

A close-up photograph of a person's hand reaching out and touching a chain-link fence. The hand is positioned on the right side of the frame, with fingers slightly curled as they make contact with the metal mesh. The background is a plain, light-colored wall, which makes the hand and the fence stand out. The lighting is soft, highlighting the texture of the skin and the metallic sheen of the fence.

**SOMOS UN PUEBLO UNIDO  
& NEW MEXICO STATE  
CONFERENCE NAACP**

# **Bias-based Policing at a Glance**

An Evaluation of  
Compliance with the  
*Prohibition of Profiling  
Practices Act*

**BY AIMEE VILLARREAL**

# ABOUT THE AUTHOR

## AIMEE VILLARREAL

is a PhD Candidate in Anthropology at the University of California at Santa Cruz. In 2011 she received a UC Human Rights Fellowship from the Human Rights Center at the University of California, Berkeley School of Law to conduct the research presented in this report. *Somos Un Pueblo Unido* and New Mexico State Conference NAACP published the report in July 2012. Any questions or media inquiries regarding this report should be directed to Ms. Villarreal by e-mail at [agarza@ucsc.edu](mailto:agarza@ucsc.edu).

# Bias-based Policing at a Glance:

## An Evaluation of Compliance with the *Prohibition of Profiling Practices Act*

### INTRODUCTION

This report presents the results of a statewide survey of all law enforcement agencies in New Mexico conducted between September 2011 and June 2012 that evaluated compliance with the *Prohibition of Profiling Practices Act*, a law passed in 2009 banning bias-based policing. Previous research has proven racial profiling to be an ineffective method for detecting criminal activity and ensuring public safety. Bias-based policing diverts police attention from more effective law enforcement techniques, thereby wasting limited resources and opening the door to civil rights violations and the potential for litigation. More importantly, profiling practices break the contract of trust between communities and law enforcement officials. When individuals and communities fear the police, they are less likely to report crimes as victims or witnesses. Bias-based policing sends a message to targeted communities that they are under suspicion creating a pervasive climate of fear and mistrust. This environment compromises the public safety of all New Mexicans. Having comprehensive policies and standard operating procedures in place to reduce the incidence of bias-based policing is important. Good policies are an indication of good policing practices in the field and provide a baseline for accountability.

### WHAT IS BIAS-BASED POLICING?

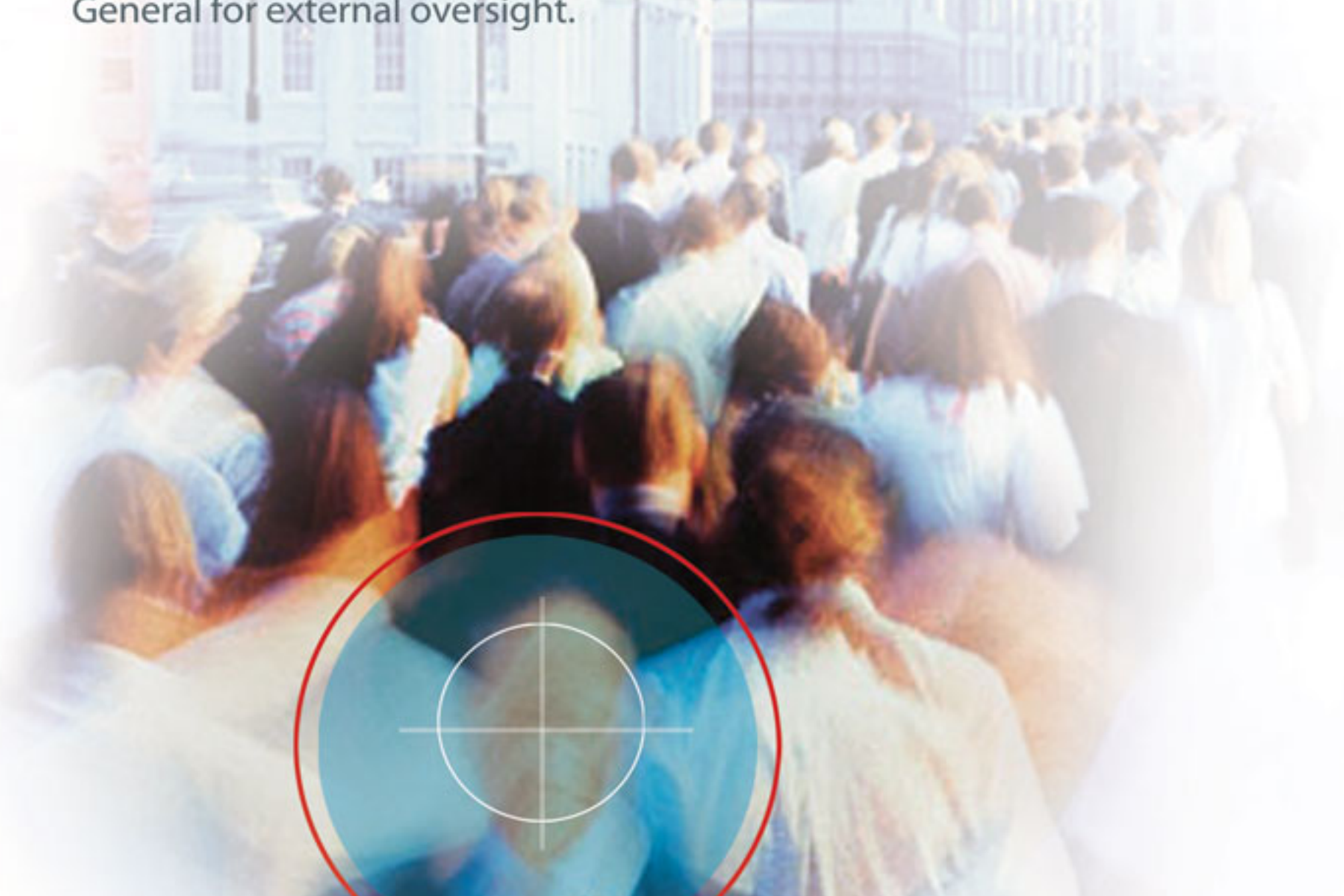
Bias-based policing is often understood as racial profiling, but an individual can be targeted based on a variety of factors. Profiling is not when a law enforcement agent pursues a suspect matching a specific description and race or ethnicity is used to identify the person. Bias-based policing is when an officer relies “solely” on the basis of group characteristics believed to be associated with crime to single out an individual for questioning, inspection, traffic stops or arrests without reasonable suspicion or probable cause. Bias-based policing is evident when an officer changes the scope of the investigation, which often leads to questioning unrelated to the crime being investigated and can result in a person being harassed or detained longer than necessary. Besides being an ineffective method of crime prevention, profiling practices undermine fundamental principals of fairness and justice as instituted by the U.S Constitution. Bias-based policing betrays the 14th Amendment guarantee of equal protection under the law and infringes on 4th Amendment protections against unreasonable searches and seizures.

### BANNING PROFILING PRACTICES

The need for a law banning bias-based policing emerged when numerous profiling incidents were reported from communities across New Mexico. These communities organized to improve policing practices in pursuit of unbiased, fair, and equitable treatment of all persons in enforcing the law and with the goal of building trust between communities and law enforcement officials. In 2009, the NAACP led the Campaign for Family Justice, a coalition of partner organizations including the Drug Policy Alliance, *Somos Un Pueblo Unido*, the New Mexico Conference of Churches and six other organizations, in drafting and helping pass the *Prohibition of Profiling Practices Act* through the state legislature.

The Act prohibits racial profiling and other forms of bias-based policing. It extends protected classes beyond race, ethnicity and color, to include national origin and language, physical or mental disability, political affiliation, religion, gender identity, sexual orientation, and socioeconomic status. All law enforcement agencies are required to have an updated written policy on bias-based policing, which includes all of the protected classes, and publish their policy and complaint forms, making them available to the general public.

In addition, the policy must clearly define bias-based policing and outline the process by which complaints can be filed and investigated in a timely manner. Police officers should receive regular training on the liabilities associated with bias-based policing and on the provisions of the Act, and disciplinary procedures must be in place for officers involved in a profiling incident. Finally, law enforcement agencies are required to document the investigative procedure and outcome of bias-based policing complaints and report these cases to the Attorney General for external oversight.



Protected Classes: In conducting a routine or spontaneous investigatory activity or in determining the scope, substance or duration of the investigation, law enforcement shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability, or serious medical condition as the sole basis for selection.

## EVALUATION OF BASIC COMPLIANCE

New Mexico law enforcement agencies had until the end of 2009 to implement the provisions of the *Prohibition of Profiling Practices Act* and were expected to be in compliance by 2010. Compliance means that each agency should have an updated written policy on bias-based policing that includes all of the mandates required under the law. The evaluation was conducted in two phases. The initial review included all law enforcement agencies (n = 97) in the state and took a tally of how many of them have policies that, at the bare minimum, were made available to the researcher, included all protected classes outlined in the law, and provided a clear definition of what counts as bias-based policing. Policies that met the basic criteria were considered to be in compliance. Complaint forms were also collected from each agency.

The preliminary policy review revealed that only 51% of all law enforcement agencies have a written policy on bias-based policing, but only 25% of all the agencies surveyed have policies with an accurate definition of bias-based policing, listed all protected classes, and made their policies available. While 24% of the agencies surveyed do not have a written policy at all, about an equal number (25%) did not provide or refused to release information about their policy after multiple requests, some of which were made in writing. In addition, only 40% of agencies made their complaint forms readily available to the public. Standard operating procedures are public documents. Refusal to provide policy documents regarding bias-based policing is a violation of the Act, and potentially a violation of the *Inspection of Public Records Act*.

**75% of the 97 agencies surveyed do not have updated policies with a correct definition of bias-based policing that includes all protected classes.**

**For evaluation of all law enforcement agencies in New Mexico, refer to Appendix 1.**

## BIAS-BASED POLICING REPORT CARD

Given the dismal results of the initial evaluation, an in-depth case study was conducted to identify the specific areas of weakness requiring remediation and to identify the best practices of agencies that have implemented exemplary policies. This case study evaluated thirty randomly selected agencies and assigned them a score and letter grade based on their level of compliance. New Mexico's first Bias-based Policing Report Card provides an in-depth analysis of compliance with the Act in terms of best practices and common areas of weakness. Agencies were evaluated based on the following criteria:

1. The agency has a bias-based policing policy (2pts)
2. The policy is updated to include all of the protected classes (1pt)
3. The agency "publishes" information about their bias-based policing policy (1pt)
4. The policy and complaint forms are easy to obtain upon request (1pt)
5. The agency has disciplinary procedures in place for officers involved in a profiling incident (1pt)
6. The agency provides training for law enforcement officers on bias-based policing (1pt)
7. The policy outlines a clear process by which complaints can be made (1pt)
8. The policy establishes a time-frame within which complaints can be made and investigated (1pt)
9. The agency reports all bias-based policing complaints to the Attorney General for oversight (1pt)

The items listed above were taken directly from the Act and define what it means to be in full compliance with the law. Each area was assigned a specific number of points to quantitatively assess the agency's level of compliance. The total possible score was ten points.

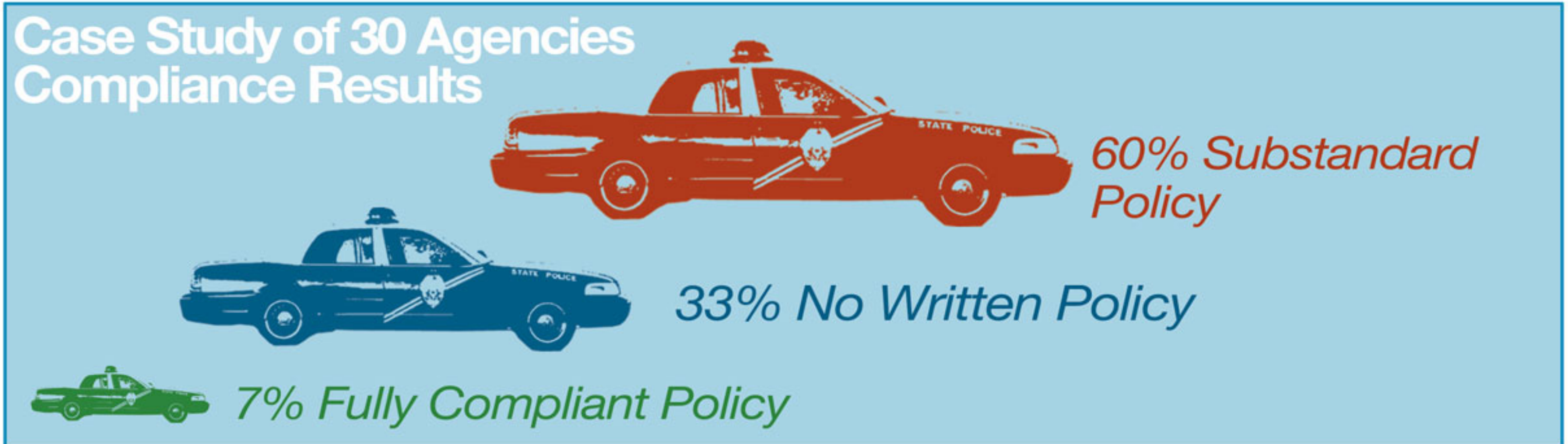
SCORE	LETTERGRADE
10	A
9 - 8	B
6 - 7	C
5 - 4	D
3 - 0	F

Thirty agencies (20 municipal and 10 county) were randomly selected by a computer program to participate in the evaluation. The state police was also included. The agencies selected comprise a representative sample of police departments located in rural and urban centers in each quadrant of the state. The survey was conducted by telephone, e-mail, or personal visit with the appropriate administrator (Chief of Police, Deputy, or Director of Internal Affairs). The data was collected between September 2011 and June 2012. In addition, each participant agency provided a copy of their bias-based policing or racial profiling policy and complaint forms. These materials were evaluated and compared against the survey responses. Discrepancies were reconciled and scores were adjusted accordingly.



## SURVEY RESULTS

All of the participant agencies completed the survey (n = 30). The results were disappointing. Only two (7%) of the agencies surveyed met all of the criteria to be in full compliance with the law, Santa Fe Police Department and Socorro County Sheriff's Department. While over half (60%) of the agencies surveyed have some kind of bias-based policing policy in place, they have not updated their policy to meet all of the compliance standards required under the law. Most troubling, 33% have no policy at all.

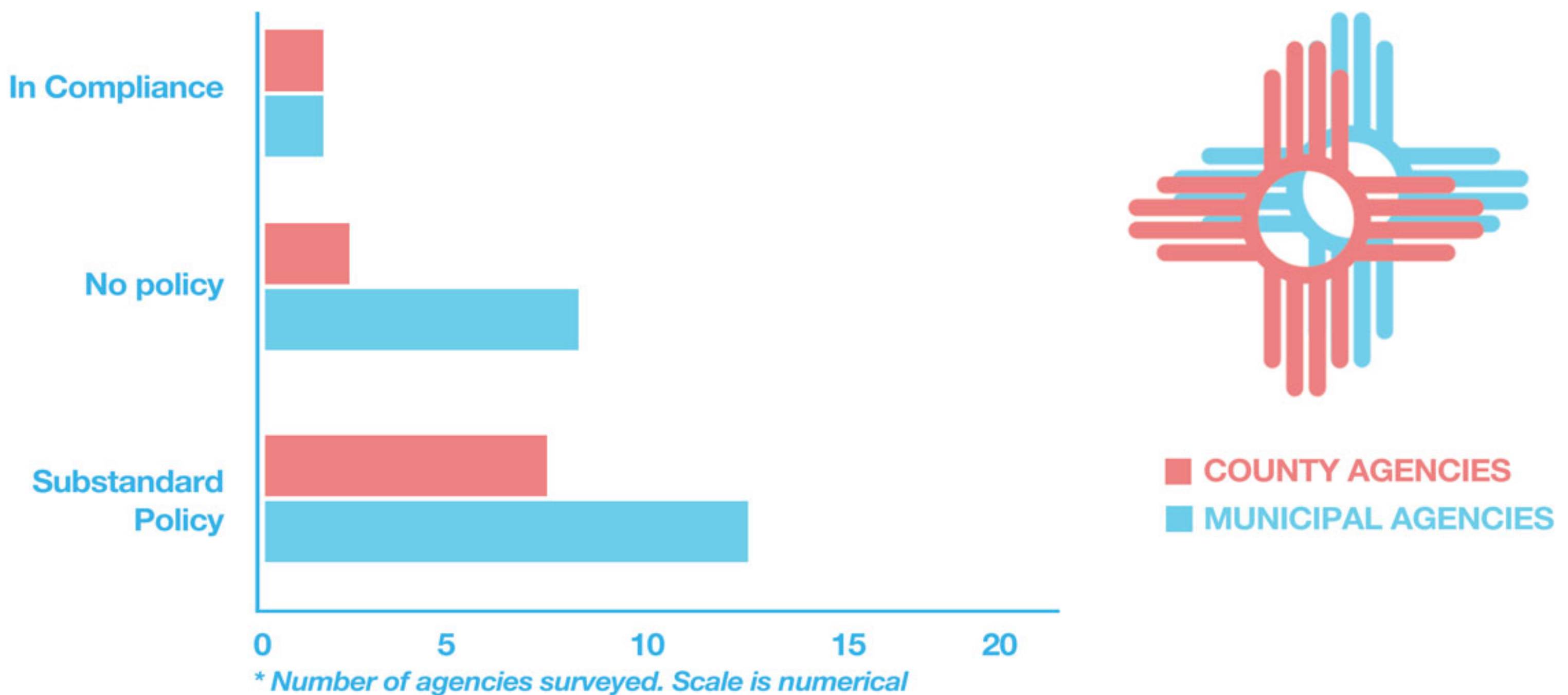


## MUNICIPAL AND COUNTY AGENCIES

Of the twenty municipal agencies surveyed, only one, Santa Fe Police Department, is in full compliance having scored a perfect ten on the evaluation. Bloomfield Police Department, Tucumcari Police Department, and Tatum Police Department attained a respectable level of compliance having received a B grade on the evaluation. These agencies lost points for not including all of the protected classes or failing to publish their policy. The average score for the municipal agencies is five points, a grade of D. This means that the majority (95%) of municipal agencies surveyed are not in compliance. While eleven (55%) of the total number of municipal departments surveyed has a policy statement on bias-based policing, these agencies have not updated their policy to meet all of the compliance standards as required by law. In addition, eight agencies (40%) do not have a written policy.

Socorro County Sheriff's Department is the only county agency surveyed that met all of the compliance standards. Four agencies, Catron County Sheriff's Department, Dona Aña County Sheriff's Office, Grant County Sheriff's Department, and Los Alamos County Police Department received B grades. These departments lost points for not publishing information about their policy or for not making their policy and complaint forms readily available upon request. Seven of all the county agencies surveyed have policies (20%), but have not updated them, and two do not have a policy. The New Mexico Department of Public Safety, which is the administrative body that oversees all of the state police departments across the state, scored a total of eight points, earning a grade of B. They lost points for not making their policy and complaint forms readily available upon request (they required a formal public information request) and for not publishing information about their bias-based policing policy.

### Municipal and County Agencies



## ANALYSIS OF RESULTS

The written policies on profiling practices across agencies differ greatly from one agency to the next. However, the agencies that met the compliance standards have very similar policies, directly referenced the new statutes in the narrative, and made their policy and complaint forms accessible to the public. Only two of the agencies surveyed reported having received or investigated a profiling incident: Santa Fe Police Department (2 complaints) and Roswell Police Department (1 complaint). SFPD received a perfect score on the evaluation. They also publish their policy and make complaint forms available on-line. While the majority of agencies claimed that they had never received a profiling complaint, this may be the result of the lack of public information. For instance, SFPD, while receiving the highest score on the evaluation, has investigated two complaints. This suggests that public knowledge about bias-based policing and access to complaint forms increases the probability that such incidents are reported and investigated.

## SIGNIFICANT AREAS OF WEAKNESS

The areas of weakness were also rather uniform. Most agencies lost points on public information and accessibility. Few of the agencies surveyed make their bias-based policing policies and citizen complaint forms available to the general public. In fact, some agencies imposed a formal public information request, evaded the survey altogether, or required repeated contacts in order to obtain their policy and complaint forms. The second most prevalent area of weakness was not including all of the protected classes as stated in the Act. The primary areas where agencies lost points are:

- 1) Did not publish information about bias-based policing policy (83% of cases)
- 2) Did not make policy easily accessible to the public upon request (53% of cases)
- 3) Did not include all of the protected classes (53% of cases)
- 4) No timeframe stated for filing and investigating complaints (46%)
- 5) Do not allow anonymous reporting of profiling complaints (36%)

## Best Practice : Santa Fe Police Department

*SFPD earned a perfect score on the evaluation because they met all of the compliance standards. The department publishes their bias-based policing policy and have complaint forms that are specifically designed for profiling complaints. The forms are also available in Spanish. Although not included in our grading system, SFPD directs officers not to ask about immigration status as part of their bias-based policing policy. This is a best practice since asking about immigration status usually involves changing the scope of investigation based on perceived racial or ethnic characteristics, national origin or language.*



## Bais-based Policing Report Card

<b>CITY AGENCIES</b>	<b>SCORES ON EVALUATION</b>	<b>LETTER GRADE</b>
Artesia Police Department	7	C
Albuquerque Police Department	7	C
Bloomfield Police Department	8	B
Bosque Farms Police Department	5	D
Carlsbad Police Department	7	C
Deming Police Department	1	F
Española Police Department	5	D
Farmington Police Department	6	C
Grants Police Department	7	C
Hope Police Department	4	D
Jal Police Department	2	F
Los Lunas Police Department	5	D
Loving Police Department	1	F
Mountainair Police Department	0	F
Roswell Police Department	6	C
Ruidoso Police Department	6	C
Santa Fe Police Department	10	A
Tatum Police Department	8	B
Tucumcari Police Department	9	B
Tularosa Police Department	1	F
<b>COUNTY AGENCIES</b>	<b>SCORES ON EVALUATION</b>	<b>LETTER GRADE</b>
Bernalillo County Sheriff's Department	8	B
Catron County Sheriff's Office	9	B
Dona Ana County Sheriff's Department	8	B
Grant County Sheriff's Department	8	B
Los Alamos County Police Department	8	B
Valencia County Sheriff's Department	7	C
Rio Arriba County Sheriff's Department	2	F
Roosevelt County Sheriff's Department	7	C
San Miguel County Sheriff's Department	3	F
Socorro County Sheriff's Department	10	A
<b>NEW MEXICO STATE POLICE</b>	8	B

**\*This data is a snapshot of compliance as of September 2011 through June 2012. See Appendix 2 for actual scores on each criterion used to evaluate the agencies included in the random sample.**

## CONCLUSIONS AND IMPLICATIONS

The results of the statewide survey indicate that it is necessary to hold New Mexico law enforcement agencies accountable to the provisions of the *Prohibition of Profiling Practices Act*. Although over fifty percent of the participant agencies have a policy on bias-based policing, there are specific weaknesses that need to be addressed before these agencies can meet all compliance standards. In fact, the nine highest scoring agencies still lost points in at least one of the areas required by law. Only two agencies received a perfect score on the evaluation. The rest of the agencies sampled are not fully in compliance with the law two years after the deadline for implementation. Sadly, ten agencies (33%) do not have a policy at all and basically failed the evaluation on all counts. This number is even higher when taking into account all law enforcement agencies in New Mexico.

This study provides information about the implementation of the *Prohibition of Profiling Practices Act* and evaluates agencies based on their level of compliance with the Act. The scope of analysis was limited to written bias-based policing policy statements, survey responses, complaint forms and standard operating procedures. Therefore, the data presented in this report does not provide information about whether or not law enforcement agencies or individual officers actually engage in profiling practices in the field. For example, high scoring agencies may not have eliminated bias-based policing, and low scoring agencies may have a good track record in the field. Furthermore, the information provided in this report reflects a snapshot of law enforcement agencies' compliance rates at the time the data was collected and analyzed and therefore, does not reflect any updates that individual agencies may have made after the research was completed.

While recognizing the limitations of the present study, this report has important implications since comprehensive policies support good policing practices and also provide a baseline for accountability. With the release of this report, we hope that communities will pursue appropriate ways to work with their local police departments to become compliant. This dialogue may encourage more effective policies and practices and promote community-police partnerships for fair and unbiased policing.

## RECOMMENDATIONS

*The following recommendations are based on input from civil rights organizations across the state.*

### ATTORNEY GENERAL INVESTIGATION

1. Initiate investigation regarding the issue of agency compliance with the Act. The AG should provide non-compliant agencies with instructions on how to become compliant using sample policies, complaint forms and best practices.
2. If agencies continue to evade compliance, the AG should take legal action to compel them to take appropriate action and continue to monitor their progress.
3. The AG should designate a point person in his office to receive complaints and field questions from agencies and the general public. This would help ensure that individuals who have been discouraged from filing with specific agencies have recourse.

### STANDARDIZATION AND ACCESSIBILITY

1. All law enforcement agencies should develop complaint forms and procedures that are specific to bias-based profiling. The AG should encourage standardization of bias-based profiling complaint forms statewide to facilitate data collection and oversight.
2. Law enforcement agencies should make complaint forms and policies available to the public by publishing them in both electronic and print form. Complaint forms should be available in public spaces, such as city hall, government buildings, public libraries, etc.
3. Complaint forms should be offered in multiple languages (at the minimum in English and Spanish). For example, forms could be provided in English/Spanish/Dine/Vietnamese or other language specific to the population in a particular area.

### STRENGTHEN TRAINING PROTOCOLS

1. Officers and agency personnel should receive training on receiving, processing, and responding to complaint procedures and managing individuals with complaints. Several officers or agency personnel would not give information about policies or complaint forms without insisting on talking directly to the person wishing to lodge a complaint. The Act states that an individual may lodge a complaint by third party or anonymously and that policies be made available to the general public.
2. The Attorney General should seek special grant funds to help improve training on bias-based policing and to assist in the implementation of best practices.
3. There is no exemption in the Act for disparate treatment based on foreign status, and law enforcement officers need training on this point. Law enforcement officials should not initiate, prolong or expand the scope or duration of an investigatory or enforcement activity based on the individual's race, ethnicity, color, national origin or language for the purpose of determining or inquiring about an individual's immigration status. This is a common practice based on the profiling complaints *Somos Un Pueblo Unido* has documented.

### FEDERAL PROTECTIONS

The New Mexico Congressional Delegation and policy makers should support the End Racial Profiling Act of 2011 (S1670 & H.R. 3618) at the national level. This law would prohibit the use of profiling based on race, religion, ethnicity or national origin by federal, state, local and Indian tribal law enforcement agencies and institute training programs as well as data collection procedures. It would also create a private right of action for victims of profiling and provide grants to agencies to support the development and implementation of best policy practices.



An Evaluation of Compliance with the  
*Prohibition of Profiling Practices Act*

# Bias-based Policing at a Glance

- \* APPENDIX 1: Basic Compliance Data
- \* APPENDIX 2: Report Card Scores

# APPENDIX 1: Basic Compliance Data

Law Enforcement Agency	*Compliant Policy	Refused to Provide Policy	Complaint Forms Available
Total Numbers (N = 97)	N=24	N=24	N=39
Alamogordo Department of Public Safety			
Albuquerque Police Department			✓
Artesia Police Department			✓
Aztec Police Department			✓
Bayard Police Department		✓	
Belen Police Department			✓
Bernalillo County Sheriff's Department	✓		✓
Bernalillo Police Department		✓	
Bloomfield Police Department			✓
Bosque Farms Police Department			
Carlsbad Police Department			✓
Carrizozo Police Department	✓		✓
Catron County Sheriff's Department	✓		
Chama Police Department			
Chaves County Sheriff's Department	✓		
Cibola County Sheriff's Department		✓	
Clayton Police Department			
Clovis Police Department			
Colfax County Sheriff's Department	✓		✓
Columbus Police Department			
Corrales Police Department			
Curry County Sheriff's Department			
De Baca County Sheriff's Department	✓		
Deming Police Department			✓
Dona Aña County Sheriff's Department	✓		✓
Eddy County Sheriff's Department			
Española Police Department			✓
Eunice Police Department			
Farmington Police Department			✓
Gallup Police Department			✓
Grant County Sheriff's Department	✓		✓
Grants City Police Department			✓

# APPENDIX 1: Basic Compliance Data (con't)

Law Enforcement Agency	*Compliant Policy	Refused to Provide Policy	Complaint Forms Available
Guadalupe County Sheriff's Department		✓	
Hagerman Police Department		✓	
Harding County Sheriff's Department		✓	
Hatch Village Police Department			✓
Hidalgo County Sheriff's Office			✓
Hobbs Police Department			✓
Hope Police Department			
Hurley Police Department			
Jal Police Department		✓	
Lake Arthur Police Department		✓	
Las Cruces Police Department	✓		✓
Las Vegas City Police Department		✓	
Lea County Sheriff's Department	✓		✓
Lincoln County Sheriff's Office	✓		✓
Lordsburg Police Department			
Los Alamos County Police Department	✓		✓
Los Lunas Police Department			✓
Loving Police Department			
Lovington Police Department	✓		
Luna County Sheriff's Office			
Magdalena Marshal's Office		✓	
McKinley County Sheriff's Department			✓
Melrose Police Department		✓	
Mesilla Marshal's Department		✓	
Milan Police Department		✓	
Mora County Sheriff's Department		✓	
Moriarty Police Department		✓	
Mosquero Police Department			
Mountainair Police Department			
New Mexico State Police	✓		✓
Otero County Sheriff's Office		✓	
Portales Police Department		✓	✓
Quay County Sheriff's Department		✓	
Raton Police Department		✓	
Rio Arriba County Sheriff's Office			

# APPENDIX 1: Basic Compliance Data (con't)

Law Enforcement Agency	*Compliant Policy	Refused to Provide Policy	Complaint Forms Available
Rio Rancho Department of Public Safety			
Roosevelt County Sheriff's Office	✓		
Roswell Police Department			
Ruidoso Downs Police Department	✓		✓
Ruidoso Police Department			✓
San Juan County Sheriff's Office			✓
San Miguel County Sheriff's Office			
Sandoval County Sheriff's Office			
Santa Fe County Sheriff's Department	✓		✓
Santa Fe Police Department	✓		✓
Santa Rosa Police Department			✓
Sierra County Sheriff's Office	✓		
Silver City Police Department			✓
Socorro County Sheriff's Office	✓		✓
Socorro Police Department		✓	
Springer Police Department		✓	
Sunland Park Police Department			
Taos County Sheriff's Department	✓		✓
Taos Police Department		✓	
Tatum Police Department	✓		
Texico Police Department		✓	
Torrance County Sheriff's Office			
Truth or Consequences Police Department			
Tucumcari Police Department	✓		✓
Tularosa Police Department			✓
Union County Sheriff's Office			
Valencia County Sheriff's Department	✓		
Vaughn Police Department		✓	✓
Village of Wagon Mound Marshall's Department		✓	

\*The criteria for compliance in the initial review was based on 1) inclusion of all protected classes and 2) clear definition of bias-based policing. The policies may be flawed in other areas of compliance.

Agencies that have no check marks in the category boxes did not have those items at the time of the data collection, the information was unavailable, they had no written policy documents, or their policy did not meet basic criteria for compliance.

# APPENDIX 2: Report Card Scores

## Evaluation Score Card

City Agencies	C1	C2	C2.1	C3	C4	C5	C6	C7	C8	Score	Grade
Artesia Police Department	0	0	1	1	1	1	1	1	1	7	C
Albuquerque Police Department	2	1	1	0	1	1	1	0	0	7	C
Bloomfield Police Department	2	1	1	1	0	1	0	1	1	8	B
Bosque Farms Police Department	0	0	1	1	0	1	1	1	0	5	D
Carlsbad Police Department	2	0	1	1	0	1	0	1	1	7	C
Deming Police Department	0	0	0	1	0	0	0	0	0	1	F
Española Police Department	2	0	0	1	1	1	0	0	0	5	D
Farmington Police Department	2	0	0	1	0	1	1	1	0	6	C
Grants Police Department	2	0	1	1	0	1	1	0	1	7	C
Hope Police Department	0	0	0	1	0	1	0	1	1	4	D
Jal Police Department	0	0	0	1	0	1	0	0	0	2	F
Los Lunas Police Department	2	0	0	1	0	1	0	1	0	5	D
Loving Police Department	0	0	1	0	0	1	0	0	0	1	F
Mountainair Police Department	0	0	0	0	0	0	0	0	0	0	F
Roswell Police Department	2	0	0	1	0	1	0	1	1	6	C
Ruidoso Police Department	2	1	0	1	0	1	0	1	0	6	C
Santa Fe Police Department	2	1	1	1	1	1	1	1	1	10	A
Tatum Police Department	2	0	1	1	1	1	1	0	1	8	B
Tucumcari Police Department	2	0	1	1	1	1	1	1	1	9	B
Tularosa Police Department	0	0	0	1	0	0	0	0	0	1	F

# APPENDIX 2: Report Card Scores (con't)

## Evaluation Score Card

County Agencies	C1	C2	C2.1	C3	C4	C5	C6	C7	C8	Score	Grade
Bernalillo County Sheriff's Department	2	0	1	1	1	1	1	1	0	8	B
Catron County Sheriff's Department	2	0	1	1	1	1	1	1	1	9	B
Dona Ana County Sheriff's Department	2	0	0	1	1	1	1	1	1	8	B
Grant County Sheriff's Department	2	0	0	1	1	1	1	1	1	8	B
Los Alamos County Sheriff's Department	2	0	0	1	1	1	1	1	1	8	B
Valencia County Sheriff's Department	2	0	0	1	1	1	1	1	0	7	C
Rio Arriba County Sheriff's Department	0	0	0	1	0	1	0	0	0	2	F
Roosevelt County Sheriff's Department	2	0	0	1	1	1	1	0	1	7	C
San Miguel County Sheriff's Department	0	0	1	0	0	1	0	1	0	3	F
Socorro County Sheriff's Department	2	1	1	1	1	1	1	1	1	10	A
New Mexico State Police Department	2	0		1	1	1	1	1	1	8	B



## Report Card Evaluation Criteria

- C1 = Does your agency have written policies and procedures designed to eliminate profiling practices? (2 points)*
- C2 = Does your agency publish information on a website or other media about the policies and procedures you have in place to eliminate profiling practices? (1 point)*
- C2.1 = Are the agency's policy and complaint forms readily available upon request. Score based on number of contacts. (1 point)*
- C3 = Does your agency have a disciplinary procedure in place for officers involved in a profiling incident? (1 point)*
- C4 = Do your policies specifically address the protected classes covered in the law? (1 point)*
- C5 = Does your agency provide training for law enforcement officers during orientation and at least once a every two years on the provisions of the Act? (1 point)*
- C6 = There is an established timeframe within which a complaint may be made. (1 point)*
- C7 = Can complaints be made in person, in writing, or by mail, telephone, or anonymously, or by a third party? (1 point)*
- C8 = There is a system in place by which complaints and dispositions are sent to the attorney general without disclosure of personal information. (1 point)*

# ARTICLE 21

## *Prohibition of Profiling Practices*

- Section 29-21-1 Short title.
- Section 29-21-2 Profiling practices prohibited.
- Section 29-21-3 Policies and procedures; required.
- Section 29-21-4 Independent oversight; complaints; confidentiality.



**ARTICLE 21**  
**Prohibition of Profiling Practices**

Section

29-21-1	Short title.
29-21-2	Profiling practices prohibited.
29-21-3	Policies and procedures; required.
29-21-4	Independent oversight; complaints; confidentiality.

**29-21-1. Short title.**

This act may be cited as the "Prohibition of Profiling Practices Act".

History: Laws 2009, ch. 177, § 1.

**Effective dates.** — Laws 2009, ch. 177, § 1 was effective June 19, 2009.

**29-21-2. Profiling practices prohibited.**

A. In conducting a routine or spontaneous investigatory activity, including an interview, a detention, a traffic stop, a pedestrian stop, a frisk or other type of bodily search or a search of personal or real property, or in determining the scope, substance or duration of the routine or spontaneous investigatory activity, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except in a specific suspect description related to a criminal incident or suspected criminal activity, to select a person for or subject a person to the routine or spontaneous investigatory activity.

B. In conducting an investigatory activity in connection with an investigation, a law enforcement agency or a law enforcement officer shall not rely on race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, except to the extent that credible information, relevant to the locality or time frame, links a person with those identifying characteristics to an identified criminal incident or criminal activity.

History: Laws 2009, ch. 177, § 2.

**Effective dates.** — Laws 2009, ch. 177, § 1 was effective June 19, 2009.

**29-21-3. Policies and procedures; required.**

A. A law enforcement agency shall:

(1) maintain written policies and procedures designed to eliminate practices by its law enforcement officers that violate the provisions of Section 2 [29-21-2 NMSA 1978] of the Prohibition of Profiling Practices Act; and

(2) provide training to its law enforcement officers, during orientation and at least once every two years, that the law enforcement agency determines will assist its law enforcement officers in adhering to the applicable provisions of the Prohibition of Profiling Practices Act and to the law enforcement agency's policies and procedures.

B. As part of a law enforcement agency's administrative complaint procedures, the law enforcement agency shall, at a minimum:

(1) investigate a complaint alleging its law enforcement officer violated the provisions of Section 2 of the Prohibition of Profiling Practices Act;

(2) take appropriate measures to discipline a law enforcement officer, including facilitating mediation or other restorative justice measures, when it is determined that the law enforcement officer violated the provisions of Section 2 of the Prohibition of Profiling Practices Act;

(3) provide appropriate forms for submitting the complaint against its law enforcement officer;

(4) publish the policies and procedures designed to eliminate practices that violate the provisions of Section 2 of the Prohibition of Profiling Practices Act; and

(5) submit a redacted copy of the complaint and the disposition to the attorney general, which shall disclose the nature and disposition of the complaint but shall not disclose personal identifying information of a law enforcement officer or complainant.

C. A law enforcement agency shall establish a time frame within which a complaint alleging a violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act may be made; provided that in no event shall the time frame be less than ninety days or exceed one hundred eighty days after the commission of the alleged violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act. A law enforcement agency shall allow a complaint alleging a violation of the provisions of Section 2 of the Prohibition of Profiling Practices Act by its law enforcement officer to be made:

(1) in person or in writing sent by mail, facsimile or electronic mail and signed by the complainant; or

(2) by telephone, anonymously or by a third party; provided that the law enforcement agency shall determine the complaint to be valid before taking appropriate measures pursuant to Paragraph (2) of Subsection B of this section and shall comply with the provisions of Section 29-14-4 NMSA 1978.

History: Laws 2009, ch. 177, § 3.

**Effective dates.** — Laws 2009, ch. 177, § 5 made Laws 2009, ch. 177, § 3 effective December 31, 2009.

**29-21-4. Independent oversight; complaints; confidentiality.**

The attorney general shall establish independent procedures for receiving, and for maintaining a record of, complaints alleging profiling by a law enforcement officer or agency. The attorney general may initiate an investigation of a complaint alleging a violation, or a systematic pattern of violations, of the provisions of Section 2 [29-21-2 NMSA 1978] of the Prohibition of Profiling Practices Act and take necessary actions as the attorney general deems appropriate. The attorney general may publish a report or summary of the attorney general's findings regarding violations of the provisions of the Prohibition of Profiling Practices Act; provided that personal and identifying information shall not be published or released to the public.

History: Laws 2009, ch. 177, § 4.

**Effective dates.** — Laws 2009, ch. 177, § 5 made Laws 2009, ch. 177, § 4 effective December 31, 2009.

**Somos Un Pueblo Unido**



1804 Espinacitas St.

Santa Fe, NM 87505

(505) 424-7832

[www.somosunpueblounido.org](http://www.somosunpueblounido.org)

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**New Mexico State Conference NAACP**

PO Box 6293

Las Cruces, NM 88006-6293

(575) 526-8528