

# **JUDICIAL PERFORMANCE PROGRAM**

## **2020 REPORT**

**THE JUDICIARY  
STATE OF HAWAI‘I**

**January 4, 2021**

## **JUDICIAL PERFORMANCE PROGRAM 2020 REPORT**

### **INTRODUCTION**

The Judicial Performance Program 2020 Report summarizes the results of evaluations involving four Appellate Court justices and judges, seven Circuit Court judges, and seven Family Court judges. The attorney evaluations were conducted on the Internet.

To ensure the security, anonymity, and confidentiality of the evaluation process, it was administered by NIC Hawaii. NIC Hawaii maintains and manages the eHawaii.gov web portal. It is a company that is completely independent of the Judiciary.

The Judicial Performance Program was created by Supreme Court Rule 19 as a method of promoting judicial competence and excellence. The members of the Judicial Performance Committee are listed in Appendix A.

### **JUSTICES' AND JUDGES' RATINGS**

Justices and judges are rated on Fairness/Impartiality, Written Opinions, Oral Argument, and Overall Evaluation. Trial court judges are rated on Legal Ability, Judicial Management Skills, Comportment, and Settlement and/or Plea Agreement Ability. All yearly reports on the Judicial Performance Program are available to the public. Scores and comments received for individual justices and judges are available to the Judicial Selection Commission, upon its request.

Pictographs displaying frequency distributions of the justices' and judges' ratings are included in this evaluation report. Comparative rankings are provided in each area of assessment.

### **EVALUATION CYCLES**

Appellate justices and judges and Circuit Court judges are scheduled for evaluation three times in their ten-year terms. Full time District Family Court judges and District Court judges are scheduled for evaluation twice in their six-year terms. For purposes of this program, Circuit Court judges assigned to the Family Court of the First Circuit are considered Family Court judges but are evaluated three times during their ten-year terms. A portion of the Per Diem judge pool is scheduled for evaluation every three years.

The full time Family Court and District Court evaluations are phased to result in these courts being included in the evaluation process two out of every three years. About one-half or approximately ten judges from each group are evaluated per cycle. Evaluation of District Court, but not of Family Court, judges was conducted in 2019. Evaluation of Family Court, but not of District Court, judges was conducted in 2020. Evaluations of both full time Family Court and full time District Court judges are scheduled for 2021.

## **JUDICIAL EVALUATION REVIEW PANEL**

The Judicial Evaluation Review Panel assists Chief Justice Mark E. Recktenwald in the review and evaluation process. The Review Panel interviews the justices and judges and consists of nine members: Robert Alm, Momi Cazimero, Virginia Crandall, Kenneth Hipp, Danna Holck, Douglas McNish, Willson Moore Jr., Shackley Raffetto, and Ruthann Yamanaka. The Review Panels are organized into groups of three; every effort is made for each panel to consist of one former judge, one nonpracticing attorney, and one member of the public knowledgeable in the law. Their purpose is to interview and counsel the evaluated justices and judges and to help the justices and judges improve their performance.

## APPELLATE COURT RESULTS

Four Supreme Court and Intermediate Court of Appeals justices and judges received the results of their evaluations under cover of memoranda dated April 21, 2020. Six other justices and judges did not have the minimum eighteen responses needed to be evaluated.

A link to the questionnaire was provided to attorneys by email on February 24, 2020, and again on March 17, 2020. The surveys were collected from February 24 to March 6, 2020, and from March 17 to March 31, 2020. The questionnaire is attached as Appendix B.

Possible scores for the multiple-choice format range from one to five. One indicates a Never or Poor rating. Five stands for Always or Excellent. Table 1 on page 4 provides the averages for the four Appellate Court justices and judges.

The mean score for the Fairness/Impartiality Section was 4.3, with a standard deviation of 0.4. The standard deviation gives an indication of the variation in the scores of the justices and judges. (A small standard deviation means that scores generally were clustered about the mean; a large standard deviation means that there was less clustering of the scores.) Most of the Appellate Court justices and judges received marks between 3.9 and 4.7 in the Fairness/Impartiality Section.

For Written Opinions, the justices and judges had a mean score of 3.9. The standard deviation for this section was 0.4. The mean score for the Oral Argument Section was 4.2, with a standard deviation of 0.4. The mean score for the Overall Evaluation Section was 4.0, with a standard deviation of 0.5. The frequencies of the Appellate Court justices' and judges' ratings, by category, are printed on pages 5 to 8.

There were 180 responses from 4,483 emails sent out to attorneys. This includes responses for the justices and judges who had fewer than eighteen questionnaires. Some of the 180 attorneys said that they had not appeared before any justices or judges. Other attorneys sent in responses with evaluations for more than one justice or judge. The number of questionnaires received for the four justices and judges with enough responses to be evaluated totaled 93, with between 21 and 26 questionnaires per justice or judge.

**TABLE 1**  
**JUDICIAL PERFORMANCE PROGRAM - APPELLATE COURTS**  
**EVALUATION RESULTS FOR FOUR JUSTICES AND JUDGES**  
**FEBRUARY 24, 2020 - MARCH 31, 2020**

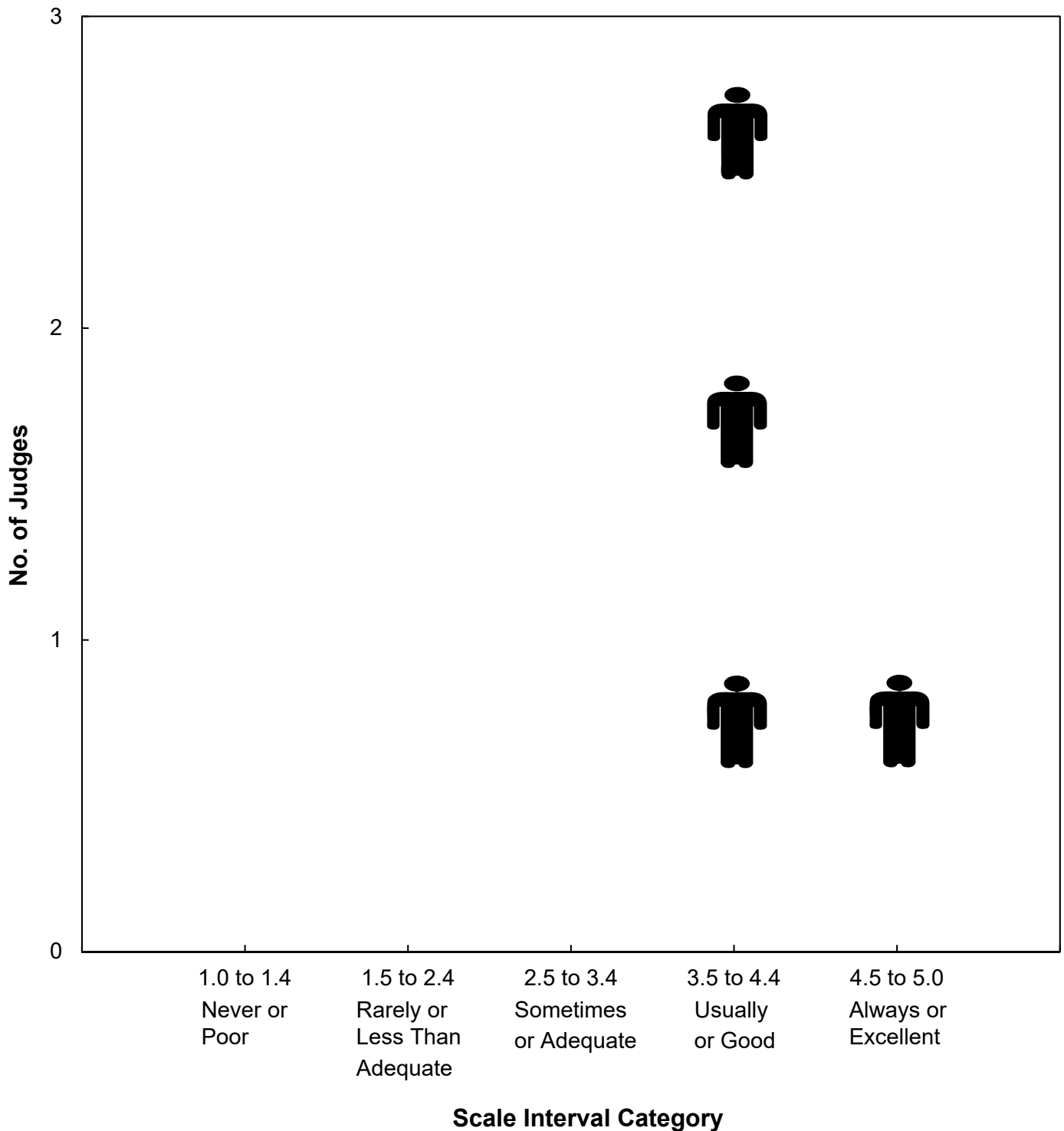
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>FAIRNESS/IMPARTIALITY SECTION</u></b>			
1. Removes him/herself from any action that is, or appears to be, a conflict of interest.	3	4.0	0.2
2. Treats all parties fairly regardless of race, age, gender, economic status, or any other reason.	4	4.4	0.4
3. Treats all parties fairly regardless of position (e.g., plaintiff/defendant, prosecutor/defense attorney, particular attorneys, etc.).	4	4.3	0.5
4. Strives to be impartial on all issues.	4	4.1	0.5
5. Contributes in a meaningful way to administrative committees he or she is assigned to.	4	4.7	0.3
Average Score for the Fairness/Impartiality Section	4	4.3	0.4
<b><u>WRITTEN OPINIONS SECTION</u></b>			
1. In opinions authored by this justice/judge, he or she demonstrates knowledge of relevant substantive law at issue.	4	4.0	0.4
2. In opinions authored by this justice/judge, he or she demonstrates legal reasoning ability.	4	4.0	0.4
3. Overall quality of written opinions authored specifically by this justice/judge.	4	3.8	0.4
Average Score for the Written Opinions Section	4	3.9	0.4
<b><u>ORAL ARGUMENT SECTION</u></b>			
1. In oral argument, this justice/judge exhibits dignified behavior.	4	4.3	0.5
2. This justice/judge is courteous to counsel at oral argument.	4	4.3	0.5
3. In oral argument, this justice/judge is attentive during proceedings.	4	4.5	0.3
4. In oral argument, this justice/judge shows patience during proceedings.	4	4.2	0.4
5. I would rate the relevance of questions posed by this justice/judge to counsel on issues raised by the parties as	4	4.0	0.4
6. I would rate the preparation for oral argument by this justice/judge as	4	4.1	0.4
Average Score for the Oral Argument Section	4	4.2	0.4
<b><u>OVERALL EVALUATION SECTION</u></b>			
1. Overall evaluation of judicial performance.	4	4.0	0.5
N = Number of Justices/Judges with More Than Five Responses for the Item Legend for Mean Score: 5 = Always or Excellent   4 = Usually or Good   3 = Sometimes or Adequate 2 = Rarely or Less Than Adequate   1 = Never or Poor S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values			

## Appellate Courts

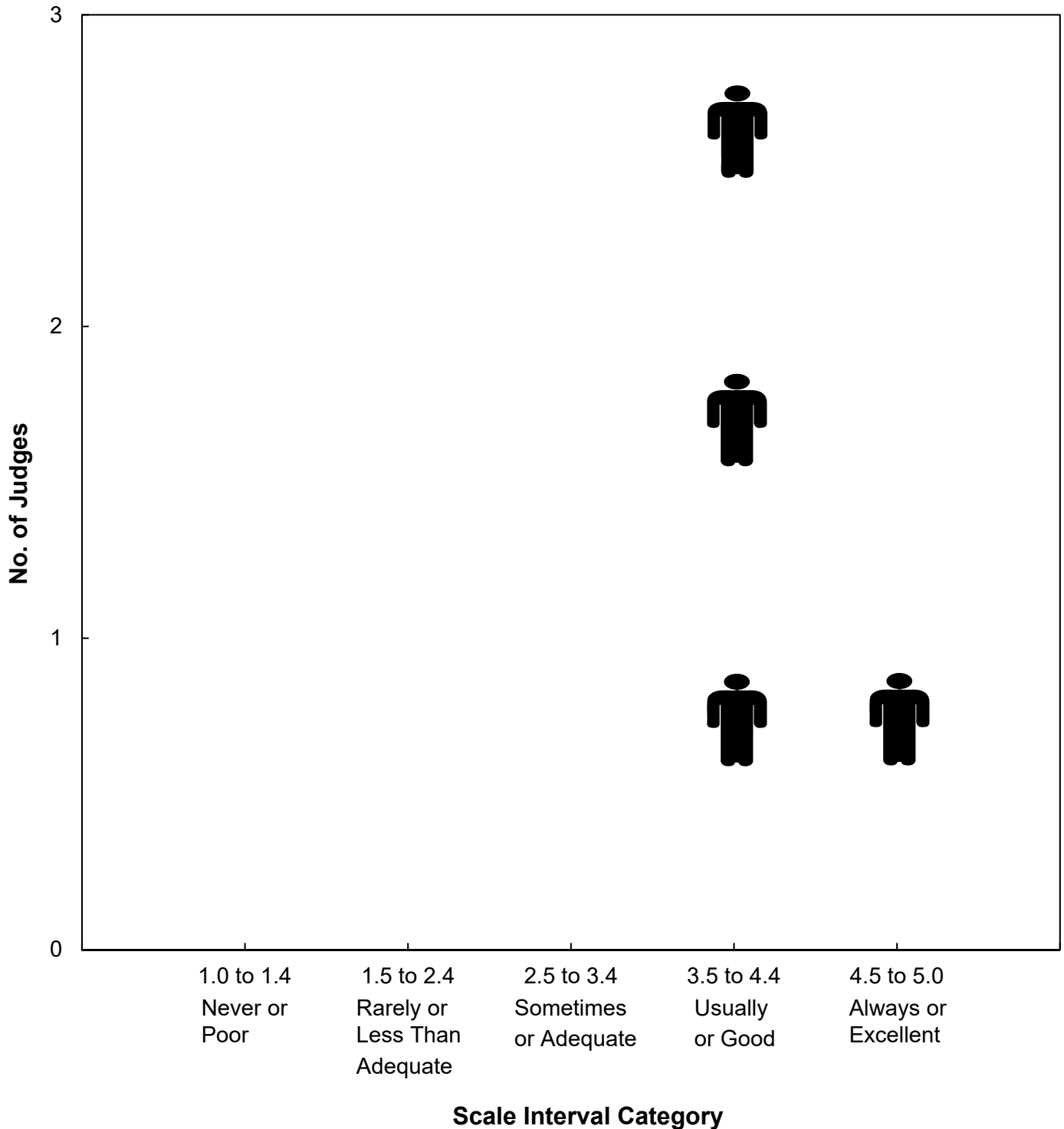
### Graph 1. Fairness/Impartiality Scale

#### Frequency Of Justices'/Judges' Ratings, By Category

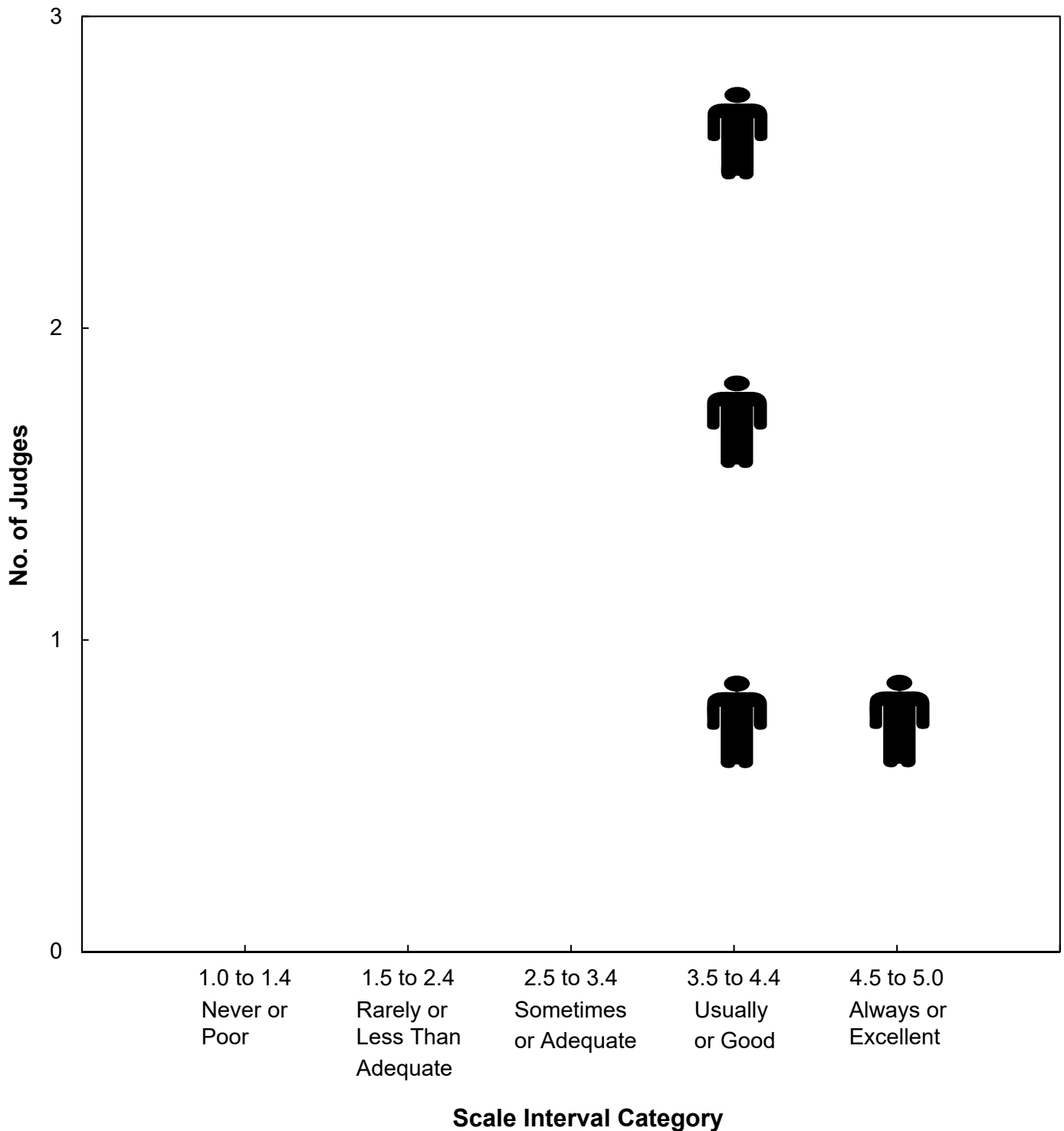
February 24, 2020 – March 31, 2020



**Appellate Courts**  
**Graph 2. Written Opinions Scale**  
**Frequency Of Justices'/Judges' Ratings, By Category**  
**February 24, 2020 – March 31, 2020**

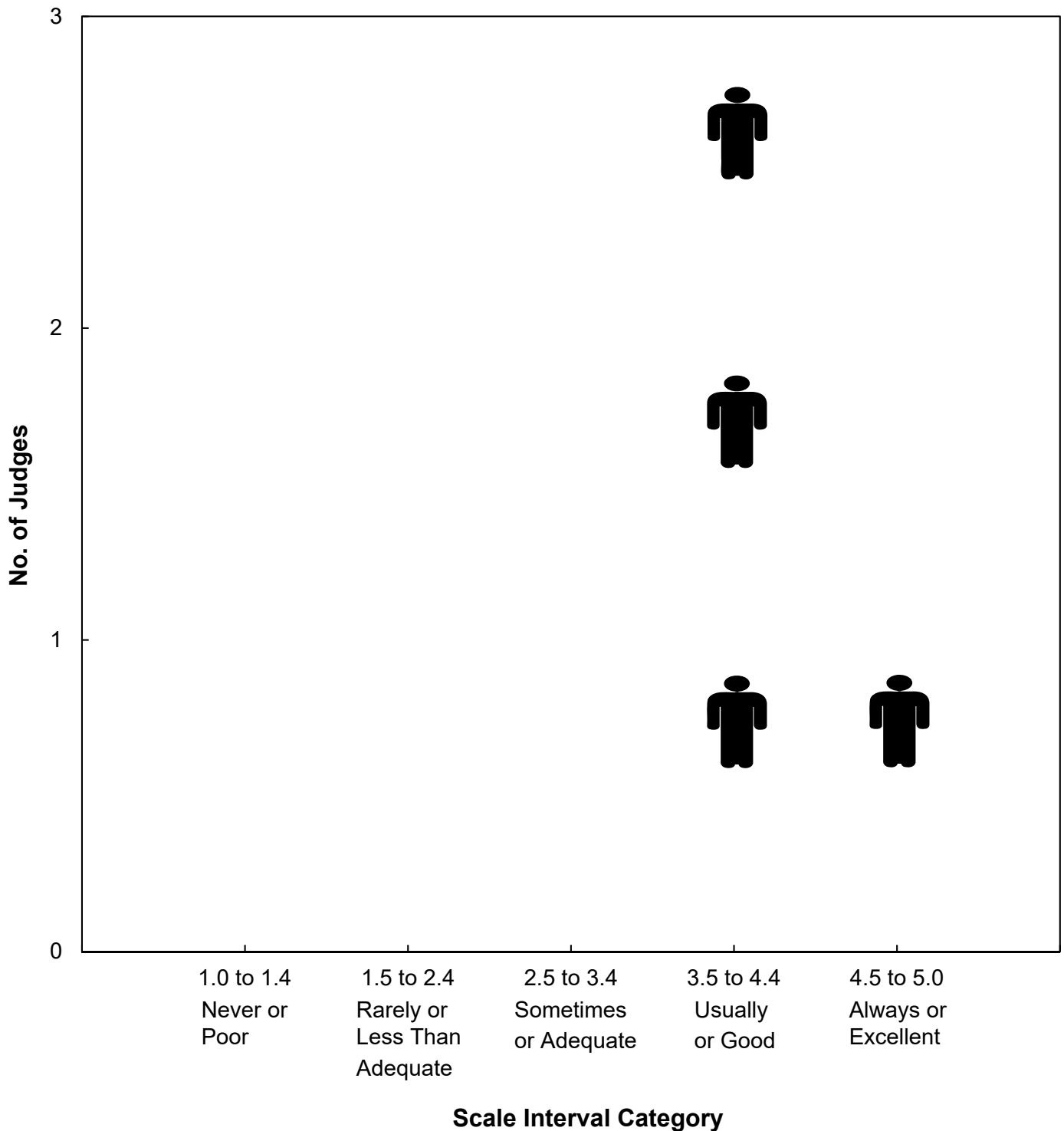


**Appellate Courts**  
**Graph 3. Oral Argument Scale**  
**Frequency Of Justices'/Judges' Ratings, By Category**  
**February 24, 2020 – March 31, 2020**





**Appellate Courts**  
**Graph 4. Overall Evaluation Scale**  
**Frequency Of Justices’/Judges’ Ratings, By Category**  
**February 24, 2020 – March 31, 2020**



## **CIRCUIT COURT RESULTS**

Seven Circuit Court judges received the results of their evaluations under cover of memoranda dated December 22, 2020. A link to the questionnaire was provided to attorneys by email on August 25, 2020, and the surveys were collected from August 25 to September 18, 2020.

Although nine judges were selected for the evaluation, only seven judges received the minimum eighteen responses required to be included. The other judges did not receive evaluation reports.

The email to attorneys from Chief Justice Recktenwald is printed in Appendix C. The questionnaire is provided in Appendix D.

Possible scores for the multiple-choice format range from one to five. One indicates a Poor rating. Five stands for Excellent. Table 2 on page 10 provides the averages for the seven Circuit Court judges.

The mean score for the Legal Ability Section was 4.2, with a standard deviation of 0.2. The standard deviation gives an indication of the variation in the scores of the judges. Most of the judges scored between 4.0 and 4.4 in this section.

For the Judicial Management Skills Section, the judges had a mean score of 4.3. The standard deviation for this section was 0.2. The mean score for the Comportment Section was 4.2, with a standard deviation of 0.3. The mean score for the Settlement and/or Plea Agreement Ability Section was 4.1, with a standard deviation of 0.2. The frequencies of the Circuit Court judges' ratings, by category, are printed on pages 11 to 14.

There were 355 responses from attorneys out of 4,580 emails sent out. The number of responses did not equal the number of questionnaires received. The reminder email sent to attorneys is provided in Appendix E. The number of questionnaires received for the seven judges with enough responses to be evaluated totaled 332, with between 18 and 101 questionnaires received for each judge.

**TABLE 2**  
**JUDICIAL PERFORMANCE PROGRAM - CIRCUIT COURT**  
**EVALUATION RESULTS FOR SEVEN JUDGES**  
**AUGUST 25, 2020 - SEPTEMBER 18, 2020**

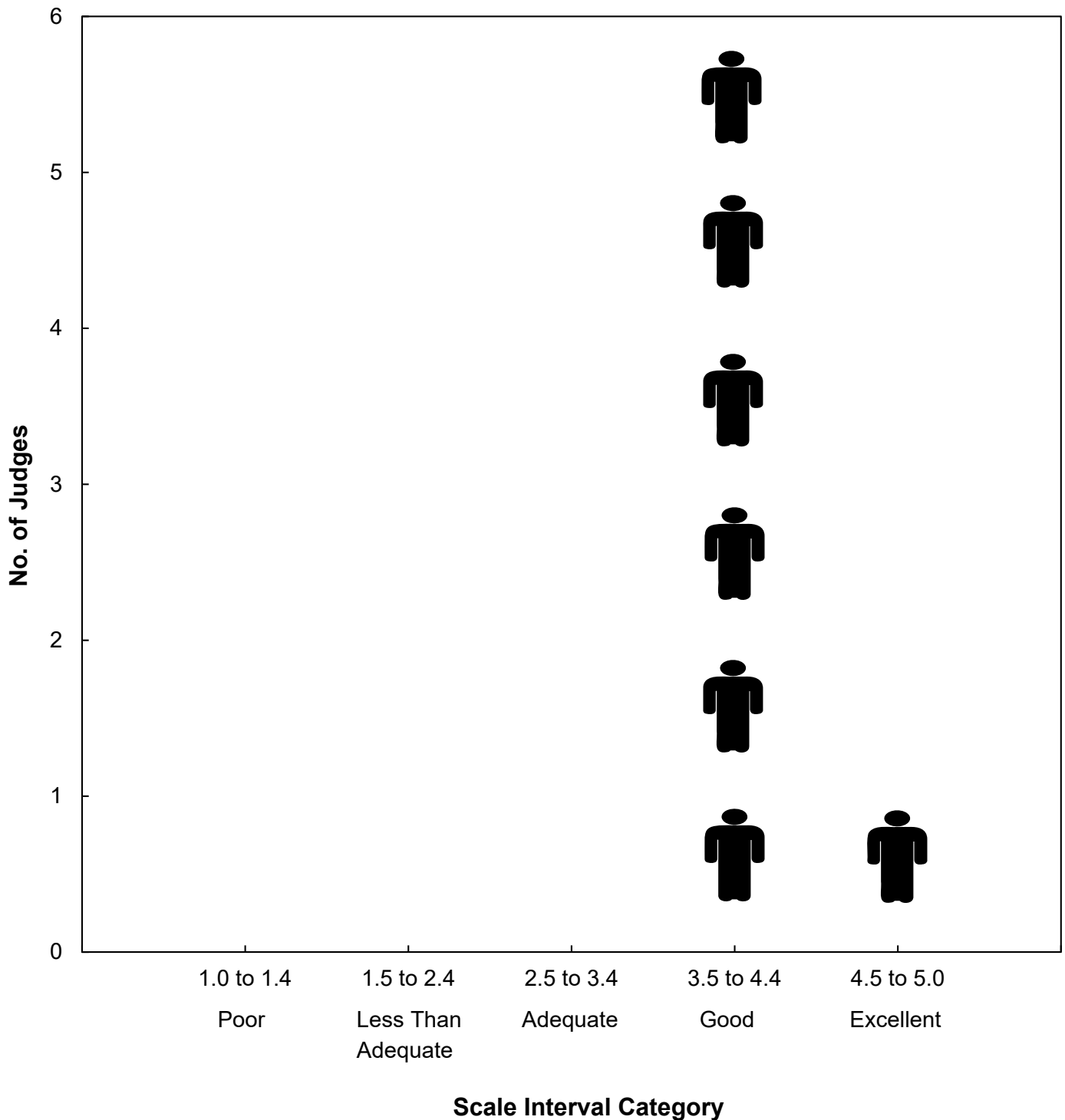
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>LEGAL ABILITY SECTION</u></b>			
1. Knowledge of Relevant Substantive Law	7	4.3	0.2
2. Knowledge of Rules of Procedure	7	4.4	0.2
3. Knowledge of Rules of Evidence	7	4.3	0.2
4. Ability to Identify and Analyze Relevant Issues	7	4.3	0.3
5. Judgment in Application of Relevant Laws and Rules	7	4.2	0.3
6. Giving Reasons for Rulings when Needed	7	4.2	0.3
7. Clarity of Explanation of Rulings	7	4.2	0.3
8. Adequacy of Findings of Fact	7	4.1	0.3
9. Clarity of Judge's Decision(s) (oral/written)	7	4.2	0.2
10. Completeness of Judge's Decision(s) (oral/written)	7	4.2	0.2
11. Judge's Charge to the Jury/Juries	6	4.1	0.3
Average Score for the Legal Ability Section	7	4.2	0.2
<b><u>JUDICIAL MANAGEMENT SKILLS SECTION</u></b>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	7	4.2	0.2
2. Maintaining Proper Control over the Proceeding(s)	7	4.4	0.2
3. Doing the Necessary Homework on the Case(s)	7	4.3	0.3
4. Rendering Rulings and Decisions w/o Unnecessary Delay	7	4.4	0.3
5. Allowing Adequate Time for Presentation of the Case(s)	7	4.4	0.2
6. Resourcefulness and Common Sense in Resolving Problems	7	4.2	0.3
7. Skills in Effecting Compromise	7	4.1	0.3
8. Industriousness	7	4.4	0.2
Average Score for the Judicial Management Skills Section	7	4.3	0.2
<b><u>COMPORTMENT SECTION</u></b>			
1. Attentiveness	7	4.5	0.2
2. Courtesy to Participants	7	4.3	0.4
3. Compassion	7	4.2	0.4
4. Patience	7	4.1	0.5
5. Absence of Arrogance	7	4.2	0.4
6. Absence of Bias and Prejudice	7	4.3	0.3
7. Evenhanded Treatment of Litigants	7	4.2	0.3
8. Evenhanded Treatment of Attorneys	7	4.1	0.4
Average Score for the Comportment Section	7	4.2	0.3
<b><u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u></b>			
1. Knowing the Case(s) and/or the Law	7	4.2	0.2
2. Reasonableness of Opinions	7	4.2	0.1
3. Ability to Enhance the Settlement Process	7	3.9	0.2
4. Impartiality	7	4.2	0.2
5. Absence of Coercion or Threat	7	4.3	0.3
6. Effectiveness in Narrowing the Issues	7	4.1	0.2
7. Appropriateness of Judge's Initiatives	7	4.0	0.2
8. Facilitation in Development of Options	7	3.9	0.2
Average Score for the Settlement and/or Plea Agreement Ability Section	7	4.1	0.2

N = Number of Judges with More Than Five Responses for the Item

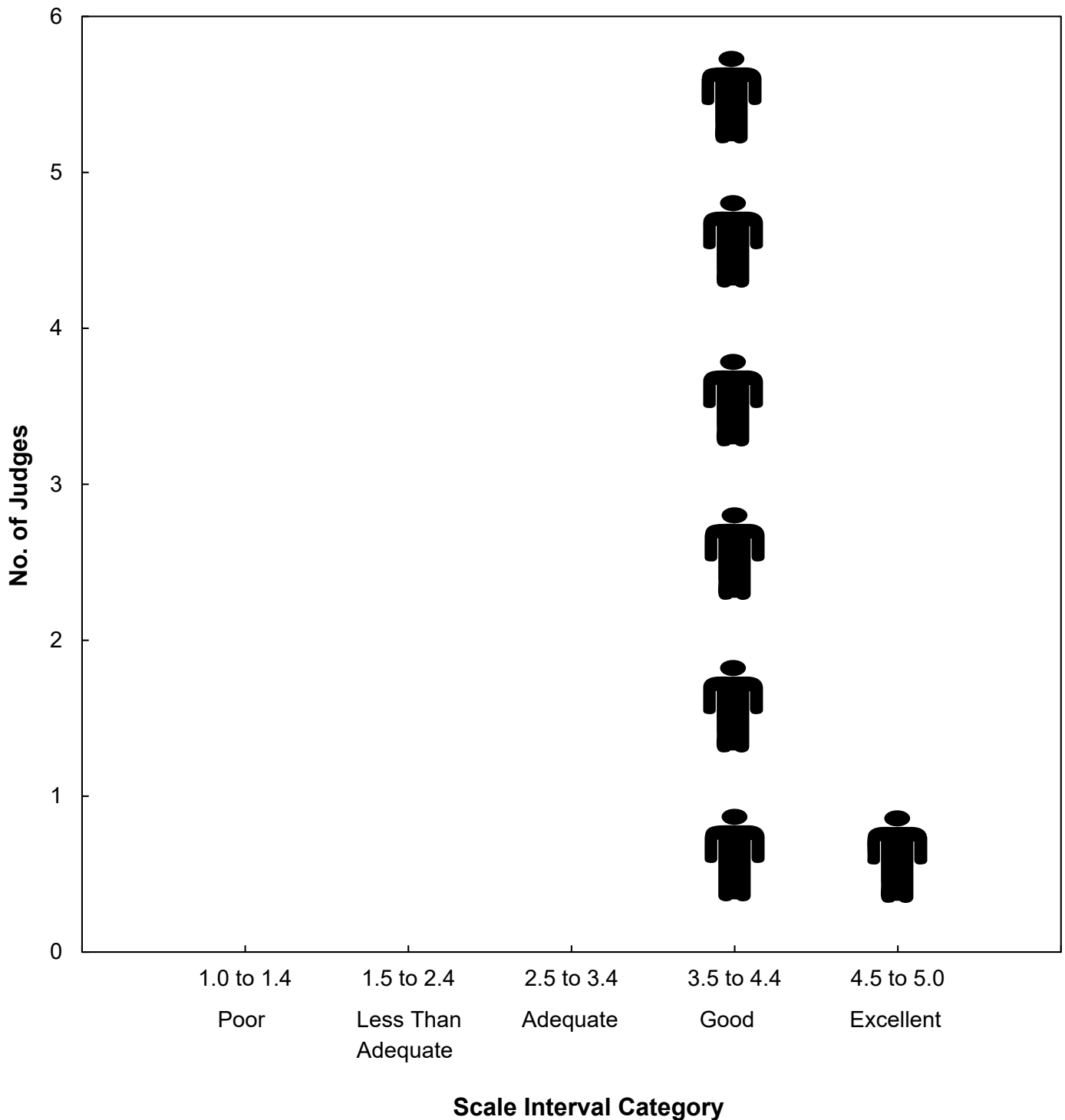
Legend for Mean Score: 5 = Excellent | 4 = Good | 3 = Adequate | 2 = Less Than Adequate | 1 = Poor

S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values

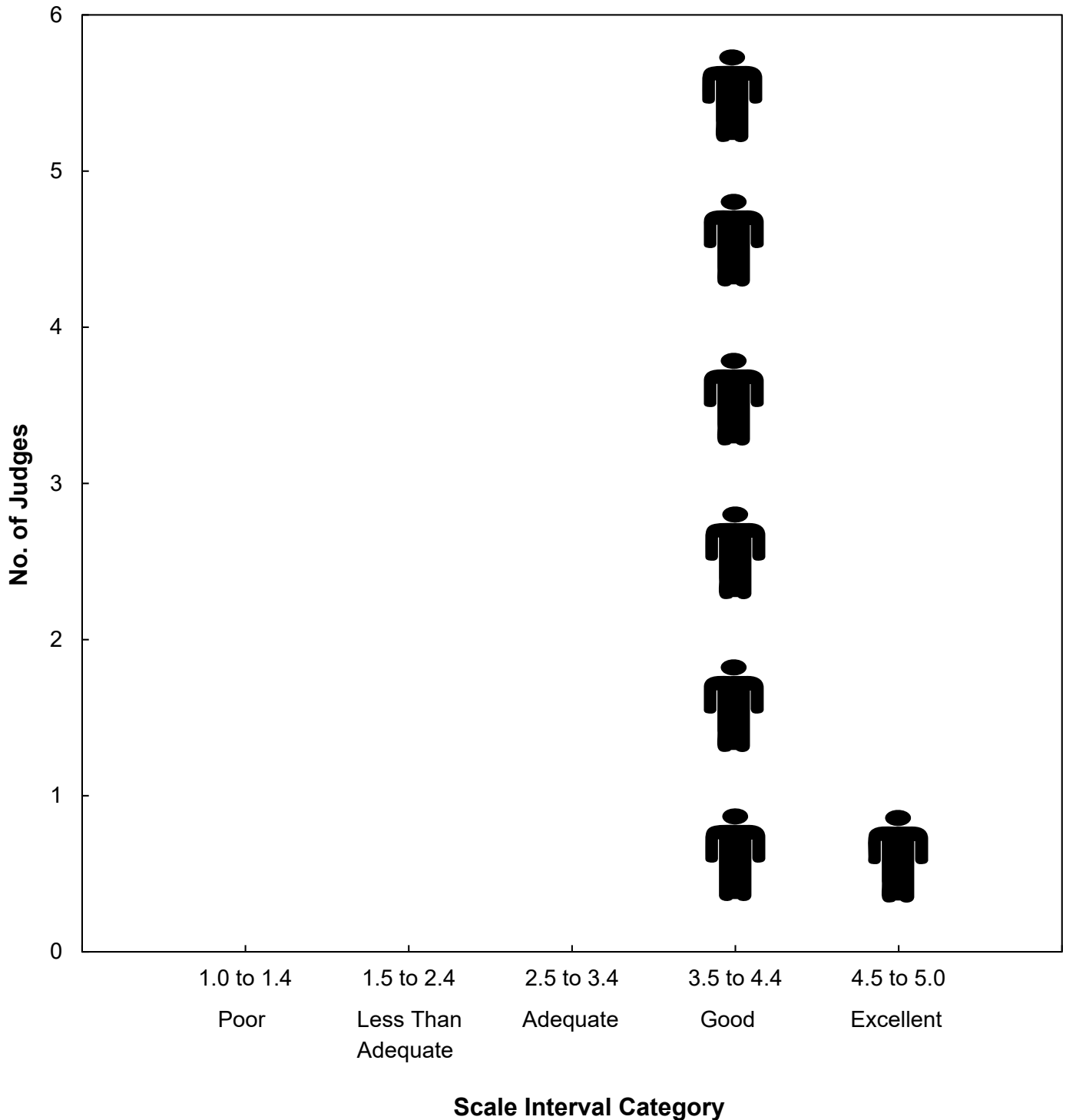
**Circuit Court**  
**Graph 5. Legal Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**August 25, 2020 – September 18, 2020**



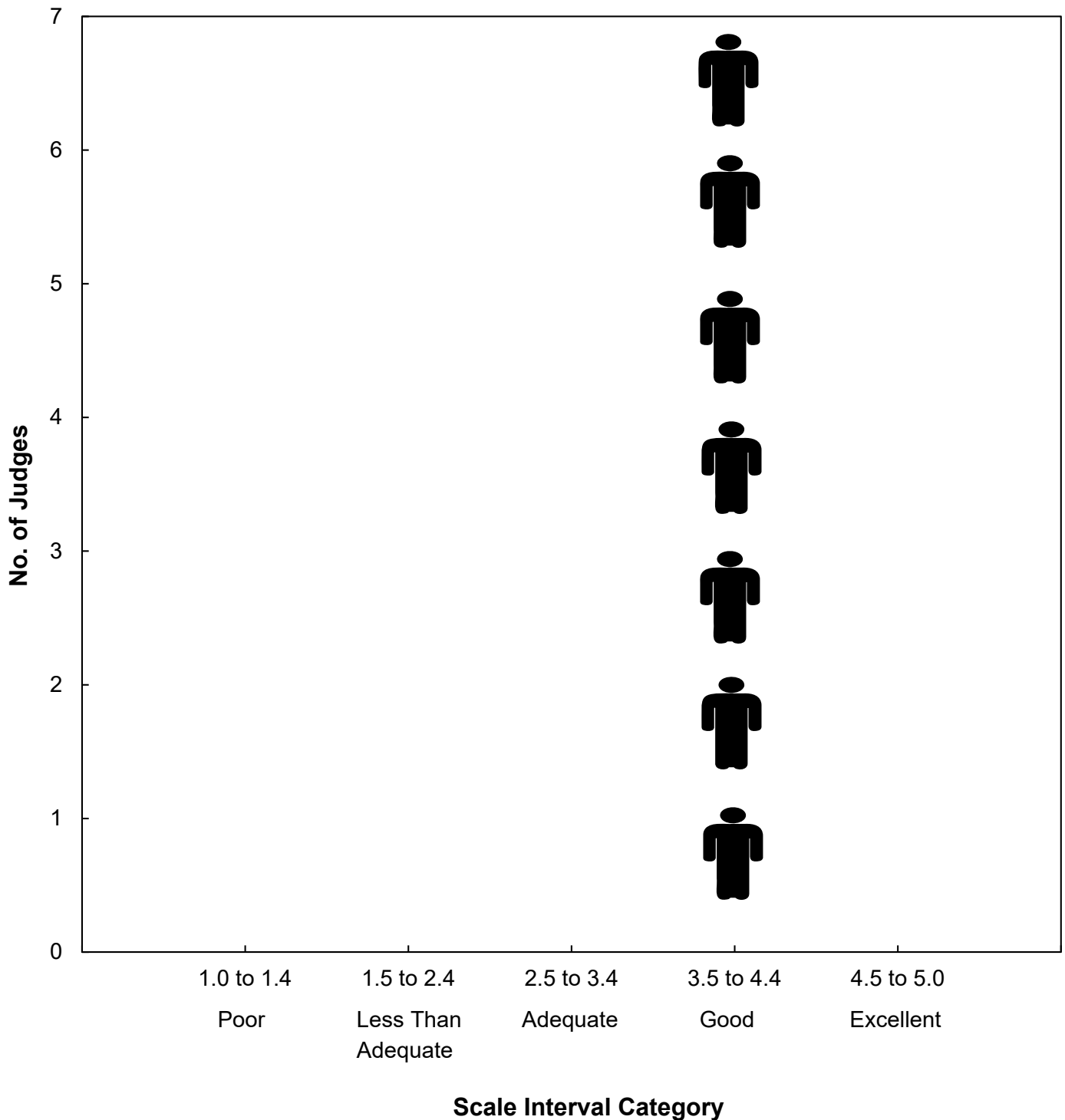
**Circuit Court**  
**Graph 6. Judicial Management Skills Scale**  
**Frequency Of Judges' Ratings, By Category**  
**August 25, 2020 – September 18, 2020**



**Circuit Court**  
**Graph 7. Comportment Scale**  
**Frequency Of Judges' Ratings, By Category**  
**August 25, 2020 – September 18, 2020**



**Circuit Court**  
**Graph 8. Settlement/Plea Agreement Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**August 25, 2020 – September 18, 2020**



## **FAMILY COURT RESULTS**

Evaluation results were transmitted to seven Family Court judges by Chief Justice Recktenwald under cover of memoranda dated November 2, 2020. Two other judges did not have enough responses to be evaluated. Surveys could be completed on the Internet from July 7 to July 31, 2020.

A copy of the Family Court questionnaire is printed in Appendix F. Table 3 on the next page provides the averages for the seven judges.

The mean score for the Legal Ability Section was 3.9, and the standard deviation was 0.4. The mean score for the Judicial Management Skills Section was 3.9, and the standard deviation was 0.4. The mean score for the Comportment Section was 4.0, and the standard deviation was 0.5. The mean score for the Settlement and/or Plea Agreement Ability Section was 3.8, and the standard deviation was 0.5. The frequencies of the judges' ratings, by category, are printed on pages 17 to 20.

Of the 4,578 attorneys who were sent emails, 280 returned evaluations. The 280 evaluations were for nine judges, but the responses for the judges who had fewer than eighteen questionnaires were not used. Also, some attorneys appeared before two or more judges.

The seven judges who were evaluated had 311 evaluations returned. The judges received between 31 and 60 questionnaires each.

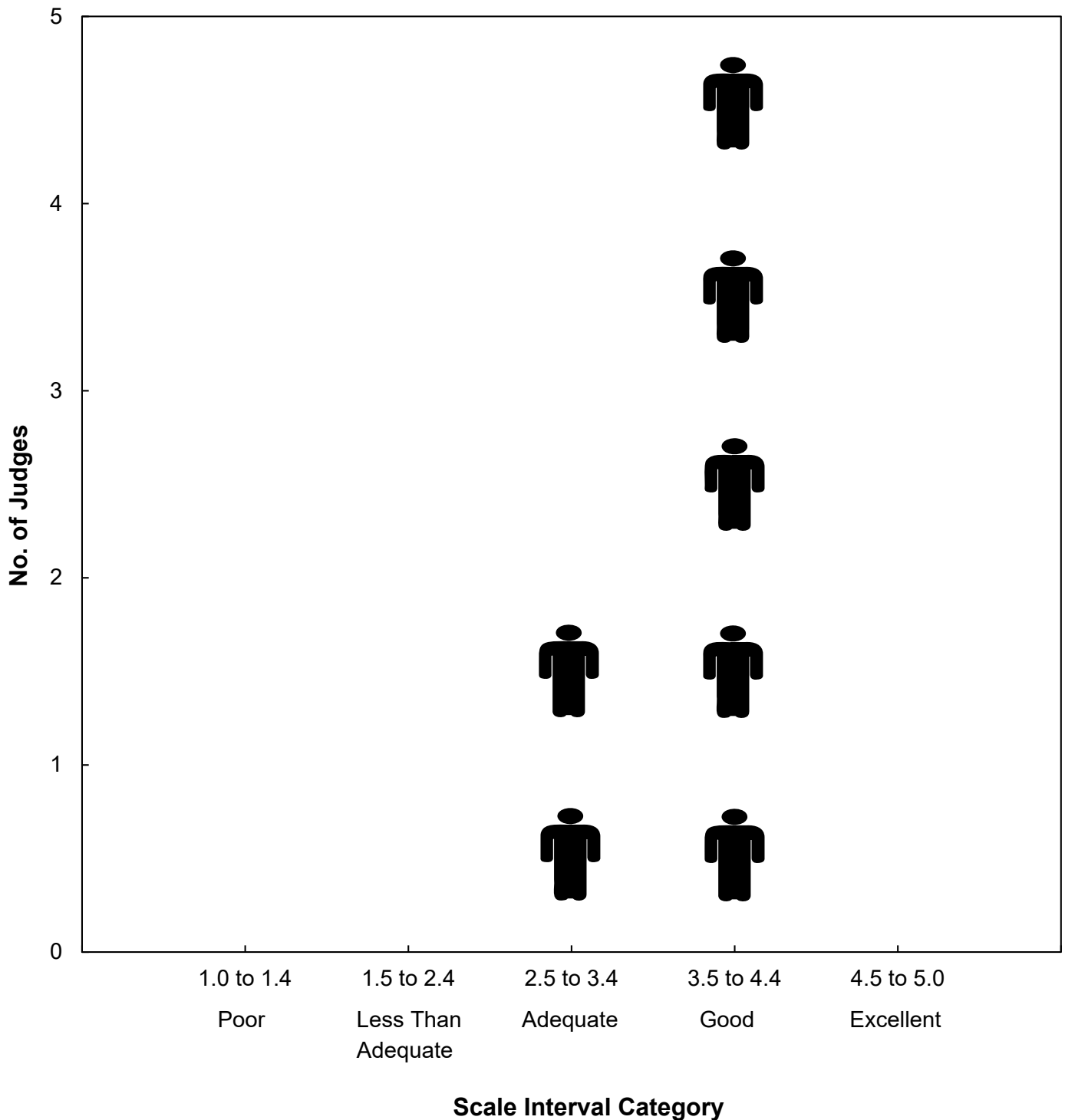


**TABLE 3**  
**JUDICIAL PERFORMANCE PROGRAM - FAMILY COURT**  
**EVALUATION RESULTS FOR SEVEN JUDGES**  
**JULY 7, 2020 - JULY 31, 2020**

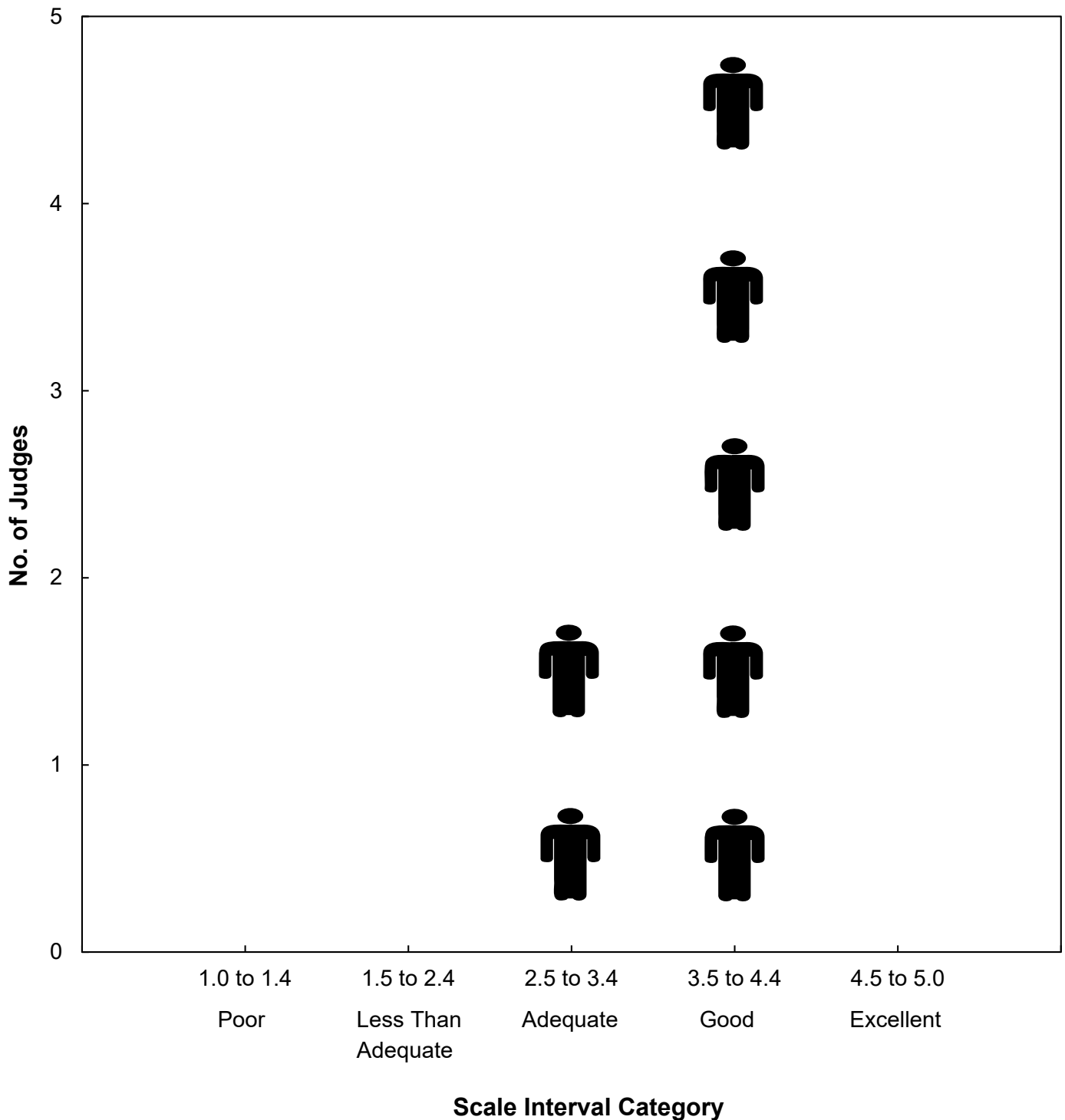
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>LEGAL ABILITY SECTION</u></b>			
1. Knowledge of Relevant Substantive Law	7	3.9	0.5
2. Knowledge of Rules of Procedure	7	4.0	0.4
3. Knowledge of Rules of Evidence	7	4.0	0.4
4. Ability to Identify and Analyze Relevant Issues	7	3.9	0.5
5. Judgment in Application of Relevant Laws and Rules	7	3.8	0.5
6. Giving Reasons for Rulings when Needed	7	3.8	0.4
7. Clarity of Explanation of Rulings	7	3.8	0.4
8. Adequacy of Findings of Fact	7	3.8	0.5
9. Clarity of Judge's Decision(s) (oral/written)	7	3.9	0.5
10. Completeness of Judge's Decision(s) (oral/written)	7	3.8	0.4
11. Judge's Charge to the Jury/Juries	1	4.5	---
Average Score for the Legal Ability Section	7	3.9	0.4
<b><u>JUDICIAL MANAGEMENT SKILLS SECTION</u></b>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	7	3.9	0.3
2. Maintaining Proper Control over the Proceeding(s)	7	3.9	0.4
3. Doing the Necessary Homework on the Case(s)	7	3.9	0.5
4. Rendering Rulings and Decisions w/o Unnecessary Delay	7	4.1	0.3
5. Allowing Adequate Time for Presentation of the Case(s)	7	4.0	0.3
6. Resourcefulness and Common Sense in Resolving Problems	7	3.8	0.6
7. Skills in Effecting Compromise	7	3.7	0.6
8. Industriousness	7	4.0	0.4
Average Score for the Judicial Management Skills Section	7	3.9	0.4
<b><u>COMPORTMENT SECTION</u></b>			
1. Attentiveness	7	4.2	0.3
2. Courtesy to Participants	7	4.0	0.6
3. Compassion	7	3.9	0.5
4. Patience	7	3.8	0.6
5. Absence of Arrogance	7	3.9	0.6
6. Absence of Bias and Prejudice	7	4.2	0.3
7. Evenhanded Treatment of Litigants	7	4.0	0.5
8. Evenhanded Treatment of Attorneys	7	4.0	0.5
Average Score for the Comportment Section	7	4.0	0.5
<b><u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u></b>			
1. Knowing the Case(s) and/or the Law	7	3.9	0.5
2. Reasonableness of Opinions	7	3.8	0.5
3. Ability to Enhance the Settlement Process	7	3.6	0.6
4. Impartiality	7	3.9	0.5
5. Absence of Coercion or Threat	7	4.0	0.6
6. Effectiveness in Narrowing the Issues	7	3.9	0.4
7. Appropriateness of Judge's Initiatives	7	3.7	0.5
8. Facilitation in Development of Options	7	3.6	0.6
Average Score for the Settlement and/or Plea Agreement Ability Section	7	3.8	0.5

<p>N = Number of Judges With More Than Five Responses for the Item</p> <p>Legend for Mean Score: 5 = Excellent   4 = Good   3 = Adequate   2 = Less Than Adequate   1 = Poor</p> <p>S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values</p>
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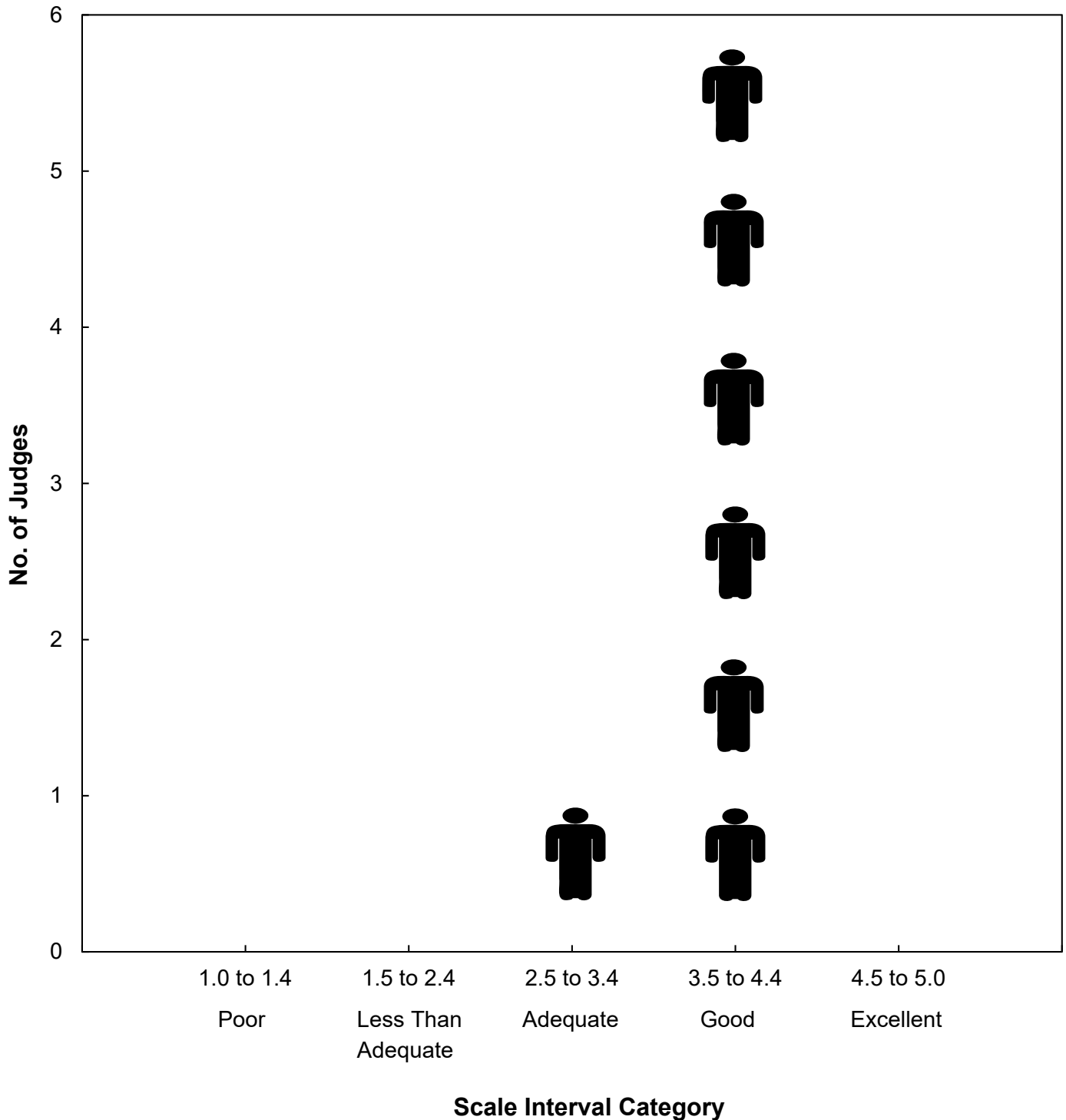
**Family Court**  
**Graph 9. Legal Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**July 7, 2020 – July 31, 2020**



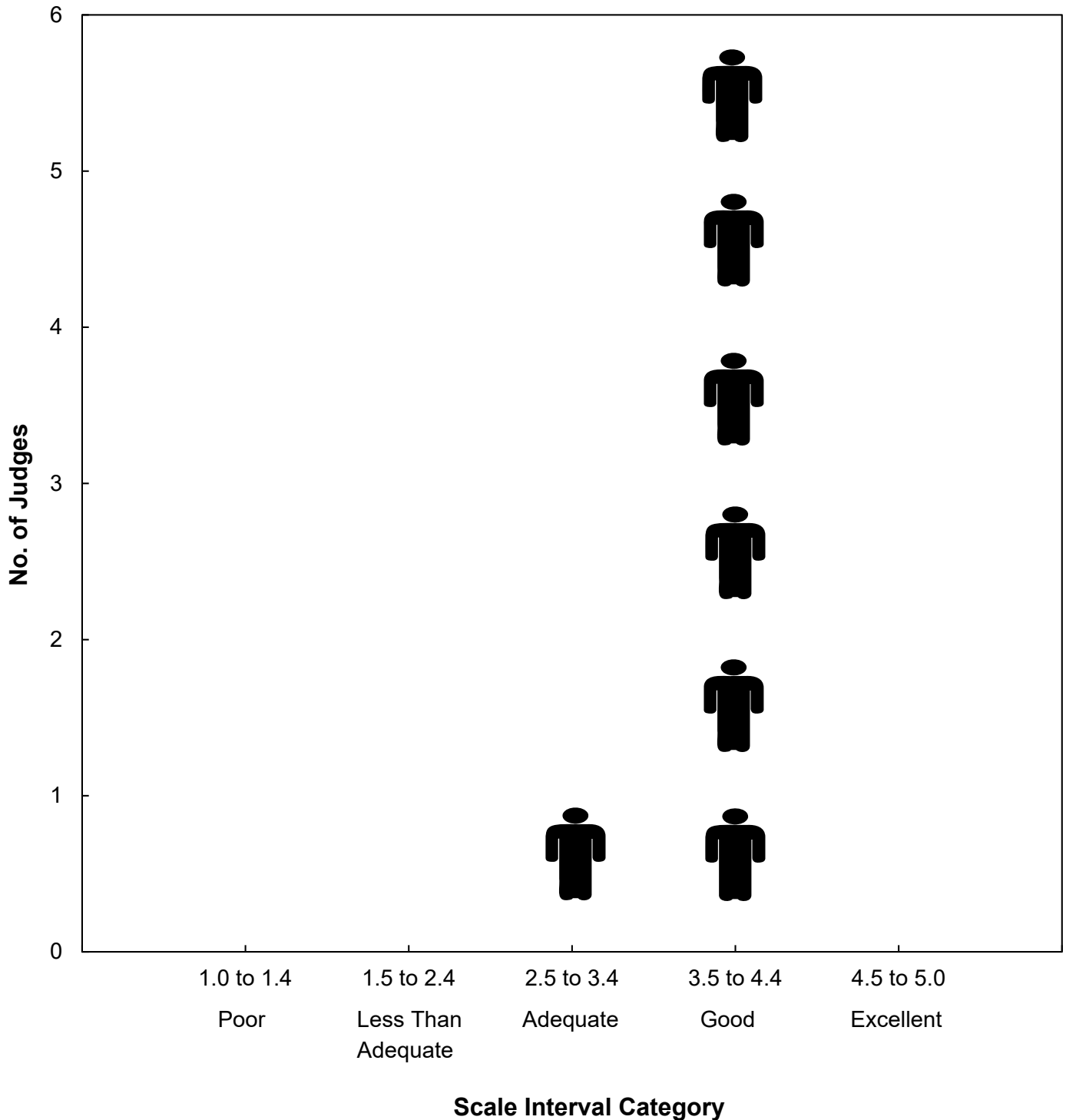
**Family Court**  
**Graph 10. Judicial Management Skills Scale**  
**Frequency Of Judges' Ratings, By Category**  
**July 7, 2020 – July 31, 2020**



**Family Court**  
**Graph 11. Comportment Scale**  
**Frequency Of Judges' Ratings, By Category**  
**July 7, 2020 – July 31, 2020**



**Family Court**  
**Graph 12. Settlement/Plea Agreement Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**July 7, 2020 – July 31, 2020**



## **APPENDIX A**

### **MEMBERS OF THE JUDICIAL PERFORMANCE COMMITTEE**

Judge R. Mark Browning, Chair  
Judge Rhonda I. L. Loo  
Judge Clarence A. Pacarro  
Claire K. S. Cooper  
Rosemary T. Fazio, Esq.  
Jeen H. Kwak, Esq.  
Rodney A. Maile, Esq., Administrative Director of the Courts  
Clarissa Y. Malinao, Esq.  
R. Patrick McPherson, Esq.  
John S. Nishimoto, Esq.  
Richard H.S. Sing  
Alan Van Etten, Esq.  
Janice Wakatsuki

**APPENDIX B**  
**APPELLATE COURT QUESTIONNAIRE**

Sample

\* 1. Have you had any cases, decided or open, or served on any committee or in any other capacity with this justice/judge during the period from January 1, 2018 to December 31, 2019?

(Note: By answering yes, you will proceed to fill in the evaluation for this justice/judge. By answering no, you will bypass the questions for this justice/judge.)

☐ Yes

☐ No



Sample - Fairness/Impartiality

**Please select the response that best describes your perception of the justice's/judge's performance in any matters you have had before the court during the period from January 1, 2018 to December 31, 2019.**

1. Removes himself/herself from any action that is, or appears to be, a conflict of interest.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. Treats all parties fairly regardless of race, age, gender, economic status, or any other reason.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. Treats all parties fairly regardless of position (e.g., plaintiff/defendant, prosecutor/defense attorney, particular attorneys, etc.)

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

4. Strives to be impartial on all issues.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

5. Contributes in a meaningful way to administrative committees he or she is assigned to.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

Sample - Written Opinions

1. In opinions authored by this justice/judge, he or she demonstrates knowledge of relevant substantive law at issue.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. In opinions authored by this justice/judge, he or she demonstrates legal reasoning ability.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. Overall quality of written opinions authored specifically by this justice/judge.

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

Sample - Oral Argument

1. In oral argument, this justice/judge exhibits dignified behavior.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. This justice/judge is courteous to counsel at oral argument.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. In oral argument, this justice/judge is attentive during proceedings.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

4. In oral argument, this justice/judge shows patience during proceedings.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

5. I would rate the relevance of questions posed by this justice/judge to counsel on issues raised by the parties as:

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

6. I would rate the preparation for oral argument by this justice/judge as:

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

Sample - Overall Evaluation

1. Overall evaluation of judicial performance.

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

Sample - Background Characteristics

1. Have you served on a committee with this justice/judge?

☐ Yes

☐ No

2. COMMENTS (We understand that anonymity is important. However, the more specific the input, the more useful it will be for the justice/judge. Constructive comments that explain why a justice/judge is viewed positively or negatively will assist the justice/judge more than broad statements that a justice/judge is good or not good. Please remember not to identify yourself.)



Sample - Evaluation Complete

1. Thank you for completing the evaluation for \_\_\_\_\_.

- ☐ I would like to fill out an evaluation for another justice/judge.
- ☐ I have completed evaluations for all justices/judges.

General - Background Characteristics

**This information will be used for statistical purposes only.**

1. How many cases have you had on appeal in the last three years?

Number of cases:

2. How many years have you practiced law?

☐ under 5 years

☐ 5 to 10 years

☐ over 10 years

3. What percentage of your practice is before appellate courts?

Percentage:

4. What percentage of your practice is devoted to

Civil law:

Criminal law:

Family law:

Submit Evaluations

**Please confirm that you have completed all questionnaires for justices/judges you have appeared before and you are ready to submit your responses.**

**Thank you for taking the time to provide feedback. Your opinion is very important.**

**If you have any questions about this questionnaire, please call the Planning and Program Evaluation Division at (808) 539-4870. Mahalo!**

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?



## **APPENDIX C**

### **EMAIL FROM CHIEF JUSTICE RECKTENWALD RE JUDICIAL EVALUATIONS**

To:

From: Michael.A.Oki@courts.hawaii.gov

Sent: August 25, 2020

Subject: Email From Chief Justice Recktenwald Re Judicial Evaluations

Dear Attorney:

The Judiciary is conducting an online evaluation of Circuit Court Judges \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_. The purpose of the evaluation is to help the judges improve their judicial performance. The Judiciary encourages all active members of the Hawaii State Bar Association to participate in the evaluation process.

The judicial evaluation program is designed to give you an opportunity to provide input concerning these individuals. Judges are receptive to receiving your comments, suggestions, and feedback. If an insufficient number of evaluations for a particular judge are received, then that judge will not be evaluated.

The evaluation process is conducted using a third-party survey tool. It is administered by NIC Hawaii, an independent contractor retained by the State of Hawai'i as its internet portal manager. The process was designed to ensure confidentiality, and only composite results are transmitted to the Judiciary. (Please reference [http://www.courts.state.hi.us/courts/performance\\_review/judge\\_evaluations\\_faqs](http://www.courts.state.hi.us/courts/performance_review/judge_evaluations_faqs) for a list of Frequently Asked Questions.)

Please click on the Begin Evaluation button below to commence your judicial evaluations. Because the link is unique to your email address, please do not forward this email. If you exit, you may return to the evaluations by clicking the button again. The judicial evaluations will remain accessible to you until September 18, 2020.

The evaluation is designed to obtain fair assessments from attorneys who actually had any cases or served in any other capacity with the judge. Thus your evaluation must be based solely on your direct experience and not based on hearsay.

Thank you for helping to improve the skills and techniques of Hawai'i's judges. If you have any questions, please contact Michael Oki at (808)539-4870.

Sincerely,

/s/

*Mark E. Recktenwald*

*Chief Justice*

*Supreme Court of Hawai'i*

**APPENDIX D**  
**CIRCUIT COURT QUESTIONNAIRE**



Hawai'i State

Judiciary



## Judicial Circuit Court Evaluation - August 2020

### Sample - Basic Evaluation Questions

Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.

**\* 1. Did you have any cases or serve in any other capacity with this judge during the period from August 1, 2018 to July 31, 2020? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).**

☐ Yes ☐ No

**2. How many times have you appeared before this judge during the referenced period?**

☐ 1-2 ☐ 3-5 ☐ 6-10 ☐ More than 10

**3. For what types of matters have you appeared before this judge during the referenced period? (Please select all that apply.)**

- ☐ Jury trial(s)
- ☐ Nonjury trial(s)
- ☐ Contested motion(s) with significant legal issues
- ☐ Settlement or pretrial plea agreement conference(s)
- ☐ Evidentiary hearing(s)
- ☐ Sentencing(s)
- ☐ Other substantive matter(s) (describe)



Hawai'i State

**Judiciary**



## Judicial Circuit Court Evaluation - August 2020

### Sample - Legal Ability

This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.

**1. Knowledge of relevant substantive law**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Knowledge of rules of procedure**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Knowledge of rules of evidence**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Ability to identify and analyze relevant issues**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Judgment in application of relevant laws and rules**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Giving reasons for rulings when needed**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Clarity of explanation of rulings**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Adequacy of findings of fact**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**9. Clarity of judge's decision(s) (oral/written)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**10. Completeness of judge's decision(s) (oral/written)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**11. Judge's charge to the jury/juries**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than adequate ☐ Poor ☐ Not applicable



Hawai'i State

**Judiciary**



## Judicial Circuit Court Evaluation - August 2020

### Sample - Judicial Management Skills

This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.

**1. Moving the proceeding(s) in an appropriately expeditious manner**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Maintaining proper control over the proceeding(s)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Doing the necessary homework on the case(s)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Rendering rulings and decisions without unnecessary delay**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Skills in effecting compromise**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

### 8. Industriousness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable





Hawai'i State

**Judiciary**



## Judicial Circuit Court Evaluation - August 2020

### Sample - Comportment

This section deals with various aspects of judicial personality and behavior in the court proceedings, such as temperament, attitude, and manner.

#### 1. Attentiveness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 2. Courtesy to participants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 3. Compassion

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 4. Patience

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 5. Absence of arrogance

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 7. Evenhanded treatment of litigants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Evenhanded treatment of attorneys**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



Hawai'i State

Judiciary



## Judicial Circuit Court Evaluation - August 2020

### Sample - Settlement and/or plea agreement ability

This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, circuit court rules, and pretrial conferences involving rule 11, rules of penal procedure.

**1. Knowing the case(s) and/or the law well enough to address key issues**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Reasonableness of opinions on how key issues might be resolved at trial**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Impartiality as to how/in whose favor agreement was reached**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Absence of coercion or threat**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Effectiveness in narrowing the issues in dispute**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Appropriateness of judge's settlement/plea initiatives**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Facilitation in development of options for settlement/plea**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



Hawai'i State

**Judiciary**



## Judicial Circuit Court Evaluation - August 2020

### Sample - Comment Page

We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.

#### 1. Legal ability

#### 2. Judicial management skills

#### 3. Comportment

#### 4. Settlement/plea agreement ability

#### 5. Overall/General



Hawai'i State

Judiciary



## Judicial Circuit Court Evaluation - August 2020

### Sample - Evaluation Complete

**\* 1. Thank you for completing the evaluation for Judge \_\_\_\_\_.**

- ☐ I would like to fill out an evaluation for another judge.
- ☐ I have completed evaluations for all judges.



Hawai'i State

Judiciary



## Judicial Circuit Court Evaluation - August 2020

### Sample - Background Characteristics

This information will be used for statistical purposes only.

**1. How long have you practiced law ? (years)**

- ☐ 0 to 3
- ☐ 4 to 7
- ☐ 8 to 11
- ☐ 12 to 15
- ☐ 16 to 19
- ☐ 20 to 23
- ☐ 24 to 27
- ☐ 28 or more
- ☐ Decline to answer

**2. Which of the following describes your practice of law ?**

- ☐ Solo (including office sharing)
- ☐ Law firm with 2-15 attorneys
- ☐ Law firm with more than 15 attorneys
- ☐ Corporate or house counsel
- ☐ Pro se (Representing self)
- ☐ Government
- ☐ Decline to answer
- ☐ Other (please specify)



Hawai'i State

Judiciary



## Judicial Circuit Court Evaluation - August 2020

### Sample - Submit Evaluations

Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.

Thank you for taking the time to provide feedback. Your opinion is very important.

If you have any questions about this evaluation, please call the Planning and Program Evaluation Division at (808) 539-4870. Mahalo!

**1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?**



**APPENDIX E**

**REMINDER EMAIL TO ATTORNEYS**

Subject: Circuit Court Judicial Evaluation

From: Michael.A.Oki@courts.hawaii.gov

Sent: August 31, 2020

Bcc:

Dear Attorney,

The Judiciary recently sent you an email regarding the evaluation of Circuit Court judges. We are asking you to fill out the form if you had any cases or served in any other capacity with one or more of the judges identified in the evaluation.

If you did not receive the Circuit Court evaluation or if you would like to receive it again, please reply to this email. If you are not in a position to evaluate a judge but another attorney in your office is, please ask that attorney to contact me. Please do not forward your evaluation email because the link is unique for each attorney. (This is intended to prevent multiple responses from the same attorney.)

The Judicial Performance Program is an important part of our ongoing effort to improve the judicial system. If an insufficient number of evaluations for a particular judge are received, then that judge will not be evaluated.

We are limiting the number of times we resend the evaluation to just one. You must respond to this email by September 8, 2020, to receive another evaluation. If you did not get the initial evaluation, please provide a different email address.

Thank you for your assistance. We appreciate your participation if you did complete the evaluation.

Michael Oki  
The Judiciary  
State of Hawai'i

**APPENDIX F**  
**FAMILY COURT QUESTIONNAIRE**



## Judicial Family Court Evaluation - July 2020

### Sample - Basic Evaluation Questions

**Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.**

- \* 1. Did you have any cases or serve in any other capacity with this judge during the period from July 1, 2018 to June 30, 2020? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).

☐ Yes ☐ No

2. How many times have you appeared before this judge during the referenced period?

☐ 1-2 ☐ 3-5 ☐ 6-10 ☐ More than 10

3. For what types of matters have you appeared before this judge during the referenced period? (Please select all that apply.)

- ☐ Jury trial(s)
- ☐ Nonjury trial(s)
- ☐ Contested motion(s) with significant legal issues
- ☐ Settlement or pretrial plea agreement conference(s)
- ☐ Evidentiary hearing(s)
- ☐ Sentencing(s)
- ☐ Other substantive matter(s) (describe)



## Judicial Family Court Evaluation - July 2020

### Sample - Legal Ability

**This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.**

**1. Knowledge of relevant substantive law**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Knowledge of rules of procedure**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Knowledge of rules of evidence**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Ability to identify and analyze relevant issues**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Judgment in application of relevant laws and rules**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Giving reasons for rulings when needed**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Clarity of explanation of rulings**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Adequacy of findings of fact**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**9. Clarity of judge's decision(s) (oral/written)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

10. Completeness of judge's decision(s) (oral/written)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

11. Judge's charge to the jury/juries.

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



## Judicial Family Court Evaluation - July 2020

### Sample - Judicial Management Skills

**This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.**

1. Moving the proceeding(s) in an appropriately expeditious manner

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Maintaining proper control over the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Doing the necessary homework on the case(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Rendering rulings and decisions without unnecessary delay

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Skills in effecting compromise

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Industriousness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



## Judicial Family Court Evaluation - July 2020

### Sample - Comportment

**This section deals with various aspects of judicial personality and behavior in the court proceedings, such as temperament, attitude, and manner.**

**1. Attentiveness**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Courtesy to participants**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Compassion**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Patience**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Absence of arrogance**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Evenhanded treatment of litigants**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Evenhanded treatment of attorneys**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable





## Judicial Family Court Evaluation - July 2020

## Sample - Settlement and/or plea agreement ability

**This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, circuit court rules, or rule 16(1), family court rules, and pretrial conferences involving rule 11, rules of penal procedure.**

1. Knowing the case(s) and/or the law well enough to address key issues

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Reasonableness of opinions on how key issues might be resolved at trial

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Impartiality as to how/in whose favor agreement was reached

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Absence of coercion or threat

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Effectiveness in narrowing the issues in dispute

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Appropriateness of judge's settlement/plea initiatives

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Facilitation in development of options for settlement/plea

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



## Judicial Family Court Evaluation - July 2020

### Sample - Comment Page

**We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.**

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General



Hawai'i State

Judiciary

## Judicial Family Court Evaluation - July 2020

### Sample - Evaluation Complete

1. Thank you for completing the questionnaire for Judge \_\_\_\_\_.

- ☐ I would like to fill out an evaluation for another judge.
- ☐ I have completed evaluations for all judges.



## Judicial Family Court Evaluation - July 2020

### Sample - Background Characteristics

**This information will be used for statistical purposes only.**

1. How long have you practiced law ? (years)

- ☐ 0 to 3
- ☐ 4 to 7
- ☐ 8 to 11
- ☐ 12 to 15
- ☐ 16 to 19
- ☐ 20 to 23
- ☐ 24 to 27
- ☐ 28 or more
- ☐ Decline to answer

2. Which of the following describes your practice of law ?

- ☐ Solo (including office sharing)
- ☐ Law firm with 2-15 attorneys
- ☐ Law firm with more than 15 attorneys
- ☐ Corporate or house counsel
- ☐ Pro se (Representing self)
- ☐ Government
- ☐ Decline to answer
- ☐ Other (please specify)



Hawai'i State

**Judiciary**

## Judicial Family Court Evaluation - July 2020

### Sample - Submit Evaluations

**Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.**

**Thank you for taking the time to provide feedback. Your opinion is very important.**

**If you have any questions about this questionnaire, please call the Planning and Program Evaluation Division at (808) 539-4870. Mahalo!**

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?