

Honorable Katherine Bernards-Goodman – District Court Judge

Serving Salt Lake, Summit and Tooele counties



Commission Recommendation: **RETAIN**

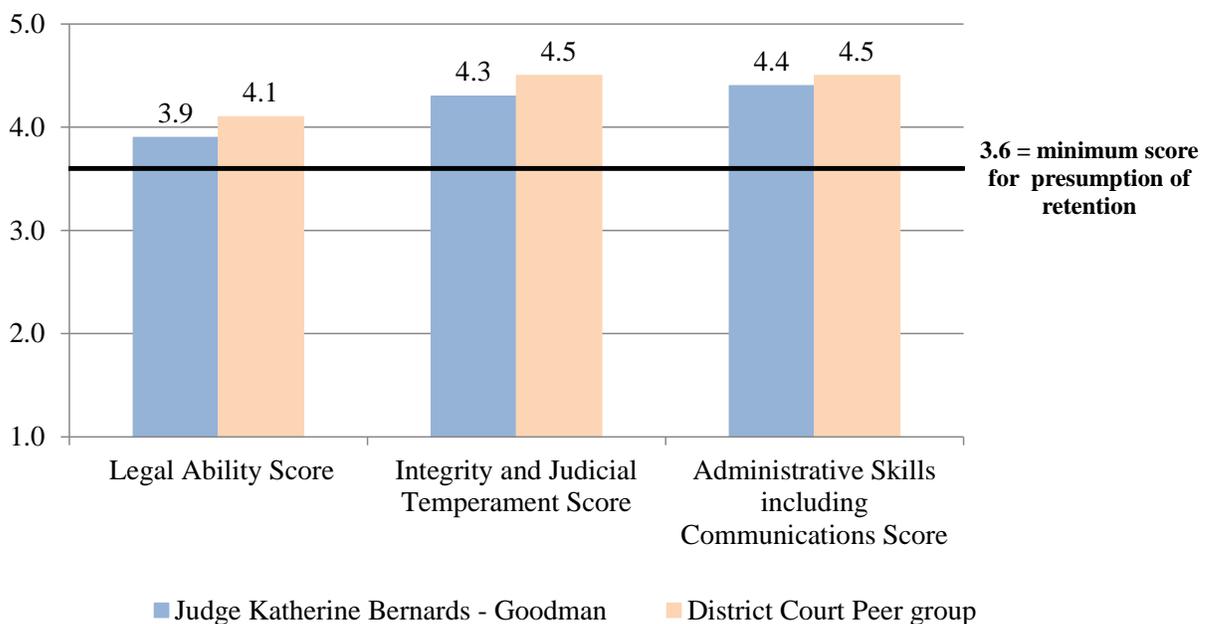
(vote count: 12-0 for retention)

Appointed to the Third District Court in 2010, Judge Katherine Bernards-Goodman was described by survey respondents as attentive, confident and intelligent. Of adjectives chosen to describe her, 78% were positive. She received positive reviews for her fairness. Most courtroom observers noted her professional and respectful treatment of all courtroom participants. Observers also reported that Judge Bernards-Goodman ran an efficient courtroom and embarked upon each case in a well-prepared and consistent manner. Of survey respondents who answered the retention question, 83% recommended that Judge Bernards-Goodman be retained.

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

Judge Katherine Bernards-Goodman was appointed to the Third District Court in 2010 by Gov. Gary R. Herbert. Judge Bernards-Goodman graduated cum laude in Psychology from the University of Utah and earned a law degree in 1989 from the University of Utah College of Law. Prior to her appointment to the bench, Judge Bernards-Goodman worked as an Assistant Division Chief for the Salt Lake District Attorney's Office, supervising 15 attorneys and prosecuting drug and homicide cases. She has served on the Salt Lake County Commission on Youth Committee, the Utah State Bar's Courts and Judges Committee, Primary Children's Hospital Multi-discipline Screening Committee, and the Interstate Compact Commission Committee. She was also a Board Member of the Statewide Association of Prosecutors.

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



The Honorable Katherine Bernards - Goodman

Judicial Performance Evaluation Commission Report

Retention 2014

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Katherine Bernards - Goodman, 54% of qualified survey respondents submitted surveys. Of those who responded, 111 agreed they had worked with Judge Katherine Bernards - Goodman enough to evaluate her performance. This report reflects the 111 responses.

The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

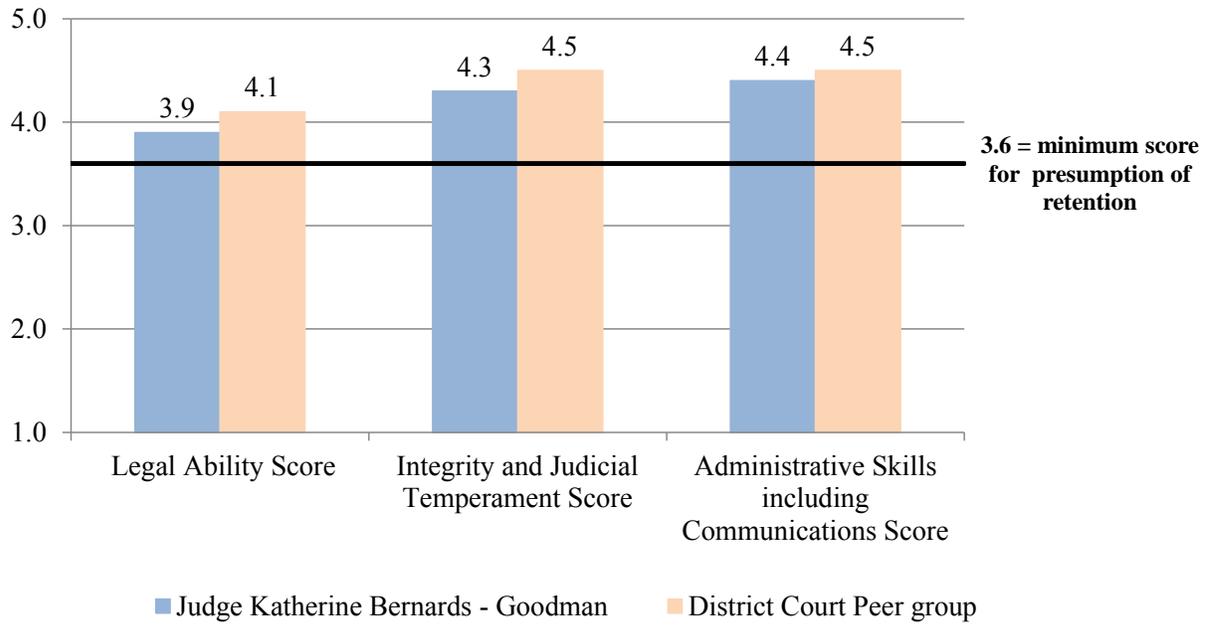
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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 these 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.

B. Statutory Category Scores



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

C. Procedural Fairness Survey 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.

Overall Procedural Fairness Determination

Category	Judge Katherine Bernards - Goodman
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Katherine Bernards - Goodman	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.	3.9	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	3.9	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	3.9	4.1
Legal Ability	The judge only considers evidence in the record.	3.9	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	3.9	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.3	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.4	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	3.9	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.1	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.	4.4	4.6

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

Category	Question	Judge Katherine Bernards - Goodman	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.2	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.4	4.5
Administrative Skills	The judge is an effective manager.	4.3	4.3
Administrative Skills	The judge convenes court without undue delay.	4.5	4.5
Administrative Skills	The judge rules in a timely fashion.	4.4	4.4
Administrative Skills	The judge maintains diligent work habits.	4.3	4.5
Administrative Skills	The judge's oral communications are clear.	4.3	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.0	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.3	4.5
Procedural Fairness	The judge is fair and impartial.	4.2	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.1	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.1	4.4

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

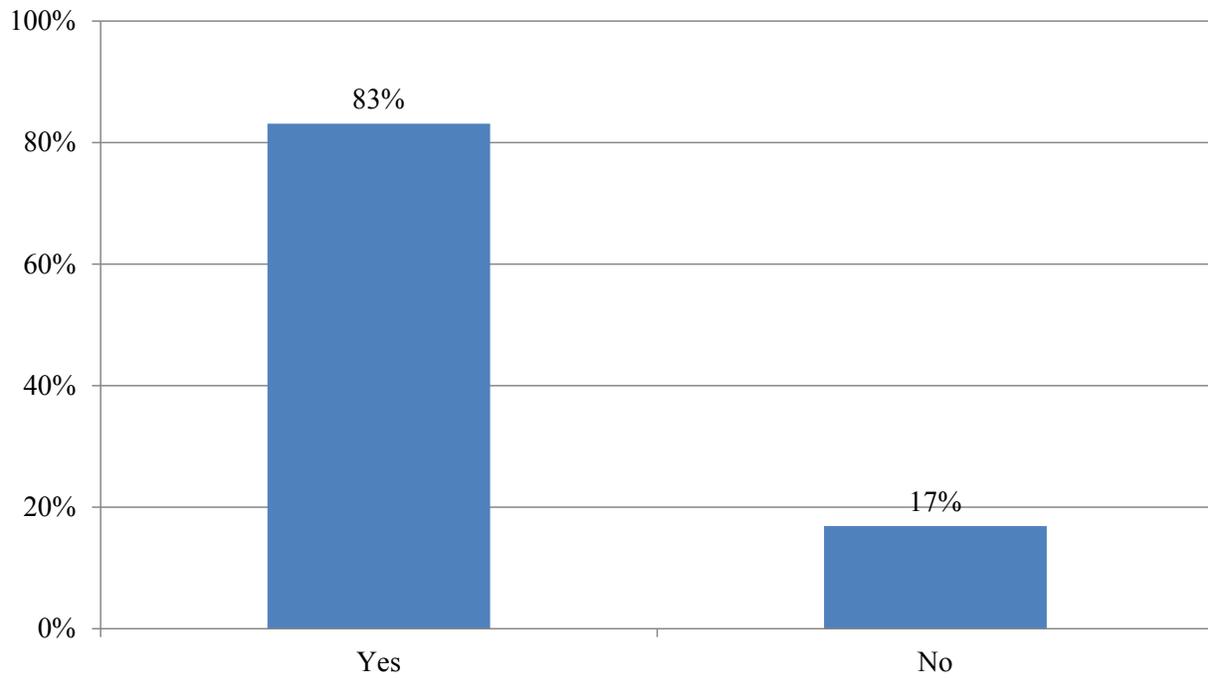
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	30
Calm	18
Confident	28
Considerate	17
Consistent	25
Intelligent	26
Knowledgeable	24
Patient	10
Polite	16
Receptive	14
Arrogant	7
Cantankerous	2
Defensive	4
Dismissive	16
Disrespectful	3
Flippant	10
Impatient	14
Indecisive	2
Rude	2
Total Positive Adjectives	208
Total Negative Adjectives	60
Percent of Positive Adjectives	78%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Katherine Bernards - Goodman be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	1%
Domestic	11%
Criminal	76%
Civil	19%
Other	11%

How many trials or hearings have you had with this judge over the past year?

5 or fewer	32%
6 - 10	21%
11 - 15	10%
16 - 20	10%
More than 20	28%

Survey Background and Methods

This report presents the results from the 2013 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 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 two-year 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 3 or more non-trial appearances, and those with 1-2 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 respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three 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, the 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 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE KATIE BERNARDS-GOODMAN

Four observers wrote 118 codable units that were relevant to 16 of the 17 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

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers were positive about Judge Bernards-Goodman. Additionally, Observer A reported various reservations (see “Anomalous comments”). All observers variously reported that Judge Bernards-Goodman listened attentively while looking directly at speakers and was prepared, efficient, timely, and well-organized. She was courteous, patient, and kindly, called out names in a friendly manner, and treated all participants respectfully regardless of their status. She was professional and formal, but also relaxed and approachable. Judge Bernards-Goodman made eye contact and spoke at an appropriate level and tone. She was even-handed and impartial with all, sensitive to individual concerns, and persistent in ensuring every defendant was treated fairly. She was interested in participants’ needs and helped find solutions to their problems. Despite the busy courtroom, she never rushed or hurried participants. She was thorough in allowing participants to speak and indicated through her comments that she had heard what they said. She spoke in clear, precise language and ensured that all participants understood their rights and the proceedings. She was open and clear about the reasons for her sentences. Three observers reported that they would feel comfortable appearing before Judge Bernards-Goodman, and one reported reservations (see “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, Observer A reported that Bernards-Goodman at times shuffled papers or read while participants were speaking, did not greet or acknowledge the audience, and appeared to have antipathy for a particular attorney. She ignored and was unaffected by the extremely chaotic and noisy courtroom, and she did not exert any control over the noisy and distrustful courtroom atmosphere. Her recitation of rights in a sing-song bored-sounding voice may have gone over the heads of participants. While she showed concern on occasion, her demeanor led to a perception of boredom and lack of caring. (See “Listening & focus,” “Respectful behavior generally,” “Courtroom tone & atmosphere,” “Voice quality,” “Expresses concern for the individual,” and “Ensures information understood.”)

Summary and *exemplar language* of four observers’ comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	<p>Three observers reported that Judge Bernards-Goodman listened <i>attentively and carefully</i>. She <i>looked speakers directly in the eye</i> as she listened to their explanations and <i>rarely looked away, moving her head from side to side as each one spoke</i>.</p> <p>In marked contrast, Observer A reported that Judge Bernards-Goodman <i>at times shuffled through papers or read</i> while people were speaking but <i>occasionally nodded to show she was listening</i>.</p>
Well-prepared & efficient	<p>Three observers reported that Judge Bernards-Goodman was <i>prepared and ready for the fast paced day before her</i>. The courtroom was <i>efficient, well organized, and ran smoothly</i>.</p>

Respect for others' time	Two observers reported that Judge Bernards-Goodman began <i>on time</i> . She <i>explained that there were going to be delays</i> because there were many prisoners who needed to be organized and time was needed to coordinate attorneys and prosecutors. She was <i>concerned that participants receive a speedy trial</i> , and if delays were likely she <i>checked to ensure that this was okay with everyone</i> .
Respectful behavior generally	<p>Three observers reported that Judge Bernards-Goodman called participants by Mr. or Ms. and looked up to call litigants' names in a <i>professional, friendly, not rote or mechanical, tone</i>. She was as <i>respectful and courteous to inmates</i> as she was to attorneys, and her manner <i>did not change based on the status of the person</i>. Whether or not the defendant had made progress, Judge Bernards-Goodman <i>acted kindly, asking, 'What are you up to?' or 'Are you eating well?'</i> At one point the judge stopped the proceedings and <i>instructed the bailiff to get a mike so that everyone could hear, as witnesses were asked to leave the stand and point out positions on a map</i>. Participants <i>appreciated being treated with equal respect</i>, and even when handing down <i>maximum fines or extended jail terms, inmates often said, 'Thank You Judge,' or smiled</i>.</p> <p>In marked contrast, Observer A reported that Judge Bernards-Goodman <i>did not greet or acknowledge the many people in the audience</i>. Additionally, the observer wondered if Judge Bernards-Goodman <i>had a particular antipathy for a particular attorney? She didn't acknowledge the attorney or client but kept looking down at her desk</i>. Finally, while she was reading, the attorney said he thought he would start, and <i>the judge said, 'Okay' without looking up, and interrupted to say something to one of the clerks while the attorney kept talking</i>.</p>
RESPECTFUL TONE	
Courtesy, politeness and patience	Two observers reported that Judge Bernards-Goodman was always patient, courteous, and polite.
Courtroom tone & atmosphere	<p>Three observers reported that Judge Bernards-Goodman was <i>professional and somewhat formal</i> with a <i>business-like tone</i> but also <i>relaxed, approachable, straightforward, and calm</i>. Unrepresented litigants <i>appeared comfortable enough during breaks</i> to ask the judge rather than the bailiff about when to appear. She was <i>not a push-over, noticed everything</i>, and was <i>very sharp in seeing through the excuses of defendants</i>, saying for example, <i>'you're scamming us and you are not getting out.'</i> One observer was <i>impressed and inspired</i> and commented that Judge Bernards-Goodman <i>is a real asset</i>.</p> <p>One observer reported that the atmosphere in her court was <i>quiet and calm</i>. In marked contrast, Observer A reported that the courtroom was <i>chaotic</i>, with attorneys and prosecutors <i>talking and laughing</i>. The bailiff shushed people <i>only when the noise and disrespectful behavior reached ridiculous levels</i>. It was <i>frequently impossible to see the judge or hear the proceedings</i>. Two clerks were looking at a computer screen and talking and laughing, and the visible screen <i>did not look like court business</i>. Judge Bernards-Goodman <i>seemed oblivious and unaffected by the noise and commotion</i>. The observer noted that <i>her lack of control in her courtroom is a weakness</i> and wondered if the lack of respect for the atmosphere <i>extended to the entire judicial process</i>.</p>
Body language	<p>Two observers reported that Judge Bernards-Goodman <i>connected with each defendant through eye contact, voice and appropriate demeanor</i>, and <i>everyone in the courtroom could understand what the judge was communicating</i>.</p> <p>In contrast, Observer A reported that the judge made <i>partial eye-contact</i> and <i>often looked at her desk as she spoke</i>. She was <i>usually expressionless</i>, and her smiles <i>looked more like grimaces</i>. However, when a participant showed the judge <i>a medal for staying off drugs</i>, she <i>smiled with a genuine-looking smile</i>.</p>
Voice quality	<p>Two observers reported that Judge Bernards-Goodman's voice was at an <i>appropriate level and tone</i> and seemed to show <i>she understood where they were coming from</i>.</p> <p>In marked contrast, Observer A reported that Judge Bernards-Goodman <i>recited the rights and cautions in a rapid, sing-song, bored-sounding voice</i>, as if she'd <i>said those words many times and wished she didn't have to do it again</i>. Additionally, the observer felt the judge <i>should use a mic</i>.</p>

NEUTRALITY

Consistent and equal treatment	Three observers reported that Judge Bernards-Goodman was <i>even-handed in sentencing</i> , and her explanations showed that she had <i>considered all aspects of the cases</i> . She <i>treated all participants, whether white, black, Hispanic, handicapped, inmate or non-inmate</i> , in the same <i>impartial way</i> .
Acts with concern for individual needs	Two observers reported that Judge Bernards-Goodman was <i>sensitive to individual concerns</i> , in one case taking extra care in scheduling for a person in a wheelchair, as she appreciated this might involve additional issues. Her <i>knowledge of the law</i> allowed her to go over <i>available options</i> with each person in turn. One observer appreciated her <i>persistence</i> in ensuring a defendant was treated fairly by <i>demanding to see the state's file</i> when she <i>couldn't get a straight answer</i> about drug quantities that had been ' <i>conveniently</i> ' left out of the state's report.
Expresses concern for the individual	Two observers reported that Judge Bernards-Goodman <i>let participants know she was aware of, and understood</i> , their situation, saying for example, " <i>We don't want to jeopardize your job. Let's get you the treatment you need.</i> " She <i>clearly was interested</i> in participants' needs and in helping them find solutions to their problems, provided they were <i>honest and willing to help themselves as well</i> . She seemed <i>perturbed</i> with one defendant <i>unwilling to make any changes in his life</i> , but she clearly explained her reasons for the <i>decisions she was making on his behalf</i> . Observer A noted that Judge Bernards-Goodman responded to a participant who claimed that she failed to appear <i>because her ride didn't show up</i> , by saying, " <i>I'm not buying it; there's public transportation,</i> " but then also enquired, " <i>Do you have anywhere to live?</i> " However, in marked contrast to other observers, Observer A also reported that the judge <i>shows concern for people, but not often</i> , and her demeanor <i>leads to a perception of boredom and lack of caring</i> .
Unhurried and careful	Two observers reported that despite an <i>extremely busy and fast paced</i> courtroom, Judge Bernards-Goodman <i>did not rush and never hurried or interrupted</i> the person speaking.

VOICE

Considered voice	One observer reported that Judge Bernards-Goodman gave every participant <i>her full attention</i> , and she was <i>thorough</i> in ensuring that each person was <i>not only allowed to speak, but also heard</i> . During a <i>short break when the attorneys were conversing</i> to clarify some facts, the judge <i>weighed in with some pertinent comments, demonstrating that she was really involved in noting everyone's information</i> . However, Observer A commented that while participants were able to speak about their concerns, <i>attorneys did most of the talking</i> .
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COMMUNICATION

Communicates clearly	Three observers reported that Judge Bernards-Goodman <i>spoke clearly, explained issues in clear language</i> , and was <i>very precise</i> with her instructions.
Ensures information understood	Three observers reported that Judge Bernards-Goodman <i>always checked for understanding</i> of participants' <i>rights and the consequences</i> of their choices and made sure that they <i>understood the proceedings</i> . She asked Spanish speaking participants <i>if the documents they were about to sign were in Spanish</i> , and the observer was <i>glad the judge ensured they did not sign documents they could not read</i> . Observer A reported that Judge Bernards-Goodman <i>sometimes slowed her speech for translators, but sometimes not</i> . The observer was concerned that the judge's <i>rushed and bored reading of rights might have gone over the heads of litigants and many of the families and friends who were observing</i> .
Provides adequate explanations	All observers reported that Judge Bernards-Goodman was <i>open and clear</i> about how the law applied to <i>each person</i> and <i>explained the reasons for the sentences in a way that made sense</i> . She told one man asking for community service, " <i>I can't give you community service. The legislature says I have to give you these big fines.</i> " The man <i>looked at her warmly and said thank you anyway</i> . She <i>helped a woman understand her ruling</i> by explaining, " <i>I'm going to keep you in jail for 14 more days. The reason--you have a drug problem. We will know (upon release) you are</i>

clean. Every time you are clean it gives you another chance to start over.”
