

JUDICIAL PERFORMANCE PROGRAM

2022 REPORT

**THE JUDICIARY
STATE OF HAWAI'I**

March 24, 2023

JUDICIAL PERFORMANCE PROGRAM 2022 REPORT

INTRODUCTION

The Judicial Performance Program 2022 Report summarizes the results of evaluations involving nine Circuit Court judges and thirteen District Court judges. The attorney evaluations were conducted on the internet. The results of a juror evaluation of nine Circuit Court judges, conducted by mail, are also included.

To ensure the security and confidentiality of the evaluation process, the survey was administered by Tyler Technologies (formerly NIC Hawaii). Tyler Technologies 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 Rule 19 Committee are listed in Appendix A.

JUDGES' RATINGS

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 judges are available to the Judicial Selection Commission, upon its request.

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

EVALUATION CYCLES

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. Evaluations of both Family Court and District Court judges were conducted in 2021. Evaluation of District Court, but not of Family Court, judges was conducted in 2022. Evaluation of Family Court, but not of District Court, judges is scheduled for 2023.

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 judges and consists of nine members: Robert Alm, Momi Cazimero, 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 judges and to help the judges improve their performance on the bench.

CIRCUIT COURT RESULTS

Eight out of nine Circuit Court judges received the results of their evaluations under cover of memoranda dated March 21, 2023. One other judge did not have the minimum eighteen responses needed to be evaluated.

A link to the questionnaire was provided to attorneys by email on June 7, 2022, and the surveys were collected from June 7 to July 1, 2022. The email to attorneys from Chief Justice Recktenwald is printed in Appendix B. A copy of the questionnaire is attached as Appendix C. A copy of the reminder email sent to attorneys 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 1 on the next page provides the averages for the eight Circuit Court judges.

The mean score for the Legal Ability Section was 4.2, with a standard deviation of 0.4. The standard deviation gives an indication of the variation in the scores of the 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 Circuit Court judges received marks between 3.8 and 4.6 in the Legal Ability Section.

For the Judicial Management Skills Section, the judges had a mean score of 4.3. The standard deviation for this section was 0.4. The mean score for the Comportment Section was 4.3, with a standard deviation of 0.4. The mean score for the Settlement and/or Plea Agreement Ability Section was 4.2, with a standard deviation of 0.4. The frequencies of the Circuit Court judges' ratings, by category, are printed on pages 5 to 8.

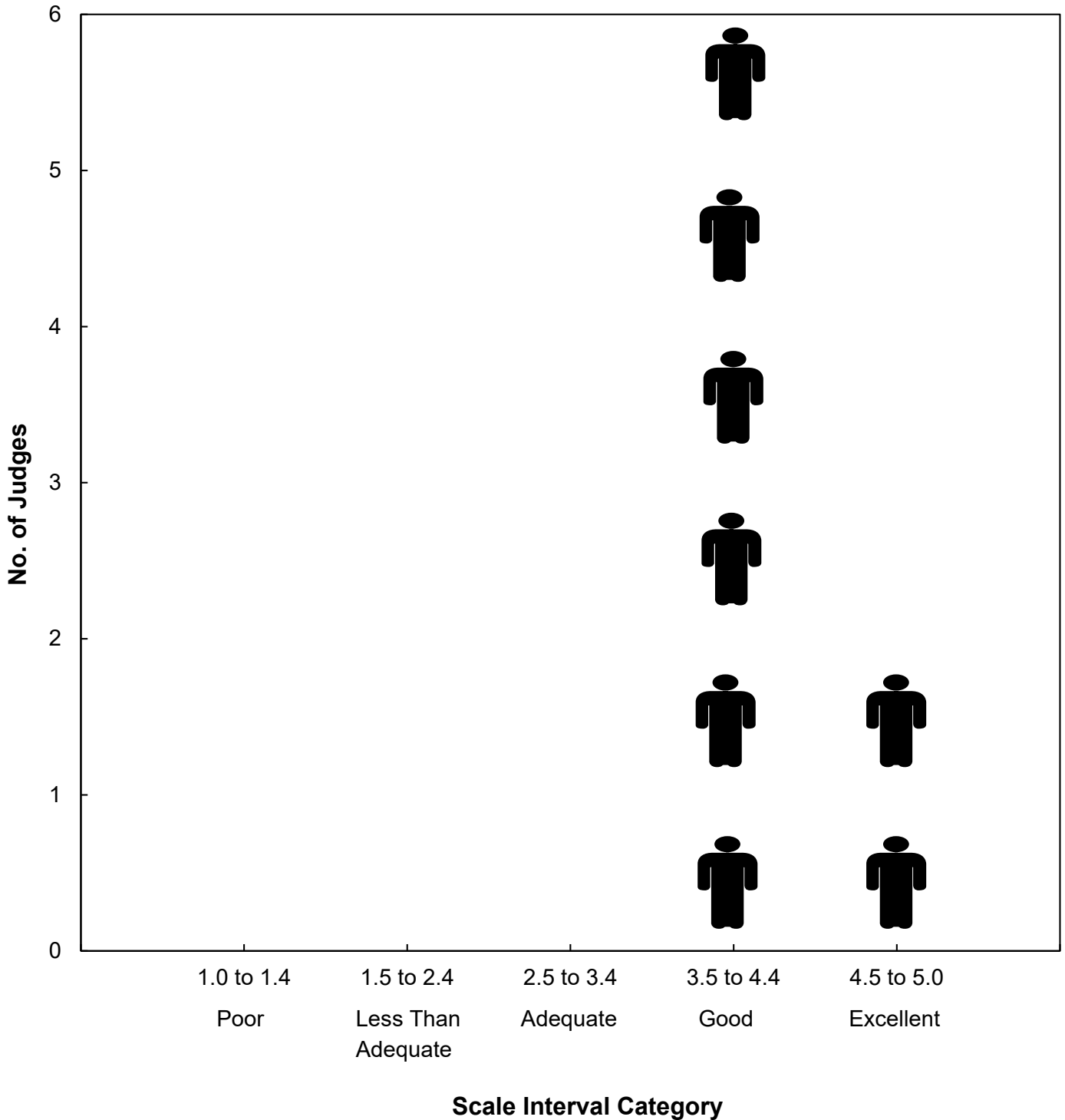
There were 310 responses from attorneys out of 4,699 emails sent out. This includes responses for the judges who had fewer than eighteen questionnaires. The number of responses did not equal the number of questionnaires received because some attorneys sent in responses with evaluations for more than one judge and others said that they had not appeared before any judges. The number of questionnaires received for the nine Circuit Court judges totaled 325, with between 16 and 73 questionnaires received for each judge.

TABLE 1
JUDICIAL PERFORMANCE PROGRAM - CIRCUIT COURT
EVALUATION RESULTS FOR 8 JUDGES
JUNE 7, 2022 - JULY 1, 2022

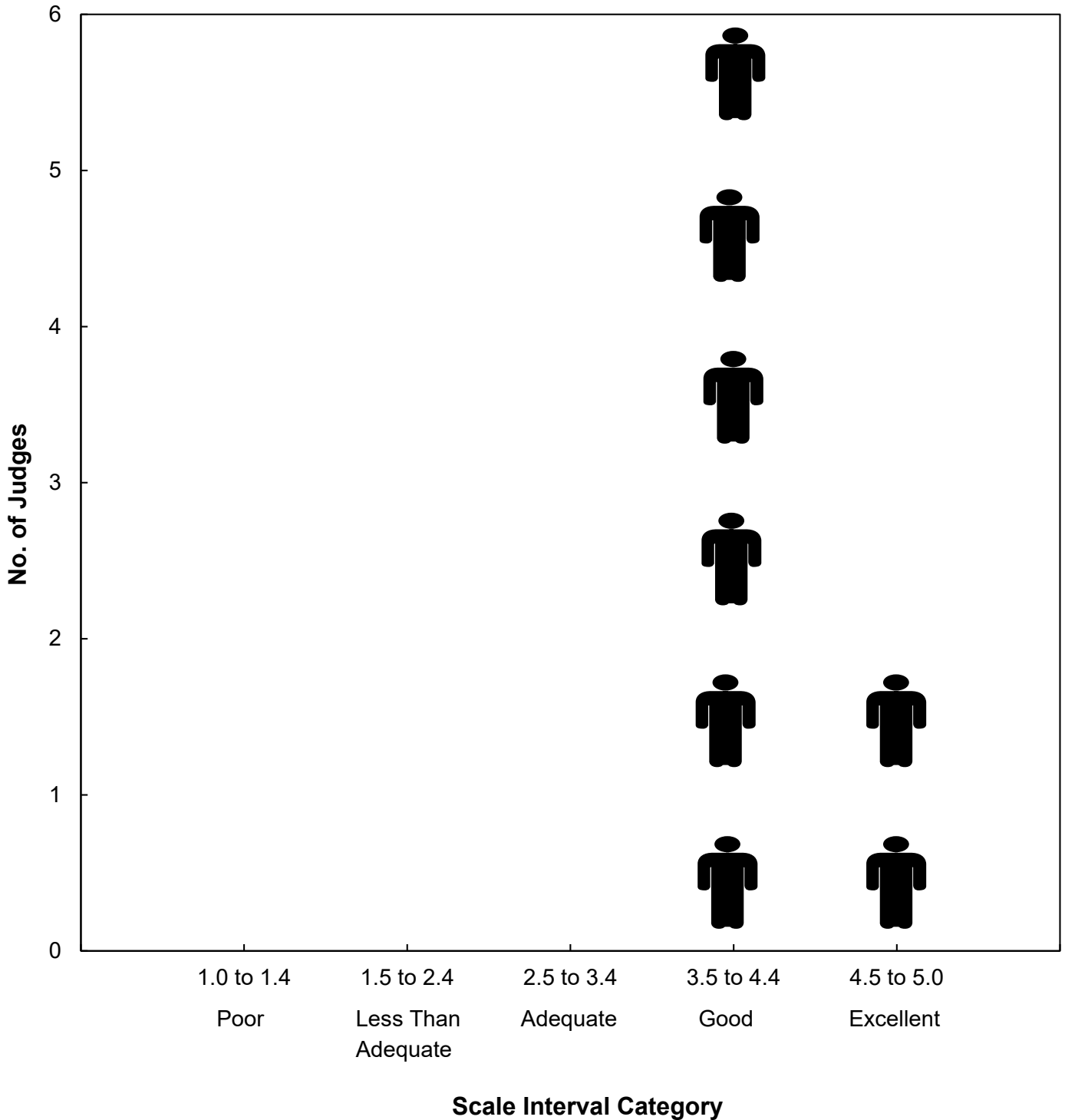
<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	8	4.2	0.4
2. Knowledge of Rules of Procedure	8	4.3	0.4
3. Knowledge of Rules of Evidence	8	4.3	0.4
4. Ability to Identify and Analyze Relevant Issues	8	4.2	0.4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

<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>

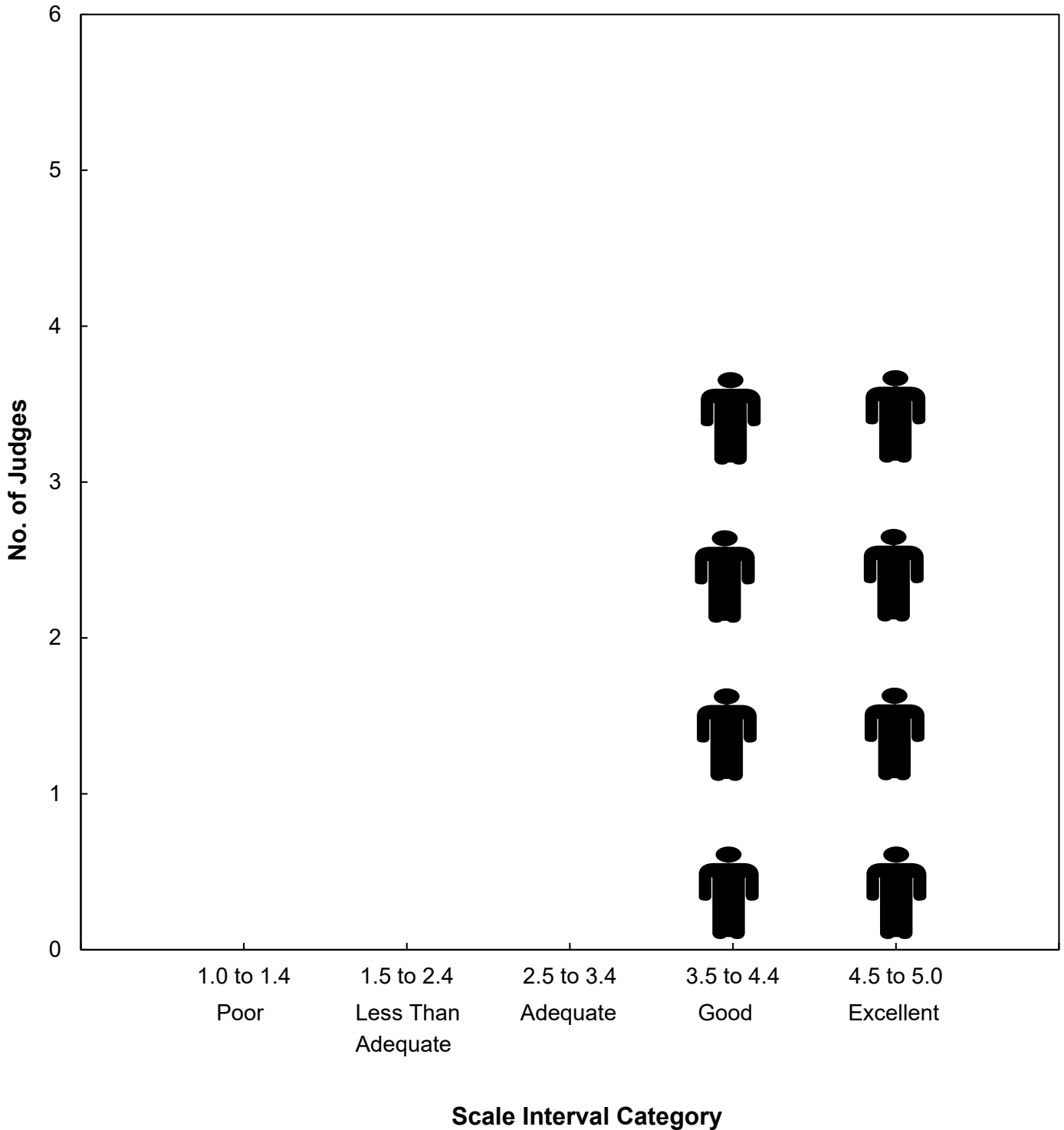
Circuit Court
Graph 1. Legal Ability Scale
Frequency Of Judges' Ratings, By Category
JUNE 7, 2022 - JULY 1, 2022



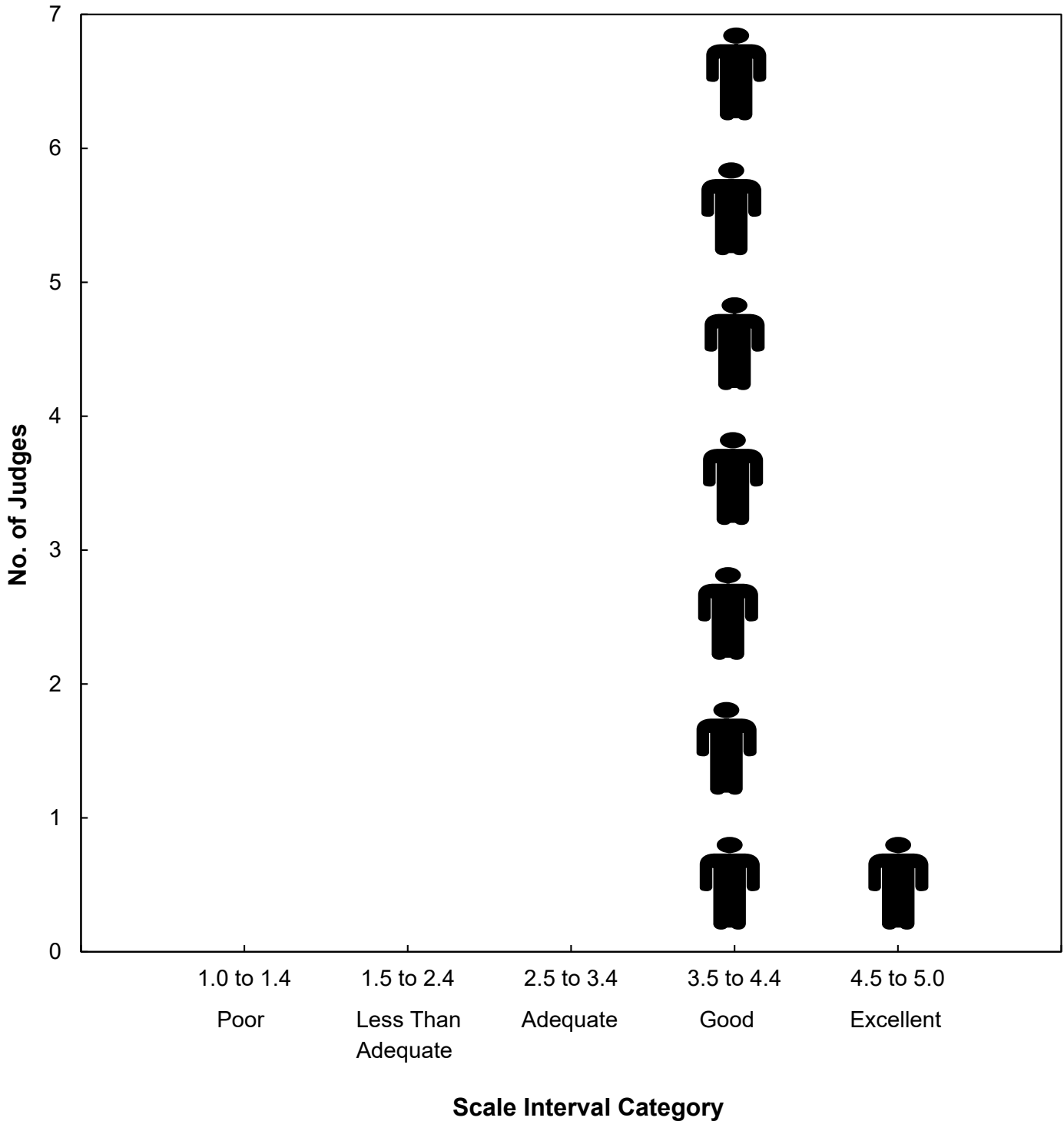
Circuit Court
Graph 2. Judicial Management Skills Scale
Frequency Of Judges' Ratings, By Category
JUNE 7, 2022 - JULY 1, 2022



Circuit Court
Graph 3. Comportment Scale
Frequency Of Judges' Ratings, By Category
JUNE 7, 2022 - JULY 1, 2022



Circuit Court
Graph 4. Settlement/Plea Agreement Ability Scale
Frequency Of Judges' Ratings, By Category
JUNE 7, 2022 - JULY 1, 2022



DISTRICT COURT RESULTS

Three out of thirteen District Court judges received the results of their evaluations under cover of memoranda dated June 24, 2022. Ten other judges did not have enough responses to be evaluated.

A link to the questionnaire was provided to attorneys by email on March 8, 2022. The surveys could be filled out from March 8 to April 1, 2022. Due to an error in the distribution of the survey, only a fraction of active attorneys received the initial invitation. A second email, sent to the full list of active attorneys, was sent on May 3, 2022. The second round of surveys could be filled out from May 3 to May 27, 2022. The email to attorneys is printed in Appendix E. A copy of the questionnaire is attached as Appendix F.

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 three judges.

The mean score for the Legal Ability Section was 3.9, with a standard deviation of 0.5. Most of the judges scored between 3.4 and 4.4 in this section.

The mean score for the Judicial Management Skills Section was 4.1, with a standard deviation of 0.4. The mean score for the Comportment Section was 4.0, with a standard deviation of 0.4. The mean score for the Settlement and/or Plea Agreement Ability Section was 3.9, with a standard deviation of 0.5. The frequencies of the judges' ratings, by category, are printed on pages 11 to 14.

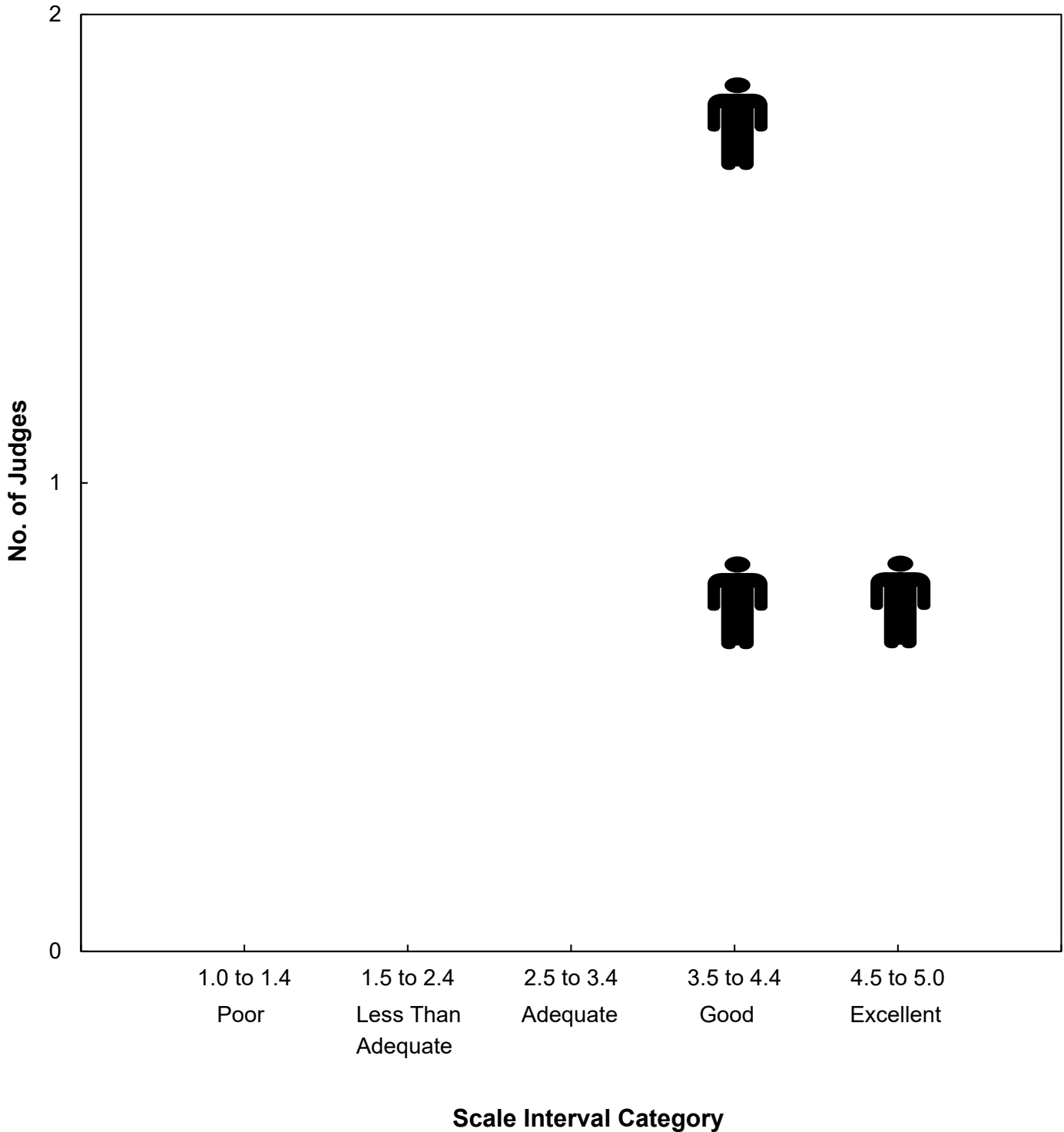
There were 204 responses from 4,456 emails sent out to attorneys. This includes responses for the judges who had fewer than eighteen questionnaires. The number of responses did not equal the number of questionnaires received because some attorneys sent in responses with evaluations for more than one judge and others said that they had not appeared before any judges. The number of questionnaires received for the thirteen District Court judges totaled 151, with between 6 and 20 questionnaires per judge.

TABLE 2
JUDICIAL PERFORMANCE PROGRAM
EVALUATION RESULTS FOR THREE JUDGES
MARCH 8, 2022 - MAY 27, 2022

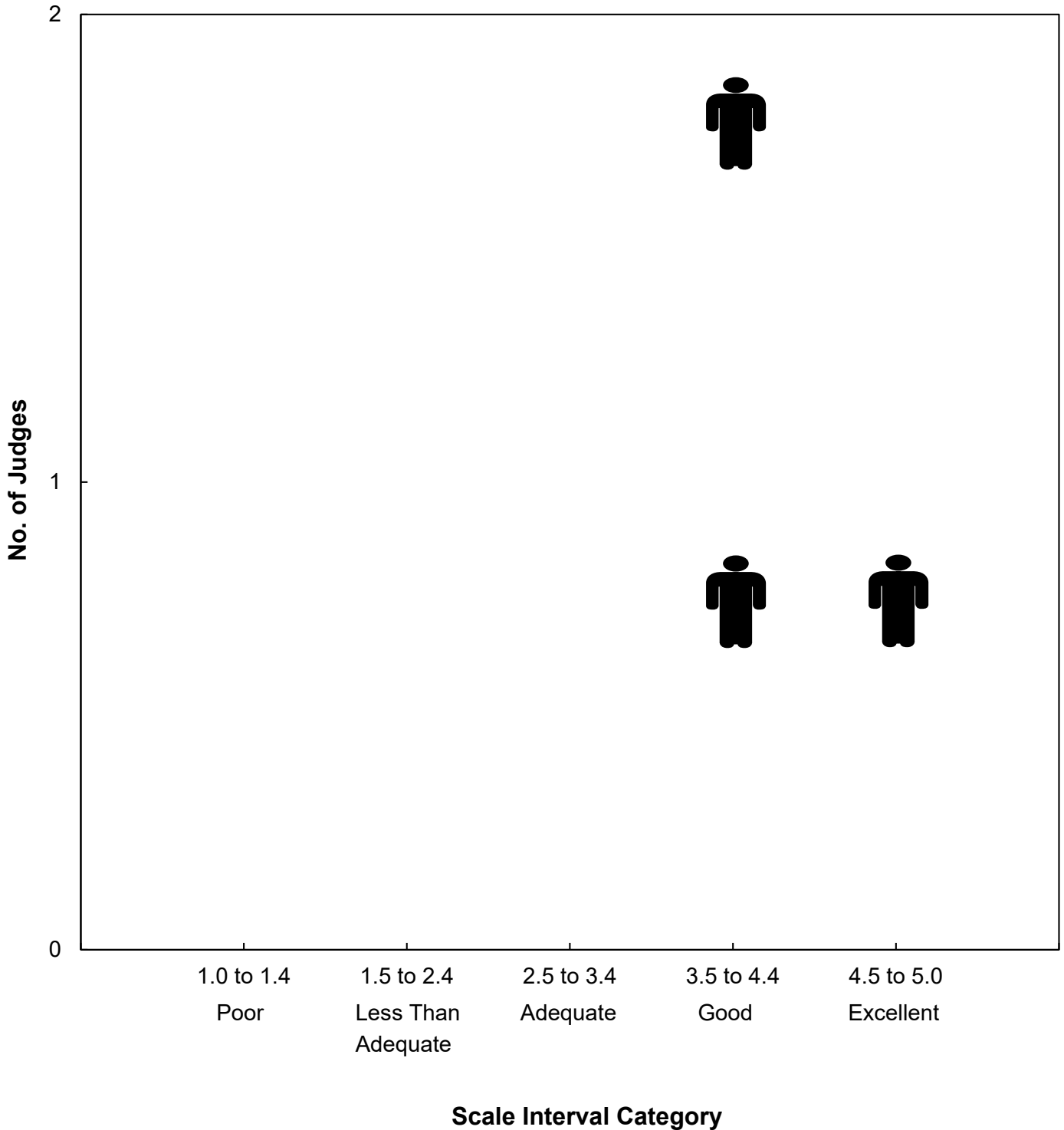
<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	3	3.9	0.5
2. Knowledge of Rules of Procedure	3	4.0	0.5
3. Knowledge of Rules of Evidence	3	4.0	0.4
4. Ability to Identify and Analyze Relevant Issues	3	4.0	0.4
5. Judgment in Application of Relevant Laws and Rules	3	4.0	0.5
6. Giving Reasons for Rulings when Needed	3	3.9	0.6
7. Clarity of Explanation of Rulings	3	3.8	0.6
8. Adequacy of Findings of Fact	3	3.7	0.7
9. Clarity of Judge's Decision(s) (oral/written)	3	3.8	0.6
10. Completeness of Judge's Decision(s) (oral/written)	3	3.8	0.6
Average Score for the Legal Ability Section	3	3.9	0.5
<u>JUDICIAL MANAGEMENT SKILLS SECTION</u>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	3	4.2	0.2
2. Maintaining Proper Control over the Proceeding(s)	3	4.2	0.3
3. Doing the Necessary Homework on the Case(s)	3	3.9	0.5
4. Rendering Rulings and Decisions w/o Unnecessary Delay	3	4.0	0.4
5. Allowing Adequate Time for Presentation of the Case(s)	3	4.1	0.4
6. Resourcefulness and Common Sense in Resolving Problems	3	4.1	0.4
7. Skills in Effecting Compromise	3	4.0	0.5
8. Industriousness	3	4.0	0.5
Average Score for the Judicial Management Skills Section	3	4.1	0.4
<u>COMPORTEMNT SECTION</u>			
1. Attentiveness	3	4.2	0.3
2. Courtesy to Participants	3	4.1	0.5
3. Compassion	3	4.0	0.5
4. Patience	3	3.8	0.5
5. Absence of Arrogance	3	3.8	0.4
6. Absence of Bias and Prejudice	3	4.3	0.5
7. Evenhanded Treatment of Litigants	3	4.0	0.4
8. Evenhanded Treatment of Attorneys	3	4.1	0.4
Average Score for the Comportment Section	3	4.0	0.4
<u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u>			
1. Knowing the Case(s) and/or the Law	3	3.9	0.6
2. Reasonableness of Opinions	3	3.9	0.6
3. Ability to Enhance the Settlement Process	3	3.9	0.7
4. Impartiality	3	3.8	0.7
5. Absence of Coercion or Threat	3	4.0	0.5
6. Effectiveness in Narrowing the Issues	3	3.9	0.4
7. Appropriateness of Judge's Initiatives	3	3.9	0.5
8. Facilitation in Development of Options	3	4.0	0.5
Average Score for the Settlement and/or Plea Agreement Ability Section	3	3.9	0.5

<p>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</p>

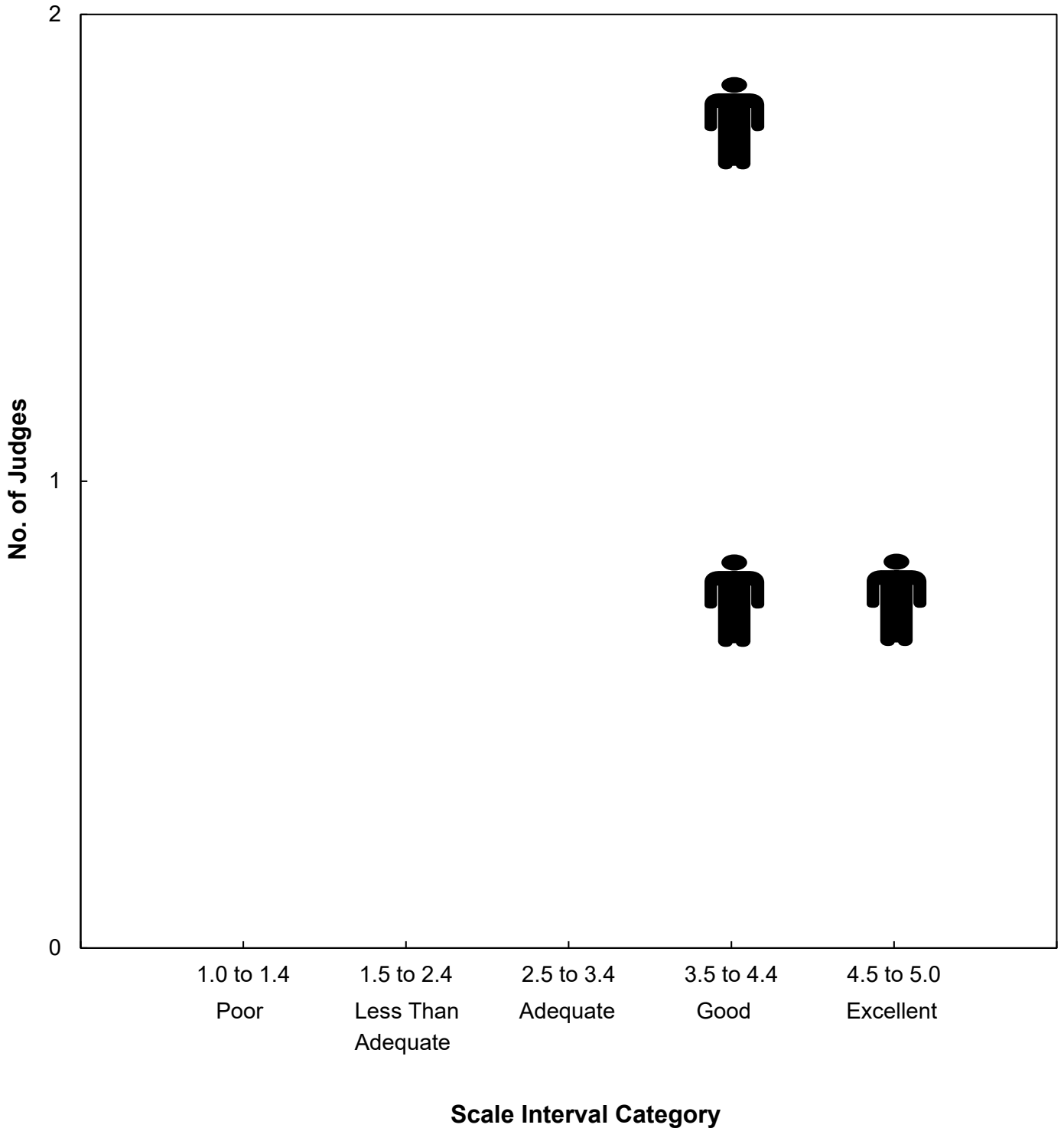
Judicial Evaluation
Graph 5. Legal Ability Scale
Frequency Of Judges' Ratings, By Category
March 8, 2022 – May 27, 2022



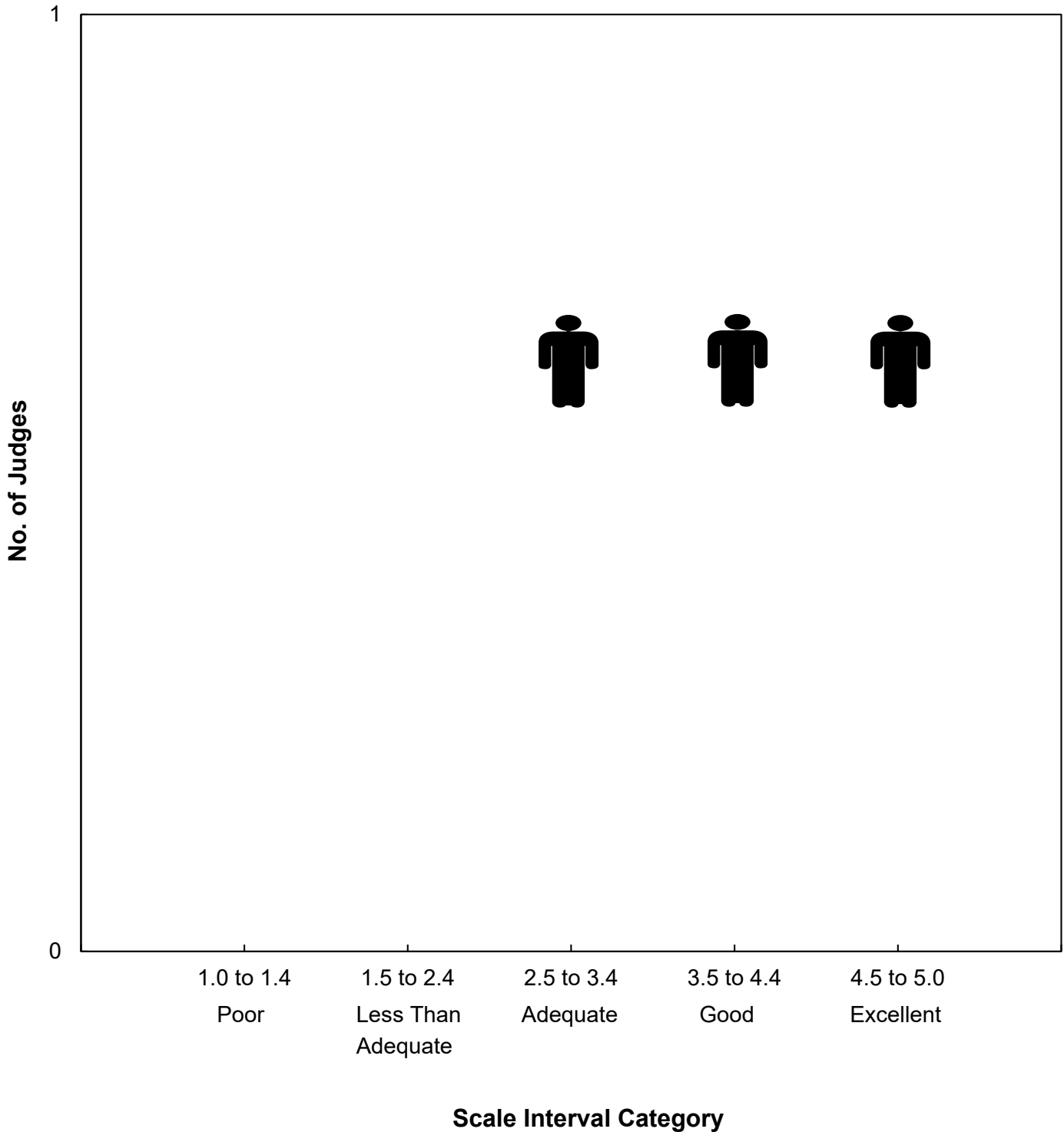
Judicial Evaluation
Graph 6. Judicial Management Skills Scale
Frequency Of Judges' Ratings, By Category
March 8, 2022 – May 27, 2022



Judicial Evaluation
Graph 7. Comportment Scale
Frequency Of Judges' Ratings, By Category
March 8, 2022 – May 27, 2022



Judicial Evaluation
Graph 8. Settlement/Plea Agreement Ability Scale
Frequency Of Judges' Ratings, By Category
March 8, 2022 – May 27, 2022



CIRCUIT COURT JUROR EVALUATION RESULTS

Juror evaluation results were transmitted to seven out of eight Circuit Court judges by Chief Justice Recktenwald under cover of memoranda dated February 17, 2022. One other judge did not have enough responses to be evaluated.

Surveys were sent out by marketing mail on January 5, 2022, and were collected until February 4, 2022. The letter to jurors is printed in Appendix G. A copy of the questionnaire is attached as Appendix H.

Possible scores for the multiple-choice format range from one to five. One indicates a Poor rating. Five stands for Excellent. Table 3 on the next page provides the averages for the seven evaluated judges.

The mean score for Overall Performance was 4.8, with a standard deviation of 0.1. The judges generally received scores between 4.7 and 4.9. The mean score for the other ten evaluation categories combined was 4.8, and the standard deviation was 0.1. The frequencies of the judges' ratings, by category, are printed on pages 17 and 18.

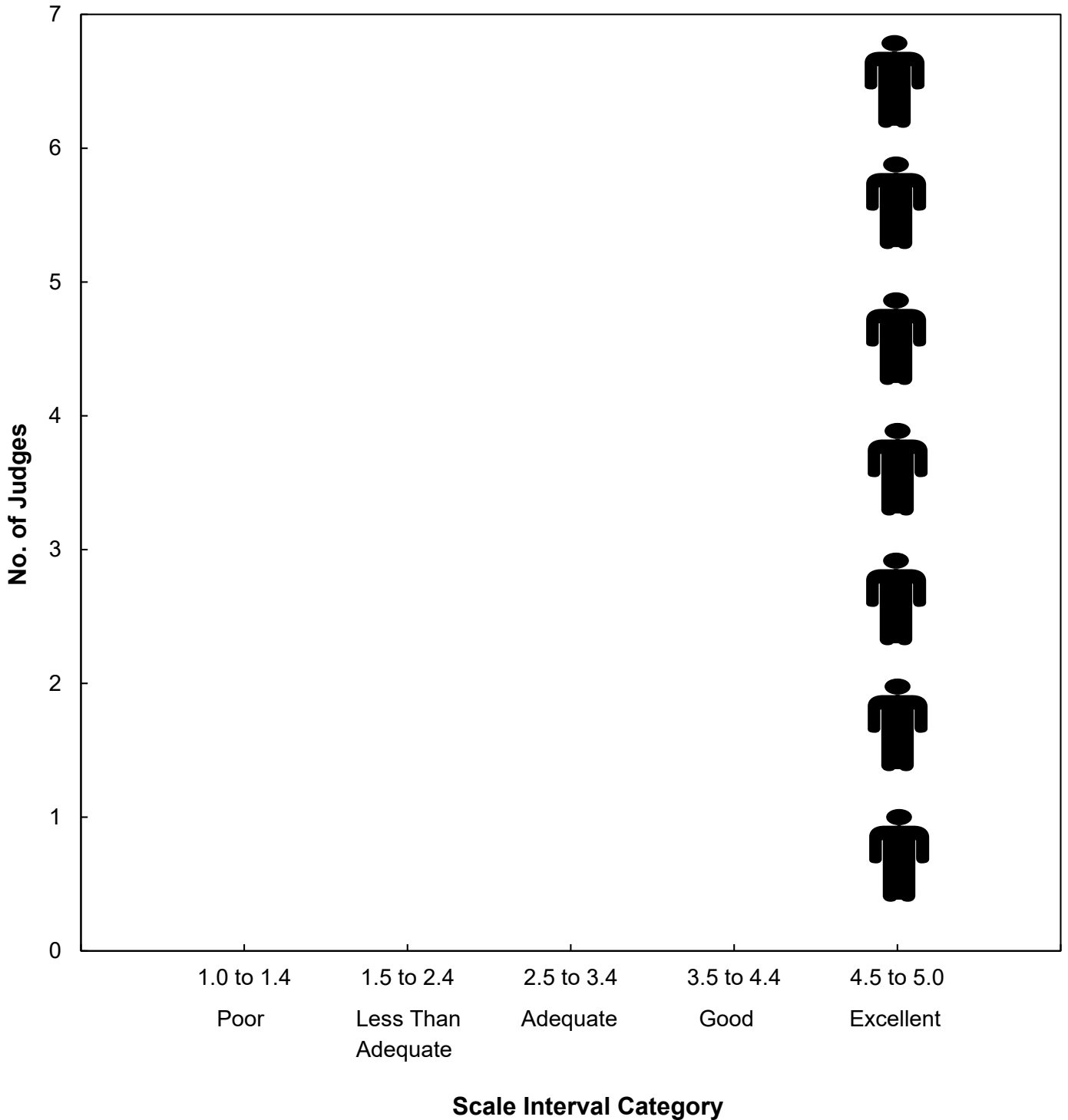
Jurors were selected from the pools of jurors who were chosen or sworn, including alternates. Even if a juror did not sit through an entire trial because of settlement or other reasons, it was felt that the juror would have enough contact with the judge to fill out the evaluation. Between 69 and 150 jurors were selected per judge. The number of survey forms distributed for the eight judges was 1058. Of this total, 446 questionnaires were returned. Between 17 and 76 questionnaires were received for each judge.

TABLE 3
JUDICIAL PERFORMANCE PROGRAM - JUROR EVALUATION
EVALUATION RESULTS FOR SEVEN JUDGES
JANUARY 5, 2022 - FEBRUARY 4, 2022

	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
Please indicate your assessment of this judge's Overall Performance.	7	4.8	0.1
<u>Please indicate your assessment of this judge's performance as to all parties with respect to the following:</u>			
1. Patience	7	4.8	0.1
2. Dignity	7	4.8	0.1
3. Courtesy	7	4.8	0.1
4. Attentiveness	7	4.8	0.1
5. Fairness	7	4.8	0.1
6. Absence of arrogance	7	4.8	0.1
7. Absence of bias	7	4.8	0.1
8. Absence of prejudice	7	4.8	0.1
9. Clear communication of court procedures	7	4.8	0.1
10. Efficient use of court time	7	4.6	0.1
Average Score for Items 1 Through 10	7	4.8	0.1

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

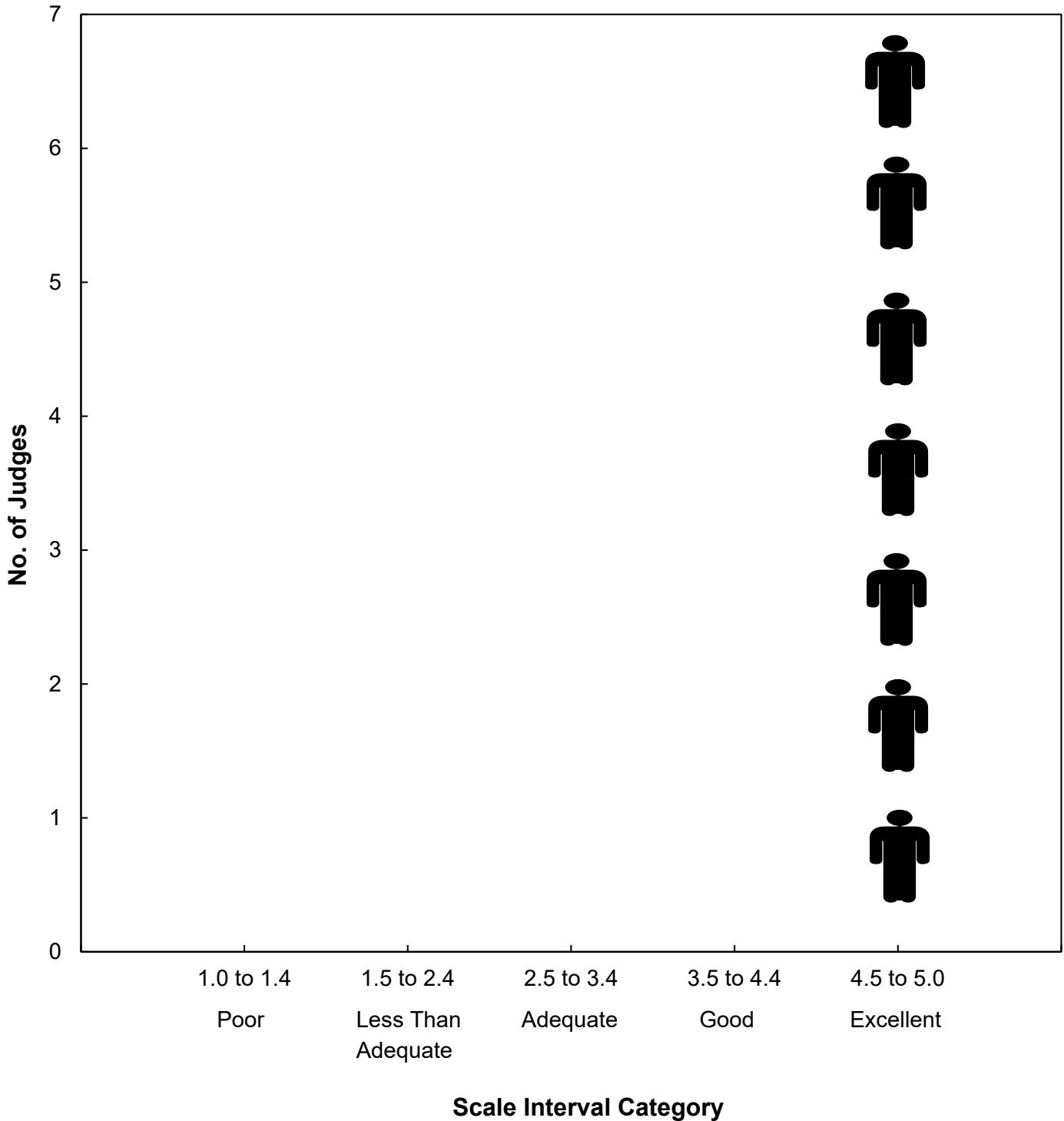
Juror Evaluation
Graph 9. Overall Performance
Frequency Of Judges' Ratings, By Category
January 5, 2022 – February 4, 2022



Juror Evaluation

Graph 10. Average For Items 1 Through 10 Frequency Of Judges' Ratings, By Category

January 5, 2022 – February 4, 2022



APPENDIX A

MEMBERS OF THE JUDICIAL PERFORMANCE COMMITTEE

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

APPENDIX B

EMAIL FROM CHIEF JUSTICE RECKTENWALD RE JUDICIAL EVALUATIONS

CIRCUIT COURT

To:

Sent: June 7, 2022

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 attorneys 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 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 July 1, 2022.

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 C
CIRCUIT COURT QUESTIONNAIRE

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 June 1, 2020 to May 31, 2022? (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)

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

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

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

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

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

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.

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)

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 D

REMINDER EMAIL TO ATTORNEY – CIRCUIT COURT EVALUATION

Bcc

June 13, 2022

Circuit Court Judicial Evaluation

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. You must respond to this email by June 17, 2022, to receive another evaluation.

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

Michael Oki
The Judiciary
State of Hawai'i

APPENDIX E

EMAIL FROM CHIEF JUSTICE RECKTENWALD RE JUDICIAL EVALUATIONS

DISTRICT COURT

To:

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

Sent: March 8, 2022

Subject: Email From Chief Justice Recktenwald Re Judicial Evaluations

Dear Attorney:

The Judiciary is conducting an online evaluation of Judges _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, and _____. The purpose of the evaluation is to help the judges improve their judicial performance. The Judiciary encourages all active attorneys 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 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 April 1, 2022.

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 F
DISTRICT COURT QUESTIONNAIRE



Judicial District Court Evaluation March 2022

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 March 1, 2020 to February 28, 2022? (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.)

- 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)
 Other substantive matter(s) (describe)



Hawai'i State

Judiciary



Judicial District Court Evaluation March 2022

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



Hawai'i State

Judiciary



Judicial District Court Evaluation March 2022

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 District Court Evaluation March 2022

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 District Court Evaluation March 2022

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, district 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 District Court Evaluation March 2022

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 District Court Evaluation March 2022

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



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



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 G

**LETTER TO JUROR FROM CHIEF JUSTICE RECKTENWALD RE JUDICIAL
EVALUATIONS**

January 5, 2022

Re: Judge _____

Dear Juror:

Enclosed is a Juror Questionnaire to help evaluate judges. This request is part of the Judiciary's Judicial Performance Program. The program evaluates judges at periodic intervals during their tenure based upon factors including their legal ability, judicial management skills, and comportment. Judges are receptive to receiving comments and suggestions, which often help them to improve their judicial skills and techniques.

The program is currently evaluating, as a group, a number of Circuit Court judges. You were selected to complete a questionnaire for Judge «First_Name» «Last_Name» based on your service as a juror. I respectfully encourage you to complete the questionnaire. Please do not duplicate the packet or return more than one questionnaire.

Please be assured that your completed questionnaire is confidential. Your identity will not be disclosed to anyone. Your anonymity is also protected by the process because you do not sign the questionnaire and your completed questionnaire will not be shown to the Judge.

The Judicial Performance Program is an important part of the Judiciary's ongoing efforts to better serve the public. The success and effectiveness of the program depend upon the completed questionnaires, and results will not be compiled without a sufficient number of responses. Thank you for your assistance.

Sincerely,

Mark E. Recktenwald
Chief Justice
Supreme Court of Hawai'i

Enclosure

If you have any questions about this questionnaire or how it will be used, please contact Michael Oki, Planning and Program Evaluation Division, Office of the Administrative Director of the Courts, at (808)539-4870.

Please Return By: January 28, 2022

Please Return To: Judicial Evaluation Project
Planning and Program Evaluation Division
417 South King Street, Room 213
Honolulu, HI 96813

APPENDIX H
JUROR QUESTIONNAIRE

SAMPLE

DO NOT DUPLICATE

CONFIDENTIAL
Judicial Performance Program - Circuit Court
Juror Evaluation of Judge _____

Please complete the following evaluation based on your personal knowledge and experience with the above-named Judge. If you wish to offer additional comments about the Judge's performance, please elaborate in the comments section below.

		Excellent	Good	Adequate	Less Than Adequate	Poor
	Please indicate your assessment of this judge's Overall Performance					

Please indicate your assessment of this judge's performance as to all parties with respect to the following:

		Excellent	Good	Adequate	Less Than Adequate	Poor
1	Patience					
2	Dignity					
3	Courtesy					
4	Attentiveness					
5	Fairness					
6	Absence of arrogance					
7	Absence of bias					
8	Absence of prejudice					
9	Clear communication of court procedures					
10	Efficient use of court time					

Please check the type of trial in which you served on a jury in this judge's courtroom.
(Please check one only.) Civil Trial Criminal Trial

Comments:
