

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

DECEMBER 17, 2018

APPEARANCES:

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

For Plaintiff: Jude J. Volek, Esq.
Megan R. Marks, Esq.
UNITED STATES DEPARTMENT OF JUSTICE

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

REPORTED BY: Gayle D. Madden, CSR, RDR, CRR
Official Court Reporter
United States District Court
111 South Tenth Street, Third Floor
St. Louis, MO 63102 (314) 244-7987

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1 (Proceedings commenced at 1:08 p.m.)

2 THE COURT: All right. Good afternoon. We are here
3 in the case of the United States of America versus the City of
4 Ferguson, Missouri. This is Case No. 4:16-CV-180. We are
5 here for the quarterly status hearing at which we'll receive
6 public comments, and I do appreciate people being here even
7 though we had to continue this because the courthouse was
8 closed for the National Day of Mourning when this was
9 originally scheduled.

10 So, first, I'd like to start by asking the lawyers
11 here to please introduce yourselves for the record. I'll
12 start with the Monitor.

13 MS. TIDWELL: Thank you, Your Honor. Good afternoon.
14 Natasha Tidwell from Hogan Lovells. Monitor, *City of*
15 *Ferguson*.

16 THE COURT: All right. And for the United States?

17 MR. VOLEK: Good afternoon. Jude Volek for the
18 United States.

19 MS. MARKS: Megan Marks for the United States.

20 THE COURT: And for the City of Ferguson?

21 MR. CAREY: Thank you, Your Honor. Apollo Carey,
22 Lewis Rice. City of Ferguson.

23 THE COURT: All right. Thank you.

24 So I do have -- there were some written submissions
25 filed by members of the public as well as comments. Several

1 people have signed up to make statements, and so I'll start
2 with the Monitor and ask you, Ms. Tidwell, to make any
3 statements you wish before we hear the public comments, and
4 then we'll hear them, and then I'll give everybody a chance to
5 speak again afterward.

6 I know that one of the things you might address --
7 there were comments that were filed, including one that was
8 received by us the day before you filed your most recent
9 status report, and some of what was listed there was, I think,
10 you know, contained in your report, but I just point that out,
11 that it was filed the day before, but I've reviewed all of
12 those as well as, obviously, your report.

13 MS. TIDWELL: Thank you, Your Honor.

14 So, yes, that's correct, and we did receive the
15 filings, I think, from the NAACP as well as the Ferguson
16 Collaborative, and just in terms of timing, the filing, I
17 think, came on the heels of their letter. So the work plan
18 has been filed along with the status report for the fall of
19 2018, the semi-annual report. I'm just going to highlight a
20 couple things from the status report because I'm mindful of
21 the time that we want to give to the community at this
22 hearing.

23 In the status report, we talked about the new public
24 comment period, that the parties have agreed on a protocol
25 that permits additional community input on some of the

1 developed policies. I suspect, based on filings that were
2 received most recently, that there is some issue with the
3 number of policies that the public is being asked to review
4 and comment on within 30 days, and there's some concern about
5 how to make sure that whatever the comments they have, the
6 feedback is addressed or that there's some return to them as
7 to what was included and what wasn't. So I leave to the
8 parties to sort of discuss how to go about doing that and
9 whether or not the timetable that we've proposed that's
10 reflected in the work plan for public comment is too fast in
11 terms of the number of policies, but that was certainly
12 mentioned and discussed within the status report in some
13 detail.

14 The status report also includes what we anticipate in
15 policy development for the next six months, and I just want to
16 highlight a few areas because I think they're pretty critical
17 to implementation in the coming months.

18 First is the stop, search, and arrest policies, which
19 are under development. There has already been a community
20 forum, a policy forum, on stop, search, and arrest, but we're
21 expecting to get those policies ready for public comment, I
22 believe, in the spring of this year. I think the department
23 can correct me if I'm wrong on that one.

24 The next one is the School Resource Officer Manual.
25 As Your Honor knows, the memorandum and agreement was executed

1 between the City and the school department, and now the
2 parties are working towards a manual for the school resource
3 officers to be trained on, one that will hopefully guide them
4 in their work from day-to-day and reflect best practices for
5 school resource officers throughout the country. I think that
6 might not be ready by the end of the six-month period. I
7 think, according to the work plan, we've targeted for
8 completion or at least having a draft by the end of year three
9 of the monitoring year, which would put it roughly in the
10 summer of 2019.

11 Similarly, the bias-free police and court practices
12 policies -- we anticipate that there will be a policy forum
13 with the community on those policies within the six-month
14 period and development on that will begin in year three, but
15 we don't anticipate that we will have -- that the Monitoring
16 Team, Professor Norwood in particular, will have a draft for
17 review within the coming six months or within the end of year
18 three.

19 And then, finally, Your Honor, and one that I think
20 is most crucial, particularly, as the City and the police
21 department work towards their community engagement efforts and
22 the drafting and development of the community engagement plan,
23 is the shift schedule and deployment plan. In order to
24 implement community policing and community engagement in a
25 thoughtful, strategic, and focused way, you have to deploy

1 your officers in way that makes sense that you can get that
2 done so there isn't just one officer doing one thing over here
3 and another one doing the same thing in a different community
4 and no one's speaking to one another. And so part of our
5 continued request that the City designate a community
6 engagement -- a Community Outreach Coordinator is so that
7 would form another piece to that.

8 You would have the community engagement plan. You
9 would have an outreach coordinator to assist in implementing
10 the plan. But you also have to have the officers themselves
11 deployed in a way and have their schedules in a way that you
12 can get that done, and I'm not sure that the current shift
13 schedule is -- harmonizes with the goals of community
14 policing, and I've talked to the parties with the City about
15 that. I think while they are working to -- working with the
16 police department, with the officers, on salaries and things
17 like that, one of the things that we've tried to keep on their
18 radar is this notion of shift schedules and deployment because
19 it has to be thoughtful and strategic in terms of how are you
20 going to do community engagement with the way that officers'
21 shift schedules work, with the way that they are assigned to
22 different sectors or patrol areas, and so that is something
23 within the six months that Bob Stewart and I, from the
24 Monitoring Team, will be working with the City, hopefully, and
25 they may need some outside help on that. I believe in the

1 lead-up to the Consent Decree, they had a consultant, Peter
2 Bellmio, come in to help them.

3 THE COURT: What was his last name?

4 MS. TIDWELL: Bellmio. He worked with the City
5 before -- I believe before the Consent Decree was signed -- on
6 some of the shift schedule type issues and did some kind of
7 study for them on where to -- how best to implement community
8 policing, the number of bodies and where they would go in
9 order to do that. So maybe they reengage him, but it's
10 something that I don't see meaningful sort of development or
11 implementation of a community engagement plan until you have
12 officers in place in ways that work towards that goal.

13 The status report also included several appendices,
14 one of which included the work plan, which outlines in greater
15 detail the things that the Monitoring Team anticipates that
16 the parties will have completed by the end of year three, and
17 it includes a schedule for the Monitoring Team's audits within
18 year three as well. The -- as I mentioned at the last status
19 conference, the parties were provided a draft of the work plan
20 in September. We finalized it before filing a couple weeks
21 ago, and one of the issues with the -- the revision process
22 was just inputting the new public comment period and some
23 other language around the Monitor's audit schedule, but what
24 hasn't changed since the draft that the parties reviewed in
25 September and today is the -- our recommendation and our

1 expectation that the City would identify a community outreach
2 coordinator, a data and technology project manager, and
3 identify a training committee by December 31st of this year,
4 and so, in September, we -- we named those timelines. We put
5 them in front of the City and DOJ and asked if anyone had any
6 objections to our proposed schedule. Hearing none, we still
7 anticipate that those things will happen by December 31st,
8 2018.

9 We would also add that the position of Consent Decree
10 Coordinator, which has largely been handled by Acting Chief
11 McCall -- given that he's got a whole lot of other
12 responsibilities, our hope is that the City will name someone
13 to either temporarily or full-time take on that role of
14 Consent Decree Coordinator so that we don't lose too much
15 momentum going forward.

16 Within the work plan, we also called for the
17 accountability policies to be handed to the Monitoring Team by
18 December 31st, 2018. I'm pleased to say that the parties are
19 ahead of schedule on that, and those draft policies, including
20 the disciplinary matrix, were provided to the Monitoring Team
21 about a week or 10 days ago. So I will -- I am the subject
22 matter expert that deals in the accountability area. So I
23 will review those policies. I may ask Officer Bob Stewart to
24 assist in that regard, but we will return those to the parties
25 and discuss those policies with them before they go up for

1 public comment in the next month or so.

2 I think one of the issues or one of the questions
3 that was raised in one of the filings from the community was
4 why the disciplinary matrix was not publicly available or made
5 available for public comment. It's just that it's still in
6 development, and so the Monitoring Team has it now. When we
7 finish our review, we'll discuss any changes that are needed
8 with the parties, and then we anticipate that it will be made
9 available for public comment at that time.

10 I mentioned that the work plan also includes an audit
11 schedule for the Monitoring Team, and I just want to -- one
12 point of clarification in regards to auditing. I mentioned in
13 the September status conference that we were looking to
14 conduct baseline audits for use-of-force reporting as well as
15 in the area of stop, search, and arrest, and I mentioned that
16 the field interrogation reports that we got from the -- or the
17 number that the City identified that were available for review
18 was only a handful, and so we were trying to figure out
19 creative ways using arrest data to get at a baseline for the
20 reporting of stops and searches. I also mentioned that the
21 use-of-force reports -- that we asked the City to provide us
22 with the number of those reports that were available. There
23 were roughly 78. I mentioned in the last status conference
24 whether or not -- the question was whether or not the
25 Monitoring Team would review the full population of those

1 reports, of use-of-force reports, and it might have been
2 construed to mean that the City somehow wasn't making those,
3 the full population available to us. The City has said that
4 there are 78, and they're willing to make them available to
5 us. The question in terms of the full population was
6 whether -- in developing an auditing methodology for those --
7 whether we would request the full population of those reports.
8 So I just wanted to clarify that so there'd be no
9 misconception that the City was somehow withholding those.
10 They are not. We just haven't decided whether or not we're
11 going to review all of them. It's likely that we will, but I
12 just hadn't -- we hadn't made that determination by September.

13 With regards to the municipal court, during the last
14 six-month period, Ms. Aghedo conducted an audit of the
15 municipal court. One area of concern that we will be
16 discussing with the parties before the March audit is the
17 amnesty cases, particularly, the application of criteria
18 number two, which states that if there is an identifiable
19 victim who's willing to assist in further prosecution, that
20 the case would be kept open; the pre-2014 case would be kept
21 open for good cause. Our initial view or sort of our initial
22 concern is that while some of the cases, whether it be
23 stealing or, you know, resisting or whatever it is, resisting
24 arrest or whatever it is, have a named victim -- particularly,
25 in the stealing or trespassing area, there may be a named

1 victim, but we don't know at this point whether or not that
2 victim is willing and able to assist in a further prosecution,
3 and we haven't seen and we haven't asked yet for the municipal
4 court to provide us with that information, but that sort of is
5 the -- what we're looking as we complete our audit of the
6 municipal court cases for -- during the August audit. That
7 sort of is an open question that we'll bring to the parties
8 before the March audit so that we can all make sure that we're
9 all on the same page there. And that was approximately 500 or
10 so cases that were kept open under criteria number two.

11 And then, finally, Your Honor, the work plan
12 discusses and the status report discusses the rollout of the
13 community survey. We had planned originally to have the
14 Police Foundation, who has agreed to conduct the survey and
15 administer it here in Ferguson -- we had hoped to have them
16 here around the time of the last status conference, but in
17 trying to engage enough community stakeholders for the Police
18 Foundation to meet with, we found that we were on this short
19 timetable in trying to do that. So we thought it best to put
20 that out until next month when we can get as much community
21 involvement as possible.

22 When I was here for the last status conference that
23 was postponed, I was able to meet with members of the Civilian
24 Review Board, and I discussed the survey and asked them to
25 reach out to their respective churches or community groups to

1 engage their groups in the community survey process. We've
2 had a few responses to the Monitor's website with people
3 expressing a willingness to help. I know the NPSC has offered
4 to be engaged in that. I believe there was language within
5 some of the filings, whether -- I think it was from the
6 Ferguson Collaborative, indicating that they are willing to
7 help.

8 So we are -- we have a survey developed and vetted.
9 The questions have been validated. So the survey itself is
10 ready to go, but what we really need help is making sure that
11 we get enough -- enough -- as much community response and
12 input as we can as we establish this baseline.

13 So the Police Foundation will be here in Ferguson.
14 City Manager Seewood has made the City Council chambers
15 available for us on the evening of January 28th, and the
16 representatives of the Police Foundation will be here in
17 Ferguson. We will send out an announcement on our listserv.
18 We will ask the parties to do the same, and we will,
19 hopefully, get some great ideas as to, you know, whether or
20 not it makes sense to do -- how many to do in person, you
21 know, whether we make some local buildings available for
22 people to come in to respond to the survey, whether it will be
23 done by phone. Text messaging, apparently, is a way that it
24 can be done as well. So we can discuss all of that in and
25 around January 28th when the Police Foundation is here.

1 And that's it for me, Your Honor, for now.

2 THE COURT: All right. Thank you.

3 MS. TIDWELL: Thank you.

4 THE COURT: And so, Mr. Volek, on behalf of the
5 United States, do you wish to make any statements now before
6 we begin with the public comment?

7 MR. VOLEK: If it pleases the Court, Your Honor,
8 Ms. Marks is prepared to talk about sort of what we've been
9 doing over the last quarter, and then after the comments, I
10 can answer any questions from the Court.

11 THE COURT: All right. That sounds fine.

12 Ms. Marks, you may proceed.

13 MS. MARKS: Thank you, Your Honor, and thanks to
14 Ms. Tidwell, Mr. Carey, representatives from the City, and the
15 public for being here today.

16 We're now over two years in --

17 THE COURT: Can you pull that mike a little closer to
18 you?

19 MS. MARKS: Of course.

20 THE COURT: Thank you.

21 MS. MARKS: We're now over two years into the
22 implementation phase of the Consent Decree process, and there
23 has been some good progress in many areas during that time.
24 So I'd like to highlight some of the areas where we have seen
25 things moving forward as well as identify some enduring

1 challenges that will need to be overcome in order to achieve
2 full compliance. So I'll begin by walking through three main
3 areas where we've been focusing our attention since the last
4 public hearing on September 18th and then forecast some of the
5 areas where we're planning to pay attention in the coming
6 months.

7 So the first topic that spans almost every area of
8 the Consent Decree and has been an area of particular focus
9 for us right now is data collection. So collecting and
10 analyzing data is critically important to good management of a
11 police department. And as the maxim goes, "You manage what
12 you measure." Therefore, in order to measure and track
13 progress at FPD, there must be reliable data collected,
14 managed, analyzed, and reported to the public.

15 In other cases, we've seen that reform really begins
16 to take hold at departments when they start collecting and
17 analyzing their own data on their own practices. So the City
18 is beginning to make progress with understanding all of the
19 data that it must collect under the Consent Decree and
20 thinking about how it will do so. Since the last court
21 hearing in September, the Department of Justice provided the
22 City with a customized template which breaks down each
23 paragraph and subprovision of the Consent Decree and asks FPD
24 to determine, first, which data is required under the Consent
25 Decree; second, whether that data is actually being collected

1 right now and, if not, where and how they will collect it
2 going forward.

3 So after FPD completes the template for one area of
4 the Consent Decree, DOJ and the Monitor will then review the
5 information that's in that template and work with FPD to fill
6 in any gaps in documentation by revising existing forms or
7 developing systems or processes as needed.

8 We're currently in the middle of this review for the
9 use-of-force provisions of the Consent Decree, and FPD's
10 completed the template for each of the 67 paragraphs and
11 numerous subprovisions in that section of the Consent Decree.
12 They've updated the use-of-force report form with
13 corresponding edits to the places where they realized that
14 they needed more information or wanted to collect something
15 differently going forward. So we've provided additional
16 feedback on how they can improve that to capture everything
17 the Consent Decree requires, and we'll continue working on
18 that with them. Tomorrow, we're meeting to do that as well as
19 in the weeks to come. And then after we finish the
20 use-of-force section, we'll move on to the next.

21 So we're planning to move on to stop, search, and
22 arrest after we finish the use-of-force section followed by
23 the bias-free provisions. And our goal is to finish all of
24 those things in accordance with the Monitor's work plan by
25 March 30th of next year. We think this is an ambitious goal

1 but critically important and will require sustained effort on
2 the part of FPD to meet this deadline.

3 So one area that we've seen some progress in under
4 the Consent Decree is municipal court reform. The parties
5 have made great strides in developing and implementing
6 policies --

7 THE COURT: Slow down just a little.

8 MS. MARKS: Sorry. Of course.

9 THE COURT: Go ahead.

10 MS. MARKS: -- in implementing policies that ensure
11 the fair administration of justice and the constitutionality
12 of court procedures.

13 The Monitors, as they've just mentioned, have carried
14 out two very significant audits in this area and rated
15 compliance with each paragraph in that section of the decree,
16 and so we'd just like to briefly highlight some of the
17 findings from that about the Comprehensive Amnesty Program.
18 So the City has now reviewed all of the roughly 7,900 open
19 cases that were initiated prior to January 2014 and, as of the
20 time of the audit, had closed over 6,000 of those cases
21 without prosecution, and the remaining cases that were kept
22 open were kept open pursuant to the good-cause criteria that
23 Ms. Tidwell just mentioned. And this is a significant
24 accomplishment, and we understand that there have been more
25 closed since the time of the audit. So we're working with the

1 Monitoring Team to ensure that the sample is adequate to
2 identify any remaining issues as well as to give us confidence
3 in the application of those good-cause criteria and will also
4 be discussing those cases that Ms. Tidwell mentioned regarding
5 the second good-cause criteria.

6 So the next major focus for us has been policy
7 development, which is another issue that spans almost every
8 area of the Consent Decree. Following some conversations
9 after the last status conference, we've implemented a new
10 policy review process and just wanted to take a minute to kind
11 of explain what that looks like.

12 We've previously held forums on the numerous policy
13 areas to solicit input before the policy review process
14 begins, and this was a request from community members to make
15 sure that they could provide input before the policies were
16 really fully baked, and so we'll continue to hold those moving
17 forward for new policy areas. So the new process supplements
18 that and is an additional way that the community can provide
19 input after the policies have been drafted, and so what we're
20 doing is providing a 30-day window for each sort of set of
21 policies during which anybody can comment. We're sending the
22 policies to officers as well as the public by having FPD post
23 them on their website, and so we've started this process
24 beginning with the use-of-force policies, for which we got a
25 number of really thoughtful, thorough comments from members of

1 the community, officers, and organizations.

2 THE COURT: Is that comment period still open, or is
3 it ending like today or tomorrow?

4 MS. MARKS: The use-of-force policies were posted
5 from October 15th to November 15th.

6 THE COURT: Oh, yeah.

7 MS. MARKS: So the parties are in the process right
8 now of implementing that feedback that we got, and given the
9 really detailed nature of that feedback, it's been taking us a
10 little bit longer than we'd anticipated on that, but we just
11 really appreciate that feedback, and it will greatly
12 strengthen these policies.

13 So that the next set of policies that we posted were
14 the community policing policies, and that window has just
15 closed, and so we'll be implementing that feedback as well.

16 And so after we implement that feedback, the plan is
17 to post the policies on the website so that people can see
18 exactly, you know, which -- like how the feedback was
19 implemented, and we're, you know, happy to answer questions
20 about how that took place.

21 The next set of policies that will be going up soon
22 are the body-worn camera and in-car camera policies, and due
23 to the holiday, we're going to extend that comment period to
24 run through the end of January. So those ones will be up a
25 little bit longer. There are only two policies that will be

1 posted in that batch.

2 And then the next set up will be accountability, and
3 those will be posted on February 1st, and that will run
4 through the end of the month. We've reported in the past that
5 there had been some progress on the accountability policies,
6 and as Ms. Tidwell mentioned, we now have a full group of
7 accountability policies that have been submitted to the
8 Monitor for approval, including an internal investigations
9 policy, a disciplinary matrix, a citizen complaint form, and a
10 mediation policy, and I believe someone is here from the
11 Community Mediation Services that will speak to that.

12 Related to accountability, the Civilian Review Board
13 has started meeting and has reviewed two cases, which is a big
14 step forward, and we expect them to really get up and running
15 in earnest once those accountability policies are finalized.

16 And then the final set of policies that we plan to
17 put through this new public comment process are the stop,
18 search, and arrest policies which will be posted beginning in
19 March.

20 So Ms. Tidwell went over most of the next steps that
21 we have planned, so I'll keep it short here, but the areas
22 that we'll be focusing our attention going forward are those
23 new policy areas we just mentioned. So we'll be going through
24 those, that policy review process, in addition to focusing on
25 bias-free policing, which is a new area, and we'll host a

1 forum in early 2019 to get feedback before those are fully
2 drafted, and we'll also host forums on the First Amendment and
3 then focus on the SRO Manual with crisis intervention to
4 follow.

5 The next area is accountability. So we look forward
6 to receiving that feedback and finalizing those. There is a
7 lot of work to get accountability systems actually up and
8 running once we have those policies in place, including the
9 development of two mediation programs under the Consent
10 Decree.

11 The third is data collection, which will remain a
12 priority for us in trying to get those areas moving along.

13 And then the fourth is training. So we'll be looking
14 at roll call training to implement those policies that are
15 being revised and also in-service training as well.

16 So we've planned our work to line up with the
17 Monitor's work plan and believe that the work plan lays out
18 the path to achieving the goal of compliance with the Consent
19 Decree and that year three will be really critical to keeping
20 things moving forward.

21 So unless you have any questions, I'll end there.

22 THE COURT: All right. Mr. Carey, I'll ask you to
23 make any introductory comments you would like, including
24 introducing your people who are here, if you will, if you
25 don't mind.

1 MR. CAREY: Sure. Sure. And, Your Honor, I don't
2 really have many general comments unless the Court would like
3 for me to respond to something specific that the Department of
4 Justice or the Monitor said. I will just take the time, you
5 know, to come up and maybe introduce, like I always do, some
6 of the folks that are in the room to the Court, and then I
7 will defer because I'm sure, you know, you have the public and
8 you may have some comments after that or some questions after
9 that, and so then I will just kind of defer my general
10 comments until after the -- the --

11 THE COURT: Yeah, that's fine.

12 MR. CAREY: -- the public speaks. So -- but as you
13 can see, we have here our City Manager, Mr. De'Carlton Seewood.
14 We have Judge -- our Municipal Judge, Judge Terry Brown. We
15 have our Councilwoman Ella Jones. And then behind
16 Councilwoman Jones is the Interim Police Chief, Frank McCall.
17 And then next to Frank McCall, we have our City Clerk, Octavia
18 Pittman. And then we have our Court Administrator,
19 Ms. Christine Lanfersieck. So all of those folks are here. I
20 don't think I -- I don't think I forgot anybody that actually
21 works for the City.

22 So, you know, like I said, the Department of Justice
23 and the Monitor have done a good job of kind of summarizing
24 the progress that we've made, and, of course, we have our
25 monthly status calls with you, Judge Perry. So, you know,

1 unless you have any particular questions about something that
2 was said, I'll just defer.

3 THE COURT: Actually, I have one question --

4 MR. CAREY: Yeah.

5 THE COURT: -- that I know I'm going to ask you
6 later. So I might as well ask you now --

7 MR. CAREY: Sure.

8 THE COURT: -- because I suspect it will be part of
9 the comments.

10 MR. CAREY: Sure.

11 THE COURT: And that's about the -- can you -- there
12 were several comments about what people were hoping for in the
13 selection process of the new chief of police. So if you
14 wanted to address that at all.

15 MR. CAREY: Yeah. I mean -- I think, you know, there
16 were several filings, I think, with the Court about that.
17 There were several folks who got up at council meetings and
18 talked a little bit about that and the public's participation
19 in that. Historically, how we've done our public
20 participation in it is that we -- you know, the City takes
21 applications, and then we vet those applications in a certain
22 way, and then we kind of narrow down those applications to a
23 select group of folks, and then we form citizen panels, and
24 then those citizen panels, you know, help the City interview
25 this kind of narrower pool of candidates. We have -- we also

1 have employee panels, and then we also have, you know, a panel
2 that would consist of our elected officials. And so we get a
3 good sampling of what the community thinks about, you know,
4 the narrower group of, you know, folks that may be applying
5 for the job.

6 But, obviously, the Consent Decree is a big issue as
7 it relates to who we hire for the police chief. The City
8 wants to continue with its progress in reform and
9 constitutional policing, and so understanding what the
10 requirements of the Consent Decree are and kind of, you know,
11 continuing to move us along in that process is a primordial
12 goal for us, but, you know, the police chief -- there's also,
13 you know, traits and characteristics that you need that are
14 outside of that that we also have to evaluate as well.

15 So I think the last time we checked, 30 applicants or
16 more?

17 MR. DE'CARLON SEEWOOD: 32.

18 MR. CAREY: Thirty-two applicants that we've had,
19 according to the City Manager, so far, and so some of those
20 are Missouri folks. Some of them are out-of-state folks. So
21 we have a nice kind of sample size that we can kind of start
22 the process with.

23 THE COURT: All right. Thank you.

24 MR. CAREY: You're welcome.

25 THE COURT: All right. Then I'll now hear comments

1 from the people who have signed up and requested to comment.
2 You all, I think, probably know the drill from before in terms
3 of the light system. So it's a five-minute limit, and we'll
4 put the light -- the yellow light comes on after a minute or I
5 mean when there's a minute left.

6 So I believe Ms. Susan Warren is the first person we
7 have. So, Ms. Warren, would you step up here to the lectern,
8 and if you'll just start by stating your name, and then I'll
9 hear anything you wish to say.

10 MS. SUSAN WARREN: With respect to the Court, I thank
11 you for letting me be here. I give honor to -- I'm Susan
12 Warren, and I give honor to the hierarchy in Ferguson. That's
13 where I live. I'm a resident. I'm a homeowner. I'm a
14 disabled homeowner, and I love Ferguson. I live there, and
15 I've been there since 2011, and my purpose here is not to find
16 fault but to speak and to give information that needs to be
17 heard.

18 When I moved there in 2011, I noticed there -- there
19 is -- let me just be -- I don't want to be nervous, but I want
20 to be -- I want to be honest. There's racial issues in the
21 city of Ferguson, and it's not new to anyone. We all know.
22 It's in our country, and it just exists. We are faced with
23 circumstances where it's not going to help our future as
24 Americans in our communities, in our families, and in our
25 municipalities. I myself have been corrected by the law, and

1 I appreciate it. And I am now fighting against where I come
2 from or where I don't want to go, so to speak, and in me
3 having to deal with this, I've been voicing it openly to
4 different people, young people, all people, neighbors. I've
5 broken up fights.

6 I was arrested in 2014 by the City of Ferguson for
7 voicing my opinion with a -- a dispute, I should say, with
8 some people who wanted to clown on a Sunday morning at 5:00
9 a.m., and we clashed, and I was arrested. I was arrested.
10 The young lady whose house it was -- she was given a summons
11 to come to court. I was arrested. My truck was impounded.
12 My dog was taken to the pound and said that she was a stray.
13 And I was left inside of the jail cell for three days with a
14 heroin addict who was sick, and we were -- she was denied
15 toiletries or whatever. So I think after the third day, me
16 being disabled myself -- I have an issue -- I was crying and
17 was frantic and was like, "You know, I don't understand why
18 you have me here. Why are we go through this?" And I started
19 praying, and the CO came over and put the Taser up to my head
20 and said, "There is no God," and that is my testimony, and
21 this is true, even though I didn't come here to say that.
22 That is an experience that I had. When we went to court, I
23 brought it up, brought it out, and it was dismissed. It was
24 just, "Okay. Well, you just go ahead on, and we will -- we're
25 sorry about that," and that was it.

1 So down the line, Mike Brown, the civil unrest popped
2 off. About six months before that, I had a conversation with
3 the Mayor, who's a very nice man, about these stresses, these
4 problems, and I told him, "We have a racial" -- well, I
5 expressed, "Well, I think we've got a racial issue going on,"
6 and he just -- you know, he heard it. And six months later,
7 you know, Mike Brown was -- you know, it was amok. And by me
8 living right downtown Ferguson, I'm right there. So I seen it
9 all. So I'm trying to protect my home because I'm -- I
10 wouldn't have been given the -- I was blessed with the
11 opportunity to be a homeowner. So I can't move. This is my
12 home. I'm going to fight for it, point-blank.

13 And everything that has gone on down there --
14 actually, I have PT -- PT -- whatever my doctor says, that's
15 what I got now, and I'm being, you know, helped. And my point
16 in telling you all of this is that there is a serious racial
17 issue.

18 I'm glad to see there's a black lawyer; there's a
19 black here; there's a black chief. That is all good, and I'm
20 glad to see that because it helps those of us that are in the
21 community that are not on the side of the law know that we got
22 to respect the law. That's a very good thing for them to see,
23 that there are people of color that are abiding by the law,
24 the law I respect, the law we need. The law has to -- it has
25 to exist. We have to respect it. We have to have law and

1 order in our streets, with our children who are out of hand in
2 the city of Ferguson. The teenagers that have grown up in the
3 last five years, I would say, the civil unrest -- they're just
4 wild. And, you know, we -- we need to do something about it.

5 I filed a restraining order a few months ago because
6 all my cars have been vandalized because I've been voicing
7 these things and saying, "You know, you wrong. The heroin
8 needles can't be outside of my house," you know, and I'm just
9 voicing it and maybe not in the most tactful manner but yet
10 still voicing it and trying to be respect or have my own
11 respect. I'm up under attack and have been, and I will be,
12 but I don't have anything to lose because from where I come
13 from, I can't go back, and I've just got to press forward.

14 THE COURT: Okay. All right. And so your time is
15 up, but if you wanted to say anything in conclusion --

16 MS. SUSAN WARREN: Okay. In conclusion, I just would
17 like to say that I -- those of us like me that are in the city
18 of Ferguson -- we want to be a part of this change and hope
19 that you would recognize like those of us with mental
20 illnesses and things of that nature, to deal with us in a --
21 in a way where we're able to move forward because me, myself,
22 I do have a problem, but that doesn't -- nevertheless, I still
23 can be a part of the community, and I'm a homeowner now where
24 there was a time where I couldn't hold a dollar, you know, and
25 my life is changed, and I would like to see my neighbors do

1 that as well as the children. Have a positive -- just
2 something to look forward to other than, "Well, the law is the
3 law, and we're just" -- it's like the law is on one side and
4 they're on the other, and I am very afraid of the cartel
5 coming into my neighborhood -- you know what I'm saying --
6 because we're all American, and, you know, I just want to -- I
7 just think we need to be mindful of -- I've heard a lot of
8 talk, and I don't understand it all, but I'm just here to
9 encourage the system but at the same time voice that there
10 needs to be a little bit more empathy towards the people who
11 have problems.

12 THE COURT: All right. Thank you very much, ma'am.

13 MS. SUSAN WARREN: Thank you.

14 THE COURT: Mildred Clines is the next person.

15 MS. MILDRED CLINES: Thank you, Judge Perry, for
16 giving me the opportunity to speak today. My name is Mildred
17 Clines, and I'm getting a little bit older, so I can't totally
18 remember, but I -- I believe I've attended every status
19 hearing, but something somewhere -- something is saying maybe
20 I missed one, but I'm a 30-year resident of the city of
21 Ferguson. I serve on the NPSC. I'm also a member of the
22 Ferguson Collaborative. I am on the subcommittee, the
23 Municipal Code Committee, and I also was a member of the
24 Civilian Review Board Task Force, and so today, I'm tasked
25 with speaking about the Civilian Review Board, but I would

1 like to talk about a personal experience that I had last year
2 around this time.

3 I was arrested by the Ferguson Police Department, and
4 we were -- I was participating in a -- a protest, and we were
5 leaving the protest, and I asked the police officer did he --
6 he had said, "You all need to get a job."

7 Now, mind you, I've been on my job for 40 years and
8 counting, and I was like -- we had just went through these
9 de-escalating talks about, you know, when the police come on
10 the scene, that they should use de-escalation tactics.

11 But when I asked him, I said, "Did you really say we
12 need to get a job?"

13 He said, "Ma'am, if you don't leave, I'm going to
14 arrest you."

15 And I said -- I responded -- I said, "For asking a
16 question?"

17 And he said, "That's it." He got out and he -- he
18 said, "You're under arrest," and he put my hands behind my
19 back. As you can see, I'm not a small person, and he jerked
20 my -- jerked my arm, and I asked him, I said, "Why are you
21 being so rough?" Because as soon as he said, "Put your hands
22 behind your back," I immediately complied.

23 And he said, "Why are you acting like you're trying
24 to resist?"

25 And then I knew we had a problem, still a problem.

1 This was last year this time, well into this Consent Decree.
2 And people, you know, in the community know me because I'm
3 very active. I'm passionate about my community, want to move
4 forward.

5 And so the next day, I got a call from the Chief of
6 Police, and -- and I -- he asked me what happened, and I told
7 him, and I remember asking, you know, "Do I need to come in
8 and file a complaint?"

9 He said, "That's why I'm calling you."

10 So I came in and I gave my statement about what
11 happened.

12 And so I have been waiting a whole year to find out
13 the results of what I thought was a complaint.

14 So I hadn't heard anything, and then maybe six
15 months, after people are inquiring, "What happened? What
16 happened?" I'm like, "I don't know the results. I'm still
17 waiting."

18 So I'm finding out that because the Chief called me
19 the next morning, that the Ferguson Police Department actually
20 took it on, but I didn't know; I didn't know that.

21 So as a person who's very engaged in the whole
22 process, I think our Civilian Review Board -- I still have
23 some questions about the training because last Monday, when we
24 met with the Civilian Review Board, or a couple of weeks ago,
25 whenever it was, it was some members of the community

1 questioning. We had questions, and so they told us that they
2 listened to two cases, but when -- and 'cause see, I was one
3 of the ones that we actually put the -- the Civilian Review
4 Board -- the policy kind of together. So when we asked them
5 about the appeals process, they had no idea about the appeals
6 process. So I'm -- I'm thinking in my mind -- I'm like, "How
7 could you listen to two cases and you don't even know the full
8 policy of the Civilian Review Board and all the steps that" --
9 so I was like, "Did you tell -- did you tell that person they
10 had a right to appeal?"

11 "No," because they didn't -- hadn't even considered
12 the appeals process.

13 So it needs some more work to it -- the Civilian
14 Review Board.

15 And I still stand here today also asking if you still
16 consider the community talking more than twice a year for five
17 minutes. There's many of us that couldn't make it today,
18 maybe could have made it the last time, and this is the only
19 way we can get our voices heard. So I appreciate you
20 listening to me today, and I don't think I've missed anything,
21 but thank you.

22 THE COURT: Thank you very much.

23 All right. The next person on my list is
24 Mr. Kennedy, Melvin Kennedy, and I understand you're here as
25 one of the -- a mediator; correct?

1 MR. MELVIN KENNEDY: I am. Good afternoon, Judge.

2 THE COURT: Good afternoon.

3 MR. MELVIN KENNEDY: And, in fact, I'm here along
4 with Ms. Angela Lawson here on behalf of Community Mediation
5 Services, and we have been working along with representatives
6 of the Department of Justice and Interim Police Chief McCall
7 for about a year and a half, I think it's been, in trying to
8 help in putting together policies and procedures to address
9 citizen/police areas of conflict that might be resolved
10 through mediation as opposed to the traditional internal
11 review and investigatory process.

12 And we wanted to be here today to just say to the
13 community and to organizations that are here that Community
14 Mediation Services is available to them to voice their
15 concerns. You know, we're happy to facilitate meetings
16 between organizations that have a difference and are not --
17 and those differences aren't being heard. We're happy to
18 mediate disputes that individuals have. We believe that we're
19 getting pretty close to a rollout of the police/citizen
20 dispute aspect of mediation that was set forth in the Consent
21 Decree, and we're ready to move forward with the aspect that
22 has to do with citizen/citizen mediation, and we intend to
23 engage the City with regard to any other avenues where we
24 could be a resource to the City and giving people a chance to
25 have a voice and to be heard other than being here at the

1 status conferences.

2 And Ms. Lawson and I are going to be around after
3 this hearing if anybody wants to talk to us about what the
4 processes, you know, should look like or talk to us about
5 coming out and speaking to -- to them or any other
6 organizations that may have an interest. Thank you.

7 THE COURT: Thank you.

8 MR. MELVIN KENNEDY: Thank you, Judge.

9 THE COURT: Yeah, thank you.

10 And I would encourage people to, you know, contact
11 Mr. Kennedy and Ms. Lawson if they think that there is -- I
12 mean this -- at least to find out what you're doing even if
13 they don't think they want to do mediation per se. It would
14 be very helpful, I think, for everyone to know this is a
15 resource available to the community. So I appreciate that.

16 MR. MELVIN KENNEDY: Thank you, Judge.

17 THE COURT: All right. Mr. Chasnoff, John Chasnoff,
18 is the next person.

19 MR. JOHN CHASNOFF: Hello, Your Honor. It's John
20 Chasnoff. I am a member of the NPSC and the Ferguson
21 Collaborative.

22 And, first, I wanted to just remark that the
23 collaborative has tried to address your concerns about us
24 sending letters to you, which, you know, had no official way
25 for you to recognize.

1 THE COURT: Yeah. I do appreciate that the ones I
2 got this time were signed by a couple of people, and that's
3 very helpful. I just need a person because otherwise, as I
4 said before, it's -- I don't know who it is for sure.

5 MR. JOHN CHASNOFF: Right.

6 THE COURT: So thank you.

7 MR. JOHN CHASNOFF: We recognize that, and we have
8 designated those two people as our representatives to the
9 Court. So when you get letters in the future from them, it's
10 safe to assume it's from the collaborative.

11 THE COURT: Right. And I do appreciate that.

12 MR. JOHN CHASNOFF: Great. So I did want to talk to
13 you some more about the selection of the police chief. So
14 that search is currently underway, and the collaborative tried
15 to take a look at the RFP that went out for police chiefs, and
16 again, the website is a little bit unclear. We think we got
17 the most current one, but we had some concerns about that RFP
18 because it didn't mention, for instance, anything about
19 problem-solving policing, and so I'm very gratified to hear
20 from Mr. Carey that there is a recognition that the Consent
21 Decree is a huge part of the police chief's new duties, but we
22 didn't see that reflected in the application that went out,
23 and so we're hopeful that they will make clear to the
24 candidates that that's really an important consideration and
25 problem-solving policing is something that the new chief has

1 to get behind.

2 I did have a brief discussion with one of the members
3 of the DOJ about this issue of the selection process, and so
4 our concern was there's nothing in the Consent Decree that
5 specifically spells out that this is an area of -- of interest
6 or that the Consent Decree would be concerned about the
7 selection of the chief. So, again, I was gratified that you
8 brought the issue up and do evidently consider it an important
9 interest of the Court. In the discussion with the DOJ, I
10 think my sense was that they too were very interested in the
11 process and had had some discussion with the City about it,
12 but there was nothing in the Consent Decree. We looked at the
13 hiring and the hiring sections, which really have to do with
14 the police department hiring officers, but nothing in the
15 Consent Decree about the City hiring the chief.

16 But I did want to read one paragraph from the Consent
17 Decree. It's paragraph 251. It says, "First-line supervisors
18 and FPD command staff play a critical role in ensuring lawful,
19 effective, and community-centered policing. The City will
20 ensure that FPD supervisors provide the oversight and guidance
21 necessary for officers to police lawfully, safely, effectively
22 and establish and enforce a culture of community policing
23 throughout the department."

24 So I do think that that language is ample reason for
25 the Court to take an interest in this selection process.

1 The Ferguson Collaborative does have some
2 recommendations about the process. One thing we did was watch
3 the process in -- the recent process in the City of St. Louis,
4 which had a historic amount of citizen input. The Mayor
5 appointed a citizen committee which actually ran the search
6 for the police chief and held forums and conducted the process
7 all the way to the point where the decision makers then could
8 make a decision. We were impressed with that process, and it
9 went -- even if some of us had concerns about the final
10 selection, just the fact that the process had legitimacy went
11 a long way in establishing better police community relations.

12 So we would recommend that the City holds a town hall
13 meeting to gather public opinion on the desired qualities in a
14 chief. We'd like to see a more public process for placing
15 citizens on these interview panels, for instance, more robust
16 notification and some consideration of the demographics of the
17 city to make sure that everyone's represented on those. We'd
18 like to see those meetings in the evening where people who
19 work could attend. And we were concerned during the last
20 process that the questions were prewritten. We'd like to have
21 more spontaneous questions coming from those interviewees and
22 allow them to better express their concerns to the candidates.
23 And we wanted to make sure that community policing and
24 specifically problem-solving policing are crucial criteria in
25 these selections.

1 So if I have just a few seconds left, I wanted to
2 make a couple comments about the CRB. We heard today that the
3 disciplinary matrix isn't finished yet and it's holding up the
4 work of the CRB to try to recommend disciplinary processes
5 when they don't have the disciplinary matrix. So we just want
6 to make sure that stays a priority.

7 And we'd also like to see a more robust community
8 input process in the selection of CRB members so that there's
9 a public hearing where people can comment on their knowledge
10 about candidates and make recommendations for or against.

11 And, finally, just on the comment process, which,
12 again, we're very pleased to see this 30-day comment process,
13 it would be very helpful for us if we could see a summary at
14 the end of what were the comments that came from police and
15 what were the comments that came from citizens so that we
16 could see if there are divergent opinions on some of these
17 policies and then maybe hold appropriate forums and
18 discussions where we could iron out those differences. I
19 think that would help, again, with the process of building
20 community legitimacy.

21 Thanks so much.

22 THE COURT: Thank you.

23 All right. Ms. Randels, Melanie Randels, is the next
24 person listed.

25 MS. RANDELS: Good afternoon. Again, my name is

1 Melanie Randels. I am a Ferguson resident. I have been one
2 for about nearly five years. I am also the newest appointed
3 member of the Ferguson Human Rights Commission, and this is my
4 first time attending a federal status hearing. So thank you
5 for having me, and thank you for my community for showing up.

6 There are just a couple of things that I wanted to be
7 able to put on record and to speak about regarding what's
8 happening in the community. First and foremost, I've been on
9 the Human Rights Commission since September, and about a month
10 later, I was called to the scene of Park Ridge Apartments in
11 Ferguson, which is referenced in paragraph 25 of the Consent
12 Decree regarding the displacement of Ferguson residents.

13 There was a crisis that occurred that affected roughly 13
14 units at first, and the situation has ballooned to affect the
15 entire complex. The reason that I'm here is because, upon
16 investigation of the complex, I realized that the Human Rights
17 Commission was left out of the Consent Decree. Although we
18 were established during the time of the uprising, there is no
19 parameters or accountability factors in place within the
20 Consent Decree for us to abide by nor have support from our
21 council or community regarding. So I wanted to bring that to
22 your attention, and I don't know if there's anything that can
23 be done about it at this point, but I am -- I am really
24 stressing that we need more assistance in the area for the
25 Human Rights Commission.

1 THE COURT: Can you tell me who -- who appointed --
2 who appoints the Human Rights Commission as it currently
3 exists?

4 MS. RANDELS: The Mayor appoints the Human Rights
5 Commission.

6 THE COURT: Okay. Thank you.

7 MS. RANDELS: Yes. So I am the Third Ward
8 representative for the Human Rights Commission. We are
9 supposed to be able to investigate discriminatory issues
10 regarding housing, public accommodation, as well as
11 employment.

12 The reason why I stepped in on the scene that day is
13 because I received a call from a pregnant woman who concrete
14 had fell in front of her door, and it led to an investigation
15 from Code Enforcement in the City of Ferguson, the realty
16 company, and it is now being discussed a lot. I believe there
17 is discussions behind the scenes and people are working, but
18 there is still a lot of confusion regarding the residents. I
19 represent the community. I help the community, and I have
20 several complaints that I took on behalf of the Ferguson Human
21 Rights Commission. I submitted them to the council with our
22 current process, and I also submitted them on a state level to
23 the Missouri Human Rights Commission, with Dr. Alisa Warren.
24 However, there has been some confusion regarding Senate Bill
25 43 around the parameters that we actually have to investigate

1 for the City of Ferguson in our level, and so there's -- what
2 I'm understanding is that there are three levels. There's
3 Ferguson, and then it goes to the Missouri Human Rights
4 Commission, and then here I am now because I promised the
5 tenants that I would take things to the highest level that I
6 could until we begin to get some resolve regarding their
7 individual issues.

8 I have been speaking with my team with the Human
9 Rights Commission regarding kind of reevaluating our current
10 processes and plans so that we can include a better process
11 for complaints and probably something more cohesive amongst
12 the three entities that do have the right to investigate these
13 on a state, local, and federal level, and I will be coming
14 back to present what we have created as well as to put more, I
15 guess, teeth in the game for what we do.

16 I know that other Human Rights Commissions have the
17 ability to fine tenants or landlords who are not complying,
18 who are neglecting their properties, and we are working
19 towards something of that nature with our Human Rights
20 Commission. We're working with Southeast Ferguson
21 Neighborhood Association, ArchCity Defenders, Legal Aid of
22 Eastern Missouri, and a lot of other entities to be able to
23 aid and assist with these tenants.

24 What I said earlier is that we need a more cohesive
25 process. We need more support, and I'm not sure what can be

1 done as far as on paper to have more accountability for us,
2 but I'm just bringing that to everyone's attention. So that's
3 it.

4 THE COURT: All right. Thank you. Yes. Thank you.
5 All right. I may be mispronouncing this.

6 Bobby Stierwalt.

7 MR. BOBBY STIERWALT: Good afternoon. Thank you,
8 Your Honor. Bobby Stierwalt.

9 I'm very glad to hear about what's going on with the
10 Ferguson Human Rights Commission because I am a landlord and
11 that is why I'm here.

12 When my son was a teenager, I was rebuking him for
13 something once, and I said, "Okay. So what's your attitude
14 going to be?"

15 And he said, "I don't like it. I appreciate it."

16 And that is exactly how I would like to respond to
17 Ferguson code inspectors. I don't have to always like it. It
18 just has to stand to reason.

19 The Mayor told me that he sometimes himself has to
20 give the code to the inspectors, but when this inspector tells
21 me to put in a lightbulb, I said, "Well, that's between me and
22 my tenant. That's not code." And then he growls. And if you
23 say something, then he targets another property.

24 Well, I have a really nice property that I'm
25 specifically talking about where the fence is falling down on

1 the neighbor's property, totally falling down, and I asked the
2 code inspector, "Would you please look at this fence?"

3 And on the other side, the whole backyard is growing
4 with kudzu, which grows a foot every two weeks when it's warm,
5 and he will not even turn around. Meanwhile, this is a super
6 nice house.

7 I go over the inspector's head, and his boss comes
8 out. I ask him, "Would you please come and look at this
9 house?"

10 He walks through it and says, "This is a nice house."

11 And the inspector is told to back off. However, he
12 comes and pesters my tenant over and over and over.

13 So the problem, it seems, is that -- like one of the
14 series of questions from the DOJ regarding police officers.
15 One of them is what should be included in the policies
16 regarding how officers are disciplined?

17 Now, Terry Neil -- O'Neil, a previous supervisor of
18 inspectors, was a really good guy. You could talk to him. He
19 would sort of act as mediator, and it really -- it worked
20 good. So the person in the relationship really does matter.
21 It always does.

22 But what I'm saying is that just to tell an inspector
23 to back off when there's egregious things occurring, well,
24 that's not discipline, and then he can just go somewhere else
25 and pester you somewhere else.

1 Well, if you really are in a violation of something,
2 let's do it. I want to say I appreciate it; I don't like it
3 necessarily, but I appreciate it because we have to have -- we
4 have to have order.

5 So there are other questions from the DOJ. By what
6 means do you think civilians should be able to tell the
7 Ferguson Police Department about their experiences with
8 officers? There should be a means not only for officers but
9 all city officials. And they deserve respect.

10 And Mr. Chasnoff referred to the process of building
11 community. To communicate that we're in the process of
12 building community is something that is a never-ending job
13 because, in the title of one of my favorite books,
14 *Relationships: A Mess Worth Making*, we're all a mess and
15 we're in this together. That's community. So there has to be
16 reasonable communication.

17 This same inspector -- I will say his name for
18 those -- Mr. Richard Samson -- he was recently kicking the
19 door of my tenant according to my tenant. Kicking the door.
20 This same inspector, on that same porch, after he walked
21 through the house, he says, "Well, that was easy." He just
22 told me a couple small things. Fine. But then he says to
23 the -- just to the air, "Make an effort." He just screams to
24 the air, you know, like he's talking to the whole
25 neighborhood. So it sounds like a little bit of an anger

1 problem or, as I said to our mayor, talking about this
2 privately, I said I think that the inspectors need to know
3 that they're significant. Well, they are. And we should
4 communicate that significance regularly. In fact, I've
5 thought why can't code inspectors see themselves as community
6 liaison -- community engagement liaisons, like the police are
7 sort of encouraged to do as well, because it's all about
8 community and it's all about relationships, and nobody can be
9 right all the time.

10 But I like also that phrase "problem-solving policy,"
11 to have instead of an authoritarian attitude, a
12 problem-solving attitude. And I'm going to say that is
13 necessary for the view of the -- the view that citizens, that
14 residents have toward looking at city government.

15 I want -- I want to be seen as a landlord. I work
16 hard at that, at them seeing me as being reasonable and fair.

17 And to quote one minister, "If you demand perfection,
18 you get nothing." Well, I don't expect perfection from any
19 person in government because they're people, but there's the
20 *Westminster Confession* talking about the sins of superiors
21 against subordinates and the sins of subordinates against
22 superiors. Well, my goodness, it's a relationship. It works
23 both ways. So we hurt each other or we mistreat each other
24 sometimes, and, yes, there should be forgiveness and a change
25 of attitude, repentance, but inferiors don't always give the

1 respect that is due to their superiors. That's a fact, and
2 that causes problems. On the other hand, superiors do not
3 always show that same respect to their subordinates, if you
4 want to call them that, and one of the specific items listed
5 about the sins of superiors is expecting something that is
6 beyond the ability of the person to provide.

7 Well, how are you going to find that out unless you
8 talk and make yourself approachable rather than -- rather than
9 letters, letters, letters, letters. Who knows how many
10 dollars are spent on useless letters, just repeat, repeat,
11 repeat, when a little communication that is respect -- showing
12 respect -- that's motivating. So, yes --

13 THE COURT: So I am -- you are over your time. So if
14 you have some comments in conclusion --

15 MR. BOBBY STIERWALT: Building community is a
16 process, and it requires communication, and -- and I care
17 about you. Thank you.

18 THE COURT: Thank you. Thank you.

19 Ms. Purnell.

20 MS. DERECKA PURNELL: Hello, Your Honor. My name is
21 Derecka Purnell, and I'm a staff attorney with Advancement
22 Project's National Office, which is located in DC. We've been
23 working in St. Louis for a number of years and have been
24 working closely with the Ferguson Collaborative and the NPSC
25 since about 2014 when both entities were established.

1 Normally, the Advancement Project -- because we're a
2 multiracial civil rights organization, we sort of play a back
3 role and really try to help the community develop a sense of
4 empowerment and be able to tell their own stories, but because
5 of the date change, a number of the Ferguson Collaborative
6 members had to reschedule, and so that's why I'm up here
7 today.

8 The Ferguson Collaborative have two additional and
9 really, really simple requests that you've already heard
10 today, and I am just here to reiterate it, and it's basically
11 regarding community input and the speaking. And so Mr. John
12 Chasnoff -- he already, you know, requested that the Court,
13 the parties permit the City of Ferguson to publish two
14 separate summaries from the community input -- one that comes
15 from the police and one that comes from the community. So as
16 the DOJ, I think, Attorney Marks said, that once the feedback
17 process has been completed and they publish what's been
18 online, it will be easier to track which comments came from
19 where to show where the community's interests and the police
20 interests diverge or converge, and that just creates a
21 stronger spirit of transparency.

22 An additional request regarding community input as
23 relates to the policies and procedure is that before the
24 community forums, the Ferguson Collaborative requests that the
25 policies are published online so the community has an

1 opportunity to review them and show up to the policy forums
2 prepared, and once they are actually at the forums, that the
3 copies of the policies have been handed out so people can
4 track their comments and track their thinking. And then,
5 again, those comments are taken, you know, compiled, and then
6 published publicly on either the Monitor's website and/or the
7 City of Ferguson's website.

8 The second request is regarding speaking at every
9 hearing. I know the Ferguson Collaborative has made this
10 request about a year ago. And, you know, Judge, as you heard
11 today, you know, Ms. Mildred Clines was arrested a year ago
12 and didn't even have an opportunity to relay that information
13 to the Court, and I know you're probably thinking, well, there
14 was the June status hearing that was open for public comment,
15 but just working as a lawyer, what I've noticed is that
16 members of the community and the Ferguson Collaborative have
17 really tried to affirm the Consent Decree process, and
18 sometimes that comes at the expense of them telling their own
19 stories about when they've been targeted or even potentially
20 suffering an unlawful arrest, and so the urgency in the June
21 hearing was really centered on getting those cases dismissed,
22 those 6,000 cases that are now being audited.

23 So now, here we are in December. Ms. Clines, who was
24 a member of the task force that formed the CRB, has the first
25 time as an opportunity to relay to the Court this potentially

1 unlawful arrest that still is unresolved. There still isn't
2 any opportunity to know, you know, what's happened. And,
3 yeah, we understand that the parties are working diligently to
4 get, you know, the CRB and other -- other things off the
5 ground, but without regular communication with the Court, we
6 just think that it's hard for the complete picture of the
7 Consent Decree implementation to -- you know, for the
8 community and for the Court to be on notice.

9 Additionally, it sounds like Commander McCall is
10 serving in a dual-capacity role as the Acting Interim Chief,
11 and I believe he was the person who was responsible for
12 overseeing the implementation. So to the extent there's a
13 capacity issue, we think that the community can definitely
14 serve as, you know, an alternative voice to give that
15 consistent input to let you know if there are things that are
16 falling through the cracks given the new capacity issue while
17 the search is ongoing.

18 And then, finally, I think it's really important for
19 the Court to take notice of the Department of Justice's recent
20 memo regarding consent decrees. I think that it's unclear
21 whether the memo that constrains the power of the DOJ to
22 initiate consent decrees, you know, applies to the ongoing
23 consent decrees or ones already in effect. I'll be curious to
24 hear from the United States. But that, you know, the spirit
25 of antagonism against the Consent Decree is just -- I think

1 the Court should take notice to that. And to the extent that
2 is going to be unclear, I think the community should be
3 particularly alarmed, and if there are any changes in how the
4 consent decrees are going to be implemented, the ones that are
5 new or the ones that already have been in effect, I think the
6 Court should permit the community to give notice to the Court
7 about what potential changes there have been, and I know that
8 the community, again, has asked this a year ago. It would be
9 great to get an answer from the Court today or in some
10 official capacity so we'll know how to plan in the future.

11 Thank you.

12 THE COURT: Thank you.

13 All right. Ms. Topps, Katurah Topps.

14 MS. KATURAH TOPPS: Good afternoon, Your Honor.

15 Katurah Topps on behalf of the NAACP Legal Defense and
16 Educational Fund, LDF.

17 For the past two years, LDF has worked with local
18 attorneys and activists who have advocated for and are now
19 closely monitoring the progress of the Consent Decree. On
20 November 30th, as you saw, we filed our written comments to
21 the Court providing background about LDF's work on police
22 reform in Ferguson and nationally. In those written comments,
23 we laid out 14 different areas of the Consent Decree that we
24 recommend prioritizing. Today, I'm going to speak about two
25 of those areas, one being the City's obligation to develop a

1 bias-free policy and protocol and, second, the process for
2 selecting the police chief.

3 First, the bias-free policy and protocol. As Your
4 Honor is aware, the Department of Justice did an investigation
5 into the Ferguson Police Department and found that the
6 Ferguson Police Department's racially discriminatory and
7 unconstitutional policing practices are systemic, deeply
8 entrenched, and disproportionately target and harm
9 African-Americans at, quote, "nearly every stage of Ferguson
10 law enforcement." Worse, the DOJ report noted that Ferguson
11 has long -- sorry -- quote -- "long recognized but failed to
12 correct the consistent racial disparities caused by its police
13 and court practices, and the discriminatory effects of
14 Ferguson's conduct are driven at least in part by
15 discriminatory intent."

16 Despite this, we are nearly three years into the
17 Consent Decree, and City officials have not developed a
18 bias-free policy or protocol for their officers as the Consent
19 Decree requires. This bias-free policy would show the City
20 officials' commitment to providing policing services in a
21 nondiscriminatory manner, which is still in issue today. The
22 delay in development and implementation of this policy sends a
23 message that bias-free policing is not a priority of the City.
24 Further, all of the policies discussed today and that will be
25 implemented in the near future should all reference bias-free

1 policing, yet, currently, there is no definition for that
2 because the policy does not exist.

3 That said, we are encouraged to see that the
4 Monitor's work plan was filed on November 30th and it does
5 mention bias-free policing. However, the plan requires the
6 City to submit a mere draft of a bias-free policy by July
7 31st, 2019, and there is no completion date.

8 Given the undeniable impact of bias policing on
9 Ferguson residents, we ask the Court to urge the parties to
10 make development and implementation of the bias-free policy a
11 top priority and produce a bias-free policy within the next 60
12 days.

13 The police chief. Consistent with national best
14 practices, LDF supports the Ferguson Collaborative, the
15 Ferguson Collaborative's request that the community members be
16 a part of the selection process for the new chief. The City
17 has now -- well, will now have three new chiefs in two years,
18 and so to ensure that the next chief is one who values
19 compliance with the Consent Decree and is committed to
20 transforming the police department, the Ferguson community
21 must be involved at every stage and from the beginning.

22 In the 2016 national search for the police chief, the
23 City rightly conducted a search involving community members;
24 however, the community's participation was very limited.
25 Residents were only able to interview the finalists, and even

1 then, they were given prewritten questions, and when they had
2 their own questions, they were not allowed to ask them.

3 This time around, we stress the importance of
4 meaningful community participation at each stage. In fact,
5 the Consent Decree expressly requires both the NPSC and the
6 CRB to participate in the hiring process of officers.

7 Additionally, soliciting community input from
8 stakeholders is very common. It's happening all across the
9 country in many cities, but particularly, in Ferguson, it's
10 critical to maintain transparency and to improve the police
11 community relationships.

12 Because all of the applications were due on
13 December 1st for the new chief, now is the time for the City
14 to specify exactly how they're going to meaningfully include
15 the community in this process, and we would ask Your Honor to
16 ask the City to make sure that -- that whatever their plans
17 are for community input are specified and relayed to the
18 community.

19 Finally, Your Honor, I just want to note that the
20 Monitor's last status report acknowledges that, quote, "Most
21 of the implementation phase of the Consent Decree remains
22 incomplete," and so, therefore, most of the implementation
23 stage of the Consent Decree can't be -- can't be audited or
24 tracked or monitored. Nearly three years in, this is
25 alarming, to say the least.

1 To move things along, we urge the Court and the
2 parties to consider the areas that we've recommended
3 prioritizing in our written comments, such as data collection,
4 Amnesty Program, and under that Amnesty Program, including
5 full review of the remaining cases such as the cases based on
6 resisting arrest, and officer training.

7 As you know, LDF continues to support the Ferguson
8 community. We're happy to answer any questions that the Court
9 may have.

10 THE COURT: Thank you.

11 MS. KATURAH TOPPS: Uh-huh.

12 THE COURT: I believe the next person who signed up
13 was Ms. Butler, Cassandra Butler.

14 MS. CASSANDRA BUTLER: Thank you, Your Honor.

15 I too am a Ferguson resident, and today I wanted to
16 talk about my concern about how -- how we're going about doing
17 a new police chief search and how that will impact the
18 momentum of the Consent Decree. An important aspect of
19 successfully implementing the Consent Decree is successfully
20 changing police culture. This is a difficult task and
21 requires consistency in leadership. Those resisting change
22 often see times like these as a window of opportunity to
23 undermine that leadership. So -- and this can be done in many
24 ways when you have that kind of window of opportunity.

25 I'm -- I'm thinking about even our council person who

1 just resigned to become St. Louis County Prosecuting Attorney,
2 and I see today he has an office of 60 prosecuting attorneys
3 that are voting on whether to join the St. Louis City Police
4 Association, and that strikes me as one of those ways where a
5 window of opportunity happens and your staff can undermine
6 your leadership.

7 The Consent Decree already has had serious assaults
8 on the timeline, mostly dealing with changes in Monitor.

9 I think the hiring of an entirely new police chief
10 has the ability to further impede the momentum and slow down
11 the progress and impede the timeline that we're looking at. A
12 new police chief would have to learn the dynamics of the
13 department, its personnel, where the department has been, and
14 where they are in the process of changing.

15 I am also concerned about the political dynamics we
16 have on our council, and even though I note that hiring the
17 police chief is ultimately the city manager's job, the city
18 manager serves at the pleasure of the council. So those
19 political dynamics also concern me. So I just primarily
20 wanted to let you know that I am concerned about the impact
21 that this new police search will have on the timeline and the
22 ability to achieve success in this Consent Decree.

23 Also, while I'm up here, I also want to mention I'm
24 glad to see that we're making forward motion, movement on the
25 community mediator portion, and I'm just mindful that one of

1 the impediments to that community mediation piece is the
2 funding of that. Of course, like the Monitorship for you, for
3 the Court, is paid for by the City, but there really is no
4 allowance made for funding for the community mediators or for
5 the Civilian Review Board in that matter. The City does
6 provide some support for the Civilian Review Board, but things
7 like this all new board who has never done this process before
8 and doesn't have experienced people to refer to -- they can't
9 go to the national convention where civilian review boards
10 meet to get that kind of knowledge and to learn. So there
11 is -- there is some weaknesses concerning funding for the CRB
12 and for the community mediation piece, just for your
13 information.

14 Thank you.

15 THE COURT: Thank you.

16 All right. Mr. Volek or Ms. -- I think Mr. Volek.
17 Do you wish to respond here? I don't know who wants to go
18 first, but maybe you should, yeah, to any of the points made.

19 MR. VOLEK: Thank you, Your Honor.

20 And I want to extend our thanks to those who were
21 able to come to this hearing and present. We really
22 appreciate the feedback that we've received throughout this
23 process of implementing the Consent Decree.

24 I'll touch on a few issues that were raised during
25 the comment period and then address a few additional issues

1 after that if that's all right.

2 One of the main issues that we heard about was the
3 chief selection process. The -- Mr. Chasnoff commented that
4 he spoke with the Department of Justice about this issue, and
5 it is, of course, true that we try very carefully to --

6 THE COURT: Can you make that point up more to you so
7 I can hear you better?

8 MR. VOLEK: Yep.

9 THE COURT: Thanks.

10 MR. VOLEK: We try very carefully to respect the
11 personnel decisions of the City. This is not something that
12 is specifically laid out in the decree. At the same time,
13 decisions must be made that are consistent with the
14 requirements of the decree, and we are all on the same page --
15 the City and the Department of Justice alike -- that the
16 selection of this next police chief is of critical importance
17 to the success of the Consent Decree.

18 We have met with the City Manager, Mr. Seewood, to
19 discuss this issue. The City has some productive ideas about
20 how to solicit community feedback. We were very encouraged to
21 hear that the City is looking for ways to solicit feedback on
22 the front end of the process regarding what citizens of
23 Ferguson really want to see in their next police chief in
24 addition to some of the mechanisms that were used the last
25 time around. So we'll continue to work with the City and

1 provide any support that is requested, and we certainly are
2 encouraged that everybody's on the same page that this next
3 chief selection is of critical importance to the integrity of
4 the Consent Decree.

5 I want to briefly talk about Ms. Randels' point about
6 the Human Rights Commission. During the investigation and the
7 negotiation of the Consent Decree, we spoke with members of
8 the Human Rights Commission that were members at the time.
9 That commission has a bit of a broader mandate than only
10 focusing on criminal justice issues, as reflected by some of
11 the comments today, and so there was a decision made not to
12 include or specifically name that group into the Consent
13 Decree. That said, the Consent Decree does set forth an
14 overall mandate for the City to strengthen its partnerships
15 with all communities and all community groups. So we would
16 encourage the City to do that, although that is separate and
17 apart from the Consent Decree.

18 Third, a lot of issues came up around accountability.
19 In particular, Ms. Clines talked about accountability and how
20 complaints are handled. I think it really reflects just how
21 important it is that the accountability policies get put into
22 effect. The new suite of policies covers all manner of this,
23 of this system, including taking complaints, how those
24 complaints are passed along to investigators and investigated
25 within the department, and how those investigative files are

1 then passed along to the Civilian Review Board and reviewed by
2 them. It also covers the disciplinary matrix, how discipline
3 is imposed if an investigation yields a sustained finding
4 against an officer.

5 We think that the public feedback process is really
6 important, and so we are going to wait to implement those
7 policies until we do have public feedback, which is set for
8 around February, but in the interim, we are, of course,
9 attuned to making sure that complaints are taken seriously,
10 and we are working with the City on that, but once those
11 policies get into -- get put into place, we think it will
12 really go a long way to having clearer and more consistent
13 application of accountability systems.

14 Part of that is the mediation program that
15 Mr. Kennedy spoke about. The Community Mediation Services of
16 St. Louis is a real asset for the City, and we are just
17 thrilled that they are partnering with the City of Ferguson to
18 get these mediation programs off the ground. As we've
19 mentioned in previous hearings, the whole point of these
20 programs is to foster greater communication between citizens
21 and residents of Ferguson and the greater Ferguson community
22 and the Ferguson Police Department. So we're very encouraged
23 by that.

24 Another issue that came up was policies and the
25 policy review process. We've really tried to be as responsive

1 as possible, and I think that the system has really been honed
2 well, in large part due to community feedback about how that
3 process should look. Early on, it was suggested that we hold
4 forums on the front end, as Ms. Marks mentioned, before policy
5 was fully baked, as you say, to make sure that that feedback
6 really shaped where the parties went in developing those
7 policies. We've continued to do that and will continue to do
8 that.

9 There was a suggestion that we provide the policy in
10 advance of those forums. It's very difficult to do that
11 because we wanted to get the feedback before that policy even
12 existed.

13 THE COURT: Right. The purpose of the initial forums
14 was to get ideas for how the policy should be developed. So
15 it doesn't exist at that time; right?

16 MR. VOLEK: That's correct, Your Honor. That said,
17 the existing, old FPD policies do exist, and those have all
18 been put online. So we would encourage individuals to pull
19 those old policies in advance of any forums. We also provide
20 at the forums a sort of one-page or two-page summary of the
21 issues that we're discussing, just to give people some context
22 to make those forums more meaningful. So we'll continue to do
23 that as well.

24 With reference to the comment period, the 30-day
25 comment period, that's been a great improvement to the policy

1 review process, and we really applaud the community for
2 bringing that to our attention and suggesting it. We got some
3 really helpful feedback, as Ms. Marks mentioned, about the
4 use-of-force policies. We'll continue to work with the
5 parties to discuss how to best implement that. It's turned
6 out to be a more arduous process than we thought just because
7 we got so much good feedback, but we're working very hard to
8 incorporate it.

9 At the conclusion of that process, the completed
10 policies will be posted on FPD's website, and those will be
11 made clear that these are the completed policies, and we'll
12 also work with the parties to discuss if there's any other way
13 that we can provide feedback regarding how that process went,
14 what kind of feedback we got. The one concern is we want to
15 create a climate that encourages people to submit comments on
16 those policies rather than chills it. So we'll have to think
17 carefully about how to best do that.

18 THE COURT: Let me ask you a question. One of the
19 written submissions made the point that some of the initial
20 policies that were put out for 30-day feedback -- there was a
21 bunch of them put out at once. Eleven, I think. Was that
22 because this was the first time you'd done it and you had
23 those built up, or is that just the normal way, and do you
24 think there's -- can you address that issue about it being too
25 much to deal with in the 30 days?

1 MR. VOLEK: Absolutely. It's not just because we had
2 a backlog. We've actually -- we talked to members of the
3 community about how to best do this, and we decided to go
4 subject area by subject area. The reason that there were so
5 many during the first period was that that was the
6 use-of-force policies, and there are just a lot of
7 use-of-force policies. That said, there was a lot of
8 repetition in them, which was something of a help, I hope,
9 because a lot of the firearms -- a lot of the weapon-specific
10 policies about firearms, tasers have very similar language.
11 But that said, we totally recognize that it was a lot. We
12 really tried to strike a balance of giving enough time for
13 real, sufficient, meaningful consideration by the community
14 and for them to provide feedback while also keeping this
15 process moving along. The good news is that I don't think
16 that there's any other policy area with nearly as many
17 policies. As Ms. Marks said, the next, body-worn and in-car
18 cameras, is two policies. Accountability, I think there will
19 be four in total.

20 The one other point that I think is critical is that
21 30-day comment period is really for the purpose of getting
22 comment before the policy is finalized and put into effect,
23 but that's not the only way to provide comments on policies.
24 Even after a policy is put into place, after roll call
25 training is delivered and it goes into effect, we welcome all

1 sorts of comments from anybody who wishes to submit them.
2 Now, those policies, obviously, won't create changes before
3 the policy is implemented, but there is a review for each
4 policy considered within the Consent Decree, and so those
5 policies will be considered on a rolling basis. So I just
6 want to be clear that it's not, you know, a firm end date
7 window where once that window is closed there's no other
8 opportunity for comments to be provided.

9 THE COURT: Okay. Thank you.

10 MR. VOLEK: One of the last points that came up
11 during the comment period was concern about the enduring
12 commitment of the Department of Justice to this Consent
13 Decree, and the consent decree memo of November 7th was
14 referenced, and I just want to be clear that that November 7th
15 memo lays out guidelines that apply to future decisions to
16 enter into consent decrees. It does not, by its own terms,
17 affect any existing consent decrees, and we remain as
18 committed as ever to this case and to every consent decree,
19 and indeed, you know, the Department of Justice always has
20 internal processes for deciding whether a consent decree is
21 appropriate or whether a different form of agreement or remedy
22 is appropriate. There are some cases that require consent
23 decrees and some cases that don't. We went through our own
24 internal processes in this case years ago to decide that here,
25 because of the nature and breadth of the violations of the

1 Constitution, a consent decree was appropriate. That decision
2 has been made, and this, the 2018 memo, doesn't change that
3 course at all. We are absolutely committed to the
4 implementation of this decree and making that as effective and
5 efficient as possible.

6 I just want to turn to a few other points. Overall,
7 I think that the comments really reflect both some encouraging
8 news and also the reality that real change takes a lot of hard
9 work and it takes lot of time, but I do want to be clear that
10 this reform process is working, and that is due in large part
11 to the commitment of the City and the police department and
12 the Monitoring Team. Just to give you a bit of a sense of
13 some data to back that up, this has been talked about in the
14 past by the City, but just talking on the court side of
15 things, there have been 44,000 cases in total that have been
16 dismissed since 2014; 8,000 of those or -- sorry -- roughly
17 6,000 of those were pre-2014 cases. So of those 44,000, that
18 includes 75 percent of all cases from before 2014. There's
19 also been over a million dollars in court debt that has been
20 dismissed by the City of Ferguson, and significant changes to
21 the court system have been made to make sure that that
22 continues in their approach to how to resolve criminal cases.

23 Taking a step back, that has had its intended effect,
24 not only in the court system but on Ferguson's approach to law
25 enforcement overall. The problem we identified during our

1 investigation was that the court side of things, of operations
2 really created a desire to maximize law enforcement operations
3 for the generation of revenue, but because of the steps that
4 the court has taken to minimize the impact of -- to minimize
5 the revenue-generation incentives, we've really seen a
6 turnaround on the law enforcement side as well. And just to
7 give you a bit of a sense of that, in 2013 and 2014, Ferguson
8 Police Department averaged around 21,000 citations per year,
9 and over the course of the last three years, they've averaged
10 about three and a half thousand. It's a drastic change, and
11 it reflects that Ferguson's really refocused its law
12 enforcement efforts on public safety. That's also evidenced
13 by the fact that crime statistics reveal that that
14 diminishment of citations each year hasn't had any negative
15 effect on crime. In fact, it's the opposite. Violent crime
16 has gone down each of the last two years. We realize that
17 real reform takes time and it takes change, but those numbers
18 are showing, at least preliminarily, that the Consent Decree
19 reforms are taking real hold in Ferguson.

20 Now, there's much work to be done. That's for sure,
21 and we understand that there are concerns that Chief Moss'
22 departure is going to disrupt the good progress that's been
23 made. We would like to thank Chief Moss for his tenure and
24 his commitment to this project. We also want to thank Chief
25 McCall for stepping in and taking on those responsibilities.

1 He has been a tremendous asset for the department, and we have
2 really appreciated working with him as a Consent Decree
3 Coordinator, and we're sure that his leadership will move the
4 department in a positive direction.

5 Chief McCall serving as chief does create a gap in
6 the Consent Decree Coordinator position. We're already
7 feeling the impact of this. There are a few things that we
8 are hoping to get finalized that we've been waiting on for
9 some time. One example of this is a more robust internal
10 tracking sheet for misconduct complaints. In September, just
11 before Chief Moss left, we asked -- we provided, together with
12 the Monitoring Team, some feedback on the Ferguson Police
13 Department's internal tracking sheet. It's an Excel
14 spreadsheet for monitoring misconduct complaints and how those
15 investigations proceed, and we provided some feedback
16 regarding how that can be strengthened. We're still waiting
17 for a response on that. We realize that there's a lot of
18 disruption within the department with Chief Moss' departure,
19 but that's a really critical thing that we'd like to see move
20 forward.

21 Ms. Marks talked about the data collection process.
22 There's been a real commitment from the police department to
23 be clear, and, you know, Chief McCall and City Attorney Carey
24 have really been working hard to try and do as much as they
25 possibly can on that front, as has the person that's been

1 assigned to be our key liaison for that, a lieutenant within
2 the department. The problem is the lieutenant that we're
3 working with also has patrol supervisory responsibilities and
4 that lieutenant is also working on developing roll call
5 trainings for some of the policies that we've been developing,
6 and it's just a lot to put on one person's plate. We will
7 continue to work with whoever the City designates as our
8 liaison, and we'll do everything that we possibly can to
9 advance the ball, but we are concerned that as we move forward
10 and the requirements of that project increase that there is a
11 capacity issue there. On the horizon, there's going to be
12 training needs that are quite robust, and Ms. Tidwell has
13 talked about the needs within the department there.

14 Now, to be clear, these are all requirements of the
15 Consent Decree, but they're also just responsibilities that
16 any police department needs to be equipped to fulfill -- to
17 track misconduct investigations, to organize how it collects
18 and analyzes data, and to develop a plan for providing
19 appropriate training. And so we urge the City to figure out
20 how to best handle these in the most efficient way possible.
21 If they can do so with existing personnel, so be it. Like I
22 said, we have some concerns about whether that's possible, but
23 we'll work with anybody who -- who is assigned to the task.

24 As a final point, separate and apart from internal
25 Ferguson Police Department matters, some issues were brought

1 up about the Civilian Review Board. One point that I wanted
2 to flag for the Court -- there are nine seats on the Civilian
3 Review Board; currently, three of those seats are vacant, and
4 they have been for some months. Additionally, the term of an
5 additional three members will come up for renewal in March of
6 2019. So right now, the Civilian Review Board, while it's
7 trying to do a lot of great work and is doing a lot of great
8 work, they only have six of nine members and are set to lose
9 potentially three more. It makes the work very difficult.
10 They have a quorum requirement that requires five to be at a
11 meeting. So if there's more than one person that's absent,
12 they can't meet. We've been asking the City to fill those
13 vacancies for some time. We thought that they were on the
14 cusp of doing so. To my knowledge, that still hasn't been
15 done, and so we would ask the Council to do so immediately.
16 The decree certainly requires it. Paragraphs 406 and 407
17 require -- and the City has agreed -- to commit to ensuring
18 that the CRB has the resources that it needs to do its job
19 effectively, and so that's a real priority to make sure that
20 that organization continues to grow and thrive and serve the
21 purpose that the decree intended.

22 THE COURT: All right. Let me see if I had any
23 other -- I think you touched on the items I wanted to ask you
24 about.

25 Yeah, I think you did cover the things I wanted to

1 ask about. Thank you.

2 MR. VOLEK: Thank you, Your Honor.

3 THE COURT: Mr. Carey.

4 MR. CAREY: Thank you, Your Honor.

5 So you've heard a lot of information today from our
6 citizens, obviously from the Department of Justice. The
7 Monitor also spoke earlier today. I'll try to summarize the
8 City's comments as it relates to some of those, those issues,
9 and then make some other general comments as well.

10 All right. You know, there's always a balancing act
11 between the concept of transparency and actually getting
12 things done in a representative form of government. You know,
13 public participation in the selection of the police chief is
14 something that's really important to the City, as I stood here
15 and said earlier and as, you know, historically, the City's
16 practices would convey. You know, but -- you know, at some
17 point, you know, the public has to rely on the people that
18 they elect as well. You know, they elect people to do a
19 certain task, and so those folks, you know, who are elected
20 set about doing that task, and it can be somewhat arduous to,
21 you know, abrogate that representative form of government, you
22 know, in every task that we try to accomplish, you know, as a
23 city while at the same time, you know, trying to put, you
24 know, policies, procedures, and protocols in place to make
25 sure that transparency is something, you know, that our

1 citizens feel like they are getting. So we're struggling with
2 that. I think that's something that we, you know, quite
3 frankly, may struggle with, you know, continuously, you know,
4 depending upon, you know, whatever issue is being addressed.

5 I heard some comments about the priorities of the
6 Consent Decree and, you know, how we rank them and, you know,
7 how the City goes about doing its -- its compliance under the
8 Consent Decree. As you know, the parties, you know, years ago
9 got together and decided to prioritize what the parties
10 thought were important for purposes of compliance under the
11 Consent Decree and trying to meet the requirements of the
12 Consent Decree within the time frames allowed, and that did
13 include some -- some meandering from the deadlines, obviously,
14 that were set in the document. You know, I guess from the
15 City's perspective, you know, we'd certainly like to have, you
16 know, a bias-free policing policy in place. We don't want the
17 perception to be given that because a bias-free policing
18 policy, you know, that was called out in the Consent Decree is
19 not in place that we somehow support, you know, bias policing,
20 you know. So we have done some things in terms of what we
21 have developed and what we have implemented that sort of
22 address tangentially some of the issues that you will see in a
23 bias-free policing policy.

24 THE COURT: In other words, you're telling me you're
25 trying to comply with it even though you haven't issued the

1 policy?

2 MR. CAREY: Correct. You know, all throughout a lot
3 of the policies -- you know, the accountability policies, use
4 of force, all these types of things -- those policies are
5 designed to be bias-free. So this idea of what's bias-free
6 permeates throughout all of the policies that we -- that we're
7 developing and implementing. So, you know, I just don't want
8 to give this perception that the City is somehow ignoring the
9 idea of bias-free policing. We just, you know, haven't gotten
10 to that policy yet. There's a lot of policies that I wish we
11 could say we've gotten to already. You know, it's just, you
12 know, it is what it is at this point, and, you know, we are
13 trying the best that we can.

14 One of the things I wanted to talk about was the
15 issue of the amnesty concerns that the Monitor raised in her,
16 you know, initial comments.

17 THE COURT: And just so it's clear --

18 MR. CAREY: I'm sorry. Yeah.

19 THE COURT: -- the public letters are -- have
20 suggested that you should grant amnesty in all the older
21 cases. The issue that the Monitor was talking about was the
22 things that were listed as category two basis --

23 MR. CAREY: Right.

24 THE COURT: -- for amnesty, which is "We're not
25 granting amnesty because there's a real victim who is

1 intending to prosecute this," and the Monitor wants to know
2 have you checked to make sure that victim is -- really still
3 wants to prosecute; right?

4 MR. CAREY: Right. Right. And so I think that's
5 part of the decision to keep the case open. You know, in
6 deciding to keep the case open, obviously, then the next step
7 is then determining whether or not there is an actual victim
8 that is still willing to continue. You know, the process of
9 actually, you know, eliminating the cases did not afford
10 itself to getting that deep into the details, and so at the
11 end of the day, when we look at the criteria and we determine
12 that there's a victim, that, in and of itself, says, okay, we
13 need to keep the case open, and then once we make that
14 determination, then the next step is to determine, okay, do we
15 have a victim; is that person going to -- is that person going
16 to participate; are they willing to participate? And then at
17 that point, that case -- you know, if we don't have a willing
18 victim who would be willing to participate, then the case
19 would then be dismissed.

20 THE COURT: Yeah, but I mean I think her concern is
21 that that was part of the criteria for whether you were going
22 to include it in the group or not, and so what are you doing
23 to make that determination?

24 MR. CAREY: Well, I think our prosecutor is, you
25 know, reaching out to folks as it relates to, you know,

1 whether or not they're still willing to participate, and when
2 he -- if the prosecutor is unable to locate -- see, some of
3 these are, again, pre-'14 cases. So you have people who have
4 moved away, addresses that have changed, and a lot of those --
5 even though criteria two might have been something that would
6 keep it open, if you can't find anybody, you can't talk to
7 them. You know, I think what the prosecutor is doing in those
8 situations is just dismissing those cases. We just have to
9 find a way to show that to the Monitor.

10 THE COURT: Right. Right. If that's what's going
11 on, you need to make sure --

12 MR. CAREY: Right.

13 THE COURT: -- that's something that's -- is apparent
14 to the Monitor, can be shown, and then if it's not going on,
15 you need to make sure it is going on. Right?

16 MR. CAREY: Right. Absolutely. You know, I've had
17 conversations with the City Prosecutor, and I -- you know, all
18 the conversations that I've had with the City Prosecutor has
19 led me to believe that that's exactly what he intends to do
20 and has in fact been doing.

21 THE COURT: Okay. Go ahead.

22 MR. CAREY: The other thing I'd like to touch base
23 about was the -- the CRB. Obviously, you know I've stood
24 before you and talked to you about the CRB being something
25 that I personally have put a lot of work into. I would

1 certainly love to see the CRB at full staff. I would
2 certainly love to be able to tell you that we, you know, have
3 nine members, but I will tell you that, you know, the fact
4 that we haven't appointed folks to the CRB and that we have
5 until March to do so -- you know, we don't want to give the
6 Court the idea that the CRB is, you know, unable to perform
7 its function. I think Mr. Volek told you that they do have a
8 quorum. Now, he's right. It's -- you know, it's -- you know,
9 if two people are absent, then they -- you know, they can't
10 conduct business, but, you know, two people being absent from
11 a six-person group -- you know, that's -- you know, the point
12 is they have a quorum; they're able to conduct business. It's
13 a matter of the City finding the right match, finding the
14 right fit, and finding the right folks who are still
15 interested in being, you know, on the CRB.

16 I myself have stood in public -- the last CRB public
17 meeting and kind of implored people, "Hey, listen. You know,
18 if you're interested, fill out an application. You know, talk
19 to your elected official about, you know, appointing folks to
20 the board."

21 So it is something that's a very high priority for
22 us, but we don't want to give the Court or the public the idea
23 that the CRB is defunct or not functioning because of those
24 open spots. The City is in the process of filling those spots
25 out. We just have lots of stuff going on.

1 THE COURT: But you'll keep working on that because
2 it does seem very important.

3 MR. CAREY: It is.

4 THE COURT: And then what about the training aspect
5 of the CRB? People have said, well, they haven't been fully
6 trained or they don't know.

7 MR. CAREY: Yeah. Yeah. So this issue of an appeal
8 process -- I'm not quite sure where Ms. Clines got this
9 language about the appeals process. The Consent Decree, as it
10 relates to the CRB, does not contain appeal process language
11 that I'm aware of. I think Ms. Clines might have been
12 referring to this issue of when personnel -- when there's a
13 personnel issue that happens in the City, there's an appeal
14 process in our ordinances whereby someone who feels aggrieved
15 by a decision can then take that decision up to another level.

16 THE COURT: What about training in general of the CRB
17 members?

18 MR. CAREY: So we've -- well, as you know, we've
19 completed the first round of training, and how it normally
20 goes is that when -- well, how it will normally -- I guess
21 there's no normal because it's kind of new, but how it's
22 anticipated to go is that when we get new members to come in,
23 we will start that process all over again, and so we hope to
24 have them up and running, training wise, within a month or two
25 from the time that they actually get appointed. The first

1 round of training probably took about three to four months,
2 but we've kind of figured out a way and a schedule to kind of
3 circumvent that depending upon the availability of the
4 volunteer. So the City will do what it can to re-implement
5 that training each time we get new people on board to make
6 sure they're fully ready to go.

7 One of the last points -- you know, again, you've
8 heard this issue, I guess, this elephant in the room, about
9 the Department of Justice's memorandum that was issued by
10 outgoing Attorney General Jeff Sessions and, you know, the
11 implications that it might have on our Consent Decree. So,
12 you know, I think it's fair to say that, you know, obviously,
13 the City of Ferguson has been in a consent decree for several
14 years now, and I think it's fair to say that the City of
15 Ferguson believes in constitutional policing. The City of
16 Ferguson has no intent upon, you know, trying to abrogate or
17 get out from under the current Consent Decree. We've seen the
18 progress that we've made. We're proud as a city of the
19 progress that we've made, but I will say we would disagree
20 slightly with the Department of Justice's position that this
21 memorandum, you know, has no implications at all on current
22 consent decrees. Obviously, when you read through the
23 memorandum, you have -- you know, somebody's looking at what
24 has been done in the past and saying, "Okay. We may have some
25 issues with what has been done in the past, and we may want to

1 address those going forward."

2 Well, obviously, the City, in a consent decree that
3 was issued under a different kind of policy structure, we
4 actually do deal with -- you know, when you read the
5 memorandum, we deal with specific issues related to some of
6 the constitutional concerns and the policy concerns, you know,
7 that are set out here, and I don't want to go too far into
8 detail here because I haven't had an opportunity to talk to
9 the Department of Justice about that. I haven't had an
10 opportunity to kind of let them know what some of the City's
11 concerns are, and this is kind of a public forum, and I don't
12 want to use, you know, like the media or the public forum to
13 do that, but the City does have some legitimate concerns, I
14 think, after reading the memorandum, that it would just like
15 to discuss a little bit further with the Department.

16 THE COURT: Well, I guess I'm not sure I understand
17 that, but I mean, are you telling me -- is the -- is the
18 City -- I guess what I'd like to hear --

19 MR. CAREY: Sure.

20 THE COURT: Is the City still committed to the
21 Consent Decree?

22 MR. CAREY: Absolutely.

23 THE COURT: I mean it -- until -- until this Court,
24 meaning me --

25 MR. CAREY: Right.

1 THE COURT: -- changes the provisions of the Consent
2 Decree, they are -- it does apply to both sides.

3 MR. CAREY: Absolutely.

4 THE COURT: Right.

5 MR. CAREY: And as I stated in the beginning, you
6 know, the City has no -- we have no plans to do anything other
7 than to try to comply.

8 THE COURT: All right.

9 MR. CAREY: But there are some difficulties that need
10 to be discussed and talked about as it relates to the ability
11 to comply, and, you know, it's just something that needs to be
12 discussed and talked about amongst the parties.

13 THE COURT: Well, and this is -- you know, although
14 sometimes we forget that, in a consent decree situation, this
15 is an adversary process.

16 MR. CAREY: Sure.

17 THE COURT: And so the parties are always supposed to
18 be talking about whatever is going on in the case and seeing
19 if there are things that they think are -- should be changed
20 or shouldn't be changed, but then, of course, the Court does
21 have the final ability to decide whether and when to change
22 things. So I mean -- and the way -- just so the public knows,
23 the way it happens is just the way when you all amended the
24 decree for some technical things.

25 MR. CAREY: Right.

1 THE COURT: You all talked about it. You talked to
2 the Monitor.

3 MR. CAREY: Absolutely.

4 THE COURT: You all agreed this was appropriate. You
5 filed a motion. I reviewed it. I decided it was appropriate.

6 MR. CAREY: Absolutely.

7 THE COURT: That's -- you know, that's -- that's very
8 appropriate and normal in all sorts of cases, which is
9 different from saying, you know, we're changing the whole
10 thing.

11 MR. CAREY: Right.

12 THE COURT: These were minor stuff.

13 MR. CAREY: And that's -- and that's one of the
14 reasons that I want to be clear that the City of Ferguson is
15 in no way attempting to get out of the Consent Decree that it
16 is in.

17 THE COURT: Okay.

18 MR. CAREY: You know, we, again, have seen progress.
19 We believe in the progress, but, again, there are some
20 challenges, a lot of which you've talked to us about, and
21 we've -- and I have to stand here in front of you each time
22 and kind of tell you, you know, what's going on, and it wasn't
23 until I read the memorandum that I realized, okay, all right,
24 now I'm making kind of connections between some of the
25 challenges that we have from a constitutional and a policy

1 perspective and some of the roadblocks that we've run into.

2 THE COURT: Well, I'll let you all discuss that.
3 That's not before me today, but I do want -- I just wanted to
4 make sure that both sides are still firmly committed to this
5 policy and to the Consent Decree, and what I'm hearing from
6 both sides is that you are.

7 MR. CAREY: Absolutely.

8 THE COURT: And that's what we needed to hear.

9 All right. Go ahead.

10 MR. CAREY: Other than that, Your Honor, I don't have
11 anything else unless you had a specific question.

12 THE COURT: Yeah, I do.

13 MR. CAREY: Okay.

14 THE COURT: This has to do with what the parties have
15 referred to as a capacity problem or, basically, the need for
16 more resources, I guess.

17 MR. CAREY: Yes.

18 THE COURT: And in particular, the Monitor has
19 suggested that what is necessary is that the City needs to --
20 we need -- you know, somebody needs to be in charge of the
21 training; somebody needs to be in charge of the data and the
22 analytics of the data, which I think that person doesn't exist
23 in the City right now, as I understand it.

24 MR. CAREY: Well, we --

25 THE COURT: And then also there's -- you know, is

1 the -- I'm leaving out -- there were three things, and then
2 the fourth was overall the Consent Decree Monitor.

3 Ms. Tidwell --

4 MS. TIDWELL: Community engagement.

5 MR. CAREY: Community engagement.

6 THE COURT: Community engagement. Thank you. Those
7 are the things that the Monitor has repeatedly suggested that
8 you need to, you know, do what you can do to get people
9 assigned to those positions or hired for those functions.
10 Tell me where you stand on that.

11 MR. CAREY: Yeah. So, you know, I don't know that
12 it's fair to say that those people don't exist in the City
13 right now.

14 THE COURT: Right.

15 MR. CAREY: The issue is that, you know, we don't
16 have dedicated people specifically doing those tasks. We have
17 a training coordinator that we have engaged. We have, you
18 know, folks who are doing community engagement. You know,
19 community engagement -- as I spoke about last time, it's more
20 of a grass roots thing. It comes from the field and grows up,
21 and so, you know, the City's been doing for years -- prior to
22 the Consent Decree being implemented, had a schedule of
23 community engagement events that -- and, largely, they
24 surround holidays. Sometimes, they, you know, are just
25 regular, like the attending of neighborhood group meetings and

1 these kinds of things. Tree lighting ceremonies. The FPD has
2 a pool party. They participate in parades. You know, all
3 these types of things that we've been doing.

4 And so the issue is we need to have -- you know,
5 according to certain interpretations of the document, we need
6 to have one, you know, like a person doing those things.
7 Well -- or at the very least, making it easier for the Monitor
8 to be able to tell that we're doing those things.

9 And so we are still -- you know, obviously, we don't
10 have a chief, and then in the interim, we have an interim, a
11 chief who was our Consent Decree Coordinator. So we sort of
12 have a chief/coordinator. And so the process of that has been
13 slowed. You know, the process of getting that situation to a
14 point to where we can, you know, move forward -- I think it's
15 probably fair to say it's been slowed by the fact that we
16 don't have a chief and that we need a new consent decree
17 coordinator, but it should be known by the public that
18 community engagement is happening in the City of Ferguson.
19 And, you know, anytime the Monitor wants to know what the
20 City's done for community engagement, you know, we just send
21 her a list of what it is, you know, what we've been doing.

22 From the standpoint of data collection, we're
23 starting -- and that's another position that I think the
24 Monitor talked about.

25 THE COURT: Yeah, the data collection is the one that

1 seems to me that, you know, that is -- without the ability to
2 have the data and have it collected, the Monitor can't tell,
3 you know, where the compliance is.

4 MR. CAREY: Yeah.

5 THE COURT: I mean this is pretty important, and
6 that's the function that seems to me -- I don't see where it
7 is scattered throughout the other employees or functions you
8 have already within the police department.

9 MR. CAREY: Right. And so we do have -- obviously,
10 we have a police -- a system that we use to collect data.
11 It's more about the organization of it --

12 THE COURT: Right.

13 MR. CAREY: -- I think and organizing it in a way
14 that's clear and concise so that we can (a) let the Monitor
15 know what we're doing and then (b) let the public know what
16 we're doing, and so this process that we've started on with
17 the Department of Justice in filling out the template that
18 they've given us is -- basically, what it does is it lets us
19 know what they would be looking for, who's collecting it, and
20 where it's located, and I think once we get through that
21 process, then it would be a lot easier for the City to say,
22 okay, you know, here's the realm of or the universe of things
23 that we need to collect. Now, I'm not -- you know, in the
24 interim, we still need to -- and I think, as a matter of fact,
25 the City Manager -- you know, had a conversation with him

1 about a month ago about hiring someone to help free up some
2 labor for purposes of this data collection function, and so we
3 are still, you know, in the process of doing that.

4 THE COURT: Right. So I think what she said --
5 Ms. Marks, I believe, said that you all had completed that
6 template for 67 parts of the use-of-force things.

7 MR. CAREY: Right.

8 THE COURT: But then you're going -- once you get
9 that done, you're moving on to the next segments; right?

10 MR. CAREY: Sure.

11 THE COURT: So we can do that. Okay. All right. Go
12 ahead.

13 MR. CAREY: Yeah, but at the same time,
14 simultaneously, the City is still attempting to find ways to
15 free up labor, whether that be hiring a specific person to do
16 just data analysis or whether that's hiring someone to free up
17 somebody who was already there to do data analysis. You know,
18 there's a bunch of *Terry* constraints that, you know, we
19 just -- we have to sometimes be creative as it relates to
20 those kinds of things.

21 But the data collection is happening. We don't
22 want -- that's the one thing we want to -- we want to make
23 sure that the public knows that the data collection is
24 happening. We just -- it's -- it's more of an issue of
25 organizing it and presenting it that -- where we're struggling

1 right now.

2 THE COURT: All right. Anything further?

3 MR. CAREY: No, I don't have anything else.

4 THE COURT: All right. Ms. Tidwell.

5 MS. TIDWELL: So where to begin? So I'll begin -- I
6 guess I'll go backwards with Mr. Carey's last comments about
7 the need for a community engagement or outreach coordinator.
8 The Consent Decree does not require or necessarily speak to
9 specifically the number of ice cream socials or tree lightings
10 and things like that that the police department attends, and
11 not to diminish the importance of those things, but the
12 Consent Decree speaks to sustained partnerships between the
13 police department and the community, developing a policing
14 approach that values the community's input and puts a
15 premium -- whether it's in how you evaluate officers and what
16 they're doing -- puts a premium on relationships, sustained
17 involvement between the police and the community. One way is
18 through the structured dialogues with a neutral facilitator
19 that are supposed to happen monthly between officers, every
20 officer, and the police and the community. So the suggestion
21 or sort of the recommendation that the City engage a community
22 outreach coordinator or identify someone is someone to help
23 them to do that, to help them to be strategic, and it can
24 include officers going to -- conducting the kinds of social
25 events that Mr. Carey spoke about, but it's really much more

1 than that. And when the Monitoring Team provided the City
2 with job descriptions for community outreach coordinators from
3 other departments that Mr. Carey at the last hearing spoke of
4 as those being helpful, there was nothing within those job
5 descriptions that talked about the kinds of -- that spoke of
6 community engagement in the way that Mr. Carey has referred it
7 today.

8 So we would, again, look to the Consent Decree in
9 what the expectation -- our expectation or our understanding
10 of what the Consent Decree contemplates by community
11 engagement to include an approach to problem-solving policing,
12 to include the deployment of officers in strategic ways so
13 that they can talk to the community about quality of life
14 issues. So it's not merely about what -- so that the Monitor
15 can see that it's being done. It's about building these
16 relationships so they sustain and they last long beyond the
17 Consent Decree.

18 So I'm hopeful that the City will return to whether
19 it was the suggestion of a three-part funding of a community
20 outreach coordinator position to get to implementation of some
21 of these community engagement pieces, but, certainly, we are
22 troubled that it's -- if I misspoke or if, in our reports, we
23 weren't clear that our view of a community engagement person
24 is not someone who attends just these activities, it really is
25 about much more. It is about paragraphs 28 and 29 in the

1 Consent Decree that talks about structuring patrol areas
2 around specific boundaries, through supervision and
3 evaluation, encouraging direct officer/resident
4 communications, and assigning officers to specific areas to
5 allow for neighborhood problem-solving projects and assigning
6 officers to those areas. We think a community engagement
7 coordinator would be extremely helpful in that regard, and
8 that's why we have repeatedly made that recommendation and we
9 hope that the City will -- will get that done in the near
10 term.

11 THE COURT: And just so it's clear, I don't think
12 there's any doubt that you've been very clear about that.

13 MS. TIDWELL: Okay. Thank you.

14 THE COURT: And that is something that I think the
15 City really does need to -- to work on. Go ahead.

16 MS. TIDWELL: So the next point was this discussion
17 about the appeals process that Ms. Clines raised when she was
18 making her public comment. I was at the meeting of the CRB
19 with the CRB Task Force, and we asked them to come together
20 because the CRB Task Force has, under the Consent Decree, a
21 requirement to assess what the CRB has been doing. If it --
22 if the CRB Task Force created or outlined policies or
23 recommendations for the creation of the CRB which were
24 adopted, I think, in whole by the Consent Decree and under the
25 Consent Decree, you know, it was time for them or the question

1 was whether it was time for them to come and see if what they
2 envisioned had come to fruition. And our discussion was
3 mainly about the fact that the CRB -- because it's been slow
4 going, the disciplinary matrix hadn't been developed or the
5 whole suite of accountability policies weren't fully
6 developed. So there was not enough stuff for the CRB Task
7 Force to assess, to meaningfully assess, even though the
8 Consent Decree called for it within one year after the
9 CRB's -- the CRB was established.

10 But during the meeting, the question of the appeals
11 process came up, and my takeaway from the meeting is that the
12 task force, of which Ms. Clines was a member -- when they
13 developed policies or recommended policies for the CRB, they
14 included an appeals process within that, and the CRB members,
15 who were in attendance -- there was some confusion as to
16 whether or not that had been communicated to them or whether
17 that was reflected in their own bylaws. So I don't think
18 that -- and I don't know. I haven't had a chance to go back
19 to the CRB Task Force Report and Recommendations and the CRB's
20 running policies or the protocols that are in place, but there
21 does seem to be some disconnect between the two, and
22 Ms. Clines is -- you know, her concern is well-founded because
23 it appears that the task force intended an appeals process,
24 and whether or not that made it into their bylaws appears to
25 be the open question, and I hope that we can resolve that

1 relatively quickly.

2 THE COURT: Right. So I would hope you and Mr. Carey
3 can talk about that and see where you go. And Mr. Volek.

4 MS. TIDWELL: I think so. Where to go from there,
5 yeah.

6 I will say I think, Your Honor, with your questions
7 about the amnesty cases, particularly, where they relate to
8 criteria two -- I think that they reflect the Monitor, our
9 view of what needs to be done, the next step in determining
10 whether or not those cases should be kept open.

11 Finally, oh, just a couple more points with regards
12 to the bias-free policing policies and the prioritizing that.
13 I would note, as Mr. Carey said, that I think within six
14 months to a year of the Consent Decree's implementation, the
15 parties agreed to priority areas, six of them, and bias-free
16 policing was one of them, and they have gotten to the other
17 five. Bias-free policing is the next one, but the fact that,
18 you know, it's taken this long to get to what has been
19 identified by the parties from the beginning as a priority
20 area is entirely a reflection of, you know, we had one person
21 in the Ferguson Police Department writing policies, and this
22 just has been how work has flowed from there, but I do note
23 that the policies from the parties from the beginning have
24 noted that bias-free policing and court practices and policies
25 are a priority area, and I hope that as the work plan lays out

1 in the status report that that's something -- it would be
2 great if they got it done before then, but I was mindful of
3 sort of where they are in the process and who -- how many
4 people are working on this, and I thought that July 2019 for a
5 draft was -- was a fair assessment, a fair and realistic
6 assessment.

7 Finally, with regards to the memo related to DOJ, I
8 would just say from where I stand that the Department of
9 Justice commitment to this Consent Decree has been unwavering,
10 and I haven't noticed any change both from the time of the
11 memo or before where post election there was certainly some
12 comment about consent decrees moving forward. I welcome and
13 look forward to hearing from Mr. Carey about his concerns that
14 he's expressed, but just, you know, I think it's worth noting
15 that -- and I noted this in the status report -- that in this
16 first two years or so, in terms of policy development, DOJ has
17 done, I think, more work on that than could probably be
18 expected of any sort of party to a consent decree, and my
19 concern is that, now that we move to training and
20 implementation, they're not going to be able to take on that
21 much of the work going forward, and the City is going to have
22 to take the lead on many of those things, and that is my
23 concern, not that they are stepping away or stepping back, but
24 just in the way that policing works in terms of training and
25 implementation, the police department and the City has to do

1 that. And so the DOJ, you know, has been helpful and can be
2 committed and can do what they can, but really, as we move out
3 of policy development with these last few very important
4 policies, there are just a few more that -- a few more policy
5 areas that we're dealing with that the City is going to have
6 to step up its game, to sort of put it bluntly, Your Honor,
7 and that's all I have.

8 THE COURT: All right. Well, I do think, you know,
9 we are entering -- you know, we've got a lot more work to do,
10 of course, but this is getting to be a crucial time where I
11 think the City does have a lot, a lot it's going to need to do
12 because the implementation and training is -- is the next step
13 on some of the -- many of these things. I think the work plan
14 is a good summary of what should happen. It's realistic. I
15 realize, again, it's not as fast as what was contemplated by
16 the decree or what we would all like in a perfect world, but
17 it's realistic, and I do think that some of these things do
18 need to be followed up with in terms of the -- you know, if
19 there is a disconnect with the CRB Task Force and what it
20 was -- what was expected to be done, that needs to be looked
21 at. I think the issues the Monitor has raised about data
22 collection or data -- data analysis is important and that
23 the -- as the community outreach function is also important,
24 and I don't think there's any doubt that it is more than --
25 than simply the social issues, which I'm not discounting.

1 They're important, but there has to be more than ice cream
2 socials. And, again, I appreciate what the City has done. I
3 think the City's come a long way, but there's a lot more work
4 to be done, as everyone here recognizes.

5 So we will continue this process. I will consider
6 the issues the public members have raised about having public
7 comments more frequently, but I do want to continue to
8 encourage the public to reach out to the Monitor, reach out to
9 the mediation -- Community Mediation group, if you think that
10 could be helpful, and, you know, these -- these hearings I'm
11 having are not the only way that you can be heard if there are
12 things that need to be raised more quickly than my hearings
13 will have, but I will consider whether we should allow public
14 comment more frequently.

15 So with that, I appreciate everyone coming. I
16 appreciate the interest that everyone continues to have in
17 this. I think -- I think that real progress is being made.
18 It is -- and has been made, particularly, in the court system
19 but also in the other issues that now we do have policies on,
20 these various policies that are now out for public comment or
21 have been commented on, and I know that writing those policies
22 has been an extremely -- it's a lot of work, and so I commend
23 the parties for getting it done because it's not something
24 that you can just sort of whip out on the back of a napkin.
25 It's a lot of work, and I think the parties have done a lot of

1 work on that. So now that we've got those policies going
2 forward, we'll work on the next ones, and we'll see the
3 implementation and training.

4 All right. Thank you, all. Court's in recess.

5 (Proceedings concluded at 3:19 p.m.)

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CERTIFICATE

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

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

I further certify that this transcript contains pages 1 through 93 inclusive.

Dated at St. Louis, Missouri, this 16th day of January, 2018.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter