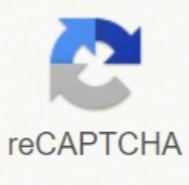




I'm not robot



**Open**



# DUI SENTENCING

## WHAT WILL BE MY DUI SENTENCING?

DUI sentences vary greatly depending on factors such as whether it's a first-time or repeat offense and whether or not anyone was injured.

### POSSIBLE SENTENCES (VEHICLE CODE § 23152)

#### FIRST OFFENSE



3–5 years of probation, \$390–\$1,000 fine, Mandatory enrollment in alcohol treatment program, and either 48 hours to 6 months in jail or 90-day driver's license restriction allowing offender to drive to work and the treatment program

#### SECOND OFFENSE



3–5 years of probation, \$390–\$1,000 fine, 48 hours to 1 year in jail, 18–30-month treatment program, and license restriction allowing offender to drive to work and the treatment program only for the length of the program; or 10 days to 1 year in jail and an 18-month license suspension

#### THIRD OFFENSE



3–5 years of probation, \$390–\$1,000 fine, 18-month treatment program if offender hasn't completed one, 4 months to 1 year jail time, and 3-year revocation of driver's license

#### FOUR OR MORE OFFENSES?

Note, there are special punishments if you have four or more offenses within the last 10 years. If you have four or more, you will likely receive a 18-month treatment program, if you have not completed one, 6 months to 1 year in jail, and a 4-year revocation of your driver's license.

## OTHER CONSIDERATIONS

### OTHER CONSEQUENCES?

Yes. You may lose your driver's license, temporarily have to participate in an alcohol- or drug-related treatment program, and you will see your car insurance rates climb astronomically.



### WHAT IF SOMEONE WAS INJURED?

DUI sentencing with injury will change your sentence dramatically and will depend on the severity of injury. At its maximum, a death could result in a possible life sentence in prison.

### CONTACT A DUI ATTORNEY:

Contact the Law Office of Nicco Capozzi, a California DUI law office. Call: (559) 374-2012



**YOU HAVE THE RIGHT TO REMAIN OUT OF PRISON**

**KNOW YOUR RIGHTS**  
3 LEVELS OF POLICE/CITIZEN ENCOUNTERS

<b>CONSENSUAL</b> Casual conversation EVIDENCE LEVEL REQUIRED: ZERO Am I free to leave?	<b>INVESTIGATIVE DETENTION</b> Temporary detention for further info EVIDENCE LEVEL REQUIRED: REASONABLE ARTICULABLE SUSPICION Am I free to leave?	<b>ARREST</b> Taken into police custody EVIDENCE LEVEL REQUIRED: PROBABLE CAUSE OR WARRANT Am I under arrest?
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**IV AMENDMENT**  
The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**EVEN IF YOU ARE NOT A U.S. CITIZEN**

Legally no time limit, but discretion is necessary as to when to stop.

Am I required to show ID? **Yes** / **No**

Am I required to allow ID? **Yes** / **No**

Legal search: **Consensual or plain sight**

Legal search: **Frisk, plain sight, consensual, or warrant**

Legal search: **Probable cause (only when driving)**

Legal search: **Once under arrest, your immediate surroundings are subject to search**

26 STATES require drivers to provide ID, and 23 require vehicle identification.

OFFICER KNOCKS ON DOOR TO ASK IF YOU SAW ANYTHING

OFFICER CATCHES YOU BREAKING AND ENTERING

OFFICER OBSERVES YOU WEARING A SKI MASK AT NIGHT

Reasons for potential probable cause

### PROFILING

#### WARNING SIGNS COPS LOOK FOR

- PAPER TAG
- DARE / POLICE DECALS
- COLLEGE ATTIRE
- GANGSTER ATTIRE

#### SUSPICIOUS PARAPHERNALIA

- CROWBAR
- SLIM JIM
- WEAPONS
- SPRAY PAINT
- ROLLING PAPERS
- BAGGIES / SCALES
- WEAPONS
- PIPES

## BEST PRACTICES FOR EXERCISING YOUR RIGHTS SAFELY

TIPS TO REDUCE EXPOSURE TO SUSPICION (NOT LEGAL ADVICE)

### Always:

- BE POLITE
- BE RESPECTFUL
- KEEP HANDS VISIBLE
- ASK TO LEAVE OFTEN
- ASK FOR CAUSE
- ASK IF REQUESTS ARE ORDERS
- RECORD ENCOUNTER IMMEDIATELY
- REPORT ANY VIOLATIONS OF YOUR RIGHTS

IF PULLED OVER WHILE IN A VEHICLE

CRACK OR NO CRACK? Some recommend only cracking your door / window unless ordered to open fully. Others caution this will arouse suspicion and animosity.

REMEMBER: A POLICE REQUEST IS NOT AN ORDER. Clarify if it's an order, or a request.

KEEP ITEMS THAT MIGHT DRAW ATTENTION OUT OF PLAIN SIGHT

PRESCRIPTION BOTTLES / MEDICINE  
HOOKAHS / ROLLING PAPERS  
MEASURING SCALE / ZIPLOCK BAGS  
FIREARMS / WEAPONS

### Never:

- ANSWER QUESTIONS
- LIE OR GIVE FALSE DOCUMENTS
- GIVE PERMISSION TO A SEARCH WITHOUT FULLY READING A WARRANT
- ARGUE, RESIST, FLEE, OR OBSTRUCT

## POLICE

POLICE MAY LEGALLY LIE, BLUFF, AND INTIMIDATE YOU

### Filming A Police Encounter

YOU MAY LEGALLY VIDEO AND AUDIO RECORD A POLICE OFFICER PERFORMING OFFICIAL DUTIES WHILE IN PUBLIC

Legally

OFFICER MAY NOT

- CONFEISURE YOUR EQUIPMENT
- DEMAND TO VIEW FOOTAGE
- DELETE WITHOUT A WARRANT

INDIVIDUAL MAY NOT

- INTERFERE WITH THE OFFICER'S DUTY (ie. "officer says 'stand back'" do not)
- PHYSICALLY RESIST (if officer reaches for your device, do not resist, just report it)

### MOST AVOIDABLE ARRESTS

OCCUR FROM TRICKERY AND INTIMIDATION WHICH RESULT IN THE INDIVIDUAL:

- CONSENTING TO A SEARCH
- ADMITTING GUILT

## REFUSING A SEARCH

OR REFUSING TO ANSWER INCRIMINATING QUESTIONS

are not ADMISSIONS OF GUILT, or REASONS TO DETAIN YOU

## MIRANDA RIGHTS

ARE READ ONLY ONCE YOU ARE IN POLICE CUSTODY

### Common POLICE TRICKS

TRICK QUESTION: "Have you had anything to drink tonight?"

BEST ANSWER: "Respectfully officer, I don't have to answer that."

"Not answering is suspicious, why are you resisting?"

"I'm not resisting, respectfully, I don't have to answer anything."

"If you have nothing to hide, you don't mind if I look around."

"I'm sorry officer, but I don't consent to searches."

"If you refuse a search, I'll have to call a K-9 unit."

"Officer, are you detaining me, or am I free to go?"

## Breathalyzer

### DO YOU HAVE TO TAKE IT?

NO, YOU HAVE THE RIGHT TO REFUSE.

Refusing a POST-ARREST BREATHALYZER is an automatic, irreversible suspension of driver's license.

Refusing a PRE-ARREST BREATHALYZER will **not** get your license suspended.

BREATHALYZERS ARE TUNED TO THE "AVERAGE" PERSON

#### POTENTIAL FALSE POSITIVE FACTORS

- SMALLER PEOPLE
- SMALL LUNG CAPACITY
- DIABETES
- ACID REFLEX (GERD)
- LOW-CARB DIET
- INHALERS
- FUMES (E.G. PINE, TINKER GAS)

# Roadblocks

## DUI STOP

Legal

Protection from "imminent public danger"

SAME RULES AS ANY OTHER TRAFFIC STOP



## BORDER STOP

Legal

Agents may legally search anything without warrant

SAME RULES AS ANY OTHER TRAFFIC STOP

BY E.B.M. BY STEPHEN L. WEBSTER

## DRUG STOP

Legal

The US Supreme Court ruled random checkpoints for the purpose of finding drugs are unconstitutional

SAME RULES AS ANY OTHER TRAFFIC STOP

**DID YOU KNOW...**  
Blood can be taken without a warrant and your license can be suspended if you refuse to give either blood or urine when arrested for a drug DUI.

## DRUG CHECKPOINT

IN 1 MILE

*It's a Trap!*

POLICE ARE LOOKING FOR REASONS TO PULL PEOPLE OVER:

- ILLEGAL U-TURNS
- LITTERING
- SUSPICIOUSLY EXITING

# YOU HAVE RIGHTS Know them

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NEWSORACING



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To protect the public's right to privacy, documents containing highly sensitive information that could lead to identification of the theft or compromised personal security, as well as records protected by law, will not be accessible to the public on personal computer systems. Categorized Under: Legal Procedure Conduct a Fresno County FREE, CA Public Court Record Search, including court records, files, transcripts and case searches. For general public searches, the new portal will work just as the current portal does without requiring a login. Police Department ash missing persons -Persons:AMBER-ALERT / MISSO-PERSONAS-LIST / SEE LIST OF PERSONS FRESNO MISSOS DE LA PERSONA, including names, photographs and dates last seen. The Odyssey case management system will centralize administration for all types of cases, replacing two systems that currently operate separately for criminal and civil cases. In addition, in an effort to further optimize case processing, the Tribunal will eliminate all payments from the phone starting April 1. The electronic calendars will be available again at the B.F. Sisk Courthouse on that day. The High Court of Fresno will make the transition to a new electronic case management system on Monday, April 13, 2015. These efforts will be ongoing through the launch of the Odyssey system and beyond. Odyssey will automatically convert approximately 4.4 million existing adult and juvenile case files electronically and retain the original case numbers. Then, the Tribunal will be closed by the of Cesar Chavez on March 31. Although the search portal of cases will remain very easy to use, it will be different. Keep in mind that during the manual processing period, judicial calendars will be published on our website at www.fresno.courts.ca.gov. During the period of ten days of manual case. 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