

# The DUI Report

A COMPREHENSIVE FLORIDA DUI RESOURCE

If you have already retained a lawyer in this matter, please disregard this flyer/magazine. We have obtained your name from the Hillsborough, Pinellas, Sarasota, Polk, Charlotte, Lee, Collier, Pasco, Hernando, Desoto, Orange, Osceola and Manatee Counties where you received your charge.

**Information that May  
Help Build a Defense  
for Your Case**

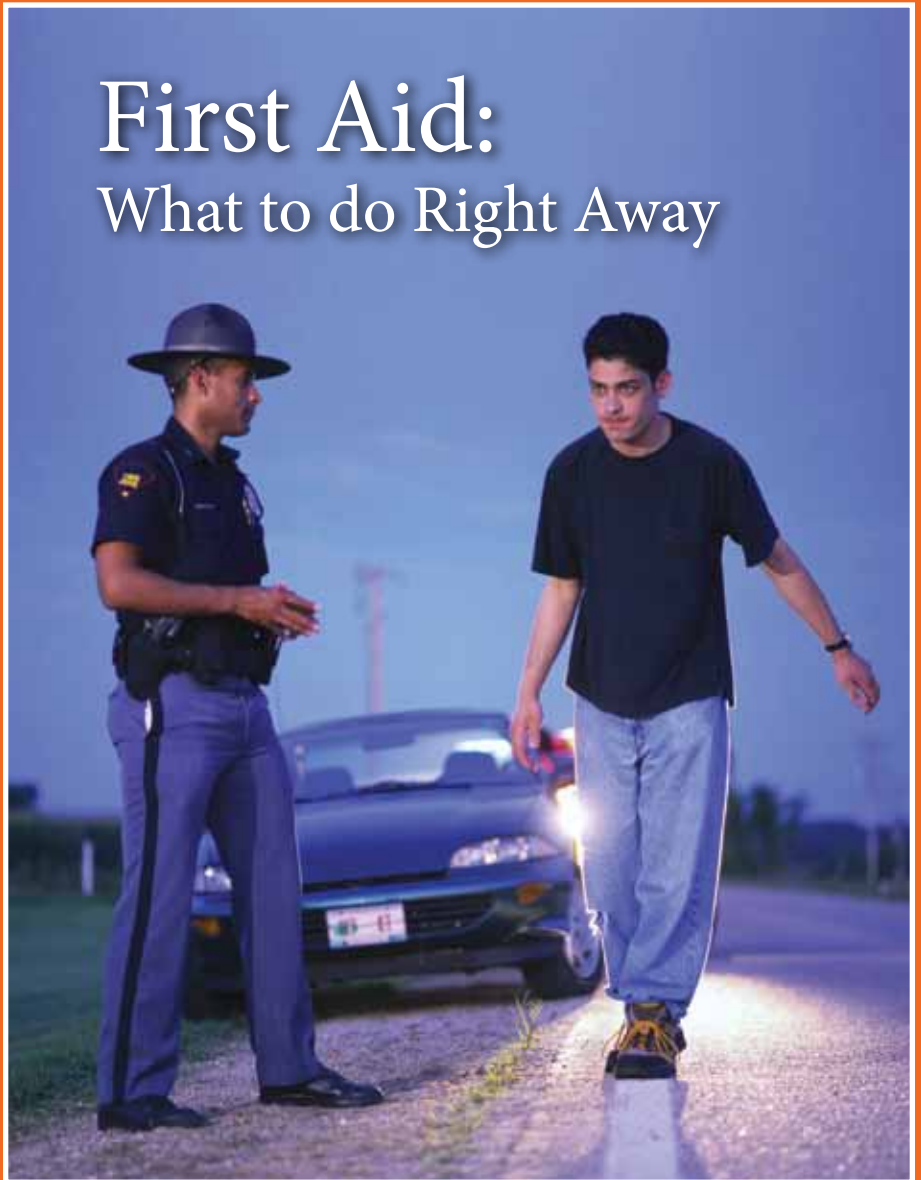
**The DMV Hearing  
and Issues**

**Sentencing Alternatives:  
Can You Avoid Jail?**



**Meet David Haenel,**  
An Experienced DUI  
Defense Lawyer

## First Aid: What to do Right Away



**Advertisement**

**Why Should I Fight My DUI Charge?**

**How a Substance Abuse Counselor  
Can Help Your Case**



# Ignition Interlock Program

Section 316.193, Florida Statutes, requires ignition interlock devices to be installed on the vehicles of certain persons convicted of DUI.

The ignition interlock program affects those arrested and convicted of DUI after July 1, 2002, upon eligibility of reinstatement for a permanent or restricted driver license. The ignition interlock device may also be required when a driver convicted of DUI applies for a restricted license for work or business purposes (s. 322.271, F.S.). Two ignition interlock vendors (see other side) were selected by the department. The vendors began services February 1, 2004.

If the person is otherwise eligible, a driver license will be issued with a “P” restriction indicating an interlock device is required. The required time period for an interlock officially begins on the day the “P” interlock restriction is issued.

## Violation of a DL Restriction

If the court and/or the DMV requires the placement of an ignition interlock device in your vehicle, and you are caught driving without it, you will be charged with a new criminal violation. In addition, if you are on probation, that will be a violation of your probation terms.

Section 316.193, Florida Statutes  
Requires Ignition Interlock Devices to be Installed  
on the Vehicles of Persons Convicted of DUI.

DUI Conviction	Ignition Interlock Requirement
First Conviction	If court ordered
First Conviction if 0.15 or minor in car	At least 6 months
Second Conviction	At least 1 year
Second Conviction if 0.15 or minor in car	At least 2 years
Third Conviction	At least 2 years



## Court Reporting Requirements

Most courts electronically report DUI convictions to the department. The court order should reflect both the time of suspension and the interlock requirement. Please check with your clerk of court to verify that the electronic reporting from your court includes this ignition interlock requirement.



## A few words from the Editor's desk...

Dear Readers,

### DUIs are different, and so is The DUI Report.

Drunk driving charges are, of course, criminal charges. However, they don't carry with them the same element of conscious disregard for the law that most crimes do. Many of the DUI defense lawyers I've spoken to over the years have told me they enjoy working with DUI cases, since many DUI clients are not like typical criminal defendants. DUI arrests truly cross all social, racial, and economic boundaries. For that reason, and many others, drinking and driving arrests are different.

The DUI Report is also different. Instead of providing detailed technical articles on sometimes difficult scientific topics, The DUI Report is designed to provide practical help that a person can immediately put to use if they've been arrested for suspicion of drunk driving.

Most DUI arrests trigger two different cases – a court charge and a Department of Motor Vehicles (DMV) case. This issue's article, "First-Aid: What To Do Right Away" provides specific, clear-cut direction for someone charged with driving under the influence, so that he or she is protected in criminal court.

For most of us, our driver's license means everything – our livelihood, our social life, our ability to address our most basic needs. Therefore, the DMV hearing can be just as important, if not more important, than the outcome of the criminal court case. Many people don't have

an understanding of the issues that come up at a DMV hearing, or how those issues impact the outcome. That's why the article, "DMV Hearing and Issues," is so important.

Of course, The DUI Report would be incomplete without an interview with a veteran Florida lawyer who is experienced in the world of drunk driving enforcement and defense. In this issue we interviewed an experienced Florida DUI lawyer: David Haenel. Mr. Haenel focuses his practice on drunk driving and traffic defense. I'm certain you'll find the interview with Mr. Haenel worth the read!

As Mr. Haenel points out, many of his clients come to him with a sense of dread, mistakenly believing that there is no way to successfully defend a driving under the influence case. They think that if the breath sample indicates guilt there is no recourse. Thankfully, our article entitled "Why Should I Fight my DUI Charge?" thoroughly addresses these common, but incorrect, assumptions.

Drunk driving cases are often referred to as the exception to the Constitution. DUI is a crime that is often politically and financially motivated in its enforcement and prosecution. I hope that, if nothing else, The DUI Report gives you courage. It takes courage to take the next step to defend yourself. It takes courage to stand up in court and say, "not guilty." It takes courage to fight. It takes courage to persevere.

If this magazine inspires just a little more courage in you, then we at The DUI Report will have been truly successful. I wish you well.

Braden Pollock  
Editor-in-Chief

## The DUI Report

FLORIDA'S MOST COMPREHENSIVE DUI RESOURCE

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# FIRST-AID:

## What To Do Right Away

### You've just been arrested for DUI... Now what?

A drunk driving arrest is a frightening experience. You've been publicly humiliated and forced to perform field sobriety tests in front of passing cars by the side of the road. You've felt the handcuffs digging into your wrists, and your pleas to have them loosened have been ignored. Finally, after the seemingly endless delays associated with the booking process, and enduring the stench of the holding cell, you've been released. Sweet freedom, at long last. What can you do NOW to hopefully ensure that you never see the inside of a jail cell again?

### Hiring a DUI Defense Lawyer

One of the most important decisions you will make is who to hire to defend your case. The truth about our justice system is harsh. Many lawyers seek to underbid each other to gain a client, only to find that the fee taken cannot support the work necessary to successfully represent the client.

Generally, people who are arrested on suspicion of drunk driving are not DUI defense lawyers. They may be skilled in many things in life, but defending DUI cases is not one of them. Therefore, finding a lawyer to defend your DUI case is like selecting the right doctor to handle a necessary medical procedure. Once that doctor (or lawyer) is selected, there is nothing more to do except to relax and to let the professional do his or her best to help. You must hire a qualified DUI defense lawyer.

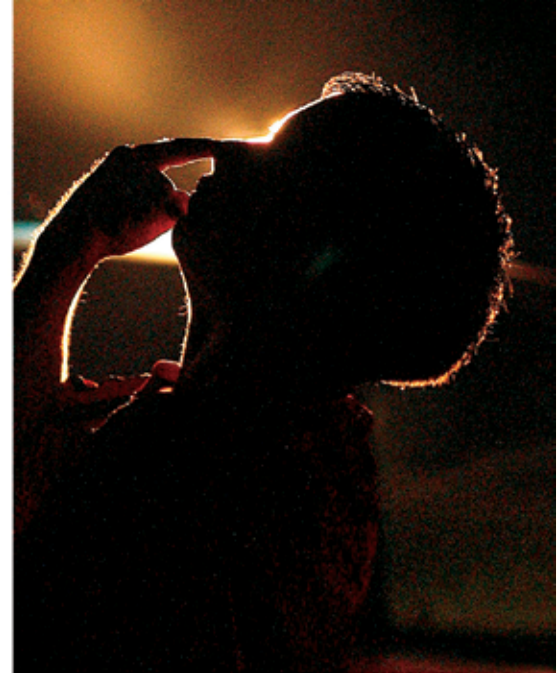
How do you know whether or not a potential lawyer is well-qualified to handle your DUI case? While there are never any guarantees, at a minimum you will want to inquire into some of the following areas:

- **Years of Experience:** You do not want a lawyer to be learning at your expense. A lawyer with at least five years of experience will certainly be seasoned enough to handle your case.

- **Memberships in Professional Organizations:** Membership in groups dedicated to DUI defense, like the National Association of Criminal Defense Lawyers is a strong sign of a potential lawyer's commitment to his or her practice.

- **Advanced Training:** A potential lawyer should have completed advanced training in Field Sobriety Testing, as well as breath and blood testing protocols. Many exceptional DUI defense lawyers actually own the different types of breath machines used in their jurisdiction.

- **Track Record of Success:** Do not hesitate to ask a potential lawyer about how many cases he or she has successfully handled (recognizing that success can mean different things in different cases).



- **Lecturing to Peers:** Many successful lawyers have experience teaching other lawyers at various seminars and workshops. You would be well-served to know if your potential legal counsel is in that category of lawyers that is qualified to teach his or her peers how to be better in their chosen profession.

- **Communication and Response Time:** This may be the most important factor of all. How quickly does your potential attorney return your phone call or email? It is important that you can reach your lawyer in your time of need. The best lawyers recognize this and make sure to address this issue.

## CDL commercial driver license Drivers

If you are convicted of a DUI and you have a Commercial Driver's License (CDL), in addition to the penalties you will receive under the DUI statute, you will lose your CDL.

If you are convicted of a first DUI while driving a commercial vehicle you will lose your CDL for one year unless you are transporting hazardous material required to be placarded. In the event you are convicted of a DUI while transporting hazardous material required to be placarded you will lose your CDL for three years. These penalties apply whether you were convicted in Florida or outside of Florida.

If you have a CDL and are convicted of a first DUI while operating a non-commercial vehicle in Florida or in another state, you may lose your CDL for a period of one year.

Contact an experienced Florida DUI attorney to discuss your options and the best defenses for your case.

# I WASN'T READ MY RIGHTS! HOW MIRANDA APPLIES IN DUI CASES



Thanks to TV shows like *Dragnet*, *Adam-12*, and *Law & Order*, just about everyone is familiar with Miranda warnings. "You have the right to remain silent. Anything you say can and will be used against you. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you free of charge prior to questioning. Having these rights in mind, do you want to talk to us?"

Many people complain that they were never given Miranda warnings when they were arrested for DUI. Unfortunately, the arresting officer's failure to give Miranda will not result in the dismissal of your case.

Miranda warnings are designed to prevent overreaching by police in situations that are inherently coercive, specifically where there is "custodial interrogation." Custodial means that the person is not free to leave or otherwise terminate the encounter. Interrogation refers to direct questions, or their functional equivalent, that are designed to elicit incriminating information.

While there is no debate that the questions asked by the officer are an 'interrogation,' it has been held by the courts that most of the questions directed at suspects in DUI cases are asked before the person is in custody for purposes of Miranda. This means that in most cases, there is no legal obligation for the police officer to advise the person of his or her rights. Where there is a Miranda violation, it will merely result in the suppression of statements obtained as the result of the violation.

Of course, this does not mean that there is no further discussion on this point. The reported cases that deal with the ability of police officers to ask limited investigative questions in a roadside scenario do not go as far as many police officers do. There are still legal challenges to be made, and a skilled DUI defense lawyer will know just what to do to make the most out of an officer's failure to warn a suspect of his or her rights. The most important thing is to get to a lawyer who is qualified to help you, and answer that lawyer's questions as accurately and honestly as possible. This will give you the best chance of success.



# WHY SHOULD I FIGHT MY DUI CHARGE?

If you go to court and plead guilty to a DUI, there is a 100 percent chance that you will be convicted of drunk driving. If you plead guilty, you are guaranteed to suffer every consequence the court chooses to impose.

However, fighting your case means that a lawyer will do everything possible to positively affect the outcome. Fighting your case means that the prosecutor may not be able to get all the witnesses or evidence he needs to convict you. Fighting your case means you have a chance.

There are significant legal reasons to fight your case. Perhaps the officer didn't have a valid legal reason for stopping you in the first place and the gathered evidence should be suppressed. Perhaps the breath machine was out of calibration and the .09 percent BAC is really a .07 percent BAC. Perhaps the blood sample clotted or fermented and produced an artificially high reading. These things will only be known if the case is fought.

There are emotional reasons to fight, as well. As any boxer will tell you, it is better to go down swinging than to back down from the fight. Shrinking from the battle, whether in the courtroom or elsewhere in life, can bring emotional wounds that are far more hurtful than anything the judge can do to you. Sometimes it is important to fight, just so you know you have done everything in your power to help the situation. To not do so is to carry emotional baggage for a lifetime.



## GOT A DUI?

If you or a loved one needs a DUI attorney with years of experience, don't let another day pass without contacting Florida DUI attorney **David Haenel**.

Visit Our Web site at  
[www.FightYourDUI.com](http://www.FightYourDUI.com)

OFFICES  
Sarasota • Clearwater • Tampa • Orlando  
Statewide Representation



# DMV Hearing & Issues

In addition to a court case, a DUI arrest subjects you to an administrative suspension of your driver's license. If you refused to take a breath test your license will be suspended for a minimum of 12 months. If you submitted to a breath test your license will be suspended for a minimum of six months. Hiring an attorney to handle this portion of your case is critical, because this attorney can help request a hearing with the Florida Department of Motor Vehicles within 10 days of the date of your arrest. If you fail to request a hearing, your license will be automatically suspended on the 11th day following the DUI arrest.

Out-of-state residents who have the misfortune of being arrested in Florida are not exempt from this obligation, even if they don't have a Florida license. Even if you have no immediate intention of returning to Florida, you should still be concerned about possible suspension reciprocity between your home state and Florida. The Interstate Drivers License Compact, which shares information between the various states, dictates that your home state may be notified of a Florida administrative suspension and you may end up getting your driving privileges suspended in your home state.

Assuming that the DMV request for a FORMAL review hearing is requested within 10 days, and that your license was valid at the time of arrest, the DMV will issue you a temporary driving permit. That permit will be good for approximately 42 days and is restricted to business purposes only. That means you can only drive for the narrow purposes of work, school, religious needs, or to maintain your livelihood. The permit is not restricted in time but as to scope. A skilled DUI defense attorney can address

the specifications of your individual driving concerns.

Once the permit is issued by the DMV, a hearing will be scheduled to determine what will happen to your driver's license. The issues at this hearing will vary depending upon whether you submitted to a chemical test of breath or blood or refused a chemical test. If you submitted to a chemical test to determine your blood alcohol content (BAC), there are two issues to explore. First, did the officer have probable cause to believe that the person whose license was suspended was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances. Second, did the person whose license was suspended have an unlawful blood-alcohol level or breath alcohol level of .08 percent or higher.

If you refused to take a chemical test, the issues differ slightly. The important questions for your defense are the following: Did the officer have probable cause to believe that you were driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances. Second, whether you refused to submit to any such test after being requested to do so by a law enforcement or correctional officer. Third, whether you were told that if you refused to submit to such test your driving privileges would be suspended for 12 months for a first offense, or in the case of a second or subsequent refusal, for a period of 18 months.

## The DMV Hearing Process

Unlike criminal court, where the prosecution must bring in "live" witnesses to prove the case against you, the DMV generally does not bring any such



witnesses. Instead, the DMV attempts to support its action by introducing various police reports into evidence, as well as the "official" reports relating to the chemical test, if applicable. Therefore, the fight at the DMV hearing is generally a hyper-technical one, centered on the admissibility of the DMV's proposed evidence. One possible avenue for success in the DMV hearing is to challenge the accuracy of the admitted evidence. If the paperwork is flawed or not filled out properly, the DMV may not be able to uphold the suspension of your license.

DMV hearings have one other odd aspect that is immediately noticeable: There is no prosecutor, just an administrative hearing officer. That's right—the very person who seeks to introduce evidence on behalf of the Department of Motor Vehicles is the same person who rules upon whether or not that evidence will be admitted and whether or not it is filled out properly. Notwithstanding this inherent systemic unfairness, the DMV hearings can be fought and won.

A skilled DUI defense lawyer will be aware that police officers may be subpoenaed to the DMV hearing. At the hearing, the officers will provide testimony under oath. This means that any favorable testimony developed at the DMV hearing could be available for use in the criminal court case.

## DMV Hearing Consequences

The consequences of a loss at the DMV hearing can be quite drastic. If you are a first-time offender who submits to a chemical test and has a BAC above a .08 percent, your license will be suspended for 6 months and you will have to wait 30 days from the expiration of your temporary permit and register for DUI school before you are eligible to apply for another "business purposes only" license.

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**The very person who seeks to introduce evidence on behalf of the Department of Motor Vehicles is the same person who rules upon whether or not that evidence will be admitted and whether or not it is filled out properly. Notwithstanding this inherent systemic unfairness, the DMV hearings can be fought and won.**

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If you refuse to take a breath test, your license will be suspended for a period of 12 months, and you will have to wait 90 days from the expiration of your temporary permit and register for DUI school before you are eligible to apply for another "business purposes only" license. If this is your second refusal to submit to a chemical test, your driving privileges will be suspended for a period of 18 months.

Obviously, the stakes in these cases are very high, and help from a trained legal professional can make all the difference in the world. A lawyer experienced in defending accused drunk drivers at Florida DMV hearings will work hard to take every step to protect your driver's license.

## DMV REPORT

Do you know what your driving record says? Most driving records contain inaccuracies that could cause you to pay hundreds of dollars more per year in auto insurance!

**ORDER YOUR DRIVING RECORD  
ONLINE!**

**[www.TheTrafficSchool.com](http://www.TheTrafficSchool.com)**

## Breath Testing: Not an Exact Science

Florida law enforcement uses the Intoxilyzer 8000 for breath testing. Challenges to the new machine have come at a fast & furious pace. Throughout Florida, problems with the machine have begun to appear.

### Blow Until you Stop

The rules regarding breath testing are promulgated by the Florida Department of Law Enforcement (FDLE). One rule that has been subject to increased challenges is Rule 14. This rule, also known as the "blow until told to stop" rule, allows complete discretion to the law enforcement officer administering a breath test. Many times, the officer will simply tell the subject to "blow until you stop." Unfortunately, for the person giving the breath sample, this could result in a higher BAC reading. The head of the FDLE admits that the longer one blows into the machine, the higher the result. By making someone blow longer than what is required by the manufacturer of the machine, the operator of the machine can influence the result of the breath test.

### Source Code

The Intoxilyzer 8000 uses a computer program to "measure" the BAC level in the subject's breath. The code of the computer program contains all of the instructions and procedures for measuring the breath alcohol level. Without being able to review the source code, the Defendant is unable to question the procedures the computer program uses to measure BAC. Consequently, the Defendant's Constitutional right to due process is violated. Defendants throughout the state are seeking production of the source code used by the Intoxilyzer 8000. Without the production of the source code, it is impossible to determine if the software is accurately measuring BAC.

### Observational Period

Florida Administrative Rule 11D-8.007 sets forth the method for analyzing a person's breath. It states that "the breath test operator, agency inspector, arresting officer, or person designated by the permit holder shall reasonably ensure that the subject has not taken anything by mouth or has not regurgitated for at least twenty (20) minutes before administering the test."

Section 316.1932(1)(b)2., Florida Statutes, states that analysis of a person's breath must have been performed substantially according to methods approved by the Department of Law Enforcement. The burden is on the state to prove substantial compliance with those methods.

Were you watched for the 20 minutes leading up to taking the breath test? If you were left alone for any time period, the results of your breath test may not be admissible. Speak with an experienced lawyer to discuss the possible defenses to the breath test.



# COVER

## Meet Attorney David Haenel

### How did you begin your practice?

I used to prosecute those arrested for DUI in Florida. As a result of my training and experience, I received the State of Florida 2004 MADD DUI Prosecutor of the Year award. Although I enjoyed my job, I decided to leave to start my own firm. Because of my extensive experience prosecuting DUI cases, I knew exactly what it took to defend a case and how to poke holes in the State's evidence. I knew that to get a successful outcome on a DUI case, I had to stand firm against the prosecution and to develop an amazing team of lawyers and experts. That's exactly what I did with my firm.

### You speak of the "team." How does a team help your clients?

Unlike smaller firms that have one or two attorneys, we have a team of lawyers who examine each client's case, fact by fact. From the initial intake, to the DMV hearing, to the criminal case preparation, we strive to provide quality representation and cater to the needs of our clients.

### Why do I need to hire a lawyer?

You can always go to court and plead guilty without an attorney. Unfortunately, this guilty plea will be very expensive in the long run. You may face a mandatory hard time driver's license suspension and possibly jail time. Your insurance rate will most likely increase dramatically, if you can get insured at all. A lawyer is the best use of your money following an arrest. I know what it takes to defend a DUI case, and I'll do my best to achieve a successful outcome for your case.

### You mentioned that you "know what it takes to defend a DUI case." Is DUI defense difficult?

Absolutely. I've tried many different types of cases, and without a doubt DUI is



the most scientific and the most complicated type of criminal case. This is why I concentrate on DUI defense. I want my clients to get the benefit of my years of experience defending these specific types of cases. Many criminal attorneys practice "front door" defense; they take any case that comes through the front door. I practice DUI and traffic defense. That's all I do.

### So, what is your first meeting like with someone who has been arrested for DUI?

I always ask many questions. I ask clients how the police came into contact with him or her. Was it a traffic stop, accident, or

consensual encounter? If the officer's initial contact or seizure was illegal, I know that I must file a motion with the court in order to suppress a particular aspect of the evidence. I ask about the breath test and the alcohol consumption throughout the night. These can be important aspects of the defense. I also ask specifically about the field sobriety tests.

### What about the field sobriety tests? Are they accurate? How are they challenged?

If an officer believes that the driver is potentially impaired, the officer will ask the driver to perform roadside field tests. These tests are voluntary and are not done under optimum conditions: often at night



on gravel or asphalt with traffic speeding by at 70 miles per hour. Furthermore, these tests are often performed by officers who do not possess the proper training. It's possible that the officer who asked you to do the tests hasn't undergone any formal training about how to administer these tests or about how to "score" your performance on the test. The officer will write his or her opinion on the report, and suddenly, this opinion is gospel.

### **So, can a driver disprove the police report?**

Thankfully, many law enforcement vehicles are equipped with video recorders. These recorders capture everything that happened when the officer came into contact with you. This is the best evidence in your case since it is recording your actions, speech and your performance on these roadside tests. The state attorney is required to provide access to the video as part of the discovery process. Reviewing the video can certainly help affirm or disprove the officer's report.

Even if you performed poorly on the field sobriety tests, there are potential excuses for this poor performance. I have dealt with hundreds of cases where people have documented medical conditions that affect their performance on balance and agility tests. A skilled attorney can explain the facts of your individual case to the state attorney.

### **Even though field sobriety tests may not be very accurate, I took a breath test and blew over the legal limit. I'll definitely be found guilty, right?**

The short answer is, "not necessarily." Florida uses a breath machine called the Intoxilyzer 8000. The manufacturer publishes a set of guidelines on its use and operation. If the machine is used incorrectly, or if some of the other guidelines aren't followed, a skilled DUI defense lawyer will challenge the results of the test.

### **What are some of the guidelines for breath tests?**

The people who administer these breath tests must hold a permit by the Florida Department of Law Enforcement, and they must advise you of the consequences for refusing a breath test. If the operator doesn't comply with certain rules, there are arguments to challenge the breath test. The test administrator must observe you for 20 minutes prior to the breath test and must read the implied consent warning prior to taking the breath test. Two samples must be taken and they must be within a .02 percent BAC of each other. The maintenance of the machine is also important. In order to comply with guidelines, the maintaining agency must have inspected the machine within one month of your test and the FDLE must have inspected the machine within 12 months of your test. If any of these guidelines weren't followed exactly as required, there are challenges for the test results.

### **This DUI process is very confusing. How do I know what to look for when hiring a lawyer?**

You need to do your homework when hiring a lawyer. Interview the attorney and don't be afraid to ask questions. Is the attorney familiar with the specific locale in which you were charged? Will your attorney fight to do everything possible to see that your charges are reduced or dropped? How many DUI cases does the attorney handle on a monthly basis? How often is he or she in court? Will the attorney be available to take your calls after hours? You should also do some research on the attorney. Do an Internet search of the attorney to see what references you can find. You want to hire a lawyer who has many Internet references dealing with DUI defense.

The bottom line is that you shouldn't hire a lawyer unless you are comfortable that he or she is the best and most experienced lawyer you can afford.

### **So, why should someone hire your firm?**

You will be hard pressed to find someone who spends more time working for his clients. My wife knows that communicating with clients is part of my daily life. I take calls and emails every day of the week – even at my own bachelor party! I take it to that level because I truly want to see my clients get the best legal representation.

### **This kind of one-on-one attention sounds expensive.**

We realize that some people will not have the funds to hire our firm. Some will qualify for the services of the public defender and others will hire a lawyer who will do nothing more than help them plead guilty, even though pleading guilty to a DUI could be more expensive in the long run. Remember -- Legal emergencies are just like medical emergencies, and a trained professional can be life-saving. If a person has the means, there is not a better way to use your money after an arrest than to hire an experienced lawyer.

*David Haenel is a partner with the law firm of Finebloom and Haenel, P.A. with offices in Sarasota, Tampa, Ft. Myers, Clearwater and the Orlando area. The firm represents motorists throughout Florida. You may reach David toll free at 800-Fight-IT (800-344-4848), via email at David@FightYourCase.com or online at www.FightYourDui.com David Haenel graduated in the top third of his class from Widener Law School in 1999 and then received a Master's of Law Degree (LLM) from SUNY Buffalo School of Law in 2000. David is admitted to practice in New Jersey and was admitted in 2001 to the Florida Bar.*

*Under Florida Bar rules, The DUI Report is considered an advertisement for DUI attorney David Haenel. Mr. Haenel has contributed financially to the publication of the DUI Report.*





# Addiction and Mental Health Issues

Sometimes a DUI arrest is a sign of something beyond a lapse in judgment after a night of drinking. You may feel that you have an addiction and another mental health issue. If you feel that your life is spinning out of control, it may be time to speak with a health care professional who can help get your life back on track.

A feeling of helplessness and loss of control isn't unusual. In fact, more than half of people with an addiction also have a mental health condition and vice versa. (This totals at least 10 million people in the United States who have co-occurring substance abuse and mental health disorders.) Unfortunately, treatment for these co-occurring issues is difficult to find. Many alcohol and drug rehabilitation and mental health programs use criteria that exclude people who struggle with both a mental health condition and an addiction. These exclusions result in poor treatment outcomes, higher rates of relapse, more serious medical problems (including HIV, tuberculosis, and hepatitis), more frequent emergency room use and higher rates of criminal justice involvement.

However, there is a group that specializes in this type of treatment. Foundations Associates was established to offer a treatment alternative for people with co-occurring conditions that combined the best of both mental health and addiction treatment approaches. Now recognized as a pioneer in innovative and evidence based practices, founder Michael Cartwright has become a nationally recognized consultant on co-occurring disorders. His programs have earned countless honors and awards for effective client-driven outcomes and for their emphasis on preserving the dignity and quality of life of the people he has committed to serving.

The principles of integrated treatment include the following:

- Staff specialization in co-occurring disorders
- Small caseloads
- Tailored intervention to consumers stage of treatment
- Motivational intervention based on consumers readiness to engage
- Family counseling
- Long-term perspective
- Social support interventions
- Cultural sensitivity

If you feel that this treatment program may benefit you, please contact Foundations Associates today. The staff is ready to help. (877) 345-3357



**Call 1-877-345-3216**

Improving the Lives of Persons with Co-Occurring  
Addictive and Mental Health Conditions





# WHAT your lawyer needs to know TO HELP YOU

**M**edical conditions, prior injuries, dental problems: All of life's wear-and-tear can be important for your defense. If you are interviewing a potential DUI defense lawyer who does not use a questionnaire to elicit your prior medical history or ask probing questions about your physical condition, you may want to consider a different attorney.

Certain medical and dental conditions make a subject unsuitable for breath testing. Breath testing machines are designed to "read" alcohol molecules that come from deep lung air. This "reading" is supposed to approximate the alcohol level in your blood. Unfortunately, this machine does not differentiate between the molecules that are trapped in the mouth in dentures, bridges and other dental work. Alcohol molecules can also be in your mouth if they are brought up from the stomach due to a belch or esophageal reflux episode.

Other medical conditions are important for attacking supposedly poor performance on field sobriety tests. These balance and coordination exercises, through which officers attempt to judge someone's natural abilities by asking him or her to perform unnatural maneuvers, can be greatly impacted by prior injuries or conditions. Being flat-footed, having torn cartilage in a knee or suffering from any number of other physical ailments can affect a person's ability to perform these roadside tests. Whether or not you currently suffer from any medical conditions or ailments, you should list all prior injuries, significant illnesses, accidents or medical conditions for your lawyer to consider. While no one enjoys enduring life's hard knocks, all of us experience them. A condition you once thought was bad luck may hold the key to hearing the two sweetest words in the English language: Not guilty.

## Potential Sources of Error IN BREATH TESTING

- Calibration errors in the breath machine
- Alcohol trapped in the mouth
- Belching or burping within 20 minutes of being tested
- Medical conditions making defendant an improper subject for breath testing
- GERD: Gastro Esophageal Reflux Disorder
- Official testing protocols not being observed
- Improperly trained breath test operator
- Elevated body temperature
- Fundamental assumptions inapplicable; machine is based on "averages" that may or may not apply
- Non-specificity issues. Other compounds on the breath look like alcohol to the machine
- Breath testing during the "absorptive phase" significantly over-estimates true blood alcohol level. (The absorptive phase can last for hours after drinking stops!)



## Ignition Interlock Devices

An ignition interlock device is an alcohol breath-testing instrument that prevents the vehicle from starting unless the driver blows into it to demonstrate that he or she is below the legal intoxication limit. Ignition interlock devices may be ordered by the court as the result of certain types of cases.

Sometimes, the devices are installed voluntarily at the insistence of concerned parents or an employer who wishes to ensure that his or her drivers are sober.

In certain types of aggravated drunk driving cases, an ignition interlock may be the client's key to freedom. In extreme cases, both the judge and the prosecutor may agree to allow a person to be released from custody on the condition that any vehicle he or she drives is equipped with an ignition interlock device. The creative uses of these devices can be an important weapon in a defense lawyer's arsenal.

If you are convicted of a DUI or certain other types of driving offenses, the court may order you to install interlock devices on any vehicles you own or operate.

If you would like further information about ignition interlock devices, please visit [www.FloridaIID.com](http://www.FloridaIID.com)

# BEEN ARRESTED? NEED A LAWYER?

**CONTACT A SKILLED LAWYER  
NEAR YOU IN FLORIDA.**

**[www.FightYourDui.com](http://www.FightYourDui.com)**

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## TOP TEN QUESTIONS TO ASK WHEN INTERVIEWING A DUI LAWYER

1. How much of your practice is DUI defense?
2. What percentage of your cases are successfully settled without going to trial?
3. How many trials did your firm handle in the last year? How many were won?
4. Do you own any breath-testing equipment?
5. Are you a NHTSA-certified Field Sobriety Test Instructor?
6. What DUI defense organizations do you belong to?
7. Have you lectured at any DUI defense seminars?
8. Have you authored any DUI defense publications?
9. Do you maintain a library of DUI materials, such as scientific studies or police training manuals?
10. Have you received any special training in forensic toxicology (the scientific aspect of DUI cases)?

**BONUS QUESTION:** Have you ever been interviewed for TV or radio on DUI defense issues?

# Auto Insurance

If you have been arrested for DUI, there is a significant chance that you will have a serious issue with your auto insurance carrier, *even if your DUI case is reduced to a non-alcohol offense or dismissed in court.* Relying on your current insurance carrier following a DUI arrest is generally unwise since most carriers do not offer competitive rates for this type of insurance. There are many reasons why you may not want to alert your current insurance company or broker to your DUI arrest. Prompt consultation with an insurance professional who thoroughly understands DUI auto insurance is best.

Keep in mind that whenever someone is arrested for driving under the influence of alcohol, two separate cases are triggered: a court case and a DMV case. **An adverse finding from either the court or the DMV can result in insurance consequences.**

There are several events that can trigger the need for special insurance, or an SR-22 filing. If you are convicted of DUI in court, you will be required to file an SR-22 Proof of Insurance Certificate for three years following your conviction. If you fail to file the SR-22 annually, the DMV will issue a suspension of your driving privileges. Ironically enough, a Florida DUI conviction does not result as points on your driving record. However, a Florida DUI conviction will almost certainly trigger an insurance rate increase.

Even if your court case is plea-bargained from a DUI to another charge or dismissed altogether, a loss at the DMV hearing or a failure to timely request a

hearing will result in an alcohol-related administrative action on your driving record. This means that an SR-22 will be required to regain your driving privileges, and your insurance rates will likely increase.

There are many misconceptions about insurance following a DUI arrest. Insurance rates are based on past experience, as well as projections of future risk. A DUI arrest doesn't necessarily mean that you are at a higher risk of a ticket or accident in the future, yet many insurance carriers will attempt to leverage your current legal problems into much larger premiums and much larger profits.

Insurance brokers who are unfamiliar with the nuances of DUI cases may have limited "appointments" from appropriate carriers. (An appointment is the right to bind insurance with a given company.) It is important to deal with an insurance broker who is experienced specifically in the area of DUI insurance. If you deal with a skilled DUI auto insurance broker, you will be presented with the right choices of potential carriers and get the benefit of competitive pricing.

One resource particularly helpful in the area of DUI auto insurance is [DUIAutoInsurance.com](http://DUIAutoInsurance.com). If you or someone you care about has been charged with DUI, take the time to explore the alternatives, and make sure that your license does not get caught in the crossfire between the court and DMV. You owe it to yourself to minimize any harmful insurance consequences by visiting this site.



# Sobriety Checkpoints



Sobriety checkpoints are temporary roadblocks on public streets or roadways designed to snare drunk drivers. If you drove through a sobriety checkpoint and were charged with drunk driving, there is hope for a strong defense. Contact an experienced attorney immediately to talk about your case.

A skilled defense attorney will certainly ask you about the circumstances surrounding the DUI checkpoint. There are strict guidelines for the checkpoints. If you were arrested at a checkpoint that was set-up illegally, you may have a defense. A sobriety checkpoint must be announced to the public in advance and set up by command law enforcement officers, not officers in the field. Vehicles must be selected using a neutral mathematical formula, and the checkpoints must be maintained safely for both police and motorists, have high visibility, and minimize the average time each motorist is detained.

Each motorist stopped should be detained only long enough for the officer to question the driver briefly and to look for signs of impairment, such as alcohol on the breath, slurred speech, and glassy or bloodshot eyes. If the driver does not display signs of impairment, he or she should be permitted to drive on without further delay. If the officer observes signs of impairment, the driver may be directed to a separate area for a field sobriety test. At that point, further investigation must be based on probable cause, and general principles of detention and arrest would apply.

The Supreme Court has ruled that the primary purpose of a sobriety checkpoint is to promote public safety. Therefore, a sobriety checkpoint is not considered a criminal investigation

roadblock: A warrant is not required.

Contact an experienced DUI lawyer to evaluate every aspect of the checkpoint to determine whether it met the established guidelines. If the checkpoint was not operated properly, you may have a valid defense to the drunk driving charge.

## Sobriety Checkpoint Checklist

If you were arrested for DUI at a sobriety checkpoint, review this checklist. A skilled DUI defense attorney may be able to build a strong defense for your case if the checkpoint didn't follow certain guidelines. Did the checkpoint meet the following criteria?

- ☐ Was the checkpoint announced to the public in advance?
- ☐ Was the checkpoint set up by command law enforcement officers (not field officers)?
- ☐ Were the vehicles that were stopped selected using a neutral formula?
- ☐ Was the checkpoint maintained in a safe manner?



HAVE YOU BEEN CHARGED WITH A DUI?

**DUI INSURANCE IS AVAILABLE**

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It is vital for anyone charged with any type of drunk driving offense to get expert advice regarding car insurance.

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# Help

## With Alcohol and Drug Problems

Many people who are arrested for DUI have simply had bad luck. Perhaps they were falsely accused because of problems with a machine or an inadequately trained police officer. Perhaps they shouldn't have been on the road, and they were just in the wrong place at the wrong time.

For other people, getting arrested for DUI is simply validation of something others (or they themselves) have suspected for some time: There is an underlying problem with alcohol or other drugs.

If you or someone you care about is struggling with such a problem, a DUI arrest may be a silver lining to an otherwise dark cloud. Notwithstanding the expense, inconvenience, and fear associated with a DUI arrest, if it is the catalyst for an alcoholic to find long-lasting sobriety, it is well worth the cost.

There are many resources available to assist someone with an alcohol or drug problem. Certainly, an experienced DUI defense lawyer will be a compassionate and knowledgeable resource in this area. Online resources abound; the largest self-help group is Alcoholics Anonymous, which can be located online at [www.AA.org](http://www.AA.org). It is also possible to find an AA meeting easily by calling 411 and asking for Alcoholics Anonymous Central Office. It is available in nearly any city.

Whether yours is a situation that calls for help is a decision for you, and you alone, to make. If you need help with an alcohol or drug problem, there are many people and resources available. There is simply no reason to suffer in silence and isolation. Help is there for you.

The following is reprinted from Alcoholics Anonymous:

### Answer YES or NO to the following questions.

#### 1 - Have you ever decided to stop drinking for a week or so, but only lasted for a couple of days?

Most of us in A.A. made all kinds of promises to ourselves and to our families. We could not keep them. Then we came to A.A. They said: "Just try not to drink today." If you do not drink today, you cannot get drunk today.

☐ Yes ☐ No

#### 2 - Do you wish people would mind their own business about your drinking-- stop telling you what to do?

In A.A. we do not tell anyone to do anything. We just talk about our own drinking, the trouble we got into, and how we stopped. We will be glad to help you, if you want us to.

☐ Yes ☐ No

#### 3 - Have you ever switched from one kind of drink to another in the hope that this would keep you from getting drunk?

We tried all kinds of ways. We made our drinks weak. Or just drank beer. Or we did not drink cocktails. Or only drank on weekends. You name it, we tried it. But if we drank anything with alcohol in it, we usually got drunk eventually.

☐ Yes ☐ No

#### 4 - Have you had to have an eye-opener upon awakening during the past year?

Do you need a drink to get started, or to stop shaking? This is a pretty sure sign that you are not drinking "socially."

☐ Yes ☐ No

#### 5 - Do you envy people who can drink without getting into trouble?

At one time or another, most of us have wondered why we were not like most people who can "take or leave" alcohol.

☐ Yes ☐ No

#### 6 - Have you had problems connected with drinking during the past year?

Be honest! Doctors say that if you have a problem with alcohol and keep on drinking, it will get worse -- never better. Eventually, you will die, or end up in an institution for the rest of your life. The only hope is to stop drinking.

☐ Yes ☐ No

#### 7 - Has your drinking caused trouble at home?

Before we came into A.A., most of us said that it was the people or problems at home that made us drink. We could not see that our drinking just made everything worse. It never solved problems anywhere or anytime.

☐ Yes ☐ No

#### 8 - Do you ever try to get "extra" drinks at a party because you do not get enough?

Most of us used to have a "few" before we started out if we thought it was going to be that "kind of party." If drinks were not served fast enough, we would go some place else to get more.

☐ Yes ☐ No



# HOW

## SUBSTANCE ABUSE COUNSELOR CAN HELP YOUR CASE

### 9 - Do you tell yourself you can stop drinking any time you want to, even though you keep getting drunk when you don't mean to?

Many of us kidded ourselves into thinking that we drank because we wanted to. After we came into A.A., we found out that once we started to drink, we couldn't stop.

☐ Yes

☐ No

### 10 - Have you missed days of work or school because of drinking?

Many of us admit now that we "called in sick" many times when the truth was that we were hung-over or on a drunk.

☐ Yes

☐ No

### 11 - Do you have "blackouts"?

A "blackout" is when we have been drinking hours or days that we cannot remember. When we came to A.A., we found out that this is a pretty sure sign of alcoholic drinking.

☐ Yes

☐ No

### 12 - Have you ever felt that your life would be better if you did not drink?

Many of us started to drink because drinking made life seem better, at least for a while. By the time we got into A.A., we felt trapped. We were drinking to live and living to drink. We were sick and tired of being sick and tired.

☐ Yes

☐ No

Did you answer YES four or more times? If so, you are probably in trouble with alcohol. Why do we say this? Because thousands of people in A.A. have said so for many years. They found out the truth about themselves — the hard way.

But again, only you can decide whether A.A. is for you. Try to keep an open mind on the subject. We will be glad to show you how we stopped drinking ourselves. Just call.

A.A. does not promise to solve your life's problems. But we can show you how to live without drinking "one day at a time." We stay away from that "first drink." If there is no first one, there cannot be a tenth one. When we got rid of alcohol, we found that life became much more manageable.

ALCOHOLICS ANONYMOUS® is a fellowship of men and women who share their experiences, strengths and hopes to help others to recover from alcoholism.

- The only requirement for membership is a desire to stop drinking. There are no dues or fees for A.A. membership; we are self-supporting through our own contributions.

- A.A. is not allied with any sect, denomination, political party, organization or institution; does not wish to engage in any controversy; neither endorses nor opposes any causes. Our primary purpose is to stay sober and help other alcoholics to achieve sobriety.

A licensed substance abuse counselor can help any criminal case involving alcohol or drugs, whether it is a first-time misdemeanor DUI or a felony DUI with severe injuries. One of the important questions you should ask of any potential lawyer is whether he or she has a licensed and well-respected substance abuse counselor who will be working as part of your defense team.

Why is this counselor so important? Some judges and prosecutors, like many people, may be concerned about their own job security. They may fear that if they give a defendant a great deal, that person will go out and quickly re-offend, perhaps even causing injury, and that their own career will suffer. A substance abuse counselor can help bring comfort to a judge or prosecutor in these circumstances, so that a great outcome can be achieved. These counselors are often viewed as more neutral than either the defense lawyer or the prosecutor, who are advocates for their respective side. Just like with defense lawyers, the skill, training, and reputation of the substance abuse counselor is vital.

The counselor can help in a **serious and aggravated DUI case** or even a misdemeanor DUI case with no aggravating factors. In aggravated cases, it may be helpful to convince the prosecutor or judge there is a drug or alcohol addiction problem, and that the accused would benefit from a treatment program instead of jail. Treatment is insurance against re-offending. An appropriate counselor can be a vital part of qualifying the accused as being likely to benefit from, and succeed in, such a program.

A substance abuse counselor can also be helpful in a non-aggravated case. Here, it is helpful for an evaluation to demonstrate that the defendant does not suffer from alcoholism or drug addiction. This is used to show that the arrest is out of character for the accused, that it was a one-time incident that will not be repeated. This may provide just the kind of peace of mind that is necessary for a great negotiated outcome.



## HELPING LAWYERS HELP THEIR CLIENTS

CALL TOLL FREE  
**888 DRG-XPRT**  
[www.SubstanceAbuseExpert.com](http://www.SubstanceAbuseExpert.com)



# **INTERVIEW** **DAN CRONIN**

*with Substance Abuse Counselor*

*Dan Cronin is a licensed substance abuse counselor who has advocated for alternative sentencing for thousands of people charged with DUI and drug offenses throughout the United States and Canada. He has been the Director of Counseling for the National Hockey League (NHL) since 1994 and the Program Director for the Substance Abuse Program for Major League Soccer (MLS) since 1999.*

## **What does a Substance Abuse Counselor do?**

I work with criminal defense lawyers in an effort to convince prosecutors and judges to allow for alternative sentences, so people get treatment instead of jail or prison. This means working closely with the defense lawyer to make sure that we are united in our goals for the case; meeting with the client and doing an analysis; writing reports for the court that explain what level of treatment is appropriate in a given case; making court appearances when necessary; finding appropriate locations for treatment; and ensuring the client makes it to treatment safely. I also have an obligation to provide progress reports to the court, perhaps to suggest early termination of mental health services, where warranted. I also provide assistance and support to the client's family, as they typically have a lot of questions about the process.

## **Wow, that sounds like a full-time job and then some! How can you be of service to a DUI defense lawyer in particular?**

Two ways: In some cases it is helpful to provide clinical documentation that a person is an alcoholic or is addicted to other drugs so that the court will allow treatment as an alternative to jail. Florida law allows time spent in a residential facility, such as rehab or sober living, to often count just like jail time and keeps a person from ever going back to experience the horrors of custody. Another important way that I can be helpful to a DUI defense lawyer is in the opposite situation. When a client is not an alcoholic or drug addict, the court or prosecutor needs to know this. The result is that they feel secure in the fact that there will not be another offense, and they will be comfortable offering a better settlement in the case.

## **Why is demonstrating that someone is not an alcoholic important?**

Let's face it – no prosecutor or judge wants to let someone off the hook who turns around, goes out and gets arrested again or, even worse, injures someone in a later DUI accident. To help with their decisions, they rely on licensed professionals like me to provide an expert opinion about whether someone is suitable for treatment, and more importantly, whether they are likely to succeed there. They may also depend on me to help them determine whether that person is or is not an alcoholic and whether he or she is likely to run into these same kinds of problems in the future.



**Dan Cronin**

## **You clearly have a lot of knowledge in this area, since so many professional sports teams look to you for guidance. What does that credibility mean for your clients in court?**

With my level of expertise, I can determine whether outpatient treatment may be appropriate, so that my clients don't even need to disrupt their work or home lives. For others, some type of inpatient treatment is best. But whatever the case may be, the prosecutor and the judge will look to me as a relatively unbiased expert. This is one of the services that I provide to all my clients, whether they are professional athletes or not.

One of the reasons that the court values a substance abuse counselor's opinion is that they know we will recommend the correct level of care for our clients and their families, and we will provide accountability to the courts. My working hand-in-hand with an experienced DUI defense lawyer makes for a defense team that gives its best for each and every client.





## Florida Driving Under the Influence of Drugs Cases

In Florida, cases involving driving under the influence of drugs are prosecuted in much the same way as DUI cases involving alcohol. The key is whether the drug causes a sufficient level of mental or physical impairment at the time of driving. Being under the influence, whether alcohol or drugs, is defined as physical or mental impairment such that the driver's normal faculties are impaired. That means their ability to see, hear, walk, talk or other normal faculty as defined under Florida law is affected.

For purposes of Florida's DUI laws, it does not matter whether the drug is legal or illegal, prescribed or over-the-counter. It is possible to be convicted of driving under the influence of cold medicine, cocaine, or any other substance (whether illegal or not) that causes impairment. Many people mistakenly believe that if a doctor prescribes a drug, they are allowed to drive while taking it. Unfortunately, this can be a mistake with rather severe consequences.

Unlike DUI alcohol cases, there is no "per se" limit involving drugs. The prosecutor will try to prove the motorist was driving under the influence of drugs by introducing evidence related to driving patterns, physical signs and symptoms, Field Sobriety Test performance, and chemical test results, if available.

There are certain law enforcement officers who have received training designed to assist in determining whether or not someone is under the influence of drugs. They are called DREs, or Drug Recognition Experts. DREs will be brought in to examine a suspected motorist, and are supposed to follow certain protocols in their evaluations. A skilled criminal defense attorney is often able to demonstrate that proper evaluation procedures were not followed, or that the supposed signs and symptoms were ambiguous and just as consistent with non-impairment as they are with impairment.

Being convicted of driving under the influence of alcohol or drugs can have serious and lifelong consequences. The first step in avoiding these, or cushioning their impact, is consultation with a DUI defense lawyer who is skilled in shielding his or her clients.

# Integrity: The Key Issue in Blood Testing

The key issue in any blood test case is the integrity of the sample. Blood samples can ferment, can clot, and can be rendered unreliable by bacterial growth. The end result is a reported alcohol level that is higher than the true alcohol level. You probably didn't notice when your blood sample was taken, but there was supposed to be a white powder in the base of the test tube.

This powder is an anti-coagulant and preservative. It was placed there by the factory that produced and packaged the test tube. Unfortunately, no one tested this material before your blood was drawn into the tube.



There are two types of blood draws used to prosecute DUI cases. The first type of blood draw, medical blood DUI, is where the State Attorney attempts to use your medical blood results from the hospital in an attempt to prove you were DUI. In the second type of blood draw case, called a legal blood draw, the State will test a blood sample at a state or local lab. Both types of blood draws are extremely complex and are open to various challenges. A skilled DUI attorney can assist you in determining any legal defense and will have the proper knowledge to address the many issues that rise from both types of blood draws.

**Write down everything  
that happened while the events  
are still fresh in your mind.**



# DID You Know?

- That DUI arrests trigger two different cases: The court case and the DMV hearing
- That you must request a DMV hearing within 10 days of your arrest, or else you automatically lose!
- That body temperature can affect the breath test results.
- That field sobriety tests are optional. If you took one, it's only because you consented to do so.
- That blood samples can ferment, and create artificially high alcohol readings.
- That a DUI conviction could cost more than \$10,000 over the next three years.
- The court could order you to have an ignition interlock device installed in your car.
- Do you know that there are alternatives to mandatory jail sentences, such as residential treatment programs.
- That if you hire a lawyer, in most cases the lawyer can appear in court for you while you go about your normal everyday life.
- If you have a license from another state, you still must request a DMV hearing within 10 days, or your home state may also suspend your license.
- Each shot of liquor, glass of wine, or mug of beer raises your BAC an average of .02 percent.
- It takes one hour for each standard drink to be "burned off" or eliminated from your body.
- If you refuse to take a blood or breath test after you've been arrested, the DMV will try to suspend your license for one year for a first offense.
- There are different alcohol education courses (sometimes called DUI schools) that are required, depending upon whether you are convicted of a first-offense, second-offense, or third-offense DUI.
- Not all DUI arrests result in DUI convictions. Many settlement alternatives are available.
- You have the right to a jury trial in a DUI case.
- To be convicted at trial, all of the jurors must be convinced of your guilt beyond a reasonable doubt. If even one juror votes in your favor, you cannot be convicted.
- According to the breath machine manufacturer, there is a margin of error in breath-testing equipment.
- The arresting officer is required to continuously observe the subject for the 20 minutes immediately before the breath test to make sure the subject doesn't burp, belch or regurgitate and that he or she has put nothing in his/her mouth.
- Most car rental companies won't rent to someone with a pending DUI case. Your best bet is with a small "mom-and-pop" car rental company, and not the big-name national chains.
- That a tongue-piercing may cause an inaccurate breath test reading by trapping alcohol in the mouth.

*A DUI conviction could cost more than \$10,000 over the next three years.*



## Defending a DUI Case Requires A Thorough Investigation



One of the most critical times in a DUI case occurs between the arrest and the arraignment date. If evidence is not collected promptly it may be destroyed. That evidence may include:

- Receipts (specifically itemized restaurant or bar receipts)
- Pictures of the Field Sobriety Testing Area
- Security Camera Closed Circuit Video
- Jail Video of the Booking Room and Breath Test Room
- Medical Records from EMS, Hospital, and Jail
- GPS from the officer's car
- Officer's Personnel File
- 911 Calls
- Radio Transmissions of the Officers on the Scene
- Mobile Display Terminal Messages
- Crash Reports

## Florida DUI Jury Instruction

To prove the crime of Driving Under the Influence, the State must prove the following two elements beyond a reasonable doubt:

1. Accused drove or was in actual physical control<sup>1</sup> of a vehicle.
2. While driving or in actual physical control of the vehicle the accused:
  - a. Was under the influence of [alcoholic beverages] [a chemical substance] [a controlled substance] to the extent that [his] [her] normal faculties\* were impaired or
  - b. Had a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood, or a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

<sup>1</sup> Actual physical control of a vehicle means the defendant must be physical in or on the vehicle and have the capability to operate the vehicle, regardless of whether he/she is actually operating the vehicle at the time.

\*Normal faculties include but are not limited to the ability to see, hear, walk, talk, judge distances, drive an automobile, make judgements, act in emergencies, and in general, to normally perform the many mental and physical acts of our daily lives.

## Collateral Consequences of a DUI Conviction

Based upon someone's driving record, a DUI conviction will not only result in a mandatory driver's license suspension of at least 6 months but could trigger more serious ramifications. According to the rules set out by the Florida Department of Highway Safety and Motor Vehicles, if a driver accrues three major violations within a five-year period, they will be labeled a Habitual Traffic Offender. Major violations typically include a combination of Driving While License Suspended convictions and a DUI. Drivers who are classified as a Habitual Traffic Offender will be unable to drive for one year before they are eligible to obtain a hardship license.



STEPHEN DARREN DAVID  
HIGGINS FINEBLOOM HAENEL

At the law firm of Finebloom & Haenel, the DUI defense team concentrates its practice on DUI traffic defense.

David, Darren, Stephen & all the attorneys in the firm use their energy in the pursuit of justice. David has dealt with thousands of DUI cases but he says, "the case I am working on at any given moment is the one that matters most."

**HIGHLY EXPERIENCED DUI DEFENSE LAWYER**  
David is often quoted in newspapers and on television regarding DUI issues.

### DEDICATION

Don't be surprised when you call the office at noon on a Saturday and you end up speaking to a live lawyer. David has created an atmosphere that caters to his clients. He realizes that he does not have a typical 9-5 job, and when a client is struggling after a DUI arrest knowing that someone can guide them through the process is comforting.

### MEMBERSHIPS AND ASSOCIATIONS

David Haenel is a member of the Florida and National Association of Criminal Defense Lawyers. In addition David is a frequent lecturer at the police academy on various traffic related issues, including DUI. Who better to defend your DUI case than the guy who USED to train the prosecutors?

### TEAM APPROACH

At Finebloom and Haenel, you get the benefit of having every member of our firm dedicated to your case. A distinct benefit of this "team approach," which we strive to achieve with every client, is that while your case is pending you can contact our office and feel confident that any lawyer you speak with has the knowledge and the experience to assist you. Essentially, we feel that the more sets of eyeballs trained on your case, and the more brainpower collectively applied to your case, will hopefully lead to a better client experience.

David A Haenel  
Finebloom and  
Haenel, P.A.

Offices in Sarasota, Tampa,  
Clearwater and Orlando  
while representing clients  
throughout the West Coast  
and Central Florida

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