COLORADO

Office of Judicial Performance Evaluation

Judicial Branch

The Honorable Timothy G. Kerns
2017 Judicial Performance Survey Report
District Court

Conducted by:

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Summary of Results

For Judge Timothy G. Kerns, 76 qualified survey respondents submitted surveys. Of those who responded, 49 agreed they had worked with Judge Kerns enough to evaluate his performance. This report reflects these 49 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

Figure 1

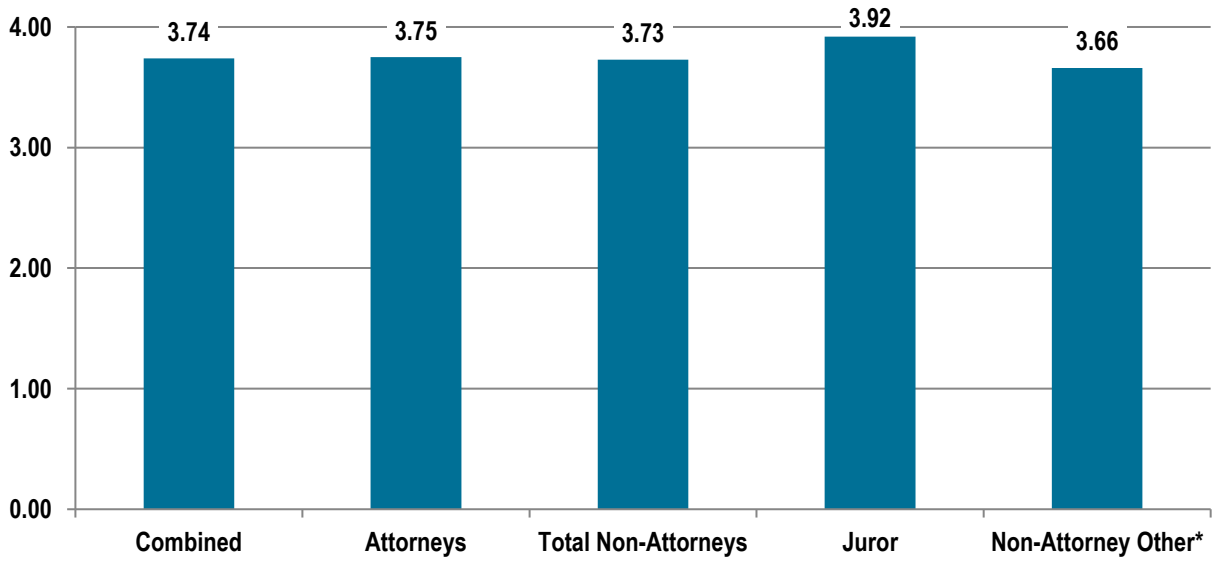


Table 1

Judge Timothy G. Kerns Overall Scores					
			Non-Attorneys		
	Combined	Attorneys	Total Non-Attorneys	Juror	Non-Attorney Other*
Overall Grade	3.74	3.75	3.73	3.92	3.66

* The Non-Attorney Other category includes law enforcement personnel, defendants, litigants, and witnesses.

Retention Scores

Figure 2

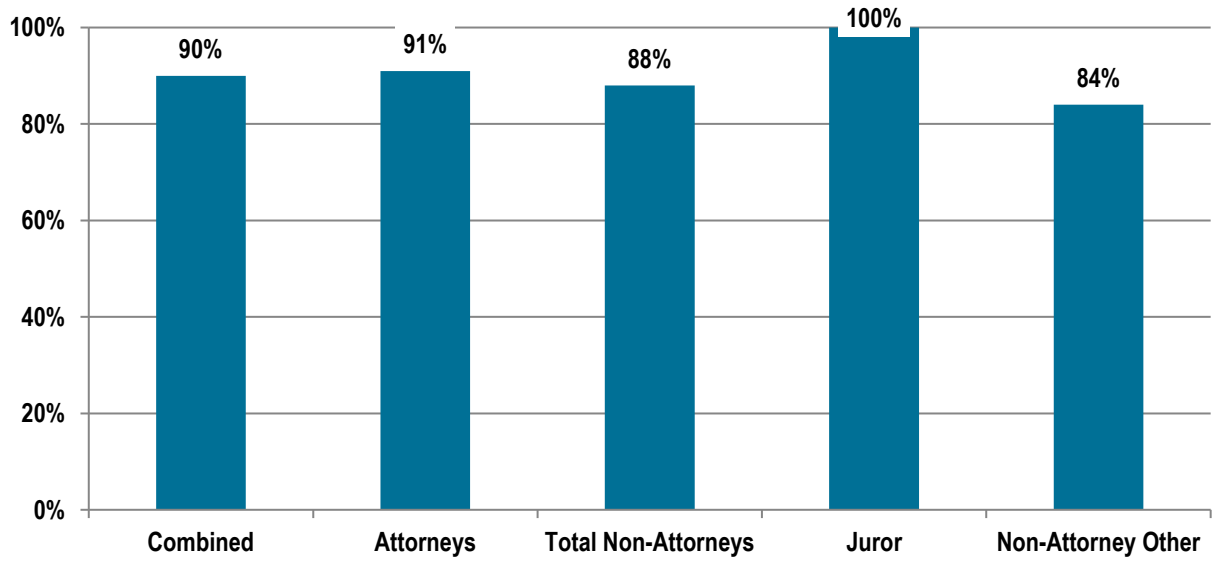


Table 2

Judge Timothy G. Kerns Overall Retention Scores					
			Non-Attorneys		
	Combined	Attorneys	Total Non-Attorneys	Juror	Non-Attorney Other
% Recommending Retention	90%	91%	88%	100%	84%

Individual Category Scores

Table 3

Judge Timothy G. Kerns Overall Category Scores				
Area	Attorney	Non-Attorney		
		Total	Juror	Non-Attorney Other
Case Management	3.76	N/A	N/A	N/A
Application and Knowledge of Law	3.68	3.64	3.75	3.61
Communications	3.73	3.80	3.83	3.79
Diligence	3.74	3.79	4.00	3.71
Demeanor	3.84	3.72	4.00	3.61
Fairness	N/A	3.70	4.00	3.59

Summary of Responses

Table 4: Response Rates

Group	Total Sent	Undeliverable or Not Applicable*	Complete	Response Rate**	% Without sufficient knowledge***
Attorneys	159	0	55	35%	40%
Total Non-Attorneys	267	15	21	8%	24%
Staff	0	0	0	N/A	N/A
Jurors	8	0	4	50%	0%
Other Non-Attorneys	259	15	17	7%	29%

*Undeliverable or Not Applicable surveys are those that were returned as undeliverable, the person no longer works at the address provided, or the respondent is deceased.
** Response rates are calculated by adding the number of completed responses to the number of undeliverable responses and dividing the results by the total invitations sent.
***The percent without sufficient knowledge are those that said they had insufficient experience to evaluate the judge or justice.

Survey of Attorneys

Methodology and How to Read Results

For Judge Kerns, 55 qualified survey respondents submitted surveys. Of those who responded, 33 agreed they had worked with Judge Kerns enough to evaluate his performance. This report reflects these 33 responses. The survey results are divided into nine sections: Retention, Case Management, Application and Knowledge of Law, Communications, Demeanor, Diligence, Bias, Strengths, and Weaknesses.

The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Judges" on the charts.

a. Response rates

During the 2016-2017 administration, a total of 23,267 survey invitations were sent to 5,865 attorneys inviting them to evaluate judges and justices eligible to receive an interim review in 2017. On average, each attorney was asked to evaluate 3 judges. 4,676 surveys were completed with an additional 2,022 responses where the attorneys 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 29% and the survey completion rate (the number of those familiar enough to evaluate the judge divided by the total number of attorney responses including those indicating they did not have sufficient familiarity to evaluate the judge) was 60%.

b. Methodology

The 2016-2017 attorney survey was conducted online beginning on September 16th, 2016. Attorneys were first mailed a pre-notification letter sent on September 16th, 2016 informing them about the survey and providing a link and login information to access the survey online. Next, a series of three email invitations were sent on September 27th, October 12th, and November 1st, 2016.

To further increase response rates, an additional cycle of data collection took place in January and February 2017. Invitations were sent to attorneys who had appeared before judges receiving interim evaluations in the 3rd and 4th quarters of 2016. A pre-notification letter was sent to these attorneys on January 31st, 2017 and was followed up by emailed invitations sent on February 7th, February 16th, and February 27th, 2017. Additional invitations were sent out on request throughout data collection. All online surveys were closed and mail returns were cut off on March 2nd, 2017.

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 (for Fail). These aspects were grouped by topic into categories; five for district and county judges and two for appellate. 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 (which was only asked of those who indicated they had experience with the judge or justice's written opinions).

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

While the formatting and structure of the survey was updated for 2016, the question wording was carried over from the 2015 administration and has remained consistent since 2013. The questions were originally developed in 1998 to meet the criteria outlined in statute 13-5.5-101 et seq.

Question Category Areas*

	Trial Judge: Attorney Survey	Appellate Judge/Justice Attorney Survey
Question Categories		
Appellate Judge General Questions		6
Application and Knowledge of Law	5	
Case Management	4	
Communications	2	
Demeanor	3	
Diligence	3	
Writing		6
Individual Questions		
Bias	1	
Recommendation to Retain	1	1

****The numbers in the table refer to the number of questions asked in each category by survey group.***

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 attorney. 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 with each category. This score will have the same numerical range as the individual questions from zero to four. Similarly, an average score is calculated for each individual question with the exception of the bias and retention questions.

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 exceptions 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. That is, the percentage of attorneys that assigned a rating of A, B, C, D, and F. The distribution of responses is also reported for the questions on bias and retention.

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. Respondents were also asked what they considered to be the judge's strengths and weaknesses and were allowed to leave open-ended responses to each. 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.

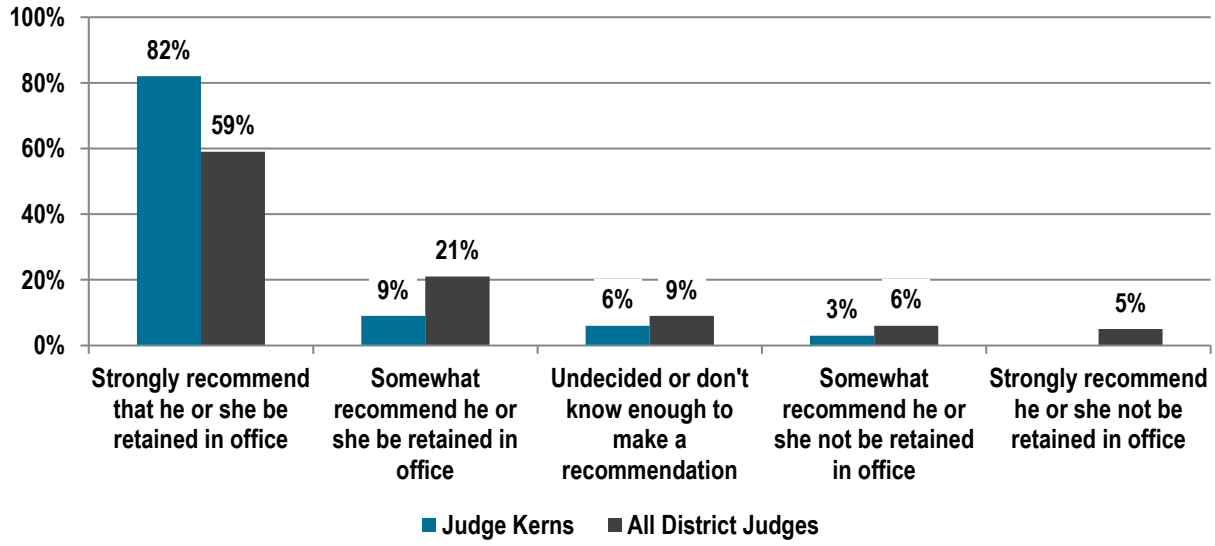
Retention

Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge Timothy G. Kerns be retained in office, or not be retained in office?

Table 5

Judge Timothy G. Kerns	
Total Retain	**91%**
Neither	**6%**
Total Not Retain	**3%**

Figure 3



Case Management

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

Figure 4

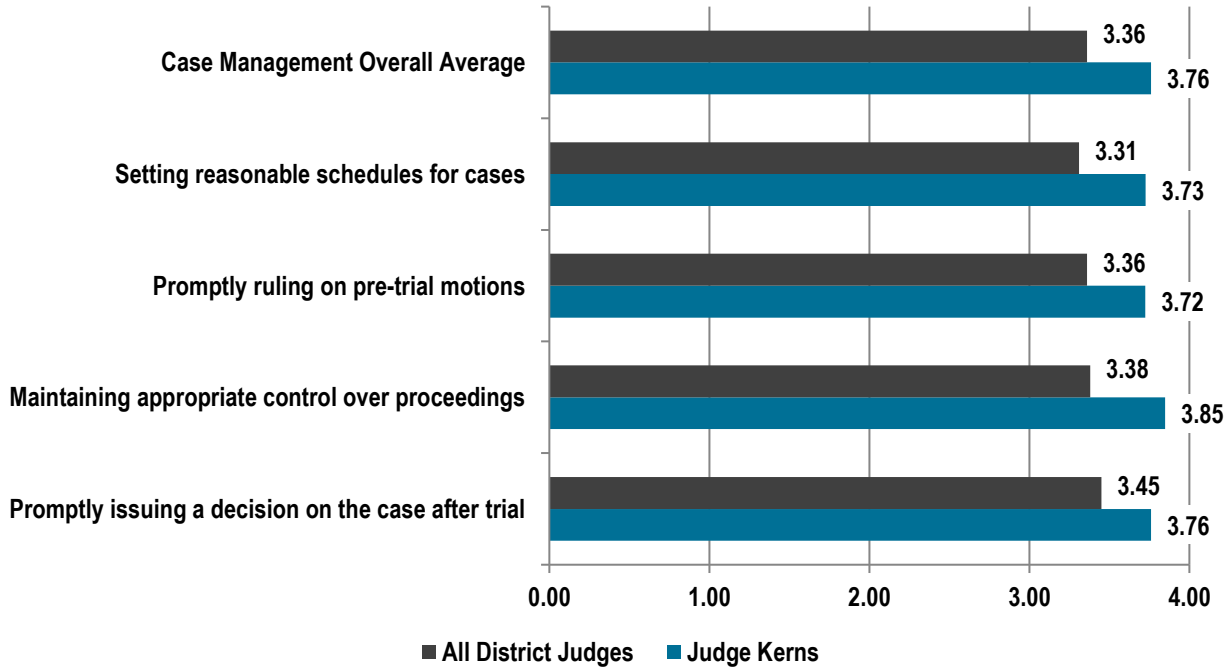


Table 6

Case Management								
Judge Timothy G. Kerns Number of Responses: 33	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Promptly issuing a decision on the case after trial	58%	18%	--	--	--	24%	3.76	3.45
Maintaining appropriate control over proceedings	85%	15%	--	--	--	--	3.85	3.38
Promptly ruling on pre-trial motions	66%	25%	--	--	--	9%	3.72	3.36
Setting reasonable schedules for cases	76%	21%	3%	--	--	--	3.73	3.31
Case Management Overall Average							3.76	3.36

Application and Knowledge of Law

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

Figure 5

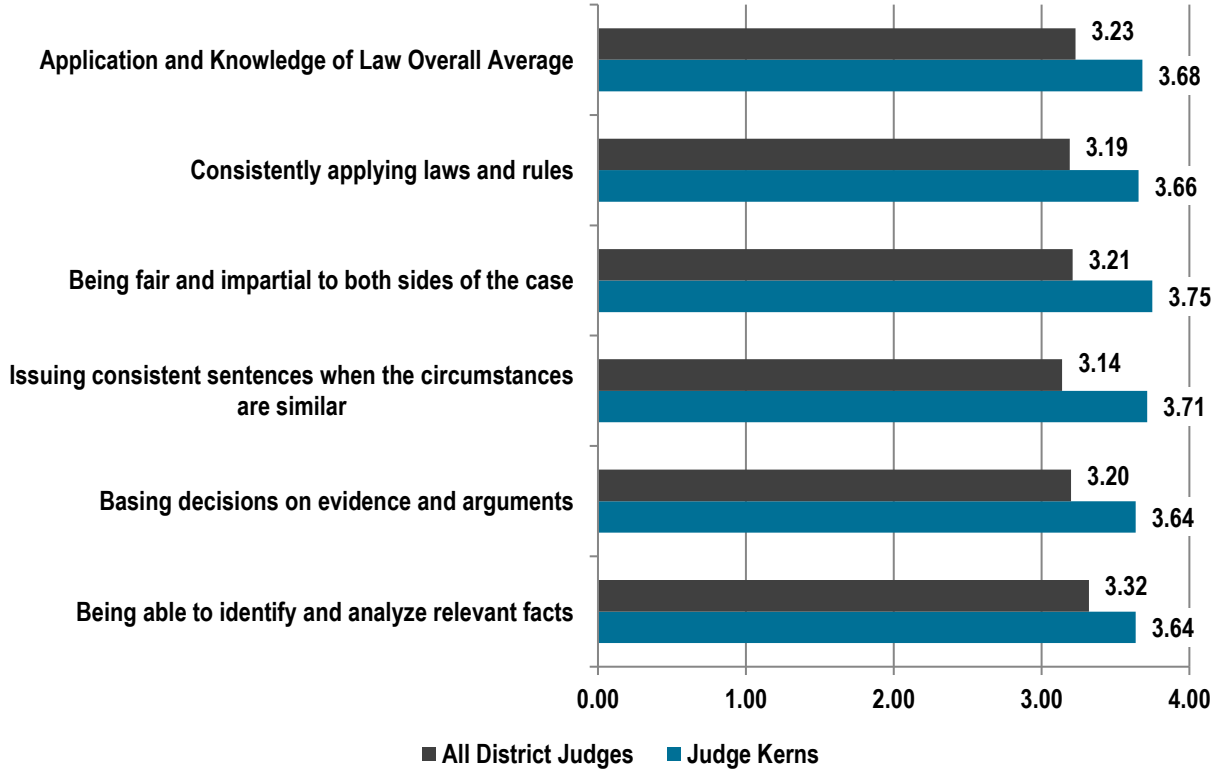


Table 7

Application and Knowledge of Law								
Judge Timothy G. Kerns Number of Responses: 33	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Being able to identify and analyze relevant facts	67%	30%	3%	--	--	--	3.64	3.32
Basing decisions on evidence and arguments	70%	24%	6%	--	--	--	3.64	3.20
Issuing consistent sentences when the circumstances are similar	67%	27%	--	--	--	7%	3.71	3.14
Being fair and impartial to both sides of the case	84%	9%	3%	3%	--	--	3.75	3.21
Consistently applying laws and rules	75%	19%	3%	3%	--	--	3.66	3.19
Application and Knowledge of Law Overall Average							3.68	3.23

Communications

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

Figure 6

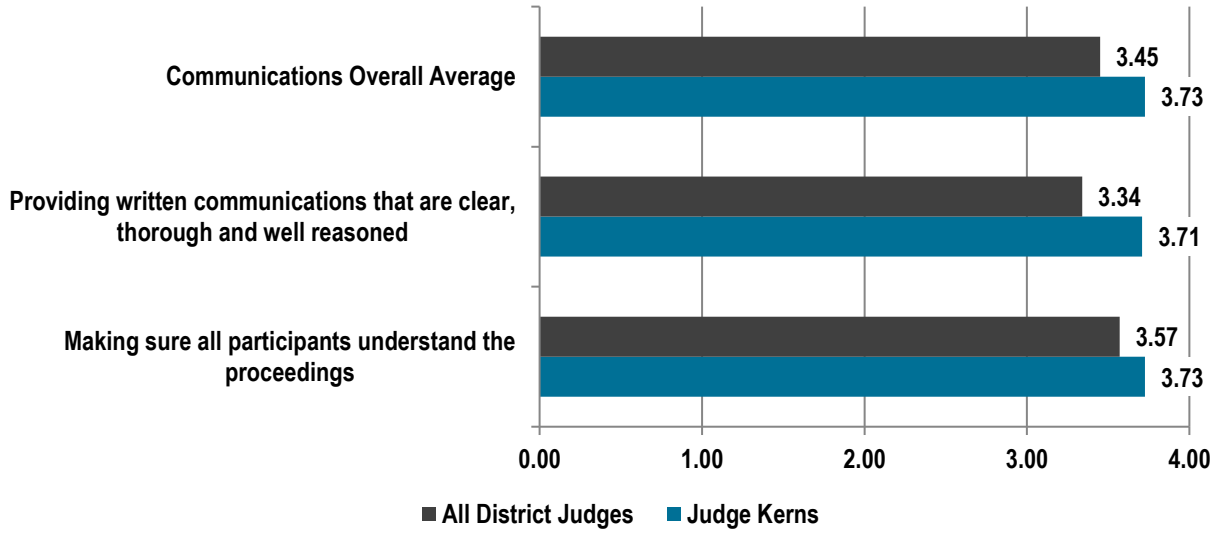


Table 8

Communications								
Judge Timothy G. Kerns Number of Responses: 33	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Making sure all participants understand the proceedings	76%	21%	3%	--	--	--	3.73	3.57
Providing written communications that are clear, thorough and well reasoned	70%	21%	3%	--	--	6%	3.71	3.34
Communications Overall Average							3.73	3.45

Demeanor

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

Figure 7

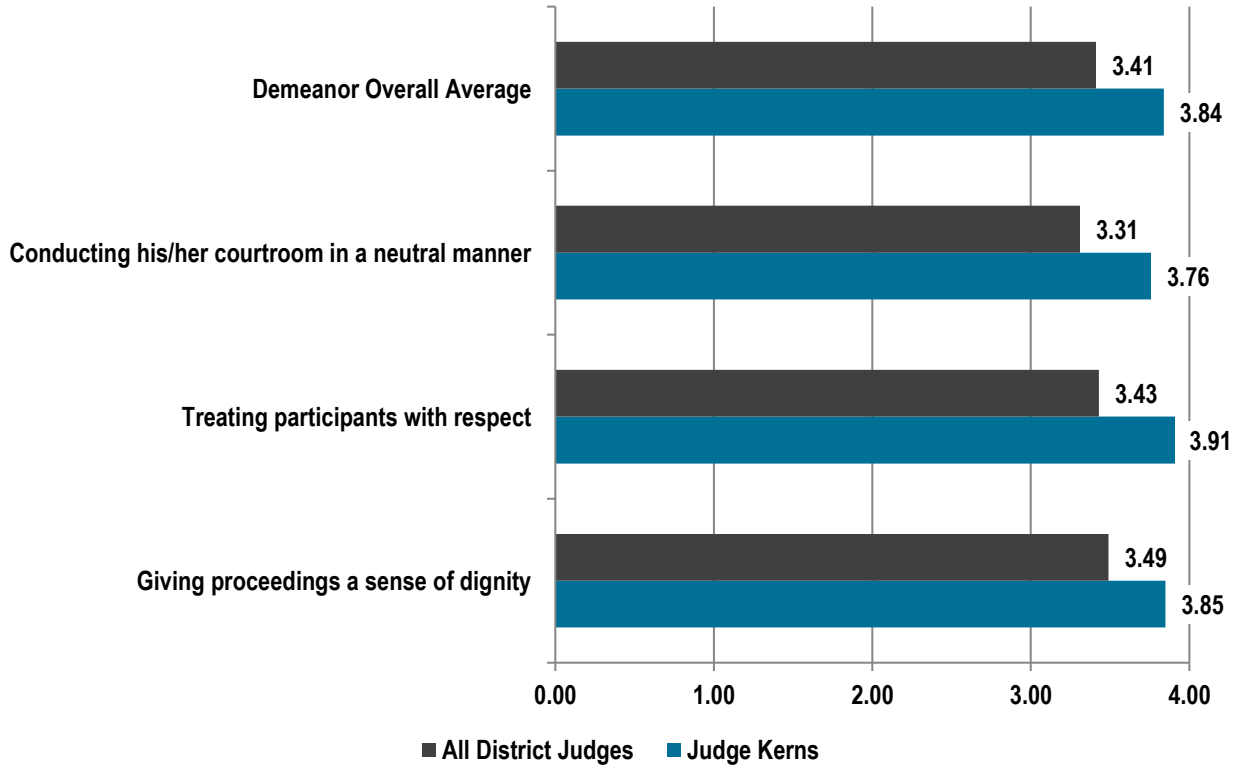


Table 9

Demeanor								
Judge Timothy G. Kerns Number of Responses: 33	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Giving proceedings a sense of dignity	85%	15%	--	--	--	--	3.85	3.49
Treating participants with respect	94%	3%	3%	--	--	--	3.91	3.43
Conducting his/her courtroom in a neutral manner	88%	3%	6%	3%	--	--	3.76	3.31
Demeanor Overall Average							3.84	3.41

Diligence

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

Figure 8

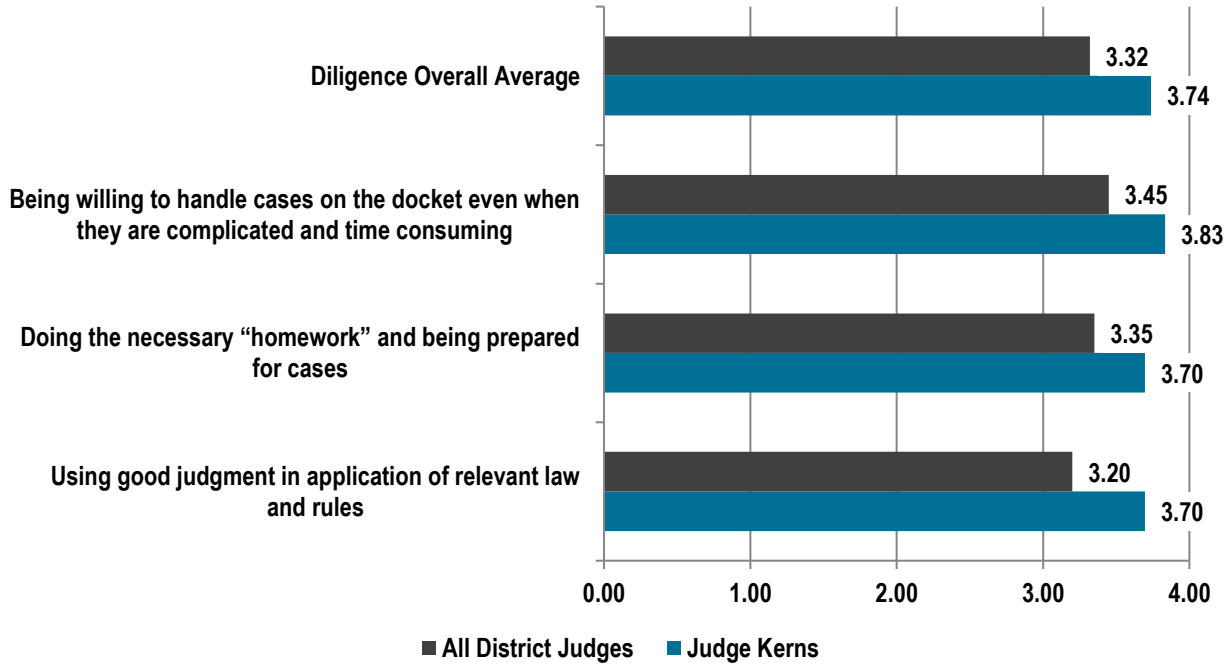


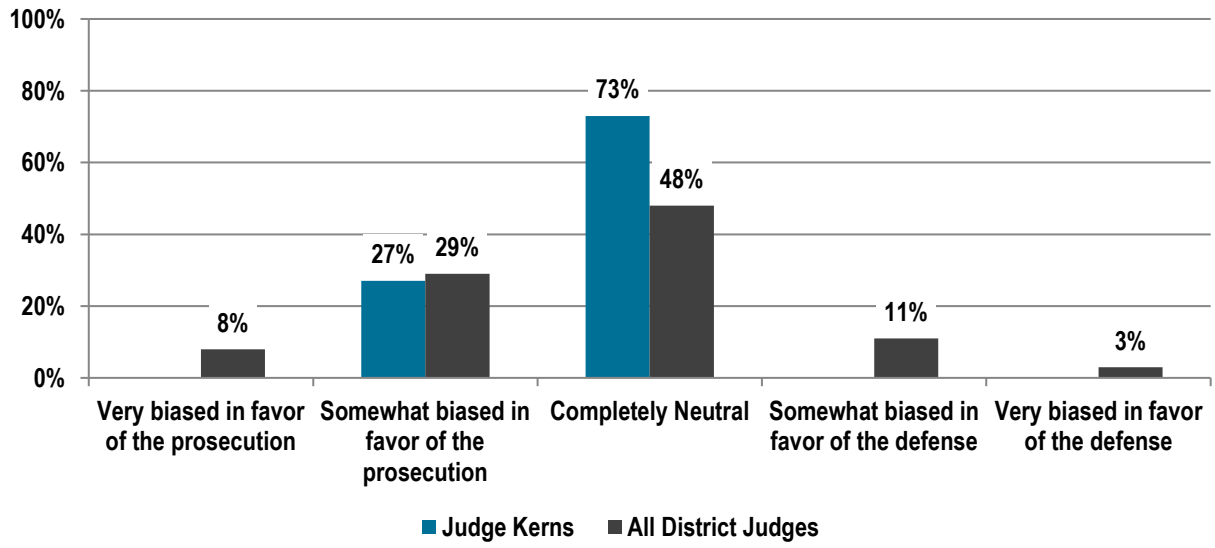
Table 10

Diligence								
Judge Timothy G. Kerns Number of Responses: 33	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Using good judgment in application of relevant law and rules	73%	24%	3%	--	--	--	3.70	3.20
Doing the necessary "homework" and being prepared for cases	79%	15%	3%	3%	--	--	3.70	3.35
Being willing to handle cases on the docket even when they are complicated and time consuming	76%	15%	--	--	--	9%	3.83	3.45
Diligence Overall Average							3.74	3.32

Bias

Having observed Judge Kerns in a criminal case, would you say the judge is:

Figure 9



Survey of Non-Attorneys

Methodology and How to Read Results

For Judge Timothy G. Kerns, 21 qualified survey respondents submitted surveys. Of those who responded, 16 agreed they had worked with Judge Kerns enough to evaluate his performance. This report reflects these 16 responses.

a. Response rates

During the 2016 administration of non-attorneys, 5,418 complete surveys have been received and an additional 1,940 indicated that they did not have enough experience to evaluate the judge. The response rate among non-attorneys is 8% and the completion rate is 70%.

b. Methodology

The 2016-2017 non-attorney survey was conducted via a mixed mode online and mail survey beginning May 18th, 2016 and ending on March 2nd, 2017.

Due to email addresses not being available, non-attorneys were first mailed a pre-notification letter sent on May 18th, 2016 informing them about the survey and providing a link and login information to access the survey online. This was followed up with a second mailing that also included the information to access the survey online, as well as a full printed survey booklet and postage-paid return envelope. This second mailing was sent on June 17th, 2016. Invitations for this first cycle were based on experiences with judges that occurred in the first quarter of 2016.

This process for non-attorneys was repeated in the fall of 2016 for those that had experience with judges receiving an interim evaluation in the 2nd quarter of 2016, and again in January and February 2017 for those who had experiences with judges in the 3rd and 4th quarters of 2016.

For the fall cycle, the pre-notification letter was sent on September 16th, 2016 and the follow-up survey booklet was sent on November 2nd, 2016. For the January-February cycle, the order of the mailings was switched due to the constraints of the reporting schedule. The first mailing, sent on January 31st, 2017, included the full survey booklet and a return mailing envelope as well as instructions to access the survey online. The second mailing, sent on February 14th, 2017, included only a letter with instructions to complete the survey online and reminded them of the survey deadline on March 1st, 2017.

c. Questions:

Respondents evaluated judges on 19 aspects of judicial performance using a grade scale of A, B, C, D, or F (for Fail). Respondents were also asked if they considered the judge biased toward the defense or prosecution in criminal cases. Non-attorneys were also asked to evaluate the appropriateness of the sentencing. In a final question, respondents were asked to indicate how strongly they would recommend that the judge be retained or not retained in office.

Question Category Areas*

	Non-attorneys
Question Categories	
Application of Law	3
Communications	3
Demeanor	4
Diligence	5
Fairness	4

Individual Questions

Bias	1
Appropriateness of Sentence	1
Recommendation to Retain	1

****The numbers in the table refer to the number of questions asked in each category by survey group.***

d. Analysis and Reporting

Letter grades were then 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. 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 with each category. This score will have the same numerical range as the individual questions from zero to four. Similarly, an average score is calculated for each individual question with the exception of the bias and retention questions.

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 exceptions 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. That is, the percentage of attorneys that assigned a rating of A, B, C, D, and F. The distribution of responses is also reported for the questions on bias and retention as well as appropriateness of sentences.

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. Respondents were also asked what they considered to be the judge's strengths and weaknesses and were allowed to leave open-ended responses to each. 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.

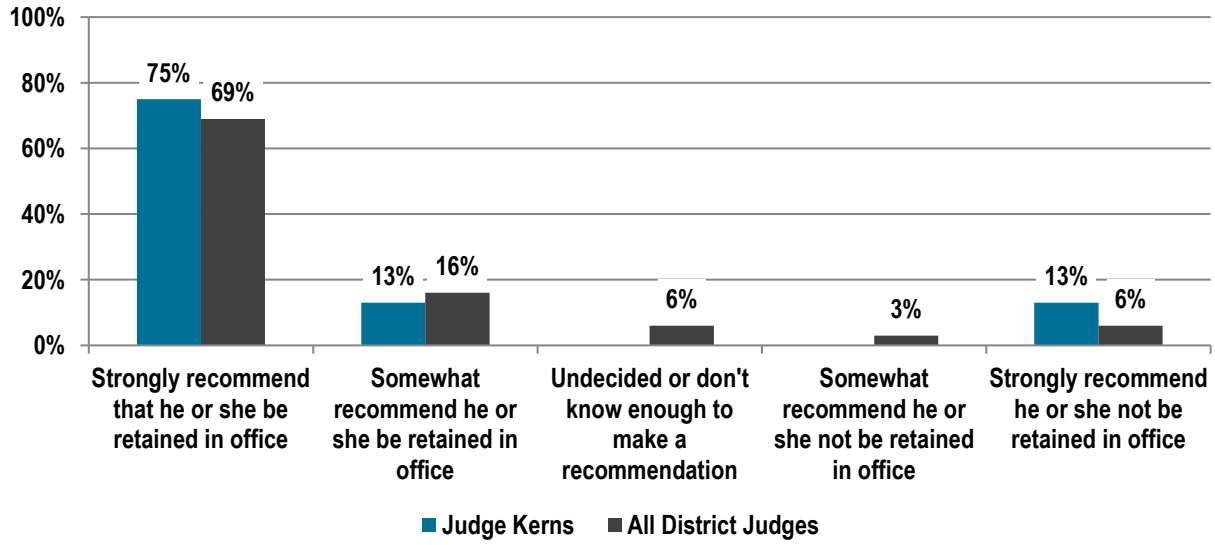
Retention

Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge Kerns be retained in office, or not retained in office?

Table 11

Judge Timothy G. Kerns	
Total Retain	88%
Neither	0%
Total Not Retain	13%

Figure 10



Demeanor

Using a grade scale, where an “A” is excellent along with B, C, D, or F for fail, please grade the judge on the following. If you feel that you don’t have experience with the judge in a specific area, or just don’t know, please mark “Don’t Know/Not Applicable” - DK/NA.

Figure 11

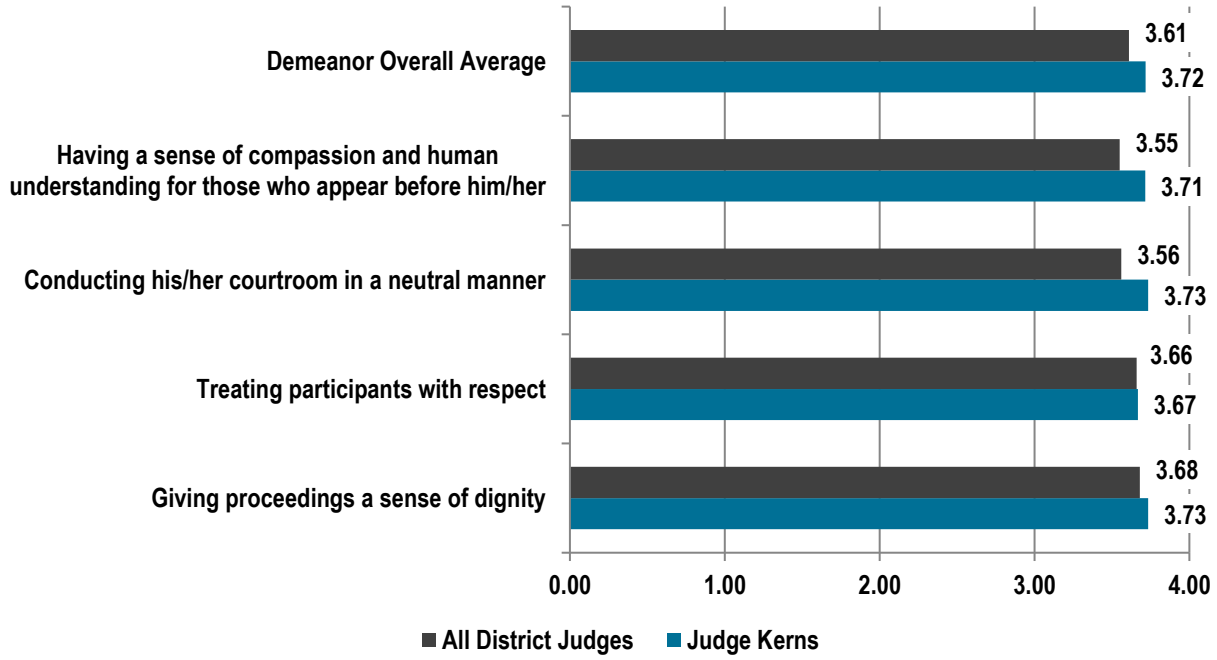


Table 12

Demeanor								
Judge Timothy G. Kerns Number of Responses: 15	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Giving proceedings a sense of dignity	87%	7%	--	7%	--	--	3.73	3.68
Treating participants with respect	87%	7%	--	--	7%	--	3.67	3.66
Conducting his/her courtroom in a neutral manner	87%	7%	--	7%	--	--	3.73	3.56
Having a sense of compassion and human understanding for those who appear before him/her	87%	--	--	--	7%	7%	3.71	3.55
Demeanor Overall Average							3.72	3.61

Fairness

Using a grade scale, where an “A” is excellent along with B, C, D, or F for fail, please grade the judge on the following. If you feel that you don’t have experience with the judge in a specific area, or just don’t know, please mark “Don’t Know/Not Applicable” - DK/NA.

Figure 12

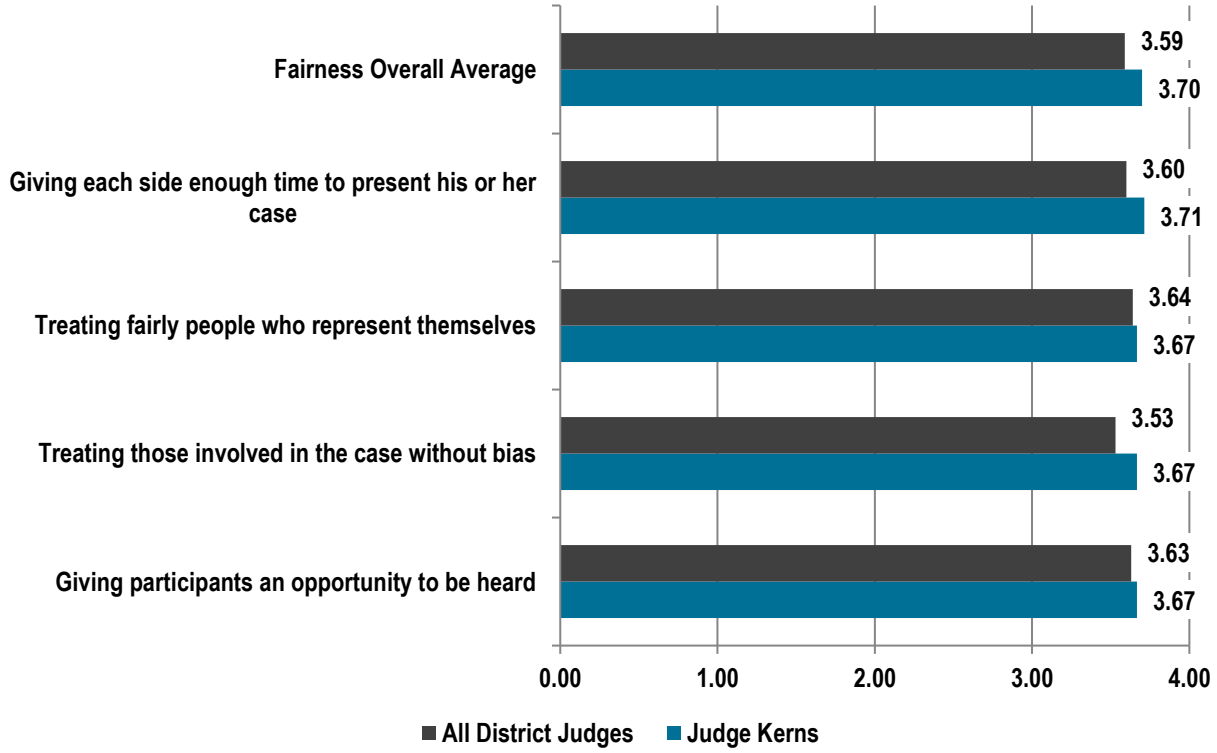


Table 13

Fairness								
Judge Timothy G. Kerns Number of Responses: 15	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Giving participants an opportunity to be heard	87%	7%	--	--	7%	--	3.67	3.63
Treating those involved in the case without bias	87%	7%	--	--	7%	--	3.67	3.53
Treating fairly people who represent themselves	73%	--	--	--	7%	20%	3.67	3.64
Giving each side enough time to present his or her case	80%	7%	--	7%	--	7%	3.71	3.60
Fairness Overall Average							3.70	3.59

Communications

Using a grade scale, where an “A” is excellent along with B, C, D, or F for fail, please grade the judge on the following. If you feel that you don’t have experience with the judge in a specific area, or just don’t know, please mark “Don’t Know/Not Applicable” - DK/NA.

Figure 13

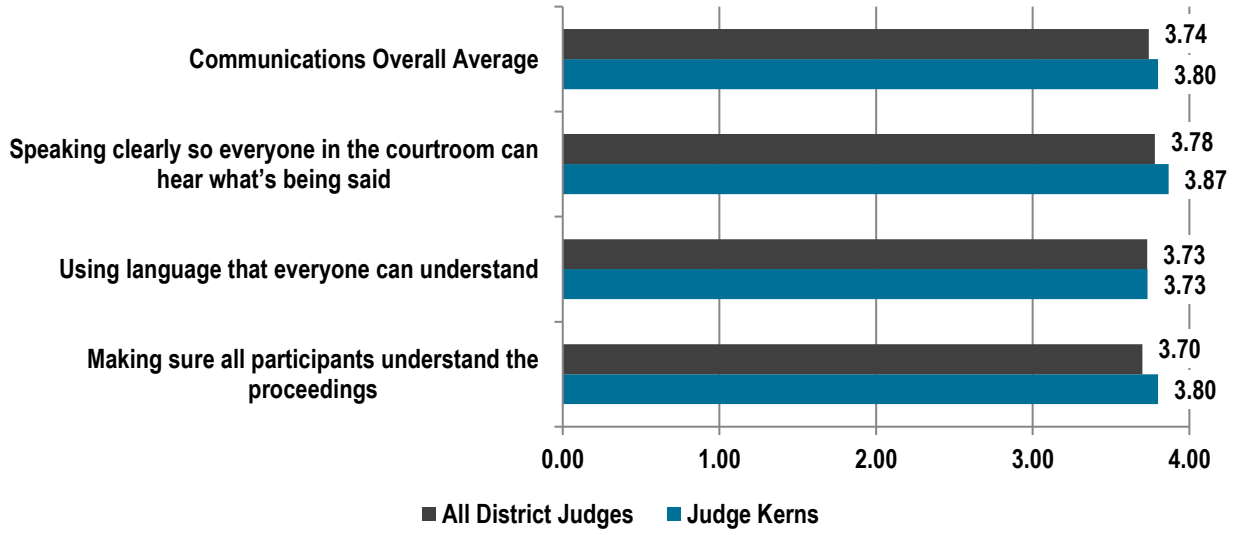


Table 14

Communications								
Judge Timothy G. Kerns Number of Responses: 15	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Making sure all participants understand the proceedings	93%	--	--	7%	--	--	3.80	3.70
Using language that everyone can understand	87%	7%	--	7%	--	--	3.73	3.73
Speaking clearly so everyone in the courtroom can hear what’s being said	87%	13%	--	--	--	--	3.87	3.78
Communications Overall Average							3.80	3.74

Diligence

Using a grade scale, where an “A” is excellent along with B, C, D, or F for fail, please grade the judge on the following. If you feel that you don’t have experience with the judge in a specific area, or just don’t know, please mark “Don’t Know/Not Applicable” - DK/NA.

Figure 14

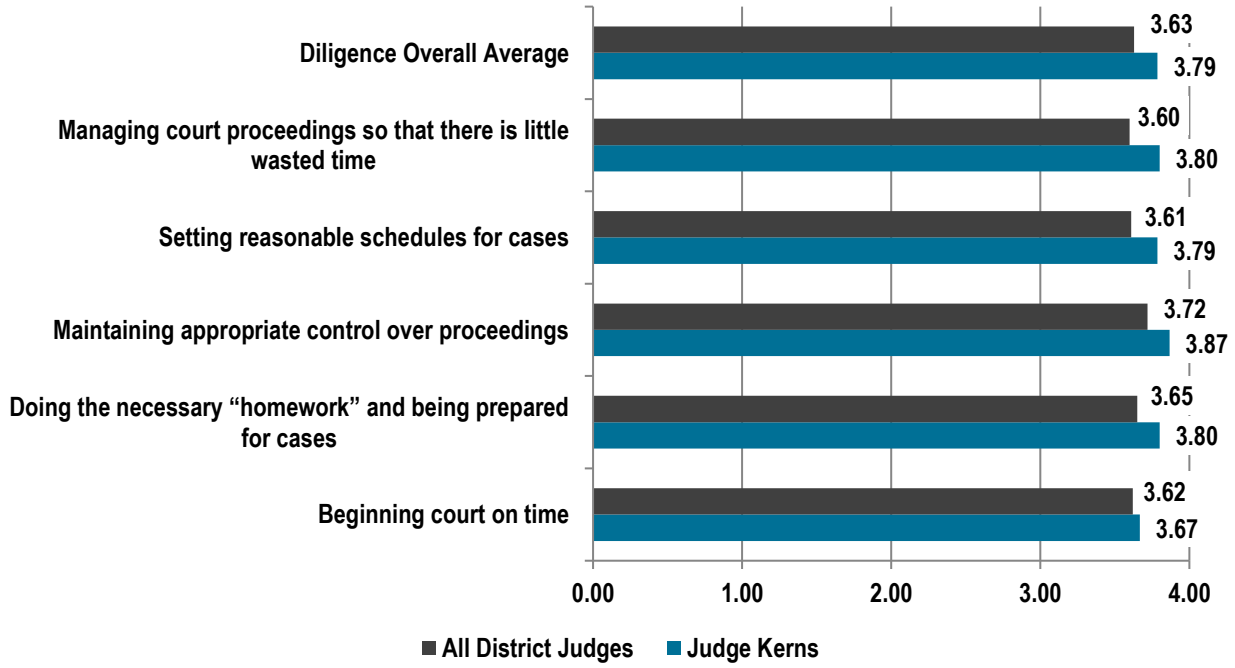


Table 15

Diligence								
Judge Timothy G. Kerns Number of Responses: 15	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Beginning court on time	80%	7%	13%	--	--	--	3.67	3.62
Doing the necessary “homework” and being prepared for cases	87%	7%	7%	--	--	--	3.80	3.65
Maintaining appropriate control over proceedings	93%	--	7%	--	--	--	3.87	3.72
Setting reasonable schedules for cases	80%	7%	7%	--	--	7%	3.79	3.61
Managing court proceedings so that there is little wasted time	87%	7%	7%	--	--	--	3.80	3.60
Diligence Overall Average							3.79	3.63

Application of Law

Using a grade scale, where an “A” is excellent along with B, C, D, or F for fail, please grade the judge on the following. If you feel that you don’t have experience with the judge in a specific area, or just don’t know, please mark “Don’t Know/Not Applicable” - DK/NA.

Figure 15

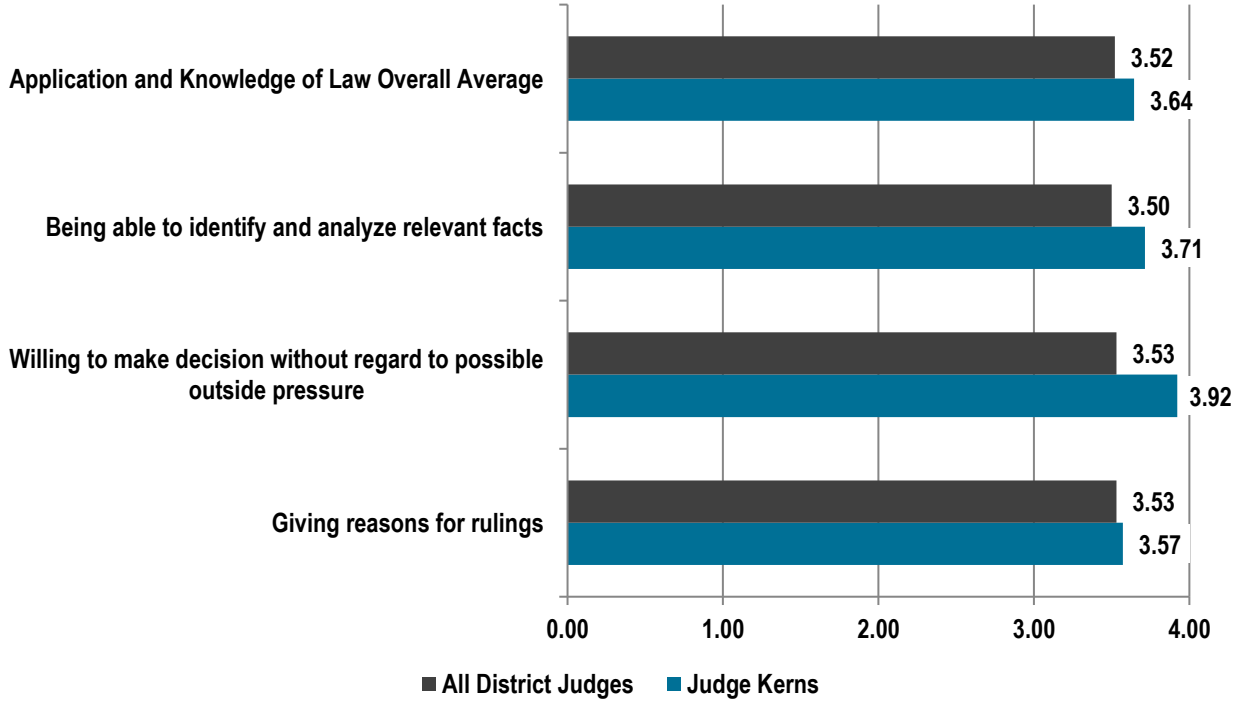


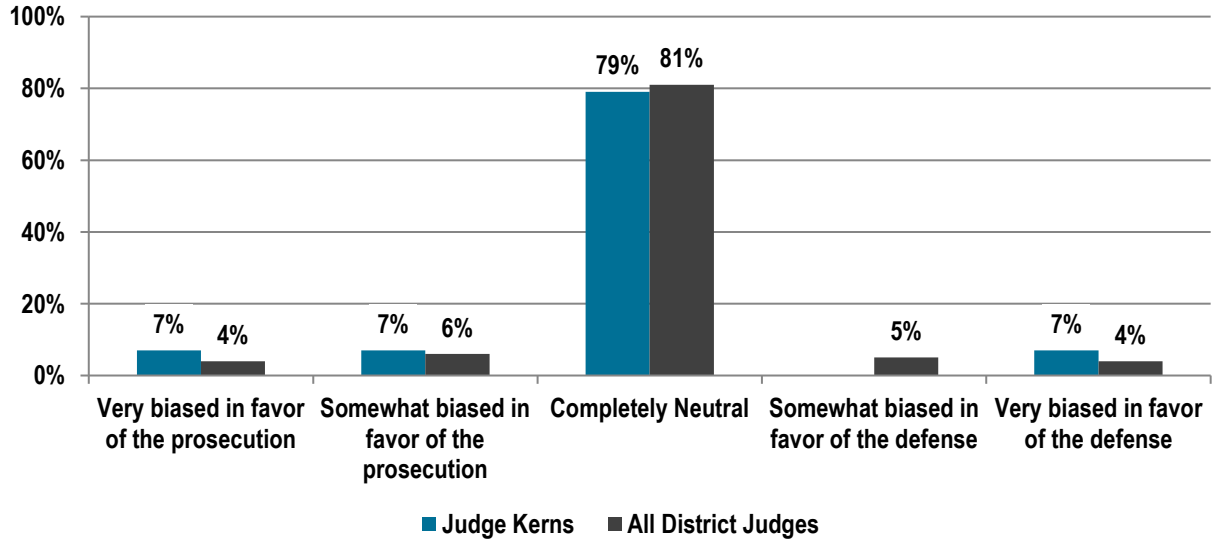
Table 16

Application of Law								
Judge Timothy G. Kerns Number of Responses: 15	A	B	C	D	Fail	DK/NA	Judge Kerns	All District Judges
Giving reasons for rulings	80%	--	7%	--	7%	7%	3.57	3.53
Willing to make decision without regard to possible outside pressure	86%	7%	--	--	--	7%	3.92	3.53
Being able to identify and analyze relevant facts	87%	--	--	--	7%	7%	3.71	3.50
Application and Knowledge of Law Overall Average							3.64	3.52

Bias

On the scale below, please indicate by selecting the appropriate number how biased you think Judge Kerns is toward the defense or the prosecution. If you feel Judge Kerns is completely unbiased, select “0.”

Figure 16



Perception of Leniency or Harshness

On the scale below, please indicate by selecting the appropriate number how lenient or how harsh you think the sentences generally handed down by Judge Kerns are. If you feel Judge Kerns generally hands down appropriate sentences, circle “0.”

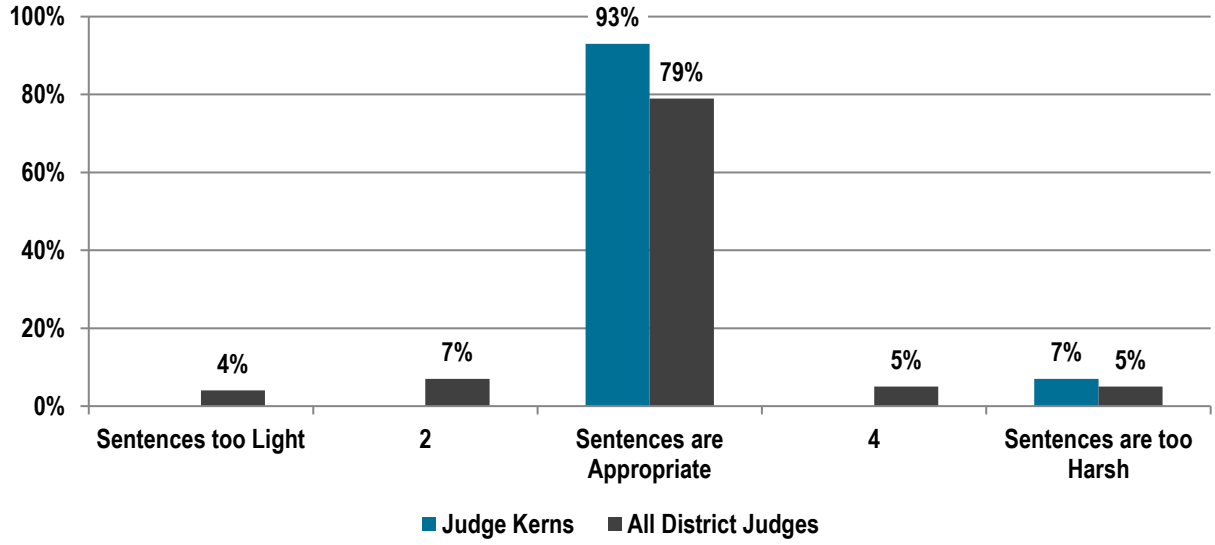



Figure 17