## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

UNITED STATES OF AMERICA,	)
Plaintiff,	)
<b>v</b> .	) ) No. 4:16-CV-180-CDE
CITY OF FERGUSON, MISSOURI,	)
Defendant.	)

## STATUS CONFERENCE

## BEFORE THE HONORABLE CATHERINE D. PERRY UNITED STATES DISTRICT JUDGE

**DECEMBER 17, 2018** 

## APPEARANCES:

Special Master: Natashia Tidwell, Esq.

HOGAN LOVELLS US LLP

For Plaintiff: Jude J. Volek, Esq.

Megan R. Marks, Esq.

UNITED STATES DEPARTMENT OF JUSTICE

For Defendant: Aarnarian (Apollo) D. Carey, Esq.

LEWIS RICE LLC

REPORTED BY: Gayle D. Madden, CSR, RDR, CRR

Official Court Reporter

United States District Court

111 South Tenth Street, Third Floor

St. Louis, MO 63102 (314) 244-7987

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(Proceedings commenced at 1:08 p.m.) 1 2 THE COURT: All right. Good afternoon. We are here in the case of the United States of America versus the City of 3 Ferguson, Missouri. This is Case No. 4:16-CV-180. We are 4 5 here for the quarterly status hearing at which we'll receive public comments, and I do appreciate people being here even 6 7 though we had to continue this because the courthouse was 8 closed for the National Day of Mourning when this was originally scheduled. 9 10 So, first, I'd like to start by asking the lawyers 11 here to please introduce yourselves for the record. I'll 12 start with the Monitor. 13 MS. TIDWELL: Thank you, Your Honor. Good afternoon. Natashia Tidwell from Hogan Lovells. Monitor, City of 14 15 Ferguson. 16 THE COURT: All right. And for the United States? 17 MR. VOLEK: Good afternoon. Jude Volek for the 18 United States. 19 MS. MARKS: Megan Marks for the United States. 20 THE COURT: And for the City of Ferguson? 21 MR. CAREY: Thank you, Your Honor. Apollo Carey, 22 Lewis Rice. City of Ferguson.

So I do have -- there were some written submissions filed by members of the public as well as comments.

THE COURT: All right. Thank you.

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people have signed up to make statements, and so I'll start with the Monitor and ask you, Ms. Tidwell, to make any statements you wish before we hear the public comments, and then we'll hear them, and then I'll give everybody a chance to speak again afterward.

I know that one of the things you might address -there were comments that were filed, including one that was
received by us the day before you filed your most recent
status report, and some of what was listed there was, I think,
you know, contained in your report, but I just point that out,
that it was filed the day before, but I've reviewed all of
those as well as, obviously, your report.

MS. TIDWELL: Thank you, Your Honor.

So, yes, that's correct, and we did receive the filings, I think, from the NAACP as well as the Ferguson Collaborative, and just in terms of timing, the filing, I think, came on the heels of their letter. So the work plan has been filed along with the status report for the fall of 2018, the semi-annual report. I'm just going to highlight a couple things from the status report because I'm mindful of the time that we want to give to the community at this hearing.

In the status report, we talked about the new public comment period, that the parties have agreed on a protocol that permits additional community input on some of the

developed policies. I suspect, based on filings that were received most recently, that there is some issue with the number of policies that the public is being asked to review and comment on within 30 days, and there's some concern about how to make sure that whatever the comments they have, the feedback is addressed or that there's some return to them as to what was included and what wasn't. So I leave to the parties to sort of discuss how to go about doing that and whether or not the timetable that we've proposed that's reflected in the work plan for public comment is too fast in terms of the number of policies, but that was certainly mentioned and discussed within the status report in some detail.

The status report also includes what we anticipate in policy development for the next six months, and I just want to highlight a few areas because I think they're pretty critical to implementation in the coming months.

First is the stop, search, and arrest policies, which are under development. There has already been a community forum, a policy forum, on stop, search, and arrest, but we're expecting to get those policies ready for public comment, I believe, in the spring of this year. I think the department can correct me if I'm wrong on that one.

The next one is the School Resource Officer Manual.

As Your Honor knows, the memorandum and agreement was executed

between the City and the school department, and now the parties are working towards a manual for the school resource officers to be trained on, one that will hopefully guide them in their work from day-to-day and reflect best practices for school resource officers throughout the country. I think that might not be ready by the end of the six-month period. I think, according to the work plan, we've targeted for completion or at least having a draft by the end of year three of the monitoring year, which would put it roughly in the summer of 2019.

Similarly, the bias-free police and court practices policies -- we anticipate that there will be a policy forum with the community on those policies within the six-month period and development on that will begin in year three, but we don't anticipate that we will have -- that the Monitoring Team, Professor Norwood in particular, will have a draft for review within the coming six months or within the end of year three.

And then, finally, Your Honor, and one that I think is most crucial, particularly, as the City and the police department work towards their community engagement efforts and the drafting and development of the community engagement plan, is the shift schedule and deployment plan. In order to implement community policing and community engagement in a thoughtful, strategic, and focused way, you have to deploy

your officers in way that makes sense that you can get that done so there isn't just one officer doing one thing over here and another one doing the same thing in a different community and no one's speaking to one another. And so part of our continued request that the City designate a community engagement — a Community Outreach Coordinator is so that would form another piece to that.

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You would have the community engagement plan. would have an outreach coordinator to assist in implementing the plan. But you also have to have the officers themselves deployed in a way and have their schedules in a way that you can get that done, and I'm not sure that the current shift schedule is -- harmonizes with the goals of community policing, and I've talked to the parties with the City about that. I think while they are working to -- working with the police department, with the officers, on salaries and things like that, one of the things that we've tried to keep on their radar is this notion of shift schedules and deployment because it has to be thoughtful and strategic in terms of how are you going to do community engagement with the way that officers' shift schedules work, with the way that they are assigned to different sectors or patrol areas, and so that is something within the six months that Bob Stewart and I, from the Monitoring Team, will be working with the City, hopefully, and they may need some outside help on that. I believe in the

lead-up to the Consent Decree, they had a consultant, Peter Bellmio, come in to help them.

THE COURT: What was his last name?

MS. TIDWELL: Bellmio. He worked with the City
before -- I believe before the Consent Decree was signed -- on
some of the shift schedule type issues and did some kind of
study for them on where to -- how best to implement community
policing, the number of bodies and where they would go in
order to do that. So maybe they reengage him, but it's
something that I don't see meaningful sort of development or
implementation of a community engagement plan until you have
officers in place in ways that work towards that goal.

The status report also included several appendices, one of which included the work plan, which outlines in greater detail the things that the Monitoring Team anticipates that the parties will have completed by the end of year three, and it includes a schedule for the Monitoring Team's audits within year three as well. The -- as I mentioned at the last status conference, the parties were provided a draft of the work plan in September. We finalized it before filing a couple weeks ago, and one of the issues with the -- the revision process was just inputting the new public comment period and some other language around the Monitor's audit schedule, but what hasn't changed since the draft that the parties reviewed in September and today is the -- our recommendation and our

expectation that the City would identify a community outreach coordinator, a data and technology project manager, and identify a training committee by December 31st of this year, and so, in September, we -- we named those timelines. We put them in front of the City and DOJ and asked if anyone had any objections to our proposed schedule. Hearing none, we still anticipate that those things will happen by December 31st, 2018.

We would also add that the position of Consent Decree Coordinator, which has largely been handled by Acting Chief McCall -- given that he's got a whole lot of other responsibilities, our hope is that the City will name someone to either temporarily or full-time take on that role of Consent Decree Coordinator so that we don't lose too much momentum going forward.

Within the work plan, we also called for the accountability policies to be handed to the Monitoring Team by December 31st, 2018. I'm pleased to say that the parties are ahead of schedule on that, and those draft policies, including the disciplinary matrix, were provided to the Monitoring Team about a week or 10 days ago. So I will -- I am the subject matter expert that deals in the accountability area. So I will review those policies. I may ask Officer Bob Stewart to assist in that regard, but we will return those to the parties and discuss those policies with them before they go up for

public comment in the next month or so.

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I think one of the issues or one of the questions that was raised in one of the filings from the community was why the disciplinary matrix was not publicly available or made available for public comment. It's just that it's still in development, and so the Monitoring Team has it now. When we finish our review, we'll discuss any changes that are needed with the parties, and then we anticipate that it will be made available for public comment at that time.

I mentioned that the work plan also includes an audit schedule for the Monitoring Team, and I just want to -- one point of clarification in regards to auditing. I mentioned in the September status conference that we were looking to conduct baseline audits for use-of-force reporting as well as in the area of stop, search, and arrest, and I mentioned that the field interrogation reports that we got from the -- or the number that the City identified that were available for review was only a handful, and so we were trying to figure out creative ways using arrest data to get at a baseline for the reporting of stops and searches. I also mentioned that the use-of-force reports -- that we asked the City to provide us with the number of those reports that were available. were roughly 78. I mentioned in the last status conference whether or not -- the question was whether or not the Monitoring Team would review the full population of those

reports, of use-of-force reports, and it might have been construed to mean that the City somehow wasn't making those, the full population available to us. The City has said that there are 78, and they're willing to make them available to us. The question in terms of the full population was whether -- in developing an auditing methodology for those -- whether we would request the full population of those reports. So I just wanted to clarify that so there'd be no misconception that the City was somehow withholding those. They are not. We just haven't decided whether or not we're going to review all of them. It's likely that we will, but I just hadn't -- we hadn't made that determination by September.

With regards to the municipal court, during the last six-month period, Ms. Aghedo conducted an audit of the municipal court. One area of concern that we will be discussing with the parties before the March audit is the amnesty cases, particularly, the application of criteria number two, which states that if there is an identifiable victim who's willing to assist in further prosecution, that the case would be kept open; the pre-2014 case would be kept open for good cause. Our initial view or sort of our initial concern is that while some of the cases, whether it be stealing or, you know, resisting or whatever it is, resisting arrest or whatever it is, have a named victim -- particularly, in the stealing or trespassing area, there may be a named

victim, but we don't know at this point whether or not that victim is willing and able to assist in a further prosecution, and we haven't seen and we haven't asked yet for the municipal court to provide us with that information, but that sort of is the -- what we're looking as we complete our audit of the municipal court cases for -- during the August audit. That sort of is an open question that we'll bring to the parties before the March audit so that we can all make sure that we're all on the same page there. And that was approximately 500 or so cases that were kept open under criteria number two.

And then, finally, Your Honor, the work plan discusses and the status report discusses the rollout of the community survey. We had planned originally to have the Police Foundation, who has agreed to conduct the survey and administer it here in Ferguson -- we had hoped to have them here around the time of the last status conference, but in trying to engage enough community stakeholders for the Police Foundation to meet with, we found that we were on this short timetable in trying to do that. So we thought it best to put that out until next month when we can get as much community involvement as possible.

When I was here for the last status conference that was postponed, I was able to meet with members of the Civilian Review Board, and I discussed the survey and asked them to reach out to their respective churches or community groups to

engage their groups in the community survey process. We've had a few responses to the Monitor's website with people expressing a willingness to help. I know the NPSC has offered to be engaged in that. I believe there was language within some of the filings, whether -- I think it was from the Ferguson Collaborative, indicating that they are willing to help.

So we are -- we have a survey developed and vetted. The questions have been validated. So the survey itself is ready to go, but what we really need help is making sure that we get enough -- enough -- as much community response and input as we can as we establish this baseline.

So the Police Foundation will be here in Ferguson.

City Manager Seewood has made the City Council chambers
available for us on the evening of January 28th, and the
representatives of the Police Foundation will be here in
Ferguson. We will send out an announcement on our listserv.

We will ask the parties to do the same, and we will,
hopefully, get some great ideas as to, you know, whether or
not it makes sense to do -- how many to do in person, you
know, whether we make some local buildings available for
people to come in to respond to the survey, whether it will be
done by phone. Text messaging, apparently, is a way that it
can be done as well. So we can discuss all of that in and
around January 28th when the Police Foundation is here.

And that's it for me, Your Honor, for now. 1 2 THE COURT: All right. Thank you. 3 MS. TIDWELL: Thank you. THE COURT: And so, Mr. Volek, on behalf of the 4 5 United States, do you wish to make any statements now before 6 we begin with the public comment? 7 MR. VOLEK: If it pleases the Court, Your Honor, 8 Ms. Marks is prepared to talk about sort of what we've been 9 doing over the last quarter, and then after the comments, I 10 can answer any questions from the Court. THE COURT: All right. That sounds fine. 11 12 Ms. Marks, you may proceed. 13 MS. MARKS: Thank you, Your Honor, and thanks to 14 Ms. Tidwell, Mr. Carey, representatives from the City, and the 15 public for being here today. 16 We're now over two years in --17 THE COURT: Can you pull that mike a little closer to 18 you? 19 MS. MARKS: Of course. 20 THE COURT: Thank you. 21 MS. MARKS: We're now over two years into the 22 implementation phase of the Consent Decree process, and there 23 has been some good progress in many areas during that time. 24 So I'd like to highlight some of the areas where we have seen 25 things moving forward as well as identify some enduring

challenges that will need to be overcome in order to achieve full compliance. So I'll begin by walking through three main areas where we've been focusing our attention since the last public hearing on September 18th and then forecast some of the areas where we're planning to pay attention in the coming months.

So the first topic that spans almost every area of the Consent Decree and has been an area of particular focus for us right now is data collection. So collecting and analyzing data is critically important to good management of a police department. And as the maxim goes, "You manage what you measure." Therefore, in order to measure and track progress at FPD, there must be reliable data collected, managed, analyzed, and reported to the public.

In other cases, we've seen that reform really begins to take hold at departments when they start collecting and analyzing their own data on their own practices. So the City is beginning to make progress with understanding all of the data that it must collect under the Consent Decree and thinking about how it will do so. Since the last court hearing in September, the Department of Justice provided the City with a customized template which breaks down each paragraph and subprovision of the Consent Decree and asks FPD to determine, first, which data is required under the Consent Decree; second, whether that data is actually being collected

right now and, if not, where and how they will collect it going forward.

So after FPD completes the template for one area of the Consent Decree, DOJ and the Monitor will then review the information that's in that template and work with FPD to fill in any gaps in documentation by revising existing forms or developing systems or processes as needed.

We're currently in the middle of this review for the use-of-force provisions of the Consent Decree, and FPD's completed the template for each of the 67 paragraphs and numerous subprovisions in that section of the Consent Decree. They've updated the use-of-force report form with corresponding edits to the places where they realized that they needed more information or wanted to collect something differently going forward. So we've provided additional feedback on how they can improve that to capture everything the Consent Decree requires, and we'll continue working on that with them. Tomorrow, we're meeting to do that as well as in the weeks to come. And then after we finish the use-of-force section, we'll move on to the next.

So we're planning to move on to stop, search, and arrest after we finish the use-of-force section followed by the bias-free provisions. And our goal is to finish all of those things in accordance with the Monitor's work plan by March 30th of next year. We think this is an ambitious goal

but critically important and will require sustained effort on the part of FPD to meet this deadline.

So one area that we've seen some progress in under the Consent Decree is municipal court reform. The parties have made great strides in developing and implementing policies --

THE COURT: Slow down just a little.

MS. MARKS: Sorry. Of course.

THE COURT: Go ahead.

MS. MARKS: -- in implementing policies that ensure the fair administration of justice and the constitutionality of court procedures.

The Monitors, as they've just mentioned, have carried out two very significant audits in this area and rated compliance with each paragraph in that section of the decree, and so we'd just like to briefly highlight some of the findings from that about the Comprehensive Amnesty Program.

So the City has now reviewed all of the roughly 7,900 open cases that were initiated prior to January 2014 and, as of the time of the audit, had closed over 6,000 of those cases without prosecution, and the remaining cases that were kept open were kept open pursuant to the good-cause criteria that Ms. Tidwell just mentioned. And this is a significant accomplishment, and we understand that there have been more closed since the time of the audit. So we're working with the

Monitoring Team to ensure that the sample is adequate to identify any remaining issues as well as to give us confidence in the application of those good-cause criteria and will also be discussing those cases that Ms. Tidwell mentioned regarding the second good-cause criteria.

So the next major focus for us has been policy development, which is another issue that spans almost every area of the Consent Decree. Following some conversations after the last status conference, we've implemented a new policy review process and just wanted to take a minute to kind of explain what that looks like.

We've previously held forums on the numerous policy areas to solicit input before the policy review process begins, and this was a request from community members to make sure that they could provide input before the policies were really fully baked, and so we'll continue to hold those moving forward for new policy areas. So the new process supplements that and is an additional way that the community can provide input after the policies have been drafted, and so what we're doing is providing a 30-day window for each sort of set of policies during which anybody can comment. We're sending the policies to officers as well as the public by having FPD post them on their website, and so we've started this process beginning with the use-of-force policies, for which we got a number of really thoughtful, thorough comments from members of

the community, officers, and organizations.

THE COURT: Is that comment period still open, or is it ending like today or tomorrow?

MS. MARKS: The use-of-force policies were posted from October 15th to November 15th.

THE COURT: Oh, yeah.

MS. MARKS: So the parties are in the process right now of implementing that feedback that we got, and given the really detailed nature of that feedback, it's been taking us a little bit longer than we'd anticipated on that, but we just really appreciate that feedback, and it will greatly strengthen these policies.

So that the next set of policies that we posted were the community policing policies, and that window has just closed, and so we'll be implementing that feedback as well.

And so after we implement that feedback, the plan is to post the policies on the website so that people can see exactly, you know, which -- like how the feedback was implemented, and we're, you know, happy to answer questions about how that took place.

The next set of policies that will be going up soon are the body-worn camera and in-car camera policies, and due to the holiday, we're going to extend that comment period to run through the end of January. So those ones will be up a little bit longer. There are only two policies that will be

posted in that batch.

And then the next set up will be accountability, and those will be posted on February 1st, and that will run through the end of the month. We've reported in the past that there had been some progress on the accountability policies, and as Ms. Tidwell mentioned, we now have a full group of accountability policies that have been submitted to the Monitor for approval, including an internal investigations policy, a disciplinary matrix, a citizen complaint form, and a mediation policy, and I believe someone is here from the Community Mediation Services that will speak to that.

Related to accountability, the Civilian Review Board has started meeting and has reviewed two cases, which is a big step forward, and we expect them to really get up and running in earnest once those accountability policies are finalized.

And then the final set of policies that we plan to put through this new public comment process are the stop, search, and arrest policies which will be posted beginning in March.

So Ms. Tidwell went over most of the next steps that we have planned, so I'll keep it short here, but the areas that we'll be focusing our attention going forward are those new policy areas we just mentioned. So we'll be going through those, that policy review process, in addition to focusing on bias-free policing, which is a new area, and we'll host a

forum in early 2019 to get feedback before those are fully drafted, and we'll also host forums on the First Amendment and then focus on the SRO Manual with crisis intervention to follow.

The next area is accountability. So we look forward to receiving that feedback and finalizing those. There is a lot of work to get accountability systems actually up and running once we have those policies in place, including the development of two mediation programs under the Consent Decree.

The third is data collection, which will remain a priority for us in trying to get those areas moving along.

And then the fourth is training. So we'll be looking at roll call training to implement those policies that are being revised and also in-service training as well.

So we've planned our work to line up with the Monitor's work plan and believe that the work plan lays out the path to achieving the goal of compliance with the Consent Decree and that year three will be really critical to keeping things moving forward.

So unless you have any questions, I'll end there.

THE COURT: All right. Mr. Carey, I'll ask you to make any introductory comments you would like, including introducing your people who are here, if you will, if you don't mind.

MR. CAREY: Sure. Sure. And, Your Honor, I don't really have many general comments unless the Court would like for me to respond to something specific that the Department of Justice or the Monitor said. I will just take the time, you know, to come up and maybe introduce, like I always do, some of the folks that are in the room to the Court, and then I will defer because I'm sure, you know, you have the public and you may have some comments after that or some questions after that, and so then I will just kind of defer my general comments until after the -- the --

THE COURT: Yeah, that's fine.

MR. CAREY: -- the public speaks. So -- but as you can see, we have here our City Manager, Mr. De'Carlon Seewood. We have Judge -- our Municipal Judge, Judge Terry Brown. We have our Councilwoman Ella Jones. And then behind Councilwoman Jones is the Interim Police Chief, Frank McCall. And then next to Frank McCall, we have our City Clerk, Octavia Pittman. And then we have our Court Administrator, Ms. Christine Lanfersieck. So all of those folks are here. I don't think I -- I don't think I forgot anybody that actually works for the City.

So, you know, like I said, the Department of Justice and the Monitor have done a good job of kind of summarizing the progress that we've made, and, of course, we have our monthly status calls with you, Judge Perry. So, you know,

unless you have any particular questions about something that 1 2 was said, I'll just defer. 3 THE COURT: Actually, I have one question --MR. CAREY: Yeah. 4 5 THE COURT: -- that I know I'm going to ask you 6 later. So I might as well ask you now --7 MR. CAREY: Sure. THE COURT: -- because I suspect it will be part of 8 9 the comments. 10 MR. CAREY: Sure. 11 THE COURT: And that's about the -- can you -- there 12 were several comments about what people were hoping for in the 13 selection process of the new chief of police. So if you 14 wanted to address that at all. 15 MR. CAREY: Yeah. I mean -- I think, you know, there were several filings, I think, with the Court about that. 16 17 There were several folks who got up at council meetings and 18 talked a little bit about that and the public's participation 19 in that. Historically, how we've done our public 20 participation in it is that we -- you know, the City takes 21 applications, and then we vet those applications in a certain 22 way, and then we kind of narrow down those applications to a 23 select group of folks, and then we form citizen panels, and 24 then those citizen panels, you know, help the City interview

this kind of narrower pool of candidates. We have -- we also

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have employee panels, and then we also have, you know, a panel that would consist of our elected officials. And so we get a good sampling of what the community thinks about, you know, the narrower group of, you know, folks that may be applying for the job.

But, obviously, the Consent Decree is a big issue as it relates to who we hire for the police chief. The City wants to continue with its progress in reform and constitutional policing, and so understanding what the requirements of the Consent Decree are and kind of, you know, continuing to move us along in that process is a primordial goal for us, but, you know, the police chief -- there's also, you know, traits and characteristics that you need that are outside of that that we also have to evaluate as well.

So I think the last time we checked, 30 applicants or more?

MR. DE'CARLON SEEWOOD: 32.

MR. CAREY: Thirty-two applicants that we've had, according to the City Manager, so far, and so some of those are Missouri folks. Some of them are out-of-state folks. So we have a nice kind of sample size that we can kind of start the process with.

THE COURT: All right. Thank you.

MR. CAREY: You're welcome.

THE COURT: All right. Then I'll now hear comments

from the people who have signed up and requested to comment.

You all, I think, probably know the drill from before in terms of the light system. So it's a five-minute limit, and we'll put the light -- the yellow light comes on after a minute or I mean when there's a minute left.

So I believe Ms. Susan Warren is the first person we have. So, Ms. Warren, would you step up here to the lectern, and if you'll just start by stating your name, and then I'll hear anything you wish to say.

MS. SUSAN WARREN: With respect to the Court, I thank you for letting me be here. I give honor to -- I'm Susan Warren, and I give honor to the hierarchy in Ferguson. That's where I live. I'm a resident. I'm a homeowner. I'm a disabled homeowner, and I love Ferguson. I live there, and I've been there since 2011, and my purpose here is not to find fault but to speak and to give information that needs to be heard.

When I moved there in 2011, I noticed there -- there is -- let me just be -- I don't want to be nervous, but I want to be -- I want to be honest. There's racial issues in the city of Ferguson, and it's not new to anyone. We all know. It's in our country, and it just exists. We are faced with circumstances where it's not going to help our future as Americans in our communities, in our families, and in our municipalities. I myself have been corrected by the law, and

I appreciate it. And I am now fighting against where I come from or where I don't want to go, so to speak, and in me having to deal with this, I've been voicing it openly to different people, young people, all people, neighbors. I've broken up fights.

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I was arrested in 2014 by the City of Ferguson for voicing my opinion with a -- a dispute, I should say, with some people who wanted to clown on a Sunday morning at 5:00 a.m., and we clashed, and I was arrested. I was arrested. The young lady whose house it was -- she was given a summons to come to court. I was arrested. My truck was impounded. My dog was taken to the pound and said that she was a stray. And I was left inside of the jail cell for three days with a heroin addict who was sick, and we were -- she was denied toiletries or whatever. So I think after the third day, me being disabled myself -- I have an issue -- I was crying and was frantic and was like, "You know, I don't understand why you have me here. Why are we go through this?" And I started praying, and the CO came over and put the Taser up to my head and said, "There is no God," and that is my testimony, and this is true, even though I didn't come here to say that. That is an experience that I had. When we went to court, I brought it up, brought it out, and it was dismissed. It was just, "Okay. Well, you just go ahead on, and we will -- we're sorry about that," and that was it.

So down the line, Mike Brown, the civil unrest popped off. About six months before that, I had a conversation with the Mayor, who's a very nice man, about these stresses, these problems, and I told him, "We have a racial" -- well, I expressed, "Well, I think we've got a racial issue going on," and he just -- you know, he heard it. And six months later, you know, Mike Brown was -- you know, it was amok. And by me living right downtown Ferguson, I'm right there. So I seen it all. So I'm trying to protect my home because I'm -- I wouldn't have been given the -- I was blessed with the opportunity to be a homeowner. So I can't move. This is my home. I'm going to fight for it, point-blank.

And everything that has gone on down there -actually, I have PT -- PT -- whatever my doctor says, that's
what I got now, and I'm being, you know, helped. And my point
in telling you all of this is that there is a serious racial
issue.

I'm glad to see there's a black lawyer; there's a black here; there's a black chief. That is all good, and I'm glad to see that because it helps those of us that are in the community that are not on the side of the law know that we got to respect the law. That's a very good thing for them to see, that there are people of color that are abiding by the law, the law I respect, the law we need. The law has to -- it has to exist. We have to respect it. We have to have law and

order in our streets, with our children who are out of hand in the city of Ferguson. The teenagers that have grown up in the last five years, I would say, the civil unrest -- they're just wild. And, you know, we -- we need to do something about it.

I filed a restraining order a few months ago because all my cars have been vandalized because I've been voicing these things and saying, "You know, you wrong. The heroin needles can't be outside of my house," you know, and I'm just voicing it and maybe not in the most tactful manner but yet still voicing it and trying to be respect or have my own respect. I'm up under attack and have been, and I will be, but I don't have anything to lose because from where I come from, I can't go back, and I've just got to press forward.

THE COURT: Okay. All right. And so your time is up, but if you wanted to say anything in conclusion --

MS. SUSAN WARREN: Okay. In conclusion, I just would like to say that I -- those of us like me that are in the city of Ferguson -- we want to be a part of this change and hope that you would recognize like those of us with mental illnesses and things of that nature, to deal with us in a -- in a way where we're able to move forward because me, myself, I do have a problem, but that doesn't -- nevertheless, I still can be a part of the community, and I'm a homeowner now where there was a time where I couldn't hold a dollar, you know, and my life is changed, and I would like to see my neighbors do

that as well as the children. Have a positive -- just something to look forward to other than, "Well, the law is the law, and we're just" -- it's like the law is on one side and they're on the other, and I am very afraid of the cartel coming into my neighborhood -- you know what I'm saying -- because we're all American, and, you know, I just want to -- I just think we need to be mindful of -- I've heard a lot of talk, and I don't understand it all, but I'm just here to encourage the system but at the same time voice that there needs to be a little bit more empathy towards the people who have problems.

THE COURT: All right. Thank you very much, ma'am.

MS. SUSAN WARREN: Thank you.

THE COURT: Mildred Clines is the next person.

MS. MILDRED CLINES: Thank you, Judge Perry, for giving me the opportunity to speak today. My name is Mildred Clines, and I'm getting a little bit older, so I can't totally remember, but I -- I believe I've attended every status hearing, but something somewhere -- something is saying maybe I missed one, but I'm a 30-year resident of the city of Ferguson. I serve on the NPSC. I'm also a member of the Ferguson Collaborative. I am on the subcommittee, the Municipal Code Committee, and I also was a member of the Civilian Review Board Task Force, and so today, I'm tasked with speaking about the Civilian Review Board, but I would

like to talk about a personal experience that I had last year around this time.

I was arrested by the Ferguson Police Department, and we were -- I was participating in a -- a protest, and we were leaving the protest, and I asked the police officer did he -- he had said, "You all need to get a job."

Now, mind you, I've been on my job for 40 years and counting, and I was like -- we had just went through these de-escalating talks about, you know, when the police come on the scene, that they should use de-escalation tactics.

But when I asked him, I said, "Did you really say we need to get a job?"

He said, "Ma'am, if you don't leave, I'm going to arrest you."

And I said -- I responded -- I said, "For asking a question?"

And he said, "That's it." He got out and he -- he said, "You're under arrest," and he put my hands behind my back. As you can see, I'm not a small person, and he jerked my -- jerked my arm, and I asked him, I said, "Why are you being so rough?" Because as soon as he said, "Put your hands behind your back," I immediately complied.

And he said, "Why are you acting like you're trying to resist?"

And then I knew we had a problem, still a problem.

This was last year this time, well into this Consent Decree. 1 2 And people, you know, in the community know me because I'm 3 very active. I'm passionate about my community, want to move 4 forward. 5 And so the next day, I got a call from the Chief of 6 Police, and -- and I -- he asked me what happened, and I told him, and I remember asking, you know, "Do I need to come in 7

He said, "That's why I'm calling you."

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and file a complaint?"

So I came in and I gave my statement about what happened.

And so I have been waiting a whole year to find out the results of what I thought was a complaint.

So I hadn't heard anything, and then maybe six months, after people are inquiring, "What happened? What happened?" I'm like, "I don't know the results. I'm still waiting."

So I'm finding out that because the Chief called me the next morning, that the Ferguson Police Department actually took it on, but I didn't know; I didn't know that.

So as a person who's very engaged in the whole process, I think our Civilian Review Board -- I still have some questions about the training because last Monday, when we met with the Civilian Review Board, or a couple of weeks ago, whenever it was, it was some members of the community

questioning. We had questions, and so they told us that they listened to two cases, but when -- and 'cause see, I was one of the ones that we actually put the -- the Civilian Review Board -- the policy kind of together. So when we asked them about the appeals process, they had no idea about the appeals process. So I'm -- I'm thinking in my mind -- I'm like, "How could you listen to two cases and you don't even know the full policy of the Civilian Review Board and all the steps that" -- so I was like, "Did you tell -- did you tell that person they had a right to appeal?"

"No," because they didn't -- hadn't even considered the appeals process.

So it needs some more work to it -- the Civilian Review Board.

And I still stand here today also asking if you still consider the community talking more than twice a year for five minutes. There's many of us that couldn't make it today, maybe could have made it the last time, and this is the only way we can get our voices heard. So I appreciate you listening to me today, and I don't think I've missed anything, but thank you.

THE COURT: Thank you very much.

All right. The next person on my list is

Mr. Kennedy, Melvin Kennedy, and I understand you're here as

one of the -- a mediator; correct?

MR. MELVIN KENNEDY: I am. Good afternoon, Judge.

THE COURT: Good afternoon.

MR. MELVIN KENNEDY: And, in fact, I'm here along with Ms. Angela Lawson here on behalf of Community Mediation Services, and we have been working along with representatives of the Department of Justice and Interim Police Chief McCall for about a year and a half, I think it's been, in trying to help in putting together policies and procedures to address citizen/police areas of conflict that might be resolved through mediation as opposed to the traditional internal review and investigatory process.

And we wanted to be here today to just say to the community and to organizations that are here that Community Mediation Services is available to them to voice their concerns. You know, we're happy to facilitate meetings between organizations that have a difference and are not -- and those differences aren't being heard. We're happy to mediate disputes that individuals have. We believe that we're getting pretty close to a rollout of the police/citizen dispute aspect of mediation that was set forth in the Consent Decree, and we're ready to move forward with the aspect that has to do with citizen/citizen mediation, and we intend to engage the City with regard to any other avenues where we could be a resource to the City and giving people a chance to have a voice and to be heard other than being here at the

status conferences.

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And Ms. Lawson and I are going to be around after this hearing if anybody wants to talk to us about what the processes, you know, should look like or talk to us about coming out and speaking to -- to them or any other organizations that may have an interest. Thank you.

THE COURT: Thank you.

MR. MELVIN KENNEDY: Thank you, Judge.

THE COURT: Yeah, thank you.

And I would encourage people to, you know, contact Mr. Kennedy and Ms. Lawson if they think that there is -- I mean this -- at least to find out what you're doing even if they don't think they want to do mediation per se. It would be very helpful, I think, for everyone to know this is a resource available to the community. So I appreciate that.

MR. MELVIN KENNEDY: Thank you, Judge.

THE COURT: All right. Mr. Chasnoff, John Chasnoff, is the next person.

MR. JOHN CHASNOFF: Hello, Your Honor. It's John Chasnoff. I am a member of the NPSC and the Ferguson Collaborative.

And, first, I wanted to just remark that the collaborative has tried to address your concerns about us sending letters to you, which, you know, had no official way for you to recognize.

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THE COURT: Yeah. I do appreciate that the ones I got this time were signed by a couple of people, and that's very helpful. I just need a person because otherwise, as I said before, it's -- I don't know who it is for sure.

MR. JOHN CHASNOFF: Right.

THE COURT: So thank you.

MR. JOHN CHASNOFF: We recognize that, and we have designated those two people as our representatives to the Court. So when you get letters in the future from them, it's safe to assume it's from the collaborative.

THE COURT: Right. And I do appreciate that.

MR. JOHN CHASNOFF: Great. So I did want to talk to you some more about the selection of the police chief. So that search is currently underway, and the collaborative tried to take a look at the RFP that went out for police chiefs, and again, the website is a little bit unclear. We think we got the most current one, but we had some concerns about that RFP because it didn't mention, for instance, anything about problem-solving policing, and so I'm very gratified to hear from Mr. Carey that there is a recognition that the Consent Decree is a huge part of the police chief's new duties, but we didn't see that reflected in the application that went out, and so we're hopeful that they will make clear to the candidates that that's really an important consideration and problem-solving policing is something that the new chief has

to get behind.

I did have a brief discussion with one of the members of the DOJ about this issue of the selection process, and so our concern was there's nothing in the Consent Decree that specifically spells out that this is an area of -- of interest or that the Consent Decree would be concerned about the selection of the chief. So, again, I was gratified that you brought the issue up and do evidently consider it an important interest of the Court. In the discussion with the DOJ, I think my sense was that they too were very interested in the process and had had some discussion with the City about it, but there was nothing in the Consent Decree. We looked at the hiring and the hiring sections, which really have to do with the police department hiring officers, but nothing in the Consent Decree about the City hiring the chief.

But I did want to read one paragraph from the Consent Decree. It's paragraph 251. It says, "First-line supervisors and FPD command staff play a critical role in ensuring lawful, effective, and community-centered policing. The City will ensure that FPD supervisors provide the oversight and guidance necessary for officers to police lawfully, safely, effectively and establish and enforce a culture of community policing throughout the department."

So I do think that that language is ample reason for the Court to take an interest in this selection process.

The Ferguson Collaborative does have some recommendations about the process. One thing we did was watch the process in -- the recent process in the City of St. Louis, which had a historic amount of citizen input. The Mayor appointed a citizen committee which actually ran the search for the police chief and held forums and conducted the process all the way to the point where the decision makers then could make a decision. We were impressed with that process, and it went -- even if some of us had concerns about the final selection, just the fact that the process had legitimacy went a long way in establishing better police community relations.

So we would recommend that the City holds a town hall meeting to gather public opinion on the desired qualities in a chief. We'd like to see a more public process for placing citizens on these interview panels, for instance, more robust notification and some consideration of the demographics of the city to make sure that everyone's represented on those. We'd like to see those meetings in the evening where people who work could attend. And we were concerned during the last process that the questions were prewritten. We'd like to have more spontaneous questions coming from those interviewees and allow them to better express their concerns to the candidates. And we wanted to make sure that community policing and specifically problem-solving policing are crucial criteria in these selections.

So if I have just a few seconds left, I wanted to make a couple comments about the CRB. We heard today that the disciplinary matrix isn't finished yet and it's holding up the work of the CRB to try to recommend disciplinary processes when they don't have the disciplinary matrix. So we just want to make sure that stays a priority.

And we'd also like to see a more robust community input process in the selection of CRB members so that there's a public hearing where people can comment on their knowledge about candidates and make recommendations for or against.

And, finally, just on the comment process, which, again, we're very pleased to see this 30-day comment process, it would be very helpful for us if we could see a summary at the end of what were the comments that came from police and what were the comments that came from citizens so that we could see if there are divergent opinions on some of these policies and then maybe hold appropriate forums and discussions where we could iron out those differences. I think that would help, again, with the process of building community legitimacy.

Thanks so much.

THE COURT: Thank you.

All right. Ms. Randels, Melanie Randels, is the next person listed.

MS. RANDELS: Good afternoon. Again, my name is

Melanie Randels. I am a Ferguson resident. I have been one for about nearly five years. I am also the newest appointed member of the Ferguson Human Rights Commission, and this is my first time attending a federal status hearing. So thank you for having me, and thank you for my community for showing up.

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There are just a couple of things that I wanted to be able to put on record and to speak about regarding what's happening in the community. First and foremost, I've been on the Human Rights Commission since September, and about a month later, I was called to the scene of Park Ridge Apartments in Ferguson, which is referenced in paragraph 25 of the Consent Decree regarding the displacement of Ferguson residents. There was a crisis that occurred that affected roughly 13 units at first, and the situation has ballooned to affect the entire complex. The reason that I'm here is because, upon investigation of the complex, I realized that the Human Rights Commission was left out of the Consent Decree. Although we were established during the time of the uprising, there is no parameters or accountability factors in place within the Consent Decree for us to abide by nor have support from our council or community regarding. So I wanted to bring that to your attention, and I don't know if there's anything that can be done about it at this point, but I am -- I am really stressing that we need more assistance in the area for the Human Rights Commission.

THE COURT: Can you tell me who -- who appointed -- who appoints the Human Rights Commission as it currently exists?

MS. RANDELS: The Mayor appoints the Human Rights Commission.

THE COURT: Okay. Thank you.

MS. RANDELS: Yes. So I am the Third Ward representative for the Human Rights Commission. We are supposed to be able to investigate discriminatory issues regarding housing, public accommodation, as well as employment.

The reason why I stepped in on the scene that day is because I received a call from a pregnant woman who concrete had fell in front of her door, and it led to an investigation from Code Enforcement in the City of Ferguson, the realty company, and it is now being discussed a lot. I believe there is discussions behind the scenes and people are working, but there is still a lot of confusion regarding the residents. I represent the community. I help the community, and I have several complaints that I took on behalf of the Ferguson Human Rights Commission. I submitted them to the council with our current process, and I also submitted them on a state level to the Missouri Human Rights Commission, with Dr. Alisa Warren. However, there has been some confusion regarding Senate Bill 43 around the parameters that we actually have to investigate

for the City of Ferguson in our level, and so there's -- what I'm understanding is that there are three levels. There's Ferguson, and then it goes to the Missouri Human Rights Commission, and then here I am now because I promised the tenants that I would take things to the highest level that I could until we begin to get some resolve regarding their individual issues.

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I have been speaking with my team with the Human Rights Commission regarding kind of reevaluating our current processes and plans so that we can include a better process for complaints and probably something more cohesive amongst the three entities that do have the right to investigate these on a state, local, and federal level, and I will be coming back to present what we have created as well as to put more, I guess, teeth in the game for what we do.

I know that other Human Rights Commissions have the ability to fine tenants or landlords who are not complying, who are neglecting their properties, and we are working towards something of that nature with our Human Rights Commission. We're working with Southeast Ferguson Neighborhood Association, ArchCity Defenders, Legal Aid of Eastern Missouri, and a lot of other entities to be able to aid and assist with these tenants.

What I said earlier is that we need a more cohesive process. We need more support, and I'm not sure what can be

done as far as on paper to have more accountability for us,

but I'm just bringing that to everyone's attention. So that's

3 | it.

4 THE COURT: All right. Thank you. Yes. Thank you.

All right. I may be mispronouncing this.

Bobby Stierwalt.

MR. BOBBY STIERWALT: Good afternoon. Thank you, Your Honor. Bobby Stierwalt.

I'm very glad to hear about what's going on with the Ferguson Human Rights Commission because I am a landlord and that is why I'm here.

When my son was a teenager, I was rebuking him for something once, and I said, "Okay. So what's your attitude going to be?"

And he said, "I don't like it. I appreciate it."

And that is exactly how I would like to respond to Ferguson code inspectors. I don't have to always like it. It just has to stand to reason.

The Mayor told me that he sometimes himself has to give the code to the inspectors, but when this inspector tells me to put in a lightbulb, I said, "Well, that's between me and my tenant. That's not code." And then he growls. And if you say something, then he targets another property.

Well, I have a really nice property that I'm specifically talking about where the fence is falling down on

the neighbor's property, totally falling down, and I asked the code inspector, "Would you please look at this fence?"

And on the other side, the whole backyard is growing with kudzu, which grows a foot every two weeks when it's warm, and he will not even turn around. Meanwhile, this is a super nice house.

I go over the inspector's head, and his boss comes out. I ask him, "Would you please come and look at this house?"

He walks through it and says, "This is a nice house."

And the inspector is told to back off. However, he

comes and pesters my tenant over and over and over.

So the problem, it seems, is that -- like one of the series of questions from the DOJ regarding police officers.

One of them is what should be included in the policies regarding how officers are disciplined?

Now, Terry Neil -- O'Neil, a previous supervisor of inspectors, was a really good guy. You could talk to him. He would sort of act as mediator, and it really -- it worked good. So the person in the relationship really does matter. It always does.

But what I'm saying is that just to tell an inspector to back off when there's egregious things occurring, well, that's not discipline, and then he can just go somewhere else and pester you somewhere else.

Well, if you really are in a violation of something, let's do it. I want to say I appreciate it; I don't like it necessarily, but I appreciate it because we have to have -- we have to have order.

So there are other questions from the DOJ. By what means do you think civilians should be able to tell the Ferguson Police Department about their experiences with officers? There should be a means not only for officers but all city officials. And they deserve respect.

And Mr. Chasnoff referred to the process of building community. To communicate that we're in the process of building community is something that is a never-ending job because, in the title of one of my favorite books, Relationships: A Mess Worth Making, we're all a mess and we're in this together. That's community. So there has to be reasonable communication.

This same inspector -- I will say his name for those -- Mr. Richard Samson -- he was recently kicking the door of my tenant according to my tenant. Kicking the door. This same inspector, on that same porch, after he walked through the house, he says, "Well, that was easy." He just told me a couple small things. Fine. But then he says to the -- just to the air, "Make an effort." He just screams to the air, you know, like he's talking to the whole neighborhood. So it sounds like a little bit of an anger

problem or, as I said to our mayor, talking about this privately, I said I think that the inspectors need to know that they're significant. Well, they are. And we should communicate that significance regularly. In fact, I've thought why can't code inspectors see themselves as community liaison — community engagement liaisons, like the police are sort of encouraged to do as well, because it's all about community and it's all about relationships, and nobody can be right all the time.

But I like also that phrase "problem-solving policy," to have instead of an authoritarian attitude, a problem-solving attitude. And I'm going to say that is necessary for the view of the -- the view that citizens, that residents have toward looking at city government.

I want -- I want to be seen as a landlord. I work hard at that, at them seeing me as being reasonable and fair.

And to quote one minister, "If you demand perfection, you get nothing." Well, I don't expect perfection from any person in government because they're people, but there's the Westminster Confession talking about the sins of superiors against subordinates and the sins of subordinates against superiors. Well, my goodness, it's a relationship. It works both ways. So we hurt each other or we mistreat each other sometimes, and, yes, there should be forgiveness and a change of attitude, repentance, but inferiors don't always give the

respect that is due to their superiors. That's a fact, and that causes problems. On the other hand, superiors do not always show that same respect to their subordinates, if you want to call them that, and one of the specific items listed about the sins of superiors is expecting something that is beyond the ability of the person to provide.

Well, how are you going to find that out unless you talk and make yourself approachable rather than -- rather than letters, letters, letters, letters. Who knows how many dollars are spent on useless letters, just repeat, repeat, repeat, when a little communication that is respect -- showing respect -- that's motivating. So, yes --

THE COURT: So I am -- you are over your time. So if you have some comments in conclusion --

MR. BOBBY STIERWALT: Building community is a process, and it requires communication, and -- and I care about you. Thank you.

THE COURT: Thank you. Thank you.

Ms. Purnell.

MS. DERECKA PURNELL: Hello, Your Honor. My name is

Derecka Purnell, and I'm a staff attorney with Advancement

Project's National Office, which is located in DC. We've been working in St. Louis for a number of years and have been working closely with the Ferguson Collaborative and the NPSC since about 2014 when both entities were established.

Normally, the Advancement Project -- because we're a multiracial civil rights organization, we sort of play a back role and really try to help the community develop a sense of empowerment and be able to tell their own stories, but because of the date change, a number of the Ferguson Collaborative members had to reschedule, and so that's why I'm up here today.

The Ferguson Collaborative have two additional and really, really simple requests that you've already heard today, and I am just here to reiterate it, and it's basically regarding community input and the speaking. And so Mr. John Chasnoff -- he already, you know, requested that the Court, the parties permit the City of Ferguson to publish two separate summaries from the community input -- one that comes from the police and one that comes from the community. So as the DOJ, I think, Attorney Marks said, that once the feedback process has been completed and they publish what's been online, it will be easier to track which comments came from where to show where the community's interests and the police interests diverge or converge, and that just creates a stronger spirit of transparency.

An additional request regarding community input as relates to the policies and procedure is that before the community forums, the Ferguson Collaborative requests that the policies are published online so the community has an

opportunity to review them and show up to the policy forums prepared, and once they are actually at the forums, that the copies of the policies have been handed out so people can track their comments and track their thinking. And then, again, those comments are taken, you know, compiled, and then published publicly on either the Monitor's website and/or the City of Ferguson's website.

The second request is regarding speaking at every hearing. I know the Ferguson Collaborative has made this request about a year ago. And, you know, Judge, as you heard today, you know, Ms. Mildred Clines was arrested a year ago and didn't even have an opportunity to relay that information to the Court, and I know you're probably thinking, well, there was the June status hearing that was open for public comment, but just working as a lawyer, what I've noticed is that members of the community and the Ferguson Collaborative have really tried to affirm the Consent Decree process, and sometimes that comes at the expense of them telling their own stories about when they've been targeted or even potentially suffering an unlawful arrest, and so the urgency in the June hearing was really centered on getting those cases dismissed, those 6,000 cases that are now being audited.

So now, here we are in December. Ms. Clines, who was a member of the task force that formed the CRB, has the first time as an opportunity to relay to the Court this potentially

unlawful arrest that still is unresolved. There still isn't any opportunity to know, you know, what's happened. And, yeah, we understand that the parties are working diligently to get, you know, the CRB and other -- other things off the ground, but without regular communication with the Court, we just think that it's hard for the complete picture of the Consent Decree implementation to -- you know, for the community and for the Court to be on notice.

Additionally, it sounds like Commander McCall is serving in a dual-capacity role as the Acting Interim Chief, and I believe he was the person who was responsible for overseeing the implementation. So to the extent there's a capacity issue, we think that the community can definitely serve as, you know, an alternative voice to give that consistent input to let you know if there are things that are falling through the cracks given the new capacity issue while the search is ongoing.

And then, finally, I think it's really important for the Court to take notice of the Department of Justice's recent memo regarding consent decrees. I think that it's unclear whether the memo that constrains the power of the DOJ to initiate consent decrees, you know, applies to the ongoing consent decrees or ones already in effect. I'll be curious to hear from the United States. But that, you know, the spirit of antagonism against the Consent Decree is just -- I think

the Court should take notice to that. And to the extent that is going to be unclear, I think the community should be particularly alarmed, and if there are any changes in how the consent decrees are going to be implemented, the ones that are new or the ones that already have been in effect, I think the Court should permit the community to give notice to the Court about what potential changes there have been, and I know that the community, again, has asked this a year ago. It would be great to get an answer from the Court today or in some official capacity so we'll know how to plan in the future.

Thank you.

THE COURT: Thank you.

All right. Ms. Topps, Katurah Topps.

MS. KATURAH TOPPS: Good afternoon, Your Honor.

Katurah Topps on behalf of the NAACP Legal Defense and

Educational Fund, LDF.

attorneys and activists who have advocated for and are now closely monitoring the progress of the Consent Decree. On November 30th, as you saw, we filed our written comments to the Court providing background about LDF's work on police reform in Ferguson and nationally. In those written comments, we laid out 14 different areas of the Consent Decree that we recommend prioritizing. Today, I'm going to speak about two of those areas, one being the City's obligation to develop a

bias-free policy and protocol and, second, the process for selecting the police chief.

First, the bias-free policy and protocol. As Your
Honor is aware, the Department of Justice did an investigation
into the Ferguson Police Department and found that the
Ferguson Police Department's racially discriminatory and
unconstitutional policing practices are systemic, deeply
entrenched, and disproportionately target and harm
African-Americans at, quote, "nearly every stage of Ferguson
law enforcement." Worse, the DOJ report noted that Ferguson
has long -- sorry -- quote -- "long recognized but failed to
correct the consistent racial disparities caused by its police
and court practices, and the discriminatory effects of
Ferguson's conduct are driven at least in part by
discriminatory intent."

Despite this, we are nearly three years into the Consent Decree, and City officials have not developed a bias-free policy or protocol for their officers as the Consent Decree requires. This bias-free policy would show the City officials' commitment to providing policing services in a nondiscriminatory manner, which is still in issue today. The delay in development and implementation of this policy sends a message that bias-free policing is not a priority of the City. Further, all of the policies discussed today and that will be implemented in the near future should all reference bias-free

policing, yet, currently, there is no definition for that because the policy does not exist.

That said, we are encouraged to see that the Monitor's work plan was filed on November 30th and it does mention bias-free policing. However, the plan requires the City to submit a mere draft of a bias-free policy by July 31st, 2019, and there is no completion date.

Given the undeniable impact of bias policing on Ferguson residents, we ask the Court to urge the parties to make development and implementation of the bias-free policy a top priority and produce a bias-free policy within the next 60 days.

The police chief. Consistent with national best practices, LDF supports the Ferguson Collaborative, the Ferguson Collaborative's request that the community members be a part of the selection process for the new chief. The City has now -- well, will now have three new chiefs in two years, and so to ensure that the next chief is one who values compliance with the Consent Decree and is committed to transforming the police department, the Ferguson community must be involved at every stage and from the beginning.

In the 2016 national search for the police chief, the City rightly conducted a search involving community members; however, the community's participation was very limited.

Residents were only able to interview the finalists, and even

then, they were given prewritten questions, and when they had their own questions, they were not allowed to ask them.

This time around, we stress the importance of meaningful community participation at each stage. In fact, the Consent Decree expressly requires both the NPSC and the CRB to participate in the hiring process of officers.

Additionally, soliciting community input from stakeholders is very common. It's happening all across the country in many cities, but particularly, in Ferguson, it's critical to maintain transparency and to improve the police community relationships.

Because all of the applications were due on

December 1st for the new chief, now is the time for the City

to specify exactly how they're going to meaningfully include

the community in this process, and we would ask Your Honor to

ask the City to make sure that -- that whatever their plans

are for community input are specified and relayed to the

community.

Finally, Your Honor, I just want to note that the Monitor's last status report acknowledges that, quote, "Most of the implementation phase of the Consent Decree remains incomplete," and so, therefore, most of the implementation stage of the Consent Decree can't be -- can't be audited or tracked or monitored. Nearly three years in, this is alarming, to say the least.

To move things along, we urge the Court and the parties to consider the areas that we've recommended prioritizing in our written comments, such as data collection, Amnesty Program, and under that Amnesty Program, including full review of the remaining cases such as the cases based on resisting arrest, and officer training.

As you know, LDF continues to support the Ferguson community. We're happy to answer any questions that the Court may have.

THE COURT: Thank you.

MS. KATURAH TOPPS: Uh-huh.

THE COURT: I believe the next person who signed up was Ms. Butler, Cassandra Butler.

MS. CASSANDRA BUTLER: Thank you, Your Honor.

I too am a Ferguson resident, and today I wanted to talk about my concern about how -- how we're going about doing a new police chief search and how that will impact the momentum of the Consent Decree. An important aspect of successfully implementing the Consent Decree is successfully changing police culture. This is a difficult task and requires consistency in leadership. Those resisting change often see times like these as a window of opportunity to undermine that leadership. So -- and this can be done in many ways when you have that kind of window of opportunity.

I'm -- I'm thinking about even our council person who

just resigned to become St. Louis County Prosecuting Attorney, and I see today he has an office of 60 prosecuting attorneys that are voting on whether to join the St. Louis City Police Association, and that strikes me as one of those ways where a window of opportunity happens and your staff can undermine your leadership.

The Consent Decree already has had serious assaults on the timeline, mostly dealing with changes in Monitor.

I think the hiring of an entirely new police chief has the ability to further impede the momentum and slow down the progress and impede the timeline that we're looking at. A new police chief would have to learn the dynamics of the department, its personnel, where the department has been, and where they are in the process of changing.

I am also concerned about the political dynamics we have on our council, and even though I note that hiring the police chief is ultimately the city manager's job, the city manager serves at the pleasure of the council. So those political dynamics also concern me. So I just primarily wanted to let you know that I am concerned about the impact that this new police search will have on the timeline and the ability to achieve success in this Consent Decree.

Also, while I'm up here, I also want to mention I'm glad to see that we're making forward motion, movement on the community mediator portion, and I'm just mindful that one of

the impediments to that community mediation piece is the funding of that. Of course, like the Monitorship for you, for the Court, is paid for by the City, but there really is no allowance made for funding for the community mediators or for the Civilian Review Board in that matter. The City does provide some support for the Civilian Review Board, but things like this all new board who has never done this process before and doesn't have experienced people to refer to -- they can't go to the national convention where civilian review boards meet to get that kind of knowledge and to learn. So there is -- there is some weaknesses concerning funding for the CRB and for the community mediation piece, just for your information.

Thank you.

THE COURT: Thank you.

All right. Mr. Volek or Ms. -- I think Mr. Volek.

Do you wish to respond here? I don't know who wants to go

first, but maybe you should, yeah, to any of the points made.

MR. VOLEK: Thank you, Your Honor.

And I want to extend our thanks to those who were able to come to this hearing and present. We really appreciate the feedback that we've received throughout this process of implementing the Consent Decree.

I'll touch on a few issues that were raised during the comment period and then address a few additional issues

after that if that's all right.

One of the main issues that we heard about was the chief selection process. The -- Mr. Chasnoff commented that he spoke with the Department of Justice about this issue, and it is, of course, true that we try very carefully to --

THE COURT: Can you make that point up more to you so I can hear you better?

MR. VOLEK: Yep.

THE COURT: Thanks.

MR. VOLEK: We try very carefully to respect the personnel decisions of the City. This is not something that is specifically laid out in the decree. At the same time, decisions must be made that are consistent with the requirements of the decree, and we are all on the same page — the City and the Department of Justice alike — that the selection of this next police chief is of critical importance to the success of the Consent Decree.

We have met with the City Manager, Mr. Seewood, to discuss this issue. The City has some productive ideas about how to solicit community feedback. We were very encouraged to hear that the City is looking for ways to solicit feedback on the front end of the process regarding what citizens of Ferguson really want to see in their next police chief in addition to some of the mechanisms that were used the last time around. So we'll continue to work with the City and

provide any support that is requested, and we certainly are encouraged that everybody's on the same page that this next chief selection is of critical importance to the integrity of the Consent Decree.

I want to briefly talk about Ms. Randels' point about the Human Rights Commission. During the investigation and the negotiation of the Consent Decree, we spoke with members of the Human Rights Commission that were members at the time. That commission has a bit of a broader mandate than only focusing on criminal justice issues, as reflected by some of the comments today, and so there was a decision made not to include or specifically name that group into the Consent Decree. That said, the Consent Decree does set forth an overall mandate for the City to strengthen its partnerships with all communities and all community groups. So we would encourage the City to do that, although that is separate and apart from the Consent Decree.

Third, a lot of issues came up around accountability. In particular, Ms. Clines talked about accountability and how complaints are handled. I think it really reflects just how important it is that the accountability policies get put into effect. The new suite of policies covers all manner of this, of this system, including taking complaints, how those complaints are passed along to investigators and investigated within the department, and how those investigative files are

then passed along to the Civilian Review Board and reviewed by them. It also covers the disciplinary matrix, how discipline is imposed if an investigation yields a sustained finding against an officer.

We think that the public feedback process is really important, and so we are going to wait to implement those policies until we do have public feedback, which is set for around February, but in the interim, we are, of course, attuned to making sure that complaints are taken seriously, and we are working with the City on that, but once those policies get into -- get put into place, we think it will really go a long way to having clearer and more consistent application of accountability systems.

Part of that is the mediation program that

Mr. Kennedy spoke about. The Community Mediation Services of

St. Louis is a real asset for the City, and we are just

thrilled that they are partnering with the City of Ferguson to

get these mediation programs off the ground. As we've

mentioned in previous hearings, the whole point of these

programs is to foster greater communication between citizens

and residents of Ferguson and the greater Ferguson community

and the Ferguson Police Department. So we're very encouraged

by that.

Another issue that came up was policies and the policy review process. We've really tried to be as responsive

as possible, and I think that the system has really been honed well, in large part due to community feedback about how that process should look. Early on, it was suggested that we hold forums on the front end, as Ms. Marks mentioned, before policy was fully baked, as you say, to make sure that that feedback really shaped where the parties went in developing those policies. We've continued to do that and will continue to do that.

There was a suggestion that we provide the policy in advance of those forums. It's very difficult to do that because we wanted to get the feedback before that policy even existed.

THE COURT: Right. The purpose of the initial forums was to get ideas for how the policy should be developed. So it doesn't exist at that time; right?

MR. VOLEK: That's correct, Your Honor. That said, the existing, old FPD policies do exist, and those have all been put online. So we would encourage individuals to pull those old policies in advance of any forums. We also provide at the forums a sort of one-page or two-page summary of the issues that we're discussing, just to give people some context to make those forums more meaningful. So we'll continue to do that as well.

With reference to the comment period, the 30-day comment period, that's been a great improvement to the policy

review process, and we really applaud the community for bringing that to our attention and suggesting it. We got some really helpful feedback, as Ms. Marks mentioned, about the use-of-force policies. We'll continue to work with the parties to discuss how to best implement that. It's turned out to be a more arduous process than we thought just because we got so much good feedback, but we're working very hard to incorporate it.

At the conclusion of that process, the completed policies will be posted on FPD's website, and those will be made clear that these are the completed policies, and we'll also work with the parties to discuss if there's any other way that we can provide feedback regarding how that process went, what kind of feedback we got. The one concern is we want to create a climate that encourages people to submit comments on those policies rather than chills it. So we'll have to think carefully about how to best do that.

THE COURT: Let me ask you a question. One of the written submissions made the point that some of the initial policies that were put out for 30-day feedback -- there was a bunch of them put out at once. Eleven, I think. Was that because this was the first time you'd done it and you had those built up, or is that just the normal way, and do you think there's -- can you address that issue about it being too much to deal with in the 30 days?

MR. VOLEK: Absolutely. It's not just because we had a backlog. We've actually -- we talked to members of the community about how to best do this, and we decided to go subject area by subject area. The reason that there were so many during the first period was that that was the use-of-force policies, and there are just a lot of use-of-force policies. That said, there was a lot of repetition in them, which was something of a help, I hope, because a lot of the firearms -- a lot of the weapon-specific policies about firearms, tasers have very similar language. But that said, we totally recognize that it was a lot. We really tried to strike a balance of giving enough time for real, sufficient, meaningful consideration by the community and for them to provide feedback while also keeping this process moving along. The good news is that I don't think that there's any other policy area with nearly as many policies. As Ms. Marks said, the next, body-worn and in-car cameras, is two policies. Accountability, I think there will be four in total.

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The one other point that I think is critical is that 30-day comment period is really for the purpose of getting comment before the policy is finalized and put into effect, but that's not the only way to provide comments on policies. Even after a policy is put into place, after roll call training is delivered and it goes into effect, we welcome all

sorts of comments from anybody who wishes to submit them.

Now, those policies, obviously, won't create changes before
the policy is implemented, but there is a review for each
policy considered within the Consent Decree, and so those
policies will be considered on a rolling basis. So I just
want to be clear that it's not, you know, a firm end date
window where once that window is closed there's no other
opportunity for comments to be provided.

THE COURT: Okay. Thank you.

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MR. VOLEK: One of the last points that came up during the comment period was concern about the enduring commitment of the Department of Justice to this Consent Decree, and the consent decree memo of November 7th was referenced, and I just want to be clear that that November 7th memo lays out guidelines that apply to future decisions to enter into consent decrees. It does not, by its own terms, affect any existing consent decrees, and we remain as committed as ever to this case and to every consent decree, and indeed, you know, the Department of Justice always has internal processes for deciding whether a consent decree is appropriate or whether a different form of agreement or remedy is appropriate. There are some cases that require consent decrees and some cases that don't. We went through our own internal processes in this case years ago to decide that here, because of the nature and breadth of the violations of the

Constitution, a consent decree was appropriate. That decision has been made, and this, the 2018 memo, doesn't change that course at all. We are absolutely committed to the implementation of this decree and making that as effective and efficient as possible.

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I just want to turn to a few other points. Overall, I think that the comments really reflect both some encouraging news and also the reality that real change takes a lot of hard work and it takes lot of time, but I do want to be clear that this reform process is working, and that is due in large part to the commitment of the City and the police department and the Monitoring Team. Just to give you a bit of a sense of some data to back that up, this has been talked about in the past by the City, but just talking on the court side of things, there have been 44,000 cases in total that have been dismissed since 2014; 8,000 of those or -- sorry -- roughly 6,000 of those were pre-2014 cases. So of those 44,000, that includes 75 percent of all cases from before 2014. also been over a million dollars in court debt that has been dismissed by the City of Ferguson, and significant changes to the court system have been made to make sure that that continues in their approach to how to resolve criminal cases.

Taking a step back, that has had its intended effect, not only in the court system but on Ferguson's approach to law enforcement overall. The problem we identified during our

investigation was that the court side of things, of operations really created a desire to maximize law enforcement operations for the generation of revenue, but because of the steps that the court has taken to minimize the impact of -- to minimize the revenue-generation incentives, we've really seen a turnaround on the law enforcement side as well. And just to give you a bit of a sense of that, in 2013 and 2014, Ferguson Police Department averaged around 21,000 citations per year, and over the course of the last three years, they've averaged about three and a half thousand. It's a drastic change, and it reflects that Ferguson's really refocused its law enforcement efforts on public safety. That's also evidenced by the fact that crime statistics reveal that that diminishment of citations each year hasn't had any negative effect on crime. In fact, it's the opposite. Violent crime has gone down each of the last two years. We realize that real reform takes time and it takes change, but those numbers are showing, at least preliminarily, that the Consent Decree reforms are taking real hold in Ferguson.

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Now, there's much work to be done. That's for sure, and we understand that there are concerns that Chief Moss' departure is going to disrupt the good progress that's been made. We would like to thank Chief Moss for his tenure and his commitment to this project. We also want to thank Chief McCall for stepping in and taking on those responsibilities.

He has been a tremendous asset for the department, and we have really appreciated working with him as a Consent Decree Coordinator, and we're sure that his leadership will move the department in a positive direction.

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Chief McCall serving as chief does create a gap in the Consent Decree Coordinator position. We're already feeling the impact of this. There are a few things that we are hoping to get finalized that we've been waiting on for some time. One example of this is a more robust internal tracking sheet for misconduct complaints. In September, just before Chief Moss left, we asked -- we provided, together with the Monitoring Team, some feedback on the Ferguson Police Department's internal tracking sheet. It's an Excel spreadsheet for monitoring misconduct complaints and how those investigations proceed, and we provided some feedback regarding how that can be strengthened. We're still waiting for a response on that. We realize that there's a lot of disruption within the department with Chief Moss' departure, but that's a really critical thing that we'd like to see move forward.

Ms. Marks talked about the data collection process. There's been a real commitment from the police department to be clear, and, you know, Chief McCall and City Attorney Carey have really been working hard to try and do as much as they possibly can on that front, as has the person that's been

assigned to be our key liaison for that, a lieutenant within the department. The problem is the lieutenant that we're working with also has patrol supervisory responsibilities and that lieutenant is also working on developing roll call trainings for some of the policies that we've been developing, and it's just a lot to put on one person's plate. We will continue to work with whoever the City designates as our liaison, and we'll do everything that we possibly can to advance the ball, but we are concerned that as we move forward and the requirements of that project increase that there is a capacity issue there. On the horizon, there's going to be training needs that are quite robust, and Ms. Tidwell has talked about the needs within the department there.

Now, to be clear, these are all requirements of the Consent Decree, but they're also just responsibilities that any police department needs to be equipped to fulfill -- to track misconduct investigations, to organize how it collects and analyzes data, and to develop a plan for providing appropriate training. And so we urge the City to figure out how to best handle these in the most efficient way possible. If they can do so with existing personnel, so be it. Like I said, we have some concerns about whether that's possible, but we'll work with anybody who -- who is assigned to the task.

As a final point, separate and apart from internal Ferguson Police Department matters, some issues were brought

up about the Civilian Review Board. One point that I wanted to flag for the Court -- there are nine seats on the Civilian Review Board; currently, three of those seats are vacant, and they have been for some months. Additionally, the term of an additional three members will come up for renewal in March of 2019. So right now, the Civilian Review Board, while it's trying to do a lot of great work and is doing a lot of great work, they only have six of nine members and are set to lose potentially three more. It makes the work very difficult. They have a quorum requirement that requires five to be at a meeting. So if there's more than one person that's absent, they can't meet. We've been asking the City to fill those vacancies for some time. We thought that they were on the cusp of doing so. To my knowledge, that still hasn't been done, and so we would ask the Council to do so immediately. The decree certainly requires it. Paragraphs 406 and 407 require -- and the City has agreed -- to commit to ensuring that the CRB has the resources that it needs to do its job effectively, and so that's a real priority to make sure that that organization continues to grow and thrive and serve the purpose that the decree intended. THE COURT: All right. Let me see if I had any

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THE COURT: All right. Let me see if I had any other -- I think you touched on the items I wanted to ask you about.

Yeah, I think you did cover the things I wanted to

ask about. Thank you.

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MR. VOLEK: Thank you, Your Honor.

THE COURT: Mr. Carey.

MR. CAREY: Thank you, Your Honor.

So you've heard a lot of information today from our citizens, obviously from the Department of Justice. The Monitor also spoke earlier today. I'll try to summarize the City's comments as it relates to some of those, those issues, and then make some other general comments as well.

All right. You know, there's always a balancing act between the concept of transparency and actually getting things done in a representative form of government. You know, public participation in the selection of the police chief is something that's really important to the City, as I stood here and said earlier and as, you know, historically, the City's practices would convey. You know, but -- you know, at some point, you know, the public has to rely on the people that they elect as well. You know, they elect people to do a certain task, and so those folks, you know, who are elected set about doing that task, and it can be somewhat arduous to, you know, abrogate that representative form of government, you know, in every task that we try to accomplish, you know, as a city while at the same time, you know, trying to put, you know, policies, procedures, and protocols in place to make sure that transparency is something, you know, that our

citizens feel like they are getting. So we're struggling with that. I think that's something that we, you know, quite frankly, may struggle with, you know, continuously, you know, depending upon, you know, whatever issue is being addressed.

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I heard some comments about the priorities of the Consent Decree and, you know, how we rank them and, you know, how the City goes about doing its -- its compliance under the Consent Decree. As you know, the parties, you know, years ago got together and decided to prioritize what the parties thought were important for purposes of compliance under the Consent Decree and trying to meet the requirements of the Consent Decree within the time frames allowed, and that did include some -- some meandering from the deadlines, obviously, that were set in the document. You know, I guess from the City's perspective, you know, we'd certainly like to have, you know, a bias-free policing policy in place. We don't want the perception to be given that because a bias-free policing policy, you know, that was called out in the Consent Decree is not in place that we somehow support, you know, bias policing, you know. So we have done some things in terms of what we have developed and what we have implemented that sort of address tangentially some of the issues that you will see in a bias-free policing policy.

THE COURT: In other words, you're telling me you're trying to comply with it even though you haven't issued the

| policy?

MR. CAREY: Correct. You know, all throughout a lot of the policies -- you know, the accountability policies, use of force, all these types of things -- those policies are designed to be bias-free. So this idea of what's bias-free permeates throughout all of the policies that we -- that we're developing and implementing. So, you know, I just don't want to give this perception that the City is somehow ignoring the idea of bias-free policing. We just, you know, haven't gotten to that policy yet. There's a lot of policies that I wish we could say we've gotten to already. You know, it's just, you know, it is what it is at this point, and, you know, we are trying the best that we can.

One of the things I wanted to talk about was the issue of the amnesty concerns that the Monitor raised in her, you know, initial comments.

THE COURT: And just so it's clear --

MR. CAREY: I'm sorry. Yeah.

THE COURT: -- the public letters are -- have suggested that you should grant amnesty in all the older cases. The issue that the Monitor was talking about was the things that were listed as category two basis --

MR. CAREY: Right.

THE COURT: -- for amnesty, which is "We're not granting amnesty because there's a real victim who is

intending to prosecute this," and the Monitor wants to know have you checked to make sure that victim is -- really still wants to prosecute; right?

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MR. CAREY: Right. Right. And so I think that's part of the decision to keep the case open. You know, in deciding to keep the case open, obviously, then the next step is then determining whether or not there is an actual victim that is still willing to continue. You know, the process of actually, you know, eliminating the cases did not afford itself to getting that deep into the details, and so at the end of the day, when we look at the criteria and we determine that there's a victim, that, in and of itself, says, okay, we need to keep the case open, and then once we make that determination, then the next step is to determine, okay, do we have a victim; is that person going to -- is that person going to participate; are they willing to participate? And then at that point, that case -- you know, if we don't have a willing victim who would be willing to participate, then the case would then be dismissed.

THE COURT: Yeah, but I mean I think her concern is that that was part of the criteria for whether you were going to include it in the group or not, and so what are you doing to make that determination?

MR. CAREY: Well, I think our prosecutor is, you know, reaching out to folks as it relates to, you know,

whether or not they're still willing to participate, and when he -- if the prosecutor is unable to locate -- see, some of these are, again, pre-'14 cases. So you have people who have moved away, addresses that have changed, and a lot of those -- even though criteria two might have been something that would keep it open, if you can't find anybody, you can't talk to them. You know, I think what the prosecutor is doing in those situations is just dismissing those cases. We just have to find a way to show that to the Monitor.

THE COURT: Right. Right. If that's what's going on, you need to make sure --

MR. CAREY: Right.

THE COURT: -- that's something that's -- is apparent to the Monitor, can be shown, and then if it's not going on, you need to make sure it is going on. Right?

MR. CAREY: Right. Absolutely. You know, I've had conversations with the City Prosecutor, and I -- you know, all the conversations that I've had with the City Prosecutor has led me to believe that that's exactly what he intends to do and has in fact been doing.

THE COURT: Okay. Go ahead.

MR. CAREY: The other thing I'd like to touch base about was the -- the CRB. Obviously, you know I've stood before you and talked to you about the CRB being something that I personally have put a lot of work into. I would

certainly love to see the CRB at full staff. I would certainly love to be able to tell you that we, you know, have nine members, but I will tell you that, you know, the fact that we haven't appointed folks to the CRB and that we have until March to do so -- you know, we don't want to give the Court the idea that the CRB is, you know, unable to perform its function. I think Mr. Volek told you that they do have a quorum. Now, he's right. It's -- you know, it's -- you know, if two people are absent, then they -- you know, they can't conduct business, but, you know, two people being absent from a six-person group -- you know, that's -- you know, the point is they have a quorum; they're able to conduct business. It's a matter of the City finding the right match, finding the right fit, and finding the right folks who are still interested in being, you know, on the CRB.

I myself have stood in public -- the last CRB public meeting and kind of implored people, "Hey, listen. You know, if you're interested, fill out an application. You know, talk to your elected official about, you know, appointing folks to the board."

So it is something that's a very high priority for us, but we don't want to give the Court or the public the idea that the CRB is defunct or not functioning because of those open spots. The City is in the process of filling those spots out. We just have lots of stuff going on.

THE COURT: But you'll keep working on that because it does seem very important.

MR. CAREY: It is.

THE COURT: And then what about the training aspect of the CRB? People have said, well, they haven't been fully trained or they don't know.

MR. CAREY: Yeah. Yeah. So this issue of an appeal process -- I'm not quite sure where Ms. Clines got this language about the appeals process. The Consent Decree, as it relates to the CRB, does not contain appeal process language that I'm aware of. I think Ms. Clines might have been referring to this issue of when personnel -- when there's a personnel issue that happens in the City, there's an appeal process in our ordinances whereby someone who feels aggrieved by a decision can then take that decision up to another level.

THE COURT: What about training in general of the CRB members?

MR. CAREY: So we've -- well, as you know, we've completed the first round of training, and how it normally goes is that when -- well, how it will normally -- I guess there's no normal because it's kind of new, but how it's anticipated to go is that when we get new members to come in, we will start that process all over again, and so we hope to have them up and running, training wise, within a month or two from the time that they actually get appointed. The first

round of training probably took about three to four months, but we've kind of figured out a way and a schedule to kind of circumvent that depending upon the availability of the volunteer. So the City will do what it can to re-implement that training each time we get new people on board to make sure they're fully ready to go.

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One of the last points -- you know, again, you've heard this issue, I guess, this elephant in the room, about the Department of Justice's memorandum that was issued by outgoing Attorney General Jeff Sessions and, you know, the implications that it might have on our Consent Decree. So, you know, I think it's fair to say that, you know, obviously, the City of Ferguson has been in a consent decree for several years now, and I think it's fair to say that the City of Ferguson believes in constitutional policing. The City of Ferguson has no intent upon, you know, trying to abrogate or get out from under the current Consent Decree. We've seen the progress that we've made. We're proud as a city of the progress that we've made, but I will say we would disagree slightly with the Department of Justice's position that this memorandum, you know, has no implications at all on current consent decrees. Obviously, when you read through the memorandum, you have -- you know, somebody's looking at what has been done in the past and saying, "Okay. We may have some issues with what has been done in the past, and we may want to address those going forward."

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Well, obviously, the City, in a consent decree that was issued under a different kind of policy structure, we actually do deal with -- you know, when you read the memorandum, we deal with specific issues related to some of the constitutional concerns and the policy concerns, you know, that are set out here, and I don't want to go too far into detail here because I haven't had an opportunity to talk to the Department of Justice about that. I haven't had an opportunity to kind of let them know what some of the City's concerns are, and this is kind of a public forum, and I don't want to use, you know, like the media or the public forum to do that, but the City does have some legitimate concerns, I think, after reading the memorandum, that it would just like to discuss a little bit further with the Department. THE COURT: Well, I guess I'm not sure I understand

THE COURT: Well, I guess I'm not sure I understand that, but I mean, are you telling me -- is the -- is the City -- I guess what I'd like to hear --

MR. CAREY: Sure.

THE COURT: Is the City still committed to the Consent Decree?

MR. CAREY: Absolutely.

23 THE COURT: I mean it -- until -- until this Court,

meaning me --

MR. CAREY: Right.

THE COURT: -- changes the provisions of the Consent Decree, they are -- it does apply to both sides.

MR. CAREY: Absolutely.

THE COURT: Right.

MR. CAREY: And as I stated in the beginning, you know, the City has no -- we have no plans to do anything other than to try to comply.

THE COURT: All right.

MR. CAREY: But there are some difficulties that need to be discussed and talked about as it relates to the ability to comply, and, you know, it's just something that needs to be discussed and talked about amongst the parties.

THE COURT: Well, and this is -- you know, although sometimes we forget that, in a consent decree situation, this is an adversary process.

MR. CAREY: Sure.

THE COURT: And so the parties are always supposed to be talking about whatever is going on in the case and seeing if there are things that they think are -- should be changed or shouldn't be changed, but then, of course, the Court does have the final ability to decide whether and when to change things. So I mean -- and the way -- just so the public knows, the way it happens is just the way when you all amended the decree for some technical things.

MR. CAREY: Right.

79 THE COURT: You all talked about it. You talked to 1 2 the Monitor. 3 MR. CAREY: Absolutely. THE COURT: You all agreed this was appropriate. You 4 5 filed a motion. I reviewed it. I decided it was appropriate. 6 MR. CAREY: Absolutely. 7 THE COURT: That's -- you know, that's -- that's very 8 appropriate and normal in all sorts of cases, which is 9 different from saying, you know, we're changing the whole 10 thing. 11 MR. CAREY: Right. 12 THE COURT: These were minor stuff. 13 MR. CAREY: And that's -- and that's one of the reasons that I want to be clear that the City of Ferguson is 14 15 in no way attempting to get out of the Consent Decree that it 16 is in. 17 THE COURT: Okay. 18 MR. CAREY: You know, we, again, have seen progress. 19 We believe in the progress, but, again, there are some 20

We believe in the progress, but, again, there are some

challenges, a lot of which you've talked to us about, and

we've -- and I have to stand here in front of you each time

and kind of tell you, you know, what's going on, and it wasn't

until I read the memorandum that I realized, okay, all right,

now I'm making kind of connections between some of the

challenges that we have from a constitutional and a policy

80 perspective and some of the roadblocks that we've run into. 1 2 THE COURT: Well, I'll let you all discuss that. That's not before me today, but I do want -- I just wanted to 3 make sure that both sides are still firmly committed to this 4 5 policy and to the Consent Decree, and what I'm hearing from 6 both sides is that you are. 7 MR. CAREY: Absolutely. 8 THE COURT: And that's what we needed to hear. 9 All right. Go ahead. 10 MR. CAREY: Other than that, Your Honor, I don't have 11 anything else unless you had a specific question. 12 THE COURT: Yeah, I do. 13 MR. CAREY: Okay. 14 THE COURT: This has to do with what the parties have 15 referred to as a capacity problem or, basically, the need for 16 more resources, I guess. 17 MR. CAREY: Yes. 18 THE COURT: And in particular, the Monitor has 19 suggested that what is necessary is that the City needs to --20 we need -- you know, somebody needs to be in charge of the 21 training; somebody needs to be in charge of the data and the 22 analytics of the data, which I think that person doesn't exist

in the City right now, as I understand it.

MR. CAREY: Well, we --

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THE COURT: And then also there's -- you know, is

the -- I'm leaving out -- there were three things, and then the fourth was overall the Consent Decree Monitor.

Ms. Tidwell --

MS. TIDWELL: Community engagement.

MR. CAREY: Community engagement.

THE COURT: Community engagement. Thank you. Those are the things that the Monitor has repeatedly suggested that you need to, you know, do what you can do to get people assigned to those positions or hired for those functions.

Tell me where you stand on that.

MR. CAREY: Yeah. So, you know, I don't know that it's fair to say that those people don't exist in the City right now.

THE COURT: Right.

MR. CAREY: The issue is that, you know, we don't have dedicated people specifically doing those tasks. We have a training coordinator that we have engaged. We have, you know, folks who are doing community engagement. You know, community engagement — as I spoke about last time, it's more of a grass roots thing. It comes from the field and grows up, and so, you know, the City's been doing for years — prior to the Consent Decree being implemented, had a schedule of community engagement events that — and, largely, they surround holidays. Sometimes, they, you know, are just regular, like the attending of neighborhood group meetings and

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these kinds of things. Tree lighting ceremonies. The FPD has a pool party. They participate in parades. You know, all these types of things that we've been doing.

And so the issue is we need to have -- you know, according to certain interpretations of the document, we need to have one, you know, like a person doing those things.

Well -- or at the very least, making it easier for the Monitor to be able to tell that we're doing those things.

And so we are still -- you know, obviously, we don't have a chief, and then in the interim, we have an interim, a chief who was our Consent Decree Coordinator. So we sort of have a chief/coordinator. And so the process of that has been slowed. You know, the process of getting that situation to a point to where we can, you know, move forward -- I think it's probably fair to say it's been slowed by the fact that we don't have a chief and that we need a new consent decree coordinator, but it should be known by the public that community engagement is happening in the City of Ferguson.

And, you know, anytime the Monitor wants to know what the City's done for community engagement, you know, we just send her a list of what it is, you know, what we've been doing.

From the standpoint of data collection, we're starting -- and that's another position that I think the Monitor talked about.

THE COURT: Yeah, the data collection is the one that

seems to me that, you know, that is -- without the ability to have the data and have it collected, the Monitor can't tell, you know, where the compliance is.

MR. CAREY: Yeah.

THE COURT: I mean this is pretty important, and that's the function that seems to me -- I don't see where it is scattered throughout the other employees or functions you have already within the police department.

MR. CAREY: Right. And so we do have -- obviously, we have a police -- a system that we use to collect data.

It's more about the organization of it --

THE COURT: Right.

MR. CAREY: -- I think and organizing it in a way that's clear and concise so that we can (a) let the Monitor know what we're doing and then (b) let the public know what we're doing, and so this process that we've started on with the Department of Justice in filling out the template that they've given us is -- basically, what it does is it lets us know what they would be looking for, who's collecting it, and where it's located, and I think once we get through that process, then it would be a lot easier for the City to say, okay, you know, here's the realm of or the universe of things that we need to collect. Now, I'm not -- you know, in the interim, we still need to -- and I think, as a matter of fact, the City Manager -- you know, had a conversation with him

about a month ago about hiring someone to help free up some labor for purposes of this data collection function, and so we are still, you know, in the process of doing that.

THE COURT: Right. So I think what she said -Ms. Marks, I believe, said that you all had completed that
template for 67 parts of the use-of-force things.

MR. CAREY: Right.

THE COURT: But then you're going -- once you get that done, you're moving on to the next segments; right?

MR. CAREY: Sure.

THE COURT: So we can do that. Okay. All right. Go ahead.

MR. CAREY: Yeah, but at the same time, simultaneously, the City is still attempting to find ways to free up labor, whether that be hiring a specific person to do just data analysis or whether that's hiring someone to free up somebody who was already there to do data analysis. You know, there's a bunch of Terry constraints that, you know, we just -- we have to sometimes be creative as it relates to those kinds of things.

But the data collection is happening. We don't want -- that's the one thing we want to -- we want to make sure that the public knows that the data collection is happening. We just -- it's -- it's more of an issue of organizing it and presenting it that -- where we're struggling

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THE COURT: All right. Anything further?

MR. CAREY: No, I don't have anything else.

THE COURT: All right. Ms. Tidwell.

MS. TIDWELL: So where to begin? So I'll begin -- I quess I'll go backwards with Mr. Carey's last comments about the need for a community engagement or outreach coordinator. The Consent Decree does not require or necessarily speak to specifically the number of ice cream socials or tree lightings and things like that that the police department attends, and not to diminish the importance of those things, but the Consent Decree speaks to sustained partnerships between the police department and the community, developing a policing approach that values the community's input and puts a premium -- whether it's in how you evaluate officers and what they're doing -- puts a premium on relationships, sustained involvement between the police and the community. One way is through the structured dialogues with a neutral facilitator that are supposed to happen monthly between officers, every officer, and the police and the community. So the suggestion or sort of the recommendation that the City engage a community outreach coordinator or identify someone is someone to help them to do that, to help them to be strategic, and it can include officers going to -- conducting the kinds of social events that Mr. Carey spoke about, but it's really much more

than that. And when the Monitoring Team provided the City with job descriptions for community outreach coordinators from other departments that Mr. Carey at the last hearing spoke of as those being helpful, there was nothing within those job descriptions that talked about the kinds of -- that spoke of community engagement in the way that Mr. Carey has referred it today.

So we would, again, look to the Consent Decree in what the expectation -- our expectation or our understanding of what the Consent Decree contemplates by community engagement to include an approach to problem-solving policing, to include the deployment of officers in strategic ways so that they can talk to the community about quality of life issues. So it's not merely about what -- so that the Monitor can see that it's being done. It's about building these relationships so they sustain and they last long beyond the Consent Decree.

So I'm hopeful that the City will return to whether it was the suggestion of a three-part funding of a community outreach coordinator position to get to implementation of some of these community engagement pieces, but, certainly, we are troubled that it's -- if I misspoke or if, in our reports, we weren't clear that our view of a community engagement person is not someone who attends just these activities, it really is about much more. It is about paragraphs 28 and 29 in the

Consent Decree that talks about structuring patrol areas around specific boundaries, through supervision and evaluation, encouraging direct officer/resident communications, and assigning officers to specific areas to allow for neighborhood problem-solving projects and assigning officers to those areas. We think a community engagement coordinator would be extremely helpful in that regard, and that's why we have repeatedly made that recommendation and we hope that the City will -- will get that done in the near term.

THE COURT: And just so it's clear, I don't think there's any doubt that you've been very clear about that.

MS. TIDWELL: Okay. Thank you.

THE COURT: And that is something that I think the City really does need to -- to work on. Go ahead.

MS. TIDWELL: So the next point was this discussion about the appeals process that Ms. Clines raised when she was making her public comment. I was at the meeting of the CRB with the CRB Task Force, and we asked them to come together because the CRB Task Force has, under the Consent Decree, a requirement to assess what the CRB has been doing. If it — if the CRB Task Force created or outlined policies or recommendations for the creation of the CRB which were adopted, I think, in whole by the Consent Decree and under the Consent Decree, you know, it was time for them or the question

was whether it was time for them to come and see if what they envisioned had come to fruition. And our discussion was mainly about the fact that the CRB -- because it's been slow going, the disciplinary matrix hadn't been developed or the whole suite of accountability policies weren't fully developed. So there was not enough stuff for the CRB Task Force to assess, to meaningfully assess, even though the Consent Decree called for it within one year after the CRB's -- the CRB was established.

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But during the meeting, the question of the appeals process came up, and my takeaway from the meeting is that the task force, of which Ms. Clines was a member -- when they developed policies or recommended policies for the CRB, they included an appeals process within that, and the CRB members, who were in attendance -- there was some confusion as to whether or not that had been communicated to them or whether that was reflected in their own bylaws. So I don't think that -- and I don't know. I haven't had a chance to go back to the CRB Task Force Report and Recommendations and the CRB's running policies or the protocols that are in place, but there does seem to be some disconnect between the two, and Ms. Clines is -- you know, her concern is well-founded because it appears that the task force intended an appeals process, and whether or not that made it into their bylaws appears to be the open question, and I hope that we can resolve that

relatively quickly.

THE COURT: Right. So I would hope you and Mr. Carey can talk about that and see where you go. And Mr. Volek.

MS. TIDWELL: I think so. Where to go from there, yeah.

I will say I think, Your Honor, with your questions about the amnesty cases, particularly, where they relate to criteria two -- I think that they reflect the Monitor, our view of what needs to be done, the next step in determining whether or not those cases should be kept open.

Finally, oh, just a couple more points with regards to the bias-free policing policies and the prioritizing that. I would note, as Mr. Carey said, that I think within six months to a year of the Consent Decree's implementation, the parties agreed to priority areas, six of them, and bias-free policing was one of them, and they have gotten to the other five. Bias-free policing is the next one, but the fact that, you know, it's taken this long to get to what has been identified by the parties from the beginning as a priority area is entirely a reflection of, you know, we had one person in the Ferguson Police Department writing policies, and this just has been how work has flowed from there, but I do note that the policies from the parties from the beginning have noted that bias-free policing and court practices and policies are a priority area, and I hope that as the work plan lays out

in the status report that that's something -- it would be great if they got it done before then, but I was mindful of sort of where they are in the process and who -- how many people are working on this, and I thought that July 2019 for a draft was -- was a fair assessment, a fair and realistic assessment.

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Finally, with regards to the memo related to DOJ, I would just say from where I stand that the Department of Justice commitment to this Consent Decree has been unwavering, and I haven't noticed any change both from the time of the memo or before where post election there was certainly some comment about consent decrees moving forward. I welcome and look forward to hearing from Mr. Carey about his concerns that he's expressed, but just, you know, I think it's worth noting that -- and I noted this in the status report -- that in this first two years or so, in terms of policy development, DOJ has done, I think, more work on that than could probably be expected of any sort of party to a consent decree, and my concern is that, now that we move to training and implementation, they're not going to be able to take on that much of the work going forward, and the City is going to have to take the lead on many of those things, and that is my concern, not that they are stepping away or stepping back, but just in the way that policing works in terms of training and implementation, the police department and the City has to do

that. And so the DOJ, you know, has been helpful and can be committed and can do what they can, but really, as we move out of policy development with these last few very important policies, there are just a few more that — a few more policy areas that we're dealing with that the City is going to have to step up its game, to sort of put it bluntly, Your Honor, and that's all I have.

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THE COURT: All right. Well, I do think, you know, we are entering -- you know, we've got a lot more work to do, of course, but this is getting to be a crucial time where I think the City does have a lot, a lot it's going to need to do because the implementation and training is -- is the next step on some of the -- many of these things. I think the work plan is a good summary of what should happen. It's realistic. I realize, again, it's not as fast as what was contemplated by the decree or what we would all like in a perfect world, but it's realistic, and I do think that some of these things do need to be followed up with in terms of the -- you know, if there is a disconnect with the CRB Task Force and what it was -- what was expected to be done, that needs to be looked I think the issues the Monitor has raised about data collection or data -- data analysis is important and that the -- as the community outreach function is also important, and I don't think there's any doubt that it is more than -than simply the social issues, which I'm not discounting.

They're important, but there has to be more than ice cream socials. And, again, I appreciate what the City has done. I think the City's come a long way, but there's a lot more work to be done, as everyone here recognizes.

So we will continue this process. I will consider the issues the public members have raised about having public comments more frequently, but I do want to continue to encourage the public to reach out to the Monitor, reach out to the mediation -- Community Mediation group, if you think that could be helpful, and, you know, these -- these hearings I'm having are not the only way that you can be heard if there are things that need to be raised more quickly than my hearings will have, but I will consider whether we should allow public comment more frequently.

appreciate the interest that everyone coming. I appreciate the interest that everyone continues to have in this. I think -- I think that real progress is being made. It is -- and has been made, particularly, in the court system but also in the other issues that now we do have policies on, these various policies that are now out for public comment or have been commented on, and I know that writing those policies has been an extremely -- it's a lot of work, and so I commend the parties for getting it done because it's not something that you can just sort of whip out on the back of a napkin. It's a lot of work, and I think the parties have done a lot of

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work on that. So now that we've got those policies going
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     forward, we'll work on the next ones, and we'll see the
     implementation and training.
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              All right. Thank you, all. Court's in recess.
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          (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 93 inclusive.

Dated at St. Louis, Missouri, this 16th day of January, 2018.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR
Official Court Reporter