

## **Area lawyer proposes MIP diversion program**

**Friday, June 10, 2005**

*by Alexis Bacharach*

*Moscow-Pullman Daily News*

*Staff writer*

Moscow lawyer Tim Gresback is proposing a diversion program for people cited with minor in possession charges so first-time offenders in Latah County can avoid criminal records.

Gresback said he defends at least 100 college students a year who've been cited by police or sheriff's deputies for underage drinking.

"These are students with promising futures who should not be haunted years later by a conviction for a minor indiscretion in college," Gresback said. They are often freshmen and sophomores in college very concerned about being saddled with permanent criminal records."

The offense carries no jail time, but Gresback said his young clients often request jury trials to fight the misdemeanor charge.

He started checking with colleagues years ago and found out that they, too, were defending quite a few under-age drinkers.

"I've seen (Latah County Magistrate William) Hamlett's courtroom filled with jurors to hear a minor offense," he said. "These are not child custody cases or cases involving violence. A diversion program would be a win-win for the defendants, the county and the city."

Gresback's proposed program, available only to first-time offenders, would require participants to attend an alcohol information class and pay a \$150 fine.

Students, prosecutors, judges and law enforcement officers have given the proposal mixed reviews.

Associated Students of the University of Idaho Sen. Eric Everett said the program sounds like a good idea, but he wonders whether it would actually encourage underage drinking.

"I'd be interested in learning more about it," he said. "I know the students would appreciate it, and I would probably support a program that says, 'OK, you've made a mistake. Here's a class you have to go. Don't do this again.' It sounds like it could be very useful."

Everett said the death of several students last year in alcohol-related accidents brought to light the problem of underage drinking at the UI.

Jason Yearout, 20, and Jack Shannon, 19, died in a motorcycle crash last year in front of the men's fraternity. Both students were under the influence of alcohol.

Nicholas Curcuru, 24, also died last year in an alcohol related crash.

"I don't think we're dealing with a growing problem, but it definitely is an issue here like it is on every other college campus nationwide," Everett said. "The incidents that happened here could have happened anywhere. It certainly isn't a problem that's unique to our campus. I would prefer to have a program in place that will teach students rather than punish them, but I don't want to do anything to encourage underage drinking."

Moscow Police Department Assistant Chief David Duke said he shares Everett's concerns.

"We as law enforcement officers want any program that will educate the public and lower the number of MIP citations," he said. "If this program will have that effect we will support it."

County and city prosecutors also said they likely would support an MIP diversion program.

Latah County Prosecuting Attorney Bill Thompson agreed with Gresback that many students are cited for underage drinking are "good kids," who made a stupid mistake.

"I don't mind putting a program together for those people who didn't try to hide from officers, obstruct them, lie to officers about their names ..." Thompson said. "I believe though people who want this special treatment must conduct themselves in a manner that warrants it."

Thompson said his main concern in setting up such a program in establishing a clear definition of 'first-time offender.'

He pointed out that someone never cited for an MIP may have a history of drug related or other criminal activities. Those individuals shouldn't qualify for an MIP diversion program, Thompson said.

Moscow City Attorney and Prosecutor Randy Fife agreed.

"I think this is a potentially helpful program," he said. "As long as we can get compliance through a diversion program ... We understand people are learning and this is a college town."

Gresback sent copies of his proposal to local lawyers, law enforcement officers, judges, university faculty and others in the community.

He said he is aware it takes many discussions to get all the key players on board but believes it will be worth the time and effort.

"This program will hold young people accountable for their actions, and it will not allow them to escape responsibility from other criminal offenses," Gresback said. "We know when we have 20 jurors show up, a police officer not working on the streets, a prosecutor, a bailiff and a judge dedicating a whole day to a beer case, we're not making the best use of our resources."