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HOUSE BILL 322

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

INTRODUCED BY

Patricia Roybal Caballero

AN ACT

RELATING TO LAW ENFORCEMENT; ESTABLISHING THE SPECIAL EXCESSIVE  
FORCE UNIT AS A DIVISION IN THE OFFICE OF THE ATTORNEY GENERAL;  
REQUIRING EXCESSIVE FORCE CASES TO BE BROUGHT TO A HEARING IN  
DISTRICT COURT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be  
cited as the "Excessive Force Act".

**SECTION 2.** ~~[NEW MATERIAL]~~ DEFINITION.--As used in the  
Excessive Force Act, "excessive force case" means a case that  
arises out of an action taken by a law enforcement officer  
while the officer was acting in the officer's official  
capacity, including:

- A. a shooting by a law enforcement officer;
- B. an allegation of assault, battery or homicide by

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1 a law enforcement officer; or

2 C. any other allegation of the use of excessive  
3 force brought against a law enforcement officer.

4 SECTION 3. [NEW MATERIAL] ESTABLISHMENT OF SPECIAL  
5 EXCESSIVE FORCE UNIT.--

6 A. The "special excessive force unit" is  
7 established as a division of the office of the attorney  
8 general.

9 B. Notwithstanding any other provision of law, the  
10 special excessive force unit has exclusive powers of  
11 investigation and prosecution of alleged excessive force cases  
12 by law enforcement officers in the state.

13 C. The attorney general shall ensure the allocation  
14 of sufficient staff and resources to the special excessive  
15 force unit as may be required to ensure the swift and competent  
16 investigation and prosecution of excessive force cases.

17 SECTION 4. [NEW MATERIAL] EXCESSIVE FORCE CASES IN  
18 DISTRICT COURT.--An excessive force case shall be presented in  
19 a preliminary hearing or inquiry before the district court in  
20 the judicial district in whose jurisdiction the incident  
21 occurred for a determination of probable cause, and not to a  
22 grand jury.

23 SECTION 5. APPROPRIATION.--One million five hundred  
24 thousand dollars (\$1,500,000) is appropriated from the general  
25 fund to the office of the attorney general for expenditure in

.203393.2

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1 fiscal year 2017 to establish the special excessive force unit.  
2 Any unexpended or unencumbered balance remaining at the end of  
3 fiscal year 2017 shall revert to the general fund.