



Commission on
Judicial Performance

The Honorable David Scott Westfall
2006 Judicial Performance Survey
7th Judicial District



April 26, 2006

The Honorable David Scott Westfall
Ouray County Courthouse
541 Fourth
Ouray, CO 81427



Dear Judge Westfall:

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 2006 survey was conducted by Talmey-Drake Research & Strategy, Inc., who attempted to contact over 75,000 people who had been in these courtrooms in one capacity or another. Over 21,000 people responded—4,600 to the attorney survey and 17,000 to the non-attorney survey.

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


- **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.
- **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.

April, 26 2006
The Honorable David Scott Westfall
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If you have any questions about the methodology and how the survey was conducted, please feel free to contact me at 303-443-5300, and for any other questions you might have about the survey please call the Director of the Colorado Judicial Performance Program, Jane Howell, at 303-837-3665.

Best regards,



Paul A. Talney
President

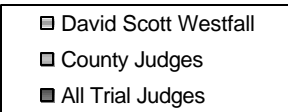
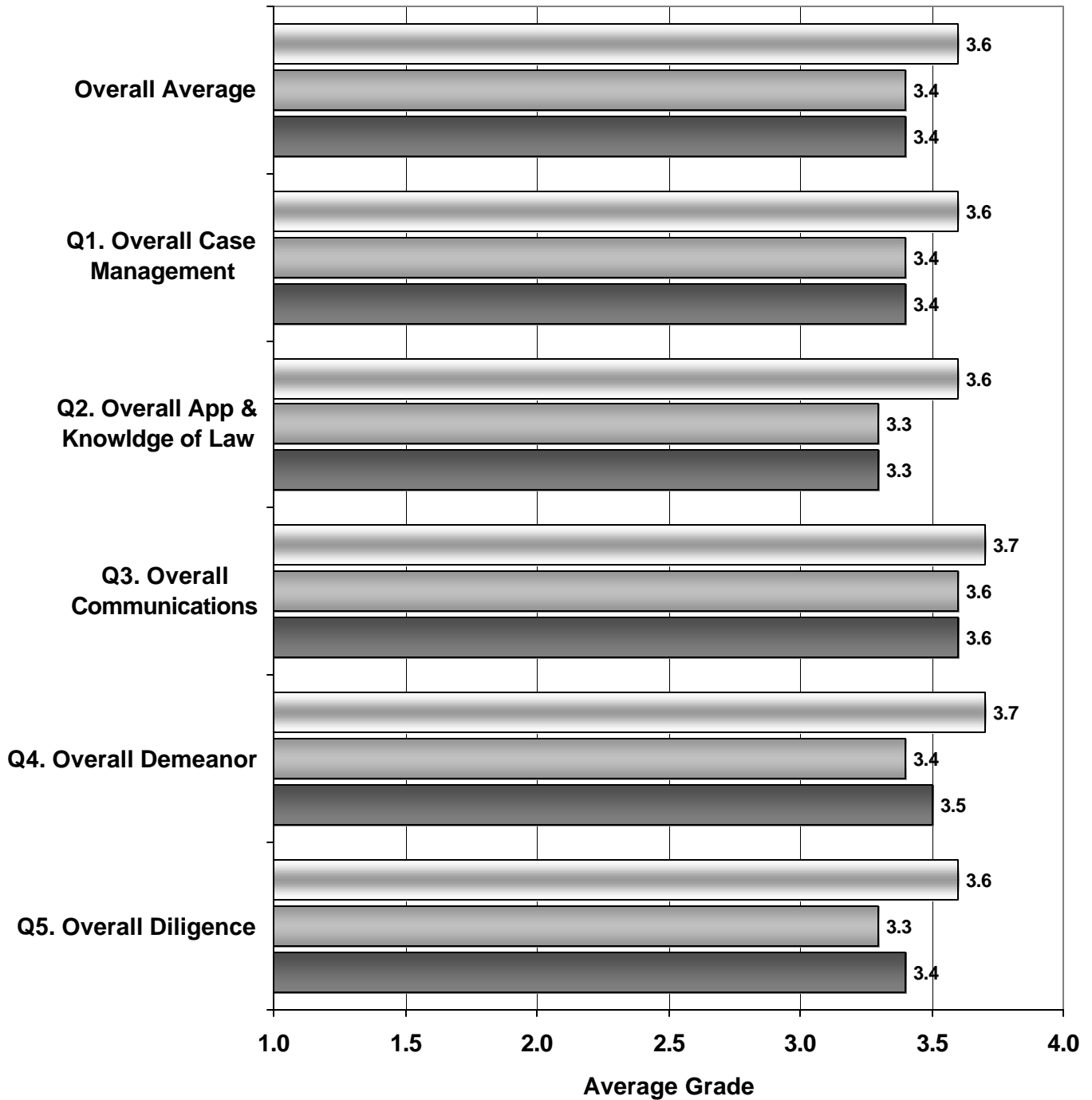
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Attorney Survey

David Scott Westfall

Attorney Survey

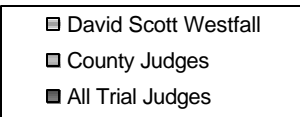
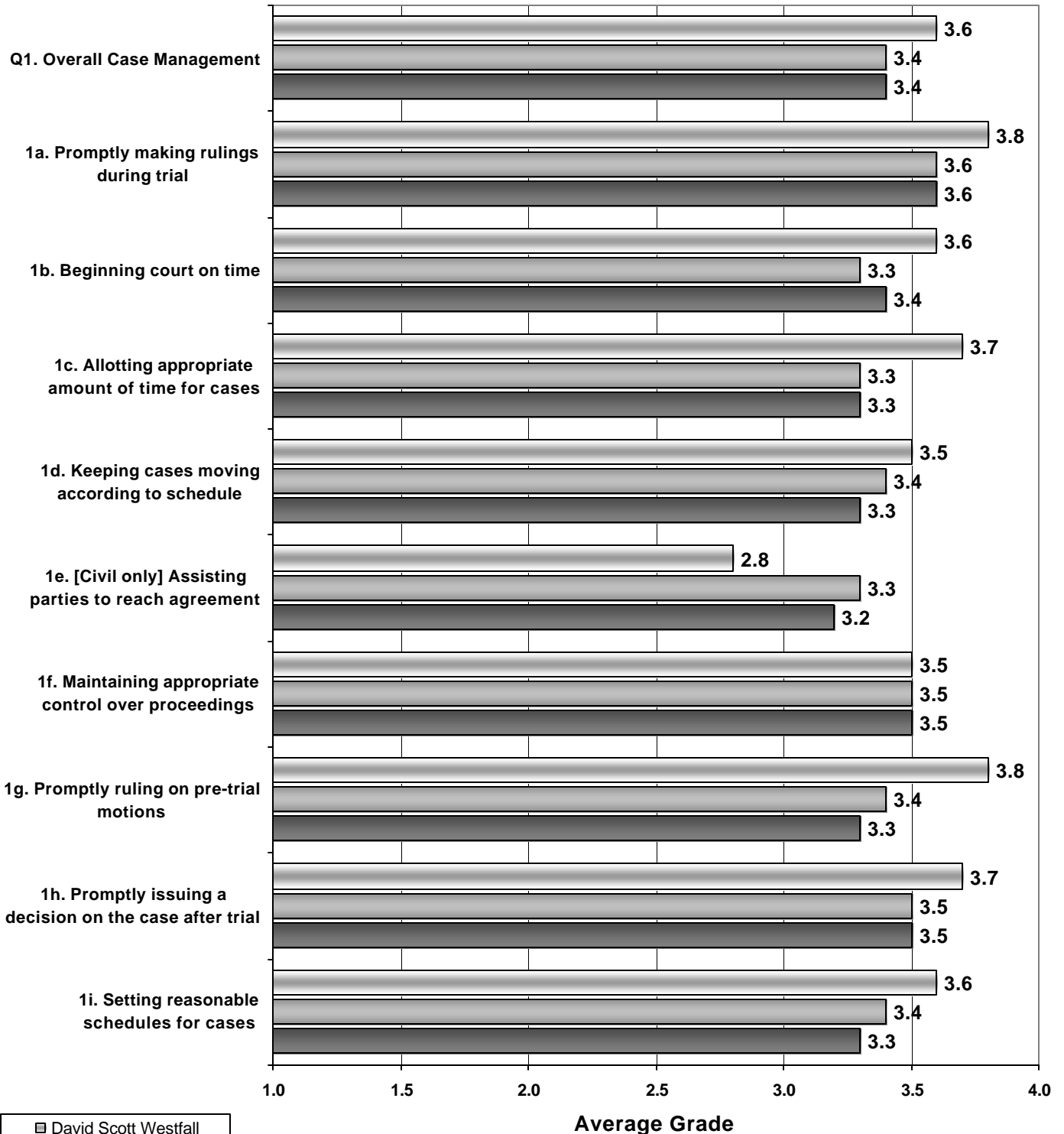
Average Grades: Overall and by Section



David Scott Westfall

Attorney Survey

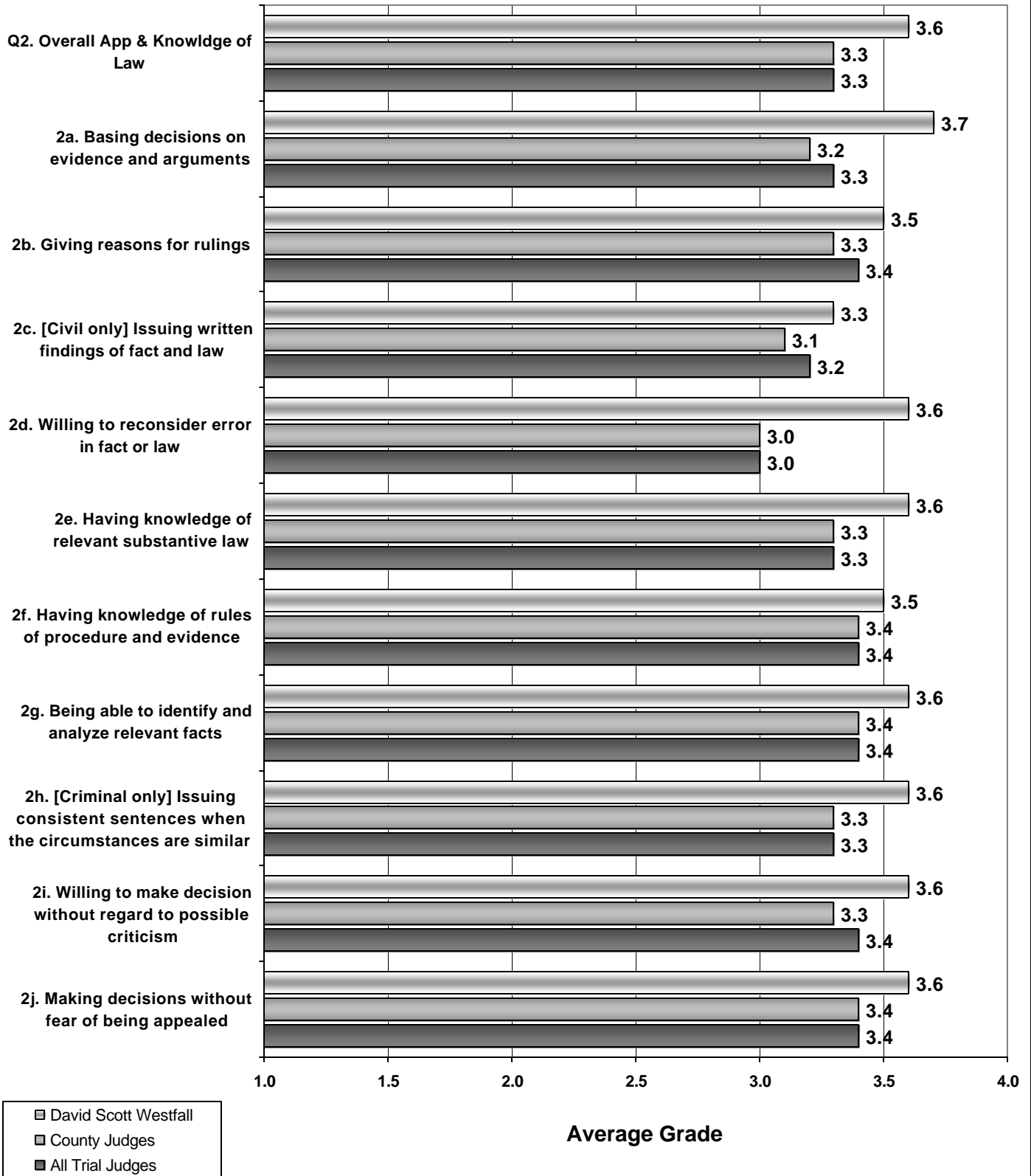
Average Grades: Case Management



David Scott Westfall

Attorney Survey

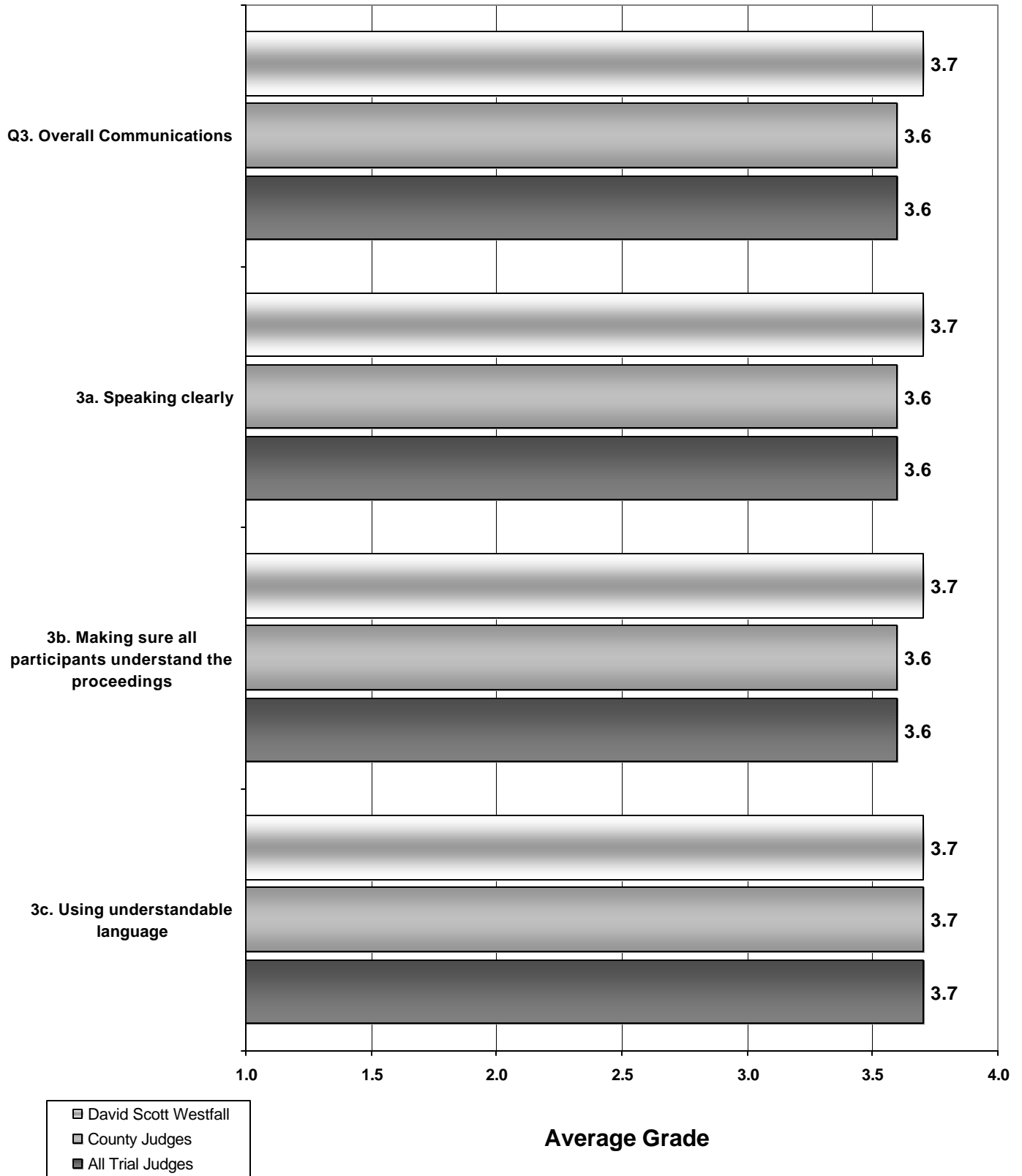
Average Grades: Application and Knowledge of Law



David Scott Westfall

Attorney Survey

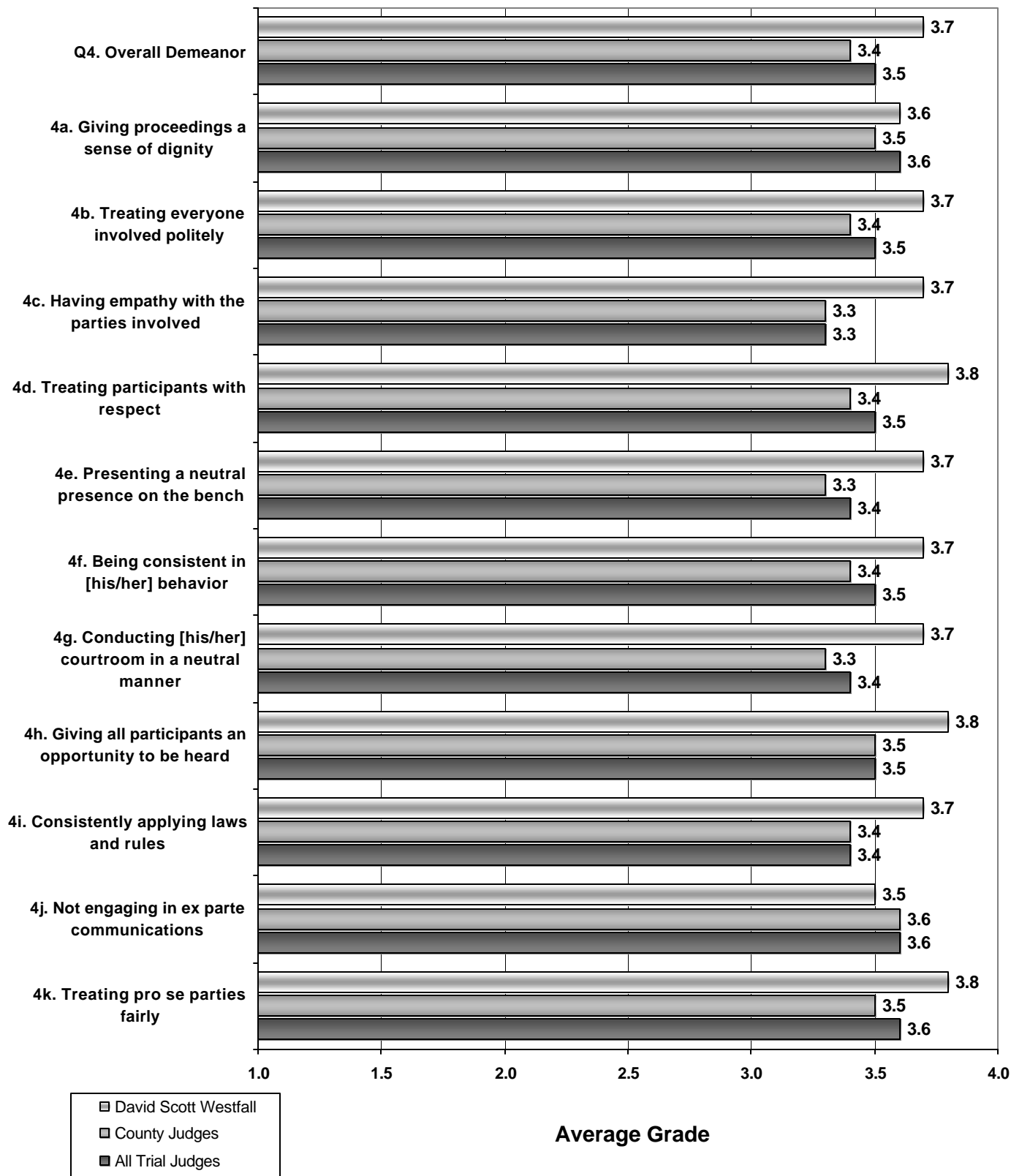
Average Grades: Communications



David Scott Westfall

Attorney Survey

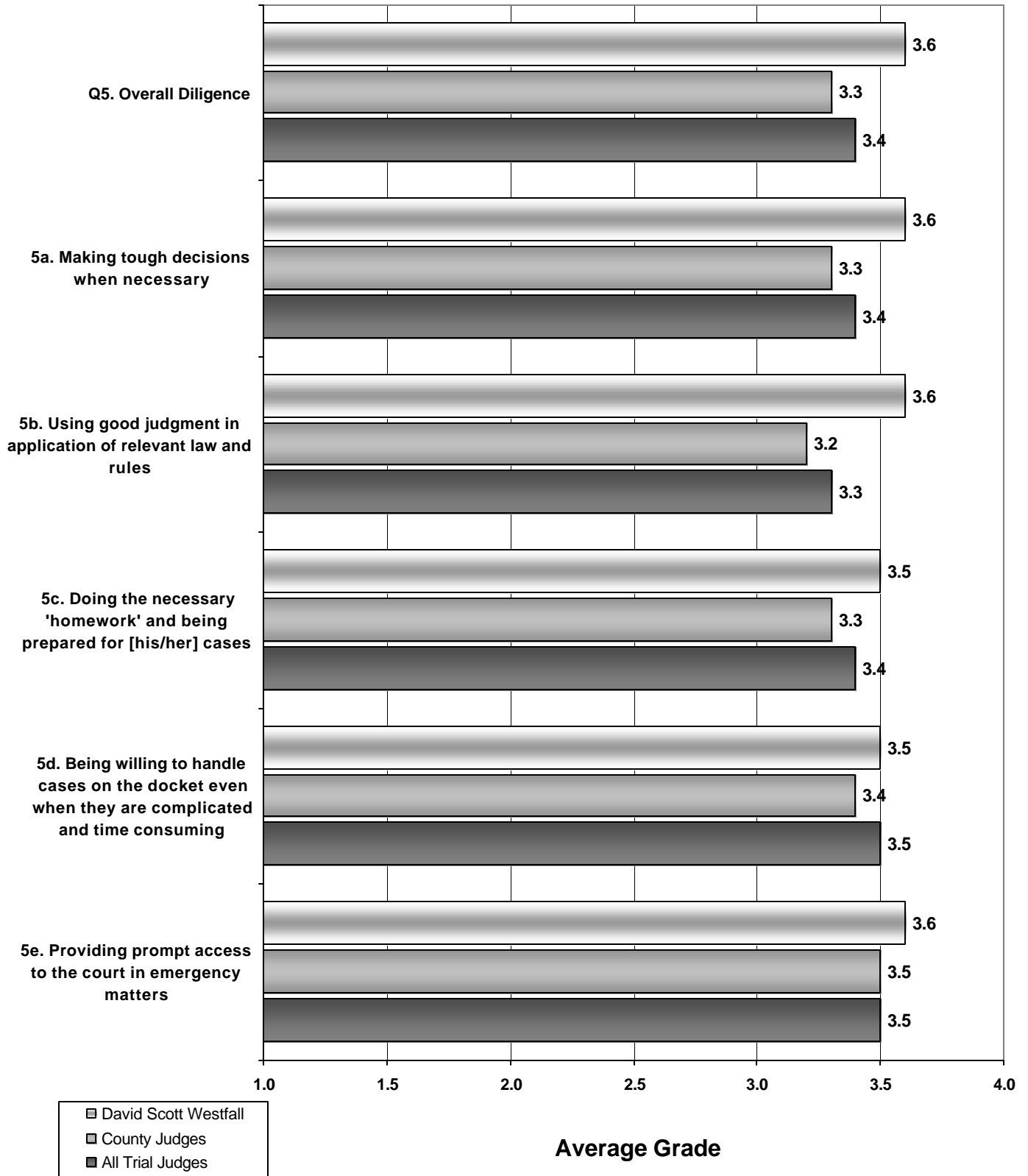
Average Grades: Demeanor



David Scott Westfall

Attorney Survey

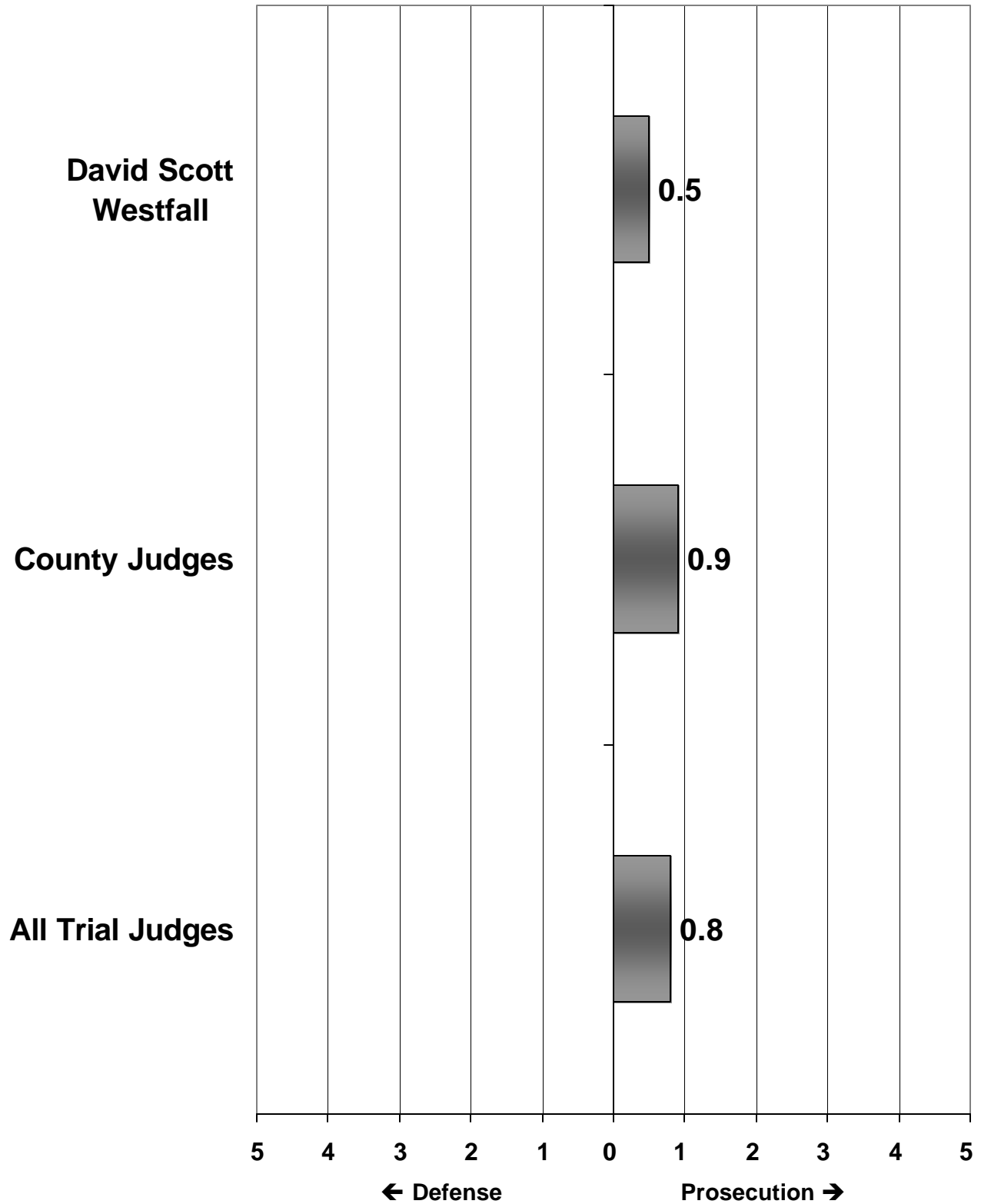
Average Grades: Diligence



David Scott Westfall

Attorney Survey

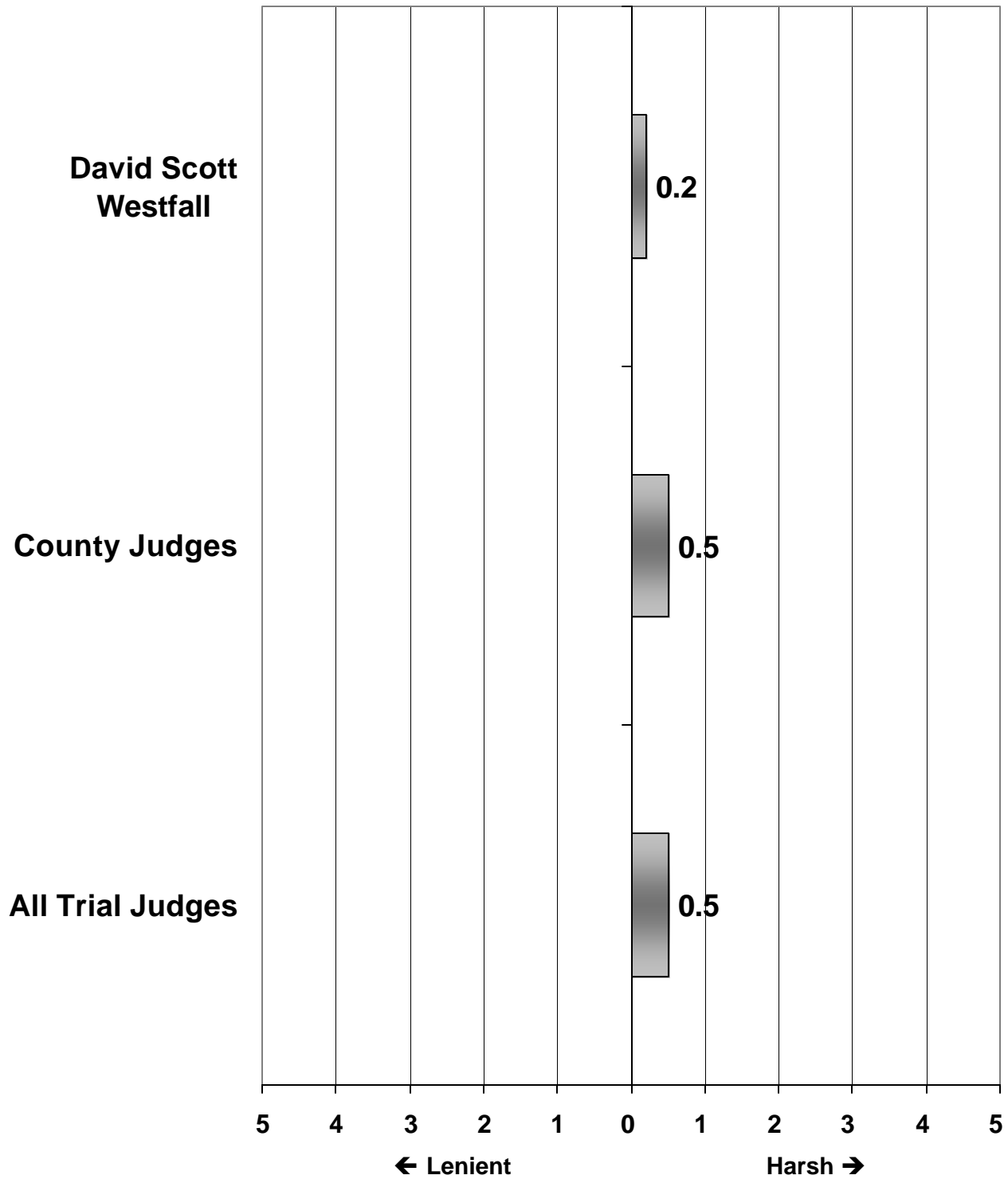
Q6. Average: How biased do you think Judge Westfall is toward the defense or prosecution?



David Scott Westfall

Attorney Survey

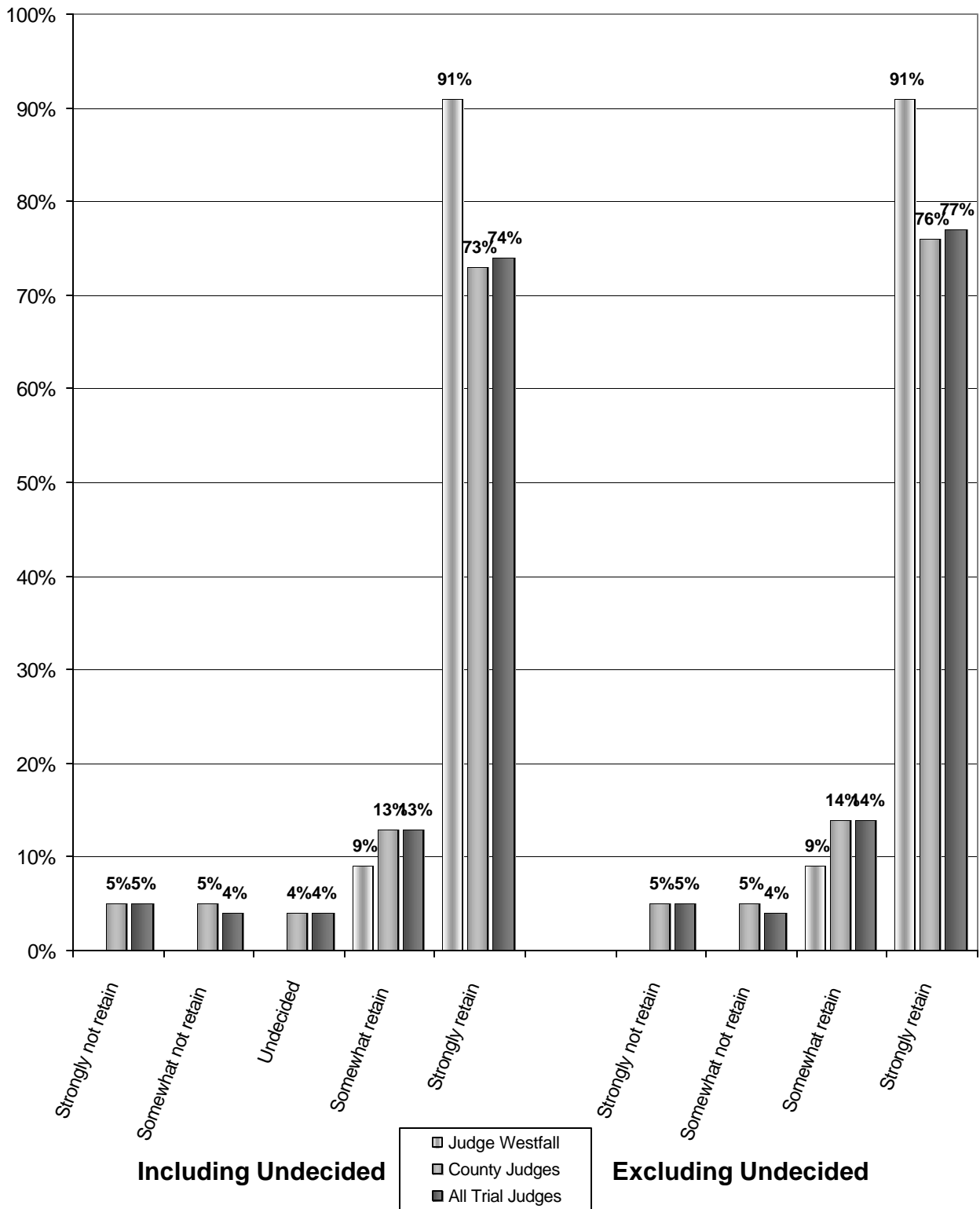
Q7. Average: How lenient or how harsh are Judge Westfall's sentences?



David Scott Westfall

Attorney Survey

Retention Recommendation



David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	54%	56%
B	18%	21%	21%
C		5%	5%
D		1%	1%
Fail		1%	1%
No Grade	9%	19%	17%
<hr/>			
Average	3.8	3.6	3.6
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	53%	56%
B	18%	29%	28%
C	9%	11%	9%
D		3%	3%
Fail		2%	2%
No Grade		2%	2%
<hr/>			
Average	3.6	3.3	3.4
Letter Grade	B+	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	52%	51%
B	27%	30%	29%
C		10%	11%
D		3%	3%
Fail		2%	2%
No Grade		4%	4%
<hr/>			
Average	3.7	3.3	3.3
Letter Grade	A-	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	54%	53%
B	45%	31%	31%
C		9%	9%
D		2%	3%
Fail		1%	2%
No Grade		3%	3%
<hr/>			
Average	3.5	3.4	3.3
Letter Grade	B+	B+	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	14%	28%	27%
B	14%	17%	18%
C	29%	5%	7%
D		2%	2%
Fail		1%	1%
No Grade	43%	47%	43%
<hr/>			
Average	2.8	3.3	3.2
Letter Grade	B-	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	61%	63%
B	27%	26%	25%
C	9%	8%	7%
D		2%	2%
Fail		1%	1%
No Grade		2%	2%
<hr/>			
Average	3.5	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	43%	44%
B	18%	25%	25%
C		7%	8%
D		1%	2%
Fail		1%	1%
No Grade	27%	24%	19%
<hr/>			
Average	3.8	3.4	3.3
Letter Grade	A-	B+	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	48%	48%
B	27%	21%	21%
C		4%	5%
D		1%	2%
Fail			1%
No Grade	18%	26%	24%
<hr/>			
Average	3.7	3.5	3.5
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	52%	50%
B	36%	29%	30%
C		8%	9%
D		2%	3%
Fail		1%	1%
No Grade		8%	6%
<hr/>			
Average	3.6	3.4	3.3
Letter Grade	B+	B+	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	50%	53%
B	27%	28%	27%
C		9%	9%
D		4%	4%
Fail		3%	3%
No Grade		5%	4%
<hr/>			
Average	3.7	3.2	3.3
Letter Grade	A-	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	54%	57%
B	27%	26%	25%
C	9%	10%	9%
D		4%	4%
Fail		2%	2%
No Grade		4%	4%
<hr/>			
Average	3.5	3.3	3.4
Letter Grade	B+	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	29%	20%	28%
B		13%	15%
C	14%	6%	6%
D		2%	2%
Fail		2%	2%
No Grade	57%	58%	48%
<hr/>			
Average	3.3	3.1	3.2
Letter Grade	B	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	30%	29%
B	9%	19%	20%
C	9%	9%	9%
D		4%	4%
Fail		4%	4%
No Grade	27%	34%	33%
<hr/>			
Average	3.6	3.0	3.0
Letter Grade	B+	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	50%	52%
B	36%	31%	30%
C		9%	9%
D		4%	4%
Fail		2%	2%
No Grade		4%	3%
<hr/>			
Average	3.6	3.3	3.3
Letter Grade	B+	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	55%	58%
B	36%	29%	27%
C	9%	8%	8%
D		3%	3%
Fail		2%	2%
No Grade		4%	3%
<hr/>			
Average	3.5	3.4	3.4
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	60%	53%	57%
B	40%	29%	27%
C		9%	8%
D		3%	3%
Fail		2%	2%
No Grade		4%	3%
<hr/>			
Average	3.6	3.4	3.4
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	38%	33%
B	18%	23%	20%
C	9%	6%	6%
D		3%	2%
Fail		2%	2%
No Grade	18%	29%	37%
<hr/>			
Average	3.6	3.3	3.3
Letter Grade	B+	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	51%	53%
B	18%	22%	22%
C	9%	9%	8%
D		3%	3%
Fail		2%	2%
No Grade	9%	12%	12%
<hr/>			
Average	3.6	3.3	3.4
Letter Grade	B+	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	52%	54%
B	18%	23%	22%
C	9%	7%	7%
D		2%	2%
Fail		2%	2%
No Grade	9%	14%	14%
<hr/>			
Average	3.6	3.4	3.4
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	72%	73%
B	27%	21%	20%
C		5%	4%
D		1%	1%
Fail		1%	1%
No Grade			1%
<hr/>			
Average	3.7	3.6	3.6
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	71%	71%
B	27%	20%	20%
C		6%	5%
D		2%	2%
Fail		1%	1%
No Grade		1%	1%
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Average	3.7	3.6	3.6
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	73%	74%
B	27%	21%	20%
C		5%	4%
D		1%	1%
Fail			
No Grade		1%	1%
<hr/>			
Average	3.7	3.7	3.7
Letter Grade	A-	A-	A-

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	66%	69%
B	36%	22%	20%
C		7%	6%
D		2%	2%
Fail		2%	2%
No Grade			1%
<hr/>			
Average	3.6	3.5	3.6
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	69%	70%
B	27%	17%	17%
C		6%	6%
D		3%	3%
Fail		4%	3%
No Grade			1%
<hr/>			
Average	3.7	3.4	3.5
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	58%	59%
B	27%	23%	22%
C		8%	9%
D		5%	5%
Fail		4%	3%
No Grade		2%	3%
<hr/>			
Average	3.7	3.3	3.3
Letter Grade	A-	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	82%	66%	69%
B	18%	20%	18%
C		6%	6%
D		3%	3%
Fail		3%	3%
No Grade		1%	1%
<hr/>			
Average	3.8	3.4	3.5
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	62%	63%
B	27%	20%	19%
C		9%	8%
D		5%	5%
Fail		4%	4%
No Grade		1%	1%
<hr/>			
Average	3.7	3.3	3.4
Letter Grade	A-	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	63%	64%
B	27%	22%	21%
C		8%	7%
D		3%	3%
Fail		2%	2%
No Grade		2%	2%
<hr/>			
Average	3.7	3.4	3.5
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	62%	63%
B	27%	20%	19%
C		8%	8%
D		4%	4%
Fail		4%	3%
No Grade		1%	1%
<hr/>			
Average	3.7	3.3	3.4
Letter Grade	A-	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	82%	68%	69%
B	18%	20%	19%
C		7%	6%
D		2%	2%
Fail		2%	2%
No Grade		1%	1%
<hr/>			
Average	3.8	3.5	3.5
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	58%	59%
B	27%	24%	23%
C		8%	8%
D		3%	4%
Fail		2%	2%
No Grade		4%	4%
<hr/>			
Average	3.7	3.4	3.4
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	36%	60%	63%
B	36%	16%	15%
C		4%	3%
D		1%	1%
Fail		2%	1%
No Grade	27%	16%	16%
<hr/>			
Average	3.5	3.6	3.6
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	73%	56%	52%
B	18%	15%	13%
C		4%	4%
D		2%	2%
Fail		2%	1%
No Grade	9%	21%	28%
<hr/>			
Average	3.8	3.5	3.6
Letter Grade	A-	B+	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	55%	48%	52%
B	36%	25%	23%
C		9%	8%
D		3%	3%
Fail		2%	2%
No Grade	9%	14%	12%
<hr/>			
Average	3.6	3.3	3.4
Letter Grade	B+	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	51%	53%
B	36%	28%	27%
C		9%	9%
D		4%	4%
Fail		3%	3%
No Grade		5%	4%
<hr/>			
Average	3.6	3.2	3.3
Letter Grade	B+	B	B

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	45%	49%	53%
B	45%	28%	26%
C		9%	9%
D		3%	3%
Fail		2%	2%
No Grade	9%	9%	7%
<hr/>			
Average	3.5	3.3	3.4
Letter Grade	B+	B	B+

David Scott Westfall

Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	64%	50%	53%
B	18%	22%	21%
C	18%	7%	7%
D		2%	2%
Fail		2%	1%
No Grade		17%	15%
<hr/>			
Average	3.5	3.4	3.5
Letter Grade	B+	B+	B+

David Scott Westfall Attorney Survey

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

	Judge Westfall	County Judges 2006	All Trial Judges 2006
A	45%	39%	41%
B	9%	16%	16%
C	9%	5%	5%
D		1%	1%
Fail		1%	1%
No Grade	36%	38%	36%
<hr/>			
Average	3.6	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Attorney Survey

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

	<u>Judge Westfall</u>	<u>County Judges 2006</u>	<u>All Trial Judges 2006</u>
5		4%	3%
4		5%	5%
3		7%	7%
2	18%	12%	11%
1	18%	19%	18%
0 Neutral	64%	47%	47%
-1		3%	4%
-2		2%	2%
-3		1%	2%
-4		1%	1%
-5			
<hr/>			
Average	0.5	0.9	0.8

David Scott Westfall

Attorney Survey

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

	<u>Judge Westfall</u>	<u>County Judges 2006</u>	<u>All Trial Judges 2006</u>
5 Harsh		2%	2%
4 3 2 1 0 Appropriate		3%	4%
		5%	5%
		8%	9%
	20%	15%	15%
	80%	58%	55%
-1 -2 -3 -4 -5 Light		2%	3%
		2%	3%
		1%	2%
		1%	1%
		1%	1%
Average	0.2	0.5	0.5

David Scott Westfall

Attorney Survey

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

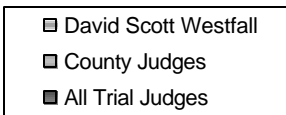
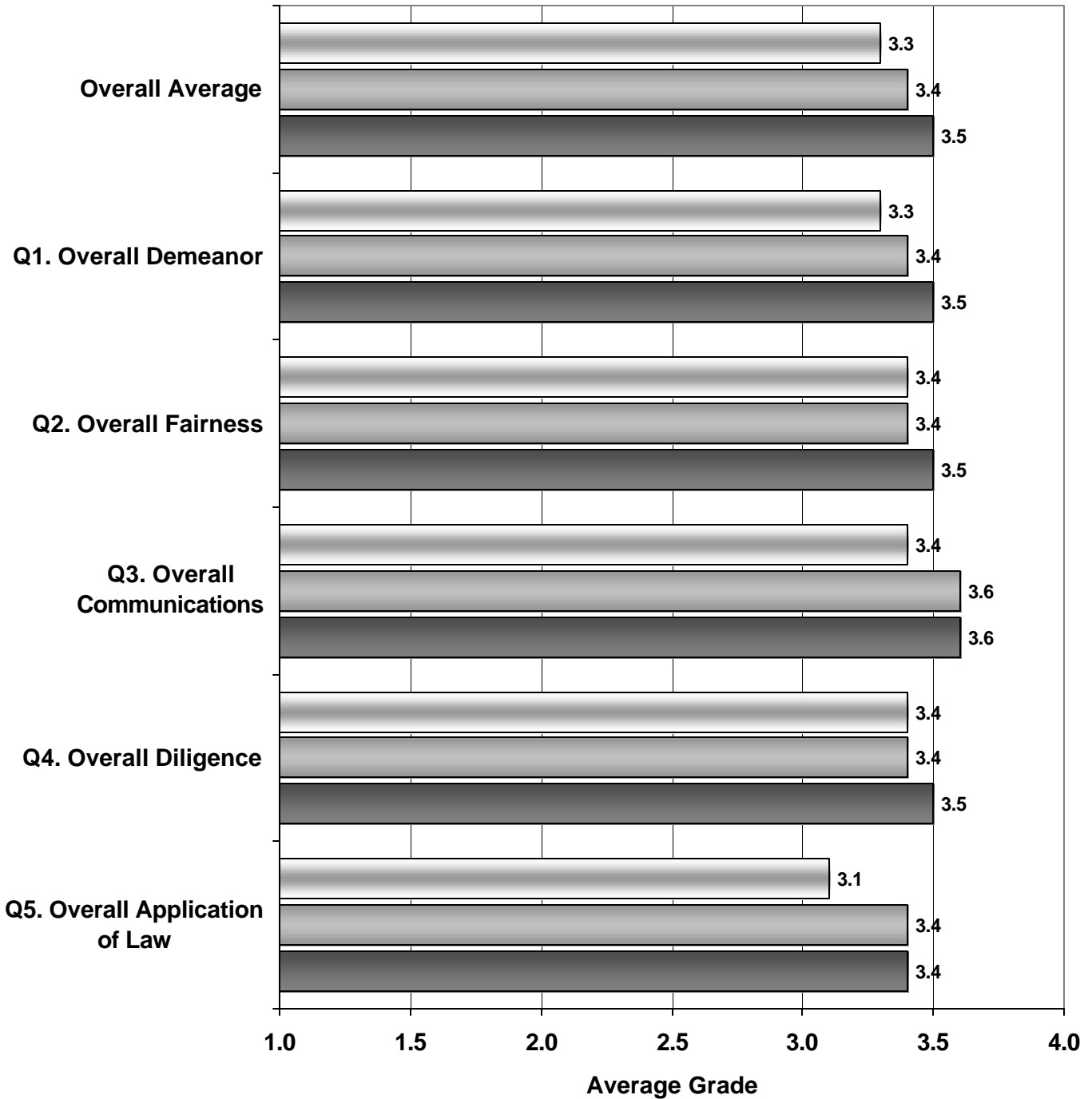
	Judge Westfall	County Judges 2006	All Trial Judges 2006
Strongly Recommend Retain in office	91%	76%	77%
Somewhat Recommend Retain in office	9%	14%	14%
Somewhat Recommend Not Retain in office		5%	4%
Strongly Recommend Not Retain in office		5%	5%

Non Attorney Survey

David Scott Westfall

Non Attorney Survey

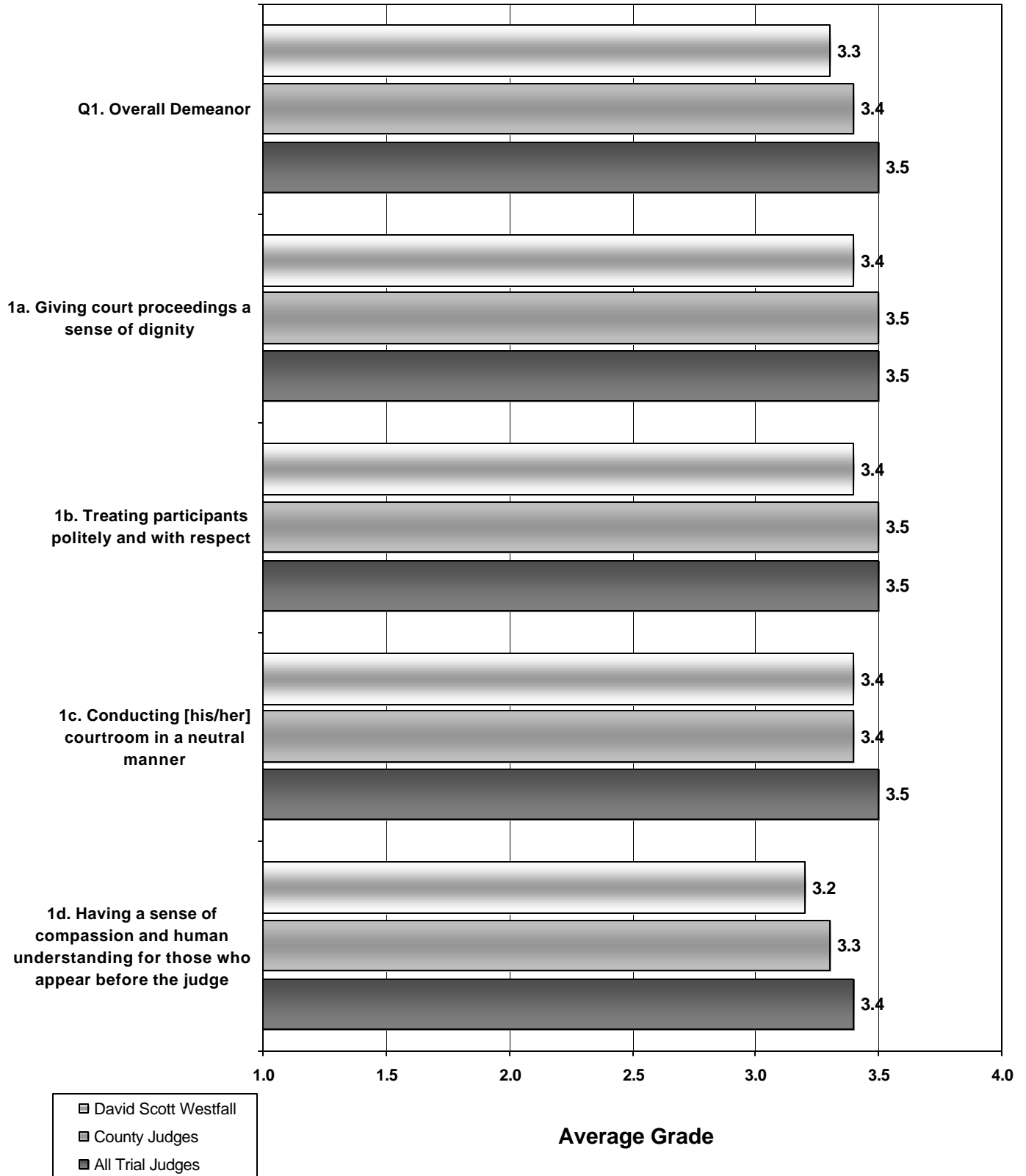
Average Grades: Overall and by Section



David Scott Westfall

Non Attorney Survey

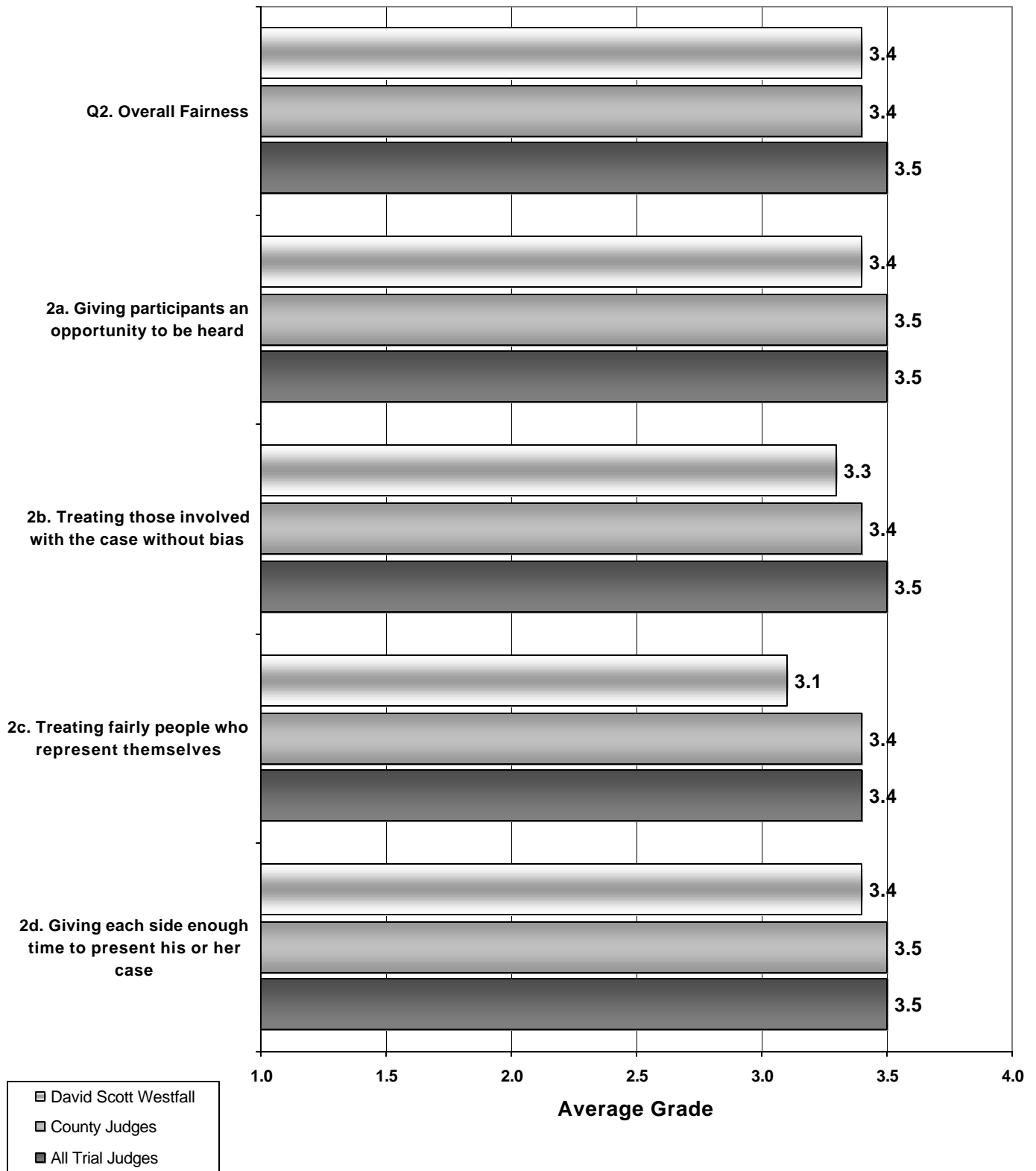
Average Grades: Demeanor



David Scott Westfall

Non Attorney Survey

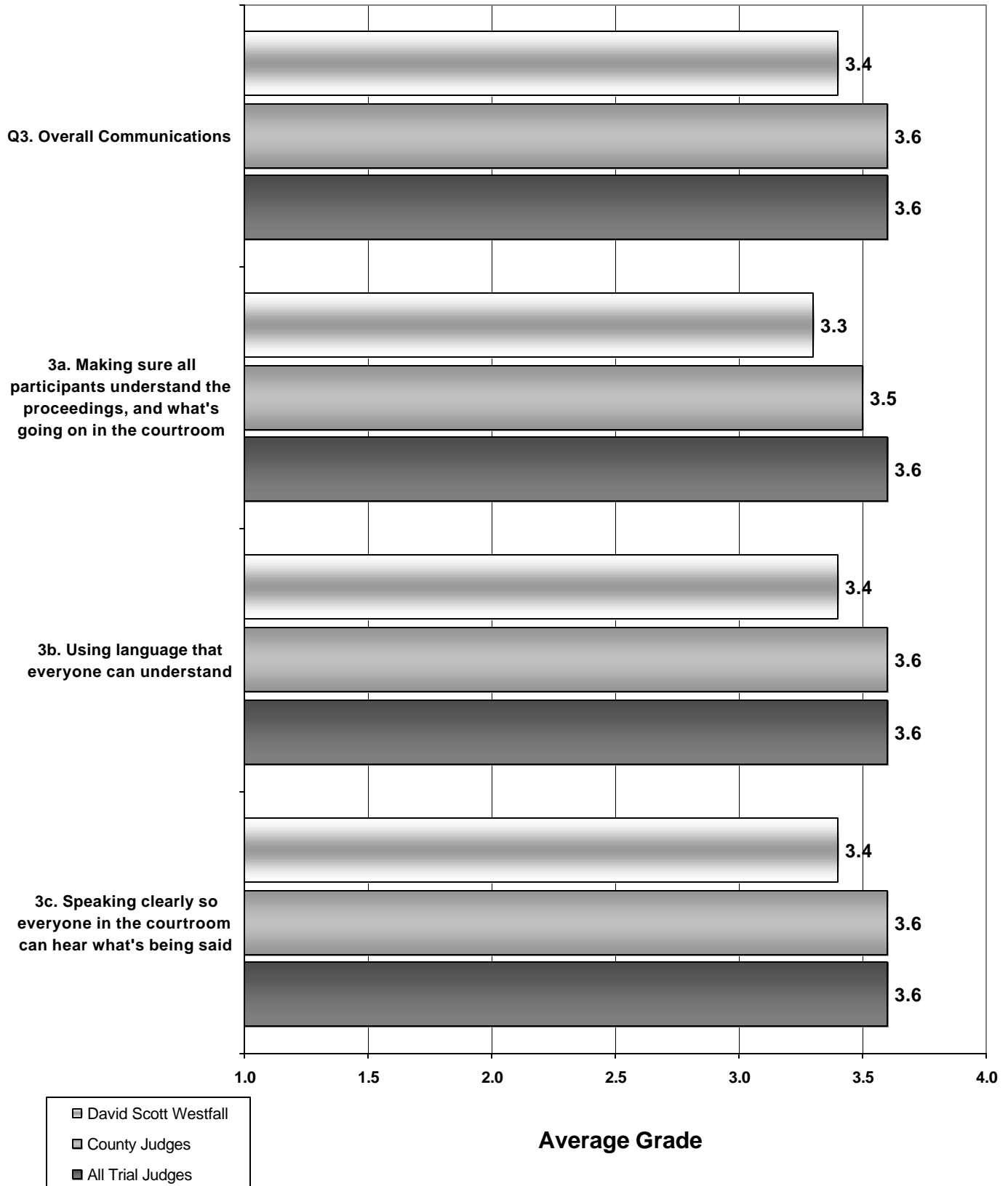
Average Grades: Fairness



David Scott Westfall

Non Attorney Survey

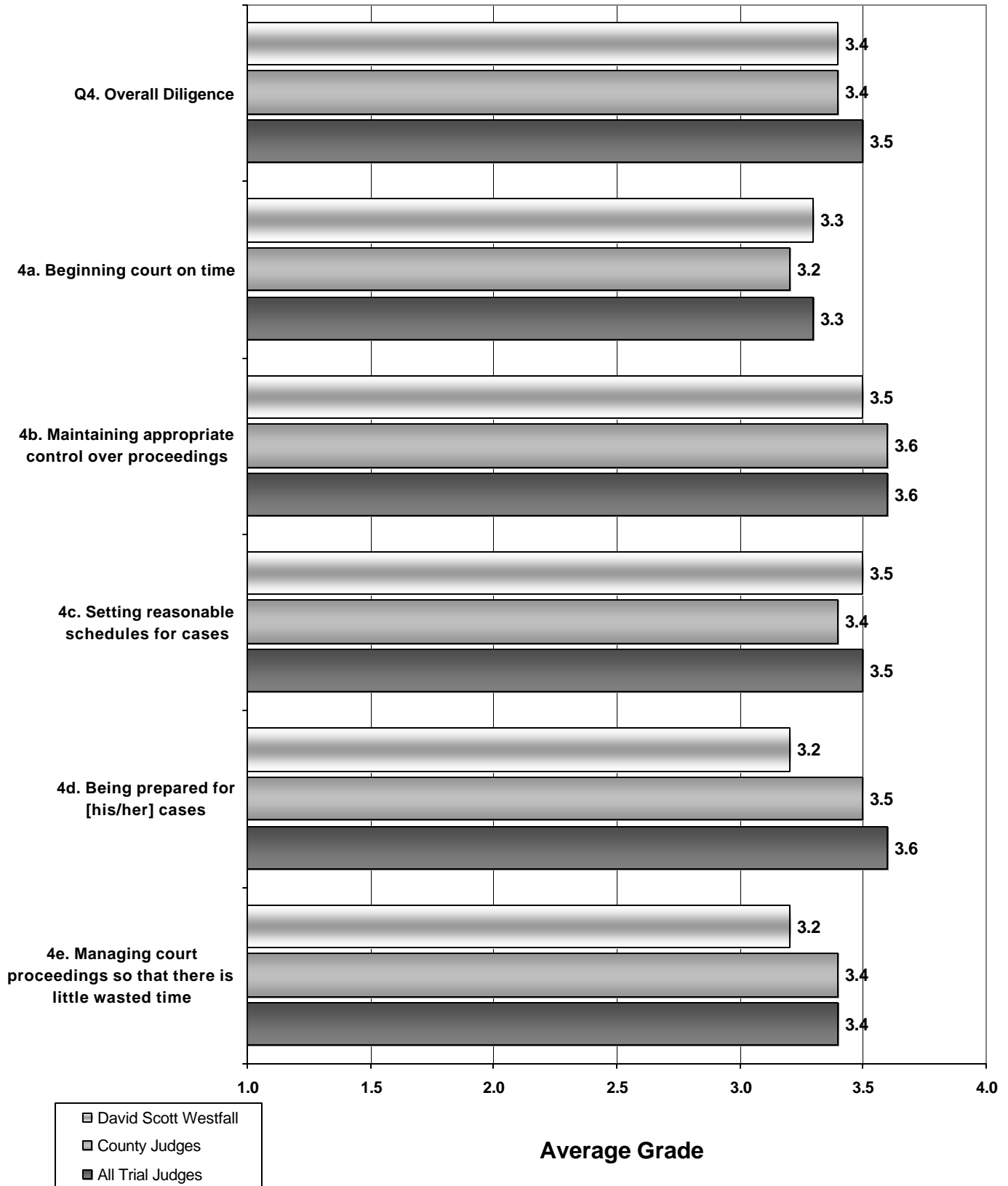
Average Grades: Communications



David Scott Westfall

Non Attorney Survey

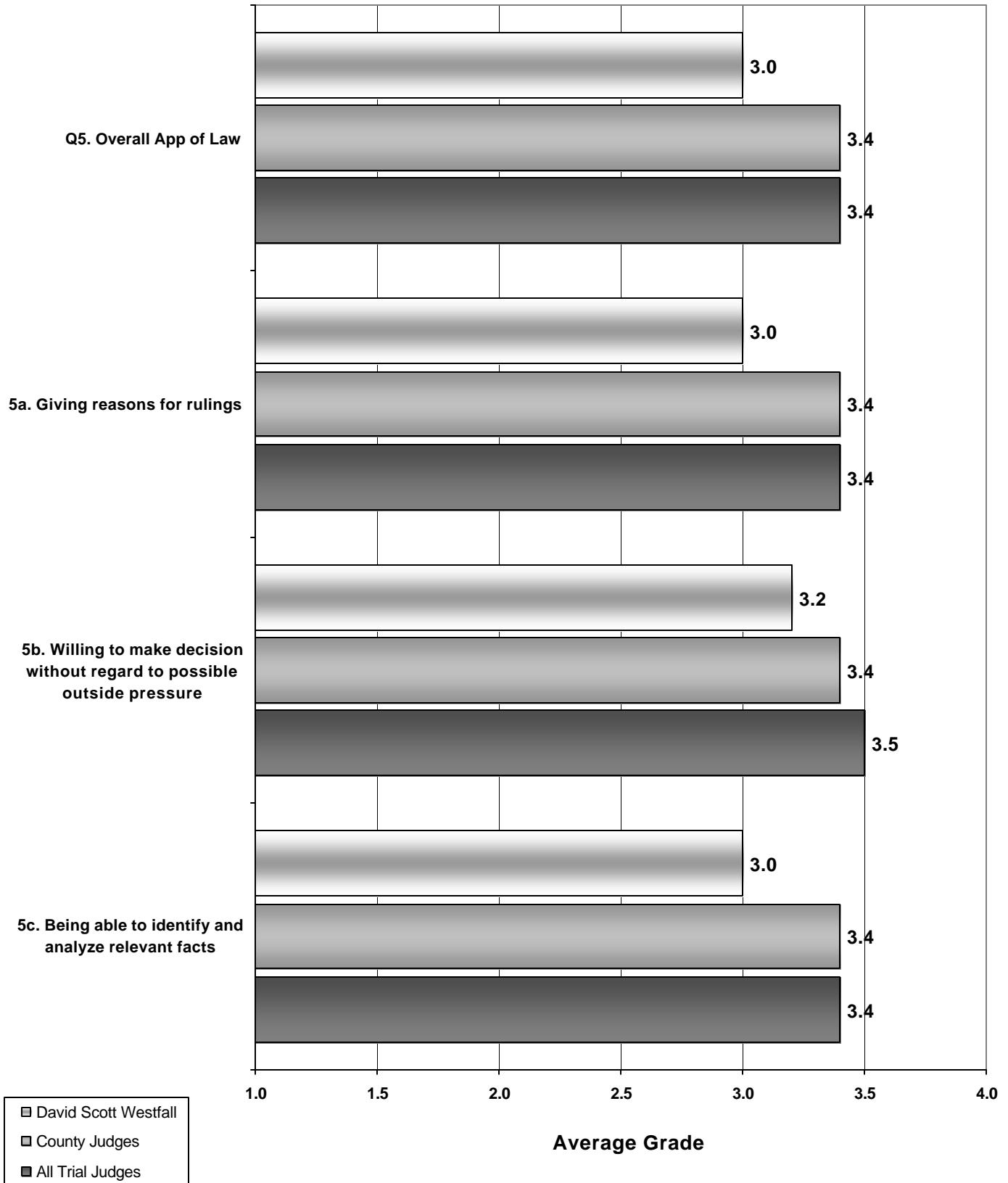
Average Grades: Diligence



David Scott Westfall

Non Attorney Survey

Average Grades: Application and Knowledge of Law



David Scott Westfall

Non Attorney Survey

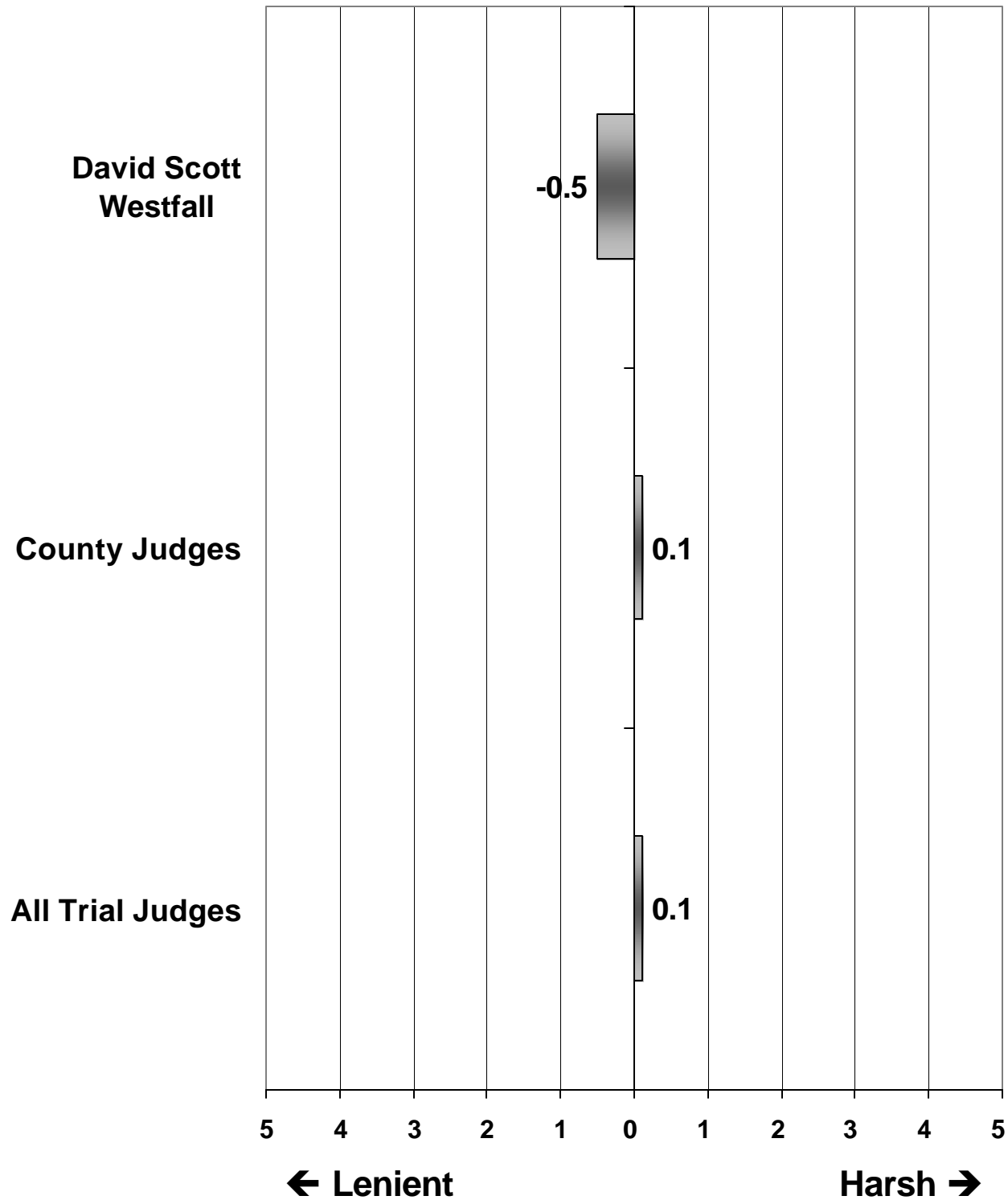
Average: How biased do you think Judge Westfall is toward the defense or prosecution?



David Scott Westfall

Non Attorney Survey

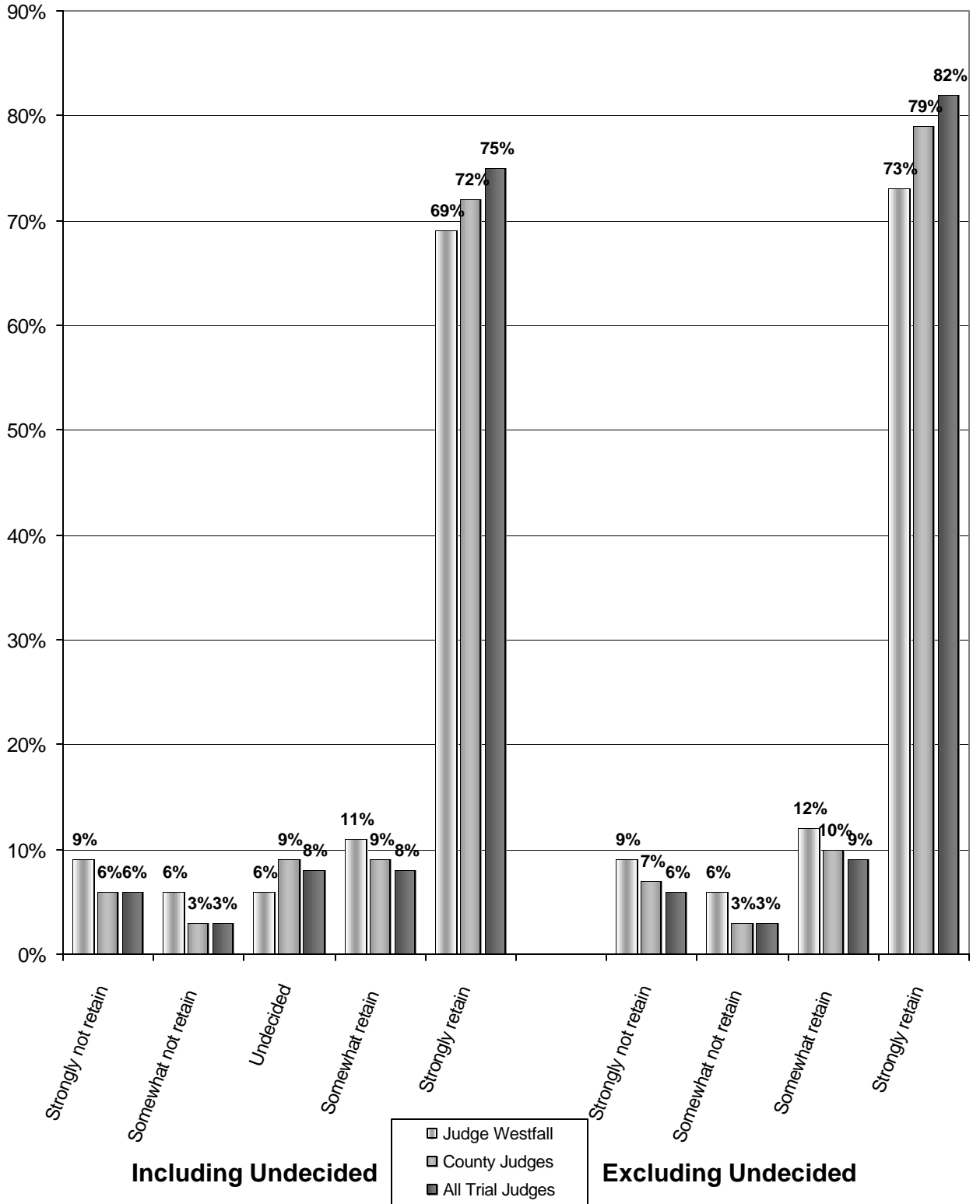
Average: How lenient or how harsh are Judge Westfall's sentences?



David Scott Westfall

Non Attorney Survey

Retention Recommendation



David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	54%	65%	69%
B	35%	23%	20%
C	8%	7%	6%
D		2%	2%
Fail	3%	2%	2%
No Grade		1%	1%
<hr/>			
Average	3.4	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	58%	69%	72%
B	31%	18%	17%
C	8%	6%	5%
D		3%	2%
Fail	3%	4%	3%
No Grade		1%	1%
<hr/>			
Average	3.4	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	64%	66%	70%
B	22%	19%	17%
C	6%	6%	5%
D	3%	4%	3%
Fail	6%	4%	3%
No Grade		1%	1%
<hr/>			
Average	3.4	3.4	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	56%	62%	66%
B	17%	20%	18%
C	14%	7%	6%
D	3%	4%	3%
Fail	6%	5%	5%
No Grade	6%	2%	2%
<hr/>			
Average	3.2	3.3	3.4
Letter Grade	B	B	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	65%	68%	71%
B	19%	17%	16%
C	11%	6%	5%
D	5%	3%	3%
Fail		4%	3%
No Grade		2%	2%
<hr/>			
Average	3.4	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	61%	66%	69%
B	17%	17%	16%
C	14%	6%	5%
D	3%	4%	3%
Fail	6%	5%	4%
No Grade		3%	3%
<hr/>			
Average	3.3	3.4	3.5
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	42%	51%	49%
B	19%	13%	11%
C	3%	5%	4%
D	6%	3%	2%
Fail	6%	4%	4%
No Grade	25%	25%	30%
<hr/>			
Average	3.1	3.4	3.4
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	67%	65%	68%
B	19%	17%	16%
C	6%	6%	5%
D	3%	3%	2%
Fail	6%	4%	3%
No Grade		6%	5%
<hr/>			
Average	3.4	3.5	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	57%	70%	73%
B	30%	18%	16%
C	8%	6%	5%
D		2%	2%
Fail	5%	2%	2%
No Grade		1%	1%
<hr/>			
Average	3.3	3.5	3.6
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	64%	71%	74%
B	17%	19%	18%
C	11%	6%	5%
D	6%	2%	2%
Fail		2%	1%
No Grade	3%	1%	1%
<hr/>			
Average	3.4	3.6	3.6
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	58%	73%	75%
B	28%	17%	16%
C	8%	6%	5%
D	3%	2%	1%
Fail	3%	2%	1%
No Grade		1%	1%
<hr/>			
Average	3.4	3.6	3.6
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	60%	52%	55%
B	17%	26%	26%
C	14%	11%	10%
D	3%	4%	3%
Fail	3%	3%	3%
No Grade	3%	4%	3%
<hr/>			
Average	3.3	3.2	3.3
Letter Grade	B	B	B

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	67%	69%	72%
B	25%	20%	18%
C	3%	6%	5%
D	6%	2%	2%
Fail		2%	1%
No Grade		2%	2%
<hr/>			
Average	3.5	3.6	3.6
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	57%	56%	58%
B	29%	20%	19%
C	6%	7%	6%
D	3%	2%	2%
Fail		2%	2%
No Grade	6%	13%	12%
<hr/>			
Average	3.5	3.4	3.5
Letter Grade	B+	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	57%	63%	67%
B	23%	19%	17%
C	6%	6%	5%
D	6%	2%	2%
Fail	6%	3%	2%
No Grade	3%	7%	7%
<hr/>			
Average	3.2	3.5	3.6
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	56%	59%	61%
B	22%	23%	23%
C	8%	9%	8%
D	8%	3%	3%
Fail	3%	3%	3%
No Grade	3%	3%	3%
<hr/>			
Average	3.2	3.4	3.4
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	44%	59%	62%
B	22%	19%	18%
C	14%	7%	6%
D		3%	3%
Fail	11%	4%	4%
No Grade	8%	7%	7%
<hr/>			
Average	3.0	3.4	3.4
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	50%	55%	58%
B	22%	16%	14%
C	8%	5%	5%
D	3%	3%	2%
Fail	6%	4%	3%
No Grade	11%	17%	17%
<hr/>			
Average	3.2	3.4	3.5
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
A	44%	60%	64%
B	25%	18%	16%
C	8%	6%	5%
D	6%	3%	3%
Fail	8%	5%	4%
No Grade	8%	8%	8%
<hr/>			
Average	3.0	3.4	3.4
Letter Grade	B	B+	B+

David Scott Westfall

Non Attorney Survey

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

	<u>Judge Westfall</u>	<u>All County Judges 2006</u>	<u>All Trial Judges 2006</u>
5		3%	2%
4		2%	1%
3		3%	2%
2		3%	3%
1		6%	5%
0 Neutral	96%	75%	78%
-1		3%	3%
-2	4%	2%	2%
-3		1%	1%
-4		1%	1%
-5		2%	2%
<hr/>			
Average	-0.1	0.2	0.1

David Scott Westfall

Non Attorney Survey

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

		Judge Westfall	All County Judges 2006	All Trial Judges 2006
Harsh ↑	5		4%	3%
	4		2%	2%
	3		2%	2%
	2		3%	3%
	1		4%	4%
	0 Appropriate	79%	69%	71%
	-1	5%	5%	5%
	-2	5%	4%	4%
Light ↓	-3	11%	2%	2%
	-4		1%	1%
	-5		2%	2%
<hr/>				
	Average	-0.5	0.1	0.1

David Scott Westfall

Non Attorney Survey

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

	Judge Westfall	All County Judges 2006	All Trial Judges 2006
Strongly Recommend Retain in office	73%	79%	82%
Somewhat Recommend Retain in office	12%	10%	9%
Somewhat Recommend Not Retain in office	6%	3%	3%
Strongly Recommend Not Retain in office	9%	7%	6%

Methodology

Methodology

Sample: The Colorado Judicial Department provided Talmey-Drake Research & Strategy, Inc. with all the names and addresses of people from its ICON data base who in the previous 12 months had likely been in each judge's courtroom who was up for retention in November 2006. These names and addresses were then supplemented from the Colorado District Attorney's database (Blackstone system) and the databases of jurors, court employees and sheriff's security.

The data was then combined and cleaned. Where there were more than 400 potential respondents, a random sample was 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 judge 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 been in.

Survey: Starting in October 2005, each person in the sample database was mailed an initial questionnaire and an introductory letter with a postage-paid return envelope. Those who did not respond to the first questionnaire were then sent a second questionnaire and letter, and in some cases reminder postcards. During this process, the sample was augmented for judges with a particularly low number of completed questionnaires.

Questionnaire: The questionnaire used in the 2006 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 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 response rate is calculated as the number of completed questionnaires divided by the number of eligible respondents who actually received a questionnaire. The following table shows the total number of questionnaires mailed, completed, non-responses & refusals, undeliverables and other responses. The table presents the overall response rate as well as the response rate by the different types of respondents.

<u>Attorney Respondents</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
District Attorney	684	402	223	56	3	64.3%
Attorney For Defendant	5,159	2,760	1895	490	14	59.3%
Attorney for Plaintiff	1,925	1,023	689	206	7	59.8%
Unknown Attorney Type	963	436	418	107	2	51.1%
Attorney Total	8,731	4,621	3225	859	26	58.7%

<u>Non-Attny Respondents</u>	<u>Total Sent</u>	<u>Completed</u>	<u>Refused/ Nonre- sponse</u>	<u>Unde- livered</u>	<u>Other</u>	<u>Response Rate</u>
Law Enforcement	5,659	1,161	3,276	1,195	27	26.2%
Employee	1,307	600	489	205	13	55.1%
Defendant	31,391	3,658	17,494	10,124	115	17.3%
Plaintiff	7,688	1,449	4,699	1,506	34	23.6%
Juror	16,267	9,482	5,961	795	29	61.4%
Other	4,061	401	2,342	1,281	37	14.6%
Parole Officers	599	323	136	125	15	70.4%
Non-attorney Total	66,972	17,074	34,397	15,231	270	33.0%
Total	75,703	21,695	37,622	16,090	296	36.4%

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

Results: The results of the Survey are in two main sections: Attorney Respondents and Non-attorney Respondents. Within each main section are three subsections graphs displaying average grades for each section and question, the percentage distribution of grades, and respondent comments.

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 or county judges, and all trial judges for which 2006 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.

A = 4.00	B = 3.00 to 3.33	C = 2.00 to 2.33	D = 1.00 to 1.33
A- = 3.68 to 3.99	B- = 2.67 to 2.99	C- = 1.67 to 1.99	D- = 0.67 to 0.99
B+ = 3.34 to 3.66	C+ = 2.34 to 2.66	D+ = 1.34 to 1.66	Fail = 0.00 to 0.67

This section also includes two comparative columns of results: one comparative column shows the results for that question for all county or district judges (as appropriate) surveyed in 2006, along with a second comparative column showing the results for all trial judges in the 2006 survey.

Comments: Each respondent was encouraged to comment on the judge's performance. This section contains those comments.

Sampling Error:

All sample surveys are subject to what is known as sampling error—the extent to which the results of the sample survey may differ from what would be obtained if the entire population being surveyed had been interviewed. The size of the sampling error is almost entirely due to the number of people interviewed for the survey and the variance of responses.

The table below shows the extent of sampling error (95%-confidence interval) for various sizes of random samples and sample percentage results.

	Sample Size					
	25	50	100	150	200	300
Percentages near 10% or 90%	± 11.8%	± 8.3%	± 5.9%	± 4.8%	± 4.2%	± 3.4%
Percentages near 20% or 80%	± 15.7%	± 11.1%	± 7.8%	± 6.4%	± 5.5%	± 4.5%
Percentages near 30% or 70%	± 18.0%	± 12.7%	± 9.0%	± 7.3%	± 6.4%	± 5.2%
Percentages near 40% or 60%	± 19.2%	± 13.6%	± 9.6%	± 7.8%	± 6.8%	± 5.5%
Percentages near 50%	± 19.6%	± 13.9%	± 9.8%	± 8.0%	± 6.9%	± 5.7%

For example, suppose a reported percentage is 80% in a sample size of 150, then one could expect that 95% of the time that a random sample of the same size and collected the same way would include the true population percentage within the range of 80% plus or minus 6.4%.

Averages such as grade points also have a 95% confidence interval, however it is not so easily displayed in a table as confidence intervals about a percentage. Suffice it to say that the confidence interval about a score generally increases with smaller sample size.

David Scott Westfall

Responses by Type

<i>Role Type</i>	<i>Total</i>				<i>Other Non- Coop</i>	
	<i>Sent</i>	<i>Completes</i>	<i>Refusals</i>	<i>Undeliverable</i>	<i>Responses</i>	<i>Rate</i>
District Attorney	2	2	0	0	0	100.0%
Attorney For Defendant	13	8	3	2	0	72.7%
Attorney for Plaintiff	3	1	2	0	0	33.3%
Sub Total:	18	11	5	2	0	68.8%

Defendant	87	9	41	37	0	18.0%
Plaintiff	25	10	8	7	0	55.6%
Law Enforcement	21	3	17	1	0	15.0%
Employee	5	3	1	1	0	75.0%
Juror	18	12	5	1	0	70.6%
Sub Total:	156	37	72	47	0	33.9%

Grand Total:	174	48	77	49	0	38.4%
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Commission on Judicial Performance

Attorney Questionnaire

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

12. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge [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 [Name]?

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 [Name of Judge]

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>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>DK</u> <u>N/A</u>
<u>1. Case Management:</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> ¹ 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>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>DK</u> <u>N/A</u>
<u>2. Application and Knowledge of Law:</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> ¹ 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> ² 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

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

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

3. Communications:

	A	B	C	D	F	DK 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

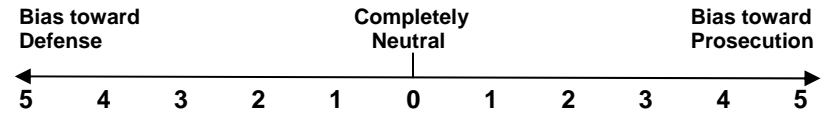
4. Demeanor:

	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 [his/her] behavior	4	3	2	1	0	9
g. Conducting [his/her] 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

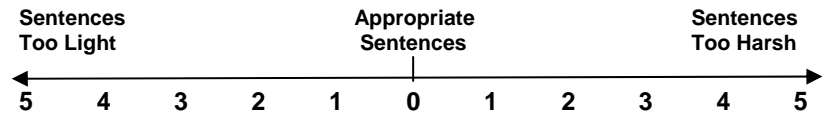
5. Diligence:

	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 [his/her] 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

6. [Criminal cases only]¹ On the scale below, please indicate by circling the appropriate number how biased you think Judge [Name] is toward the defense or the prosecution. If you feel Judge [Name] is completely unbiased, circle "0."



7. [Criminal cases only]¹ 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 [Name] are. If you feel Judge [Name] generally hands down appropriate sentences, circle "0."



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

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

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

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

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

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

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

Thank you for you 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.

Commission on Judicial Performance

Evaluation of [Name of Judge]

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the judge on the following. (If you feel that you don't have experience with the judge in a specific area, or just don't know, please circle the number corresponding to "Don't Know/Not Applicable"—DK/NA).

							DK
<u>1. Demeanor:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>N/A</u>	<u>N/A</u>
a. Giving court proceedings a sense of dignity.	4	3	2	1	0	9	
b. Treating participants in the case politely and with respect.	4	3	2	1	0	9	
c. Conducting [his/her] courtroom in a neutral manner.	4	3	2	1	0	9	
d. Having a sense of compassion and human understanding for those who appear before [him/her].	4	3	2	1	0	9	

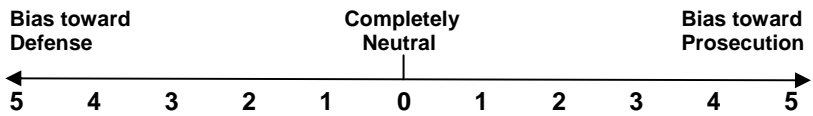
							DK
<u>2. Fairness:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>N/A</u>	<u>N/A</u>
a. Giving participants an opportunity to be heard.	4	3	2	1	0	9	
b. Treating those involved in the case without bias.	4	3	2	1	0	9	
c. Treating fairly people who represent themselves.	4	3	2	1	0	9	
d. Giving each side enough time to present his or her case.	4	3	2	1	0	9	

							DK
<u>3. Communications:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>	<u>N/A</u>	<u>N/A</u>
a. Making sure participants understand the proceedings, and what's going on in the courtroom.	4	3	2	1	0	9	
b. Using language that everyone can understand.	4	3	2	1	0	9	
c. Speaking clearly so everyone in the courtroom can hear what's being said.	4	3	2	1	0	9	

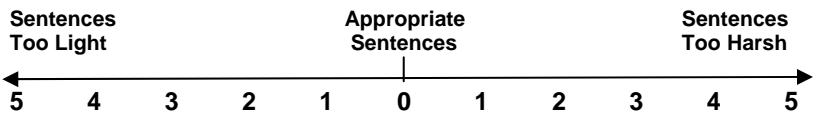
	A	B	C	D	F	DK N/A
4. Diligence:						
a. Beginning court on time.	4	3	2	1	0	9
b. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
c. Setting reasonable schedules for cases.	4	3	2	1	0	9
d. Being prepared for <i>[his/her]</i> cases.	4	3	2	1	0	9
e. Managing court proceedings so that there is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

	A	B	C	D	F	DK N/A
5. Application of Law:						
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 Judge [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 [Name] is toward the defense or the prosecution. If you feel Judge [Name] is completely unbiased, circle "0."



7. ***[If you were in Judge [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 Judge [Name] are. If you feel Judge [Name] generally hands down appropriate sentences, circle "0."



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

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

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

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

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