

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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

STATUS CONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

OCTOBER 2, 2019

APPEARANCES:

Independent Monitor: Natasha Tidwell, Esq.
Courtney A. Caruso, Esq.
HOGAN LOVELLS US LLP

For Plaintiff: Jude J. Volek, Esq.
Amy Senier, Esq.
Charles Wesley Hart, Jr., Esq.
Megan R. Marks, Esq.
UNITED STATES DEPARTMENT OF JUSTICE

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

1 (Proceedings commenced at 10:58 a.m.)

2 THE COURT: All right. Good morning. We are here in
3 the case of United States of America versus the City of
4 Ferguson. This is Case No. 4:16-CV-180, and we are here for
5 the quarterly hearing about the implementation of the Consent
6 Decree in this case, and as everyone knows it, every other
7 hearing, we allow the public to make comments. This is one of
8 the hearings where we're simply going to hear from the Monitor
9 and the counsel for the parties, but the public, obviously, is
10 free to attend, and we have a few members of the public here,
11 and we appreciate that.

12 So I would ask the lawyers to please identify
13 themselves for the record. For the United States?

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

15 MS. MARKS: Megan Marks for the United States.

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

17 MR. HART: And Charles Hart.

18 THE COURT: All right. And for the City of Ferguson?

19 MR. CAREY: Apollo Carey, City of Ferguson.

20 THE COURT: And for the Special -- the Special
21 Master -- that's what the docket sheet says, but we know
22 that's not your -- the Monitor. Thank you.

23 MS. TIDWELL: I appreciate that, Your Honor.

24 Natasha Tidwell for the Monitoring Team.

25 MS. CARUSO: And Courtney Caruso with the Monitoring

1 Team.

2 THE COURT: All right. Thank you.

3 All right. Ms. Tidwell, I will ask you to proceed
4 and tell us what's happening since you are the -- or is that
5 how we usually do it? I ask you this question every single
6 time, don't I?

7 Mr. Volek, do you want to go first?

8 MR. VOLEK: I think the last few times we've had the
9 Monitor go first, and that's been effective from our
10 perspective.

11 THE COURT: Is that okay with you?

12 MS. TIDWELL: I guess so, Your Honor.

13 THE COURT: I apologize for not -- I do ask you all
14 that same question every single time we're here, and I -- I --
15 it's -- as long as I hear from all of you, I can do it in any
16 order that works for you.

17 MS. TIDWELL: That's great.

18 THE COURT: So, Ms. Tidwell.

19 MS. TIDWELL: Thank you, Your Honor. I will be
20 relatively brief in comparison to my previous appearance.

21 When we were last here over the summer, we spoke
22 about the status of things and our -- the Monitoring Team's
23 intention to begin drafting a work plan for year four along --
24 to be a part of the semiannual status report that we submit to
25 the Court twice a year. We pressed the "Pause" button on

1 that, or at least sort of based on the City's incoming hires
2 and some appointments, we thought it best to wait until the
3 team was in place so that we could, hopefully, begin an
4 interactive process with the parties in putting together an
5 aggressive yet feasible and achievable work plan for year four
6 of the Consent Decree, and I'm sure Mr. Carey will update you
7 on some of the various hires and appointments, and the
8 Monitoring Team is looking forward to working with all of
9 these folks and continuing to work with Mr. Carey and
10 Mr. Blume on setting goals for year four and beyond.

11 The -- in addition to the Consent Decree Coordinator
12 and the Court Administrator, which Mr. Carey, I assume, will
13 introduce in a few minutes, we are awaiting the engagement of
14 the Data Technology Consultant Project Manager, and so we'll
15 await an update from the City on where that stands because
16 that's another key point in full implementation of the Consent
17 Decree is getting the data integration piece squared away and
18 to move forward on that.

19 And so in addition to that, some other priorities
20 that the Monitoring Team would be looking to form sort of the
21 base of the year four work plan would be the staffing study.
22 We've also -- we've already had a conversation with the City
23 about the staffing assessment and study so that we can have
24 the -- the framework from which to build the community
25 engagement plan. So we would view that as certainly one of

1 the top priorities for year four, and we're pleased that we've
2 already started to discuss that with the City.

3 The training plan and a schedule for training is
4 another key area as is the data and technology piece.

5 With regards to the courts, you know, as Your Honor
6 knows, the court reform side of the Consent Decree has made
7 the most progress, has been the one that has sort of led the
8 way in terms of implementation. We are nearing completion of
9 the comprehensive amnesty portion, I believe. I think when we
10 were here last there was some discussion about good-cause
11 criteria number two and a plan for reaching out to our plan to
12 figure out the willingness of identified victims to move
13 forward with cases, and so once the plan for that is fully
14 implemented, which I think it's near done, we will fold that
15 into our upcoming court audit to assess compliance in that
16 area.

17 Just in terms of auditing, particularly, in the
18 municipal court, what we've done in the past and what we're
19 looking to move away from is to have an audit happen -- the
20 most recent audit was in late March, early April, and what we
21 normally do is to report out on that in the fall, and the --
22 it sort of seems that the six-month gap between the actual
23 audit and the reporting out on it -- by the time we report on
24 the audit, another audit has already taken place. So we're
25 trying to, you know, think about making that more

1 user-friendly and keeping folks more informed about what's
2 going on or what we see is going on in the municipal courts.

3 So our hope for this upcoming semiannual report would
4 be that it would include not only the results of the spring
5 audit in March and April but also the audit that we will
6 notice to the City for the fall, for the next few weeks or
7 month or so, so that going forward the audit -- the semiannual
8 report will track the audits, and we'll have a report pretty
9 much right away after an audit takes place. So we're going to
10 work with the parties to try to get that done, to sort of time
11 that a little bit closer in time so that everyone has a clear
12 idea and we're communicating better about what's going on in
13 the court and we're not sort of six months behind when a
14 report comes out.

15 So we will be sending a notice of the audit now that
16 the Court Administrator is in place. We're going to look at
17 the results of the March audit. Because we've been auditing
18 in the municipal court for two years, some provisions are --
19 have been in substantial compliance. So under the Consent
20 Decree, if it is for two consecutive years that a provision is
21 met, then we no longer need to audit. So we need to just
22 figure out which ones we no longer need to be looking into and
23 which ones we will add to the list in the upcoming notice.

24 And then, finally, Your Honor, when we spoke last, we
25 had -- we were looking to enhance the response rate for the

1 community survey. We -- you know, after the last court
2 hearing, it probably doubled in terms of response rate, but
3 because we're looking at such a low number to begin with, it
4 doesn't -- you know --

5 THE COURT: Yeah, I know.

6 MS. TIDWELL: -- double sounds great, but it
7 doesn't -- it's probably, I think, about one percent or less
8 of the Ferguson community, which is certainly not where we
9 want it to be. We have closed out the survey. We are -- the
10 Police Foundation has given us some preliminary results. We
11 have some hard copy surveys that we picked up both from the
12 library and from the -- from -- well, we're waiting to see if
13 there are more at City Hall and at the Urban League. So those
14 written surveys would need to be added to the total, and then
15 the Police Foundation will provide us with a report.

16 Just looking at what we have so far in the -- what
17 they've done in terms of results, it seems as if the -- the
18 responses were mostly within Ward 2, and they were -- the
19 respondents answered that they were mostly income levels
20 between -- I think it was 40 through 100 thousand dollars was
21 the income range. I think the -- it was approximately 70 --
22 80 percent of respondents identified as white. Approximately
23 12 or 13 percent identified as black. The rest didn't choose
24 to answer. It seemed as if the respondents were mostly -- had
25 favorable things to say about the police department, thought

1 that the officers treated them fairly for the most part. It
2 was -- and just some of the recurring themes that came out was
3 that the officers -- you know, there were a lot of respondents
4 who expressed sympathy for the officers of the police
5 department and sort of the conditions that the respondents
6 perceive as them working under with the Consent Decree going
7 on and all of the staffing turnover and shortages within the
8 department. So those were sort of some of the highlights or
9 things that people sort of took time to write out within their
10 survey when they were asked for their additional thoughts, but
11 like I said, once we -- we have to fold in the handwritten
12 responses, and then we'll have a full report that we will
13 submit along with the semiannual report later this fall.

14 So turning to next year, you know, the first order of
15 business will be try -- will be try to -- to try to increase
16 responses and to get a more wider cross-section of the
17 Ferguson community. Our hope is one way to do that would
18 to -- once the City starts to move with its community
19 engagement plan and some of its liaisons with the neighborhood
20 associations, that the Monitoring Team will be able to harness
21 and sort of leverage those relationships to try to increase
22 the survey responses, maybe starting with the education or
23 sort of the notification that it's coming a little sooner, and
24 so those are some of the things that we'll think about and
25 more sort of in-person survey times where people can come in

1 and take it in sort of a small focus group. So we're already
2 thinking about that for next year. So that will be --
3 obviously, the next community survey will be a priority for
4 next year as will the police survey, and I know that we've
5 had -- we've introduced the Police Foundation folks to the
6 City. So we'll be looking to finally get the officer
7 attitudes and perception survey done for this year as well.
8 That will be one of our priority areas as well.

9 And that's it for the Monitoring Team unless Your
10 Honor has questions.

11 THE COURT: I don't think I do at this point. Thank
12 you.

13 MS. TIDWELL: Okay. Thank you.

14 THE COURT: So, Mr. Carey, do you want to go next, or
15 does Mr. Volek?

16 MR. CAREY: Your Honor, we're fine with, as we have
17 typically done, that the United States will go first.

18 THE COURT: Okay. Mr. Volek, as the Plaintiff, I'll
19 hear you or Ms. Marks.

20 MR. VOLEK: Thank you, Your Honor.

21 MS. MARKS: Thank you, Your Honor, for the
22 opportunity to address the Court and the public about
23 implementation of the Consent Decree.

24 We are pleased to report that there have been several
25 positive staffing and policy updates since the last hearing.

1 On staffing, the City has hired the new Consent Decree
2 Coordinator Nicolle Barton. This is an incredibly important
3 role, as we have mentioned at the last several hearings, and
4 it will be great to have somebody who can look at the big
5 picture of the compliance plan, be a point of contact for us,
6 and really spearhead compliance efforts by prioritizing and
7 coordinating efforts and tracking where various projects are
8 in the process. We've had the chance to meet with her already
9 in person and over the phone, and she's up to speed. We
10 really look forward to working with her to accelerate
11 compliance efforts and think that this will be just incredibly
12 helpful as we move forward.

13 Chief Armstrong also started since the last hearing,
14 and we've had many productive conversations with him already
15 and appreciate his leadership of the department.

16 There's also a new Court Clerk who started a few
17 weeks ago. We met with her yesterday as well, and it sounds
18 like she's off to a great start, and we look forward to
19 working with her going forward.

20 Finally, as Ms. Tidwell mentioned, while there's not
21 yet a data consultant, we're pleased to learn that the City is
22 now negotiating a contract with a data consultant, and we're
23 optimistic that they'll be able to work that out very soon so
24 that he can get started in implementing the systems and
25 processes that FPD needs to start collecting data and

1 demonstrating compliance with the decree. As we've mentioned
2 before, data collection is important to all areas of the
3 Consent Decree and also to just good management of a police
4 department.

5 In past hearings, we've expressed some frustration
6 that the City did not yet have a person in place or the
7 internal capacity to implement the data requirements of the
8 decree, and while we tried to help out by providing templates
9 to show how they're collecting data and, if they're not
10 collecting it, where they would collect it in the future, we
11 just kind of hit a wall and couldn't make much progress
12 without someone who's dedicated to choosing software systems
13 and making sure that, you know, the requirements of the decree
14 were mapped out and that these systems would work together.
15 So we're very pleased to hear that this is in progress and
16 optimistic that he'll be in place soon.

17 So overall on staffing, you know, we're really
18 optimistic about having those folks in place and the progress
19 we'll be able to make there.

20 On policies -- so, as you know, the process for
21 policy review has been augmented to include a period for
22 community comment. So the process now is that the parties
23 will hold policy forums before policies are even drafted and
24 then there's a draft that's provided and a period for
25 community and officer feedback for 30 days when those are

1 posted online, and then we work to incorporate the comments
2 from the community and then send them to the monitors for
3 review and final approval and, after that, turn to training.

4 The comments we've received on policies from the
5 community have been incredibly thoughtful, and we're just
6 truly grateful for the time that folks have put into reviewing
7 these and thinking about how we can strengthen these policies
8 and make them better. So we're thankful to have the efforts
9 of the community to make these policies even stronger.

10 There's been a lot of good progress on policies over
11 the last several months. As we've reported, there are several
12 areas where we now have revised policies that will be
13 implemented as soon as roll call training is complete, and
14 those areas are use of force, where roll call training is
15 currently ongoing and nearing completion, community policing,
16 and now accountability.

17 Other policies that we've already received public
18 comment on and are finalizing after incorporating that
19 feedback are the camera policies, the body-worn camera policy
20 and the footage-sharing policy, and the stop, search, and
21 arrest policies, which include the general orders on stops,
22 search warrants, warrantless searches, arrests, citations, and
23 *Miranda*.

24 Other policy areas are a bit earlier in the
25 development phase, and we've held public forums in these areas

1 to solicit comments before the drafting process and will make
2 a draft available for public comment soon, and those topics
3 include the bias-free policing policy, which should be posted
4 very shortly, and the First Amendment policies, and on that
5 one, we held a forum in late June.

6 On the court side, all but two of the policies are
7 complete or are very nearly complete, and we're working with
8 the new staff to ensure that they're put on the website in a
9 clear manner.

10 The next topic I'd like to turn to is the
11 Comprehensive Amnesty Program. So under the Comprehensive
12 Amnesty Program, which is paragraph 326, the City was required
13 to dismiss pre-2014 cases unless they had good cause to keep
14 those cases open, and in November 2018, the parties agreed to
15 five good-cause criteria to kind of explain what it meant to
16 have good cause.

17 At the last hearing, we discussed one of the
18 good-cause criteria in particular, which was good-cause
19 criteria number two, and mentioned the parties' agreement to
20 send an opt-in letter to determine whether or not there was an
21 identified victim who was willing to assist with the further
22 prosecution of that pre-2014 case. We're pleased that the
23 letters have now been sent out to the victims in all of those
24 563 cases kept open under the criteria to determine whether
25 they wanted the case to continue, and the letter provided for

1 a 30-day response window where folks could respond saying
2 whether or not they wanted their case to continue, and that
3 response window is now closed. So the City is now in the
4 process of dismissing the cases in which they did not receive
5 a response, and we understand they're documenting the
6 responses that they did receive and look forward to seeing
7 that.

8 So overall, the City has made very significant
9 progress under the Comprehensive Amnesty Program, and we look
10 forward to working with them to tie up the remaining loose ends
11 before the upcoming court audit which Ms. Tidwell mentioned
12 earlier.

13 Just a few other areas. We -- the City may be in a
14 better position to say more about this, but we understand that
15 the Ferguson-Florissant School District has opted to go with
16 another department for the upcoming school year. So there may
17 not --

18 THE COURT: I don't know what that means -- opted to
19 go with another department.

20 MS. MARKS: So Ferguson officers will not be the ones
21 participating --

22 THE COURT: Oh.

23 MS. MARKS: -- in the School Resource Officer
24 Program. Sorry.

25 THE COURT: Okay.

1 MS. MARKS: You know, this is unfortunate because we
2 had a good Memorandum of Understanding in place and it's a,
3 you know, good opportunity to work with youth, but just wanted
4 to update the Court on that.

5 And then, finally, on training, we had a good
6 conversation about training yesterday, including the
7 requirements under the Consent Decree for recruit training,
8 field training, and in-service training. FPD will need to map
9 out a comprehensive training plan in the coming months and
10 figure out how each requirement under the decree will be met.
11 As we work on the training plan, it may make sense to go
12 through one area at a time to identify training resources
13 available and kind of finalize how we'll accomplish training
14 in those areas, and we're going to continue this conversation
15 with them. We would just note that training remains a
16 priority so that the policies can be implemented as soon as
17 possible.

18 So to conclude, we're really pleased with some of the
19 updates and the commitment from the City. The staffing should
20 make a huge difference, and we're really hopeful to see
21 accelerated progress towards complying with this Consent
22 Decree in the coming months.

23 So if Your Honor has no further questions, I'll leave
24 it there.

25 THE COURT: I think I -- I do not. I'll see if I do

1 after I hear from Mr. Carey, but Mr. Carey?

2 MS. MARKS: Thank you.

3 THE COURT: And, Mr. Carey, if you don't mind going
4 ahead and introducing the people who are here in terms of
5 whether you want to introduce everybody or just the new people
6 that are -- that the City has hired since the last time.

7 MR. CAREY: Okay, Your Honor. You stole my thunder.
8 You knew I was going to --

9 THE COURT: You were going to do that. That was the
10 first thing you were going to do.

11 MR. CAREY: Yeah, that's going to be my thing, yeah.

12 THE COURT: Okay. Well, you can do it. You can
13 start over again as if I hadn't said that.

14 MR. CAREY: Okay. Got it.

15 Good morning, Your Honor. Thanks for the
16 opportunity. You know, as is customary, I will start off, as
17 you suggested, by introducing the folks who are here on behalf
18 of the City.

19 First of all, we have one of our elected officials,
20 Ms. Ella Jones. She's one of our councilwomen.

21 Next to her is our City Manager Jeff Blume.

22 Next to Jeff is our new Court Administrator. Her
23 name is Courtney Herron, recently hired about a month ago.

24 Behind Courtney is -- of course, you know that
25 familiar face -- Assistant Chief McCall, who has served

1 previously in our role of Consent Decree Coordinator but who
2 has now been appointed as our Community Engagement Liaison and
3 has also kind of transitioned a little bit more into the
4 Assistant Chief role moving forward. So, again, as always, we
5 thank Assistant Chief McCall for his work and dedication to
6 help us move the Consent Decree to where we are right now.

7 Next to Assistant Chief McCall is our new Consent
8 Decree Coordinator, Ms. Nicolle Barton. Ms. Barton comes to
9 us from the Civilian Oversight Board of the City of St. Louis.
10 She was the Executive Director of that Civilian Oversight
11 Board. I think for the last three years or so she served in
12 that capacity. She also has prior law enforcement background
13 as well. So we're very pleased and excited to have Nicolle
14 with us.

15 And then next to Nicolle is our new chief, Chief
16 Jason Armstrong, who was also -- I think about two months now
17 or so you've been on the job?

18 And so this is a -- as you can kind of see, this is
19 our new team, some new faces to the team, but obviously some
20 old faces as well, and as you know, Your Honor, the City is
21 very happy to have this team in place. We believe that, you
22 know, throughout the life of the Consent Decree, we have not
23 had a higher caliber team in terms of skill sets that they
24 bring to the table and in terms of their dedication to helping
25 the City achieve compliance with the Consent Decree. So we're

1 very excited about these new folks. They, in various
2 different ways, have hit the ground running as it relates to
3 the Consent Decree and our compliance efforts. So we're
4 hoping in the next coming months we will be able to manifest
5 that into some results that, you know, the Monitor, the
6 Department of Justice, and obviously, you, the Judge, can see.

7 So I wanted to use my time, Your Honor, to talk a
8 little bit about, you know, our strategy and our plan moving
9 forward. We're coming up -- we're in year four now of the
10 Consent Decree, and I think as the Monitor has talked about,
11 we've got to start working on our monitoring plan, which will
12 contain all of the goals and deadlines for the next year that
13 the City has to -- has to meet, and so I think from the City's
14 perspective how we're going to view this is that we've talked
15 to the Department of Justice and we are in, you know, relative
16 agreement on there are certain areas of the Consent Decree
17 right now that are priorities for us, high priorities -- those
18 being our staffing study, our training plan as well as our
19 community engagement plan, just to name, you know, the top
20 three or so of our high-priority areas.

21 But we also have some areas in the Consent Decree
22 that are what I would consider low-hanging fruit that the City
23 could, you know, potentially get those things done in a fairly
24 quick manner and be able to kind of move on to something
25 different. I think those would be, obviously, wrapping up

1 this amnesty program that we're almost done with. I think
2 also another low-hanging fruit would be finishing off our
3 recruitment plan that we have. We've got enough data that
4 we're analyzing right now to kind of come up with the salary
5 numbers that we need to be added to that plan. So there are a
6 couple of areas that I think, from a low-hanging fruit
7 perspective, we would be able to accomplish, I think, within
8 the next three months or so to where when we're standing in
9 front of you in January or December, whenever the next hearing
10 is, we'll be able to report some substantial progress in both
11 those low-hanging fruit areas as well as those high priority
12 areas.

13 And I did want to talk a little bit about the amnesty
14 program. We, as you know -- I won't repeat much of what has
15 already been said here today, but we got to a point to where
16 we had a bunch of cases open under the good-cause criteria
17 number two. We have gone and sent out letters to victims in
18 those cases. We got a reply. We had some replies where
19 people said, "Yeah, we'll continue prosecuting." Most of what
20 we got was either a "no reply" or "We don't want to continue
21 prosecuting," and so we are in the process of dismissing those
22 cases.

23 One kind of technical glitch that we -- we sort of
24 kind of saw this coming, and we kind of knew that we'd have to
25 deal with it. What we're dealing with is a lot of times

1 when -- you know, most of these -- well, actually, all of
2 these cases are in warrant status, and the warrants are
3 actually tied to multiple charges, right, and so some of the
4 charges don't fall squarely into that criteria number two.
5 They were kept open for some other reason. So at the end of
6 the day what we're having to do is, you know, recall the
7 warrants, maybe dismiss the charge under the criteria, and
8 then possibly reissue the warrant for the ones that were
9 actually left open. So there could end up being, you know, a
10 situation where, you know, there's still warrants for the same
11 individuals because their -- you know, the cases that were
12 left open didn't fit under criteria two; they were left open
13 under some other criteria, but that's kind of one of the --

14 THE COURT: Do you know how many of the 500 and --
15 whatever it was -- 63 that fit in that category?

16 MR. CAREY: I don't. There's enough for me to stand
17 here and mention it to you.

18 THE COURT: Yeah.

19 MR. CAREY: It's not just a handful. What typically
20 happened in the past was that there was rarely just one
21 citation issued. There were several citations issued for a
22 particular event. And so off the top of my head, Your Honor,
23 the number, I don't know, but it is significant enough for me
24 to say it. I wouldn't say it if it were just, you know, 20 of
25 them.

1 THE COURT: Okay.

2 MR. CAREY: So, you know, that's kind of just one of
3 the things that we're encountering in, you know, implementing
4 this, but like I said, we're going to push through it. We've
5 got the folks in place now to do it, and so we anticipate
6 having that done here in the relatively short future.

7 THE COURT: And then I assume you'll be able to
8 report to me on how many of those, you know, there's still a
9 warrant out because there were --

10 MR. CAREY: Right.

11 THE COURT: -- other citations or whatever. So we'll
12 know, you know, did we really reduce that 563 to --

13 MR. CAREY: Right.

14 THE COURT: -- a reasonable number or is it still
15 huge.

16 MR. CAREY: Right.

17 THE COURT: Yeah.

18 MR. CAREY: And we certainly -- I think what will
19 happen is we will have reduced the 563 number; however, there
20 still might be a warrant out because --

21 THE COURT: Right.

22 MR. CAREY: -- because the 563 number only is
23 relative to good-cause criteria number two while one, three,
24 four, and five could still have warrants associated with them.
25 So at the end of the day, I think, you know, there will be a

1 significant amount of them that are dismissed. Obviously, any
2 case that just had one single charge that fell squarely under,
3 you know, good-cause criteria number two, we'd be able to
4 dismiss.

5 So we are making progress in ending our negotiations
6 with the data collection expert. I anticipate we'll have that
7 process wrapped up in the next couple weeks or so. We are
8 excited about that because, as the Department of Justice has
9 said as well as the Monitor, we need to be able to get that
10 data collection aspect in place so that we can start
11 demonstrating our compliance. There's a lot of areas where we
12 are in substantial compliance and areas where we have just
13 come into compliance with the Consent Decree, but if we're not
14 able to show the Monitor or you, the Judge, or the Department
15 of Justice that we're there, then, you know, it's --

16 THE COURT: Right.

17 MR. CAREY: -- somewhat of a useless effort.

18 THE COURT: I mean that's for all. I mean this
19 covers so many aspects of the Consent Decree. We need to
20 have --

21 MR. CAREY: Right.

22 THE COURT: We need to have data, or we can't tell if
23 the City is complying or not.

24 MR. CAREY: That's right. That's right. And so we
25 do -- the City recognizes the importance of that, and we

1 have -- and as you know, we did an RFP process, and we've gone
2 through that, and we've identified our contractor, and we're
3 just in the last phases of negotiating that contract. So I
4 think we'll be done with that relatively soon.

5 Outside of that, Your Honor, I think the folks for
6 the Department of Justice and the Monitor have done a good job
7 of kind of summarizing where we are. The City is very pleased
8 with -- you know, even in the interim when we didn't have a
9 consent decree coordinator or a chief and we were, you know,
10 concentrating resources on hiring those folks, we were still
11 able to push through and make some small progress but still
12 some progress on some policy development areas and some
13 implementation areas, you know, on both the court side and the
14 police side, but now that we have our folks in place, we
15 anticipate that taking off exponentially.

16 So unless you have any other questions for me --

17 THE COURT: I had a couple of questions. One of them
18 was -- well, first of all, I do -- I do recognize that -- I
19 mean getting those people in place was really key, and I'm
20 really -- I'm glad that the City has done that because I think
21 that will help things move more quickly.

22 What about the school resource officer issue? Tell
23 me what's going on with that.

24 MR. CAREY: Yeah. So, well, the long and short of it
25 is that the school decided to go with St. Louis County

1 officers versus Ferguson officers for their SRO Program. I
2 can tell you, Your Honor, that I have no knowledge of any
3 discontent necessarily in terms of why they decided to go with
4 the St. Louis County officers. I know St. Louis County has
5 always had an SRO Program and has had one for decades and
6 their ability to supply officers to, you know, school
7 districts for this particular purpose. We do know that from
8 our perspective we were giving, I think, two SRO officers.
9 One was free. The other, they paid for. One of the theories
10 we had was that, you know, maybe with the new Prop P money and
11 the public safety feature in that Prop P money that maybe
12 St. Louis County is able to offer them more officers that they
13 don't have to pay for versus, you know, having the one that
14 they did have to pay for from Ferguson.

15 THE COURT: But you don't know if that's right?

16 MR. CAREY: I don't know.

17 THE COURT: Yeah. Okay.

18 MR. CAREY: Yeah, that's just my speculation --

19 THE COURT: Okay.

20 MR. CAREY: -- because, you know, there was no --
21 typically, if there was some communication with the City
22 about, you know, being -- you know, some discontent with
23 regard to the service they were receiving from the SROs, I
24 think I would have known about that. I had a pretty close
25 relationship with the prior chief, also Assistant Chief McCall

1 when he was interim chief, and also now with Chief Armstrong,
2 and I have just not -- you know, I've not heard anything about
3 why they decided to do it. It was really sort of abrupt, and
4 the thought process was that they, you know, already kind of
5 had a plan to do that kind of thing, and so as you know,
6 that's about eight pages or so of our Consent Decree -- our
7 SRO Program -- and we've made substantial progress on that
8 particular portion of the Consent Decree with having the MOU
9 and having our manual in place and those kinds of things, and
10 so it's a little disappointing to us, but you do have to have
11 two willing parties. You have to have a school district
12 that's willing to do that. So I think what we'll -- you know,
13 I guess, you know, at some point, we'll learn soon what the
14 reasoning was behind the decision, and then we -- obviously,
15 we have the resources in place to where if something changes
16 in the future we've got, you know, a good MOU; we've got a
17 good manual. And because we do understand from a community
18 engagement standpoint having an SRO Program is a good thing;
19 right? It's not necessarily, you know, the only thing we can
20 do from a community engagement standpoint, but it was a big
21 part of what the FPD did from a community engagement
22 standpoint, in particular, as it relates to the youth. And so
23 having a Ferguson Police Department presence within, you know,
24 the school district was a good thing for us. And so it will
25 cause some -- you know, it will affect -- obviously, you just

1 heard we need to work on our community engagement plan. It
2 will affect how we plan out that community engagement plan,
3 and some of the bullet points we actually have in the plan
4 will have to kind of work around the fact that we don't have
5 at this point an SRO Program. I assume that there's an
6 opportunity to have one in the future, but, you know, we just
7 don't know what the thinking is.

8 THE COURT: The other question I had for you really
9 related to the need for a comprehensive training plan. I know
10 there have been a lot of roll call trainings with regard to
11 these policies, but the -- you know, the decree requires a lot
12 more training than that, and so you are -- that is something
13 that's moving forward, right -- working on that?

14 MR. CAREY: Absolutely, Your Honor. As I mentioned,
15 you know, we have areas of high priority, and the training
16 plan is one of them. We've had meetings already since the
17 start of our -- since our new Consent Decree Coordinator
18 started to discuss this comprehensive training plan. One of
19 the -- I guess one of the weaknesses we have is that we're
20 just a small department and we don't have an in-house, you
21 know, police training system or we don't have an academy for
22 the Ferguson Police Department. So we have to use resources
23 outside of the city, and so that means St. Louis City,
24 St. Louis County, the State of Missouri, and so the process is
25 that we have to kind of understand what is required from a

1 training perspective in the Consent Decree, and that's pretty
2 easy because it's in writing, but I guess the more difficult
3 part of the analysis is understanding what's available in the
4 various different -- from the various different sources that
5 we can get the training from, determining where there is
6 overlap to where, you know, if St. Louis County offers
7 something that's required in the Consent Decree, we can kind
8 of check that off and move and then determine where the gaps
9 are, and then once we determine where the gaps are, we can
10 figure out, okay, how do we get this type of training to, you
11 know, make sure that we're in compliance. So we have started
12 that process and --

13 THE COURT: Well, have you -- have you -- do you
14 contract with those academies in the -- the academies or the
15 State in terms of developing specific programs for Ferguson
16 that would be required under the Consent Decree or on these
17 new policies? For example, I mean, I know one of the issues
18 is there are -- you know, there are programs out there, and
19 people can sign up and go to them, but if they're not specific
20 on what we need, I mean, is that a way to do it, or is there
21 some other way you provide that training?

22 MR. CAREY: Well, Your Honor, I'd imagine however it
23 is we need to get it done. If we need to contract with them,
24 we would do so. I think the issue is whether or not they
25 would have, you know, the expertise needed for the --

1 THE COURT: Right.

2 MR. CAREY: -- particular thing because as we're
3 analyzing what they already offer -- let's say, for example,
4 you know, they don't offer, you know, let's say, use-of-force
5 training. Now, everybody offers use of force, but I'm just
6 using that as an example. So if we have a requirement for
7 use-of-force training and the State of Missouri doesn't offer
8 it or the City of St. Louis doesn't offer it, then I guess,
9 you know, we would have to kind of seek, you know, some sort
10 of outside -- you know, something outside of what's being
11 offered here in the state to kind of fill that gap, but
12 again --

13 THE COURT: Well, and there are organizations and
14 people who do provide that kind of thing.

15 MR. CAREY: Correct. Correct.

16 THE COURT: So it's a matter of getting it targeted
17 to what you need --

18 MR. CAREY: Absolutely.

19 THE COURT: -- and making sure it's not just handing
20 somebody a list and saying, "Here's all the stuff you can sign
21 up for if you felt like it." Right?

22 MR. CAREY: Yeah. Yeah, that's right. That's right.
23 And the City --

24 THE COURT: That's not -- that's not going to be
25 sufficient; right?

1 MR. CAREY: I agree. I agree. And the City is also
2 pursuing its CALEA training as well or its CALEA
3 certification.

4 THE COURT: Right.

5 MR. CAREY: In that training, we understand that
6 there's a significant overlap between what's required with the
7 CALEA certification and what's required under the Consent
8 Decree. So from my discussion with my client, I don't expect
9 there to be many gaps, but there will be some, and we just
10 have to figure out the best way to fill those gaps. So . . .

11 THE COURT: Okay. All right. Thank you.

12 Mr. Volek, do you wish to make any further comments?

13 MR. VOLEK: We have nothing further unless you have
14 questions for us.

15 THE COURT: I don't think I do.

16 Ms. Tidwell, anything else you wish to add or comment
17 about?

18 MS. TIDWELL: Nothing further from the Monitor, Your
19 Honor.

20 THE COURT: Okay. Well, I -- you know, I am
21 encouraged as -- by the City's getting these people in place
22 so that you've got the personnel that are -- I mean you've
23 gone a long way in getting the personnel that are needed, and
24 many of the things that have been delayed -- partly the
25 problem was the City's difficulty in filling the empty

1 positions, and I'm pleased that that seems to be moving. I'm
2 pleased we have the Consent Decree Coordinator, the new person
3 at the court, including, you know, we've got a judge and a
4 court clerk, and that's going to be great.

5 The -- yeah, the issue on the amnesty for -- I mean
6 the courts have had, I mean, I believe, a lot of progress
7 based on what's been reported to me on the issue about the
8 amnesty and what is outstanding, in other words, what warrants
9 has the City under the Consent Decree been allowed to keep
10 open, old warrants, versus ones that they have dismissed, and
11 I think seeing the progress on that, it looks like that is
12 finally about ready to be wrapped up, and so that is good.
13 Then we can move into having -- really doing the audits of the
14 courts, which is contemplated by the Consent Decree.

15 And then, again, of course, having the data
16 collection person, we can't tell what -- you know, you can't
17 tell what -- how you're doing unless you can measure it some
18 way or another, and if you don't have records that keep track
19 of things and measure them in a way that is usable, that, you
20 know, can't work. So I'm pleased that that has happened.

21 So, in general, I think that you all are moving
22 forward as expected, and although we've had delays because of
23 a variety of things, it's -- you know, so even though we're in
24 year four of this Consent Decree, we're not that far along, of
25 course, in what was contemplated to have happened by now, but

1 I believe we're -- I hope that we are making up the time and
2 moving forward rapidly now, and that's what the lawyers have
3 told me, and I think they know what they're talking about, and
4 so we're going to keep moving.

5 We will schedule another quarterly hearing either in
6 December or January. I'm not exactly sure which yet.
7 Probably January, but -- and that one will have an opportunity
8 for public comment. I notice that we have had a lot more
9 people come in as we've been going on from the public, and I'm
10 glad to see that there are engaged citizens who want to come
11 and follow through on what's happening, and so if you wish to
12 speak next time, you will have the same opportunity to do so
13 that you've had in the past.

14 All right. With that said, I will thank everyone
15 here, and this matter will be in recess until our next public
16 hearing, and so court's in temporary recess.

17 (Proceedings concluded at 11:37 a.m.)

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CERTIFICATE

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

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

I further certify that this transcript contains pages 1 through 31 inclusive.

Dated at St. Louis, Missouri, this 30th day of October, 2019.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter