

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

MARCH 22, 2017

APPEARANCES :

Special Master: Clark Kent Ervin, Esq.
SQUIRE PATTON BOGGS

For Plaintiff: Jude J. Volek, Esq.
Amy Senier, Esq.
Charles Wesley Hart, Jr., Esq.
Sharon I. Brett, Esq.
UNITED STATES DEPARTMENT OF JUSTICE

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LEWIS RICE LLC

REPORTED BY: Gayle D. Madden, CSR, RDR, CRR
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United States District Court
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(Produced by computer-aided mechanical stenography.)

1 (Proceedings commenced at 2:16 p.m.)

2 THE COURT: All right. Good afternoon. We are here
3 in the case of the United States of America versus the City of
4 Ferguson. It is Case No. 4:16-CV-180.

5 As everyone knows, this case was resolved through a
6 consent decree, and this is a status hearing to discuss the
7 implementation of the Consent Decree and any issues that may
8 be coming up, and I do want to comment, and I think some of
9 the lawyers may mention this too, but I did receive a
10 number -- I see there are a number of members of the public
11 here today, and I appreciate your interest and your being
12 here. I did receive letters from people who wanted to speak
13 today, and I'm not prepared at today's conference to hear from
14 members of the public. It's not something we normally do at
15 court proceedings, although in this case it's a different case
16 because it is of such interest to the public.

17 So at the next status conference, we will hear from
18 the public similar to the way we did when we had the hearing
19 to consider whether to approve the Consent Decree, and so
20 there will be a process for people who do wish to speak at
21 that time, but today I'm only going to hear from the lawyers
22 and the monitors or the Monitor.

23 So with that said, I would call on counsel for the
24 United States to tell me where things stand. There you are.
25 Okay. Mr. Volek.

1 MR. HASTEN: Your Honor, would you like us to make
2 appearances for the record?

3 THE COURT: Yes, it would be good if you would enter
4 your appearances for the record.

5 MR. VOLEK: Jude Volek for the United States.

6 THE COURT: All right.

7 MS. SENIER: Amy Senier for the United States.

8 MS. BRETT: Sharon Brett for the United States.

9 MR. HART: And Charles Hart for the United States.

10 THE COURT: All right. And, Mr. Carey, if you'll do
11 the same.

12 MR. CAREY: Apollo Carey for the City of Ferguson.

13 THE COURT: All right. And then Mr. Ervin.

14 MR. ERVIN: Clark Ervin, the Monitor.

15 THE COURT: All right. Thank you.

16 So whoever is -- Mr. Volek or whoever else is
17 speaking for the United States. Thank you.

18 MR. VOLEK: Thank you, Your Honor. The United States
19 appreciates this opportunity to update the Court and the
20 public on our perspective on the status of implementation of
21 the Consent Decree. I want to begin by talking about one
22 specific area of the decree and then turn to our broader
23 perspective on the progress made thus far.

24 On Monday evening, the Civilian Review Board of the
25 City of Ferguson met for the first time. This was a

1 significant step forward that will enhance transparency and
2 accountability within the Ferguson Police Department and
3 increase the community's involvement in shaping law
4 enforcement in Ferguson. The Civilian Review Board will
5 review misconduct complaint investigations, force
6 investigations and will also perform other vital tasks such as
7 serving on hiring committees and reviewing policies.

8 The creation of the CRB is the culmination of a lot
9 of hard work by the CRB Task Force, which I'll talk more
10 about, and the City and the other stakeholders. First, the
11 CRB Task Force is a group of very dedicated members of the
12 Ferguson community who have worked for years to meet and
13 discuss what they want their Civilian Review Board to look
14 like. Many of those recommendations are mirrored in the
15 Consent Decree, and in fact, in many ways, the Consent Decree
16 incorporates exactly what they proposed. The creation of the
17 CRB is reflective of all of their effort. It's also
18 reflective of the effort that the City has made.

19 When we last met in December, the City still needed
20 to enact the ordinance establishing the Civilian Review Board.
21 There was an ordinance that was already enacted, but the City
22 had to enact a revised ordinance. The City did that in the
23 last several months. The City also pledged in response to
24 community concerns to reopen the application process and allow
25 more time for people to apply to serve on the Civilian Review

1 Board. The City had to work out the selection process for how
2 they would choose the board members from among those
3 candidates who applied. And finally, they had to actually
4 select the board and get the board up and running. Each of
5 those steps have been taken in the last several months by the
6 City.

7 We attended Monday's meeting, and the nine newly
8 appointed members are all extremely committed to this project,
9 and it was really terrific to see, and in many ways, the work
10 begins now, however, because there's a real need to facilitate
11 and ensure that the Civilian Review Board doesn't just exist
12 but exists to meet the objectives set forth in the Consent
13 Decree, those objectives being to ensure greater transparency
14 and accountability.

15 And to that end, the Civilian Review Board will have
16 a lot of work on its own to do. They're going to meet in the
17 next coming weeks to discuss their bylaws and their rules of
18 order. The City has also pledged to put together a training
19 plan for CRB members consistent with the requirements of the
20 decree to make sure that they're up to speed on constitutional
21 law, city policies, privacy protections, and other issues that
22 are critical to them performing their duties effectively.

23 The parties also have to work together to incorporate
24 a procedure for misconduct investigation complaints to be
25 referred to the Civilian Review Board so that the Civilian

1 Review Board can adequately look into those complaints and
2 review the misconduct complaint investigations.

3 And finally, the police department needs to come up
4 with its own internal processes to make sure that the Civilian
5 Review Board has access to the information it needs to do its
6 job effectively.

7 Similarly, there's also a need for continued
8 community involvement and not just from the Civilian Review
9 Board members but also from the task force itself, which has
10 really thought through many of these issues. And to that end,
11 reflecting, I think, the commitment that we've seen throughout
12 our time in Ferguson, the members of the task force have
13 pledged to stay on to assist the actual board members as much
14 as they can throughout this process.

15 I bring this up at the beginning because I think that
16 it's really emblematic of the work that is done throughout
17 every section of the decree so far, the work that has been
18 done so far. There has been significant progress made. Each
19 one of these provisions requires a number of concrete steps
20 that the City and other stakeholders need to take. There's
21 been significant progress on those steps, but at the same
22 time, there's still much work to be done to ensure that those
23 steps bear the fruits that we all want to see.

24 So with that in mind, I'll take a step back and
25 consider our perspective on the broader status of

1 implementation at this time, which is really, at this moment,
2 an assessment that there is meaningful progress being made,
3 and we certainly are encouraged by the progress that we've
4 seen.

5 So work is really proceeding in two main areas that
6 I'll talk about separately. First, on the one hand, there is
7 the policy review process. As Your Honor is aware, there are
8 numerous requirements in the Consent Decree that must be
9 incorporated into Ferguson Police Department and Ferguson
10 Municipal Court policies, and we discussed at the last hearing
11 that we've set up a process for undertaking that policy
12 development and review, and the City, in the first instance,
13 revises the policies to make sure that it incorporates all
14 requirements of the Consent Decree, constitutional law, and
15 other best practices. And then we've worked on our system,
16 both the Department of Justice and the Monitoring Team, for
17 reviewing those policies once they are submitted.

18 As we discussed at the last hearing, it is an
19 iterative process, and we continue to work to make that
20 process work. We have a priority list in place and have
21 worked hard on the top two policy areas on that priority list,
22 first, recruitment and, second, accountability.

23 With respect to recruitment, there is both a
24 recruitment plan, which sets forth the City's plan to actually
25 attract highly qualified officers and retain those officers,

1 and, second, the Background Investigations Manual. We've
2 really made meaningful progress to date on those things, on
3 both of those items. And, in fact, yesterday, we had
4 productive meetings that we think get us to a point where we
5 have a draft that is ready for submission to some of the
6 citizen groups within Ferguson for their consultation.

7 There have been a couple of issues with respect to
8 recruitment that have been points that we all needed to
9 address, one of them being the requirement that is central to
10 the recruitment plan, central to attracting highly qualified
11 officers and making sure that those officers stay in Ferguson
12 for years to come, which is the requirement that there be
13 competitive salaries offered, and I know that there's been
14 some discussion in this court before about that issue, and I'm
15 happy to report that there has been meaningful progress on
16 that point as well.

17 The Department of Justice understands that
18 recruitment is a priority. That is why we set the policy as
19 the first that we were going to tackle under this review
20 process. We understand that the department is down in
21 numbers, below what is typically allotted, and so we have
22 certainly made that a priority from our end. In addition to
23 our work of trying to collaborate with the City as quickly as
24 possible to get these recruitment policies approved and put
25 into place, the Department of Justice has also issued the City

1 a COPS grant -- community office of -- Office of Community
2 Oriented Policing Services -- and that grant is for \$250,000,
3 which pays for the salary for two officers over the course of
4 three years.

5 THE COURT: That's a Department of Justice grant?

6 MR. VOLEK: That's right, Your Honor.

7 THE COURT: Okay.

8 MR. VOLEK: And so, you know, we really understand
9 that the City is in need to bolster its recruitment efforts,
10 and that's exactly why we are trying to do everything we can
11 to make sure that the Consent Decree gets implemented on that
12 score first.

13 Second, with respect to accountability, the
14 accountability set of policies is one of the most complex
15 policy groups that we are going to encounter. The actual
16 methodology of how complaints are taken in by the department,
17 received by the department, how they're classified, the
18 process for investigating them, the process for referring
19 those out to the Civilian Review Board, coming up with a
20 disposition, imposing a penalty that's appropriate -- all of
21 those things are very complicated processes, and we've been
22 working through that. There are about six or seven associated
23 policies. You know, we still have a bit of a ways to go
24 there, but we have made progress in the last few months.

25 I think with respect to the work that's to come in

1 this area, the next policy group that is on our priority list
2 is the community engagement policies, which is, obviously, a
3 critical piece of this process. There is a community
4 engagement plan that the Neighborhood Policing Steering
5 Committee is working on consulting with the department to
6 develop, and beyond that, we are going to look at body-worn
7 camera policies and in-car camera policies and then
8 use-of-force policies, and so I'm optimistic that at our June
9 hearing, we will be able to report even more progress on the
10 policy review front.

11 In addition to the policy prong, there's also a
12 number of requirements within the decree that are not
13 contingent on policies. You know, many of the requirements of
14 the decree first need to be implemented in policy, and then
15 officers need to be trained, and then there needs to be an
16 assessment to make sure that what is put into policy is
17 actually happening on the ground. There are some separate
18 requirements of the Consent Decree that don't first need to be
19 incorporated into policy necessarily. These are things like a
20 comprehensive review of the Ferguson Municipal Code, the court
21 requirements regarding amnesty provisions. These are things
22 that need not be part of the policy review process but need to
23 be done nonetheless, of course.

24 And on that front, I think that the City is dedicated
25 and really making a lot of effort. They're working extremely

1 hard to get those requirements implemented. You know, I think
2 that you'll hear more from Mr. Carey about the specifics of
3 the City's efforts on that front. We are certainly encouraged
4 by the progress that they've made.

5 I think we all agree that there still is work that
6 remains to be done, but now that the City is beginning to make
7 real progress it's important for two things to happen. First,
8 the City, for its part, needs to develop a way to demonstrate
9 that it's actually done the things that it's doing. We talked
10 a bit about this at the last hearing, of coming up with a
11 methodology for demonstrating to both the Monitor and the
12 Department of Justice exactly what the City's efforts look
13 like. That looks different depending on what the requirements
14 are, and so those are conversations that really need to be
15 happening in short order.

16 The second thing is for the Monitoring Team to
17 develop a structured process for assessing compliance. The
18 Monitor, I know, is committed to that task, which is,
19 obviously, central to the Monitor's duties. I know that
20 you'll hear more from Mr. Ervin about that process, but he and
21 his team have worked incredibly hard on developing a
22 methodology for the municipal court section of the agreement,
23 and per the Consent Decree, I know that that will be submitted
24 to us and the City for review, I understand, in the next few
25 weeks, and so we are optimistic that that process will really

1 lay out a model for how to approach other sections of the
2 agreement to make sure that the methodologies that the Monitor
3 uses result in a thorough, comprehensive assessment that the
4 parties all agree with.

5 Finally, with respect to some of those efforts,
6 specifically, on court, you know, we've been really encouraged
7 on that front in particular, and, you know, this is anecdotal,
8 of course, because we have not yet -- the Monitoring Team has
9 not yet done a comprehensive assessment of those efforts, but
10 I will just let the Court know that we observed a municipal
11 court session both on Monday evening and on Tuesday, and one
12 of the fantastic things that we witnessed was a member of the
13 public, in a lull during court proceedings, remarking to the
14 judge, applauding the judge about the level of respect and
15 dignity with which he treated people that appeared before him,
16 and this was a citizen giving a positive commendation to the
17 municipal court judge, and it is certainly anecdotal, but it
18 is entirely consistent with what we have witnessed thus far at
19 the court. They've really made a lot of progress, and it's
20 certainly consistent with what we've experienced working
21 directly with the municipal judge and the city prosecutor on
22 these issues. So we very much look forward to the Monitor's
23 assessment, comprehensive assessment, of the court provisions
24 in the next several months.

25 So taking a step back, in the next few months leading

1 up to our June hearing, we will be working on finalizing the
2 recruitment, accountability policies as well as community
3 engagement and, hopefully, some other policy bunches as well.
4 On the second front, we hope to continue to assist the City on
5 nonpolicy-related efforts as well.

6 I certainly want to commend Commander McCall, who is
7 the Consent Decree Coordinator, Chief Moss, City Attorney
8 Carey, and City Manager Seewood. They are really the ones who
9 are doing so much of this work. This work has to be done by
10 the entire Ferguson community. That much is clear. It's
11 clear through the work of the NPSC, through the CRB Task
12 Force, through the CRB, through the people who show up at
13 meetings and, you know, really have taken such great care on
14 these issues for several years. But, you know, the City is
15 really making efforts in good faith, and the result is that
16 meaningful progress is being made on both of these fronts that
17 I discussed.

18 I do want to be clear, though, that there still is a
19 lot of frustration, division, and mistrust within the Ferguson
20 community. We attended several community meetings, and that
21 is readily apparent, and so I think in addition to the fronts
22 that I've talked about, I think it will be critical in the
23 next few months for the City to continue to expand its
24 community engagement efforts -- I know that they're very
25 committed to doing so -- and to work with the Civilian Review

1 Board, provide greater assistance to the Neighborhood Policing
2 Steering Committee, and consult with them on the tasks that
3 rest with those groups and to expand the broader engagement
4 efforts that are required by the decree.

5 We also understand that the Monitoring Team is
6 committed to expanding its own outreach efforts and doing
7 whatever it can as well to facilitate the success of those
8 community groups which are so critical to this process, and we
9 certainly are committed to the same.

10 In that respect, you know, one member of the
11 community is, of course, the Ferguson police officers
12 themselves, and, you know, we understand that in addition to
13 the officer assistance and support section of the Consent
14 Decree, there will also be some training delivered directly to
15 officers that is designed to foster greater conversation among
16 them to really lay the groundwork to enable them to have those
17 conversations with the public in a really productive manner,
18 and so that's called the Blue Courage training program. So at
19 the Department of Justice, we have some experience with this
20 training program around the country. It's really a terrific
21 program, and we have facilitated a grant from the Office of
22 Justice Programs to enable the Blue Courage program to be
23 delivered directly to Ferguson police officers, and so that
24 training looks like it will be delivered around the time of
25 our hearing, actually, at the end of June, and so, hopefully,

1 we'll have a better update on that front as well.

2 So, finally, the last thing I'll say is I understand,
3 as Your Honor noted at the beginning, that there have been
4 some public requests to address the Court. In light of the
5 strong public interest in this case, we certainly think that
6 there is occasion for that to happen and there is a good need
7 for that to happen. We certainly would support those efforts
8 that Your Honor is making to making that happen at the June
9 public hearing. We also would request that the Court set a
10 process up in advance of that hearing to make sure that the
11 public has information about exactly what they need to do to
12 make sure that they're able to speak if they would like to do
13 so, or if you would like to -- if Your Honor would like to
14 hear from particular groups especially, that that information
15 being clear to the public would be very helpful.

16 THE COURT: All right.

17 MR. VOLEK: Thank you, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Carey, I'll hear from you on behalf of the City
20 of Ferguson.

21 MR. CAREY: Thank you, Your Honor.

22 Thank you, Your Honor. We appreciate the opportunity
23 to provide the update to the Court with regard to our progress
24 on the Consent Decree. I do want to, however, maybe take a
25 minute or so here to talk a little bit about some organic

1 change that has happened in the city of Ferguson since the
2 events that have precipitated the need for the Consent Decree
3 just so that the Court kind of has some background in terms of
4 where we are, and we know that, you know, obviously, all eyes
5 in the nation are on Ferguson. So we want to be able to maybe
6 talk a little bit about the organic change that's happened in
7 Ferguson, not necessarily related to the Consent Decree, but a
8 very important change that I think will help further our
9 efforts with regard to the Consent Decree.

10 You know, first of all, on the level of our elected
11 officials, you know, the city of Ferguson has -- you may not
12 know, but there are three wards in the city of Ferguson. We
13 elect two elected officials from each ward, and we're happy to
14 report that, you know, we have attained racial as well as
15 gender balance on those fronts. We've got one
16 African-American and one Caucasian representative from each
17 ward, and that is something that we're very proud of and, I
18 think, is a direct effort of our citizens who have decided
19 that racial and gender equality is important with regard to
20 our elected officials, and also, it's also important to note
21 that we have four females and three males on our City Council.

22 THE COURT: I'm never opposed to having women be in
23 the majority of anything.

24 MR. CAREY: That's right. That's right. They tend
25 to have a great leadership quality, and ours certainly do as

1 well. So, again, achieving that racial and gender balance on
2 our City Council is a direct reflection of what our citizens
3 think is important with regard to their elected officials.

4 The other kind of organic change I want to address is
5 the racial balance that we've reached within our
6 administrative and court system. It's really -- and we're
7 really kind of proud to say that we've -- you know, the four
8 folks that we have consistently working on the Consent
9 Decree -- myself, Commander McCall, our city manager as well
10 as Chief Moss -- are all African-Americans, and this is -- you
11 know, this is a really very proud point, I think, for the city
12 of Ferguson to have, you know, African-Americans in the
13 position of administrative leadership, but it's also important
14 to note that, you know, our municipal judge is Caucasian. Our
15 chief court administrator is Caucasian. Our assistant city
16 manager -- Caucasian. Our assistant police chief --
17 Caucasian. My point being that the City has, you know, worked
18 very hard to reach this racial balance that we have, and I
19 think it's important for the Court and the world to understand
20 that with regard to Ferguson moving forward. You know, these
21 efforts are a direct result of our elected officials deciding,
22 you know, that this was important for the city going forward.
23 So we just wanted the Court to kind of understand that.

24 And now, as Jude mentioned, we're not at all saying
25 that the City doesn't have work to do. I think it is fair to

1 say that the City does have some divides that need to be
2 healed, still some wounds relating to the events of 2014 that
3 we need to overcome as a group, but at the very least, from
4 the standpoint of city leadership on the elected officials
5 side as well as the administrative and court side, we're
6 making some progress organically.

7 Now I want to maybe turn the Court's attention to the
8 progress that we're making from the City's perspective with
9 regard to the Consent Decree, and it's important for us to --
10 for me to say initially that the City believes in the concepts
11 and ideas of this Consent Decree. We're so very happy to be
12 able to participate in this work because we think that what is
13 contained in this Consent Decree with regard to transparency,
14 with regard to First Amendment policing, with regard to
15 community engagement -- these are things that are just so
16 important to us as a community and also us an administrative
17 staff and elected officials. And so we really support and
18 stand behind the ideas and concepts in the Consent Decree.

19 So I want to take a little bit of time to maybe just
20 kind of explain to you, Judge, where we're going with regard
21 to some of the major aspects of the Consent Decree, and where
22 I'd like to start is on the FPD side. So it kind of falls
23 into two buckets. You've got the FPD side, and then you've
24 got the municipal court side.

25 So with the FPD, we have made substantial efforts

1 with regard to community engagement. As a matter of fact, we
2 have submitted recently to the Department of Justice a
3 community engagement policy, which we are going to use as the
4 basis for our community engagement plan, and so we have, you
5 know, been in very deep discussions with the Department of
6 Justice about developing that plan and, you know, moving
7 forward with regard to community engagement. And
8 specifically, it's important to note that our officers have
9 taken steps to show that they are definitely engaged in the
10 community.

11 You know, the City has done things such as attending
12 the -- you know, we have officers attending our neighborhood
13 association meetings. We have the Ferguson Youth Advisory
14 Board. We have officers who attend those meetings. We have
15 the Ferguson Human Rights Commission, and we have officers
16 attend those meetings. We, obviously, have the NPSC, and we
17 have officers attending those meetings. We've had our chief
18 go door-to-door, introducing himself to the residents in the
19 community and letting them know that he is here for them, that
20 he has an open-door policy, and that he is here to help. And
21 so there have been substantial efforts made on the City's part
22 with regard to community engagement, and as I said, the
23 Department of Justice and the City are currently working on
24 the actual plan of community engagement.

25 I just mentioned our NPSC, which is our Neighborhood

1 Policing Steering Committee, which is formed. It's up and
2 running. It is not without its challenges. You know, I think
3 this kind of incorporates the statement I made earlier about
4 there's still some divides and some wounds in the community
5 that need to be healed, but rest assured that the City is
6 dedicated to doing whatever it can to help heal those divides.
7 We've recently spoken with the Department of Justice about
8 potentially getting maybe a professional facilitator or a
9 professional, you know, community mediator or facilitator to
10 maybe come in and help to kind of facilitate some progress
11 with that group because we feel that it's very important to
12 the future of the city.

13 I did mention our Youth Advisory Board that we
14 started, which is really, really kind of a neat thing that
15 we've done to get our youthful citizens involved in the
16 community, and so we've started this advisory board. I know
17 for a fact that one of our City Council members is deeply
18 involved with that, and it's not only the City Council member,
19 but like I said, we also have a police presence there who also
20 attend those meetings, and so --

21 THE COURT: How many people -- how many youth
22 typically attend the Youth Advisory Board, or is there a
23 specific number of people on the board?

24 MR. CAREY: On the board? I've only been to one
25 board -- I've only seen -- I didn't even go to the board

1 meeting. I've only seen one board meeting. There were about
2 12 people in the board meeting, but I'm not quite sure if that
3 was a regularly scheduled meeting or --

4 THE COURT: Okay.

5 MR. CAREY: But that's what I saw with my own eyes.
6 So the other thing -- so last time we were here, we talked
7 about the apartment complexes, and you had asked the question
8 about what the City is doing with regard to its apartment
9 residences and how the City was going about addressing that
10 issue in the Consent Decree in terms of compliance, and I
11 didn't say it then because I didn't know it then, but come to
12 find out, right after the hearing, the city manager told me
13 that, you know, we've been working with a group called Urban
14 Strategies, which is a local kind of neighborhood group, and
15 what they did was the folks at Urban Strategies had reached
16 out to some of our apartment community residents and have
17 helped them start a new community organization called the
18 Southeast Ferguson Group. All right. And so the Southeast
19 Ferguson Group consists of several of our major apartment
20 complexes in the area as well as some of the single-family
21 homes around that area, and so what that does is -- we believe
22 it allows folks who are in that segment of our community a
23 voice, and it gives them a consecrated voice, and so they're
24 able to participate and kind of come together and talk about
25 issues, and I know for a fact that our city manager personally

1 attends those meetings between the Southeast Ferguson Group,
2 Urban Strategies, and the City, and so that's just kind of
3 another step that we've taken with regard community engagement
4 specifically with reference to our apartment complex.

5 So the last thing or one of the few things of the
6 last things I'll touch on on the FPD side is our CRB. I mean
7 we couldn't be prouder right now to be able to have the CRB up
8 and running. It was a labor of love for two years to try to
9 get that ordinance passed and to work out all the details that
10 we needed to work out in the ordinance and to get everything
11 going up. We have a CRB Task Force who worked extremely,
12 extremely hard to get this organization up and running, and
13 now we actually have a board, as the Department of Justice
14 referenced. We had our first meeting on Monday, and I can
15 tell you that it was such a positive experience, and so we
16 have some momentum with our CRB, and so as you had
17 mentioned --

18 THE COURT: I assume the CRB is still just organizing
19 and coming up with these policies. It hasn't actually started
20 reviewing any complaints or anything like that?

21 MR. CAREY: You would be correct, Your Honor.

22 THE COURT: Yeah.

23 MR. CAREY: You would be correct. And so what the
24 Department of Justice has graciously agreed to because we, the
25 City, has to develop training for the CRB -- so although, you

1 know, the parties have decided to kind of work on a priority
2 schedule, the Department of Justice has agreed to kind of bump
3 up that training piece because we've got momentum now and we
4 don't want to lose it, and so they've -- you know, because
5 we've got to run all our training policies by the Department
6 of Justice and that type of deal. So it's really exciting to
7 have that going, and so we don't want to lose the momentum.
8 So we'll bump that up on the list of priorities.

9 So with regard to the municipal court side, I kind of
10 want to switch and talk about the municipal court side
11 because, like the Department of Justice, the City is obviously
12 very happy with the progress that we've made on the municipal
13 court side with regard to reform, and we just kind of wanted
14 to kind of highlight some of the things that the City has done
15 that are required in the Consent Decree to do. We get a lot
16 of -- you know, believe it or not, we get a lot of media
17 requests for, you know, interviews and this type of deal. I
18 think what happens is people get, you know, copies of the
19 transcripts and they read them. So I just want to kind of
20 touch on some of the more important items that we've done so
21 it can be a part of the record.

22 So one of the requirements was for the City to repeal
23 what the Department of Justice felt were maybe some onerous
24 ordinances, specifically, our ordinance regarding fines for
25 failure to appear, fees for withdrawal of complaints, and

1 ordinances regarding prison time for failure to pay, and so
2 the City has repealed all of those ordinances. As a matter of
3 fact, we probably repealed those ordinances maybe sometime
4 even prior to the finalization of the Consent Decree, but just
5 so that it's on record and of note to know that the City has
6 gotten rid of all those, you know, overbearing or what the
7 Department of Justice might term as onerous ordinances.

8 One of the requirements of the Consent Decree on the
9 municipal court side was that we removed oversight of the
10 court from our City Finance Director, right, and so the City
11 has done that, and the City now reports directly to the
12 St. Louis County Circuit Court and the Missouri Supreme Court.

13 THE COURT: Yeah. So the municipal court reports to
14 the circuit court?

15 MR. CAREY: Yes, ma'am.

16 THE COURT: And no longer to the City structure?

17 MR. CAREY: Yes, ma'am.

18 THE COURT: Okay.

19 MR. CAREY: Yes, ma'am. And so they have been filing
20 those reports regularly to the St. Louis Circuit Court, and so
21 that was a requirement that the City has fulfilled.

22 We talked about one of the -- or excuse me. One of
23 the provisions in the Consent Decree relating to municipal
24 court reform was our amnesty program. As you know, there was
25 on our books a lot of fines and fees related to failure to

1 appear and these types of things. So we've implemented an
2 amnesty program in which our new city prosecutor has come in,
3 and I think he has forgiven a total of \$1,750,562.67 worth of
4 fines dating back to August of 2014, and so it's a significant
5 number with regard to our amnesty program, and so,
6 essentially, what the prosecutor did was he went through the
7 previous cases that were on the books and basically made a
8 determination whether or not there was good cause to continue
9 with the prosecution, and the ones where he did not make
10 that -- where there was no determination of good cause, he
11 dismissed or just declined to prosecute.

12 The City has also passed an ordinance adhering to the
13 minimum operating standards of the St. Louis County Circuit
14 Court, and our circuit judge has signed that agreement as
15 well, and so the municipal court now operates consistently
16 with the standards of the St. Louis Circuit Court, which kind
17 of buttresses the point that I made earlier with regard to the
18 court reporting directly to the St. Louis County Circuit
19 Court.

20 There was provisions in the Consent Decree regarding
21 notice of rights related to citations. So when people came in
22 the court, you know, one of the complaints was that there was
23 no notice of rights and what the litigants' rights were with
24 regard to seeking, you know, representation and paying fines
25 and that type of deal. So we have implemented a program

1 that -- you know, this is consistent with the wishes of our
2 new municipal judge where we make sure that we hand out
3 notices of rights to everyone who comes in our courtroom.

4 One of the requirements was that we updated our
5 online payment system to accept partial payments of fees, and
6 we have done that as well. We've made some strides with
7 regard to our ability-to-pay determinations, and what that
8 means is essentially there was some language in the Consent
9 Decree as well as in the Department of Justice report which
10 basically said the City was, you know, basically charging
11 people more money who weren't able to pay the initial fines,
12 and so what we did was we implemented a program, and this is
13 consistent with what is being done at the county level. We
14 have a checklist and some other material to kind of make
15 ability-to-pay determinations, and once the judge makes those
16 determinations, the judge -- we also have a community service
17 program where we, you know, can recommend community service
18 for those folks that are unable to pay, and since we have
19 implemented that program, we have a total of 916 cases that
20 have been given community service instead of being charged a
21 fine.

22 Oh, another kind of important note in terms of what
23 we've done -- one of the requirements of the Consent Decree
24 was that we needed to separate the prosecutor from the
25 municipal court, and so what we have done is that we have, you

1 know, gone through and made sure that the municipal court
2 staff is not performing prosecutorial duties, and so we've
3 designated one municipal court clerk to operate exclusively as
4 the assistant for the prosecutor, and that court clerk is
5 separate from the other court clerks. She works on a
6 completely different schedule than the other court clerks, and
7 so we've done that to try to show, you know, our good-faith
8 compliance with that particular provision because we believe
9 it's important.

10 And also, on the municipal side, municipal court
11 side, we have -- so in the works right now is an app that is
12 called Your St. Louis Courts, and what this app will do -- it
13 will kind of be -- I guess I would describe it as the CaseNet
14 for municipal courts, right, and so what it will do is it will
15 give applicants the opportunity to access one database for all
16 of their municipal court charges around the entire --

17 THE COURT: Oh, in all of St. Louis County, you mean?

18 MR. CAREY: Yes, ma'am. Yes, ma'am, in all of
19 St. Louis County.

20 THE COURT: How many people participate in this?
21 Everybody in St. Louis County? How many municipalities?

22 MR. CAREY: Well, right now, it's being worked on by
23 the presiding judge of St. Louis County Circuit Court.

24 THE COURT: Okay.

25 MR. CAREY: And it's going to be one that covers all

1 municipalities.

2 THE COURT: Okay. Yeah.

3 MR. CAREY: And so we believe that particular app --
4 and I was told by our municipal judge, who is -- I think he
5 may be part of a committee that's helping to help develop
6 this -- that, you know, we could expect that maybe sometime in
7 the next 60 to 90 days, and so we think that will be a crucial
8 part of helping us comply with the Consent Decree with regard
9 to the transparency, the ease of access of our citizens to be
10 able to access their charges and those types of things.

11 So that's, Your Honor, kind of an example of what we
12 have done for purposes of the municipal court side, and so,
13 you know, again, we make no -- I mean I think the Department
14 of Justice is completely accurate when they say there's just
15 work to be done. We have four people who consistently work on
16 the Consent Decree on a daily basis. Only one of them is
17 completely 100 percent dedicated to the Consent Decree. So as
18 you can imagine, the rest of us who are working in the Consent
19 Decree with everything else we've got to do in terms of
20 running the City -- the process takes some time, and we have
21 been -- you know, the City has kind of been taking a bath in
22 the court of public opinion with regard to this, you know, the
23 issue of the deadlines and this type of deal. Well, you know,
24 as far as the parties are concerned, you know, we believe
25 significant progress is being made, and we believe that, you

1 know, the course of action that we've taken so far is the
2 right course of action to take because instead of -- you know,
3 when myself and Commander McCall first came on, we were five
4 or six months already into the effective date, and we had a
5 180-day deadline for maybe 52 different reasons, and so, you
6 know, as opposed to going through those, you know, quickly and
7 haphazardly, you know, the parties agreed to, you know, "Let's
8 slow down and get this right" versus, you know, "Let's just,
9 you know, pump out the policies" and that type of deal. So we
10 hope that both, you know, in this court and in the court of
11 public opinion that we would be judged off of the quality of
12 what we do and our dedication to try to get this right versus,
13 you know, being judged by, you know, the letter of the
14 deadlines that are in the Consent Decree because I think the
15 parties have decided to do things the right way.

16 So that's pretty much all I have to say.

17 THE COURT: All right. Thank you.

18 MR. CAREY: You're welcome.

19 THE COURT: Okay. Mr. Ervin, I'll hear from you as
20 the Monitor.

21 MR. ERVIN: Thank you.

22 THE COURT: I don't know if you talk as fast as the
23 other two, but you all have covered a lot of territory here.
24 Thank you. Go ahead.

25 MR. ERVIN: Thank you very much.

1 Your Honor, I should start at the beginning by
2 acknowledging the presence of several members of the
3 Monitoring Team with me today.

4 THE COURT: Yes.

5 MR. ERVIN: Sam Rosenthal, my partner at my law firm
6 in Washington. Kim Norwood, who's locally based. And Delores
7 Jones-Brown, another member of the Monitoring Team.

8 Natashia Tidwell had been here this week for certain
9 Consent Decree-related duties, about which more later, but she
10 could not join us for the hearing today.

11 So I wanted to make sure I began by acknowledging
12 them.

13 As you suggested --

14 THE COURT: I'm sorry I didn't do that. I saw you
15 all there, and I appreciate your being there. Yeah.

16 MR. ERVIN: Oh, no worries, Your Honor. Thank you.

17 As you just indicated, I want to try very hard not to
18 be duplicative of what measures Volek and Carey have said, but
19 some degree of overlap, of course, is inevitable. We're
20 commenting on the same things albeit from our differing but
21 complementary perspectives. So I'll be as brief as possible,
22 and I'll also add in -- add some things in certain areas where
23 there are particular things to be added by the Monitor.

24 First, I want to begin, as Mr. Volek did, by noting
25 the progress of the City in getting the CRB up and running.

1 Like he, I was pleased to be present on Monday night at the
2 first meeting of the CRB. That is a signal accomplishment.
3 It's a very important mechanism under the Consent Decree for
4 citizens to be able to hold the police department accountable
5 for the ultimate goal of the Consent Decree -- constitutional,
6 otherwise lawful, and bias-free policing, and so all due kudos
7 to those in the City who made that happen.

8 With regard to reports, let me begin with policy
9 review. I always say in these status hearings and during the
10 course of community meetings I think it's a very good
11 organizing principle to remind myself and to remind everyone
12 that there are basically three buckets of responsibilities
13 under the Consent Decree for the Monitoring Team. One, to
14 review policies with a view to whether they conform to the
15 requirements of the Consent Decree, applicable other federal
16 and state law, and best practices. And a companion to that, a
17 complement of that is ultimately reviewing training materials
18 for those same purposes. Secondly, as you heard, conducting
19 certain evaluations and audits periodically to assess whether
20 in fact the City is complying with certain provisions of the
21 Consent Decree. And then also carrying out certain outcome
22 assessments to determine whether the effect of all of that is
23 the effect that we want to see, both with regard to the police
24 department and also, I hasten to add, the municipal court
25 system.

1 And so as you heard and as you will recall, we
2 agreed -- I think this was big progress at our last hearing;
3 before our last hearing, we reported on it -- on a structured
4 way of reviewing policies rather than the ad hoc approach that
5 we had taken to date and a priority order in which to review
6 those policies. We developed -- DOJ took the lead on this --
7 a checklist that the City could use in ensuring in the course
8 of either establishing policies or revising them that those
9 policies conformed to the Consent Decree and law and best
10 practices. And then we agreed on the following priority
11 order, to remind you, namely, recruitment, community
12 engagement, use of force, bias-free policing, accountability
13 in stops, searches, citations, and arrests.

14 As you heard with regard to recruitment, we know
15 that, quite rightly, that is a very important priority for the
16 City. We know that there are fewer officers than there were a
17 couple of years ago, three years ago, and it's critically
18 important to fill that gap, but we want to ensure -- we, DOJ,
19 the Monitoring Team, the City, I think it's fair to say, want
20 to ensure that officers recruited are those who are likely to
21 comply with the Consent Decree and the spirit of it, and so
22 we've spent, as you heard, a considerable amount of time on
23 the draft recruitment policy and the companion Background
24 Investigations Manual to guide the conduct of investigations
25 into recruits' backgrounds prior to their hiring. As you

1 heard, we had had over the week a sticking point with regard
2 to the salary survey that is called for under the Consent
3 Decree, as Mr. Volek reported.

4 One of the things that our meeting yesterday -- all
5 of us spent the bulk of yesterday having a face-to-face
6 meeting focused on these policies. One of the things that
7 yesterday's meeting underscored for me is how fruitful and
8 productive it is when we are all together face-to-face. As
9 you know, Your Honor, we do have weekly calls, and those
10 weekly calls generally focus on policy development, but those
11 calls are no substitute for face-to-face dialogue and
12 interaction.

13 THE COURT: And remind me -- and I should have asked
14 one of the others this -- who participates in the weekly
15 calls?

16 MR. ERVIN: Invariably, it's Commander McCall
17 because, as Mr. Carey said, it's he who's principally
18 charged -- he's the Consent Decree Coordinator. He's
19 principally the liaison between the City and DOJ and me.
20 Mr. Carey is always on those calls. Often, Chief Moss and the
21 city manager, Mr. Seewood, join those calls, but it's always,
22 at a minimum, Mr. Carey and Commander McCall. From DOJ, it's
23 generally all -- most members of the DOJ team, and the core
24 team is the team that you see before you here today, and I am
25 the Monitor's representative for those calls.

1 THE COURT: Yeah.

2 MR. ERVIN: And so, as I say, we made progress on
3 that salary survey. We have agreed now on a definition of the
4 terms there. The City has agreed to provide its analysis of
5 the data that we discovered that they have and to do so within
6 a week or so. So we're hopeful to wrap that up rather
7 shortly. And we have also provided our comments -- the DOJ
8 has and we, the Monitoring Team, has -- on the Background
9 Investigations Manual.

10 At the same time, we've been working very hard on
11 accountability policies, which we've moved up in the hierarchy
12 given how important they are. It has not been mentioned, I
13 don't think, that we have already agreed on a
14 duty-to-report-misconduct policy and also a duty-of-candor
15 policy. Both of those have been implemented. And the
16 duty-of-candor policy's worth has already been proved. The
17 chief can tell you that he has used that policy already to
18 question officers about behavior, and that has resulted in
19 candor on the part of those officers. One would hope that
20 absent that policy officers would be candid, but in the event
21 officers going forward are not candid, that policy can be used
22 to hold them accountable for that lack of candor.

23 In the last few weeks, as you heard, we have focused
24 intensively, and understandably so, I think, on the hardest,
25 arguably, accountability policies, namely, internal

1 investigations, how those investigations should be conducted,
2 what the process and procedures for that should be, and also
3 as a companion to that, a disciplinary matrix which we
4 envision to be a list of offenses, potential offenses, and a
5 range of penalties that should be meted out that corresponds
6 to those offenses. We have exchanged drafts and comments, and
7 we hope to conclude the process, at least from DOJ and the
8 Monitoring Team's point of view, in the next few weeks.

9 You've heard that we have prioritized, likewise,
10 community engagement efforts. We have been -- we, DOJ and I,
11 had been waiting for some time for a comprehensive list from
12 the City of all the community outreach activities that the
13 City has already engaged in. You heard many of them from
14 Mr. Carey just now. There are many, as you heard. And also
15 for the City's plan going forward as to further activities to
16 engage in, and we believe -- we, the Monitoring Team -- that
17 it is incumbent on us to provide some additional suggestions
18 to the City as to how it can further its community outreach
19 efforts, and so members of the Monitoring Team and other
20 resources that we are aware of external to the Monitoring Team
21 will -- will begin and intensify -- actually, we've begun to
22 some degree but will intensify our efforts to be helpful and
23 constructive in that regard.

24 The second big bucket is the area of evaluations and
25 audits. You heard a little bit about the municipal court

1 audit. As you heard from Mr. Carey a number of things the
2 City has done already with regard to municipal court reform as
3 he has reported, it's our job as the Monitoring Team to verify
4 that that is in fact the case. I've been working intensively
5 with Ms. Tidwell and Ms. Norwood on this municipal audit. In
6 brief, what I can tell you is that when we were all together
7 in December there were numerous meetings and discussions with
8 relevant personnel, namely, the municipal court judge, the
9 city prosecutor, the county clerk. There were -- in addition
10 to those in-person meetings, we observed or the relevant
11 members of the team observed court proceedings, and likewise,
12 we did the very same thing this week. Ms. Tidwell,
13 Ms. Norwood -- DOJ likewise -- attended court sessions. As
14 you heard, there were additional meetings, and I think it's
15 fair to say now that we, the Monitoring Team, have come to
16 closure on a methodology to audit, literally, provision by
17 provision, those provisions that relate to municipal court
18 reform, how we're going to assess whether each of those
19 provisions is being implemented. In certain instances, it's
20 merely a question; it's a paper exercise of looking to see
21 whether in fact the ordinances that Mr. Carey says have in
22 fact been excised have in fact been excised. In other cases,
23 we're required to hear for ourselves and see with our own eyes
24 whether citizens are apprised of their rights during the
25 course of court proceedings. In other cases, in other

1 instances, we will have to look at certain court files. So
2 the methodology will vary depending on --

3 THE COURT: Depending on what you're auditing?

4 MR. ERVIN: Depending on what we're auditing.

5 THE COURT: Can you hold on just a second?

6 MR. ERVIN: Sure.

7 THE COURT: All right.

8 MR. ERVIN: But the point is that we are finalizing
9 that methodology, and I should add, by way of ending this part
10 of the discussion, that there will be a timeline for each
11 provision as to when we will conduct the audit. In certain
12 cases, it will be a one-time thing because of the nature of
13 the provision. In other instances, depending on the nature of
14 the provision, it will require for periodic recurring review,
15 but more to come on that.

16 The other audit that we have begun to think about, in
17 fact begun to work on, again, subject to a methodology that
18 has to be -- as Mr. Volek, I think, said -- has to be approved
19 ultimately by DOJ and by the City before moving forward
20 formally, is one about police staffing. We -- Commissioner
21 Davis, who's a member of the Monitoring Team, the former head
22 of the Boston Police Department and the Lowell Police
23 Department in Massachusetts, Ms. Tidwell, who was a police
24 officer in Cambridge, Massachusetts, are leading this effort.
25 The premise, the hypothesis behind that work is whether --

1 despite the relatively low number of officers vis-a-vis August
2 of 2014, there are certain changes in policies and procedures
3 and, perhaps, certain changes in the schedule that officers
4 used that, nonetheless, despite the small numbers, could be
5 used to free up officers to engage in community policing. For
6 example, do officers have to respond, as they had been doing,
7 each time there is a call, a sick call, a call for help
8 because someone is in some kind of physical distress? We
9 question whether that's necessary, and so there have been
10 discussions about that, and we're hopeful that we can report
11 publicly soon some progress in that regard with regard to
12 policies like that and also schedule because we know how
13 important it is to have additional officers and to employ the
14 officers that we presently have for crime fighting and
15 community policing, and by the way and importantly, we think
16 the two can and should go hand in hand.

17 In terms of outcome assessments, as I mentioned at
18 the last hearing, we, the Monitoring Team, have been very
19 focused -- and I know that this is a subject of considerable
20 and understandable public interest -- on the community survey
21 that is called for in the Consent Decree. There is also a
22 police survey that is called for in the Consent Decree. The
23 good news is, as Your Honor knows, we have -- we, the
24 Monitoring Team, have drafts -- we think very good drafts --
25 of both those surveys.

1 My hope and intention had been to administer that
2 survey some time back over the course of the holidays. Part
3 of the sticking point there was that there -- it wound up
4 being the case that there were fewer volunteers -- I'd hoped
5 to get student volunteers to help administer the survey --
6 than I had anticipated. The good news since, though, is that
7 there have been a number of positive developments. I am
8 authorized to say that the Ford Foundation has agreed to give
9 a \$100,000 grant, not to the Monitoring Team, I hasten to add,
10 but to help underwrite the work of administering the survey by
11 some third-party entity and then to analyze the survey. More
12 to come on that.

13 And what I envisage once we administer it -- and I
14 hope to do that during the course of the spring as soon as
15 possible. There are some additional details to be ironed out.
16 We envisage a mix of methods to distribute the survey so as to
17 maximize, hopefully, the number of people who respond to it,
18 especially in hard-to-reach populations. So mailing the
19 survey, emailing the survey for those for whom the City has
20 email addresses, texting the survey or at least a link to the
21 survey, having the survey available on our website, the
22 Monitor's website, on the City's website, having physical
23 copies of the survey available for distribution at government
24 buildings, at public gathering places, and then using the
25 relatively few resources we have. I since have gotten about

1 five students, I think, from Washington University Law School.
2 Coincidentally, the City has an internship program, I learned,
3 and those interns, I have been told by the City, can be made
4 available to help on this project. So there would now be
5 about 10 people who can help to administer this door-to-door
6 in apartment complexes, for example, and other areas so as to
7 reach or try to reach the hard-to-reach population so as to
8 maximize our responses. So I hope to have more to report on
9 that to the Court and to the public in short order. And after
10 we do that, we will, of course, analyze that survey and turn
11 our attention to the administration of the police survey.

12 In terms of the other major outcome assessment that's
13 called for in the Consent Decree -- and that is determining
14 whether the police department and the court system has the
15 information necessary for us to determine whether people are
16 being disproportionately affected in a negative way based on
17 protected characteristics, like race, for example -- our
18 ability to assess that depends, of course, on whether the data
19 exists, whether the City is capturing that data, and if so,
20 whether we can extract that data for our analysis. We've
21 been -- we, the Monitoring Team, have been challenged in that
22 regard over the months. The system that the City uses -- and
23 I think the City would be the first to acknowledge this -- ITI
24 has its challenges. There is a group on the Monitoring Team.
25 Your Honor will recall FRA, Forensic Risk Alliance, whose

1 expertise lies in this area, and there is good news to report.
2 I am told by FRA that ITI does contain data as to certain
3 protected characteristics, namely --

4 THE COURT: Yeah. So let me back up --

5 MR. ERVIN: Sure.

6 THE COURT: -- because I'm losing you in some of the
7 acronyms. ITI is the actual system that the City uses to
8 monitor its -- its -- or to keep track of arrests --

9 MR. ERVIN: Police department statistics.

10 THE COURT: -- arrests and -- arrests and charges and
11 things like that?

12 MR. ERVIN: That's right.

13 THE COURT: Right.

14 MR. ERVIN: And there's a separate one for the court
15 system. We've focused to date on the police department.

16 THE COURT: Right. The ITI is the police one?

17 MR. ERVIN: Yes, that's right.

18 THE COURT: Okay.

19 MR. ERVIN: And the good news, as I say, is that FRA
20 has determined -- FRA is Forensic Risk Alliance; it's part of
21 our team -- that ITI contains data as to certain protected
22 characteristics, namely, race, skin color, gender, and age,
23 but not gender identity, sexual orientation, and disability.
24 We have not been able -- did you have a question about that,
25 Your Honor?

1 THE COURT: Well, no. I'll hear what you have to
2 say. Those are harder things to -- you have to ask people.
3 Right?

4 MR. ERVIN: Indeed so. Much harder. That's quite
5 right. Also, we have not been able to determine whether ITI
6 captures data explicitly related to First Amendment political
7 activities that are protected, complaints against FPD,
8 individuals in crisis, internal investigations, appeals from
9 supervisors, or use of force. So we've not been able to
10 determine that. We're going to continue our efforts to see
11 whether it contains that data. If it does not contain that
12 data, then we'll have to -- we'll have to make a judgment
13 about that and see whether there are other external resources
14 that could be helpful in that regard. I'm not authorized at
15 this point to go into much detail, but there are a number of
16 outside groups that I have been consulting in recent weeks,
17 and we think that one of those groups may have the expertise
18 to be helpful in this regard and might be willing to donate
19 its services to the City of Ferguson to provide that
20 additional help. So more to come on that, we hope.

21 I guess the final thing I would say, subject to Your
22 Honor's additional questions, is to talk a little bit about --
23 and Mr. Volek, I think, talked about this -- my own and the
24 Monitoring Team's own community outreach efforts. It's
25 critically important that the Monitor himself and the

1 Monitoring Team do our own community outreach. We are the
2 community's tool to ensure, through an independent, impartial
3 voice, that the provisions of the Consent Decree are
4 implemented and if the provisions of the Consent Decree are
5 not implemented duly to report that to the Court and to the
6 public, and we take that obligation seriously.

7 And so, of course, I do not live in Ferguson or the
8 St. Louis area, and I'm constrained in how often I come
9 because of other commitments. I made a commitment early on to
10 come often, in addition to the status hearings, to do so about
11 every six weeks. I have not been doing that in part because
12 we have a local representative now in Ms. Norwood and also
13 because we have been focused so much in the last few weeks and
14 months, productively, I think, on the policy review process.
15 Having said that, last night, I did participate in a town hall
16 meeting, and I have resolved to do a town hall meeting, as
17 opposed to individual meetings, every single time I come to
18 Ferguson and, in fact, to come, starting now, every six weeks.
19 So you can expect to see me, Your Honor, if you wish to do
20 that during the course of those visits or at least to know
21 that I will be here on such a basis and make myself as broadly
22 available to the community as possible.

23 One of the perennial issues -- and I have discussed
24 this with Your Honor, and I'll close with this -- here is that
25 it's wonderful that I'm talking to people in the room, but the

1 people I most need to talk to are not in the room, and so I am
2 looking for input as to how to reach people who are not yet
3 engaged in the process, and I've already gotten a number of
4 community suggestions in that regard, as you might imagine,
5 and I'm looking for additional ones, and I will redouble my
6 efforts to reach out to those who most need to be heard from
7 because they are rarely heard from, if ever.

8 That concludes my remarks, Your Honor.

9 THE COURT: All right. Thank you.

10 MR. ERVIN: Thank you.

11 THE COURT: In terms of the outreach, I know that
12 more could be done and I know that was -- in some of the
13 letters I received, those were some of the concerns of the
14 people who had asked to speak, and perhaps they'll have more
15 to say.

16 I did want to make sure that everyone knows that this
17 court has a website. It is www.moed.uscourts.gov. Right? Is
18 that right? I should know it. I look at it all the time.
19 It's not as snazzy as a lot of websites that people are used
20 to surfing because it doesn't -- it's not snazzy. We're the
21 court. We're boring. So -- but it does have a link, and if
22 you go on the left side to links, there's a place where it
23 says *United States of America versus City of Ferguson*. That's
24 the link to this case, and if you look at that, it has the
25 orders I have entered in this case, including the order

1 setting the next status hearing. It has the transcripts of
2 the hearings we've had in the past. It has, of course, the
3 Consent Decree. It has -- but it has all of the transcripts
4 that we've had, and then it's got things back to when we did
5 it. It also has contact information for the Monitor,
6 including address, phone number, email, and for each of the
7 lawyers who has entered an appearance in this case, that is
8 for the Department of Justice and for the City. So, you know,
9 that's what we have on our court's website, and like I say, I
10 know it's not flashy like other websites, but it's there and
11 it has the information.

12 So I would encourage everybody to look at that, and I
13 will -- as everybody has problems, there have been times we
14 haven't kept it up-to-date as quickly as we should have. It's
15 up-to-date now, and we will keep it up-to-date from now on,
16 including posting the transcript of this hearing in a few --
17 when we get it done. It'll be -- it won't be immediately, but
18 we will have it posted.

19 I will also try to provide further notice about the
20 procedures for the June meeting and what people should do, but
21 when we have that June status conference, my intention is that
22 people can speak, that we would limit each person to five
23 minutes, and that you just need to show up ahead of time and
24 sign up. I would ask that you speak about things that have to
25 do with the Consent Decree. It's not an open forum for all

1 purposes. It has to do with the Consent Decree, the things
2 that are within the Court's power and within the Consent
3 Decree. You know, so I'm not -- it's not a political forum,
4 you know, but I think -- you know, I think that the last time
5 we did it, it was very productive, I think, and worked fine,
6 and so we'll do something similar.

7 The Monitor also has a website, and there is a link
8 to that in the text in our Court's website, and obviously,
9 everyone should look at that, and it's called
10 fergusonmonitorship.com.

11 And the City, of course, also has a website. And,
12 Mr. Carey, I neglected to check your website again, the City's
13 website again today, but I would urge the City to have as much
14 information as possible about this process, and if you don't
15 have it there already -- I know the last time I checked it I
16 didn't think it had as much information as it might have.

17 And in particular -- and I haven't told the lawyers
18 and Mr. Ervin this yet, but I would ask that every time I do
19 issue an order setting out a hearing or every time we do post
20 a transcript online that you add that to your websites. I
21 know, as lawyers, you don't want to do that; you're hesitant
22 to put stuff the court gave you out on the website, but I
23 would say if I'm entering an order setting hearings or the
24 transcripts, you should put those on your websites too so that
25 people can have more access to them.

1 So that's -- I know I'm not a community outreach
2 expert. Normally, the courts don't do anything except we're
3 public. That's what we tend to do. But I do want people to
4 reach -- you know, to know what we're doing. This should be a
5 transparent process.

6 So I hope that will help somewhat in people knowing
7 what's going on and being involved. And, of course, the main
8 involvement that people can have is working with the City and
9 all these various organizations and task forces.

10 I'm pleased to hear that the City has worked with a
11 group to try to encourage formation of community
12 organizations. It's been my experience -- and I mentioned
13 this at the last conference -- that community organizations
14 can be a very helpful way of getting things done, but, of
15 course, it requires members of the community to go to the
16 meetings. They don't generally work when they're set up by
17 the City. They work when they're set up by the people. And
18 so I hope that for the neighborhood groups and things like
19 that, that the people will get involved and will do what they
20 can to set them up. And to the extent the City or others, the
21 Department of Justice, can assist in that, that's great, but
22 when we're talking about a community organization, that ought
23 to be the people doing the work. And unfortunately, as we all
24 know, sometimes those processes are messy because people don't
25 always agree with each other, and that's part of the job of

1 trying to get yourself organized is to talk and work through
2 your agreements and disagreements.

3 And I hope that -- you know, as the Court in this
4 case, I'm not -- it's not my role, you know, to say, well,
5 this person should be the head of this group, whether it's one
6 of the groups listed in the Consent Decree or otherwise, or I
7 think you should organize it that way. My official role is to
8 see that the Consent Decree is complied with and that my
9 orders are followed because that's what courts do. If I can
10 help, I want to help, but I also am not -- I'm not the
11 community organizer. I'm the judge, and really all I can do
12 fully is, you know, see to it through this process and others
13 that the public is informed of what the court is doing -- and
14 we have these conferences so that the public can know as well
15 as me knowing -- but also that the decree is complied with.
16 Most of the work is not anything that I can or should be
17 involved in.

18 I'm not a part of the case. I'm not a party to the
19 case. The parties are the Department of Justice and the City
20 of Ferguson. The community has a huge interest in seeing that
21 this is complied with, as do I, but, you know, I am an
22 independent -- I'm neutral in all this. All I'm doing is
23 following the law, and so that's all I can do.

24 For members of the community who are here, I
25 appreciate your being here, and I don't know if any of you all

1 are following the Supreme Court hearings that are going on
2 right now or the confirmation hearing for the person who's
3 been nominated to be on the U.S. Supreme Court. He's been
4 making a lot of statements about the role of judges, and
5 although it's very frustrating, I know, for people to sit
6 there and say, "Well, we want you to tell us how you're going
7 to rule on something," the statements about the role of
8 judges -- and if you look at the history, this is what the
9 Supreme Court justices have been saying in all their
10 nomination hearings or their confirmation hearings. They
11 never tell you how they're going to rule on anything. But
12 that's because that's our job. Our job is to be neutral.
13 When I talk to a jury, I tell them my job is to provide a
14 level playing field. That's really our job.

15 So, in this case, my job is also to make sure that
16 the Consent Decree that was entered, which is a judgment of
17 this court, is complied with, and that's an important job, but
18 it's not to be an advocate for one side or the other. It's to
19 make sure that the law is followed, and that's really all
20 we're doing. So I hope you understand that, and I hope the
21 people who aren't here today but who have an interest in this
22 also understand that I can't -- I'm not here to just be a --
23 solve all the problems. Really, you guys have to solve the
24 problems, but I'm here to make sure the Consent Decree is
25 complied with because that's really my role.

1 And I am going to start trying to talk to the lawyers
2 and the parties. They're having weekly telephone calls, and I
3 may participate in those once in a while. I won't necessarily
4 do it all the time but just so I can make sure they're doing
5 what they need to do.

6 Similarly, I will try to have opportunities for
7 public comment at these hearings, but it won't necessarily be
8 at every status hearing. But everything we do is public. It
9 is all on the court's website. It's in the court docket
10 sheet, the file. I'll put the major things up, but if there
11 are things you want to know more about and they're not on the
12 public websites, they're in the court file, and they are
13 available to the public. Everything filed in the court,
14 unless it's filed under seal -- and there's nothing filed
15 under seal in this case except for some home addresses --
16 is -- but everything else is in the public documents, and
17 that's true of all cases.

18 The court's open to the public. So, you know, you
19 can go to the clerk's office and look at the case file if you
20 don't want to pay. There's a fee because -- because the
21 courts -- we have to charge a fee if you look at the docket
22 sheets of our cases because otherwise we don't have money to
23 run our computers because Congress decided the best way for us
24 to have a computer system was to charge a user fee, and so
25 that's what we're doing. So I know people hate it, and I

1 apologize, but that's not my -- that's at a much higher level
2 than me, but the stuff I think is really important in this
3 case that you all need to know and that should be given to the
4 public, I'm putting on the public website so there's no fee
5 for that. But if you want to look behind that and look at the
6 actual docket and the filings themselves, you can come to the
7 clerk's office and look at the public terminal, and you won't
8 be charged for looking at that. If you do it at home, you may
9 have to have a PACER account.

10 Parties, Mr. Volek, anything further from the
11 Department of Justice?

12 MR. VOLEK: Nothing for us, Your Honor.

13 THE COURT: Mr. Carey?

14 MR. CAREY: No, ma'am.

15 THE COURT: Mr. Ervin?

16 MR. ERVIN: Nothing, Your Honor.

17 THE COURT: Thank you, all. And so I will see you
18 again on June -- I have it right here. I set it. I just told
19 you it was on the website. The next hearing, which is June --
20 is it --

21 MR. ERVIN: 22nd.

22 THE COURT: -- 22nd? Yeah, so that's three months.
23 And at that hearing, I will hear from members of the public.
24 It will probably -- I don't know if it will be in this
25 courtroom. We might move it downstairs to the larger

1 courtroom in anticipation of other people, of there being a
2 bigger crowd. So do check the court's docket and the postings
3 downstairs to see which courtroom it will be in.

4 Yes, Mr. Carey.

5 MR. CAREY: Your Honor, actually, we have something
6 on that issue. I saw something, and I can't remember if it
7 was a court procedure or something. That had to do with when
8 the public wants to speak at the hearing --

9 THE COURT: Yes.

10 MR. CAREY: -- the parties are then given an
11 opportunity to be prepared, basically, to respond or
12 something.

13 THE COURT: Yeah, to know what topics. Would you
14 like to have an idea of what topics people want to talk about?

15 MR. CAREY: Yeah. I think there's a procedure that
16 the court has that will allow us because if there is, you
17 know, some questions or something, it would be nice for the
18 City and maybe the Department of Justice too -- I don't want
19 to speak for them, but at least from the City perspective, to
20 be able to be prepared for that pursuant to that court
21 procedure.

22 THE COURT: Yeah. I know we have talked about that
23 before. When we had the initial hearing to approve the
24 Consent Decree, the proposal was that people -- from the
25 parties to the case -- was that people who wanted to speak

1 would tell us ahead of time and would have to tell us what
2 they wanted to talk about, and I know that would be very
3 helpful for the parties. I'll take that under consideration
4 and think about doing that. I also don't want to make it
5 overly burdensome, and I also want to, you know, remind people
6 that, you know, what is filed in the court file is public, and
7 so when people -- I mean, on the one hand, we won't take
8 anything that's anonymous. On the other hand, if you put your
9 address and phone number on there, it's in the public, and it
10 is out on the Internet, and so, you know, that's not something
11 most people want to do, and frankly, we don't think you should
12 do it. So I'm hesitant to tell people just to start filing
13 stuff or sending things up. But let me look at it, and I'll
14 see if there's a way that is reasonable and accessible that we
15 could do that so you'd have some notice.

16 MR. CAREY: Thank you, Your Honor.

17 THE COURT: Otherwise, I suspect most of the things
18 people want to talk about will be things that the City and the
19 Department of Justice have already heard about because they've
20 come and complained to you, and if not, I would hope that you
21 all would -- that people would talk to the City about what
22 they want. But, yeah, I'll see if I can think of a way
23 that -- I'll try to come up with a procedure that would be
24 fair that would give some notice to the City and the parties
25 to the case without unduly restricting people's opportunity to

1 speak.

2 MR. CAREY: Thank you.

3 THE COURT: All right. I will thank you, all, for
4 being here, and I will see you in three months and be talking
5 to some of you sooner than that, and court is in recess.

6 (Proceedings concluded at 3:29 p.m.)

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CERTIFICATE

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

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

I further certify that this transcript contains pages 1 through 54 inclusive.

Dated at St. Louis, Missouri, this 29th day of March, 2017.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter