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Clerk of Court, United States District Court
Thomas Eagleton United States Courthouse
111 South 10th Street
St. Louis, Missouri 63102

**RE: *United States v. City of Ferguson*, Case No. 4:16-cv-0180-CDP
Written Comments Regarding Status of Consent Decree**

Dear Judge Perry:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we appreciate the opportunity to comment on the status of the implementation of the consent decree in the above-captioned case. LDF has closely monitored policing reform efforts in Ferguson and collaborated with local activists, lawyers, and community members to advance constitutional policing practices in the city. In 2014, LDF supported Ferguson residents' request that the U.S. Department of Justice (DOJ) open a civil rights investigation of the Ferguson Police Department (FPD) after the police-shooting death of Michael Brown, an unarmed Black teenager.¹ Following the DOJ's investigative report findings that FPD and other city officials engaged in a pattern or practice of excessive use of force as well as racially-biased and unconstitutional policing and court practices in violation of the U.S. Constitution and federal and state laws,² we urged the DOJ and Ferguson city officials ("collectively, the parties") to develop and implement a consent decree. Additionally, prior to this Court's approval of the current consent decree, LDF submitted comments on how to support and strengthen the consent decree's provisions.³

On April 19, 2016 this Court approved the consent decree. For more than two years, LDF has monitored the implementation of consent decrees as well as similar agreements with police departments in New York City, New York and Baltimore, Maryland.⁴ With this experience, and consistent with this Court's November 15, 2018 Memorandum and Order,⁵ we offer the following

¹ See Press Release, LDF, *LDF Commends President Obama's Call for Action in Ferguson* (Aug. 14, 2014), <https://www.naacpldf.org/press-release/ldf-commends-president-obamas-call-for-action-in-ferguson/>; see also NAACP LDF, *FERGUSON IN FERGUSON*, (2014), <http://www.naacpldf.org/publication/ferguson-in-focus>.

² Civil Rights Division, U.S. Department of Justice, *Investigation of the Ferguson Police Department*, 28-41, 62 (March 4, 2018), https://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson_police_department_report.pdf [hereinafter DOJ Report].

³ Press Release, LDF, *LDF Provides Written Testimony on Ferguson Consent Decree in Advance of Court-Ordered Public Hearing* (April 15, 2016), <https://www.naacpldf.org/press-release/ldf-provides-written-testimony-on-ferguson-consent-decree-in-advance-of-court-ordered-public-hearing/>.

⁴ See generally *Davis v. City of New York*, Case No. 1:10-cv-0699-SAS (S.D.N.Y. Jan. 28, 2010) (challenging the unlawful stop, questioning and arrest of African American and Latino public housing residents and their guests by New York City Police Department officers); *United States v. Police Department of Baltimore City*, Case No. 1:17-cv-0099-JKB.

⁵ *United States v. City of Ferguson*, Case No. 4:16-cv-0180-CDP, Order, Dkt. No. 99.



comments and recommendations for ensuring Ferguson city officials' (the City) full and effective compliance with the consent decree's required reforms.

1. Timely and transparent selection process for a new FPD police chief

In October 2018, former FPD Police Chief Delrish Moss announced that he would step down as FPD police chief to care for his ailing mother.⁶ Deputy Chief Frank McCall agreed to serve as the interim chief as the City completes a national search for a new police leader. Consequently, the City has had three police chiefs in two years. Certainly, it will be difficult to maintain compliance with the consent decree without a leader who is experienced in and committed to transforming a police department.

During the 2016 national search for a police chief, the City conducted a transparent selection process that included the participation of the Ferguson community members—Ferguson resident even assisted with interviewing the finalists.⁷ Because “[m]aking sure a cross-section of our city has input into the hiring process is a critical first step,” the current police chief search should also include community input.⁸ In fact, because the consent decree expressly requires the Neighborhood Policing Steering Committee (NPSC)⁹ and Civilian Review Board (CRB)¹⁰ to meaningfully participate in the hiring process of FPD officers, we recommend the participation of both entities at all stages of selection process for the new police chief. Additionally, we support the community's request that the City hold a public forum, wherein community members express the qualities they are looking for in the next chief—another practice other police departments routinely follow.¹¹

When searching for a new police chief, soliciting the input of community members and stakeholders is not only common¹² but is critical to maintaining transparency and continuing to improve police-community relationships. Because all applications for the new Ferguson police chief position are due December 1, 2018, we urge the parties to commit to a selection process that includes the recommendations above.

⁶ See Christine Byers, *Ferguson police chief resigning, city launching national search for replacement*, ST. LOUIS POST DISPATCH, Oct. 10, 2018, https://www.stltoday.com/news/local/crime-and-courts/ferguson-police-chief-resigning-city-launching-national-search-for-replacement/article_90f41d62-052f-5048-9e3d-02b14258a784.html.

⁷ See Aamer Madhani, *Ferguson names finalists for police chief post*, USA TODAY, Mar. 4, 2016, <https://www.usatoday.com/story/news/2016/03/04/ferguson-names-four-finalists-for-vacant-police-chief-post/81321354/>.

⁸ See comments by St. Louis Mayor Lyda Krewson, Christine Byers, *St. Louis mayor forms citizen committee to search for new police chief*, ST. LOUIS POST DISPATCH, May 25, 2017, https://www.stltoday.com/news/local/crime-and-courts/st-louis-mayor-forms-citizen-committee-to-search-for-new/article_c743bb9b-1e1b-53b8-95cf-ab5f89582d5e.html (“Ensuring that the police department is community-oriented and accountable to the public is paramount in hiring a new police chief.”)

⁹ Consent Decree at para. 21(e), *United States v. City of Ferguson*, Case No. 4:16-cv-0180-CDP [hereinafter Consent Decree].

¹⁰ *Id.* at para 405(f).

¹¹ See News Release, Pasadena Office of the City Manager, Police Chief Recruitment – Updated Community Forum Meeting, Aug. 20, 2018, <https://www.cityofpasadena.net/city-manager/news-releases/police-chief-recruitment-updated-community-forum-meeting/> (“Public input is crucial to selecting the best individual to lead the Department. I encourage all community stakeholders to attend the upcoming forum(s) and share their thoughts on the characteristics and professional background they feel are most important when selecting a new Chief.”).

¹² See e.g., Lauren Linder, *Albany residents give input on selecting new police chief*, NEWS 10, Apr. 15, 2018, <https://www.news10.com/news/local-news/albany-residents-give-input-on-selecting-new-police-chief/1122975177>; see also WTVC, *How to pick a new police chief? City of Chattanooga releases plans*, May 15, 2017, <https://newschannel9.com/news/local/how-to-pick-a-new-police-chief-city-of-chattanooga-releases-plans> (“Including the perspective of those whom you serve is immensely important when making a decision such as this”).



2. Public comment periods for the development and review of FPD policies and training curricula

The consent decree appropriately acknowledges that the FPD can only effectively protect and serve the Ferguson community if it has a strong relationship with residents. To accomplish this goal, in October 2018, the parties—at the urging of Ferguson residents, including the Ferguson Collaborative and LDF, and consistent with national best practices¹³—agreed to a 30-day public comment period for all FPD policies and procedures. We commend them for their willingness to open the policymaking process.

The 30-day public comment period is to provide community members with an opportunity to carefully review, understand, and make meaningful comments and edits to FPD’s draft policies. This proved to be challenging, however, when city officials released 11 use of force policies (and accompanying appendices) at the same time,¹⁴ giving community members—many of whom had never reviewed a police department’s policy before—very little time to thoroughly review, understand, and draft written comments on all 11 draft policies. Thus, we recommend the release no more than one to three policies at a time to ensure a meaningful opportunity for both FPD officers and members of the public to review, comprehend and comment on the policies within the 30-day time period. Additionally, we urge the parties and monitor to publicize a calendar of public comment periods so that members of the public can anticipate the release of certain policies. The parties in the *United States v. Police Department of Baltimore City, et al* consent decree follow this practice.¹⁵

Additionally, the parties and monitor involved in the Baltimore Police Department consent decree permit public comment periods for draft and revised training curricula. We recommend the same for the Ferguson consent decree to increase community input and acceptance of policing practice by both officers and residents.

3. Timely completion of key consent decree requirements

Nearly three years after the effective date of the consent decree, numerous actions required in the consent decree—even those with a specific deadline—remain incomplete or unreleased. To ensure the City’s timely and effective compliance with the consent decree, we urge the Court to mandate timely completion and status updates of the following areas:

a. The Monitor’s Work Plan

Paragraph 424 of the consent decree requires the monitor to, “[w]ithin 90 days of assuming the duties of Monitor . . . develop a plan for conducting: (a) reviews of policies, training curricula, and

¹³ See *Final Report of the President’s Task Force on 21st Century Policing* at 2, 15, May 2015, <https://ric-zai-inc.com/Publications/cops-p311-pub.pdf>; see generally *Beyond the Conversation: Ensuring Meaningful Police-Community Engagement*, <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5b29056a758d460f539bc079/1529415022872/Policing+Project+Beyond+the+Conversation.pdf>.

¹⁴ The released use of force policies included: General Use of Force (Policy 4.1.0), Use of Force Reporting (Policy 4.1.1), Use of Force Review (Policy 4.1.2), Electronic Control Weapons (Policy 4.3.0), Canines (Policy 4.7.0), Batons (Policy 4.5.0), and Firearms (Policy 4.2.0), Vehicle Pursuits (Policy 4.8.0), OC Spray (Policy 4.6.0), Less Lethal Shotgun Ammunition (Policy 4.4.0), Critical Incidents Response (Policy 4.2.1).

¹⁵ See BPD Monitoring Team, *Public Feedback: Make Your Voice Heard on Proposed New BPD Policies*, <https://www.bpdmonitor.com/public-feedback/>, (last visited November 28, 2018); see generally, BPD Monitoring Team, Revised and Updated First-Year Monitoring Plan, <https://static1.squarespace.com/static/59db8644e45a7c08738ca2f1/t/5b9bf4abcd836603dd08b250/1536947372976/BPD+-+Updated+1st+Year+Monitoring+Plan+9+-+13-18.pdf> (listing comment periods for draft policies and training curricula).



other written materials requiring Monitor review or approval; (b) evaluations and audits of whether the material requirements of this Agreement have been implemented; and (c) outcome assessments, including the community surveys required by this Agreement.” Paragraphs 425-441 further describe the what should be included in the monitor’s plan (the work plan). The work plan provides a clear view of the work needed to continually implement the consent decree and is therefore critical and time-sensitive.

While we acknowledge that the consent decree has been assigned to two lead monitors in two years, this transition should have had limited impact on the City’s obligation to implement the consent decree’s requirements in a timely manner. Indeed, the monitoring team’s role is to review and make recommendations to the City on how to fully comply with the consent decree. That said, a work plan developed by the monitor that includes a schedule for the review and audit of each requirement would guide the City’s compliance and notify the public of when various requirements will be considered and completed. During this Court’s September 18, 2018 status hearing (September status hearing) the monitor told the Court that she had previously submitted a draft of the work plan to the parties and planned to meet with the parties later that day to further solidify the work plan.¹⁶ To date, the monitor has not shared a completed work plan with the community or filed it with this Court.

b. Creation and Implementation of Bias-Free Policies and Protocols

Ensuring FPD officers refrain from discriminating based on race, sex, religion, language ability, age, or other factors is crucial to the success of the consent decree. Paragraphs 70-74 of the consent decree reflect this principle by prioritizing the development and implementation of policies that instruct and train officers on bias-free policing practices. Specifically, the City must assess the accuracy and reliability of FPD’s current processes for collecting and analyzing state-mandated “racial profiling” data by developing protocols for collecting and analyzing such data and outlining additional data that should be collected to improve the accuracy and reliability of FPD’s data collection methods. After this, the City must take immediate corrective action to ensure that any discriminatory action or disparate impact due to any FPD policy, plan, procedure, initiative, activity, or service in question is not further applied or administered in a discriminatory manner.¹⁷ Similarly, paragraph 72 instructs both the City and FPD to develop cost-feasible protocols for annually conducting data-based assessments of the impact of all FPD and court programs, initiatives, activities, and services to determine whether they impose a disparate impact based on protected characteristics. Paragraph 73 requires the monitor to conduct ongoing disparate impact assessments and finally, paragraph 74 instructs the City to develop protocols for correcting such disparate impact.

Despite the consent decree’s clear emphasis on bias-free policing and the parties and monitor’s commitment to develop bias-free protocols and policies in the first year of the consent decree’s implementation,¹⁸ according to the *Independent Monitor Spring 2018 Semiannual Report and Appendices (Spring 2018 Status Report)* bias-free “policy development has yet to begin” but “should be completed within the next reporting period.”¹⁹ Accordingly, we urge the Court to instruct the parties

¹⁶ See Transcript 12:1-13, Quarterly Status Hearing, Sept. 18, 2018, <file:///C:/Users/Ktopps/Downloads/70.-Transcript-of-Status-Conference-09.18.18.pdf> [hereinafter September Status Hearing].

¹⁷ Consent Decree, *supra* note 12, at paras. 70 and 71.

¹⁸ *Independent Monitor Spring 2018 Semiannual Report* at 13, <https://fergusonmonitor.com/wp-content/uploads/2018/06/Ferguson-Monitor-Spring-2018-Status-Report-and-Appendices.pdf> [hereinafter *Spring 2018 Status Report*].

¹⁹ *Id.*



to give a detailed status update for all requirements outlined in paragraphs 70-75 and a firm timeline for completion of all incomplete tasks, including the development of bias-free policing policies.

c. The Citizen Complaint Form and Disciplinary Matrix

Paragraph 372 of the consent decree requires the City to develop an easily understandable and usable citizen complaint form that individuals may use when making a misconduct complaint. It further requires the City to make these complaint forms and other materials outlining the complaint process—including relevant telephone numbers and email addresses to obtain additional information—widely and permanently available, including on the City and FPD websites; the lobby of City Hall; all Ferguson schools staffed by FPD employees; FPD headquarters; and the Ferguson Municipal Court. To date, the City has neither completed nor widely disseminated the complaint form. We urge the Court to push the City to create and disseminate this form as soon as possible, for the benefit of Ferguson residents.

Additionally, the FPD disciplinary matrix sets forth guidelines for what form of discipline should be imposed when an officer engages in misconduct. When the parties shared FPD's draft use of force policies for public comment and review, many of the policies referenced the disciplinary matrix. However, the parties did not disclose the disciplinary matrix. Though the initial comment period for the use of force policies has closed the community will continue to provide feedback on FPD draft policies that refer to the disciplinary matrix. Therefore, we recommend public release of the disciplinary matrix.

d. Data-Collection, Publication, and Analysis

The lack of an established, transparent, and reliable data collection method—and subsequent data collection, analysis, and publication—is one of the parties' most alarming deficiencies to date. Data collection is critical to adhering to nearly every part of the consent decree, and as this court noted nearly three months ago, necessary for measuring FPD's actions.²⁰ Yet, many basic data sets remain uncollected, analyzed, or published.²¹ Worst, the consent decree requires most data collection on a periodic basis; meaning, the failure to collect data only increases as more time passes. As we approach the third year of the consent decree with significant data deficiencies, and the City attempts to transition to a new data collection system, the Ferguson community is only left to hope the parties will finally catch-up to all the data requirements in the consent decree, accurately review the collected data, and then timely modify its behavior to improve policing services.

Thus, we urge the court and monitor to not only require the City to produce detailed status updates on the new data collection system and all data requirements listed in the consent decree, including a data collection plan as required by paragraph 412,²² but to also require timely completion of these requirements. These instructions should also be applied to the consent decree's data publication requirements.²³ By continuing to delay complete and accurate data collection and

²⁰ See September Status Hearing, *supra* note 16, at Tr.28:15-23 and 16:19-25; see also Tr.17:1-10 (DOJ stating the same).

²¹ See *id.* at Tr. 19:14-17 (“[B]ecause of the limitations with data collection, there are still uncertainties regarding how uses of force are actually going to be documented and recorded.”).

²² The Monitor noted in the September 18, 2018 September Status Hearing that it recently provided FPD with a template showing FPD “how they can *start* figuring out what data they actually need to collect.” *Id.* at 17:4-5.

²³ Paras 411, 413, and 414 of the consent decree require the City to publish certain data, reports, and resources on its website (“The City agrees to make publicly available on request and on the City’s website all FPD and municipal court policies and protocols, as well as all public reports described in this Agreement . . .” and “[o]n at least an annual basis, the City will make data collected pursuant to paragraph 411 publicly available on the City website in summary form, unless



publication, the City deprives the court, monitor, and community the ability to evaluate the constitutionality of FPD's current policing practices.

e. Monitor audits

At the September status hearing, the monitor informed the court that due to data collection failure, the monitoring team struggled to obtain enough data to review FPD's 2017 uses of force incidents. Specifically, the monitor explained that she was unable to obtain proper data to complete the mandatory audit of FPD's uses of force from January 2017 through June 2018.²⁴ When the monitor asked city officials to provide her with arrest, field interview, and use of force reports for that time period, the City provided "only a handful of field interview reports from which we could draw any information" and about 78 use-of-force reports, leaving the monitor "still trying to figure out whether ... [the team will] get the entire population of those [use-of-force reports]."²⁵

In addition to use of force audits, paragraphs 434 and 435 of the consent decree detail extensive assessment requirements outside of FPD's uses of force. However, the monitor's *Spring 2018 Status Report* was limited to an audit report of the parties' municipal court reform efforts.²⁶ Similarly, pages 18-21 of the same report include a detailed chart listing: the status of all municipal court reform efforts required under the consent decree, whether the parties have begun this work, and the corresponding audit status. We thus recommend the monitor produce a similarly detailed chart and description of: all actions the consent decree requires the City to complete (except for the municipal court reform efforts), the status of the City's implementation of such requirements, and status reports on all corresponding and required audits—and noting whether the incomplete audits are due to lack of data of reliable data. Keeping a detailed record would not only highlight all areas of noncompliance but would also identify areas where the City may require additional guidance or support.

f. Development and administration of annual community and police surveys

During the September status hearing, the DOJ told the Court the Police Foundation will assist with creating the required annual police and community surveys required by paragraph 429 of the consent decree.²⁷ Because the monitoring team already administered a police survey in 2017 but was "unable" to administer a similar survey for community members, we urge the parties to prioritize development and administration of the community survey.²⁸ Importantly, the consent decree not only requires the monitor to "conduct a reliable, comprehensive, and representative survey of members of the Ferguson community" "[w]ithin one year of the Effective Date, and every year thereafter," it expressly requires the monitor conduct an initial survey to establish a "baseline" of the community's sentiments, satisfaction, and quality of engagements involving FPD and the municipal courts. No baseline survey, according to the consent decree, was ever administered.

prohibited by law."). To ensure compliance with this provision, the City should also publish the 2017 Officer Attitudes and Perceptions Survey.

²⁴ See September Status Hearing, *supra* note 16, at Tr. at 7-8.

²⁵ *Id.* at Tr. 5:5-10 and 7:17-23.

²⁶ The Monitor noted in the *Spring 2018 Status Report* that "more progress has been made on the municipal court reform section of the Consent Decree than in other areas"—we agree the parties have achieved great progress in addressing the consent decree's requirements for municipal court reform. Given this, we are interested in the extent of progress completed in the *other* areas under the consent decree; see *Spring 2018 Status Report* at 7.

²⁷ See September Status Hearing, *supra* note 16, at Tr. 11:2-12; see also Consent Decree, *supra* note 12, at para. 429.

²⁸ See *Spring 2018 Status Report* at 13.



Notably, in 2015, the Ferguson Collaborative (FC) unilaterally decided to create a short survey to gather data on the community's sentiments; the FC administered the survey to community members and gathered its subsequent data.²⁹ The FC survey and its accompanying data is attached hereto as Exhibit A. We urge the court, monitor and parties to review this community survey, incorporate its questions and data in the required police and community surveys, and use it as a baseline to evaluate whether the community's views and interactions with FPD and the municipal courts has changed since implementing the consent decree.

Additionally, we recommend that the St. Louis Ethical Society of Police and the NPSC participate in the creation and administration of the forthcoming community and police surveys. This would be consistent with paragraph 430(e) of the consent decree, which states the monitoring team will "[e]ngage in informal conversations with Ferguson residents, FPD officers, court staff, and DOJ representatives, and observe community meetings..." as it conducts the annual community surveys. Finally, we urge the parties to create, finalize and administer the first consent-decree mandated community surveys by no later than June 2019.

g. Displacement of Ferguson Apartment Residents

Paragraph 25 requires, within 180 days of the effective date, the City to assist with the establishment of a neighborhood association in each of Ferguson's apartment complexes including, Canfield Green, Parkridge, and Northwinds. Importantly, paragraph 25 also requires the City to work with these apartment complex Neighborhood Associations "in the same manner that the City consults and works with other Neighborhood Associations, such as Old Ferguson East, Jeske Park, and Old Ferguson West."

Within the last few months some of the very Ferguson apartment complexes noted in paragraph 25 have failed mandatory health and safety inspections, were deemed condemned, and began evicting and displacing the residents therein.³⁰ We recommend that the City provide a status report on its interactions with the Neighborhood Associations listed in the consent decree, including how it is working with them to ensure the residents continually have safe and secure housing.

h. Community Involvement

Paragraph 26 requires the City to, within one year of the effective date, develop FPD crime-prevention and community-policing plans to ensure policing is oriented around community priorities and partnerships. Additionally, paragraph 33 requires the City to, within 180 days of the effective date, develop a plan for providing neighborhood mediations in Ferguson. These plans are merely a first step in creating positive community and policing relations. It appears the City has not implemented these plans. We recommend the City provide a status update and timeline for creating and implementing all plans.

²⁹ See *A Community Voice—A Survey of Ferguson Stakeholders and a Vision of Community Policing*, Interim Report, August 2015 (attached hereto).

³⁰ Nassim Benchaabane, *Confusion reigns at Ferguson apartments where tenants were ordered out*, ST. LOUIS POST-DISPATCH, Nov. 15, 2018, https://www.stltoday.com/news/local/metro/confusion-reigns-at-ferguson-apartments-where-tenants-were-ordered-out/article_8ff7caa2-10d3-5eb4-b441-a52c901fbdec.html; see also Roche Madden, *Ferguson residents forced out of apartments after building labeled unsafe*, Fox 2, Oct. 10, 2018, <https://fox2now.com/2018/10/10/ferguson-residents-forced-out-of-apartments-after-building-labeled-unsafe/>.



i. School Resource Officers

In the *Spring 2018 Status Report* the monitor noted that, as required by paragraph 210, the parties began developing a School Resource Officer (SRO) program and operations manual. Additionally, she noted that the parties, in accordance with paragraph 211, drafted a Memorandum of Understanding (MOU) between FPD and the Ferguson-Florissant School District (FFSD), the FFSD commented on the MOU, returned it to FPD, and are now awaiting the monitoring team's review of the revised version. We ask the court to request a status update on both the SRO program and the revised MOU. Importantly, to demonstrate the City's commitment to meaningful community involvement, we also encourage the parties to solicit community review and feedback on the SRO program and MOU.

j. Civilian Oversight

Paragraph 405 of the consent decree lists several tasks for the CRB. These include, among other things: a) review, make findings, and recommend disciplinary action for all Force Review Board investigations involving misconduct complaints and all investigations of complaints by members of the public against FPD alleging misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, racial slurs; b) develop and recommend a program to promote awareness throughout the broader Ferguson community about options available for filing misconduct complaints and the misconduct complaint process; c) review FPD policies, procedures, training plans and curricula, and make recommendations for modifications; serve on officer hiring and promotion panels; d) develop and implement ways to enhancing FPD's relationship with the community; and e) review crime data, racial profiling data, and complaint statistics to identify patterns and trends.³¹

Given these requirements, we urge the Court to inquire as to the status of all CRB requirements under the consent decree. Specifically, the Court should ask the parties how CRB provided oversight on the areas detailed in paragraph 405, to what extent was that oversight documented, whether the CRB's recommendations and findings followed, and what requirements remain incomplete and why. In answering the Court's inquiry, the City should specify whether they have complied with all paragraph 405's reporting and implementation requirements, including whether CRB was consulted in the FPD's recent hires and revised policies, plans, and procedures.

In addition to CRB's tasks, the monitor is required to develop protocols to assess whether a) CRB is representative of the broader Ferguson community and b) CRB is effectively serving the civilian oversight functions described in Mo. Rev. Stat. § 590.653 and the consent decree. The Civilian Review Board Task Force is also required to conduct a comprehensive assessment of the CRB's operations to ensure that it is providing effective civilian oversight. The monitor should provide an update on the status of all the above.

k. Approximately 1,800 Remaining Amnesty Cases

The consent decree requires the City to create an amnesty program that, at the very minimum, creates a mechanism in which all cases that were initiated before to January 1, 2014 and yet, remain currently adjudicated (the amnesty cases) are reviewed in accordance with the good-cause standard.

³¹ However, the *Spring 2018 Status Report* only notes that the City enacted the establishing ordinance for the CRB, which includes protocols for the selection of members, and has developed training materials for its members. It makes no reference to the other CRB's other duties.



Though the City has dismissed over 7,000 amnesty cases under this provision, it has decided to keep approximately 1,800 amnesty cases open.

Worse, the DOJ investigative report explicitly details how the city attorney's office, municipal court officials, city officials, and FPD collectively over-policed and over-prosecuted Ferguson's Black residents for decades, resulting in severe fines and unconstitutional stops, arrests, charges, and jail time for cases just like the remaining 1,800 amnesty cases.³² The DOJ report provides real examples showing that Black residents are more likely to be stopped and given duplicative charges, especially for charges generally brought at an officer's discretion, and "once a charge is filed in Ferguson municipal court, a number of procedural barriers imposed by the court combine to make it unnecessarily difficult to resolve the charge."³³ In other words, due to undeniable racially discriminatory practices between the FPD and municipal courts, "[c]ourt cases involving black individuals typically last longer than those involving white individuals and therefore, on average, an African-American defendant is 68% less likely than other defendants to have a case dismissed . . . and three times less likely to receive the Voided outcome than others."³⁴

Ferguson residents named in the remaining 1,800 amnesty cases are currently experiencing the same uncertainty, fear, and financial instability discussed in the DOJ report. We therefore urge the City to, and the Court to support, a dismissal of *all* remaining 1,800 amnesty cases. Given the City's documented discriminatory history and the need for transparency, if any amnesty cases remain, to create transparency and public confidence in City officials, we ask that the City specify the status, offense, and rationale for continuing each case. This will allow both the monitoring team and the community to evaluate the remaining cases, in a fully informed manner. Finally, we ask that the monitor and her team fully review all remaining cases, rather than the 10% cited at the September status hearing.³⁵

I. Stop, Searches, and Voluntary Contact

Paragraphs 75 and 109 require the City and FPD to develop protocols for regularly conducting cost-feasible, data-driven and qualitative assessments of its voluntary encounters, stops, searches, and arrests. The City and FPD must identify deficiencies and opportunities for improvement; implement appropriate corrective action; and document measures taken. We ask the parties to provide the Court with a status report on the creation and implementation of the above protocols and data analysis.

4. Conclusion

According to DOJ's investigative findings, the Ferguson community experienced years of discriminatory and unconstitutional policing and municipal court practices. FPD's policing practices targeted Black residents, permitted excessive and deadly force, duplicative charges, and a deprivation of numerous constitutional rights. To change this culture, the consent decree's principles and requirements must equate to more than mere words on paper. We commend the Court, parties, and monitor for progress made to date to ensure the timely and vigorous implementation of every requirement in the consent decree. Significant work remains to be completed and the stakes could not

³² See U.S. Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, March 4, 2015, at 9-16 and 71, https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

³³ *Id.* at 68.

³⁴ *Id.* at 69.

³⁵ September Status Hearing, *supra* note 16, at Tr. at 9:21-23 ("Ms. Aghedo [of the monitoring team] is going to review approximately 10 percent, maybe a little bit more. . .").



be higher. Therefore, we urge the Court, parties, and monitor to consider and adopt our recommendations.

If you have any questions, please contact Katurah Topps at 212-965-2254.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Monique Dixon".

Monique Dixon
Deputy Director of Policy & Senior
Counsel

Katurah Topps
Policy Counsel

EXHIBIT A

A COMMUNITY VOICE



INTERIM REPORT

A Survey of Ferguson Stakeholders and A Vision of Community Policing

Highlights

The Ferguson Collaborative (formerly the DOJ Working Group) undertook our survey of Ferguson residents and stakeholders from a desire to raise up the voice of those directly affected by policing. It is from those voices, we believe, that the most effective solutions will be found.

Our results were striking in five areas. We found:

- **A Strong Desire for Change**
84% of respondents wanted the Ferguson Police disbanded, rebuilt or reformed.
- **A Strong Desire to Maintain an Independent Ferguson PD**
78% of respondents wanted to keep policing of Ferguson separate from the county or other cities.
- **Significant Racial Disparities in Experiences with the Ferguson PD**
Black people experiences tend toward the negative while White people' are more likely to characterize their interactions with police as "good" or "excellent." White people are 6 times more likely than Black people to rate their experience "excellent."
- **A Strong Desire for Elected Agencies to Represent Community Voices**
When asked what form citizen input should take, respondents consistently and overwhelmingly wanted elected rather than appointed bodies to represent them.
- **A Strong Desire for Reforms that Stop Crime, Involve the Community in Solutions and End Racial Profiling**
When it comes to specific reforms, our respondents want quick police responses, community engagement, and training that will address racial disparities.

The release of our Interim Report details just what our community has to say about policing. With these results in mind, and feedback from our community forum, we plan in the final version of this report to add a vision of what policing should be.¹ We hope the survey and that vision can serve as guideposts for the Department of Justice as it implements the community mandate for change.

What is this project?

The Ferguson Collaborative is a group made of several organizations,² Ferguson residents and community stakeholders. We came together to address the lack of input from the community's most vulnerable citizens in the DOJ process. As social justice organizers and concerned citizens we saw the need to ensure that all voices of the community, especially stakeholders, were being heard. Our mission was to act as a liaison between the citizens and stakeholders of

Ferguson and the DOJ. We began this project by discussing the most important issues that we felt the community needed to speak on. It was important to us to hear from citizens on their interactions with the police, what should be done with the Ferguson Police Department, what community input with the police should include and their top priorities for the department.

We also looked at some of the most successful models of consent decrees around the country and met with a lawyer hired by Cincinnati citizens to negotiate for them with the DOJ. We took examples from the Department of Justice decrees we studied, as well as things we heard on the street and developed a survey. The survey itself is contained in Appendix 1. The survey was dispersed via internet, flyers and door knocking. We also took advantage of the annual 4th of July celebration in Ferguson. We were able to gather almost 400 surveys³ and solicited help from a data analyst to understand the results. Detailed demographic data is contained in Appendix 2. Our next step is to hold a town hall meeting Sunday, August 23rd from 3-5 p.m. at Wellspring Church (33 S Florissant Rd, 63135) to share the survey results and to further amplify the community's authentic voice concerning how it wants to police itself.

Why this project?

Despite the report released by the Department of Justice in March that identified the disproportionate and brutal policing of Black people in Ferguson, the city of Ferguson continues to abuse and undermine its Black residents. The Department of Justice and the City of Ferguson are working on an agreement regarding the next steps for the police department responsible for the killing of Michael Brown, Jr. in August of 2014. We believe this negotiation should be three-sided, with community members, especially those most affected by the problem, being the other voice at the table.

During our time on this project the DOJ has been willing to listen to many voices and attended some town hall events, but told us that they do not actively conduct community events to solicit opinions. While they have talked extensively with grassroots organizations, we believe that a crucial element of community input has been missing.

At the same time, the City of Ferguson has failed to collect meaningful input from the community and take action. Townhalls have not addressed the desires of the community, and have not had sufficient outreach efforts, resulting in minimal representation of black working class residents--the majority of the city's population. City officials have held no community dialogues to discuss citizens' experiences with police, or what citizens would like in their policing. They have not conducted any surveys of citizens on what is or isn't working in policing. They have failed to provide an adequate vehicle for citizens to engage in dialogue with members of City Council, City government and the police force on policing issues.

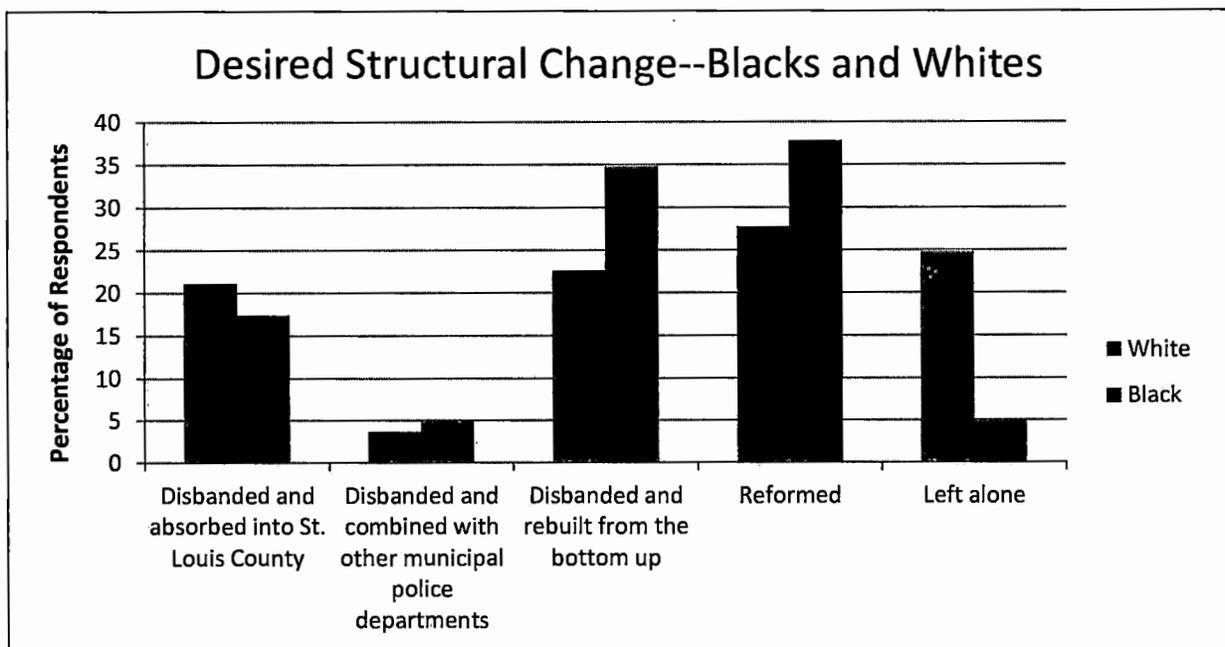
The officials of the City of Ferguson alone cannot imagine nor create a solution to the problem of racist policing. Ferguson and its varying departments and employees are the drivers of the crisis we find ourselves in; they made their stance clear when they stood idly by while the police

continued to abuse citizens and while the City government used the police force to generate revenue off the backs of our black citizens. This is clearly documented in the DOJ’s Ferguson report. Nor can the DOJ be most effective by imposing, from outside, a template of “best practices” that will not be overseen by a community that has felt engaged with the process from early on. Black working class people are integral to ensuring that this consent decree is operational, community-based, and solution-oriented. Neglecting to engage those most affected by the city’s racist profit-oriented policing, the same population that will be most affected by the decisions established in the agreement, will only result in futile reforms that don’t comprehensively resolve the issue at hand.

Findings

➤ A Strong Desire for Change

The survey shows across race lines that stakeholders want a major overhaul of the Ferguson Police Department. When asked whether structural changes were needed, a full 84% responded that the department needs to be reformed, rebuilt from scratch, or disbanded. Only 16% feel the Department should be left alone. Contrary to many suggestions for reform, however, few respondents want to see the Ferguson PD consolidated with surrounding municipal police. Answers to the question of structural reform do vary somewhat along racial and gender lines, with Black people and women⁴ tending to favor more sweeping changes:



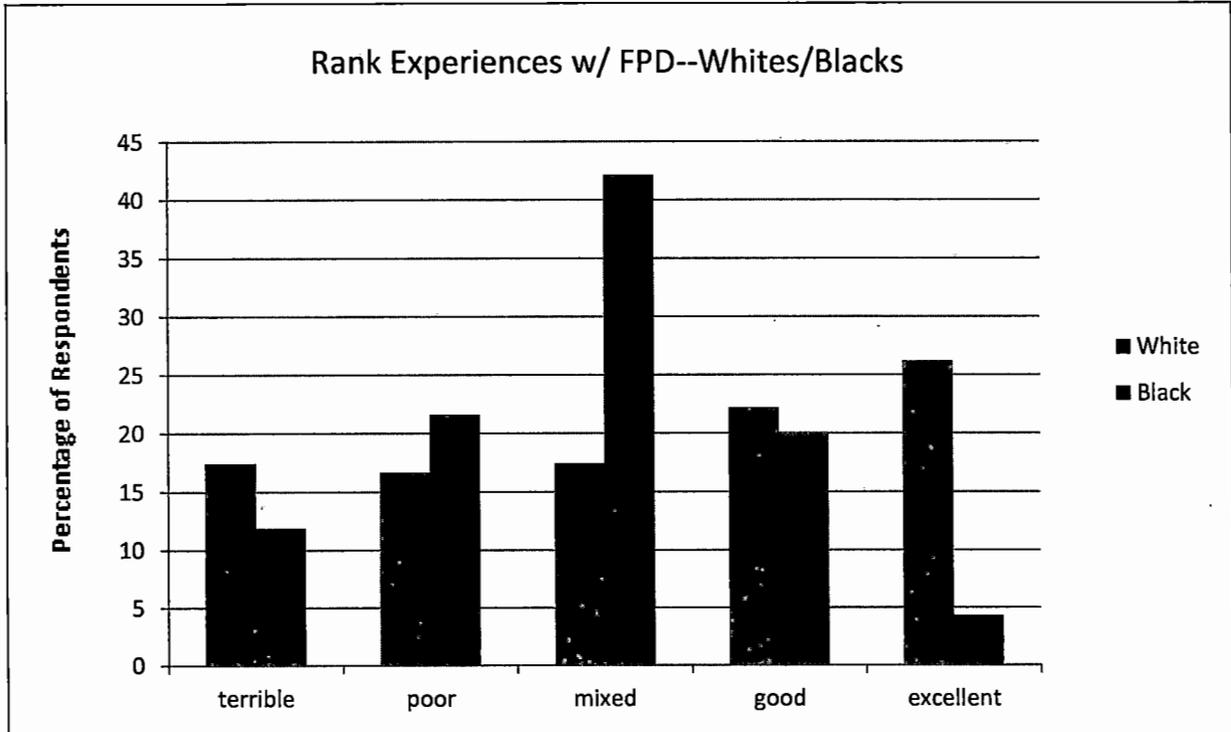
However, racial disparities are huge when it comes to those who are satisfied with the Ferguson PD. White people are 5 times more likely than Black people to say that the Department should be “left alone.”

➤ **A Strong Desire to Maintain an Independent Ferguson PD**

It is important to note, however, that the same graph shows a full 78% want to maintain an independent police department in Ferguson, with only 22% wanting to see it absorbed into St. Louis County or another municipal police force. And among residents of Ferguson, the desire to keep their own police department rises to 86%⁵. Still, 72% of that group want a rebuilt or reformed department, indicating a strong desire for change even among residents.⁶ Furthermore, the differences in attitude between residents and non-residents seems to be largely a difference among White people (possibly white Ferguson residents vs. non-resident white activists);⁷ black non-residents show some tendency to want more major reforms, but in general Black people have similar attitudes regardless of residency.⁸

➤ **Significant Racial Disparities in Experiences with the Ferguson PD**

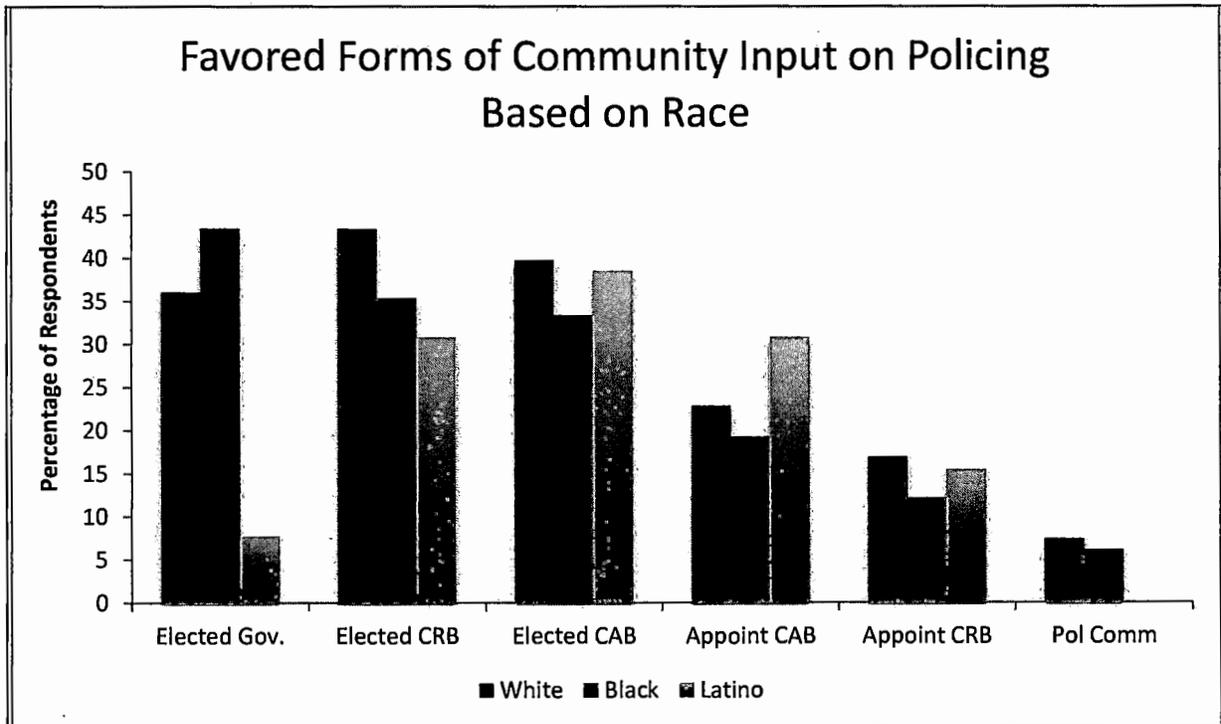
Not surprisingly, Black people also respond more often that their experiences with the Ferguson PD were “terrible,” “poor” or “mixed.” White response tends more toward “good” or “excellent”:



White people are 6 times as likely to rate their experience “excellent.” And it is also true that experience is the major predictor of desires regarding structural change; those with worse experiences are more desirous of disbanding or majorly rebuilding the Department.⁹

➤ **A Strong Desire for Elected Agencies to Represent Community Voices**

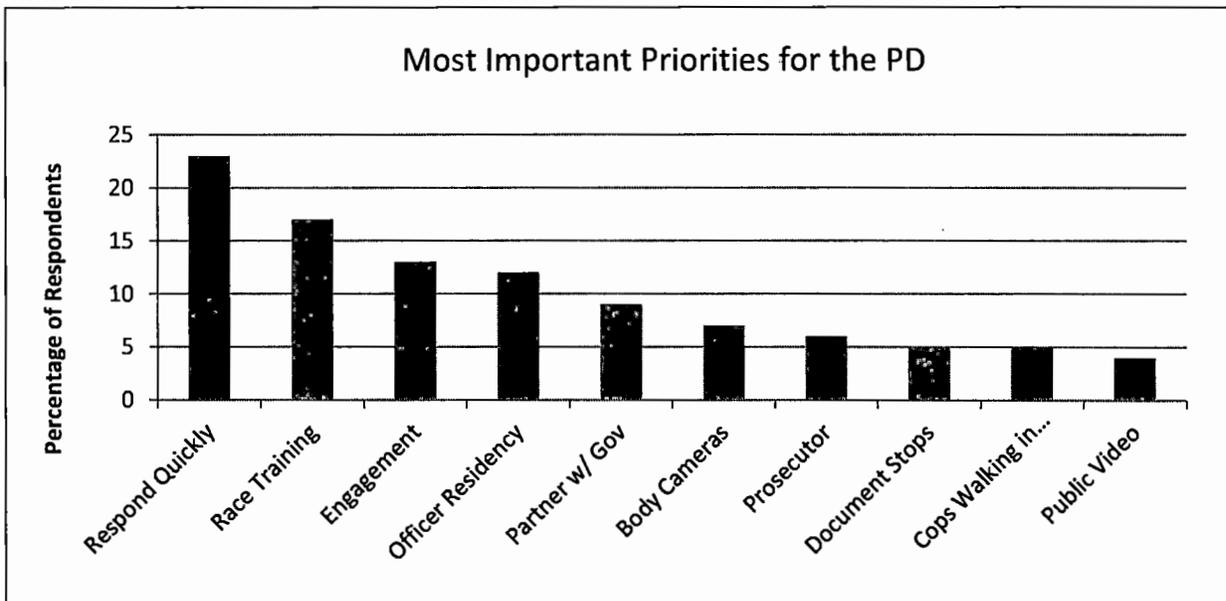
When asked what types of institutional civilian input are most desirable, respondents choose overwhelmingly that they want elected rather than appointed representation. This is true whether they choose to have a citizen body that governs the police, a civilian review board that recommends discipline and policy, or a citizen advisory board that maintains open dialogue with department officials. The desire to have a direct hand in electing members crosses racial lines for Black people and White people; only Hispanics¹⁰ bucked that trend with their stronger votes for an appointed citizen advisory board:



Non-residents respond somewhat more favorably to the idea of an elected governing body or elected civilian review board, while residents vote slightly more for an advisory board or for appointed members on other bodies. Still, the trends are consistent regardless of residency in favor of more democratically representative bodies.¹¹

➤ **A Strong Desire for Reforms that Stop Crime, Involve the Community in Solutions and End Racial Profiling**

Our last question deals with specific reforms, listing ten possibilities. Here they are, ranked according to the number of times each was ranked number 1:



Residency does not make much difference in these rankings, with those living both in and outside Ferguson choosing the same top 3.¹²

Black people also pick the same top 3, though they also elevate “Cops Walking in the Community” into a tie for second place. White people on the other hand include “Police Partnerships with other Government Agencies” and “Documentation of Stops” along with “Community Engagement” in their top picks.¹³

The differences are revealing. Black people’ interest in quick responses might be the result of higher crime rates. Higher crime may also result in their desire to see cops walking the beat in their neighborhoods. Black people want an end to profiling (“Race training”) but want practical solutions to immediate issues. White people, on the other hand, seem to be putting more faith in governmental institutions (“Partnerships with Government Agencies”) and in governmental studies (“Documentation of Stops”).

The greatest difference in rankings is between stakeholders (those who live, work, worship, shop or own a business in Ferguson) and those who have little to no interaction with the city. Stakeholders, which represent the vast majority of respondents, choose the same top 3 as the

survey as a whole. Non-stakeholders overlapped with those rankings by choosing “Community Engagement” as #1 and “Race Training” as #2. But they also choose “Independent Prosecutor” as a tie for #2 and “Documentation of Stops” as #3.¹⁴

Gender¹⁵ and Age¹⁶ make only slight differences in rankings and no other listed reforms make it into anyone’s Top 3 list.

Appendix 1

Ferguson Stakeholder Survey

Deadline July 5

THIS SURVEY IS NOT OFFICIALLY AFFILIATED WITH THE DEPARTMENT OF JUSTICE

The Department of Justice and the City of Ferguson are working on an agreement, but what does the community want? More beat cops? What kind of training? What forms of community input?

This survey is one way for you to have your voice heard. It was created by the ad hoc DOJ Working Group (a collaboration of local groups and individuals) and will be compiled by a committee of Ferguson stakeholders. It will be used to develop a statement to the Department of Justice as it advocates for reform.

We are reaching out to all stakeholders and hope you will help spread the word.

You can fill this out online at <http://bit.ly/dojsurvey>, return it to the business where you picked it up, or mail to: Stakeholder Survey, c/o ONE Ferguson, PO Box 35065, Ferguson, MO 63135

Do you _____ live in Ferguson? _____ work in Ferguson? _____ shop in Ferguson?
_____ own a business in Ferguson? _____ worship in Ferguson?

Ferguson Ward _____

Age _____

Race or Ethnicity _____

Gender _____

Economic status(Check One) _____ Working Class _____ Middle Class _____ Upper Class

1. How would you rank your experiences with the Ferguson Police Department:

- a) Terrible
- b) Poor
- c) Mixed
- d) Good
- e) Excellent

Would you care to describe your experience:

2. Do you think the Ferguson Police Department should be:
 - a) Disbanded and absorbed into St. Louis County
 - b) Disbanded and combined with other municipal police departments
 - c) Disbanded and rebuilt from the bottom up
 - d) Reformed
 - e) Left alone

3. Do you think community input into policing should include (circle one or more):
 - a) An elected governing body that runs the department including setting policy, hiring the police chief and determining the budget
 - b) An Police Commission appointed by the city manager that runs the department
 - c) An elected Civilian Review Board that recommends discipline and policy
 - d) An appointed Civilian Review Board that recommends discipline and policy
 - e) An elected Citizens Advisory Board that maintains open dialogue with department officials
 - f) An appointed Citizens Advisory Board that maintains open dialogue with department officials

4. What are your top priorities in a police department? Please rank the following statements in order of priority from 1-10. Rank the most important item with the number 1 and the least important item with the number 10.

I want a police department that:

- Responds more quickly to calls for service
- Partners with other government and civic groups to solve community problems
- Has more officers walking a beat
- Engages more closely with community members
- Undertakes training in racial bias and social work skills
- Is required to document investigative pedestrian stops, all uses of force
- Brings in an independent prosecutor in cases of officer-involved shooting
- Requires body cameras that are turned on for police/citizen interactions and leaves the data open to the public
- Requires that police release to the public any video of police use of force
- Requires that officers live in the community

Additional comments:

If you have questions or want to be further involved: dojworkinggroup@gmail.com

Appendix 2

Demographics of Survey Respondents

Survey Breakdown

Total (answered at least one question): 395

Race:

	Freq.	Percent
White	138	36.51
Black	201	53.17
Latino	17	4.5
Asian	2	0.53
Not any of the four categories	20	5.29
Total	378	100

Residency:

	Freq.	Percent
Non-Residents	200	50.63
Residents	195	49.37
Total	395	100

Age:

Mean age: 42.5

Age	Freq.	Percent
30 and under	90	23.44
31-50	183	47.66
51 and up	111	28.91

Gender:

	Freq.	Percent
Male	136	35.42
Female	245	63.8
Gender not Male or Female	3	0.78
Total	384	100

Economic Status:

	Freq.	Percent
Working Class	209	54.15
Middle Class	169	43.78
Upper Class	8	2.07
Total	386	100

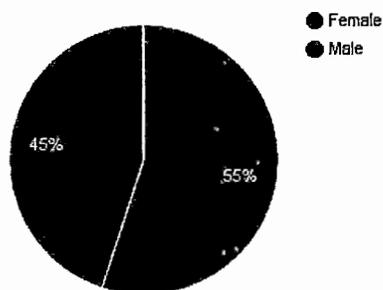
Ferguson vs. Survey Demographics

Below are two comparisons of Ferguson demographics from the 2010 census and the survey demographics:

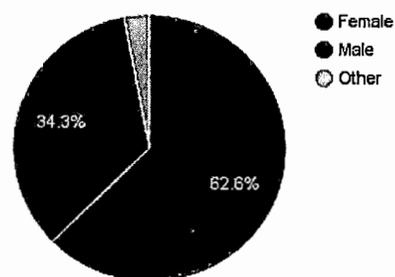
Regarding race, Blacks were somewhat underrepresented in the survey results, while whites and other minorities were somewhat over-represented in relation to the demographics of Ferguson. Also, there were slightly more females, and slightly fewer males who took the survey versus the demographics of Ferguson.

It is important to note for processing the information in the report that while the ratio of male to female is fairly evenly divided in Ferguson, Black citizens represent more than 2/3 of our community.

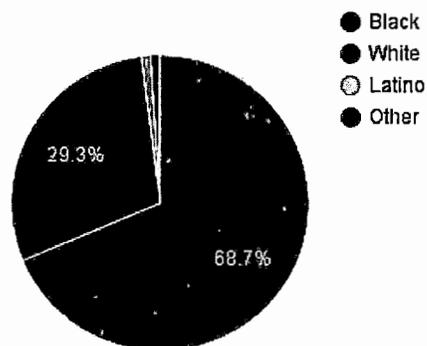
Ferguson Census Data by Gender



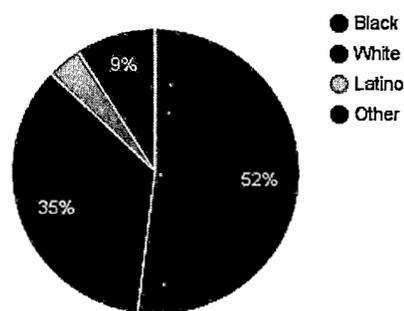
Survey Demographics by Gender



Ferguson Census Data by Race



Survey Demographic Data by Race



Footnotes

¹ For those who wish to help further in developing that vision, here are a few places to start:

Police Cameras for Ferguson policecamerasforferguson.com,

The People's Consent Decree Decree (<http://getyrrights.org/wp-content/uploads/2014/12/Ppls-Consent-w-LGBT-Cover-Sheet.pdf>)

Justice Dept. Consent Decrees (<http://www.justice.gov/crt/special-litigation-section-cases-and-matters0#policemunities>)?

Campaign Zero <http://www.joincampaignzero.org/#vision>

Aligning Police Values With Those Of Our Nation

<https://improvingpolice.wordpress.com/2015/07/06/aligning-police-values-with-those-of-our-nation/>
<http://obs-stl.org/index.php/news/item/quality-policing-initiative-2>

New Model of Policing Needed http://www.stltoday.com/news/opinion/new-model-of-policing-needed/article_83e6937b-bd23-5918-ad8a-7852f4916349.html

Needed: Civilian Oversight Of County Police

http://www.stlamerican.com/news/columnists/jamala/article_722fb62a-d332-11e4-998c-d3768858787c.html

² Organizations involved in the project are the ACLU of Missouri, the Don't Shoot Coalition, One Ferguson and the Organization for Black Struggle

³ Some respondents did not answer all questions, answered questions in a manner that was unclear or not in line with the directions given. Those answers were removed from the survey results to maintain the accuracy of the poll. As a result, the number of respondents for any given question varies, from a high of 389 for Question 2 to a low of 221 for Question 4. Respondents who left the residency question blank were considered "non-residents," which resulted in a total number for that question equaling the total overall number of 395.

⁴

Desired Structural Change by Gender (%)	Male	Female
Disbanded and absorbed into St. Louis County	17.91	18.18
Disbanded and combined with other municipal police depts	2.99	4.96
Disbanded and rebuilt from the bottom up	25.37	31.82
Reformed	38.06	29.34
Left alone	15.67	15.7

5

Desired Structural Change by Residency (%)	Don't Live	Live
Disbanded and absorbed into St. Louis County	26.53	9.33
Disbanded and combined with other municipal police depts	4.08	4.66
Disbanded and rebuilt from the bottom up	34.69	23.83
Reformed	26.02	37.82
Left alone	8.67	24.35

⁶ Ibid

7

Desired Structural Change--Whites by Residency (%)	Don't Live	Live
Disbanded and absorbed into St. Louis County	34.21	4.92
Disbanded and combined with other municipal police depts	3.95	3.28
Disbanded and rebuilt from the bottom up	32.89	9.84
Reformed	15.79	42.62
Left alone	13.16	39.34

8

Desired Structural Change--Blacks by Residency (%)	Don't Live	Live
Disbanded and absorbed into St. Louis County	22.22	12.75
Disbanded and combined with other municipal police depts	4.04	5.88
Disbanded and rebuilt from the bottom up	35.35	34.31
Reformed	34.34	41.18
Left alone	4.04	5.88

9

Desired Structural Change by Police Experience (%)	Terrible	Poor	Mixed	Good	Excellent
Disbanded and absorbed into St. Louis County	29.09	38.81	16.98	2.74	0
Disbanded and combined with other municipal police depts	7.27	2.99	4.72	2.74	1.67
Disbanded and rebuilt from the bottom up	56.36	40.3	34.91	9.59	0
Reformed	7.27	16.42	41.51	68.49	18.33
Left alone	0	1.49	1.89	16.44	80

¹⁰ Hispanics make up only a small proportion of the Ferguson population and only 18 Hispanics were respondents in the survey. See Appendix 2.

11

Forms of Community Input by Residency (%)	Don't Live in Ferg.	Live in Ferg.
Elected Gov.	44	32
Elected CRB	45	30
Elected CAB	35	38
Appoint CAB	20	22
Appoint CRB	12	16
Pol Comm	4	10

12

Most Important Priorities by Residency		Doesn't Live	Live
Respond Quickly		1	1
Partner w/ Gov			
Cops Walking in Community			
Engagement		3	2
Race Training		2	3
Document Stops			
Prosecutor			
Body Cameras			
Public Video			
Officer Residency			

13

Most Important Priorities by Race		Black	White
Respond Quickly		1	
Partner w/ Gov			2
Cops Walking in Community		2	
Engagement		3	1
Race Training		2	
Document Stops			3
Prosecutor			
Body Cameras			
Public Video			
Officer Residency			

14

Most Important Priorities-- Stakeholders		Stakeholders	Non Stake
Respond Quickly		1	
Partner w/ Gov			
Cops Walking in Community			
Engagement		3	1
Race Training		2	2
Document Stops			3
Prosecutor			2
Body Cameras			
Public Video			
Officer Residency			

15

Most Important Priorities by Gender		Male	Female
Respond Quickly		1	1
Partner w/ Gov		3	
Cops Walking in Community			
Engagement			2
Race Training		2	3
Document Stops			
Prosecutor			
Body Cameras			
Public Video			
Officer Residency			

16

Most Important Priorities by Age		30 and under	31-50	50 and up
Respond Quickly		1	1	
Partner w/ Gov				3
Cops Walking in Community			2	
Engagement		3	3	2
Race Training		2		1
Document Stops				
Prosecutor				
Body Cameras				
Public Video				
Officer Residency				