

Honorable Wallace A. Lee – District Court Judge

Serving Garfield, Kane, Piute, Sanpete, Sevier and Wayne counties



Commission Recommendation: **RETAIN**

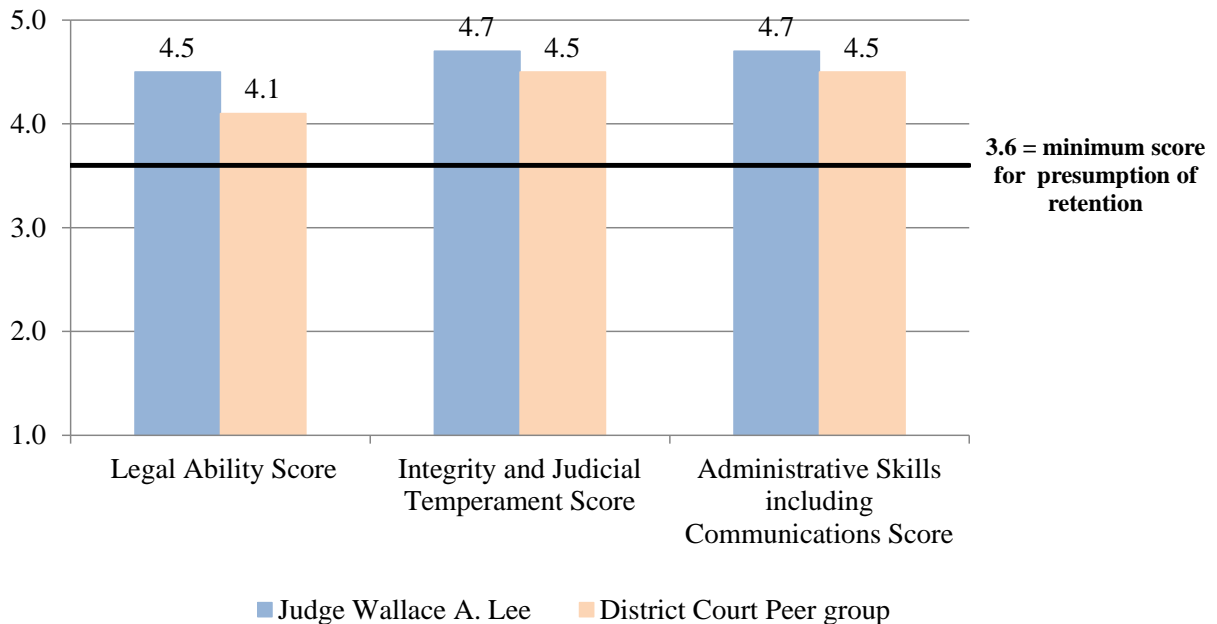
(vote count: 12-0 for retention)

Judge Wallace Lee earned survey scores well above the average of his district court peer group in all survey categories. Survey respondents described Judge Lee as fair, respectful, and consistently well-prepared. Respondents also noted his patient yet authoritative demeanor, his well-reasoned and decisive rulings, and his professionalism. Of adjectives that respondents selected from a list to describe Judge Lee, 100% were positive. Courtroom observers characterized Judge Lee as a highly effective courtroom manager who consistently remained courteous and considerate in his treatment of all individuals. Of survey respondents who answered the retention question, 98% recommended that Judge Wallace Lee be retained.

The commission reviewed surveys and courtroom observation reports in addition to verifying that Judge Lee has met all time standards, judicial education requirements, and discipline standards established by the judicial branch.

Judge Wallace A. Lee was appointed to the Sixth District Court in 2005 by Gov. Jon M. Huntsman, Jr. Judge Lee received a law degree from the J. Reuben Clark Law School at Brigham Young University in 1988. After graduating from law school, he practiced with the St. George law firm of Thompson, Hughes & Reber. He later established a private practice in Panguitch and served as Garfield County Attorney and Panguitch City Attorney. Judge Lee has been a member of the Standing Committee on Judicial Branch Education and the Board of District Court Judges. He presently serves as a member of the Committee on Remote Services.

This judge has met all minimum performance standards established by law.



The Honorable Wallace A. Lee

Judicial Performance Evaluation Commission Report

Retention 2014

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I. Survey Report

Survey Results

A. How to Read the Results

For Judge Wallace A. Lee, 51% of qualified survey respondents submitted surveys. Of those who responded, 71 agreed they had worked with Judge Wallace A. Lee enough to evaluate his performance. This report reflects the 71 responses. The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

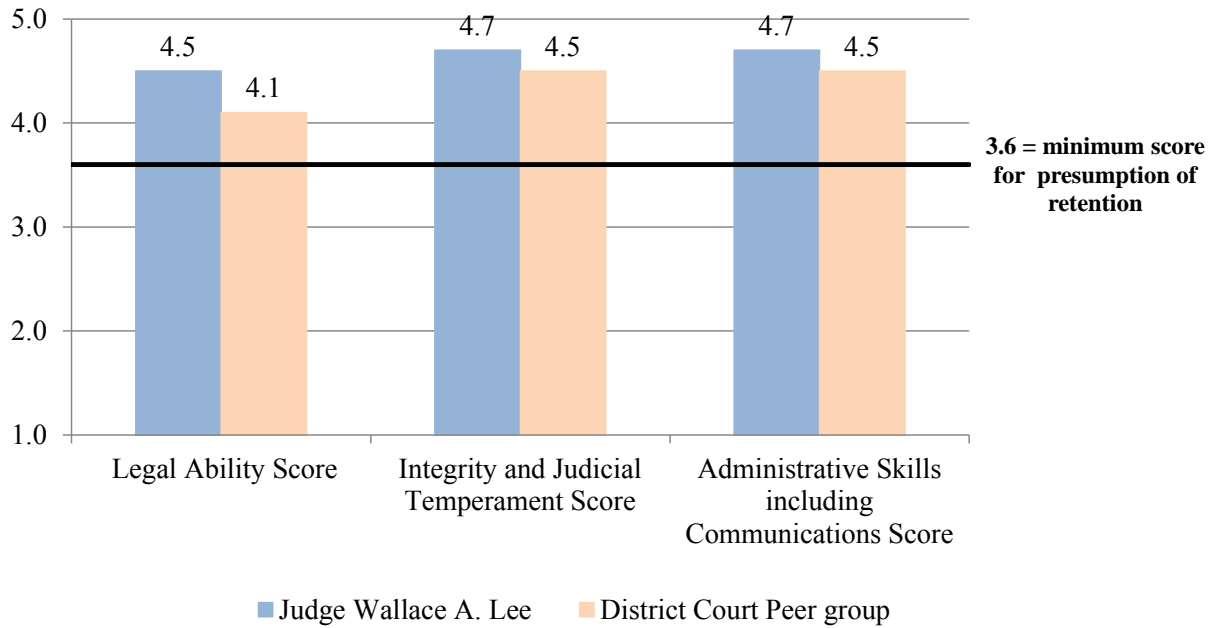
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (inadequate) to 5 (outstanding). Responses from all survey respondent groups contribute to the average score shown for each category, with the exception of Legal Ability. Only attorneys answer these questions.

What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to recommend retention unless it can articulate a substantial reason for overcoming the presumption in favor of retention. Similarly, if a judge fails to get a 3.6 in a category, the commission will vote against retention unless it can articulate a substantial reason for overcoming the presumption against retention.

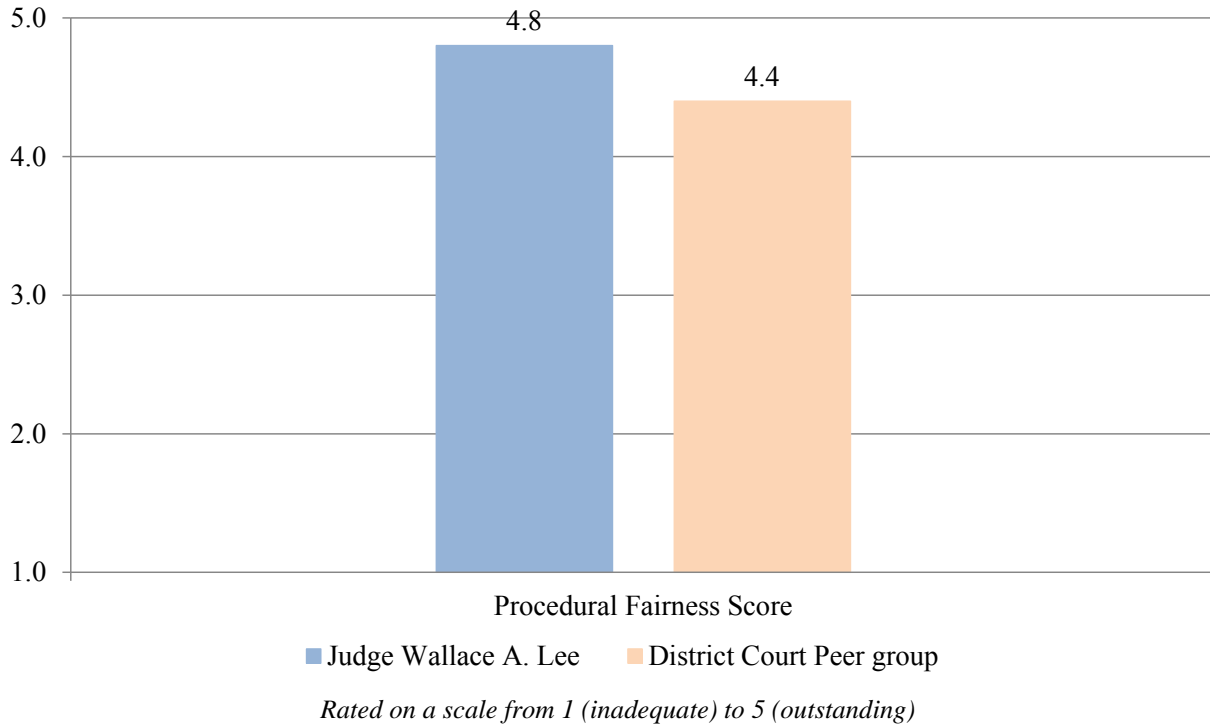
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, and this determination will be made by the commission only during the retention cycle.

B. Statutory Category Scores



Rated on a scale from 1 (inadequate) to 5 (outstanding)

C. Procedural Fairness Survey Score



For procedural fairness, the judge must demonstrate by a preponderance of the evidence that the judge’s conduct in court promotes procedural fairness for court participants. This determination is based on courtroom observations and relevant survey responses.

Overall Procedural Fairness Determination

Category	Judge Wallace A. Lee
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Wallace A. Lee	District Court
Legal Ability	The judge follows the applicable legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.5	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.5	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.5	4.1
Legal Ability	The judge only considers evidence in the record.	4.7	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.5	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.7	4.3
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.9	4.6

Rated on a scale from 1 (inadequate) to 5 (outstanding)

Category	Question	Judge Wallace A. Lee	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.9	4.5
Administrative Skills	The judge is an effective manager.	4.7	4.3
Administrative Skills	The judge convenes court without undue delay.	4.6	4.5
Administrative Skills	The judge rules in a timely fashion.	4.6	4.4
Administrative Skills	The judge maintains diligent work habits.	4.8	4.5
Administrative Skills	The judge's oral communications are clear.	4.8	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.7	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.5
Procedural Fairness	The judge is fair and impartial.	4.7	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.8	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.8	4.4

Rated on a scale from 1 (inadequate) to 5 (outstanding)

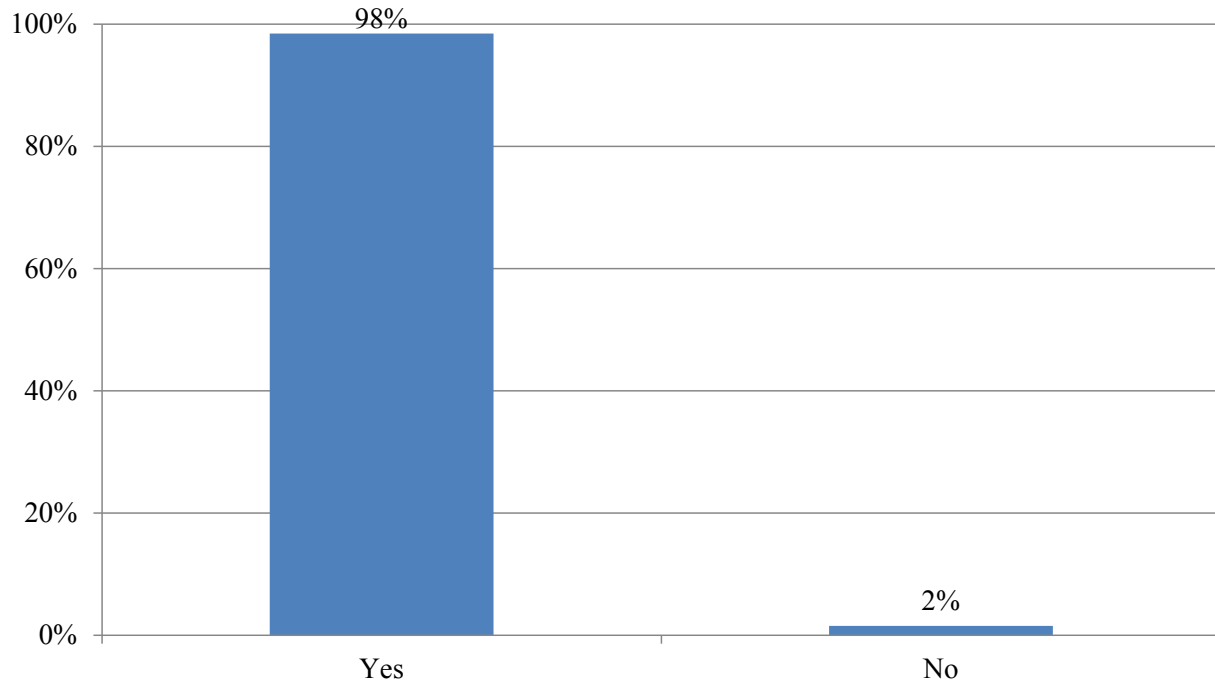
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	35
Calm	25
Confident	5
Considerate	40
Consistent	12
Intelligent	29
Knowledgeable	25
Patient	37
Polite	39
Receptive	17
Arrogant	0
Cantankerous	0
Defensive	0
Dismissive	0
Disrespectful	0
Flippant	0
Impatient	0
Indecisive	0
Rude	0
Total Positive Adjectives	264
Total Negative Adjectives	0
Percent of Positive Adjectives	100%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Wallace A. Lee be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	4%
Domestic	35%
Criminal	51%
Civil	53%
Other	4%

How many trials or hearings have you had with this judge over the past year?

5 or fewer	53%
6 - 10	12%
11 - 15	6%
16 - 20	2%
More than 20	27%

Survey Background and Methods

This report presents the results from the 2013 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated two-year period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups; those with one or more trial appearances, those with 3 or more non-trial appearances, and those with 1-2 non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, the survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

B. Evaluation Period

The retention evaluation period for judges standing for election in 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE WALLACE A. LEE

Four observers wrote 90 codable units that were relevant to 15 of the 17 criteria. Two observers reported that the judge was not aware that JPEC observers were present, and two did not know if the judge was aware.

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers were positive about Judge Lee, but Observer A also expressed a reservation (see “Anomalous comments”). All observers variously reported that Judge Lee listened actively and gave speakers his undivided attention. He was well-prepared and highly efficient, managing the proceedings with greater skill than is common. He apologized and explained the reasons for any delays and ensured that participants’ time was well used. He greeted the court respectfully, encouraged and praised participants in drug court, and was courteous, polite, and patient. His demeanor was even and neutral, he maintained good eye contact, and he spoke in a calm, clear, and congenial voice. Judge Lee treated all defendants consistently and showed a deep interest in all parties. He was very open to hearing from all participants, encouraging all defendants and victims to speak on their own behalf, and he listened intently and took his time to carefully consider all information. He spoke clearly in an easy to understand manner, bent over backwards to explain defendants’ rights and the reasoning for his rulings, and consistently required verbal affirmation of defendants’ understanding. Three observers reported that they would feel comfortable appearing before Judge Lee, but Observer A expressed a reservation (see “Courtroom tone & atmosphere”).
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> One observer found that Judge Lee’s soft spoken voice was easy to understand, but another observer could not always hear the judge over the drone of the vents, and felt that the microphones were not well placed (see “Voice quality”).
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> In marked contrast to the other observers who appreciated Judge Lee’s interest in hearing all participants’ opinions prior to sentencing, Observer A was confused about the role of the prosecutor’s opinions in the judge’s decisions (see “Courtroom tone & atmosphere” and “Considered voice”).

Summary and *exemplar language* of four observers’ comments

RESPECTFUL BEHAVIORS

Listening & focus	Two observers reported that Judge Lee gave speakers his <i>undivided attention</i> and demonstrated <i>active listening skills</i> , saying, “ <i>That’s a good thing. I’m glad you did that.</i> ”
Well-prepared & efficient	Three observers reported that Judge Lee was <i>well prepared</i> and <i>ready</i> for each case, in one case <i>saying off the top of his head, “Refer to Page 6” of the court documents.</i> The court was conducted <i>very efficiently</i> , with members of staff <i>detailed to move paperwork quickly and efficiently.</i> One observer reported Judge Lee’s <i>greater skill</i> than other judges in <i>managing Law And Motion sessions, eliminating lawyer/client commotion</i> by having the bailiff pass out public defender forms during the security check and bringing defendants before Judge Lee in small groups.
Respect for others’ time	Three observers reported that Judge Lee <i>apologized</i> and <i>explained</i> the reasons for late starts or lengthy delays, such as when attorneys <i>needed more time to consult with clients</i> or for the time taken to read forms, in one case saying, “ <i>I am sorry that took so long. These forms are different in every county, it seems.</i> ” He inquired about participants’ <i>need for more time to organize their responses</i> or to <i>speak with their attorney.</i>

Respect for others' time continued	When the prosecutor asked the judge to reschedule a hearing with an out of town participant to produce more evidence, Judge Lee suggested that the <i>two get together that day to discuss what was needed and that they work out subsequent details over the phone</i> , reducing the burden on the unrepresented defendant.
Respectful behavior generally	Two observers reported that Judge Lee <i>opened the session with, "Good Morning everyone, it is good to see all of you here today."</i> He was <i>encouraging and complimentary, praising</i> participants for refraining from drugs, and <i>thanked a defendant</i> , saying, <i>"I appreciate your statement."</i> He allowed a <i>short recess for a character witness to gather her thoughts</i> as she had <i>not been prepared to make a statement</i> . Judge Lee showed consideration for defendants' <i>emotional well-being</i> , in one case <i>preceding a sentence</i> by saying that he would suspend part of it, and the observer felt that without this preamble the defendant <i>may have been so shocked to hear "30 days in jail" that she wouldn't have heard the rest that the judge had to say about the suspension.</i>
<i>RESPECTFUL TONE</i>	
Courtesy, politeness and patience	Three observers reported that Judge Lee was <i>courteous and polite</i> , and while he <i>liked to start court promptly</i> , he <i>patiently</i> allowed defendants <i>extra preparation time</i> when they needed to further consult with their attorneys.
Courtroom tone & atmosphere	Two observers reported that Judge Lee displayed an <i>even and neutral</i> temperament. The clerks and officers were <i>noticeably quiet</i> when <i>conferring</i> with participants, <i>kneeling and whispering</i> so as <i>not to interfere with Judge Lee's focus on the case at hand</i> . Observer A was <i>confused that in virtually every case Judge Lee relied on the prosecutor to direct most proceedings, asking the prosecutor what he would like done</i> , and agreeing to <i>whatever the prosecutor suggested</i> . When sentencing, Judge Lee <i>would always ask the prosecutor if he approved of his position</i> . The <i>prosecutor seemed to control the decisions</i> , and if appearing before Judge Lee, Observer A would be <i>concerned about the attending prosecutor of the day</i> .
Body language	Two observers reported that Judge Lee <i>looked directly at those who addressed him</i> , and the position of his laptop did <i>not require him to turn to the side</i> , allowing him to <i>maintain good eye contact</i> . He <i>nodded to acknowledge his comprehension of what was said</i> , and his <i>facial expressions and body language consistently demonstrated interest and attention</i> .
Voice quality	Three observers reported that Judge Lee spoke in a <i>calm, clear and congenial</i> voice. He was <i>soft spoken</i> , and while one observer reported that his <i>voice carried and was easy to understand</i> , another felt that the microphones were not placed in a way to effectively <i>amplify the voices over the drone of the heating vents</i> , even in the small courtroom with <i>only 4 rows of seats</i> . A <i>potentially important exchange</i> between the judge and the defense attorney was <i>unintelligible</i> to this observer, as it would have been if a <i>family member had come to witness the proceedings</i> .
<i>NEUTRALITY</i>	
Consistent and equal treatment	Three observers reported that Judge Lee was <i>consistent</i> in his <i>demeanor</i> and how he <i>addressed each defendant</i> , regardless of whether they would be <i>considered "outsiders" to the local community</i> due to their <i>clothing or hair styles or lifestyle choices</i> .
Acts with concern for individual needs	Two observers reported that Judge Lee <i>displayed deep interest in all parties</i> , whether <i>defendant or victim</i> , and in drug court maintained a <i>congenial and positive relationship</i> with participants, showing that he <i>cared about their progress</i> . He agreed to <i>postpone the start of a jail sentence</i> when defendant <i>asked for time to arrange care for his family</i> , and he asked a defendant <i>when he could begin paying his fines and restitution, and set these times into the sentence</i> . When a pro se defendant <i>spoke loudly and aggressively</i> to Judge Lee about not understanding the charges, rather than <i>challenging the defendant and asking the prosecutor to make a better explanation</i> , Judge Lee <i>sensed a greater need for the defendant</i> and ruled to <i>reschedule the case so that she could get a lawyer in order to gain a better understanding of her violations</i> .

Unhurried and careful	Two observers reported that Judge Lee <i>took his time, carefully considering</i> all information whether verbal or digital. While he used time efficiently, there was <i>no sense of a shortage of time to have all thoughts expressed</i> .
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VOICE

Considered voice	<p>All observers reported that Judge Lee was <i>very open</i> to hearing from defendants, asked <i>open ended questions to elicit comments</i>, and asked what defendants <i>wanted to add to the conversation</i>. He <i>encouraged</i> defendants in both <i>direct and subtle</i> ways to <i>speak on their own behalf without interruption</i>, allowing <i>ample time</i> and saying <i>it was important that their version of events be expressed</i>, and he <i>listened intently and responded</i> when they did choose to speak. In one case Judge Lee was <i>particularly interested</i> that a spousal victim <i>have her voice heard</i> before sentencing the defendant, but she declined. After ruling, Judge Lee specified that the <i>offer to speak on her own behalf</i> would remain <i>open for a period of time</i>.</p> <p>Observers differed in their conclusion about the opportunity given to all participants to express their viewpoints. Three observers described approvingly the opportunity given to defendants to express their opinions <i>before sentencing</i> about how <i>given sentences would affect them</i> or to <i>request alternate sentences</i>. In contrast, Observer A expressed concern about the opportunity given to the prosecutor to express his or her view and felt unsure that Judge Lee <i>fully considered each case before making a decision</i> as he would <i>always ask the prosecutor what he wanted to do before rendering that decision</i>, and it appeared that the <i>prosecutor was running the courtroom</i>.</p>
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Lee <i>spoke clearly at all times</i> . The <i>judge spoke plainly and slowly</i> to an unrepresented defendant so <i>that his meaning was clear</i> . He <i>enumerated rights in a thoughtful and deliberate</i> manner that was <i>easy to understand</i> and <i>sought a truthful understanding rather than giving a rote review from a checklist</i> .
Ensures information understood	Three observers reported that Judge Lee <i>consistently required verbal affirmation</i> of defendants' understanding, asking <i>multiple times</i> their understanding of the <i>charges</i> against them, their <i>right to testify on their own behalf</i> , and the <i>rights they were waiving</i> . He asked, " <i>Do you understand the settlement?</i> " or, " <i>Do you understand the implications this may mean in the future?</i> "
Provides adequate explanations	Three observers reported that Judge Lee <i>bent over backwards</i> to be <i>clear and open, taking time</i> to explain the <i>factors that influenced his sentencing</i> , such as <i>lack of compliance with a previous court agreement</i> . He explained the <i>reasoning for his rulings</i> and <i>patiently repeated in every case</i> his explanations about defendants' <i>rights</i> , explaining <i>in simple terms the purpose of a preliminary hearing and what it means to waive it</i> . He explained <i>in detail about the charges, the requirement of the state to prove guilt, and the functions of the court, rephrasing things as needed</i> . He <i>carefully explained how his drug court operated and what was expected of participants</i> .
