

BEFORE THE STATE OF ALABAMA
JUDICIAL RESOURCES ALLOCATION COMMISSION

HEFLIN-TORBERT
JUDICIAL BUILDING
MONDAY, DECEMBER 19, 2022
10:30 a.m.

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THE FOLLOWING MEETING was held before the
Alabama Judicial Resources Allocation Commission,
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 10:30 a.m., Monday, December 19,
2022.

1
2 APPEARANCES:

3 COMMISSION MEMBERS:

4 CHIEF JUSTICE TOM PARKER, CHAIR

5 HONORABLE BUTCH BINFORD

6 HONORABLE BRENDETTE BROWN-GREEN

7 HONORABLE ZACK COLLINS

8 MS. STEPHANIE HUNTER

9 HONORABLE CHRIS HUGHES

10 HONORABLE JAMES REID

11 HONORABLE MICHELLE THOMASON

12 MS. STEPHANIE HUNTER

13 MR. CLAY CRENSHAW

14 MR. WILL PARKER

15
16 ALSO PRESENT:

17 DR. RICH HOBSON

18 MR. TODD RUSSELL

19 MS. CARY MCMILLAN

20 MR. MICHAEL GREGORY

21 MR. BOB MADDOX

22 MR. BEN DUPRÉ

1 CHIEF JUSTICE TOM PARKER: My
2 thanks to all of you for being here today.
3 I know it's difficult driving conditions
4 with the cold, but hopefully it meant less
5 traffic on the road for you. And to get us
6 started, let's have the Pledge of Allegiance
7 and the prayer. Rich, would you please do
8 that?

9 DR. RICH HOBSON: Let's please
10 rise and pledge with me. We have a flag
11 right up here.

12 (At which time, there was the
13 Pledge of Allegiance and a
14 prayer).

15 CHIEF JUSTICE TOM PARKER: Well,
16 as always, we will have an official
17 transcript of this meeting prepared, but we
18 have a new Court Reporter. So, she doesn't
19 know everyone.

20 So, please state your name the
21 first time that you speak. She can see
22 some of these name tags, but some of them
23 are at an angle where she cannot. So, she

1 is going to need our assistance for that.

2 And as you all know, I am
3 Chairman designated as such by the
4 statute. And we have people who are
5 members appointed by various organizations
6 defined in statutes. And what I would
7 like to do is move around the room for the
8 Commission members only, not the staff
9 that's here.

10 So, I am Chief Justice Tom
11 Parker, the Chairman. And then I think,
12 Zack, we will skip to you.

13 HON. ZACK COLLINS: Okay. I am
14 Zack Collins, District Judge, Russell
15 County; Circuit Judge-Elect of Russell
16 County.

17 HON. MICHELLE THOMASON: I am
18 Michelle Thomason, District Judge, Baldwin
19 County.

20 MS. STEPHANIE HUNTER: Stephanie
21 Hunter. I am the Referee for Family Court;
22 however, I am representing the Alabama
23 Lawyers Association.

1 CHIEF JUSTICE TOM PARKER: Yes.
2 Stephanie has a new position as that
3 Referee. That's wonderful to have your
4 assistance in the system.

5 MR. CLAY CRENSHAW: Clay Crenshaw
6 with the Attorney General's Office.

7 HON. JAMES REID: I am James Reid.
8 I am a Retired Circuit Judge, and I'm a
9 representative on this Board by the State
10 Bar Association.

11 HON. BUTCH BINFORD: Butch
12 Binford, Circuit Judge, Houston and Henry
13 Counties.

14 HON. BRENDETTE BROWN-GREEN: I am
15 Brendette Brown-Green, Circuit Judge,
16 Jefferson County.

17 MR. WILL PARKER: I am Will
18 Parker. I am Governor Ivey's General
19 Counsel.

20 HON. CHRIS HUGHES: Hey, I am
21 Chris Hughes. I am a Circuit Judge from Lee
22 County.

23 CHIEF JUSTICE TOM PARKER: We have

1 10 members present. There are 12 members
2 appointed to this Commission, so we have a
3 quorum.

4 Now, let me give a little
5 directive to what we are getting ready to
6 do. I know I am guilty of using common
7 parlance to refer to this Commission as
8 the Reallocation Commission, but that's
9 only part of what we do. Our directive in
10 12-9A-1(d): The Commission shall annually
11 review the need for increasing or
12 decreasing the number of judgeships in
13 each district and circuit court.

14 And then it goes over to (e) and
15 says that using the criteria delineated in
16 the statute: The Commission shall
17 annually determine the need for increasing
18 or decreasing judgeships in the district
19 and circuit courts and rank each court
20 accordingly.

21 So, in our last meeting, we
22 reallocated a seat, and so we now have a
23 two-year moratorium on that from the same

1 county. And what we are really focused on
2 right now is the number of judgeships that
3 we need to increase around the state.

4 And with that, I am going to
5 call on Cary McMillan, who is our
6 statistician within the Administrative
7 Office of Courts. Michael Gregory is
8 there with her.

9 And, Cary, can you share with us
10 the results of the recent weighted
11 caseload study, please?

12 MS. CARY MCMILLAN: Yes. The
13 FY2022 Judicial Weighted Caseload Reports,
14 which is the circuit and district caseload
15 reports, those have been done. I will go
16 ahead and admit up front that it is lower
17 than I anticipated. I thought that our
18 cases would increase.

19 So, the Chief Justice said what
20 is happening nationally. So, I went to
21 the National Center for State Courts. And
22 your third document is this pandemic
23 report. So, it's basically what has the

1 pandemic done to caseloads. And as you
2 will see in this report, it has a graph on
3 the front which is showing -- now, this is
4 cases. In our Judicial Weighted Caseload,
5 we count counts for criminal and cases for
6 all other case types. So, circuit
7 criminal and district criminal are both
8 counts and not cases.

9 So, I just wanted -- So, we are
10 changing up the statistics a little bit,
11 but I think it still shows what is going
12 on in the national trend.

13 So, on this page you see that --

14 CHIEF JUSTICE TOM PARKER: Cary?

15 MS. CARY MCMILLAN: Yes, sir.

16 CHIEF JUSTICE TOM PARKER: Before
17 you go further, for the sake of those who
18 are not involved in the criminal area, can
19 you explain the difference in counts?

20 MS. CARY MCMILLAN: Yes, sir.

21 CHIEF JUSTICE TOM PARKER: And
22 give some examples.

23 MS. CARY MCMILLAN: So, what

1 happens with counts and cases is, one county
2 or one circuit may put five counts on one
3 case, and we used to count that as one. And
4 then another circuit may put five cases for
5 one count each, and we would count that as
6 five.

7 So, it was not the same. Now we
8 have changed that with the last study, the
9 2016 study, that was done with the
10 National Center for State Courts. We
11 changed that to be -- I am going to count
12 that one case with five counts as five,
13 and I am going to count five cases with
14 one count as five so that we're not --
15 because it was an inadequate -- you know,
16 it was a numbers game. And so, we wanted
17 to make sure we did that.

18 And we are going to talk a
19 little bit more about that as we go into a
20 new study that the circuit/district judges
21 each have -- their associations did a
22 resolution to do a new study. So, we are
23 going to go into the new study in just a

1 minute.

2 HON. MICHELLE THOMASON: Question.

3 MS. CARY MCMILLAN: Yes.

4 HON. MICHELLE THOMASON: So, that
5 has been done, though, since 2016?

6 MS. CARY MCMILLAN: The new study?

7 HON. MICHELLE THOMASON: No. The
8 way that we counted counts has been done
9 since '16.

10 MS. CARY MCMILLAN: In '16 that
11 was part of that -- before it was 2008, and
12 that study did -- at that point in time, we
13 did cases. In 2016, we started counting
14 counts.

15 HON. MICHELLE THOMASON: Okay.

16 MS. CARY MCMILLAN: So, the
17 weights are lower for counts than cases
18 because you do have to take into account
19 that, you know, the one case with five
20 counts I am counting five times. But it all
21 works out because normally you are going to
22 court once and taking care of all of those
23 counts. So, you don't have double the court

1 work.

2 HON. BRENETTE BROWN-GREEN: So, I
3 think I understand you to say that, from
4 2016 to present, we are now counting all the
5 counts for criminal?

6 MS. CARY MCMILLAN: Yes, ma'am.

7 HON. BRENETTE BROWN-GREEN: Okay.
8 That's right.

9 MS. CARY MCMILLAN: So, as you can
10 see in this report -- and I can pull it up
11 on the big screen if you want to. But this
12 is kind of -- on the front page where it has
13 -- yes, the word document.

14 It has -- This is for the
15 national trend, which is showing that
16 there was in -- from 2019 to 2020, there
17 was a 28% drop in case filings. In 2019
18 to 2021, there is a 24% drop in case
19 filings.

20 And then your next document, you
21 will see this is Alabama. So, what is
22 showing up on the screen on the next
23 document is Alabama.

1 So, in Alabama, we dropped 14%
2 using the weighted caseload formula to
3 determine this. 14% in 2020, FY2020. And
4 then 8% in '21 and 9% in 2022.

5 So, I just wanted y'all to see
6 that actually compared to national, we are
7 not quite as -- our filings have not
8 dropped as much but they have dropped.

9 CHIEF JUSTICE TOM PARKER: Cary,
10 may I interject something here, please?

11 MS. CARY MCMILLAN: Yes, sir.

12 CHIEF JUSTICE TOM PARKER: We have
13 several reasons for this that are affecting
14 judicial systems nationally and us here
15 locally. First, we had the shutdown, but
16 then we had the moratorium on evictions, and
17 we had the freezing of any kind of mortgage
18 cases.

19 So, that served nationwide to
20 reduce the number of cases. But I have to
21 tell you I have a suspicion that people
22 have gotten used to alternative means of
23 dispute resolution during this timing.

1 And so, we are seeing that
2 effect also, a lower number of case
3 filings in civil at this point. Now, we
4 are seeing that rebounding nationwide, and
5 we hope that is going to occur here too.

6 MS. CARY MCMILLAN: Yes. Yes,
7 sir.

8 So, let's look at our -- I just
9 kind of wanted to give you a national
10 perspective of what nationally it looked
11 like. Nationally the biggest drop in
12 cases of civil --

13 HON. MICHELLE THOMASON: Before we
14 move on, can I ask a question?

15 MS. CARY MCMILLAN: Yes.

16 HON. MICHELLE THOMASON: I'm
17 sorry.

18 Okay. So, I am looking at this,
19 and I am looking at the national too. And
20 instead of it doing an increase from year
21 to year, it is comparing everything to
22 '19, right?

23 MS. CARY MCMILLAN: Yes.

1 HON. MICHELLE THOMASON: So, I see
2 that on the state. So, ours is too. So,
3 actually even though it says 14 and then 8,
4 it's not 14 plus an 8% drop, it's actually
5 an increase. So, in '21, there was an
6 increase of 6%, right, from '20 to '21?

7 MR. MICHAEL GREGORY: 6%.

8 MS. CARY MCMILLAN: Yes, roughly.
9 I don't --

10 HON. MICHELLE THOMASON: So --

11 MS. CARY MCMILLAN: As a
12 statistician, I don't usually do averages of
13 averages. But relatively, yes.

14 HON. MICHELLE THOMASON: Okay.
15 So, compared to '19, there was a 14% drop,
16 but then -- in '20. And then in '21, there
17 was actually -- it's back up, though, right?

18 CHIEF JUSTICE TOM PARKER: Yeah.

19 MS. CARY MCMILLAN: Yes, ma'am.

20 HON. MICHELLE THOMASON: And then
21 in '22, a little tiny drop but not a lot, 1%
22 or, like you said, an average of an average
23 may not be exactly 1%, but --

1 MR. MICHAEL GREGORY: I think the
2 '21 number indicates the pickup from how far
3 down it was in, like, the catch-up game you
4 are playing.

5 HON. MICHELLE THOMASON: Okay.
6 And then that was -- I was looking at the
7 combined. And then --

8 MS. CARY MCMILLAN: Yes. And then
9 you can look -- I went ahead and did the
10 circuit and the district to show the
11 difference there, as well. And for
12 nationally I don't have 2022 yet because
13 it's way too soon.

14 HON. MICHELLE THOMASON: Okay.
15 So, a rebound is not -- okay. I got it.
16 That makes sense.

17 MS. CARY MCMILLAN: But for the
18 national comparison, I felt the combined --

19 HON. MICHELLE THOMASON: Yes.

20 MS. CARY MCMILLAN: -- was the
21 best way to compare that.

22 All right. And we have some
23 other documents that are going to help us

1 explain that a little bit better. But
2 let's go ahead and pull up the circuit
3 weighted caseload because the circuit
4 weighted caseload and the district
5 weighted caseload for FY2022 are the most
6 important things that we are going to
7 discuss today.

8 So, you will see that I did put
9 an asterisk in a footnote, and it's very,
10 very small. I apologize for that. But I
11 didn't have enough room on the paper.

12 So, the footnote at the bottom
13 reads the Total Difference shows the net
14 of the surplus and shortages of judge need
15 by adding all of the fractions of the
16 judge need across the state in a statewide
17 total, which is not used in determining a
18 circuit's need. Because this is just a
19 number of averages there again, and I've
20 already said I don't really like averages
21 of averages. So, this is just a total of
22 averages.

23 So, you really have to look at

1 each individual circuit or district to
2 determine what the actual need is in that
3 particular circuit or district. A
4 negative number indicates that we need
5 more judges. A positive number means that
6 with the caseload, it is showing more
7 judges that are needed.

8 What is taken into account -- I
9 think there are a few people that haven't
10 been in this meeting very often. So, I am
11 going to go over what this means at the
12 top. Some of y'all have heard it a lot,
13 but I think it's important.

14 So, when you are looking at
15 this, you have your total workload in
16 minutes, and each case type is given a
17 minute, a value of minutes. So, a capital
18 murder case is 555 minutes. A felony
19 person case or count -- those are counts.
20 A felony person count is 104 minutes. So,
21 that's what gets important when you start
22 talking about minutes.

23 Then we have the judge year

1 value. We have the overall judge need,
2 which that's taking the judge year value
3 and dividing into the minutes. Then we --
4 In circuit court, we subtract the district
5 judge number; and in district court, we
6 add it. We subtract the referees, how
7 many referees are in that county.

8 From last year to this year, I
9 went back and looked at, for the part-time
10 referees, exactly how many hours that
11 referee did -- or the part-time referees
12 did in the county. And if it was under
13 .01 or it was under .1, then it shows as a
14 zero even though they do have -- I have
15 some referees in these counties. But it's
16 not statistically significant in a judge
17 year value.

18 Does that makes sense?

19 (No response).

20 MS. CARY MCMILLAN: Okay. I see
21 some confused faces. So --

22 MS. STEPHANIE HUNTER: Can you
23 repeat that, please?

1 MS. CARY MCMILLAN: Let's say I
2 took the -- like, we had some that just had,
3 like, maybe 2,000 minutes. And when you
4 divide 2,000 into -- Multi-county circuits
5 have a lower judge year value than single
6 county circuits because of the travel time.

7 But you divide it by that judge
8 year value for that specific circuit. And
9 if it comes out to be 0.01, I didn't --
10 it's going to show up as zero on this
11 report.

12 HON. MICHELLE THOMASON: You are
13 rounding down.

14 MS. CARY MCMILLAN: Well, 0.01 --

15 HON. MICHELLE THOMASON: Because
16 it's basically zero.

17 MS. CARY MCMILLAN: -- would be
18 zero.

19 HON. MICHELLE THOMASON: Yeah,
20 it's basically zero.

21 MS. CARY MCMILLAN: Yeah. If it
22 was .09, I would make it a one.

23 HON. MICHELLE THOMASON: Right.

1 Yeah. Okay.

2 MS. CARY MCMILLAN: I would round
3 up.

4 So, the part-time referees
5 don't -- they don't work -- you know,
6 their contracts are like -- Well, Bob
7 knows more about that than I do. But
8 their contracts aren't for a whole lot per
9 month.

10 MR. BOB MADDOX: It varies across
11 the State. It could be eight hours a month
12 in one county to -- I think one is, like,
13 119 hours per month. It just depends on
14 what is negotiated with each individual
15 referee and judge.

16 MS. CARY MCMILLAN: But I actually
17 looked at the number of hours worked as
18 opposed to the contract.

19 HON. BRENDETTE BROWN-GREEN: So,
20 does this take into account the travel time
21 for judges who are working a couple of
22 different circuits, moving about; is all of
23 that factored in here, as well, the travel

1 time?

2 MS. CARY MCMILLAN: Yes, ma'am.

3 So, that is why, in the multi-county
4 circuits, the judge year value is 83,000 --

5 MR. MICHAEL GREGORY: 850.

6 MS. CARY MCMILLAN: -- 850. And
7 then the single -- with the circuits that
8 only have one county, it's 90,300. And for
9 district, all of them are 90,300 because
10 it's just one county.

11 HON. BRENDETTE BROWN-GREEN: Okay.

12 MS. CARY MCMILLAN: All right.

13 So, I go over to referees, and you subtract
14 referees. And then that tells us with the
15 overall judge need minus the district court
16 judges in circuit and minus the referees,
17 the circuit judge implied need is that value
18 in looking at Choctaw, Clarke, and
19 Washington, that's 1.4. And then they
20 actually have two judges. So, this is
21 showing a surplus of .63 judges.

22 When we look at judges, we look
23 at usually whole judge values. We don't

1 say -- you know, you can't get a part of a
2 judge. So, we look at whether there is a
3 whole judge need or not a whole judge
4 need. If it's a fraction, then, like, the
5 Chief Justice was -- we don't deal in
6 fractions of people obviously because
7 there is a judge or there is not a judge.

8 So, that's why the fractions of
9 the -- in the footnote at the bottom,
10 fractions don't matter.

11 Now, fractions do matter in
12 ranking. So, when we start ranking,
13 obviously we are going to use those
14 fractions to rank. Otherwise, everybody
15 without a fraction would be -- you know,
16 zero would be most of them.

17 Do I have any questions? I am
18 going to go over the ranking a little bit
19 in a minute.

20 HON. ZACK COLLINS: I have a
21 question.

22 MS. CARY MCMILLAN: Yes.

23 HON. ZACK COLLINS: As it relates

1 to Alabama, the State as a whole, we have a
2 9.38. It appears to be an overage in terms
3 -- explain that to me because I know
4 historically we have seen, like, a negative.
5 We've always needed judges and now it
6 appears that we have nine -- almost
7 nine-and-a-half more judges, I guess, based
8 on the numbers. How do we get to that?

9 MS. CARY MCMILLAN: Yes, sir.
10 That's a great question too. Thank you.

11 That leads into -- So, as you
12 will see on circuit, on our graph, we have
13 a 10% drop in FY2022. A 10% drop is --
14 all right.

15 So, the -- When you add up that
16 10% drop and when I look at the actual
17 number of minutes represented in that 10%,
18 then I took that number and divided it by
19 the average circuit judge year value. And
20 what I actually did was take our number of
21 judges per judge year value in circuit to
22 make it -- you know, I didn't want to just
23 pick out one or the other. So, I said,

1 okay, this is how many judges. You know,
2 I took each county and multiplied it by
3 their judge year value to get the total --
4 the average judge year value. And I took
5 that and divided that by the minutes
6 represented in the 10% decrease. That is
7 18 judges. And in FY19, it showed that we
8 needed nine judges. And now it is showing
9 that we are over nine judges. So, it's
10 that decrease is that 10% went out to 18
11 judges.

12 And that's one of the things
13 that we are talking about, the 33%
14 decrease in circuit civil cases. I
15 actually did some more graphs or some more
16 -- not graphs, but the next sheet. Just
17 looking at staying in the circuit, I did
18 the circuit judicial caseload comparison
19 to FY19, the one that looks like this.
20 You will have to go back to the folder.

21 Okay. So, looking at this, what
22 I wanted to do was I went ahead and took
23 the FY19 numbers in the first two columns.

1 The first column obviously is the case
2 type. The second column is the weight
3 pertaining to that count or case.

4 And then in 2022 -- 2020, 2021
5 and then going to 2022, looking all the
6 way over, something -- this is the -- I
7 think it's great to see historically what
8 has happened during the pandemic. But
9 looking at 2022, you can see there was
10 actually an increase in felony persons,
11 and we are going to talk about that in a
12 minute too. There was an increase in
13 capital crimes, capital counts. And then
14 decrease in property.

15 But as you go down, you see that
16 there is a 52% decrease in contracts,
17 which that's a huge decrease in those
18 civil cases. And then workman's comp
19 decreased. I think working from home
20 people didn't get hurt as much.

21 And then we go down to general
22 civil, other, decreased 33%.

23 I do think we had an uptick a

1 little bit in domestic violence. I
2 actually thought that number would be
3 higher but it's not.

4 HON. JAMES REID: Is that from
5 working at home also?

6 MS. CARY MCMILLAN: Sure. I do
7 believe that. I think you're right. A lot
8 of emergencies during the pandemic on that
9 too.

10 And then I do think it's
11 interesting that domestic relations
12 uncontested and domestic relations
13 contested, if you go back to 2021, it
14 looks like that's where most of those were
15 filed. It looks like our decrease was
16 more in 2022 than it was in 2021.

17 And then juvenile, which
18 juvenile makes a difference but usually
19 statistically it doesn't make as much
20 difference.

21 So, really it's mainly that
22 civil that is -- has really looked -- has
23 made those numbers decline.

1 CHIEF JUSTICE TOM PARKER: And
2 that's what I was referring to earlier when
3 I said that people get used to alternative
4 means of dispute resolution when the courts
5 were not as available.

6 HON. ZACK COLLINS: I guess my
7 question -- and maybe this is something we
8 will discuss shortly -- is how does this
9 impact us? When it's showing that we have a
10 surplus of, let's say, nine judges, how will
11 that impact us going to the Legislature and
12 saying, hey, we still need the judges.
13 Because we have been showing that we need
14 them. How is that -- maybe that is
15 something I just -- I guess, Chief Justice,
16 you will --

17 CHIEF JUSTICE TOM PARKER: Well,
18 Zack, I will go ahead and give you the
19 answer now.

20 HON. ZACK COLLINS: Yes, sir.

21 CHIEF JUSTICE TOM PARKER: Last
22 year, we were showing a need of -- a
23 combined need of circuit and district

1 judgeships of 19 statewide.

2 HON. ZACK COLLINS: That's right.

3 CHIEF JUSTICE TOM PARKER: This
4 year, when you go beyond the total figure
5 and look at the circuit needs, it drops to
6 13 total circuit and district.

7 HON. ZACK COLLINS: Oh, okay.

8 CHIEF JUSTICE TOM PARKER: So, we
9 still have a need spread around the State.

10 HON. ZACK COLLINS: I got you.

11 MS. CARY MCMILLAN: And that's why
12 we wanted to put the asterisk so that -- and
13 encourage people not to focus on that number
14 --

15 HON. ZACK COLLINS: Yeah, I got
16 you.

17 MS. CARY MCMILLAN: -- to focus on
18 --

19 HON. ZACK COLLINS: I understand
20 now.

21 MS. CARY MCMILLAN: -- each
22 individual. Because statewide isn't really
23 how y'all do business.

1 HON. ZACK COLLINS: Yeah. I just
2 wanted to make sure I understood that. So,
3 I see now that's why you have the asterisk
4 there.

5 CHIEF JUSTICE TOM PARKER: Yeah.

6 HON. ZACK COLLINS: Got you.
7 Okay. I got it. Thank you, Chief Justice.

8 HON. MICHELLE THOMASON: So, that
9 number at the top is just adding up all of
10 those fractions. And so, it's -- you can't
11 take away a fraction of a judge. So, that
12 number really doesn't -- I mean, at least
13 this year in particular, it is -- it's very
14 misrepresentative of where we are. It's
15 showing that we have nine over when we still
16 have -- really need -- on the list there are
17 13 others -- in need of 13 judges.

18 HON. ZACK COLLINS: Got you.

19 HON. MICHELLE THOMASON: Right?

20 HON. ZACK COLLINS: That makes
21 sense.

22 HON. MICHELLE THOMASON: Does the
23 Legislature understand that at this point?

1 CHIEF JUSTICE TOM PARKER: Well,
2 we are going to have to make it clear to
3 them in a cover letter.

4 HON. MICHELLE THOMASON: Yes.

5 CHIEF JUSTICE TOM PARKER: Now, I
6 will tell you that there is one other factor
7 in that total that you didn't refer to, and
8 that's that there are surpluses and the
9 excess -- the excess in shortages are
10 averaged together in that along with the
11 fractions.

12 HON. MICHELLE THOMASON: Right,
13 right, right.

14 CHIEF JUSTICE TOM PARKER: Yeah.

15 MS. CARY MCMILLAN: I would like
16 to also look at -- we are going to go ahead
17 and discuss that there is one -- what I am
18 going to call an anomaly in here, and it is
19 the 34th Circuit, Franklin County. It is
20 showing that they need a judge. And this is
21 something that has kind of come up, but it's
22 -- it comes up more when it's, you know,
23 just a very small circuit with one judge.

1 So, I want to talk about that a little bit.

2 This is -- the way we count
3 counts is pornographic -- I mean, obscene
4 materials of a minor, possession of those,
5 some counties are doing that each -- their
6 exhibits in a case. Others are doing each
7 photograph or each digital image is a
8 count.

9 So, what that is in our case
10 types is a felony persons. And it is a
11 felony persons. But I don't think it can
12 -- that count in our new case study that
13 we do, I think we are going to have to
14 look at that because I don't think it's
15 the same as a rape. It is a tragedy, but
16 it shouldn't have the -- the count may not
17 need to be --

18 HON. MICHELLE THOMASON: Weighted
19 the same.

20 MS. CARY MCMILLAN: -- the same,
21 weighted the same.

22 So, that's what we are going to
23 look at in the new case study, which is

1 going to be a time study, Judges. So,
2 some of y'all have done that before. The
3 ones who have not, get ready. It's a lot
4 of time and it's a lot of effort, but it's
5 worth it because this is where I am
6 getting my numbers.

7 So, we will go over that at the
8 Mid-Winter a little bit and talk to y'all
9 about that.

10 HON. ZACK COLLINS: I know this
11 might be stepping outside of the box and not
12 for this meeting.

13 But is there a way that we can
14 get with our tech guys and see if they can
15 add some functionality into Alacourt that
16 would make it easier than doing that
17 handwriting? I mean, I know this is for
18 another meeting, but have y'all thought
19 about that?

20 MS. CARY MCMILLAN: We've been
21 doing a little bit of that with the juvenile
22 probation officers. We are doing a Delphi
23 -- We are kind of doing a hybrid. We are

1 doing a time study but not making every JPO
2 in the state do it.

3 And so, we are doing kind of the
4 Delphi and time study combined. And they
5 put it online, and it was a little bit
6 more cumbersome.

7 So, I think, yes, we can -- I
8 definitely want to talk about that. But
9 they ended up like, you know, having it on
10 paper and just doing it as they went
11 through their day. But we will have both
12 available.

13 I don't know if it can be
14 through Alacourt plus or not. It might
15 have to be a separate standalone because
16 those numbers actually go -- the ones that
17 we are doing through -- they are going
18 straight to National Center for State
19 Courts, and they are not identified
20 information.

21 HON. ZACK COLLINS: Got you.

22 MS. CARY MCMILLAN: So, it's not
23 about AK. It's about the fact -- you know,

1 what type of case it is, but it's not names
2 or anything like that.

3 CHIEF JUSTICE TOM PARKER: Let me
4 give a little update to everybody on the
5 Commission.

6 The Supreme Court, through its
7 committees, is wrestling with the issue of
8 uniform charging of criminal cases right
9 now. And so, we are trying to find a good
10 resolution of that.

11 I have to tell you that the
12 circuit clerks don't have the background
13 knowledge to know what should be combined
14 or treated separately because they don't
15 know the facts of each individual case
16 that comes before them.

17 So, we have been working with
18 the District Attorneys Association trying
19 to assign the responsibility of who is
20 going to make the call as to whether it
21 should be counts or one case. But we are
22 trying to address that right now.

23 And I want to go back to the

1 example that Cary McMillan had mentioned
2 to you with the 34th Judicial Circuit,
3 Franklin County. In the original first
4 run of the weighted caseload study, it
5 showed that they were ranked number four.
6 Well, because of the way that they treated
7 every possession of child pornography as a
8 separate count, it distorted it. And I
9 had the AOC computer rerun it taking out
10 the possession of child pornography.

11 Now, there is an unusual code
12 assigned to it. It's PMIO. We don't
13 really understand why that was chosen, but
14 I had it taken out for everything because,
15 if we took it out just for Franklin and
16 somebody else had done something similar,
17 it would leave a distortion in the
18 results.

19 And so, once the PMIO was taken
20 out, Franklin dropped from number four to
21 number 15.

22 DR. RICH HOBSON: It was the only
23 one that was statistically significant that

1 had a --

2 CHIEF JUSTICE TOM PARKER: Yeah.

3 DR. RICH HOBSON: You know, it was
4 truly an outlier.

5 CHIEF JUSTICE TOM PARKER: Yeah.

6 MR. MICHAEL GREGORY: There were
7 over 1,000 counts --

8 MS. CARY MCMILLAN: On two cases.

9 MR. MICHAEL GREGORY: -- on two
10 cases in Franklin County.

11 HON. ZACK COLLINS: But you did
12 that for every circuit?

13 CHIEF JUSTICE TOM PARKER: Yeah.
14 And as Dr. Hobson just referred to, the only
15 statistical difference or deviation was
16 Franklin County dropping from rank number
17 four to rank number 15. The others might
18 have been one number in ranking in
19 difference.

20 MS. CARY MCMILLAN: Thank you.
21 And that did --

22 HON. MICHELLE THOMASON: Well, I
23 have a question about that. Wouldn't that

1 be significant if we were to receive 13
2 judges today, then that showing four, they
3 would get a judge? But if they were 15,
4 they would not; am I right?

5 CHIEF JUSTICE TOM PARKER: Yes.

6 We --

7 HON. MICHELLE THOMASON: So, we
8 would account for that somehow?

9 CHIEF JUSTICE TOM PARKER: We will
10 get to the ranking of the judgeship needs as
11 we progress through this.

12 HON. MICHELLE THOMASON: Okay.

13 MS. CARY MCMILLAN: So, the -- it
14 actually was 136 total counts of --

15 MR. MICHAEL GREGORY: Thousand.

16 MS. CARY MCMILLAN: I mean -- I'm
17 sorry, you're right -- 1,036 counts with
18 five cases, with two of those cases having
19 500 counts each. So, that represents 1.19
20 of judge need.

21 So, I just wanted to let y'all
22 know what that means. So, that's showing
23 that they -- I am not sure five counts

1 justifies recommending a judge. And I do
2 not recommend a judge based on five cases.

3 MR. MICHAEL GREGORY: Minus those
4 counts, the PMIO counts in Franklin County,
5 it puts them right back in the ranking where
6 they averaged over the past three years.

7 HON. MICHELLE THOMASON: Okay.

8 HON. BUTCH BINFORD: Have we
9 looked at other types of cases where you can
10 have multiple counts, for example, car
11 break-ins or if you have -- I have a guy on
12 the docket with about 180 of those credit
13 card frauds. Can we take those out and look
14 at it and see if that affects anything? My
15 county in Houston, they -- I probably
16 shouldn't -- they charge every single
17 separate case, you know, like that. And
18 there are no multiple count indictments.

19 CHIEF JUSTICE TOM PARKER: Well, I
20 will tell you this number four ranking on
21 the 34th District just drew our attention,
22 and that's what we responded to by getting a
23 rerun of the way the caseload study without

1 the PMIO.

2 We have not had other things
3 brought to our attention that caused
4 something to jump off the page at us.
5 Now, in the past we did have something --
6 what county was it with a capital case?

7 MS. CARY MCMILLAN: Lamar County.

8 MR. MICHAEL GREGORY: Fayette,
9 Lamar County.

10 CHIEF JUSTICE TOM PARKER: So, we
11 have encountered this in the past, and we're
12 -- that's why we need to have a new rule
13 adopted for the uniform charging of cases
14 and that's what we are working on now.

15 HON. JAMES REID: Question.

16 CHIEF JUSTICE TOM PARKER: Yes,
17 James?

18 HON. JAMES REID: In Franklin
19 County, it was over 1,000 cases, five
20 counts, how many defendants were there?
21 Five -- two defendants. So, that could have
22 been two cases?

23 MR. MICHAEL GREGORY: It was two

1 separate cases with 500 -- approximately 500
2 in each case. 500 counts in each case, two
3 incidents. I'm not sure if it was the same
4 individual or not. I don't think it was.
5 There were different dates, though, I know.

6 HON. JAMES REID: And we -- we --
7 I don't know. Maybe they still do this a
8 lot. But that happens in drug cases too
9 where they just recover a lot of different
10 packages of drugs and they will charge them
11 multiple. They used to. I'm not doing it
12 regularly now, but they used to.

13 So, that could be a little bit
14 of a problem too for the statistical
15 number with drug cases.

16 CHIEF JUSTICE TOM PARKER: Well,
17 and we would also encounter that with
18 fraudulent checks, fraudulent use of a
19 credit card. So, that's why we have a
20 systemwide need to adopt some uniformity.

21 MR. MICHAEL GREGORY: We do have
22 the ability to see all the different number
23 of counts out there. We will run a

1 generator report that shows us any over,
2 like, 20. It will show us all of them, but
3 we notice these anomalies like this when we
4 see over 100 counts in certain case types in
5 the criminal world.

6 So, we will go and look into
7 those each individually and determine if
8 they affected the outcome. Now, generally
9 they don't usually because they're in the
10 felony property division. These other
11 ones in felony persons are a little bit
12 higher as far as the case weight goes.
13 So, that brings it up a little bit more.

14 MS. CARY MCMILLAN: Judge Binford,
15 you mentioned fraudulent credit card. And
16 what was the other one that you mentioned?

17 HON. BUTCH BINFORD: Credit card
18 fraud, breaking in motor vehicles.

19 MS. CARY MCMILLAN: Okay.

20 HON. BUTCH BINFORD: You do have
21 separate victims in each case, but those
22 just run out in multiple indictments.

23 MS. CARY MCMILLAN: Thank you.

1 But I do want to talk about it when we have
2 the Judicial Weighted Caseload Committee to
3 -- these are things that need to be talked
4 about. I appreciate that.

5 All right. Any more questions
6 on circuit?

7 (No response).

8 MS. CARY MCMILLAN: Then let's
9 look at district. The district didn't
10 change as much from 2000 -- well, it changed
11 8%. And there again, the biggest thing in
12 -- if we pull up the chart also that has the
13 comparisons, that's the easiest way to show
14 what the differences are, the district
15 Judicial Weighted Caseload comparisons to
16 FY2019.

17 Again, there was a 21% increase
18 in capital crimes. We know that they're
19 going to hit district first before they go
20 through and go through the Grand Jury and
21 indictment process before they go to
22 circuit court. So, normally that's an
23 indication of what is to come the next

1 year. Usually those will -- So, I
2 anticipate an increase in capital crimes
3 being charged in circuit court to be more
4 next year.

5 Then Class A felonies increased,
6 and then the other counts for criminal
7 decreased. DUI decreased. Traffic went
8 up a lot. That's a very low case type,
9 but it went up 38% from 2019. But then
10 that's when you get to your big number of
11 small claims. Small claims decreased 30%
12 from FY19 to FY2022. And then district
13 civil increased, but there are not as many
14 district civil cases.

15 HON. MICHELLE THOMASON: Can I ask
16 a question about that?

17 CHIEF JUSTICE TOM PARKER: Yes.

18 HON. MICHELLE THOMASON: There is
19 a significant decline in civil -- circuit
20 civil cases and a significant increase in
21 district civil cases.

22 At what point -- I don't
23 remember the year -- did the

1 jurisdictional amount change from the --
2 that increased the threshold for district
3 court? Zack, do you remember?

4 HON. ZACK COLLINS: 2018? 2019.

5 HON. MICHELLE THOMASON: So,
6 that's got to account for some of that.
7 Because we pulled -- Without any other
8 statistical change, we pulled from the
9 circuit down to the district, right?

10 MR. MICHAEL GREGORY: Right.

11 MS. CARY MCMILLAN: That is
12 correct.

13 HON. MICHELLE THOMASON: I would
14 guess a lot because that falls in the total
15 with that extra weight on district judges.

16 MR. MICHAEL GREGORY: I think the
17 max went from 6,000 to 10,000 in --

18 HON. MICHELLE THOMASON: Small
19 claims.

20 MR. MICHAEL GREGORY: -- small
21 claims.

22 MR. TODD RUSSELL: Yeah. And
23 20,000 in circuit.

1 MR. MICHAEL GREGORY: 20,000 in
2 circuit.

3 HON. MICHELLE THOMASON: I was
4 thinking it was '19 but I wasn't sure.

5 MS. CARY MCMILLAN: Small claims
6 in district civil gets the same weight. And
7 so when you -- those are the civil case
8 types in district. And so, when you add
9 those, the overall drop is 22% because there
10 is so many more small claims cases than
11 district civil. So, it is a drop in civil
12 cases in district court by 22%. It's just
13 -- I just wanted to split those out to let
14 you see what those -- what each --

15 HON. MICHELLE THOMASON: Well, and
16 with the new threshold -- I mean, a district
17 civil case now takes a whole lot more time
18 than a small claims case which is in and out
19 and, you know, a 15-minute trial with no
20 discovery. You know, so they're very
21 different.

22 MS. CARY MCMILLAN: And I imagine
23 in the new study that is really going to

1 change.

2 HON. MICHELLE THOMASON: I believe
3 so. I agree.

4 MR. MICHAEL GREGORY: Unless
5 there's a default judgment.

6 MS. CARY MCMILLAN: Then juvenile,
7 all juvenile types went down. Juvenile, the
8 reason it's on both reports is we count --
9 juvenile can be either circuit or district.
10 And it depends on the presiding juvenile
11 judge in that county. So, even if it's a
12 circuit judge in that county that is -- then
13 we call it circuit. And if it's district,
14 we put it into district.

15 So, most of our counties are
16 district, but some of our large counties
17 are circuit. Like, Jefferson is circuit.
18 And we will have to see what happens in
19 Russell County. That may be changing.

20 HON. ZACK COLLINS: Yeah, it will
21 a little bit, just a little bit.

22 MS. CARY MCMILLAN: And we change
23 as the judges change. So, those numbers can

1 change a little bit, but it's all juvenile.
2 And juvenile is counted the same way whether
3 it's circuit or district.

4 Are there any more questions in
5 district?

6 MR. BOB MADDUX: The
7 jurisdictional threshold officially went up
8 on September 1st, 2019.

9 MS. CARY MCMILLAN: So, the end of
10 the year, before the end of the fiscal year.

11 HON. CHRIS HUGHES: Judge Thomason
12 has made me just wonder. I think what
13 happens in our circuit -- I haven't crunched
14 numbers. But what seems to happen is a lot
15 of times a plaintiff will file a case in
16 district court that used to be in circuit
17 court. The defendant immediately asks for a
18 jury, which gets it moved to circuit court.
19 How is that figured?

20 Like, the district court, does
21 it still count as a filing and it's an
22 additional circuit court filing, or is the
23 filing in district court subtracted and

1 added to the circuit court? How does that
2 work?

3 MS. CARY MCMILLAN: Both are
4 counted.

5 HON. CHRIS HUGHES: Okay.

6 MS. CARY MCMILLAN: Because it was
7 filed. You did have to have, you know,
8 whatever -- I mean, the judge has got to
9 rule on the motion and then -- so, we are
10 going to count it in both.

11 HON. CHRIS HUGHES: Okay. Thank
12 you.

13 MS. CARY MCMILLAN: You're
14 welcome.

15 And just like in juvenile, if
16 it's a trial de novo in circuit court from
17 district, we count it twice.

18 HON. CHRIS HUGHES: Okay.

19 MS. CARY MCMILLAN: Once in
20 district and once in circuit.

21 Do y'all have any other
22 questions on -- anything that I -- And I
23 found this report from the National Center

1 for State Courts to be very interesting
2 and really felt like their small claims
3 went down and our small claims went down
4 but our district civil did not because
5 obviously, like we talked about, the case
6 where you file it changed.

7 So -- but I thought it was
8 interesting that we do kind of follow the
9 national trends, and we are a little bit
10 better off than the national trends, which
11 is a good thing.

12 So, Chief?

13 CHIEF JUSTICE TOM PARKER: Well,
14 Cary made mention of a new study; and as a
15 background for that, we have two judgeship
16 associations: The Circuit Judges
17 Association and a District Judges
18 Association. Those predated the creation of
19 the Unified Judicial System in 1973.

20 And so, we still include them in
21 the mix in the judicial system. And at
22 the summer meeting, both of the
23 associations passed resolutions calling

1 for a new weighted caseload study.

2 Now, Cary has mentioned the
3 Delphi Method. That was the last one that
4 we did, which is really taking just a
5 representative sampling. This one will
6 involve all of the judges who will
7 participate.

8 And, Cary, can you tell us what
9 is underway to try to get that in place
10 and when we might launch that study?

11 MS. CARY MCMILLAN: Yes, sir. We
12 -- The contract has been signed on our end
13 and now it's over at the National Center for
14 State Courts. We did not start the process
15 until this fiscal year because we needed to
16 pay for it in this fiscal year, which makes
17 a difference to us. So, now we are just
18 waiting for the final contract to be signed.

19 And in the original timeline, we
20 had said we were going to meet for the
21 first time in January. Hopefully we will
22 still be able to do that. It might be the
23 beginning of February when we can get

1 together the Committee. And the Committee
2 will be judges -- all judges.

3 CHIEF JUSTICE TOM PARKER: In the
4 past, when we had an actual study, rather
5 than a Delphi representative approach, we
6 had the highest participation of judges that
7 the National Center for State Courts had
8 ever seen.

9 What was that, Cary? Do you
10 remember?

11 MS. CARY MCMILLAN: It was 75%
12 which is amazing.

13 CHIEF JUSTICE TOM PARKER: So, our
14 judges are invested in this, and we expect
15 that and better as we go forward with the
16 new study.

17 MS. CARY MCMILLAN: Yes, sir. And
18 the Committee will have to meet. We will
19 talk about these things that have been
20 discussed today. I will make sure that all
21 of those are brought up so that we can look
22 at do we need a different case type for
23 things that are very -- that aren't -- so

1 that we count things as they are and not --
2 you know, to make sure that it doesn't
3 happen where we are recommending a judge for
4 -- in a county that doesn't really need one.

5 So, I think we are learning as
6 we go, and I am excited about that.

7 So, that's what we will do. We
8 will talk about case types, what changes
9 we need to make. And then we will talk
10 about once we get that built, then we can
11 do the study so that each judge can get
12 the time study and start doing that.

13 Hopefully we will be able to do
14 the time study in March; if not, it will
15 be April. I definitely want to try to get
16 that in place and do it. So, it's going
17 to be an aggressive schedule next year,
18 but I don't want to wait until summer.

19 That will not give us a true indication of
20 what judges do because that's when school
21 is out and people take vacation. And so,
22 I want to do it when more judges are on
23 the bench all the time.

1 CHIEF JUSTICE TOM PARKER: And,
2 Cary, how long of a time period will they be
3 keeping records for it? Just a week, is it?

4 MS. CARY MCMILLAN: A month.

5 CHIEF JUSTICE TOM PARKER: A
6 month?

7 MS. CARY MCMILLAN: Uh-huh
8 (positive response).

9 CHIEF JUSTICE TOM PARKER: Okay.

10 MS. CARY MCMILLAN: Because one
11 week you might, you know, have one type of
12 -- I know some counties do criminal this
13 week and civil next week. You know, we want
14 to make sure we get it all.

15 CHIEF JUSTICE TOM PARKER: Okay.
16 Well, last week at the monthly meeting of
17 the Alabama Supreme Court, they adopted the
18 weighted caseload results for FY22. And so,
19 our job here is just to adopt those too and
20 recommend the needed judgeships to the
21 Legislature.

22 Again, this is what I started
23 out referring to, how I use the common

1 parlance of referring to this as the
2 Reallocation Commission, but that's only
3 part of our responsibility. We are also
4 to make a recommendation of the increased
5 judgeship needs in the state.

6 And Dr. Hobson has something he
7 is going to hand out now that --

8 DR. RICH HOBSON: Take one and
9 pass it around.

10 CHIEF JUSTICE TOM PARKER: -- that
11 specifically pulls the judgeship needs out
12 of these two circuit and district court
13 Weighted Caseload Study results.

14 (Brief pause).

15 CHIEF JUSTICE TOM PARKER: Now,
16 going back to reemphasize something that
17 Cary said, we don't deal in fractions when
18 we are seeing the need for new judgeships.
19 It has to be a whole number. We don't round
20 up on that.

21 However, you can also see that
22 the fractions are used in ranking. For
23 instance, the 19th Judicial Circuit,

1 Autauga, Chilton, Elmore Counties has a
2 need for 2.34, which is higher than
3 Baldwin County, which has 2.10. So,
4 that's where the fractions are utilized,
5 just in ranking. But we round off to
6 whole numbers. The 2.34 is two. The 2.10
7 is two.

8 You will notice that Franklin
9 County is not listed in there. We have
10 removed that anomaly in this. And if you
11 add the two numbers, eight circuit and
12 five district, that's the 13 that I
13 referred to.

14 Our last study that we had had
15 shown a need of 19 combined, but that was
16 based on the 2019 numbers. We now have
17 the completed FY22 numbers, which do show
18 a continuing need but less than before the
19 pandemic.

20 So, are there any questions as
21 we move forward on this?

22 HON. MICHELLE THOMASON: I am
23 making up for not talking at our last

1 meeting, I guess, today.

2 CHIEF JUSTICE TOM PARKER: We're
3 just thankful that you attended.

4 HON. MICHELLE THOMASON: I know.

5 CHIEF JUSTICE TOM PARKER: She was
6 on the --

7 HON. MICHELLE THOMASON: Masked up
8 and all, right?

9 CHIEF JUSTICE TOM PARKER: --
10 after the tail-end of COVID.

11 HON. MICHELLE THOMASON: So, can I
12 assume that -- so, if -- I think it's a
13 majority if it's still the same numbers that
14 I remember looking at a while back. But of
15 district judges are specially appointed as
16 circuit judges -- I know that that's
17 accounted for to know where I'm going.

18 But in some jurisdictions where
19 that doesn't happen, there may be a need
20 in a circuit or district and a surplus in
21 the other. And it's the presiding judge's
22 choice to leave it that way and not -- do
23 you know what I mean, not specially

1 appoint those district judges to even the
2 workload out.

3 I guess my question is: Has it
4 been verified that if there is a need in
5 circuit, there is not an overage in
6 district and vice versa on these on this
7 list?

8 CHIEF JUSTICE TOM PARKER: Cary?

9 HON. MICHELLE THOMASON: Does that
10 make sense?

11 MS. CARY MCMILLAN: I have not
12 done that.

13 HON. MICHELLE THOMASON: I just
14 think that would be a hard thing to sell. I
15 mean, I think the Legislature is already
16 kind of looking at jurisdictions in counties
17 where there is, you know, not very much
18 workload in a district but another, you
19 know, neighboring county is well overworked.

20 So, I was just curious if -- I
21 just did a quick look through the circuits
22 and districts. Because I know in
23 Lauderdale County, for example, they're

1 both showing a shortage in both. But one
2 is showing a significantly more shortage
3 than the other, but they do not -- their
4 district judges do no circuit work. They
5 only do district.

6 So, I was just wondering if that
7 -- Do you know what I'm saying?

8 MS. CARY MCMILLAN: Yes. And
9 juvenile in Lauderdale is in circuit court.

10 HON. MICHELLE THOMASON: It's in
11 circuit court?

12 MS. CARY MCMILLAN: It is in
13 circuit.

14 HON. MICHELLE THOMASON: Okay.
15 And see, I think -- I know -- I don't think
16 in Mobile they specially appoint either.
17 But anyway, I'm just curious. Maybe that is
18 just something that may need to be looked at
19 if -- just to confirm that there is not an
20 overage in the other -- in the same county
21 there is not an overage in the different
22 court.

23 MS. CARY MCMILLAN: In Mobile,

1 juvenile, again, is in circuit. The
2 presiding juvenile court judge is a circuit
3 judge, and then there is another district
4 judge that is in juvenile court. So, they
5 do have that district court in Mobile. You
6 are going to see a one which is the 13th
7 circuit. So, you see a one in that
8 district, and that's in juvenile court.

9 And then the same thing for
10 Jefferson. They have -- They have three
11 district judges that are in juvenile court
12 that are district, but the presiding is
13 circuit. And so, that's Bessemer and --
14 one in Bessemer and two in Birmingham.

15 HON. BRENDETTE BROWN-GREEN: So,
16 I've got a question to make sure I am clear
17 on this.

18 CHIEF JUSTICE TOM PARKER: Yes,
19 Judge?

20 HON. BRENDETTE BROWN-GREEN: I
21 understand that we don't count partial
22 numbers for a judge when we are talking
23 judges that are needed. But I was just

1 wondering, when the number is so close to
2 the next whole number, why don't we go up?

3 For example, Baldwin County is
4 1.91. That is so close to two. So, why
5 would we not ask for two for Baldwin
6 County?

7 And I'm not even from Baldwin
8 County, but I know that they have a dire
9 need.

10 HON. MICHELLE THOMASON: She's
11 their friend today, right?

12 CHIEF JUSTICE TOM PARKER: Judge,
13 I will tell you my personal answer on that.

14 HON. BRENDETTE BROWN-GREEN: I
15 mean, you know -- and then even with Mobile
16 --

17 CHIEF JUSTICE TOM PARKER: Yeah.

18 HON. BRENDETTE BROWN-GREEN: --
19 it's almost two, 1.86. And if we were just
20 doing regular arithmetic, then we would
21 probably count that as two.

22 So, I'm just curious as to why
23 we don't do that. And if it has something

1 to do with the weight of the cases that we
2 are looking at, shouldn't that prompt us
3 to look more closely at how the weight is
4 being determined?

5 So, that's like a lot of
6 questions in there. If you could clarify
7 some of that?

8 CHIEF JUSTICE TOM PARKER: No. I
9 understand the sentiment behind that. And I
10 will tell you that personally I take the
11 position that, if we start moving away from
12 whole numbers and accept the 1.9, we will
13 get Baldwin County delegation pushing to
14 lower it to 1.8. And we get into some
15 legislative battles over where the cutoff
16 point should be.

17 And so, we have just operated on
18 whole numbers only at this point to try to
19 reduce the competition between the
20 circuits that occurs in the Legislature.

21 DR. RICH HOBSON: And, Chief
22 Justice, if I could just piggy back, I mean,
23 we have tried to be consistent the whole

1 way. I mean, you can look at, I believe,
2 district court in Tuscaloosa is .99, but we
3 have held the line and said, okay, it is not
4 a whole number.

5 So, we have tried to be
6 consistent since 2017, yeah, and that's
7 why. So, just to be across the board.

8 HON. BRENDETTE BROWN-GREEN: So, I
9 take it we could never go back and change
10 that standard to give a cutoff point so that
11 when these -- when we have these numbers
12 occur the way they do that we could never
13 move up to the next number. Because I guess
14 my thought -- and I'm new, so I'm probably
15 way out in left field.

16 I realize that the numbers that
17 have been presented show that in -- based
18 on the 2019 numbers, we needed 19 judges,
19 and now based on the most recent numbers,
20 we need 13 judges on paper. But in all of
21 these -- these jurisdictions, the people
22 doing the work are feeling the crunch and
23 saying, oh, no, we still need 19 because

1 they are still feeling it.

2 So, I'm wondering if -- if maybe
3 our approach to the way we determine the
4 value or the weight, if that's something
5 that we might need to revisit so that we
6 can get more of an accurate picture of
7 what is needed so that, when you have to
8 go before the Legislature and sell this to
9 them and get them on board with funding
10 what we need, if that would give you more
11 in your toolbox to work with.

12 CHIEF JUSTICE TOM PARKER: Well, I
13 will tell you that we have had such
14 difficulty getting new judgeships from this
15 Legislature that I want to stick with the
16 consistency that we have established on the
17 numbers. And if we can get these, then
18 maybe the Legislature itself will change the
19 standard going forward.

20 HON. BRENDETTE BROWN-GREEN: Okay.

21 DR. RICH HOBSON: That's true.

22 And, Chief Justice, let me make a
23 correction. I am wrong. It's not

1 Tuscaloosa. Judge Binford, I'm sorry. It's
2 Houston.

3 HON. MICHELLE THOMASON: It is
4 Houston. That's what I was just thinking.

5 DR. RICH HOBSON: For the record.

6 HON. MICHELLE THOMASON: And just
7 to agree with Judge Brown-Green, I think
8 what she is saying is, I'm sure in the last
9 study Houston -- Houston is .99 right now.
10 So, in the last one, they showed a need.
11 They were one point something. And just
12 that little bit of decline in case put them
13 at .99, but they clearly still need a judge.
14 They might have lost a few cases, but in
15 real need, it's still a legitimate need.
16 And next year you can count that they're
17 going to be backlogged.

18 But you are right, we have to
19 have a cutoff and if the whole number is
20 the cutoff. And if the whole number is
21 the cutoff --

22 DR. RICH HOBSON: Right.

23 HON. MICHELLE THOMASON: -- you

1 know, there is always --

2 DR. RICH HOBSON: And it was .82.

3 It was a need of .82 last time.

4 HON. BUTCH BINFORD: We are not
5 feeling -- judges aren't feeling this
6 decrease in caseload.

7 HON. BRENDETTE BROWN-GREEN: No.

8 HON. BUTCH BINFORD: Judge
9 Brown-Green and I talked and the numbers --
10 that's a 42% drop in civil cases. We don't
11 feel that because we are struggling to make
12 up for the cases we couldn't do.

13 CHIEF JUSTICE TOM PARKER: Yeah.

14 HON. BUTCH BINFORD: You know, so,
15 yeah, we need -- the numbers aren't really
16 accurate, you know, as far as the real life
17 what is happening on the ground scenario.
18 We are struggling, you know, to keep up.

19 HON. MICHELLE THOMASON: It may
20 vary from county to county. I mean, some
21 counties -- I mean, I would image the graph
22 looks like this instead of like this,
23 because there is no way my domestic

1 relations are down. My numbers are
2 definitely up.

3 CHIEF JUSTICE TOM PARKER: Well,
4 let me say this: Based on what Dr. Hobson
5 has passed out, pulling the individual
6 circuit needs from this Weighted Caseload
7 Study, if this is approved by this
8 Commission today, this is what I am going to
9 be asking the Legislature for.

10 Now, it's a two-part process.
11 These judgeships, if they're funded, could
12 take two years to be filled. And so, we
13 right now have the American Rescue Plan
14 money from Congress that is useable for
15 COVID backlog relief judges. And this
16 addresses the point that Judge Binford and
17 Judge Thomason were referring to. They
18 still are really struggling to catch up.

19 And if we can use those federal
20 funds to cover this two-year gap before
21 there is a permanent fill on new
22 judgeships, that can help us just smoothly
23 work forward with what has accumulated.

1 Because if you get a new judge in two
2 years, it could take them some time to get
3 acclimated to the bench. And if we can
4 bring back retired judges through use of
5 the COVID backlog relief funding, this
6 will help us bridge the gap there.

7 So, after that presentation by
8 Cary with Michael's input on that too, are
9 there any other questions about the
10 Weighted Caseload Study results?

11 (No response) .

12 CHIEF JUSTICE TOM PARKER: Well,
13 it is time to entertain a motion to
14 officially adopt these then.

15 Do I hear such a motion?

16 HON. JAMES REID: I will make the
17 motion to.

18 CHIEF JUSTICE TOM PARKER: Okay.
19 Judge Reid.

20 Do I hear a second?

21 HON. BUTCH BINFORD: I will second
22 the motion.

23 CHIEF JUSTICE TOM PARKER: Judge

1 Binford.

2 And so, any discussion on the
3 motion?

4 (No response) .

5 CHIEF JUSTICE TOM PARKER: Hearing
6 none, I call for the ayes in favor of
7 adopting that. Just if you could raise your
8 hand on that so we could see.

9 (All members vote in favor of
10 the pending motion.)

11 CHIEF JUSTICE TOM PARKER: So,
12 it's unanimous on that. So, thank you.

13 And I will tell you that in a
14 cover letter to the Legislature on these
15 13 judgeships, I will point out the
16 anomaly on Franklin County -- I think
17 that's Circuit 34 if I recall correctly --

18 MR. MICHAEL GREGORY: That's
19 correct.

20 MS. CARY MCMILLAN: Yes, sir.

21 CHIEF JUSTICE TOM PARKER: -- and
22 how that is not factored into the request.

23 HON. ZACK COLLINS: Chief Justice,

1 I do have a question.

2 CHIEF JUSTICE TOM PARKER: Yes.

3 HON. ZACK COLLINS: As it relates
4 to bringing back the retired judges, is
5 there a -- and just so we can all know, is
6 there an idea or a proposal to use that
7 money to bring back retired judges in those
8 particular circuits or bring retired judges
9 back to maybe work those circuits?

10 I mean, what is the proposal?
11 And would that be, like, a contract for,
12 like, two years until we can get some
13 money from Legislature or what?

14 CHIEF JUSTICE TOM PARKER: You
15 have already done some good thinking on
16 this. I will tell you what we have
17 determined.

18 Right now there is a statute on
19 the books that was meant to allow judges
20 to come back to work full time, retain
21 their pay and be paid the difference
22 between their retirement pay and the
23 current salary. RSA would not let me

1 enforce that way back in 2001 when I was
2 general counsel for the court system,
3 because they didn't like the wording of
4 the statute.

5 So, we have to get that wording
6 in line, and they have given us their
7 stamp of approval. So, that would allow a
8 judge to retain his retirement and come
9 back and be paid the difference between
10 his retirement and the current salary for
11 a judge with that experience at that
12 level.

13 Now, to do that, we get -- the
14 age limitation does not apply. For those
15 of you who are not aware of that, we
16 cannot run again after age 70. So, I am
17 seeing the last two years of my service on
18 the bench right now.

19 But we also would not have a
20 geographic limitation to where those
21 retired judges come from, but they will be
22 serving in these areas where there is the
23 existing need right now. And we even

1 thought about having a few floaters to
2 take care of problems that need to be
3 resolved in certain circuits that go to
4 the backlog.

5 HON. ZACK COLLINS: Yes, sir.

6 CHIEF JUSTICE TOM PARKER: Now,
7 and I will say that we have, in discussing
8 this with the Legislature, we've talked
9 about a contract approach, but it's not a
10 two-year contract, it's just a one-year
11 contract subject to renewal because we want
12 to make sure they are doing the work that is
13 needed.

14 HON. MICHELLE THOMASON: Can I
15 make a point just to close a loop I opened?

16 CHIEF JUSTICE TOM PARKER: Yes,
17 Judge Thomason.

18 HON. MICHELLE THOMASON: After
19 looking at the implied need schedule and
20 looking at the cases, there is only one
21 county on the list where there is a need in
22 district court and a surplus in circuit
23 court. But the difference between the two

1 still shows a need of a full judge in that
2 county, in Shelby County.

3 CHIEF JUSTICE TOM PARKER: Okay.

4 HON. MICHELLE THOMASON: So,
5 that's why I didn't say it before the vote
6 because it still shows that need, so just
7 FYI on that.

8 CHIEF JUSTICE TOM PARKER:
9 Anything else from anyone?

10 (No response).

11 CHIEF JUSTICE TOM PARKER: Well,
12 lunch is -- should be here by now.

13 DR. RICH HOBSON: It is. It's
14 Cucos. It's for y'all. It's the best part
15 of the meeting.

16 CHIEF JUSTICE TOM PARKER: Good.

17 DR. RICH HOBSON: So, Chief
18 Justice Parker, I tell you what, if you
19 don't mind, I am going to ask Todd Russell,
20 General Counsel, to please bless the food
21 for us.

22 (Invocation).

23 CHIEF JUSTICE TOM PARKER: And

1 with that, I will entertain a motion to
2 adjourn.

3 HON. BRENDETTE BROWN-GREEN: So
4 moved.

5 HON. BUTCH BINFORD: Second.

6 CHIEF JUSTICE TOM PARKER: Okay.
7 All in favor, get up and go to the food.

8
9 (Meeting concluded at 11:46
10 a.m.)
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REPORTER'S CERTIFICATE

STATE OF ALABAMA,

CHILTON COUNTY,

I, Wendy Kendrick, Certified Court Reporter
and Commissioner for the State of Alabama at Large,
do certify that I reported the meeting in the
matter of:

BEFORE THE STATE OF ALABAMA

JUDICIAL RESOURCES ALLOCATION COMMISSION

HEFLIN-TORBERT

JUDICIAL BUILDING

MONDAY, DECEMBER 19, 2022

10:00 a.m.

* * * * *

On Monday, December 19, 2022.

The foregoing 73 computer-printed pages
contain a true and correct transcript of the
statements by counsel.

I further certify that I am neither of
relative, employee, attorney or counsel of any of
the parties, nor am I a relative or employee of
such attorney or counsel, nor am I financially
interested in the results thereof. All rates

1 charged are usual and customary.

2 I further certify that I am duly licensed
3 by the Alabama Board of Court Reporting as a
4 Certified Court Reporter as evidenced by the ACCR
5 number following my name found below.

6 This 19th day of January, in the year of
7 our Lord, 2023.

8
9
10
11 /S/Wendy Kendrick
12 Wendy Kendrick, CCR
13 ACCR NO. 444 Exp 9/30/23
14 Certified Court Reporter and
15 Notary Public
16 Commission expires: 2/19/2024

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<p>CHIEF JUSTICE TOM PARKER: [66] 2/23 3/15 5/1 5/23 8/14 8/16 8/21 12/9 12/12 14/18 27/1 27/17 27/21 28/3 28/8 29/5 30/1 30/5 30/14 34/3 36/2 36/5 36/13 37/5 37/9 38/19 39/10 39/16 40/16 43/17 49/13 51/3 51/13 53/1 53/5 53/9 53/15 54/10 54/15 56/2 56/5 56/9 57/8 59/18 60/12 60/17 61/8 63/12 65/13 66/3 67/12 67/18 67/23 68/5 68/11 68/21 69/2 69/14 71/6 71/16 72/3 72/8 72/11 72/16 72/23 73/6 DR. RICH HOBSON: [11] 3/9 35/22 36/3 54/8 61/21 63/21 64/5 64/22 65/2 72/13 72/17 HON. BRENDETTE BROWN-GREEN: [13] 5/14 11/2 11/7</p>	<p>20/19 21/11 59/15 59/20 60/14 60/18 62/8 63/20 65/7 73/3 HON. BUTCH BINFORD: [9] 5/11 38/8 41/17 41/20 65/4 65/8 65/14 67/21 73/5 HON. CHRIS HUGHES: [5] 5/20 47/11 48/5 48/11 48/18 HON. JAMES REID: [6] 5/7 26/4 39/15 39/18 40/6 67/16 HON. MICHELLE THOMASON: [52] 4/17 10/2 10/4 10/7 10/15 13/13 13/16 14/1 14/10 14/14 14/20 15/5 15/14 15/19 19/12 19/15 19/19 19/23 29/8 29/19 29/22 30/4 30/12 31/18 36/22 37/7 37/12 38/7 43/15 43/18 44/5 44/13 44/18 45/3 45/15 46/2 55/22</p>	<p>56/4 56/7 56/11 57/9 57/13 58/10 58/14 60/10 64/3 64/6 64/23 65/19 71/14 71/18 72/4 HON. ZACK COLLINS: [22] 4/13 22/20 22/23 27/6 27/20 28/2 28/7 28/10 28/15 28/19 29/1 29/6 29/18 29/20 32/10 33/21 36/11 44/4 46/20 68/23 69/3 71/5 MR. BOB MADDOX: [2] 20/10 47/6 MR. CLAY CRENSHAW: [1] 5/5 MR. MICHAEL GREGORY: [16] 14/7 15/1 21/5 36/6 36/9 37/15 38/3 39/8 39/23 40/21 44/10 44/16 44/20 45/1 46/4 68/18 MR. TODD RUSSELL: [1] 44/22 MR. WILL PARKER: [1] 5/17</p>
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