

EXHIBIT B

Alameda County Sheriff's Office

Lakeside Plaza, 1401 Lakeside Drive, 12th Floor, Oakland, CA 94612-4305



Gregory J. Ahern, Sheriff

Director of Emergency Services
Coroner - Marshal

510-272-6866

August 3, 2020

Susan Manheimer, Chief of Police
Oakland Police Department
455 7th Street
Oakland, CA 94607

Dear Chief Manheimer:

I am writing to you today with a heavy heart, to advise you that I will not be providing mutual aid assistance to the City of Oakland through the deployment of members of the Alameda County Sheriff's Office. However, as the Mutual Aid Coordinator for Region II, my staff and I will continue to attempt to obtain law enforcement resources to assist your efforts to control unlawful behaviors during protest events.

As you may know, the Alameda County Sheriff's Office has a long and proud history of assisting any law enforcement agency which requests our help. We also regularly operate in portions of your City through our contracts with the A.C. Transit System, Highland Hospital, Peralta Community College District, the Oakland International Airport and at County Social Services Agency locations.

The men and women who work for the Sheriff's Office are highly trained, compassionate, and thoughtful individuals who can be relied upon to conduct themselves in a professional manner. As such, I have been proud to provide their services when requested. Unfortunately, the recent United States District Court Preliminary Injunction in the Anti Police-Terror Project, et al. v City of Oakland, et al., contains restrictions which would critically interfere with the safety and effectiveness of my staff. Additionally, the potential criminal and civil liability for violations of the terms of this Preliminary Injunction, could subject my agency and the County of Alameda to substantial negative outcomes.

While I have complete confidence in my staff's ability to properly interpret the provisions of the Preliminary Injunction, I am concerned that a post-incident evaluation of conduct prohibited by some of the vague language contained in the Injunction would result in negative consequences which could be highly detrimental to my staff, my Office and the County.

I will provide a few specifics without addressing the entire Preliminary Injunction:

- "The Court in this Order does not conclude that the use of these tactics and munitions in the limited circumstances addressed below is either lawful or advisable. Indeed, uses of force in specific instances, even if such force is not expressly prohibited by this Order, may or may not be lawful depending upon the circumstances at the time and existing precedent."

Chief Susan Manheimer
Oakland Police Department
Page 2

- “Chemical agents (including orthochlorobenzalmalononitrile), flashbang grenades, and foam-tipped projectiles shall be deployed only when (a) there is an imminent threat of physical harm to a person or significant destruction of property; and (b) other techniques, such as simultaneous arrests or police formations, have failed or are not reasonably likely to mitigate the threat. The use of such munitions must be authorized by an OPD Operations Commander or Incident Commander. None of these devices shall be deployed on peaceful protestors or indiscriminately into a crowd. They may only be targeted at the specific imminent threat justifying the deployment.”
- “The Incident Commander shall ensure that officers of the mutual aid agency who provide assistance to OPD are not assigned to front-line positions or used for crowd intervention, control or dispersal unless there is a public safety emergency.”

The three above quotes comprise only some of my concerns. A careful reading of the above reveals the almost impossible situation facing the peace officers assigned to crowd control duties. The above language is entirely subject to interpretation, both during and after any of the protest events. The inability to utilize effective and safe less-lethal munitions, places all peace officers at risk, and reduces the options available to deal with violent incidents. Peace officers would be limited, essentially, to hand-to-hand combat with specific individuals within potentially large crowds. I am not willing to expose my staff to this degree of danger without providing them with the proper equipment and support, most of which is prohibited by the Preliminary Injunction.

Our units are trained in crowd control and response to unlawful assemblies. They are trained to utilize widely accepted munitions and less-lethal tools to protect the lives of residents, the lives of sworn staff and other individuals on scene. Our units are trained with the FN303, stingball grenades, and 37 mm launchable rubber .60 caliber pellets, along with 40 mm launchable rubber .60 caliber pellets. Our units also utilize tear gas to disburse unlawful riot activities when violence and extreme vandalism is the crowd’s intent or to create a safe distance between Law Enforcement and those committed to assaulting them.

The use of these less lethal tools, in combination, is what allows our units to be successful. The elimination of these widely accepted tools and methods places my members at risk. The only available tool that my deputies are trained with, and would be allowed to utilize, is the 40 mm exact sponge impact munitions. This less-lethal tool alone is easily defeated by any type of makeshift shield. In my opinion, this alone would not be sufficient to protect my deputies from injury, nor would it be effective in stopping a crowd from continuous illegal activities.

In recent mutual aid responses, several of my sworn personnel have been injured. One Command Staff member, Captain David Blanchard, was struck in the head with a brick thrown from a distance of over twenty yards. One detective, Patrick Smyth, sustained second degree burns from an ignited Molotov cocktail thrown from a distance of about ten yards. This attack also burned two other sworn members who were positioned next to Detective Smyth. Another sworn member, Deputy Christine Sartin, was doused in the face with an accelerant, in an apparent attempt to burn and disfigure her. Officers and deputies assigned to these events were subjected to having fireworks launched at them from among the crowds. These attacks took place even with our members

Chief Susan Manheimer
Oakland Police Department
Page 3

deploying some of the tools prohibited by the Injunction. The cowards that utilized these dangerous weapons against my staff concealed themselves in a riotous crowd, or from behind barricades, to prevent identification and utilized the element of surprise to further their violent agenda.

I want to make it clear that my staff does not use force against those lawfully exercising their First Amendment rights. While it is not possible to predict when, or if, a peaceful protest will devolve into a riot, it is generally conceded that some individuals and groups may utilize the cover of a peaceful protest to foment violence and chaos. The Preliminary Injunction was apparently crafted with the intent to protect individuals engaged in peaceful protests, however, a possibly unintended consequence appears to provide exactly the type of support necessary for violent, destructive behaviors to occur almost virtually unchecked. I cannot, in good conscience, assign members of my agency to participate in the efforts to reduce or eliminate the chaos and violence which may occur, under the conditions imposed by the Preliminary Injunction.

I regret the fact that the language of the Preliminary Injunction has caused me to make this very difficult decision. As you will recall, on Friday, July 31, 2020, I suggested that in the event that other law enforcement agencies decline to offer assistance, you and your City Administration should seriously consider requesting personnel from the California National Guard. In the event you are able to convince the District Court to significantly modify or rescind this order, I will be more than willing to send my staff to assist the Oakland Police Department when needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Ahern". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gregory J. Ahern
Sheriff - Coroner

GJA:RTL:dr