U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

VIA ELECTRONIC MAIL

The Honorable Richard J. Berry
Mayor
City of Albuquerque
One Civic Plaza NW, 11th Floor
Albuquerque, NM 87102

RE: Albuquerque Police Department Settlement Agreement

Dear Mayor Berry:

We write to memorialize the commitment to enter into an agreement between the City of Albuquerque (City) and the Department of Justice to resolve the Department's pattern or practice investigation of the Albuquerque Police Department (APD). Please review the terms below and indicate your agreement by your signature, and return the countersigned letter to our attention.

1. In November 2012, the Department of Justice, through the Civil Rights Division and the United States Attorney's Office for the District of New Mexico, initiated an investigation of APD, pursuant to the Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141 (Section 14141). This statute authorizes the Department of Justice to file a civil action and seek equitable and declaratory relief to remedy a pattern or practice of police misconduct.

2. On April 10, 2014, the Department of Justice issued a report detailing its investigative findings regarding APD. The Department of Justice indicated it would engage the City in negotiations to reach a court-enforceable agreement to resolve the Department's investigation. At the time of the release of the Department of Justice report, the City re-affirmed its pledge to work collaboratively with the Department of Justice to implement sustainable police reforms. The Parties also agreed to consult with APD officers and community members to solicit recommendations on remedial measures and feedback on a path forward.

3. Beginning in June 2014, the Department of Justice and the City initiated serious, arms-length negotiations to resolve the Department's findings. After a thorough review by the Mayor, Chief Gorden Eden, City Attorney David Tourek, and Special Counsel Scott Greenwood, the Parties have agreed to enter into the attached Settlement Agreement. The Parties have determined that the Settlement Agreement, rather than protracted and costly litigation, is the most effective means of resolving the Department of Justice's investigation and ensuring constitutional and effective policing for the residents of Albuquerque.

4. The Mayor would like to consult with the City Council before the Settlement Agreement is executed and filed with the United States District Court for approval and entry as an order. While the City Council need not legally endorse the Settlement Agreement, it will play an important role in supporting the reform process. The consultation is designed to provide the City Council with an opportunity to consider and request information on the Settlement Agreement before it is filed with the Court. It will also provide the public an opportunity to express its views. To this end, the Mayor agrees to consult with the City Council on the following schedule:

    a. City Attorney Tourek will request that the City Council consider the Settlement Agreement at a special session to be called on November 6, 2014.

    b. The Mayor agrees to personally recommend that the Council support the Settlement Agreement before the City Council.

    c. Immediately following the City Council's consultation regarding the Settlement Agreement, but in no event later than November 10, 2014, the Mayor, the City Attorney, and Special Counsel Greenwood agree to sign and fully-execute the Settlement Agreement.

5. The Department of Justice agrees to withhold the filing of a civil action under Section 14141 or other applicable law, or otherwise take other enforcement action, until November 10, 2014, to provide the Mayor an opportunity to consult with the City Council. However, if the Mayor or other City official fails to make reasonable efforts to consult with the City Council, acts in bad faith, or is otherwise unable to secure necessary endorsements, the Department of Justice reserves the right to file a civil action or take other appropriate enforcement action at any time.

6. The Parties agree to make the Settlement Agreement and this countersigned letter available to members of the City Council and the public on or after October 31, 2014.

If the foregoing terms are acceptable to you, please so indicate with your signature below and return this executed letter to us by October 29, 2014. By your signature, you represent that you are authorized to sign on behalf of the City of Albuquerque.

Sincerely,

Vanita Gupta
Acting Assistant Attorney General
Civil Rights Division

Damon P. Martinez
United States Attorney
District of New Mexico

COUNTERSIGNED AND AGREED THIS 29th DAY OF October, 2014.

Richard J. Berry
Mayor
City of Albuquerque

David Tourek
City Attorney
City of Albuquerque

Scott T. Greenwood
Special Counsel
City of Albuquerque