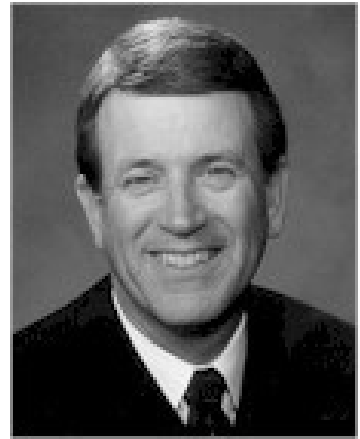


Honorable Ernest W. Jones – District Court Judge

Serving Davis, Weber, and Morgan counties

Commission Recommendation: RETAIN

(vote count: 12-0 for retention)

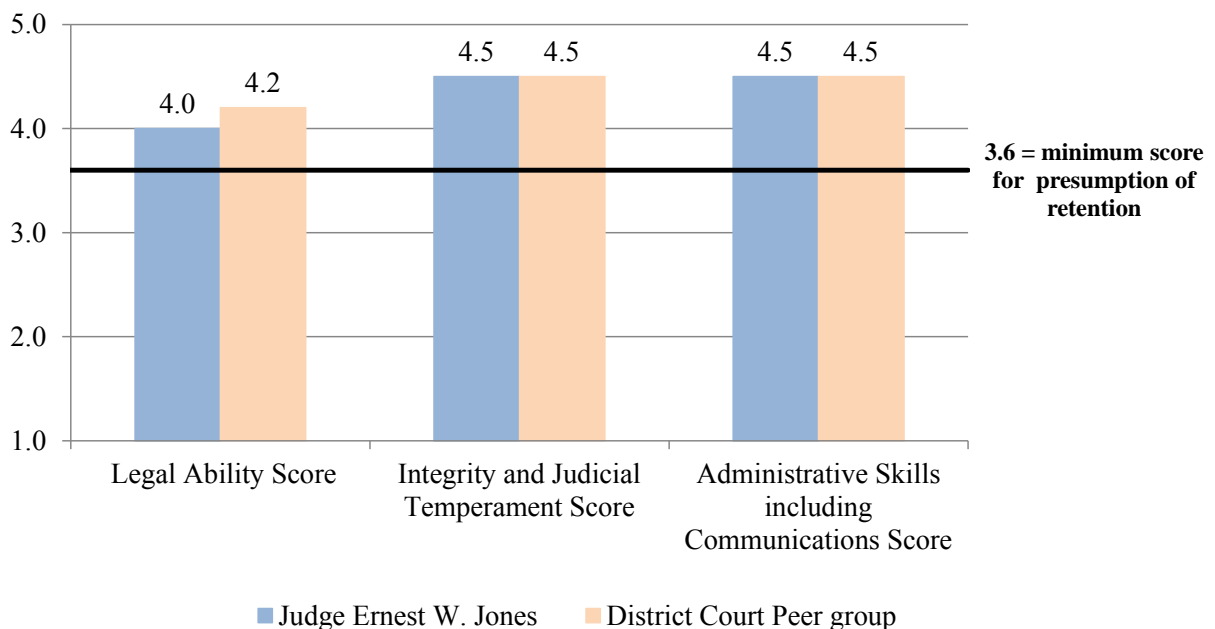


Appointed in 2000, Judge Ernest Jones scores consistent with the average of his district court peers in all survey categories. Survey respondents describe him as calm, considerate and polite. Most respondents and all observers view Judge Jones as fair and impartial, although some survey respondents criticize him for substituting his personal legal views for the letter of the law and court rules. Both observers and respondents agree that Judge Jones projects a pleasant demeanor and that he consistently and patiently explains his decisions to courtroom participants. Observers all report they would feel comfortable appearing before him in court. Of 66 survey respondents answering the retention question, 59 (89%) recommend that Judge Jones be retained.

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

Judge Ernest W. Jones was appointed to the Second District Court by Gov. Michael O. Leavitt in 2000. He earned his law degree from the University of Utah College of Law in 1974. He has served as the Clinton City attorney, worked at the Utah Attorney General's Office, the Weber County Attorney's Office, and the law firm of Olmstead, Stine and Campbell. From 1980-2000, while practicing law at the Salt Lake County District Attorney's Office, he received the Most Valuable Prosecutor Award and Salt Lake County Employee of the Year award. Judge Jones is LTC (Ret.), Staff Judge Advocate, U.S. Army Reserves. Judge Jones serves as a Drug Court judge in Weber County and is a member of the Board of District Court Judges.

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



The Honorable Ernest W. Jones

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 Ernest W. Jones, 46% of qualified survey respondents submitted surveys. Of those who responded, 74 agreed they had worked with Judge Ernest W. Jones enough to evaluate his performance. This report reflects these 74 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.

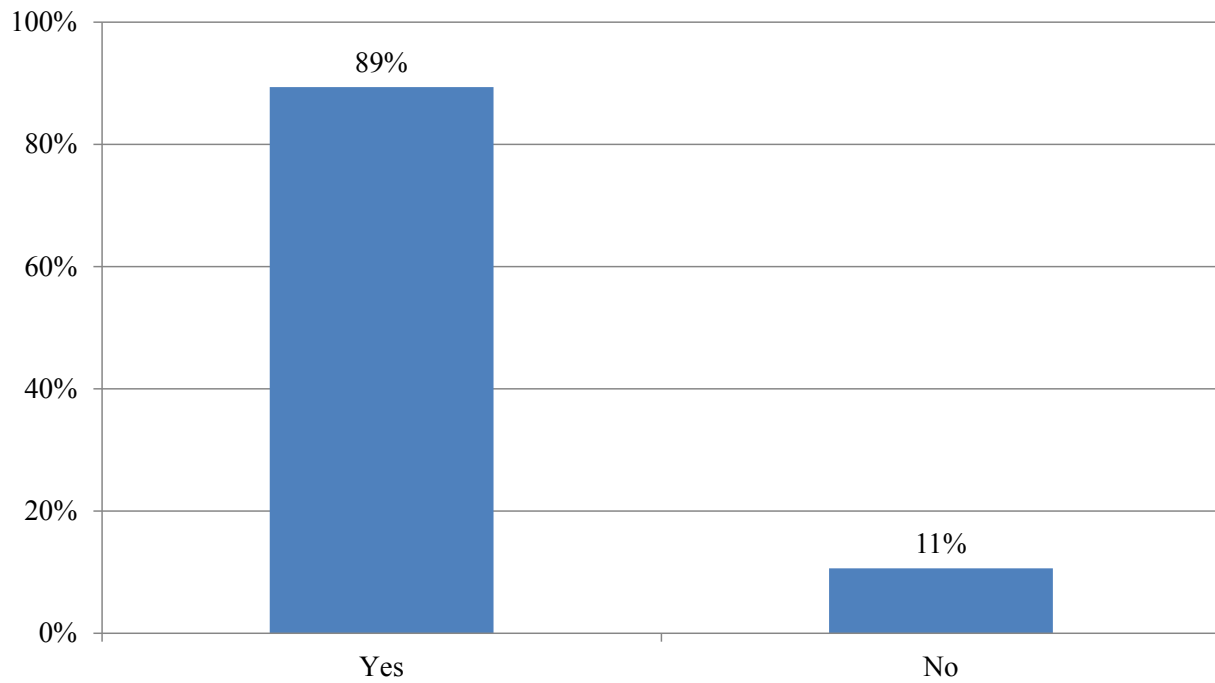
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

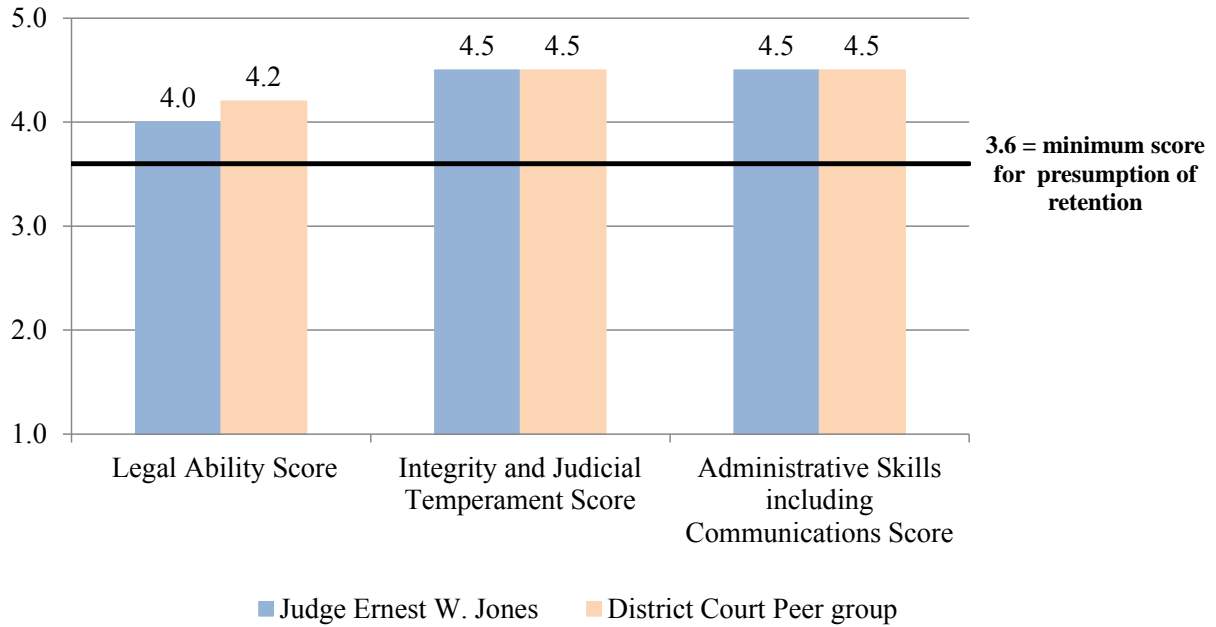
B. Retention Question

Figure A. Would you recommend that Judge Ernest W. Jones be retained?



C. Statutory Category Scores

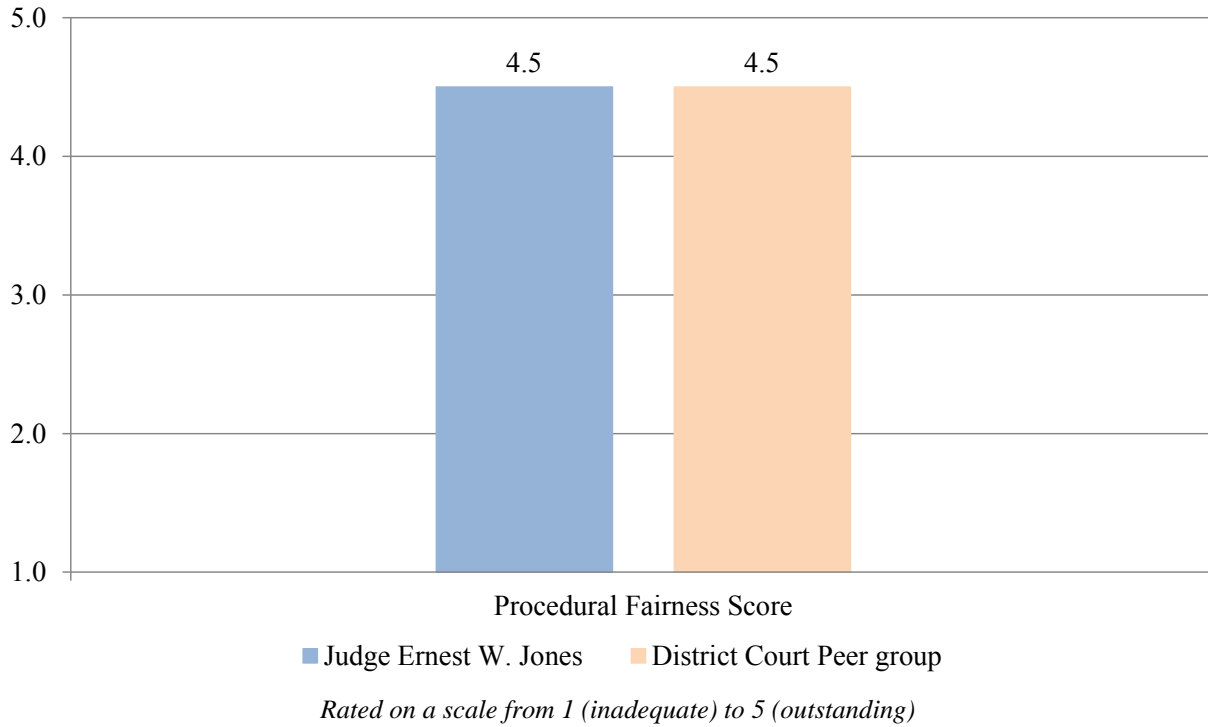
Figure B. Statutory Category Scores



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 Ernest W. Jones
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Ernest W. Jones	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.	4.0	4.2
Legal Ability	The judge only considers evidence in the record.	4.1	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.0	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.1	4.2
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.	4.6	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.2	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.6	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.	4.6	4.6

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

Table C. Responses to Survey Questions (continued)

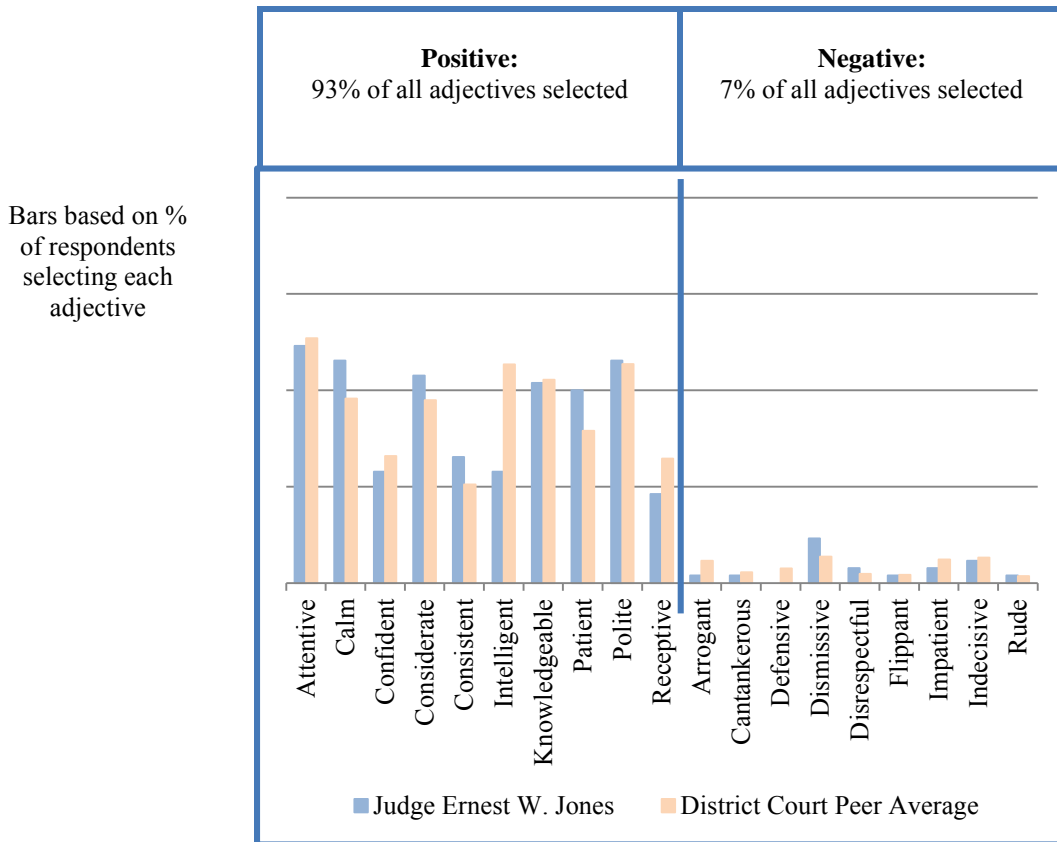
Category	Question	Judge Ernest W. Jones	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.5	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	4.6
Administrative Skills	The judge is an effective manager.	4.5	4.5
Administrative Skills	The judge convenes court without undue delay.	4.6	4.6
Administrative Skills	The judge rules in a timely fashion.	4.5	4.5
Administrative Skills	The judge maintains diligent work habits.	4.6	4.5
Administrative Skills	The judge's oral communications are clear.	4.5	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.	4.5	4.6
Procedural Fairness	The judge is fair and impartial.	4.4	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.5	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	10%
Domestic	30%
Criminal	40%
Civil	68%
Other	7%

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	68%
6 - 10	20%
11 - 15	5%
16 - 20	2%
More than 20	5%

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 ERNIE JONES

Four observers wrote 86 codable units that were relevant to 13 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, one observer reported that the judge was not aware, and two did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> All observers were positive about Judge Jones. All observers reported that they would feel comfortable appearing before Judge Jones.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers variously reported that Judge Jones was well-prepared and knowledgeable about his cases. He greeted participants using Sir or Madam, and he wished participants good luck as they left. He was polite and courteous even when delivering strict sentences. His demeanor was calm, easy-going, and non-threatening, with the right mix of toughness and concern for participants' feelings, as appropriate. He made frequent eye contact and spoke in a calm tone without raising his voice. He consistently applied a standard procedure with every defendant. While he acted in the interests of both sides, he showed individual consideration by handling different situations differently, wishing to help first offenders and those with special situations, but showing much less permissiveness with repeat offenders. He generally allowed defendants to speak for themselves and asked all participants if they had anything to add, and he was skilled in his questioning methods. He always asked if information was understood and provided time for questions, patiently explaining anything that might be confusing and clearly explaining the reasons for his decisions. Observers variously reported that Judge Jones' body language was generally neutral, but they reported two cases in which his disinterested or impatient body language was understandable or appropriate (see "Body language").
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> Three observers found the courtroom staff helpful and efficient, while another reported that some were not very "customer service" oriented (see "Courtroom tone & atmosphere"). Two observers reported that it was difficult to hear the proceedings and the amplification needed to be turned up (see "Courtroom tone & atmosphere").
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> None

Summary and *exemplar language* of four observers' comments

<i>RESPECT</i>	
Well-prepared & efficient	All observers reported that Judge Jones <i>seemed well-prepared and quite knowledgeable about the cases. He took time to review the cases before proceeding and had all paper documents before him without needing to use his computer.</i>
Respect for others' time	One observer reported that Judge Jones was <i>very flexible in scheduling and in accommodating all requests for a change or a delay.</i>
Courtesy, politeness, and general demeanor	All observers variously reported that Judge Jones <i>entered the courtroom smiling, greeting everyone with Sir/Madam in a pleasant voice. He treated participants politely and waited patiently for answers, and he was courteous even when delivering a strict sentence. His demeanor was calm, easy-going, non-threatening, and "fatherly," with a good sense of humor very occasionally used, such as laughing at the irony of starting payments for a former IRS employee on April 15.</i>

<p>Courtesy, politeness, and general demeanor <i>continued</i></p>	<p>Judge Jones displayed the <i>right mix of toughness and concern for victims</i>, and he showed <i>sympathy for a young couple who had lost a baby</i> with questions that <i>expressed his concern and sorrow</i>. When <i>some questions made a woman uncomfortable</i>, such as, “<i>You’re not a sex offender?</i>” the judge stopped and said, “<i>I don’t mean to embarrass you but these are all required by statute.</i>” He congratulated a woman gaining guardianship of her grand-niece, saying, “<i>I’m impressed you are stepping up to take this responsibility, most people wouldn’t – this isn’t easy.</i>” He <i>wished people a sincere “Good luck”</i> as they left the courtroom.</p> <p>Judge Jones gave defendants the <i>opportunity to question anything</i>, except on two occasions when he asked <i>the defending attorney if his client understood something as opposed to asking the defendant</i>.</p>
<p>Body language</p>	<p>All observers reported that Judge Jones smiled and made <i>a lot of eye contact</i> with speakers.</p> <p>One observer reported that Judge Jones’ body language was <i>neutral but not disinterested</i>. Two others reported that any disinterested or impatient body language was understandable or appropriate. In one case the judge <i>explained patiently to a tearful and apologetic young woman</i> how she <i>should change her behavior</i> if she <i>really wanted to be free</i>, and while he <i>failed to look up from his notes</i> while she <i>pleaded to be free to help her mother</i>, and his body language <i>showed a lack of interest in her plea</i>, this became a <i>little more understandable</i> when he <i>explained the severity and repetitive nature of her crimes</i>. In another case he displayed <i>appropriate voice and body language</i> when he <i>leaned forward and became upset and lost patience</i> with a defendant who had not reported to jail after being granted an extra week by Judge Jones to <i>get his personal life in order</i> and was currently on his fourth attorney.</p>
<p>Voice quality</p>	<p>Two observers reported that Judge Jones did <i>not raise his voice</i>, which was <i>very calming and smooth</i>.</p>
<p>Courtroom tone & atmosphere</p>	<p>Three observers reported that the staff were <i>alert, helpful, and efficient</i>, and the court ran <i>smoothly with no delays or problems</i>. However, one observer reported in contrast that <i>some of the courtroom staff were not very “customer service” oriented</i>. The prosecutor would not give a defendant the phone number for AP&P, saying after some argument that <i>he didn’t have time for this</i>. In another instance a bailiff who had been <i>talking, smiling and gesturing during the proceedings</i> which the observer had found <i>concerning and distracting</i>, later removed a woman for <i>talking too loudly</i> without giving her an initial warning.</p> <p>Two observers reported that the speakers <i>needed to be turned up</i> as it was <i>sometimes difficult to hear</i> even in <i>the front row</i>. The door was <i>continuously opening and closing</i> which was distracting.</p>
<p><i>NEUTRALITY</i></p>	
<p>Consistent and equal treatment</p>	<p>Two observers reported that Judge Jones <i>consistently applied the same routine of seeking information, reading the charges</i>, and asking, “<i>Is that what you did?</i>” and if defendants were pleading guilty he asked, “<i>Did you read the statement of your rights. Do you understand these rights? Do you have any questions?</i>” He <i>acted in the interests of both the state and the defendant</i>, in one case saying, “<i>I agree with [defendant] that this is not the most serious thing that happened,</i>” sentencing him to <i>180 days jail with work release</i> when the defense requested <i>probation with work release</i> and the prosecutor wanted <i>365 days in jail with no work release</i>.</p>
<p>Demonstrates concern for individual needs</p>	<p>Three observers reported that Judge Jones showed his consideration by handling different situations differently. When a young man who <i>suffered from chronic pain</i> was charged with <i>forging a prescription</i>, the judge said, “<i>This is a tough situation to be in, but it is against the law to forge prescriptions,</i>” and <i>referred him to substance abuse treatment</i> rather than jail. He was <i>more lenient with first time offenders</i> and responded to criticism from one attorney by saying, “<i>The purpose here is to help her.</i>” He explained the maximum sentence to an <i>overwhelmed</i> defendant who had said <i>he didn’t need an attorney and was ready to plead guilty</i>, informed him of the process of appointing a public defender, and said that he would reschedule the case so the defendant could meet with the defender.</p>

Demonstrates concern for individual needs <i>continued</i>	However Judge Jones <i>did not hesitate to be less permissive with repeat offenders</i> , questioning a sentencing recommendation by asking, “ <i>Why is a third-time retail theft offender not receiving a jail sentence?</i> ” He <i>tried to get repeat offenders to see that their actions were counter productive</i> , saying, “ <i>Where do you see yourself in 10 years? You have got to start thinking...You are the only one who can do something besides sit in a jail cell...good luck to you.</i> ”
Unhurried and careful	One observer reported that Judge Jones <i>moved through the proceedings carefully but efficiently</i> without rushing anyone, lawyers or participants.

VOICE

Considered voice	All observers reported that Judge Jones <i>allowed defendants to speak for themselves</i> and asked both sides’ attorneys or the defendant <i>if they had anything further to say</i> , asking, “ <i>Anything else... is there something else you wish to add?</i> ” He <i>allowed time after questions for responses, and took the time to listen to the responses</i> . He adopted <i>more effective methods of allowing participants to voice their own opinions than a more confrontational approach</i> , and he was <i>skilled at not allowing evasive answers</i> . He asked one defendant <i>to please explain his attitude</i> .
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Jones spoke <i>calmly and clearly, explained terms like concurrent and consecutive</i> , and was <i>very clear when stating his decisions and expectations</i> .
Ensures information understood	Three observers reported that Judge Jones <i>always asked if information was understood</i> , asking, “ <i>Do you understand?</i> ” or, “ <i>Are you under pressure?</i> ” And <i>provided time for questions and further explanation</i> . After explaining the proceedings, such as the <i>difference between court probation and formal probation</i> , he <i>asked if it was understood</i> .
Provides adequate explanations	Three observers reported that Judge Jones <i>patiently explained anything that might be confusing and the reasons for his decisions</i> , in one case <i>clearly explaining why he did not agree with the recommendations</i> because of the seriousness of the offense that <i>involved a gun and drugs and two pervious convictions for violent crimes</i> . He explained clearly <i>why repeat offenders were receiving sentences for continued jail time</i> , saying, “ <i>Mr. A, you make it so hard for [law enforcement]. If you can’t do drug court, there is no other program out there...there is a 3-5 year sentence out there... you have been to prison before, you know what it is like.</i> ” He took the time to explain <i>why he would not expunge a charge because there had been multiple crimes committed after the crime</i> .