

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  
VIA VIDEOCONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

JUNE 4, 2020

**APPEARANCES:**

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

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Amy Senier, Esq.  
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UNITED STATES DEPARTMENT OF JUSTICE

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(Produced by computer-aided mechanical stenography.)

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1 (Proceedings commenced at 2:07 p.m.)

2 THE COURT: All right. Good afternoon. We are here  
3 in Case No. -- in the case of United States of America versus  
4 Ferguson, Case No. 4:16-CV-180. We are here for a status  
5 conference, and I -- or status hearing. I have attorneys on  
6 the -- by videoconference, and I'd like to start by asking the  
7 lawyers who are here to introduce themselves for the record  
8 who are on video. So for the Department of Justice.

9 MR. VOLEK: Hello, Your Honor. This is Jude Volek  
10 for the Department of Justice. Also participating by phone or  
11 listening by phone are Charles Hart, Amy Senier, Megan Marks.

12 THE COURT: Can you -- can you slow down a little,  
13 Mr. Volek? I'm having trouble hearing you. I'm not sure.  
14 You're a little garbled. Go ahead.

15 MR. VOLEK: Also on the phone --

16 THE COURT: So you're here. Yeah.

17 MR. VOLEK: I'm here by video. By phone, we also  
18 have Charles Hart, Amy Senier, Megan Marks, and Nancy Glass  
19 along with Kate Smith, Simran Chahal, and Caitlin Quinn, who  
20 are also members of the team.

21 THE COURT: And for the -- for the City of Ferguson.

22 MR. CAREY: Good afternoon, Your Honor. It's Apollo  
23 Carey with the City of Ferguson.

24 THE COURT: All right. And for the Monitoring Team.

25 MS. TIDWELL: Good afternoon, Your Honor. Natashaia

1 Tidwell is on along with Courtney Caruso.

2 MS. CARUSO: Good afternoon, Your Honor.

3 THE COURT: And we -- good afternoon, Ms. Caruso.

4 All right. And so we do have, I know, people who are  
5 on the telephone. We have people participating or listening  
6 in on the telephone.

7 This is a status hearing to allow the Consent Decree  
8 Monitor and the lawyers for the parties to the Consent  
9 Decree -- the Department of Justice and the City of  
10 Ferguson -- to report on the status of the reforms agreed to  
11 by Ferguson in the Consent Decree.

12 The attorneys are appearing by videoconference, and  
13 the public is listening on a telephone conference line. We  
14 will have a transcript of the hearing prepared and put on the  
15 Court's website no later than tomorrow. It will go up as soon  
16 as possible.

17 So I know there are people listening in on the call.  
18 Because court is open to the public and because of the  
19 coronavirus pandemic, this is, at this moment, the best we can  
20 do. I do want to remind all the people listening to the call  
21 and the lawyers, of course, who already know this, that it is  
22 the policy of the United States Courts that there can be no  
23 photographing, recording, or rebroadcasting of any court  
24 proceedings, including this one. We are glad to provide  
25 access by phone since we can't have everyone here in person,

1 but any violation of this rule or any recording or other  
2 broadcasting could result in sanctions, including denial of  
3 entry to future hearings or any other sanctions that might be  
4 deemed necessary by the Court. So I hope everyone will  
5 respect that, and so we can proceed in -- in accordance with  
6 our policies.

7 So I did -- as I set out in some earlier orders, it  
8 was necessary for us to continue the public hearing that had  
9 been scheduled for April 23rd. We usually have quarterly  
10 hearings, and the April 23rd hearing had to be continued  
11 because of the pandemic. We're glad that we have some method  
12 of holding this hearing, although I realize it's not as good  
13 as it would be if we had in-person hearing and that the public  
14 would be able to be in the courthouse in person.

15 I hope that by the time of our next hearing we will  
16 be able to go back to in-person hearings, although we will,  
17 for the foreseeable future, be having social distancing  
18 limitations for all in-person hearings in the courthouse, but  
19 I do hope that we'll be able to be back in person soon, and I  
20 do welcome the lawyers and the people who are listening on the  
21 telephone call.

22 Before this hearing, we did give an opportunity for  
23 people to send in comments to the Monitor, and so I have  
24 received some of those, but before we begin with the reports  
25 from the Monitor and the lawyers, I will start by saying that,

1 I mean, in addition to the pandemic, obviously, we all know  
2 this is a very difficult and very sad time for our country  
3 because of the killing of Mr. George Floyd in Minneapolis.  
4 There have been demonstrations in most metropolitan areas in  
5 the United States, and the vast majority of those  
6 demonstrations, both here in St. Louis and in the country as a  
7 whole, have been peaceful. Unfortunately, for the citizens of  
8 Ferguson, some of the activities there have not been peaceful,  
9 and I wanted to express my appreciation to the City of  
10 Ferguson and its lawyer and its administrators for wanting to  
11 have this hearing go forward. They did express their strong  
12 desire that it does -- did go forward as scheduled, even  
13 though I know that they are operating under a great deal of  
14 stress right now because of all the things they have to -- or  
15 they are dealing with in the city of Ferguson because of the  
16 demonstrations.

17 So I want to start by recognizing Attorney Apollo  
18 Carey, Counsel for the City of Ferguson, who has some  
19 introductory remarks before we proceed with the rest of the  
20 status hearing. Mr. Carey.

21 MR. CAREY: Thank you, Your Honor.

22 We certainly appreciate the -- the words that you  
23 just spoke about the situation and sort of the times that  
24 we -- we are experiencing here in the city of Ferguson. It's  
25 definitely unique across the country, you know, what we've

1 experienced here, and -- but, you know, I must say that I  
2 think -- you know, I think the FPD has been doing an  
3 outstanding job in responding to, you know, what is sort of a  
4 new level of intensity, a new level of coordination, a new  
5 level of protesting that just has not been -- been seen  
6 before, and so what we -- what we would hope to do today is  
7 once we get through the -- you know, the normal order of how  
8 we do things -- I guess the Monitor and DOJ would speak -- I  
9 would, you know, give a little bit more detail to the Court  
10 about, you know, exactly how FPD has been navigating the  
11 waters and just kind of let you know some of the things that  
12 have come out of the last week, both positive and negative.  
13 You know, there's just -- you know, there are some things  
14 that, you know, we've -- we were prepared for, some things  
15 that we weren't necessarily prepared for. So happy to give  
16 that to you in more detail when it's my turn to chat.

17 THE COURT: All right. Thank you. Yeah. And I  
18 know -- I mean with, you know, having the police office -- the  
19 police department, you know, damaged and everything is  
20 serious, and we'll hear more about that, but what we're here  
21 for, of course, is to talk about the -- hold on. Excuse me  
22 just one moment.

23 Are they the people -- hold on. We're having a  
24 little technical stuff.

25 The people in the waiting rooms --

1 [Automated telephone message: "Your line is now  
2 unmuted."]

3 THE COURT: Okay. I think that may help with people  
4 being able to hear. We're trying. We have some technical  
5 difficulties with people who weren't able to hear. So I hope  
6 this will get them where they can hear, and we'll see if this  
7 works.

8 So -- so yes. So our purpose here -- of course, the  
9 reason we're here is to hear the status update from everyone  
10 on the compliance with the Consent Decree that was entered in  
11 this case back in 2016, which itself, of course, was a couple  
12 of years after the incidents that gave rise to the Consent  
13 Decree.

14 So I will start by asking the Monitor, Ms. Tidwell,  
15 and to the extent Ms. Caruso, who is also here, to comment in  
16 any way they want. So, Ms. Tidwell, I'll start with you, and  
17 then I'll ask the parties to make any further comments.

18 MS. TIDWELL: Thank you, Your Honor.

19 I would first like to echo your thanks to Chief  
20 Armstrong and the men and women of the police department for  
21 their hard work under unprecedented conditions, not only this  
22 week but during the past few months of this national public  
23 health emergency. We're very fortunate that given those  
24 challenges the City has continued its commitment to this  
25 important work. So I want to thank Mr. Carey and Ms. Barton,



1 who I know is on the line, in particular.

2           It would take a feat of mental gymnastics of which I  
3 am not capable to separate today's hearing from the events of  
4 the past week and the tragedies that ignited them, so I won't  
5 even try to do that. Like everyone else, I am struggling to  
6 make sense of the senseless violence that continues to be  
7 perpetrated upon black people at the hands of the police. As  
8 a former police officer, I am tired of being asked to defend  
9 or explain the indefensible and inexplicable. As a black  
10 woman, my heart is broken, Your Honor. And as a mother to a  
11 black son, I am scared. So I come before you today as the  
12 leader of a dedicated group of people working with the City of  
13 Ferguson and the Department of Justice to implement the  
14 reforms detailed in a consent decree that originated with  
15 DOJ's investigation of the 2014 killing of Michael Brown.  
16 Nearly six years later and four years into this reform  
17 process, significant process has been made as I and the  
18 parties will detail further; however, there is still much work  
19 to be done, both in this country and in the City's effort to  
20 to reach substantial compliance with the Consent Decree's  
21 terms.

22           So I will shift gears to the task at hand and discuss  
23 briefly where things currently stand as well as the road  
24 ahead. As you know, Your Honor, at the close of year two and  
25 again last year, the Monitoring Team forecast to the Court,

1 both in these hearings and in our semiannual reports, our  
2 concern that as the City progressed beyond the policy  
3 development stage of the implementation process, it would need  
4 to shoulder more of the responsibility. While the dedicated  
5 team of DOJ lawyers along with Assistant Chief Frank McCall  
6 have worked tirelessly to revise and, in some instance, create  
7 out of whole cloth a collection of policies that reflect and  
8 surpass recognized best practices in policing, policy  
9 development is but the first rung on the ladder to substantial  
10 compliance, and as we approach year five, these stubborn  
11 truths remain: The Department of Justice cannot train  
12 Ferguson's officers. The Department of Justice cannot  
13 establish a data collection and reporting mechanism for the  
14 City. And most importantly, the Department of Justice cannot  
15 engage and collaborate with the Ferguson community on the  
16 City's behalf.

17           Rather, the task associated with those areas of the  
18 Consent Decree require coordination and effort and dedicated  
19 staff within the City's apparatus. In the past year, the City  
20 has done great work in building that apparatus. The hiring of  
21 Ms. Barton as Consent Decree Coordinator and the City's  
22 retention of AH Datalytics, its data and technology  
23 consultant, evidence the City's commitment to the path  
24 forward.

25           In our most recent semiannual report, filed in

1 January, we identified the development of a robust training  
2 program and the implementation of community engagement and  
3 policing practices as the two most critical areas of needed  
4 focus. Obviously, the public health emergency has impacted  
5 the City's ability to achieve substantial progress in some  
6 areas, particularly as it relates to community engagement and  
7 policing. Fortunately, however, the City has not permitted  
8 these challenges to stall its efforts entirely.

9 In recent months, the Monitoring Team's newest  
10 addition, Dr. Leigh Anderson, has been working with the City  
11 and the Department of Justice to assist in two key areas.

12 First, with regards to paragraph 23 of the Consent  
13 Decree, which requires implementation of policies to receive,  
14 consider, and act upon the Neighborhood Policing Steering  
15 Committee's recommendations, Dr. Anderson has reviewed a  
16 working draft of that policy and is looking forward to  
17 additional discussions of the specific criteria and process  
18 FPD will use to evaluate the NPSC's recommendations so that we  
19 ensure transparency in the process.

20 Secondly, paragraph 19, which calls for the City to  
21 host and participate in a series of small-group structured  
22 dialogues between the police and community members and groups.  
23 Again, Dr. Anderson has reviewed a working draft and is  
24 working with Mr. Hart from DOJ and the City's proposed  
25 facilitator, Community Mediation Services, for these dialogues

1 in order to articulate the substance of the dialogues, the  
2 role of FPD officers in them, and a mechanism for maintaining  
3 consistency and connection across meetings to ensure that the  
4 information gleaned from the dialogues is funneled into the  
5 larger community engagement plan. We know that FPD is  
6 currently working on the community engagement plan, but we  
7 would caution that the structure of the Consent Decree seems  
8 to indicate that the dialogues were intended to have been  
9 initiated and nearly completed before the development of the  
10 community engagement plan. We would hate to find ourselves in  
11 a situation where the ink is dry on the community engagement  
12 plan but the sustained dialogues reveal a better and more  
13 fruitful course for fostering and maintaining police community  
14 relations.

15           And speaking of Dr. Anderson, she has been  
16 instrumental in preparing for the Monitoring Team's  
17 administration of a second community survey. As the Court  
18 recalls, we did not get the kind of response we would have  
19 liked last year, particularly in neighborhoods identified by  
20 the Consent Decree as traditionally disenfranchised and  
21 excluded from the process. Our commitment to targeted  
22 outreach in those neighborhoods, not at the expense of  
23 outreach to other neighborhoods, is obviously impacted by the  
24 current public health situation. Dr. Anderson has already  
25 begun discussions with outside experts in evaluating and

1 surveying in communities of color. She and Ms. Caruso will  
2 continue those conversations and conversations with the Police  
3 Foundation, the survey preparer, and they will lead our  
4 internal efforts to craft a strategy that meets the moment.

5 I would also like to take a moment to thank the Court  
6 for recognizing that this hearing was intended to include  
7 public comment and for creating a vehicle by which members of  
8 the community could submit comments to me, the parties, and to  
9 the Court. One such comment from Ms. Cassandra Butler  
10 highlighted the need for the Monitoring Team and the parties  
11 to do a better job of reporting progress in real time as the  
12 pandemic continues. We are exploring virtual town halls and  
13 other ideas, but we take to heart Ms. Butler's caution that  
14 the digital divide prevents many from engaging in that manner.  
15 We hope to work both internally as a team and with the parties  
16 on alternatives for keeping the community up to date and in  
17 the know on the progress that's being made.

18 Turning to training, Your Honor, the City has  
19 provided us a schedule of roll call briefings as the final  
20 stage in the policy implementation process. However, the  
21 backlog that we've reported on previously still persists. We  
22 are heartened by the City's decision to involve other  
23 supervisors in the roll call briefings in order to lighten  
24 Captain Dilworth's load. Hopefully, as FPD's critical  
25 incident response needs ease, it can return its attention to

1 the collection of policies awaiting full implementation.

2 More urgently, the Monitoring Team and DOJ more  
3 directly have been working with the City on building a robust  
4 training plan that would incorporate in-service supervisor and  
5 new recruit training on all aspects of the Consent Decree.  
6 The task is a significant one, and we have called upon the  
7 City to seek assistance from the vast academic community in  
8 and around St. Louis County for help in conducting a full  
9 needs assessment that includes an analysis of available  
10 training in the state to examine gaps between those offerings  
11 and the Consent Decree's requirement and, where gaps exist, to  
12 assist FPD in the development of curricula, lesson plans, and  
13 other needed items to conduct that training in-house.

14 Hopefully, the City will engage its local partners in  
15 this effort so that it can continue its path towards  
16 implementation of the Consent Decree's provisions and so that  
17 the Monitoring Team can fully perform its function of auditing  
18 compliance.

19 I will leave it there, Your Honor. I'd be happy to  
20 answer any questions you might have or wait until after the  
21 parties are finished.

22 THE COURT: All right. I think we'll proceed to the  
23 parties at this time.

24 Mr. Volek, I'll hear any report you wish to make at  
25 this time.

1 MR. VOLEK: Thank you, Your Honor.

2 Thank you for making it possible for this status  
3 hearing to proceed by phone despite the restrictions related  
4 to COVID-19. These hearings are critical for updating the  
5 Court and the public on progress made in implementing the  
6 Consent Decree, and the need for that transparency is more  
7 urgent now than ever.

8 I want to thank the Court, the City, and the Monitor  
9 for the comments regarding the tragic and difficult moment we  
10 find ourselves in as a nation. The death of George Floyd,  
11 which followed other lethal uses of force by law enforcement  
12 officers, has impacted individuals, families, and communities  
13 across the country. Law enforcement officers, including in  
14 Ferguson, are under a tremendous burden amidst the pandemic to  
15 protect individuals' right to protest.

16 It's clear that national attention has refocused on  
17 policing practices in particular. We have seen renewed calls  
18 in cities across America to ensure that law enforcement  
19 practices are lawful and evenhanded. These calls are a  
20 reminder of the profound responsibility that all of us have in  
21 this matter to ensure that the measures codified in the  
22 Consent Decree are put into practice. We take that  
23 responsibility seriously, and we remain steadfast in our  
24 commitment to it. We want to thank the City and the Ferguson  
25 Police Department officers for their continued fidelity to

1 their responsibility as well.

2 We have a very strong team in place at this point in  
3 the implementation process. A year ago, we didn't have a  
4 chief, a consent decree coordinator, a municipal court judge,  
5 or a municipal court clerk to work with, but now those roles  
6 have been filled inside the City, inside the police  
7 department, inside the municipal court, and they're filled  
8 with people who have the expertise that's needed to move this  
9 process forward. We want to extend our appreciation to them  
10 and their hard work over the last few months.

11 Obviously, this is going to require in the end not  
12 just the leadership of the department and the municipal court  
13 and the City but everybody in the department, and we have seen  
14 that effort beginning to spread throughout the rank and file  
15 of FPD as well. There have been efforts made by Chief  
16 Armstrong to expand the responsibilities for implementing the  
17 Consent Decree across the department, and we think that's  
18 critical as well.

19 We're also grateful to the Monitoring Team for the  
20 essential role that it plays in this process in providing  
21 technical assistance and conducting audits, and we're grateful  
22 to the members of the broader Ferguson community who feel a  
23 profound sense of responsibility and continue to devote time  
24 and energy to the reform effort. We want to thank especially  
25 those of you who have called in to this hearing and submitted



1 written comments. Those comments were extremely helpful, and  
2 we are greatly appreciative.

3 Overall, Ferguson has made substantial progress over  
4 the last several months in our estimation, and they are poised  
5 to make even greater progress in the next weeks and months.  
6 I'd like to go through a few different areas of the Consent  
7 Decree, but before I do, I want to address recent events and  
8 how they're impacting the implementation process. I'm sure  
9 that there are questions about that.

10 First, the COVID-19 crisis obviously had an impact on  
11 how everybody does business. It has impacted our  
12 implementation efforts as well, but we tried to minimize that  
13 impact as much as possible. There are a couple of areas where  
14 the impact has been most acute. First, as Ms. Tidwell  
15 mentioned, the structured group dialogues that are required by  
16 the Consent Decree. In January, at our last hearing, we  
17 reported that --

18 THE COURT: I'm sorry. Would you -- Mr. Volek, would  
19 you say that again? I think you said something like "In  
20 January," but it broke up. So would you start there again?

21 MR. VOLEK: Apologies. In January, at our last  
22 public hearing, we reported that there was a plan to conduct  
23 those structured dialogues that Ferguson put together that  
24 would happen in the next two to three months. Unfortunately,  
25 that plan has necessarily been delayed, but we want to let the

1 Court know that we're still in regular communication with the  
2 police department and Community Mediation Services of  
3 St. Louis to ensure that once it's safe to do so those  
4 structured dialogues can begin.

5           The COVID-19 crisis has also impacted roll call  
6 training sessions within the department. Obviously, large  
7 gatherings are not safe, and so we have been in touch with the  
8 department about how they plan to still ensure that the  
9 policies get rolled out appropriately throughout the police  
10 department in a timely manner despite the limitations imposed  
11 by the coronavirus.

12           Overall, our work has continued. A lot of our work  
13 can be done electronically and remotely, and we've tried to  
14 build out new systems to do that. We have frequent phone  
15 calls with the police department, with the City, with the  
16 Monitoring Team, and we continue to look for new ways to move  
17 this process forward. I really want to applaud the efforts of  
18 the Monitoring Team and the Consent Decree Coordinator. The  
19 tracking of specific Consent Decree requirements and the state  
20 of implementation has become much more detailed over the last  
21 few months, and that has greatly assisted implementation  
22 efforts.

23           So as we continue and try to move forward, you know,  
24 given the developments in the COVID-19 situation, we're going  
25 to work to make sure that we can get back up to speed as much

1 as possible, particularly in those areas that have been most  
2 impacted.

3           Second, while we know that the recent events have  
4 impacted the entire country, we also realize that they've been  
5 felt acutely in certain places, and Ferguson is one of those  
6 places. We've not been able to be in Ferguson since the onset  
7 of COVID-19. So we've been monitoring things from afar and  
8 reading news reports, and we've reached out to the police  
9 department and had communications with Chief Armstrong and  
10 members of the community about that, but we have no firsthand  
11 information. I want to make that clear. We've been in touch  
12 to make sure that the Consent Decree's principles regarding  
13 First Amendment activity are incorporated into FPD's practice.  
14 We'll continue to monitor the situation from afar, and when  
15 the time allows, as part of the regular auditing process, we  
16 will, of course, look to make sure that Consent Decree  
17 requirements are being comported with, but I do at this time  
18 want to express appreciation for the law enforcement officers  
19 who have faithfully protected the public's right to protest in  
20 a pandemic. That has enabled people to peacefully protest,  
21 and I want to thank Chief Armstrong in particular for some of  
22 the messaging that's come out of the department that we've  
23 seen. Obviously, that messaging is critically important at a  
24 time like this, and we appreciate his leadership.

25           Turning to specific Consent Decree sections, I want

1 to start with an update on policies and training. Talked  
2 briefly about a few areas that have been of particular focus  
3 for us over the last few months and will be over the next few  
4 months regarding community policing, data collection, and  
5 public reporting. At this point, we have approved policy  
6 suites in the areas of use of force; stop, search, and arrest;  
7 accountability; community engagement; and we've received --  
8 those policies have all been commented on by the public and  
9 approved by the Monitoring Team. We've also provided and  
10 received draft policies of the body-worn camera and bias-free  
11 policing policies to be [indiscernible] to the public and  
12 received valuable feedback there, and the first seven policies  
13 are currently open for public comment. That period has been  
14 extended to June 22nd. Normally, the public comment period is  
15 30 days, but we extended that due to difficulties of the  
16 COVID-19 crisis. Those policies are available on FPD's  
17 website for public comment.

18 I want to talk briefly about the use-of-force  
19 policies because I think it is an indication and provides some  
20 insight into how complex the policy review process is. I know  
21 that everybody [audio cutout] that process to be done a lot  
22 quicker, but it's extremely detailed, and just turning to the  
23 general use- [audio cutout] policy, it's clear to see what it  
24 is, and if you look at the force policy, there are clear --

25 COURT REPORTER: Excuse me, Judge. His audio

1 keeps --

2 THE COURT: Okay. Is he breaking up?

3 COURT REPORTER: Yeah. He keeps cutting out. If  
4 there's --

5 THE COURT: Yeah. Mr. Volek, do you know why you  
6 have -- we're having trouble with -- it's just some cutting  
7 out. So I'll let you -- that was the court reporter telling  
8 us. It's very important, of course, we get the record down  
9 here.

10 MR. VOLEK: All right. I will try to speak louder  
11 and slower.

12 COURT REPORTER: I think when you're -- I believe  
13 when you're closer to your microphone it doesn't cut out so  
14 much, and if you have two sources going, maybe make sure the  
15 other source is muted.

16 MR. VOLEK: Okay.

17 COURT REPORTER: Okay. Thank you.

18 MR. VOLEK: Apologies for that.

19 So turning to the use-of-force policy, it's extremely  
20 thorough and provides prohibitions against -- against  
21 escalating use of force, requirements that officers  
22 de-escalate the use of force. It prohibits the use of neck  
23 holds. It includes a duty to provide medical care, and it  
24 also includes a duty for officers to intervene. It says that  
25 officers must recognize and act upon the unequivocal duty to

1 intervene and stop any and every officer from any agency from  
2 using force that is unreasonable, unnecessary,  
3 disproportionate, or inconsistent with FPD policies, rules,  
4 and training. Every single part of these policies is  
5 critically important, and the parties have been trying to be  
6 as diligent as possible to make sure that the policies are  
7 thorough. We've made tremendous progress and have only a  
8 couple of policies left to be finalized. Specifically, crisis  
9 intervention policy is going to be the next or, I think, the  
10 last policy for public comment. Obviously, the COVID-19  
11 situation is going to impact accounting on that, but we will  
12 keep the public informed.

13 Turning to training, FPD has worked hard to deliver  
14 roll call training on these finalized policies. FPD is also  
15 responsible for creating in-service training for its officers,  
16 and as this [audio cutout], that is going to be a --

17 THE COURT: Okay. Mr. Volek, if you can try not to  
18 turn your head as much, that seems to be when we're having  
19 more trouble.

20 MR. VOLEK: Okay.

21 THE COURT: Yeah. So if you'll look straight like  
22 that, it might help because we just lost some of your words.

23 MR. VOLEK: Okay. Is this better?

24 THE COURT: Yes.

25 MR. VOLEK: Sorry again.

1           The in-service training program is going to be a  
2 key -- a key requirement going forward, as Ms. Tidwell  
3 mentioned. So we've worked with the department to try to  
4 build out a training plan. I know that they've worked with  
5 the Training Committee to build out a training plan, and we  
6 meet regularly on that, on that subject.

7           One of the difficulties is that because of Ferguson's  
8 size it participates in training from many other academies,  
9 and it's essential that we, as part of this process, review  
10 all curriculum that are going to speak towards Consent Decree  
11 requirements, and so laying hands on those curriculum has been  
12 a difficult -- a difficult task, more difficult than you might  
13 imagine, but Ferguson is working on that, and we will continue  
14 to work with them and support them, but it is going to be the  
15 central focus over the next few months.

16           Ms. Tidwell mentioned community policing. Again,  
17 there's been a lot of work on that despite the COVID-19  
18 crisis. The one point that I wanted to add in addition to the  
19 points made about Dr. Anderson's assistance, structured  
20 dialogues is that FPD has sought help from the Department of  
21 Justice's Office of Community Oriented Policing Services and  
22 is currently in the process of figuring out what that  
23 assistance will look like to improve community engagement. If  
24 Your Honor remembers, the DOJ Office of Community Oriented  
25 Policing Services previously provided a grant to Ferguson in

1 the amount of \$250,000 for community policing personnel. This  
2 will be further technical assistance that's centered on  
3 outreach, engagement, and community relations. So work  
4 continues in that area.

5 With respect to data collection, that has been  
6 another area that has been a source of difficulty, but  
7 tremendous progress has been made over the last few months.  
8 The City has switched providers of its data collection systems  
9 and is building out those systems to ensure that they meet all  
10 Consent Decree requirements. In particular, the current focus  
11 is on developing use of force in other forums to make sure  
12 that they capture all of the data requirements in the decree.  
13 We understand that the City is going to provide that to us for  
14 review well advance of the July 31st deadline by the  
15 Monitoring Team.

16 The data collection is really critical for all  
17 aspects of the decree. We talked about community engagement,  
18 for instance, and one of the ways to measure the community  
19 engagement is actually happening by tracking encounters  
20 between law enforcement officers and members of the public,  
21 and so building out that data collection system is going to  
22 help that area of the Consent Decree. It's going to help the  
23 training area of the Consent Decree as well, which we also  
24 just discussed, and so going forward, it's going to be a huge  
25 asset to have a robust data collection system that will



1 significantly help the police department's ability to meet all  
2 Consent Decree requirements.

3 Now that there is greater data collection within the  
4 department, as that gets built out, one of our areas of focus  
5 is also going to be on public reporting. The Consent Decree  
6 contains specific requirements regarding FPD's abilities to  
7 update the public on its policing practices and its compliance  
8 with the Consent Decree. Now that the data collection system  
9 is getting up and running, that transparency is going to be  
10 enabled, and also, it's obviously a critical thing going  
11 forward.

12 And so with that, I just want to extend our thanks  
13 again to the City for its eagerness to move forward with this  
14 hearing. One of our areas of focus is greater transparency,  
15 and this helps, and we're going to continue to work on other  
16 mechanisms for transparency as well.

17 You know, the fact that a lot of activity over the  
18 last few weeks has occurred in Ferguson is a reminder that,  
19 for many, Ferguson still represents what still needs to be  
20 done in terms of policing, but it also has the potential to be  
21 a model of police reform and to represent what a community can  
22 accomplish when it works towards making policing more  
23 equitable, safer, more just. We're midstream in that process  
24 to be clear. There's a lot of work to be done, but there are  
25 positive indications that the Consent Decree is reshaping law

1 enforcement in Ferguson.

2 I spoke several hearings ago about the number of  
3 cases that have been dismissed since 2014 -- 46,000 now,  
4 including 85 percent of those that occurred before 2014.  
5 Seventy-five -- excuse me. There's been over a million  
6 dollars in court debt that's been dismissed by the City of  
7 Ferguson. Significant changes to the court system have been  
8 made as well as policing practices. We've also seen a decline  
9 in the enforcement of low-level offenses but also a decline in  
10 violent crime, and that's an indication of how much Ferguson's  
11 efforts have really reshaped its efforts away from the issues  
12 flagged in our findings report and towards public safety,  
13 towards building community, and we think that -- we think that  
14 that progress is encouraging, and while there's more to be  
15 done, we are confident that with the team that Ferguson  
16 currently has in place we'll be able to move that forward.

17 THE COURT: All right. Thank you, Mr. Volek.

18 Mr. Carey, I will hear from you on behalf of the City  
19 of Ferguson.

20 MR. CAREY: Thank you, Your Honor.

21 You know, I know right now what I would normally do  
22 is if I were standing there in front of you I would turn  
23 around and introduce the people that were -- that were sitting  
24 there from the City. I'll try my best to sort of, you know,  
25 reenact that here given our distance. I know you probably

1 have heard that our mayor, our current mayor, James Knowles,  
2 is on the phone as a listening participant. We also have our  
3 newly elected mayor. Ms. Ella Jones was just elected a couple  
4 days ago as our new -- as our new mayor, and she'll be sworn  
5 in here in a couple weeks, and I know she's on the phone as  
6 well. I didn't hear or am unaware of any other council  
7 members on the phone, but you have also, obviously, our  
8 Consent Decree Coordinator, Ms. Nicolle Barton, and our Court  
9 Administrator, Ms. Courtney Herron, are actually here in the  
10 room with me. I'm actually right now in the conference room  
11 of the police department. I thought it would be appropriate  
12 for me to kind of come here and give this update here at the  
13 police department versus in my office. Unfortunately, our  
14 Chief of Police is -- you know, he's been mired in many  
15 different tasks in the last week or so. So he is -- was  
16 unavailable for today's hearing, but you did hear -- I think  
17 you may have heard Judge Goldstein, who is our Municipal  
18 Judge, as well as Craig Smith, our Provisional Municipal  
19 Judge, who is also listening on the phone. So even in the  
20 virtual world, we're able to, you know, have the support of  
21 our leadership and our administration to show support for the  
22 City's Consent Decree efforts.

23           So, you know, what I'd like to do is touch on a  
24 couple of topics that were brought up by the Monitor as well  
25 as the Department of Justice directly relating to the Consent

1 Decree, and then I'll give you just a little bit of  
2 information or background on how FPD has been sort of  
3 navigating the waters here in the last week or so and, you  
4 know, how the -- how the Consent Decree has actually impacted  
5 them, you know, navigating those waters.

6           So the first thing I think I'd like to sort of touch  
7 on is, you know, we -- you know, the COVID-19 crisis has -- it  
8 really has, you know, caused us to sort of step back and  
9 figure out how we were going to disseminate some of the  
10 information and put on some of the programs and do some of the  
11 things that are required under the Consent Decree, like the  
12 dialogues that were mentioned, and so we have, you know, been  
13 working feverishly to sort of figure out, you know, how do we  
14 do that in real time. Is that something we do via Zoom? Is  
15 that something we do via telephone conference call, or is that  
16 something, you know, we wait out? And I can just tell you, as  
17 a general rule, the appetite with the City is not necessarily  
18 to wait out anything. You know, we've had a lot of delays in  
19 the implementation of the Consent Decree, some of which had to  
20 do with the City's, you know, personnel issues that we've had,  
21 some of them due to other -- you know, other reasons, but, you  
22 know, from the City's perspective, we are -- you know, we're  
23 locked and loaded and ready, and so the COVID-19 pandemic  
24 really sort of threw a monkey wrench in everything that we --  
25 well, not everything but in some of the things that we were

1 doing. We certainly -- as you know, the Monitor put together  
2 a monitoring plan, which, of course, sort of mapped out this  
3 year, and what the parties did was they took that monitoring  
4 plan or that work plan and they put it on what we call a  
5 Smartsheet. A Smartsheet is sort of a real-time document  
6 where the parties can sort of access the sheet, update what's  
7 been done, what hasn't been done, you know, that kind of  
8 thing, and so the parties have been using that, and we had  
9 some deadlines that were, I think, March 31st deadlines. We  
10 had some April 31st deadlines, and I'm happy to inform the  
11 Court that, you know, from the City's perspective, we were  
12 able to meet most, if not all, of those deadlines despite the  
13 fact that we were dealing with the pandemic.

14           And, for example, you know, we were -- you know,  
15 there were -- we had to have drafts of our training plan. We  
16 had to have drafts of various other policies and other plans  
17 that we were putting together under the Consent Decree and  
18 with the hard work of our Consent Decree Coordinator and Chief  
19 of Police and even, you know, Mr. Blume, who's not with us  
20 today. He's dealing with some medical issues, but he -- you  
21 know, the City came together, and we were able to meet those  
22 deadlines in the -- in the Monitor's work plan.

23           So some of those, some of the sort of specific things  
24 that were mentioned by the Monitor as well as the Department  
25 of Justice, one had to do with our community engagement plan,

1 and, you know, what I'd like to say is that, you know, from  
2 the City's perspective, I don't think we ever think that the  
3 ink is dry on anything that we're doing here, that we're  
4 developing under the Consent Decree. I mean we think that  
5 each one of these documents are living, breathing documents  
6 that, you know, although we may draft it and we come to some  
7 agreement that we have in place, the way policing is changing,  
8 the way society is changing, you know, there's just -- there's  
9 no telling when we may have to update a policy, and so, you  
10 know, from our perspective, you know, even though, you know,  
11 we start a policy and we start it with the intention of coming  
12 together with something that everybody can agree on, you know,  
13 once we implement it, there's still, you know, the potential  
14 to have to change it and -- and, you know, make changes  
15 necessary to accommodate the way policing is done and what  
16 some of the best practices are. So, you know, just to ease  
17 everybody's mind about, you know, we don't want to -- you  
18 know, it's not our -- we don't want to put the cart before the  
19 horse, but, again, you know, from the City's perspective,  
20 we're as locked and loaded as we've been in the last two  
21 years. So we're sort of ready to rock and roll on some  
22 things, but we will certainly slow down and take our time  
23 where it's necessary, but, you know, in times where we don't  
24 necessarily need to, we'd like to kind of speed things along.

25 The in-service training that was referenced by the

1 Department of Justice -- I think we certainly are in a  
2 situation where I think the City has -- has done the gap  
3 analysis. The Department of Justice has asked the City to get  
4 its hands on the training curriculum from the St. Louis County  
5 Police Academy, which is really -- that's actually the only  
6 police academy that Ferguson uses, the officers in Ferguson  
7 use on a regular basis is the St. Louis County Police Academy,  
8 and it has been somewhat difficult to get our hands on those,  
9 some of the curriculum data that the Department of Justice is  
10 asking for.

11 We -- we certainly understand the need for the  
12 Department of Justice to review those things. What the City  
13 would be mindful of, though, is we want to, you know, make  
14 sure that the City's not in a position where it, you know, has  
15 to develop its own police academy. You know, we just -- we  
16 don't have the resources to do that kind of thing, and so  
17 we're hoping we can get our hands on these materials, you  
18 know, as quick -- you know, to satisfy the inquiry of the  
19 Department of Justice as quick as possible, but, you know, we  
20 think that the training plan, how it was set up was to be a  
21 gap analysis. We figure out where the gaps were, and then the  
22 City filled in those gaps. We're hopeful that it's not a  
23 situation where the City just has to say, "Well, we can't get  
24 our hands on the curriculum from St. Louis County, and so we  
25 just have to recreate everything" because we just don't -- you

1 know, we don't have the -- the bandwidth to do that kind of  
2 thing. I think the parties are working that out. Hopefully,  
3 we can get our hands on the information that is being  
4 requested, but, you know, that's a more detailed conversation  
5 for another day.

6 I think -- I think it's probably appropriate for me  
7 to maybe turn to, you know, sort of the recent events that  
8 have been taking place in Ferguson and just sort of give the  
9 Court, the parties, and the public an idea of, you know, from  
10 the FPD's perspective how we have been navigating the waters.  
11 They've been very choppy waters, very -- and, you know, I'll  
12 tell you I hate using this word now, but unprecedented waters,  
13 but it sounds like we've been using the word "unprecedented,"  
14 you know, for the last couple of months, but, you know,  
15 this -- I think FPD -- as I mentioned at the beginning of the  
16 hearing, by all accounts that I've been privy to, FPD has been  
17 doing an outstanding job in dealing with the -- sort of the --  
18 this level of protest, this increased level of intensity, this  
19 increased level of coordination because, you know, I think  
20 it's certainly important to know that I think the Consent  
21 Decree has left an imprint on -- has left its imprint on  
22 the -- even though we -- you know, we aren't done with  
23 implementing it, it certainly has left its imprint on the  
24 efforts that we're making here. You know, I think it has  
25 certainly helped to put on the minds of the officers, you



1 know, to make sure that things are done in a constitutional  
2 way, to make sure that we are protecting the rights of, you  
3 know, protestors, both peaceful and nonpeaceful protestors.  
4 It has certainly reshaped the way law enforcement goes about  
5 handling these types of situations.

6 Sort of the back side of that, though, is one of the  
7 things that's not really being talked about as much -- and  
8 from my perspective, I want to make sure that the public and  
9 everybody understands -- is that, you know, the good men and  
10 women who are out there putting their lives on the line are  
11 also now under siege. You know, when you're -- when you're  
12 out there, you see what happened. What has happened is, you  
13 know, you have nonpeaceful protestors mixed in with your  
14 peaceful activists and protestors who -- and it's very  
15 difficult for FPD to tell the difference between the two  
16 because they're all sort of, you know, mixed in together and  
17 then all -- you know, then, you know, all of a sudden, you  
18 know, things go left, and you just -- you just never know  
19 where it's going to come from, and so I think, you know, what  
20 has happened is even under those situations where, you know,  
21 FPD can't tell the difference between who the peaceful people  
22 are going to be and who the nonpeaceful people are going to  
23 be, I think they've just done a yeoman's job of showing the  
24 restraint, showing the thought process and the strategy that I  
25 think the Consent Decree intended to implement, but, you know,

1 I'd be remiss if I didn't say that I think not only is that,  
2 you know, a factor of or an effect of the Consent Decree; I  
3 think that's also an effect of the leadership that we have  
4 with Chief Armstrong. I think Chief Armstrong is -- you know,  
5 has brought to this particular job a dedication to doing  
6 things in a constitutional way, and, you know, without him  
7 even having a lot of knowledge about, you know, the Consent  
8 Decree and its details, you know, I think he just brought with  
9 him an idea of, you know, how things should be done, which --  
10 which really has helped FPD in these times.

11 I think it's important to know that the Consent  
12 Decree -- like I said, the Consent Decree has -- has reshaped  
13 how we do things. There are some complications that I'd like  
14 to just sort of put -- let the Court -- make the Court aware  
15 of as it relates to the Consent Decree, and I don't think  
16 these complications are with the Consent Decree itself, but I  
17 think the complications are kind of based on how the public  
18 perceives the Consent Decree or how other people perceive the  
19 Consent Decree.

20 And so what I'll do is I'll give you a particular  
21 example. We have a concept in law enforcement called a Code  
22 1000, right, and so this Code 1000 -- what it is is a police  
23 department can call a Code 1000, which is sort of an emergency  
24 code, which basically says, hey, all available hands on deck,  
25 and you're basically making a call to all your neighboring

1 jurisdictions to say, "Hey, listen. We need you. We're in a  
2 situation, and we need backup, and we need you to just sort of  
3 come and help us out." And so, as you can imagine, the City  
4 of Ferguson has been in the Code 1000 protocol. The last week  
5 or so, they've been in that protocol a couple of times where  
6 the City has had to, you know, call some of the neighboring  
7 jurisdictions to come in and provide backup just because what  
8 was going on was so overwhelming. The numbers of it, the  
9 intensity of it, the coordination of it was just something  
10 that, you know, folks here had never -- had never seen in all  
11 their years of law enforcement training and working.

12           And so what happens is there's some language in the  
13 Consent Decree, Your Honor, that talks about, you know, if the  
14 City, you know, contracts with another agency or there's  
15 another agency that performs duties that FPD would perform,  
16 that those agencies -- you know, the City has the  
17 responsibility to make sure that those agencies are performing  
18 consistent with the Consent Decree. Well, as you can imagine,  
19 what has sort of happened is folks have interpreted that  
20 language in a way that, you know -- and then, quite frankly,  
21 there are just some police departments out there who they  
22 don't necessarily want, you know, their police officers under  
23 the spotlight in that way, and so what has practically  
24 happened is when you call a Code 1000, the chief is in a  
25 position where he has troops on the scene but, you know, he

1 doesn't have the paramilitary chain of command that he needs  
2 to have in order to make things happen quickly. So, for  
3 example, you know, if I call in the St. Ann police, you know,  
4 the St. Ann police is telling our chief of police that, "Hey,  
5 listen. You know, you can't give us this command because we  
6 don't want to fall underneath the auspice of the Consent  
7 Decree, so you have to call our commanding officer, and our  
8 commanding officer will then tell us what it is we need to  
9 do." Well, sometimes, when you're in emergency situations,  
10 you just don't have that time. You know, you need one  
11 commander, and you need one person to be able to make a  
12 command, and you need the officers to be able to follow that  
13 command.

14           And so what -- that has sort of resulted in sort of a  
15 very complex level of commands when we call these Code 1000  
16 situations because the chief doesn't have 100 percent control  
17 over all the people that are on the scene helping out, and so  
18 that, fortunately, has not resulted in serious officer safety  
19 issues, but as you can imagine, you know, if there's a delay  
20 in giving a command and you have folks who need to follow that  
21 command, you have the potential for there to be officer safety  
22 issues with that. Fortunately, we have not had to deal with  
23 that yet, but that is something that, you know, this issue of  
24 the way folks are interpreting the Consent Decree, not  
25 necessarily the Consent Decree itself -- I want to make that

1 clear. I'm not saying that it's a -- but it is the way folks  
2 around us are interpreting the Consent Decree. You know, it's  
3 sort of hampering our ability to respond in these types of  
4 situations from a command-level perspective.

5 The other sort of thing that we -- that I think FPD  
6 is going to be dealing with here in the next, you know, couple  
7 days, especially if these protests continue the way they have  
8 been continuing, is just simply a -- a manpower issue. You  
9 know, we -- you know, we have been, you know, running our  
10 police officers into the ground the last week or so with just  
11 the hours that they're working, the different types of  
12 situations that they found themselves in, and, you know,  
13 obviously, the Consent Decree has policy built into it that  
14 talks about officer wellness, that talks about, you know,  
15 making sure that, you know, officers are getting enough sleep,  
16 that they're getting enough rest, and that they're able to  
17 sort of, you know, perform in a way that, you know, optimizes,  
18 you know, constitutional policing.

19 But, you know, four years ago when we got into this,  
20 we were -- we were certainly maybe at 50 police officers. I  
21 think now we're down to the mid thirties, and, you know, we're  
22 just experiencing some issues with manpower. So one of the  
23 challenges we'll have here is, you know, we may have to look  
24 at, you know, trying to get people in just so we can start  
25 giving our officers, you know, a day off, you know, or, you

1 know, letting them sleep so that they can get some rest, and,  
2 you know, obviously, with the Consent Decree, you know, we  
3 don't want to go out and -- and -- and contract with people  
4 who aren't going to, you know, come in and follow our policy.  
5 So that's something we have to -- we have to just be mindful  
6 of as we're going out, you know, doing this, but this issue of  
7 manpower is going to be an issue that we have to deal with  
8 very, very shortly if these protests continue the way they --  
9 the way they are.

10           And so I just wanted to give -- you know, like I  
11 said, you know, I think it's a very good statement that the  
12 Consent Decree has left its mark on the City in a very  
13 positive way, and I think you've seen the City's dedication to  
14 continuing the police reform that we've started under the  
15 Consent Decree and our dedication to seeing it through as  
16 well, but, you know, it's -- practically speaking, there are  
17 just things that happen when you're trying to, you know,  
18 implement a consent decree and you have this type of a  
19 situation come up. You know, there's some nimbleness that we  
20 need to have as a department, and I think because we're in  
21 that state where we have a consent decree but we're not fully  
22 implemented and we don't want to do anything in violation of  
23 the Consent Decree, but at the same time, we need nimbleness  
24 to be able to address this situation, you know, that doesn't  
25 necessarily clearly -- you know, the Consent Decree doesn't

1 necessarily clearly tell us, you know, and it's not supposed  
2 to be an all-knowing document, but, you know, there's just  
3 some practical things that come up when it -- when you're in  
4 the middle of a pandemic, you've got protests, and you have a  
5 consent decree.

6           So, you know, all in all, I think, you know, we're --  
7 we're moving forward. We've done as much as we -- as much as  
8 we could recently to sort of balance everything we've got  
9 going on. Officers are tired; you know, they need rest. The  
10 chief is tired; he needs rest. We've gotten nothing but the  
11 utmost support from our mayor and our City Council to help us  
12 sort of navigate these waters, but it's important for the  
13 public to know that, you know, despite everything that's going  
14 on, you know, we still are dedicated to this cause and we're  
15 going to see this thing through as it relates to the Consent  
16 Decree but also for the public to know, you know, there's --  
17 there's some -- there's challenges that we face as it relates  
18 to the way policing is seeming to evolve.

19           I, for one, am hoping that what we're experiencing  
20 right now is not like the new face of the way -- of the way  
21 policing is going to have to be done. We're hoping that this  
22 is, again, you know, obviously, in response to the tragic  
23 death of Mr. Floyd, but, you know, we're a small department,  
24 and so it's exposed a lot of our weaknesses or sort of our  
25 vulnerabilities as a department, but we remain steadfast and

1 ready to -- to proceed.

2 So outside of that, you know, I don't have anything  
3 else unless you have any questions, Your Honor.

4 THE COURT: All right. Thank you.

5 Mr. Volek, do you have any -- any comments for  
6 Mr. Carey and, in particular, any suggestions about this issue  
7 that he's described when they're getting help from other  
8 districts who -- who are not parties to the Consent Decree and  
9 perhaps -- I don't know -- don't want to be accused of not  
10 following all the conditions? I don't know. I -- do you have  
11 any comments on that or on anything else that he's said?

12 MR. VOLEK: Yes, Your Honor. So this is -- we always  
13 are ready and able to talk with the City about challenges.  
14 This is the first I've heard of those particular challenges,  
15 so I'd like to hear more before weighing in, but I would just  
16 say that this is a challenge for law enforcement agencies  
17 around the country. We realize that. A lot of the -- a lot  
18 of the things that Mr. Carey were describing are things that  
19 all law enforcement agencies are doing whether or not there's  
20 a consent decree.

21 To the extent that there are mutual aid agreements,  
22 smaller agencies have to grapple with how those departments  
23 come into their jurisdiction. And similarly, with respect to  
24 training documents, police departments need to know exact  
25 curriculum that their officers are receiving as part of



1 providing them with training. That's just the obligation of  
2 the law enforcement agency, whether or not there's a consent  
3 decree. That said, obviously, we remain available to talk  
4 about how we can overcome any obstacles that the Consent  
5 Decree is providing. This is the first time I'm hearing this,  
6 but, you know, the Consent Decree is designed specifically to  
7 protect personal rights during these times of protest, and  
8 also, it's designed specifically to ensure that that can be  
9 done in a way that's safe for officers, and that is a balance  
10 that we will continue to try and push forward to make sure  
11 that both of those roles and principles are met. So we will  
12 absolutely talk with the City in more detail about that and  
13 help [indiscernible].

14 THE COURT: All right. That's helpful. I know that  
15 many people are bringing in people from outside to help, and a  
16 jurisdiction or a department as small as Ferguson's will --  
17 with what's going on, you know, it's reasonable that they  
18 would need help from outside, and, you know, just from what  
19 I've read in the newspapers, not about Ferguson but just  
20 around the country, it appears to me that some -- some places  
21 are dealing with that challenge a lot better than other  
22 places, and I just hope -- I think if there is assistance that  
23 the Department of Justice could provide to the City or kick  
24 around that issue, that is something that would be helpful,  
25 and so I hope you all will talk about it. I -- you know, some

1 of the most basic things that the Consent Decree requires are  
2 things that I believe the departments that would be coming in  
3 wouldn't have difficulty complying with. Things like, yeah,  
4 you have to -- you can't have anonymous forces coming in where  
5 no one knows who they came from or what their names are. I  
6 mean that's the sort of thing that's not -- would not be  
7 allowed even in the absence of the Consent Decree, but I  
8 understand from the newspapers, at least, that that could be  
9 happening other places.

10 I think Ferguson has done, you know, a very good job  
11 so far. You know, I watch the news like everyone else. I saw  
12 the leadership of the force out dealing with the peaceful  
13 protestors when things -- you know, at various times  
14 throughout this. Obviously, when people are breaking windows  
15 and throwing things, they're not out in the middle of the  
16 protest trying to talk to people; they're trying to restore  
17 order at that point, but I know when it was peaceful, there's  
18 been many communications that I've seen in the news that were  
19 very favorable, and I appreciate that.

20 Ms. Tidwell, did you have anything further you wish  
21 to say with relation to either of Mr. Carey or Mr. Volek's  
22 statements?

23 MS. TIDWELL: Thank you, Your Honor.

24 We did have some of this type of discussion last year  
25 during the fifth anniversary preparations in August of last

1 year, and the First Amendment policy hadn't even been written.  
2 I think it was in draft form, but Chief Armstrong, who had  
3 just come aboard, was instrumental in sort of getting a fact  
4 sheet together for other departments that might be coming in.  
5 So we've -- as Mr. Volek said, the Monitoring Team remains  
6 open to discussions with the City about these issues as they  
7 arise. Last year, we -- Mr. Stewart from the Monitoring Team  
8 as well as retired Chief Isom from St. Louis helped us to sort  
9 of work with the City on this very issue, and we are at the  
10 ready if we need to do that again. So I echo Mr. Volek's  
11 sentiments, and I think that everyone just wants to keep  
12 everyone safe and protect law and order but to keep the  
13 officers and the community safe, and we're certainly willing  
14 to work with everyone to do that.

15 THE COURT: Yes. And I will comment that since  
16 the -- the City has had a lot of personnel issues, and  
17 they've -- they've now -- with the -- with the hiring that all  
18 happened last year but of the new chief and the Consent Decree  
19 Coordinator and the staff of the municipal court and others  
20 and also the data collection issues, things have moved much  
21 more quickly, and I know last year when -- when Chief  
22 Armstrong was brand-new really was when the City did have  
23 various outreach efforts and commemorations or memorials to  
24 mark the five-year anniversary of Michael Brown's death, and I  
25 think that is -- that went well and was a great beginning to

1 see that the chief was out there even though he was pretty  
2 much brand-new on the job, and I -- with the Consent Decree  
3 Coordinator, the nitty-gritty of complying with the Consent  
4 Decree has moved much more quickly because Ms. Barton is able  
5 to do that job and not also have all the other jobs that the  
6 people who had fulfilled that role before, who had fulfilled  
7 that role before and who worked hard and did a good job at it  
8 but still had other jobs to do as well. So that has really  
9 helped a lot.

10 I do -- so I think that, you know, it hasn't -- as  
11 the Monitor indicated in the report that was filed in January,  
12 things have not gone as quickly as -- as we had hoped and as  
13 the Consent Decree anticipated, but I believe that great  
14 progress has been made, and I think that, you know, I really  
15 do appreciate that and want the public to know that we are  
16 watching it and that it is not -- even though things may not  
17 seem like they're going as quickly to the public, they are  
18 moving, and -- and there's a lot that happens behind the  
19 scenes. So I hope that people will be aware of that, and I  
20 do -- you know, I think that so far it looks like that  
21 everyone has done what they should except, obviously,  
22 Ferguson, whether it's fair or not, has become the -- you  
23 know, is a symbol, and I know that many of the public  
24 officials who have been contacted by the news media have --  
25 and private citizens also have made that comment that, you

1 know, we're -- we're working hard to make progress and -- and  
2 yet we're still getting called when, you know, we become a  
3 center for protests but also for just interest whenever  
4 there's something as tragic as what just happened with  
5 Mr. Floyd's death.

6           So I just -- I appreciate that everybody is working  
7 hard through these very difficult times. I think it is  
8 difficult for everyone on just so many different levels to  
9 have all of these things happening right now, and I just think  
10 that the parties to this case have -- have -- and the Monitor  
11 have done a good job of keeping working on these things, and I  
12 think that's, you know, very much to be commended.

13           So, you know, we'll -- the next hearing we have, I  
14 hope, will be a public hearing in the courtroom, and the  
15 members of the public will have an opportunity to actually  
16 speak. I will be talking, of course, to the lawyers and the  
17 Monitor, as I do on a regular basis, to go over -- find out,  
18 you know, what the status of things are. They have kept me  
19 posted, and we've had regular conversations, and we'll be  
20 doing that again to determine when it's appropriate to have  
21 the next meeting, and I do hope it will be one that by that  
22 time we can have -- have it here in the courthouse. Some  
23 things, we might be doing because we have limited numbers of  
24 people who can be in our courtroom at once, and it's certainly  
25 going to be more limited than before since we're going to

1 observe six-foot distancing. You know, we'll do what we can  
2 to have overflow rooms and things like that so that there will  
3 be enough space for everyone to come in and at least watch the  
4 proceedings.

5 So let me ask if there are any further comments from  
6 any of the people I have here on the video. I appreciate your  
7 being here. Mr. Volek.

8 MR. VOLEK: Yes, Your Honor. There's one additional  
9 point. I too hope that we will be able to have the next  
10 hearing in person and that we will be able to have public  
11 comment.

12 In the event that we [audio cutout], we would request  
13 that we follow a similar procedure for the next hearing, for  
14 people to submit written submissions. I think that that  
15 process was extremely helpful to the parties to see the  
16 written submissions, but we're also mindful that with  
17 COVID-19, with the events of the last mayoral [audio cutout]  
18 in Ferguson, there's been a lot, and not everybody may have --

19 THE COURT: You're breaking up again, I'm afraid.  
20 Yeah.

21 MR. VOLEK: And not everybody --

22 THE COURT: Go ahead.

23 MR. VOLEK: -- in light of those events, may have had  
24 the opportunity to submit comments who would have wanted to,  
25 and so we would just ask that in the event that we are virtual

1 the next time around we follow a similar process to enable  
2 written submission of comment again.

3 THE COURT: All right. I think that definitely will  
4 be -- and we didn't all mention all of the comments, but I  
5 know they were read. I've read them. I do -- I will just say  
6 that the things that were raised in the -- in the written  
7 submissions were all things that I know the City and the  
8 Department of Justice and the Monitor are very aware of -- and  
9 I am -- and are working on. So I think it's very helpful to  
10 have those, and we will make sure that even if we can't have  
11 public comment in person that we will have that kind of --  
12 and, perhaps, better publicized. Because with everything  
13 going on, I'm not sure everyone was able to pay attention to  
14 what was going on with this hearing, but we'll try to make  
15 sure that people have that opportunity. I also will say with  
16 the virtual hearings, you know, everything we're doing here in  
17 court is evolving since the COVID emergency began. We keep  
18 changing rules and changing what we're doing, and I mean today  
19 is the first video hearing I've had in this format. We've  
20 been using different video proceedings, different types of  
21 video, and I'm hopeful that, perhaps, by the next -- if we do  
22 have to do another virtual hearing, that, perhaps, we will  
23 have an ability for the public to be able to at least also  
24 watch the video as well as listen just because it's easier to  
25 comprehend things when you can see people's faces than when

1 you're just listening on the telephone, but we'll see where we  
2 go. That depends on how things change and how our resources  
3 here at the court work.

4 So I do, again, want to thank the people who are here  
5 on the video, the lawyers and the Monitor, but I also want to  
6 thank the citizens of Ferguson who have remained engaged in  
7 this process, who are working so hard for change and  
8 understand -- and who are understanding that it's not all so  
9 easy.

10 I know. I knew there was one other thing I wanted to  
11 mention, and I just want to briefly mention it. One of the  
12 sad things that happened with the COVID emergency was that the  
13 Consent Decree Coordinator, Ms. Barton, and the City had  
14 worked very hard on a big youth event that they were going to  
15 have as part of the outreach to the community when they had  
16 youth from all over the area who were going -- you know, who  
17 were going to be there, and I know that was something they'd  
18 worked hard on, and then it had to be canceled at the last  
19 minute. That's the kind of thing that, perhaps, people are  
20 not aware of, but just to go back to what I was saying, I do  
21 want to thank the citizens who are remaining engaged in this  
22 process.

23 It may not be perfect. It may not be as fast as you  
24 want, but change is happening in Ferguson. I heard our senior  
25 senator on the radio this morning citing the Ferguson Consent



1 Decree as an example of what he hoped that other places  
2 could -- could follow, and I thought that was pretty  
3 impressive because Senator Blunt, I don't believe, has spoken  
4 out on this publicly before, but he was saying we're an  
5 example, we should try to do more of this, or that he was  
6 arguing that the government should be, but that's -- I just  
7 think that people do recognize that Ferguson is trying, and I  
8 certainly recognize that, and even though it's not as quick as  
9 we all want, this is not an easy process, and the City has  
10 done a great job in trying as well as the people who are here  
11 on this video have worked very hard to do that too.

12           So thank you, all. Thank you to the citizens as well  
13 as to the lawyers, and this hearing is in recess, and we will  
14 try to schedule another hearing as soon as we are able. So  
15 court is in recess. Thank you.

16           (Proceedings concluded at 3:19 p.m.)

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CERTIFICATE

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

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

I further certify that this transcript contains pages 1 through 49 inclusive.

Dated at St. Louis, Missouri, this 5th day of June, 2020.

*/s/ Gayle D. Madden*

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GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter