

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.)

MOTION HEARING

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

APRIL 19, 2016

APPEARANCES:

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1 THE COURT: All right. Good morning. We are here in
2 the case of United States of America versus the City of
3 Ferguson. This is Case No. 4:16-CV-180. I would start by
4 asking counsel for the Plaintiffs to please stand and identify
5 themselves for the record.

6 MS. LOPEZ: Your Honor, I'm -- Your Honor, I'm
7 Christy Lopez. I'm a deputy chief in the Special Litigation
8 Section of the Civil Rights Division.

9 THE COURT: All right.

10 MR. VOLEK: Jude Volek for the United States, Civil
11 Rights Division.

12 THE COURT: All right.

13 MS. SENIER: Amy Senier for the United States, Civil
14 Rights Division.

15 THE COURT: Thank you.

16 MR. HART: Charles Hart for the United States, Civil
17 Rights Division.

18 THE COURT: All right.

19 MR. BAINS: Chiraag Bains for the United States.

20 THE COURT: All right. And you all have a client
21 with you as well? Okay. I had her on the seating chart.
22 That's fine.

23 For the Defendants, would you all --

24 MR. WEBB: Your Honor, my name is Dan Webb, of the
25 law firm of Winstron Strawn, and I'm a chief counsel for the

1 City of Ferguson in this matter. Joining me at counsel table
2 is Jared Hasten, also from the same law firm, and Stephanie
3 Karr is also at counsel table. She is counsel to the City of
4 Ferguson.

5 THE COURT: Right. And I realize that. I had her
6 written down on the other chart. So that was why I was asking
7 the Plaintiff's lawyers about that. Thank you, Mr. Webb.

8 MR. WEBB: And we do have some client representatives
9 here if you would like me to introduce those to Your Honor at
10 this time.

11 THE COURT: Yes. That would be nice.

12 MR. WEBB: We have Mayor Knowles -- stand up
13 please -- is here in court, and we have Councilwoman Ella
14 Jones is in court. Thank you. And we have Councilwoman
15 Laverne Mitchom is in court.

16 THE COURT: All right. Thank you.

17 MR. WEBB: Thank you, Your Honor.

18 THE COURT: All right. So as you all know, this is a
19 hearing on the joint motion filed by the parties for approval
20 of the Consent Decree, which is their settlement agreement
21 relating to this case.

22 Oh, before I do -- I begin, I do want to remind
23 everyone, and I know the court staff has already told you
24 this, but it is the policy of the Judicial Conference of the
25 United States that we don't have any recording of any sort in

1 court proceedings, and so everyone -- no one can record
2 anything. And additionally, it's the policy of our court that
3 all electronic devices must be powered off before you enter
4 the courtroom. So just as I tell the juries in every case, if
5 you have one in your pocket, please pull it out and turn off
6 the power at this time. It needs to be completely powered
7 off, not on vibrate or silent, but completely turned off, and
8 every time I tell that to a group of jurors, some people pull
9 it out of their pockets and turn them off. So I hope you all
10 will do that.

11 And if -- it looks like we have plenty of room here
12 in the hearing room. We do have an overflow room set up if
13 there were a need for it, but it looks like there's not a need
14 for that.

15 So as I started to say, the United States, who is the
16 Plaintiff in this case, and the City of Ferguson, who's the
17 Defendant, have filed a joint motion asking me to approve
18 their Consent Decree, and they asked me in that motion to
19 conduct this hearing and allow members of the public to be
20 heard. I did enter an order on March 28th setting this
21 hearing and establishing the ground rules. Normally, at a
22 hearing to approve a settlement or, actually, any hearing in
23 court, only the lawyers for the parties would speak.
24 Sometimes they would call witnesses, but normally, for -- in
25 terms of speaking and arguing to the Court, we only hear from

1 the lawyers, but I am hearing from others in this case because
2 the lawyers asked me to and because I agreed with them that it
3 was in the interest of justice for members of the community to
4 be heard.

5 I have received written comments from 23 people or
6 organizations. Those were posted on the Court's webpage, and
7 I have read them.

8 Before we begin, I will say that the issue before me
9 is whether I should approve or disapprove the Consent Decree.
10 I cannot rewrite it. I am not here -- I'm not allowed under
11 the law to negotiate it. If I don't approve it, then this
12 case will move forward just like any other lawsuit and we will
13 set a schedule for discovery, depositions, motions, trial and
14 proceed just like any other lawsuit.

15 This is a settlement entered into by the parties, and
16 the standard I'm to apply under the law is whether it's fair,
17 adequate, and reasonable under all of the circumstances and
18 the law of this case.

19 So here's how we'll proceed today. First, I'm going
20 to ask the counsel for the United States as the Plaintiff to
21 speak and then counsel for the City of Ferguson to speak. If
22 they wish to have any of their client representatives speak,
23 they may do so. I'll then hear comments from the public in
24 the order they signed up. I know a couple of people signed up
25 right after 9:00, but there's only 32 people total. So you

1 all will be allowed to speak and will speak in the order that
2 you signed up.

3 There's a light system on the lectern. So everybody
4 needs to come up to the lectern to speak. There's a light
5 system, and when members of the public start speaking, it will
6 begin timing your five minutes. You'll see the counter on it
7 that tells you how much time is elapsed or you have left. At
8 four minutes, the yellow light will come on to tell you your
9 time is almost up, and at five minutes, the red light will
10 start flashing. This is -- we borrowed this from the Court of
11 Appeals. It's the light system they usually use up there. So
12 that way you'll know when your five minutes is up. It's
13 preprogrammed. Everybody gets the same time for all the
14 members of the public who are speaking.

15 So -- oh, and additionally, I would ask, for the
16 members of the public who are speaking, when you speak, if you
17 will state your name clearly and also state what municipality
18 or town, or if you live in an unincorporated area, tell us
19 that so that we -- you don't need to state your home address
20 but just your town or municipality so it will be clear where
21 you live when you make your statements.

22 So with that, I would ask the United States, whoever
23 is speaking -- Mr. Volek, I guess -- to proceed.

24 Oh, and then after all the public comments, I'll hear
25 further comments from the lawyers.

1 MR. VOLEK: Good morning, Your Honor. Jude Volek for
2 the United States. Following a thorough investigation of the
3 Ferguson Police Department that found a pattern or practice of
4 conduct that violates rights protected by the Constitution and
5 laws of the United States and after months of intensive
6 negotiations, the United States and the City of Ferguson have
7 entered an agreement to resolve this litigation and bring
8 about the reforms needed to secure constitutional policing and
9 court practices in Ferguson. The parties have submitted that
10 agreement to this Court as a proposed Consent Decree.

11 THE COURT: Could you pull that mike a little closer
12 to you? Scoot the base so it's closer to you.

13 MR. VOLEK: Is that better?

14 THE COURT: Yeah.

15 MR. VOLEK: The parties have submitted that agreement
16 to this Court as a proposed Consent Decree, and we appear
17 together today to request that the Consent Decree be approved
18 and entered as an Order of the Court. Entering the Consent
19 Decree would be a critical step towards correcting the
20 constitutional violations in the complaint, restoring trust
21 between law enforcement officers in Ferguson and the people
22 they serve, and ensuring that the basic constitutional rights
23 of the entire Ferguson community are protected.

24 As set forth in the parties' joint motion, the
25 question before the Court is whether the Consent Decree is

1 fair, reasonable, and adequate to address the allegations
2 brought by the United States. In making this determination,
3 courts balance several factors, including whether the proposed
4 settlement is the result of a fair process conducted in good
5 faith as well as whether the settlement resolves the dispute
6 that's pending before the court and furthers the objectives of
7 the law on which the complaint was brought.

8 In considering these factors, there's a presumption
9 in favor of approving settlement agreements. That presumption
10 is especially strong here where the government -- where the
11 parties are government -- are government entities committed to
12 the protection of the public interests. Accordingly, if the
13 Court finds that the decree submitted by the parties is fair,
14 reasonable, and adequate, this Consent Decree should be
15 approved.

16 The Consent Decree here does meet the fair,
17 reasonable, and adequate standard. First, the Consent Decree
18 is the result of a fair process. The decree is grounded in a
19 comprehensive investigation of the Ferguson Police Department
20 and was forged through arm's length negotiations between the
21 parties. Second, the substantive requirements of the Consent
22 Decree are specifically tailored to remedy the constitutional
23 violations that are alleged in the United States' complaint,
24 and their implementation will further the public's interest in
25 ensuring lawful and effective policing. I will discuss each

1 of these two points in turn.

2 The United States opened a civil investigation of the
3 Ferguson Police Department in September 2014, under 42 U.S.C.
4 § 14141. That law was passed in 1994 to give the United
5 States authority to remedy patterns or practices of
6 unconstitutional conduct within law enforcement agencies. The
7 investigation was conducted by a team of lawyers and other
8 staff from the Civil Rights Division of the United States
9 Department of Justice.

10 The investigation included the review of over 35,000
11 pages of records, including police reports, policies and
12 procedures, training materials, investigative files, and
13 emails sent by City officials.

14 The United States spent over 100 person days on site
15 in Ferguson, participating in ride-alongs with officers,
16 observing municipal court sessions, and gathering information
17 through interviews and meetings with Ferguson officials,
18 including the Mayor, the City Manager, the City Finance
19 Director, the Municipal Judge, the Clerk of Court, and the
20 Chief of Police as well as more than half of the sworn
21 officers within the Ferguson Police Department.

22 The United States also met with a broad range of
23 individuals who live in, work in, or travel through the city
24 of Ferguson. We held a community meeting attended by roughly
25 300 people and held a series of smaller meetings that were

1 open to all members of the public. We reached out to every
2 neighborhood association in Ferguson, and we met with every
3 group that responded to us. We set up a community email and
4 phone number to solicit information from the public, and we
5 carefully considered the views of all individuals who reached
6 out to us, no matter what the content of their comments were.

7 Throughout this process, the United States was
8 assisted by law enforcement experts, including two chiefs of
9 mid-sized police departments.

10 This thorough and careful investigation found a
11 pattern or practice of conduct that violated the First,
12 Fourth, and Fourteenth Amendments to the Constitution. This
13 conduct includes unlawful stops, searches, and arrests,
14 excessive force, interference with the right of free
15 expression and the right to record public police activity, and
16 court practices that violate due process and equal protection.
17 The investigation also found that these practices
18 disproportionately impact African-Americans at nearly every
19 stage, from initial stop to the final resolution of the case,
20 and that this racially disparate impact is motivated, at least
21 in part, by intentional discrimination.

22 The investigation also made findings regarding the
23 root causes of this unlawful conduct, including that the City
24 had prioritized revenue generation over public safety needs
25 and the rights of community members. The evidence also showed

1 other systemic deficiencies that enabled unlawful conduct to
2 develop and to persist, including a lack of basic systems for
3 training and supervising officers and for holding officers who
4 commit misconduct accountable.

5 These findings are set forth in a detailed March 2015
6 report issued by the United States. They're also reflected in
7 the United States' complaint in this case, which the Consent
8 Decree seeks to resolve.

9 After releasing its investigative findings, the
10 United States began developing a proposed settlement agreement
11 that would serve as the starting point for negotiations with
12 the City of Ferguson and ultimately become the Consent Decree
13 pending before the Court.

14 The United States began this process by soliciting
15 input from local stakeholders. On March 26th, 2015, for
16 instance, we held a large group meeting, open to all members
17 of the public, where individuals broke into groups and
18 brainstormed ideas for reform, many of which were incorporated
19 into the decree. Aware that a community group was conducting
20 a survey of area residents to gather views on needed reforms,
21 the United States delayed finalizing its initial settlement
22 proposal until it had the opportunity to review the findings
23 of that survey. The United States also held a series of
24 smaller meetings, met with everyone who asked to meet with us,
25 and, again, carefully considered all views expressed. At the

1 same time as they collected local input, the United States
2 also consulted with law enforcement experts and drew upon its
3 own experience in working to bring about constitutional
4 policing in jurisdictions around the country. These diverse
5 perspectives were all critical to informing the United States'
6 initial proposal, which was sent to the City of Ferguson in
7 July of 2015.

8 The parties then began what would ultimately be seven
9 months of fair, arm's length, and intensive negotiations.
10 Both City and United States representatives in these
11 negotiations were intimately familiar with the City's law
12 enforcement practices. Both sides were represented by legal
13 counsel, with the City Attorney and the City's retained
14 outside counsel present throughout negotiations, and both
15 parties were aided by law enforcement experts to ensure that
16 each requirement of the decree could be successfully
17 implemented.

18 Ferguson's interim police chief was present during
19 negotiations as was the City's retained expert for community
20 policing. Each provision within the decree was heavily
21 negotiated during this process, and the City's concerns were
22 taken seriously, fully considered, and fully negotiated. This
23 equitable process has yielded a Consent Decree that sets forth
24 fair, reasonable, and adequate -- a fair, reasonable, and
25 adequate blueprint for reform that is specifically tailored to

1 the allegations within the United States' complaint.

2 The decree contains requirements that address each
3 area of law enforcement conduct that the United States found
4 violates the Constitution. The decree includes provisions
5 that address Ferguson's stop, search, and arrest practices and
6 that reorient Ferguson's use of force policies towards
7 deescalation and avoiding force except where necessary.
8 Requirements are included that are aimed at ensuring that
9 officers do not interfere with activity protected by the First
10 Amendment. The decree includes requirements that ensure that
11 the City's prosecutor and municipal court handle cases in a
12 manner that respects the due process and equal protection
13 rights of all individuals who appear before the court. And
14 the decree contains measures that are designed to ensure that
15 police and court services are provided free from unlawful
16 bias, including through the delivery of bias awareness
17 training for all police and court staff.

18 In addition, the Consent Decree addresses the full
19 range of systemic deficiencies that allowed the alleged
20 misconduct in those different areas to develop and to endure.
21 The decree contains remedial measures aimed at correcting
22 those deficiencies to ensure that the pattern or practice of
23 conduct that the United States found is effectively remedied.
24 System-wide problems require system-wide solutions.

25 The decree requires the City to develop a community

1 engagement strategy that makes policing in Ferguson more
2 community-oriented and that brings about meaningful engagement
3 between Ferguson police officers and all segments of the
4 community, with particular focus on those who have not
5 previously had positive relationships with the police
6 department.

7 The decree requires revisions to the City's Municipal
8 Code to ensure that it comports with the Constitution and is
9 not used in a manner that harms Ferguson's most vulnerable
10 residents.

11 The decree requires that officers receive clear and
12 appropriate direction through policies and effective training.

13 The decree contains provisions aimed at ensuring that
14 the Ferguson Police Department responds appropriately to
15 individuals in mental health crisis and that Ferguson school
16 resource officers have the tools and training that they need
17 to put -- to work lawfully and fairly with youth.

18 The decree requires the use of body-worn and in-car
19 cameras and sets forth sensible requirements to ensure that
20 those tools are used in a manner that promotes transparency
21 and accountability while also respecting individual privacy
22 rights.

23 The decree requires that officers receive the close
24 and effective supervision they need, including through the use
25 of an early intervention system that will help supervisors

1 become aware of and timely address problematic behavior.

2 Recognizing that policing is a difficult, high-stress
3 occupation, the decree contains specific provisions to ensure
4 that officers and their families receive the assistance and
5 the support that they need.

6 The decree requires the City to develop a recruitment
7 plan aimed at hiring and retaining a diverse workforce of
8 highly qualified officers and ensuring that officers who
9 police effectively, lawfully, and ethically are rewarded
10 through performance evaluations and promotions.

11 The decree requires a robust accountability system
12 that ensures that misconduct complaints are fully and fairly
13 investigated and that requires truthfulness from all officers
14 and that holds officers accountable when they commit
15 misconduct.

16 The decree also requires the creation of a Civilian
17 Review Board that will make findings and recommend
18 disciplinary action for investigations of certain misconduct
19 complaints, and the decree contains specific provisions giving
20 that Civilian Review Board access and support that they need
21 to perform their jobs effectively.

22 The decree requires the collection of accurate and
23 reliable data that is needed to fully assess Ferguson's law
24 enforcement activities. To make Ferguson's law enforcement
25 activities more transparent to the public, this section of the

1 decree also requires the City to produce an annual report with
2 this data and other relevant information.

3 Each of these substantive areas of the decree
4 responds to a specific systemic deficiency that contributes to
5 the pattern or practice of conduct that the United States has
6 alleged, and each area of the decree sets forth sufficient
7 detail to establish clear obligations that the City must meet.

8 Now, to be sure, these provisions do not delineate
9 every single obligation or every single reform that the City
10 is going to make. Certain areas of the decree leave
11 particular details of reforms to be developed in policy. To
12 ensure that those specific details are also consistent with
13 the goals of constitutional policing, the decree provides that
14 all policies must be reviewed and approved by the United
15 States and the Monitor. Thus, while the decree establishes
16 the core reforms that must be made, the decree also leaves a
17 reasonable amount of discretion to the parties regarding the
18 specific shape that reform takes.

19 Finally and critically, the Consent Decree recognizes
20 that meaningful, sustainable, and lasting reform will require
21 that these measures are part of a remedial process that is
22 subject to independent oversight. That oversight is provided
23 by this Court and an independent Monitor to be selected by the
24 parties and approved by the Court. The Monitor will assess
25 the City's efforts at implementing the decree and will also

1 provide technical assistance to the City to help ensure that
2 those efforts are carried out successfully. The appointment
3 of a knowledgeable and experienced Monitor will ultimately
4 save the resources of the parties and the Court and will
5 provide the credible oversight that's needed to instill public
6 confidence in the reform process. If the decree is approved,
7 the parties will immediately begin to work on the process of
8 selecting a highly qualified Monitor.

9 In sum, this Consent Decree sets forth a
10 comprehensive set of reforms that if carefully implemented
11 will be adequate to address the allegations in the United
12 States' complaint. And the provisions of the Consent Decree
13 also both reflect a broad range of community input that has
14 already been received and establish clear avenues for the
15 community to provide input going forward during the
16 implementation process. Although the parties engaged in
17 bilateral negotiations to ensure their ability to reach a
18 final agreement, the decree has been informed by the broad
19 range of perspectives that have been solicited throughout this
20 process, both during the investigation and throughout
21 negotiations. The United States is grateful to the important
22 perspectives that community members have shared throughout,
23 and we are grateful to those who have submitted their views to
24 this Court in writing and who have appeared today to submit
25 their views in person.

1 To ensure that the community continues to be able to
2 provide input into this process, the Consent Decree also sets
3 forth specific avenues for community involvement during
4 implementation. As but a few examples, the Consent Decree
5 establishes a Civilian Review Board that allows for the
6 civilians to play a role in meaningful oversight. The Consent
7 Decree also establishes a committee -- the Consent Decree also
8 requires a committee that will be used to advise law
9 enforcement in Ferguson and reorient law enforcement in
10 Ferguson towards community priorities. And the Consent Decree
11 also establishes a Training Committee with civilian members to
12 ensure that civilians have a role in shaping what training
13 officers receive. Finally, the Consent Decree makes law
14 enforcement activities in Ferguson more transparent so that
15 members of the public can understand better what law
16 enforcement is doing in their -- in their city. Through these
17 and other avenues, the decree recognizes that the community's
18 involvement is critical to the success of the decree and
19 ensuring that the reforms endure long after the decree comes
20 to an end.

21 Ultimately, this Consent Decree marks a fair and
22 equitable resolution to this matter that will benefit the
23 people of Ferguson, both by avoiding long and contentious
24 litigation and by helping to ensure that Ferguson's police
25 department and municipal court respect the rights of all

1 community members.

2 The decree will benefit officers by providing them
3 with the support, guidance, and training that they need to
4 perform their duties safely, lawfully, and effectively. And
5 the decree will ultimately help restore trust between those
6 officers and the communities they serve.

7 The decree is thus firmly in the public interest, and
8 by ensuring constitutional policing, the decree advances the
9 interests of the laws upon which this case has been initiated.

10 To be sure, the constitutional violations that the
11 United States has found are profound, and they took years to
12 develop, and correcting those violations will require careful
13 and dedicated implementation of the Consent Decree.

14 In that regard, the United States is encouraged by
15 the City's commitment to reform, and we stand ready to work
16 cooperatively with the City of Ferguson and all members of the
17 Ferguson community throughout the implementation process to
18 help ensure that the Consent Decree succeeds at bringing about
19 meaningful and lasting reform.

20 We respectfully ask that the Court approve the
21 Consent Decree as fair, reasonable, and adequate so that the
22 parties can begin this critically important work.

23 Thank you.

24 THE COURT: All right. Thank you.

25 Mr. Webb, I'll hear on behalf of the Defendant.

1 MR. WEBB: Yes, Your Honor. Thank you very much.
2 Again, it's Dan Webb on behalf of the City of Ferguson. And,
3 Your Honor, on behalf of the City of Ferguson, as Your Honor
4 knows, we have joined in this joint memorandum and motion that
5 we've filed with the Court to ask Your Honor to consider the
6 evidence and have this hearing and to ultimately approve the
7 Consent Decree, and we've set forth the reasons in our -- in
8 the joint memorandum, and let me give Your Honor just a little
9 background to support why we're asking you to approve this
10 Consent Decree, and I'll take Your Honor back.

11 When I got involved, it was a year ago. Right now a
12 year ago, I got asked by the City of Ferguson to meet with
13 them and I did. I went and met with the folks at the City
14 Council and found out their view about what had happened. At
15 that point, there had been a report issued in March by the
16 Department of Justice that reached a number of findings. I
17 talked to the folks in Ferguson, and I took a group of them,
18 including the Mayor, to DC to meet with the folks on my left
19 here, to talk to the people at the Department of Justice. At
20 that meeting, that meeting lasted a good part of a day. That
21 set the stage for why we're here today.

22 And in that meeting -- and Ms. Vanita Gupta was there
23 also for a period of time -- was the head of the Civil Rights
24 Division, and I found people on the other side of the table
25 that were willing -- and reasonable -- to listen about how

1 this case should go forward, and we had a discussion, and the
2 basic framework was laid out at the beginning by me,
3 explaining that we had read this report, this March report,
4 and the fact is we strongly disagreed with the vast majority
5 of the conclusions in that report and that there had not been
6 a pattern and practice of unconstitutional policing practices
7 or court conduct. But at the same time, I explained to the
8 members of the Department of Justice that while I had spent
9 most of my adult life in the courtroom trying cases, this case
10 should be resolved and we should find common grounds to bring
11 this case to an end and not end up in litigation for three or
12 four years.

13 And I walked through our position that if we had to
14 go to trial in this case some day, if we had to, why the party
15 with the burden of proof, the Government, would lose this case
16 in a court of law based on the facts. At the same time, I
17 explained that, you know, I'm representing a small town in
18 Missouri that should not be spending money on lawyers. They
19 should be spending money on moving forward to make sure that
20 they are engaging in the type of conduct that the Department
21 of Justice wanted in order to ensure constitutional policing
22 practices and court practices in the city of Ferguson, and
23 that to have money spent for years on lawyers in a small town
24 with very limited budgetary resources was a mistake on our
25 part to do that and that I wanted to find common ground to

1 find a way to negotiate a resolution and bring this matter so
2 it could be put behind the city of Ferguson and could ensure
3 DOJ that this town was committed to constitutional policing
4 and court practices.

5 That meeting was the beginning of a process that took
6 place over a long period of time, and that process was
7 meetings and telephone calls where lawyers, including the ones
8 at counsel table here and the parties over here on my left,
9 and plus my clients -- we were down in the trenches together.
10 The Mayor and members of the City Council, we had meeting
11 after meeting, and we fought hard to come up with a settlement
12 proposal that would be fair to both sides, and as in all
13 settlement discussions, Your Honor, neither side got
14 everything they wanted. I will tell you right now that I
15 didn't get everything I wanted on behalf of my client, and I
16 think the honest truth is DOJ did not get everything that they
17 wanted, but we didn't give up on it. We hit loggerheads. We
18 had impasses, but we continued to work at it because both our
19 goals on both sides was to see before we end up in litigation,
20 spending that money and all the resources that it would take
21 to do it, let's keep working at finding a way to bring this to
22 a successful conclusion. Draft after draft of settlement
23 agreements went around. Meetings and conversations and
24 arguments back and forth that took place by -- by very
25 dedicated lawyers, I dare say, on both sides. But with my

1 clients, they're with us, going through a process to find out
2 if there was a fair and reasonable way to bring this to a
3 resolution, and what you now have in front of you, Your Honor,
4 in the form of this Consent Decree, I believe, accomplishes
5 the goal that we all set out in that meeting a year ago at the
6 Department of Justice to accomplish, which is to come up with
7 a fair, adequate, and reasonable Consent Decree. And while
8 we, as Your Honor knows, have not admitted and never
9 acknowledged that the conduct that took place was illegal
10 because we don't believe it did, it doesn't mean that the
11 people of that city should be spending their time focused on
12 arguing legal strategy when they should be moving forward with
13 a proposal that would satisfy the Department of Justice and
14 bring confidence that that city is moving forward with
15 ensuring constitutional court and police practices.

16 The result, as Your Honor has now in front of you, is
17 that arm's length, hard-fought negotiation that led to the
18 Consent Decree that you now have in front of you, and if you
19 look at the Eighth Circuit law, which I know Your Honor has --
20 and Your Honor has mentioned it -- and the prosecutor or the
21 members of the Department of Justice have mentioned it --
22 there's three things that we need to satisfy Your Honor of,
23 that we need to make sure that this is a report that is fair,
24 that this Consent Decree is fair, that it's reasonable, and
25 that it is an adequate decree, and I believe that all of those

1 conditions have been satisfied in connection with the Consent
2 Decree that you now have in front of you.

3 Let me just walk through the basic points. Is it
4 fair? Is this a fair decree? I believe that the provisions
5 of this Consent Decree address the concerns raised by the
6 Government, but what they also allow to do is they allow the
7 City to continue to focus on its own reform efforts in its
8 police department and municipal courts to ensure that there
9 are constitutional policing and court practices.

10 After the tragic events in Ferguson, Your Honor,
11 after they occurred, even before that first meeting at the
12 Department of Justice, I'm telling Your Honor people here in
13 court, the Mayor, and others were already started on processes
14 and practices to come up with ideas, concepts that could be
15 presented to the Department of Justice as a way to move
16 forward, and that was already ongoing before that first
17 meeting even took place, and so what you see here now is that
18 I believe that it is fair. It's fair to both sides, and it
19 results in the confidence that the public and the Court can
20 have that there's constitutional practices both in the court
21 and the police department, but it's fair to both sides.

22 Number two, I think it's reasonable. The reforms
23 identified in the Consent Decree, which counsel for the
24 Government has adequately -- more than adequately summarized
25 for Your Honor, but involving community involve -- the

1 community involvement, number one, the policies, the training,
2 the civilian oversight, the accountability, and the municipal
3 court reforms -- these were areas that my client agreed. They
4 already had started to focus on those issues, and as this
5 process unfolded over the next eight or nine months as we
6 negotiated the settlement, we believed that it is reasonable
7 and it's a reasonable approach to take.

8 Lastly, it's adequate. It clearly, adequately
9 addresses the concerns that were raised by the Department of
10 Justice and, at the same time, does not go beyond what is
11 needed in order to give the public -- and I would effectively
12 suggest the Court -- the confidence to move forward with this,
13 with this effort.

14 And so based on the fact that all three of the Eighth
15 Circuit requirements, I believe, have been satisfied, to the
16 Consent Decree, for those reasons, we respectfully join the
17 Government requesting that you have the hearing today, and we
18 would recommend that you approve the Consent Decree.

19 THE COURT: Thank you, Mr. Webb. Do any of your
20 client representatives wish to be heard at this time?

21 MR. WEBB: Do you want to be heard? Any of you? We
22 hadn't talked about it. Do you want to be heard right now?

23 MR. JAMES KNOWLES III: No.

24 MR. WEBB: That's fine.

25 I think I've spoken on behalf of them, Your Honor.

1 THE COURT: Okay. Yeah. That's fine.

2 All right. We're ready then to hear comments from
3 the members of the public who have signed up, and I believe
4 there's a Luz Maria Henríquez. Sorry if I'm mispronouncing
5 your name, ma'am. Henríquez?

6 MS. LUZ MARIA HENRIQUEZ: Yes.

7 THE COURT: There, I finally got it right. If you'll
8 step up to the lectern and state your full name and then also
9 state, as I said, what -- where you live, not your home
10 address, but the municipality or county.

11 MS. LUZ MARIA HENRIQUEZ: Thank you, Your Honor.
12 Thank you for your time this morning. My name is Luz Maria
13 Henríquez. I'm a staff attorney at the Children's Legal
14 Alliance unit at Legal Services of Eastern Missouri, where I
15 handle educational law matters and I focus on school-to-prison
16 pipeline issues, which we know disproportionately affect
17 children of color. I live in St. Louis County, but I work in
18 St. Louis City and represent children in St. Louis City and
19 St. Louis County.

20 LSEM, Legal Services of Eastern --

21 THE COURT: Could you slow down just a little bit?

22 MS. LUZ MARIA HENRIQUEZ: Oh, I'm sorry.

23 Legal Services of Eastern Missouri applauds the
24 efforts made in this Consent Decree to reduce students'
25 unnecessary involvement in the juvenile and criminal justice

1 systems by identifying and specifying the role of SROs.
2 Recent research suggests that the presence of SROs can
3 negatively impact school climate, and in fact, in my
4 experience, when SROs are involved in routine discipline
5 matters, students become distrustful of the police as well as
6 the school staff.

7 The U.S. Department of Education recommends that
8 schools ensure that school-based law enforcement officers do
9 not become involved in routine school disciplinary matters,
10 and to that end and in the interests of fairness,
11 adequateness, and reasonableness, I ask the Court to consider
12 the following:

13 The Consent Decree would be more effective if
14 paragraph 209 concerning the training of SROs requires
15 participation in continuing training programs to ensure
16 techniques and strategies that are utilized by SROs remain
17 up-to-date and conducive to the particular school's
18 environment. Without a provision and requirement of ongoing
19 training for SROs, the elements of this agreement cannot be
20 fully implemented.

21 Moreover, the Consent Decree would be more effective
22 if paragraph 210 requires or includes the provision of
23 implicit bias training, racial justice training, and cultural
24 competency training for every school employee, including
25 school resource officers. By including such training, school

1 resource officers and other school staff will be better
2 equipped to make decisions regarding student interactions that
3 are informed and less likely to cause harm.

4 The Consent Decree would also be more effective if
5 paragraphs 215 and 216 defined the terms necessary and
6 detailed the factors that may justify arresting a youth at
7 school. For example, listing specific situations in which an
8 arrest may be more appropriate and listing situations where
9 arrests would not be appropriate could help diminish confusion
10 and will create a standard approach to arrests rather than a
11 purely subjective approach that will likely lead to the
12 removal of students for nonviolent disciplinary matters.

13 Finally, the Consent Decree would be more effective
14 if it includes formal consequences for school resource
15 officers for actions that are directly adverse to the elements
16 of this agreement. Otherwise, school resource officers will
17 lack incentive to follow the terms of this agreement at all
18 times. Additionally, the inclusion of consequences for
19 actions that go against this agreement will protect school
20 resource officers from unwarranted or extreme punishment
21 measures since the consequences will be delineated in this
22 agreement, leaving little room for interpretation.

23 Thank you, Your Honor, for your time.

24 THE COURT: Thank you.

25 All right. Next up, Paul Berry III.

1 MR. PAUL BERRY III: Good morning, Your Honor.

2 THE COURT: Good morning, Mr. Berry.

3 MR. PAUL BERRY III: I'd just like to really hop into
4 it. Your Honor. United States of America --

5 THE COURT: And so can you tell me where you live,
6 Mr. Berry?

7 MR. PAUL BERRY III: Yes. Paul Berry III. A citizen
8 of Bridgeton, Missouri. Small business owner.

9 THE COURT: Okay. Thank you.

10 MR. PAUL BERRY III: United States of America versus
11 the City of Ferguson. Trillion dollar budget. Budget in the
12 millions.

13 The Consent Decree before you is nothing more than a
14 ransom letter. You either bow to Caesar, or in three or four
15 years, we'll eat 'em up at legal fees. Right now I'm paying
16 for eight attorneys to sit around and try to create a solution
17 to a problem that they're not even addressing. You have the
18 wrong defendants at the table.

19 The bottom line is this: Why are we here today? Why
20 did the DOJ have to get involved in this matter? Because you
21 have poor defendants that are sitting in jail without a
22 lawyer. So why is that? Because Missouri has a statute that
23 specifically prohibits the public defender system from
24 representing people in municipal courts. When you lock a guy
25 up -- you know, the courts have had this idea for a long time

1 that when you lock a guy up, it's based upon the severity of
2 the crime whether he should have an attorney. No. It's when
3 you take away his privileges. We have people in Guantanamo
4 Bay that are being treated better than the people here.

5 Ferguson is not the enemy. Ferguson is a city that's
6 been around since the 1900s. What's very interesting about
7 this is they are probably one of the better jurisdictions in
8 the area regarding these issues. But the DOJ, they don't
9 really want to -- they don't want to fight the State of
10 Missouri or St. Louis County. They want to fight Ferguson.
11 And as expressed by Mr. Webb, he advised his clients, "Look,
12 you take this on; three or four years, you might go bankrupt."
13 So what are we going to do about that issue?

14 I wrote the DOJ a letter seven months before Michael
15 Brown got shot. I run a bail bondsman company, and I laid
16 this out in a technical letter. You know what they told me?
17 "There's not a problem." They're trying to fast-track and
18 bootstrap this thing. There was an investigation that was
19 filed back in 2013, two months before I wrote my letter,
20 regarding --

21 THE COURT: Slow down a little. Okay.

22 MR. PAUL BERRY III: -- yeah -- two months before I
23 wrote my letter regarding juveniles being represented by
24 probation officers in court. Have we resolved that issue?
25 No. You know why they haven't resolved the issue? Because

1 they don't want to fight the State of Missouri. You have the
2 wrong defendant at this table.

3 The courts are under the -- under the Supreme Court
4 and the Circuit Court of St. Louis County. My good mayor has
5 no ability to tell the courts what to do. It's been outlined
6 in the Post-Dispatch of the myriad of municipal court judges
7 that were playing several roles. Yet not one person has been
8 investigated, not one person has been disciplined, and it's
9 business as usual.

10 To pass this Consent Decree, to ignore those issues
11 and make the City -- who pays for all this stuff that they're
12 talking about? The minority population in the city of
13 Ferguson, which is the majority. So the same people that are
14 trying to get help here are the same people that are going to
15 pay for what they're talking about.

16 Bottom line is this: You talk about fair,
17 reasonable, and adequate. We're not nowhere near it.

18 Let's talk about correctional standards. Ferguson
19 actually does the right thing with correctional standards.
20 The Post-Dispatch said in the newspaper that -- quote,
21 unquote -- "The City of Wellston had to let all their
22 prisoners go because the guards got tired of buying bread and
23 bologna out of their own paychecks." This is a publication
24 that everybody listens to.

25 And the DOJ wants to pick on Ferguson. They have a

1 ransom letter. They're saying, "If you don't do this, I'm
2 going to click the bomb." And not allowing them to -- and
3 unfortunately for us, the process is flawed. There's nothing
4 you can do about this. If you decided that I was right, then
5 it just goes back to where it was, and the weight of the
6 United States government is going to fall on my mayor and fall
7 on the City of Ferguson. It is wrong, and I understand that
8 there's not nothing you can do or I can do, but what I can do
9 is put this on the record.

10 Bottom line: Michael Brown got killed. It was a
11 horrible thing. The one thing that came out of that is we
12 actually looked at the complaints that professionals like
13 Thomas Harvey from the ArchCity Defenders and people like
14 myself that are community activists kept seeing in our
15 profession. We haven't dealt with bail. Why is it that if a
16 person can't afford a \$200 bail they're denied the right to go
17 to a professional? Would I deny you the right to buy a home
18 if you couldn't do it without going through a bank? I'm
19 licensed to perform the services. You have corrupt judges
20 that want to try to create revenue, and the purpose of bail is
21 to reasonably secure the defendant's appearance.

22 So those are two issues, and if I had more time or if
23 you want to extend me, I can give you eight more. So it'd be
24 up to you, Your Honor.

25 THE COURT: I think your five minutes is enough, but

1 thank you for your comments. You still have --

2 MR. PAUL BERRY III: Okay. And with that being said,
3 I have nine seconds. I do support the passing of this decree
4 but with protest on behalf of the citizens of Ferguson.

5 Thank you.

6 THE COURT: Thank you.

7 Mark Timmerman.

8 MR. MARK TIMMERMAN: Good morning, Your Honor. My
9 name is Mark Timmerman, and I am a second-year law student at
10 St. Louis University School of Law. I was also a staff member
11 for the Ferguson Commission last year.

12 Thank you for holding this hearing and for collecting
13 written comments from the public.

14 THE COURT: And what municipality do you live in?

15 MR. MARK TIMMERMAN: I live in St. Louis City.

16 THE COURT: All right. Thank you.

17 MR. MARK TIMMERMAN: I commend the City of Ferguson
18 and the Department of Justice for this Consent Decree has the
19 potential to not only make Ferguson a better community for all
20 of its residents but also to set a standard of best practices
21 for local police departments, courts, and governments around
22 the country. However, there are aspects of the Consent Decree
23 that raise concerns that some of the goals of this entire
24 process might not be adequately realized.

25 THE COURT: Now I'm going to interrupt you and ask

1 you to step a little bit back from the mike because it's a
2 little too loud. Sorry.

3 MR. MARK TIMMERMAN: These concerns are outlined as
4 follows:

5 First, pertaining to paragraphs 26 and 29 under
6 Section III, titled "Community Policing and Engagement," this
7 portion of the Consent Decree fails to make it clear that the
8 neighborhood policing plan does not allow for the application
9 of unjustified closer scrutiny to majority African-American
10 neighborhoods in the enforcement of traffic laws and other
11 minor offenses. Also, walking patrols and other methods of
12 policing that are called for in the Consent Decree are not
13 required to be employed equally in both majority
14 African-American and white neighborhoods in order to ensure
15 that these practices will not be used as a substitute for
16 heightened enforcement of minor infractions against
17 African-American communities.

18 Next, under Section IV, titled "Reform of the
19 Ferguson Municipal Code," paragraph 36 requires the City to
20 revise the Ferguson Municipal Code to ensure that it comports
21 with the United States Constitution and other laws. Your
22 Honor, the Consent Decree fails to include another ordinance
23 that should be revised, which is subsection (1) of Section
24 2916, the "failure to comply with order of police officer"
25 ordinance. Too many citizens have had their constitutional

1 rights violated because of the enforcement of that vague
2 ordinance. The ordinance does not provide fair warning of
3 prohibited conduct to members of the public, and it allows for
4 the arbitrary and discriminatory enforcement of that ordinance
5 by police. The ordinance also lacks a mens rea requirement.

6 Furthermore, under Section VI, titled "Bias-free
7 Police and Court Practices," paragraph 64 demands equal
8 protection of the law for all individuals. Like so many other
9 municipalities in this region, the City of Ferguson has
10 historically demonstrated its inability to provide equal
11 protection of the law for all individuals because its police
12 and court have been used as tools to generate revenue.
13 Because the administration of justice in Ferguson is so
14 tainted by the City's desire to generate revenue in this way,
15 the Consent Decree should go further and should require that
16 police and court budgets be frozen and any monies accrued from
17 the enforcement of the law should be donated to local public
18 schools.

19 Additionally, under Section XVIII, titled "Municipal
20 Court Reform," paragraph 326 outlines an amnesty program.
21 However, in subsection (a), the Ferguson prosecutor is given
22 the discretion to continue to prosecute certain cases, like
23 "failure to comply" ordinance cases. In order to have a truly
24 impactful amnesty program, this paragraph should include --
25 should be amended to remove the option of the Ferguson

1 prosecutor to continue to prosecute those types of cases.

2 And lastly, paragraph 359, also under Section XVIII,
3 contains only one sentence dedicated to the topic of mental
4 illness in the courts. Because our criminal justice system
5 has historically been inadequate in the way it treats
6 defendants with mental illnesses, this one sentence in the
7 Consent Decree is not enough. Your Honor, this paragraph
8 should require far more from Ferguson. For example, Ferguson
9 could be required to provide everyone that comes before the
10 court with information about local mental health care options
11 and could provide education for the municipal court judge and
12 court officials on various types of mental illnesses as well
13 as the warning signs that people may exhibit in the courtroom.

14 Thank you, Your Honor.

15 THE COURT: Thank you.

16 All right. Emily Davis.

17 MS. EMILY DAVIS: Good morning. My name is Emily
18 Davis. I am a third-generation Ferguson resident, mother of
19 three, and a member of the Ferguson Collaborative and ONE
20 Ferguson.

21 Like many white people in my community, I knew racism
22 existed before August 9th of 2014.

23 THE COURT: Okay. I'm going to ask you again.

24 Everything everyone says is being taken down by the court
25 reporter, and so if you read -- it's real natural when people

1 read they read really fast. So just slow down. You don't
2 have to go any slower than normal talking voice, but -- so go
3 ahead. Sorry.

4 MS. EMILY DAVIS: Like many white people in my
5 community, I knew that racism existed before August 9th of
6 2014, but as the hours and days of early August went on, I
7 began to understand things that I hadn't before. I watched in
8 horror as grieving mothers, fathers, families came together to
9 mourn and were met by armored vehicles, tear gas, riot gear,
10 snipers, and rubber bullets. As a mother myself, I could not
11 imagine not being able to hold my baby as he lay dying, as his
12 body laid in the street for more than four hours. But I also
13 came to realize that the community was not simply grieving the
14 death of one young man. They were mourning centuries of
15 murder and abuse, decades upon decades of injustice, and I
16 watched as people there witnessing these assaults, including
17 national media, Legal Observers, and Amnesty International
18 were also abused, beaten, and arrested for documenting this
19 travesty. I listened in stunned silence when our mayor told
20 the world that there was no racial divide in Ferguson.

21 And then I began listening more. Every person I met
22 on the street at protests had a story of police abuse,
23 brutality, had feared for their lives from those who are sworn
24 to protect and serve, those who do serve people who look like
25 me. And I realized that simply telling my children to treat

1 everyone equally wasn't enough. As a white woman, I had to
2 act to combat a system that uses my name, my face, my safety,
3 my virtue to oppress and subjugate black and brown people all
4 around me right here on my doorstep.

5 I read the DOJ's investigative report into Ferguson
6 and listened to the Civil Rights Division when they told us at
7 a town hall that this was not the case of a few bad apples;
8 the whole bunch was spoiled; our system of revenue generation
9 was rancid; and white Ferguson's abuse of their governmental
10 powers was rotten to the core.

11 Realizing that everyone wasn't listening or hearing
12 these stories, some friends and I called on the help of
13 Community Mediation Services of St. Louis and began hosting
14 community dialogues on race justice in Ferguson. We did this
15 for several months, then joined up with ONE Ferguson to
16 continue those efforts. In both capacities, we tried over and
17 over to reach out to the city government of Ferguson, to get
18 those in power to --

19 THE COURT: Okay. Hold on a second. Slow down.
20 Take a breath.

21 MS. EMILY DAVIS: -- to get those in power to
22 participate, engage, and be transparent with the community.
23 We spent hours in planning meetings with them, only to have
24 them cancel events at the last minute. We asked politely,
25 made arrangements, offered advice, pleaded, demanded our

1 representatives on City Council listen to, talk to, and reach
2 out to their community, assuming they wanted to change and
3 wanted to make our community stronger, more just, and
4 equitable.

5 Over time, it became clear that this was not true.
6 Consequently, a grass roots group of Ferguson residents and
7 area stakeholders, called the Ferguson Collaborative, formed
8 to lift up and empower the community's voice as part of the
9 DOJ intervention and consent decree process. Unlike the City
10 of Ferguson, the collaborative conducted a survey of Ferguson
11 stakeholders to get a picture of what the people wanted from
12 their police. We took the results back to the community and
13 engaged in dialogue about what we found.

14 Overwhelmingly, stakeholders demanded major reforms
15 in policing, and while we, the collaborative, believe this
16 Consent Decree will compel the City to remedy many abuses, it
17 may not ensure long-term, sustainable change after federal
18 enforcement ends. Change will be lasting only if it embodies
19 a fundamental shift of the power dynamics between the police
20 and the community.

21 I'm currently on the Neighborhood Policing Steering
22 Committee, which is given a wide range of responsibilities in
23 this agreement. Among other things, the NPSC is to develop
24 the plan for community policing in Ferguson. Unfortunately,
25 as in all else they do, the City of Ferguson has made it

1 obvious they have no intentions of engaging the black and
2 working-class citizens who have been most abused by its past
3 policing practices in designing this new plan.

4 Although we were initially told the City would hold
5 meetings at different locations around Ferguson to gather a
6 more representative input, the City did not follow through.
7 All meetings of the steering committee thus far have been held
8 at one church, a historically white space on the northwest
9 side of Ferguson. No notifications have ever been sent out to
10 the community, nor have these meetings been advertised in any
11 way.

12 Like much that goes on in Ferguson city government,
13 the only way to access information is to know someone on the
14 inside. As a result, the attendance pattern and power
15 dynamics within the NPSC have so far favored those in the
16 community already empowered and those least impacted by the
17 status quo police practices.

18 The Consent Decree needs to require that the NPSC be
19 trained in problem-oriented policing, implicit bias, bias-free
20 policing, and antiracism principles. Its membership should be
21 clearly permitted to include non-Ferguson residents affected
22 by Ferguson policing. And the DOJ or the Monitor should
23 verify that the composition of the NPSC is representative of
24 the entire community.

25 THE COURT: All right. Your time is up. Thank you.

1 Next, John Powell.

2 Hold on a second. We're working on the sound system.
3 Just a second.

4 All right. Sir, you may proceed.

5 MR. JOHN POWELL: My name is John Powell, and I've
6 been a Ferguson resident for almost 10 years. I appreciate
7 the chance to address the Court about the Consent Decree as a
8 member of the Ferguson Collaborative. I am also a member of
9 the Ferguson Human Rights Commission as well as ONE Ferguson,
10 a resident group committed to bringing our town together for
11 the sake of justice. I have also recently started to attend
12 meetings of the Neighborhood Policing Steering Committee,
13 which is one of the needed efforts to help ensure Ferguson's
14 policing policies and practices are constitutional as we go
15 forward.

16 One of the things that I've reflected on in the last
17 year and a half since the tragic shooting of Michael Brown is
18 that as a social justice teacher at Villa Duchesne and Oak
19 Hill School in Frontenac, I was ignorant of what was going on
20 in Ferguson in terms of injustice. I've come to the
21 conclusion that I was at least partially to blame for this
22 ignorance because of my white privilege.

23 My wife, Lisa, and I moved to Ferguson intentionally
24 in 2006 in part because of its racial diversity, but I was and
25 am able to enjoy that diversity on my own terms as a white

1 man. The events of August 9th, 2014, and its aftermath have
2 reminded me that we not only have wealth and educational
3 inequities in Ferguson but a stubborn and pervasive racism
4 that is not only in us as individuals but in our social
5 structures.

6 I think the most important problem that I've seen is
7 with the City of Ferguson in terms of communication and
8 transparency. When ONE Ferguson tried on several occasions to
9 set up meetings with City officials or former Police Chief Tom
10 Jackson, inevitably, they would be canceled for one reason or
11 another. It took approximately 10 months to get the police to
12 come to our community dialogues. Meetings for public input
13 are often announced with little time, and there are still
14 residents who are struggling to get email messages from the
15 City for such meeting notices.

16 The City, for months, has been unable or unwilling
17 until now to reach out to Ward 3 residents about the actions
18 of the Neighborhood Policing Steering Committee and how they
19 can get involved. At almost every meeting where it's
20 surveyed, residents of Ward 1 and 2 of Ferguson are
21 represented, but Ward 3 is not. This is very ironic and
22 unjust since so many people in Ward 3 have experienced the
23 unconstitutional policing practices as shown in the Department
24 of Justice report. Even now, it's so complicated to get the
25 City officials to realize that they have to go to the people

1 of Ward 3, those who feel disenfranchised and forgotten.

2 Many of Ferguson's white residents are stuck in the
3 past. Their solution to communicating with residents is to
4 put something in the *Ferguson Times*. Although that's one
5 venue, many people do not receive the *Times* or they get their
6 information from other sources.

7 The City has not made a formal apology to the
8 residents about the many years of police and municipal court
9 injustices in our town.

10 Much of the debate on the City Council goes on in
11 closed session in order to seemingly present a united front
12 under Mayor Knowles.

13 Although we have some very well-intentioned people
14 who are committed to helping create a new police culture in
15 Ferguson, the Ferguson Collaborative members believe the
16 decree should institutionalize the Neighborhood Policing
17 Steering Committee so that once the federal Monitor is
18 withdrawn community engagement will continue. We believe this
19 committee should be able to help pick the Monitor and be on a
20 team with the Monitor.

21 But before this all can happen, we ask the Court to
22 make sure that the Neighborhood Policing Steering Committee
23 actually looks like the community. Sixty-six percent of the
24 community is African-American, and the people often targeted
25 by previous police practices were young and male. We need the

1 Court to verify a just composition for the NPSC.

2 Several people who were committed to fighting the DOJ
3 on its report are now involved in the NPSC, and we believe
4 that they are committed to lessening the effects of the
5 Consent Decree on the City of Ferguson and the police
6 department.

7 Finally, as a Ferguson Human Rights Commissioner, I
8 want to say that I believe that for the rights of all
9 Fergusonians to be protected in all areas, we need the
10 constant pressure of the federal government to help us and
11 other boards and commissions which are affected by the Consent
12 Decree to have real power and influence in the relations with
13 the City Council and the City Manager. The Human Rights
14 Commission is told there's little money for our activities,
15 but that's where the City should be spending its money now.

16 I believe that there is hope for a good Consent
17 Decree. I thank the Court for allowing me to speak today as
18 part of the fairness hearing, and I am here because I believe
19 black lives matter. Thank you.

20 THE COURT: Thank you.

21 Angelique Kidd.

22 MS. ANGELIQUE KIDD: Thank you, Your Honor. My name
23 is Angelique Ayaan Kidd. I'm a 12-year Ferguson resident.
24 I'm a homeowner and an active member of the Ferguson Review
25 Board Task Force.

1 I have several concerns regarding the City of
2 Ferguson's ability to properly implement the areas of the
3 Consent Decree that establish citizen boards. I have seen
4 firsthand how the City of Ferguson operates when it comes to
5 advertising and selecting people to sit on boards. It's
6 unacceptable. The same people get rotated around. I've
7 mentioned this to the Ferguson mayor. He and many others that
8 work for the City claim that it's because people are just not
9 interested in volunteering for their community, and that's not
10 true. The City makes minimal to no effort to advertise any
11 information outside of its website and neighborhood
12 associations.

13 While I have huge concerns about how people are
14 chosen to sit on boards in Ferguson, my main concern is what
15 happens once it's established, specifically around the boards
16 that are mandated in the Consent Decree. Since November of
17 2014, I've been an active member of the Citizen Review Board
18 Task Force. Every single meeting was facilitated by Mayor
19 Knowles. Having the Mayor, who was a major player involved in
20 the unconstitutional policing unveiled in the Department of
21 Justice Ferguson report, is hardly fair or impartial.

22 Please, Your Honor, I'd like to give you two really
23 good examples of Mayor Knowles' behavior during these task
24 force meetings. Since November of 2014, I've asked several
25 different Ferguson City employees about how I would go about

1 obtaining a copy of the current policies and procedures of the
2 Ferguson Police Department. I've been told various things,
3 but I'd like to tell you what Mayor Knowles told me. During a
4 Citizen Review Board Task Force meeting, where our entire goal
5 was to establish what the Review Board would look like in the
6 future, I told the Mayor that I thought it didn't make any
7 sense that we had spent all of this time trying to do this
8 work when we didn't even have access to what the police
9 department already had in place regarding the current
10 complaint process. Mayor Knowles told me that that
11 information is available per the Sunshine Law and that I could
12 get it that way. Ferguson City cannot be trusted to ensure
13 that the Civilian Review Board has the resources that it needs
14 to be effective.

15 Furthermore, I think the CRB should be strengthened
16 as spelled out in the Ferguson Collaborative's written
17 testimony.

18 Also, I can honestly say that Mayor Knowles allowed
19 the task force to waste hours of our unpaid personal time by
20 letting us argue about unnecessary things, and I'll explain
21 how. Until recently, the task force had no access to the
22 Consent Decree, but Mayor Knowles did. I can't tell you how
23 much time we wasted arguing about whether or not a third party
24 was able to file a complaint with the Ferguson Police
25 Department. That was a complete waste of our time, and Mayor

1 Knowles knew it. He knew or at least had a good idea of what
2 was going to be in the Consent Decree, and many things, such
3 as a third party complaint, is already in the Consent Decree.
4 So there was no need for us to waste our time arguing about
5 what was going to have to be implemented anyway. The City of
6 Ferguson cannot be trusted to ensure that unpaid volunteers'
7 time is spent effectively.

8 I'd also like to give you an example of what happened
9 with the Neighborhood Police Steering Committee. On
10 February 9th, 2016, the City Council did not vote to approve
11 the Consent Decree. The Department of Justice filed suit
12 against the City in less than 24 hours. On February 18th of
13 2016, during an NPSC meeting, Mr. Seewood, our City Manager,
14 actually stood up during the meeting to let the committee know
15 that now that the City had approved the Consent Decree we
16 could move forward. So even after I and many others told him
17 that, no, the City did not approve the Consent Decree, he
18 continued to spread the lie that it had. The City of Ferguson
19 cannot be entrusted to ensure that it is truthful to its
20 citizen boards.

21 Your Honor, I do not believe that we can trust either
22 our mayor or our city manager to effectively implement the
23 parts of the Consent Decree that establish citizen boards. I
24 implore you, please, to add to the Consent Decree that the
25 citizens, that we of Ferguson have complete access to the

1 entire process of the hiring of the Monitor so that we can
2 have someone with a community-oriented perspective to
3 implement this decree. Thank you.

4 THE COURT: Thank you.

5 All right. Mr. Karl Tricamo.

6 MR. KARL TRICAMO: Thank you, Your Honor.

7 First off, while you made it clear that revisions
8 weren't going to be made on your behalf, I hope that several
9 testimonies here will at least resonate with the United States
10 of America and the City of Ferguson itself for moving forward
11 here and elsewhere where these occurrences are happening.

12 My name is Karl Tricamo. I've lived in Ferguson for
13 the last seven years as well as off and on again prior. I
14 grew up in the Ferguson-Florissant School District. I will
15 revise this to shorten it a little bit. I'm part of ONE
16 Ferguson, part of the NPSC, part of the Ferguson
17 Collaborative. I fully support our written testimony that was
18 given to the Court and everything within it.

19 There's no mistaking that injustice occurs in this
20 world, and I battle every day to point out the many
21 inconsistencies we face as a society. Humanity is always
22 prejudiced, fueled by parental indoctrination, personal
23 experience, and media portrayal. While I respect the Court's
24 ability to set aside its own biases, I have little faith in
25 the typical law enforcement officer to do the same. It is for

1 this reason that we have asked revision and strengthening to
2 several key sections of the decree, one of which being that of
3 body-worn and in-car cameras.

4 Anytime new technologies are implemented into
5 existing models, obstacles will arise. Rather than just
6 rolling the dice to see what comes of it, it would be
7 beneficial to all parties involved if policies and procedures
8 were fully laid out in the decree in regard to officer
9 cameras.

10 The City has been given the task of writing their own
11 policies in regard to such, and we in the collaborative feel
12 that this will be problematic. The City has shown little to
13 no ambition to provide transparency or commitment towards
14 public safety in the past, and I feel it's naïve to think that
15 this will change.

16 Some of the issues that are likely to arise include
17 the officers' discretion and ability to turn off their cameras
18 at will and the potential of abuse in these practices. We
19 feel that a greater effort on redaction rather than that of
20 officer discretion would best mitigate these concerns.

21 There also needs to be clear standards and procedures
22 set for access to capturing footage, such as log-ins and
23 accountability for access to such. Officers should also not
24 be allowed to view this footage prior to filling out their
25 incident reports to preserve the officers' perceptions of

1 public occurrences.

2 Currently, only Ferguson police vehicles -- I'm
3 sorry. Only certain Ferguson police vehicles are equipped
4 with in-car cameras. In the ones that do have cameras, they
5 are only activated when their emergency lights are turned on.
6 For several years, I have documented and watched countless
7 occurrences of officers speeding through town, running stop
8 signs and stoplights, through school zones even, without their
9 emergency flashers on. I have shared these concerns with City
10 Council as well as with the interim police chief and patrol
11 officers themselves, but the problem still continues. I
12 currently live at an intersection of an elementary school, and
13 more than half the officers that drive by do not stop at the
14 stop sign there.

15 I ask the Court to please revise paragraph 231 to
16 require in-car cameras to be on at all times when the vehicles
17 are in motion. At the very least, they should be activated
18 when vehicles engage at a speed of more than 35 miles per
19 hour, the maximum speed limit within Ferguson.

20 Specific policy must be implemented to ensure the
21 security and proper retention of captured footage. There
22 needs to be clear, mandatory practices in place that set time
23 limits on data storage. As it stands, the City is required to
24 save footage for a specific amount of time, but there is no
25 requirement to destroy such footage. It must be ensured that

1 such footage will not be sold or given to another party or
2 agency in the future outside of the original neutral party
3 tasked with the organization and holding of the audio and
4 video recordings.

5 Under paragraph 249 of the decree, recordings are to
6 be made publicly available in accordance with the Missouri
7 Sunshine Law. However, the wording used allows the City to
8 interpret the Sunshine Law how they see fit, and in the past
9 as well as currently, they often deny requests that most would
10 feel fit within the parameters of the law. We feel that
11 public access to police-encounter footage should be laid out
12 more clearly.

13 Thank you for your time given to this momentous task
14 at hand. We in the Ferguson Collaborative have been fighting
15 for this Consent Decree for more than a year. It's been a
16 long road up to this point, and I'm hopeful that Ferguson's
17 future will now take a turn for the better. Thank you for
18 allowing us to share the voices of those most marginalized by
19 the City of Ferguson.

20 THE COURT: All right. Next John Chasnoff.

21 MR. JOHN CHASNOFF: Thank you, Your Honor. My name
22 is John Chasnoff. I'm a resident of University City, a
23 long-time activist on police issues, and a member of the
24 Ferguson Collaborative.

25 I wanted to delve a little deeper into the question

1 of body cameras today. I think that's one of the areas of the
2 Consent Decree that is the weakest. I think that might be due
3 to the fact that this is a new policy area for the DOJ to
4 explore, and I think that the provisions as they're written
5 now are inadequate to preserve the civil liberties of the
6 community.

7 So, first of all, I'd like to start with the issue of
8 discretion for when cameras can be turned on or off. The
9 Consent Decree says that the discretion is left to the officer
10 when it regards victims or witnesses. We think that that
11 provides -- creates a situation where there can be unequal
12 protection under the law or unequal application of the law as
13 different officers apply that discretion differently. So we'd
14 like to see the discretion left with the victims and witnesses
15 themselves to request that the cameras be turned off.

16 Secondly, there are no exceptions for undercover
17 officers in the Consent Decree and a provision that says that
18 all employees of the City police department who engage with
19 the public must wear the cameras. So that would mean the
20 receptionist would be wearing a camera. We think that's
21 unreasonable.

22 Also, discipline is mentioned for officers who don't
23 turn the cameras on appropriately, but that discipline is
24 unspecified. So we would have -- allow for a first offense
25 for while officers are learning about the cameras, with

1 appropriate discipline, but then we would require mandatory
2 suspension for second violations, and if there's a pattern of
3 violations of not turning on cameras, we would request that
4 there be mandatory termination.

5 It's also very important for civil liberties how this
6 information is retained. So there's nothing in the decree
7 that spells out -- you know, there's a mention of a remote
8 server to store the information but not who controls that
9 remote server. We think that the evidence should be kept in
10 the hands of a non-law-enforcement government agency. We say
11 that so a government agency is susceptible to First Amendment
12 restrictions. We think that's important. But we want to
13 create a fire wall so that officers are not viewing the
14 footage inappropriately and that there's some system for
15 making sure that that happens. So the Consent Decree also
16 doesn't spell out any specific log-in system that would
17 require officers to say who they are, why they're viewing the
18 footage, and specifically what footage it is that they need to
19 see. We think that that has to be built in so that there's an
20 audit trail possibly to make sure that violations aren't
21 happening.

22 There's also no -- no access standards mentioned in
23 the Consent Decree such as, you know, do you need reasonable
24 suspicion to view the footage? Are you there to audit the
25 footage? Are you there for an investigation? Possibly for

1 research or supervision? None of that is -- no access
2 standards are mentioned, and so it would be a free-for-all who
3 obtains access to the footage.

4 Finally, on the issue of the Sunshine Law, the -- the
5 decree makes the reference to maximum -- the footage should be
6 available to the maximum allowed under Sunshine Law, but the
7 Sunshine Law is open to interpretation. We think the footage
8 needs to be specified as incident reports rather than
9 investigative reports. That fits the Missouri statute
10 definitions much better, and it also allows for then
11 appropriate redactions to take place to protect privacy
12 concerns.

13 And then on the issue of viewing the footage before
14 you write your report as an officer, there's nothing mentioned
15 in the Consent Decree about that issue. We think it's crucial
16 that officers do not review the footage before they write
17 their incident reports and have their initial investigations.
18 The reasons for this is that the camera provides a different
19 perspective from the perspective of the officer, who has a
20 much larger field of vision, among other things, and we think
21 the two streams kept separate provide a better opportunity for
22 establishing the truth. And finally, you need to preserve
23 officers' perspectives under the law so that the use of force
24 doctrine is applied correctly. That's often the "reasonable
25 officer" standard, and if you don't have the officer

1 perspective, you lose that.

2 So I want to just say in conclusion that I'm
3 disheartened to hear that you don't have the opportunity to
4 improve this Consent Decree. The Ferguson Collaborative has
5 worked for many years to -- or for a year now to make sure
6 that this goes into effect, but we do think it's inadequate to
7 have a situation where clients are represented on one side of
8 the courtroom and no clients on the other. The people have
9 not had the adequate input that they need, and we hope that
10 you will find a process to send this back for further
11 negotiation to make sure that the citizen input is part of an
12 adequate decree.

13 THE COURT: All right. Thank you.

14 MR. JOHN CHASNOFF: Thank you very much.

15 THE COURT: All right. We are going to take a
16 15-minute recess at this time, and since there are a number of
17 people here, I will tell you that if you need to use the
18 restroom facilities, there are some on this floor, but also
19 you can go back down to the first floor, and there are more
20 there.

21 So court will be in recess for 15 minutes.

22 (Court recessed from 10:46 a.m. until 11:02 a.m.)

23 THE COURT: All right. We're ready to resume, and I
24 believe we're up to Christina Assefa, and I may be
25 mispronouncing your name as well. If you'll step up, ma'am.

1 MS. CHRISTINE ASSEFA: It's Christine Assefa. I am a
2 resident of St. Louis City, a black youth, born, raised, and
3 educated in Missouri, and I'm also an organizer with the
4 Organization for Black Struggle, and for the past year, I have
5 had the privilege of working with the Ferguson Collaborative.

6 The collaborative came out of a need and desire for
7 black people and working class people in Ferguson to
8 articulate, imagine, and begin to construct the type of
9 policing that truly serves the interests of the people and
10 protects the people, particularly, those on the margins of
11 society. The collaborative has done many successful things,
12 as those who have spoken before me have highlighted, and I
13 would be remiss not to acknowledge the beauty and power of
14 this collective of people who have grown to love, trust, and
15 protect one another in an effort to transform their community
16 for the better.

17 The Ferguson Collaborative has filled a gap that
18 reveals a shortcoming of the top-down approach implemented by
19 the DOJ and the City of Ferguson that has further disempowered
20 people most likely to experience police abuse. There needs to
21 be a shift from hierarchical modes of operating to more
22 lateral decision-making processes and approaches that don't
23 neglect the needs of communities most impacted by predatory
24 policing -- black people, LGBTQ people, poor people, young
25 people, undocumented people, and more.

1 The DOJ's approach must change as they move forward
2 with their investigations of police departments in cities
3 across the U.S. that have revealed the corrupt nature and
4 culture of policing nationwide. The views of implementation
5 and oversight at the local level are critical to the success
6 of the policy recommendations found in the Consent Decree.

7 In Ferguson, what we're dealing with is the
8 historical exclusion of black and working-class people from
9 local government. The decree opens with a section on
10 community engagement, emphasizing meetings in disempowered
11 neighborhoods with youth and strengthening nonfunctioning
12 neighborhood associations. We support community engagement as
13 a way to build relationships and establish trust so long as it
14 is more than a PR stunt and an attempt to use the community as
15 the eyes and ears of police. We need empowered community
16 engagement, not superficial engagement of -- of public
17 opinion.

18 A few additions to the Consent Decree that would help
19 institutionalize meaningful community engagement and better
20 ensure that the City and the Ferguson Police Department are
21 more accountable to oppressed communities are the following:

22 The community needs to know that the Monitor takes
23 their issues and concerns seriously. The parties should
24 release the names of all proposed monitors and allow citizens
25 the opportunity to conduct their own research, participate in

1 hiring interviews, and provide feedback and recommendations.
2 Unlike the recent police chief hiring process, where citizens
3 were only allowed to ask questions prepared by the City,
4 citizens must be given real autonomy and a chance to influence
5 outcomes.

6 Two, the community needs to trust the Force Review
7 Board and have faith in the complaint review process.

8 Three, the Consent Decree helps Ferguson move towards
9 community- and problem-solving-oriented policing; however,
10 some additional changes are needed. We need to tie
11 restorative justice alternatives to incarceration into the
12 community-oriented policing model. We need to prevent bad
13 cops from joining the force by requiring that applicants sign
14 a waiver so that their previous law enforcement personnel
15 files are available to the hiring agency.

16 We cannot afford enforcement mechanisms that are
17 weak. Ferguson serves as an example to the rest of the nation
18 for the potential for police reform, not to transform our
19 communities or serve us the justice that we deserve, but to
20 change the immediate repressive conditions of marginalized
21 people.

22 The law is only one facet of solving the problem of
23 racist policing. With respect to education, there's a
24 profound need to train police, judges, lawyers, teachers,
25 administration, and community members what the functioning of

1 racism both institutionally and interpersonally means. In
2 order for the Consent Decree to be fully realized, there is a
3 cultural shift that is needed, and this cultural shift can
4 only happen if the leadership of the oppressed in our
5 community is centered and uplifted.

6 Community engagement does not look like a group of
7 self-selecting, white, upwardly mobile residents leading the
8 effort to hyper-police their neighbors or lead so-called
9 neighborhood policing steering committees. Community
10 engagement in the context of police transformation here
11 requires that those most impacted by racist policing are
12 leading the effort to determine the governance of their
13 community.

14 Your Honor, I urge you to challenge both of the
15 parties seated to my left and my right to engage more
16 critically with the issue at hand and to listen to the cries
17 of thousands of people who have demanded and taken to the
18 streets demanding change.

19 THE COURT: Thank you.

20 All right. Daryl Meese.

21 MR. DARYL MEESE: Your Honor, my name's Daryl Meese,
22 and I'm a resident of Florissant and a pastor in Ferguson.

23 Every citizen deserves constitutional policing and
24 governments that serve within their created limits to protect
25 the rights of the citizens. This is a mandate for local

1 government and federal government as well. And, Your Honor, I
2 ask that you ensure the people are not mistreated in the
3 process of correcting the systemic wrongs that plague our
4 cities and our nation.

5 The transparency and fairness that the Department of
6 Justice desires in the Consent Decree is a good and right
7 thing. It is also a reasonable expectation for the citizens
8 to have for how the Consent Decree is created, negotiated, and
9 overseen. In regards to transparency, paragraph 14 of the
10 Consent Decree places the release of much information under
11 the control of the Court. I've found no comparable paragraph
12 in the DOJ agreements with Cincinnati, East Haven, or
13 Cleveland or any of the others that I have examined. It is
14 troubling to see a continued and deliberate lack of
15 transparency in an agreement that seeks in large part to
16 create transparency. What could possibly be gained by such
17 secrecy? Why is the entire process not open to the scrutiny
18 of the very citizens it should be serving?

19 There's an additional paragraph, number 452, which
20 furthers hampers transparency. It reads, "The Monitor is not
21 a state or local agency or an agent thereof, and accordingly,
22 the records maintained by the Monitor will not be designated
23 as public records subject to public inspection."

24 While there is a similarly limiting clause in
25 Cleveland's agreement, it is still reasonable to question

1 whose interests are being protected by these terms. It is
2 equally reasonable to ask if merely abdicating government
3 responsibilities to a third party negates the Sunshine Law.
4 The citizens each party should be serving seem to benefit very
5 little from this lack of transparency. And, therefore, I ask
6 the Court to treat information pertaining to this agreement
7 with an extremely open hand.

8 I also ask the Court to be open to significant
9 changes to the deadlines presented in the Consent Decree. A
10 comparison of the deadline-driven deliverables in the DOJ
11 agreements with Ferguson, East Haven, Cleveland, and
12 Cincinnati shows that Ferguson's has by far the greatest
13 number of deadlines, no less than 50 percent more than the
14 next closest agreement and between 200 and 600 percent more
15 deadlines than the other agreements. Not only does Ferguson
16 have more deadline-driven deliverables, it has a far greater
17 percentage of those deliverables due within the first 180
18 days. Fifty of Ferguson's 64 total deadlines are due within
19 180 days of the effective date.

20 This disparity is most clearly seen when the
21 percentage of deliverables due within 180 days is compared
22 with the Cleveland agreement. While Ferguson has the greatest
23 percentage of deadline-driven deliverables due within 180
24 days, Cleveland has the fewest. Interestingly, Cleveland's
25 agreement went into effect this past year, in 2015, under the

1 supervision of the same DOJ representatives overseeing
2 Ferguson, Ms. Vanita Gupta. Cleveland has a mere 34 percent
3 of deadline-driven deliverables due within the first 180 days.
4 That is less than half the percentage that Ferguson is
5 agreeing to deliver within the same time period. In fact, at
6 78 percent, Ferguson has the highest percentage of deadlines
7 due within 180 days of all the agreements I considered.

8 Curiously, other agreements have comparable
9 deliverables that either have significantly longer timelines
10 for delivery or lack a deadline completely. These severely
11 compacted deadlines create a significant but completely
12 avoidable project risk and unnecessarily stack costs together
13 in a manner that threatens and does not further the interests
14 of the citizens the agreement should be designed to serve.

15 Therefore, I ask the Court to either extend the
16 deadlines presented in the agreement or, at the least, to take
17 an extremely forgiving posture toward the meeting of those
18 deadlines.

19 And having a new understanding of the role of this
20 meeting, I, if it pleases the Court, would offer the consent
21 decree comparison that I was referencing. I compared
22 Cleveland, Cincinnati, and East Haven to Ferguson.

23 THE COURT: I'll ask the lawyers to address it, and I
24 understand your comparison that you've stated. So rather than
25 receiving further documents at this time, I'll just --

1 MR. DARYL MEESE: Great. Thank you very much, ma'am.

2 THE COURT: -- take your statements. Thank you.

3 All right. The next person on the list then is

4 Carlton Mayers II.

5 MR. CARLTON MAYERS II: Good morning, Judge Perry.

6 My name is Carlton Mayers II, and I am a policy counsel at
7 NAACP Legal Defense Fund, Legal Defense and Educational Fund,
8 Incorporated, in Washington, DC. The Legal Defense Fund would
9 like to thank you for inviting the public to provide written
10 and oral testimony about the proposed Consent Decree in the
11 case of United States versus the City of Ferguson.

12 For the past year, we have supported the efforts of
13 activists and lawyers in St. Louis County, including Ferguson
14 Collaborative, to develop strategies for addressing racially
15 biased policing and municipal court practices that the U.S.
16 Department of Justice has uncovered. As we stated in our
17 submitted written testimony to the Court, the proposed Consent
18 Decree contains many promising provisions that, if followed,
19 could promote constitutional and responsible policing and
20 court practices in Ferguson. But to ensure that Ferguson's
21 criminal justice system is administered fairly and without
22 regard to race, we propose changes to the Consent Decree
23 provisions relating to the race -- the use of race during
24 police stops, the municipal court amnesty program, protests
25 and demonstrations, school resource officers, the body-worn

1 camera program, and monitoring of the Consent Decree. This
2 morning, I will underscore only three of these proposed
3 changes of these proposed provisions.

4 First, paragraph 76(b) of the Consent Decree provides
5 that Ferguson police officers will not use race, color,
6 ethnicity, national origin, or other protected characteristics
7 as a reason to investigate, search, or restrain a person
8 except as part of an actual and credible description of a
9 specific suspect in an ongoing criminal investigation. This
10 exception runs the risk of encouraging racial profiling
11 because a description of a black man in his twenties may
12 result in stopping all black males in their twenties. The
13 exception could be revised to state that race may be
14 considered only when the stop is based upon a specific and
15 reliable suspect description that includes not just race, age,
16 and gender, but other identifying characteristics and
17 information, such as height and hair color.

18 Second, paragraph 210 of the Consent Decree states
19 that the Ferguson Police Department must develop a school
20 resource officer program in consultation with the
21 Ferguson-Florissant School District. Prior to the development
22 of this program, the Ferguson Police Department and the
23 Ferguson-Florissant School District should conduct an
24 assessment to determine whether such a program is even needed.
25 The Justice Department's complaint in this case alleges that

1 Ferguson school resource officers often treat routine
2 discipline issues as criminal matters and use force when
3 communication and deescalation techniques would likely resolve
4 the conflict. Research shows that police presence in schools
5 negatively impacts school climate, fueling distrust and
6 anxiety among students, despite doing little to improve school
7 safety. Before investing in police in schools, the school
8 district must weigh the costs, including the trauma felt by
9 students who are mistreated by police, and benefits of a
10 school resource officer program.

11 Third, paragraph 462 of the Consent Decree states
12 that the agreement will terminate when the City has been in
13 full and effective compliance for two consecutive years. A
14 previous version of the Consent Decree stated that it would
15 terminate after three years. We believe termination should be
16 considered after five years of full and effective compliance,
17 five consecutive years of full and effective compliance.

18 The Justice Department's complaint alleges that the
19 City's law enforcement and court practices have violated the
20 legal rights of Ferguson's African-American residents for
21 decades. In February of this year, Ferguson officials showed
22 signs of their unwillingness to eradicate a long list of legal
23 violations by making unilateral changes to the proposed
24 Consent Decree. It wasn't until the Justice Department sued
25 the City that it relented and agreed to the terms of the

1 proposed Consent Decree that is before this Court.

2 To ensure that improvements made to Ferguson's
3 policing and municipal court practices are institutionalized,
4 it is important that City officials demonstrate their
5 commitment to these changes over a long period of time. For
6 example, the Justice Department entered into a consent decree
7 with the Commonwealth of Puerto Rico which terminates after 10
8 years, presumably due to unlawful and egregious policing
9 practices. Termination of the Consent Decree in no less than
10 five consecutive years after the City has fully and
11 effectively complied with the terms of the agreement offers
12 reasonable time for City officials to demonstrate their
13 commitment to reform.

14 In conclusion, the proposed Consent Decree is a
15 promising and welcome step towards restoring the civil rights
16 of Ferguson's African-American community and the integrity of
17 Ferguson's criminal justice and municipal court systems.
18 However, the Legal Defense Fund respectfully requests that the
19 Court consider the comments set forth in our oral and written
20 testimonies and make modifications to the Consent Decree
21 accordingly. Thank you.

22 THE COURT: All right. Thank you.

23 Rick Brenton.

24 MR. RICK BRENTON: Good morning, Your Honor. I'm
25 Pastor Rick Brenton. I have served and lived in Ferguson

1 since August of 2010.

2 First of all, please let me say thank you for
3 providing this venue for residents and stakeholders to express
4 their support and their concerns about the Consent Decree. We
5 all know the events that led us to this point -- the tragic
6 death of Michael Brown and the ensuing investigation by our
7 Department of Justice which uncovered racial bias and
8 unconstitutional police practices. However, as we assemble
9 today, I believe we all do so in hope, hope for a better
10 tomorrow.

11 But not all of us agree as to what that means. Some
12 hope to return Ferguson to what it used to be while others
13 suggest that maybe change is good but fear the financial ruin.
14 Yet others of us yearn for justice for all.

15 As we reflect on hope, I'm reminded of a unique piece
16 of literature by C.S. Lewis. In *The Screwtape Letters*, the
17 author presents a unique perspective on hope. Writing as
18 Screwtape, the under lieutenant to Satan, Lewis invites the
19 reader into a correspondence between him and his nephew
20 Wormwood, an apprentice demon. Through a series of letters,
21 Screwtape instructs his novice how to possess the soul of his
22 patient. He posits, "Keep pressing him on the ordinariness of
23 things. Give him a grand general idea that he knows it all
24 and that everything he happens to have picked up in casual
25 talk and reading are the results of modern investigation."

1 To expound, the apprentice demon should keep the
2 patient from looking at universal issues. He should keep the
3 focus on immediate sensory experiences and away from hope.

4 In many ways, this describes the people of Ferguson.
5 Caught up in the morass that is St. Louis County where
6 political graft, corruption, and malfeasance are everyday
7 norms, where environmental issues are ignored and schools lose
8 accreditation, citizens have become numb, unphased even by a
9 botched election two weeks ago.

10 Much like New Orleans and Hurricane Katrina, the
11 death of Michael Brown did not cause systemic racism. It
12 simply exposed a climate which produced it.

13 So today we come to you to build on this glimmer of
14 hope provided by the Department of Justice and fan the flames
15 of justice. We believe this can happen when the focus remains
16 on universal issues or what is truly important. We address
17 the foundation of our democracy. Our Founding Fathers never
18 envisioned democracy as being static. They anticipated a
19 society which would transform over time. So they laid a
20 foundation on principles.

21 "We hold these truths to be self-evident, that all
22 people are created equal, that they are endowed by their
23 creator with certain unalienable rights, that among these are
24 life, liberty, and the pursuit of happiness."

25 So aligned with our Founding Fathers, we, the people

1 of the Ferguson Collaborative, endorse the Consent Decree and
2 ask for further safeguards to protect the marginalized,
3 disenfranchised, and the oppressed.

4 First, we believe the Neighborhood Policing Steering
5 Committee should be involved in the hiring of the Monitor as
6 well as having a presence on the Monitor team. We also
7 believe the Civilian Review Board should be involved in all
8 assessments, all the assessments the City does regarding the
9 Consent Decree implementation. Further, civil liberty
10 protections concerning body camera recommendations also need
11 to be solidified. And lastly, we want to stress the
12 importance of deescalation and the value of human life in all
13 use of force policies.

14 Like our Founding Fathers, we recognize democracy is
15 not static. It is always evolving, growing stronger than
16 before. That is because the true strength of governance is
17 found in its diversity, its people. To that end, we do
18 support the view of the Department of Justice that Ferguson
19 can be a model of community, of an emerging community justice.
20 By empowering the people, justice and hope can return to
21 Ferguson.

22 Thank you very much, Your Honor. May God bless you
23 in your deliberation.

24 THE COURT: Thank you.

25 Joe Lynett. And, again, I'm not sure I pronounced

1 your name correctly. So please correct me when you get up
2 here, sir, if I've got it wrong.

3 MR. JOE LYNETT: Absolutely. Thank you, Your Honor.
4 The name is Joe Lynett. I am from St. Charles, Missouri.

5 The only thing that I would request in this
6 hearing -- and I realize that this hearing is on fairness.
7 The only thing that I would request from the Court is
8 fairness, and what I mean by "fairness" is for the residents
9 of Ferguson to be able to attend public meetings and forums
10 without fear of being intimidated and threatened. I've spoken
11 with so many residents who are afraid to go to meetings and
12 speak up because they've been intimidated, because they've
13 been threatened, because they have been physically assaulted
14 and even had their homes vandalized. I've personally
15 witnessed this take place on numerous occasions.

16 Last week, I sat with a handful of African-American
17 residents, and they told me they have never been picked on or
18 victimized by the Ferguson police. Yet the DOJ report makes
19 this sound like it's rampant. One of the young
20 African-American males told me that he received a speeding
21 ticket in Ferguson. He felt that he deserved the ticket
22 because he was speeding. He also told me that the officer was
23 very nice and respectful.

24 I also sat last week with a group of Ferguson police
25 officers, and they told me, since the DOJ report, they

1 consistently have people tell them, "You can't arrest me. You
2 can't stop me. There isn't anything you can do." The DOJ has
3 empowered the criminal element in Ferguson. How is that fair?

4 So I ask that the Court set up a provision for
5 mediators at public meetings; when people become loud, rude,
6 and intimidating, that they are removed from the meetings. If
7 it happens again, that they're banned from future meetings.

8 In summary, I would like to leave you with a quote
9 from Dr. Martin Luther King. "Darkness can -- cannot drive
10 out darkness. Only light can do that. Hate cannot drive out
11 hate. Only love can do that. Hate multiplies hate. Violence
12 multiplies violence. Toughness multiplies toughness in a
13 descending spiral of destruction."

14 I beg of you; please put a stop to all of the hate,
15 fear, intimidation that these people have been spreading and
16 inflicting on the residents of Ferguson and allow the
17 community to move forward and begin to heal by signing and
18 agreeing to the Consent Decree.

19 Thank you.

20 THE COURT: Thank you.

21 Dora Ashby or Dara Ashby. I'm not sure.

22 MS. DARA ASHBY: My name is Dara Ashby, and I've been
23 a resident of Ferguson for 16 years.

24 Ferguson is ready to move forward and begin the many
25 implementations set forth by the Department of Justice. In

1 order to succeed, it's going to take us all working together
2 to make this happen. I respectfully ask the Court to help our
3 community succeed by not permitting the anger and disrespect
4 of some protesters, many not even residents of our city, that
5 halt progress by use of intimidation and disruptions at city
6 meetings.

7 I am speaking on behalf of many Ferguson residents
8 that are afraid to speak up themselves. There are
9 residents -- young, old, black, white, brown -- that want to
10 help in the process of making Ferguson the shining example of
11 what a diverse city should look like. Sadly, far too many of
12 these residents have given up the fight and are no longer
13 attending meetings, such as the Neighborhood Policing Steering
14 Commission, because of the constant targeting, intimidation,
15 and name calling of those that try to speak up. Many
16 African-American residents have even been called names that I
17 can't repeat and called traitors because they are of color and
18 love our city and want to help.

19 These actions by certain individuals have been
20 allowed, and this is unconstitutional and must stop. Our
21 residents have, in many ways, been hijacked by this small
22 group of those that seem to simply spew anger no matter what.

23 I ask that we are provided with DOJ mediators at all
24 meetings that pertain to the implementation of the decree.
25 This is the only way to assure that everyone has a voice and

1 respect is given to all. This is the only way we as a
2 community will move forward.

3 Thank you for your consideration.

4 THE COURT: Thank you.

5 Before the next speaker, I do want to comment on
6 something. I've been impressed today with how you all have
7 followed the rules of court, and everyone's demeanor has been
8 entirely appropriate until the last couple of speakers when
9 there's been a lot of whispering and note taking by people who
10 have already had their opportunity to speak. If you all need
11 to talk to one another, you can leave the courtroom and do it,
12 but in the meantime, I'd like to have this without comment
13 from the audience. Thank you.

14 Mae Quinn.

15 MS. MAE QUINN: Good morning, Your Honor. And thank
16 you very much for the opportunity to allow us to speak to you
17 today and address the Consent Decree. I'm a law professor at
18 Washington University School of Law, where I teach criminal
19 law, criminal procedure and run and direct our Juvenile Law
20 and Justice Clinic. I previously lived in St. Louis County.
21 I now live in St. Louis City, and I've been a resident in the
22 St. Louis area for the last seven years.

23 I came today to express my gratitude to the
24 Department of Justice for its important work and to generally
25 support the decree that is before you. But as has been said

1 already by the Department of Justice, this document and this
2 agreement can be seen only as a first step in what I think is
3 a longer process moving towards real change and real reform in
4 St. Louis, and many of us hope and believe that the Ferguson
5 agreement will now force Ferguson and the other municipalities
6 to act more responsibly, but, again, I want to be sure that
7 Ferguson officials and other municipalities know that the
8 agreement won't fix everything and that real reform might
9 include a more rational system that doesn't have 90 different
10 systems operating independently and that involves juvenile
11 justice reform as well. And even within the decree as
12 proposed, there are certain remaining problematic features
13 that I wanted to point out.

14 First is the question of civil arrests, and while the
15 decree puts some limits on police arrest practices for
16 ordinance violations out of Ferguson, I want to suggest to the
17 City of Ferguson and the other municipalities that arrest for
18 civil violation of any law should be seen as unconstitutional
19 in the United States. Noncriminal violations of law should be
20 met with citation always. And if an FBI agent or an AUSA came
21 to Your Honor, seeking a warrant to arrest based on a breach
22 of a contract or a tort, even if there was probable cause to
23 believe that was the case, arrest would not lie, and
24 therefore, I would suggest that arrests should not be
25 occurring for any local ordinance violation in St. Louis

1 County, and that fundamental issue, if addressed, could take
2 on many of the related problems that remain. For instance,
3 bail practices, jail practices, jail condition issues.

4 Second, the decree, I fear, doesn't address, as much
5 as I might like, the issue of youth justice and youth within
6 our municipal courts. While we surely have a juvenile justice
7 system in Missouri and St. Louis County, what many people
8 don't realize is that there are children in the municipal
9 court system, minors in our municipalities who are being
10 prosecuted, directly filed against, and dealt with as if
11 adults in those systems. I have concerns for the problem of
12 minors in munis, cash being taken from kids in these systems,
13 and pro se adolescent advocacy in these courts which continues
14 even under the decree. It appears there's still not
15 representation being provided for kids in these courts, and I
16 fear failure to do -- that failure to address this issue will
17 be problematic going forward.

18 Third, the issue of policing and policing in schools.
19 And I join here with my colleagues at legal services, Luz
20 Henríquez, who Your Honor heard from earlier, with LDF, in
21 asking really for SRO practices to be looked at more carefully
22 and actually SRO numbers reduced. We don't want more police
23 in our schools. We want fewer. And while quite expressly the
24 Consent Decree addresses police being deployed into the
25 schools to effectuate arrest warrants for municipal ordinance

1 violations, it does not address a related practice, and that
2 is the Ferguson police being deployed into the schools to
3 effectuate arrest warrants out of the juvenile court. And
4 just last month, I had a young man arrested in front of his
5 peers by the Ferguson police in a high school for an incident
6 that really should have been dealt with with notice and
7 summons to court. It's a widespread practice that continues
8 to this day despite the two investigations in these two
9 systems, and so I would urge address of that issue as well.

10 The last two points I'll touch upon is amnesty and
11 data collection, that we really don't have the full picture of
12 the number of young people being prosecuted in the Ferguson
13 Municipal Court or any of the munis. So greater data
14 collection for all young people under the age of 18 in these
15 courts, I think, needs to be collected so we can have a better
16 handle on the minors and munis problem, and I would urge
17 amnesty for all outstanding cases for kids under the age of 18
18 who had cases in the Ferguson court.

19 Thank you.

20 THE COURT: Thank you.

21 All right. Blake Ashby.

22 MR. BLAKE ASHBY: Hi, Your Honor. Blake Ashby,
23 resident of Ferguson.

24 I know you started this by saying that you are not
25 going to get in and renegotiate the Consent Decree, but I am

1 asking you to refuse to sign the Consent Decree until the
2 Department of Justice agrees to remove section 38(d) from the
3 Consent Decree. It's a very small thing. Just to confirm, it
4 has nothing to do with constitutional policing. The DOJ
5 referenced a federal statute that addressed constitutional
6 policing. It has nothing to do with constitutional policing.
7 What it says is that the City of Ferguson should change its
8 occupancy permit law so that the City of Ferguson can't
9 require new people moving into an existing occupancy permit to
10 list their names. That's literally it. They're asking for
11 the City of Ferguson to change its occupancy permit laws, and
12 this has nothing to do with constitutional policing, but it
13 has everything to do with how the Department of Justice has
14 gone about this case.

15 When Michael Brown died, it was a tragedy, and it
16 unleashed lots and lots of anger and emotions that goes back
17 centuries, and there is certainly a basis for that anger.
18 There is certainly a basis for that emotion. What people are
19 talking about happens in our society, but very little of it
20 has to do with Ferguson.

21 I talked to a SLU professor and said the Ferguson
22 report was distorted. His comment was, "The experiences of
23 millions of people can't be wrong."

24 One of the speakers earlier referenced centuries of
25 oppression. Ferguson hasn't been around for centuries.

1 I asked another person and said the Consent Decree or
2 the report says the policing for profit didn't start until
3 2011. His comment was, "Unconstitutional policing started
4 with Columbus."

5 All that might be true. That has nothing to do with
6 Ferguson.

7 So how did we get here? Because the anger is real
8 and the Department of Justice realized this was a unique time
9 in our history. This was a chance for the Department of
10 Justice to truly propose radical changes, to expand its
11 powers. And unfortunately, it makes me think of nothing so
12 much as 9/11. When 9/11 happened, when the Twin Towers fell,
13 President Bush's first thought was, "How can we use this to go
14 into Iraq?" When this situation happened in Ferguson, the
15 DOJ's first thought was, "How can we use this anger, harvest
16 this moment to start making a radical transformation of
17 society?"

18 And so the Consent Decree that Ferguson is being
19 asked to sign, as referenced earlier, is almost twice as long
20 as any other consent decree. The City of Cleveland -- we're
21 at 40 percent more mandates than Cleveland. Cleveland is 15
22 times bigger. And in Cleveland, a dozen police officers
23 pumped 128 rounds into a car with two people and killed them.
24 It is 70 percent more expensive than East Haven, Connecticut,
25 and in East Haven, Connecticut, four police officers went to

1 jail for beating up people.

2 There are very terrible things that happen in our
3 world, undoubtedly, but that is not what is happening in
4 Ferguson. Again, the Department of Justice has seen an
5 opportunity to expand its power, and so we are going to ask
6 you, obviously, to address that. So if you think about the --
7 again, by any measure, the most sweeping Consent Decree ever.

8 Now -- so if we pass this as written, then the
9 Department of Justice will have opened up a door. They will
10 be able to go into literally any city that writes too many
11 traffic tickets and start getting into -- deep into their
12 political goals.

13 So you're saying why would the City of Ferguson have
14 signed a Consent Decree that allows the Department of Justice
15 to use a statute on federal policing to say that Ferguson no
16 longer has the right to live -- to know who lives in its city.
17 It's because this really was not an arm's length transaction.
18 They told you earlier it was seven months to a negotiated
19 settlement. That is the fastest settlement ever even though
20 this Consent Decree is almost twice as long as any other, and
21 the exchanges went like this:

22 Ferguson would say, "That's really expensive."

23 The DOJ would say, "We're going to sue you."

24 "I don't think we can do that."

25 "We're going to sue you."

1 Over and over again, the DOJ used their very big
2 hammer to force an expansive and unrealistic Consent Decree on
3 the City of Ferguson.

4 And you think I'm exaggerating? There are over 1,000
5 deliverables in the Consent Decree. When the City of Ferguson
6 signed and said, "You know, we can't do these," they sued.

7 So, Your Honor, Ferguson made history. You're going
8 to make history today too. You're either going to allow the
9 Department of Justice to use a law on constitutional policing
10 to start dealing with housing codes and literally every aspect
11 of governance, or you're going to give the DOJ just a little
12 rap on the knuckles and say, "You have to take that one clause
13 out. That has nothing to do with constitutional policing."

14 Thank you.

15 THE COURT: Anthony Rothert.

16 MR. ANTHONY ROTHERT: Good morning, Your Honor. My
17 name's Anthony Rothert, and I am here on behalf of the
18 American Civil Liberties Union of Missouri to give some
19 comments on behalf of our 5,000 Missouri members.

20 And I'd like to begin by acknowledging what I saw in
21 several of the pieces of written testimony and have heard a
22 little bit today, and that is that Ferguson is certainly not
23 the only and probably not the worst offender, even in
24 St. Louis County, when it comes to racial bias and racial
25 profiling and policing, policing for profit, oppressive,

1 unconstitutional municipal court processes, and even things
2 like using occupancy permits to perpetuate segregation and
3 racial bias in policing.

4 But our federal civil rights laws, fortunately, do
5 not require the Department of Justice or anyone else to only
6 go after the very worst offenders. Just as we still prosecute
7 people for stealing \$1,000 even though other people steal a
8 million dollars, when the laws are being violated and where
9 there's significant evidence of unconstitutional practices, it
10 is appropriate for the Department of Justice to get involved,
11 and the results can be a Consent Decree like this that would
12 go a long way if Ferguson's truly committed to the reforms, a
13 long way to making Ferguson a model for its neighbors rather
14 than just another neighbor that engages in unconstitutional
15 practices.

16 I wanted to speak today because I've had some
17 experience with consent judgments and the City of Ferguson.
18 Unfortunately, the -- one of the first responses by the City
19 of Ferguson -- and they had a lot of help from other
20 government entities, but one of the first responses to
21 criticism and scrutiny was to violate First Amendment rights
22 and try to shut down transparency. As a result of some of
23 that, there were two consent judgments that the ACLU was
24 involved with, one in *Hussein versus County of St. Louis*,
25 which was case 14-CV-1410, and another was called *Abdullah*

1 *versus County of St. Louis*, 14-CV-1436.

2 The wrong name for that is in the consent judgment,
3 by the way, for that second case.

4 In both those cases, the City of Ferguson entered
5 into consent judgments, and in our view, the compliance with
6 those consent judgments at best is half-hearted. At best.

7 So for that reason, we wanted to highlight for the
8 Court the importance of the Monitor, the Monitor provisions of
9 the proposed Consent Decree, and the importance of having a
10 Monitor that will ensure compliance with each aspect of this
11 Consent Decree.

12 One of those, for example, is paragraph 326 and
13 326(a) in particular, which has to do with comprehensive
14 immigration. Or not comprehensive immigration. Comprehensive
15 amnesty.

16 THE COURT: I was going to say I didn't think we were
17 in immigration.

18 MR. ANTHONY ROTHERT: I'm sure that has nothing to do
19 with amnesty.

20 All right. It provides that prosecution will be
21 declined in a bunch of old cases that aren't adjudicated yet
22 but leaves to the discretion of the prosecutor to find good
23 cause to continue prosecution. Where the prosecutor has been
24 a core problem, a core part of the violation of due process
25 and other constitutional rights, that certainly could be a

1 meaningless provision. It gives something. It gives amnesty
2 but then takes it away by having the person who decides be
3 part of the problem. And that combined with what I really
4 believe to be the heartfelt denial of the City, several City
5 officials, that there was ever anything wrong gives serious
6 concern that there is not a real commitment to complying with
7 the consent judgment.

8 However, if the City truly is held -- either chooses
9 to comply with this or is held by having strict oversight to
10 complying with the consent judgment, it will go a long way to
11 bringing systemic reform to Ferguson that is not there today,
12 and for that reason, we'd encourage you to approve the consent
13 judgment with the understanding that there will be strict
14 oversight.

15 THE COURT: Thank you.

16 All right. Felicia Pulliam.

17 MS. FELICIA PULLIAM: Good morning, Your Honor. How
18 are you? Thank you so much for this opportunity. I know that
19 you didn't have to do it, and I think that it is both gracious
20 and generous of you. My name is Felicia Pulliam, and I'm a
21 North County girl. I live right now in my community, in the
22 city of Ferguson, and have resided there for six years, but I
23 have lived throughout the community, and it is unfortunate
24 that you cannot take this Consent Decree and weave a great big
25 quilt and blanket all of St. Louis County because the rampant

1 racism is systemic, and it runs throughout the county, but we
2 do have an opportunity in this one municipality under the
3 Consent Decree.

4 I am a cofounder and member of ONE Ferguson, a
5 trustee of the Come Together Ferguson Fund. I'm a member of
6 the -- of NPSC and a former commissioner and cochair of the
7 Economic Inequity Working Group of the Ferguson Commission,
8 and that translated into the Opportunity to Thrive component
9 of that report, and so it is clear where I stand regarding the
10 issues to dismantle structures and systems of racism and
11 provide opportunity.

12 I think that it is a privilege to have access to
13 justice. If we just look around at who is available here
14 today, we see that the people that are most egregiously abused
15 aren't here. They don't have an opportunity to lift up their
16 voice, and I have grave concerns that the City of Ferguson has
17 the ability or is willing to implement any of the components
18 of the Consent Decree. They still continue to deny that
19 there's been any harm done, that they've done anything wrong.
20 They will not humble themselves. They won't apologize to the
21 community. They continue to fortify -- fortify structural
22 boundaries that separate community. I haven't seen any
23 efforts of transparency. I haven't seen any efforts of
24 community engagement. They refused to comply with the
25 consultant for NPSC that said, "Let's mail out some cards.

1 Let's have a meeting in that community to make this
2 opportunity accessible for people broadly." And they refused
3 to do it. I haven't seen any indication, despite what they
4 say, that the City of Ferguson is prepared to make any
5 changes.

6 They have been dangerously deceptive, just -- just in
7 saying, "Oh, yes, we've approved the Consent Decree," when
8 everyone knew that they hadn't.

9 "Oh, yes, we're making changes."

10 We know that they haven't made the changes. They
11 have an inability to be flexible, to adapt. Their leadership
12 is lacking in a myriad of ways. Simple things like making
13 sure that there's an appropriate venue so that citizens that
14 have an opportunity to participate can, but they consistently
15 held what they knew would be large and contentious meetings in
16 small spaces and locked out citizens over and over and over
17 again.

18 They've refused to answer questions. I've objected
19 to the process. They've refused to answer questions. They
20 don't treat the citizens that have real concerns like human
21 beings. They will not represent them. They will not answer
22 questions, and they cannot be trusted.

23 Even on the issue of the budget regarding the
24 implementation of the Consent Decree, we had several budget
25 meetings, and at every meeting, there was a new number; there

1 was a new reason why it could not be implemented, a new reason
2 why we couldn't afford it.

3 Then they started talking about a structural deficit.
4 They tried to blame that deficit on the unrest after Mike
5 Brown was murdered, but when you review -- when you review the
6 budget, you can see that the structural deficit started years
7 before, but they want to lay this broken budget over that
8 boy's bloody body. They can't be trusted. They never ever
9 tell the truth.

10 The City Attorney is a huge part of the problem. As
11 long as she's in place, I don't believe that anyone's going to
12 ever feel as if we can make any progress.

13 SROs in schools are a really, really bad thing. I
14 don't think that that is very helpful.

15 And, yes, we would like for the hate, the fear, the
16 intimidation, harassment, disrespect, disruption, targeting of
17 citizens, and anger to stop. I understand that citizens that
18 don't look like me don't want those things to happen to them.
19 We don't want it to happen to us or to anyone that looks like
20 us in this community or anywhere else.

21 Thank you.

22 THE COURT: Thank you.

23 Denise Lieberman.

24 MS. DENISE LIEBERMAN: Good morning, Your Honor.

25 Thank you for the opportunity to speak today on the proposed

1 Consent Decree in Ferguson. My name's Denise Lieberman. I'm
2 a Senior Attorney with Advancement Project, a racial justice
3 organization that works to dismantle systemic barriers to
4 participation in democracy. I'm a resident of the city of
5 St. Louis and, for more than two decades, have worked as a
6 civil rights lawyer in this community, focusing on issues of
7 systemic bias. I serve as cochair of the Don't Shoot
8 Coalition, a coalition of dozens of local organizations that
9 have convened in the aftermath of the shooting death of
10 Michael Brown to advocate for needed policing reforms and an
11 end to biased policing. The Don't Shoot Coalition works to
12 advance structural change to combat institutional racism and
13 enhance public safety and police accountability. We support
14 community-based advocates such as the Ferguson Collaborative
15 to ensure that they have a voice in advocating for needed
16 reforms in their communities.

17 As investigations following the shooting death of
18 Michael Brown have revealed, the Department of Justice found a
19 pattern and practice of unconstitutional racial bias in
20 policing in Ferguson against African-Americans and communities
21 of color. It found both impermissible discriminatory impact
22 as well as prohibited discriminatory intent. And this has
23 plagued this community for decades. Biased policing is a
24 direct affront to the proposition that the job of police is to
25 protect and serve the communities, and it has broad and

1 long-lasting consequences. Biased policing alienates
2 communities from police, impedes community policing, feeds a
3 policing culture of militarization and excessive force and
4 exacerbates the lost credibility that police have earned in
5 Ferguson and too many other communities. Over time, it
6 creates deeply embedded inequalities of opportunity and power
7 in numerous areas of life, and these harms are among the
8 reasons why the law allows the Department of Justice and the
9 courts to step in in cases like this and oversee and mandate
10 change.

11 We understand, Your Honor, that you can't alter the
12 terms of the proposed decree, but you do have discretion in
13 this matter. For this decree to be fair, reasonable, and
14 adequate, this Court can use its discretion to ensure
15 effective oversight, monitoring, community involvement in
16 implementation, and government accountability in carrying out
17 its constitutional obligations. This proposed decree must
18 have strong accountability written into its provisions if it
19 is to usher any long-term, sustainable change after federal
20 enforcement ends.

21 Community engagement is essential to protecting the
22 rights of citizens and holding public officials accountable.
23 This Court can help ensure the success of the decree and the
24 remedy proposed today by building community engagement and
25 accountability into the enforcement mechanisms of the decree.

1 So true community engagement is key, and this particularly
2 involves the selection of the Monitors. Community involvement
3 must be intentional and diverse, include deep engagement from
4 citizens of color, youth, formerly incarcerated individuals,
5 and others who have been directly impacted by biased policing
6 in Ferguson.

7 Second, citizen groups, including the Neighborhood
8 Policing Steering Committee, that are discussed in the decree
9 need genuine institutional authority. This entity should be
10 permanent, and it needs to have the ability to engage in
11 reforms in more than just an advisory capacity. It should
12 include an emphasis on nonpolicing solutions as well.

13 Third, the Civilian Review Board must be empowered
14 with a substantive and thorough review process that allows it
15 to hold police accountable for problematic activity and
16 enforce genuine involvement in policy, training, and hiring.
17 It needs access to the evidence it needs to do the job.

18 Finally, Don't Shoot also believes that provisions
19 related to body cameras need to be strengthened, and there are
20 numerous policy examples throughout the country that evidence
21 the need for written policies that protect issues of camera
22 use, privacy, how the data is stored, and other measures that
23 have been discussed by other panelists today.

24 This decree includes necessary and critical
25 provisions on data collection, training and evaluation, use of

1 force policy, and early warning systems, but its success as a
2 long-term tool of reform will depend on the strength of this
3 Court's oversight and its strengthening public accountability
4 and citizen involvement in that process. Thank you.

5 THE COURT: Thank you.

6 Mildred Clines.

7 MS. MILDRED CLINES: Good morning. Good morning,
8 Your Honor. My name is Mildred Clines. I am a 28-year
9 resident of Ferguson. I also live in an area called Ward 3,
10 which is probably 98 percent African-Americans, and we feel
11 the most marginalized. I'm a homeowner also for that same
12 length of time.

13 I really want to thank the Department of Justice for
14 coming into our city to help us. I want to thank all the
15 allies that came in from across the country to help us, us
16 being the African-Americans of this community. We felt
17 helpless. As an African-American in this community, I
18 welcomed the report, a lot of which I already kind of knew was
19 going on in Ferguson but felt helpless to do anything about
20 it. So I was glad when they came in.

21 Also, I am a member of the Ferguson Collaborative.
22 We have worked hard -- the Ferguson Collaborative -- to be
23 diverse, inclusive, which means we have people there with
24 diversity of thoughts, opinions, diverse races, and we stand
25 by this Consent Decree. We really are urging you to approve

1 it. We think it's a good decree. They did a lot of hard
2 work, both the City and the Department of Justice, but we
3 think that it needs a little bit more strength to it, and I
4 don't know if you have -- if you can do that, but, you know,
5 that's just our opinion.

6 I'm not very well-polished. I'll just speak how I
7 speak, but the law firm that the City hired to represent the
8 City -- they don't represent the residents, you know, because
9 we -- they have constantly fought this tooth and nail all the
10 way, and we've been crying, "Yes, this is going on." You
11 know, we even have -- our mayor -- he still say he didn't feel
12 like there was a racial divide, but he also doubts a lot of
13 the evidence or a lot of the information that's in the decree
14 or in the -- the investigation, and I mean if you can't even
15 believe what people in your city are coming forth to say is
16 going on in your community, how can you in good conscience
17 implement this?

18 We definitely need this independent Monitor to
19 oversee the implementation of this decree. Someone said it
20 was for two years. I wish we could at least have it for at
21 least five years because this is going to be a long, hard
22 fight.

23 I'm a part of the Neighborhood Police Steering
24 Committee as well, and already, there is in this group -- it's
25 a very minute membership from the African-American community.

1 The people who are most affected by all these findings are not
2 engaged. We have to figure out a way to get them engaged as
3 well, and nothing is really being done by the City because I
4 believe they could actively go out and mail -- mail -- have
5 mailings to those people in the community, but the people in
6 the community feel so discouraged. They feel like their
7 voices don't matter, you know, nothing they can really do
8 because they don't have any power. You know, so I think that
9 we need to have something in place like this independent
10 Monitor, and I also believe that maybe our citizens can be a
11 part of that team.

12 I'm also a member of the Civilian Review Board Task
13 Force, and also, there's things in there that don't give us
14 any power. There's no investigative power. There's no
15 subpoena power. There's nothing to compel the police to come
16 to testify before us. I know the Department of Justice
17 mentioned investigative -- investigations, but the Civilian
18 Review Board would not have any investigative power. So I
19 think that's something that needs to be addressed as well.

20 Thank you for your time.

21 THE COURT: Thank you.

22 Robert Wells.

23 MR. ROBERT WELLS: May it please the Court. My name
24 is Robert Wells. I'm from Belleville, Illinois. You might ask
25 why am I here. I have been engaged in this sort of incident

1 for the last 20 years and learned about it at nine years of
2 age as far as racial injustice. What I'd like to explain is
3 that --

4 THE COURT: Mr. Wells, can you pull that microphone
5 so it's straight up? Okay. Thank you.

6 MR. ROBERT WELLS: Certainly.

7 THE COURT: That's fine.

8 MR. ROBERT WELLS: Four days before Ferguson, a
9 group, one organization I belong to, had a meeting. It was a
10 positive collaboration between law enforcement, students, and
11 their schools. We had the U.S. Attorney from East St. Louis.
12 We had the Sheriff. We had a judge. We had a superintendent
13 of schools. They were there trying to address these issues.
14 Right now, I'm in discussion with some of the people in
15 Chicago -- a judge, a professor, and some others who are
16 trying to put together some issues that they're concerned with
17 concerning what's happening in their city.

18 And I realize your function today is to approve or
19 disapprove of this document that's been presented to you, the
20 consent agreement, but what I would encourage or where my
21 focus lies today is I'd like you to take this opportunity to
22 put in there a commentary of this Court as to how it perceives
23 this agreement, how it would like to see this agreement
24 implemented, how it would like to see good faith be part of
25 it. We have seen this morning that both sides have presented

1 and agreed to this, but from my tenure in law school, one was
2 a grumbling acceptance. It was an acceptance that says,
3 "We're not going to oppose it," but it wasn't with the force
4 and with the vigor that one might hope is necessary for this
5 thing to carry through to fruition.

6 The key aspect, I believe, since this agreement is
7 either going to be accepted or not accepted, is, as was
8 mentioned by some of the earlier speakers, the Monitor. Who
9 is the Monitor? How is the Monitor going to be chosen? How
10 is the Monitor going to build up the trustworthiness that's
11 necessary for that Monitor to have an impact and be fair in
12 this agreement? This Court may be faced with repetitive
13 contact back with Ferguson unless that Monitor is chosen from
14 someone who has the ability to mediate this, to work through
15 it, to have the neutrality that's necessary in order to
16 further what's needed in this case.

17 This morning, while I was here, I walked down to the
18 downstairs of the courthouse, and in there, if you go through
19 the little historical section, it says, "Imagine if," and I
20 really would suggest that in your commentary that that would
21 be part of it. Imagine if this was how this agreement were to
22 be implemented. Imagine if this was the good faith that was
23 getting found in the community. Imagine if this is the hope
24 that can be given to those who have been disenfranchised.
25 Imagine the hope to a police officer who knows that we're

1 concerned about his wellness.

2 I'd ask the Court to look at the 20th [sic] Century
3 Report on Policing, which I'm sure you have, and consider the
4 commentary in there because there are five component parts.
5 There are five pillars in that agreement that focus on what's
6 needed for these things to work. Because not only did we
7 have -- that group I was with, Racial Harmony -- have a
8 meeting in which we had that event four days before Ferguson;
9 since Ferguson, we've had three police chiefs and the U.S.
10 Attorney appear in a forum with the community in which the
11 community got to interact with the individuals, interact and
12 see they were human. One woman came up to me afterwards and
13 said, "I've never been able to talk to a police officer
14 before. I've never been able to experience this."

15 So what we ask the Court to do is give hope to the
16 community, give an opportunity for the community to heal, and
17 see that the Monitor is one worthy of this tremendous task.

18 Thank you.

19 THE COURT: Thank you.

20 Sandy Hunter.

21 MS. SANDY HUNTER: Your Honor, my name is Sandy
22 Hunter, and I live in Ferguson. I'm a third-generation, proud
23 member of the Ferguson community. I'm here to read on behalf
24 of Stefannie Wheat who wanted her views known, and she was
25 unable because of a work conflict to come. I'm reading this

1 on behalf of Stefannie. And I quote:

2 "I'm an 18-year resident of Ferguson along with my
3 husband, Kenneth Wheat. We have raised three children in
4 Ferguson. Our racial makeup, for the sake of conversation, is
5 African, European, and Asian. We are avid volunteers in a
6 variety of Ferguson programs, and my husband is a board member
7 of the 'I Love Ferguson' store and the Fourth of July
8 Committee.

9 "Since August 2014, I have observed a bias in the
10 methods that the Department of Justice has used, particularly
11 in its community relations team and its information gathering.
12 Problems which have occurred include, but are not limited to,
13 refusal of the DOJ staff to talk with residents about positive
14 interactions with the police. Residents were turned away,
15 brushed off, and disregarded when approaching agents with
16 positive information.

17 "September 2014, I sat in an Old Ferguson West
18 meeting in which the DOJ requested to speak to residents, and
19 I was asked to respond with only negative complaints or
20 information that I may have about the Ferguson Police
21 Department. I had none.

22 "On August 6th, 2015, I personally held a meeting
23 with residents in my home and invited DOJ, Darryck Dean. He
24 was an hour late coming and only came at the call of Mayor
25 James Knowles. Mr. Dean did not follow up with inquiries of

1 the residents, even after several attempts to reach him.

2 "Use of intimidation and suppression in DOJ meetings
3 has occurred. The last town hall meeting held was open to the
4 public. A large group of about 100, mostly out of state
5 students were placed in the front rows. Activists, protesters
6 who were not residents and had no prior stake in Ferguson were
7 present and allowed to be loud. Phones were also permitted,
8 and tweets immediately went out. This allowed anyone with a
9 dissenting opinion to be instantly mocked and threatened.

10 "In December 2014, my home address was tweeted by
11 postal employee Debra Kennedy. Two days later, my home was
12 invaded. A day later, she attempted to create a protest in my
13 name, calling it 'Okay, Buckwheat.'

14 "In a recent city hall meeting, my husband, Kenneth
15 Wheat, was physically assaulted by Karl Tricamo. A court date
16 is pending. It was only after the DOJ agents witnessed the
17 assault did Dean and three other DOJ members contact Ferguson
18 Truth, an organization in which myself and my husband are
19 members, and request to meet with a group of residents to
20 discuss how the DOJ could assist in healing Ferguson.

21 "As in all of the above, the DOJ has shown a biased
22 preference in working solely with those critical of Ferguson,
23 including those who had no prior connection with Ferguson,
24 while rebuffing long-time residents who sought to speak with
25 them. The DOJ has broken trust, and many residents have

1 strong cause to believe they are operating here solely for
2 political purposes.

3 "The community police steering committee, one part of
4 the decree which the City has begun, is being stalled by
5 antipolice activists. These persons, many who are not
6 residents of the city, have openly stated that they do not
7 want police at committee events. This group is stalling and
8 obstructing a progression to allow for the creation of
9 neighborhood groups and task force groups that residents were
10 promised could focus on problems such as the gunfire and
11 traffic violations. The DOJ must be required to allow the
12 City to remove persons from committees who will not allow the
13 said committees to achieve their public safety objectives.

14 "I ask the Court to consider as part of the fairness
15 hearings to require the Department of Justice to comply with
16 the following in a timely manner within six months: To reveal
17 methodology and all documentation in its statistics, including
18 determination of residency and race; to reveal methodology and
19 all documentation in gathering police reports, anecdotes,
20 et cetera, and the extent to which they were validated or
21 unconfirmed, if not the actual report itself."

22 THE COURT: Your time is up, ma'am.

23 MS. SANDY HUNTER: Oh, okay.

24 THE COURT: Thank you.

25 I don't know if it's Jean or Jean. Jean Boettcher.

1 MS. JEAN BOETTCHER: Good afternoon, Your Honor. My
2 name is Jean Boettcher, and I am a third-generation Ferguson
3 resident. Thank you for allowing us to -- the opportunity to
4 speak.

5 I think that the DOJ has gone beyond appropriateness
6 with their demands. There are many cities in the area that
7 have been accused of more significant abuses. Ferguson had
8 already begun to make improvements in policing and court
9 procedures. The percentage of revenue Ferguson collected from
10 ticketing and fees was below that required by law.

11 In the January 29th issue of the *St. Louis*
12 *Post-Dispatch*, former St. Louis County Police Chief Tom [sic]
13 Fitch said he was unaware of any police department that
14 fulfilled all of the requirements that the DOJ outlined in its
15 proposed settlement with Ferguson. I continue to quote the
16 article. "Those requirements include officers must get a
17 supervisor's approval before arresting someone for failure to
18 comply or for a peace disturbance. Officers who handle
19 incidents without resorting to force shall be rewarded.
20 Officers must complete neighborhood policing training beyond
21 the State's requirements to maintain their licenses."

22 Fitch goes on to say, "This goes way beyond, and I
23 mean way beyond, what accreditation requires. To expect that
24 Ferguson, with a department of 50 officers, can pull that off
25 is unrealistic."

1 Tom [sic] Fitch is a private security consultant and
2 evaluator for the Commission on Accreditation for Law
3 Enforcement Agencies.

4 In the January 28th edition of the *St. Louis*
5 *Post-Dispatch*, John Ammann, a St. Louis University law
6 professor and legal clinic supervisor, praised the consent
7 agreement for its detail. "But," he said, "many other cities
8 accused of the same abuses need to be held accountable. This
9 wasn't just about Ferguson," he said. "Two years ago, had you
10 asked us which were the five worst cities for operation of
11 their municipal courts, Ferguson wasn't even in the top five.
12 So if the Justice Department is coming down this hard on
13 Ferguson, it should be doing the same with these other cities
14 too."

15 This is a fairness hearing. John Ammann's comments
16 point out the fact that Ferguson has been treated unfairly.
17 Many more cities in the area have abused the system in more
18 egregious ways. And why do you think they picked on Ferguson?
19 Ferguson is not just a good city. It's a hometown. It's my
20 hometown. I think the Justice Department estimated that they
21 would get a conviction against Darren Wilson. When that
22 didn't happen, they decided to take their frustration out on
23 Ferguson. I'm saddened by what has been the result.

24 I'd like to quote a few points from a statement by
25 Lieutenant Governor Peter Kinder decrying the outrageous

1 overreach of the DOJ attack on the residents of Ferguson.

2 "The Department of Justice lawsuit is nothing less
3 than an assault on the taxpayers of Ferguson. Ferguson
4 leaders are making a good faith effort to adopt reforms to
5 correct past problems, but the Justice Department demands
6 would force the City to stop providing basic services to
7 residents to pay for mandated wage hikes. The DOJ is behaving
8 like an emperor in a far distant castle, handing down decrees
9 to its subjects. If they can do this to Ferguson, they can do
10 it to Neosho or Tarkio or Poplar Bluff. Someone needs to
11 stand up to this outrageous overreach."

12 I don't think the DOJ has been fair with us. I am
13 wondering if they took the data and statistics they gleaned in
14 their investigation and misrepresented them or out-and-out
15 falsified them. I think the DOJ wanted to wipe Ferguson off
16 the map. This should be a warning to the rest of the United
17 States. Why do they want to ruin this community by putting
18 all of these restrictions on us?

19 Ferguson has been an integrated city for decades.
20 People who were afraid of integration all moved out years ago
21 when white flight occurred. I don't feel that the DOJ cares
22 about the people of Ferguson. They just want to exercise
23 their power. I just want to say that the lives of people in
24 Ferguson matter and the life of Ferguson matters.

25 Thank you.

1 THE COURT: Thank you.

2 Heather De Mian.

3 MS. HEATHER DE MIAN: Heather De Mian.

4 THE COURT: And please correct me if I mispronounced
5 your name.

6 MS. HEATHER DE MIAN: De Mian.

7 THE COURT: De Mian. Okay. Thank you.

8 MS. HEATHER DE MIAN: I live in St. Charles.

9 The Consent Decree -- one thing I -- "The Ferguson
10 police officers will not be -- will not use canned,
11 boilerplate, or conclusory language in reports," et cetera.
12 It's section 30 or 76. So when -- when -- my concern, though,
13 is they're not allowed to lie in their police reports anymore,
14 but the Ferguson court -- the prosecutors, the Ferguson
15 prosecutors, keep using falsified police reports to prosecute
16 people who were arrested in Ferguson in 2014, you know, during
17 the time period of the protests that the Justice Department
18 has already criticized St. Louis County and Ferguson both for,
19 for their response to.

20 I find it -- I've watched -- I watched one Ferguson
21 prosecutor this week or last week twice argue that the mere
22 fact that an arrest occurred is proof of guilt, which is like
23 the exact opposite of what I learned the first day in law
24 school. He has -- they have a falsified police report with no
25 time or no exact time or location of their arrest, and they

1 don't even have the identification of the arresting officers,
2 and I keep watching. You know, the -- my understanding is an
3 arrest is an accusation and not proof of anything.

4 I also find it very disturbing when a -- when a
5 prosecutor decides to cross-examine a defendant with the
6 dictionary definition of their non-status-quo political
7 ideology. You know, I know plenty of people who call
8 themselves anarchists, and it just means they don't believe
9 that laws should exist, but when he goes into a dictionary
10 definition, "Well, see, this says it means it's violent,"
11 well, you're only using part of the definition, and you're
12 trying to create a list like Joseph McCarthy. I'm like, okay.
13 You're going after anarchists instead of communists. This is
14 a problem.

15 They're not allowed to have retaliation for First
16 Amendment activities. The police are not allowed to
17 retaliate. Well, what about the prosecutors? Because many of
18 the protester arrests that I've been witnessing in court, the
19 prosecutor -- that is purely what it is because they're not
20 going after them for revenue because they're spending
21 thousands of dollars to prosecute people that if they win --
22 and some of these cases, they have not won -- the worst they
23 could get is \$150 fine. This part is obviously retaliation
24 for the protesters exercising their First Amendment rights.

25 Also -- logic pretzel -- if proof of an arrest -- if

1 the fact of an arrest is proof of guilt, then my charges
2 shouldn't have been dropped; I should still be being
3 prosecuted under the false police report.

4 And also, prosecutors should not be able to keep
5 suborning perjury from Ferguson officers on the stand, and
6 they shouldn't be able to make up things themselves in front
7 of the judge. Like in my police report, the police claim I
8 assaulted them. I did not. They actually said, "I felt
9 something hit me, and I assumed that she did it." Then I see
10 a prosecutor get up in front of a judge and actively pretend
11 that she is trying to pretend to be me and act like she's
12 hitting a police officer with -- you know, with a monopod like
13 I have on my phone for recording.

14 I should never have been arrested for filming on the
15 sidewalk because there was already a restraining order in
16 place on November 25th, and I wasn't arrested until February
17 9th. Those charges were held against me for 11 months. They
18 weren't even dropped until January. The -- the retaliation of
19 the prosecutors needs to be -- the DOJ needs to look at that.

20 And, yes, absolutely, tons of other munis in this
21 area and St. Louis County -- because St. Louis County is doing
22 retaliatory prosecutions against journalists and prosecutors
23 or protestors and journalists as well. So St. Louis County
24 really needs investigated as well. That's true.

25 Okay. I've only got 20 seconds. I'm not going to be

1 able to go any farther. So I'll just stop there.

2 THE COURT: Thank you.

3 Sarah Glenn.

4 MS. SARAH GLENN: Thank you. My name's Sarah Glenn.
5 I currently live in St. Louis City.

6 I want to thank the Court for taking input from the
7 public. It's crucial to listen to the community because only
8 the community members fully understand their own needs. The
9 DOJ doesn't have firsthand experience with what's going on in
10 Ferguson, and the City officials certainly can't be trusted to
11 meet the needs of the community because they're the ones who
12 created the problem in the first place.

13 Let me start by saying I didn't grow up around any of
14 this. I was born and raised in St. Charles County, and when I
15 heard the police had shot and killed an unarmed teenager in a
16 neighboring county, I was shocked. That doesn't happen where
17 I'm from, and it shouldn't happen. So I went to join the
18 protestors, and despite warnings from my white family and
19 neighbors, I was welcomed like family.

20 Ferguson opened my eyes to what was really going on
21 in the world. I had been taught that the police in my
22 community were there to protect me, but in Ferguson, the
23 police behaved like an occupying force and treated the
24 community members like the enemy. They were literally
25 shooting weapons at us from tanks.

1 I'm not going to tell stories about the police
2 abusing me personally because they don't. Because of my skin
3 color, I have the privilege of not having to suffer that
4 abuse. In situations where I'm not acting as a protester, I'm
5 the one the police are there to protect at the expense of
6 everyone else.

7 And even when I am a protester, even when they don't
8 like me, I'm treated better than the people of color who are
9 protesting alongside me. If I tell the officer arresting me
10 they're twisting my arm too hard and it hurts, they loosen up.
11 Meanwhile a few feet away, right in front of my face, I'm
12 watching officers arrest my black friends by pepper spraying
13 them directly in the face, throwing them to the ground, and
14 digging a knee into their back. They're not resisting.
15 They're not doing anything different than what I was doing.
16 You would think that they would at least try to hide their
17 racism, but they don't. As a white person, I'm allowed to
18 protest and am much less likely to get hurt than a person of
19 color.

20 I could choose to go back to living a peaceful life
21 in a nice, white neighborhood and never worry that the police
22 will harass, arrest, injure, or kill me as long as I obey the
23 law, but after what I've seen, I won't. My friends don't get
24 to make that choice. Resistance to oppression is a necessity
25 for them, and the police are the enforcers of that oppression.

1 They're the force that keeps white supremacy in place, kicking
2 down anyone who dares to stand up and demand to be treated
3 like a human being.

4 It's because of this that there can be no good faith
5 between the police and the community. The City of Ferguson
6 and the Ferguson PD have been fighting the Consent Decree
7 since it was proposed. They fight every reform tooth and
8 nail, and when they lose, we're supposed to expect them to
9 just say, "Aw, shucks," and do what they're told? No. As
10 soon as the DOJ looks away, they're going to go right back to
11 institutionalized oppression.

12 Neither the police nor the City can be trusted to
13 follow the Consent Decree without the citizens having the
14 power to hold them accountable, and they need to be
15 accountable in particular to the black citizens of Ferguson
16 who are victims of oppression, not the white people who will
17 tell you everything is fine.

18 The Consent Decree proposes a Civilian Review Board
19 and Neighborhood Policing Steering Committee to give citizens
20 more power, and the City of Ferguson is already trying to
21 weaken these organizations any way it can. For example,
22 Ferguson has started having meetings for the Neighborhood
23 Policing Steering Committee, but they refuse to invite the
24 people who most need to be involved. The way information is
25 passed around in Ferguson is like an old boys' club. So

1 people of color never hear about things that are going on in
2 their community. This just further demonstrates the City of
3 Ferguson's constant fight to preserve white supremacy in any
4 way it can and how City officials can't be trusted. The CRB
5 needs to represent the black citizens of Ferguson who are the
6 victims of police brutality. This cannot be stressed enough.
7 Some token board full of white people who benefit from the
8 City's racism and want things to stay exactly the way they are
9 is useless. The City cannot be trusted to be inclusive.

10 Furthermore, the City officials caused the problem.
11 They can't be trusted to fix it. The CRB needs to be
12 completely independent of the Mayor, the Council, the City
13 Manager, and all City officials. Members should be nominated
14 and elected by the public, meaning the whole city, not just
15 the white old boys' club doing things behind closed doors the
16 way they always do. The City of Ferguson doesn't want
17 citizens making decisions in their own community because they
18 don't care about the citizens. They care about maintaining
19 the status quo.

20 The Civilian Review Board as proposed doesn't have
21 the power to subpoena the police in cases of police
22 misconduct. It gives discretion to the police to determine
23 what evidence to share. The City's proposal relies on good
24 faith that the Ferguson Police Department will cooperate, and
25 if you've been on the ground in Ferguson, you know there is no

1 good faith. The CRB needs to have the tools to catch the
2 police in their wrongdoing and discipline them accordingly.
3 It's here to protect oppressed citizens from a police force
4 that was never meant to serve them.

5 The problem is the people who are making the changes
6 are the same people who caused the problem in the first place
7 and the people making laws don't understand the needs of the
8 community. They are just trying to avoid scrutiny. Enforcing
9 the Consent Decree is dependent on the CRB and Neighborhood
10 Policing Steering Committee being as strong as possible, and I
11 implore you to be vigorous in the creation of these
12 much-needed organizations, to strengthen the language in the
13 Consent Decree in order to prevent the City of Ferguson from
14 weakening the power of the community.

15 Thank you.

16 THE COURT: Thank you.

17 Debra Kennedy.

18 MS. DEBRA KENNEDY: Thank you, Your Honor. Debra
19 Kennedy, St. Charles. I'm a future Ferguson resident who is
20 aggressively searching for a home in the city. I came today
21 because I'm wary that the same people who have committed these
22 egregious violations will be expected to implement these
23 reforms on themselves. The Consent Decree calls for Ferguson
24 to implement a community policing program, but it puts the
25 power in the hands of wealthy white people who have never had

1 negative interactions with the police; so they don't think the
2 police need any reforms.

3 Ferguson police officers have continued to violate
4 people's rights up to this day, even under the scrutiny of the
5 Department of Justice. They have continued to except and
6 ignore complaints. The Consent Decree put new powers in the
7 same incapable hands of police supervisors. These are the
8 ones that oversaw all the past violations. For example,
9 Sergeant Dilworth, now Lieutenant Dilworth, who has been known
10 for years to be one of the most abusive cops, was promoted
11 only because there were no other blacks to promote. Another
12 example -- Officer Eddie Boyd continues to cause embarrassment
13 and lawsuits against Ferguson; yet his supervisors continue to
14 cover for him. Another example -- Sergeant Harris came to
15 court last week and lied in two people's trials. This would
16 be a violation of the Consent Decree's new policy entitled
17 "Duty of Candor." Now we are supposed to trust their
18 supervisors to suddenly grow a conscience, finally start
19 punishing their buddies for lying, even though they have
20 encouraged them to lie in the recent past.

21 The Consent Decree relies on added training to
22 attempt to improve the problems, but that won't work. How can
23 you train a racist cop to stop being racist, especially when
24 they refuse to admit that they're a racist? How can you train
25 an -- how can you train an abusive cop to stop being abusive,

1 especially when they refuse to admit that they are abusive?
2 You can't teach an old dog new tricks, and as we've learned
3 from the DOJ report, the Ferguson dogs only attack black
4 people.

5 Ferguson hired a new police chief from Miami, even
6 though that department was just put under a consent decree.
7 So they are bringing in somebody who most likely participated
8 in unconstitutional practices down in Florida.

9 Jeffrey Blume, the Finance Director, encouraged them
10 to keep targeting black people to bring in money. He inflated
11 the projected costs of instituting constitutional policing in
12 an attempt to cause panic among the white residents, who
13 thought that approving a consent decree would lead to the
14 destruction of their city. The truth only came out after a
15 Post-Dispatch investigation showed that he manipulated the
16 numbers and outright lied.

17 Another Ferguson official who refuses to accept
18 responsibility for this pattern and practice of racism is
19 Ferguson City Attorney Stephanie Karr, who also acts as the
20 Ferguson City Prosecutor. When being investigated by the
21 Missouri Bar, Stephanie Karr said that the findings in the DOJ
22 report were untrue. The law firm Curtis, Heinz, Garrett &
23 O'Keefe must be barred from having its principals act as both
24 the City Attorney and the prosecutor. This is a direct
25 conflict of interest. Ferguson provides a blank check to

1 Stephanie Karr to terrorize people who have dared to exercise
2 their First Amendment rights. Ferguson has continued to pay
3 Stephanie Karr large sums of money while also requesting tax
4 increases and crying about not being able to afford
5 constitutional policing demanded by the Consent Decree.

6 Reporters like Stephen Deere of the Post-Dispatch
7 have reported on Ferguson's questionable spending choices.
8 Ferguson paid CHGO an extra \$6,270 in January alone to
9 prosecute politically motivated cases against protestors.
10 Vindictive Stephanie Karr insists on prosecuting
11 unconstitutional arrests even when she's told to drop the
12 cases. But as we've learned from the DOJ report, she can drop
13 charges for her friends.

14 The Court needs to step in and defend the legal
15 profession from the shame brought on by Ferguson's municipal
16 court racket. I'm still waiting on somebody in Ferguson to be
17 arrested for racketeering.

18 In conclusion, Ferguson officials continue to refuse
19 to accept that the findings in the DOJ report are true. They
20 repeatedly deny the veracity of even the most obvious
21 violations, and if they won't accept that these violations
22 ever occurred, how can we expect them to put forth any efforts
23 necessary to make change? The mere fact that even today the
24 Mayor, the attorneys still deny any violations occurred --
25 they're still in denial -- it shows that they have no -- they

1 have no intention of violating the Consent Decree.

2 THE COURT: All right. Thank you.

3 We're going to take a lunch recess at this time. So
4 we will be in recess until 1:30, and there are, I think, six
5 people remaining to speak, and then I'll hear from the lawyers
6 for the parties again, and in particular, I would appreciate
7 it if counsel would be prepared to address some of the issues
8 that have been raised. I'll let you all choose what you want
9 to address, but the ones I had some questions about are the
10 extensiveness of the Consent Decree compared to others, the
11 selection of the Monitor and how that will work, the issues
12 that have been raised about juvenile prosecution, and the
13 occupancy permit issue that was raised, and then the issue
14 about the outreach efforts that's been raised several times
15 related to the meetings. Those are just a few. I may have
16 other questions, but I think if you all -- when you sum up at
17 the end, if the lawyers would be prepared to just tell me --
18 I'm not asking for briefs or long arguments. I'm just asking
19 for you to briefly respond to the extent either side has a
20 response to any of those comments that have been made one way
21 or another.

22 So court will be in recess until 1:30.

23 (Court recessed for lunch from 12:33 p.m. until 1:31p.m.)

24 THE COURT: All right. Resuming with the hearing,
25 and we're ready for the next person who wished to comment,

1 Mr. Steven Hoffmann.

2 MR. STEVEN HOFFMANN: Thank you, Your Honor. My name
3 is Steven Hoffmann, H-O-F-F-M-A-N-N, and I live in St. Louis
4 City.

5 Presently, the same person, Ms. Stephanie Karr,
6 serves as both the Municipal Prosecutor and as the City
7 Attorney in Ferguson. Ms. Karr is advising the City on the
8 Consent Decree at the same time that she's responsible for
9 allowing the bad practices that necessitated the Consent
10 Decree in the first place. Her law firm, Curtis, Heinz,
11 Garrett & O'Keefe, are some of the main operators of what I
12 call the municipal scam, a program to bilk poor defendants out
13 of money through for-profit policing and for-profit
14 prosecution. These are not only the people who operate these
15 cities; they're the judges too. You wonder whose interests
16 are being served as these lawyers advise the City of Ferguson
17 on what to do here.

18 Ms. Karr has already lost her reputation. Here's a
19 list of stories that have appeared nationally:

20 "'Karr-uption' comes under fire in Ferguson."

21 "Ferguson Prosecutor Accused of Misconduct is Still
22 Crusading Against Ferguson Arrestees."

23 "Last desperado standing in Ferguson Municipal
24 Court."

25 The first thing mentioned in the DOJ's report about

1 the way municipal prosecutions happen in Ferguson is, quote,
2 "attempts to raise legal claims are met with retaliatory
3 conduct." That's certainly the case of Ms. De Mian who spoke,
4 and it's true of many others.

5 A white man who sits on the Board of Directors of the
6 National Lawyers Guild local chapter gave a declaration to the
7 ACLU that was filed with Judge Ross in a case regarding
8 interference with recording law enforcement activities. As
9 soon as this gentleman brought facts before the District
10 Court, Ms. Karr filed charges against him. The Circuit Court
11 twice ordered Ms. Karr to turn over discovery. It was never
12 produced, but on the eve of that discovery -- that it was due,
13 she withdrew the case and filed three new charges. A
14 technique to delay that cost the defendant in time and money.

15 The Consent Decree says that the City will develop
16 and implement policies to ensure that the Ferguson Municipal
17 Court operates impartially, independently from the City
18 Prosecutor and in a manner that eliminates existing and
19 potential unlawful conflicts of interest. Will this even be
20 possible with Ms. Karr overseeing the system?

21 I appreciate Mr. Webb's attempts in representing --
22 well, who? Who is he representing? Is he representing the
23 interests of the people of Ferguson and their elected council,
24 or is he representing Ms. Karr, who is manipulating and
25 exploiting the City for her personal gain? The Court needs to

1 consider her conflict of interest.

2 Secondly, I'm concerned that the federal government's
3 investigation and this subsequent attempt at voluntary
4 compliance reduces a problem that infects our entire region
5 into a supposed isolated event in a single municipality.
6 Numerous community members begged the Justice Department to
7 expand their investigation to include St. Louis County and
8 St. Louis City, to no avail. The gross abuses of basic rights
9 of community members to participate in public protests,
10 demonstrations, and First Amendment activities in Ferguson
11 took place in concert under the direction of the Ferguson
12 Police Department, the St. Louis County Police, and the
13 St. Louis Metropolitan Police Department, and other agencies.
14 The only relief to the public came when this Court intervened
15 in their unconstitutional practices.

16 After the killing of Michael Brown by police officer
17 Darren Wilson, local authorities had one goal for dealing with
18 protesters -- to shut them up, to shut them down, to drive
19 them out, and to silence their speech. Before Judge Jackson,
20 a lawyer for the Unified Command said, "We never violated
21 anybody's rights," a claim that would be laughable if it were
22 not so disturbingly sinister. On the other hand, a St. Louis
23 University law professor identified thousands of unaddressed
24 civil rights violations that occurred during the time period.

25 For those of us who watch closely what's happening in

1 our region, it's hard to know how the same problems that we
2 found in Ferguson could not be applied to St. Louis County and
3 to all of the other region's municipalities. After these
4 protests started, a local attorney approached the FBI to ask
5 who we would go to to make complaints about what we saw
6 happening by law enforcement when they broke the law, and they
7 were told that we should make these complaints with our local
8 police department. I urge the Justice Department to continue
9 to look at the entire region.

10 THE COURT: Thank you.

11 Keith Rose.

12 MR. KEITH ROSE: Thank you, Your Honor. My name is
13 Keith Rose, and I'm a resident of Madison County, Illinois. I
14 was motivated as a nonresident to become active in Ferguson
15 after my own experiences with police abuse.

16 THE COURT: Excuse me a second.

17 Erica, can you turn down the volume? It's really --
18 yeah.

19 Okay. Go ahead.

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

21 Like many victims of Ferguson's police, my story was
22 never told to the DOJ, both because I would not discuss my
23 case before it had gone to trial and because it was a painful
24 and personal story that I didn't trust with any
25 representatives of another governmental agency.

1 I went to Ferguson on August 11th, 2014, the third
2 day of protests, to attend a prayer vigil for peace. While
3 leaving, my friend and I were randomly arrested from off of
4 the sidewalk. At my trial, just last week, some 20 months
5 later, the Ferguson prosecutor admitted that they still don't
6 know who arrested me but that the mere fact that I had been
7 arrested was evidence enough that the judge could make a
8 reasonable inference that I had committed a crime.

9 When I was arrested, I was held for 24 hours in the
10 Ferguson jail. While there, I had petit mal seizures as
11 symptoms of my epilepsy. A Ferguson corrections officer
12 decided that to make me stop he should beat my lower back
13 twice with his baton. When I later tried to complain to
14 another officer, that officer's response to me was, quote, "I
15 bet you liked it, faggot."

16 Your Honor, my experiences motivated me to become a
17 coordinator of the National Lawyers Guild's Legal Observer
18 Program. As a Legal Observer, I have witnessed some of the
19 most extreme events in the police's war on protestors and
20 journalists. Your Honor, those of us who have experienced
21 Ferguson's abuses directly are highly skeptical of the City's
22 earnestness in implementing this Consent Decree.

23 I understand that you cannot unilaterally amend the
24 settlement. So if you do not send it back for revision with
25 true community input, please keep in mind that -- please keep

1 in mind Ferguson's recent efforts to fight against any and all
2 reforms.

3 I ask that the Court require that the independent
4 Monitor be strict in enforcing the provisions of the Consent
5 Decree and that the Monitor actively seek further community
6 input on all future decisions. Additionally, I ask that Your
7 Honor keep close watch over this case and require the Monitor
8 and parties to keep the Court abreast of all future
9 developments.

10 Additionally, I'd like to add that this morning,
11 while we were in this chamber, speaking on this topic that was
12 started with a police shooting here in our area, the St. Louis
13 Metropolitan Police Department have killed yet another black
14 man in the streets of St. Louis. Right now, the police are
15 coming up with their story of what happened and they're
16 investigating it, and the community won't trust the outcome
17 because we've seen this story played out time and time again.

18 I ask that Your Honor expand the investigations into
19 Ferguson to include the entire St. Louis region. This is a
20 regional problem, and it needs a regional solution. We have
21 dozens of municipalities, and solving the problem in one isn't
22 going to solve the problem for people every day who pass back
23 and forth through these porous borders.

24 So while we go out of here and we are faced once
25 again with another death at the hands of the police, I hope

1 that Your Honor will listen to the community's appeal for
2 change and that these things be expanded to include the entire
3 St. Louis region because every citizen in St. Louis deserves
4 change.

5 THE COURT: Thank you.

6 All right. Joe McAllister.

7 MR. JOSEPH MCALLISTER: Thank you, Your Honor.

8 My name is Joseph, and I'm a 39-year resident of the
9 city of Ferguson, and I witnessed this entire situation, and I
10 had a meeting with the Department of -- DOJ at the Corner
11 Coffee House, where we were promptly surrounded by a bunch of
12 demonstrators to intimidate us out of that particular meeting,
13 but we proceeded on as well.

14 I'd like to address the untold costs. Where the DOJ
15 enacts a penalty phase against the City of Ferguson, should it
16 not also, under its mission, equally penalize other cities
17 throughout the world, throughout the United States, as well as
18 municipalities that are nearby -- such as Chicago; Baltimore;
19 Montgomery; Charlotte; Cleveland; Marksville; Catskill, New
20 York; Burlington, Vermont; Kern County, California -- because
21 the Department of Justice's mission is to enforce law, defend,
22 ensure public safety, prevent and control crime, and ensure
23 fair and impartial administrative justice for all Americans.

24 By enacting a penalty that could not be paid by
25 myself or my community, how is that fair and impartial? By

1 having a penalty that will cause my community to no longer
2 adequately staff and protect my family, my neighbors in the
3 area, is that equitable distribution of justice?

4 In short, I'm an American not deserving penalty
5 because I've never attacked any policeman nor have I looted,
6 rioted, or violated the property of others within my
7 community. I haven't intentionally attacked anyone within my
8 community or others, and yet I have to pay a penalty. I have
9 to pay the ongoing costs, including these proceedings.
10 Through my possibly increased taxes, devalued property, and
11 the inability to sell my property from here on, I'm now held
12 captive by this penalty, by the ensuing situation. And people
13 foreseeably in the future will lose their jobs, incomes
14 because our community cannot afford to maintain or increase
15 staffing.

16 In essence, this penalty has violated the mission, my
17 rights and demonstrated disregard for the needs of all
18 citizens within our community. It breaks the law that it was
19 sworn to uphold equally for all Americans by demonstrating a
20 bias against a specific community and being manipulated to use
21 us as an example and scapegoat, by possible future bankruptcy
22 of our community that prior to this was viable and thriving,
23 with a penalty that knowingly the department devises as a
24 means to satisfy the anger of others, many of whom do not even
25 live within our community.

1 Thank you, Your Honor.

2 THE COURT: Thank you.

3 Cassandra Butler.

4 MS. CASSANDRA BUTLER: Good afternoon. My name is
5 Dr. Cassandra Butler, and I have been a resident of Ferguson
6 since 1980. I am a political science with an emphasis in
7 public policy. Thank you for allowing me, the public, to have
8 our voices heard regarding the Consent Decree.

9 I attended my neighborhood association meeting in
10 September 2014, the month following Michael Brown's killing.
11 At this meeting, our regularly assigned police officer, while
12 discussing policing in Ferguson, freely admitted that there
13 was one thing that the Ferguson Police Department did that he
14 didn't think was right -- the practice of piling on tickets.

15 As he said this, I immediately thought of one earlier
16 morning about 15 years earlier when my son was home from
17 college for the summer and he was given four or five tickets
18 in our driveway. He committed one offense, a rolling stop at
19 January and Dade, and the additional tickets alluded to he was
20 trying to evade the police, when actually the only other thing
21 my son did was to park his car at home because he was only an
22 eighth of a mile from home when he ran the stop sign. So I
23 was puzzled, but about a week later, I was calm enough to call
24 the police officer because I was puzzled, and I asked him,
25 "Well, did my son disrespect you in any kind of way?"

1 And he said, "No, he didn't. He was perfectly
2 courteous."

3 So to hear this officer in this neighborhood
4 association meeting say he disagreed with piling on tickets --
5 15 years later -- indicated to me that this was a police
6 custom, it was a known thing, and it made him uncomfortable,
7 but it still occurs.

8 Also, during this time, as many news agencies were
9 doing stories on my police department, I was appalled at the
10 apparent lack of integrity in the operating systems of the
11 department. The police report -- quote, unquote -- obtained
12 by these news agencies was a source of embarrassment to me.

13 And our apparent lackadaisical attitude about citizen
14 complaints showed gross mismanagement of the public's trust,
15 my trust. To any public organization given the type of powers
16 by the public that the policing agencies are given, much is
17 expected from them in terms of responsibility. Our police
18 department was falling very short of this expectation. It was
19 evident that our city needed to drastically improve the
20 execution of this responsibility.

21 There are some provisions of the Consent Decree that
22 provide a living, organic improvement process. I along with
23 the Ferguson Collaboration Group would like to publicly
24 support these provisions. These important provisions provide
25 a feedback loop that allow this process to take place in a

1 continually learning format. The basis of this feedback loop
2 is actually capturing data and analyzing it. The type of data
3 collection and analysis provided for in the Consent Decree
4 include pedestrian investigatory stops; auditing officer
5 stops; search, citation, and arrest documentation; use of
6 force incidents; misconduct complaints. It is important that
7 the Consent Decree spell out that in addition to typical
8 analysis, this data should specifically check for disparate
9 impact among various citizen groups.

10 Another important aspect of the Consent Decree that
11 supports this feedback loop for continuous improvement is the
12 training and evaluation section. Shifting the emphasis to
13 problem-orientation policing and the development of a
14 community mediation program can help give the department
15 much-needed focus, leading to a more efficient use of their
16 talents. Performance evaluations and promotions must be tied
17 to the behavior we want exhibited. These include community
18 policing and problem solving, bias-free policing, and
19 evaluation of records of stops.

20 Additionally, we support the following provisions --
21 employment of an early intervention system, requiring police
22 officers to report misconduct, First Amendment protections, a
23 policy for use of force, and closing that escape pod that the
24 Consent Decree should be applicable to any entity providing
25 policing service to my community in Ferguson.

1 Thank you.

2 THE COURT: Thank you.

3 Christopher Phillips.

4 MR. CHRISTOPHER PHILLIPS: I'm going to spit my gum
5 out real quick.

6 THE COURT: I'm sorry?

7 MR. CHRISTOPHER PHILLIPS: I had to spit my gum out.
8 Sorry.

9 Thank you for taking this time to listen to what we
10 have to say. My name is Christopher Phillips. I'm a film
11 maker, the principal of Maverick Media Group, LLC, which is a
12 Missouri limited liability company, and I'm a resident of
13 Ferguson, and I live specifically in Canfield, where Michael
14 Brown was killed.

15 So this -- I've lived there for about 10 years. So
16 all of these systemic issues that have occurred, I've seen
17 them firsthand, I've been subjected to them firsthand, and so
18 I know better than anybody how it -- the effect that it can
19 have. You know, I've had everything from being stopped
20 walking to the grocery store, you know, being tailed to the
21 highway. I also work at Webster University, in the School of
22 Communications. Being followed anytime I had a new car, you
23 know, temp tags. And that just kind of -- that harassment and
24 intimidation is really unacceptable.

25 And one of the common sentiments that I'm hearing

1 today from people is -- it's very clear to me because it shows
2 the polarization that's going on. I'm seeing a consistency in
3 people that are not in the area which I live, which is off of
4 West Florissant where, you know, you see the lack of resources
5 in the community. You also see a lot -- the majority of the
6 intimidation from the police.

7 And really, by being there, you know, I'm coming
8 home; I'm knowing nothing has changed. You know, there is no
9 community engagement. I saw when the cameras left, you know,
10 the deliberate attempts by the police to, you know, come into
11 the neighborhood for about a week, and then as soon as the
12 cameras left, they were gone. I'm noticing that the return of
13 the police is -- is the same. You know, they're staking out
14 the same corners. You know, they're still tailing people.
15 You know, the stops have consistently happened.

16 And so, you know, I find it kind of funny here that a
17 lot of the people that are speaking here -- primarily white or
18 Caucasian -- not all, but most of them, the ones that are
19 saying that they don't think there is a problem -- well, of
20 course they don't think it's a problem because they're not the
21 ones being racially profiled. They're not the ones that have
22 to go through these kinds of issues. They don't face these
23 things.

24 And so when I'm looking at -- you know, as a film
25 maker, filming since August 9th, 2014, I'm blessed with the

1 opportunity to have a deal with CNN Films. So I'm working on
2 a feature, and throughout my coverage, I've been at the
3 community meetings. I've been to Baltimore. I've been to New
4 York. When those issues happened, I've -- you know, half of
5 these people in this room, I know them, you know, just in the
6 course of my filming, and I'm noticing how it shows that they
7 don't really want true change because I'm noticing that, you
8 know, you have -- why does it have to take people to shut down
9 highways and disrupt community, like city council meetings,
10 just to get them to do what's right in the first place?
11 That's a big indicator of really their true intentions.

12 I saw that there was a woman that had a majority vote
13 in city council, and it took the public to speak up about that
14 just to get this woman on. You know, I saw how in the Urban
15 League they have a community development center right at the
16 heart, that QuikTrip that burned down. This man wasn't even
17 present for that groundbreaking. You know, the lack of
18 involvement there, it's clear.

19 Six months to the day he was killed, I was arrested,
20 like this young lady in the wheelchair right here. My
21 livelihood, my camera that I paid \$20,000 for out of my own
22 money, was damaged in the process. The car was just, you
23 know, practically destroyed while I was in holding, and it was
24 by the Ferguson Police Department. And that case carried on
25 11 months and 12 days just for us to walk in the courtroom and

1 be dismissed after 60 seconds. And I look at these things.
2 Even though they had my footage, other people's footage, you
3 know, why did they drag this out for so long?

4 And I'm looking at it as a whole. They don't want
5 true change. And if the City gets sued, so be it, you know,
6 because the thing that I look at, like with the course of my
7 film work, is this has to be a statement. This has to say
8 something through the course of time. It has to be timeless.

9 And I look at, you know, the Department of Justice,
10 their responsibility. We don't know who's going to enforce
11 this, the oversight. We don't know who's going to pick these
12 people that are going to oversee these implementations and
13 these changes. And when I look at that, the only thing that
14 we really can do is to ensure that there's a statement made
15 with all of this.

16 Of course, some of the things that are in the decree
17 are okay and they're good, but then there's a lot of
18 loopholes, and so, you know, for me, I'm looking at it as
19 we're really -- we have to think about the next generation of
20 children that are coming up because 10, 20 years from now, we
21 don't know who's going to be in those roles. So we have to
22 make sure that whatever changes are made, whatever has to be
23 done makes a stamp that's timeless, and so people down the
24 road, they get that. You know, we can't allow these things to
25 happen anymore. So thank you.

1 THE COURT: Thank you.

2 MR. CHRISTOPHER PHILLIPS: Uh-huh.

3 THE COURT: Glenda Rickard.

4 MS. GLENDA RICKARD: Thank you, Your Honor.

5 My name is Glenda Rickard, and I'm a lifelong
6 resident of Ferguson for 61 years. I have seen all the
7 changes through the years happening, and everything that's
8 happened in the last two years is beyond comprehension that
9 that has happened in my small town.

10 I have been the leader of my neighborhood association
11 for the last eight or nine years, and I know through working
12 with that that we have tried very hard to get the black
13 residents in our community to become more involved, and almost
14 coming down to pleading with them to attend the neighborhood
15 association meetings, to take over leadership roles, and it
16 has been slowly happening. We're getting a lot more
17 involvement. But this has been over the last eight years I
18 know of and much earlier than that that we have had these
19 vehicles for the black residents to come to, to voice their
20 concerns, complaints, and grievances, and at all these
21 meetings -- not only the neighborhood association meetings.
22 We have City Council meetings every month. We have
23 Neighborhood Watch meetings every month. And at all of these
24 meetings, we have police representation and a time for these
25 concerns, questions, and grievances to come forth. And I know

1 I'm probably naïve because I don't live the life and have the
2 experiences of all my black neighbors, but I have not heard
3 any of these problems, these things happening in the last two
4 years of being a problem. Now that it's come up, I know that
5 the City Council is working very diligently and had already
6 started to put things in process to help the racial equality
7 and the problems that we're having in our police department.

8 My main concern of this fairness issue is that
9 everybody on the council that I am aware of does not disagree
10 with what is in it; it is the matter of the cost. And the
11 only reason that I know of at first that it wasn't passed or
12 we didn't want it to pass as it was wasn't because of what was
13 in it; it was because we felt it was going to bankrupt
14 Ferguson. And that hurts me very deeply because I've lived
15 there my whole life.

16 I still do not understand why our black community has
17 not used these other vehicles to come forward and voice these
18 problems instead of, all of a sudden, after this problem with
19 Darren Wilson and Michael Brown, all of this came up, and it
20 was shocking to most of us that this even was happening
21 because none of these issues had never been brought forward in
22 any of these other meetings. And even the DOJ did not indict
23 Darren Wilson, but yet this whole thing came up because of it,
24 and lot of the things that were said, the "Hands up, don't
25 shoot" -- even though I believe it does -- it did happen in

1 other parts of the United States, like Chicago and different
2 places that we've seen horrific things, that was not the case
3 with this particular situation, but Ferguson has been thrown
4 under the bus by the whole nation.

5 Every time you hear the word "Ferguson" on TV,
6 whether it's the presidential debates -- it's now mentioned in
7 movies -- it's all a very negative standpoint, and I just wish
8 that the DOJ would help support small town St. Louis;
9 Ferguson, Missouri; our little town. Even though we know we
10 have a long way to go as far as race relations, something has
11 to be done to not throw us under the bus, to show us in a more
12 positive way.

13 And I know that the City Council is working very
14 hard, and a lot of people don't understand. Our mayor, Mayor
15 Knowles, has been working so hard to help bring Ferguson
16 forward, and they don't understand that he does not get paid
17 the kind of money they think he does to do this. He's mostly
18 a volunteer. And the other City Council people don't get paid
19 that much either. They're all just trying to help Ferguson
20 and the people in its community. They need to get more
21 involved and help support these people and the leaders in our
22 community and see that they're not as bad as they're making
23 them out to be. They're there to help us.

24 And I just hope that what comes out of this is we get
25 enough -- we don't become bankrupt over it. Our council wants

1 to make these improvements, and I just think as a citizenship,
2 black and white, we just all need to come together and work
3 together to get these things done.

4 Thank you.

5 THE COURT: Thank you.

6 All right. That concludes the statements from people
7 who had signed up this morning to speak, and so I will now
8 hear from the attorneys. Once again, since it is the
9 Plaintiff's lawsuit, I'll hear from the Department of Justice
10 first. So Ms. Lopez.

11 MS. LOPEZ: Thank you, Your Honor.

12 Christy Lopez for the United States. I'd like to
13 thank you, Your Honor, for opening up your courtroom today to
14 hear from everybody and for granting the parties' request that
15 they be heard.

16 We'd also like to thank everyone here for taking the
17 time out of their busy days to be here, to take the time to
18 submit written comments prior to this day, and to be here
19 today. This level of engagement from individuals with such a
20 diverse set of perspectives has been incredibly important
21 throughout the investigation of this case, through the
22 negotiation of the Consent Decree, and it's going to be at
23 least as important during the implementation of this decree
24 should the Court agree to enter it.

25 While we disagree with Mr. Webb about whether there

1 was a pattern or practice of unlawful conduct and have a high
2 degree of certainty that had we tried this case we would have
3 prevailed across the board, we recognize that we're not here
4 today to have that conversation. Rather, our job is to
5 persuade the Court that this agreement is fair, adequate, and
6 reasonable so the hard work of bringing about police reform in
7 Ferguson can begin in earnest.

8 I'd like to address some of the points that have been
9 brought to the Court's attention both in the comments today
10 and in the written submissions, both to provide the Court our
11 perspective on why we believe that the Consent Decree is fair,
12 adequate, and reasonable notwithstanding these concerns, and I
13 hope to allay, at least a little bit, some of the concerns
14 that have been raised today and in the written submissions.
15 Although, of course, as Mr. Volek noted at the beginning, this
16 was a negotiated agreement, and I doubt there's anybody that
17 was involved who got everything they wanted or who thinks it's
18 a perfect agreement.

19 We've been paying very close attention to the
20 comments that we've heard today. We paid very close attention
21 to the written submissions that were submitted to the Court,
22 and we will continue to do so during the implementation of the
23 Consent Decree. These insights and perspectives are going to
24 be incredibly important as the parties go about the process of
25 developing and implementing policies, of developing and

1 implementing training and accountability mechanisms.

2 And in fact, we've recently added two new staff
3 persons to this case. They're community outreach specialists,
4 and the reason why we -- they're actually here today, Your
5 Honor, and the reason why we've done that is because we remain
6 committed and we remain in recognition of how important it's
7 going to be moving forward to continue to have dialogues with
8 people throughout the city of Ferguson and those affected by
9 the Ferguson Police Department as we implement this agreement.

10 I'm going to try to group some of the comments into
11 general areas of concern and address them in conjunction with
12 each other. The first area I'd like to address is the issue
13 of transparency and community engagement. There has been a
14 significant amount of commentary about the fact that community
15 members were not at the negotiating table with the parties.
16 On this, I think the comments expressed here today reflect
17 there is a broad spectrum of views on what should be included,
18 what should have been included in the Consent Decree, and the
19 United States came to the conclusion that the best way to
20 reach a strong agreement to reform the Ferguson Police
21 Department and the court system was to engage in bilateral
22 negotiations with the City of Ferguson. We recognize the
23 tension of that decision with our very real desire for
24 transparency, but we did not think it would be effective to
25 open negotiations of the Consent Decree more broadly. So

1 instead we worked hard to create avenues for community members
2 and groups to provide their ideas for reform, and Mr. Volek
3 set out many of these efforts this morning, and you've
4 heard -- you've heard a little bit about those from the
5 commenters today.

6 The community input is reflected throughout the
7 agreement, both generally and in specific recommendations --
8 everything from the need for far greater interaction between
9 police and historically disenfranchised groups, the importance
10 of listening to youth voices, the nature of the municipal
11 court reform that we sought. And myriad other parts of the
12 agreement are just imbued with and informed by the
13 conversations we had with community members of all
14 perspectives throughout the negotiation process.

15 There's also concern about the transparency of the
16 agreement and community engagement moving forward. The whole
17 agreement is, as I've just mentioned, geared toward
18 transparency and public disclosure, from the complaint process
19 to body-worn cameras to the requirement that the City makes
20 information about police and court activity available on its
21 website, the fact that the Monitor's reports will be filed
22 with the Court and be public, and countless other provisions.

23 I want to be clear, Your Honor, that the agreement
24 does not place any new restrictions on the public availability
25 of now existing information. No existing information that is

1 public becomes nonpublic pursuant to this agreement, and a lot
2 of information that was not public will now be public pursuant
3 to this agreement.

4 But the Monitor is granted extraordinary access to
5 City information, information that is attorney-client
6 privileged, information that is in criminal files, information
7 about crime victims and persons accused of committing crimes.
8 This information has personally identifiable data, and it
9 would not be made available to the public generally, and we
10 don't want it to be deemed to then be publicly available
11 because it has been provided to the Monitor.

12 The Consent Decree also creates myriad opportunities
13 for community engagement, and related to your request that we
14 address outreach efforts, the agreement recognizes that the
15 City must make particular effort to reach out to people who
16 previously have not been tied into community leadership and
17 community life, and so I just want to run through a few of
18 those, of the provisions that the agreement includes that
19 address this.

20 The Neighborhood Policing Steering Committee is, of
21 course, a means of involving members of the community into
22 establishing police priorities and tactics, and we were
23 careful to include language in those requirements that
24 require, quote, "a diverse and broadly representative set of
25 members of the Ferguson community."

1 The Civilian Review Board. We require in paragraph
2 404 that the CRB select members who are, quote,
3 "representative of all areas and groups within the city." And
4 paragraph 410 requires that the Monitor develop protocols to
5 assess whether the CRB is in fact representative of the
6 broader Ferguson community by reflecting the racial, ethnic,
7 geographic, and housing diversity of the area.

8 There's a Training Committee involved, required by
9 the agreement. That Training Committee is going to actually
10 determine what the training needs of the Ferguson Police
11 Department are. That includes community involvement.

12 There are requirements for greatly increased
13 interaction between FPD officers and community members. You
14 heard today, I believe it was, Robert Wells talk about a
15 community meeting that he held where a community member told
16 him that she had never before had the opportunity to talk with
17 a police officer. We want to create lots of opportunities for
18 people --

19 THE COURT: I believe that one he was talking about
20 happened in Illinois. So that's not one that happened here,
21 right?

22 MS. LOPEZ: Okay. That may be right, Your Honor. I
23 apologize. I thought it was something he held here a few
24 days -- a few weeks before the Michael Brown shooting, but I
25 could be -- I could be wrong.

1 In any event, we did find in our findings report a
2 need for far greater opportunities for officers to have
3 positive interactions with community members, and we built
4 that into -- those requirements -- into our Consent Decree.
5 The Consent Decree requires small group dialogues between
6 police and community members and groups that, quote, "have an
7 emphasis on members and groups who previously have not had
8 strong or positive relationships with FPD and the City."

9 The Consent Decree requires the creation of the
10 Ferguson -- and the continuation of a Ferguson Youth
11 Initiative and other programs to create opportunities to
12 positive police-youth interactions.

13 The agreement requires the creation of the Ferguson
14 Youth Advisory Board, the -- an apartment neighborhood group
15 to address the -- ensure that the perspectives of people
16 living in apartment buildings are reflected.

17 It requires a community mediation program that will
18 allow individuals to resolve their problems with each other
19 and get to know each other as community members a little more.

20 The training requires -- the training that is
21 required under this agreement requires that police be trained
22 on, quote, "how to establish formal partnerships and actively
23 engage community organizations and diverse groups within the
24 community to form positive relationships."

25 And the agreement requires the mediation of police

1 complaints, which I believe one of the submissions talked
2 about how successful that program has been in New Orleans, and
3 we hope that we'll have similar success here of really helping
4 police officers and community members have the opportunity to
5 speak with each other and gain a better understanding of each
6 other's perspectives.

7 There have also been questions raised today about how
8 the community will be involved in the selection and work of
9 the Monitor. The Monitor will be filing public reports with
10 this Court every six months if the Court enters this
11 agreement. The reports, among other things, will include the
12 methodology and specific findings for each review and audit
13 conducted by the Monitor. So the Monitor -- the community
14 groups will have, you know, insights into that part of the
15 Monitor's work. The Monitor is also required by the agreement
16 to routinely communicate with a broad spectrum of community
17 stakeholders.

18 Your Honor, some commenters today and in the
19 submissions have asked that the parties release the names of
20 Monitor applicants so that community members can interview
21 them, research them as well. We have done this in previous
22 cases, Your Honor, and we would not object to doing so here.

23 THE COURT: Well, how is that process going to work?

24 MS. LOPEZ: The parties are still -- we haven't -- we
25 have not determined exactly how we're going to select the

1 Monitor. So we don't -- I don't have a specific answer for
2 you about the Monitor selection. But is your question how the
3 process of making those names available would work?

4 THE COURT: Well, I wondered generally what you --
5 you're saying you're not objecting to doing that. That sounds
6 like a new procedure that you hadn't contemplated. So I
7 wondered what procedures you had contemplated.

8 MS. LOPEZ: Yeah. No. It's not that we hadn't
9 contemplated, Your Honor. We just haven't finalized how that
10 selection process will be done. We have actually done that in
11 other jurisdictions. So it's something we could do here.

12 THE COURT: And the Consent Decree requires the Court
13 to approve the selection of the Monitor. How do you
14 anticipate presenting that to the Court for approval?

15 MS. LOPEZ: The parties would, hopefully, be able to
16 agree on somebody that we would like the Court to approve, and
17 we would submit that name to the Court, and the Court could
18 have whatever process you desire to -- you could interview the
19 person. You could have an open hearing. Different judges
20 have done it different ways, and then you would select or not
21 select that person.

22 THE COURT: And so when you -- the -- the reference
23 to the Monitor, as you've just referred to it, is a person
24 versus a team? It seems to me that it sort of goes -- looks
25 like both things when you read the decree. What is your

1 contemplation about whether this is a person or a team of
2 people?

3 MS. LOPEZ: The Monitor is generally a monitoring
4 team. Sometimes, there will be a primary Monitor named as the
5 Monitor among the team, but we recommend and have always
6 sought -- so a monitoring team with interdisciplinary skills.

7 THE COURT: All right.

8 MS. LOPEZ: The second set of comments I would frame
9 is going to whether our investigation was fair and unbiased.
10 Our investigation and the subsequent negotiations were carried
11 out by career staff with the Department of Justice, Civil
12 Rights Division, who are tasked with enforcing 42 U.S.C. §
13 14141, the statute that requires us to investigate and seek to
14 eliminate patterns or practice of police conduct that violates
15 the Constitution or other federal law. We take this
16 responsibility very seriously, just as we take our
17 responsibility to act ethically and with integrity very
18 seriously.

19 Pursuant to these responsibilities, we investigated
20 the Ferguson Police Department, and we set out the findings of
21 our investigation in a lengthy report. Our investigation was
22 fair, thorough, and amply supported by objective evidence.

23 Based on these findings and our responsibilities
24 under the --

25 THE COURT: What do you all say to the people who say

1 that the Department of Justice did not want to hear and did
2 not listen to anything that was positive or did not agree with
3 the negative conclusions?

4 MS. LOPEZ: That's absolutely not the case. We
5 listened to everybody. We had -- just as one small example of
6 this, we had a hotline, and we received hundreds and hundreds
7 of calls on this hotline. Many people called us simply to
8 say, "We don't like what you're doing here. This is
9 politically motivated. You shouldn't be here." Did not ask
10 for a call back. We called back everybody, even if they
11 didn't ask for a call back, even if they had nothing but
12 negative to say. And you could sort of foreshadow what they
13 were probably going to say when you called them back.

14 We wanted to hear from everybody during our
15 investigation, and we have continued that. We have continued
16 that level of engagement, without regard to person's
17 perspectives, throughout the investigation and negotiations.
18 We reached out to every single neighborhood association within
19 Ferguson during the course of the investigation, and we met
20 with every single neighborhood association that wanted to meet
21 with us, that asked to meet with us. We -- at no time did
22 anyone on our team -- I feel very confident in saying -- tell
23 people that we didn't want to hear about negative -- you know,
24 we wanted to hear nothing but negative information about the
25 police department. In fact, we always tell people we want to

1 hear about the positive parts of a police department because
2 as we're developing remedies, we don't want to throw out the
3 baby with the bath water. We want to make sure we hear about
4 the good things a police department is doing.

5 Some of the comments targeted our colleagues from the
6 Community Relations Service, which is another DOJ office. CRS
7 has a very difficult task of facilitating dialogue in the
8 community and working towards racial reconciliation. The
9 pattern or practice investigation in Ferguson and the
10 negotiation of the Consent Decree was conducted by the Civil
11 Rights Division, not by the Community Relations Service.

12 I do want to note, Your Honor, that in addition to
13 listening to Ferguson residents, Ferguson police officers, and
14 individuals within Ferguson of all perspectives, we have and
15 will continue to listen to nonresidents about Ferguson. Many
16 of the civil rights violations that we found were committed
17 against nonresidents. People who work in Ferguson, have
18 family in Ferguson, were shopping in Ferguson, were exercising
19 their First Amendment rights in Ferguson, or were just driving
20 through Ferguson have been recipients of abusive citations,
21 improper arrests or uses of force, spent time in Ferguson's
22 jail. Their voices and experience are valid and worthy of
23 consideration, and we will continue to listen to those voices.

24 There's a narrative, Your Honor, that holds that
25 those critical of police and court practices in Ferguson are

1 outside agitators and that the real residents of Ferguson
2 support the police unequivocally and have no problems with law
3 enforcement. In the year and a half we've been investigating
4 and negotiating, we have found this narrative to be false. In
5 a year and a half of talking with Ferguson residents, we have
6 met residents who feel unheard or feel unfairly used by their
7 own city.

8 As Mildred Clines, a 28-year-old -- a 28-year
9 resident of Ferguson said when she spoke today, "We felt
10 helpless," and she was glad when people came from across the
11 country to support her and others in Ferguson who, for
12 decades, had felt like their voices and experiences didn't
13 matter.

14 To successfully implement this decree, we must get
15 past this "for us or against us" mentality and recognize it is
16 possible to genuinely support law enforcement while at the
17 same time insisting that police and courts treat people fairly
18 and lawfully.

19 As Dara Ashby put it so succinctly today, it's going
20 to take all of us together to make this happen.

21 Or as Francesca Griffin, one of the individuals who
22 submitted written comments, wrote, "I wish there was a way we
23 could press a button and make the community that is unaffected
24 by the unconstitutional policing be able to see and feel what
25 I feel in my life. We just want to be respected and treated

1 as equals. We want our city to do right by us."

2 This agreement, Your Honor, has the support of many
3 Ferguson residents, residents whose voices have not previously
4 been heard, as well as the support of many who do not live in
5 Ferguson but who have legitimate reasons to seek
6 constitutional and nondiscriminatory policing. In any event,
7 the determination of whether a consent decree is fair,
8 adequate, and reasonable does not depend upon whether a
9 majority of people would vote for it.

10 Your Honor, there has been much said about the cost
11 of this Consent Decree being too high. In fact, so much so
12 that I don't think there's any need for me to rehash much of
13 that here today. I do think it's worthwhile to note, however,
14 that the biggest determinant of how much consent decrees cost
15 in the jurisdictions where we've been implementing them across
16 the country is how focused and energetic cities' efforts to
17 fully implement those agreements are. Where jurisdictions
18 resist implementation or do not act in good faith, agreements
19 last much longer and cost much more than when they get to work
20 immediately and work with the Department of Justice to
21 implement agreements.

22 The fourth set of comments really goes to whether the
23 agreement goes beyond what the Constitution requires or goes
24 generally too far. As Your Honor is, of course, aware, the
25 law makes clear that consent decrees can and should do more

1 than simply say, "Obey the law." They can and should address
2 the causes of constitutional violations. Some commenters
3 assert that the -- this Consent Decree goes too far in one
4 respect or the other. One commenter, for example, says that
5 the changes to Ferguson's occupancy permit systems have
6 nothing to do with constitutional policing but, rather,
7 reflect gratuitous social engineering. But the changes to the
8 occupancy permit ordinance, like similar ordinance
9 modifications in the Consent decree, have a very clear link to
10 police misconduct. Violation of an occupancy permit -- the
11 occupancy permit ordinance was changed not in the ways
12 described earlier today but in very important ways that
13 directly impact constitutional policing.

14 THE COURT: Yeah. That was among the ordinances that
15 was provided as the Attachment A, and it looked to me like
16 that ordinance has already been changed. Is that correct?

17 MS. LOPEZ: Yes, Your Honor.

18 THE COURT: Okay.

19 MS. LOPEZ: It was modified in a couple of ways.
20 One, it was modified to make clear that you do not need to
21 revise your occupancy permit every time certain family members
22 and domestic partners move in with you. This is consistent
23 with case law that suggests that any limitations on occupancy
24 must be reasonable or else they may run afoul of the right of
25 free association protected by the First Amendment.

1 It was also modified to make violations of an
2 occupancy permit a nonarrestable offense. In other words, you
3 can't be arrested and taken to jail for violating your
4 occupancy permit.

5 These changes were in direct response to abuse we
6 found by the Ferguson Police Department of this ordinance and
7 that was causing very real harm. We document in the findings
8 letter, Your Honor, incidents in which women reported being
9 the victims of domestic violence at the hands of their
10 domestic partners only to be ticketed or arrested when the
11 responding officer concluded that someone not listed on the
12 occupancy permit was living in the residence. As reported in
13 the findings report, one women was arrested and jailed for an
14 occupancy permit violation after she called police to her home
15 to protect her from domestic violence. In another incident, a
16 Ferguson police officer reported in his police report that
17 after a domestic violence victim was issued a summons for an
18 occupancy permit violation, the woman said, quote, "she would
19 never call the police again, even if she were being killed."

20 The impact of this occupancy permit code combined
21 with other practices in the police department was clearly
22 having a very dangerous impact on police-civilian
23 relationships and impacting the civil rights of individuals.
24 We believe it's directly related to constitutional policing,
25 and so we acted accordingly.

1 The reforms that are part of this agreement are not
2 social engineering. They're not related to un -- to --
3 they're not unrelated to constitutional policing. They are
4 thoughtful solution, reached after months of negotiation
5 between the parties, to some very harmful practices by the
6 City of Ferguson and the police department.

7 Other commenters have noted that there appear to be
8 too many deadlines or that the deadlines are too aggressive.
9 We simply wanted to note that we have -- there are more
10 deadlines in this agreement than in some of our older
11 agreements. We have found it very helpful to have interim
12 deadlines to help jurisdictions stay on track as they're
13 implementing decrees. We -- I can tell you that throughout
14 negotiations, we've deferred to the City on deadlines. We
15 never insisted that we have this deadline instead of that
16 deadline. We asked them to think about what made sense to
17 them. A lot of the very early deadlines are deadlines for
18 things that are already well underway or have actually already
19 been done, for example, the occupancy permit. Those changes
20 to ordinances have to be done within 30 days of the agreement,
21 but they've already been done except for, I believe, one.

22 We've also --

23 THE COURT: So what about the comments that this
24 is -- several people have commented this is a much more
25 extensive Consent Decree than has ever been done before.

1 MS. LOPEZ: Yeah. I don't know if that's true, Your
2 Honor. I think that would depend on the metrics you use to
3 measure that. I do think it's extensive, and I think that's
4 because the problems that we found in Ferguson were extensive
5 and are extensive. I think it's important to note that we're
6 addressing problems not only in the police department but also
7 with the municipal court system, which is not a topic that's
8 covered by some of our other agreements.

9 But perhaps more fundamentally, we've learned that to
10 truly eliminate patterns or practices of misconduct you have
11 to really be holistic in how you approach these problems, and
12 you do -- and it does help to be very detailed in these
13 agreements to avoid misunderstandings or disagreement. I'm
14 sorry. It's important to be detailed in the agreement so that
15 you avoid disagreement and misunderstandings down the line of
16 what was meant or what is required by the agreement. That's
17 the -- that's the primary reason why our agreements, more
18 recent agreements, are more extensive and more detailed.

19 But as the Court has heard today, notwithstanding
20 this amount of detail, many people think that the agreement
21 should have been more detailed and should have included more
22 things. So, again, it's trying to strike a balance, Your
23 Honor, between providing enough on specificity and clarity so
24 that we reduce problems down the road without trying to put
25 everything into one place, knowing that things will change and

1 you don't want things set in stone more than you need to have
2 them set in stone.

3 And that brings me to the fifth category of comments,
4 which is really that a lot of people believe that the
5 provisions in this agreement are not strong enough and do not
6 go far enough. I think that in reading through the comments
7 and listening to comments today one thing that became clear to
8 me is that a lot of the more specific language that people
9 want to see -- want to have seen in the Consent Decree is
10 actually more likely to be in the policies or the training
11 that are going to come out of the Consent Decree. One example
12 of this is the body-worn cameras. Much of what people were
13 talking about today and in the written comments, we would
14 agree with, but we believe that those requirements should be
15 in the policies.

16 And I think it's important to keep in mind that all
17 the policies and training will be approved by DOJ and the
18 Monitor. So there is that check there, and if the parties
19 don't -- if the parties disagree, then the Court would resolve
20 that, but generally, in our agreements, we've been able to
21 come to agreement on approval of the policies without court
22 involvement, for the most part.

23 The same -- just one example from today. Somebody
24 mentioned paragraph 359, which talks about how the municipal
25 courts interact with persons with mental illness or

1 intellectual or developmental disabilities. It is true it's
2 only one sentence, but that one sentence requires the City to,
3 quote, "implement appropriate mechanisms" for working with
4 these defendants. That's a lot. It didn't necessarily -- it
5 wasn't necessarily appropriate to put into a consent decree,
6 but there will be much more than one sentence about how
7 persons with mental illness or intellectual or developmental
8 disabilities are treated in the Ferguson Municipal Court.

9 Even where the Consent Decree leaves the exact
10 particulars of a particular area, such as body-worn cameras,
11 for policy, what the Consent Decree is meant to do is to set
12 out the overarching principles and guidelines so that there's
13 a common understanding of how those, that policy and training,
14 should be developed. And so, for example, the Monitor and DOJ
15 are required to base their approval on whether the policies
16 and training comport with the agreement, with best practices,
17 and with the law, and then there are more specific guidelines
18 for particular topics.

19 It is, of course, true that the agreement does not
20 cover some of the recommendations made in written and spoken
21 comments. We think many of those are good ideas. The
22 agreement does not talk about minors being prosecuted in
23 municipal court and not having the right to counsel. I
24 believe that the City of Ferguson is going to talk a little
25 bit more about that. I will say that the agreement does

1 require that the municipal court comport with all
2 constitutional or other legal requirements, and it also
3 requires that all trials be fair and conducted in accordance
4 with the Constitution. So to the extent that juveniles are --
5 are in the municipal court, they would have the same rights as
6 everyone else, including any rights that would attend
7 specifically to juveniles.

8 And I think it's also important to note, Your Honor,
9 that, as some people have said today, the Consent Decree isn't
10 actually meant to do everything. It can't fix all -- all the
11 problems in Ferguson or the surrounding region. And so many
12 of the ideas that people have talked about today are really
13 important ideas, and we hope the people will continue their
14 efforts in those areas, but in our view, they may not have
15 been appropriate for the Consent Decree. And, of course, I
16 just want to go back to the fact, Your Honor, that many
17 things, we agree with, but we may not have gotten everything
18 that we wanted during negotiations.

19 A couple of people have noted that we should be doing
20 more and should be going after other municipalities or states
21 or police departments, and I would just note two things.
22 First is that the law does not require that if we -- that if
23 we can't do everything, we do nothing. We recognize that
24 there are other places with problems, and -- but that, of
25 course, doesn't prevent us from trying to correct the problems

1 in places where we are. And second, I just wanted to note
2 that we actually do have a case against the St. Louis County
3 courts regarding their treatment of juveniles in the juvenile
4 court system there. So we're not -- we are actively working
5 on that issue.

6 Finally, Your Honor, there's -- the concern has been
7 expressed that the people responsible for implementing the
8 Consent Decree will not do so appropriately or in good faith.
9 There are a few examples given of this. Concerns that the
10 complaint process will not be adequate as long as it's
11 overseen by the same personnel. That the amnesty program
12 won't be effective because it allows the prosecutor to find
13 good cause to continue prosecution. Or that the Neighborhood
14 Policing Steering Committees might not include sufficient
15 outreach and involvement from residents to make them
16 effective. And I guess the fourth one is developing body
17 cameras. There are a lot of concerns about whether the people
18 who are there will be able to do that appropriately.

19 And I would say, Your Honor, that this is one of the
20 values of a Consent Decree. There will be a Monitor there.
21 This is -- it will be different now. There will be a Monitor
22 there to assess whether the City is implementing the agreement
23 appropriately, and if the police department or the City is not
24 appropriately implementing the agreement and not holding their
25 employees accountable for implementing the agreement or for

1 following their own policies, the Court can hold them
2 accountable.

3 And I think these concerns are not -- you know, to
4 the contrary of it being reasons not to enter the agreement,
5 they're actually reasons to enter the agreement, to allow the
6 Court to have that sort of oversight. That's the entire
7 reason we are seeking a Court-ordered agreement rather than a
8 private memorandum of understanding, because we recognize the
9 value of having the Court's oversight and accountability
10 mechanisms in this case.

11 So, Your Honor, just two points in closing. One is
12 that while some of the commenters think the Consent Decree
13 goes too far and others think that it doesn't go far enough,
14 very few speakers argued that it shouldn't be entered at all,
15 and we agree that despite its many imperfections, it
16 definitely meets the legal standard of fair, adequate, and
17 reasonable. We think it's a feasible and a fair set of
18 remedies that will be effective at eliminating the conduct
19 that we found violates the Constitution, and we very much urge
20 the Court to enter the Consent Decree that the parties have
21 worked so hard to negotiate.

22 Secondly, Your Honor, we recognize that although our
23 investigation began a year and a half ago, in many ways, this
24 case is just beginning, and I want to assure this Court and
25 the City of Ferguson and the entire community that we as

1 individuals and, more importantly, the Department of Justice
2 and the Civil Rights Division institutionally are committed to
3 working closely with all stakeholders, including in particular
4 the City of Ferguson, to fully implement the Consent Decree so
5 that all people are treated fairly and lawfully by the
6 Ferguson Police Department and the municipal court.

7 As we have said before, we want Ferguson to be known
8 for how it responded to this crisis, how it came back stronger
9 and more vibrant than ever and as a strong protector of all
10 people's constitutional rights.

11 We know that notwithstanding all the hard work that
12 the Department of Justice has put into this case already that
13 the important work of -- the most important work of
14 implementing the Consent Decree lies ahead of us, and we're
15 eager to get started. So we respectfully request this Court
16 enter the Consent Decree as an Order of this Court. Thank
17 you, Your Honor.

18 THE COURT: Mr. Webb.

19 MR. WEBB: Yes, Your Honor. Thank you.

20 Your Honor, as I began, Mayor Knowles would like to
21 briefly address the Court, just to address very briefly the
22 issue of the commitment of the City of Ferguson to this decree
23 and complying with the decree. Could I ask leave if I could
24 ask him to --

25 THE COURT: Yes, he may do so.

1 MR. WEBB: Thank you.

2 MR. JAMES KNOWLES III: Thank you, Your Honor.

3 On behalf of the City of Ferguson and the citizens of
4 Ferguson, we respectfully request that you approve this
5 Consent Decree as ordered -- as so ordered by the Court.

6 In September of 2014, at our first City Council
7 meeting, the City Council of the City of Ferguson took very
8 seriously the issues that had arisen just one month before in
9 August of 2014. We began immediately looking at ourselves and
10 what we were doing right, what we were doing wrong, and what
11 we can do better. It was at that first City Council meeting
12 after the death of Michael Brown that we began to make changes
13 to our city ordinances, to our court system, to our police
14 practices. It was the first time that we began to propose
15 civilian oversight of our police department, fully five months
16 before the Department of Justice's report which outlined a
17 number of patterns and practices of unconstitutional behavior
18 in our city.

19 The City of Ferguson has been fully cooperative, both
20 with the Department of Justice. We do appreciate the
21 Department of Justice's efforts working with us. While we
22 have worked at arm's length, we did work towards a mutual end,
23 which was to move this community forward and bring this
24 community together, focused on what we can do right in this
25 community, making sure that there are both safeguards in place

1 and oversight in place to ensure that unconstitutional
2 behavior does not occur anywhere in the city of Ferguson and
3 that all of our residents and all those who do business in our
4 community and all those who come through our community are
5 treated equitably and fairly.

6 We believe that this is an important step in bringing
7 this community together and moving us forward. We believe
8 that what's contained in this Consent Decree will help address
9 many of those concerns that have been brought before the Judge
10 and brought before the Department of Justice as well as
11 brought before the City, and we believe -- again, respectfully
12 request that you enter this Consent Decree and allow us to
13 continue the hard efforts that will come before or come ahead
14 of us in fully implementing this decree and restoring the
15 faith, we hope, in those who have lost it in both their police
16 department and their city government. Thank you.

17 THE COURT: Thank you. Mr. Webb.

18 MR. WEBB: Yes. Thank you very much. Thank you,
19 Your Honor, for allowing that.

20 Let me just begin with some -- by the way, I would
21 also join with the Department of Justice. I wanted to, first
22 of all, express my thanks to the Court for having this hearing
23 today. As Your Honor knows, under this particular settlement,
24 a fairness hearing wasn't actually required by the law, but
25 you agreed to have this hearing today, which we think was a

1 very productive endeavor in order to hear from the community.

2 I also would like to thank all of the citizens who
3 came forward and made comments here today. We recognize
4 that -- I tell my kids a lot of times, you know, instead of
5 just sitting here complaining, go out and do something about
6 it. Here, citizens took time out of their very busy
7 schedules, came here to express their views about this very
8 important Consent Decree. And there's a lot of different
9 views and a lot of different opinions out there, and I, at
10 least as one, found it to be a very educational process and
11 one that was important to go forward.

12 And the City of Ferguson clearly understood, Your
13 Honor, as they have said to me many times, that because of the
14 controversy that came about because of the Michael Brown
15 episodes, episodes that occurred, and the death and the
16 tragedy of that, that tragedy of that event, that they
17 recognized the controversy and that people have a right to
18 speak out and have their views known, and here in this court
19 proceeding, we're very grateful that they came forward and
20 expressed their views about it.

21 As far as if I were to take a couple of overall
22 takeaways, there's some specific comments I heard that I think
23 the Department of Justice addressed many of them, but I do
24 want to pick -- I want to sort some of them out and just
25 respond to some of them very specifically and then make some

1 general observations to Your Honor about the Consent Decree.

2 First of all, as far as deadlines are concerned,
3 which the DOJ addressed, it is -- there's no question there
4 are a lot of deadlines in this agreement. There's no question
5 that these deadlines were subject to a lot of intense
6 negotiations over a period of months in order to try to come
7 up with deadlines that were fair and reasonable, and there's a
8 lot of them, and we acknowledge that.

9 I will also tell Your Honor that -- that we agreed in
10 this Consent Decree -- if you look at page 118 of the Consent
11 Decree -- because of the number of deadlines, we actually have
12 embodied in the Consent Decree, in paragraph -- it's on page
13 118. In paragraph 454, we've agreed that the City will assign
14 a current City employee for the duration of the agreement,
15 assuming Your Honor enters it, the Consent Decree, that will
16 become known as the Consent Decree Coordinator, and that
17 coordinator will act as a liaison between various City
18 departments and will assist in making sure that we comply with
19 all deadlines. Your Honor, it is the intent of the City of
20 Ferguson to comply with all of the deadlines that are in this
21 agreement.

22 And I will also tell Your Honor that I respect my
23 colleagues from the Department of Justice. In these
24 negotiations, we had discussions about, well, what's going to
25 happen if there's a deadline and we can't meet it, and the

1 response I got from the people at the Department of Justice, I
2 thought, was reasonable. I thought it was fair. If something
3 comes up that's unexpected right now, as a lawyer, I will go
4 to the Department of Justice in advance of failing to meet a
5 deadline, and I'll explain what happened and try to -- and I
6 got assurances from DOJ that they've had other cases where
7 sometimes the unexpected does happen, and they're reasonable
8 about it. And by the way, I do trust them in what they told
9 me, and I'm not doubting that. If there ever comes a time
10 that there's some huge problem, we obviously would have to
11 bring it to Your Honor. I don't expect that to happen. I
12 expect that we're going to be able to comply with deadlines,
13 and having a coordinator actually designated to do it, I
14 think, speaks volumes for the spirit of this agreement to make
15 sure that we do live up to the deadlines because there are a
16 lot of them.

17 Let me mention -- there's an issue that came up about
18 juvenile amnesty. What that relates to, I believe, is the
19 following, Your Honor. If you -- if you look at page 79 of
20 the -- of this Consent Decree, and you'll see what's called a
21 Comprehensive -- it's on paragraph 326. It's called the
22 Comprehensive Amnesty Program, which basically I'm going to
23 summarize it for Your Honor.

24 THE COURT: Just a second. I assume you're just
25 turning off that phone that went off.

1 MR. WEBB: I didn't have a phone.

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

3 MR. WEBB: I didn't have a phone, Your Honor.

4 THE COURT: No, I didn't mean you. I wasn't talking
5 to you.

6 MR. WEBB: Oh, okay. I'm sorry. I didn't hear it.
7 I apologize. I didn't hear it.

8 THE COURT: Okay.

9 MR. WEBB: So what I was going to --

10 THE COURT: Oh, it's the chair. Okay. It sounded
11 like a phone to me. Sorry about that.

12 MR. WEBB: Here's, I think, the issue of the comment,
13 and I'll explain it to Your Honor. As part of the
14 negotiations to come up with a Consent Decree we could reach
15 and bring before Your Honor, there was an issue about the
16 municipal ordinances and issues about them. So DOJ basically
17 told us that -- and there's -- that in other consent decrees
18 that there should be a cutoff by which that any case initiated
19 before a certain date that's not resolved then gets basically
20 amnesty, out of -- out of the case, out of the system. We
21 agreed to that. The date was January 1, 2014.

22 The only exception to that is that it was recognized
23 by DOJ that with some of these municipal ordinance charges,
24 some of them could be very serious. They could involve
25 violence. They could involve DUIs. They could involve

1 domestic violence, et cetera, et cetera. So what was carved
2 in is that the prosecutor is given -- if the prosecutor
3 actually makes a specific finding that there's good cause to
4 continue the prosecution, they could be exempted out.

5 I think the comment about it was, well, juveniles
6 should be eliminated -- they should be totally given full
7 amnesty for anything if they're in the system before January
8 of 2014. First of all, juveniles under the municipal
9 ordinances can only -- if you're -- you have to be 17 or older
10 to even be able to be prosecuted under any municipal ordinance
11 whatsoever, and so between the ages of 17 and 18, the same
12 amnesty applies to juveniles that applies to adults. They
13 will be out of the program. If it was initiated before
14 January 1, 2014, they get amnesty. The only exception, again,
15 would be if a prosecutor in good faith determined there was
16 good cause to continue the prosecution because it was a
17 serious, serious issue. So that it's not -- it would not be
18 right just to give someone amnesty when the case was still
19 pending that involved some serious issues, but that's the
20 only -- otherwise juveniles are going to be given the amnesty
21 that adults would be given.

22 Another issue that I wanted just to touch upon that
23 was mentioned was the issue of community outreach. I think
24 the issue there, Your Honor, is the following: There are a
25 number of -- I'll call them -- plans and programs that are

1 built into this Consent Decree for community participation,
2 and I think the issue that was commented on was whether
3 citizens in Ferguson will learn about the opportunity to
4 participate and be involved in this community policing spirit
5 of this Consent Decree, and I would only just call -- maybe
6 one of the most important provisions in this community-based
7 policing program, as built into the Consent Decree, appears on
8 page 6 of the Consent Decree, Your Honor, and deals with
9 the -- as you'll see on page 6, beginning with paragraph 21,
10 it's called this Neighborhood Policing Steering Committee, and
11 that is an important committee that was created under the
12 Consent Decree to help institute community-based policing.
13 And basically, this committee is -- was set up in order to
14 basically allow a broad representation of members of the
15 Ferguson community to provide input on police issues and on
16 law-enforcement-related issues, and this Neighborhood Policing
17 Steering Committee was going to be able to -- they, basically,
18 have -- if you'll go down to paragraph 22 -- placed no limits
19 on the number of participants on the Neighborhood Policing
20 Steering Committee and allow attendees and volunteers to
21 participate and choose and participate in whatever category
22 that attendees want to participate in.

23 And I'll just use that as an example. I was asking
24 the City, while we were on your lunch break, to explain to me,
25 you know, "What outreach are you doing to let people in

1 Ferguson know that? If they want to participate in this
2 Neighborhood Policing Steering Committee, how do they find out
3 about it and how -- so that they at least -- then they can
4 volunteer and participate in the program?" And I was told
5 that there's been extensive outreach to let people know about
6 this particular committee.

7 I'm told, for example, it is on the City Twitter
8 account, the City Facebook. It's on the City website.
9 There's a program actually under Ferguson where if you want to
10 get emails from the City of Ferguson, you sign up for the
11 program, and you'll get emails about this program. And so
12 there's an extensive outreach to notify people in Ferguson
13 that if you want to be on this committee you can do so.

14 One of the wards that was --

15 THE COURT: Is there any -- is there any outreach
16 that goes to people who may not be as electronically wired?
17 All of those are things that someone has to be on Twitter or
18 otherwise on a computer, and some of the comments said people
19 who were on that committee said there had been suggestions for
20 other ways of outreach and those were rejected by the City.
21 Is that true?

22 MR. WEBB: Well, I don't -- I don't know if I can
23 address -- if I know, but I will -- but the answer to your
24 question is there are. Okay. And I'll just give you one that
25 was called to my attention. There was comments about the

1 Third Ward in Ferguson and the participation of the Third Ward
2 in community policing. There right now is scheduled -- for
3 April 30th, there is a community outreach meeting that's been
4 set already. It's been set for some time on April 30th. It's
5 in a park in Ferguson, and the specific purpose of that -- it
6 was organized by the City, by the City, by people in the City,
7 to have a reach-out meeting for people in that Third Ward in
8 order to get them interested in this particular police
9 steering committee. And so that's not -- that's not
10 electronically sophisticated. It's a community meeting that
11 I'm told has been advertised and that they're expecting,
12 hopefully, a very good turnout for that.

13 But I -- as -- Your Honor, from everything I can gain
14 from talking to the Mayor and the members of the City Council,
15 we're not entering into a Consent Decree and then trying to
16 hide the ball on citizens' participation. We want a
17 community-based policing program that has community
18 participation, and we're going to follow the procedures that
19 we will follow as a -- to reach out as much as we possibly can
20 so that people know about the opportunities. And probably the
21 Neighborhood Police Steering Committee may be the most
22 important, but there's others, and we're committed to doing
23 that.

24 I also would just mention the issue -- there's a
25 mention of an issue of juveniles and the right to counsel, and

1 so I checked on that issue over the lunch hour also, and what
2 I have come to learn is that the City of Ferguson follows the
3 law and the Constitution rigorously on the right to counsel,
4 and if there's any jail time provided for under a municipal
5 ordinance, then counsel is provided by the City of Ferguson to
6 the juvenile, and so I believe, from everything that I've been
7 told, that the City of Ferguson is complying with their
8 obligations regarding the right to counsel and juveniles.

9 Some general observations. As I listened to the
10 comments from the citizens who spoke here today, I came away
11 with this thought or observation. As far as the totality of
12 the public comments here today, I think they probably spoke
13 volumes of some of the challenges that the Department of
14 Justice and we, representing the City of Ferguson, faced in
15 trying to negotiate a reasonable and fair and adequate
16 settlement in the midst of the controversy that attached to
17 the tragedy regarding Michael Brown's death, and there's no
18 question that if anything can explain why it may have taken us
19 eight or nine months to get this done, it's because we
20 recognize there's many voices out there in the community and
21 they needed to be listened to, and there's no question that --
22 I think as the Department of Justice has told you --
23 throughout this Consent Decree, the voices of the community
24 are being heard. I mean Department of Justice insisted on
25 provisions being in this Consent Decree, at least I believe in

1 part, because of messages they were receiving from the
2 community, and so that there's a lot of controversy in
3 Ferguson about what happened in Ferguson, and it took time to
4 put together because those voices needed to be heard and, I
5 respectfully suggest, were heard.

6 Second observation: There were comments made about
7 Mayor Knowles and the City Council, and so I'm just going to
8 give you one observation as a lawyer working on this
9 settlement. I discovered early on in the process, Your Honor,
10 I could not get this settlement done without members of the
11 City Council being down in the trenches with me. I couldn't
12 handle this like an ordinary, routine case because, Your
13 Honor, there's too much going on in Ferguson. There's too
14 many voices -- not too many. There's a lot of voices there.
15 They needed to be heard, and I could not make judgments as I'm
16 sitting there negotiating with the Department of Justice.

17 A committee got appointed. Mayor Knowles and members
18 of the City Council were put on a committee to be with me
19 almost continually during all of the negotiations with the
20 Department of Justice. I'm talking about hours and days of
21 meetings, phone calls, and I cannot -- without the Mayor and
22 the members of the City Council and their efforts, I would not
23 have a consent decree to present to you today. I couldn't do
24 it. I could not have got it done. But because of their --
25 and they were taking time from their personal other schedules.

1 This was not just City Council time. This is an enormous
2 amount of time that these members of the City Council on this
3 committee and the Mayor spent in the trenches to get this done
4 so we could walk into this courtroom today and have a hearing
5 on a consent decree because they were committed to it and were
6 dedicated to it, and I think they deserve a lot of credit for
7 that.

8 My last observation would only be that I heard people
9 talk about -- and I had discussion with the Department of
10 Justice about this, but I do believe what you have in front of
11 you. If you want to -- I believe this Consent Decree -- with
12 all the effort that both sides put into putting this together
13 so we could come in front of a federal judge and present it
14 and have a hearing such as this, I do believe that with all
15 the effort put in this could become a model for -- a community
16 policing model for this entire region. In fact, I believe it
17 can become a model for cities across America that are
18 similarly situated to Ferguson in size. And, therefore, Your
19 Honor, for all the reasons I've articulated earlier, we
20 respectfully ask you to consider all the evidence you've
21 heard, all the arguments, and we respectfully ask for you to
22 approve the Consent Decree. Thank you.

23 THE COURT: I have one more question for you, from
24 something that was raised by some of the commenters. Two of
25 the different commenters, including one who was the subject of

1 this prosecution, said that the prosecutor argued to the
2 judge, "We don't have a police officer, but you can infer from
3 the fact that someone was arrested that they're guilty." Did
4 that really happen? Because he said it just happened a couple
5 of weeks ago. They're both nodding vigorously, saying, yes,
6 it happened, but you know they thought it happened because
7 they said so. Have you checked into that?

8 MR. WEBB: I will check it. I mean I just heard it
9 today for the first time, but I checked into it now, in the
10 brief time I had, with the City Attorney, who's in court, and
11 was told that a prosector would never have made a statement
12 like that, and so that's all I could do in the brief time I
13 had. If you want me to try to check into it further, I'll do
14 so, Your Honor, to come back and give you an answer, but I
15 heard -- I heard it here. Mr. Rose, the last, I think,
16 witness who -- last commentator who raised it -- I took notes
17 on it, and I'm told by the City Attorney that that statement
18 would not have been made by a prosecutor, but I'm not going to
19 impugn the integrity of these fine people who have come into
20 court, and I checked it out as best I could here in the
21 courtroom today and was given that answer. If you want me to
22 go back and get more details, I will do so.

23 THE COURT: Well, what I think is that whoever is in
24 charge would need to -- the prosecutor, certainly, and you
25 need to make -- find out what happened at that hearing.

1 MR. WEBB: I agree.

2 THE COURT: And if in fact there was any kind of an
3 argument to that effect, obviously, that's a violation of all
4 sorts of constitutional rights, and if it happened recently,
5 that would be really a concern. So if it did happen, I hope
6 that whoever might have made that statement would be told --
7 you know, would be given some remedial training.

8 MR. WEBB: We will do --

9 THE COURT: I would hope that no prosecutor would
10 ever say such a thing. It's the most basic constitutional
11 right of any criminal justice system.

12 MR. WEBB: I was a prosecutor myself for many years,
13 and I --

14 THE COURT: I know you were.

15 MR. WEBB: And I agree with you. So I'm not arguing
16 with you. The answer is yes to what you just stated.

17 THE COURT: Okay. All right. Anything further from
18 the Department of Justice at this time?

19 MR. VOLEK: No, Your Honor.

20 THE COURT: All right. So I'm going to take a
21 15-minute recess, and then when I return, I will tell you my
22 rulings on this. So court is in recess for 15 minutes.

23 (Court recessed from 2:54 p.m. until 3:13 p.m.)

24 (See previously filed Excerpt of Ruling, Document #43.)

25 (Proceedings concluded at 3:25 p.m.)

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 171 inclusive.

Dated at St. Louis, Missouri, this 6th day of May, 2016.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter