

State of the Judiciary

Chief Justice Patricia Breckenridge, Missouri Supreme Court

Message to the Missouri Legislature

January 27, 2016, in Jefferson City, Missouri

Thank you, Lieutenant Governor Kinder, Speaker Richardson, President Pro Tem Richard, members of the General Assembly, the executive branch, and the judiciary. It is a privilege to be with you to examine how we can continue our tradition of collaboration and innovation in improving Missouri's courts.

I am proud to be a lifelong Missourian. I was born and raised in Nevada, in Vernon County. I am a product of the public schools of this state, but it almost wasn't so. I began college at the University of Arkansas. During the summer after my freshman year, the young man I was dating convinced me to transfer to the University of Missouri. After I had transferred, he commented that, even if the relationship did not last, at least I would get a better education. I ultimately earned MU degrees in agricultural economics and law. And the young man who convinced me to return to Missouri? His name is Bryan, and we will celebrate our 40th anniversary in May. Bryan, will you please stand?

I am thankful for the values taught to me by my parents – my father, Don Russell, a small-town lawyer with a general practice, and my mother, Barbara Reed, a retired elementary teacher from Springfield. Dad died two years ago, but my mother and my dear aunt, Judy Wood, are here with me today. Thank you, Mom – you are a wonderful mother and role model.

Last week, I began my 35th year as a Missouri judge. I served nine years as a trial judge, 17 on the court of appeals and am in my ninth year on the Supreme Court. When I was appointed by Governor Bond to be the associate circuit judge of Vernon County, I was 28 years old – only four years out of law school. I should have been intimidated under those circumstances, but I wasn't. Some – many, in fact – might say that I didn't know enough to be afraid. But the truth is, as young and inexperienced as I was, I believed I could be a good judge because I cared about the people of Vernon County who brought their problems to court and about the law.

When I joined the judicial system, I found it was filled with principled people who also cared. I was supported and taught by a host of court clerks, attorneys and judges who helped me by sharing their experiences and knowledge. I learned from everyone – even criminal defendants!

Criminal defendants taught me the importance of respect in our court system. I learned when people who appear in court are treated with respect, they, in turn, treat the judge and the court with respect. Experience proved, when defendants understand their rights, the criminal charges against them, and court procedures, they more readily accept even harsh sentences because they believe the process is fair.

Due process and the rule of law make this country unique. Our judicial system is a coequal branch of government where citizens go to peaceably resolve their disputes and to protect their rights. We only have to turn on the television to see the stark contrast with other parts of the world.

Like the legislative and executive branches, courts are accountable to the will of the people – but in a different way. Those branches are designed to be responsive to the current interests and

needs of the voters, but courts are held accountable to the will of the people as expressed in the constitution and laws enacted by you and by past members of this body.

Missouri citizens must have faith and trust – that in our courts they will be treated respectfully and fairly and that their cases will be decided impartially according to the law.

Missourians come to court for many reasons – because they have been charged with speeding or armed robbery, their loved one’s estate needs to be probated, they can’t agree on child support or child custody, or they are business owners trying to get compensated for the products they have sold. To the people involved, their cases are the most important thing in their lives. They remind us that the judicial system’s purpose is the fair and impartial resolution of every case.

My colleagues – the judges of the Supreme Court and the other judges and commissioners in Missouri’s judicial system – work daily to properly administer justice in courtrooms all around the state. Courts clerks, juvenile officers, prosecutors, defense attorneys, and judges all must respect the law and strive to fulfill the courts’ purposes and responsibilities. Some dedicated court staff, judges, and attorneys from our state are with us today. Would you please stand to be recognized?

But as we learned, there are courts in our state that were not true to our system of justice. After Michael Brown’s death in Ferguson and the resulting Department of Justice report, the municipal divisions in St. Louis County were thrust into the national spotlight. This focused attention on all our municipal divisions.

When constitutional changes restructured the Missouri judicial system in 1979, freestanding municipal courts became divisions of the circuit court, but they were not fully integrated into the state system. Instead, the law left the selection of judges and staff to the municipalities, which may have caused some court personnel to promote the interests of their municipality over the interests of justice.

The constitution places the municipal divisions under the supervision of the circuit courts. Ultimately, the supervision of all courts rests with the Supreme Court. The issues of the St. Louis County municipal divisions have caused the Supreme Court to reexamine the performance of those supervisory roles.

Municipal courts are, in fact, part of our Missouri circuit courts and as the most frequently used division of our courts they may be the only kind of court most Missourians encounter. Last year, more than 1.4 million municipal cases were disposed – twice as many cases as in all other circuit divisions.

The legislature has taken action in response to the problems demonstrated by events in Ferguson, and I know you are considering additional changes to the law during this session

The Supreme Court recognizes that the vast majority of our municipal divisions function as they should, but we are committed to restoring trust in all our municipal divisions, and changes have been made:

- There is improved access to information and a uniform fine schedule that eliminates the exorbitant and unauthorized fines and costs assessed in some cities;
- St. Louis County municipal divisions are required to be open to all the public;

- Thousands of warrants have been recalled and cancelled; and
- The Court amended our rules to require municipal judges to consider an indigent defendant's ability to pay any fine and costs imposed.

Despite progress, more remains to be done. The Supreme Court appointed a municipal work group, which has gathered and studied information to identify the most important findings and recommendations for action. We look forward to its report, which is expected to be filed by March 1.

Our municipal divisions are not the only portions of our judicial system that have received recent attention. The Department of Justice released a report last July about the St. Louis County juvenile division. This report raised concerns, including racial disparity in the disposition of cases; insufficient legal representation for juvenile offenders; and questions about the design of our juvenile system.

It might surprise you to know that juvenile courts were our first treatment courts. Created by you 50 years ago, our juvenile system is designed not to be an adversarial system where the parties compete to be winners, but instead, a system where everyone, including the juvenile officer, has one goal – to preserve and promote each child's welfare. Because when the child wins, we all win.

This non-adversarial system has produced good outcomes for Missouri children. And we know the judges and juvenile staff across the state, including St. Louis County, continue to be dedicated to the care and protection of Missouri's children.

But every system can be improved. So we are giving thoughtful consideration to the DOJ's criticisms, as well as to appropriate solutions. In fact, the concerns have already led to one change in our juvenile structure. The Supreme Court adopted a rule that separates the responsibility of the judge who supervises juvenile court personnel from the responsibility of adjudicating juvenile cases.

The DOJ reports claimed there is racial disparity in the handling of cases. Let me be clear – we are committed to ensuring every individual in every case in our system of justice is treated with respect and every case is adjudicated fairly and impartially under the law. Even a perception that justice is contingent on the color of one's skin or the part of the state one comes from should concern us all, no matter who we are or where we live.

In this vein, the Court is committed to identifying and addressing bias. In October, the Supreme Court established a Commission on Racial and Ethnic Fairness to study the judicial system and the legal profession. The commission is made up of more than 50 attorneys, judges and others representing diverse experiences and viewpoints from across the state.

We expect the commission to examine current practices and make recommendations to help assure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and in the practice of law. We look forward to seeing the recommendations for improvement.

The Supreme Court also realizes it is critical for those of us who sit in judgment of others to be aware of any bias, implicit or otherwise, that might unknowingly affect our decisions. To that

end, judges of Missouri's court system will receive implicit bias training as part of this year's judicial education programs.

These are current challenges, but we have a proud history of meeting challenges head-on and finding successful solutions.

Many years ago, another challenge was technology. With your support, we met that challenge and embraced technology as part of how courts must do business in the 21st century. Missouri has become a national leader in automated case management and, by June, every judicial circuit will have electronic filing of case documents.

Our innovative Case.net system allows the public to access information in 19 million court cases, and the public does make use of that access! By the end of last year, Case.net averaged 5 million hits per day.

Currently, public access to the actual documents in case files is available only at computer terminals located in our courthouses. But in this computer age, the public and the media have requested greater access. In response, we are working to strike a balance that economically, technically, and legally makes more case information available to the public.

We already are testing an enhancement to Case.net. This feature – called “Track This Case” – allows parties and the public to be notified electronically of activity in a particular case. The pilot began without fanfare approximately two months ago and, already, Case.net users are tracking 13,000 cases. We will continue to test this program until the end of this year.

Innovations like this are possible because of our best asset – our people. The expansion of technology has changed the responsibilities and skill sets of our employees, and we must have a workforce ready to meet the demands of 21st century Missourians. Without such employees, we cannot take full advantage of all technology has to offer.

Our technological innovations also are invaluable in producing data that we use to serve the citizens of Missouri.

For example, by analyzing data from Missouri and around the country, we have learned that unresolved trauma from abuse and neglect makes a child significantly more likely to commit delinquent acts ... and that a delinquent child has a considerably higher risk of ending up in prison. The earlier the trauma is identified and treated, the less likely “acting out” progresses to the commission of a crime.

This information has guided efforts to improve the outcomes of children in Missouri. The courts, in collaboration with the Department of Social Services and the Department of Mental Health, have been piloting multiple programs like Fostering Court Improvement, the Juvenile Detention Alternatives Initiative and the Crossover Youth model. These programs improve safety and permanency outcomes for children in foster care, reduce detention of children, and prevent children from crossing over from the child welfare system into the juvenile justice system.

Kids-at-risk is an issue deeply personal to me. When I was on the court of appeals, I volunteered to mentor at Operation Breakthrough, an inner-city day care. Little did I know that volunteering would lead to an 18-year relationship with four sisters. I learned firsthand from “my girls” the impact of having a mother in prison and a dad whose energy was spent just trying to provide. They continue to be a big part of my life: Denise, now a hardworking mother with a full-time

job; Danisha, now in college; and Mae, also a college student, who cannot be here today because being introduced during the state of the judiciary apparently does not constitute an excused absence! I am proud to introduce Denise and Danisha to you today, along with another dedicated mentor, Penni Johnson. I wish Deitra – the fourth sister – were with us, but tragically she's made some bad choices and is currently incarcerated.

I greatly appreciate the work of legislators who are also passionate about protecting the children of Missouri. Your joint committee on child abuse and neglect, currently led by Representative Bill Lant and Senator Bob Dixon, is a wonderful example of how – when we work together – we can make a difference in the lives of Missourians.

Another example of successful collaboration between us is our treatment court model. Missouri is a national leader in treatment courts. As you know, our adult, juvenile and family drug courts change the trajectory of lives from addiction and crime to being productive citizens, while saving money by reducing the prison population. Working together, we expanded the drug court model to DWI courts, mental health courts and veterans courts. If you have not attended a treatment court graduation, I encourage you to do so. But bring your hanky. The life experiences of the graduates are moving.

Let me tell you about Patricia Sams. She is a generational alcoholic from Stone County who assumed the cycle of drinking and incarceration was her destiny. Despite having spent nearly four years incarcerated, she continued to drink and drive and once again found herself in front of a judge charged with DWI – her eighth. But this time it was different This time, Judge Alan Blankenship offered her the opportunity to be one of the first participants in the new Stone County DWI court. She went through rehab, learned how to stop her cycle of addiction, and has not had a drink since April 2010. Patricia became Stone County's first DWI graduate, and now is part of its treatment court team. Patricia, will you and Judge Blankenship please rise and be recognized for your achievements?

Patricia's story is just one of many. Missouri has more than 16,000 treatment court graduates and more than 4,000 current participants. But this is not the end of the story. We have more to do. We know treatment courts work, but they aren't available to everyone who could benefit from them.

I am pleased to announce today that, once again, we are collaborating. Speaker Richardson has asked the Supreme Court to work with him and other members of this chamber to identify best practices and explore expanding the availability of treatment courts. Together, we can change more lives in Missouri.

Although there may be challenges in some areas of the court system, we can be proud of the outstanding work that is done in the vast majority of our Missouri courts.

We should be especially proud of the level of cooperation and communication between the legislature and the judiciary. Our work together in the areas of treatment and juvenile courts and technology should be a standard for our interactions every day. Let's continue to make our Missouri courts even better.

Thank you.