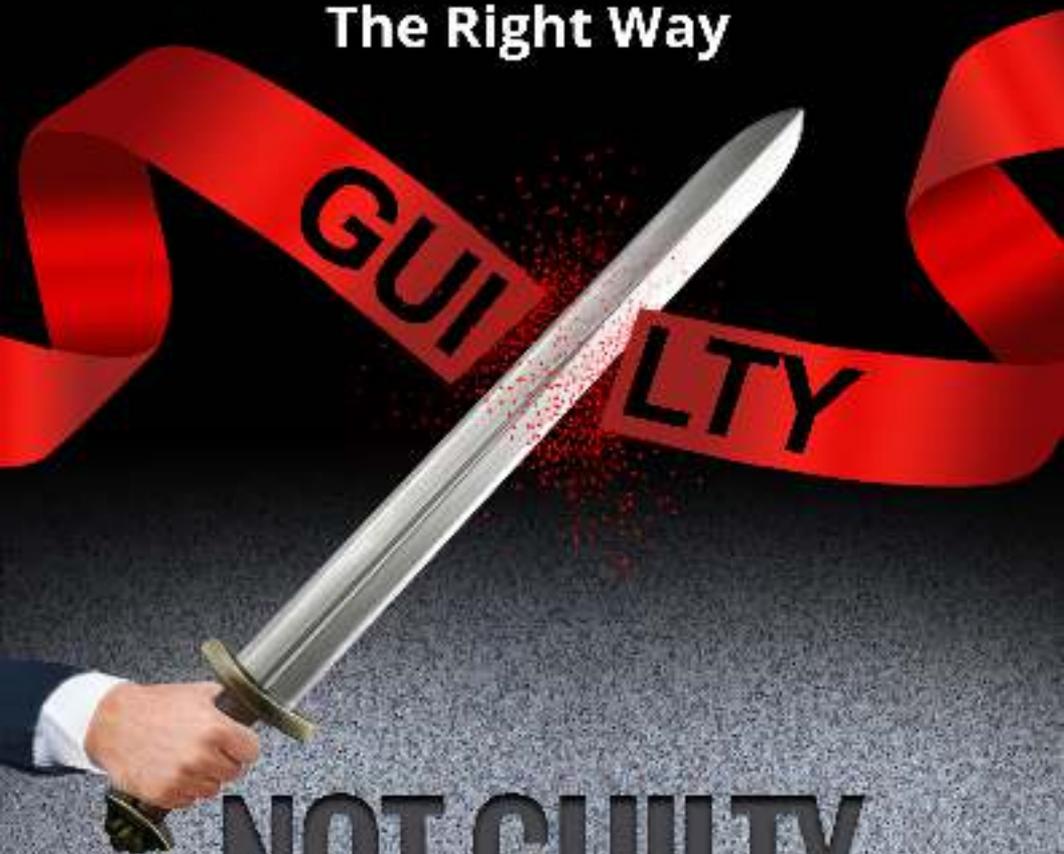


Pennsylvania DUI Defense **Assassin's Manual**

Attacking The Government's Case
The Right Way



NOT GUILTY

Brian Manchester, Esq.

Pennsylvania DUI Defense Assassin's Manual

**Attacking The Government's Case
The Right Way**

Brian Manchester, Esq.

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- DISCLAIMER -

This publication is intended to be informational only. **No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material.** If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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TABLE OF CONTENTS

Author Introduction	7
Organizations	8
Training	8
Testimonials	10
Client Testimonials	10
Attorney Testimonials	11
Introduction	12
How Can This Book Help You with Your DUI?	13
What is a DUI in Pennsylvania?	14
DUI Collateral Consequences	14
How Will A DUI Affect My Life?	15
Common DUI Questions & Concerns	15
What You Need To Do IMMEDIATELY After Being Arrested for A DUI in Pennsylvania	16
What Will This Book Do For You?	17
Why Fight A DUI in Pennsylvania?	18
Finding The Right DUI Lawyer	19



Questions You Must Ask Your DUI Lawyer19

What Other Questions Should I Ask When
Deciding Which Lawyer To Hire?20

What A Skilled Attorney Can Do For You 22

Debunking The Science Behind Blood Tests.....24

An Experienced Lawyer Trained in
DUI Science Can Help You.....25

Types of Pennsylvania DUI's26

First Offense DUI.....26

Second Offense DUI..28

Third Offense DUI...31

CDL License Holder33

Professional Licenses.....34

Medical Professional Affected by a PA DUI.....36

Pennsylvania DUI with Accident or Injury37

Sentencing Enhancements for DUI Accident Cases37

DUI Homicide.....38

Additional Penalties for DUI Accidents/Charges in PA39

Underage DUI..40

Prescription Drug DUI.....41

Illegal Drug DUI.....43

Designer Drugs.....43

Pennsylvania Drug DUI and DUI-D Laws.....44

Pennsylvania DUI-D Penalties.....44

Pennsylvania DUI Law and Medical Marijuana46

How to Fight a Marijuana DUI in PA48



6 Important Things to Remember if
Pulled Over or Arrested for a Marijuana DUI49

Frequently Asked Questions51

How Much Does A DUI Cost In PA?51

How Long Will This Entire Case Last?53



Can I Switch Lawyers If I Feel My
Current Lawyer is Not Right For Me?.....53

Should Cost Be A Factor When
Retaining a DUI Defense Lawyer?.....54

How Often Should Expert Witnesses
Be Retained to Defend a DUI Case?55

How Important Is A Good Relationship
with DA's, Judges and Law Enforcement?.....56

How Often Should I Communicate with My Lawyer?.....56

The Traffic Stop57

What Rights Does Someone Have at a Traffic Stop?.....57

Levels of Detention57

What Kind of Evidence Is Used In A DUI Case?59

Breath Tests61

Blood Tests62

Standardized Field Sobriety Tests63

**The Top 10 DUI Mistakes
(And How To Avoid Them)70**

**An Introduction to
Manchester & Associates75**

**What Sets Manchester & Associates
Apart from Other Lawyers?.....76**

Manchester & Assoc.'s Social Media.....77



- ABOUT THE AUTHOR -
BRIAN V. MANCHESTER, ESQ.

Brian Vincent Manchester, Esq.



ACS-CHAL Lawyer-Scientist

Attorney Brian Manchester, Esq., has over 17 years of experience handling DUI cases in Pennsylvania. After graduating from Pennsylvania State University – University Park, he received his juris doctorate from Thomas Cooley Law School in 2000. Brian is a national speaker on DUI law and blood analysis. He is the owner of Manchester & Associates a DUI and Criminal Defense firm in Bellefonte, PA

Brian's primary focus is Criminal Law, where he concentrates on DUI cases and brings his unique comprehension of forensic blood analysis and field sobriety testing to challenge DUI charges. Brian also handles high-end felony cases such as rape, child sexual assault, drug crimes and vehicular homicide, as well as murder, aggravated assault, simple assault and large financial crimes.

Several years ago, Brian decided that he would no longer be satisfied with reading blood alcohol content (BAC) test results in DUI cases without understanding the scientific principles behind them. Brian became frustrated with listening to local experts who testify that BAC tests are accurate and being unable to challenge them in court. He decided to investigate the scientific issues himself.

Brian read untold numbers of books and articles by experts from around the world and joined the National College for DUI Defense. He discovered that there are significant problems with the accuracy of blood tests. Now that Brian knows and understands the scientific principles, he is able to challenge the very admissibility of this type of evidence and has done so in various counties across Pennsylvania.

In 2014, Brian Manchester earned the distinction of being named an ACS-CHAL Forensic Lawyer-Scientist, the highest form of recognition available to Lawyers in the field of science. Brian is the author of *Effective Criminal Defense*, an overview of the bail process and criminal justice system in Pennsylvania, and the *Pennsylvania DUI Defense Assassin's Manual*.



Organizations:

Brian Manchester, Esq., is the former Educational Chairman for the Pennsylvania Association of Drunk Driving Defense Attorneys and a State Ambassador for the American Association of Premier DUI Attorneys. He is also a member of several organizations, including:

- **National College for DUI Defense**
- National Association of Criminal Defense Lawyers
- **Pennsylvania Bar Associations**
- Federal Bar for Middle and Western District of Pennsylvania
- **American Chemical Society**
- Society of Forensic Toxicologists
- **Pennsylvania Association for Drunk Driving Defense Attorneys**
- Driving Under The Influence Defense Lawyers Association (Founding Member)
- **Pennsylvania Association of Criminal Defense Lawyers**

Training:

Brian continues to attend, and speak at, seminars focusing on criminal law and DUI defense throughout the country. In addition, Brian has earned certifications in the following courses:



- **Metrology 3.0: Science as Your Best Defense at The National College for DUI Defense, Inc. (2016) (Presenter and Attendee)**
- The 10th Annual Driving Into A DUI Case Seminar (2016) (Presenter and Attendee)
- **The 22nd Annual Mastering Scientific Evidence in DWI/DUI Cases (2015) (Presenter)**
- Forensic Drug Analysis II (Hands-On 40 Hours) (2013)
- **Forensic Principles of DUI-D II (2014)**
- DNA For Lawyers I (2013)
- **DUI Detection & Standardized Field Sobriety Testing Instructor Certification(2012)**



- The Scientific Truth About HS-GC-FID & The Pharmacology of ETOH, Marijuana, & Benzodiazepines (2011)
- **National Highway Traffic Safety Administration (NHTSA) / International Associations of Chiefs of Police (IACP) Drug Evaluation and Classification (DRE) Overview Course (2010)**
- DUI Detection & Standardized Field Sobriety Testing Using NHTSA Curriculum (2010)
- **Introductory and Advanced Topics in Analytical Chemistry and Metrology in DUI/DWI/DUI-D – How an Analytical Chemist is Your Best Friend (2010)**
- Standardized Field Sobriety Testing (2010)
- **Forensic Chromatography: Theory and Practice (2010)**

- TESTIMONIALS -

Client Testimonials

“Brian explains the law AND the science to his clients, listens to their concerns, and answers questions in a clear and comprehensive matter ... Brian took the time to examine the blood results and then explained them to us. He was able to negotiate a plea deal to a lesser charge that would keep my husband out of jail. We feel so blessed to have had an attorney like Brian Manchester, who actually listened to ‘our side of the story’ and could explain the science behind the blood test results in terms that anyone could understand.”

- Donna Marie Smith

“Compassionate, incredibly intelligent, hard working and the best man to have in your corner, Brian Manchester is without a doubt the Lawyer you need to have your back when it comes to criminal law ... If you find yourself in trouble this is the man to call. I’d honestly trust no one else



to help you navigate what is easily the scariest and hardest time in one’s life. To say he knows his stuff is an understatement. He was able to explain things to me and help me understand things I don’t think anyone else could have.” **- Nicole**

“Mr. Brian Manchester is an excellent criminal defense lawyer. He was my lawyer in a recent DUI case. Brian not only represented me, he was able to get all charges dropped. With his profound knowledge of law, vast experience, and promptness in answering all of my tedious questions, I would highly recommend Brian for a criminal defense lawyer.” - Travis

“When facing a DUI in PA you will definitely want Brian Manchester in your corner to fight for you. As a commercial driver facing losing my CDL, possibly for life, he was able to significantly get my charges reduced. When you want the best, consider Manchester and Associates.” **- Jeff**

“After the bad decision, I made the best decision. I hired Brian and after the first time we talked, I knew I found the right lawyer. He made everything very simple and was always prepared for any question I had. Best of all ... Brian won my case. Couldn’t ask for a better person to be my lawyer.” - Matt



Attorney Testimonials

“Brian is an outstanding trial lawyer that I would hire without question if I was ever needing a criminal lawyer. Brian is one of the premier authorities in the areas of alcohol and drug detection and analysis through his constant scientific training, making him the go to attorney for those accused of DUI and drug related offenses. - *John Cook, Esq.*

“Brian Manchester is an experienced DUI defense attorney who has traveled across the country in an effort to learn the latest scientific techniques to use in defending citizens charged with DUI. His meticulous and thorough preparation enables him to get results for his clients. I highly recommend Brian to anyone charged with a DUI defense.” - *Michael Sherman, Esq.*

“Brian’s expertise and knowledge of the expert witnesses was of great assistance to myself and to my client. I would definitely recommend Brian for any cases which might involve the necessity of a scientific analysis, be they matters under the Controlled Substance Act and/or Driving Under The Influence.” - *R. Thomas Forr, Jr., Esq.*

Pennsylvania DUI Defense Assassin's Handbook

Attacking the Government's Case The Right Way



- Introduction -

In 2016, over 44,000 people were arrested in Pennsylvania for Drunk Driving, a criminal act commonly referred to as “DUI,” or “Driving Under The Influence.” It is anticipated that there will be around **four thousand** new arrests for DUI in Pennsylvania each and every month in 2017.

**SINCE YOU ARE ONE OF THE UNLUCKY 4,000 DRIVERS
WHO ARE ARRESTED FOR DUI EACH MONTH,
YOU ARE READING THE RIGHT BOOK!**

A DUI conviction can ruin lives – starting with losing your driver’s license and paying fines for years, plus a whole host of other consequences, some which are obvious, and some which are not. Hefty fines, license revocation, mandatory drug and alcohol testing and classes, community service – sometimes even jail time – can be just the beginning.

THIS IS A WAR!

AND YOUR LIFE IS AT STAKE!

**THIS BOOK CAN BE
YOUR SURVIVAL GUIDE!**



HOW CAN THIS BOOK HELP YOU WITH YOUR DUI?

As a public safety issue, DUI policies and procedures too often fall short because they reflect an emotional response. The penalties might make voters feel better and politicians look better, but they don't even deter drunk driving.

To make matters worse, 95% of DUI defendants are found guilty – not just because they plead guilty but because many lawyers don't know how to effectively defend against a DUI conviction.

We don't want you to be one of those 95%. There are competent, experienced lawyers who are well-versed in DUI law and the science behind it. There are great lawyers who are regularly successful in defending DUI cases. You just need to know how to find and retain one that can get the job done.

This book explains the ins-and-outs, and consequences, of a DUI conviction. It covers the fines, jail sentences, community service, probation, mandatory classes, and related penalties you or your loved one are facing from a criminal court and the Department of Transportation.



With This Book, You Will Be Able To Locate
A SUCCESSFUL, EXPERIENCED ATTORNEY
– One Who Can Properly Advise You
AND WILL FIGHT FOR YOU !

WHAT IS A DUI IN PENNSYLVANIA?

DUI stands for “Driving Under the Influence.” You can be arrested for several different types of DUIs, depending on what kind of substance you have used, and how much of the substance there is in your blood at the time of the “blood draw”.

A first offense DUI in Pennsylvania results in both Criminal and Administrative Penalties, based on the Blood Alcohol Content (BAC) of the offender at the time of the arrest, as well as other factors including property damage, personal injury, or whether minors were in the vehicle.

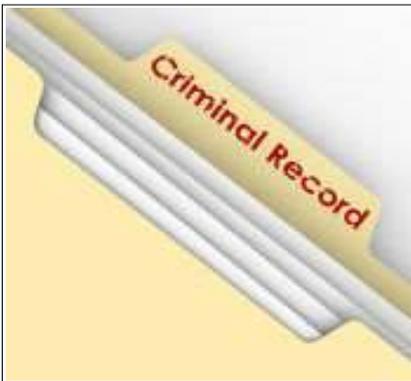
A first-time Pennsylvania DUI Conviction **with no associated collision or injury** will cost you anywhere from \$5000 to \$25000, and that’s only if you are a first-time offender. Prior convictions can increase your penalties.

DUI’s can ruin lives, starting with losing your license, possible jail time, and a whole host of consequences, some obvious and some not so obvious.



Assassin Tip #1 – It’s time to “Lawyer Up”! Your opponent – the State of Pennsylvania – will **always** have an attorney, and you need one to fight for you, too. The government is coming after you with their “hired guns,” which are the district attorneys and so-called experts prosecuting you. Don’t make the mistake of going into this alone.

DUI Collateral Consequences In Pennsylvania Include:



- A Permanent Criminal Record!
- License Suspension!
- Reinstatement Surcharges!
- Installation of Interlock in Your Car!
- Loss of Job!
- Professional License Loss!
- Security Clearance Loss!

HOW WILL A DUI AFFECT MY LIFE?

A DUI conviction will impact your life in many ways for a long period of time. A suspended license can make it hard or even impossible to get to work. The fines, court costs and probation supervision fees can be prohibitive, *if you still even have a job*, and the conviction will stay on your record for a long, long time!

DUI's convictions are expensive. A DUI charge, if not properly defended, could result in exorbitant fines, loss of license, and even jail time.

A DUI Conviction Can Also:

- Restrict Your Travel
- Threaten Your Immigration Status
- Prevent You From Completing A College or Advanced Degree
- Put Up A Roadblock To Obtaining Professional Licenses
- Bar You From Entering Canada and Possibly Other Countries



Common DUI Questions & Concerns

What if you miss work due to jail and community service sentences?

What if you're required to take drug and alcohol classes, even if you have no addiction issues?

What if your suspended license makes it hard or even impossible to get to work?

What if your job requires you to drive vehicles and you're arrested for DUI?

What if your DUI means your CDL license is at risk?



WHAT YOU NEED TO DO IMMEDIATELY AFTER BEING ARRESTED FOR A DUI IN PENNSYLVANIA

In Pennsylvania, the legal limit for alcohol in your blood or breath is .08, unless you have a Commercial Driver's License (CDL) and then it is .04, or .02 if you are under 21. But did you know you can still be arrested even if you test **UNDER THE LIMIT**? Or that you can be arrested for driving with **LEGAL PRESCRIPTION DRUGS** in your system?

If you are arrested for a DUI in Pennsylvania, there are immediate steps you need to take that can help you save your license and lessen the chance of conviction. I will tell you those steps in a simple, direct method that will enable you to help yourself after the fact.

As a practicing criminal lawyer for the past 17 years, I can tell you that most people ignore what I am about to share **TO THEIR PERIL**. Don't make the mistake of thinking you will be the one person out of the thousands I have represented that will be able to do this without a lawyer, or hires a lawyer without **DUI** and **SCIENCE-SPECIFIC TRAINING**. I have seen the same mistakes made repeatedly – even by other lawyers – and they are **EASILY AVOIDABLE**...if you act fast.



LET'S BE HONEST – this is a landmine of a problem and there is no way anyone without a lot of court time, experience, and intimate knowledge of a host of disciplines associated with DUI defense is ever going to be able to properly defend you.

WHAT WILL THIS BOOK DO FORYOU?



This book is written to help you after the fact and does not constitute specific legal advice for your situation, nor does it represent a client-attorney relationship. **EVERY CASE IS DIFFERENT!** The facts of your specific case are not going to be the same as your friend's case. Doing what your friend did because he or she got the case dismissed does not mean you will have the same result.

If you are reading this book hoping it will give you instructions you can use to defend yourself in a DUI case in a court of law, please understand **THIS IS NOT THAT BOOK.**

This book will advise you of the steps to take to help you find the proper lawyer to navigate you through this extremely complex area of criminal law. Believe it or not, DUI cases are more complex than some murder cases. I know that sounds incredible, but once you see that a great DUI lawyer must master several different scientific specialties, such as field sobriety tests, breath tests, blood test science, pharmacology, and metrology, and have the experience to pin down a police officer during cross-examination, know how to select a favorable jury, understand the quirks of the judge of the court and the policies of that court, and be able to instantly call up and argue diverse areas of the law.

Of course if you don't mind having a criminal conviction, losing your driver's license, having to go to probation meetings, attending drug and alcohol counseling, being forced to have an ignition lock on your vehicle, a SCRAM device on your ankle, being unable to obtain an apartment or rent a home, unable to live on campus or getting kicked out of campus housing while in college, then by all means, this book is not for you. Please read no further. I wish you the very best in your endeavors.

But if you realize that you need help and need to know what to do right away, after you have been arrested, then you have come to the right place.

THIS BOOK CAN HELP YOU!



Assassin Tip #2 – Ask a lawyer what DUI defense lawyer he or she would use if arrested for a DUI. Even if you've only used an attorney for non-criminal matters, ask for advice on whom to hire. Attorneys are generally aware of their colleagues' reputations and can guide you towards choosing a reputable DUI defense lawyer.

WHY FIGHT A DUI IN PENNSYLVANIA?



If you have been accused of DUI in Pennsylvania, your best option – really, your *only* option – is to fight back. The reason is simple: If you plead guilty to DUI, you will be found guilty of DUI 100% of the time.

If you or a loved one are facing a DUI charge in Pennsylvania, **NOW** is the time to contact a lawyer who concentrates on DUI defense.

Nothing good will come of wasting time about this serious business. The possible consequences of procrastination are not good.

At Manchester & Associates, we believe in personal relationships and personal contact with our clients. Our clients will never have to deal with an answering service. Once your case comes across our desk, our lawyers will immediately make a personal phone call to you to talk about your needs and your situation.

Your first consultation on a criminal matter is always 100% FREE. After your free initial consultation, our lawyers will always be available to you by their own phones, day or night. The lawyers and staff at Manchester & Associates are available 24/7. We understand that being charged with a crime is a **traumatic event** that requires immediate professional attention, and here at Manchester & Associates, you will receive discrete, personalized guidance in a safe and confidential setting. We are here to help you **ATTACK** your DUI charges and **FIGHT** the government's case against you.

- FINDING THE RIGHT DUI LAWYER -



Questions You Must Ask Your DUI Lawyer

How Many Trials Did You Have Last Year?

This is a pretty easy one. If your lawyer is not actively trying cases, he or she is not going to get the best deal or be able to handle a complex trial. It's only when the prosecution realizes they are going up against a trained adversary that has a winning record that the good deals get thrown on the table. If your lawyer is not able to negotiate for you from a position of strength, then don't expect any reductions, plea deals or even dismissals.

How Many Similar Cases Have You Handled?

Just because an attorney has not had a case exactly like yours before is really not important. Good attorneys master everything they need to know to get great results. But your attorney should be familiar with the type of case with which you are charged. If you've been charged with a DUI and blood was drawn, your



attorney must know all about Gas Chromatography and the science used to test your blood.

This means that your lawyer needs to be certified in the fundamentals of Gas Chromatography, Enzymatic Blood Testing, Standardized Field Sobriety Testing (SFST), Pharmacology, and Human Performance. They must

have attended training in a lab and be able to handle the complexities of these cases. So you have to be sure that your lawyer has experience in the general type of case, and if there is a lot of science or specialized learning involved – you need to make sure your lawyer has that training before hiring him or her. You want a lawyer who has used the machines your blood is tested on – not just read about it in a book!

**You only get ONE CHANCE to win –
And if you think it's expensive to hire a professional,
TRY HIRING AN AMATEUR!**

What Additional Certifications Do You Have?



Is your prospective lawyer trained in Standardized Field Sobriety Tests? Does your lawyer have certification in Gas Chromatography? Does your lawyer regularly attend training at national, state and local seminars? Has your lawyer taught at any seminars? Is your lawyer a national speaker? What is your lawyer's AVVO rating? www.avvo.com

What National, Prestigious Organizations Do You Belong To?

Does your lawyer belong to any national organizations? Are any of the organizations by invitation only? Does your lawyer teach at any of these organizations?

WHAT OTHER QUESTIONS SHOULD I ASK WHEN DECIDING WHICH LAWYER TO HIRE ?

Here is a list of some other questions you will want to ask when choosing the right attorney to represent you in your DUI case:

- **Does the lawyer regularly take cases to trial across the state?**

- Has the lawyer ever operated the testing equipment used by the state and private labs?
- **Does the lawyer have his practitioner's certification in Standardized Field Sobriety Testing?**
- Is your lawyer recognized locally and nationally?
- **Does your lawyer regularly get asked to co-counsel with other lawyers on their cases?**
- Do other lawyers refer DUI cases to your lawyer?
- **Does the lawyer belong to any non-defense related scientific organizations?**
- Has the lawyer ever instructed lawyers about field sobriety and blood testing in Pennsylvania or nationally?
- **Does the lawyer constantly attend seminars on DUI defense and the relevant scientific fields pertaining to DUI defense?**
- Did the lawyer ever get any court decisions with state-wide impact?
- **Does the lawyer belong to state and national DUI defense organizations?**
- Has the lawyer ever been recognized nationally for his scientific knowledge in science and the law?
- **CAN YOUR LAWYER DOCUMENT THIS?**



**Like All Of The Best DUI Defense Lawyers,
I Can Answer "YES"
To All Of These Questions**

**ANY DUI LAWYER YOU HIRE
TO REPRESENT YOU SHOULD BE
ABLE TO SAY THE SAME !**

WHAT CAN A SKILLED DUI ATTORNEY DO FOR YOU?

No lawyer can guarantee any type of results, but hiring a great criminal defense lawyer or DUI attorney if you have charges hanging over your head is your only choice. An experienced Pennsylvania DUI defense attorney can help turn very big problems into smaller, more manageable ones.

A Skilled Criminal/DUI Defense Lawyer Can:

- Use the law to have charges dismissed or reduced.
- **Put you in a position of strength by finding and exploiting weaknesses in the government's case.**
- Finding and exploiting flaws and weaknesses in the government's forensic evidence such as drug testing, blood testing and DNA testing.
- **Know the latest changes in DUI law and the newest court decisions relevant to your particular case.**
- Creating new legal defenses to the charges against you.
- **Negotiate favorable pleas that can lead to probation or greatly reduced jail sentences.**
- Investigate cases before charges are filed, which may result in no charges being filed.
- **Gathering evidence and/or witnesses that can be lost if too much time passes before criminal charges are filed or the case goes to court.**

You need a lawyer who is aggressive and tough, who takes his or her obligations to clients very seriously, and who will fight to win the best possible outcome with the least disruption to your life and future.

There are never any guarantees in criminal law, but take a good, hard look at your prospective lawyer's track record to see how he or she has fared in the past.

At Manchester & Associates, for example, our track record speaks for itself. Our firm has defended over 5,000 clients since its founding in 1978.

We know the law. We know how to negotiate with the prosecutions. We understand the legalities of the criminal justice system and will work tirelessly for you.

**Don't Ever Settle For
Less Than The Best
In Order To Save Money –**

IT WILL COST YOU SO MUCH MORE IN THE LONG RUN !



**The Attorneys at
MANCHESTER & ASSOCIATES**

**Know How To Challenge Blood and Roadside Tests
Which May Lead to Your DUI Charges
Being Dismissed or Reduced**

Why? Because we have committed years of study, thousands of dollars in tuition, and, through hard work and dedication to the study of DUI science, have gained valuable courtroom experience and earned critical certifications. Here are some of mine:

Certified Field Sobriety Test Instructor (Walk the line, follow the pen, 1 leg stand – My training exceeds that of most state troopers.)

American Chemical Society Forensic Gas Chromatography School (The #1 machine used to test for alcohol or drugs in your blood – not only do I know the machine inside and out, I've run many samples with my own two hands!)

American Chemical Society Forensic Drug Testing School (I learned exactly how prescription and illegal drugs – ex: Xanax, Ambien, Marijuana, Cocaine – are tested to find your drug level.)

Society of Forensic Toxicologists Member (I'm the only Pennsylvania DUI Attorney who is a member here – most other members are actual forensic toxicologists who work for the government)

American Chemical Society Member (The world's largest scientific society and one of the world's leading sources of authoritative scientific information)

Drug Recognition Expert Overview Course (If you were suspected of being under the influence of prescription or illegal drugs, this is the lengthy testing done at the police station where your pulse is taken, your pupils are checked, and other exams are performed)



Assassin Tip #3 – Treat this like a job interview! Ask questions **before** you hire legal counsel, just like you would before hiring an employee for a business. The lawyer you choose will be working for you. Make sure he or she has the right credentials and plenty of actual courtroom experience.

DEBUNKING THE SCIENCE BEHIND BLOOD TESTS IS THE #1 WAY IN PENNSYLVANIA TO GET A “NOT GUILTY” OR “REDUCED CHARGES” RESULT

Blood and Roadside Tests **HAVE MANY FLAWS** and are often the best places to look to fight your DUI.

Roadside Tests – Were you asked to step out of the car, walk a straight line, follow the policeman's fingers with your eyes, or stand on one leg and count? These “tests” were never meant to show you're impaired,, only gauge your blood alcohol content (according to Doctor Marcelline Burns, who created them in the 1970's).

In reality, a Standardized Field Sobriety Test (SFST) can be wildly inaccurate. Police use them to **find a reason** to arrest you (this is called “probable cause”) and test your blood. Police often do them wrong and/or score them wrong. But there are numerous factors that can affect the reliability of these tests. Do you have a physical condition that would affect your balance? Were there other factors that interfered with your ability to follow the police officer's directives?

In other words, **you may not have “failed”** the Standardized Field Sobriety Tests, which may help to get your DUI charges dismissed or reduced.

Blood Tests – These can have wildly different, or just plain incorrect, results. Calibration errors, false positives, contamination from other samples, combinations of drugs and alcohol that exaggerate results, and lack of requisite training by lab personnel are notoriously responsible for misleading, incorrectly interpreted, or just plain wrong results.

Prescription Drug DUI – Unfortunately, sick and injured people who take legally-prescribed medication to help them sleep, relieve anxiety and depression, and cope with chronic pain and other debilitating ailments, are attacked as criminals and charged with a drug-based DUI (DUI-D). But do you have a prescription? A high tolerance for your medication from long-term use? Other physical ailments could that could interact with your prescription meds? You may not have been impaired at all, despite the level of medication in your system – only a science-focused DUI lawyer looks here to defend you.

Illegal Drug DUI – Were marijuana, cocaine, heroin, or other drugs found? Was your vehicle or person searched according to the constitution, or were you subject to an unlawful search and seizure? Even if you gave consent to the search, there may be a way to invalidate the search – talk to a lawyer about the specific details of your case to evaluate possible ways to have the search declared unconstitutional. And how about the lab testing used to find the levels of drugs in your blood? Were active metabolites (waste products of blood) found, and if so, in what levels? False positives, bad testing, contamination and wrong results abound that can potentially be used to defend you.

An Experienced Lawyer Trained in DUI Science Can Help You!

Extensive scientific and legal training, coupled with intense, detailed focus on building defenses tailored to your particular set of circumstances, often result in:

- Dismissal of the DUI charges,
- Lesser DUI-related offenses, or
- Non-DUI offense charges (ex: reckless endangerment ***instead of*** the original DUI charges you were facing, making your case ripe for settlement for far less than you originally feared you'd face.

And if your case must go to trial? Knowing you have a science-based defense and a skilled, aggressive trial lawyer – trained by the best in the art of cross-examination and jury selection – gives you the best chance to hear a verdict of “**Not Guilty**” or “**Case Dismissed.**”

- TYPES OF PENNSYLVANIA DUI'S -

First Offense DUI:



The severity of a First Offense DUI conviction depends on your Blood Alcohol Content, or BAC. This measures how much alcohol was in your blood stream when you were pulled over and tested. The higher your BAC, the stiffer the penalties will be.

The state of Pennsylvania defines three tier levels of impairment in a first DUI, which are based upon your BAC:

Tier # 1 – General Impairment

Criteria:

- **BAC between .08 and .099%**
- **Incapable of safe driving**
- **No injury or property damages**

Penalties:

- Up to six months probation
- No license suspension
- No mandatory jail time
- No ignition interlock
- Fine of \$300
- \$50 surcharge
- \$100 Substance Abuse Education and Demand Reduction Fee
- Drug & Alcohol treatment when ordered
- DUI school
- ARD eligible

Tier #2 – High Impairment

Criteria:

- **BAC between .10 and 0.159%**
- **Minors: BAC between .02 and 0.159%**
- **School Bus Driver: BAC between .02 and 0.159%**
- **Commercial Vehicles: BAC between .04 and 0.159%**
- **Accident with Property Damage**

Penalties:

- Prison sentence of 2 days to 6 months
- License Suspension for 12 months (OLL after 60 days)
- Fines of \$500 to \$5,000.
- \$50 Surcharge
- \$100 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- DUI school
- ARD eligible
- No ignition interlock

Tier #3 – Highest Impairment

Criteria:

- **BAC of .16 or higher**
- **Refusal to take a breath test**
- **Controlled substance DUIs**

Penalties:

- Prison sentence of 3 days to 6 months
- License suspension for 12 months (OLL after 60 days)
- Fines of \$1,000 to \$5,000
- \$50 surcharge
- \$300 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- DUI school
- No ignition interlock

There are a few other important things you need to know about a first-time DUI offense. First, even though this is your first offense, you could face severe consequences. A DUI conviction can wreak havoc with your life on a personal and professional level. The Commonwealth of

Pennsylvania will almost certainly try to prosecute you, and if you are convicted, the consequences can follow you forever.

In addition, a DUI conviction – even a first offense – will remain on your permanent, public criminal record. This means that future employers, landlords, lenders, or anyone else with an interest in your past can see it. Drivers convicted of a DUI often see a marked increase in their insurance rates and can be dropped by their insurance provider altogether.

As you can see for yourself, the potential penalties of a First Offense DUI are nothing to joke about. If you find yourself accused of a First Offense DUI in Pennsylvania, you will want to retain a professional, well-educated DUI defense attorney who is skilled in all aspects of DUI law to fight aggressively for you to minimize or eliminate the charges against you.

Second Offense DUI:

If you've been accused of a DUI in Pennsylvania and you have a prior DUI conviction on your record – even if it's a DUI from a different state – you should already know that this time around, you're facing stiffer penalties, including:

- Mandatory Jail Time
- License Suspension
- Ignition Interlock
- Thousands Of Dollars In Fines



The severity of a Second Offense DUI conviction depends on your Blood Alcohol Content, or BAC. This measures how much alcohol was in your blood stream when you were pulled over and tested. The higher your BAC, the stiffer the penalties will be.

The specific consequences you face for a Second Offense DUI conviction will be based on your Blood Alcohol Concentration, or BAC, which is the amount of alcohol present in your system at the time you were arrested and tested. The higher your BAC, the more severe the penalties are.

The state of Pennsylvania defines three tier levels of impairment in a first DUI, which are based upon your BAC:

Tier # 1 – General Impairment

Criteria:

- **BAC between .08 and .099%**
- **Incapable of safe driving**
- **No injury or property damages**

Penalties:

- 5 days to 6 months prison sentence
- License suspension for 12 months
- Fines between \$300 and \$2,500
- \$100 surcharge
- \$100 Substance Abuse Education and Demand Reduction Fee
- Drug & Alcohol Treatment when ordered
- DUI school
- ARD eligible under limited circumstances
- 1 year ignition interlock

Tier #2 – High Impairment

Criteria:

- **BAC between .10 and 0.159%**
- **General BAC with an accident or injury**
- **Minors: BAC between .02 and 0.159%**
- **Commercial Vehicles: BAC between .04 and 0.159%**

Penalties:

- Prison sentence of between 30 days and 6 months
- License suspension for 12 months
- Fines of \$750 to \$5,000.
- \$100 Surcharge
- \$100 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- DUI school
- 1 year ignition interlock

Tier #3 – Highest Impairment

Criteria:

- **BAC of .16 or higher**
- **Refusal to take a blood or breath test**
- **Controlled substance DUIs**

Penalties:

- Misdemeanor of the First Degree
- Prison sentence of 90 days to 5 years
- License suspension for 18 months (OLL after 12 months)
- Fines of \$1,500 to \$10,000
- \$100 surcharge
- \$300 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- DUI school
- 1 year ignition interlock

If you refused the breath test, you will automatically be charged under the Highest Impairment category, regardless of your BAC. Further, the DUI conviction will appear on your permanent, public criminal record. That means that all future employers, landlords, neighbors, lenders, or anyone else that has an interest in your past can look it up.



In addition, drivers convicted of a second DUI will have increased car insurance rates, or may be dropped by their current car insurance provider. The court can also require you to use an ignition interlock device on your car., which will not permit you to start your car until it tests your breath and verifies that you do not have alcohol in your system. This device must be paid out-of-pocket at a typical price of \$1,000 or more.

Finally, if your DUI case involves an injury, accident, property damage or death, you may be liable for sentencing enhancements with carry additional penalties from the state. You may also be civilly liable for any damages from other people involved in your DUI.

**A Second Offense DUI raises the stakes considerably.
That's why it is crucial to have an experienced, well-educated
DUI defense attorney in your corner to fight for your rights, your
freedom, your driver's license and your future!**



Assassin Tip #4 – Be honest with your lawyer! If you are charged with a DUI, tell your attorney everything. Don't hold back details due to embarrassment or because you think they may not be important. Your lawyer needs to know exactly what happened so he can decide how best to represent you.

Third Offense DUI:

If you have already been convicted of DUI twice, you know that a Third Offense DUI in Pennsylvania is an extremely serious matter. In addition to adding a guaranteed misdemeanor conviction to your criminal record, you will face severe fines, increased jail time and the automatic loss of your driver's license for at least a year.

Like your first and second offenses, the specific penalties you will face for a Third Offense DUI will be based upon the Blood Alcohol Concentration (BAC) which was present in your bloodstream at the time of your arrest. The higher the BAC, the stiffer the penalties you will face.

The Commonwealth of Pennsylvania defines three levels of impairment in a Third Offense DUI, which are based upon your BAC at the time of your arrest:

Tier # 1 – General Impairment

Criteria:

- BAC between .08 and .099%
- Incapable of safe driving
- No injury or property damages

Penalties:

- Up to six months probation
- No license suspension
- No mandatory jail time
- 10 days to 2 years prison sentence
- License suspension for 12 months
- Fines between \$500 and \$5,000
- \$200 surcharge
- \$100 Substance Abuse Education and Demand Reduction Fee
- Drug & Alcohol Treatment
- 1 year ignition interlock



Tier #2 – High Impairment

Criteria:

- **BAC between .10 and 0.159%**
- **General BAC with an accident or injury**
- **Minors: BAC between .02 and 0.159%**
- **Commercial Vehicles: BAC between .04 and 0.159%**

Penalties:

- Misdemeanor of the Third Degree
- Prison sentence of between 90 days and 5 years
- License Suspension for 18 months
- Fines of \$1,500 to \$10,000.
- \$200 Surcharge
- \$100 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- 1 year ignition interlock

Tier #3 – Highest Impairment

Criteria:

- **BAC of .16 or higher**
- **Refusal to take a blood or breath test**
- **Controlled substance DUIs**

Penalties:

- Misdemeanor of the Third Degree
- Prison sentence of 1 years to 5 years
- License suspension for 18 months
- Fines of \$2,500 to \$10,000
- \$200 surcharge
- \$300 Substance Abuse Education and Demand Reduction Fund
- Drug & Alcohol treatment when ordered
- 1 year ignition interlock

If you have been arrested for a Third Offense DUI in Pennsylvania, there are some other important things to know. First, if you refused a breath test, you will automatically be charged under the Highest Impairment category, regardless of your BAC. Moreover, the DUI conviction will be noted on your permanent, public criminal record, which can be accessed by all future employers, landlords, lenders, neighbors and anyone else with an interest in your past.

Drivers with a Third Offense DUI are often dropped by their car insurance provider, and may have a difficult time finding (and paying for) another car insurance provider. With a Third Offense DUI conviction, the court may require you to use an ignition interlock device on your car. This device, which will not allow you to start your car until it tests and clears your breath to prove you do not have alcohol in your system. The ignition interlock must be paid for out-of-pocket and typically costs upwards of \$1,000.

Finally, if your DUI case involves an injury, accident or death, you may face sentencing enhancements that carry additional penalties from the state, as well as civil liability for damages from the other people or property involved in your DUI.

As you can see, a Third Offense DUI can be a scary thing. Your life will change dramatically if you are convicted. It is crucial that you hire an experienced, educated DUI defense attorney who will fight aggressively to protect your rights, your freedom, your driver's license and your future.

CDL License Holder

If you hold a Commercial Driver's License (CDL) in Pennsylvania, chances are that your license is your livelihood. If you've been accused of a CDL DUI in Pennsylvania, you have good reason to be nervous: **YOUR JOB IS ON THE LINE, EVEN IF YOU ARE IN YOUR OWN CAR!**



If you are convicted of a CDL DUI in Pennsylvania, you could be facing a minimum of 12 months of driver's license suspension and a 12 month minimum CDL loss. That means you won't be able to work for an entire year. If you get a second DUI conviction, you could lose your CDL for life!

Can you imagine the impact that would have on your career, your finances, your family, and your life? That is why it is so important to have a full

understanding of CDL DUI laws and penalties. You need to be fully informed so that you can stop your life from running off the road!

The legal limit for Blood Alcohol Content (BAC) while driving a commercial vehicle is much lower than it is for non-commercial drivers. The State will consider you to be impaired for a BAC as low as .04 – a full 50% lower than the legal limit for non-commercial drivers. At that rate, you could be considered over the limit after a single drink.

If you are a school bus driver, a single beer could land you in the State's High Impairment tier. School bus drivers with a BAC of .02 or above are automatically bumped up a category and face stiffer penalties. For other CDL drivers, a BAC of .04 – or about two beers – will put you in the high impairment category.

These are only the consequences from the Commonwealth of Pennsylvania. CDL drivers convicted of DUI often lose their jobs. They can face dramatic increases in their insurance rates – both personally and professionally – and are often dropped outright by their insurance companies.

**Don't let this happen to you.
Don't try to face CDL DUI charges alone.
You need to hire an experienced, educated DUI defense
attorney who will fight aggressively to protect your rights,
your freedom, your driver's license and your future.**

Professional Licenses:

Many people make the mistake of assuming that a DUI is irrelevant to their professional licenses. That idea couldn't be further from the truth! The reality is that a DUI conviction can cause long term, unexpected problems with your career and reputation.

Some licenses may be revoked or suspended as a result of your DUI conviction. In some professions, future license applicants may be rendered ineligible for licensing due to a DUI. In many cases, the professional license holder is required to report the conviction to the respective Board or Employer right away. As such, it is essential to seek legal counsel immediately after the arrest.

Here are just a small sampling of the licensed professionals affected by a Pennsylvania DUI:

Lawyers – A DUI conviction must be reported to the Disciplinary Board of the Supreme Court of PA, which governs lawyer licensing. If you fail to disclose your conviction, you may face disciplinary action, which can vary greatly, depending on your record. Your ability to obtain professional insurance can be compromised, or you may face higher insurance rates as a result of your conviction.

Teachers, School Administrators, Paraprofessionals and Other School Employees – Pennsylvania State Law requires teachers to complete a standardized form indicating whether the school employee has been convicted of a criminal offense. DUI is one of the offenses school employees are required to report. If the DUI involved drugs, a high BAC, or more than one DUI, you may lose your teaching or administrative license. Many schools also require the disclosure of convictions on new employee applications, making it difficult to compete for a job in Pennsylvania's highly competitive school system.

There are many political aspects that can affect your standing as a teacher as well. Parent and political groups like MADD start letter-writing campaigns to the school board, which may force them to take harsh action against an employee charged with, or convicted of, a DUI in Pennsylvania.

Police – A DUI conviction is handled internally within a police officer's municipality. The degree of penalties and consequences resulting from a DUI conviction may depend on the type of DUI and the number of previous convictions. Like school employees, police officers are subject to the politics of their field, which could lead to an officer's suspension or termination.

Pilots – A pilot is required to report the conviction and any resulting driver's license suspension to the Federal Aviation Administration (FAA) and the Civil Action Security Division within 60 days. Otherwise, your pilot's license is in jeopardy. Because of liability issues, some commercial airlines have been known to fire pilots charged with a DUI, even if it is a first-time offense.

Stock Brokers – A stockbroker is required to report any conviction to the Financial Industry Regulatory Authority. Failure to disclose the DUI

immediately could lead to your disqualification. Large brokerage firms typically require their stockbrokers to report DUI convictions. Your ability to obtain professional insurance can be compromised, or you could face higher insurance rates.



Assassin Tip #5 – Take pictures of the scene if there was an accident. Measurement of skids marks and a diagram of the scene may also be helpful to show the other driver was at fault, or that road conditions caused the accident.

Medical Professionals Affected by a Pennsylvania DUI:

Doctors – A doctor convicted of a DUI is subject to a hearing before the State Medical Board to evaluate his or her character and fitness to practice medicine. You may have to report any criminal charge, regardless of whether a conviction actually took place, or you may simply lose your ability to practice medicine. A DUI conviction can also impact your ability to obtain malpractice insurance, or cause your insurance rates to increase dramatically.

Dentists – If you are a dentist convicted of a DUI, you are required to report the conviction on your license renewal application. If you are a first-time applicant, you are also required to disclose this information on your initial license application. A conviction can impact your ability to obtain malpractice insurance, or cause your insurance rates to skyrocket.

Nurses – A nurse convicted of a DUI will be required to report the conviction, plea, or ARD program participation or reciprocal discipline to the Pennsylvania State Board of Nursing at biennial renewal.

EMT's – If you have been convicted in the last four years of a DUI in Pennsylvania, it is unlikely you will be able to receive EMT certification. If you are currently an EMT facing a DUI conviction, you will be required to report it to the PA Department of Health within 30 days, and will probably receive an automatic license suspension.

If you are a licensed professional, or will be seeking a Professional License in the state of Pennsylvania, and you are facing a PA DUI charge, it is imperative to seek help from an experienced DUI Lawyer who works with Professional Licenses!

Pennsylvania DUI With Accident Or Injury:

If you are charged with DUI in Pennsylvania and there was an accident or injury involved in your case, you could be subject to something called “sentencing enhancements.”



Sentencing enhancements are one of the major concerns when it comes to DUI charges in Pennsylvania, and one of the reasons you should consider hiring an educated, experienced attorney. Sentencing enhancements occur when the district attorney increases your potential punishment in your DUI case. There are several sentencing enhancements that can impact your DUI charges in Pennsylvania. These include increased fines, increased jail time and increased license suspension periods.



Assassin Tip #6 –Check your lawyer’s AVVO rating. AVVO is an online legal services marketplace that provides lawyer ratings you can peruse when searching for a qualified DUI defense lawyer.

Sentencing Enhancements for DUI Accident Cases:

If there are serious bodily injuries involved, the district attorney may try to pin on you is Aggravated Assault While Under The Influence. This is an extremely serious charge that is considered a Second Degree Felony according to Pennsylvania law. These sentencing enhancements can result in severe punishments, including a maximum of 10 years in jail and up to \$25,000 in fines.

**WHEN FACING A DUI ACCIDENT CASE,
YOU DON’T WANT TO “GO IT ALONE.”**

THE STAKES ARE SIMPLY TOO HIGH!

DUI Homicide:

If your charges involve the death of another person while driving under the influence of drugs or alcohol, this is an incredibly stressful time for you. Not only have you been through a terrible trauma, but you may also be terrified of what is going to happen next to you. The good news is that you don't have to face this difficult time alone.



If your DUI charges involves the death of another person, you are facing a Felony of the Second Degree. So you can be charged with one count of homicide for each person whom the court can prove died due to your driving under the influence. If convicted, you can face a minimum of three years in jail, with a maximum of 10 years in prison, for each person who lost their life as a result of your accident. You can also be fined up to \$25,000 for each individual who died, and if more than one person died, the sentences are consecutive.

Emotions run high during DUI Homicide cases. You can expect the state of Pennsylvania to work hard to convict you by calling expert witnesses to prove your guilt and make the case that you deserve the harshest punishment the law allows.

When facing severe punishment for a DUI Homicide, it's easy to give up hope. But don't plead guilty just yet, even if you feel guilty and believe you deserve to be punished. There are criminal defense lawyers available with full teams of experts available to back you up, including accident re-constructionists, chemical test and substance abuse experts and DUI attorneys with specialized DUI training equal to or greater than that of PA State Troopers.

Make the smart choice and find an experienced litigator with extensive courtroom experience who can make the trial process easier by standing up for you in court.

MAKE THAT CHOICE US!

Additional Penalties for DUI Accidents and DUI Charges in PA

DUI charges are serious offenses in Pennsylvania. The main goal of PA DUI laws is to keep the roadways safe. Driving under the influence of drugs and/or alcohol impedes on that safety, which is why most DUI cases in Pennsylvania are prosecuted to the fullest extent of the law. When somebody is injured or killed, the drunk driver can be held responsible for both criminal and civil liabilities connected with the accident.

Pennsylvania DUI laws specify that a drunk driving accident that results in the injury to, or death of, another person places liability on the impaired driver for a number of criminal charges that go beyond the normal range of DUI charges. These additional charges that could be charged in a Pennsylvania DUI Accident cases include:

- Assault
- Manslaughter
- Reckless Endangerment
- Vehicular homicide
- Third Degree Murder

DUI Accident cases can involve very serious criminal charges, like those stated above. They can result in serious felony-level consequences including, but not limited to:



- Years in state prison
- Huge fees and associated costs
- License revocation
- Permanent criminal records
- Civil liabilities

**Civil liabilities connected with
PA DUI Accident cases can be debilitating as well.
Don't face this alone. Find an experienced, educated
DUI Defense Lawyer to fight for you!**

Underage DUI:

If you are under the age of 21 and consumed alcohol before driving, you knew you were in big trouble the moment you got pulled over. Driving under the influence is illegal in Pennsylvania, but so is underage drinking. What happens when you are accused of both?

The first thing you need to know is that any driver under the age of 21 who is arrested for DUI in Pennsylvania is automatically charged under Pennsylvania's High BAC tier. Even if this is your very first offense, even if you only have a minimal amount of alcohol in your system, your punishment is going to be severe.



The minimum penalties at the High Impairment tier include at least two days (and up to 6 months) in jail, a fine of anywhere between \$500 and \$5,000, and a 12 month license suspension. This means you won't be driving again for at least a year.

And the consequences don't end there. Drivers under the age of 25 – even those with clean records – pay a lot more for car insurance than older drivers do. If you factor in an underage drinking DUI, your insurance rates will skyrocket; that is, if you can even find someone willing to insure you.

Even worse, your DUI conviction will be noted on your permanent, public criminal record, which can be accessed by all future employers, landlords, lenders, neighbors and anyone else with an interest in your past. Having a DUI conviction on your record can even affect your future interactions with college admission departments and could potentially impede your ability to obtain a job in your chosen profession. If you are in college, you can also face disciplinary action from your school.



Assassin Tip #7 – Take a lawyer to represent you in academic disciplinary actions. The best DUI lawyers also know how to represent students who are facing expulsion or even lesser consequences. Talk to your lawyer about your school's disciplinary policies and procedures.

Prescription Drug DUI

Under Pennsylvania impaired driving laws, police can charge you with drugged driving, or DUI-D, even if you are taking a prescription drug under a valid prescription. The rationale behind this is that some legally prescribed drugs may cause impairment.

You can be arrested for consuming a variety of prescription drugs. Some prescription drugs that I have seen drivers arrested for are:



- Xanax
- Klonopin
- Oxycodone
- Methadone
- Ambien
- Prozac
- Valium
- Vicodin
- Ativan

A DUI arrest for prescription medication in Pennsylvania puts you at serious risk for losing your license and having a permanent criminal record. If arrested for DUI of prescription medicine, you will be charged with a DUI Controlled Substance, which is a very serious offense. You can be charged with this type of DUI even if the substance is legal and was prescribed by your doctor.

Even if this is your first and only offense, the charges you face for an arrest of DUI of prescription medication are more serious than a general impairment, first-time DUI for alcohol.

The maximum fine for a first-offense DUI controlled substance is \$5,000, a one-year license suspension and other possible sentencing including a minimum of 72 hours of imprisonment.

Remember that no case is hopeless, regardless of the circumstances. You have many rights and understanding those rights is the first step to getting your charges reduced or dropped altogether. Talk to an experienced DUI lawyer who can explain your rights and consider every option available to build a strong defense.

You should hire a lawyer with advanced scientific knowledge because DUI-D cases involving prescription drugs involve a lot of science. There are thousands of different types of prescription drugs that cause a variety of reactions. Prescription drugs often affect different people in wildly different ways.

A DUI Lawyer educated in DUI-related science will review your blood test results to build a defense to your charges. An experienced, educated lawyer must ask the following questions:

- **Has the driver taking the medication actually been impaired by it?** There must be a connection between the medication taken and the alleged driver impairment.
- **How much was the driver impaired, if at all?**
- **Does the medication actually cause the impairment or is it due to another reason?** Lack of sleep, allergies, illness and many other factors can cause symptoms that closely resemble the symptoms of impairment.
- **Should you hire an expert?** If you hire a lawyer who knows the science behind the test results, he will be able to point out issues that may require expert testimony. Often the District Attorney hires an expert. A DUI Defense Lawyer will know when it is wise to hire your own expert.
- What drugs were actually found? I have had many cases where a driver was charged with a controlled substance DUI based on drug metabolites that aren't even illegal!

Those questions are only a small sample of the issues your DUI lawyer will explore while building your defense. But you need a lawyer who knows the science. Your DUI lawyer should be able to read the test results and thoroughly explain them to you.

**I AM A LAWYER-SCIENTIST -
READY TO COMBAT
YOUR DUI-D BLOOD TEST!**

Illegal Drug DUI

If you are arrested for a DUI while using an illegal controlled substance, you face license suspension, hefty fines, and possible jail time. In Pennsylvania, Driving under the Influence of a Controlled Substance convictions are punished very harshly.

The state of Pennsylvania has a “per se” law when charging DUI-D cases. That means if any amount of any drug that is on a specific list is found in your system at the time of your arrest, you will face harsh consequences. For example, the High Impairment laws apply regardless of the amount of illicit substance found in your system.



Being arrested for DUI-D Controlled Substance, whether it was marijuana, cocaine, heroin or other illegal drugs, is a very serious offense with severe penalties. Given the wide range of possible DUI-D criteria, and the limitless number and types of illegal drugs, the penalties are astonishingly narrow and severe.

A first-time DUI-D for controlled substances can include a prison sentence of up to six months, a 12-month driver’s license suspension, and a fine of up to \$5,000. If this is your second or third offense, the penalties sharply increase.

Designer Drugs:

Recent changes in Pennsylvania law has made designer drugs such as bath salts and synthetic marijuana, sometimes called Spice or K2, illegal. These are drugs, which are made in a laboratory, are now banned and classified as “Schedule 1” drugs.

Your DUI trial lawyer will examine the specific findings in your blood test results to ascertain whether or not the designer drug you ingested is one that is banned under PA law. You need a lawyer who is trained to decipher the blood test results and knows how to challenge them in court.

PA Drug DUI and DUI-D Laws

Being accused of Driving Under the Influence of Drugs – or DUI-D – is a very serious charge in Pennsylvania. You will be facing some very severe penalties.



DUI-D cases are a very specialized type of DUI case with their own laws and penalties. First of all, DUI cases involving drugs are automatically charged at the state's Highest Impairment tier – no matter what level of drug is found in your system.

The State of Pennsylvania uses a “per se” law when charging drivers in a DUI-D case. That means that if any amount of drug on a specific list is found in your system at the time of your arrest, you'll face the most extreme consequences under the Highest Impairment tier. Even worse, the High Impairment laws apply regardless of the legality of drugs in your system. Everything from illicit substances to harmless prescription and over-the-counter drugs may fall under the per se rules. Given the wide range of DUI-D criteria, the penalties for a DUI-D conviction are surprisingly narrow and severe.



Assassin Tip #8 – Don't admit to smoking marijuana, even it was days or weeks ago. Metabolites can stay in your blood for a long time, making you at risk for a DUI-D. If you've been pulled over after smoking and the officer asks if you've been smoking, say nothing. Exercise your right to remain silent and politely decline to answer. **If you say, “yes,” you will be arrested!**

Pennsylvania DUI-D Penalties

DUI cases involving drugs are automatically charged at the state's Highest Impairment Tier, meaning they are subject to the harshest consequences for DUI in Pennsylvania. The penalties for a DUI-D include:

First Offense:

- Jail sentence from 3 days to 6 months
- License suspension for 12 months
- Fines between \$1,000 and \$5,000

Second Offense:

- First degree Misdemeanor conviction
- Jail Sentence of 90 days to 5 years
- License suspension for 18 months
- Fines of \$1,500 to \$10,000

Third Offense:

- First degree Misdemeanor conviction
- Jail sentence from 1 year to 5 years
- License suspension for 18 months
- Fines of \$2,500 to \$10,000



A DUI-D conviction will be noted on your permanent, public criminal record. This means that any prospective employer, landlord, loan officer, or even a nosy neighbor can probe into your past and see your DUI-D conviction. And because that DUI-D conviction never goes away, it can often complicate future job applications and car insurance rates far into your future.

Every DUI-D case is different, because everyone processes drugs from their system at a different rate. You can be considered under the influence of drugs legally and/or accidentally, even if the drugs in question are over-the-counter or prescription medication. But try proving that to the court by yourself!

The police officer that arrested you may have violated the state or federal constitutional protections against unlawful search and seizure and/or reasonable suspicion laws when they pulled you over. But chances are, you wouldn't even realize it without obtaining legal counsel. And even if you did, how would you prove it in court?

You need to hire an experienced, well-educated DUI-D defense lawyer to help you with your case. There are lawyers who are highly trained in the nuances of DUI-D cases, with superior knowledge of forensic science and an aggressive courtroom style, who can fight for your rights.

**WE ARE SOME OF THE LAWYERS
WHO CAN DO THAT!**

Pennsylvania DUI Law and Medical Marijuana:



Pennsylvania recently became one of the ever-growing list of states that have made medical marijuana available for chronically ill people. However, the new law did not address, nor change, the current DUI laws. As such, considering the archaic nature of the Pennsylvania Criminal Code, it remains illegal to drive with **any amount** of marijuana in your system.

Pennsylvania has a zero-tolerance policy when it comes to driving, operating, or being in actual physical control of a vehicle while you have any amount of marijuana or marijuana metabolites in your blood. This means that a driver can be charged with a marijuana-related DUI based upon the mere presence of marijuana, even if there is no evidence that the person is “high” or actively under the influence. This is where many drivers get a terrible surprise: when a person uses marijuana, it releases several substances in the blood stream. The “active” component (the stuff that causes the “high” feeling) usually works its way out of the blood in a very short time, usually less than a few hours. Then your body produces metabolites, which are the chemicals your body turns marijuana into. Metabolites can stay in your system for days, weeks, or even months, depending on how much and how often you use marijuana. What this means is that a driver in Pennsylvania who has used marijuana days, or even weeks or months prior, and who has their blood tested on suspicion of DUI, may legitimately be charged with a drug-based DUI in Pennsylvania – even if there was no evidence that the person was under the influence at the time!

Further, what if you’re not even actively driving or operating your car? What if you’re simply parked along the road? Driving and operating a vehicle are obvious terms – if a driver is on a road or highway, he is driving. But what does the phrase “being in actually physical control” mean? It could incorporate non-moving conduct, such as sitting in a parked vehicle with the keys in the ignition or with the engine running.

There are currently **no medical marijuana laws to protect drivers in Pennsylvania or elsewhere**. It is irrelevant if a patient's ID card is from a state that either permits medical marijuana patients to drive or otherwise legalizes marijuana. That means that driving under the influence of marijuana, including medically-prescribed marijuana, could potentially result in an individual being arrested for a DUI-D offense in Pennsylvania.

The degree to which a driver is impaired by marijuana use depends a lot on the individual and how regularly he or she uses marijuana. Drivers with relatively high levels of THC in their systems may not be impaired at all, especially if they are regular users, while others with relatively low levels may be completely unsafe behind the wheel. In addition, frequent marijuana users can exhibit persistent levels of the drug long after use, while THC levels can decline more rapidly among occasional users.



What will Pennsylvania do with its DUI laws once the medical marijuana laws become active? The truth is that nobody knows what will happen! That is why you should hire an experienced DUI defense attorney who will keep you up-to-date on the current laws and will closely monitor the legislature and current case law to determine how it will impact your particular case.

It is anticipated that prosecutions for Marijuana-related DUIs will increase in the years to come. Relaxed laws for possession and use of marijuana, including legally-prescribed medical marijuana, mean that more drivers will unknowingly walk into a trap. Even those who lawfully use marijuana in another state may find themselves facing criminal charges for later driving in Pennsylvania, even if they never used marijuana at all in this state.

This is a trap that many will fall into, but a qualified criminal defense attorney specializing in DUI defense law can help!

A LAWYER-SCIENTIST LIKE BRIAN MANCHESTER CAN HELP YOU FIGHT YOUR MEDICAL MARIJUANA CHARGES!

How To Fight A Marijuana DUI in Pennsylvania:

Many first-time offenders will be eligible for Pennsylvania's Accelerated Rehabilitative Disposition (ARD) program. Upon successful completion of this program, all DUI charges qualify for dismissal and/or expungement.

Similarly, some defendants may enjoy the benefit of placement in a county's Drug Court for marijuana-related cases. In some counties, successful completion of Drug Court permits the same DUI charges to be dismissed or expunged. A good DUI defense lawyer can help you with this.

For the marijuana DUI-D defendants who are ineligible for the ARD program or Drug Court, there are still options available to fight the charges, such as:

- A member of law enforcement must be within his **jurisdiction** to approach, investigate, or arrest an individual.
- A member of law enforcement must have **reasonable suspicion** to stop a moving vehicle or detain a person in a non-moving vehicle.
- A law enforcement officer must have **probable cause** to arrest a person for a marijuana-related DUI.
- Defendants have the right to **cross-examine** and **discredit** an officer's testimony regarding impairment.
- Blood tests must be obtained with a driver's **consent** or a valid **warrant**.
- Blood tests must be administered pursuant to **specific rules and regulations**.
- Even if a blood test shows the presence of marijuana, the test must still be **admissible** in a court of law.



Assassin Tip #9 – Don't talk on the prison phones. Yes, you're entitled to a phone call, but all calls are monitored and recorded, and law enforcement DOES listen to them. Call a lawyer, but don't discuss anything with anybody over the phone. What you say **WILL** be used against you later!



6 Important Things To Remember If Pulled Over or Arrested For A Marijuana-Related DUI:

If you or a loved one have been arrested or accused of a marijuana-based DUI, there are six important things to remember:

1. **Don't say or do anything other than identify yourself and present required documentation.** By law, when you are pulled over in Pennsylvania, you must show your driver's license, insurance card and registration documents. However, you aren't required to answer any other questions or take any tests, including field sobriety tests. The best thing to do is be polite and cooperative, but always insist on having an attorney present before you answer any questions or take any action that could accidentally harm your case.
2. **Consult a DUI Defense Attorney right away** to preserve your options, including eligibility for ARD or Drug Court. Don't make the mistake of assuming your case will turn out just like your neighbor's did, or like a case you heard about on the news. The facts and circumstances surrounding your arrest are unique, and that alone makes your DUI case different from anyone else's case. Sit down with a qualified DUI defense lawyer and discuss the particular details of your DUI to see how the law will impact you and your future.
3. **Hire an experienced, educated DUI defense attorney** to aggressively represent you in all hearings and negotiations in your case, including the preliminary hearing. Some people make the tragic error of waiving the preliminary hearing before they talk to a lawyer. This can be a huge mistake, because the testimony given at a preliminary hearing could potentially be useful later in defending your case. But you will need an experienced DUI defense lawyer to properly elicit and preserve the testimony from your preliminary hearing. Don't waive the preliminary hearing or otherwise give up your rights to due process unless and until you have consulted an attorney and been informed as to your rights in the upcoming court process.

4. **Do not speak to, text, write or otherwise communicate to anyone about your case**, especially the arresting officer, the prosecutor, or other members of law enforcement. If you have gotten charged with DUI, you might want to seek comfort from the people you love the most, but be careful—the ban on talking about your case extends even to close friends and family members. In fact, the only person you really should discuss the details of your case with is your lawyer, because then the “attorney-client privilege” protects your confidentiality.



Assassin Tip #10 – Don’t bargain shop. It’s normal not to want to overpay for anything, but looking for a cheap criminal lawyer can cost you in the long run. A lack of clients, experience, credentials and personal attention to individual cases may be the reason the attorney is unusually inexpensive.

5. **Do not post anything to social media platforms about your case**, including Facebook, Twitter, Snapchat, and Instagram. You’ve heard the expression, “Everything you say can be used against you in a court of law.” Well, this applies to everything you write, too! You may think that only your friends and family have access to your social media posts, but that may not be true. Law enforcement could potentially access anything you put online. Be certain not to talk or write publicly about anything concerning your charges and the circumstances surrounding your arrest.
6. **Write down everything you remember about the night of the arrest**, from the pre-arrest period to when you were released from the police station. If there are any witnesses, have them write down everything they remember too. **Give these written accounts ONLY to your attorney!**



FREQUENTLY ASKED QUESTIONS

How Much Does A DUI Cost In Pennsylvania?

THE SHORT ANSWER IS “IT DEPENDS”

The ultimate cost of your DUI depends on the particular circumstances of your case. Factors that will affect your total expense include what your Blood Alcohol Content, your prior record (if any), your license type (Is it a commercial license or a non-commercial license?), your age (Are you under 21?), and whether your case involved an accident, injury or death.



Obviously, a conviction will cost you a significant amount of time and money, so **your first consideration should be hiring an experienced, educated DUI defense attorney** to fight your charges or negotiate a good deal for you. But good legal representation costs money too, and if you're already concerned about potential fines and loss of income, you may wonder why the additional cost of a DUI lawyer is worth it. Wouldn't it be cheaper just to plead guilty on your own? Not when you consider all of the various costs that accompany a DUI conviction:

Traffic School:

If you are convicted of a DUI in Pennsylvania, you will be required to attend traffic school on your own time and at your own expense.

Fines:

The minimum fine for a first offense DUI in Pennsylvania is \$300, but depending on the circumstances of your case, your fines could be as high as \$10,000.

Insurance Rates:

If you are convicted of a DUI, your car insurance rates are certain to go up significantly. And that's assuming your insurance company doesn't just drop you.

Loss of Driver's License:

A DUI conviction may result in a loss of your driver's license for a period of time. If you have a Commercial Driver's License (CDL), the resulting loss of license can cost you your ability to work if your profession requires you to drive.

Interlock Devices:

For a second or third offense, you'll be required to pay for an interlock device for your car. An interlock device is a type of personal breathalyzer that will not allow you to start or drive your car until after it has tested your breath and determined you do not have alcohol in your system. The price for a typical interlock device is upwards of \$1,000.

Probation Costs:

After you are convicted of a DUI or enter into the ARD program, you will have to pay monthly supervision fees to the probation department. Each county sets its own supervision fees, which can become quite burdensome.

Lost Time and or Jail Time:

Even if you're not convicted, at the very least you will need to take time off work for your court dates. But things get a lot scarier if you are convicted of DUI. A DUI conviction for anything more than a first offense with a low BAC results in mandatory jail time of anywhere from a minimum of 2 days to a maximum of 1 year. Add that potential loss of work time and job income to the overall cost and you will see the expenses are rapidly adding up to big bucks.

Criminal Record:

Your DUI conviction will be noted on your permanent, public criminal record where anyone, including your present or future employers, landlords, and others can access it.

Can you put a dollar value on staying out of jail, on protecting your permanent record, or on retaining your ability to drive your car when you want or need to?

When you add up the potential costs of a DUI conviction, you can see why hiring the best, most experienced, and most knowledgeable DUI lawyer to defend you can actually

SAVE YOU MONEY IN THE LONG RUN!

How Long Will This Entire Case Last?

This is totally dependent on the county in which you are charged. Some counties have almost all misdemeanor DUI cases resolved in 6 months or less. The judges in those counties pride themselves on how quickly they resolve cases. It is their only measuring stick against each other so it is how they gauge their court prowess. In other counties, DUI cases can take a year or even longer.



The bottom line is that the problem is not going away quickly. In order to reach a favorable resolution, it will take some time – and a lot of hard work.

There are discovery items to review, videos to watch, reports to study, witnesses to interview, etc. A good lawyer will visit the scene so they understand what happened. All the witnesses will be contacted and their stories reviewed against the evidence and officer statements. This is a lengthy process but it must be performed thoroughly in order for you to make an intelligent decision about whether to accept a plea bargain agreement. Without reviewing all of the evidence, you cannot decide whether or not the government would be able to prove its case if it went to trial.

I talk to people that think because they had something to drink and then drove an automobile, they must be guilty of DUI. But whether or not you think you are guilty is not the issue. Whether the government can **PROVE** you were over the legal limit and were driving impaired is the only issue in these cases!



Can I Switch Lawyers If I Feel My Current Lawyer is Not Right For Me?

If you have a private lawyer, you can switch if you feel he is not defending you properly. If you have a public defender and want a private lawyer, that

can be done as well. The lawyer you wish to hire will contact your current lawyer to change your representation and will notify the court of the change on your behalf as well.

Should Cost Be a Factor When Retaining A DUI Lawyer?

This is simple: you get what you pay for. DUI defense is complex. So, if you want a great attorney who is ...

- Trained in the DUI science (blood tests, drug metabolism, chemical compounds, etc.)
- Trained in SFST administration and certified as a SFST instructor
- Knows the court system in-and-out and is familiar with the key players (District Attorney, Judge, Law Enforcement Officers)
- Up-to-date on the latest changes in the legislature as well as recent judicial decisions
- Has a good reputation with the courts
- Experienced and active in litigating science-based DUI cases



... then you're going to pay more than if you hired someone without the training, background and experience needed to successfully litigate sophisticated DUI issues.

Furthermore, experience, by itself, is not enough. What is the experience they have? Do they actually try cases in court? Do they simply sign clients up and plead them guilty?

One crucial question to ask is whether your lawyer is known as a “trial” lawyer or a “guilty plea” lawyer.

When it comes to guilty plea lawyers, the district attorney knows whatever offer is given, they are going to take it, whereas a trial attorney will **fight** for a better deal or a not-guilty verdict.

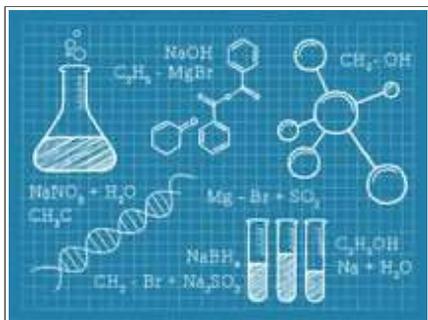
For example, just recently, I went to a jury selection for a case where the prosecution dropped the main charge just prior to jury selection. They

were not willing to do that the whole time the case was going on, but when they realized they had **a fight on their hands**, they changed their minds in a hurry! Similarly, my associate recently listed a case for trial, and the very next week it was dismissed by the DA.

Dismissals and better plea bargains happen when you say you are going to trial and the government knows you are serious!

How Often Should Experts Witnesses Be Retained To Defend a DUI Case?

As often as the clients can afford them. The government puts a lot of things in front of the judge or jury calling it science, but it's not – it's what I call "junk science". Junk science happens in DUI cases as well as many other different kinds of criminal cases.



A good example of junk science you might already be familiar with from watching the news on TV is DNA science. Just take a look at the number of exonerations through DNA where the government's analyst says, "We tested the DNA – it's his." Then the DNA sample gets tested later and it's proven not to be the

accused's DNA after all. Bite mark analysis is another form of junk science that has been repudiated by *real* scientists, resulting in thousands of people convicted. Fortunately, lawyers using real science have been able to get many innocent people freed from wrongful imprisonment.

But what about DUI cases? Well, it happens in those too – frequently! There are analysts who falsify data, such as the one in Massachusetts who said she tested drugs for years. She never did. She lied. Her falsifications would have been discovered a long time ago if the lawyers had simply asked for the testing data. You might blame the analyst, and certainly she is culpable for her lies, **but I blame the lawyers!** Lawyers allowed her to get away with her lies for such a long time because they did not get educated on the science and failed to ask for the data, which cannot be faked in these machines. That is malpractice.

I go out of state for training a **minimum** of four times a year – and often much more than that. For example, in 2016 alone, I went to training in Scottsdale, Arizona in January, Key West, Florida in February, Dallas in early May, and Las Vegas, Nevada in late May. I also attended a sexual assault seminar in Las Vegas, Nevada, in late November and spoke at a metrology-based science seminar in early November. The topic was measured issues in federal drug statutes.



We also use experts in cases where our clients plead guilty. We use them to present reports for the court for use in mitigating their sentences. An expert can clarify science issues for the court so that the sentence is fair and appropriate.

How Important Is It For Your Lawyer To Have a Good Working Relationship with DA's, Judges, and Law Enforcement?

If you are respected, it makes your job easy. Last year, I had a referral from a person who works in a courthouse in another county. I have had state police officers and even DA's refer cases to me. You get that by earning respect. This takes hard work and effort, but my clients get the benefit!

How Often Should I Communicate with My Lawyer?

There are three major parts to communicating with your lawyer. First, always be truthful with the lawyer, because he or she needs to know everything about your case. You might feel like holding out certain details due to embarrassment or privacy concerns, but rest assured, your lawyer has to honor your "attorney-client" privilege. That means that your conversations are protected from disclosure to law enforcement or anyone else. If you keep things from your lawyer, it will usually come out sooner or later – often at the wrong time and/or the wrong place, and your lawyer won't be able to do anything about it. Second, keeping in contact with your lawyer is essential. There is no set number of times you need to speak to your lawyer – simply keep in contact as often as you need to. Finally, you will need to keep your lawyer updated on any phone or address changes you have during the pendency of your case.

- THE TRAFFIC STOP -

What Rights Does Someone Have At A Traffic Stop?

The first thing people need to understand is that you aren't legally obligated to do a whole lot at a traffic stop. Obviously, you want to be cordial and respectful with the officer and you want to comply with their commands. However, your only legal duty in the Commonwealth of Pennsylvania is to provide your license, registration and proof of insurance. **Anything beyond that, you do not have to do!** You don't have to say or provide anything else. If the police are asking you, "Do you know why I pulled you over," you don't have to answer. You don't have to speculate on what you may or may not have been doing that was illegal. Therefore, you don't have to say, "Well, I think I was speeding," or any other answer.



What I think would be appropriate to discuss here is that there are different levels of custody which some people get confused about at traffic stops. I have a lot of clients call and say, "Well, he started questioning me and I wasn't given any Miranda warnings." Many people get confused about when these rights actually apply because of Hollywood movies and what they have seen on television. I think it is important for people to know that in the state of Pennsylvania, there are three different levels of detention that police officers can use.



Ninja Tip #11—You have the right to remain silent. USE IT! You are required to identify yourself and show your driver's license, car registration and insurance card. That's it. You don't have to answer questions or volunteer information. **Don't do the police officer's job for them. Keep quiet until you have a lawyer!**

Levels of Detention:

Type I – Mere Encounters

The first is known as a "mere encounter." A mere encounter is basically where you happen to run into a police officer on the street or perhaps you're driving down the road and there is an accident ahead and the police

are stopping and/or redirecting traffic. The example is simply a “mere encounter” with the officer; the officer wasn’t looking for you in particular; you just both happened to be there at the same time at the same place. Basically your only obligation in a mere encounter is to provide identification to the police if they request it. Other than that, you don’t have to do anything else for the officer.

Type 2 – Investigative Detention

The next step up is what is known as an “investigatory detention” or “investigation detention.” This is your typical traffic stop, where you are pulled over because of some type of traffic code infraction. In order to justify an investigatory detention, the police must have some reasonable belief that you are committing or have committed some type of offense.



If the officer reasonably suspects, based on the circumstances, that a crime has been or is being committed, the police can legally investigate that offense. They can approach your car and ask for more than just your identification as long as they have what is called “reasonable suspicion” that some type of offense has occurred. This gives them a little

bit broader power to detain you for a period of time to determine whether or not a law has been violated. They are permitted to investigate what law they believe you broke until they determine whether they have enough evidence to move forward, or that there is no evidence to move forward. At this point, you are detained, but your rights have not fully kicked in. Many individuals get this “investigative detention” confused with the next level up, which is called “custodial detention.” It is only for investigatory purposes and not for interrogation, which is what custodial detention is all about.

Type 3 – Custodial Detention

“Custodial detention” is where you’ve been arrested. You may find that you



are not free to go and they are starting some kind of interrogation at this point. Interrogation is direct questioning about the events for which you've been arrested. Once that starts, you have been upgraded to a custodial detention and then Miranda rights apply upon them starting the interrogation. So you can be in custodial detention and not receive Miranda Rights as long as they are not actually asking you questions. However, once they start interrogating you, then your rights apply and they must notify you that you have the right to remain silent and the right to have an attorney present for questioning.

Those are the three levels of detention that people should be aware of. Again, your typical traffic stop is on an investigative detention level where, whether they've got you for speeding or they think that maybe something bigger is going on and they have to investigate it, such as a DUI offense.

With that said, if they do believe a DUI offense occurred, the officer can ask you to perform different sobriety tests. **But you are NOT required to take them!**

You can legally REFUSE the Field Sobriety Tests! Don't give the government the opportunity to gather MORE evidence against you! Simply be polite and SAY NO!

What Kind Of Evidence Is Used In A DUI Case?

Police Testimony:

The first kind of evidence that a prosecutor will present in your DUI case is your driving. In a DUI offense, one of the charges is "incapable of safe driving." To prove that, they must show that you were driving in a manner that is unsafe. A lot of times the way

they will do that is through the police officer's testimony and the reasons why he pulled you over to begin with. The police may testify that you were observed doing things such as driving too slow, speeding, taking a turn too wide, crossing the fog lines or the yellow lines of the road, or swerving. This is evidence they will use in an attempt to prove that you are incapable of driving.



Dashcam Recordings:

In the state of Pennsylvania, there are state troopers whose vehicles are equipped with a recording device which is known as a Motor Vehicle Recorder, called an MVR for short. It is also sometimes called a Dashcam. This allows the police to videotape your driving, which can then be entered into evidence to show how you were driving.



Expert Testimony:

If your DUI involved drugs, the prosecution might bring in a drug recognition expert who will perform their own tests to try to determine what drugs might have been in your system. It is not required but it is something that is useful to the police and that law enforcement may try to use against you. If this is the case, your lawyer might suggest that you hire your own expert to contradict the opinion of the prosecution's expert.

Field Sobriety Tests:

The local town cops sometimes may not necessarily have an Motor Vehicle Recorder, so they will often rely upon the police officer's testimony about your driving at the time of the DUI. Other evidence that they will look for is how the field sobriety test was performed. If you have a state trooper or a town cop that has video footage, typically your lawyer can request a copy of the video so that you can see for yourself how you did on the field sobriety tests. Otherwise, the prosecutor will need to rely solely upon the officer's testimony about your performance during the field sobriety testing and whether or not you passed or failed these tests.

Blood and Breath Tests:

The main source of evidence is the breath or blood test which they might have obtained from you at the time of your DUI arrest.

**WE CAN HELP YOU SORT THROUGH THE
GOVERNMENT'S EVIDENCE TO BUILD A
STRONG, AGGRESSIVE DEFENSE!**

- BREATH TESTS -



In my criminal practice, I rarely see breath tests anymore; now I usually only see blood-draw DUI's. But I know that in other areas of Pennsylvania, the Commonwealth still relies upon breath testing to show proof that a person was over the legal limit, so we need to touch upon the subject.

Breath testing in Pennsylvania is sort of a "hide the ball" exercise for the prosecution. They do not want defense attorneys to get information about the intoxicalizer so they do all they can to block people from discovering everything about this machine. Recently, however, this is starting to become an issue as we are learning that more and more breath testing programs are not being supervised and maintained properly. This is not just happening in Pennsylvania, but all over the United States.

Getting the records and having an expert review the breath test records is crucial. I am talking about the maintenance records, repair reports and all certifications that shows the machine is capable of recording an accurate breath sample ... if such a thing exists! Unless you know what to specifically ask for, you will be denied. This is one of those areas where an experienced DUI lawyer is an absolute necessity.

So if you are going to challenge your DUI breath test case, you may be able to do it without a lawyer, but *only* if you know the specific reports and records to demand in the discovery process and what to do with them when you get them. There are so many problems with the machine that a lay person, even with the correct records, would never recognize. For example, cell phones have been known to interfere with the result of a breath test. You have to know what to look for in the records and on the breath testing site to determine if that has happened in your case.

**Breath testing is not really the
"gold standard" for intoxication results.**

**The alleged "gold standard" is blood testing
and we will cover that next.**

- BLOOD TESTS -

The government loves blood tests. Prosecutors **and most defense lawyers** generally do not understand it because they haven't been properly educated about the science behind the tests. Because they don't know how to analyze and interpret blood test results, they assume that a blood test is a certainty.



Once I started defending these cases, I realized that I had a huge blind spot and really knew nothing about blood test science and how to properly defend against that type of evidence. When the counties I practice in began taking blood for nearly every DUI arrest, I knew I had to go one step further than many other lawyers – I knew that if I wanted to give my clients the best possible service, I would need to learn what blood test results really mean – **and so I did.**

I started going to seminars to learn from leading scientists and experts in the field of blood test analysis. I eventually reached the point where I was teaching other lawyers how to read these results.

There are very few attorneys that can effectively defend DUI cases with blood test evidence. If you are charged with any offense and blood testing is involved – DO YOUR RESEARCH! As of the publishing date of this book, there are less than 100 lawyers in the entire country that are certified Lawyer-Scientists through the American Chemical Society. I'm one of them!



Blood test analysis is far too complicated to explain in this introductory book. However, this is not something you need to learn yourself –

**YOU SIMPLY NEED
TO CHOOSE A LAWYER-
SCIENTIST THAT KNOWS
HIS OR HER STUFF AND
CAN DO IT FOR YOU.**

Standardized Field Sobriety Tests

This is an extremely broad topic. I will not cover everything you need to know in this introductory book. However, there are some key issues that I see frequently that may have happened in your case. Most of the questions I receive are about the stop and the officer's grounds for arresting you. So we will start with Standardized Field Sobriety Tests.

Standardized Field Sobriety Tests (SFST) are exercises that an officer can use to justify an arrest for a DUI offense. The best lawyers are also certified in SFST, and some lawyers – including myself – are certified as instructors. These tests are supposed to be given in the exact same manner every time, hence the “standardized” language. SFST consist of three tests.

Here is a brief description of the three SFST tests and a list of the specific directives and procedures used by law enforcement. Following that, I will discuss the three individual SFST tests in depth.

Horizontal Gaze

Nystagmus (HGN)

Testing Instructions:

In the HGN test, the officer observes the eyes of a driver suspected of DUI as the driver follows a slowly moving flashlight or pen horizontally with his eyes. The officer looks for involuntary jerking which can indicate impairment.



- 1. Please remove your glasses (if worn)**
- 2. Put your feet together, hands at your side. Keep your head still and look at and follow this stimulus (pen, flashlight, etc.) with your eyes only.**
- 3. Keep looking at the stimulus until told the test is over.**
- 4. Do not move your head.**
- 5. Do you understand the directions?**

Nine-Step Walk & Turn Testing Instructions:

In the walk-and-turn test, the driver is directed to take nine steps, touching heel-to-toe, along a straight line. After taking the nine steps, he must turn on one foot and return in the same fashion. The examiner looks for eight signs of impairment, which I will cover in an upcoming section.



- 1. Put your left foot on the line, then place your right foot on the line ahead of your left, with the heel of your right foot against the toe of your left foot.**
- 2. Do not start until I tell you to do so.**
- 3. Do you understand? (The officer or other test administrator must receive an affirmative response).**
- 4. When I tell you to begin, take 9 heel-to-toe steps on the line (demonstrate) and take 9 heel-to-toe steps back down the line.**
- 5. When you turn on the ninth step, keep your front foot on the line and turn taking several small steps with the other foot (demonstrate) and take 9 heel-to-toe steps back down the line.**
- 6. Ensure you look at your feet, count each step out loud, keep your arms at your side, ensure you touch heel-to-toe and do not stop until you have completed the test.**
- 7. Do you understand the instructions?**
- 8. You may begin.**
- 9. If the driver does not understand some part of the instructions, only the part in which the suspect does not understand should be repeated.**

One-Leg Stand Testing Instructions:

In the one-leg stand test, the subject is told to stand with one foot approximately six inches off the ground and count out loud by ones beginning with one thousand (one thousand-one, one thousand two, etc.) until told to put the foot down.



- 1. Stand with your feet together and your arms at your side (demonstrate).**
- 2. Maintain position until told otherwise.**
- 3. When I tell you to, I want you to raise one leg, either one, approximately 6 inches off the ground, foot pointed out, both legs straight, and look at the elevated foot. Count out loud in the following manner: 1001, 1002, 1003, 1004, and so on until told to stop.**
- 4. Do you understand the instructions?**
- 5. You may begin the test.**

What Police Are Looking For in Standardized Field Sobriety Tests:

In the following sections, I will explain the purpose and rationale behind the three SFST parts in detail. But even though the police check for different criteria in each test, the goal is fundamentally the same: to determine impairment and find probable cause for arrest.

But before any testimony from the officer about this test can be admitted into evidence, the officer must first be qualified as an expert in the SFST. In order to do this, the officer must first show that he is qualified to do the test in Pennsylvania. Certification by completion of an approved Standardized Field Sobriety Testing Practitioner Course is the usual method of proving qualification. However, an officer may be considered an expert even when not certified, if he has successfully performed the test on numerous occasions to be qualified as an expert based upon his proficiency with the test.

**AN AGGRESSIVE DUI DEFENSE LAWYER CAN
HELP YOU DECIDE WHETHER TO CHALLENGE
THE OFFICER'S SFST QUALIFICATIONS!**

Now let's take a close look at each of the SFST tests in turn. I will explain the individual tests and give examples of how your lawyer might choose to challenge the tests.

But remember: this is only a small sampling of the many different ways your lawyer could decide to attack the government's case!

Each of the three SFST tests operates under a slightly different procedure, but the actual goal and explicit purpose of each is the same: to find probable cause to arrest you for DUI.

Test #1: Horizontal Gaze Nystagmus (HGN)

The HGN test is an eye test and is considered to be the only "scientific" test of the three. Nystagmus is a medical term used to describe the involuntary jerking of the eyeballs. When somebody is intoxicated by alcohol and/or certain other drugs, this jerking of the eyeball becomes more pronounced than usual.



HGN Test Procedure

Prior to administering the horizontal gaze nystagmus test, the officer will evaluate your eyes to look for "resting" nystagmus, equal pupil size and equal tracking (that is, if both eyes can follow an object together). If any of these factors

are exhibited, there is a chance of an existing medical condition or injury that will tender the test unreliable.

To administer the test, the officer will hold small object approximately 12-15 inches from your nose and will slowly move it from one side to the other. You must follow the object with your eyes while keeping your head still.

The officer will look for three different clues in each eye (for a total of six) during the test.

- First, the lack of smooth pursuit – Are the eyes jerking or bouncing while they follow the object?

- Next, the officer will look for nystagmus (jerking or bouncing) that sets in before the eyes reach a 45 degree angle.
- The third and final clue is nystagmus at maximum deviation which means that the eyes begin jerking within four seconds while looking all the way to the side.

If an officer observes four or more clues, he or she has probable cause to make an arrest for driving under the influence.

How To Challenge The HGN Test:

The HGN test for blood alcohol content (BAC) or the presence of some other drug in your body is premised on a quirk in human biology. The involuntary twitch known as Nystagmus occurs whenever a person looks sideways at an angle greater than 45 degrees (triggering peripheral vision). However, people with a high BAC twitch even when the light is held at less than 45 degrees. Here are some things to keep in mind about HGN tests:

- **Medical Conditions:** Even when administered in the most ideal of scenarios, the horizontal gaze nystagmus is only about 77% accurate in determining if an individual is impaired. Not only that, but there are numerous neurological, medical and eye conditions that could cause the onset of nystagmus. Whether or not you have a condition that would interfere with nystagmus testing is something only a doctor – not a police officer – can determine.
- **Accuracy:** The National Highway Traffic Safety Administration (NHTSA) has determined that the HGN is a reliable test ONLY if administered by a police officer who has had HGN training. If the officer is not specifically trained in HGN tests, you can challenge his findings.
- **No Pass or Fail:** You don't flunk or pass an HGN test. An HGN test is not absolute proof of high BAC. Instead, the police typically use HGN testing as a general indicator of possible impairment.
- **Clear View of Eyes?:** If a subject's eyes cannot be seen clearly, the test will not be reliable. An HGN test must be administered in a well-lit area or by use of a flashlight to illuminate the subject's face.

- **Lights:** The subject should not be facing into his or her car's headlights, the blinking lights of a police cruiser or the oncoming headlights of passing cars. This could cause an effect known as optokinetic nystagmus, which could invalidate the test results.

Test #2: The 9-Step Walk & Turn

The second test is called the “9-Step Walk & Turn” or heel-to-toe test. This is the test that is always shown in the movies and the one that everyone tries to do at home or at parties. The strange thing is that in Pennsylvania, it is not considered scientific or entirely reliable, yet the Commonwealth of Pennsylvania allows officers to rely upon it in making a decision to arrest somebody!



This test is where the subject is supposed to take 9 steps forward and then 9 steps back, touching his heel to his toe and making a series of small steps for the turn.

The problem with this test is that people with bad knees, bad backs, bad hips, or who are overweight or have any type of foot or leg problems are **NOT EXCLUDED** from participation in this test. The officer merely “takes your disability into consideration.” Sounds great, right? Except that no officer has ever been trained or told how to take your particular issue into account, **and the scoring system DOES NOT take that into consideration!**

Even if a person has had nothing to drink, he or she can still fail the test, particularly if you have any type of issue balancing under normal (as opposed to intoxicated) circumstances. This means that even though you have no alcohol in your system, you can still fail and be arrested for DUI.

Go ahead – try to do the 9-Step Walk & Turn right now on your own. You will quickly find out that nobody can really pass this test ... without practicing several times first!

And that really is the whole point of these tests. The officer can perform a short example of what the test looks like when directing you to take it, but the police never do the entire test either. Why not?

The answer is simple: Most people simply cannot pass this test. Without extensive practice, not even the officers could pass. But they have had the chance to do these tests hundreds of times, so they make it look easier than it really is.

So don't feel bad if you took this test and failed. Everyone the officer tests will likely fail this test. That is why your attorney might ask the officer during cross-examination, "How many people have you let go after performing these tests?"

Test #3 – One Leg Stand

In the one-leg stand test, the subject is instructed to stand with one foot approximately six inches off the ground and count aloud by ones beginning with one thousand (one thousand-one, one thousand-two, etc.) until told to put the foot down. The officer times the subject for 30 seconds, while looking for four indicators of impairment:



- Swaying while balancing
- Using arms to balance
- Hopping to maintain balance
- Putting the foot down

The problem is that there are many factors that might render a person unable to successfully complete this test. For instance, age, prior injury, or an existing disease or other medical condition could impact your ability to balance on one foot.

As a general rule, an officer should ask the DUI suspect whether there is any reason they cannot perform the test and the person's response should be carefully noted in the officer's report – however, you can't count on that happening! This is another reason why it is important, if you took the SFST tests and were subsequently charged with DUI, to write down everything that happened in detail, including your statements to the officer about your inability to successfully complete the test. **Make sure to give this written account to your lawyer so he can find a way to challenge the officer's version of the test.**

THE TOP 10 DUI MISTAKES (AND HOW TO AVOID THEM)

This is a list of the **TOP TEN DUI MISTAKES** commonly made by the average citizen accused of drunk driving when selecting an attorney, and also by those attorneys who may be less experienced with this increasingly complicated niche of criminal law. If you find yourself in the unfortunate position of having been accused of a DUI or related crime, use this list as a tool to help select the right legal representation for your case.

Remember, if you plead guilty, YOU WILL BE FOUND GUILTY 100% OF THE TIME!

But when you hire a properly trained, knowledgeable and experienced attorney to represent you at trial or negotiate a plea bargain, your chances of obtaining an acceptable result increase dramatically.



1. Denial and/or Failure to Take Action

The number one mistake people make when charged with a DUI is denial, plain and simple. Sometimes it seems easier to ignore the problem than to confront it, and being charged with a DUI is an intimidating and stressful situation. But failing to take action at this critical juncture is always a mistake.

Don't let this problem get out of hand by sticking your head in the sand. Start making calls to reputable DUI defense attorneys. Get prepared to defend yourself with an aggressive, experienced attorney on your side.

2. Assume the Case Cannot Be Won

If you talk to an attorney who takes one look at the facts of your case, including your blood alcohol content (BAC) reading, and immediately begins to talk about pleading guilty, get out of there! Many criminal defense attorney advertise themselves as "DUI Defense Lawyers," but most do not have the specific knowledge and training to properly defend your case. **They are merely DUI processors!**

Take the time to research the lawyer's qualifications and certifications. Ask questions about his training and experience with DUI cases. A DUI conviction can have numerous, life-changing, collateral

consequences, separate and apart from the obvious criminal sanctions. **Take your own case seriously and hire an experienced, educated attorney who will fight aggressively for you!**



3. Stipulate to the Breath or Blood Alcohol Concentration

A common mistake that is frequently seen among attorneys without the proper training, knowledge and experience is to simply stipulate (which means to agree that the alleged result is perfectly accurate and beyond question) to the “BAC” and contest the case on some other grounds. No attorney should **ever** do this. Not only must the government offer a particular BAC reading in order to prove its case beyond a reasonable doubt, it must also prove that the results are accurate, precise and reliable. In order to do this, the government must prove that the specimen was collected in a legally acceptable manner by specially-trained individuals who followed all of the proper procedures, that the analysis was performed by a qualified technician on the proper equipment, and more. If your lawyer plans to blindly accept and stipulate to a particular BAC reading, then you are making the government’s job of obtaining a DUI conviction much easier.

4. Not Visiting the “Scene of The Crime”

When you have your initial consultation with your DUI lawyer, ask if he or she is familiar with the precise area of the traffic stop or accident. If not, ask if the lawyer is planning on examining the scene in person or sending a private investigator to do so. Taking the time to



examine the scene provides the lawyer with the intimate and specific knowledge necessary to confidently question the arresting officer with respect to a variety of issues that may be relevant to your case. For instance, having direct knowledge of the presence of a pothole or other similar obstruction in the road could help to explain a swerving

vehicle and contradict an officer's presumption that a swerving vehicle was the result of driver impairment. A street sign or traffic signal's exact location could likewise have a significant impact on the facts of the case. In addition, photographs, drawings and even video of the scene may prove helpful as demonstrative aids to a judge or jury.

6. Failing to Question the Validity of the Roadside Tests

Hiring an attorney who is not familiar with the specific phases of DUI Detection as it is taught to police through the International Association of Chiefs of Police (IACP) and the National Highway Traffic Safety Administration (NHTSA) is akin to playing a game without knowing the rules against an opponent who does.

There are three Standardized Field Sobriety Tests (SFSTs) that usually have been given. A Preliminary Breath Test using a PBT (breathalyzer) and a blood test. Between all of the possible variables, the arresting officer almost always deviates from prescribed protocol at some point during the investigation. Don't allow those mistakes to go unnoticed. In addition to the SFSTs, PBT and blood tests, other issues may arise that warrant proper legal examination. Hiring a lawyer with knowledge and experience with these processes will prevent important errors from being overlooked.

5. Failing to File and Argue Pretrial Motions



Pretrial motions should be filed and argued in nearly every DUI case, particularly if no preliminary hearing was held. Even if the motion is unsuccessful in terms of achieving the desired goals (suppression, dismissal, etc.), the additional testimony serves to further enhance the record. The transcript of the pretrial testimony

may be used later to limit or impeach the testimony of the law enforcement officer or other witnesses at trial. It could be used to suppress or limit certain items of evidence that would otherwise be used against you. Talk to a qualified DUI defense lawyer about potential pretrial motions to file in your case.

7. Trying to Make the Officer Sound Like a Liar

Trying to convince a judge or jury that an individual law enforcement officer is a habitual liar that never tells the truth will be detrimental to your case. A much better way is to have an experienced DUI lawyer highlight the uncertainties, or inconsistencies in the police officer's testimony in a manner which demonstrates to the fact-finder that the officer is actually wrong on this particular occasion is a much more successful approach. But it is also a difficult thing to do successfully without extensive training and practice, so make sure your DUI defense lawyer has a wide range of courtroom experience to draw on.



8. Putting the Client on the Stand

Having the accused client testify is rarely a good idea. Prior to the Bill of Rights, trials were prosecuted by the King's counsel. There was no Fifth Amendment right not to testify and/or incriminate yourself. The defendant was left in a horrible position: Either take the stand and testify and be called a liar simply because you are the person accused and therefore are guilty, or refuse to take the stand and have the King's counsel say that in failing to testify, you have something to hide and must be guilty. It was a true Catch-22 situation. So the wise forefathers of this country came up with the Fifth Amendment to solve this impossible situation.

We should use this gift that our nation's forefather's gave us. First, the accused has no obligation to testify. Why do it? The burden is not on you. You are presumed to be innocent and the government has the burden of actually proving its case beyond a reasonable doubt. The purpose of a trial is no to judge the accused motorist or evaluate whether the defense is right or wrong. Instead, it is always an examination of the government's charges. Unless it is absolutely necessary to establish some critical fact, your case could be seriously harmed by your decision to take the stand. Sometimes, the best thing to do is remain seated next to your lawyer and allow that person to

talk on your behalf. But there are times when testifying might help your case.



When To Take The Stand

How will you know whether or not to take the stand and testify on your own behalf? Chances are, you won't have the necessary courtroom experience, familiarity with the judge assigned to your case, or in-depth knowledge of the law that are required to make

a sound decision. **That's why it is critical to have a well-educated, aggressive DUI defense attorney by your side to advise you and help you make the right choice.**

9. Failing to Consult a Specialist

Many lawyers advertise themselves as being DUI defense lawyers - **but very few actually are.** Not only is the law complex, but the science and technology relating to its application are extremely advanced too. It requires a near-PhD level of understanding a broad and complex area of science before a lawyer can ethically take a DUI case. It takes an enormous amount of training, dedication and experience to properly defend even a so-called "garden variety" DUI case. You wouldn't go to a general family doctor if you were suffering from a complicated disease such as cancer. You'd find a cancer specialist – an oncologist – who has intricate and specialized knowledge of cancer and cancer treatments. The same is true of DUI defense: choose a trained DUI defense specialist for your DUI.

10. Not Using Expert Witnesses

Using the services of an expert witness can be, and oftentimes is, the difference between winning and losing your DUI case at trial. When dealing with the intricacies and reliability of blood or breath test results, expert testimony gives you a profound advantage. Talk to DUI defense lawyer about the possibility of hiring an expert to assist in your DUI charges. **Here at Manchester & Associates, we can help you choose an expert to testify on your behalf and challenge the government's evidence against you!**

An Introduction to Manchester & Associates



Manchester & Associates was started in 1978 by my father, Robert Bruce Manchester. Before I went to law school, I worked for him in this firm. I subsequently attended law school where I took an accelerated program which allowed me to complete three years of law school in a mere two and one-third year by taking extra classes and attending classes year-round. I received my law license in April, 2000.

As of April, 2017, I have been a criminal defense lawyer for seventeen years. All of

the work I do at my practice is criminal law in state and federal courts. I am also consulted on out-of-state cases.

In addition to specializing in DUI defense, a lot of the work we do in my law firm are high-end felony cases such as rape, child sexual assault, sexual assault and drug cases. Drug and DUI cases can include synthetic drugs like Spice, K2, bath salts and LSD. We also regularly handle murder cases, vehicular homicides with DUI, aggravated assault, and large financial crimes. One financial crime case involved embezzlement of over \$600,000.

My firm handles criminal cases all across the state of Pennsylvania. We routinely handle a large number of DUIs, simple assaults, general theft crimes and drug possession crimes. We concentrate on using science as well as the psychology of decision-making in defending our cases, even the non-science based cases. We are constantly training, learning, and reading upon the psychology of decision-making, which is really crucial because proper criminal defense takes more than just knowing the law.

What matters the most is the people you are trying to convince to understand your case and your client. So you have to present things in a way that juries understand. That is where the psychology of decision-making and psychology of influence come into play. Not only are we learning the law, but also keeping up on the relevant and ever-changing science at the forefront of criminal law.

What Sets Manchester & Associates and Attorney Brian Manchester Apart from Other Criminal Defense Lawyers?

At Manchester & Associates, we strive to keep abreast of the latest changes in science and science-based criminal defense. Most lawyers, after they obtain their law degrees, simply go and take just enough Continuing Legal Education credits to maintain their licenses. That is the bare bones minimum, and its pretty standard in the legal industry.

We believe that if you're going to take someone's hard-earned money, or the money of family members or friends who worked very hard to attain it, you must do all that you can. Merely knowing the law is not enough in today's court system. So I decided I am going to learn as much as I can about all aspects of criminal defense, such as blood and breath science, jury selection, changes in the law, how to effectively try a case, the various aspects of jury selection and case presentation, how to use visual effects and more.

We are constantly updating and expanding our knowledge base. I personally travel across the country multiple times a year and am a national speaker on defense topics. I constantly attend many courses in relevant forensic science such as testing cocaine, heroine, morphine, synthetic marijuana, etc., plus a vast amount of scientific training in the DUI field. I have attended over a dozen courses on blood testing across the country. I have also taken a course on DNA. It was a hands-on course taught by Dr. Greg Hampikian in Idaho. Dr. Hempikian is the geneticist that helped get Amanda Knox out of trouble in Italy. I actually tested my own DNA in that course.

Another course I attended was taught by Terence MacCarthy, who is known as one of the best cross-examiners in the world. I took MacCarthy's three-day practical course for cross-examination twice. In class, we practiced actually cross-examining people and MacCarthy beat on us until we did it right.

**I believe if you are going to do something,
you do it right and learn all you can!**

That's EXACTLY what sets Manchester & Associates apart!

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MANCHESTER & ASSOCIATES' SOCIAL MEDIA!

Here at Manchester & Associates, we work hard to keep our clients and the public informed of the latest breaking news in the field of DUI and Criminal Law. That's why we provide our clients with access to our social media sites, where you can find information on DUI's and other areas of Criminal Defense.



Get the scoop on recent developments in DUI Law and Criminal Law, and read blogs by Brian and our other talented, knowledgeable lawyers at our website: www.manchesterandassociates.com

Here you can also find information about our law firm, read testimonials from our clients and other attorneys, and explore our FAQ section, which provides detailed information in written and video format to explain complicated, confusing legal terms and give straightforward answers to common questions about the court process.

Be sure to check out articles on recent changes in PA legislation and local crimes, as well as photos and videos of Brian's nationwide speaking engagements on our **Facebook** page. Don't forget to **LIKE** us and **SHARE** our informative articles with your friends and family!

Finally, we encourage you to explore Brian's profile and check out his stellar ratings at www.avvo.com and www.martindale.com!

- DISCLAIMER -

This publication is intended to be informational only. **No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material.** If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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Pennsylvania DUI Defense **Assassin's Manual**

Attacking The Government's Case **The Right Way**

"Finding myself arrested in Pennsylvania was no joke. Fortunately Brian was at hand. I found him quick to respond and answer all my questions. He communicated well with myself, my regular lawyer back in Colorado, and my spouse. He and his assistant quickly got me out of a jam and back on the road. I would highly recommend this attorney."

- Joe

"Brian has provided us with a sense of relief. He kept us well informed throughout the process and has been very straight forward with us throughout the process. He has kept my son out of jail and was able to acquire in home detention instead. We are very grateful and would never hesitate to call him again. Hopefully there won't be another occurrence."

- Alfred & Alicette



Attorney Brian Manchester has 15 years of experience handling cases in federal and state courts. He is the owner of Manchester & Associates. Brian learned a long time ago that merely learning the law is not enough. To be an effective criminal defense lawyer you have to learn many different things to be persuasive in the courtroom. An aggressive and effective criminal defense lawyer must constantly train on topics like picking a jury, how people make decisions (the psychology of decision making), how to present your case effectively to judges and juries, how to properly cross-examine witnesses, how to effectively deal with government experts and especially to understand the different forensic

science evidence the government will introduce in cases and how to negate its effects on juries and judges. To gain all of this expertise Brian constantly travels across the country for training in these varied subjects. Brian himself is a national and state wide lecturer on criminal defense and bail related topics. Brian is also one of less than 50 American Chemical Society Certified Lawyer-Scientists in the entire country plus he belongs to several national scientific and defense related organizations.

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