



The Honorable Randy B. Birch

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). In making its recommendation to voters about whether a mid-level judge should be retained, JPEC considers the judge's procedural fairness, public comment, and judicial discipline records as well as compliance with judicial education, fitness for office, and case-under-advisement time standards. The Mid-Level Report is based on a series of in-person, court user interviews conducted by JPEC staff. 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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Evaluation Report

Introduction

Judge Randy Birch's report consists of 46 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 Birch received positive reviews from nearly all respondents. Respondents say that the judge is thoughtful, caring, and personable. Judge Birch sees the whole person in front of him and is interested in their well-being and does not see courtroom litigants as merely a case. Respondents laud the judge not only for his understanding but also for his desire to be just and to render to people what they deserve, according to their situations.

Widely Agreed-Upon Themes

Respondents appreciate most Judge Birch's considerate manner and caring actions. Judge Birch is "colloquial," "good at talking," and "personable," but also "kind" and "understanding." Referring to the judge's courtroom, a family member/friend noted that he "makes it pretty inviting in there." Some respondents expressed that the judge excels at "[noticing] struggles," and is "willing to work with people's circumstances." One emotional litigant stated... "He really felt for me." According to another, Judge Birch takes "into consideration the whole person, what their problems are, without being too lenient." Yet another stated, "Whenever I've messed up, he's always made sure that I learn from it." A court staff member added, "He's pretty fair with people, especially repeat offenders. He's generally interested in their well-being."

Judge Birch is not only compassionate but also just, and he "follows the law." The judge is "stern but appropriate." One litigant, who had seen the judge numerous times, stated, "He...gives you what you deserve, be it jail or another chance." Another remarked that the judge has "never given me anything more or less than what I deserve," while another added enthusiastically, "I feel like I pay what I deserved."

Other Observations

Four people remarked approvingly of Judge Birch's receptiveness to those in the courtroom. According to one, "He listened; he considered the offer." Another commented that Judge Birch is "open" to making improvements where necessary.

Anomalous Comments

- Two respondents expressed positive sentiments regarding Judge Birch but also added some criticism:
 - According to one, "He can be a little crass because he doesn't have a filter."
 - Another expressed, "He may leave some cases open for too long without consequences."
- Another respondent expressed disappointment in Judge Birch's treatment on this day and in the past. On this day, this person stated, "He doesn't really let us give explanation; he doesn't take us into account. He just goes off the charges and puts you wherever."



Evaluation Report

Procedural Fairness Results

The judge must demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants at a level commensurate with the other scored standards.

Table A. Overall Procedural Fairness Determination

Category	Judge Birch
Procedural Fairness	Pass

To determine whether the judge passes the procedural fairness standard, the Commission considers only data collected as part of the performance evaluation, which includes, but is not limited to:

- The Mid-Level Evaluation
- The judge's disciplinary record



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, or by telephone. 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 Other 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



Mid-Level Interview Method

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 commission considers only data collected as part of the judge's performance evaluation. The judge's evaluation must demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants at a level commensurate with the scored standards for full evaluation judges.



Justice Court – Mid-Level Evaluation*

Visit JUDGES.UTAH.GOV for more information about this judge



Honorable Randy B. Birch

- Serving Heber City Municipal Justice Court, Wasatch County
- Commission Recommendation: **Retain**
- Commission Vote Count: 13 - 0 (for retention)
- Performance Standards: Passed 5 of 5

Judge Randy Birch receives positive reviews from nearly all respondents. Respondents say that the judge is thoughtful, caring, and personable. They say Judge Birch sees the whole person in front of him and is interested in their well-being and does not see courtroom litigants as merely a case. Respondents laud the judge not only for his understanding but also for his desire to be just and to render to people what they deserve, according to their situations. 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 Randy B. Birch was appointed to the Heber City Justice Court in September 2010. He received a B.A. from Utah State University, and a J.D. from the University of Utah College of Law in 1984. Judge Birch has practiced law in Utah since 1984. He worked with various firms and was in house with a federal contractor. Judge Birch currently maintains a solo practice in Heber City handling commercial litigation, construction disputes, and personal injury matters. Prior to his appointment to the bench, he was a court approved mediator and arbitrator, served for more than 25 years as a small claims judge pro tempore in Salt Lake and Summit counties, and served on the Board of the Utah Association of Criminal Defense Lawyers (UACDL). Judge Birch speaks Spanish and uses it daily.

*See Judges Section Introduction for Justice Court Information

