

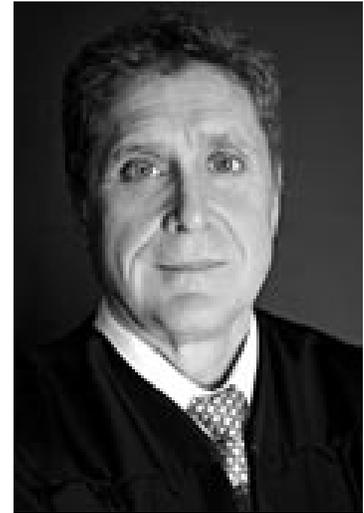
## **Honorable Jeffrey C. Wilcox – District Court Judge**

Serving Beaver, Iron, and Washington counties

### **Commission Recommendation: **RETAIN****

(vote count: 12-0 for retention)

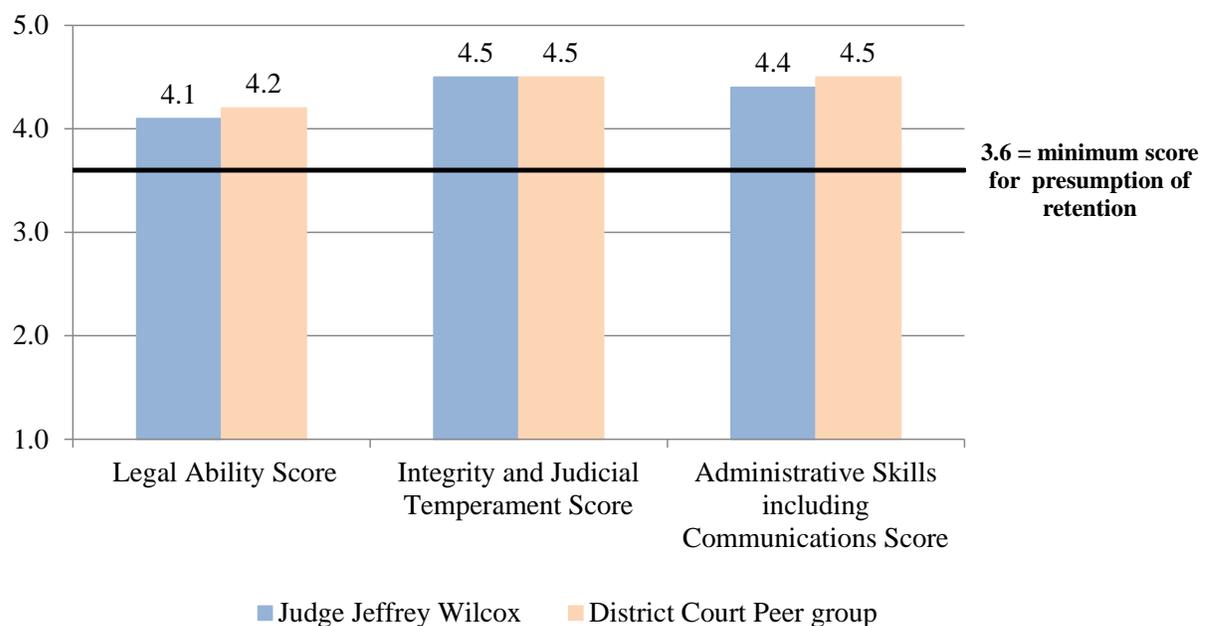
Appointed to the bench in 2013, Judge Jeffrey Wilcox is a relatively new judge who survey respondents say is continuing to learn and gain confidence. He scores on average with his district court peers in all survey categories. Survey respondents characterize him as a calm, patient, and polite judge who is fair to all. Courtroom observers describe Judge Wilcox as a prepared, engaged listener who devotes his undivided attention to those appearing before him. They all report they would feel comfortable appearing before him. Of survey respondents answering the retention question, 90% recommend that Judge Wilcox be retained.



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

Judge Jeffrey C. Wilcox was appointed to the Fifth District Court in January 2013 by Gov. Gary R. Herbert. He graduated from the University of Minnesota and then earned his law degree, cum laude, from the J. Reuben Clark Law School at Brigham Young University in 1984. Prior to his appointment to the bench, Judge Wilcox was a partner at Gallian, Wilcox, Welker, Olsen & Beckstrom, where he practiced for 28 years as a civil litigator. Judge Wilcox currently serves as the felony drug court judge in Washington County and chairs the Fifth District Pro Bono Committee.

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



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# **The Honorable Jeffrey C. Wilcox**

**Judicial Performance Evaluation Commission Report**

**Retention 2016**

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### II. Courtroom Observation Report

# I. Survey Report

## Survey Results

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### A. How to Read the Results

For Judge Jeffrey C. Wilcox, 50% of qualified survey respondents submitted surveys. Of those who responded, 98 agreed they had worked with Judge Jeffrey Wilcox enough to evaluate his performance. This report reflects these 98 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 "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 the Legal Ability questions.

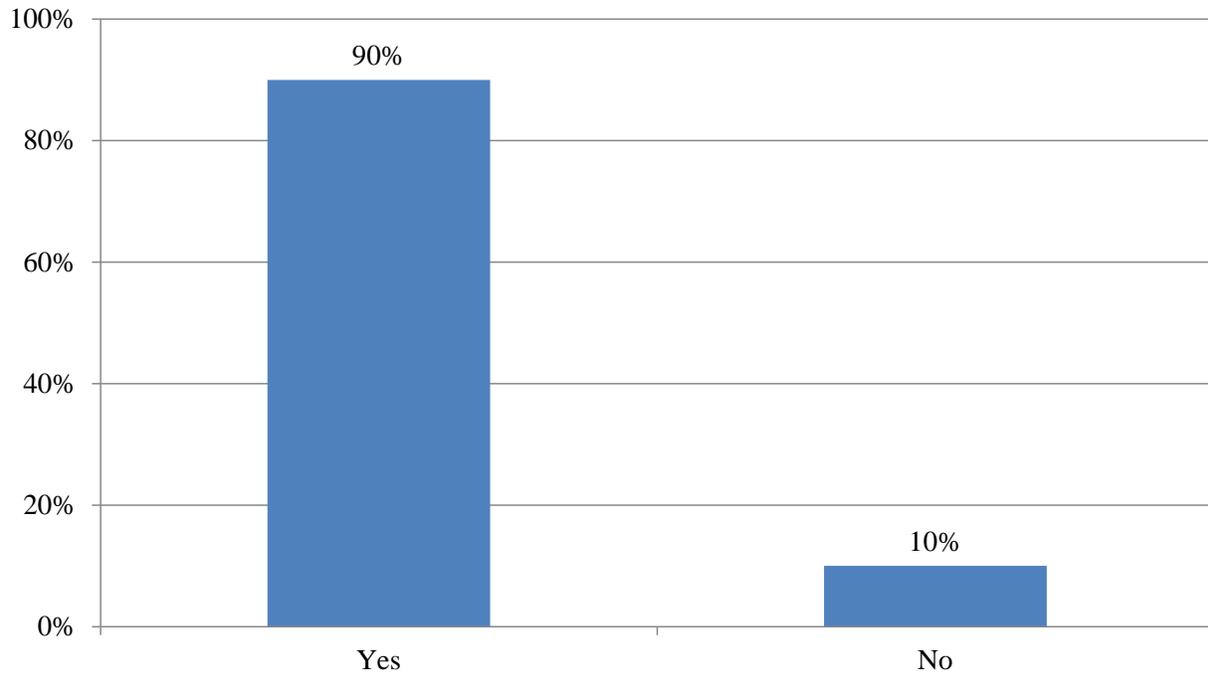
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

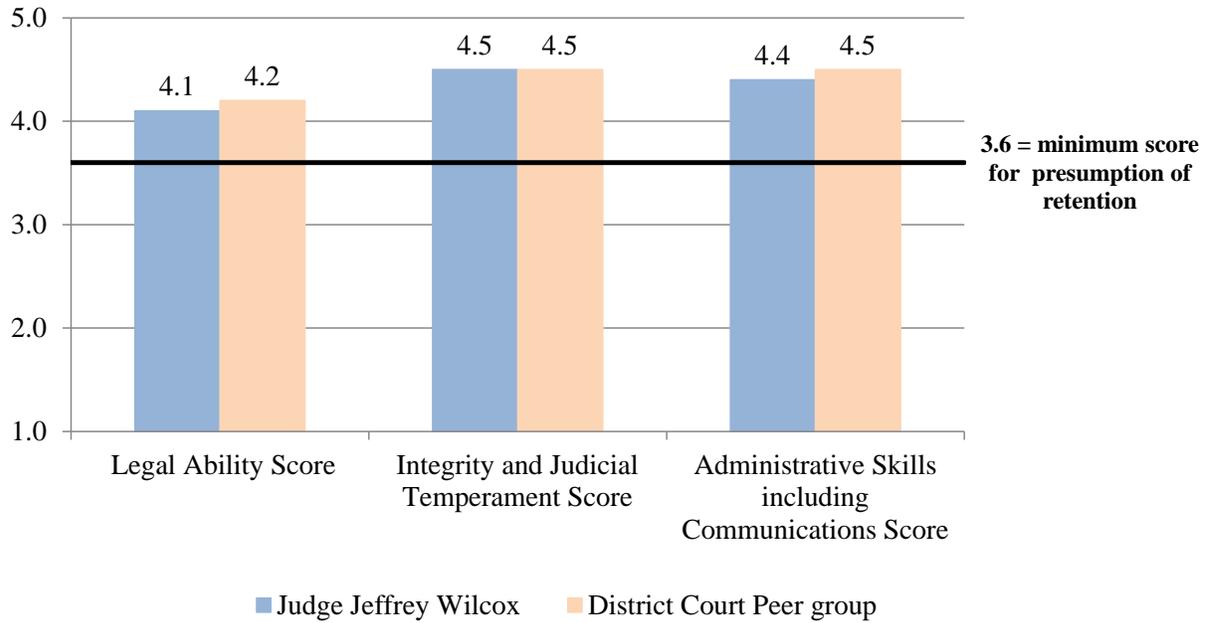
## B. Retention Question

**Figure A. Would you recommend that Judge Jeffrey Wilcox be retained?**



## C. Statutory Category Scores

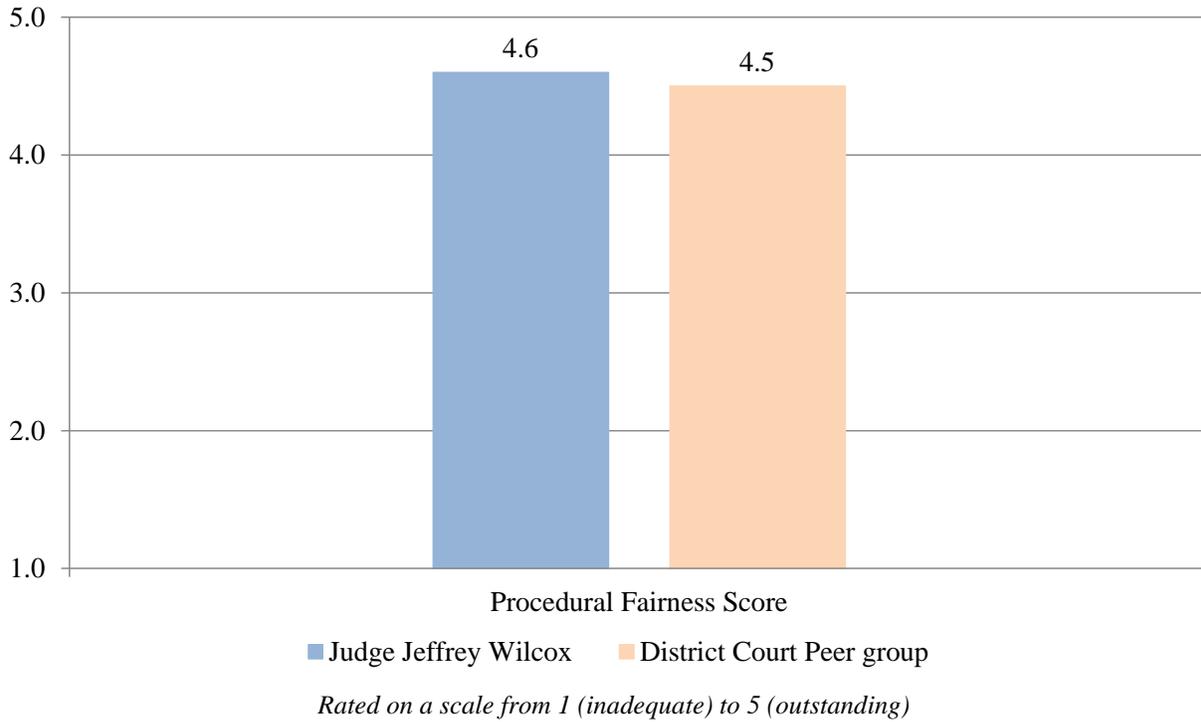
**Figure B. Statutory Category Scores**



*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 Jeffrey Wilcox
Procedural Fairness	Pass

## E. Responses to Individual Survey Questions

**Table B. Responses to Survey Questions**

Category	Question	Judge Jeffrey Wilcox	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.	4.1	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.1	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.2	4.2
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.	4.1	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.2	4.2
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.4	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.4	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.5	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.5	4.4
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)*

**Table C. Responses to Survey Questions (continued)**

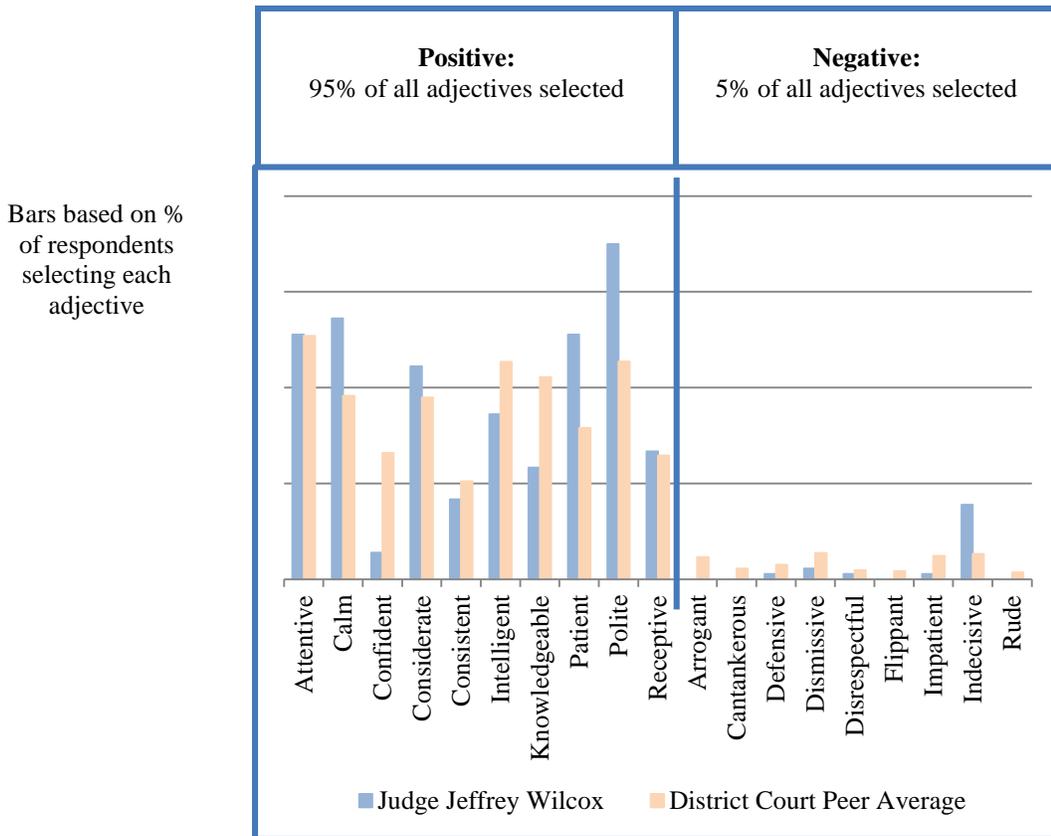
<b>Category</b>	<b>Question</b>	<b>Judge Jeffrey Wilcox</b>	<b>District Court</b>
Administrative Skills	The judge is prepared for court proceedings.	4.4	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	4.6
Administrative Skills	The judge is an effective manager.	4.2	4.5
Administrative Skills	The judge convenes court without undue delay.	4.6	4.6
Administrative Skills	The judge rules in a timely fashion.	4.3	4.5
Administrative Skills	The judge maintains diligent work habits.	4.6	4.5
Administrative Skills	The judge's oral communications are clear.	4.2	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.3	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.7	4.6
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.	4.4	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.6	4.4

*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	7%
Domestic	36%
Criminal	26%
Civil	69%
Other	6%

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	15%
11 - 15	17%
16 - 20	8%
More than 20	17%

## Survey Background and Methods

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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 JEFFREY WILCOX

Four observers wrote 65 codable units that were relevant to 14 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, two observers 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"><li>• All observers were strongly positive about Judge Wilcox.</li><li>• All observers reported that they would feel comfortable appearing before Judge Wilcox.</li></ul>
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"><li>• All observers variously reported that Judge Wilcox was an active listener and very prepared. Court started promptly or he apologized for delays, and he leveraged his time well by hearing quick cases first in order to concentrate on more involved cases. He addressed participants politely and individually, he was patient, encouraging, non-threatening, and conciliatory, but also very astute and strong in enforcing probation and program rules. He made good eye contact and passed participants a cordless mic which expedited the process. He was consistent and proceeded through the same steps with each defendant, using the same clear, layman's explanation of terms. He sincerely cared for defendants, approached drug court participants on a personal level, showing each the same magnitude of concern, and stressed that the court was always trying to help participants, even when enforcing rules. Even when delayed he never pushed things forward, and he was very generous in giving everyone a great deal of time to fully explain their positions and relate their side of issues. He actively ensured that defendants understood their rights and the implications of what was happening, and he gave repeated and ample opportunity for questions. He patiently explained all matters and clearly explained the rationale for his decisions.</li></ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"><li>• None</li></ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"><li>• None</li></ul>

### Summary and *exemplar language* of four observers' comments

<i>RESPECT</i>	
Listening & focus	One observer reported that Judge Wilcox was an <i>active listener, asking appropriate questions while listening and showing a sincere interest.</i>
Well-prepared & efficient	All observers reported that Judge Wilcox was <i>very prepared for drug review cases and aware of specifics of each individual.</i> The court was <i>very smooth-running</i> , and he <i>did a good job of leveraging time</i> , for example, <i>after describing what needed to happen to a first time attendee</i> , he asked the young man to <i>"sit down and work with counsel,"</i> and then called other cases forward before <i>calling the young man back up to complete what needed to be done.</i> In an adoption case he worked to ensure the <i>entire process went smoothly for the family.</i>
Respect for others' time	Three observers reported that Judge Wilcox began court session by asking counsel, <i>"What do we have that we can handle quickly?"</i> then changing the <i>order of the cases to concentrate on the cases that were more difficult or involved.</i> He was prompt in starting court as scheduled and similarly after a recess, and in one session that did begin late the judge <i>apologized to all in the courtroom</i> , saying, <i>"I don't know why it's taken so long to get through my staffing."</i>

Courtesy, politeness, and general demeanor	<p>Three observers reported that Judge Wilcox <i>addressed each participant individually</i>, saying, “Welcome to drug court. Pleased to have you with us, let’s make this work.” He called participants Mr. X or Ms. Y, but addressed defendants <i>informally by first name</i> which <i>put them at ease</i>. He was <i>polite</i>, saying, “I didn’t mean my voice to deflect downward when I said your name, let’s try again,” and then <i>sounded happier to see the defendant</i>. He was <i>encouraging</i>, saying, “I’ve heard you are doing really well. Why is that?” or, “You’ve got a new job, that’s clap worthy,” and <i>everyone applauded</i>. He was <i>very astute</i>, allowing drug court participants to <i>take ownership of violations and determine their own consequences</i>, and they were <i>harder on themselves than probably the judge would have been</i>. While he <i>showed empathy for difficulties in carrying out the program</i>, he was <i>strong in enforcing probation and treatment rules</i>.</p> <p>Judge Wilcox was <i>non-threatening, harmonious, patient, and conciliatory</i>. He relaxed the <i>nervous children</i> in an adoption by saying <i>the parents should probably consider taking them out for an ice cream</i>. He was <i>more than patient and understanding</i> when <i>delaying a warrant for a no-show with two bail enforcement agents in court</i>, and when the defendant showed up late explaining <i>he was caring for his sick mother and had to hitch a ride</i>, the judge <i>patiently explained that he needed to arrange transportation ahead of time and contact the bondsman in a more timely manner</i>.</p>
Body language	Two observers reported that Judge Wilcox <i>made good eye contact and looked directly to whomever he was addressing</i> .
Voice quality	One observer reported that Judge Wilcox <i>had a gravelly voice</i> , but his <i>voice, word usage and pronunciation were easily understandable</i> . He <i>never raised his voice nor exhibited any sign of irritation when speaking or listening to presentations</i> .
Courtroom tone & atmosphere	One observer was <i>impressed</i> that instead of calling drug court participants forward, Judge Wilcox <i>had a cordless mic and passed it to each participant as their name was called</i> , which <i>definitely added to an appropriate courtroom tone and seemed to expedite the process nicely</i> .

*NEUTRALITY*

Consistent and equal treatment	Three observers reported that Judge Wilcox was <i>consistent in all his dealings</i> with defendants, for example when clearly stressing the <i>tenets of treatment goals such as honesty, respect, independence and responsibility</i> . He proceeded through <i>exactly the same steps to implement a plea in abeyance</i> . He was <i>very consistent</i> in delivering <i>almost verbatim the same clear, layman’s explanation about what each step meant</i> . Before accepting pleas there was an <i>extensive and nearly identical back and forth to ensure the participants understood the proceedings</i> , for example, “Before I accept your plea, I need to verify you understand. Do you speak English? Are you on any prescription medications? You understand that it’s a guilty plea and your sentence will be dismissed if you complete the program, but if you fail to complete, the plea of guilty will be accepted and sentence pronounced? Just need to make sure you understand.”
Demonstrates concern for individual needs	Three observers reported that Judge Wilcox <i>sincerely cared about defendants’ situations</i> . He approached each drug court participant <i>on a very personal level</i> with the same <i>magnitude of concern, indicating that he and the staff had discussed each case and decided what would be in their best interest</i> . He <i>stressed that the court was trying to help when enforcing the rules</i> , for example, <i>ordering a defendant having difficulties in finding a job to attend a community center to assist with resumes and job seeking skills</i> . He told a defendant in a wheelchair, “I heard you need help getting to a doctor; trackers are willing to test you at home and I will put a hold on your fees for 30 days. I understand that you are putting a brave face on it, it is appreciated. Keep up the good work.” He told a participant, “I understand you have been having a hard time finding a safe place to stay while you are in jail. You need to find a place, maybe mental health court will help. I understand you are frustrated but I am going to continue what I said I would do. It sounds heartless, but we are trying to help, and right now you are safe where you are. Best wishes.”
Unhurried and careful	One observer reported that even when <i>delayed due to staffing requirements</i> , Judge Wilcox <i>never pushed or hastened things forward, but had the ability to “freeze in time” each individual matter</i> .

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VOICE

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Considered voice Two observers reported that Judge Wilcox *gave everyone the opportunity to relate their side of the issue, listened to their statements with two way conversations, and did not cut anyone off peremptorily. He was very generous in allowing both sides in a case a great deal of time to fully explain their positions* regarding an apparent lack of compliance with his prior order, and the case demonstrated how careful the judge was to allow both sides the time and latitude before imposing a jail sentence in a civil case.

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COMMUNICATION

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Communicates clearly One observer reported that Judge Wilcox *used lay terms*, for example when *defining a plea in abeyance*, by saying, *“You understand you are pleading guilty, but we are putting your plea on a shelf while you complete your treatment program; if you are successful, you will be allowed to withdraw your guilty plea and the charges will be dismissed.”*

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Ensures information understood Three observers reported that Judge Wilcox took an *active interest* in ensuring that defendants *understood the implications of what was happening and what was expected* of them. He *consistently informed each participant of their rights and gave ample opportunity* for questions to clear up any misunderstanding or lack of understanding, asking, *“Do you understand your rights and what you will be giving up? Do we need to go through it again?”* or, *“Has the process been explained to you? Let me explain ... Any questions for me?”* When a defendant said, *“I don’t have any choices,”* Judge Wilcox explained, *“You do have choices! You can fight the charges and make the state prove your guilt. I don’t want to force you to do anything. Do you have any questions? If you need more time, let’s give it to you.”* When a defendant was *confused about where the orientation facility* was, the judge described it and asked if he understood, saying, *“It’s important that you make it to this orientation and obey all the rules of the facility. Do you understand?”*

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Provides adequate explanations Two observers reported that Judge Wilcox was *patient when explaining things and clearly explained the rationale for his decisions*. He explained to a *puzzled father* in an adoption case that an attorney’s question of whether *he was at least 10 years older than the children related to a specific statutory requirement for adoptions*, and in another case he explained why a *“plea in abeyance is a good deal if you keep to the terms and finish it, but it’s a bad deal if you don’t,”* and wanted the defendant to know the plea required her *not to associate with others in the same situation until her treatment was completed*. When a defendant *objected strenuously that there wasn’t enough information to even need a trial and asked for a dismissal*, Judge Wilcox allowed *considerable discussion* and then *calmed the defendant down with the simple explanation in a very even and level voice*, *“That is why we have trials, to sort out the facts when we don’t all agree.”*

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