

1 five students, I think, from Washington University Law School.
2 Coincidentally, the City has an internship program, I learned,
3 and those interns, I have been told by the City, can be made
4 available to help on this project. So there would now be
5 about 10 people who can help to administer this door-to-door
6 in apartment complexes, for example, and other areas so as to
7 reach or try to reach the hard-to-reach population so as to
8 maximize our responses. So I hope to have more to report on
9 that to the Court and to the public in short order. And after
10 we do that, we will, of course, analyze that survey and turn
11 our attention to the administration of the police survey.

12 In terms of the other major outcome assessment that's
13 called for in the Consent Decree -- and that is determining
14 whether the police department and the court system has the
15 information necessary for us to determine whether people are
16 being disproportionately affected in a negative way based on
17 protected characteristics, like race, for example -- our
18 ability to assess that depends, of course, on whether the data
19 exists, whether the City is capturing that data, and if so,
20 whether we can extract that data for our analysis. We've
21 been -- we, the Monitoring Team, have been challenged in that
22 regard over the months. The system that the City uses -- and
23 I think the City would be the first to acknowledge this -- ITI
24 has its challenges. There is a group on the Monitoring Team.
25 Your Honor will recall FRA, Forensic Risk Alliance, whose

1 expertise lies in this area, and there is good news to report.
2 I am told by FRA that ITI does contain data as to certain
3 protected characteristics, namely --

4 THE COURT: Yeah. So let me back up --

5 MR. ERVIN: Sure.

6 THE COURT: -- because I'm losing you in some of the
7 acronyms. ITI is the actual system that the City uses to
8 monitor its -- its -- or to keep track of arrests --

9 MR. ERVIN: Police department statistics.

10 THE COURT: -- arrests and -- arrests and charges and
11 things like that?

12 MR. ERVIN: That's right.

13 THE COURT: Right.

14 MR. ERVIN: And there's a separate one for the court
15 system. We've focused to date on the police department.

16 THE COURT: Right. The ITI is the police one?

17 MR. ERVIN: Yes, that's right.

18 THE COURT: Okay.

19 MR. ERVIN: And the good news, as I say, is that FRA
20 has determined -- FRA is Forensic Risk Alliance; it's part of
21 our team -- that ITI contains data as to certain protected
22 characteristics, namely, race, skin color, gender, and age,
23 but not gender identity, sexual orientation, and disability.
24 We have not been able -- did you have a question about that,
25 Your Honor?

1 THE COURT: Well, no. I'll hear what you have to
2 say. Those are harder things to -- you have to ask people.
3 Right?

4 MR. ERVIN: Indeed so. Much harder. That's quite
5 right. Also, we have not been able to determine whether ITI
6 captures data explicitly related to First Amendment political
7 activities that are protected, complaints against FPD,
8 individuals in crisis, internal investigations, appeals from
9 supervisors, or use of force. So we've not been able to
10 determine that. We're going to continue our efforts to see
11 whether it contains that data. If it does not contain that
12 data, then we'll have to -- we'll have to make a judgment
13 about that and see whether there are other external resources
14 that could be helpful in that regard. I'm not authorized at
15 this point to go into much detail, but there are a number of
16 outside groups that I have been consulting in recent weeks,
17 and we think that one of those groups may have the expertise
18 to be helpful in this regard and might be willing to donate
19 its services to the City of Ferguson to provide that
20 additional help. So more to come on that, we hope.

21 I guess the final thing I would say, subject to Your
22 Honor's additional questions, is to talk a little bit about --
23 and Mr. Volek, I think, talked about this -- my own and the
24 Monitoring Team's own community outreach efforts. It's
25 critically important that the Monitor himself and the

1 Monitoring Team do our own community outreach. We are the
2 community's tool to ensure, through an independent, impartial
3 voice, that the provisions of the Consent Decree are
4 implemented and if the provisions of the Consent Decree are
5 not implemented duly to report that to the Court and to the
6 public, and we take that obligation seriously.

7 And so, of course, I do not live in Ferguson or the
8 St. Louis area, and I'm constrained in how often I come
9 because of other commitments. I made a commitment early on to
10 come often, in addition to the status hearings, to do so about
11 every six weeks. I have not been doing that in part because
12 we have a local representative now in Ms. Norwood and also
13 because we have been focused so much in the last few weeks and
14 months, productively, I think, on the policy review process.
15 Having said that, last night, I did participate in a town hall
16 meeting, and I have resolved to do a town hall meeting, as
17 opposed to individual meetings, every single time I come to
18 Ferguson and, in fact, to come, starting now, every six weeks.
19 So you can expect to see me, Your Honor, if you wish to do
20 that during the course of those visits or at least to know
21 that I will be here on such a basis and make myself as broadly
22 available to the community as possible.

23 One of the perennial issues -- and I have discussed
24 this with Your Honor, and I'll close with this -- here is that
25 it's wonderful that I'm talking to people in the room, but the

1 people I most need to talk to are not in the room, and so I am
2 looking for input as to how to reach people who are not yet
3 engaged in the process, and I've already gotten a number of
4 community suggestions in that regard, as you might imagine,
5 and I'm looking for additional ones, and I will redouble my
6 efforts to reach out to those who most need to be heard from
7 because they are rarely heard from, if ever.

8 That concludes my remarks, Your Honor.

9 THE COURT: All right. Thank you.

10 MR. ERVIN: Thank you.

11 THE COURT: In terms of the outreach, I know that
12 more could be done and I know that was -- in some of the
13 letters I received, those were some of the concerns of the
14 people who had asked to speak, and perhaps they'll have more
15 to say.

16 I did want to make sure that everyone knows that this
17 court has a website. It is www.moed.uscourts.gov. Right? Is
18 that right? I should know it. I look at it all the time.
19 It's not as snazzy as a lot of websites that people are used
20 to surfing because it doesn't -- it's not snazzy. We're the
21 court. We're boring. So -- but it does have a link, and if
22 you go on the left side to links, there's a place where it
23 says *United States of America versus City of Ferguson*. That's
24 the link to this case, and if you look at that, it has the
25 orders I have entered in this case, including the order

1 setting the next status hearing. It has the transcripts of
2 the hearings we've had in the past. It has, of course, the
3 Consent Decree. It has -- but it has all of the transcripts
4 that we've had, and then it's got things back to when we did
5 it. It also has contact information for the Monitor,
6 including address, phone number, email, and for each of the
7 lawyers who has entered an appearance in this case, that is
8 for the Department of Justice and for the City. So, you know,
9 that's what we have on our court's website, and like I say, I
10 know it's not flashy like other websites, but it's there and
11 it has the information.

12 So I would encourage everybody to look at that, and I
13 will -- as everybody has problems, there have been times we
14 haven't kept it up-to-date as quickly as we should have. It's
15 up-to-date now, and we will keep it up-to-date from now on,
16 including posting the transcript of this hearing in a few --
17 when we get it done. It'll be -- it won't be immediately, but
18 we will have it posted.

19 I will also try to provide further notice about the
20 procedures for the June meeting and what people should do, but
21 when we have that June status conference, my intention is that
22 people can speak, that we would limit each person to five
23 minutes, and that you just need to show up ahead of time and
24 sign up. I would ask that you speak about things that have to
25 do with the Consent Decree. It's not an open forum for all

1 purposes. It has to do with the Consent Decree, the things
2 that are within the Court's power and within the Consent
3 Decree. You know, so I'm not -- it's not a political forum,
4 you know, but I think -- you know, I think that the last time
5 we did it, it was very productive, I think, and worked fine,
6 and so we'll do something similar.

7 The Monitor also has a website, and there is a link
8 to that in the text in our Court's website, and obviously,
9 everyone should look at that, and it's called
10 fergusonmonitorship.com.

11 And the City, of course, also has a website. And,
12 Mr. Carey, I neglected to check your website again, the City's
13 website again today, but I would urge the City to have as much
14 information as possible about this process, and if you don't
15 have it there already -- I know the last time I checked it I
16 didn't think it had as much information as it might have.

17 And in particular -- and I haven't told the lawyers
18 and Mr. Ervin this yet, but I would ask that every time I do
19 issue an order setting out a hearing or every time we do post
20 a transcript online that you add that to your websites. I
21 know, as lawyers, you don't want to do that; you're hesitant
22 to put stuff the court gave you out on the website, but I
23 would say if I'm entering an order setting hearings or the
24 transcripts, you should put those on your websites too so that
25 people can have more access to them.

1 So that's -- I know I'm not a community outreach
2 expert. Normally, the courts don't do anything except we're
3 public. That's what we tend to do. But I do want people to
4 reach -- you know, to know what we're doing. This should be a
5 transparent process.

6 So I hope that will help somewhat in people knowing
7 what's going on and being involved. And, of course, the main
8 involvement that people can have is working with the City and
9 all these various organizations and task forces.

10 I'm pleased to hear that the City has worked with a
11 group to try to encourage formation of community
12 organizations. It's been my experience -- and I mentioned
13 this at the last conference -- that community organizations
14 can be a very helpful way of getting things done, but, of
15 course, it requires members of the community to go to the
16 meetings. They don't generally work when they're set up by
17 the City. They work when they're set up by the people. And
18 so I hope that for the neighborhood groups and things like
19 that, that the people will get involved and will do what they
20 can to set them up. And to the extent the City or others, the
21 Department of Justice, can assist in that, that's great, but
22 when we're talking about a community organization, that ought
23 to be the people doing the work. And unfortunately, as we all
24 know, sometimes those processes are messy because people don't
25 always agree with each other, and that's part of the job of

1 trying to get yourself organized is to talk and work through
2 your agreements and disagreements.

3 And I hope that -- you know, as the Court in this
4 case, I'm not -- it's not my role, you know, to say, well,
5 this person should be the head of this group, whether it's one
6 of the groups listed in the Consent Decree or otherwise, or I
7 think you should organize it that way. My official role is to
8 see that the Consent Decree is complied with and that my
9 orders are followed because that's what courts do. If I can
10 help, I want to help, but I also am not -- I'm not the
11 community organizer. I'm the judge, and really all I can do
12 fully is, you know, see to it through this process and others
13 that the public is informed of what the court is doing -- and
14 we have these conferences so that the public can know as well
15 as me knowing -- but also that the decree is complied with.
16 Most of the work is not anything that I can or should be
17 involved in.

18 I'm not a part of the case. I'm not a party to the
19 case. The parties are the Department of Justice and the City
20 of Ferguson. The community has a huge interest in seeing that
21 this is complied with, as do I, but, you know, I am an
22 independent -- I'm neutral in all this. All I'm doing is
23 following the law, and so that's all I can do.

24 For members of the community who are here, I
25 appreciate your being here, and I don't know if any of you all

1 are following the Supreme Court hearings that are going on
2 right now or the confirmation hearing for the person who's
3 been nominated to be on the U.S. Supreme Court. He's been
4 making a lot of statements about the role of judges, and
5 although it's very frustrating, I know, for people to sit
6 there and say, "Well, we want you to tell us how you're going
7 to rule on something," the statements about the role of
8 judges -- and if you look at the history, this is what the
9 Supreme Court justices have been saying in all their
10 nomination hearings or their confirmation hearings. They
11 never tell you how they're going to rule on anything. But
12 that's because that's our job. Our job is to be neutral.
13 When I talk to a jury, I tell them my job is to provide a
14 level playing field. That's really our job.

15 So, in this case, my job is also to make sure that
16 the Consent Decree that was entered, which is a judgment of
17 this court, is complied with, and that's an important job, but
18 it's not to be an advocate for one side or the other. It's to
19 make sure that the law is followed, and that's really all
20 we're doing. So I hope you understand that, and I hope the
21 people who aren't here today but who have an interest in this
22 also understand that I can't -- I'm not here to just be a --
23 solve all the problems. Really, you guys have to solve the
24 problems, but I'm here to make sure the Consent Decree is
25 complied with because that's really my role.

1 And I am going to start trying to talk to the lawyers
2 and the parties. They're having weekly telephone calls, and I
3 may participate in those once in a while. I won't necessarily
4 do it all the time but just so I can make sure they're doing
5 what they need to do.

6 Similarly, I will try to have opportunities for
7 public comment at these hearings, but it won't necessarily be
8 at every status hearing. But everything we do is public. It
9 is all on the court's website. It's in the court docket
10 sheet, the file. I'll put the major things up, but if there
11 are things you want to know more about and they're not on the
12 public websites, they're in the court file, and they are
13 available to the public. Everything filed in the court,
14 unless it's filed under seal -- and there's nothing filed
15 under seal in this case except for some home addresses --
16 is -- but everything else is in the public documents, and
17 that's true of all cases.

18 The court's open to the public. So, you know, you
19 can go to the clerk's office and look at the case file if you
20 don't want to pay. There's a fee because -- because the
21 courts -- we have to charge a fee if you look at the docket
22 sheets of our cases because otherwise we don't have money to
23 run our computers because Congress decided the best way for us
24 to have a computer system was to charge a user fee, and so
25 that's what we're doing. So I know people hate it, and I

1 apologize, but that's not my -- that's at a much higher level
2 than me, but the stuff I think is really important in this
3 case that you all need to know and that should be given to the
4 public, I'm putting on the public website so there's no fee
5 for that. But if you want to look behind that and look at the
6 actual docket and the filings themselves, you can come to the
7 clerk's office and look at the public terminal, and you won't
8 be charged for looking at that. If you do it at home, you may
9 have to have a PACER account.

10 Parties, Mr. Volek, anything further from the
11 Department of Justice?

12 MR. VOLEK: Nothing for us, Your Honor.

13 THE COURT: Mr. Carey?

14 MR. CAREY: No, ma'am.

15 THE COURT: Mr. Ervin?

16 MR. ERVIN: Nothing, Your Honor.

17 THE COURT: Thank you, all. And so I will see you
18 again on June -- I have it right here. I set it. I just told
19 you it was on the website. The next hearing, which is June --
20 is it --

21 MR. ERVIN: 22nd.

22 THE COURT: -- 22nd? Yeah, so that's three months.
23 And at that hearing, I will hear from members of the public.
24 It will probably -- I don't know if it will be in this
25 courtroom. We might move it downstairs to the larger

1 courtroom in anticipation of other people, of there being a
2 bigger crowd. So do check the court's docket and the postings
3 downstairs to see which courtroom it will be in.

4 Yes, Mr. Carey.

5 MR. CAREY: Your Honor, actually, we have something
6 on that issue. I saw something, and I can't remember if it
7 was a court procedure or something. That had to do with when
8 the public wants to speak at the hearing --

9 THE COURT: Yes.

10 MR. CAREY: -- the parties are then given an
11 opportunity to be prepared, basically, to respond or
12 something.

13 THE COURT: Yeah, to know what topics. Would you
14 like to have an idea of what topics people want to talk about?

15 MR. CAREY: Yeah. I think there's a procedure that
16 the court has that will allow us because if there is, you
17 know, some questions or something, it would be nice for the
18 City and maybe the Department of Justice too -- I don't want
19 to speak for them, but at least from the City perspective, to
20 be able to be prepared for that pursuant to that court
21 procedure.

22 THE COURT: Yeah. I know we have talked about that
23 before. When we had the initial hearing to approve the
24 Consent Decree, the proposal was that people -- from the
25 parties to the case -- was that people who wanted to speak

1 would tell us ahead of time and would have to tell us what
2 they wanted to talk about, and I know that would be very
3 helpful for the parties. I'll take that under consideration
4 and think about doing that. I also don't want to make it
5 overly burdensome, and I also want to, you know, remind people
6 that, you know, what is filed in the court file is public, and
7 so when people -- I mean, on the one hand, we won't take
8 anything that's anonymous. On the other hand, if you put your
9 address and phone number on there, it's in the public, and it
10 is out on the Internet, and so, you know, that's not something
11 most people want to do, and frankly, we don't think you should
12 do it. So I'm hesitant to tell people just to start filing
13 stuff or sending things up. But let me look at it, and I'll
14 see if there's a way that is reasonable and accessible that we
15 could do that so you'd have some notice.

16 MR. CAREY: Thank you, Your Honor.

17 THE COURT: Otherwise, I suspect most of the things
18 people want to talk about will be things that the City and the
19 Department of Justice have already heard about because they've
20 come and complained to you, and if not, I would hope that you
21 all would -- that people would talk to the City about what
22 they want. But, yeah, I'll see if I can think of a way
23 that -- I'll try to come up with a procedure that would be
24 fair that would give some notice to the City and the parties
25 to the case without unduly restricting people's opportunity to

1 speak.

2 MR. CAREY: Thank you.

3 THE COURT: All right. I will thank you, all, for
4 being here, and I will see you in three months and be talking
5 to some of you sooner than that, and court is in recess.

6 (Proceedings concluded at 3:29 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 54 inclusive.

Dated at St. Louis, Missouri, this 29th day of March, 2017.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter