

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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

STATUS CONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

SEPTEMBER 18, 2018

APPEARANCES:

Special Master: Natasha Tidwell, Esq.
Karla J. Aghedo, Esq.
Courtney A. Caruso, Esq.
HOGAN LOVELLS US LLP

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

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

1 (Proceedings commenced at 3:02 p.m.)

2 THE COURT: All right. Good afternoon. We're here
3 in the case of United States of America versus City of
4 Ferguson. This is Case No. 4:16-CV-180, and we're here for a
5 quarterly status hearing on the status of implementation of
6 the Consent Decree in this case. So let me ask the parties
7 and lawyers, Monitor, to please introduce yourselves for the
8 record. So, first, with the -- for the Monitor.

9 MS. TIDWELL: Good afternoon, Your Honor. Natashia
10 Tidwell, the Lead Monitor. With me today is Courtney Caruso
11 and Karla Aghedo.

12 MS. CARUSO: Good afternoon.

13 MS. AGHEDO: Good afternoon, Your Honor.

14 THE COURT: Good afternoon.

15 And for the Department of Justice.

16 MR. VOLEK: Good afternoon, Your Honor. Jude Volek.

17 MS. SENIER: Good afternoon, Your Honor. Amy Senier.

18 MS. MARKS: Good afternoon. Megan Marks.

19 THE COURT: Megan Marks?

20 MS. MARKS: Yes.

21 THE COURT: And for the City.

22 MR. CAREY: Good afternoon, Judge Perry. Apollo
23 Carey for the City of Ferguson.

24 THE COURT: All right. Thank you.

25 All right. So as we have done before, the purpose of

1 this hearing is to have the parties report on what's going on
2 and how things are progressing.

3 And so, Ms. Tidwell, I'll start by asking you to make
4 any statements you wish.

5 MS. TIDWELL: Thank you, Your Honor.

6 So, Your Honor, I'd like to just briefly just go
7 through some of the Monitoring Team's activities since the
8 June status conference. I imagine that the parties will delve
9 into a little bit more detail about some of these things. So
10 I'll just go over some of the big-ticket items that the
11 Monitoring Team has been involved in. I know the parties have
12 been working on other things with one another.

13 As we've discussed before, we have different stages
14 of implementation of the provisions of the Consent Decree.
15 For the most part, on the police side, things start with
16 policy development, and then they move to training, and then
17 they move to an implementation phase during which the
18 Monitoring Team is able to conduct audits to assess compliance
19 with various aspects of the Consent Decree. In the area of
20 policy development, I know that the parties, as I said, will
21 talk a little bit more about this, but during -- since the
22 last status conference, the Monitoring Team has received,
23 reviewed, and returned policies in a few areas, internal
24 investigations being one. I know there is a suite of
25 accountability policies that the parties are waiting to

1 complete and send to the Monitoring Team that include the
2 disciplinary matrix, a mediation policy as well as a revised
3 citizen complaint form. Once all are completed, then we can
4 move to implementation, probably in the form of some kind of
5 roll call training. So the Monitoring Team is just awaiting
6 the rest of those policies, and I think they're going to be
7 coming fairly soon.

8 In the area of investigatory stops and detention or
9 stops, searches, and arrests, those policies are in the early
10 stages of development, but the Monitoring Team asked for and
11 received an early draft of the investigatory stops and
12 detention policy in order to -- along with existing policies
13 and forms that FPD has in that area -- to guide us in creating
14 a methodology for our audit in the stop, search, and arrest
15 area. So subject matter expert Bob Stewart and I reviewed the
16 policy and had a fruitful discussion with Ms. Senier and
17 Assistant Chief McCall about that specific policy as well as
18 the parties' plan to roll out the rest of the policies in the
19 area. It's quite lengthy. Being the Fourth Amendment, there
20 are a lot of policies that sort of tie into it either
21 explicitly or implicitly, and the Department is -- and DOJ are
22 going through those and have provided us with a list that sort
23 of is a framework for how they plan to proceed through those.

24 THE COURT: And then that's helping you to do the
25 matrix or, well, whatever you need for your audit or at least

1 to get started on how to plan the audit?

2 MS. TIDWELL: That's correct. So we were trying to
3 pinpoint how we're going to conduct an audit in the area of
4 Terry stops or field investigations, and as I'll get to when
5 we talk a little bit more about the audit phase, we asked the
6 City to provide us with the numbers of reports that were
7 filed, whether they be arrest reports or field interview
8 reports and use-of-force reports, and the -- there were only a
9 handful of field interview reports from which we could draw
10 any information. So in trying to figure out how best to get
11 at that, we asked for the policy that's in development so we
12 could try to figure out some other ways that we can sort of
13 get at that to try to get some information now while the
14 policies are being developed.

15 THE COURT: Okay.

16 MS. TIDWELL: And then, finally, the community
17 policing parties -- the community policing policy -- the
18 parties have just returned that to the Monitor, the Monitoring
19 Team, to myself and Mr. Stewart, following a series of
20 revisions, and so we'll hopefully get that back to them in the
21 next week or so.

22 Moving on to training, as we discussed in the last
23 status conference and in our status report that was filed in
24 the spring, we had set a timeline for the required Consent
25 Decree briefing for the police department as well as the

1 briefing or the explanation of the recruitment plan to the
2 rank and file officers as required by paragraph 284.

3 We're pleased Lieutenant Dilworth has put together a
4 comprehensive slide deck which, after review and suggested
5 edits from the Monitoring Team and DOJ, I believe, went live
6 today, and there will be another session tomorrow that I'm
7 hoping to sit in on, and I believe the Department of Justice
8 will as well. So that's one thing we can check off the list.

9 As far as the recruitment plan, the parties, I think,
10 have agreed to table the rollout on that just while they work
11 out some of the issues with some of the requirements of the
12 recruitment plan. So we'll look for -- so we'll put that in
13 the status report for completion during the next six-month
14 period.

15 And in the use-of-force area, FPD, again, through
16 Lieutenant Dilworth, had submitted to us a series of training
17 materials designed to accompany a rollout of the umbrella
18 use-of-force policy. It's been reviewed and returned and
19 looks to be in pretty good shape. We anticipate that those
20 trainings or those roll call briefings will begin relatively
21 soon.

22 Lieutenant Dilworth is also working on
23 weapon-specific training materials, and we're a little
24 unclear, and we're hoping the parties can sort of explain or
25 the City whether we're going to wait until the weapon-specific

1 portion of the training is done, of the training materials are
2 done, or if the police department plans to just roll out the
3 umbrella policy while the other ones are being completed.

4 And then, finally, body-worn and in-car camera
5 policies. The training materials were reviewed by the
6 Monitoring Team and DOJ. I think one of the issues that came
7 up was how to harmonize the FPD policy with the state sunshine
8 laws as well as various local regulations. I believe that's
9 been sorted out, and the parties can talk to that in a little
10 bit more detail, but assuming that is so, we anticipate that
11 the roll call briefings will begin relatively soon.

12 And so, finally, the last phase, implementation, and
13 the auditing phase. And although the police-related Consent
14 Decree provisions are mainly in policy development and the
15 training stages, we had wanted to start auditing or
16 establishing baselines in several areas, as we've talked about
17 before. So in late June, we asked that FPD provide a list
18 detailing the number of use-of-force reports, the number of
19 arrest reports, and the number of field interview reports
20 created by FPD from January 2017 through the date of the
21 letter. I received that listing. There were about 78
22 use-of-force reports. So we're still trying to figure out
23 whether we'll get the entire population of those. We're
24 trying to -- through a listing that FPD was helpful enough to
25 provide us, we have a list of all the offenses that were

1 charged that were the offenses of arrest. There were about
2 1,900 arrest reports, but we asked them to break down by
3 offense so that we wouldn't have to get all of them and we'd
4 know which -- how best to sort of go at our audit. And we're
5 hoping to use some of the data from that not only to get
6 arrest reports that might be helpful for the field
7 interrogation portion of the audit so we can see with various
8 possessory offenses maybe something began as a *Terry* stop and
9 we can glean some information that way but then also some
10 offenses that are likely to result in the use of force by
11 officers too as a way to cross-reference the existing
12 use-of-force reports to see if use-of-force reports were
13 consistently and completely filled out for when each time that
14 force was used.

15 THE COURT: And did you get the -- I think you said
16 the time period was from January of 2017 up until June of this
17 year.

18 MS. TIDWELL: That's right, Your Honor.

19 THE COURT: And did you get -- you're comfortable you
20 got the reports for that whole period?

21 MS. TIDWELL: We have the numbers of reports. We
22 haven't done the --

23 THE COURT: The numbers, yeah.

24 MS. TIDWELL: Yeah, we have the numbers, yes. We're
25 very confident that the City -- we would have liked there to

1 have been more field interrogation reports for us to work
2 from, but we think with the number of use-of-force reports and
3 the way that we plan to look at the arrest reports by offense
4 in making a document request, we're hopeful that we can glean
5 quite a bit of information from that to establish a baseline
6 for future audits.

7 THE COURT: Okay.

8 MS. TIDWELL: So that would be the use-of-force audit
9 as well as the FIR audit.

10 The municipal court -- we continue to conduct audits
11 in that area twice a year. So Ms. Aghedo is in town because
12 she's currently conducting the municipal court audit today and
13 tomorrow. The -- we will report on the results of the March
14 audit in our upcoming status report, but one of the main --
15 the main focus of Ms. Aghedo's visit is the -- a review of the
16 cases that were kept open under the comprehensive amnesty
17 provision. As Your Honor recalls, we had requested that the
18 City categorize the -- which provision of the amnesty clause
19 was used to continue prosecution so that we could best assess
20 how to go about auditing cases and reviewing cases. The City
21 did provide us with that list, and Ms. Aghedo is going to
22 review approximately 10 percent, maybe a little bit more, of
23 each of those cases, but we have them broken down by category.
24 We're going to review -- there were eight cases that were kept
25 open under the so-called catchall provision, which is if, in

1 the interest of justice, the City Prosecutor determines that a
2 case should be continued. We're going to review all of those.
3 And then in categories (1), (2), and (3), we'll review 10
4 percent of those with special, I guess, attention paid to
5 trespassing cases where -- that were kept open under the
6 provision that says if there is an identifiable victim that
7 wishes to be involved in the case and move it forward. We'd
8 like to see how the trespassing cases are being treated under
9 that category. And there were no category (4) cases. So it's
10 just (1), (2), and (3), a 10 percent sample, and all of
11 category (5).

12 THE COURT: And what's the total number of the (1),
13 (2), and (3) or approximate?

14 MS. TIDWELL: So I have -- let's see -- six, nine,
15 15. I would say about 1,800. Is that right, Ms. Aghedo?

16 MS. AGHEDO: (Nods head up and down.)

17 MS. TIDWELL: Yeah, roughly 1,800.

18 THE COURT: Okay.

19 MS. TIDWELL: And I think we're going to -- I think
20 with our -- the notice to the City, we came out at 175 cases
21 to review.

22 THE COURT: To review? Okay.

23 MS. TIDWELL: To review, yeah. And I think
24 Ms. Aghedo is going to call in reinforcements, and Ms. Caruso
25 is going to be giving her a hand with that tomorrow at the

1 municipal court.

2 And then, finally, Your Honor, we've made some
3 progress on the police officer survey as well as the community
4 survey. The Police Foundation in Washington, DC has
5 generously offered to give us some assistance in this area.
6 They had an introductory call with Mr. Carey and, I believe,
7 Mr. Seewood. I'm not sure if he was on the call as well, but
8 the City has signed up to use the Police Foundation's platform
9 for administering surveys to both the police officers and to
10 the community. So we'll begin with a police officer survey.
11 Mr. Carey and I have been discussing the -- which one is best
12 to start off with. The Police Foundation offers several.
13 Even though the Consent Decree itself only requires one
14 specific type, we think it might be helpful for the police
15 department to undergo some of the other surveys, particularly
16 as it relates to officer wellness, because those -- that's
17 information that might be helpful when we get to that section
18 of the Consent Decree. So we're still discussing with the
19 City how best to begin and what the methodology will be for
20 administering that survey, and then we'll move to the
21 community survey and look to, hopefully, find the right
22 methodology that gets to the various types of whether people
23 receive information by phone or online or in person so that we
24 can, as best we can, get to as many populations of the city as
25 we can in that, in the community survey.

1 And then, finally, the Monitoring Team submitted to
2 the parties late last week a draft or a skeleton outline of a
3 work plan, and we're meeting today after court to discuss that
4 in further detail. What we did was we listed out what we
5 thought was an aggressive but realistic series of
6 accomplishments for year three, which is the year we're
7 currently in, and once we talk to the parties about that and
8 their plans, which may differ as to their intent to -- as to
9 what they plan to cover, we will complete it and round out the
10 remaining years of the Consent Decree and the remaining
11 provisions. So we're looking forward to that discussion today
12 so that we can complete work on the work plan and have it
13 filed with the Court.

14 And that's it for me, Your Honor, unless you have
15 questions.

16 THE COURT: When do you -- do you have any timeline
17 on the work plan completion and filing?

18 MS. TIDWELL: So we're hoping after our meeting today
19 we'll have a pretty good sense of where the parties think.
20 You know, if they completely disagree with the direction that
21 we've laid out, then we probably have a little bit more work
22 ahead of us than we anticipated, but if they think that, you
23 know, we're sort of on the right track and we're in agreement,
24 I don't think it will take that far into October for us to
25 complete it.

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

2 MS. TIDWELL: Okay. Thank you.

3 THE COURT: Mr. Volek or whoever else from your team
4 wishes to speak on behalf of the United States.

5 MR. VOLEK: Thank you, Your Honor.

6 I'll very briefly supplement Ms. Tidwell's
7 presentation by talking about five main areas of work that the
8 parties and the Monitor have been engaged in in the last
9 several months.

10 The first is one that Ms. Tidwell mentioned, which is
11 rolling out policies that have already been completed. These
12 are the roll call trainings. As Ms. Tidwell reported, the
13 Consent Decree roll call training began this morning. We're
14 going to be attending tomorrow morning. We're very excited
15 about that. We reviewed the curriculum and approved that
16 together with the Monitoring Team and are eager to observe
17 that tomorrow. The other roll call trainings that we've been
18 in discussions about are the use-of-force roll call training,
19 which has been reviewed and approved, the body-worn camera and
20 in-car camera training, and the recruitment training. So
21 we've, in the last several months, been reviewing these
22 curricula and making sure that they comport with Consent
23 Decree requirements so that these policies can actually be
24 presented to officers, explained to officers, and so that
25 officers can ask any questions that they have about the new --

1 newly revised policies. Once we have those roll call
2 trainings completed, then we'll actually have those policies
3 done, on the website, and they will be in effect. So we're
4 all very eager to bring that to fruition.

5 The second main area that we've been working on is
6 working on the policies that have not yet been done, that are
7 not yet ready to be rolled out to officers. One that has been
8 submitted to the Monitoring Team already is the community
9 policing policy. As we have reported to the Court at previous
10 quarterly status hearings, the parties have worked together to
11 come up with a draft of that policy. That policy was shared
12 with the Neighborhood Policing Steering Committee as well as
13 other community stakeholders. We got some really valuable
14 feedback on that and have worked together with the Ferguson
15 Police Department to incorporate that feedback and make sure
16 that the community policing policy is reflective of what the
17 community actually wants to see in that policy. In the last
18 month or two, we've gone back and forth quite a bit about
19 that. We've reached agreement. We've submitted that to the
20 Monitoring Team. And next month, at the October Neighborhood
21 Policing Steering Committee meeting, we will hope to go
22 through that policy and explain the various changes that were
23 made in light of the feedback that we received. And so we're
24 very appreciative to the NPSC for their feedback, and
25 hopefully, everybody is satisfied with where the policy is.

1 We certainly feel that it complies with the Consent Decree
2 requirements. The second set of policies that we've been
3 working on are stop, search, and arrest policies. That has
4 been an ongoing process that Ms. Tidwell talked about in great
5 detail about the complexity of the Fourth Amendment and how
6 that requires a lot of very specific policy detail. And then
7 the final set that we've been spending a lot of time on are
8 the accountability policies. We've talked about these
9 previously as well. We have talked about how the internal
10 investigations policy -- that sets out the way that FPD takes
11 complaints, responds to complaints, investigates complaints.
12 That policy has been completed for some time now. We've made
13 some real progress in the disciplinary matrix, which sets
14 forth the guidelines for what discipline should be imposed if
15 a particular officer is found to have engaged in misconduct.
16 And there have been some new items thrown into the mix with
17 this policy suite. One is the misconduct complaint form. We
18 have been waiting for a bit from -- for a proposed form from
19 the Ferguson Police Department. We got that proposal. We
20 went back and forth a bit on that, and we've submitted that to
21 the Monitoring Team. And the other -- the other item that's
22 been added to this suite is the mediation policy. The Consent
23 Decree requires a mediation program that individuals who make
24 complaints about law enforcement officers can voluntarily
25 participate in. This is a program that's had great successes

1 elsewhere around the country, and it really goes a long way to
2 bridging the divide between community members and police
3 officers. It helps to engage in constructive dialogue for
4 low-level complaints, and so that policy, we've just about
5 neared finalization. And so once that entire package is
6 ready, we'll submit that all to the Monitoring Team, which I
7 do believe will happen this week.

8 So in addition to roll call trainings, policies that
9 we're still working on, we've also been paying attention to
10 progress within the municipal court. There are, thankfully,
11 new policies that are -- that have been implemented, the court
12 staff have been trained on, and our understanding is that the
13 amnesty program has been fully implemented as well. We are
14 very encouraged by the reports that the amnesty program
15 resulted in pre-2014 cases going from 7,900 roughly to 1,800
16 under the good-cause criteria, and we look forward to the
17 results of the Monitoring Team's audit of that amnesty program
18 implementation.

19 The fourth area that we've been focused on is data
20 collection. This is something that is -- is one particular
21 section of the Consent Decree, but it really impacts every --
22 every area of the Consent Decree. Every single area of the
23 Consent Decree requires some data collection component on
24 behalf of the Ferguson Police Department. Just good
25 management of a police department requires knowing what

1 officers are doing, and so we've been in discussions with FPD
2 about how they can create a comprehensive plan. We're going
3 to meet tomorrow morning again about that. We've provided the
4 police department with a template for how they can start
5 figuring out what data they actually need to collect, and that
6 seems to be the first step to creating an actual plan of how
7 you're going to -- of how you're going to go about collecting
8 it. So, hopefully, we can make some progress on that in the
9 next few months. That's a big lift but something that really
10 needs to happen.

11 And then the fifth item that we're focused on at DOJ
12 is -- is training generally. I talked at the beginning about
13 roll call training. That's -- that's a very quick training to
14 explain to officers what the new policy requirements are, but
15 there's also requirements for in-service and academy training
16 in the Consent Decree, and we have begun thinking about how
17 do -- what role we can play in helping FPD come up with a
18 comprehensive training plan that incorporates those
19 requirements.

20 This is really a critical time period in the life of
21 the Consent Decree. We are about halfway through the
22 anticipated five years of the decree. We have been trying to
23 assist and facilitate successful implementation as much as we
24 can. As we've reported many times, we've worked very well
25 with -- with the police department, with Chief Moss, with

1 Assistant Chief McCall, with the City Attorney and really
2 built up a very good relationship, a good working
3 relationship, and collaborated well on developing policies,
4 developing roll call trainings.

5 The next phase is going to be a phase where there are
6 more limitations on what we can actually do. We can provide
7 resources, like data collection plans that other departments
8 have put together, but we can't help create a data collection
9 plan to the same extent that we can help with policy
10 development, and so over the next few months, it's really
11 going to be incumbent upon the department to roll up their
12 sleeves and get some of these items finished.

13 There's been a lot of progress in areas that have
14 also not really been wrapped up in way that we would like to
15 see, and so we're hoping to be able to close the book or turn
16 the page or whatever the metaphor is, but, you know, I'll give
17 you a few examples.

18 One is the body-worn camera and in-car camera
19 policies. Ferguson has worked extremely hard to come up with
20 a really solid set of body-worn camera and in-car camera
21 policies to guide officers' use of this equipment, and those
22 are ready to go. We've signed off on them. They've developed
23 roll call training as well. But part of that policy is a
24 reference to a video footage sharing policy on behalf of the
25 City, and so that's something that sets forth City policy as

1 to when a body-worn camera recording is going to be shared
2 with the public. We're sort of waiting until that -- that --
3 that footage sharing policy is created before we can -- before
4 FPD can roll out the body-worn camera policy itself, and so
5 we've got this policy sitting that the parties have worked
6 really hard to get done that hasn't been rolled out yet
7 because of that reason, and so that's one example of an area
8 where, with a bit of targeted focus, the City can really, you
9 know, put that to bed and move on to other things.

10 A second example is the use-of-force policies.
11 There's been a use-of-force reporting policy for some time,
12 but because of the limitations with data collection, there are
13 still uncertainties regarding how uses of force are actually
14 going to be documented and recorded. There is a new data
15 collection system that the City is transitioning to, but we
16 have not yet seen any actual framework for the form that
17 officers are going to use to record uses of force. That's
18 something that, obviously, needs to be approved as part of the
19 use-of-force policies before they can be rolled out to
20 officers.

21 The same with stop, search, and arrest policies. The
22 stop, search, and arrest policies detail what an officer has
23 to do in conducting a stop and searching somebody. Again,
24 because of the limitations with data collection, we haven't
25 been able to finalize those policies and articulate the

1 specific ways that officers document their conduct.

2 So those are a few examples of areas where there has
3 been a lot of effort and a lot of really good work done on
4 behalf of the department, but there's just a few things that
5 are holding up being able to -- we'll go with turn the page
6 and move on to other things. So over the next few months, we
7 really want to be able to wrap these things up and move on to
8 some of the more pressing issues, such as developing a
9 comprehensive training program.

10 But all in, we continue to be appreciative of the
11 leadership of the Chief and of Assistant Chief McCall and of
12 the City Manager, and we are optimistic that we can continue
13 to make some strides in the next few months, particularly with
14 the Monitor's work plan that the Monitoring Team has
15 submitted. We think that having some concrete deadlines and
16 expectations will really assist not only Ferguson's efforts
17 but the entire process.

18 Unless you have any further questions, I'll yield
19 over to the City Attorney.

20 THE COURT: I think you've -- I think you've covered
21 a lot there. So I'll hear from Mr. Carey.

22 MR. VOLEK: Thank you, Your Honor.

23 THE COURT: And if you want to introduce the people
24 who are with you, as I know you usually do, I would appreciate
25 that.

1 MR. CAREY: You took the words out of my mouth, Your
2 Honor. Thank you.

3 Good afternoon. Of course, you know, with me today
4 is our City Manager De'Carlton Seewood, our Assistant Chief
5 Frank McCall. Used to be Commander McCall. Now it's --

6 THE COURT: Assistant Chief.

7 MR. CAREY: -- Assistant Chief. We're still
8 struggling with the right title, trying to get it out of our
9 mouths.

10 Of course, Chief Delrish Moss. Behind Chief Moss is
11 our Court Administrator Christine Lanfersieck, our Municipal
12 Judge, Judge Terry Brown, and then we have our councilwoman,
13 Ms. Ella Jones, and our former councilwoman, Ms. Laverne
14 Mitchom here. And, of course, you see the citizens, some of
15 the citizens that are pretty much here every time, you know,
16 to observe what's going on.

17 So, Your Honor, I -- you know, I think the Monitor
18 and the Department of Justice have done a really good job of
19 kind of summarizing. I know you may have some questions. I
20 do have maybe two things that I would like to touch on with
21 regard to the City's progress under the Consent Decree.

22 One of the requirements of the Consent Decree talks
23 about the hiring of a community liaison for FPD, and we
24 recently just hired a community -- an economic development
25 director who will have some community liaison function, but

1 that person is not envisioned to be the, you know, solution
2 for our community liaison as it relates to the Consent Decree.
3 One of the suggestions that the Monitor made was that the City
4 look into hiring an individual, preferably a civilian
5 individual, to kind of serve as this community liaison
6 position. So what we've recently been doing at the City is
7 we've been working with a local university as well as a local
8 nonprofit group to discuss potentially cross grants that would
9 help us fund such a position because the City's in a situation
10 right now where budget-wise they can't. You know, it's
11 unfeasible to, you know, just kind of hire that person
12 straight out, and so what we did was kind of try to work on a
13 collaboration or a partnership with two local organizations to
14 get some grants so that we can help fund that position.
15 That's a very promising-looking endeavor, and we should have
16 more on that the next time that we -- that we meet here.

17 We -- I -- I did want to follow up a little bit on
18 the Department of Justice's comments about, you know, the
19 City's -- you know, kind of this next phase of the Consent
20 Decree and the City kind of rolling up its sleeves and doing
21 some of this stuff, and I think it is true that the Department
22 of Justice has been very, you know, obviously, helpful and
23 prescriptive as it -- you know, as it relates to policy
24 development, and we can definitely tell that in terms of
25 phases of the Consent Decree we're entering that phase of the

1 Consent Decree where the City, you know, probably has a little
2 bit more responsibility in terms of being prescriptive and
3 kind of, you know, leading the way and leading the charge as
4 it relates to data collection specifically, and I know in the
5 last maybe two weeks or so we have had a conversation or
6 two -- I think maybe even just last week we had a telephone
7 conversation with the Department of Justice regarding this
8 issue of data collection, and I know -- I think, as Mr. Volek
9 said, we're going to kind of discuss that either today or
10 tomorrow, but we know we need to -- we need to get there, and
11 so they -- the Department of Justice has provided the template
12 that we talked about in our last telephone status conference,
13 and we have looked at that, but, you know, as we -- we
14 discussed, we haven't done anything real with it until we get
15 an opportunity to talk with the Department of Justice. And we
16 do understand how -- I mean it becomes obvious as we are doing
17 the work of the Consent Decree how this -- how important this
18 data collection piece is for the City to -- to work out, to
19 make sure that we are collecting the data in a way that will
20 show the Monitor exactly what it is we're doing for purposes
21 of Consent Decree compliance, and I think we'll still continue
22 to work dutifully with the Department of Justice on developing
23 what are the inputs that we need to have in this system so
24 that when we get a report, an output, it says what it wants to
25 say.

1 THE COURT: Right. I mean without --

2 MR. CAREY: What it needs to say. Excuse me.

3 THE COURT: Without the appropriate data collection,
4 we're not going to be able to figure out how things stand.

5 MR. CAREY: If we're doing what we're supposed to be
6 doing.

7 THE COURT: Yeah.

8 MR. CAREY: Right. And so that is first and foremost
9 on the City's mind as it relates to this next phase of the
10 Consent Decree. And so with those two things, I really -- you
11 know, I'm happy to -- I know you probably have questions of me
12 and the City, so I'm happy to answer those.

13 THE COURT: Let me see what I noticed. One -- a
14 couple of things. So on the -- there was training that
15 started today on the general training on the Consent Decree;
16 is that right?

17 MR. CAREY: Yes, ma'am.

18 THE COURT: At the roll call training?

19 MR. CAREY: Yes, ma'am.

20 THE COURT: And from the City's perspective, how do
21 you think that went? I mean how -- what's your reporting
22 back?

23 MR. CAREY: All reports to me -- and as a matter of
24 fact, I just spoke with Assistant Chief McCall about this
25 before the hearing, and we think it went very well. I think

1 we have another one scheduled tomorrow, and I think the
2 Department of Justice plans on sitting in on that as well.

3 THE COURT: Yeah. That would be good.

4 MR. CAREY: Yeah, it's going according to plan, and
5 we think it went well.

6 THE COURT: Okay. And then the other one was --
7 yeah, what -- what -- tell me on the -- let me see if I have
8 this. On the weapon-specific policies under the use of force,
9 where do you stand on that?

10 MR. CAREY: I believe there are drafts -- are there
11 drafts? -- that were given to the Department of Justice, I
12 believe. You have not received them? You've got them and
13 given them back. So maybe the ball is in our court.

14 THE COURT: Okay. So it sounds --

15 MR. CAREY: I'm actually not --

16 THE COURT: Yeah, it sounds like maybe it is.

17 That's --

18 MR. CAREY: I think the ball may be in our court --

19 THE COURT: Yeah.

20 MR. CAREY: -- on that issue to -- to get those -- to
21 get those going.

22 THE COURT: And then on the -- on the camera
23 policies, the body-worn and the in-car cameras, the issue
24 about video --

25 MR. CAREY: Footage sharing?

1 THE COURT: Yeah. What becomes public? What can be
2 shared? What can't? Where do you stand on that?

3 MR. CAREY: Right. And that's just a policy that,
4 you know, we're preparing a draft of that policy now. It was
5 something that was brought to our attention recently as we
6 were talking about rolling out the body-worn and in-car camera
7 footage was that there was reference in those policies to this
8 footage sharing policy that we had not drafted yet. So we
9 have, in earnest, begun drafting that policy, and I think we
10 committed to have that to the Department of Justice by the end
11 of the month, and so we will -- you know, we'll just get that
12 to them, and then we'll go back and forth with that. I would
13 expect before the next hearing we would have probably a
14 finalized policy and be ready to -- to roll that out as well.

15 THE COURT: And that is one of the trickier parts of
16 this kind of a policy, and it's important that it, you know,
17 get done.

18 MR. CAREY: That's right. Yeah. When it
19 references -- when you have a policy that references another
20 policy, we've just got to make sure they're all on the same
21 page.

22 THE COURT: Let's see other notes I had. What about
23 the number of officers you have on the force now? Tell me
24 your status in terms of hiring and recruiting.

25 MR. CAREY: I think we're at 43 now. At the last we

1 had, we were up to 46, and we had some -- some -- some
2 attrition due to several reasons, and so we're down to 43 now,
3 but I believe, last time I spoke with Chief Moss about this,
4 we have two or three folks that we're ready to make offers on
5 coming out of the academy. So we're hoping to get back up to
6 that 46 number. Again, I think our target is either 51 or 52.
7 So we're just moving as close as we can to that number. Of
8 course, you know, you can never anticipate the attrition
9 piece; right?

10 THE COURT: Correct.

11 MR. CAREY: So you add a little, and then, you know,
12 somebody leaves, and I know you know we had just recently a
13 publicized issue with an officer that was terminated for a
14 certain reason, and so, you know, those kind of things happen,
15 and we just have to keep moving forward.

16 THE COURT: Okay. I think those were all the
17 specific questions I had. Did either the Monitor or the
18 Department of Justice want to raise anything else given
19 Mr. Carey's comments?

20 MS. TIDWELL: No, nothing from the Monitoring Team,
21 Your Honor.

22 MR. VOLEK: Nothing from us either, Your Honor.

23 THE COURT: I will say I am encouraged that all the
24 parties are here. I know you had a court session. There was
25 a court session last night; correct, Mr. Carey, or is it

1 tonight?

2 MR. CAREY: It was -- there was one last night.
3 There was one today.

4 THE COURT: Right. And that, you know, I think it's
5 good that the Monitor and the Department of Justice have been
6 able to sort of plan their meetings and working in-person work
7 around when you wanted to be here to see what was going on and
8 make sure things were moving as well as like the -- to observe
9 the roll call training. That's an important component.
10 Obviously, there will be more detailed training as well, but
11 that's -- that's the quick way to get everything out to all of
12 the -- the officers who are going to be implementing, you
13 know, doing these policies and need to understand everything.
14 So I'm pleased with how you're doing that.

15 I will -- I will say keep working. It does sound
16 like the City is going to have some work to be doing.
17 Especially, this data collection piece is so important so that
18 we'll know, you know, measurably, and can we find out what's
19 really happened? And that's to everybody's advantage so that
20 we can actually look at what is actually happening as opposed
21 to just hearing, you know, bits and pieces here and there.
22 Getting the actual facts, facts do matter, and actual facts
23 will be very important as we move forward. So I encourage you
24 to continue that, and I -- you know, I -- if the parties and
25 the Monitor have nothing further for me today in this hearing,

1 I will adjourn it.

2 We will set another hearing in about three months
3 that will be a public comment hearing. I'm hoping that -- I
4 mean I know that there are always going to be issues where
5 people are going to say, "No, this isn't what we want. We
6 want something a little better or different." And there's
7 always room for improvement, but I am hoping that by that next
8 comment period we'll have more progress to report and
9 things -- and the citizens will see that progress is being
10 made.

11 So with that said, keep working, and I will talk to
12 you all the next time. Thank you. Court's in recess.

13 (Proceedings concluded at 3:39 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 29 inclusive.

Dated at St. Louis, Missouri, this 26th day of September, 2018.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter