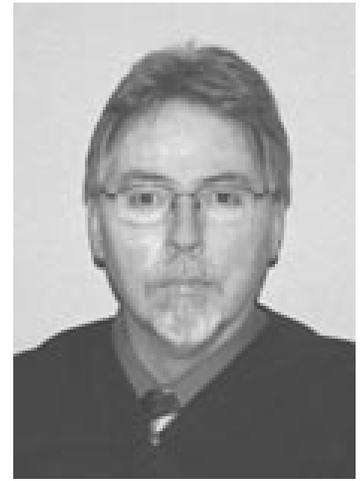


Honorable John L. Baxter– Justice Court Judge

Serving Salt Lake City Justice Court, Salt Lake County



Commission Recommendation: **RETAIN**

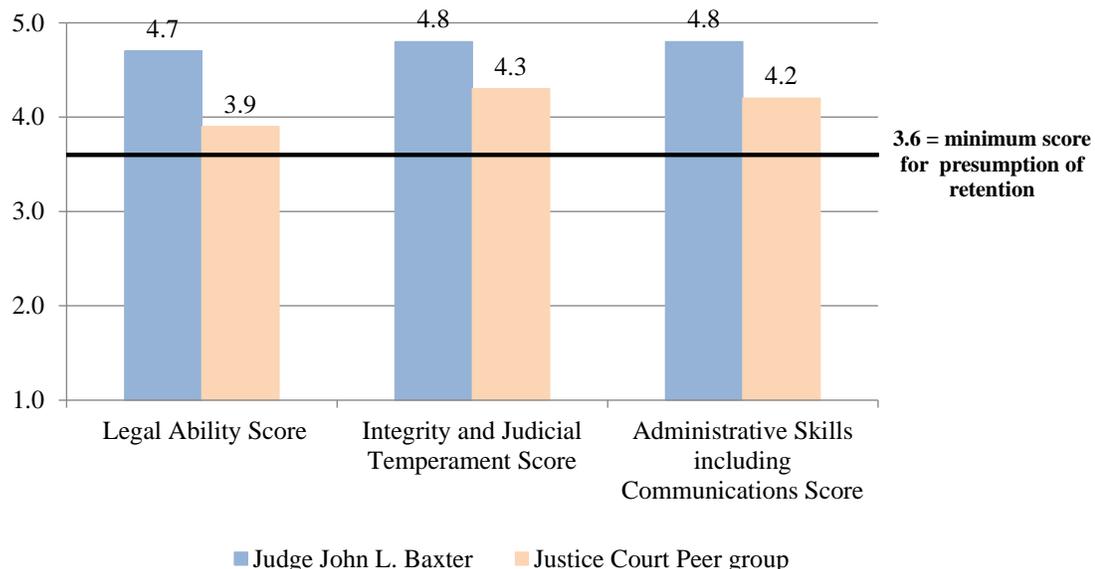
(vote count: 12-0 for retention)

Appointed to the bench in 2002, Judge John Baxter receives outstanding evaluations from survey respondents, scoring well above the average of his justice court peers in all survey categories. In addition to his regular duties, Judge Baxter serves as presiding judge for the Salt Lake City Homeless Court and Veterans Court. In this capacity, he receives high praise from survey respondents for effectively communicating with disadvantaged, disabled, and mentally ill individuals. Respondents report that Judge Baxter runs his courtroom with both efficiency and compassion, exhibiting a sometimes stern but never harsh demeanor. From a list, survey respondents choose 95% positive adjectives to describe him. Courtroom observers, also very positive, note Judge Baxter's efficient, courteous, and focused attention on each individual appearing in his court. All observers report they would feel comfortable appearing before him. Of survey participants answering the retention question, 98% recommend retention for Judge Baxter.

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

Judge John Baxter, a 1994 graduate of Golden Gate University School of Law, was appointed to the bench in 2002 and now presides over SLC's Homeless Court and Veterans' Court. He chaired the Utah Judicial Council's Committee on Access to Resources for Self-represented Parties and served on both the Utah Supreme Court's Advisory Committee on Professionalism and the Judicial Outreach Committee. He currently serves on the Advisory Committee on the Rules of Civil Procedure, the State Bar New Lawyer Training Program Committee and is a member of the Salt Lake County Criminal Justice Advisory Council. Judge Baxter also volunteered as an attorney at the Sunday homeless breakfast in Salt Lake and served in the United States Marine Corps.

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



The Honorable John L. Baxter

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 John L. Baxter, 34% of qualified survey respondents submitted surveys. Of those who responded, 43 agreed they had worked with Judge John L. Baxter enough to evaluate his performance. This report reflects these 43 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 "Justice 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.

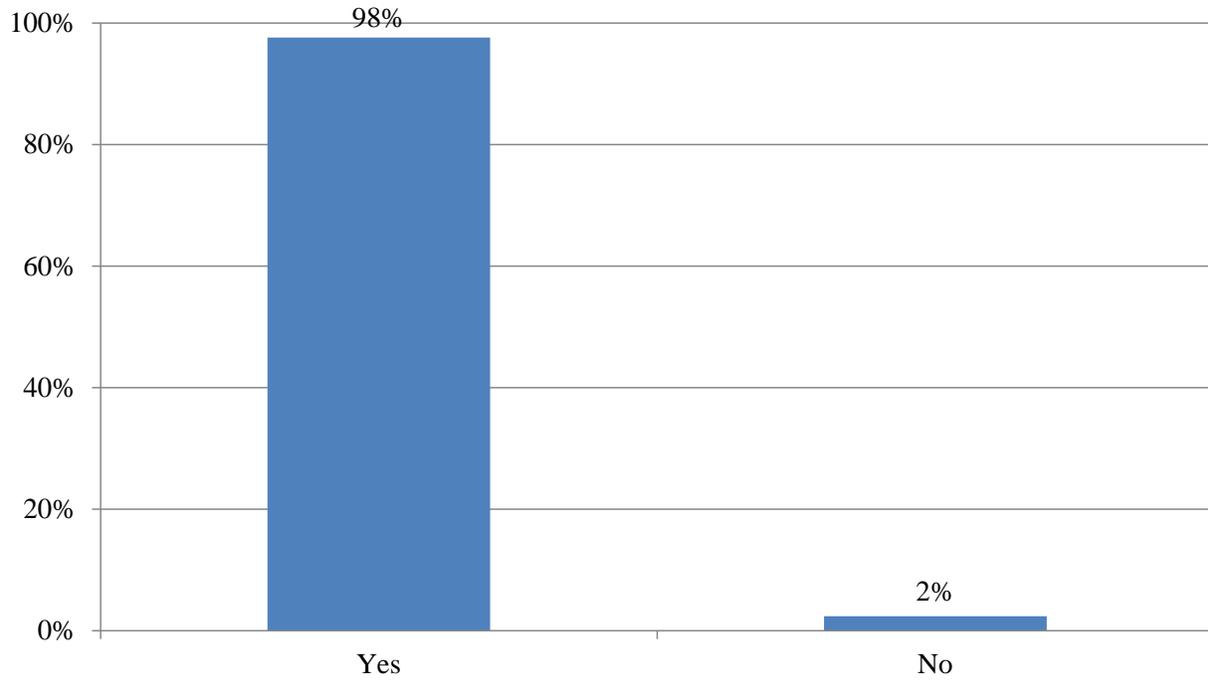
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

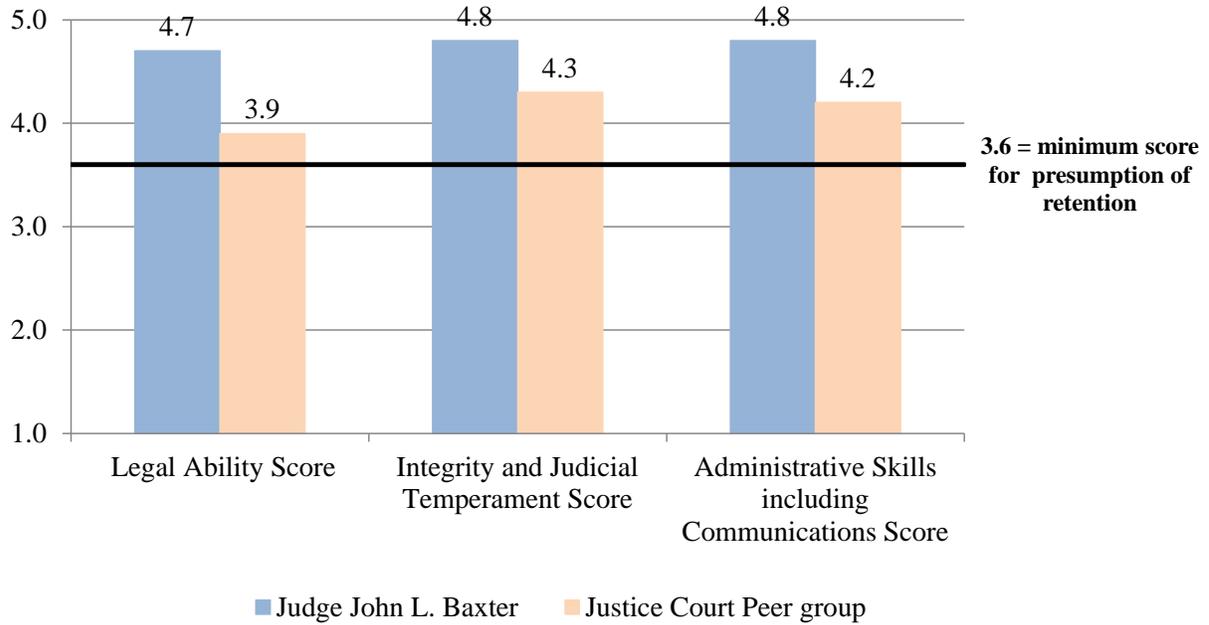
B. Retention Question

Figure A. Would you recommend that Judge John L. Baxter be retained?



C. Statutory Category Scores

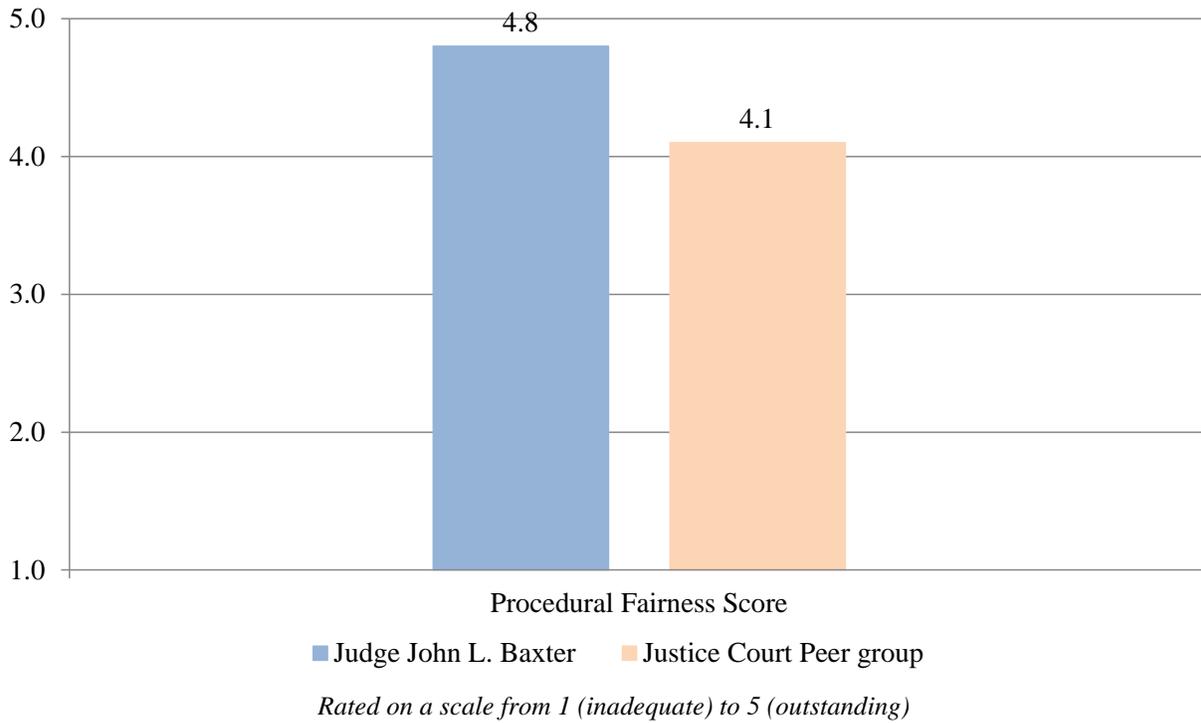
Figure B. Statutory Category Scores



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 John L. Baxter
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge John L. Baxter	Justice 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.	4.8	4.0
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.8	3.9
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.7	3.9
Legal Ability	The judge only considers evidence in the record.	4.7	3.9
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.5	3.8
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.5	3.9
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.8	4.3
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.3
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.7	4.1
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.8	4.0
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	4.4

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

Table C. Responses to Survey Questions (continued)

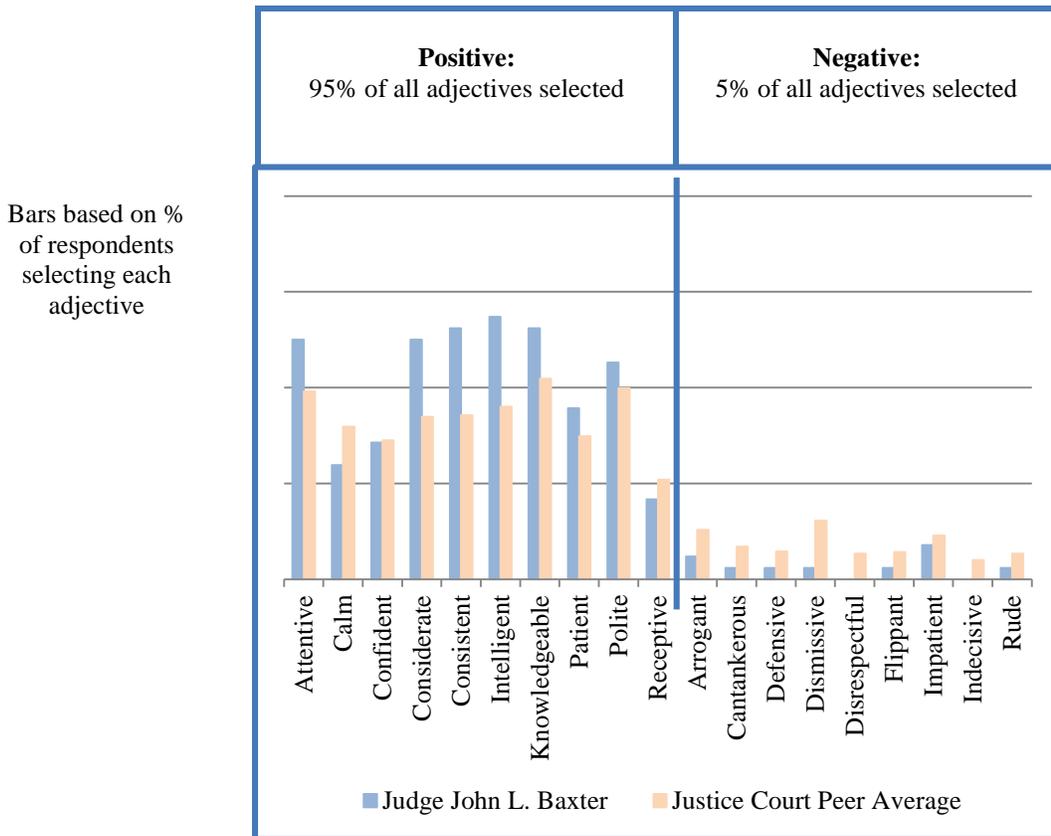
Category	Question	Judge John L. Baxter	Justice Court
Administrative Skills	The judge is prepared for court proceedings.	4.8	4.3
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.8	4.1
Administrative Skills	The judge is an effective manager.	4.8	4.1
Administrative Skills	The judge convenes court without undue delay.	4.9	4.1
Administrative Skills	The judge rules in a timely fashion.	4.8	4.3
Administrative Skills	The judge maintains diligent work habits.	4.9	4.3
Administrative Skills	The judge's oral communications are clear.	4.8	4.3
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.6	4.1
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.1
Procedural Fairness	The judge is fair and impartial.	4.7	4.0
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.0
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.8	4.2

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	3%
Domestic	6%
Criminal	97%
Civil	3%
Other	3%

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	32%
6 - 10	3%
11 - 15	6%
16 - 20	13%
More than 20	45%

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 JOHN BAXTER

Four observers wrote 83 codable units that were relevant to 14 of the 15 criteria. One observer reported that the judge was not aware that JPEC observers were present, and three did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> All observers were positive about Judge Baxter. Observer A had some additional comments (see “Anomalous comments”). All observers reported that they would feel comfortable appearing before Judge Baxter.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers variously reported that Judge Baxter was prepared and efficient, using time productively in the busy court. He was pleasant, courteous, and polite, professional and businesslike, speaking in a pleasant, even tone, and he remained calm when defendants were emotional or angry. He listened actively and impartially, maintained eye contact, and showed no difference in demeanor from case to case. He allowed participants to talk about their circumstances and difficulties, and he considered their input in his sentences. He consistently asked many questions to ensure defendants understand all that was happening, and he invited defendants to ask him to slow down if they were not understanding. He gave full explanations of all aspects of the proceedings and gave defendants more than sufficient explanation of their rights. All observers particularly emphasized that Judge Baxter acted as if each case was unique even though they were essentially similar. He sought individual information about defendants in order to negotiate appropriate fine schedules, and he went to great lengths to ensure fair treatment for a young man when he recognized his special needs.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> Observer A was alone in reporting that Judge Baxter became more relaxed and personable later in the session after more cases had been disposed of (see “Unhurried and careful”). This may have been responsible for his initial lack of consistent eye contact (see “Body language”) and for some inconsistency in treating defendants in the same situation (see “Consistent and equal treatment”). Additionally, due to the pace of the proceedings, Judge Baxter often provided information in writing rather than explaining verbally, which may have reduced some defendants’ comprehension (see “Ensures information understood”).

Summary and *exemplar language* of four observers’ comments

<i>RESPECT</i>	
Listening & focus	One observer reported that Judge Baxter <i>listened intently</i> .
Well-prepared & efficient	Two observers reported that Judge Baxter was <i>prepared, thorough, and efficient, absorbed facts quickly, and was comfortable with the workings of the computer</i> .
Respect for others’ time	Three observers reported that Judge Baxter used his time productively in the 30 minutes before court began while the staff <i>explained procedures</i> and showed a film, and he let the court know if there was a pause in the proceedings, saying, <i>“I need to write down a few notes here, it will take me about 30 seconds or a minute.”</i> He <i>admonished defendants to listen carefully because many of their questions would be answered that way and we “can save 45 minutes today if you’ll do that.”</i>

Courtesy, politeness, and general demeanor	<p>All observers reported that Judge Baxter was <i>pleasant, competent, professional without being stiff, and businesslike</i>, without <i>wasting time on non-essentials</i>. He was <i>courteous and polite</i>, saying when he entered, “<i>Hello, ladies and gentlemen, please be seated,</i>” and he greeted each speaker with, “<i>Good day to you, sir,</i>” and ended each conversation, “<i>Thank you.</i>” He asked defendants, “<i>Is that the way you pronounce it?</i>” and <i>after hearing the response expressed his appreciation and repeated the name as the defendant had pronounced it.</i></p> <p>Judge Baxter <i>remained calm without becoming defensive</i> when defendants <i>showed emotion or spoke in anger</i>, and he tried to <i>placate</i> these defendants by <i>explaining in detail how their case and sentence were handled and what was mandated by law</i>. When a clerk was <i>flustered and could not find the appropriate paperwork</i>, Judge Baxter <i>assured her it was okay and they could wait</i>. An observer noted that although the judge was <i>obviously formal</i>, he asked a “<i>street</i>” looking man <i>how we was doing and was he just getting out of the rain, and the man said “Yeah, I am fine.”</i></p>
Body language	<p>Three observers reported that Judge Baxter <i>exemplifies active listening, making eye contact and sitting in a relaxed posture.</i></p> <p>Observer A reported that while Judge Baxter initially <i>did not consistently maintain eye contact with defendants</i>, as more cases were disposed <i>eye contact with defendants improved significantly.</i></p>
Voice quality	<p>Three observers reported that Judge Baxter spoke in a <i>respectful, pleasant voice</i> with an <i>even level tone</i>. He <i>did not raise his voice</i>, and he spoke loudly enough to be heard by all.</p>
Courtroom tone & atmosphere	<p>Three observers reported that cases were managed <i>competently and moved very fast in this well-run, high volume courtroom</i>. Before the session the Bailiff gave a <i>clear and comprehensive recitation in English of the legal rights of defendants</i>, followed by a video in fluent Spanish. The bailiff <i>moved about to check if anyone needed assistance</i> and was <i>proactive in maintaining decorum, reinforcing the ground rules of no food or drink, tank tops, hats, or cellphone use.</i></p>

NEUTRALITY

Consistent and equal treatment	<p>Three observers reported that Judge Baxter showed <i>no difference of demeanor in unsavory or more mundane cases</i>. He <i>always listened impartially</i> and was <i>meticulous in checking whether citations were filed on time, dismissing several that were filed after the deadline.</i></p> <p>Observer A reported that Judge Baxter <i>carefully explained the rationale for a not guilty plea</i> to the first defendant, but not for the <i>following two defendants in the same situation</i> who may not have been listening carefully due to being <i>anxious about their turn with the judge</i>, and a brief explanation would have been more consistent. Additionally, he gave friendly greetings to defendants and attorneys <i>via video</i> from the jail but did not do so with those <i>facing him in person</i>, but this may have been due to Judge Baxter being <i>more relaxed and personable</i> later in the session when more cases had been disposed of.</p>
Demonstrates concern for individual needs	<p>All observers particularly emphasized that Judge Baxter <i>acted as if each case was unique even though many cases were essentially similar</i>, and he <i>seemed to want to know relevant information about each individual beyond just the facts of the case</i>. He was <i>very willing to negotiate reasonable fine schedules</i>, asking how defendants wanted to pay and <i>saying in a friendly tone, “Please be realistic,”</i> sometimes <i>setting the minimum payment lower and assuring defendants they were welcome to pay more at any time</i>. He told one defendant, “<i>I see you’re not working. Why don’t I make your first payment a couple of months out?</i>” When a <i>patient appeared to have been considering a guilty plea despite the absence of filed charges</i>, Judge Baxter said, “<i>We don’t even know the right charge, I’m going to enter a ‘not guilty’ plea.</i>”</p> <p>One case was <i>instructive about Judge Baxter’s temperament</i> when he <i>recognized a young man’s special needs</i>. When the man said he “<i>sort of</i>” <i>understood the charges</i>, the judge <i>stopped immediately</i>, saying, “<i>I’m going to slow this down,</i>” going to great lengths to question the defendant and eventually delaying proceedings until the mother returned to court, who explained the young man was <i>undergoing mental health evaluation</i>. The city later <i>dropped the charges.</i></p>

Unhurried and careful	Observer A gained an initial impression that Judge Baxter was <i>too rushed and somewhat impersonal</i> , more <i>focused on papers or his computer than on the defendant</i> in front of him. However, as more cases were disposed of the judge was <i>more relaxed and personable</i> .
<i>VOICE</i>	
Considered voice	Two observers reported that Judge Baxter <i>allowed people to talk about their circumstances, ability to pay, and difficulties they were facing</i> , asking <i>probing questions</i> when their <i>explanations seemed a bit thin</i> . He listened to a defendant's <i>medical issues with concern</i> , giving him <i>additional time to complete traffic school</i> . He considered defendants' input when making restitution arrangements, asking, " <i>You want to pay today?</i> " or, " <i>Do you want to take that offer?</i> " He <i>readily asked for the opinions</i> of attorneys, and during an <i>online screen interaction with another court there was the same easy process of allowing everyone to have their say</i> .
<i>COMMUNICATION</i>	
Communicates clearly	One observer reported that Judge Baxter initially said, " <i>These are the terms of plea in abeyance</i> " but then <i>rephrased into everyday language to ensure comprehension</i> by saying, " <i>The things I want you to do.</i> " However another reported that when explaining defendants' rights Judge Baxter would <i>occasionally get into a standard pattern and speak too quickly to be understood</i> .
Ensures information understood	<p>All observers reported that Judge Baxter <i>consistently asked defendants if they understood what was happening</i> and if they had <i>any questions or comments</i>. He ensured defendants understood the <i>reason for the amount of their fine</i>, saying, "<i>It's gotten a bit complicated, I'll explain it to you.</i>" He gave <i>clear instructions without exception</i>, saying, "<i>I move quickly. If there's something you don't understand I'll slow down, we will take as much time as you need.</i>" When a translator was present <i>he spoke clearly and slowly so that the translator could keep up</i>.</p> <p>However, Observer A reported that when Judge Baxter compensated for the fast pace of proceedings by providing information in writing, this may not have ensured understanding. Judge Baxter told a defendant, "<i>I don't expect you to remember everything I told you [at a video arraignment two days earlier] I will give you that information in writing.</i>" When the judge had <i>not read the probable cause statement</i> he had the bailiff take the statement to the defendant to read, and Observer A was concerned whether these defendants <i>were able to read English sufficiently to understand a legal document</i>. Observer A felt it was <i>certainly information overload</i> when he <i>verbally rattled off a list of multiple charges and the City's offer on each</i>, then <i>looked up and asked the defendant if he understood the offers</i>. If <i>each offer had been presented individually, followed by "Do you understand this offer?"</i> it would have been easier to comprehend.</p>
Provides adequate explanations	Three observers reported that Judge Baxter <i>gave a full explanation of a Plea in Abeyance, carefully going into extreme detail about the amount of a fine</i> , making it clear <i>why enhancement was warranted and ordained by law</i> , and explaining the <i>terms of probation and community service</i> . All defendants were given <i>more than sufficient explanation of their rights and the consequences of pleading guilty or no contest</i> , and he explained to defendants appearing without counsel that <i>he could not give them legal advice but he consistently explained the implications of their decisions</i> . When handling <i>arraignments via video at the jail he was careful to explain what was happening in the courtroom</i> beyond the range of the camera.