

## **Honorable M. James Brady – District Court Judge**

Serving Juab, Millard, Utah and Wasatch counties



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

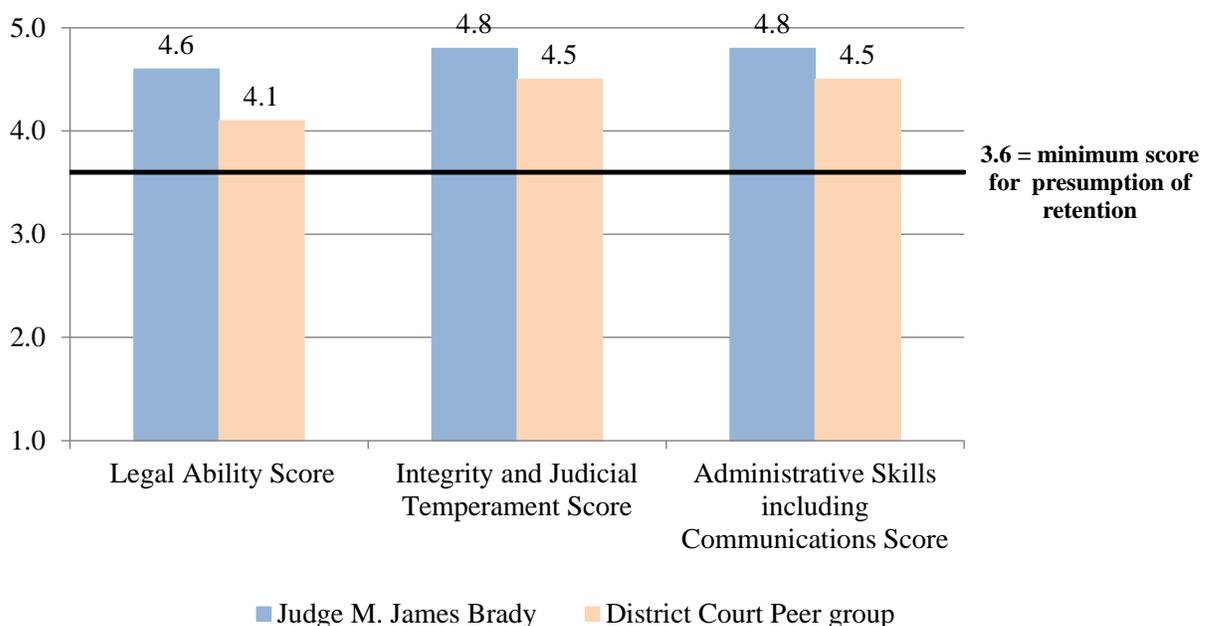
(vote count: 12-0 for retention)

Appointed in 2010, Judge James Brady scored above the average of his district court peers in all survey categories. Respondents commended Judge Brady for his respectful and helpful interactions with courtroom participants. Several respondents praised his preparedness and his thoughtful rulings. Judge Brady scored particularly high on questions about his legal ability, specifically his compliance with court rules, consistency with prior decisions, and focus on evidence in rulings. Of adjectives chosen by survey respondents to describe Judge Brady, 98% were positive. Courtroom observers also praised Judge Brady, characterizing him as approachable, attentive, and professional. All observers reported that they would feel comfortable appearing before him. Of survey respondents who answered the retention question, 97% recommended that Judge Brady be retained.

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

Judge M. James Brady was appointed to the Fourth District Court in 2010 by Gov. Gary Herbert. Judge Brady graduated from the J. Reuben Clark Law School at Brigham Young University in 1982. Prior to his appointment to the bench, Judge Brady worked in private practice as a trial attorney with the firm of Bradford & Brady for 26 years. He served as a Deputy City Attorney for Provo (1982-1984), as City Attorney for Mapleton, and had the opportunity to later serve on the Mapleton City Council and as Mayor of Mapleton.

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



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# **The Honorable M. James Brady**

**Judicial Performance Evaluation Commission Report**

**Retention 2014**

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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 M. James Brady, 48% of qualified survey respondents submitted surveys. Of those who responded, 115 agreed they had worked with Judge M. James Brady enough to evaluate his performance. This report reflects the 115 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

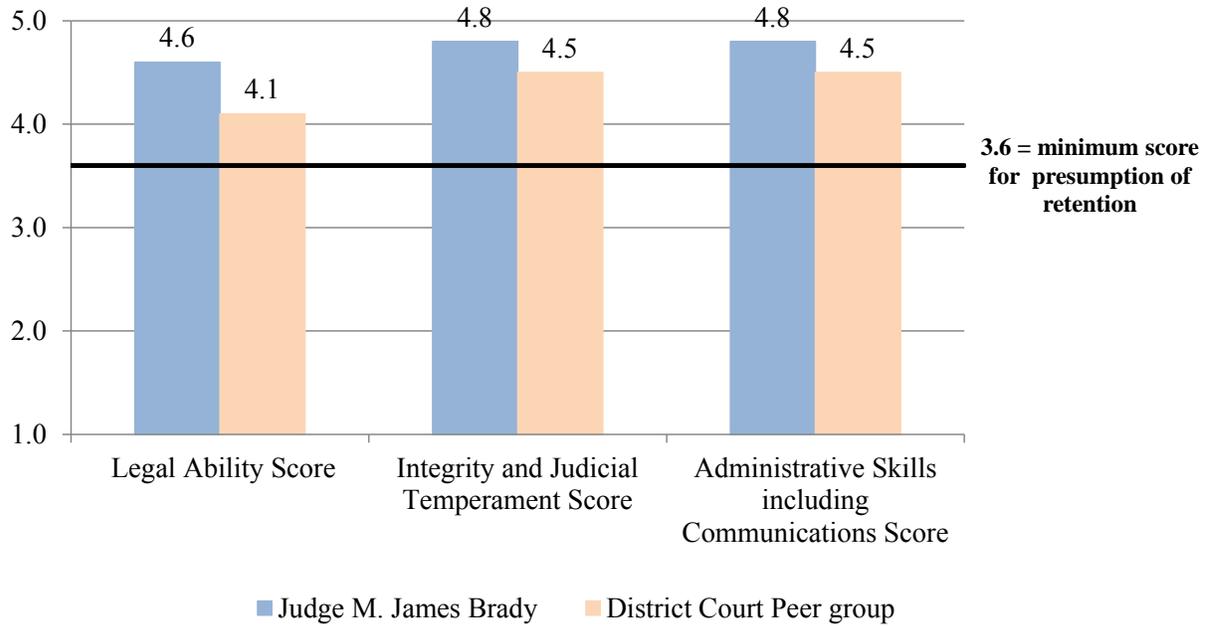
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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.

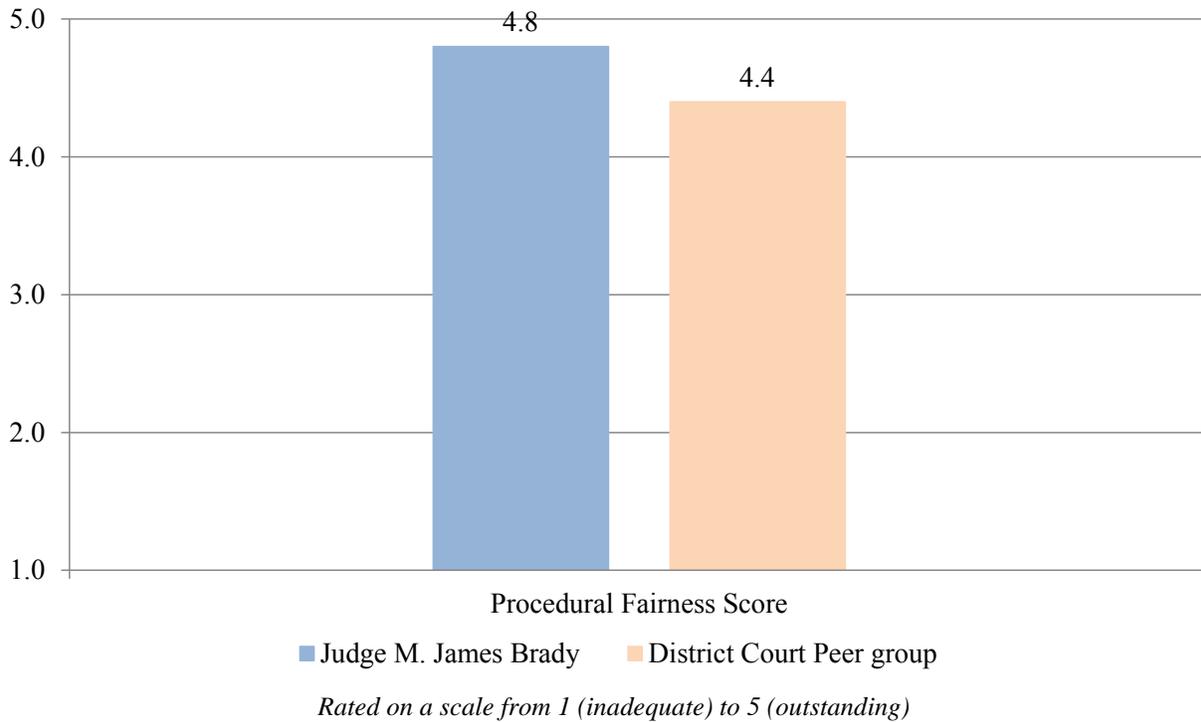
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

## D. Responses to Individual Survey Questions

Category	Question	Judge M. James Brady	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.	4.7	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.6	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.7	4.1
Legal Ability	The judge only considers evidence in the record.	4.7	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.6	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.8	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.7	4.3
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.	4.9	4.6

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

<b>Category</b>	<b>Question</b>	<b>Judge M. James Brady</b>	<b>District Court</b>
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.	4.8	4.5
Administrative Skills	The judge is an effective manager.	4.7	4.3
Administrative Skills	The judge convenes court without undue delay.	4.7	4.5
Administrative Skills	The judge rules in a timely fashion.	4.8	4.4
Administrative Skills	The judge maintains diligent work habits.	4.8	4.5
Administrative Skills	The judge's oral communications are clear.	4.8	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.7	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.9	4.5
Procedural Fairness	The judge is fair and impartial.	4.8	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.8	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.8	4.4

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

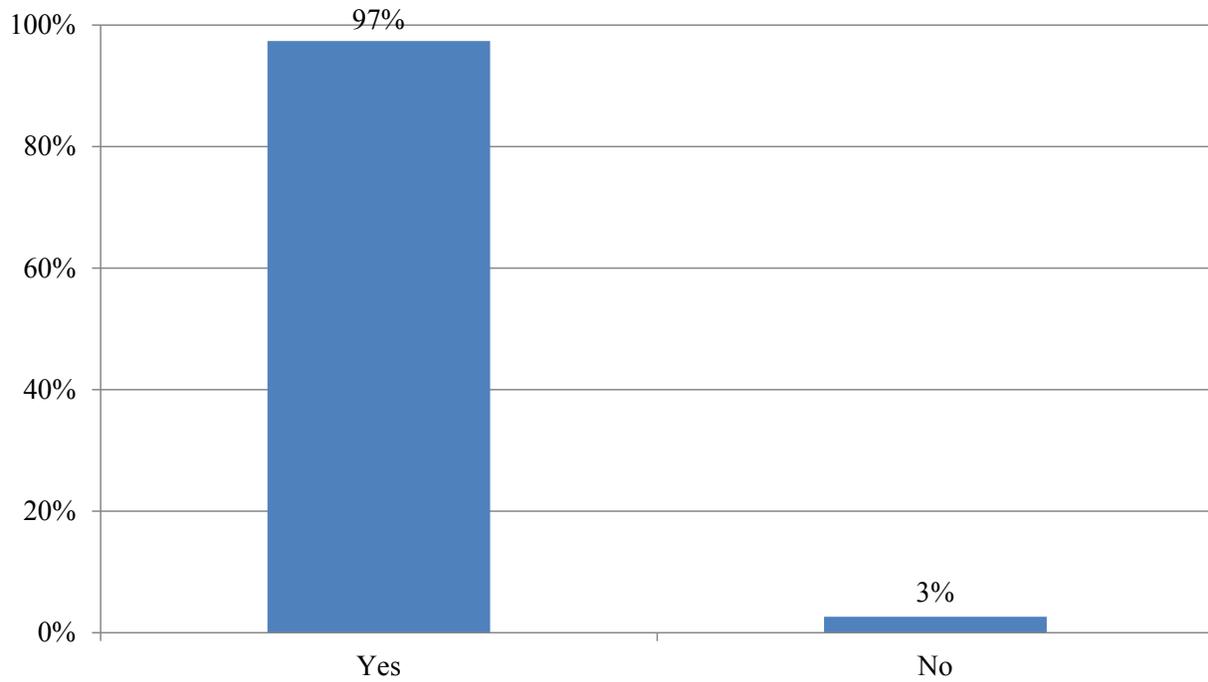
## E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	37
Calm	32
Confident	27
Considerate	38
Consistent	25
Intelligent	41
Knowledgeable	46
Patient	32
Polite	47
Receptive	21
Arrogant	1
Cantankerous	0
Defensive	0
Dismissive	2
Disrespectful	0
Flippant	0
Impatient	2
Indecisive	1
Rude	0
<b>Total Positive Adjectives</b>	<b>346</b>
<b>Total Negative Adjectives</b>	<b>6</b>
<b>Percent of Positive Adjectives</b>	<b>98%</b>

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 M. James Brady be retained?**



## G. Attorney Demographics

### What are your primary areas of practice?

Collections	5%
Domestic	35%
Criminal	29%
Civil	62%
Other	17%

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

5 or fewer	52%
6 - 10	20%
11 - 15	6%
16 - 20	6%
More than 20	17%

# Survey Background and Methods

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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 JAMES BRADY

Four observers wrote 95 codable units that were relevant to 16 of the 17 criteria. Three observers reported that the judge was not aware that JPEC observers were present, and one did not know if the judge was aware.

### Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> <li>All observers were enthusiastically positive about Judge Brady, variously noting that it was a pleasure to observe him and that he was exactly the kind of judge one would hope to have.</li> <li>All observers variously reported that Judge Brady listened intently, was extremely well-prepared, and explained and apologized for any delays. He recognized, greeted, and encouraged all drug court participants with enthusiasm, treated all court participants in the same manner, and was polite, courteous, and patient. Judge Brady’s demeanor was professional, open and approachable, compassionate and transparent. He never hurried anyone, and the court ran smoothly and quickly without feeling rushed. His body language and eye contact were appropriate and indicated his impartiality. He was very interested in each case and truly cared about the participants. He allowed and solicited comments and questions from all, engaged participants in conversation to ascertain their thoughts and feelings, and paid attention to what he heard. He checked for understanding of defendants’ rights and all participants’ understanding of the proceedings and his rulings, and he gave clear, simple, and understandable explanations.</li> <li>All observers reported that they would feel comfortable appearing before Judge Brady.</li> </ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> <li>None</li> </ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> <li>One observer mentioned a case in which Judge Brady’s facial expression did not indicate that he was considering the impassioned pleas of a defendant’s family (see “Formal voice”).</li> </ul>

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

#### *RESPECTFUL BEHAVIORS*

Listening & focus	Two observers reported that Judge Brady was <i>listening intently, paying strict attention</i> to what was going on.
Well-prepared & efficient	Three observers reported that Judge Brady was <i>extremely well prepared</i> and <i>familiar</i> with cases, and the courtroom was <i>very well organized</i> .
Respect for others’ time	Three observers reported that Judge Brady <i>explained</i> and <i>apologized</i> for various inconveniences caused by computer issues or by defendants not appearing, and he thanked and <i>complimented the audience for their patience</i> . He asked the attorneys if they would like to <i>streamline the process by providing him documents for review one week in advance</i> , and they were in favor of this.
Respectful behavior generally	All observers reported that Judge Brady addressed each participant with a “ <i>Mr. or Ms.</i> ” or “ <i>Good morning, Mr. X,</i> ” and <i>greeted the attorneys</i> and <i>asked them what cases they were appearing on</i> . He <i>recognized</i> all participants in each case and <i>commended them for following all instructions</i> in some complicated cases. He made it a point to <i>respectfully communicate with defendants when explaining the terms of probation</i> and consequences of not complying. Judge Brady ended each case with a “ <i>Good job</i> ” or “ <i>Good luck</i> ” or “ <i>Keep it up.</i> ”

Respectful behavior generally continued	In drug court he <i>greeted and encouraged</i> each participant <i>with enthusiasm</i> , and he was always <i>quick to point out improvements and progress</i> , saying, “ <i>I received good reports from the staff. How are you doing?</i> ” When things had <i>not gone as well as hoped</i> , he would always note that <i>improvement was possible, and it was never too late</i> .
<i>RESPECTFUL TONE</i>	
Courtesy, politeness and patience	All observers reported that Judge Brady <i>consistently acted and spoke politely</i> and was <i>courteous and up-beat</i> . <i>If there were glitches</i> , he <i>patiently worked through them</i> .
Courtroom tone & atmosphere	Three observers reported that Judge Brady was <i>professional and objective</i> , but also <i>informative, approachable, and compassionate</i> . He was <i>honest and transparent</i> , in one case saying, “ <i>Unfortunately, there are lots of rules in drug court, and [facility] has lots of bizarre rules, but it is better than the alternative.</i> ” Observers commented that it was a <i>pleasure to observe</i> Judge Brady in drug court, that there were <i>no weaknesses in his performance</i> , and that he was <i>exactly the kind of judge one observer would hope to have in court</i> .
Body language	Three observers reported that Judge Brady displayed <i>appropriate body language</i> that indicated a <i>neutral and impartial attitude</i> , <i>watching participants and nodding or smiling</i> when appropriate. He maintained <i>excellent eye contact</i> .
<i>NEUTRALITY</i>	
Consistent and equal treatment	Three observers reported that Judge Brady <i>treated everyone in the same manner</i> . He showed drug court participants that he <i>understood their issues and would apply rules evenly if they relapsed</i> .
Acts with concern for individual needs	Three observers reported that Judge Brady was <i>very interested</i> in each individual case. His <i>greatest strength</i> was that he <i>truly cared</i> for the participants, and he <i>tried to involve them in what was going wrong in their lives and consider what they could do to change that</i> . In drug court he <i>attended to the stage that each person was at</i> because he <i>understood where each one was in their rehabilitation process</i> .
Expresses concern for the individual	In one case in which a respondent had not appeared earlier due to being <i>directed to a different courtroom</i> , the observer found Judge Brady’s <i>concern reassuring</i> . The judge explained that he <i>could not change the ruling without the consent of the attorney who had already left, but noted that if the man talked to the attorney he was sure everything could be easily resolved</i> .
Unhurried and careful	Two observers reported that Judge Brady <i>never hurried anyone speaking</i> despite an <i>incredibly full docket</i> . The court ran <i>smoothly and quickly without seeming rushed</i> .
<i>VOICE</i>	
Considered voice	Four observers reported that Judge Brady <i>allowed and even solicited comments or questions</i> from all participants, including <i>family members</i> , asking, “ <i>Is there anything you want me to know before I pronounce your sentence?</i> ” He engaged each defendant, as well as attorneys, in conversation, for example asking defendants to <i>explain what happened</i> , asking, “ <i>Why did you do that?</i> ”  In drug court he always asked about their <i>thoughts and feelings</i> , how they <i>viewed their progress</i> , and what <i>goals they were setting</i> . In probate cases he asked if there were any <i>objections</i> to the orders, and if the case involved <i>young wards he also asked them for their input</i> . He was <i>very interested</i> in the information provided, <i>paid attention to what was said</i> , and <i>acknowledged all comments made by the young people in drug court</i> .
Formal voice	In marked contrast, one observer noted a case in which Judge Brady <i>listened to an impassioned plea for concurrent prison terms</i> . The judge had a <i>facial expression with his lips held tightly together which gave the appearance that his decision had already been made</i> . He later explained that the sentences were for two different offenses, but the observer felt that he <i>could have listened to the pleas of the defendant’s family with a more compassionate look to indicate that he was considering what they had to say</i> .

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*COMMUNICATION*

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Communicates clearly	Two observers reported that Judge Brady gave <i>clear, simple, and understandable explanations</i> of his sentences, and he <i>was very clear about how to proceed</i> with the sentences.
Ensures information understood	Three observers reported that Judge Brady was <i>careful</i> to ensure that defendants <i>understood their rights prior to proceeding</i> . He asked if they understood his <i>thorough explanations of judicial procedures</i> and the <i>terms of his sentences</i> , and he answered <i>in a manner that they would understand</i> . Judge Brady asked if a defendant understood <i>what it meant that a sentence could be concurrent or consecutive</i> , and when he answered “No” the judge took the time to explain and asked again if the defendant understood. He ensured <i>there were no unanswered questions</i> about <i>how to proceed</i> when each case concluded.
Provides adequate explanations	Three observers reported that Judge Brady was <i>careful to explain rights</i> and the court process, and he <i>clearly articulated where participants were to stand and where they were to go</i> . He was <i>very good at explaining the charges and potential sentences and fines</i> . When sentencing he <i>took the time</i> to explain in detail the reasons for his sentences.

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