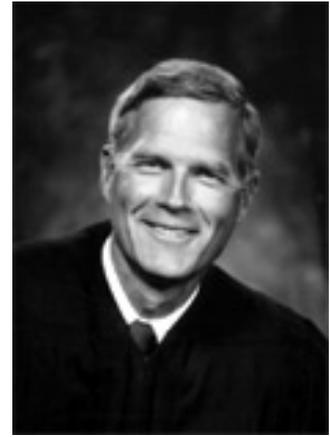


Honorable Paul D. Lyman – Juvenile Court Judge

Serving Garfield, Kane, Piute, Sanpete, Sevier, and Wayne counties



Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

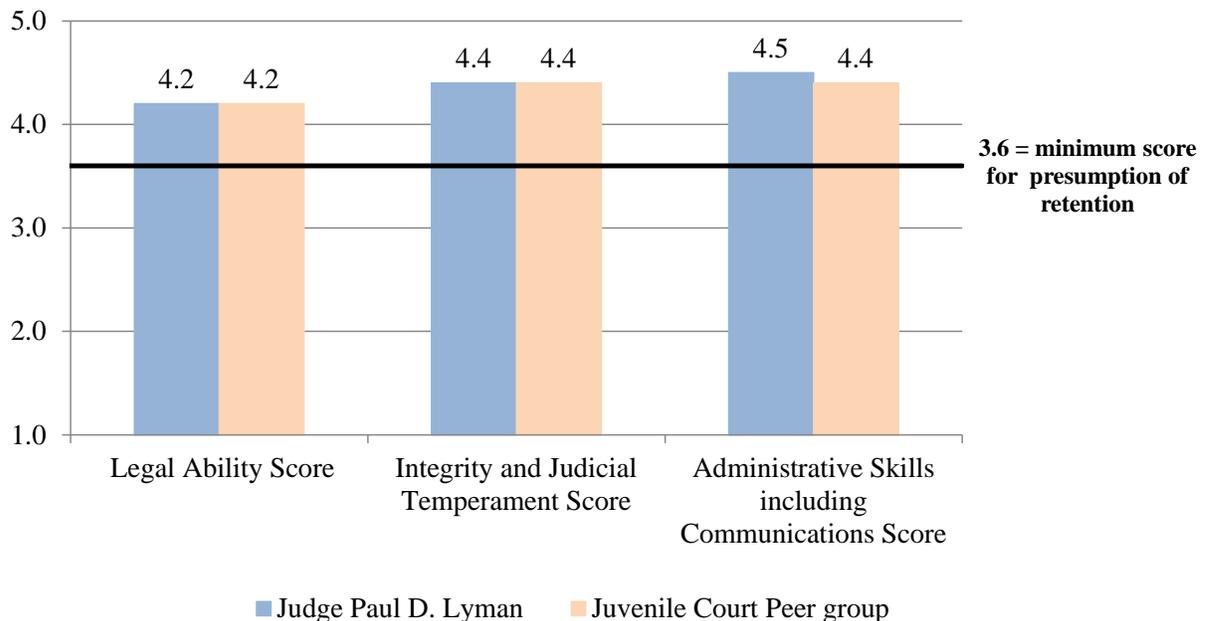
Appointed to the bench in 2000, Judge Paul Lyman scores consistent with the average of his juvenile court peers in all survey categories. Survey respondents characterize him as a confident, intelligent, and knowledgeable judge who conducts court in a business-like manner. They note that he communicates well with the young offenders who appear before him.

Courtroom observers report that Judge Lyman manages his courtroom calendar effectively and shows skill in encouraging juveniles to explain and take responsibility for their behavior. Observers characterize his “tell-it-like-it-is” approach as tough, but note that he is not rude or harsh and appears truly interested in the well-being of each juvenile. All observers state they would feel comfortable appearing before him. Of 41 survey respondents answering the retention question, 39 (93%) recommend that Judge Lyman be retained.

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

Judge Paul D. Lyman was appointed to the Sixth District Juvenile Court in 2000 by Gov. Michael O. Leavitt. He earned a law degree from the University of Chicago Law School in 1979. Prior to his appointment to the bench, Judge Lyman maintained a private law practice and also served as part-time Deputy Sevier County Attorney, Wayne County Attorney, and Salina City Attorney. Prior to that, he served in the United States Air Force from 1980 to 1985, achieving the rank of Captain. Judge Lyman was elected Mayor of Richfield from 1994 to 1998 and was on the Richfield City Council from 1989 to 1994. He has served on the Board of Juvenile Court Judges, including two terms as Board chair.

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



The Honorable Paul D. Lyman

Judicial Performance Evaluation Commission Report

Retention 2016

Table of Contents

I. Survey Report

Survey Results	1
A. How to Read the Results	1
B. Retention Question	2
C. Statutory Category Scores	3
D. Procedural Fairness Score	4
E. Responses to Individual Survey Questions	5
F. Adjective Question Summary	7
G. Attorney Demographics	8
Survey Background and Methods	9
A. Survey Overview	9
B. Evaluation Period	10

II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Paul D. Lyman, 54% of qualified survey respondents submitted surveys. Of those who responded, 43 agreed they had worked with Judge Paul D. Lyman enough to evaluate his performance. This report reflects these 43 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 "Juvenile 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.

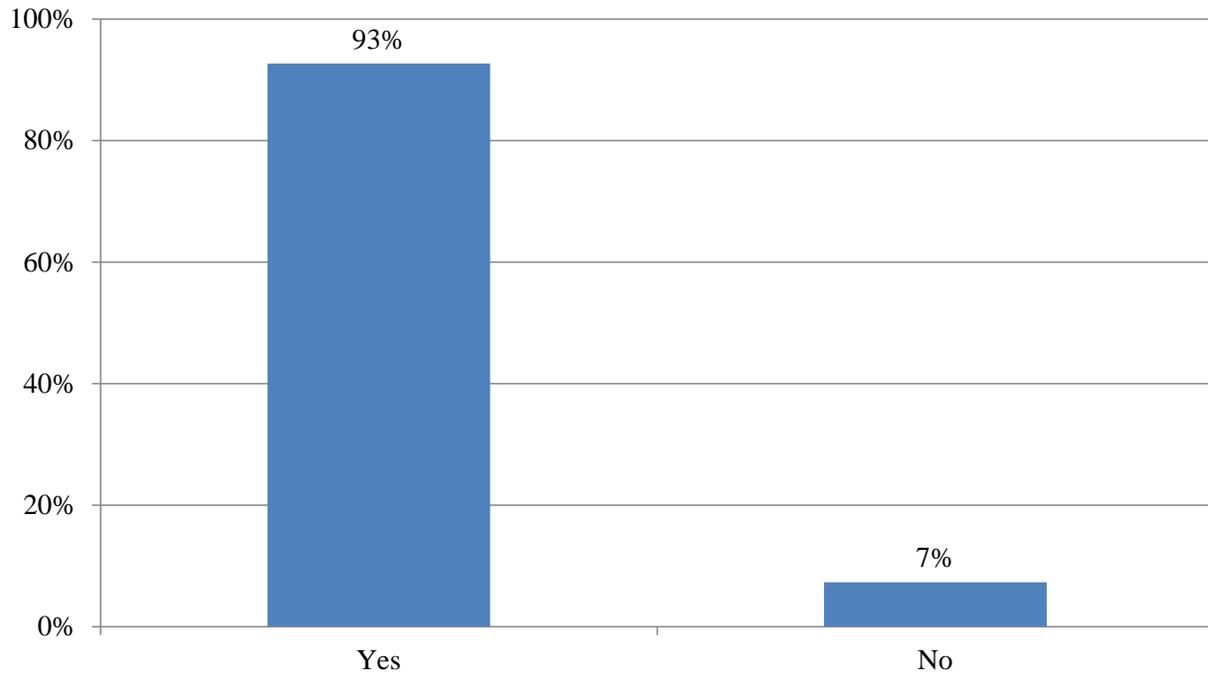
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

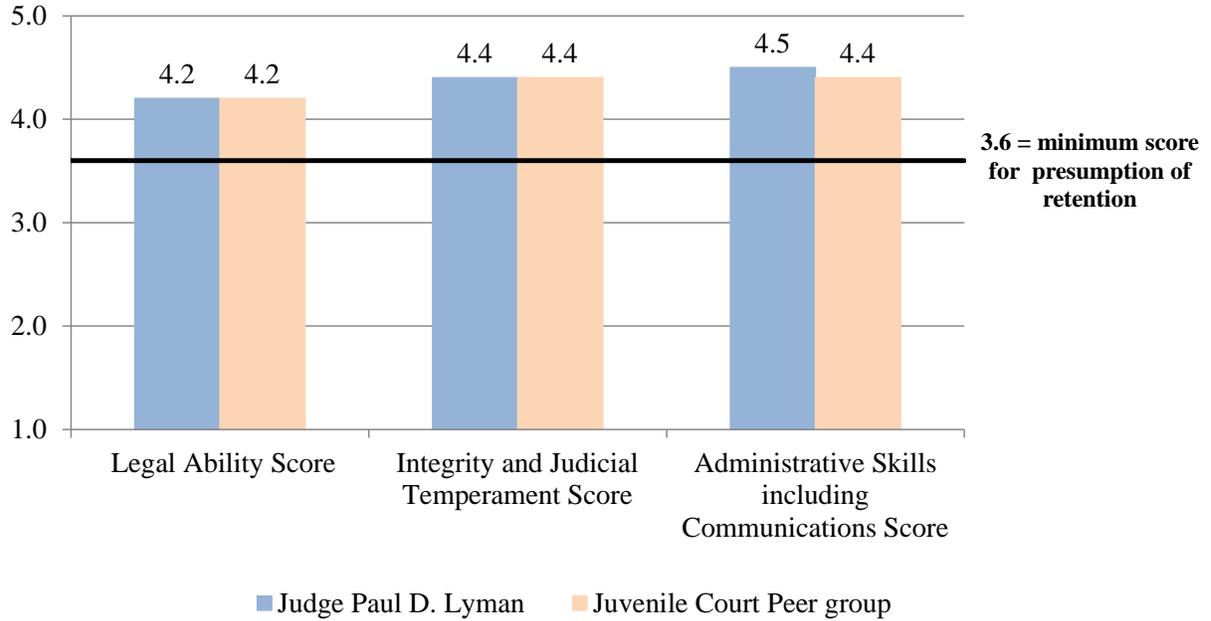
B. Retention Question

Figure A. Would you recommend that Judge Paul D. Lyman be retained?



C. Statutory Category Scores

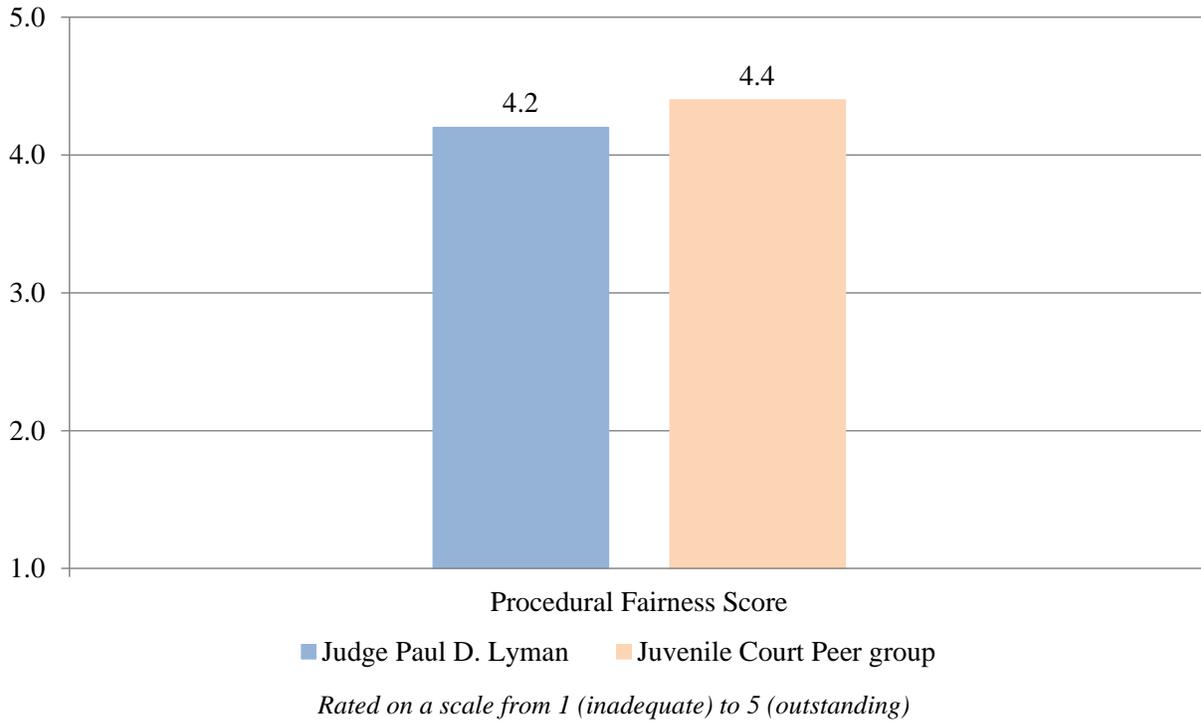
Figure B. Statutory Category Scores



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 Paul D. Lyman
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Paul D. Lyman	Juvenile 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.	4.2	4.3
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.2	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.2	4.2
Legal Ability	The judge only considers evidence in the record.	4.2	4.1
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.3	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.4	4.3
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.5	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.0	4.4
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	4.7

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

Table C. Responses to Survey Questions (continued)

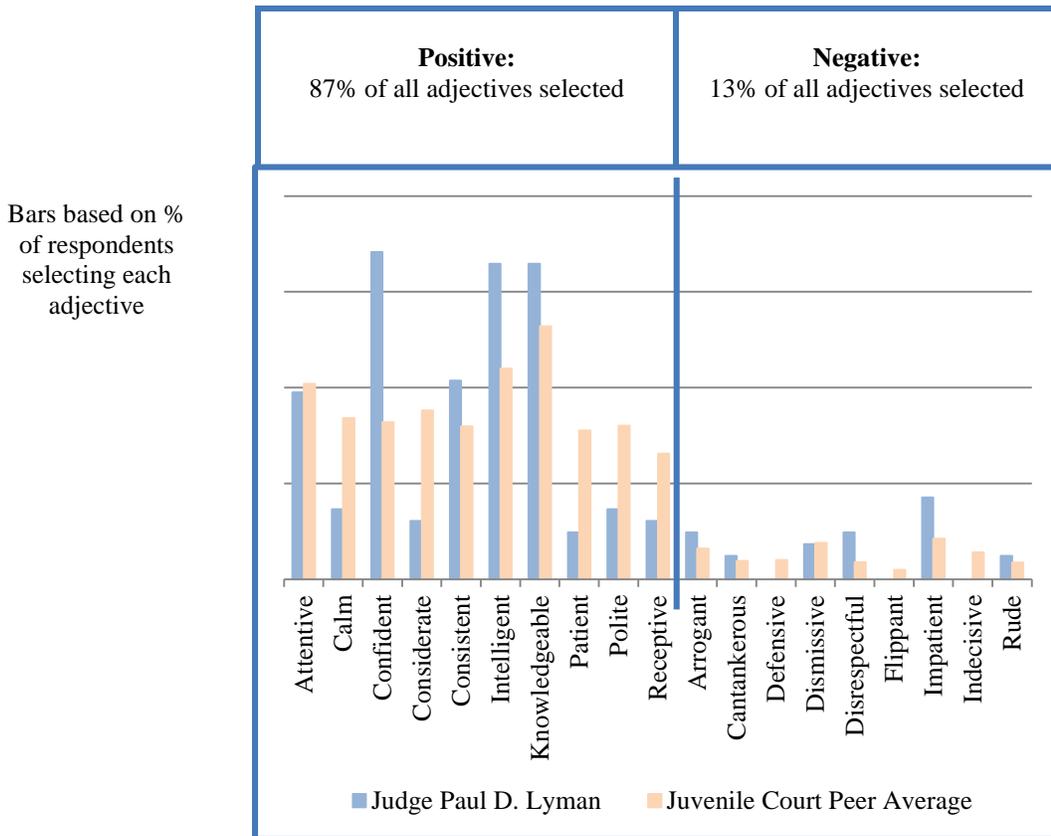
Category	Question	Judge Paul D. Lyman	Juvenile Court
Administrative Skills	The judge is prepared for court proceedings.	4.6	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.2	4.5
Administrative Skills	The judge is an effective manager.	4.6	4.4
Administrative Skills	The judge convenes court without undue delay.	4.5	4.3
Administrative Skills	The judge rules in a timely fashion.	4.6	4.6
Administrative Skills	The judge maintains diligent work habits.	4.7	4.6
Administrative Skills	The judge's oral communications are clear.	4.6	4.6
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.6	4.6
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.2	4.5
Procedural Fairness	The judge is fair and impartial.	4.3	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.2	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.3	4.6

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	-
Domestic	64%
Criminal	57%
Civil	43%
Other	21%

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	21%
6 - 10	29%
11 - 15	14%
16 - 20	-
More than 20	36%

Survey Background and Methods

This report presents the results from the 2015 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with the judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated time period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups: those with one or more trial appearances, those with three or more non-trial appearances, and those with one to two non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Governor, Chief Justice, President of the Senate, and Speaker of the House, requesting participation in the survey. Next, an email invitation, signed by JPEC's Executive Director and the Utah State Bar President, contains links to all the individual surveys each respondent is invited to complete. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by two additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, that survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

B. Evaluation Period

The retention evaluation period for judges standing for election in 2016 began on January 1, 2014 and ended on June 30, 2015.

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE PAUL LYMAN

Five observers wrote 106 codable units that were relevant to 13 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, and four did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> All observers were positive about Judge Lyman. All observers reported that they would feel comfortable appearing before Judge Lyman.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers variously reported that Judge Lyman listened carefully, started on time, and followed the calendar efficiently at a pace that reflected his advanced preparation. He introduced juveniles by name and instructed them to stand and pay attention throughout the proceedings. He was professional, displayed sound judgment, and his body language was calm and matter of fact, leaning forward with good eye contact. He was consistent in his questioning, and one observer was impressed by his unbiased treatment of defendants in a horrific case of child abuse. He used language appropriate for teenagers or young children, did what he could to ensure that juveniles or at least their parents were comprehending, and clearly explained court processes, defendants' rights, and how he made his decisions. All observers described at length Judge Lyman's strictly business style of "telling it like it is," his often scolding and warning tone, and his very frequent use of the word "stupid" to describe juveniles' behavior but never the juveniles themselves. Observers felt his tough approach was not the gentlest, but he was never rude, harsh, or intolerant, and the juveniles never recoiled or appeared scared. He was truly interested in juveniles' well-being, tailored his style to their specific needs, and displayed much wisdom in his decisions, which were intended to change their behavior in their best interests rather than to punish (see "Courtesy, politeness, and general demeanor" and "Demonstrates concern for individual needs"). All observers emphasized Judge Layman's skill in encouraging and requiring juveniles to respond to questions and explain and take responsibility for their behavior. He gave parents, grandparents, and attorneys the opportunity to speak and to participate in making recommendations, and he listened to and considered their input (see "Considered voice").
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> Two observers noted that when the state attorney spoke, Judge Lyman did not look at her but focused on his computer, and it was difficult to tell if he was focused on what she was saying (see "Body Language").
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> One observer noted that Judge Lyman's side conversations could be heard through the microphone and suggested that it would be a good idea to only have his microphone on when appropriate (see "Courtroom tone & atmosphere").

Summary and *exemplar language* of five observers' comments

<i>RESPECT</i>	
Listening & focus	One observer reported that Judge Lyman <i>listened carefully to responses from defendants and their families.</i>
Well-prepared & efficient	Three observers reported that Judge Lyman was <i>very knowledgeable about the community and where the kids had jobs after school.</i> He followed the <i>calendar efficiently and proceedings flowed smoothly.</i> The <i>pace of the cases reflected his advanced preparation and knowledge of the process.</i>
Respect for others' time	Two observers reported that court <i>started promptly at the scheduled time,</i> and on one occasion when the judge had to <i>return home to retrieve his computer</i> he explained and apologized for starting <i>10 minutes late.</i> When a participant <i>was late</i> or people <i>needed to confer with their attorney,</i> Judge Lyman was able to <i>quickly shuffle cases to keep things moving.</i>

Courtesy, politeness, and general demeanor	<p>All observers reported that Judge Lyman <i>started each case by reading the name of the juvenile and instructing them to “remain standing throughout the hearing and listen and pay attention to the proceedings.”</i> He was <i>professional</i>, could deal with <i>all ranges of emotional issues</i>, exhibited <i>sound judgment</i>, and did not get frustrated with the inevitable disruptions to the flow of cases but <i>seemed to roll with it</i>. There was <i>little humor</i> in the courtroom, but he had a sense of humor and <i>at times suitably lightened up the atmosphere</i> without directing it toward anyone or any case.</p> <p>Observers reported at length on Judge Lyman’s consistent style, which one observer described as <i>telling it like it is</i>. He approached defendants in a <i>strictly business manner with toughness</i> and an <i>often scolding and warning tone to drive the urgency of his message home</i>. One observer compared appearing before Judge Lyman to being told to <i>present to the principal in school</i>, and while no defendants <i>appeared scared</i>, the observer wondered if she might feel <i>scared to fully participate for fear of saying the “wrong” thing</i>. Another observer noted that no juveniles recoiled at his style which was never <i>rude, harsh, or intolerant</i>. Judge Lyman <i>used the word “stupid” a lot, but never called the defendants stupid, only their actions</i>, saying for example, <i>“Your mom is your biggest fan. Don’t disappoint her again. That was stupid,”</i> or, <i>“This is stupid, stupid! You are not stupid but what you did was stupid!”</i> After <i>working through a juvenile’s reasoning</i> and giving her <i>sound advice</i> he ended, <i>“You are a good kid that did a stupid thing.”</i></p>
Body language	<p>All observers reported that Judge Lyman’s body language was <i>calm and matter of fact</i> and <i>consistent with his message</i>. He maintained <i>forward posture</i> and <i>good eye contact</i> with juveniles and parents, <i>giving the impression of being engaged with that person</i>.</p> <p>However, two observers noted that while the state attorney was speaking, the judge <i>focused on the computer and only looked in her direction toward the end of her remarks</i>. One observer felt it was <i>difficult to tell whether he was focusing on what she was saying or not</i>, and the other felt <i>he was paying careful attention and following what was being said while checking his information</i>.</p>
Courtroom tone & atmosphere	<p>One observer reported that the <i>side discussions between attorneys and clients and amongst court employees were discreet and not distracting</i>, but Judge Lyman’s <i>side conversations can occasionally be heard through the microphone</i>, and so <i>it would be a good idea to only have his microphone on during the appropriate times</i>.</p>

NEUTRALITY

Consistent and equal treatment	<p>Two observers reported that Judge Lyman was consistent with a group of juveniles <i>involved in the same wrongdoing</i>. He presented them their <i>identical rights</i>, asked <i>similar questions</i> such as <i>“Tell me what you did,”</i> and, <i>“Why didn’t you get out of the car?”</i> and the <i>different responses allowed him to personalize counsel to the different individuals</i>. He was very consistent in repeating a favorite saying throughout the day, <i>“This is a case of ‘stupid’ turned criminal.”</i></p> <p>One observer was impressed with Judge Lyman’s <i>unbiased and neutral</i> treatment of the parents in a case which he managed in a <i>straightforward way without unnecessary courtroom discussions or details</i>, and that the observer read in the following day’s newspaper concerned a <i>horrific case of child abuse to a 6 week old baby involving the man</i>.</p>
Demonstrates concern for individual needs	<p>All observers reported that Judge Lyman was <i>involved with each case and truly interested in the well being of the juveniles and their future</i>. The cases were <i>back to back</i>, and he was as <i>fresh and personal in the sixth case as the first</i>. He <i>tailored his style and treatment of defendants to meet their specific needs</i>. While his approach was <i>not the gentlest</i>, he wanted to <i>impress the youth with the need to make changes, to motivate them to take advantage of opportunities available</i>, and his decisions were <i>not made for punishment but as part of a plan to help readjust actions</i>. He attempted to give juveniles as much responsibility as possible for their <i>“stupid” behavior</i>, and <i>tried diligently to get defendants to understand that their past behavior was not only unnecessary but also not in their best interests</i>. His concern went beyond producing simple court orders to follow, for example, when <i>emphasizing the need for showing up on time in the real world the judge described a construction job he once had as a young man and how well it paid but he kept it largely because he showed up early as a sign of enthusiasm and dependability</i>.</p>

Demonstrates concern for individual needs <i>continued</i>	Observers provided many examples in which Judge Lyman <i>displayed much wisdom</i> . He ensured that <i>first time offenders would not be rubbing shoulders with more experienced offenders</i> when doing community service. He gave juveniles <i>another chance</i> even when he <i>did not particularly believe</i> their explanations for their non-compliance. When a juvenile attempted suicide in a treatment facility, the judge <i>had some words</i> for the DCFS representative for <i>sending a child with relatively minor charges to the criminal side of the aisle</i> , telling the juvenile <i>on the phone from the hospital</i> , “ <i>I’m not giving up on you, I think you were doing fine until you ran into an unexpected transfer, but don’t give up on this. Hang in there and we will get you well again.</i> ”
Unhurried and careful	One observer reported that Judge Lyman was <i>careful and would not skip over things for the sake of saving time</i> . He <i>would not allow an order to be developed without the victim being present</i> .

VOICE

Considered voice	<p>All observers reported that Judge Lyman with <i>considerable skill allowed and encouraged</i> each party, including <i>parents, grandparents and those waiting in the gallery</i>, to <i>provide input and speak their thoughts, without interrupting them</i>, asking for example, “<i>Do you have a comment to make about my recommendations?</i>” He <i>spent a great deal of time interviewing juveniles on each charge</i> and asked <i>whether there was any explanation they wanted to provide</i>, and the judge then <i>commented on these explanations</i>. Juveniles who <i>nodded their head and looked down</i> were <i>not acceptable</i>, and he <i>compelled them to respond and assume responsibility for their behavior</i>. When a young man responded, “<i>I don’t know,</i>” Judge Lyman replied, “<i>I don’t know is what you tell your parents. I am not your parent!</i>” When a juvenile’s mother interrupted Judge Lyman and <i>started to justify her son’s behavior</i>, the judge <i>in turn interrupted</i>, saying, “<i>I am not talking to you!</i>” and when he had <i>concluded speaking to the young man he gave the mother opportunity to speak and the mother realized making excuses for her son was not the best approach</i>. He offered a family an <i>opportunity to discuss their recommendations for a viable plan to change their son’s behavior</i>. He <i>listened to participants’ explanations and the legal representative’s input and allowed some back and forth so he would understand the juvenile’s perspective</i>. He considered attorneys’ recommendations, in one case saying, “<i>I will do exactly as recommended by defense.</i>”</p> <p>One observer noted that <i>only about 25% of the kids had any comments</i> and suggested that <i>more detailed follow-up questions</i> might help participants <i>expand on what they said or open up more</i>.</p>
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Lyman <i>clearly explained findings using language appropriate for teenagers</i> . With <i>young children he presented information at their level of understanding</i> .
Ensures information understood	Four observers reported that Judge Lyman <i>did what he could</i> to have juveniles <i>understand at their level</i> , asking <i>if they understand what was said and ensuring they understood their rights</i> . He <i>asked the parents of an 11 year old</i> , “ <i>I am not sure he is picking everything up,</i> ” and <i>made certain the parents were comprehending</i> . He explained in <i>simple and blunt terms the path that the custody was going to a mumbling and gesticulating custodial parent with drug abuse issues</i> , so she <i>could understand the position she was in</i> . He <i>used an evocative analogy of chickens being chased by a dog in which some of the chickens hide in the barn but only hide their heads between the bales of hay, to ensure a boy got the point about ditching welding class by spending too much time in the bathroom or wearing shorts</i> , and the observer felt that <i>people remember images like this</i> .
Provides adequate explanations	Three observers reported that Judge Lyman was <i>very good at explaining the processes to the juveniles and parents</i> , on occasion <i>summarizing complex dispositions in a simple chronological order</i> which then also became clear to the observer who was <i>initially confused</i> . He was <i>very clear when explaining rights, carefully stating in a believable manner that if they chose not to speak he would not hold it against them</i> . He was <i>very clear about how and why he made his decisions, explained exactly what was required to document their service, and warning some that he could put them out in the hot sun in work crews if they did not get their service done</i> .