

## **Honorable Samuel P. Chiara – District Court Judge**

Serving Daggett, Duchesne, and Uintah counties



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

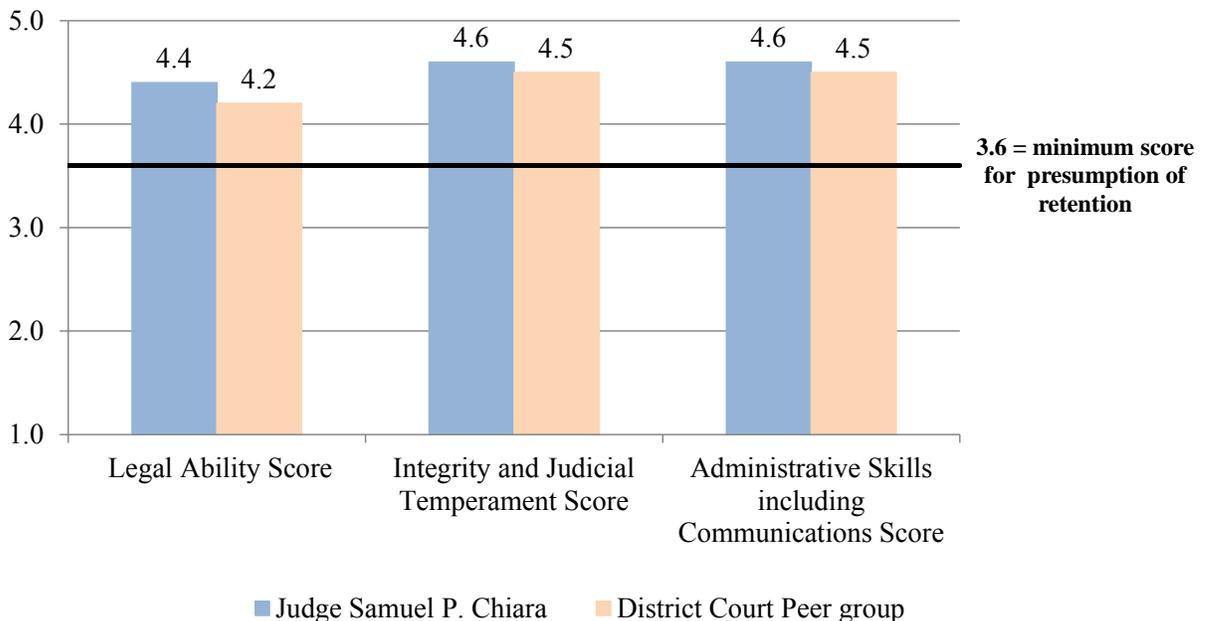
(vote count: 12-0 for retention)

Appointed in 2013, Judge Samuel Chiara scores consistent with the average of his district court peers in all statutory survey categories and above the average of his peers in procedural fairness. From a list of adjectives, survey respondents select 98% positive words to describe him. Respondents note that Judge Chiara works hard, treats all people fairly, and demonstrates solid legal ability. Courtroom observers praise Judge Chiara's preparation, his consideration of the time and viewpoints of others, and his fairness to all involved. All observers are enthusiastically positive about Judge Chiara, with all reporting they would feel comfortable appearing before him. Of survey respondents answering the retention question, 97% recommend retention for Judge Chiara.

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

Judge Samuel P. Chiara was appointed to the Eighth District Court by Governor Gary Herbert in 2013. Judge Chiara earned a Bachelor of Science degree from the Marriott School of Management at BYU and a Juris Doctor degree from the J. Reuben Clark Law School, also at BYU. Prior to his appointment, Judge Chiara practiced law with Keith Chiara in Price and later as a partner in Chiara & Torgerson. His practice included criminal defense, domestic, probate, contract, property, parental defense, and personal injury law. Judge Chiara also served as defense counsel for the Carbon County Drug Court. He currently serves on the District Judges' Curriculum Development committee.

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



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# **The Honorable Samuel P. Chiara**

**Judicial Performance Evaluation Commission Report**

**Retention 2016**

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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 Samuel P. Chiara, 58% of qualified survey respondents submitted surveys. Of those who responded, 73 agreed they had worked with Judge Samuel P. Chiara enough to evaluate his performance. This report reflects these 73 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 "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 the Legal Ability questions.

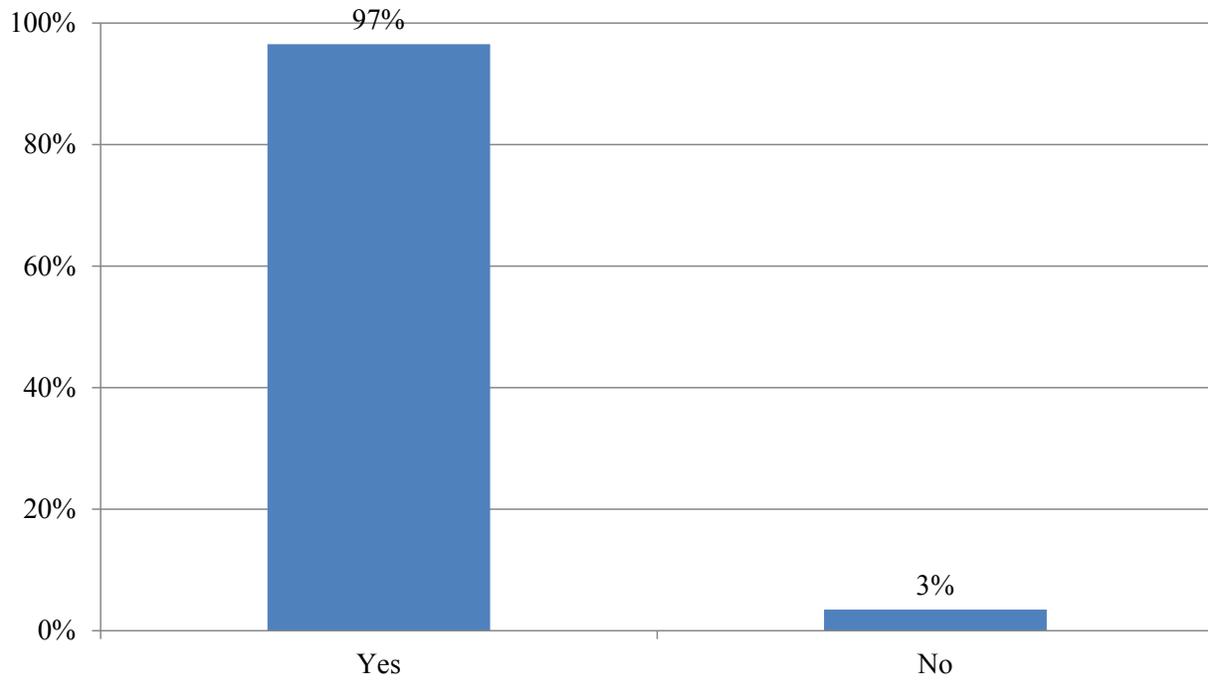
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

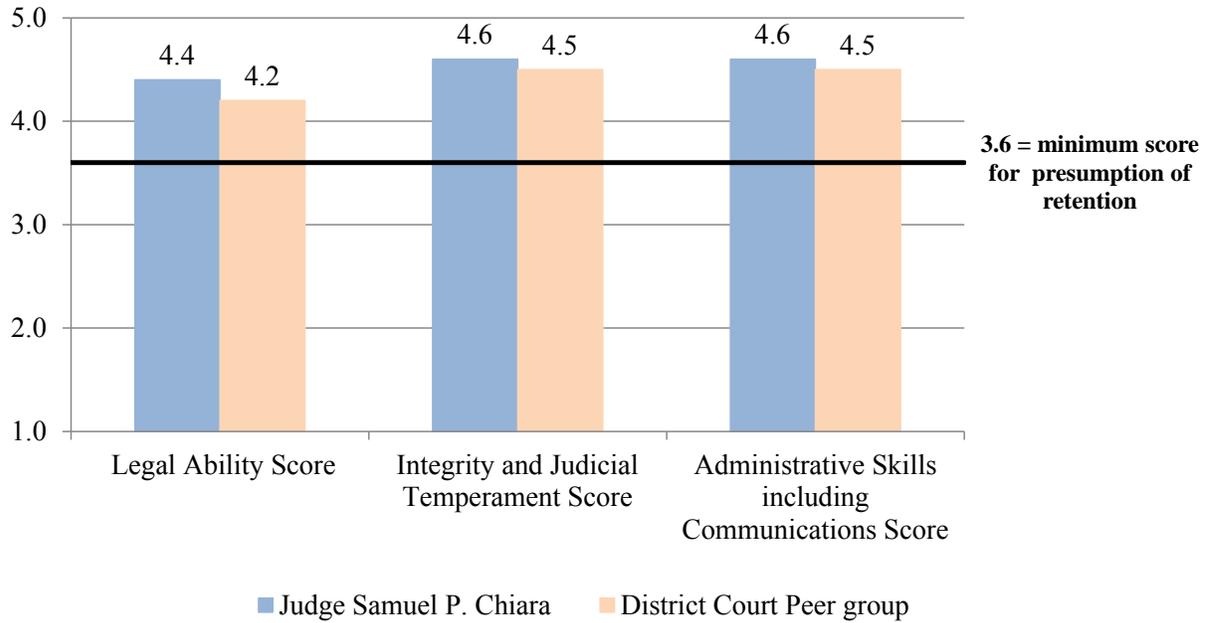
## B. Retention Question

**Figure A. Would you recommend that Judge Samuel P. Chiara be retained?**



## C. Statutory Category Scores

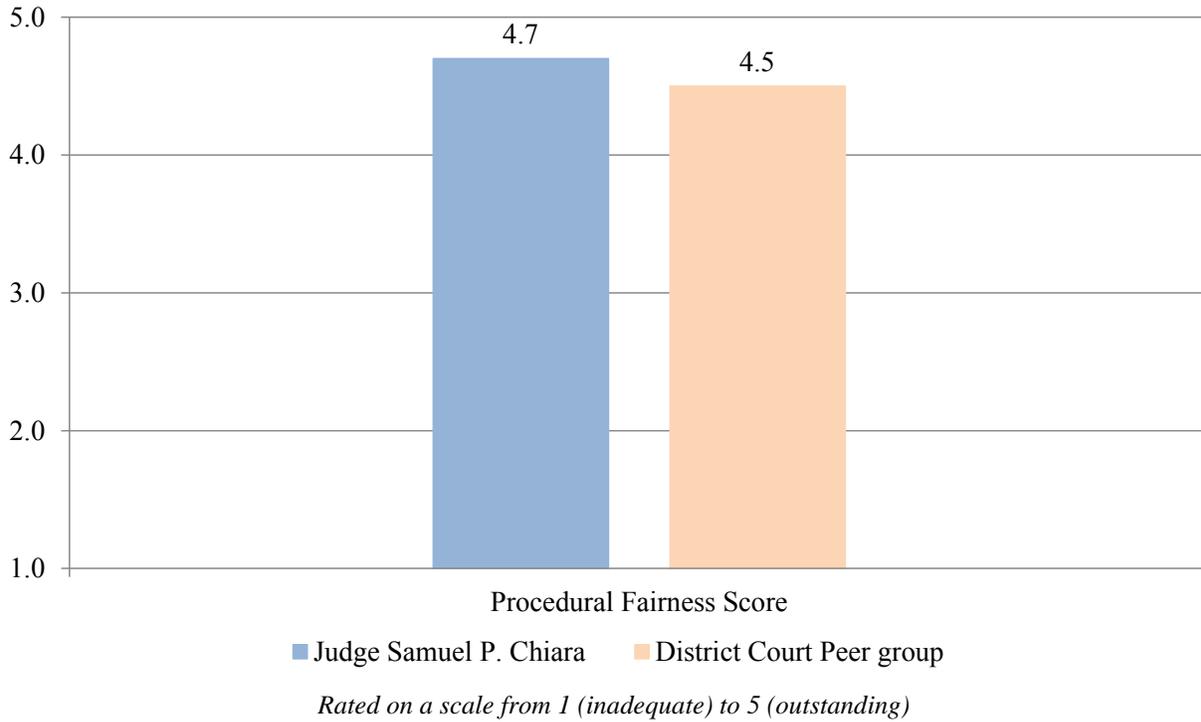
**Figure B. Statutory Category Scores**



*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 Samuel P. Chiara
Procedural Fairness	Pass

## E. Responses to Individual Survey Questions

**Table B. Responses to Survey Questions**

Category	Question	Judge Samuel P. Chiara	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.	4.4	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.4	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.4	4.2
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	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.4	4.2
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.6	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.7	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.5	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.5	4.4
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)*

**Table C. Responses to Survey Questions (continued)**

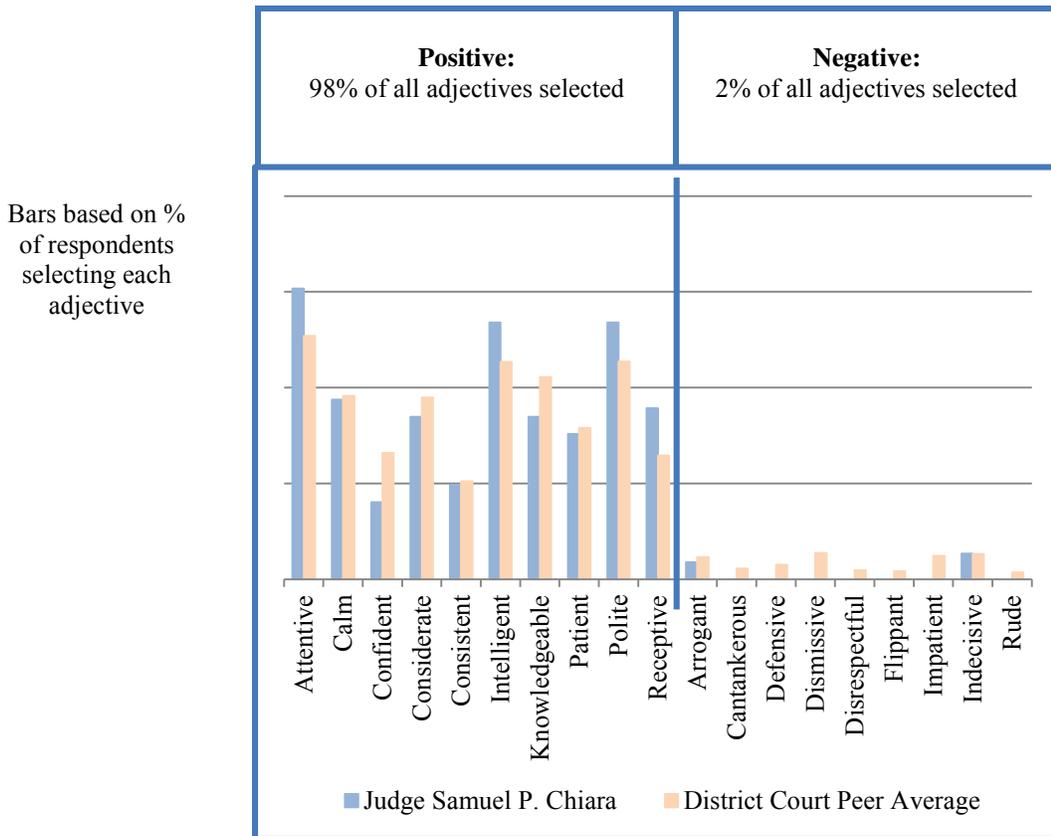
<b>Category</b>	<b>Question</b>	<b>Judge Samuel P. Chiara</b>	<b>District Court</b>
Administrative Skills	The judge is prepared for court proceedings.	4.5	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.6
Administrative Skills	The judge is an effective manager.	4.5	4.5
Administrative Skills	The judge convenes court without undue delay.	4.6	4.6
Administrative Skills	The judge rules in a timely fashion.	4.5	4.5
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.	4.4	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.6
Procedural Fairness	The judge is fair and impartial.	4.6	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.6	4.4

*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	2%
Domestic	32%
Criminal	38%
Civil	64%
Other	6%

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	64%
6 - 10	17%
11 - 15	6%
16 - 20	-
More than 20	13%

## Survey Background and Methods

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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 SAMUEL CHIARA

Four observers wrote 77 codable units that were relevant to 13 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, one observer reported that the judge was not aware, and two did not know if the judge was aware.

### Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> <li>All observers were enthusiastically positive about Judge Chiara.</li> <li>All observers reported that they would feel comfortable appearing before Judge Chiara.</li> </ul>
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> <li>All observers variously reported that Judge Chiara was well-prepared, started on time, ran the courtroom in an efficient, orderly manner, and apologized considerably for any delays. He acknowledged and greeted participants, usually by name, and concluded cases cordially with thanks and encouragement. He spoke clearly using understandable terms, and his demeanor was pleasant, gracious, polite, and calm and relaxed as well as professional. Judge Chiara was consistent and even-handed with all regardless of the severity of the crime. He operated methodically at a leisurely pace without rushing, and he tirelessly repeated and re-explained defendants' rights until he was assured they understood. He gave specific and sufficient information about charges and the reasons for his decisions.</li> <li>All observers particularly emphasized that Judge Chiara cared about the people in his court. He repeatedly reiterated his intention to assist defendants in being better citizens and make better choices. Observers provided many illustrations of Judge Chiara's efforts to understand defendants' thinking and to listen to and consider all parties' perspectives before making his decisions. He always asked defendants if they had anything to say about matters that affected them.</li> </ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> <li>None</li> </ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> <li>One observer felt that Judge Chiara should have asked the prosecutor and staff to behave in a more professional manner by not engaging in unnecessarily distracting and inappropriate gossip, jokes, and humorous story-telling</li> </ul>

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

<i>RESPECT</i>	
Listening & focus	One observer reported that Judge Chiara <i>treated everyone with the utmost attention to detail.</i>
Well-prepared & efficient	Two observers reported that Judge Chiara was <i>well prepared for all cases</i> and <i>did not have difficulty locating information</i> when needed.
Respect for others' time	Two observers reported that Judge Chiara <i>started on time</i> . When a <i>court date was changed</i> he asked the attorney what time would work <i>so that the defendant did not have to stand around waiting</i> . He told a defendant, " <i>You have been very patient. I apologize for keeping you waiting. Would it help if you read it in Spanish?</i> " When the man nodded Judge Chiara <i>instructed the bailiff to provide the sheet in Spanish and proceeded with other matters</i> while the man read in Spanish.

Courtesy, politeness, and general demeanor	<p>All observers reported that Judge Chiara <i>greeted everyone first thing and then got right down to business</i>. He <i>greeted each person on a first and last name basis, acknowledging most with, “Good Morning.”</i> He <i>consistently asked at the conclusion, “Is there anything else?”</i> or, <i>“Thank you for coming today. You are excused. Good luck, keep working hard,”</i> and he made one defendant’s day when he concluded, <i>“Congratulations, I see good results. The case is dismissed. Thank you.”</i> However, one observer noted <i>inconsistencies</i> when the judge introduced <i>some defendants by name only, others by their case number and still others were not acknowledged at all.</i></p> <p>Judge Chiara’s demeanor was <i>pleasant, gracious, and polite</i> to all, with a <i>professional presence lending a feeling that he is knowledgeable and comfortable in his role</i>. He was <i>relaxed and even-tempered</i> which was <i>well-suited to the rural area</i>, and interactions with staff and attorneys were positive and exemplary. He was <i>calm and patient throughout</i>. When a defendant <i>needed more help than he was originally given</i> with a public defender application form, the judge <i>remained calm even though time was wasted</i>, and when individuals <i>needed more attention due to lack of understanding or a language barrier</i>, Judge Chiara <i>extended his patience with no frustration.</i></p>
Voice quality	One observer reported that Judge Chiara <i>spoke clearly in a soothing voice.</i>
Courtroom tone & atmosphere	<p>Three observers reported that the courtroom was <i>orderly, efficient, and smooth running</i>, the atmosphere was <i>relaxed</i>, and the attorneys and officers <i>spoke quietly with defendants.</i></p> <p>However, one observer commented that <i>some state prosecutors and staff engaged in unnecessarily immature, distracting and inappropriate gossip, humorous story-telling and jokes.</i> The observer felt that Judge Chiara should have asked them to <i>exhibit more professional deportment.</i></p>
<i>NEUTRALITY</i>	
Consistent and equal treatment	All observers reported that Judge Chiara was <i>even-handed</i> with all <i>regardless of race, gender, appearance or language</i> , and Judge Chiara was concerned with <i>simply getting to the bottom of the matter and finding the balance between justice and leniency.</i> He treated all participants with <i>consistent professionalism</i> , regardless of the severity of crime or his decision. He <i>consistently offered to convert fines to community service</i> for those in <i>financial straits.</i>
Demonstrates concern for individual needs	<p>All observers reported that Judge Chiara <i>cared about the people</i> in his court, and his <i>manner of handling cases</i> was to <i>deliver the best fit</i> for each defendant’s <i>need</i>. He <i>repeatedly</i> told defendants that his <i>intention was to assist them in being better citizens and making better choices</i>, and <i>reiterated his desire not to punish but to rehabilitate defendants.</i></p> <p>He <i>tried to understand all perspectives</i> and <i>paid extreme attention</i>. He <i>did all in his power</i> to try to persuade an unrepresented young woman not to plead guilty to multiple charges that could result in <i>one to 15 years</i> in prison, but she insisted, and when she was <i>taken away he watched her leave for a minute before turning back to other business</i>, and the observer thought the judge was <i>hoping she would change her mind</i>. In a violation of parole of a child rapist who had been <i>clean for a year</i>, but was now charged with <i>shoplifting</i>, the judge went to <i>great lengths</i> to try to <i>understand the young man’s thinking</i>—he had two bachelor’s degrees and a good job—by <i>studying prior files</i> and hearing <i>at length</i> from attorneys, parents, and the defendant before the judge, after <i>much deliberation</i> and looking <i>pained</i>, returned him to prison to complete his original sentence.</p>
Unhurried and careful	Three observers reported that Judge Chiara was <i>methodical, operated at a leisurely pace</i> , and <i>never rushed</i> . He <i>took the time himself to extract details</i> on cases where necessary, and <i>behaved as though all defendants were important in their own time</i> . On one occasion he <i>waited three to four minutes</i> for an attorney to <i>research papers in front of him</i> before responding to a question regarding a new warrant on a person.

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VOICE

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Considered voice	<p>Two observers reported that Judge Chiara listened to, considered, and acted on the input of all parties, and he always asked if affected defendants had anything to say. He <i>repeatedly asked for recommendations</i> from the state, then discussed them with staff members to <i>clarify why they were being put forth</i>, and then <i>reviewed the impact of accepting each recommendation with the defendant who would be impacted</i>. When the prosecution outlined a case, the defendant was also <i>asked his side</i>. When the judge worked out a deal with the attorneys, he would <i>clarify it with the defendant and ask if that was the deal they want to make</i>, letting them know <i>the possible outcomes in an exemplary manner</i>. He allowed unrepresented defendants to <i>explain their situation</i> and ask <i>all the questions they had</i>. After initially denying a request for a court appointed attorney because <i>he knew tribal customs and that she was receiving sufficient funds to contract her own attorney</i>, he provided a sheet to <i>fill out her income and expenses</i> and then <i>reversed his position</i>, saying, <i>“I reviewed your sheet. Your rent and bills consume all your money. I will appoint a legal defender.”</i></p> <p>One observer was <i>particularly impressed</i> when Judge Chiara took time to listen to a young man who returned shortly after his case was completed to ask if his <i>court-ordered counseling expenses</i> could be <i>credited to his fines</i>, and after <i>listening and considering</i> the judge allowed half to be credited, and the <i>young man left apparently gratified by a judge who listened to his plea</i>.</p>
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COMMUNICATION

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Communicates clearly	<p>One observer reported that Judge Chiara <i>explained all of his decisions with common, understandable terms</i>.</p>
Ensures information understood	<p>All observers reported that Judge Chiara <i>patiently ensured that defendants had read and understood their rights</i>, and <i>tirelessly repeated, re-explained, and calmly reassured</i> them until it was <i>clear everyone understood</i>. He <i>repeatedly asked defendants if they understood what was happening</i> when <i>determining their financial qualifications for court-appointed counsel and then assigning a lawyer to those who did qualify</i>. He <i>followed up his instructions</i> to defendants with a <i>question as to whether they fully understood what was being discussed</i>.</p>
Provides adequate explanations	<p>Three observers reported that Judge Chiara gave <i>specific and sufficient information</i>. He was <i>careful to explain constitutional rights and took time to explain to a defendant the decision he had come to while talking with the attorneys</i>. He explained <i>how he had come to a decision in a plea in abeyance case that had developed new charges</i>. He <i>did not hesitate to explain to a defendant that his charge was enhanceable, what this meant, and what it would mean to any future appearances if the defendant should plead guilty</i>. He explained <i>why he was imposing community service and then described the process to bring about completion, including directions where to go to set it up</i>.</p>

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