



Law change will send second, third DWI offenses to Municipal Court

People who get caught driving under the influence will soon have a new process to go through. By mid-February the Gallup Municipal Court hopes to have a new probation officer on staff to manage DWI cases, in part to stem a tide of dismissals in Magistrate Court.

“There is a dismissal rate of about 75% taking place right now for DWIs in the Magistrate Court level. They don’t have the capacity to handle them,” Municipal Court Judge Janell Griego told the city council when she asked for the new probation officer position in December.

Griego explained how having DWIs go through Municipal Court would speed up the process.

“Defendants have a right to a jury trial in Magistrate Court, which clogs up the system. They do not have that same right to a jury trial at Municipal Court, which is why we could push a DWI through the system a lot quicker,” Griego said.

Griego was unavailable for further comment due to a statewide gag order on judges, but her assistant, Erin Gutierrez, said the court received 15 applications and nine of the candidates passed the first muster. The court is scheduling interviews and plans to have the position filled by mid-February. The new officer will do case management before trial and after convictions.

“That is a compliance position, because once an individual is charged with a DWI they are released, but they have conditions of release,” Gallup’s Acting City Attorney Lynn Isaacson

Walking the straight line

Written by By Holly J. Wagner Sun Correspondent
Friday, 10 February 2023 02:26

said. “There is a new position to monitor it, so if you get convicted, you are placed on conditions of probation for 364 days and you’re required to check in. That compliance officer will keep track of the work that is getting done and refer that back to the court if it is not being done.”

Gallup Municipal Court has always had authority to hear first offense simple DWI cases – non-felony cases without injuries or property damage – that take place within city limits. From 2014 to 2017, the court also heard second and third offenses. In 2017, the city changed the ordinance to shift second and third offenses to Magistrate Court.

The city changed the prosecution ordinance back on Jan. 20, and authorized the new probation officer position in December in an effort to improve prosecutions.

Law enforcement officers in the field have discretion to send DWI cases that happen within city limits to municipal or magistrate court, regardless of which agency makes the arrest. The recent action extends that to second and third offenses.

McKinley County Sheriff James Maiorano III said his department supports the move.

“[Municipal court] moves faster than magistrate court,” he said. “If [Griego] was able to take first, second and third offenses, there is a very good chance we may charge municipal,” Maiorano said.

The council voted unanimously to make the change. Councilor Fran Palochak, Dist. 4, applauded Griego’s efforts.

“She has the time to spend on these folks and I think she really wants to rehabilitate them so that they don’t move on to magistrate court for fourth, fifth, sixth [or] seventh [offenses],” she said. “She wants to put her hand in there to remedy the situation and I commend that.”

Isaacson agreed, noting that the long-range goal is to turn lives around so offenders don’t get

Walking the straight line

Written by By Holly J. Wagner Sun Correspondent
Friday, 10 February 2023 02:26

caught in a bad cycle.

“Griego has a relationship with everyone who comes through that court. It’s surprising, a defendant will come up to the podium and she’ll say, ‘You’re the one who works here,’ and ‘How are you doing with this program?’” Issacson said. “She thinks she can make a difference, and I think she can.”

Based on last year, about 18 second- and third-offense DWIs a year happen within city limits, so the change should not overburden the municipal court, Isaacson said, and some cases will still be heard in magistrate court.

By Holly J. Wagner
Sun Correspondent