

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION - ST. LOUIS
BEFORE THE HONORABLE CATHERINE D. PERRY
DISTRICT JUDGE

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
 vs.) 4:16-CV-00180-CDP
)
)
 CITY OF FERGUSON, MISSOURI,)
)
) Defendant.)

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- STATUS HEARING -

(via Zoom videoconference)

JANUARY 20TH, 2022

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- STATUS HEARING -

(via Zoom videoconference)

THURSDAY, JANUARY 20TH, 2022

ZOOM VIDEOCONFERENCE PROCEEDINGS

COMMENCED AT 11:00 A.M.:

MR. CAREY: Good morning, Your Honor.

MR. HART: Good morning, Your Honor.

THE COURT: Good morning to all of you. We are here in the case of United States of America vs. City of Ferguson, Case Number 4:16-CV-180. This is a quarterly status hearing that the public does have access to.

Unfortunately, once again we are doing this by videoconference for me and the lawyers, and the public is able to listen, and there is a livestream of the audio going on on the internet, on our YouTube channel. But, unfortunately, we're not doing this in the courtroom in person, which we had hoped to do.

As always, there is a court reporter taking down these proceedings and we will have a transcript prepared at the Court's expense, and that transcript will be posted on the Court's website under the Cases of Interest, I think is what it's called, the page that relates to this case, as well as being posted on the docket, as always.

So I do want to welcome the members of the public who are here, or listening, or participating in this. We have

1 received, the Monitor did receive some letters from the
2 community and those have been provided to me. So I want you to
3 know everyone has looked at those.

4 And so with that said, I'm going to start by asking the
5 lawyers for the, or counsel for the Department of Justice to
6 please identify yourself for the record.

7 MR. HART: Charles Hart for the United States. Good
8 morning, Your Honor.

9 THE COURT: Good morning. And counsel for the City of
10 Ferguson, please identify yourself for the record.

11 MR. CAREY: Good morning, Your Honor. Apollo Carey,
12 City of Ferguson.

13 THE COURT: All right. And then would the Monitoring
14 Team members who are here please identify yourselves for the
15 record?

16 MS. TIDWELL: Good morning, Your Honor. Natasha
17 Tidwell on behalf of the Monitor Team, and my colleague,
18 Courtney Caruso, as well.

19 THE COURT: All right.

20 MS. CARUSO: Good morning.

21 THE COURT: Thank you. Thank you all.

22 So with that said, we're here to hear a report from the
23 counsel for the parties, and from the parties to the extent
24 they, Mr. Carey does normally have reports from the City
25 officials, as well, to talk about what's going on.

1 This has been a difficult time for everyone just
2 because of the pandemic continuing on so long and, so, as
3 seriously as it is. And just so people know, although the
4 courthouse is open, we are seriously limiting the number of
5 people coming in and, for example, have not had any trials,
6 I don't think any at all, during the month of January. So I'm
7 hoping, we are all hoping that that can change and we can get
8 back to doing business more normally.

9 So, with that said, Mr. Carey, on behalf of the City,
10 and I know you typically do like to introduce your, some of the
11 City officials who are here. And I will note that on the Zoom
12 that I can see -- of course I see some of the people who are
13 with you but I'm sure there are others not on the video.

14 So I will ask you, Mr. Carey, to make any statements
15 you wish. And first of all introduce your clients, and then
16 make any statements you wish.

17 MR. CAREY: Sure. Thank you. Thank you, Your Honor.

18 Unfortunately, I was unable to be with my clients
19 today. Typically, I am actually in that room that you're
20 looking at. I'm typically in that room with them, but today
21 I was unable to do so.

22 So, but of course the folks that you can see in the
23 room there, it's our Consent Decree Coordinator, Ms. Nicolle
24 Barton, at the head of the table there. She'll be giving the
25 substance of our report today. To her right is, I think that's

1 Lieutenant Harris there. And then just in front of Lieutenant
2 Harris is our Court Administrator, Tanya Webber. And then
3 across the table from Tanya is Shahidah Sirraaj. She is the
4 Chief's Assistant. And then just behind Shahidah you'll see our
5 Chief, Frank McCall.

6 Also present at today's hearing, Your Honor, is a large
7 contingent of our City Council who are listening on the phone.
8 We have our Mayor, Ms. Ella Jones. We also have Councilwoman
9 Naquittia Noah. We have Councilwoman Phedra Nelson. We have
10 Councilwoman Heather Robinett. We have Councilwoman Fran
11 Griffin listening in today. So we have I think five of seven of
12 our City Council that are here today.

13 As usual, you know, we're very, you know, we're very,
14 we're committed to --

15 THE COURT: I'm sorry, Mr. Carey. I'm going to
16 interrupt you. Did you introduce Mr. Osterberg?

17 MR. CAREY: Oh, I have not yet, but I was getting to
18 that.

19 THE COURT: All right, sir.

20 MR. CAREY: I can see him on the, my Zoom here, but he
21 didn't send me a message letting me know he was here. So our
22 City Manager is here. I get -- this happens a lot, Your Honor,
23 whatever I'm not in the room, right? I get these messages from
24 people saying, Make sure the Judge knows that I'm here. Of
25 course our City Manager, Eric Osterberg, is here, as well.

1 Forgive me for neglecting that.

2 So without further adieux, I'll go ahead and turn the
3 microphone, so to speak, over to our Consent Decree Coordinator,
4 Nicolle Barton, who will give you the substantive update that we
5 have.

6 THE COURT: All right. Ms. Barton?

7 MS. BARTON: Good morning, Your Honor.

8 I would like to begin with community policing and
9 engagement today. Since the last status hearing, which was in
10 October of 2021, I would like to report to the Court that we
11 completed our second series of small group dialogues, which was
12 in November of 2021.

13 Some emerging themes from the dialogues were the
14 favorite things about Ferguson, such as: our diverse community,
15 good neighbors, convenient location. Overall experience with
16 FPD has been good.

17 Some discussions revolved around quality-of-life issues
18 like what keeps us up at night. Those discussions were:
19 gunshots being heard but not being aware if anyone was hurt or
20 injured, speeding cars, people becoming less sensitive to
21 violent crime, understaffing of FPD, public safety in general,
22 and the City's budget.

23 Other topics discussed were, what is needed to improve
24 trust between FPD and the public? Those takeaways were
25 communication. People want to see more social media posts, both

1 about positive things that FPD is doing on public safety issues,
2 also, members of the community and FPD are both stakeholders and
3 we must all be involved to build that trust and to educate the
4 community about partnership building.

5 Members of the community are encouraged to continue to
6 sign up to participate in the next series of those small group
7 dialogues. Members of the community may sign up by going to the
8 City of Ferguson website. There is a tab under *News and*
9 *Announcements* titled, Help to Improve or Reform your Police
10 Department.

11 Also in the area of community engagement, we've been
12 working with subject matter experts from CRITAC, known as
13 Collaborative Reform Initiative Technical Assistance Center, to
14 enhance our community engagement efforts. In June of 2021 they
15 came to Ferguson for two days of site visits to gain insight
16 from community members and groups. Essentially, all
17 stakeholders were at the table to better understand community
18 relationships and potential barriers to building and maintaining
19 trust.

20 On November the 9th of 2021 the subject matter experts
21 returned to report out their findings and recommendations for
22 FPD. We invited members of the community to attend this
23 meeting, as well. Some key takeaways for FPD are to identify
24 members of FPD and community members, including the City Council
25 and our youth, to partner on collaborative initiatives.

1 They also suggested FPD to work on its social media
2 presence to build stronger relationships with the community, as
3 well. Social media can help establish a communication pattern
4 with the community that they can learn to depend on, getting
5 information out quickly, such as road closures, traffic
6 accidents and, also, crisis incidents. They also suggested that
7 we continue using virtual meetings as a meaningful way of
8 engaging the community.

9 Next, I'd like to talk about bias-free policing. Since
10 the last status hearing I have been meeting regularly with some
11 of our FPD certified trainers to customize the implicit bias
12 *Train the Trainer* training that FPD received from Suffolk
13 County, New York. We wanted to ensure that this training would
14 meet the needs and expectations of FPD and members of our
15 Ferguson community. The draft PowerPoint and Training Manual
16 was recently sent to the parties for review, and we look forward
17 to hearing their feedback.

18 The next step is to meet back with members of our
19 community to gain any additional feedback and suggestions on
20 this training. Once completed, this will be Ferguson Police
21 Department's first in-service training and we hope to roll this
22 out in the spring of this year.

23 In addition, we are currently working with the parties
24 to finalize the Bias-Free Policing Policy, as well. Both the
25 policy and training will be rolled out in unison.

1 Next I'd like to discuss our Police Training Officer
2 program, which is also known as PTO training. During the last
3 quarter Captain Dilworth, Lieutenant Harris, Officer Richardson
4 and I have been working closely with the Department of Justice
5 Subject Matter Expert Rob Davis to write and develop our
6 PTO Training and Lesson Plans. This training is a problem-based
7 learning program for training and evaluating police trainers for
8 FPD.

9 We are currently developing the first Lesson Plan and
10 we have met with the Training Committee earlier this month to
11 discuss the PTO Lesson Plan. The Training Committee is very
12 excited to participate in this portion of the training pursuant
13 to paragraph 52 of the Consent Decree, in which the Committee,
14 in consultation with FPD, the Monitor and the DOJ, will review
15 all Training curricula and Lesson Plans for consistency, quality
16 and compliance with applicable law, FPD policy and the Consent
17 Decree. We want to thank the volunteers of the Training
18 Committee for their valuable time and input on these Lesson
19 Plans.

20 Next, our policies. During this quarter we finalized
21 the First Amendment Policy, Right to Observe and Record. We are
22 currently working with the parties to incorporate community
23 input on the First Amendment Policy, Public Protests. We also
24 placed the draft Strip and Cavity Search Policy online for
25 public comment.

1 This policy has closed for public comment period, and
2 we are working with the parties on incorporating those public
3 comments so we can finalize this policy, as well. This will be
4 the last policy that we need to finalize for our CALEA
5 accreditation. CALEA stands for Commission on Accreditation for
6 Law Enforcement Agencies. We want to thank members of the CRB,
7 the MPSC and members of the community for their valuable
8 feedback on these policies, as well.

9 We have been meeting with Benchmark Software, and we
10 worked with them to create our Use-of-Force policy -- our
11 Use-of-Force forms, Vehicle Pursuits and Supervisor Review
12 forms. We are now meeting with Benchmark Software to begin
13 discussions on our next module, which is our Accountability
14 module.

15 We are working with them on customizing our Internal
16 Investigations and Citizen Complaint Investigations tracking
17 system. This module will also include Early Intervention
18 Systems and Warnings, as well as Performance Evaluations and
19 Promotions. We will also be including the CRB in on discussions
20 surrounding fielding our Citizen Complaint format within this
21 software system.

22 Lastly, Your Honor, I would like to give you an update
23 on Recruitment. Since the last status hearing, we conducted
24 numerous interviews. Although we are still considerably
25 understaffed, we are pleased to announce that we have hired

1 three new officers since our last status hearing. One of those
2 new members graduated from the first HVCU Police Academy in the
3 state of Missouri at Lincoln University. We have another
4 potential new hire at the end of January pending the final
5 background investigation. I just want to remind everyone that
6 FPD has very high standards and a stringent background
7 investigation process.

8 We are also pleased to announce we will be fully
9 staffed in Dispatch at the end of this month. We continue to
10 look at new ways to advance our recruitment process and we hope
11 to retain our current staff. We understand that being fully
12 staffed will help us to be more effective in both areas of
13 problem-solving policing as well as our community engagement
14 efforts.

15 Thank you, Your Honor, for allowing me to provide an
16 update on the Consent Decree process in this last quarter.

17 THE COURT: Thank you, Ms. Barton. Once again,
18 I forgot I was muted.

19 So, Mr. Carey, I would ask -- anything? I would ask
20 you to proceed. Anything further?

21 MR. CAREY: I would just like to add that Councilwoman
22 Linda Lipka has joined our meeting, as well, so now we're at six
23 out of seven. I wanted to add that.

24 Outside of the substantive updates, Your Honor, the
25 City doesn't have anything else to add at this point.

1 THE COURT: All right. Thank you.

2 Mr. Hart, on behalf of the Department of Justice,
3 I will hear any report or comments you wish to make.

4 MR. HART: Thank you, Your Honor. And thank you,
5 Ms. Barton and Mr. Carey, for those updates.

6 DOJ's comments today will be brief. We want to
7 acknowledge that there has been a lot of progress, as indicated
8 by Ms. Barton's comments, and we hope that the momentum
9 continues. I also want to thank the community members who
10 provided comments for today's hearing.

11 I think that the comments that we will make today will
12 focus primarily just on, on two things, one being just the
13 importance of the CRB and its role -- brief comments on the
14 CRB's role with regard to FPD, then I'll make some comments with
15 regard to Community Policing, and repeat some of the concerns
16 that we have brought up during the past couple of, couple of
17 hearings with regard to staffing and salaries.

18 So, first, with regard to the CRB, Your Honor, we just
19 wanted to quickly acknowledge the important role that the CRB
20 plays in FPD's transparency and accountability to the community.
21 And I think that that's something that FPD recognizes, it's
22 something that's recognized by the Consent Decree provisions
23 regarding the CRB, and also recognized by the municipal code
24 that created the Ferguson Civilian Review Board.

25 We wanted to acknowledge, based upon some of the

1 comments that were, that we received, that there was, we did
2 have discussions earlier this month with the City and the Court
3 regarding access to certain body-worn camera video. We wanted
4 to say that we appreciate the fact that the City is now
5 providing access to that video to the CRB, and that video that
6 falls within the body-worn camera policy that needs, that should
7 be provided within a 48-hour period will be provided. That the
8 access will be provided to the CRB in the future.

9 And now I just want to shift a little bit to Community
10 Policing. Looking at the comments and, also, the public
11 comments and also the statements of the City with regard to
12 their actions during the past period related to Community
13 Engagement and Community Policing, it's clear that the
14 operational philosophy of Community Policing is something that
15 they're trying to, that the Department is trying to achieve to
16 its fullest.

17 The operational -- the Community Policing Policy was
18 co-written by Chief McCall and that policy requires, or this
19 philosophy requires that public safety be co-created with the
20 community ,that there be a partnership with regard to keeping
21 the community safe, that the Ferguson Police Department engage
22 the community about community priorities, and the Department
23 itself, as part of the community, try to establish partnerships
24 in order to solve problems, be they problems related to gun
25 violence, problems related to property crime, or even problems

1 related to reckless driving.

2 The two areas of concern that we have, that we have
3 reiterated in past comments, regard two essential elements to
4 Community Policing. One is that there be adequate staffing in
5 order for Community Policing to occur. Ms. Barton talked about
6 the improvement efforts, and it's great that new people are
7 being hired because that's essential in order to do the type of
8 policing that I know the Ferguson Police Department wants to do.

9 An essential element of having a good Improvement Plan
10 and obtaining and attracting candidates who meet the
11 requirements of the Ferguson Police Department standards and the
12 requirements of paragraphs 281 through 283 of the Consent Decree
13 is the salaries need to be better. And paragraph 283 requires
14 that the salaries be among the most competitive, among the most
15 competitive in St. Louis County.

16 I know that that is something that the City has been
17 grappling with and I know that there are renewed efforts to
18 address that issue. And we just want to highlight that as an
19 area that we continue to be concerned about, and we look forward
20 to the City's renewed and increased commitment to making those
21 salaries meet the requirements of the Consent Decree.

22 In order for there to be activity, community engagement
23 activity where officers are engaging in partnership, you know,
24 going to meetings, or being more visible in the, community and
25 doing walking patrols, or just doing problem-solving activities

1 with community members, there needs to be adequate staffing
2 levels. That's something that I think is going to be
3 highlighted perhaps by -- I know it's going to be highlighted in
4 the Monitoring Team's forthcoming report. It's something that
5 we really wanted to reemphasize.

6 It's also important to make time for those types of
7 activities to happen, for those types of engagement activities
8 to happen in the daily schedule of a patrol officer. So shift
9 and deployment schedules, according to the, you know, the
10 Consent Decree -- and I think it was paragraph 30 -- need to be
11 consistent or conducive to allowing Community Policing to occur.

12 So that is also something that we have highlighted in
13 the past couple of status hearings, and it's something that we
14 want to reemphasize, and hope the City increases its commitment
15 to making sure that shift and deployment schedules are conducive
16 to Community Policing and allow for the type of important
17 engagement with, between community members and police officers
18 to occur.

19 Your Honor, I think that those are the primary things
20 that we wanted to highlight this morning. As always, we
21 appreciate the tireless effort of Chief McCall and of Ms. Barton
22 in trying to come into compliance with this agreement and we
23 appreciate the City's ongoing efforts to meet compliance.

24 Thank you.

25 THE COURT: Thank you, Mr. Hart. And I understand what

1 you're saying about appreciating the efforts everyone is making,
2 and I certainly join in that appreciation, even understanding
3 it's difficult and there is a way to go.

4 So let me start with, let me now go to Ms. Tidwell or
5 Ms. Caruso, whichever of you wishes to speak first on behalf of
6 the Monitoring Team.

7 MS. TIDWELL: Thank you, Your Honor. And thank you,
8 Mr. Hart and Mr. Carey.

9 The Monitoring, we echo much of what's already been
10 said, particularly Mr. Hart's emphasis on the staffing issues
11 that the City is facing. As we move towards what we hope is
12 guiding the City towards substantial compliance with the Consent
13 Decree and closing out the Consent Decree in the foreseeable
14 future, the staffing shortages continue to sort of undermine
15 progress towards that goal, and a lot of -- there are a lot of
16 different factors. Mr. Hart talked about the salary, the salary
17 needs or sort of the pay issue. Certainly, COVID-19 has
18 impacted everything, and so that can't be understated, that
19 we're trying to do all of this within a pandemic.

20 And then there is also the issue of burnout. And
21 I can -- you know, just in echoing the thanks to Chief McCall
22 and to Ms. Barton and to the City staff, these folks have done
23 an inordinate amount of work and have had to shoulder work that
24 ideally would be spread out amongst other people, and it's not.
25 And so it's not lost on the Monitoring Team that if you continue

1 to sort of burden the scant resources that you have, you're not
2 gonna have those folks, you know, who are committed and who have
3 shown sort of commitment and diligence and tireless effort,
4 you're not gonna have them much longer.

5 And so I think, from our perspective, the need to
6 increase staffing and address these shortages is about
7 protecting the folks who have been doing the work and carrying
8 the load heretofore. And so we hope that the cavalry is coming
9 in for those folks soon and that they'll get the help that they
10 deserve and they need.

11 You know, the staffing issue touches upon another
12 question or potential issue that was raised in a number of the
13 public comments, and particularly those from Councilwoman
14 Griffin and from the CRB, around this issue of when other
15 departments come into Ferguson to provide mutual aid to the
16 City.

17 And so if we have a Department that's understaffed and
18 needs to call on others and, you know, and rightfully calls on
19 other departments to assist, how do we balance that need to
20 protect and preserve public safety with the need, under the
21 Consent Decree, to have constitutional policing and
22 accountability within the City? And how do we appropriately
23 serve both of those interests at the same time?

24 And I know that the parties have been working to
25 discuss these issues, whether it's the Code 1000 provisions that

1 usually come up in and around the time of protest activity
2 within the City. I know that the Department of Justice has done
3 some outreach to neighboring jurisdictions and I think that this
4 will continue to be an issue. And maybe there is no easy
5 solution or easy answer to this, but the staffing question or
6 the staffing shortage will go a long way in sort of alleviating
7 some of those internal pressures that, you know, that force the
8 City, in a lot of instances, to rely on other departments to
9 come in and assist.

10 So this staffing shortage touches on so many different
11 areas of the Consent Decree and is an impediment to substantial
12 compliance and impacts so many other areas that it really
13 can't -- it needs to be and, I'm sure, is the number one
14 priority sort of going forward because everything sort of
15 touches upon that, from the Monitoring Team's perspective.

16 We also wanted to thank Mayor Jones for her continued
17 efforts toward the community engagement efforts of the City,
18 most notably in sort of getting some kind of community outreach
19 coordinator or some partnership with the university, and others,
20 to get a consistent presence within Ferguson to work with the
21 community on behalf of the City.

22 And we note in the public comment that she submitted
23 for this hearing this new initiative from the former Canfield
24 Green apartment complex, which is now I think, Pleasant View
25 I think is the name of it now, where they're going to be working

1 with the Brown School of Social Work to try to have people
2 housed within the apartment complex to work on community
3 engagement issues. And this will not only, our hope is, help
4 the City towards full implementation of paragraph 25 which
5 requires the City to establish partnerships with neighborhood
6 associations but, hopefully, will become a model for other
7 apartment complexes in the Ferguson area, so that we can build
8 those partnerships and foster them and keep and sustain them
9 long-term; which would go a long way to not only creating
10 engagement within the housing complex but also throughout the
11 City as a whole.

12 As Mr. Hart mentioned, the Monitoring Team has
13 submitted to the parties a draft of a status report that the
14 parties are reviewing now. And a number -- in addition to
15 talking about a number of the things that have been raised at
16 this hearing, it will present the findings of, or the
17 preliminary findings of our Use-of-Force Audit which the
18 Monitoring Team has been undertaking over the past few months.

19 And as I've noted in prior sessions here, Your Honor,
20 the audit was conducted in two phases. The first phase was
21 designed to assess the City's -- the thoroughness, the
22 timeliness and the completeness of the City's use-of-force
23 reporting and investigations. And so the Monitoring Team
24 reviewed a number of use-of-force investigations, I think more
25 than half of those that were filed, and made some preliminary

1 findings as to what we observed in those reports, as well as in
2 any accompanying body camera footage.

3 And I will just say without -- you know, the parties
4 have the draft report and so they get -- you know, will weigh in
5 on the findings before we release them, but there was much to be
6 encouraged by in terms of the level of the quality of the
7 writing of many of these use-of-force investigations. There
8 were notable instances of officers applying deescalation
9 techniques to combative or intoxicated individuals to sort of
10 calm situations before force was elevated.

11 There were issues where there were deficiencies found
12 in application of use-of-force or in some other tactics where
13 supervisors made note of those deficiencies and recommended
14 counseling or training for officers. So the Monitoring Team was
15 encouraged by many of the things that we observed within Phase I
16 of the Audit.

17 Obviously, with every -- you know, there were some
18 shortcomings that we identified that we'll, you know, talk to
19 the parties and flesh out a little bit more before the findings
20 are released but, overall, for the force that the Department is
21 reporting, particularly when we compared force reporting in 2019
22 to force reporting in 2020, there's a lot to be encouraged by as
23 the Department moves to more robust reporting and investigation
24 of its own force.

25 The next phase of the audit will essentially try to

1 assess how, whether the Department is doing a good job of
2 reporting force when it happens, and so in some instances, so in
3 some regard it's trying to prove is the absence of evidence or
4 evidence of absence or however that saying goes, Your Honor.

5 And so we're looking at a number of Incident Reports where force
6 wasn't reported but, by the nature of the offense, it would
7 appear, at least -- you know, one could infer that force may
8 have been employed. So if it's an assault on a police officer,
9 or resisting arrest, or some other type of offense where it
10 might indicate that some force beyond handcuffing might have
11 been used to place a person under arrest.

12 So the Monitoring Team has identified a subset of those
13 Incident Reports and the next phase of the audit will be to
14 request and review body cam footage and other materials to
15 determine whether force was employed but just not recorded. And
16 we'll report out on that when it's completed.

17 This report will also include the results of last
18 summer's Community Survey. And as we've noted before, there was
19 an increase in the number of respondents in this survey as
20 compared to last year. It was a modest increase from, you know,
21 a hundred or so to 400 some odd respondents which, you know, is
22 still not where we want to be, but certainly is an improvement over
23 last year.

24 We did see an increase in improvements in the
25 demographic representation within the survey respondents, and so

1 I think the number -- I think last year the number of black or
2 African-American-identified survey respondents was around
3 12 percent. This year it was about 20 percent. There was more
4 economic diversity in the number of respondents.

5 You know, so there is much to be encouraged by in terms
6 of the outreach efforts that the City and the Monitoring Team
7 made to get more respondents, which included radio spots and the
8 mailing of targeted mailings to certain wards within the City to
9 try to enhance participation but, obviously, the pandemic and
10 the inability to do things in-person continues to sort of hamper
11 the ability to gin up or to increase participation in the
12 survey.

13 I did want to just announce that the Monitoring Team,
14 we have gotten approval from the parties to increase our
15 membership by one and we're hopeful, hoping by two within the
16 next couple weeks or so. So I know that she's listening on the
17 livestream, so we have added retired Boston Police
18 Superintendent Lisa Holmes to the Monitoring Team, so she is
19 listening.

20 Superintendent Holmes comes to us with decades of
21 experience in law enforcement, specializing in the development,
22 implementation and auditing of police department training
23 curricula at the recruit, patrol and supervisory level. So
24 we're hoping that, as the City is moving towards the development
25 and refinement of its training plan at the recruit and

1 supervisory and in-service levels, that Superintendant Holmes
2 will be -- will fit right in and offer the City any technical
3 assistance that it needs to get that done.

4 She attended one of the training -- the meetings with
5 the Department and the Department of Justice and the Police
6 Department, and we hope to sort of get her integrated a bit more
7 to do more work in that area. She'll also be assisting with the
8 audits in the internal investigations provisions of the Consent
9 Decree, so we look forward to that.

10 The second person that we're looking to add would be a
11 consultant in the use-of-force area. And so our hope is that
12 once that person is on board, once the City approves of the
13 addition of that second person, that he will spearhead our
14 efforts in Phase II of the Use-of-Force Audit so that we can get
15 those done.

16 One additional audit area from this reporting period is
17 the Municipal Court audit. And so we did do some observations
18 of Municipal Court proceedings in October, I believe, or
19 November -- it was November -- and I'm working with Ms. Webber
20 and Ms. Barton to get some of the additional records or other
21 things that we need, to report out on that audit and hopefully
22 close out many provisions of the Municipal Court provisions of
23 the Consent Decree, as we're sort of moving with great progress
24 towards substantial compliance in a lot of areas within the
25 Municipal Court.

1 And I think that that was it for the Monitoring Team
2 unless, Your Honor, you have questions.

3 THE COURT: I don't. You may have said this, and
4 I apologize if I'm asking about something you said. What's your
5 general timeframe for when you expect the report to be ready for
6 the public?

7 MS. TIDWELL: Yes, Your Honor. So we, as the Consent
8 Decree requires, we've provided it to the parties. I think they
9 have 15 days, I think, to review and get it back to us. And
10 then, assuming no major issues around something that we've said
11 in there that we shouldn't have said, we anticipate that it will
12 be filed by the, I guess the first full week in February, which
13 would be around the 6th or 7th. That week. And then, as
14 always, timed in and around the filing of the report or the
15 completion of the report, we'll do some sort of virtual Town
16 Hall event in the City to discuss the report results.

17 THE COURT: All right. Thank you.

18 You know, I appreciate the comments and I do want to
19 welcome Superintendent Holmes and any of -- and if you have a
20 future, your future person on the team, if they join. I know
21 that sounds like she has a lot of really good experience that
22 will be very helpful in this process.

23 So having heard the reports, and you all did touch on
24 the, some of the issues that were raised in the public
25 comments -- I do want to thank the people for the public

1 comments -- Mr. Carey, let me ask you, do you wish to make any
2 further statements at this time?

3 MR. CAREY: Yes, Your Honor, just a few statements sort
4 of based on what has been said today.

5 You know, it was acknowledged and we certainly
6 appreciate the acknowledgment from the Monitoring Team and the
7 Department of Justice about the efforts that the City has been
8 putting in. Of course, we face challenges in, you know, our
9 compliance with the Consent Decree; in particular, the issue of
10 the salaries and the shift deployment. You know, we, as you
11 know, we have been dealing with and grappling with these issues
12 for a while.

13 You know, while I do think it's fair to say a lot of
14 those issues are -- some of the those issues, especially the
15 salary issue, is a fixable issue that the City of Ferguson can
16 sort of work to fix within the current budget that we have,
17 whether that means we lessen the number of commissioned officers
18 we have so that we can pay the ones that we have more or, you
19 know, we somehow find some money to pay folks, you know, I think
20 some of the issues are issues that the City can remedy.

21 But we do -- I mean I think would be, just to be fair
22 to the City, to sort of understand that there is sort of a
23 national phenomenon going on that is not a Ferguson-related
24 issue. It is related to sort of a shortage of folks available
25 to, you know, to become police officers, as well as sort of the

1 exodus of people who are in the police industry out of that
2 industry. But those are not problems that are specific to the
3 City of Ferguson. Those are national phenomena and we certainly
4 aren't immune to, you know, to those occurrences, as well.

5 So while there are certain things that we have control
6 over in terms of how we can fix those things, you know, we still
7 have to sort of take into consideration that, you know, we have
8 a shortage of people entering the profession, and we have an
9 abnormally -- an abnormal number of people exiting the
10 profession and that's a nationwide issue. So I just wanted to
11 put that out there.

12 Ms. Barton, did I -- I'll ask Ms. Barton. I think she
13 may have wanted to comment on one or two more things that you
14 may -- that maybe I missed.

15 MS. BARTON: Well, we just wanted to let the Monitor
16 Team know that we do not have any objections to the second
17 person to add to the Monitor Team.

18 MR. CAREY: Okay. Perfect.

19 MS. TIDWELL: Thank you.

20 MR. CAREY: And then outside of that, Your Honor,
21 I don't think we had anything else that we needed -- oh, I did
22 want to let you know because I'll get in trouble if I don't --
23 so we actually ended up having 100 percent participation from
24 our Council today. Councilwoman Toni Burrow was tuned in, as
25 well, listening.

1 So I think this was, that I can remember, the first
2 time we've had 100 percent participation in the hearing from the
3 Council. So we, you know, we certainly are happy that our
4 Council can make the time and sacrifice the time to tune into
5 that.

6 So I just wanted to make sure I made that known on the
7 record so that I don't get in trouble later.

8 THE COURT: That's great. And I'm very glad to hear,
9 and I'm glad -- I do also appreciate the effort of all of the
10 City officials, including the Council and Mayor, as well as the
11 other people, and I appreciate the members of the community who
12 have also tuned in.

13 Mr. Hart, on behalf of the Department of Justice, did
14 you wish to make any further statements or raise any other
15 issues?

16 MR. HART: Not really, Your Honor.

17 I also wanted to acknowledge that, you know, we
18 appreciate the level of participation that the City demonstrated
19 today. It's great that everyone's on, and hopefully everyone
20 will get behind addressing some of the issues that were
21 identified during the hearing today.

22 As a side note, I think that there was a comment that
23 we had spoken with other jurisdictions about the Mutual Aid
24 Agreement. I think that Ms. Tidwell met with -- she said DOJ
25 but I think she meant FPD, so I just wanted to clarify that.

1 Thanks.

2 THE COURT: Yeah. I mean I think one thing that is,
3 we've said before and is clear, and I think people understand --
4 although based on the recent incident, I want to make sure
5 people do understand -- is that, you know, the City of Ferguson
6 is who is the party to this Consent Decree, and the other
7 surrounding agencies in the county who provide assistance or
8 have things they have to do from time to time are not parties to
9 the Consent Decree and that does place some limitations on
10 things. However, it does not limit the duties of Ferguson to do
11 what Ferguson is required to do.

12 And so I think, you know, with the body-worn camera
13 issue, I think going forward there should not be further
14 problems.

15 I think with regard to the CRB that things are moving
16 appropriately now. I think that the community is -- you know,
17 we're doing things the way the Consent Decree expects, going
18 forward. And to the extent things have not been met, it's, as
19 always, been because of the staffing issue; which Mr. Carey has
20 addressed both the availability of trained and qualified
21 officers but, also, the issue raised by the Department of
22 Justice and the Monitor on the staffing -- on the salary issue.
23 And that is a continuing problem. And, of course, as the City
24 has raised in the past, the City has -- there are financial
25 limitations on what the City can do.

1 So everybody, I believe, is working very hard to work
2 through these issues. I think the level of community
3 involvement has increased, based on what I have seen -- the
4 responses to the survey and other things -- and I appreciate
5 very much the involvement of the community.

6 And I would encourage everyone on the call to encourage
7 their friends and neighbors to be as involved as possible in
8 this process because that's really what is necessary. And those
9 of you who are listening to the call I know have done that, and
10 have been very involved, and that's really commendable. And so
11 I want to thank you for that.

12 And, again, I want to thank all of the participants
13 because I believe progress is being made. As always, we'd like
14 it to go faster and more smoothly but that's -- this is real
15 life. And I think under the limitations that we've had in
16 what's really been a very extraordinary time, with the pandemic
17 and the financial issues caused by that, and with the issues of
18 what Mr. Carey described as what's going on in the policing
19 community at large in terms of the numbers of people entering
20 that profession or leaving it, these are all issues that
21 directly impact the City's ability to meet the requirements of
22 the Consent Decree. But I don't believe any of them have
23 impacted the City's desire to, and their attempts to comply with
24 the Consent Decree but these are, these are tough times we're
25 living in and it hasn't gone as fast as we would like.

1 So that is how we will proceed. And we will have
2 another quarterly meeting -- I'll work out with the parties the
3 exact time and date -- but in approximately three months.
4 I will also say, and I have said this -- I looked back at the
5 transcripts -- I think I've said this every time since maybe
6 January two years ago, I hope, at the next one, we will be able
7 to have an in-person hearing.

8 I think everyone is frustrated with the inability to do
9 things in person but right now it's been pretty amazing how
10 many, how many people in the Court, and lawyers, and other
11 people are unable to do things in-person because of -- for the
12 obvious reasons, because they've either been exposed or have
13 COVID. And we hope that the next variant isn't quite as
14 transmissible, whatever may happen.

15 But I do hope that, by the time of the next hearing,
16 we'll be able to meet in person. I think -- I want everybody to
17 know how much judges and courts really depend on being able to
18 see people and have people appear in front of them. And it's
19 something that's essential, I think, to our system of justice.
20 And so we need to have it happen, but we also need to do, you
21 know, do things in a way that will not unreasonably expose
22 everyone to danger.

23 And so we'll hope and keep our fingers crossed for an
24 in-person hearing the next time but, if not, we'll use the same
25 procedures we've been using.

1 So thank you to everybody who's participated and we
2 will, you know, continue to work. I know, you know, nobody
3 let's up, even in this time between the quarters. We're --
4 everyone is working all the time. So thank you all very much.

5 And with that said, this hearing is concluded and court
6 is in temporary recess.

7 - RECESS AT 11:50 A.M. -

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- REPORTER'S CERTIFICATE -

I, Linda C. Nichols, Registered Diplomate Reporter and Certified Realtime Reporter, do hereby certify that I am a duly appointed Official Court Reporter for the United States District Court of the Eastern District of Missouri, and that the foregoing is a true and accurate reproduction of the Status Hearing (via Zoom videoconference), held on January 20th, 2022, in the matter of:

UNITED STATES OF AMERICA vs. CITY OF FERGUSON, MISSOURI
Case Number 4:16-CV-00180-CDP

I further certify that this transcript consists of pp. 1-31 inclusive.

Dated this 1st day of February, 2022.

 \s\ Linda Nichols
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Official Court Reporter
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Eastern District of Missouri
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