

TOP TEN DWI TIPS

by

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Driving While Intoxicated (DWI) is a very dangerous thing to do. Intoxicated drivers kill an estimated 10,000 people a year in the United States alone. If you feel yourself intoxicated, you should never risk driving, and instead call a friend or a cab to pick you up. If you intend to go out and have even one alcoholic drink and then drive, you are at risk for being pulled over and arrested for DWI. It is really not a risk worth taking in this day and age.

That being said, it is still technically legal to have a couple of drinks and drive, as long as you still possess “the normal use of your mental and physical faculties.” The same government entities that remind you not to drink and drive often sponsor public functions where alcohol is served to thousands of people. A large percentage of those people will end up getting in their cars and will be driving home after the event is over. Many of those people can be found driving home after going to see a local Spurs game and having a couple of beers.

If you ever find yourself in this unfortunate position of being one of those pulled over for DWI, there are 10 tips you should keep in mind:

#1. Remain calm. Any interaction with a police officer is potentially fraught with peril. Especially late at night on the side of a public roadway. He does not know what kind of person you are, and you do not know what kind of person he is.

#2. Be respectful. Even if you think the officer had no reason to pull you over and you are in a bad mood, do not say anything that might be read as insulting or hostile to the officer. Also, remember, police officers do not like people who question their authority. Although we live in a country where we have guaranteed rights of free speech, now is not the time to exercise that right. Which brings me to the next point.

#3 Shut up! Now is the time to say as little as possible. Generally speaking you are only required to provide your name, date of birth and address to the officer. However, don't be surprised when the officer asks where you are coming from and whether you have had anything to drink. You really don't have to answer these questions. That being said, it is a fine line to walk because you don't want to flat out lie, and if you refuse to answer questions, the officer will likely assume that you have something to hide. Try to find the most polite way to say as little as possible. You can cite this article and say “I'm sorry officer, but I read somewhere that if I am ever pulled over I should not answer any questions unless I absolutely had to. The attorney said it is really stupid to do anything otherwise.”

#4. Try to act normal. Yes, you may be nervous, or scared, or tired. But try to act as normal as possible despite the way you feel. The officer will be on the lookout for any behavior on your part that indicates you don't have the “normal use of your mental of physical faculties.”

Have your insurance card and driver's license in easy reach, preferably not buried deep down somewhere inside your glove compartment. One of the most common behaviors that officers list in support of their early DWI investigation is a person's inability to respond to their simple request to produce their license and insurance.

#5. Be careful getting out of your car. The officer will be watching your every move to see if you stumble on the way out, or have to hold onto the side of your vehicle to maintain your balance.

#6. Understand how the Field Sobriety Tests (FST's) work. The officer will generally begin with the Horizontal Gaze Nystagmus (HGN) test. He will begin by shining a bright light in your eyes. He will tell you to stand still and follow the light with your eyes without moving your head. Try to remain as still as possible, and do not talk.

The officer will then usually ask you to perform a "Walk & Turn" test. This involves taking 9 steps heel to toe back and forth against a real, or in some cases, imaginary line on the ground. If you lean, sway, or lose your balance at any point, the officer will count such movement as a "clue" of intoxication.

The officer will then generally ask you to perform a "One Leg Stand." You will be asked to lift one foot in the air while keeping your hand perfectly still at your side and count to 30. Once again, if you lean, sway, or lose your balance at any point, the officer will count such movement as a "clue" of intoxication.

The officer should ask if you have any physical impairments that might affect your ability to stand or maintain your balance first. If he does not, then you should volunteer such information yourself automatically.

The officer should also slowly and carefully explain all the instructions to you first before asking you to perform these tests. If you do not understand these instructions, make sure to ask him to repeat them as many times as necessary before starting. He is also supposed to personally demonstrate the test himself as well. If not, please ask him to show you how to do it himself.

Also, keep in mind that you do not actually have to perform these tests. The officer will not likely tell you that. In fact, he will probably give you the opposite impression. That being said, if you refuse to perform the tests, he will likely assume that it is because you are intoxicated, and he may arrest you anyway. There is no perfect solution to this dilemma, but if you feel at any point that you are not going to perform well on these tests, it is probably best not to do them badly and give the officer more ammunition to use against you.

If you do refuse the tests, then just tell the officer very politely that you are not normally that good with keeping your balance and performing physical tasks that require a good deal of coordination. It is also a good idea to let him know if you feel that you are too tired, nervous, or scared to be able to perform well under such pressure. You might also want to bring any negative environmental factors to his attention as well, such as the road conditions, the weather, or lighting in the area. There is a good chance that your entire interaction with the officer is

being recorded, and could be shown to a jury at your trial one day.

#7. If you are arrested, be quiet. Make sure to take full advantage of your 5th amendment right to remain silent. You may be tempted to try and talk your way out of your arrest, but anything you say may be recorded, and end up being used against you later. And if you are at all intoxicated, you are likely to show signs of slurred speech, incoherence, or repeating yourself.

#8. Don't blow. Once you are arrested, you will probably be asked to blow into a Breathalyzer machine, like the Intoxilyzer 5000. Your breath specimen will be analyzed to see what percentage of alcohol you have in your system. The officer may hint to you that if you "pass" the test, you will be released to go home. Do not assume that this is true. Officers routinely file cases against people even when they blow under the legal limit (currently .08). What often happens is that you voluntarily give the prosecutor more evidence to use against you later.

There is one potential downside to refusing to provide a breath specimen. You may end up having your driver's license automatically suspended just for the refusal. However, keep in mind that if you do blow over the limit, you could also lose your license based on that fact as well. Many attorneys will tell you that it is worth the risk to refuse to blow.

In the old days, refusing to blow usually meant that the prosecutor did not have any scientific proof of your blood alcohol content. Nowadays, if you refuse to provide a specimen of your breath, you will likely be forced to submit to the drawing of a blood sample. This blood evidence may be used against you in court, but there are also ways for a good attorney to fight to keep it out.

#9. Do not fill out any paperwork relating to: where you were driving from; if you had anything to drink; how long you have been awake; what you have had to eat, etc.. This is just more evidence the police and prosecutor would like to have to help prove up the accuracy of their blood alcohol content analysis. You will have to provide basic information, such as name, address, and date of birth. You may also be asked to fill out some paperwork with relation to securing your release through a bond. However, beware of forms that ask you about and prior drug use or other personal issues that may be used against you later.

#10. Call a good DWI lawyer the day after you get out. There are important deadlines that start running on your case as soon as you are arrested. The most important deadline deals with the suspension of your license. You only have 15 days after your arrest to make a request to the Texas Department of Public Safety (TXDPS) for a hearing on your license suspension. This request must be in the proper format and sent in the proper way. If not, you will completely lose your opportunity to contest the suspension of your license. It will then happen automatically.

A good DWI lawyer can also help you investigate the possibility of obtaining an "Occupational License", so that you can continue to drive even if your license is suspended. He or she can also help you deal with other collateral consequences you may experience as a result

of being arrested for DWI.

REMEMBER, THE BEST WAY TO AVOID A DWI ARREST AND CONVICTION IS TO NEVER DRINK AND DRIVE! There are even organizations out there that will offer you a free ride home if you need it, especially during major events like Fiesta or New Year's Eve. Uber and Lyft have recently gotten in on the act as well. So stay safe and drive sober!