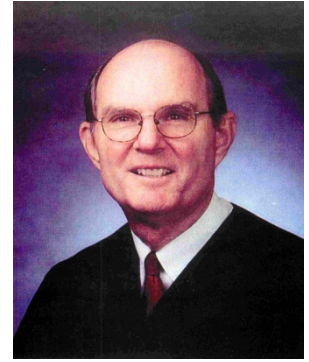


Honorable Lynn W. Davis – District Court Judge

Serving Juab, Millard, Utah and Wasatch counties

Commission Recommendation: RETAIN

(vote count: 12-0 for retention)

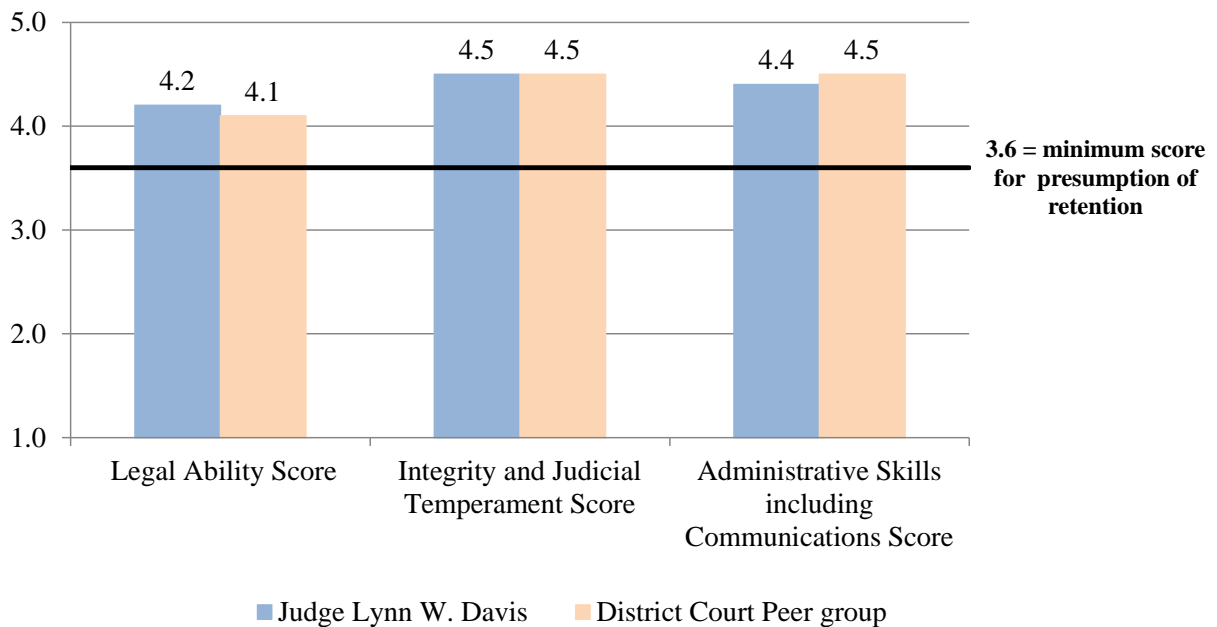


Judge Lynn Davis is an experienced judge, described by attorneys as attentive, knowledgeable, and conscientious. Survey respondents appreciated his excellent preparation for court proceedings. Some survey respondents expressed concern about Judge Davis's in-court references to personal beliefs. They noted that Judge Davis is not always timely in his rulings, but they also praised him for his polite and considerate manner. Courtroom observers had positive views of Judge Davis, highlighting his focused and patient demeanor. Observers additionally praised Judge Davis's thoughtful rulings that carefully considered all perspectives. Of those who answered the retention question, 90% recommend Judge Davis be retained.

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

Judge Lynn W. Davis has served as a judge for over 27 years, appointed originally to the Fourth Circuit Court in 1987 and then to the Fourth District Court in 1992. He earned a law degree from the J. Reuben Clark College of Law at Brigham Young University in 1976, worked in private practice until 1979, and then served as a deputy Utah County Attorney until his appointment to the bench. Judge Davis has twice chaired the Board of District Court Judges. He has received awards from the Utah State Bar as Judge of the Year and for Distinguished Service. He has received the Excellence in Public Service Award, the Freedom of Information Award, and also the Honored Alumnus Award at BYU.

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



The Honorable Lynn W. Davis

Judicial Performance Evaluation Commission Report

Retention 2014

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Lynn W. Davis, 51% of qualified survey respondents submitted surveys. Of those who responded, 95 agreed they had worked with Judge Lynn W. Davis enough to evaluate his performance. This report reflects the 95 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

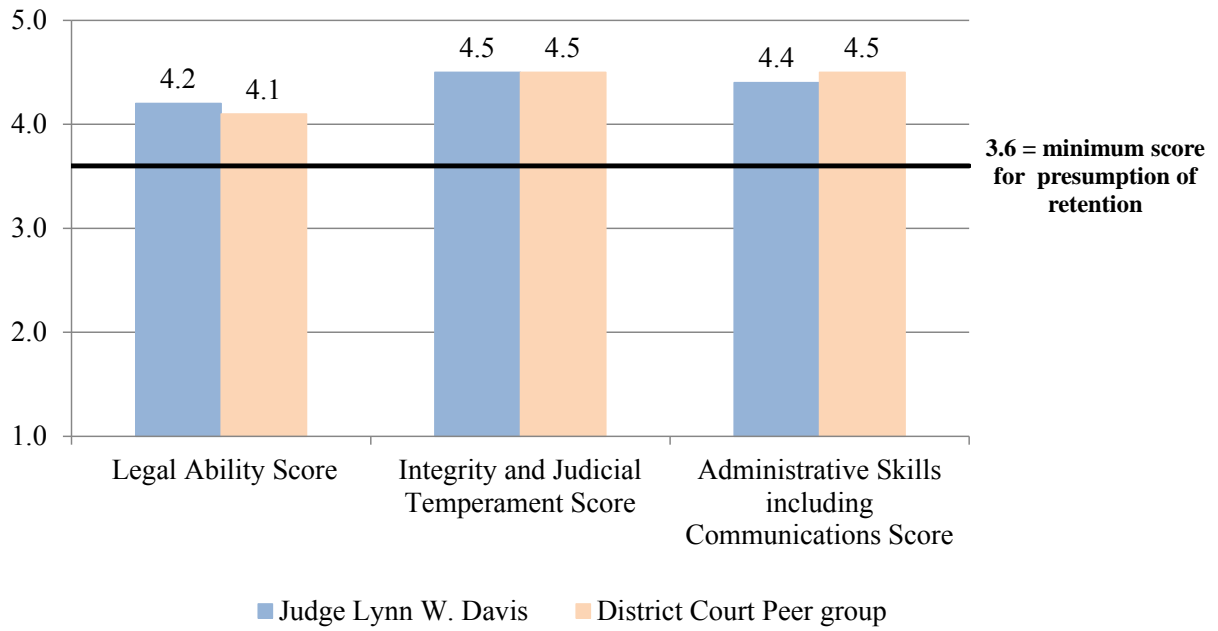
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

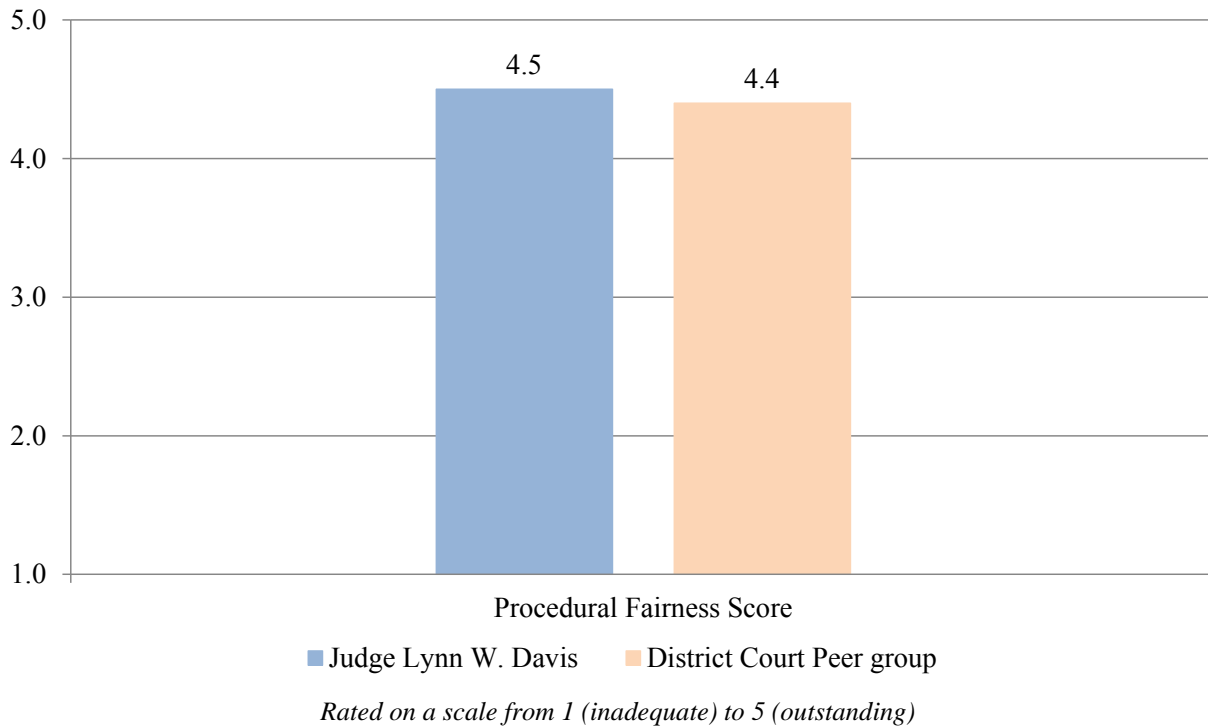
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

D. Responses to Individual Survey Questions

Category	Question	Judge Lynn W. Davis	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.	4.2	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.2	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.	4.1	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.6	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.	4.2	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.4	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 Lynn W. Davis	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.5	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	4.5
Administrative Skills	The judge is an effective manager.	4.3	4.3
Administrative Skills	The judge convenes court without undue delay.	4.5	4.5
Administrative Skills	The judge rules in a timely fashion.	4.2	4.4
Administrative Skills	The judge maintains diligent work habits.	4.6	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.	4.6	4.5
Procedural Fairness	The judge is fair and impartial.	4.3	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.4	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.5	4.4

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

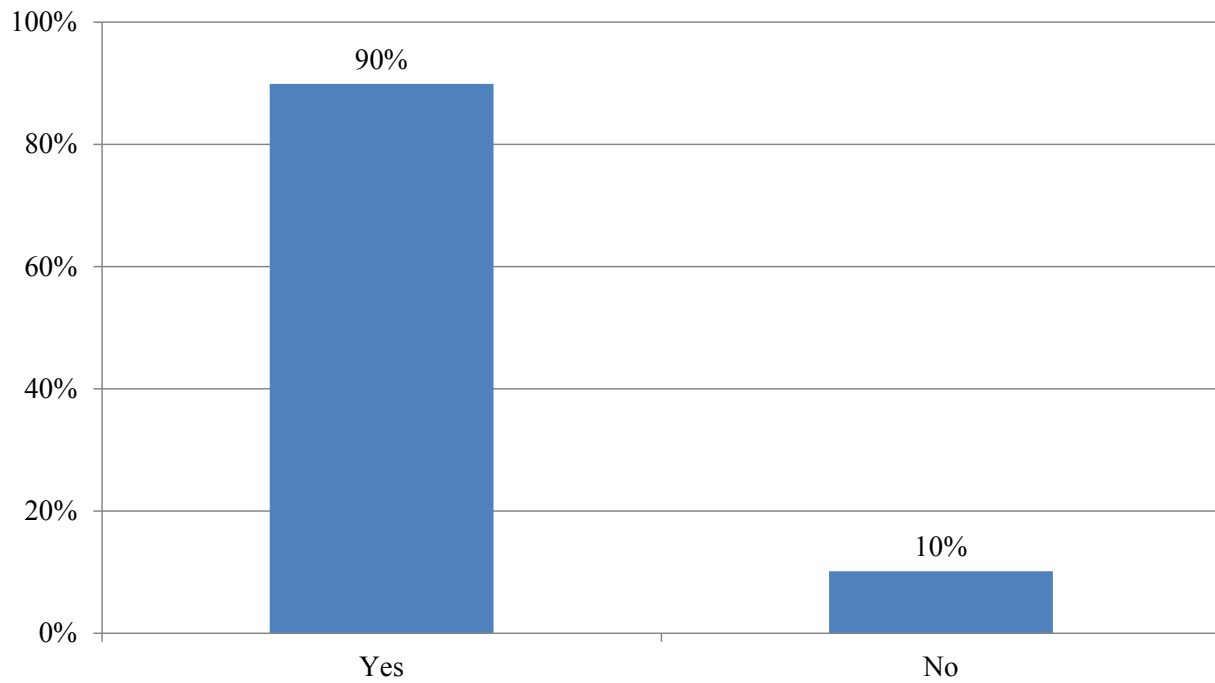
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	46
Calm	33
Confident	24
Considerate	36
Consistent	22
Intelligent	31
Knowledgeable	45
Patient	29
Polite	45
Receptive	24
Arrogant	2
Cantankerous	2
Defensive	6
Dismissive	3
Disrespectful	2
Flippant	1
Impatient	2
Indecisive	3
Rude	2
Total Positive Adjectives	335
Total Negative Adjectives	23
Percent of Positive Adjectives	94%

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 Lynn W. Davis be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	4%
Domestic	27%
Criminal	24%
Civil	69%
Other	2%

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

5 or fewer	65%
6 - 10	20%
11 - 15	11%
16 - 20	1%
More than 20	2%

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 LYNN W. DAVIS

Four observers wrote 87 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">• All observers were positive about Judge Davis.• All observers variously reported that Judge Davis listened with careful attention and was informed, efficient, and orderly. He accommodated all scheduling requests and made all parties feel their case was important and their time valued. Judge Davis was courteous, polite, calm, and very patient, but appropriately raised his voice when needed, such as when his patience was tested. His demeanor was careful, deliberate, serious, and professional, and he remained engaged and interested, making eye contact and displaying appropriate body language. He showed equal consideration of each parties' viewpoint, and his rulings were always agreed to by both side. He took individual circumstances into consideration in sentencing and setting payments of fines.• Judge Davis cared not only about justice but also about "waking up" defendants to their situation. He invited all parties to speak and provide feedback or recommendations and remained engaged throughout his questioning. He spoke clearly and chose his words carefully to ensure they were understood, and he was very engaged in the process of ensuring that defendants understood the details of their charges, their rights, and the implication of their pleas. He clearly explained how the law was applied and the reasons for his decisions, helpfully "thinking out loud" for the benefit of the court.• All observers reported that they would feel comfortable appearing before Judge Davis.
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	One observer reported that Judge Davis listened <i>to all information with careful attention.</i>
Well-prepared & efficient	Three observers reported that Judge Davis was <i>efficient</i> and <i>orderly</i> and <i>moved along</i> the many cases on the docket <i>quite smoothly</i> . He was <i>well informed</i> about the status of cases.
Respect for others' time	Three observers reported that Judge Davis was <i>accommodating</i> regarding schedules, saying, " <i>Let's see if we can accommodate your request,</i> " and asking his clerk to <i>find dates that could work for all</i> . He expressed concern for <i>how long questioning was taking and the expense to both parties</i> if they did not proceed to resolution, and he <i>apologized</i> when explaining they had not scheduled enough time for a case and <i>would need to reschedule for another day</i> . One observer noted that the judge entered 25 minutes late without explanation, even though the <i>attorneys seemed quite prepared</i> , and while he <i>gave a pleasant 'good morning,'</i> the observer appreciates when the judge <i>acknowledges</i> the delay, <i>especially when so many people are waiting.</i>

Respectful behavior generally	<p>Three observers reported that Judge Davis <i>addressed each person by name</i> and was careful to have names <i>correct in all records</i>. He made all parties <i>feel their case was important and their time valued</i> and reminded one witness <i>in a respectful tone</i> that she needed to speak through the attorney <i>as a matter of the law</i>.</p> <p>In contrast, one observer was <i>disappointed</i> that Judge Davis did <i>not acknowledge participants by name when they first appeared before him</i>, as the observer feels that the <i>initial contact sets the tone of mutual respectfulness</i>.</p>
<i>RESPECTFUL TONE</i>	
Courtesy, politeness and patience	<p>Three observers reported that Judge Davis was <i>consistently courteous</i>, and they emphasized his patience when <i>repeating the same information</i> to different defendants or <i>during high levels of opposition from each counsel</i>. He showed <i>extreme patience</i> with attorneys' confusion over dates and presentation of proper documents. When his <i>patience was tested</i>, he <i>very appropriately</i> raised his voice to <i>reinforce the court's impatience with a defendant's habits</i> and also when finally setting trial dates after numerous <i>waivers, warrants</i> or unsuccessful probations.</p>
Courtroom tone & atmosphere	<p>Three observers reported that Judge Davis was <i>calm, very serious and intense, professional and specific when clarifying the laws, consistently engaged and interested</i>, and <i>not extroverted but rather careful and deliberate</i>. In one case he became <i>angry and direct</i> with an attorney, saying, "<i>How can you do that based on your argument?</i>" and "<i>How can I rule on this, with what you have presented?</i>" but then <i>immediately returned to calm, engaged listening to the witness</i>.</p> <p>One observer expressed his opinion that the judge could be <i>too lenient on those who continually fail</i> to follow the court's orders and instructions, leading to numerous continuances and instances of unsuccessful probation.</p>
Body language	<p>Two observers reported that Judge Davis <i>often made eye contact</i> and demonstrated <i>appropriate body language</i>. In one case after <i>speaking in a monotone with little eye contact</i> when a witness was sworn in, he <i>then sat back and listened intently and appeared highly engaged</i>.</p>
Voice quality	<p>One observer reported that Judge Davis's voice was <i>direct and measured</i> with a <i>respectful quality</i>, and <i>loud enough for all to hear</i>.</p>
<i>NEUTRALITY</i>	
Consistent and equal treatment	<p>All observers reported that Judge Davis was <i>equally polite</i> to all participants, and he showed impartiality when <i>graciously granting all requests for continuance and postponements when reasonable</i>. He showed <i>appropriate consideration</i> of each parties' <i>perspectives and interests, ruling in a fair, consistent way</i> that was <i>always agreed to by all sides</i>. He was <i>very consistent</i> in addressing guilty pleas and informing defendants of rights they were giving up.</p>
Acts with concern for individual needs	<p>Three observers reported that in many cases Judge Davis <i>took individual circumstances into consideration</i> and ensured sentences were <i>appropriate for the defendants' situation and best for all concerned</i>. With fines he was careful to ask defendants <i>what they could afford</i>, and often gave extra time to pay or <i>allowed the cost of evaluations and treatments to count towards the fine</i>. He counseled one defendant to consult an attorney before making a guilty plea <i>since he was charged with a felony</i>, and he ensured that defendants were better prepared by taking <i>three different breaks during the session</i> to "<i>accommodate counsel and give them the ability to meet with their clients</i>."</p>
Expresses concern for the individual	<p>Two observers reported that Judge Davis <i>truly cared not only about justice but also about "waking up" the defendants by interacting with them in a dialog regarding their situations</i>. In one case he became a <i>little annoyed</i> that a document had not been reviewed, saying, "<i>I can't see why something so valuable to your client has been so simplified</i>."</p>
Unhurried and careful	<p>Two observers reported that Judge Davis was <i>careful and complete</i>, put a <i>great deal of thought into each ruling</i> and to <i>explaining his rationale</i>, and allowed <i>plenty of time for all details to be stated</i>.</p>

VOICE

Considered voice	<p>Three observers reported that Judge Davis <i>invited all parties to be heard</i> and <i>allowed time for them to speak</i>. He <i>asked for clarification</i> if needed and <i>remained very engaged</i> during questioning. He told one attorney, <i>“I don’t know that your inquiry is relevant or where you are going with this, but take as long as you want.”</i> He expected defendants to speak through their attorneys, <i>but when a defendant continued to ask the judge a question directly, he did willingly answer her</i>, and he <i>spoke directly to witnesses when seeking clarification</i>.</p> <p>Judge Davis always showed he <i>wanted to do what was right by getting feedback from participants</i> and by asking attorneys <i>if there were any additional recommendations or issues to be resolved</i> before he issued an order. In one case Judge Davis <i>changed his viewpoint</i> based upon <i>hearing testimony from all sides</i>, which allowed a defendant to <i>keep his job and continue to support his family</i>.</p>
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COMMUNICATION

Communicates clearly	<p>Two observers reported that Judge Davis spoke <i>clearly</i> when <i>asking questions</i> or <i>giving instructions</i> and <i>chose his words carefully so that he did not talk over anyone’s head or IQ</i>.</p>
Ensures information understood	<p>Three observers reported that Judge Davis was concerned that defendants knew the <i>specific details of the charges against them</i> and <i>watched them</i> when asking questions to <i>ascertain their understanding</i>. He asked attorneys, <i>“Are you satisfied the defendant understands and do you know of anything or have reason to believe they don’t understand?”</i> He was <i>very engaged</i> in the process of ensuring that defendants understood their rights prior to taking their pleas. He <i>looked each defendant in the eye as he was explaining their rights</i> in a <i>very consistent and well thought out process, sizing the defendant up to ensure they understood all the implications of their pleas</i>.</p>
Provides adequate explanations	<p>Two observers reported that Judge Davis was <i>very careful in providing critical information</i> to defendants regarding their pleas, and he was <i>clear and transparent</i> about how the <i>rules of law were applied</i> and in explaining the <i>reasons for his decisions</i>. Judge Davis <i>seemed to “think out loud” for the benefit of the court</i>, which helped everyone understand his train of thought leading to his decisions.</p>
