



## House Joint Memorial 40/HJCS -- Page 2

- Engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment to the U.S. Constitution;
- Using race, religion, ethnicity or national origin as a factor in selecting individuals for investigation;
- Collecting or maintaining information about the political, religious or social views, associations or activities of individuals, groups, businesses, corporations unless such information directly relates to an investigation of criminal activity and there are reasonable grounds to believe that the subject of the information is or may be involved in criminal conduct; and
- Engaging in the practice of stopping drivers or pedestrians for the purpose of scrutinizing their identification documents without reasonable and particularized suspicion of criminal activity and from engaging in searches and seizures unless they are consistent with state laws and rules of court.

The bill directs public schools and institutions of higher education to provide notice to individuals whose education records have been obtained by law enforcement agents pursuant to the USA Patriot Act and directs public libraries to post notices informing the public that records of borrowed materials may be obtained by federal agents.

The bill directs the official in charge of homeland security for the state to obtain information from the federal government, facilitating an assessment of the effect of federal antiterrorism efforts on residents of the state. The official in charge of homeland security shall provide a summary of the information obtained to the Legislature and the Corrections Oversight and Justice Committee at least once every six months.

Copies of the memorial shall be transmitted to Senators Jeff Bingaman and Pete Domenici; Representatives Tom Udall, Heather Wilson and Steve Pearce; President George W. Bush and Attorney General John Ashcroft.

### Significant Issues

In the face of broad new federal policies, laws, executive orders, regulations and actions, the memorial outlines parameters for the surveillance and investigation practices of the State Police. While it stops short of demanding accountability from law enforcement agencies, the memorial provides for a method of monitoring the effects of the federal antiterrorism efforts on New Mexico residents.

Additional federal legislation and policy changes, including the proposed Domestic Security Enhancement Act of 2003, will expand on many of the provisions contained in the Patriot Act, further corroborating the concerns expressed in the bill.

In October, 2002, the city of Santa Fe passed a resolution supporting the Bill of Rights and civil liberties for residents of Santa Fe, resolving that local law enforcement uphold residents' rights and liberties and petitioning the state's federal legislative delegation to actively monitor the implementation of the Patriot Act, related executive orders and policy changes.

The Administrative Office of the District Attorneys (AODA) notes that the executive could in-

voke a separation of powers argument in response to the bill.

**FISCAL IMPLICATIONS**

There are minimal costs associated with posting notifications and gathering and reporting information from the federal government.

**DUPLICATION**

Duplicates SJM 30.

**JCF/yr/njw**