

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE MEMORIAL 88

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Linda M. Lopez

A MEMORIAL

REQUESTING THAT THE ATTORNEY GENERAL ESTABLISH A SPECIAL EXCESSIVE FORCE UNIT TO INVESTIGATE CLAIMS OF USE OF EXCESSIVE FORCE BY THE STATE'S LAW ENFORCEMENT OFFICERS.

WHEREAS, cases involving the use or alleged use of excessive force by law enforcement officers have historically not been effectively investigated and have not been prosecuted even when effectively investigated; and

WHEREAS, there is an inherent conflict of interest due to the traditionally close relationship between district or county attorneys and law enforcement officers, who usually work together to prosecute other alleged criminals, and a similar conflict and reluctance on the part of law enforcement officers when called upon to investigate their brethren; and

WHEREAS, reluctance on the part of prosecutors to

underscoring material = new
~~[bracketed material] = delete~~

1 aggressively pursue charges have led to difficulties in
2 convincing grand juries and trial juries that a law enforcement
3 officer did not merely make an understandable mistake, but
4 committed a crime; and

5 WHEREAS, the use of special proceedings or grand juries
6 that, in some judicial districts, provides additional
7 protections for law enforcement officers accused of criminal
8 behavior deprives these systems of the transparency required to
9 preserve public confidence in law enforcement; and

10 WHEREAS, there is a lack of information about cases of use
11 of excessive force that could be prosecuted or uniform
12 standards for reviewing cases of excessive use of force that
13 might be prosecuted; and

14 WHEREAS, these factors and practices have contributed to
15 increased distrust, and diminished credibility, of the criminal
16 justice system, and of law enforcement and prosecutors in
17 particular, which in turn contributes to a deterioration of
18 respect for rule of law and to increased violence; and

19 WHEREAS, the creation of a centralized, specialized unit
20 with statewide jurisdiction for the investigation and
21 prosecution of cases of the use of excessive force against
22 civilians by law enforcement officers, coupled with clear
23 prosecutorial standards upon which decisions must be based, and
24 the prohibition of the use of grand juries for the legal
25 determination of probable cause in favor of public preliminary

.203685.1

underscored material = new
[bracketed material] = delete

1 hearings will have a curative effect in ensuring appropriate
2 charging decisions, transparency and credibility before the
3 public and will provide a deterrent effect against future
4 widespread use of excessive force against citizens by law
5 enforcement officers; and

6 WHEREAS, such measures will have a positive impact on
7 eliminating institutional cultures favoring the use of
8 excessive force within law enforcement organizations throughout
9 the state;

10 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
11 OF NEW MEXICO that the office of the attorney general be
12 requested to establish a "special excessive force unit" with
13 statewide jurisdiction dedicated to investigating and, when
14 warranted, prosecuting cases concerning the alleged use of
15 excessive force by law enforcement officers; and

16 BE IT FURTHER RESOLVED that the special excessive force
17 unit be dedicated to operating in the most transparent and
18 accountable manner possible, including by eschewing the use of
19 grand juries when bringing charges of use of excessive force
20 against a law enforcement officer; and

21 BE IT FURTHER RESOLVED that a copy of this memorial be
22 transmitted to the attorney general.