

Honorable Clintepious T. Gilmore – Justice Court Judge

Serving West Valley City Justice Court, Salt Lake County



Commission Recommendation: RETAIN

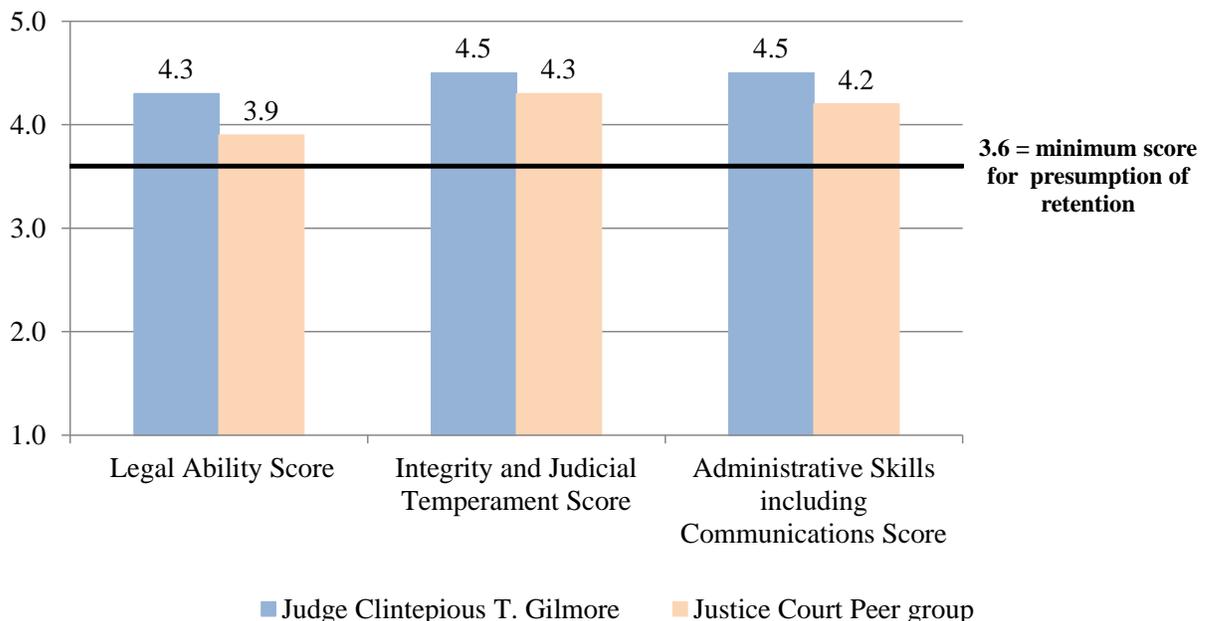
(vote count: 12-0 for retention)

Appointed in 2000, Judge Clint Gilmore scores above the average of his justice court peers in administrative skills and consistent with the average of his peers in all other categories. From a list, survey respondents choose 93% positive words to describe him, frequently characterizing him as knowledgeable, attentive, and receptive. Observers and respondents praise Judge Gilmore's demeanor and note that he consistently seeks input from all courtroom participants. Most observers view Judge Gilmore as fair and unbiased, reporting that he listens to and clearly communicates with everyone in court. Observers generally conclude that they would feel comfortable appearing before him. Of 37 survey respondents answering the retention question, 32 (86%) recommend that Judge Gilmore be retained.

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

Appointed to the West Valley City Justice Court in 2013, Judge Clint Gilmore graduated from BYU in 2000 and earned a law degree from the University of Utah College of Law in 2003. Prior to taking the bench, Judge Gilmore served as the Assistant Chief Prosecuting Attorney for West Valley City, a Special Deputy District Attorney for Salt Lake County, and a Special Assistant U. S. Attorney. For his work prosecuting federal gun crimes, he received the Director's Award for Superior Performance from the Executive Office of U. S. Attorneys. Judge Gilmore has also taught at the Utah Peace Officer Standards and Training Academy for the Utah Department of Public Safety and served as the President of the Utah Municipal Prosecutor's Association.

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



The Honorable Clintepious T. Gilmore

Judicial Performance Evaluation Commission Report

Retention 2016

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Clintepious T. Gilmore, 37% of qualified survey respondents submitted surveys. Of those who responded, 38 agreed they had worked with Judge Clintepious T. Gilmore enough to evaluate his performance. This report reflects these 38 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 "Justice 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.

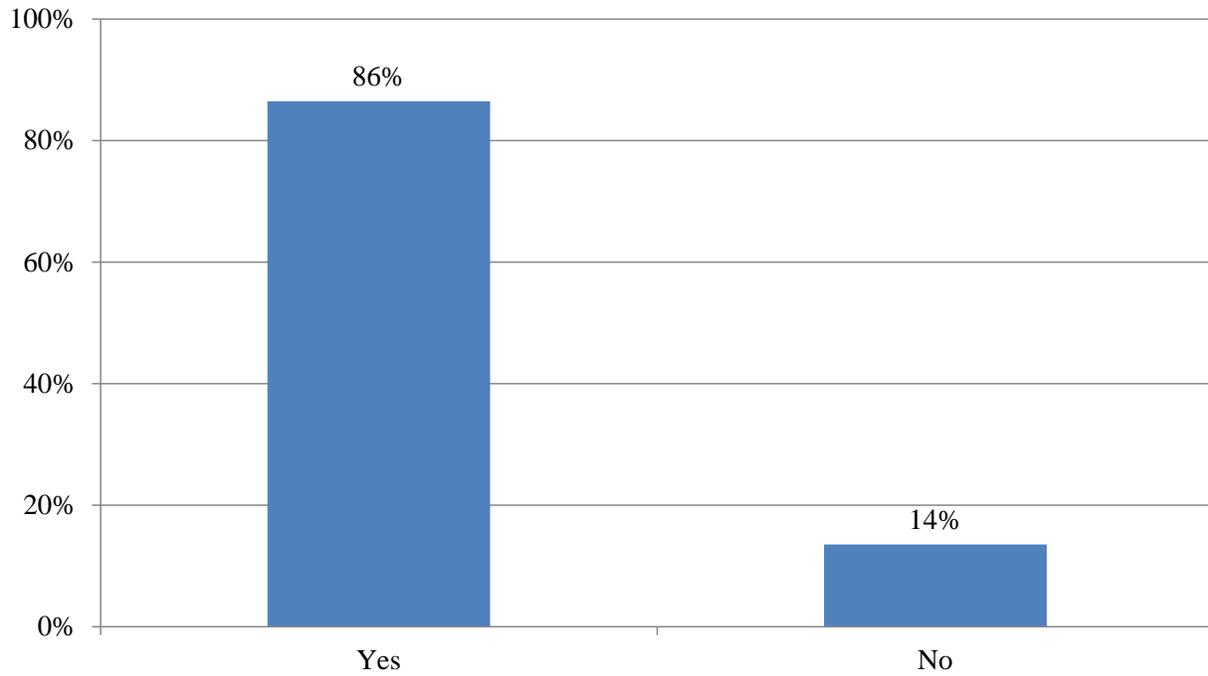
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

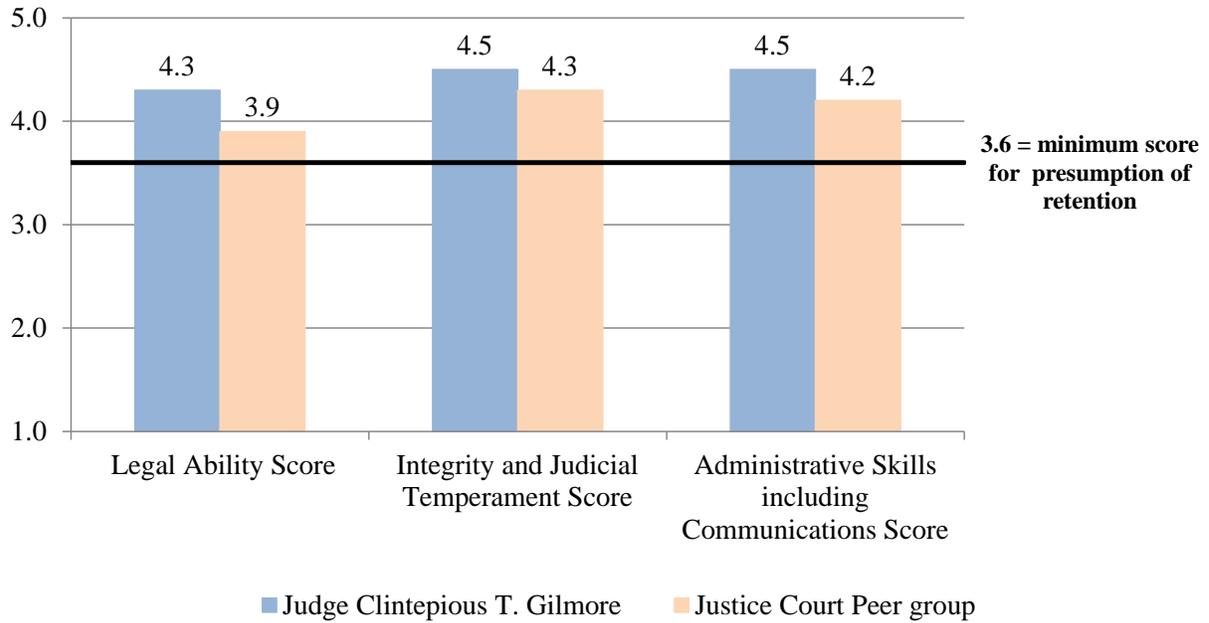
B. Retention Question

Figure A. Would you recommend that Judge Clintepious T. Gilmore be retained?



C. Statutory Category Scores

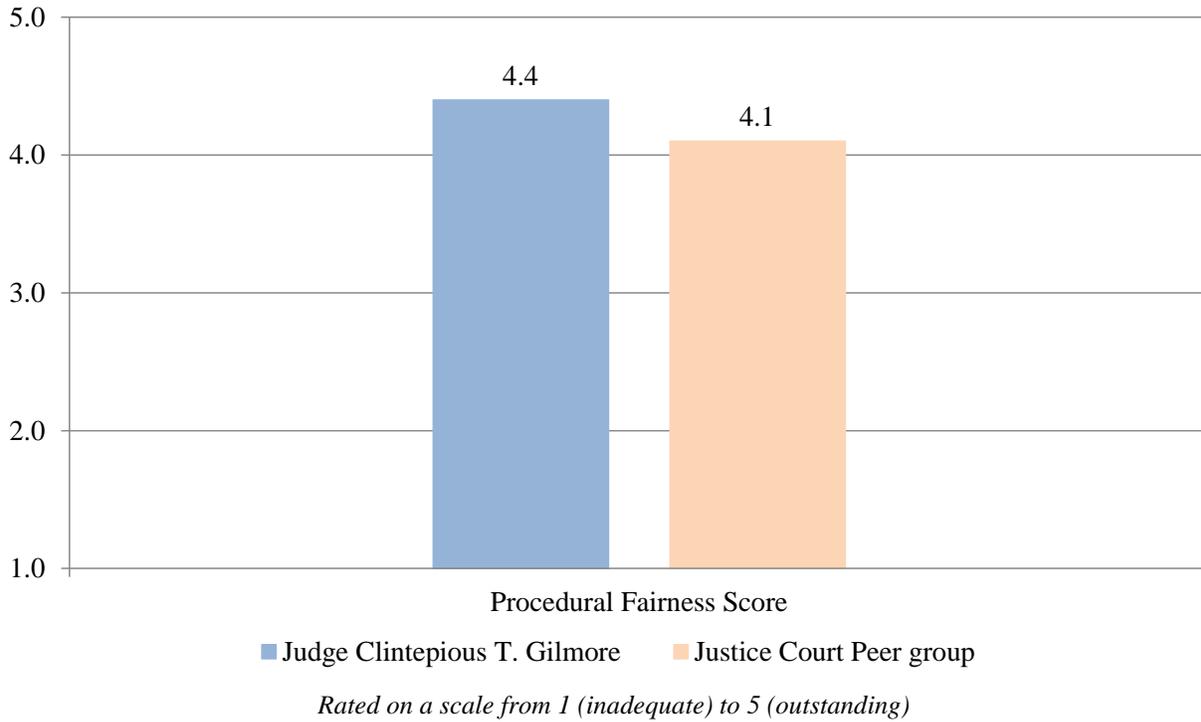
Figure B. Statutory Category Scores



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 Clintepious T. Gilmore
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Clintepious T. Gilmore	Justice 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.	4.3	4.0
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.2	3.9
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.3	3.9
Legal Ability	The judge only considers evidence in the record.	4.1	3.9
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.2	3.8
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.3	3.9
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.3
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.5	4.3
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.3	4.1
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.4	4.0
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.6	4.4

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

Table C. Responses to Survey Questions (continued)

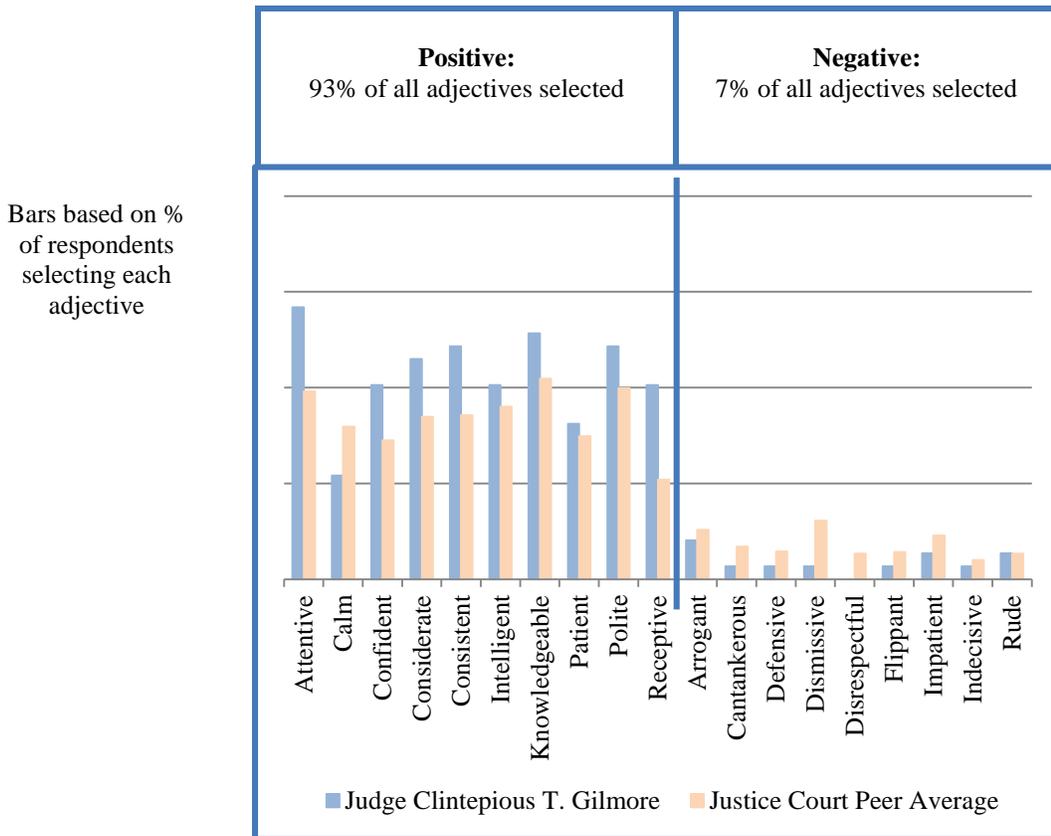
Category	Question	Judge Clintepious T. Gilmore	Justice Court
Administrative Skills	The judge is prepared for court proceedings.	4.5	4.3
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.5	4.1
Administrative Skills	The judge is an effective manager.	4.6	4.1
Administrative Skills	The judge convenes court without undue delay.	4.4	4.1
Administrative Skills	The judge rules in a timely fashion.	4.6	4.3
Administrative Skills	The judge maintains diligent work habits.	4.6	4.3
Administrative Skills	The judge's oral communications are clear.	4.6	4.3
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.5	4.1
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.4	4.1
Procedural Fairness	The judge is fair and impartial.	4.3	4.0
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.4	4.0
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.5	4.2

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	3%
Domestic	6%
Criminal	94%
Civil	13%
Other	3%

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	35%
6 - 10	19%
11 - 15	10%
16 - 20	10%
More than 20	26%

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 CLINT GILMORE

Four observers wrote 99 codable units that were relevant to 12 of the 15 criteria. Two observers reported that the judge was not aware that JPEC observers were present, two did not know if the judge was aware, and one observer did not comment.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none">• Three observers were enthusiastically positive about Judge Gilmore. Observer A expressed starkly contrasting reservations in some areas (see “Anomalous comments”).• All observers reported that they would feel comfortable appearing before Judge Gilmore.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers variously reported that Judge Gilmore listened patiently and carefully and was orderly and efficient, proceeding through cases on time and explaining the reason for any delay. He consistently addressed defendants by name and spoke directly to them even when an interpreter was present. His demeanor was calm, courteous, relaxed, affable, and reassuring, and he handled difficult situations professionally. He applied rules consistently and showed fairness to both sides, maintaining the same demeanor and pleasant expression with each defendant. He never hurried to conclude a case, he was careful and steady when determining his ruling, and at the conclusion he unhurriedly double-checked that everyone’s affairs had been addressed. He urged defendants to communicate, allowing ample time to articulate, and demonstrated he had heard their perspective. He clearly described his decisions in layman’s terms and explained the reasons for them, going to extra lengths to ensure he was understood and to provide information about their next steps.• Three observers particularly emphasized that Judge Gilmore was a caring person who sincerely engaged with defendants, personalized his comments, and tried to understand participants in order to work with them to help them help themselves (see “Demonstrates concern for individual needs” but also “Anomalous comments”).
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• In stark contrast to the other observers who reported that Judge Gilmore was caring and engaged, Observer A reported that Judge Gilmore’s very authoritative and to-the-point demeanor, and a type of “removed” behavior, gave the appearance of being disengaged or even disinterested (see “Courtesy, politeness, and general demeanor” and “Demonstrates concern for individual needs”).• Additionally, in stark contrast to the other observers in each instance, Observer A reported that Judge Gilmore appeared to be listening in some but not all cases (see “Listening & focus”), proceeded very quickly through cases (see “Unhurried and careful”), asked questions that seemed rhetorical to defendants who may have felt intimidated by the mood of the courtroom (see “Considered voice”), used jargon in some instances (see “Communicates clearly”), and in once case allowed a legal representative to explain a matter without addressing the confused defendant himself (see “Ensures information understood”).

Summary and *exemplar language* of four observers’ comments

RESPECT

Listening & focus	One observer reported that Judge Gilmore listened patiently, carefully and impartially. Observer A reported that Judge Gilmore <i>appeared to be listening in some cases and in others not so much</i> , but it was <i>random</i> and the judge <i>did not favor any particular type of person</i> .
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Well-prepared & efficient	Three observers reported that Judge Gilmore was <i>orderly and efficient</i> , with a <i>color coordinated stack of paper instruction sheets in two languages</i> to hand out to participants. He had <i>done his homework</i> and had <i>all his records in order</i> . All cases were <i>processed in an orderly manner</i> .
Respect for others' time	Two observers reported that there was a <i>sense of being "on time" throughout the proceedings</i> , and Judge Gilmore <i>took the time to explain the cause</i> when there was a <i>fifteen minutes delay</i> .
Courtesy, politeness, and general demeanor	<p>Three observers reported that Judge Gilmore <i>consistently addressed</i> each defendant <i>in the same way by name, making eye contact and asking if he had pronounced their name correctly</i>. When an interpreter was present the judge <i>spoke directly to the defendant, not the interpreter</i>. Despite the <i>repetitive nature of the instructions and procedural matters</i> he showed <i>sincerity and remarkable respect for participants</i>. When a defendant disputed a charge and she was found to be correct after <i>lengthy elaboration and some research</i>, Judge Gilmore <i>humbly apologized and explained that the court computer system, just like others, sometimes contains discrepancies</i>.</p> <p>Observers noted Judge Gilmore's <i>calm manner</i>. He <i>reassured and relaxed</i> a young man who was <i>making his argument poorly</i>, giving him <i>ample time to come up with suitable phrases to portray his side of the story</i>. When a defendant in shackles <i>having a panic attack cried out loudly and repeatedly</i> and had to leave to use the bathroom, the judge calmly said, "<i>Bailiff, do what you need to do,</i>" and without being <i>startled or irritated or drawing undue attention to the woman's plight</i>, he handled what <i>could have been an uncomfortable situation very professionally</i>.</p> <p>Observers reported that Judge Gilmore was <i>courteous and affable with everyone</i>, and <i>earned the title "Honorable."</i> In stark contrast Observer A reported that Judge Gilmore was <i>to-the-point, very authoritative, absent of small talk or friendly candor</i>, and <i>although a level of professionalism was needed to be present, the tone set by Judge Gilmore could be less removed from the relationship with defendants</i>. Observer A felt that <i>timid, anxious, first-time offenders</i> might find the mood <i>very overwhelming if not intimidating</i>, and she <i>could not imagine how trust can be gained if someone is afraid to speak up or ask questions</i>. Observer A noted that Judge Gilmore was <i>that way to everyone</i> and was <i>not biased or prejudiced to any particular type of person</i>.</p>
Voice quality	Two observers reported that Judge Gilmore spoke in a <i>consistently pleasant and well-poised tone of voice</i> with all parties.

NEUTRALITY

Consistent and equal treatment	Three observers reported that Judge Gilmore <i>applied rules consistently without bias</i> towards any claimant and displayed the <i>same principled and consistent demeanor</i> in all situations. He maintained the <i>same pleasant but totally neutral expression</i> when greeting each defendant and asking them to come to the podium. He always showed fairness to both parties, in one case <i>instructing the defendant to obtain a statement from the other party in writing and go through the proper court procedures in preparation for his next hearing</i> . In another case a defendant <i>requested the termination of a protective order</i> , and <i>after listening to him</i> Judge Gilmore <i>explained that the protected person should also have a say in the matter</i> .
Demonstrates concern for individual needs	<p>Three observers considered Judge Gilmore to be a <i>decent, caring person</i> who <i>sincerely engaged</i> defendants, <i>tried to understand</i> what they were saying, and was <i>willing to work with them if he could</i>. He had <i>utmost consideration for the misfortune of others</i> and <i>wanted to rebuild people's lives by trying to help them help themselves</i>, and <i>not so much to punish the offense</i>. When a woman who had a panic attack returned to the court, Judge Gilmore <i>politely asked if she was feeling better</i>, and treated her in the <i>same manner as any other defendant</i>. Even when saying the <i>same words to a dozen defendants</i>, he <i>personalized his comments, looking at each person to be sure they were listening</i>. One observer felt that his <i>greeting to each person on a personal level</i> made the observer feel <i>he was there as an advocate to help them resolve their situation</i>.</p> <p>In stark contrast Observer A felt that while Judge Gilmore did <i>not do or say anything disrespectful</i> and <i>took into consideration all the different factors of a case that made for a fair judgement</i>, the judge's <i>overall demeanor and a type of "removed" behavior</i> made him <i>appear disengaged and perhaps even disinterested</i>, and Observer A suggested that he <i>appear to at least look like he wanted to engage with the participants</i>.</p>

Unhurried and careful	Two observers reported that Judge Gilmore was <i>very patient</i> and <i>never hurried to conclude a case</i> in order to <i>move on with the next case</i> , if necessary <i>busying himself behind the podium studying until someone started to present a case</i> . He was <i>careful and steady when determining a proper ruling</i> and <i>very diligent when a defendant disputed a certain charge</i> , <i>carefully reviewing the case with the defendant</i> , <i>instructing his clerks to examine the court data for any discrepancies</i> , and <i>postponing the proceeding, making sure he had everyone's consensus and clear understanding</i> . While the door was closing, <i>still unhurried and patient</i> , the judge <i>continued to preside over some odds and ends and double checked with everyone that their affairs had been addressed</i> . In stark contrast, Observer A reported that the <i>hearings took place all very quickly</i> as though Judge Gilmore just <i>wanted to get to deliberations quickly</i> .
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VOICE

Considered voice	Three observers reported that Judge Gilmore <i>urged</i> defendants to <i>communicate</i> and <i>explain the circumstances leading to their charges</i> , always giving <i>ample time for them to think and articulate their arguments</i> , and giving <i>each family member a chance to speak and ask questions</i> . When a defendant disputed a charge, Judge Gilmore <i>allowed her to explain</i> , <i>gently emphasizing to take her time</i> . He <i>ended conversations by looking directly at defendants and asking, "Was there anything else to discuss?"</i> and then <i>demonstrated that he had heard their stories or perspective</i> . Observer A reported that Judge Gilmore asked, <i>"Do you understand what that means?"</i> but in stark contrast to the other observers, Observer A felt the <i>manner in which he asked made it seem more of a rhetorical question which he did not really want you to answer</i> . Observer A had difficulty <i>gauging Judge Gilmore's ability to allow participants a chance to speak</i> , because <i>even though they had the opportunity</i> , she felt they were <i>a bit intimidated by the overall mood of the courtroom set by Judge Gilmore and appeared to be hesitant to speak up or initiate conversation</i> . Observer A also felt that because Judge Gilmore was <i>to the point and went through each case quickly</i> , he <i>did not demonstrate that participant's story or perspective had been heard</i> .
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COMMUNICATION

Communicates clearly	One observer reported that Judge Gilmore <i>affably and audibly described his sentences in layman terms</i> , and his <i>clear instructions were enunciated and well presented</i> . In marked contrast, Observer A reported that Judge Gilmore <i>used jargon in some instances</i> that she <i>did not understand and assumed</i> that some participants did not understand.
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Ensures information understood	Three observers reported that Judge Gilmore <i>went to extra lengths</i> to ensure participants fully understood the charges, looking to <i>see if they wanted to say anything</i> . He <i>repeated back their questions in similar words</i> to ensure he <i>understood them correctly</i> . He often paused and <i>asked if defendants understood</i> his decisions. He ensured that <i>communication between a witness and translator was performed professionally</i> , as he <i>apparently understood both languages fluently</i> . In stark contrast Observer A reported that a participant appeared <i>confused</i> and the <i>court legal representative appeared to be explaining the matter quietly</i> . Observer A felt the judge <i>noticed and believed the representative would explain it more if needed</i> , but Observer A considered Judge Gilmore <i>almost passive in continuing without addressing the participant's confusion himself</i> .
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Provides adequate explanations	Three observers reported that Judge Gilmore <i>explained his judgements with personal concern</i> , <i>clearly explaining the reasons for his decision and how the rules of law were applied</i> . He <i>disseminated useful information</i> , including <i>what to do, where to go and when to appear</i> , and <i>paper instructions were handed to the defendant for follow up</i> .
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