

## **Honorable Vernice S. Trease – District Court Judge**

Serving Salt Lake, Summit, and Tooele counties



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

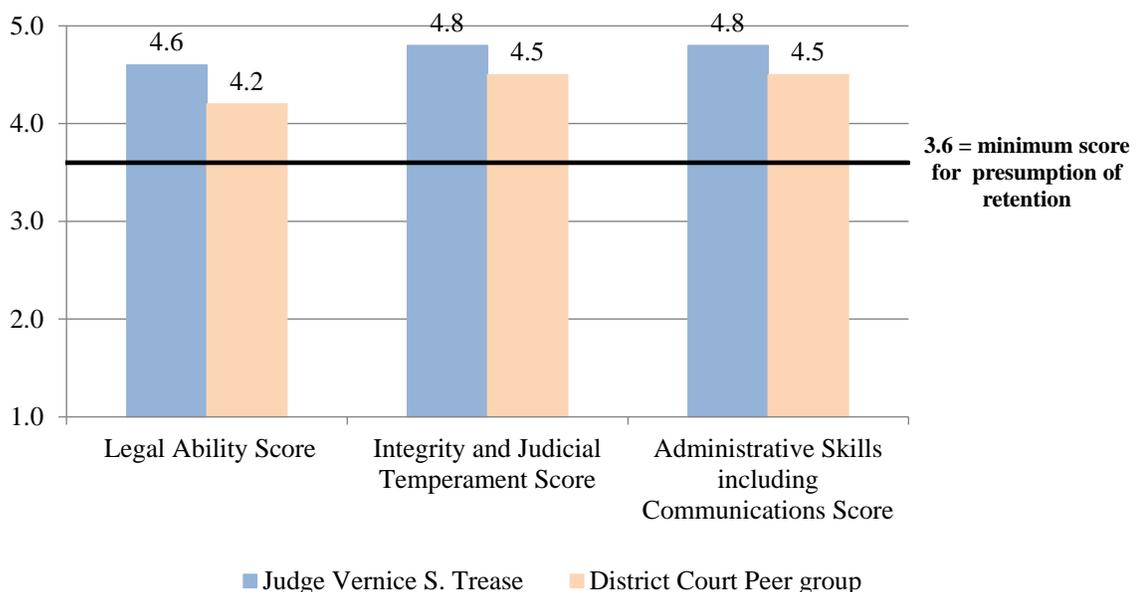
(vote count: 12-0 for retention)

Appointed to the bench in 2006, Judge Vernice Trease receives outstanding evaluations from survey respondents, earning scores well above the average of her district court peers in all survey categories. Many survey respondents describe her as one of the best judges before whom they've appeared. They view her as exceptionally knowledgeable and note that she is a well-prepared, confident, hard-working judge, respectful of everyone who appears before her and fair to all. From a list, survey respondents choose 96% positive words to describe her. Courtroom observers view Judge Trease positively, reporting that she listens carefully and remains calm and undistracted by her busy and chaotic courtroom. All observers say they would feel comfortable appearing before her. Of survey respondents answering the retention question, 94% recommend retention for Judge Trease.

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

Judge Vernice S. Trease was appointed to the Third District Court in 2006 by Gov. Jon M. Huntsman, Jr. Judge Trease graduated with a B.A. from Lewis and Clark College and a Juris Doctorate from the University of Utah College of Law. Prior to her appointment, Judge Trease practiced law with the Salt Lake Legal Defender Association. She has received the UMBA Community Service Award and the 2012 Woman Lawyer of the Year Award. Judge Trease has served on various committees including the Domestic and Sexual Violence Justice Planning Group, and Language Access Committee. She currently serves on Advisory Committees on the Rules of Criminal Procedure, Rules of Professional Conduct, Task Force on Indigency Representation, and Sentencing Commission. Judge Trease presides over a Mental Health Court.

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



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# **The Honorable Vernice S. Trease**

**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 Vernice S. Trease, 50% of qualified survey respondents submitted surveys. Of those who responded, 116 agreed they had worked with Judge Vernice S. Trease enough to evaluate her performance. This report reflects these 116 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.

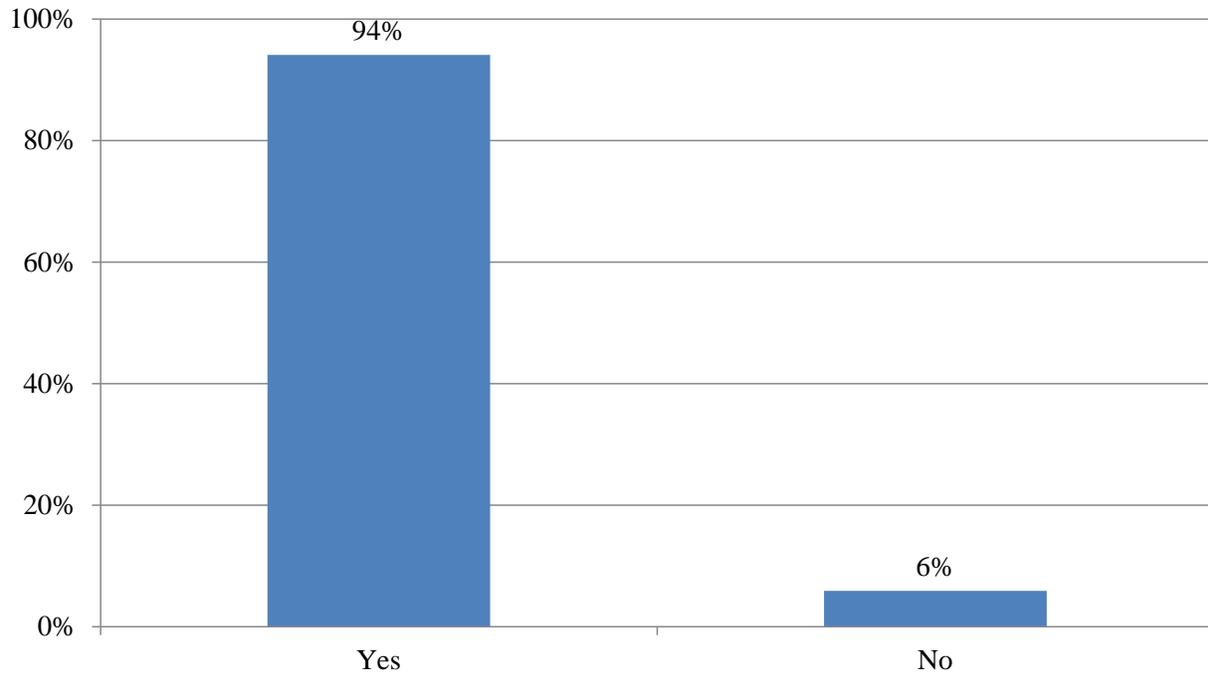
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

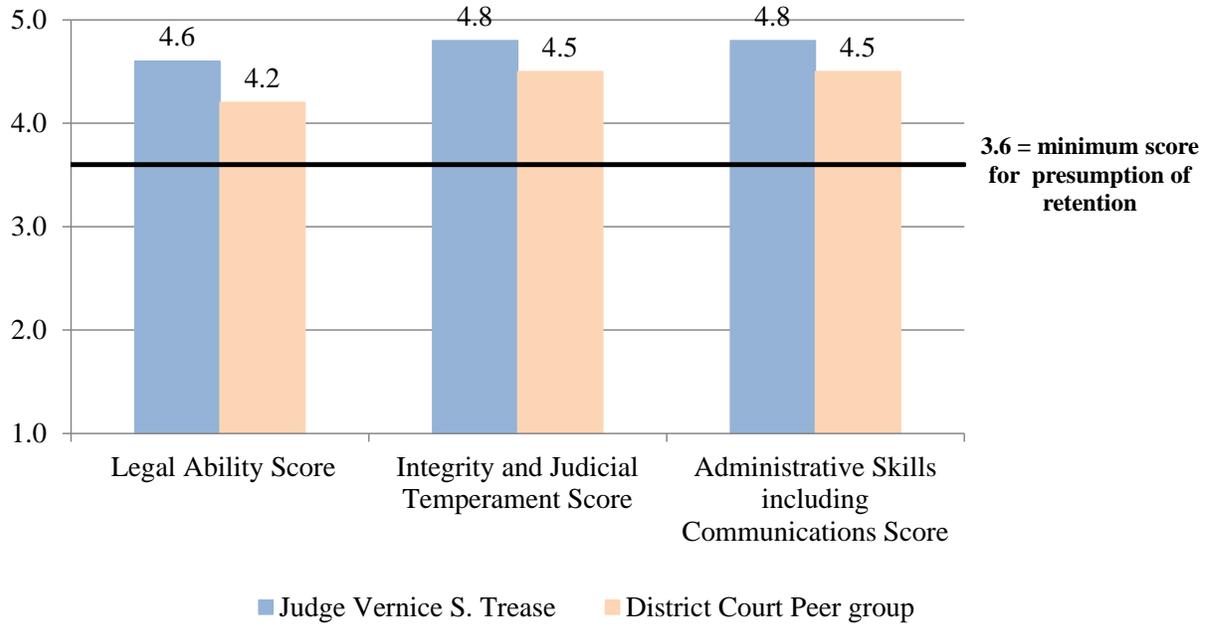
## B. Retention Question

**Figure A. Would you recommend that Judge Vernice S. Trease be retained?**



## C. Statutory Category Scores

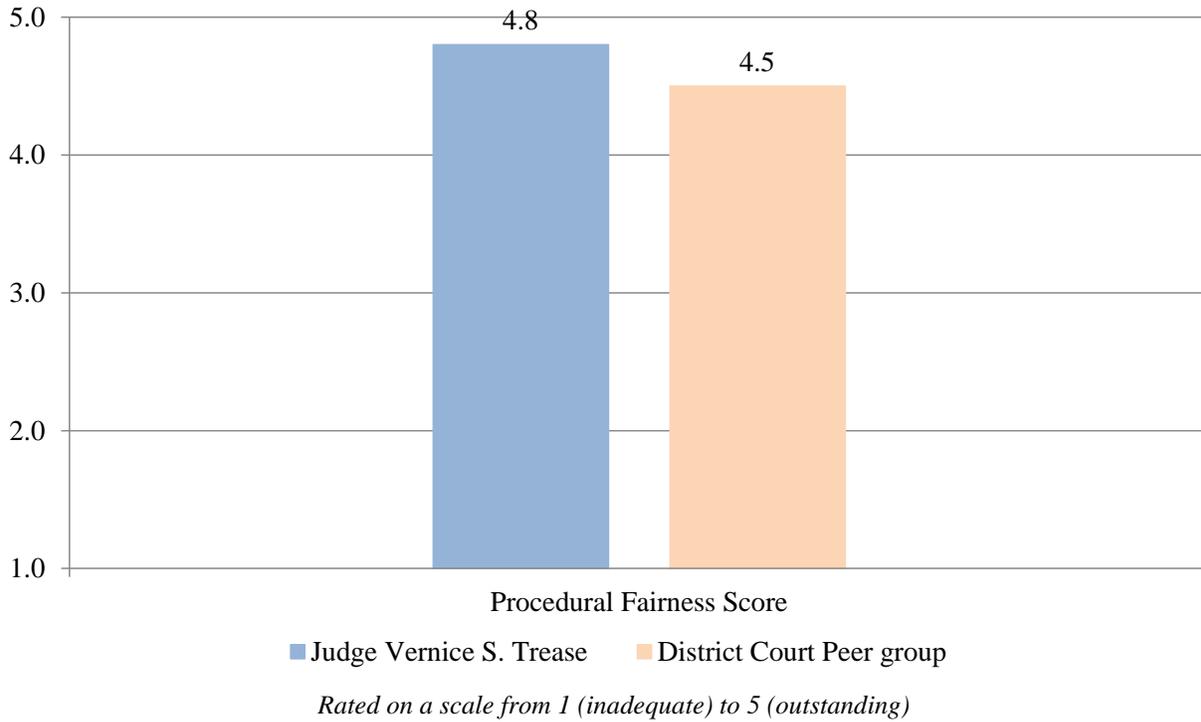
**Figure B. Statutory Category Scores**



*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 Vernice S. Trease
Procedural Fairness	Pass

## E. Responses to Individual Survey Questions

**Table B. Responses to Survey Questions**

Category	Question	Judge Vernice S. Trease	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.	4.6	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.6	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.6	4.2
Legal Ability	The judge only considers evidence in the record.	4.6	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.6	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.7	4.2
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.8	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.6
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.	4.7	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.	4.8	4.6

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

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

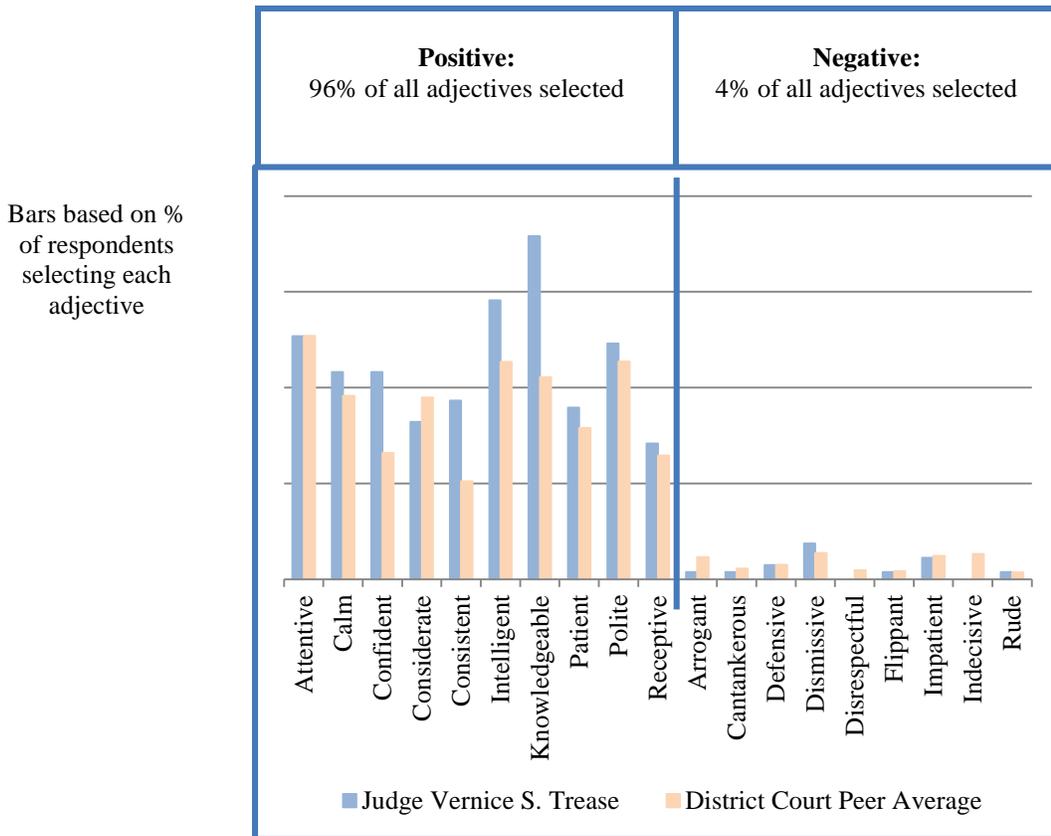
<b>Category</b>	<b>Question</b>	<b>Judge Vernice S. Trease</b>	<b>District Court</b>
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.8	4.6
Administrative Skills	The judge is an effective manager.	4.8	4.5
Administrative Skills	The judge convenes court without undue delay.	4.8	4.6
Administrative Skills	The judge rules in a timely fashion.	4.7	4.5
Administrative Skills	The judge maintains diligent work habits.	4.7	4.5
Administrative Skills	The judge's oral communications are clear.	4.8	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.8	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.	4.7	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.8	4.5
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)*

## 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	7%
Criminal	79%
Civil	26%
Other	5%

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	33%
6 - 10	18%
11 - 15	13%
16 - 20	7%
More than 20	28%

## 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 VERNICE TREASE**

Four observers wrote 95 codable units that were relevant to all 15 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**

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OVERALL ASSESSMENT	<ul style="list-style-type: none"><li>• All observers were positive about Judge Trease. Observer A, while noting that the judge has the knowledge, temperament, and skill to do her job well, also expressed some reservations and suggestions in several areas (see “Anomalous comments”).</li><li>• All observers reported that they would feel comfortable appearing before Judge Trease.</li></ul>
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"><li>• All observers variously reported that Judge Trease listened carefully and remained calm and undistracted by the busy and chaotic court. She was prepared with all necessary information and displayed good knowledge of the law. She started promptly, informed the court of delays, and had good time management skills. She was patient and sensitive as well as stern and business-like, with a pleasant expression but without smiling, and she praised good compliance. She leaned forward with good eye contact, as well as roving the court and remaining aware of all activities in the courtroom. She showed concern and compassion as the law permitted and modified her behavior appropriately to each situation. She carefully considered each case without hurrying, gave participants the opportunity and sufficient time to tell their version of events, and showed that she considered what she heard, occasionally modifying her initial position. She repeatedly asked defendants if they understood their pleas and rights, and she helped them understand her decisions. She took time to explain the law and the reasons for her decisions.</li></ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"><li>• While two observers reported that the courtroom decorum was good, two observers were distracted by the noise and constant chatter of attorneys and wondered if other participants could follow the proceedings (see “Courtroom tone &amp; atmosphere”).</li><li>• While one observer reported that Judge Trease spoke slowly in simple language to an interpreter and checked that the interpreter and defendant understood what was going on, Observer A reported that in one case the judge spoke so quickly that the interpreter could only relay part of the conversation to the defendant (see “Ensures information understood”).</li></ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"><li>• Observer A suggested that Judge Trease expand use of her softer interpersonal skills to increase the sense of respect in the courtroom, such as adding pleasantries and human sentiment, maintaining eye contact, and speaking more slowly and loudly (see “Courtesy, politeness, and general demeanor,” “Body language,” “Voice quality,” “Demonstrates concern for individual needs”).</li><li>• Observer A suggested that Judge Trease acknowledge defendants after they speak and before she recites her sentence, in order that the defendant feels heard (see “Formal voice”).</li><li>• Observer A wondered if the unusually small role of the prosecutor created a perception of unspoken cooperation between judge and prosecution, but emphasized he was not suggesting this was the case in Judge Trease’s court (see “Consistent and equal treatment”).</li></ul>

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

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<i>RESPECT</i>	
Listening & focus	Two observers reported that Judge Trease <i>listened carefully</i> and was <i>not distracted by the busy and chaotic court</i> and was <i>well aware of each case</i> .

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Well-prepared & efficient	All observers reported that Judge Trease was <i>prepared and aware of the background of each case, with all necessary information at her fingertips. She displayed good knowledge of the law and the limits to her authority. Her time management skills were good, and she moved efficiently to the next case when there were delays due to a lack of preparation by attorneys or prosecutors.</i>
Respect for others' time	All observers reported that court <i>started promptly on time or within five minutes of the scheduled times. She informed the court of the busy schedule and explained that as cases are not necessarily called in order, everyone needed to stay in the courtroom. She explained that there might be delays, saying, "Jail is running a little late this morning, so expect some delays ... we will try and be as efficient as possible."</i> When attorneys were still holding <i>preliminary hearings, she explained they sometimes needed last minute discussions and the court would wait until they were ready.</i>
Courtesy, politeness, and general demeanor	Three observers reported that Judge Trease was <i>patient, sensitive and fair, as well as deliberate and stern, with a neutral and business-like but pleasant demeanor. She remained calm in the busy, noisy and chaotic court. When drug-offender defendants with behavior improvement plans were clean for a large number of days, she praised the good result and led clapping in the court.</i>  Observer A suggested <i>adding a small bit of human sentiment, such as using the greeting "Good morning, Mr. A." rather than "Mr. A. is in the courtroom," and reciprocating defendants' pleasantries, such as when they said, "Thank you, your Honor."</i> In one case the judge <i>simply expressed her true sentiment</i> when explaining her expectations, saying at the conclusion of a case, <i>"You have to do your part. Good luck,"</i> and Observer A suggested <i>expanding this use of her softer interpersonal skills would increase the sense of respect in the courtroom.</i>
Body language	Two observers reported that Judge Trease <i>maintained eye contact and leaned forward, with eyes roving the court when appropriate which gave the impression she was well aware of activities in the court. She had a pleasant facial expression although she did not smile much.</i>  Observer A noted that <i>on occasion</i> when defendants were <i>speaking for the greater part of a minute, Judge Trease only maintained eye contact for about half the time as her eyes were diverted to her computer and then her desk, giving the impression that her attention was also diverted away from the defendant.</i> However, when she had <i>good eye contact she looked engaged, and the observer suggested the importance of eye contact in projecting active listening.</i>
Voice quality	One observer noted Judge Trease's <i>even and well modulated voice with an appropriate tone.</i>  Observer A had to <i>strain to hear Judge Trease's rapid and un-amplified speech. Her verbal pace made it hard to remember all the details of her well thought out but often long and complex sentences. She spoke up more audibly when querying a defendant about his understanding of his guilty plea, and the observer recommended she always speak that loudly and slow her speech.</i>
Courtroom tone & atmosphere	Two observers reported that Courtroom <i>decorum was good and the atmosphere respectful. In contrast, Observer A and another observer were distracted by the noise, doors opening and closing, and constant chatter of the attorneys. As a consequence, Observer A could not have repeated her orders even one minute after hearing them, and another observer wondered if the distractions made it difficult for friends, family members, and victims to follow the proceedings.</i>

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**NEUTRALITY**

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Consistent and equal treatment	Three observers reported that Judge Trease <i>listened to both sides and maintained an even tone and business-like demeanor to everyone regardless of ages, social status, knowledge of the law, or gender. When an attorney made recommendations without the client being present, the judge said, "I'm uncomfortable agreeing when the litigant is not present," and she moved forward by working out what the attorney needed to do next without making any decision.</i>  Observer A felt that the prosecutor had a <i>smaller role than in other courts and in some cases played no visible role, so that the conversation was predominantly between the judge and defense attorneys. The observer wondered if this created a perception of unspoken cooperation between the judge and the prosecution but was not suggesting that there was one in Judge Trease's court.</i>
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Demonstrates concern for individual needs	<p>Two observers reported that Judge Trease <i>modified her behavior appropriately in accordance with situations</i>, and she showed <i>concern and compassion as the law would permit</i>, for example, being <i>flexible</i> with penalties for <i>first time offenders with minor crimes</i>. She allowed <i>reasonable payment schedules</i> after discussing defendants' <i>ability to pay</i>, asking <i>repeatedly</i> if the <i>schedule would work for them</i>. She <i>explained multiple times</i> to a defendant facing a <i>very high fine</i> that it <i>would be a good idea to have an attorney</i>, and if he <i>could not afford one the court would appoint one</i>.</p> <p>Observer A reported that Judge Trease <i>demonstrated the skills to play a very human role when shifting gears and slowing down</i> with a defendant with <i>cognitive or drug related issues</i>. If she <i>exhibited this to everyone this would increase her effectiveness and allow her talents to show through</i>, because in other cases her <i>sentences and review of rights sounded more like rote recitals</i>.</p>
Unhurried and careful	Two observers reported that Judge Trease <i>took her time to carefully consider each case and did not hurry the proceedings</i> .

*VOICE*

Considered voice	Three observers reported that Judge Trease gave participants the <i>opportunity to tell their version of events</i> , often asking, " <i>What do you want to tell me about why and how this happened?</i> " and <i>providing sufficient time for discussion</i> . Judge Trease <i>asked questions and gave everyone an opportunity to respond</i> , and she demonstrated that she <i>had heard them and took their comments under consideration</i> . <i>Once in a while she modified her initial position after listening to discussion or any additional information</i> .
Formal voice	<p>Observer A reported that Judge Trease <i>immediately started to recite her sentence when the defendant finished speaking with no acknowledgment of what was said</i>, or she said, "OK," and <i>then gave her sentence</i>. Observer A felt that an <i>increased level of conversational engagement at this point by asking a question or two, or giving advice, or even a strong scolding when necessary</i>, would have <i>enhanced the feeling that the defendant had been heard</i>.</p> <p>However, Observer A also felt that when the judge asked after sentencing, "<i>Are you going to follow through with [the conditions of my sentence]?</i>" this was a <i>great question to encourage defendants to speak and increase adherence to her orders</i>.</p>

*COMMUNICATION*

Communicates clearly	One observer reported that Judge Trease <i>used clear language</i> .
Ensures information understood	<p>All observers reported that Judge Trease asked defendants if they <i>understood their plea and time and time again asked if they understood their rights and the rights they were waiving</i>, and she asked for <i>questions, misgivings, or needed clarification</i>, saying, "<i>Are you with me on this?</i>" or, "<i>Are there any more terms I need to go over with you?</i>" She <i>helped defendants understand her decisions</i>, saying, "<i>What is your understanding of what DORA does or doesn't do?</i>"</p> <p>Judge Trease told an interpreter on speaker phone <i>they would speak "as slow as possible"</i>. She <i>kept her language simple and often rose to come to the phone to check that the interpreter could hear everything and ensure that the defendant understood what had gone on</i>. In marked contrast, Observer A reported that in one case the judge's <i>discourse with three attorneys and her review of defendant's rights went much faster than the interpreter could keep up with, and the interpreter appeared to relay about 1/3 to 1/4 of the conversation, and sometimes even stopped altogether, and the observer wondered what the defendant actually heard</i>.</p>
Provides adequate explanations	Two observers reported that Judge Trease <i>took time to explain the law and the reasons for her sentences</i> . She explained the <i>exclusionary rule and why she would not reinstate a defendant's probation</i> . With <i>repeat offenders</i> she explained that <i>noncompliance with an agreed-on plan would have severe consequences, such as continued closer monitoring and follow-up appearances</i> .