

***Introductory remarks by Judge Roy L. Richter,
presiding Thursday evening, March 19, 2015,
over the Ferguson municipal division of the 21st Judicial Circuit***

Before we get started, I want to go over some basics:

Missouri's court system

The Missouri court structure places the Supreme Court of Missouri at the top. Next is the Missouri Court of Appeals, which districts – Eastern, Southern and Western. These courts hear appeals; they do not take evidence, and parties do not appear and testify in appellate courts – that happens in the trial courts.

Next are Missouri's 45 circuit courts – these are the trial courts, and there is at least one courthouse in every county. There are different categories of judges serving the circuit court. There are circuit judges, associate circuit judges, commissioners of various types, and municipal judges.

Municipal divisions

Tonight, we are in a municipal division. Municipal divisions hear only alleged violations of city ordinances. Alleged violations of St. Louis County ordinances are heard in satellite courts in the northern, southern and western parts of the county (section 479.500, RSMo). Alleged violations of state law are heard in the St. Louis County circuit court in Clayton by circuit judges and associate circuit judges.

By state law (section 479.050, RSMo, and Rule 37.49), a municipal court division may establish a violations bureau – that has existed here in Ferguson for some time. I have reviewed the fine schedule that has been used in Ferguson, and I have made a few changes. I also have compared the fine schedule used for Ferguson ordinance violations with the fine schedule used for St. Louis County ordinance violations, the uniform schedule being proposed for use in all municipal divisions in St. Louis County and the fine schedule used statewide by associate circuit judges – and I found that all of these schedules are very close to one another. State law (section 476.385, RSMo, and Rule 37.49) only allows certain types of cases to be handled by a centralized bureau without a court appearance. These include most traffic violations, with the exception of:

- (1) Any violation resulting in personal injury or property damage;
- (2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs;
- (3) Operating a vehicle with a counterfeited, altered, suspended, or revoked license;
- (4) Fleeing or attempting to elude an officer.

Under state law, animal control violations and housing violations may be handled by entering a guilty plea and paying a predetermined fine plus costs.

Different roles in the system

Perhaps a brief explanation of the role of those involved in the system will be helpful.

The legislative branch of city governments is the city council. That is the body that passes ordinances. The police and the courts don't "make the law." If you don't like the ordinances, the city council is the body with which you should share your concerns.

The police are part of the executive branch of city government. They have the duty to enforce the ordinances passed by the city council. The courts and the city council do not issue citations or make arrests.

The police, for the most part, issue citations in the form of a "ticket" – this document is basically an invitation to appear in court. The ticket goes from the police to the city prosecutor – the prosecutor determines whether a charge will be filed. If the prosecutor files a charge, then the case comes to the court. The prosecutor has the sole authority to file charges and the sole authority to dismiss charges. The court has no authority to file or dismiss charges. The court clerks do not have the authority to dismiss charges.

The court staff do not write the tickets and do not decide whether a person should be prosecuted – their job is merely to handle the paperwork AFTER the police and prosecutor have been involved. So I ask that you treat the court clerks with respect; if you are unhappy with a ticket or a charge, there is nothing the court clerk can do to help you because that is not their job. And I have asked them to treat you with respect as well. But I also have told them that I do not expect them to stay on the phone with a person who is cursing at them.

If someone receives a ticket, it is expected that the person will appear in court at the time and place indicated on the ticket. If the person does not appear, the court staff will send the person a letter, at the address the person provided to the officer, giving the person another court date. If the person fails to come to court the second time, after the letter is sent, the court will issue a warrant. I don't know any other way to get people to come to court to dispose of the charge or charges – if any of you has a better idea about get a person to court, please share that with your elected legislators.

A defendant's rights in the municipal division

When you come to court, your rights will be explained to you. That is my job as the judge.

You have a right to hire an attorney, but you are not required to do so. The public defender does not represent people charged with municipal violations. Only if the prosecutor recommends a jail sentence can I appoint a local attorney to represent you. If you are interested in discussing a

possible plea bargain with the prosecutor, the prosecutor is willing to talk with you regardless of whether you have an attorney. I will tell you that in many places around the state, prosecutors will not discuss cases with anyone but attorneys. But the Ferguson city prosecutor has assured me that she will discuss a plea bargain directly with any defendant and does not require the defendant to have an attorney.

When you come to the bench, I will make sure you understand your rights. I will ask you if you want to enter a plea of guilty or not guilty. If you want to plead not guilty, then you pretty much are done for tonight. I will ask you what kind of trial you want. If you want to have a trial in front of me, then we will set a date for your trial. If you want a jury trial, then I will certify your case to the circuit court, and all your proceedings will take place in Clayton. If you have a trial with me, and you do not like the result, you have a right to what is called a “trial de novo.” That means you can have a “do-over” trial in Clayton in front of a circuit judge or associate circuit judge. Regardless of what kind of trial you want, the prosecutor will be required to present evidence – documents, testimony, etc. – to prove that you committed the violation with which you are charged. And you will have the right to present your own evidence and witnesses, challenge the prosecutor’s evidence and ask questions of the prosecutor’s witnesses. If the prosecutor fails to prove the charges, then you will be found not guilty. If you are found guilty, regardless of whether your trial was in Ferguson or Clayton, state law (section 479.080, RSMo) says that your fine money comes back to Ferguson.

Please know that I have not seen your police report. The only way I would see the police report is if it is admitted as evidence in a trial. I presume you are NOT guilty unless you plead guilty or unless the prosecutor proves that you are guilty.

What to expect of court, and what the court expects of you

If you want to plead guilty, then I will assess a fine and direct that you pay court costs as required by law. Judges do not have the ability to waive court costs – the law (section 488.012, RSMo) says they SHALL be assessed. If you plead guilty but cannot pay the full amount of the fine and costs today, you may enter into a payment agreement – the people who will assist you with that are located in a room next to this room. I will expect you to comply with the agreement you make – if you do not, court staff will send you a letter and tell you that you need to come back to court to explain why you aren’t holding up your end of the agreement. When you come back to court, you will NOT go to jail if you cannot pay in full that day – but if you don’t come to court and explain why you can’t make your payments, what can I assume, other than that you don’t intend to honor your agreement?

At that point, if your case was a traffic matter, state law (section 302.341, RSMo) provides some unpleasant consequences:

- Within 10 days of a defendant’s failure to comply, court staff will inform the defendant by ordinary mail at the last address shown on the court records that the court will order

the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within 30 days from the date of mailing.

- Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant.
- Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue.

Given the consequences outlined in state law, you can see why it will work so much better if you just come to court, show me that you are trying to hold up your end of the agreement and explain why you are having trouble making payments so we can work out a better payment plan for you. I am a reasonable person, and I will work with you.

The bottom line is that if you have a court date, you need to come to court. If you do not, and your case is something other than a traffic matter, the only real option I have is to issue a warrant for your arrest. You will NOT be arrested for not having your payments made, but you may well get arrested if you refuse to come to court. So just please come to court so we can work with you.

One last thing – you may be wondering why there is a computer in front of me. There is a lot of media interest in the court, and I want to provide access to as many people as I can, but there is a statewide rule (Supreme Court Operating Rule 16.02(m)) that says that media coverage of a criminal defendant who does not have an attorney SHALL NOT BE PERMITTED. In other words, you have a right NOT to be photographed or recorded either by audio or video. That is also why no one can have their cell phones out. So this camera is pointing just at me. And the media who are watching down the street with their cameras and recording devices will only see me. I hope I do not break their cameras! If any members of the media approach you after you leave tonight, you can talk with them if you want. But if you do not want to talk with them, you have the right to say so and walk away.

Thank you for letting me explain how things work in general, and how things will work tonight, and how I plan to proceed moving forward. And thank you for coming to court! I am ready to begin.