

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

MARCH 6, 2018

APPEARANCES:

Special Master: Natasha Tidwell, Esq.
HOGAN LOVELLS US LLP

For Plaintiff: Jude J. Volek, Esq.
Amy Senier, Esq.
Charles Wesley Hart, Jr., Esq.
UNITED STATES DEPARTMENT OF JUSTICE

For Defendant: Aarnarian (Apollo) D. Carey, Esq.
LEWIS RICE LLC

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1 (Proceedings commenced at 10:07 a.m.)

2 THE COURT: All right. Good morning. We are here in
3 the case of United States of America versus the City of
4 Ferguson. This is Case No. 4:16-CV-108 -- I'm sorry -- 180,
5 and so we are here for the quarterly status conference, and so
6 let me ask, on behalf of the United States, would counsel
7 please identify themselves for the record?

8 MR. VOLEK: Jude Volek for the United States.

9 MS. SENIER: Amy Senier for the United States.

10 MR. HART: Charles Hart for the United States. Good
11 morning, Your Honor.

12 THE COURT: All right. Good morning.

13 And for the City?

14 MR. CAREY: Apollo Carey, City of Ferguson.

15 THE COURT: All right. And then we have the
16 Monitoring Team here too as well. Some of them. Where is --
17 oh, there you are. I'm looking over. So we have the Monitor,
18 Natasha Tidwell, and other members of the team; correct?

19 MS. TIDWELL: Good morning, Your Honor. And I'll
20 introduce the team members in a moment.

21 THE COURT: Okay. That's great. Yeah. Sorry. I
22 was just looking at the wrong things.

23 All right. I do see we have some members of the
24 public here, and I'm glad to see that. Everyone is welcome.
25 So I would ask for a report of the -- a lot has happened since

1 our last public hearing, including the new Monitor being
2 appointed. And so I would ask, Ms. Tidwell, would you like to
3 begin?

4 MS. TIDWELL: Yes, Your Honor.

5 THE COURT: All right. And just tell us what you've
6 been doing since your appointment, and again, I want to thank
7 you for taking this appointment.

8 MS. TIDWELL: Good morning, Your Honor, Mr. Carey,
9 DOJ folk.

10 So, Your Honor, where I'm going to start today is
11 just a brief overview of the status report that the Monitoring
12 Team has prepared and will be filing with the Court at the end
13 of this reporting period, which will be before the end of this
14 month.

15 As you know, the Consent Decree requires that, on a
16 biannual basis, the Monitoring Team file a status report.
17 Fifteen days before filing, the Monitoring Team submits it to
18 the parties for their edits and any suggested changes that
19 they have. So the Monitoring Team did so. So it is in the
20 hands of the parties at this point. We hope to have their
21 edits and their suggestions. We've already received some. We
22 hope to incorporate those and have it filed with Your Honor
23 by -- before the end of the month.

24 The report requires three -- broadly three things.
25 One, a description of the work done by the Monitoring Team

1 during the reporting period. In this case, it would be
2 January 2017 through the present as the last monitoring report
3 or status report that was filed was with this Court in
4 December of 2016. So this reporting period will take more
5 than the six months because of the lag between now and the
6 last report.

7 The report requires not only the work done by the
8 Monitoring Team but also the results of any audits that were
9 conducted, and so we did have an audit that was conducted
10 during the reporting period, the results of which are in the
11 report, and I'll just highlight those briefly today.

12 The report also requires a projection of work to be
13 completed during the next reporting period as well as any
14 anticipated challenges or concerns related to implementation
15 of the Consent Decree's provisions.

16 So to begin with the work done by the Monitoring Team
17 during this reporting period, I guess the most significant
18 would be the change in not only personnel but in the
19 leadership of the Monitoring Team, and so I wanted to take
20 this time just to introduce you to some of the new members.
21 As Your Honor stated, I was appointed as Lead Monitor in
22 December, but I had already been an existing member of the
23 team. So I will continue to act as a police subject matter
24 expert in a few discrete areas, most notably with the school
25 resource officer provisions as well as accountability, but the

1 other police subject matter expertise areas, I'll hand off to
2 a subject matter expert.

3 So I will introduce you to the members who are
4 present here. We have Maggie Goodrich.

5 MS. GOODRICH: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MS. TIDWELL: So she has come aboard as our
8 technology consultant. She will be working primarily on
9 assessing implementation of the Consent Decree provisions
10 related to data and technology. She also has substantial
11 expertise in body-worn and in-car cameras. So she will be
12 reviewing those policies and trainings for the police
13 department.

14 We have Robert Stewart.

15 MR. STEWART: Good morning, Your Honor.

16 MS. TIDWELL: So he will be our police subject matter
17 consultant, and he will work on policy and training review in
18 most areas of the Consent Decree related to policing except
19 for the few discrete areas that I am maintaining.

20 We've also added Steven Parish.

21 MR. PARISH: Good morning.

22 THE COURT: Good morning.

23 MS. TIDWELL: Mr. Parish will be our community
24 engagement consultant, and as the name suggests, he will
25 spearhead our efforts in community engagement activities, to

1 include the administration of surveys. He will also play a
2 substantial role in assessing the City's implementation of
3 those provisions of the Consent Decree related to community
4 policing and engagement.

5 Professor Kimberly Norwood couldn't be here this
6 morning, but she's an original team member. So you've met her
7 before, Your Honor.

8 I also have two members from my law firm, Hogan
9 Lovells, one of which is not here today, Karla Aghedo, who you
10 met the last time we were here. She has taken over my
11 responsibilities in the municipal court reform area. So she's
12 got to prepare for an audit later this month. So she couldn't
13 be with us here today.

14 And then finally, we have Courtney Caruso, my
15 colleague at Hogan Lovells, and she will assist me in the
16 planning, coordinating, and reporting of the Monitoring Team's
17 activities.

18 MS. CARUSO: Good morning.

19 THE COURT: Good morning. Thank you.

20 MS. TIDWELL: So the status report -- we've tried to
21 break it down sort of into six subject areas. The first, as I
22 talked about, were the personnel and leadership changes within
23 the Monitoring Team.

24 Then community engagement. The Consent Decree,
25 paragraph 441, requires that the Monitor communicate with

1 various community stakeholders to explain our reports and
2 inform the public about the implementation process. I'm
3 trying to increase the number of the sort of town hall style
4 events and those opportunities for community members to meet
5 with me individually. We had one such event last night. The
6 addition of Mr. Parish will enhance our activities
7 significantly in that area.

8 We've also begun the process of trying to transfer
9 ownership of the existing Ferguson Monitor website from Squire
10 Patton Boggs to my firm. We have a designated email address
11 at Hogan Lovells to receive communications from the community
12 that we announced to the community members last night. For
13 the record, it is fergusonmonitor@hoganlovells.com. We will
14 seek the parties' assistance in developing our own email
15 distribution list so that we can announce when we're going to
16 be in town or when significant events happen or send reports
17 out on our own without having to -- the parties have been very
18 helpful in getting the word out for us, but hopefully, we can
19 start to take some of that on ourselves as time goes on.

20 We also -- last night at the meeting, a gentleman
21 raised the good point that not everyone has email and not
22 everyone accesses things through websites. So we're going to
23 explore possibly ad space in the Ferguson -- there's a
24 newsletter that the City publishes. So I will try other
25 methods to get the word out as to what's going on.

1 The other area of the report deals with policy
2 review, and I think that both the parties will delve into that
3 a little bit more, but as far as the Monitoring Team's role in
4 the policy review process, we have agreed with the parties on
5 a seven-step policy development and review process, the
6 details of which are contained in the status report. That
7 process specifically calls -- there's a provision for the
8 parties to undertake what's called a gap analysis. So they'll
9 ascertain how the police department's existing policies differ
10 from what's required under the Consent Decree, and then
11 they'll go into the actual drafting and revision of the
12 existing policies before submitting them to the Monitoring
13 Team for review. So far, we've been doing that. It's proved
14 very successful and very efficient in sort of getting things
15 done, things moving.

16 Currently, there are completed policies related to
17 use of force, accountability, and body-worn cameras, just to
18 name a few, and they've been submitted to the Monitoring Team.
19 Mr. Stewart has provided substantive comments and edits to the
20 use-of-force policies. Ms. Goodrich has done the same for the
21 body-worn camera. I have edits for the accountability
22 policies and questions, and we're hoping that either today,
23 while we're all still here, we can meet and sort of flesh
24 those out a little bit more, but hopefully, those policies are
25 sort of at the end of their completion date. And there are

1 also efforts underway for policy and procedure development in
2 the municipal court, and I'll speak a little bit more on that
3 when I get to the audit portion.

4 One of the other activities of the Monitoring Team
5 during the reporting period relates to surveys. During this
6 reporting period, the Monitoring Team did complete a draft of
7 a community survey, but unfortunately, the team was unable to
8 administer the survey during this past year, but we're
9 exploring avenues to partner with outside agencies and
10 agencies internal to Ferguson to assist in administration of
11 the finalized survey instrument.

12 We did complete and administer a police officer
13 survey during the reporting period, and the results were
14 analyzed by Professor Rick Trinkner of Arizona State
15 University. We hope to have the results publicized in the
16 next few months. I'm hoping to sort of get more expertise in
17 that area to figure out whether or not we need to move to
18 focus groups for the police survey prior to releasing the
19 report. So I'm still working that through, Your Honor.

20 Another area is the area of technical assistance.
21 The Consent Decree, paragraph 428, permits the Monitoring Team
22 to recommend and provide technical assistance to the City and
23 advise them on what's necessary to achieve full, timely, and
24 effective implementation of the Consent Decree. The
25 Monitoring Team has consistently done this in the municipal

1 court area where Ms. Aghedo, my colleague, has been working
2 with the parties to get a policy manual, a procedure manual,
3 for the municipal court. So she's participated in many calls
4 with DOJ and with the court staff, some of which are here
5 today.

6 In other areas, Ms. Goodrich has assisted FPD as
7 they've tried to change their data and technology software
8 provider, and so she's provided some assistance to them on
9 asking the right questions and getting what they need to have
10 in that area in order to comply, to be able to generate the
11 kind of reports that the Consent Decree requires.

12 Mr. Stewart has also spoken with Sergeant Fuller and
13 Commander McCall. Sergeant Fuller is the new training
14 coordinator for the police department, and so as we move out
15 of implementation of -- out of drafting of these policies, the
16 next phase in implementation means that we've got to train on
17 all these policies, and there are going to be specific
18 materials that the Monitoring Team is going to need in order
19 to assess whether the training is effective and whether it
20 meets with what's required under the Consent Decree. So
21 Mr. Stewart has met with Commander McCall and Sergeant Fuller
22 to sort of give them a brief overview of the kinds of things
23 that we'll be looking for and the materials, the significant
24 amount of materials that will be needed to effectively comply
25 with the training requirements of the Consent Decree.

1 And then, finally, the last area of the Monitor's
2 work that we describe in the report is the audit that was
3 conducted of the court reform provisions in August of 2017.
4 We laid out the process, the methodology, and the results of
5 the audit, and that's contained in the status report.

6 So before I move to that --

7 THE COURT: Before you move --

8 MS. TIDWELL: Yes.

9 THE COURT: Yeah, before you move on, let me just ask
10 you about the town hall meeting you had last night.

11 MS. TIDWELL: Uh-huh.

12 THE COURT: How -- can you just briefly describe what
13 went on and how well attended it was?

14 MS. TIDWELL: So we had a bit of a communication
15 glitch, and hopefully, some of these will be cleared up as we
16 sort of take ownership of getting the word out to the
17 community when these events are going to happen. So we had a
18 notice of the event. We sent a flyer to the -- to the parties
19 to ask them with their respective distribution lists and their
20 website to post the notice of the town hall. The email, the
21 blast email that would normally go out to the distribution
22 lists, didn't happen, didn't go out. So I think that a lot of
23 people found out about it either at the last minute or just if
24 they, by happenstance, happened to be on the City's website.
25 So it wasn't as well attended as town halls in the past,

1 certainly not as well attended as the one that we had in
2 December.

3 We also -- the other issue with the -- the -- I guess
4 the insufficient notice or sort of the way that the email
5 blast didn't go out -- we had a conflict with the Civilian
6 Review Board. So they meet on the first Monday of every month
7 in the City Council chambers where we were planning to have
8 our town hall forum. So they were gracious enough to sort of
9 permit us to sort of bump into a little of their time, but
10 they have to hold their hearings or have to be public; their
11 meetings have to be public. So they needed that larger space.
12 So what we were able to do was I introduced the members of the
13 Monitoring Team who were present last night. I took some
14 questions from the community, and Mr. Stewart also did a brief
15 overview of the community policing provisions of the Consent
16 Decree, specifically, what the Monitoring Team is going to be
17 looking for in regards to what true community policing and
18 engagement is and how -- you know, how that philosophy should
19 infuse the entire department and how we're going to assess
20 compliance in those areas. So we took -- we had some time for
21 questions. We were there for probably a little over an hour
22 so that we could make way for the CRB. But, hopefully, as we
23 take ownership of communication, we'll get a better turnout.

24 THE COURT: Right. And I assume try to avoid
25 conflicts like that because --

1 MS. TIDWELL: Exactly.

2 THE COURT: -- some of the same people might want to
3 be --

4 MS. TIDWELL: At both. Correct. Right.

5 THE COURT: -- at both. Yeah. Okay.

6 All right. Thanks. Go ahead.

7 MS. TIDWELL: So the next area of the status report
8 is the results of any audits that were conducted within the
9 reporting period. In the interest of time, I won't get too
10 much into the weeds on the audit results because they're
11 described in the report and also because the parties haven't
12 had a full opportunity to review them and let me know whether
13 or not they disagree with anything, but I will give you just a
14 few highlights.

15 The audit -- we assessed or we called for a review of
16 37 discrete Consent Decree provisions. Each provision was
17 assessed based on the following schedule. It could either be
18 in compliance, indicating that the City had fully satisfied
19 the written requirements of the Consent Decree provision and
20 fulfilled the purpose of the provision by doing so. It could
21 be in partial compliance, meaning that while the City had
22 technically, in a technical sense, satisfied the requirement,
23 the measures implemented fell short of the underlying purpose
24 served by the Consent Decree provision. A provision could be
25 in initial development, meaning that during the period the

1 City had taken at least one measure in the process of
2 fulfilling the requirement but hadn't completed all of the
3 requirements. Out of compliance means, you know, what it
4 says, that even though we indicated or gave notice that we
5 were going to be auditing a particular provision, the City
6 hadn't taken any -- had not taken meaningful steps to fulfill
7 it. And then finally, not assessed. There were some
8 provisions that although were called for to be audited within
9 the reporting period, for various reasons, couldn't be
10 audited, whether provisions dealing with the access to the
11 database or trying to get some of the technical aspects done
12 that we just quite couldn't -- that we couldn't get done. So
13 those were not assessed through, you know, no fault of the
14 parties. It just was something that either the methodology
15 that the Monitoring Team put forth to assess it was not
16 workable or it just was functionally we just couldn't get to
17 it during the audit period.

18 So there was only one provision that -- where the
19 City was out of compliance, and that was paragraph 331, which
20 relates to the publication of information regarding cost-free
21 legal assistance. There were four provisions that were not
22 assessed for some of the reasons that I just outlined. And
23 we're very pleased to report that the remaining 30 or so are
24 either in full or partial compliance or in initial
25 development, to include the implementation of the

1 comprehensive amnesty provision, which I'm hopeful Mr. Carey
2 will discuss in further detail.

3 So this indicates to me that the City and the court
4 staff have taken this project seriously and that the parties
5 are committed to seeing full implementation of the court
6 reform provisions ahead of schedule. So we're really hopeful
7 about that, and I'm really pleased with the progress so far.

8 There is another audit scheduled for this month. As
9 I mentioned, Ms. Aghedo will be back in Ferguson to conduct
10 the in-person portions of that audit, and then we will report
11 on the results of that in our next status report.

12 The other portion of the status report is the
13 projection of work to be completed during the next period. So
14 to the report in its draft form, we have attached an appendix
15 which contains a table of goals for implementation during the
16 remainder of this year two and year three. We'll flesh those
17 out further in the work plan that we hope to release to the
18 parties this summer. Again, this is another provision that we
19 are awaiting input from the parties on as to what they --
20 whether or not they agree with the timelines that we've set
21 forth in the report. So I don't want to get too much into
22 that, but I will say that it includes starting -- getting into
23 implementation of the training components, so starting not
24 only completing training of a couple of discrete provisions of
25 the Consent Decree, one of which is just for the Chief to

1 explain the provisions of the Consent Decree to the members of
2 the police department, another dealing with an explanation of
3 the recruitment plan to the members of the department. So we
4 feel like those are relatively low-hanging fruit, like we can
5 sort of -- you know, Sergeant Fuller or someone from the
6 police department can draft an outline of remarks for him to
7 present to the department. We will review those to make sure
8 that they cover relevant provisions of the Consent Decree. If
9 there are any PowerPoints that they develop, we'll look at
10 those. And then we'll also expect to have a roster of who was
11 present for each of these training -- each of these briefings
12 that the Chief does. So those will be part of the collection
13 of materials we'll review to assess whether training has
14 happened and whether it's comported with the Consent Decree.
15 But we expect that not only the policies that were -- are in
16 the final stages of development -- that we'll begin training
17 on those maybe not in the remainder of year two but certainly
18 within year three. So that would be some of the use-of-force
19 policies, the accountability policies, et cetera.

20 The final part of the report asks the Monitor to talk
21 about some of the challenges and concerns related to
22 implementation, and so we have, I think as everyone does, some
23 concerns about the pace of implementation, and one of the
24 things that we've recommended to the City in meetings -- and
25 this will be the first time that we sort of recommend that

1 formally in our status report -- is that the City hire some
2 additional people, civilian and sworn, to assist not only in
3 achieving compliance on schedule but, more importantly, in
4 building the capacity within the police department and the
5 City generally to ensure that the reforms in the Consent
6 Decree outlive the Consent Decree. So we're hoping -- in
7 order to have meaningful change, it can't be just a couple of
8 people working through provision by provision, just sort of
9 pouring these things out. There has to be -- systems have to
10 be put in place to figure out how training -- how policy turns
11 into training, how they assess their compliance on their own.
12 When we're gone, we're hoping that they'll have auditing
13 methodologies in place on their own so that they can assess
14 their own compliance. So this will require that they get
15 these folks in now to start, you know, in these early stages.

16 And so, specifically, in the area of policy and
17 training development in the police department, the City, in
18 our view, can no longer expect Commander McCall to go it
19 alone, especially now that expertise will be needed in now
20 taking the policies that have been developed and turning them
21 into training, into substantial training materials, to include
22 PowerPoints, lesson plans, curriculum, all of these things
23 that go into a robust training program. They're going to need
24 somebody to sort of sit down with them and look at their
25 policies, look at the Consent Decree, and really have a vision

1 as to how all of that is going to get done. And so all of
2 these things, the Monitoring Team is going to ask for
3 substantially ahead of time before any training is
4 implemented. The City -- the police officers have a lot of
5 requirements under the state, the POST requirements for
6 training, and someone's got to go through and see whether or
7 not what's required by the state meets with the Consent Decree
8 and whether there are any gaps in that training and who's
9 going to provide it. They're going to have to either hire
10 people to come in to provide training or send a substantial
11 number of officers outside of the city to train-the-trainer
12 type courses so that they can come back and do the training
13 themselves. So there's a lot that's going to go into this,
14 and I think the sooner the City puts somebody on this to sort
15 of act as a bridge between Commander McCall and the policy
16 development piece and Sergeant Fuller and the training piece,
17 the better they will be both in the compliance end of the
18 Consent Decree and going forward.

19 Similarly, in policy development, it's the municipal
20 court side, and the City has designated the court
21 administrator to act as its point person in policy
22 development, but she has a lot of other jobs, and the way that
23 we have the policy review and development process on the
24 police side, there should be -- it should be mirrored on the
25 court side as well, and so because the court policies and

1 procedures require -- there's trial procedures that need to be
2 developed. There are going to be things that -- you know, I
3 don't know that it's necessary that an attorney do it, but
4 maybe, you know, law students or whomever, but somebody else
5 has to get in there who really, you know, has -- you know,
6 ideally, someone who's practiced in local courts, who can sort
7 of, you know, talk them through all of that. We've had
8 Ms. Aghedo working with the parties. As I said, she's
9 provided a great deal of technical assistance in this area,
10 but much like the police side, we're going to step back, and
11 we're going to be looking for the parties to take on the
12 development and drafting process here, and so I think they
13 would benefit greatly from having another outside person come
14 in to assist them there.

15 And then, finally, the other recommendation is that
16 the City and the police department look to hire an outreach
17 coordinator, a community engagement person of their own, to
18 help them make inroads in all segments of Ferguson,
19 particularly, though, the underserved communities that are
20 touched on in the Consent Decree itself. Hiring a person with
21 community engagement will assist greatly in helping them not
22 only implement the provisions of the Consent Decree, but it
23 will help them to gain some legitimacy, more legitimacy and
24 trust within the community at large.

25 So those are the concerns as the report requires, the

1 concerns that the Monitoring Team has related to
2 implementation, and we will -- we have expressed those to the
3 parties here, and I will just say that the -- to say to the
4 City, you can't have Steve Parish. So you have to find your
5 own person. Right. And so -- but despite those concerns,
6 Your Honor, the Monitoring Team is pleased with the progress
7 made thus far, and we hope that now that our own transition
8 period has passed that we can assist the parties in achieving
9 full implementation in a timely manner, which is everyone's
10 goal. So thank you, Your Honor.

11 THE COURT: You covered a lot in a short period of
12 time.

13 Mr. Volek, do you wish to go next, or Mr. Carey? I
14 can't remember if there was a plan.

15 MR. VOLEK: I can go, Your Honor.

16 THE COURT: All right. I'll hear from the Plaintiffs
17 in the case, the Department of Justice.

18 MR. VOLEK: Thank you, Your Honor, and thank you,
19 Ms. Tidwell, for that comprehensive and, in our view, accurate
20 report of both the substantial progress that's been made in
21 the last several months as well as the challenges that remain.
22 We don't have a lot to add, Your Honor. I'll keep this brief.

23 I do want to begin by thanking Ms. Tidwell and the
24 rest of the Monitoring Team. In the last several months since
25 our December status hearing, Ms. Tidwell has assembled a very

1 strong team with a diverse range of experiences and expertise.
2 The responsibilities of the Monitoring Team are important
3 under the Consent Decree, to assess compliance, to report out
4 compliance to the public, to provide technical assistance, and
5 based upon this report and our working relationship with both
6 the City and her over the last several months, we know that
7 this team is equipped to do exactly that. And, of course, you
8 know, the City is itself the one who has to do the lion's
9 share of the work here, and we also want to commend the City
10 for its efforts over the last several months. Our working
11 relationship between these three entities -- the Department of
12 Justice, the City, and the Monitoring Team -- is, I would say,
13 not just collaborative but also complementary, figuring out
14 where each of us have particular things to bring to this
15 process, figuring out how to make this process most efficient.
16 We think that we're really getting to a place where this
17 process is moving along, and we anticipate the progress will
18 continue to increase.

19 I want to begin by -- substantively begin by thanking
20 the members of the public who are here as well. We appreciate
21 their input as part of this process. They, obviously, have a
22 critical role to play.

23 During the last public hearing, there were public
24 comments, and two of the areas that were most commented on
25 were, one, the need for public reporting about the status of

1 progress. We are very, very pleased that the Monitor's report
2 was submitted to the parties, and we are committed to getting
3 that -- that reviewed and back to Ms. Tidwell as soon as
4 possible so that report can get out to the public. We're
5 very, very grateful to her and her team for putting that
6 together so quickly.

7 The second issue that was significant at the last
8 hearing was comments about the amnesty provisions under the
9 municipal court reform section of the Consent Decree. I
10 anticipate that Mr. Carey will speak in more detail about
11 this, but over the last several months, there has been a
12 tremendous commitment from the court staff, in particular, the
13 court clerk, to work on those amnesty provisions and ensure a
14 comprehensive, fulsome review of the thousands of cases that
15 were pre-2014 cases, as required by the Consent Decree. I'll
16 let Mr. Carey get into the details, but we are very confident
17 that we are on pace to meet the anticipated target of being
18 able to report completion of that amnesty provision by the
19 next hearing in June.

20 As Ms. Tidwell discussed, there's also been
21 significant progress in the area of policies. I think that
22 she covered it rather comprehensively. The one thing that
23 I'll only add is that there's also been an effort by the City
24 and by the DOJ to ensure that there is robust community input
25 on those policies, and so over the last several months, we've

1 held a series of forums on both use-of-force policies,
2 accountability policies, and body-worn camera policies, and
3 those forums have really proved to provide invaluable feedback
4 from community members about what they think is important to
5 be included into official Ferguson Police Department policies.
6 Part of what the Consent Decree hopes to achieve is law
7 enforcement in Ferguson that is more centered around community
8 priorities and that is more responsive to community input, and
9 we think that these forums are really a good first step
10 towards making that happen.

11 We held two meetings on the use-of-force policies and
12 three on accountability and body-worn cameras at diverse
13 locations throughout Ferguson, and we met in small groups. We
14 had big sheets of white paper and wrote down a bunch of really
15 helpful ideas, and then we went back with the City and tried
16 to incorporate those ideas where appropriate into actual
17 policy, and so that's been a very helpful process.

18 In addition, the community policing policy has been
19 provided to the Neighborhood Policing Steering Committee for
20 their review and input. We've attended every NPSC meeting
21 since the last status hearing, and we've been really
22 encouraged by the quality of the input and the quality of the
23 discussion about that community policing policy, and we
24 understand that they're prepared to give us their final
25 feedback at the next meeting on March 15th.

1 In addition, there's going to be a focus on several
2 policies in the next several months. We are going to move
3 towards the stop, search, and arrest policies, and we are
4 anticipating having similar forums on those policies to ensure
5 that we get community feedback on those issues.

6 And as Ms. Tidwell mentioned, we are also going to be
7 focused heavily on policies with respect to the municipal
8 court.

9 Other areas that we anticipate focusing on in the
10 next several months are making sure that there are data
11 systems that allow the City to measure what needs to be
12 measured as under the Consent Decree. As Ms. Tidwell alluded
13 to, what the Consent Decree requires is not just the ability
14 to measure compliance but also to create the institutional
15 capacity to measure its own practices on an ongoing basis. At
16 the end of each section of the Consent Decree, there's a
17 section called self-assessment, and what that envisions is
18 that the Ferguson Police Department has that capacity to look
19 at its own data to understand what it is doing. You tend to
20 care about the things that you measure, and so a lot of the
21 focus in the next few months is going to be making sure that
22 the Ferguson Police Department is equipped to measure its law
23 enforcement practices appropriately.

24 There's also going to be some significant work in the
25 school resource officer section. There's been a lot of

1 progress made with respect to the memorandum of understanding
2 with the school district, and there has already been work
3 that's begun on the manual for school resource officers.

4 And as Ms. Tidwell mentioned, there is going to be a
5 real focus on training. Once we have the policies in place,
6 figuring out how to adequately and appropriately train
7 officers on those policies and make sure that they're equipped
8 to carry out those policies and practices is going to be a
9 challenge over the next several months.

10 Finally, there is always an emphasis on community
11 engagement. The NPSC has really provided some very positive
12 and helpful feedback over the last several months, and we will
13 continue to meet with them and observe their meetings and
14 provide any assistance we can. We attended a Civilian Review
15 Board meeting last night that was very productive, and they
16 are poised to begin reviewing misconduct complaints in the
17 next several months. In addition, the City has held a series
18 of meetings that, I think, bear noting at this hearing. Last
19 month, the City held a meeting in one of the area high
20 schools, and it was a tremendous dialogue between law
21 enforcement officers and youth, and there were experiences and
22 viewpoints shared on both sides, and it was really in line
23 with the types of meaningful discussions that are envisioned
24 by the community engagement section of the Consent Decree.
25 There was also a meeting held at the apartment complex, the

1 Northwinds apartment complex, and City leadership as well as
2 the -- including the Chief of Police attended that meeting,
3 and in the coming months, we are going to work with the City
4 to make sure that those meetings continue and are expanded.

5 Finally, I want to end on a point that Your Honor
6 asked about regarding last night's meeting. Ms. Tidwell
7 mentioned that there were some difficulties with the
8 distribution lists. That was our fault in particular. It
9 was, to be clear, not the City's fault, not the Monitoring
10 Team's fault. To be honest, it wasn't even our own team's
11 fault; it was my fault personally for failing to get that
12 email out. It was a bit of a crossed wired situation, which I
13 certainly apologize for.

14 But, you know, taking a step back, I think we all
15 recognize from that experience and from the feedback that
16 we've received over the last several months that having one
17 email distribution list that we maintain to help advertise for
18 events in line with the City putting events on their website
19 and their Facebook page is not really an adequate way to get
20 word out, and so I know that there's commitment from the City
21 and from the Monitoring Team and from us to make -- to revise
22 that process, and we look to community members to help us in
23 that as well, and we hope that we get some input from them
24 about how to do that. We've received some input already, but
25 we look forward to more, and I think that it's terrific that

1 Ms. Tidwell has brought on Steve Parish, onto the team. I
2 know that that will be a help, and we look forward to
3 brainstorming and figuring out how to best make that happen.

4 So unless Your Honor has any other questions, I think
5 that we -- we thank Ms. Tidwell for her comprehensive report,
6 and we'll report back in June.

7 THE COURT: Yeah, I don't have -- I don't have any
8 further questions. I will say I do always appreciate it when
9 lawyers actually take responsibility for screwing things up.
10 So I appreciate you doing that.

11 MR. VOLEK: It was my screwup. Thank you.

12 THE COURT: Yeah, I mean it's -- you know, it
13 happens. It happens. Okay. All right. Thank you.

14 Mr. Carey. And I assume you'll begin by introducing
15 the members of the -- the officials who are here, as you
16 normally do. I'd appreciate that. I ought to know names and
17 faces by now, but I still don't.

18 MR. CAREY: Well, there are some new ones today.

19 THE COURT: Okay.

20 MR. CAREY: So that's a good thing.

21 And good morning, Your Honor.

22 THE COURT: Good morning.

23 MR. CAREY: Thank you so much for hearing me today.

24 So, as you said, of course, I will begin by
25 introducing you to the City officials who are here today. You

1 know, as you know, when we have these status hearings, we
2 always have a nice contingent of folks from the City, people
3 who are interested in what's going on and people attempting to
4 show the Court as well as the Department of Justice and the
5 public that we're dedicated to the process.

6 I'll start. Obviously, you've met Mr. De'Carlon
7 Seewood, who is our City Manager, before. In the middle there
8 is Chief Delrish Moss, our police chief. And then on the end
9 is Commander Frank McCall, who is our Consent Decree
10 Coordinator. And then in the row behind them, you will see
11 Councilwoman Ella Jones; you'll see Councilwoman Laverne
12 Mitchom; you will see our City Court Administrator, Christine
13 Lanfersieck.

14 THE COURT: Okay.

15 MR. CAREY: And you will then, next to her, see our
16 Municipal Judge, Terry Brown.

17 JUDGE TERRY BROWN: Good morning.

18 MR. CAREY: And then behind Judge Brown and Christine
19 is Councilwoman Linda Lipka.

20 So a little bit different crowd today. We're here at
21 10:00 instead of 1:00, and so I guess, you know, normally, you
22 know, the Mayor is here, but I guess he, you know, was unable
23 to make it today. So, again, a nice strong contingent from
24 the City, you know, to come out and show support for what
25 we're doing.

1 You know, I think one of the -- I maybe have three
2 other kind of points I'd like to touch on this morning, Your
3 Honor. Then I'll take any questions you might have of me. I
4 know the Monitor and, obviously, the Department of Justice has
5 mentioned some things. I'll try to touch on some of that
6 stuff here as I talk to you, but if I don't, you know,
7 obviously, feel free to ask me whatever questions you'd like.

8 You know, the first one is the Monitoring Team. I
9 can't tell you how excited the City is right now to have, you
10 know, the new Monitoring Team in place, and last night, we got
11 a chance to meet some of the new additions to the team, and
12 this just -- this really feels -- it feels good. It feels
13 like progress, and the City's very excited with the work that
14 Ms. Tidwell's been doing, and obviously, we got a chance to
15 hear some of the work that some of the other members of the
16 team are going to be doing for us, and we're entering a stage
17 in the Consent Decree where we really know that having this
18 expertise on our Monitoring Team will be crucial for us going
19 forward. So we're really happy and excited about the
20 opportunity to work with these folks.

21 And just in reading the report that Ms. Tidwell
22 produced a couple days ago for the parties to review, you
23 know, we're really starting to kind of see some of that
24 concrete input, some of that concrete guidance that we were
25 looking for from the Monitoring Team, and so it was just

1 really refreshing to see that, and the City's very excited and
2 looking forward to moving forward through the process.

3 Ms. Tidwell did touch on this issue of additional
4 staff needed by the City. It has, Your Honor, become apparent
5 to those of us who work on the Consent Decree on a weekly
6 basis, daily basis, that we are getting to this point in the
7 Consent Decree where we -- you know, we really have to, you
8 know, implement some systems, implement some structures that,
9 you know, will help us with further compliance under the
10 Consent Decree. We've kind of been doing things, as the
11 Monitor mentioned before, with just kind of having Commander
12 McCall kind of lead the way on the police side. We've had
13 Christine Lanfersieck lead the way on the court side. But I
14 think we're really starting to get to a point in the Consent
15 Decree where, as the Monitor mentioned, we have training
16 coming up. We've got curriculum development. We have all
17 these things. And just recently, I think I mentioned to you
18 last week we attended a consent decree conference -- the City
19 officials did along with representatives from the Department
20 of Justice team and the Monitor, and it became -- it was
21 really apparent at that meeting, just kind of being able to
22 talk to some of the other cities who are in consent decrees
23 and kind of notice, you know, how they're staffed and how
24 they're set up.

25 THE COURT: Right. And as I understand it from the

1 participation, the other people from other cities who were
2 there have consent decrees at various stages; right?

3 MR. CAREY: Absolutely.

4 THE COURT: Some are newer? Some are older? Some
5 are bigger?

6 MR. CAREY: Absolutely.

7 THE COURT: Some are -- yeah.

8 MR. CAREY: Yeah. For example, we were able to chat
9 in detail with Seattle, and Seattle is in a consent decree
10 right now. Some representatives from that city. And they
11 are -- and they are at year five, substantial compliance, and
12 so they're in that process of then two years of being in
13 compliance before they're actually out of it. But then we
14 were also able to chat in detail with the folks from
15 Baltimore, who are, you know, a little earlier in their
16 consent decree process than the City of Ferguson is. We also
17 had an opportunity to chat with the folks from New Orleans and
18 Cleveland. And so, you know, just the ability to kind of chat
19 with those folks and sit down and exchange ideas and kind of
20 see, you know, what their -- what -- you know, how they've
21 approached this, the consent decree, and what works for them,
22 what hasn't worked for them. It's really been eye-opening for
23 us, and so we haven't -- again, it's become apparent that the
24 City will need to do some things, you know, from those of us
25 who work on it every day. We haven't yet vetted that with our

1 politicians, but I'm sure, you know, we'll get the support
2 that we need to make sure that the City, you know, can
3 remain -- can achieve and maintain the compliance necessary
4 and called for in the Consent Decree.

5 So the last thing I wanted to kind of touch on was
6 the amnesty program, and that was mentioned both by the
7 Monitor as well as the Department of Justice. So, you know,
8 last time we were here, we referenced a certain number of
9 cases. I think that was 7,900 or something like that that we
10 had outstanding, that the City had put in a system, that we
11 thought we'd be able to get through those cases by the June
12 status hearing that we have here, and, you know, I am very
13 happy to report to you that we are ahead of schedule with
14 regard to those cases. This actually -- this subject actually
15 came up last night, and one of the folks who asked me about it
16 last night is in the audience. So I'll try to be -- because
17 she asked specific questions about it, and I'll try to be as
18 specific as I can. So what -- so what the City has done is --
19 well, what we were required to do was to review pre-2014 cases
20 under the Consent Decree and apply the good-cause standard
21 that was developed by the parties and the Monitoring Team.

22 THE COURT: And explain that good-cause standard, if
23 you will. Just I mean --

24 MR. CAREY: Sure. Well, the good-cause standard is,
25 basically, a standard that was developed that, basically,

1 says, you know, all the pre-2014 cases will be dismissed
2 unless there are certain criteria that are met. One of
3 those -- and each one of those criteria are -- would be a
4 reason to keep the case open, so to speak. And so the
5 specific criteria escape me right now off the top of my head,
6 but one of them which I know because we've been working on it
7 has to do with, you know, folks that were driving while
8 suspended or driving while revoked. What we were tasked with
9 doing was reviewing the pre-2014 cases where we had a driving
10 while suspended or a driving while revoked that might have
11 been linked to a failure-to-appear charge because, as you
12 know, the City was required to dismiss all of its
13 failure-to-appear charges. Well, in the instance where, you
14 know, some of those driving while suspended or driving while
15 revokeds were linked to those, we were, basically, just
16 dismissing everything. And then in situations where the
17 driving while suspended or revoked was not linked to that, you
18 know, the prosecutor would keep the case open to investigate a
19 little bit further. So that's kind of an example of the
20 good-cause standard at work.

21 So as of, I think, today, we have, I think, what we
22 call nolle prossed or dismissed 4,665 cases under the
23 good-cause standard. There's another 320 or so that were
24 reviewed by the prosecutor and kept open. So that leaves us,
25 you know, somewhere around 2,000 plus and some change cases to

1 kind of get through prior to June, and I think we'll be well
2 within that target.

3 THE COURT: Let me just ask you one thing --

4 MR. CAREY: Sure.

5 THE COURT: -- about that. I know there was a
6 practice where what you were -- as I think you explained it to
7 me, what you were trying to do -- if someone had a new case on
8 the docket --

9 MR. CAREY: Yeah.

10 THE COURT: -- and they're due in court, that the
11 prosecutors would then go back and look to see if they had any
12 other old cases pending that ought to be dismissed. Is that
13 still going on?

14 MR. CAREY: Yes, yes, ma'am. So we have an overall
15 kind of general process of review where the prosecutor and the
16 court staff are just reviewing the old cases from pulling them
17 off the shelf and reviewing them, but then we also have a
18 review process that is linked to a particular court date. So
19 what will happen is the court clerk will prepare the docket;
20 the prosecutor will come in prior to the court date, review
21 the docket, identify cases that, you know, could be subject to
22 dismissal under the good-cause standard.

23 THE COURT: For example, there could be a driving
24 while revoked that was linked to a failure to appear?

25 MR. CAREY: To a failure to appear --

1 THE COURT: Yeah.

2 MR. CAREY: -- or something like that. Absolutely.

3 And so what he's attempted to try and do is to pull
4 those aside and try to, you know, expediate the process so
5 that those folks don't have to sit in court forever just to
6 hear that their case is going to be dismissed. So we do have
7 kind of two simultaneous review processes going on -- one,
8 kind of an overall process, the other one designed to make the
9 court day more expeditious, so to speak, when people come in
10 to deal with whatever charges they're dealing with.

11 THE COURT: All right.

12 MR. CAREY: So that's kind of where we are with the
13 program. Like I said, I do think with the amnesty program we
14 should meet that deadline that I referenced with the court.
15 We're, obviously, on target in doing so, and barring any
16 unforeseen circumstances, I think -- I expect to stand here in
17 June and tell you that we have finished that review.

18 So other than that, I don't really have much else. I
19 mean the other folks who spoke have, you know, kind of given
20 you -- and I don't want to necessarily repeat. So if you have
21 any other questions, I'm happy to answer them.

22 THE COURT: I guess one of the questions I have is --
23 and I could have asked the Monitor this. I know you've got
24 this process in place on the policy reviews that you all have
25 been going through, and have -- how quickly are you all able

1 to turn around your comments on those? I mean some of them, I
2 guess, need -- well, I guess you get them together, and then
3 they go to the Monitor; right?

4 MR. CAREY: Yes, ma'am.

5 THE COURT: And then the Monitor comes back to you.
6 I mean there's a lot of give and take in this process; right?

7 MR. CAREY: Absolutely. Your Honor, how it really
8 works is we probably end up talking to the Department of
9 Justice three or four times a week during a week on any
10 particular issue on the police side and then maybe another two
11 or three times a week on the court side. So there is just
12 constant, constant communication -- constant phone conferences
13 about policy language, policy drafting; constant emails going
14 back and forth between the parties about, you know, "Hey, this
15 is our proposed language; are you okay with that? Whatever,
16 you know, changes you have, please send those back." And so
17 it's just a constant, ongoing process, not to mention the fact
18 that the Department of Justice and the Monitor have
19 recently -- you know, I'd say in the last three months,
20 they've been in town -- I mean they've just been in town a
21 lot.

22 THE COURT: Right.

23 MR. CAREY: So when they are in town, you know, we
24 have meetings and we have sessions where we all kind sit down
25 and we chat.

1 THE COURT: And, Mr. Volek, are you -- I mean I think
2 you said this, but you're pleased with the way this give and
3 take is working; you think it's productive right now?

4 MR. VOLEK: Yes, Your Honor, I do think it's
5 productive. I think that it allows the parties to reach
6 preliminary agreement. We sometimes turn to the Monitoring
7 Team for some assistance during that process, but for the most
8 part, it allows the parties to do that, which is both more
9 time-effective but also cost-effective because it sort of
10 saves the Monitoring Team from getting involved in things that
11 we can work out between us.

12 THE COURT: Right. And that was part of what I was
13 hoping would happen.

14 MR. CAREY: Yeah. Yeah.

15 THE COURT: So, yeah, that's good.

16 MR. CAREY: I think we've gotten there, Your Honor,
17 in terms of what we were hoping would happen with --

18 THE COURT: Right.

19 MR. CAREY: -- switching to this kind of
20 give-and-take system.

21 THE COURT: I do not have further questions.

22 Anything further either Ms. Tidwell or Mr. Volek
23 wants to add?

24 MS. TIDWELL: Your Honor, if I could just ask
25 Mr. Carey, I think when he spoke about the good-cause

1 criteria, particularly, the provision that deals with how a
2 failure to appear that results in a license suspension -- how
3 that's going to be treated, that wasn't sort of laid out in
4 the original good-cause criteria as we explained it to the
5 Court, and so I just -- I think for the folks in the
6 audience --

7 THE COURT: Yeah.

8 MS. TIDWELL: -- it would be helpful --

9 MR. CAREY: Sure.

10 MS. TIDWELL: -- to sort of explain the change and
11 how the review has been sort of tweaked a little.

12 MR. CAREY: Sure. Sure, sure. Yeah. Yeah, you're
13 right. So we have been, on the court side of things, working
14 on the good-cause standard. It's a document that we, the
15 parties, worked with the Monitoring Team in developing the
16 standard. What has recently kind of occurred was that we
17 realized that in applying the standard, the way the prosecutor
18 was applying the standard was a little bit different than
19 maybe how the words could be interpreted, and so the parties
20 then got together and said, hey, listen. You know, we need to
21 figure out what's being done so that we can make the standard
22 consistent with what's actually being done as well as being
23 consistent with what's required to be done under the Consent
24 Decree. So the last maybe two weeks or so, the parties have
25 been kind of tinkering with the language just to make sure

1 that the language is, number one, compliant with what's
2 required under the Consent Decree but, number two, is
3 consistent with what the prosecutor's actually doing. And so
4 right now, you know, as a matter of fact, we -- we had a call
5 Monday -- yesterday about it, and there's language in my inbox
6 right now being proposed by Sharon Brett, who's not here, with
7 the Department of Justice team, to kind of solidify that kind
8 of change that we're tinkering with with the good-cause
9 standard.

10 THE COURT: Right. And then I'm assuming you're
11 working with the prosecutor to make sure that gets implemented
12 as required.

13 MR. CAREY: He's in the loop. Yes, ma'am. He's in
14 the loop.

15 THE COURT: Yeah. All right. Thank you. I think
16 that does clarify it a little because I know there had been
17 some issues with that. Yeah.

18 All right. Well, I appreciate the report. I think
19 things are moving. You know, there's a lot still to be done
20 obviously, but I think it is very helpful to see that things
21 are moving along. I'm particularly pleased to see that these
22 policies -- that we are going to start seeing the policy
23 documents shortly, and we'll have the report at the end of the
24 month or see the policy, you know, policies being agreed to
25 and adopted that comply.

1 So I think you've -- I appreciate the work that you
2 all have been doing. I -- we do have in June the next
3 conference, and at that conference, I will once again ask for
4 public comments, and I hope by then we'll hear -- there will
5 be different comments; they won't be the same comments. I
6 mean I'm sure there's going to be things the public is going
7 to want to comment on. I'm sure there's going to be things
8 that need working on, but I'm hoping that we'll be able to see
9 real progress and that that's what we'll see at that hearing
10 or what -- I hope the public will think that, but maybe they
11 won't, and if they won't, that's important for us to hear. We
12 need to know what the problems are.

13 So with that said, I will simply, you know,
14 appreciate -- thank you all for coming in. Thank you to the
15 members of the public for continuing your interest in this
16 matter. It's -- citizens need to remain interested in this.

17 And to the City officials and Commander McCall, Judge
18 Brown, for everything you all are doing to move everything
19 forward, and I do appreciate having everybody still fully
20 engaged in this process as you have to be.

21 So thank you, all, and court's in recess.

22 (Proceedings concluded at 10:57 a.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 40 inclusive.

Dated at St. Louis, Missouri, this 20th day of March, 2018.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter