

Focus

Criminal Law/Government Law

# DWI? 10 Things to Know

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The flashing lights of a police car behind you, especially after a drink or two, can be a scary experience. It is important to recognize what actions to avoid during that traffic stop if it happens to you. Here are 10 tips about DWI investigations and prosecutions:

## 1. You Do Not Have to Be Driving

Sleeping in a running car does not exempt you from a DWI charge. The question is whether you were “operating” the car—not necessarily whether you were driving. Turning on your car while intoxicated can lead to a DWI arrest, even if you never move it and just go to sleep.

## 2. Maintain Composure

The presence of police lights in your rear-view mirror can induce panic. Maintaining composure is imperative because nervousness can be misconstrued as a sign of intoxication. Most police encounters are recorded. Acting overly nervous or combative may be viewed by law enforcement as a sign of intoxication.

## 3. Use Your Right to Remain Silent

In encounters with police, silence is golden. Comply with requests for license and registration, but do not engage in unnecessary dialogue or answer questions about where you have been, what you have been doing, or whether or not you have had any alcohol to drink.

## 4. Admission to Drinking

Transparency may be your first impulse, but admitting to drinking even a small amount of alcohol before getting in the car will not help your defense. Even a minimal acknowledgment of “just one beer” can give officers probable cause for further investigation.

## 5. Participation in Field Sobriety Tests Is Voluntary

These subjective assessments can be used as incriminating evidence even if you are not impaired. If you are going to participate, it is important to inform the officer about any preexisting injuries or medical conditions affecting balance.

## 6. Consent to Blood or Breath Tests

Refusing a chemical test may lead to a driver’s license suspension, and the officer may obtain a search warrant to draw your blood. If your driver’s license is suspended due to refusal of a chemical test, you can typically obtain an essential needs license to continue driving during the suspension period. Consenting to a chemical test can provide damaging evidence to the government.

## 7. It Is Not Just Alcohol

Police are being encouraged to arrest drivers for suspected impairment on substances other than alcohol. An officer may start asking questions about prescription medication to try and develop probable cause to arrest the driver for DWI—even when the driver did not drink any alcohol. See Tip #3.

## 8. Social Media

Publicly disclosing information or posting content on social media related to alcohol consumption or a DWI arrest while a case is pending can undermine the defense of the case.

## 9. Assuming You Cannot Fight a DWI

Being arrested does not equal a conviction. The State has the burden of proof. An educated defense can expose reasonable doubt in a trial. Experienced DWI trial lawyers are often able to obtain Not Guilty verdicts in DWI trials.

## 10. Not Hiring a DWI Lawyer Quickly

The opportunity to challenge a driver’s license suspension has a very short window, so it is important to hire a knowledgeable attorney immediately. If you wait, you may lose the chance for a hearing, and your driver’s license will be suspended automatically.

The road following a DWI arrest is fraught with potential missteps. By sidestepping these common pitfalls, you position yourself for a stronger defense. It is essential to stay informed about your rights and seek the counsel of a qualified and experienced DWI attorney who can guide you through the legal process.

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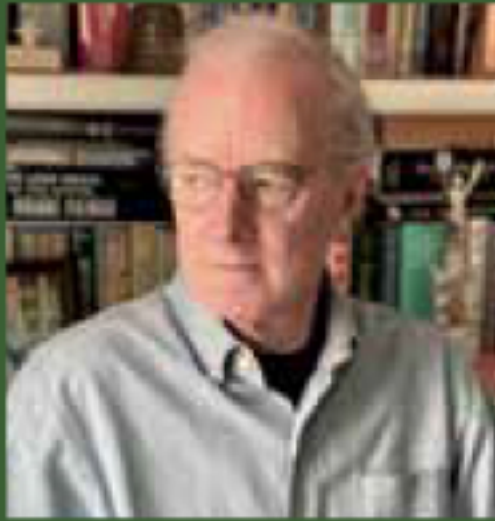
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