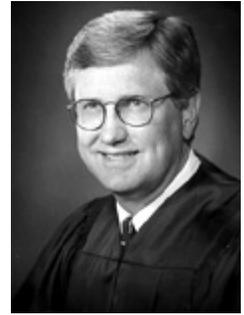


Narrative Overview

Honorable Jeffrey R. Burbank – Juvenile Court Judge

Serving Box Elder, Cache and Rich counties



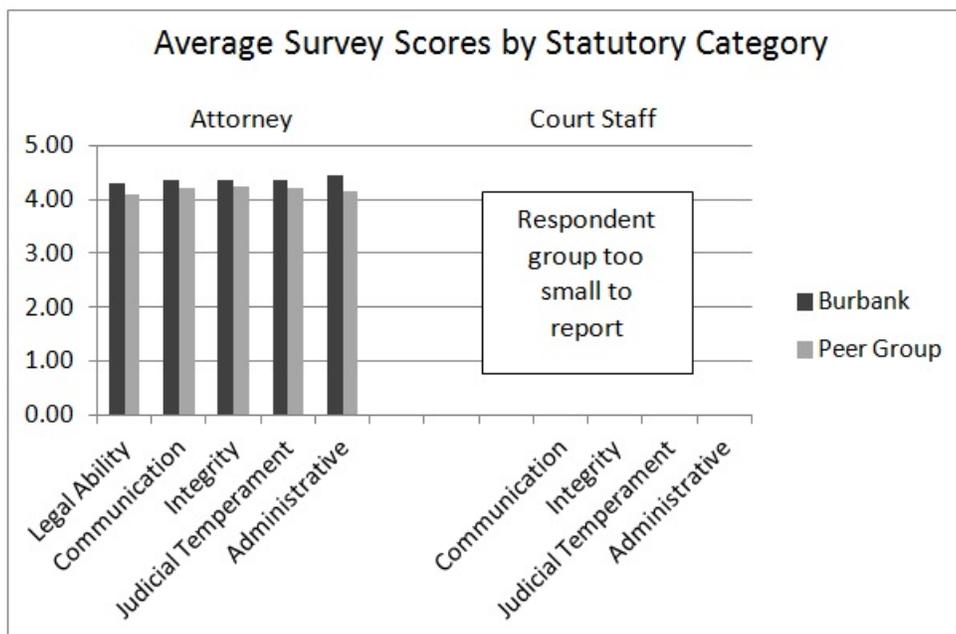
The commission recommends by a vote of 12 - 0
TO RETAIN Judge Jeffrey Burbank

Judge Jeffrey Burbank's performance is outstanding. Attorneys rated him above the average of other juvenile court judges in all survey categories and on all questions, most frequently describing him as knowledgeable, consistent, and intelligent. All 19 attorneys answering the retention question recommended that he be retained. A few criticized him for being impatient at times. Courtroom observers liked the quiet, dignified and formal atmosphere of his courtroom and its positive effect on juveniles. They noted with approval Judge Burbank's polite, courteous, and appreciative conduct and his serious "judicial" demeanor. Observers also spoke highly of Judge Burbank's use of clear and simple language and his efforts to ensure that participants fully understood his rulings.

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

Judge Jeffrey R. Burbank was appointed to the First District Juvenile Court in 1996 by Governor Michael Leavitt. He received his law degree in 1980. Judge Burbank served as Deputy Cache County Attorney from 1983 until his appointment to the bench, was assistant Logan City Attorney, was a partner in the law firm of Jenkins and Burbank, and taught many classes for various law enforcement agencies including Police Officers Standards and Training. He was a charter member of the USU Associates and served on the Board of Directors. He has served as Presiding Judge and is presently on the Board of Juvenile Court Judges and Associate Presiding Judge for First District Judicial Court.

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



Survey Overview

Attorneys and court staff were surveyed about the judge's performance. Survey categories included questions about the judge's legal ability, judicial temperament, integrity, communication skills, and administrative skills. Summarized results for all applicable respondent groups appear below. A judge must score a 3.0 on 80% of the individual questions to pass the minimum performance standard.

A. Attorney Survey Overview:

Total Respondents: 20

1. "Should this judge be retained?"

Response*	Number	Percent of Total
YES	19	100%
NO	0	0%

*1 Respondent(s) did not answer the retention question

2. Statutory Category Scores:

Attorney	Burbank	Peer Avg	% of Peer
Legal Ability	4.30	4.09	105%
Communication	4.35	4.20	104%
Integrity	4.35	4.24	103%
Judicial Temperament	4.37	4.21	104%
Administrative	4.45	4.14	108%

3. Average trials before this Judge: 2.4

4. Area of primary practice

Collections: 3 Domestic: 11 Criminal: 12 Civil: 8 Other: 5

B. Court Staff Survey Overview: Respondent group too small to report

Survey Scores

Attorney Survey Scores:

Below are listed: 1) the attorney survey questions; 2) a checkmark to show that the judge met or exceeded the statutory “pass” of 3.0, or an “x” to indicate the judge scored below 3.0 on that question; 3) the judge’s average score on each question; 4) the average score on each question of all judges on the same level of court; and 5) the judge’s average score as a percent of the peer group average score.

A judge must receive an average score of at least 3.0 on 80% of the questions to meet minimum performance standards.

Attorney Question	Statutory Pass: 3.0	Burbank	Peer Avg.	% of Peer Avg.
The Judge makes sound rulings.	✓	4.29	4.05	106%
The judge properly applies the rules of civil procedure.	✓	4.33	4.12	105%
The judge properly applies the rules of criminal procedure.	✓	4.21	4.08	103%
The judge properly applies the rules of evidence.	✓	4.37	4.08	107%
The judge's sentencing fits the offenses.	✓	4.11	4.02	102%
The judge makes appropriate findings of facts.	✓	4.34	4.15	104%
The judge appropriately applies the laws to the facts.	✓	4.29	4.09	105%
The judge follows legal precedent.	✓	4.31	4.15	104%
The judge only considers evidence in the record.	✓	4.33	4.06	107%
The judge's written decisions are clear and logical.	✓	4.31	4.20	103%
The judge's written opinions offer meaningful legal analysis.	✓	4.34	4.11	106%
The judge was fair and impartial.	✓	4.27	4.13	103%
The judge avoids impropriety and the appearance of impropriety.	✓	4.42	4.34	102%
The judge avoids improper ex parte communications.	✓	4.53	4.35	104%
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.29	4.21	102%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.27	4.16	103%
The judge holds attorneys accountable for inappropriate conduct.	✓	4.37	4.02	109%
The judge's oral communication while in court is clear and logical.	✓	4.41	4.28	103%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.40	4.23	104%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.31	4.01	107%
The judge is prepared for argument and hearings.	✓	4.51	4.36	103%
The judge treats all attorneys with equal courtesy and respect.	✓	4.27	4.22	101%
The judge rules in a timely manner.	✓	4.46	4.41	101%
The judge realistically manages his or her calendar.	✓	4.53	3.98	114%
The judge convened court without undue delay.	✓	4.36	4.03	108%
The judge provides the parties due process; namely, advance notice of issues to be heard an adequate opportunity to prepare and a meaningful opportunity to be heard.	✓	4.35	4.21	103%
The judge acts to ensure that linguistic/cultural differences or disabilities do not unfairly limit access to the justice system.	✓	4.53	4.46	102%

Adjective Summary

Survey respondents were asked to select adjectives that best described the judge. Results are shown from each respondent group. The adjectives highlighted in green are “positive” adjectives, while those in red are “negative.”

J. Burbank	
Attorney	
Attentive	8
Calm	10
Confident	7
Considerate	2
Consistent	15
Intelligent	11
Knowledgeable	16
Patient	5
Polite	5
Receptive	3
Arrogant	0
Cantankerous	3
Defensive	1
Dismissive	1
Disrespectful	0
Flippant	0
Impatient	5
Indecisive	0
Rude	0

Positive	82
Negative	10
Positive	89%

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE JEFFREY BURBANK

Five observers wrote 97 codable units that were relevant to 15 of the 17 criteria. All observers reported that the judge was aware that JPEC observers were present.

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> Four observers reported approvingly the quiet, dignified and formal courtroom atmosphere and its beneficial effect on juveniles and Judge Burbank's polite, courteous, and appreciative behavior and his serious and "judicial" demeanor. However one observer noted (but stated this was not a criticism) an absence of the warm and fuzzy and fatherly behavior exhibited in some other juvenile courts. All observers reported that Judge Burbank used clear, simple language to explain his decisions, rulings and orders, and vigilantly ensured they were fully understood. Four observers also reported that he showed concern for and acted in the best interests of each individual, and always guided and strongly encouraged each juvenile. All observers reported that they would feel comfortable appearing before Judge Burbank, although one observer would only feel comfortable if represented by an attorney.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> One observer reported disrespectful behavior towards an unrepresented woman for which the judge had second thoughts, later apologizing and providing the requested information. One observer perceived Judge Burbank's low-key manner as detached and uninvolved and wished for more animation and expressiveness. This observer also found the judge's use of the defendant's name three or four times in a sentence to sound odd, mechanical, and insincere. One observer would have preferred participants to stand on the judge's entrance rather than being asked to remain seated.

<i>Numerical ratings:</i>	<i>Observer 1</i>	<i>Observer 2</i>	<i>Observer 3</i>	<i>Observer 4</i>	<i>Observer 5</i>
Neutrality	3	5	4	5	4
Respect	3	4	5	4	4
Ability to earn trust	4	4	4	3	4
Skill at providing voice	4	4	5	4	4

Summary and *exemplar language* of five observers' comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	Three observers reported that Judge Burbank <i>listened intently, concentrated deeply</i> on what was said <i>at all times</i> , and showed he had heard <i>by summarizing witness' stories</i> .
Well-prepared & efficient	Four observers reported that Judge Burbank was <i>well prepared</i> and <i>very familiar with the parties and the history</i> of the cases. The court was <i>run in an orderly fashion</i> , for example by <i>addressing the lawyers in turn</i> and by the immediate preparations of the orders.

Respect for others' time	One observer <i>was impressed</i> that Judge Burbank <i>avoided delays</i> and <i>provided greater efficiency</i> by <i>booking cases every 15 minutes</i> and having a <i>conference room always available for "private" discussions</i> .
Respectful behavior generally	<p>All observers reported Judge Burbank's respectful behavior. He was appreciative and complimentary to juveniles who have <i>done very well</i>, frequently offered encouragement to less successful juveniles in a way that <i>made an impression</i> on one observer, and after <i>chastising a young boy who violated probation</i> the judge said "I appreciate that you are a young man of great worth in this world". To new adoptive parents he said "I would like to be the first to congratulate you as the new parents of this child", and allowed an eighteen year old adoptee to sing a song and then <i>complimented her beautiful voice when she became nervous and her voice broke</i>, then <i>warmly welcomed the whole family up to the bench for photos</i>.</p> <p>One observer reported that Judge Burbank initially treated a woman with no representation disrespectfully. <i>In response to her question "Tell me how to prepare. What do I need"?</i> the judge said "That's what attorneys do. You've chosen not to have an attorney – so you'll have to do it." <i>The woman was very stressed. Later the judge called her back and apologized, informing her of all she had to do, and it turned out much better in the end.</i> The observer speculated whether the judge's second thoughts were because he knew I was there.</p>

RESPECTFUL TONE

Courtesy, politeness and patience	All observers reported that Judge Burbank was <i>consistently polite and courteous, acknowledging each participant</i> and saying "Thank you," after reports and arguments had been given. He did not <i>become rattled by defendants when he could have</i> .
Courtroom tone & atmosphere	<p>Four observers reported that Judge Burbank had a <i>serious and "judicial" expression</i> and demeanor, was <i>businesslike, matter-of-fact</i>, and very <i>calm and collected</i>. One observer felt the judge was <i>more stern than warm and fuzzy</i> and did not exhibit kind, fatherly behavior as some other Juvenile Judges do, but the observer also stated <i>this is not meant to be a criticism</i>.</p> <p>Three observers reported that the court room was <i>quiet and dignified</i>, and the "No Cell Phones Allowed" sign set the tone for the <i>seriousness</i> of the court room. One observer noted approvingly that the <i>juveniles were appropriately intimidated by the formal courtroom setting</i>, and that <i>several juveniles described as defiant did not act that way in the courtroom</i>.</p> <p>One observer was <i>surprised that when the judge entered the courtroom the bailiff said "Please remain seated the court is now in session"</i>. This observer would rather see everyone show respect to the judge and the system by standing.</p>

Body language	<p>One observer reported that Judge Burbank <i>made good eye contact</i>.</p> <p>One observer <i>came to perceive</i> Judge Burbank's low-key manner as <i>detached and uninvolved in a negative way, like just going through the motions</i>. This observer reflected at length on this issue, in summary: <i>While his comments revealed he was well-prepared and interested, juveniles would feel his interest more if he expressed himself with more energy and animation ... it made a big difference to me, however if a juvenile had never been before a more animated judge, it may make no difference. At one point the judge got a bit more animated (voice changed, body moved.)</i></p>
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Voice quality	<p>One observer reported that the impression of Judge Burbank's <i>low-key manner</i> was based mostly on his <i>low, soft tone of voice and lack of gestures</i>. <i>He was not easy to hear</i>.</p> <p>One observer reported that <i>the way the judge inserts the defendant's name three or four times in a sentence</i> does not sound respectful but <i>makes the name sound mechanical, insincere and odd</i>.</p>
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NEUTRALITY

Consistent and equal treatment	Two observers reported that Judge Burbank wanted to do <i>what is right for all participants</i> . <i>After they were sworn in as a group, he asked witnesses to come in one at a time so that the testimony of one would not be tainted by his hearing another's</i> .
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Acts with concern for individual needs	Four observers reported that Judge Burbank acted on participants' individual needs and circumstances, for example offering a juvenile the <i>opportunity to "earn his way" out of fines and penalties with perfect attendance at school</i> , assuring a father that his absent attorney would <i>get a full report on what happened</i> in court, moving a hearing date to allow a juvenile to <i>get back to school</i> , and insisting that a <i>very pregnant</i> participant <i>remain seated, placing more importance on appropriate concern for her than courtroom protocol</i> .
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Expresses concern for the individual	Four observers reported that Judge Burbank showed <i>great concern by asking questions, listening to answers, and looking directly at the speaker</i> . The judge employs his <i>personal belief in the goodness of juveniles to guide the defendant in making better choices</i> . One observer noted <i>many of the judge's "lectures" were right on the spot</i> , for example: "You are a worthwhile young man, but making bad decisions ... You are looking forward to the next 45 days, I am looking forward to your lifetime." After one lecture the 15 year old boy and his mother were in tears. The judge made the <i>seriousness of offenses</i> very clear <i>over and over again and the impact it could have on the juvenile</i> , as well as the impact on others: "Your mother and father have been to every hearing ... it's been an expense and time consuming for them."
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VOICE

Considered voice	Four observers reported that Judge Burbank always asked juveniles if they had <i>any questions or wanted to tell him anything</i> . When a mother interrupted the judge said "Mother, let her talk, please. I will let you speak in a moment." He said to one participant, "I can tell you have a question by looking at your face", and she did.
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Burbank used <i>clear and understandable language without use of "legalese"</i> that the juveniles might not understand.
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Ensures information understood	All observers reported that Judge Burbank ensured <i>everyone understood the proceedings</i> and often checked his own understanding by saying "What I'm hearing you say..." <i>and repeating back for clarification</i> . When an <i>interpreter was translating</i> for a mother the judge <i>spoke slowly and asked her if she understood</i> . He was <i>crystal clear with orders</i> , but if a juvenile was unsure of the consequences of not following an order he had the juvenile and parents take several minutes to read and discuss the order while everyone waited. One observer particularly appreciated that Judge Burbank always distributed orders <i>within a few minutes of the hearing</i> .
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Provides adequate explanations	All observers reported that Judge Burbank <i>explained in clear language</i> the reasons for his decisions and <i>responded to questions</i> about rulings, often <i>using examples from testimony given by the witnesses</i> . Even in <i>trivial matters the judge wanted all participants to comprehend the proceedings</i> , and he was <i>clear about the next action that the defendant must take</i> . He gave a <i>long explanation of a plea in abeyance to a first-time juvenile</i> . However, another observer thought the judge was <i>not particularly open and clear about how the rules were applied, guessing that he did not want to confuse juveniles with long explanations</i> .
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