

CITY COURT:

ELECTIONS PROTECT JUDGES FROM
“GOOD-OLD-BOY” SYSTEM OF APPOINTMENT



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Nothing seems unusual about the proceedings in Yuma Municipal Court. On one typical day, a procession of defendants appeared in front of the two full-time city judges. One man had been ticketed for failing to register his car on time. Another faced criminal charges for failing to wear his eyeglasses while driving. Yet another was convicted of slapping his girlfriend.

That's all standard fare in city courts.

What is unique in Yuma is the judges.

They are elected by the people, not appointed by the politicians.

In every other Arizona city, municipal court judges answer to the city council, the political branch of government. In those cities, the mayor and council hire the judges, and decide whether they will keep their jobs.

But Yuma has been electing its judges since the city's first charter after statehood was adopted in 1914. Judges there run for office, just like the mayor and council. That gives the judges in Yuma a level of independence that judges in other cities do not have, said James Coil, presiding judge of Yuma Municipal Court.

Coil said he knows who the mayor and members of the city council are, and might attend a council meeting every year or two, but rarely has any interactions with them.

The council sets Coil's budget and finances the court, but other than that leaves him alone. Even those budget discussions are handled by his court administrator, so he is free to do what he is supposed to do: weigh the circumstances of each case individually and dispense justice impartially.

"I get to live in a wonderful world where the city council does not have that sort of influence on me and has never really tried to influence me in any way," said Coil, who was unopposed in his reelection bid this year. "Yuma is just different than the big cities. We like accountability here. We do not like smoke-filled rooms. We do not like government by elites. We prefer to have a say in our community."

The Goldwater Institute reported in July that having city court judges answerable to the council gives them little protection against political influences on their courts. That influence might be to raise revenue through fines, allow questionable practices that are priorities of the council, or to give special treatment to influential city insiders.

Appointed judges who defy the council, police, prosecutors, or city budget officials have little protection and can easily find themselves out of a job, the Goldwater Institute found in its investigative report, [City Court: Money, Pressure, and Politics Make It Tough to Beat the Rap](#).



City judges outside of Yuma can be fired at any time the council determines there is sufficient cause. Or councils can get rid of judges by simply [not renewing their contracts](#) when their term expires, for any reason or no reason.

That's a bad situation for any judge to be in, said Ruth McGregor, [former chief justice](#) of the Arizona Supreme Court.

Judges are supposed to impartially follow the constitution and law. They are not there to raise money for the city, advance policy initiatives or enforcement priorities of the council, or protect influential people in their communities.

McGregor said she believes the vast majority of city councils are diligent in trying to protect the independence of city courts, and that judges who are inappropriately pressured would refuse to let that cloud their decisions.

But the current system offers scant protection for those city court judges who are pressured, especially if they are serving vulnerable two-year terms.

"It obviously decreases either their independence or the public's perception of their independence," said McGregor, who was on the Arizona Supreme Court from 1998 until her retirement in 2009. "If a city council can simply fire a judge, there is very little comfort level on the part of the public that the judge is making decisions independently, especially the next judge who has to make a similar decision when he just saw his compatriot get fired for it.

"Judges shouldn't be feeling those pressures. Whether they are able to resist them or not—and I think almost all of them do—it's a part of the job that shouldn't be there. You should be able to approach your job just based on the facts and the law and just make the best decision you can and then move on. You shouldn't have to worry about whether it's somebody in the council's family or a former council member or somebody who is well known in the community."

MERIT SELECTION

McGregor is an advocate of what's called [merit selection](#), a system that was put in place for most judges in Arizona under a constitutional amendment passed by voters in 1974. Aside from city courts, judges at all other levels of the Arizona judiciary face voters in some way.

Judges on the state supreme court, the court of appeals, and all superior courts in Maricopa, Pima, and Pinal counties are under merit selection. They are appointed by the governor, who chooses from a short list of candidates recommended by an independent judicial selection committee that screens applicants based on their qualifications. When their initial term in office ends, the judges face voters in a retention election. They do not run competitively against other candidates. Instead, voters simply decide with a yes-or-no vote whether each judge gets to stay on the bench.

If not, the judge is removed when the term ends and the process starts again.

Justices of the peace, as well as superior court judges in all but the state's three most populous counties, are selected and retained by voters through competitive elections.

Only in city courts [outside of Yuma](#) are judges both selected and retained without ever facing voters.

Arizona is one of about a dozen states in which city court judges are appointed by the mayor and council. The rest either elect their judges or do not have city courts.

In recommendations that accompanied the July report, the Goldwater Institute advocated [consolidating city courts](#) with county superior courts, a recommendation also made by numerous judicial study committees in Arizona since the 1950s.

Short of that, the Goldwater Institute recommends retention elections for city judges to break the direct influence of city councils over the courts. That is also a long-standing recommendation of state reform committees, the two most recent of which were appointed by the chief justices of the Arizona Supreme Court who were serving at the time.

Like Coil, fellow Yuma Municipal Judge Jeanette Umphress said being answerable to the people instead of the council gives judges there the kind of independence they need to carry out their duties free from the fear of any political interference or retribution from the city. Both said they cannot speak to what goes on in other cities. Because Yuma has been electing its city judges almost since statehood, elections are the only system they know.

“It would probably make me uncomfortable if I felt that I was beholden in any way to the city council because that’s not how it’s supposed to work,” Umphress said. “I think that we have a good system in Yuma. I think it’s working well and I think we have great public confidence.

“We make it very clear we are a separate branch of government.”



*James Coil
presiding judge of
Yuma Municipal Court*

JUDICIAL INDEPENDENCE

It is important that judges be accountable to voters, not to politicians, said Rebecca Love Kourlis, [former justice](#) of the Colorado Supreme Court and now executive director of the [Institute for the Advancement of the American Legal System](#) (IAALS) at the University of Denver.

Judges, including city court judges, have a great deal of power over people’s lives. Forcing them to face voters makes judges better and instills public confidence in the legal system.

But judges are not supposed to be politicians. They do not set public policy as city councils and legislatures do. They are supposed to weigh the facts and the law and render impartial judgements unclouded by political considerations.

So judges also need protection from political interference.

Retention elections are the best balance of accountability and protection, Kourlis said.

“I do think it’s important that voters believe they have an opportunity to have their say,” Kourlis said. “Citizen confidence in a system that does include this measure of accountability and transparency is higher than citizen trust in a system with no fail-safes, no outlets for accountability or transparency.”

IAALS, Kourlis, and McGregor are working with Sandra Day O’Connor, retired U.S. Supreme Court justice and a former Arizona state legislator, to push a model plan for selecting and retaining judges at all levels. The [O’Connor Judicial Selection Plan](#) is similar to Arizona’s merit selection system.

Every system of selecting and retaining judges has its flaws, Kourlis said.

Federal judges are appointed by the president and confirmed by the Senate to lifetime appointments, which itself injects an element of politics into the process. Appointing judges for life ensures judicial

independence but does not make judges accountable to the public for their performance or decisions. As a result, many people view the appointed federal judiciary as out of touch with the people they serve, and virtually unaccountable for misconduct or incompetence.

Only four states have some type of lifetime appointment of supreme court justices or trial court judges akin to the federal system, though three of them have an age limit of 70, according to data from the [National Center for State Courts](#) (NCSC).

Competitive elections, whether partisan or nonpartisan, subject judges to the populist whims of voters, and therefore offer them little protection in making legally correct decisions that might be unpopular. They also force judges to raise campaign money, stump for votes, and appease special interests that will help finance their campaigns, which could compromise their independence or impartiality in future cases that might come before them.

“It creates the perception that judges are just politicians in robes,” Kourlis said. “The problem is that the voters believe that the judges are being bought, that campaign contributors are the people who will have influence over their decisions. This is not just paranoia on the part of the voters. This is real stuff.”

Retention elections insulate judges from political interference and unseemly electioneering but also make them answerable to voters, Kourlis said. Judges in retention elections typically do not campaign, and so are not forced to raise money or make partisan promises to voters that could compromise their independence.

Initial appointments are made from a list of candidates who have been screened and vetted by an independent commission. This helps ensure qualified judges are appointed, and that the selection of judges is not a purely political decision, regardless of who makes the initial appointment.

Even more important is the retention process, since judges are most likely to receive improper pressure once they are on the bench, Kourlis said. There is no sense in pressuring a judicial candidate who has not yet been appointed.

There is less incentive for special interest groups or high-dollar donors to become involved in a retention election, because having one judge removed is no guarantee a judge more sympathetic to their particular cause will be appointed to fill the vacancy.

As a result, real retention elections structured the way the O’Connor plan recommends rarely draw much money from special interests compared to competitive elections of judges, Kourlis said.

Of the 38 states that use elections to determine whether their supreme court judges are retained, half use retention elections and the rest use competitive elections. Another seven states allow the governor or legislature to handle reappointments, and justices in Hawaii are retained by a commission, according to the NCSC.

VOTER ACCOUNTABILITY

One common criticism of retention elections is that judges are rarely removed, because voters typically do not know much about them. Since Arizona adopted retention elections in 1974, one appeals court judge and two Maricopa County Superior Court judges have been voted out of office.

But this illustrates the strength of the retention system, Kourlis said.

For the most part, judges who do their jobs, follow the law and constitution, and do not drift too far out of the mainstream of public sentiment will have no trouble being retained. Retention elections give voters the power to remove judges who do not follow those rules.

If judges allow their personal biases rather than the law to dictate their decisions, voters can throw them out.

That happened in California in 1986. Three justices on the state's supreme court, including the chief justice, got a reputation of routinely voiding death sentences in murder cases because of their personal opposition to the death penalty, a punishment which was strongly supported by voters. All three justices were removed when voters rejected their retention by lopsided margins.

In Iowa, [voters ousted](#) three supreme court justices in 2010, a year after they joined with the majority in an unpopular decision voiding a ban on same-sex marriages in that state.

Judges at various levels also have been removed through retention elections in Colorado, Illinois, Nebraska, New Mexico, Tennessee, and Wyoming, sometimes for unpopular decisions but more often for alleged misconduct or poor performance. In Illinois, 29 judges have lost retention elections since that state adopted the system in 1964, according to the [website Ballotpedia](#). In addition to California and Iowa, state supreme court justices have been removed after losing retention elections in Nebraska, Tennessee, and Wyoming.

Beyond the number of judges removed by voters, many more judges who get bad performance reviews by independent commissions choose not to run for retention rather than face possible ouster by voters, Kourlis said.

In some cases, judges were removed for making legally correct but unpopular decisions, Kourlis said, citing the Iowa justices whose viewpoint was later validated by the U.S. Supreme Court. But even at that, retention elections ensure judges do not drift too far outside the mainstream of the people they serve.

"Voters are entitled to vote on whatever basis they choose, whatever they think is important," Kourlis said. "Retention elections are an opportunity for the public to weigh in. They may weigh in in ways that I don't necessarily agree with from time to time. But they weigh in, and that's their right in the system.

"It shakes out about right in retention states. You get good people on the bench. For the most part they do a really good job, and when they don't do a really good job, they tend to leave or be voted out."

JUDICIAL MERITS

Retention elections make sense at the city court level, according to both Kourlis and McGregor. Having judges both appointed and retained by city councils, as is done in Arizona and Colorado, is a "flawed system," Kourlis said. Not only are the judges beholden to the council for the initial appointment, they must continue to appease the council to keep their jobs.

Even if there are not specific instances in which a council inappropriately pressures a judge, this method of appointing and retaining judges does little to instill public confidence in the impartiality of judges who owe their livelihoods to city councils, McGregor said. That perception can be just as damaging as reality, she said.

"That's the potential danger point in judges being under a contract with a governmental body, because it's very easy not to renew a contract," McGregor said. "If the public doesn't perceive that they will get a fair shake when they go into the court, the court loses a lot of its legitimacy. If the perception is that judges are just there to make money for the city, and if you are somebody important they will let you off and if you're not they won't—if any of those factors are seen as influencing the judge's decisions, then whether it's true or not, it reduces public faith and confidence in the justice system, and that's always a bad thing."



Ruth McGregor

Sandra Day O'Connor

Rebecca Love Kourlis

City courts handle [more than half](#) of all cases in the Arizona judicial system, about a million cases per year. They have jurisdiction over misdemeanor crimes and traffic offenses committed within city boundaries. Misdemeanors can range from driving while under the influence of alcohol to such things as shoplifting, minor assaults, and certain drug-related offenses.

City courts also have primary jurisdiction over ordinance violations, which are typically classified as criminal misdemeanors and can carry penalties of up to six months in jail and \$2,500 in fines. Such things as spitting on the sidewalk, failing to return a library book, smoking in a restricted area, and having excessively tall weeds on a property are all classified as criminal violations in various municipal codes. Those cases wind up in city courts.

About two-thirds of the cases handled in city court are civil traffic violations, such things as speeding or making illegal turns, and parking citations.

Arizona law [requires cities](#) to have municipal courts. Most have their own, but some smaller communities contract with local justices of the peace to provide the service, as the statute allows.

Technically cities decide for themselves whether a judge is elected by the people or appointed by the council. All except Yuma reserve the power to select judges with the council.

REFORMING THE SYSTEM

Concern about public perception as to the independence of city court judges led to a series of reforms in Utah in 2008. City court judges often complained confidentially to Utah judicial officials they were under too much pressure from their city councils to raise revenue, the Goldwater Institute reported in July. Responding to those complaints, Utah Supreme Court Chief Justice Christine Durham in 2006 appointed a special committee to recommend changes aimed at “uncoupling the money from the judge.”

Durham said in her 2008 State of the Judiciary report that city court reform was needed to address “a growing public perception that (city) courts are vehicles for generating revenue.”

The Utah Legislature responded by adopting merit selection for city court judges. Prior to the reforms, the method of selecting and retaining city judges in Utah was similar to that in Arizona.

Now, judges are recommended by a judicial screening panel, appointed by the mayor, and confirmed by the city council. They serve a six-year term, then face voters in retention elections.

The new system is a vast improvement from the old days when city judges answered to the mayor and council, said Reuben Renstrom, who has been a municipal judge in Utah since 2006 and worked under both systems.

Before the reforms, judges knew they could lose their jobs if they defied the mayor, council, or other city officials. Typically there was no formal review process in which the judge could rebut specific complaints. The offending judge was simply not retained by the council, and no explanation was given.

Now, the council cannot remove a judge. Only voters can do that. So there is no pressure to please other city officials who may have other priorities than fairly dispensing justice, he said.

“As far as me making unpopular decisions with the city, it’s a much, much better position to be in,” Renstrom said. “I remind people on a regular basis I serve at the pleasure of the electorate, and that stalls out many conversations that would be awkward otherwise. So having that barrier, letting them know you can’t just get rid of me at the end of my term because I’ve ruled on something that is unpopular among the powers that be here at the city, has given me a whole lot more solace in making those decisions.”

Switching to retention elections did not create any disruptions in the system, and the perception of city court judges has improved among the public and attorneys who regularly practice in city courts, Renstrom said.

“Their perception was that we were completely in the hip pocket of the cities,” he said of the old system. “That has changed.”

‘BIZARRE RUBBER STAMP’

Both Coil and Umphress, the Yuma judges, say being elected makes them more responsive to the needs of the community rather than the political priorities of the city council. Coil is not a fan of retention elections, at least in Yuma, but said they might be the best option in bigger cities.

“Elections are fantastic,” Coil said. “But they should be real elections, not ‘You’ve been appointed and now we get to retain you.’ That is absolutely meaningless. The power brokers still get their people in, and then you get this bizarre rubber stamp where they get to say ‘See they were retained.’ That seems to be giving the public half a loaf when you could be giving them the whole loaf.

“It’s much harder for the public to be swayed by the career political decisions that sometimes career politicians make to further their own onward and upward climb. When I or Judge Umphress are reelected, that’s not a political payoff to anyone. That’s just the public speaking.”

Judges in Yuma are elected the same way as council members. Anyone who meets the qualifications can run in the nonpartisan elections.

A [typical Yuma city ballot](#) has three council races, the judge, and, every four years, the mayor.

There are restrictions on how judges in Yuma campaign. Because they must abide by judicial ethics, they cannot endorse other candidates or make statements that might compromise their impartiality.

“There is somewhat of a tightrope that we walk because we can’t engage in all of the behaviors that other candidates for office engage in,” Coil said. “But quite frankly, I don’t want to engage in those behaviors.”

As presiding judge, Coil is required by ordinance to be a lawyer. Umphress, the associate judge, is not, but must meet the other qualifications, which include being at least 30 years old, of good moral character with no felony convictions, and being a resident of the city for the five years preceding the election.

Like other city court judges throughout the state, Coil is a city employee and department head. His court budget and paycheck come from the city. And like other city court judges he generally is expected to abide by city personnel rules and other policies as long as they do not conflict with the operations of the court.

But unlike judges and other department heads in other cities, Coil is under no obligation to keep the city council happy.

“I know who the members of council are, but they never come by and talk to me, and I never go by and talk to them,” he said.

“In Yuma we don’t have the issue of the city council coming before the court and making demands, or leaning on us, or telling us we are going to reduce your budget unless you do X, Y and Z. And quite frankly if they did that, I would scream bloody murder, and it would create a scene down here because that would be totally inappropriate for them to do.”



CONSTITUTIONAL MUDDLE

Forcing cities to have their judges elected could become a “muddled” process because of different and at times conflicting provisions of the state’s constitution.

Municipal courts are not specifically created in the constitution, as are other levels of the state’s judiciary. Article 6 of the Arizona Constitution specifically [vests judicial powers](#) into an “integrated judicial department” consisting of the state’s supreme court, courts of appeals, county superior courts, county justice courts, and “such inferior courts to the superior court as may be provided by law.”

City courts fall into the category of those inferior to superior court.

Using the power of that constitutional provision, the Arizona Legislature [passed a statute](#) requiring every city and town to have a municipal court. The statute leaves it to individual cities to determine the qualifications for city judges and establish the method of selecting them.

So based on that, it would appear the legislature and governor could require city judges to be elected just by changing the statute. Doing it that way would eliminate the need to amend the state’s constitution, a difficult process that requires approval by voters.

Since city courts are creations of the legislature, not the constitution, the legislature has the power to structure them as it sees fit, the thinking goes. Though the legislature has allowed cities to pick their own method of appointing judges, that is a power the state could take back by changing the law.

The complication arises because of a separate provision of the state constitution allowing the creation of what are called “charter cities.”

Article 13 of the Arizona Constitution [allows cities](#) with a population of more than 3,500 people to “frame a charter for its own government consistent with, and subject to, the Constitution and the laws of the state.”

Once a charter is adopted, it becomes something of a mini-constitution for the city. Since that provision's adoption as part of the original constitution, state courts have interpreted it to protect cities from state interference in purely local issues.

If the legislature passes a law that is of general statewide concern, cities must abide by it, the Arizona Supreme Court has held in a series of rulings.

But if the issue is of purely local interest, charter cities can make their own rules, even if they conflict with the statute.

Even the state supreme court justices acknowledge this is a “muddled” standard that often requires judges to make rulings on a case-by-case basis.

PLAIN LANGUAGE

Two recent Arizona Supreme Court cases, both out of Tucson, helped define those boundaries.

In the first case, [decided in 2012](#), the court ruled the legislature overstepped its bounds when it tried to mandate all city elections be nonpartisan, meaning the party affiliations of council candidates could not appear on the ballot.

In Tucson's two-part city election system, partisan candidates are nominated in district-by-district primary elections. The nominees of qualifying parties from each district face off in a citywide general election for open council seats, with party affiliations appearing on the ballot.

Given that Tucson is heavily Democratic, Democrats [tend to dominate](#) the general election regardless of whether Republicans might hold an advantage in an individual district.

But the Arizona Supreme Court said the method of electing city leaders is purely a local issue and not one of statewide concern. Therefore, the charter provision of the state's constitution prevents the state from dictating how Tucson conducts its elections.

In the more recent case, [decided in August 2017](#), the court came down unanimously on the side of the legislature. That case involved a state law prohibiting local governments from restricting the sale or possession of firearms, and a separate statute prohibiting cities from destroying guns that were either unclaimed by the owner or seized by police and forfeited to the city.

Tucson had an ordinance mandating the destruction of those guns.

The legislature has clearly declared firearms regulation an issue of statewide concern, in part by prohibiting local governments from passing their own gun regulations, the court held.

Matters involving the police powers of government—laws to protect public safety—are clearly a state and not a city responsibility.

And the court agreed that protecting constitutional rights inherently makes an issue a statewide concern, though that was not a factor in the decision.

In the Tucson gun case, the constitutional issue was the right to keep and bear arms protected by both the state and federal constitutions. In the case of municipal courts, the constitutional issues involve whether council-appointed judges can guarantee a defendant's constitutional rights to equal protection and due process.

Justice Clint Bolick, former vice president for litigation at the Goldwater Institute, said in a concurring opinion that while he agreed with the result reached by the court, its logic in getting there is overly complex.

The state constitution says a city's charter must be "consistent with, and subject to, the Constitution and the laws of the state."

Rather than simply accept the plain language that cities must abide by state law, the court has created its own self-described muddle by trying to preserve prior decisions that seek to balance statewide and local interests in weighing the validity of a statute.

"Were we construing and applying only the constitutional text as written, we would have no jurisprudential muddle," Bolick wrote. "But the tendency of the law toward complexity over clarity often seems irresistible.

"Although the Court draws the correct lines here, the Constitution makes that exercise unnecessary and improper. I look forward to the day when we no longer have to draw lines between such conflicting enactments, because we finally accept that our Constitution has drawn that line for us."

Whether the Arizona Legislature can require city judges to be elected by changing the statute alone, and not the constitution, falls somewhere in that muddle.

STATEWIDE CONCERN

Multiple reasons cited by the Arizona Supreme Court in the gun case establish that the method of selecting city court judges is a statewide issue that can be fixed by statute, rather than a local issue that would require a constitutional change, said Timothy Sandefur, vice president for litigation at the Goldwater Institute.

Ensuring the independence of judges affects the ability of defendants to receive their constitutional rights of equal protection and due process. That alone would make an issue of statewide importance, as the Arizona Supreme Court acknowledged in its most recent decision.

Also, the court recognized that police powers reside with the state, not with cities.

"Unlike municipalities, which have 'no inherent police power,' the state has broad police power," the court said in its most recent opinion. "Arizona case law recognizes the statewide interest in subjects even tangentially connected to the work of public safety officers and criminal justice."



The prior case cited by the court to back up that language [involved the removal](#) of a municipal court judge.

Beyond those issues cited in the Tucson gun case, the state constitution specifies municipal courts are part of an integrated statewide judiciary, meaning they are subject to the supervision and rules of the state supreme court. Because they are part of the state's judicial system, the method of appointing judges is clearly of statewide concern, Sandefur said.

“The judicial system is already unified, and therefore it's a matter of statewide concern,” he said. “The operation of the courts, just like the operation of police officers, has already been recognized as a matter of statewide concern. The gun case dictates how public safety officers are supposed to operate under certain circumstances, and that plainly would be the case with the election of judges.”

As to the Tucson election case that said cities can determine for themselves how they choose their leaders, Sandefur said judges are different than city council members. Councils are the legislative branch and set local policy. Judges are part of the integrated judiciary and enforce state laws, so they are not just another city employee.

“It's true they're city employees, but they are exercising powers that go beyond the purely local,” he said. “First of all they are being selected into the integrated state judiciary, and secondly they are exercising the judicial power of the state. And so it's a matter of statewide importance.”

LOCAL INTEREST

Tom Irvine, an Arizona attorney with [expertise in municipal law](#), disagrees. Determining how cities select their judges is clearly a local issue, not one of statewide importance, said Irvine.

The Tucson election case makes clear that charter cities have the power to determine for themselves how their local government officials are selected.

“The charter is the city's constitution, and the city's constitution wins out unless an issue is of statewide import needing a statewide solution,” Irvine said. “So by saying that every city and town shall have elected judges, that would be an enormous hit on the system that our constitution sets up. I think it would require a constitutional amendment.”

Irvine has more than 30 years of experience and has been named one of The Best Lawyers in America for his expertise in municipal law. He also was a member of a special committee created by the Arizona Supreme Court in 2002 to recommend reforms that would make local courts more efficient and effective. The method of appointing judges was not part of that committee's work.

Not all Arizona cities are charters. Those that are not would have to follow the legislative mandate. But [most of the big cities](#) are chartered, therefore a change in the statute without a constitutional amendment would put any statewide effort to mandate elections in doubt, Irvine said.

Though the most recent Arizona Supreme Court case was a win for legislative preemption, the issue of gun regulation is a clearer issue of statewide concern, Irvine said. People typically travel through multiple

“It's not the good-old-boy system of politics being an appointment by the council. Our judges in Yuma are held accountable by the population.” - Amanda Taylor, Lawyer

cities, and so a uniform statewide gun law makes sense. But there is no corresponding need for uniformity in how city employees—in this case, judges—are selected, Irvine said.

Past efforts to reform city courts have drawn opposition from the League of Arizona Cities and Towns. The league does not object to city court judges being elected, said its executive director, Ken Strobeck. But it should be left to the cities themselves to decide, on an individual basis, how their judges are selected and retained, he said.

COMMUNITY NEEDS

There is no way to quantify how electing judges affects the operations of the Yuma court, at least not based on the statewide data published by the state Office of the Courts.

The average of [revenue collected](#) per case in Yuma court falls about in the middle when compared to other cities. The state does not publish data that would make it possible to compare such things as conviction and dismissal rates among city courts.

Coil said he tends to keep the fines low, often assessing the minimum amount allowed by law. That might mean less revenue for the city. But it makes the penalties he imposes realistic, especially when people are allowed time payments.

People who pay off their debts to the court can rightly claim to have succeeded in meeting their obligations, he said. Setting unreasonable penalties that people cannot pay sets them up for failure.

On the bench, both Coil and Umphress take time to explain the court proceedings in plain language. At times, Coil comes off as a strict law-and-order judge. He did not hesitate to sentence one man who had a history of domestic assaults to jail and a stiff fine for violating a restraining order.

At times he comes off as a civil libertarian, carefully explaining to a defendant who wanted to plead guilty to a charge of criminal damage, a misdemeanor punishable by six months in jail, about his rights to contest the charges, to have a lawyer appointed and paid for by the city, and to be presumed innocent unless prosecutors prove his guilt.

At times he comes off as sympathetic to defendants charged with minor offenses that carry stiff consequences. The man who was driving without his glasses was clearly shaken when told he faced the possibility of four months in jail and more than \$1,400 in fines if the judge accepted his guilty plea.

After delivering a stern lecture about obeying the law, Coil said he had no intention of putting the man in jail for that crime, an admission he explained he rarely gives but which seemed appropriate under the circumstances.

The driver went ahead with his guilty plea and was fined about \$170.

Yuma Mayor Douglas Nicholls did not respond to requests for an interview.

The Goldwater Institute attempted to contact several lawyers who regularly practice in Yuma city court, but none would comment.

Amanda Taylor, a lawyer who used to do a lot of work in the Yuma court but rarely does so now, had praise for both judges and the system of electing them.

“It’s not the good-old-boy system of politics being an appointment by the council,” Taylor said. “Our judges in Yuma are held accountable by the population. If the people don’t like them, they can vote them out, and I think that’s important.”

Read Previous installments of City Court

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