

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 1:14-cv-1025 RB/SMV
)	
THE CITY OF ALBUQUERQUE,)	
)	
Defendant,)	
_____)	

CITY OF ALBUQUERQUE'S ANSWER TO COMPLAINT

COMES NOW Defendant The City of Albuquerque ("City") and for its Answer to the Complaint states as follows:

1. The City admits the allegations contained in paragraph 1 of the Complaint.
2. The City admits the allegations contained in paragraph 2 of the Complaint.
3. The City admits the allegations contained in paragraph 3 of the Complaint.
4. The City admits the allegations contained in paragraph 4 of the Complaint.
5. The City admits the allegations contained in paragraph 5 of the Complaint.
6. The City admits that venue is proper in the United States District Court for the

District of New Mexico under 28 U.S.C. § 1391(b). The City admits that the Defendant is located and resides in New Mexico. The City denies the remaining allegations contained in paragraph 6 of the Complaint.

7. The City denies the allegations contained in paragraph 7 of the Complaint. The City further denies each and every allegation and finding contained in the Department of Justice's April 10, 2014, Letter of Findings, attached as Exhibit A to the Complaint.

8. In response to paragraph 8, the City admits the allegation that from 2009 through 2012 Albuquerque police officers have been involved in approximately 20 officer-involved shootings resulting in fatalities. The City admits that the United States concluded that the majority of these shootings were unconstitutional; the City denies that conclusion is based on the facts or circumstances of the shootings. The City denies the remaining allegations contained in paragraph 8 of the Complaint.

9. The City denies the allegations contained in paragraph 9 of the Complaint.

10. The City denies the allegations contained in paragraph 10 of the Complaint.

11. The City denies the allegations contained in paragraph 11 of the Complaint.

12. In response to paragraph 12, the City incorporates its answers as contained in paragraphs 1 through 11 above.

13. The City denies the allegations contained in paragraph 13 of the Complaint.

14. The City denies the allegations contained in paragraph 14 of the Complaint.

15. The City denies the allegations contained in paragraph 15 of the Complaint.

16. In response to paragraph 16, the City incorporates its answers as contained in paragraphs 1 through 15 above.

17. The City denies the allegations contained in paragraph 17 of the Complaint.

18. The City denies the allegations contained in paragraphs 18, 18a, 18b, 18c, and 18d of the Complaint.

19. The City denies the allegations contained in paragraph 19 of the Complaint.

20. The City denies the allegations contained in paragraph 20 of the Complaint.
21. The City denies the allegations contained in paragraph 21 of the Complaint.
22. The City denies the allegations contained in paragraph 22 of the Complaint.
23. The City denies the allegations contained in paragraph 23 of the Complaint.
24. The City denies the allegations contained in paragraph 24 of the Complaint.
25. The City denies the allegations contained in paragraph 25 of the Complaint.
26. In response to paragraph 26, the City incorporates its answers as contained in paragraphs 1 through 25 above.
27. The City denies the allegations contained in paragraph 27 of the Complaint.
28. The City denies the allegations contained in paragraph 28 of the Complaint.
28. There is a typographical error repeating Paragraph number 28 for the Prayer for Relief. The City denies that Plaintiff is entitled to the relief prayed for in misnumbered Paragraph 28.
29. The City denies that Plaintiff is entitled to the relief prayed for in misnumbered Paragraph 29.
30. Any allegation not specifically admitted herein is hereby denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state one or more claims for which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The City did not commit a pattern of constitutional violations.

THIRD AFFIRMATIVE DEFENSE

The City, its officers, agents and employees did not commit clearly established constitutional violations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims and damages, if any, were due to an independent, intervening cause rather than due to any fault on the part of City, its agents, officers or persons acting on its behalf.

FIFTH AFFIRMATIVE DEFENSE

All of the actions of City's agents, officers, and persons acting on its behalf were objectively reasonable under the circumstances, done in good faith, and therefore, they are entitled to qualified immunity.

SIXTH AFFIRMATIVE DEFENSE

All of the City's agents, officers or persons acting on its behalf breached no duty owed to Plaintiff.

The City reserves the right to amend its Answer and/or add additional affirmative defenses to conform to the evidence obtained through future discovery.

The City expressly reserves the right to amend its Answer and/or to assert cross-claims, counter-claims, third-party claims and/or defenses it may have based upon further investigation and discovery which may be conducted in this case.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38, the City hereby demands a trial by jury on all claims and issues raised in Plaintiff's Complaint filed in this cause.

WHEREFORE, having fully answered and affirmatively defended, Defendant respectfully requests that this court dismiss Plaintiff's Complaint with prejudice, and grant such other and further relief as the court deems just and proper.

Respectfully submitted,

CITY OF ALBUQUERQUE
David J. Tourek, City Attorney

Electronically Filed:

/s/ David J. Tourek

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I HEREBY CERTIFY that on the 14th day of November 2014, I filed the *City of Albuquerque's Answer to Complaint* through the Court's Electronic Filing system, which caused those parties or counsel of record on the service list to be served by electronic means.

/s/ David J. Tourek