

## Investigation Workbook

### DUI/DWI

This investigation workbook is intended for those who have been arrested or know someone who has been arrested for DUI/DWI. The purpose of this book is to take an in-depth look in the causes and effects of the arrest. It is not to be substituted for legal advice. We strongly advise consulting with an attorney before going to court.



## INTRODUCTION

If you have obtained this manual, then you, or someone you know, received a DUI. The purpose of this book is to help you organize and document the events surrounding the DUI offense. It is not intended to serve as legal advice or a way to avoid being arrested in the future. It's merely a tool to assist you in the preparation of your defense.

Criminal defense attorneys may hire investigators or consultants to do the same things that are in this manual. The investigation costs are obviously passed on to the client, which may add up to hundreds of dollars in fees. Why pay an investigator or consultant if you can do your own investigation?

This manual was written with the help of former DUI officers who have a vast knowledge in the subject material. Who better to investigate your case than a DUI officer? The manual teaches you how to gather evidence, document evidence, and dig deeper into the circumstances surrounding the case. Statistics show that individuals who take a vested interest in their case are more likely to get a favorable result in court than if they didn't.

Consult with an attorney about your case before proceeding into a courtroom. This manual should not serve as a substitute for good legal advice from a professional.

## Chapter 1

### Initial Stop

The first phase of a DUI arrest is the traffic stop itself. In order to stop someone, a law enforcement officer must have probable cause or reasonable suspicion that a crime has occurred. Probable Cause and Reasonable Suspicion are two very different things.

Probable Cause would be something like a traffic violation. A speeding violation or expired tag would be considered probable cause. Reasonable Suspicion would be when you're traveling through an area that has a drug problem and an officer would stop you to ask why you were in the neighborhood. Although you may have a very valid reason for traveling through the area, the officer is basing his traffic stop on reasonable suspicion.

When analyzing your traffic stop, you must determine if the officer had probable cause to stop you. This should be fairly simple. An officer may approach your vehicle and say something like, "Sir/Ma'am, the reason I'm stopping you is for speeding." You may receive a citation for whatever the violation is. If you know why you were pulled over, then you have established probable cause and you know what to examine.

Reasonable suspicion is much harder to prove in court for officers. Generally, an officer will try and find probable cause for stopping someone rather than use reasonable suspicion. If you really do not know why you were pulled over, you may fall into this category. Always find out why you were stopped because this may hold to the key to the rest of your case.

The following questions should be answered:

1. Why was I pulled over? \_\_\_\_\_
2. Did the officer tell me why I was pulled over? \_\_\_\_\_
3. Was a citation issued by the officer for that reason (i.e. Speeding, expired tag, etc.)?  
\_\_\_\_\_
4. Is my stop considered probable cause? \_\_\_\_\_
5. Is my stop considered reasonable suspicion? \_\_\_\_\_
6. Was I stopped without explanation? \_\_\_\_\_
7. Has this officer stopped me before? \_\_\_\_\_

Once you have answered the above questions, you can begin to look deeper into the reason you were stopped. Most DUI related cases involve some type of traffic violation like swerving, driving without headlights, speeding, etc. It is better to receive a citation for a non-moving violation such as expired tag or one headlight. A non-moving violation used as probable cause is better for the defendant than a moving violation. Here's an example why.

"The officer will be asked on direct examination about the circumstances surrounding the traffic stop. The prosecutor will ask him why he/she pulled you over. He/she says that he pulled you over because you had one headlight, which is considered a non-moving violation. He did not stop you for speeding, swerving, or anything else that may have indicated to the officer that you were intoxicated. Your attorney may ask the officer on cross-examination about the violation. Unless the officer says anything else about your driving behavior, then at that point there is no probable cause to believe that you were intoxicated according to the officer."

Non-moving violations are harder to have thrown out of court however. Either you're in violation or you're not. It's pretty cut and dry on this. This makes it harder for the probable cause of the traffic stop to get thrown out. The only advantage of a non-moving violation versus a moving violation is that it does show possible impairment on your behalf. Ask yourself the following questions:

1. Is my traffic stop considered a moving violation or a non-moving violation?

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2. If it is a non-moving violation, can I explain why I was out of compliance?

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3. If it is a moving violation, can I explain why it occurred?

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The focus at this point should be on the probable cause of the traffic stop. Let's concentrate on non-moving violations first. You'll need to attempt to explain why you received the violation. Here's an example:

"You received a violation for improper equipment or one headlight. You are borrowing the vehicle from a friend. You do not use the vehicle on a regular basis and did not know that the headlight was out. It would be a good idea to show ownership of the vehicle and possibly have that person called as a potential witness. This should be left up to your attorney however."

Answer the following questions concerning your non-moving violation:

1. What was the violation? \_\_\_\_\_
2. Can I explain this violation if needed? \_\_\_\_\_
3. Can I show documentation or proof why I received this violation? (i.e. Work orders showing that vehicle was in the shop when tag expired)  
\_\_\_\_\_

If the violation was a moving violation, then more investigation will have to be conducted. First, you have to determine the type of moving violation such as speeding or weaving. Determine where the violation was actually observed. Go to the scene and photograph the area. This is a very important step when analyzing your traffic stop. If the probable cause can be thrown out, it could affect the rest of your case. Probable cause is the lifeblood of all officers' stops. Investigate probable cause like your case depends on it, because it does.

Answer the following questions:

1. Was I stopped for speeding? \_\_\_\_\_
2. Was I stopped for weaving? \_\_\_\_\_
3. Was I stopped for running a red light or stop sign? \_\_\_\_\_
4. If I wasn't stopped for the above, what was I stopped for? \_\_\_\_\_
5. Was it raining when I was stopped? \_\_\_\_\_
6. Was the road wet? \_\_\_\_\_
7. Was it daytime, dawn, dusk, or night? \_\_\_\_\_
8. Was the area where the violation occurred well lit if it was at night? \_\_\_\_\_
9. How much traffic was in the area at the time of the occurrence? \_\_\_\_\_
10. Are there any defects in the roadway? \_\_\_\_\_
11. Is the roadway clearly marked with paint showing centerlines and fog lines? \_\_\_\_\_
12. Is the area properly marked with posted speed limit signs? \_\_\_\_\_

13. Is the area properly marked with stop signs or any other traffic signs? \_\_\_\_\_
14. Where was the officer when the alleged violation occurred? \_\_\_\_\_
15. Was the officer stationary or moving? \_\_\_\_\_
16. Is it possible that the officer may have witnessed another vehicle committing the violation? \_\_\_\_\_
17. Did you identify the officer's vehicle as an officially marked law enforcement vehicle? \_\_\_\_\_
18. Were you talking on your cell phone when the violation occurred? \_\_\_\_\_
19. Were you adjusting your radio when the violation occurred? \_\_\_\_\_
20. Were you eating food or drinking a drink when the violation occurred? \_\_\_\_\_
21. Was there anything occurring inside of the vehicle when the violation occurred?  
\_\_\_\_\_
22. Was anyone riding with you when the violation occurred? \_\_\_\_\_

After you have answered the above questions, take these next steps:

1. Photograph your vehicle from all angles including front, rear, left side, and right side. Include a photograph of your vehicle's tag also. This will be helpful as we get into the initial contact with the officer later.
2. Go to the scene of the violation. Photograph the area so that it can show your attorney and the court the area where the violation occurred. Take several photographs if possible. Make sure you photograph during the day so that it gives you optimal lighting. Nighttime photographs may not give the court a good idea of what the scene looks like.
3. Photograph any traffic signs in the area. This is especially important if you have been stopped for speeding or running a stop sign. Make sure that you photograph signs that might potentially affect your case. Speed limit signs are good to photograph because they may show that the sign was damaged, a long distance from the violation, or non-existent.
4. Photograph the painted lines like centerlines and fog lines. This can show the court that they are clearly marked or poorly marked.

5. Position your vehicle at the location of the traffic stop. If possible, put it in the exact spot where you were stopped. Photograph it from all different angles. If you were stopped on private property, you may want to ask the property owner for permission to take the photographs. After you have explained what you're doing, they usually cooperate.
6. Use a video camera and record the traffic in the area. You only need to do this for just a few minutes. Don't sit there all day.
7. Video record your route of travel before you were stopped. You will need another person to do this. Have the other person drive you while you operate the video camera. You don't need but approximately five (5) minutes of video footage when you do this. If you left a restaurant and got stopped only a short distance from there, then you would start videotaping from where you left. If you were traveling all day long and got stopped, just go back about five (5) minutes prior to the stop and start video recording. When you're doing a video recording, keep in mind that this may be shown in court. Try to keep it clean and professional. Do not talk unless you have to. When you do talk, just say things like "I was in this lane and was merging over into this lane" or "This is where the officer turned on his emergency lights." Again, your video recording should be conducted during the daytime hours for optimal lighting. Video recordings put your attorney and others in the "passenger seat" of your vehicle before you were stopped.

The next few pictures will demonstrate how photographs should be taken. Try to take as many photographs from different angles as you can. It's always better to have too many photographs than not enough.



This photograph shows that there are no lines designating lanes of travel. In a case of possible weaving, there would be no indication where the actual center of the roadway is located.



This photograph shows the speed limit as 45 mph.

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The next photograph shows that the speed limit is 35 mph when children are present. Both signs are merely few hundred feet from each other.



This photograph shows a decline in the roadway. It would show the court that speed could increase coming down the hill. The officer would never volunteer the fact that the hill was there when he stopped you for speeding.



The probable cause for a traffic stop is one of the most important keys to a DUI related stop. Investigate the case as if you were an officer and think outside of the box. Do not assume anything. Always do your homework.

## Chapter 2

### Initial Contact with Officer

The initial contact with the officer is when the officer gets out of his vehicle and approaches you. Once the officer walks to your vehicle, he/she is immediately gathering evidence for their case. It is important to try and remember everything that was said and done by the officer as well as by yourself.

When an officer approaches a driver, one of the first things that they do is ask for your driver's license and other types of documentation, depending on what state you were stopped in. The officer has the right to view all documentation that he or she asked for. When this occurs, they are watching how you go about finding your documents. When you're looking through your wallet, the officer will watch to see if you're fumbling around and having problems finding things. They may notice the fact that you accidentally dropped your license or documentation.

While they are watching you retrieve your documents, they are also looking around your vehicle to see what is in plain-view. Plain-view refers to things that may be illegal and is visible to the naked eye. An open beer may be sitting in the console would be considered plain-view. You may have also noticed that the officer's face was close to your window. They are trying to detect the presence of alcohol. Some officers will go to the passenger side window to talk to you. It gives them an advantage, because they may have to lean inside of the car to get your documents from you. When this happens, they get a better smell of you and your vehicle.

Officers will also ask you questions about what you have been doing and where you have been. You didn't have to answer those questions, but if you did they are gathering evidence against you. They are trying to detect alcohol on your breath and see if your speech is slurred when you talk.

Drivers think that evidence gathering may not start until they do field sobriety testing. Officers are constantly gathering evidence against you from the time they approach you until the time they book you in jail.



Here are some questions that you should answer:

1. Did the officer approach your driver's side or passenger side? \_\_\_\_\_
2. Is your driver's license kept in a wallet? \_\_\_\_\_
3. Is your driver's license in a plastic sleeve of the wallet? \_\_\_\_\_
4. Did you have difficulty locating your license? \_\_\_\_\_
5. Did you have difficulty getting your license out of your wallet? \_\_\_\_\_
6. Did you drop your license when giving them to the officer? \_\_\_\_\_
7. Where are your other required documents? (i.e. insurance, registration)  
\_\_\_\_\_
8. Did you have problems locating those documents? \_\_\_\_\_
9. Did you drop those documents when giving them to the officer? \_\_\_\_\_
10. Did you have anything in plain-view that was illegal? \_\_\_\_\_
11. Did the officer lean into your window? \_\_\_\_\_

As stated before, it's important to remember exactly what happened during this phase of the traffic stop.

On the following lines, write down exactly what happened when the officer approached your vehicle. You should try to be as detailed as possible and document what the officer said and what you said to the officer. Keep things in chronological order. Only write about the things that occurred before you were asked to step out of the vehicle.

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## Chapter 3

### Exiting from the Vehicle

Once you have been stopped and you have had your first contact with the officer, he/she may ask you to exit the vehicle. This is the point that an officer will start gathering their evidence about your possible physical impairments. They are watching to see if you have problems getting out of the vehicle and what you do after you exit the vehicle. This part of the traffic stop is very crucial to an officer because they need to secure probable cause for arresting you for DUI in the anticipation that you may not take any field sobriety tests. Even if you do not take field sobriety tests, do not assume that the officer does not have any evidence against you.

Answer the following questions:

1. Did the officer ask you to exit your vehicle? \_\_\_\_\_
2. Did you exit the vehicle without the officer's permission? \_\_\_\_\_
3. Did you have any problems exiting the vehicle? \_\_\_\_\_
4. Did an officer have to assist you out of the vehicle? \_\_\_\_\_
5. Did you use the door for balance as you exited? \_\_\_\_\_
6. Did you fall or stumble when you exited the vehicle? \_\_\_\_\_
7. How close was your vehicle to the roadway? \_\_\_\_\_
8. Was there traffic going by as you exited the vehicle? \_\_\_\_\_

Now that you have exited the vehicle, the officer may tell you to step to a certain location. Usually, an officer will have you go to the rear of your vehicle and in front their vehicle. The main reason you may be asked to stand in front of a patrol car is so you can be seen by the officer's video camera. Not all officers have video cameras in their vehicles, but it is a growing trend. When you are walking, the officer is probably watching you in an attempt to gather more evidence against you.

Answer the following questions:

1. Did you use the vehicle for balance as you walked? \_\_\_\_\_
2. Where did you walk to? \_\_\_\_\_
3. If you walked toward the patrol car, were the emergency lights flashing? \_\_\_\_\_
4. Were there any spotlights shining in your face while you walked? \_\_\_\_\_
5. Did street lamps light the area? \_\_\_\_\_
6. Did you trip or stumble as you walked? \_\_\_\_\_
7. What type of shoes did you have on? \_\_\_\_\_
8. How close to the road were you walking? \_\_\_\_\_
9. Did you lean against your vehicle when you talked to the officer? \_\_\_\_\_
10. How many officers were present at this point? \_\_\_\_\_
11. Can you identify them? \_\_\_\_\_
12. Photograph your vehicle and measure the distance from the floorboard to the ground. \_\_\_\_\_

Once you have reached the destination the officer asked you to walk to, they will probably begin to ask you questions. It is important to find out if the officer read your Miranda rights to you. If the Miranda rights were not read, then your answers may not be admissible in court. If the officer asked you how much you had to drink and your reply is a six-pack, it's possible that it may not be used against you. If the officer would have read the Miranda Rights to you, then your statement could have been used against you. It's the court's decision to determine if you were being interviewed or interrogated.

Generally speaking, an interview would occur while your license is being checked or your first contact with the officer. Sometimes your statements in an interview can be used against you without your Miranda Rights. The questioning becomes an interrogation at the point where you are not free to leave. You do not have to be in handcuffs. If the officer has detained you against your will for investigation purposes, all questions are considered interrogation.



## Chapter 4

### Roadside Tests

Once an officer has called you out of the vehicle, they may give you roadside tests. Roadside tests are also known as field sobriety tests. The purpose of these tests is to provide evidence for the officer and support his claim that you are under the influence of alcohol or other substances. Most officers are trained and certified in these types of tests. A different officer than the one who pulled you over may conduct roadside tests. In some jurisdictions, a DUI Enforcement Officer may conduct these tests and handle the rest of the traffic stop if a DUI arrest is imminent. If two or more officers are involved in the traffic stop, they both may have to testify in court. For instance, the officer who pulls you over for speeding calls for a DUI officer. The first officer would be known as a probable cause officer and the DUI officer would be known as the arresting officer. The probable cause officer would have to testify why they stopped you. The arresting officer would have testified why they arrested you.

Answer the following questions:

1. Who is the probable cause officer? \_\_\_\_\_
2. Are the probable cause officer and the arresting officer the same person? \_\_\_\_\_
3. If the answer is “no” to question 2, then identify the arresting officer.  
\_\_\_\_\_
4. Which officer administered the roadside tests? \_\_\_\_\_

Officers can administer roadside tests in different ways. Usually, there are at least three roadside tests that are considered standard field sobriety tests. These tests are the Horizontal Gaze Nystagmus, the Walk and Turn, and the One Leg Stand. Other tests like saying the alphabet in a certain way or touching the tip of your nose in a certain way are not really considered standard tests. It is left to the courts to recognize them as field sobriety tests

Before testing can occur, the officer(s) need to insure that the area is good for testing. This would include making sure the surface is free and clear of debris. The area would need to be flat. Lighting in the area is important, especially if it's in a rural area. Many questions have to be answered about the area, lighting, and footwear.

Answer the following questions:

1. Was the area flat and level? \_\_\_\_\_
2. Was the area free and clear of debris? \_\_\_\_\_
3. Were the tests conducted at night? \_\_\_\_\_
4. If the tests were conducted at night, were there any street lamps in the area? \_\_\_\_\_
5. How many patrol cars were at the scene of the traffic stop during testing? \_\_\_\_\_
6. Were there emergency lights flashing during testing? \_\_\_\_\_
7. Were you facing the emergency lights during testing? \_\_\_\_\_
8. Do you have any physical impairment that would hinder you in performing roadside tests? (I.e. back injury, knee injury, etc.) \_\_\_\_\_
9. Do you wear eyeglasses or contacts? \_\_\_\_\_
10. Did the officer ask you about any previous or current medical conditions or physical impairments before the roadside tests? \_\_\_\_\_
11. Were you told that the roadside tests were voluntary? \_\_\_\_\_
12. Did you feel obligated to take the roadside tests? \_\_\_\_\_
13. What kind of shoes did you have on during the roadside tests? \_\_\_\_\_

The above questions are very important for establishing the quality of the testing area. You will need to go to the scene where the arrest occurred, if possible, to answer some of the questions. Photograph the area including streetlamps. Make sure that your photographs are taken during the day for optimal lighting. Photograph the surface, which may show debris or other things that may affect the results of the roadside tests. Photograph your shoes from different angles. The grip of the footwear is important to photograph, also.

When photographing the surface where you were tested, you should try to use a leveler. You can buy a leveler from any hardware store. When you photograph the area with a leveler, you should place it on the ground and take a close shot showing where the "bubble" is located. Walk back a few feet and take another photograph. Continue this process approximately two more times. This will show the court that you are not just taking a picture of a random location, but the actual location where you were tested.

If you were tested on private property, it would be a good idea to get permission from the property owner to take photographs. Be sincere and explain your situation. Be patient with the property owner, also. It may take a while to win their trust.

The following are examples of photographs that should be taken during your investigation:



Example of testing surface. Notice the loose gravel on this surface. Do you think this is a good place to conduct roadside tests? The court may agree!



Another example of a testing area. Notice that the area appears to be rural with no streetlights.





Boots worn during roadside tests. A side profile photograph was taken to show a heel measurement.



A photograph shows the bottom of the boots. This shows the court that the roadside tests were taken in footwear that had no grip.





The leveler shows that this area is flat and level. This is as good as it gets for an officer to conduct roadside tests.





The leveler shows that the surface is not level!



One of the standard field sobriety tests is the Horizontal Gaze Nystagmus. This would usually be administered while you stand still. The officer is supposed to have you stand with your feet together and your hands down by your side. He/she would have you follow an object such as a pen or their finger. They will hold the object approximately one foot from your face and slowly makes passes with it from side to side. The officer should have instructed you to keep your head still and not move it as your eyes track the object.

The officer usually starts with the object held directly in front of you. They may initially move it to your left or right depending on what the officer wants to do. First, the officer will move the object slowly to about a 45-degree angle causing you to look at the object from the corner of your eye. The object will return to the front of your face and then move to the other side of your head. The first two passes are to check to see how you track the object with your eyes. If you are having problems tracking the object or you are slow following the object, this is an indicator to the officer that you may be possibly under the influence.

The officer will make two more passes with the object. This time he/she is checking to see if your eyes are jerking involuntary when you look at the object from the corner of your eye. The more jerking that your eyes do, the more indication that you may be under the influence, according to the officer.

The third set of passes with the object is to see when the eyes start jerking. If your eyes started to involuntary jerk before you could see the object from the corner of your eye, the more indication to the officer that you may be under the influence.

The officer gathers all of this information and documents it for his/her testimony later. There is no way to dispute what the officer will say about your eyes and the involuntary jerking. The officer can only see the action of the eyes and it is strictly based on his opinion of the tests whether you passed or failed.

If you were facing flashing emergency lights at the time you were taking this test; that is important. Flashing emergency lights can sometimes cause natural nystagmus in the eyes. If the officer were smart, they would have administered this test with your back to the emergency lights.



Answer the following questions about the Horizontal Gaze Nystagmus:

1. Were you facing emergency lights during the test? \_\_\_\_\_
2. Were you wearing eyeglasses or contacts during the test? \_\_\_\_\_
3. Do you have problems seeing objects that are near? \_\_\_\_\_
4. Do you have any problems with your back or knees? \_\_\_\_\_
5. Did the officer tell you to keep your feet together during the test? \_\_\_\_\_
6. Did the officer tell you to keep your hands to your sides during the test? \_\_\_\_\_
7. Did the officer tell you to keep your head still during the test? \_\_\_\_\_
8. Do you remember how many passes the officer made with the object? \_\_\_\_\_
9. Do you know how long it took to take the test? \_\_\_\_\_
10. Were you told this test was voluntary? \_\_\_\_\_

After you have answered these questions about the Horizontal Gaze Nystagmus, we can talk about the Walk and Turn test. This test would be the one where you walk a line heel-to-toe. An officer will either have you walk a painted line that is established or an imaginary line. Basically, the test is used to check coordination. There are several things that officers are looking for on this test.

Before the test begins, an officer may have you stand in a position as if you were getting ready to perform the test. Usually, this would be standing on the line or imaginary line with one foot in front of the other. While you're standing in that position, he/she is explaining how the test should be performed. If you leave this position or begin taking the test before the officer tells you to, they use this as indicator for DUI. The officer should have partially demonstrated the test to you during this phase of the test also.

Once the command has been given to proceed with the test, you have probably walked approximately nine (9) heel-to-toe steps in a straight line. While you're walking the line, your hands should have been to your sides. You also should have been counting your steps out loud. The officer is watching to see if you step off of the line and if your heels are actually touching your toes when you walk. He/she is listening to see if you count your steps correctly. The officer is also watching to see if you raise your hands away from your sides to use for balance. This test is supposed to be conducted so that you do not use your arms for balance.

Once you have reached the end of the first set of steps, the officer probably told you to turn around. This is an important step of the test. An officer should have demonstrated this portion of the test for you, but that doesn't always happen. An officer may just want you to turn around in whatever manner you wish so that you can walk your last set of steps back. Some officers will have you plant your foot on the ground and use the other foot to slowly turn around. If the officer was to explain this, they would say take a series of small steps to turn around. Many people think that you are to pivot and spin around as quickly as possible. If you try to do that right now, you may lose your balance. That is a very hard thing to do at anytime. If you lose your balance when you turned around, the officer will note this and use it against you in court. The key to this portion of the test is to know whether the officer thoroughly explained and demonstrated the turn.

After you have completed the turn, you are supposed to walk back in the same manner that you walked when you began the test. Officers are constantly evaluating your performance on this test.

Answer the following questions about the Walk and Turn:

1. Did you have any physical injuries that would have affected the outcome of this test?  
\_\_\_\_\_
2. Was the surface free of debris? \_\_\_\_\_
3. Was the surface level? \_\_\_\_\_
4. Was the surface paved or concrete? \_\_\_\_\_
5. What were the weather conditions? \_\_\_\_\_
6. Was the surface wet? \_\_\_\_\_
7. Did you take this test with your shoes on? \_\_\_\_\_
8. Were you facing emergency lights during any portion of this test? \_\_\_\_\_
9. Did the officer thoroughly explain the test to you? \_\_\_\_\_
10. Did the officer demonstrate the test to you? \_\_\_\_\_
11. Did you fully understand how to perform the test? \_\_\_\_\_
12. Did you start the test before the officer asked you to start? \_\_\_\_\_
13. How many steps did you walk before you got to the turn? \_\_\_\_\_

14. Did you count your steps out loud? \_\_\_\_\_
15. Did you walk an imaginary line or painted line? \_\_\_\_\_
16. Did you step off of the line when you were walking? \_\_\_\_\_
17. Did you raise your arms for balance? \_\_\_\_\_
18. Thoroughly explain how you turned yourself around. \_\_\_\_\_  
\_\_\_\_\_
19. Did you complete the test or did the officer stop the test? \_\_\_\_\_

Another standard test that is used is the One Leg Stand. Generally, this test will be performed while standing on one leg. Some officers use different variations of this test, but we will only describe how the official test should be conducted. The officer may have you stand on the leg of your choice and raise your other leg off of the ground. Both legs should have been straight and not bent at the knees. The raised foot should be approximately six (6) inches from the ground and toe pointed forward. Your hands should have been at your side for this test also and not used for balance. An officer may have you count out loud. Most use the following manner of counting: "one thousand one (1001), one thousand two (1002), one thousand three (1003), etc."

The officer is watching to see if your raised foot touches the ground. This is an indication to the officer that you have lost your balance. He/she is also watching to see if you raised your arms for balance during the test. They are also listening to you count to see if you counted correctly. The officer will usually tell you when the test is complete. If you have completed the test on your own terms, you have failed in the officer's judgment. The officer is looking for the test to be completed in approximately thirty seconds. That means you have to stand on one leg without any problems for approximately thirty (30) seconds until he/she tells you that you can be put your foot down. This is a very difficult test to conduct under any circumstances.

Answer the following questions about the One Leg Stand:

1. Was the surface free of debris? \_\_\_\_\_
2. Was the surface level? \_\_\_\_\_
3. Which leg did you stand on during the test? \_\_\_\_\_
4. Do you have any problems with the leg you stood on? \_\_\_\_\_

5. Do you have any problems with the leg that was raised? \_\_\_\_\_
6. Did the officer thoroughly explain and demonstrate this test to you? \_\_\_\_\_
7. Did you keep your legs straight during the test? \_\_\_\_\_
8. Do you remember if your toe was pointing forward or to the sky? \_\_\_\_\_
9. Did your raised foot touch the ground during the test? \_\_\_\_\_
10. Did you raise your arms for balance during the test? \_\_\_\_\_
11. Did you count out loud? \_\_\_\_\_
12. In what manner did you count? \_\_\_\_\_
13. If your raised foot touched the ground, do you remember on what count? \_\_\_\_\_
14. Did you stop the test yourself or did the officer stop the test? \_\_\_\_\_
15. What was the last number you counted before the test ended? \_\_\_\_\_
16. If there was different variation to this test, please explain it.

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The officer may conduct other types of field sobriety tests. The problem is there are too many variations of too many tests. The above tests are standard and the most widely used among officers. If there were any other field sobriety tests administered at the scene, please take a few minutes and write about them in detail below:

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Another test that is commonly used among officers is the portable breath tester. This is not really considered a field sobriety test, but it's another indicator the officer can use against you. Most courts will not allow the results of the portable breath test. Some will allow the officer to testify that a defendant tested positive for alcohol but refuse the actual reading of the portable breath test. This decision will probably vary depending on what court you're dealing with. Many people who are stopped are under the impression that the portable breath tester is an official breath test, but it is not. This is just another piece of evidence that the officer will use against you in court.

Answer the following questions about the portable breath tester (PBT):

1. Did you blow into a PBT? \_\_\_\_\_
2. Were you advised that this test was voluntary? \_\_\_\_\_
3. Were you under the assumption that this was an official breath test? \_\_\_\_\_
4. Did you have anything in your mouth when you blew into the PBT? \_\_\_\_\_
5. Was your mouth bleeding when you blew into the PBT? \_\_\_\_\_
6. Were you shown the reading of the PBT? \_\_\_\_\_
7. How long after you were stopped did you blow into the PBT? \_\_\_\_\_
8. Did you take the PBT before or after the field sobriety tests? \_\_\_\_\_

Roadside tests are conducted by officers to gather evidence against you. It is important to evaluate everything you did during this period of the traffic stop. You need to know what the officers were looking for and how it may be used against you. Do your homework!



## Chapter 5

### Testing

Testing occurs after you have been arrested. The decision has already been made by the officer that you are possibly under the influence and that further testing may be required. Generally, you have the right to refuse to take any test that is offered by law enforcement because it may incriminate you. However, there are usually penalties or consequences for refusing to give a testing sample.

The most common sample that is requested by law enforcement is the breath sample. After you have been arrested, you are usually transported to a location where an intoxilyzer or breath tester is located. You should know the laws in the state where you were arrested. Laws vary from state to state about the consequences for refusing a breath test. An automatic suspension may occur along with higher fines if you are found guilty. The breath test can be refused and is voluntary. The test results will obviously incriminate you.

Answer the following questions about breath tests:

1. Did you take a breath test? \_\_\_\_\_
2. Were you advised that the test was voluntary? \_\_\_\_\_
3. Did you take the test? \_\_\_\_\_
4. How much time elapsed from the time you left the scene of the arrest and the time you took the breath test? \_\_\_\_\_
5. Did you relieve yourself prior to taking the breath test? \_\_\_\_\_
6. Did you drink anything prior to taking the breath test? \_\_\_\_\_
7. Do you wear dentures? \_\_\_\_\_
8. Did you have any major dental work prior to taking the breath test? \_\_\_\_\_
9. Did you have anything in your mouth when you took the test? \_\_\_\_\_
10. Did you have any blood in your mouth when you took the breath test? \_\_\_\_\_
11. How many officers were present when the test was administered? \_\_\_\_\_
12. Did the officer administering the test leave you alone at any time prior to the breath test?  
\_\_\_\_\_

13. If the officer did you leave you, how long was he/she gone? \_\_\_\_\_
14. Were you sitting or standing when you took the breath test? \_\_\_\_\_
15. Were you in handcuffs when you took the breath test? \_\_\_\_\_
16. How many times did you blow into the breath machine? \_\_\_\_\_
17. What were the results of the breath test? \_\_\_\_\_

Another type of testing is the blood test. The blood test is usually done with consent or with a search warrant. You will need to check the laws of the state that you were stopped in to see how blood could be given.

Answer the following questions about blood testing:

1. Did you give a blood test? \_\_\_\_\_
2. Did you consent to the blood test? \_\_\_\_\_
3. Where were you when the blood test was given? \_\_\_\_\_
4. Do you know the person who withdrew the blood? \_\_\_\_\_
5. Was a search warrant issued for your blood? \_\_\_\_\_
6. How many people were present when you gave blood? \_\_\_\_\_
7. How much time elapsed after you were arrested before you took a blood test?  
\_\_\_\_\_
8. Do you know the results of the blood test? \_\_\_\_\_

A third type of test is the urine test. This test is self-explanatory and usually administered if someone doesn't want to take the breath test. More than likely, this test was given with consent.

Answer the following questions about urine testing:

1. Did you take a urine test? \_\_\_\_\_
2. Did you consent to the test? \_\_\_\_\_
3. Where was the test given? \_\_\_\_\_
4. How many people were present when you took the urine test? \_\_\_\_\_
5. How much time elapsed from the time you were arrested and the time you took the urine test? \_\_\_\_\_

## Chapter 6

### Critical Information

It's important to have all of the information regarding your case documented. The information that you document can be of quick access for you or your attorney. Having the information organized is essential so that you have to spend less time researching in the future.

Fill out the following information if applicable:

1. Full name \_\_\_\_\_
2. Physical address \_\_\_\_\_
3. Mailing address \_\_\_\_\_
4. Driver's license number and state \_\_\_\_\_
5. If you have been arrested for DUI in the past, list dates and locations of arrests  
\_\_\_\_\_  
\_\_\_\_\_
6. If you're on probation for any crime, list probation officer's name and contact info  
\_\_\_\_\_
7. Date you were arrested \_\_\_\_\_
8. Name of arresting agency \_\_\_\_\_
9. Name of arresting officer \_\_\_\_\_
10. Names of other officers involved \_\_\_\_\_
11. Date/Time booked in \_\_\_\_\_
12. Amount of bail \_\_\_\_\_
13. Bonding company and contact info \_\_\_\_\_

14. List highest level of education you have obtained \_\_\_\_\_
15. Vehicle info (Year/Make/Model/Color/Tag/State) \_\_\_\_\_  
\_\_\_\_\_
16. Passenger's names, addresses, and contact info  
\_\_\_\_\_  
\_\_\_\_\_
17. Initial court date \_\_\_\_\_
18. Height/Weight \_\_\_\_\_
19. How long were you awake on the date of your arrest? \_\_\_\_\_
20. What did you eat on the date of your arrest? \_\_\_\_\_
21. List all medical problems that you had at the time of the arrest  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
22. List all prescribed medications at the time of the arrest  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

23. List all medications that you took on the date of your arrest

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24. Do you wear eyeglasses or contacts? \_\_\_\_\_

25. How is your vision? \_\_\_\_\_



## Conclusion

We hope that this manual has assisted in the documentation of your case. You will find that the workbook will come in handy when remembering facts about your case. As stated in the introduction of this manual, it is not intended to serve as a substitute for legal advice and will not help you to avoid a future DUI arrest.

It is strongly recommended that you seek the advice of a criminal defense attorney on your case. If you haven't hired a defense attorney, you should seek one who specializes in DUI related offenses. Attorneys who deal strictly with DUI offenses may charge more in legal fees than a general criminal defense attorney. Just remember, you get what you pay for. Would you rather have surgery performed by a doctor who has done thousands of surgeries or a doctor who has only done a hundred? Think about that when you hire an attorney. Choose someone who is experienced and concentrates only on DUI matters.

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