



Report

The Old Pecos Trail “Murals” - Reporting and Op-Ed Coverage in the *Santa Fe New Mexican* January-February, 2020

Summary

There was considerable reporting coverage by the *Santa Fe New Mexican* of illegal signs and “murals” posted on the wall of the property owned by Guthrie Miller on Old Pecos Trail from early January through February, 2020. This document analyzes that coverage from an editorial and a reporting perspective.* Santa Fe Middle East Watch’s (SFMEW’s) two main conclusions:

1. The news reporting coverage, while providing lots of anti-Israel rhetoric from the mural perpetrators, failed to include context, investigate the claims of the perpetrators, reveal the false nature of the murals, understand the perpetrators’ backgrounds and report on their motives, and generally offered little counter-balance to the perpetrators claims from those objecting to the murals as antisemitic/anti-Israel, and the false intersectional claims from Native Americans.
2. The opinion page editors generally permitted a balance of anti-Israel and pro-Israel viewpoints, but failed to fact check many of the anti-Israel editorialists’ claims, many of which were false or contextually misleading.

In general, the news and editorial sides need to do a clearer and more balanced job communicating the complicated nature of the controversy, provide a more careful and detailed assessment of the issue, as well as have a wider appreciation of the damage done to the Jewish community by being so one-sided in the reporting, and careless in fact checking of claims by opinion writers. They also need to recognize how their perpetuation of propaganda misleads the public.

* Thanks to Brian Yapko for the initial detailed analysis of this information and his comments and perspectives.

Method

All instances of news reporting and editorial/opinion content (each independently an “article”) were identified from January 6 through February 28, 2020. Articles were defined as follows:

1. Main feature article
2. Main feature article photograph
3. “My View” opinion piece
4. Letter to the editor
5. E-voice comment

Items # 1 and #2 were considered “news” reporting – controlled by the news editorial staff; items #3-5 were “editorial” content – controlled by the op-ed pages editorial staff.⁺ We analyzed this accepting that the two sides of the paper are independent.

For each separate item we determined the number of words per article, and characterized the item as predominantly pro-Palestinian/anti-Israel or pro-Israel/anti-Palestinian in content. Some articles were considered neutral in perspective.

We then analyzed the content of the articles regarding the quality of the reporting (news) and/or facts presented with reasonable conclusions (editorial). Each article was assessed sentence-by-sentence for content based upon it having a pro-mural/Palestinian viewpoint, anti-mural/pro-Israel or antisemitic call-out viewpoint, or neutral viewpoint.

For example, in the January 6 (print 1/7) article there were 25 sentences of 448 words. Of the 448 words, 277 words of 14 sentences were pro-Palestinian (e.g., ‘the images of armed Israeli soldiers and tanks confronting Palestinian women and children show “the similarities when you look at the indigenous struggle of this continent and the indigenous struggle there.”’), 38 words (3 sentences) were pro-Israel or comments against the murals (“‘It’s racist, inflammatory and anti-Semitic to equate the European occupation of the Americas to Israel, which is reestablishing governance in its native land,” said Rabbi Berel Levertov of the Santa Fe Jewish Center-Chabad, who saw the artwork Monday afternoon.’), and 133 words of 3 sentences were neutral (“The artist used wheat paste to apply the images to the wall, a process that took between an hour and 90 minutes, he said, adding several passersby stopped to offer their help.”).

A feature article with a photograph is clearly more important in prominence, circulation, archival presence and potential opinion-forming than an E-Voice, which may be minimally viewed. Similarly, a My View carries more weight than an E-Voice or a letter. And a My View with a photograph humanizes the author more than one which is visually anonymous.

⁺ An email exchange with Inez Russell Gomez, editorial page editor, clarified that the e-comments are chosen by her or her staff.

To give relative weight to these varying forms of published material, we generated a scoring system as follows:

- feature article - weighted at 10 points,
- feature photograph - 10 points,
- My View with a photograph of the author - 8 points;
- My View without a photograph - 6 points;
- letter to the editor - 4 points; and
- E-Voice - 2 points.

This method of evaluation offers a quantifiable way of analyzing and scoring these materials in direct proportion to their importance. We have seen other media monitoring groups do similar ratings. This approach also affords a way to assign a score to a piece which has mixed pro-Palestinian, pro-Israel and neutral material. While adjustments could be suggested to the scoring system, we believe the results reported just below would not change substantially.

Results

There were twenty (20) articles as itemized in Appendix 1(a). The final scores given the weighting described above is:

- Pro-Palestinian/anti-Israel: 91.1 (61%)
- Pro-Israel/antisemitism: 37.6 (25%)
- Neutral: 21.3 (14%)

The primary reason for such a biased result is the frequent quoting of the mural protagonists (Remy, Miller, Ortiz, Alvarado, Naji, Haas), the large photographs of the murals, and very limited space provided for rebuttal from those opposed to the murals and their content (Levertov, Faust, Yapko, Harrigan, Duncan-Hart, etc.). Most of the quotes/comments in the news side were taken without evaluation of the veracity of the statements or any background information provided by the reporters. Reporters often called pro-Israel/anti-mural individuals quoted and asked for quotes the same day as the article was being written (often “on the spot”), not giving the Jewish community a chance to necessarily view the murals fully, and then later to provide additional information for incorporation into the articles afterwards.

Once we were informed of the nature of the murals, an analysis of the murals and other materials were available to the reporters and editors on the Santa Fe Middle East Watch website (www.sfmew.org) – these were done, of course, only after the first articles were published, but could have added more context and information for the reporters to ask more penetrating questions and provide more context.

We will now proceed with a *qualitative* analysis in four parts: photographs, analysis of photographs, feature news reporting, and editorial page pieces.

Part 1 - Photographs

Five photographs were attached to news reporting, four of which were front page, giving high prominence to the images. Four of the “murals” were shown in various states of (dis)repair or being re-applied. Three of those four (1/6, 1/13, 2/15) were of the same mural of Fawzi al-Junaidi surrounded by Israeli soldiers. This was from 1/6 in its original form (caption: “Graffiti depicts Israeli forces and Palestinian civilians on a wall Monday at the corner of Old Pecos Trail and Camino Lejo.”):



The captions of the additional photographs of Fawzi al-Junaidi were as follows:

1/13/20: “Graffiti depicting Israeli forces and Palestinian civilians at the corner of Old Pecos Trail and Camino Lejo on Monday. The art work appears to have been partially defaced.”

2/15/20: “Activists add wheat glue to an adobe wall prior to replacing the artwork during a rally at the intersection of Camino Lejo and Pecos Trail. The art installation is in support of Palestinian causes. Some have called it anti-Israeli.”

The fourth photograph, appearing in the 1/7/20 article print edition, was a picture of a completely fabricated depiction purporting to show an Israeli soldier aiming at two little children being protected presumably by their mother (caption: “Graffiti depicting Israeli forces and Palestinian civilians has created controversy in Santa Fe”; the picture shown below is from an angle and not head on, as was the one in the paper on page A-7):



The fifth (2/25/20) photograph was a depiction of an Israeli soldier pointing his gun at a crouching, huddling child (Muhammed al-Dura) and his father; caption: "Property owner Guthrie Miller unsuccessfully asked the Historic Districts Review Board on Tuesday to overturn a decision by city land use director ordering him to remove murals on his wall at Old Pecos Trail and Camino Lejo. Before the meeting, Miller removed parts of the murals that were falling off."



Part 2 - Analysis of Photographs and Captions

Photographs can create powerful mental impressions, especially when they are on the frontpage, and when they've been manipulated into propaganda, as were these three images, and yet were given prominence, mostly on the front pages of the *New Mexican*.

The first photograph, used in three of the articles, purports to show Israeli brutality against “youth” because multiple soldiers have arrested and blindfolded Fawzi al-Junaidi – the implication is that soldiers use great force of numbers against (in this case) a poor young teen.* The teen had been detained because he was throwing stones at the soldiers. The fact is that only two of the soldiers were attending to the teen while the rest were surveilling the surrounding area of Hebron for additional assailants throwing stones.

The second photograph of the woman purportedly protecting her children was a complete fabrication by the artist that originated the photo-shopped image - a product of so-called [Pallywood](#)~ – which first appeared in 1999.



Is the above photo the real one? There have been multiple other images that (a) exclude the mother, (b) are reversed in orientation, (c) show the soldier pointing his weapon differently, etc. [Here's](#)+ an analysis by Gail Ellis, former “photo altering editor” at Mixam, about why it likely has been photo-shopped (see the photo below for the references of “points”):

* The article on 1/13/20 claims “one of the images on the wall feature[s] armed Israeli soldiers surrounding a bound-and-gagged Palestinian youth”. This was incorrect: Fawzi was not gagged, he was blindfolded. Further he was only surrounded because the other soldiers were looking for other stone throwers, not to harass Fawzi further during his detention, which is implicated by the photo.

+~ <https://en.wikipedia.org/wiki/Pallywood>

+<https://www.quora.com/Is-this-picture-photoshopped-https-i-pining-com-564x-c2-f2-56-c2f25633b442bbe3271fca135b987f38-jpg>

- At point one in the above screenshot, we can see that **JPEGsn00p assesses at level one (the highest level of confidence) that the photo has been edited with Lead Technologies software.** (JPEGsn00p works by analyzing the quality of various parts of the picture. Parts that have been pasted into a picture are usually a different quality. Also various photo editors leave signatures that JPEGsn00p can recognize.)
- At points 2, 3, and 4 we can see the shadows of the poles, the boy and the woman but at points 5 and 6 **we do not see the shadow of the soldier and his gun.** (I asked JPEGsn00p to display the photo in gray scale so this would be even more clear, but you can see this in the original as well.)
- At point 6 the soldier appears to have his gun poking directly into the woman's stomach. However at point 7 if you look closely **the soldier appears to be looking directly to his front and not at the woman, which would be pretty odd.** To obscure this fact, someone has created another version of it, without the woman.



Various versions of this photo can be found on anti-Israel websites. Can they all be real? Were the children photo-shopped into this soldier's action? Was the soldier aiming at the children or something behind them? Was the soldier even in the same location as the children? [Here's^](#) another analysis by Daniel Fishman, Product Manager at Nova Measuring Instruments (2019-present):

[The image was photo-shopped] [h]eavily and very poorly.

- Just by the soldier's position you can know it - you don't prone 1 meter in front of your "target".

[^] <https://www.quora.com/Is-this-picture-photoshopped-https-i-pining-com-564x-c2-f2-56-c2f25633b442bbe3271fca135b987f38-jpg>

- If you have a scope on your M-16 you don't aim from 1 meter - your target will block the whole FOV.
- IDF do not shoot kids or women or any non-combatants at point-blank range.
- There are (too) many similar pictures out there.

Finally, take the case of Muhammad Al-Dura, the child shown in the third photo above huddling next to his father. This iconic picture purporting to show Israeli brutality was used to kickstart and inflame the second intifada in 2000. Yet it has been shown definitively “that the fatal shots could not have come from the Israeli soldiers known to have been involved in the confrontation.” (James Fallows, “Who Shot Mohammed al-Dura?” the *Atlantic*, June, 2003). The *original photo*, which simply showed the child and his father without the Israeli soldier (during the incident the Israeli soldiers were ~120 meters away in a guard tower and under fire by Palestinians; the child and father were later to have been shown to be behind a thick concrete abutment – see below – and not likely to be in the line of fire of the Israelis) was used to incite the murder of hundreds of Israelis in the second intifada.



The Miller/Remy mural of Al-Dura goes further, blatantly lying about the incident: it falsely shows a soldier directly firing at close range. (See [here](#)* for more information). We don't even know for a certainty if al-Dura was indeed killed that day. After he purportedly had been shot and was dead he raised his right arm and gave the “V for victory” sign. More Pallywood.

The *New Mexican* never explains or questions the veracity of these depictions or their context. Nor does it do so with any of the other “murals,” of which Miller and Remy were proud. Nor does it question the “artist” Remy or the owner, Miller, about whether they are aware of the lies that they are portraying.

* https://www.youtube.com/watch?v=E3Z4_11wLjw

By claiming that these photos are pro-Palestinian and accepting at face value that they are accurate depictions when in fact they are Palestinian *propaganda* the *New Mexican* misled its readers. The real story behind the mural depictions would be how they were fabricated, who coordinated their application, who paid for them and/or their “artist” to put them up, why their application was not a form of vandalism, and why the depictions lacked veracity and legitimacy. The editorial decision to use these photos on the front page (in most cases) incites, it doesn’t bring clarity. The lack of any investigation into their veracity is a miscarriage of journalistic integrity.

By placing the photographs on the front page and highlighting the controversy with a large point headline, the SFNM risked increasing antisemitism at just a time when it has been increasing throughout the US and New Mexico.

In 2018 (the last year available) the FBI noted that there were 835 hate crimes against Jews. The only group with more was African-Americans (1948). On a per capita basis, however, there were four times the number of hate crimes against Jews as against African-Americans.

Part 3 - Feature News Articles – quantity and quality

There were four news articles with a total of 2998 words in print editions: January 7 and 14, and February 15 and 25.[°] The first two were by Robert Nott. The third by Danielle Prokop, and the fourth by Daniel Chacón. Quantitatively two articles (1/6 and 2/15) of 1231 words total were predominantly giving voice to the pro-Palestinian position, and the other two articles of 1767 words were considered neutral in tone. The total four articles provided 41% of all words to the pro-Palestinian position, 12% to the anti-position, and 47% were neutral. The percent of sentences distribution for each was similar to the number of words. [Appendix 1(b).]

However, qualitatively the articles were devoid of context and background, and the underlying premises of Miller and Remy were never challenged by the reporters. The four news articles clearly favored the pro-Palestinian position, giving lots of frontpage space to the photographs, and quote space to those who supported the murals.

1. January 6, 2020, “Pro-Palestinian art appears on Old Pecos Trail wall.” January 13, 2020, “City says pro-Palestinian art has to go.” The headlines misinform the reader – this is not pro-Palestinian art, it is anti-Israel depictions and signs. The signs are clearly anti-Israel – there is nothing pro-Palestinian depicted, stated or implied other than the one photo of children with a Palestinian flag.

[°] There are times these dates are slightly different (by a day) because sometimes the print edition is referred and sometimes the online edition, which usually was dated a day earlier than the print edition.



We've noted above the misleading nature of three murals. Besides signs of the names of three youth provided, there were three other items on the walls not depicted by the *New Mexican*, only one of which could be considered somehow Palestinian (because of the flag). All of the murals depict Israel as the aggressor. Even the one of the children in a pock-marked (bullet-marked) facility seems to suggest that the aggression was against the Palestinians, and potentially Palestinian children. Yet what we don't know is whether the holes were made by Palestinian or Israeli aggressive guns, and there is no evidence any aggression was toward the children shown in the mural.



2. The articles didn't analyze the nature of the depictions, but accepted the characterization of them as "murals" or "art" or "political art." They were called "graffiti" also. Yet given the municipal code they also could have been considered "signs." All of these items have different municipal statute requirements, and though the City Attorney designated them "murals," Santa Fe Middle East Watch (SFMEW) provided a dossier to the Historic Review Board outlining the myriad municipal regulatory violations that could have been construed by the depictions. (See the SFMEW February 25, 2020 meeting minutes of the Historic Review Board: https://www.santafenm.gov/2020_historic_districts_review_board_minutes)

3. “Remy” claimed to be a Navajo artist. No background was provided by any of the reporters except for Remy’s self-reported background by interview. It turns out “Remy” is not an Indian name but an affectation for **Jeremy** Fredenberg, the owner of a graphic design studio in Scottsdale, Arizona and no connection to New Mexico. He was never identified with his real name. He fashions himself an anarchist, and anti-establishment rebel, but, perhaps hypocritically, claims to have well-funded corporations as clients: the Los Angeles Times, the Intercept, NPR and USA Today are among his clients (<https://www.firstsevendesignlabs.com>). (<https://www.linkedin.com/in/jeremy-fredenberg-463b1a45/>)
4. The narrative taken as truth in the articles attempts to twist the Israel-Palestine history into one similar to the exploitation Native American history narrative. The reporters, while giving unqualified quotations to this part of the narrative, fail to quote any other Native American leaders other than the very radical, marginal Red Nation. They never question or point out the inconsistencies of these allegations. Nor do they mention that the Navajo President, Jonathan Nez, has a strong bond with Israel, having visited there in early February, 2020, and that the Remy intersectionality narrative is not universally accepted among all pueblo or Native American tribes, let alone among Navajos.

The *New Mexican* ran with almost two months of published material in which it equated Palestinians and Navajo Indians while at the same time they never mentioned Nez’s travel to Israel on a mission of goodwill and to promote cooperation between the Navajo and the Israelis. The timing of the trip took place well before 8 pieces of SFNM on the mural had been published. The *New Mexican* thus had abundant opportunity to revise and correct the misinformation on this equivalence, or get a quote from the Navajo nation) but failed to do so.

Further, there is [evidence](#)^{*} that “Palestinians have been conducting a well-orchestrated propaganda campaign to reach the hearts and minds of [Native Americans].” As part of this campaign the terrorist group Hamas has been [claiming](#)⁺ that “the wars between the Americans and the indigenous population at the early years of the United States were a result of the latter being Muslim.” Reporters could have dug into the foreign influences that might have been involved in these murals, or how the Native American claims have been exploited.

5. Regarding the owner of the property there were many problems with the reporting:
 - a. Other than Miller’s Los Alamos Labs background, no other background is provided. But Miller is an individual who has gone on record as a conspiracy theorist regarding the World Trade Center terrorist attack. He is quoted in his

^{*} <http://www.israelnationalnews.com/Articles/Article.aspx/22503>

⁺ <https://www.israelhayom.com/2020/01/12/hamas-creates-alternate-us-history-claims-indians-were-muslim/>

biography on the [website](http://www.scientistsfor911truth.com/guthrie-miller)* *Scientists for 9/11 Truth*: “Shedding the light of truth on the events of 9/11 is now for me the most important area for my political activism.” It would have been helpful for the reader to know that Mr. Miller is someone who embraces these kind of marginal causes.

- b. Miller has been a scofflaw when it comes to purposefully violating city ordinances. In 2016 a complaint to the City Attorney was made that a standalone wall sign (billboard type) was put up on the Miller property without a permit. The City Attorney’s office instructed Miller to remove the sign, which he did. He then applied for a permit and received the right to erect for one year a 16 square foot temporary sign (within City Code 14-8.10(F)(3)). This temporary sign permit (#16-3078) authorized the “political/campaign” sign until January 5, 2018, at which time the sign should have been dismantled. It was not and has continued with various messages until the Historic District Review Board ordered all of the murals/signs down on February 25.

Miller signed a statement on the original sign permit “I am to comply with all conditions indicated on the review sheets.” He also affirmed, “...I hereby agree to abide with all the laws of the City of Santa Fe as well as with all the conditions stated above.” This would have included his removing the sign as of 1/5/18, which was not done, and his applying for a permit for the existing murals/sign, which he did not do in advance of their being erected. [Note that erecting a sign is defined as follows (*italics added*): “To build, construct, attach, hang, place, suspend or affix and includes the painting of wall signs.”]

To our knowledge and according to an email from assistant city attorney Sally Paez no extension or additional permit was applied for and the murals and original wall sign remained. None of this information was included in any of the articles reported by the *New Mexican*.

SFMEW informed the Mayor and City Attorney by letter/email about Miller’s prior scofflaw history with signs on his property in a letter dated January 13, 2020. We also argued that the murals were a form of hate speech which could have been regulated by the City. The *New Mexican* did not report this, take up any of the hate speech discussion (other than through quotes by members of the Jewish community), or any of Miller’s scofflaw background. The letter provided to the Mayor and City Attorney are attached as Appendix 3.

- c. Miller claimed that Remy just came along and did the murals without Miller’s foreknowledge or approval (from the first article on January 6, 2020):

* <http://www.scientistsfor911truth.com/guthrie-miller>

Guthrie Miller, who owns the wall surrounding his Santa Fe property at the intersection of Old Pecos Trail and Camino Lejo, said he discovered the series of detailed digital images shortly before dusk Sunday.

“It was a surprise, but actually I think it’s very political art, so it’s not an unpleasant surprise,” said Miller...

This unsubstantiated claim was repeated in the follow-up article of 1/13/20:

Miller said he discovered the art work the day after Remy created them. Although the homeowner said he knew nothing about the project, he found the work “powerful.”

If Remy vandalized Miller’s wall without Miller’s foreknowledge, even if Miller liked the result, why didn’t the reporter then ask Remy how he chose this particular wall? Clearly Remy had to know Miller was a member of Santa Feans for Justice in Palestine or a similar organization and would permit his murals to stay. Who told Remy, collaborated with him, and/or paid him (if he was paid) to travel to Santa Fe from Phoenix and do his work on this particular wall? Who coordinated his work with this property (if truly not Miller)? Why wasn’t he concerned that he might be arrested for defacing property, criminal trespass, and vandalism? Did the SFNM reporters actually do any investigation about this bizarre circumstance? Why not “follow the money” regarding the financing of these murals?

Further it has been reported that many of these Palestinian propaganda activities, in the media and creating incidents covered by the media, in the US have been paid for by the Palestinian arm of the BDS movement, which has ties to Jewish Voice for Peace (see below).

- d. Miller claims there were no complaints (1/13/20), or by “few people” (2/25/20)

Miller [...] said he hasn’t received critical letters, emails, phone calls or angry visitors about the new mural.” (1/13/20)

Miller said few people have complained about the artwork [...] “I haven’t really received input from the neighborhood...” (2/25/20)

Yet one of Miller’s neighbors, Everett Zlatoff-Mirsky, was interviewed by KRQE-TV on January 6, 2020 complaining about the signs/murals. Within a week of the murals going up Brian Yapko was in City Hall and heard from the clerical staff that there were “overwhelming complaints” that had been lodged with the City. Further, Miller himself had been dressed down for the hatred of the murals by Rabbi Berel Levertov, an encounter that had a naïve report of its outcome in the

1/13/20 article. Clearly the quotes in the *New Mexican* from Halley Faust, Rabbi Levertov, Brian Yapko and others from the first days of the controversy indicated a significant dispute with Miller. Letters to the Editor, My View op-eds, and published E-Voices in the *New Mexican* indicated community concern, especially Jewish community concern including by the executive director of the Jewish Federation of New Mexico, Rob Lennick.

6. The Jewish community was mischaracterized in the January 6 article by Robert Nott, who wrote, “Members of the city’s Jewish community were sharply divided on the artwork, with some supporting Remy’s efforts and others decrying his images as anti-Semitic.”

While there were quotes in the article from Rabbi Berel Levertov and SFMEW Chairman Halley Faust against the murals, the only quote from a pro-mural perspective was from Jeffrey Haas, who, though Jewish, is identified as an “organizer” of Santa Feans for Justice in Palestine, which is not a Jewish group per se and does not speak for the Jewish community. “I’m Jewish” provides no special moral authority, dispensation or cover, and therefore carries no weight in claiming that a position can’t be antisemitic. Haas is also the organizer of Jewish Voice for Peace (JVP) in Santa Fe, an organization nationwide which [some](#)^{*} have claimed are really just agents of foreign radical movements and should register as foreign agents. JVP nationwide has close ties with the Boycott, Divestment, and Sanctions (BDS) movement, including with employees of the BDS National Council. There are also [known](#)⁺ “extensive overlaps” between BDS and terror groups.

Haas’ pro-Palestinian activism is rejected by the vast majority of the Jewish community for its radical, racist hatred against Jewish Israelis, a hatred that is easily characterized as antisemitic (see below’s analysis of editorial page content). Indeed, Haas’ lifelong support of radical Black Panthers, and self-description as “a radical lawyer” and “an atheist and an anti-Imperialist” (see [here](#)[^]) would make him a highly unlikely representative of Santa Fe’s Jewish community.

Nott doesn’t interview any mainstream members of the Jewish community who *supported* the murals, most likely because he couldn’t find any, or he didn’t look. By claiming the community at large was “sharply divided” completely mischaracterized the controversy. Further, being Jewish per se doesn’t mean one speaks for the Jewish community at large. Why not interview other Jewish leaders like Rob Lennick, executive director of the Jewish Federation, Rabbi Neil Amswych of Temple Beth Shalom (the

^{*} <https://www.jns.org/should-jewish-voice-for-peace-register-as-a-foreign-agent/>

⁺ <https://www.jpost.com/israel-news/extensive-overlaps-between-bds-and-terror-groups-revealed-611648>

[^] <https://www.chicagoreader.com/chicago/why-dont-jeff-haas-and-flint-taylor-just-give-up/Content?oid=3301260>

largest synagogue in Santa Fe), or Lance Bell, President of the Jewish Community Council of Northern New Mexico?

Interesting also that no one from the Christian or Muslim communities were interviewed and/or quoted in the articles. There are some churches and ministers who would condemn the murals for its antisemitism and blood libel (and others who likely would take a decidedly pro-Palestinian viewpoint). Why not ask the Interfaith Council about the issue?

In short, the news reporting side of this story:

- Failed to Identify some of the underlying false claims and depictions of the pro-Palestinian/mural perpetrators; i.e., did not verify the information but took these claims at face value,
- Failed to expose the nature of the propaganda being perpetrated,
- Failed to provide a balance for the opposing side of the mural content, or to give context of the Palestinian dispute with Israel,
- Accepted without question the Native American/Palestinian intersectional arguments simply by asking the Native American radicals, but not by asking mainstream Native American groups,
- Falsely portrayed a split in the Jewish community,
- Accepted the claims of the city without delving further into the violations of Miller and history of past scofflaw activities, and
- Perpetuated the antisemitic blood libel by publishing large front page (and inside) photos of the depictions without questioning their provenance. Only once and in a qualified way (“Some have called it anti-Israeli”) did the *New Mexican* refer to the murals as anti-Israel, which would have been a better characterization than “Pro-Palestinian.”

Part 4 – Editorial Page Analysis – quantity and quality

Overall the editorial page presented more balanced options than did the news pages. We recognize that the editorial page staff only respond to submissions for the three types of reader options: My View (maximum 600 words), Letters to the Editor (maximum 150 words), and E-voices (no maximum specified), however they also could have solicited pieces had they wanted to. The editorial staff also have the option to write their own editorials on any particular issue, which they did not do in this case.

We also recognize the small staff of the editorial page, and their inability to be experts on all of the issues that come to their attention. Taking these limitations in mind, we found that the main problem with the editorial page submissions was a lack of fact checking by the editorial

staff, allowing wrong or misleading assertions by readers. We will outline these specific items a little later in the report.

There were

- 4 - My Views: Lennick/Faust (2/1), Duncan-Hart (2/8), Ortiz (2/8), Harrigan (2/22),
- 7 - Letters to the editor: Less, Fox, Gold, Maxwell, Yapko, Goldblum, Osborne
- 11 - E-voices, which we have not analyzed in this report.

My Views - analysis

Of the My Views, 3 were pro-Israel/anti-mural or concerned about the mural antisemitism or the violation of municipal statutes; 1 was pro-Palestinian predominantly with the Native American intersectionality orientation (Ortiz). We are in agreement with the three pro-Israel My Views, and don't find any factual errors in those articles. We are not in agreement with the Ortiz My View, and there were factual errors that the editors could have discovered and required changing before publication.

Though we don't agree with the overall position Ortiz takes regarding who owns the land that the murals were painted on, we don't fault the *New Mexican* for publishing those radical views per se. We are not involved with or knowledgeable about the legitimacy of Native claims.

The problem with Ortiz views are what follows regarding the intersectionality of Native American and Palestinian claims, particularly the unsupported and irrational claims she makes in her My View. We note that the editorial page editors often request additional information about the legitimacy of factual claims from pro-Israel My View authors. For example, Kristina Harrigan reports that:

...both of my pro-Israeli My View essays were extensively fact-checked by the *New Mexican*. I was required to substantiate every factual assertion and I was challenged on two of them. The editor in charge cited back to me material that she thought negated my assertion until I was able to find factual backing that refuted her allegations. So the *New Mexican* does fact check opinion pieces, but perhaps only when the piece takes a position that runs counter to the "narrative."

We have outlined the problems with Ortiz's My View in a blog posting on our website on February 11, 2020 (<http://www.sfmew.org/factual-errors-in-pro-palestinian-op-eds-elena-ortiz-and-iris-keltz-yashar-koach-to-ron-duncan-hart-todd-goldblum-and-barbara-einhorn/>). Ortiz uses partially correct facts to mislead the reader. This is the essence of propaganda and is often used by the pro-Palestinian faction to attempt to justify their belligerent and unreasonable positions.

Here is a summary of Ortiz's misleading statements outlined in the blog posting. The My View...

1. ... mis-states what the Sykes-Picot agreement of 1916 and the Balfour Declaration of 1917 actually did. In so doing Ortiz implies sovereignty that was not ever present for the native populations.
2. ... completely misleads the reception of the surrounding Arab tribes, entities, and self-appointed leaders of Sykes-Picot and Balfour. In fact the Arabs welcomed the Balfour declaration, and many of the tribal leaders liked Sykes-Picot because it actually gave them defined national territory that was never previously explicitly recognized by the international community. (see “Turks, Arabs Welcomed the Balfour Declaration” by Efraim Karsh, *The Middle East Quarterly*, Winter, 2018)
3. ...incorrectly states the date of the Israel independence – it was 1948, not 1947.
4. ...the Palestinians that left what became the land of Israel were not “expelled from their homes during the 1948 war.” Every legitimate scholar of this issue agrees that this was much more complicated, as it is for almost every war. Broadly speaking it is thought that about (a) 1/3 of those who left did so to escape living in a war zone, (b) 1/3 left at the urging of the attacking Arab states who assured the native Arab population that they would wipe Israel off the map, and (c) 1/3 were forcibly expelled by Israel troops. Benny Morris, one of the top scholars of this controversy, was in Santa Fe earlier this year and gave a balanced and realistic view of this issue. We note that the *New Mexican* did not cover his lecture at Temple Beth Shalom. In fact, from our search of the available New Mexican database, we’ve been unable to find *New Mexican* coverage of *any* pro-Israel or historically accurate (e.g., Benny Morris or Dennis Ross) Israeli lectures in Santa Fe in the past fifteen years.
5. ...claims “700,000 [Palestinians] and their descendants live in refugee camps spread throughout the region...” The original 700,000 refugees were in Jordan, the West Bank, Gaza, Lebanon and Syria. Those who moved to Jordan were given citizenship and could no longer be considered refugees by international definition. Approximately two-thirds remained in the West Bank or Gaza under Jordanian and Egyptian governance until the 1967 war. Those living in Gaza are fully governed by Hamas. Those living in the West Bank now are mostly self-governed under the Oslo Accords and other agreements with Israel. Only those still in Lebanon and Syria could be considered true “refugees” under the international definition of the term. Today there are perhaps 30,000 original refugees of the 1948 war. We’d recommend the editors of the *New Mexican* read Einat Wilf and Adi Schwartz’s recently released study of this issue: *The War of Return* (New York: All Point Books, 2020).
6. ...characterizes Jews who moved to live in parts of the West Bank as “settler-colonists, [who] live in shining cities funded by U.S. tax dollars.” This is completely false. For a full accounting of US aid to Israel, see: <https://www.jewishvirtuallibrary.org/history-and-overview-of-u-s-foreign-aid-to-israel>. The economic assistance Israel received from

1971 (before there were a significant number of “settlements”) to 2007 was primarily used to help pay down debts, to redeploy military bases and civilians moved out of the Sinai Peninsula because of the Egypt-Israel Peace treaty, and to fight terrorism promulgated by the Palestinians themselves. None of this was used to fund settlement expansion. Since 2007 all US appropriations to Israel have been for military weapons purchases, primarily from US suppliers, and for research and development of advanced missile defense systems like the Iron Dome, Arrow, and David’s Sling.

Israel received financial non-military assistance earlier to resettle Jewish refugees from Arab lands (about 900,000 in the 1950s and 1960s) and Russia (over 1 million from 1990-92). This was quite a financial burden. The assistance in the early 1990s were *loan guarantees* which Israel has paid back completely. Israel is a land of 9.2 million citizens – 6.8 million Jews, 1.9 million Arabs, and the rest Christians, Baha’i, etc. This is a more than ten-fold increase in population since 1948.

7. ...implies that children arrested for stone throwing is innocuous, and that Palestinian children are kept in cages like Ortiz claims immigrant to the US children are. This analogy with US immigration is completely misleading. First, the “500-700 Palestinian children” are predominantly in their later teen years, are of age to drink, vote, and be militants in the Hamas or Palestinian Authority forces, and are solicited and encouraged by the Palestinian authorities to commit violence against Jews. They are not attempting to obtain asylum to move into Israel for economic reasons like US immigrants. Over 100,000 Palestinians cross into Israel daily to work at wages often 2-3 times what they could earn in the West Bank. The idea that Palestinian youth are “kept in cages” is overblown hyperbole – they are taken to jail like others who violate the peace.

Second, Ortiz implies that stone-throwing is innocuous. The 500-700 teens account for about 0.02% of the West Bank population. During a single year, an estimated 2.1 million youth under the age of 18 are [arrested*](#) in the United States. This is about .65% of the population. And not all of these arrests are for physical harm-causing offenses like stone throwing. Though overall rates have been declining over the past years, approximately 1.7 million [delinquency cases*](#) are disposed in juvenile courts annually. 27% of the 1.7 million (or .02%) are arrested for “public order offenses” that may be more like the Palestinian teens engaging in violent, harm-producing acts.

So what is so unusual about Israel? The implication is libelous.

8. ...analogizes white colonialism of the expansion across the US with Israeli governance of the West Bank (it doesn’t govern the Gaza Strip anymore), and uses the term “genocide” of Native Americans as if that has been what Israel has done to the Palestinians. But there is no reasonable analogy here. There has not been a genocide of

* https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system#_ftn1

Palestinians. If there had been the Palestinian population would have gone down dramatically. Yet Palestinian leaders claim there are now 5 million Palestinians worldwide (and perhaps more). And there are now more Palestinians in the West Bank and Gaza than there were before 1948.

9. ...claims that “the images on that stucco wall show the truth...” but they don’t. They are fabrications as shown earlier in this report, and as the editors had access to on the SFMEW January 19, 2020 blog posting (<https://www.sfmew.org/anti-israel-defamatory-murals-and-sign-on-old-pecos-trail/>) by an internet search long before Ortiz’s February 8 My View was published.

Further we recognize that Ortiz’s “intersectional” viewpoint is held by a small number of Native Americans. Unfortunately, such viewpoints are historically false, contextually misleading, and often incorrectly reported by the media. The *New Mexican* should be much more cautious and not publish such misleading propaganda based on very poor logic and underlying assumptions that can easily be exposed as lies. Perhaps it should give more consideration to asking individuals or organizations with some real expertise in Middle Eastern history to review some of these submissions before publishing them.

Letters to the Editor - Analysis

Of the 7 letters to the editor, 4 were pro-Israel and 3 pro-mural/Palestinian. We make this latter distinction because there have been four types of pro-mural positions taken that the murals are:

1. Native American and should be given special treatment (per one of Ortiz’s claims in her My View)
2. A pro-Palestinian “freedom of expression” political viewpoint related to the Palestinian-Israeli dispute
3. On personal property and not limited by government interference re: the first amendment
4. Art, and intrinsically of value, which should never be destroyed.

The pro-mural letters to the editor seemed to have taken one of these four turns. The City, by declaring these murals not permissible within the statutes, have denied these four arguments per se. However, the Historic Review Board seemed to think, as did some of the City employees involved in the dispute, that the City should come up with better definitions of murals and their permissibility.

As of this date, SFMEW has taken no position on whether the City should permit murals, and if so what kind (simply artistic, political, etc.) though we would argue that hate-oriented murals like these on Miller’s property should be limited. Kristina Harrigan’s My View clearly comes

down on the side that murals should not be permitted, as per the current statute, and as per the Historic District Review's ruling.

The letter to the editor by Peter Gold (1/25) seemed to endorse positions #1 and #4 above, and recommends murals be maintained, though he mixes the concepts of government-sponsored vs. government-permitted, which may have different implications. Ellen Shabshai Fox's letter endorses #1, 2, and 3 above. Tania Maxwell's (2/15) letter uses false logic by claiming that the abuses she sees are Israeli policy, or don't follow Israeli and/or international law. Further, even if the "abuses" happened, there is no direct relationship between the US security assistance and these items – a claim the editors should not have permitted. It is not Israeli policy to permit the throwing of garbage onto rooftops, or purposely holding "elderly Palestinian women and men at ... checkpoints" unless there are security threats. Most Palestinians can get through most checkpoints in less than ten minutes; indeed expediting all travelers through checkpoints IS the Israeli policy, though sometimes delays do happen, particularly if there are security threats. And the murals said nothing about this issue at all (contra Maxwell's letter claim).

Even if the editors were to do a good job fact checking, do they have some responsibility to force letter writers to revise their letters to reflect logic, reason, and truth rather than spurious claims of cause and effect?

The positions against the murals were primarily based on the following:

1. The artwork was a fabrication and was not artwork per se - (Less – 1/12)
2. The arguments for the murals by other letter writers or Ortiz in My View were based on false premises or statements – (Yapko – 2/24)
3. They could easily encourage antisemitism, which has been a concern to the Jewish community after multiple hate crimes against Jewish communities in other locations in the US in the past couple of years – (Goldblum - 2/24)

Of course, we don't know how many letters were written to the editor (or E-voices posted) and rejected for publication; we can only evaluate the seven letters that were published, so it is impossible to know if there was a bias in one direction or the other overall for what got into print. However, we have not been contacted by anti-mural individuals complaining that their letters were not published.

Note: we have not analyzed the E-Voices because most of the comments published contain arguments similar to those mentioned above. We do note that one commenter on January 7 did suggest to the reporters, "It would be nice, and relevant for the reporter to tell us who paid the artist for this project." As we noted above, it would have been nice...

Conclusions

We've observed with other issues published by the *New Mexican* that almost any opinion will be published. We don't oppose negative positions so long as the editors ensure that these positions are backed up by facts, *reasonable* logic that follows from the facts, and that the opinions are not simply hate-oriented. However we have never seen letters, My Views, or E-Voices that denigrate whole communities the way some of these pro-Palestinian articles do. We do notice that no hate-oriented letters or My Views have been published toward African Americans, Native Americans, Muslims, or LGBTQ communities (in past memory). Yet the editors permit factually incorrect, hateful letters and My Views toward the Jewish community through anti-Israel screeds like Ortiz's propagandistic My View, and by publishing without censorship the hateful claims of Jewish Voice for Peace, Red Nation, and Santa Feans for Justice in Palestine in the news side.

Often we will see the statement (as with Tania Maxwell's letter or the *New Mexican* often quoting Jeffrey Haas) to the effect of, "I am Jewish...therefore my opinion is correct and holds some moral weight." But often this is cover for what are now generally accepted as antisemitic statements (see the State Department's "[Defining Anti-Semitism](https://www.state.gov/defining-anti-semitism/)"* and the International Holocaust Remembrance Alliance [definition](https://www.holocaustremembrance.com/working-definition-antisemitism)⁺ accepted by western nations). The *New Mexican* needs to exhibit the same sensitivity toward the Jewish community, particularly by not endorsing antisemitic statements often made by Haas, Ortiz, and others that would violate these definitions in one of the following ways (from the definition):

1. Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
2. Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
3. Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
4. Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
5. Drawing comparisons of contemporary Israeli policy to that of the Nazis.
6. Holding Jews collectively responsible for actions of the state of Israel.

For example, by Ortiz claiming that stone-throwing teens shouldn't be detained, she violated the "double standards" clause (#3). By showing the fabricated pictures like the IDF soldier pointing a gun at the woman purportedly protecting "her" children, the *New Mexican* is "using the symbols and images associated with classic antisemitism" (#4) and perpetuating the blood

* <https://www.state.gov/defining-anti-semitism/>

⁺ <https://www.holocaustremembrance.com/working-definition-antisemitism>

libel that Jews kill innocent civilians indiscriminately. By allowing Maxwell's claims that the things she witnessed were Israel-related injustices rather than mostly individual Jews' indiscretions (garbage on rooftops) (#6), or not based on fact checking [settlers "forcefully eject Palestinians from their homes" (#6) – this is not Israeli law or policy - and if settlers do eject Palestinians illegally the Palestinians can get redress from the courts, like in any other country] the *New Mexican* is allowing false claims of #6. This is blatant antisemitism, facilitated by the acquiescence of the SFNM editors.

We don't object to critiques about true *policies* of Israel. It is wrong, however, to publish critiques toward Israel when the critiques misrepresent policies of the government or how the democracy works, and when they don't also establish the responsibility of the Palestinians' failures to keep the peace and the Oslo Accords and other agreements they have signed over the years – no statements of Palestinian responsibilities were made in any of the anti-Israel articles.

Overall Recommendations:

One could conclude that the *New Mexican* was naïve – that it was unwittingly used - in its reporting and acceptance of some op-ed content. Having met with the editors in the past we don't think so – but we also don't think this was covered with a complete understanding of the issues; it perpetuated myths/falsities and libel toward the Jewish community and Israel. The *New Mexican* gave thousands of dollars of free publicity to a "cause" that was purposefully propaganda, something it doesn't usually do for other causes, and has not done (in our memory) by covering pro-Israel events.

While some would argue that all "narratives" have legitimacy, narratives based on lies are not legitimate viewpoints. The *New Mexican* wouldn't purposefully give valuable newspaper real estate to false views and propaganda and/or libelous views regarding other minorities in Santa Fe – blacks, LGBTQ+, Asians, etc. So why would it give the same to antisemites?

In light of these deficits in reporting and op-ed fact checking, Santa Fe Middle East Watch (SFMEW) suggests the following:

1. The reporting and editorial staff should be educated more extensively on the facts and nuances of the Israeli – Palestinian dispute and broader Middle Eastern history.
2. Editors should be more penetrating in their questioning of reporters' stories before publishing, encouraging them to dig deeper and not accept superficial explanations by perpetrators of propaganda. Further they should de-escalate coverage when it is clear that the purpose of the issue is for propaganda purposes. Front page coverage was unwarranted and damaging to the Jewish community.
3. Before printing stories such as these the disputants should be questioned about the allegations of the other side more in detail, giving the Jewish community the

opportunity to respond to specific statements and allegations, not simply asked the basic, “what do you think about the pictures on Old Pecos Trail”-type questions.

4. The *New Mexican* staff need training on antisemitism and how it is given a pass (often) by the news side and the op-ed side. In today’s Black Lives Matter environment and sensitivity training about harm done by words, statues, and other forms of depictions toward minority communities, the *New Mexican* staff seem to have missed similar concerns within the Jewish community.

SFMEW would be happy to provide sources to help the New Mexican obtain more education about the Middle East and the Israel-Palestinian dispute, and we would help mediate a dialogue between the Jewish community and the *New Mexican* editors and staff, and/or to provide some of the above in conjunction with the ADL, Jewish Federation, etc.. Contact SFMEW chairman, Halley Faust, at 505-501-8181 or halley@fausthaus.com.

Appendix 1(a)

Identified articles in the Santa Fe *New Mexican* by date and type of article. Bold items were predominantly pro-Palestinian/anti-Israel. Italics were predominantly pro-Israel. Normal (neither bold nor italicized) were considered neutral. Numbers in parentheses is the word count.

FEATURE ARTICLE	PHOTOS	MY VIEW	LETTERS	E-VOICES
1/6/20 [783]	1/6/20 (2 photos)			1/8/20 [19] 1/8/20 [28] 1/8/20 [30] <i>1/8/20 [24]</i> 1/8/20 [57]
			1/12/20 [173]	
1/13/20 [672]	1/13/20		1/18/20 [184] 1/25/20 [147]	
		<i>2/1/20 [846]</i> 2/8/20A [747] <i>2/8/20 [680]</i>		
2/15/20 [448]	2/15/20	<i>2/22/20 [698]</i>	2/15/20 [171] <i>2/24/20A [124]</i> 2/24/20B [106] <i>2/24/20C [110]</i>	
2/25/20 [1095]	2/25/20			<i>2/27/20 [66]</i> <i>2/27/20 [77]</i> 2/27/20 [8] <i>2/27/20 [14]</i> 2/27/20 [10]

Appendix 1(b)
Words and Sentences Count by News Article

News Article Date	Words			
	+Palestinian	+Jewish/Israel	Neutral	Total Words
1/6/20	585	120	78	783
1/13/20	207	46	419	672
2/15/20	277	38	133	448
2/25/20	158	150	787	1095
Total	1227	354	1417	2998
%	41%	12%	47%	
	Sentences			
	+Palestinian	+Jewish/Israel	Neutral	Total Sentences
1/6/20	23	5	4	32
1/13/20	9	2	17	28
2/15/20	14	3	8	25
2/25/20	9	6	27	42
Total	55	16	56	127
%	43%	13%	44%	

Appendix 1(c)
Words by Type of Editorial Item

# items on that day	Date	My View		Letters to the Editor		E-Voices	
		+Pal	+Israel	+Pal	+Israel	+Pal	+Israel
5	1/8/20					134	24
	1/12/20				173		
	1/18/20			184			
	1/25/20			147			
	2/1/20		846				
2	2/8/20	747*	680				
	2/15/20			171			
	2/22/20		698				
3	2/24/20				236 (2)	106	
5	2/27/20					95	80
	2/28/20				134		
Total Words		747	2224	502	543	335	104
% by categ		25%	75%	48%	52%	76%	24%

*This My View was accompanied by a large photo of the author. No other My Views had photos of the authors.

Note: +Pal means Palestinian favored. +Israel means Israel or antisemitism claims favored.

Appendix 2 – *Scores by article*

	Anti-Israel	Pro-Israel	Neutral
Feature Articles:	7.3	1.5	1.2
	3.1	0.7	6.2
	5.9	1.0	3.1
	1.8	1.4	6.8
Photographs:	10.0	0	0
	10.0		
	10.0		
	10.0		
My View <i>w/ photo</i> :	8.0		
My View w/o photo:	6.0		
	6.0		
	6.0		
Letters:	3.0	3.0	
	3.0	3.0	
	3.0	3.0	
	3.0		
	3.0		
E-Voices:	2.0	2.0	2.0
	2.0	2.0	2.0
	2.0	2.0	
	2.0		
	2.0		
Final Score:	91.1	37.6	21.3
(Out of total of 150 points possible)			
Percentages	60.733%	25.067%	14.2

Appendix 3 – Letter from Santa Fe Middle East Watch to the Mayor and City Attorney

January 13, 2020

Mayor Alan Webber CITY OF SANTA FE 200 Lincoln Avenue Santa Fe, NM 87504
mayor@santafenm.gov

Erin K. McSherry City Attorney CITY OF SANTA FE Santa Fe, NM 87504
ekmcsherry@santafenm.gov

re: LEGAL ISSUES CONCERNING MURALS AND SIGNS SITUATED AT 509 CAMINO
LEJO, SANTA FE, NM (OWNER: GUTHRIE MILLER)

Dear Mayor Webber and City Attorney McSherry:

The Santa Fe New Mexican reported today that the City has instructed Guthrie Miller, the owner of the property at 509 Camino Lejo in Santa Fe, with frontage directly facing Old Pecos Trail, a primary route into Santa Fe from the South and East, to remove his murals because they technically are not constructed from the correct materials. If the New Mexican report is correct, Santa Fe Middle East Watch (SFMEW), on behalf of our 200 plus members – both Jews and Christians, respectfully insists that there are many more reasons for the City to require the removal of the murals and signs than the one technical reason reported by the newspaper. And further that no permit should be provided for murals such as are currently under dispute, and that Mr. Miller, who has been aware of the need for permits for signs on his property, should be appropriately cited for purposefully ignoring permit requirements of which he has been aware since at least 2016.

Mr. Miller had been hanging up anti-Israel and anti-Semitic signs for several years when Santa Fe Middle East Watch, through member Dan Pava, complained to the City Attorney's office in 2016 of the violation of the City Code. The City attorney determined that the sign was not permitted and caused the sign to be removed. At the end of 2016

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1 the property owner filed for a permit, which was granted on January 5, 2017 under permit #16-3078. This permit for a sign in the zoning area "Residential 1DU," within the Historic Review District, was for a 16 square feet "political sign" with an expiration date of 1/5/18 – at this point we don't know if an extension to the permit was ever applied for or granted.

That permit would have been sufficient for the single sign shown on the picture below. Though since 2017 we have had the same concerns as we express below, SFMEW did not protest that sign – it was sufficiently small as to not be a traffic hazard, and was to be removed within a year.

Permitted sign

The current murals/signs on the wall exceed 16 square feet, could not be reasonably substituted for the previously permitted sign, and exceed the limit on the number of signs on a residential property.

As you are aware, the murals depict a series of images primarily of Israeli soldiers attacking defenseless children, such as this one:

There are multiple additional political signs on the wall as well, including “Stop Military Aid to Israel” and the names of individuals such as Muhammad Al-Durrah, Fawzi AlJunaidi, and Faris Odeh.

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2 The City of Santa Fe has jurisdiction over the offending mural based on several legal theories:

1. unlawful placement: multiple signs on one residential property without permits and against the City code;
2. aesthetic unsightliness;
3. its unambiguous message of anti-Semitic hate;
4. the extent to which allowance and promotion of this mural and its message has caused the Jewish community of Santa Fe to feel threatened and unsafe;
5. its status as a public nuisance;
6. the potential liability of the City in the event a failure to act results in death or injury to a member of the Jewish community;
7. its status as a violation of copyrighted material which the City is failing to act upon; and
8. its clear undermining of Santa Fe’s goals in promoting inclusiveness, tourism and mutual tolerance.

Therefore, before this matter escalates into further legal challenges, Santa Fe Middle East Watch respectfully requests that the City of Santa Fe take appropriate action to have these murals and signs removed, and that no further permits be issued under the Municipal Code.

In support of our position on removal and prohibition please note the following:

A. CITY OF SANTA FE’S JURISDICTION TO ACT AND REGULATE

1) Power of Regulation Under Applicable City Code Sections

Most obviously, the murals and signs fail to comply with applicable Santa Fe Code Regulations.

Aside from the nature of the construction materials reported in the New Mexican today (January 14), Santa Fe City Ordinance 14-8.10 provides that “No signs intended to be read from off the premises shall be erected or constructed without a building permit, except as otherwise provided by this section...” For a political sign (which this clearly is) Subsection 7 applies, which states that the owner of the sign must get written permission prior to erecting the sign; and if this is claimed as political, it must be “temporary.”

In the case of Mr. Miller’s murals, there is no indication that he has obtained building (sign) permits for anything other than the single 16 square foot sign. Furthermore, if these constitute “political” signs they must be “temporary,” been permitted, and be maintained within the numbers and size restrictions of the City Code. Santa Fe regulations make no other provision for a politically-motivated sign. The law requires it to be “temporary.” The City code [14-8.10 (6)(c)(ii)] states clearly:

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3 For noncomplying temporary or portable signs on private property , written notification of the owner shall be given requesting compliance or removal within forty-eight hours. If after this time the sign is not removed, then the city shall remove the sign at the owner's expense in an amount to be determined by the zoning administrator;

Further, we’d argue that, given prior signs having been erected by Mr. Miller before he received his long-expired sign permit and then his knowing erection of these murals and signs, that Mr. Miller knowingly violated the City code and should be fined appropriately [City Code 14-8.10(6)(8)].

There is a further problem with placement of the offending murals and signs: they are immediately adjacent to a sign for the Santa Fe Botanical Gardens, and there is nothing to indicate that the anti-Israel sign and mural are not owned by the Santa Fe Botanical Gardens.

Note the murals and signs’ proximity to the Botanical Gardens sign. Any visitor to Santa Fe seeing this combination could easily be misled to assume -- irrespective of the ownership and administration of the Gardens – that the signs on the wall at 509 Camino Lejo are owned by the Gardens, that the Gardens are operated by the City of Santa Fe and these anti-Israel/anti-Jewish sentiments are promoted by the City of Santa Fe.

2) Power of Regulation Under State Police Power

The City of Santa Fe has police powers to regulate the existence and content of any erection within its city – especially its historic district. §§ 14-28-9 to 11, N.M.S.A. 1953. Section 14-28-10 contains a specific grant of power to regulate or restrict the erection, construction, re-construction, alteration, repair or use of buildings, structures or lands, and § 14-28-11 provides that "such regulations and restrictions" shall be "in accordance with a comprehensive plan * * * to promote the health and the general welfare * * *." This was specifically codified in Santa Fe’s "Historic District Act," Ch. 92, Laws 1961.

The New Mexico Supreme Court has recognized that police powers also apply in the case of aesthetics, building design and building construction. *City of Santa Fe vs. Gamble-Skogmo, Inc.*, 389 P.2d 13, 75 N.M. 410 (1964). Ensuring that buildings in the historic district of Santa Fe are aesthetically pleasing and conforming to the general designs of the City are within the purview of the City's powers.

We submit that the subject murals and sign are not aesthetically pleasing, and that they greatly undermine the beauty of Santa Fe.

Further, in the past (2016) the City Attorney's office has asserted that, once a sign is permitted, it does not regulate content of signs. However, we'd ask – if a sign was noxious, libelous, offensive to children, or in other ways uncivil and racist, homophobic, misogynist, etc., would the City not work vigorously to have the sign removed and

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4 prevent its replacement?

3) Case Law Empowers Government to Regulate Incitements to Violence, Defamation and Speech Integral to Criminal Conduct (Hate Speech)

While the Jewish organizations and individuals that object to this mean-spirited mural recognize and support the First Amendment right to free speech, we also think it only right to point out that this right has limits. "The First Amendment permits restrictions upon the content of speech in a 'few limited areas,' including obscenity, defamation, fraud, incitement, fighting words, and speech integral to criminal conduct." *United States v. Stevens* 559 U.S. 460, 468 (2010). The very point of these murals and signs and the anti-Israel message is not realistically to promote the cause of peace in the Middle East.

The obvious association of the images and words ("Stop Military Aid to Israel") is: "American Money Given to Israel Will Fund the Murder of Innocent Children." This goes beyond anti-Israel rhetoric into the territory of the same blood libel that has defamed Jews for the last 1000 years and has been used to justify endless pogroms and the murder of many millions of Jews. In a world where anti-Israel rhetoric translates into anti-Jewish violence, this mural's combination of imagery and words is an incitement to hate and violence.

While SFMEW, like most American institutions, hold the First Amendment as a very high value that should not be unreasonably infringed upon by government, the First Amendment does not apply to incitements to violence. Furthermore, we contend that these murals/signs when taken as a whole are a call to potential violence against the Jewish communities of Santa Fe and Northern New Mexico.

The clear point of the mural is to incite hatred against Israel and, by association, the Jewish Community. This is a type of obscenity, defamation of the Jewish community, and incitement – all prohibited by the Supreme Court.

The Jewish community frequently faces extreme prejudice and escalating incidents of violence because of the public's perception that Jews in general are corporately responsible for actions of the Israeli Government. The number of these incidents has been increasing in recent years, causing significant stress and anxiety in the Jewish community as a whole. [See, for example, the study performed by Brandeis University, "Hotspots of Anti-Semitism and Anti-Israel Sentiment on U.S. Campuses" which is readily available on-line.]

When angry calls for boycotts of aid to Israel do not promote peace but instead, as has happened in the recent past, result in death threats, swastikas defacing synagogues and vicious assaults on Jews who have no role in Israeli policy, it becomes easily foreseen that the murals and signs easily promote anti-Semitism and have the effect of coercing the Jewish Community into silence, no matter the intention of Mr. Miller.

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5 B. LEGAL, ETHICAL AND SAFETY REASONS SUPPORTING REMOVAL OF MURALS/SIGNS

1. They are unlawfully placed

A.1 and A.2 above explain our arguments here; besides the nature of their construction materials the murals and signs do not comply with City regulations; their location immediately adjacent to the Santa Fe Botanical Gardens gives them the appearance of representing official City Policy (tourists and visitors have no idea whether the Santa Fe Botanical Garden is or is not an arm of the City of Santa Fe.)

2) The signs/murals are present in the historic preservation district which requires that it conform with the aesthetic of Santa Fe. They are unsightly.

In the New Mexico Court case of City of Santa Fe vs. Gamble-Skogmo, Inc., 389 P.2d 13, 75 N.M. 410 (1964), our Supreme Court recognized broad latitude on the part of the City of Santa Fe to determine what is allowable and what is not in its historic district with respect to any aspect of the general welfare.

In that case the US Supreme Court cited with approval the holding in Best v. Zoning Bd. of Adjustment of the City of Pittsburgh, 393 Pa. 106, 141 A.2d 606, 612,, wherein it was stated that "Not only is the preservation of the attractive characteristics of a community a proper element of the general welfare, but also the preservation of property values is a legitimate consideration..."

In the present case, the murals and signs are unsightly and a blight on the surrounding neighborhood – something that is as likely to undermine tourism as it is the property values of homes in that area.

By choosing of his own free will to purchase a home within the historical district, Mr. Miller consented to a certain amount of oversight regarding his aesthetic choices, and any displayed artwork

3. Although they are ostensibly anti-Israel, the murals/signs carry the unmistakable message of anti-Semitism

a. Definitions of Anti-Semitism

The United States Department of State has adopted the International Holocaust Remembrance Alliance definition of anti-Semitism. This definition includes:

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

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Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor. Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.

Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.

Drawing comparisons of contemporary Israeli policy to that of the Nazis.

Holding Jews collectively responsible for actions of the state of Israel.

The murals in question depict Israeli soldiers attacking young children and in an associated sign says “Stop Military Aid to Israel.” The obvious interpretation of this combination of art and word is that “American aid goes to assist Israelis in the Murder of Little Children.” How is this any different from the blood libel (of Jewish attacks on non-Jewish children) that has poisoned Jewish-Gentile relations for over 1000 years?

It is, further, the invocation of Nazi imagery against helpless Jews in the Holocaust, only flipped to portray Israeli soldiers as gestapo-like militants and Palestinians as blameless innocents.

Furthermore, given Israel's unique status as America's only true democratic ally in the Middle East, the fact that it is surrounded by hostile enemies who have waged war against it multiple times, and who continue to assert calls for Israel's destruction, the call to "Stop Military Aid to Israel" is tantamount to calling for Israel's destruction.

b. Anti-Jewish Violence is Unambiguously Correlated to Anti-Israel Propaganda

As has been stated above, there are untold examples of individuals who are anti-Israel failing to distinguish between hatred of Israel and hatred of Jews.

Allowing this mural with the attendant anti-Israel message incites anger against Jews – especially Jews who have physical manifestations of their Judaism such as yarmulkes, or orthodox attire. This is now being played out in New York City with a vengeance. It would be wrong to allow this poison to take hold in the City of Santa Fe.

More broadly, the murals/signs are an incitement to hatred against Israel which historically manifests as hatred against Jews. Dozens of examples of this irrational but real association exist. For one example, note the well-covered news story of the Baba Sale Synagogue in a Jewish neighborhood in Los Angeles that

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7 was defaced with the words "Free Palestine" on September 11, 2019.

c. The Defamatory Nature of the Murals/Signs

The most insidious aspect of these murals/signs is the fact that their messages "military aid to Israel causes the murder of innocent children" is defamatory. First, it simply repeats the anti-Semitic blood libel that has existed for centuries and which has justified a huge number of pogroms against Jews, as well as the Holocaust. Furthermore, even limiting interpretation of this mural specifically to Israel, it should be noted that no military in the world, including that of the United States, does more to attempt to protect and preserve the lives of civilians. Nothing in this mural or the call to action acknowledges Palestinian terror against Israelis or the fact that 3743 Israelis have been killed by Palestinian terror (1,358 since the year 2000 alone), and that 15,029 Israelis have been injured by Palestinian terror.

A non-defamatory message about Israel and Palestine would recognize the fact that Israeli actions have been reactions to Palestinian terror and that both sides have reason to claim injustice at the hands of the other.

C. THE MURALS/SIGNS THREATEN SANTA FE'S JEWISH COMMUNITY AND CAUSE ITS MEMBERS TO FEEL UNSAFE

Once the Santa Fe New Mexican story about Guthrie Miller's hate-based wall broke, the newspaper's Facebook page as well as that of Santa Feans for Justice In Palestine, basically blew up with overtly anti-Semitic statements. That members of our community could go on record

with such hateful statements is not only discouraging but deeply threatening to a Jewish community which is fragile and small and, and is increasingly worried about its future in Santa Fe.

Is this really how you want your city to be?

FBI Statistics for 2018 show a huge increase in anti-Semitic incidents. It registers hate-crimes against other religions as well – however a whopping 57.9 percent of all religiously-based hate crimes in the U.S. were against Jews.

It is also undeniable that incidents of anti-Semitism in the United States have increased exponentially over the course of the last year. These are not incidents that can be simply attributed to age-old prejudice against Jews. These are incidents which accompany the rise of anti-Semitic politicians and anti-Israel rhetoric. Synagogues have been attacked. A great many individuals have been murdered – remember the Poway and Tree of Life Synagogue attacks in San Diego and Pittsburgh.

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8 D. THE MURAL HAS CREATED A PUBLIC NUISANCE

Given the location of the mural – directly on a highway into the city – the fact that drivers slow down and even stop in order to view the multiple artworks making up the mural and the anti-Israel sign renders the mural a public nuisance and significant hazard.

Sooner or later accidents will result from someone suddenly braking or being inattentive as they try to view or even photograph the mural. The City of Santa Fe may well end up liable for failing to take action to remediate this public nuisance.

You would be wise to invoke your police powers to eliminate a patently dangerous source of a potential accident.

E. A FAILURE TO ACT WHEN AUTHORITY TO DO SO EXISTS MAY RESULT IN THE CITY'S CIVIL LIABILITY FOR ANY DEATH OR INJURIES ASSOCIATED WITH THE FAILURE TO ACT ON THE MURALS/SIGNS

The City would be failing to act in a context where a duty exists and is not met. In other words, tort negligence.

There are a large number of cases which hold a governmental entity liable for failing to correct a dangerous condition. In this case, the City of Santa Fe has the right and the ability to prevent incurring potential tort liability by having this mural removed. There are two identifiable preventable hazards associated with such large murals/signs in residential areas:

1. At some point, if a Jew becomes the victim of violence because the perpetrator was incited by the hate-message contained in this mural, and you could have prevented it, you will incur costly

liability and publicity. Similarly, if a motorist incurs property damage or bodily injury (or worse) because of Santa Fe's failure to abate this nuisance, Santa Fe may again be subjected to liability for potentially very costly damages.

2. As noted just above (D), traffic often slows down at the location of the murals and signs and sometimes individuals take pictures, creating significant traffic hazards and potential for severe accidents. We recall without specificity an accident that took out a streetlight and part of the wall in discussion (as well as the lapsed permitted sign) several months ago.

7. THE MURALS APPEAR TO BE BASED ON COPYRIGHTED MATERIAL; FAILURE TO REGULATE IT MAY CONSTITUTE AIDING AND ABETTING THE COPYRIGHT VIOLATION.

The murals appear to be based on photographs that are not his to re-produce. Should the news service(s) that own these photographs be brought into the dialog concerning

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9 the wrongfulness of this mural it seems probable that it too will seek civil remedies for use of copyrighted material without permission.

Since the City of Santa Fe is on notice of copyright infringement, in the event that the City of Santa Fe fails to take action against the infringement, it may be that Santa Fe will ultimately be considered to have aided and abetted this violation. Perhaps the City will prevail on a motion for summary judgment and perhaps it won't. But either way, why should the City of Santa Fe take such a potentially expensive risk?

8. THE MURAL SEVERELY DAMAGES SANTA FE'S REPUTATION AS A PLACE OF TOLERANCE AND OPEN-MINDEDNESS, UNDERMINES TOURISM.

Santa Fe Ordinance 1957-18, adopted October 30, 1957, created an historical district and provided regulations for buildings constructed or altered therein. Its purpose is stated as:

Section 2. Purpose of Creating 'H' Historical District. "That in order to promote the economic, cultural and general welfare of the people of the City of Santa Fe, and to insure the harmonious, orderly and efficient growth and development of the municipality, it is deemed essential by the City Council of the City of Santa Fe, that the qualities relating to the history of Santa Fe, and a harmonious outward appearance which preserves property values and attracts tourists and residents alike, be preserved; some of these qualities being: the continued existence and preservation of historical areas and buildings; continued construction of buildings in the historic styles, and a general harmony as to style, form, color, proportion, texture and material between buildings of historic design and those of more modern design.

The offending murals/signs violate practically stated value listed in the very reasons set forth for the creation of the historical district. The mural undermines the inclusive values of Santa Fe as a

city, offends tourists, sabotages harmony and actively promotes discord, tension, and the Jewish Community's sense of being bullied.

CONCLUSION

Based on the foregoing and in the interests of justice and maintaining harmony in Santa Fe, Santa Fe Middle East Watch respectfully requests that the City of Santa Fe cause the offending murals/signs to be removed and that no further permits be provided.

Thank you in advance for your attention to this urgent matter. Don't hesitate to call for further discussions

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10 Very truly yours,

For SANTA FE MIDDLE EAST WATCH

_____/s/_____
Halley S. Faust, MD Chairman

Cc: Rob Lennick, Executive Director, Jewish Federation of New Mexico Ron Duncan-Hart, President, Jewish Federation of New Mexico Pastor Barney Carbajal, Executive Director, New Mexico Chapter, Christians United for Israel Ted Gonzales, Executive Director, Santa Fe Chapter, Christians United for Israel Scott Levin, Regional Director, ADL, Mountain States Region Brian Yapko, JD

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