

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 4:16-CV-00180-CDP
)
 CITY OF FERGUSON, MISSOURI,)
)
 Defendant.)

STATUS HEARING
BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

OCTOBER 17, 2023

APPEARANCES:

Independent Monitor: Natashia Tidwell, Esq.
 SAUL EWING ARNSTEIN & LEHR LLP

For Plaintiff: Amy Senier, Esq.
 UNITED STATES DEPARTMENT OF JUSTICE

For Defendant: Aarnarian (Apollo) D. Carey, Esq.
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OCTOBER 17, 2023

(The proceedings commenced at 10:13 a.m.)

THE COURT: So we are here in the case of United States of America versus The City of Ferguson, Case No. 4:16-CV-180. We are here for a quarterly status hearing open to the public. This is one of the hearings where we do not have any public comment but we have some members of the public here and we are glad to see them.

We also have a Zoom line open where people can listen to the hearing. We no longer have these on the -- on video because that was a COVID allowance. Anyhow, we don't have them on video at this time. But we do have the Zoom stream up. And I hope there are people who are dialed in and listening.

If you are listening, as well as the people who are present, I do want to remind you of the rules in our court and nationally. Any recording or broadcasting of this proceeding or this hearing is strictly forbidden under the national rules. And if there were, you know, any violation that could lead to sanctions, so please do remember we do not record or broadcast court proceedings.

So I will start by asking the lawyers to introduce themselves for the record for the Department of Justice.

MS. SENIER: Good morning, Your Honor. Amy Senier for the United States.

1 **THE COURT:** All right. And for the City of
2 Ferguson.

3 **MR. CAREY:** Good morning, Judge, Apollo Carey for
4 the City of Ferguson, Missouri.

5 **THE COURT:** All right. And for the Monitor.

6 **MONITOR TIDWELL:** Good afternoon, Judge. Natasha
7 Tidwell for the Monitoring Team.

8 **THE COURT:** As I said, I did want to welcome the
9 people who are here or who are listening and tell you we are
10 glad to see the interest that's being shown. As most of you
11 know, at the last public hearing, there were many comments
12 from the public that many of them were indicating
13 dissatisfaction with slow progress and what many perceived as
14 a lack of transparency. And I do want everyone to know that
15 the parties and I have taken those comments to heart, and I
16 believe you will see more transparency and more progress in
17 the months coming up.

18 Please understand, as we've said before, that the
19 slow progress of this case is attributable to many things,
20 including the, you know, serious personnel and financial
21 issues facing the City. But they are -- you are going to hear
22 more today, but things are moving forward and have been for
23 the last few months. And I think there's -- and I also think
24 there's more transparency and more information being provided
25 to the public.

1 So yesterday on October 16th, the Monitor filed her
2 fall of 2023 report. I hope you will read that, if you
3 haven't already. It is a status report. It is on our -- it's
4 on the Court's public website. If you go to our court
5 website, there's a section called -- I think it's called
6 "Multidistrict and Cases of Interest." And you click on that
7 page and then there is a list of cases. And if you go down,
8 you will see *United States v. Ferguson*. You click on that and
9 it takes you to the documents. And this has gone up this
10 morning, so please do read it. And there's no charge for
11 doing that on the website, so you don't have to have an
12 account.

13 So with that said, we will proceed with the status
14 report. And as usual, we are going to start with the City of
15 Ferguson. And as usual, I'll ask Mr. Carey to introduce the
16 people who are here with him.

17 **MR. CAREY:** Good morning, Your Honor. Thank you so
18 much. My comments will be brief because I will also
19 introduce --

20 **THE COURT:** Is your mike turned on? Does it have
21 that green light on it?

22 **MR. CAREY:** Let's see. It does not.

23 **THE COURT:** Hold on a second. Well, because we have
24 the people on the phone.

25 **MR. CAREY:** Gotcha.

1 **THE COURT:** And they are not going to hear you
2 unless you are on the sound system. So let's figure out what
3 we've done wrong.

4 Okay. Great. So that one is working. Okay. Never
5 mind the green light. You've got another one that is working.
6 So you're good. All right. Please go ahead.

7 **MR. CAREY:** All right. Well, thank you and good
8 morning. Judge, we appreciate the opportunity to be before
9 you. My comments will be brief. I will be introducing the
10 City's Consent Decree Coordinator, Mr. Chris Crabel, who will
11 give you a much more detailed update.

12 But I did want to, as you mentioned, introduce the
13 folks who are in the room on behalf of the City of Ferguson.
14 Our mayor, Ms. Ella Jones, is here. Councilwoman Naquittia
15 Noah is also present today. Captain Harry Dilworth, who you
16 know very well, in terms of his involvement with the Consent
17 Decree. Our Chief and Interim City -- Fire Chief and Interim
18 City Manager, Harry Dilworth, is -- not Harry Dilworth, excuse
19 me -- John Hampton is here, as well as our Court
20 Administrator, Michelle Richmond. She is also present with
21 us.

22 Chief Doyle was traveling today and could not be
23 here with us. I think he was at an IACP function over the
24 weekend and he was unable to get back here in time.

25 Your Honor, I did want to just briefly touch on some

1 of the items that you mentioned in your opening, the issue of
2 transparency and progress.

3 You know, I know there has been perceptions from the
4 public regarding the speed of the compliance efforts on the
5 City and then the public not really knowing on a daily basis
6 or maybe even a monthly basis as to where we actually are.
7 But we do hope that the Monitor's report does give the public
8 a snapshot of that.

9 Also, the City is going to be working on its own
10 reporting requirements. And I won't touch on that too much
11 because I don't want to steal Chris's thunder, but we also
12 have taken some steps to do some things to become -- or to be
13 more transparent to the public as well as to get our
14 reporting -- the reporting requirements under the Consent
15 Decree together so that the City is producing the reports that
16 it's supposed to be producing to the Court and to the public.

17 I'll let Chris maybe talk a little bit more about
18 that in his update to you.

19 So if you don't have any further questions of me, I
20 will go ahead and allow Chris to come up.

21 **THE COURT:** All right. That's fine.

22 Mr. Crabel, come on up to the lectern.

23 **MR. CRABEL:** Good morning, Your Honor.

24 My name is Christopher Crabel. And I was appointed
25 to the Consent Decree Coordinator position a little over two

1 and a half months ago for the City of Ferguson. Today I'm
2 here to provide some updates on staffing, policy, training and
3 our ongoing Consent Decree project planning.

4 I'm going to start with the staffing updates. We
5 have several positions open in our police department right
6 now, including the full-time and part-time police dispatchers,
7 police dispatch supervisor. We have multiple police officer
8 openings. We have a public information officer position open.
9 We have a training coordinator position open, a captain of
10 administration position and a deputy chief position.

11 At this time I want to emphasize that we are
12 actively working on recruiting for these positions and we
13 recognize the importance in maintaining the functionality and
14 effectiveness of the police department. So we are putting in
15 an effort to get those positions filled.

16 Additionally, we have seen some promotions in the
17 police department. We have had Todd Mink, who is now a
18 lieutenant. We have David Patrick, Jill Gronewald and
19 Brittany Richardson who have become sergeants since we last
20 met.

21 The City Council is working diligently on finalizing
22 a contract for the city manager position. And once they have
23 finalized that contract, they will provide details about that
24 progress.

25 Moving on to the policy and training updates. We

1 have been making some progress with the policies and
2 trainings. We have submitted the Limited English Proficiency
3 Policy and the Citation Review Policy to the Department of
4 Justice. They have provided feedback and given us guidance on
5 how we can refine these policies. Michelle and I are working
6 closely with the City judge and the prosecuting attorney to
7 finalize these policies.

8 We have also been actively addressing training. We
9 have submitted most of the PTO or the Police Training Officer
10 Policies to the Department of Justice. But due to a technical
11 error on the City's part, we will be resubmitting them with
12 the corrections soon. We have submitted the First Amendment
13 Policy and it has been sent back with some feedback and we are
14 working on addressing that feedback and we will be sending it
15 back to them shortly as well.

16 We have also submitted the Correctable Violations
17 Policy to the Monitoring Team. And our police department will
18 be working on creating a Roll Call Training on that finalized
19 policy.

20 Looking more to the project planning and the future
21 plans of the Consent Decree. We continue our journey through
22 this Consent Decree as we focus on improving the City's
23 website. We have completed server updates. And we are now
24 implementing new software so we are able to create that
25 interactive dashboard so the citizens can go in and see where

1 our progress is at on the Consent Decree.

2 This dashboard will provide, you know, real-time
3 updates on the Consent Decree progress and will keep
4 individuals informed on the ongoing projects as well. And
5 these updates will also roll out to the Consent Decree pages
6 on the City's website. And it'll update the policy portal and
7 the crime dashboard that we have on our website. They will
8 all kind of be able to be simultaneously updated once we get
9 the new software in place.

10 And our long-term planning efforts, we've -- we are
11 concentrating on several key areas. We are working on a draft
12 Community Engagement plan, taking into account the feedback
13 from the Monitor. We are actually about ready to submit a
14 response from the feedback we received.

15 In addition, we are developing a Crime Prevention
16 plan. And with the Crime Prevention plan, once we had the new
17 chief start, Chief Troy Doyle, we got his vision of what crime
18 prevention will look like for the City and now we've started
19 to update and create that Crime Prevention plan. And we're
20 about ready to send it on to the DOJ for review.

21 We are also updating the Staffing plan and then we
22 are creating a new Training plan. All these efforts are
23 interconnected and part of our long-term planning. The
24 long-term planning is helping us identify how all of these fit
25 together to ensure that our initiatives are well-aligned and

1 complementary.

2 I think I mentioned at the last status hearing that
3 we were kind of doing things one-off and things might be -- we
4 could be doing things that are similar at the same time so our
5 brain bandwidth doesn't get overwhelmed. So we're trying to
6 group like things together to maybe simplify the process for
7 staff.

8 Additionally, we will be starting the next round of
9 small group dialogues in the spring. These dialogues have
10 been essential for fostering communication and understanding
11 with our community and the individuals who participate and the
12 police department.

13 And in conclusion, we are dedicated to transparency,
14 accountability and successful implementation of the Consent
15 Decree. Thank you.

16 **THE COURT:** Thank you, Mr. Crabel.

17 All right. I will hear from, anything from the
18 Department of Justice now.

19 **MS. SENIER:** Good morning, Your Honor.

20 We appreciate the opportunity to brief the Court and
21 the public on progress on decree implementation. We want to
22 start by acknowledging the hard work of Chief Doyle and
23 Interim City Manager Hampton for their engagement on
24 implementation.

25 We also want to acknowledge the work of Consent

1 Decree Coordinator Chris Crabel. As his report today
2 illustrates, he has brought a cadence to FPD's work in pushing
3 out policy revisions and establishing more regular
4 communication.

5 And as always, we want to acknowledge the work of
6 Captain Dilworth who continues to assume the laboring oar on
7 implementing so many areas of the decree for the police
8 department.

9 My comments this morning will touch on training,
10 salaries, municipal courts and just overall planning.

11 With respect to training, we have spoken in the past
12 about Police Training Officer training, known as "PTO
13 training." By way of refresher, PTOs are the experienced
14 officers who mentor and provide on-the-job training to new
15 recruits as they come out of the academy. And in addition to
16 the on-the-job training, they're really responsible for
17 establishing the culture of the department. So it's a vital
18 position.

19 Nonetheless, despite substantial assistance from the
20 Department of Justice beginning in late 2021, this training is
21 still not ready to go. We appreciate the Consent Decree
22 Coordinator trying to shepherd these through the revision
23 process and, in particular, his work with the Training
24 Committee. But he has a great many other implementation
25 tasks. And we continue to recommend that the City expand

1 FPD's capacity in this area by spreading these projects out
2 throughout the City and the department. We believe the lag in
3 getting these modules done is an illustration of the City's
4 failure to adequately prioritize Consent Decree
5 implementation.

6 To that point, it remains a crucial need for FPD to
7 hire someone to implement an in-service training program. FPD
8 hasn't made progress in this area and we believe, again, that
9 lack of capacity is a root cause. We appreciate that both
10 Chief Doyle and Interim City Manager Hampton have tried to
11 think outside the box here. They have looked at external
12 subject matter experts. They are now, as Mr. Crabel said,
13 looking at hiring an administrative training coordinator.
14 Nonetheless, the City needs to address this lack of capacity
15 quite soon.

16 On the topic of training plan, we recently asked FPD
17 to complete an interim measure towards getting this training
18 plan done. And that was to ask for a gap analysis. In the
19 past we have spoken about gap analyses in the area of policy
20 development where FPD will hold an existing policy against the
21 decree and figure out where there's overlap and where gaps
22 remain that need to be filled.

23 We ask for the same thing with respect to training.
24 That is, we asked FPD to catalog all of the training it's
25 currently providing or requiring, which is substantial, and

1 hold it against the decree to figure out where there's overlap
2 and where there are gaps that need to be filled so that they
3 can start putting together a plan towards filling those.

4 We got a first draft of that and we are working with
5 them to get that in a place where it can really help inform a
6 training plan.

7 One particular area of training that I did want to
8 touch on this morning concerns use of force, and it comes on
9 the heels of the Monitor's recent Use of Force Audit, Phase II
10 of the Use of Force Audit. And I want to begin by thanking
11 the Monitoring Team for their work. These audits are critical
12 to measuring progress.

13 As the Monitor notes, we had a chance to review the
14 findings of Phase II with FPD. And we appreciate FPD
15 acknowledging, after looking at the results, that there are
16 areas in need of further training. We look forward to hearing
17 from FPD as part of its training plan precisely what that
18 training is and how they will provide it to officers and
19 supervisors.

20 By way of reminder, training was flagged for FPD
21 following Phase I of the Monitor's Use of Force Audit back in
22 February of '22. And at the time, we flagged deescalation,
23 Fourth Amendment and supervision as areas in need of training.
24 And with DOJ assistance, FPD completed training on Integrating
25 Communications, Assessments and Tactics -- known as ICAT --

1 training in February of 2023.

2 But our assessment of the incidents under review in
3 Phase I or, excuse me, Phase II of the Use of Force Audit just
4 furthered our belief that FPD still needs more training in
5 deescalation and initial training on Fourth Amendment and
6 supervision. And we would add, in light of the particular
7 findings in Phase II of the audit, which were that in over
8 55 percent of reviewed incidents, force was not reported, that
9 force reporting and investigation need to also be prioritized
10 as areas of training, particularly for supervisors.

11 Briefly on the topic of salaries. We understand the
12 City has obtained salary raises that have long been needed and
13 we look forward to getting the City's analysis, which we
14 understand is coming shortly, about whether these salaries put
15 FPD on similar -- on competitive footing with similarly sized
16 departments as required by the decree.

17 Turning to municipal courts. The comprehensive
18 amnesty program has now been rated as fully implemented and
19 has provided real tangible relief for many people with old
20 cases.

21 **THE COURT:** Let me just stop and say that the
22 Monitor's report goes into this in great detail, which is very
23 helpful, but I hope everybody knows that this is something
24 that has been almost done for a very long time. And to have
25 it finally completed is a great -- I'm really pleased about

1 that.

2 Go ahead, Ms. Senier.

3 **MS. SENIER:** Absolutely. And from our perspective,
4 Your Honor, it was a renewed effort on the City's part,
5 including organization from the Consent Decree Coordinator,
6 Mr. Crabel, in putting this project in the hands of Court
7 Administrator Michelle Richmond that helped bring this program
8 to a close.

9 We do want to acknowledge, though, that as the
10 Monitor notes in her report, it took a long time to get here.
11 Over six years. And some beneficiaries of the amnesty program
12 suffered arrest, guilty pleas and the burden of having old
13 charges hanging over them due to the delay. We point this out
14 because it's an illustration of the real consequences that
15 come from delaying implementation of the decree. But we
16 nonetheless pointed to it also as an example of when the City
17 dedicates the resources and personnel to an area of
18 implementation they can get it done.

19 And, finally, on the topic of planning, which was a
20 core topic for the last status hearing. We remain concerned
21 that we still don't have an overall timeline or plan of action
22 to draft the foundational plans we talked about last time,
23 which was the Crime Prevention plan required by paragraph 26,
24 the Training plan required by paragraph 51, and the Staffing
25 plan required by paragraph 256. We agree with the Monitor

1 that these are foundational and need to be done as soon as
2 possible.

3 Again, we appreciate the efforts of the Consent
4 Decree Coordinator here. He is doing his best to move along
5 individual policies. But drafting these plans is really a
6 task for FPD leadership. And while we understand that the
7 Crime Prevention plan should be headed our way in a couple of
8 weeks, we continue to urge FPD leadership to put in place what
9 the Monitor calls a "roadmap" for getting these done. And
10 that strategy or that roadmap would include setting deadlines
11 for when the City will complete these drafts. And deadlines
12 are important because they help the City prioritize and they
13 help hold people accountable.

14 Lastly, we do want to acknowledge that, you know,
15 we, too, heard the calls from the public before the last
16 status hearing on the need for increased transparency. And we
17 want to thank the Monitoring Team for putting a chart into the
18 Monitor report. I think that's a really helpful graphic to
19 orient people about where FPD and the Monitoring Team are in
20 this enterprise. And we appreciate Mr. Crabel saying that the
21 City is working on a public dashboard. And we hope that, you
22 know, if the dashboard can't be up and running by the end of
23 the year, that something, some sort of mechanism can be up and
24 running so that the public is getting the information that
25 they are rightly asking for.

1 I don't have any other information, Your Honor, but
2 I'm happy to answer questions.

3 **THE COURT:** All right. I thank you for your report.
4 Thanks.

5 So, Ms. Tidwell, we will hear from the Monitor.

6 **MONITOR TIDWELL:** Thank you, Judge.

7 Can you hear me okay? I always feel like the mikes
8 aren't working, but I think we're good.

9 So I want to just start off by thanking the members
10 of the community who are here in person and who have dialed in
11 for their continued engagement in this process. I want to
12 also thank those folks who joined me and other members of the
13 Monitoring Team for a virtual town hall event on October 5th.
14 Despite a few technical mishaps, we had a pretty good turnout
15 and were able to have an informative discussion of the
16 Monitor's fall status report which, as Your Honor mentioned,
17 was filed yesterday, and to address questions from the
18 community members in attendance.

19 At the time of the town hall, the parties had not
20 completed their review of the draft report. As such, I was
21 only able to provide tentative findings, particularly as
22 related to the Monitoring Team's completion of the Use of
23 Force Audit. Now that the status report has been filed and
24 made public, myself and my team will plan to hold a second
25 town -- virtual town hall event to discuss the findings with a

1 bit more specificity and to answer questions about the report
2 itself.

3 We are continuing to rebuild our website and we are
4 close to completion. We've got sort of the model, the
5 framework for the new site and now we are just exporting the
6 data to that site. And so we will post the new report there.
7 We also appreciate that the Court has taken steps to have it
8 posted on the Court's website as well. We will also send the
9 report to those community members on our e-mail distribution
10 lists.

11 The parties have already detailed the current state
12 of various projects, so I won't rehash that. I will reiterate
13 the need for the City to determine a path forward for the
14 building of its training program, as Ms. Senier mentioned,
15 whether it's going to be external consultants or internal or
16 some combination of the two. Without that sort of
17 comprehensive plan for training delivery, the City cannot
18 achieve substantial compliance with many of the provisions of
19 the Consent Decree.

20 In my remaining time I will turn to the fall status
21 report, which we hope provides a convenient and helpful
22 snapshot of the City's progress in all of the Consent Decree
23 subject areas. I will discuss a few in detail. Ms. Senier,
24 once again, has stolen my thunder and gone through many of the
25 things that I planned to address.

1 But before I do so, I want to acknowledge and thank
2 the parties for their responsiveness and flexibility in
3 reviewing the draft report and providing comments so that the
4 report could be filed in advance of today's hearing. They had
5 a shorter time frame to do so than we normally like, but I
6 appreciate their flexibility, particularly as the Monitoring
7 Team had other commitments that prevented us from engaging as
8 we would have liked to in the lead-up to the filing of the
9 report.

10 Particularly I would like to thank Ms. Senier, whose
11 input on the Use of Force Audit was extremely helpful in
12 preparing the report, as well as in framing the discussion for
13 our meeting with FPD to discuss the audit's findings last
14 week.

15 One area of the report that's discussed is Community
16 Policing and Engagement. And as Mr. Crabel mentioned, the
17 Monitoring Team, led by Dr. Lee Anderson, reviewed and
18 assessed FPD's draft Community Policing and Engagement plan.
19 In our written feedback to FPD, we noted that while the plan
20 sufficiently captured Chief Doyle's vision and FPD's goals and
21 objectives, there was insufficient planning in the plan.

22 And what I mean, Your Honor, is that the plan as
23 written did not provide sufficient details as to how the City
24 would go about fulfilling its stated goals and objectives.
25 Without such detail, particularly as it relates to the Consent

1 Decree's requirements, the Monitoring Team cannot measure
2 compliance by articulating the specific methods by which it
3 intends to fulfill the Consent Decree's requirements and its
4 own mission.

5 FPD will also provide needed transparency to the
6 community, which in and of itself adds a measure of
7 accountability to the process. If you lay out your plan as to
8 how you plan to achieve your goals, when you fall short of
9 that or when you achieve them, then everyone is sort of on the
10 same page and knows what to expect.

11 As Mr. Crabel mentioned, we look forward to
12 receiving the City's response to our feedback and hopefully
13 implementing the Community Engagement plan in the short term.

14 In the area of the municipal court, the fall status
15 report also details the City's completion of the comprehensive
16 amnesty program. As the Court knows, the amnesty program was
17 instituted in order to address, reduce and remediate the
18 effects of the previous municipal court practices that imposed
19 unnecessary barriers to the proper disposition of a
20 significantly large number of cases.

21 In short, pursuant to Consent Decree paragraph 326,
22 the City agreed to decline prosecution in all open cases
23 without a disposition that were initiated prior to January 1,
24 2014, unless the City prosecutor found good cause to continue
25 the prosecution.

1 In 2018, the parties worked collaboratively to
2 develop a set of criteria constituting good cause. The status
3 report details the process by which the municipal court has
4 evaluated the open cases in the intervening years and how the
5 roughly 7,600 cases that we began with back in 2018 were as of
6 July 2023 winnowed down to zero.

7 Achieving substantial compliance in this area is a
8 significant milestone in Consent Decree implementation, and
9 the Monitoring Team thanks the City, specifically the four
10 municipal court administrators with whom the Monitoring Team
11 has worked over the years to get to this point. In
12 particular, as Ms. Senier mentioned, Michelle Richmond, the
13 newest Court Administrator has been instrumental in getting
14 this over the finish line.

15 As the report notes, however, it took a long time to
16 get here. And sadly a number of people likely pled guilty to
17 amnesty eligible cases over the years.

18 Now that the work is done, the Monitoring Team is
19 hopeful that the City will design and implement a public
20 education campaign that not only touts the successful
21 completion of the amnesty program but also informs the public
22 about the myriad of ways in which the municipal court has
23 worked to become a true community court, a place where the
24 judges and staff endeavor to compassionately clear cases and
25 reach solutions either through liberal payment plans or

1 community service. Such measures will help to reduce the
2 likelihood that another backlog of cases replaces the one that
3 called for the amnesty program in the first place.

4 The last area of the status report that I would like
5 to talk a little bit about is the completion of the Monitoring
6 Team's audit of FPD's reporting and investigation of the use
7 of force by its officers. The results of the audit's first
8 phase were detailed in the winter '22 status report and have
9 already been discussed in previous hearings.

10 In the second phase, led by Darryl Owens, the
11 Monitoring Team's lead subject matter consultant in this area,
12 we sought to assess whether FPD is accurately reporting force
13 based on the Consent Decree's definition of "reportable force"
14 which is "force above unresisted handcuffing."

15 To identify and evaluate where the absence of a
16 use-of-force report from a particular incident meant that
17 force was not employed or whether it meant that force was
18 employed but not reported, the Monitoring Team requested a
19 list of 2019 and 2020 Ferguson arrest reports for offenses
20 that, in our judgment, indicated that force may have been used
21 in effecting the arrest. These offenses included resisting
22 arrest or assault on a law enforcement officer, and the report
23 contains the detailed listing of the offenses that we
24 requested arrest reports for.

25 The Monitoring Team reviewed the narrative summaries

1 of each of the reports on the list and selected 18 for
2 evaluation during this phase of the audit. As the report
3 details, and as Ms. Senior previewed, the results were
4 disappointing. Based on our review of body-worn and in-car
5 camera footage, FPD officers used force but did not report it
6 in 10 of the 18 incidents we reviewed.

7 Surprisingly, in a number of those cases, the
8 officer detailed their use of force in the arrest report but
9 did not take the extra step of submitting a separate Use of
10 Force Report. This appears to indicate that the officers were
11 not attempting to conceal their use of force; rather, it
12 speaks to deficiencies and adherence to policy as well as
13 supervisory lapses that we hope -- and as Chief Doyle has
14 indicated -- that these would be addressed through additional
15 training.

16 The Monitoring Team and the DOJ met with FPD to
17 discuss the findings. Chief Doyle and his team were extremely
18 receptive and we anticipate that FPD will address many of the
19 deficiencies identified in the report through training of its
20 line officers and supervisors.

21 We will begin the process again later this year,
22 starting again with Phase I, but with reports of incidents
23 from 2021 going forward.

24 In addition to use of force auditing, we are now
25 ready for auditing in the accountability area which will touch

1 upon not only FPD's Internal Affairs investigations but also
2 the work of the Civilian Review Board and also where the
3 Civilian Review Board's work intersects with the use of force,
4 that will be part of that audit as well. And as the status
5 report notes, the area of body-worn and in-car camera policy
6 and training is also ready for auditing and so the Monitoring
7 Team will turn to that as well.

8 I'll conclude there, unless the Court has questions.

9 **THE COURT:** Yeah, I do not -- I don't think I do
10 have any questions because the report is very thorough, the
11 written report. And so I think that you have explained it
12 well and answered any questions we might have.

13 Mr. Carey, does the City wish to add anything, given
14 the comments made by the other parties?

15 **MR. CAREY:** We do, Your Honor. Thank you so much.

16 A couple of things that the City would like to touch
17 on in light of some of the things that were reported by the
18 Department of Justice and the Monitor. The first one was the
19 statement by the Department of Justice regarding the City's --
20 and I think it was failure to adequately prioritize Consent
21 Decree implementation. With respect to various different
22 elements of the Consent Decree, I think training was what they
23 were focusing on.

24 That line, just that line that "the City has failed
25 to adequately prioritize Consent Decree implementation"

1 strikes a chord with me because I'm in the foxhole with these
2 people every day. And I know that, you know, at the end of
3 the day the City works extremely hard to prioritize Consent
4 Decree implementation. It may not be "adequate," which is a
5 relative term with respect to the Department of Justice's
6 perspective, however, you know, it goes -- you know, I think
7 and I've said this before, but it needs to be said.

8 You know, the City of Ferguson has a huge Consent
9 Decree. It's just huge. It rivals that of New Orleans,
10 Baltimore and Chicago. And, you know, resource-wise, we are
11 not New Orleans, Baltimore or Chicago. Now, you can argue
12 whether or not that is because of the City's lack of
13 sophistication in negotiating a Consent Decree eight to nine
14 years ago or the Department of Justice's overreaching because
15 they were the sophisticated party in negotiating the Consent
16 Decree.

17 But the fact remains that the Consent Decree is a
18 huge document. We have one person on a daily basis who is not
19 doing policing that actually works on the Consent Decree on a
20 daily basis and that is our Consent Decree Coordinator Chris
21 Crabel. Before that was Betty Johnson and Nicolle Barton.
22 But we've got one person who does that.

23 Now, we've, you know, heard, you know, the
24 Department of Justice's concerns about, you know, the City
25 increasing capacity, maybe spreading out tasks. Your Honor,

1 we've got 30 police officers in our City with 50 spaces
2 commissioned, and so that leaves us with a 20-officer gap.
3 And, you know, it's hard enough to increase capacity just to
4 police.

5 And so it just needs to be said that, you know, the
6 idea of increasing capacity to work on the Consent Decree
7 implementation by spreading out tasks to other people is not
8 the easiest thing to do. You know, we have to do policing,
9 first of all. Secondly, a lot of the Consent Decree tasks
10 that we have require specific skill sets. We don't
11 necessarily have a lot of people with the specific skill sets
12 needed to spread that work out to. And we have tried in the
13 past to spread work out to other folks and we have gotten a
14 product that has been less than satisfactory. And, you know,
15 that put us even further behind than we would have been had we
16 not taken that path.

17 And so while, you know, it's easy to say "spread the
18 work out, increase capacity," it's very, very difficult to do
19 given the circumstances that the City finds itself in with
20 regard to the size of the Consent Decree and everything that
21 we have to work on at one point -- at one time.

22 A comment was made with regard to the consequences
23 of delaying Consent Decree implementation. What I would like
24 to say about that is that, you know, obviously you can see in
25 the Monitor's report of some of the quantitative failures of

1 the City to maybe comply with specific questions, but I don't
2 want that to overshadow the qualitative success that the City
3 of Ferguson has if you consider where we were eight years ago
4 and where we are today.

5 You know, I think a lot of times we get lost in the
6 forest because we can't see the forest for the trees. Not
7 making any excuses for the City's quantitative failures to do
8 what's required under the Consent Decree, but it does need to
9 be said that we've turned over our entire police force. New
10 police chief. You know, pretty much all new officers. We
11 don't get the same types of complaints, interactions from the
12 public as we were getting, you know, eight years ago. We
13 don't police in the same way as we did.

14 And so while Consent Decree -- and the Consent
15 Decree is, you know, it is one of the main reasons for that.
16 So while the implementation of the Consent Decree from a
17 quantitative perspective, you know, may be super slow and the
18 City may have failures, the impact of the Consent Decree is
19 being felt throughout our community.

20 And I just -- I don't want it -- I don't want the
21 narrative to be the City has these quantitative failures and
22 so all of a sudden there is no constitutional policing going
23 on in the City of Ferguson and we aren't doing the things we
24 need to do to try to get there. But I just want to highlight
25 and underscore our qualitative success, relatively speaking,

1 when it comes from where we were eight years ago to where we
2 are today.

3 The Use of Force Audit that the Monitor spoke about
4 I think is actually an example of this qualitative success.
5 Right? So the reports from the Monitor were that there were
6 disappointing results in some of our officers' failure to take
7 the extra step of filling out the Use of Force Report.
8 However, the Monitor also said that officers were not seeking
9 to conceal their use of force.

10 Now, as you know, in the Department of Justice's
11 report, you know, there were allegations that officers were
12 seeking to conceal their use of force. Right? So there's --
13 there was a time when we had officers who were actively
14 seeking to do that. But now we have officers who are maybe
15 not quite up to snuff in terms of the quantitative measures
16 that they need to fulfill for Consent Decree compliance.

17 But we don't have officers anymore who try to
18 conceal their reports. That's because from the top down, our
19 leadership, starting with our Chief Doyle on down, we have
20 stressed the importance of Consent Decree compliance, the
21 importance of constitutional policing, first of all. And
22 Consent Decree compliance goes hand in hand with that.

23 But it needs to be said that while we may have some
24 quantitative failures, the quality of what are doing is there.
25 Consent Decree implementation is hard. Right? And it

1 requires culture change. And when you have, you know,
2 officers who are ready and willing and able to comply, we do
3 need a structure in place where we are able to, you know,
4 allow those officers to reach or allow -- excuse me, allow FPD
5 to reach compliance and focus on those quantitative efforts.

6 But I just don't want it to be lost that the City of
7 Ferguson is much further along than it was eight years ago, in
8 a much better place than it was eight years ago when they
9 started this process. And that was really what I wanted to
10 address.

11 You know, sometimes I'm sitting here, and maybe
12 because I have been along for the journey since the Consent
13 Decree started, maybe I hear the comments and I'm just like,
14 you know, that's -- that's just not actually capturing exactly
15 what's going on. So I wanted to just give, at least from the
16 City's perspective, those retort comments to what was said by
17 the Monitor and the Department of Justice.

18 **THE COURT:** Well, you know, Mr. Carey, you've done,
19 as usual, a very good job of defending your clients and making
20 it clear that the City has worked very hard on this. And I
21 don't doubt what you're saying, in terms of how much they have
22 worked.

23 When I listen to you, though, I have to say the
24 thing that sort of jumps out, and I know you've heard this
25 before, is training. And if you -- if you had better

1 training, if you can get that more up to speed as I know
2 you're working on hiring a training person and doing the kinds
3 of things, I think even in the report on the use of force, for
4 example, what the Monitor said was better supervision, which
5 if, you know, people were trained better they could supervise
6 better to say, wait a minute, you need to do this, you need to
7 do that.

8 So I think -- I think the City and you know what
9 needs to be done, but I do appreciate that they've worked very
10 hard. And I certainly agree with you that things are not the
11 way they were eight years ago in the City of Ferguson. Both
12 in the -- the municipal court has been the most obvious but
13 also the use of force and the other, as you would say,
14 constitutional policing issues I think have improved a great
15 deal. It doesn't mean all the things that they said aren't
16 correct. I mean, we do need to move forward on these things.

17 And so that's why we are still here eight years
18 later. And I think the drive that you all have shown in the
19 last few months has been very good. And I think, you know,
20 the training is the thing that will -- you know, training sort
21 of -- and planning -- and sort of overgoes -- overlays
22 everything. So I would, you know, that's -- that can't be
23 stressed enough.

24 But thank you.

25

1 **MR. CAREY:** You're welcome, Your Honor.

2 And just to be clear in closing. I don't disagree
3 with anything that the Department of Justice said or the
4 Monitor said about, you know, where the City's deficiencies
5 are. I'd still want that to be the narrative without
6 expressing the City's perspective as to maybe why those
7 situations were what they were. And as you know, I will
8 always stand here and tell you, you know, my client needs to
9 work, needs to do better in this, needs to do better in that.
10 So I don't necessarily disagree with what they said with
11 regard to the topics that I discussed. I just wanted the
12 City's perspective to also be on the record so that the
13 public, as well as you, sort of understood how difficult this
14 process is.

15 **THE COURT:** Thank you. Does either Ms. Senier or
16 Ms. Tidwell, do you want to say anything else?

17 **MONITOR TIDWELL:** I do not have anything to add,
18 Your Honor.

19 **MS. SENIER:** No, Your Honor. Thank you.

20 **THE COURT:** All right. I think everybody
21 understands here. I think that the Department of Justice and
22 the Monitor have been very clear about the things that still
23 need to happen. And I think the -- the City, through their
24 Consent Decree Coordinator and their counsel, have been very
25 clear about the strides that have been achieved and the things

1 that have been achieved and the effort that is continuing to
2 be made.

3 And that's -- I think that's all extremely helpful.
4 I do -- as I just said to Mr. Carey, I don't have any doubt
5 that the City has worked hard at this. It's been up and down
6 because of the personnel issues in particular and also the
7 difficulty with recruitment and hiring in particular on the
8 police force. But I am, again, optimistic that we are
9 beginning to get to the point where that will -- those things
10 will be addressed and we will start improving even more.

11 And I have to say to the city officials who are
12 there: Don't any of you all quit. We need you. We need the
13 continuity that you all are providing and the -- and obviously
14 it's not involuntary servitude. You can't tell people they
15 can't quit. But I'm very pleased that you're there. And I'm
16 pleased that you're doing what you're doing. I think the
17 people who are working now have done a really good job.

18 And, you know, I'm not necessarily critical of
19 everyone before because, frankly, they were working at it,
20 too. But we have got to the point now where you can sort of
21 see -- I think that this -- the conclusion of this can be in
22 sight as we keep moving forward. So that's really what we
23 want to see is continuing to move forward.

24 And so I hope the recent pay increases will help
25 with the recruitment and hiring. And I do hope that the

1 training can be, you know, pushed up in the other areas that
2 were noted by the parties and the Monitor in the report.

3 So I would ask the public if anybody who is
4 listening, as well as those who are here, you know, read the
5 report, do the virtual town halls when the Monitor has them
6 and express how you feel because that's very important for
7 this process.

8 We will have another hearing in about three months
9 and that will be another quarterly hearing at some point. And
10 that will be one where we will have people speak publicly. I
11 don't have the date of that yet, but we will put an order out
12 and put it on the website as we have before. And I know the
13 City has publicized it as well on their website. So we will
14 let you know as soon as we do have that date agreed on.

15 So with that said, if there's nothing further I want
16 to thank all of the parties and counsel here, as well as the
17 City people who are here and say keep up -- keep working, keep
18 going and we will talk to you soon.

19 Court is in recess.

20 (The proceedings concluded at 11:01 a.m.)

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CERTIFICATE

I, Reagan A. Fiorino, Registered Merit 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 34 inclusive and was delivered electronically and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 8th day of November, 2023.

/s/ Reagan A. Fiorino

Reagan A. Fiorino, RDR, CRR, CRC, CCR
Official Court Reporter