

DUI & DWI

Criminal Charges - Traffic Charges

Many people charged with DUI (Driving Under the Influence) or DWI (Driving While Intoxicated) in California have a particularly difficult time dealing with their criminal charge, often because it is the first crime with which they have ever been charged. DUI or DWI charges are made against approximately 1.5 million drivers every year. These arrests can result in serious consequences. A person who is convicted of a DUI or DWI can face heavy fees and penalties, a loss of driving privileges, and may be sentenced to serve jail time.

Given that so much is at stake in a DUI or DWI case, it is important to hire an experienced criminal defense attorney who has handled many DUI and DWI cases in California, and who will guide you through the legal maze of the California criminal justice system and Department of Motor Vehicles (DMV).

Criminal Defense & DUI attorney Jerry Nicholson has represented hundreds of individuals in Los Angeles, Orange County, Ventura, Riverside, San Bernardino, and throughout the state of California who have been charged with driving under the influence or driving while intoxicated. He will work aggressively to protect your rights before the municipal or criminal courts. In addition, he provides representation before the California DMV to help you obtain a provisional driver's license while you await trial. Sometimes it is possible to drop your DUI or DWI charge to a lesser offense that will allow you to preserve your California driving privileges as well. The Law Offices of Jerry Nicholson can explain all of the options to you.

There are TWO CASES for every DUI Arrest

There are essentially two different cases that are brought against you when you are arrested for a DUI. First, there is the DMV case (Department of Motor Vehicles case) - this is where your driver's license may be taken away from you. Second, there is the criminal case - this can result in jail time, fines, classes for alcohol education, community service, impounding your vehicle, getting an ignition interlock device installed in your vehicle, or a combination of these things. It all depends on the facts of your individual case.

California DMV Hearing

If you have been arrested for a DUI, you must request a DMV hearing within 10 days of the arrest. If you do not do so, your license will be automatically suspended or it will be revoked 30 days after your arrest.

The DMV proceeding is very different from the criminal courtroom proceeding. These hearings are much more informal, and they are run by a Driver Safety Office (DSO) Hearing Officer, who is an employee of the Department of Motor Vehicles (this hearing is not run by a lawyer or a judge). The standard of proof in DMV hearings is a "preponderance" of the evidence, which is a much lower standard than what is used in criminal court.

DMV hearings can be very technical, and the chances of a person winning without legal help are very low. Unfortunately, the DMV does not care about your personal life, and it makes no difference to them if you need to drive to work or school. Additionally, the DMV will sometimes discourage individuals from seeking a hearing, telling them that they "can't win". The documentation that is given to a person who is arrested for DUI can be confusing, and it does not clearly explain that a hearing must be requested in a very short period of time. Contrary to what it says on the form, you do not have to show that the suspension is not justified - rather, the DMV must show that the suspension is justified. According to the DMV's statistics for a recent year, 34% of all people who were suspended for DUI at the time of their arrest kept their driver's license by simply requesting a hearing to fight the suspension.

Important Factors for the California DUI Criminal Case

After the DMV hearing, the accused person must face the criminal proceeding. The Drunk Driving penalties in the state of California are set forth by statute and can be very complicated. The basic statute allows for a range of possible DUI sentences, but there may be modifications to the sentence based on the following factors:

- Having a prior conviction within the last seven (7) years
- Speeding 20 mph (or more) over the speed limit at the time of the DUI
- Having a child under the age of 14 in the car at the time of the DUI
- Having a blood-alcohol reading of over .20%
- Refusing to submit yourself to chemical testing

Within the range that is set forth by statute, the sentence in a DUI case will be affected by such factors as:

- The various facts of the case
- The policies of the prosecutors and local courthouse
- The weaknesses or "holes" in the case, as uncovered by the defense attorney
- The reputation of the defense attorney

It is important to note that the results of the breath, blood or urine test will be a factor in determining the charges that will be brought against you and the possible sentences. If you were driving with a blood-alcohol level of over .08%, then there has been a DUI offense. Please remember, however, that the DUI laws relate to the blood-alcohol level at the time of the driving, and not at the time of the test. This is a very important difference that may be used in your favor. It is also important to understand that the tests - particularly the breath tests -- are unreliable and therefore susceptible to attack by an experienced DUI / DWI attorney.

Contact an Experienced DUI / DWI Attorney

Experienced DUI lawyers know which arguments work and which ones don't. If your DUI attorney can get your charge reduced from a felony to a misdemeanor, it is considered a major win. In fact, he may be able to get your case dismissed, which is the ultimate goal.

If you have any questions or would like to speak directly with an experienced DUI attorney regarding your charge of driving under the influence, please do not hesitate to call the Law Offices of Jerry Nicholson at (562) 434-8916 for a FREE CONSULTATION. Mr. Nicholson can be reached 24 hours a day, seven days a week.