

Honorable Margaret Miller – Justice Court Judge

Serving Iron County Justice Court



Commission Recommendation: **RETAIN**

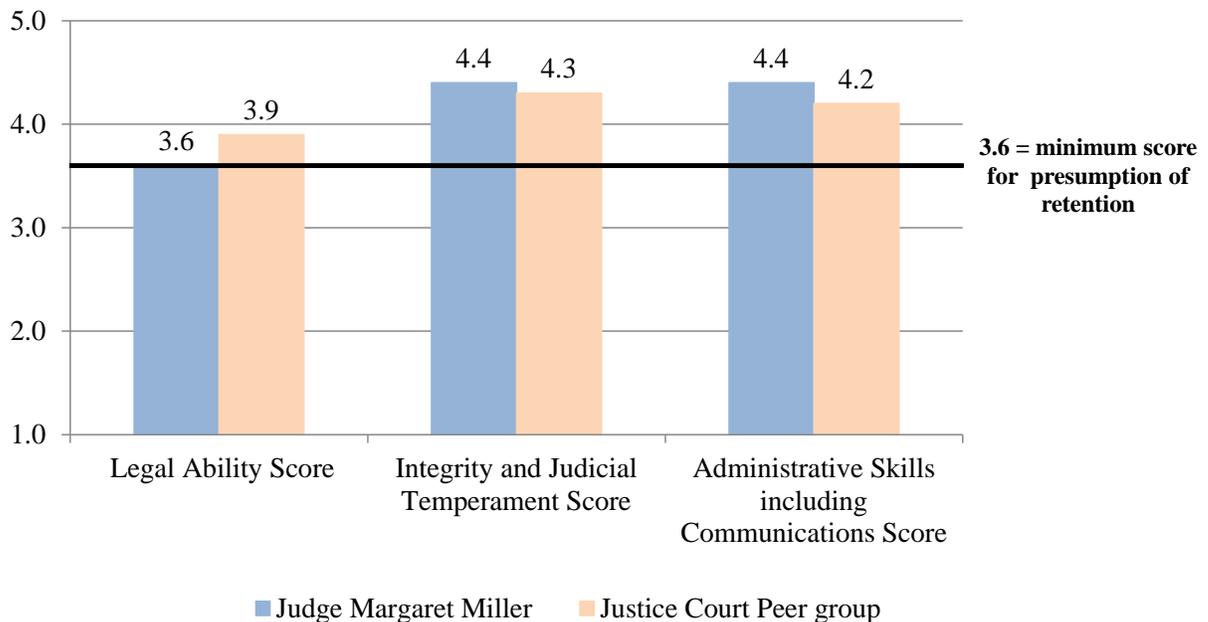
(vote count: 12-0 for retention)

Appointed to the bench in 1978, Judge Margaret Miller is viewed by both survey respondents and courtroom observers as a fair, considerate, and patient justice court judge. Judge Miller scores consistent with her justice court peers in all survey categories. From a list, survey respondents choose 95% positive adjectives to describe her. According to survey respondents, she demonstrates notable respect for the time and expense of those appearing in her courtroom. Courtroom observers report they would all feel comfortable appearing before her. They describe Judge Miller as an engaged, active listener with a non-threatening, empathetic demeanor that encourages people to explain their side of the case. Of 24 survey respondents answering the retention question, 18 (75%) recommend Judge Miller be retained.

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

Judge Margaret Miller began working as a clerk in the Cedar Precinct Justice Court in 1973 and was appointed to the bench five years later. Within the Fifth Judicial District, she has served as director and assistant director for the Justice Court Judges Association, assisted with juvenile offender programs, served on the board to review court procedures, and served as a mentor for new judges. Judge Miller was twice named Judge of the Year, has received the Quality of Justice Award, was named Iron County Resource Person of the Year, and was named Division of Youth Corrections Region III Outstanding Volunteer.

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



The Honorable Margaret Miller

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 Margaret Miller, 42% of qualified survey respondents submitted surveys. Of those who responded, 24 agreed they had worked with Judge Margaret Miller enough to evaluate her performance. This report reflects these 24 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.

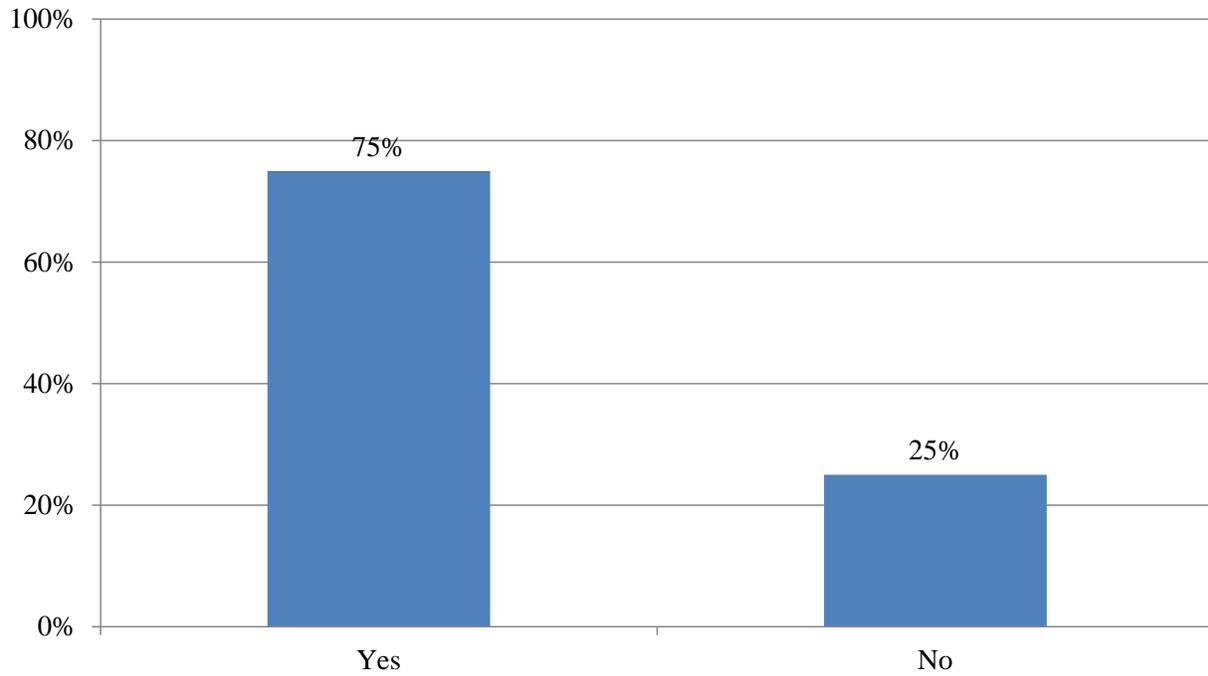
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

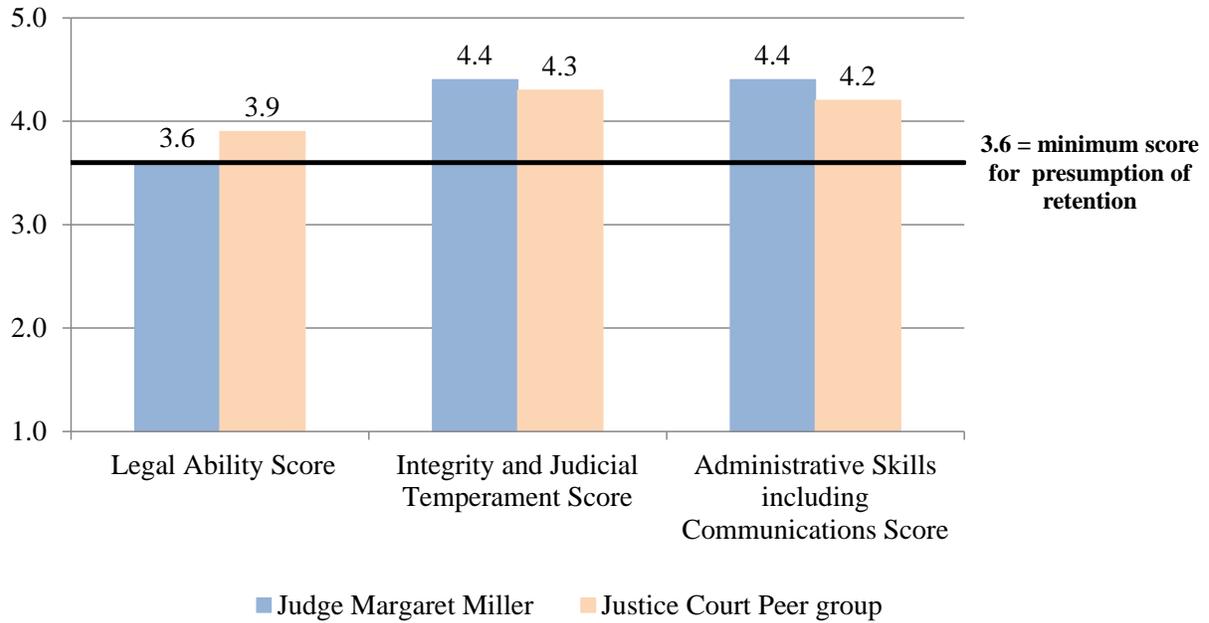
B. Retention Question

Figure A. Would you recommend that Judge Margaret Miller be retained?



C. Statutory Category Scores

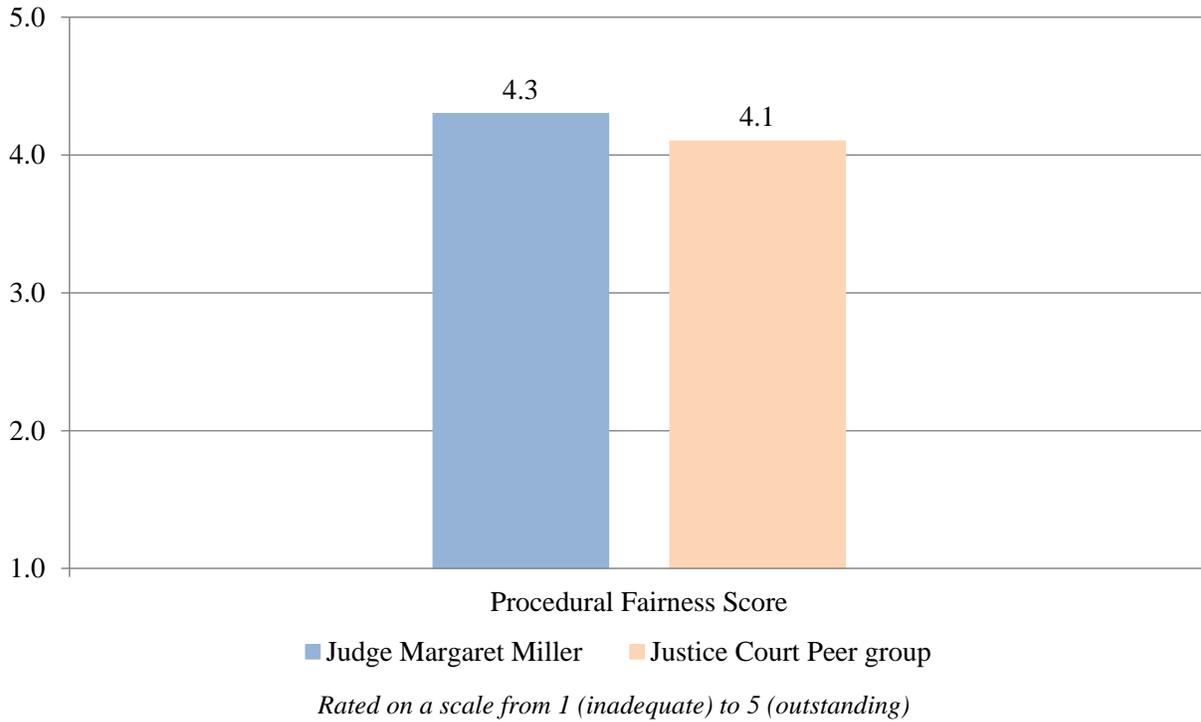
Figure B. Statutory Category Scores



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 Margaret Miller
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Margaret Miller	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.	3.6	4.0
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	3.6	3.9
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	3.7	3.9
Legal Ability	The judge only considers evidence in the record.	3.7	3.9
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	3.2	3.8
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	3.6	3.9
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.3	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.	4.1	4.1
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.5	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)

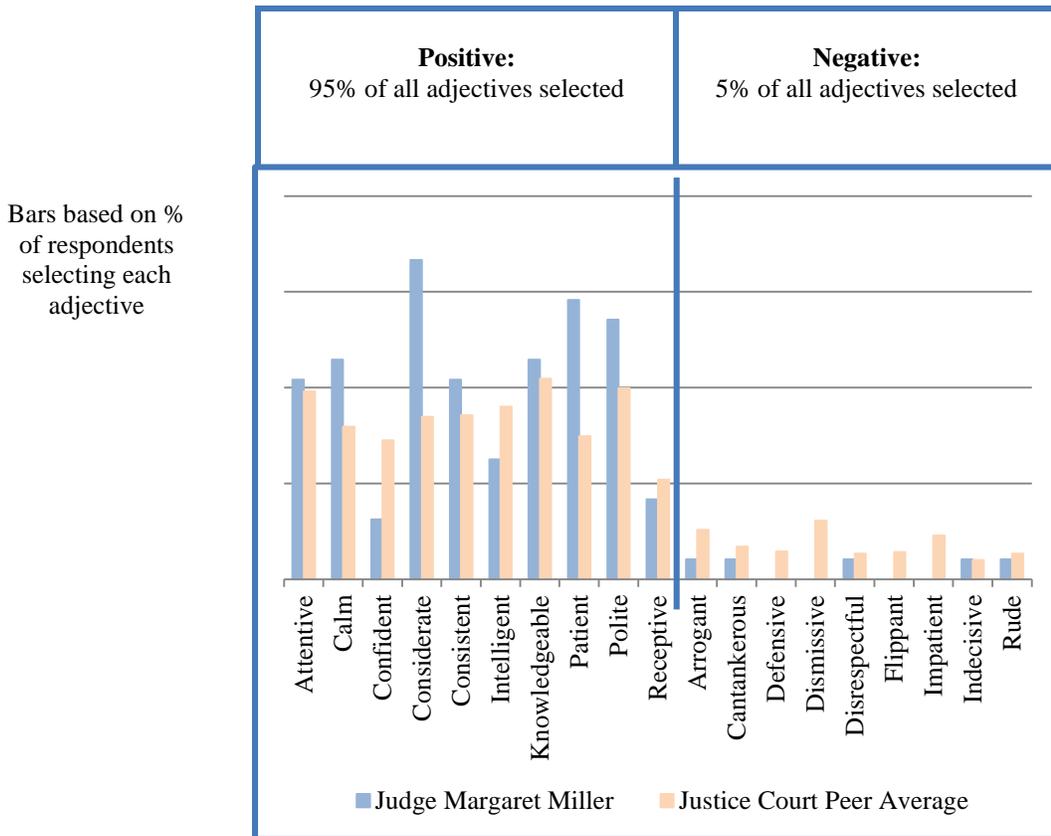
Category	Question	Judge Margaret Miller	Justice Court
Administrative Skills	The judge is prepared for court proceedings.	4.4	4.3
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.4	4.1
Administrative Skills	The judge is an effective manager.	4.4	4.1
Administrative Skills	The judge convenes court without undue delay.	4.4	4.1
Administrative Skills	The judge rules in a timely fashion.	4.5	4.3
Administrative Skills	The judge maintains diligent work habits.	4.5	4.3
Administrative Skills	The judge's oral communications are clear.	4.5	4.3
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.2	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.	4.2	4.0
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.0	4.0
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.6	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	-
Domestic	21%
Criminal	100%
Civil	21%
Other	-

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	14%
11 - 15	7%
16 - 20	14%
More than 20	43%

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 MARGARET MILLER

Four observers wrote 91 codable units that were relevant to 12 of the 15 criteria. One observer reported that the judge was not aware that JPEC observers were present, and three did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> All observers were strongly positive about Judge Miller. All observers reported that they would feel comfortable appearing before Judge Miller.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers variously reported that Judge Miller was engaged and focused, actively listening without distraction. She was reassuringly composed and knowledgeable and ran the court efficiently. She was pleasant, courteous, calm, and patient, with an appropriate sense of humor, and her non-threatening and empathetic demeanor encouraged defendants' participation. Judge Miller treated all defendants consistently regardless of ethnicity or any other factor, she and never rushed the proceedings or defendants' presentations, but worked patiently to resolve any problems. She consistently asked to hear from defendants after hearing from their attorneys, encouraged them to speak and make suggestions, asking if their sentences made sense to them, and showing real interest in what they had to say. Observers particularly emphasized and provided numerous illustrations of Judge Miller's care and concern for each individual, the responsibility she took for each defendant's courtroom education, her extensive explanations of all matters concerning defendants, and her focus on their understanding of their rights and the proceedings.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> Two observers noted the noisy gallery and very audible conversations of attorneys during cases. While Judge Miller was not distracted or concerned, one observer was distracted and felt the extra-curricular conversations should be eliminated to maintain a proper atmosphere (see "Courtroom tone & atmosphere").
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> None

Summary and *exemplar language* of four observers' comments

<i>RESPECT</i>	
Listening & focus	Two observers reported that Judge Miller <i>focused well on the matters at hand, actively listened, made her engagement apparent and without ever being distracted or inattentive.</i>
Well-prepared & efficient	Three observers reported that Judge Miller was <i>reassuringly composed and knowledgeable regarding the rules of law. She ran the court efficiently, with defendants making their way forward without prompting to fill empty chairs as each case concluded so they were ready to go when their turn came. This timely flow maintained a comfortable courtroom atmosphere and allowed the judge to give more personal time to the defendants.</i>
Respect for others' time	One observer reported that although defendants had to <i>wait around during 45 minutes of organized chaos while negotiating with the City attorney, they at least got help and were thanked for their patience.</i>
Courtesy, politeness, and general demeanor	Two observers reported that Judge Miller was <i>pleasant, courteous, considerate, calm, and very patient, for example showing no frustration with a defendant who wrongly disputed his charge of driving with a suspended license. Her positive and nonthreatening demeanor was reciprocated in the way defendants interacted with her. Her empathy made the atmosphere less stressful and encouraged defendants' participation.</i>

Courtesy, politeness, and general demeanor <i>continued</i>	<p>Judge Miller <i>invited defendants to be comfortable at the defendants' table</i>, saying, "We are less formal here." She was willing to admit blame when corrected by her clerk regarding a ruling or when computing fines. Her sense of humor was appropriate and effective, in one case telling a defendant who didn't want all the explanation of law, "I need the experience. I have only been here for forty years," then respectfully continuing until satisfied that she had given him the necessary detail with no more impatience from the defendant.</p> <p>Observers offered numerous illustrations of Judge Miller's respectful treatment of defendants. She <i>apologized</i> to a defendant who had been confused with another man of the same name, saying, "I apologize to you Mr. X ... I am sorry about scaring you." She allowed a woman who had knee surgery to remain in her seat, and she was accommodating, kind and tolerant with a man with special needs when he caused a distraction by awkwardly breaking in on a proceeding.</p>
Voice quality	One observer reported that Judge Miller <i>smiled often</i> and spoke in a <i>clear, nonthreatening and nonconfrontational</i> voice.
Courtroom tone & atmosphere	Two observers reported that the <i>gallery was very noisy at times with lots of people coming and going</i> . Judge Miller showed <i>no signs of concern for extracurricular activities</i> in which attorneys conducted <i>very audible conversations</i> while the judge was proceeding with a case. One observer was <i>distracted</i> and felt that <i>the conversations should be eliminated to maintain a proper courtroom atmosphere</i> .
NEUTRALITY	
Consistent and equal treatment	Two observers reported that Judge Miller <i>treated everyone in court appropriately</i> regardless of age, ethnicity, or gender. She <i>appeared to apply Utah Law to each defendant with similar cases</i> .
Demonstrates concern for individual needs	<p>Three observers reported that Judge Miller <i>cared about each case and assumed responsibility for each defendant's courtroom education</i>, as well as an <i>outcome that defendants understood and accepted</i>. She ensured that her sentences were <i>do-able within the time frames</i>, and she asked one defendant who had <i>complied with the statute what accommodations he might need to pay the fine</i>.</p> <p>Observers provided many illustrations of Judge Miller's concern for each individual. She <i>patiently and skillfully</i> assisted an unrepresented young man <i>through the trial process</i>. She explained that she could <i>not predict how the drivers license division will handle things</i> but tried to <i>minimize the impact</i>. When defendants had <i>fines from previous convictions</i>, she asked that new fines <i>begin when the original fines were paid so they would be paid sequentially</i>. She <i>listened and responded</i> to those with <i>special circumstances</i>, in one case allowing <i>more time</i> to a woman with multiple charges so that she could <i>gather her complete paperwork</i>.</p>
Unhurried and careful	Three observers reported that Judge Miller <i>orchestrated the courtroom processes smoothly without wasted time</i> , moving at a <i>steady and unperceived pace</i> without ever <i>rushing either her processes or the defendants' presentations</i> . She <i>confirmed defendants' identity and addresses, checked her paperwork</i> , and worked <i>patiently to resolve warrant problems due to errors in how addresses were recorded</i> .
VOICE	
Considered voice	Three observers reported that Judge Miller <i>consistently told defendants</i> , "I have heard what counsel has said, but I want to hear it from you," repeating this many times but never in a rote manner, and showing <i>real interest while they spoke</i> . She <i>encouraged defendants to speak</i> , saying, "Go ahead sir and tell me your side of the story," and asked <i>if the charges seemed to be accurate</i> , but was <i>quick to let them know</i> when they should not be <i>presenting evidence</i> . She <i>encouraged defendants to take part in their plan or make suggestions</i> and asked if their <i>sentence made sense</i> .

COMMUNICATION

Ensures information understood

All observers reported that Judge Miller *focused on comprehension and watched carefully to see what defendants understood, consistently asking, "Do you understand?" or, "Does this make sense to you?"* She *offered to read and explain anything they did not understand, in one case reading the statute on child endangerment to a woman who accepted the judge's offer.* She ensured that defendants *understood her decisions and why she made them, and she encouraged the defendants to ask any questions.* When an interpreter was needed she was *especially mindful with technicalities, and when she perceived any misunderstanding she asked the interpreter to clarify, saying, "Do you understand?" or, "Do you need more time?"*

Judge Miller was *careful to have people read their rights form.* If defendants said they didn't need to read the form, she told them *she doesn't like to sign anything she has not read, or, "I gave the other fellow one and I wouldn't want you to feel bad,"* after which they *read and signed the form.*

Provides adequate explanations

All observers provided numerous illustrations of Judge Miller's extensive explanations of all matters concerning defendants. Judge Miller *carefully explained how her decisions were made and the fines and penalties associated with specific charges.* She explained *what happens after pleading guilty or not guilty, what a public defender is and how they will be available, their rights to appeal and what differences they may experience in the district court.* She explained how *enhanceable charges could impact them in the future and that by taking a course they would not have a DUI, so the cost would be less than for many underage drink violators.* She explained she did not impose the maximum sentence for a first offense, and after asking defendants if *this was their first offense she did follow through with a higher fine* if it was not. She explained to a defendant *involved with two different counts that she knew how the complicated case needed to be handled and explained her reasoning as to how the proceedings would unfold, saying, "I know it can be confusing,"* and the defendant *seemed to understand and accept the judge's direction.*

All defendants were *given written instructions, and Judge Miller explained she had drawn a line through the parts that did not apply.*
