

CITY OF ALBUQUERQUE
RISK MANAGEMENT

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March 23, 2015

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MAYOR'S OFFICE

VIA HAND DELIVERY & U.S. CERTIFIED MAIL RRR

The Honorable Richard J. Berry
Mayor, City of Albuquerque
Office of the Mayor
Post Office Box 1293
Albuquerque, NM 87103

Re: New Mexico Tort Claims Act Notice: Jacob & Laura Grant & family
Date of Loss: January 9, 2015

Dear Mayor Berry:

Please be advised that our office has been retained to represent Jacob Grant, his wife (Laura Grant) and their minor children. This letter is submitted on behalf of the Grant family pursuant to NMSA Sec. 1978 41-4-16 (A) and provides timely and written notice that if a mutually amicable resolution is not be reached a lawsuit will be presented against the City of Albuquerque and its respective agencies, departments and employees as a result of the injuries arising from the Albuquerque Police Department ("APD") shooting of Mr. Grant which occurred on January 9, 2015, at approximately 11:40 a.m., at or near 13301 Central Ave., NE, Albuquerque, NM 87123, at a location commonly known as a "McDonalds' restaurant" located near Tramway & Central. Should a settlement not be reached a lawsuit will also be presented under the Civil Rights Act, 42 U.S.C. Sec. 1983 for deprivations of Mr. Grant's constitutional rights and privileges. Your attention is respectfully invited to the following information:

A. HISTORY

On January 9, 2015, Mr. Grant was shot multiple times by APD Lieutenant Greg Brachle while conducting a field operation. Mr. Grant suffered catastrophic injuries as a result of this shooting. While the investigation of this tragic shooting is not complete the following pertinent facts are indisputable:

- (1) Mr. Grant was shot multiple times at pointblank range by Lt. Brachle;
- (2) Lt. Brachle was Mr. Grant's supervisor; Lt. Brachle had frequent daily contact with Mr. Grant and Mr. Grant was well known to Lt. Brachle;
- (3) the shooting occurred in broad daylight and in clear weather;
- (4) at the time of the shooting, Mr. Grant and his partner (Holly Garcia) were seated in the driver's seat and in the rear passenger driver's side seat. These are the customary and designated places for narcotic detectives to be sitting while they are conducting field operations;
- (5) as a supervisor assigned to the narcotics division, Lt. Brachle was clearly aware of these seating arrangements, which were purposefully used to ensure the personal safety of the embedded detectives during field operations;
- (6) Mr. Grant was wearing the same clothing that he would wear while conducting field operations and which clothing was well known to Lt. Brachle and had been approved by him;
- (7) Mr. Grant's face was not hidden, obscured or in any way altered;
- (8) at the time of the shooting the two suspects involved in the operation had been or were being actively taken into custody by APD; the suspects were fully and completely cooperative, compliant, non-violent and at no time offered any physical resistance that would have invoked the need for the use of any force -- let alone the deadly force that was employed by Lt. Brachle;
- (9) the two suspects involved in the field operation were black males -- Mr. Grant is a white male;
- (11) after Mr. Grant had been shot at least twice by Lt. Brachle and was slumped in his seat and offered no conceivable threat to Lt. Brachle or to anyone else - -and in fact had never been a threat -- rather than cease fire, Lt. Brachle instead re-positioned himself and, rather than consider the situation and determine that no viable threat existed, instead

continued to fire upon Mr. Grant multiple further times thereby inflicting further grave, unwarranted and unnecessary injury upon him;

(13) Lt. Brachle's actions violated fundamental firearm rules including the most basic of all firearm rules – "know your target and what's behind it" before shooting – indeed, one of the bullets that Lt. Brachle shot passed through Mr. Grant and struck Detective Holly Garcia;

(14) Lt. Brachle was a firearm instructor for APD and was responsible for teaching and ensuring basic firearm safety to APD police officers; as such the basic rules of firearm safety were certainly well known to Lt. Brachle and yet these basic rules were either intentionally ignored or inexcusably and completely disregarded;

(15) Lt. Brachle did not cease firing until he had completely emptied his gun (8 shots) on Mr. Grant, although at no time could Mr. Grant be reasonably considered a threat and at no time was the need for force – let alone the deadly force used by Lt. Brachle – necessary;

(16) Lt. Brachle failed to attend the very briefing in which the field operation in which he shot Mr. Grant later that day was planned and discussed.

In addition to these indisputable facts we are certain that formal court discovery will provide further substantial evidence regarding pre-incident conduct and judgment decisions, as well as established policies and customs that contributed to and were a direct and proximate cause of Mr. Grant's injuries.

Moreover, on the day in question Mr. Grant's position was further compromised given that the APD narcotic division was woefully understaffed and had not been provided with (and in-fact had been denied) requested training in undercover narcotic work. Indeed, Mr. Grant cannot recall receiving any formal undercover narcotic training.

It is our belief that APD does not have written operating standards or procedures in place regarding narcotic field operations, and that APD has not provided its narcotics division with essential training in such fundamental matters as how to conduct a tactical vehicle approach/assault. Furthermore, APD has not provided its narcotics division with critical equipment necessary, such as vehicles equipped with pre-installed audio and visual surveillance/recording equipment.

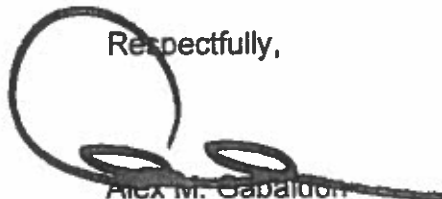
In short, the specific past and present safety, conduct, training, supervision, hiring & retention, failure to remedy, man power issues, equipment issues, and use of force policies and customs combined to produce fertile ground for this tragic and wholly unnecessary event.

Moreover, the facts attending Mr. Grant's assault, battery and deprivation of rights and privileges as secured by the constitutions and laws of the United States and New Mexico rise to a level of such egregious severity that it truly shocks one's conscience. The consequential results of this shooting are that Mr. Grant and his family have suffered permanent and severe damages that will affect them for the rest of their lives. Mr. Grant will no longer be able to hold or carry his children with both arms, tend his land, work on his vehicles, hunt, fish and enjoy the outdoors, or return to his chosen profession serving this City.

The Grants will make strong and favorable witnesses. They are intelligent, articulate and personable people with great integrity. They have dedicated themselves to making this community a better place to live. Indeed, they have contributed to the point that they place their very lives at risk so that we can live in a safer, better and stronger city. The facts in this matter, coupled with the involved damages, can be expected to move a jury to return a truly significant verdict.

In light of the City's stated desire to support both its police officers and its citizens, and to avoid the exposure of substantial litigation fees, costs and a considerable verdict – we are amicable to determining if a resolution of this claim can be reached prior to filing suit. Thank you for your attention to this matter.

Respectfully,



Alex M. Caballero

Cc: Rob Perry, Esq.,
APD Chief Gordon Eden

“We know this is a very difficult situation for Detective Jacob Grant and his family. It is a case that has forever and deeply affected those involved, their families, our community and the Department. We take Detective Grant’s attorney’s claims very seriously. The claims are under review by the city’s legal department and the Police Chief’s Office.”