

Honorable Ryan B. Evershed – Juvenile Court Judge

Serving Daggett, Duchesne, and Uintah counties



Commission Recommendation: RETAIN

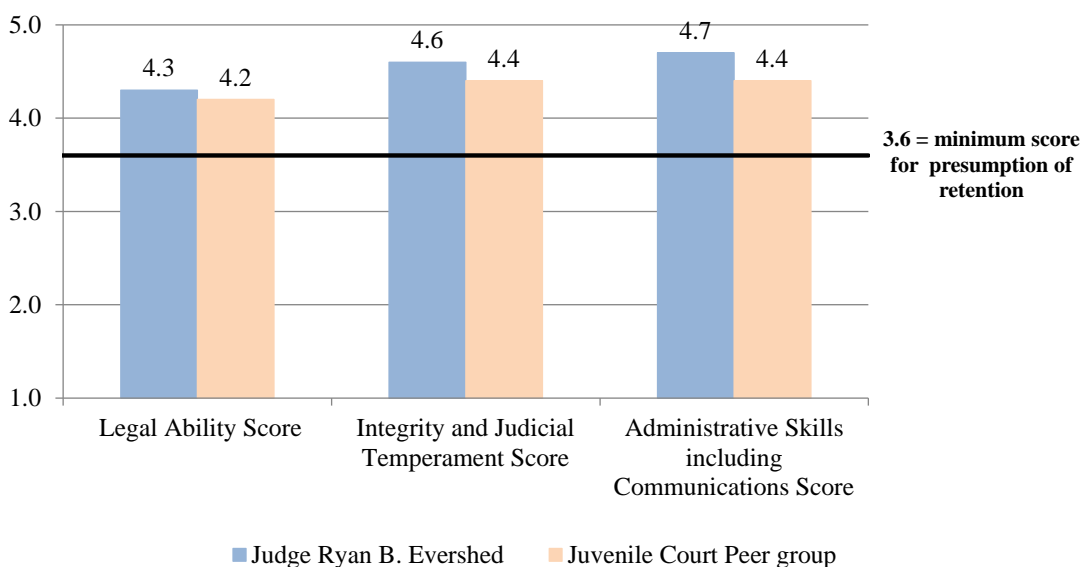
(vote count: 12-0 for retention)

Appointed in 2013, Judge Ryan Evershed scores above the average of his juvenile court peers in two categories—integrity & judicial temperament and administrative skills—and consistent with the average of his peers in legal ability and procedural fairness. Survey respondents note that Judge Evershed respects the time of others and patiently seeks input from all participants. From a list of adjectives, survey respondents select 99% positive words to describe him. Both survey respondents and courtroom observers describe Judge Evershed as a thoughtful and effective communicator who clearly enjoys working with juveniles and their families, particularly helping participants understand his decisions. Observers are consistently positive about Judge Evershed, with all reporting they would feel comfortable appearing before him in court. Of 47 survey respondents answering the retention question, 45 (96%) recommend that Judge Evershed be retained.

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

Judge Ryan B. Evershed was appointed to the Eighth District Juvenile Court in 2013 by Gov. Gary R. Herbert. He received an undergraduate degree from the University of Utah and a Juris Doctor degree from the University of Toledo. Judge Evershed gained valuable experience in Juvenile Court working for the Utah Attorney General’s Office in the Child Protection Division in cases involving child abuse, neglect, and dependency. He served on the Advisory Board of the Children’s Justice Center in Uintah and Duchesne counties and as chairperson of the Uintah County Board. Prior to his appointment to the bench, Judge Evershed opened his own practice which specialized in family, criminal, and juvenile law and served as the Juvenile Court public defender.

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



The Honorable Ryan B. Evershed

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 Ryan B. Evershed, 53% of qualified survey respondents submitted surveys. Of those who responded, 47 agreed they had worked with Judge Ryan B. Evershed enough to evaluate his performance. This report reflects these 47 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 "Juvenile 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.

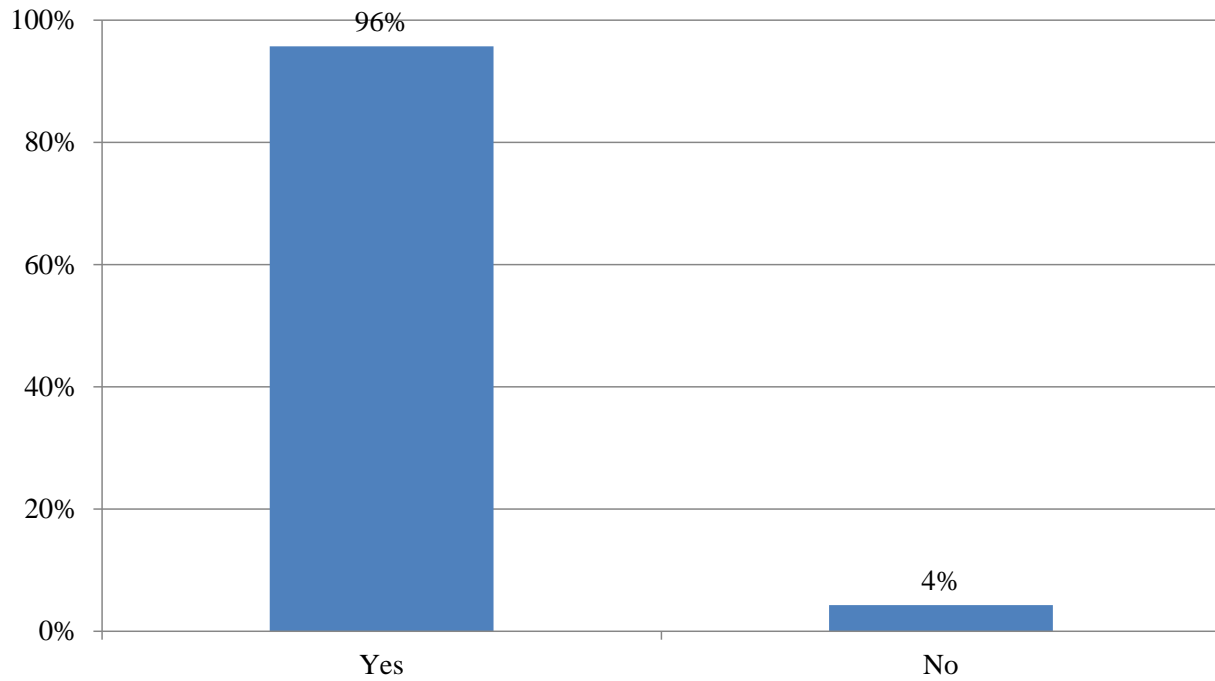
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

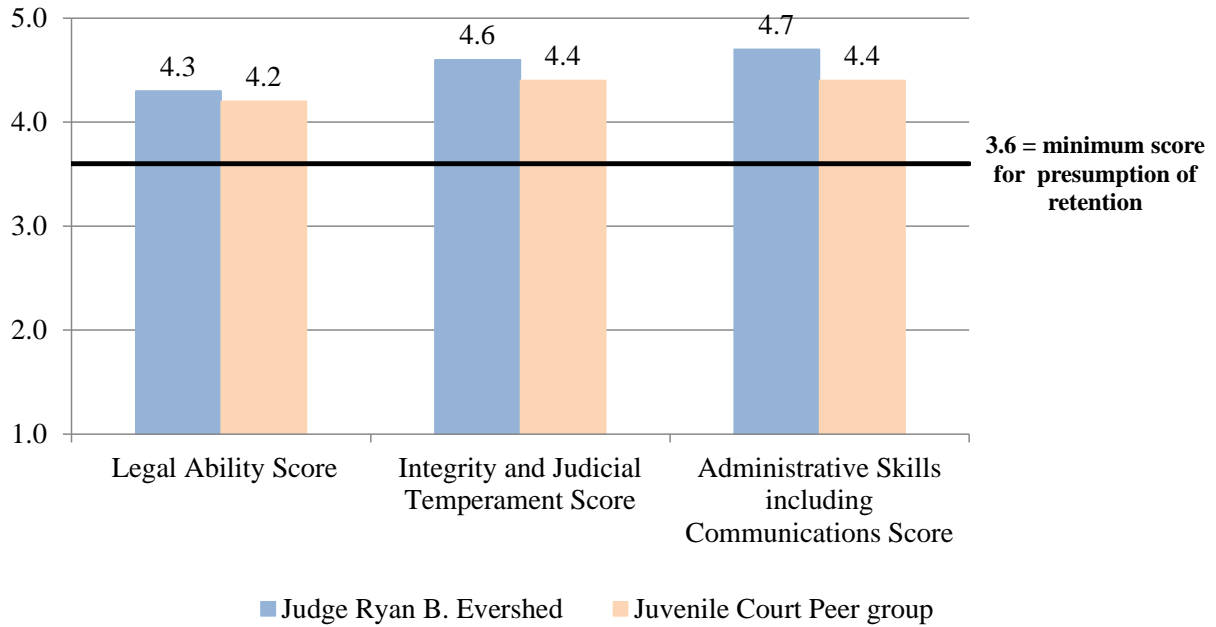
B. Retention Question

Figure A. Would you recommend that Judge Ryan B. Evershed be retained?



C. Statutory Category Scores

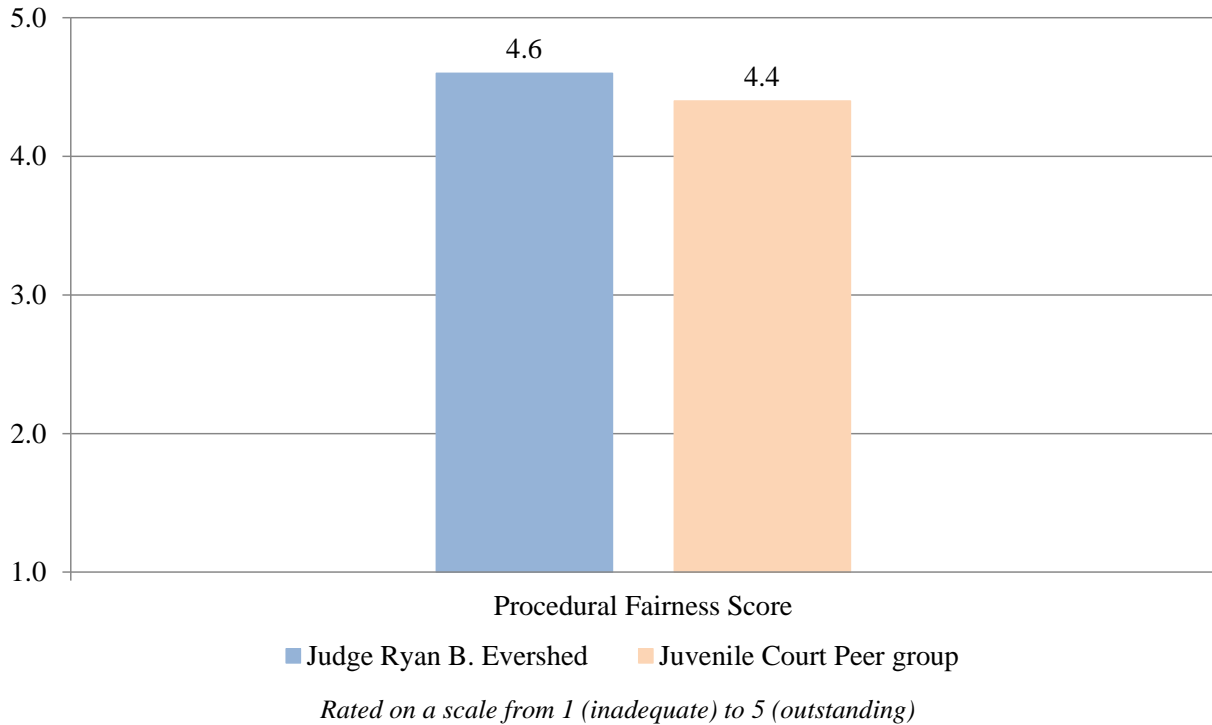
Figure B. Statutory Category Scores



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 Ryan B. Evershed
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Ryan B. Evershed	Juvenile 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	4.3
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.3	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.4	4.2
Legal Ability	The judge only considers evidence in the record.	4.2	4.1
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.3	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.6	4.3
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.6	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.4
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.7	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.	4.7	4.7

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

Table C. Responses to Survey Questions (continued)

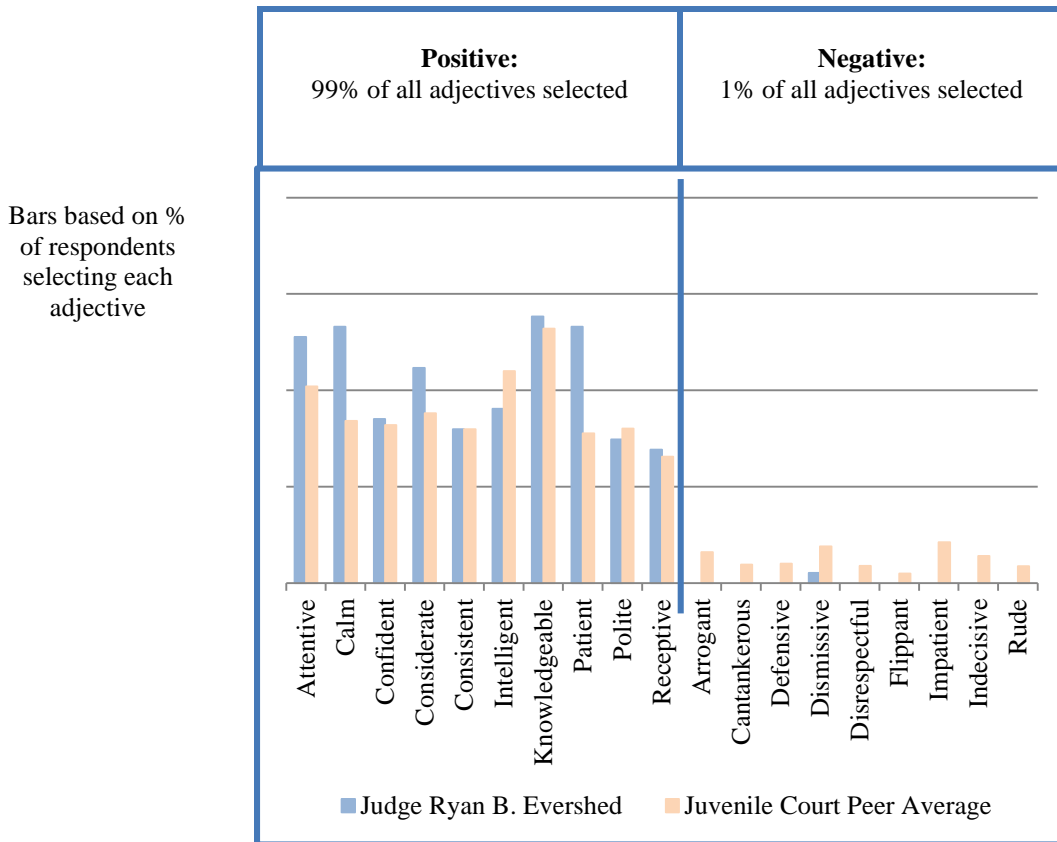
Category	Question	Judge Ryan B. Evershed	Juvenile Court
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.5
Administrative Skills	The judge is an effective manager.	4.6	4.4
Administrative Skills	The judge convenes court without undue delay.	4.5	4.3
Administrative Skills	The judge rules in a timely fashion.	4.7	4.6
Administrative Skills	The judge maintains diligent work habits.	4.6	4.6
Administrative Skills	The judge's oral communications are clear.	4.7	4.6
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.7	4.6
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.7	4.5
Procedural Fairness	The judge is fair and impartial.	4.6	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.6

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	43%
Criminal	64%
Civil	36%
Other	14%

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	43%
6 - 10	7%
11 - 15	7%
16 - 20	14%
More than 20	29%

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 RYAN EVERSHERD

Four observers wrote 90 codable units that were relevant to 12 of the 15 criteria. Two observers reported that the judge was aware that JPEC observers were present, one observer reported that the judge was not aware, and one did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none">• All observers were enthusiastically positive about Judge Evershed, emphasizing his understanding of juveniles and his skill and enjoyment of working with them. Observers additionally offered comments and suggestions (see “Anomalous comments”).• All observers reported that they would feel comfortable appearing before Judge Evershed.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers variously reported that Judge Evershed listened carefully and attentively, was well prepared and knowledgeable, and began court on time. He acknowledged and directly addressed all juveniles by name, appreciated their progress, and praised supportive parents. His demeanor was friendly, calm, and reassuring, and the atmosphere was relaxed, informal, and non-threatening. While professional and clearly in charge, he also put juveniles at ease and engaged in humor and friendly banter when appropriate. He was consistent and neutral in all cases, ensured that all participants had an opportunity to speak, and had an ability to relax juveniles so that they were able to put aside fears and participate more in the proceedings. He showed that he had listened to and considered what he heard, consistently asked if participants understood him, and was willing to explain anything that was not understood, including the meaning of terms, defendants’ charges, options, and potential outcomes. He so clearly explained the reasoning behind his decisions and why they differed from the recommendation if they did so, that his rulings were respectfully accepted.• All observers particularly emphasized that Judge Evershed had a real understanding of juveniles and enjoyed working with them. He did not talk down to them but spoke conversationally with skill in a calm and age-appropriate manner, understanding their difficulties and the outcomes of their actions, and encouraging and advising them.
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• One observer commented that cases were not scheduled back to back with resultant unnecessary waiting time for participants (see “Respect for others’ time”).• One observer commented that Judge Evershed used his position wisely to give straight talk to juveniles about changing their direction in life, but suggested that the judge could be more effective if he more frequently and consistently did so (see “Courtesy, politeness, and general demeanor”).• One observer noted some informalities. None of the participants other than the prosecutor rose to address the judge, the bailiff was very casual, and the public defender sloppy looking and unprofessional. The observer also suggested that the non-verbal acknowledgement of some of Judge Evershed’s questions could cause problems later with transcripts or appeals (see “Courtroom tone & atmosphere” and “Consistent and equal treatment”).

Summary and *exemplar language* of four observers’ comments

RESPECT

Listening & focus	Three observers reported that Judge Evershed <i>listened carefully and attentively, appropriately silent and hearing what was being said and frequently responding with “OK” and “Alright.”</i>
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Well-prepared & efficient	Two observers reported that Judge Evershed was <i>well prepared</i> and <i>knowledgeable</i> .
Respect for others' time	Three observers reported that Judge Evershed began <i>exactly on time at 9 o'clock</i> and people were <i>not kept waiting even though he took the necessary time to fully address each case</i> . He was <i>very careful to ensure that new court dates were acceptable to all parties and attorneys</i> . In marked contrast one observer reported that cases were <i>not scheduled back to back</i> and that there was <i>too much waiting with nothing happening that wasted people's time</i> . In one case a delayed attorney caused a 30 minute delay, during which <i>the DCFS caseworker and three other people left to address a matter and a recess was called</i> .
Courtesy, politeness, and general demeanor	All observers reported that Judge Evershed <i>acknowledged participants by name and spoke directly to the juveniles in all cases</i> , saying, " <i>Good morning</i> ," and explaining in detail the <i>purpose of the hearing</i> . He <i>expressed appreciation for progress and effort, stressed the importance of education, praised supportive parents, and encouraged the youth to appreciate them</i> . He had a <i>real understanding of and enjoyed working with juveniles without talking down or appearing judgmental, speaking conversationally about school, local events, and their clothes</i> . Judge Evershed's demeanor was <i>friendly, calm, patient, attentive, positive, and reassuring</i> , and the atmosphere was <i>relaxed, informal, nurturing, and non-threatening</i> . He <i>maintained a dignified decorum</i> and was <i>professional and clearly in charge but not standoffish</i> , in one case <i>not getting huffy</i> when a juvenile who wanted to shake his hand approached the bench. When appropriate he gave an <i>example from his past, or told a denigrating joke about himself, or engaged in friendly banter, telling one young man after hearing his progress and plans, "You're very convincing. You should be a lawyer."</i> He put one juvenile <i>at ease whose parents were in jail by asking about school</i> and told another, " <i>I was worried about you because you were very frustrated, I'm proud of how hard you're working.</i> " Children <i>enjoyed his attention and genuinely sought his approval</i> . One observer suggested that Judge Evershed used <i>his position wisely</i> when he gave <i>straight talk</i> about " <i>growing up</i> " and the " <i>reality of life</i> " and when he emphasized the need for juveniles to <i>change their direction</i> . Nevertheless, the judge would <i>enhance his effectiveness</i> if he <i>more frequently and consistently used his voice and intimidating position and title to more emphatically drive home the seriousness of their offenses and the need for change</i> .
Body language	One observer reported that Judge Evershed <i>maintained very good eye contact</i> .
Courtroom tone & atmosphere	One observer noted that while the <i>prosecutor always rose when addressing the judge</i> , attorneys, staff and defendants did <i>not rise</i> . Additionally, the <i>bailiff was very casual and often unprofessional</i> , and the <i>public defender was sloppy looking and almost gave the impression when addressing the court that he was having a hallway conversation rather than addressing a judge</i> .

NEUTRALITY

Consistent and equal treatment	All observers reported that Judge Evershed was <i>consistent</i> in applying <i>processes to each case</i> , and whether <i>dealing with minor or felony charges</i> he treated the youth in the <i>same kind and careful manner</i> . He maintained a <i>neutral appearance</i> and did <i>not indicate any judgment or personal assessment while evidence was being presented</i> , which one observer described as <i>staying at the midpoint between excitement and boredom</i> . One observer suggested that when <i>in some cases</i> the judge <i>allowed juveniles' acknowledgement by thumbs up or shaking of the head, this could cause problems with transcripts and appeals</i> .
Demonstrates concern for individual needs	All observers reported that Judge Evershed was <i>very skillful</i> in engaging in conversations that indicated he was <i>interested in defendants as individuals</i> rather than a <i>judgmental interrogator of their actions</i> . He understood juveniles' difficulties and the <i>long term outcomes of their actions</i> , saying for example, " <i>I read that the [lifetime income] difference between graduation and drop-out is about one million dollars ... we want you to graduate.</i> " He encouraged a <i>parent with a removed child</i> , saying, " <i>I think it's great that we have these services, so children can stay home. I appreciate that you have started these services.</i> " He was <i>very clear</i> to a parent that she was <i>not responsible for her son's fines</i> , and the judge <i>expected the fines to be paid by the juvenile</i> .

Demonstrates concern for individual needs <i>continued</i>	Judge Evershed offered juveniles advice and encouragement. He encouraged a <i>youth with a felony charge to talk to an attorney due to the seriousness of the charges</i> , and he <i>explained what an attorney does</i> . He was <i>concerned about an unresponsive defendant, inquiring about the change in her manner and encouraging her to bring her parents to the next hearing as she only needed three credits to graduate so that she could quit paying on a \$2,500 fine</i> . He advised one juvenile, <i>“You need to be more mature than most seventeen-year-olds. You are a husband and a father, it’s time to grow up,”</i> and told another, <i>“I appreciate your coming in here to take care of it. You need to take care of school and detention, no more hanging out with [person]. Would it be helpful if we had a no contact order? Our success depends on who we hang out with.”</i>
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VOICE

Considered voice	Three observers reported that Judge Evershed was <i>open to information collection from all parties</i> and ensured <i>all had an opportunity to speak and participate</i> . He accepted an <i>impromptu request from a grandfather to make a statement</i> . The <i>juveniles were more able to participate</i> because the judge <i>addressed them directly and individually</i> , which gave them <i>‘permission’ to participate</i> . He had an <i>ability to relax defendants which greatly assisted in allowing them to put aside some of their fears and concentrate on the proceedings</i> . The judge’s rulings indicated that <i>all evidence was not only listened to but considered</i> , and at one point <i>he referred to notes that he was taking</i> .
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COMMUNICATION

Communicates clearly	One observer reported that Judge Evershed held <i>conversations</i> and explained the <i>processes and defendant’s rights</i> to young participants in an <i>age appropriate manner and in a calm and conversational tone</i> .
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Ensures information understood	One observer reported that Judge Evershed <i>constantly asked, “Do you understand?”</i> and <i>if there seemed to be any question, he would further explain</i> .
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Provides adequate explanations	Three observers reported that Judge Evershed was <i>willing to explain anything</i> that juveniles or their parents might not understand, including <i>basic information such as what a trial is</i> . He <i>shared information with a concerned father about who they could talk to in order to have the court record eventually expunged</i> . He made a <i>concerted effort to ensure that all terms were understood when detailing charges, options, or potential outcomes</i> . He <i>carefully explained his decision and the laws on which the sentence were based and how they applied to the case, presenting his reasoning clearly and addressing both sides of the issues in his decision</i> . When a sentence was <i>different than the recommendation he explained why</i> . One observer was <i>concerned that there might be some form of outburst from a demonstrative family when their ruling was presented</i> , but Judge Evershed <i>so clearly and compassionately explained his ruling and then attempted to work with the family regarding a placement, that the judgment was accepted without any show of disrespect</i> .
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