

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:16-CV-180-CDP
)
CITY OF FERGUSON, MISSOURI,)
)
Defendant.)

STATUS CONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

JUNE 22, 2017

APPEARANCES:

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SQUIRE PATTON BOGGS

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UNITED STATES DEPARTMENT OF JUSTICE

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(Produced by computer-aided mechanical stenography.)

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1 (Proceedings commenced at 2:03 p.m.)

2 THE COURT: All right. Good afternoon. We are here
3 in the case of United States of America versus the City of
4 Ferguson. This is Case No. 4:16-CV-180, and we are here for
5 the quarterly status conference, and at this conference, I did
6 also say that members of the public would be able to speak,
7 and so I have 11 people who have signed up to make
8 presentations. And so let me start by asking counsel for the
9 Plaintiff, United States, to please identify themselves.

10 MR. VOLEK: Jude Volek, Your Honor.

11 THE COURT: All right.

12 MS. SENIER: Amy Senier.

13 MS. BRETT: Sharon Brett.

14 MR. HART: Charles Hart, Your Honor.

15 THE COURT: All right. And counsel for the
16 Defendant, City of Ferguson.

17 MR. CAREY: Apollo Carey, ma'am.

18 THE COURT: All right. And then I have for the
19 Monitor . . .

20 MR. ERVIN: Clark Ervin, Your Honor.

21 THE COURT: All right. Thank you, all.

22 All right. First, I'll hear from the parties to the
23 case about how things are going. Mr. Volek, I will call on
24 you or whoever from your team wishes to present.

25 MR. VOLEK: Thank you, Your Honor. Amy Senier will

1 be delivering our opening remarks.

2 THE COURT: All right. Ms. Senier.

3 MS. SENIER: Good afternoon, Your Honor. The United
4 States appreciates the opportunity to update the Court on how
5 it sees implementation of the Consent Decree progressing.
6 Today, I'll address three areas. The first will be any
7 progress the parties have made with respect to development of
8 policies required by the decree. The second area I'll speak
9 to is those requirements under the decree that do not require
10 a policy but where the parties have, nonetheless, made great
11 strides toward implementation. And the third point I'll
12 address is a couple of challenges we're facing along the way.

13 Starting with policy development, the parties have
14 been hard at work over the past several months developing
15 policies in those areas where we set as priorities in
16 December. We've had a particular focus this past quarter on
17 recruitment, accountability, and use of force.

18 And before I turn to the progress in those particular
19 areas, I want to say a word about process. Since we last met
20 in March, the parties have streamlined the policy review
21 process. We now engage in a process where the City starts by
22 creating a draft policy. They submit it to the Department of
23 Justice. We review and comment. We exchange a few more
24 versions of that policy, and once the parties feel like they
25 have a strong draft in place, we then submit it to the

1 Monitoring Team for any technical assistance but really for
2 review and approval, and this streamlined process has worked
3 very effectively over the past few months as I'll detail
4 below.

5 But this policy has only been successful because the
6 parties have been engaged in constant contact. We speak many
7 times throughout every week. Department of Justice has been
8 on the ground in Ferguson multiple times over the past several
9 months to have in-person working sessions dedicated to these
10 specific policies. And we want to single out here the
11 tremendous dedication that's been exhibited by Commander Frank
12 McCall -- he's the FPD's Consent Decree Coordinator -- along
13 with City Attorney Apollo Carey. These two individuals have
14 been our points of contact during the implementation process,
15 and we're very grateful to them for their engagement during
16 this process. We also want to note that Ferguson Police Chief
17 Delrish Moss and City Manager De'Carlton Seewood have made
18 themselves available at every opportunity whenever unique
19 questions have arisen in need of their attention. So we're
20 grateful to them for their accessibility. We expect to
21 continue this level of engagement during the policy review
22 process because it's been yielding real results.

23 Starting with recruitment, the recruitment plan is
24 comprised of two elements. The first is a recruitment plan
25 which sets forth the framework by which the City will attract

1 and retain a diverse and highly qualified police force. A key
2 element of this plan is the requirement that the City offer
3 salaries which place it amongst the most competitive of
4 similarly sized agencies in St. Louis County. The parties
5 have made real progress on this issue. It's been a
6 challenging issue. Nonetheless, we feel like we are very
7 close to developing a plan to realize this provision of the
8 decree.

9 Moreover, the decree requires that the recruitment
10 plan be developed in consultation with the Neighborhood
11 Steering Policing Committee, and the parties have undertaken a
12 number of steps over the past several months to ensure that
13 this can happen. Commander McCall has sent the draft
14 recruitment plan to the NPSC. The Department of Justice and
15 the Ferguson Police Department have attended the last two NPSC
16 meetings in an attempt to gain feedback on that policy, and we
17 intend to do so again in July because we realize how critical
18 it is to receive community input on that recruitment plan.

19 In addition, the parties have finalized a Background
20 Investigations Manual, which includes specific provisions for
21 the hiring of Ferguson police officers. This is a critical
22 step to ensuring that Ferguson is able to attract and retain
23 the caliber of police officer that the residents of Ferguson
24 deserve, and in fact, we understand from Chief Moss that
25 instituting these background screening procedures so far has

1 enabled the City to screen out otherwise unqualified
2 candidates.

3 Turning to accountability, the City has drafted and
4 the Department of Justice has reviewed and commented on an
5 internal investigations order that sets forth the procedures
6 by which the police department will receive, track, and
7 investigate misconduct complaints. Those are complaints that
8 are generated both within the department and received from
9 members of the public. It also sets forth the procedures by
10 which the FPD is going to interact with the Civilian Review
11 Board so that the Civilian Review Board receives the documents
12 and materials it needs to review those misconduct complaints
13 and investigations. And, in fact, the next step for this
14 draft order is the Civilian Review Board so that it can engage
15 in the policy review process it's empowered to engage in under
16 the decree. So finalization of this policy is a really
17 critical step towards fostering an environment of
18 accountability within FPD and inspiring confidence within
19 members of the community.

20 Turning to the use of force, this is an extremely
21 complex area of policy development and involves a whole host
22 of general orders and policies. These policies include the
23 use of lethal and less lethal force, policies on the use of
24 every weapon that FPD officers are authorized to carry,
25 policies related to the reporting and investigation of force,

1 including the establishment of a Force Review Board as well as
2 policies on the deployment of K-9s or vehicle pursuits.

3 As a result of the revised policy development process
4 that I outlined earlier, the parties are well on their way to
5 developing use-of-force policies, and in fact, we already have
6 a very strong draft of a general use-of-force policy that
7 covers the use of lethal force and less lethal force, and
8 Commander McCall is already undertaking the process of
9 analyzing gaps that exist in those various weapons policies.
10 So we think we're off to a very strong start in the
11 use-of-force area.

12 In wrapping up this update on policy development, I
13 just want to add that the parties think it's very critical
14 that these policies are reviewed and developed in as
15 expeditious but as thoughtful a process as possible because
16 they lay the foundation for implementation moving forward, but
17 we are cognizant of the importance of community involvement in
18 the policy development process. That's why I said that the
19 next stop for the investigation -- the internal investigations
20 policy is the CRB so that it can review that policy.
21 Similarly, this is why the parties are waiting for feedback
22 from the NPSC on the recruitment plan because we realize how
23 critical this feedback is. Moreover, the decree provides that
24 every policy that is revised under it will be reviewed after a
25 year and then annually thereafter. So there will be an

1 ongoing opportunity for these policies to be reviewed in light
2 of lessons learned and changes in best practices and law.

3 Turning now to those elements of the decree that
4 don't necessarily require a policy but where the parties have
5 made great strides toward implementation, I want to start with
6 the CRB. As the Court knows, the CRB was sworn in in March of
7 this year, and it's been meeting regularly since then. The
8 members have already started drafting their bylaws, and the
9 City has been extremely supportive of this work. Mr. Carey,
10 in particular, has moved swiftly to develop a training for the
11 CRB, and this training, he developed in close collaboration
12 with the National Association for Civilian Oversight of Law
13 Enforcement, NACOLE. This training curriculum covers topics
14 from constitutional law to privacy and confidentiality. The
15 Department of Justice received this training. We reviewed it
16 and returned it in short order so that training could begin
17 and did begin on Monday. And Mr. Carey has set forth a
18 seven-week schedule for that training to continue so that the
19 CRB can begin its important work as soon as possible.

20 Continuing with the training theme, FPD has also
21 designated a training coordinator, a requirement under the
22 decree. This person will assist Commander McCall and Chief
23 Moss with ensuring that the department meets the many training
24 requirements of the decree both for basic and in-service
25 training. We had the opportunity to meet this person

1 yesterday, and we look forward to working with them in the
2 months to come.

3 And finally, the City has been thinking very
4 carefully about how to realize the community engagement
5 requirements of the decree, and so far, this has entailed the
6 City and FPD working closely with the Department of Justice
7 and members of the Monitoring Team to analyze current
8 operations for areas where the community could be more greatly
9 involved, and I've just mentioned two of them. Recruitment
10 and training are two areas where the community has already
11 begun to be quite or the City has already identified ways that
12 the community can be more involved.

13 And finally, I want to address a couple of challenges
14 that the parties have faced in the past quarter. The first is
15 with respect to transparency, and this is a requirement that
16 carries over throughout all areas of the decree. It's
17 critically important that members of the community know not
18 only how FPD and the City are operating but how they are
19 realizing implementation of the decree, and it's really
20 important that the public has access, for example, to newly
21 finalized policies, meeting notices, and other decree-related
22 developments.

23 I want to focus here, in particular, on the
24 importance of the City's website in transmitting this
25 information, particularly, with respect to court reform. The

1 City has made some real progress on several provisions of the
2 decree related to municipal court reform, but these aren't
3 quite translating into an easily accessible format on the
4 City's website. For example, the City has now operationalized
5 the ability-to-pay determination, but that's not readily
6 apparent from the City's website. The City's online payment
7 system also allows for the ability to make partial payments,
8 but the website doesn't say that. So it's critically
9 important that the City's website provide this information in
10 a readily accessible, user-friendly format. We know that the
11 City is aware of this. We know that the City is committed to
12 improving its website. So we look forward to hearing more
13 about that in the coming months.

14 And finally, in light of the progress that's been
15 made so far, the parties feel like they're in a position now
16 to see some of these activities be open to audit by the
17 Independent Monitor, and to that end, the Monitoring Team has
18 shared with the parties an exceedingly helpful audit
19 methodology for those provisions of the decree that relate to
20 court reform. This is a very comprehensive methodology that
21 sets forth not only the dates on which audits will occur but
22 the kinds of documentation that the City has to compile in
23 order to demonstrate that it is in fact implementing the
24 decree. This is a tremendously helpful document to the
25 parties, particularly, to the City, because it sets clear

1 expectations and clear deadlines for how the City can
2 demonstrate compliance. We are grateful to the Monitoring
3 Team for that document.

4 The Monitor has also shared with the Department of
5 Justice recently and we've had an opportunity to provide some
6 initial feedback on a decree-wide audit methodology, and this
7 is a plan that sets forth a set of audits for the provisions
8 that range throughout the entire decree. As Your Honor knows,
9 the decree sets forth a procedure whereby any audit
10 methodology, the Monitor will submit to the parties and give
11 them an opportunity to review and comment, but this is instead
12 kind of a decree-wide audit methodology. So we've already had
13 the opportunity to comment on that.

14 But the decree also requires a monitoring plan, and
15 the monitoring plan, while including some of those elements of
16 the audit methodology, requires additional information as
17 well, including, for example, who on the Monitoring Team is
18 going to be responsible for conducting those audits, how the
19 deadlines for the various audits interact with each other, and
20 most importantly, what is the procedure and process for
21 reporting out the results of those audits to the public that's
22 waiting to hear. So we look forward to receiving this kind of
23 monitoring plan in the coming weeks.

24 In the meantime, as evidenced by what I've just
25 described, the parties are proceeding ahead with the

1 implementation process. This is not to say that areas of
2 disagreement haven't arisen. It's not to say that areas of
3 disagreement won't arise in the future, but we believe that we
4 are all working together in good faith to realize the
5 requirements of the decree, and we expect to do so for many
6 months to come.

7 THE COURT: I have a question for you because I know
8 there are members of the public who are going to be speaking
9 today and who have signed up. Is there a process that the
10 Department of Justice has where members of the public can
11 contact you if they think there's a problem or some issues.
12 What's the process for doing that?

13 MS. SENIER: Absolutely, Your Honor. We have a
14 mailbox that many members of the Ferguson community have
15 already used, I think, during the investigation and all
16 through the drafting of the Consent Decree. Many of them have
17 our individual contact information, and they're always free to
18 do so, and we would remain after today's hearing to provide
19 that information as well, but we welcome that kind of
20 feedback.

21 THE COURT: Okay. I thought that was the case. I
22 just wanted to be sure. All right. Thank you.

23 All right. Mr. Carey, on behalf of the City.

24 MR. CAREY: Good afternoon, Your Honor.

25 So because I was scolded the last time when I came in

1 because I forgot to introduce the folks from our good city who
2 are here as interested parties, I'm going to start by doing
3 that to the Court so that the Court knows who is here.

4 THE COURT: Thank you.

5 MR. CAREY: I'll start with our esteemed, newly
6 elected Mayor James Knowles. We also have Councilwoman Ella
7 Jones, and we also have Councilwoman Laverne Mitchom. We have
8 our City Manager, De'Carlton Seewood. We have our Consent
9 Decree Coordinator and truly the workhorse that is behind all
10 of the progress that we have made so far. That's Commander
11 Frank McCall. And we have Chief Delrish Moss, our wonderful
12 Police Chief, who is also one of the workhorses that help us
13 get -- you know, get to where we need to be in terms of
14 compliance with the Consent Decree. And we also have
15 Lieutenant Colonel Alan Eickhoff, who is also the Assistant
16 Police Chief in the city. I don't think I missed any other
17 elected officials or administration, but I just wanted to kind
18 of show the Court that we are very invested in our Consent
19 Decree progress, and we are all here to support one another in
20 doing so.

21 So, Your Honor, I'll talk very briefly. I think the
22 Department of Justice did a really good job of kind of
23 summarizing. At the risk of not necessarily repeating, I will
24 summarize that what I had hoped to talk about today is two
25 sides, kind of the court side of things and then the police

1 side of things. As you know, the Consent Decree, for purposes
2 of the City's compliance, is kind of separated into those two
3 genres.

4 So I'll start by just kind of addressing -- the last
5 time I was here, I gave you some figures, from the court side
6 of things, on the amount of fines that the City has waived,
7 and I'll kind of talk a little bit about the progress. As you
8 know, the Consent Decree required the City to repeal some
9 ordinances, to waive some fines, to make some good-cause
10 determinations on cases that were pending, and so I just kind
11 of wanted to give you some of those numbers since the last
12 time we talked. The total amount of fines that the City has
13 waived since August of 2014 is \$1,804,516.25. The total
14 amount of fines waived since we've had our first meeting with
15 the Monitoring Team, which was in September of 2016, is
16 \$140,921.50. So a good 200- or 150,000-dollar chunk of that
17 is recent. Since September of 2016, balances have been waived
18 on over 400 cases that we've had pending.

19 So our prosecutor and our court personnel have been
20 very busy going through some of the pending cases that we
21 have, nolle prosequing some of the ones that we promised to
22 nolle prosequi, and also, the judge has been busy dismissing some
23 of the cases that we promised to dismiss. And specifically,
24 with the nolle prosequi cases, there have been -- since August
25 2014, there have been 35,691 cases, and then dismissed since

1 August 2014 has been 3,485 cases. And as you know, we --
2 before we hired Judge Brown, we had several municipal judges.
3 So those cases would span the tenure of several municipal
4 judges that worked with the City.

5 And also, with regard to our community service
6 program that we -- as you know, the Consent Decree required
7 the City to offer in lieu of paying a fine for those folks who
8 were determined -- who didn't have the ability to pay the
9 fine -- we were -- we implemented a community service program,
10 and so since the beginning of that program in 2015, we've had
11 1,381 defendants sign up for the community service program,
12 and 254 have completed it.

13 So that's a little bit about the progress from a
14 numbers standpoint, but I do want to point out, as Ms. Senier
15 did, with regard to our audit methodology. This has been --
16 this has really been recently a really good tool that the City
17 has to -- that the City is going to use in order to judge our
18 compliance. As you know, the Consent Decree -- on the court
19 side, there was a little bit of ambiguity, from our
20 perspective anyway, as to what was actually required for
21 compliance, whether or not there was a document we needed.
22 Did we need to draft a policy? Did we just need to show you
23 something that we were doing? And so the Monitoring Team has
24 been working very diligently in the last couple of months and
25 has recently produced on the court side the audit methodology,

1 and that methodology is basically broken down by paragraph of
2 the Consent Decree, requirement of the Consent Decree, and
3 then most helpful, it has what the Monitoring Team is going to
4 be looking for to judge compliance, and that is a key element
5 of that audit methodology plan because now the City has a road
6 map, and it's not that we're just, you know, swinging at every
7 fastball that's tossed our way, and we're not just, you know,
8 out, you know, kind of swinging in the dark. We actually have
9 a road map that kind of shows us what we need for compliance,
10 and so that's really been helpful. And so on the court side
11 of things, I expect the progress on the court side of things
12 to be -- to speed up based upon the fact that we have this
13 audit methodology. As a matter of fact, I think our first
14 audit is August 1st --

15 MR. ERVIN: That's right.

16 MR. CAREY: -- 2017.

17 THE COURT: Okay.

18 MR. CAREY: And so we will be working on the court
19 side of things very diligently to analyze that court
20 methodology and produce the documents and other things that we
21 need in order to show compliance.

22 THE COURT: Excuse me just a second.

23 MR. CAREY: Yes.

24 THE COURT: For those of you who are coming in, there
25 are some seats up here in the front. There are some other

1 places of people. There's room for people to sit. At least
2 there's -- if people will make room, there's at least room for
3 three or four people there, and then on that back row, I think
4 there's space too. All right. Thank you.

5 All right. Go ahead.

6 MR. CAREY: Perfect. Okay. So now switching to the
7 police side of things, and I think the Department of Justice
8 has done a great job of summarizing where we are on the policy
9 review. I did want to just speak to the Court about our
10 policy review process. This process has been very helpful
11 because I think what it does is -- as you know, the City of
12 Ferguson had a load of policies in place already, and our job
13 and our task was to take those policies and make them
14 compliant with the Consent Decree. Well, the process that we
15 have engaged in, the streamlined process that Ms. Senier
16 talked about, has really been helpful in pointing out the
17 weaknesses in the existing policies. It has been helpful in
18 allowing us to see the consistencies needed to comply with the
19 Consent Decree, and also, we've been able to infuse best
20 practices, and that has come from the Department of Justice's
21 experience, the experience of our Monitoring Team who has been
22 intimately involved in the process. Although it's sort of
23 been streamlined to the extent that the parties kind of work
24 things out first, when we do need the expert opinion or advice
25 of folks on the Monitoring Team, we do involve them upfront on

1 that process, and so they've been very willing to do that and
2 very helpful, and so I think that process has really, really
3 helped flesh out some really good policies that we're going to
4 put in place and subsequently train our officers on.

5 I did want to speak to -- one of the policies that we
6 didn't mention before is our body-worn and in-car camera
7 policies that we're working on.

8 THE COURT: Yeah. Thank you. I was going to ask
9 about that because I know there was that initiative petition
10 and some other things that --

11 MR. CAREY: Yeah. Correct.

12 THE COURT: -- affect that. Yeah. So --

13 MR. CAREY: Right, right. So, you know, as you know,
14 the Consent Decree is very detailed with regard to, you know,
15 body-worn, in-car cameras, the use of those things, and then
16 we also did have recently an initiative petition that passed
17 in our city that amended our charter to address some issues
18 with body-worn and in-car camera issues. Those issues are, I
19 guess, really for another day. What I will say with regard to
20 compliance with the Consent Decree is that there are some
21 issues with the Proposition A that lead us to believe that
22 there are some inconsistencies with what that proposition
23 required, what that proposition requires and what the Consent
24 Decree requires. So our position at this point is that, for
25 purposes of compliance with the Consent Decree, the Consent

1 Decree rules.

2 And so what we're doing, in the next couple of weeks
3 and months, is we'll be working through Proposition A, making
4 some decisions with regard to our compliance, how that jibes
5 with the Consent Decree, how do we comply both with Missouri
6 law, the charter, and the Consent Decree. So that has
7 presented a challenge, but I think it's a challenge that the
8 Department of Justice has told us that they will help work
9 with us on, and I think it's a challenge that we will be able
10 to navigate.

11 THE COURT: And as I understand it, I mean I -- and,
12 obviously, you do have to comply with the Consent Decree --

13 MR. CAREY: Absolutely.

14 THE COURT: -- because that's the Consent Decree.

15 MR. CAREY: Right.

16 THE COURT: The differences have a lot to do with how
17 long the cameras have to be -- when the cameras are turned on,
18 how things are stored --

19 MR. CAREY: Correct.

20 THE COURT: -- the output. There's a lot of
21 technical differences or at least some technical differences
22 between the two, the provision of the charter amendment now.

23 MR. CAREY: Absolutely. There are some technical
24 differences in the language, and then there are some
25 differences that complicate the goal or the purpose of the

1 Consent Decree, and so that may not necessarily be in the
2 language itself, but the practical effect of implementing it
3 will challenge us in complying with the Consent Decree, and so
4 those are the things that we are working through.

5 THE COURT: You're continuing to work through those?

6 MR. CAREY: Yes, ma'am, we are. And we've had some
7 analysis done on the proposition, and we're working with our
8 City Council to kind of effectively discuss and, you know,
9 discuss what we can implement, what we can't implement, what
10 we should implement, whether or not these things are
11 inconsistent with the Consent Decree, that type of thing. And
12 so like I said, the Department of Justice has worked with us
13 on that and has pledged to continue to work with us on that
14 process.

15 We also mentioned the CRB training. That has been --
16 you know, for lack of a better term, that has been sort of,
17 you know, my adopted baby of the Consent Decree because I have
18 spent, you know, the last maybe two or three months in
19 meetings with the CRB, you know, preparing them, helping them
20 draft bylaws, helping them get their policies together, and
21 also helping them come up with a training schedule. And our
22 training schedule is not just training that'll be done by
23 myself. We also have some of our police officers who will
24 also participate in the training, and we also have an outside
25 consultant that we will have do some of our implicit-bias

1 training, and we also -- for the CRB training, we also plan to
2 engage in ride-alongs with the police department, and we also
3 plan on doing use-of-force simulators so that the CRB will get
4 kind of a real-life scenario situation of what police officers
5 go through and the snap decisions they have to make as it
6 relates to use of force. So we think all of that training
7 will aid the CRB in its task of reviewing complaints that are
8 filed and, you know, making recommendations on disciplinary
9 actions.

10 I think -- for the most part, Your Honor, I think
11 that's it. I do want to address the last kind of comment, the
12 challenge with regard to the City's website. You know, I
13 think the City will be the first to acknowledge that its
14 website is somewhat complicated to navigate, and we are aware
15 of that, and the challenge that presents us with regard to
16 Consent Decree compliance is that so many of the provisions
17 require updating of the website, putting information onto the
18 website, and the City up until now has not had a dedicated IT
19 person that is skillful in web design. And so what has been
20 happening is each department would have an employee who maybe
21 knew how to upload things to a website or maybe, you know,
22 could do some rudimentary web design type skills, would have
23 some rudimentary web design skills, but we don't have a
24 dedicated IT person who can handle all of the necessary
25 updates and changes that we need to make to the website.

1 However, the City has just -- we just got done with a
2 budgeting process, and I believe, if I'm correct, this coming
3 year, this coming fiscal year, which starts July 1st, 2017,
4 this coming fiscal year, we will have in our budget a revamp
5 of our website, and it is our plan to sit down with the
6 company that we -- that hosts our website and who will be
7 responsible for the revamping of the website, to sit down and,
8 you know, let them know what it is we need for purposes of
9 Consent Decree compliance. And so we anticipate that this
10 coming fiscal year we'll be able to make great strides with
11 regard to the compliance mechanisms in the Consent Decree that
12 require us to update the website. And so we, of course, will
13 keep the Department of Justice informed as we go along with
14 that. Obviously, the Court and the Monitor. But rest assured
15 that we understand that that's a roadblock, so to speak, but
16 it's one that we can overcome.

17 THE COURT: And I did have a question for you that
18 somewhat relates to what's on the website but also relates to
19 what you're actually doing. I know this goes back to the
20 court reform issues, and I know you said you have, you know,
21 developed a community service program --

22 MR. CAREY: Yes, ma'am.

23 THE COURT: -- and lot of people have signed up. Do
24 you have -- have you developed -- whether they're real
25 available on the website or not, have you developed guidelines

1 for the ability-to-pay determinations that need to be done in
2 the municipal court?

3 MR. CAREY: Yes, ma'am, there are guidelines for the
4 ability-to-pay determinations. I believe that those
5 guidelines come from St. Louis County.

6 THE COURT: Okay.

7 MR. CAREY: And I think what we've done is adopted
8 those.

9 THE COURT: The same ones they use for their court
10 system?

11 MR. CAREY: Yes, ma'am. And I know that we are
12 actively giving those out in court, but for Consent Decree
13 compliance purposes, we've got to make those available on the
14 website.

15 THE COURT: Right. Right.

16 MR. CAREY: And that's where --

17 THE COURT: Okay.

18 MR. CAREY: That's where the challenge is for us, but
19 we, again, are dedicated to doing that.

20 THE COURT: Okay. Okay. All right. Thank you.

21 MR. CAREY: Okay.

22 THE COURT: Mr. Ervin, I'll hear from the Monitor as
23 well.

24 MR. ERVIN: Well, thank you, Your Honor. Thank you
25 for this opportunity to update you. I will try hard not to be

1 duplicative of what the parties have said, but I'll add my own
2 perspective as the Monitor on a number of items that have
3 already been commented on. But before I do that, I'd like to
4 introduce one member of my team who is joining me today,
5 Delores Jones-Brown, and I'm delighted that she's here.

6 THE COURT: Thank you.

7 MR. ERVIN: You heard some from Ms. Senier, Your
8 Honor, about the Monitor work plan and likewise from
9 Mr. Carey. That's where I'd like to start because, as they
10 mentioned, I, myself, have spent the bulk of my time over the
11 last few months or so focused on developing the Monitor work
12 plan. As you know, that plan is called for in paragraph 424
13 of the Consent Decree. You will recall that the parties and I
14 decided some months back to delay the development of that plan
15 for some months past the initial due date -- the initial due
16 date was October -- because at that point there were
17 relatively few policies that had been developed or revised, as
18 the case may be, and no training had been instituted, and so
19 at that point, there was very little, if anything, to audit
20 and assess. But now, of course, we're farther along in the
21 term, and we've all agreed that we should -- I should turn my
22 attention to the development of that plan. There are a number
23 of things to audit at this point, and so that has begun or at
24 least the process has begun.

25 So as you heard, I have produced -- I have a copy of

1 it here in fact -- a 57-page single-spaced document that lays
2 out for each of the 464 provisions of the Consent Decree
3 whether the development or revision of a policy is required,
4 whether training is required, the audit methodology, the
5 proposed audit methodology for each of those 464 provisions,
6 by which I mean exactly what I and other members of the
7 Monitoring Team will do in order to assess whether the City is
8 complying with that particular provision.

9 As you heard, the documentation that the City will be
10 required to produce -- in certain instances, it's merely a
11 paper exercise to determine whether adequate documentation
12 exists. In other cases, there are additional things that need
13 to be done, interviewing people, for example, et cetera. But
14 it's all laid out in the monitoring work plan. And then the
15 proposed date on which we will first audit each provision and,
16 where applicable, the date on which we will conduct a
17 follow-up audit. The current version also includes a field
18 which lists the deadline in the Consent Decree for the City to
19 have implemented that provision, just for my own purposes.

20 We have -- I have received some questions, as you
21 heard, from DOJ earlier this week, and I plan to respond to
22 those questions early next week. There are additional
23 questions beyond those you heard, but the short answer to
24 those you heard is as follows:

25 The first question was who on the Monitoring Team

1 will do the audits for each provision. As you know, Your
2 Honor, the Monitoring Team members -- each has his/her own
3 area and, in certain instances, multiple areas of specialty
4 based on their experience and their expertise, and so those
5 provisions relating to the expertise of a particular member of
6 the Monitoring Team will be evaluated by that member of the
7 Monitoring Team.

8 The second question was what's the process for
9 reporting out the results of the audits. What I envisage and,
10 I think, what the Consent Decree requires or at least
11 contemplates is the publication of the audit reports that are
12 produced as a result of this process.

13 And then a question of how the deadlines work
14 together. And, basically, what I envisage there is that like
15 provisions will be audited at the same time. So those
16 provisions of the Consent Decree, for example, that relate to
17 training will be audited at the same time. Those that relate
18 to other issues in a discrete category will be audited at the
19 same time.

20 That's a short summary answer to those questions. Of
21 course, it's more complicated than that, and as I say, there
22 are additional questions, but in brief, that's the answer to
23 those questions, and I will respond to all of those questions
24 in detail early next week.

25 I am hopeful that DOJ will approve the monitoring

1 plan, the audit methodology shortly, and whenever that
2 happens, I will submit it to the City for its review and
3 approval. And, of course, once both the parties have reviewed
4 and approved, we will proceed to implementation.

5 As you heard from Mr. Carey, it is terrific to say
6 that there is agreement between the parties that those
7 provisions of the audit methodology, as you heard, that relate
8 to court reform have been reviewed and approved by both the
9 parties. So as you heard from Mr. Carey, we intend to
10 implement that starting August 1. And kudos to a member of
11 the Monitoring Team, Natasha Tidwell, for her outsized role
12 in helping to develop that particular part of the monitoring
13 plan, and so we look forward to the implementation of that
14 shortly.

15 So turning to a second issue, in terms of the surveys
16 called for in the Consent Decree, as you know, Your Honor,
17 that has been a big priority for me from day one. That's a
18 very important part of the Consent Decree. So I'd like to
19 take this opportunity to update the Court on where we stand on
20 that. As you'll recall, two kinds of surveys are called for
21 in the Consent Decree, one of community attitudes toward the
22 police department and the municipal court system and the other
23 of police attitudes toward the community. I have been hard at
24 work on this for a number of months.

25 To make a long story short, my team members and I

1 developed and finalized drafts of those surveys back in
2 December, if not earlier, and at that point, it occurred to me
3 that it might be helpful, if possible, to seek some outside
4 funding from a foundation to underwrite the administration and
5 the analysis of that survey given the limited budget that the
6 City has for such purposes, and a foundation is willing to do
7 that, and I have since been talking with the parties to a
8 particular nonprofit organization with expertise in this area,
9 again, about the mechanics of administration and analysis.
10 Those discussions continue, and I am hopeful that we will come
11 to a resolution of those very important procedural and
12 mechanical issues shortly, either with that particular
13 organization or another, and I hope to have an update for the
14 Court and the public on this issue soon, and that relates to
15 both the community survey and the police survey.

16 On the issue of outcome assessments, as you know,
17 another part of the requirement for the Monitor is that there
18 be periodic assessments, outcome assessments they're called,
19 of whether there are indications, as time goes by, that there
20 are fewer instances than there were when the Consent Decree
21 was implemented, in the circumstances occasioning the Consent
22 Decree, of the administration of justice and the
23 administration of policing in a manner that is biased in one
24 way or another.

25 As you know, one of the members of the Monitoring

1 Team is a data analytics firm called FRI -- FRA, and their
2 focus for the past few months has been working with the City
3 and its database, ITA, to determine whether that database has
4 the necessary information so that we, the members of the
5 Monitoring Team, can determine whether, as I say, policing and
6 court administration is done in a bias-free manner as it
7 relates to a number of protected characteristics, including
8 race, ethnicity, gender, disability, sexual orientation, and
9 the like. I will report on this in a more comprehensive
10 fashion later, but in brief, it does not -- it -- the
11 database, the ITI database -- does not appear to contain
12 information regarding gender identity, sexual orientation, and
13 disability. Race, skin color, gender, and age appear to be
14 the only protected characteristics that are consistently
15 populated in the database.

16 And today I should mention that FRA has not been able
17 to determine whether and, if so, where ITI contains
18 information concerning certain activities that are called out
19 in the Consent Decree both for the police department and the
20 court. For example, First Amendment activities, complaints
21 against the police department, circumstances where individuals
22 are in crisis of one kind or another, internal investigations
23 or approval from supervisors or use of force. So we will
24 continue to work with the City and with DOJ to -- to, again,
25 determine what additional information the database contains,

1 to confirm what information the database lacks, and hopefully,
2 to come up with a plan to address those gaps.

3 Finally, in terms of community outreach, as you know,
4 Your Honor, I have made a practice over the months of
5 combining these status hearings with, generally speaking, a
6 community meeting, community outreach of some kind either
7 before the hearing or afterwards. I was not able to do such
8 an outreach before this visit, and regrettably, I cannot do so
9 this evening because of an international flight I have to
10 take, but because I was not able to do what I typically do, I
11 will schedule another visit to Ferguson in the next few weeks
12 solely for the purpose of community engagement. And as I
13 think you know, Your Honor, I've experimented with a number of
14 formats in which to do that and will continue to do so.

15 I guess I would just end by echoing the comments that
16 the parties have made about the streamlined policy review
17 process from the Monitor's perspective and that of members of
18 the team. We, likewise, think that it's been very helpful
19 indeed. The progress that has been made, I think, has been
20 rather substantial. You've heard about it in detail. The
21 Monitoring Team has been, as you heard -- but I want to say it
22 myself -- intimately engaged in that process, albeit at the
23 front end rather than along the way, and we just recently
24 signed off on the internal investigations policy, and also, we
25 have given some guidance, some comments about the use-of-force

1 policy structures. And Mr. Carey, who is to be commended from
2 me as well as the City about his role in developing training
3 for CRB, we have given comments on the training to be
4 administered to the CRB.

5 So that, in brief, Your Honor, is my report.

6 THE COURT: All right. Well, I may have a few
7 questions for all of you all, but first, I think it would be
8 helpful to hear from the members of the public. We did have
9 11 people who signed up. I understand a twelfth person has
10 been added to the list, and so I would hear from you all.

11 I believe Ms. Shropshire is the first person. Adrian
12 Shropshire. Mr. Shropshire.

13 And so, as we did before -- and I don't know if
14 you -- I can't remember if you spoke before, sir, but if
15 you'll step up to the lectern, we have this timer thing. So
16 if you'll just -- what I'd appreciate is if you'd state your
17 name, and because I do want to know where everybody's coming
18 from, if you'll tell me the municipality you live in as well,
19 and state your name, and then I'll hear anything you wish to
20 say.

21 MR. ADRIAN SHROPSHIRE: Good afternoon, Madam Judge.
22 My name is Adrian Shropshire. I live at XXXXXXXXXXXXXXXXXXXX.

23 THE COURT: Don't give me your home address.

24 MR. ADRIAN SHROPSHIRE: Okay.

25 THE COURT: Okay. Just because court reporters

1 aren't supposed to put home addresses in the public record.

2 So just tell me your town, your municipality.

3 MR. ADRIAN SHROPSHIRE: My town is Ferguson,
4 Missouri, and I'm a 24-year resident.

5 THE COURT: Thank you.

6 MR. ADRIAN SHROPSHIRE: As a citizen of the NPSC,
7 there are a few things that I see that are not going smoothly
8 as far as us being productive. Our member participation has
9 fell off 95 percent. We have 10 people that show up to our
10 NPSC community meetings. Instead of going on, talking about
11 the changes, I have some words that can define our problem:

12 Contentious.

13 Tension.

14 Disrespect.

15 No trust.

16 No organizational structure.

17 Hate.

18 No moral fiber.

19 Posttraumatic stress syndrome -- very serious within
20 our group. Might not think so, but we do have citizens that
21 have issues.

22 No integrity.

23 No DOJ leadership. It's one thing to show up and
24 say, "I'm the DOJ," but to give us advice on moving forward,
25 they say, "Handle it within your group," but we're dealing

1 with people that have posttraumatic stress syndrome.

2 I would like Ferguson to go forward, but I saw a sign
3 one day saying, "Imagine no police." Hmm. That's serious.
4 Imagine. Imagine now no police.

5 Thank you, Judge, for your time.

6 THE COURT: Thank you.

7 All right. Mr. or Ms. Ankenbrand. Mr. Ankenbrand.

8 MR. ANK ANKENBRAND: Your Honor, thank you. I'm Ank
9 Ankenbrand, and I live in Ferguson. I thank you for the
10 opportunity to address the Court. My wife and I have lived in
11 Ferguson for 43 years. We moved to Ferguson when the
12 Ferguson-Florissant School District was merging with the
13 Berkeley and Kinloch Districts as a part of the deseg. We
14 were then and continue to be committed to living in a diverse
15 community. We also believe that living in a community
16 involves participating in that community, and as such, my wife
17 served 16 years on the City Council, and I was a member of the
18 Ferguson-Florissant School Board for nine years.

19 We've carried on that belief in service to the
20 community by being part of the Neighborhood Policing Steering
21 Committee since its inception. We've taken an active role in
22 organizing and carrying out a number of successful events
23 designed to bring the police and residents, young and old,
24 together. It's unfortunate that the Monitoring Team is not
25 here to see a positive interaction between residents and the

1 police at these and other events.

2 While we feel some positive strides are being made by
3 our subcommittee, the Neighborhood Policing Steering Committee
4 as a whole struggles. We're handicapped by having to operate
5 under a consensus model that some of the group have
6 orchestrated. In addition, it is my belief that there are
7 some on the committee who do not want it to succeed and who
8 look for opportunities to sow discontent.

9 THE COURT: Can I stop you there? What subcommittee
10 are you referring to?

11 MR. ANK ANKENBRAND: It's a subcommittee of the
12 Neighborhood Policing Steering Committee, and it's the
13 Youth -- I never remember what it is, but --

14 THE COURT: Okay. Okay. I get it. I just was
15 looking for a general topic of the subcommittee. Okay.
16 That's fine. Go ahead.

17 MR. ANK ANKENBRAND: Okay. So we started with almost
18 100 people that were interested in being a part of the
19 committee, and they're down to less than 20 probably, and we,
20 ourselves, have considered quitting that particular committee
21 and staying just with the subcommittee.

22 So if the DOJ or the Monitoring Committee have any
23 stake in our success we could use some of their expertise and
24 guidance, and we really have received little or none at this
25 point. Thank you.

1 THE COURT: All right. The third person, Blake
2 Ashby.

3 MR. BLAKE ASHBY: Hi, Your Honor. Blake Ashby, a
4 resident of Ferguson, a member of the Neighborhood Policing
5 Steering Committee.

6 I would like to echo some of what Adrian and Ank
7 said. Just to give you a little bit of background, the
8 Neighborhood Policing Steering Committee is called out in the
9 Consent Decree. It's supposed to be an organization of
10 Ferguson community members and stakeholders designed to help
11 bring our city together, help us heal, and help create
12 opportunities for positive interactions between the residents
13 and the police. That is our role within the Consent Decree.

14 Our perception is that there is a small group of
15 people that we'll call activists that do not actually want to
16 see the city succeed, and several of these people will
17 undoubtedly talk to you after I talk to you and complain about
18 the slow pace. Our perception is that a big part of the slow
19 pace, at least on the NPSC, is related to these people, and
20 Ank referenced the reference earlier, the process of consensus
21 and blocking concerns.

22 So just to give you a little bit of history, we
23 actually formed the NPSC before we signed the Consent Decree
24 with the help of Peter Bellmio, a consultant recommended by
25 the DOJ. Very well respected. He proposed simple bylaws.

1 You have cochairs. You have an executive committee. You try
2 and reach consensus, but if you can't do that, the cochairs
3 have the right to call a vote.

4 The activist community was adamantly against any kind
5 of structure, and I do mean adamantly against any kind of
6 structure. They didn't like the term "executive committee."
7 They didn't like the idea of cochairs. They didn't like the
8 idea of formal roles. And so, literally, for seven months, we
9 went back and forth on the bylaws. And finally, the residents
10 of Ferguson just gave up. They said, "Okay. We can try your
11 approach, but if it doesn't work, we get to change." And the
12 activists assured us that, yes, we can try the blocking
13 concerns, but if it doesn't work out, if people aren't happy,
14 we can move on to the next structure.

15 So what this has evolved into is any person from
16 anywhere in the United States can come into an NPSC meeting
17 and block any activity. Residents have tried to put in just
18 some kind of basic requirements. You either have to be a
19 resident or a regular participant. They've tried to put in
20 some kind of voting. At every turn, the activists have
21 blocked actions of the NPSC.

22 And just to give you an idea of some of the things
23 that were blocked, the very first event the outreach committee
24 did was at Nezbit-Newton Park, literally across the street
25 from the Canfield Green Apartments, you know, and the

1 activists blocked the idea of having the Urban League attend,
2 blocked the idea of having the Urban League bring their health
3 van, blocked the idea of having the Urban League provide
4 utility assistance. The Urban League had volunteered to do
5 all of these things. They blocked the idea of having an art
6 table for the kids. They even blocked the idea of having
7 police officers in uniforms at the meeting. And finally, they
8 refused to allow a religious organization that was out in that
9 neighborhood to distribute fliers until literally two hours
10 before the meeting, before the event. So at that event, we
11 had 13 residents. That's it. Thirteen residents.

12 And it really seemed like they were actively trying
13 to keep anything from happening because if we can show
14 progress, then we can come before the judge and say the
15 community is coming together.

16 And it extended even after the meeting. You know,
17 one of the members tried to set up a Facebook page. They
18 blocked the idea of putting pictures of -- and these are
19 pictures of the Ferguson police officers with Ferguson
20 residents, Ferguson children. Blocked the idea of putting
21 pictures of the Ferguson police officers with kids on the
22 Facebook page. They wanted no representations of Ferguson
23 police officers interacting with residents in a, you know,
24 positive manner. And so that has continued.

25 You know, they mentioned earlier the training

1 committee. We have been at this for almost a year and a half
2 now. The committee that's supposed to look at the municipal
3 codes has barely started. The training committee -- you know,
4 we could have been looking at the current training practices a
5 year ago. No start. Right. McCall has to come and beg
6 people to respond to this thing.

7 And so what's happening -- and Ank mentioned this --
8 when we started this process, we had close to 100 people. Now
9 we're down to about 20, and half of those are some council
10 members that can't vote. Right. So we finally went back in
11 front of the City last week and said to the City, hey, this is
12 undemocratic. A very small group of people has created a
13 structure that makes most of the residents of Ferguson very,
14 very frustrated. And so the City has confirmed that, yes, we,
15 as residents of Ferguson, do have a right to vote on the
16 structure for the Neighborhood Policing Steering Committee,
17 and so we have introduced that concept. At the next meeting,
18 we are going to talk about the concept. We're not trying to
19 ram anything down anybody's throat. Right. We'll do a
20 two-and-a-half month process. But we wanted to make you aware
21 that this has been a serious issue and it's caused many
22 Ferguson residents to step back from the process. So we hope
23 we don't have to come back to you and ask for an order, but we
24 did want to make you know that there at least seems to be a
25 group that's trying to keep the city from moving forward, and

1 we need to move beyond that.

2 Thank you, Your Honor.

3 THE COURT: Thank you.

4 MR. BLAKE ASHBY: Oh, and I've got some documents I'd
5 like to drop off afterwards.

6 THE COURT: Yeah. So tell me what the documents are,
7 just so I know because I -- you know. Well, what is it you
8 want to drop off?

9 MR. BLAKE ASHBY: Yes. So it's an email to the City
10 Council about the challenges with the NPSC. It's the original
11 sign-in list of emails we got from the first meeting. It's a
12 truly horrendous picture that one of the activists put
13 together mixing in pictures of Ku Klux Klan members with our
14 Ferguson City Council for some unknown reason. And then a
15 copy of Ank's statement that he just read.

16 THE COURT: Okay. Well, I will -- here's what we're
17 going to do today. I mean I'm going to hear from all of the
18 people who want to speak, and then we're going to take a
19 break, and then I'm going to give the parties to the case and
20 the Monitor, to the extent he needs to, but the parties in
21 particular a chance to talk about anything you all say, and so
22 the issue of whether I'm going to take a bunch of documents
23 from people that -- and what we're going to do with them --
24 I'm not sure about that yet. So wait and we'll try to reach a
25 resolution of that before -- you know, at the end of today,

1 I'll tell you whether I'll take them or not.

2 MR. BLAKE ASHBY: Okay.

3 THE COURT: Okay. Thank you.

4 Okay. I think it's Ms. Clark, Susan Clark.

5 MS. SUSAN CLARK: Thank you, Your Honor. Susan
6 Clark. I live in Ladue. I am a stakeholder in Ferguson
7 simply by being a neighbor and being part of an extended
8 community. I think we all recognize that the issues facing
9 Ferguson are not unique to Ferguson itself. I've been active
10 there for a couple of years now. I'd like to speak to you
11 about the school resource officer component of the Consent
12 Decree. I understand the need to prioritize what's being
13 addressed and what's being examined, and that makes perfect
14 sense to me. However, the role of police officers in public
15 schools is one that really needs to be examined. I was very
16 grateful to find the Consent Decree has provisions for
17 assessment and analysis of what's going on. To our knowledge,
18 none of them have been implemented. There's been no
19 transparency. There's been no public discussion of what's
20 going on in terms of the school resource officers. That's an
21 issue. It's an issue in terms of the role of police, in terms
22 of the school-to-prison pipeline issues that students of color
23 are dealing with in the public school systems.

24 There are deadlines that have come and gone on all of
25 these issues, and we have no idea what has happened with any

1 of them.

2 Last July 19th was the deadline for a memorandum of
3 understanding with the Ferguson-Florissant School District. I
4 don't know what happened with that.

5 August 18th of last year was the deadline for
6 presenting a program and an operations manual, and the Consent
7 Decree did an excellent job of outlining material that needed
8 to be covered in an operations manual, including community and
9 stakeholder meetings, including the connection analysis and
10 use of data regarding law enforcement activities in schools,
11 not just the school resource officers but law enforcement
12 activities within the schools. That was last August. Again,
13 nothing.

14 Last November was the deadline for developing
15 protocols for annual assessments of the school resource
16 officers, and the one-year deadline which approaches is a
17 deadline for assisting the school district, the
18 Ferguson-Florissant School District, to develop conflict
19 resolution programs for the schools so that, ideally, the
20 officers in the schools would be not there in terms of
21 punitive/disciplinary but in terms of enabling the students to
22 succeed, addressing discipline from an individual need as
23 opposed to a punitive need, and if that happens, that would be
24 lovely, but, again, we have no indication that that's
25 happening.

1 And particularly with something as concerning as
2 school resource officers, there is no consensus nationwide
3 whether it's even an effective strategy, whether it's
4 productive for students or positive for students to have
5 school resource officers in the schools. If this is
6 implemented, we'll have some data. We'll be able to begin to
7 assess that if it's implemented. Thank you.

8 THE COURT: Thank you.

9 Mr. John Chasnoff.

10 MR. JOHN CHASNOFF: Hello, Your Honor. I'm John
11 Chasnoff. I live in University City. And, first, I'd just
12 like to address the issue of the NPSC very briefly because I
13 do have a very different point of view about it. It's true
14 that we have had a lot of contentions in the meeting. I would
15 agree with the analysis that much of Ferguson is suffering
16 from posttraumatic stress. I think that we could use some
17 training and facilitation. That would be very helpful. And
18 also, we could use some professional mediation to come in and
19 resolve some of the tensions that do exist in the group.

20 But I do have a very different point of view in terms
21 of most of our early meetings were more like 60 people rather
22 than 100, and I can't remember a meeting -- I've attended
23 consistently for over a year. I can't remember a meeting that
24 was near 10 people. We always have at least 20 or more.

25 The statement about the bylaws and voting was

1 incorrect. You do have to attend a number of meetings before
2 you're allowed to vote. The consensus voting really hasn't
3 been a problem for months and months, and I can only remember
4 one actual consensus vote where we couldn't come to a
5 consensus, but the issue hasn't arisen for months except that
6 we expend a lot of time at the beginning of every meeting
7 talking about the issue.

8 And there is a lot of good committee work going on.
9 I'm on the committee that works on the neighborhood policing
10 plan. We've met several times with Commander McCall. We've
11 engaged in activities with the community to gather input, and
12 we're creating our own vision of what we'd like to see in the
13 police department. So I feel like that's another committee
14 that's moving forward well.

15 But I wanted to spend most of my time today
16 addressing the issue of Monitor billing, and just for the
17 record, I wanted to review some of the facts around that. I
18 did a Sunshine request where I received the billing from when
19 the Monitor signed his contract through March of 2017, and it
20 was evident from that that \$603,000 had been spent in that
21 eight-month period, and that's half the cap that's reserved,
22 the money that's reserved for the whole five years of the
23 Consent Decree. And so I do understand that there have been
24 compromises reached on that, that the spring billing is being
25 redone and reduced, that the Monitor has agreed to work pro

1 bono from January 1st of 2017 at least through July of 2018 to
2 address some of those issues, and that there will be a yearly
3 schedule so that the money is more equitably distributed
4 throughout his team. I think those are positive, but I do
5 find it surprising that we've gone through the March status
6 hearing and this one without hearing anything about those
7 billing issues because I think the citizens of Ferguson -- it
8 is their taxpayer money, and I think it's condescending to
9 think that this is an issue that shouldn't be presented to the
10 public.

11 So we have just recently, with the help of interns at
12 ArchCity Defenders, done an analysis of the billing, and I'm
13 hoping that if you receive documents that you'll receive our
14 two-part report on the billing issue. But what we found is
15 that two out of the five months in 2016 exceeded \$100,000.
16 Mr. Clark and his firm, Squire Patton Boggs, represents 63
17 percent of the hours and 83 percent of the expenditures in
18 that billing, and one of the causes for the greatly, you know,
19 accelerated spending is that Mr. Clark estimated he'd be
20 spending about 30 hours a month, and he was -- he's spending
21 250 percent more than that. His average is roughly 75 hours a
22 month. So those are some of our findings.

23 We did look at the way the work was distributed in
24 terms of work categories and thought it was pretty
25 proportionate that a large chunk of the money was going

1 towards policy review, but there's a big section, over half,
2 that represents multiple billings where we couldn't categorize
3 because, you know, one hour was distributed among many work
4 categories without any specifics. And so one of our
5 recommendations is that we're hoping in the future that the
6 billing is a little bit more precise and we can tell better
7 what work categories are being represented by the work.

8 We're also concerned that billing so much upfront
9 caused a situation where, no matter how you interpret a
10 year -- and I'm sure you're aware that a year was interpreted
11 as a calendar year by some parties and a fiscal year by
12 others, but in either way, the money for 2017, the cap for
13 2017, has already been reached, and billing upfront without
14 any pro bono hours, we think, created a situation where
15 members of the team who worked later in the year would not be
16 paid for their work while members earlier in the year might
17 be, and there needs to be a better distribution of the
18 resources.

19 So our conclusions, roughly, are that not enough has
20 been done to justify expenses to that extent. We're hoping
21 that the quality of the work does not go down because the pro
22 bono work does not incentivize the Monitor coming to town or
23 spending as many hours on work when he is not being paid for
24 it. So we're hoping that you'll be vigilant in maintaining
25 the quality of the work, and we also would recommend that the

1 Monitor utilize his whole Monitor Team better and distribute
2 the work more equitably so that the hours are going to the
3 experts in various fields rather than to the administrator of
4 the Monitor team himself.

5 THE COURT: All right. Thank you.

6 MR. JOHN CHASNOFF: And so I will wait, I guess, to
7 hear from you if we can submit the report that we've put
8 together.

9 THE COURT: Yeah. Have you provided that to the
10 parties, to the Department of Justice and the City and the
11 Monitor?

12 MR. JOHN CHASNOFF: Oh, we just -- it's online, and
13 I've let them know how to access that online.

14 THE COURT: Okay. Thank you.

15 And so the next person, Gerry Noll or Gary Noll. Is
16 it Gary or Gerry?

17 MR. GERRY NOLL: Gerry.

18 THE COURT: Okay.

19 MR. GERRY NOLL: Some people say Gary, but it's
20 Gerry.

21 Good afternoon, Your Honor. First, there's three
22 things I wanted to address, and the first is, yeah, I
23 appreciate you putting together or allowing us to have public
24 comment here, but if you would -- I think you touched on it a
25 little bit about like the place that public comment has within

1 the court proceedings. Maybe you could explain, at some point
2 in today's proceedings, how you see the public comment fitting
3 into your overall oversight of the Consent Decree and, you
4 know, from your perspective what value public comment gives.
5 That's the first thing.

6 The second thing is the Ferguson Commission, which
7 was established by Governor Nixon back in 2014, now known as
8 Ferguson or Forward Through Ferguson, they set up many
9 signature calls to action, and two of them, I wanted to talk
10 about, dealing with the Civilian Review Board. The first was
11 that every municipality should create a civilian review board.
12 That was a signature call to action. The second was that
13 civilian review boards should be created at the county level
14 to support and supply resources to the municipal CRBs,
15 resources that maybe they didn't have available to them.

16 So, as you know, Ferguson has a checkmark next to
17 that call to action, you know, that signature call to action.
18 Ferguson actually has already established a civilian review
19 board, and I should mention that the very first meeting of the
20 Civilian Review Board Task Force within Ferguson took place on
21 November 6th of 2014. The Ferguson Commission was authorized
22 and appointed by Governor Nixon on November 18th. So long
23 before there was even a Ferguson Commission, there was even a
24 signature call to action. The City of Ferguson and the
25 residents were already taking action to put a civilian review

1 board into place, and that's why we already have one operating
2 right now.

3 My question is, is there a way for the Court to
4 encourage or influence the County to take action on that
5 signature call to action? So St. Louis County, the St. Louis
6 City -- the St. Louis County Council has that signature
7 action, call to action, in their ballpark to establish a CRB
8 at the county level to support and help municipal civilian
9 review boards. And I don't doubt at some point our Civilian
10 Review Board is going to need some extra resources, maybe an
11 investigator, maybe subpoena powers, maybe things that weren't
12 part of our ordinance, and that's what the county-level
13 civilian review board should be set up to help with. So I'm
14 just asking if there's a way for the Court to encourage or
15 influence St. Louis County.

16 The third point has to do with the Monitor's role,
17 and I appreciate John, his detailed analysis. John lives in
18 University City. So he's not a taxpayer for Ferguson.

19 THE COURT: Are you a Ferguson --

20 MR. GERRY NOLL: I'm sorry. I forgot to say. Yeah,
21 I'm a Ferguson resident. So I am a taxpayer, and I have the
22 same concerns. I really appreciate the analysis they did
23 because I didn't realize. I'm thinking it's \$375,000 a year,
24 and he's saying, hey, we actually paid out 603,000.

25 From my simplistic point of view of, you know, trying

1 to analyze the value that we're getting from the Monitor, I
2 see that we could have one hugely compensated person
3 full-time, not part-time, but full-time for \$350,000 a year.
4 We could have two extremely well-compensated, full-time people
5 for 175k a year. We could have three very well-compensated
6 people for 110 plus thousand dollars a year full-time, four
7 well-compensated people at 85,000 plus a year. And I'm sure
8 we could dig up five people that would be happy to get \$70,000
9 a year in salary full-time. So I relate the 350,000 to like
10 how many people could we have actually working on this thing
11 full-time. We could have a lot of people for that value. I
12 think what John was saying is there's even more money being
13 spent than that 350,000.

14 So, yeah, so I'd just -- I'd like to see more output
15 from the Monitor Team to the citizens of Ferguson who
16 ultimately are paying the bill through their taxes, and I know
17 there's been some output, some community meetings, but for
18 what we're paying, there should be a whole lot more.

19 Thank you.

20 THE COURT: Thank you.

21 And let's see. Cassandra Butler. Ms. Butler.

22 MS. CASSANDRA BUTLER: Thank you, Judge Perry.

23 Cassandra Butler, Ferguson resident.

24 I primarily want to thank everyone in this process.
25 In particular, I'm grateful that the City of Ferguson has a

1 Consent Decree. I'm grateful that we have you, Judge Perry,
2 doing the oversight, and I can see very well that that
3 oversight is important to the success of Ferguson in this
4 aspect.

5 I guess I'm particularly -- because of some recent
6 events such as the election, the presidential election that
7 took place last fall, and the resulting leadership we have in
8 the country, I'm very cognizant of not taking things for
9 granted. So that's primarily why I want to thank everybody.
10 So thank you, DOJ team, for the work that you still do and the
11 sincerity in which you have provided it. I also want to thank
12 the Ferguson city administrators, that I sense their
13 sincereness and the hard work that they're putting in to make
14 this successful, and I want to thank them too.

15 Everyone down the line has accountability, and I also
16 think that's really important too as far as our Monitor goes,
17 that we really need you to be accountable and be sincere and
18 involved in making sure this is a success. I know that at
19 this point it's difficult to know. Particularly at the public
20 level, we're not privy to exactly all the hard work that's
21 going in, particularly from the Monitor viewpoint; so I want
22 to give you the benefit of the doubt, but I do -- but I don't
23 have a lot of room for that because it's very important that
24 we be successful in this endeavor. And in particular, you can
25 already see the stirrings that, perhaps, the expenditure that

1 we're spending on the Consent Decree could very well be the
2 weak link that some citizens use to try to unravel the
3 effectiveness in what the Consent Decree can do. So that
4 accountability is going to be very important.

5 So I just want to thank everybody and let you know
6 that we are watching because we do need this to be successful.
7 Thank you.

8 THE COURT: Thank you. I'd like to consult with the
9 counsel briefly at sidebar to talk about scheduling before we
10 go forward with the next issue.

11 (A bench conference was held on the record as follows:)

12 THE COURT: The reason I asked you all over here is
13 because I know that Mr. Ervin has to leave at 3:30 and there
14 have been several comments made about him and I didn't know if
15 you want to take a chance to respond or if you want to just
16 have them do whatever responding for you that needs to be
17 done.

18 MR. ERVIN: I appreciate that, Your Honor. Can we
19 see how it goes? If we could wrap up around 3:45, I think
20 that would give me sufficient time to make it to the airport.

21 THE COURT: Okay.

22 MR. ERVIN: If that's all right with you.

23 THE COURT: The court reporter couldn't --

24 MR. ERVIN: First of all, I appreciate your being
25 mindful of that. I think I would be fine if we could end

1 around 3:45 or at least if I could leave at 3:45.

2 THE COURT: Okay.

3 MR. ERVIN: So if it could be arranged in that
4 fashion, I think it would work.

5 THE COURT: Okay. Well, let's keep talking and see
6 what we can do. And then, you know, if 3:45 comes, you can
7 just get up and leave.

8 MR. ERVIN: I appreciate that, Your Honor.

9 THE COURT: The other thing is if it's looking like
10 you do want to speak and we're not getting there, because
11 we've got like five more people, then wave your hand and I'll
12 give you a chance to speak.

13 MR. ERVIN: I appreciate that, Your Honor.

14 THE COURT: Or stand up or something.

15 MR. ERVIN: Thank you very much.

16 THE COURT: Okay. And then you all can have more
17 time after we're done.

18 MR. VOLEK: Absolutely.

19 MR. ERVIN: Thank you, Your Honor.

20 MR. CAREY: Okay.

21 (The following proceedings were held in open court.)

22 THE COURT: All right. And so the next person is
23 Nick Kasoff.

24 And for all of you, if I'm mispronouncing your names,
25 please correct me.

1 MR. NICK KASOFF: Good afternoon, Your Honor. My
2 name is Nick Kasoff, and I am a resident of Ferguson. I was
3 chairman of the Ferguson charter initiative which developed
4 and promoted the measure which requires and regulates police
5 body cameras in the city of Ferguson, which was on the ballot
6 as Proposition A in the April election. We gathered
7 signatures, placed the measures on the ballot, and it was
8 passed with the support of 71 percent of Ferguson voters, a
9 margin 14 points higher than the Mayor won his reelection and
10 probably the highest consensus of just about any issue in
11 these contentious days in Ferguson.

12 In her assessment earlier, Ms. Senier, from the DOJ,
13 expressed a concern with lack of transparency, and that's been
14 my experience both before and after this measure was passed.
15 We submitted petitions to the City on July 19th of 2016. I
16 personally gave them to the City Manager who was acting as
17 City Clerk at the time, and they just vanished. We -- we
18 inquired multiple times because the --

19 THE COURT: Are these the petitions you're talking
20 about that ultimately resulted in the successful vote?

21 MR. NICK KASOFF: Yes, Your Honor. Yes.

22 THE COURT: Okay.

23 MR. NICK KASOFF: The city charter specifies that
24 they are to create -- to complete a certificate of sufficiency
25 within 20 days. We contacted the City on August 31st, which

1 is about 40, 45 days later and didn't hear back from them, and
2 upon further inquiry, we found that they had never sent the
3 petitions to the County for validation. The City Manager did
4 not even respond to my inquiries until he was contacted by a
5 reporter from the *St. Louis Post-Dispatch* on September the
6 12th.

7 Now, since the measure's passage -- and I remind you
8 again 71 percent of voters in Ferguson supported this
9 measure -- the City has acted as though it never happened, or
10 at least that's the way it looks for those of us who aren't in
11 the private meetings. The city code appears on the City's
12 website, and it was updated on June the 14th. This amendment
13 to the city charter was not included in that update. We've
14 had absolutely no communication from the City at all.

15 Mr. Carey specified that they're evaluating how it
16 complies with the Consent Decree, and certainly, we accept
17 that the Consent Decree governs and that state law governs.
18 This measure goes beyond the requirements of the Consent
19 Decree and produces greater accountability and transparency.
20 It was a popular measure because it protects the police from
21 bad actors and it protects citizens from the police engaging
22 in misconduct. It protects everybody. And so we do go beyond
23 what the Consent Decree requires. If it conflicts, we
24 understand the Consent Decree governs.

25 Everybody on the City Council, the City Manager, the

1 Mayor -- they all know me. They've got my email and phone
2 number. I haven't heard a word since April. It's like it
3 never happened. So transparency in city government -- huge
4 problem. And with regard to this particular measure, there's
5 been zero transparency. We would like to see that change,
6 Your Honor.

7 THE COURT: Thank you.

8 Emily Davis.

9 MS. EMILY DAVIS: Hello. Emily Davis. I'm a
10 Ferguson resident and member of the Ferguson Collaborative,
11 which has been working for the last two years to insert a
12 community voice into this process. I'd like to address some
13 concerns about the continued lack of community engagement and
14 some other things that are still happening in Ferguson.

15 The collaborative conducted a survey of the Monitor
16 candidates and asked Mr. Ervin's team how they would solicit
17 community input, especially from those most impacted by
18 unconstitutional policing. His responses were similar to
19 those that he gave both to the City and to the citizens during
20 the interview process. He said that they would conduct
21 in-person interviews, focus groups, community meetings in
22 locations convenient for those particular communities, and
23 short written surveys. They would alert community members to
24 the availability of formal reports on the website by
25 distributing fliers or postcards at popular public gathering

1 spots. They would prepare and present information briefs at
2 schools, churches, recreation centers, community centers, and
3 other venues where affected communities gather. He said that
4 he personally would spend a considerable amount of time on the
5 ground in Ferguson and that he would encourage the community
6 to reach out to him and his team by emails, letters, phone
7 calls, and walk-in visits during designated office hours. And
8 lastly, he said he would certainly provide status updates to
9 the public through the release of his reports and through both
10 the formal and informal meetings with the community members.
11 He said they would absolutely develop a process to channel
12 that community feedback to the Court.

13 But, however, we've seen a continued lack of that
14 engagement, and after multiple complaints from the community
15 over these past few months, Mr. Ervin said that he would come
16 more often, personally attend Neighborhood Policing Steering
17 Committee meetings, et cetera. But alas, none of this has
18 happened with any consistency. He has not been attending the
19 NPSC meetings. If there are prepared status reports, we
20 haven't seen them. We've not seen information on engagement,
21 education, or reporting at community gathering places.
22 Mr. Ervin has not spent a considerable amount of time on the
23 ground in Ferguson. The last time he was here, he said he had
24 conducted office hours once but that no one showed up. No one
25 showed up because no one knew about those office hours. And

1 having attended these hearings, I know that community feedback
2 is not being channeled to the court. The community largely
3 remains in the dark about this process and certainly isn't
4 being consulted on the implementation. In a town of more than
5 20,000 people, there's a reason that you continue to see the
6 same handful of us at these proceedings.

7 THE COURT: Hold on just a second. Okay. Go ahead.

8 MS. EMILY DAVIS: Okay. We appreciate that you
9 graciously allowed the community to testify today to hear
10 those concerns, and there are more people here today because
11 we invited them. We informed them as citizens of the
12 community. And while I think that we do have a responsibility
13 to engage in that process, it takes a few of us doggedly
14 pursuing information to get any scrap of knowledge about
15 what's happening in our own community, and we certainly don't
16 have the resources that the Monitor, the City, and the DOJ
17 have and promised to use to inform and engage the community.

18 And now that Mr. Ervin will be working for free as a
19 result of poor communication between the parties, it's hard to
20 believe that the quality of his work and involvement with the
21 community will improve. Case in point being, as he mentioned,
22 we had no idea if he was even going to be in town prior to
23 this hearing, and to our knowledge, he wasn't, and he
24 mentioned that he wasn't.

25 Second, I want to tell you about my experience in

1 Ferguson court this week. I had a hearing over a traffic
2 ticket. The officer who issued the ticket had come to my
3 house two days after the accident and asked me --

4 THE COURT: You need to slow down a little bit
5 because the court reporter is taking this down and you're
6 talking really fast.

7 MS. EMILY DAVIS: I'm trying. I'm sorry. It's a bad
8 habit.

9 Anyway, when he came to my house, he asked me if he
10 could turn his body camera off so he could tell me what was
11 really going on. I said yes. He did. And he proceeded to
12 explain that this was all his supervisor's doing and that he
13 didn't understand it either. When I questioned the officer on
14 the witness stand, under oath, in court, on Tuesday, he denied
15 that he turned his camera off, that he had asked me if he
16 could do so, and what he said about his supervisor's
17 involvement. I want to be clear. He violated the law, the
18 Consent Decree, the city charter, and department policy
19 regarding both the duty of candor and the body cam policy.
20 The public overwhelmingly voted on that body cam policy, and
21 with this lack of implementation, the officers are continuing
22 to violate both the law and the will of the people.

23 I'd also like to explain that the reason the ticket
24 went to trial was because the prosecutor had advised me to
25 take it to trial. He said the witnesses wouldn't show and it

1 would be dropped. Tuesday, in his closing arguments, he spent
2 his time berating me in front of the court for taking it to
3 trial, for wasting the City's time, the witnesses' time, and
4 dragging everyone into court simply to make a political point.
5 He then asked the judge to consider all of that in rendering
6 the verdict and harsher financial penalties. I had followed
7 his advice and then was chastised for exercising my rights
8 under the law as he had advised.

9 In addition, in another example, the City
10 circumvented the Consent Decree by having St. Louis County
11 police a recent protest at the Ferguson Market, resulting in
12 both violations of the Consent Decree and civil rights
13 violations of the citizens yet again.

14 The point is that while the City and the Monitor drag
15 their feet through this process the rights of the community
16 are continuing to be violated. Behavior amongst the police is
17 not changing, and with no community -- almost no community
18 access to this process, we have no recourse, and Ferguson in
19 fall of 2014 is what a community with no recourse looks like.

20 THE COURT: Thank you.

21 Keith Rose.

22 MR. KEITH ROSE: Good afternoon, Your Honor. Keith
23 Rose. I live in Godfrey, Illinois. I'm the odd man out here.
24 I am also a member of the Ferguson Collaborative, and I would
25 like to actually echo what Ms. Davis has just said about her

1 court appearance. I was there as well, and I did also hear
2 the prosecutor encouraging the judge to give her harsher
3 punishment for taking her case to court even after he had told
4 her to do so. Luckily, the judge, Mr. Brown, seems to be a
5 wonderful man and a great improvement in the court and he gave
6 her the typical punishment.

7 I'm here to talk about the timelines and how the
8 community is completely unaware of where the timelines are at
9 this point. Originally, in the Consent Decree, exact dates
10 were laid out. We read many times, you know, within 120 days
11 of the execution, within 90 days, and we've been told that all
12 of those timelines have been changed, but no one has updated
13 the community on the new set of timelines, if they do exist at
14 all. So we have prepared a document for when all of those
15 deadlines were, and we'd like to also submit those to the
16 Court and just what the Consent Decree said they would have in
17 place and what has not happened.

18 And the problem with these timelines being passed
19 isn't just an academic concern. There are real problems
20 persisting in Ferguson because these timelines have not been
21 met. For example, the protest that Ms. Davis just mentioned,
22 earlier this spring, at the Ferguson Market -- multiple legal
23 observers from the National Lawyers Guild, of which I am one
24 of the coordinators, were there, and they witnessed egregious
25 use of force by the police, things that were clearly in

1 violation of the Consent Decree, but because the trainings and
2 practices have not been put in place, it is really hard to
3 hold those officers accountable for what they had done. Also,
4 I was there myself. I witnessed multiple officers not wearing
5 their nameplates, a very simple provision of the Consent
6 Decree which they still have not --

7 THE COURT: Well, I thought her complaint was that
8 these were St. Louis County officers. Are you talking about
9 St. Louis County officers or Ferguson officers or both?

10 MR. KEITH ROSE: Both departments were there. I'm
11 talking about the nameplates on the Ferguson officers.

12 THE COURT: Okay.

13 MR. KEITH ROSE: Yes, ma'am. Thank you for the
14 question.

15 So I have photos of those, but, of course, I cannot
16 submit them to the CRB because the CRB is not currently
17 operational. And so because these deadlines have not been
18 met, Ferguson continues to move in the exact same way it was
19 before. There is really no recourse.

20 Also, that night, there were officers who were not
21 using their cameras, even though that is clearly a violation
22 of the Consent Decree as well, while they were there at these
23 First Amendment activities. I also witnessed officers telling
24 people to move back and stop recording these arrests, which is
25 also a clear violation of the Consent Decree.

1 And so for this reason, we would like the timelines
2 to be adopted and to be published so that the community can
3 have an understanding of where we are in the process because
4 right now it really just seems like a lot of conversations
5 happening behind closed doors and the community feels really
6 left out.

7 Actually, I'm going to use the rest of my time to
8 talk about the NPSC. And there were some concerns brought up
9 earlier, and I want to address those. I'm a member of the
10 NPSC. I haven't been able to go to the past couple of
11 meetings because of a scheduling conflict, but what I have
12 seen is, first of all, many more than 10 people participating,
13 and these are active participants, not people just attending a
14 meeting but people who really want to shape the direction of
15 their city as it goes through these changes.

16 There are people in the community who want to adopt a
17 system of a -- a cochair system, and the reason for this is
18 simple. They don't like what they're hearing, and they want
19 to have figureheads at the top who can stifle any input. And,
20 Your Honor, that's exactly the kind of change we do not need.
21 We do not need people who are just rubber-stamping the City's
22 agenda. We need people from the community who are having
23 discussions, who are having these debates, who are bringing
24 them forward, and who are really putting out there what they
25 want to see in their community. Now, adopting a system of

1 majority rule is fine, but you have to remember that majority
2 rule trampling minority rights is really what got us into this
3 place in the first place. And if we just make the NPSC one
4 more system where we're going to have a select handful of
5 community members telling the rest of the community how things
6 should be run and saying that this is okay, we're really not
7 going to see the kind of change that Ferguson needs.

8 THE COURT: And do you think that the way it's
9 functioning now is a good way?

10 MR. KEITH ROSE: Right now, the Ferguson NPSC has
11 split up into committees, and these committees are different
12 tasks. Each committee itself is really doing a good job in
13 implementing the tasks at hand.

14 The larger meetings -- most of the time is just now
15 spent over rule making. Is it going to be consensus model?
16 Is it going to be chair and cochair? That's not very
17 effective, but when we do get down to the nitty-gritty of the
18 topics, having multiple people give their insight is really
19 the strength of the NPSC, and having certain people decide
20 what topics can come to the table, putting together the
21 agenda, not letting it be altered would really be to the
22 detriment of the group and the collaborative process.

23 THE COURT: Thank you.

24 MR. KEITH ROSE: Yes, ma'am.

25 THE COURT: All right. Dara Ashby.

1 MS. DARA ASHBY: Dara Ashby. I've been a resident of
2 Ferguson for 17 years.

3 Honorable Judge Perry, thank you for letting us
4 speak.

5 There are many residents that want to help make
6 Ferguson an example to the country of what a diverse community
7 should look like. The Ferguson Neighborhood Policing Steering
8 Committee is supposed to be an organization that allows
9 Ferguson residents to participate in making our city better.
10 Most of these residents as well as youth ministers have quit
11 coming to the Ferguson Neighborhood Policing Steering
12 Committee because of the disrespect, contention, hostility,
13 and lack of organization demonstrated by a handful of
14 attendees. Since the first NPSC meeting about two and a half
15 years ago, the attendees dropped from packing a large room to
16 now about 20 individuals. Sadly, many have said that they
17 will not return until things change. The Ferguson community,
18 including many African-American residents and many that I know
19 personally, are not being represented.

20 An example of the hostile contention displayed by one
21 member of the NPSC, who is also a member of the facilitator
22 team, is a slide that was shown on the big wall at the May
23 general NPSC meeting. It shows two of our City Council
24 members and kids wearing a donated T-shirt at the recent NPSC
25 Community Outreach Committee Spring Fling event. Mixed in are

1 photos of David Duke and other members of the KKK.

2 May I so you know what I'm talking about?

3 THE COURT: Sure. If you'll hand it to the clerk.

4 MS. DARA ASHBY: Thank you.

5 The colored logo is on the photo below, and a T-shirt
6 company donated T-shirts, and to save money, they made the
7 logo in black and white. The logo was made by an
8 African-American minister.

9 The event that the NPSC community outreach team held
10 was a very great success. It was held in the neighborhood
11 where Michael Brown was killed. The event drew in about 300
12 attendees, and most were from this area. Police and residents
13 interacted positively, and communication began. No one
14 indicated anything at the event but positive comments, and
15 four new people attended from that area -- that had attended
16 the event, that came from that area, came to the next NPSC
17 meeting held in May. The four new residents from Canfield
18 that were recruited did not return to the June meeting because
19 of this hateful act of using the KKK images next to our
20 council members. This type of act should not be tolerated.

21 Many residents are begging for your help to get this
22 group back to representing the entire community and not just
23 the few that seem like they're trying to keep the NPSC from
24 accomplishing its goals and to keep our city from moving
25 forward.

1 I respectfully request your consideration. Thank
2 you.

3 THE COURT: Thank you. And here, you can get your
4 exhibit, ma'am.

5 All right. And then Mr. Ellis was the person who was
6 added to the list.

7 MR. ANTHONY ELLIS: Good evening, Your Honor. My
8 name is Anthony Ellis. I'm a resident of Florissant, but I
9 have multiple properties that's in Ferguson.

10 My reason as to coming here -- I don't bring a big
11 speech about what's going on. My thing is how can we have a
12 better Ferguson when we have so much nepotism in Ferguson,
13 when we have multiple people that's on the Ferguson board that
14 are related to each other or a part of the Knowles family? So
15 how can we get any kind of peace with that?

16 Second of all, how can we get a better Ferguson, as
17 some of the other constituents said, when we try to engage
18 with the police about the multiple problems that's going on in
19 Ferguson and the police just push us off?

20 Just as well as in the last meeting we tried to show
21 them a video of what's going on at Ferguson Market, and the
22 panel of Ferguson constituents all walked out on us when we
23 tried to show them the video of the drugs, of --

24 THE COURT: And what was the meeting that you were
25 showing this at?

1 MR. ANTHONY ELLIS: We were at the Ferguson --

2 THE COURT: City Council meeting?

3 MR. ANTHONY ELLIS: -- council meeting. Yes.

4 THE COURT: Okay. Go ahead.

5 MR. ANTHONY ELLIS: And when we tried to present the
6 evidence, when we walked through the door and asked, we asked
7 them, "Hey, we have the videotape for them." The young lady
8 that was hosting the meeting -- the term of whatever she is --
9 she said, "Give me the flash drive." We gave her the flash
10 drive, and then we tried to present that. Knowles advised all
11 his panel to walk away. So if we're trying to give you
12 evidence about what's going on at Ferguson at stores and
13 you're not listening to the people of the community, how can
14 you say you're trying to make a better Ferguson?

15 To me, Ferguson is nothing but another Selma,
16 Alabama, on the other side of the track. One side of Ferguson
17 wants this. The other side of Ferguson wants that. We're not
18 even allowed to have a Ferguson that looks like University
19 City. And so how can we have something that's going to look
20 like one place when you have one place looking like this and
21 another place looking like that?

22 And you can't -- you can't pacify a situation by
23 having an event over there and giving out Popsicles to the
24 kids and thinking it's going to be a better place. And that's
25 what I think a lot of the Ferguson people that sits on the

1 boards, the police department, the council members -- that's
2 what they're doing. They're trying to pacify something to
3 make it look better.

4 The DOJ -- the reason they found out a lot of things
5 about the DOJ with all the municipalities and how they overlap
6 is due to the fact that I took them on a ride back in 2014 to
7 show them all the overlapping police departments when you have
8 five police departments that's within a quarter mile radius.

9 So I'm asking the DOJ and anybody else that's a part
10 of this to please do more investigation on what's going on in
11 Ferguson. Because I have talked to people from the FBI,
12 Homeland Security, and everything about the problems that's
13 infesting us with our Ferguson markets and all the different
14 stores that are selling drugs in the stores, and it's nothing
15 that Ferguson is trying to do about it. We have three liquor
16 stores that's right beside each other, and that's kind of
17 ridiculous, and it's only in where the black African-American
18 neighborhoods are. There's not three or four different liquor
19 stores on the corners of Florissant, Florissant Road. So why
20 should we have it on that side of Ferguson?

21 And like I said, to me, it's like Selma, Alabama,
22 across the Pettus Bridge.

23 Thank you.

24 THE COURT: Thank you.

25 All right. I do want to take a break, but,

1 Mr. Ervin, do you want to address the group before we take the
2 break or address the Court before we take the break but
3 respond to any of the things that have been said because you
4 were mentioned?

5 MR. ERVIN: I was indeed, Your Honor. Thank you very
6 much for that, and I'll be very, very brief, and thank you for
7 indulging me with my travel schedule requiring me to depart
8 after this.

9 I did want to respond briefly to the two categories
10 of complaints about me, namely, one billing and the other,
11 community outreach. On the issue of billing -- I do not think
12 that it's appropriate or would be productive to have a debate
13 on either of these issues or any issue for that matter in this
14 forum, but I will address those two issues.

15 On the issue of the billing, this was the result of
16 an honest disagreement between me and the parties on the issue
17 of what constitutes the year for purposes of calculating the
18 Monitor's work. I proceeded under the impression that we were
19 talking about a calendar year, January to January. It was the
20 parties' intention and understanding that the relevant year
21 period was July when the Monitor was approved to the next
22 July. The RFP to which I and other monitor candidates
23 responded was silent on this issue. The Consent Decree has a
24 number of provisions that speak to the issue, but they're
25 ambiguous, and, therefore, it's just an honest disagreement.

1 So by the City's reckoning, the cap was exceeded
2 in -- was reached in January with a payment, a partial
3 payment, of about \$8,000 or so. By our calculations, under
4 the calendar year calculation, January to January, we were
5 actually several thousand dollars under the cap as of
6 December. So that was the agreement in brief.

7 The City has not paid \$600,000 to the Monitoring
8 Team. The two stipulations as to billing under the Consent
9 Decree are that no more than \$350,000 -- however "year" is
10 defined -- no more than \$350,000 be expended on the Monitor,
11 the Monitor Team in any one year and that there be no more
12 than 1.25 million dollars expended over five years. Neither
13 of those provisions has been violated. The City has not paid
14 \$603,000. The City has paid \$350,000. The City has now
15 agreed, as part of a compromise, as you're aware, Your Honor,
16 to pay partial -- some amount of the bills that were sent for
17 the January to March period, January to March of this year, in
18 exchange for an agreement on our part to make substantial
19 reductions. We have done that.

20 As you have heard, from January of 2017 for the
21 duration of the monitorship, for the duration of the
22 monitorship, I am taking no compensation whatsoever.
23 Furthermore, other members, two other members of the team, cut
24 their invoices by a third for the January to March period.
25 That leaves substantial money for the second monitor year as

1 defined by the parties and the money that was intended to be
2 left for the third year and the fourth year and the fifth
3 year.

4 I guess the final thing I would say about this: I
5 pledge to you, Your Honor, and to everyone listening, to all
6 the members of the public, that even though I am taking
7 absolutely no compensation from here on out, which I think is
8 rather generous, you can be assured that there will be no
9 diminution in my effort and in my commitment to this. You
10 heard me talk extensively about the work I've put in over the
11 months, starting intensively in March, in the development of
12 that work plan, and that is indicative of the kind of
13 attention and work that I will continue to do with regard to
14 the monitorship.

15 On the issue of the allocation of work, the notion
16 that work should be distributed in equitable fashion, work is
17 distributed according to what needs to be done and the
18 expertise of different members of the team. Now that we have
19 moved into the audit phase, I think you will see a greater
20 participation on the part of the other members of the team who
21 will be carrying out those audits. That's what I have to say
22 in brief about the billing issue.

23 On the issue of community engagement, I have made a
24 point of coming to Ferguson as often as my schedule allows
25 given the other work that I have been doing under the

1 monitorship. As you heard, over the months, I and the rest of
2 us have spent the bulk of our time in the policy development,
3 in review and revision process. That's why, assuming the
4 figure is correct -- I haven't done my own calculation of
5 this -- 63 percent of the time has been spent by me, not as an
6 administrator, but rather as a substantive participant in
7 monitoring the work of the City under the Consent Decree,
8 which is the Monitor's obligation.

9 I have in fact spent considerable time in community
10 meetings. I have participated in more than one "office hours"
11 engagement. Those have been attended by relatively few
12 people. I have done what I think I can do in order to
13 publicize those events by mentioning that on the Monitor's
14 website, on the City's website, and by urging the community
15 groups that are organized in Ferguson and surrounding areas to
16 get the word out to their friends, and I have urged, on a
17 repeated basis, those who continually say that those who most
18 need to hear from the Monitor are those who are not here to
19 tell me how to reach those people and to pass the word along
20 to them, and so I will continue my efforts to be active in the
21 community to the extent that other work under the monitorship
22 and the rest of my schedule demands permit.

23 Thank you very much, Your Honor.

24 THE COURT: All right. We're going to take a
25 10-minute recess, and when we return, I'll ask Mr. Carey and

1 the Department of Justice to make any further statements they
2 want, and if there are any particular issues you wish to
3 respond to and including talking about these documents that
4 people have to present. My inclination is to receive whatever
5 people want to give me, and we'll -- but we can talk about
6 that when we get back.

7 All right. So court will be in recess for 10
8 minutes.

9 And, Mr. Ervin, I understand you have to leave.

10 MR. ERVIN: Thank you very much, Your Honor.

11 THE COURT: Thank you.

12 (Court recessed from 3:44 p.m. until 4:02 p.m.)

13 THE COURT: All right. So I don't know which counsel
14 would like to speak first, but from the Department of Justice.

15 MR. VOLEK: Sure, Your Honor.

16 THE COURT: Go ahead.

17 MR. VOLEK: Thank you, Your Honor.

18 I want to begin by expressing the United States'
19 appreciation to the entire community that has come out today
20 and the entire community who has been part of this process for
21 a very long time now. We, as the Department of Justice,
22 recognize just how critical they are to this process.

23 The Consent Decree isn't looking to make changes that
24 you could just tick off and tick off the boxes. We're
25 actually looking through the Consent Decree -- and I know that

1 the City is committed to this as well -- to changing the lived
2 experiences of people in Ferguson from how it was before our
3 investigation to how everybody hopes it can be: One that is
4 inclusive; one in which everybody's rights are respected; one
5 in which everybody feels a part of their community and a part
6 of their law enforcement entity.

7 Hearing from the community is a critical part of
8 being able to achieve that. Understanding what the lived
9 experiences are actually like -- and I know that we were very
10 grateful to hear the different perspectives that were voiced
11 today. Obviously, Ferguson is a community where people feel
12 extremely strongly. People are very committed. There's a
13 diverse range of perspectives. We have been in a lot of
14 communities, and we've seen a lot of different, very, very
15 engaged groups, but nowhere in my time with the Department of
16 Justice have I seen people who are quite so committed to this
17 process as I have in Ferguson, and we really respect
18 everybody's views and their -- and their -- the importance of
19 them coming out and continuing to be a part of this process.

20 I want to address two of the issues to that end that
21 were raised. One is community involvement, and two is some
22 issues with respect to the monitorship.

23 First, with respect to the NPSC, you know, in line
24 with what I was just saying, we really believe that the
25 community plays an integral role in this process, and the NPSC

1 itself is vital. The NPSC is tasked under the Consent Decree
2 with all sorts of responsibilities -- advising the police
3 department on community priorities with regard to law
4 enforcement, reviewing some policies, looking at recruitment
5 plans and community engagement plans, looking at the Ferguson
6 municipal code. There's all sorts of things that the NPSC
7 needs to do, and we want to support that critical function as
8 much as we can. At the same time, the entire point of the
9 NPSC was to generate community-centered solutions,
10 community-centered ideas, and we want to be as respectful as
11 we can to the community's process and to make sure that they
12 own that process.

13 We understand that there are different views
14 regarding how things are going on the NPSC. We've attended
15 many meetings. We've attended the last three NPSC meetings,
16 and we've seen both some of the accomplishments that have come
17 out of some of the committees, in particular, and some of the
18 challenges that I think everybody recognizes the NPSC faces.
19 We are looking and actively willing to support the NPSC as
20 however we can. There is -- there is, of course, that tension
21 of we don't want to meddle with the NPSC's own efforts, and we
22 understand that there are some efforts underway within the
23 NPSC, within the group itself, to identify solutions to these
24 problems, to find resources that are available to support the
25 group, such as mediation services, such as, you know,

1 resolution services.

2 You know, I think that it is fair to say that there
3 is a lot of division and a lot of hurt still in Ferguson, and
4 that manifests itself a lot at these meetings, and, you know,
5 this is a process that will take a lot of time, and we realize
6 that there's a lot of frustration there.

7 We want the NPSC to succeed. We want it to thrive.
8 We want it to be community-lead. But, you know, we are
9 actively considering what we can do to be a part of that
10 process. In the past, we've had the community relations
11 service of the Department of Justice involved. That had some
12 positive results, and we could certainly explore bringing in
13 similar or other resources to assist with the types of
14 mediation and reconciliation that might be useful to the NPSC,
15 but, again, we don't want to take the lead from the NPSC
16 itself. We don't want this to be a Department of Justice
17 committee or a City-led committee. We want this to be a
18 community-run committee, and we want to fully understand what
19 those needs are and what we can do to support them rather than
20 to actually solve problems and prescribe solutions.

21 THE COURT: Yeah, I understand that, but it sounds
22 like this has gone on quite awhile, and it sounds fairly
23 dysfunctional. Now, some people say it's not, and some people
24 say it is, but -- so I don't -- you know, I'm not going to
25 have a trial on who's right and who's wrong about that. I

1 want to figure out if there's a way to solve the problem, and
2 I just -- it does sound like they need help, and I'm wondering
3 what you foresee happening, and again, I understand you're
4 not -- you're not the boss of the NPSC.

5 MR. VOLEK: Right.

6 THE COURT: But it sounds like there is a -- it
7 doesn't sound like a very functional group. I can understand
8 why people don't want to come to the meetings if everybody
9 just sits around and argues at each other.

10 MR. VOLEK: No. Absolutely Your Honor. And I can
11 tell Your Honor and the rest of the public that we, within the
12 Department, have been thinking for several months now, mindful
13 of these concerns, what we could possibly do. We've been
14 communicating with the City about this issue and,
15 specifically, have been communicating with the Monitoring Team
16 about what resources they can bring to bear. They have a lot
17 of expertise on their team that understands the nuances of
18 community outreach and engagement and community organizing,
19 and perhaps those resources can be brought to bear.

20 In the last several months, we have heard that there
21 was some initiative within the NPSC to address these. So
22 we --

23 THE COURT: And it sounded from today's comments that
24 there may be some things going on.

25 MR. VOLEK: I think that's right. That's our

1 understanding. So we have been deferring to that process.
2 Admittedly, it seems as if there might be scope for greater
3 involvement from us and from the City and from the Monitoring
4 Team as well to understand what their --

5 THE COURT: Mr. -- Mr. -- let me just ask you this.
6 I believe Mr. Ashby mentioned that there's a meeting coming up
7 where these issues are going to be discussed again. Are you
8 all going to have representatives at that meeting?

9 MR. VOLEK: We were not aware that those issues were
10 being discussed there, but we will be happy to attend.

11 THE COURT: Okay. Thank you. Go ahead.

12 MR. VOLEK: So, you know, what we don't want to see
13 happen is we don't want that frustration to lead to
14 disengagement with this process because I think we all
15 understand that this Consent Decree cannot be successful with
16 the City's work alone, with the Department's work alone. It
17 really requires the community's involvement and continued
18 involvement, and the NPSC is a key part of that.

19 The Consent Decree really provides a blueprint for
20 other mechanisms as well: The Civilian Review Board to make
21 the accountability process more transparent; active dialogues
22 between law enforcement and community members. I think that
23 one of the focuses of the parties going forward is to, in
24 addition to focusing on the NPSC's specific issues, focus on
25 those other mechanisms for bringing the community into the

1 process as well. I think that in light of the importance of
2 community involvement it's important that we pursue all the
3 different avenues that might enable that into this process.

4 The second point that I'd like to address is the -- a
5 few concerns raised about the monitorship. In particular,
6 some concerns were raised about the Monitor's budget, which
7 Mr. Ervin addressed in his comments. I don't know that
8 there's a lot of detail to add, that's needed to add to
9 Mr. Ervin's comments. I just want to give the Court and the
10 public the Department's perspective on this issue. Before
11 getting into the details, though, I do want to say that just
12 like the community is essential to this process, monitorships
13 play a key role in consent decrees and police reform and
14 making sure that reform actually happens. Ultimately,
15 effective monitorships make this process more efficient, more
16 effective, more cost-effective. They resolve disputes between
17 the parties. Issues don't have to be litigated. They can
18 serve as an independent assessor of whether compliance is
19 actually happening. They can provide technical assistance to
20 the city.

21 Many of those things are indeed happening right now.
22 Just yesterday, Delores Jones-Brown from the Monitoring Team
23 spent the day with the department and with us working through
24 several issues in policies, and that's critically valuable.
25 At the same time, we understand that there are some community

1 frustrations with the monitorship, with the budget. Those
2 concerns were brought to our attention a few months ago, and
3 we discussed those with the City. We discussed those with
4 Mr. Ervin. The parties have worked together with Mr. Ervin to
5 try and address those problems to make sure that there is
6 financial solvency for the monitorship going forward. As the
7 United States, we have an interest as a party in this matter
8 to make sure that the monitorship is successful, that it has
9 the resources it needs going forward, not just in year one,
10 but in years two through five of the agreement and beyond if
11 necessary, to make sure that the monitorship can do its job.

12 The fact that there were so many resources expended
13 in the first seven months of the monitorship or nine months of
14 the monitorship was highly concerning to us, as it was to the
15 City. We, in consultation with the City, worked to develop a
16 real solution to this. I just want to highlight the two
17 aspects. First, as Mr. Ervin mentioned, part of that solution
18 is going back to the invoices that were already submitted to
19 the City, the \$603,000. And Mr. Ervin has gone through those
20 invoices and identified appropriate reductions. He has done
21 so and proposed those reductions, and they are substantial,
22 and so that's part of the process. But really, the other part
23 is making sure that the same -- the same costly things don't
24 still keep happening, that there is some active view towards
25 the future of how we can keep costs low while still having a

1 very successful and effective monitorship that doesn't cut
2 back on actual services to the city, to the court.

3 We've done a few things in that respect. One, we
4 have certainly emphasized that the development of the
5 monitoring plan is essential. Mr. Ervin, in his opening
6 remarks, mentioned that he spent a lot of time working on the
7 audit methodology. As Your Honor is aware, the Consent Decree
8 requires two documents from the monitorship. One is audit
9 methodologies, which lay out the specific ways that the
10 Monitor is going to assess particular provisions of the
11 agreement. So for court reform, for instance, how are the
12 various provisions -- what documents are they going to look
13 at, what indicators are they going to look at to see if each
14 provision is actually being implemented.

15 Beyond that, though, the decree requires a second
16 document, which is sort of a middle-level plan of when are the
17 audits going to be conducted, what is -- who on the Monitoring
18 Team is going to conduct those audits, how do those audits
19 interact with public reporting, when are they going to be
20 reported out to the public to bolster transparency. That's
21 the plan that we have been requesting from Mr. Ervin because
22 we really think that that's a critical piece of making sure
23 that the budget can be made with some detail. Once that plan
24 is in place, Mr. Ervin is planning on putting together a
25 concrete budget that breaks down on a quarterly basis exactly

1 what the expenditures of the Monitoring Team will be, that
2 assign clear responsibilities within the team for who's going
3 to do what so that people have a clear understanding of how
4 much money there is between different members of the team.

5 Three, there was a concern about billing not being
6 detailed enough. That's something that we've discussed with
7 Mr. Ervin as well.

8 And, four, Mr. Ervin mentioned pro bono hours, and we
9 certainly appreciate his commitment to this project and to
10 give pro bono to this, and part of the budget is going to be
11 figuring out where that actually folds into the rest of the
12 overall budget. It bears noting that we don't, as the United
13 States, think that this monitorship needs to be done on a pro
14 bono basis. We think that the caps that were agreed to by the
15 parties set forth reasonable amounts that will enable
16 effective monitoring, and we think that with some of the
17 mechanisms that we've talked about with the City and with
18 Mr. Ervin we can accomplish that effective monitoring within
19 the budget that's set forth.

20 We've also agreed on some process steps -- and you've
21 heard about some of those already -- process steps to make
22 this more efficient. So with respect to the policy review
23 process, members of our team have been in constant
24 communication with the City directly to work on policies
25 one-on-one with them, drawing upon the Monitor's technical

1 expertise where appropriate but really doing a lot of the
2 labor at the front end just with the City and then submitting
3 policies to Mr. Ervin and his team for review and approval at
4 the back end. That saves a little bit of Mr. Ervin's time and
5 saves a little bit of money.

6 The second thing is the parties had a weekly call to
7 sort of monitor where different activities were at. This was
8 largely an administrative call to make sure that things were
9 staying on track. Critically important for sure, but there
10 was a consensus all around that there was a lot of time
11 preparing for that call, having the call, debriefing from that
12 call and not a lot of substantive work actually got done on
13 those calls. And so what the parties have done is switched to
14 a monthly call cycle where we have a monthly call where we
15 actually go through the list, the long list of things that
16 everybody's working on, to see where things are at. In
17 between those monthly calls, we have constant communication,
18 substantive working sessions with the City, with the
19 Monitoring Team. And that pivot in the last several months
20 has really been effective. We really feel like we've gained
21 some momentum on the policy review process, as everybody was
22 speaking about earlier, but also in other areas as well. We
23 really think that switching to that process has been extremely
24 effective.

25 We think that we have a reasonable solution to this

1 budget shortfall, and that's critically important because the
2 work of the monitorship is essential to this process, and
3 there's a lot of work that still needs to come. The audits --
4 the audit methodologies have been created, but the actual
5 audits need to be conducted, and that, in many cases, requires
6 intensive review of documents. It requires interviewing
7 people. As Mr. Ervin talked about, it requires actually being
8 on the ground and hearing from people. That's a key part of
9 this process that has not really yet begun.

10 And I want to emphasize the importance of publicly
11 reporting those audits. That's something that needs to happen
12 as well, and I know that there is a real yearning for more
13 transparency in this process from the community, and it's
14 something that the monitorship's public report is really
15 designed to serve, and so we are encouraged that Mr. Ervin is
16 considering how best to make those reports regular and part of
17 his overall monitorship process, how best to integrate the
18 audits themselves into the reporting schedule as part of a
19 comprehensive monitoring plan, and we're very optimistic that
20 going forward those public reports can be issued and can be an
21 effective tool to communicating with the public exactly what's
22 going on and exactly where things are at.

23 To that end, I know that there was some concern about
24 deadlines and where things actually stand. I think that, you
25 know, hopefully, when those reports are issued -- the decree

1 calls for them every six months -- that will play a really
2 helpful role for the community in understanding exactly where
3 things are at.

4 I think that these status conferences are extremely
5 helpful, and we appreciate Your Honor allowing members of the
6 public to speak at them as well.

7 We at DOJ are committed ourselves to communicating
8 with the public as much as possible. We have, as Ms. Senier
9 mentioned, an active email address that people can contact us.
10 People have our email addresses, our contact information. We
11 welcome everybody contacting us and hearing from folks, and we
12 also are open to suggestions about how this process can be
13 better, how it could be more transparent. You know, it is --
14 it is the case that this is hard work, and particularly, on
15 the community engagement side, given some of the obstacles
16 that were entrenched, this is hard work that takes a long
17 time, but I know that everybody is committed to doing it.

18 Finally, just a few small points that came up with
19 regard to some of the deadlines. I know that there was some
20 commentary about where different provisions were at --
21 body-worn cameras, the school resource officer provisions. As
22 Ms. Senier represented, we do have these priority areas. The
23 fact is that every area of the Consent Decree is a priority.
24 There are 21 different substantive sections of the Consent
25 Decree, and each one of them is a priority. The fact that we

1 are tackling accountability and use-of-force policies first is
2 certainly not at all an indication of anybody's views that
3 school resource officers are not a critical part of this.
4 They represent a real way to make sure that the community has
5 positive outreach and engagement with youth, and they really
6 affect a large number of children in the community, of youth
7 in the community, and so that's just but an example. The same
8 with body-worn cameras. It's a critical accountability tool.
9 It bolsters transparency. That's why those things were
10 included within the Consent Decree. We recognize that.

11 We are trying to work on many different fronts, and,
12 you know, we are certainly encouraged by the commitment that
13 the City has made and all the efforts that the City has made
14 to work on many different fronts, and, you know, we are -- we
15 are -- we think that the progress is real. We understand that
16 that often doesn't get felt by the community, and again, going
17 back to the point I made at the beginning, the point here is
18 to really impact the lived experiences of people in Ferguson,
19 and so we're very hopeful that that actually happens. We're
20 hopeful that greater reporting on the progress that's made can
21 help people feel like there's been more progress and see the
22 progress that is being made.

23 THE COURT: Thank you.

24 Mr. Carey.

25 And I do have some comments and a few questions, but

1 let me hear what you have to say first.

2 MR. CAREY: Thank you, Your Honor.

3 I think it's safe to say that -- from hearing the
4 comments that were made from our citizens and our neighboring
5 community members and people who are just generally interested
6 in what's going on in the city of Ferguson, it's safe to say
7 that we are a city that's -- it's like *A Tale of Two Cities*.
8 All right. We have citizens who feel very strongly about
9 their community, who, you know, in this forum as well as in
10 the City Council meetings, continually come forward to voice
11 their opinions, and we really appreciate that, and as a matter
12 of fact, it's one of the reasons that I wanted to become the
13 Ferguson City Attorney. I remember at my interview telling
14 the council, "You guys have really engaged citizens," and
15 those citizens never hesitate to communicate to us and tell us
16 what their viewpoints are and how we can do things better, and
17 we're certainly fortunate to have citizens who do that. I've
18 been in a lot of city council meetings where you don't get
19 anybody there.

20 I can tell you, again, going back to this concept of
21 *A Tale of Two Cities*, the city of Ferguson -- quite bluntly,
22 you know, what you're hearing from our community is we have
23 two main corridors in our city. That's South Florissant,
24 which represents our downtown area, and then we have West
25 Florissant, which is another main commercial corridor, which

1 is, ironically, east of South Florissant but called West
2 Florissant. Essentially, what you're witnessing here is that,
3 you know, we have folks along -- you know, the folks who live
4 closer to the South Florissant corridor -- the perception is
5 these folks are nonminorities and, you know, that neighborhood
6 gets preferential treatment; the City, you know, doesn't allow
7 liquor stores along the South Florissant corridor whereas the
8 West Florissant corridor, which is the folks who live closer
9 to that, more minorities, you know, the City allows, you know,
10 three liquor stores in one, you know, block and that type of
11 deal. But the reality of it, Your Honor, is that the City is
12 actively engaged in developing its entire -- the entire city
13 and not just our downtown area.

14 As a matter of fact, just recently, the City engaged
15 a developer to look at development along the West Florissant
16 corridor, and that developer has engaged our neighborhood
17 groups, specifically, the Southeast Ferguson Group that has
18 just formed. And the Southeast Ferguson Group was formed
19 pursuant to the Consent Decree, and it is a group of apartment
20 complexes and some single-family residences in that West
21 Florissant corridor area, and we've engaged a developer who
22 has engaged the community to talk about developing that area,
23 to talk about, you know, bringing more commercial development,
24 to talk about bringing new residential development to that
25 area, and so the City has made that a priority.

1 Also, one of the things, I think, that was not
2 mentioned that needs to be mentioned is that one of the first
3 things our city manager did when he was hired was to put a
4 moratorium on liquor licenses because we did recognize that
5 that was a problem, not just along the West Florissant
6 corridor but in our city in general. So we right now have a
7 moratorium on our liquor licenses so that we can further
8 evaluate, you know, how many liquor stores we have, whether or
9 not we want to pull that moratorium.

10 The other, you know, I guess, comment I'll make was
11 in response to this issue with the Proposition A and the
12 Consent Decree and the conflict. For our purposes, the
13 Consent Decree, more often than not, is not a floor upon which
14 to build. It's more of a target for our purposes. You know,
15 the Consent Decree requires compliance, and sometimes when
16 you're in a situation where you want to do more than what the
17 Consent Decree requires or when you want to go above and
18 beyond what the Consent Decree requires, it can frustrate
19 other provisions of the Consent Decree and it can frustrate
20 the ultimate goal of the Consent Decree, not to mention run
21 afoul of Missouri law. And so that provision of the
22 Proposition A that amended our charter -- I think our
23 citizens -- Mr. Kasoff was right; it does go above and beyond
24 what the Consent Decree calls for, but I think the fact that
25 it does go above and beyond what the Consent Decree calls for

1 can frustrate our ability to comply with the Consent Decree.

2 THE COURT: Well, I mean I'm obviously concerned with
3 the Consent Decree, but I'm assuming --

4 MR. CAREY: Right.

5 THE COURT: -- that the City is not ignoring a
6 charter amendment.

7 MR. CAREY: Of course.

8 THE COURT: Okay.

9 MR. CAREY: Absolutely.

10 THE COURT: So you are working on trying to figure
11 out where they conflict and things --

12 MR. CAREY: Absolutely.

13 THE COURT: -- like that?

14 MR. CAREY: Absolutely.

15 THE COURT: Okay.

16 MR. CAREY: And as I stated before, but I just wanted
17 to make that point so that the Court understood what our
18 position was.

19 Certainly, you know, the City -- as Mr. Volek said,
20 certainly, there are, you know, areas of -- all areas of the
21 Consent Decree are important, but, you know, unfortunately, we
22 don't have -- again, as I've said here the last couple times
23 I've been here, we don't have a dedicated staff who focuses
24 specifically on the Consent Decree. Everybody who works on
25 the Consent Decree on a daily basis are people who are also

1 working in their normal jobs and, you know, balancing. So
2 there are times when we have to prioritize a particular area
3 of the Consent Decree, and, you know, we're certainly not
4 ignoring any part of the Consent Decree or considering any
5 part of the Consent Decree to be less important than others.

6 There were just some certain areas that were a
7 priority, and those priorities were kind of based on the
8 immediate needs that we saw in the community. They were also
9 based on the problems that actually precipitated the need for
10 the Consent Decree, the problems that existed that
11 precipitated the need for the Consent Decree, and so the
12 thought process with the parties was, well, we need to
13 prioritize things, you know, on that basis, and so that's what
14 we did, and I guess, you know, not to say that our priority
15 schedule is the best priority schedule. We certainly, you
16 know, are open to making mistakes, but all I can say is that
17 the City thinks that the entire Consent Decree is important,
18 and we don't think that just because we're not prioritizing a
19 particular area that we, you know, shouldn't comply with the
20 entire agreement.

21 THE COURT: So I have a question for you.

22 MR. CAREY: Sure, sure.

23 THE COURT: So if a citizen has a complaint right now
24 that there's been an excessive use of force or some
25 impropriety by a member -- this is a police force question --

1 by a member of the police force, like not wearing a name tag
2 or something else that the citizen thinks is improper, where
3 do they go with that?

4 MR. CAREY: Well, we have -- I'm sorry.

5 THE COURT: Yeah. Because you have a civilian -- you
6 have a -- the CRB exists, right, and what other complaint
7 processes exist?

8 MR. CAREY: We have a complaint process that was
9 already in place, Your Honor.

10 THE COURT: Right.

11 MR. CAREY: And there is a complaint process whereby
12 a citizen can go to the police department and file a complaint
13 at the police department.

14 THE COURT: And it's not that it's not functional? I
15 mean one of the people who spoke said it doesn't exist, but
16 you're saying it does exist?

17 MR. CAREY: Sure, it does exist. I think what you're
18 hearing from our citizens is, you know, we -- you know, the
19 City -- we have yet to put our complaint process on the
20 website, which I think would help with transparency in terms
21 of -- or not necessarily transparency but ease of a citizen's
22 ability to file a complaint. Say, for example, maybe they
23 don't want to go into the police department for whatever
24 reason. Maybe they would just rather, you know, go online.

25 THE COURT: Right, right.

1 MR. CAREY: So -- but there is a complaint process,
2 and not to mention the fact that, you know, the Department of
3 Justice is in our city a lot. You know, we -- the citizens
4 have access to the Monitor, and I guess the kind of
5 frustrating thing and the challenge that we face is a lot of
6 times we don't hear about these things as a city until there
7 is -- you know, we're at a City Council meeting or there's a
8 public forum like this where there's an opportunity to say
9 what we didn't do or what we, you know, haven't done yet.
10 But, you know, I know Chief Moss' door is always open. I know
11 Commander McCall's door is always open. I know City Manager
12 De'Carlton Seewood's door is always open. So they have made
13 that clear on numerous occasions to our citizens, but one of
14 the frustrating parts, again, is that we typically don't hear
15 about these things until we are in situations or forums like
16 this and we're hearing about how we have failed to do
17 something.

18 Oh, I wanted to touch a little bit on something that
19 was mentioned about the recent unrest in the city with regard
20 to the County police being present and whether or not there
21 was Ferguson police or the County police. You know, the city
22 of Ferguson is within a county; right? And so when an
23 incident happens in the city of Ferguson, the City of Ferguson
24 cannot stop the County police from responding to that
25 incident. Now, certainly, there are conversations between the

1 police chiefs where, you know, if the St. Louis County Police
2 Chief wants to call the Ferguson Police Chief to say, "Hey,
3 we're going to let you guys handle this situation" or, you
4 know, "Can you guys handle this situation? Do you need us to
5 come in?" and that type of thing, certainly, those
6 conversations happen, but there's nothing that the City of
7 Ferguson can do to stop the St. Louis County Police from
8 responding to a call when something happens in their
9 jurisdiction. And certainly, having the St. Louis County
10 Police respond to a call within their jurisdiction is not the
11 City attempting to circumvent the Consent Decree.

12 Any talk about the City attempting to circumvent the
13 Consent Decree is somewhat insulting to a lot of us who every
14 day are putting in the work, the time, and the effort it takes
15 to try to implement the Consent Decree, and certainly, there
16 are no concerted, intentional efforts on the City's part to
17 circumvent the Consent Decree. I think there's a
18 misunderstanding about police process and what happens when
19 police are called, why certain police departments are at a
20 scene, why there may be multiple police departments at a
21 scene, but certainly, there is no concerted, intentional
22 effort on the part of the City of Ferguson to circumvent the
23 Consent Decree. That's just not what's happening right now.

24 I don't want to speak much about the monitorship
25 issue that we had. I think the Department of Justice has

1 summarized that quite well. I think the City is happy with
2 the resolution that we have come to with the Monitor. We
3 think it's a fair resolution. We think the Monitor has gone
4 above and beyond what we would have even asked him to do with
5 regard to his fees. So I'll just kind of leave it at that.

6 The last point I wanted to make is in response to a
7 citizen who alleged that the City Council just walked out on a
8 council meeting without, you know, looking at certain evidence
9 that folks wanted to present. So I can tell you, because I
10 was there at the meeting, it was not a situation where the
11 City Council just decided to walk out of the meeting. There
12 was a video that our citizens had been telling us existed for
13 months, and I know that our City Council had been asking for
14 that video for months, but there had been some reason why that
15 video had not been given to the City, and there were some
16 reasons. I guess some folks in the community who were in
17 possession of the video were afraid of, you know, ratting or,
18 you know, whatever the case may be. And so what we had was a
19 special meeting of the City Council to discuss some complaints
20 our citizens had made about one of our markets in our city,
21 and at that meeting, I remember the Mayor asking again for the
22 tape that people had talked about for several months, and I
23 think that tape had been communicated to our City Clerk
24 unbeknownst to our Mayor, and so our Mayor was attempting to
25 adjourn the meeting, and a lot of the citizens said, "Hey,

1 listen. You know, we've got this tape. You know, we" -- and
2 so the meeting became kind of, in the Mayor's perspective, you
3 know, out of control. So the Mayor ended the meeting. But I
4 will say that after the meeting, the police chief, one of our
5 City Council members, the City Manager, myself stayed and we
6 watched the videotape. So the citizens did in fact get an
7 opportunity to show the City what it was they wanted to show
8 us with regard to this particular videotape, and it just has
9 to do with one of the markets in the city that's very
10 controversial, that our citizens feel very strongly about one
11 way or the other. And so -- but, you know, it's not a
12 situation where the City is just walking out on a City Council
13 meeting. There's a little bit more description and background
14 that you kind of needed to understand that.

15 So other than that, if you have any questions about
16 anything, I'm happy to answer them.

17 THE COURT: Right now, I think you've answered the
18 one question I had, which was, yeah, people can still file
19 complaints, and they should.

20 MR. CAREY: Yes.

21 THE COURT: If there are problems going on, they need
22 to file complaints with the City, and that should happen.

23 MR. CAREY: Absolutely.

24 THE COURT: Absolutely. It should always happen. In
25 any city where someone thinks there's wrongdoing on behalf of,

1 you know, the police or someone else, you should file a
2 complaint.

3 MR. CAREY: Right.

4 THE COURT: Okay. Let me just make a few comments to
5 the people here as well as the parties. First, I want to
6 answer a couple of questions that people asked. Your public
7 comments are very helpful. You know, a consent decree case
8 like this is different because the parties to the case are the
9 ones who are entitled to speak, who are entitled to file
10 things, but, obviously, the public interest is very important
11 in this case. The purpose of the case is to make, as
12 Mr. Volek says, the lived experience of being there better,
13 and so we need to know how it's going, and that's why we are
14 allowing you to speak, and I will continue to allow you to
15 speak. I can't promise that we'll do it at every quarterly
16 status conference, but -- and I'm not sure about the next one,
17 but we will decide that, and I will certainly let everybody
18 know, and I will post the order as well as posting a
19 transcript of today's proceeding. On our court website, there
20 is -- you know, there's a link, a place where you click for
21 this case, and this order will be there. Now, so the comments
22 are important, and I think they're important for the parties.

23 In answer to the specific question is there a way for
24 me to get St. Louis County to do something or other, they're
25 not a party to the case. I have no jurisdiction to reach out

1 and tell the County to do anything. This case, my authority
2 deals with the Department of Justice and the City of Ferguson.
3 Those are the parties to the case. Just like I couldn't reach
4 out and order one of the citizens to do something.

5 Now -- and I do think that the lawyers are correct
6 when they talk about the fact that some of these things are
7 things the community needs to decide on its own and deal with
8 on its own. It doesn't -- this wasn't set up to be a top-down
9 thing where the Department of Justice would come in and say,
10 "Here's how we want to organize, you know, your committees,"
11 and things like that. I am very concerned about what sounds
12 like the very serious difficulties that the NPSC has had, and
13 obviously, this isn't the first time I've heard about it, and
14 I'm concerned that people are disrespecting one another, if
15 that is really happening, and that they aren't able to figure
16 out a solution to this problem. It sounds like you all are
17 working on a solution to this problem. I would encourage you
18 to keep doing that, and I would encourage you to reach out to
19 the City and to the Department of Justice for assistance in
20 that. And I -- just one second.

21 Oh, for those of you who brought documents, I'll take
22 whatever anybody wants. I'll have to -- you know, generally,
23 I don't take -- I don't consider anything about a case that
24 the parties don't see. So anything you give me, you're
25 putting the burden on the Court to now distribute to the

1 parties to the case, but we will do it. We will docket it.
2 It will be in the public record. Anything you give the clerk
3 today, I will take and I'll work with her on exactly how we
4 docket it, but it will be in the court file. So whatever you
5 give me will be available to any member of the public who
6 wants to look at it. So be aware of that. And then the
7 person submitting it needs to give their -- what you need to
8 do is bring your documents up and give your name to the clerk
9 so we can say it was submitted by nonparty, whoever submitted
10 it, and it will be filed, and so it will be out there for the
11 world.

12 Several people -- okay. It's clear that many of the
13 schedules in this case have not been met. We all know that.
14 It's a pretty detailed and complicated consent decree, and so
15 some of the -- a lot of those deadlines haven't been met.
16 However, as I've spoken to the parties and I've looked at what
17 they've done, there's been a lot of progress made. I am -- I
18 think that there's been a lot done.

19 The policy review is extremely time-consuming.
20 Redoing policies, the issues of recruitment, the issues of
21 salary disparities for the police force -- those things are
22 very difficult.

23 The municipal court reforms -- maybe it's not perfect
24 yet. Somebody's got a criticism about how something was
25 handled in a municipal court proceeding. There are remedies

1 available that are not through me. There are legal remedies.
2 You have legal recourse, and you should seek legal advice if
3 you think your case was not handled fairly. But it seems to
4 me they've done a great deal. There's been, you know, a huge
5 number of cases gone through, old cases where they've
6 dismissed cases or nolle prossed them, cases where they've
7 converted fines to community service. These are all things
8 that were very important parts of the Consent Decree, and in
9 general, the way the municipal courts are operating, it seems
10 to me, have improved a great deal as a result of this Consent
11 Decree.

12 So even though there's a lot of specific deadlines
13 that haven't been met, that's not to say things are not
14 happening. Things are happening, I think, very impressively
15 under this policy. Yeah, it's still not perfect. It's never
16 going to be perfect, and it's up to the members of the
17 community to make sure that you keep working on improving
18 things and doing that in a constructive way.

19 Now, there were some things expressed that I think
20 are important to discuss, and I want to talk about -- you
21 know, well, let me see. The community does have to govern
22 itself. If you all have problems with the way things are
23 going, if the citizens don't think things are being done well
24 enough, you need to be reaching out to the Department of
25 Justice. They are the Plaintiffs in this case. They're the

1 ones who brought this case. They've said that they've got all
2 sorts of contact information out there, and you need to be
3 talking to them about it. Send in emails or however you
4 contact them. Also, contact the City if you think the City is
5 not doing something it should do. The community has to govern
6 itself, and this Consent Decree is a way to get you there
7 appropriately, but it doesn't specify how each individual
8 committee or group is supposed to be governed. That's
9 something that is supposed to come from the community and the
10 people in those groups.

11 I want to talk about the Monitor's role. Mr. Ervin
12 had to leave, but it's important to talk about this because I
13 think that there is a general misapprehension on what the
14 Monitor's role really is in this case. The Monitor is not an
15 ombudsman. He is not -- they are not a team to come in and
16 mediate every dispute that everybody has in the case. They
17 are not the ones who are supposed to be doing the work that
18 the City is supposed to be doing to comply with the Consent
19 Decree. I think at some -- early in this case, the Monitor
20 did and a lot of the members of the team were trying to help
21 in the process, and they got very involved in a lot of the
22 process, and that's why their bills got high because they were
23 getting very involved. They're supposed to be monitoring
24 something that hasn't happened yet, and so they're trying to
25 help it happen, and I think that they're not the ones who are

1 supposed to be doing that work, and I think the way the
2 parties have now structured it between the Department of
3 Justice and the City and the Monitor, the Monitor is going to
4 be doing what it's doing.

5 But the comments about, you know, we need the Monitor
6 here at every meeting, we need him here in the community, we
7 need him mediating, we need him telling us what to do --
8 that's actually not their role. I mean they're going to
9 survey you. They're going to check out the community.
10 They're going to find out what's going on. They need to see
11 how these policies are being implemented. That's the role in
12 the Consent Decree. And I know you've all read it, and you
13 can look at it again, but they're not -- they're not like -- I
14 don't know. They're not the ones doing the work. Okay. They
15 are looking at it and approving it, and they're spending a
16 great deal of time, and I assume that most of what they're
17 doing is not visible to the community at this point because it
18 is working on reviewing policies, reviewing procedures, doing
19 so much of what they're doing.

20 And to some extent, they have gotten involved even
21 beyond their role and, I think, to the benefit of the
22 community by helping draft policies, helping come up with
23 issues, but I think the way it's structured now is the way it
24 should be structured, and I think the City and the Department
25 of Justice and the Monitor have worked out the fee agreements.

1 I don't think people should be concerned about that. They are
2 working on it. They've resolved these issues, and the caps
3 that were in the Consent Decree are not going to be exceeded.
4 Everyone has agreed with that.

5 And Mr. Carey, I assure you, is a pretty tough
6 watchman of the City's finances at least in this respect. So,
7 you know, I just think that people should not be concerned
8 that -- about the fee issue, and I also think they shouldn't
9 be concerned about is something being done on a pro bono basis
10 or a charge basis or which member of the Monitoring Team is
11 doing what. They're there to report really to the Court about
12 whether this is being complied with. To the extent they've
13 tried to help and work on things, that's great, and obviously,
14 they want to be involved in community meetings, and they
15 should be to the extent they're able to, but, you know, if
16 they start doing all the work, it would cost a huge amount of
17 money. That's not what they signed on for.

18 So I think you all need to know that the Monitor is
19 not the person that should be the -- well, your first line of
20 communication should be with the parties to the case. The
21 Department of Justice has contact numbers. I mean if you
22 think there's something the Monitor needs to know, obviously,
23 you can tell them, but to say why doesn't the Monitor come fix
24 this, that's not really their role. The City and the
25 Department of Justice need to fix it. You need to talk to

1 them first. If you think they're not doing it and not being
2 responsive, then you can talk to the Monitor. Then you can
3 make your feelings known to me.

4 But their job -- the Monitor's role is not to
5 implement this Consent Decree. The implementation is to be
6 done by the City with the approval of the Department of
7 Justice. And the City, you know, can write all the policies
8 it wants, but if the Department of Justice thinks they're not
9 the right policies, that's not going to work. So they've been
10 working together very well on these policies, and then the
11 Monitor has been coming in and also looking at them to make
12 sure that, as an independent viewer, he believes the policies
13 comply with the Consent Decree. But that's -- that's how it's
14 supposed to work. So I think everybody needs to understand
15 that it's working the way it's supposed to, and I think they
16 had had a disagreement over the fees. They've worked it out.
17 And let's move on.

18 So I think -- don't think the Monitor is like the
19 guarantor somehow that this Consent Decree is going to be
20 perfectly implemented. The City and the Department of Justice
21 on the first line need to make sure it's done. If it's not
22 being done appropriately, the Monitor's going to report it.
23 We will get those reports coming in, and I'm going to talk to
24 the Monitor about exactly when we expect to have them, and the
25 parties have been talking about that, and you will see them as

1 members of the public, but it is -- you know, it's not their
2 job to implement the Consent Decree. That's the thing I think
3 seems to be an issue that people are -- I don't know.

4 And perhaps -- well, we all may be misunderstanding
5 it a little bit, and perhaps it is because, you know, it's a
6 great monitoring team. The members of the team have expertise
7 in many different areas, and they are very highly qualified.
8 And I think working through this community survey that we
9 should see soon and the police department survey and getting
10 the responses of that and doing the audit methodology and
11 doing the audits will be extremely important as we move
12 forward.

13 But because it didn't -- it wasn't -- it was overly
14 ambitious to think that all these policies were going to be
15 rewritten in the first few days, et cetera, the first few
16 months. They didn't have anything to monitor in terms of
17 checking the policies until now, and now they're doing it. So
18 I think you all need to understand that everybody in this
19 process, to my way of thinking, is doing what they're supposed
20 to do.

21 There was one other comment, Mr. Volek, and I may
22 have asked you this at the last meeting, and I apologize for
23 repeating it, but since it came up again today, I do want to
24 ask you to say this, and you have told me the answer to this
25 question before, but I'm going to ask you again.

1 There was a change in our national administration,
2 obviously, with the presidential election. Is the Department
3 of Justice doing anything differently in this case now than it
4 was before or than it would have been if there had been a
5 different result in the election?

6 MR. VOLEK: Your Honor, we remain committed to the
7 Consent Decree, to ensuring its implementation. In signing
8 the Consent Decree, we all committed to the Court that we
9 would defend its provisions. The members of our team have
10 remained constant. Several of us have been on the case since
11 the inception of the investigation. The rest have been on the
12 team for years, and so we certainly remain committed to this
13 case. We understand the importance of it. And we are going
14 to continue to do everything we can to ensure the effective
15 implementation of the decree.

16 THE COURT: And this is what Mr. Volek has personally
17 assured me in the past, and I know one of the citizens said,
18 you know, she's nervous about it and doesn't feel comfortable
19 anymore, but they're all working very hard at it. Everybody
20 is. This is not anything about national politics. This is
21 about Ferguson, Missouri, and the work that you all are doing
22 to make your community the place it needs to be. So I don't
23 think anyone should be worried about that.

24 All right. Thank you very much. We'll have another
25 status conference, public conference, in the next quarter, you

1 know, three months or so, and I'll be consulting with the
2 parties to decide about the format of that. I don't know what
3 it will be yet, but we'll pick a date and decide on a format
4 fairly soon.

5 Okay. Thank you, all.

6 And so if you have documents, bring them up to the
7 clerk and give her the information that she needs to have.

8 (Proceedings concluded at 4:49 p.m.)

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CERTIFICATE

I, Gayle D. Madden, Registered Diplomate Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 108 inclusive.

Dated at St. Louis, Missouri, this 30th day of June, 2017.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter