



**MUNICIPAL DIVISIONS
ADVANCING JUSTICE CAMPAIGN
21ST CIRCUIT COURT OF MISSOURI**

2018-2021

21st Judicial Circuit Work Group on Municipal Divisions

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This campaign for strategic change builds on numerous reforms and improvements that have occurred recently in the municipal divisions of St. Louis County and Missouri. It identifies key strategies that 21st Circuit Court leaders intend to pursue over the next three years (fiscal year 2018-21) to further enhance limited jurisdiction courts in St. Louis County. Two State Justice Institute grants, one for technical assistance and one for curriculum development, have provided the needed support to enable St. Louis County municipal divisions to upgrade their practices and procedures to date and to develop this blueprint for future advancements. The National Center for State Courts, a nonprofit justice system consultancy, has provided invaluable guidance and assistance along the way.

A Journey of 10,000 Steps is the theme of the first county-based educational workshop in Missouri on best practices required of municipal courts by the state Supreme Court. The workshop took place on November 3, 2017, and was developed and presented by the 21st Circuit Court in St. Louis County with funding from the State Justice Institute. Over 200 people attended. It provides a template for similar programs in the state's remaining 44 circuits that oversee 113 counties, the independent City of St. Louis, and more than 500 municipal courts.

The theme was adapted from an editorial written by 21st Circuit Court Presiding Judge Douglas Beach entitled, *Change is Happening in St. Louis County Missouri, Home to Ferguson*. After outlining various advances, he closed by saying "Taking the steps necessary to improve the municipal courts in St. Louis County is my top priority. Reaching our shared goal of fair and impartial justice for everyone in our court system is a *journey of 10,000 steps.*"



A Journey OF TEN-THOUSAND Steps

St. Louis County Municipal Divisions
Judge and Clerk Educational Workshop

Introduction

Municipal justice systems are where most people experience the American legal system firsthand. They handle close to 55 percent of the 100 million plus state and local court matters filed nationally. One traffic, parking or ordinance violation case is filed annually for every five people in the United States.¹

These justice systems include trial courts at the hub of their activities. Those in Missouri are fast-acting, high volume courts that adjudicate low-level infractions. Where a guilty plea or conviction occurs, commonly the only sanction is a fine payment, community service or attendance at a remedial course such as traffic school.

Recently, Missouri's municipal courts have experienced a flurry of changes to revamp fine, fee and bail procedures that have spread nationwide. This swell of activity was sparked by a U.S. Department of Justice review of the Ferguson City Police Department's actions to quell rioting after Michael Brown, an unarmed African American, was fatally shot in 2014 by a white city police officer. The report painted a dire picture of police enforcement leading up to the riots and highlighted improprieties and collusion among police, city and municipal justice officials to raise city revenues by increasing fines, fees and punishments for traffic and ordinance violations. These revelations prompted the state's Supreme Court to engage the National Center for State Courts (NCSC) to examine the Ferguson

Court and other state municipal divisions.² The NCSC's investigation and report, funded through State Justice Institute (SJI) reengineering funds, proposed 45 reforms ranging from governance and leadership improvements to fiscal and financial changes.

Although the report suggested there likely were questionable operations and revenue practices occurring in many municipal divisions throughout the state, the NCSC was most disturbed by problems it encountered in St. Louis County, home to Ferguson and over 80 other municipal justice systems. At the same time, though, the NCSC was impressed by the resolve it witnessed on the part of the Supreme Court and St. Louis County Circuit Court Presiding Judge Douglas Beach to stimulate reforms both statewide and locally to correct problems noted by the NCSC.

To aid in these efforts, SJI funded two initiatives for St. Louis County: (a) a technical assistance grant to devise strategies to improve court processes and procedures and act as a model for other regions of the state, and (b) a curriculum grant to design and produce a workshop for judges, prosecutors and municipal court leaders on newly promulgated Supreme Court minimum operating standards for municipal divisions. The workshop was also envisioned as a prototype that would help shape similar circuit court programs statewide.

A Work Group was developed by Presiding Judge Beach composed of two NCSC consultants, Patti Tobias and Gordy

¹ www.courtstatisticsproject.org

² Missouri's Constitution permits cities and towns to create municipal divisions (a/k/a municipal

courts) to adjudicate infractions and ordinance violations occurring within municipalities. Legally, municipal divisions are branches of the state circuit courts.

Griller, and two special monitors appointed by the Supreme Court to help judicial circuits integrate the new minimum operating standards within their municipal divisions – Karen Tokarz, a Washington University Law School Professor and municipal legal and justice system expert, and Courtney Whiteside, a staff member in the Office of the State Courts Administrator who is an authority on municipal division operations.

As a culmination of these two SJI projects, the Work Group created this 21st Circuit Court Municipal Divisions' *Advancing Justice Campaign* approach to strategic change. It has two purposes. First, to document the major projects and initiatives that have caused St. Louis County municipal divisions to rethink and restructure the way they define themselves and function. And secondly, to outline a set of objectives and ideas to further advance and sustain improvements in the work and operations of these divisions.

A campaign approach to change was selected by the Work Group as a more flexible and open-ended means to mobilize judges, staff and justice system partners around strategic improvement themes than traditional planning. A strategic campaign is particularly suited to loosely-coupled environments and organizations like courts and justice systems that have independent work units. Often, the actions in one part of the system can have little or no effect in another, or may unpredictably trigger reactions out of proportion to the initial issues raised.

This approach permits loosely-coupled systems to focus on substantial and sustained planning, not the plan as a

document. As such, activities can move forward without the agreement of all.

STRATEGIC THEMES...

- ✓ Municipal divisions comply fully with Supreme Court minimum operating standards
- ✓ Circuit court presiding judge exercises effective oversight of municipal divisions
- ✓ Municipal judges function as impartial judicial officers of the Missouri Judicial Branch
- ✓ Public is treated with dignity and respect by judges and court staff
- ✓ Access to justice is widespread, convenient, reliable and safe
- ✓ Municipal division procedures and proceedings enable self-representation.
- ✓ Technology permits people to handle court-related matters remotely

1. Municipal divisions comply fully with Supreme Court minimum operating standards

The Supreme Court of Missouri on September 20, 2016, adopted new subdivision 37.04 of Rule 37 entitled “Supervision of Courts Hearing Ordinance Violations.” Effective July 1, 2017, this new subdivision prescribed “Minimum Operating Standards for Missouri’s Municipal Divisions.” To assist the municipal divisions in St. Louis County in complying with Rule 37.04, the Presiding Judge appointed a committee of judges, prosecutors and selected court staff to develop a St. Louis County Municipal Division Handbook.

The handbook, published as a notebook and initially distributed at a mandatory day-long training on November 3, 2017, is intended for all municipal judges, prosecutors, court administrators and chief clerks in St. Louis County. It is also available in an electronic, updatable format on the 21st Judicial Circuit website for continuous reference. It represents the first document in the state extensively outlining municipal division performance requirements. As such, it serves as a template for Missouri’s other 44 circuits overseeing the State’s remaining 113 counties with 500+ municipal divisions.

In continuing to promote and monitor compliance with the Minimum Operating Standards, the Presiding Judge will...

- Issue and evaluate biannual e-surveys of all municipal divisions regarding compliance with the Minimum Operating Standards.³
- Develop practices and techniques to assist noncompliant municipal divisions in remedying deficiencies (e.g. “courts-helping-courts” peer group mentors, remedial education tutorials for judges and court leaders, assessments by emeritus judge and administrator teams, etc.)
- Determine, as necessary, through an order to show cause whether habitually non-compliant municipal divisions should be reported to the Supreme Court and a remediation plan developed. In such cases, should a plan fail to correct deficiencies, institute more stringent remedies with the advice and consent of the Supreme Court, up to and including suspension of the division’s operation and/or disciplinary action against judges and staff.

³ The e-survey was developed, distributed and collated by the NCSC.

2. Circuit court presiding judge exercises effective oversight of municipal divisions

Nationwide, it is common for chief and presiding judges of general jurisdiction courts to be vested with administrative oversight of limited jurisdiction courts in their regions on behalf of a state supreme court. Although this is true in Missouri, explicit duties and responsibilities required of circuit court presiding judges were vague until recent revelations and reports requested by the Supreme Court of Missouri exposed a range of municipal division operational problems prompting the Supreme Court to issue corrective rules and directives requiring explicit supervision by circuit court presiding judges.

A principal duty of presiding judges, as required by the Supreme Court, is to monitor and assure compliance by municipal divisions with minimum operating standards. Based on the array of rural and urban counties in the state, the capabilities and resources of various circuits, and the needs of municipal divisions statewide, administrative supervision likely will take a variety of forms.

Oversight protocols promulgated by the Supreme Court for presiding circuit judges require them to biannually (February 1 and August 1) verify compliance with the standards, “supervise the municipal divisions within their circuit” and “provide education, support and direction” to them.

To those ends in St. Louis County, the 21st Circuit Presiding Judge will endeavor to implement over the next three years the following initiatives...

- Promote the creation of a special part-time Judicial Monitor position by the Supreme Court to assist the 21st Circuit Presiding Judge, and other circuit presiding judges as possible, in the supervision and oversight of municipal divisions. For continuity and subject matter expertise, consider appointing Judge Beach to this position upon his retirement.
- Strengthen and expand the role and duties of the Office of Judicial Administrator in St. Louis County to support and improve municipal division operations.
- Develop and implement case processing time policies for municipal divisions in St. Louis County.
- Publish a guide and develop outreach strategies for city officials regarding the relationship between municipal judges, court staff and cities and towns.
- Assist the NCSC in developing an interactive digital video as an educational tool on the purposes and responsibilities of municipal divisions.

3. Municipal judges function as impartial judicial officers of the Missouri Judicial Branch

Although most municipal judges throughout the State are appointed by city governments in Missouri, and cities fund and provide facilities and equipment for their use, neither judges nor court employees are agents of the municipality. As judicial officers and staff, they are part of the Missouri Judicial Branch. As such, they must operate impartially and independently while maintaining a cooperative relationship with the city. This means that municipal divisions are not subject to the supervision of city management in their judicial and court-related duties or activities.

Within a city, the presiding municipal judge should function as the administrative head of the municipal division and supervise the judicial and internal management functions of the court by developing and overseeing the budget, supervising the chief clerk or court administrator and ensuring the proper functioning of the court. Such duties may be delegated to the chief clerk or court administrator, but the delegation does not relieve the presiding judge of the accountability for the operations and administration of the court.

To advise and assist municipal judges, Presiding Judge Beach formed a special St. Louis County Municipal Division Advisory Committee. Additionally, he has visited, observed and met with numerous municipal judges, court staff, law enforcement officials,

mayors, prosecutors, defense lawyers, city council members and city managers to seek input on municipal division functions.

Given the fact that municipal divisions are components of Missouri's circuit courts, they are courts of law required to operate independently. In that regard, the Presiding Judge will...

- Implement all appropriate recommendations of the National Task Force on Fines, Fees and Bail Practices as determined by the Supreme Court of Missouri.⁴
- Promote transparency in the appointment, evaluation and termination of municipal judges.
- Develop and put into effect formal procedures governing work by municipal division court staff for city justice system agencies.

⁴ Numerous National Task Force recommendations are available now at www.ncsc.org/topics/financial/fines-costs-and-

[fees/fines-and-fees-resource-guide.aspx](http://www.ncsc.org/topics/financial/fines-costs-and-fees/fines-and-fees-resource-guide.aspx). More are expected to be issued in August 2018.

4. Public is treated with dignity and respect by judges and court staff

High performing courts are procedurally fair. They treat those who appear before them with dignity, respect and understanding. Procedural fairness is not a feel-good vague ideal; it is a tangible operational philosophy that promotes the highest ideals of justice.

Municipal divisions deliver justice to large numbers of people in relatively routine matters. Proceedings are informal. Facts are clear and rapidly established. The primary objective is to apply the law expeditiously and move on to the next case.

In such an atmosphere, unless there is a conscientious, consistent effort by judges and court staff toward sincerely instituting and conveying procedural fairness – the perception and reality that the processes and decisions of the court are reasonable and just – litigants will view the court as sacrificing fairness for efficiency and becoming a revenue generating or bill-collecting agency for the city. To guard against that occurrence, municipal judges must rightfully take on a more active role in protecting the rights and interests of those accused, establishing the facts of the case, monitoring the proceedings and establishing fairness. It becomes doubly important to do so in these fast-acting courts since lawyers are sparse and litigants are often confused about the process and their rights. Court staff, too, must ensure court operational procedures, the treatment of customers and case resolution options are clearly and understandably conveyed to

parties in a dignified, respectful and informative manner.

To these ends, the Presiding Judge will...

- Develop guidelines for setting municipal division calendars in St. Louis County that are convenient and advantageous to the public and court users.
- Promote the implementation and use of NCSC's CourTool Access and Fairness Survey in all St. Louis County municipal divisions.
- Foster the use of a bench card by municipal judges on evidence-based practices that lead to better acceptance of court decisions, improved public trust in the justice system and greater compliance with court orders. The bench card was created as a joint project of the American Judges Association, Center for Court Innovation, NCSC and the National Judicial College.

5. Access to justice is widespread, convenient, reliable and safe

National surveys show that court users have a high expectancy of courts, especially limited jurisdiction courts, when it comes to immediacy, convenience, timeliness and cost.⁵ Yet, cost and time for resolving cases in the courts have long been recognized as barriers to justice in the United States.

The gap between rich and poor in the use and satisfaction involving municipal divisions is perceived as significant. Upper middle class and wealthy litigants tend to retain lawyers to avoid court appearances or pay fines and fees outright while those of lesser means and the working poor represent themselves. Self-represented parties are often obligated to return to court more than once to finalize outstanding issues or certify court directives have been fulfilled.

Court dockets can be crowded, proceedings are confusing, and in some instances, heated exchanges and heightened emotions may place people at risk. Adding to the tension, court security is often governed by a patchwork of city funding and policies leaving many courts with spotty security or none at all.

All these issues impact the rights of ordinary and vulnerable people in negative ways. In response, the Presiding Judge and the municipal divisions of St. Louis County will work to ensure all court users have a basic understanding of their legal rights, uphold fair and just outcomes for all parties and strive

to increase court efficiencies in the following ways...

- Standardize and simplify practices, procedures and forms among the municipal divisions of St. Louis County.
- Develop a pilot project to record proceedings with digital audio equipment so appeals can be on the record rather than de novo, pending Supreme Court approval.⁶
- Partner with the Office of the State Courts Administrator (OSCA) to develop and pilot a model website for all municipal divisions in St. Louis County.
- Pending the report by the Supreme Court's Criminal Justice Task Force, determine the viability of municipal divisions jointly coordinating, operating and sharing community service, probation and diversion programs as sentencing options.
- Distribute and use widely in every municipal division the *Know Your Rights* pamphlet published by OSCA.
- Appoint an Advisory Committee on Municipal Division Safety and Security in St. Louis County to develop recommendations and plans to create safer municipal division court environments.

⁵ 2017 State of the State Courts poll (NCSC)

⁶ All ordinance violation cases heard by associate circuit judges are electronically recorded.

6. Municipal division procedures and proceedings enable self-representation

One of the biggest challenges faced by limited jurisdiction courts is the growing number of self-represented litigants. In response, many courts nationally have remade court systems in more user-friendly, easy-to-navigate ways for over 30 years. These changes have not only empowered people to solve their own legal problems and improved the public's confidence in the courts, but has likewise benefited the courts through improved, simplified caseload and increased quality of information presented to judges. Yet, much remains to be done.

Missouri, like many other states, has deployed more plain-language forms and instructions for non-lawyers to handle their own legal matters in court. Increasingly, forms and instructions are becoming more standardized and available online, at courthouses, and even in public libraries along with self-help legal books.

Making materials available to those who search them out is admittedly a rather narrow, limited remedy for problems faced by the lawyer-less appearing in municipal divisions given the challenges many face involving education, language, mobility, family, jobs and assets. Even with better, user-friendly information, the public frequently feels uncomfortable and bewildered inside the justice system; judges and court staff typically do not recognize that fact.

As process-oriented organizations, the most compelling solutions for courts in dealing with litigants representing

themselves is to simplify and demystify court procedures and processes. In doing so, the Presiding Judge will be guided by three overarching concepts: (a) a focus on self-help, not institutional help; (b) the distribution of services and educational materials via high-tech/high-touch internet-based methods; and (c) a collaborative partnership with public libraries as neighborhood portals for court information and assistance. Among the initiatives planned are to...

- Form a study committee to research and recommend ways to promote “self-help rather than institutional help” in providing legal information and assistance to lawyer-less litigants appearing in St. Louis County municipal divisions. As appropriate, pilot promising approaches.
- Explore ways other metro-based limited jurisdiction courts outside Missouri distribute services and educational materials through internet-based digital applications, including smartphones, kiosks, texting, etc.
- Initiate discussions with St. Louis County public and law libraries regarding possible collaborations via the 21st Circuit Court to provide municipal division information and assistance to patrons.

7. Technology permits people to handle court-related matters remotely

Increasing numbers of courts throughout the country are developing and encouraging remote internet interaction regarding case-related matters with litigants, lawyers and witnesses. Data exchange includes a wide variety of digitized data: scheduling and docketing information, e-forms and instructions, e-filing, e-citations, e-complaints, interactive video testimony, interchange of motions, exhibits, and discovery and payment of fines, fees and costs. Missouri has experienced some of these electronic advances but lags behind other states, especially concerning limited jurisdiction courts.

With the eventual development of *Show-Me Courts*, a new statewide electronic case management system developed by OSCA, many of these features will be more attainable. The new system also will enable greater uniformity among municipal divisions and easier remote access for court users.

Of particular interest to litigants will be the ability to access and conduct case-related business remotely. Delivery of services using internet-based technologies (e.g. email, chat, text messaging) is an effective and efficient means for providing information and assistance to self-represented parties. Much of the public expects courts, legal services, and the bar to engage with them using these technologies.

Remote service delivery holds numerous advantages for court staff and

internal court operations, too. Shorter staff/customer interaction times occur, facility and security costs can be reduced, home-based staff can easily supplement on-site staff, and staff expertise can more easily be utilized. To these ends, the Presiding Judge will...

- Facilitate the research of trends and active programs delivering remote self-help services through the NCSC and the Self-Represented Litigation Network (SRLN), including studying the SRLN's *Resource Guide on Serving Self-Represented Litigants Remotely*.
- Foster experiments via the new *Show-Me Courts* e-case management system through pilot remote access programs in select municipal divisions for self-represented litigants.
- Promote a "hackathon," in collaboration with OSCA, for computer science university students to engage in collaborative computer programming ideas directed at remote technology applications for self-represented litigants in traffic and ordinance cases.
- Encourage and advance the use of e-citations throughout all municipal divisions in St. Louis County.

