



## Legislative Proposals

APD Forward is a targeted, community-centered campaign advocating for reform of the Albuquerque Police Department with the ultimate aim of removing institutional deficiencies that have promoted a culture of aggression and frequent excessive use of force within the department. The campaign is supported by a coalition of 17 organizations and victims' families (see reverse). APD Forward is also served by a legal committee of prominent civil rights attorneys who provide guidance to the campaign. It is the position of APD Forward that the following four legislative proposals, if enacted into law, would have a substantial impact on reducing instances of excessive use of force by law enforcement agencies in New Mexico.

### **1) Body-Worn Cameras**

A recent report released by the Police Executive Research Forum found numerous benefits associated with the use of body-worn cameras. In particular, the report found that the use of such cameras can have a "civilizing effect" in that when police-citizen encounters are recorded, both officers and citizens are protected. Because a camera does not lie, frivolous complaints against officers are easily dismissed, consent or lack of consent to search is clear, confessions and demeanor of citizens can be objectively evaluated and, when officers know they are being recorded, they often behave more professionally. A statewide law requiring the use of such cameras by law enforcement agencies would benefit both the public and law enforcement agencies.

### **2) SWAT**

Special tactical law enforcement units were designed to aid in resolving extreme high-risk situations, including when a hostage needs to be rescued or a forceful response is required to a credible terrorism threat. Unfortunately, in recent decades, specialized units have come to be increasingly overused for such activities as searching for drugs or delivering low-risk warrants. In the process, innocent people often are injured, or even killed, and their property damaged, and police lose credibility. For this reason, the legislature should consider passing a statewide law restricting the use of SWAT teams to scenarios in which there is a likelihood of an imminent threat of death to civilians and/or police officers.

### **3) Attorneys' Fees in Lawsuits Against Law Enforcement Agencies**

The New Mexico Tort Claims Act allows for tort claims based on injuries caused by law enforcement officers while acting within the scope of their duties. Unlike the New Mexico Whistleblower Protection Act, the New Mexico Human Rights Act, the New Mexico Unfair Trade Practices Act and other citizen-protection statutes, the Tort Claims Act does not contain fee-award provisions. Fee provisions help insure the availability of legal assistance for citizens subjected to harm by law enforcement officers (NMSA 1978 § 41-4-12) and therefore accountability of officers and police departments for violations of policies and procedures designed to protect citizens.

### **4) Monetary Cap in Lawsuits Against Law Enforcement Agencies**

In addition, the New Mexico Tort Claims Act caps the amount an injured party can claim in damages, other than real property damages, at \$400,000. (NMSA 1978, § 41-4-19) Removing this cap would create a substantial deterrent effect in situations where the misconduct of a law enforcement officer resulted in very egregious harm to a member of the public. The current cap prevents full compensation in the most necessary cases and creates an incentive for departments to consider lawsuits a cost of business as usual with no incentive for change or improvement.

**Resources:**

*Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* (Police Executive Research Forum, 2014)

*War Comes Home: The Excessive Militarization of American Policing* (American Civil Liberties Union, 2014)

**APD Forward campaign partners:**

- Albuquerque Health Care for the Homeless
- American Civil Liberties Union of New Mexico
- Common Cause New Mexico
- Disability Rights New Mexico
- El Centro de Igualdad y Derechos
- Episcopal Diocese of the Rio Grande
- Equality New Mexico
- La Mesa Presbyterian Church
- League of Women Voters of Central New Mexico
- National Association of Social Workers – New Mexico Chapter
- Native American Voters Alliance
- New Mexico Conference of Churches
- New Mexico Criminal Defense Lawyers Association
- Street Safe New Mexico
- Strong Families New Mexico
- Transgender Resource Center of New Mexico
- YWCA of New Mexico

**Individual partners:**

- Fabrizio Bertolotti – former Police Oversight Task Force member
- Kenneth Ellis II – father of Kenneth Ellis III
- Michael Gomez – father of Alan Gomez
- Stephen Torres – father of Christopher Torres

*For more information, go to [www.apdforward.org](http://www.apdforward.org) or visit us on Facebook at [www.facebook.com/apdforward](https://www.facebook.com/apdforward).*