

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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

STATUS CONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

SEPTEMBER 7, 2016

APPEARANCES:

For Plaintiff: Christy Ellen Lopez, Esq.
Amy Senier, Esq.
Charles Wesley Hart, Jr., Esq.
Chiraag Bains, Esq.
UNITED STATES DEPARTMENT OF JUSTICE

For Defendant: Jared Lyons Hasten, Esq.
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(Produced by computer-aided mechanical stenography.)

1 (Proceedings commenced at 1:06 p.m.)

2 THE COURT: All right. Good afternoon. We're here
3 in the case of United States of America versus the City of
4 Ferguson. This is Case No. 4:16-CV-180, and we are here for a
5 status hearing and for the parties to tell me what's going on
6 with the settlement and, I guess, to some extent introduce me
7 to the Monitor, et cetera.

8 So for the Plaintiff, for the United States, would
9 you all introduce yourselves for me?

10 MS. LOPEZ: Your Honor, I'm Christy Lopez.

11 THE COURT: Okay.

12 MS. SENIER: Amy Senier.

13 THE COURT: Okay.

14 MR. BAINS: Chiraag Bains.

15 THE COURT: All right.

16 MR. HART: Charles Hart.

17 THE COURT: All right. And for the Defendant?

18 MR. HASTEN: Jared Hasten.

19 THE COURT: All right. Mr. Hasten.

20 And then so from the Plaintiffs -- well, why don't
21 you all just tell me what -- from the United States -- what
22 you think you need to report. I do have your status report,
23 and if one of you would like to introduce the members of the
24 Monitoring Team, that would be fine. Obviously, I've studied
25 their résumés and everything. So I sort of know who they are,

1 but --

2 MS. LOPEZ: That would be wonderful. We'd love to
3 have the Monitoring Team introduce their team.

4 We were thinking that, perhaps, the City of Ferguson
5 could tell the Court its views of where they are, what the
6 status of this case is. You could have the opportunity to ask
7 any questions. We could then speak, and then you could hear
8 from the Monitoring Team, but if you want a different order --

9 THE COURT: That sounds fine. That sounds fine to
10 me. So, first, let me hear from the Monitoring Team as to who
11 you are. I know -- I looked at your pictures. I read your
12 résumés, but go ahead if you will.

13 MR. ERVIN: Thank you, Your Honor. I'm Clark Ervin,
14 the Monitor. Sam Rosenthal.

15 THE COURT: Okay.

16 MR. ERVIN: Ed Davis.

17 MR. DAVIS: Good afternoon, Your Honor.

18 THE COURT: Good afternoon.

19 MR. ERVIN: Frances McLeod.

20 MS. MCLEOD: Good afternoon, Your Honor.

21 MR. ERVIN: Delores Jones-Brown.

22 MS. JONES-BROWN: Good afternoon, Your Honor.

23 MR. ERVIN: Natasha Tidwell.

24 MS. TIDWELL: Good afternoon, Your Honor.

25 MR. ERVIN: And Kimberly Norwood.

1 THE COURT: All right.

2 MR. ERVIN: Thank you, Your Honor.

3 THE COURT: All right. Thank you.

4 All right. Mr. Hasten, I'll hear your report, and
5 like I say, I do have the spreadsheet. It was -- you know, I
6 looked at it fairly closely. It's somewhat -- I'm somewhat
7 able to understand it, and I did appreciate that you sent my
8 assistant a copy of that in an Excel version so if I want to
9 make my own notes I can. So I appreciate that.

10 MR. HASTEN: Thank you, Your Honor. Before we get
11 started, I just wanted to introduce some members of the
12 Ferguson City Council --

13 THE COURT: Oh, yes. Thank you.

14 MR. HASTEN: -- who are present here in court today.

15 THE COURT: Yeah.

16 MR. HASTEN: Councilwoman Linda Lipka.
17 Councilwoman --

18 THE COURT: Tell me her name again.

19 MR. HASTEN: Linda Lipka.

20 THE COURT: Okay. Ms. Lipka.

21 MR. HASTEN: Councilwoman Ella Jones. Councilwoman
22 Laverne Mitchom.

23 THE COURT: All right. Thank you, all, for being
24 here.

25 MR. HASTEN: And we also have some officials from the

1 City of Ferguson today here, Your Honor.

2 THE COURT: Okay.

3 MR. HASTEN: City Manager De'Carlton Seewood.

4 THE COURT: Okay.

5 MR. HASTEN: Ferguson Police Chief Delrish Moss.

6 THE COURT: All right.

7 MR. HASTEN: Ferguson Deputy Police Chief Al
8 Eickhoff.

9 THE COURT: Greetings.

10 MR. HASTEN: And City Clerk Christine Lanfersieck.
11 And I apologize if I mispronounced that.

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

13 MR. HASTEN: So, Your Honor, we're here today on a
14 status report. Since we last saw Your Honor on April 19th, I
15 think we've made some good progress.

16 First and foremost, the City hired Chief Moss before
17 the Consent Decree was actually approved by Your Honor, but he
18 didn't take office until mid May and has gone through great
19 lengths to get up to speed with the Consent Decree, to explain
20 it to his command staff and to officers of the Ferguson Police
21 Department.

22 And in a similar vein too, City Manager De'Carlton
23 Seewood has explained what the Consent Decree is, what it
24 entails to City officials. He's made that known to the Court
25 Clerk as well, and it's been explained to court personnel.

1 So I think that's really the first step, Your Honor,
2 is that City officials and City employees know what this
3 Consent Decree is, and they know what it entails, and they
4 know what is expected of them.

5 The parties also worked, Your Honor, as you know, to
6 select the Monitoring Team. We put in a lot of time and
7 effort to do that, and we were excited with Mr. Ervin's
8 selection, and we believe his team offers a breadth of
9 experience and resources, and we're excited to work with them
10 and to kind of begin this next step of implementation, which
11 is monitoring assessment and compliance as to where the City
12 is.

13 So we're -- actually, we've scheduled all day
14 meetings tomorrow to give Mr. Ervin the opportunity to meet
15 with City officials, to meet with court staff, and to hear
16 what they have to say about what's going on with the Consent
17 Decree and where the City stands.

18 And in terms of the 30-, 60-, 90-, and 120-day
19 deadlines, those are the benchmarks that have come and passed
20 since Your Honor implemented the Consent Decree or approved it
21 on April 19th, 2016, and I think, from what you could see in
22 the spreadsheet, the City's done a lot of work. We haven't
23 waited for Mr. Ervin to begin his duties as the Monitor.
24 We've tried to pick up the ball and just run with things and
25 implement a lot of what we need to do, and I think you can see

1 from the spreadsheet that a lot's been done. A lot still
2 needs to be done. And where we are right now with working
3 with the Government and working with Mr. Ervin is just to
4 substantiate what has been done, and I hope that tomorrow's
5 meeting with Mr. Ervin and with the Government is just an
6 opportunity for us all to sit together, put our heads
7 together, and really just work on what we need to do to prove
8 to the Government and to Mr. Ervin and his team that we are
9 actually -- the City is doing what's necessary and what's
10 ordered in the Consent Decree and that we're staying on track.

11 So that's my brief overview. I'm happy to answer any
12 questions that Your Honor may have after reviewing the
13 spreadsheet about any -- any of the deadlines that have come
14 and passed and where the City is or where you think the City
15 stands with respect to anything.

16 THE COURT: There were a number of deadlines where
17 the comment was made that the -- that the plan for -- where
18 the Department of Justice and the Monitoring Team were
19 awaiting documentation from the City to confirm that something
20 had been done. Can you tell me about those? There were a lot
21 of them.

22 MR. HASTEN: There are a lot of them, Your Honor, and
23 certain of those, that's what we'd like to sit down and meet
24 with them and talk with them about tomorrow too. Certain
25 documentation, we can create to let them know that things are

1 happening. I'll use an example. The fact that the Consent
2 Decree is being explained to FPD officers and command staff.
3 We can create orientation materials. We can create memos to
4 file, but I think a lot of what -- we can create documents for
5 that, Your Honor, but I think we can also satisfy some of
6 these requirements by having Mr. Ervin and his team and the
7 Government come and observe what's being done in Ferguson.

8 I'll give Your Honor an example. There's many court
9 reforms that need to be done, and one of them is to ensure
10 that defendants are given the opportunity to perform community
11 service instead of paying a fine, and I spoke with Judge Hall
12 last week, and I asked her, "Is this being done?" And she
13 said, "Absolutely, it's being done. I give defendants the
14 opportunity to enter into a payment plan, to come up with a
15 payment plan that they can afford, and if they can't do that,
16 they can perform community service, or I give them a hybrid
17 approach."

18 And I asked her, I was like, "Is there anything that
19 you want me to convey," to Your Honor, "about what's being
20 done in municipal court," and she told me that she's just
21 excited about the progress that she's seen and just what she's
22 heard from people who have appeared in municipal court and how
23 much it's changed.

24 So I think there's documentation, obviously, that we
25 can provide orders that have been entered by the court showing

1 that community service is a viable sentencing option, but I
2 also think that observation and coming and actually watching
3 court, attending these monthly command staff meetings or
4 however often the command staff meetings take place -- we'll
5 be able to substantiate a lot of what's required in the
6 Consent Decree without actually creating documentation.

7 So to answer Your Honor's question, yes, we'll
8 provide the documentation. Whatever the Monitor deems
9 appropriate or the Government says we need to do to show that
10 we're complying with the Consent Decree, we will absolutely
11 do, but we also think that coming and observing and seeing
12 what's going on in Ferguson will also substantiate what's
13 being done and actually may take the place of some of this
14 documentation that's required.

15 THE COURT: The -- the other question I had was there
16 were a number of committees and things that the settlement
17 agreement said would be implemented at different times, but
18 different -- like the Neighborhood Policing Steering Committee
19 and other things like that. What's the status of that
20 happening?

21 MR. HASTEN: So the Neighborhood Policing Steering
22 Committee is up and running. The City has -- I shouldn't say
23 it's up and running, but they have been meeting. It's open to
24 anybody who wants to come and meet. We've discussed with the
25 Government ways to go about expanding the outreach into the

1 community to make sure that people know that this group is
2 meeting. We're open to ideas.

3 THE COURT: Has the group all been selected, and is
4 there a committee that actually exists that is the committee
5 or --

6 MR. HASTEN: Nothing that formal, Your Honor.
7 There's an ordinance that will need to be passed, but there is
8 a group of individuals meeting under the title of the
9 Neighborhood Policing Steering Committee. They've been
10 meeting for several months. They've been working with a
11 consultant hired by the City, and I do think that we are
12 somewhat ahead of schedule with that because that's not called
13 to be implemented for, I think, 180 days on the Consent
14 Decree.

15 THE COURT: Right. Yeah, most of them were 180 days,
16 but I couldn't tell what was happening now, and so --

17 MR. HASTEN: So with the Neighborhood Policing
18 Steering Committee, things are happening now. There is a
19 group that's meeting. It's open to anybody who wants to
20 attend. I think, Your Honor, the other thing --

21 THE COURT: So that's why -- so it's really just
22 there are meetings happening, but who's running them?

23 MR. HASTEN: The City has hired a consultant --

24 THE COURT: Okay.

25 MR. HASTEN: -- Peter O'Neill, who comes in and

1 attends most of these meetings, I believe, and City Manager
2 De'Carlton Seewood, I also believe, is present for some of
3 these meetings, and I know that the Government attended one
4 meeting in June, and they may be able to speak to that as
5 well, Your Honor.

6 THE COURT: Okay. And the other ones like -- and,
7 again, these are mostly 180-day deadlines, I believe, but they
8 were things like the -- a Training Committee.

9 MR. HASTEN: A Training Committee that's going to be
10 developed in consultation with the Neighborhood Policing
11 Steering Committee. So that's also -- I don't know the exact
12 status of that, Your Honor. I can check, but I believe that
13 that's going to be rolled together with the Neighborhood
14 Policing Steering Committee, and that's something that they --
15 will be part of their duties.

16 THE COURT: And what about the Civilian Review Board?

17 MR. HASTEN: So the City passed an ordinance
18 authorizing the Civilian Review Board on April 19th, the same
19 day that Your Honor entered the Consent Decree. We provided
20 it to the Department of Justice, and they had some comments on
21 it. So we've been working with them on the comments to that
22 ordinance. It needs to be revised. We'll work on passing a
23 new ordinance to make sure it complies with the Consent
24 Decree. We're going to discuss that with the Government
25 tomorrow. That's on our agenda, and that's currently in the

1 works.

2 THE COURT: Okay. All right. Maybe, Ms. Lopez, you
3 can tell me whatever else you think I should be asking or
4 whatever else you think that it would be good to hear from
5 your side of the table on.

6 MS. LOPEZ: Sure. I'd be happy to. First, Your
7 Honor, I want to say thank you for holding this status
8 conference. I think it's very helpful to the parties and to
9 the Monitoring Team and hopefully to the public and the court.

10 We did want to talk just a little bit about our
11 perspective, the Department of Justice's perspective on how
12 implementation of this Consent Decree is going, not to
13 critique but just because we've been through a lot of these
14 and learned a lot through trial and error. We're hopeful that
15 our thoughts can help not only the Court and the Monitoring
16 Team but really help the City.

17 One thing I really want to emphasize is a point that
18 Mr. Hasten touched upon, which is the selection of the
19 Monitor. There have been a lot of really positive steps.
20 He's correct that people in the City are working really hard.
21 And, for example, the hiring of Chief Moss was really critical
22 and a really important step forward, but I really want to
23 emphasize the selection of the Monitor because it was a really
24 positive experience. It actually went much better here in
25 Ferguson than it's gone in many of our other departments.

1 During the Monitor interviews, all but one of the City Council
2 persons attended those, was very engaged, were very
3 thoughtful. The City Manager was there. The Chief was there.
4 We were really able to come together -- the City of Ferguson
5 and the Department of Justice -- and I feel, you know, to do
6 what was right for the people of Ferguson. The community was
7 involved. There was a public hearing. There was a lot of
8 public feedback on who the Monitoring Team should be, and I
9 really feel that because of that process, because of the
10 public's engagement and the City's engagement, we were able to
11 come up with a team that's really good and with a process that
12 really moved all of us forward together.

13 And the team is excellent. I'm hoping you'll have
14 the opportunity to hear from them a little bit more later.
15 Each one of them is highly respected in their respective
16 fields. The City is very fortunate to have this team. I know
17 they know they've got their work cut out for them. It's a big
18 job, but they all seem very energetic and engaged. So that
19 whole experience was, for us, a real turning point in this
20 whole endeavor and we hope set us off on a path that will
21 continue and that we'll be able to build upon.

22 It's hard stuff that the City is trying to do right
23 now, and a lot of the things -- your questions went to sort of
24 the fundamental groundwork things that need to happen for a
25 lot of the progress to build upon, and we're finding those

1 same issues. I don't think any of us, including the City, are
2 where we'd hoped to be. A lot of deadlines have passed, and
3 they have not been fully implemented, but we're hopeful
4 because of the level of engagement, but there are, I think,
5 three things that we would highlight as useful that are really
6 important to get in place sooner rather than later so that we
7 can build reform on those three things.

8 One is a very concrete task of hiring a compliance
9 coordinator. The Consent Decree requires this, and currently,
10 the City Manager is trying to serve the role of compliance
11 coordinator, but as you can imagine, he has many other duties,
12 and the compliance coordinator is a position that's really
13 critical. It requires an intensity and a sustained focus that
14 really it's not -- someone has to be focused on that job. We
15 understand that the City is planning to do that, to designate
16 someone for that position, and we completely support that
17 because we think that it's that level of focus and oversight
18 that would really help the City move forward more quickly.

19 The second thing that's really important is
20 developing a mechanism for policy development and review. The
21 agreement requires that all of its provisions be incorporated
22 into policy, and of course, this is very important for the
23 sustainability of the reforms that are made. It's -- it's
24 important -- the agreement also requires that the Monitoring
25 Team and the Department of Justice review those policies

1 before they're implemented by the City, and that's really
2 important so that the parties are all on the same page before
3 you train officers, before you start doing something so that
4 we all agree that this is what the settlement agreement
5 requires. There hasn't really been a system in place for the
6 City to develop and -- and provide those policies for us for
7 review.

8 So, for example, you have things like the CRB
9 ordinance being passed before we had the opportunity to review
10 it even though the settlement agreement requires that we
11 review it before it was implemented. You have the Chief
12 drafting a lot of policies and trying to do all that. Again,
13 it's important the Chief be involved but having somebody work
14 with the Chief to do some of that. He's got a lot of other
15 things on their plate. There are a lot of policies to draft.
16 So we're working with the City to come up with a better system
17 so that policies will be developed and we have a system for
18 effective and efficient review by us and by the Monitoring
19 Team so that we can get those in place as quickly as possible.

20 The third thing is the process, sort of a big
21 umbrella piece, which is the process of verifying that the
22 City has done what it says it has done, and of course, that's
23 critically important. It's important to this Court because,
24 at the end of the day, you are going to need a factual basis
25 upon which to decide that the City's in fact met its

1 obligations under the decree, and the City is going to need to
2 be able to show you something for that. It's really important
3 to the public legitimacy of this endeavor that the public
4 knows that the City can show the public and the Monitoring
5 Team and the Department of Justice and the Court that it has
6 done the things it said that it would do. Right now, when you
7 ask the City whether they've done this requirement or the
8 other, you often get the response, "Yeah, we're doing that.
9 We're doing that." And they haven't really developed the
10 mindset of or the mechanisms of "How are we going to show
11 everybody that we've done that?" And so we're working with
12 them to help develop those mechanisms.

13 As Mr. Hasten noted, some of that is observation. Of
14 course, you always have to be careful that things don't happen
15 differently when you're observing than when you're not, but
16 observation is absolutely a key part of that, but there are
17 other ways of documenting things that are going to have to be
18 part of this process, and we have experience with that. The
19 Monitoring Team has experience with that. So we are working
20 with the City to develop those mechanisms, and we -- we do
21 hope to be able to do that over the next couple of days, to
22 continue that work.

23 Another reason that that verification process is
24 important is that when the City begins documenting that it did
25 what it said it did, oftentimes, we find that jurisdictions

1 realize they actually haven't done what they thought they had
2 done, and it helps make the reform more meaningful and
3 complete -- just that process of having to show others that
4 you've -- that you've done what you've said you're going to
5 do.

6 So that's just -- you know, there are other big
7 picture things that need to be worked on. A lot of the
8 development of the committees and the plans that you
9 referenced are threshold things that need to happen before
10 other things can build on them, but as far as the three big
11 overarching things that we think are most needed for focus
12 right now to help move the whole process forward, those are
13 the three we would put forward.

14 But as I said, although we're not where any of us, I
15 think, would hope to be, we are hopeful because we do feel
16 that the City is working hard, and we feel like we've got the
17 commitment from them to do these things that are necessary to
18 move the whole process forward, and we're happy to answer any
19 questions that you have, Your Honor.

20 THE COURT: Well, I think -- I think a lot of the
21 questions I had when I looked at the spreadsheet and then
22 looked at the agreement again to figure out where the issues
23 were -- you know, there was a lot that was supposed to happen
24 kind of immediately, and then there are a lot of deadlines
25 that hit at the 180-day period, and it seems like, you know,

1 getting from where we are today to that 180-day period,
2 there's a lot more work to be done as well as catching up on
3 the stuff that may not have been done so far.

4 MS. LOPEZ: Yes, Your Honor. There are 40 due dates
5 that have come due, and over the next -- by October 17th,
6 there are going to be an additional 36 that are due.

7 THE COURT: Yeah.

8 MS. LOPEZ: And then the pace of due dates slows
9 down.

10 THE COURT: Right.

11 MS. LOPEZ: But a lot of those due dates, they are
12 kind of playing catch-up on, and a lot of them are the really
13 foundational things. So it is really important that -- now is
14 the time for focus. If the City isn't able to focus now, then
15 it sort of -- it has a ripple effect that will result in the
16 decree lasting longer than it should down the line. So we're
17 really trying to get people focused, and we feel that the City
18 is starting to understand that. They've had a lot of other
19 things that they're working on as well. But they're starting
20 to understand that, and we're hopeful that we can move forward
21 together on that.

22 THE COURT: Okay. Mr. Ervin, I guess I would like
23 you to tell me sort of where you think you're headed, and
24 frankly, if you can do it from the lectern, it will probably
25 help us all, and I mean of your group, Professor Norwood is

1 the only one I know of the group, of course, but I know who
2 the others are. I did read the materials carefully, but I
3 guess I'm curious as I know you've got these meetings set up
4 in the next couple days. So what are you going to be doing?
5 If you can lay out your plan for me and then tell me what --
6 the other thing I'm going to ask from all the parties is what
7 do you need from me; what should I be doing in terms of
8 meeting with you all more frequently as we move forward? None
9 of this really made sense until we got you all set up, and so
10 this is a good time to start doing it. But so tell me what
11 your plan is now going forward and what you see your team
12 doing?

13 MR. ERVIN: Certainly. Well, thank you, Your Honor.
14 First of all, I want to just say how delighted I and every
15 member of the team is to be engaged in this work. We think
16 it's enormously important, and we are fully engaged in it
17 already. Just to give you a little status report on what
18 we've done so far and what we plan to do, as you've suggested,
19 it seems to us that there really are three broad tasks laid
20 out in the Consent Decree for the Monitor.

21 The first is reviewing policies and procedures and
22 protocols and training materials and other written materials
23 to make sure that the provisions of those documents conform to
24 those of the Consent Decree, and that process has already
25 begun. With regard, for example, to the Civilian Review Board

1 ordinance that was referenced, we too -- I and other members
2 of the Monitoring Team -- reviewed that ordinance and have
3 provided comments jointly with DOJ to the City for its review.
4 And just this past weekend, in fact, I and other members of
5 the team provided DOJ some comments on two other policies, the
6 duty to report misconduct policy, which includes a retaliation
7 clause, anti-retaliation clause, and also the duty of candor
8 policy. And so our plan is to continue. These policies have
9 been sent to us in a piecemeal fashion to date, as Ms. Lopez
10 mentioned, and so we intend to continue reviewing them as we
11 receive them, but once a regularized process is established
12 for us to do that, then, of course, we will review it in a
13 regularized fashion.

14 The second broad category, it seems to us, is to
15 conduct a community survey and also broader outcome
16 assessments to get a sense as time goes by as to, again,
17 whether the provisions of the Consent Decree are in fact being
18 complied with. With regard to the community survey, I'm
19 pleased to report we've already begun that process. As you
20 saw, one of our team members, who regrettably could not be
21 here today, Tom Maronick, an advertising expert from the --
22 formerly from the FTC, has drafted a draft of the community
23 survey as to community attitudes toward the police department.
24 He provided it only to me. I've given him some comments, and
25 then I intend to share that with other members of the team,

1 and once finalized, I'll share it with DOJ and then with the
2 City.

3 For the broader outcome assessments, I'm particularly
4 interested in the data that shows stops, searches, citations,
5 arrests, and use of force, et cetera, broken out by protected
6 characteristics, race and other protected characteristics.
7 One question is whether the City is already keeping such data.
8 I've had discussions with Mr. Hasten about that. We are
9 planning a call early next week, I think notionally Monday,
10 with IT people from my team, with Ms. McLeod and Mr. Maronick
11 from the Monitoring Team, and from the parties to discuss
12 whether such data exists, whether additional data needs to be
13 created. Once we have that data in hand -- and I'm hoping
14 that we can have it sooner rather than later, it would seem to
15 me to be fairly easy to use the existing data as a baseline
16 and then to measure progress going forward with regard to each
17 of those categories.

18 And then, finally, as you know, there is the
19 requirement to conduct evaluation and audits of whether the
20 provisions are not just implemented on paper but whether
21 they're actually working in practice to produce the outcome
22 that we all hope to see, constitutional and lawful policing in
23 the administration of justice at the municipal level. There,
24 it's the Monitor's discretion where he and the team starts.
25 I'm particularly interested, as I'm sure all the parties are

1 and you, Your Honor, in the level of on a quantitative basis
2 but, more importantly, the quality of police community
3 engagement toward the goal of community policing. And so I
4 know that we will have some meetings tomorrow with the
5 parties. I intend to delve into that. And so, notionally, my
6 plan is to make the first evaluation or audit one that focuses
7 on that, on that particular subject. So that's the first
8 thing I'd say.

9 Secondly, as you know -- and I think you referenced
10 this implicitly, tonight -- I and other members of the team --
11 and I'm pleased, by the way, that nearly every member of the
12 team is here today, and most of them will be able to stay
13 tonight and tomorrow. Tonight, we are making myself and the
14 team members available for an hour and a half of meetings with
15 individual members of the community who choose to meet with
16 us. A notice, as you know, was posted to that effect. We're
17 meeting from 5:00 to 7:30 tonight. I think every slot has
18 been taken, and I will view -- I do view that as an
19 opportunity for community members face-to-face with me to,
20 one, meet me, of course, and other members of the team to the
21 extent they haven't already done so. Most of them have not.
22 But more importantly, for them to give me their suggestions
23 about how the Monitor and the team should carry out our
24 responsibilities, to ask questions of us as to what our
25 notional ideas are at this point, and just to engage in an

1 iterative dialogue, and I should stress that -- and I said
2 this during the course of the application process -- I and, to
3 the extent possible, as many members of the team as possible
4 plan to make a regular practice of coming to Ferguson. I plan
5 to do so on at least a six-week basis, if not a monthly basis.
6 So this will just be the first. It's intended to be just the
7 first of many opportunities for me to hear from the community
8 and for the community to hear from me.

9 And then, finally, as you know, tomorrow --
10 Mr. Hasten referenced this, as did Ms. Lopez -- we have a full
11 day of meetings with the parties to delve into the particulars
12 of where we are with regard to these various provisions of the
13 Consent Decree, and so we're on board and fully engaged and
14 look forward very much to engaging further as time goes by.

15 THE COURT: The Consent Decree has certain deadlines,
16 times when you are to provide reports to the Court, but it
17 doesn't specify exactly how those get provided. Are they
18 public reports that are then filed and, therefore, available
19 to everyone in the public, or are they in some other format?
20 What do you think is the best way to handle that?

21 MR. ERVIN: My preference, Your Honor, would be that
22 they be public reports, or at least there'd be a public
23 version of the report. My understanding from reviewing other
24 monitorships in other cities is that that is, certainly, the
25 typical practice, and I know that there is such intense

1 interest not just here in Ferguson, of course, among Ferguson
2 community members, but nationally in what the Monitor is
3 finding, what the Monitor is recommending that that would be
4 my recommendation.

5 THE COURT: Okay. Yeah. I mean that would be my
6 preference too. I just wanted to make sure that you were on
7 that as well.

8 And I know -- and this may be a question really for
9 the parties as much as for the Monitor. I know in some other
10 cities where they have similar or somewhat similar consent
11 decrees and monitoring situations, the court holds informal or
12 formal meetings with the parties and the monitor, some to
13 which the community is invited, some, I guess, to which they
14 aren't. It depends case by case. What do you all think? I
15 guess, what do you think -- and then I'll ask the other people
16 this too -- should happen in terms of my continued engagement?
17 I mean, obviously, there's going to be some, but what do you
18 think is the best way to do it?

19 MR. ERVIN: I'm glad you asked that question, Your
20 Honor. We were having a little discussion about that in fact
21 beforehand. I personally -- and I think I speak for members
22 of the team -- would welcome as much interaction with you as
23 possible. I think it would be very useful to have at least
24 the opportunity for private conversations with you, perhaps,
25 you and I, and then private conversations with the parties,

1 and then to the extent, as you suggested, it makes sense --
2 and I would think that this would be more often the case than
3 not, that those sessions be public.

4 THE COURT: Yeah. I know -- I know -- and how often
5 do you think that should happen?

6 MR. ERVIN: Notionally, I would think quarterly.

7 THE COURT: Yeah.

8 MR. ERVIN: I think sooner than that is probably too
9 soon. I think later than that is probably too late. I think
10 quarterly makes a lot of sense.

11 THE COURT: Okay. I think that is -- I think those
12 are pretty much the questions I have at this time. I want to
13 thank you for --

14 MR. ERVIN: Thank you, Your Honor.

15 THE COURT: -- taking on this role and the members of
16 the team as well. It is important. I think that's -- so
17 thank you.

18 MR. ERVIN: Thank you very much.

19 THE COURT: And, Mr. Hasten, I had a couple of
20 questions for you that I thought of. Actually, I'd like to
21 hear your comments on the things I just asked Mr. Ervin as
22 well in terms of what you think in terms of the Court's role
23 going forward, how often I should be meeting with you all, and
24 what kind of, you know, public, private reports, et cetera,
25 that should be -- you know, what involvement you think needs

1 to come from me.

2 MR. HASTEN: I'm in agreement with Mr. Ervin. I
3 think your involvement, we would welcome, and your continued
4 involvement too. I think quarterly status hearings make
5 sense. I would think that those quarterly status hearings
6 would be public.

7 THE COURT: Right.

8 MR. HASTEN: And then if need be, we could have more
9 frequent informal telephone conferences between the parties,
10 between you and Mr. Ervin and Mr. Ervin's team without the
11 parties. Whatever you think, but I think that quarterly
12 status hearings make sense.

13 THE COURT: They would be open to the public, and
14 that would have -- public filings ahead of time, much like you
15 did this time, would be helpful.

16 MR. HASTEN: Correct.

17 THE COURT: Yeah. No. I agree with that.

18 So I have a question -- I see Mr. Patrick here from
19 the *Post-Dispatch*, and I know there are other -- there may be
20 other media here as well. This morning's newspaper said
21 that -- or maybe it was yesterday's newspaper -- that the City
22 was having difficulty hiring enough -- filling all its
23 vacancies in the police department. Is that true?

24 MR. HASTEN: From my conversations with Mr. Seewood,
25 that that has been an issue within the department, yes.

1 THE COURT: And so what's going forward as the
2 solution with this, or how is it affecting implementation of
3 the Consent Decree, I guess, is really what I want to ask.

4 MR. HASTEN: It's going to affect implementation of
5 the Consent Decree just because, as deadlines approach, there
6 are certain things with training and with establishing a
7 recruitment policy. I do believe this is something -- I'd
8 like to confer with Mr. Seewood, if I could have a moment --

9 THE COURT: Yeah.

10 MR. HASTEN: -- so I could get a better answer, but I
11 do believe that the City is in the process of trying to hire
12 some new officers, that that hasn't happened yet, but there's
13 obviously overlap with hiring new officers and making sure
14 that the hiring process comports with what's required of the
15 Consent Decree.

16 THE COURT: Right. And I think the paper indicated
17 they're working on it too, and there were some things
18 mentioned.

19 In terms of -- well, actually, I think that's my --
20 those are my questions for you for now.

21 From the Department of Justice, tell me what your
22 perspective on these issues are.

23 MS. LOPEZ: Thank you, Your Honor. First, just to
24 get back to your question about the public reports, paragraph
25 438 of the agreement does address public reports by the

1 Monitor, and they're required every six months.

2 THE COURT: Right.

3 MS. LOPEZ: So I think that we would -- we would --
4 and that's been our policy at the Department of Justice, that
5 we do very much support those reports being public.

6 Similarly, we do like to keep the proceedings before
7 the Court in public as much as possible. We do think it's
8 appropriate for the Monitor and the Court to meet in private
9 however and whenever you think is helpful to the Court in
10 doing your -- filling your role here, and there are times that
11 it may be appropriate for there to be in camera proceedings
12 with all the parties, but those, obviously, should be the
13 exception, not the rule. So we would very much support
14 quarterly status hearings and more frequent conversations
15 between the Court and the Monitoring Team if you would like,
16 and we have no objection, of course, to private conversations
17 between -- between this Court and the Monitoring Team.

18 I did want to speak a little bit about the hiring.
19 We've talked -- we've reviewed the staffing studies of the
20 consultant that was hired by the City. We've spoken with him
21 on several occasions. We -- it is unclear to us how he -- he
22 says that there are -- is a need for 49 sworn officers to
23 carry out the requirements of the Consent Decree. We are not
24 sure whether that's exactly the right number. There are some
25 assumptions in there that we need to figure out a little bit

1 more, but we certainly don't disagree that the City, you know,
2 should go forward with hiring. We just want to have one
3 cautionary note, which is that we've been in this situation
4 many, many times where, under pressure to hire, a city will
5 create more trouble in hiring officers quickly than it
6 resolved by hiring officers. There are a number of
7 jurisdictions you can look at where they really found
8 themselves in pretty disastrous situations because they hired
9 too quickly. The settlement agreement has a number of
10 requirements that are meant to ensure that this doesn't happen
11 and that high quality officers are hired and retained by the
12 City, and we've already talked with the City about working
13 with them to try to do whatever we can to get those
14 requirements in place first so that they are -- they are
15 hiring people the right way. There are things like background
16 screenings, recruitment plans, training, making sure that
17 salaries for officers are competitive so that they attract
18 officers and then, once they're trained, retain officers.
19 There are a lot of things in the agreement that go towards
20 exactly this question. So we're really trying to work with
21 the City, and we will be insistent that officers that are
22 hired are hired in accordance with the requirements of the
23 Consent Decree so that we can have the highest quality
24 officers in Ferguson and not create new problems for the City
25 and the people of Ferguson.

1 THE COURT: Okay. Well, I am -- you know, I knew
2 when I approved this it was going to be a lot of work. I was
3 concerned about all those deadlines, as was everyone. I don't
4 think that's a surprise, but it seems like there's good
5 progress being made, and especially, I think it's great that
6 people are actually working together.

7 What else do I need to know from you all today?

8 MR. HASTEN: I have nothing else, Your Honor. I just
9 noted that Mayor Knowles is also in attendance. I just wanted
10 to --

11 THE COURT: Okay. Yeah. I saw him walk in. I see
12 Mayor Knowles.

13 Anything further from the Department of Justice?

14 MS. LOPEZ: Nothing, Your Honor. Thank you.

15 THE COURT: If it's -- if nobody objects, I'd like to
16 meet with the Monitoring Team very briefly in my chambers
17 afterward. I've got a number of other things going on, so it
18 won't be a long meeting, but I'd like to shake your hands and
19 say hello to each of you individually.

20 I also -- I think what I will try to do going forward
21 is I'll look at my calendar and try to set up some dates for
22 hearings, and then what I will do is have someone on my staff
23 contact the council. You know, I can set hearings, and then
24 you all can ask me to change them because somebody can't be
25 there and it's a bad date. So I'd rather not go through that

1 process. I'd rather set the next status conference once we
2 know your schedules. So I'll have somebody on my staff be
3 contacting you with proposed dates for the next status
4 conference, and -- and I might -- I can talk to the Monitor.
5 I might be -- I might be asking them -- I think I probably
6 will be asking them to give me some more informal reports as
7 time goes by, just to know how things are going in the -- for
8 instance, I'm very curious to see how things go on the next
9 few days with these meetings, but I'm not sure I need a formal
10 status report, but I do think formal status reports that are
11 public and are filed in the public docket are very important,
12 and I'd like to keep the nonpublic meetings to a minimum
13 because I know that that causes everybody consternation
14 because they think we're doing things behind closed doors when
15 we're probably not really doing much, but I want to make sure
16 we're doing almost as much as we can on the public record so
17 the public and anyone who is interested can see what we've
18 done and is available. So I will continue to try to do that.

19 There are -- I have spoken to a few judges around the
20 country who have handled ongoing consent decrees between
21 municipalities and the Department of Justice. None of them
22 are the same. Obviously, they're not the same as this case.
23 So I know that there are different approaches to how involved
24 the judges are and how I -- I don't really want to get this to
25 be my full-time job. I actually have another full-time job.

1 You know, I have other cases. So I don't want to be the one
2 monitoring this, but -- and I appreciate that you all are
3 doing it, but I do want to, you know, know what is happening.
4 So I will try to set up some schedules for future conferences.
5 I wish you good luck tomorrow. Keep working on it. I mean it
6 is -- it sounds to me like the City has done a lot of work, a
7 huge amount of work, and I appreciate that, but, you know, as
8 you all know, there's a lot more work to be done, and so
9 you've got to really keep at it, but right now I'm pleased to
10 hear the result. I think -- I'm very hopeful that going
11 forward this is going to be successful.

12 So I would ask -- what I'll do is I'll ask my -- this
13 will conclude the status conference today, and I will set a
14 future status conference that will be public just like this
15 one, and we'll do that by order, which probably won't go out
16 immediately but over the next couple of weeks, and then I will
17 ask Ms. Brown to show the -- show you all how to come back
18 into chambers, and you can meet with me briefly so I can shake
19 your hands, and that won't take very long, I don't think,
20 because, like I say, everybody's got things to do, but thank
21 you, all, very much.

22 Okay. Court's in recess.

23 (Proceedings concluded at 1:44 p.m.)

24

25

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 32 inclusive.

Dated at St. Louis, Missouri, this 19th day of October, 2016.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter