

Honorable Andrew H. Stone – District Court Judge

Serving Salt Lake, Summit and Tooele counties



Commission Recommendation: **RETAIN**

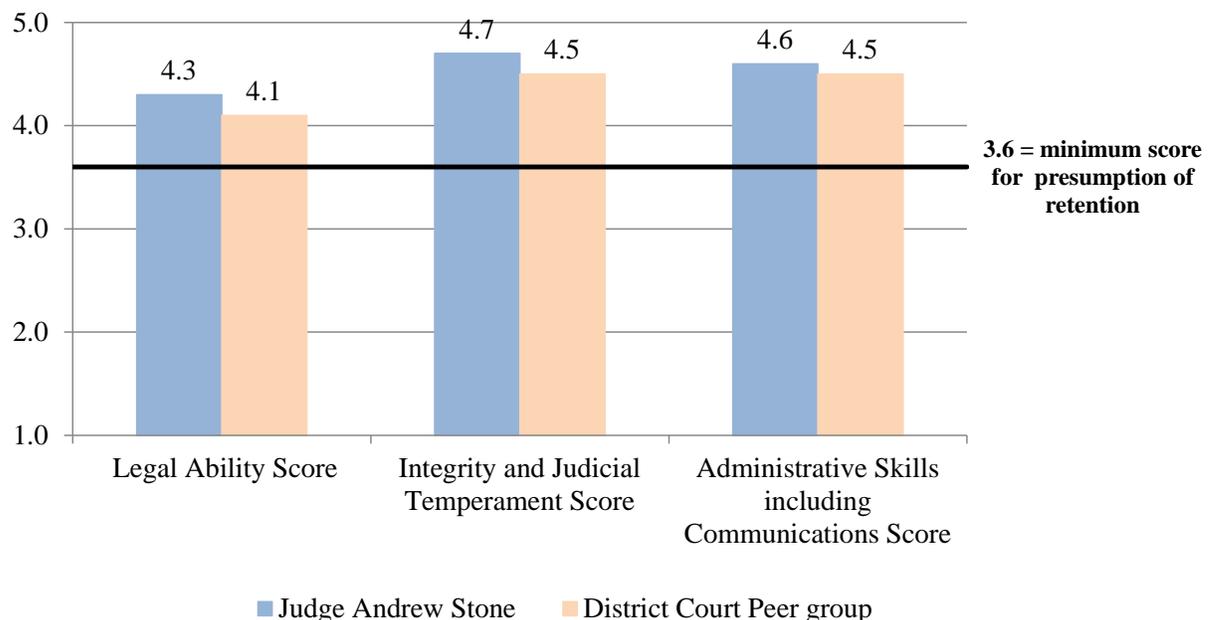
(vote count: 12-0 for retention)

Judge Andrew Stone is a smart, respectful judge whom survey respondents consistently described as intelligent, knowledgeable, and attentive. Respondents particularly highlighted Judge Stone’s judicial temperament, noting not only the respect he shows to all courtroom participants, but also his fairness and impartiality to all. They also praised Judge Stone for his consistent preparation and the efficient way in which he runs his courtroom. Courtroom observers echoed these sentiments, emphasizing Judge Stone’s engagement, his gracious and professional manner, and his focused yet unhurried style. All observers reported they would feel comfortable appearing before Judge Stone. Of survey respondents who answered the retention question, 96% recommended Judge Stone for retention.

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

Judge Andrew Stone was appointed to the bench in 2010 by Governor Gary Herbert. He graduated magna cum laude from the University of Utah in 1982 with a Bachelor of Science, and from the University of Utah College of Law in 1986, where he was a member of the Utah Law Review. He served as a law clerk for Judge Bruce S. Jenkins of the U.S. District Court for the District of Utah. After his clerkship, he worked for the Department of Justice in Washington D.C. In 1990, he joined the law firm of Jones, Waldo, Holbrook, and McDonough, serving on its Board and Executive Committee. While practicing, Judge Stone received an AV rating from Martindale-Hubbell, and was recognized by Best Lawyers in America, Super Lawyers, and Utah's Legal Elite.

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



The Honorable Andrew Stone

Judicial Performance Evaluation Commission Report

Retention 2014

Table of Contents

I. Survey Report

Survey Results	1
A. How to Read the Results	1
B. Statutory Category Scores	2
C. Procedural Fairness Survey Score	3
D. Responses to Individual Survey Questions	4
E. Adjective Question Summary	6
F. Retention Question	7
G. Attorney Demographics	8
Survey Background and Methods	9
A. Survey Overview	9
B. Evaluation Period	10

II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Andrew Stone, 58% of qualified survey respondents submitted surveys. Of those who responded, 104 agreed they had worked with Judge Andrew Stone enough to evaluate his performance. This report reflects the 104 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

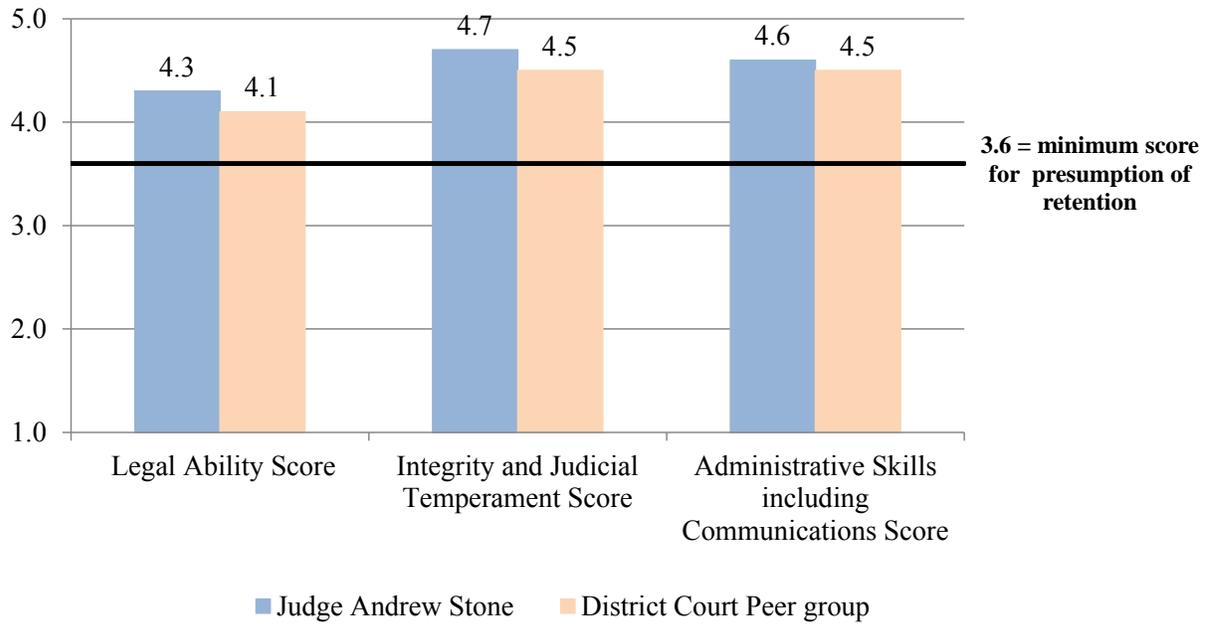
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

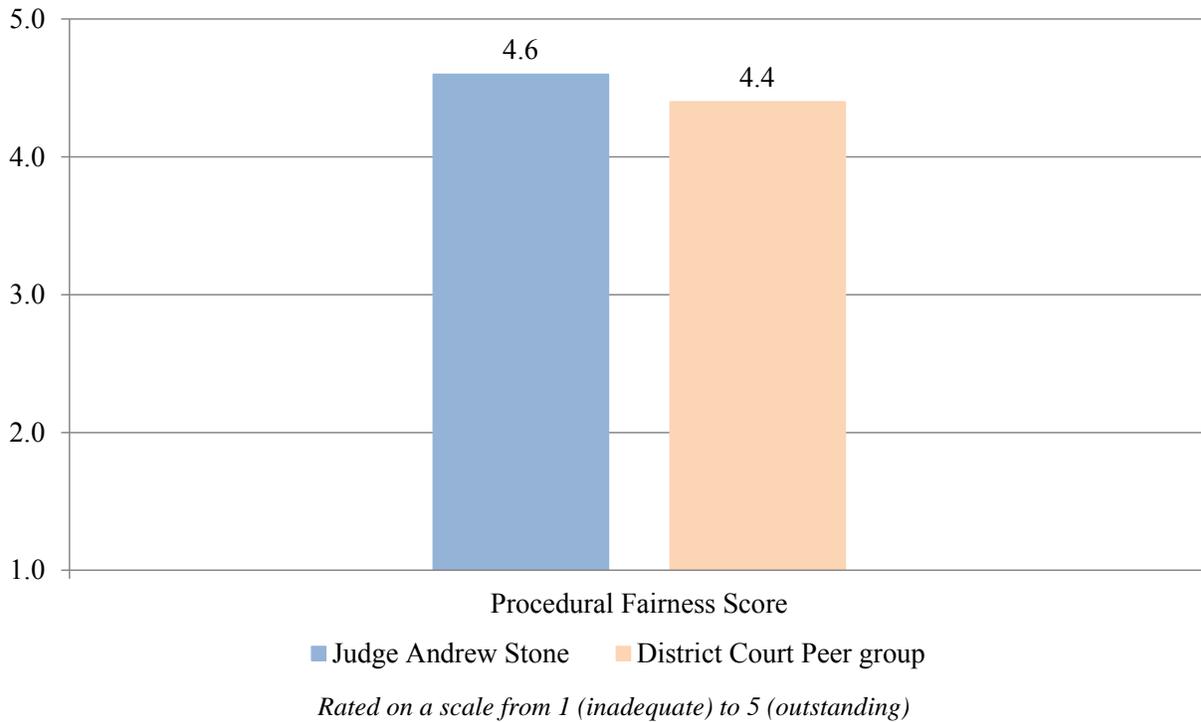
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, 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 Andrew Stone
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Andrew Stone	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.	4.3	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.3	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.3	4.1
Legal Ability	The judge only considers evidence in the record.	4.3	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.3	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.	4.7	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.5	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.6	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.	4.6	4.6

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

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

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

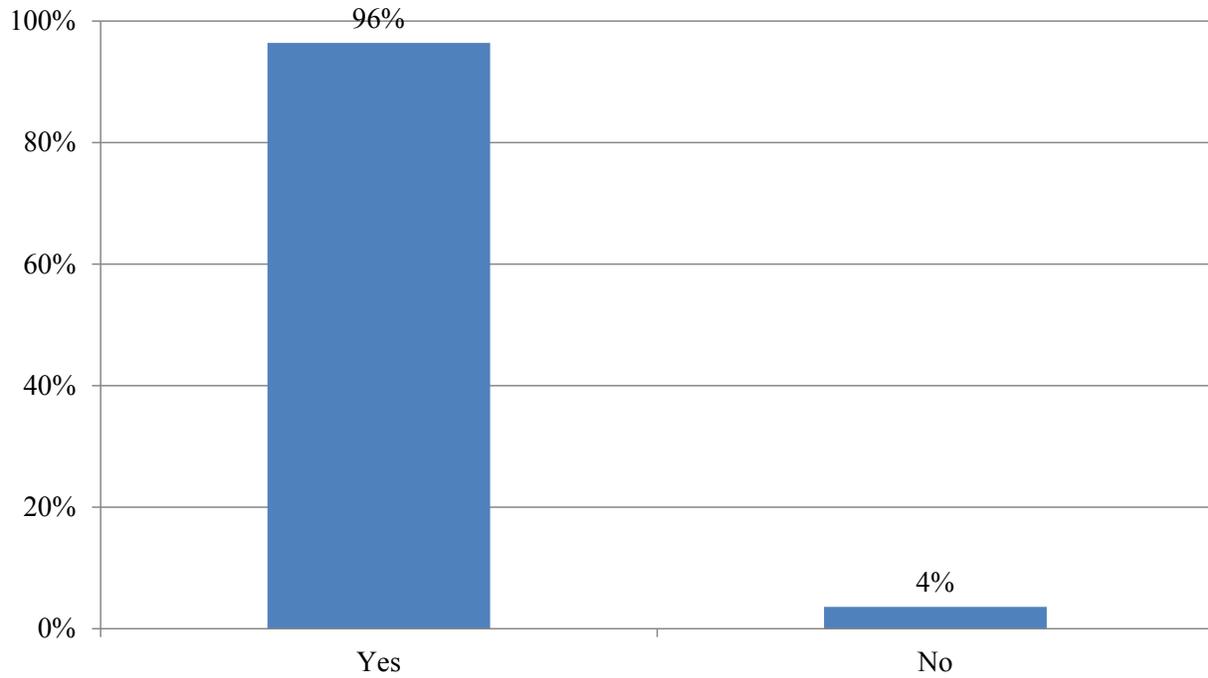
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	46
Calm	36
Confident	21
Considerate	27
Consistent	14
Intelligent	50
Knowledgeable	47
Patient	28
Polite	37
Receptive	24
Arrogant	3
Cantankerous	0
Defensive	0
Dismissive	2
Disrespectful	0
Flippant	1
Impatient	1
Indecisive	2
Rude	0
Total Positive Adjectives	330
Total Negative Adjectives	9
Percent of Positive Adjectives	97%

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 Andrew Stone be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	12%
Domestic	31%
Criminal	20%
Civil	62%
Other	6%

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

5 or fewer	77%
6 - 10	10%
11 - 15	5%
16 - 20	4%
More than 20	5%

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 ANDREW H. STONE

Four observers wrote 65 codable units that were relevant to 15 of the 17 criteria. Three observers reported that the judge was not aware that JPEC observers were present, and one 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 Stone. All observers variously reported that Judge Stone was a patient and contemplative listener. He was efficient and knowledgeable and fully engaged in problem solving. He started on time, was accommodating in setting schedules, greeted participants by name, and thanked them when they had finished. He was consistently patient, and his demeanor was accepting, gracious, professional and focused, and he occasionally displayed humor. He maintained eye contact, spoke in an unhurried tone of voice, and listened impartially to all parties. He displayed a great attention to detail and an unhurried manner. Judge Stone consistently allowed participants to have their say, and he was interested in defendants' comments and questions throughout their hearings. He carefully explained the rights given up with guilty pleas, carefully explained the reasoning for his rulings and how the law applied, and explained what defendants had to do to fulfill their sentences. He asked specific questions to check participants' comprehension of the proceedings. All observers reported that they would feel comfortable appearing before Judge Stone.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> None

Summary and *exemplar language* of four observers' comments

RESPECTFUL BEHAVIORS

Listening & focus	Two observers reported that Judge Stone was a <i>patient, contemplative listener</i> and <i>gave his full attention to the case before him.</i>
Well-prepared & efficient	Three observers reported that Judge Stone was <i>efficient</i> and <i>familiar with the cases</i> . He had an <i>ability to retain testimony, fully engage in problem solving</i> , and he asked <i>direct and insightful questions</i> that showed he was <i>very knowledgeable</i> and <i>fully tuned</i> about the <i>details of both arguments.</i>
Respect for others' time	Two observers reported that Judge Stone <i>started right on time</i> and was <i>very accommodating in setting future appearances</i> , asking attorneys, " <i>How long do you need?</i> "
Respectful behavior generally	Three observers reported that Judge Stone <i>greeted participants by name</i> with a ' <i>Good morning,</i> ' <i>exchanged pleasantries</i> , and <i>thanked them when they had finished.</i>

RESPECTFUL TONE

Courtesy, politeness and patience	One observer reported that Judge Stone was <i>consistently patient and attentive</i> . <i>Without interrupting</i> , he <i>patiently brought pertinent matters back into focus when attorneys brought up irrelevant issues.</i>
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Courtroom tone & atmosphere	Three observers reported that Judge Stone was <i>accepting, gracious</i> , with a <i>professional manner</i> and an <i>open mind</i> , and on occasion <i>showed a sense of humor</i> . One observer initially found Judge Stone to be <i>a little aloof</i> but later <i>realized he was just quite focused</i> . The courtroom was <i>calm, quiet, and formal</i> , but during ‘down time’ the judge and his clerk had an <i>easy, friendly relationship</i> .
Body language	Three observers reported that Judge Stone <i>looked intently at the person speaking, with eye-contact, and occasionally leaned forward</i> .
Voice quality	One observer reported that Judge Stone spoke <i>with an unhurried and neutral tone of voice</i> .
NEUTRALITY	
Consistent and equal treatment	Three observers reported that Judge Stone was <i>accepting of all information and impartially listened to each side of the argument</i> . He was <i>impartial toward all parties</i> , whether in custody, able to speak and understand English, or whether they were represented.
Acts with concern for individual needs	One observer reported that Judge Stone was <i>patient and encouraging</i> with an unrepresented couple who <i>needed to understand if a previously paid fee to acquire guardianship of a minor was the same as the fee for adoption</i> . He gave <i>detailed guidance on how they should proceed</i> , saying, “ <i>You really don’t need a lawyer, but you do need to file a motion. Go to X and they will help you with the paperwork.</i> ”
Expresses concern for the individual	One observer was <i>impressed</i> with the way that Judge Stone never lost his interest <i>in a slow-moving case</i> .
Unhurried and careful	Two observers reported that Judge Stone displayed <i>attention to detail</i> . When an attorney wanted to “ <i>wrap it up</i> ” with the judge’s signature, Judge Stone <i>referred to his monitor and discovered that a previous judge had left something open-ended, and told the attorney to make one more attempt to contact the defendant</i> , and noting that there were <i>two official addresses in the record</i> , gave the attorney <i>the one she didn’t have</i> . In another case he was unhurried as he <i>jotted notes and asked pertinent questions, such as, “Am I understanding this correctly?”</i>
VOICE	
Considered voice	All observers reported that Judge Stone <i>consistently allowed and often asked participants to have their say</i> . He was <i>interested in comments, explanations and questions from defendants at all stages of their hearing</i> , and he <i>consistently acknowledged the positions of both sides</i> .
COMMUNICATION	
Ensures information understood	Two observers reported that Judge Stone <i>asked specific questions</i> to check participants’ <i>comprehension of the proceedings and what he had said</i> .
Provides adequate explanations	Three observers reported that Judge Stone <i>carefully and completely explained the rights given up with a guilty plea</i> , and he ensured that defendants had <i>thought through the consequences</i> . When <i>sentencing</i> he was <i>open and clear</i> about how <i>the rules of law applied</i> , and he <i>carefully and completely explained his reasoning</i> . He ensured that defendants <i>understood what they had to do, the time frame, and the possible consequences of not doing what the sentence required</i> .