

Three Things All DUI Defendants Should Know *Before* Going to Court

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I. Know How to Plead:

On your traffic ticket for DUI (or bond papers if you were issued an arrest warrant rather than a ticket), a date, time, and address to appear in court is provided. The purpose of this first hearing is for the court to advise you of certain rights, and for you to enter a plea of guilty or not guilty. Some Defendants feel that they have little choice except to enter a plea of guilty, or that pleading not guilty will make things worse. The truth is, you have an absolute right to plead NOT GUILTY. Furthermore, when you plead not guilty, the case will be postponed to a later date so that you can prepare for trial. Thus, if you are unsure how you want to plead, plead not guilty. Once you plead guilty, the case is over and you cannot change your plea. If you plead not guilty, you can always change your plea to guilty later. When you plead not guilty, you will be asked whether you want a jury trial or bench trial. A bench trial means a judge decides the case without a jury. If you request a jury trial, a jury decides your case. I recommend a jury trial for three reasons. First, if you request a bench trial, the court may try you the same day – giving you no time to prepare. Second, Magistrates, who preside over the bench trials, often work closely with the police. Although Magistrates do not work for the police, some may have some bias in favor of the police. Finally, with a jury, six people determine the outcome as opposed to one in a bench trial. In short, unless you are certain pleading guilty is best for you, my recommendation is to plead not guilty and request a jury trial.

II. Know the Reasons to Request an Administrative Hearing:

If the police officer requested that you submit to a breath alcohol test and you registered a .15 or more, or if you refused to take the test, then your license was suspended. You should have been given a document by the arresting officer called a notice of suspension. If this is the case, you have a right to request an administrative hearing to challenge this suspension. You have 30 days from the date of your arrest to request this administrative hearing. In the administrative hearing, the officer must prove that you were properly under arrest for DUI, that the officer properly requested that you submit to a breath alcohol test, and that you either registered 0.15 or higher, or that you refused the test. If you refused the test your suspension is for six months. If you registered more than a .15 on the breath alcohol test, your suspension is for 30 days. This is an alcohol-related suspension that will stay on your record for years and can

have serious ramifications beyond losing your driving privileges for 30 day to six months. It can affect your auto insurance rates, it can possibly affect your ability to find employment, etc. If you received an Administrative Suspension, you should give serious consideration to requesting a hearing.

There are numerous issues that can cause you to have your suspension lifted, including the officer having insufficient probable cause for your arrest, the officer failing to follow proper procedures in requesting that you submit to a blood alcohol test, the officer failing to show at the hearing, etc. Furthermore, you, or your attorney, can obtain valuable information about how the officer will testify in the DUI trial from the administrative hearing which can help if you choose to go to trial on the DUI charge.. Finally, while you are waiting on the administrative hearing, you can get a temporary license to drive. Requesting an administrative hearing does have a cost. At the time that I'm writing this, the filing fee for an administrative hearing is \$200.00. By the time you read this it may have increased as it has increased twice in the past two years. Also, there is a charge of \$100.00 to request a temporary license while you are awaiting the administrative hearing.

III. Understand the consequences of a DUI Conviction

Pleading guilty to DUI without first exploring the possibility of having the charges reduced or dismissed can have serious consequences. In addition to the fine and suspension of your driver's license, a DUI conviction is a criminal record. It will stay on your record forever unless you obtain a pardon. Many people believe they can plead guilty, and later have the record expunged. This is simply not the case. It can affect your ability to find employment, affect health insurance rates, auto insurance rates, and affect whether you can go into certain professions. It is well worth the time and money to request a jury trial, find an attorney, and explore your options.