

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

APRIL 3, 2019

**APPEARANCES:**

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

For Plaintiff:             Jude J. Volek, Esq.  
                                  Charles Wesley Hart, Jr., 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  
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(Produced by computer-aided mechanical stenography.)

1 (Proceedings commenced at 3:04 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, Case No. 4:16-CV-180. We are here for a quarterly  
5 status hearing in court, and there are some members of the  
6 public here, I see. This is one of the hearings where we are  
7 not scheduled to hear comments from the public, but we do have  
8 with us the Monitor, Ms. Tidwell. From the United States  
9 Department of Justice, we have Mr. Volek and Mr. Hart. And  
10 then for the City of Ferguson, we have Mr. Carey.

11 All right. So as we've done in the past, I'll start  
12 by asking the Monitor to tell me where we stand on things and  
13 how things have been going until the -- you know, hear any  
14 report you wish to make. Obviously, there have been things  
15 going on, I know. So . . .

16 MS. TIDWELL: Thank you, Your Honor, and good  
17 afternoon. I will leave to the parties sort of some of the  
18 specifics with regards to developments in policy. I know  
19 they've had -- they have some policy forums scheduled.  
20 They've done -- some public comment periods have expired. I  
21 believe one is ongoing now. I believe there are some staffing  
22 issues, some openings and application processes that I think  
23 Mr. Carey can speak to.

24 I -- in keeping with the duty of the Monitor to  
25 provide periodic status updates, we are currently preparing a

1 status report for the spring of 2019, a status report which  
2 will cover the period ending March 31st, 2019. We hope to  
3 have that to the parties by the middle of this month for their  
4 review, and then we will file it with the Court at the end of  
5 this month or the first week of May depending on how the  
6 back-and-forth goes with the review period.

7 One of the things that's been really helpful in terms  
8 of putting the status report together is having the work plan  
9 and the City's willingness and cooperation in filling it in  
10 and letting us know where they -- how things are progressing  
11 in certain discrete tasks. So we received an update from  
12 Mr. Carey yesterday, and we are sort of working through that  
13 so that we can incorporate their comments into the work plan.  
14 We'll have to get back to them on some things, some issues  
15 that we're unclear on, but what we've also asked -- in  
16 addition to the items that are coming due or are past due in  
17 some instances, we've asked the City to also provide us with  
18 the -- some indication of their forward thinking on things  
19 that may come due that are earmarked for June or July of 2019,  
20 to sort of let us know that they're working incrementally on  
21 those things as well. So, hopefully, with this new process,  
22 we'll be able to update the Court in a more timely manner and  
23 also work together to -- to get everything accomplished within  
24 the year as is outlined in the work plan.

25 Some of the specific items that are in the work plan

1 that I just wanted to highlight for the Court. With regards  
2 to training, the work plan asked the City to identify, to  
3 designate the members of the Training Committee, as is  
4 required under the Consent Decree, and we asked that those  
5 names be provided to us by December 31st, 2018. The City  
6 responded that the Training Committee was established in the  
7 winter of 2017 and that it includes members of the police  
8 department as well as members of the public.

9 So given that the Training Committee appears to be a  
10 functioning unit, the Monitoring Team will move up auditing of  
11 the work of the Training Committee probably to sometime this  
12 spring so that we can see what has been done in the past and  
13 hopefully sit in on a meeting or two and ask Mr. Stewart to  
14 come down to see what the work of the Training Committee is.

15 In addition, the training schedule is something that  
16 the City is -- I think it was -- we had asked for that by the  
17 end of March or, perhaps, the end of April. We did receive  
18 some -- a schedule from the City that appeared to be courses  
19 that were available statewide for state certification in other  
20 areas. We're hoping to get something that's a little bit more  
21 centered around the Consent Decree and sort of what the plan  
22 is for training in those areas, and I think the work of the --  
23 I think the Training Committee can be really helpful in that.

24 The City is also working on a training plan and has  
25 reached out to our subject matter expert, Bob Stewart, for

1 some technical assistance on that. They provided him with a  
2 draft sort of outline of what they intended to do, what -- you  
3 know, their thoughts on the training plan. I know that he  
4 provided them some comments to their draft, and I believe he's  
5 just waiting to hear back from them on that.

6 So I think once we get sort of all of these different  
7 pieces, whether it's the Training Committee, get the training  
8 plan, and get sort of a cohesive, more collaborative effort,  
9 we can then move to get the schedule so that it's not just a  
10 schedule of available courses throughout the state; it's  
11 actually a schedule that speaks specifically to what officers  
12 in Ferguson will be attending and how those training sessions  
13 comport with the Consent Decree and meet with the requirements  
14 of the Consent Decree.

15 One other piece of the work plan that was -- that we  
16 had staggered in the -- for the City -- because our view with  
17 regards to community engagement was that a staffing plan and a  
18 shift schedule, a deployment plan, needed to be put in place  
19 before a community engagement plan could be fully developed.  
20 So in order to know how neighborhood policing was going to  
21 work or how you're going to deploy officers to fulfill your  
22 community engagement plan, the issue of the shift schedule and  
23 how officers are going to be deployed in patrol areas needs to  
24 be -- needs to be settled, and so we're hoping -- the concern  
25 is that the City is putting the cart before the horse in some

1 ways. So they're working on the community policing plan, and  
2 it looks like they maybe are starting to work on the community  
3 engagement plan, but it is part of the deploy -- the  
4 deployment issue needs to be worked out, and the shift  
5 schedule issue needs to be worked out before a really -- a  
6 community engagement plan that has specific goals and targets  
7 and incorporates problem-solving policing -- before it can be  
8 fully developed, there has to be some sort of settlement on  
9 the shift schedules and how officers are going to be deployed  
10 and how communication is going to flow from community meetings  
11 down to -- from the higher levels of the department down to  
12 officers every day.

13 THE COURT: Right. And this has to do partly with if  
14 people -- if the shift -- if the staff -- if the shifts are  
15 always shifting, there's no continuity of people to be  
16 involved with the community; right?

17 MS. TIDWELL: Right. And having specific officers in  
18 specific areas or the challenges of a 10-hour shift to  
19 implementing community policing is something that we've talked  
20 about since the beginning, and so I think we've reached a  
21 point now that we -- we have a community policing policy, but  
22 now we need to get from sort of the general -- the community  
23 policing policy talks about the philosophy of community  
24 policing and sort of some of the ideas, but getting to the  
25 specific of how are you going to do it requires some sort of

1 confirmation or cementing of where officers are going to be  
2 deployed and how communication is going to flow with regards  
3 to problem-solving and other community engagement initiatives.  
4 The City has designated a community engagement coordinator,  
5 and so we're hoping that with that we can start to -- to put  
6 all these different pieces in place.

7           One other part of the upcoming status report will  
8 include a report on the September municipal court audit. So I  
9 believe I gave the Court a summary of that in the immediate  
10 aftermath of that audit last September. Ms. Aghedo, from our  
11 firm, was here in Ferguson last week to do the March municipal  
12 court audit, and I will just touch on some of the pieces of  
13 that for the Court in a moment, but in terms of other audits  
14 that are scheduled for this -- for the winter of 2019 within  
15 this reporting period, we are going to send notice to the City  
16 of the use-of-force audit, and I think what we -- the notice  
17 will just include our request for all of the use-of-force  
18 reports. I think we had asked the City to provide us with a  
19 number. I believe it was 78 for the period that we had looked  
20 at. So we'll be looking for all of those. We will provide  
21 the parties with sort of a review sheet or a review instrument  
22 that we'll use that Mr. Stewart developed that will indicate  
23 what we're looking for with each use-of-force report, with the  
24 understanding that with the new use-of-force policy and the  
25 new reporting form, that some of the things that the Consent

1 Decree requires will not be reflected on the existing  
2 use-of-force reports that were filled out, but the idea is  
3 just to look at what they have now so we can develop that sort  
4 of baseline for moving forward, and I think it's a good time  
5 to do that now that the use-of-force policies have come down  
6 from the public comment and are now being the subject of roll  
7 call training. So we'll start that audit, hopefully, in the  
8 next few weeks or so, but we will get the notice to the  
9 parties within the next couple weeks.

10 We had a -- we were on schedule, according to the  
11 work plan, for an audit in Internal Affairs, but we're still  
12 awaiting the tracking sheet from the City, which has been the  
13 subject of some discussion. So we'd like to just get a better  
14 idea of what exists in terms of complaint investigations  
15 within the City so that in our audit this spring we can -- I  
16 anticipate that we'll be asking for the entire population. I  
17 don't know how far back we'll go. We just want to get a sense  
18 of what they actually have in-house before we make a formal  
19 audit request in that area.

20 With regards to the recent court audit, which  
21 Ms. Aghedo completed last week, there are a couple of items  
22 that the parties have indicated or at least the City has  
23 indicated in their response to the work plan that they will be  
24 seeking additional guidance or additional discussion with the  
25 department about. One is paragraph 329 which requires the



1 City to publicize by means other than the website certain  
2 activities of the municipal court, and I think there was some  
3 discussion of what the Consent Decree intended by that, what  
4 kind of measures the City can take to fulfill that requirement  
5 to educate the public about what the -- what's happening at  
6 the court and how people can resolve their cases.

7 Another area where the parties are going to -- are  
8 engaging in some discussions, as my understanding, is about  
9 the good-cause criteria, specifically, number two, which is  
10 the available witness or victim who is willing to assist in  
11 further prosecution of one of the pre-2014 cases. During the  
12 last -- during last week's audit, Ms. Aghedo reviewed roughly  
13 10 percent of the cases that were identified as being left  
14 open under criteria number two. We did -- she did not  
15 observe, with the exception, I think, of one case, any  
16 notations or anything that indicated that there had been  
17 activity on that, on the cases in the last couple of years.  
18 So we would -- but there were cases that she noticed that  
19 could possibly be kept open under the catchall criteria, which  
20 permits the prosecutor to keep a case open under the  
21 good-cause criteria if it's in the interest of justice to do  
22 so. So some of these cases might fall within those, but that  
23 would require sort of a separate writing by the City  
24 prosecutor to reflect that. So we're still in the absence of  
25 an agreement from the parties as to what criteria -- what will

1 become of criteria number two. We will continue to report as  
2 we see in our audit that these -- that the second prong of  
3 criteria number two, specifically, the witnesses' willingness  
4 to continue prosecution, has not been met.

5           The City -- the court has made great progress in  
6 keeping updated contact information for defendants who appear  
7 in court, which will hopefully lessen the amount of default  
8 warrants and things of that nature.

9           We would be remiss if we -- I know Mr. Carey will  
10 talk about staffing issues during his time up here, but we  
11 would be remiss if we did not thank Judge Brown and  
12 Ms. Lanfersieck for their hard work. We know that they are  
13 soon departing, if not already departing. So we are -- the  
14 Monitoring Team is very grateful. I know Ms. Aghedo is truly  
15 grateful, and she speaks very highly of their hard work, and  
16 they will most certainly be missed in this process.

17           And, finally, Your Honor, with regards to the  
18 community survey, we just have been making some final edits,  
19 cosmetic edits, to it. We anticipate that it will be live and  
20 ready to be completed by anyone willing and able to do so via  
21 the online portal, which will be up and running, we hope, by  
22 the close of business today, if not tomorrow morning. The  
23 plan after that will be to have paper copies made available at  
24 three locations within the city. That's the library, City  
25 Hall, and the Urban League. So we will have paper copies

1 available there. There are public computers available at the  
2 library and at the Urban League for people who want to fill  
3 out the survey there. We have a flyer that we have developed  
4 that our community engagement coordinator, Mr. Parish, will  
5 put up at various locations throughout the city. But the  
6 survey will ask for perceptions and experiences with both the  
7 police department and the municipal court, and we're going  
8 to -- the plan is to leave it open until after the 4th of July  
9 weekend. So the Police Foundation has the ability to sort of  
10 check in to see, you know, where -- based on one of the  
11 questions which asked the survey takers to identify which ward  
12 in the city they're from, we can hopefully sort of target  
13 specific areas that don't -- where we don't see a lot of  
14 responses and maybe amp up advertising or promotion of the  
15 survey in those areas. The parties --

16 THE COURT: Yeah, so you -- in terms of the  
17 promotion, you have a flyer telling people how to find it,  
18 where it is, and what the time period is, I assume?

19 MS. TIDWELL: Yes, that's right.

20 THE COURT: Okay.

21 MS. TIDWELL: And then we'll also -- we'll send that  
22 message out via our listserv. We'll ask the parties to do the  
23 same. The City has agreed to promote it via their social  
24 media account, and we've also had discussions with the Youth  
25 Advisory Board to hopefully -- given parental consent issues,

1 if we can iron that out, that they would host, you know, maybe  
2 sort of an evening where their population can take the survey  
3 as well. So we'll be able to, in real time, see how many  
4 respondents, how many responses are coming in and, hopefully,  
5 sort of look to specific areas to increase it where necessary.

6 And that's it for me, Your Honor, unless you have  
7 some questions.

8 THE COURT: I think that's -- I think I do not right  
9 now, but I'll wait and see if any arise after I hear from the  
10 parties.

11 MS. TIDWELL: Okay. Thank you, Your Honor.

12 THE COURT: Thank you. And I would just add I know  
13 that the -- the -- we're -- I know that Judge Brown is  
14 leaving, and I want to thank you for your service on this and  
15 as well as the court -- other court officials.

16 Yes, Mr. Volek or Mr. Hart, whichever of you wishes  
17 to speak.

18 MR. VOLEK: Thank you, Your Honor. I'll provide just  
19 a supplement to Ms. Tidwell's update to the Court. We look  
20 forward to reviewing the results of the spring -- of the last  
21 audit in the spring audit report.

22 I'll start by talking about the Ferguson Municipal  
23 Court because it is one of the areas that has had the most  
24 progress of Consent Decree implementation. To begin, as we've  
25 talked about in the past, the court policies are almost

1 entirely done that are required by the Consent Decree. These  
2 policies range from ensuring that people who are unable to pay  
3 have an adequate ability-to-pay determination and understand  
4 the right to have that ability-to-pay determination be made  
5 and that they have other options besides paying fines that  
6 they owe if they can't afford to pay them for resolving their  
7 cases. These policies are finalized. They will soon be up on  
8 the Court's website after some final proofreading. There are  
9 a few outstanding policies that still need some work. We had  
10 a very productive conversation with Judge Brown and  
11 Ms. Lanfersieck from the court on a policy to address  
12 paragraph 359, which is about diversion of individuals with --  
13 individuals with mental health issues from the court and from  
14 the criminal justice system, and so we're going to work on a  
15 policy to address that. But we are extremely pleased with the  
16 progress that's been made at the court through the hard work  
17 of Judge Brown and Ms. Lanfersieck and others, including  
18 Mr. Carey. There has been a real transformation inside of the  
19 court on paper, and from the audits of the Monitoring Team, it  
20 appears in practice as well. We will continue to work  
21 together to finalize those last remaining policies.

22           The other aspect that has occupied a lot of time is  
23 the amnesty provisions of the Consent Decree. Happily, we are  
24 nearly done with that process as well. All in, as I reported  
25 at the last quarterly status conference, there have been

1 44,000 cases dismissed. This has taken a lot of work to  
2 identify the cases that fall within the amnesty provisions of  
3 the Consent Decree, and we are grateful to the City officials  
4 who have done that work. The remaining items under the  
5 amnesty provisions involve cases that were initiated before  
6 January 1st of 2014. If you remember, there were 7,900 such  
7 cases. About 6,400 still remain. Of those, 1,500 or so, 500  
8 fall within good-cause criteria number two, which provides  
9 some mechanism to continue prosecution if there is an  
10 identified victim who is identified and willing to assist with  
11 the ongoing prosecution of the case. We've been approached by  
12 the City to address that good-cause criteria and to possibly  
13 modify it. We're in talks with the City about that. We sent  
14 an email response on March 8th regarding their proposal, and  
15 we welcome further discussions on that to try and address  
16 that. We hope that those discussions will -- will result in  
17 some good outcome. At the end of the day, we are nonetheless  
18 impressed that there have been so many -- so much progress in  
19 this area of the Consent Decree, and we're very pleased that  
20 we have the universe of outstanding work narrowed down to  
21 those 500 or so cases.

22           On the occasion of Ms. Lanfersieck and Judge Brown's  
23 departure, we do want to take an extra moment to thank them.  
24 As we have been saying for the last several quarterly status  
25 conferences, this is one area of the decree that has been very

1 successful, that there has been a lot of progress made. There  
2 is still work to be done, to be clear. Nobody would deny  
3 that, but we really appreciate their diligent effort. We  
4 understand that there's an interim judge who has been  
5 identified, and we look forward to working with him, and we  
6 are hopeful to continue this work with whoever -- whoever is  
7 in place.

8           On to the police department specifically, we really  
9 want to commend those within the Ferguson Police Department as  
10 well. We've been working very closely with Acting Chief  
11 McCall and Lieutenant Dilworth in particular who have been  
12 extremely dedicated to the work at hand. I'll start by  
13 talking about the policy review process. As Your Honor is  
14 aware, due to community feedback, we modified the policy  
15 review and revision process. At the beginning, we had an  
16 occasion for public input at the front end, where we had  
17 policy forums to solicit ideas about what should be included  
18 in policies, and based upon feedback, including feedback  
19 received during these quarterly status conferences, we added a  
20 public comment period at the end. After the policy forums,  
21 after we work with the City to identify policies and to revise  
22 those policies, we publish the policies and receive feedback  
23 and then try to incorporate those comments where appropriate  
24 and then finalize the policies themselves. That process has  
25 been going really well. It's a highly effective process, and

1 I'm pleased to report that the force policies are now  
2 finalized and have been approved by the Monitoring Team.  
3 They've been issued to officers. They are not in effect yet  
4 until roll call training can happen, of course, but they will  
5 be made public very soon as well. We really want to extend  
6 our appreciation to all the members of the public who took the  
7 time to weigh in on these policies. Their comments were  
8 thoughtful, insightful, and extremely helpful towards making  
9 the force policies reflect not only what the law requires and  
10 best practices in policing but also community concerns.

11           Just to hit some highlights to underscore how  
12 important this is, the force policies now require the  
13 provision of emergency medical care if there is a use of  
14 force. The force policies include extensive de-escalation  
15 tactics including, per community feedback, requirements that  
16 de-escalation be deployed early in an encounter and throughout  
17 the encounter. The force policies also include a duty to  
18 intervene. So if an officer witnesses another officer using  
19 force, they have a duty within policy to intervene to stop  
20 that unlawful use of force or that force that's out of policy.  
21 And there's a prohibition against using force against verbal  
22 confrontation alone. These are just a few of the key  
23 provisions that are now cemented into Ferguson Police  
24 Department policy. This is a very significant step forward.

25           In other policy areas, we've also received some very



1 meaningful and helpful comments. Community policing -- that  
2 was developed in tandem with -- in consultation with the  
3 Neighborhood Policing Steering Committee. We also made  
4 that -- the Ferguson Police Department also made that policy  
5 public to solicit more community feedback. We received those  
6 comments. We've worked with the City to incorporate those,  
7 and that policy should be made public very soon and finalized.

8         Next, the body-worn camera policy. We opened that up  
9 for a public comment period, and we received a number of very  
10 helpful comments, and we're in the process now of working with  
11 the City to incorporate those comments appropriately.

12         The public comment period for the accountability  
13 policies is technically over, but the policies are still up on  
14 the Ferguson website if anybody wants to continue to comment.  
15 We'll leave those up until the next suite of policies, the  
16 stop, search, and arrest policies, are put up for public  
17 comment. Those should be posted soon. One thing to note  
18 about the accountability policies -- they include the policies  
19 regarding mediation, and as we noted last time, the Community  
20 Mediation Services of St. Louis has very generously agreed to  
21 help the City comply with those portions of the Consent Decree  
22 that relate to community mediation, and as soon as those  
23 policies are finalized, that mediation program will be ready  
24 to get underway, which is going to be a big step forward.

25         Finally, as Ms. Tidwell mentioned, we do have a

1 policy forum scheduled in the next couple of weeks. On  
2 April 14th and 15th, there will be a series of policy forums  
3 on the bias-free policing policy. After that policy forum, we  
4 will follow the same path, work with the City to revise the  
5 bias-free policing policy, and then solicit public comments at  
6 the end of that process. All in, we're very pleased with this  
7 new process, and we've adhered to it quite well due, in large  
8 part, to the efforts of members of the Ferguson Police  
9 Department.

10 I'll next turn to training. Now that there have been  
11 finalized force policies, roll call training is critically  
12 important. That training has begun. In-service training is  
13 still needed, and as Ms. Tidwell reported, we're waiting on a  
14 few different things -- a training plan, a training schedule.  
15 Hopefully, in the next few months, working with the Training  
16 Committee, there will be some meaningful progress there, but  
17 Lieutenant Dilworth has been extremely helpful in putting  
18 those roll call trainings together.

19 A lot of our focus in the last few months has been on  
20 data collection. The department is working very hard with our  
21 team. We've dedicated a lot of attorney hours ourselves to  
22 try and help the department by creating a template for each  
23 area of the Consent Decree. That template basically goes  
24 through the different data collection requirements for, say,  
25 use of force and says here's what's needed, is this piece of

1 information collected now, and if so, where is it collected;  
2 if it's not collected yet, where should it be collected?  
3 Figuring out what data is required by the Consent Decree,  
4 figuring out the answers to those questions is a very  
5 time-consuming process, and Lieutenant Dilworth has been at  
6 the helm of that for the department and has done a really  
7 admirable job, working a lot of extra time to get that done.

8           Where we are now is we are through filling out that  
9 template for the force section and we've begun revising the  
10 force reporting forms to make sure that they accurately  
11 capture the data that's needed by the -- required by the  
12 Consent Decree. We've now started to turn to the stop,  
13 search, and arrest and bias-free policing sections as well.  
14 Lieutenant Dilworth has begun going through those templates  
15 and filling out those key indicators. This is a really  
16 arduous process. It is complicated by the fact that there are  
17 two different systems that FPD is using. It's also  
18 complicated by the fact that there's no real data expertise  
19 within the department, and while the Monitoring Team is trying  
20 to give technical assistance with Ms. Goodrich while we are  
21 trying to do what we can by devoting a lot of attorney hours  
22 to this, Lieutenant Dilworth is doing a lot as well and taking  
23 on the lion's share of the work. This is a very difficult  
24 process, and it would be streamlined with a bit of technical  
25 assistance. That's what we've been spending a lot of our time

1 working with the City and with the department on.

2 We do have some enduring concerns that we've  
3 addressed in the past. One relates to the Civilian Review  
4 Board vacancies. This has been a discussion at several of our  
5 last status conferences. As far as we understand it, there  
6 are still three vacancies on the Civilian Review Board, but I  
7 understand that the last Civilian Review Board meeting  
8 couldn't happen because there wasn't a quorum. To its credit,  
9 the City Council filled one position, but there was a further  
10 resignation after that. So we're back to three vacancies.  
11 We've asked for information about does the council have  
12 applicants; we received a list of 19 people who had applied to  
13 serve on that board. We asked for follow-up information as to  
14 whether there was any information about any of those folks  
15 pulling out of the process, and there wasn't any, and so we  
16 hope to meet with the council about this. We requested a  
17 meeting. Before the holidays, we requested a meeting and had  
18 a meeting on the calendar for March 26th. That got postponed.  
19 We tried to meet this week. That wasn't possible either. But  
20 we now have a meeting, hopefully, later this April, and so at  
21 that point, you know, we really hope that this issue can be  
22 resolved. This seems manageable, and it's obviously of  
23 critical importance for the CRB to be able to function, and so  
24 we look forward to meeting with the council to address these  
25 and some of the other issues.

1           The second area of concern is the key positions that  
2 are vacant that Ms. Tidwell alluded to. As the Court's aware,  
3 there is an interim city manager, an interim police chief, a  
4 departure in the court clerk position, and now a departure in  
5 the municipal judge position, and because the Interim Police  
6 Chief was the Consent Decree Coordinator, there is no consent  
7 decree coordinator. As the City's recognized, without these  
8 positions filled, with no consent decree coordinator, progress  
9 on the decree has slowed and will continue to slow. We  
10 understand that the City's advertised for that position, and  
11 we appreciate the City providing us with the advertisement so  
12 that we could provide comments on that. We urge the City to  
13 move quickly with that. It's a really key position, as all of  
14 them are, and as those positions are filled, we -- we hope  
15 that the City recognizes the importance of ensuring that the  
16 people who fill those positions are committed to the Consent  
17 Decree and this process since we are right in the heart of  
18 this process, but until those positions are filled, we're  
19 trying to do the best that we can with the resources that the  
20 City has -- has provided to the police department, but it is  
21 creating heavy burdens on officers. It is detracting from  
22 police work because a lot of this work is falling on the  
23 shoulders of supervisors within the department.

24           The third issue is transparency. We want to be sure  
25 that the City continues to strive towards being more

1 transparent, and there have been some meaningful strides in  
2 that respect. One of the areas that we would like to see the  
3 City turn to is fulfilling the reporting requirements of the  
4 Consent Decree. There are reporting requirements both to the  
5 public and to this Court that have not been fulfilled. We  
6 understand that there are staffing challenges at this moment.  
7 At the same time, this is a critical part of the decree.  
8 Its -- one of its stated goals is to make policing more  
9 transparent because transparency is key to constitutionality,  
10 and so that's something that we are certainly happy to work  
11 with the City on going forward, but it's something that only  
12 the City can do.

13 All in, we are really grateful for the work of those  
14 in the municipal court, those in the police department, and we  
15 look forward to working with members of the City more broadly  
16 on these outstanding issues.

17 THE COURT: All right. Thank you. I don't have any  
18 questions right now.

19 I'll hear from Mr. Carey and then, perhaps, may have,  
20 you know, some questions or want to hear some responses.

21 MR. VOLEK: Thank you, Your Honor.

22 MR. CAREY: Thank you, Your Honor. As is customary,  
23 I'd like to kind of start out by introducing the folks from  
24 the City of Ferguson who have taken time out of their day to  
25 kind of come and be present with us, you know, as we report to

1 you.

2 THE COURT: Yes. Thank you.

3 MR. CAREY: Absolutely. And so you'll see here who  
4 you've seen pretty much almost every time, our Councilwoman  
5 Ella Jones. Of course, you recognize Judge Brown, who will be  
6 departing us soon, and our new Interim City Manager, Mr. Jeff  
7 Blume. He was our former Finance Director, and he has been  
8 promoted to the Interim City Manager position. Behind Jeff is  
9 Christine Lanfersieck, who, again, is leaving us, and we  
10 were -- as a matter of fact, we've been in the interview  
11 process, you know, in the last day or two to try to -- you  
12 know, try to get that going.

13 THE COURT: And, again, I want to -- I couldn't  
14 remember your name before, but I do know how much work you've  
15 done. So thank you very much for the work you've done.

16 MR. CAREY: Absolutely. Absolutely. She's --

17 THE COURT: I was looking at her. I knew who it was,  
18 but I didn't -- I couldn't -- I was blanking on the name. So  
19 thank you.

20 MR. CAREY: Right. Yeah, I mean I think Mr. Volek  
21 hit -- he hits it right on every time he says it, that we are  
22 as far along as we are because of Chrissy and Judge Brown.

23 THE COURT: Right.

24 MR. CAREY: And her leaving almost made me want to  
25 cry because she's just -- she's that important to us.

1           So then next to Chrissy is Ms. Octavia Pittman.  
2           She's our City Clerk. She doesn't come out to all of them,  
3           but she is here today to support us. And then behind Octavia  
4           is Lieutenant Dilworth, our training coordinator who Mr. Volek  
5           kind of talked about and so did the Monitor kind of talk  
6           about, and I don't know if Lieutenant Dilworth is -- if you've  
7           seen him before, but that's the face to the name. Behind  
8           Lieutenant Dilworth is our Lieutenant Colonel Al Eickhoff. He  
9           is our new community liaison appointee in the department.  
10          He's been to a lot of these status hearings before. And then,  
11          of course, next to him is our Interim Chief Frank McCall. And  
12          one other person I do want to recognize here -- one of our  
13          newly elected council members, Ms. Fran Griffin, is sitting  
14          right there. She just last night won the election, and so  
15          congratulations to Fran for that.

16                 (Applause.)

17           MR. CAREY: We're looking forward to working with her  
18           if, you know, the election results are confirmed, but she's  
19           also sitting over there. And, of course, you know the members  
20           of the public who you probably have seen several times, you  
21           know, at the hearings.

22           THE COURT: And I do appreciate the continuing  
23           interest. I mean some of you, I do recognize from every  
24           hearing, but others, I know, come when they are able to, and I  
25           do appreciate the continuing interest of the public. It's



1 very important.

2 MR. CAREY: Right.

3 So, Your Honor, I'll be, you know, pretty brief in my  
4 comments. You've heard Mr. Volek talk about -- and also the  
5 Monitor talk about the progress as well as the challenges that  
6 we are facing, and of course, you know those firsthand because  
7 of our, you know, regular communication with the Court.

8 I did want to take some time and provide you with a  
9 couple of documents, however, one of which -- may I approach,  
10 Your Honor?

11 THE COURT: Yeah.

12 MR. CAREY: Okay.

13 THE COURT: If you'll just hand things here to  
14 Ms. Berg.

15 MR. CAREY: One of which is a copy of our work plan,  
16 our work plan that we provided to the Monitor, which what this  
17 work plan -- you have one already. Okay. What this work plan  
18 does, Your Honor, is it keeps the City sort of on track. The  
19 Monitor was -- you know, we're fortunate with the Monitor that  
20 we have now who has kind of put together this -- kind of this  
21 work plan, which kind of summarizes, you know, where the City  
22 needs to be all in one document.

23 THE COURT: Right.

24 MR. CAREY: And so we're able to kind of go through  
25 this document and focus on, you know, figuring out what the

1 next task is, when the deadline is. By updating this  
2 document, we're able to communicate with the Monitor as well  
3 as -- and I don't know. I can't remember if DOJ has been in  
4 on those communications. If not, we will -- one of the things  
5 we would love to do is to put them in on it so that they, you  
6 know, have the opportunity to kind of see where we are because  
7 they've asked, and rightfully so, they've been concerned with  
8 some of the personnel issues we've had, concerned with the  
9 slowness of the progress, and they want to -- you know, want  
10 to know where we are. So we'll start including them on the  
11 emails that go back and forth between us and the Monitor in  
12 terms of updating the status. But you can kind of see how  
13 this work plan is kind of broken down into the various  
14 different categories, and then you can kind of see how the  
15 Monitor has laid out what the tasks are, what the scheduled  
16 completion date is, what the City's response is. So that's --  
17 I thought that would just be kind of a good tool for you to  
18 kind of see on paper what you're hearing from, you know, the  
19 parties and the Monitor as it relates to where the City is in  
20 its progress. And so despite the challenges that we recently  
21 faced with staffing and, you know, attrition and those kinds  
22 of things, the work still continues, and it may not be at the  
23 pace that everyone would like it to go, but at the same time,  
24 the folks that are in it and the folks that are doing it are  
25 very dedicated and are working very hard to move the pace

1 along.

2 So in addressing some of the areas of concern that  
3 were raised by the Department of Justice, I wanted to be  
4 specific as it relates to -- to just kind of give you the  
5 City's perspective. May I approach, Your Honor?

6 THE COURT: You may.

7 MR. CAREY: Okay. What you're looking at, Your  
8 Honor, is a copy of the Comprehensive Amnesty Program's  
9 good-cause standard, and this is the -- kind of the standard  
10 that we've been referencing the last couple of hearings that  
11 we've had in front of you that the parties are in discussions  
12 as it relates to standard number two. The standard number  
13 two -- as you can see, as it reads, the offense originally  
14 charged involves an identified victim who is available to  
15 assist in further prosecution of the pre-2014 cases. So,  
16 essentially, what it is is, you know, we've gone through these  
17 cases and from the City's perspective -- and I've heard the  
18 DOJ say and I've also heard the Monitor say that we're trying  
19 to assess the willingness of the people to assist, but when we  
20 look at this, we don't see willingness; we see availability;  
21 right? And so -- so, practically, Your Honor, what most of  
22 these cases are are petty theft cases, theft under \$500, that  
23 were filed by, you know, a Walmart or a QuikTrip or, you know,  
24 something of that nature. And so the prosecutor's  
25 perspective, when he reads this language -- the victim is a

1 corporate citizen, you know, someone, some business that  
2 exists in our community. So from the prosecutor's  
3 perspective, he goes through the case and he can identify that  
4 there's a corporate victim that is still, you know, existing  
5 in the -- in the community, still with a business that's up  
6 and running. He's saying that he believes that he's  
7 identified a victim who is available. Now, whether or not  
8 there is somebody that's willing to testify is another matter.  
9 We -- the City doesn't believe --

10 THE COURT: Well, if there's not, how are they  
11 considered available?

12 MR. CAREY: I'm sorry?

13 THE COURT: If there's not anybody who would testify  
14 or know anything about it, how do you think they're available?

15 MR. CAREY: Well, so the issue is -- so, essentially,  
16 what we've been relate -- what we've been asked to do was,  
17 essentially, call like a Walmart and say, "Okay. This  
18 particular event happened in 2013. You know, there's a  
19 warrant. We're not quite sure where this person is. We  
20 haven't caught this person, but if and when we catch this  
21 person, you know, will you still be willing to assist us?"  
22 And so there's a lot of contingencies in there and a lot of --  
23 we don't know. First of all, we don't have a -- we don't even  
24 have a defendant. Secondly, we don't know when we'll catch  
25 that person because they're in warrant status, and if we do,

1 you know, then at that point, you know, who from Walmart or  
2 QuikTrip is going to be the person, you know, that comes forth  
3 and testifies? So availability was -- from the prosecutor's  
4 perspective -- was making sure that the business was still up  
5 and running in the community and that there was an  
6 identifiable business where that -- so by the -- when we  
7 got -- when we actually caught somebody or when we actually  
8 were able to arrest someone on the warrant, that then we could  
9 actually contact them and have them decide whether or not they  
10 still want to -- to prosecute.

11 THE COURT: Let me ask you this. In the -- so how  
12 many of these are there total?

13 MR. CAREY: There's about 550, 560.

14 THE COURT: And of that, how many of them are this  
15 kind of business victim that you're discussing?

16 MR. CAREY: 367.

17 THE COURT: So a little over half?

18 MR. CAREY: Yes.

19 THE COURT: Maybe two thirds?

20 MR. CAREY: Yes, closer to two thirds.

21 THE COURT: Okay.

22 MR. CAREY: And so we think we're close to working  
23 this out. There's been a proposal put forth to us by the  
24 Department of Justice that relates to kind of equating or not  
25 equating but using number five here as a way to kind of keep

1 the case open. I've been kind of waiting on the prosecutor to  
2 respond to me as it relates to their proposal, but I just kind  
3 of wanted to give you what the City's perspective was as it  
4 relates to this criteria, and I think we're pretty close to --  
5 to working it out as the Department of Justice has said, but  
6 it's just, you know, the prosecutor's perspective on it was  
7 that by identifying the victim as a corporate victim that was  
8 up and running in the -- in the community, the availability  
9 piece was a part of that and not -- he didn't necessarily read  
10 that as a willingness standard. So . . .

11 THE COURT: So what about the other third?

12 MR. CAREY: I'm sorry? The other third?

13 THE COURT: What about the other third?

14 MR. CAREY: Those are cases that are trespass cases.

15 Most of them similar to -- the victim would be a similar  
16 victim as there are in the cases where there was petty theft.  
17 There's probably about 50 or 60 cases that are individual  
18 victims, where somebody has come in and filed a report, and  
19 those cases probably, rightfully, should be -- you know, we  
20 should probably reach out to those victims because those are  
21 situations where you have individual victims and you don't  
22 know if those people are still in the city, whether or not  
23 they were ever actually residents of the city or not. So  
24 those are ones that I think the prosecutor understands that,  
25 you know, we'd probably like to go through those and sift

1 through those and eliminate those if he can, if he can't find  
2 a victim that's available to assist in the prosecution. But  
3 the corporate victim cases presented a little bit of a  
4 different take for the prosecutor. So . . .

5 THE COURT: Well, I hope you will continue to work  
6 with the -- with the Department of Justice and the Monitor on  
7 this issue.

8 MR. CAREY: Sure.

9 THE COURT: I am concerned that, you know, this was a  
10 Comprehensive Amnesty Program that was contemplated and that  
11 the position is "We're going to, if we're ever able to,  
12 execute these warrants and deprive accused of their liberty,  
13 and then we'll go try to figure out if we can actually  
14 prosecute them," and I'm not sure that was really the  
15 intention.

16 MR. CAREY: Right. And I agree with you, and I don't  
17 think that was. The other side of that, though, Your Honor,  
18 is, you know, most of these cases are cases that involve what,  
19 you know, the prosecutor would consider serious crimes. A  
20 theft -- that's a serious crime, and we don't want to send the  
21 message to the community that, hey, if you come into our  
22 community and you steal something and there's a complaint  
23 filed against you, all you've got to do is wait five, seven  
24 years; it will go away. And so the prosecutor, from his  
25 perspective -- the other side of that coin is, you know, we

1 should be able to impose those moral standards of our  
2 community, you know, because a lot of these are young kids,  
3 you know, probably stealing from the store, young  
4 African-American kids. You've got an African-American  
5 prosecutor who, you know, wants to say, "Hey, listen. Not in  
6 our community." And so we don't want to send the message  
7 that, you know, if you just wait long enough, you can steal  
8 and get away with it, and so that's kind of the  
9 prosecutor's -- that's the prosecutor's kind of moral dilemma  
10 as it relates to how he's interpreting this amnesty provision.  
11 So -- but with that said, like I said, I think we're close as  
12 it relates to resolving that, and so the ball is in the City's  
13 court because the DOJ did send an email with a proposal, and  
14 we've got to get back to them. So that's that issue.

15 May I approach again, Your Honor?

16 THE COURT: Yes.

17 MR. CAREY: Okay. Thank you so much.

18 I've got three for you. All right. Thank you.

19 All right. Your Honor, what you have in front of you  
20 are documents that are marked CRB-1, CRB-2, CRB-3. So this  
21 addresses the concerns of the Department of Justice as it  
22 relates to the Civilian Review Board.

23 If you look at CRB-1, that is, basically, a roster of  
24 CRB members; right? And so you'll see two from Ward 1, two  
25 from Ward 2, two from Ward 3, and there are three at-large



1 positions. One of them is filled. And you'll see that it's  
2 the Ward 2 position, the first Ward 2 position, that has  
3 resigned. So you can kind of see on paper when they say  
4 there's three vacancies, this piece of paper kind of shows you  
5 where that -- how that works.

6 CRB-2 shows you the list of applicants that we  
7 provided to the Department of Justice on request. I think  
8 this was sometime in mid -- mid March, which shows you --  
9 you'll see, at the top, at-large, there have been no  
10 applicants. Ward 1, you'll see there are about 11 applicants.  
11 Ward 2, there are eight applicants. Ward 3, there are no  
12 applicants. And you'll also see that beside the names of the  
13 applicants under Ward 1 and Ward 2, some of those folks have  
14 acronyms next to their name, and I'll explain to you why  
15 that's important as we talk about CRB-3.

16 So if you look at CRB-3, that's -- this is our  
17 excerpts, relevant excerpts, from the CRB ordinance and also  
18 just our general Ferguson Municipal Code. I've highlighted  
19 for you on the first page some language under section 2-381,  
20 subparagraph (b) where it says, "Further, no person shall  
21 serve on more than one board or commission at the same time,  
22 and no member of any board or commission may be transferred to  
23 any other board or commission during that member's term."

24 So if you go back to CRB-2 and you look at the number  
25 of folks that have the acronyms next to their names, those are

1 folks that are serving on -- those acronyms represent boards  
2 that they're serving on, and so to the extent that someone has  
3 a parenthesis with an acronym on it, those people, per our  
4 ordinance, cannot also -- are serving on a board, and so they  
5 cannot also serve on the CRB. So that takes the list of 19  
6 down to 12.

7 Further, if you turn to the second page of CRB-3, you  
8 will see our CRB ordinance, section 2-441, which talks about  
9 the board consisting of nine members -- two residents from  
10 each of the city's three wards and three at-large members to  
11 be appointed, and then you'll also see some highlighted  
12 language there which talk about -- which talks about the  
13 council's requirement to make appointments that reflect the  
14 diversity of the community and then some disqualifying or  
15 ineligibility criteria that you'll see down there.

16 So I give you all this to say to you that, you know,  
17 while we understand the Department of Justice's position  
18 regarding, you know, filling the CRB positions, number one, we  
19 have a quorum of folks on the CRB. We've got six. There  
20 takes -- the quorum is five. So we've got six members. So  
21 they're able to function. Now, there may be occasionally an  
22 occasional time when, you know, two or three people can't be  
23 there and they may not have a quorum and they have to  
24 reschedule the meeting. I think that has happened recently,  
25 but that's also happened with the City Council as well and

1 other groups. So it's a normal thing when you have a group of  
2 people. Maybe not everybody is available, you know, at one  
3 time.

4 But as you can kind of see, we have a -- we have a  
5 process by which we actually appoint these people, and if you  
6 can -- you can kind of see what we're really missing is the --  
7 the two at-large positions. Of course, we do need to -- you  
8 know, we do need to appoint this Ward 2 position. I think  
9 that's a pretty easy lift because we do have some Ward 2 folks  
10 here. So I think that position appointment should be coming  
11 shortly. But the at-large position is a little bit different  
12 because we have to be careful how we do that. The council's  
13 preference has been stakeholders in the community who aren't  
14 necessarily residents in any particular ward to try to avoid  
15 having, you know, Ward 3 with more than Ward 2 and Ward 2 with  
16 more than Ward 1. So the thought process was, you know, the  
17 at-large folks -- we want them to be stakeholders in the  
18 community -- business owners, clergy, educators, but people  
19 who aren't necessarily residents of the community, to avoid  
20 the political optics when you stack a board with more folks  
21 from one ward than the other. That's a real thing in the city  
22 of Ferguson that you have to be aware of.

23 So the process in finding these people -- as you can  
24 kind of see, we've had no at-large applications -- has been  
25 kind of tedious. You know, the council has gone out to the

1 meetings that they attend in the public, and we've announced  
2 it at many council meetings that we're looking for more  
3 applications. Just recently, the Interim City Manager came up  
4 with the idea of soliciting applications at our Ferguson  
5 Special Business District meetings, at our West Florissant  
6 Special Business District meetings to try to drum up support  
7 for folks who -- in the at-large community -- who might want  
8 to be a part of the CRB. But, you know, that's just -- it's a  
9 hard lift, you know, to try to get people interested in that  
10 kind of thing, and we have to kind of follow the structure  
11 that we have here in our ordinance.

12 THE COURT: Well, your ordinance, though, allows  
13 residents to be there. What you're saying is, as a political  
14 matter, you don't want to take --

15 MR. CAREY: Correct.

16 THE COURT: You've got all these applicants from the  
17 other wards --

18 MR. CAREY: Correct.

19 THE COURT: -- and you don't want to put them in it  
20 as at-large even though they could be under your ordinance;  
21 right?

22 MR. CAREY: They could be, and if we had an emergency  
23 situation where we needed to do that, I could see the council  
24 doing that, but right now, since we're not in an emergency  
25 situation, the preference is to avoid the political optics of

1 stacking this board. So that's where we are.

2 THE COURT: Okay.

3 MR. CAREY: So, hopefully, that addresses the "why."

4 THE COURT: Let me ask you this.

5 MR. CAREY: Sure.

6 THE COURT: I see that the Ward 3 person's term is  
7 scheduled to expire in a couple of months, at the end of June  
8 of this year, but I assume that was the first term, and is the  
9 contemplation that that person would be reappointed? You  
10 pointed out that there were no applicants from Ward 3.

11 MR. CAREY: Yes

12 THE COURT: Is there a process underway to try to  
13 generate more applicants?

14 MR. CAREY: Thanks for asking, Your Honor. So  
15 everybody that has -- whose initial term expires in 2019 has  
16 committed to stay. So Mr. Terry Burton, you'll see, has  
17 committed to stay. Ms. Brenda Young has also committed to  
18 stay. She's the chairperson.

19 THE COURT: Okay.

20 MR. CAREY: And so those are just, you know,  
21 informational at this point, just so that you kind of saw what  
22 the terms were.

23 THE COURT: Okay.

24 MR. CAREY: Outside of that, Your Honor, you know, we  
25 continue to work hard as a group.

1 I'd like to kind of switch to start to kind of maybe  
2 address -- so I know the Court's probably interested in where  
3 we are on the personnel issues.

4 THE COURT: Yes.

5 MR. CAREY: So we did recently just close the posting  
6 for the police chief. I think we have a total of 12  
7 applicants. We had six from the last process that we went  
8 through and then six additional applicants for a total of 12,  
9 and so the Interim City Manager just sent an email in the last  
10 couple of days to let us know that where he is is he sent out  
11 a questionnaire. So our process is we collect the applicants  
12 and then we send out -- we collect the applications and we  
13 send out a questionnaire to the applicants with further --  
14 requesting further information from them that then we will use  
15 in the evaluation process to kind of pare down the number, and  
16 I think those applications have been sent or those -- yeah,  
17 those surveys have been sent to the applicants, and so we are,  
18 you know, in that process earnestly to find the replacement  
19 police chief. I think that's the number one priority right  
20 now for the City is finding that police chief because our  
21 citizens have been, you know, on edge about that as well as,  
22 you know, obviously, the department and the Monitor,  
23 rightfully so.

24 As it relates to the Consent Decree Coordinator, we  
25 have posted that position. I think that position closes in a

1 week or so. We have about 49 applicants for that position.  
2 We are very pleased at the response that we got from the folks  
3 who were interested in that position. So we're cautiously  
4 optimistic. The Consent Decree Coordinator position is a very  
5 special position. It involves project management skills,  
6 communication skills. So we know that we're looking for a  
7 pretty special person, you know, to kind of take us to that  
8 next level, and so we're cautiously optimistic because we know  
9 that the qualifications were specialized, but we think with  
10 the number -- we hope that with the number of applicants we  
11 got we can find that needle-in-the-haystack person who's, you  
12 know, going to come here and help us move to the next level.  
13 So that's where we are with that.

14           With -- I mentioned earlier with the Court Clerk  
15 position, Chrissy -- with Chrissy leaving, she was kind enough  
16 to stay around and to help us evaluate folks for her -- to  
17 replace her, and so like I said, yesterday, we were in  
18 interviews yesterday for that particular position, and that  
19 process is ongoing.

20           And then we have also identified a replacement judge  
21 for Judge Brown, you know, who will be an interim judge until  
22 the council is able to find a new one. So all in all, we --  
23 you know, even --

24           THE COURT: Who is the Interim Judge, if that's  
25 public?

1 JUDGE BROWN: It's Will Goldstein.

2 MR. CAREY: Will Goldstein is his name.

3 THE COURT: Yeah. He's practiced in this court for a  
4 long time.

5 MR. CAREY: Okay. Good. Okay. Good. So he will  
6 be, you know, our Interim Judge, and, you know, Judge Perry,  
7 you know, sometimes, this can be a difficult thing. It's a  
8 hard lift sometimes in the city of Ferguson. You know, with  
9 the turnover and with the attrition and, you know, politicians  
10 getting elected, coming and going, it's sometimes hard to kind  
11 of know who's coming and who's going, but when the Monitor and  
12 the Department of Justice tell you that the people who are  
13 working on this are working hard, they're working overtime,  
14 you know, blood, sweat, and tears trying to make this process  
15 happen, it's true. So I hope you believe that, and I know you  
16 appreciate that, and I know the department appreciates it as  
17 well as the Monitor, and I hope the citizens appreciate it  
18 because it's not hard. I know there's a lot of things we  
19 could do better. There's a lot of things we could do better,  
20 and hopefully, when we can get folks in the right place with  
21 some permanency and we're not dealing with changeover and loss  
22 of institutional knowledge and trying to bring people up to  
23 speed and that kind of thing -- those are all the kinds of  
24 things that help to slow down the progress, and unfortunately,  
25 it's a reality of what you have to deal with when you're



1 running a city. People are going to leave. People are going  
2 to find better opportunities. But, you know, at the same  
3 time, we have a core, a really good core of people who, you  
4 know, continue to try to lead the charge. So it's really nice  
5 to hear that, you know, the Department of Justice, the  
6 Monitor -- of course, I know, Your Honor, you know,  
7 appreciates what's going on because I'm in the trenches with  
8 my client and a lot of the folks who are doing it, and I know  
9 sometimes the public don't -- they don't always understand  
10 what -- you know, what the -- the job entails and how  
11 difficult it can be, but we -- we do what we can to try to  
12 keep this train moving forward and implement this document  
13 that, you know, the community wanted, that the politicians  
14 wanted, and the reforms that, you know, are necessary. So  
15 that's pretty much all I have. I don't -- you know, unless  
16 you have any questions for me, I'm --

17 THE COURT: I think you've answered most of them.

18 Let me see if Mr. Volek wishes to make any further  
19 statements or responses or tell me anything I should be asking  
20 if you think there is something.

21 MR. VOLEK: I'm happy to talk very quickly about two  
22 issues.

23 THE COURT: Okay. Why don't you do that, and then  
24 Mr. Carey will --

25 MR. CAREY: Sure.

1 MR. VOLEK: Thank you, Your Honor. I just want to  
2 address a couple of issues that came up in the interest of  
3 clarity. One, the good-cause criteria. Hopefully, we are  
4 able to continue discussions and work out a solution to this  
5 issue. Our plain reading of good-cause criteria two is that  
6 there is both a requirement there is an identified victim and  
7 a requirement that that victim be available to assist in  
8 further prosecution of the case. Without that second clause,  
9 which is what the proposal was from the City, good-cause  
10 criteria two would really be devoid of its meaning.

11 At the same time, we are extremely cognizant that  
12 there are cases that in the interest of justice should  
13 continue. We are -- have always been, throughout this amnesty  
14 process, very careful to strike that balance appropriately,  
15 working closely with the City to strike that balance. That's  
16 why we created good-cause criteria number five, which says  
17 that if the City Prosecutor reasonably believes that in the  
18 interest of justice and public safety the case should proceed,  
19 that gives the prosecutor the opportunity to do so.

20 When the City raised these concerns about these cases  
21 and the prosecutor wishing to signal the importance of  
22 adherence to the law, that for us made it clear that this was  
23 really in good-cause criteria five's domain, and so rather  
24 than devoid good-cause criteria two of its meaning, that was  
25 our response. Like I said, we proposed that on March 8th.

1 Hopefully, we can come to an agreement with the City about  
2 that provision, but I just wanted to clarify sort of where  
3 things stand, and we're certainly cognizant of those  
4 interests, but we do not believe that good-cause criteria two  
5 is the best suited for that.

6 The other issue is under good-cause criteria five  
7 there would need to be some sort of justification as to why  
8 the case was left open. That has been invoked a few times  
9 already, which the Monitoring Team has -- has reviewed those,  
10 those short memos as to why the case should be left open.

11 Just going to the Civilian Review Board, you know,  
12 we're meeting with the council later this month, hopefully, to  
13 address this issue. In reviewing the materials that Mr. Carey  
14 provided, we are still concerned about the vacancies. These  
15 materials show that there are applicants who are eligible to  
16 fill the positions, including the at-large positions,  
17 including the Ward 2 open position, per the ordinance that  
18 Mr. Carey provided. We understand that, at the bare minimum,  
19 there might be -- there might be the bare minimum for a  
20 quorum, but it is reasonable to say that if there's only six,  
21 there will be occasions, like the last meeting, where the  
22 quorum won't be met. This is severely impeding the CRB's  
23 ability to do its work. So we look forward to working with  
24 the council to address this issue. We still have a  
25 significant number of concerns about this.

1 I think the deeper problem, however, is that this has  
2 been an issue that we have raised concerns about since July of  
3 2018. The CRB has raised concerns to us since before then.  
4 We've raised these issues with the City. We've raised these  
5 issues here in this court. We've tried to seek answers from  
6 the City about this. This is the first information we've ever  
7 received about this issue. It's taken almost an entire year.  
8 Well, eight months. And in that respect, we don't really  
9 understand why it requires so long to respond to this. If  
10 this is the City's -- if this is the holdup, we're happy to  
11 work with the City to try and address any concerns, but we  
12 think that this reflects a real need for deeper communication,  
13 more meaningful communication between the City Council,  
14 between the City itself and the Department of Justice and the  
15 Monitoring Team given how long it's taken to get this basic  
16 information.

17 Finally, about the vacancies, we're encouraged to  
18 hear that there's been so much interest in both the Chief  
19 position and the Consent Decree Coordinator position. Those  
20 are obviously key positions, and we look forward to working  
21 with the City throughout that process. Whoever is put into  
22 those positions is going to really need the support of the  
23 City to do their job. We're seeing that right now with --  
24 with people who are in positions that we're working with  
25 directly -- Acting Chief McCall, Lieutenant Dilworth, Chrissy,

1 the Judge. They need more than the support that they are  
2 currently getting from the City, and so we think that this  
3 process coming to completion will really help, but we also  
4 hope that the City increases its support for the hardworking  
5 men and women of the Ferguson Police Department and the Court.

6 Unless you have anything further, Your Honor . . .

7 THE COURT: No. Thank you.

8 MR. VOLEK: Thank you.

9 THE COURT: Ms. Tidwell, do you wish to add anything  
10 at this point?

11 MS. TIDWELL: No, Your Honor, but thank you.

12 THE COURT: All right. Mr. Carey, anything further  
13 you wish to add?

14 MR. CAREY: I do. Just one point made.

15 The CRB ordinance, Your Honor, was a -- you know,  
16 Mr. Volek represented to the Court that, you know, it's taken  
17 so long to get basic information to the Department of Justice  
18 as it relates to the CRB. The Department of Justice has been  
19 to CRB meetings, and so they know who the members of the CRB  
20 are, but the CRB-1, the document I gave you, is just a list of  
21 the members of the CRB. So they know who those members are.  
22 So they've known that for a long time.

23 Two, about a month ago or so, when Mr. Volek asked me  
24 about the list of applications that were sent, that we had, we  
25 sent that information to him. There may have been a little

1 bit of a delay in sending it, but he asked me about a month  
2 ago. Maybe it took me maybe a week or two to send it, and so  
3 I sent it to him. So the CRB-2, he's had that, you know,  
4 within a reasonable time of asking it.

5 CRB-3 is our CRB ordinance. That ordinance was  
6 approved by the Department of Justice before we were able to  
7 pass it, and so that -- you know, what's being represented as,  
8 you know, the City is not giving basic information to the  
9 Department of Justice -- they knew about that ordinance. They  
10 know what the criteria is. We had to get their approval in  
11 order to decide what the criteria in that ordinance would be.

12 So I just want to make the record clear that the City  
13 has not been holding back information from the Department of  
14 Justice as it relates to the CRB.

15 THE COURT: I think the issue -- and I think we've  
16 talked about that before -- was just not understanding why --

17 MR. CAREY: Sure.

18 THE COURT: -- you weren't proceeding, and I think  
19 what you've told us today is because -- because of the  
20 perception of unfairness, you don't want to load up multiple  
21 people from wards in the at-large positions and you want to  
22 find other people, and even though the ordinance allows you to  
23 put residents in those positions, you've chosen not to do  
24 that, and you haven't been able to find other people. I mean  
25 that's actually information I didn't understand --

1 MR. CAREY: Sure.

2 THE COURT: -- as to why it was taking so long.

3 MR. CAREY: Sure.

4 THE COURT: I mean it's a long time not to have  
5 filled those positions. I understand that there's a lot of  
6 work to be done, but that's -- I think that is new; I mean at  
7 least it's new to me.

8 MR. CAREY: Right. No. And I get that. Just for  
9 record purposes --

10 THE COURT: Yeah, I understand.

11 MR. CAREY: -- you know, what was said was it's taken  
12 a long time to get this basic information. I agree that the  
13 "why" in understanding what the council's reasoning was for  
14 selecting or not selecting -- that has been, you know, a  
15 challenge in getting that information, and that is something  
16 that they have been waiting for for a good time.

17 THE COURT: Yeah, that's all I was saying.

18 MR. CAREY: But I just wanted to make sure the record  
19 was clear that the information in terms of the documents that  
20 I provided -- that's all information that everybody should be  
21 aware of and that the Department of Justice should be aware  
22 that they've had for a very long time. But no arguments from  
23 me as it relates to, you know, the rationale that the council  
24 is going through in selecting folks because they have been  
25 asking for that. So . . .

1 THE COURT: Okay.

2 MR. CAREY: Okay.

3 THE COURT: Well, yeah, I'm not -- I do -- I am  
4 concerned that I have heard the same things, you know, over  
5 and over. On the other hand, I'm -- I'm very pleased still  
6 with the progress that has been made, and I know it's been  
7 difficult with these vacancies. I do hope that the vacancies  
8 can be filled, you know, expeditiously. I also hope -- I  
9 think this -- the idea that, apparently, you all have agreed  
10 upon that the representatives from the Department of Justice  
11 can meet with the council -- I think that's an excellent  
12 thing, and I want that to happen, and I hope that will happen  
13 as you've scheduled it. And I would tell you all to keep  
14 working. I mean it's a lot of work. I -- you know, there  
15 are -- I can't -- I should know by heart now how many  
16 paragraphs there are in the Consent Decree.

17 Ms. Tidwell, do you know by heart? You should too.  
18 It's over 300 obviously.

19 MS. TIDWELL: Over four.

20 THE COURT: Over 400, yeah. So it's a lot of  
21 paragraphs to comply with, and they're all very specific, and  
22 the City has complied with many of them, and others are taking  
23 longer than we expected. Others are just now being scheduled  
24 to move forward. And so I think we are -- you know, I think  
25 progress is being made, and I do appreciate what -- you know,



1 I think on behalf of all of the parties -- and I know that  
2 sometimes the citizens disagree with this, but what I've seen  
3 appears to be good faith on behalf of everybody in trying to  
4 comply with this, and I hope that will continue because it's  
5 essential to the process. And, you know, that's what I would  
6 say. So thank you for your reports.

7 Yeah, Mr. Carey, one more thing?

8 MR. CAREY: There are 464 paragraphs.

9 THE COURT: 464. I should have that number  
10 memorized. We all should have because we've been over them so  
11 many times, but didn't work this time, but -- so I do  
12 appreciate the hard work everyone's doing, and I guess what I  
13 would say is keep up the work, and we will keep moving forward  
14 as -- as we are, and hopefully, some of the things that have  
15 been lingering -- the policy development, although we didn't  
16 talk about it a lot here except for the report, has really  
17 been -- I know it's been difficult, but I've been -- I've been  
18 very pleased with how that's worked, and so getting the  
19 training out is essential also, of course, which you all know,  
20 and getting everything implemented and then continuing with  
21 the further policy developments. I think some of these  
22 policies were very difficult, and so I appreciate how you've  
23 done on that.

24 So let's just keep up this work, and we'll keep  
25 pushing. It's not -- you know, it's a work in progress, but

1 we need to keep moving in the positive direction, and I am  
2 optimistic that that's what everyone here will be doing.

3 So thank you, all, very much, and court is in recess.

4 (Proceedings concluded at 4:15 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 50 inclusive.

Dated at St. Louis, Missouri, this 24th day of May, 2019.

*/s/ Gayle D. Madden*

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GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter