

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
VIA VIDEOCONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

APRIL 8, 2021

APPEARANCES:

Independent Monitor: Natasha Tidwell, Esq.
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UNITED STATES DEPARTMENT OF JUSTICE

For Defendant: Aarnarian (Apollo) D. Carey, Esq.
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(Produced by computer-aided mechanical stenography.)

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1 (Proceedings commenced at 11:00 a.m.)

2 THE COURT: All right. Good afternoon, counsel. So
3 we will begin this hearing. We are here in the case of United
4 States of America versus the City of Ferguson. This is
5 Case No. 4:16-CR-180, and we are here for the quarterly status
6 hearing. Because of the pandemic and the inability to have a
7 lot of people in the courthouse, we are again doing this by
8 videoconference, and the lawyers are with me on the
9 videoconference. Members of the public have been given the
10 opportunity to listen on the telephone and also to follow the
11 audio on the Court's YouTube site, and I'm told that that is
12 up and running. So I hope the members of the public are able
13 to hear us at this time, and I am, as I keep saying, I guess,
14 hopeful that by the time we have our next quarterly hearing
15 we'll be able to do it in the courtroom with live
16 participation, but that, of course, depends on the progress of
17 the pandemic. So I appreciate the lawyers being here to do
18 this.

19 So let me start by asking counsel to identify
20 themselves for the record. Counsel for the United States, the
21 Department of Justice, would you please identify yourself?

22 MS. SENIER: Good afternoon, Your Honor. This is Amy
23 Senier for the United States.

24 MR. VOLEK: Hello, Your Honor. This is Jude Volek
25 for the United States.

1 THE COURT: Okay. Mr. Volek, you are cutting out
2 just a little bit. So just make sure you stick with your -- I
3 guess stay up to your mic.

4 And for the City of Ferguson?

5 MR. CAREY: Good morning, Your Honor. Apollo Carey
6 with the City of Ferguson.

7 THE COURT: All right. And I know you do have some
8 city officials with you, and I assume, if they're going to
9 speak, you will introduce them at that time; is that correct?

10 MR. CAREY: Yes, ma'am, I will. I'll just -- and
11 once we start, I'll just give you a general, as I always do,
12 sort of rundown of who's on the line.

13 THE COURT: All right. And as I mentioned to
14 Mr. Volek, I would appreciate it if you would make sure you're
15 close to your microphone as well because you are a little
16 light there.

17 And then for the Monitor, would counsel please
18 identify yourselves?

19 MS. TIDWELL: Thank you, Your Honor, and good
20 morning. Natasha Tidwell for the Monitoring Team along with
21 Courtney Caruso.

22 MS. CARUSO: Good morning.

23 THE COURT: Good morning, Ms. Caruso. And to you and
24 to Ms. Herron, I will try to keep the Courtneys separate this
25 time and not call you all by the wrong names, as I have done

1 in the past.

2 Okay. Well, we are here to see a report. I will
3 mention to the members of the public who might be listening --
4 I know the parties are fully aware of this -- the Monitor did
5 file a status report back in February. It is on the Monitor's
6 website as well as the court website, and so -- and there is
7 also a community survey that is posted in various places that
8 people can still answer. So I would urge everyone to do that
9 if they wish to.

10 I also need to remind everyone that although we are
11 providing this on an audio stream both on YouTube and on the
12 telephone, that under the policy of the United States Judicial
13 Conference, which is the governing body of the federal courts,
14 any broadcasting or recording of this hearing is strictly
15 forbidden, and so although you're allowed to listen to it, you
16 may not record it or broadcast it.

17 So with that said, Mr. Carey, I'll ask you to make
18 any statements you wish on behalf of the City of Ferguson.

19 MR. CAREY: Thank you, Your Honor. I'll just -- so
20 how you'll -- so that you and the public will know how the
21 order of things will go here, I'll just sort of give sort of a
22 general introduction and kind of an overview on some general
23 topics related to the City and Consent Decree compliance, and
24 then I will allow our Consent Decree Coordinator, Nicolle
25 Barton, to sort of take over and give a little bit more of a

1 detailed report or update, a status update, but as is
2 customary, I will introduce to you and the public the folks
3 who are in the room with me.

4 Kind of starting at the front of our table, to my
5 left, is our acting Interim City Manager, Chief John Hampton.
6 John, if you just want to raise your hand for the -- so that
7 the Judge can see. And then also to my left is our Police
8 Chief, Jason Armstrong. To his right and my immediate left is
9 our Assistant Chief, Frank McCall, and on the other side of
10 our table is our Court Administrator, Courtney Herron, not
11 Courtney Caruso. Sitting next to Courtney Herron is our
12 Captain Dilworth is here as well, who, as you know, has been
13 very instrumental in compliance thus far, as well as our
14 Consent Decree Coordinator, Nicolle Barton.

15 I have been alerted that several of our elected
16 officials are on the line listening. Our Mayor, Ms. Ella
17 Jones, is on the line. Councilwoman Fran Griffin is on the
18 line. And also, two of our newly elected council folks are on
19 the line -- one from Ward 3, Ms. Naquittia Noah, and then from
20 Ward 1, Ms. Phedra Nelson.

21 And so that sort of kind of segues into sort of a
22 general -- one of the general points I wanted to make in
23 updating you on what's going on in the city is that we did
24 just recently have a municipal election. This was on Tuesday.
25 And so three of our council seats were up for grabs. One of

1 those seats was won by the incumbent, and that is Ms. Toni
2 Burrow. I think you are familiar with Ms. Burrow from her
3 participation in some of our hearings and then also just some
4 of the correspondence that she's sent to the -- to the Court.
5 But then two of our other councilperson spots were filled with
6 new people -- the spot in Ward 1 to Ms. Nelson and then the
7 spot in Ward 3 to Ms. Noah. And so we -- you know, we have a
8 changing dynamic now on the council. One of the more obvious
9 changes is that now we -- and I don't know if this has
10 happened in the history of the city, but we have -- we now
11 have an all-female council, which, you know, is a -- you know,
12 it's a different dynamic, and I'm sure that will be quite
13 exciting and that will be something that, you know, we're
14 looking forward to. You know, maybe this council can kind of
15 show us all how it's supposed to be done, and so that's
16 really, really refreshing. So, you know, that just -- you
17 know, we'll be going into the --

18 THE COURT: Let me interrupt you there, Mr. Carey,
19 and say I want to congratulate everyone. Glad to see that,
20 you know, the people who hold up half the sky are being well
21 represented in political offices these days, and so
22 congratulations to all of the members of the council.

23 And I'm sorry to interrupt you here, but I realized I
24 forgot to say something earlier that I wanted to say to the
25 members of the public who are listening. There were people

1 who sent in comments to the Monitor. Those have been provided
2 to me, and I believe they will be addressed, you know, to some
3 extent, during the presentations here today, and I just wanted
4 everybody to know that the parties and the Monitor and I are
5 aware of those comments and have read them.

6 And now I'm sorry, Mr. Carey. I'll let you continue.

7 MR. CAREY: That's all right, Your Honor. I was
8 almost done with that point, and I'll just conclude in saying,
9 you know, obviously, there's a new and different dynamic and
10 we're all excited about, you know, how that's going to play
11 out here in the coming months and, obviously, as it relates to
12 Consent Decree compliance.

13 The other issue I wanted to sort of -- the general
14 issue I wanted to update the Court and the public on is our
15 search for a permanent city manager. I know that, you know,
16 last time we met as well as I know the public is aware of the
17 fact that the City is now searching for a permanent city
18 manager. We still have yet to come to terms with one of the
19 candidates that we, you know, have selected for the position,
20 but we are currently working on that. Obviously, the
21 municipal election sort of kind of got in the way there of
22 that progress. We almost -- you know, we almost had that done
23 before the municipal election, but we just weren't able to
24 agree with one of the candidates yet. So we are still working
25 towards that. We think -- well, we hope that that will be

1 concluded here in the next -- in the near future but just
2 wanted to update you on the City's progress in hiring that
3 permanent city manager.

4 Outside of that, Your Honor, what I'll do now is just
5 sort of turn it over to the Consent Decree Coordinator to
6 provide a little bit more detail on Consent Decree-related
7 items.

8 You're muted.

9 THE COURT: You know, counsel, you all shouldn't have
10 to remind the Judge to unmute herself, just like you shouldn't
11 have to remind me to silence my telephone, but you've both had
12 to do both of those things, so I appreciate the reminders.

13 Ms. Barton. I'll now hear from the Consent Decree
14 Coordinator, Nicolle Barton.

15 MS. NICOLLE BARTON: Good morning, Your Honor, and
16 thank you for allowing me to present to the Court this
17 morning. I would first like to start with our community
18 policing and engagement activity. As you know, the City is to
19 host and participate in a series of small-group dialogues
20 between police officers and members of the community.
21 Ideally, we would like to have these conversations and
22 dialogues in person; however, due to COVID, we have to rethink
23 a strategy that would allow us to still engage in these
24 conversations and complete our series of small-group
25 dialogues, but due to COVID, we were not able to meet in

1 person. Back in -- I'm sorry. We've been working with
2 Community Mediation Services to help facilitate these
3 dialogues, and back in September of 2020, we conducted a pilot
4 Zoom call between members of the community and the Ferguson
5 Police Department members to see if the Zoom calls would be an
6 effective way to engage in these conversations. Everyone was
7 actually very pleased with the conversations that we had
8 during the Zoom call, and we felt like this was the best way
9 to move forward with our dialogues until we can meet in person
10 again.

11 The first set of the series of small-group dialogues
12 will begin May 19th, and we will continue the first set
13 June 2nd and June 16th. We will post a link to our website
14 for people who want to sign up for these series of small-group
15 dialogues by the end of next week. It will be posted on the
16 Ferguson website, and in the meantime, I will be going out in
17 the community with the Monitor Team community engagement
18 specialist to engage community members in both filling out the
19 Monitor Team survey as well as engaging in the participation
20 of these series of small-group dialogues.

21 In addition, we've been working with both the
22 Civilian Review Board and the Neighborhood Police Steering
23 Committee for the past year to develop the community policing
24 and engagement plan, and both of the general groups have now
25 had the opportunity to provide us with valuable feedback and

1 suggestions into this plan. We would also like to focus on
2 conversations surrounding community-oriented and
3 problem-solving policing during our series of small-group
4 dialogues, and we hope to use those outcomes to help build the
5 community policing and engagement plan even further.

6 Moving to our compliance accountability plan, under
7 good-cause criteria number three, the Ferguson Municipal Court
8 prosecutors have agreed to dismiss all "driving while license
9 suspended" and "driving while license revoked" cases that were
10 issued prior to January 1st of 2014. There were originally
11 850 of those charges listed, and as of this week, we have
12 dismissed all but 294 cases that we are still processing for
13 dismissal.

14 We are also currently in discussion with the Monitor
15 Team on final language revisions to our Ferguson Municipal
16 Court Policies 1.0, our Court Proceedings and Trials, and also
17 the Ferguson Municipal Court Policies 3.0 Court Fines and
18 Fees.

19 Regarding our training, last year, we began working
20 with Suffolk County, New York, to see if they would be willing
21 to partner with the Ferguson Police Department to train us on
22 their bias-free policing. Suffolk County had an impressive
23 implicit bias policing program which they worked directly with
24 their community members to develop. Suffolk County developed
25 an intensive three-day "Train the Trainer" program

1 specifically for Ferguson Police Department.

2 On the third day of the training, we invited
3 community members from our Civilian Review Board, our
4 Neighborhood Police Steering Committee, our faith-based
5 community, our Training Committee, and our council to
6 participate and sit in on the brief overview of what we had
7 learned over those three days. All the command staff and four
8 of our patrol staff attended that training as well. Our goal
9 is to incorporate community feedback into our training and
10 tailor this training specifically for the needs of the
11 Ferguson community, and this will be our first in-service
12 training.

13 As a priority for this year, we want to find a good
14 officer assistance program that meets the criteria of the
15 Consent Decree and offers both training and support to our
16 officers and their families in times of need and crisis
17 situations. The Chief and I have spoken to several agencies,
18 and we feel that we may have identified an excellent program
19 that would offer peer-to-peer training and a 24-hour crisis
20 line that's staffed with other first responders. The agency
21 is going to provide us with a complete proposal, and we will
22 share that with all the parties in the near future for
23 approval.

24 Moving on to policy development and implementation,
25 during this reporting period, we have closed the public

1 comment period for our First Amendment policy, and we are
2 working with the Department of Justice on implementing and
3 incorporating the public comments and suggestions into these
4 policies.

5 During this period, we have also finalized our
6 citizen-police mediation and citation and warrantless arrest
7 policies, and the roll call training materials for both of
8 those policies were recently approved by the Department of
9 Justice, and we will be incorporating these into our roll call
10 training for April and May.

11 Since our last status hearing, we completed roll call
12 trainings on our body-worn camera and in-car camera policies
13 as well.

14 As you know, we've been working with Benchmark to
15 develop our software systems for our use-of-force forms and
16 our use-of-force review, and during this period while we were
17 building out this program, we reviewed and amended several of
18 our use-of-force policies. All of the language changes have
19 been approved and incorporated into -- and they will be
20 incorporated into our roll call trainings during the next
21 several months. We will upload all those revised use-of-force
22 policies onto our post-Consent Decree policy page for the
23 public to review as well.

24 In the area of data collection, the -- the
25 development of those use-of-force forms and the use-of-force

1 review has taken a bit longer than we anticipated and --
2 because we have to work on customizing those forms that were
3 specific to Ferguson use-of-force policies and Consent Decree
4 requirements, but we expect to have these forms finalized by
5 the end of this month, and we hope to be going live by the
6 beginning of May.

7 We will then roll into our accountability module as
8 our next priority with the software programs and our data
9 requirements.

10 And, finally, we have entered into Phase II of our
11 use-of-force audits, and all of the requested use-of-force
12 reports, the incident reports, the body camera and car camera
13 footages and photos have been uploaded into the SecureBox
14 systems for review by the Department of Justice and the
15 Monitor Team. Thank you.

16 THE COURT: Thank you, Ms. Barton. So as I
17 understand it, what you're saying is all the -- so the
18 Department of Justice and the Monitoring Team now do have
19 access to all of the reports and video for all of those -- for
20 the things they were looking for for the use-of-force audit;
21 correct?

22 MS. NICOLLE BARTON: Yes, ma'am.

23 THE COURT: And the data collection that you're
24 talking about putting -- you know, getting that up and running
25 for the use-of-force reviews -- do you have a timeline on when

1 you expect or hope to have -- I know it's been delayed, and I
2 understand why, but do you have a timeline for when you think
3 you'll have the software and everything set up so that the
4 data collection can work the way it needs to?

5 MS. NICOLLE BARTON: Yes, ma'am. We are in our final
6 stages of the use-of-force review and the use-of-force forms.
7 We have a follow-up call with them next week, and we believe
8 that we will be able to finalize at least the use-of-force
9 module for the data collection in that area, and then we'll
10 move forward to the accountability section module, and we
11 don't believe that's going to take as long as the use-of-force
12 forms have taken.

13 THE COURT: Okay. All right. Thank you. Mr. Carey.

14 MR. CAREY: Your Honor, I think, as far as the City
15 is concerned, that ends our initial presentation, and so we
16 don't have anything else unless you have any questions.

17 THE COURT: I do not at this time. We may have
18 others as time goes by and, obviously, as the other parties
19 speak.

20 So, Ms. Senier or Mr. Volek, I'll ask you all to
21 proceed on behalf of the Department of Justice.

22 MS. SENIER: Thank you, Your Honor. This is Amy
23 Senier for the Department of Justice.

24 We appreciate the opportunity to brief the Court and
25 the public on the implementation progress to date. We also

1 want to thank Ms. Barton for her thorough rundown of where
2 many of the items currently stand.

3 Finally, we want to thank the public for their
4 comments, which we always find helpful, particularly, during
5 this time when we're not able to travel to Ferguson in person.
6 I'll try to address as many of those comments as I can
7 throughout my remarks.

8 We said at the last status hearing, Your Honor, we
9 agree with the Monitoring Team that the focus of year five
10 really has to shift to the evaluation and assessment of the
11 City's and FPD's progress on decree implementation, and to
12 date, that's included, as Ms. Barton said, reviewing the
13 use-of-force incidents and investigations at the same time the
14 Monitoring Team is conducting their use-of-force audit. Those
15 are incident investigations from 2019 and the first part of
16 2020.

17 We are also continuing to review FPD's response to
18 protest activity over the summer of 2020, and this is all with
19 an eye towards revising the current draft First Amendment
20 policies and the in-place use-of-force policies as necessary.

21 We have reached out to the Neighborhood Policing
22 Steering Committee as well as the Civilian Review Board for
23 information on FPD's response to those protests in the summer
24 of 2020, but we always welcome public input on that activity
25 via email, and our email is community.ferguson@usdoj.gov.

1 Again, that's community.ferguson@usdoj.gov.

2 The first community comment that I will address is to
3 thank Mayor Jones for her explanation of the City's efforts to
4 retain some social work resources for the city. We think this
5 is a welcomed development, and we are encouraged that the City
6 is engaging FPD in those discussions because there are a
7 number of areas of the decree that those resources will assist
8 with, including crisis intervention, community outreach, and
9 officer wellness. So we thank the Mayor for that submission.

10 In terms of the municipal court, as Ms. Barton
11 reported out on the Comprehensive Amnesty Program, we just
12 wanted to provide some additional background for the public
13 here because the progress has been truly remarkable over the
14 past year and certainly over the past reporting period. As
15 people may remember, the Comprehensive Amnesty Program was
16 established by the Consent Decree, and it required the City to
17 dismiss cases initiated prior to January 1st, 2014, unless the
18 City Prosecutor had good cause to continue the prosecution.
19 Now, the parties worked collaboratively to develop five
20 good-cause criteria that explained when the City could move
21 forward with the prosecution. At recent status hearings,
22 we've discussed good-cause criteria number two, which
23 permitted the City to keep open cases where there was a victim
24 who was available to assist with further prosecution of the
25 case. The cases that or the charges, rather, that Ms. Barton

1 was referring to today fall under good-cause criteria number
2 three, which lays out requirements that have to be met for the
3 City to keep open charges for driving while suspended or
4 driving while revoked. Ms. Barton has already provided the
5 numbers on how many case -- on how many charges have been
6 dismissed and how many remain open, and we understand it's
7 going to take some time to conclude that process because for
8 each charge dismissed the City has to send a compliance letter
9 to the Department of Revenue to ensure that any suspensions
10 related to the ticket are removed, and if there's a warrant
11 associated with the ticket, that has to be canceled as well,
12 but there's a clear path to discharging the remaining charges
13 under good-cause criteria number three, and we just want to
14 say that that is very, very encouraging.

15 We next want to turn to staffing and recruitment.
16 This is an area that has posed a challenge over the past year
17 and, certainly, over the past three months, and staffing and
18 recruitment are two issues that impact every area of
19 compliance. So we did want to update the Court and the public
20 on recent developments in what we hope is a path forward, and
21 in fact, two of the community comments expressed concern about
22 FPD's capacity recently, and we just want to let people know
23 that we share that concern, and this is why DOJ and FPD are
24 working hard to ensure that FPD can restore its ranks. The
25 decree requires this, so the decree is really in alignment

1 with community goals of having a police department that can
2 protect the public in a way that's consistent with the
3 Constitution.

4 As is evidenced from Ms. Barton's report, FPD -- and
5 that's everyone in the room today. Captain Dilworth, Chief
6 McCall -- Assistant Chief McCall, Chief Armstrong, and
7 Ms. Barton have accomplished so much with a dwindling police
8 force in an unprecedented pandemic. That includes the
9 small-group dialogues that Ms. Barton spoke about as well as
10 the bias-free "Train the Trainer" program. And in February,
11 DOJ met with the Ferguson City Council to let them know about
12 these and other successes, but we did share our concern about
13 what we perceive to be a staffing crisis in Ferguson Police
14 Department, and if I may, I'd like to provide just a few
15 examples of what -- how we see that crisis unfolding.

16 FPD is currently down at least six patrol officers,
17 and there are a number of problems with this situation. It
18 results in calls being handled by other police agencies, which
19 has been an area of concern for members of the community. It
20 exhausts officers in need of relief from the line during
21 protests like those that we saw in the summer of 2020, and it
22 inhibits FPD's ability to implement problem-solving policing
23 strategies on top of their calls for service.

24 In addition, FPD currently only has one captain. It
25 needs two more -- a captain over the Detective Bureau and then

1 a professional standards captain, and I want to talk about the
2 professional standards captain position today because we
3 really think this is critical to helping FPD advance in the
4 compliance phase in two important areas. One is with respect
5 to the use of force. The professional standards captain will
6 be responsible for reviewing force investigations. This is a
7 very important function because use-of-force reporting and
8 review is now coming into line with not only the decree but
9 industry standards. There's going to be a learning curve for
10 officers and frontline supervisors. So the professional
11 standards captain's review is going to be critical to ensuring
12 that they're able to comply with those requirements.

13 And the second area where the professional standards
14 captain can assist is with respect to training. FPD has not
15 been able to deliver a single in-service training under the
16 decree since the decree was entered, and this is despite
17 having final policies on use of force; stop, search, and
18 arrest; cameras; and accountability for quite some time.

19 The decree also requires FPD to designate a training
20 coordinator, someone who can help the department develop its
21 training plan. Now, FPD had designated a lieutenant to this
22 position early on in compliance, but that person has since
23 been promoted to the role of patrol captain, and with all of
24 the responsibilities on his plate for overseeing patrol and
25 the many, many other responsibilities he has, it's just not

1 tenable for him to assume this responsibility as well. And
2 we're grateful to the Chief and Ms. Barton for stepping in
3 when they can, but this really requires dedicated attention
4 from someone like a professional standards captain, and
5 indeed, smaller departments have had some success folding
6 training responsibilities into precisely this position. FPD
7 is poised to do the same. So we're eager to see FPD get this
8 position on board for this reason.

9 In addition, FPD only has one lieutenant right now.
10 It needs one more. One lieutenant overseeing four patrol
11 squads is just not enough under any measure.

12 We believe these shortfalls are linked in whole or in
13 part to the salary issue, the shortfall, and this is an issue
14 that we've discussed in many status hearings before. It
15 implicates paragraph 283(a) of the decree, requiring the City
16 to offer FPD salaries that place the agency in the competitive
17 position vis-a-vis similarly situated, similarly sized
18 agencies in St. Louis County.

19 With the information the City has provided over the
20 past year, we see significant shortfalls in the salaries the
21 City is offering at all ranks except for sergeant when
22 compared to similarly sized agencies in the county. So just
23 by way of example, FPD captains start at more than \$20,000
24 less than in comparable departments. FPD lieutenant salaries
25 are nearly \$19,000 less than comparable departments, and in

1 fact, FPD lieutenants make \$10,000 less than FPD sergeants at
2 the starting salary. And, again, sergeant is the only rank at
3 which FPD is offering competitive salaries. It is also the
4 only rank at which FPD is currently fully staffed.

5 Staffing and recruitment are addressed in a number of
6 specific provisions of the decree, but really, it impacts the
7 entire decree. So we think that this is a really critical
8 area in need of attention. We hope to meet again with the
9 City Council in the coming weeks to address these shortfalls
10 and craft a plan forward, which we understand may ultimately
11 need to be addressed via an upcoming budget process that
12 begins in April and extends through June.

13 And if I may, Your Honor, I just have one final
14 housekeeping matter before I conclude my remarks, and it
15 concerns the use-of-force policies. With respect to the
16 policy revisions that Ms. Barton referenced, I just wanted to
17 let the Court and the public know that the language changes
18 that were made to the use-of-force policies really concerned
19 review and reporting, and we just added more detail about who
20 does what when. So that's the nature of those revisions.

21 We also wanted to alert the public that early next
22 week the parties will release for public and officer comment a
23 draft policy on the Force Review Board. The Force Review
24 Board will be an entity within FPD that will evaluate and
25 review use-of-force investigations for more serious uses of

1 force. So this is a policy that will go out for both public
2 and officer comment, and we invite everyone to provide their
3 comments.

4 And if there are any questions, I'm happy to answer
5 those.

6 THE COURT: All right. Thank you, Ms. Senier.

7 I guess, Mr. Carey, you know, obviously, we're going
8 to want to hear your response on the -- on the -- the hiring
9 and the personnel and salary issues, but do you want to wait
10 until after you've heard from the Monitor before I ask you to
11 make those comments?

12 MR. CAREY: Yeah, I think that would be -- it would
13 probably be best to wait.

14 THE COURT: Okay. I'll ask the Monitor then to
15 proceed with whatever comments she wishes to make, and then,
16 of course, we'll come back to you, Mr. Carey.

17 MR. CAREY: Okay.

18 MS. TIDWELL: Thank you, Your Honor. And I just want
19 to, on behalf of the Monitoring Team, welcome Chief Hampton
20 and our new council members. We look forward to working with
21 you going forward.

22 One of the -- I guess the benefit and the burden of
23 going last is that everyone says everything or most of the
24 things that I was planning to address, and so I guess the
25 benefit to every one of that is that you get to -- you don't

1 have to hear as much from me, which I think, you know,
2 probably makes a lot of people happy. So I'm going to just
3 echo some of the things that the parties have said and just
4 mention a couple of other issues.

5 As Your Honor stated, we did release our semiannual
6 report and a year five work plan in -- I think after the last
7 status hearing in January. So early February is when it was
8 released. You know, one of the things that I just -- that was
9 mentioned earlier that I want to highlight and bring attention
10 to is the -- is the quickness in which the City, Ms. Herron,
11 and the court prosecutor and the Department of Justice worked
12 to address the issue that we raised in the report around
13 good-cause criteria number three, and so, Your Honor, in the
14 report, we noticed or we observed that there were a sizable
15 number of cases left open under good-cause criteria number
16 three and that an issue that the Monitoring Team would have to
17 face in year five or in the upcoming court audit was to figure
18 out how to address compliance with what the criteria reflects
19 and sort of what that mechanism or sort of what that process
20 would look like in terms of auditing the court's compliance
21 with -- the City's compliance with good-cause criteria number
22 three.

23 During our virtual site visit where the parties got
24 together, everything is done via Zoom, but in the weeks
25 following the last court hearing and after the semiannual

1 report was filed, we just got together via Zoom with the city
2 prosecutor, Mr. Goodwin, and Ms. Herron and with the
3 Department of Justice, and we talked about it, and, you know,
4 just the work that Ms. Herron and Mr. Goodwin have done in
5 the -- in the days and weeks after that, those meetings, has
6 just been nothing short of remarkable, and I really applaud
7 both of them for seizing upon the issue, taking ownership of
8 it, and doing everything they can to -- to remove and dismiss
9 and nolle pros a sizable chunk of those cases. I recognize
10 that there's still some to go, but to have an issue raised in
11 our report and then to have, essentially, you know, one
12 meeting about it and then some discussion and to have them
13 move on it in this way is really a testament to them, and I
14 thank them for that.

15 Just to echo again what the parties have stated and
16 Ms. Senier noted in her remarks, the Monitoring Team views the
17 staffing issue as the most formidable issue the City currently
18 faces. COVID-19 and other factors have consolidated public
19 safety resources and have led to burnout, which has resulted
20 in significant staffing shortages. And as Ms. Senier laid
21 out, the department is hanging on, and everyone is doing more
22 than they should have to, and everyone is doing their best.
23 As one of the public commenters noted in her remarks, even
24 though the City's leadership or sort of staffing at certain
25 levels or, you know, decision-making is not necessarily within

1 the four corners of the Consent Decree, it certainly makes a
2 difference in terms of implementation, the pace of
3 implementation, and the commitment to implementation, and so I
4 applaud the parties and the DOJ and the City Council for
5 sitting down to talk about these issues, and I hope to hear
6 about more progress in that area and more discussion of those
7 topics.

8 We were heartened to see, as Ms. Senier mentioned,
9 the letter from Mayor Jones about the social worker position.
10 You'll recall, Your Honor, that we have discussed for quite
11 some time about the need for some additional support with
12 community engagement, and I really enjoyed hearing Ms. Senier
13 sort of talk about how having a social worker or someone with
14 that kind of experience could help with officer assistance and
15 officer support and could really be useful in other areas,
16 crisis intervention, and so many other ways, and so we look
17 forward to having -- to the City engaging additional support
18 to operationalize its community engagement efforts, to make
19 it -- to sync up or sort of to make it -- to choreograph or
20 better sort of make it a team effort and a joint effort in
21 these community engagement efforts because the department is
22 certainly getting out into the community, and you heard from
23 Ms. Barton how the dialogues and all these other efforts are
24 taking place, but, you know, having it operationalized or
25 working from a specific community engagement plan or community

1 policing plan so that it's systemic and it spreads throughout
2 the department so that the responsibility doesn't just fall to
3 one or two officers, it is sort of a requirement for everyone,
4 but, again, as Ms. Senier said, that can't really truly be
5 realized if staffing levels remain where they are, and so all
6 of these things go hand in hand, and we look forward to
7 hearing from the City and seeing additional progress in that
8 area.

9 As Your Honor mentioned, we did launch the community
10 survey. We had what we like to call sort of a soft launch in
11 January while the City and the Police Foundation, which
12 sponsors or which, I guess, operates the survey -- they are
13 the authors, and they also handle the administration of the
14 survey. Just working out some details as to our public
15 education campaign around the -- the survey. And so what we
16 have now started to do is to mail out postcards to registered
17 voters within the city. We got a sampling of voters from
18 every ward, but we oversampled in Ward 3, which was based on
19 last year's results where there were -- the least amount of
20 survey respondents were from Ward 3. So these registered
21 voters will receive a postcard that will provide a -- the URL
22 code for the survey, to take it online. It will also -- God
23 bless you, Your Honor. It will also contain a dedicated phone
24 number and an email for the Monitoring Team so that if someone
25 requests it, we can mail them a paper copy of the survey, and

1 they can return it in a self-addressed, stamped envelope that
2 will be included with the survey.

3 In addition to that, as Ms. Barton mentioned, she and
4 the Monitoring Team's community engagement consultant,
5 Dr. Leigh Anderson, will be doing some other community
6 engagement or outreach efforts on their own. I mean together
7 with one another in a socially distanced and safe way, and so
8 Ms. -- Dr. Anderson will be going out in the community to
9 hopefully gin up more survey respondents and more
10 participation in the survey.

11 Since our soft launch in January, where we haven't
12 really been able to do much promotion of it because we hadn't
13 finalized the contract terms with the Police Foundation, we
14 have about two hundred and forty or fifty respondents, which
15 is -- you know, again, when we talk about sort of good news
16 and bad news, it's more than we had all of last time with the
17 survey, so I guess that is the good news, but we're hoping
18 that these additional engagement efforts will get that number
19 even further, even higher, and will also -- we'll hear from
20 folks who we didn't get a chance to hear from last time
21 around.

22 And then last, Your Honor, Ms. Barton mentioned the
23 City's work to provide the Monitoring Team and DOJ with
24 information around the use-of-force audit, and so we did get
25 all of the reports and camera footage and other supporting

1 documents that we requested in the initial phase or phase --
2 Phase II was our first document request from the City in the
3 use-of-force audit. We will now be moving through our next
4 phase where we will ask for reports for incidents or arrests
5 where there was -- where there does not appear to be a
6 use-of-force report accompanying the particular incident or
7 arrest, and so the idea behind that would be to review a
8 narrative of these arrests or incident reports to get a sense
9 of whether it appears that force was utilized and then to --
10 you know, if there was no use-of-force report filed, then that
11 would obviously be a data point for the Monitoring Team in its
12 audit, and so that's sort of the next level of our -- of our
13 review under the use-of-force audit, and we'll be getting that
14 notice out to the City relatively shortly.

15 We'll also be starting a -- an audit in the
16 accountability section. So we have a -- a chart or a table of
17 the internal investigations conducted by the City in 2019 and
18 2020. As part of our audit, we will probably be requesting
19 all of those investigations. In addition -- and I noticed in
20 the public comment that we heard from the Civilian Review
21 Board, and they informed us, which was great to hear, that
22 they had completed review of, I think, two or three police
23 internal investigations. So the CRB's work will be part of
24 this upcoming accountability audit as well.

25 We -- I don't want to delve too much into the details

1 of the semiannual report other than to sort of say the things
2 that we've done since then. We will be conducting another
3 virtual town hall to talk through the semiannual report and
4 things that have happened since then, and we are planning to
5 send notice out to the community that that event will take
6 place on April 22nd. That's a Thursday evening, and we'll
7 send out notice via the Monitor listserv, and we'll ask the
8 City and the Department of Justice to do the same.

9 And I think that that -- oh, and one additional audit
10 will be conducting an audit in the municipal court this
11 spring. Part of that audit was -- was mainly geared towards
12 good-cause criteria number three, but it's great to -- to see
13 that a lot of that has resolved itself, but we'll look at the
14 other areas of the Consent Decree within the municipal court,
15 and we'll send a notice of an audit in that area for this
16 spring as well.

17 And I think that's it for me, Your Honor, unless you
18 have questions.

19 THE COURT: I appreciate that. I think you've
20 provided us with a lot of information about what's going on,
21 and as -- as you mentioned and as I did before, for things up
22 until the February date when the report was filed, members of
23 the public can look at that as well as the work plan, and then
24 I'm glad to hear that you're having this April 22nd meeting
25 that will be available to the public. I guess they can

1 participate by video, correct, and then that would -- if they
2 wanted to review, you know, what the status is and where it's
3 going. I know some of the comments that we did receive, you
4 know, were critical of the process, which is not unusual, and
5 that people, you know, think it's time for this to be over,
6 and I think seeing the work that is still being done by
7 looking at the work plan and listening to the reports may help
8 people understand why this is still going on and how important
9 it is.

10 So, Mr. Carey, I would ask you to make any comments
11 about either of the presentations, and obviously, everyone's
12 concerned -- as you know, we all are -- about the staffing
13 situation, and we do understand, you know, why it exists, but
14 we'd like to hear any response you have on that but anything
15 else you'd like to say as well.

16 MR. CAREY: Yes, Your Honor. You know, I think you
17 heard at the beginning of the Department of Justice's
18 presentation about that issue. You heard that they met with
19 the council back in February to discuss those, the staffing
20 and recruitment issues, as well as, you know, talk about their
21 concerns, and, you know, they -- that meeting pretty much
22 mirrored what you heard from the Department of Justice today
23 in terms of the message that they wanted to get across to the
24 council. I can tell you that that message was received by our
25 council and it was well taken by our council, and, you know, I

1 think this issue -- as you can kind of see, it's more of a
2 structural issue. The salary issue is more of a structural
3 issue than it is anything else. I mean, you know, if we're in
4 a situation where we have, you know, lieutenant -- sergeants
5 making more than lieutenants and, you know, captains being
6 \$20,000 below, you know, similarly situated departments, you
7 know, that's something that needs to be fixed, and I think the
8 council was made aware of that by the DOJ, and to be quite
9 frank with you, they were made aware of that by Chief
10 Armstrong prior to the DOJ's meeting, and so what we are
11 hopeful will happen, Your Honor, in the next few months, is
12 that the City will be engaging in its annual fiscal year-end
13 budgeting process, and so, essentially, that is where the City
14 looks at all of its resources, decides, you know, how those
15 resources should be allocated to accomplish the goals of the
16 next fiscal year, and so what we're hopeful will happen is
17 that, you know, these -- this structural issue can be broken
18 down into actual dollar value so we can sort of see what needs
19 to happen in order to raise the captain and lieutenant pay to
20 where it should be for compliance purposes and that be
21 presented to, you know, the council for consideration in this
22 budgeting process because the issue needs to be fixed once and
23 for all. You know, it's one thing to say, well, you know, we
24 can just sort of go out and hire somebody at, you know, a
25 higher rate, but, you know, if we don't actually fix the

1 structure itself, then, you know, at some point later down the
2 line, we could fall back into having this disparity, and we'd
3 just -- we'd really like, you know, obviously, to avoid that.
4 So I think this is an issue, in terms of the salary, that is
5 probably best solved or at least analyzed within the context
6 of the City budget, and so we're hopeful that FPD and the City
7 Council will work closely together in the next couple months
8 to -- to sort of figure that out once and for all.

9 Since we last spoke with you, Your Honor, last month,
10 obviously, the public wasn't necessarily involved in that, but
11 there has been some positive steps taken towards filling some
12 of the open positions here in FPD. You know, one of the --
13 both -- the professional standards captain position, there's
14 been some very positive steps since we last spoke that we
15 are -- and we're extremely hopeful and optimistic that that
16 position could potentially be filled here in the next -- in
17 the very, very near future as well as one of our lieutenant
18 positions. There's been some positive steps in filling one of
19 those positions as well.

20 So, you know, as you know, Your Honor, we've -- you
21 know, we've been working together on this the last five years
22 or so. Staffing just seems to always kind of rear its head as
23 an issue that we have, whether it's we don't have a police
24 chief, we don't have a city manager, or, you know, we just
25 need more officers within FPD. So it's just something that we

1 deal with and that we have to wrestle with, but, you know, I
2 can -- and speaking on behalf of our council, I can tell you
3 that the council is aware of these issues and, Your Honor,
4 will do -- you know, in the next coming months, will do
5 everything that they can to address this stuff from a policy
6 perspective, set the policy that needs to be set, and then,
7 you know, have our staff execute.

8 So that's it. That's all I have on that issue.

9 THE COURT: All right. Is there anything further
10 from either the Department of Justice or the Monitor?

11 Or did I cut you off?

12 MS. SENIER: Nothing further, Your Honor.

13 THE COURT: Did I cut you off too soon, Mr. Carey?
14 Were you going to make any other comments about anything else?

15 MR. CAREY: No, ma'am.

16 THE COURT: Okay. And from the Monitor, anything
17 further?

18 MS. TIDWELL: No, Your Honor. Thank you.

19 THE COURT: Okay. Well, I -- I want to start by
20 thanking the members of the public for their continuing
21 interest in this process. I can see from the participants and
22 the people paying attention to this that you all are paying
23 attention, and I am very glad that the public remains involved
24 in the process, and I would urge you all to do whatever you
25 can to be involved, both through the various community

1 activities and things that are being promoted by Ms. Barton
2 and others as well as, of course, participating in the survey,
3 and so I want to thank the public, first and foremost, for
4 being here and for continuing to be patient with this process.
5 I understand the frustration expressed in some of the comments
6 that it seems like it's taking a long time.

7 Some of the comments think this process is -- is
8 causing the financial problems. I assure you that's not
9 the -- the driving issue. The driving issue are the things
10 that the parties have indicated, and I think that this process
11 is really necessary to see that we continue to see the
12 improvement that we have seen already. It's -- it's pretty --
13 I mean during the course of this Consent Decree, there have
14 been major strides made by the City. The municipal court is
15 amazing and has done a great job in improving. I know there
16 are still complaints about municipal court, and I do
17 understand that. We didn't actually get any in this batch of
18 complaints, but as a judge, I know there are always complaints
19 about courts, and that's partly because it's a very unpleasant
20 situation for a lot of people, but it also is something that
21 all courts can always do better, and I'm really pleased with
22 the administration's efforts to improve their municipal
23 courts, which I think have been, you know, quite good here,
24 but, of course, we can always do better, and sometimes we --
25 sometimes courts screw up, and we don't always -- it's not

1 always a pleasant experience for everyone, but that doesn't
2 mean it's not functioning the way it should.

3 And then on the -- with the police department, I
4 think they've made great strides. I'm very pleased to hear
5 that the -- that there's optimism in terms of the professional
6 standards captain position being filled at some point in the
7 near future and also some of the other positions. I do think
8 that it's something that I know Mr. Carey and the people who
9 have participated in this process are very aware of, and I'm
10 sure that the -- that those people at the City are doing what
11 they need to do to educate the new members of your council
12 as -- you know, as -- as the world goes on, as it does with
13 political changes, to make sure that everyone in the position
14 to be making decisions on this are fully informed of what's
15 going on, and I'm encouraged by all of that.

16 I do -- I do want to thank, I guess, first of all,
17 Interim -- I guess you said acting Interim City Manager, Chief
18 Hampton, for stepping in and adding another -- another title
19 to your very busy role already. I know it's very important
20 the City has someone in your position, and I hope that --
21 that -- I hope you'll be relieved of that by the hiring of
22 the -- of the new city manager soon, and I know the City is
23 working on that.

24 And I do want to thank the other people who have
25 spent so much time on this: Chief Armstrong, Assistant Chief

1 McCall, Captain Dilworth, Ms. Barton, Ms. Herron, and
2 Mr. Goodwin, the prosecutor. And I just think that everybody
3 has worked hard on this, and I want the members of the public
4 to know that, and I know I've said this before and it begins
5 to sound repetitive, but that the parties to this case, the
6 City, the Department of Justice, and with the assistance of
7 the Monitor and the oversight by the Monitor, have been
8 working very hard on this to make progress. It's just not as
9 easy as we'd all like it to be.

10 I do spend a fair amount of time talking to these
11 parties very informally as this process has been going on, and
12 that has been a great benefit to me to keep me advised of
13 what's going on, and we're having these -- these quarterly
14 hearings in hopes that the public can continue to be informed.
15 We are making progress. As always, I have to say it's not as
16 fast as we'd like, but that's -- that's the way it is. I
17 think under the terms of the pandemic, which have affected
18 everyone in our society so severely, that the City's done a
19 very good job, and I think that that's -- they're to be
20 credited for being able to keep the momentum going in this
21 process even though we had the -- the difficulties we've had
22 in the past 12 months or 14 months, I guess, with the
23 inability to meet in groups, which is very much what
24 Ms. Barton and the City have been trying to do or had been
25 trying to do right when all this happened. So I think that

1 everybody's working hard to do this, just like I know
2 everybody else, you know, all the members of the public are
3 doing in their own personal lives. It's been hard to cope
4 this last year, but we have continued to make progress, and I
5 do think that's something that everyone in this process should
6 be commended for.

7 So with that said, if there's nothing further from
8 the lawyers or the Monitor, the parties or the Monitor, then
9 I'll -- I see no hands waving, so I'm assuming, as we say to
10 the juries, if I don't see your hand waving, I assume you
11 don't have a response. They're not waving their hands. So I
12 will thank you, all. We will have another hearing. Like I
13 say, I'm hoping that -- I don't know -- by the summer, maybe
14 we can do that one in person.

15 I know -- I know within the judiciary we're not
16 making big plans for the summer yet. We are making big plans
17 for the fall. We're hopeful for the summer, but we're more
18 hopeful that by the fall we'll be able to do it. So we might
19 end up having to do one more of these virtually, but we'll see
20 how things stand with the pandemic and with, you know,
21 vaccination rates and how the disease is progressing in the
22 community before we make those final decisions, but I'm
23 hopeful. I'm fairly confident by, you know, the fall we'll be
24 okay too, but I want to have -- you know, for our hearing in
25 the summer, I hope we'll be able to be in person, but if not,

1 we'll do it this way again. So with that said, thank you,
2 all, and court is in recess.

3 MS. TIDWELL: Thank you, Your Honor.

4 THE COURT: Thank you.

5 (Proceedings concluded at 11:57 a.m.)

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CERTIFICATE

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

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

I further certify that this transcript contains pages 1 through 39 inclusive.

Dated at St. Louis, Missouri, this 9th day of April, 2021.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter