

# COMMISSION ON RACIAL AND ETHNIC FAIRNESS

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2022 Annual Report to the  
Supreme Court of Missouri  
December 2022

**Supreme Court of Missouri**  
**Commission on Racial and Ethnic Fairness (CREF)**

**2022 Report to the Supreme Court of Missouri**

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SUPREME COURT OF MISSOURI  
COMMISSION ON RACIAL AND ETHNIC FAIRNESS  
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JEFFERSON CITY, MISSOURI 65110

Dear Friends of the Commission,

We are pleased to present the Commission's 2022 report to the Supreme Court of Missouri. We have had a busy and productive year as the Commission has continued the important work to ensure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process.

This year, the Commission was able to conduct *two* first-of-their-kind statewide surveys. Our Systemic Racism Work Group partnered with Missouri State University to survey all of Missouri's court personnel regarding racial bias in the Missouri State Court System. Also, the Commission deployed its *Attorney Retention Survey* to 23,000 attorneys practicing in Missouri. The data collected will provide a baseline understanding regarding what members of the bar think about issues of race, ethnicity, gender, and bias. The Commission also completed its *Implicit Bias Video* that has been approved by the Missouri Supreme Court to be shown voluntarily throughout Missouri Courts during the juror orientation process.

Notably, the Commission held its two annual meetings for the year. Due to the ongoing pandemic, the meetings were held virtually. The April 11, 2022, meeting featured a presentation from the National Center for State Courts and Access Lex Institute related to the *2022 Delaware Supreme Court Diversity Strategic Plan Overview*. The Criminal Justice Subcommittee, along with Dean Ellen Suni, presented on the expungement reform process in Missouri. The October 12, 2022 meeting featured presentations on the Office State Court Administrators *2022 Diversity and Inclusion Report*. Also, at this meeting, the Systemic Racism Work Group along with faculty from Missouri State University presented preliminary results related to its groundbreaking racial disparities and bias in the Missouri court system survey. Finally, the Practice of Law Subcommittee offered preliminary findings related to the Attorney Retention survey.

In sum, the Commission worked to bring to fruition a number of long-term projects. The results from this research and projects demonstrates that the work of the Commission is more critical than ever before. We will continue to move forward with purpose and urgency. Our report highlights the accomplishments of this year, but most certainly work remains. We look forward to continuing to make our courts more accessible and responsive to the people they serve.

William Bay  
Lisa White Hardwick  
Mikah K. Thompson  
Michael Middleton

## Co-Chairs



Mr. William Bay

Mr. William Bay, partner at Thompson Coburn, has been recognized as a top litigator by The Best Lawyers in America. He is the past chair of the American Bar Association (ABA) Section of Litigation, the largest section in the ABA, has been a member of the ABA Board of Governors and chaired its Finance Committee. Mr. Bay is also a member of the American Law Institute, the leading independent organization in the United States that works to improve the law. Mr. Bay was the 2018-2020 chair of the 600-member ABA House of Delegates, the policy-making body of the association. He was former president of the Bar Association of Metropolitan St. Louis and member of the Missouri Bar Board of Governors



The Honorable Lisa White Hardwick

Judge Lisa White Hardwick is a judge with the Missouri Court of Appeals, Western District. After graduating from Harvard Law School, she joined the firm of Shook, Hardy & Bacon in 1985 and was a partner from 1992 to 2000. She was also elected to the Jackson County Legislature, serving as an at-large representative from 1993 to 2000. She was appointed to the 16th Judicial Circuit as a trial judge in January 2000 and to the Court of Appeals in May 2001. Judge Hardwick served as Chief Judge of the Western District from 2010-2012.



Professor Mikah K. Thompson

Professor Thompson is the Associate Dean of Diversity, Equity & Inclusion and a Professor of Law at the University of Missouri-Kansas City. She teaches the following courses: Civil Procedure, Evidence, Race and the Law, and Employment Law. Associate Dean Thompson earned her Bachelor of Science degree in communications from Missouri State University and her law degree from Washington University in St. Louis. Her research centers on the intersection of race and evidentiary law. She also writes about the pedagogy of legal education with a particular emphasis on techniques for infusing cultural self-awareness into the first-year law school curriculum. Associate Dean Thompson is an affiliate faculty member at the UMKC School of Medicine where she directs a program that educates future physicians and other medical professionals about anti-racism and cultural bias.





Professor Michael Middleton, Emeritus

Professor Middleton, Deputy Chancellor Emeritus and Professor Emeritus of Law, joined the law faculty at the University of Missouri in 1985 after a career with the federal government in Washington. He was a trial attorney in the Civil Rights Division of the Department of Justice and in 1977 was appointed Assistant Deputy Director of the Office for Civil Rights at the Department of Health Education and Welfare. In 1980, he was named Deputy Assistant Secretary for Civil Rights at the newly formed Department of Education. In addition, Professor Middleton was an integral part of the EEOC on the federal level, serving as director of the Office of Systemic Programs and Associate General Counsel, Trial Division and finally, Director of the St. Louis district office prior to assuming his role at the University. Professor Middleton retired after serving as Interim President of the University of Missouri System and as Interim President of Lincoln University.

#### Executive Director



Ms. Stephanie White-Thorn, Esq.

Stephanie White-Thorn received a Bachelor of Arts in English Literature from the University of Redlands and Master of Arts from the University of Nevada, Reno. She earned her Juris Doctorate from the University of Missouri in 2007. Before attending law school, she was the Director of Graduate Studies at the University of Missouri. In this role, she designed and administered programs to increase the access, entrance, retention and matriculation of underrepresented students.

Stephanie has relocated to Mid-Missouri after spending the past seven years in Anchorage, Alaska, where she was a practicing litigator in the areas of family law, business law, employment discrimination, real estate and estate planning. Prior to her time in Alaska, she served as an Assistant Attorney General in the Governmental Affairs Division, State of Missouri, where she was responsible for interpreting state and federal laws, managing a complex and high-volume caseload, educating stakeholders, and providing risk assessment advice to boards and commissions regarding policies and procedures. Also, as an Assistant Attorney General, she collaborated with Lincoln University faculty and administrators to create the Legal Bootcamp Series to demystify the law school experience and to increase the number of minority students applying to Missouri law schools. She is a proud graduate of the Missouri Bar Leadership Academy and most recently was the Alaska Bar Association's delegate to the American Bar Association House of Delegates.

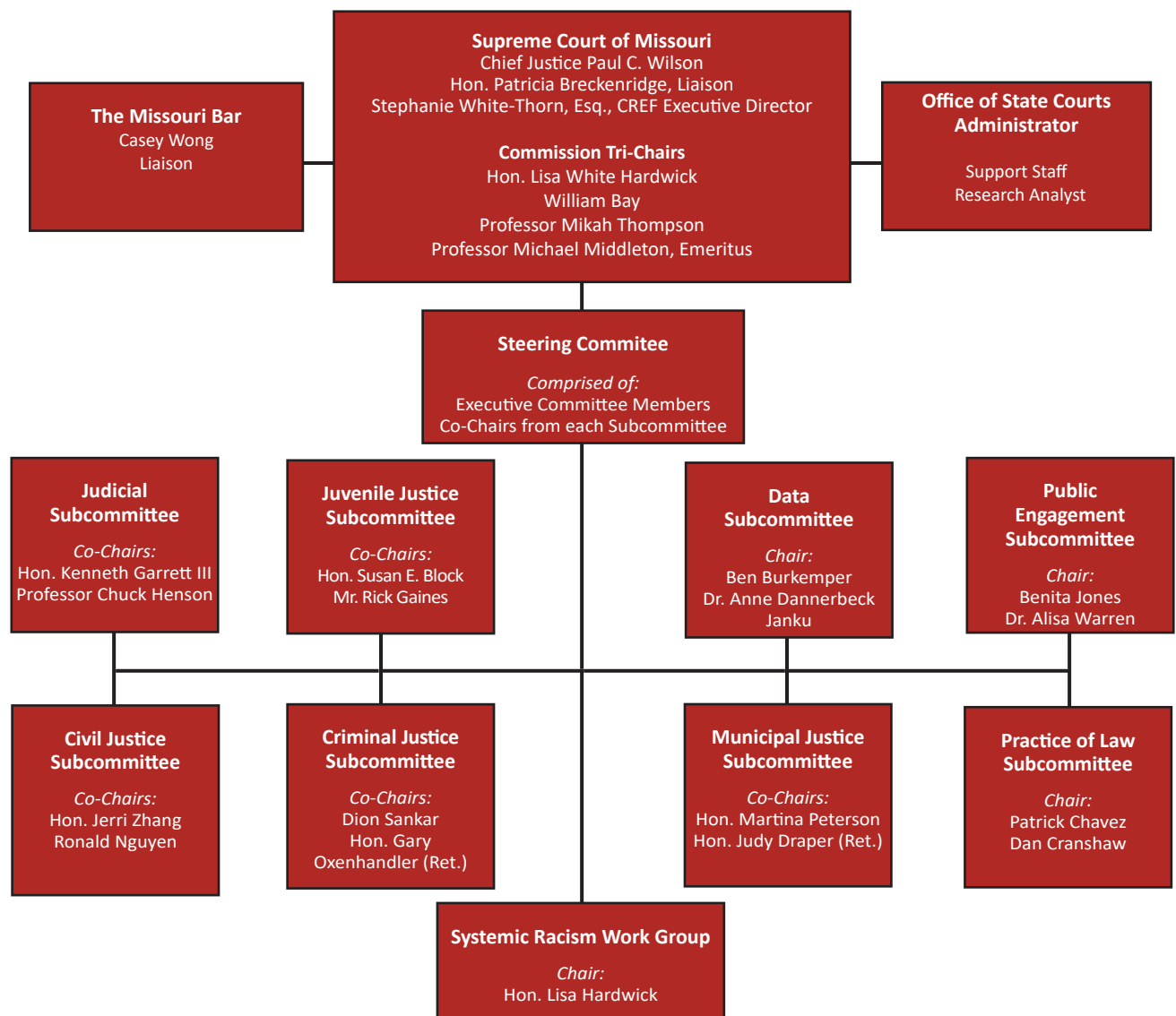
# COMMISSION ON RACIAL AND ETHNIC FAIRNESS STRUCTURE

*Supreme Court of Missouri judges (left to right):*



*Judge Robin Ransom, Judge Patricia Breckenridge, Judge Mary R. Russell, Chief Justice Paul C. Wilson, Judge W. Brent Powell, Judge Zel M. Fischer, Judge George W. Draper III*

The leaders of CREF have changed since our last annual report with a new Steering Committee and several new subcommittee chairs to support our endeavors.



## COMMISSION GOALS AND SUBCOMMITTEE CHARGES

In October of 2015, the Supreme Court established the Commission and set out the goals it was to achieve. The Commission's goal is to examine and review current practices, and to recommend measures to ensure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and in the practice of law. Consistent with these goals, the Commission shall:

- Identify any barriers to access and fairness in the judicial system and legal profession;
- Review the applicable constitutional provisions; statutes; ethical, procedural and court operating rules that may impact these issues; and such other materials as the commission believes would be helpful to its study and the development of its recommendations;
- Seek public input and engagement through written suggestions, public hearings or such other avenues as the commission believes helpful, as well as collaborate and participate in the "Minority Community Engagement" project with the National Center for State Courts and National Consortium on Racial and Ethnic Fairness in the Courts;
- Conduct, with the consent of the Court, surveys and study additional research regarding racial and ethnic equity in the justice system and in the legal profession.

The Commission shall focus its work in six areas — the judicial system, generally; the civil justice system; the criminal justice system; the juvenile justice system; the municipal justice system; and the practice of law — and will have subcommittees in these areas and such other subcommittees as needed to facilitate its work. Its focus may include but is not limited to the following:

- The existence and impact of any racial and ethnic bias and/or disparities within the judicial system and the practice of law;
- Changes to court rules, regulations, laws and/or practices to improve meaningful access to or participation in the judicial system and the practice of law by racial and ethnic minorities;
- Measures to ensure that all persons within the judicial system and practice of law refrain from manifesting bias or prejudice, by words or conduct, based on race or ethnicity;
- Measures to address any implicit or other bias within the judicial system and legal profession;
- The availability of effective legal representation for racial and ethnic minorities within the judicial system;
- Measures to enhance racial and ethnic diversity in the selection, retention and promotion of judicial officers, court staff and professionals in the legal community; and
- Measures to enhance understanding of the practices, procedures and proper role of the state's courts.

The Commission may act to implement its recommendations as authorized by the Court.

The Commission has since formed two new subcommittees to assist the original six subcommittees in their endeavors. The Data Subcommittee is charged with reviewing and assessing other CREF subcommittees' requests for information and data, including assessments of feasibility, and identifying proposed changes to case management or other data collection methods used by the judiciary. The Public Engagement Subcommittee is charged with responding to public inquiries, supporting CREF subcommittee public sessions, serving as a conduit for the exchange of information, and communicating the mission, priorities and work of the Commission. Also, the Commission has formed a Steering Committee and a Systemic Racism Work Group.

## MILESTONES

**2015**

- CREF is established by the Supreme Court of Missouri identifying six subcommittees: judicial system, civil justice system, criminal justice system, juvenile justice system, municipal justice system and practice of law.

**2016**

- Supreme Court of Missouri amends the annual attorney enrollment form seeking voluntary racial and ethnic demographics on the profession based on CREF recommendation.
- Criminal Justice Subcommittee submits a report reviewing the collateral consequences of convictions in Missouri.
- October 27: CREF submits an initial report and 13 recommendations to the Supreme Court of Missouri.



## 2017

- As recommended by CREF, the Office of State Courts Administrator (OSCA) initiates a demographic study of the Missouri Judiciary in consultation with the National Center for State Courts.
- February - March: CREF holds public listening sessions in Columbia, Kansas City, St. Louis and Springfield, to solicit feedback and suggestions for the work of the Commission.
- May 15-17: CREF hosts 2017 National Consortium on Racial and Ethnic Fairness in the Courts Conference in St. Louis attended by representatives from court systems around the country, as well as local judges, attorneys and members of the public. This included developing all the programming, identifying and inviting speakers, and planning social events.
- June - September: CREF holds public listening sessions in St. Louis, Springfield and Kansas City to solicit feedback and suggestions about juvenile justice issues.
- The juror questionnaire developed for the Show-Me Jury system provides for optional reporting of racial and ethnic demographics.
- December 19: The Supreme Court of Missouri establishes the Data Subcommittee and the Public Engagement Subcommittee of CREF.

## 2018

- Practice of Law Subcommittee conducts managing partners' roundtable in Springfield.
- Civil Justice System Subcommittee holds Civil Justice listening sessions in St. Louis and Kansas City to solicit feedback and suggestions about the civil justice system.

- Effective July 18, 2019, the Supreme Court of Missouri revises SCR 18.05 and 15.05 to include an annual minimum requirement of one credit hour devoted to one of the following: cultural competency, diversity, inclusion or implicit bias, and amended regulation 15.01 to include information regarding related training based on CREF recommendation.
- OSCA completes a demographic study. The Commission releases *Diversity and Inclusion in the Missouri Judiciary*, a report providing information about the diversity of the Missouri Judiciary, including gender, race/ethnicity, race/ethnicity and gender combined, and age. Each of the variables has its own section in the report and includes results from a 2017 National Center for State Courts study, 2018 payroll data of state paid employees, 2018 self-reported survey data of non-state paid employees, and United States Census Bureau data where available. The report serves as a baseline for future reference and to make future decisions to address disparities found within the Missouri Judiciary as a whole.
- Effective July 18, 2019, the Supreme Court of Missouri adopts new paragraphs 1, 2 and 3 of the Comments of subdivision 2-2.3 including clarification of conduct that constitutes bias or prejudice and harassment, how to determine a rule violation, and examples of harassment as anticipated by the rule based on CREF recommendation.
- Effective July 18, 2019, the Supreme Court of Missouri adopts a new subdivision (g) of subdivision 4-8.4 and a new paragraph 4 of the Comments of 4-8.4 providing a clarification of attorney misconduct including a list of protected categories based on CREF recommendation.
- October 30: Effective January 1, 2020, the Supreme Court of Missouri adopts anti-bias jury instructions for both civil and criminal cases (civil MAI 2.00 and criminal jury trials MAI-CR 4th 400.02, 402.01) based on CREF recommendations. In civil matters the order requires the anti-bias instruction be given before jury selection and reread as part of final jury instructions to the empaneled jury before deliberations. In criminal matters, the order requires the anti-bias instruction be given before jury selection and included with the instructions that accompany the jurors into deliberations.
- In response to a recommendation of the Criminal Justice Subcommittee, the Supreme Court of Missouri directs the Clerk of the Court to request Governor Mike Parson make appointments and reactivate the Judicial Sentencing Commission, which was subsequently reconstituted. Likewise the Supreme Court makes its appointments to the Commission.

- Practice of Law Subcommittee conducts roundtable in St. Louis.
- Judicial Conference approves two resolutions submitted by the Judicial Justice Subcommittee. The first is to introduce and support legislation to lower the minimum age of a juror from 21 to 18 years. The second is to introduce and support legislation removing impediments to the availability of appropriate government records for use in compiling master jury lists.
- Systemic Racism Work Group is established by the Commission and will be led by Judge Hardwick.
- Civil Eyewitness MAI recommendations drafted and sent to the Executive Committee for review.
- Ms. Hannaford-Agor shares information about a grant award from the State Justice Institute for a master jury list project, and provides information about jury processes and best practices to ensure a diverse jury pool. Options for sources for the master jury list will be researched as part of the project.
- October 5: *Ensuring Diversity in Missouri Jury Pools and Juries* and *Confronting Systemic Racism in Missouri Courts* are sessions held during the Commission meeting. The sessions are recorded by the Commission with the intent to schedule webinars to show *Confronting Systemic Racism in Missouri Courts* with live moderators, allowing for CLE credits to be earned.

- Civil Justice System Subcommittee Implicit Bias Jury Instruction video featuring Missouri judges undergoes third edit and is viewed by the full Commission at its October 7 meeting. The video is expected to be available in early 2022 for distribution to circuit courts in Missouri.
- In October, the Systemic Racism Work Group launches a survey developed by Missouri State University. The survey and interview process to obtain data for the racial bias study is deployed to all 6,500 employees of the Judicial Department including the municipal divisions. The survey is also distributed to Missouri public defenders. To date the survey has received more than 1,400 responses and 85 interview requests.
- Data Subcommittee submits to the full Commission a recommendation to the Supreme Court regarding Supreme Court Operating Rule 4.07 mandating the collection of racial data in criminal cases. The Data Subcommittee's primary area of focus continues to be to ascertain what data may or should be available in the statewide case management system to measure race and ethnicity across all case types. The recommendations are approved by the Commission at its October 7 meeting and are submitted to the Supreme Court for approval.
- At the October 7 Commission meeting, Commissioner Shayla Marshall gives a presentation entitled, "Understanding and Dismantling Racism in Missouri Courts." Ms. Marshall provides a list of objectionable monuments and displays in Missouri courthouses. During her presentation Commissioner Oxenhandler informs the Commission that the Boone County Commission has just voted to remove racially and ethnically offensive murals from the Boone County Courthouse.
- At the October 7 Commission meeting, Judge Keith Garrett III and Professor Chuck Henson make a presentation about Batson challenges and how the Batson rules have been revised in other states to improve racial and ethnic fairness in the jury selection process.
- In December, the Practice of Law Subcommittee deploys its first-of-its-kind survey to 23,000 attorneys to gather much-needed data related to racial and ethnic trends seen or experienced by Missouri lawyers, and to inform this Commission's recommendations to the Supreme Court. This includes reviewing and making recommendations promoting best practices in hiring, retaining and elevating racially and ethnically diverse attorneys.
- Municipal Justice System Subcommittee focuses on assessing the impact of driving while suspended or revoked charges on minority communities. The subcommittee meets monthly to develop measures to collect and analyze data regarding the annual number of suspension/revocation charges filed and the annual number of driver's license suspension requests submitted to the Department of Revenue by the courts due to the defendant's failure to appear in court for nonminor traffic offenses. The subcommittee collects data from Kansas City, North Kansas City, Springfield, Peculiar, Calverton Park, St. Joseph, Raytown, Columbia, Ladue, St. Robert and St. Louis; Jackson and St. Louis counties; all Missouri circuit court-operated municipal divisions via OSCA; Child Support Enforcement; and the Department of Revenue. The subcommittee is analyzing the data and completing local and national research about driving while suspended or revoked charges, the impact they have on marginalized communities, and programs and statutes in other states that are addressing this issue. A rough draft of the report has been completed and is being reviewed by the subcommittee for format and content.
- Judicial Justice Subcommittee resubmits two resolutions to the Judicial Conference: 1) That the Judicial Conference Committee introduce and support legislation to lower the minimum age of a juror from 21 to 18 years, and 2) That the Judicial Conference Legislative Committee introduce and support legislation to resolve impediments to the availability of appropriate government records for use in compiling master jury lists. The Judicial Conference approves both resolutions.

- Civil Justice System Subcommittee *Implicit Bias Video* featuring Missouri judges is approved by the Missouri Supreme Court for distribution to circuit courts in Missouri.
- The Systemic Racism Work Group launched a survey developed by Missouri State University. The survey and interview process to obtain data for the racial bias study was deployed to all 6,500 employees of the Judicial Department including the municipal divisions. The survey was also distributed to Missouri public defenders and prosecutors.
- The Practice of Law Subcommittee deployed the first-of-its-kind survey to 23,000 attorneys to gather much-needed data related to racial and ethnic trends seen or experienced by Missouri lawyers, and to inform this Commission's recommendations to the Supreme Court. This includes reviewing and making recommendations promoting best practices in hiring, retaining and elevating racially and ethnically diverse attorneys. The data collected is presently being analyzed and disaggregated.

## 2022 SUBCOMMITTEE ACTIVITY SUMMARIES

The Steering Committee met July 25, 2022, to determine the focus areas for the Commission subcommittees. The following sections are separated by subcommittee and reflect highlights of the activities undertaken by the listed subcommittees in this reporting period.

### **Civil Justice System Subcommittee:**

The Civil Justice System Subcommittee finalized the Implicit Bias Video. A letter regarding the Implicit Bias Video is being drafted and will be circulated to the Executive Committee for review prior to submission to Chief Justice Wilson. Due to time commitment issues, the Honorable Judge Nicole Colbert-Botchway stepped down as the Co-Chair of the Civil Justice System Subcommittee, but remains as a committee member. The Honorable Judge Jerri J. Zhang has been appointed to the Civil Justice System Subcommittee as the Co-Chair. The Civil Justice System Subcommittee is increasing their committee members and will convene at the end of the year to determine the goals for 2023.

### **Criminal Justice System Subcommittee:**

The Criminal Justice Subcommittee has continued its evaluation of the expungement in Missouri. With roots embedded in the Black Codes and Jim Crow laws, the lingering consequences of criminal convictions continue to haunt significant numbers of our fellow citizens of every race, gender, and ethnicity by keeping them from the opportunity to truly begin again, and fully participate as productive citizens in our country.

Though the United States prides itself on the philosophy of second chance, when it comes to actually giving that second chance to those who have had a criminal conviction, those collateral consequences have a chilling and sometimes crippling effect on the ability to vote post-conviction and while supervised on probation or parole, serve on juries, obtain loans, reside in government and private rental housing, serve on boards and commissions, and get a job.

In Missouri, through the work of individual lawyers and the Clear My Record Project at the UMKC School of Law and the Clean Slate Initiative, significant steps have been taken to enact legislation to identify the criminal convictions that, after a reasonable period of time, should be expunged and forgotten not only by the public but by the government. The work is arduous and often piecemeal. The current expungement procedures for cleansing a record are expensive, complicated and anecdotally often treated by the legal system as second class lawsuits.

In its quest to support an all encompassing body of expungement law, the Criminal Justice Subcommittee of CREF has come to find that it cannot effectively achieve such a body of law by itself and that the best use of its time and efforts should be expended in supporting the existing expungement advocacy organizations, particularly the UMKC Project. Members of our Subcommittee have and will continue to meet with Dean Ellen Suni's Clear My Record Project at UMKC School of Law and with the Clean Slate Initiative. The information gained from these meetings are helpful in understanding the potential changes to existing legislation. The committee will be focused on identifying offenses that can be automatically expunged and provide limited access to expunged offenses.

Along with these findings, the Subcommittee has come to conclude that its greatest power is its ability to access the ear of the Supreme Court of Missouri vis-a-vis the Commission on Racial and Ethnic Fairness and seek the Supreme Court's support of a less expensive, less complicated and court supported body of expungement procedure. The committee will proceed with the drafting and presentation of a report on expungement in Missouri in the hopes of providing context and support for this recommendation. In addition, the proposed report will provide information on expungement court models from other states to aid in the review of potential recommendations.



Again, we thank the Executive Committee for its time and for offering us the responsibility to do this work.

### **Judicial Justice System Subcommittee:**

The Judicial Justice System Subcommittee's primary areas of focus for 2022:

- Reviewing and updating the process of preemptory strikes in the Court system to ensure a fair, race neutral application.

#### **Year-end status:**

The judicial subcommittee undertook a monumental task with Batson challenges within the State of Missouri. With the help of the Executive Director of the Commission on Racial Ethnic Fairness, Stephanie White-Thorn and Professor Mikah K. Thompson we were able to have two law students, Alison Williamson and Stephanie Landers, from the University of Missouri at Kansas City to volunteer their time and assist with a research project that included all cases within the State of Missouri that addressed Batson. The parameters of the cases that the students addressed within this spreadsheet contained the specific appellate court the case was heard in, case style, citation, court's ruling on Batson challenge, summary of the charges, sentence imposed by the trial court, minority venireperson struck, venireperson composition, final jury composition, the defendant's argument on the Batson challenge raised, race neutral explanation(s), whether the prosecution's reason related to the case at hand, were similarly situated persons also struck (yes or no); if yes, what was the comparison made, any pretext argument, the Court's rationale and any dissent. The spreadsheet was submitted on October 24, 2022 and our committee has a meeting planned to discuss next steps on December 8, 2022. The plan for 2023 is to dive into this data and arrive at some concrete recommendations for the full commission to consider.

### **Juvenile Justice System Subcommittee:**

The Juvenile Justice Subcommittee met on April 14, 2022, June 23, 2022 and October 20, 2022. One of the primary focus has been around the assessment tools that are required for the Juvenile Officer to complete when managing referrals and detention decisions on youth. The committee discussed the current Juvenile Detention Assessment Tool (JDTA) and the impact it has on youth placed in a secure detention facility. The committee discussed the need to reassess the instrument as it has not been reviewed for modifications since 2010. We also discussed the current risk and needs forms that are required to be completed on youth referred to the Juvenile Officer to assess risk and need levels of youth and families in delinquency cases. The committee agreed that the tools are outdated and has not been reviewed for modifications since approximately 1996. With the establishment of the newly Missouri's Supreme Court Juvenile Justice and Child Welfare Committee, our committee has recommended that the reassessment of the JDTA and Risk and Needs instruments be a priority for the Juvenile Justice and Child Welfare Committee.

The Juvenile Justice Subcommittee has recommended that Missouri Supreme Court Rule 126.01 be amended and Rule 128.04 be added in accordance with the language set forth below. The recommendations have been submitted to the Missouri Supreme Court for final approval.

#### **Rules 126.01**

The change proposed in Rule 126.01 is the addition of language that provides that no juvenile may waive the rights his or her right to remain silent or right to be represented by counsel before consulting with counsel provided at no expense to the juvenile. Essentially, by requiring the provision of counsel for a juvenile before a custodial interrogation, the juvenile is afforded the opportunity to have the process fully explained to him or her and to consider the ramifications of engaging in the interview.

#### **Rule 128.04**

The proposed new Rule 128.04, provides for time frames in delinquency matters. This new rule would make

mandatory the aspirational time frames suggested in the Missouri Juvenile Officer's Performance Standards (2017) at Section 5.7. In cases in which a juvenile's liberty may be at risk, time frames are an essential part of protecting the juvenile from long delays and unnecessary prolonged proceedings in delinquency matters. Our committee has put a focus on reviewing possible diversionary efforts for juveniles across the state to see what efforts can be increased to ensure that circuits are putting forth efforts to reduce the total number of referrals to the Juvenile Court which would impact and reduce Racial and Ethnic Disparities at the referral decision point. Statewide, youth of color are almost two times more likely to be referred to the juvenile court compared to white youth.

#### **Practice of Law Subcommittee:**

Following on our top area of focus for 2021, which was the attorney retention survey, the Practice of Law Subcommittee worked with an outside consultant to analyze the results of the survey, including how to segment the data collected and what conclusions we could make from the data. The first-of-its-kind survey provided much-needed data related to racial and ethnic trends seen or experienced by Missouri lawyers and will inform the Subcommittee's future recommendations to the full Commission. Preliminary results and analysis were presented this year both to the Steering Committee and the full Commission.

#### **Year-End Status:**

There were several drafts of the final report prepared – each one refining the data analysis. While preparation of the final report is ongoing, this was due to additional analysis requested of our consultant, Soval Solutions. In approximately the first 3 months of 2023, the Subcommittee intends to finalize the report and prepare recommendations for consideration by the full Commission.

#### **Municipal Justice System Subcommittee:**

The Municipal Justice System Subcommittee is currently focusing on assessing the impact driving while suspended or revoked charges have on minority communities. The Subcommittee has been meeting monthly to develop measures to collect and analyze data regarding the annual number of suspension/revocation charges filed and the annual number of driver's license suspension requests submitted to the Department of Revenue by the courts due to the defendant's failure to appear in court for nonminor traffic offenses. The Subcommittee has collected data from Kansas City, Springfield, Jackson County, all Missouri Circuit Court operated Municipal Divisions via OSCA, Child Support Enforcement, Peculiar, Calverton Park, St. Joseph, Raytown, Gladstone, Arnold, Hayti, Independence, Columbia, North Kansas City, Ladue, St. Louis, the Department of Revenue, St. Robert, Pevely and St. Louis County. The Subcommittee has analyzed the data and is completing local and national research on driving while suspended or revoked charges, the impact they have on marginalized communities, and programs and statutes in other states that are addressing this issue. We are working on finalizing the report.

Collected data suggests there is a disproportionate impact on racial and ethnic minorities in Missouri to warrant further analysis and action. While the report is being completed and the research collected, the Subcommittee is reviewing all steps of the legal process to determine what areas can be addressed to reduce this disparity in the state of Missouri, developing recommendations to address these issues at all steps of the process and will be submitting a report of the final statistics, conclusions and recommendations to the CREF Steering Committee for further consideration. The Subcommittee will continue to liaise with the Driver's License Committee of the Costs Fines and Fees Subcommittee for The Criminal Justice Task Force and the CREF Data Committee regarding research and analysis.

#### **Public Engagement Subcommittee:**

In 2022, the Public Engagement Sub-Committee held monthly 30-minute huddles meetings to discuss an overall, yet flexible, CREF community engagement approach to submit to the Tri-Chairs for approval. The subcommittee favors the major research projects of CREF sub-committees providing the topics for future

public engagement opportunities and recently has been called on to assist with the below aspects of the Racial and Ethnic Fairness in Missouri Courts Report.

- Review the draft report with a focus on the executive summary and framing the key points to better understand the impact of the data and to highlight the recommendations.
- Assist with engaging other sub-committees to provide feedback about the report before it is finalized.
- Package the report for submission to the Missouri Supreme Court.
- Make recommendations on how the report should be used for public engagement and be prepared to implement any approved plans for public engagement.

The sub-committee has explored the following engagement and outreach approaches for CREF. One approach involves each geographical team conducting discussion type engagement activities in a manner conducive to their unique regional community cultures (in-person, one-on-one, virtual). The common elements being an introduction about CREF and the pre-identified topic(s) and/or questions based on the featured CREF project or survey findings. The initial focus would be engagement with identified community leaders who then may provide inroads for engagement with the public. The other approach would be educational CLEs and community outreach to inform the target audience about CREF and the featured CREF project or survey findings.

#### **Data Subcommittee:**

The Data Subcommittee's primary area of focus continues to be to ascertain what data may or should be available in the statewide case management system to measure race and ethnicity across all case types.

Year-end status:

We are exploring ways to expand the use of data beyond the Commission's approval of the Subcommittee's recommendations to mandate the collection of racial data in criminal cases through modifications to Supreme Court Operating Rule 4.07 and the publication of an annual report by the Commission on patterns in court processing by race. We hope to accomplish the expansion of the awareness of racial and ethnic data by the publication of released reports including but not limited to diversity reports of the Bar and Bench. We have also discussed and begun the exploration of the use of dashboards to make racial and ethnic data more visible and user friendly.

The Subcommittee is considering the possibility of recommending other data analyst(s) to the Subcommittee whose primary experience is outside the court system to provide a different perspective to the Subcommittee's mandate.

#### **Systemic Racism Work Group:**

The Supreme Court of Missouri has approved a collaborative research agreement with Missouri State University to "conduct a statewide study of racial bias in the courts." CREF's Systemic Racism Work Group proposed the study to examine racial disparities in the processing and outcomes of traffic, juvenile, and criminal cases in Missouri. Dr. Jennifer LaPrade and Dr. Ethan Amidon are coordinating the multi-phase study with the assistance of their research staff in the Criminology Department of Missouri State University.

The first phase of the study was conducted in 2022, with the research focused on criminal cases and surveys regarding racial and ethnic fairness. The MSU team analyzed over six million case records regarding defendants who were convicted of crimes from 2010 – 2021 in Missouri state courts. They also collected extensive survey data from more than 1,200 respondents who work in the state court system, including judges, court staff, prosecutors, and public defenders. Nearly two-thirds of these "Missouri court actors" completed the Harvard Implicit Bias Test. The researchers interviewed 49 respondents who volunteered to discuss their experience with Missouri courts.

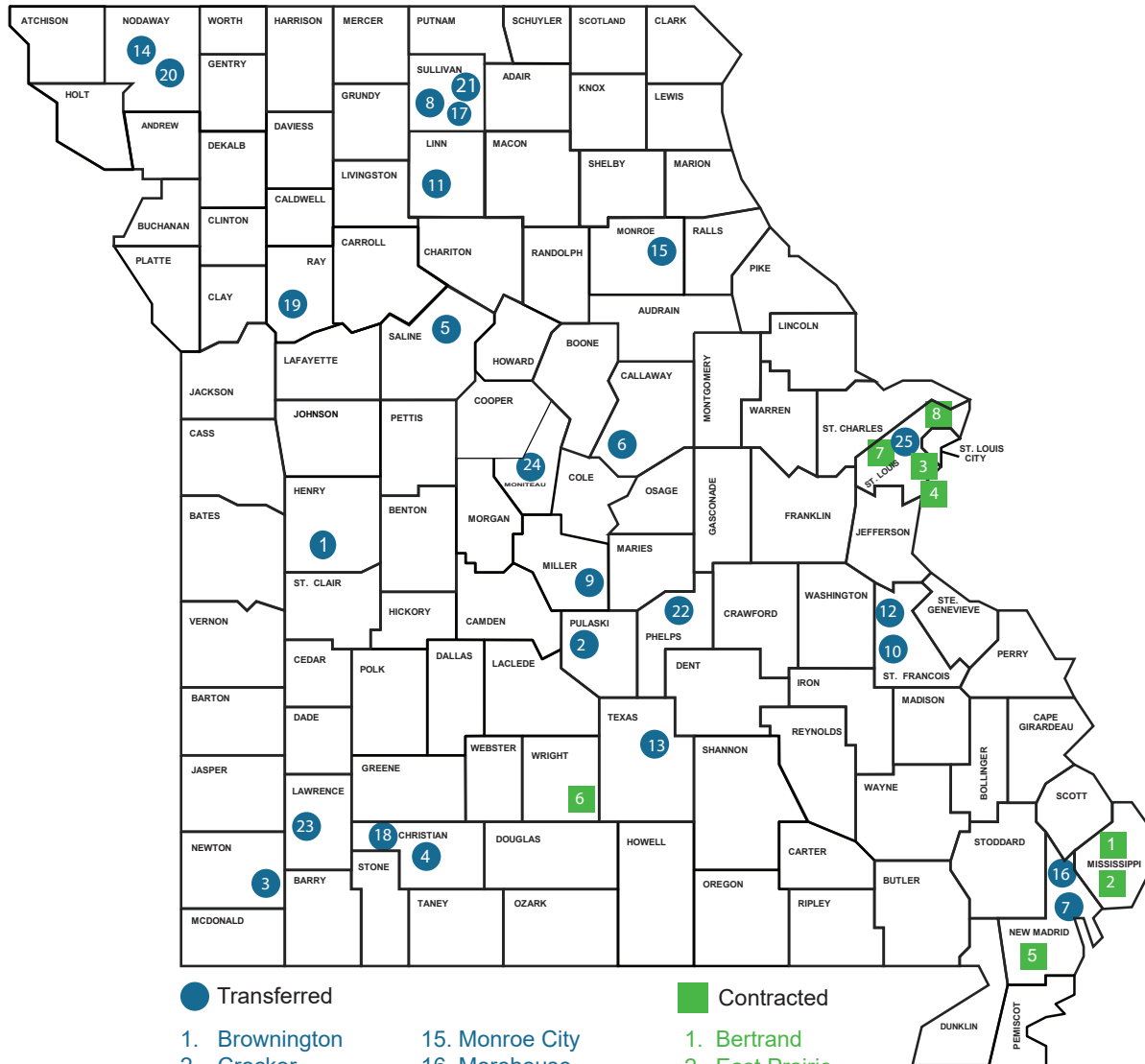
A full written report from the first phase of the research is expected in January 2023. Based on preliminary findings, the report will confirm substantial racial disparities for African-Americans in nearly all phases of the criminal justice process. It will include a statewide assessment of disparate outcomes as well as specific data for criminal cases processed in 33 counties. The survey and testing results will provide a statistical showing of both implicit and explicit racial bias among the Missouri court actor respondents. The written report will include recommendations for improved data collection and measures to reduce/eliminate the disparate impact of current processes.

The major challenge for this study is to identify causes of the racial stratifications in the data and, in particular, the extent to which bias plays a role in disparate outcomes. The next phase of the research will focus on the collection and examination of additional data to determine whether implicit and explicit biases are a critical factor in the racial disparities.

# MUNICIPAL UPDATES IN MISSOURI

At the time CREF was formed, Missouri had approximately 600 municipal divisions, many with unique governing structures that could differ from circuit to circuit. Today, municipal jurisdictions are categorized as either stand alone, transferred, or contracted. A stand alone municipal division is heard in a stand alone location with a municipal judge(s) and clerk(s). A contracted municipal division is heard in another municipality's stand alone location with its municipal judge(s) and clerk(s), but the contracted municipality's case management, finances, etc. remain separate. A transferred municipal division is when a stand alone division is heard in the associate circuit division by an associate judge.

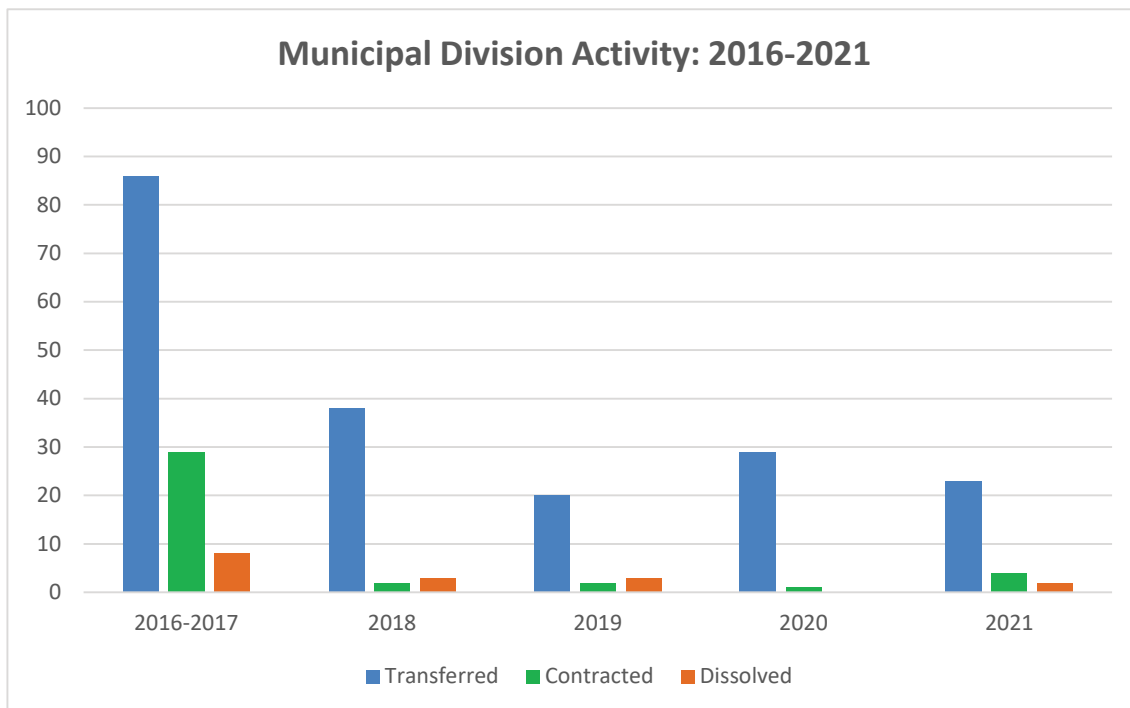
In 2022, 25 municipal divisions transferred to the associate circuit court and eight municipal divisions contracted with another municipal division, as represented on the map below.





Efforts to collect municipal data have improved since the formation of the Commission in late 2015. The Office of State Courts Administrator developed a municipal portal for municipal divisions to use to file monthly caseload reports and to update personnel and court information, such as status, address, etc. Municipal divisions also use the portal to report annual compliance with the Supreme Court’s minimum operating standards.

The chart below represents the numbers of municipal divisions that have transferred, contracted, or dissolved, corresponding to the reporting periods used for CREF annual reports. These numbers more accurately reflect the actual numbers of divisions that transferred, contracted, or dissolved during the corresponding time periods and are reflective of the improved collection of data now possible from the use of the municipal portal.

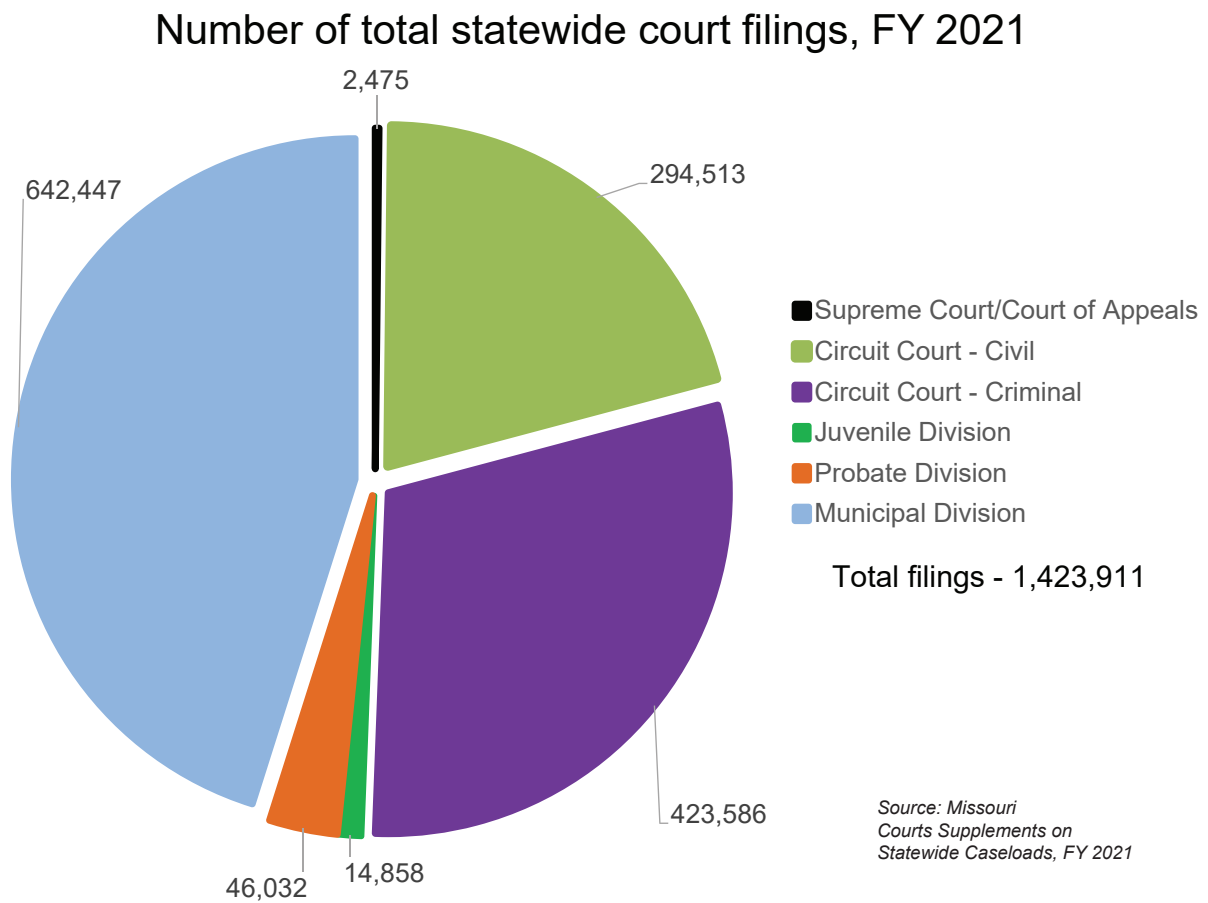
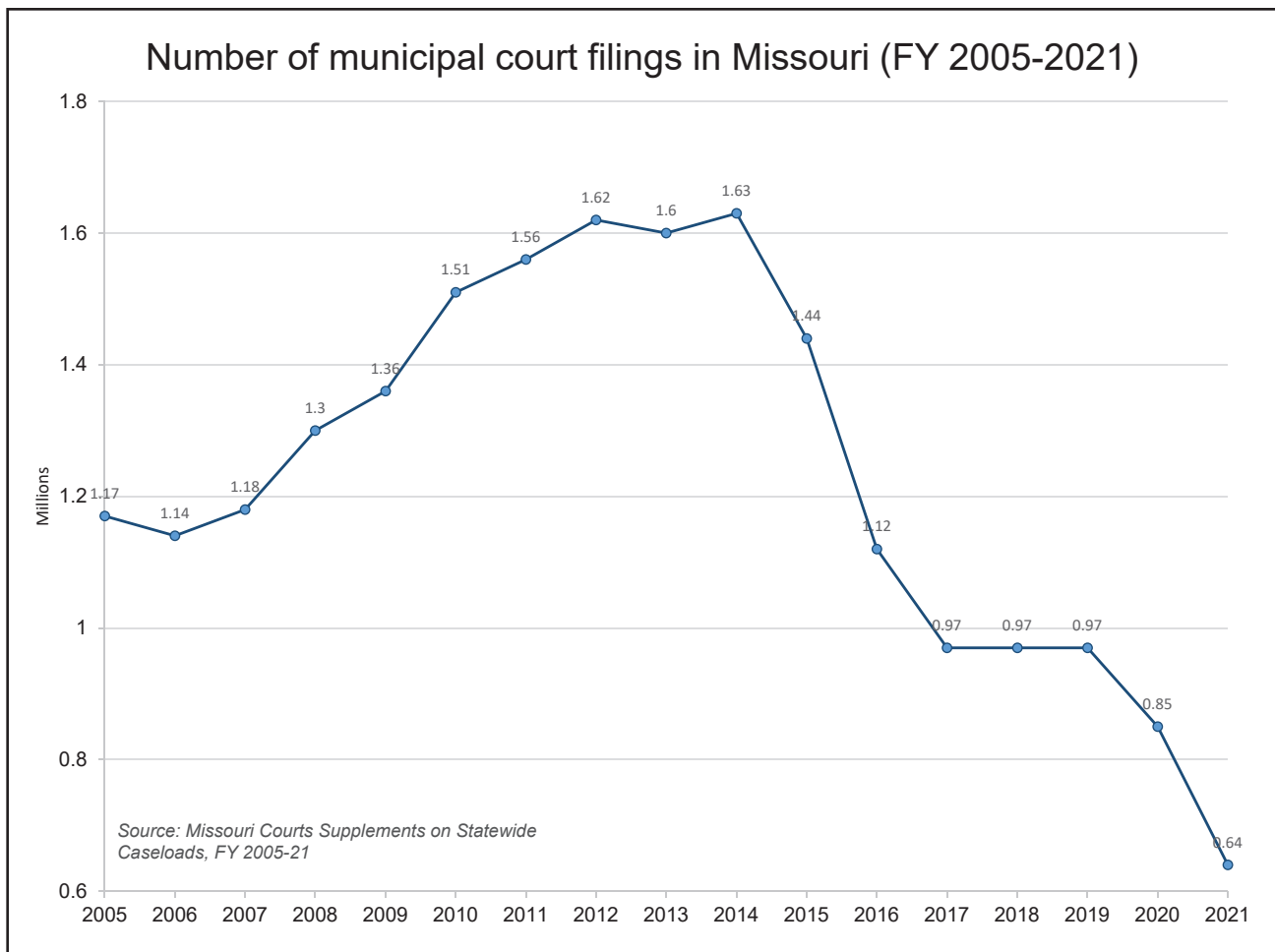


Since 2016, the total numbers are the following:

- 196 municipal divisions have transferred
- 38 municipal divisions have contracted
- 16 municipal divisions have dissolved

These changes have improved efficiency, standardization of procedures, and accessibility and availability of the municipal divisions, resulting in improved services to litigants.

As of December 31, 2021, there were 260 stand alone municipal divisions, 38 contracted municipal divisions and 298 municipal divisions being heard at the associate circuit court.



## LIST OF COMMISSIONERS

The Commission on Racial and Ethnic Fairness selected Commissioners from across Missouri who represent various parts of the judicial system. Attorneys, judges, law enforcement, court personnel and representatives from academia have a voice in the process of creating systematic changes within the courts to ensure racial and ethnic fairness for all Missourians. The following members currently comprise the Commission:



Pictured are Commission members present at the CREF meeting held October 8, 2019.  
The October 12, 2022, meeting was held virtually.

\*Members of the Systemic Racism Work Group

+Members of the Steering Committee

### **Executive Committee**

+The Honorable George W. Draper III (Jefferson City)  
Supreme Court of Missouri

+The Honorable Patricia Breckenridge, Liaison (Jefferson City)  
Supreme Court of Missouri

+\*The Honorable Lisa White Hardwick, Co-Chair (Kansas City)  
Missouri Court of Appeals, Western District

+Mr. William R. Bay, Co-Chair (St. Louis)  
Thompson Coburn

+Professor Mikah Thompson, Co-Chair (Kansas City)  
University of Missouri - Kansas City School of Law

+Professor Michael A. Middleton, Co-Chair Emeritus (Columbia)  
Deputy Chancellor Emeritus - University of Missouri School  
of Law

Staff: Ms. Stephanie White-Thorn, Executive Director  
(Jefferson City) Supreme Court of Missouri

### **Civil Justice System Subcommittee**

+The Honorable Jerri Zhang, Co-Chair (Kansas City)  
Judge, 16th Judicial Circuit

+Mr. Ronald Nguyen, Co-Chair (Kansas City)  
The Law Office of Ronald Nguyen

Mr. Allan Seidel (Trenton)  
Seidel Havens and Dennis

The Honorable Angela Turner Quigless (St. Louis)  
Missouri Court of Appeals, Eastern District

Mr. Nimrod Chapel (Jefferson City)  
Chapel Law Group, LLC

Ms. Sara Harrison (Jefferson City)

MO Dept. of Higher Education and Workforce Development

The Honorable Nicole Colbert-Botchway, (St. Louis)  
Judge, 22nd Judicial Circuit

### **Criminal Justice System Subcommittee**

+Mr. Dion Sankar, Co-Chair (Kansas City)  
Jackson County Courthouse

+\*The Honorable Gary Oxenhandler (Ret.), Co-Chair  
(Columbia), Oxenhandler Law

Mr. James R. Hobbs (Kansas City)  
Wyrsh Hobbs & Mirakian

The Honorable Annette Llewellyn (St. Louis)  
Judge, 22nd Judicial Circuit

Professor Susan McGraugh (St. Louis)  
St. Louis University School of Law

Mr. Andrew Popplewell (Columbia)  
Eng & Woods

\*Ms. Lesley Smith (Kansas City)  
Public Defender's Office

Ms. Christine Krug (St. Louis)  
Missouri Office of Attorney General

The Honorable Rebecca S. McGinley (Albany)  
Judge, 4th Judicial Circuit

Ms. Shayla Marshall (St. Joseph)  
Missouri State Public Defender, Dist. 5

### **Judicial System Subcommittee**

+The Honorable Kenneth R. Garrett III, Co-Chair (Independence)  
Judge, 16th Judicial Circuit

+Professor Chuck Henson (Columbia)  
University of Missouri - Columbia School of Law

Mr. Gonzalo Fernandez (St. Louis)  
Devereaux, Stokes, Noland, Fernandez & Leonard

\*The Honorable Nancy Rahmeyer (Springfield)  
Missouri Court of Appeals, Southern District

Ms. Dorothy White-Coleman (St. Louis)  
White Coleman & Associates

The Honorable Charles Curless (Lamar)  
Senior Associate Circuit Judge, 28th Judicial Circuit

### **Juvenile Justice System Subcommittee**

+\*The Honorable Susan E. Block, Co-Chair (St. Louis)  
Paule, Camazine & Blumenthal

+Mr. Rick Gaines, Co-Chair (Clayton)  
Family Court of St. Louis County

Mr. Jacob Zimmerman (Cape Girardeau)  
Zimmerman Law

The Honorable Corey A. Carter (Kansas City)  
Municipal Judge, 16th Judicial Circuit

Ms. Marcia Hazelhorst (Jefferson City)  
Executive Director, Missouri Juvenile Justice Association

The Honorable Kayla Jackson-Williams (Columbia)  
Rogers Ehrhardt Attorneys at Law

The Honorable Heather Cunningham (St. Louis)  
Judge, 21st Judicial Circuit

### **Municipal Justice System Subcommittee**

+\*The Honorable Martina Peterson, Co-Chair (Kansas City)  
Municipal Judge, 16th Judicial Circuit

+The Honorable Judy P. Draper (Ret.), Co-Chair (Bellefontaine)  
21st Judicial Circuit

The Honorable Karen L. Krauser (Liberty)  
7th Judicial Circuit, Div. 6

Ms. Tracy Spradlin (Kansas City)  
Spradlin Kennedy Law Firm

Major Tad Peters (Springfield)  
Springfield Police Department

The Honorable Richard Brunk (Ret.) (Chesterfield)  
21st Judicial Circuit

### **Practice of Law Subcommittee**

+Mr. Patrick Chavez, Co-Chair (St. Louis)  
Edward Jones

+Mr. Dan Cranshaw, Co-Chair (Kansas City)  
Polsinelli

Ms. Jennifer Placzek (Springfield)  
Placzek, Winget & Placzek

The Honorable Lajuana Counts (Kansas City)  
U.S. Magistrate Judge, Western District of Missouri

\*Ms. Crista Hogan (Springfield)  
Springfield Metropolitan Bar Association

Mr. Michael A. Williams (Kansas City)  
Williams Dirks Dameron

\*Ms. Mischa Buford Epps (Columbia)  
Attorney at Law

\*Professor Kimberly Norwood (St. Louis)  
Washington University School of Law

\*Mr. H. Wes Pratt (Springfield)  
Missouri State University

Mr. Leonard Searcy (Kansas City)  
Shook, Hardy & Bacon

\*Mr. Casey Wong, Liaison from The Missouri Bar (St. Louis)  
Sandberg Phoenix

### **Data Subcommittee**

+Mr. Ben Burkemper, Co-Chair (St. Louis)  
Court Administrator, 21st Judicial Circuit

Dr. Anne Dannerbeck Janku, Ph.D., Co-Chair (Columbia)  
University of Missouri School of Social Work

Ms. Lynn Vogel (Clayton)  
Vogel Law Office

The Honorable Kenneth R. Garrett III (Independence)  
Judge, 16th Judicial Circuit

The Honorable Sandra Hemphill (Clayton)  
Judge, 21st Judicial Circuit

Ms. Kristen Sanocki (St. Louis)  
Thompson Coburn LLP

The Honorable Heather Cunningham (St. Louis)  
Judge, 21st Judicial Circuit

### **Public Engagement Subcommittee**

+Ms. Benita Jones, Co-Chair (Kansas City)  
Public Information Officer-Municipal Court

+\*Dr. Alisa Warren, Co-Chair (St. Louis)  
Executive Director, Missouri Commission on Human Rights

Ms. Farrah Fite (Jefferson City)  
The Missouri Bar

\*Ms. Crista Hogan (Springfield)  
Springfield Metropolitan Bar Association

Ms. Zoe Linza (St. Louis)  
Bar Association of Metropolitan St. Louis

Ms. Victoria Mauck (Kansas City)  
Kansas City Metropolitan Bar Association

\*Mr. H. Wes Pratt (Springfield)  
Missouri State University

Mr. Booker T. Shaw (St. Louis)  
Thompson Coburn

## COMMISSIONERS' ACCOMPLISHMENTS, AWARDS AND ACTIVITIES

Our Commissioners give of their time and talents to make the CREF a successful agent for change. In addition to their full-time employment, they publish, volunteer and excel in their varied fields of expertise. In this portion of the report, we recognize their efforts outside of CREF to enhance their communities.



The Honorable Lisa White-Hardwick  
*Missouri Court of Appeals, Western District*

The Honorable Lisa White-Hardwick of the Missouri Court of Appeals Western District was chosen by Missouri Lawyers Media to be 2022 Women of the Year. Hardwick, who was the first Black woman appointed to any of the Court of Appeals' three districts and is currently the only Black judge on the Western District. She also is the former chair of the Supreme Court's Appellate Practice Committee and led the Appellate Apportionment Commission that drew district maps for the Missouri House and Senate following the 2010 census.



Dr. Alicia Warren  
*Executive Director, Missouri Commission on Human Rights*

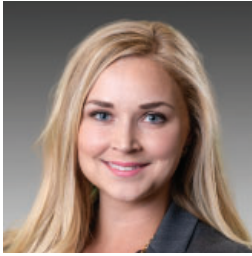
Dr. Alisa Warren executive director of the Missouri Commission on Human Rights, was elected by the International Association of Official Human Rights Agencies (IAOHRA), as their next president. Dr. Warren becomes just the second representative from Missouri elected as president in IAOHRA's 73-year history.



Mr. Dion Sankar  
*Jackson County Courthouse*

Dion Sankar was named the Chief Deputy Prosecutor of the Jackson County Prosecutor's Office. He received the Thomas J. Conway Award from the Kansas City Metropolitan Bar Association (KCMBAs). This award is given to a trial lawyer who exemplifies outstanding trial and advocacy skills while simultaneously maintaining a collegial attitude to his fellow lawyers. Dion was also named to the Prosecution Leaders of Now program. The Stanford University Graduate School of Business Executive Education program focuses on transforming the practice of prosecution and redressing inequities in the criminal justice system. Dion was also selected to serve on the KCMBAs Civility Summit 3.0's Blue Ribbon Committee tasked with compiling comments on the existing principles of civility which will be submitted to the Bar and Judiciary for comment.





Ms. Tracy Spradlin  
*Spradlin Kennedy Law Firm*

Tracy Spradlin currently serves as one of two attorneys on the Kansas City Municipal Judicial Nominating Commission which selects panels of eligible candidates for City Council to interview when a Kansas City Municipal Court vacancy opens. She served this year as the President the Young Lawyers Section for the Kansas City Metropolitan Bar Association. She continues her work on the Board of Directors for the Association for Women Lawyers of Greater Kansas City. She is a Partner at the Spradlin Kennedy Law Firm, located in Kansas City, Missouri. The firm handles traffic, DWI, criminal matters, and personal injury cases.



Mr. Ronald Nguyen  
*The Law Office of Ronald Nguyen*

Ronald Nguyen was appointed as the Legal Advisor of the Kansas City Metropolitan Bar Foundation (KCMBF). He is slated to become the Treasurer of the KCMBF in 2023. He was awarded the Distinguished Counselor award at the Kansas City Metropolitan Bar Association (KCMBA)'s 49th Annual Bench-Bar & Boardroom Conference. He is on the Board of Directors for the Asian American Bar Association of Greater Kansas City, the Missouri Lawyer Trust Account Foundation, and the American Civil Liberties Union of Missouri. He is the Outreach Chair for KCMBA's Solo/Small Firm Section.



Ms. Dorothy White-Coleman  
*White Coleman & Associates, LLC*

Dorothy L. White-Coleman is the Member/Manager of White Coleman & Associates, LLC located in downtown St. Louis. Among her many professional activities, she is currently the Chair of the Advisory Committee of the Supreme Court of Missouri and has served in that capacity since August, 2016. She co-authored with Sandra M. Moore, Esq., Managing Director and Chief Impact Officer at Advantage Capital, the article "The Role of Law, Policy, and Practice in the Erosion of Economic Power in Underserved Communities", which was published in January in the Washington University Journal of Law & Policy, 67 Wash. U. J. L. & Pol'y (2022). In June of 2022, she was inducted into the Saint Louis University School of Law Order of the Fleur de Lis Hall of Fame. She was also named as a "Super Lawyer" for 2022.



Professor Karen Tokarz  
*Washington University School of Law*

Professor Karen Tokarz was awarded the President's award from the Association of Missouri Mediators. She was also awarded a Focus St. Louis What's Right with the Region Innovation Award for the St. Louis Mediation Project's eviction mediation work.



Mr. H. Wes Pratt, J.D.  
*Pratt Consultants, LLC.*

H. Wes Pratt, J.D., a lifelong public servant, started making a difference as a student community activist. Pratt worked in local and state governments; non-profit corporate administration; youth program development and higher education. Pratt champions empowerment through valuing the inclusion of diversity. He served as a San Diego City Councilmember; a state director of the California Conservation Corps; an attorney in private practice, and as deputy director of the Maryland Job Corps.

Pratt returned to his hometown in 2007, was hired by Missouri State University (MSU) as a Coordinator for Diversity Outreach and Recruitment where he collaborated with various university stakeholders in the outreach, recruitment, retention of diverse students, faculty and staff. He was a member of the university's "Diversity Dream Team" that assisted in the development and implementation of various diversity initiatives that incorporated cultural consciousness/competency through inclusive excellence in the university's public affairs mission. Pratt then was appointed as the Director of Institutional Equity and Compliance/Equal Opportunity Officer, the Title IX Coordinator, and worked to ensure accessibility and reasonable accommodations for disabled employees and students as the ADA Compliance Coordinator. In 2016, MSU President Clif Smart appointed Pratt the Assistant to the President/Chief Diversity Officer. Pratt was responsible for executive level implementation of diversity, equity and inclusion initiatives on campus and in the general community; the Annual Collaborative Diversity Conference; and establishing Inclusive Excellence as the core value in the 2016-2021, and the current 2021-2026, university Long Range Plans.

Pratt is a co-founder and President of the Multicultural Business Association [formerly dba Minorities in Business]; a member of the NAACP-Springfield Chapter; a Bridge Springfield:"Brother2Brother" advisor and Student African American Brotherhood Ambassador; and co-owner of Pratt Consultants.

Pratt was recognized in 2017 as the first ever "417- Breakthrough Award" winner for his life long career in public service and work in promoting diversity and inclusion at Missouri State University and in the Springfield community. He was awarded the Springfield NAACP W.E.B. DuBois Education Award in 2022 as well. Pratt is a father, grandfather, and mentor who believes in and lives the motto that "Public Service is the Noblest Good!"



The Honorable Heather Cunningham  
*21st Judicial Circuit (St. Louis)*

The Honorable Heather R. Cunningham was appointed Associate Circuit Judge on March 6, 2020, and Circuit Judge on January 28, 2022 by Governor Parson. Prior to her appointment, Judge Cunningham previously served as Family Court Commissioner – Juvenile Division. Judge Cunningham serves as Co-Chair of the Court’s Diversity and Inclusion Committee and member of the Commissioners and Administrators Review and Application Committee. Additionally, she currently serves on the Missouri Supreme Court’s Commission for Racial and Ethnic Fairness (CREF) and the Trial Judge Education Committee.



Professor Mikah K. Thompson  
*University of Missouri-Kansas City*

Professor Mikah Thompson was selected for the prestigious 2022 Diversity & Inclusion Awards from Missouri Lawyers Media. The award recognized attorneys, firms, and legal professionals from around the state for significantly advancing diversity, inclusion and the dignity of all people diversity, equity, and inclusion. She and her fellow recipients were celebrated in a virtual awards ceremony.



The Honorable Kayla Jackson-Williams  
*Associate Circuit Judge, Boone County*

The Honorable Kayla Jackson-Williams was elected as the Associate Circuit Court Judge for Division X, Boone County. She is the first elected African American Judge in Boone County.