

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 4:16-CV-00180-CDP
)
 CITY OF FERGUSON, MISSOURI,)
) October 7, 2021
 Defendant.)

TRANSCRIPT OF STATUS CONFERENCE
VIA VIDEOCONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

APPEARANCES

INDEPENDENT MONITOR: Natashia Tidwell, Esq.
 Courtney Caruso, Esq.
 Saul, Ewing, Arnstein & Lehr, LLP

FOR PLAINTIFF: Nancy Glass, Esq.
 U.S. Department of Justice

FOR DEFENDANT: Aarnarian (Apollo) D. Carey, Esq.
 Lewis Rice, LLC

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1 **(Proceedings convened via Zoom videoconference at**
2 **11:00 a.m.)**

3 **THE COURT:** All right. Good morning. We are here
4 in the case of the United States of America v. the City of
5 Ferguson. This is Case No. 4:16-CV-180.

6 This is a public hearing, although, unfortunately,
7 we are not doing it in person because of a number of things,
8 including the recent rise in cases, although it seems like
9 it's getting better. We are doing this, once again, by
10 videoconference for the parties, but audio -- an audio stream
11 for the members of the public.

12 I did receive some letters from members of the
13 public and the parties have seen those and we'll address them
14 as well. But I'm still hopeful that the next time we meet, we
15 will do it in person. I think that, surely, we will be able
16 to by then. And I'm eager to see everyone in person,
17 including the members of the public who do usually attend and
18 how much -- I really appreciate the fact that there is still
19 public interest in this case.

20 And so, before -- and I do want to -- before I ask
21 the lawyers to identify themselves, I do want to start by
22 reminding everyone that under the rules of federal court that
23 are governing these proceedings, recording of any sort of
24 this hearing is strictly forbidden. So even though you're
25 allowed to listen, both on the YouTube or on the audio line,

1 you may not make any recordings or broadcast this in any way,
2 and that is, essentially -- that is very important, and if
3 anyone should violate it, we would impose sanctions of some
4 sort. So, I just want everybody to know that's really
5 important.

6 So, with that said, I would ask the Department of
7 Justice counsel to please identify yourselves and tell me
8 who's going to be speaking.

9 **MS. GLASS:** Good morning, Your Honor. This is Nancy
10 Glass for the United States, and it's just me at this hearing
11 today.

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

13 And for the City of Ferguson, please identify
14 yourself, Counsel, and tell me who's going to be speaking.
15 Well, you'll tell me who's going to be speaking when you're
16 addressed, but would Counsel identify themselves?

17 **MR. CAREY:** Yes, ma'am. Good morning. This is
18 Apollo Carey with the City of Ferguson, and we will -- you
19 know, as you mentioned, we'll let you know who's going to be
20 speaking here as we get into our end.

21 **THE COURT:** All right. Thank you.

22 And then for the Monitor, would the lawyers on
23 behalf of the Monitoring Team please introduce themselves and
24 tell me who's going to be speaking?

25 **MS. TIDWELL:** Good morning, Your Honor. Natasha

1 Tidwell and Courtney Caruso for the Monitoring Team, and I
2 will be presenting with an assist from Ms. Caruso as needed.
3 Thank you, Your Honor.

4 **THE COURT:** All right.

5 **MS. CARUSO:** Good morning.

6 **THE COURT:** Sorry. Yes. Good morning, Ms Caruso.

7 All right. Thank you. We do have a court reporter
8 here, and, obviously, we'll make a transcript of this
9 proceeding, and as always, we will post that on the court's
10 website as well as it being posted on the docket sheet in the
11 case or docketed as normal. So that will happen. And I
12 remind everyone to pay attention to the court reporter. If
13 she starts waving madly at us, that means we need to stop
14 talking, or if the clerk tells us to. So that's -- I'll just
15 remind you of that.

16 So, with that said, as we have, we'll start with
17 Mr. Carey and the City of Ferguson, and hear anything -- you
18 know, hear your update on the progress under the Consent
19 Decree, and then we'll hear from the Department of Justice and
20 then from the Monitoring Team.

21 And, obviously, Mr. Carey, as always, I know that
22 you have members of your city officials and city and police
23 department officials who are with you and others who may be
24 listening, and so please feel free to introduce them and then
25 you can introduce whoever also will be speaking for the update

1 on the City.

2 **MR. CAREY:** For sure, Your Honor. Thank you. Thank
3 you so much. As you mentioned, you know, there's still --
4 like you mentioned, there's still great public interest in our
5 case and we here at the City of Ferguson remain steadfastly
6 interested, obviously, in Consent Decree compliance and making
7 sure that, you know, we have implemented our constitutional
8 reforms both on the court side and the police side.

9 So to that end, we always have a nice cross-section
10 of folks attending our meeting. In the room with me today is
11 our new city manager, Mr. Eric Osterberg, and also our police
12 chief, Frank McCall, as well as our court administrator,
13 Ms. Tanya Webber. And although, you know, Chief McCall has
14 been with us for some time, both Mr. Osterberg and Ms. Webber
15 are, you know, fairly new to the process, but have been very
16 instrumental and very interested in becoming part of the team
17 and helping out with the compliance process.

18 You also know that our consent decree coordinator,
19 Ms. Nicolle Barton, was a bit under the weather and unable to
20 be here at FPD today, but she is also on the line and she will
21 be giving the substance of our update here.

22 But before she does that, I would also like to
23 acknowledge our public officials who are on the line today as
24 well. Our mayor, Ms. Ella Jones, is here, Councilwoman Phedra
25 Nelson is on the line, Councilwoman Naquitta Noah is on the

1 line, Councilwoman Fran Griffin is on the line. I believe
2 Councilwoman Linda Lipka is on the line. So I think we have
3 five of seven council folks on the line that I'm aware of. If
4 any of the others are on the line, they haven't made me aware,
5 but I wouldn't be surprised if they are.

6 So, again, interest remains high. You know, our
7 commitment remains steadfast. And so, we wanted to show the
8 Court and the public that that is the case.

9 And so, without any further ado, Ms. Nicolle Barton,
10 who is on the line, who is our consent decree coordinator, as
11 I mentioned, will go into the substance of our update.

12 **THE COURT:** All right. And, Ms. Barton, before you
13 speak, I do want to acknowledge the people who are there with
14 the City on this team and to welcome the new hires since our
15 last public meeting. I think at that meeting, we had just
16 learned that Chief McCall would be the chief, but also, the
17 new city manager had not yet come on board, and, Ms. Webber, I
18 think you may have just come on board at that time. So I do
19 want to welcome you all and I'm glad you're there.

20 I also want to thank all of the city officials, the
21 mayor, and the council members, and others who may be
22 listening to the line. We do appreciate your continued
23 participation and your, you know, making the effort to be
24 here. And I know we might not have -- I might not have gotten
25 the names of everyone who is there, but I know you're there

1 and paying attention, so thank you for that.

2 So, Ms. Barton, I'll ask you to make any report
3 you -- make your report.

4 **MS. NICOLLE BARTON:** Thank you. Good morning,
5 Your Honor. I apologize for not being with you on video this
6 morning, but thank you for allowing me to present an update on
7 the Consent Decree.

8 I would like to first begin with community policing
9 and engagements. We did begin our second series of
10 small-group dialogues yesterday on October the 6th and we had
11 a total of 21 participants on the Zoom call, which included
12 mediators from CMS, FPD officers, and members of the
13 community.

14 The series will continue biweekly and the next ones
15 will be on October the 20th and November the 3rd. We have a
16 few members of the community who did sign up for this series
17 of dialogues but were unable to join yesterday and we would
18 still welcome them to join us on October the 20th.

19 Members of the community are still encouraged to
20 sign up to participate in the next series of dialogues via the
21 City of Ferguson's website. There is a tab under News and
22 Announcements titled "Help to Improve and Reform Your Police
23 Department." The sign-up link is located here.

24 We plan to use the take-aways from these
25 conversations to continue building out our community policing

1 and engagement plan. There will be a presentation to the
2 community at the conclusion of the dialogues to inform the
3 community, the city, and the council of our outcomes.

4 Next, I would like to give an update on use of
5 force. After several months of working with Benchmark
6 Analytics on customization of our use-of-force forms, vehicle
7 pursuit forms, and supervisor review forms to ensure they were
8 in compliance with our policies, our Consent Decree
9 requirements, and would also collect the necessary data for
10 our annual reporting requirements, we are happy to announce
11 these forms went live in August and are currently being
12 utilized by the department.

13 In addition, versions of the use-of-force policies
14 that have been revised based on the Consent Decree process and
15 highlighted versions of the policies that were amended have
16 also been placed on the Ferguson Police Department's
17 post-Consent Decree page for transparency.

18 Since the last status hearing, we have heard some
19 concerns from community members regarding the amendments to
20 the policies and we have worked to create an FPD policy
21 feedback form. Community members are encouraged to provide
22 feedback on the policies at any time via the Ferguson Police
23 Department page. Under the Policy Center tab, just click on
24 the link that says, "Provide feedback on policies and
25 appendix" in order to connect directly to the form.

1 Next, implicit bias. As you may remember earlier
2 this year, FPD received a "Train the Trainer" model of
3 implicit bias training from Suffolk County, New York, and we
4 were able to present part of this training to members of our
5 community. Since the last status hearing, we have formed a
6 training task force internally with some of our certified FPD
7 trainers. We have begun the process of customizing the
8 training that we received from Suffolk County to make this
9 Ferguson's own implicit bias training.

10 Once we have enhanced this training to fit the needs
11 of FPD and our own community, we will provide it to the
12 Department of Justice and the Monitor Team for review. We
13 hope to have this completed by the end of next quarter.

14 Once it has been reviewed by the Department of
15 Justice and the Monitor Team, our plan is to invite members of
16 the community back in early spring to gain community feedback
17 and suggestions. We would like to roll out this first
18 in-service training to the entire department in the spring of
19 2022.

20 This brings us to our training plan. We have
21 continued monthly meetings with our Training Committee and
22 with the help of a subject matter expert provided by the DOJ
23 team. We have begun re-envisioning and writing a new FPD
24 master training plan. We will incorporate an annual training
25 plan update to this plan yearly as well.

1 Members of the NPSC Committee have been instrumental
2 in this process and even adding a history section to our
3 training plan and we thank the members for their continued
4 volunteering to help us with the FPD training plan.

5 Next, policies. During the past quarter, we posted
6 a draft of our fair and impartial policing policy for
7 community input. In addition, I worked directly with the
8 Ferguson-Florissant School District to obtain youth feedback
9 on this policy as well. Our goal is to have a final policy
10 incorporating all the feedback by the end of this quarter. We
11 are also working to finalize our LEP and correctable citation
12 policies by the end of this quarter as well.

13 Next, I'd like to provide an update about officer
14 health and wellness. During this period, I worked with an
15 organization called Show Me Hope to provide a more effective
16 officer wellness alternative to officers and their family
17 members. Show Me Hope attended our roll call training and
18 gave a presentation to officers on how they can utilize the
19 wellness provide. Officers can obtain one-on-one counseling
20 services for themselves and for members of their family.

21 Show Me Hope has created a QRL code for FPD and that
22 code is located in the roll call training room and the
23 supervisor station and via e-mail. Officers can scan the code
24 to sign up for one-on-one sessions with licensed practitioners
25 and they can meet at a confidential secure location to obtain

1 these services.

2 Now I would like to move to recruitment. In this
3 quarter, we have begun reviewing our hiring process and we
4 have really stepped up our recruitment efforts. Although we
5 are still considerably understaffed, we are pleased to
6 announce that we have had nine police interviews and six
7 dispatch interviews during the past two months. FPD
8 understands that being fully staffed will help us be more
9 effective in both the areas of problem-solving policing
10 efforts and community engagement efforts.

11 After completing the salary study, we worked with
12 City Council to address issues in our salary deficiencies.
13 During this budget process, Council approved an increase in
14 the starting salaries of both our lieutenant and captain
15 positions to ensure that we are in compliance with the
16 Consent Decree and that the City will offer salaries that will
17 place FPD among the most competitive among similarly-sized
18 agencies. We believe this increase will ensure a high quality
19 of applicants to become members of FPD.

20 In addition, since the appointment of Chief McCall,
21 we have taken a close look at staffing concerns and how it
22 affects the department internally. Chief McCall is looking at
23 a shift in the organizational structure of the department that
24 would allow for more strengthened community engagement and
25 problem-solving efforts within the community. We are still

1 attending neighborhood association meetings and we always ask
2 for suggestions and feedback from the community.

3 We welcome the community's input on problem-solving
4 efforts and our series of small-group dialogues are allowing
5 for a two-way conversation on how we can improve our
6 relationships with the community and address quality of life
7 issues that affect our community as a whole.

8 Finally, we are working with our data experts to see
9 if we can incorporate a way to track community concerns via
10 the crime dashboards with the feedback looped to address those
11 community concerns. In addition, we are looking at current
12 crime trends and high call volume days and times in an effort
13 to have staffing levels adequate to address crime trends in
14 the community.

15 Thank you, Your Honor, for allowing me to provide
16 the Court and the community with an update on the
17 Consent Decree work during this quarter.

18 **THE COURT:** Thank you, Ms. Barton.

19 And, Mr. Carey, any -- I'll hear anything further
20 from the City.

21 **MR. CAREY:** Thank you, Your Honor. I think we
22 will -- and I know that, obviously, the Department of Justice
23 and the Monitor need to add, so I think we'll rest in terms of
24 our substantive updates, but I did want to mention that
25 another one of our council -- another one of our councilwomen

1 are on the line. Ms. Heather Robinett is also. So we
2 actually have six of seven on the line and Ms. Robinett has
3 actually been attending the last few status hearings and I
4 haven't called her name and I've gotten admonished for that
5 and I want to make sure that the Court knows that Councilwoman
6 Heather Robinett is also here on the call as well. So we have
7 six out of seven today.

8 **THE COURT:** All right. Yeah. I appreciate that.
9 Thank you. And I do -- I do -- I know that sometimes people
10 join and leave because of their schedules and so we might not
11 always have everyone's name, but I really do appreciate
12 knowing that all these council members are here.

13 All right. Then I would ask, Ms. Glass, if you
14 would speak on behalf of the Department of Justice and tell us
15 from your perspective how things have been going.

16 **MS. GLASS:** Thank you, Your Honor. We thank the
17 Court for this opportunity to brief Your Honor and the
18 community on progress over the last quarter in implementing
19 the Consent Decree. And as Ms. Barton so aptly conveyed,
20 there has been a lot of progress.

21 We also want to thank the community members who took
22 the time to submit letters to the Court ahead of this hearing.
23 We know that that takes a lot of time and we really do
24 appreciate the effort and engagement. We read all the
25 comments and consider them carefully.

1 I did want to respond to one community member's
2 letter. The community member expressed frustration over what
3 he saw as the slow rate of implementation of the
4 Consent Decree and specifically expressed a desire for more
5 concrete signs that the department is shifting to a community
6 policing model.

7 So I'll just say we certainly understand the
8 writer's frustrations with the pace and we know there's a lot
9 happening that isn't visible, but we know it is -- it's slow,
10 and we understand the frustration with that.

11 We also strongly agree with what the writer has said
12 about the need for the department to shift to the community
13 policing model. That is why DOJ is actively engaging with the
14 department to make sure that it has the structures in place
15 that it needs to make sure that community policing is what
16 guides the department's daily operations.

17 This -- the goal here is public safety and we
18 believe that community policing is an important means to that
19 goal. I say that because research supports that departments
20 that adopt community policing are more effective in reducing
21 crime.

22 The letter writer's timing for this comment was
23 quite apt because we do think this is a very good time for
24 Ferguson to be focusing on this issue. Before he came to the
25 leadership of the department, Chief McCall was actually the

1 person who led the effort to write the department's community
2 policing policy with input from many different sources,
3 including, of course, community members.

4 What that document says is that the department has
5 embraced community policing as its organizational philosophy.
6 The policy lays out strategies that the department can use to
7 work with the community to achieve the community's public
8 safety goals. So the challenge now for Chief McCall is to
9 make that piece of paper part of what the department does
10 every day to really bring that policy to life.

11 Ms. Barton alluded to this in talking about staffing
12 decisions, but I wanted to emphasize that we think one
13 component of this shift is that -- to community policing is
14 that Ferguson will need to think about -- re-think how it
15 deploys officers.

16 It needs to have a deployment strategy that's
17 aligned with community policing. And what that means very
18 concretely is that, on the ground, police officers need more
19 time in their schedules. They need more time because they
20 need to be able to meet with the community members and
21 organizations and build relationships and hear the concerns
22 and engage in problem-solving strategies.

23 All of that takes time. So how does a department
24 with really limited resources create more time for its
25 officers? One way is through a really smart deployment

1 strategy. One aspect of that would be, as Ms. Barton
2 mentioned, making sure more officers are working at busy times
3 and fewer are working when things are slower. It also means
4 thinking carefully about how calls are coded and saving that
5 priority call code for the calls for service that present the
6 greatest active public safety threats.

7 So I know that sounds like a tall order to figure
8 out how to make all that happen. The department already does
9 have some guidance here and we do encourage it to really look
10 carefully at the recommendations from its 2016 and 2020
11 staffing studies that lay out some strategies for how the
12 department can have a really safe, smart deployment strategy
13 that would bring the department into alignment with community
14 policing and be more effective to meet public safety concerns.

15 Ms. Barton also reported on the department's recent
16 successes or successful steps toward recruitment. We think
17 this is another part of the equation on staffing because, of
18 course, the smartest staffing study can't work unless the
19 department is fully staffed or properly staffed. So that's
20 why DOJ has been working with the City to make sure that it
21 comes into compliance with the Consent Decree provisions
22 requiring the department to offer competitive salaries. We
23 think this is one aspect of attracting the best candidates
24 possible.

25 At the last hearing, we reported on what we call the

1 staffing crisis in the department. And as Ms. Barton said,
2 there has been some great progress in this area over the last
3 quarter. Specifically, in the City making increases to
4 supervisory salaries. There is still more work to be done in
5 this area, however.

6 As the City brings on and makes hiring decisions, we
7 encourage it to keep its focus on community policing and make
8 sure the people it's selecting are people who really are
9 excited and embrace the concept of community policing. We
10 think, as I said, this is an important step toward public
11 safety.

12 One aspect of the recruitment undertaking that I
13 wanted to emphasize, it's something we've been talking with
14 Your Honor about since at least the September, 2020, status
15 hearing, and that is the need for a training director. We
16 think this should be a high priority item for the department's
17 recruitment planning. And I say that because all these
18 policies that we've been working so hard to finalize can't
19 truly become part of officers' daily practice until they
20 receive training in them.

21 As Ms. Barton says, she has been making some
22 admirable efforts to try to keep making progress in the area
23 of training despite the lack of a training director and the
24 Department of Justice has been supporting her efforts with
25 technical assistance. But the bottom line is that the

1 department really does need a training director to lead this
2 effort.

3 Finally, I just wanted to briefly address another
4 community member's comment. The concern in this letter had to
5 do with the Department of Justice's response to feedback on
6 policies from the Neighborhood Policing Steering Committee,
7 the NPSC.

8 We'd like to emphasize that DOJ absolutely values
9 community input on policies. We believe FPD has gone above
10 and beyond in trying to elicit community feedback, and
11 wherever possible, has incorporated community input into
12 policies and we strongly believe that, as a result, their
13 policies are stronger for it.

14 The department, FPD, that is, is working on a policy
15 on how FPD will receive and respond, specifically, to NPSC
16 feedback in the future and we hope that this will make the
17 process smoother.

18 That's all I had, Your Honor, unless the Court has
19 any questions.

20 **THE COURT:** No. And I appreciate -- I don't have
21 any questions, but I do appreciate you addressing the concerns
22 that were raised in the letters from the members of the
23 public.

24 I will now ask Ms. Tidwell on behalf of the
25 Monitoring Team to tell me -- provide any information you wish

1 at this time.

2 **MS. TIDWELL:** Thank you, Your Honor. And good
3 morning to everyone. And a special good morning to
4 Councilwoman Robinett who, apparently, Mr. Carey has ignored
5 for hearings past, so I wanted to make sure we give her an
6 extra good morning today.

7 So, Your Honor, I will pick up where Ms. Glass left
8 off with the NPSC feedback, the recommendations from the NPSC,
9 and how those are going to be incorporated into the City's
10 policy writing. And so, that policy has been reviewed by the
11 Department of Justice. I think they had some questions and
12 some comments.

13 I received it and have forwarded it to Dr. Leigh
14 Anderson who is our subject matter expert in community
15 engagement, and so I hope to incorporate her feedback and
16 anything she has in mind and return it back to the parties by
17 next week. I think that having some formalization into that
18 process will benefit both the police department and the
19 community going forward, so I thank the City for getting that
20 policy out and for DOJ to -- for doing their -- reviewing in
21 it so quickly.

22 Just to continue with the community engagement and
23 policing, the subject, so I appreciate that Ms. Glass and
24 Ms. Barton sort of pointing, you know, the nexus between
25 staffing and recruitment and all of these things in

1 establishing and building a robust community policing and
2 problem-solving program.

3 Your Honor, you'll recall, I think it was a couple
4 years ago, when the City entered into a collective bargaining
5 agreement with the police department. One of our concerns was
6 that the ability for the City to be flexible in its shift
7 deployment and its shift scheduling might be compromised by a
8 collective bargaining agreement that would bar them from doing
9 just that.

10 And the -- we worked with the City and Mr. Carey to
11 make sure that there was language within the agreement that
12 would permit some flexibility in this way because we continue
13 to stress that assisting in systemic and coordinated community
14 policing effort, not only you need bodies to do it, but you
15 also need time for them to do it. And you have to have a
16 shift schedule that permits, as Ms. Glass said, officers to
17 use time -- that they're not constantly chasing calls.

18 And parts of the day are busier than others and you
19 have to sort of build around that and build some flexibility
20 within that. So we're heartened to hear that Chief McCall is
21 thinking proactively and is visioning both an organizational
22 plan for the department as well as a call for service analysis
23 that will permit community policing to thrive and to be
24 established and the use of what's been discussed in the
25 small-group dialogues to buttress these policies and these

1 programs, we think, would be -- is a great step and we look
2 forward to seeing the results of that going forward from here.

3 Next, just to follow up on what Ms. Glass was saying
4 about training. You know, we continue to stress and to
5 recommend that the City bring on a training coordinator or a
6 director or someone who has -- it's a specific skillset, as
7 we've said, and Ms. Barton is doing admirable work to try to
8 build that and get that going. But, you know, academy
9 training, recruit training, field training, in-service
10 training. All of that. Particularly when you factor in the
11 POST -- the state requirements for police officers and how
12 they either conform with what the Consent Decree requires, you
13 know, go above it or below it, and how you fill those gaps.
14 All of that work is -- it's a specialized skillset and you
15 need somebody who is devoted to that task.

16 We have mentioned to Your Honor, I think, in our
17 monthly calls, and maybe at the last hearing, that the
18 Monitoring Team is bringing in -- is looking to bring in some
19 additional consultants. Bob Stewart who has been with the
20 Monitoring Team for a number of years, is cycling off, and so
21 we have, hopefully, two new candidates who will be coming
22 forward. The Consent Decree asks that the Monitor present
23 those candidates to the parties before bringing them on board,
24 so I hope to do that. I hope to do them in tandem. We have
25 one that sort of is ready to go and the other is just waiting

1 for some approvals because he's still a sworn member of a
2 police department, so he needs some approvals from his
3 employer before he can do that.

4 But these folks have experience in police training,
5 generally, both at the academy recruit level as well as
6 in-service, and in the use of force, specifically, and so we
7 would hope that they would be able to provide technical
8 assistance to the City much as the DOJ's subject matter expert
9 is doing. But they need a counterpart on the City's end.
10 Just that -- someone that speaks the language and can be
11 devoted to that on, you know, not necessarily all day, every
12 day, but somebody who has the expertise and can do that, and
13 we look forward to the City implementing that recommendation
14 that we've had for quite some time.

15 I will then move to some of the work that the
16 Monitoring Team is doing around auditing. So we are currently
17 conducting two audits. The first in -- for the use of force.
18 So, Mr. Stewart, the subject matter expert for use of force,
19 has just about completed Phase I of our audit, and so you'll
20 recall, Your Honor, that in the first phase, what we did was
21 looked at the existing use-of-force reporting for the police
22 department, the cases for which force was reported and
23 investigated. And we looked at the quality and thoroughness
24 of those investigations.

25 And so Mr. Stewart has been reviewing these

1 use-of-force reports and any body camera footage that is from
2 the same incident to measure reporting, look at tactics that
3 were implemented, weighing against, sort of, the policies that
4 are in effect. And so, he has completed that part of the
5 review.

6 We -- you know, we found, you know, like everything,
7 there are some that are, you know, seem really well done and
8 are, you know, complete packages, and there are some where,
9 you know, their reporting might have been lacking or there
10 might have been a need for some work around tactics, and so we
11 will report out on that first phase fully in our semi-annual
12 report, which is that something Ms. Caruso and I are working
13 on now.

14 The second phase of the use-of-force audit will be a
15 review of incidents that did not have -- where there is no
16 use-of-force report on file, but based on the charges, the
17 offense charged or the offense of arrest, it would appear that
18 force may have been used.

19 So, for example, if there is a charge of assault on
20 a police officer or resisting arrest, we would -- you know,
21 there's an inference that some measure of force might have
22 been used to effect that arrest, and so Mr. Stewart was
23 reviewing the incident reports, the narratives for those
24 offenses, to determine, based on that, what needed another
25 level of review, meaning what do we need body cam footage for,

1 what do we need to examine a little further to see if force
2 was -- force was used but not reported.

3 And so my hope is that the new subject matter expert
4 who comes aboard on the use of force area will pick up that
5 second phase of the report where Mr. Stewart left off in
6 examining that subset of cases where there is no use-of-force
7 report on file.

8 We also started an audit in the municipal court.
9 This is the first time that we've had an opportunity to do
10 that. Unfortunately, we could not do it in person, which is,
11 you know, what we've done in the past. We put it off as long
12 as we could thinking that we would be able to get there in
13 person, but now we just have sort of settled on having to do
14 it remote.

15 And so that began with some document requests from
16 the City. It also included observations of municipal court --
17 of the municipal court's operations in this remote
18 environment. So we attended three court hearings, one evening
19 session and two day sessions. We tried to catch a trial court
20 day, but there were no trials scheduled on that particular
21 day. As you know, there are several policies -- or there's
22 one policy in particular that speaks to trial processes and
23 proceedings, and so we would still need to observe some trials
24 in operation, even remotely, to see how it comports with the
25 Consent Decree and with the policies that are currently being

1 drafted or have been finalized.

2 You know, and I will say that both the judges and
3 the municipal court are going above and beyond to try to make
4 virtual court, you know, as much like the real thing as they
5 can. It, obviously, has a lot of challenges for that, but,
6 you know, we really observed a great deal of -- an empathetic
7 approach to the litigants, the sort of -- you know, the --
8 you know, it tries everyone's patience to be waiting in a Zoom
9 waiting room for things to get started or for your turn. So
10 all of those things that they are dealing with, you know,
11 definitely and are trying to streamline and it's been,
12 you know, really challenging and I just wanted to applaud both
13 of them for the work that they did in the hearings that we
14 were able to observe.

15 Some of the things that -- the other parts of the
16 municipal court audit, specifically, around case review and
17 things that will need to review case files and other materials
18 around the Comprehensive Amnesty Program and others, we're
19 working with Ms. Webber who, you know, she just started, and
20 so she's getting used to a data system that is not user
21 friendly in the least. And so we're working with her to try
22 not to be, you know, as onerous in our requests for documents
23 and data because we know that the system that she's working
24 with has its own challenges, even for someone who's been
25 working at it for years, and she's just stepping into it.

1 And she and Ms. Barton have been working with me to
2 try to get some of the reports and the documents that we need
3 so that we can finalize the Comprehensive Amnesty Program and
4 report out on that, but also look to the implementation of the
5 other provisions around the municipal court, whether it be
6 ability-to-pay determinations and implementation of community
7 service and how warrants are served and all of those things
8 that require us to look into actual case files and to be able
9 to generate reports from the recordkeeping system, which has
10 not been easy.

11 So I thank Ms. Webber for her patience and
12 Ms. Barton for their work to try to get this done. It may
13 take a little -- take longer to do this municipal court audit
14 than in audits past, but that's the nature of, sort of, our
15 virtual work space.

16 The next audit up for the Monitoring Team will be in
17 the accountability space, and so I'm hoping that one of the
18 new subject matter experts who will be coming aboard with the
19 parties' approval will be, you know, finalizing the notice,
20 but I don't want to send out the notice to the City until we
21 have somebody who can actually do it. So, hopefully, that
22 person will be up and on board and the first order of business
23 will be an audit of internal investigations and the
24 accountability provisions of the Consent Decree from the
25 police department.

1 All of these things will go into the semi-annual
2 report, as I mentioned, that Ms. Caruso and I have started
3 working on, so we'll report on what we can and the audits that
4 have been conducted so far, we'll publish the results of the
5 community survey from the summer, and I think Ms. Barton
6 mentioned a survey that was done or -- for the youth on the
7 bias-free policing policy, and Dr. Anderson, on behalf of the
8 Monitoring Team, has done some analysis of the youths'
9 responses to that survey that we will also incorporate into
10 our report this fall.

11 And unless Your Honor has questions, I think that's
12 it for us.

13 **THE COURT:** I think you covered a fair amount there,
14 as did all of the parties.

15 So, Mr. Carey, I'll go back to you then and see if
16 you wish to, you know, state anything further based on the
17 other things you've heard. Obviously, some of the things are
18 things we've heard before. You know, the need for a
19 training -- a dedicated training coordinator, the need for a
20 community -- you know, for a community resource person or
21 working more on that, but the training coordinator, in
22 particular, and all of those other issues are things I know
23 the City has worked on and continues to work on, but are
24 issues that I think are slowing down the ability to fully
25 comply.

1 But I would like to hear anything else -- I know you
2 know that too because we've discussed it when we have our
3 monthly telephone calls. But I would like to hear anything
4 further you wish to say, Mr. Carey.

5 **MR. CAREY:** Sure, Your Honor. You know, as you
6 know, the process of compliance with the Consent Decree hasn't
7 been as expedient as we'd like it to be. We go along for a
8 while and then we lose a key person, and being a small
9 department, we have to reallocate all our resources to making
10 sure we get this key person, like a city manager or a police
11 chief, you know, that kind of thing, then we get those folks
12 in line, then we make some good progress, and then we lose a
13 person and we have to reallocate resources.

14 I guess what I -- and I say all that to say the
15 training coordinator and the community engagement person are
16 very next on our list and they are -- and now that we have all
17 of our key people in place, I think you'll see great progress
18 the next time we meet in that regard.

19 I know part of the restructuring that we're doing
20 that you heard both the Department of Justice, the Monitor,
21 and Ms. Barton talk about, the restructuring to make the
22 department much more community policing oriented includes
23 those positions. So it's not just, you know, the shift
24 analysis that we're doing for the officers to make sure that
25 the officers have more time and that their wellness is taken

1 into consideration. But it is also a command staff
2 reorganization as well. And the training coordinator, as well
3 as the community engagement individual, is included in that
4 reorganization.

5 And so, my hope and my guess is that by the next
6 time you talk to us, at the very least, we will have, you
7 know, made some pretty good strides towards bringing those two
8 folks on board.

9 As you know, we've had that issue with recruiting.
10 And this is not germane to Ferguson. I think policing across
11 the country -- I mean, it's just -- you know, across the
12 country, police forces are just not fully staffed. And so,
13 Ferguson is no exception to that rule.

14 Ms. Tidwell did mention that, especially as it
15 relates to the Training Coordinator, this is a specific
16 skillset and we need someone who has this skillset. So the
17 pool of available applicants for that is a little bit smaller
18 as well. But we have been keeping our eye out. We have
19 been -- this is first and foremost on our agenda now that we
20 have Chief McCall in place and our new City Manager and,
21 you know, I would be surprised if we have not made great
22 strides towards bringing those people on the next time we meet
23 at a status conference.

24 **THE COURT:** All right. And I do appreciate that. I
25 know Chief McCall, in particular, has been very dedicated to

1 this. But, you know, there are the obstacles you talked
2 about. And, you know, I think having the -- having the key
3 people on board is good. I'm very interested to see the
4 reorganization that you're going to be working on and the
5 command structure, and also what efforts you're making with
6 the Training Coordinator and the community engagement person
7 as well.

8 And, you know, they were specialized positions and
9 there has been a lot written in the national press about the
10 difficulty police forces are having in recruiting right now.
11 And I understand that is a problem, but it's -- you know,
12 they're having trouble recruiting and hiring people in a lot
13 of businesses, so I do hope that will improve as time goes on
14 and it sounds like you've gotten some good applicants for some
15 of the recent things, and so I do have -- have hope that
16 you'll be able to meet that challenge.

17 Is there -- is there anything further from the
18 Department of Justice, Ms. Glass?

19 **MS. GLASS:** No, Your Honor. Thank you.

20 **THE COURT:** All right. I want to say to the members
21 of the public that I do regret not having a chance to see you
22 in court in person. I hope that we will do that by our next
23 meeting. And I know that sounds like a broken record, but
24 that's sort of how we've felt about the pandemic. We keep
25 thinking it's going to get better and I think we may finally

1 have been turning the corner, at least in terms of how we're
2 doing thing. And we are more open here in court than we have
3 been, but we're also still trying to be very careful about the
4 number of people that do come into the building at any given
5 time because of safety reasons. And so, I'm hopeful that
6 we'll be able to do that because I do think it's important to
7 let you all come into court if you are able and wish to do so.
8 And so we appreciate the feedback.

9 I think, you know, for everyone in the public to
10 remember that part of what the parties are doing now is
11 complicated because it's not just -- the Consent Decree
12 doesn't just say go do these things and then just tell us you
13 did them and that'll be fine. It also includes the idea that
14 we have a way of verifying what was done and that there is
15 accountability. And that's hard because it actually does --
16 you know, we spend a lot of time, as Ms. Barton and Mr. Carey
17 and everyone here has worked on in terms of databases and
18 computers talking to each other. Things so that we can get
19 reportable, reliable information to know whether the City is,
20 in fact, complying, and this is not -- not an easy process.
21 We all wish it had gone more quickly. But there have been
22 many complications, as Mr. Carey has stated, and I do think
23 that everyone here has worked in good faith.

24 I know we've had changes in the council as time has
25 gone on, changes in the elected officials, and that's to be

1 expected and I've been very impressed with the dedication that
2 all of the new elected officials have given to this process as
3 well as the dedication that the new employees of the City,
4 including, of course, Chief McCall, have given to this. So I
5 want to thank the parties for that.

6 And then I want to thank the members of the
7 community for continuing to be engaged and, you know,
8 continuing to complain when you think there's something that
9 needs complaining about and that's what -- that's what you're
10 supposed to do and we'll try to address those complaints or
11 hear from the parties about those -- what they're doing, if
12 they can. I'm not just saying complain for the sake of
13 complaining, but we want to hear from you. We need feedback
14 from the public to know whether this is working, so we do
15 appreciate your responding.

16 I will send out an order and there will be notices
17 about the next meeting. And as I said, I am, again, very
18 hopeful that it will, this time, really be able to be in
19 person in the courtroom.

20 If there's nothing further from any of the parties,
21 then this hearing is concluded and thank you all again and
22 court is in recess.

23 ***(Proceedings adjourned at 11:48 a.m.)***

24 * * * * *

CERTIFICATE

I, Carla M. Klaustermeier, Registered Merit 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 33 inclusive and was delivered electronically and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 8th day of October, 2021.

/s/ Carla M. Klaustermeier
Carla M. Klaustermeier, RMR, CCR, CSR, CRR
Official Court Reporter