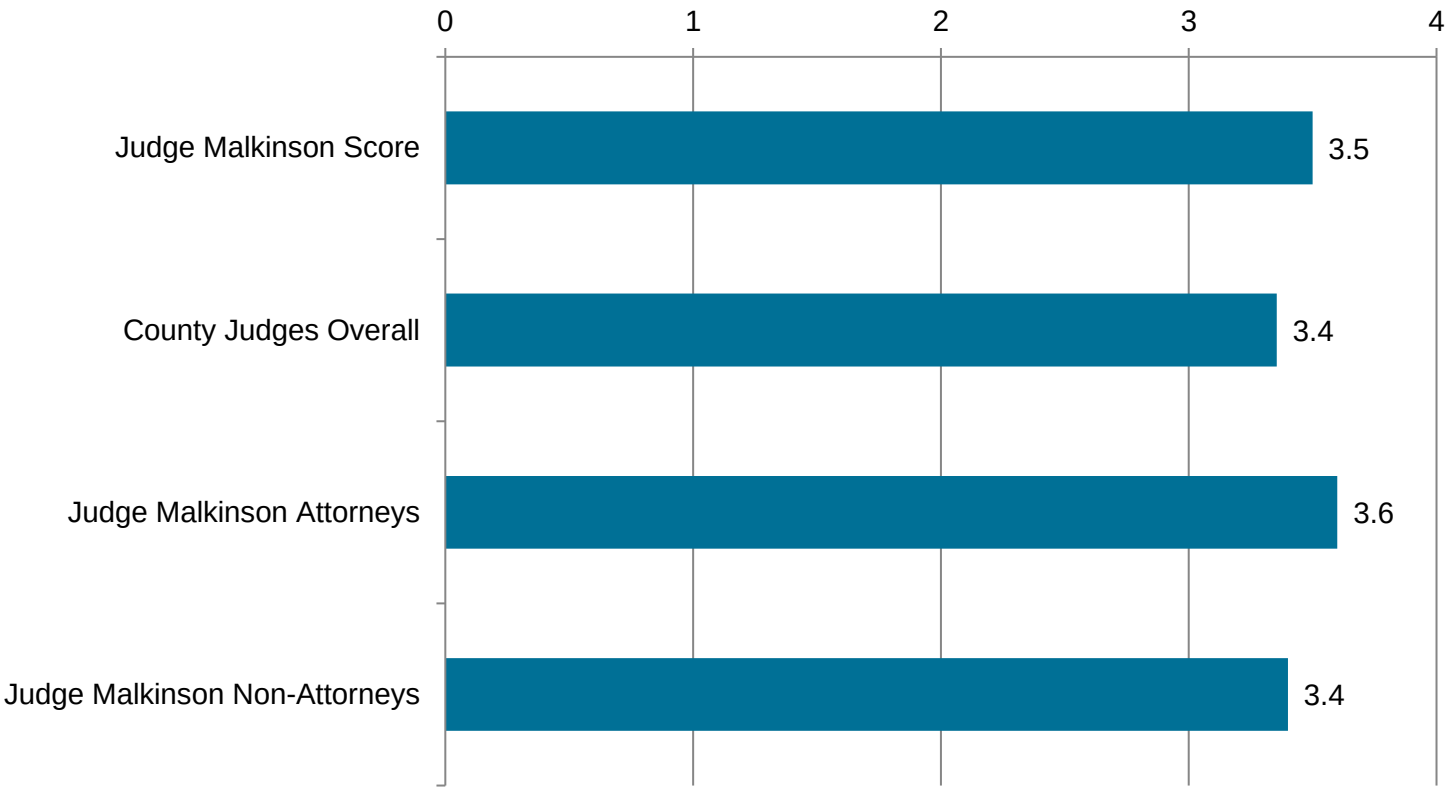
	Judge Malkinson Overall	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Being able to identify and analyze relevant facts	3.4	3.3	3.5	3.3	53
Basing decisions on evidence and arguments	3.4	3.2	3.4	N/A	38
Issuing consistent sentences when the circumstances are similar	3.4	3.3	3.4	N/A	31
Being fair and impartial to both sides of the case	3.4	3.2	3.4	N/A	38
Consistently applying laws and rules	3.4	3.2	3.4	N/A	36
Giving reasons for rulings	3.4	3.3	N/A	3.4	17
Willing to make decision without regard to possible outside pressure	3.5	3.4	N/A	3.5	15

Communications



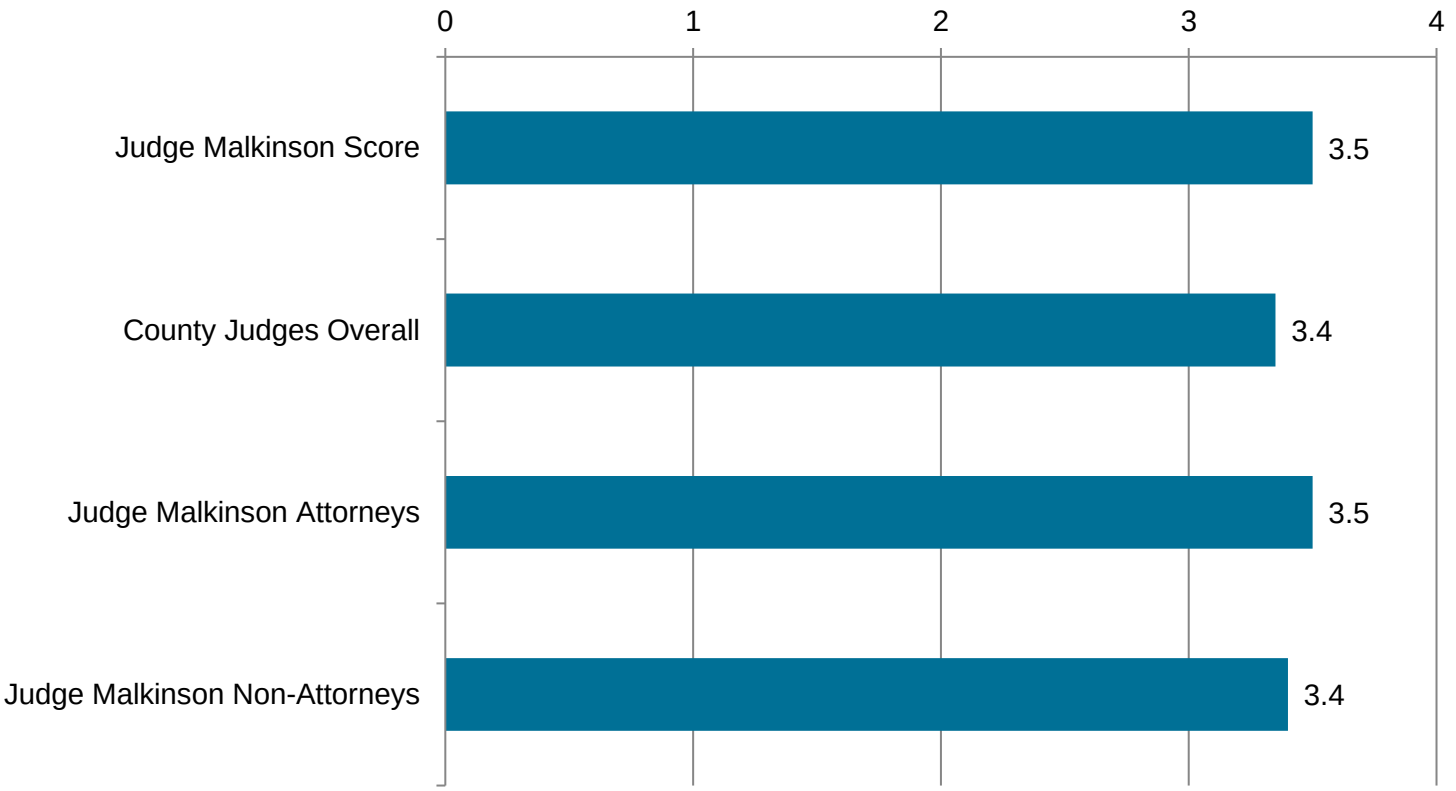
	Judge Malkinson Overall	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Making sure all participants understand the proceedings	3.6	3.5	3.7	3.4	55
Providing written communications that are clear, thorough and well reasoned	3.4	3.3	3.4	N/A	32
Using language that everyone can understand	3.5	3.6	N/A	3.5	17
Speaking clearly so everyone in the courtroom can hear what's being said	3.4	3.6	N/A	3.4	17

Demeanor



	Judge Malkinson Score	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Giving proceedings a sense of dignity	3.6	3.4	3.6	3.3	52
Treating participants with respect	3.6	3.4	3.7	3.4	53
Conducting his/her courtroom in a neutral manner	3.5	3.3	3.5	3.4	51
Having a sense of compassion and human understanding for those who appear before him/her	3.4	3.3	N/A	3.4	15

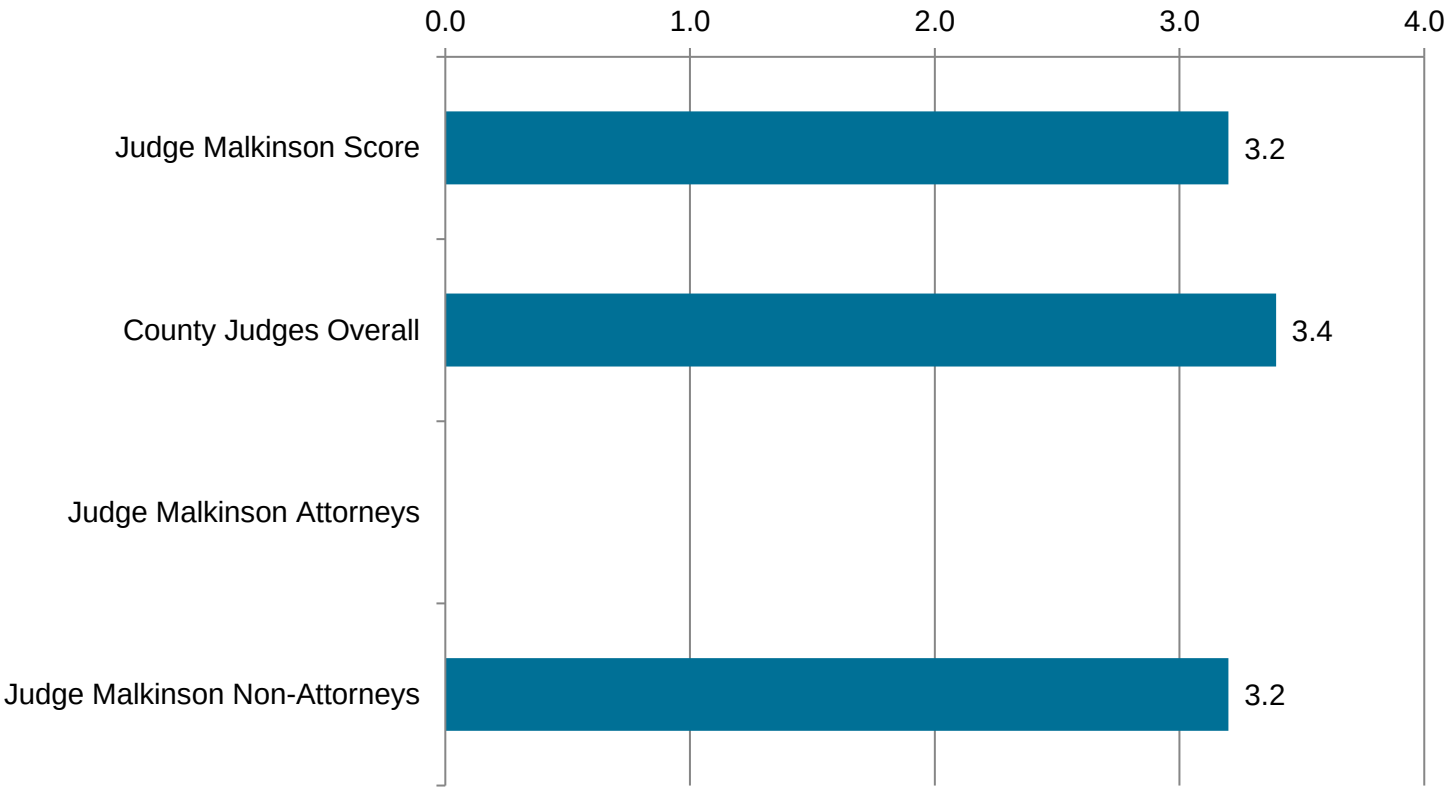
Diligence



	Judge Malkinson Score	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Using good judgment in application of relevant law and rules	3.5	3.2	3.5	N/A	38
Being willing to handle cases on the docket even when they are complicated and time consuming	3.6	3.3	3.6	N/A	31
Doing the necessary “homework” and being prepared for cases	3.6	3.3	3.6	N/A	35
Being willing to handle cases on the docket even when they are complicated and time consuming	3.5	3.5	N/A	3.5	15
Beginning court on time	3.5	3.6	N/A	3.5	15
Maintaining appropriate control over proceedings	3.4	3.5	N/A	3.4	14
Setting reasonable schedules for cases	3	3.4	N/A	3.0	9

	Judge Malkinson Score	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Managing court proceedings so that there is little wasted time	3.6	3.4	N/A	3.6	14

Fairness



	Judge Malkinson Score	County Judges Overall	Judge Malkinson Attorneys	Judge Malkinson Non-Attorneys	Number of Responses
Giving participants an opportunity to be heard	3.2	3.4	N/A	3.2	16
Treating those involved in the case without bias	3.2	3.4	N/A	3.2	15
Treating fairly people who represent themselves	3.1	3.4	N/A	3.1	13
Giving each side enough time to present his or her case	3.2	3.4	N/A	3.2	14

Appendix 1. Survey Methods – Attorney and Non-attorney

Methodology and How to Read Results

For Judge Malkinson, 59 individuals completed surveys with at least a single rating question answered. This report reflects these 59 responses. The survey results are divided into eight sections: Interim, Case Management, Application and Knowledge of Law, Communications, Demeanor, Diligence, Fairness, Strengths, and Weaknesses.

a. Response rates

Attorneys
During the 2021 administration, a total of 62,982 survey invitations were sent to 10,316 attorneys inviting them to evaluate judges and justices receiving interim reports in 2021. On average, each attorney was asked to evaluate 6.1 judges. In total 9,605 surveys were completed with an additional 7,234 responses where the attorney indicated that they did not have enough experience with the judge to be comfortable evaluating him or her. The response rate for the survey was 15% and the survey completion rate (the number of those familiar indicating they did not have sufficient familiarity to evaluate the judge) was 27%.

Non-attorneys
The 2021 administration expanded on contacting non-attorneys electronically. More non-attorney email addresses became available due to administrative changes in the courts. In total 34,758 non-attorneys were invited via email. Some non-attorney groups could self-select which judges they would like to evaluate. Court staff members were emailed a link that allowed them to self-select the judges wished to evaluate in their county or district. Jurors, in addition to email, could similarly self-select via publicly posted links. The public was also allowed to self-select via a separate public link.

These methods allowed us to gather more data than previous cycles, however the inclusion of self-selected evaluations makes it impossible to calculate a response rate. In total 4,018 surveys were completed with an additional 1,590 responses where the respondent indicated that they did not have enough experience with the judge to be comfortable providing an evaluation.

b. Methodology

The 2021 attorney survey was conducted in 4 cycles online beginning on May 28th, 2020. Attorneys with appearances in front of judges in each quarter were sent a sent a series of email invitations. Invitations were emailed to attorneys with appearances during the first quarter of 2020 on May 28th, 2020. Reminders were sent on June 15th and July 8th, 2020.

This process was repeated among attorneys with appearances in the second quarter of 2020 with email invitations sent on August 6th, 2020 and reminders was sent on August 25th, 2020.
Invitations were emailed to attorneys with appearances during the third quarter of 2020 on November 9th, 2020. Reminders sent on November 19th and December 16th, 2020. The final data collection took place in January 2021. Invitations were emailed to attorneys with appearances during the 4th quarter of 2020 on January 21st, 2021. Reminders were sent on February 4th and 11th, 2021. Invitations were sent out on request throughout the data collection process.

Data collection for non-attorneys began on January 1st, 2020 and ran through the response deadline of February 15th, 2021. Survey invitations were sent via email to most non-attorneys in quarterly batches mirroring the process used for attorneys. Court staff members were also invited via email, but using a different process.

To help reduce administrative burden, the way that court staff were invited was changed for this cycle. Rather than be invited to evaluate specific judges, staff are now brought to a screen showing list of all judges in their district our county and allowed to choose which to evaluate.

Jurors, in addition to email, were allowed to similarly self-select via publicly posted links. The general public was also allowed to self-select via a separate public link. This survey was open for the entire data collection period and data was downloaded for analysis on February 15th, 2021. During this period 61 valid responses were received. The survey remained open and any responses received after February 15th or for judges not receiving an evaluation in 2021 were held over for the 2022 evaluation cycle.

Details on the responses from each group are detailed in the table below.

Table 1: Non-Attorney completes by invitation method

Invitation Method	Invites Sent	Completes	Response Rate
Non-attorney email	34,758	4,018	12%
Court Staff Email Invite (Self-select)	3,141	1,779	N/A
Citizen Feedback	Unknown	61	N/A
Juror Survey	Unknown	597	N/A

c. Questions

In the core of the survey, attorneys evaluated district and county judges on 17 aspects of judicial performance and appellate judges on 12 aspects of judicial performance using a grade scale of A, B, C, D, or F. These aspects were grouped by topic into different categories, five for district and county judges and two for appellate judges. The district and county categories were: Case Management, Application and Knowledge of Law, Communications, Demeanor, and Diligence. Questions regarding appellate judges were divided into two categories, one for general questions and one specific to their writing (only asked of those who indicated they had experience with the judge or justice's written opinions).

In a final question, respondents were asked if they thought whether the judge met judicial performance standards

The question wording for the core of the survey was carried over from the 2020 administration. The questions were originally developed in 1998 to meet the criteria outlined in statute 13-5.5-101 et seq.

Non-attorney respondents evaluated judges on 19 aspects of judicial performance using the same grade scale of A, B, C, D, or Fail. In a final question, respondents were asked if they thought whether the judge met judicial performance standards. The overall structure of the survey was similar to the attorney survey, but the individual rating questions were tailored to aspects that could be rated by those without specific legal experience.

d. Analysis and Reporting

Letter grades were converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0 for analysis. The results include an overall grade, a grade for each category, as well as a grade for each question. The overall score is calculated by averaging the responses to all questions answered by the attorneys. This score will have the same numerical range as the individual questions from zero to four.

Each category score is calculated by averaging the responses to all questions answered by the attorney within each category. This score will have the same zero to four numerical range as the individual questions. Similarly, an average score is calculated for each individual question with the exception of the final question on meeting performance standards.

The overall average and category scores will be reported for each judge along with the average scores for the judge's peers. The average score (with the exception noted above) will also be reported for each question along with the peer group score. In addition, the report will include the distribution of responses for each question, i.e. the percentage of attorneys that assigned a rating of A, B, C, D, and F. The distribution of responses is also reported for the question on interim.

e. Comments

At the end of each group of questions respondents had the option of leaving comments about the judge's performance in that area. 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.

Appendix 2: Judge Response Counts by Type of Respondent

Respondent Type	Total Sent	Number of Responses	Undeliverable/ Not Applicable	Completes*	Cooperation Rate
Attorney	249	54	0	40	74%
Staff		8	0	8	-
Others	109	13	0	11	-
Total Non-Attorneys	-	21	-	19	-
Total Respondents	-	75	-	59	-

*Completed surveys include respondents who said that they have sufficient experience to evaluate the judge.