



Commission on  
Judicial Performance

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**Thomas K. Kane**  
2008 Judicial Performance Survey

April 30, 2008

The Honorable Thomas K. Kane  
P.O. Box 2980  
Colorado Springs, CO. 80901



Dear Judge Kane:

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 2008 survey was conducted by Talmey-Drake Research & Strategy, Inc., who attempted to contact over 57,000 people statewide who had been in these courtrooms in one capacity or another. Over 12,400 people responded – 3,084 to the attorney survey and 9,317 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 five main sections:

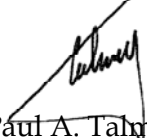
- **Attorney Results & Comments:** This section contains graphs displaying the average grade you received overall (the combined average from questions 1a through 5e), each section and each question. Following the graphs, are a series of tables showing the percentage distribution of responses to each question. Attorney respondents were also asked to comment about your performance. These comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. A copy of the attorney questionnaire is at the back of this report.
- **Appellate Judges & Comments:** New to the 2008 Judicial Performance Evaluation is a survey of Court of Appeals judges and Supreme Court justices regarding the overall performance of district judges.
- **Non-attorney Results & Comments:** Similar to the Attorney section, this portion of the report contains graphs (again including the overall average of questions 1a through 5c on the non-attorney questionnaire), the percentage distribution of responses by non-attorneys to each substantive question in the survey. The non-attorney respondents were also asked to comment about your performance. Again, these comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. A copy of the non-attorney questionnaire is also at the back of this report.
- **Methodology:** The third section of the report discusses the methodology of the survey.
- **Questionnaires:** And the final section provides copies of the questionnaires that were used.

The Honorable Thomas K. Kane  
April, 30 2008  
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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 ext 1, and for any other questions you might have about the survey please call the Executive Director of the Colorado Judicial Performance Program, Jane Howell, at 303-837-3665.

Best regards,



Paul A. Talney  
President

enc:

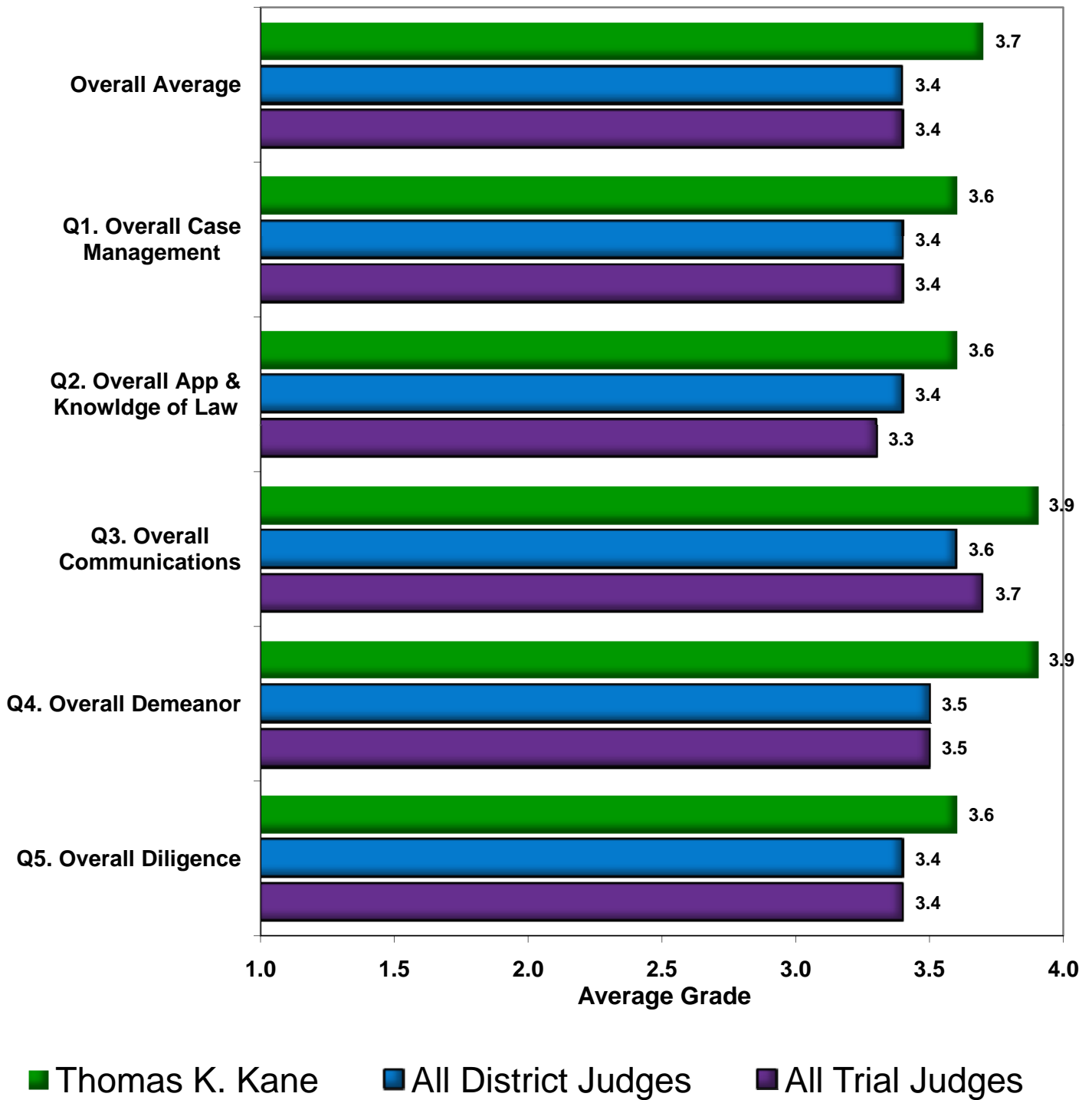
# **Attorney Survey**

**(Sample Size 48)**

# Thomas K. Kane

Attorney Survey

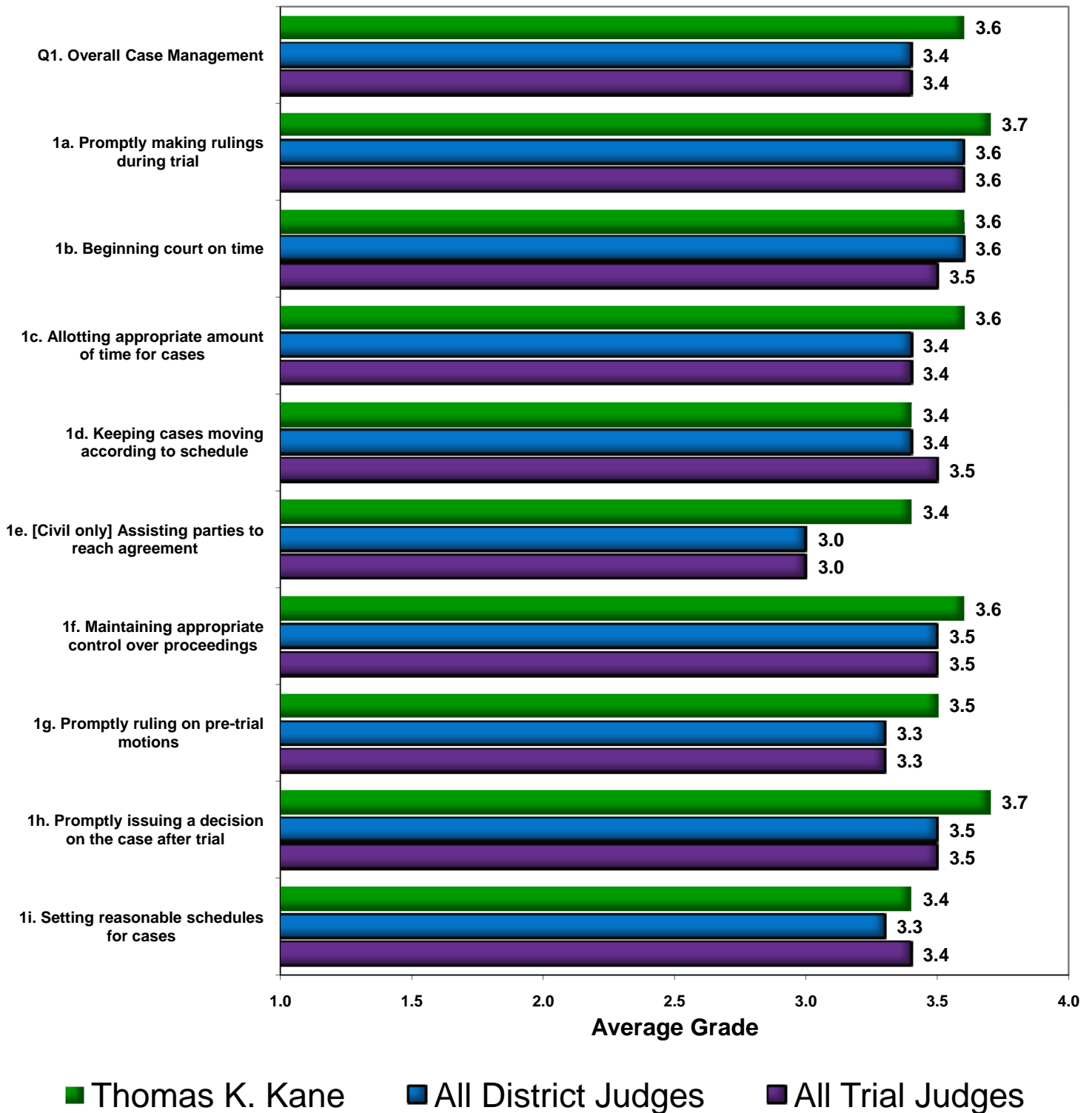
## Average Grades: Overall and by Section



# Thomas K. Kane

Attorney Survey

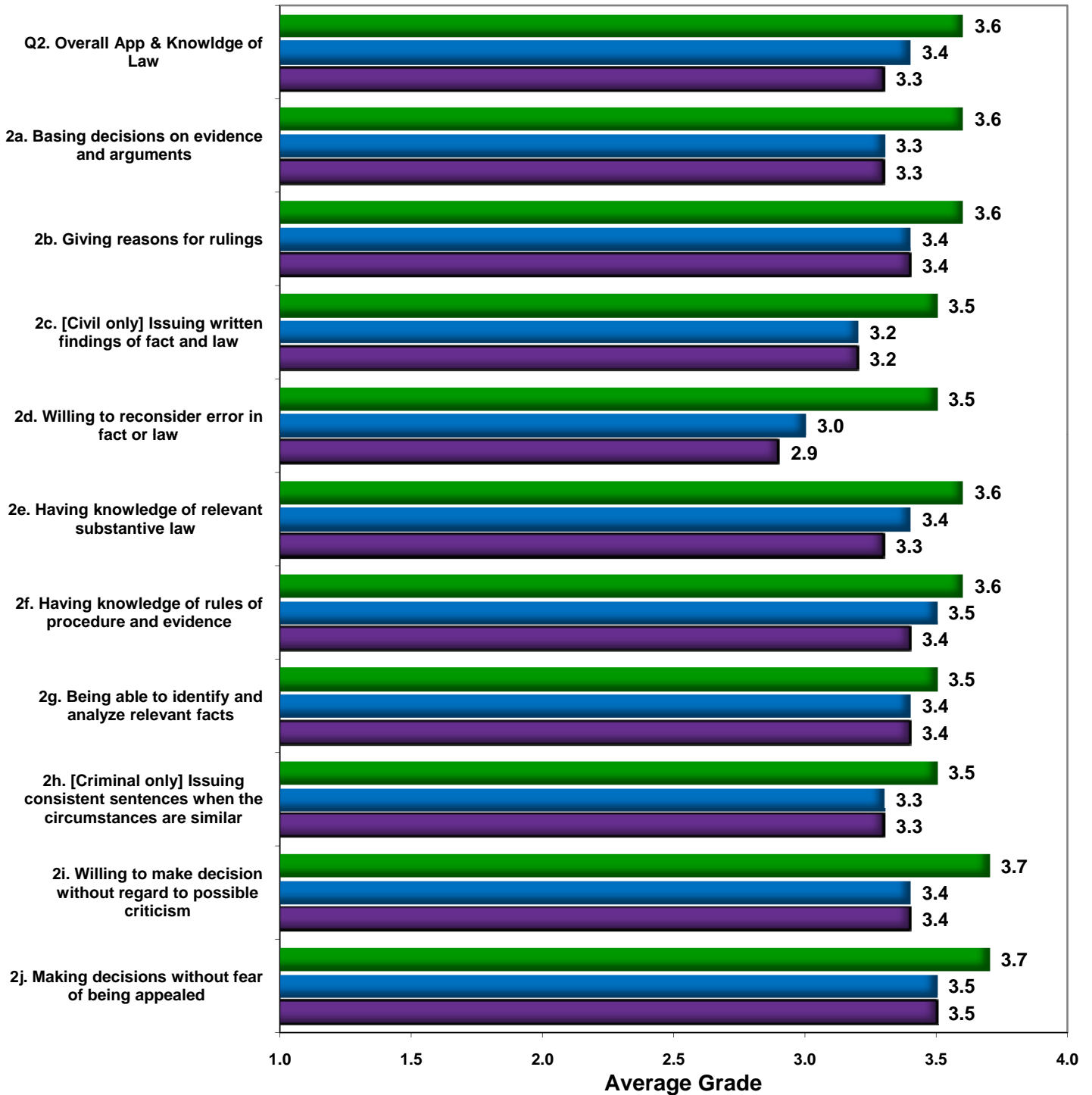
## Average Grades: Case Management



# Thomas K. Kane

Attorney Survey

## Average Grades: Application and Knowledge of Law



■ Thomas K. Kane

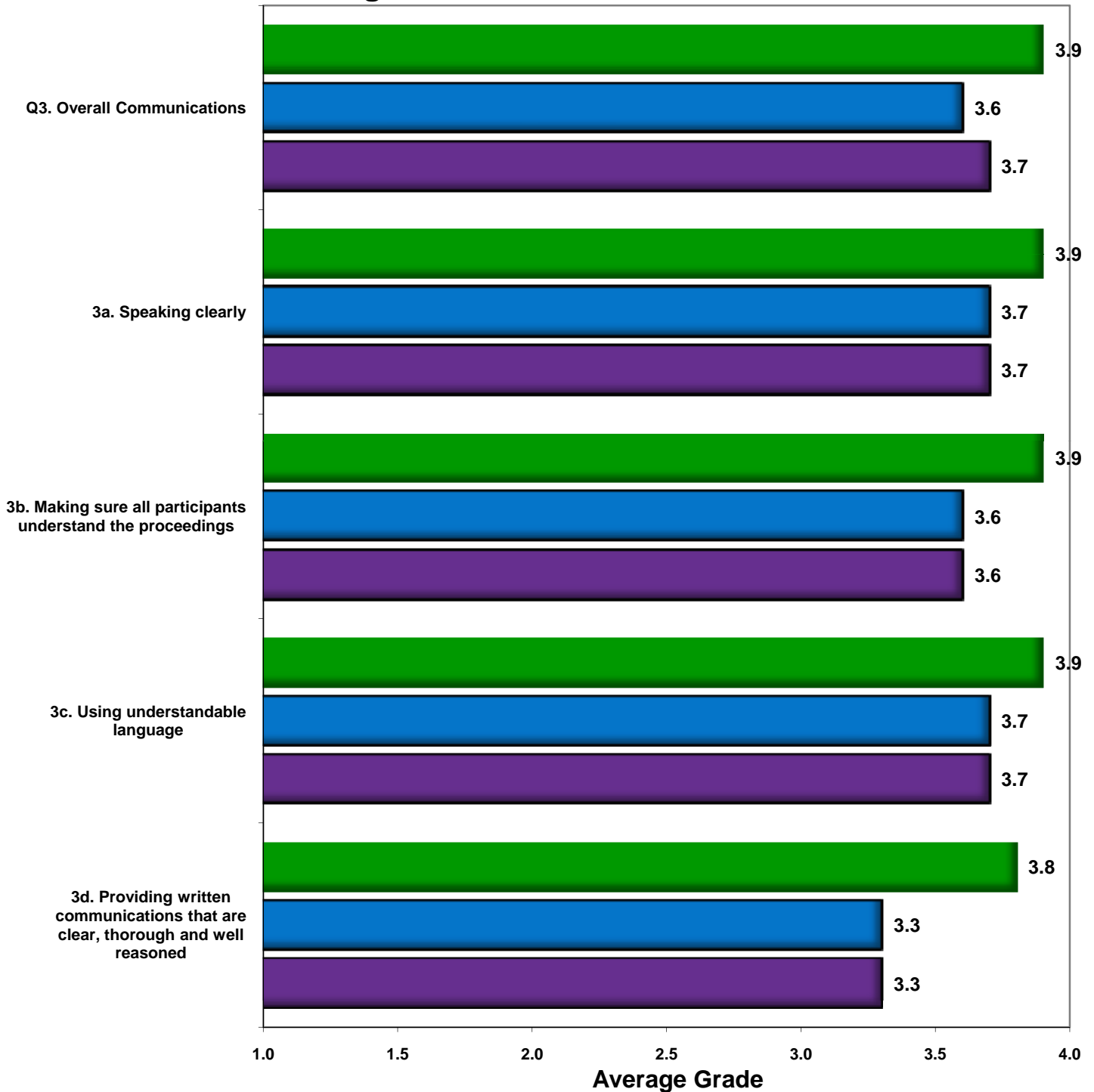
■ All District Judges

■ All Trial Judges

# Thomas K. Kane

Attorney Survey

## Average Grades: Communications



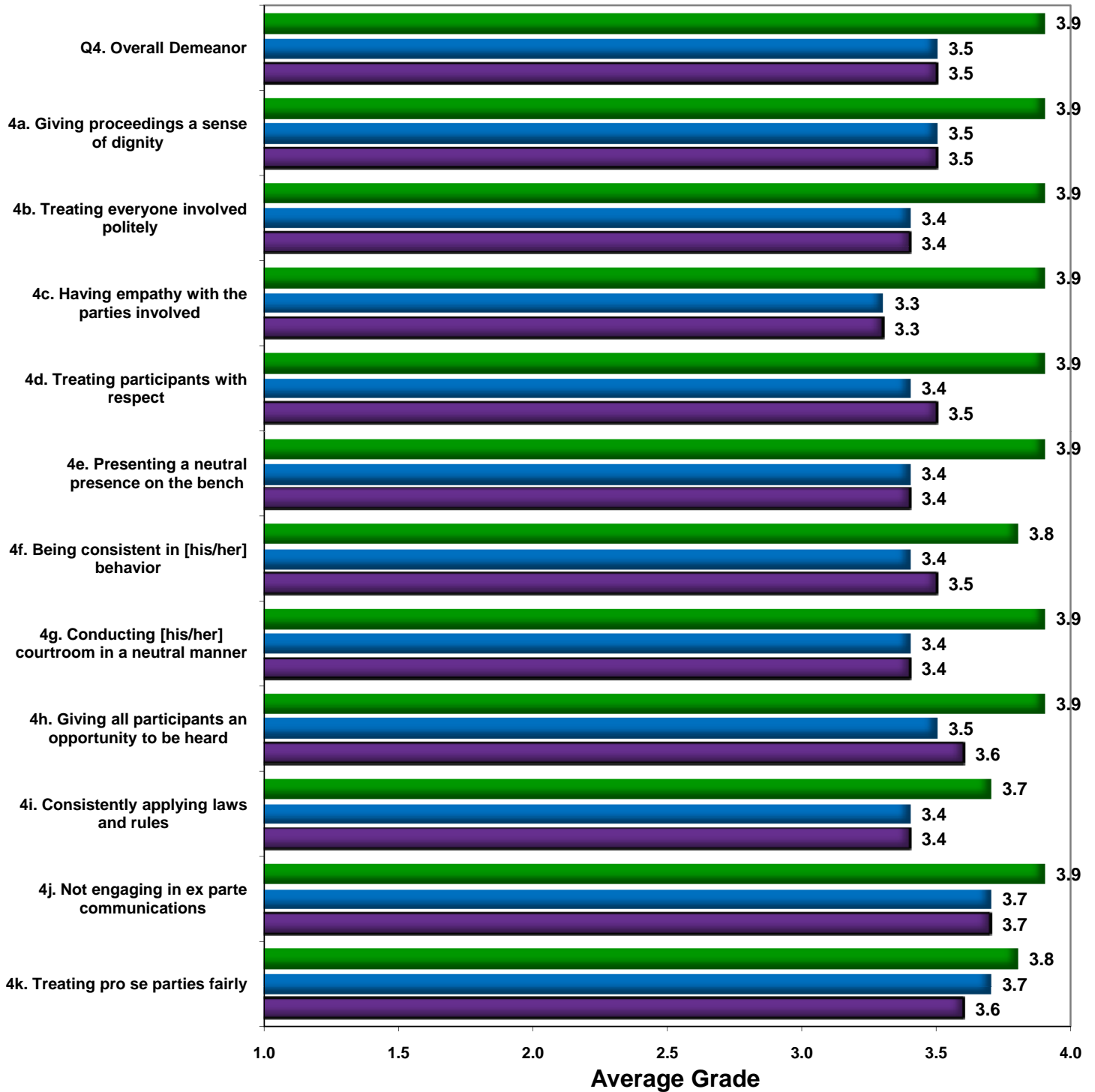
■ Thomas K. Kane    ■ All District Judges    ■ All Trial Judges



# Thomas K. Kane

## Attorney Survey

### Average Grades: Demeanor



■ Thomas K. Kane

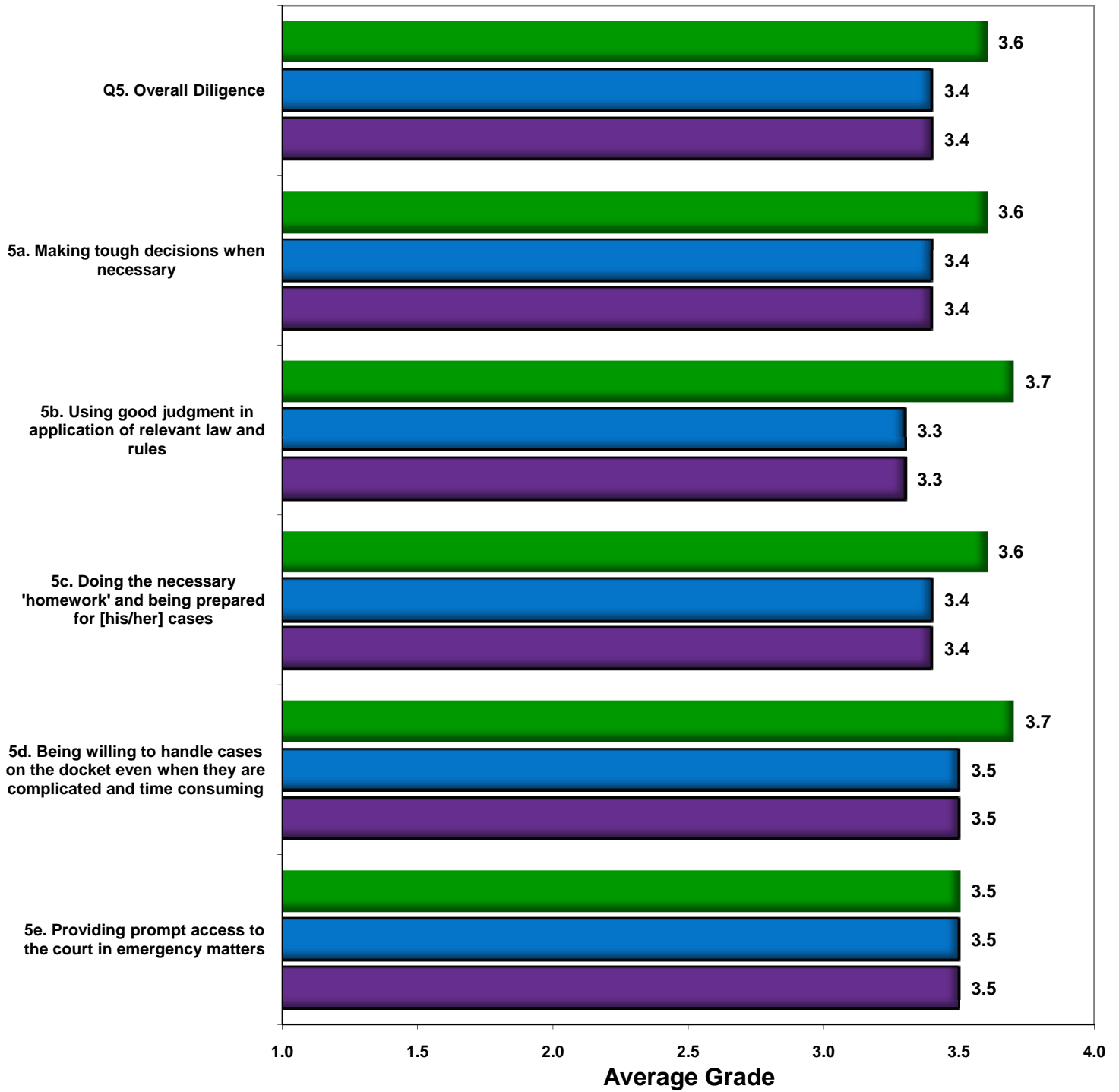
■ All District Judges

■ All Trial Judges

# Thomas K. Kane

Attorney Survey

## Average Grades: Diligence



■ Thomas K. Kane

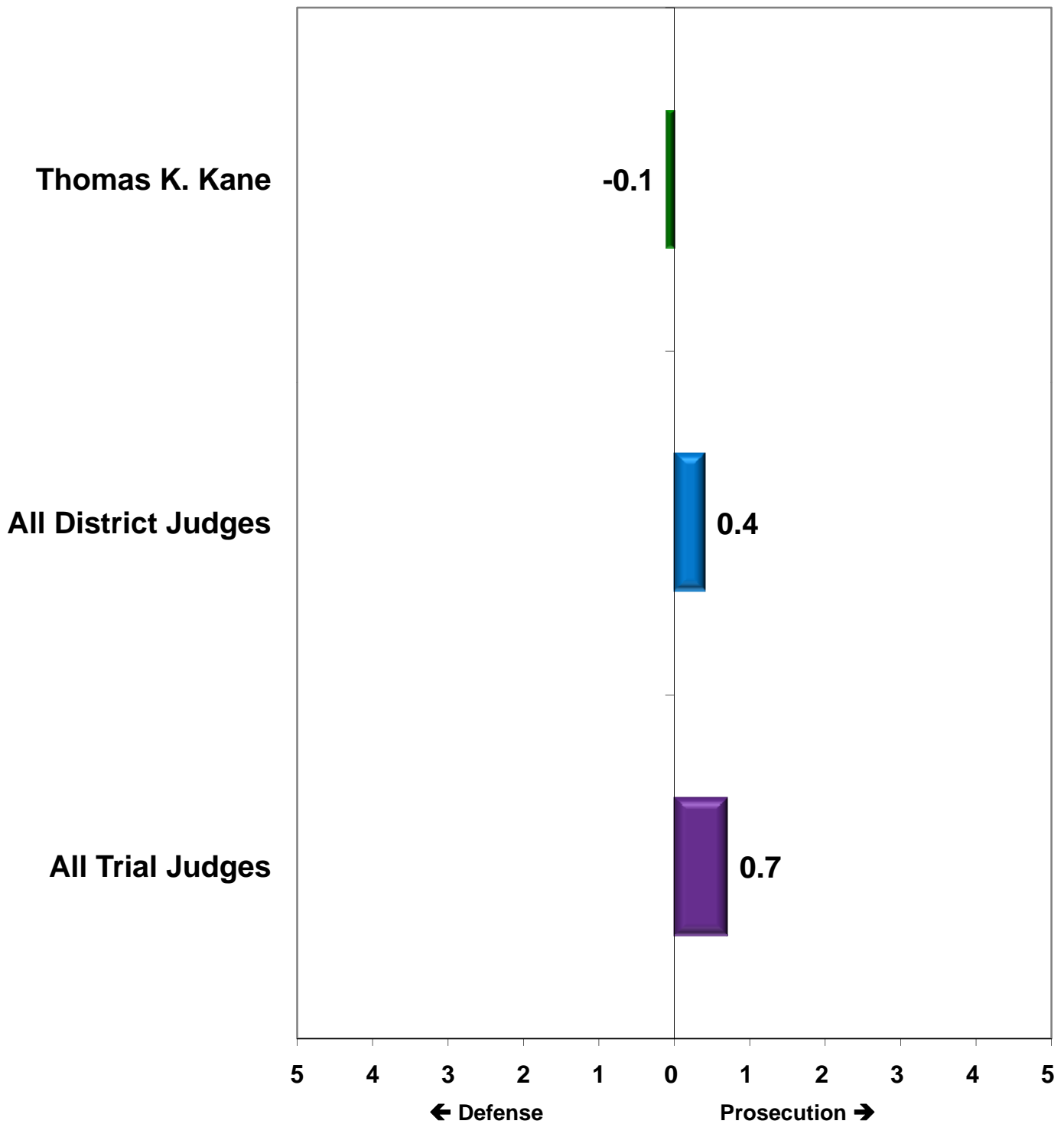
■ All District Judges

■ All Trial Judges

# Thomas K. Kane

Attorney Survey

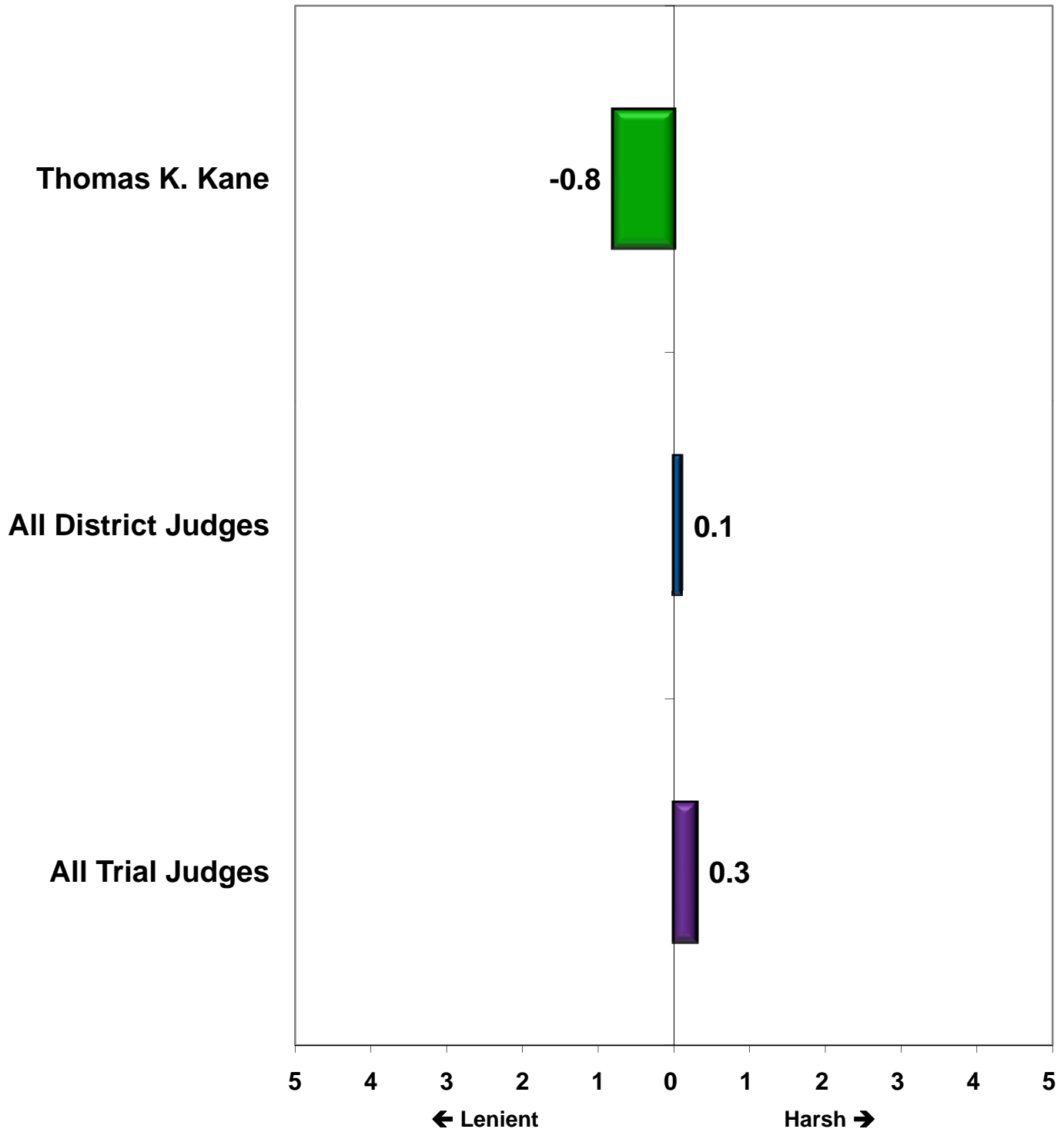
**Q6. Average: How biased do you think Judge Kane is toward the defense or prosecution?**



# Thomas K. Kane

Attorney Survey

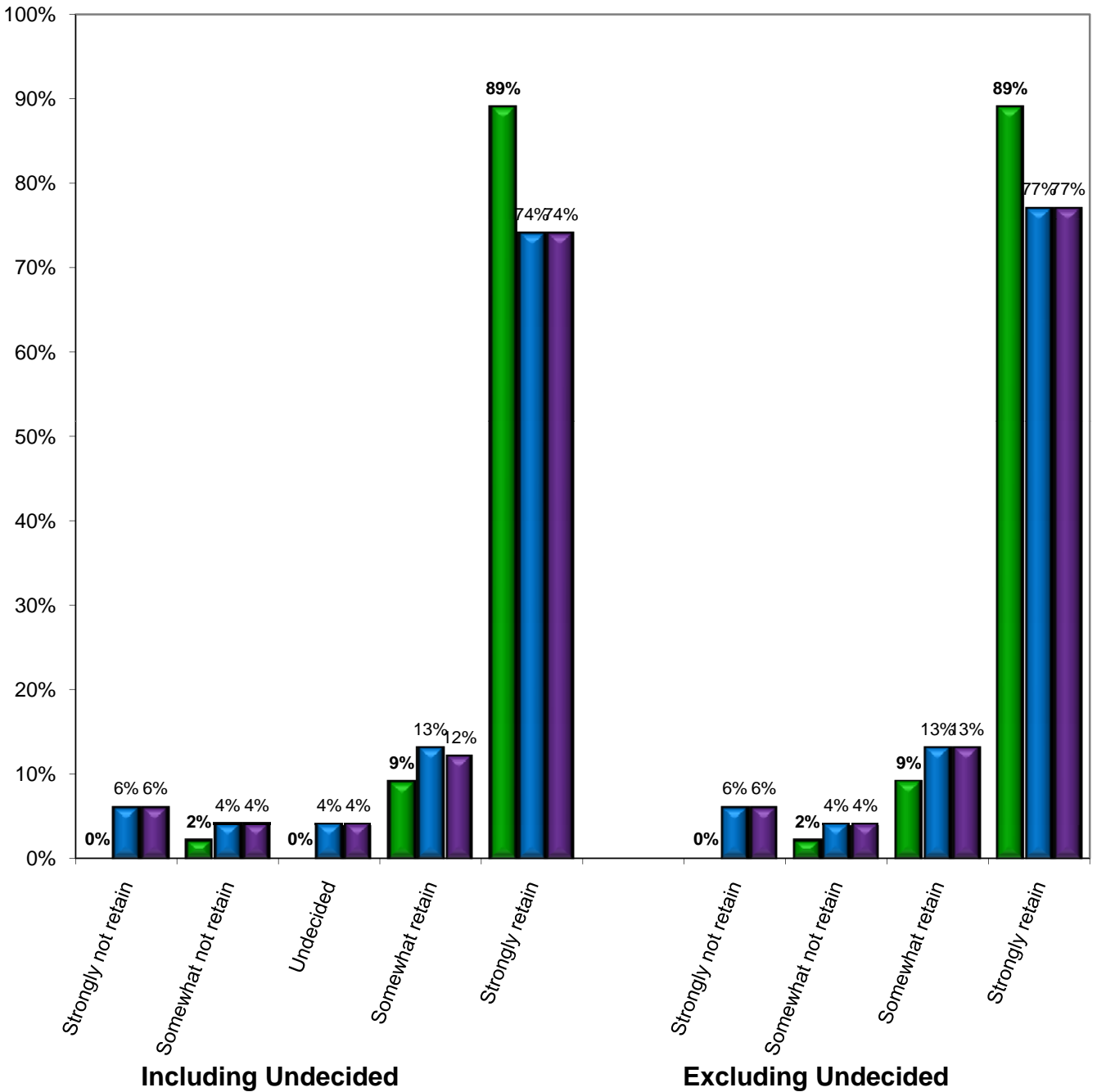
**Q7. Average: How lenient or how harsh are Judge Kane's sentences?**



# Thomas K. Kane

Attorney Survey

## Retention Recommendation



■ Judge Kane

■ All District Judges

■ All Trial Judges

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# Thomas K. Kane

## Attorney Survey

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**1a. How would you grade Judge Kane on "Promptly making rulings during trial?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	65%	59%	57%
B .....	22%	17%	18%
C .....	2%	3%	3%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	11%	19%	21%
<hr/>			
Average .....	3.7	3.6	3.6
Letter Grade .....	A-	B+	B+

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# Thomas K. Kane

## Attorney Survey

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**1b. How would you grade Judge Kane on "Beginning court on time?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	64%	66%	62%
B .....	30%	23%	25%
C .....	4%	5%	7%
D .....	0%	2%	2%
Fail .....	0%	1%	1%
No Grade .....	2%	3%	2%
<hr/>			
Average .....	3.6	3.6	3.5
Letter Grade .....	B+	B+	B+

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# Thomas K. Kane

## Attorney Survey

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**1c. How would you grade Judge Kane on "Allotting appropriate amount of time for cases?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	64%	55%	56%
B .....	32%	27%	28%
C .....	4%	9%	8%
D .....	0%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	0%	5%	4%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+



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# Thomas K. Kane

## Attorney Survey

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**1d. How would you grade Judge Kane on "Keeping cases moving according to schedule?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	53%	58%	58%
B .....	26%	27%	28%
C .....	15%	7%	7%
D .....	0%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	6%	4%	4%
<hr/>			
Average .....	3.4	3.4	3.5
Letter Grade .....	B+	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**1e. How would you grade Judge Kane on "[Civil only] Assisting parties to reach agreement?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	24%	23%	23%
B .....	21%	17%	17%
C .....	6%	10%	8%
D .....	0%	4%	3%
Fail .....	0%	2%	2%
No Grade .....	48%	44%	47%
<hr/>			
Average .....	3.4	3.0	3.0
Letter Grade .....	B+	B	B

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## Thomas K. Kane

### Attorney Survey

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1f. How would you grade Judge Kane on "Maintaining appropriate control over proceedings?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	70%	64%	66%
B .....	23%	22%	22%
C .....	6%	8%	7%
D .....	0%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	0%	2%	2%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

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# Thomas K. Kane

## Attorney Survey

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**1g. How would you grade Judge Kane on "Promptly ruling on pre-trial motions?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	54%	45%	44%
B .....	26%	23%	21%
C .....	9%	9%	8%
D .....	0%	3%	3%
Fail .....	0%	2%	1%
No Grade .....	11%	19%	24%
<hr/>			
Average .....	3.5	3.3	3.3
Letter Grade .....	B+	B	B

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# Thomas K. Kane

## Attorney Survey

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**1h. How would you grade Judge Kane on "Promptly issuing a decision on the case after trial?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	66%	48%	48%
B .....	23%	17%	16%
C .....	4%	5%	4%
D .....	0%	2%	1%
Fail .....	0%	1%	1%
No Grade .....	6%	27%	29%
<hr/>			
Average .....	3.7	3.5	3.5
Letter Grade .....	A-	B+	B+

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# Thomas K. Kane

## Attorney Survey

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**1i. How would you grade Judge Kane on "Setting reasonable schedules for cases?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	53%	53%	54%
B .....	30%	26%	26%
C .....	9%	9%	8%
D .....	2%	3%	3%
Fail .....	0%	2%	2%
No Grade .....	6%	7%	8%
<hr/>			
Average .....	3.4	3.3	3.4
Letter Grade .....	B+	B	B+

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## Thomas K. Kane

### Attorney Survey

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**2a. How would you grade Judge Kane on "Basing decisions on evidence and arguments?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	66%	54%	54%
B .....	23%	25%	25%
C .....	11%	9%	9%
D .....	0%	4%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	5%	5%
<hr/>			
Average .....	3.6	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas K. Kane

### Attorney Survey

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**2b. How would you grade Judge Kane on "Giving reasons for rulings?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	68%	57%	56%
B .....	26%	25%	25%
C .....	6%	9%	9%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	4%	4%
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Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+



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## Thomas K. Kane

### Attorney Survey

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**2c. How would you grade Judge Kane on "[Civil only]  
Issuing written findings of fact and law?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	26%	32%	27%
B .....	18%	18%	16%
C .....	3%	7%	6%
D .....	0%	3%	3%
Fail .....	0%	1%	2%
No Grade .....	53%	38%	47%
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Average .....	3.5	3.2	3.2
Letter Grade .....	B+	B	B

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## Thomas K. Kane

### Attorney Survey

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**2d. How would you grade Judge Kane on "Willing to reconsider error in fact or law?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	40%	27%	27%
B .....	27%	18%	18%
C .....	4%	9%	9%
D .....	0%	4%	5%
Fail .....	0%	4%	4%
No Grade .....	29%	37%	38%
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Average .....	3.5	3.0	2.9
Letter Grade .....	B+	B	B-

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## Thomas K. Kane

### Attorney Survey

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**2e. How would you grade Judge Kane on "Having knowledge of relevant substantive law?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	67%	55%	54%
B .....	28%	28%	28%
C .....	4%	9%	9%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	3%	4%
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Average .....	3.6	3.4	3.3
Letter Grade .....	B+	B+	B

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## Thomas K. Kane

### Attorney Survey

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2f. How would you grade Judge Kane on "Having knowledge of rules of procedure and evidence?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	70%	63%	60%
B .....	24%	23%	24%
C .....	4%	7%	8%
D .....	2%	2%	3%
Fail .....	0%	2%	2%
No Grade .....	0%	3%	4%
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Average .....	3.6	3.5	3.4
Letter Grade .....	B+	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**2g. How would you grade Judge Kane on "Being able to identify and analyze relevant facts?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	64%	58%	58%
B .....	26%	24%	24%
C .....	11%	9%	8%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.5	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**2h. How would you grade Judge Kane on "[Criminal only] Issuing consistent sentences when the circumstances are similar?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	34%	28%	36%
B .....	29%	16%	18%
C .....	3%	5%	5%
D .....	0%	2%	2%
Fail .....	0%	2%	1%
No Grade .....	34%	48%	37%
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Average .....	3.5	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas K. Kane

### Attorney Survey

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2i. How would you grade Judge Kane on "Willing to make decision without regard to possible criticism?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	63%	54%	54%
B .....	22%	20%	20%
C .....	4%	7%	7%
D .....	0%	2%	3%
Fail .....	0%	2%	3%
No Grade .....	11%	15%	14%
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Average .....	3.7	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**2j. How would you grade Judge Kane on "Making decisions without fear of being appealed?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	69%	55%	55%
B .....	18%	19%	20%
C .....	7%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	1%	1%
No Grade .....	7%	17%	16%
<hr/>			
Average .....	3.7	3.5	3.5
Letter Grade .....	A-	B+	B+



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## Thomas K. Kane

### Attorney Survey

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**3a. How would you grade Judge Kane on "Speaking clearly?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	94%	75%	76%
B .....	4%	18%	18%
C .....	2%	4%	4%
D .....	0%	1%	1%
Fail .....	0%	0%	0%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.7	3.7
Letter Grade .....	A-	A-	A-

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## Thomas K. Kane

### Attorney Survey

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**3b. How would you grade Judge Kane on "Making sure all participants understand the proceedings?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	91%	71%	71%
B .....	6%	20%	21%
C .....	2%	5%	5%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	0%	2%	2%
<hr/>			
Average .....	3.9	3.6	3.6
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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#### 3c. How would you grade Judge Kane on "Using understandable language?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	89%	75%	76%
B .....	9%	20%	19%
C .....	2%	4%	3%
D .....	0%	1%	1%
Fail .....	0%	0%	0%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.7	3.7
Letter Grade .....	A-	A-	A-

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## Thomas K. Kane

### Attorney Survey

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**3d. How would you grade Judge Kane on "Providing written communications that are clear, thorough and well reasoned?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	73%	46%	46%
B .....	0%	21%	21%
C .....	7%	7%	7%
D .....	0%	4%	4%
Fail .....	0%	2%	2%
No Grade .....	20%	20%	21%
<hr/>			
Average .....	3.8	3.3	3.3
Letter Grade .....	A-	B	B

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## Thomas K. Kane

### Attorney Survey

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**4a. How would you grade Judge Kane on "Giving proceedings a sense of dignity?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	90%	69%	69%
B .....	8%	19%	20%
C .....	2%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.5	3.5
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4b. How would you grade Judge Kane on "Treating everyone involved politely?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	96%	68%	69%
B .....	2%	16%	17%
C .....	2%	7%	7%
D .....	0%	3%	3%
Fail .....	0%	4%	4%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4c. How would you grade Judge Kane on "Having empathy with the parties involved?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	90%	55%	55%
B .....	8%	22%	22%
C .....	2%	10%	10%
D .....	0%	4%	4%
Fail .....	0%	4%	4%
No Grade .....	0%	5%	4%
<hr/>			
Average .....	3.9	3.3	3.3
Letter Grade .....	A-	B	B

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## Thomas K. Kane

### Attorney Survey

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**4d. How would you grade Judge Kane on "Treating participants with respect?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	96%	67%	68%
B .....	2%	17%	18%
C .....	2%	8%	7%
D .....	0%	4%	3%
Fail .....	0%	3%	3%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.4	3.5
Letter Grade .....	A-	B+	B+



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## Thomas K. Kane

### Attorney Survey

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**4e. How would you grade Judge Kane on "Presenting a neutral presence on the bench?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	94%	65%	64%
B .....	4%	19%	20%
C .....	2%	8%	8%
D .....	0%	4%	4%
Fail .....	0%	4%	4%
No Grade .....	0%	2%	1%
<hr/>			
Average .....	3.9	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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4f. How would you grade Judge Kane on "Being consistent in [his/her] behavior?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	85%	64%	64%
B .....	13%	20%	21%
C .....	2%	7%	7%
D .....	0%	3%	3%
Fail .....	0%	3%	2%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.8	3.4	3.5
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4g. How would you grade Judge Kane on "Conducting [his/her] courtroom in a neutral manner?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	92%	65%	64%
B .....	6%	18%	20%
C .....	2%	7%	7%
D .....	0%	3%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	3%	2%
<hr/>			
Average .....	3.9	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4h. How would you grade Judge Kane on "Giving all participants an opportunity to be heard?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	94%	70%	70%
B .....	4%	18%	19%
C .....	2%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	0%	2%	1%
<hr/>			
Average .....	3.9	3.5	3.6
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4i. How would you grade Judge Kane on "Consistently applying laws and rules?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	73%	59%	59%
B .....	21%	21%	21%
C .....	6%	8%	8%
D .....	0%	3%	3%
Fail .....	0%	3%	3%
No Grade .....	0%	6%	6%
<hr/>			
Average .....	3.7	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas K. Kane

### Attorney Survey

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**4j. How would you grade Judge Kane on "Not engaging in ex parte communications?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	81%	67%	64%
B .....	8%	10%	12%
C .....	2%	2%	3%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	8%	19%	19%
<hr/>			
Average .....	3.9	3.7	3.7
Letter Grade .....	A-	A-	A-

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## Thomas K. Kane

### Attorney Survey

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**4k. How would you grade Judge Kane on "Treating pro se parties fairly?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	68%	47%	51%
B .....	9%	9%	11%
C .....	2%	3%	3%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	21%	40%	33%
<hr/>			
Average .....	3.8	3.7	3.6
Letter Grade .....	A-	A-	B+

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## Thomas K. Kane

### Attorney Survey

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**5a. How would you grade Judge Kane on "Making tough decisions when necessary?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	69%	55%	53%
B .....	15%	21%	22%
C .....	10%	7%	7%
D .....	2%	3%	3%
Fail .....	0%	1%	2%
No Grade .....	4%	12%	13%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+



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## Thomas K. Kane

### Attorney Survey

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**5b. How would you grade Judge Kane on "Using good judgment in application of relevant law and rules?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	75%	53%	54%
B .....	17%	26%	26%
C .....	8%	10%	9%
D .....	0%	4%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.7	3.3	3.3
Letter Grade .....	A-	B	B

---

## Thomas K. Kane

### Attorney Survey

---

**5c. How would you grade Judge Kane on "Doing the necessary 'homework' and being prepared for [his/her] cases?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	67%	58%	56%
B .....	25%	24%	24%
C .....	8%	7%	8%
D .....	0%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	0%	6%	9%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Attorney Survey

---

**5d. How would you grade Judge Kane on "Being willing to handle cases on the docket even when they are complicated and time consuming?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	71%	56%	54%
B .....	17%	18%	18%
C .....	6%	5%	6%
D .....	0%	2%	2%
Fail .....	0%	1%	2%
No Grade .....	6%	17%	19%
<hr/>			
Average .....	3.7	3.5	3.5
Letter Grade .....	A-	B+	B+

---

## Thomas K. Kane

### Attorney Survey

---

**5e. How would you grade Judge Kane on "Providing prompt access to the court in emergency matters?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	46%	40%	39%
B .....	13%	13%	14%
C .....	10%	5%	4%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	31%	40%	40%
<hr/>			
Average .....	3.5	3.5	3.5
Letter Grade .....	B+	B+	B+

---

# Thomas K. Kane

## Attorney Survey

---

**6. How biased do you think Judge Kane is towards the defense or the prosecution?**

		<u>Judge Kane</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
↑	Toward Prosecution			
	5 .....	0%	2%	3%
	4 .....	0%	3%	4%
	3 .....	0%	6%	7%
	2 .....	0%	9%	10%
	1 .....	10%	13%	14%
	0 Neutral .....	70%	54%	53%
↓	Toward Defense			
	-1 .....	15%	6%	4%
	-2 .....	5%	3%	2%
	-3 .....	0%	2%	2%
	-4 .....	0%	2%	1%
	-5 .....	0%	1%	0%
<hr/>				
	Average .....	-0.1	0.4	0.7

---

# Thomas K. Kane

## Attorney Survey

---

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

		Judge Kane	All District Judges 2008	All Trial Judges 2008
5 .....	↑	0%	2%	2%
4 .....	↑	0%	3%	3%
3 .....	↑	5%	4%	4%
2 .....	↑	0%	7%	8%
1 .....	↑	14%	8%	10%
0 Appropriate .....	↑	33%	56%	60%
-1 .....	↓	10%	5%	4%
-2 .....	↓	19%	5%	3%
-3 .....	↓	19%	5%	3%
-4 .....	↓	0%	2%	1%
-5 .....	↓	0%	2%	1%
Average .....		-0.8	0.1	0.3

---

## Thomas K. Kane

### Attorney Survey

---

**12. Do you recommend that Judge Kane be retained in office or not be retained in office?**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
<b>Strongly Recommend Retain in office</b> ....	89%	77%	77%
<b>Somewhat Recommend Retain in office</b> .....	9%	13%	13%
<b>Somewhat Recommend Not Retain in office</b> .....	2%	4%	4%
<b>Strongly Recommend Not Retain in office</b> ....	0%	6%	6%

# **Appellate Judge Survey**

**(Sample Size 20)**



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# Thomas K. Kane

## Appellate Survey

---

### Overall Performance of Judge Kane

	<u>Judge Kane</u>	<u>All District Judges</u>
A .....	35%	28%
B .....	15%	14%
C .....	10%	3%
D .....	0%	0%
Fail .....	0%	0%
No Grade .....	40%	55%
<hr/>		
Average .....	3.4	3.5
Letter Grade .....	B+	B+

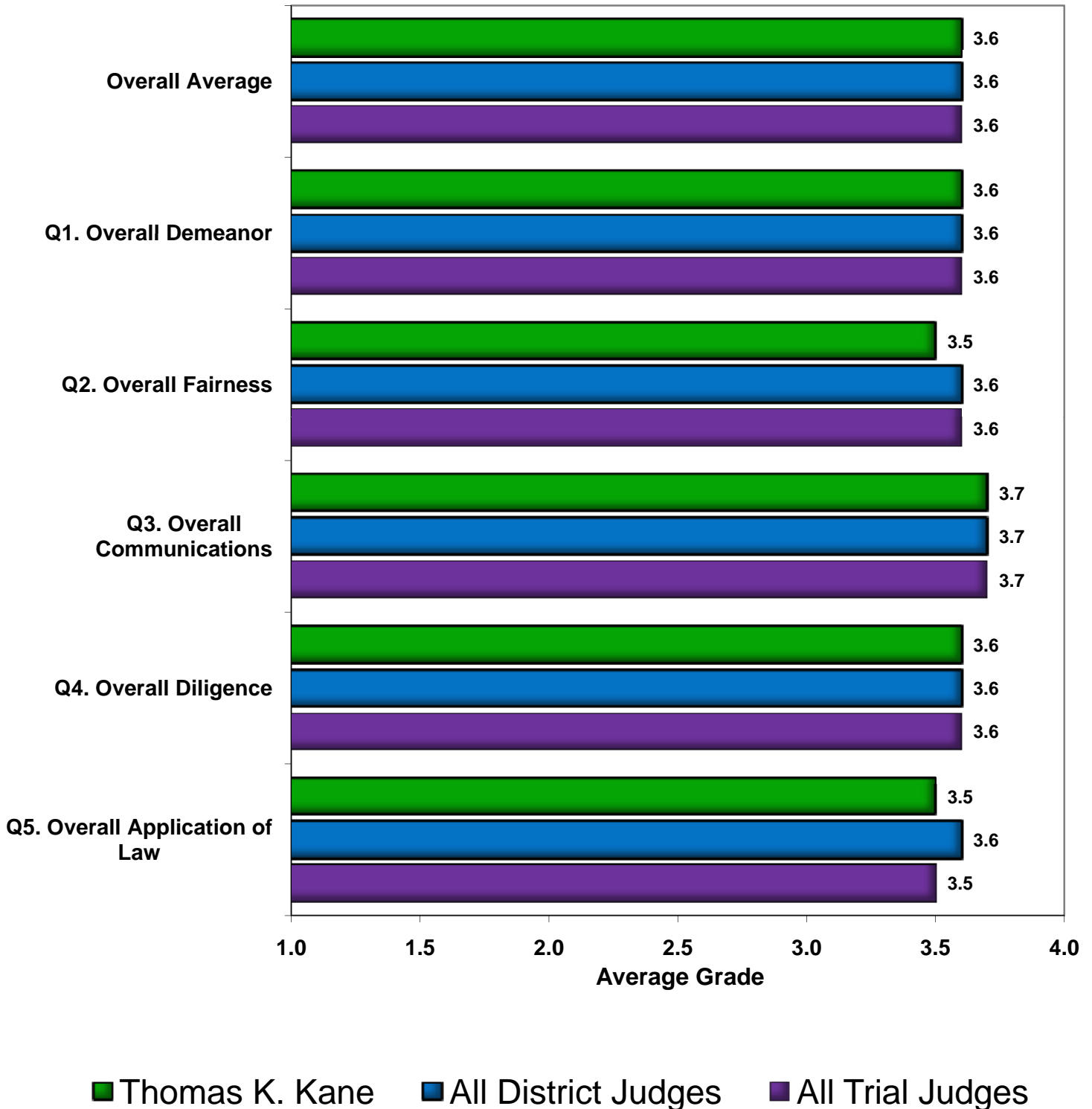
# **Non-Attorney Survey**

**(Sample Size 136)**

# Thomas K. Kane

Non-Attorney Survey

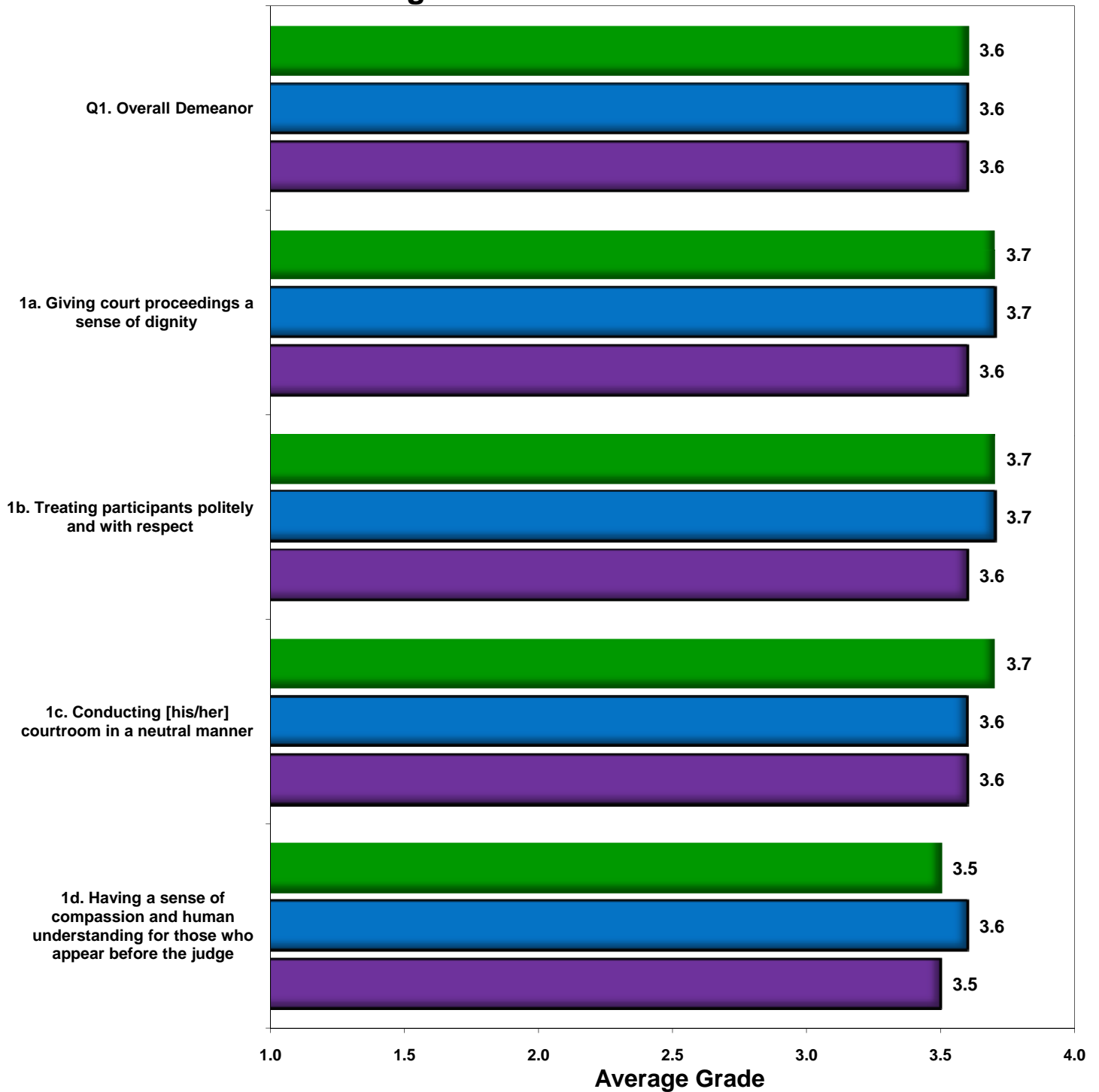
## Average Grades: Overall and by Section



# Thomas K. Kane

## Non-Attorney Survey

### Average Grades: Demeanor

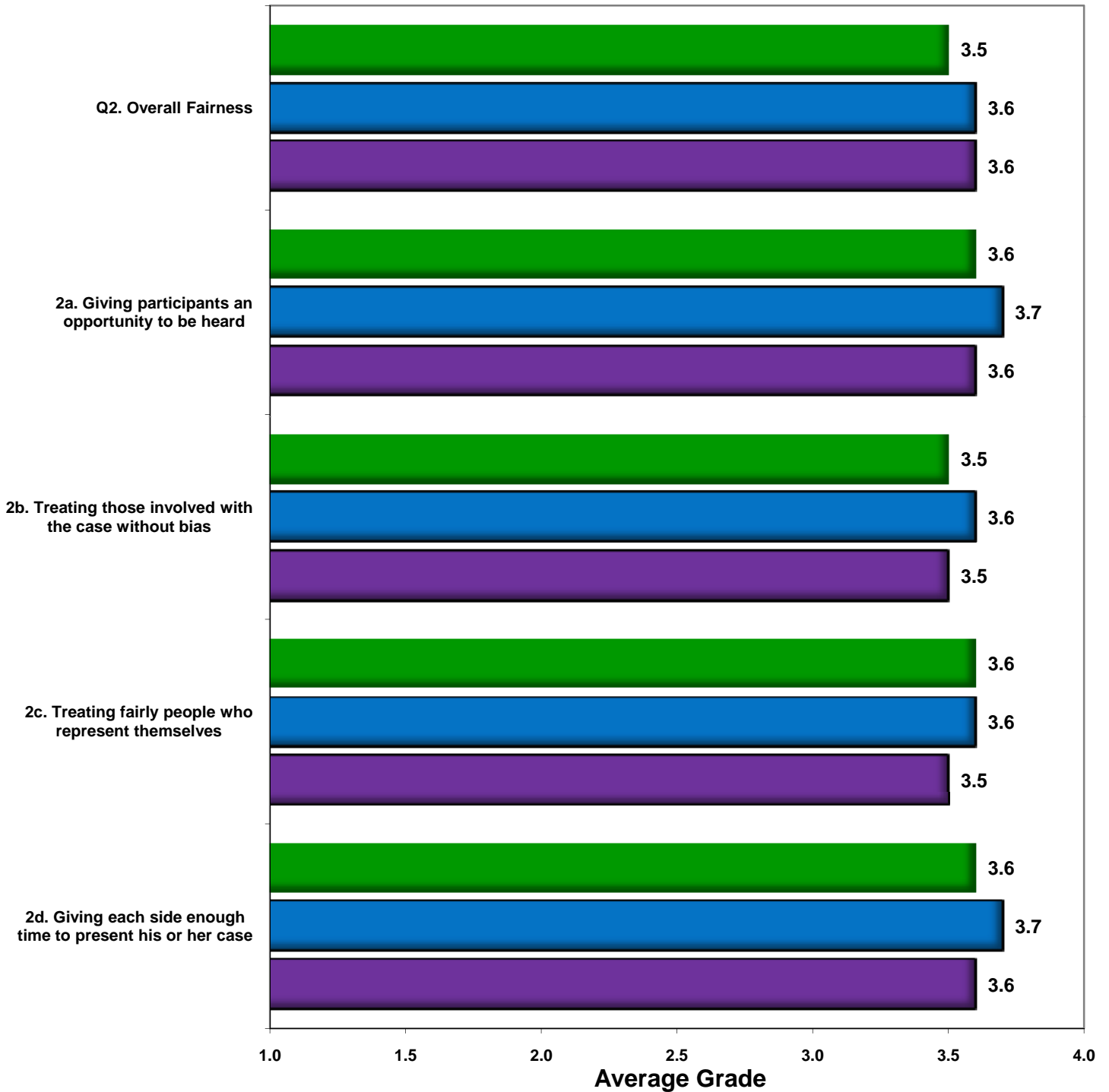


■ Thomas K. Kane    ■ All District Judges    ■ All Trial Judges

# Thomas K. Kane

Non-Attorney Survey

## Average Grades: Fairness



■ Thomas K. Kane

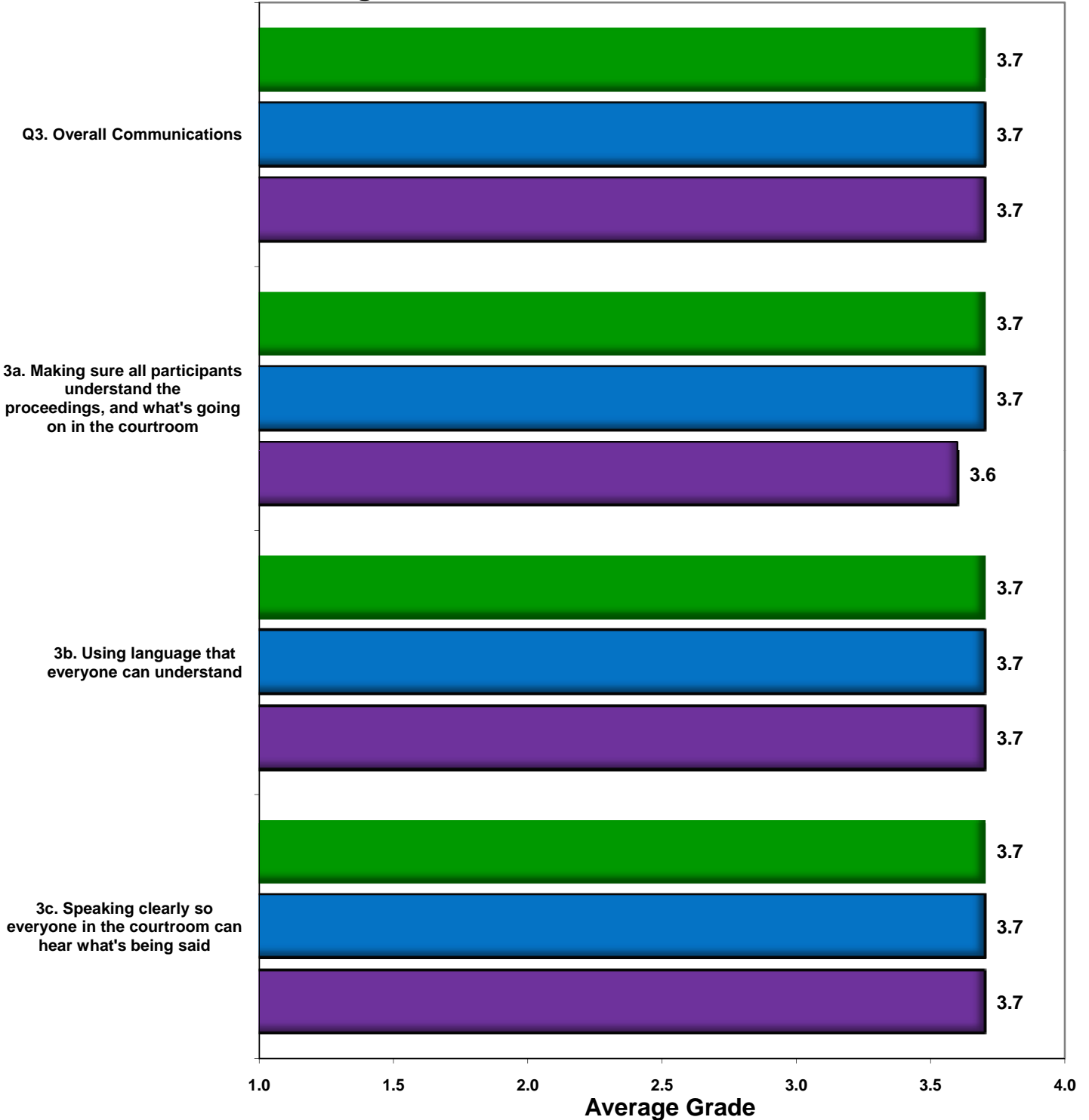
■ All District Judges

■ All Trial Judges

# Thomas K. Kane

## Non-Attorney Survey

### Average Grades: Communications

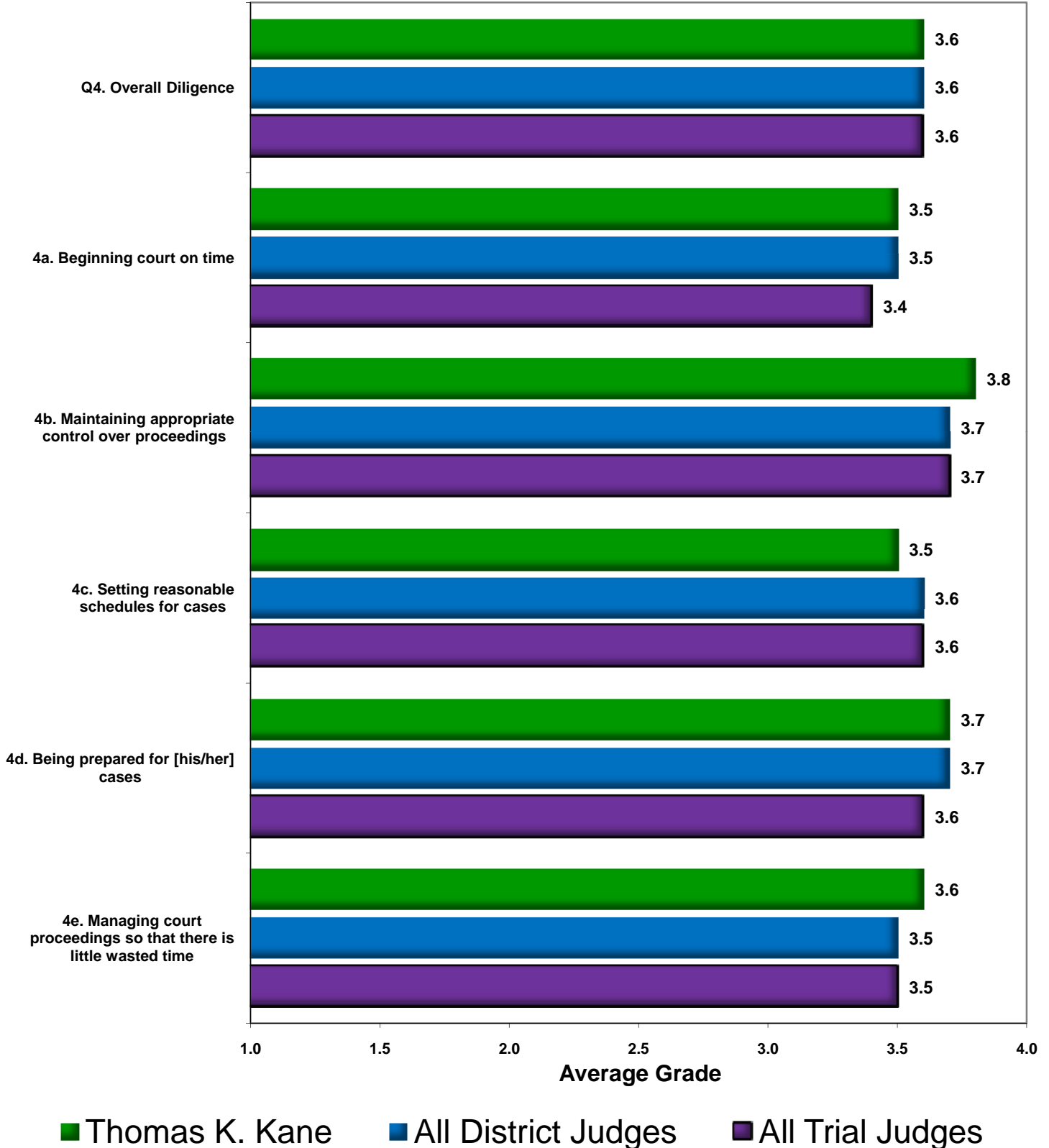


■ Thomas K. Kane    ■ All District Judges    ■ All Trial Judges

# Thomas K. Kane

Non-Attorney Survey

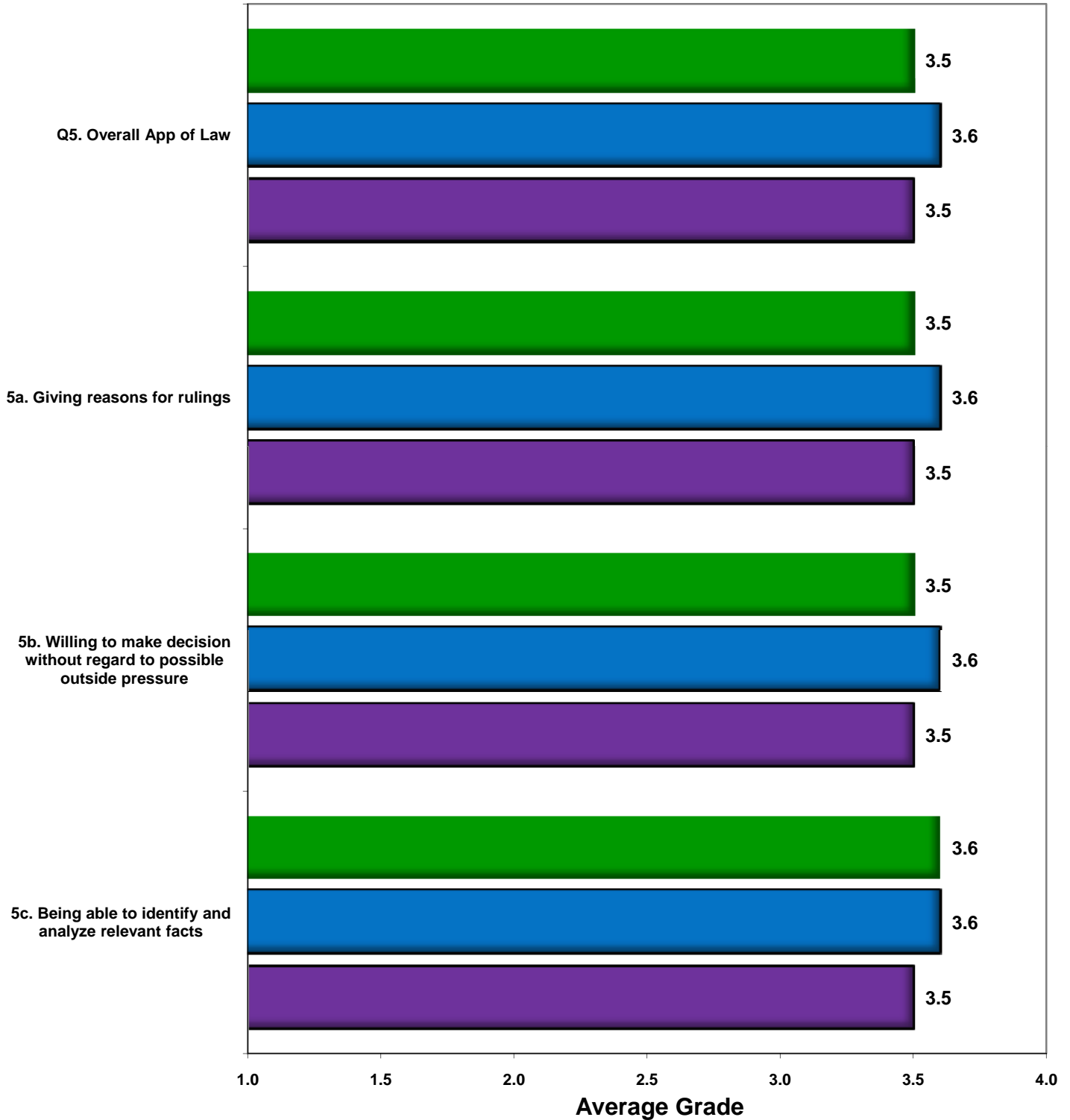
## Average Grades: Diligence



# Thomas K. Kane

Non-Attorney Survey

## Average Grades: Application and Knowledge of Law



■ Thomas K. Kane

■ All District Judges

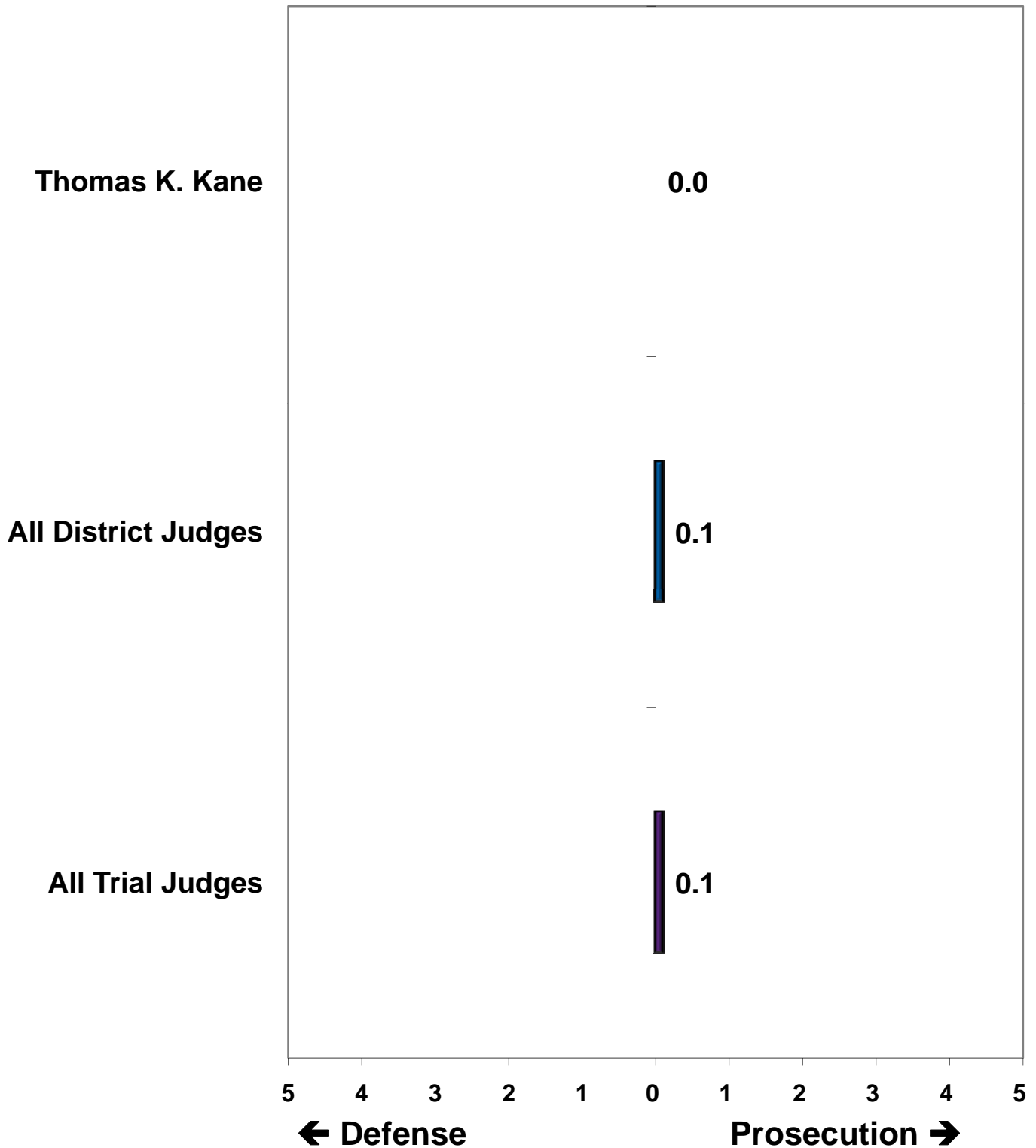
■ All Trial Judges



# Thomas K. Kane

Non-Attorney Survey

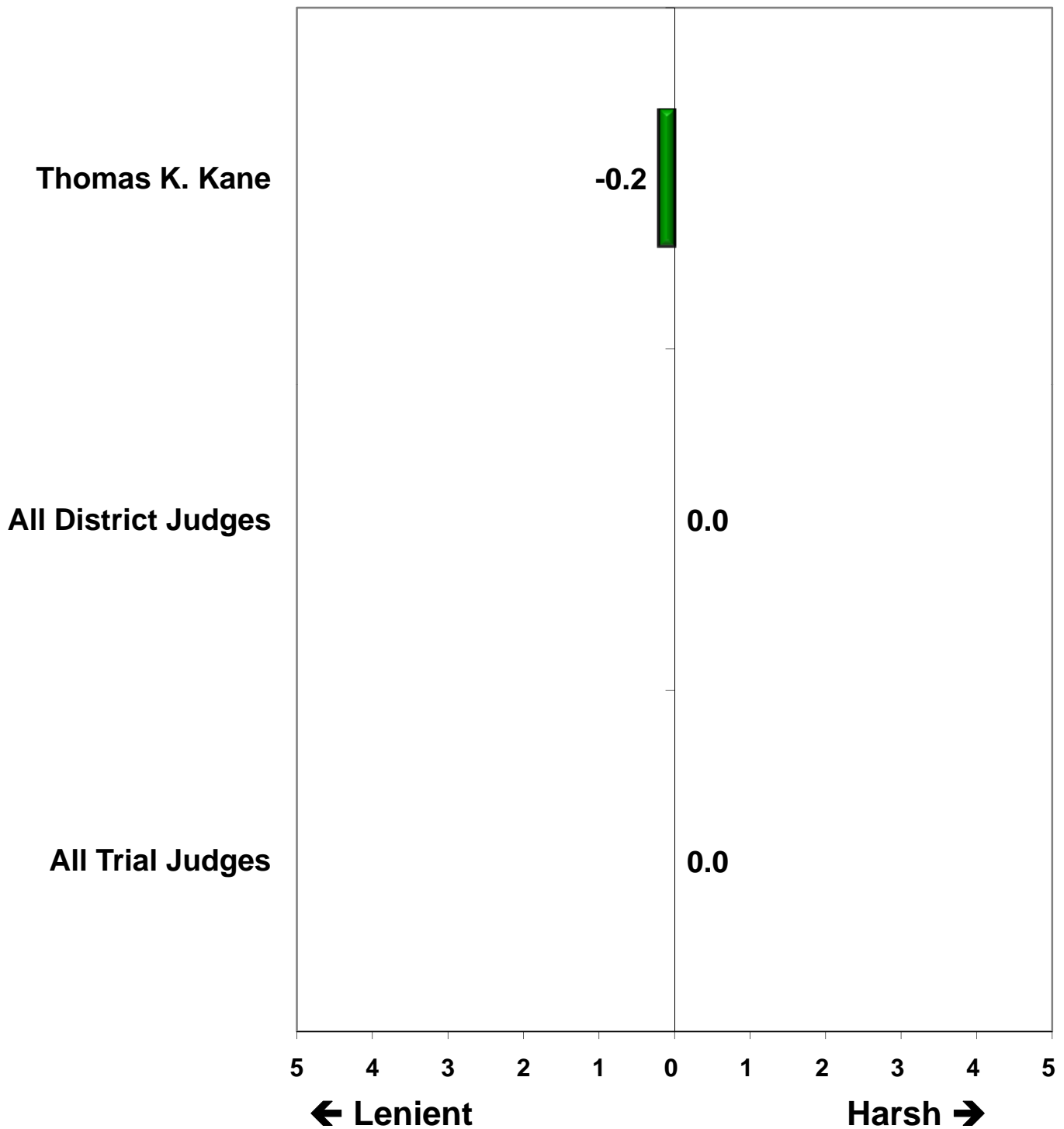
**Average: How biased do you think Judge Kane is toward the defense or prosecution?**



# Thomas K. Kane

Non-Attorney Survey

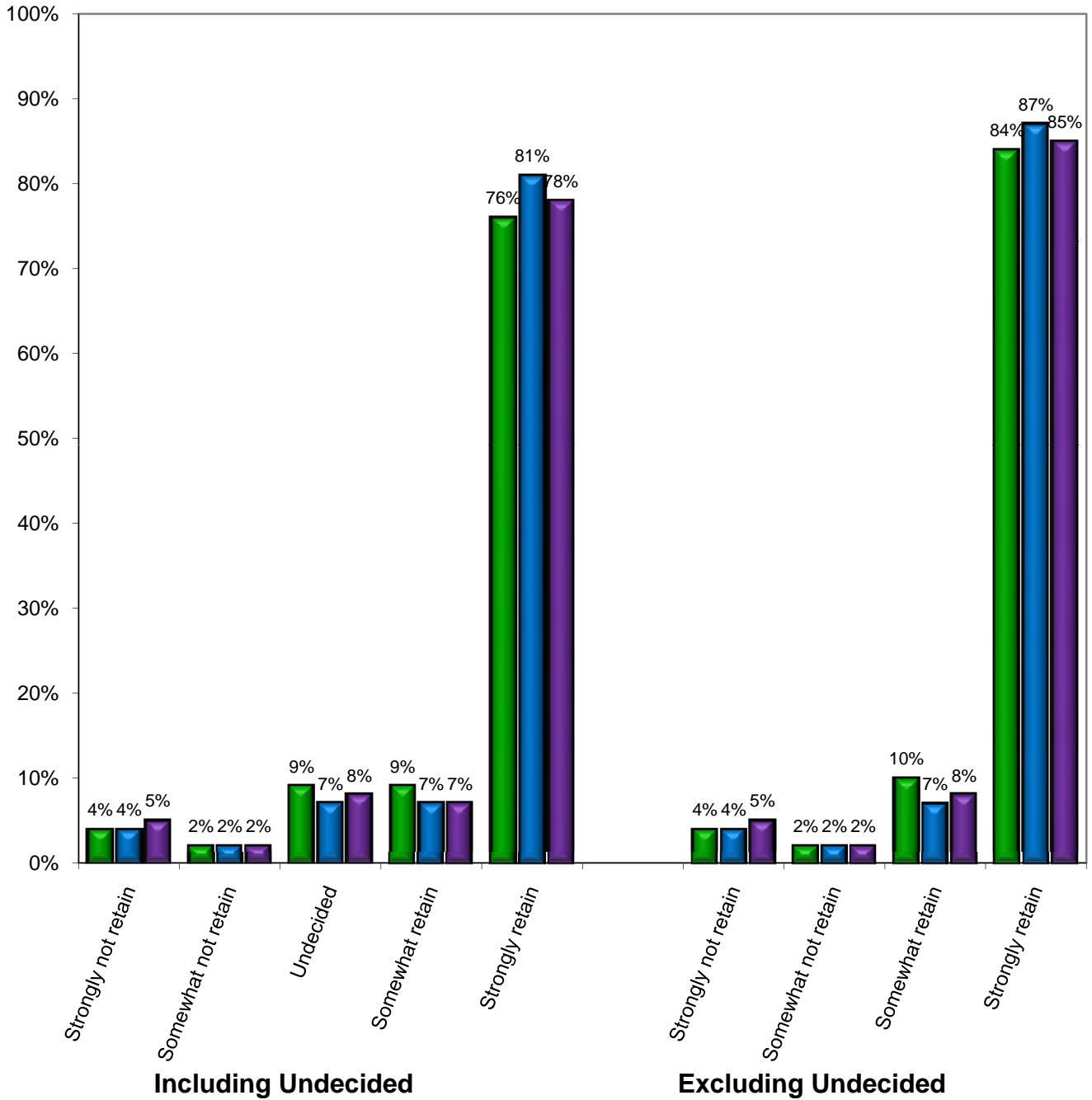
Average: How lenient or how harsh are Judge Kane's sentences?



# Thomas K. Kane

## Non-Attorney Survey

### Retention Recommendation



■ Judge Kane

■ All District Judges

■ All Trial Judges

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# Thomas K. Kane

## Non-Attorney Survey

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**1a. How would you grade Judge Kane on "Giving proceedings a sense of dignity?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	77%	76%	73%
B .....	11%	16%	18%
C .....	5%	3%	4%
D .....	1%	2%	2%
Fail .....	2%	1%	2%
No Grade .....	5%	1%	1%
<hr/>			
Average .....	3.7	3.7	3.6
Letter Grade .....	A-	A-	B+

---

## Thomas K. Kane Non-Attorney Survey

---

**1b. How would you grade Judge Kane on "Treating participants politely and with respect?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	80%	79%	76%
B .....	10%	13%	14%
C .....	3%	4%	4%
D .....	1%	1%	2%
Fail .....	1%	2%	3%
No Grade .....	4%	1%	1%
<hr/>			
Average .....	3.7	3.7	3.6
Letter Grade .....	A-	A-	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**1c. How would you grade Judge Kane on "Conducting [his/her] courtroom in a neutral manner?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	77%	77%	74%
B .....	10%	13%	14%
C .....	6%	4%	5%
D .....	1%	2%	2%
Fail .....	1%	2%	3%
No Grade .....	5%	1%	1%
<hr/>			
Average .....	3.7	3.6	3.6
Letter Grade .....	A-	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**1d. How would you grade Judge Kane on "Having a sense of compassion and human understanding for those who appear before the judge?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	64%	71%	69%
B .....	16%	17%	17%
C .....	6%	4%	5%
D .....	1%	2%	2%
Fail .....	3%	3%	4%
No Grade .....	10%	3%	3%
<hr/>			
Average .....	3.5	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane Non-Attorney Survey

---

**2a. How would you grade Judge Kane on "Giving participants an opportunity to be heard?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	70%	77%	75%
B .....	15%	14%	14%
C .....	4%	4%	4%
D .....	1%	2%	2%
Fail .....	2%	2%	3%
No Grade .....	7%	2%	2%
<hr/>			
Average .....	3.6	3.7	3.6
Letter Grade .....	B+	A-	B+



---

## Thomas K. Kane Non-Attorney Survey

---

**2b. How would you grade Judge Kane on "Treating those involved in the case without bias?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	69%	75%	73%
B .....	12%	14%	14%
C .....	7%	3%	4%
D .....	1%	2%	2%
Fail .....	4%	3%	4%
No Grade .....	7%	3%	3%
<hr/>			
Average .....	3.5	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**2c. How would you grade Judge Kane on "Treating fairly people who represent themselves?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	43%	47%	49%
B .....	9%	8%	9%
C .....	4%	2%	3%
D .....	0%	1%	1%
Fail .....	2%	2%	3%
No Grade .....	42%	39%	35%
<hr/>			
Average .....	3.6	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**2d. How would you grade Judge Kane on "Giving each side enough time to present his or her case?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	69%	75%	72%
B .....	13%	14%	14%
C .....	4%	3%	4%
D .....	1%	2%	2%
Fail .....	2%	2%	3%
No Grade .....	10%	5%	5%
<hr/>			
Average .....	3.6	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**3a. How would you grade Judge Kane on "Making sure participants understand the proceedings, and what's going on in the courtroom?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	75%	78%	76%
B .....	8%	13%	14%
C .....	5%	4%	5%
D .....	2%	2%	2%
Fail .....	1%	1%	2%
No Grade .....	8%	2%	2%
<hr/>			
Average .....	3.7	3.7	3.6
Letter Grade .....	A-	A-	B+

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## Thomas K. Kane Non-Attorney Survey

---

### 3b. How would you grade Judge Kane on "Using language that everyone can understand?"

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	75%	78%	76%
B .....	13%	16%	16%
C .....	4%	4%	4%
D .....	1%	1%	1%
Fail .....	1%	1%	1%
No Grade .....	5%	1%	1%
<hr/>			
Average .....	3.7	3.7	3.7
Letter Grade .....	A-	A-	A-

---

## Thomas K. Kane

### Non-Attorney Survey

---

**3c. How would you grade Judge Kane on "Speaking clearly so everyone in the courtroom can hear what's being said?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	78%	79%	78%
B .....	10%	14%	14%
C .....	6%	4%	4%
D .....	1%	1%	1%
Fail .....	1%	1%	1%
No Grade .....	5%	1%	1%
<hr/>			
Average .....	3.7	3.7	3.7
Letter Grade .....	A-	A-	A-

---

## Thomas K. Kane

### Non-Attorney Survey

---

**4a. How would you grade Judge Kane on "Beginning court on time?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	56%	61%	61%
B .....	24%	24%	24%
C .....	5%	7%	8%
D .....	1%	2%	2%
Fail .....	2%	2%	2%
No Grade .....	13%	4%	4%
<hr/>			
Average .....	3.5	3.5	3.4
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

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**4b. How would you grade Judge Kane on "Maintaining appropriate control over proceedings?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	81%	78%	77%
B .....	10%	15%	15%
C .....	1%	4%	4%
D .....	1%	1%	1%
Fail .....	2%	1%	1%
No Grade .....	4%	2%	2%
<hr/>			
Average .....	3.8	3.7	3.7
Letter Grade .....	A-	A-	A-



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## Thomas K. Kane

### Non-Attorney Survey

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**4c. How would you grade Judge Kane on "Setting reasonable schedules for cases?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	60%	64%	62%
B .....	16%	17%	17%
C .....	4%	5%	5%
D .....	1%	1%	1%
Fail .....	3%	2%	2%
No Grade .....	17%	12%	13%
<hr/>			
Average .....	3.5	3.6	3.6
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

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**4d. How would you grade Judge Kane on "Being prepared for [his/her] cases?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	70%	73%	71%
B .....	11%	14%	14%
C .....	4%	3%	4%
D .....	0%	1%	1%
Fail .....	1%	2%	2%
No Grade .....	13%	7%	8%
<hr/>			
Average .....	3.7	3.7	3.6
Letter Grade .....	A-	A-	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**4e. How would you grade Judge Kane on "Managing court proceedings so that there is little wasted time?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	70%	67%	66%
B .....	13%	21%	20%
C .....	4%	6%	7%
D .....	1%	2%	2%
Fail .....	3%	2%	2%
No Grade .....	8%	3%	3%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**5a. How would you grade Judge Kane on "Giving reasons for rulings?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	57%	67%	65%
B .....	13%	16%	16%
C .....	4%	4%	5%
D .....	1%	2%	2%
Fail .....	3%	2%	3%
No Grade .....	21%	9%	9%
<hr/>			
Average .....	3.5	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**5b. How would you grade Judge Kane on "Willing to make decision without regard to possible outside pressure?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	55%	61%	59%
B .....	13%	11%	12%
C .....	2%	3%	4%
D .....	1%	2%	2%
Fail .....	4%	3%	3%
No Grade .....	25%	20%	20%
<hr/>			
Average .....	3.5	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

---

**5c. How would you grade Judge Kane on "Being able to identify and analyze relevant facts?"**

	Judge Kane	All District Judges 2008	All Trial Judges 2008
A .....	62%	68%	66%
B .....	13%	13%	14%
C .....	5%	3%	4%
D .....	0%	2%	3%
Fail .....	4%	3%	4%
No Grade .....	17%	10%	10%
<hr/>			
Average .....	3.6	3.6	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas K. Kane

### Non-Attorney Survey

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**6. How biased do you think Judge Kane is towards the defense or the prosecution?**

		<u>Judge Kane</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
↑ Toward Prosecution	5 .....	1%	1%	2%
	4 .....	0%	1%	1%
	3 .....	2%	2%	2%
	2 .....	2%	2%	2%
	1 .....	6%	4%	5%
	0 Neutral .....	80%	84%	82%
↓ Toward Defense	-1 .....	3%	2%	3%
	-2 .....	2%	2%	1%
	-3 .....	1%	1%	1%
	-4 .....	1%	1%	1%
	-5 .....	1%	1%	1%
Average .....		0.0	0.1	0.1

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## Thomas K. Kane

### Non-Attorney Survey

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

		<u>Judge Kane</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
↑ To Harsh ⇌	5 .....	3%	2%	2%
	4 .....	0%	1%	2%
	3 .....	3%	2%	2%
	2 .....	0%	2%	2%
	1 .....	2%	3%	3%
	0 Appropriate .....	71%	78%	76%
	-1 .....	8%	5%	5%
	-2 .....	5%	4%	4%
⇌ To Light ↓	-3 .....	6%	2%	2%
	-4 .....	2%	1%	1%
	-5 .....	2%	1%	1%
Average .....		-0.2	0.0	0.0

---



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## Thomas K. Kane

### Non-Attorney Survey

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**12. Do you recommend that Judge Kane be retained in office or not be retained in office?**

	Judge Kane	All District Judges 2006	All Trial Judges 2008
<b>Strongly Recommend Retain in office</b> .....	84%	87%	85%
<b>Somewhat Recommend Retain in office</b> .....	10%	7%	8%
<b>Somewhat Recommend Not Retain in office</b> .....	2%	2%	2%
<b>Strongly Recommend Not Retain in office</b> .....	4%	4%	5%

# **Methodology**

# Methodology

**Sample:** The databases of names and addresses of the people who had likely been in each judge's courtroom were primarily provided by the Colorado Judicial Department, Colorado District Attorneys' Council and the Denver County Courts. These three sources provided name and address data in 2005, 2006, 2007 and 2008. Starting in the second quarter of 2007, the data was provided quarterly. Where there were low sample counts, this data was supplemented by contacting district court administrators for additional sample of particular types of potential respondents.

The data was then combined, duplicates removed and addresses corrected – quarterly starting in 2007. Depending on the available number of names and the count of already received surveys for a particular judge, either all or a random sample of names were drawn. 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 generally: 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 appeared.

**Survey:** Each person whose name was drawn was mailed an initial postcard informing the recipient that he or she would be receiving a questionnaire. Two to three weeks after the post card was mailed, the potential respondent would be sent a personalized introductory letter and a questionnaire with a postage-paid return envelope. Those who did not respond to the first questionnaire were then sent a sent follow-up postcard. If the person did not respond after the follow-up postcard, a second questionnaire and letter were sent and in some instances a second follow-up postcard was sent after the second letter and questionnaire. In order to increase the number of attorney responses, particularly for judges with few attorney responses, telephone interviews were conducted with attorneys who had not responded to the mailed questionnaires. Over 900 interviews were completed by telephone.

**Questionnaire:** The questionnaire used in the 2008 Judicial Performance Survey asked respondents to use a grade of A, B, C, D, or F (Fail) to assess the judge's performance in five different areas. For attorney respondents these areas were Case Management, Application and Knowledge of Law, Communications, Demeanor and Diligence, and for non-attorney respondents the five were Demeanor, Fairness, Communications, Diligence and Application of Law. These scores were then converted to a numerical value where A = 4, B = 3, C = 2, D = 1 and Fail = 0. Copies of the questionnaires are included at the end of this report.

**Response:** The estimated 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 estimated overall response rate as well as the response rate by the different types of respondents. The true response rates are likely considerably higher than shown because of the relatively high percentage of people who were mailed questionnaires about judges who they had not observed in court. 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 similar table showing the response counts and estimated cooperation rate for your survey is provided at the end of this methodology section.

	Total Sent	No Response	Undeliverable/ Not Applicable	Other Non-responses	Completes	Cooperation Rate
<b>Attorneys</b>						
<b><u>Criminal</u></b>						
District Attorneys	841	306	93	2	440	58.8%
Defense Attorneys	1,082	341	102	2	637	65.0%
Other Attorneys Crmnl	809	418	27	3	361	46.2%
<b><u>Civil</u></b>						
Attorneys for Litigants	1,395	312	171	13	899	73.4%
Other Attorneys Civil	598	280	53	2	263	48.3%
<b>Attorneys, Unknown Role</b>	<b>852</b>	<b>289</b>	<b>77</b>	<b>2</b>	<b>484</b>	<b>62.5%</b>
<b>Total Attorneys</b>	<b>5,577</b>	<b>1,946</b>	<b>523</b>	<b>24</b>	<b>3,084</b>	<b>61.0%</b>
<b>Non-attorneys</b>						
<b><u>Criminal</u></b>						
Law Enforcement	8,170	5,431	1,417	34	1,288	19.1%
Defendant	13,787	9,091	3,737	25	934	9.3%
Victim	295	222	63	2	8	3.4%
Witness	1,886	1,342	453	5	86	6.0%
Other	5,396	3,532	1,301	43	520	12.7%
<b><u>Civil</u></b>						
Litigant	6,552	4,390	1,109	21	1,032	19.0%
Witness	46	31	5	0	10	24.4%
Other	59	29	15	0	15	34.1%
<b>Non-attnys, Unknown Role</b>	<b>5,065</b>	<b>2,598</b>	<b>1,843</b>	<b>12</b>	<b>612</b>	<b>19.0%</b>
<b>Total Non-attorneys</b>	<b>41,256</b>	<b>26,666</b>	<b>9,943</b>	<b>142</b>	<b>4,505</b>	<b>14.4%</b>
<b>Others</b>						
Appellate Judges	26	6	0	0	20	76.9%
Jurors	10,214	4,940	460	22	4,792	49.1%
<b>Total Other</b>	<b>10,240</b>	<b>4,946</b>	<b>460</b>	<b>22</b>	<b>4,812</b>	<b>49.2%</b>
<b>Total</b>	<b>57,073</b>	<b>33,558</b>	<b>10,926</b>	<b>188</b>	<b>12,401</b>	<b>26.9%</b>

**Results:**

The results of the Survey are in three main sections: Attorney respondents, Appellate Judge respondents and Non-attorney respondents. Within the Attorney and Non-attorney section are subsections of graphs displaying average grades for each section of the questionnaire and each question and tables showing the percentage distribution of grades. The Appellate Judge section is new this year, and shows the percentage distribution of the grades given by the appellate judges on overall performance.

**Graphs:** The graphs visually display the overall average numerical grades received for all grade questions, each section and each question compared to averages for all district judges, and all trial judges for which 2008 surveys were conducted. Questions relating to bias toward the defense or prosecution, sentencing and retention recommendation are also graphed.

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

<b>A = 4.00</b>	<b>B = 3.00 to 3.33</b>	<b>C = 2.00 to 2.33</b>	<b>D = 1.00 to 1.33</b>
<b>A— = 3.67 to 3.99</b>	<b>B— = 2.67 to 2.99</b>	<b>C— = 1.67 to 1.99</b>	<b>D— = 0.67 to 0.99</b>
<b>B+ = 3.34 to 3.66</b>	<b>C+ = 2.34 to 2.66</b>	<b>D+ = 1.34 to 1.66</b>	<b>Fail = 0.00 to 0.66</b>

This section also includes two comparative columns of results: one comparative column shows the results for that question for district judges surveyed in 2008, along with a second comparative column showing the results for all trial judges in the 2008 survey.

**Projectability:**

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

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

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

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

# Thomas K. Kane

## Responses by Type

<i>Role Type</i>	<i>Total Sent</i>	<i>No Response</i>	<i>Undeliverable/ Not Applicable</i>	<i>Other Non-Responses</i>	<i>Completes</i>	<i>Coop Rate</i>
<b>Attorneys</b>						
<u><b>Criminal</b></u>						
District Attorneys	24	2	5	1	16	84.2%
Defense Attorneys	4	0	1	0	3	100.0%
Other Attorneys Criminal	1	0	0	0	1	100.0%
<u><b>Civil</b></u>						
Attorneys for Litigants	25	4	0	0	21	84.0%
Attorneys, Unknown Role Type	12	4	1	0	7	63.6%
<b>Total Attorneys</b>	<b>66</b>	<b>10</b>	<b>7</b>	<b>1</b>	<b>48</b>	<b>16.9%</b>
<b>Non-attorneys</b>						
<u><b>Criminal</b></u>						
Law Enforcement	219	141	43	0	35	19.9%
Defendant	169	110	52	0	7	6.0%
Witness	8	5	3	0	0	0.0%
Other	275	196	47	1	31	13.6%
<u><b>Civil</b></u>						
Litigant	110	76	16	0	18	19.1%
Non-attorneys, Unknown Role Type	1	1	0	0	0	0.0%
<b>Total Non-attorneys</b>	<b>782</b>	<b>529</b>	<b>161</b>	<b>1</b>	<b>91</b>	<b>85.2%</b>
<b>Others</b>						
Appellate Judges	26	6	0	0	20	76.9%
Jurors	94	47	2	0	45	48.9%
<b>Total Others</b>	<b>120</b>	<b>53</b>	<b>2</b>	<b>0</b>	<b>65</b>	<b>44.9%</b>
<b>Grand Total:</b>	<b>968</b>	<b>592</b>	<b>170</b>	<b>2</b>	<b>204</b>	<b>25.6%</b>



# **Questionnaires**

# Commission on Judicial Performance

## Attorney Questionnaire

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

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11. Is there anything else that you would like to say about Judge *[Last Name]*?

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

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

And why do you think that way about retaining or not retaining Judge *[Last Name]*?

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

### Evaluation of JUDGE [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 do not 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/NS).*

<u>1. Case Management:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>DK</u> <u>N/A</u>
a. Promptly making rulings during trial.	4	3	2	1	0	9
b. Beginning court on time.	4	3	2	1	0	9
c. Allotting appropriate amount of time for cases.	4	3	2	1	0	9
d. Keeping cases moving according to schedule.	4	3	2	1	0	9
e. <i>[Civil only]</i> <sup>1</sup> Assisting parties to reach agreement.	4	3	2	1	0	9
f. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
g. Promptly ruling on pre-trial motions.	4	3	2	1	0	9
h. Promptly issuing a decision on the case after trial.	4	3	2	1	0	9
i. Setting reasonable schedules for cases.	4	3	2	1	0	9

<u>2. Application and Knowledge of Law:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>DK</u> <u>N/A</u>
a. Basing decisions on evidence and arguments.	4	3	2	1	0	9
b. Giving reasons for rulings.	4	3	2	1	0	9
c. <i>[Civil only]</i> <sup>1</sup> Issuing written findings of fact and law.	4	3	2	1	0	9
d. Willing to reconsider error in fact or law.	4	3	2	1	0	9
e. Having knowledge of relevant substantive law.	4	3	2	1	0	9
f. Having knowledge of rules of procedure and evidence.	4	3	2	1	0	9
g. Being able to identify and analyze relevant facts.	4	3	2	1	0	9
h. <i>[Criminal only]</i> <sup>2</sup> Issuing consistent sentences when the circumstances are similar.	4	3	2	1	0	9
i. Willing to make decisions without regard to possible criticism.	4	3	2	1	0	9
j. Making decisions without fear of being appealed.	4	3	2	1	0	9

**DK**

<sup>1</sup> Please answer questions 1e & 2c only if you have observed the judge in a civil case.

<sup>2</sup> Please answer question 2h only if you have observed the judge in a criminal case.

**3. Communications:**

	A	B	C	D	F	N/A
a. Speaking clearly.	4	3	2	1	0	9
b. Making sure all participants understand the proceedings.	4	3	2	1	0	9
c. Using understandable language.	4	3	2	1	0	9
d. Providing written communications that are clear, thorough and well reasoned.	4	3	2	1	0	9

**4. Demeanor:**

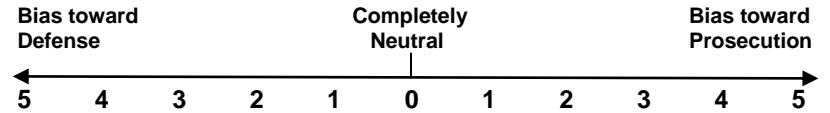
	A	B	C	D	F	DK N/A
a. Giving proceedings a sense of dignity.	4	3	2	1	0	9
b. Treating everyone involved politely.	4	3	2	1	0	9
c. Having empathy with the parties involved.	4	3	2	1	0	9
d. Treating participants with respect.	4	3	2	1	0	9
e. Presenting a neutral presence on the bench.	4	3	2	1	0	9
f. Being consistent in <i>his/her</i> behavior	4	3	2	1	0	9
g. Conducting <i>his/her</i> courtroom in a neutral manner.	4	3	2	1	0	9
h. Giving all participants an opportunity to be heard.	4	3	2	1	0	9
i. Consistently applying laws and rules.	4	3	2	1	0	9
j. Not engaging in <i>ex parte</i> communications	4	3	2	1	0	9
k. Treating <i>pro se</i> parties fairly.	4	3	2	1	0	9

**5. Diligence:**

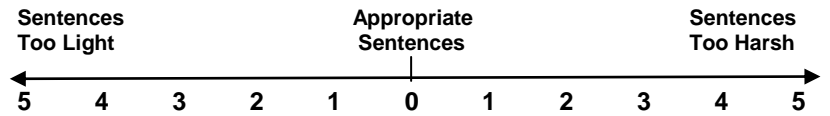
	A	B	C	D	F	DK N/A
a. Making tough decisions when necessary.	4	3	2	1	0	9
b. Using good judgment in application of relevant law and rules.	4	3	2	1	0	9
c. Doing the necessary “homework” and being prepared for <i>his/her</i> cases.	4	3	2	1	0	9
d. Being willing to handle cases on the docket even when they are complicated and time consuming.	4	3	2	1	0	9
e. Providing prompt access to the court in emergency matters.	4	3	2	1	0	9

{Question 3d is asked only regarding district judges.}

6. *[Criminal cases only]*<sup>1</sup> 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.”



7. *[Criminal cases only]*<sup>1</sup> On the scale below, please indicate by circling the appropriate number how lenient or how harsh you think the sentences generally handed down by Judge *[Last Name]* are. If you feel Judge *[Last Name]* generally hands down appropriate sentences, circle “0.”



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. If an associate were assigned to Judge *[Last Name]* in a case and asked you for advice, what would you say?

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

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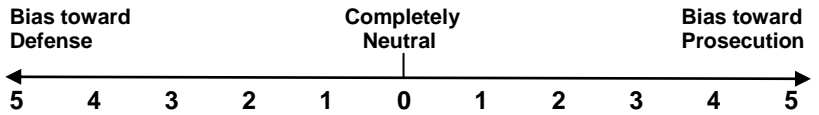
<sup>1</sup> Please answer questions 6 & 7 only if you have observed the judge in a criminal case.



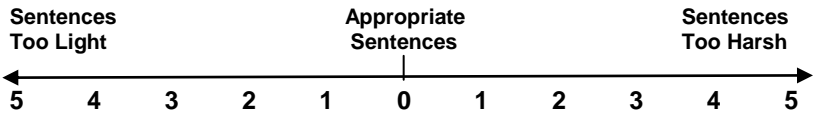
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>DK N/A</b>
<b>4. Diligence:</b>						
a. Beginning court on time.	4	3	2	1	0	9
b. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
c. Setting reasonable schedules for cases.	4	3	2	1	0	9
d. Being prepared for his/her cases.	4	3	2	1	0	9
e. Managing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

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>DK N/A</b>
<b>5. Application of Law:</b>						
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."



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."



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. If a friend of yours was scheduled to appear before Judge [Last Name] as a party in either a civil or criminal case and asked you for advice, what would you tell your friend about Judge [Last Name]?

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

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

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11. Is there anything else that you would like to say about Judge [Last Name]?

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