



# The Honorable Jennifer A. Brown

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## About the report

In making its recommendation to voters about whether a judge should be retained, JPEC considers the judge's legal ability, integrity and judicial temperament, administrative skills, procedural fairness, public comment, and judicial discipline records as well as 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 are the Survey and Courtroom Observation Reports. The Survey Report summarizes information collected from attorneys, court employees, jurors (district and some justice court judges only) and juvenile court professionals (juvenile court judges only). Surveys are anonymous and inclusion in the survey is based on court-appearance records. The Courtroom Observation Report summarizes information reported by at least four trained, volunteer court observers per judge.

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## Survey Report

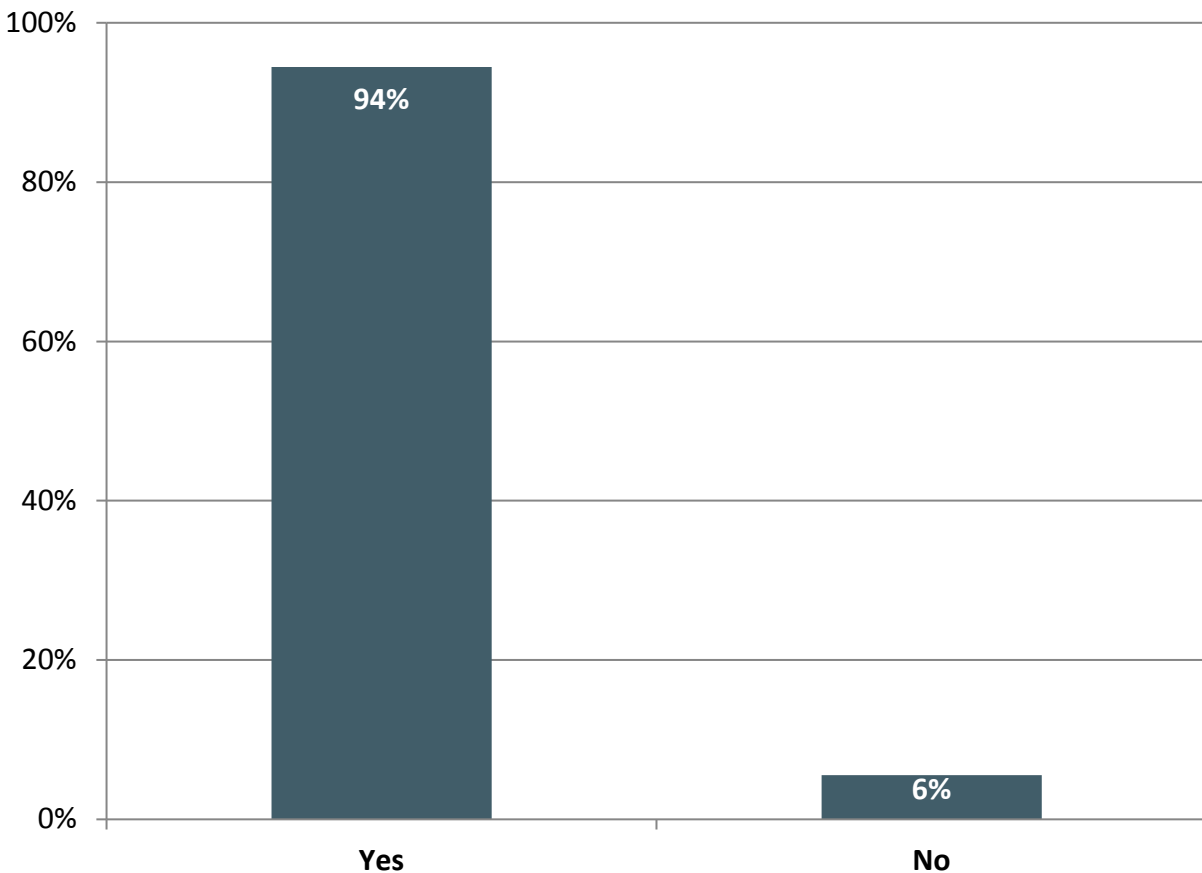
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### Survey Results

For Judge Jennifer A. Brown, 43% of qualified survey respondents submitted surveys. Of those who responded, 111 agreed they had worked with Judge Jennifer A. Brown enough to evaluate the judge's performance. This report reflects these 111 responses. For more information on the survey, please see Survey Information. For more information about the evaluation process, please see How to Read the Results.

### Retention Question

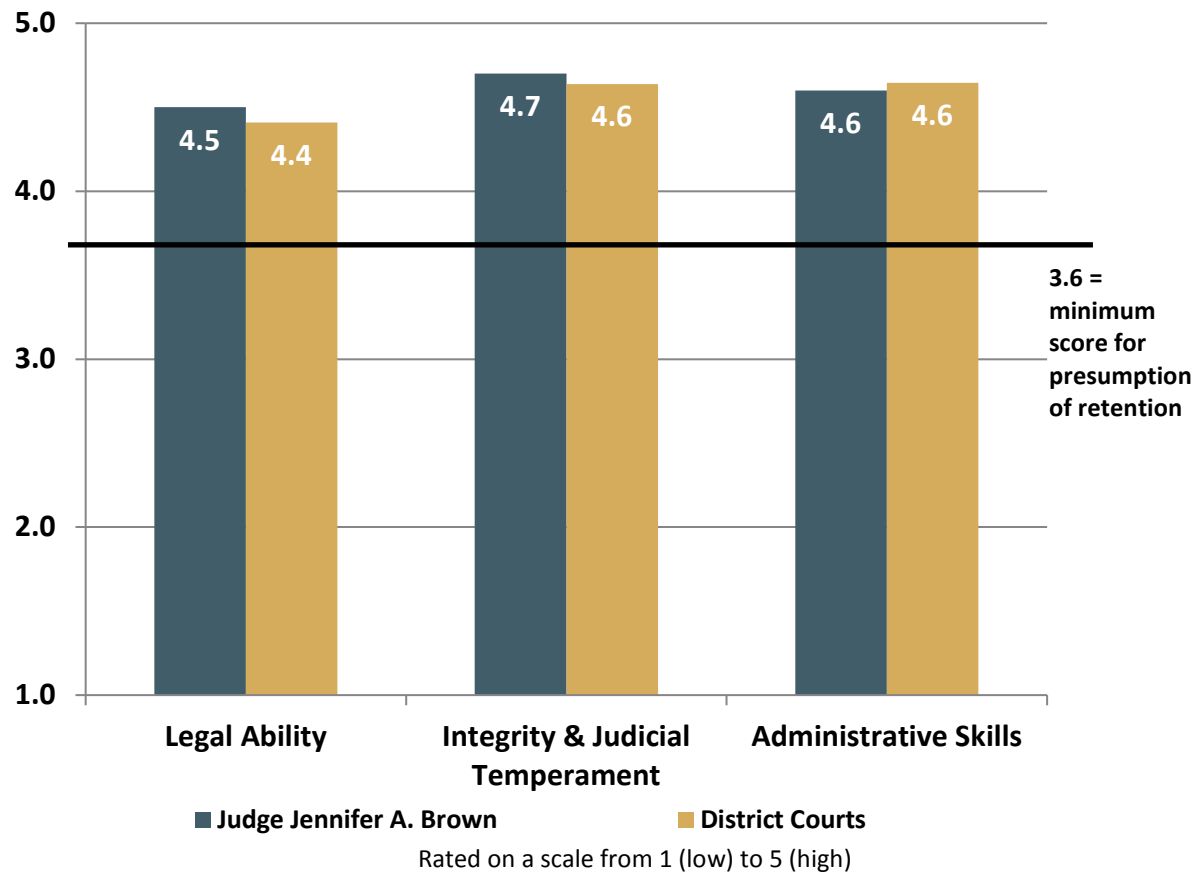
**Survey Question: Would you recommend that Judge Jennifer A. Brown be retained?**



## Survey Report

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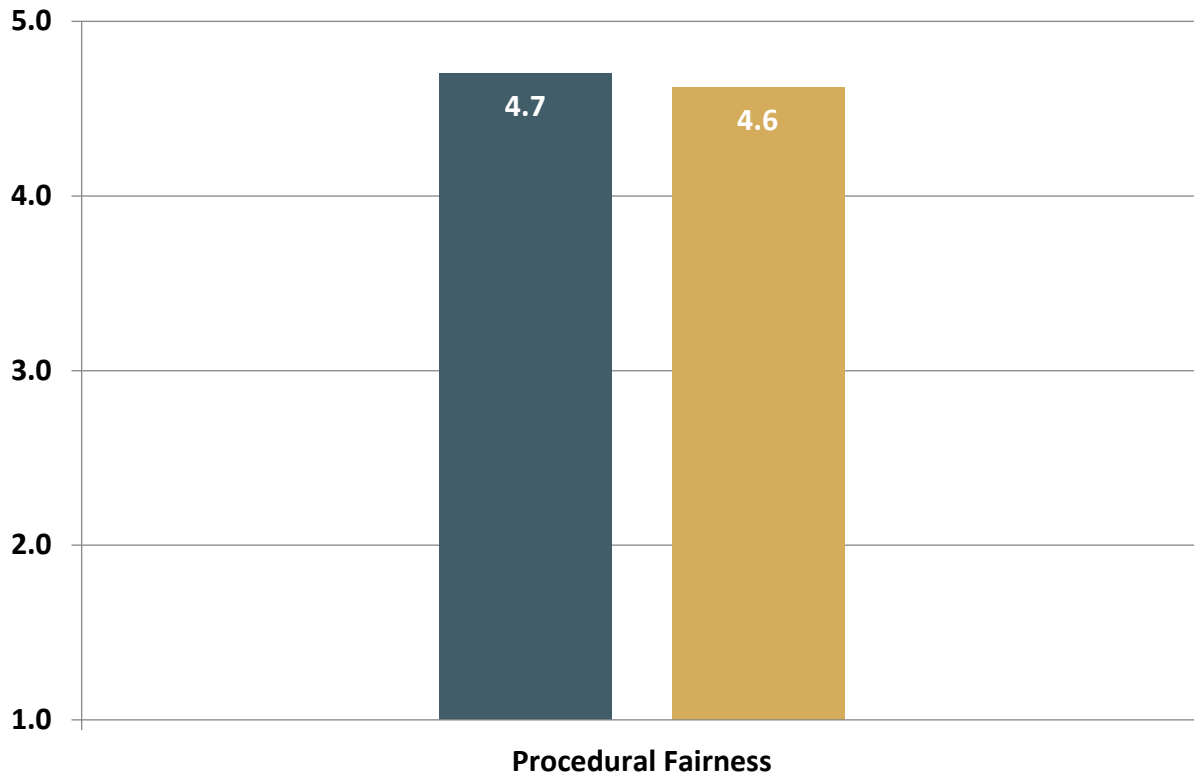
### Statutory Category Scores



## Survey Report

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### Procedural Fairness Score



■ Judge Jennifer A. Brown      ■ District Courts

Rated on a scale from 1 (low) to 5 (high)

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.

**Table A. Overall Procedural Fairness Determination (for Retention Only)**

Category	Judge Jennifer A. Brown
Procedural Fairness	Pass



## Survey Report

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### Responses to Survey Questions

Category	Question	Judge Jennifer A. Brown	District Courts
Legal Ability	The judge followed the legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that applied to the case at issue.	4.6	4.4
Legal Ability	The judge made adequate findings of fact and applied the law to those facts.	4.4	4.4
Legal Ability	The judge followed legal precedent or explained departures from precedent.	4.4	4.4
Legal Ability	The judge only considered evidence in the record.	4.6	4.5
Legal Ability	The judge based opinions/decisions on applicable legal principles and controlling law.	4.5	4.4
Legal Ability	The judge's opinions contained a readily understandable ruling.	4.6	4.5

Rated on a scale from 1 (low) to 5 (high)



## Survey Report

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### Responses to Survey Questions (continued)

Category	Question	Judge Jennifer A. Brown	District Courts
Integrity & Judicial Temperament	The judge made sure that everyone's behavior in the courtroom was proper.	4.7	4.7
Integrity & Judicial Temperament	The judge paid attention to what went on in court.	4.8	4.7
Integrity & Judicial Temperament	The judge's personal life or beliefs did not impair his or her judicial performance.	4.7	4.5
Integrity & Judicial Temperament	The judge demonstrated respect for the time and expense of those attending court.	4.6	4.6
Integrity & Judicial Temperament	The judge worked to ensure that the participants understood the court proceedings.	4.7	4.7
Integrity & Judicial Temperament	The judge conducted proceedings without favoritism.	4.7	4.6
Integrity & Judicial Temperament	The judge considered arguments from all sides before ruling.	4.7	4.6
Integrity & Judicial Temperament	The judge demonstrated diligent work habits.	4.4	4.6
Integrity & Judicial Temperament	The judge maintained a professional demeanor in the courtroom.	4.8	4.7

Rated on a scale from 1 (low) to 5 (high)



## Survey Report

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### Responses to Survey Questions (continued)

Category	Question	Judge Jennifer A. Brown	District Courts
Administrative Skills	The judge was prepared for court proceedings.	4.6	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff were professional and constructive.	4.9	4.7
Administrative Skills	The judge managed the court calendar effectively.	4.3	4.5
Administrative Skills	The judge convened court without undue delay.	4.5	4.7
Administrative Skills	The judge ruled in a timely fashion.	4.0	4.6
Administrative Skills	The judge communicated clearly.	4.7	4.7
Category	Question	Judge Jennifer A. Brown	District Courts
Procedural Fairness	The judge treated all courtroom participants with equal respect.	4.8	4.6
Procedural Fairness	The judge performed his or her duties fairly and impartially.	4.7	4.6
Procedural Fairness	The judge promoted public trust and confidence in the courts through his or her conduct.	4.6	4.6
Procedural Fairness	The judge provided the court participants with a meaningful opportunity to be heard.	4.8	4.7

Rated on a scale from 1 (low) to 5 (high)



## Survey Report

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### Adjective Question Summary

Survey respondents rated how well a list of adjectives describes the judge. A rating of 1 indicates the adjective *does not describe the judge at all*, and a rating of 5 indicates the adjective *describes the judge very well*. For the positive adjectives, a higher average score is better. For the negative adjectives, a lower average score is better.

Descriptor	Judge Jennifer A. Brown	District Courts	
Attentive	4.6	4.6	<b>Positive Adjectives HIGHER average score is better</b>
Capable	4.6	4.5	
Ethical	4.8	4.7	
Knowledgeable	4.4	4.4	
Impartial	4.3	4.3	
Open-minded	4.5	4.3	
Disrespectful	1.1	1.4	<b>Negative Adjectives LOWER average score is better</b>
Impatient	1.3	1.6	
Indecisive	1.6	1.6	
Unprepared	1.4	1.4	





## Survey Information

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This report presents the results from the 2017 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

### 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), and
- 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).

### Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Chief Justice and JPEC Chairperson. 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 at least 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 35 (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 average score in Procedural Fairness.

### **Evaluation Period**

The retention evaluation period for judges standing for election in 2018 began on January 1, 2016 and ended on September 30, 2017.



# Courtroom Observation Report

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## Evaluative Criteria

CRITERIA	DESCRIPTION
<b>RESPECT</b>	
Listening & focus	Listening refers to all indications of attention and engagement through active listening. Giving voice to those in court is included below under “Considered voice”.
Well-prepared & efficient	Efficiency refers to the judge’s behaviors. The court’s efficiency appears below under “Courtroom tone & atmosphere”.
Respect for other's time	This includes the starting time of sessions as well as all interactions with those in court that take into consideration the value of their time.
Courtesy, politeness, and general demeanor	This refers to respectful behaviors generally, as well as behaviors directed at specific individuals that indicate respect for a person’s value or status.
Body language	This refers to eye contact and facial expressions, general body language, and engaged behavior.
Voice quality	This refers to both mechanical qualities such as pitch and volume, and emotional qualities such as inexpressive, sarcastic or exasperated tone.
Courtroom tone & atmosphere	This refers more generally to the tone and atmosphere of the courtroom.
<b>NEUTRALITY</b>	
Consistent and equal treatment	This refers to listening to all sides, and treating individuals in similar situations similarly.
Demonstrates concern for individual needs	This refers to concern for individual differences and giving due regard to the individual’s specific situation. Expressing concern that individuals understand the proceedings is included below under “Ensures information understood”.
Unhurried and careful	This refers to allowing sufficient time for the judge and those in court to conduct themselves in a thorough manner.
<b>VOICE</b>	
Considered voice	This refers both to allowing those in court to express themselves and to the judge’s consideration of what was expressed in his/her statements or decision.
Formal voice	This refers to giving voice based on required procedure without apparent consideration by the judge of what was expressed.
<b>COMMUNICATION</b>	
Communicates clearly	This refers both to clarity of speech and to the use of language appropriate to the listener.
Ensures information understood	This refers to active attention by the judge in ensuring those in court understand all information relevant to them, and includes translation and comprehension for non native English speakers.
Provides adequate explanations	This refers to providing sufficient explanation of the basis of decisions and of legal procedure and terminology to ensure that those in court understand proceedings relevant to them.



## FOUR OVERVIEW SECTIONS

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Overall assessment	<p>The first statement in this section is an overall summary of the entire set of observer comments.</p> <p>The second statement indicates the number of observers indicating that they would feel comfortable appearing before the judge.</p>
Widely agreed-upon themes	<p>Behaviors reported by all (or almost all) observers and thus well established. Deficits mentioned here were widely reported and therefore merit attention.</p> <p>The subsequent statements are not intended to be a complete summary of the observers comments, but rather highlight the most frequently noted and forcefully expressed themes in the way that the observers expressed them, with the goal of evoking an overall sense of the entire set of observer comments.</p>
Minority observations	<p>Behaviors noted by two (or possibly three) observers that would be worth building on (if desirable) or otherwise thinking about avoiding.</p> <p>Not every behavior reported by a minority of observers is summarized here, only those that reflect a notable or somewhat discrepant perspective that was not widely agreed upon.</p>
Anomalous comments	<p>Comments of one (or in rare cases two) observers that reflect a markedly different or decidedly contradictory perspective from all other observers are included here. They are intended to stimulate reflection, such as: why were these observers affected by this behavior, or does this particular situation tend to lead to this uncharacteristic behavior?</p> <p>Not every anomalous comment in the report is included in this summary section. While all have been included in the report, some are not included in this summary section because they are too minor, or appear to reflect something about the observer rather than the judge.</p>

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### Italicized text

Throughout the report, italicized text refers to actual words or phrases used by the observers.

### Terminology

In all three overview sections, paragraphs are introduced with the following terminology.

If the number of observers is specified, e.g. “All observers reported...” or “Three observers reported...”, then every statement in the paragraph was mentioned or implied or alluded to by that number of observers.

If the word “variously” is added, e.g. “All observers variously reported...” or “Three observers variously reported...”, then not every statement in the paragraph was directly mentioned or implied or alluded to by every one of those observers, but rather the sense of all the statements in the paragraph taken together was.

To avoid repetition, the word “variously” is not used to open every paragraph in every detail box of the report, even though it generally applies.



## Content Analysis

### Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none"> <li>All observers were strongly positive about Judge Brown.</li> <li>All observers reported confidence that if appearing before Judge Brown they would be treated fairly.</li> </ul>
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> <li>All observers variously reported that the court was orderly and efficient and Judge Brown was well-prepared with the details of each case. She politely greeted the court and called each defendant by name, and her disarming personality made people feel relaxed. She was courteous, patient, and approachable, made eye contact as she listened, and spoke clearly and sincerely. She was unhurried and allowed participants ample time to fully express themselves. She clearly explained how she had made her decisions and fully informed every defendant about their rights, stopping to inquire when a defendant seemed uncertain of her explanations.</li> <li>All observers particularly emphasized Judge Brown’s concern for defendants and the betterment of drug court participants. Observers gave numerous examples of her personalized sentences and other actions that were in the best interest of defendants.</li> </ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> <li>None</li> </ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> <li>None</li> </ul>

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

<i>RESPECT</i>	
Well-prepared & efficient	Two observers reported that Judge Brown was <i>well prepared with details of previous court appearances and questions and observations</i> . She <i>let attorneys know that she reviews each case the day before court and expects them to make any filings ahead for her review</i> . Several attorneys commented up front <i>“I filed early” or “I apologize for filing late” as they knew how she felt</i> .
Courtesy, politeness, and general demeanor	All observers reported that Judge Brown <i>greeted the court with “Good morning, everyone” and always greeted the defendants by their full name and with a “Good morning,” commonly telling them “Thank you” as appropriate</i> . She <i>greeted a defendant in Spanish who needed an interpreter, and she responded to an attorney’s comments by saying, “I appreciate that reminder.” She did not get ruffled, and her winning smile, infectious laugh, and disarming personality truly made people feel relaxed</i> . She was <i>courteous, patient, genuinely concerned and interested, and her open and approachable demeanor made it possible for participants to explain what was going on in their lives, problems they were encountering, and recent “winning” or “losing” occurrences</i> . She <i>gave congratulations for successes and mild admonishments for mistakes</i> . Judge Brown asked one observer <i>if there was something he wanted, seemingly concerned he may have been overlooked</i> .
Body language	One observer reported that Judge Brown <i>made eye contact with all defendants when she spoke and listened to them and asked questions to clarify what they were saying</i> .



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Voice quality	Two observers reported that Judge Brown spoke <i>very clearly</i> in a <i>sincere, neutral tone</i> . She understood the importance of <i>good audibility on the sense of respect in her courtroom</i> , when telling one plaintiff to “ <i>Pull the microphone closer and speak into it.</i> ” However, the observer noted that the <i>prosecuting attorney had to move away</i> from the microphone due to its placement in order to <i>maintain eye contact with the judge</i> , thereby <i>reducing his audibility</i> .
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Courtroom tone & atmosphere	Two observers reported that the court was <i>very orderly</i> with <i>cases moving efficiently from one to the next</i> .
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#### NEUTRALITY

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Consistent and equal treatment	Two observers reported that Judge Brown <i>gave each person an impartial hearing</i> , and she was <i>self-confident in making some very tough choices in even-handed and sometimes innovative ways</i> .
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Demonstrates concern for individual needs	All observers particularly emphasized and gave numerous examples of Judge Brown’s concern for <i>acting in the best interest of defendants</i> , and her <i>tone of voice and words showed an authentic concern for the betterment of those in drug court</i> . She had a <i>sense of the anxiety</i> of defendants, including many without legal representation, and she <i>helped people relax</i> . When a <i>disabled man</i> whose brother could <i>no longer care for him needed placement before the end of the month</i> , she told the family, “ <i>My level of frustration with this case is nearly equal to yours,</i> ” and when it was <i>resolved that DHS must find the man a crisis placement while testing was being done</i> , she also <i>thanked the man at DHS for his help</i> .
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Judge Brown *tried to work with defendants to help them deal with their sentences*, which were *often lenient*, but she also indicated that repeating these violations *would result in harsher sentences*. After giving a *heartfelt review of the difficulties in considering an appropriate sentence*, she came up with a *clever ruling using an alcohol detecting ankle monitor and a random-interval alcohol monitoring device with face recognition that protected the public without imposing a jail sentence*. She agreed to a *request to wait for a presentence report* from another jurisdiction and *made arrangements to have it sent to her*. She *saved a date in her calendar in case someone who was incarcerated needed to appear sooner than someone who was out on bail so that someone not be kept in jail longer than needed*. When a young prisoner wanted to get his *sentencing over without waiting for the presentencing report*, she *explained the importance of having the report that might benefit him and insisted that he have patience and wait for the report*.

Unhurried and careful	Two observers reported that Judge Brown <i>left no feeling of being hurried</i> . She was <i>very careful</i> , in one case <i>requiring a death certificate before signing an order to prove that a party who was served was indeed deceased, as there was no evidence of this in the file</i> .
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#### VOICE

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Considered voice	All observers reported that Judge Brown always <i>allowed participants ample time to fully express their feelings and explanations</i> , and she <i>actively prompted them for their input</i> , telling a defendant after listening to the defense attorney, “ <i>Mr. ___ you also have the right to address the court directly.</i> ” She allowed all defendants <i>to tell her how her sentences would affect their lives</i> . She also <i>made sure that those who were not competent still felt a part of things</i> .
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#### COMMUNICATION

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Ensures information understood	One observer reported that Judge Brown <i>stopped to inquire deeper if the defendant seemed uncertain</i> about her explanation of their rights. She <i>ensured that a woman who chose to represent herself understood the implications of her choice</i> .
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Provides adequate explanations	Three observers reported that Judge Brown <i>clearly explained the technical underpinnings of how she made her decisions</i> as well as <i>addressing the human side of how her rulings might impact the defendant</i> . She <i>carefully and fully informed defendants about their rights in a respectful manner</i> , and when <i>one man wanted her to skip the recitals she explained that it needed to be done for the record</i> .
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## How to Read the Results

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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 Courts" 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.



# 4<sup>TH</sup> JUDICIAL DISTRICT COURT

Visit [JUDGES.UTAH.GOV](http://JUDGES.UTAH.GOV) for more information about this judge



## Honorable Jennifer A. Brown

- Serving **Juab, Millard, Utah & Wasatch** Counties
- Commission Recommendation: **RETAIN**
- Commission Vote Count: 12-0 (for retention)
- Performance Standards: Passed 8 of 8

Appointed in 2014, Judge Jennifer A. Brown scores consistently with her district court peers on all scored minimum performance standards. Ninety-four percent of survey respondents recommend her for retention. Courtroom observers and survey respondents note Judge Brown’s admirable judicial demeanor that puts participants at ease. Courtroom observers are strongly positive about Judge Brown, saying they would all expect to be treated fairly if appearing before her. Survey respondents find her to be intelligent, attentive, and have competent legal skills. While complimenting her, many respondents also express concern that Judge Brown could significantly improve her timeliness both in her rulings and her calendar management. 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 Jennifer A. Brown was appointed to the Fourth District Court in December 2014 by Governor Gary Herbert. She serves Utah and Wasatch counties. Prior to her judicial appointment, Judge Brown was a partner with Tesch Law Offices in Park City. Before joining Tesch, she had established her own firm after working with nationally-based firms Chapman and Cutler LLP and LeBoeuf, Lamb, Greene and MacRae LLP. Her practice focused primarily on complex commercial/civil litigation, with experience in the areas of employment, domestic, construction/real estate, and municipal law. In addition to her litigation practice, Judge Brown was a certified mediator. Judge Brown received her J.D. degree from Brigham Young University's J. Reuben Clark Law School.

