



**ROSSEN**  
LAW FIRM  
WHEN BAD THINGS HAPPEN TO GOOD PEOPLE.

# 7

## **RULES YOU NEED TO KNOW TO SURVIVE A FLORIDA DUI**

**- SECOND EDITION**

**IN THIS FREE REPORT YOU'LL DISCOVER:  
THE #1 MISTAKE PEOPLE MAKE ON THE FIELD  
SOBRIETY TESTS THE REAL REASON THE POLICE  
ARE DYING TO ARREST YOU... AND WAY MORE...**



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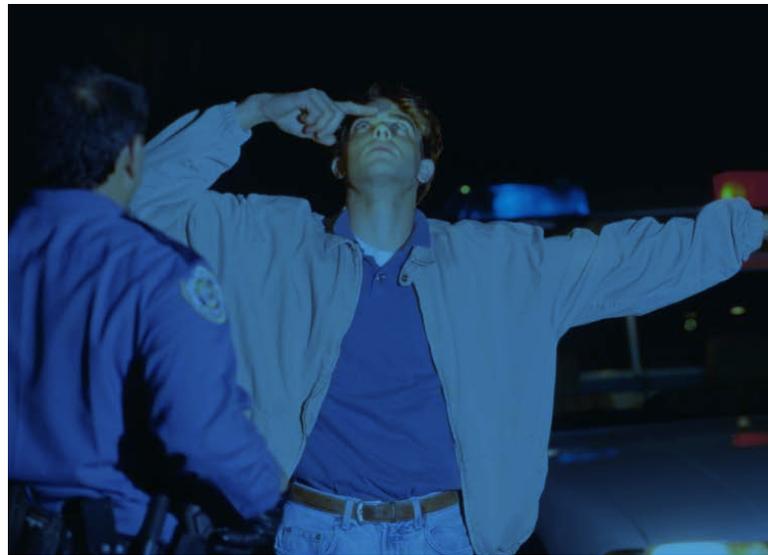
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## WE HELP GOOD PEOPLE WHEN BAD THINGS HAPPEN

Rossen Law Firm has helped good people when bad things happen to them for more than a decade. We truly believe that bad things can happen to good people, and it is our mission to help them so they can achieve their best future!

Rossen Law Firm is dedicated to helping clients turn their lives around and move forward from what otherwise COULD have been debilitating criminal charges.

With offices across from Miami to Fort Lauderdale to Boca Raton and Wellington, Rossen Law Firm provides expert criminal defense to people throughout South Florida.

Rossen Law Firm has eight award-winning attorneys on staff, ready to assist you and work to defend your rights, future and freedom by getting you the best possible result on your criminal case in South Florida.

Thanks to our incredible clients, our team has more than 750 5-star reviews on the internet.

750+ ★★★★★  
Reviews On



# MEET OUR ATTORNEYS



*Adam Rossen*

Adam, Founder & CEO of Rossen Law Firm, was born & raised in South Florida. He's always had a passion for helping people.

A University of Miami Law School grad, Adam loves the competition, strategy and debating he gets to do as a Criminal Defense Lawyer.

His law career began as a state prosecutor in Broward County. He was the first prosecutor of his class promoted - ahead of 32 others. Rossen Law Firm was born from a desire to help people in a deeper, more meaningful way. Adam strives to make a difference in the lives of his clients, employees and community.

With numerous legal awards, such as a perfect Top 100 DUI Lawyer by National Advocacy for DUI Defense, 10 rating on Avvo, A SuperLawyers rising star, AV Preeminent rated by Martindale Hubbell; Adam is still most proud of the 5-star reviews and heart-felt testimonials left by his clients.

**Fun Fact: Adam has coached basketball for 10+ years**

*Manny Serra - Jovenich*

Manny, Managing Partner at Rossen Law Firm, was born and raised in South Florida. He became a lawyer to use his talents to help people.

A quote he lives by, especially in the courtroom, is:  
"A true Statesman should be incorruptible and fearless" - Samuel Adams.

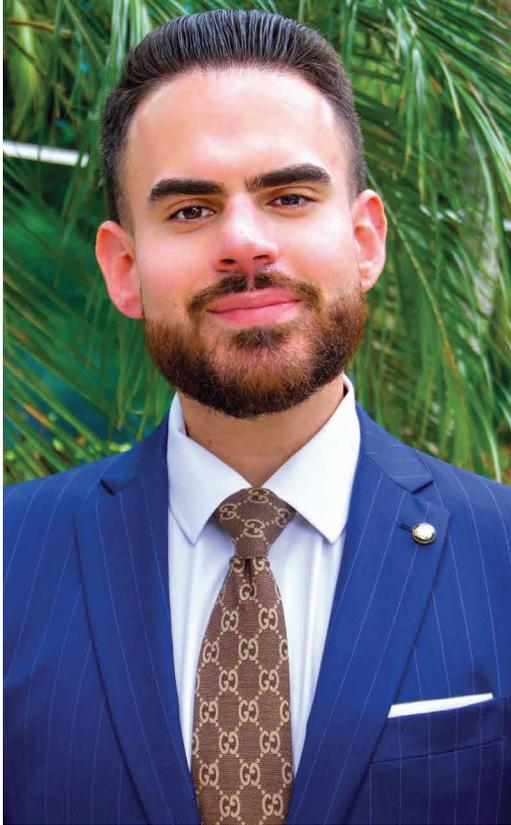
Manny's background includes fighting against big banks during Florida's foreclosure crisis and protecting people's constitutional rights as a Broward County Public Defender. He loves to represent a "David" against a "Goliath".

Manny graduated from Nova Southeastern Law School and was named to the National Trial Lawyers' Top 40 Under 40 list & named the 10 Best in Client Satisfaction by the American Institute of Criminal Law Attorneys.

**Fun Fact: Manny loves to surf**



# MEET OUR ATTORNEYS



David Tarras

David, Partner & Head of our White Collar & Federal Criminal Defense division at Rossen Law Firm, was raised in South Florida. He's spent his entire legal career fighting tirelessly for the criminally accused in both State and Federal Court in Florida.

David graduated from Fordham University School of Law in Manhattan, New York. He's since tried more than 40 jury trials, defended more than 1,000 clients and earned recognition as one of the top 40 criminal defense attorneys under the age of 40 in Florida.

David gets to fulfill his dream of being in a position to help and safeguard his clients' futures by using his passion for competition, creative conflict resolution and the art of persuasion as a defense attorney.

**Fun Fact: David is a sci-fi enthusiast and can often be found reading or watching something Star Wars-related in his downtime.**

Meri Ros

Meri, Partner & Board Certified Criminal Defense Trial Attorney at the Rossen Law Firm, was born in Spain and raised in South Florida where she has been practicing criminal defense for more than 13 years.

Meri has tried more than 50 jury trials including Murder and Capital Sexual Battery trials. She has devoted her entire career to the zealous advocacy of those accused of crimes.

Meri graduated Summa Cum Laude from Florida International University where she received her Bachelor's Degree in Philosophy with a Certificate in Law, Ethics, and Society. She received her Juris Doctorate degree from St. Thomas University where she was also the recipient of the ABOTA Trial Scholarship.

**Fun Fact: Meri loves to travel and read. She also has a pet German Shepherd named Hunter that she loves to train.**



# MEET OUR ATTORNEYS



*Susan Lawson*

Susan Lawson, Partner & Board Certified Criminal Defense Trial Attorney at the Rossen Law Firm, was born and raised in South Florida and has been practicing criminal defense for over 13 years.

Susan received a bachelor's degree in Legal Studies from the University of Central Florida. She received her Juris Doctorate degree from Saint Thomas University School of Law where she was a member of the International Moot Court and Inter-cultural Human Rights Law Review.

Susan has always loved to litigate and help others. She knew she could use her voice, knowledge, skills, and passion to zealously advocate and make a difference in the lives of others.

**Fun Fact: Susan loves to spend time with her husband and dogs. They are a baseball family and spend much of their time on the field.**

*Scott Simmons*



Scott Simmons, Criminal Defense Attorney at the Rossen Law Firm, was born and raised in South Florida. Before joining the Rossen Law Firm he was an Assistant Public Defender in Broward County. As an Assistant Public Defender, he handled thousands of cases, ranging from Armed Carjacking to Driving Under the Influence.

Scott graduated Cum Laude from Florida Atlantic University where he received his Bachelor's Degree in Criminal Justice. Scott received his Juris Doctorate degree, Cum Laude, from Nova Southeastern University - Shepard Broad College of Law.

While in law school, Scott won the largest Moot Court Criminal Procedure Competition in the Nation, and competed in several other National Trial Competition.

**Fun Fact: Scott enjoys spending his free time with his Fiancé and their 2-year-old Goldendoodle named Pinot.**



# INTRODUCTION

Getting pulled over for a DUI can be a scary and difficult time. The police pulls up behind you. His lights are flashing. His high-pitched siren is blaring.

You pull over to the side of the road. He stops right behind you. The red and blue lights flash through your window. You sit behind the wheel waiting.

Finally you see the officer approaching your vehicle. You're anxious. You're nervous.

## YOU'VE GOT ALL OF THESE SCARY QUESTIONS RUNNING THROUGH YOUR MIND...



Most people get so nervous they just want to make the whole situation go away as quickly as possible. **But when you act out of fear you usually make the situation worse.** That's especially true with a DUI.

Many of our clients who've come to us with a DUI made their situation worse without knowing it. That's what happens when you don't know your rights. The police put pressure on you and you pop like a balloon. You listen to the police when they're not telling you the full truth. You try to cooperate and what you say gets used against you. **You say yes when you don't want to because you didn't know you had the right to say no.**

And that's why we've put together this free report. Because you deserve to know your rights. When you know your rights, you know your power. **You have the power to prevent a DUI from ruining your life.** Use these top 7 rules for handling a DUI and they can help save your life, your license, and your reputation.



# 01 **RULE #1** **NEVER TRY TO TALK YOUR WAY OUT OF A DUI**

It's nighttime, and a police pulls you over on suspicion of DUI. Take deep breaths and try to stay calm. Get your license and registration ready. Be polite, but be quiet. The officer will start asking you questions. They may even ask you to get out of your car.

If the officer asks you to step out of the car, just get out of the car. **You're getting out one of two ways—on your feet or on your face, so you may as well step out.**

The police are not allowed to interrogate you when they pull you over. However, the law says they can ask you basic questions. The most common ones officers ask are:

*Where are you headed?*

*Where are you coming from?*

*How much have you had to drink?*

This is when many people start thinking they can talk their way out of a DUI.



**It may seem like a good idea, but it's NOT.** Sure, we've all talked our way out of something in the past—a speeding ticket, a fight with a significant other, a bad grade, etc. But even if you're the smoothest talker on the planet, or the #1 salesperson in your company, this is not the time. It doesn't matter how smooth you are.

**You probably have less than a 1% chance of talking your way out of a DUI in South Florida**—meaning the odds are very much NOT in your favor. At the casino, if you knew you had less than a 1% chance of winning, would you gamble your money? We didn't think so.

So when it comes to a DUI, don't even try smooth talking. It will just make your situation worse. And here's how:

Let's say you've only had a couple of beers in the past two hours and are positive you are not over the legal limit of .08. So you decide to tell the police you only had two beers.



***You just made two very big mistakes (one per beer!)***

**01**

*You just admitted to a police officer that you were drinking. It does not matter if you are under the legal limit of .08. The standard is impaired, not drunk. You just gave him more reason to arrest you. And you provided evidence against yourself that can be used by the prosecution to convict you.*



**02**

*People lie to the police all the time. They've heard so many lies police think they're professional lie detectors. So when you say you had 2 beers, to them that means you had 6 beers. Even if you're telling the truth, they will not believe you.*



# 02

## RULE #2 THE POLICE ONLY NEED PROBABLE CAUSE TO ARREST YOU

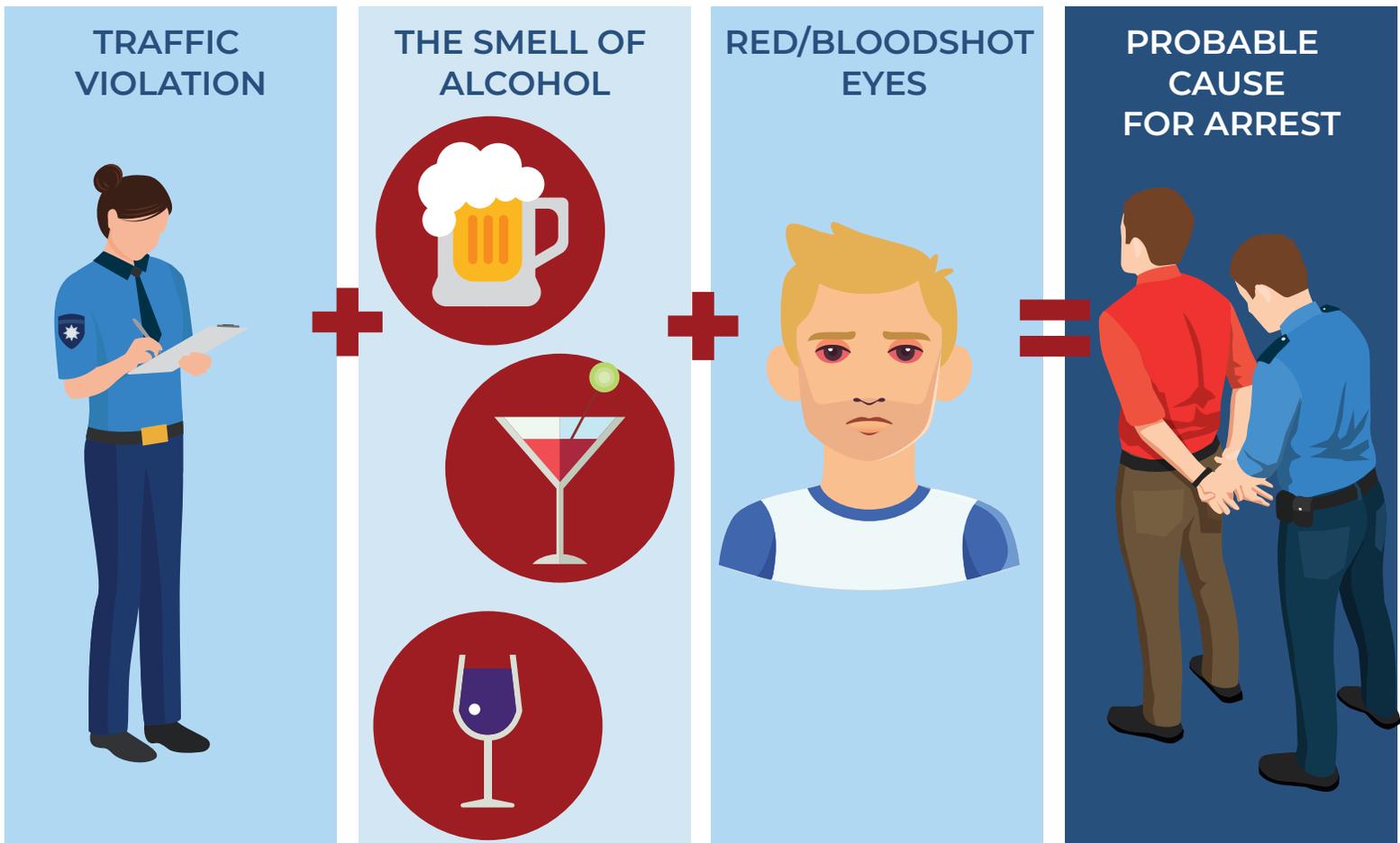


**DUI arrests are made solely based on the opinion of the police officer.** And by law they don't have to be all that convinced you're under the influence in order to make the arrest.

Police are required to make an arrest based on "probable cause." What does that mean? It basically means that **if the police are 40% sure you've been drinking they can and will arrest you.**

How do they establish probable cause? By writing down every little mistake or what they observed when they pulled you over in their police report.

*In most cases courts agree on the following formula:*



But again, this is not a set formula. Establishing probable cause is not hard. And since the officer is gunning to make the arrest, **anything you say or do will be used against you.**

# 03 **RULE #3** WHEN TALKING TO POLICE, THE K.I.S.S. METHOD CAN SAVE YOUR CASE



Back to the side of the road. You now know you shouldn't try to talk your way out of a DUI—no sense giving the police more evidence to arrest you. **You really want to say as little as possible to the cops. Be polite, but firm.**

So how should you handle the officer's questions? **Use the K.I.S.S. method.**



( No, this does NOT mean kissing the police officer! )

## **K.I.S.S. = KEEP IT SIMPLE STUPID**

Adam's teacher taught that in school. He wanted to keep his students from getting in over their heads. And that's exactly why you should use it here. **Start talking and you'll end up giving too much information away.** Your words will get twisted. You'll get yourself in more trouble.

**You only need to remember one line. You can repeat this line to the officer any time he asks you a question.**



**"I'M SORRY OFFICER, BUT MY  
LAWYER TOLD ME NOT TO  
ANSWER ANY QUESTIONS."**

Will the officer be happy? No. Will he keep asking you questions? Probably. What should you do? **Cling to that one line like a lifeboat in a shipwreck.** It will stop you from giving away information that can hurt you later on.

Now, when the police pull you over **you are NOT entitled to an attorney on the side of the road.** They don't have to read your Miranda Rights either. So much for what we've seen on Law & Order!



*You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you.*



For any other crime if the police are questioning you and you aren't free to leave, they have to read you your rights. But not when they pull you over on DUI suspicion.

Why? → **Because in Florida driving is a privilege.**

But again, remember, even though you don't have the right to an attorney right away, **you still DO NOT have to answer any questions.**

## BOTTOM LINE: KEY ROADSIDE RULES TO REMEMBER:

**1** YOU DO NOT HAVE THE RIGHT TO AN ATTORNEY ON THE SIDE OF THE ROAD.

**2** YOU DO **NOT** HAVE TO ANSWER ANY QUESTIONS.

**3** YOU CAN ALWAYS SAY, "I'M SORRY OFFICER, MY LAWYER TOLD ME NOT TO ANSWER ANY QUESTIONS."

**4** IF YOU'RE OVER **21** THE POLICE MUST ARREST YOU BEFORE ASKING FOR A BREATH TEST.



If you refuse to answer their questions, the police are going to tell you that they still need to figure out if you're impaired. **They'll ask you to perform a series of exercises, also known as field sobriety tests.** This brings us to our next rule.

# 04

## **RULE #4** **YOU DO NOT, UNDER ANY CIRCUMSTANCES, HAVE TO DO THE FIELD SOBRIETY EXERCISES**



**There is no legal penalty for refusing to do the field exercises.** And there is really no benefit to doing them.

The field exercises are designed to test your coordination, balance, and ability to focus on doing more than one thing at a time. They're supposed to help police determine if your normal faculties are impaired.

This is important because **100% of a police decision to arrest you is based on whether he believes your normal faculties are impaired.**

**Normal faculties are:**

**your ability to see, hear, walk, talk, judge distances, act in emergencies, make decisions, drive a car, and perform the mental and physical tasks of your daily life.**



Now, there are two major problems here:

## 1. THERE'S NO SUCH THING AS "NORMAL" FACULTIES.

### We're all different.

Especially here in South Florida. We have people from New York, the Midwest, Haiti, Jamaica, Cuba, and tons of other parts of the world. We all talk differently, walk differently, and are physically different. We're not the same age, gender, or weight. Some of us are more balanced than others – like a ballerina or yoga instructor. There is no "normal" standard that applies to all of us.

### We also handle stress differently.

Adam's sister-in-law's nickname is panic button because she freaks out at the slightest thing —and that's without any alcohol in her system.

On the way back from the Bahamas once she was randomly selected for customs. She immediately started sweating and worrying she had something illegal. She had no fruit. She didn't have piles of cash. She had nothing on her that would get her in trouble. She knew that, but because she freaks out easily she was still acting like a guilty drug smuggler.

Now imagine if she got pulled over by the police. Her stress level is already going to be through the roof even if she didn't have a drop of alcohol. The police could and would easily mistake that behavior as impaired.

And that's part of the problem. **The police don't know you. They don't know what normal is for you. They're not going to be able to figure it out in the 15 minutes they have you pulled over.** And they're not going to try.

Anything that you do "wrong" is going to be used against you. As far as the police are concerned, it all goes back to alcohol.





## 2. THE FIELD SOBRIETY EXERCISES ARE VERY DIFFICULT.

**The field exercises are complicated.** Each exercise has at least 10 different instructions. And the police don't just ask you to do one or two of them. They usually make you do three to five different exercises. That's following 50 different instructions you've never heard before in one shot. And how many of us have done things perfectly the first time? Not many. But to the police anything less than perfection is evidence that you're impaired.

When Adam gives DUI lectures he always ask for volunteers to demonstrate the exercises. **In over 15 years of giving DUI lectures, he never had someone pass the tests.** And everyone has been completely sober. Why? Look at the following example.



He call John up to the platform and tell him his going to explain how to do the one-legged stand, one of the common exercises the police ask you to do. He tells him that he'll demonstrate and then tell him when to do it. As his showing him how to do the one-legged stand, John starts to copy his movements. So he stops and tells him he just failed.

**Then he ask the class, why did John fail?**

**BECAUSE HE STARTED THE EXERCISE BEFORE HE TOLD HIM TO.**

**75% of people make the mistake of starting the field tests too early.** John gets upset and says he was just trying to practice because he's never done that before.

But in the eyes of a police officer, John still failed. He's completely sober, but he didn't follow the instructions properly.

Now John failed in a safe space. Imagine trying to do an exercise for the first time on the side of the road where:



The police are watching your every move

You're facing arrest

You're facing possible jail time

You're facing expensive lawyer's fees

You're facing possibly losing your license and/or your job



Wouldn't you be nervous? There's a lot of pressure on you. **And if you don't do it perfectly you're going to fail.**

Now, what if you're injured? **The police are supposed to ask you if you have any injuries. But they don't always do it.** Or sometimes they ask the question in a confusing way. Instead of saying injuries, they'll ask you "Do you have any physical disabilities?" If you had a sprained ankle, you probably wouldn't consider it a physical disability, so you'd answer no to that question. But then the police don't know you have a sprained ankle. And if you fail an exercise because of it, they'll still arrest you.

**If you do have injuries the police are supposed to give you seated exercises to do. But lots of times they don't.** This happens to our clients all the time. One client was 50 pounds overweight and had a bad back, which he told the police. Still, they didn't give him any seated exercises to do. They made him to do the regular ones. And he failed.

**Bottom Line: No good can come from doing the field exercises.** Most of the time sober people fail them. The police are looking for reasons to arrest you. **Doing the field exercises is volunteering evidence to be used against you.** Just say no. There is no legal penalty for refusing.

*If you refuse to do the exercises, you will be arrested. But here's the thing —99% of the time you're going to be arrested anyway!*



# 05

## RULE #5 THE POLICE WANT TO ARREST YOU NO MATTER WHAT



**The police #1 goal is to arrest you.** That's what they're trained to do. They have every incentive possible to arrest you + a very low standard for making the arrest in the first place. So when you get pulled over for a DUI, you've pretty much already been arrested.

You may be asking yourself, "What makes them want to arrest me so much?" And we're going to do more than answer your question. We're going to take you inside the mind of a police officer.



**"IF YOU KNOW THE ENEMY AND KNOW YOURSELF,  
YOU NEED NOT FEAR THE RESULT OF 1,000 BATTLES."  
-SUN TZU**



**The police are trained to arrest you.** They are taught to go from stop to arrest as quickly as possible. So everything you say and do goes back to alcohol.



See a pattern here? Everything you do goes back to alcohol. And there are two big incentives to keep them focused on the goal of arresting you.

## 1. MONEY

**For the DUI task force, and officers that work the night shift, (which is when most DUI stops happen) there is a direct financial benefit to arresting you.**

Most DUI police work the overnight shift. When they work outside of that shift they get paid overtime. Overtime means they get paid time and a half. Let's assume most DUI police are making about \$40 per hour base salary. That means when they work outside of their shift, their pay increases to \$60 per hour. All things related to your DUI outside of arrest happen in the daytime—court proceedings, DMV hearings, interviews, etc. **So when the police show up for any of these procedures they're getting paid overtime.**



That's not all. **The police get paid a 3-hour minimum for anything they do.** This means that if they show up for a DMV hearing that only takes 30 minutes, they still get the overtime pay of 3 hours of work.

**Some DUI Task Force members have retired as millionaires.** They can make \$100,000 - \$150,000 per year, easy, with what they make with the overtime. And the more arrests they make, the more overtime they get paid. Also, most DUI task forces are funded by government grants to combat DUI. **If they aren't arresting people then the grants and money to fund the program will decline or completely stop.**

## 2. REPUTATION

**In the police mind they're protecting the public.** They don't want to let you go in case you're that one rare person who will actually hit and kill someone.

They may call it protecting the public, but more so it's protecting their own self-interests. There's pressure on them to protect their reputation, their job, their pension, and their precinct.

Let's say Officer Bob stops you for a DUI and then let's you go with a warning. After Officer Bob let's you go, you crash into another car and the driver of that car dies. Who's going to get blamed for that accident? Officer Bob. The newspapers will all blame Officer Bob for letting you go. His name will be all over the Sun Sentinel, The Palm Beach Post, and the Miami Herald. There'll be all sorts of pressure on the police department to fire Officer Bob. Organizations like Mothers Against Drunk Driving have a lot of political influence.



**OFFICER BOB IS GOING TO BE FIRED. HE'LL LOSE HIS JOB, AND HIS PENSION.**

**It's so much easier for the police to arrest you.** They have a very low standard to make the arrest. And by making the arrest they eliminate the chance of you causing an accident that puts them in the same situation as officer Bob. You going to jail means nothing to them as long as their job and pension are safe.

That's why when you get pulled over for DUI; you've pretty much already been arrested.

# 06

## RULE #6

# THE POLICE ONLY TELL YOU 25% OF THE TRUTH WHEN THEY ARREST YOU FOR DUI

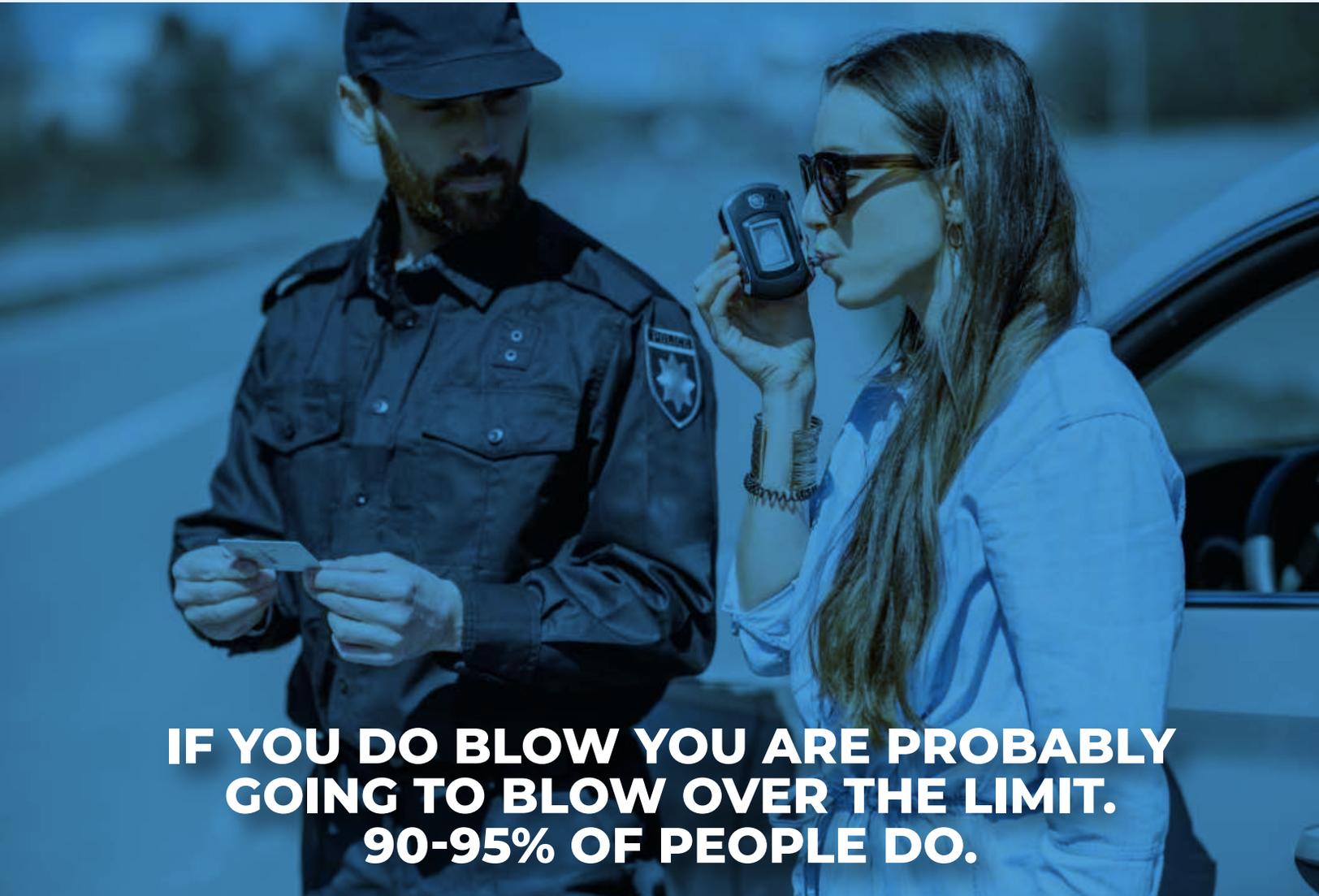


You've been arrested and taken down to the police station. **Now the police will ask you for a breath test. You still don't have the right to a lawyer.** You have to decide whether to do the breath test. You will have the right to an attorney after you blow, or after you refuse to blow.

Before you make that decision the police have to read you Florida's Implied Consent Law. **Unfortunately this law gives you only about 25% of the truth.**

The police will tell you that if you refuse the breath test you'll lose your license for 12 months. Now, we all know you need a car in South Florida to get around.

The police know you can't afford to lose your license for that long. They know you'll start getting nervous. You'll start thinking it's been long enough since I had a drink; I'm probably sober by now... maybe I should blow...



**IF YOU DO BLOW YOU ARE PROBABLY GOING TO BLOW OVER THE LIMIT. 90-95% OF PEOPLE DO.**



# NOW, HERE'S WHAT THE POLICE DON'T TELL YOU:



**01** It's okay to say "NO" when it comes to a **breath test**. Just like it's okay to say "no" to field sobriety exercises.



**05** If it's your first DUI it's very easy to get a **hardship license for your entire 12- month suspension—meaning if you get a lawyer within 10 days of your arrest, you probably won't go one day without driving**. A hardship allows you to drive your car for anything necessary to maintain your livelihood. That means you can still drive to work, school, the grocery store, your attorney's office, medical appointments, church/temple/mosque, etc.



**02** The **breath test device, the Intoxilyzer 8000, is older than smartphones!** It was first manufactured in 2001 and used in the state of Florida since 2006.



**03** When you blow over the legal limit **you're going to lose your license for 6 months**.



**04** You've just given them physical, scientific evidence to use against you in your DUI case.  
  
Dont worry, we will tell you how to beat this in the next rule.



**06** **You will still be prosecuted if you blow under the legal limit.** The police aren't going to unarrest you. You can still be convicted of a DUI even if you blow below a .08.



# NOW, HERE'S WHAT THE POLICE DON'T TELL YOU:



**If you blow under a .08 and the police still think you're impaired, they may suspect drugs.** In that case they'll ask for a urine sample. If you don't pee in the cup you will lose your license for 12 months. If you do pee in the cup, all of a sudden any drugs you did in the past few weeks can get you in big trouble even though they had NOTHING to do with your driving.

Dont worry, we will tell you how to beat this in the next rule.



If a urine or breath test is impossible or impractical, the police will take a blood sample from you. A blood sample is only necessary under the following circumstances

- DUI Manslaughter/Vehicular homicide
  - Serious bodily injury
- Urine or Breath test is impossible or impractical

(Blood tests require strict regulations, and **one misstep could deem your blood sample as no longer valid evidence** in your DUI case.)



**If you blow a .08 or above you are presumed guilty in court.** Which is exactly why they want you to blow so badly. It's a sure fire way to help ensure you get convicted of a DUI.

Dont worry, we will tell you how to beat this in the next rule.

# 07

## RULE #7 BREATH, BLOOD & URINE TESTS CAN BE BEATEN...IF YOU HIRE THE RIGHT LAW FIRM



Whether the police obtained a breath, urine or blood sample, there are many elements an experienced DUI attorney can attack with the right knowledge and approach.

### DEFENDING AGAINST BREATH TESTS: THE FLAWS IN TECHNOLOGY

The state of Florida uses a breathalyzer called the Intoxilyzer 8000 to collect breath tests. The Intoxilyzer 8000 was first manufactured in 2001, though it wasn't used in Florida until 2006. (To offer some perspective on this, the first iPhone didn't come out until 2007.)

Let's paint a picture of this device: The technology behind the breathalyzer is infrared radiation, which is from the 1920s. It looks like a computer from the 1950s and, when it's in operation, it sounds like a dial-up modem from the mid-1990s. Remember AOL?

All of this is to say... you shouldn't be afraid of a high breath test reading. The Intoxilyzer 8000 is not an infallible device and it is very possible to beat the evidence of a breath test in a DUI. So, how do you do it?

#### QUESTION THE BREATH TEMPERATURE:

Just as officers make mistakes when deciding whether or not someone's normal faculties are impaired, they often use averages instead of actual biometrics. The machine is set to estimate breath temperature at 34°C (93.2°F). Scientifically valid studies have shown breath temperatures range from 33°C to 36.7°C. That same study recommended an average breath temperature of 35°C instead of 34°C. **When the Breath Temperature is estimated lower than a person's real Breath Temperature, there will be a false positive result.**

#### QUESTION THE PARTITION RATIO:

Another thing that can impact the outcome of your breath test is the partition ratio. Effectively, the partition ratio converts breath levels to blood levels. This means the molecules that are in the breath and the air are converted to an applicable blood alcohol content. The machine estimates a Partition Ratio of 2100:1. Scientifically valid studies have shown that Partition Ratios can vary from 900:1 to about 3400:1, with an average close to 1750:1. **When the Partition Ratio is estimated higher than a person's real Partition Ratio, there will be a false positive result.**



### QUESTION THE MARGIN OF ERROR:

The next issue with the breathalyzer is the margin of error. Breathalyzers go through a monthly inspection where they are tested at different levels: 0.05, 0.08, and 0.20. They are being tested with pre-prepared solutions from the manufacturer in perfect conditions which create a closed system, meaning no contaminants can get in. **Even during these perfect conditions, the tests are allowed up to a plus/minus of .010 margin of error. That means the machine will pass inspection for the .200 test if it measures anywhere from .190 to .210.**

### QUESTION THE AGREEMENT OF YOUR TWO TESTS:

You must give two breath samples within .020 of each other for the results to be considered valid. **This means the police will say the machine was working properly if you blew a .074 and a .093. Imagine getting on the scale and weighing 74lbs and then 3 minutes later weighing 93lbs. You would throw away that scale because it was broken.**

### QUESTION THE TIME OF TESTING:

Prosecutors must prove that you were over the legal limit (.080) at the time you were driving – not an hour or two later when you're at the station. The Intoxilyzer 8000 was designed as a portable device with a handle on it, so it can be brought out to the scene of a DUI, yet, most DUI breath tests are taken hours later at the station. **The prosecutors will never be able to prove what amount of alcohol you had in your system while driving, which is what the law requires.**

### QUESTION THE LIMITATIONS OF MAINTAINING THE INTOXILYZER 8000:

CMI Inc., which is a Tennessee-based company that manufactures the Intoxilyzer 8000, has a contract with the Florida Department of Law Enforcement that prohibits the agencies from ever opening up the machines. **This means that no current or active police officer or breath tech has ever opened up the breathalyzer to inspect the machine, figure out how it actually works, maintain the machine, or fix the machine.**



## DEFENDING AGAINST URINE SAMPLES

Typically speaking, the only time urine samples are involved in a case would be if the case starts as a drug DUI or if you blow under the legal limit. Why? Because if you blow under the legal limit, the police will assume that you're on drugs instead of being intoxicated – even if there's been no mention of drugs leading up to that point.

### QUESTION THE TIMELINE:

The thing is, urine is nothing more than a byproduct of what was once in your blood. Urine is in your bladder, physically inside your body, but it isn't actively metabolizing in your body, it's waste; the remnants of what your body has already used. (To get the clearest sense of this, you might think of your bladder as a Ziploc bag inside your body that your system is no longer able to use the contents of.)

It's very difficult to extrapolate the result of a urine test back in time to assess what was in your system while you were driving – it can only give you a snapshot of what was once in your body. **The Prosecutor's own toxicologists in South Florida have testified that urine is unreliable for drug DUI cases time and time again.**

### QUESTION THE RESULT:

All a urine result can prove is that, at some point in time, you used a substance. It doesn't say when you used the substance, how much of the substance you used, or how the substance was used. What's more, some substances have varying degrees of potency depending on whether they're ingested orally, snorted, or intravenously injected.

### QUESTION THE CONCLUSION:

Any legitimate forensic scientist will not be able to give an opinion on whether or not drugs found in your system were therapeutic or impairing. Most medications are therapeutic in nature and, up to a point, non-impairing. **It isn't just that you have something in your system that makes you guilty of a DUI. It's that, at the time of driving, a substance caused you to be impaired.**



## DEFENDING AGAINST BLOOD TESTS

In Florida, there are only three scenarios where you will see a blood sample on a DUI case, all three of which will typically involve a car crash:

- **DUI manslaughter**
- **DUI with serious bodily injury**
- **If a breath test is impossible or impracticable**

Because these cases involve a more severe set of circumstances, let's take a moment to line out the basics...



### **First: Know Your Right To Refusal**

Law Enforcement will say a breath test is usually considered impossible or impracticable when the suspect is taken to a hospital for a medical diagnosis or treatment. If you are taken to a hospital and the police believe that too much time is going to elapse before they'll be able to obtain a breath test due to you being treated and discharged, they would request a blood test because a breath test would no longer be valid or reliable after such a lapse in time.

The officer's belief that the breath test being impossible or impractical is NOT sufficient enough for investigators to request a blood test, they wouldn't be able to obtain a warrant to forcibly extract blood from you against your will in that situation.

If police request a blood test from you in the event of a death or serious bodily injury, you can decline.

**IF YOU DECLINE TO GIVE THE BLOOD TEST, THE POLICE ARE ALLOWED TO REQUEST A WARRANT FROM A JUDGE TO GET PERMISSION TO FORCIBLY EXTRACT BLOOD FROM YOU, BUT THIS DOES NOT MEAN IT IS ADMISSIBLE IN COURT. THAT'S ONE REASON IT'S EXTREMELY IMPORTANT TO HIRE THE RIGHT LAW FIRM FROM THE BEGINNING!**



## Second: What Happens If The Police Obtain A Blood Warrant



In a DUI Manslaughter or DUI Serious Bodily Injury case a blood warrant will allow investigators to obtain two blood samples roughly one hour apart from each other. This is done so that officers can counteract some of the main issues that come up with breath testing. Namely, law enforcement is seeking to answer two questions:

- 1) Is your body absorbing or eliminating alcohol?
- 2) Can that result (from an hour or two after the accident) be extrapolated back through mathematical calculations to determine the amount of alcohol that was in your blood at the time of driving?

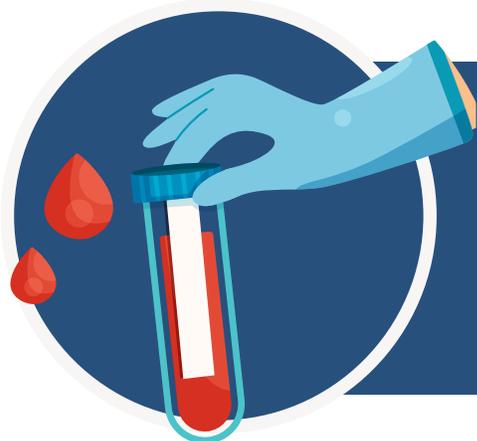
**If law enforcement officials didn't have the right to ask for your blood because there were no signs of impairment, regardless of what levels were actually in your blood, they don't get to go back and say that their hunch was correct. There is no revisionist history of these cases.**

### DIFFERENCES BETWEEN MEDICAL & LEGAL BLOOD

Medical Blood and Legal Blood are two types of blood taken by medical professionals for medical diagnosis and treatment.

**Medical Blood** allows doctors to treat you properly by knowing what medications they can give you. For example, the doctors couldn't give you morphine if you have alcohol in your system because it could kill you. Your medical records are protected by HIPAA which means those records have to be subpoenaed to be used in court. A good DUI Attorney knows to always object to a Medical Records Investigative Subpoena which would force the state to set a Hunter Hearing. At a Hunter Hearing, the state has to prove a connection between the information sought after, and the crime alleged to overcome your medical privacy rights.

**Legal Blood** is blood that is taken for purposes of law enforcement investigation and prosecution. If you're charged with DUI Manslaughter or DUI Serious Bodily Injury or if a breath test is impossible or impractical, the police office will request blood to be taken.



If the police request a blood sample from you when you're in a medical facility being treated for the injuries sustained from a car accident that may or may not have been caused by DUI, you either voluntarily agree or they have to get a warrant.



## COMPARE THAT TO THE MAXIMUM PENALTIES FOR DUI CONVICTION:

### FIRST DUI

- UP TO 180 DAYS IN JAIL
- UP TO 270 DAYS IN JAIL IF ENHANCED\*
- UP TO 364 DAYS IN JAIL IF CAR CRASH
- UP TO 12 MONTHS PROBATION
- \$500 - \$1,000 FINE
- \$1,000 - \$2,000 FINE IF ENHANCED\*
- 6-12 MONTH SUSPENSION OF YOUR DRIVER'S LICENSE
- 50 HOURS OF COMMUNITY SERVICE
- LEVEL 1 DUI SCHOOL
- YOUR CAR GETS BOOTED FOR 10 DAYS
- 6 MONTHS MINIMUM INTERLOCK IF ENHANCED\*\*
- COSTS OF PROSECUTION

### SECOND DUI

(within 5 years)

- 10 TO 364 DAYS IN JAIL
- UP TO 12 MONTHS PROBATION
- \$1,000 - \$2,000 FINE
- \$2,000 - \$4,000 FINE IF ENHANCED\*
- 5 YEAR SUSPENSION OF YOUR DRIVERS LICENSE
- LEVEL 2 DUI SCHOOL
- ALL OF YOUR CARS GET BOOTED FOR 30 DAYS
- 1 YEAR MINIMUM INTERLOCK\*\*
- 2 YEAR MINIMUM INTERLOCK IF ENHANCED\*\*
- COSTS OF PROSECUTION

\* Enhanced = BAC > .15 or you had a minor in the car.

\*\*Interlock = a breathalyzer installed in your vehicle.



# HOW TO CHOOSE THE RIGHT DUI ATTORNEY

When searching for the right DUI attorney for you, there are 4 key factors that you want to look for:

## ✓ Awards and Reviews

The experiences of former clients will give you a good idea of how well the firm handles their cases, so Google Reviews are a great place to start. Awards and certifications are also great indicators of attorney excellence. Look to see if there are Board Certified attorneys on their team, as a Florida Bar Board Certification is the highest evaluation of experience in criminal law. Additional accolades you might want to look at are Martindale-Hubbell awards, SuperLawyers, National College for DUI Defense, and National Advocacy for DUI Defense recognition.

Another signature of attorney skill is CLEs (Continuing Legal Education). Some lawyers are asked to take these classes. Some lawyers are asked to teach them. Pick the master, not the student.

## ✓ Local Experience

A local law firm is the way to go. Attorneys who have experience in the county where your case occurred will have built relationships with prosecutors, judges, Law Enforcement Officers, DMV hearing officers, and other key players in the system. This means they can get you a home-court advantage.

## ✓ DUI Experts

You want an attorney who is a master of DUI cases, not just criminal law. Since DUI cases are unlike any other, a DUI lawyer will have a level of expertise that will serve you well. They know the system inside and out and they know the law down to the letter. The best DUI lawyers in the game know that an “unbeatable” charge is never truly unbeatable.

## ✓ Power of the Team

When hiring a firm, there are so many more people working on your case than just one lawyer. Multiple attorneys will combine strengths and work the same cases. Legal assistants handle the delicate behind-the-scenes paperwork and preparation. Even the front desk is going to be your access point to the whole defense team. Think of it this way: Would you rather have a lone wolf? Or the entire wolf pack?



# **TEN ESSENTIAL QUESTIONS TO ASK YOURSELF BEFORE HIRING A DUI ATTORNEY**

**Hint: If you can't answer YES to all these questions: DON'T HIRE**

- Was it easy to get in touch with the firm?
- Was the meeting all about me and not the attorney?
- Did the attorney pay attention to the details of my case?
- Did the attorney lay out a plan of action?
- Did the attorney welcome and answer any questions I had?
- Is this attorney an expert in DUI law?
- Was the staff and attorney attentive to my needs?
- Did the attorney explain how they can beat my breath test, no matter how high I blew?
- Did the attorney explain how a Motion to Suppress works?
- Is this attorney willing to fight for me?
- Is the lawyer waiving formal review?  
By doing this, you're pleading guilty to the DUI and it will stay on your driving record for 75 years.

# WHAT FORMER CLIENTS SAY



Rossen Law Firm has restored my trust and confidence, they guided me through the whole process because they always acted professionally with dedication to the client. I was very concerned about my situation but from the first moment I contacted them, they responded immediately and acted promptly, always with honesty and support throughout the process.

**-Luis B.**



My case was handled with care and professionalism. I truly appreciate Rossen law firm and everybody on the team for pulling their resources together for my case. I hope I never need a lawyer again but if I do I will be reaching out to Rossen for sure!

**-Victore H.**



I'm incredibly thankful for this team, specially Meri, she is amazing. The whole process I was really nervous, anxious, and they always kept in touch. They always tried to calm me down and let me know that they were going to fight until the end, in order to give me the best outcome.

They are the best. No matter how difficult the case are, they will fight for you, they will find a way.

**-Ricardo T.**



I want to start of by thank Rossen Law Firm and the entire staff. Hands down the most prestigious Law Firm in Florida. The staff here treats you like one of there own, from the moment you hire them. They are very respectful, fierce and honest people. They will go to war for you in and out of the courtroom. No challenge is too tough to handle, they don't back down

**-Davian D.**



I was so nervous about what I was going through and never been in a situation so they walked me through everything with me and explained all the issues with me also was willing to represent me with other lawyers for my situation they were so kind 5 stars all the will I will use or recommend them to everyone's I thank them so very much!!!!

**-Mary A.**



# KEEP IN TOUCH!

WE HELP GOOD PEOPLE WHEN BAD THINGS HAPPEN



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