

Evaluation of the Judiciary Serving Jefferson County, KY

Comparison of Judges Summary Report



**The Louisville Bar Association and Louisville Bar Foundation
600 West Main Street
Louisville, KY 40202**

**2004 Evaluation
Reported in March 2005**



Table of Contents

Background and Methodology01

Overall Job Performance Ratings05

Judicial Temperament Ratings11

Court Management Ratings17

Judicial Integrity Ratings23

Legal Ability Ratings29

Civil Cases Ratings.....35

Criminal Cases Ratings41



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Background and Methodology



Background and Methodology

Background

In June 2004, the Louisville Bar Association (LBA) contracted the services of Wilkerson & Associates to assist in its annual review of the performance of sitting judges. The LBA sent evaluations to all Kentucky Bar Association members with contact addresses in Jefferson County to rate the performance of various judges with whom they have had experience over the past two years. Jefferson Circuit Court, U.S. District Court and U.S. Bankruptcy Court judges were included in the evaluation for 2004.

Methodology

On October 15, 2004, letters and postcards were sent to an estimated 3,800 members, informing them of the annual Judicial Evaluation. Members who were qualified to participate in the review were asked to fill out the postcard request and return it to Wilkerson & Associates no later than November 3, 2004. A total of 596 postcard requests were received by the postmark date. Survey packets and return envelopes were mailed to the 596 respondents on November 12, 2004. Reminder postcards were sent on November 29, 2004. Respondents were asked to return the completed evaluation forms to Wilkerson & Associates postmarked no later than December 17, 2004. A total of 291 completed survey forms were returned by the postmark date.

Response Rate

Because of the size of the litigation bar and the nature of such practice, only a limited number of attorneys will have had significant experience with a particular judge in a specific court. Consequently, from the original 3,800 attorneys who received notice of the evaluation, just a fraction could reasonably be expected to respond to the survey questions. Of those attorneys who were qualified and agreed to respond to the evaluation, many may have significant experience in only one of the courts evaluated or with a limited number of the judges listed. Still, the number of lawyers responding is more than adequate to result in a statistically valid evaluation of the judiciary.



The judges rated during the 2004 evaluation and the total number of respondents rating each judge are shown below:

Jefferson Circuit Court

- Lisabeth Hughes Abramson (n=208)
- Denise G. Clayton (n=182)
- F. Kenneth Conliffe (n=202)
- Martin F. McDonald (n=163)
- Judith McDonald- Burkman (n=202)
- Stephen K. Mershon (n=186)
- Geoffrey P. Morris (n=206)
- Stephen P. Ryan (n=181)
- Ann O'Malley Shake (n=178)
- James M. Shake (n=178)
- Barry L. Willett (n=180)
- Thomas B. Wine (n=196)

U.S. District Court

- Jennifer B. Coffman (n=66)
- John G. Heyburn II (n=112)
- Edward H. Johnstone (n=71)
- James D. Moyer (n=100)
- Thomas B. Russell (n=70)
- Charles R. Simpson III (n=96)

U.S. Bankruptcy Court

- Joan L. Cooper (n=39)
- Thomas H. Fulton (n=23)
- David T. Stosberg (n=45)

Dave Whalin was not included in the 2004 evaluation due to his short tenure as magistrate judge, having been appointed in July 2004.

The survey instrument included a series of 22 attributes that were used to evaluate the performance of each judge. Respondents were asked to indicate the extent to which they agreed or disagreed with each statement used to describe a particular judge using a four-point rating scale of strongly disagree, disagree, agree and strongly agree. Respondents were also given an option to write in any advice they would give to a particular judge to improve his/her performance. These comments were provided only to the applicable judge under separate cover as confidential feedback for his or her personal review. General comments on how to improve the evaluation process or the court system were submitted to the LBA under separate cover.

Respondents were instructed to rate only those judges with whom they have had substantial professional contact within the past two years.

Comparative ratings from the 2002 Judicial Evaluation are shown in this report where applicable. The exceptions for this report include:

- The 2003 evaluation was used for the comparative data for Martin F. McDonald. During most of the evaluation period, McDonald served on the Jefferson District Court. He was elected to the Jefferson Circuit Court on November 25, 2003.
- No comparative data from 2002 is available for Thomas H. Fulton (U.S. Bankruptcy Court), who was sworn in on December 6, 2002.
- The attributes "Is influenced by the socio-economic status of persons appearing in court" and "Is influenced by the sexual orientation of persons appearing in court" were not included in the 2002 evaluation and therefore are not present in the 2002 average scores for Judicial Integrity.
- U.S. Bankruptcy Court judges were not evaluated in the area of "Does a good job in handling civil cases" during the 2002 evaluation.





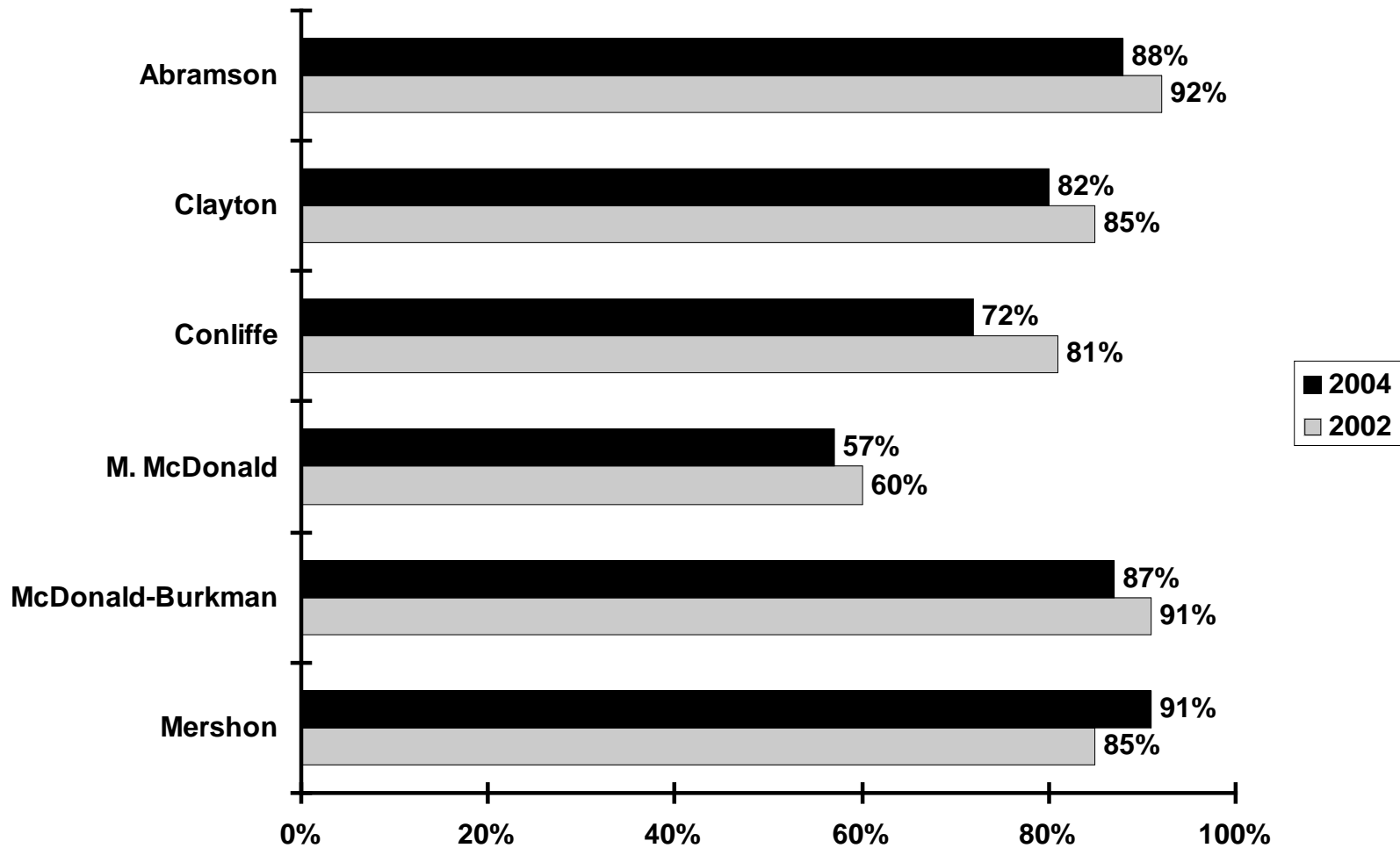
Overall Job Performance Ratings

The following charts show the level of agreement with the following statement for each judge:

- Does an overall good job.



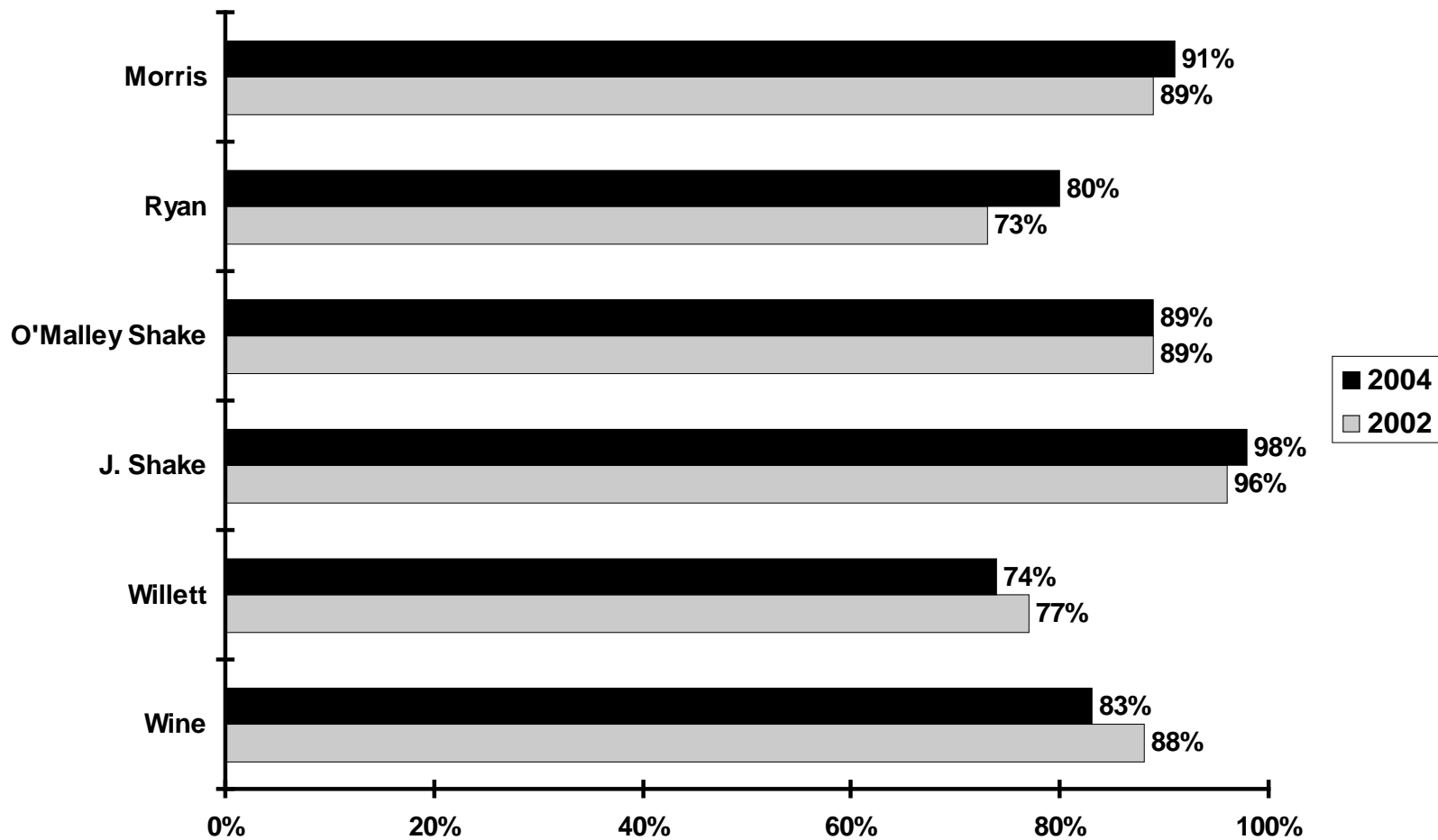
Overall Job Performance – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

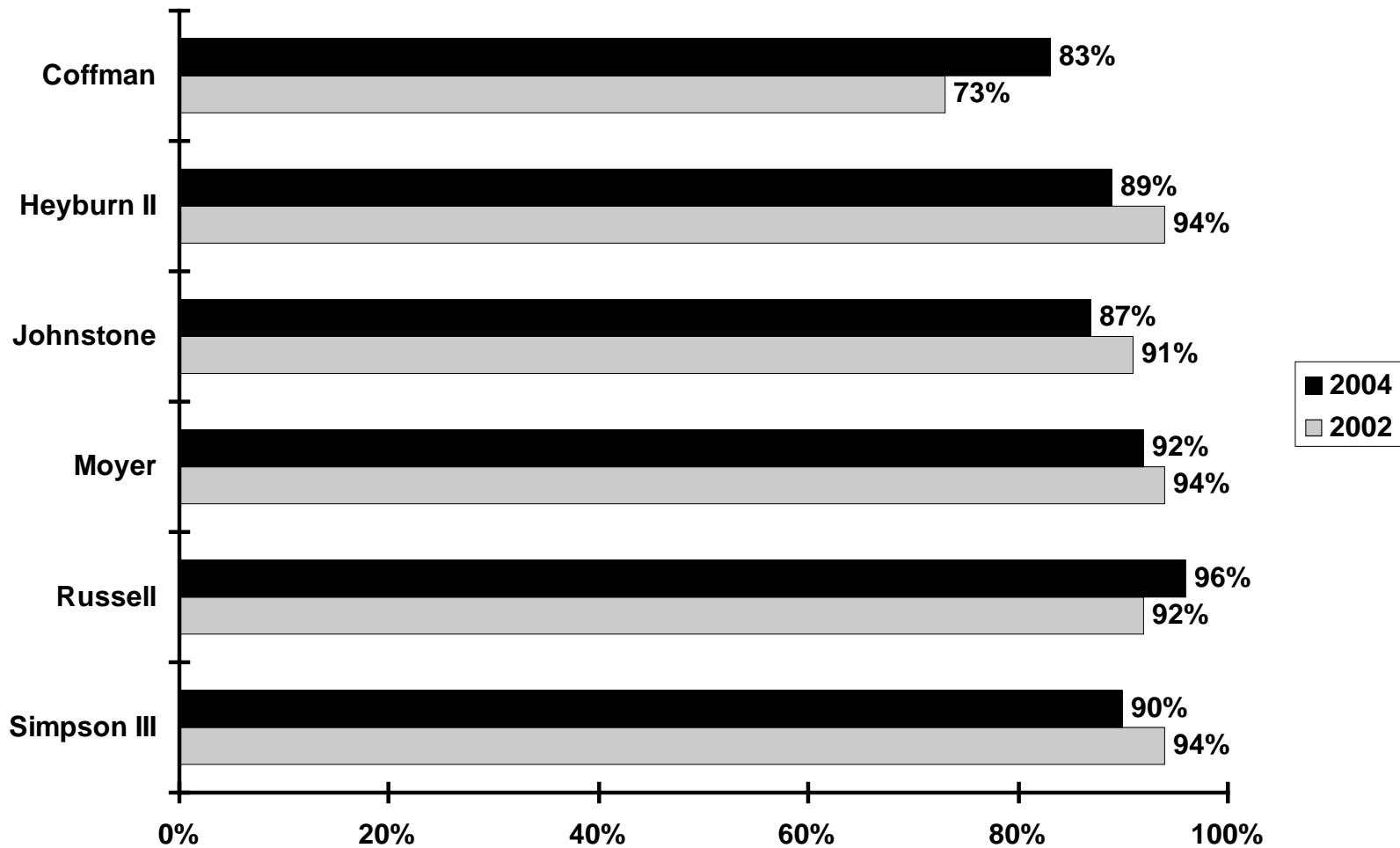


Overall Job Performance – Jefferson Circuit Court (Continued)



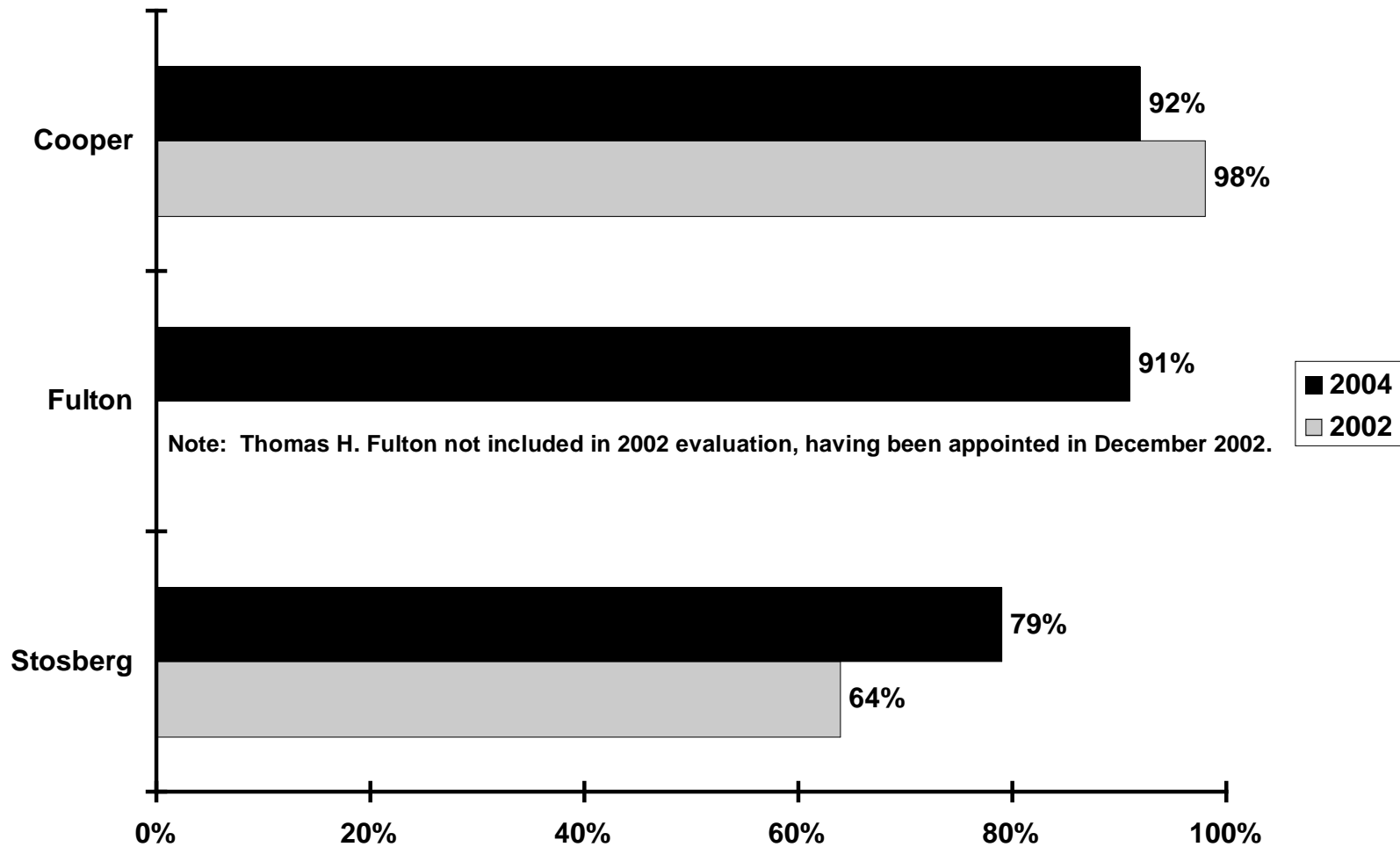


Overall Job Performance – U.S. District Court





Overall Job Performance – U.S. Bankruptcy Court







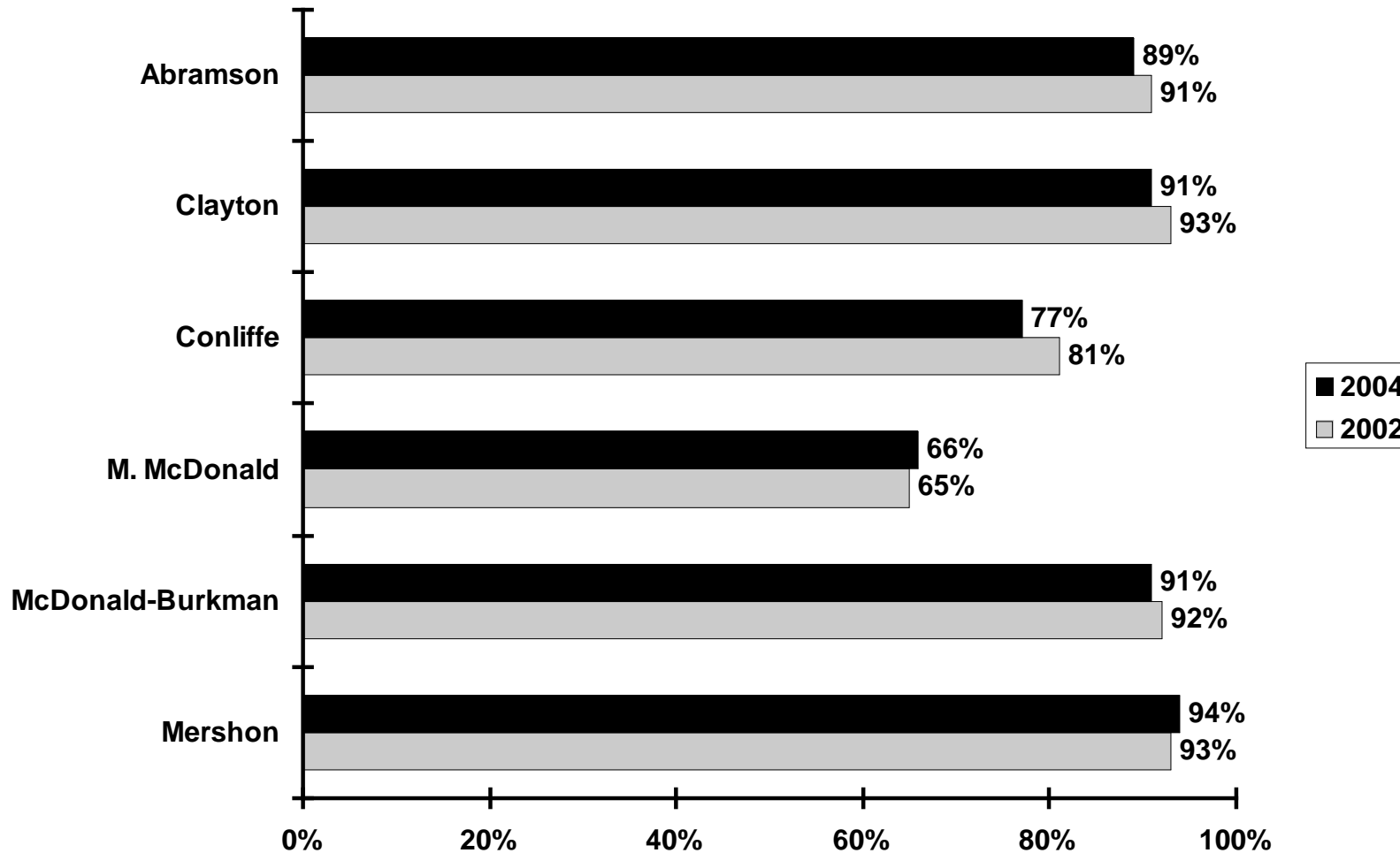
Judicial Temperament Ratings

An average rating was calculated for the performance attributes that make up the Judicial Temperament category. This rating was calculated by averaging the positive ratings for each attribute (“strongly disagree” and “disagree” for negative statements, “agree” and “strongly agree” for positive statements). The performance areas under Judicial Temperament are:

- Gives due consideration to arguments of counsel.
- Conducts court proceedings courteously.
- Pre-determines the outcome of the case.
- Refrains from interfering with the role of counsel in case presentation.
- Conducts court proceedings with objectivity.



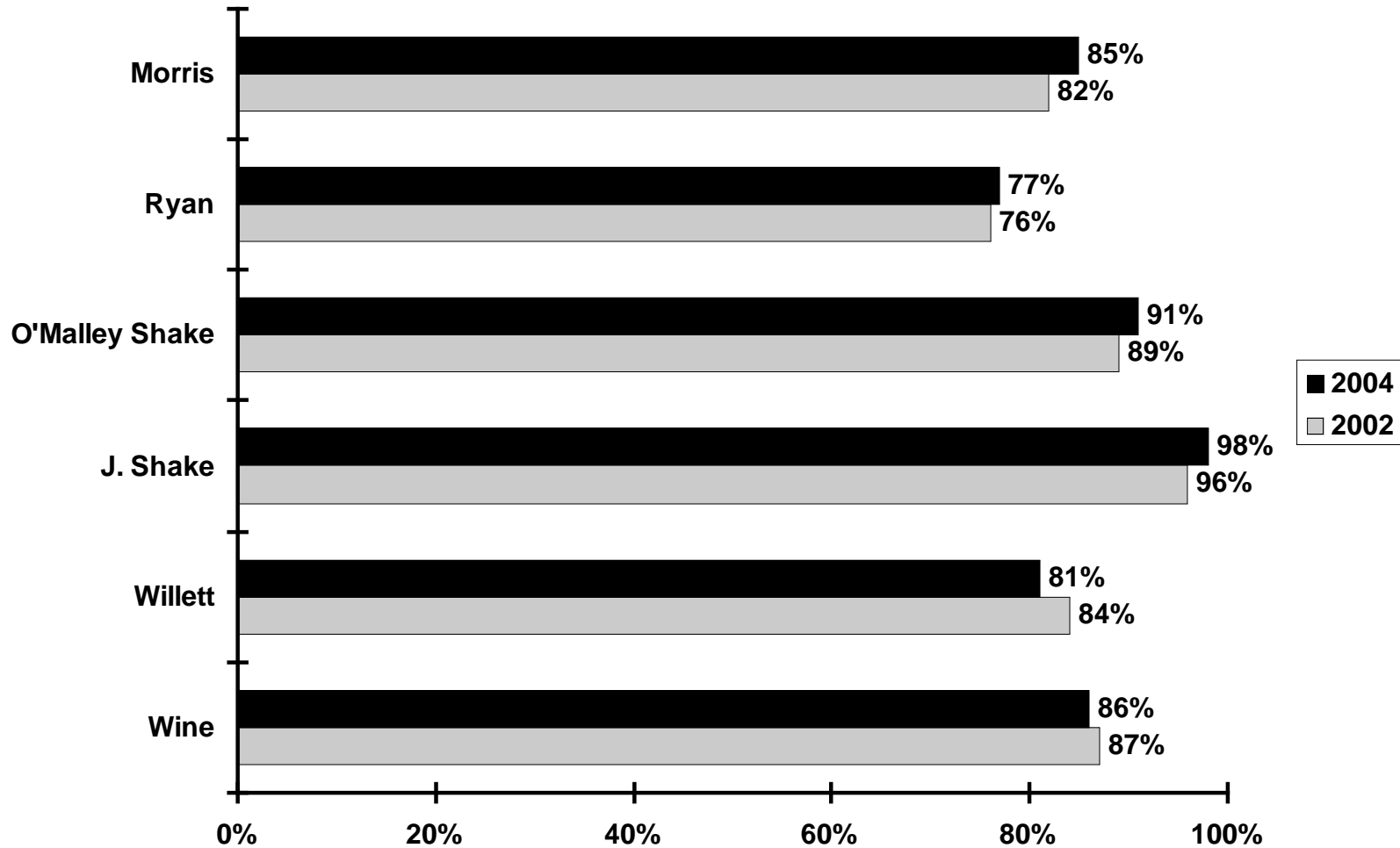
Judicial Temperament – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

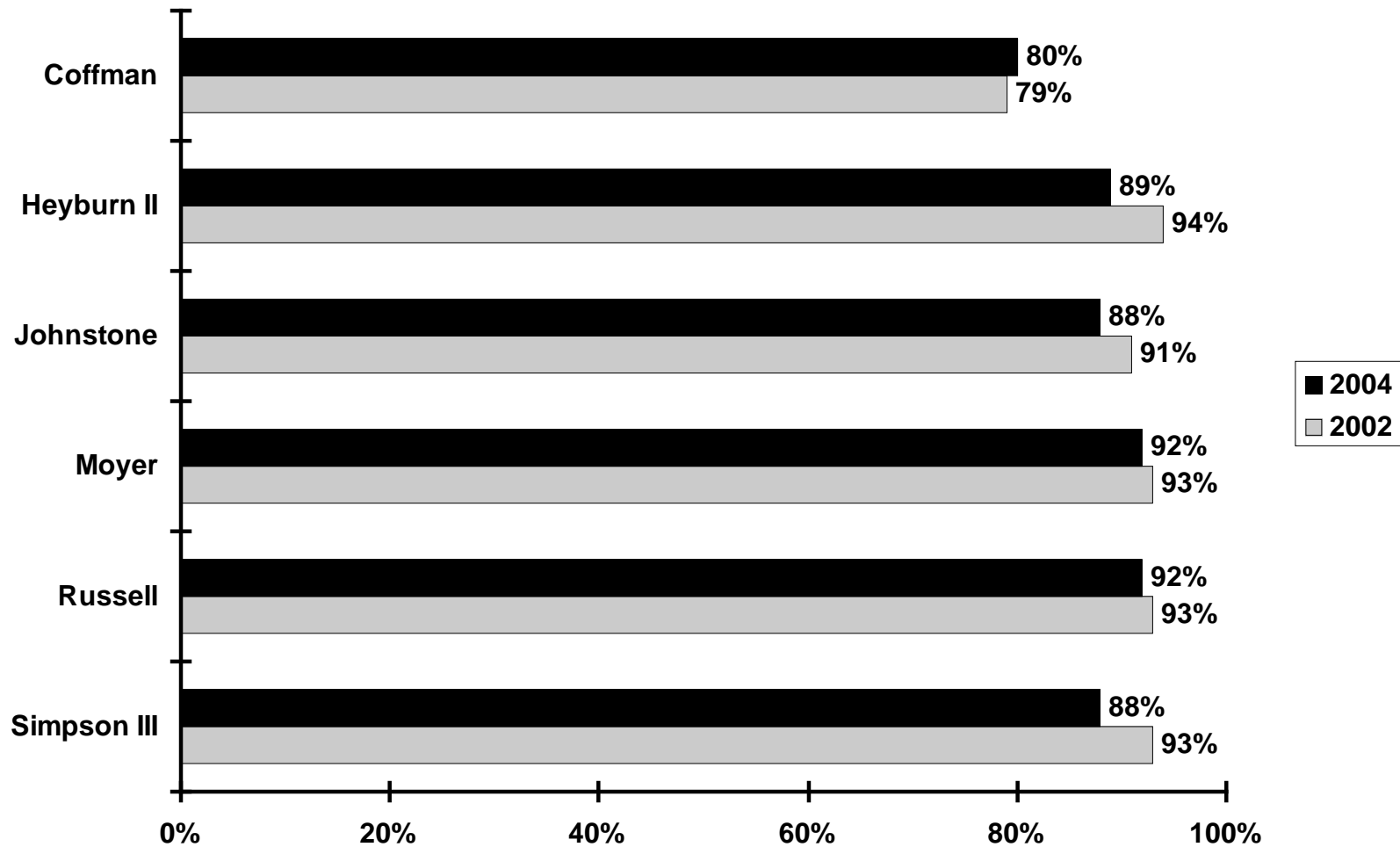


Judicial Temperament – Jefferson Circuit Court (Continued)



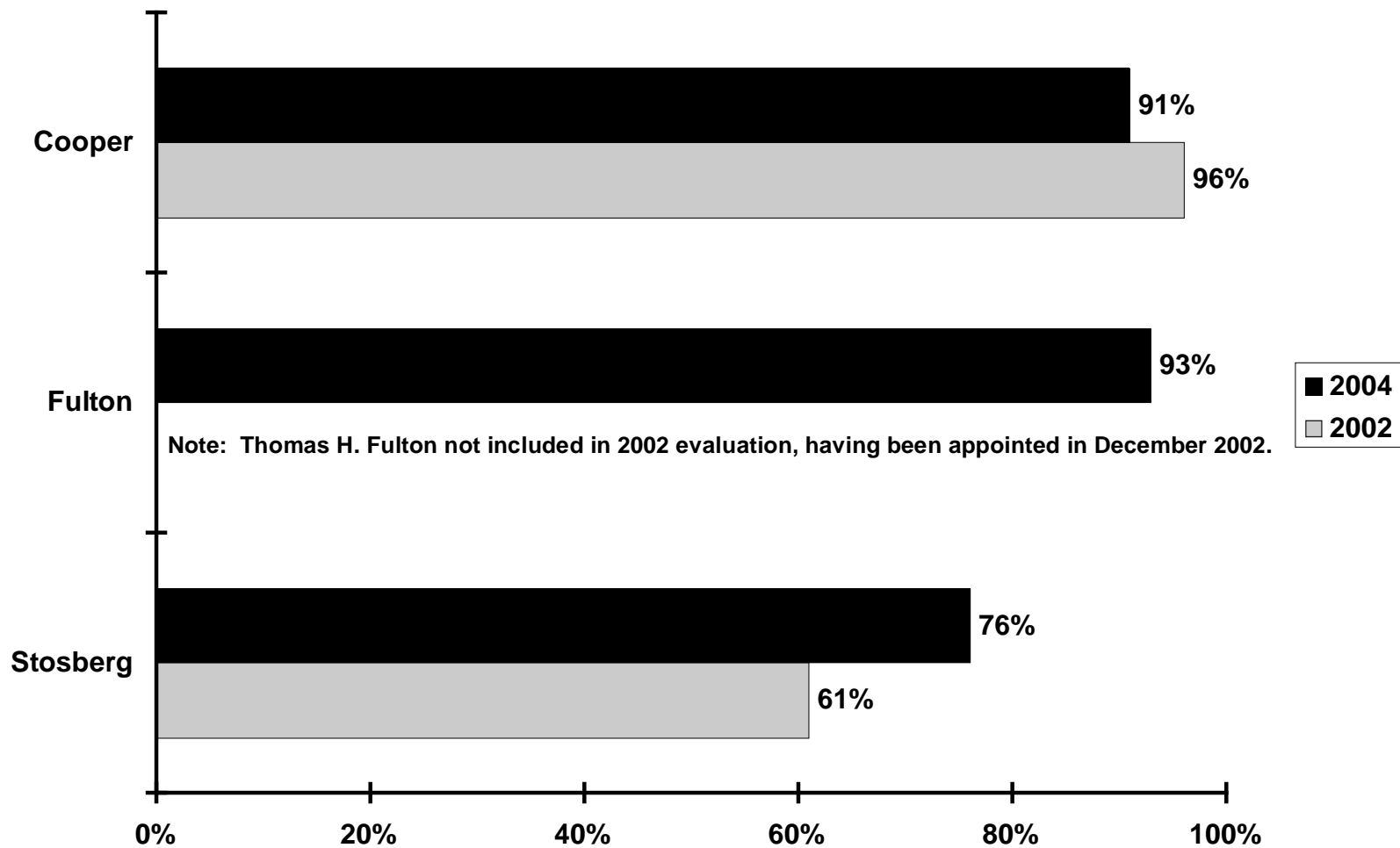


Judicial Temperament – U.S. District Court





Judicial Temperament – U.S. Bankruptcy Court







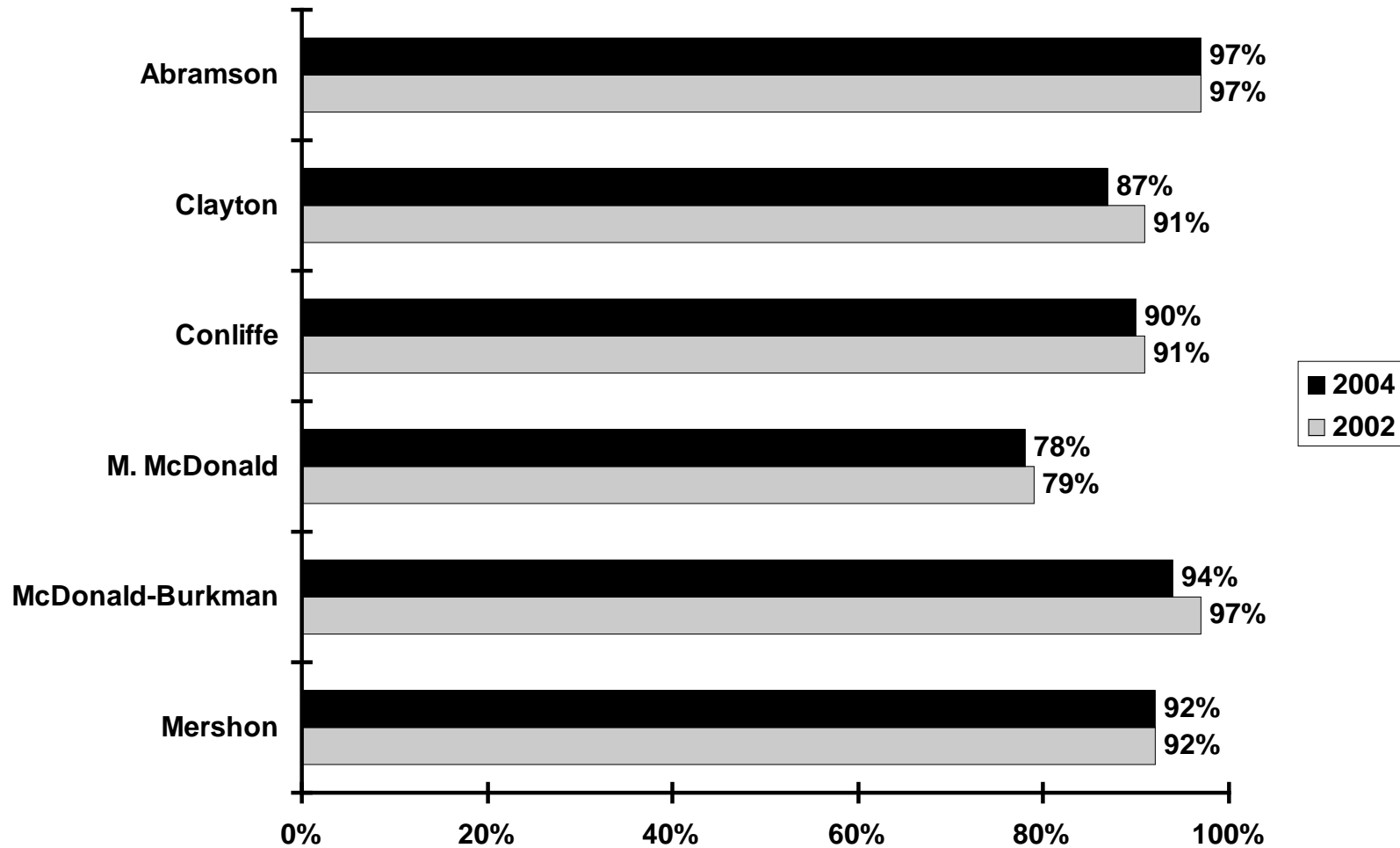
Court Management Ratings

An average rating was calculated for the performance attributes that make up the Court Management category. This rating was calculated by averaging the positive ratings for each attribute ("agree" and "strongly agree"). The performance areas under Court Management are:

- Conducts court business in a timely manner.
- Is usually available for business during normal working hours.
- Is familiar with the file so as to consider issues.
- Conducts court proceedings with appropriate firmness.



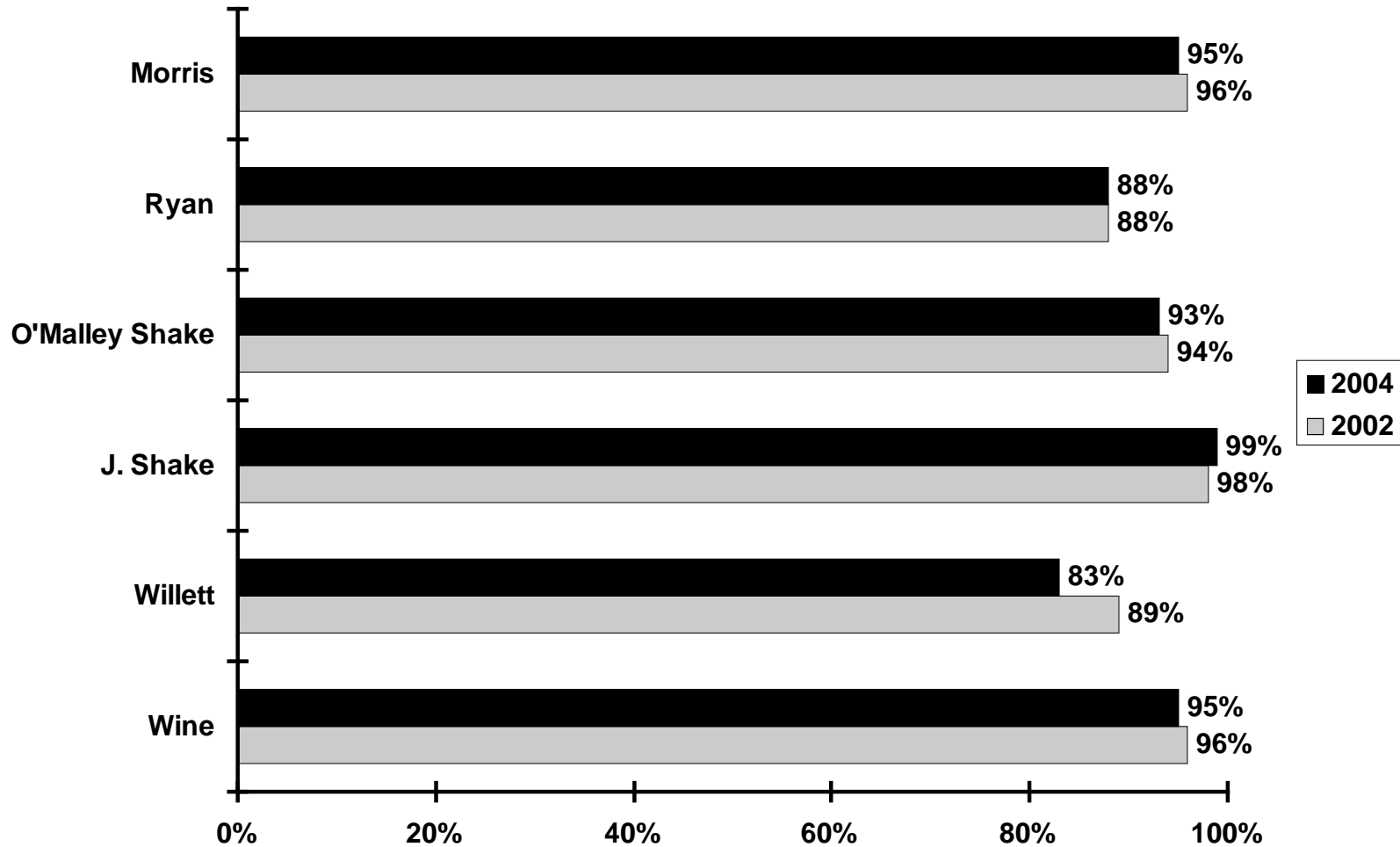
Court Management – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

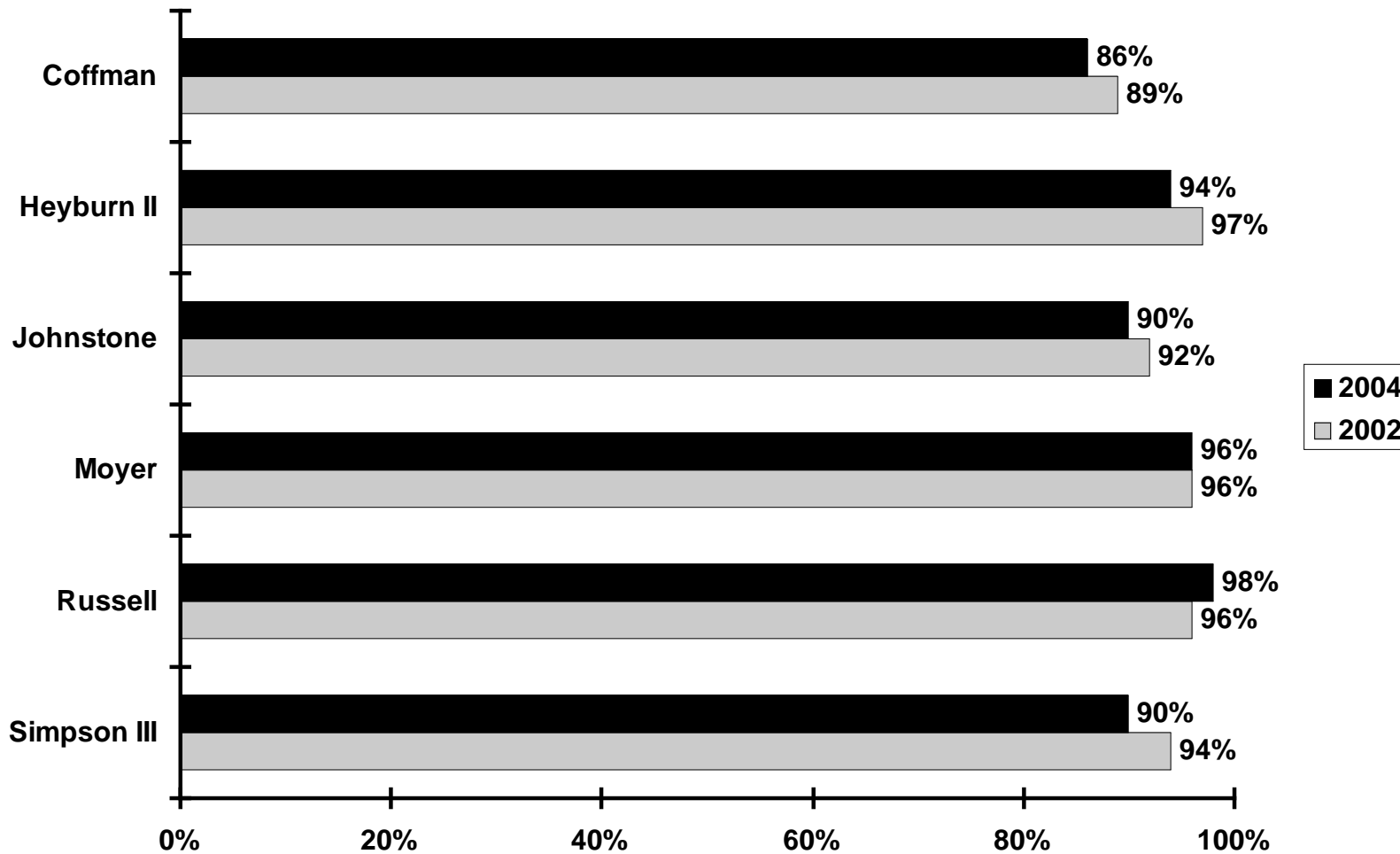


Court Management – Jefferson Circuit Court (Continued)



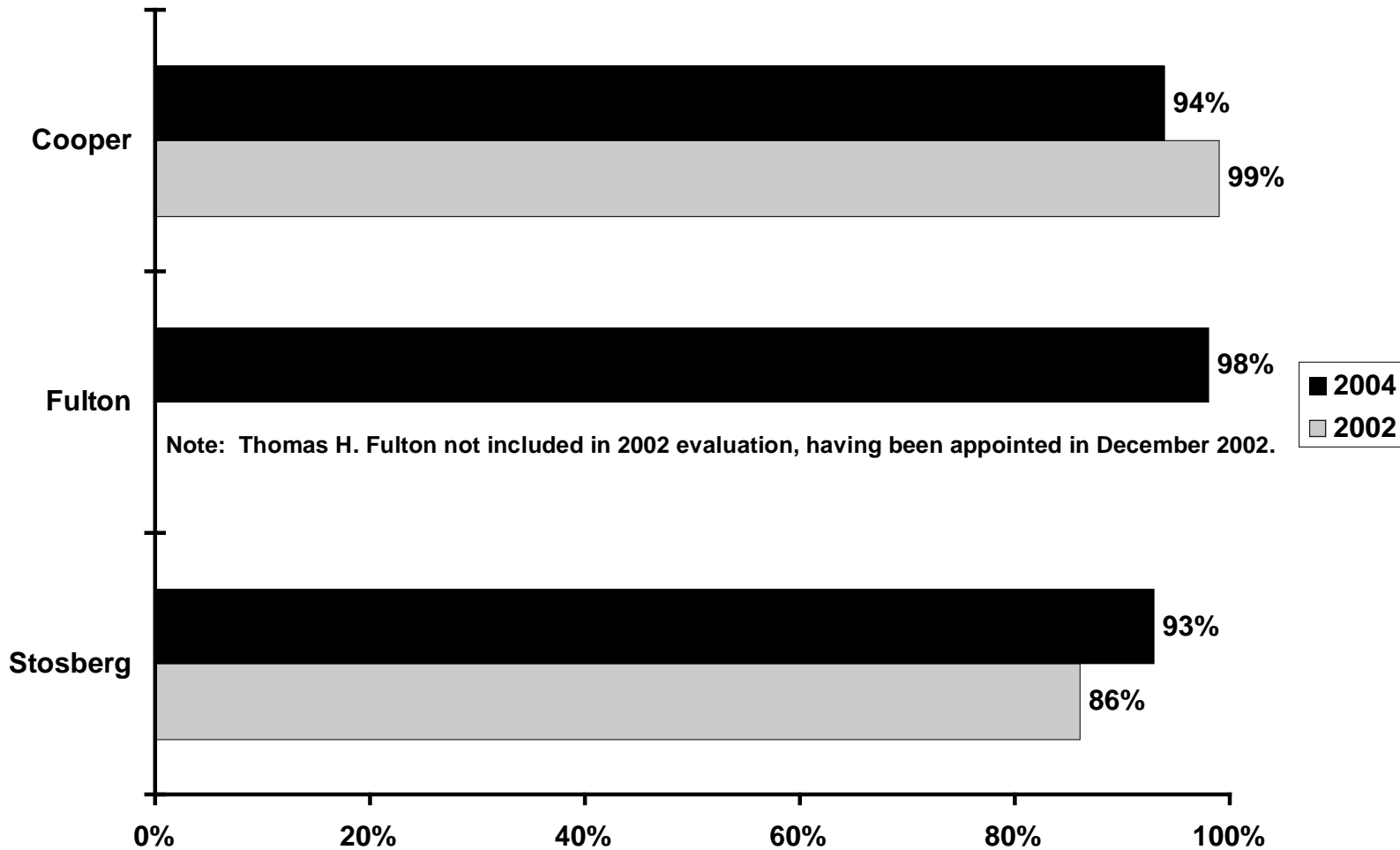


Court Management – U.S. District Court





Court Management – U.S. Bankruptcy Court







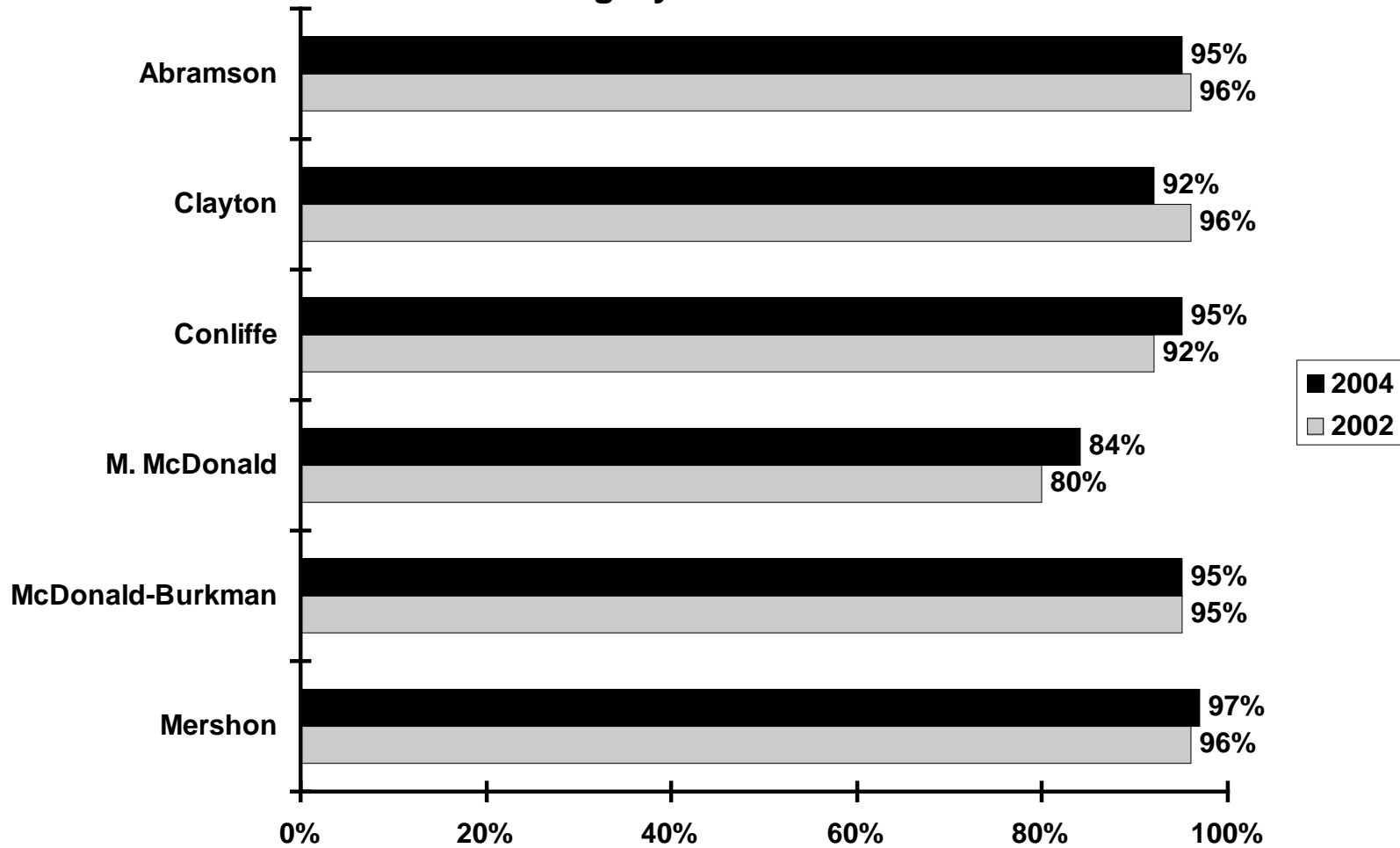
Judicial Integrity Ratings

An average rating was calculated for the performance attributes that make up the Judicial Integrity category. This rating was calculated by averaging the positive ratings for each attribute (“strongly disagree” and “disagree”). The performance areas under Judicial Integrity are:

- Is influenced by the gender of persons appearing in court.
- Engages in out-of-court conduct or activity which directly interferes with judicial effectiveness.
- Is influenced by the religion of persons appearing in court.
- Is affected by partisan interests in the conduct of the court.
- Is influenced by the socio-economic status of persons appearing in court.
- Engages in *ex parte* communications which may prejudice proceedings.
- Is influenced by the sexual orientation of persons appearing in court.
- Lets personal relationships affect his/her judgment.
- Is influenced by the race of persons appearing in court.



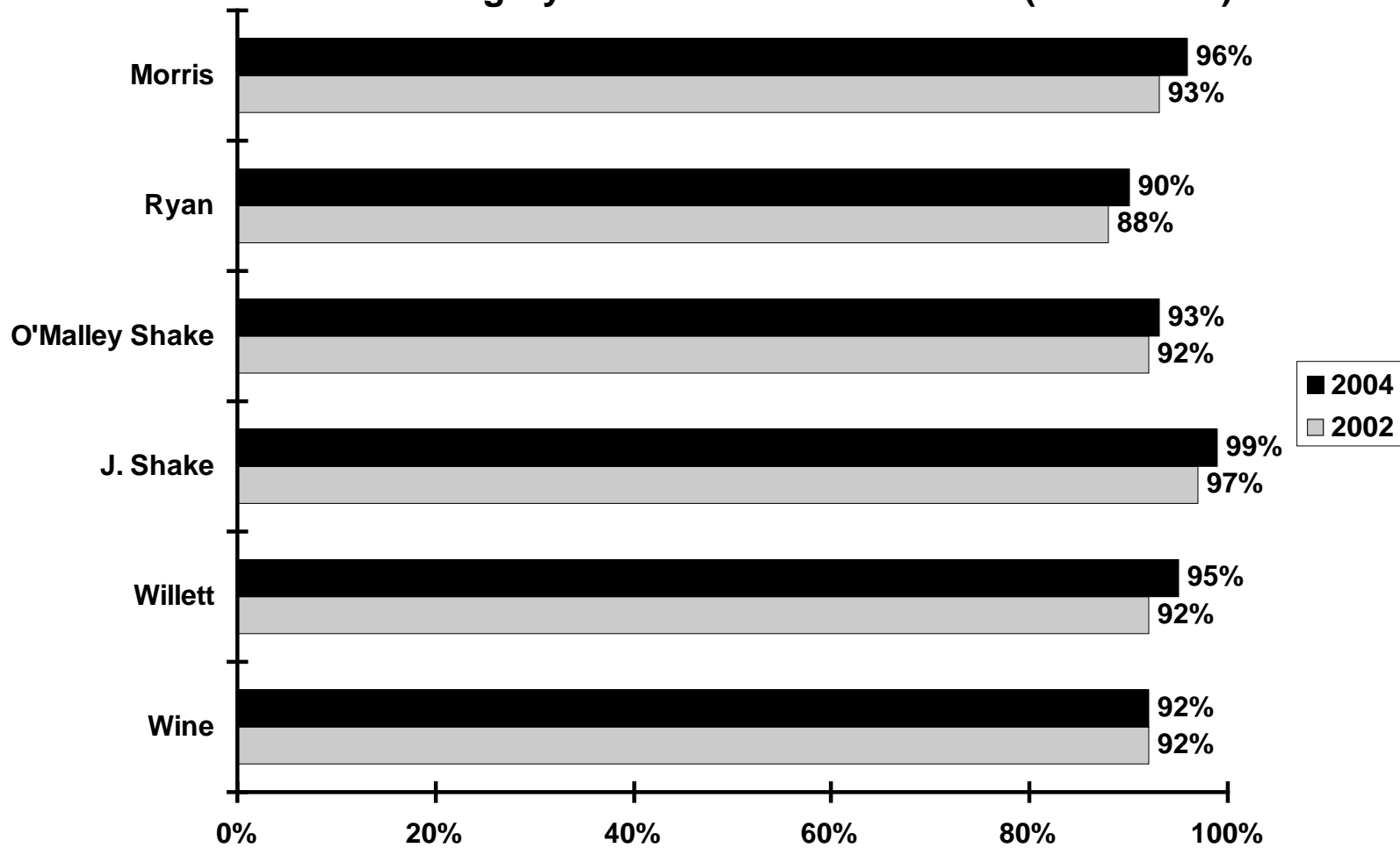
Judicial Integrity – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

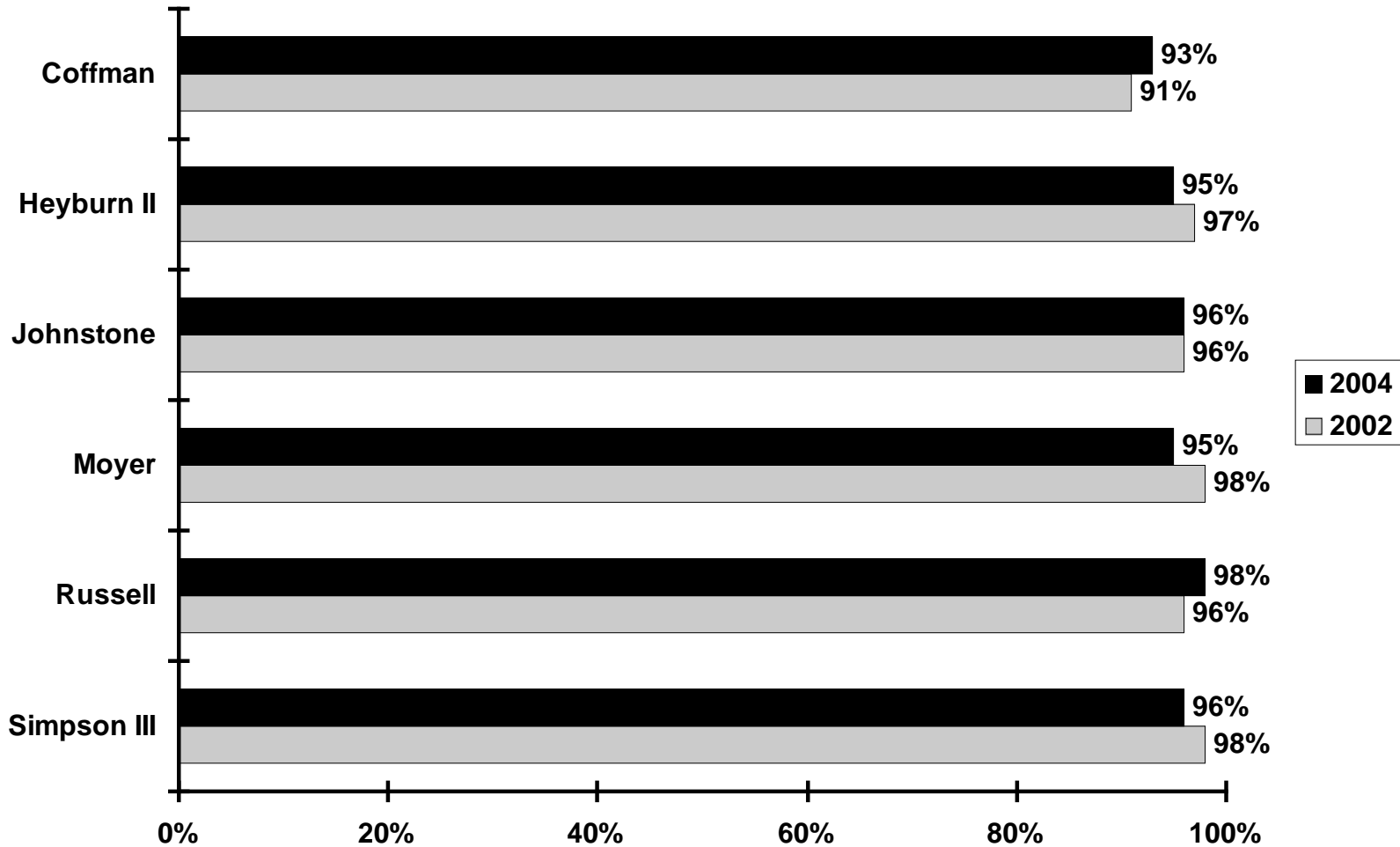


Judicial Integrity – Jefferson Circuit Court (Continued)



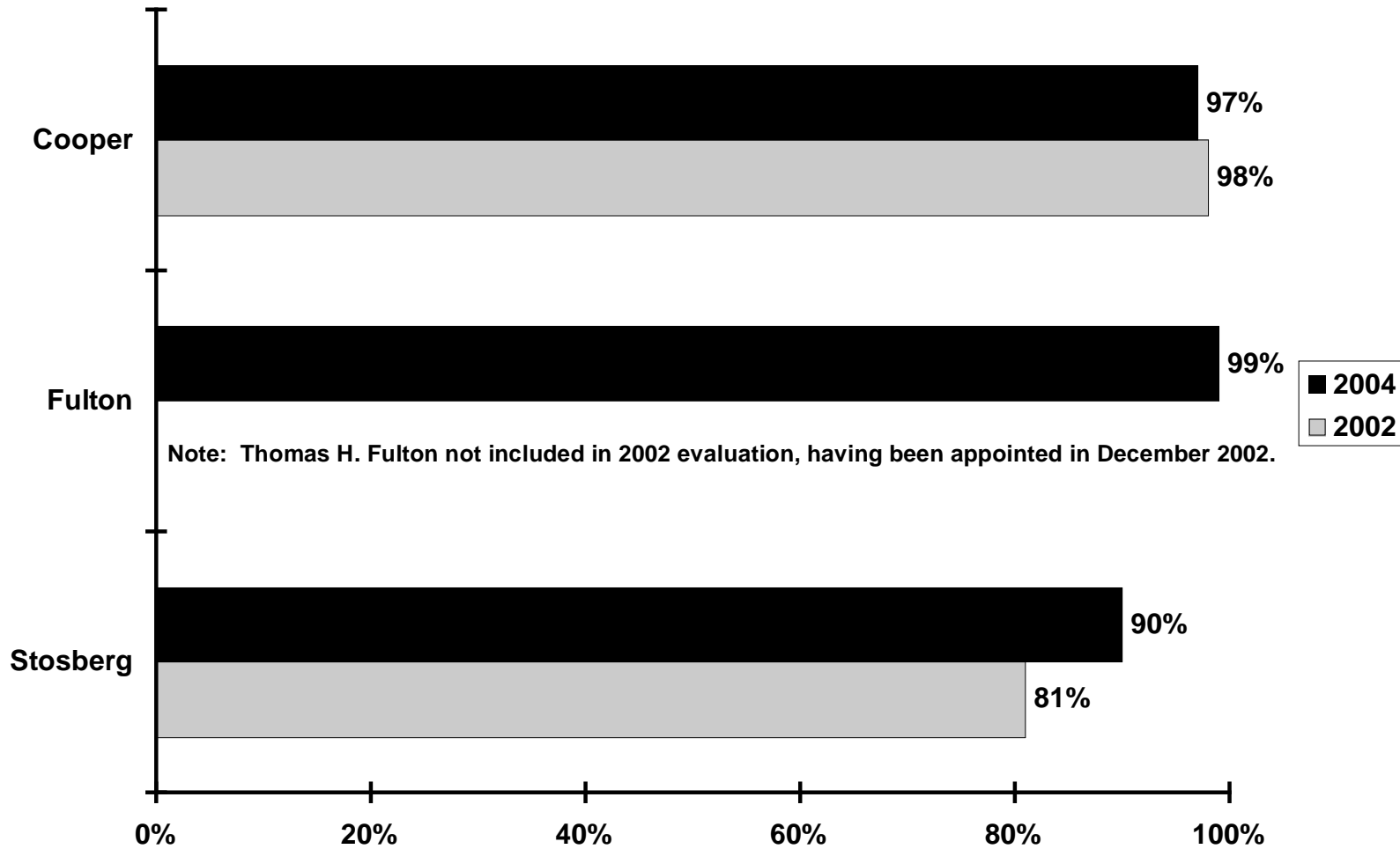


Judicial Integrity – U.S. District Court





Judicial Integrity – U.S. Bankruptcy Court







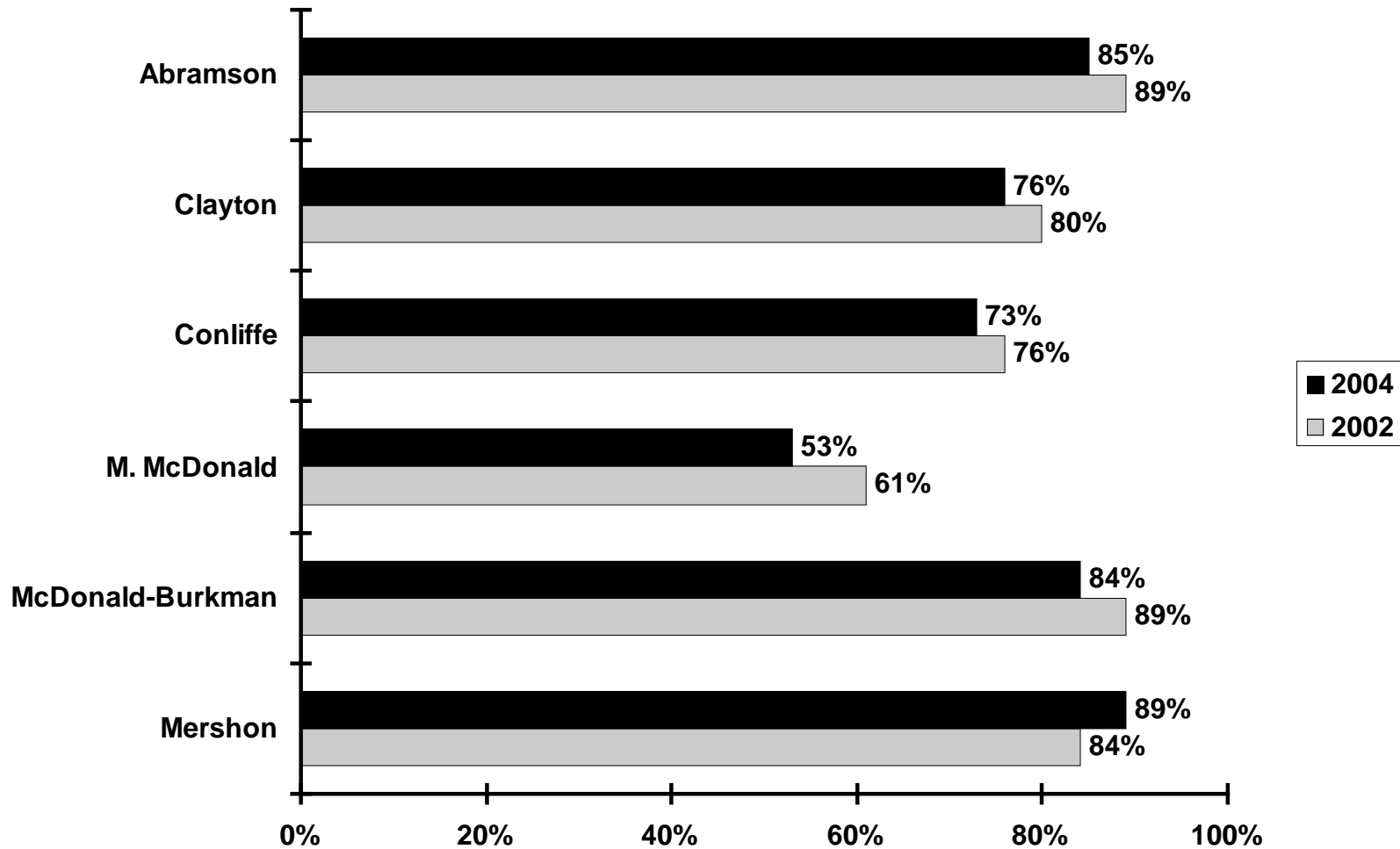
Legal Ability Ratings

The following charts show the level of agreement with the following statement for each judge:

- Renders decisions that reflect sound legal analysis.



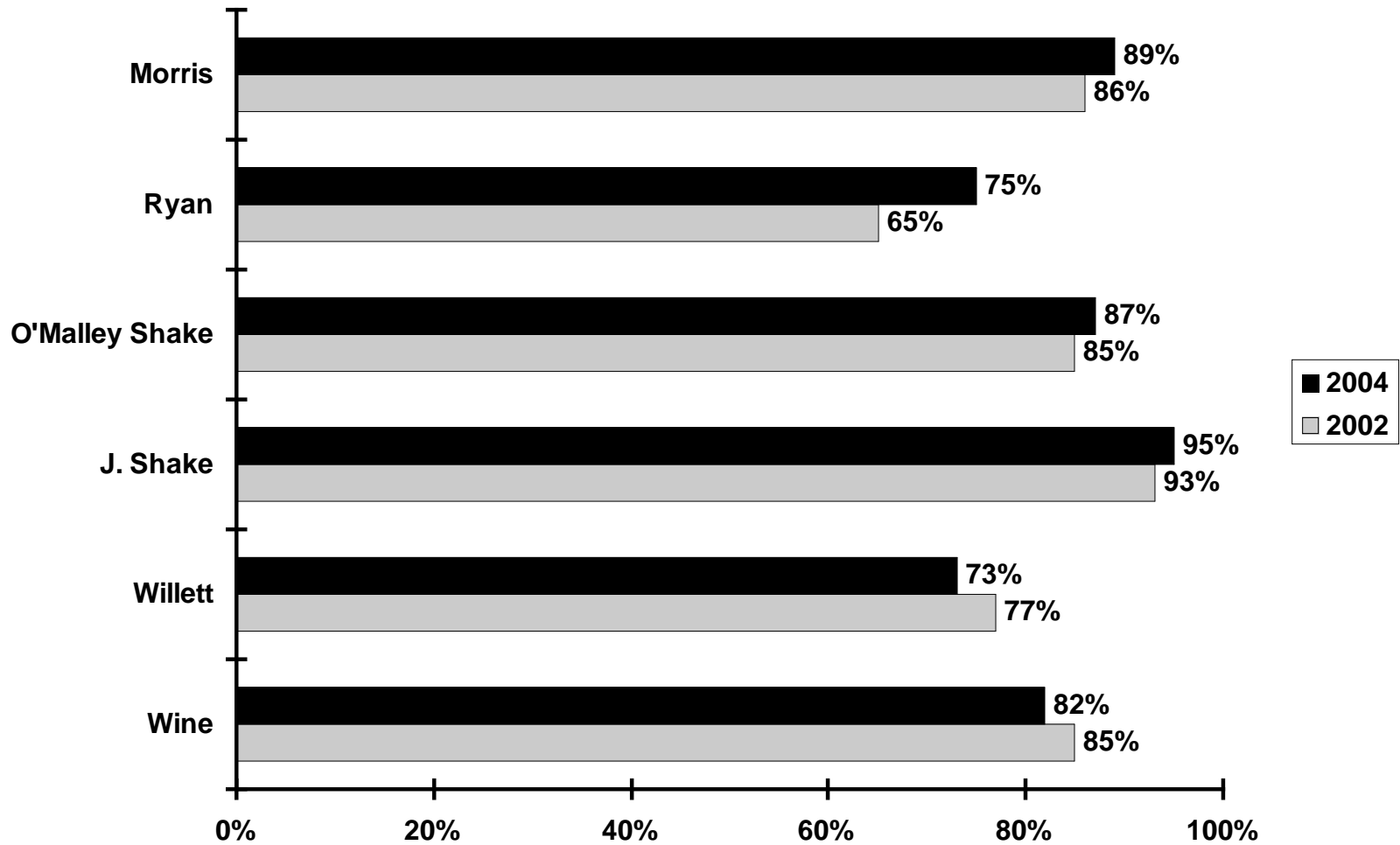
Legal Ability – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

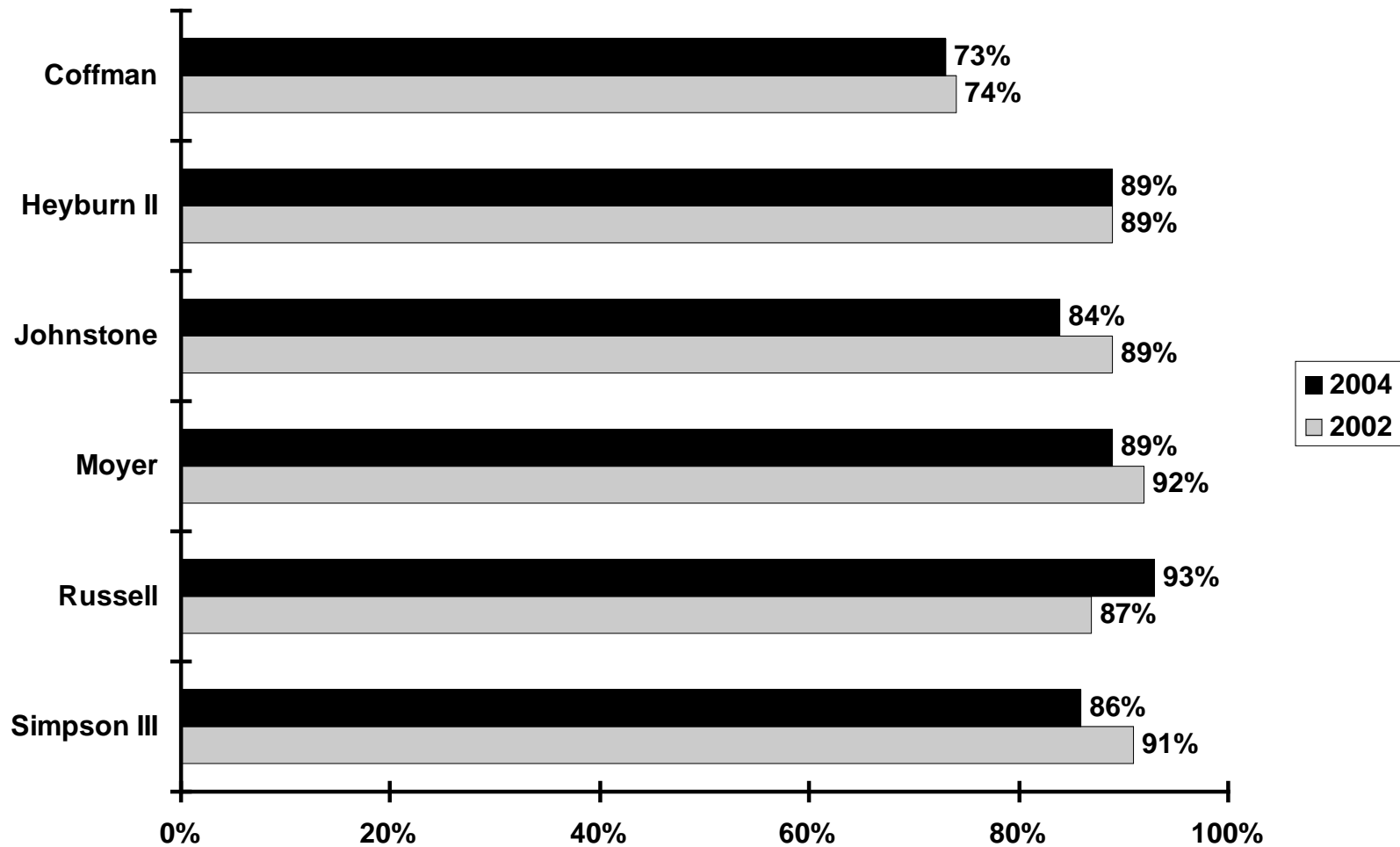


Legal Ability – Jefferson Circuit Court (Continued)



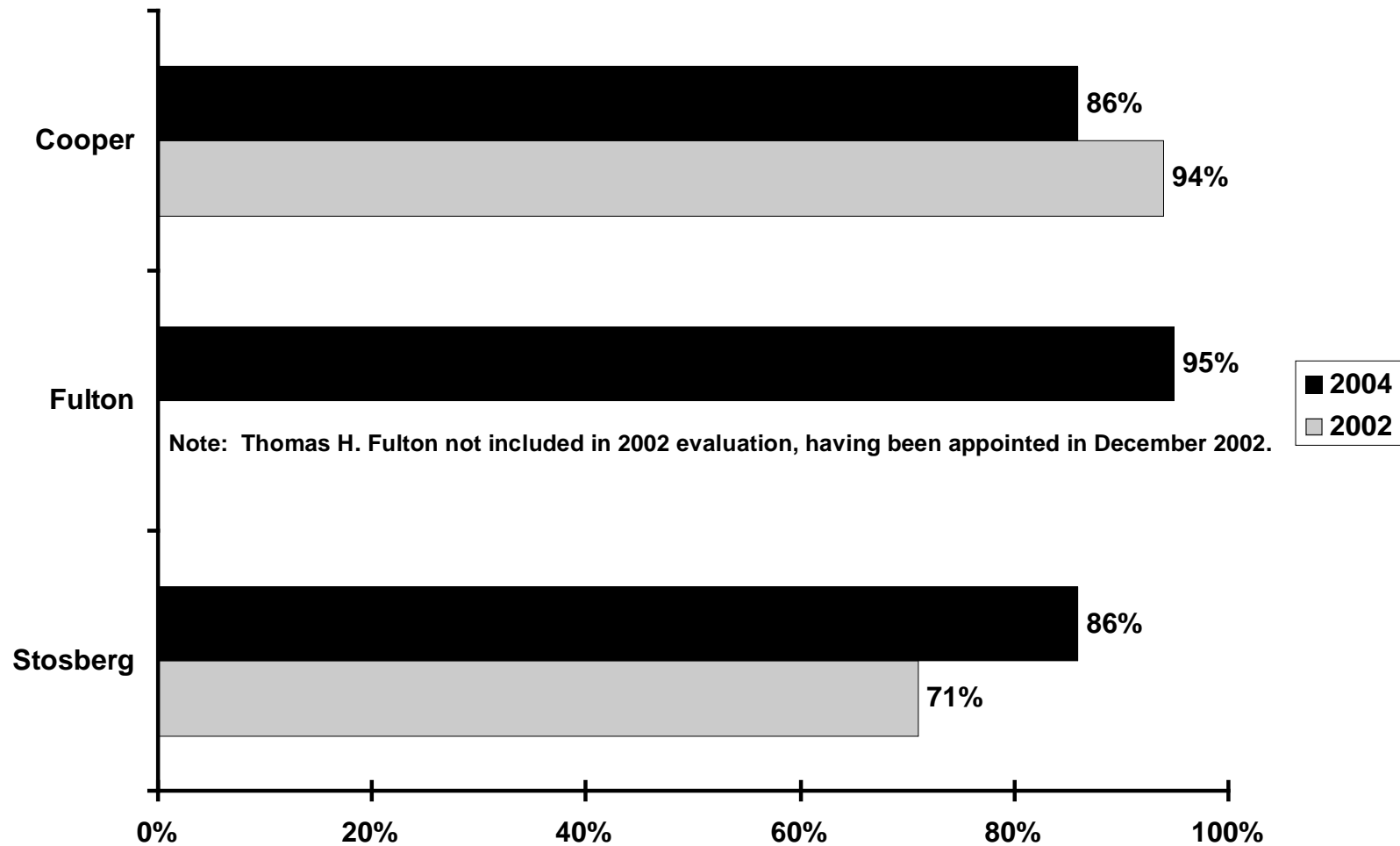


Legal Ability – U.S. District Court





Legal Ability – U.S. Bankruptcy Court







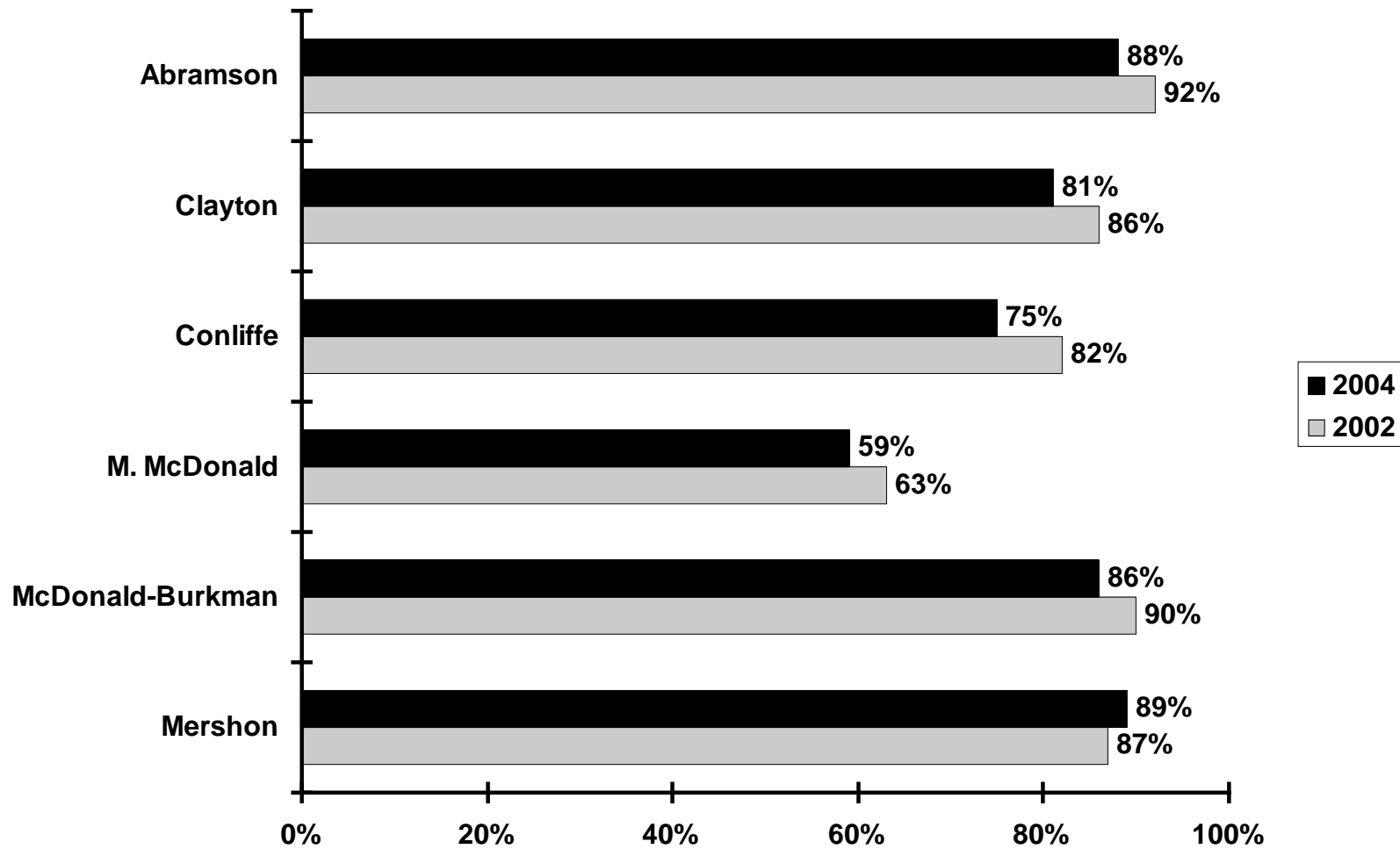
Civil Cases Ratings

The following charts show the level of agreement with the following statement for each judge:

- Does a good job in handling civil cases



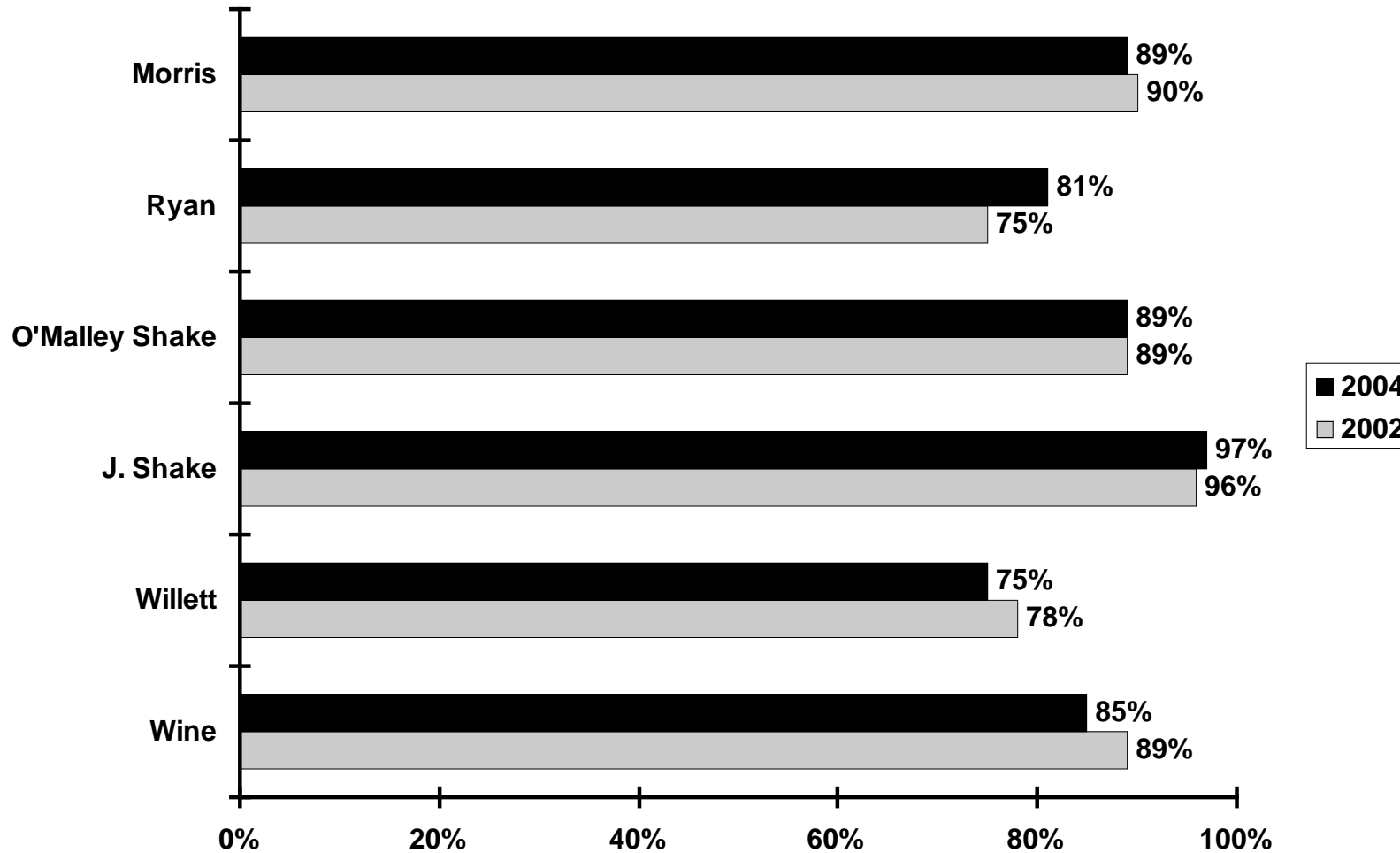
Civil Cases – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.

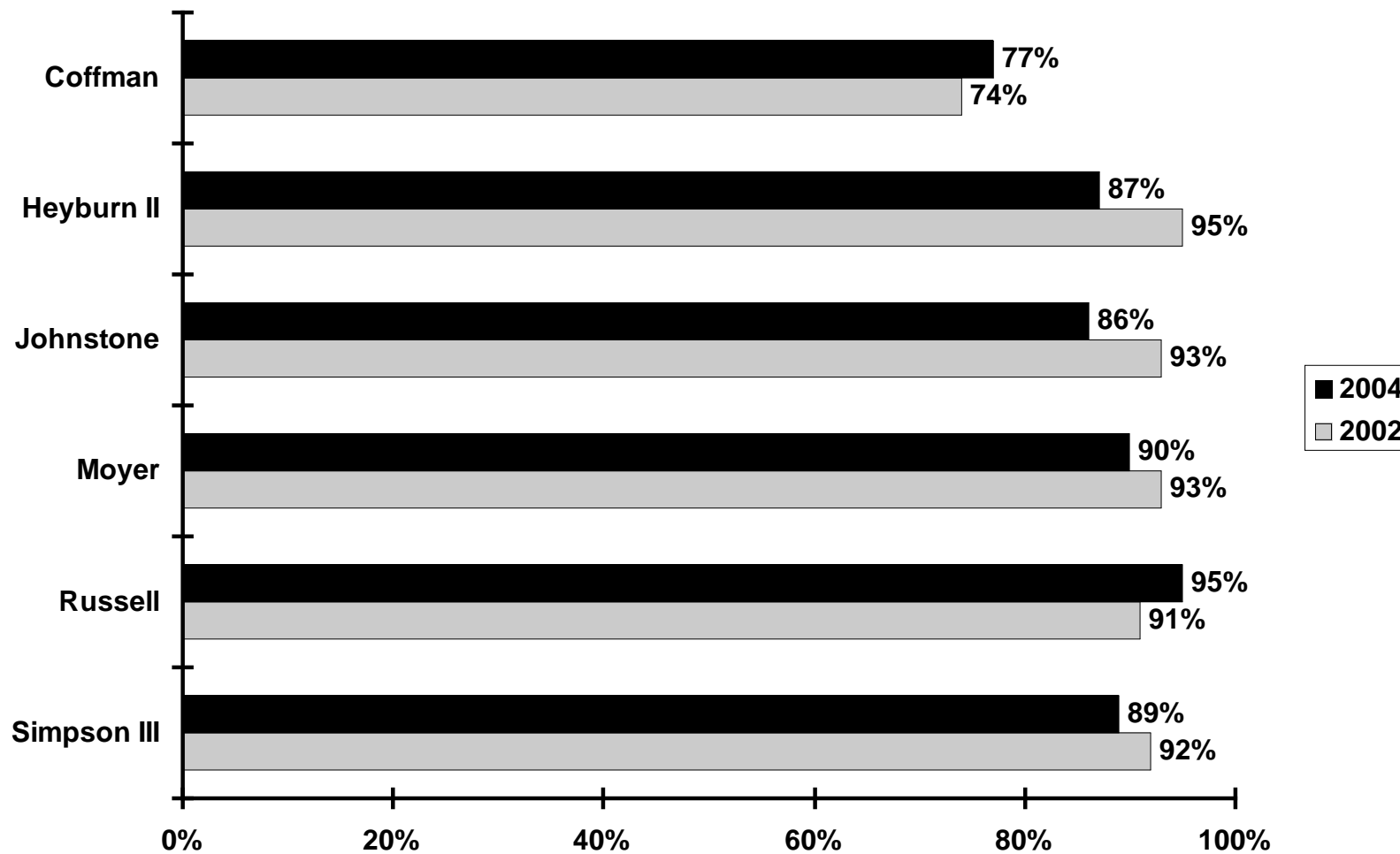


Civil Cases – Jefferson Circuit Court (Continued)



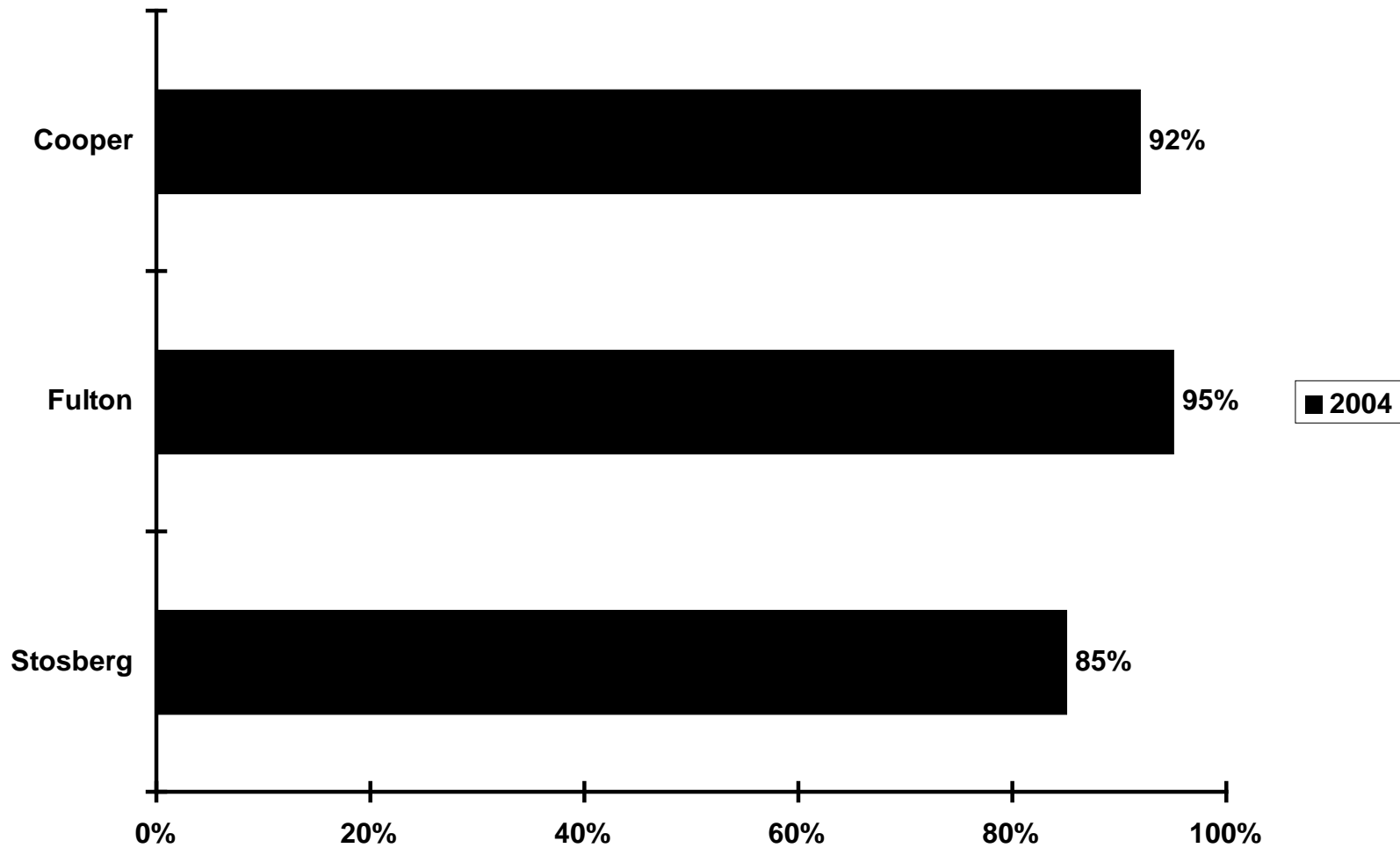


Civil Cases – U.S. District Court





Civil Cases – U.S. Bankruptcy Court







Criminal Cases Ratings

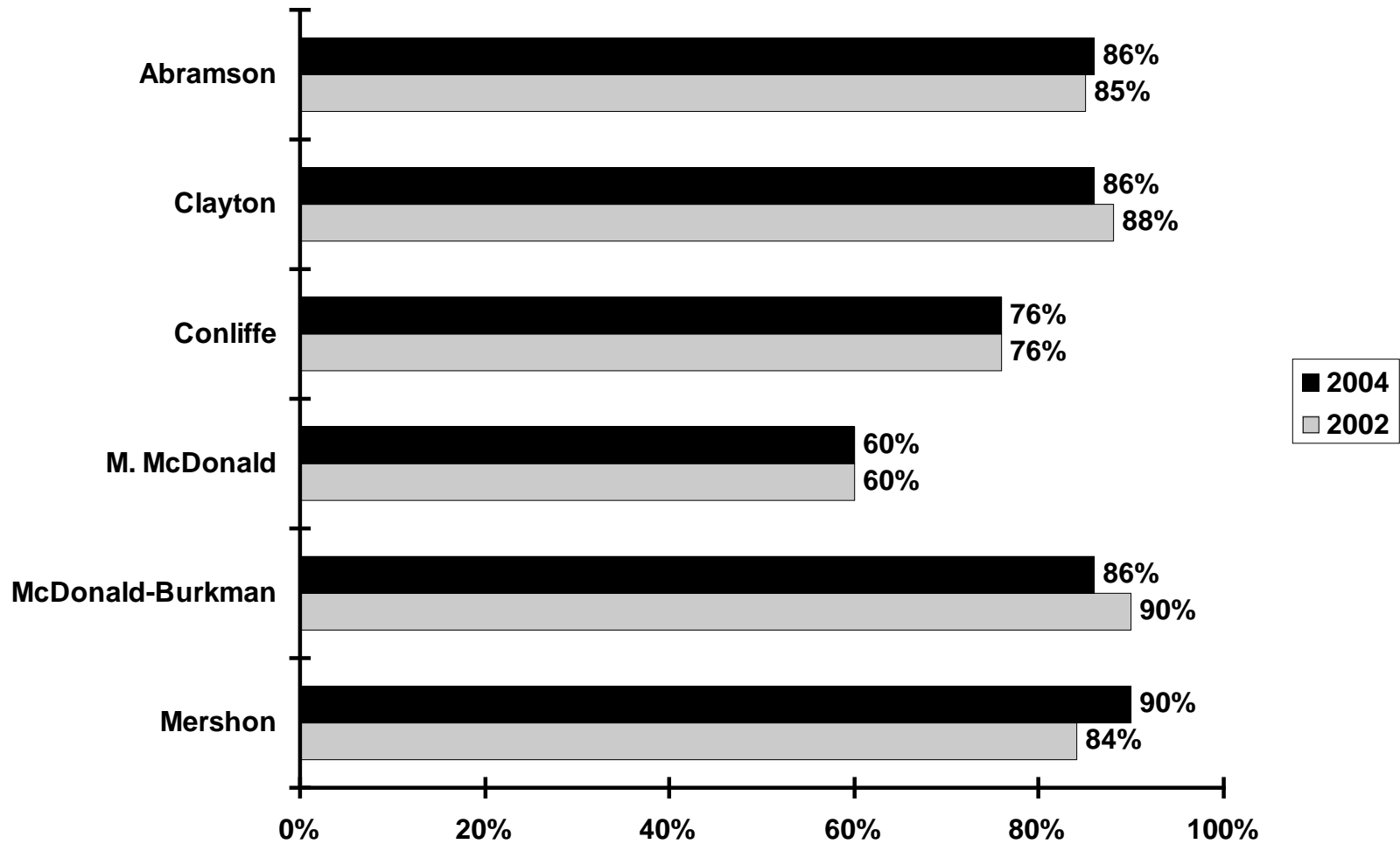
The following charts show the level of agreement with the following statement for each judge:

- Does a good job in handling criminal cases.

Bankruptcy judges have no jurisdiction in criminal cases. While some bankruptcy cases tangentially involve criminal events, bankruptcy court deals only with the civil proceedings. Accordingly, no ratings are shown for U.S. Bankruptcy Court judges in this category.



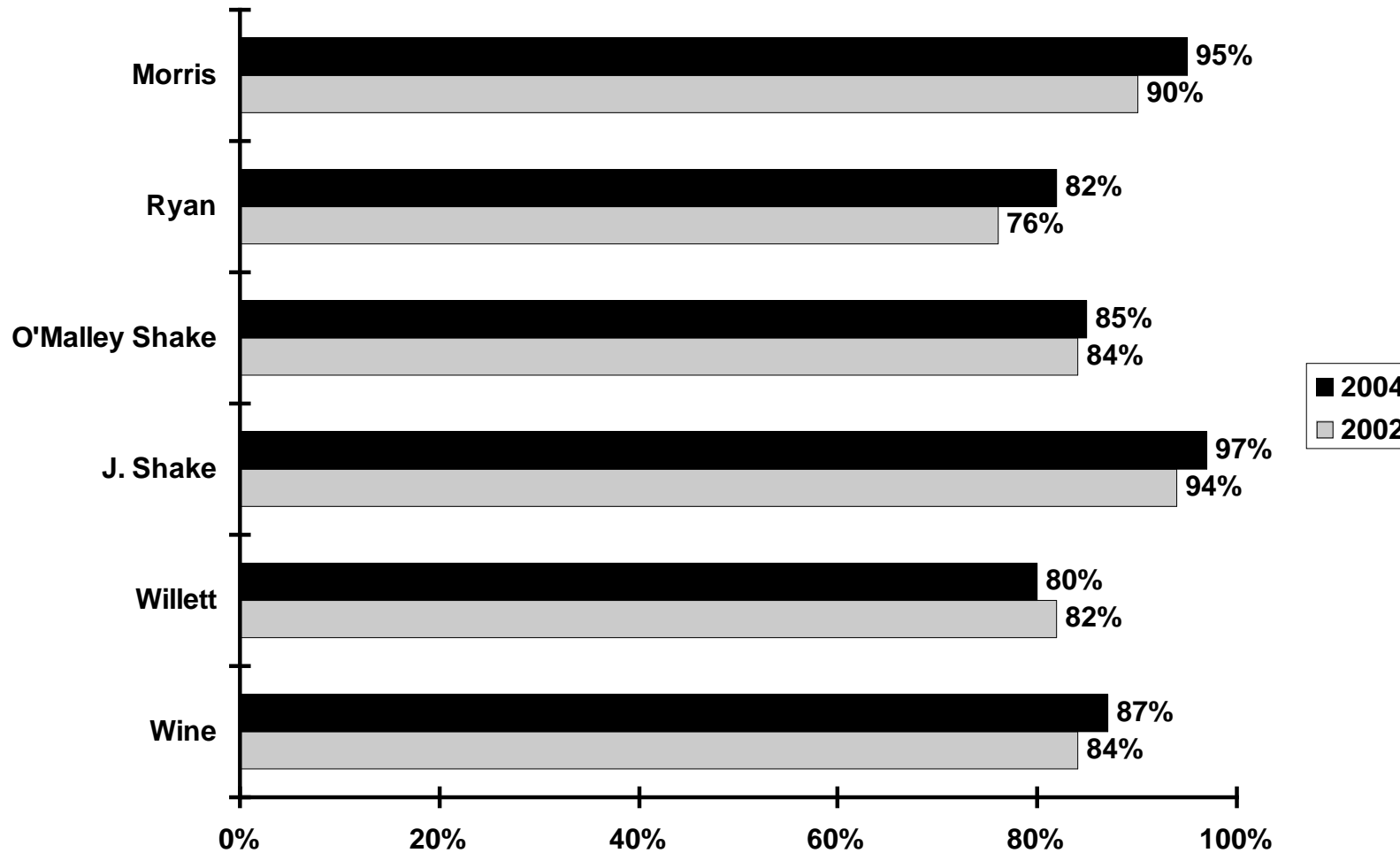
Criminal Cases – Jefferson Circuit Court



Note: Comparative data for M. McDonald from 2003 District Court judicial evaluation.



Criminal Cases – Jefferson Circuit Court (Continued)





Criminal Cases – U.S. District Court

