ALBUQUERQUE CRIMINAL LAWYER BLOG

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Police-Team DWI/DUI Investigations Allowed Though Discontinued?

The New Mexico Court of Appeals has validated the police-team concept in DWI/DUI investigations. Ironically, the decision comes on the heels of the Albuquerque Police Department's recent announcement that police-teams would no longer be used in DWI/DUI investigations.

The police-team approach to DWI/DUI's was used widely across New Mexico, particularly in Albuquerque where it was used in the vast majority of DWI/DUI investigations. In essence, the police-team approach involved the assistance of specially trained DWI/DUI officers in almost every DWI/DUI investigation in Albuquerque. Typically, there would be a stopping officer, generally from field services, who would initiate contact with the suspected DWI/DUI driver. If that officer believed that the driver was driving under the influence of alcohol, an officer from the DWI/DUI Unit would be called to the scene. Once on the scene, the DWI/DUI officer would take over the investigation.

Many defense attorneys challenged the practice over the years arguing that the police-team approach did not meet the basic rule that a misdemeanor arrest cannot be made unless the misdemeanor was committed in the presence of the arresting officer. There were a few judges throughout the state that did not recognize the police-team concept.

The Court of Appeals in State v. Mitchell validated this practice. Essentially, the court indicated that the team approach where the investigation was handed off from one officer to another was a legitimate practice. The Court found that the practice met the exception to the rule because of the officers' cooperation in the DWI/DUI investigation.

Thus, the police-team approach can now freely be used by New Mexico law enforcement in DWI/DUI investigations. The ruling comes just as the Albuquerque Police Department has done away with the practice. APD stated that the practice will avoid the necessity of two officers in court for the prosecution of DWI/DUI. Often times, trials are continued because either the stopping officer or the DWI/DUI investigating officer are not present. Both must be present in order to prosecute the case. On occasion, these cases would eventually get dismissed due to the unavailability of one of the officers at trial.

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The decision to discontinue the practice also reflects budgetary realities. DWI/DUI prosecutions can be very expensive, burdening the police, the prosecutors' offices, and the courts when one or more officers routinely miss a hearing necessitating future hearings otherwise unnecessary hearings. In addition, the time that the officers accrue in court is typically counted as over-time pay, which is paid at a premium. The police-team concept is simply an inefficient means of prosecuting DWI/DUI burdening an already stretched criminal justice system.

The practice creates a severe burden on the system and the taxpayers that carry it. As such, though the practice has been validated by the Court of Appeals, Albuquerque Police Department, already hit by severe budget issues, will have to think carefully before reinstating it.

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