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BEFORE THE STATE OF ALABAMA
JUDICIAL RESOURCES ALLOCATION COMMISSION

HEFLIN-TORBERT
JUDICIAL BUILDING

THURSDAY, JUNE 14, 2018

10:00 a.m.

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COPY

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THE FOLLOWING PROCEEDING was held before
the Honorable Lyn Stuart, taken by Wendy Kendrick,
Certified Court Reporter and Commissioner for the
State of Alabama at Large, at the offices of the
Heflin-Torbert Judicial Building, 300 Dexter
Avenue, Montgomery, Alabama, commencing at 10:00
a.m., Thursday, June 14, 2018.

1 APPEARANCES :

2 COMMISSION MEMBERS :

3 Chief Justice Lyn Stuart, Chair

4 Honorable Clay Crenshaw

5 Honorable Zack Collins

6 Honorable Michael Newell

7 Honorable James Reid

8 Honorable Michelle Thomason

9 Honorable Lee Carter

10 Honorable Clyde Jones

11 Honorable Angela Sperling

12

13 ALSO PRESENT :

14 Ms. Carey McMillan

15 Mr. Michael Gregory

16 Mr. Randy Helms

17 Mr. David Wilson

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1 CHIEF JUSTICE: I am Lyn Stuart, the
2 Chief Justice of the Alabama
3 Supreme Court. I thank you-all
4 for coming here to participate
5 today in the second meeting of
6 our Judicial Resource Allocation
7 Commission. Today's session
8 will pretty much be a working
9 session or an educational
10 session where we learn about the
11 formula that is used in the
12 reallocation process.

13 But before we go any
14 further, I am going to allow our
15 marshals to give us just a
16 little bit of information.

17 (At which time, safety
18 instructions were given.)

19 MARSHAL FIELDER: I am Assistant Chief
20 Ronnie Fielder. Here with me is
21 Deputy Marshal Culp and Deputy
22 Marshal Richardson. This
23 morning we are here to give you

1 a few insights about the
2 building.

3 First of all,
4 housekeeping. The facilities
5 are located -- if you exit this
6 door across the hall to the
7 right would be for the men;
8 straight ahead would be for the
9 females.

10 In any case that there
11 is an emergency that requires us
12 to leave the building, we ask
13 that everyone go out this door
14 or to the left. All of the
15 signs say exit, left again. It
16 will take you out to the front
17 of the building. Then walk
18 across the street to the parking
19 lot and someone in this room
20 will come and get a count to
21 account for everyone that is in
22 the class.

23 If an emergency arises

1 where you can't leave the
2 building, we ask that you follow
3 Attorney Michaels downstairs and
4 assemble there. And once again,
5 someone will take a head count
6 there to be sure everyone is
7 accounted for. If there is an
8 emergency that happens in this
9 room, once again, Attorney
10 Michaels will be responsible for
11 making contact with 911 and the
12 front desk.

13 If you have any place in
14 the building that you would like
15 to visit, if you will, go to the
16 front desk and get instructions
17 on how to get to where you want
18 to go. We will assist you
19 anywhere in the building that
20 you would like to go to.

21 Any questions about the
22 safety of the building?

23 (No response.)

1 MARSHAL FIELDER: Anything that I
2 missed?

3 CHIEF JUSTICE: I think you covered it
4 all.

5 MARSHAL FIELDER: Okay. Thank you very
6 much and enjoy your day.

7 CHIEF JUSTICE: Thank you. For
8 purposes of the record, because
9 each meeting of this Commission
10 will be of record, and it's a
11 public record. It's a public
12 hearing. If anyone wishes to
13 come in and sit, they are
14 certainly welcome to do so. But
15 we will make a record of the
16 meeting public. It will be
17 posted on the website. It will
18 be available if someone wanted
19 to get a copy of that record.

20 We will go around the
21 room and introduce ourselves.
22 But I am going to start over
23 here. This is Renee Michael.

1 She is my Chief of Staff and
2 Senior Staff Attorney. She does
3 a lot of consultation of a lot
4 of different events. She has
5 worked very, very hard on the
6 judicial allocation. And so, I
7 am pleased that she can be here
8 with us today. We will just go
9 around the room introducing
10 ourselves.

11 JUDGE JONES: My name is Clyde Jones.

12 I am from Jefferson County. I
13 am in the criminal division.

14 JUDGE COLLINS: Zack Collins, Russell
15 County, Juvenile Court and
16 Family Court Division, District
17 Judge.

18 MS. SPERLING: I am Angela Sperling. I
19 am a practicing attorney in
20 Jefferson County. I am here on
21 behalf of the Alabama Lawyers
22 Association.

23 MR. CRENSHAW: I am Clay Crenshaw with

1 the Attorney General's Office
2 representing the Attorney
3 General, who is busy right now.

4 CHIEF JUSTICE: I am Lyn Stuart, Chief
5 Justice of the Alabama Supreme
6 Court.

7 JUDGE REID: I am Jim Reid. I am a
8 retired circuit judge from
9 Baldwin County.

10 JUDGE CARTER: Lee Carter. I am
11 Circuit Judge from Winston and
12 Marion Counties.

13 JUDGE NEWELL: I am Mike Newell,
14 District Judge in Winston
15 County.

16 JUDGE THOMASON: Michelle Thomason,
17 District Judge in Baldwin
18 County.

19 MR. HELMS: Randy Helms, Director of
20 AOC.

21 MR. WILSON: Nathan Wilson, Legal
22 Director, AOC.

23 MR. GREGORY: Michael Gregory, Analyst

1 with AOC.

2 MS. MCMILLAN: Cary McMillan, Director
3 of Family Court and Case and
4 Jury Management.

5 CHIEF JUSTICE: Again, this is
6 primarily an educational and
7 working session. But before we
8 allow Cary and Michael to begin
9 to educate us about the formula
10 and the process of coming up
11 with the numbers that judges
12 need in various locations, does
13 anyone have a comment?

14 (No response.)

15 CHIEF JUSTICE: If not, I am going to
16 turn the floor over to you,
17 Cary.

18 MS. MCMILLAN: Thank you. This morning
19 I really -- please feel free to
20 ask any questions that you may
21 have at any time. I would
22 really like to address your
23 questions as we go along.

1 Mainly so that -- because at the
2 end sometimes it's hard to
3 backtrack. So, I would -- any
4 questions.

5 So, what I want to do is
6 quickly go over our objectives
7 for today. So, our objectives
8 today are to look at the history
9 of the Alabama Weighted
10 Caseload, the Delphi method used
11 in this particular -- the
12 current weighted caseload -- the
13 case types, the case weights,
14 the judicial -- the judge year
15 value, and then an analysis of
16 how it actually happens.

17 So, I am going to start
18 with the history. So, the
19 history of Alabama Weighted
20 Caseload first started in 1986.
21 The first workload study was
22 published. I have it. And that
23 was used -- they used the Delphi

1 method -- which I am going to go
2 over in a few minutes -- to
3 survey the judges. But then the
4 committee members themselves
5 kept actual time sheets.

6 So, I think Judge Cole
7 was on that committee. He's not
8 here today, but he was actually
9 on that original committee. And
10 then that was adopted by the
11 Supreme Court in February of
12 1987. Then the second caseload
13 study was -- wait. Let me go
14 back one.

15 The second caseload
16 study was published in June of
17 2008. And I'm not sure why it
18 was adopted by the Supreme Court
19 before the final version of
20 the -- but the methodology was
21 adopted by the Supreme Court in
22 March and, you know, then it was
23 actually published after that.

1 But I was actually coming in to
2 working with case and jury
3 management at that time.

4 So, things got a little
5 bit backwards there, but the
6 methodology was still the same.
7 But I think it was just putting
8 the finishing touches on it to
9 publish.

10 Then the study for this
11 one was actually done by the
12 time study. So, it was actually
13 a time study of judges during
14 their workday for a four-week
15 period. And many of you-all
16 remember that, actually putting
17 down in time exactly what --
18 what you spent on case related
19 activities and non-case related
20 activities.

21 So, we actually had
22 75 percent participation which
23 is amazing by judges and

1 referees. So, that was actually
2 a really good variation. Just
3 like in this year, the Steering
4 Committee did at the end
5 actually made the final weights
6 and formulas.

7 So, then for this time,
8 it was in 2016 -- in
9 September -- we published the
10 last report. And really what
11 was addressed in this one was
12 just the case types, the judge
13 year value, and the weights.
14 The weights changed a little bit
15 due to e-filing and some
16 other -- you know, just the
17 change of time and the change of
18 way that you handle cases. So,
19 as we learn more, hopefully
20 cases are handled in a different
21 variety of ways.

22 So, the Delphi method
23 was used for this study. And

1 the Steering Committee members
2 came up with subcommittees that
3 were for each case type. So,
4 for each case type, we tried to
5 get experts in that area.

6 So, we -- the
7 subcommittees actually reflected
8 small, medium, and large
9 counties. We went east, south,
10 north, and west. We really just
11 tried to make sure that we
12 covered the entire state to
13 represent all of the judiciary.
14 And we had great participation.

15 Then in June of 19 -- of
16 2017, the new weights and
17 formula for the -- for
18 determining judgeship was
19 adopted. So, that was this one.

20 So, the Delphi method is
21 actually a study that is using a
22 consensus among a group of
23 experts. So, basically what

1 that means is that you bring a
2 group of -- you propose the
3 questions. Then you bring in a
4 group of experts to talk about
5 those questions and answer those
6 questions. So, that is exactly
7 what we did.

8 So, we looked at case
9 types, case weights, and judge
10 year value. Those were the
11 three things that we were really
12 concentrating on to make sure
13 that it was a better
14 representation of what was
15 currently going on in our state,
16 especially like I said with
17 e-filing.

18 So, the participants
19 filled out questionnaires ahead
20 of the subcommittee meetings.
21 And then once we got together at
22 the subcommittee meetings, we
23 would talk about each

1 participant's questionnaire and
2 then combine all of the totals
3 and come up with an average.

4 So, basically what we're
5 looking at is -- was what's the
6 worst case scenario, what's a
7 typical case, and what's the
8 best case scenario.

9 So, you would go from,
10 you know, a jury trial -- an
11 intense jury trial on a circuit
12 case to a normal case, which
13 might mean a little jury time or
14 not or, you know, settling right
15 before the court date. And then
16 the other side would be looking
17 at, you know, somebody that came
18 in and settled after they filed
19 because -- for whatever reason.

20 So, taking those three
21 segments and then looking at the
22 typical and coming up somewhere
23 in the middle to get a case

1 weight. So -- and Michael is
2 going to talk a little bit about
3 how that was done as well. So,
4 that's where we are with this
5 one.

6 So, then after all of
7 the subcommittees met, then the
8 Steering Committee got back
9 together. The Steering
10 Committee actually handled the
11 judge year value question and
12 not the subcommittees. The
13 Steering Committee chose to do
14 that themselves.

15 So, that is -- So, what
16 we are going to do today is that
17 we are actually going to look at
18 this wonderful table that
19 everybody loves to look at. And
20 we are going to start with we
21 know what our circuits are, we
22 know what our counties are. The
23 regions in circuit court are

1 either multiple-county circuits
2 or single-county circuits.
3 Those are the only two options.
4 So, we are going to talk about
5 that.

6 And then in district
7 court, it's handled the exact
8 same way as in a single-county
9 circuit court because district
10 judges are just for that county,
11 although they may work in other
12 counties. I'm not limiting
13 you-all. But workload is
14 different in each county.

15 So, then we are going to
16 talk about our workload minutes,
17 our judge year value, then our
18 -- and then we're going to go
19 from there and get to the
20 difference, which is actually
21 the need for that county,
22 whether there is a surplus or a
23 deficit.

1 So, that's what we're
2 going to do today. So, Michael?

3 MR. GREGORY: Thank you, Cary.

4 Good morning, everyone.
5 Michael Gregory, Administrator
6 of Office of Courts. I know I
7 already introduced myself but --
8 I think I know most of everyone
9 in the room.

10 I am going to attempt to
11 lull you to sleep before Cary
12 totally confuses you here
13 shortly. So, bear with me. I
14 don't have a whole lot for you,
15 but I actually want to go
16 through the phases of the data
17 input, you know, where it
18 actually starts. We want to
19 collect all of that information.
20 And what we're -- what we used
21 to come up with all of these
22 numbers, the initial case
23 filings, and the makeup of the

1 cases, the charge types, the
2 counts which is, you know, one
3 of the more controversial words
4 out there or used to be. It's
5 not controversial anymore
6 because we use counts. We count
7 counts instead of cases.

8 But I am going to go
9 through all of this stuff that
10 leads into the meat of what Cary
11 is going to explain to you in a
12 little while.

13 I will start with, you
14 know, the initial information
15 that we get. The first chance
16 that we have to get anything
17 comes from the clerk's office,
18 whether it's a filing coming in
19 through Alafile or if it's a
20 filing being walked in by
21 somebody from the public filed
22 in the clerk's office. That
23 clerk, with the Uniform Filing

1 Policy and Procedures Manual,
2 has certain criteria that they
3 have to meet in order to file a
4 case. It can only be one of
5 five things. We can't just
6 throw a miscellaneous case out
7 there and say I'm just going to
8 make a category up for this
9 individual that is filing a
10 case.

11 Every one of them has a
12 case type: Civil, traffic,
13 juvenile, criminal. All of the
14 different jurisdictions, they
15 all have a case type and a
16 specific filing order that they
17 have to be followed by.

18 And in criminal, those
19 are charge codes. The charge
20 codes list is over 400 pages
21 long I believe of different
22 charges throughout the state
23 that -- you know, different ways

1 a criminal can be charged.

2 Civil is a lot less than
3 that. It's found on one page,
4 the civil coversheet, those
5 filing types that you find on
6 there. And that's where we --
7 that's the -- the main place
8 that we go and pull all of this
9 information from.

10 All right. And I
11 mentioned before that a criminal
12 can -- it may contain multiple
13 counts or a single count within
14 one case. And this is -- like I
15 said, it was controversial to
16 begin with because we didn't
17 know -- only certain counties
18 used the counts, multiple-count
19 indictments to have multiple
20 cases on -- or multiple counts
21 on one case. Some counties
22 didn't use that. We have pretty
23 much gone to most people using

1 that in circuit court and
2 district court is starting to
3 move on to that too. But we
4 have a way to count the
5 individual count now and not
6 just the cases. A major concern
7 back -- I believe, Judge Reid,
8 when you-all initially started
9 doing it was that the counts
10 weren't being looked at the way
11 that they should have been.

12 An example of multiple-
13 count cases -- for those of you
14 who don't know -- a circuit
15 criminal case that happens to
16 have two assault first degree
17 counts on it, one theft of
18 property first, and -- or one
19 count of theft of property
20 first, and one burglary first
21 count, all of those can reside
22 there on one case. They can --
23 you know, it does limit the need

1 to jump around from one place to
2 another, but it consolidates
3 everything and makes it in more
4 of a need or fashion.

5 The concern was that we
6 were skipping over all of those
7 counts within that one case and
8 counting just the individual
9 case number itself. So, we're
10 not doing that just to make it
11 clear. We go in and actually
12 find the counts, however many
13 charges are on that one case.
14 That calculates as two felony
15 persons, which is -- a person is
16 a charge type that -- a criminal
17 type that we would assign those
18 counts to. And then there is
19 two felony-property and a
20 theft-burglary counts.

21 All counts are included
22 in different case and charge
23 codes -- charge types. You've

1 got 19 different circuit case
2 types. I said I had a bunch of
3 pages of different charge codes.
4 Well, all of those charge codes
5 narrowed down into these
6 categories fit into 19 different
7 circuit case types as well as
8 those on the civil coversheet.

9 We have 13 district case
10 types, and they are really broad
11 categories which we use to sort
12 those into, the individual cases
13 and counts.

14 I am going to go over
15 some of those. I didn't go too
16 far, did I?

17 MS. MCMILLAN: You're good.

18 MR. GREGORY: Can you hand me that?

19 Thank you.

20 All right. Circuit
21 court case and charge types.
22 This is a list of them. I won't
23 go over and read each one of

1 them. Can everybody read that?
2 And you have a copy of it there
3 as well too. I will let you
4 look those over. If you have
5 any questions about those, you
6 can go ahead and let me know now
7 or -- or wait. And here is the
8 district court case charge
9 types. Both -- you will notice
10 some of the same types on both
11 of those, district and circuit.

12 So, they do coincide
13 with each other. We count them
14 no matter where they occur. We
15 count them for that division,
16 whoever is handling that duty.

17 All right. The -- here
18 are the criminal charge types.
19 The capital crimes, which would
20 fall under circuit criminal,
21 capital murder charges.
22 Felony-persons, it's a category.
23 The violent offenses, sexual

1 offenses, things like that in
2 circuit court.

3 Felony-property cases,
4 again in circuit criminal.
5 Property charges: Burglary,
6 criminal theft.

7 Felony-drugs, these are
8 your possessions: Trafficking,
9 manufacturing of controlled
10 substance, et cetera.

11 Other is kind of a --
12 well, where everything else
13 isn't, that's where it falls
14 under right here. If it doesn't
15 really fit into one of those
16 categories, it goes into the
17 "other." And there are some
18 examples there of something that
19 might fall into the other
20 category.

21 The felony counts also
22 included -- that are not
23 included in capital felony

1 persons, property, and drugs.

2 And there is some
3 interesting charge codes that do
4 fall in there. And we do get
5 interesting ones every year.
6 Possession of a still is one
7 that we don't see too often but
8 it's out there. Unauthorized
9 use of an airplane. And we have
10 that -- it says "riffle." It's
11 misspelled. But a rifle/gun
12 used as a walking cane. This is
13 an example of some of those that
14 fall under that. Bond
15 forfeitures and felony probation
16 violations also fall under the
17 other category.

18 All right. On the
19 misdemeanor side, we have -- we
20 are counting those as counts as
21 well. It includes drug,
22 alcohol, conservation,
23 citations, person, property,

1 revenue, bond forfeitures, and
2 violation of probations if
3 they're not a felony occurs in
4 here. And the lower court
5 appeals is the other section.

6 All right. Under
7 district criminal, we have the
8 same ones that were listed in
9 the circuit criminal. We have
10 only capital, Class A felonies,
11 other felonies, misdemeanors,
12 traffic/DUI cases, and traffic
13 cases without the DUI. These
14 are the TR category cases that
15 we get high volumes of. And the
16 DC indicates the district
17 criminal jurisdiction there.

18 Okay. On the civil
19 filing types, it's a little bit
20 different but not as complex as
21 the criminal charge codes. We
22 have categories that are a
23 little more narrow. So, you

1 have your general civil-tort,
2 contracts, protection from
3 abuse, workers' comp, and
4 general civil-other -- which is
5 again another catch all that
6 grabs the rest of those that
7 aren't in one of those other
8 categories.

9 The district civil, you
10 know, this is the only two
11 things that we have there. We
12 have small claims and regular
13 district civil cases.

14 And here is the
15 juvenile. We put it on the end
16 of the district there because it
17 -- these things can happen --
18 well, some can happen in the
19 juvenile division, but it
20 depends on where that is housed
21 in the locale that we're
22 counting in. The juvenile
23 delinquency, those are your

1 CHINS cases and your others.
2 Juvenile dependency cases,
3 termination of parental rights
4 cases, paternity -- which will
5 fall under your child support --
6 and then child support.

7 All right. These are
8 the case event types. Now,
9 breaking it down a little bit
10 further in what we count. We
11 re-categorize these things again
12 before we start calculating all
13 of the implied need and all of
14 the good stuff. But the --
15 these categories are pretrial/
16 preliminary matters. These are
17 all things that can take up
18 judicial time for a judicial
19 officer. You know, in order to
20 determine the length of time
21 that it takes them to handle a
22 certain case, we have to look at
23 these aspects as well.

1 Non-trial dispositions, bench
2 trial, jury trial, and
3 post-judgment. Those are -- we
4 didn't put any explanations up
5 there for them but they are all
6 -- every little bit of work that
7 you might expect a judge or a
8 judicial officer to do, they are
9 all encompassed in those.

10 MR. REID: Michael, would post judgment
11 be collecting money, judgments?

12 MR. GREGORY: Yes, sir. All of that.

13 JUDGE REID: Criminal cases?

14 MR. GREGORY: Right. Right. Criminal
15 cases, court costs. Civil, you
16 know, your pretrial hearings,
17 post-trial sentencing, all of
18 that good stuff.

19 MR. REID: Okay.

20 JUDGE NEWELL: Can I ask you a question
21 too?

22 MR. GREGORY: Yes, sir.

23 JUDGE NEWELL: Going back on the

1 district civil types, you don't
2 have DR listed. But for the
3 judges -- I know Judge Thomason
4 does and I do. For the judges
5 that do DR, is that counted in
6 the -- if you're a district
7 court judge hearing DR cases,
8 it's counted?

9 MR. GREGORY: Right. I didn't list the
10 DR out there because, you know,
11 it is depending on where that
12 local does -- wherever that
13 locale does --

14 JUDGE NEWELL: Sure.

15 MR. GREGORY: At whatever location,
16 wherever they practice it. So,
17 we do count that for --

18 MS. MCMILLAN: It will always show up
19 in circuit court because it is a
20 circuit court's case, and you're
21 sitting in as a special circuit
22 court judge. And I will discuss
23 about how the judge -- the

1 district judge is doing circuit
2 work in just a minute.

3 JUDGE NEWELL: Okay. Sure. Thank you,
4 Cary.

5 MR. GREGORY: But we do count that for
6 you. And we know that that
7 happens a lot throughout the
8 state. And different locales do
9 different things.

10 So, case minutes per
11 case type. Notice that the
12 wording at the top, the headings
13 start to get a little more
14 tongue tying and confusing.
15 That's where we're headed. So,
16 brace yourselves.

17 The event weight: The
18 average number of minutes
19 required to process each event
20 when it occurs across the state.
21 That's what we are getting from
22 the previous screen. The case
23 weight is constructed from the

1 time and frequency of the
2 occurrence of the case or events
3 or functions.

4 MS. MCMILLAN: Okay. This is what the
5 Delphi groups actually discussed
6 at length. We had many
7 meetings, and these are the
8 different areas where we talked
9 about the different -- So, this
10 is where the pretrial minutes --
11 so, what this is doing is taking
12 the activity and taking the
13 average minutes that it takes to
14 do that activity and then how
15 often it happens on a particular
16 case type and then the weight of
17 that, how many minutes that is.

18 So, that's why when you
19 get into -- if you have a bench
20 trial, it takes 108 minutes, but
21 it only happens 2.75 percent of
22 the time; and so, therefore,
23 it's only accounting for three

1 minutes. But it's going to put
2 three minutes on every case that
3 you hear.

4 So, it stretches out
5 over the length of your caseload
6 putting that three minutes on
7 every case even though not every
8 case goes to jury trial. Does
9 that make sense?

10 So, if it pleas, we're
11 still counting three minutes of
12 a jury trial even though it
13 didn't have it on there. But
14 then the jury trial is also
15 going to have three minutes.
16 So, it equals out over time.

17 So, that's why pretrial
18 work is 100 percent. But then
19 if you go in and add up some of
20 the others, it's not 100 percent
21 because you're not always going
22 to have that. And then post
23 trial is actually a percentage

1 as well.

2 So, we just kind of
3 wanted to show you how the case
4 weights came up with this final
5 case weight.

6 And then on any criminal
7 charge, we took how many average
8 cases per criminal case there
9 were and multiplied that out to
10 get the actual count weight. It
11 was too hard to get a count
12 weight -- it's hard to take a
13 case down to the count. It's
14 easier to talk about a case as a
15 whole.

16 So, that's why we did it
17 the way that we did it. It was
18 hard enough to talk about a
19 traffic docket with hundreds of
20 cases and get down to a case on
21 a traffic docket.

22 JUDGE THOMASON: So, in your bench
23 trial, you were talking about if

1 something pleas, it still gets
2 the three minutes.

3 MS. MCMILLAN: Uh-huh (positive
4 response).

5 JUDGE THOMASON: Are those pleas then
6 in your non-trial disposition?
7 Is that where --

8 MS. MCMILLAN: Yes.

9 JUDGE THOMASON: That's where that time
10 is considered?

11 MS. MCMILLAN: Yes.

12 JUDGE THOMASON: So --

13 MS. MCMILLAN: And this is over the
14 course of a year. I will say
15 that as well. We look at judge
16 year and not --

17 JUDGE THOMASON: I'm just trying to
18 figure out how -- to do the
19 math, why it wouldn't -- why
20 can't you get to 100 percent of
21 your -- you got 88 percent of
22 the --

23 MS. MCMILLAN: Right. And I actually

1 don't have an answer for that.
2 I think the main -- I mean, you
3 do have things that go on in the
4 administrative docket. You
5 know, especially if it's a
6 criminal case and the guy is on
7 the run and you never find him.

8 JUDGE THOMASON: Okay.

9 MS. MCMILLAN: Then that case is
10 actually never really disposed
11 but it's out there.

12 JUDGE THOMASON: Okay.

13 MS. SPERLING: But would it still
14 appear if it's not disposed in
15 the --

16 MS. MCMILLAN: It is. It's in our
17 filing. So, it's going to show
18 in our filings, but it's not
19 going to hit ever -- you know,
20 we have certain cases that don't
21 get disposed. So, they go on
22 what we call an administrative
23 docket. So, I am going to count

1 it as a filing even though it's
2 on an administrative docket.
3 But if you can't find the
4 person, then you obviously can't
5 prosecute them.

6 JUDGE JONES: So, Cary, so for
7 pretrial, going back. You said
8 that the average time that it
9 takes us to handle a pretrial is
10 18 minutes. And that happens
11 100 percent of the time?

12 MS. MCMILLAN: Yes.

13 JUDGE JONES: 100 percent of what time?

14 MS. MCMILLAN: You do pretrial on every
15 -- this is a criminal case.
16 This is a property case. So,
17 you are going to do some kind of
18 pretrial work on every single
19 case that you have.

20 JUDGE JONES: Sure.

21 MS. MCMILLAN: So, because obviously
22 the person is going to get
23 arrested, they are going to have

1 the bond set, you know, you are
2 going to figure out if they're
3 indigent or not. But there is
4 going to be some kind of
5 pretrial work on every single
6 criminal property case.

7 JUDGE JONES: Okay. 100 percent of the
8 time?

9 MS. MCMILLAN: Yes.

10 JUDGE JONES: Okay. That's -- Okay.

11 MS. MCMILLAN: Okay? All right. So,
12 now we are actually going to
13 talk about going through that
14 chart and looking at the
15 workload.

16 So, first of all, we are
17 going to start with calculating
18 the number of cases. So, we
19 have talked about the different
20 case types.

21 So, what we look at is
22 cases filed in a fiscal year.
23 So, that's your October 1st to

1 September 31st -- or 30th. I'm
2 sorry. There is not but 30.
3 So, that's your fiscal year.

4 So, also it goes along
5 with our annual report because
6 it was real important for us --
7 you can't back the criminal
8 numbers into the annual report
9 because it's counts and not
10 cases. And we don't count
11 counts on the annual report. We
12 just count cases on the annual
13 report. But for all of the
14 other jurisdictions, you -- I
15 can pull it down, and we go all
16 the way so that our numbers all
17 are the same. That's really
18 important.

19 So, all cases are
20 counted and those are the ones
21 that you could go back and look
22 at the annual report in the end
23 and see that they are all

1 counted and then criminal counts
2 which there -- I do know the
3 number of cases but many more
4 counts than cases.

5 So, then we are going to
6 talk about implied need. So,
7 for individual counties, we are
8 going to take the number of
9 cases or counts, depending on
10 the case type, times that case
11 weight or count weight to get
12 the number of minutes for that
13 particular total number of
14 caseload for that case -- that
15 case type.

16 So, my example is
17 contracts. So, the weight -- or
18 there were 795 contract cases
19 filed. The case weight is 41
20 minutes per typical -- per
21 average case type of the
22 contracts. And then that brings
23 out to 32,595 minutes for that

1 one county for just contract
2 cases.

3 JUDGE THOMASON: So, you're calling --
4 you're -- on this page, you're
5 calling case type weight. Is
6 that the same thing on your
7 previous page as the count
8 weight on the previous slide?

9 MS. MCMILLAN: Well, actually on -- I'm
10 going the wrong way. This one.

11 JUDGE THOMASON: Yeah.

12 MS. MCMILLAN: For a civil case,
13 they're not going to have a
14 count weight. They are only
15 going to have a case weight.
16 Okay?

17 JUDGE THOMASON: Okay.

18 MS. MCMILLAN: So, for criminal, we use
19 the count weight.

20 JUDGE THOMASON: I got you.

21 MS. MCMILLAN: But for civil, we use
22 the case weight. There is no
23 count weight. It's just a case

1 weight.

2 JUDGE THOMASON: Okay. So, what you're
3 using on the criminal, you're
4 using the count weight because
5 you're counting counts on the
6 criminal side?

7 MS. MCMILLAN: Yes.

8 JUDGE THOMASON: And of course the case
9 weight in the civil. But on the
10 criminal side, you're using
11 count weight and not case
12 weight?

13 MS. MCMILLAN: Yes.

14 JUDGE THOMASON: Okay. I got you.

15 MS. MCMILLAN: Because as Michael's
16 example, we would actually have
17 four counts that would count
18 with the count weight on
19 criminal instead of just one
20 case weight.

21 All right. So, then all
22 of the case weights are added up
23 -- all of the case type total

1 minutes are going to add up in
2 one county to get the total --
3 county total or circuit total
4 depending on if we are on
5 district or circuit.

6 All right. So, that
7 brings us to -- we have talked
8 about up to here to our workload
9 minutes. Now we are going to
10 get into judge year value. So,
11 I just kind of wanted to show
12 you where we were along the
13 chart.

14 So, we know that this is
15 not controversial. We have 365
16 days in a year, except for leap
17 year. So, we take out our
18 weekends. We take out holidays.
19 We take out average vacation
20 days for a judge and average
21 sick days for a judge,
22 conference time, and continuing
23 education hours and -- because

1 at some point you're going to
2 have some kind of education.

3 So, regardless if you go
4 to a conference or if you go to
5 something else for education,
6 you are going to get your CLEs
7 done. So, we make sure that you
8 have time for that. Then -- so,
9 we came down to 215 total
10 working days a year, and then we
11 have eight hours in a workday.

12 So, when we did that, we
13 went in and looked at -- we just
14 talked about our -- and the case
15 weight is what you do on a
16 particular case. And then there
17 is non-case related time.

18 So, you're going to have
19 some administration time in your
20 day to do whatever you need to
21 do as well.

22 So, for single-county
23 circuit and district judges, we

1 allow for or we -- the Committee
2 decided on an hour. That you
3 needed an hour a day to do -- do
4 work that's not -- that's not
5 specifically one case related.
6 I mean, you're going to answer
7 phone calls. You're going to
8 return phone calls. You're
9 going to -- you know, there are
10 many things that you do that are
11 not that.

12 And then for multiple
13 county circuit judges, we put an
14 hour-and-a-half. So, that
15 allows 30 minutes a day every
16 day for traveling. So, if they
17 travel, you know, two hours to
18 go to one of their other
19 counties, you know, one day a
20 week, well, they still have got
21 that time built in every day so
22 that it adds up. And our
23 multiple-county circuit judges

1 were -- they're really the ones
2 that came up with that. So --
3 and some, you know, maybe not.

4 But any questions about
5 that?

6 (No response.)

7 MS. MCMILLAN: So, our judge year days,
8 for single and district judges,
9 it's seven hours of case-related
10 work per day. And for
11 multi-county circuit judges,
12 it's six-and-a-half case-related
13 work a day.

14 All right. So, now
15 we're going to start all of our
16 adding and subtracting and
17 multiplying. So, now we are
18 going to multiply our 215
19 working days -- or 215 working
20 days times seven hours a day for
21 single-county circuit and
22 district judges and 6.5 for
23 multi-county circuit judges

1 times the length of an hour
2 which is 60 minutes to get our
3 judge year value. So, our
4 single-county circuit and
5 district judge year value is
6 90,300. And our multi-county
7 circuit judge year value is
8 83,850.

9 So, does anybody have a
10 question about that?

11 JUDGE THOMASON: No. But can I just
12 make a suggestion? Because when
13 you first look at this table, if
14 we haven't gone through a class,
15 that number is just -- it just
16 says judge year value and it has
17 numbers. But, like, the prior
18 column, it says "minutes" in
19 parenthesis. Can we put that in
20 there in the column heading so
21 that we would remember and
22 anyone else would know that
23 those are minutes that we are

1 looking at?

2 MS. MCMILLAN: Yes.

3 JUDGE THOMASON: That would be great.

4 MS. MCMILLAN: Thank you. Anything to
5 clarify would be great.

6 Okay. I also wanted to
7 explain what full time FTE is.
8 You will see this all over the
9 place. It is judicial officer
10 full-time equivalent.

11 So, what that is is,
12 when we look at the chart and we
13 see like a point, or whatever,
14 that means that it's -- say it's
15 .5. That would be half of the
16 judge year equivalent. So, I'm
17 saying that this particular item
18 takes half of the judge's
19 time -- when full judge's time,
20 and that's what goes back to the
21 full-time equivalent. It
22 actually goes to in a year. But
23 that's just -- I don't use it in

1 my presentation much, but it is
2 all over the report, and I get
3 that question a lot.

4 All right. So, now we
5 are going to go through and look
6 at how we start with actual --
7 the actual calculation here.
8 So, Michael went over the total
9 minutes. So, we want to look at
10 total minutes, and we are going
11 to divide that by judge year
12 value to get the overall
13 judicial need for a particular
14 circuit or district.

15 Then if it's the circuit
16 table that I'm working with, I
17 am going to subtract district
18 judges doing circuit work. So,
19 for those DR cases in your
20 county, you are going to see a
21 point whatever or whatever it
22 might be. In some counties --
23 in Jefferson County, we have --

1 in family court it's considered
2 circuit because your presiding
3 juvenile court judge is a
4 circuit judge. But there are
5 district judges that are working
6 in the family court. And so, we
7 say that that's why they have
8 multiple judges that looks like
9 they are doing circuit -- and
10 they are doing circuit court
11 work, but it's the family court
12 that's really -- so, both of
13 those -- because you have --
14 let's get this right. So, you
15 have three district judges doing
16 circuit court work and all of
17 that is just in family court.

18 So -- but that's where
19 it comes in. But that's where
20 your DR cases sit. The way that
21 we get that is every few
22 years -- and it's time to do
23 that again -- we call all 41

1 presiding judges and say, you
2 know, what are your district
3 judges doing in circuit work?
4 You know, who is handling what
5 cases so that we can take that
6 into account. And it's time to
7 do that again. So, that's where
8 we get that.

9 So, if you ever see the
10 chart and you think it's
11 incorrect, please call and say
12 oh, we're -- our district judges
13 are doing more in circuit court
14 or our district judges are not
15 doing that anymore, they're
16 doing something else so that we
17 know. But all we knew to do is
18 call and ask.

19 So, then in district, I
20 add those judges because that's
21 district judges not available to
22 do district judge work. So, I
23 am adding that in. So, I am

1 subtracting it from circuit
2 court saying that they are
3 working in circuit court. So,
4 the circuit court judges are not
5 having -- not doing that work
6 but I'm adding it to the
7 district chart so that -- to
8 show that those district judges
9 are doing -- they're working but
10 they're just doing circuit work
11 so that they match. At the end
12 of the day, my district -- I'm
13 subtracting off one table and
14 adding to the other table. So,
15 it's the same number of judges
16 in the end. I'm just not
17 counting a judge twice.

18 CHIEF JUSTICE: Cary, do you have an
19 estimate of how many circuits
20 have district judges that are
21 doing circuit work?

22 MS. MCMILLAN: A lot.

23 CHIEF JUSTICE: An estimate,

1 two-thirds, two-fifths?

2 MS. MCMILLAN: Probably all in all,
3 75 percent. Because a lot of
4 district judges are handling
5 your PFAs.

6 So, even if it's not
7 reflected on our chart -- which
8 I will show you in a minute --
9 where I have -- because when we
10 get that answer from the judge
11 and they say well, I don't
12 really know how much time he's
13 spending on this or she's
14 spending on this, then I will
15 actually go pull that number of
16 cases, multiply it by the case
17 weight for that particular thing
18 that they're covering. And then
19 we will take that and we will do
20 the point whatever judge year
21 value. So, if it comes out that
22 the average is actually .0 or
23 the -- it's .00 or 02, then it

1 looks like a zero even if they
2 are doing district -- circuit
3 work.

4 But a lot of our
5 district judges, especially in
6 rural Alabama, do all of the
7 PFAs and some do -- handle
8 divorce cases or some do -- you
9 know, they will do, you know,
10 the initial -- you know, or any
11 kind of emergent -- anything of
12 emergency that comes up, they
13 will handle regardless if it's
14 circuit or district.

15 CHIEF JUSTICE: But they're getting
16 credit for that. If they're
17 doing the pendente lite hearings
18 or whatever, they get credit for
19 that.

20 MS. MCMILLAN: Yes. Sometimes it --
21 like I said, if it's less than
22 10 percent and I can't seem to
23 make -- you know, then

1 obviously -- and it's really if
2 it's less than .05. Because I'm
3 going to bump up if it's -- you
4 know, I'm going to -- I'm going
5 to round up. But if it's four
6 in a year, I'm not going to
7 count it.

8 All right. So, then we
9 are going to get into referees.
10 So, referees are subtracted from
11 what the judge is hearing. Or,
12 you know, the judge -- that
13 comes out. And the way that we
14 do that is that we look at
15 actual numbers of hours worked.
16 Years ago we did how much their
17 contract was for. But we found
18 that a lot of them weren't
19 actually working all of the
20 hours in their contract. So,
21 now we look at -- because
22 obviously we have the invoices.
23 So, we look at those invoices to

1 get how many hours they worked
2 if they're not full time.

3 Also you will show --
4 some referees show up on your
5 circuit table and some show up
6 on your district. That's
7 because whatever jurisdiction
8 your family court is in because
9 referees are only in juvenile
10 and child support. So, that's
11 why that shows up that way.

12 All right. So, then we
13 take -- After we get that
14 number, which is judge implied
15 need, then we take -- we
16 subtract that -- we take the
17 actual number of judges to get
18 the deficit or the surplus. So,
19 I am going to show you what that
20 looks like.

21 So, for a single-county
22 circuit, we are going to take a
23 total number of workload minutes

1 for that single circuit,
2 single-county circuit. We are
3 going to divide it by the judge
4 year value. We are going to
5 come up with overall judicial
6 officer need. We are going to
7 take that. We are going to
8 subtract the district judges
9 doing circuit work. We are
10 going to subtract the referees.
11 In this example, it is zero
12 because this particular example
13 didn't have that.

14 So, I come up with the
15 circuit court judge implied
16 need, which is going to be 4.66.

17 So, then I take the
18 actual number of judges,
19 subtract the need to come up
20 with negative .66 which is the
21 difference. So, this is a
22 deficit -- if I move out of the
23 way and let you see. This is a

1 deficit. They need .66 more
2 judges. But of course that's
3 not a full judge.

4 So, any questions about
5 that?

6 (No response.)

7 MS. MCMILLAN: Okay. For multi-county,
8 it's the exact same thing. We
9 just changed the judge year
10 value to the lower judge year
11 value. And this one, it is
12 showing district judges doing
13 circuit court. And there again,
14 still no referees. This one
15 again comes up to -- they have a
16 deficit of .27.

17 All right. For
18 district, the difference is
19 obviously -- so, we have the
20 same judge year value as a
21 single-county circuit, but then
22 we come up with our overall
23 judicial officer need as 1.92,

1 and then we are adding in our
2 district judges doing circuit
3 court instead of subtracting.
4 So, we are adding that to come
5 up -- and then subtracting the
6 referee work, which is .3 to
7 come up with the 1.72. And then
8 we are taking our two district
9 judges, subtracting the 1.72 to
10 come up with the difference of
11 28. So, this is the district
12 judge surplus. I'm just trying
13 to give you examples of both.

14 All right. So, we went
15 from our workload minutes to our
16 judge year value to come up with
17 our overall judicial officer
18 need, and then we took out our
19 district judges doing -- because
20 it's a circuit table, we
21 subtracted our district judges
22 doing circuit work -- our
23 referee, took out our --

1 subtracted our referee time to
2 come up with our circuit judge
3 implied need, got our actual
4 circuit court judges and
5 subtracted the need to come up
6 with our difference.

7 A positive is a surplus
8 and a negative is a deficit.
9 Any questions?

10 JUDGE JONES: So, since Jefferson
11 County is the only county that
12 has specialized judges, how does
13 that fit in in your comparison?

14 MS. MCMILLAN: That's a good question.

15 JUDGE JONES: Because, you know, we
16 only do criminal. We have other
17 judges who only do
18 civil/circuit. We have other
19 judges -- we have three divorce
20 court judges for a county with
21 two million people. We have a
22 family court, and that's all
23 they do is family court matters.

1 So, how does that fit in
2 here? How do you compare that
3 kind of a county with --

4 MS. MCMILLAN: I am so glad that you
5 asked. That brings up this
6 table. Perfect question.

7 All right. The reason
8 that I did this was to show you
9 how we break out by -- this is a
10 single-county circuit. And I
11 have examples for all of the
12 others as well. But I'm really
13 going to look at this one. So,
14 I wanted to show you how we
15 actually took each case type and
16 put it in there with each
17 weight, the filings, to get our
18 workload. And this is how many
19 judges you need per case type.

20 All right. So, also I
21 have a slide in here in a
22 minute -- but if you want to
23 look at it, I did a big printed

1 copy. The colorful piece of
2 paper that I gave you.

3 So, an answer to that
4 question is -- and we can --
5 even in multi-county circuits,
6 we can break that out by county.
7 We can break this out by county
8 if we need to or we can do -- we
9 do break out Bessemer and
10 Jefferson even though it's not
11 multi-county. It is --

12 JUDGE JONES: Multi-district.

13 MS. MCMILLAN: Right. Multi-district.

14 So, basically what I am
15 showing here is, like, the teal
16 blue on this piece of paper are
17 all of your criminal cases. The
18 gist yellow is your CV cases.
19 Protection orders can actually
20 go into CV and DR. So, I coded
21 those as orange. The red would
22 be domestic relation. The
23 purple would be JU. And then

1 the green is child support.

2 So, your answer to that
3 is if you wanted to know for
4 Jefferson County how many judges
5 you need for domestic relations,
6 you would just add together the
7 contested and the uncontested
8 need at the very end over here
9 to get how many judges are
10 needed for that particular case
11 type.

12 JUDGE JONES: .18?

13 CHIEF JUSTICE: Is this Jefferson
14 though or is this just --

15 MS. MCMILLAN: No. This is just an
16 example. This is just an
17 example. I did not pull -- and
18 this isn't even the current -- I
19 thought it would be better to
20 pull one of the previous ones.

21 So, you would add the
22 1.93 and the .8 together to get
23 the total number of domestic

1 relations judges needed. So, it
2 would be --

3 JUDGE JONES: A little over two?

4 MS. MCMILLAN: Yeah. For this example.

5 This is not Jefferson County.

6 JUDGE JONES: Yeah. I guess I -- I
7 guess what I'm envisioning is
8 that could we only have three
9 divorce judges for the entire
10 county, Birmingham division?
11 And let's say that you have
12 another county where the circuit
13 judges handle divorce, civil,
14 and criminal like we have so
15 many places. How do you compare
16 those apples with oranges?

17 MS. MCMILLAN: Well, I mean, basically
18 as far as judge need, you --
19 it's just adding up more of
20 these rows to come up with what
21 that -- those judges are
22 handling.

23 So, if you were handling

1 everything above this juvenile
2 line, then you would just add
3 all of those judge need by case
4 types to come up with how many
5 judges would be needed to handle
6 that caseload. But that's why
7 we brought it down to case type
8 was so that you could bring it
9 down to how many minutes should
10 it take to handle this
11 particular case or the
12 particular cases for whatever
13 judges are hearing.

14 JUDGE THOMASON: But for each county in
15 the state versus Jefferson, you
16 could do one of these for
17 Jefferson to show exactly what
18 is needed in every division.

19 MS. MCMILLAN: Right. In fact, this
20 was part of what the Chief
21 Justice sent out, but it was
22 different tabs and you probably
23 just didn't scroll that far.

1 Because it -- it -- how many
2 tabs were on that particular --
3 I mean, it was -- because we
4 did -- we had all circuit and we
5 had all district cases.

6 JUDGE THOMASON: So, it would be --

7 MS. MCMILLAN: So, I mean, we had 68
8 actually because we did break
9 out Birmingham. So, we had 68
10 district charge and we had, you
11 know, the 41 circuit charge.

12 JUDGE THOMASON: Yeah. So, a hundred
13 and whatever --

14 MS. MCMILLAN: Yeah.

15 CHIEF JUSTICE: So, how long would it
16 take you -- and I am going to go
17 ahead and just use Jefferson as
18 an example since it appears to
19 be the one where there's an
20 issue.

21 How long would it take
22 you to calculate Jefferson
23 County and Bessemer and do that

1 by types of case?

2 MS. MCMILLAN: Not very long. I mean,
3 basically --

4 CHIEF JUSTICE: You could do that next
5 week?

6 MS. MCMILLAN: -- we've already done
7 it.

8 CHIEF JUSTICE: Yeah.

9 MS. MCMILLAN: We would just need to
10 break it out by their particular
11 judges.

12 CHIEF JUSTICE: Right. And just add
13 them together?

14 MS. MCMILLAN: Uh-huh (positive
15 response).

16 CHIEF JUSTICE: I think it would be
17 very interesting for Jefferson
18 to know.

19 And so, I am going to
20 ask that you-all do that --

21 MS. MCMILLAN: Okay.

22 CHIEF JUSTICE: -- next week.

23 JUDGE JONES: And what year are you

1 going by for cases?

2 MS. MCMILLAN: We will go to '17
3 because that's the latest.

4 JUDGE JONES: Okay.

5 MS. MCMILLAN: It would go to FY17,
6 2017.

7 And I can do that for
8 any jurisdiction. A lot of them
9 already have it because it's not
10 quite as complicated. But
11 especially in family court, a
12 lot of our judges want to see
13 what is family court doing as
14 opposed to all of the other
15 areas. Because a lot of times,
16 they're like oh, well, they just
17 have that, you know. But family
18 court takes a lot of time as you
19 all know.

20 JUDGE JONES: Well, we are minus one
21 family court judge right now in
22 district court, and it's just a
23 mess. And, I mean, I just

1 couldn't even imagine them
2 losing a judge in family court
3 or domestic relations frankly.

4 We have so many cases in
5 criminal court, hundreds and
6 hundreds of cases, and there's
7 more capital cases all of the
8 time. We thought the news would
9 be opposed to the court of
10 criminal appeals.

11 JUDGE THOMASON: Yeah. I would think
12 -- I mean, Mobile has two
13 full-time domestic relations
14 judges. And if you-all only
15 have three --

16 JUDGE JONES: Yeah.

17 JUDGE THOMASON: -- I can imagine. But
18 there may be an overage
19 somewhere else.

20 JUDGE JONES: Look how many people we
21 have.

22 JUDGE THOMASON: Oh, yeah. You-all
23 have a lot more people.

1 JUDGE NEWELL: And I think that what
2 you are saying, Judge, is that
3 you just -- if down the road
4 it's put before us and there is
5 something about trying to remove
6 a judge from Jefferson County,
7 you want to be able to at least
8 say: While I may or may not
9 agree with the numbers, here is
10 the formulation. Here is how
11 they derived at this. And this
12 is specific to Jefferson County
13 and not just a generic version
14 for the state as a whole; is
15 that --

16 JUDGE JONES: Exactly.

17 JUDGE NEWELL: Yeah.

18 JUDGE THOMASON: But not only that.

19 With this chart for Jefferson,
20 you will be able to see where
21 that judgeship needs to be moved
22 from in one area and moved to,
23 for instance domestic relations.

1 You know, if you-all
2 were short a judge. I mean, if
3 you-all get shorted a judge,
4 what area is overloaded on that
5 list? So, that judge needs to
6 come from that area. Does that
7 make sense? Or those cases
8 realign rather than lose a
9 judge.

10 JUDGE JONES: Well, let me ask you this
11 tough -- oh, I'm sorry. Go
12 ahead.

13 MS. SPERLING: My question is: You
14 said that you used nearly
15 75 percent of the judges who
16 participated in order for you to
17 determine this value. Is that
18 true for 2017 or is that for
19 2008?

20 MS. MCMILLAN: That was for 2008. In
21 2017, we used the Delphi method,
22 which we brought in and did the
23 questionnaires and brought in

1 judges for each case that -- of
2 judges that hear that case
3 type -- and talked about and --
4 did group sessions and talked
5 about what each case type, you
6 know, what all of those judges
7 did.

8 A lot of them did get a
9 consensus from the other judges
10 in their counties. Some of them
11 did actually keep their own
12 little time sheets to see if
13 what they thought was actually
14 what they were doing.

15 So, you kind of got a
16 variation of that, but you
17 didn't get the state wide, all
18 of the judges in the state doing
19 the time study because it took a
20 lot of -- the ones that
21 participated can say that it
22 took a lot of time.

23 And we did take the old

1 case weights and said, okay,
2 this is what they were, what do
3 they need -- what needs to
4 happen. I don't think any of
5 them went down. Did maybe one
6 go down? But most of them went
7 up just a little bit.

8 CHIEF JUSTICE: You know, Judge Hill
9 was able to pass into law that
10 requirement that presiding
11 circuit judges look at their
12 judicial personnel within their
13 circuit, and then look at their
14 caseload, and then use the
15 judges that they had --
16 regardless of whether they were
17 district or circuit -- to handle
18 cases in the best most efficient
19 way for the county. It seems to
20 me that the information that we
21 are talking about would be very,
22 very helpful to a presiding
23 circuit judge in determining

1 whether he's using his judicial
2 personnel in the best possible
3 way.

4 JUDGE THOMASON: Absolutely. I agree.

5 MS. MCMILLAN: And we can make that
6 easier to read. And if -- You
7 know, we would be glad -- we do
8 that for circuit clerks. We
9 break it out and just send them
10 just their county with their
11 court specialists broken out
12 just like this. So, we could do
13 that per county and send that
14 out whenever, you know, this
15 year or next year after we get
16 through doing it next year,
17 whatever would be --

18 CHIEF JUSTICE: Well, they may need
19 this year based on 2017 just
20 because that law has already
21 gone into effect.

22 MS. MCMILLAN: Okay.

23 CHIEF JUSTICE: And so, the judges are

1 going to need to --

2 MS. MCMILLAN: Then we can do that. We
3 can send them the district and
4 the circuit for each one.

5 JUDGE THOMASON: And what may be really
6 helpful too is to -- because we
7 are spending hours understanding
8 this formula. The presiding
9 judge gets this and without any
10 education on it, it's going to
11 be difficult. But a way to take
12 this information and apply it
13 with a specific number of cases
14 in their jurisdiction may be
15 just, you know, something
16 drafted, an instruction sheet to
17 determine how many -- because, I
18 mean -- and that's why it's this
19 way with district judges. This
20 is why we do what we do. Our
21 presiding judge says you know
22 what, we're just going to split
23 this all up. And it may seem

1 fair, but there may be some
2 judges that are really working a
3 lot more than others. It's just
4 not real visible because there
5 is no really specific data to
6 help us figure that out. But
7 that's what this is.

8 MS. MCMILLAN: It is.

9 JUDGE THOMASON: So, if a presiding
10 judge knows how to use it, they
11 will know how to distribute the
12 workload between however many
13 judges they have.

14 If we start cutting
15 judges from jurisdictions, then
16 those presiding judges will then
17 be able to take this data and
18 know how to distribute the
19 workload to get it down to a
20 balance so that everybody is
21 sharing that remaining workload
22 fairly.

23 But we have got to be

1 able to give them that
2 information when we start making
3 these cuts to do that.

4 JUDGE NEWELL: I -- Go ahead, Judge.
5 I'm sorry.

6 JUDGE JONES: Okay. The other question
7 that I had of concern was
8 suppose you have judges in one
9 circuit that work a lot harder
10 than judges in another circuit,
11 okay? Which I understand
12 happens.

13 So, does this in any way
14 take into account the end
15 product of the, you know, the
16 number of cases that these
17 judges in this circuit are
18 putting out as compared to the
19 next circuit?

20 You know, in other
21 words, anyone can sit on a case
22 for five years in, okay? And
23 once -- in that circuit, they

1 may have that same case over one
2 year or two years.

3 So, I'm just trying to
4 figure out -- you know -- you
5 know, just saying that this
6 circuit has this number of cases
7 and therefore they are in need.
8 You know, if they are working as
9 hard as these judges in the
10 other circuit, it's not really
11 impressive to me. Do you see
12 what I'm saying?

13 MS. MCMILLAN: Well, I mean, the only
14 thing that we can really work on
15 is filings. And that is why we
16 don't look at pending. Because
17 if we looked at pending, then
18 all you have to do is not
19 dispose your cases and then we
20 would count it, right?

21 So, we just look at
22 filings because that's the only
23 thing that we know for sure

1 exactly when that case was filed
2 and when the process should have
3 started with that case.

4 So, we're -- the method
5 doesn't do anything for your
6 case management. Really case
7 management has to be at home
8 with the judge. It's just
9 saying that this is how much
10 time it should take to handle a
11 typical case.

12 And you're going to have
13 outliers. We know that. You
14 are going to have more -- you
15 are going to have more complex
16 cases than you're going to have
17 easier cases. That's just the
18 way it goes.

19 JUDGE JONES: So, does this tell us how
20 many, for example, of the --
21 kind of the breakdown of the
22 individual types of cases for
23 Jefferson?

1 MS. MCMILLAN: In each county, uh-huh
2 (positive response).

3 JUDGE JONES: Okay. That's where --
4 where is that information?

5 MS. MCMILLAN: I would have to send
6 that to you because that's -- we
7 did send it to all -- the Chief
8 sent it to all of the presiding
9 judges. But I did not -- they
10 probably, like you said, didn't
11 really know what they were
12 looking for.

13 JUDGE JONES: Okay. If you can send it
14 to us, we would appreciate it.

15 MS. MCMILLAN: Okay.

16 JUDGE NEWELL: One thing that I would
17 recommend, Chief, is to maybe
18 speak with Sarah on the judicial
19 education committee and put a
20 session for presiding circuit
21 court judges to explain how that
22 actually -- understanding this
23 sheet.

1 CHIEF JUSTICE: We can certainly do
2 that.

3 JUDGE THOMASON: Great idea.

4 CHIEF JUSTICE: Yeah. If they would
5 like, you know, to have that.
6 One thing that I have asked her
7 is to please consider putting on
8 is case management. We have so
9 many new judges. Case
10 management is not something that
11 you just intuitively know how to
12 do or do well.

13 We really, in
14 particularly, with regard to our
15 new judges need to get them some
16 training in how to process their
17 cases timely.

18 JUDGE THOMASON: Especially when we
19 don't have the new judge
20 orientation or we have a lot of
21 judges who don't come to new
22 judge orientation. You're
23 right.

1 CHIEF JUSTICE: I think it's been a
2 long time since there has really
3 been a focus on case management.
4 And there are new techniques.
5 I'm sure that there have been
6 some developed in the last
7 couple of years that maybe
8 nobody is aware of.

9 MS. MCMILLAN: So -- and some of the
10 judges really use their tools
11 that are on Alacourt and love
12 them. And others have forgotten
13 that they're there. That would
14 be nice.

15 All right. So, really
16 the rest of the presentation is
17 just going into the multi-county
18 circuit and then the district.
19 The only thing that I want to
20 point out is basically instead
21 of going across the page, this
22 is the same information going
23 down. And you put the same

1 number at the bottom because
2 this was my district judge.

3 Example: I think
4 sometimes it's easier to
5 understand looking at it broken
6 out in just one particular
7 county or circuit at a time as
8 opposed to the whole chart that
9 just shows everybody. That's
10 just -- it depends on how much
11 we like spreadsheets, which
12 obviously I really like them.

13 So, this was just the
14 one that we just went over
15 showing you that. And I will be
16 glad to do that. We can
17 actually break it down and say,
18 you know, you need "X"
19 percentage or "X" amount of
20 judges for criminal, civil,
21 protection, domestic relation,
22 juvenile, and child support.
23 And we will be glad to break

1 that down a little bit to make
2 that a little bit plainer.

3 Although I like the colors.

4 So, an overview: We
5 went through the history. We
6 went through the Delphi method.
7 We went through the case types,
8 the case weights, the judge year
9 value, and our analysis of the
10 way a caseload study.

11 So, do you-all have any
12 questions?

13 JUDGE JONES: So, you're going to break
14 mine down so that I can see --
15 because see, what I want to know
16 is for criminal court, what is
17 the judge need for civil, for
18 domestic relations, so forth and
19 so on.

20 MS. MCMILLAN: Yes.

21 JUDGE JONES: I really need it broken
22 down so that I can explain it to
23 my brother and sister when I get

1 back.

2 MS. MCMILLAN: That is true. Yes.

3 So, I will basically
4 break it out by color because --
5 and this is the only one that
6 would be a little bit hazy for
7 you-all because the CV is
8 handled by your circuit civil
9 judges of your protection orders
10 and your DR protection orders
11 are actually handled --
12 sometimes they're actually
13 handled out of family court a
14 lot of times.

15 So, that's the only one
16 that's going to be a little bit
17 hazy for you-all. But I could
18 actually split -- for you, I
19 could split that out and tell
20 you which ones are CV and which
21 ones are DR.

22 So, I can break that out
23 a little bit more. Everybody

1 else it -- it really -- usually
2 they file them in one or the
3 other in most other counties.

4 JUDGE THOMASON: So, I have kind of
5 reached the end of my
6 mathematical -- I've maxed out
7 my mathematical capacity with
8 this.

9 So, I'm trying to figure
10 out if -- So, when we're looking
11 at the actual weighted caseload
12 time study with the judges that
13 are short and over, we've got
14 percentages that are less than a
15 whole judge.

16 MS. MCMILLAN: Yes.

17 JUDGE THOMASON: So, let's look at --
18 let's say the circuit judges'
19 list. So, Madison County is
20 showing the most need. And --

21 CHIEF JUSTICE: This is under tab six
22 if you have this.

23 (Off-the-record discussion.)

1 JUDGE THOMASON: Then flip over to
2 circuit. So, Madison shows the
3 most need. And I guess this is
4 all on one page for circuit? It
5 is? So, Jefferson is at the
6 bottom with an excess.

7 So, let's say that the
8 first thing that happens is that
9 a Jefferson County judge
10 retires. And so, that position
11 then would be moved to Madison
12 County.

13 CHIEF JUSTICE: Well, no. This
14 commission would have to make
15 that determination.

16 JUDGE THOMASON: Right. I'm just
17 saying to -- let's say that that
18 does happen.

19 So, all that really
20 shifts in the numbers at that
21 point mathematically is -- I
22 mean, does that -- I'm trying to
23 think if that shifts all of the

1 calculations or if the only
2 thing that really shifts is that
3 it just moves Madison out of 2.9
4 and Jefferson --

5 MS. MCMILLAN: Yeah.

6 JUDGE THOMASON: Yeah. That's all that
7 it shifts, right?

8 So, how are the
9 percentages that are less than a
10 whole ever accounted for? How
11 do we ever really account for
12 those?

13 I guess it's just --
14 there's always going to be --
15 like, you have 3.9. I mean,
16 will Madison ever get four
17 judges or if it's less than a
18 whole, will they -- even though
19 .9 is almost a whole?

20 MS. MCMILLAN: As AOC is a whole for
21 judgeships, normally our
22 recommendation to the Supreme --
23 because that's how it's been

1 done before.

2 JUDGE THOMASON: By recommendation?

3 MS. MCMILLAN: Our recommendation to
4 the Supreme Court would be that
5 you really need a full-time
6 judge need. Because then
7 basically you're taking that
8 judge need that is spread out
9 over however many judges -- in
10 this case, seven judges and
11 you're decreasing how much all
12 of the judges' caseload is.

13 So -- so, we usually say
14 that you need a whole judge
15 before you get a whole judge is
16 normally how it has worked in
17 the past. This Commission can
18 do whatever they want to.

19 JUDGE NEWELL: So, on a 3.9, you would
20 round down and say they needed
21 three judges?

22 MS. MCMILLAN: Yes.

23 JUDGE NEWELL: Okay.

1 JUDGE THOMASON: And, Chief, did we
2 decide --

3 CHIEF JUSTICE: But you know that --
4 you know that the statute
5 doesn't exist because time says
6 that the first judge can't be
7 moved until the 2020 election.

8 MS. MCMILLAN: Right.

9 CHIEF JUSTICE: But that also means
10 that during 2019, that place
11 would need to be identified, and
12 then the Secretary of State
13 notified, who I guess would then
14 notify the political parties
15 that this place isn't going to
16 exist for 2020. That one goes
17 away. The Commission would also
18 have to determine based on the
19 numbers where to put that one.
20 Again, it can only be one, one
21 per circuit.

22 And let's assume it was
23 Madison. And then if we decided

1 that for Madison, then the
2 Secretary of State would be
3 notified that we're adding an
4 addition circuit place in
5 Madison County, notify the
6 parties that people can qualify.

7 JUDGE COLLINS: And a judge can only be
8 moved in a certain period -- I
9 mean, a certain period of time.
10 Is it three or --

11 CHIEF JUSTICE: It's one judge every
12 two years.

13 JUDGE COLLINS: One every two years.

14 CHIEF JUSTICE: One every two years.

15 JUDGE COLLINS: So, from a number
16 standpoint, it appears to me
17 that it would take a long time
18 to get the implementation of
19 this but you still have a need
20 for these judges.

21 So, the docket is still
22 backing up. The -- looking at
23 the chart that we have, a

1 deficit of let's just say ten
2 judges and a surplus of let's
3 just say almost seven. I mean,
4 it would just seem to me that
5 rather than moving a judge and
6 getting use to a new statute and
7 move a judge into a -- into a
8 jurisdiction, if Madison really
9 needs four judges right now, why
10 not just create a position for
11 Madison so that you can have --
12 so you can take care of that
13 current need because it's just
14 going to take a long time for
15 those positions to be moved. I
16 mean, I am thinking over the
17 course of this whole
18 implementation, it may take 20
19 years or so to get those filled.
20 I mean, that's -- that's the
21 math that I came up with when I
22 did it.

23 JUDGE THOMASON: Is it -- and I don't

1 have -- I didn't look at the
2 statute. But I'm sure -- I know
3 you know it backwards and
4 forwards, Chief. But is it one
5 judge per circuit --

6 CHIEF JUSTICE: Every two years.

7 JUDGE THOMASON: -- every two years?

8 But you can -- but it could be
9 multiple judges in any -- is
10 there other retirements --

11 CHIEF JUSTICE: No.

12 JUDGE THOMASON: -- as long as they're
13 a different circuit?

14 CHIEF JUSTICE: You can only do one
15 judge per circuit every two
16 years.

17 JUDGE THOMASON: For circuit.

18 CHIEF JUSTICE: The statute is
19 completely inadequate.

20 JUDGE THOMASON: And I'm saying --

21 CHIEF JUSTICE: And I love what you
22 raised, Zack, because one of the
23 things that I would like to have

1 this group discuss is: Should
2 this group recommend to the
3 Legislature -- we couldn't do
4 it. But we certainly can make
5 all kinds of recommendations.
6 We already have in our first
7 report. We can continue to make
8 recommendations. Should we
9 recommend that the Legislature
10 go ahead and create certain new
11 judgeships in certain locations
12 just because judicial
13 reallocation will take too long.

14 JUDGE NEWELL: And, Chief, can I ask
15 you a question? Isn't it -- Did
16 I remember correctly that we
17 have to have three years worth
18 of data starting count in '17
19 before we can actually move a
20 judgeship; is that right?

21 CHIEF JUSTICE: When we get 19 Stat.,
22 the Commission will then need to
23 look at that data and decide if

1 anybody should be reduced and if
2 there is a position that can be
3 reduced. Because, you know, you
4 can't take away an existing
5 position. It would have to be a
6 position where someone basically
7 is either retiring, has resigned
8 and it hasn't been bill -- or is
9 elected to some other office.

10 So, you would have to
11 have that information. Then you
12 would have to decide which
13 one -- and assuming it's
14 Jefferson, you would have to
15 look. Do we need to try to do a
16 domestic relations? Do we need
17 to try to do a circuit criminal?
18 In all likelihood, it's going to
19 be a circuit civil judge
20 position that's going to need to
21 go away just based on the
22 numbers, the way they are.

23 JUDGE NEWELL: So, we'll have --

1 CHIEF JUSTICE: And then -- okay. So,
2 this one goes away and then
3 where do we send that judgeship?
4 Where is the new one created?

5 JUDGE NEWELL: So, we'll have the three
6 years worth of data in that --

7 CHIEF JUSTICE: You will have three
8 years worth of data.

9 JUDGE NEWELL: Okay.

10 CHIEF JUSTICE: It can't be done until
11 you have the three years worth
12 of data.

13 JUDGE NEWELL: That's right.

14 CHIEF JUSTICE: But that will be
15 available not this coming fall,
16 but the following fall.

17 JUDGE NEWELL: Okay. Thank you, Chief.

18 CHIEF JUSTICE: That year will be
19 particularly important that they
20 run the numbers as quickly as
21 they can.

22 JUDGE NEWELL: Absolutely.

23 CHIEF JUSTICE: It takes about a month,

1 as I understand it, or at least
2 several weeks, to be sure that
3 the carts have all of the
4 accurate information in. And
5 then I'm sure you-all get better
6 and better at calculating it.
7 But it does take time to do the
8 calculations.

9 JUDGE THOMASON: I'm still a little bit
10 confused. So, I know the one
11 per circuit. But let's say in
12 2020 -- in looking at our
13 list -- and I know that
14 Talladega is not a full judge.
15 But let's just say that the
16 bottom three that have overages,
17 let's say that in '20,
18 Talladega, Walker, and
19 Jefferson, a judge from each of
20 those three different circuits
21 retires. Then do we not have
22 three -- could we move those
23 three -- we could move them to

1 Madison, Mobile, Autauga/

2 Chilton/Elmore, right? We just

3 can't --

4 CHIEF JUSTICE: That would be up to the

5 Commission. Yeah.

6 JUDGE THOMASON: Right. But I'm saying

7 theoretically, we could do that.

8 CHIEF JUSTICE: Theoretically.

9 JUDGE THOMASON: Okay. I got you.

10 So, it's not just one

11 total every two years, but one

12 per circuit every two years.

13 CHIEF JUSTICE: One per circuit every

14 two years. Assuming there is a

15 vacancy. You know, the way our

16 vacancies work, there

17 theoretically could be an

18 election year where there is not

19 a vacancy.

20 JUDGE THOMASON: And I think that one

21 thing that's a real issue is the

22 fact that -- I mean, obviously

23 this Commission will have to

1 make that determination. But
2 where we've got -- you know,
3 we've got judges to move in
4 Jefferson. We don't have full
5 judges after that. They're all
6 small percentages. That's why I
7 was asking what would shift
8 these percentages.

9 So, I mean, when would
10 we ever move one from Talladega
11 if it was only -- if they're
12 only over three-quarters of a
13 judge? Or would we make a
14 decision as a Commission that,
15 you know, if they're over -- you
16 know, if it's more than a half,
17 we move them to a -- you know, a
18 jurisdiction that really needs a
19 judge?

20 I mean, all of that
21 would have to be considered, but
22 that may be some reason to tell
23 the Legislature is this really

1 going to work? Because if we
2 can only move one, then
3 theoretically we could only move
4 Jefferson, the seven -- 6 1/2
5 judges --

6 CHIEF JUSTICE: It would take in my
7 opinion --

8 JUDGE THOMASON: -- 12 years.

9 CHIEF JUSTICE: -- at least to 2030 to
10 make any substantial difference
11 at all for anybody.

12 JUDGE NEWELL: Apply Cary's rationale
13 about it takes a whole judge or
14 more to ask for one, would it
15 not apply the same rationale to
16 move one?

17 CHIEF JUSTICE: See, I think so. And I
18 have given this a whole lot of
19 thought. Because to me -- and
20 this is just me -- seeing that
21 Jefferson -- at least according
22 to these numbers -- has at least
23 six circuit judges, and really

1 closer to seven circuit judges.
2 To even -- I couldn't think
3 about moving one from Walker or
4 Talladega. To me, personally,
5 that would not be fair.

6 JUDGE CARTER: I agree with you.

7 CHIEF JUSTICE: But again, it would be
8 up to the Commission. But I
9 will just tell you: That's
10 where my vote would be if I were
11 voting. That would not be fair.

12 JUDGE THOMASON: But one -- but moving
13 those six -- you can only move
14 one every two years. So, it's
15 12 years --

16 CHIEF JUSTICE: It will be at least
17 2030.

18 JUDGE THOMASON: 12 years before those
19 get -- yeah.

20 (Off-the-record discussion.)

21 JUDGE NEWELL: To address what you
22 said, there was -- there was a
23 lot of well-rationed and

1 well-reasoned thought on both
2 sides of the argument about
3 reallocation. And one of the
4 main reasons to argue against
5 reallocation is the very thing
6 that you say, that the need
7 attempted to address really
8 could not be addressed by
9 reallocation because it isn't.
10 There are ways to safeguard
11 judges right now from within the
12 circuits if you are smart about
13 how you do things.

14 So -- and my question to
15 you, Chief, would it not be a
16 good idea now for us to go to
17 the Legislature and say: Look,
18 we have looked at the numbers.
19 We passed the statute. We got
20 behind the statute that you
21 wanted, but we still have this
22 immediate need.

23 CHIEF JUSTICE: I agree. That's what I

1 would like for this group to at
2 least discuss. It actually
3 would be a proposal for my part.

4 I think that the group
5 should consider proposing to the
6 Legislature that they create one
7 new judgeship with the
8 accompanying staff, as required
9 by statute, for the -- one per
10 circuit for the top five
11 circuits in need. It won't get
12 any of the five what they need
13 but it will get them something.

14 JUDGE NEWELL: If that's a motion, I
15 want to second it.

16 CHIEF JUSTICE: Okay. I will make it a
17 motion.

18 JUDGE NEWELL: And I will second the
19 motion.

20 CHIEF JUSTICE: But we need to discuss
21 it. I mean, obviously it's an
22 issue of money. And in the
23 past, I would say that the money

1 has not been there. And I think
2 it's an open issue as to whether
3 the money will be available in
4 the future. But we certainly
5 saw it in the last year to
6 eighteen months, additional
7 monies coming into the State,
8 additional monies being
9 available. And we ought to at
10 least place the need and the
11 request in front of the
12 Legislature.

13 I mean, they ultimately
14 will have to decide -- to decide
15 whether there is the money to do
16 it. But judicial reallocation,
17 as they have adopted it, is just
18 going to be too slow.

19 JUDGE THOMASON: And five -- I like the
20 five number too because if you
21 look at the -- on the circuit
22 side, all of those have two or
23 more -- a need of two or more.

1 So, if we're creating
2 one more, it's really not --
3 it's only going to put them in
4 line with pretty much everybody
5 else in need on the need list.
6 So, five is a good number.

7 JUDGE CARTER: Yeah. We -- The process
8 now is that we take a judge and
9 then we place a judge. And that
10 -- that doesn't work because of
11 the time frame. We need to
12 place a judge and then when one
13 becomes available, do away with
14 it but not -- you know, we have
15 already placed this, so we don't
16 have to put it anywhere.

17 CHIEF JUSTICE: Do you want to put that
18 in the form of a motion?

19 JUDGE CARTER: Well, sure.

20 JUDGE THOMASON: Reallocating in
21 advance?

22 JUDGE CARTER: Yeah.

23 CHIEF JUSTICE: Is there a second to

1 that?

2 MS. SPERLING: Would you restate what
3 you just said?

4 JUDGE CARTER: Well, you know, what
5 we're trying to do it seems to
6 me now is basically when a
7 position comes available --
8 let's say Jefferson. Jefferson.
9 We take one from Jefferson and
10 then we put that one somewhere
11 else. I mean, that's what we're
12 doing now and that's going to
13 take forever. Why don't we just
14 go ahead and recommend that they
15 fill some positions now, and
16 then as a position becomes -- or
17 as a judgeship comes up, just do
18 away with it because we have
19 already moved it. We moved it
20 prior -- you know, in the
21 beginning as opposed to in the
22 end.

23 MS. SPERLING: And what criteria will

1 we use to permanently remove
2 that position?

3 JUDGE CARTER: Right. Well, that would
4 be decided by the Committee. I
5 just think that they need to go
6 ahead and build some of these
7 positions. And then we can --
8 we can decide --

9 MR. REID: Is that allowed for in the
10 statute that we do away with the
11 judgeship?

12 JUDGE JONES: I don't think so.

13 JUDGE CARTER: No. I'm not aware of
14 it.

15 JUDGE NEWELL: Can they --

16 MS. SPERLING: If it's not needed.

17 CHIEF JUSTICE: I mean, I think you
18 could remove it and not put it
19 someplace else. You wouldn't do
20 that. But I think the statute
21 would authorize that.

22 JUDGE THOMASON: The only thing that I
23 would say, Judge Carter, that

1 might cause somebody like
2 Jefferson concern is that if --
3 what if they had three judges
4 retire all at one time? Under
5 the -- when they -- you know,
6 when those become available and
7 we do away with them, that may
8 be really difficult or
9 challenging on them.

10 CHIEF JUSTICE: I don't understand you
11 to be suggesting that we change
12 the methodology?

13 JUDGE CARTER: No.

14 CHIEF JUSTICE: It would still be the
15 same methodology. It would only
16 be one per circuit every two
17 years?

18 JUDGE THOMASON: It's just that we do
19 away with them?

20 CHIEF JUSTICE: It's just that we
21 wouldn't wait to create the new
22 ones.

23 MS. SPERLING: So, are we -- I just

1 need to be clear. Are we -- is
2 it a suggestion that we stay
3 with the judicial reallocation
4 process but we also propose to
5 the Legislature to go ahead and
6 allocate for finding positions
7 in these counties?

8 CHIEF JUSTICE: Yes. I mean, I would
9 definitely not want to do away
10 with this. It took way too long
11 to create it, even though it
12 obviously has issues and is way
13 too slow.

14 JUDGE THOMASON: So, one per circuit --

15 JUDGE CARTER: And Jefferson County --
16 if -- let's say -- let's say
17 that they accepted our proposal,
18 and they put a judge in three or
19 four or five counties that are
20 in need. And then let's say
21 2019/2020, Jefferson loses or
22 has three judges retire. Well,
23 they can only lose one, right?

1 Okay. So, let's go
2 ahead and say that in 2022,
3 Jefferson has three judges to
4 retire. And at that point, the
5 numbers may be completely
6 different. By that time, our
7 numbers may say, you know,
8 filings picked up in Jefferson
9 and they may not, you know, have
10 one to lose at that point. You
11 know, with time things will
12 change.

13 JUDGE JONES: I don't know that we are
14 considering, you know, the fact
15 of why we have the number of
16 judges that we have. You know,
17 we have over two million people
18 in Jefferson County. And, you
19 know, if we lose one domestic
20 relations judge or if we lose
21 one criminal court judge, all
22 you're going to do is back up
23 cases. If we do it on the civil

1 side, we're going to back up
2 cases. If we take one from
3 family court, we're going to
4 back up cases and kids are going
5 to suffer.

6 So, there is a reason
7 that we have the number of
8 judges that we have. We're
9 trying to service over two
10 million people in the Birmingham
11 division alone.

12 JUDGE COLLINS: I think maybe --

13 JUDGE JONES: And then -- if I could
14 finish --

15 JUDGE COLLINS: Sure.

16 JUDGE JONES: There is statute that has
17 been on the books forever -- I
18 haven't read it in a while. But
19 it seems to indicate that
20 whenever there is shown a need
21 for an additional judge in a
22 circuit, that that information
23 is presented to the Legislature

1 for them to determine if they
2 can create that new judgeship.
3 I mean, it's already in the
4 books without taking a judgeship
5 from anywhere else.

6 JUDGE COLLINS: I think the statute,
7 just as the Chief talked about,
8 that allows for reallocation of
9 judges within a circuit is
10 probably a better solution for
11 Jefferson County as opposed to
12 taking a judgeship. Because
13 their 83,850 minutes or 90,300
14 minutes per judge is different
15 than mine in Russell County.

16 It really is from an
17 accumulative standpoint, this is
18 a different amount of time.
19 Because I'm a district judge and
20 do circuit work as a family
21 judge. But I -- I see far less
22 cases than that family judge
23 does. Even in Montgomery, I see

1 far less cases. It's a
2 different type of time.

3 And so, if you are
4 spending more time in Jefferson
5 County and you take -- you got
6 six surplus judges, you could
7 just move those judges around
8 and it will even out the time as
9 it relates to -- to the
10 equivalent to what I am doing in
11 Russell County.

12 That will be a better
13 tole on the judge, him or
14 herself. It just seems to me
15 that we're saying hey, we got
16 seven judges that we can just
17 move around the state. But
18 we're not really -- we're
19 looking at the data and the data
20 is good. But you can't always
21 just look at data. You have to
22 look at real world practical
23 aspects of it. And if the data

1 just suggests that you move
2 judges, and you can't do that
3 for 20 years to really make an
4 impact, you really need to add
5 some judges, right?

6 And then if you are
7 going to move these judges, now
8 you're going to create a problem
9 as Judge Jones said, and now
10 he'll have to come back and
11 readdress that problem. It just
12 seems kind of --

13 MR. REID: Judge, I understand what
14 you're saying.

15 JUDGE COLLINS: Yes, sir.

16 JUDGE REID: And I thought about that
17 years and years ago when I was
18 using AOC numbers. And I
19 thought well, maybe there is
20 something wrong with this
21 weighted caseload.

22 So, what I did was I
23 re-crunched all of the numbers

1 by population. All -- I think I
2 even sent you a copy of that.
3 They were remarkably consistent.
4 The population data was
5 remarkably consistent with the
6 weighted caseload. And it would
7 have shown me exactly the same
8 -- not exactly. There might
9 have been a little bit of
10 difference per circuit, but it
11 was very consistent.

12 So, I think this data is
13 correct. I think the weighted
14 caseload is a valid system to
15 use. And I think it's proven by
16 population.

17 JUDGE COLLINS: And I'm not suggesting
18 that the data is incorrect.
19 Really I'm -- I'm really not.
20 I'm just saying that just data
21 alone, when we're looking at it,
22 there has to be some practical
23 aspects of it too.

1 JUDGE REID: Sure.

2 JUDGE COLLINS: But I would like to --

3 I would like to see that data
4 that you have, because it would
5 help me understand it because it
6 was done you said a while ago?

7 JUDGE REID: Yeah.

8 JUDGE COLLINS: It would help me
9 understand it. But I'm just
10 looking at real world practical
11 aspects of it, how does that --
12 how does this translate? That's
13 what I'm looking at.

14 JUDGE NEWELL: How about we do this --
15 and not to throw it off on Judge
16 Carter -- but maybe we don't
17 propose to the Legislature right
18 now that if we have an opening,
19 a judgeship, we want to move
20 that we just abolish it.
21 Because let's just say for
22 arguendo -- And, you know,
23 Chief, those of us who have been

1 here for a while, as we saw the
2 economic downturn, we saw
3 filings go down. Well, we can
4 certainly expect the converse to
5 be true as the economy picks up,
6 filings go up. And these judges
7 that maybe we had moved are down
8 the road, we hold those in
9 reserve right now to see. And
10 if we don't need them down the
11 road, then we could possibly
12 have something to bargain with
13 the Legislature.

14 But this Committee has
15 great authority and weight right
16 now. And I think if we make a
17 recommendation that we need five
18 judges and we've looked at it --
19 but yet we don't have to get rid
20 of any judgeships presently.

21 Because I understand
22 you-all's concern. I have the
23 same concern.

1 JUDGE THOMASON: I agree with that. I
2 think, you know, when we propose
3 something, they are going to
4 come back with something else
5 anyway. So, let them come back
6 with how about we abolish them
7 but let's don't give them out on
8 the front end, with that option.

9 But is the motion on the
10 floor, is it one per year?

11 CHIEF JUSTICE: No.

12 JUDGE THOMASON: Or per circuit?

13 CHIEF JUSTICE: It's just if the
14 Legislature creates five
15 additional judgeships -- and I
16 guess I should be more specific
17 and name off those five. It
18 would be one for Madison, one
19 for Mobile, one for
20 Autauga/Chilton/Elmore circuit,
21 one for Tuscaloosa, and one for
22 Baldwin. Each of which,
23 according to the numbers, needs

1 two or three additional judges.

2 It -- my motion also
3 includes the appropriate staff
4 to be provided for those. And
5 mine is simply a recognition of
6 the fact that the need is here
7 now and that the machinery to do
8 it under judicial reallocation
9 is far too slow.

10 JUDGE THOMASON: We're already waiting
11 until '20 just to get the first
12 one.

13 CHIEF JUSTICE: The first one.

14 MR. REID: Can I address that?

15 CHIEF JUSTICE: Yes.

16 JUDGE REID: All right. I was on the
17 bench for 24 years and was
18 presiding judge for 17.

19 During that time, I was
20 able to get two judges appointed
21 to the bench. Because Baldwin
22 was just like Shelby, we were
23 growing by leaps and bounds. We

1 needed new judges. That's the
2 reason that I got interested in
3 this, to sum up a way to get
4 judges.

5 So, that's -- that's --
6 I think that's where all of this
7 came up. And if -- there is a
8 method for new judges to be
9 appointed to other circuits,
10 like Madison County. The
11 presiding judge petitions the
12 Chief Justice. They do a
13 weighted caseload study. It's
14 presented to the -- the AOC
15 presents it to the Legislature.

16 So, there is already a
17 mechanism in place to get new
18 judges. That's not our job.
19 Our job is to do reallocation.
20 If we start taking on lobbying
21 efforts to get new judges, we
22 are not doing what we were
23 charged to do and that is deal

1 with reallocation.

2 MS. SPERLING: But, Judge --

3 JUDGE THOMASON: As the presiding
4 judges in those districts, I am
5 sure they are aware of the
6 statutory --

7 CHIEF JUSTICE: They are. And the
8 reason, in my opinion -- I guess
9 I disagree with Jim a little on
10 this. The reason -- because I
11 lobbied for this and got this
12 passed. I have talked with the
13 members of the Legislature.

14 They wanted to shift
15 away from -- the Legislature
16 itself -- the responsibility for
17 determining where the judges
18 were needed. And the experience
19 with the previous rule -- with
20 it going -- you know, the
21 request going to legislation and
22 the Legislature asking for the
23 report from us. It goes to the

1 Office of Administrative Courts
2 and then it comes to the Alabama
3 Supreme Court -- is those were
4 not based on actual need. Those
5 were based on desire and on
6 political power and money.

7 And so, those requests
8 were not coming from the
9 appropriate circuits or
10 districts. They were just
11 coming from the people who
12 wanted them and thought they had
13 the political power to get them.
14 And that's the way that I think
15 we have to -- as best we can
16 just --

17 JUDGE COLLINS: And I am just reading
18 this. It says: Relating to the
19 Courts to establish the Judicial
20 Resource Allocation Commission
21 to establish the criteria for
22 determining the needs for
23 increasing or decreasing the

1 number of judgeships in district
2 courts and circuit courts and to
3 authorize reallocation.

4 So, I think we are in
5 purview to do that.

6 JUDGE NEWELL: And to piggy back on
7 what you were saying a minute
8 ago about the need and it turned
9 out that the power from senators
10 and representatives were getting
11 them -- Correct me if I'm wrong.
12 You could come back and say
13 Mr. Senator, I'm sorry, but
14 there is no need for that judge
15 and the Legislature is not
16 obligated around by that. Isn't
17 that correct?

18 CHIEF JUSTICE: That's right. And we
19 started a number of years ago
20 rejecting every single request
21 because they were coming from
22 places where they weren't
23 justified or they were lower

1 down the list even if they were
2 justified. It wasn't fair to
3 jump number seven over one, two,
4 three, four, five, six in need.

5 So, the Supreme Court
6 started voting no and denying
7 all of the requests because they
8 weren't based on appropriate
9 criteria.

10 MR. REID: And you're right about one
11 thing. Every time I got a judge
12 is was because I had a very good
13 senator --

14 CHIEF JUSTICE: Absolutely.

15 JUDGE REID: -- who knew how to get a
16 good judge.

17 JUDGE COLLINS: But assuming that we
18 put something in to the
19 Legislature, and they say okay
20 we are going to give you one
21 judge for the first top five.
22 Let's say that happens. You
23 know that the next thing they

1 are going to do is look and say
2 well, how can we get rid of some
3 judges?

4 And then -- so, then I
5 am looking at the surplus in,
6 like, Jefferson and trying to
7 figure out how to cut that. But
8 as a Commission, we can address
9 that issue by saying well, we
10 don't necessarily need to
11 decrease the judges in that, we
12 just need to rely on the statute
13 that's been passed to reallocate
14 within that district so that
15 no -- because I agree with that.
16 I don't have a dog in the fight
17 in Jefferson County. I don't.
18 But I think that if you -- if
19 you take those judges and just
20 get rid of them, you are just
21 going to bog the system down.

22 And, you know, it just
23 seems like it will be easier

1 just to add a few judge --
2 judicial seats to address the
3 needs that we have. And a lot
4 of times, you know, we just
5 forget about that.

6 CHIEF JUSTICE: I think at some point
7 in time -- and it may not be
8 Jefferson when that time comes.
9 It probably will be, but it may
10 not be Jefferson. It may be --
11 wherever.

12 There is a need to
13 equalize judicial resources
14 across the state. And things
15 have happened. I mean, there is
16 a historical reason why
17 Jefferson has too many. It goes
18 way back, way probably back
19 before all of you-all's time.

20 But there was a time
21 when I was practicing law when
22 Jefferson County used a
23 completely inappropriate case

1 management system where they had
2 one judge who heard every single
3 motion filed in the entire
4 county. Motions were never
5 ruled on, cases never went to
6 trial. It was a disaster. And
7 the Legislature, instead of
8 looking at the real problem,
9 just gave Jefferson 10
10 additional judges all in one
11 fell swoop, boom, here is 10
12 more judges. Fixed the
13 problem -- over time the problem
14 got fixed but it didn't
15 necessarily get fixed because of
16 the 10 additional judges. It
17 got fixed because some people
18 learned some case management
19 principals and started applying
20 them and cases were worked
21 through.

22 You know, there has been
23 so many things -- there have

1 been population shifts. There's
2 obviously been these huge
3 decreases in the number of
4 filings. Things are going to
5 constantly change.

6 At some point in time,
7 there is going to be a need in
8 my opinion to review some judges
9 in certain places. But, I mean,
10 how much lower can you go than
11 what they written? And it's
12 just extremely slow.

13 JUDGE THOMASON: And don't you think
14 that now that we have this
15 Commission formed, that if the
16 Legislature wants to do that or
17 if they think that that's
18 something that they need to do,
19 they will come to this
20 Commission and look at these
21 same numbers and this same data
22 that we've already approved and
23 adopted and submitted to the

1 governor and the Legislature?

2 I mean, they've done --
3 the things that they have done
4 in the past, there hasn't been a
5 Commission. There hasn't been a
6 group representing the judges,
7 the attorney general's office,
8 the Bar Association, the
9 Lawyer's -- You know, I mean, I
10 think they will come to us and
11 say: Okay. You will get five
12 but let's -- you know, let's
13 reevaluate this in a year and
14 see how we decrease.

15 Since we're here I think
16 they will use us.

17 CHIEF JUSTICE: Well, I think they will
18 use the Commission because I
19 think that they didn't have the
20 appetite for doing it
21 themselves.

22 JUDGE THOMASON: Right.

23 CHIEF JUSTICE: So, they wanted

1 somebody else.

2 JUDGE THOMASON: I think that's --

3 CHIEF JUSTICE: And they also don't
4 have the appetite I don't think
5 to do anything drastic.

6 JUDGE THOMASON: Right. But because
7 they don't have that appetite, I
8 think that because we are here,
9 I think that they will listen to
10 us and maybe we will be able to
11 get the right thing done.

12 JUDGE REID: If you took all of the --

13 JUDGE JONES: Chief --

14 JUDGE REID: Go ahead. I'm sorry.

15 JUDGE JONES: Go ahead.

16 JUDGE REID: If you took all of the
17 numbers that are here -- all of
18 the numbers and you divided them
19 up, all of the caseload and
20 divided them up among the judges
21 in the state, you would have a
22 very comfortable caseload.
23 There is no justification for

1 adding anymore judges in the
2 state.

3 JUDGE THOMASON: It says we're down 10
4 total though at the top.

5 JUDGE NEWELL: Yeah. The line applying
6 the numbers.

7 JUDGE THOMASON: The numbers show that
8 we're down to a total of ten.
9 If I were to cut that in half --

10 MR. REID: Michelle, if you had one
11 more judge in Baldwin County, it
12 would make such a huge
13 difference in the workload.

14 JUDGE THOMASON: It sure would.

15 MR. REID: I took care of my caseload.
16 I had no problems with it. And
17 it showed -- it implied that we
18 needed judges. We really
19 didn't. We just needed to get
20 one more judge, shuffle the
21 workload around a little bit,
22 and we would have been fine.

23 Now, that's just in this

1 room, okay? I'm not going out
2 to preach -- get on a soapbox
3 and preach. But all of you
4 know -- all of you know that you
5 are -- if you're overworked it
6 is because you may be short one
7 judge and you may have some
8 inefficient people in your
9 circuit.

10 CHIEF JUSTICE: I don't disagree that
11 there are some inefficient
12 circuits. There is some great
13 inequity, but the Legislature is
14 not willing to address
15 inequities of having one
16 district judge per county. And
17 there are reasons for that.

18 And it is important
19 reasons like gosh, you need
20 somebody to do search warrants
21 in the middle of the night. And
22 there are other reasons, lots of
23 important -- protection from

1 abuse hearings, things like
2 that. There are reasons. So,
3 it's never going to be equitable
4 but it does need to be fairer
5 than it is.

6 The other thing that I
7 would say is because of judges
8 like Judge Reid and so many
9 other judges around the state --
10 a lot of retired judges and a
11 lot of non-retired judges --
12 going to other places to hear
13 cases, that's really the only
14 way that we make it work. If we
15 didn't have that, it wouldn't
16 work in a lot of places in the
17 state.

18 JUDGE THOMASON: And that's what this
19 doesn't take into account how
20 many Judge Reids and Judge
21 Partins and Judge Kittrells and
22 Judge Brocks and Judge
23 Gilbreaths that we have in

1 Baldwin County to make up the
2 difference. And if you pull
3 that out of the mix, and that's,
4 you know, a different story.

5 JUDGE JONES: I just wanted to make a
6 couple of comments. The comment
7 about shifting judges around the
8 different divisions in Jefferson
9 County, I don't really think
10 that that would work because in
11 Jefferson County, for example,
12 people that practice civil law
13 and run and seek civil
14 positions, people that practice
15 criminal law and run for and
16 seek criminal positions, then
17 the same thing with domestic
18 relations and family court law.

19 So, if you were, for
20 example, to ask me to go over to
21 the civil building and start
22 handling civil cases, it would
23 be a problem. It would be a

1 problem. Okay? It would be a
2 problem. And all of the law
3 firms would have a problem. So,
4 I don't think that that will
5 work.

6 But the other thing is
7 that we don't really have a
8 quorum here today. If I look at
9 the numbers from the people that
10 are appointed to this
11 Commission, I don't think we
12 have a quorum. So, I don't know
13 that we can really vote on
14 anything.

15 CHIEF JUSTICE: We have a quorum.

16 JUDGE JONES: The last -- I'm sorry? I
17 thought we were missing five
18 senators, five representatives,
19 someone from the court of
20 criminal appeals, and a couple
21 of other people.

22 CHIEF JUSTICE: We are missing Judge
23 Walker.

1 MS. MICHAEL: The Commission consists
2 of the legal adviser for the
3 governor, the Alabama attorney
4 general, three incumbent circuit
5 judges, three incumbent district
6 judges, three licensed
7 attorneys.

8 MR. REID: I'm here actually
9 representing the Bar
10 Association. So, I'm an
11 attorney.

12 JUDGE JONES: You don't need
13 representation of senators?

14 MS. MICHAEL: No, sir, no senators and
15 representatives.

16 JUDGE JONES: Okay. So, you say
17 there's a total of how many?

18 MS. MICHAEL: 12 I think.

19 JUDGE JONES: And we have how many?

20 JUDGE THOMASON: Eight out of twelve?

21 JUDGE NEWELL: Nine.

22 JUDGE THOMASON: Yeah.

23 JUDGE NEWELL: One thing that you said

1 earlier --

2 JUDGE JONES: Well -- and -- excuse me.

3 JUDGE NEWELL: I'm sorry. You go
4 ahead.

5 JUDGE JONES: My last comment was this:
6 When reading the statute, it was
7 saying that we could consider
8 not only the numbers but other
9 things. My last comment is
10 simply that: I don't think it
11 will look good to the public if
12 we start taking judges from
13 Jefferson County every two
14 years. And I think that
15 politics should be kept out of
16 this proceeding. Thank you.

17 MR. REID: Well, that's why this
18 Commission was formed, to take
19 politics out.

20 JUDGE NEWELL: One thing I think --

21 JUDGE JONES: Well, when you start just
22 banging Jefferson County,
23 then -- I mean, trust me. It

1 don't look good.

2 CHIEF JUSTICE: Well, numbers may not
3 be that way in another year. I
4 mean, I don't know what they
5 will show in another year.

6 JUDGE NEWELL: One of the things though
7 that I think about now that
8 would really be beneficial --
9 and I think it goes to what
10 you're saying, Judge.

11 Right now we're not
12 talking about -- because it's
13 the cart before the horse.
14 Nobody is talking about taking
15 judges from any place right now.
16 We're talking about looking in
17 the field amongst our fellow
18 brother and sister judges and
19 saying you need help and we know
20 you need help. And we're going
21 to the Legislature and we're
22 going to stick our neck out
23 because the State is flushed

1 with money right now. It
2 doesn't happen often. And we
3 can make the honest argument
4 that we have sacrificed and
5 sacrificed and sacrificed and
6 sacrificed. And all we are
7 saying now is just five judges
8 and the supporting staff to go
9 along. And we are doing our
10 work. Our meetings are out
11 there. You are welcome to come.
12 We are meeting as often as the
13 law requires and allows. And we
14 are trying to do the work and we
15 are doing the work, but we
16 realize that we are not going to
17 meet the need. And that was not
18 what you intended it when you
19 passed this. Because the
20 Legislature intended to fill a
21 need.

22 MS. SPERLING: And I have to restate
23 what the chief said, that at

1 this rate, it would not fulfill
2 the need to -- You could not
3 fulfill the 10 positions. It
4 would take another 15 years to
5 do that.

6 CHIEF JUSTICE: Right.

7 JUDGE NEWELL: Absolutely.

8 MS. SPERLING: So --

9 JUDGE NEWELL: And here's the -- a way
10 to get around it, let's say
11 you're in Jefferson County and
12 you realize that maybe the
13 numbers are trending -- they're
14 not there but they're trending
15 and you may be about to lose
16 another judge. What do you do?
17 You find the youngest person you
18 can and you get them on the
19 bench, and you have them sit
20 there. Because there's ways to
21 get around this. You have to
22 strategize.

23 But ultimately what

1 we're trying to do is we're
2 trying to make it fair for the
3 end consumer, the people who
4 come to these justices in the
5 State of Alabama and they need
6 it in a timely fashion.

7 And I hear what you're
8 saying, Judge. You know, you've
9 got your numbers here, and
10 that's fine and dandy. But we
11 have legitimate needs in
12 Jefferson County too, as we do
13 in Walker. I mean, Walker
14 County, Winston County, Marion
15 County. Everybody does.

16 But that's why -- I say
17 we vote on our motion, Chief,
18 because I think it's doing our
19 work.

20 CHIEF JUSTICE: All right. I will take
21 that as a call for the question.
22 Do you wish to vote by aye or
23 noddin' or do we need to vote

1 individually? Any preference?

2 (No response.)

3 CHIEF JUSTICE: All right. I guess we
4 will just see how it goes.

5 All of those in favor,
6 say "aye."

7 (All members vote in favor of
8 the pending motion.)

9 CHIEF JUSTICE: Any nays?

10 MR. REID: I abstain.

11 CHIEF JUSTICE: And you abstain?

12 Okay. Are there any
13 other issues that the Commission
14 would like to discuss?

15 JUDGE COLLINS: Is there a way to
16 determine -- I guess there is
17 not a real way to determine.
18 But Judge Reid raised the issue.
19 But it would seem like the
20 deficit in the past and the
21 surplus was created based on
22 inefficiency and the case
23 management issues. But couldn't

1 the same be said for the
2 counties that have -- Because, I
3 mean, really the numbers are
4 what they are. But it really
5 depends on what the judges are
6 actually doing. And there is no
7 way that this data can account
8 for what is actually happening
9 on the bench other than surveys,
10 other than data. But we know
11 that some judges are out there
12 working harder than others, you
13 know. There are some judges
14 that are managing their dockets
15 a lot more efficient than
16 others.

17 And so, when we are
18 looking at whether or not we
19 will increase judges that have a
20 surplus, we really have to take
21 into all of those human and
22 practical aspects of it as a
23 Commission that catch all

1 other -- I think really it needs
2 to be taking place.

3 But again, I like the
4 idea of addressing the current
5 need. We have some judges that
6 we need to get in some places so
7 that they can at least, you
8 know, come as close as possible
9 to everyone else. That's just
10 all I really wanted to say.

11 MR. REID: I agree with what you are
12 saying. And I think that the
13 statute's envision is that once
14 we get to the point where we are
15 actually considering moving a
16 judge, I think that circuit
17 should have an opportunity to
18 come before us and tell us why
19 we should not remove a judge
20 from that circuit.

21 So, I think we can maybe
22 deal with that issue at the
23 appropriate time.

1 JUDGE THOMASON: I agree. I agree.

2 CHIEF JUSTICE: Can I bring one other
3 issue? It's getting late, and I
4 think our food may be here.
5 This may be an issue for another
6 day.

7 But an issue that -- in
8 looking at the numbers has --
9 and I guess by experience as
10 both a circuit and district
11 judge, it has appeared to me
12 that there are perhaps some
13 circuits that have more than one
14 district judge where that
15 circuit would be better served
16 if at least one of those
17 district judgeships were changed
18 into a circuit judgeship.

19 And, again, that is the
20 type of recommendation that I
21 believe the statute provides.
22 It can't be done by this
23 Commission in my opinion, but it

1 could be recommended to the
2 Legislature.

3 And so, I will leave
4 that for -- as a thought for
5 another day. But we may want to
6 get Cary and Michael to run us
7 some numbers to see what that
8 would do to certain circuits if
9 you took one of their district
10 judgeships and made it a circuit
11 judgeship and how that would
12 balance the circuit and district
13 caseloads.

14 JUDGE COLLINS: In Russell County, I am
15 the only district judge, but I
16 do nothing but circuit work, you
17 know. And so, I mean, I do some
18 of the conflict cases in
19 district. But yeah, I like that
20 idea.

21 CHIEF JUSTICE: And I know Michelle
22 does mostly --

23 JUDGE THOMASON: Yeah, 75 percent.

1 I would make a motion
2 for the Commission to consider
3 that we have that information
4 for our next meeting -- ahead of
5 our next meeting. And let's
6 take a look at making that
7 recommendation at our next
8 meeting if the numbers show it's
9 justified.

10 But I think that's a
11 great idea. And I would put
12 that in the form of a motion.

13 CHIEF JUSTICE: Is there a second?

14 JUDGE JONES: Second.

15 CHIEF JUSTICE: All right. Seconded by
16 Judge Jones. All in favor, say
17 "aye."

18 (All members vote in favor of
19 the pending motion.)

20 CHIEF JUSTICE: So, we will have that
21 data together and you-all can
22 look at it.

23 JUDGE THOMASON: That's a great idea.

1 CHIEF JUSTICE: I would think that this
2 Commission would not need to
3 meet again until we have the '18
4 numbers.

5 So, that would probably
6 be a late fall, extremely early
7 2019 in order to get any type of
8 recommendation to the
9 Legislature in time for it to be
10 meaningful. You don't want to
11 just wipe out an entire
12 legislative session and not get
13 something in.

14 JUDGE THOMASON: We met in the
15 beginning in --

16 CHIEF JUSTICE: January.

17 MR. WILSON: Chief, I just want to make
18 one quick point about the Act
19 that's -- that passed this past
20 year. It is being codified in
21 the judicial reallocation
22 section of the Code 12-19A or
23 12-9A. It goes into effect

1 July 1st.

2 CHIEF JUSTICE: Okay. I thought it had
3 already taken effect. Thank you
4 for that correction.

5 MR. WILSON: And it excludes Jefferson
6 County.

7 JUDGE JONES: It does exclude it?

8 MR. WILSON: It does exclude Jefferson
9 County. So, that Act does not
10 apply to Jefferson.

11 MR. REID: Can you say that again,
12 Nathan?

13 MR. WILSON: This is the Act that was
14 passed this past session. It
15 pertains to judicial allocation.
16 It authorizes -- it does two
17 things. It authorizes the Chief
18 Justice to do what the Chief
19 Justices already can do, and
20 that is to assign circuit and
21 district court judges to go to
22 other counties where there is a
23 need to hear cases.

1 It also authorizes the
2 presiding judge to do the same
3 thing within the circuit, to
4 assign district judges to hear
5 circuit work and vice versa.
6 Which they already can do, but
7 this broadens it a little bit.

8 CHIEF JUSTICE: This statute is --
9 instead of aspirational, it's
10 more directional. This is what
11 you are to do.

12 JUDGE COLLINS: What's the rationale of
13 --

14 JUDGE JONES: 12-9 -- what was the
15 section?

16 MR. WILSON: Well, the Act is Act
17 2018-567. It was House Bill 68,
18 sponsored by Representative
19 Hill. And it creates new
20 section 12-9A-7, 12-9A-8. If it
21 would be helpful, I can email it
22 to the members of the
23 Commission.

1 JUDGE THOMASON: That would be great.

2 CHIEF JUSTICE: That would be helpful.

3 JUDGE JONES: That would be great.

4 MR. WILSON: And Judge Collins?

5 JUDGE COLLINS: My question is: What
6 is the rationale that Jefferson
7 County was excluded? I think
8 that's important.

9 MR. WILSON: I'm not certain. As
10 introduced, Jefferson County was
11 not excluded. It was amended on
12 the floor of the House or
13 Senate -- one of the two -- to
14 exclude Jefferson County.

15 JUDGE COLLINS: Is there something,
16 like, in the notes or anything
17 that -- because I mean --

18 JUDGE NEWELL: This is normally where
19 we would ask to go off of the
20 record.

21 JUDGE COLLINS: Well, I just try to see
22 everything as objectively as I
23 can. So, I probably may be a

1 little naive. I am a young guy
2 here.

3 But, anyway, I think
4 that would be -- I am just
5 curious to know if there were
6 any notes as to why they were
7 excluded. I think it might go
8 with what Judge Jones was
9 saying. And if that's the
10 rationale, then that would make
11 sense. Later down the road,
12 when we again start talking
13 about this, that's something
14 that we can look at as well.

15 JUDGE THOMASON: I just don't
16 understand. So, the Act
17 basically says that Jefferson
18 County is excluded. So, their
19 presiding judge can't reassign
20 their judges within their
21 jurisdiction? Is that what it
22 says?

23 MR. WILSON: That's what it says.

1 JUDGE THOMASON: Can it do that?

2 MR. WILSON: However, the other

3 statutes that authorize the
4 presiding judge to do that will
5 still be in existence. Like the
6 one that authorizes the
7 appointment for domestic
8 relation cases, that doesn't go
9 away. And then there is Rule 13
10 of the Rules of Judicial
11 Administration that allows the
12 presiding judge to do similar
13 appointments.

14 The problem with this
15 Act though is that it says that
16 the Supreme Court shall amend
17 Rule 13, which the Rules
18 Committee is currently looking
19 at to make a recommendation to
20 the Supreme Court. But it says
21 that the Supreme Court shall
22 amend Rule 13 to be consistent
23 with the statute. So --

1 JUDGE THOMASON: So, then that also
2 means that Jefferson County
3 would be excluded from the
4 Supreme Court for reassigning or
5 from assigning any judges there
6 to other --

7 CHIEF JUSTICE: Other places.

8 JUDGE THOMASON: -- other places.

9 Okay.

10 MR. WILSON: It's created a conundrum
11 for the rule, but we are going
12 to have to try to find a work
13 around so that we don't remove
14 from what Jefferson County can
15 do now.

16 JUDGE THOMASON: Right.

17 MR. WILSON: And so, we keep in place
18 what we can do now.

19 JUDGE JONES: Yeah. We regularly
20 assign district court judges
21 some circuit court
22 responsibilities in pretty much
23 each of the divisions to make

1 things more efficient.

2 CHIEF JUSTICE: Renee, do we have
3 something else?

4 MS. MICHAEL: The only thing is that I
5 was going to remind that the
6 Supreme Court will have to
7 approve the need -- the analysis
8 before we can submit it to the
9 committee.

10 CHIEF JUSTICE: In '18?

11 MS. MICHAEL: In '18. Yes, ma'am.

12 And your lunch is ready.

13 CHIEF JUSTICE: Great. Excellent. Are
14 there any other matters to be
15 taken up?

16 (No response.)

17 CHIEF JUSTICE: Then I will declare
18 that we are adjourned to lunch.

19 (Meeting concluded at 11:54
20 a.m.)

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10:00 a.m.

* * * * *

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