



1997-1998
PUBLIC
SAFETY
RESOLUTIONS

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RESOLUTION NO. 1997-35

CONCERNING COMMUNITY POLICING

Whereas, the fear of crime is at the forefront of public concern; and

Whereas, police departments represent the first line of defense against crime; and

Whereas, there is a need for citizens and public safety professionals to develop a working relationship; and

Whereas, community policing is a broad-based philosophy designed to build partnerships between public safety professionals, citizens of our communities and other agencies to solve problems; and

Whereas, community policing has been shown to reduce criminal activity and to impact on the fear of crime as well as the use of public resources to address police/community problems.

Now, Therefore, Be It Resolved that the New Mexico Municipal League adopts the philosophy and organizational strategies supporting community policing; and

Be It Further Resolved that the Municipal League supports state funding initiatives for training and implementation of community policing statewide.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-36

**CONCERNING ADDITIONAL FUNDING FOR
SMALL MUNICIPAL POLICE DEPARTMENTS**

Whereas, crime prevention and police response to crime, emergencies and crowd control are as important in small municipalities as in larger municipalities but smaller municipalities usually have less financial resources to provide additional officers; and

Whereas, twenty-five of the state's ninety-nine municipalities have police departments with four or fewer police officers; and

Whereas, although police departments with fewer than five police officers are exempted under the federal Fair Labor Standards Act from compensating overtime work at a time-and-one-half rate, officers must still be compensated for all hours worked; and

Whereas, the smaller the department, the more likely it is that when an officer uses accrued compensatory time off for overtime, that use results in another officer's working additional overtime, thus creating additional ongoing financial liability for the municipality; and

Whereas, the smaller the municipality, the less likely it is to be able to qualify for federal or state grants for enhancing police services except on a start-up basis; and

Whereas, funding sources exist for acquiring vehicles and equipment and for training but not for officer pay, employment benefits or operating expenses; and

Whereas, the most pressing financial need of smaller law enforcement departments is money to pay regular and overtime pay and employment benefits of law enforcement officers and to cover operating expenses, such as gasoline, citation forms and supplies.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek viable funding for small municipal police departments with fewer than five police officers to help pay for law officer pay and employment benefits and ongoing operating expenses of the department.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-37

CONCERNING MUNICIPAL REGULATION OF FIREWORKS

Whereas, the New Mexico Municipal League does find and determine that the uncontrolled discharge of fireworks within municipalities of the State of New Mexico has resulted in injuries to persons, damage to property, excessive expenditure of public funds to extinguish fires and has created excessive noise and nuisance; and

Whereas, in 1996 the State of New Mexico has experienced an increase in fires that have burned out of control, specifically the "dome" fire near Los Alamos and the "Hondo" fire near Questa and Red River; and

Whereas, the danger of range fires, brush fires, grass fires, structure fires, and other fires of every kind has been extremely high in the State of New Mexico; and

Whereas, the probability of ignition of materials likely to serve as fuel for fires has been extremely high in the State of New Mexico; and

Whereas, in light of increased fire hazard the New Mexico Department of Energy, Minerals and Natural Resources, Conservation Division, has put into effect "fire watches" and has imposed Level II restrictions; and

Whereas, in light of the increased fire hazard the State Fire Board did impose a temporary ban on the sale or use of fireworks in the state but then lifted its ban; and

Whereas, the health, safety and welfare of the citizens of the municipalities in New Mexico are at risk when there is an increased fire hazard; and

Whereas, should a municipality experience a fire that burns out of control, a high percentage of its water resources may be at serious risk of complete loss or severely reduced capacity; and

Whereas, by ordinance municipalities have adopted various versions of the Uniform Fire Code, which ordinance contains provisions allowing the municipalities' Fire Marshall, or other fire official, to restrict the sale or use of fireworks as is deemed necessary to protect the citizens of the municipality based on increased fire hazard; and

Whereas, the governing bodies of municipalities have historically adopted ordinances designed to protect their citizens from threats to the public welfare and safety, including increased fire hazards; and

Whereas, the State Fireworks Licensing and Safety Act, at Section 60-2C-7 NMSA 1978, in the second sentence, states that a municipality or county shall not by ordinance regulate and prohibit the sale or use of otherwise permissible fireworks except aerial devices and ground audible devices; and

Whereas, this second sentence of Section 60-2C-7 NMSA 1978 was revised by the legislature in 1991 to change the word "may" to the words "shall not", thus directly changing the 1978 statute to prohibit a municipality from restricting the sale or use of fireworks; and

Whereas, the second sentence of Section 60-2C-7 NMSA 1978 is in direct conflict with the provisions of the Uniform Fire Code addressing the sale and use of fireworks, which provisions have been adopted by municipalities enabling them to enact policies and to take measures to protect their citizens from the increased threat of fire posed by the use of fireworks under certain conditions; and

Whereas, many municipalities have adopted the Uniform Fire Code by ordinance and thus, under the current state statute, have no means to control the sale or use of fireworks even when there are extreme fire hazards; and

Whereas, this situation leaves the State Fire Board as the only entity in the State of New Mexico that can legally ban the sale or use of otherwise permissible fireworks; and

Whereas, as the state statute currently stands the State Fire Board is composed only of the State Corporation Commission and does not have any official fire personnel among its members; and

Whereas, under the current wording of Section 60-2C-7 NMSA 1978 municipalities are not able to protect their citizens from the use of fireworks even when there are extreme fire hazard conditions and this may expose the municipalities to liability.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation amending the second sentence of Section 60-2C-7 to read:

"A municipality or county may by ordinance regulate and prohibit the sale or use of otherwise permissible fireworks."

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-38

CONCERNING THE FIRE PROTECTION FUND

Whereas, the stated legislative purpose of the Fire Protection Fund is to provide for distribution of funds "to incorporated cities, towns and villages, and to county fire districts, in proportion to their respective needs, for use in operation, maintenance and betterment of local fire departments to the end that the hazard of loss by fire and fire insurance rates may be reduced and public safety thereby promoted;" and

Whereas, to many of the 339 State-recognized fire departments, this funding represents their sole source of operating money; and

Whereas, in the past fourteen (14) years there have been two increases, totaling approximately 16%, in the distribution rate of State Fire Protection Funds, while during this same period, equipment and apparatus costs have risen more than 65%, insurance premiums have risen more than 70%, and service demands on the Fire Service have increased more than 40%; and

Whereas, the total revenues in the Fund grew by 23.16% from Fiscal Year 1993 to Fiscal Year 1995 but the percentage of the total Fund distributed to municipal and county departments dropped from 42.13% to 36.52% and the percentage of the total Fund reverting to the state General Fund rose from 50.65% to 56.05%; and

Whereas, because of financial limitations, a majority of the departments, especially small municipal and county departments, are unable to support any capital projects, including basic fire equipment acquisition, apparatus repair and replacement, and fire station construction or expansion.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to provide an additional annual increase of 5% until the total annual disbursement equals 70% of the total amount generated by the fund; and

Be It Further Resolved that the League supports legislation to establish an annual Fire Protection Fund Capital Projects Grant Program (CPGP), utilizing an additional 22% of the Fire Protection Fund, to allow departments with a demonstrated need an opportunity to apply for additional funding, specific to fire department capital projects.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-39

**CONCERNING MUNICIPAL REGULATION OF RECKLESS DRIVING AND
DRIVING WHILE INTOXICATED ON PRIVATE PROPERTY**

Whereas, the state Traffic Code provides for enforcement of the reckless driving and driving while intoxicated laws on the streets and highways and elsewhere within the state, including on private property; and

Whereas, Section 3-49-1, NMSA 1978, prohibits municipalities from regulating speed and traffic conditions on private property, such as shopping center parking lots without the written consent of the landowner; and

Whereas, the New Mexico Court of Appeals has ruled that the term "regulating speed and traffic conditions" in Section 3-49-1 includes reckless driving and driving while intoxicated ordinances; and

Whereas, municipalities may no longer enforce such ordinances without the consent of the landowner, which consent may not be granted.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation to allow municipalities to enforce their reckless driving and driving while intoxicated ordinances evenly within municipal boundaries.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-40

CONCERNING SUPPORTING COMMUNITY BASED MULTIDISCIPLINARY APPROACH TO DOMESTIC VIOLENCE PROGRAMMING FOR THE STATE OF NEW MEXICO

Whereas, domestic violence is a growing epidemic in this country, between 1.8 and 4 million women each year are battered by their intimate partners; and

Whereas, the secondary effects of domestic violence are felt on an even broader scale as from 3 to 10 million children witness acts of domestic violence, resulting in emotional and behavioral problems, and worse still, judges are beginning to report that children first seen as victims in domestic violence cases return to court years later as juvenile offenders and adult criminal defendants; and

Whereas, domestic violence has enormous economic costs to business in form of absenteeism and reduced employee productivity, as well as the added impact of increased medical costs, making it apparent that all of society has an abiding interest in ending domestic violence; and

Whereas, the domestic violence programs that draw on the broad resources of the community - judges, lawyers, advocates from local and state domestic violence coalitions and programs, physicians, nurses, psychologists, social workers, victim service professionals, law enforcement and military personnel, the business community and the media - have been able to effect the changes which end domestic violence.

Now, Therefore, Be It Resolved that the New Mexico Municipal League support legislation that will encourage through funding the development of multidisciplinary community-based programs in response to the current epidemic of domestic violence. That the state program commitment require the following elements:

1) Broad based community involvement that includes most of the multidisciplinary entities that work with victims of domestic violence.

2) Co-ordination of information sharing that may include cross jurisdictional sharing (between federal, tribal, county, state district, municipal and military) yet in a process that still protects the privacy, confidentiality and safety of the victim and the victim's children.

3) Multidisciplinary public education programs that respond to the entire community.

4) Multidisciplinary domestic violence prevention and intervention through community based employee assistance programs and programs based in hospitals, schools, medical clinics, social service agencies, military bases and judiciary.

5) Enhancing the legal representation for victims of domestic violence, enhancing the court advocate role for victims so all victims, regardless of race, income, gender and age in the state of New Mexico, whether in the city or in a rural setting will have these needs met.

6) Participate in data collection regarding numbers of victims, disposition of cases, services utilized, victim fatalities, so long as procedures are followed that protect the privacy, confidentiality and safety of the victim and the victim's children and follow the guidelines set forth in the federal Violence Against Women Act (VAWA).

7) Take an approach through policies, procedures and practices that places primary emphasis on the safety of the victim and the victim's children.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-41

CONCERNING SUPPORT OF HATE CRIMES LEGISLATION

Whereas, the New Mexico Municipal League is in the strongest opposition to any crime against persons or property which is motivated by hatred based on race, creed, gender, national origin, color, ethnicity, sexual orientation, age, disability, or any other characteristic which is intrinsic to the being of an individual person or group of persons; and

Whereas, the Municipal League affirms the dignity and right of all people to live in peace, and finds crimes based on prejudice and hatred to be offensive and intolerable in a community of civilized persons; and

Whereas, incidents of various kinds of hate crimes have been committed in communities in New Mexico; and

Whereas, legislation providing additional penalties for crimes committed because of hate or bias has been introduced and passed the State legislature but has been vetoed.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to enhance penalties for crimes motivated by hate and bias.

Be It Further Resolved that the Municipal League urges the Governor of the State of New Mexico to sign such a bill, if it is passed by the New Mexico legislature.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-42

CONCERNING RESTORING THE EMERGENCY RESPONSE FUND

Whereas, emergency management functions among New Mexico municipalities and counties vary in their framework but the mission to provide preparedness, response, mitigation and recovery remains the same; and

Whereas, municipalities and counties attempting to equip or train their units for emergency response teams face severe financial limitations; and

Whereas, the New Mexico Law Enforcement Academy has not adequately provided the training staff for training units in emergency response; and

Whereas, an Emergency Response Fund using the permit fees levied upon hazardous materials transporters was previously established and then abolished by the New Mexico Legislature.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports restoration of the Emergency Response Fund for training in emergency response and for funding equipment for emergency response teams.

Passed, Approved and Adopted this 28th day of August, 1997, at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-43

CONCERNING THE RETENTION OF THE LOCAL E-911 SURCHARGE

Whereas, section 63-9D-6 authorizes local governments to recover from the E-911 network and database fund an amount necessary to recover the costs of purchasing, leasing, installing and maintaining equipment and the costs of developing and maintaining a network and database necessary to provide a 911 emergency system; and

Whereas, proposed technical changes in the delivery of E-911 service will result in substantial costs to local governments in order to maintain the system; and

Whereas, without the network and database surcharge, rural communities in New Mexico could not continue to provide the E-911 service; and

Whereas, a new, more powerful 911 router, around which the entire state 911 system is built, will be required by U.S. West and will impact local governments in their delivery of service including PSAP computer upgrades and conversion to digital networks, provision of alternate systems and back-up networks, nationwide telephone number portability, private branch exchange systems and alternative local exchange telephone service providers; and

Whereas, the E-911 program is important to our municipalities and one that needs to be kept up to date in order for it to be truly effective in delivering this vital service to our citizens.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League strongly urges the Legislature to retain the existing E-911 surcharge authorized for local governments in order to insure adequate funding for equipment replacement as well as technological components.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-44

CONCERNING THE JURISDICTION OF POLICE OFFICERS

Whereas, municipal law enforcement officers are certified by the state, but jurisdiction is limited to city boundaries; and

Whereas, officers frequently travel outside their jurisdictional boundaries, but lack police authority to act on crimes that occur in their presence; and

Whereas, it is in the best interest of all citizens in New Mexico that officers be able to act in their official capacity when a crime occurs in front of them, even if outside their regular jurisdictional boundary; and

Whereas, other states give their officers statewide peace officer status to act when a crime is being committed in their presence; and

Whereas, many of the state and federal grants available to law enforcement agencies either encourage or require regional participation in joint efforts in order to receive funds.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the Legislature to request Representatives of the Association of Chiefs of Police, the State Police, the Sheriffs and Police Association, the Department of Public Safety and the Municipal League to study the feasibility and efficacy of expanding the jurisdiction of municipal law enforcement officers for limited circumstances to include emergency situations, multi-jurisdictional criminal investigations and multi-agency task force investigations and operations and make recommendations to the Legislature.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.

RESOLUTION NO. 1997-45

CONCERNING THE E-911 SURCHARGE STRUCTURE

Whereas, the E-911 system was developed to provide citizens access to emergency services; and

Whereas, the E-911 system is used by wireless as well as wired telephone systems; and

Whereas, wireless users are not paying the E-911 surcharge thus placing the entire cost of the service on the users of wired telephone systems; and

Whereas, the exclusion of wireless systems from the payment of the E-911 surcharge creates an inequitable system of charges.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League urges the Legislature to include all telephone users in the payment of the E-911 service surcharge.

Passed, Approved and Adopted this 28th day of August, 1997 at the City of Las Cruces, New Mexico.