

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.  
**LEWIS RICE LLC**

*REPORTED BY:* Gayle D. Madden, CSR, RDR, CRR  
Official Court Reporter  
United States District Court  
111 South Tenth Street, Third Floor  
St. Louis, MO 63102 (314) 244-7987  
(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

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

THE COURT: And for the Special -- the Spec

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. VOULEK: 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 lose 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.)

18

19

20

21

22

23

24

25

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