

1 BEFORE THE
2 MUNICIPAL COURT WORK GROUP COMMITTEE

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4

5 Pursuant to Appointment by the

6 SUPREME COURT

7 of the

8 STATE OF MISSOURI

9

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11

12 PUBLIC HEARING

13 September 25, 2015

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17 Missouri State University

18 Plaster Student Union

19 Springfield, Missouri

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1 MUNICIPAL COURT WORK GROUP

2 PUBLIC HEARING

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5 Whereupon, this Public Hearing of the

6 Municipal Court Work Group, pursuant to appointment

7 by the Supreme Court of the State of Missouri, is

8 hereby convened at 6:00 p.m. on Friday,

9 September 25, 2015, at Missouri State University,

10 Plaster Student Union, 901 South National Avenue,

11 Springfield, Missouri, before KAREN VEST, Registered

12 Professional Reporter, Certified Realtime Reporter,

13 and Certified Court Reporter within and for the

14 State of Missouri.

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1 A P P E A R A N C E S

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3 Work Group Committee Members:

4 MS. ANN COVINGTON, Co-Chair

5 MR. CHIP ROBERTSON, Co-Chair

6 MR. BOOKER SHAW, Co-Chair

7 MS. KATHRYN BANKS

8 MR. KARL DeMARCE

9 MS. KIMBERLY NORWOOD

10 MR. RUEBEN SHELTON

11 MR. TODD THORNHILL

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Court Reporter:

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2 P R O C E E D I N G S

3 IT IS HEREBY STIPULATED AND AGREED that
4 these proceedings may be taken in shorthand by Karen
5 Vest, RPR, CRR, a Registered Professional Reporter,
6 Certified Court Reporter, and Certified Realtime
7 Reporter in the state of Missouri, and afterwards
8 transcribed into typewriting.

9 (Whereupon, proceedings began at
10 6:04 p.m. on Friday,
11 September 25, 2015, with
12 appearances as noted.)

13 CO-CHAIR ROBERTSON: Well, it's 6:00
14 o'clock, so we'll begin. And this is a meeting of
15 the Missouri Supreme Court Municipal Court working
16 group.

17 The members of the working group are
18 here. I'll let each of them introduce themselves,
19 and then we'll ask anybody who would like to make
20 a statement to us to help us make a recommendation
21 to the Supreme Court about the operation of
22 municipal courts to come on up and have a seat at
23 the table.

24 I'll say to whoever wants to do that,
25 we are going to be on the record. There's a court

1 reporter here who will take down what you say, and
2 so it will be memorialized for all of us to use
3 later on.

4 We would ask you to be brief. We would
5 ask you to be less focused on anecdotal evidence and
6 more on how you think the courts could be improved.
7 If you've had a bad experience in municipal court,
8 it's probably because you were driving too fast.

9 So -- but we would like for you to be
10 people who would help us. So I'm going to start
11 with Professor Norwood at the far left -- and I
12 don't think that's politically; it's just where
13 she's sitting --

14 MS. NORWOOD: Thanks.

15 CO-CHAIR ROBERTSON: -- to begin the
16 introductions.

17 MS. NORWOOD: Good evening. My name is
18 Kimberly Norwood, and I'm a professor at Washington
19 University School of Law in St. Louis.

20 MS. BANKS: My name is Kathryn Banks.
21 I am legal director for the St. Louis City Office of
22 Voices For Children in St. Louis.

23 CO-CHAIR ROBERTSON: I'm Chip
24 Robertson. I practice law in Jefferson City.

25 MR. THORNHILL: I'm Todd Thornhill.

1 I'm the Chief Judge of the Springfield Municipal
2 Court.

3 CO-CHAIR SHAW: I'm Booker Shaw. I'm a
4 partner with the Thompson Coburn law firm and former
5 judge.

6 MR. SHELTON: Rueben Shelton, attorney
7 for Monsanto Company and current president of the
8 Missouri Bar.

9 MR. DeMARCE: Karl DeMarce, associate
10 circuit judge in Scotland County in northeast
11 Missouri.

12 CO-CHAIR COVINGTON: Ann Covington,
13 retired judge.

14 CO-CHAIR ROBERTSON: So let me invite
15 one of the three of you to come up, if you would
16 like to say something. And if you're here just to
17 watch other people say things, someone in the back,
18 you may want to come down too. No?

19 So if anybody has any testimony they
20 would like to provide, we invite you to come forward
21 now one at a time.

22 THE REPORTER: Your name, please? Tell
23 me your name, please.

24 MS. FITE: My name is Amy and my last
25 name is Fite, F-I-T-E.

1 THE REPORTER: A-M-Y?

2 MS. FITE: Yes, ma'am.

3 THE REPORTER: Thank you.

4 CO-CHAIR ROBERTSON: Ms. Fite, thank
5 you. Since it appears that you may be the only
6 person who's going to speak tonight, don't abuse the
7 privilege.

8 MS. FITE: Certainly. Well, again my
9 name is Amy Fite. I actually am the Christian
10 County prosecuting attorney. I have been in that
11 position since January of 2011.

12 But prior to that I've served both as
13 an assistant prosecutor here in Greene County and as
14 an assistant prosecutor in the City of St. Louis for
15 about eight and a half years.

16 I am currently the secretary of the
17 Missouri Association of Prosecuting Attorneys, so it
18 is in that capacity I'm here to address you this
19 evening.

20 CO-CHAIR ROBERTSON: Thank you.

21 MS. FITE: We first just want to thank
22 all of you very much because it sounds like many
23 people have traveled quite a distance, several hours
24 to be here tonight for what may be a short meeting
25 for you, so I certainly appreciate you taking the

1 time to do that.

2 So I am here to express the views of
3 the Missouri Association of Prosecuting Attorneys.
4 Certainly I know that you would have been informed
5 out of the fact that there's been much recent
6 criticism against the Supreme Court system in
7 Missouri that -- some of which has revolved around
8 what the St. Louis Post-Dispatch had an editorial
9 recently entitled as a rampant conflict of interest.

10 And this involves the practice of
11 attorneys serving in a dual role, both as municipal
12 prosecutors and as defense attorneys.

13 As ministers of justice, the Missouri
14 Association of Prosecuting Attorneys agree, and we
15 can do much better than that.

16 We believe that municipal prosecutors
17 should be held to the same standards the state
18 prosecutors are and should not be allowed to
19 represent defendants of municipal or state court
20 while they are also serving as municipal
21 prosecutors.

22 As many of you would know, for a
23 prosecuting attorney or for an assistant prosecuting
24 attorney or a circuit prosecuting attorney or
25 assistant circuit attorney to serve both

1 representing the state and to serve the defense
2 counsel is considered a misdemeanor, so it's
3 unlawful for us to do that.

4 THE REPORTER: Would you please speak
5 up? I'm having a hard time hearing.

6 MS. FITE: I apologize.

7 THE REPORTER: Thank you.

8 MS. FITE: I don't know that I've ever
9 been asked to speak up.

10 THE REPORTER: There's so much echo,
11 just so much echo.

12 MS. FITE: Certainly. Is this better?

13 THE REPORTER: Sure. Just -- thank
14 you.

15 MS. FITE: Okay. I apologize. Thank
16 you.

17 Certainly from that standpoint, as I've
18 indicated, we believe municipal prosecutors should
19 be held to the same standard as state prosecutors
20 and that they should not be allowed to represent
21 defendants in municipal or state court while serving
22 as municipal prosecutor.

23 At best this creates a bad perception,
24 but at worst it is a conflict of interest. As
25 stewards of the criminal justice system in Missouri,

1 it is incumbent on us as prosecutors to speak out in
2 favor of instilling confidence in the system at all
3 levels.

4 Many members of the public do not
5 differentiate between municipal prosecutors and
6 state prosecutors.

7 The negative connotations associated
8 with municipal prosecutors to practice as defense
9 attorneys bleeds over into the perception the public
10 has with respect to the criminal justice system as a
11 whole.

12 The profit motive will always be a
13 conflict with the public safety motive. Unlike
14 state courts, municipal court operations are funded
15 by fines from municipal ordinances.

16 The state court system is funded by
17 either state general revenue with respect to the
18 judiciary and public defender or county general
19 revenue with respect to the prosecutors.

20 Fines for criminal offenses in the
21 state court go one hundred percent to the school
22 district.

23 While such a move may not be
24 financially feasible for municipalities, putting the
25 municipal prosecutors' function in the hands of

1 career prosecutors who are well trained in
2 prosecutorial ethics and who are driven by the
3 public safety motive is a good first step.

4 Accountability and access is important
5 in building trust with the public. With the
6 exception of those larger municipalities that employ
7 full-time, in-house municipal prosecutors, it is
8 extremely difficult to determine who the municipal
9 prosecutor is for a city.

10 There is also no required training for
11 municipal prosecutors as there is for state
12 prosecutors.

13 While the organization routinely trains
14 many full-time municipal prosecutors from larger
15 jurisdictions on issues such as driving while
16 intoxicated or domestic violence, the majority of
17 municipal prosecutors are difficult to reach.

18 That can easily be solved by requiring
19 to stand up and to be counted. If we can identify
20 them, we can train them.

21 So it would be a suggestion for our
22 organization that the Missouri Supreme Court will
23 consider adopting a rule that would correspond to
24 language such as this.

25 "It shall be the duty of the municipal

1 court clerk or such other person designated by the
2 government authority of a municipality to notify the
3 Missouri office of prosecution services of the name
4 of any person appointed or elected to be prosecuting
5 attorney of a municipality within 30 days of
6 appointment or election, as well as whether the
7 prosecuting attorney is full-time or part-time.

8 "And further that it would be unlawful
9 any municipal prosecutor or assistant municipal
10 prosecutor, during the term of office for which he
11 or she shall have been elected or appointed, to
12 represent any party other than the State of Missouri
13 or any of the political subdivisions in any criminal
14 or municipal ordinance violation case or proceeding,
15 provided that nothing in this section shall be
16 deemed to preclude the officers specified in this
17 section from engaging in the civil practice of law."

18 And that language actually very much
19 mirrored the language that we have for state
20 prosecutors at this time. And that would be our
21 respectful suggestion to this committee.

22 CO-CHAIR ROBERTSON: Thank you. Would
23 you be willing to entertain questions?

24 MS. FITE: I will do that to the best
25 of my ability, yes, sir.

1 CO-CHAIR ROBERTSON: Well, you just
2 don't have to take them out to dinner. You just got
3 to -- anybody have any questions? Judge?

4 MR. DeMARCE: The state is very large
5 and very diverse and the municipalities vary in size
6 from Springfield and Kansas City and Independence
7 down to communities of a few hundred people.

8 And their financial means vary widely.
9 Geographic distribution varies widely. Much
10 discussion in St. Louis County, over 80
11 municipalities, many of which share contiguous
12 boundaries. In its small rural counties you may
13 have three or four municipalities that are widely
14 dispersed.

15 What would be the practicality of what
16 you're proposing for practicing attorneys to be
17 willing to be municipal prosecutors in the more
18 rural areas where the cities would not be able to
19 pay amounts for that service, which is usually very
20 much a part-time service, that would be enough --
21 attractive enough to get most attorneys to give up
22 other major practice areas?

23 And if they were going to hire someone
24 who held themselves out as specialists in this area,
25 that person might reside several counties away,

1 might not be readily available for arraignments and
2 dispositions.

3 I understand the concept, but I don't
4 understand how it would work in less densely
5 populated areas.

6 How would you be able to attract
7 attorneys into this area of practice who would live
8 in or near the communities they serve?

9 MS. FITE: What I would believe to be
10 some options -- well, A, certainly the law -- that
11 is the law right now for anybody serving as a
12 prosecutor.

13 So in all of those areas you would also
14 have an elected prosecuting attorney who may be
15 serving a part-time capacity in an area to fulfill
16 their legal obligations, so we would have an example
17 of that to begin with.

18 Secondly, I think that when you are
19 looking at the fact that you want people prosecuted
20 in any of these issues, you want somebody who is
21 specialized in that area of law to be practicing in
22 that area of law.

23 Right now what we're looking at would
24 be people who serve both as municipal prosecutor and
25 then they turn around and they put on another hat

1 and they serve as a defense attorney in a very close
2 area, and it may be they're switching roles back and
3 forth.

4 We certainly could have it so that
5 multiple municipalities ban together in order to
6 make that financially feasible for somebody to
7 engage in that type of practice.

8 Those people could also choose if
9 they're going to do practices such as -- they could
10 choose to do civil practice versus doing criminal
11 defense if they've also chosen to practice as a
12 prosecutor, just as the people who serve as
13 part-time prosecutors would be willing to do that
14 now.

15 I think that in my estimation of the
16 question, I'm answering -- this would be me
17 proposing what I would believe as a possibility and
18 not speaking on behalf of the Missouri Association
19 of Prosecuting Attorneys because I don't know that
20 there's been any discussion with regards to this
21 position.

22 But certainly one way to look at that
23 would be that we were going to have an elected
24 prosecutor or assistant prosecutor who are already
25 serving in a state capacity could also serve as

1 municipal prosecutor.

2 This would be a way to address -- a way
3 to address that situation. Those are just some
4 thoughts that I would have.

5 CO-CHAIR ROBERTSON: So let me -- let
6 me ask you this. Normally speaking, conflicts arise
7 and they're addressed based on a particular client
8 that you're representing.

9 So that when there is a ticket written
10 in the city of Springfield, it's a City of
11 Springfield versus Mary Jones.

12 MS. FITE: Mm-hmm.

13 CO-CHAIR ROBERTSON: If you go to a
14 different municipality where it's the City of Nixa
15 versus someone else, the clients are different for
16 the prosecutor. Would you agree with that?

17 MS. FITE: I think that you still are
18 representing -- and I do understand that in one
19 capacity you're representing the City of Springfield
20 and another capacity you're representing the City of
21 Nixa.

22 But your goal is community safety.
23 Your goal still is to be held accountable. And when
24 you're changing your hat, you are at minimum doing
25 what would be an appearance of -- it would be an

1 appearance of impropriety.

2 I think at the end of the day you're
3 representing an entity whose goal is community
4 safety, whether you're doing that in the city of
5 Springfield or you're doing that in the city of
6 Nixa.

7 And you don't want to have anything
8 that inherently creates a conflict of interest for
9 the person who is serving in that capacity.

10 CO-CHAIR ROBERTSON: So I understand
11 your answer, but I want to -- I'm want to sort of
12 hone in a little bit because every county prosecutor
13 represents the state.

14 MS. FITE: Yes.

15 CO-CHAIR ROBERTSON: But every city
16 prosecutor does not represent any other city.

17 MS. FITE: Well, some certainly some
18 folks do certainly.

19 CO-CHAIR ROBERTSON: Just take a person
20 who is the prosecutor in the city of Nixa and who
21 comes to Springfield to represent Mary Jones.

22 MS. FITE: Sure.

23 CO-CHAIR ROBERTSON: So whereas the
24 state is everywhere, the city is only confined to
25 its corporate limits.

1 And wouldn't it be better for us to
2 look at this in terms of a true conflict manner in
3 terms of the client that's being represented rather
4 than the sort of broad group of people who might be
5 represented?

6 MS. FITE: And I certainly believe that
7 everybody who has chosen to be an attorney certainly
8 comes in and wishes to fulfill their duties and be
9 as ethical as possible, so I'm not trying to make
10 some swooping statement that it would be impossible
11 to do that.

12 I think the position that the Missouri
13 Association of Prosecuting Attorneys has stated is
14 that whether or not people are actually engaging in
15 a conflict of interest, where there is a perception
16 of a conflict of interest, that we do have to look
17 to what we're saying and doing with the public.

18 When you look at those things, people
19 do not differentiate between, "I saw you in
20 Springfield and you were a prosecutor there, and I
21 see you in Nixa and you're the defense attorney
22 here," or, "The last time I saw the two of you, your
23 positions were flipped."

24 I think that if we're looking at
25 addressing some of the instilling confidence in the

1 public with regards to our criminal justice system,
2 as you would want to look at this as a whole because
3 the duty that we have as prosecutors is different
4 than any other attorney who walks in that courtroom.

5 Our duty is to see that justice is
6 done. Our duty is not to win a case. And so I
7 think that it would be very difficult to be going
8 back and forth with those responsibilities.

9 I also think that at the end of the day
10 if -- if today I'm the prosecutor with you and
11 you're going to be the prosecutor with me tomorrow,
12 that inherently I think creates at least the
13 perception, if not the possibility, where you want
14 me to do a good -- you want me to do a favor for you
15 today because you're going to do a favor for me
16 tomorrow and that --

17 CO-CHAIR ROBERTSON: But your rule
18 would prohibit me as the prosecutor in the city of
19 Springfield from going up and representing my mother
20 in Kansas City?

21 MS. FITE: Yes.

22 CO-CHAIR ROBERTSON: Or no matter how
23 far away it was or whether this perception would
24 even remotely exist?

25 MS. FITE: The rule that we would

1 propose would do that, yes.

2 CO-CHAIR ROBERTSON: Okay. Thank you.

3 MS. FITE: Just like -- just like now I
4 could not go represent my oldest son, who is a
5 resident of the city of St. Louis. I can't go
6 represent him there in a defense capacity.

7 CO-CHAIR ROBERTSON: Well, currently
8 you could in a municipal court, could you not?

9 MS. FITE: Currently I could in a
10 municipal court, yes.

11 CO-CHAIR ROBERTSON: Even though you're
12 a state prosecutor?

13 MS. FITE: No. No, I -- actually as a
14 prosecuting attorney, I cannot -- I can't engage in
15 the practice of law at this point other than to
16 represent the State of Missouri.

17 CO-CHAIR ROBERTSON: Because of the
18 size of the county you're in?

19 MS. FITE: Because we serve in a
20 first-class county. If I were a -- if we were
21 serving a county where I was -- did not have that
22 requirement -- and a full-time prosecutor.

23 In a first-class county you have to be
24 a full-time prosecutor. Counties across the state
25 vote to make the prosecuting attorney full-time,

1 whether or not they're first class, second class, or
2 otherwise.

3 But if you are a assistant -- if you
4 are an assistant prosecuting attorney anywhere --
5 and I just want to make sure I'm reading it
6 verbatim --

7 CO-CHAIR ROBERTSON: Let's just assume
8 you're a part-time elected prosecuting attorney in
9 Moniteau County.

10 MS. FITE: Mm-hmm.

11 CO-CHAIR ROBERTSON: And you -- you
12 don't believe under the rule as it currently exists
13 that part-time prosecuting attorney could go into a
14 municipal court?

15 MS. FITE: No, I don't. I would be
16 reading from Revised Statutes of the Missouri,
17 Section 56.360.

18 "It shall be unlawful for any
19 prosecuting attorney or circuit attorney or any
20 circuit or assistant circuit attorney, during the
21 term of office for which he shall have been elected
22 or appointed, to accept employment by any party
23 other than the State of Missouri in any criminal
24 case or proceeding, provided that nothing in this
25 section shall be deemed to preclude the officers

1 specified in this section from engaging in the civil
2 practice of law. Any violation of the provisions of
3 this section shall be deemed a misdemeanor."

4 CO-CHAIR ROBERTSON: So the question
5 is, is it a criminal case in a municipal court? And
6 you could do anything because it said he and you're
7 a woman.

8 MS. FITE: He is used universally here
9 so it would be applicable to me as well.

10 CO-CHAIR ROBERTSON: But is a municipal
11 violation a criminal case? I'm sorry. I just have
12 a job where I got to do this for fun. I mean I --
13 so I'm going to stop after this.

14 MS. FITE: Sure. A municipal -- a
15 municipal -- the cases that go in front of a
16 municipality are cases that -- many municipalities
17 what they do is they just copy rote what the
18 misdemeanor statutes are in Revised Statutes of
19 Missouri.

20 And so you may have a driving while
21 intoxicated case that occurs in a municipality. Now
22 at the discretion of the officer, they may have
23 elected to take that to the municipal prosecutor.

24 But that crime, that conduct that they
25 engaged in was a violation of the laws of this

1 state. And so other than --

2 CO-CHAIR ROBERTSON: Even though it's
3 not charged as that?

4 MS. FITE: The conduct --

5 CO-CHAIR ROBERTSON: Even though
6 there's appeal de novo from the --

7 MS. FITE: From the municipal court,
8 there would be an appeal de novo. What I'm saying
9 is that the conduct would be in violation of the
10 laws of the State of Missouri.

11 Whether or not someone pursued that and
12 ultimately convicted the person of violation of the
13 laws of the State of Missouri would be different.

14 But the conduct that is made up -- that
15 is listed in many municipal ordinance violations,
16 what they deem as to be a violation of the ordinance
17 violation, that conduct is going to be listed to
18 mirror what is in the Revised Statutes of Missouri.

19 And so for me as the public -- a person
20 in the public, if I go home tonight and my
21 husband -- or I'll do it this way.

22 If I punch my husband in the face
23 tonight and officers come and I am taken and it is
24 chosen for me to go to municipal court, I'm not
25 going to feel like I've done anything different than

1 if I was standing in a state court where I was
2 charged with domestic assault in the third degree,
3 because in most municipalities that discourse of
4 conduct would mirror exactly what it looks like for
5 a -- for it to have occurred in violation of state
6 law.

7 My actions would have been in violation
8 of state law. Whether or not somebody prosecutes me
9 for that or not is a different question.

10 Whether or not I engaged in conduct
11 that the legislature has deemed criminal, I have
12 done that.

13 CO-CHAIR ROBERTSON: Thank you.
14 Others.

15 MR. SHELTON: Yeah, I do. So the
16 argument, so that I'm clear, is that there is no
17 inherent conflict?

18 MS. FITE: No, I don't think that that
19 is the argument. I certainly -- I don't want to --
20 I think that the argument is that there is inherent
21 conflict.

22 Inherent conflict is that there is a
23 financial is the appearance of me that I'm going to
24 financially benefit if today --

25 MR. SHELTON: That's what I'm getting

1 at. There's no inherent conflict. Anecdotally
2 there might be an actual conflict from time to time,
3 but it seems like the main argument is that it
4 doesn't look right. It erodes public trust.

5 MS. FITE: I would agree that the
6 position here is that certainly you're -- at minimum
7 there would be the perception. At worst there would
8 be a conflict.

9 But I think when you're looking at
10 whether the laws that govern us when we prosecute
11 crimes, obviously the legislature felt so strongly
12 because your argument about what's the difference
13 between doing something here in -- if we're here --

14 CO-CHAIR ROBERTSON: It wasn't an
15 argument. It was just a question.

16 MS. FITE: I'm sorry. If your question
17 -- if your question is with regards to what we do
18 here, if I go up to Worth County, which is a
19 location I've never been, if I were to go there, how
20 am I engaging in any conflict?

21 Obviously the legislature has found
22 that so significant that they've made it a crime for
23 me to do that.

24 And so I think that you have to think
25 that when people are prosecuting what would be

1 crimes in the State of Missouri, whether it's more
2 violations or not, because of what they're --
3 they're still engaging in what should be benefitting
4 community safety and engaging in similar conduct to
5 what we are.

6 Most people look at us as one and the
7 same. They don't know the difference between a
8 municipal prosecutor and a state prosecutor or the
9 city prosecutor in St. Louis or a county counselor
10 in St. Louis County. We all appear the same.

11 And the roles that we serve are very
12 significant and important with regards to community
13 safety and certainly with regards to taking part in
14 making certain the public has confidence in the
15 criminal justice system that we have here in the
16 state of Missouri.

17 MR. SHELTON: Thank you.

18 CO-CHAIR ROBERTSON: Thank you.

19 Others?

20 MS. NORWOOD: Thank you. No.

21 MR. DeMARCE: Yes. There was down on
22 that end.

23 CO-CHAIR ROBERTSON: No, she just said
24 thank you.

25 MR. DeMARCE: Oh. The Ferguson

1 Commission addressed this issue in court, and their
2 recommendation, which was consistent with the
3 approach taken in some of the other states that
4 addressed the issue, was to come to some sort of
5 happy compromise, given that the conflict is one of
6 appearance and not an inherent real conflict as the
7 rules of professional conduct are concerned.

8 And they said, "If you are a municipal
9 prosecutor, you could not do the defense in that
10 county and those municipalities perhaps in the
11 state, but you could do it elsewhere."

12 And my fear -- first of all, I want you
13 to respond why would you think that the
14 recommendation of the Ferguson Commission not to be
15 sufficient?

16 But secondly, wouldn't the economic
17 reality of your recommendation, if it were adopted,
18 be to deny most municipalities any significant range
19 of choice in which attorney they wanted to hire to
20 be municipal prosecutor?

21 In most of the counties of the state,
22 would it not be right to say that their choices
23 would effectively be narrowed to their own county's
24 prosecutor, if they were part-time, or in that
25 adjoining county?

1 There's no one else could afford to
2 travel that far and no one else would be genuinely
3 responsive to the cases at a greater distance.

4 MS. FITE: I don't know that anybody is
5 attempting to say anything with undue respect to you
6 or not be disrespectful anyway to the folks that
7 attempted to address the situation.

8 The fact that our recommendation may go
9 further than the recommendation of what that
10 committee proposed, I don't know that that means
11 that they're necessarily -- again, I think our role
12 is administers of justice.

13 So we may be asking for something that
14 is -- I think that when -- and again, I think that
15 when we look at what our role is as prosecuting
16 attorney, we have to look at instilling confidence
17 in the community with regards to community safety,
18 with regard to confidence in the system itself, and
19 I think that we as prosecutors are held to a far
20 higher standard than -- than maybe other -- other
21 attorneys walking into the courtroom.

22 And so probably our perception of what
23 would be appropriate in the way to instill that
24 confidence and the way to see that things are done
25 in a manner that ensures community safety and

1 ensures that there is no appearance of conflict of
2 interest, you may find that as we raise the bar
3 possibly would be a way to look at that.

4 To go back and answer your financial
5 question, again what I would say is that if you --
6 if what you come down to is that our choice is going
7 to be is it the elected prosecutor in the
8 neighboring county, then you've probably chosen one
9 of the most qualified people that is in the area to
10 serve in that capacity.

11 And why wouldn't the municipality want
12 the most qualified person to come in and serve on
13 their behalf?

14 So I don't know that you are
15 restricting or limiting them. You are giving them
16 hopefully people who are going to be well trained
17 and well versed in that specific area of law.

18 MR. SHELTON: Did the Association
19 testify in front of the Ferguson Commission?

20 MS. FITE: I do not know the answer to
21 that question, sir.

22 MR. THORNHILL: Does your analysis hold
23 true for part-time judges and prosecutors?

24 MS. FITE: The Missouri Association of
25 Prosecuting Attorneys takes no position, no official

1 position with regards to judges, and that is
2 because -- I may have to look at my notes to answer
3 that for you.

4 Basically it is the position of the
5 Missouri Association of Prosecuting Attorneys to let
6 judges determine what rules they have with regards
7 to their own conflict of interest.

8 But the reason that we've taken the
9 position on this is because we serve as prosecutors,
10 and we simply have taken a position that prosecutors
11 should not have conflicts of interest.

12 CO-CHAIR ROBERTSON: Thank you very,
13 very much. I mean this can't have been much fun for
14 you, but we're trying to figure out how this all
15 goes.

16 So don't take any of this as anything
17 belligerent. It's just merely we need to learn more
18 and so thank you.

19 MS. FITE: You're very welcome. I very
20 much appreciate the time to appear in front of you.
21 And again, I very much appreciate you taking the
22 time to travel as far distance as you've done.

23 CO-CHAIR ROBERTSON: Thank you very
24 much.

25 CO-CHAIR SHAW: Thank you.

1 CO-CHAIR ROBERTSON: Anyone else care
2 to testify? It looked like so much fun, I would
3 think you would want to come up.

4 MR. SHELTON: I think if you had told
5 this lady your opinion, she might have thought that.

6 CO-CHAIR ROBERTSON: Well, if there are
7 no other testimony to be taken, will -- does anybody
8 on the working group have anything else they would
9 like to say while we have a court reporter?

10 Thank you very much for coming. Thank
11 you. And we're adjourned.

12 (Whereupon, the proceedings were
13 concluded at 6:33 p.m. on Friday,
14 September 25, 2015.)

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1 CERTIFICATE OF REPORTER

2

3 I, Karen Vest, Registered Professional
4 Reporter, Certified Realtime Reporter, and Certified
5 Court Reporter within and for the State of Missouri,
6 do hereby certify that I was personally present at
7 the taking of the proceedings as set forth in the
8 caption sheet hereof; that I then and there took
9 down in stenotype the proceedings had at said time;
10 and that the foregoing is a full, true, and accurate
11 transcription of such stenotype notes so made at
12 such time and place, all to the best of my skill and
13 ability.

14

15

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Karen Vest, RPR, CRR,

17

Missouri CCR No. 846

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