

RESOLUTION NO. 6-2022

A RESOLUTION APPROVING THE EXPENDITURE OF CITY FUNDS TO RECALL THE DISTRICT ATTORNEY

WHEREAS, Since the swearing in of District Attorney Alonzo Payne on January 12, 2021, the City has become increasingly concerned with the professionalism of the DA's office, the potential violations of the Victim's Rights Act, the unprecedented use of sweetheart plea deals for serious crimes, the lack of response both in carrying out regular duties and communicating as a community partner, and the risk our law enforcement officers are under due to emboldened criminals; and

WHEREAS, the Colorado Crime Victim Advisory Board has forwarded four complaints of violation of the Victim's Rights Act ("VRA") under DA Payne to the Governor, who has forwarded them to the Attorney General for action, and the VRA subcommittee of the Colorado Crime Victim Advisory Board has recommended forwarding an additional four complaints for action, totaling 8 such complaints in the first year under DA Payne.; and

WHEREAS, in forwarding the VRA complaints to the Governor, the Colorado Crime Victim Advisory Board noted a complete lack of responsiveness or seriousness on the part of DA Payne in responding to its requests for information on the complaints, and in addressing training and other improvements to rectify the situation leading to the complaints. Approximately a month following the VRA training, the Colorado Division of Criminal Justice was made aware that another 20+ cases were dismissed or pleaded out without contact with the victims - a confirmation that the training was not taken seriously; and

WHEREAS, City staff, in the person of the City Manager and Chief of Police, has attempted to discuss the City's concerns with DA Payne. Those efforts have been fruitless. The District Attorney has made it abundantly clear that the philosophical platform that he ran on applies to all levels of crimes and that he does not believe jail is productive. He also made it very clear during his meetings with staff that he does not take the City's concerns seriously; and

WHEREAS, the sweetheart plea deals being offered by DA Payne for defendants accused of serious crimes have created a situation where criminals openly laugh at police officers arresting them, indicating a complete culture of disrespect for law enforcement. A sample of such plea deals is as follows:

- Alamosa Police Department has conducted over 40 narcotic operations in the past 9 months. Not one of these cases has resulted in a trial – they have all been dismissed or pled to less serious offenses with very minimal jail time. These operations include significant amounts of seized drugs, money, and weapons. When the City partnered with Federal agencies to have 3 cases tried in federal court, the outcomes were dramatically different: 10 years, 15 years, and 15 years.
- Richard Newton - Officers made contact in a parking lot in Alamosa for an active arrest warrant. Newton refused to exit his vehicle and accelerated, dragging a state patrol trooper through the parking lot causing injury to the officer. Newton was charged with Assault 1 serious bodily injury with a deadly weapon (an F3 felony punishable by 10-30 years in prison, resisting arrest, obstructing government operations, reckless endangerment and reckless driving. Case pleaded to Assault 2 (an F4 felony punishable by 5-16 years), but under the plea deal he received a deferred sentence for 36 months and 60 hours community service. All other charges dismissed.
- Trea Howell and Apryl Behrens - Murder of a 16 month old baby who had trauma to the brain due to being smashed into a door. Howell pled to accessory to crime and got a 72 months deferred sentence with terms and conditions of probation. Behrens pled to child abuse negligently causing serious bodily injury attempt and received 2 years Community Corrections with 369 days credit time served; and

WHEREAS, the DA's office has failed to perform its duties. For example, in December it was brought to the Police Chief's attention that over 20 warrants had not been processed, which means 20 different cases with victims had sat on the DA's desk without action for weeks. These included Domestic Violence, 3rd Degree

Assault, 2nd Degree Assault, 2nd Degree Forgery, Theft, Second Degree Burglary, and Felony Menacing; and

WHEREAS, such delay can have serious consequences. OMS student Jayden Cruz had been bullied at school and on Friday, October 1, 2021, was assaulted by other students. Alamosa PD had the charges to the DA the following Monday. They sat without action on the DA's desk. On December 21, 2021, Jayden tragically took his own life. The DA's office finally filed charges on January 11, 2022. His guardians assert that without that abandonment by the DA's office, Jayden would not have killed himself; and

WHEREAS, through DA Payne's efforts to avoid jail sentences, there has been an increase in the use of the 12th Judicial District Probation Office for more serious offenses. Currently the Office has 14 certified probation officers. These PO's are responsible for over 700 probation clients to date (about 50 per officer). None of the certified PO's carry a sidearm. As of lately, the new clients being referred to the probation office are too high risk and it is dangerous for the probation officers who are not equipped, thus putting the lives of the officers more at risk; and

WHEREAS, the City of Alamosa puts its officers' lives at risk every time they have to make an entry on a narcotic operation. Our neighborhoods and residents are at risk when criminals are allowed to avoid jail time and walk around our community. These are our victims whose voices are being ignored; and

WHEREAS, City Council hereby finds that the facts and circumstances described above constitute a serious and deleterious operational impact on the public safety operations of the City of Alamosa;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Alamosa, Colorado, that staff is directed to expend resources, as directed by the City Manager in her discretion, and not to exceed \$10,000, toward developing, circulating, and obtaining certification of a recall petition based on the above stated grounds and any other similar grounds staff deems appropriate, to set an election to recall District Attorney Alonzo Payne.

This Resolution shall become effective immediately upon its adoption.

APPROVED, PASSED AND ADOPTED this 16th day of March, 2022.

CITY OF ALAMOSA

By _____
Ty Coleman, Mayor

ATTEST:

Holly C. Martinez, City Clerk