

CITY OF ALBUQUERQUE



September 8, 2015

Hand Delivered

Honorable Richard J. Berry
1 Civic Plaza
Albuquerque, NM 87102

Chief Gordon Eden
Law Enforcement Center
400 Roma NW (5th floor)
Albuquerque, NM 87102

Dear Mayor Berry and Chief Eden:

As Chair of the Police Oversight Board ("POB"), I am writing to raise a concern regarding the process for revising Albuquerque Police Department ("APD") policies to conform to the consent decree in *United States v. City of Albuquerque*, 14-CV-1025 JB/SMV. Based on the information currently available to me, I understand that the City intends to finalize changes to APD policies -- including those that directly address problems the Department of Justice found through its pattern and practice investigation -- without providing the POB or the community an opportunity to review and comment on the new policies. I believe this would be a mistake, and I ask that you instead commit to providing an opportunity for the POB and the public to provide feedback before the Chief approves critical policies and submits them to the federal monitor.

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The City's stated goal in entering the consent decree was to ensure that APD delivers "police services that comply with the Constitution and laws of the United States" and to further the City and the Department of Justice's mutual interests in officer safety and accountability; constitutional, effective policing; and high quality police services. Toward that end, the consent decree calls on APD to make improvements related to a series of specific aspects of policing, including: (1) use of force; (2) specialized units; (3) crisis intervention; (4) civilian complaints; (5) supervision; (6) discipline; and (7) community engagement. The consent decree then includes a range of provisions to more broadly improve the Department, including a stand-alone section devoted to policies and training.

A major test of whether the consent decree creates sustainable reform will be what senior officers five years from now tell their younger counterparts when asked how things

should be done. If the guidance those senior officers provide is consistent with quality policies and procedures, APD reform likely will last beyond the period of direct oversight. The quality of the policies APD adopts now therefore will have a disproportionate impact on the success or failure of our collective efforts to improve the Department. Given the overriding public interest in successful reform, it is essential that the City provide the POB and the community an opportunity for meaningful comment on those policies.

There are a number of other compelling reasons to agree to public scrutiny before adopting revised policies. First, the public will be impacted by the policies directly and should therefore have the chance to raise any concerns with proposed changes. The Chief ultimately has the authority to approve final policies, but it is difficult to identify a good reason he should do so without the benefit of feedback from a community that is working its way through a challenging time.

Second, the City expressly acknowledged in the consent decree that “[b]y increasing transparency and accountability on use of force, APD will promote more effective law enforcement and will strengthen public confidence in APD.” The obvious question, then, is what interest you would serve by shielding changes to APD policies from review. Adopting new policies without comment from outside APD will undermine their legitimacy in the eyes of the community, while allowing scrutiny would help foster a new culture of trust between APD and the public.

Third, the consent decree itself requires APD to provide the Civilian Police Oversight Agency a meaningful role in reviewing proposed policy changes, and the City Council squarely embraced that role for the agency in the Police Oversight Ordinance. The consent decree provides that “APD shall submit all changes to policy related to this Agreement (i.e., use of force, specialized units, crisis intervention, civilian complaints, supervision, discipline, and community engagement) to the agency for review, and the agency shall report any concerns it may have to the Chief regarding the policy changes.” The Police Oversight Ordinance adds emphasis to this by requiring that the POB devote more than 50% of its time to issues of policy. The POB cannot play a substantive role in policy review if it is relegated to reviewing policies only after they have been approved by the Chief and reviewed by the federal monitor. And although we appreciate including one POB member and one member of the Civilian Police Oversight Agency staff on the Policies and Procedures Review Board, their attendance is no substitute for review by the POB and the public.

Finally, I believe there is a practical way to add reasonable transparency to the process for revising policies pursuant to the consent decree. I understand that there already is a

Honorable Richard J. Berry
September 8, 2015
Page 3

point in the process at which APD will circulate draft policies for review by the entire Department through PowerDMS. I also understand that this will occur before the Chief approves the relevant policies and submits them to the federal monitor. By agreeing to provide policies to the POB and the public for comment at the same time, you will open up what otherwise would be a closed process.

I send this to you in the spirit of moving Albuquerque forward, and I hope it will be received as such.

Very truly yours,

A handwritten signature in cursive script that reads "Leonard Waites". The signature is written in black ink and is positioned below the typed name.

Leonard Waites

CC: Police Oversight Board
City Council President Rey Garduño
James Ginger, Ph.D.
United States Attorney Damon Martinez