

Honorable Thomas L. Low – District Court Judge

Serving Juab, Millard, Utah and Wasatch counties

Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

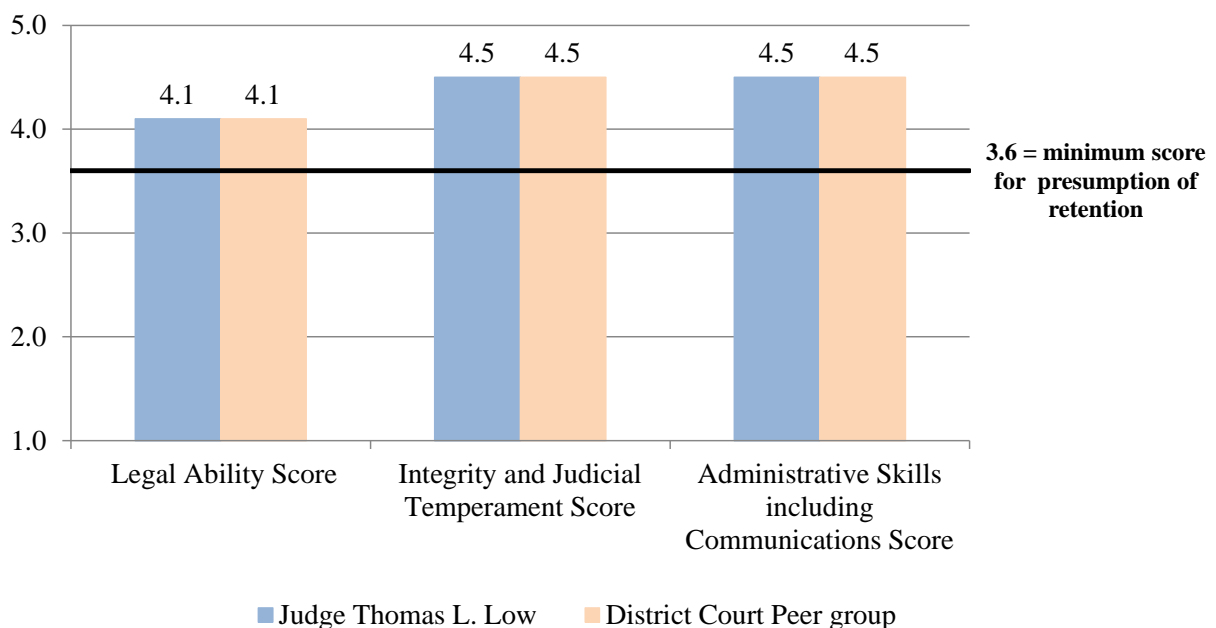


Appointed in 2009, Judge Thomas Low received praise from survey respondents for his attentiveness to proceedings and the respect he shows for courtroom participants. Respondents commended his professional and constructive interactions with both staff and participants. They most frequently described Judge Low as polite, knowledgeable, and calm. Of adjectives that respondents chose from a list to describe Judge Low, 93% were positive. Courtroom observers noted Judge Low's thorough explanations and his equal treatment of all courtroom participants. All courtroom observers reported that they would feel comfortable appearing before him. Of survey respondents who answered the retention question, 90% recommended that Judge Low be retained.

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

Judge Thomas Low was appointed to the Fourth District Court in 2009 by Gov. Gary R. Herbert. He earned a B.A. and a Juris Doctorate, with honors, from Brigham Young University. He then worked as an attorney in private practice in Provo and served as a deputy Wasatch County attorney, where he prosecuted felony cases. Prior to his appointment to the bench, Judge Low served six years as the Wasatch County Attorney. He was named County Attorney of the Year in November 2008 and one of the 2009 Utah Legal Elite by Utah Business magazine. Judge Low is a member of the Utah Sentencing Commission and the Utah Commission on Criminal and Juvenile Justice.

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



The Honorable Thomas L. Low

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 Thomas L. Low, 51% of qualified survey respondents submitted surveys. Of those who responded, 102 agreed they had worked with Judge Thomas L. Low enough to evaluate his performance. This report reflects the 102 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

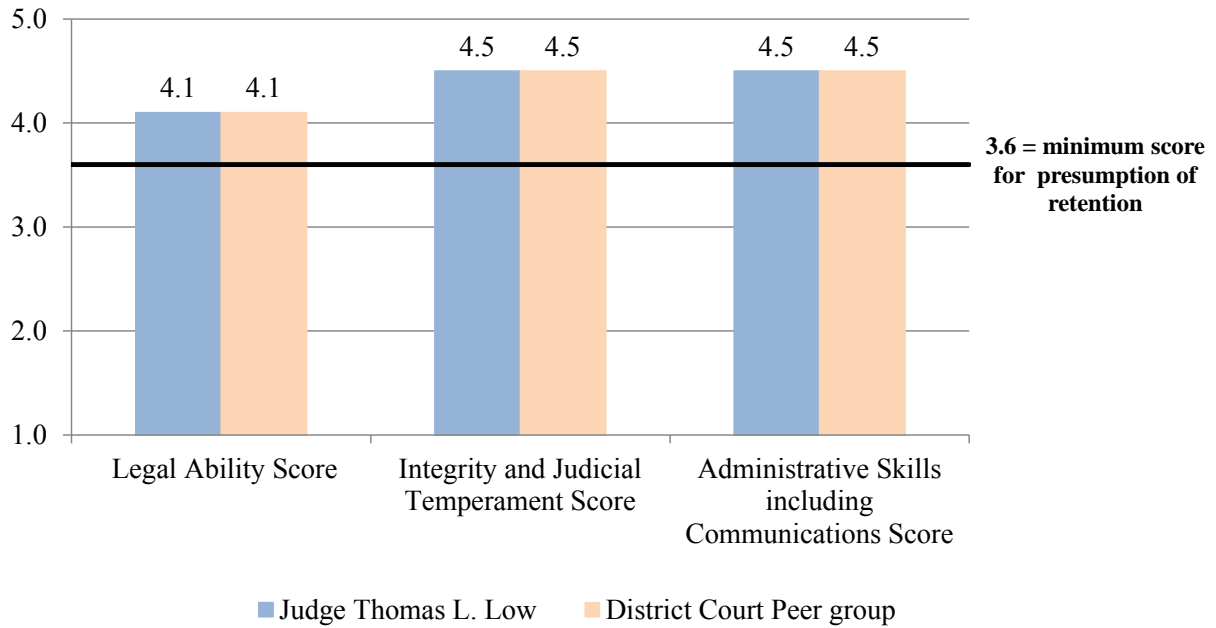
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

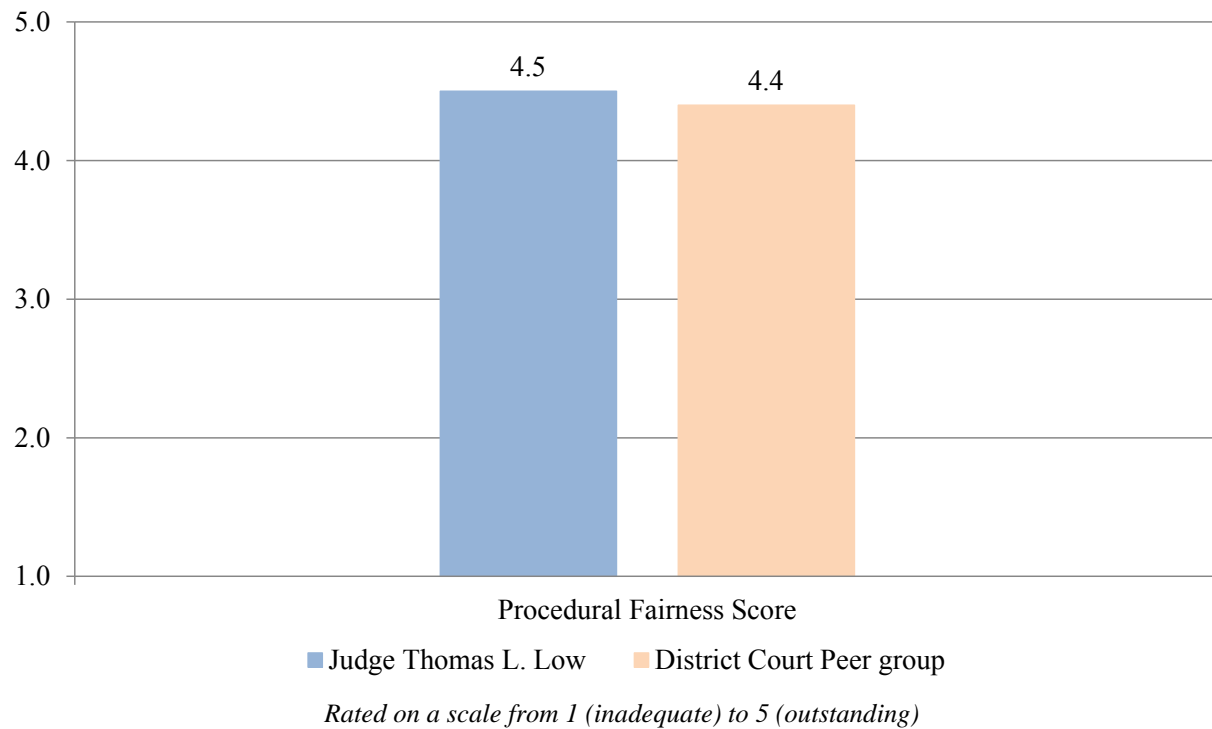
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

D. Responses to Individual Survey Questions

Category	Question	Judge Thomas L. Low	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.	4.0	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.0	4.1
Legal Ability	The judge only considers evidence in the record.	4.1	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.	4.4	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.5	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.	4.3	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 Thomas L. Low	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.	4.7	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.	4.5	4.4
Administrative Skills	The judge maintains diligent work habits.	4.5	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.	4.3	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.	4.3	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)

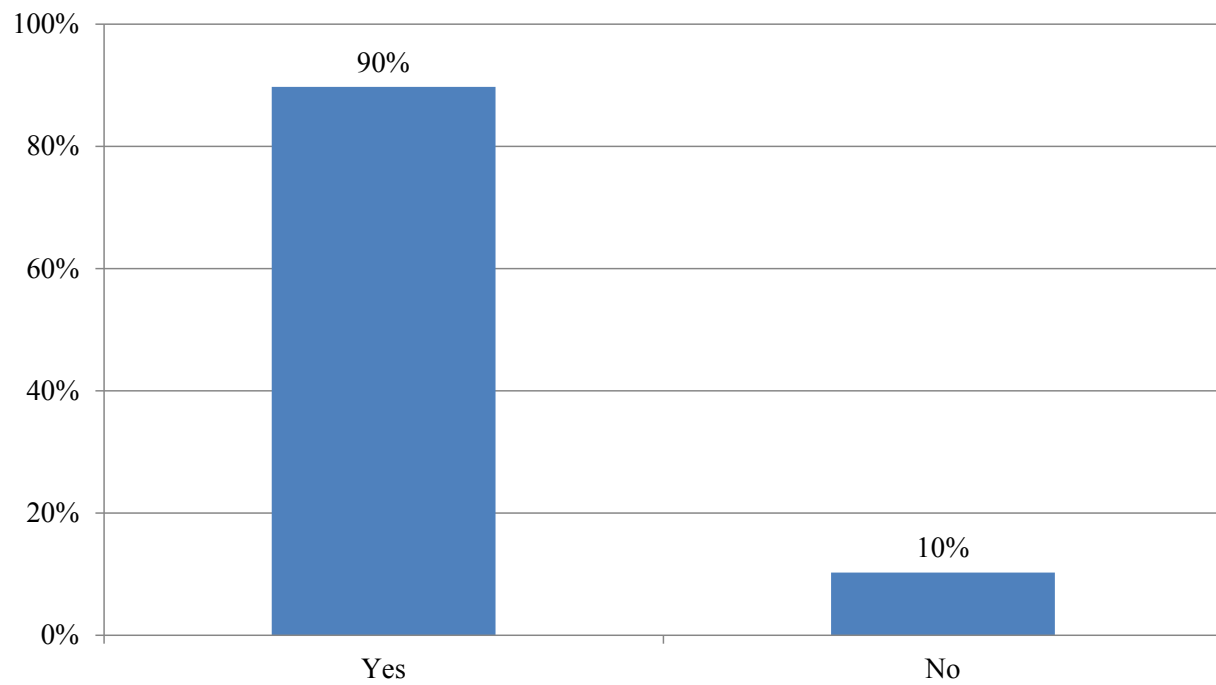
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	35
Calm	39
Confident	9
Considerate	31
Consistent	16
Intelligent	34
Knowledgeable	42
Patient	30
Polite	46
Receptive	16
Arrogant	1
Cantankerous	0
Defensive	5
Dismissive	6
Disrespectful	1
Flippant	0
Impatient	2
Indecisive	5
Rude	2
Total Positive Adjectives	298
Total Negative Adjectives	22
Percent of Positive Adjectives	93%

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. Low be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	20%
Domestic	13%
Criminal	42%
Civil	59%
Other	1%

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

5 or fewer	38%
6 - 10	27%
11 - 15	4%
16 - 20	4%
More than 20	26%

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 LOW

Four observers wrote 76 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 Low.• All observers variously reported that Judge Low listened carefully and intently, was efficient and organized, and accommodated participants' schedules. He greeted participants in a friendly manner by name, thanked them, and wished them good luck. He was courteous and patient, and his demeanor was up-beat, encouraging and professional. He made good eye contact, spoke in a pleasant voice, treated all defendants consistently, and treated both sides of each case equally. He never hurried or was abrupt with any speaker. He gave ample time and opportunity to hear each person's side of the story and their personal situations, and he listened with interest and carefully considered their comments, questions, and concerns. He clearly explained defendants' rights and how he came to his decisions about appropriate sentences, and he explained the choices available to unrepresented defendants.• Observers particularly emphasized that Judge Low treated each defendant as an individual and made every effort to comply with their requests and needs. He was particularly concerned that all defendants, especially those with interpreters, understood the allegations against them and what was taking place in court. He asked if defendants understood what they were signing, and he ensured they understood when they were next to appear.• All observers reported that they would feel comfortable appearing before Judge Low.
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	Three observers reported that Judge Low <i>listened attentively, carefully, and intently</i> and often <i>clarified definitions</i> .
Well-prepared & efficient	Three observers reported that Judge Low was <i>efficient</i> and <i>organized</i> . One young woman was <i>especially pleased that the judge was aware of her particular situation and that a treatment program could be 'saved' for her</i> .
Respect for others' time	Two observers reported that Judge Low <i>accommodated</i> schedules to <i>individual needs</i> . He <i>granted extra time for a newly assigned attorney to access needed information from a data base</i> .
Respectful behavior generally	All observers reported that Judge Low <i>greeted participants by name</i> and with a <i>friendly</i> , " <i>Good Morning Mr. or Ms. X, how are you today?</i> " and, " <i>What can I do for you?</i> " He <i>thanked each participant</i> , told them he <i>appreciated their time</i> , and on <i>leaving the court he wished each one "Good Luck."</i>

RESPECTFUL TONE

Courtesy, politeness and patience	Two observers reported that Judge Low was always <i>courteous</i> and <i>patient</i> , for example with the large amount of time needed for setting dates and schedules.
Courtroom tone & atmosphere	Two observers reported that Judge Low was <i>friendly</i> , <i>up-beat</i> , <i>encouraging</i> , and <i>professional</i> . One observer considered his performance <i>excellent</i> .
Body language	Two observers reported that Judge Low <i>routinely looked at those who spoke with good eye contact</i> , and he displayed a <i>friendly expression</i> .
Voice quality	One observer reported that Judge Low's voice was <i>pleasant</i> and <i>inviting</i> .

NEUTRALITY

Consistent and equal treatment	All observers reported that Judge Low <i>treated both sides with equal respect and attention, whatever the allegations</i> or how defendants <i>behaved</i> , and whether or not they were represented. He acted in a <i>deliberative manner</i> that appeared to <i>satisfy both the prosecution and defense</i> . He typically expressed his understanding of <i>both sides of an issue</i> , saying that he could see how a litigant could <i>read the agreement that way</i> , but also how the <i>other party could dispute that interpretation</i> , and making suggestions to <i>clarify the situation</i> .
Acts with concern for individual needs	<p>All observers reported that Judge Low made <i>every effort to comply with the needs of participants, graciously obliging</i> one defendant who asked for a continuance <i>because of personal commitments</i> and <i>trying to schedule fine payments according to defendants' ability to pay</i> and <i>jail sentences based on when defendants could best serve them</i>. He always <i>treated each defendant as an individual with individual needs, problems and responsibilities</i>, and he allowed unrepresented defendants to <i>make the choices that would be best for themselves</i>.</p> <p>In one case Judge Low asked <i>how long the defendant would need to recover from surgery</i> and set the date for sentencing to <i>allow for the time needed</i>. In another case in which the defendant had <i>failed to pay back rent or report for the court date</i>, Judge Low was <i>concerned that the defendant may have moved and not be able to read English</i>, saying, "I'm worried that the defendant may not know what is going on," and <i>ordered an additional 30 days before making a decision</i>.</p>
Unhurried and careful	Two observers reported that Judge Low was <i>never hurried</i> or <i>abrupt</i> , and he <i>listened to each participant</i> .

VOICE

Considered voice	<p>Two observers reported that Judge Low <i>always graciously asked for a response or questions</i> from those before him, and he gave <i>ample time and opportunity</i> for participants to <i>tell their side of the story, express their concerns, discuss alternate solutions to their sentences, and explain their personal situations</i>. He <i>listened with interest</i> to all that defendants had to say and <i>took special circumstances into account</i>. His comments demonstrated that he <i>heard and carefully considered the information offered</i>.</p> <p>In one case a defendants' parents asked to address the court and <i>spoke passionately through an interpreter about their son</i>. Judge Low <i>listened intently</i> and was <i>clearly moved</i>, telling the defendant how <i>lucky he was to have such wonderful, caring parents</i>. He then said that the <i>community had also been supportive</i>, but the young man had <i>failed to take advantage of the opportunities given him</i> and to <i>complete the treatment ordered by the court</i>. The judge then <i>denied the parent's request that the defendant be allowed to come home with them because their daughter was getting married</i>. While the <i>outcome was not what the defendant had wanted</i>, Judge Low treated the participants <i>with respect</i> and <i>wished the defendant good luck</i>.</p>
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COMMUNICATION

Communicates clearly	One observer reported that Judge Low was <i>very clear</i> when <i>giving instructions</i> or <i>explaining sentences</i> .
Ensures information understood	All observers reported that Judge Low ensured that all defendants <i>understood the allegations against them</i> and the <i>possible penalties</i> . He <i>often asked whether there were any questions regarding what was taking place</i> and answered all questions <i>in a polite and complete manner, watching for a nod to indicate they had heard and understood</i> . He asked if defendants <i>understood what they were signing</i> and said that he would be <i>happy to explain the form agreeing to a plea in abeyance</i> . Judge Low was <i>very clear and adamant</i> when instructing defendants when to appear for their next court appearance, letting them know <i>in a strong voice that this would be their only reminder</i> , and suggesting, “ <i>You want to write that down?</i> ” He treated a <i>prisoner who needed an interpreter with patience and extra focus</i> to ensure he understood the proceedings, asking, “ <i>Do you have any questions at all that I can help you with or answer for you?</i> ”
Provides adequate explanations	Two observers reported that Judge Low was <i>very particular about explaining rights</i> and that he <i>carefully and fully explained how he had come to a decision on an appropriate sentence</i> and <i>carefully explained each requirement</i> and the <i>completion time</i> for each part. If a defendant was not represented, he <i>carefully explained their choices and the consequences of each choice</i> and what <i>legal rights they would give up if pleading guilty</i> .
