

## It's Not Just Ferguson: Missouri Supreme Court Should Consolidate the Municipal Court System

*The municipal court system fans the flames of racial tension, oppression, and disenfranchisement by allowing municipalities to appropriate the court to act as government debt-collection agencies and implicitly charging the courts with ensuring the municipalities' fine-generated revenues are sufficient to maintain inefficient governmental operations.*<sup>1</sup> ArchCity Defenders, August 2014

*The Municipal Court does not act as a neutral arbiter of the law or a check on unlawful police conduct. Instead, the court primarily uses its judicial authority as the means to compel the payment of fines and fees that advance the city's financial interests.<sup>2</sup> The harms of Ferguson's police and court practices are borne disproportionately by African-Americans, and there is evidence that this is due in part to intentional discrimination based on race.<sup>3</sup>* Department of Justice, March 2015

*Extraordinary action is warranted in Ferguson. To help restore public trust and confidence in the Ferguson municipal court division, the Supreme Court of Missouri today transferred Judge Roy L Richter of the Missouri Court of Appeals, Eastern District, to the St. Louis County circuit court, where he will be assigned to hear all of Ferguson's pending and future municipal division cases.<sup>4</sup>* ---Missouri Supreme Court March, 2015

The Missouri Supreme Court's unprecedented decision to take control of Ferguson's Municipal Court was based primarily on issues raised during sustained protest following the killing of Mike Brown and reports published by ArchCity Defenders and the Department of Justice. These reports highlighted **racial disparity in traffic stops, excessive revenue generation, and excessive warrants and arrests** and confirmed the lived experiences of poor and Black people in St. Louis: there is a racially discriminatory and profit-driven approach to law enforcement made possible only by the collaborative efforts of local government, police, and courts.

These condemned practices are not unique to Ferguson. Rather, many St. Louis municipalities are demonstrably worse than Ferguson with respect to the highlighted factors. And while there have been legal victories<sup>5</sup> in the past year, new legislation,<sup>6</sup> and the sustained efforts of the Black Lives Matter movement, the Supreme Court should seize the opportunity to bring meaningful and transformative change to the region by following the recommendation of the Ferguson Commission<sup>7</sup>, ArchCity Defenders, SLU Law Legal Clinics, Better Together, Missourians Organizing for Reform and Empowerment, and the Organization for Black Struggle: Order the consolidation of our 81 courts into a full-time, professional regional court system.

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<sup>1</sup> [www.archcitydefenders.org](http://www.archcitydefenders.org)

<sup>2</sup> United States Department of Justice Ferguson Policy Department Report, Report Summary, page 3.  
[http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf)

<sup>3</sup> Id.

<sup>4</sup> Supreme Court of Missouri Reassigns Ferguson Municipal Division Cases March 9, 2015,  
<http://www.courts.mo.gov/pressrel.nsf/fa1bcbaea6d7c117862567670079a321/7f70e2b78919dca486257e030077b4ec?>

<sup>5</sup> Settlement Agreement, Velda City. <http://www.archcitydefenders.org/wp-content/uploads/2015/06/Velda-City-Resolution.pdf>

<sup>6</sup> Senate Bill 5, <http://www.senate.mo.gov/15info/pdf-bill/tat/SB5.pdf>

<sup>7</sup> Ferguson Commission 28 Signature Calls to Action, August 7, 2015

[http://stlpositivechange.org/sites/default/files/meeting\\_attachments/080515\\_Calls%20to%20Action%20Proposed%20for%20Signature%20Priorities.pdf](http://stlpositivechange.org/sites/default/files/meeting_attachments/080515_Calls%20to%20Action%20Proposed%20for%20Signature%20Priorities.pdf)

Consolidating this redundant and inefficient system would not only lessen the incentive to use racially discriminatory fines and fees as a revenue stream, but would also make it easier for poor and Black people to navigate the legal system in St. Louis County and make it easier for organizers and legal watchdogs to monitor compliance. Furthermore, consolidation will save millions of dollars in court operation costs. If the regional court system included four full-time professional courts, the total cost of the regional court system would amount to between \$6,000,000 and \$8,000,000.<sup>8</sup> By comparison, the aggregate cost of St. Louis County's 81 municipal courts was \$15,843,552 in 2013.<sup>9</sup>

This paper examines six municipalities in St. Louis County, each varying in demographic makeup and population size. The problems in these municipalities are presented in the context of Ferguson's policing and court problems. After establishing general trends in court practices and police conduct across St. Louis County, this paper offers a series of potential reforms, including the consolidation of St. Louis County's 81 municipal courts into a single regional court system.

### **Case Studies of Six Municipalities in St. Louis County**

In this section, the following municipalities are examined: A) Ladue, B) Maryland Heights, C) Florissant, D) Pagedale, E) Bel-Ridge, and F) Pine Lawn. These six municipalities were selected for multiple reasons. When taken together, these municipalities demonstrate how many of the practices condemned by the Department of Justice report are ubiquitous across a wide array of demographic makeups. While the first three municipalities have Black minority populations (1.0%, 11.9%, and 26.8%, respectively), the subsequent three have large majority Black populations (93.4%, 83.12%, and 96.4%, respectively).<sup>10</sup> Ferguson, with a 67.4% Black population, is demographically situated between the two groups. Second, in our work with ArchCity Defenders clients, these municipalities appear to frequently violate due process rights and utilize predatory revenue generating practices. This is not an exhaustive account of the problems within the St. Louis County

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<sup>8</sup> In April of 2015, a team of Washington University MBA and business students proposed a regional court system at the Olin School of Business's annual Taylor Community Consulting Program. The results are available at [www.archcitydefenders.org](http://www.archcitydefenders.org)

<sup>9</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>10</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

municipal court system, and other municipalities should certainly be researched in further depth. We imagine that a closer statistical look at other St. Louis County municipalities would tell a similar story.

These six municipalities demonstrate that Ferguson is not an anomaly. In all six municipalities analyzed, traffic stops of Black motorists are significantly more likely to lead to searches and arrests than stops of White motorists;<sup>11</sup> what's more, many of these rates are comparatively worse than those with respect to Ferguson. Unequivocally, the enforcement actions imposed after an initial stop has been made against a Black driver in these six municipalities are fundamentally more severe than those imposed against a White driver.<sup>12</sup> Like in Ferguson, racial profiling is intimately connected to a lack of oversight and an overreliance on court fines and fees. Rather than meting out justice, these municipal courts are perceived as punitive revenue centers with discriminatory intent.

### **Ladue**

Located in central St. Louis County, Ladue has the highest median household income of any city in Missouri with a population over 1,000, as well as one of the highest median incomes for any city in the United States.<sup>13</sup> Of the municipalities analyzed, Ladue is perhaps the worst offender for traffic-stop racial profiling. In 2014, 14.0% of all traffic stops involved a Black motorist, even though Blacks make up under one percent of the local population.<sup>14</sup> While there were under 60 Black residents in 2014, 575 traffic stops involved Black motorists. In other words, Blacks are stopped at 16 times the expected rate while Whites are underrepresented, only stopped at .9 times the expected rate. This means that a Black driver in Ladue is 18.5 times more likely to be pulled over than a White driver.<sup>15</sup> Since 2001, city officials have addressed allegations of severe racial

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<sup>11</sup> Across the 2010-2014 period, the racial disparity in post-stop search and arrest rates for all six municipalities is statistically significant (for all 12 figures,  $p < .05$ ). For the vast majority of search and arrest rates in the six municipalities, the racial disparity would occur by chance less than one time out of 100 ( $p < .01$ ). It is a generally accepted practice in the field of statistics to consider any result that would occur by chance less than five times out of 100 to be statistically significant.

<sup>12</sup> These figures show disparities in police practices after a decision to stop a motorist has been made. Thus, these disparities are not based in any part on population data and are independent from assumptions related to differences in offending rates across racial groups. Instead, the enforcement actions used against stopped Black motorists are compared directly to the enforcement actions used against stopped White motorists.

<sup>13</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

<sup>14</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>15</sup> Id.

profiling by claiming that the two interstates that run through city borders skew traffic stop rates (because the racial demographics of highway traffic is different from the demographics of the local population). However, even after disregarding all highway traffic stops and only evaluating traffic stops made on local city streets in 2014, the level of racial profiling remains remarkably high. On city streets alone, Black motorists are stopped at 8.8 times the expected rate, while Whites are again only stopped at .9 times the expected rate.<sup>16</sup>

Moreover, unlike with vehicle stops, assessing the disparate impact of post-stop outcomes is not dependent on Ladue population data parameters.<sup>17</sup> The data collected during Ladue Police Department stops further substantiates claims of racial profiling. In 2014, a stopped Black motorist was 2.4 times more likely to be subsequently searched and 2.7 times more likely to be arrested than a stopped White motorist.<sup>18</sup>

Bolstering the widespread perception of unethical policing and court practices, the Ladue municipal court judge (who is also the prosecutor for Frontenac, St. Ann, Crystal Lake Park, and Normandy, and formerly the prosecutor for Bella Villa) was recently found to have “fixed” tickets for wealthy White patrons.<sup>19</sup> Perhaps most telling, in May 2015 the former police chief of Ladue publicly claimed that the former mayor encouraged him to target Black drivers and ignore DWI cases involving wealthy White Ladue residents.<sup>20</sup>

### **Maryland Heights**

A west-central suburb of St. Louis, Maryland Heights has a population of 27,472, with a racial makeup of 73% White and 12% African American. At 9.9%, its poverty rate is slightly higher than that of Florissant.<sup>21</sup> Like in Florissant, Black drivers in Maryland Heights were stopped at almost three times the expected rate (compared to 1.3 times the expected rate in Ferguson).<sup>22</sup> While 10.7% of the Maryland Heights population is Black, 30.6% of traffic stops in 2014 involved Black motorists. Perhaps most indicative of the racialized over-

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<sup>16</sup> Id.

<sup>17</sup> United States Department of Justice Ferguson Policy Department Report, Chapter 4, page 64.

[http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf)

<sup>18</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>19</sup> [http://www.stltoday.com/news/local/crime-and-courts/a-web-of-lawyers-play-different-roles-in-different-courts/article\\_b61728d1-09b0-567f-9ff4-919cf4e34649.html](http://www.stltoday.com/news/local/crime-and-courts/a-web-of-lawyers-play-different-roles-in-different-courts/article_b61728d1-09b0-567f-9ff4-919cf4e34649.html)

<sup>20</sup> <http://www.kmov.com/story/28975097/former-ladue-police-chief-alleges-he-was-ordered-to-profile-Black-motorists>

<sup>21</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

<sup>22</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

policing in Maryland Heights, 19.2% of stopped Black drivers were searched in 2014—three times the overall St. Louis County and statewide search rates, which in 2014 were 6.6% and 6.0% respectively.<sup>23</sup> To put this figure in further perspective, a Black driver stopped in Maryland Heights was at least twice more likely to be searched than if that Black driver were stopped in Ferguson or any of the other five municipalities this paper engages. The fact is staggering in itself, but what may be more shocking is that, of the fifteen municipal police agencies across Missouri that stopped Black motorists the most in 2014, the Maryland Heights Police Department registered the highest Black motorist search rate.<sup>24</sup> Despite being searched at higher rates, Black motorists in Maryland Heights were 14.13% less likely to have contraband found on them than White motorists in 2014.<sup>25</sup> An imbalance in contraband findings indicates either that police officers are more inclined to search Black individuals without any suspicion of criminal wrongdoing or that officers' suspicion of criminal wrongdoing is less accurate during interactions with Black individuals. Under either assumption, an imbalance suggests officer bias as well as the general ineffectiveness of disparate enforcement practices.<sup>26</sup>

In 2014, the Maryland Heights Police Department made 476 outstanding warrant arrests at traffic stops.<sup>27</sup> By comparison, Ferguson made 179 outstanding warrant arrests, almost three times less even though the Ferguson population is only 30% smaller than that of Maryland Heights. It is very likely that a large proportion of the warrants acted upon stem from unpaid traffic fines and ordinance violations.

### **Florissant**

Florissant is the largest municipality in St. Louis County. A quarter of the population (24.4%) is Black, while the majority (71.6%) is White. About 8.6% of the population is below the poverty line, a rate significantly lower than those of the municipalities previously assessed and slightly below St. Louis County's average poverty rate.<sup>28</sup>

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<sup>23</sup> Id.

<sup>24</sup> Fifteen of Missouri's municipal police departments registered at least 3,000 stops against Black motorists in 2014. <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>25</sup> Id.

<sup>26</sup> United States Department of Justice Ferguson Policy Department Report, Chapter 4, page 65.

[http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf)

<sup>27</sup> Id.

<sup>28</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

The reported statistics indicate an elevated degree of racial profiling in Florissant. In 2014, the Florissant Police Department stopped Black drivers at almost three times the expected rate.<sup>29</sup> The overrepresentation of Black motorists in Florissant is more robust than in Ferguson, where the Ferguson Police Department stopped Black drivers at 1.3 times the expected rate the same year.<sup>30</sup> Moreover, 71.2% of Florissant vehicle stops involved a Black motorist, although Black individuals account for only a quarter of Florissant's population; by comparison, Whites comprise 71.6% of the population but just over a quarter of vehicle stops.<sup>31</sup> While only slightly more likely to be searched than White drivers in 2014,<sup>32</sup> Black drivers were 38% more likely to be arrested.<sup>33</sup> This data seems at odds with the fact that searches of Black individuals result in discovery of contraband only 12.0% of the time, while similar searches of Whites produce contraband 19.8% of the time.<sup>34</sup>

The higher income level and larger tax base of Florissant provide sources for city revenue generation outside traffic ticketing. As a percentage, Florissant generated 10.5% of its revenue through court fines and fees, a rate that seems less problematic than those previously evaluated.<sup>35</sup> However, this should not obscure the fact that Florissant's court net over \$1.5 million in revenue from fines and fees in 2014, making the court the greatest revenue generator for the city after sales and utility tax.<sup>36</sup> Moreover, because residents of poorer communities are more likely to receive tickets in the first place (due to racial profiling) and to have a single ticket evolve into multiple fines (due to missed initial payments and failure to appear charges), the proportion of general revenue statistic for municipalities with a high level of inequality can underrate the extent to which those courts disproportionately extract revenue from Black citizens.

A highlight of the misaligned incentives behind court revenue generation, the appointed Florissant judge makes \$50,000 annually even though the position requires about two regular court appearances a month (29 for

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<sup>29</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> It should be noted that the 2014 search rate, while only slightly higher for Black drivers than for White drivers, is a statistical outlier. From 2010 through 2013, Black drivers were 52.1% more likely to be searched at a traffic stop than White drivers by the Florissant Police Department.

<https://www.ago.mo.gov/home/vehicle-stops-report?lea=166>

<sup>33</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>34</sup> Id.

<sup>35</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>36</sup> [http://www.florissantmo.com/egov/documents/1415908032\\_12349.pdf](http://www.florissantmo.com/egov/documents/1415908032_12349.pdf)

the year).<sup>37</sup> This salary is only slightly less than the full-time position salary of the St. Louis City court judge.<sup>38</sup> The Florissant prosecuting attorney and the assistant prosecuting attorney, two part-time employees, make \$56,060 and \$33,158 respectively for only 15 regular court appearances.<sup>39</sup> By comparison, the starting salary for an assistant public defender in Missouri is \$38,544 annually, and, on average, a circuit attorney makes an annual salary of \$52,347.<sup>40</sup> In other words, the part time side-position of the Florissant prosecuting attorney pays more than the assistant public defender salary and the average circuit attorney salary.

The for-profit orientation of the Florissant court was particularly explicit in the court's recent response to the constitutional mandate for an open and public court. After St. Louis County Presiding Judge Maura McShane ruled in June 2014 that municipal courts must remain open to the public,<sup>41</sup> Florissant approved a measure to collect an additional \$10 for each municipal ordinance violation, with the money generated "to be used for land, construction, maintenance and upkeep of a municipal courthouse" large enough to accommodate its overcrowded docket.<sup>42</sup> This decision, in turning a purportedly democratic advance into a source of revenue, reflects just how deep-seated the logic of profit-making is within Florissant's municipal court.

### **Pagedale**

A fifteen-minute drive south of Ferguson, Pagedale is slightly larger than a square mile. A vast majority of its population is Black, and nearly a quarter lives in poverty.<sup>43</sup> In 2014, 80.1% of Pagedale traffic stops involved Black motorists, while only 16.6% of traffic stops involved White motorists.<sup>44</sup> These figures are almost identical to the 2014 stop disparity in Ferguson, where 81.8% of stops involved Black motorists and 16.6% of stops involved White motorists.<sup>45</sup> Setting aside the question of whether there are racial disparities in Pagedale police traffic stop procedures, the data reported by the Pagedale Police Department shows significant

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<sup>37</sup> Id.  
<sup>38</sup> <https://stlouis-mo.gov/government/departments/budget/documents/loader.cfm?csModule=security/g etfile&pageid=341524>  
<sup>39</sup> [http://www.florissantmo.com/egov/documents/1415908032\\_12349.pdf](http://www.florissantmo.com/egov/documents/1415908032_12349.pdf)  
<sup>40</sup> [http://www.publicdefender.mo.gov/employment/job\\_descriptions/apd\\_jeffcity.html](http://www.publicdefender.mo.gov/employment/job_descriptions/apd_jeffcity.html)  
<https://stlouis-mo.gov/government/departments/budget/documents/loader.cfm?csModule=security/g etfile&pageid=341524>  
<sup>41</sup> [http://www.stltoday.com/news/local/crime-and-courts/municipal-court-judges-in-st-louis-county-are-told-to/article\\_e965d081-758d-500a-abb7-a054916edad2.html](http://www.stltoday.com/news/local/crime-and-courts/municipal-court-judges-in-st-louis-county-are-told-to/article_e965d081-758d-500a-abb7-a054916edad2.html)  
<sup>42</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>  
<sup>43</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)  
<sup>44</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>  
<sup>45</sup> According to the Attorney General's "disparity index," the Pagedale stop rate actually represents a slight "under-representation" of Black motorists in stop data. However, this rate 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.

racial disparities in the outcomes people receive after being stopped. In Pagedale, Black motorists were searched 11.4% of the time after an initial stop (higher than the 10.1% Ferguson rate), while White motorists were only searched 4.3% of the time.<sup>46</sup> Of the 31 drivers searched by Pagedale police in 2014, all but one was Black. Despite being searched at much higher rates, Black motorists were 68.5% less likely to have contraband found on them than Whites: only 9.5% of searches of Black motorists resulted in a contraband finding, whereas 30.0% of searches of White motorists resulted in a contraband finding.<sup>47</sup> What's more, 12.6% of stopped Black drivers were arrested in Pagedale, while only 3.0% of stopped White drivers were arrested.<sup>48</sup> This means that the Pagedale Police Department was twice as likely as the Ferguson Police Department to arrest a stopped Black driver in 2014.

With 10,318 warrants issued in 2014, Pagedale averaged 3.1 warrants for every resident.<sup>49</sup> This is more than twice the rate of warrants issued in Ferguson, which averaged 1.5 warrants for every resident. Moreover, the Pagedale municipal court filed 5,781 cases in 2014, or an average of 1.7 cases for every resident (by comparison, Ferguson filed 1.1 cases for every resident).<sup>50</sup> Through the over-policing of low-level traffic offenses, Pagedale generated 17.7% of its 2014 revenue from court fines and fees (3.3% more than Ferguson).<sup>51</sup>

One would think that a town with a municipality-wide speed limit of twenty miles per hour would have no problem generating revenue, but Pagedale continues to think of creative ways to increase fines. In recent months, Pagedale has come under increased scrutiny for aggressively enforcing municipal code violations for sagging pants, missing shingles, and uncut lawns.<sup>52</sup> Such fines do not fall under the Macks Creek Law, which limits the percentage of a municipality's revenue that can come from traffic fines, and can cost Pagedale

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<sup>46</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> <https://www.courts.mo.gov/file.jsp?id=83263>

<sup>50</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>51</sup> Id.

<sup>52</sup> [http://www.stltoday.com/news/local/crime-and-courts/municipalities-ticket-for-trees-and-toys-as-traffic-revenue-declines/article\\_42739be7-afd1-5f66-b325-e1f654ba9625.html](http://www.stltoday.com/news/local/crime-and-courts/municipalities-ticket-for-trees-and-toys-as-traffic-revenue-declines/article_42739be7-afd1-5f66-b325-e1f654ba9625.html)



residents thousands of dollars. Beyond arresting property owners, Pagedale is now threatening to demolish properties that are not brought into compliance with municipal codes.<sup>53</sup>

### **Bel-Ridge**

With about 2,700 residents in an area less than a square mile, Bel-Ridge is one of the smallest municipalities in St. Louis County.<sup>54</sup> In 2014, 70.4% of all traffic stops involved a Black motorist.<sup>55</sup> From 2010 through 2014, Black drivers in Bel-Ridge were twice as likely as White drivers to be searched at a traffic stop and four times as likely to be arrested.<sup>56</sup> In 2013, for instance, 100% of all searches and arrests originating from traffic stops were of Black drivers.<sup>57</sup> Although roughly 81% of Bel-Ridge residents are Black, the police force is almost entirely White.<sup>58</sup>

In 2014, Bel-Ridge filed 7,937 cases in its municipal court, an average of 2.9 cases for every resident.<sup>59</sup> This rate is almost three times Ferguson's rate of 1.1 cases for every resident. Like Pine Lawn, Bel-Ridge uses its police and courts to convert its high caseload into revenue. In 2014, fines and fees constituted 24.5% of Bel-Ridge's revenue total, 10.1% higher than what fines and fees constituted for Ferguson.<sup>60</sup> Given the 42.3% poverty rate in Bel-Ridge, an extreme level almost twice that of Ferguson, fines and fees have had a particularly devastating effect.<sup>61</sup> The practice of using court fees to impose a "hidden tax" on poor populations is demonstrated by the way Bel-Ridge budgets for increases in court revenue for ensuing fiscal years. Even under

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<sup>53</sup> [http://www.stltoday.com/news/local/crime-and-courts/after-code-violation-crackdown-pagedale-officials-now-threaten-to-demolish/article\\_81601302-e27e-5184-a820-d4dfb315625c.html](http://www.stltoday.com/news/local/crime-and-courts/after-code-violation-crackdown-pagedale-officials-now-threaten-to-demolish/article_81601302-e27e-5184-a820-d4dfb315625c.html)

<sup>54</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

<sup>55</sup> According to the Attorney General's "disparity index," which compares the percent of traffic stops that involve a given race to the percent of driving-age residents in the municipality of that race, the Bel-Ridge stop rate actually represents a slight "under-representation" of Black motorists in stop data. However, this rate 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. A cause for further concern, the disparity index for Blacks has consistently increased over the past decade (most municipality disparity indexes, like Ferguson's, have remained relatively constant).

<sup>56</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>57</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2013analysisbykoster.pdf?sfvrsn=2%20>

<sup>58</sup> <http://news.stlpublicradio.org/post/some-bel-ridge-trustees-say-village-police-problems-have-been-ignored>

<sup>59</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>60</sup> Id.

<sup>61</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

increased scrutiny from The Department of Justice and ArchCity Defender Bel-Ridge recently projected a 7% increase in court revenue for the 2015 fiscal year.<sup>62</sup>

What's more, Bel-Ridge is one of the few remaining municipalities in St. Louis County that does not allow payment plans of any kind for fees and fines. According to the official Bel-Ridge court procedures, "You are expected to pay your fines, in full, that evening."<sup>63</sup> This implies that defendants, before even having their case heard, must bring the full sum of money with them to court or risk being detained. Knowing this, defendants who are unable to pay their fines in full are reluctant to show up in court at all, often choosing to continue to work and hopefully make enough money to pay the fine before an arrest warrant is served. In this way, the "failure to appear" charge disproportionately targets poor citizens who cannot make payments in full.

In January 2015, the former acting mayor of Kinloch—a small town near Bel-Ridge—claimed to have been assaulted by Bel-Ridge police officers.<sup>64</sup> When the police arrived after being called about a possible burglary, they took her into custody with excessive force. The police were recorded on camera refusing to read the former mayor her rights. In a 2012 audit of the Bel-Ridge Police Department, a number of officers were investigated for involvement in narcotics sales during nighttime security guard shifts. The report stated, "it has been talked about in law enforcement circles for years regarding the sale and distribution of narcotics on their premises."<sup>65</sup> The relationship between the police department and Bel-Ridge residents continues to remain tenuous after years of scandals and racialized policing practices.

#### **F. Pine Lawn**

The city of Pine Lawn comprises a small area of land ten minutes south of Ferguson. Pine Lawn has about 3,000 mostly Black residents with nearly a third living below the poverty line.<sup>66</sup> In 2014, Black motorists in Pine Lawn were three times more likely to be searched than White motorists after an initial traffic stop had been made (comparatively higher than the disparity in Ferguson, where a stopped Black motorist was 2.8 times

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<sup>62</sup> *Village of Bel-Ridge Operating Budget- General Fund: January 1, 2015 thru December 31, 2015*. Received from Village of Bel-Ridge municipal complex on 7/24/15.

<sup>63</sup> [http://bel-ridge.us/?page\\_id=27](http://bel-ridge.us/?page_id=27)

<sup>64</sup> <http://fox2now.com/2015/01/23/three-missouri-police-officers-investigated-over-alleged-assault-on-former-kinloch-official/>

<sup>65</sup> <http://news.stlpublicradio.org/post/some-bel-ridge-trustees-say-village-police-problems-have-been-ignored>

<sup>66</sup> <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Accessed 7/10/14)

more likely to be searched).<sup>67</sup> After an initial stop by a Pine Lawn police officer in 2014, Black motorists were searched 6.9% of the time, while White motorists were only searched 2.3% of the time. Although they are searched at significantly higher rates, Black drivers were 56.3% less likely to have contraband found on them than White drivers in 2014 (only 7.4% of searches for Black motorists resulted in a contraband finding, as compared to a 17.0% hit rate for White motorists).

Moreover, a stopped Black driver was four times more likely to be arrested in Pine Lawn than a stopped White driver in Pine Lawn (9.1% to 2.3%), and 31% more likely to be arrested than a stopped Black driver in Ferguson.<sup>68</sup> As detailed in the ArchCity Defenders Report and the Department of Justice Ferguson Police Department Report, this disparity can be explained in large part by the high concentration of Black individuals arrested for outstanding municipal warrants that stem from missed court payments and appearances.

Typified by Pine Lawn, many St. Louis County municipalities work to generate revenue at every stage of the enforcement process, beginning with the over-policing of low-level offenses that translate into court fines and fees. While Ferguson's population is seven times larger than Pine Lawn's population, the two filed an almost identical number of cases in their municipal courts in 2014 (Pine Lawn and Ferguson filed 23,037 and 23,794 cases, respectively).<sup>69</sup> Pine Lawn averaged over seven cases filed for every resident, an outrageous caseload that ranks one of the highest in the state. Coupled with the fact that Pine Lawn has not expanded beyond two court dates a month, the Pine Lawn court handles an average of 960 cases in a single session.<sup>70</sup> With a docket load 48% larger than Ferguson's, court proceedings in Pine Lawn are hurried and Pine Lawn defendants are often confused at how to navigate the court system. For instance, while Pine Lawn has started to accept partial payments of traffic fines from residents who cannot afford to initially make payments in full, the sign outside the courthouse as of June 2015 still indicated that only full payments would be accepted.<sup>71</sup>

Court fines and fees have come to constitute the largest single source of revenue for Pine Lawn to an egregious degree. In 2014, Pine Lawn generated 48.1% of its revenue from fines and fees—the fourth highest

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<sup>67</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>68</sup> <https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

<sup>69</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>70</sup> Id.

<sup>71</sup> Observation made by ArchCity Defender court monitors (6/11/15).

rate of court revenue production among St. Louis County's 90 municipalities.<sup>72</sup> In comparison, Ferguson's municipal court—a system that “considers revenue generation to be its primary purpose,” according to the DOJ report<sup>73</sup>—generated 14.4% (three times less) of its city revenue through fines and fees. Both courts net almost 1.5 million dollars from fines and fees, despite the fact that Ferguson's population is seven times larger than that of Pine Lawn.<sup>74</sup> This puts Pine Lawn in direct violation of Missouri state law, known as the Macks Creek Law, which limits what a municipality can raise through ticketing to 30% of operating revenue.<sup>75</sup>

There are further reasons why residents describe the Pine Lawn court as a punitive revenue center and a “poster child of dysfunction.”<sup>76</sup> When monitors from ArchCity Defenders sat in on a court session in June 2015, defendants were required to wait for almost an hour before it was announced that the judge was unavailable and the session was cancelled.<sup>77</sup> All defendants were issued continuances and had to wait until the following month for their cases to be heard. Until very recently, Pine Lawn employed a police commander who allegedly raped and drugged multiple women, and whose behavior was described by his police academy trainer as “sociopathic.”<sup>78</sup> In January 2015, a large group of demonstrators gathered outside the Pine Lawn courthouse in protest of the way tickets and court fees target poor residents.<sup>79</sup> According to one resident, “even if all of your stuff is right, they'll still pull you over, hoping you don't have insurance.” Another resident expressed how she keeps her insurance and driver's license out in a cup holder whenever she drives, for fear that reaching into her glove compartment during a police encounter could be interpreted as a threat. The Facebook page, “Dissolve the City of Pine Lawn Police Department,” has almost 10,000 “likes” as of July 2015.<sup>80</sup>

### III. Trends Across St. Louis County

The six municipalities in review demonstrate just how pervasive the problems of racial profiling, police

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<sup>72</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>73</sup> United States Department of Justice Ferguson Policy Department Report, Chapter 2, page 14.

[http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf)

<sup>74</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>75</sup> <http://www.moga.mo.gov/mostatutes/stathtml/30200003411.HTML>

<sup>76</sup> [http://www.stltoday.com/news/local/govt-and-politics/pine-lawn-poster-child-of-dysfunction/article\\_c782e651-9389-507e-8d74-11a86ac590bb.html](http://www.stltoday.com/news/local/govt-and-politics/pine-lawn-poster-child-of-dysfunction/article_c782e651-9389-507e-8d74-11a86ac590bb.html)

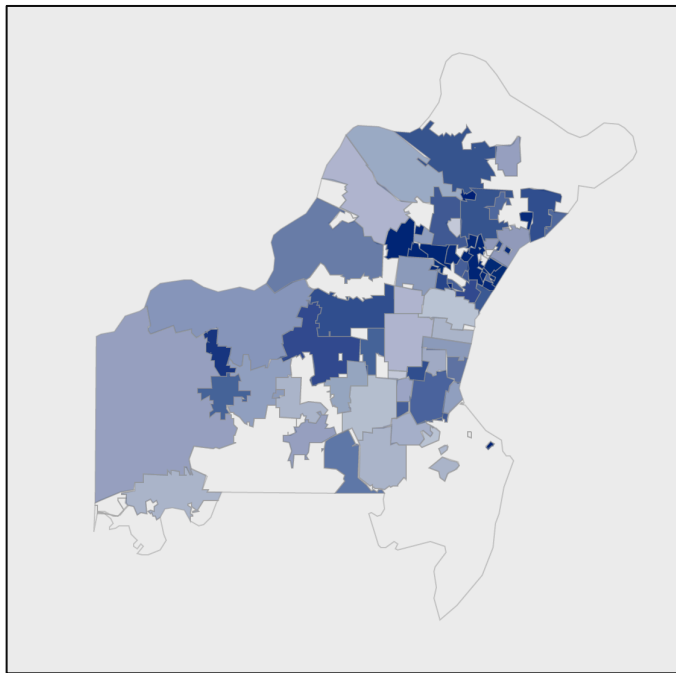
<sup>77</sup> Observation made by ArchCity Defender court monitors (6/11/15).

<sup>78</sup> <http://fox2now.com/2015/01/29/man-identified-as-having-sociopath-behavior-became-police-commander/>

<sup>79</sup> [http://www.huffingtonpost.com/2015/02/06/st-louis-county-municipal-court-reform-pine-lawn-\\_n\\_6627426.html](http://www.huffingtonpost.com/2015/02/06/st-louis-county-municipal-court-reform-pine-lawn-_n_6627426.html)

<sup>80</sup> <https://www.facebook.com/PineLawnmustgo>

misconduct, and court revenue generation are across St. Louis County, and to think of the problems highlighted in the Department of Justice Report as confined to Ferguson is to ignore the wider issue.



In this map, each municipality in St. Louis County is shaded in accordance with the exact percentage of general revenue it accrued through court fines and fees in 2014.<sup>81</sup> Darker municipalities rely more heavily on court fines and fees, and white space is either unincorporated land or municipalities that did not report revenue rates. Of the fourteen St. Louis County municipalities whose largest source of revenue is municipal fees and fines, thirteen are concentrated north of Olive Boulevard and

within the boundary of I-270. On average, these municipalities generate over one-third of their general revenue from court fees and fines.<sup>82</sup> By comparison, court fees constituted 14.4% of Ferguson's revenue.<sup>83</sup> These findings are substantiated by our clients across St. Louis County, who describe how they frequently go out of their way to avoid driving through the cluster of cities above University City.

When looking collectively at all municipalities in St. Louis County, there is a strong positive relationship between a municipality's percentage of revenue from fees and fines and the likelihood that an officer will issue a citation at a traffic stop (as opposed to issuing a warning or taking no action).<sup>84</sup> This means that a driver is increasingly likely to receive a citation upon being stopped as the municipality's reliance on court fees and fines increases. In effect, the drivers within fee-dependent municipalities—who tend to be

<sup>81</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>82</sup> Id.

<sup>83</sup> Id.

<sup>84</sup>  $r=.50043$  for the 59 municipalities sampled (21 municipalities did not report either 2014 citation and warning figures or 2014 revenue figures)

<http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<https://www.ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>

predominantly African American and poor—are more likely to be subject to fees and fines. Beyond spiraling into arrest warrants and jail time if gone unpaid, these traffic fees constitute a particularly glaring poverty tax.

Moreover, it is commonly assumed that the degree of court revenue generation is determined by the level of poverty in a municipality. On this view, revenue generation is a method of financial survival for cash-strapped municipalities that lack a robust tax base and access to other viable sources of revenue. However, holding the poverty rate constant, St. Louis municipalities with higher percentages of African-American residents have statistically significantly higher court fees per resident. This suggests that factors other than poverty rates and tax revenue influence court costs in Black communities.<sup>85</sup>

### **The Way Forward**

Greater steps must be taken to discontinue the racially discriminatory and revenue based constitutional violations that have become convention in many municipal systems. The ArchCity Defenders Report proposed several reforms, including mandating that courts make a constitutionally required inquiry into a person’s ability to pay assessed fines prior to incarcerating them for non-payment. As the Report explains, this step is necessary to avoid accusations of deprivation of equal protection and due process rights, and to reverse the trend of debtor’s prisons across St. Louis County.

Since our report was issued in August of 2014, we, along with Saint Louis University School of Law Legal Clinics, have advocated for the implementation of procedural protections to guarantee the rights of every defendant, the appointment of public defenders in the courts, and the consolidation of the municipal courts. Through litigation filed with co-counsel at Saint Louis University School of Law Legal Clinics and Equal Justice Under Law, we have ended cash bail, ended the practice of arbitrary and indefinite detention following initial alleged failure to appear, implemented procedural protections reducing unnecessary incarceration, mandated an inquiry into a person’s ability to pay a fine, and increased access to alternative sentencing

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<sup>85</sup> Across all St. Louis municipalities, a statistically significant relationship was found between the percentage of population that is Black and higher court fees per resident, while holding poverty levels constant. Holding overall poverty levels equal, an increase of one percentage of Black people in the community was associated with an \$0.81 increase in court fees for every resident. <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Appendix.pdf>

including community service and reduced fines. While these were considered unthinkable in August of 2014, they are a reality today. Combined with the protections afforded defendants on minor traffic tickets only obtained through the passage of the important but limited Senate Bill 5, the municipal court landscape is very different today.

Unfortunately, these hard earned wins through the combined efforts of organizers, activists, and the legal community are limited to only certain jurisdictions. While it is certain that all municipal courts will adopt these procedures to avoid future litigation and protest, the best way to ensure compliance with the protections of the United States Constitution is to consolidate the 81 municipal courts in St. Louis County into a single regional court system. Consolidating this redundant and inefficient system would not only lessen the incentive to use racially discriminatory fines and fees as a revenue stream, but would also make it easier for poor and Black people to navigate the legal system in St. Louis County and make it easier for organizers and legal watchdogs to monitor compliance. Furthermore, consolidation will save millions of dollars in court operation costs. If the regional court system included four of these full-time professional courts, the total cost of the regional court system would amount to between \$6,000,000 and \$8,000,000. By comparison, the aggregate cost of St. Louis County's 81 municipal courts was \$15,843,552 in 2013.<sup>86</sup>

The cost savings is the result of the consolidation of overlapping, inefficient part-time courts into 4 full time courts with professional staff. On average, an individual municipal court in St. Louis County holds 2.21 court sessions each month.<sup>87</sup> This means that, across St. Louis County, there are about 179 municipal court sessions each year. If the total docket load across St. Louis County remained constant, each proposed full-time regional court would have an entire year to handle what the average municipal court currently handles in 45 court sessions. Because most municipal courts are composed of a single part-time judge, a proposed full-time

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<sup>86</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<sup>87</sup> <http://www.bettertogetherstl.com/wp-content/uploads/2014/10/BT-Municipal-Courts-Report-Full-Report1.pdf>

<https://www.courts.mo.gov/casenet/base/welcome.do>

Individual municipal court websites were also consulted.

regional court judge would be responsible over the course of a year for what the average municipal judge handles in 11 court sessions. What's more, if the regional court system adopted currently proposed procedural protections, including the elimination of the payment docket by mandating that fines and fees be collected in a manner consistent with the enforcement of civil monetary judgments under Missouri law,<sup>88</sup> St. Louis County would see a substantial reduction in the total docket load. In practice, the docket load would be even further reduced, as the elimination of revenue incentives would mitigate frivolous ticketing and manifest in less cases filed in the first place. Not only would the proposed regional system save millions of dollars in operating costs, but it would also allow for judges to hear defendants for longer than thirty seconds.

Ultimately, the current municipal court system proves incredibly costly, in terms of both financial inefficiencies and the squandered community trust that unjust practices have precipitated. Their practices violate the clear mandates of the United States Constitution and they destroy the public's confidence in the justice system. 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 poorest 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. 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 revenues are sufficient to maintain an inefficient governmental operations. To remedy systematic injustices and open the possibility of civic reconciliation, the St. Louis County justice system must be reformed at-large.

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<sup>88</sup> Currently, the City of Jennings is proposing the elimination of its payment docket. If fines and costs are not paid or resolved by community service within six months from the date assessed, the City of Jennings will refer the debt to a civil debt collector. Given this approach, incarceration would no longer be pursued as a punishment for non-payment.