

1 SENATE MEMORIAL 116

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 A MEMORIAL

11 REQUESTING THAT THE ATTORNEY GENERAL AND THE APPROPRIATE  
12 INTERIM LEGISLATIVE COMMITTEE INVESTIGATE ISSUES SURROUNDING  
13 BIASED-BASED POLICING BY LAW ENFORCEMENT AGENCIES IN NEW  
14 MEXICO.

15  
16 WHEREAS, events of the past year in Ferguson, Missouri,  
17 Brooklyn, New York, and elsewhere in the nation involving  
18 police shootings of minority citizens has heightened national  
19 awareness of issues surrounding biased-based policing,  
20 particularly racial or ethnic profiling and community policing;  
21 and

22 WHEREAS, the crises that have enveloped high-profile  
23 crime-fighting initiatives such as New York City's "stop-and-  
24 frisk" policy show how racial or ethnic profiling by law  
25 enforcement can undermine efforts to protect and serve

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1 communities; and

2 WHEREAS, New Mexico prides itself on being a remarkably  
3 diverse state; and

4 WHEREAS, according to the United States census bureau, New  
5 Mexico is one of five majority-minority states or their  
6 equivalent in the nation, making it on the cutting edge of  
7 demographic change in the United States; and

8 WHEREAS, incidents of biased-based policing in New Mexico  
9 would be particularly destructive to police-community relations  
10 given the demographics of the state; and

11 WHEREAS, the legislature enacted the Prohibition of  
12 Profiling Practices Act in 2009; and

13 WHEREAS, the Prohibition of Profiling Practices Act  
14 prohibits law enforcement agencies or officers from relying "on  
15 race, ethnicity, color, national origin, language, gender,  
16 gender identity, sexual orientation, political affiliation,  
17 religion, physical or mental disability or serious medical  
18 condition" unless there is a specific or relevant reason when  
19 investigating a crime; and

20 WHEREAS, the Prohibition of Profiling Practices Act also  
21 requires law enforcement agencies in the state to have written  
22 policies and procedures, to provide training concerning biased-  
23 based policing and to have a complaint process and complaint  
24 form so that members of the public can report alleged incidents  
25 of biased-based policing; and

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1           WHEREAS, according to the 2012 Somos Un Pueblo Unido and  
2 New Mexico state conference national association for the  
3 advancement of colored people (NAACP) report, *Biased-based*  
4 *Policing at a Glance: An Evaluation of Compliance with the*  
5 *Prohibition of Profiling Practices Act*, "75% of the 97 agencies  
6 surveyed do not have updated policies with a correct definition  
7 of bias-based policing that includes all protected classes";  
8 and

9           WHEREAS, compliance by the state's law enforcement  
10 agencies has increased largely in response to the publication  
11 of the Somos Un Pueblo Unido and New Mexico state conference  
12 NAACP report; however, the state's law enforcement agencies are  
13 still far from being fully compliant with the requirements of  
14 the Prohibition of Profiling Practices Act; and

15           WHEREAS, numerous residents of the state have filed  
16 administrative complaints alleging that they have been victims  
17 of biased-based policing by their local or state law  
18 enforcement agency; and

19           WHEREAS, the state's law enforcement agencies also have  
20 received numerous complaints about excessive use of force; and

21           WHEREAS, it is the responsibility of the attorney general  
22 to ensure that law enforcement agencies in the state are  
23 performing their duties in a lawful manner and in a manner that  
24 increases the public trust; and

25           WHEREAS, the Prohibition of Profiling Practices Act

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1 states, in Section 29-21-4 NMSA 1978, that "[t]he attorney  
2 general may publish a report or summary of the attorney  
3 general's findings regarding violations of the provisions of  
4 the Prohibition of Profiling Practices Act";

5 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE  
6 OF NEW MEXICO that the attorney general be requested to  
7 investigate whether the state's law enforcement agencies,  
8 officers, or departments have established the procedures  
9 required under the Prohibition of Profiling Practices Act and  
10 whether they have engaged in the use of excessive violence and  
11 biased-based policing; and

12 BE IT FURTHER RESOLVED that the attorney general be  
13 requested to publish the report contemplated in the Prohibition  
14 of Profiling Practices Act, including in the report the names  
15 of which law enforcement agencies in the state are noncompliant  
16 with the act; and

17 BE IT FURTHER RESOLVED that the office of the attorney  
18 general be requested to report to an interim legislative  
19 committee that is concerned with criminal justice matters on  
20 the number and status of complaints that have been submitted to  
21 law enforcement agencies pursuant to the Prohibition of  
22 Profiling Practices Act; and

23 BE IT FURTHER RESOLVED that an interim legislative  
24 committee that is concerned with criminal justice matters  
25 address the lack of action on the part of certain law

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1 enforcement agencies to comply with the requirements of the  
2 Prohibition of Profiling Practices Act and the issues of  
3 biased-based policing in the state; and

4 BE IT FURTHER RESOLVED that copies of this memorial be  
5 transmitted to the attorney general and the New Mexico  
6 legislative council.