

Honorable Elizabeth A. Hruby-Mills – District Court Judge

Serving Salt Lake, Summit and Tooele Counties



Commission Recommendation: **RETAIN**

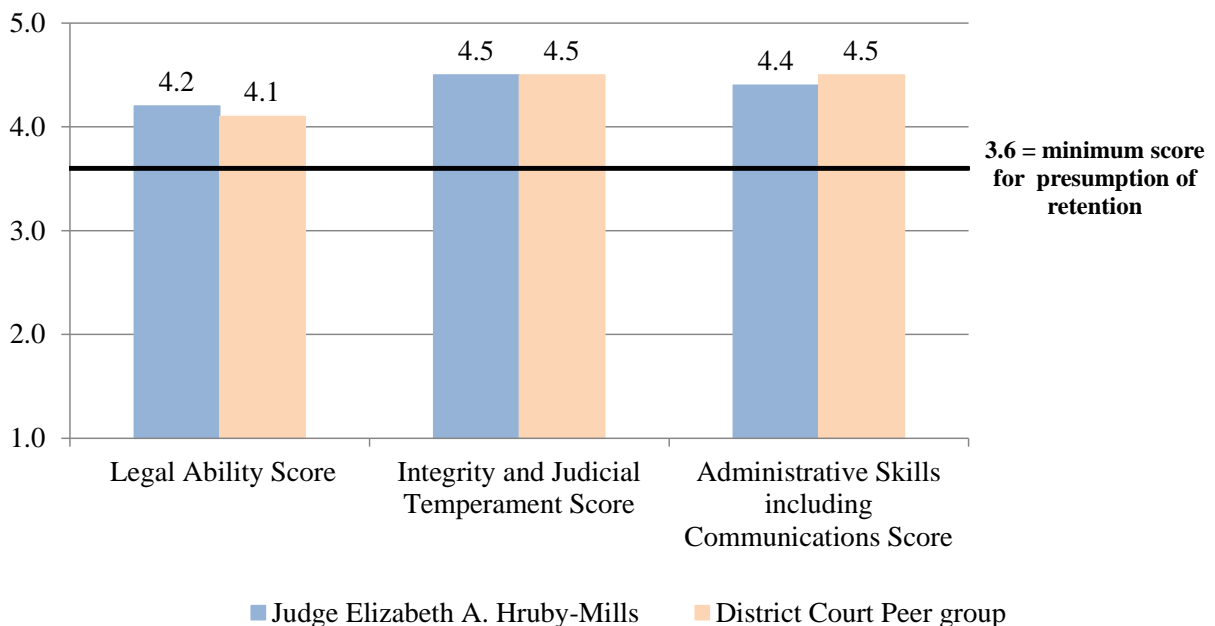
(vote count: 12-0 for retention)

Appointed in 2011, Judge Elizabeth Hruby-Mills has demonstrated promising growth in her judicial role. Attorneys characterized Judge Hruby-Mills as intelligent and conscientious and agree that with experience her confidence will increase. Survey respondents described her as attentive, calm, and polite. When choosing words from a list to describe her, respondents selected 94% positive adjectives. Courtroom observers viewed Judge Hruby-Mills as concerned and approachable and noted the sincere interest she demonstrated in each case. They characterized her as a professional, well-prepared, and efficient manager of her demanding courtroom. Of survey respondents who answered the retention question, 91% recommended that Judge Hruby-Mills be retained.

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

Judge Elizabeth A. Hruby-Mills was appointed to the bench in 2011 by Governor Gary Herbert. She received her law degree from the S.J. Quinney College of Law at the University of Utah in 1993, having graduated from Middlebury College in 1984 and earned a master's degree in counseling from the University of Vermont in 1986. Judge Hruby-Mills practiced law with the firm of Richards Brandt Miller Nelson in Salt Lake City for almost 20 years. She has served in numerous leadership roles in the legal community and local charities. Currently, Judge Hruby-Mills chairs the Divorce Education for Children program, and is a member of the Standing Committee on Judicial Outreach.

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



The Honorable Elizabeth A. Hruby- Mills

Judicial Performance Evaluation Commission Report

Retention 2014

Table of Contents

I. Survey Report

Survey Results	1
A. How to Read the Results	1
B. Statutory Category Scores	2
C. Procedural Fairness Survey Score	3
D. Responses to Individual Survey Questions	4
E. Adjective Question Summary	6
F. Retention Question	7
G. Attorney Demographics	8
Survey Background and Methods	9
A. Survey Overview	9
B. Evaluation Period	10

II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Elizabeth A. Hruby-Mills, 46% of qualified survey respondents submitted surveys. Of those who responded, 70 agreed they had worked with Judge Elizabeth A. Hruby-Mills enough to evaluate her performance. This report reflects the 70 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

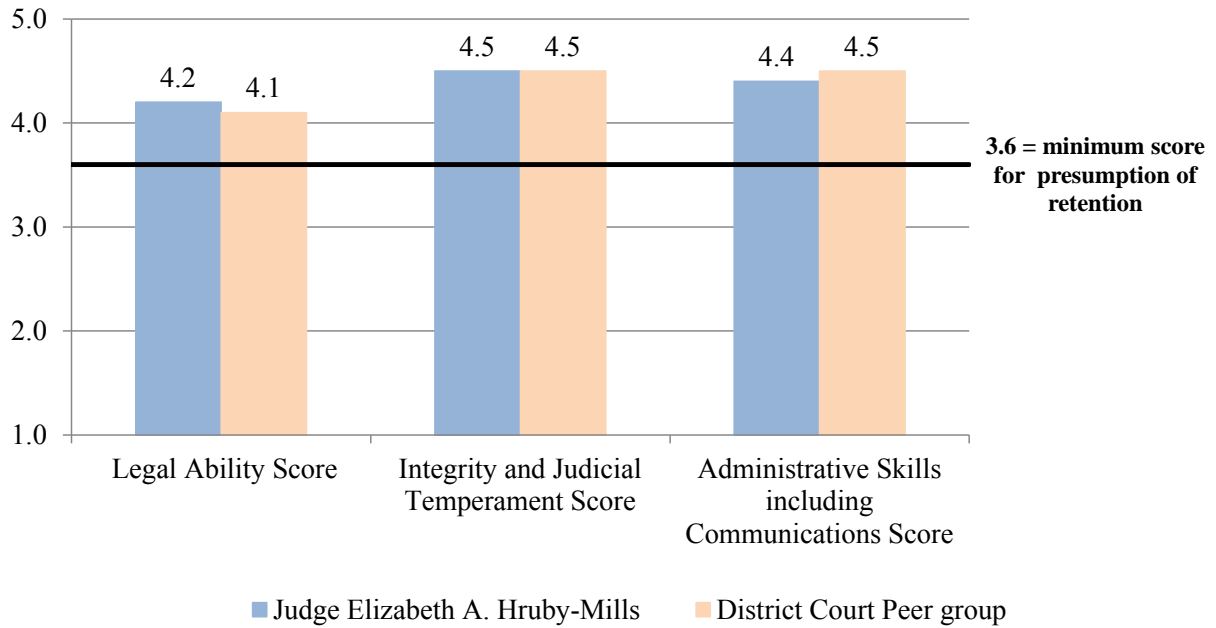
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

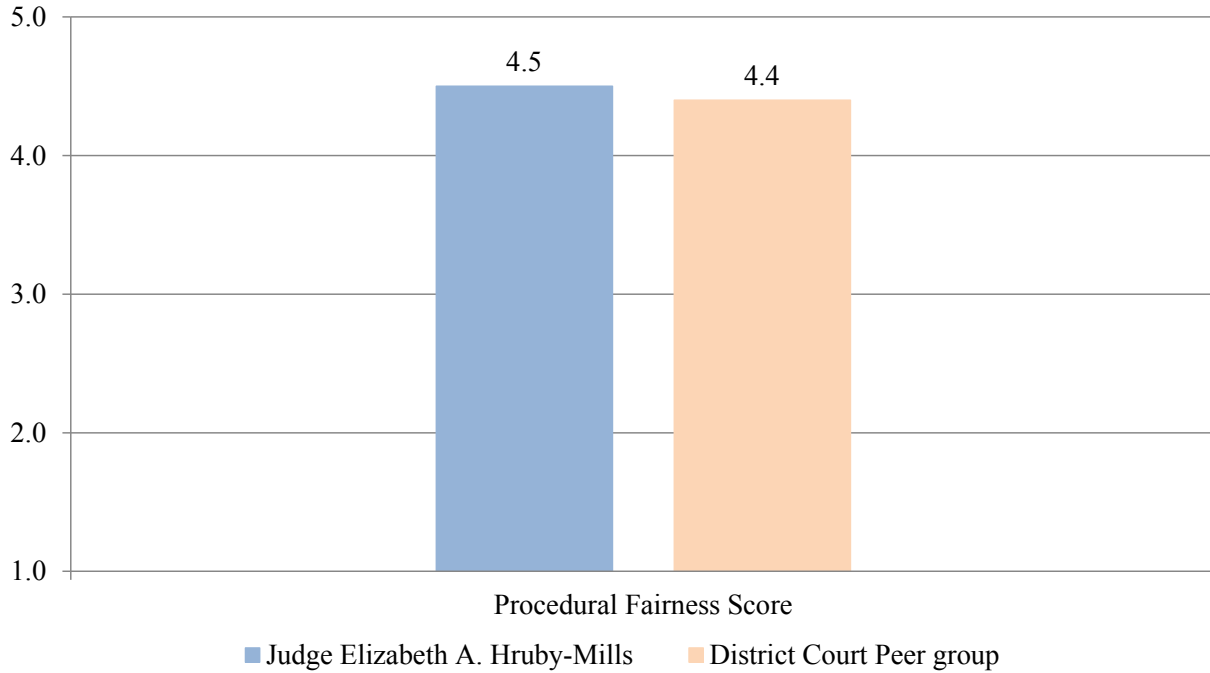
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, 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



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

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 Elizabeth A. Hruby-Mills
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Elizabeth A. Hruby-Mills	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.	4.2	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.2	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.2	4.1
Legal Ability	The judge only considers evidence in the record.	4.2	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.	4.5	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.4	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.4	4.3
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.6	4.6

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

Category	Question	Judge Elizabeth A. Hruby-Mills	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.3	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	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.	4.4	4.5
Administrative Skills	The judge's oral communications are clear.	4.4	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.2	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.6	4.5
Procedural Fairness	The judge is fair and impartial.	4.5	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.5	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.5	4.4

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

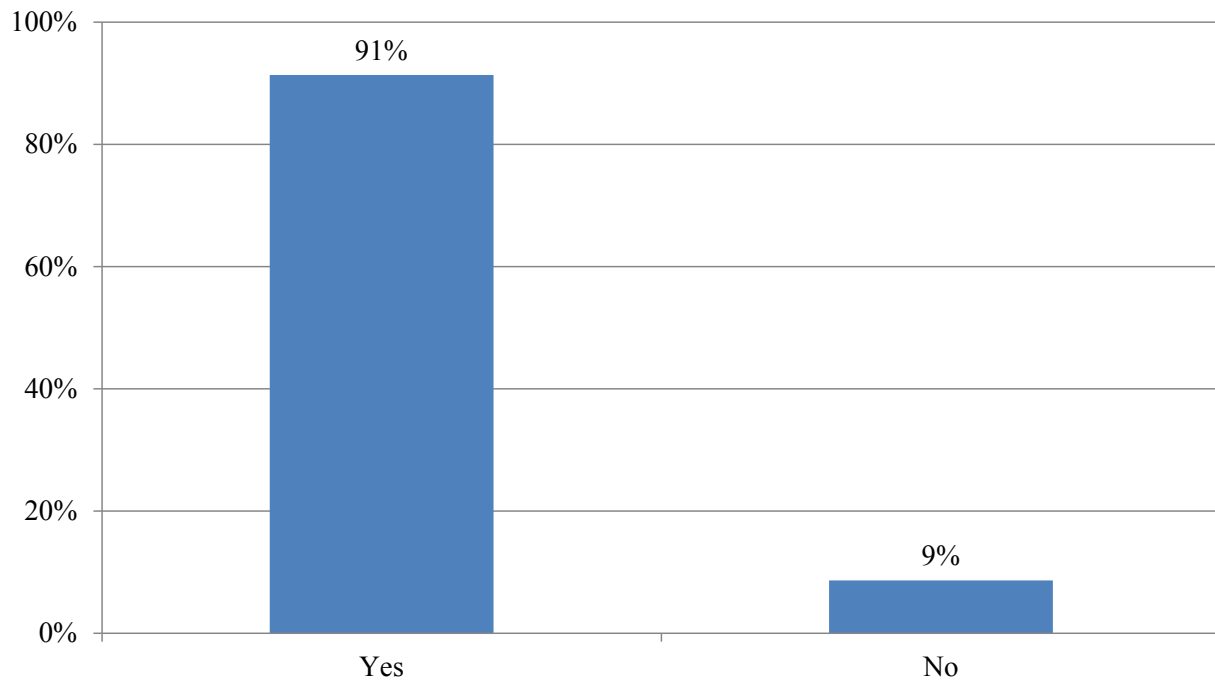
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	31
Calm	28
Confident	9
Considerate	16
Consistent	10
Intelligent	22
Knowledgeable	11
Patient	20
Polite	34
Receptive	21
Arrogant	0
Cantankerous	0
Defensive	2
Dismissive	1
Disrespectful	1
Flippant	0
Impatient	1
Indecisive	6
Rude	1
Total Positive Adjectives	202
Total Negative Adjectives	12
Percent of Positive Adjectives	94%

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 Elizabeth A. Hruby-Mills be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	2%
Domestic	7%
Criminal	76%
Civil	24%
Other	-

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

5 or fewer	53%
6 - 10	11%
11 - 15	7%
16 - 20	4%
More than 20	25%

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 ELIZABETH HRUBY-MILLS

Five observers wrote 111 codable units that were relevant to 14 of the 17 criteria. Two observers 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 Hruby-Mills, with two observers expressing reservations in some areas. All observers variously reported that Judge Hruby-Mills was well-prepared and knowledgeable, courteous, calm, serious, and professional, as well as approachable and concerned. She thanked and showed her appreciation of her staff and the attorneys. She made eye contact with speakers, her body language was neutral and attentive, and her occasional smiles warm and caring. Judge Hruby-Mills understood defendants' problems and showed genuine interest in each case, in many cases going the extra mile to help or ease their way. She gave full attention and plenty of time to each case, and she was scrupulous in encouraging and giving ample opportunity to all participants to provide input and comments, and she listened carefully to all she heard. She paid close attention to defendants' understanding of their rights and the consequences of guilty pleas, asking them questions and requiring verbal responses. She was clear when explaining the reasons for her sentences and described at length the requirements of probation. Four observers noted the distracting noise in the busy courtroom, and while Judge Hruby-Mills admonished the court on occasion to be more quiet, neither she nor the bailiff were able to control the distraction and courtroom disorder. All observers reported that they would feel comfortable appearing before Judge Hruby-Mills, with two observers expressing some reservations.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> Three observers reported that Judge Hruby-Mills greeted participants pleasantly and commended their progress. In contrast, two observers reported that she did not initially acknowledge, and rarely spoke to, defendants, referring to them by case number rather than name, and in general the judge was more comfortable speaking with attorneys than defendants. These observers felt that the lack of personal contact set a tone for the hearing that was unnecessarily lacking in the warm respect shown to staff and attorneys (see "Respectful behavior generally," "Acts with concern for individual needs," and "Provides adequate explanations").
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> One observer was alone in reporting that Judge Hruby-Mills merely repeated legalese that was not understood rather than putting it in clearer language (see "Communicates clearly").

Summary and *exemplar language* of five observers' comments

<i>RESPECTFUL BEHAVIORS</i>	
Well-prepared & efficient	Two observers reported that Judge Hruby-Mills was <i>well prepared</i> and <i>knowledgeable</i> and <i>aware of the details</i> of each case.
Respect for others' time	One observer reported that Judge Hruby-Mills explained the reasons for leaving the courtroom and <i>asked to be called back as soon as she "was needed."</i> She <i>accommodated</i> all requests for calendar dates, and in one case when asked to combine multiple cases, the judge responded, <i>"I'm not in a position to combine cases, but I will accommodate all the dates I can."</i>

Respectful behavior generally	<p>Three observers reported that Judge Hruby-Mills addressed defendants as <i>Mr. or Ms.</i> and <i>often greeted people with a pleasant “good morning”</i> and a <i>smile or nod when appropriate</i>. She <i>appreciated and thanked</i> her staff and the attorneys and <i>commended</i> defendants, for example commending one defendant for <i>getting his life together</i>, saying, <i>“We hope not to see you again,”</i> and <i>wishing him luck</i>. She was <i>always willing to accept correction</i> from others.</p> <p>In contrast, two observers reported that <i>efficiency got in the way of respect</i>, for example when Judge Hruby-Mills did not acknowledge defendants <i>when they first came before her</i>, but instead <i>read aloud their lengthy case number</i>. These observers noted that some <i>initial contact with defendants sets the tone for the hearing</i> and communicates <i>they are before the court</i> rather than their attorneys, and the judge unfortunately made it seem that <i>participants were only a number</i>. One observer mentioned that saying defendants’ names aloud after their number could <i>make participants feel respected</i>. This observer noted that even though <i>at the end of each case the judge made a point of looking at participants and saying, “Thank You,”</i> some participants <i>did not look at the judge and that her attempts to be respectful seemed too late</i>.</p>
-------------------------------	---

RESPECTFUL TONE

Courtesy, politeness and patience	<p>Two observers reported that Judge Hruby-Mills treated all defendants with <i>courtesy, dignity and respect</i>, whether <i>convicted sex offenders, probation violators</i>, or just asking for a continuance for their attorney to <i>research their case</i>. She was <i>patient while attorneys were preparing and conferring with clients</i>.</p>
Courtroom tone & atmosphere	<p>All observers reported that Judge Hruby-Mills was <i>pleasant, calm, professional, and serious</i>. While <i>not particularly extroverted</i>, she was <i>non-threatening, approachable, accepting, and concerned</i>. Her <i>knowledge, quick thinking, positive approach, and decisive and authoritative</i> delivery of decisions gave her <i>credibility</i> and indicated <i>sincerity</i>.</p> <p>Four observers noted that the courtroom, while <i>amazingly efficient given the huge schedule and crowd</i>, was very busy and a <i>little chaotic</i>, with many attorneys <i>talking loudly and addressing the gallery</i> in search of their clients and <i>clearly audible</i> conversations between <i>inmates and their attorneys in the holding room</i> about their cases. At one point Judge Hruby-Mills <i>admonished the entire court</i>, saying, <i>“Please keep your voices down. I am unable to hear the defendant or his lawyer,”</i> which <i>got everyone’s attention for about five minutes</i>, but she had difficulty controlling the distracting noise which <i>returned very quickly</i>. One observer noted that the bailiff did nothing to control the courtroom disorder.</p>
Body language	<p>Four observers reported that Judge Hruby-Mills looked defendants <i>directly in the eyes</i>, and her body language was <i>neutral and attentive</i>. Her <i>occasional smiles</i> were <i>warm, pleasant, and caring</i> and indicated that she was <i>relaxed and comfortable</i> and <i>not simply an automaton</i>.</p>
Voice quality	<p>One observer reported that Judge Hruby-Mills’ voice was <i>clear</i> and her tone <i>even, clear and respectful</i>.</p>

NEUTRALITY

Consistent and equal treatment	<p>One observer reported that Judge Hruby-Mills did <i>not display bias or prejudice</i> and did <i>not seem to have preconceived notions</i> of individual personalities or their culpability.</p>
Acts with concern for individual needs	<p>Three observers reported that Judge Hruby-Mills showed an <i>understanding of the problems</i> of defendants and <i>did what she could to ease their way</i>, often <i>going the extra mile</i>, for example by <i>offering phone numbers</i> of alternative services when a woman seemed unable to make a decision. She <i>showed through her actions that she had a genuine interest in each case</i>. She delayed proceedings when all of a defense team were not in court, or if she felt that the defendants were <i>not fully prepared</i>, or if a defendant said he <i>needed more time</i>. She reduced jail time in one case so that a defendant could <i>maintain employment and provide for his family</i> and whenever it <i>seemed a possibility asked, “Do we need an interpreter?”</i></p>

Acts with concern for individual needs <i>continued</i>	In contrast, one observer reported that while Judge Hruby-Mills told a participant to <i>pay off a fee as soon as possible because it was “compounding interest,”</i> the observer wished the judge had <i>briefly engaged more participants</i> in this way. Rather, the judge <i>rarely spoke more than a few words to participants</i> other than <i>required legalese</i> , and she seemed <i>more comfortable listening and speaking to attorneys and court staff</i> and was <i>a little too reserved with participants</i> .
Unhurried and careful	Three observers reported that Judge Hruby-Mills gave attorneys <i>plenty of time to confer</i> with clients. She gave <i>full and careful attention to the details</i> of each case, she was <i>quick to ask for clarifications</i> in order to understand cases fully <i>with no loose ends</i> , and she <i>continued cases where she thought</i> there was insufficient information to give a decision.
<i>VOICE</i>	
Considered voice	<p>Four observers reported that Judge Hruby-Mills was <i>scrupulous in bringing everyone into the conversation</i> and <i>encouraging</i> and giving <i>ample opportunity</i> and <i>plenty of time</i> to all participants to speak. She welcomed <i>input and comments</i>, including the <i>impact a sentence would have on the lives of the defendants and their families</i>, and always asked, “<i>Anything else I should know?</i>” or if anyone had <i>anything more to add at the conclusion of each case</i>. She <i>listened carefully and intently</i> to what people had to say to her.</p> <p>However, one of these observers was <i>puzzled</i> that in one case Judge Hruby-Mills <i>ignored the agreement</i> of the defense and prosecution <i>that two sentences had been made concurrent by the trial judge</i>, saying, “<i>Well, that’s your opinion,</i>” and made the terms consecutive. The observer, <i>without claiming to understand the legal issues</i>, was left with the <i>uncomfortable feeling</i> that the attorneys’ points had <i>not been considered and the situation remained unsettled at the end</i>.</p>
<i>COMMUNICATION</i>	
Communicates clearly	<p>Two observers reported that Judge Hruby-Mills spoke <i>clearly</i> and <i>authoritatively</i>, using <i>varying language when explaining rights instead of a set script</i>.</p> <p>However one observer reported that the judge <i>never tried to make legalese more understandable</i> by putting it into clearer language, but instead <i>repeated the legalese word for word</i> if a participant seemed confused or did not understand.</p>
Ensures information understood	<p>Four observers reported that Judge Hruby-Mills <i>paid close attention</i> to defendants as she reviewed their rights and <i>asked if they understood</i>, and with defendants pleading guilty she <i>repeatedly asked if they understood her and whether they still wanted to plead guilty</i>, saying, “<i>I want to be sure you understand all that you’re giving up.</i>” When she asked questions to ensure their understanding of the proceedings, she then <i>required verbal responses</i> from them.</p> <p>In contrast, one observer noted that when Judge Hruby-Mills explained supervision requirements, she <i>rushed through the list so fast that no one could have absorbed them all</i>, but the observer assumed that a <i>written version would have been provided</i>.</p>
Provides adequate explanations	<p>Four observers reported that Judge Hruby-Mills was <i>very clear when explaining rights and sentences</i>, expressing her reasoning to <i>help make her decisions more understandable</i>. She made <i>special efforts to explain sentencing decisions that required the enhancement of penalties because of previous convictions or actions</i>. She <i>described at length</i> what was needed to comply with probation and the <i>consequences of probation violation</i>, in one case <i>stressing the importance of the domestic violence class, and emphasizing that he must “not miss anything!”</i></p> <p>In contrast, one observer noted that when a woman was <i>seemingly unhappy with her attorney and spoke irritably to Judge Hruby-Mills</i>, the judge <i>did not appear to be comfortable listening to her speak and gave no explanation to the woman for her ruling</i>. The observer wondered if the judge felt the woman <i>too combustible to engage</i>.</p>