

CITY OF ALBUQUERQUE

Office of the City Attorney



July 24, 2020

VIA ELECTRONIC MAIL

John Anderson
United States Attorney
District of New Mexico
P.O. Box 607
Albuquerque, NM 87103

Re: Operation Legend

Dear Mr. Anderson:

As you know, the City is currently partnering with several federal agencies to fight violent crime and gun crime. The City welcomes the continued federal partnerships to carry out those task force operations as they currently operate.

However, President Trump's statements about the reasons that federal agents will be sent to cities make it clear that he and the Department of Justice may intend for these agents to be involved in policing First Amendment assemblies. The events in Portland have demonstrated the danger of using federal agents who lack training that complies with best practices when responding to First Amendment assemblies.

The City of Albuquerque does not welcome federal agents making arrests and using force on individuals engaged in First Amendment assemblies.

The City of Albuquerque does not welcome federal agents hiding their identity and the identity of the agencies for which they work.

The City of Albuquerque does not welcome federal agents' use of unmarked vehicles to detain and remove individuals exercising their First Amendment rights.

As you know, the Court Approved Settlement Agreement (CASA) in *United States v. City of Albuquerque*, 14-cv-1025, requires constitutional policing of crowds, and we ask for the same commitment from your office. As relevant, the CASA requires Albuquerque Police Department (APD) law enforcement officers to:

maintain crowd control and incident management policies that comply with applicable law and best practices. At a minimum, the incident management policies shall:

a) define APD's mission during mass demonstrations, civil disturbances, or other crowded situations;

Albuquerque – Making History 1706-2006

- b) encourage the peaceful and lawful gathering of individuals and include strategies for crowd containment, crowd redirecting, and planned responses;
- c) require the use of crowd control techniques that safeguard the fundamental rights of individuals who gather or speak out legally; and
- d) continue to prohibit the use of canines for crowd control.

[CASA, Doc. 465-1, paragraph 39, emphasis added]. In order to implement this paragraph of the CASA, the City revised its Emergency Response Team (ERT) and First Amendment assembly policies, which your office reviewed and approved, and the City revised its training, which was approved by the independent monitor. Using the ERT, the City has been encouraging and will continue to encourage the peaceful and lawful gathering of individuals and the protection of the fundamental rights of individuals who gather and speak legally, and constitutionally responding when demonstrations become unlawful. Local, not federal, agents are best able to address First Amendment assemblies due to this specialized team.

The City asks for your written commitment that any federal agents sent to Albuquerque as part of Operation Legend will not be used to police First Amendment assemblies, nor target people or communities of colors or immigrant families. We ask for your written commitment that these agents will focus on continuing the existing operations based on our partnership and continue to focus on high-level drug offenses, human trafficking offenses, federal crimes against children, and gun crimes.

We further ask for your written commitment that, whenever detaining or arresting individuals in Albuquerque, all federal agents will conspicuously identify themselves as such, carry and display identification, and wear uniforms that conspicuously identify the agency for which they work.

Finally, we ask for your written commitment that federal agents will abide by the City of Albuquerque's policies governing First Amendment assemblies, the Emergency Response Team, use of force, and the use of on-body recording devices – all of which are approved by both your office and the independent monitor pursuant to the CASA.

We look forward to continuing to work together to serve the diverse community of Albuquerque.

Respectfully,



Samantha M. Hults
Deputy City Attorney

copy: Sarita Nair, Chief Administrative Officer, City of Albuquerque
Michael J. Geier, Chief of Police, Albuquerque Police Department
Pat Davis, Council President, City of Albuquerque