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## ArchCity Defenders: Municipal Courts White Paper

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# ArchCity Defenders: Municipal Courts White Paper

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## Introduction<sup>1</sup>

ArchCity Defenders represents St. Louis' indigent on a pro bono basis in criminal and civil legal matters while working closely with social service providers to connect clients with services. Our primary goal is to remove the legal barriers preventing our clients from accessing the housing, job training, and treatment they need to get on with their lives.

In the five years we have been doing this work, we have primarily focused on representation in the municipal courts that have jurisdiction over infractions for mostly traffic-related offenses. Our direct representation of clients in these courts and the stories they shared of their experiences prompted us to conduct a court watching program to more closely observe the impact the municipal court system has on our clients' lives.

Clients reported being jailed because they were unable to pay fines. Some who have been incarcerated for delinquent fine payments

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<sup>1</sup> This paper was written in 2014 by Thomas Harvey, John McAnnar, Michael-John Voss, Megan Conn, Sean Janda, and Sophia Keskey. Thomas, John and MJ are the co-founders of ArchCity Defenders. Megan, Sean, and Sophia were interns from Washington University. We have worked over the last year to compile the data and quotes but finalized it this summer. This version was updated on November 23, 2014. Big thanks to Megan, Sean, and Sophia for helping us finish this important work.

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have lost jobs and housing as a result. Indigent mothers “failed to appear” in court and had warrants issued for their arrest after arriving early or on-time to court and being turned away because that particular municipality prohibits children in court. Family members were forced to wait outside courtrooms while loved-ones represent themselves in front of a judge and a prosecutor. Many recounted being mistreated by the bailiffs, city prosecutors, court clerks, and even some judges. Each implicitly-condoned injustice carried out in St. Louis’ municipal courts is a serious cause for concern. These practices violate the clear mandates of the United States Constitution, and they destroy the public’s confidence in the justice system. Furthermore, indiscriminately ticketing and fining the poorest in any community exacerbates the plight of low-income families by imposing heavy financial burdens on those least equipped to bear it. The result: the poorest St. Louisans watch an unnecessarily expensive and incredibly inefficient network of municipal courts siphon away vast amounts of their money to support a system seemingly designed to maintain the status quo, no matter how much it hurts the communities the system is supposed to serve.

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We observed over sixty different courts during our court watching program and obtained sworn statements from some of our clients and other individuals we encountered. Roughly half of the courts we observed did not engage in the illegal and harmful practices described above while we were present. But, approximately thirty of those courts did engage in at least one of these practices. Three courts, Bel-Ridge, Florissant, and Ferguson, were chronic offenders and serve as prime examples of how these practices violate fundamental rights of the poor, undermine public confidence in the judicial system, and perpetuate inefficiencies. This paper focuses on those three courts.

Overall, we observed that the poor, particularly poor minorities, suffer significantly in their forced dealings with St. Louis' municipal court system. Expired vehicle registration, outdated inspections, driving without insurance—while non-impooverished people may occasionally be ticketed for such violations, the tickets are generally nothing more than a minor inconvenience or annoyance. For the poor living in North County St. Louis, these issues may exist as a consequence of their lack of money, and all of them can come to a head in a single traffic stop and quickly lead to daunting fines and oftentimes the revocation of driving

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privileges. What is more, poor minorities are pulled-over more frequently, they are let go without a ticket less frequently, and they are in all likelihood the only group to see the inside of a jail cell for minor ordinance violations. Matters are worsened by those involved in municipal government choosing to close courts to the public and allowing the incarceration of people for the failure to pay fines. These policies push the poor further into poverty, prevent the homeless from accessing the housing, treatment, and jobs they so desperately need to regain stability in their lives, and violate the Constitution. These violations are ongoing and they implicate the most fundamental guarantees of the Constitution. They are the product of a disordered, fragmented, and inefficient approach to criminal justice in St. Louis County. Municipalities are failing to afford indigent defendants legal counsel and refusing to make reasonable bond assessments. The municipal court system fans the flames of racial tension, oppression, and disenfranchisement by allowing municipalities to appropriate the courts to act as governmental debt-collection agencies and implicitly charging courts with ensuring the municipalities' fine-generated

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revenues are sufficient to maintain an inefficient governmental operations.

Section I provides an overview of the Missouri municipal court system, outlining how these courts operate and the revenue they earn. Section II discusses the negative impact this system has on the public's confidence in their local government and its courts. Section III describes how these courts and the policies they employ lead to job loss and homelessness amongst the indigent population. Section IV details the huge cost to operate the municipal courts and includes an analysis of the costs to incarcerate the indigent who cannot afford to pay the fines levied against them.

We intend to follow this paper with another which proposes solutions to these issues and sets forth a strategy for implementing them.<sup>2</sup> This plan includes installing public defenders in each municipal court, setting fines based upon the defendant's income, consolidating municipal courts, and developing alternatives to fines and incarceration.

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<sup>2</sup> Since ArchCity Defenders first released this paper, in August of 2014, a number of municipalities have implemented measures to alleviate some issues addressed below. While this patchwork approach is a step in the right direction, fundamental and systemic changes are expected and necessary to repair the broken relationship between St. Louis' municipalities and its poorest residents.

## I. Overview of Municipal Courts in St. Louis County

### A. Composition and Jurisdiction

St. Louis County is comprised of 90 municipalities ranging in population from 12 to over 50,000.<sup>3</sup> The density of the municipalities is such that it is possible to drive through eight separate cities in less than four miles on a stretch of Natural Bridge Road from Bel-Ridge to Pine Lawn. Each has its own municipal code, its own police force, and its own court. Eighty-one municipalities have their own court to enforce their municipal codes across their slivers of St. Louis County.<sup>4</sup>

Each municipal court has jurisdiction over its city's ordinances. Ordinance violations may result in prison time for violators, but municipalities relying on fine payments to generate a substantial revenue stream understandably prefer collecting fines to using scarce resources to imprison violators. Nevertheless, municipalities may imprison individuals for ordinance violations and keep them confined until the fine and costs of the suit against them are paid or otherwise satisfied.<sup>5</sup>

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<sup>3</sup>COUNTY COUNCIL DISTRICTS (2012), <http://stlouisco.com/YourGovernment/CountyCouncil> (follow "Council Districts Map" link).

<sup>4</sup> Susan Weich, *Municipal court judges in St. Louis County are told to open doors*, ST. LOUIS POST-DISPATCH, Jul. 1, 2014, <http://stltoday.com/news/local/crime-and-courts>.

<sup>5</sup> MO. REV. STAT. §479.080 (2013); MO. SUP. CT. R. 37.43(a) (2004).



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### B. Process

Whether one can resolve ordinance violations often depends on his or her ability to hire an attorney and pay fines. If a person has the means to hire an attorney, that attorney enters his or her appearance on behalf of the violator and requests what is called a “recommendation for disposition” from the prosecutor in a letter.<sup>6</sup> Depending on the charge, the prosecuting attorney will most likely recommend the charge be amended to something less damaging on the violator’s record. For instance, moving violations (such as a speeding ticket) are often amended to non-moving violations (excessive vehicle noise) upon the payment of a fine and court costs.<sup>7</sup>

Because Missouri works on a point system,<sup>8</sup> in which a certain number of points automatically suspends or revokes one’s driver’s license, it is crucial to that such amendments be made, if possible. If a person has the money, this works. For a simple speeding ticket, an

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<sup>6</sup> CITY OF DELLWOOD, MO., *Attorney Information*, <http://cityofdellwoodmo.com/566/Attorney-Information> (last visited Aug. 26, 2014).

<sup>7</sup> This procedure is not explicitly spelled out on any website; individuals can talk to municipal workers and court employees to figure it out, or they can hire an attorney. *See, e.g.,* ST. PETERS, MO., *Attorney Guidelines*, <http://stpetersmo.net/attorney-guidelines.aspx> (last visited Aug. 26, 2014).

<sup>8</sup> MO. DEP’T OF REV., *Tickets and Points*, <http://dor.mo.gov/faq/drivers/points.php#pointssystem> (last visited Aug. 26, 2014).

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attorney is paid \$50-100,<sup>9</sup> the municipality is paid \$150-200 in fines and court costs, and the defendant avoids points on his or her license, as well as any possible increases in insurance costs. For simple cases, neither the attorney nor the defendant need to go to court.

However, if a person cannot afford an attorney or pay the fines, prosecutors do not make any amendments. Consequently, the outcomes can be astoundingly different for the poor than for the more affluent, under certain circumstances. The safety of our roads depends on drivers obeying speed limits, but this can be practically difficult for drivers who regularly drive through St. Louis' 90 unique municipalities. The frontage road speed limit may have been 45 mph in the last city, but that is cold comfort to the driver being ticketed for driving 45 mph in a 30 mph zone one mile down the road. Next, since the person cannot afford an attorney or to pay the fine, points are automatically added to the cash-poor driver's license. If the subtotal after that ticket is high enough, the person's license will be suspended. That person still owes money to the municipality which he or she was already unable to pay,

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<sup>9</sup> See, e.g., TRAFFIC LAW COUNSELORS, <http://45bucks.com/fees.html> (last visited Aug. 26, 2014) (\$45 for basic traffic tickets) BUBLITZ & BARO, LLC., <http://www.bankruptcylawyer-stlouis.com/traffic-law.html> (last visited Aug. 26, 2014) (Offering "affordable payment plans that start as low as \$100").

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only now he or she will have to sort out that significant issue without the aid of a car to drive to work to earn money. While many courts expect payment in full and explicitly state that no payment plans will be offered,<sup>10</sup> other courts frequently allow payment plans, sometimes offering those in need plans with payments as low as \$50 per month. If a person cannot pay the amount in full before the court date listed on a ticket, he or she must appear in court on that night to explain why. Missed court dates often lead to the issuance of a warrant for the person's arrest.<sup>11</sup>

People who are arrested on a warrant for failure to appear in court to pay the fines frequently sit in jail for an extended period. No municipality holds court on a daily basis, and some courts meet only once each month.<sup>12</sup> A person arrested on a warrant in one of these jurisdictions and who cannot pay the bond may spend as much as three weeks in jail waiting to see a judge.

Even so, nearly every municipality does not provide lawyers for those who cannot afford counsel. As a result, unrepresented defendants

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<sup>10</sup> ST. ANN, MO., *Court Procedure and Your Rights*, <http://www.stannmo.org/496/Court-Procedure-Your-Rights> (last visited Aug. 26, 2014).

<sup>11</sup> HAZELWOOD, MO. CODE § 140.280 (2001).

<sup>12</sup> DELLWOOD, MO., *Municipal Court Dates*, <http://www.cityofdellwoodmo.com/570/Municipal-Court-Dates> (last visited Aug. 26, 2014).

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often plead guilty without knowing that they have right to consult with a lawyer.<sup>13</sup> Defendants are also sentenced to probation and to the payment of unreasonable fines without a knowing, voluntary, and intelligent waiver of their constitutional right to counsel. Despite these defendants' apparent poverty, courts frequently levy exorbitant fines, sometimes more than three times a person's monthly income, without considering the person's ability to pay and how it may affect his or her life.<sup>14</sup>

Defendants are entitled to a hearing to determine their ability to pay under Missouri law.<sup>15</sup> Upon revocation of probation for failing to pay, defendants are again entitled to an inquiry into their ability to pay.<sup>16</sup> Based on our observations, these hearings rarely occur. As a result, defendants are incarcerated for their poverty.<sup>17</sup>

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<sup>13</sup> Defendants' rights information is occasionally included in municipalities' reading materials published online. *See, e.g., Attorney Guidelines and Attorney Information, supra* notes 6, 7.

<sup>14</sup> *See, e.g.,* Sophia Keskey, "Nichole" *Stories of Hope and Courage: Homelessness in the ShowMe State*, VIMEO (Jul. 29, 2014), <http://vimeo.com/102078043>.

<sup>15</sup> *Davis v. City of Charleston, Mo.*, 635 F.Supp. 197, 198-199 (1986) (holding that upon raising inference that poverty is reason for non-payment rather than contempt, defendant is entitled to hearing on issue of indigency).

<sup>16</sup> *Homelessness, supra* note 14.

<sup>17</sup> *Id.*

### **C. Judges and Prosecutors in Municipal Court Are Private Attorneys**

Municipal court judges, pursuant to RSMo 479.02, are part-time positions.<sup>18</sup> In St. Louis County, municipal court judges are often private criminal defense attorneys and sometimes county prosecutors. They may serve in multiple jurisdictions, and the judge need not be a resident of the municipality.<sup>19</sup> Missouri does not prohibit, and some municipalities explicitly permit, practicing prosecutors and judges from one municipality to serve as a judge in another.<sup>20</sup> Similarly, municipal court judges and prosecutors may be employees of the State working as a prosecutor in St. Louis County. It is possible for a defense attorney to appear before a judge on Tuesday who is the prosecuting attorney in another municipality on Wednesday. Later that week, that same person may be seen in practicing law in yet another role as a state prosecutor.

### **D. Revenue for Municipality: Collection and Enforcement**

Court costs and fines represent a significant source of income for these towns. Two municipalities alone, Ferguson and Florissant, earned a combined net profit of \$3.5 million from municipal courts in 2013.<sup>21</sup>

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<sup>18</sup> MO. REV. STAT. § 479.020(2) (2013).

<sup>19</sup> MO. REV. STAT. §479.020(4) (2013).

<sup>20</sup> See, e.g., *Attorney Information*, *supra* note 6.

<sup>21</sup> OFFICE OF STATE COURTS ADMIN., MO. JUDICIAL REPORT SUPP.: FISCAL YEAR 2013 294, available at <https://www.courts.mo.gov/file.jsp?id=68905>.

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As Ray Downs from the RiverFront Times reported, the amount collected through the municipal courts seems to be inversely proportional to the wealth of the municipality. For example, the City of Pine Lawn is 96% black and “its per capita income [is] a measly \$13,000. In 2013, the city collected more than \$1.7 million in fines and court fees.”<sup>22</sup> Conversely, “the affluent west-county suburb of Chesterfield, with a population of 47,000 (approximately fifteen times bigger than Pine Lawn) and a per capita income of \$50,000, collected just \$1.2 million from municipal fines, according to statistics compiled by the state.”<sup>23</sup>

This money is essential to maintaining governmental operations at the level these municipalities have attained. Whether municipalities intend to use jail time to coerce individuals to pay is irrelevant, because the vast number of warrants issued and the astounding amount of fines generated from such a poor community make the coercion a matter of fact. According to Downs, “Pine Lawn has a population of only 3,275,

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<sup>22</sup> Ray Downs, *ArchCity Defenders: Meet the legal superheroes fighting for St. Louis' downtrodden*, RIVERFRONT TIMES, Apr. 24, 2014, <http://www.riverfronttimes.com/2014-04-24/news/arch-city-defenders-st-louis-public-advocacy/>.

<sup>23</sup> *Id.*

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yet last year it issued 5,333 new warrants, bringing its total outstanding warrants to 23,457.”<sup>24</sup>

### **E. Experience**

For the vast majority of St. Louisans, a run-in with the municipal court is the only personal interaction they will have with the justice system. This interaction, thus, shapes public perception of justice and the American legal system. Unfortunately, for many of the poorest citizens of the region, the municipal courts and police departments inflict a kind of low-level harassment involving traffic stops, court appearances, high fines, and the threat of jail for failure to pay without a meaningful inquiry into whether an individual has the means to pay.

Until recently, many local courts denied access to the general public.<sup>25</sup> When summoned to one of these courts, defendants may face jail time if they fail to appear. If they lack access to childcare, they bring their children with them. According to local judge Frank

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<sup>24</sup> *Id.* Downs remarked on other municipalities with similarly astonishing statistics: “Several other north-county municipalities with high populations of African Americans also have similarly high warrant-to-population ratios as Pine Lawn. Country Club Hills, with a population of only 1,274, issued 2,000 municipal warrants last year and has more than 33,000 outstanding. Over 90% of Country Club Hills’ residents are black and they have a per capita income of under \$14,000. The same is true in nearby Wellston, a city that’s 97% black and has a per capita income of less than \$12,000. Last year its municipal court issued more warrants than the city has residents — 3,883 new warrants compared with a population of 2,300.”

<sup>25</sup> Weich, *supra* note 4.

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Vatterott, 37% of the courts responding to his survey unconstitutionally closed the courts to non-defendants. Defendants are then faced with the choice of leaving their kids in the parking lot or going into court, breaking the court rules in the process. Antonio Morgan reported being denied entry to the court with his children and then being jailed for child endangerment after leaving them in the court parking lot under the supervision of a friend.<sup>26</sup>

For communities of color, this harassment is palpable in a way that does not require data. Nevertheless, the notion that minorities are harassed by police more often than whites is statistically supported by the annual reports on racial disparity in police stops prepared by the Missouri Attorney General's office.<sup>27</sup> In the state of Missouri, African Americans are pulled over "at a rate 63% greater than expected based solely on their proportion of the population 16 and older."<sup>28</sup> The data is similarly problematic in Bel-Ridge, Ferguson, and Florissant, as discussed below.

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<sup>26</sup> *Id.*

<sup>27</sup> MO. ATT'Y GEN., *2013 Mo. Vehicle Stops Report: Executive Summary*, <http://ago.mo.gov/VehicleStops/2013/>.

<sup>28</sup> MO. ATT'Y GEN. NEWS RELEASE, *AG issues annual Vehicle Stops Report* (May 30, 2014), [http://ago.mo.gov/newsreleases/2014/AG\\_issues\\_2013\\_Vehicle\\_Stops\\_Report/](http://ago.mo.gov/newsreleases/2014/AG_issues_2013_Vehicle_Stops_Report/).



## II. The Municipal Court System Harms Public Confidence in the Judiciary, the Police, and the Municipalities

The abovementioned policies and procedures negatively impact the public's confidence in the integrity and impartiality of both the municipalities and the courts. For most individuals, the only substantive interaction they have with the Missouri justice system or with their municipal government is through the municipal courts, and the impressions instilled by those courts reflect on the entire municipality and court system.

As noted in the Missouri Municipal Bench Book—a publication drafted largely by municipal court judges for municipal court judges—“Public impression of justice and its administration is formed more in municipal courts than in any other court of the state. The judge as judicial officer will instill in that individual his or her lasting image of our judicial system and this should never be forgotten.”<sup>29</sup> Unfortunately, the current policies adopted by the municipal court system lead to the impression of the courts and municipalities as racist institutions that care much more about collecting money—generally from poor, black residents—than about dispensing justice.

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<sup>29</sup> MO. BENCH BOOK §1.8 (2010), available at <http://www.courts.mo.gov/file.jsp?id=39033>.

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### A. Municipal Court Procedures Lead to Impressions of Racial Profiling

Many residents feel that the police target black residents and try to find something wrong in order to issue tickets. The courts, in turn, issue arrest warrants for failure to pay and send them to jail if they fail to pay thereafter. As one defendant said, “They’re searching to find something wrong. If you dig deep enough, you’ll always find dirt.”<sup>30</sup> Mind you, the “dirt” in question here is not some reprehensible, repugnant wrong against society. The dirt so-often sought and found by police in these municipalities is typically expired inspections, expired tags, or driving without insurance. A group of defendants waiting outside of a municipal court for their turn to go before a judge noted that there were no white individuals waiting with them. In fact, one said, “You go to all of these damn courts, and there’s no white people,”<sup>31</sup> while another defendant even ticked off specific municipalities that he thinks engage in racial profiling. He said, “In Dellwood, Ferguson, basically in North County, if you’re black, they’re going to stop you.”<sup>32</sup>

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<sup>30</sup> Digital Audio: *Pretextual Stops & Minor Infractions Wreak Havoc on Low-Income Residents*, 0:20 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/more-pretextual-stops-more-money-for-municipalities#t=0:20>.

<sup>31</sup> Digital Audio: *Profiling for Revenue, a Tardy Judge, and Racial Tension*, 3:09 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/profiling-for-revenue-a-tardy-judge-and-racial-tension#t=3:09>.

<sup>32</sup> *Id.* at 1:15.

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The widespread feeling among defendants that the police and courts target black residents has a substantial statistical basis. In Bel-Ridge in 2013, 75.7% of all traffic stops involved a black motorist.<sup>33</sup> This number is staggering in itself, but what may be more shocking is that 100% of all searches and arrests originating from traffic stops in Bel-Ridge that year involved black motorists.<sup>34</sup> Of the 775 black drivers pulled over, 11 vehicles were searched and 32 black drivers were arrested. Of the 249 non-black drivers pulled over, no vehicles were searched and no drivers were arrested.

In Ferguson, the statistics indicate a similar degree of racial profiling. Overall, 86% of vehicle stops involved a black motorist, although blacks make up just 67% of the population. By comparison, whites comprise 29% of the population of Ferguson but just 12.7% of

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<sup>33</sup> According to the Attorney General's "disparity index," which compares the percentage of traffic stops that involve a given race to the percentage of driving-age residents in the municipality of that race (so a 1.0 indicates perfectly proportionate stops while below a 1.0 indicates "under-representation" of a given race in traffic stops and above a 1.0 indicates "over-representation" of a given race in traffic stops), this number is actually an "under-representation" of black motorists in stop data. These numbers, however, may be skewed given the very high percentage of black residents in the municipality, a proportion that is almost certainly larger than the proportion of black drivers in the municipality, given the number of highly-trafficked inter-municipal roads running through Bel-Ridge. MO. ATTY GEN., *2013 Mo. Vehicle Stops Report: Racial Profiling Data, Bel-Ridge Police Dept.* (May 30, 2014), <http://ago.mo.gov/VehicleStops/2013/reports/383.pdf>.

<sup>34</sup> *Id.*

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vehicle stops.<sup>35</sup> After being stopped in Ferguson, blacks are almost twice as likely as whites to be searched (12.1% vs. 6.9%) and precisely two times more likely to be arrested (10.4% vs. 5.2%).<sup>36</sup> Ironically, this data is at odds with the fact that searches of black individuals produced contraband only 21.7% of the time, while searches under similar circumstances involving white drivers produced contraband 34.0% of the time, a 57% greater rate of success.

Finally, the Florissant police department also disproportionately stops black motorists, who are stopped over four times more than their non-black counterparts. In fact, African Americans represent only a quarter of the municipality's populace but comprise 57% of Florissant Police Department stops. Out of these stops, white drivers were arrested 7.2% of the time, whereas black drivers were arrested 14.9%, more than twice as often. The search rate was equally disproportionate, with white drivers being searched 8% of the time, and blacks 15.8%. The Ferguson data also demonstrated that white drivers who were

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<sup>35</sup> Even given Ferguson's large black population, the disparity index shows that black motorists are over-represented in traffic stops. African-Americans have a disparity index of 1.37, while all other races have disparity indexes between 0.35 and 0.41. These numbers are, again, likely to be even worse than suggested here given the likely difference in demographic makeup between the residential population of Ferguson and the population of people who drive through the area.

<sup>36</sup> *Profiling*, *supra* note 31.

searched were more likely to have contraband in the car, at 12% in searches of cars driven by white people and only 7.4% of stops involving black residents.<sup>37</sup>

### **B. Municipal Court Procedures Lead to Impressions of Lack of Municipal Care about Residents**

Many residents feel that municipal courts exist to collect fine revenue, not to dispense justice. “Absolutely they don’t want nothing but your money,” one defendant said, but “you get people out here who don’t make a whole lot of money.”<sup>38</sup> He then described the startlingly common experience of being arrested, jailed, and instructed to call everybody he could think of who might have money to pay his fine—with the promise of three or four days in jail if he could not cobble together the sum.

At one Bel-Ridge Municipal Court session, we interviewed several individuals from a large group of defendants who were waiting to resolve tickets for failing to subscribe to the municipality’s trash collection service, an infraction that many defendants felt was just

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<sup>37</sup> *Id.*

<sup>38</sup> Digital Audio: *Going to Jail, and Going to Jail, and Going to Jail*, 0:20-1:30 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/going-to-jail-and-going-to-jail-and-going-to-jail-between-16-and-15-times#t=0:20>.

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another way for the municipality to make money.<sup>39</sup> One man who had appeared in court multiple times declared that he was fed up with being penalized for not having money to pay the city for a service he did not want. He insisted that he had in fact dealt with his trash, but could not afford to subscribe to the only city-approved waste collection service after paying down on his outstanding hospital bills and monthly utilities.<sup>40</sup>

Another woman who was there on the same charge was adamant that there were no visible signs that her home did not have trash service and that she helped even maintain the neighborhood, picking up trash from passing cars and cutting the grass of the vacant houses on either side of her property. She, like many of the other defendants we talked to, attributed her legal problems to the municipality's determination to find something wrong and collect revenue. Chagrined, she exclaimed, "They had to come and dig, they had to come and look in my files. There's no way you could tell I don't have trash service, that

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<sup>39</sup> See, e.g., Digital Audio: *ArchCity Defenders Recording No. 3*, Bel-Ridge Municipal Court (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/recording-no-3#t=3:05>.

<sup>40</sup> Recording unavailable.

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can is out there! What I'm mad at is, how did you get this information?"<sup>41</sup>

Along with the wide-spread impression that municipal courts are little more than money-collection services, many defendants complained about the lack of consideration given to their circumstances and needs. Outside, the bailiff announced repeatedly to the line of people, "No children, only the people on the docket come in unless you're a witness."<sup>42</sup> One man in line expressed concern over the general procedure of the court: "After you come in like two or three times, if a person hasn't paid [the fine] by then, then they gonna sock it to you, they about to put you in jail. People are in hardship, they can't pay the fine, and if you got children, they won't let you take them in there with

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<sup>41</sup> *Recording No. 3* at 3:05 *supra* note 39.

<sup>42</sup> Recording unavailable. ArchCity Defenders attests to the veracity and authenticity of the statement.

you.”<sup>43</sup> Another agreed and summed up his experience ruefully, “They [are] treating us bad.”<sup>44</sup>

### **C. Municipal Court Procedures Harm the Resident/Municipality Relationship**

As a result of these impressions, many residents of these municipalities have a broken and antagonistic relationship with their municipal governments. One defendant, who estimated he has been jailed fifteen or sixteen times over ten years—all on the same charge of driving with a suspended license—said that he now skips court if he is unable to pay his fines in order to avoid further detention. Another defendant said that he will always plead not guilty, in an attempt to prolong the process “and make them spend more money.”<sup>45</sup>

In addition, a shockingly common sentiment among defendants was a desire to leave their municipality. For example, one long-time

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<sup>43</sup> *Id.* This particular court session was on June 25<sup>th</sup>, one day after Presiding Judge Maura McShane specifically released an order reminding municipal courts that such practices are an unconstitutional restriction of the court system. Of course, on that day, the order was not followed. Only recently was the prohibition against children in the courtroom removed from Bel-Ridge’s “Court Procedures” webpage. *Cf* [Archived Bel-Ridge Court Procedures Page \(Aug. 24, 2014\)](#) (stating “No children are allowed in court” as first rule on the page, under “Your Rights in the Municipal Court of Bel-Ridge”) *with* [Village of Bel Ridge, Mo., Court Procedures \(Current Page\)](#).

<sup>44</sup> Digital Audio: *ArchCity Defenders Recording No. 2*, Bel-Ridge Municipal Court, 0:20 (Jun. 25, 2014) at 0:20.

<sup>45</sup> Digital Audio: *Going to Jail, and Going to Jail, and Going to Jail*, Dellwood Municipal Court, 0:39 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/more-pretextual-stops-more-money-for-municipalities#t=0:39>.



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resident looked forward to leaving Bel-Ridge as soon as his lease expired. Another defendant stated, “I’m gonna leave St. Louis. That’s what I’m ready to do. I’m about to go. There’s too much going on in St. Louis, you can’t find a job, and when you can’t find a job you hold on to the itty bitty jobs you got and they wanna [mess] with the little people that are actually working. That’s what St. Louis is all about: trying to get the people that’s working.”<sup>46</sup> She said she would stay in Bel-Ridge long enough for her daughter to graduate high school, but she resented all of “the little petty stuff” that she had to deal with there.<sup>47</sup> This kind of negative sentiment directly hurts the municipality and erodes its sense of community. When a municipality repeatedly marginalizes and penalizes its residents, they advertise their unpleasant experiences to others in the region and spread the negative impression of that municipality. One resident, the same man who said he pled not guilty to cost the municipality more money, shrewdly declared: “It is ridiculous

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<sup>46</sup> Digital Audio: *ArchCity Defenders Recording No. 1*, Bel-Ridge Municipal Court, 3:23 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/sophia1#t=3:23>.

<sup>47</sup> *Id.*

how these small municipalities make their lifeline off the blood of the people that drive through their area.”<sup>48</sup>

### III. The Negative Effects of the Municipal Court System on Defendants

#### A. Costs Related To Harassment

One defendant in line to enter the Bel-Ridge court stated that he had been harassed by police and was seeking legal aid to sue the municipality. The man said that the officers who arrested him lacked warrants and then ignored his ensuing anxiety attacks, using mace and force after he told them he was having difficulty breathing. Harassment, whether physical or psychological, has serious negative consequences for the victim. According to the University of York, harassment can lead to lack of confidence, fatigue, depression, isolation, frustration, stress, trauma, and a loss of motivation, all of which make it difficult for the individual to succeed at work or to engage in their community. On a personal level, this can lead to job loss, family estrangement, and much more. Widespread harassment can damage the performance and morale of the entire community.<sup>49</sup>

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<sup>48</sup> Digital Audio: *More Pretextual Stops, More Money for Municipalities*, Dellwood Municipal Court, 1:27 (Jun. 25, 2014), <https://soundcloud.com/archcitydefenders/more-pretextual-stops>.

<sup>49</sup> Benjamin Justice & Tracey L. Meares, *How the Criminal Justice System Educates*

### **B. The Costs Related To Incarceration**

In many municipalities, individuals who are unable to pay whatever fines they are assessed are incarcerated—sometimes repeatedly over many years.<sup>50</sup> One defendant described being incarcerated fifteen or sixteen times over a decade on the same municipal charge. While this policy of incarceration imposes relatively steep financial costs on the municipalities involved (many of which have to rent out jail space elsewhere because they do not have facilities capable of holding detainees overnight), the negative effects that it has for the individuals involved are far greater.

Most concretely, the process of being incarcerated counteracts any progress a defendant has made in his or her life. For many municipal court defendants who work for an hourly wage, missing three or four days of work while in jail will seriously hinder their ability to balance their already-strained budgets and often result in being fired. The unfortunate irony, therefore, is that jail stints levied for the inability to pay fines actually make it much harder for defendants to raise the necessary funds. In addition, research suggests that incarceration has

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*Citizens*, 655 ANNALS AM. ACAD. POL. & SOC. SCI. 159, 173 (Sept. 2014).

<sup>50</sup> Recall the defendant referred to above who estimated he had been jailed at least fifteen times in a decade for the same charge of driving on a suspended license.

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lifelong negative effects on earnings and economic mobility because it reduces individuals' access to steady jobs with opportunities for advancement.<sup>51</sup>

Detention also leads to a variety of more subtle problems. Research has shown that detention—even short-term detention in jails rather than prisons—has negative psychological consequences for defendants. The lack of privacy and constant scrutiny by guards can be “psychologically debilitating.”<sup>52</sup> Perhaps the largest psychological strain happens as defendants—even those who are only detained for a few days—mentally adjust to being behind bars.<sup>53</sup> Along with these psychological consequences, research has shown that children of incarcerated individuals experience “social, emotional, and developmental problems.”<sup>54</sup> While these negative effects of detainment

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<sup>51</sup> Bruce Western, *The Impact of Incarceration on Wage Mobility and Inequality*, 67 AM. SOC. REV. 526, 526-546 (2002).

<sup>52</sup> HANS H. TOCH, MEN IN CRISIS: HUMAN BREAKDOWNS IN PRISON 132, (Aldine Pub. Co., 2<sup>nd</sup> prtg 2009); Mika'il DeVeaux, *The Trauma of the Incarceration Experience*, 48 HARV. C.R.-C.L. L. REV. 257, 259 (2013), *available at* [http://harvardcrcl.org/wp-content/uploads/2013/04/DeVeaux\\_257-277.pdf](http://harvardcrcl.org/wp-content/uploads/2013/04/DeVeaux_257-277.pdf).

<sup>53</sup> TOCH, *supra* note 52, at 144.

<sup>54</sup> NATASHA H. WILLIAMS, SILENT VICTIMS: THE IMPACT OF PARENTAL INCARCERATION ON CHILDREN 2 (Henry M. Treadwell ed., 2008), *available at* [http://www.frontlinesol.com/MMFG/pdf\\_articles/Silent\\_Victims\\_Impact\\_of\\_Parental\\_Incarceration.pdf](http://www.frontlinesol.com/MMFG/pdf_articles/Silent_Victims_Impact_of_Parental_Incarceration.pdf).

are more difficult to quantify than the lost income described above, they are the long-term legacy of these short-term detention programs.

### **C. The Costs Related to Loss of Housing**

Targeting poor individuals and families with fines for traffic and ordinance violations can have real and devastating consequences on their ability to hold on to stable housing. For those living on the financial edge, each day presents difficult choices between competing needs: groceries or utilities, car loan payment or car insurance payment, clothes for children or vehicle inspection and registration, rent or repairs. Court-imposed fines of just a few hundred dollars can be enough to push a struggling family over the edge, out of their home and into homelessness. Some manage to find refuge with relatives or live “doubled up” with another family, but many have no such safety net.

Furthermore, the financial distress that causes a family to lose their home or apartment continues to follow them as they attempt to get back on their feet, sharply limiting their ability to obtain a new residence. Most landlords require a credit check and background report up front, and a prior eviction or bad credit history raises red flags which often lead to immediate rejection. In the Asheville Citizen-Times special report on homelessness, *No Place to Call Home*, Brian Alexander of the

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non-profit Homeward Bound explains, "Once someone has had an eviction, a lot of landlords and management companies won't even touch them. An eviction ... can take seven years to get that off your credit report. That's a long time."<sup>55</sup> Unfortunately, a prior eviction is virtually a prerequisite for homelessness. In the same article, Heather Dillashaw, director of the Asheville-Buncombe Homeless Initiative, explains the path to homelessness: "People who become homeless almost always have poor credit—you don't fall into homelessness overnight, after paying bills on time and keeping up with rent. [Homeless] families have almost always made some tough choices."<sup>56</sup> Current housing practices continue to punish those forced to make such tough choices for years to come, enforcing a vicious cycle of instability.

Even public housing programs place strict limitations on who is eligible to receive assistance. The St. Louis Housing Authority cites any criminal arrest, including for failing to pay fines or appear in court, as

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<sup>55</sup> Casey Blake & Erin Brethauer, *No Place to Call Home: The Rise in Youth and Family Homelessness*, ASHEVILLE CITIZEN-TIMES, June 23, 2014, <http://www.citizen-times.com/longform/local/2014/06/21/homeless-students-education/11209293/>.

<sup>56</sup> *Id.*

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grounds for denial of assistance.<sup>57</sup> Housing is typically denied if any member of the family has been evicted from federally assisted housing in the past three years. Additionally, individuals struggling with drug addiction or alcohol abuse—common reasons that people become homeless in the first place—are often barred from public housing.<sup>58</sup> Without stable housing, however, an individual’s ability to overcome addiction is severely compromised. Finally, if an applicant misses an appointment or deadline with the Housing Authority—potentially due to a court appearance or jail time for not paying court fines—their petition may be summarily denied.<sup>59</sup>

### **D. The Costs Related to Families**

As previously noted, fines set by municipal courts can amount to huge portions of the defendant’s monthly income, leading to deepened poverty, incarceration for failure to pay, and even homelessness. A study done by Zahid Ahmed characterizes the experience of poverty as an important component of family dysfunction, strain on spousal relationships, and childhood development issues. Those in poverty

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<sup>57</sup> ST. LOUIS HOUS. AUTH., PUB. HOUS. PROGRAM: ADMISSIONS & CONTINUED OCCUPANCY POLICY 9-6, June 27, 2013, *available at* <http://www.slha.org/wp-content/uploads/2014/05/ACOP-Final-Resolution-2740.pdf>.

<sup>58</sup> *Id.* at 10-1.

<sup>59</sup> *Id.* at 10-5.

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recount difficulties in paying for very basic needs, and fines can push them over the edge.<sup>60</sup> Family provides the only direct support system for many people in poverty, and individuals without such a network often lack a financial safety net as well as meaningful social connection.

If the individual has children, intense familial conflict and estrangement can cause children to have serious childhood development problems, including depression, trust and abandonment issues, and underachievement or failure in school. These problems in childhood frequently carry over into adulthood and contribute to a cycle of poverty.

### IV. The Financial Costs of the Municipal Court System

#### A. Bel-Ridge

The Village of Bel-Ridge is a small municipality located in northern St. Louis County. Bel-Ridge has 1,087 households and 2,737 residents,<sup>61</sup> the vast majority of whom (83.1%) are African-American.<sup>62</sup>

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<sup>60</sup> See ZAHID SHAHAB AHMED, POVERTY, FAMILY STRESS & PARENTING (2005), <http://www.humiliationstudies.org/documents/AhmedPovertyFamilyStressParenting.pdf>.

<sup>61</sup> U.S. CENSUS BUREAU, PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS: BEL-RIDGE VILLAGE, MO. (2010) <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>.

<sup>62</sup> U.S. CENSUS BUREAU, RACE AND HISPANIC OR LATINO ORIGIN: BEL-RIDGE VILLAGE, MO. (2010), [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_SF1\\_QTP3](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_QTP3).



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In addition, almost half (42.3%) of the residents are below the Federal Poverty Level, with a median annual household income of \$21,910. 37% of households receive food stamps.<sup>63</sup>

In spite of the relatively small and poor nature of the municipality, Bel-Ridge manages to collect hundreds of thousands of dollars every year in municipal court fines. In fact, in Bel-Ridge's 2014 budget, it estimates that it will collect \$450,000 in fine revenue<sup>64</sup>—or, an average of \$450 per Bel-Ridge household—making municipal court fines the largest single source of revenue in the budget. Moreover, in fiscal year 2013, Bel-Ridge's municipal court disposed of 4,900 cases<sup>65</sup> and issued 1,723 warrants.<sup>66</sup> This means that in the last year alone, Bel-Ridge's court system handled almost five cases and issued almost two warrants per Bel-Ridge household.

Of course, such a municipal court operation does not come without costs to the municipality. In its 2014 budget, Bel-Ridge estimates that it will spend \$101,200 to operate its municipal court, including nearly

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<sup>63</sup> U.S. CENSUS BUREAU, SELECTED ECONOMIC CHARACTERISTICS: POVERTY STATUS IN THE PAST 12 MONTHS—BEL-RIDGE VILLAGE, MO. (2008-2012) [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_5\\_YR\\_S1701](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5_YR_S1701).

<sup>64</sup> VILLAGE OF BEL-RIDGE, BUDGET 1 (2014), available at [http://bel-ridge.us/wp-content/uploads/2014/01/2014-Budget\\_website.pdf](http://bel-ridge.us/wp-content/uploads/2014/01/2014-Budget_website.pdf).

<sup>65</sup> JUDICIAL REPORT, *supra* note 21, at 288.

<sup>66</sup> *Id.* at 303.

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\$100,000 in salaries and benefits for a part-time judge (\$18,600), prosecuting attorney (\$25,000), and court clerks (\$38,350). By way of comparison, assistant public defenders in Missouri have a starting salary of \$38,544 annually,<sup>67</sup> the average circuit attorney in St. Louis City earns \$52,347 annually,<sup>68</sup> and the average city court judge in St. Louis City earns \$78,592 annually.<sup>69</sup> Those are full-time positions. The judge and attorney in Bel-Ridge, however, work only three evenings—roughly twelve hours combined—per month, and both also operate private legal practices. To put it another way, the Bel-Ridge prosecuting attorney position is a part-time side job which requires 7.5%<sup>70</sup> of the work required by full-time jobs, but is paid 65% as much as a Missouri assistant public defender, 48% as much as the average Missouri circuit attorney, and 32% as much as the average St. Louis-area city court judge. For the approximately 144 hours each year the judge and

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<sup>67</sup> MO. STATE PUB. DEFENDER, SALARIES, *available at* <http://www.publicdefender.mo.gov/employment/salaries.htm>.

<sup>68</sup> ST. LOUIS CITY BUDGET DIV., FY 2014 LINE ITEM DETAIL JUDICIAL OFFICES 19, *available at* <https://stlouis-mo.gov/government/departments/budget/documents/loader.cfm?csModule=security/getfile&pageid=341524>.

<sup>69</sup> *Id.* at 29.

<sup>70</sup> Assuming 12 hours of work per month for the Bel-Ridge attorney as compared to 160 hours per month for a full-time job.

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prosecutor in Bel-Ridge spend in court, they earn \$129 and \$174 per hour, respectively.

In Bel-Ridge, as in many other municipalities, the prosecuting attorney and judge are chosen not by constituents or through a merit system but instead are hand-picked by the Village Trustees. This system, of course, provides terribly misaligned incentives for both positions. These two positions are extraordinarily valuable to the men who hold them—providing enough additional annual income to send children to private school or public college, or to pad retirement accounts, fund vacations, or pay the mortgage—all for twelve hours of work each month. More disconcertingly, the undeniable consequence of these individuals' position as employees of the Village of Bel-Ridge, is that they have a strong incentive to ensure that Bel-Ridge receives enough fine revenue to cover their salaries and those of the peers. This is undoubtedly a difficult position for these well-paid part-time municipal employees to manage, but that does not change the fact that the mere existence of these jobs is at odds with the ideals of fairness and justice that ought to characterize the criminal courts.

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In addition, the Village of Bel Ridge engages in a policy of detaining individuals who are unable to pay imposed fines. This choice adds another substantial layer of costs for the municipality, including \$45,000 (according to the Village's 2014 budget) to jail these individuals. Moreover, because Bel-Ridge does not have its own detention facility, it must take one of its three on-duty police officers (who make \$16.47, on average, each hour) away from real police work to transport ordinance violators to court from jail and back.<sup>71</sup>

### **B. Ferguson**

Ferguson is a city located in northern St. Louis County with 21,203 residents living in 8,192 households.<sup>72</sup> Most (67%) residents are African-American, while the remainder (29%) is mostly white.<sup>73</sup> Ferguson's unemployment rate is 14.3%,<sup>74</sup> more than double that of both St. Louis County (6.2%)<sup>75</sup> and Missouri (6.6%),<sup>76</sup> and 10% of the

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<sup>71</sup> VILLAGE OF BEL-RIDGE, MO, POLICE ORGANIZATION, *available at* [http://bel-ridge.us/?page\\_id=242](http://bel-ridge.us/?page_id=242).

<sup>72</sup> U.S. CENSUS BUREAU, 2010 CENSUS INTERACTIVE POPULATION SEARCH: MO—FERGUSON CITY, <http://www.census.gov/2010census/popmap/ipmtext.php?fl=29:2923986>.

<sup>73</sup> *Id.*

<sup>74</sup> U.S. CENSUS BUREAU, SELECTED ECONOMIC CHARACTERISTICS: FERGUSON CITY, Mo. (2008-2012), *available at* [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_5\\_YR\\_DP03&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5_YR_DP03&prodType=table).

<sup>75</sup> BUREAU LAB. STATS., LOCAL AREA UNEMPLOYMENT STATISTICS MAP, *available at* <http://data.bls.gov/map/MapToolServlet?state=29&datatype=unemployment&year=2014&period=M04&survey=la&map=county&seasonal=u>.

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city's 9,105 housing units are vacant.<sup>77</sup> 22% of residents live below the poverty level, including 35.3% of children under 18, and 21.7% received food stamps in the last year.<sup>78</sup>

Despite Ferguson's poverty, fines and court fees comprise the second largest source of revenue for the city, a total of \$2,635,400.<sup>79</sup> In 2013, the Ferguson Municipal Court disposed of 24,532 warrants<sup>80</sup> and 12,018 cases,<sup>81</sup> or three warrants and 1.5 cases per household. According to a court employee, the docket for an average court session may include as many as 1,500 cases.<sup>82</sup> Assuming an 80% conviction rate,<sup>83</sup> the average fine in a case resulting in a guilty verdict would be \$275.

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<sup>76</sup> BUREAU LAB. STATS., *ECONOMY AT A GLANCE: MISSOURI*, available at <http://www.bls.gov/eag/eag.mo.htm>.

<sup>77</sup> POPULATION SEARCH: MO—FERGUSON CITY, *supra* note 72.

<sup>78</sup> SELECTED ECONOMIC CHARACTERISTICS: FERGUSON CITY, MO., *supra* note 74.

<sup>79</sup> CITY OF FERGUSON FIN. DEP'T, ANNUAL OPERATING BUDGET 49 (2013-2014), available at <http://www.fergusoncity.com/documentcenter/view/1604>.

<sup>80</sup> JUDICIAL REPORT, *supra* note 21, at 319; *id.* at 303 (32,126 warrants outstanding on June 30, 2012, plus 32,975 warrants issued in FY 2013—40,569 warrants outstanding on June 30, 2013, totaling 24,532 warrants disposed in fiscal year 2013).

<sup>81</sup> *Id.* at 288 (forty-five Alcohol/drug-related Traffic cases disposed + 6,013 Other Traffic cases disposed, plus 5,960 Non-traffic Ordinance cases disposed, totaling 12,018 total cases disposed in fiscal year 2013).

<sup>82</sup> Phone conversation with Ferguson Municipal Court employee (Jun. 17, 2014) (no recording available).

<sup>83</sup> OFFICE OF STATE COURTS ADMIN., MUNICIPAL DIVISION STATISTICS 1 (Oct. 2009), available at <http://www.courts.mo.gov/file.jsp?id=36113>.

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In addition to such heavy legal prosecution, Ferguson and other municipal courts engage in a number of operational procedures that make it even more difficult for defendants to navigate the courts. For example, a Ferguson court employee reported that the bench routinely starts hearing cases 30 minutes before the appointed time and then locks the doors to the building as early as five minutes after the official hour, a practice that could easily lead a defendant arriving even slightly late to receive an additional criminal charge for failing to appear pursuant to a court summons.<sup>84</sup>

To carry out its work, the Ferguson Municipal Court employs a judge, prosecuting attorney, and assistant prosecuting attorney as well as three full-time and three part-time court clerks.<sup>85</sup> Residents of Ferguson have no direct voice in determining who holds the powerful position of prosecuting attorney, since he or she is appointed by the city attorney with the approval of the city manager.<sup>86</sup>

Unlike Bel-Ridge and Florissant, Ferguson does not publicize the salaries paid to its prosecutor and judge. However, in 2013, the total forecasted expenditure for municipal court personnel was \$221,700,

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<sup>84</sup> Phone conversation, *supra* note 82.

<sup>85</sup> FERGUSON BUDGET, *supra* note 74, at 67.

<sup>86</sup> *Id.*

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with an additional \$59,500 categorized under professional services. \$37,100 was spent on supplies and services.<sup>87</sup> The Ferguson Municipal Court holds three sessions per month, meaning that Ferguson spent \$318,300 to fund just thirty-six court sessions, or \$8,841.67 per session. To be more specific, at three hours or less per session, each hour of court costs the City of Ferguson approximately \$2,950 dollars.

For the time being, Ferguson relies on the St. Louis County jail to hold its inmates beyond seventy-two hours,<sup>88</sup> city police officers are required to take time out of their patrol schedules to make the forty-minute round trip to transport prisoners to and from the facility. At any given time, Ferguson has eight patrol officers on duty for its 21,203 citizens,<sup>89</sup> or 3.8 officers for every 1,000 citizens. Although the officer-to-citizen ratio is comparable to that of St. Louis City (2.5 officers for every 1,000 citizens), even one Ferguson officer tasked with court duty rather than patrolling his or her regular beat decreases the Ferguson Police Department's ability to conduct real police work. Thus, any time an

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<sup>87</sup> *Id.*

<sup>88</sup> Phone conversation with officer at Ferguson Jail (Jul. 21, 2014) (no recording available). Police department staff members mentioned that the jail is currently under construction but did not know when it was to be completed and its previous or future capacity.

<sup>89</sup> Phone conversation with Ferguson Police Department employee (June 17, 2014) (no recording available).

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officer drives to Clayton, the remaining force of seven officers must share the absent officer's burden of protecting an additional 2,650 citizens.

### **C. Florissant**

Florissant is the largest municipality in St. Louis County with a population of 52,363. More than a quarter (26.8%) of the population is African-American, while a large majority (69.3%) is white. 7.9% of the population is unemployed, slightly over the unemployment rates of both St. Louis County (6.8%) and the State of Missouri (6.6%). 8.6% of the population is below the poverty line.<sup>90</sup>

Just under one-third (32.9%) of the cases the Florissant Municipal Court disposed of in 2013 resulted in a warrant,<sup>91</sup> meaning that Florissant issued roughly one warrant for every six residents that year. <sup>92</sup> \$695,201 was collected from warrants, representing approximately one-quarter of the court's \$3,000,000 revenue. Fines were the third largest source of revenue in the municipality's budget, behind only sales and utilities taxes.

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<sup>90</sup> U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS—FLORISSANT (CITY), MO. (2012), available at <http://quickfacts.census.gov/qfd/states/29/2924778.html>.

<sup>91</sup> JUDICIAL REPORT, *supra* note 21, at 288.

<sup>92</sup> *Id.* at 303.



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In order to operate such an extensive court system, Florissant dedicates significant financial and personnel resources to hearing cases, incarcerating those with outstanding fines and warrants, transporting prisoners, and staffing its municipal court. In 2013, prisoner supplies for incarcerated individuals cost the municipality roughly \$3,861.<sup>93</sup> The municipality also spends over 1.75 million dollars to run the municipal court, in which 90.6% of filed cases are “other traffic” violations.

Out of the 2013 annual budget, \$473,668 went to pay municipal court salaries, with an additional \$408,900 to professional services and \$9,300 to office supplies.<sup>94</sup> Although only a part-time position, with roughly two regular court appearances a month or twenty-six in a year, the appointed judge earns \$50,000 annually, only slightly less than the full-time judge of the St. Louis City Court. The Florissant Prosecuting Attorney, also a part-time employee, earns \$56,060 for only twelve regular court appearances (with additional office hours). In addition, the municipality pays an assistant prosecuting attorney \$33,158 for the same number of appearances. By comparison, the starting salary for full-time public defenders in Missouri is \$38,544, and the average state-

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<sup>93</sup> CITY OF FLORISSANT FIN. DEPT, ADOPTED BUDGET 44 (2014), *available at* [http://www.florissantmo.com/egov/documents/1386188394\\_72772.pdf](http://www.florissantmo.com/egov/documents/1386188394_72772.pdf).

<sup>94</sup> *Id.* at 18.

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employed circuit attorney earns \$52,347 each year. In other words, Florissant's part-time prosecuting attorney works roughly 4% of a full-time job, but earns 145% of a full-time public defender's salary and 102% of the average full-time circuit attorney's. The only full-time position is that of court clerk, whose annual salary is \$46,530. Five assistant clerks cost Florissant another \$191,360 per year, and reserve police officers are paid \$37,700.<sup>95</sup>

### V. Next Steps

ArchCity Defenders is working to develop proposed solutions to the problems outlined above. In the meantime, we recommend that courts make the constitutionally-required inquiry into a person's ability to pay assessed fines prior to incarcerating them for non-payment. This step is necessary to avoid accusations of equal protection and due process violations and prevent the perpetuation of debtor's prisons in St. Louis County.

ArchCity Defenders, in collaboration with St. Louis University School of Law, is working on a proposed rule requiring that fines be assessed in proportion to income. This simple adjustment would virtually eliminate

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<sup>95</sup> *Id.* at 19.

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the need for additional court dates for pay dockets that clog the system, avoid warrants being issued for non-payment, and prevent incarceration for non-payment. Additionally, since many courts do not offer community service as an alternative to fines, ArchCity Defenders proposes the development of a comprehensive community service plan to allow the indigent an alternative to fine payments. Finally, ArchCity Defenders suggests that St. Louis set its long-term sights on having these violations handled in the associate state court of St. Louis County.