

Honorable Thomas L. Willmore – District Court Judge

Serving Box Elder, Cache and Rich counties

Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)



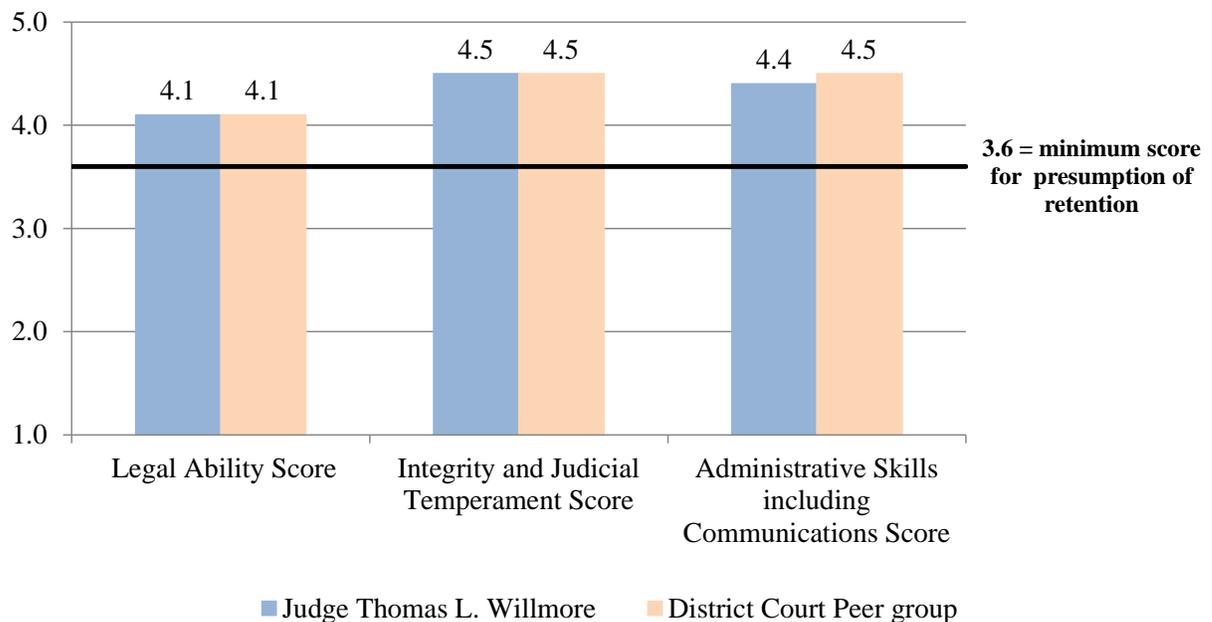
Judge Thomas Willmore is an experienced judge whom survey respondents most often described as knowledgeable, attentive, and intelligent. Many characterized him as diligent and well-prepared. A minority of respondents cited a tendency towards impatience and gruffness. Of adjectives selected by respondents from a list to describe Judge Willmore, 84% were positive.

Courtroom observers noted Judge Willmore's professional demeanor, his clear communication skills, and the efficiency of his courtroom. Most reported they would feel comfortable appearing before him. Of survey respondents who answered the retention question, 91% recommended that Judge Willmore be retained.

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

Judge Thomas L. Willmore was appointed to the First District Court in 1999 by Governor Michael O. Leavitt. After graduating from Utah State University and University of the Pacific, McGeorge School of Law, Judge Willmore worked as a partner with the law firm of Olson & Hoggan. He was involved in many community and service organizations. Judge Willmore established the Cache County Drug Court in 2000 and continues to preside over it. He also established and presided over the Box Elder County Drug Court. Judge Willmore served as the Presiding Judge of First District Court from 2006-2009; chair and member of the Board of District Court Judges from 2001-2006; and member of the Utah Judicial Council from 2009-2012.

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



The Honorable Thomas L. Willmore

Judicial Performance Evaluation Commission Report

Retention 2014

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I. Survey Report

Survey Results

A. How to Read the Results

For Judge Thomas L. Willmore, 57% of qualified survey respondents submitted surveys. Of those who responded, 128 agreed they had worked with Judge Thomas L. Willmore enough to evaluate his performance. This report reflects the 128 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

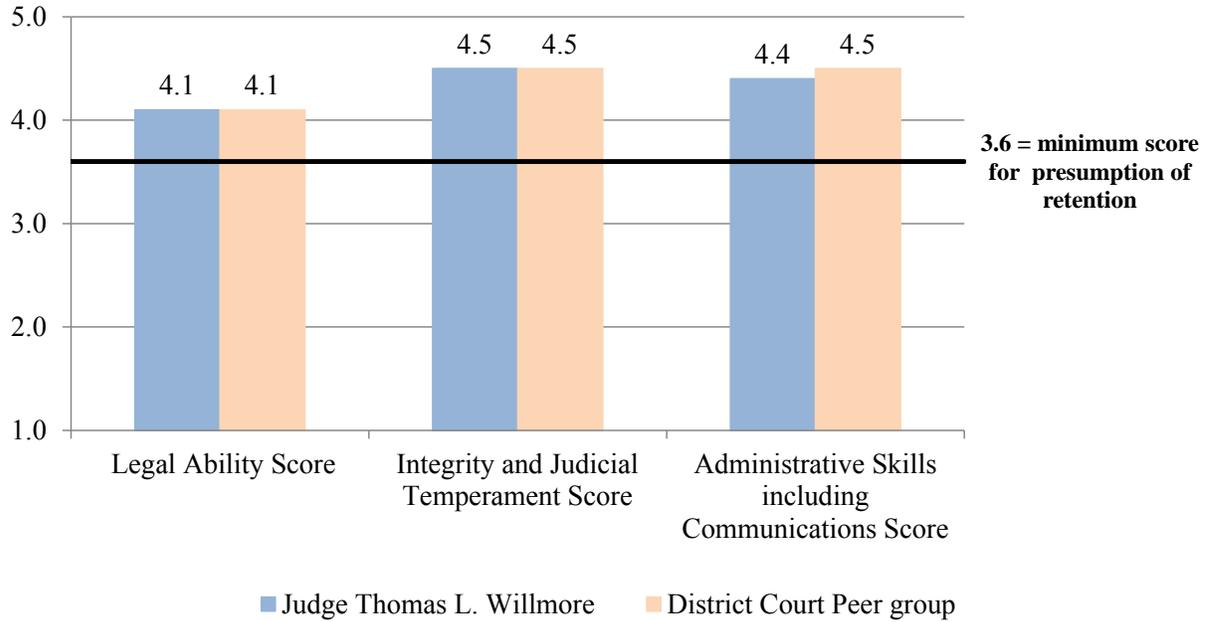
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

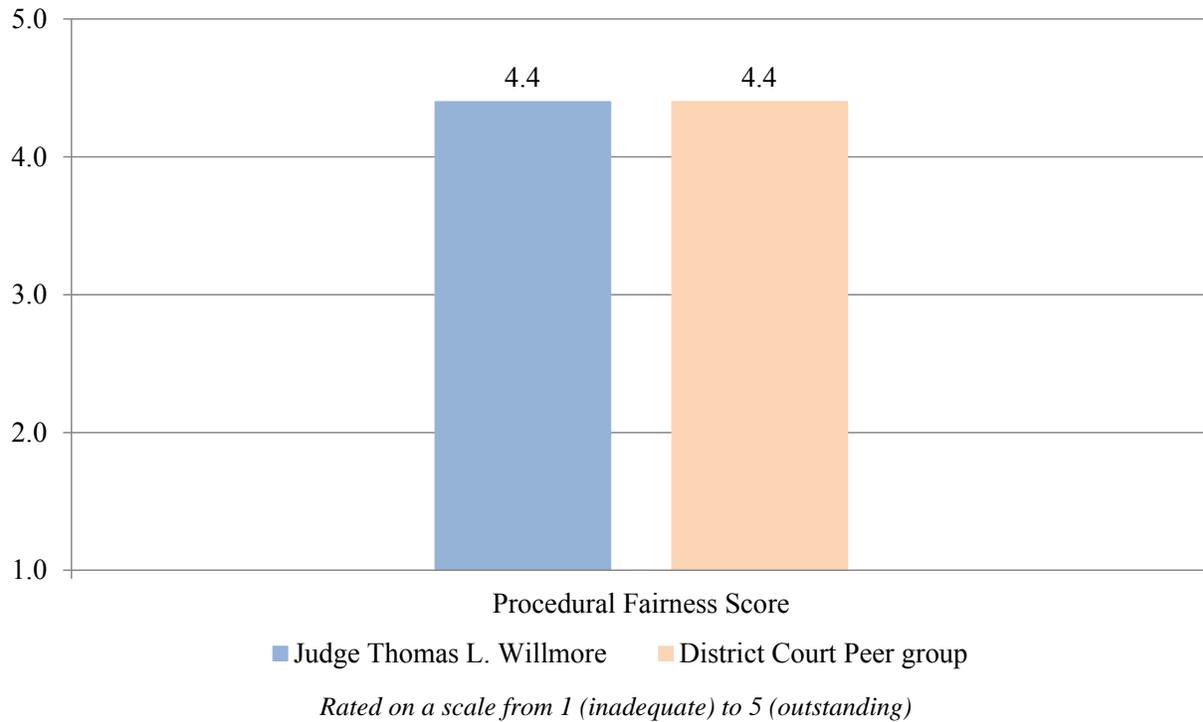
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

D. Responses to Individual Survey Questions

Category	Question	Judge Thomas L. Willmore	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.	4.1	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.1	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.1	4.1
Legal Ability	The judge only considers evidence in the record.	4.2	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.0	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.6	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.1	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.2	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.	4.7	4.6

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

Category	Question	Judge Thomas L. Willmore	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.4	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.4	4.5
Administrative Skills	The judge is an effective manager.	4.3	4.3
Administrative Skills	The judge convenes court without undue delay.	4.4	4.5
Administrative Skills	The judge rules in a timely fashion.	4.0	4.4
Administrative Skills	The judge maintains diligent work habits.	4.4	4.5
Administrative Skills	The judge's oral communications are clear.	4.5	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.2	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.3	4.5
Procedural Fairness	The judge is fair and impartial.	4.4	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.2	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.4	4.4

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

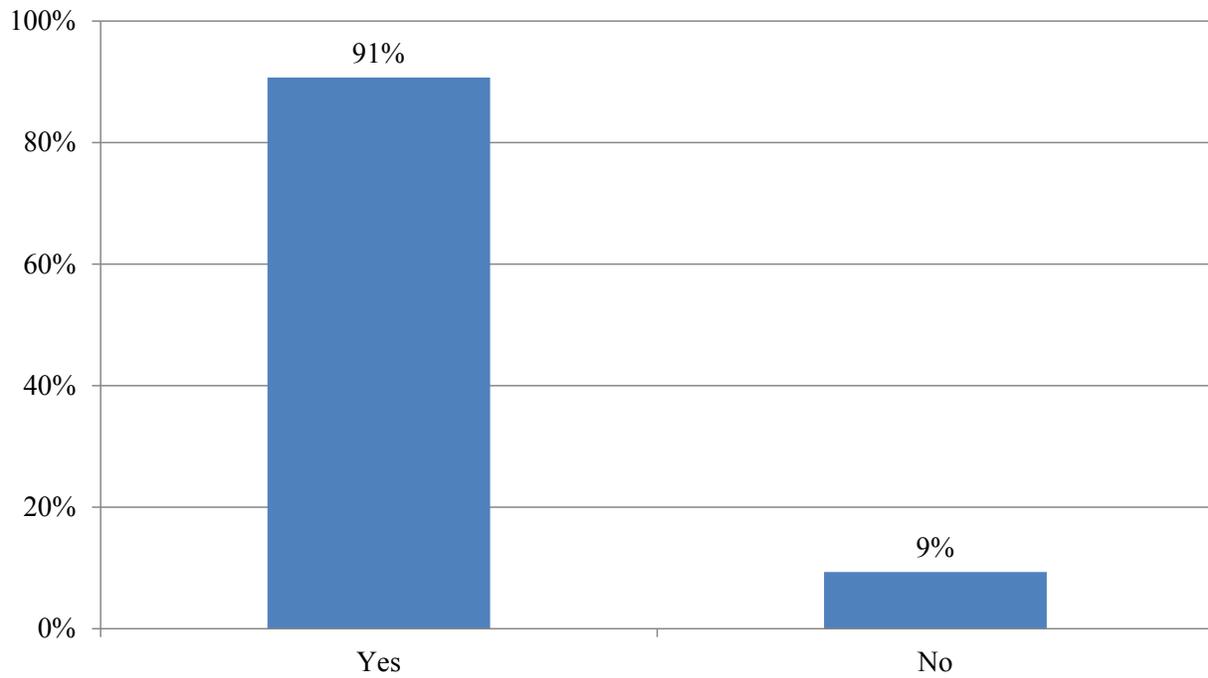
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	44
Calm	18
Confident	20
Considerate	27
Consistent	24
Intelligent	35
Knowledgeable	46
Patient	19
Polite	21
Receptive	18
Arrogant	3
Cantankerous	10
Defensive	4
Dismissive	8
Disrespectful	2
Flippant	2
Impatient	12
Indecisive	5
Rude	4
Total Positive Adjectives	272
Total Negative Adjectives	50
Percent of Positive Adjectives	84%

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 Thomas L. Willmore be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	8%
Domestic	34%
Criminal	31%
Civil	66%
Other	8%

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

5 or fewer	47%
6 - 10	26%
11 - 15	13%
16 - 20	6%
More than 20	8%

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 THOMAS WILLMORE

Four observers wrote 78 codable units that were relevant to 16 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"> • Three observers were positive about Judge Willmore. The fourth observer, Observer A, was alone in her concerns about the deleterious effects of Judge Willmore’s demeanor. • Three observers variously reported that Judge Willmore listened patiently and intently, was prepared and knowledgeable, and organized and efficient. He accommodated scheduling requests and explained the reasons for long recesses. He addressed participants by name and ended his interactions with a “Thank you.” He was professional, direct, well-qualified and well-suited to his role. However, his demeanor was relatively flat, although not uninterested, and his eye contact and apparent attention to speakers was not consistent. He acted and showed concern and compassion for defendants’ circumstances, offered advice in their best interests, and ensured to the extent possible that his actions did not prevent defendants from keeping their jobs. He gave participants ample opportunity to speak and never hurried or interrupted a speaker. Judge Willmore asked many questions and invited attorneys and defendants to provide input before he ruled. He clearly explained the reasons for his decisions when appropriate, provided detailed instructions regarding any follow up, and ensured that defendants were aware of their rights. • Three observers reported that they would feel comfortable appearing before Judge Willmore. Observer A would not feel comfortable.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> • None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> • Observer A was alone in reporting that Judge Willmore consistently treated participants with harshness, impatience, sarcasm, shaming, and rapid fire questioning (see “Respectful behavior generally” and “Courtesy, politeness and patience”). • Observer A was alone in reporting that Judge Willmore’s tone of voice and sarcasm appeared to inhibit participants from expressing their perspectives (see “Considered voice”).

Summary and *exemplar language* of four observers’ comments

RESPECTFUL BEHAVIORS

Listening & focus	One observer reported that Judge Willmore listened intently.
Well-prepared & efficient	All observers reported that Judge Willmore was <i>prepared</i> and <i>knowledgeable</i> about the <i>history of cases</i> . In one case his knowledge of that case led him to disagree with a proposal for reduced bail and immediate release, and the prosecutor who <i>had not paid attention to the file changed his mind</i> and <i>apologized to the defense</i> . The court was <i>well run, organized, and efficient</i> .
Respect for others’ time	Three observers reported that Judge Willmore explained the reason <i>for a long recess, routinely asked attorneys for their input when scheduling, and consistently granted requests for extensions, asking, “Is that enough time?”</i> Regarding an order to attend drug court, he said, “ <i>Sign Mr. X up now so his attorney does not need to return.</i> ”

Respectful behavior generally	<p>Two observers reported that Judge Willmore <i>addressed each participant by name and ended each interaction with an instruction on what to do next and a "Thank you."</i></p> <p>Observer A was alone in reporting that Judge Willmore consistently treated participants <i>other than attorneys with harshness, impatience, sarcasm, shaming, and rapid fire questioning with no opportunity to respond</i>, which was more a <i>judgmental grilling</i> than a <i>civil exchange</i>. He told a participant who he <i>acknowledged had mental health issues</i> that he <i>"had lost his patience,"</i> and after thoroughly explaining the sentence, said, <i>"Now is that something you can do?"</i> When he determined the <i>jail was correct</i> in releasing a defendant, rather than <i>seeing the situation as positive and acknowledging the jail was correct</i>, he said, <i>"It's your lucky day you aren't going back to jail, unless you've done something else."</i> Judge Willmore would <i>not hesitate to shame</i> a participant. After <i>thoroughly explaining a sentence</i>, he <i>pointed to the jury box where inmates were seated, and said, "I have Mr. X. over here that can't seem to follow the rules, and he's going to prison."</i> The observer felt that <i>shaming Mr. X as an example of what not to do was inappropriate</i>. When a defendant entered in a <i>pink jumpsuit</i>, the judge immediately asked several intimidating questions in a <i>harsh and rapid fashion and demeaning tone of voice</i>, saying, <i>"Why do you have a pink jumpsuit? Why are you in Max? Have you tried to escape?"</i></p>
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RESPECTFUL TONE

Courtesy, politeness and patience	<p>One observer reported that Judge Willmore was <i>very patient when listening</i>. In marked contrast, Observer A reported that Judge Willmore's <i>lack of patience might cloud his judgment and ability to be fair</i>.</p>
Courtroom tone & atmosphere	<p>Two observers reported that Judge Willmore was <i>professional, well-qualified, and well-suited to his calling</i>. One of these observers also noted his demeanor was <i>relatively flat, although not apparently uninterested in any case</i>. The other felt the court was <i>rather quiet for a busy one</i>, reflecting the judge's <i>direct but courteous manner</i> that was demonstrated when a <i>mother with an active toddler was asked to leave the court</i>.</p>
Body language	<p>One observer reported that Judge Willmore <i>often looked at his monitor often but always faced the defendants and made eye-contact when asking questions or listening</i>. Another observer reported that in <i>some cases the judge did not look at those speaking</i>, and his lack of eye contact gave the <i>impression that he was not giving speakers his full attention</i>.</p>
Voice quality	<p>Two observers reported that Judge Willmore <i>spoke somewhat slowly</i>. He <i>raised his voice when there had been significant previous convictions, or to make an important point</i>.</p>

NEUTRALITY

Consistent and equal treatment	<p>Two observers reported that Judge Willmore <i>always asked for consensus when ruling and consistently went through the same process with defendants who were pleading guilty</i>.</p>
Acts with concern for individual needs	<p>Three observers reported that Judge Willmore acted with concern for defendants' circumstances. When a defendant asked to serve his sentence on weekends <i>to save his job</i>, the judge <i>granted the request without even blinking an eye</i>, and he also suggested to others that they <i>"come to jail on the weekends"</i> in order to keep their jobs. He worked with a defendant who could <i>not go back to work with an active warrant, and the whole case was wrapped up that morning</i>. He would not let a defendant out of jail without knowing that he was <i>enrolled in school or had a job</i>, in addition to <i>verifying a stable living arrangement</i>, asking him, <i>"Where are you going to live?"</i></p>
Expresses concern for the individual	<p>Two observers reported that Judge Willmore expressed concern for defendants' interests. He <i>cited a woman for a weapons violation who was frightened for her safety due to a man being released on probation</i>. The judge <i>became very serious and advised the woman about keeping herself safe from the man who so worried her</i>. The observer was <i>impressed with Judge Willmore's concerned tone of voice and facial expressions</i> that indicated his <i>compassion for her fearfulness</i>. He told a defendant planning to represent himself, <i>"You could be looking at going to jail for two years. Are you sure you don't want an attorney?"</i> With that <i>the defendant reconsidered and agreed that he would hire an attorney</i>, and the judge said, <i>"Good. Come back with your attorney."</i></p>

Unhurried and careful	Three observers reported that Judge Willmore <i>never hurried or interrupted a defendant</i> even though <i>the court was busy</i> . He asked, “ <i>Are you ready now or do you need more time?</i> ” and when <i>public defenders needed more time to prepare with their clients, he took a short recess</i> . When there was <i>confusion about “time spent” in jail</i> , Judge Willmore took <i>quite a bit of time figuring it out and finally determined that the jail was correct in releasing the defendant</i> .
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VOICE

Considered voice	<p>Three observers reported that Judge Willmore made <i>an honest effort</i> to gave participants <i>ample opportunity to speak</i>. He asked <i>clarifying questions to search for a more complete understanding of facts and circumstances</i>. He always asked attorneys <i>what they felt would be in the best interest of their clients</i>, and <i>before ruling he asked defendants, “What do you want to tell me?”</i> He was <i>forthright with his comments and feedback and did not try to “sugarcoat” anything</i>. When a defendant asked <i>how he could get released from jail</i>, the judge explained that with his <i>prior history and felony charges, he doubted that the defendant would be released</i>.</p> <p>Observer A reported that Judge Willmore’s <i>tone of voice and sarcasm appeared to inhibit participants</i>. <i>Even when a defendant took responsibility for his actions, the judge used demeaning language</i>. When a defendant said his actions were “<i>stupid on my part</i>” and the judge said “<i>that’s a given</i>” in a <i>sarcastic tone</i>, the observer felt that if a defendant wanted to express their perspectives it would be a waste of time as it appeared the judge already had his mind made up.</p>
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COMMUNICATION

Communicates clearly	One observer reported Judge Willmore’s <i>clarity</i> when saying, “ <i>We will now hear the factual basis that supports your plea.</i> ”
Ensures information understood	Two observers reported that Judge Willmore was <i>particular in ensuring that defendants were aware of their rights</i> , and at the <i>end of a case he would consistently ask if defendants had any questions</i> . He was <i>concerned about a woman’s lack of hearing when she struggled to listen and finally said that she couldn’t hear him</i> . Judge Willmore <i>began again, speaking more slowly and distinctly</i> , and she looked <i>less perplexed</i> and as though <i>she now understood what he was saying</i> .
Provides adequate explanations	<p>Three observers reported that Judge Willmore <i>clearly explained the reasons for his decisions when appropriate</i>, for example, explaining why a defendant was not a candidate for drug court. In one case he was <i>extremely stern when attempting to explain his thinking</i>, saying, “<i>When I craft this...I don’t do it lightly. Child pornography is a very serious matter. No release now.</i>” He gave his reasons for <i>being harsh</i> with a sentence of 1 to 15 years in prison, saying, “<i>The two years you have already spent in jail was evidently not enough time to turn your life around. This is not the first time you have dealt drugs. I am done with it and society is done with it.</i>”</p> <p>The judge gave <i>detailed instructions about when and where to go to complete classes and how to proceed with any follow up</i>, saying, “<i>You need to be here in this courtroom on X day at Y time.</i>”</p>
