Editorial: In county's Family Court, justice delayed is justice denied

In November 2013 — almost a year before Ferguson became a hashtag — came the news that the Department of Justice was beginning an investigation into potential violations of the constitutional rights of the juveniles in the St. Louis County Family Court. This is how the county’s director of judicial administration responded:

“We get complaints from time to time about everything,” said Paul Fox, “but nothing stands out.”

Nearly two years later, the Department of Justice reached a strikingly different conclusion. It found a pattern of constitutional violations, racial disparities in how black and white juveniles are treated, and a court system rife with conflicts of interest.

Black children in St. Louis Family Court are two-and-a-half times more likely to be held in custody before a hearing than white children, the report found. They are nearly three times more likely to be sent to the Missouri Division of Youth Services for various violations committed under court supervision. They are less likely than white children to qualify for diversion programs that might provide services and help them avoid further legal troubles.

And regardless of their race, the DOJ found woefully inadequate access to public defenders for poor children. At one point, the one public defender assigned to the system had 394 cases at one time. The investigation found, as should be obvious by the numbers, that such a caseload is equivalent to the denial of justice in most cases.

Nothing stands out?

Such a sentiment would be laughable if it weren’t so typical of attitudes common in the St. Louis region a year before Ferguson — and sadly, still common in parts of the region. It took Ferguson to bring to light the division by race in the area’s law enforcement and judicial systems. It was no secret in some places, but weeks and months of protest, public outcry and public investigation made it impossible to ignore.

The federal Family Court investigation echoes findings of DOJ’s report investigating the
Ferguson police department and municipal courts, which found rampant discrimination and conflicts of interest. But the more important comparison should be with two other reports that have nothing to do with the events of last Aug. 9.

• In 2009, a study of the Missouri Public Defender System found that on a per-capita basis, it was the second-lowest-funded system in the country. The report said the state’s system was “on the brink of collapse.” But since 2010, lawmakers haven’t added a single public defender to the system. The massive caseloads in the state-funded system for the indigent means that poor people don’t get adequate representation when they are faced with criminal charges. They stay in jail too long. Their rights are routinely violated. This happens to adults and juveniles in the system and it’s a travesty. It should shock nobody that the DOJ found violations of the Fourth, Fifth, Sixth and 14th amendments to the Constitution in the St. Louis Family Court.

• In March, a national study of school suspensions reported that black children in Missouri are more likely to be suspended from elementary school than anywhere else in the nation. This is the Missouri Waltz for those born poor and black: First step is the suspension. Second step is juvenile detention. Finish in prison.

The system is fundamentally broken. The system, says the Department of Justice and school researchers, is fundamentally racist. Fixing it will be hard. Like everything else post-Ferguson, there are remedial steps that can be taken, starting with developing a better attitude than “nothing stands out.”

But serious change must come first from the Missouri Supreme Court, which oversees all of the courts in the state. Just as it is doing in the municipal courts, the Supreme Court will have to seriously examine the rules surrounding its family courts to make sure that justice is being administered fairly.

Next, the laissez-faire, tax-averse Missouri Legislature will have to come to terms with this reality: If it wants to talk about freedom, then it has a role to play in making sure that all Missourians, even those accused of crimes, have access to the constitutional protections promised in the Bill of Rights. The Legislature can’t just worry about the Second Amendment and ignore the other nine.

That means the public defender system has to work. That means poor people have to have reasonable access to their courts. That means that funding football stadiums and corporate tax giveaways while civil rights are being regularly trampled is a bad idea.

Lawmakers need to read the Department of Justice report and understand what it is like to be a young juvenile in St. Louis County, accused of a crime and detained by the all-powerful state with virtually no representation, and no adjudication of probable cause.

Like Michael Barrett, the director of the state’s public defender system, they need to be “sickened” by the fact that “the most vulnerable among us, poor minority children, go without the most basic protections under the Constitution ...”
As the DOJ report reminds us, there was a time when Missouri was a national leader in the administration of juvenile justice. Years of slashed budgets and an insensitivity to institutional racism have tarnished that reputation.

Missouri can be a leader again. It can fix its broken courts. It can rid its judicial system of institutional racism by breaking it down and rebuilding it with a promise to protect everybody’s civil rights, not just those who can afford to pay for them. But it will take time and effort. It will cost money. It will take a dose of humility and a healthy respect for people living in poverty.

It will be very, very hard. It must begin with seven judges on the state Supreme Court.