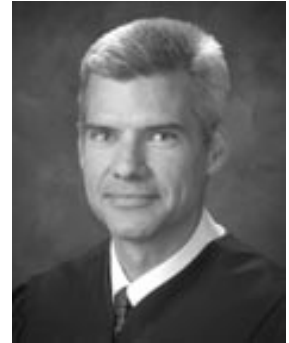


Honorable John J. Walton – District Court Judge

Serving Beaver, Iron and Washington counties

Commission Recommendation: RETAIN

(vote count: 12-0 for retention)

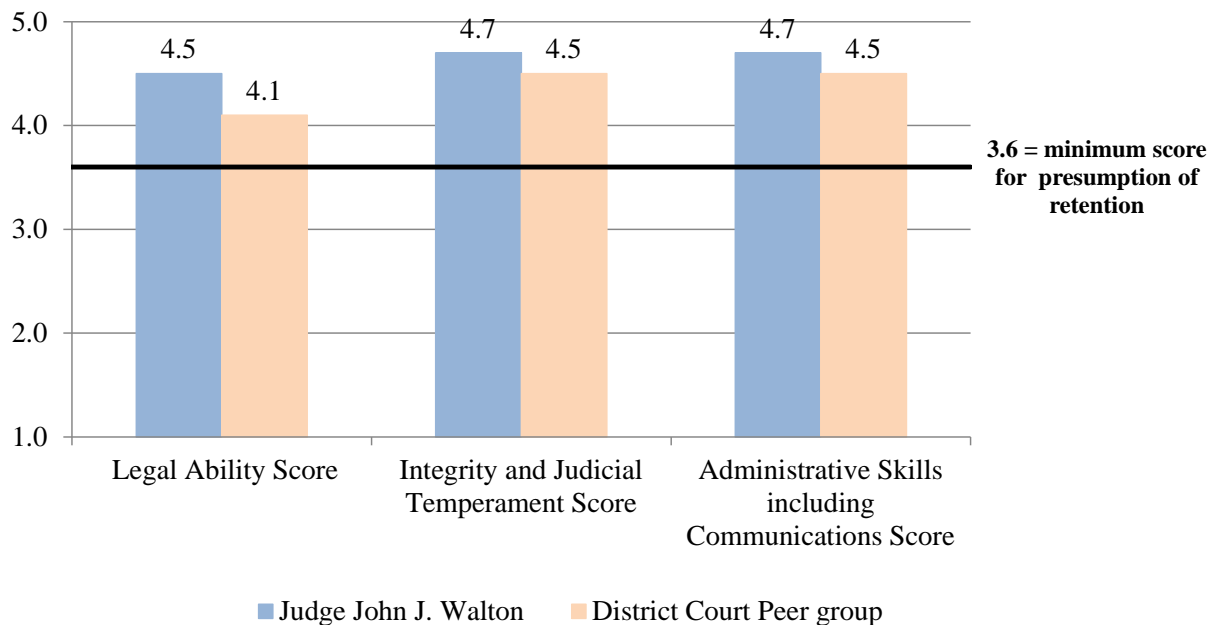


Judge John Walton scored higher than the average of his district court peers in all survey categories. Attorneys gave Judge Walton especially high marks for his knowledge and application of the law, with several commenting on his thoughtful analysis and consummate professional demeanor. Survey respondents characterized him as intelligent, considerate and fair. Respondents also praised Judge Walton's excellent preparation and attentiveness. Courtroom observers described Judge Walton as impartial, consistent, and efficient. Observers also noted that he demonstrated patience and compassion while maintaining a focused and serious demeanor. Of survey respondents who answered the retention question, 99% recommended that Judge Walton be retained.

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

Judge John J. Walton was appointed to the Fifth District Court in 2005 by Gov. Jon M. Huntsman, Jr. Judge Walton graduated from Utah State University in 1990 and the J. Reuben Clark Law School at Brigham Young University in 1993. Before his appointment to the bench, Judge Walton served as a Deputy Washington County Attorney, where he prosecuted felony offenses. Prior to this, he was a shareholder with Jones Waldo Holbrook & McDonough, where his practice focused on civil litigation and representation of government entities. Currently, he is Presiding Judge of the Fifth District Court. In addition to his regular duties, Judge Walton oversees the Iron County Drug Court and the Washington County Mental Health Court.

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



The Honorable John J. Walton

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 John J. Walton, 59% of qualified survey respondents submitted surveys. Of those who responded, 91 agreed they had worked with Judge John J. Walton enough to evaluate his performance. This report reflects the 91 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

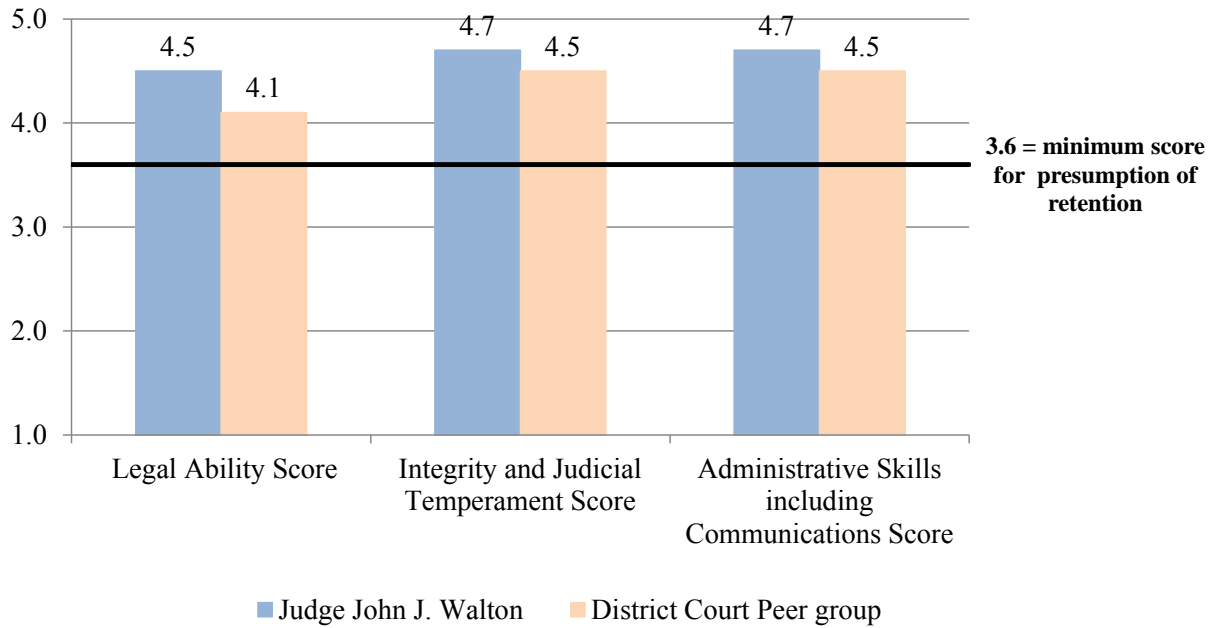
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

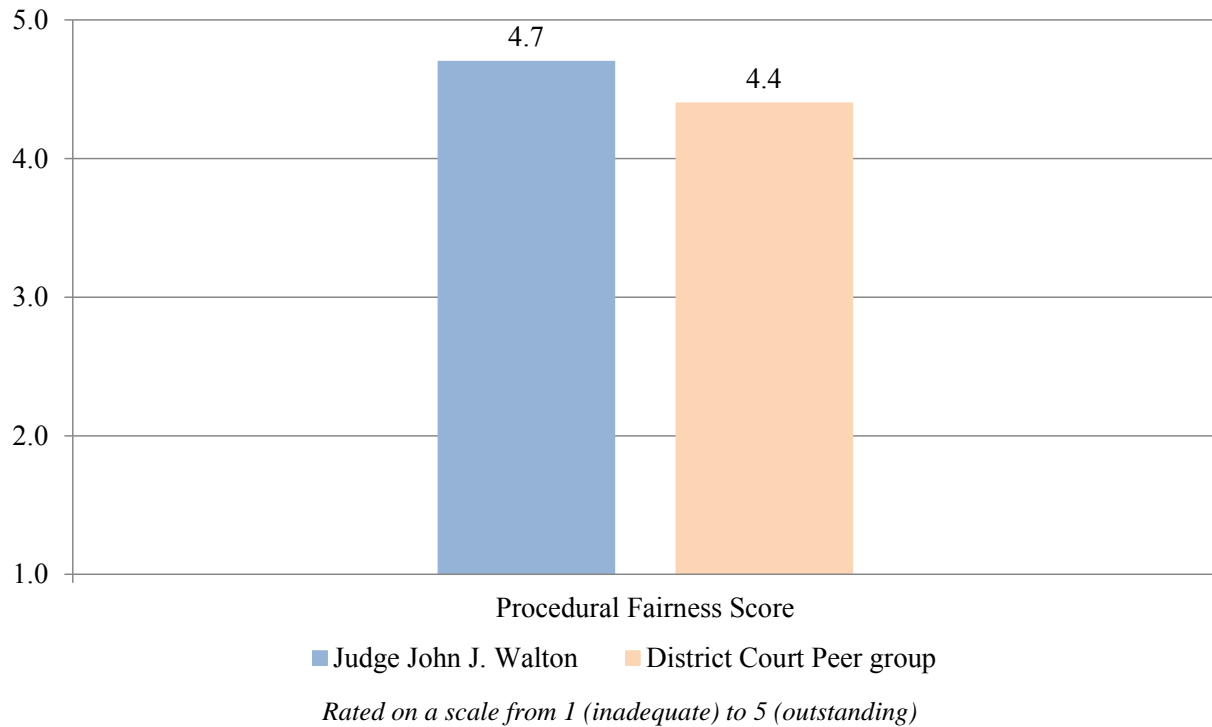
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

D. Responses to Individual Survey Questions

Category	Question	Judge John J. Walton	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.	4.6	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.5	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.5	4.1
Legal Ability	The judge only considers evidence in the record.	4.5	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.4	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.7	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.6	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	4.6

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

Category	Question	Judge John J. Walton	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.4
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	4.3
Administrative Skills	The judge convenes court without undue delay.	4.7	4.5
Administrative Skills	The judge rules in a timely fashion.	4.7	4.4
Administrative Skills	The judge maintains diligent work habits.	4.6	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.6	4.3
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	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.4

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

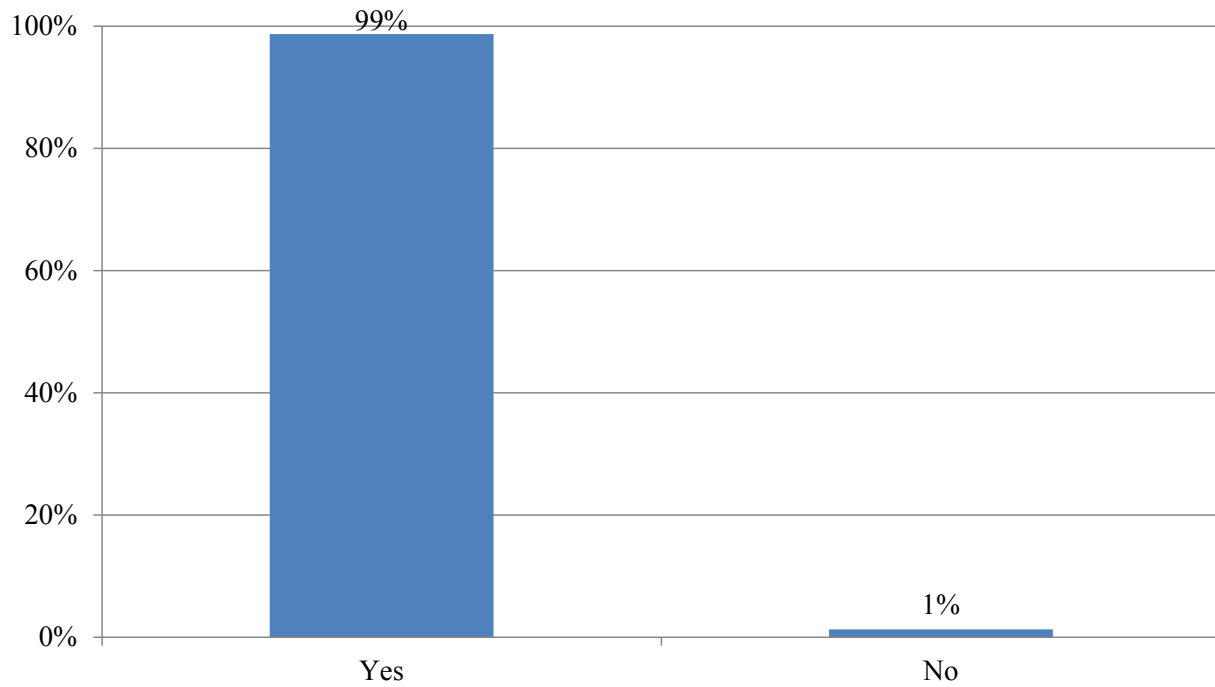
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	40
Calm	19
Confident	34
Considerate	27
Consistent	21
Intelligent	52
Knowledgeable	43
Patient	16
Polite	29
Receptive	17
Arrogant	1
Cantankerous	1
Defensive	1
Dismissive	1
Disrespectful	1
Flippant	0
Impatient	5
Indecisive	1
Rude	0
Total Positive Adjectives	298
Total Negative Adjectives	11
Percent of Positive Adjectives	96%

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 John J. Walton be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	6%
Domestic	54%
Criminal	46%
Civil	54%
Other	4%

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

5 or fewer	37%
6 - 10	29%
11 - 15	6%
16 - 20	4%
More than 20	24%

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 JOHN WALTON

Six observers wrote 111 codable units that were relevant to 15 of the 17 criteria. Three 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 Walton, with some reservations in some areas. Observers variously reported that Judge Walton was well prepared and conducted the proceeding with great organization, efficiency and remarkable speed. He started promptly, announced delays, and never wasted participants' time. He generally greeted participants by name, was polite and courteous, and made extraordinary efforts to show his respect. He was serious and methodical with a 'top down' management style, and while he did not smile and showed little emotion, he had compassion and great patience, made good eye contact, and occasionally displayed humor. Judge Walton thinks and acts quickly while exercising restraint and judicial wisdom, and he is well suited to his calling as a judge. He took every opportunity to ensure the best outcome for defendants and to influence participants' lives with encouragement and fatherly advice. He was skillful in encouraging defendants to tell their story and ask questions, and he used straight-forward and everyday language. All observers particularly emphasized that Judge Walton was the epitome of impartiality and consistency, regardless of circumstances. All observers reported that they would feel comfortable appearing before Judge Walton.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> Four observers reported that Judge Walton clearly and patiently explained defendants' rights, their charges, and the consequences of their actions, checking often for understanding and requiring a direct response. In marked contrast, two observers reported that Judge Walton did not explain the reasons for his decisions or the schedules for payment of fines, and he did not check to see if his comments were clear or if defendants understood the proceedings, or his orders, or what they were supposed to do next (see "Ensures information understood" and "Provides adequate explanations").
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> In marked contrast to other observers, one reported that Judge Walton did not encourage participants to tell their side of the story. The observer was unsure whether this was because Judge Walton spoke so quickly, or because he did not think to ask (see "Considered voice").

Summary and *exemplar language* of six observers' comments

RESPECTFUL BEHAVIORS

Listening & focus	One observer reported that Judge Walton <i>listens carefully</i> .
Well-prepared & efficient	Four observers reported that Judge Walton was <i>well prepared</i> and <i>well versed in each case</i> . Observers approvingly emphasized his <i>organization</i> and <i>efficiency</i> . He maintained a " <i>let's keep going</i> " momentum, " <i>poking</i> " the attorneys and state often, saying, " <i>What is your proposed resolution, are you ready to proceed, how much more time do you need...</i> " One observer mentioned the <i>remarkable</i> speed with which he proceeded, reporting, " <i>He's fast.</i> " [Note: No observer reported that Judge Walton was hurried or rushed.]
Respect for others' time	Four observers reported that Judge Walton was <i>very respectful</i> of the court's time. He started <i>on time to the second</i> , and any delays were accurately announced by the clerk. The judge was <i>determined to waste none of the participants' time</i> . He was <i>quick to order warrants</i> for no-shows with bail of many thousands of dollars. He <i>used the courtroom time well</i> and invited other cases to <i>fill in</i> when scheduled participants were not present.

Respectful behavior generally	<p>Five observers reported that Judge Walton <i>greeted each defendant by name</i> and asked if they had any <i>questions regarding their charges</i>. <i>On numerous occasions he made extraordinary efforts to show his respect to defendants</i> and was <i>patient as he interrupted prisoners via video who wanted to go into detail about their cases, explaining that this was not the time for explanations</i>. He was <i>visibly happy</i> and led a <i>round of applause</i> for two successful Mental Health Court participants, and he <i>went out of his way to help everyone “savor the moment”</i> of an adoption, coming down from the bench and <i>shaking hands with the boy and his new father</i>.</p> <p>One observer reported that Judge Walton did <i>not greet defendants personally, but did at least recognize the defendant as a person when saying, “This is case number 123, Mr. X is here with his attorney.”</i></p>
<i>RESPECTFUL TONE</i>	
Courtesy, politeness and patience	<p>Three observers reported that Judge Walton was <i>polite, courteous, and patient in virtually all instances</i>. When a <i>sensitive issue of paternity required extra patience</i> from Judge Walton, he <i>questioned the attorneys in a professional manner</i>.</p> <p>However, one observer reported that Judge Walton <i>spoke very rapidly</i> throughout the session, which made him <i>appear to be impatient</i>. Another noted that he seemed <i>more than a little irritated with an administrative mix-up</i>, but was <i>patient</i> until it was explained and then <i>moved on</i>.</p>
Courtroom tone & atmosphere	<p>Five observers variously reported that Judge Walton was <i>serious, methodical, focused, and level-headed</i>. He has a <i>“top down” management style with almost no interaction with his clerk</i>, using his own calendar to choose appearance dates. He is <i>well suited to his calling as a judge</i>, for example, he was a <i>model of demeanor and a credit to the justice system in an extremely difficult case with a disrespectful and recalcitrant defendant</i>. He exercised <i>great restraint and judicial wisdom</i>, showing an <i>ability to think clearly and act quickly under a variety of circumstances that might have severely challenged a lesser judge</i>. Judge Walton <i>obviously enjoys Mental Health Court</i> in which there was a <i>very different atmosphere</i>, and the judge <i>smiled and talked</i> with these participants and was <i>interactive and upbeat while not taking any guff</i>.</p> <p>One observer noted that Judge Walton did <i>not show a lot of emotion and was not noticeably sympathetic</i>, but in contrast two observers reported that he had <i>great patience and compassion and a good sense of when to insert a bit of humor</i>.</p>
Body language	<p>Three observers reported that Judge Walton <i>did not smile</i> but made <i>good eye contact over the top of his glasses</i>. His <i>body language softened a bit</i> when dealing with sensitive topics, <i>leaning forward while encouraging litigants and offering suggestions</i>.</p>
Voice quality	<p>Two observers reported that Judge Walton’s voice was <i>neutral, strong and clearly projected</i>, even though he <i>often put his hand in front of his mouth</i>.</p>
<i>NEUTRALITY</i>	
Consistent and equal treatment	<p>All observers particularly emphasized that Judge Walton treated all participants <i>equally fairly and impartially</i>, and he was the <i>epitome of neutrality and notable consistency, speaking in the same tone and cadence</i> regardless of the circumstances, for example <i>treating defendants in shackles and prison uniforms like any ordinary citizen who might be in his court</i>.</p>
Acts with concern for individual needs	<p>Two observers reported that Judge Walton <i>frequently said, “Let’s back up,”</i> when communicating with prisoners via video, showing a <i>real sense of obligation to get the facts correct</i>. In a difficult case with a <i>disrespectful and irritable defendant</i>, Judge Walton <i>never wavered in his patience and obvious desire to avoid a bad outcome</i> for the defendant. The judge <i>avoided over-reacting but explained and re-explained the purpose of the hearing and the defendant’s options</i>, resulting in a <i>more appropriate and favorable outcome</i> than might otherwise have occurred <i>with a less experienced and knowledgeable judge</i>.</p> <p>In contrast, one observer reported that <i>during a “usual” set of proceedings</i>, Judge Walton was <i>just not engaged</i> and seemed to be <i>operating almost by rote</i>.</p>

Expresses concern for the individual	<p>Three observers reported that Judge Walton <i>took every opportunity to influence people's lives and help them get back on track</i>. He gave <i>fatherly advice</i>, and in one case he took <i>extra time to try to "reach" one woman who had 5 children</i>, saying, "<i>You look like someone that has given up. You owe it to your kids to be a good example... We will bend over backwards to help you. If you don't change your ways you will end up in prison. I wish you good luck and I mean it.</i>"</p> <p>Judge Walton was <i>very, very clear</i> with defendants about the <i>potential downside</i> of not getting legal representation when they faced charges <i>that were more serious than they may have realized</i>.</p>
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VOICE

Considered voice	<p>Three observers reported that Judge Walton <i>often encouraged defendants to state their understanding of the process in their own words</i> and provided <i>adequate opportunity</i> for them to <i>provide input and ask questions</i>, saying, "<i>Anything you want to say before I impose sentence?</i>" He "<i>pushed</i>" the participants to get the whole story, asking, "<i>When did you last have a job? Who is supporting you?</i>" In the case with a recalcitrant defendant, Judge Walton <i>provided a model of how to give voice with good effect</i>, allowing the defendant <i>every opportunity to say virtually everything he wanted</i> even though he was <i>trying to manipulate the court</i>, before saying "<i>Please let us continue with the issues and we will respond to your questions.</i>"</p> <p>In marked contrast, one observer reported that Judge Walton <i>did not encourage participants to tell their side of the story or show that he had heard and considered what they said</i>. The observer was <i>unsure</i> whether this was because Judge Walton <i>worked so quickly and spoke so rapidly</i>, or whether <i>he did not think to ask each participant if they had anything else they wanted to say</i>.</p>
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COMMUNICATION

Communicates clearly	<p>One observer reported that Judge Walton used <i>straight-forward, informative and everyday language to explain what was happening in court</i>.</p>
Ensures information understood	<p>Four observers reported that Judge Walton was <i>careful</i> to ensure that each defendant <i>understood their rights and checked often for understanding</i> as he was reading them, looking defendants <i>right in the eye</i>. He was <i>interested</i> in ensuring that <i>what he said was understood</i>, requiring a <i>direct response from each defendant</i>, and <i>encouraged them to request another explanation if something was not understood</i>. When speaking by video he was careful to ensure that the incarcerated defendants <i>understood what was happening</i>, and he <i>repeated himself multiple times</i> as it was <i>apparent that the defendants were distracted by whatever was going on around them</i>.</p> <p>In marked contrast, two observers reported that Judge Walton <i>did not check to see if his comments to defendants were clear</i>, or if they had <i>understood his orders</i>, or <i>what they were supposed to do next</i>, or <i>when their next appearance would be</i>. One observer felt that <i>one defendant never understood what was going on</i>.</p>
Provides adequate explanations	<p>Three observers reported that Judge Walton was <i>patient, careful, and clear</i> in explaining the <i>seriousness of charges</i>, how defendants could <i>best be prepared to participate in their own defense</i>, and the <i>consequences</i> of arriving late to court or not following various court orders. He explained a defendant's rights and options in a <i>rapid but understandable</i> manner.</p> <p>In contrast, two observers reported that <i>most of the time</i> Judge Walton <i>did not explain the reasons for his decisions</i> or how he <i>applied the law</i>. He seldom explained verbally the payment schedule or starting dates for fines as is done <i>in most courtrooms</i>.</p>
