

Honorable Scott J. Cullimore – Justice Court Judge

Serving Utah County Justice Court

Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

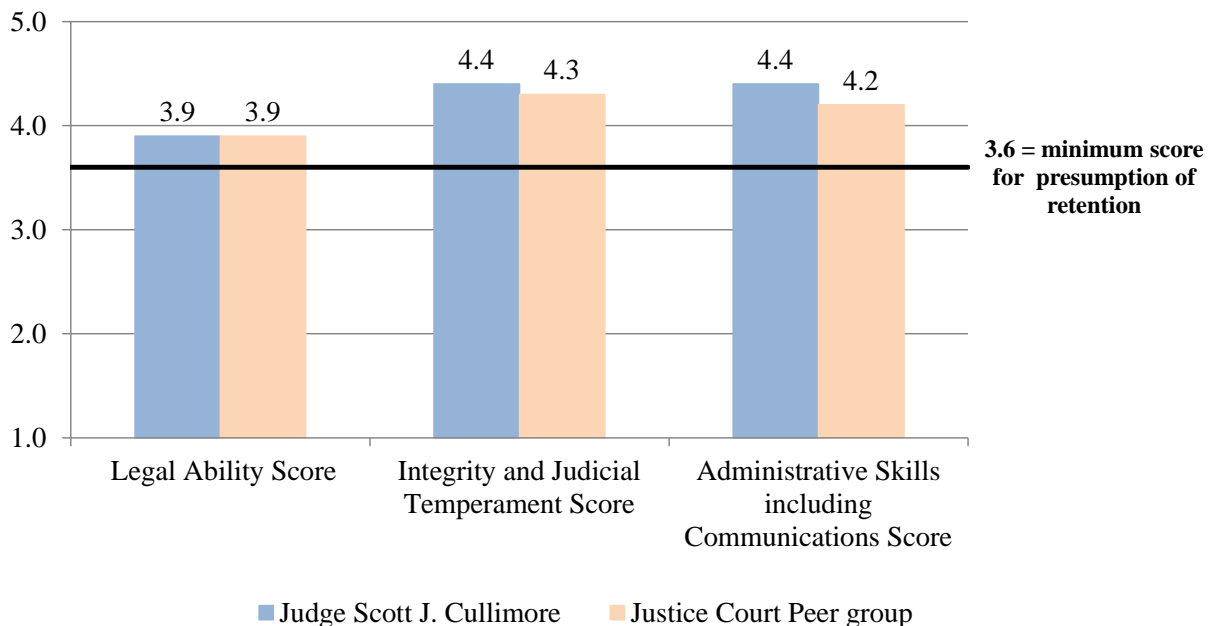


Appointed in 1996, Judge Scott Cullimore receives survey scores consistent with the average of his justice court peers in all categories. Survey respondents highlight his professional and constructive interactions with courtroom participants, noting that he treats everyone with equal respect. Respondents choose 95% positive adjectives from a list to describe Judge Cullimore. Courtroom observers all report they would feel comfortable appearing before him. Observers note that he shows interest in hearing from defendants, encouraging them to speak up, and that he consistently offers careful explanations to them. Of survey respondents answering the retention question, 87% recommend retention for Judge Cullimore.

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

Appointed to the Utah County Justice Court in 1996, Judge Scott J. Cullimore graduated from Brigham Young University with a degree in criminal justice. Prior to his appointment to the bench, he worked as a supervisor for Adult Probation and Parole. He has also served as a Correctional Officer at the Utah State Prison, a Driver's License Examiner for the Department of Public Safety, and a Field Investigator for the Department of Assistance Payments. He served on the Advisory Board of Adult Probation and Parole, as a councilman for Lindon City, and as Mayor of Lindon City. Judge Cullimore received the Justice Court Judge of the Year Award in 2003. He currently serves on the Fourth District Criminal Justice Round Table.

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



The Honorable Scott J. Cullimore

Judicial Performance Evaluation Commission Report

Retention 2016

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Scott J. Cullimore, 37% of qualified survey respondents submitted surveys. Of those who responded, 39 agreed they had worked with Judge Scott J. Cullimore enough to evaluate his performance. This report reflects these 39 responses. The survey results are divided into five sections:

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

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 "Justice 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 the Legal Ability questions.

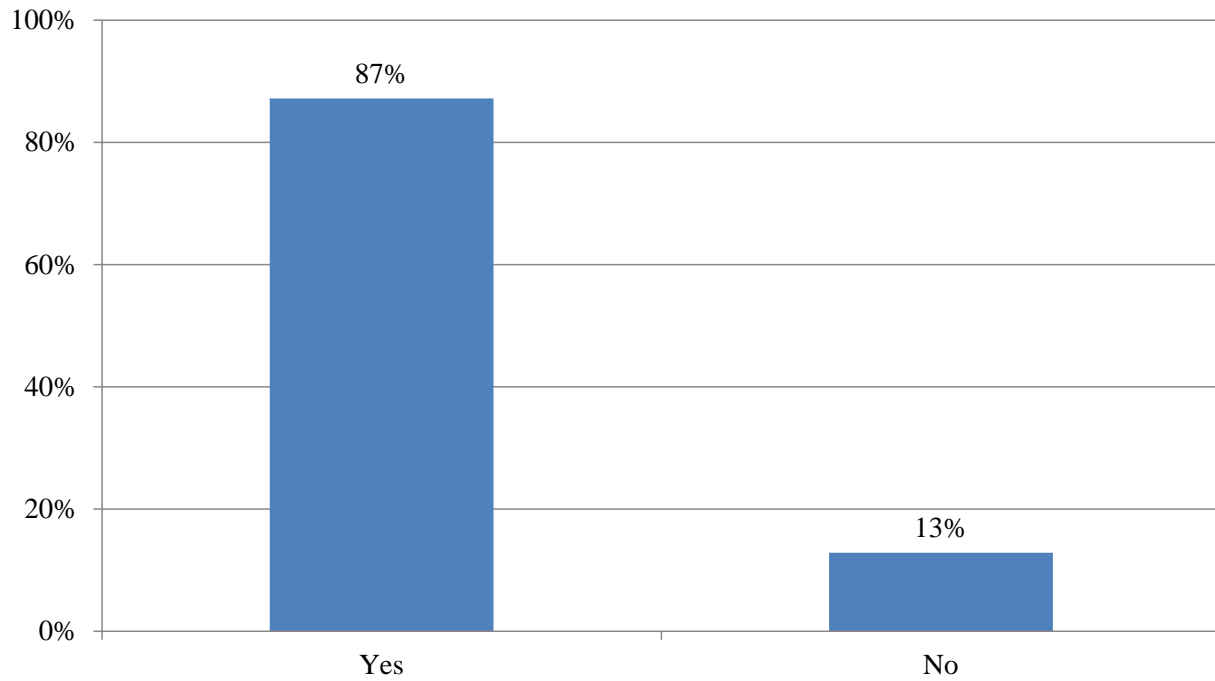
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to 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.

Respondents are asked whether or not they think the judge should be recommended for retention only during the retention cycle.

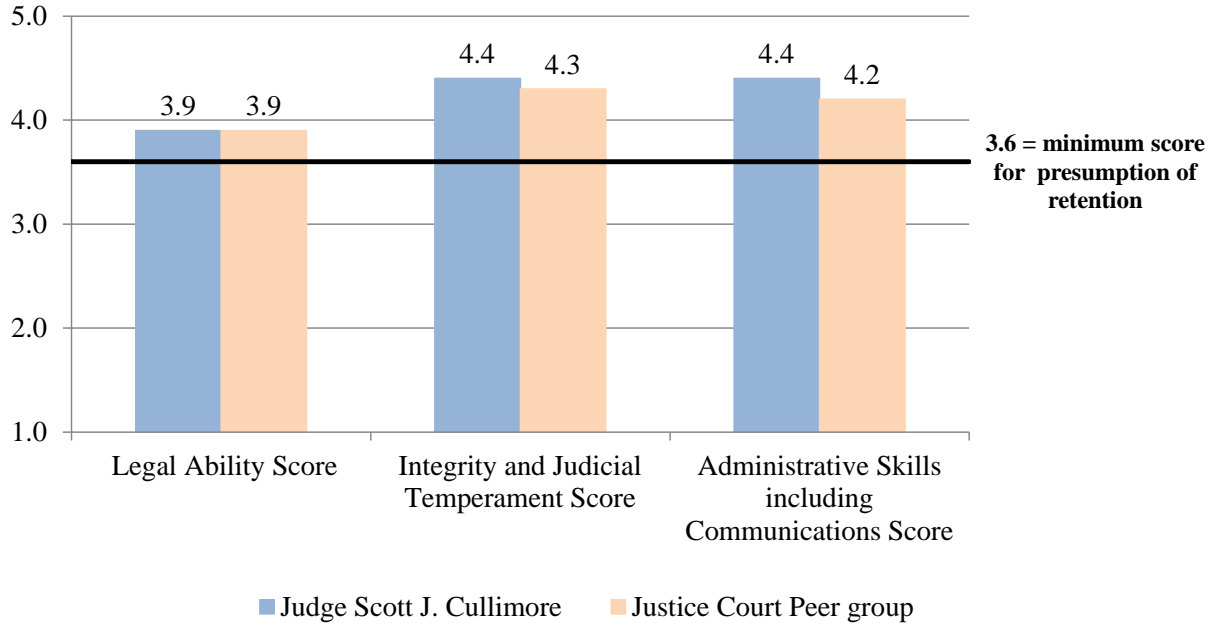
B. Retention Question

Figure A. Would you recommend that Judge Scott J. Cullimore be retained?



C. Statutory Category Scores

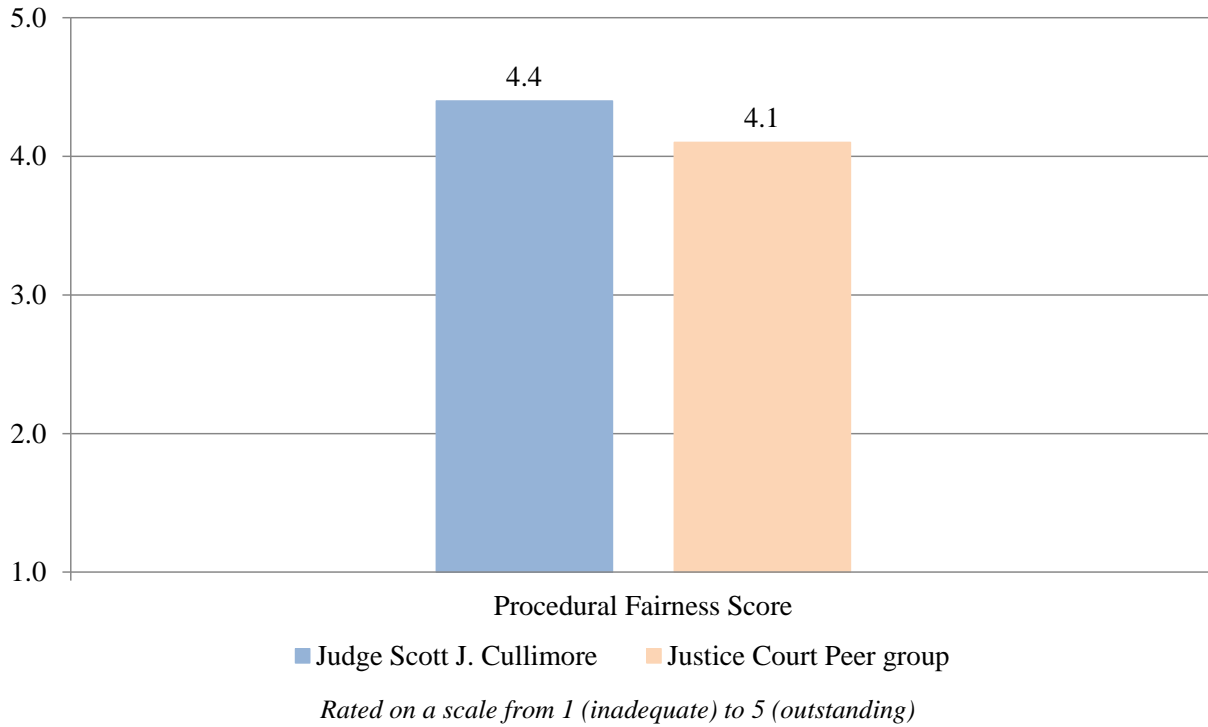
Figure B. Statutory Category Scores



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

D. Procedural Fairness Score

Figure C. Procedural Fairness 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.

Table A. Overall Procedural Fairness Determination (for Retention Only)

Category	Judge Scott J. Cullimore
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Scott J. Cullimore	Justice 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.	3.8	4.0
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	3.9	3.9
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	3.7	3.9
Legal Ability	The judge only considers evidence in the record.	3.8	3.9
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.1	3.8
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.3	3.9
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.3
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.4	4.3
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.2	4.1
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.4	4.0
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	4.4

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

Table C. Responses to Survey Questions (continued)

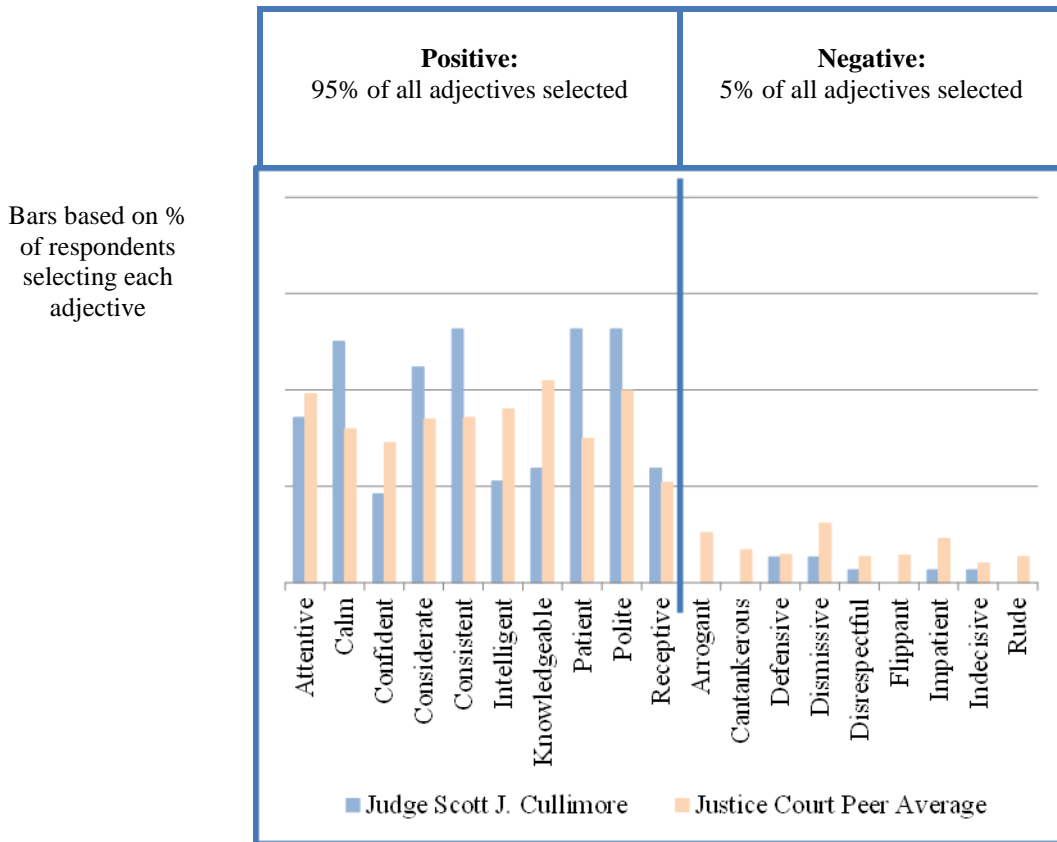
Category	Question	Judge Scott J. Cullimore	Justice Court
Administrative Skills	The judge is prepared for court proceedings.	4.3	4.3
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	4.1
Administrative Skills	The judge is an effective manager.	4.2	4.1
Administrative Skills	The judge convenes court without undue delay.	4.4	4.1
Administrative Skills	The judge rules in a timely fashion.	4.5	4.3
Administrative Skills	The judge maintains diligent work habits.	4.4	4.3
Administrative Skills	The judge's oral communications are clear.	4.3	4.3
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.4	4.1
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.6	4.1
Procedural Fairness	The judge is fair and impartial.	4.3	4.0
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.3	4.0
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.4	4.2

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

F. Adjective Question Summary

From a provided list, survey respondents selected multiple adjectives to best describe the judge. The “positive” and “negative” labels at the top of the graph refer to the percent of all adjectives selected by all respondents that were either positive or negative. Each bar is based on the percent of respondents who selected that adjective. The adjacent bar shows a comparison to the other evaluated judges who serve on the same court level.

Figure D. Adjective Responses



G. Attorney Demographics

Table D: What are your primary areas of practice?

Collections	16%
Domestic	28%
Criminal	80%
Civil	60%
Other	8%

Because many attorneys practice in multiple areas, totals may not equal 100%

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

5 or fewer	33%
6 - 10	21%
11 - 15	17%
16 - 20	8%
More than 20	21%

Survey Background and Methods

This report presents the results from the 2015 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 the 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 time 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 three or more non-trial appearances, and those with one to two 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 qualified respondent receives an initial email notification signed by the Governor, Chief Justice, President of the Senate, and Speaker of the House, requesting participation in the survey. Next, an email invitation, signed by JPEC's Executive Director and the Utah State Bar President, contains links to all the individual surveys each respondent is invited to complete. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by two 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, that 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 2016 began on January 1, 2014 and ended on June 30, 2015.

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE SCOTT CULLIMORE

Four observers wrote 72 codable units that were relevant to 13 of the 15 criteria. One observer reported that the judge was not aware that JPEC observers were present, and three did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> All observers were positive about Judge Cullimore. Two observers had additional comments and suggestions (see “Minority observations” and “Anomalous comments”). All observers reported that they would feel comfortable appearing before Judge Cullimore.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers variously reported that Judge Cullimore listened intently with full attention and was prepared for each case. He greeted participants respectfully and thanked and congratulated them. His demeanor was serious and businesslike, but also cordial, apologizing for errors or making the occasional joke when appropriate. He spoke in a properly formal but congenial tone, although his soft-spoken voice was on occasion a little quiet and hard to hear. He treated all participants with the same care and consideration, was considerate and flexible in taking account of personal circumstances, and took advantage of “teaching moments” to help defendants explore or improve their behaviors. He showed interest in hearing anything defendants wanted to say about their case, asked many questions and probed for the reasons behind any noncompliance, and listened carefully to and took account of their explanations. He carefully explained the implications of pleas and the reasons for his sentences, and he asked if defendants understood his explanations and waited for their response.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> One observer reported that while the judge moved at a good pace he did not compromise the necessary time for each case, but two observers noted the late start of 30-45 minutes and felt as if the judge was pressed for time, for example when he was writing while defendants were testifying, or when he was asking questions one after the other without waiting for responses while looking at paperwork (see “Respect for others’ time,” “Unhurried and careful,” and “Considered voice”). Two observers reported that Judge Cullimore consistently avoided eye contact, noted that when he did look up the atmosphere changed favorably, and suggested that maintaining eye contact is a prime opportunity to connect with defendants (see “Body language”).
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> One observer reported that while Judge Cullimore asked if defendants understood their rights that they had heard on the video and seen on the ‘rights sheet,’ the judge did not summarize those rights, and the observer saw defendants signing the documents without carefully reading them and suggested that without hearing a summary of rights from the judge few defendants really understood them (see “Provides adequate explanations”).

Summary and *exemplar language* of four observers’ comments

<i>RESPECT</i>	
Listening & focus	Three observers reported that Judge Cullimore <i>listened intently</i> and <i>consistently gave his full attention</i> .
Well-prepared & efficient	Two observers reported that Judge Cullimore was <i>prepared for each case</i> and <i>did not use time to acquaint himself with the case he was hearing</i> .

Respect for others' time	<p>Two observers reported that Judge Cullimore <i>moved the calendar along at a good pace and minimized the inevitable wait time without compromising the necessary time to hear each person.</i> When the county attorney <i>took a long time returning</i> to the courtroom, the judge checked to see if a young woman waiting <i>was still good waiting.</i></p> <p>Two observers noted that court started 30-45 minutes after the scheduled time, which <i>did not show respect</i> for those who arrived on time, <i>missing work or other important commitments.</i></p>
Courtesy, politeness, and general demeanor	<p>All observers reported that Judge Cullimore <i>greeted each case with a "Good morning" and addressed each defendant as "Mr." or "Ms."</i> He asked younger defendants, <i>"Do you understand why you're here?"</i> he congratulated defendants who had <i>secured insurance or completed their requirements in warm and generous terms,</i> and <i>thanked defendants for getting their fingerprinting done or for making a partial payment when they were having difficulty paying their fine.</i> His demeanor was <i>serious and businesslike,</i> but also <i>cordial with a quick smile or occasional joke.</i> He <i>apologized for a math error discovered by the clerk, laughing at himself with a palm strike to the forehead to sympathetic laughter,</i> and the observer appreciated the <i>humanizing gesture.</i></p>
Body language	<p>Two observers reported that Judge Cullimore <i>typically said "Good morning" and asked questions without looking up,</i> and he <i>consistently avoided eye contact with defendants after the initial greeting</i> as he was either <i>writing or passing forms to the bailiff or the clerk.</i> During rare moments when Judge Cullimore <i>looked up and sustained eye contact the atmosphere in the courtroom felt entirely different,</i> and one observer suggested a <i>greeting without eye contact seems insincere,</i> and that <i>maintaining eye contact is a prime opportunity to 'connect' and make the defendant feel like a person rather than a number.</i></p> <p>Judge Cullimore <i>looked up to greet defendants and maintained more consistent eye contact when defendants were speaking as the courtroom began to empty,</i> but that may have been <i>coincidental.</i></p>
Voice quality	<p>One observer reported that Judge Cullimore spoke in a <i>congenial and properly formal tone of voice,</i> but another felt his <i>soft spoken voice is a little hard to hear</i> and suggested that <i>it would be easier to understand him if he increased the volume of his speech.</i></p>
Courtroom tone & atmosphere	<p>One observer reported that the <i>judge, clerk, and bailiff are a real team, courteous yet still businesslike,</i> with each taking a <i>real pride in doing the job right.</i></p>

NEUTRALITY

Consistent and equal treatment	<p>Three observers reported that Judge Cullimore treated all participants <i>with the same care and consideration and consistent demeanor, voice tone and attentive appearance,</i> whether or not participants were in jail or represented, and regardless of their <i>behavior toward him.</i> One observer was <i>impressed</i> when Judge Cullimore said, <i>"I apologize, I can't waive the late fee just because you're a wonderful person, which I'm sure you are. Let's work out a realistic payment schedule. I have to be consistent in what I do."</i></p> <p>One observer noted that Judge Cullimore <i>allowed a wife to appear on behalf of her husband,</i> which may be <i>appropriate in Justice Court,</i> but she had not observed this <i>in other courts.</i></p>
Demonstrates concern for individual needs	<p>All observers reported that Judge Cullimore was considerate of people's circumstances. He asked defendants <i>how they wanted to pay their fine,</i> explained <i>the consequences of nonpayment,</i> and was <i>flexible in granting their preferred terms.</i> He allowed payment <i>in small increments over time due to their lack of funds and commitments to family support.</i> When a defendant asked to pay "\$20 a month," he then <i>explained the policy,</i> <i>"We have established \$25 a month as the minimum payment. We need to go by policy. I will give you six months to get the \$120 paid,"</i> thereby allowing one grace period should the defendant miss a payment. He was <i>receptive to converting fines to community service</i> and explained how many hours would equate to their fine. He gave a <i>choice of jail time or home confinement time so that defendants could continue their employment.</i></p>

Demonstrates concern for individual needs <i>continued</i>	Observers provided illustrations of Judge Cullimore’s consideration. With a divorced defendant who <i>needed to pick up his kids some weekends and couldn’t take time off work for work diversion</i> , the clerk made a quick call and confirmed that work diversion could be done on weekends, and the judge agreed to extend completion to 90 days to allow work diversion on weekends. He involved a young female defendant in <i>exploring her options as a teaching moment</i> . The defendant explained in detail why she speeded up to pass a truck after a rock from that truck had broken her windshield, and the judge said, “ <i>Let’s do a little role play. Looking back, what could you have done to avoid this ticket?</i> ” and when the defendant responded he said, “ <i>That’s one option [but another could be] pull over. Call Highway Patrol. Tell them rocks are coming off a truck. That is illegal. It could be that they would be held responsible for paying for a new windshield.</i> ”
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Unhurried and careful	One observer reported that Judge Cullimore was <i>careful to check details</i> , for example when remembering to <i>exonerate bonds</i> . However, one observer felt as if Judge Cullimore was <i>pressed for time, writing when defendants were testifying</i> , and the observer was <i>unclear whether the judge was listening or filling out forms to hurry matters along</i> .
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VOICE

Considered voice	All observers reported that Judge Cullimore <i>consistently showed an interest in hearing from defendants</i> and was <i>open to anything they wanted to say regarding their case</i> . He asked <i>both specific and general questions</i> and <i>allowed time for defendants to explain their situation</i> , asking for <i>any other information</i> and <i>giving them time to respond before proceeded with sentencing</i> . One observer <i>appreciated</i> that Judge Cullimore <i>probed for the reasons</i> behind missed fine payments and unfulfilled probation requirements, he <i>listened carefully</i> to defendants’ explanations, and when they were reasonable he extended their time for completion. The observer felt defendants <i>would feel they had an opportunity to explain and not just get a punishment</i> . But this observer also noted that the judge <i>sometimes asked two questions, one right after the other while still looking at paperwork and not waiting for a response</i> , and the observer suggested that he make a <i>concerted effort to allow time for a response before asking a follow-up question</i> .
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COMMUNICATION

Ensures information understood	Two observers reported that Judge Cullimore <i>asked each defendant if they understood his explanations of pleas</i> and <i>waited for them to respond</i> . He <i>asked about their understanding of court procedures</i> , and he <i>reviewed their understanding of their rights</i> .
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Provides adequate explanations	All observers reported that Judge Cullimore <i>carefully explained what to do to avoid having to return to court more than necessary</i> . He explained the <i>future implications of a guilty plea</i> and spent <i>several minutes explaining the implications of violations during the plea-in-abeyance term</i> . He gave <i>reasons for his sentences</i> and whether they were based on <i>legislative mandates for enhanced penalties</i> . When a defendant thought he could eliminate a speeding fine from his record, Judge Cullimore <i>used this as a teaching moment</i> and gave a <i>clear and understandable explanation of why he could not</i> , saying, “ <i>If you completed traffic school within 30 days of the ticket, you could have done that. You are now past the 30 days, so you lost that opportunity.</i> ” <i>A video and ‘rights sheets’ and laminated direction signs helped participants as it is easy to find the process confusing</i> . However, while the judge typically said, “ <i>Do you understand the rights you are giving up with a guilty plea?</i> ” he never summarized those rights to verify their understanding, and one observer saw defendants sign paperwork without carefully reading the document and was concerned that <i>without hearing a short summary of the rights few really understood the ramifications of a plea</i> , and the observer suggested that <i>each defendant should receive a clear explanation in understandable language from the judge about rights given up</i> .
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