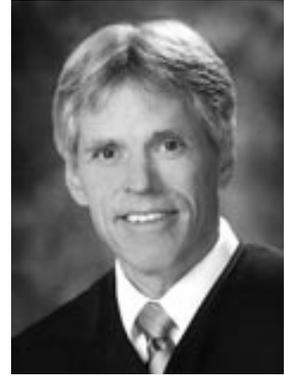


## **Honorable Noel S. Hyde – District Court Judge**

Serving Davis, Weber and Morgan counties



### **Commission Recommendation: **RETAIN****

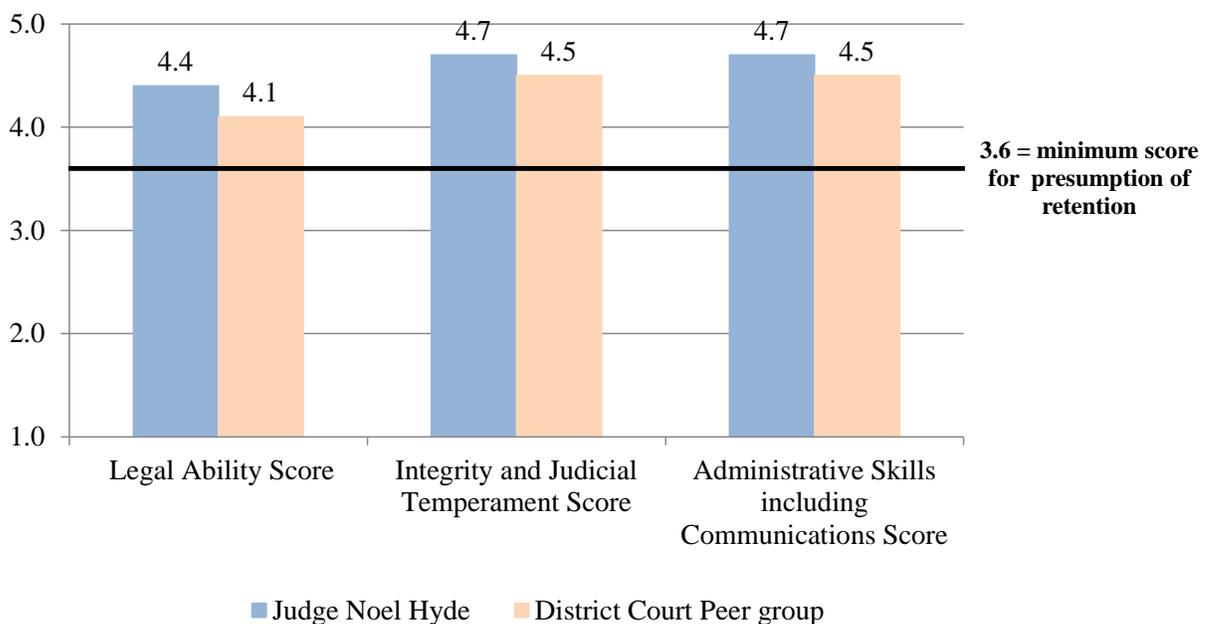
(vote count: 12-0 for retention)

Appointed in 2010, Judge Noel Hyde earned strong survey scores, rating higher than the average of his district court peers in all survey categories. Survey respondents described Judge Hyde as intelligent and attentive, and highlighted his professionalism. Respondents praised Judge Hyde for his superior communication skills and clear decisions. Courtroom observers agreed with survey respondents, emphasizing Judge Hyde's willingness to thoroughly explain courtroom procedures and rulings. Observers also noted Judge Hyde's genuine interest in each case, his warm yet authoritative demeanor, and his sincere concern for each participant's well-being. Of survey respondents who answered the retention question, 95% recommended that Judge Hyde be retained.

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

Judge Noel S. Hyde was appointed to the Second District Court in 2010 by Gov. Gary R. Herbert. Judge Hyde received his law degree from Brigham Young University. Prior to his appointment, Judge Hyde worked as a sole practitioner for nine years in South Ogden, emphasizing business bankruptcy and complex commercial litigation. He had also previously handled domestic cases and business reorganization matters for 19 years with the firm of Nielsen & Senior in Salt Lake City and Ogden. Judge Hyde is a member of the American Bankruptcy Institute and the Commercial Law League of America. He presides over the Weber County Mental Health Court and serves on the Board of District Court Judges.

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



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# **The Honorable Noel Hyde**

**Judicial Performance Evaluation Commission Report**

**Retention 2014**

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### II. Courtroom Observation Report

# I. Survey Report

## Survey Results

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### A. How to Read the Results

For Judge Noel Hyde, 57% of qualified survey respondents submitted surveys. Of those who responded, 99 agreed they had worked with Judge Noel Hyde enough to evaluate his performance. This report reflects the 99 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

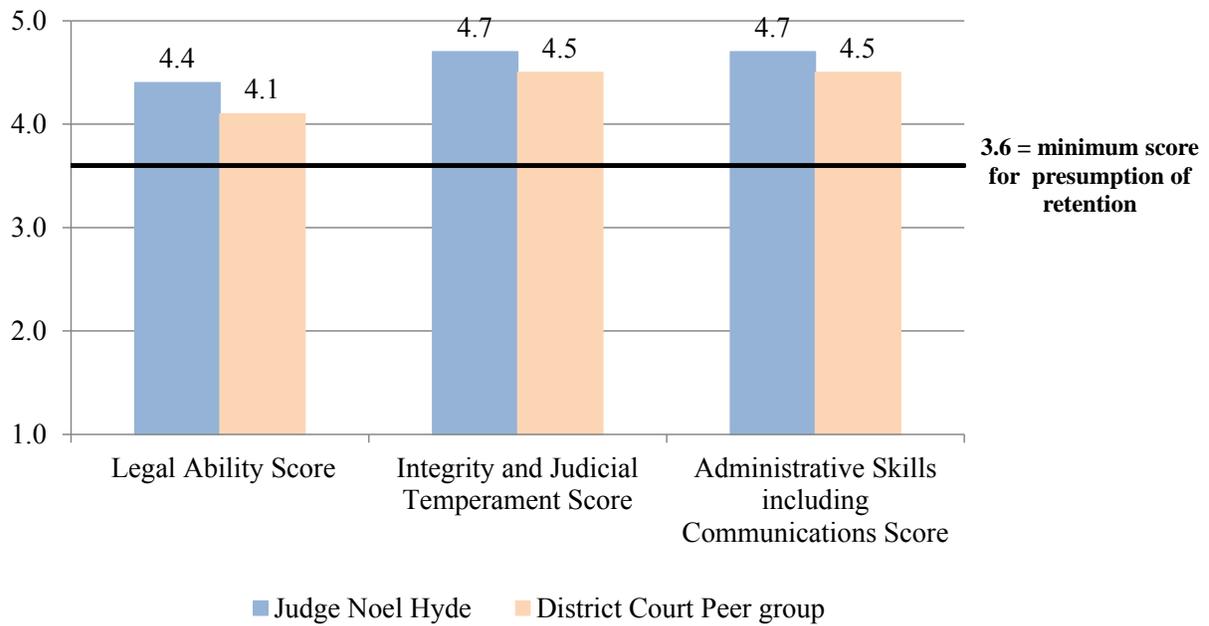
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

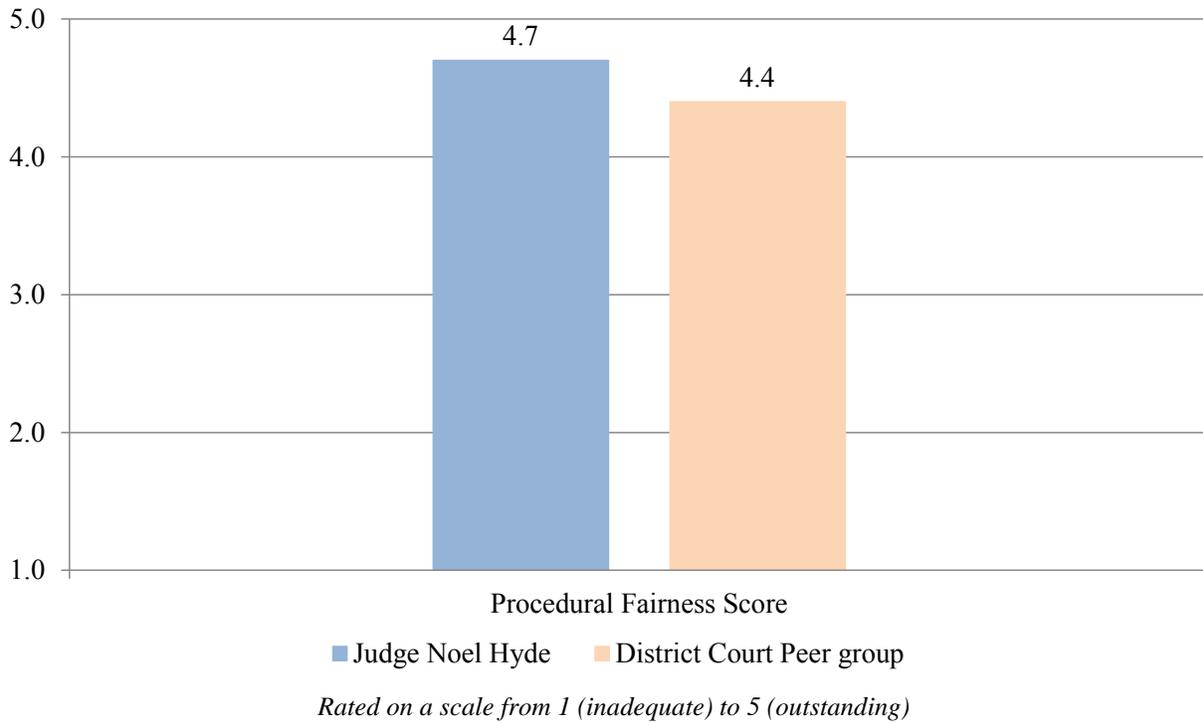
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

## D. Responses to Individual Survey Questions

Category	Question	Judge Noel Hyde	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.	4.5	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.4	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.4	4.1
Legal Ability	The judge only considers evidence in the record.	4.5	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.4	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.6	4.3
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.8	4.6

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

Category	Question	Judge Noel Hyde	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.8	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.5
Administrative Skills	The judge is an effective manager.	4.5	4.3
Administrative Skills	The judge convenes court without undue delay.	4.7	4.5
Administrative Skills	The judge rules in a timely fashion.	4.7	4.4
Administrative Skills	The judge maintains diligent work habits.	4.7	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.5	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.5
Procedural Fairness	The judge is fair and impartial.	4.6	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.4

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

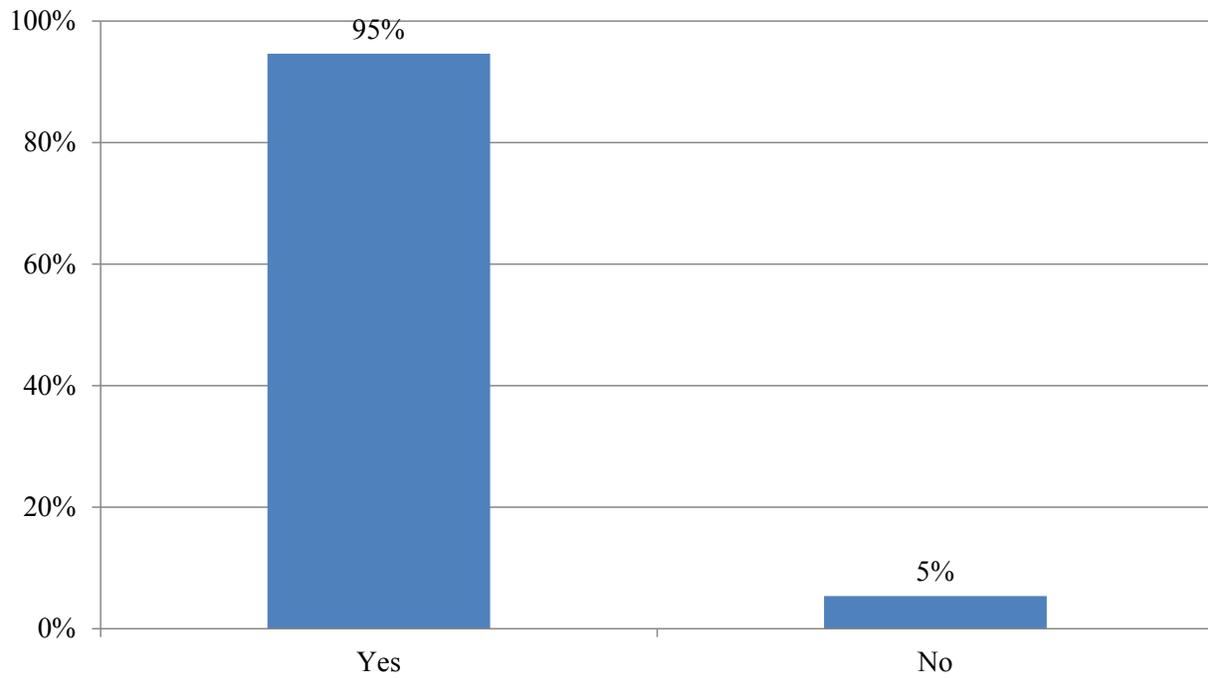
## E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	60
Calm	39
Confident	28
Considerate	38
Consistent	20
Intelligent	62
Knowledgeable	52
Patient	34
Polite	48
Receptive	23
Arrogant	7
Cantankerous	0
Defensive	2
Dismissive	2
Disrespectful	0
Flippant	0
Impatient	1
Indecisive	0
Rude	0
<b>Total Positive Adjectives</b>	<b>404</b>
<b>Total Negative Adjectives</b>	<b>12</b>
<b>Percent of Positive Adjectives</b>	<b>97%</b>

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 Noel Hyde be retained?



## G. Attorney Demographics

### What are your primary areas of practice?

Collections	5%
Domestic	33%
Criminal	30%
Civil	64%
Other	7%

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

5 or fewer	65%
6 - 10	20%
11 - 15	9%
16 - 20	3%
More than 20	3%

# Survey Background and Methods

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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 NOEL S. HYDE

Four observers wrote 102 codable units that were relevant to 15 of the 17 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

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WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"><li>• All observers were positive about Judge Hyde.</li><li>• All observers variously reported that Judge Hyde listened carefully and intently with full attention. The court was efficient and started promptly, and Judge Hyde was competent, knowledgeable, thorough, and extremely well-prepared. He greeted participants in a friendly and positive manner, thanked and praised participants, involved everyone with courtesy and dignity, and showed humility when appropriate. His demeanor was warm, encouraging, calm, and intensely interested, and also professional, authoritative and firm. He took great care in treating all parties in an evenhanded manner, but was also genuinely involved in each case and had each participant's best interest and well-being at heart, showing his care and concern through his sincere questions and empathy. He invited and encouraged participants to speak and allowed appropriate time for full and less formally structured communication, which he managed well. He showed that he had understood what was said by carefully and precisely summarizing the issues. He ensured that defendants understood his decisions and welcomed questions.</li><li>• Observers particularly emphasized Judge Hyde's thoughtfulness and clear language and his ability and willingness to explain all matters in detail, especially his reasoning and the reasons for his decisions, and his extraordinarily clear and understandable accounts of the proceedings.</li><li>• All observers reported that they would feel comfortable appearing before Judge Hyde.</li></ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"><li>• One observer reported that Judge Hyde maintained consistent eye contact while leaning forward and listening intently, whereas in contrast, another reported that more eye contact with speakers would show that he was engaged (see "Body language").</li></ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"><li>• None</li></ul>

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#### Summary and *exemplar language* of four observers' comments

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##### RESPECTFUL BEHAVIORS

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Listening & focus	Three observers reported that Judge Hyde <i>listened carefully and intently and gave his full attention to whoever was speaking, always looking at the speakers and thanking them for their comments.</i>
Well-prepared & efficient	Three observers reported that court began <i>promptly at 9:00</i> , and each case <i>took up at its scheduled time</i> , with the judge <i>announcing right at 10:30, "We are calling our 10:30 case."</i> The courtroom was <i>very professional and orderly</i> , and one observer considered the court the most <i>efficient and prompt session she had attended.</i>  Judge Hyde was <i>highly competent, knowledgeable, well-prepared, and attentive to each detail, having read all paperwork beforehand</i> , in one case saying, <i>"I have reviewed the entire file," and then going on to explain the case, the history, and arguments and summarize the current status,</i> and in another, saying, <i>"I have a pretty good understanding of the underlying issues," and demonstrating this in his extensive explication of ideas and concerns.</i> He regularly displayed an <i>amazing ability to think and speak on the spot.</i>

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Respect for others' time	Two observers reported that Judge Hyde <i>accommodated all participants' schedules</i> . Observers were impressed that he kept his busy schedule <i>on track</i> by strictly requiring respect for timeliness. In one case he responded to a request for more time before beginning a case with, " <i>Let them know we have another matter at 11:00 and would like them to come in [now].</i> " To a defendant arriving <i>an hour late</i> , the judge looked <i>very directly and spoke with assertion</i> , " <i>Mr. X, do you understand you are one hour late, and if you had not just walked in I would need to issue a warrant for your arrest?</i> " He arranged to <i>re-schedule but again restated that he needed to be there on time</i> .
Respectful behavior generally	All observers reported that Judge Hyde's <i>greeting</i> to the court was <i>quiet and calm</i> , with a <i>quick "Good afternoon"</i> and a <i>quick glance up to ask counsel if they were ready to proceed</i> . He <i>consistently addressed participants by name</i> in a <i>friendly tone</i> with a " <i>Mr.</i> " or " <i>Ms.</i> " and with a <i>positive, enthusiastic welcome</i> . He <i>involved everyone</i> in the hearing with <i>courtesy and dignity</i> , asked everyone <i>if they needed an interpreter</i> , and was <i>quick to respond</i> with a " <i>Thank you counsel,</i> " or, " <i>Thank you all for your good work in resolving this.</i> " After sentencing he stated, " <i>Good luck to you sir!</i> " He was <i>generous with praise</i> , such as, " <i>This is what I like to see,</i> " or, " <i>You're doing a good job, keep it up,</i> " and every participant seemed <i>genuinely pleased to show him their calendars and be praised for their good efforts</i> .

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*RESPECTFUL TONE*

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Courtroom tone & atmosphere	All observers reported that Judge Hyde was <i>warm and encouraging, calm and polite, thoughtful and intensely interested</i> , but also <i>professional, authoritative, firm, direct, and decisive</i> . He <i>made his points without being overly critical</i> , for example telling a young man in shorts, " <i>I notice that your dress is a little at odds with usual courtroom attire, and of course you can be here because you're a participant, but please make a note of it.</i> "  One observer found Judge Hyde's <i>humility</i> very " <i>human</i> " and <i>affecting</i> , for example when discussing the information available for <i>discovery in a large complex computer database</i> , about which he noted, " <i>The court knows the least about this than anyone in the room,</i> " and added that <i>still he had to make decisions regardless</i> .
Body language	One observer reported that Judge Hyde <i>maintained consistent eye contact, leaning forward and facing each individual when listening</i> . In contrast, another observer reported that <i>she would feel the judge was more engaged if he provided a bit more eye contact while others were speaking</i> .  One observer reported that his <i>body language was open</i> and his <i>facial expression straight-faced</i> , without emotion, indicating that he was <i>dispassionately interested and listening intently</i> .
Voice quality	Two observers reported that Judge Hyde's voice was <i>clear, even, and steady</i> , and his <i>tone consistently professional and authoritative</i> . One observer found that due to the <i>tight schedule</i> , Judge Hyde spoke so quickly that she was a <i>bit lost on many of his rulings</i> .

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*NEUTRALITY*

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Consistent and equal treatment	Two observers reported that Judge Hyde took <i>great care in treating both parties by the same standards</i> , determined <i>all the facts of a case before making his decisions</i> , and was <i>evenhanded across the board</i> .
Acts with concern for individual needs	Three observers reported that Judge Hyde was <i>genuinely involved</i> in each case and had <i>each participant's best interest at heart when making his decisions</i> . He was <i>equally encouraging to those in the system for some time and to new persons just entering the program</i> . He made efforts to <i>accommodate</i> defendants' requests, in one case <i>not reprimanding a defendant unable to do community service that week, but requiring her to do double the following week</i> . He <i>consistently asked defendants how best they could pay their fines or serve their jail sentences</i> , and where appropriate he <i>allowed extra time or allowed the cost of testing that was paid by the defendant to be counted towards his fine</i> .  One observer reported that a <i>sentence was read from the file without hesitation and little eye contact</i> and seemed to have been <i>pre-determined</i> .

Expresses concern for the individual	Three observers reported that Judge Hyde was <i>concerned with the well-being of all participants</i> . When he knew their <i>life situations</i> he asked <i>sincere questions</i> before reviewing their case, asking if a defendant was <i>still enjoying his job or had acquired any new tools</i> or how a participant's <i>father-in-law on life support</i> was doing. One observer appreciated his <i>care and concern</i> for a woman <i>unable to focus on court issues</i> due to her daughter's terminal illness, and when she <i>broke into tears</i> and <i>apologized</i> , this <i>elicited a quick and soft, "You're fine," from the judge</i> .
Unhurried and careful	One observer reported that Judge Hyde was always <i>thorough</i> , asking <i>many questions</i> for <i>clarification</i> when needed and <i>studying cases</i> to ensure he understood their status.

*VOICE*

Considered voice	All observers reported that Judge Hyde <i>invited and really encouraged</i> participants to speak, asking, " <i>Does the defendant wish to make a statement? What about the state?</i> " He <i>consistently tried to elicit defendants' opinions, objections and requests</i> by asking, " <i>Anything else?</i> " or, " <i>Are there any closing or additional comments?</i> " He <i>graciously</i> allowed participants to <i>say their piece whenever they wanted</i> , giving <i>appropriate time</i> for all to speak without having to <i>follow a formal comment/response pattern</i> , and <i>without any negative effect on decorum</i> . One observer was <i>impressed with the judge's openness and expertise in managing this less-structured communication</i> . In every case he <i>indicated that he had heard and understood what was being said</i> through his <i>careful, precise explanation of the issues and how he came to his decisions</i> .
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*COMMUNICATION*

Communicates clearly	Two observers reported that Judge Hyde used <i>clear language</i> and gave an <i>extraordinarily clear, complete, and very understandable</i> account of <i>what went on in his courtroom</i> .
Ensures information understood	Three observers reported that Judge Hyde <i>consistently</i> ensured defendants <i>understood his decisions</i> and <i>welcomed questions when defendants needed clarifications</i> . He ensured a defendant <i>understood complicated probation requirements</i> and had <i>no further questions</i> regarding what was required.
Provides adequate explanations	Three observers were <i>impressed</i> by Judge Hyde's <i>detail and thoughtfulness</i> and his <i>ability and willingness to explain all kinds of things</i> , such as the <i>details of a situation</i> or the procedure or purpose for a hearing, explaining for example, " <i>This is not evidence, but just a time to understand what evidence there might be.</i> " He <i>completely informed</i> defendants of their rights and what they were giving up when <i>waiving hearings</i> or pleading guilty. On completion of a case he would say, " <i>I understand the arguments on both sides,</i> " and then go on to <i>explain in detail the issues</i> of the case and the <i>reasons for his decisions</i> , providing <i>very detailed and precise explanations of his reasoning</i> , for example, " <i>Yes, I concur this is a unique theft case, as I reviewed the doctor's report I see there is mental illness. There is no question of the defendant's competence, and it is also my job to protect society.</i> "