

Note: Pursuant to Utah Administrative Code R597-4-1(9), and because this judge has multiple courts, the 2018 retention evaluation shall be used for the 2018, 2020, and 2022 retention elections.



The Honorable Brian E. Brower

About the Report

For the purpose of performance evaluations, justice court judges receive either a full evaluation, mid-level evaluation, or basic evaluation. A judge receives a mid-level performance evaluation if at least one of the judge's court locations has a weighted case load at least 0.2 and fewer than 50 qualified attorneys have appeared in the judge's court(s). The Mid-Level Report is based on a series of in-person court user interviews conducted by JPEC staff. In making its recommendation to voters about whether a judge should be retained, JPEC considers the Mid-Level Report resulting from the court user interviews as well as public comment, judicial discipline records, and compliance with judicial education, fitness for office, and case-under-advisement time standards. If a judge meets minimum standards, there is a legal presumption that commissioners will vote to recommend the judge be retained. If a judge fails to meet minimum standards, there is a legal presumption that commissioners will vote not to recommend the judge for retention. Included below is the Mid-Level Report.

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Mid-Level Report

Introduction

Judge Brower's report consists of 48 interviews conducted on two days outside of his courtroom. The interview sample consists of court staff, attorneys, litigants, and the family members and friends of litigants. Court staff may include clerks, bailiffs, interpreters, and service providers.

Overall assessment

Judge Brower received positive reviews from nearly all respondents. Respondents found the judge to be compassionate towards the needs of courtroom participants. Judge Brower's calm, cordial manner inspires trust from those in the courtroom, and he reinforces such trust by clearly explaining information and ensuring understanding. Respondents also found that Judge Brower administers the law even-handedly.

Widely agreed-upon themes

Respondents appreciated Judge Brower's concern regarding the needs and situations of courtroom participants. A litigant described the judge as "compassionate," while a family member/friend of a litigant described the judge as "understanding." According to a court staff member, Judge Brower "asks [litigants] how much [of a fine] they can pay" and pays attention to "what their situations are" before he makes a decision affecting their future. One litigant, referring to the judge, exclaimed, "He cares." This person admired that Judge Brower upholds the law but also respects the community. Another litigant expressed gratitude that the judge moved his next appearance date to later in the day to accommodate his work schedule. A family member/friend stated that Judge Brower is "sympathetic."

Some respondents also commended Judge Brower for his polite and respectful treatment of courtroom participants. One attorney described the judge as "polite," while another described him as "courteous." A litigant noted that Judge Brower is "respectful, not rude." Another added that the judge is "probably one of the nicest judges that I've seen."

Respondents complimented Judge Brower for his overall comportment and attitude while on the bench. Numerous courtroom participants described the judge as "professional." An attorney described Judge Brower as "ethical," further adding, "He's what I would expect out of a judge." Two litigants, feeling that the judge was fair, simply described the judge as "honest." Others noted the judge's "calm" and "relaxed" temperament. An additional litigant noticed that Judge Brower "doesn't let people get him in a bad mood," while another found him to be "reasonable."

Respondents agreed that Judge Brower communicates effectively in the courtroom. One litigant noted that the judge was "very clear," while a family member/friend stated, "he was straight to the point." Respondents appreciated Judge Brower's ability to explain information. One litigant said, "[Judge Brower] explains people's rights every time." A couple of others liked the fact that the judge informed people so thoroughly, while another found that he "tells you everything you need to know." Judge Brower ensures that courtroom participants understand what they need to do. A litigant noted that, upon explaining people's rights to them, Judge Brower "...has people explain those rights back to him"



to ensure understanding. Another added, “[Judge Brower] explained everything the way it needed to be explained” so that courtroom participants can understand.

Some respondents found that Judge Brower treats courtroom participants equally. One person observed that the judge “treats everybody fairly,” while another explained that the judge was “...pretty much the same with everybody.” Another stated that Judge Brower was “even-handed.”

Minority Observations

Four respondents made note of Judge Brower’s listening skills. One respondent stated, “[the judge] seemed like a good listener,” while another added, “He listened well.” Yet another appreciated the “opportunity to tell him [her side of the story],” while noting, “[Judge Brower] took it into consideration.”

Three respondents commented on Judge Brower’s thorough, careful manner. One respondent found the judge to be “very thorough.” Judge Brower impressed another by strongly encouraging him to speak with a prosecutor about his case.

Anomalous Comments

Notwithstanding certain praise received for listening, one person expressed frustration that Judge Brower did not listen to the recommendation of the attorney regarding the resolution of a certain case. In addition, despite Judge Brower’s sensitivity regarding the personal needs and situations of courtroom participants, another person felt “pretty unfairly” treated. According to this respondent, the judge did not fully take into consideration the circumstances of his case.



Mid-Level Interview Method

Purpose

Mid-level Justice Court interviews are designed to evaluate the judge according to principles of procedural fairness. These interviews are generally conducted outside of the judge's court with people who have just exited the courtroom. The interviewer typically spends two to three days at the courthouse collecting interviews.

Data Collection

The interviewer approaches court participants who exit the courtroom to conduct brief interviews. Potential respondents may be litigants, family or friends of litigants, attorneys, witnesses, court interpreters, and/or service providers. The total number of people interviewed per judge depends on when the interviewer reaches the point of data saturation. In other words, once the interviewer obtains no new additional information concerning a judge's performance, data saturation is achieved, and the interviewer then seeks no further interviews.

The interviewer makes contact with the interviewee, identifies his/her role with JPEC, and briefly explains the purpose of the interview. Upon receiving permission to proceed, the interviewer asks the respondent the following question, "How well did the judge do today at treating everyone fairly?" The interviewer listens to and jots down the response. Where necessary, the interviewer seeks to clarify details of the response, or asks the respondent for more information. A typical follow-up question probes what the judge did or said to induce such reactions from the respondent. In other words, the interviewer seeks to gather information that focuses on the behaviors of the judge. After all of the information has been collected, the interviewer thanks the respondent and waits for the next interview. The duration of the average interview is about one minute long.

Court clerks and bailiffs are typically interviewed during breaks from the courtroom proceedings or after proceedings have finished for the day. Interviews with clerks are usually conducted in an office, or other private setting, in the courthouse. The number of clerks and bailiffs interviewed for a particular judge depends on the administrative makeup of the particular court(s).

Data Analysis

Once the interviews are complete, the interviewer evaluates the data according to procedural fairness criteria. The interviewer analyzes interview content according to the procedural fairness principles of respect, neutrality, and voice. The results are organized into a report with four distinct overview sections:



- The Overall Assessment section serves as an overall summary of the entire set of respondent comments.
- The Widely Agreed-Upon Themes section discusses the most frequently noted and forcefully expressed themes in the data.
- The Minority Observations section addresses behaviors noted by a roughly three to five respondents. Not every behavior reported by a minority of observers is summarized here but, rather, those that reflect a notable or somewhat inconsistent perspective upon which there was not wide agreement.
- Finally, an Anomalous Comments section addresses comments of one or two observers that reflect a markedly different or contradictory perspective from all other respondents. The purpose of this section is to stimulate reflection pertaining to the relationship between behaviors, situational contexts, and respondent perceptions. Not every anomalous comment is included in this section because they are either too minor, or appear to reflect something about the respondent rather than the judge.

During the retention cycle, the commission determines if the judge receives a Pass or Fail regarding the minimum performance standard of procedural fairness. The judge's evaluation must demonstrate that it is more likely than not, based on the interview data, that the judge's conduct in court promotes procedural fairness for court participants.



Justice Court – Mid-Level Evaluation*

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Honorable Brian E. Brower

- Serving Morgan County Justice Court, Sunset Municipal Justice Court, Davis County
- Commission Recommendation: **Retain**
- Commission Vote Count: 12 - 0 (for retention)
- Performance Standards: Passed 4 of 4

Judge Brian E. Brower receives positive reviews from nearly all respondents. Respondents find the judge to be compassionate toward the needs of courtroom participants. They say Judge Brower's calm, cordial manner inspires trust from those in the courtroom, and he reinforces such trust by clearly explaining information and ensuring understanding. Respondents also note that Judge Brower administers the law even-handedly. JPEC conducts interviews with court participants about the performance of mid-level evaluation judges and completed 48 interviews about the performance of Judge Brower. This judge meets discipline standards set by statute and has been certified by the Judicial Council as meeting all time standards, education requirements, and mental and physical competence standards.

Judge Brian E. Brower was appointed to the Clearfield City Justice Court in August 2015 and to the Sunset City and Morgan County Justice Courts in December 2016. Judge Brower earned a Bachelor's degree in English Literature with a minor in Criminal Justice from Weber State University. He then graduated from the S.J. Quinney College of Law at the University of Utah. Upon graduation and passing the bar, Judge Brower worked as a Deputy County Attorney for Weber County. He later served as both the Murray City Prosecutor as well as the Layton City Prosecutor before being appointed as Clearfield's City Attorney in 2007. He served as City Attorney for eight years before his appointment to the bench.

*See Judges Section Introduction for Justice Court Information

