

I. PARTIES

1. The Plaintiff is the United States of America.
2. The Defendant is the City of Albuquerque, a municipality located in Bernalillo County, New Mexico, and incorporated under NMSA 1978, § 3-2-1 *et seq.* The Albuquerque Police Department is a subsidiary agency of the City of Albuquerque and is responsible for providing general policing and law enforcement services throughout the city. The City of Albuquerque is responsible for funding and overseeing the Albuquerque Police Department.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1345.
4. The United States is authorized to initiate this action under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. Under § 14141, the United States is authorized to bring suit against a state or local government in order to eliminate a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.
5. Declaratory and injunctive relief is authorized by 42 U.S.C. § 14141(b)
6. Venue is proper in the District of New Mexico under 28 U.S.C. § 1391(b). The Defendant is located and resides in New Mexico, and all events, actions, or omissions giving rise to this claim occurred in New Mexico.

III. FACTUAL ALLEGATIONS

A. The Albuquerque Police Department Engages in a Pattern or Practice of Use of Unreasonable Deadly Force in Violation of the Fourth Amendment.

7. As set forth in the Department of Justice's April 10, 2014, Letter of Findings, attached hereto as Exhibit A, Albuquerque police officers engage in a pattern or practice of using excessive force during the course of arrests and other detentions in violation of the Fourth Amendment and 42 U.S.C. § 14141. The pattern or practice of use of excessive force stems from systemic deficiencies in the Defendant's policies, training, supervision, recruiting, hiring, internal investigations, and external oversight.
8. Albuquerque police officers use deadly force in an unconstitutional manner in their use of firearms. From 2009 through 2012, Albuquerque police officers have been involved in approximately 20 officer-involved shootings resulting in fatalities. The United States concluded that the majority of these shootings were unconstitutional. The use of unreasonable deadly force by Albuquerque police officers continues.
9. Specifically, Albuquerque police officers use deadly force in circumstances where there is no imminent threat of death or serious bodily harm to officers or others; where persons pose only a minimal threat; and where officers' own conduct escalates situations and contributes to the need to use force.
10. Albuquerque police officers, including officers assigned to specialized units, use unreasonable deadly force against individuals known or suspected of having mental illness and experiencing mental health crisis.
11. The unlawful acts of Albuquerque police officers constitute a pattern or practice of unconstitutional conduct and poses unacceptable risks to the Albuquerque community.

B. The Albuquerque Police Department Engages in a Pattern or Practice of Unconstitutional Use of Less Lethal Force in Violation of the Fourth Amendment.

12. The United States re-alleges and incorporates by reference the allegations set forth above.
13. Albuquerque police officers use less lethal force in an unconstitutional manner. Officers typically use physical force, such as punches, kicks, and violent takedowns, against individuals who pose little or no threat to officers or others, or who offer only minimal resistance. Officers also typically use less lethal weapons, such as electronic control weapons, to shock and inflict excruciating pain on individuals who pose little or no threat to officers or others, or who offer only minimal resistance.
14. Albuquerque police officers use electronic control weapons in dangerous situations that substantially outweigh the threat posed by individuals and that expose individuals to actual harm and serious risk of harm. For instance, officers set an individual on fire by shocking him multiple times with an electronic control weapon after the individual had doused himself with a flammable substance.
15. Albuquerque police officers frequently use unreasonable force against persons who are unable to understand or yield to commands, either due to intoxication or mental disabilities, and who pose little if any threat to officers or others. Many of these individuals are known or are suspected of having mental illness, substance abuse issues, and other incapacities.

C. The Defendant's Failure to Correct Serious Systemic Deficiencies Causes and Contributes to the Pattern or Practice of Use of Excessive Force.

16. The United States re-alleges and incorporates by reference the allegations set forth above.

17. The use of excessive force by Albuquerque police officers is the result of the Defendant's failure to institute adequate controls and systems of accountability to detect, correct, and prevent officer misconduct.
18. Specifically, the Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems on use of force that results in the following deficient practices:
 - a. officers routinely fail to accurately and fully report their use of force, including the amount of force used, the justification for using force, and injuries sustained by the subjects of force;
 - b. first-line supervisors often fail to scrutinize officers' use of force and overlook material inconsistencies and other deficiencies in officers' reports on use of force;
 - c. internal investigators often fail to conduct timely, thorough, and objective investigations into officers' use of force; and
 - d. commanders routinely fail to detect patterns or trends of misconduct, fail to take adequate corrective and disciplinary action, and fail to improve operations and hold officers accountable.
19. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems to effectively manage and supervise officers assigned to specialized units.
20. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems to de-escalate situations and minimize the need to use force when encountering individuals in crisis.

21. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training and accountability systems to conduct timely, thorough, and objective investigations of internal and external complaints of misconduct.
22. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems to provide sufficient supervision, risk management, and controls on the use of on-body recording systems.
23. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems to recruit, select, and promote qualified officers who demonstrate a commitment to effective and constitutional policing.
24. The Defendant has failed to ensure that the Albuquerque Police Department provides adequate policies, training, and accountability systems to implement effective community policing and meaningful civilian oversight.
25. As a result of the systemic failures discussed above, individuals in Albuquerque are subject to an ongoing and unreasonable risk of harm from officers' use of excessive force, including risk of death and serious bodily injury.

IV. CLAIM FOR RELIEF:
PATTERN OR PRACTICE OF USE OF EXCESSIVE FORCE THAT VIOLATES THE
FOURTH AMENDMENT AND SECTION 14141

26. The United States re-alleges and incorporates by reference the allegations set forth above.
27. The Defendant, its agents, and persons acting on its behalf, including Albuquerque police officers, use excessive force against individuals who pose little or no threat of harm to the officers or others, and that is otherwise unreasonable under the totality of the

circumstances. The use of excessive force includes physical force; weaponless tactics such as use of fists, hands, knees, and feet; use of restraints; and unreasonable application of electronic control weapons and other implements.

28. The use of excessive force engaged in by the Defendant, its agents, and persons acting on its behalf constitute a pattern or practice of conduct by law enforcement officers that deprives persons of their rights under the Fourth Amendment, in violation of 42 U.S.C. § 14141(a).

V. PRAYER FOR RELIEF

28. WHEREFORE, the United States prays that the Court:
- a. Declare that the Defendant has engaged in a pattern or practice of use of excessive force by Albuquerque police officers that deprives persons of rights, privileges, or immunities secured or protected by the Fourth Amendment, in violation of 42 U.S.C. § 14141(a);
 - b. Order the Defendant, its officers, agents, and employees to refrain from engaging in any of the predicate acts forming the basis of the pattern or practice of use of excessive force described herein;
 - c. Order the Defendant, its officers, agents, and employees to adopt and implement policies, procedures, and practices to remedy the pattern or practice of use of excessive force described herein;
 - d. Order the Defendant to adopt systems that identify, correct, and prevent the use of excessive force that deprives persons of rights, privileges, or immunities secured or protected by the Fourth Amendment and the laws of the United States; and

29. Order such other relief as the interests of justice may require.

DATED this 12th day of November, 2014

Respectfully submitted,

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