

ARRESTED FOR DUI
IN NORTHEASTERN
PENNSYLVANIA?

**(USEFUL INFO REVEALED
THAT MAY HELP YOU
DEFEND YOUR DUI CASE)**

DISCLAIMER:

This publication is intended to be of an informational nature only.

No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material.

If you are facing legal issues, whether criminal or civil, seek professional legal counsel immediately.

Paul Aaroe, Esq.

Aaroe Law Offices

2568 Nazareth Rd

Easton, PA 18045

www.AaroeLaw.com

(610) 559-7401

WHAT CLIENTS SAY ABOUT AAROE LAW OFFICES

"I lost faith in the justice system when I spent a lot of time trying to find the man who stole from me. When I caught him selling my possessions in New Jersey, the Commonwealth of PA took him to court and the jury found him not guilty. I lost all faith in the system. On top of that, this person sued me for \$10,000 and all of my possessions he had stolen.

I hired Attorney Paul Aaroe who was one of the best decisions I have ever made in my life. He takes the time to listen and gives you your options. He pulls no punches. Be honest and you will win. Little pricey but remember, you get what you pay for. It feels good when you know the bad guy actually got what he deserves and justice prevails."
- Paul C.

"At the end of my case, my penalties included some costly fines, court costs, as well as stringent requirements for interlock devices and license suspensions for set periods; mandatory minimums given the offense. The outcome resulted in three of four charges from that night being dropped and the absolute minimum penalties that accompanied the most heinous charge.

*I learned some valuable lessons that hurt my pride and pocket, but most of all my integrity. Paul helped me through this dreadful process with a candor and commitment that helped to make a terrible situation a little more bearable."- **Mark Z***

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ATTORNEY INTRODUCTION

Paul: My name is Paul Aaroe. I have been practicing law in Northampton County and Lehigh County in Pennsylvania as well as in Warren and Hunterdon Counties in New



Jersey. I have been everywhere in New Jersey from Cape May at the southern tip, all the way up north to the top of New Jersey.

I graduated Law School in 1988, clerked for a year, and then started practicing after that. I've been doing DUI defense since 1989 and am locally known as the "DUI Guy". I actually advertise my practice using that moniker. About 80% of my clients are DUI clients.

Interviewer: Since you've been doing this for over 20 Years, how many DUI cases you think you've handled since that time?

Paul: Thousands.

Interviewer: Wow.

Paul: I do a lot of volume. Right now, approximately five to ten new clients a week retain me to help them.

THE IMPORTANCE OF HAVING AN ATTORNEY IF YOU'RE ARRESTED FOR DUI IN PENNSYLVANIA

Interviewer: For the sake of this guide, we'll talk about Pennsylvania DUI exclusively. Once a person is arrested, charged and released, what are some of the first things they need to do to determine if they are facing a real serious situation? Do they even need an attorney for DUI cases?



Paul: In Pennsylvania, a DUI is a criminal offense. There is no question that they should be represented by counsel. If convicted, someone will have a criminal record for the rest of their life. So it is very important to try to avoid the conviction itself.

A conviction carries with it a mandatory jail time, even on the first offense, unless you have a blood alcohol concentration of 0.10 or less. Nevertheless, you will lose your license for one year and incur fines between \$4,000 and \$5,000.

Most of the time this can be minimized or avoided, so there should be no question that you should be represented by an attorney who has extensive experience with DUIs. If you don't bring in legal representation early on in your case, it's quickly going to be too late for an attorney to help you.

WHAT IS THE PENNDOT'S ROLE IN REGARD TO A DUI CHARGE?

Interviewer: I'm not sure if people realize, but besides their criminal charges, there are also issues with the motor vehicle department in regards to their license being suspended, right?

Paul: Yes, that's correct. In Pennsylvania, PennDOT (Pennsylvania Department of Transportation) handles

the driver's license loss, and the loss is mandatory once charged with DUI.

If there's a refusal to take the blood, breath, or urine test, there is a mandatory additional year of license suspension on top of the DUI. So typically, it's not a good idea for someone to refuse chemical tests administered at the police station, especially on a 1st time DUI.

What happens with the DUI charge makes a big difference whether you're going to get that license suspension.

Interviewer: Since most people are unaware that not only are they facing criminal charges, but they're also facing a driver's license suspension as well, they definitely need an attorney, right?

Paul: Yes, most people don't know. They've heard through the grapevine some things about DUIs, but they really don't know what it's about.

When I meet with them, I usually take between a half an hour to 1 hour just to explain their rights, what

they're facing, what the procedure is, and what the possible outcomes are. That's in my initial conference, and it is not simple; it's actually very complicated. There's a whole chart about the penalties, depending upon each situation in Pennsylvania.

WHAT ARE SOME MISCONCEPTIONS PEOPLE HAVE BEFORE COMING IN FOR THEIR INITIAL CONSULTATION?

Interviewer: I'm sure people have a lot of misconceptions before they come and see you. What are the top ones that you can talk about, so anyone reading this can better understand what's going on before they come see you?

Paul: There are many misconceptions, however, the number one misconception is that people underestimate the seriousness of their charges.



Some people, for instance, come in with a simple case where there are no injuries and no children in the car. They are extremely fearful of what is going to happen to them. For the most part, I have to be able to keep them out of jail. They will probably be able to keep their job and have a very short license suspension.

Others do not take the charges seriously at all. They are the ones that typically do not hire an attorney and, in a lot of cases, call me later on. I end up having to tell them, and I hate to say it, “but you should have come in earlier because I cannot help you now.”

Interviewer: Are there any other common misconceptions that you hear over and over from potential clients?

Paul: Another big misconception is that they’re going to automatically get into the ARD program. (We’ll go into more detail later on; it’s a program for those who want to avoid jail & other penalties).

It’s not easy to qualify for the ARD program, because there are a lot of factors that go into it. People can make mistakes as they go through the proceeding, even

if it's clear cut case where they fall into a type of person that should get ARD. They really need the advice of counsel to know whether to make decisions to take it or not to take it.

In some cases, you can get the case thrown out and they don't have to go through the cost of the ARD program. The costs of the ARD program is approximately \$2,000, which is about \$3,000 less than a conviction.

People do ask if they can just go in and plead guilty, but that has a lot of bad repercussions, and you don't want to think about doing that. And besides, you can't plead guilty in Pennsylvania to make the thing go faster in your case.

Interviewer: It sounds like there are 2 major misconceptions in there. Misconception #1 is that there's an alternative program called ARD that everyone thinks for sure they'll get into and not have to worry about all the normal DUI consequences.

Misconception #2, people are thinking “I’ll just plead guilty and throw myself on the mercy of the court, it won’t be that bad, it’ll be over quickly.” Is that right?

Paul: Yes, however another big misconception is that people think that out-of-state DUIs don’t count and won’t enhance your penalty in Pennsylvania; and most of the time they DO count and DO enhance your penalties in PA.

People get their charges, which state it’s their first offense and they believe they won’t be sentenced to jail. They feel they are going to into the ARD program and that they don’t even need a lawyer.

Even though the charges state that it is a 1st offense, if they have an out-of-state DUI, (let’s say from New Jersey or New York), the mandatory penalties will be enhanced.

In fact, in some cases the penalty bumps up to a more serious type of charge, a misdemeanor 1 as opposed to a non-graded misdemeanor which can be up to 5 years in prison.

WHAT IS THE ARD PROGRAM?

Interviewer: What does ARD stand for and what is it exactly?

Paul: And that's misconception people have too, most people do not understand what infact it is.

ARD stands for Accelerated Rehabilitative Disposition.

It is a program where the charges are postponed for a period of time, typically 6 months, to give people the ability to do certain things.



They may have to get a drug and alcohol evaluation treatment, do community service, and pay for the cost of the program.

Then, at the end of the informal probationary period, the charges are dismissed. They can be, in most counties, expunged as well. For example, the charges are automatically expunged in Northampton County.

Most people are under the misconception that, even if you get on ARD, the charges stay on your driving record, which they don't, depending on the county.

Interviewer: Will it also affect your auto insurance, rates as well, forevermore?

Paul: It likely won't affect your auto insurance forever. Usually insurance companies look back 3 years. It certainly can affect your ability to get employment, if you're required to drive. If a prospective employer has a choice between you with a DUI on their record and somebody else that doesn't have one, they are probably going to pick the other person.

However, a good thing about going through the ARD program is if you are asked in an interview if you've ever been convicted of a criminal offense, you can answer no because it's actually a dismissal.

Other big benefits are that you don't have any time jail time and it reduces your license suspension, typically from 1 year down to a maximum of 60 days, in most cases, unless you're under age.

Interviewer: That sounds like a really great, powerful program. But you're certainly not a shoe in. I'm guessing people need a skilled ARD-knowledgeable attorney to help get them into the program and guide them through it, right?

Paul: Yes and there are 3 court appearances during the program as well. So you need to appear in court as well as go to other interviews. There are typically other charges along with the DUI, and those may not be addressable by the ARD program.

In most first offense cases, I try to get people into this ARD program and then I try and get the other charges dismissed. I accomplish this in most cases which can save you a lot of license suspension, fines, penalties, and driver's license suspension.

WHAT OTHER CHARGES CAN BE INCLUDED WITH A DUI?

Interviewer: What other charges ride along with a DUI that people commonly receive?

Paul: Usually there's some Motor vehicle offense. You could be charged with weaving over the line which is charged as failing to maintain lane. That is probably the lowest and the simplest charge you can get.



More often there is an accident, or you were believed to be incapable of safe driving or even having illegal drugs in the car. Even these types of charges sometimes can get dismissed.

WHAT CAN YOU EXPECT TO HAPPEN ONCE YOU'VE BEEN ARRESTED & CHARGED WITH DUI?

Interviewer: What are some of the negative things that will happen in the DUI timeline and how long will they take to happen?

Paul: In Pennsylvania, the first thing that will happen after your arrest is that you will have to be fingerprinted and photographed. You will also be given a blood test.



Interestingly, after you get arrested, you don't get your charges right away, they mail them to you. It's important to call and retain an attorney right away.

I can actually look up on the computer to see whether charges have been filed. When you get your charges in the mail, you will also be notified of your preliminary hearing, which could be within a week.

Next will be a court appearance for your preliminary hearing. The preliminary hearing is an important beginning to the proceeding, because it sets the ground work for what's going to happen with the case.

An Attorney's role for you is to go to Court, talk to the officers, and meet with the district justice. In many instances, what's going to happen in your case is pretty much determined right then, so it's important that people have legal counsel right away.

Interviewer: How about in regards to your Pennsylvania driver's license? What's the timeline on the case affecting your license? Does it get suspended immediately, and if so, can people contest suspension?

Paul: No, it's not immediately suspended in Pennsylvania, at least the way the law is now. What happens in most counties in Pennsylvania is that you don't get a license suspension until you 'reconvicted and/or you get the first offender program, which lessens the license suspension. But that's usually down the road.

WHAT HAPPENS IF YOU REFUSE CHEMICAL TESTS?

Paul: If you refuse either the drug or alcohol testing, an additional year license suspension can be imposed by PennDot in addition to the DUI suspension. However, PennDot will only impose this additional year if they receive a notice by the police officer that you refused to be tested by.

As the police officer is not required to notify PennDOT, it's possible that we can dissuade them from doing that in certain circumstances.



Interviewer: To clarify, there are two sets of tests: The roadside tests, which may be a preliminary breath test, walk the line, or follow the pen with your eyes. And then there are breath, blood or urine tests at the police station where you are asked to: blow into a breathalyzer or take a blood or urine test.

So, when you say “refuse testing”, which tests can be refused and which ones can’t?

Paul: Any chemical testing done in the station cannot be refused without penalty.

If you operate a vehicle in Pennsylvania, you want to politely consent to those tests. You do not have to cooperate with the roadside tests, however.

Not cooperating with roadside tests cannot be considered a refusal since you are not entitled to have or talk to counsel before you decide whether or not to take them.

WHAT OTHER MISTAKES MAKE A DUI CASE HARD TO DEFEND?

Interviewer: Besides waiting too long and not hiring an attorney, what are some other big mistakes people make that mess up their case and make it harder to defend?

Paul: The first offenses typically, are cases where you're going to try and get into the ARD program. And as long as you're not fighting with the police officer or that sort of thing, you're not going to mess that up.



On 2nd or 3rd offenses, there's a big difference. You don't have the ARD program available to you. You're facing a permanent criminal record.

What people don't realize is that anything they say before they're arrested can be used against them. More often than not an officer will walk up to the car and say, "Have you been drinking?" The answer to that can be admitted in evidence against the person.

If they answer, “Yeah, I had a couple of beers”, that gives the police officer probable cause to arrest them.

That is the typical answer given whether they 2, 5 or 15 beers. They are also prone to admit to operation of a vehicle even if they are out of the vehicle and there are several people there.

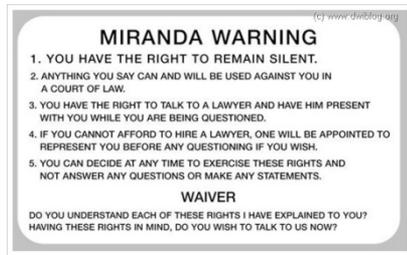
A police officer says, “What happened?” and they answer, for instance, “I swerved to miss a deer.”

They just admitted that they were operating the vehicle. So the best words out of your mouth should be, “I’d like to speak with my attorney.”

And then the next thing the police officer may say is, “We’re going to go ARD on you.” You should then say, “I may want to cooperate or speak but I’d like to speak with my attorney first.” If you’ve asked for an attorney, at that stage, and if you're in custody, certainly any questions that they ask you could be excluded.

UNDERSTANDING YOUR MIRANDA RIGHTS & MISCONCEPTIONS ABOUT THEM

Interviewer: You talk about knowing your rights and I'm sure a lot of people think their Miranda rights mean that anything they tell the police will be excluded from their case. Do you have to exercise them by saying, "I decline to answer questions right now and I wish to remain silent." ?



Paul: Definitely, and also there's a big misconception that just because they don't read you your Miranda rights doesn't mean that you get off.

The Miranda Rights basically say that you're in custody and we're going to ask you some questions. If you answer those questions they can be used against you. If you refuse to answer them, or ask for an attorney, they can't use the answers even if they

continue to question you. But you need to exercise those rights.

The biggest thing is that people typically get themselves in trouble during the pre-arrest questions.

Answers to any questions can still be used against them even though they are not in custody and they haven't been read Miranda.

“Tell us what happened”, they may ask. “Well, I swerved to miss a deer.” That is the one of the two elements of a DUI, operating the vehicle; the other is being over the legal limit. So right there you've just tipped the scale to admit operation. That's a huge mistake from the defense standpoint; most people don't know to ask for an attorney at that stage.

CAN YOU TALK YOUR WAY OUT OF BEING ARRESTED FOR DUI?

Interviewer: I bet a lot of people think that they might be able to be nice and talk their way out of an arrest. They just have to explain themselves properly and the officer will see the light and say, “All right, well I’ll let you go home.”

Paul: I believe you are correct. I think that most people think that.

I had a person in recently that said, “I told the officer that I was going to lose my license for 10 years if he arrested me because I have priors in New Jersey.” He thought that the officer was not going to arrest him because that would be such a serious effect on him.

Those types of pleas don’t help. Obviously telling him that he had priors in New Jersey isn’t going to help.

People want to cooperate with the police officers. They want to be nice, they don’t want to aggravate the police officer for fear that the police officer’s going to arrest them and put them in jail.

Well if they've been drinking and driving they're going to get arrested and then eventually they're going to either have bail set or be released.

Defending a case where it can't be proven who operated the vehicle is a win. There's a big difference between cooperating and being nice to the police officer and answering those types of questions.

WOULD JOURNALING WHAT HAPPENED TO YOU BEFORE, DURING & AFTER YOUR ARREST HELP YOUR CASE?

Interviewer: I know people don't want to re-live the experience, but should they document what they did that day?

For instance, journal or document what they ate, who they were with, and what happened during and after their arrest before they come see you? Would that help you to defend them?



Paul: Definitely. In fact, I ask people to write up narrative, if they haven't done so already, after they leave my office and have retained me.

I ask for a full narrative with full details of what happened, what they ate, who they were with, if there are witnesses, what the police officer said to them. The quicker they do that, the better. If they do it before they come into my office that's even better, because then it's fresh in their mind.

There are many people who don't remember the exact details of what happened because they were impaired.

HOW CAN SOMEONE TELL IF AN ATTORNEY IS THE RIGHT ONE FOR THEM?

Interviewer: When people are looking for an attorney, what should they look for to tell them this is good attorney for me, or that I should probably talk to someone else instead.

Paul: I think there are a number of things that people need to look at, but the main thing that you don't want to do, is hire an attorney that dabbles in handling DUI cases.



DUI is a very specific area in the law, and it has all its own rules, regulations, and procedures. You want an attorney who does significant number of DUI cases and has practiced in the county that you were charged.

Each county in Pennsylvania has their own programs with Different ways of handling Driving Under The

Influence Cases. There are different local rules for each court; District Attorneys have their own rules as far as how they handle plea bargaining, downgrading, work release, and house arrest.

All of them vary from county to county, so you want someone who is well versed in these differences.

How well they can guide you when you don't know what those policies are? It's vital for your lawyer to know them.

You can ask an attorney what percentage of their cases is DUI, what percentage of their cases is real estate, divorce etc. You obviously don't want a divorce attorney handling a DUI case just as you wouldn't want your plumber doing your carpentry.

Interviewer: How about the cheapo guys out there that do DUI's for \$500 or \$1,000? What's wrong with hiring them?

Paul: You don't want to charge outrageous fees; however, you want someone who is going to put time and effort into your case.

If you are only willing to pay \$500 for an attorney, I can't imagine that attorney is going to give your case the detail and professional attention that it needs.

Lowball attorneys are typically the same ones trying to get any clients in, and ones that don't get referrals because they do not have the reputation to bring clients in the door.

They can also be very young. They can also "sell you down the river" by telling you to just plead guilty and we'll get this over with. You need someone that is going to actually look at the case and that takes time and effort.

Interviewer: I would say that it is desperation or a lack of something really significant on the attorney's part that would make them lowball cases, right?

Paul: I agree. Then, however, there's the other side of the coin is that says, on certain cases you should not charge outrageous fees. I have heard that some attorneys do charge outrageous fees, and in cases where it would be a clear-cut ARD case, high fees aren't appropriate.

However, you get what you pay for. You don't get a nice diamond if you want to pay the same as for a cubic zirconium. So if you get the \$500 attorney and he may not be a real DUI lawyer who is going to look into the case and do what's best for you.

To get a good attorney who has substantial experience in DUI cases, you will pay a substantial retainer fee.

HIRING A PRIVATE ATTORNEY VS. A PUBLIC DEFENDER

Interviewer: On the extreme end, some people probably think, “I’ll just get a public defender and they’ll take care of it.” What’s the difference between a private lawyer and a public defender? What’s good or bad about them?

Paul: My partner was a public defender at one time, and I honestly believe there are many very good public defenders out there. But a



story that she told me about having sixteen juvenile cases that she met with in the morning, and handling another 15 in the afternoon, gave me the perfect example of the problem with public defenders - they’re overworked and underpaid. And they don’t have the time to give each case the attention that it deserves and should have.

Frankly, the general public doesn’t want to pay to

defend “criminals”, they want to pay to prosecute. Therefore, a lot of money doesn’t go to public defenders, they don’t have the resources.

You are paying a private attorney and from my standpoint, I want to do a good job for you so that you recommend another person to come to me. So when you pay me to do the job, expect me to do it.

Interviewer: I heard, in regards to the motor vehicle department that public defenders can’t even address that part of your problems. So you even if you waive your criminal side you still have a license suspension. Is that true?

Paul: First of all, in most counties you’re not going to get a public defender on a DUI case. There are a limited number of them. Monroe County requires that you have an attorney and they will, if you qualify for a public defender, give you one on a DUI case.

Most of the other counties in Pennsylvania that I practice in will not even give you an attorney as a public defender because the maximum penalty on the

1st and 2nd offense is approximately 6 months in jail, which doesn't even rise to the level of a jury trial.

The counties have said you don't get a public defender in these cases. So it's not even a choice in most cases, therefore, if you want an attorney, you are going to have to hire one.

Interviewer: Isn't that an erosion of peoples' constitutional rights to a jury trial when accused of a crime?

Paul: It's interesting because New Jersey, where I also practice, has now mandated that they will assign a public defender in those cases. So in New Jersey you can get public defenders on DUI's, but not in Pennsylvania.

HOW DO MOST PEOPLE REACT TO BEING ARRESTED FOR DUI?

Interviewer: What have you learned about peoples' behavior and their reaction to being arrested for DUI? What insights have you gained through this whole process?

Paul: People react differently. Some take the arrest very seriously, they're very scared, they are adamant, at least initially, that they're not going to drink and drive anymore.

In most instances after I've talked to them about what's going to happen, they walk out feeling much better. They typically remain very nervous and scared because they have to appear before judges, prosecutors, and that sort of thing.



And then there are people who take it much too lightly.

They think it's a big joke, it's just a money making scheme for the courts. It is a revenue generator. I don't think the government has ever made money, it costs more to prosecute these things than it does to take the money away for the fines and costs and the like.

These people are often the multiple offenders; they really don't realize how serious it gets. I think those are the two types, generally, of people that you have.

It's hard because most of the time a first DUI is the first time those people have been arrested. So you get a lot of good people, and that's one of the reasons why I like handling these cases.

Most of the clients are good, normal, hardworking, everyday people who made the mistake of drinking and driving or didn't understand how serious it was, and I'm helping them.

HOW DEFENSIBLE ARE DUI CASES AND CAN YOU HELP OBTAIN ALTERNATIVE SANCTIONS?

Interviewer: When someone's arrested for DUI, is it common for them to feel doomed? That they're going to go to jail, they're going to have all these problems. How defensible are these cases?

Paul: Yes, people do that feel that way. I have a notion my in front of me desk right now that the person said, "I just want to plead guilty."

You're not doomed. There are alternatives to the sanctions that are in the statutes and online. There are circumstances where the cases can be completely dismissed and there will be no penalty.

In most instances, I can help reduce the different penalties which include the jail, license suspension, fines, and costs. Most instances I help people get them reduced. So it's not a time to feel doomed.

And many people, especially those that have drinking problems or are self-medicating with alcohol, get multiple DUIs, one right after another, because they become depressed and they continue to drink, and make the stupid decision to drive.

I represented a nurse who had her 4th, 5th, and 6th DUI pending all at the same time with a 1-5year mandatory minimum penalty on each. That's 4-20 years. When we resolved it, the judge said, "She got the best plea bargain he's ever seen."

Interviewer: So when someone asks you how often you may be able to mitigate at least some of their circumstances, it sounds like a majority of the time. Without promising, but it sounds like pretty often.

Paul: Honestly I can't say that I've ever handled a case where I haven't helped someone in some way. And if I'm going to ask someone to pay me money, it's going to be because I'm going to help them in some way that's important to them.

So I can almost say that in almost every case that I handle, I am helping the people to the level where it is worth it for them to pay me.

I've declined to take cases where people say, "I want you to try and do this." I don't believe that them paying me is anything but throwing good money away for bad, and in these cases, it's not.

IN WHAT WAYS CAN A DUI CHARGE BECOME MORE SERIOUS?

Interviewer: What can happen that can make a DUI case a lot more serious? What if someone blows a .2 versus a .08 or if they're in an accident or they have kids in the car? Is that called anything and what happens to them then?

Paul: The three levels of blood alcohol concentration in Pennsylvania are .08 to .10, .10 to .16 and .16 and above. The higher the blood alcohol level the worse the penalties.



If you have a child under 14 years old in the car or if you cause an accident with serious injuries to someone else, you will not get the ARD program even as a first

offender. You will be facing mandatory jail time penalties if you do not win the case.

If you kill someone, and it could be your brother, a passenger in your car, someone on the street, anyone, you are looking at a 3year mandatory jail sentence at a state prison, without parole, and that is not negotiable in most instances. That's the plea bargain, so you don't want that to happen.

Interviewer: How about if you just have a high blood alcohol level, above the .10 or above the .16, what are the penalties in those situations?

Paul: I've had people with very high blood alcohol levels. If they are capable of rehabilitation, they are still potentially eligible for that ARD program. It's going to depend upon their interviews, evaluations, and things like that.

But that in it of itself doesn't preclude that. There's a requirement that you have treatment, and that could relate to what type of treatment you need. So as

opposed to a two-day class, you may be required to doing-patient rehab.

Once you're above .16, you're getting the maximum penalty that they have for that level. So if you test at .26 it is the same penalty as if you tested at .17.

Interviewer: What's the highest BAC you've ever encountered?

Paul: I believe I had someone with a .43. I've actually heard higher than that. Out of curiosity the highest number of DUI's I've ever had a client have was 10 or 11. He got the maximum penalty on both. The wasn't much we could do to help him. That was a New Jersey case, by the way.

WHAT ABOUT DUI CASES DUE TO ILLEGAL OR PRESCRIPTION DRUGS?

Interviewer: How often are you seeing DUI cases due to drugs? Whether illegal drugs or even prescription drugs?

Paul: I saw three marijuana cases this week. They are learning now to prosecute them better as are more attuned to them. Therefore, I am seeing more and more.



In addition, there are now DUIs due to prescription drugs. This is where you can have a legitimate prescription but if it impairs you, it's still a DUI. It can happen to you, even if you're taking the prescribed amount, so you need to read those labels carefully.

There are also cases where alcohol and drugs are both involved. In Pennsylvania, if you mix drugs with alcohol and your blood alcohol level tests very low, you're still considered the highest level of BAC, due to the interactive effects of drugs and alcohol.

Essentially, it's the same as having a .16 or above. Refusals also have the highest penalties in this situation. So you are facing a mandatory 3 days and up to 6 months in jail, a one year license suspension, and \$4,000 or \$5,000 worth of fines and penalties.

WHAT TYPE OF PRESCRIPTION DRUGS CAN GET YOU IN TROUBLE?

Interviewer: You mentioned even prescription drugs can get you in trouble, but what kind of prescription drugs? Do you mean painkillers like Vicodin, Oxycodone, Percocet and Oxycontin?

Paul: Yes, those are good examples. Sleeping medications such as Ambien and Lunesta are common ones that are abused and often times result in a DUI.

I had one lady who was charged with an Ambien DUI and I ended up getting the case dismissed because her levels were so well within the therapeutic range. I had a doctor say she was having a seizure and she wasn't impaired by the Ambien. They voluntarily dismissed that case. I didn't have to go trial; the district attorney listened to me and agreed.

ARE DRUG DUI CASES EASIER OR HARDER TO DEFEND?

Interviewer: Are drug cases easier or harder to defend?

Paul: No case is easy to defend; they are all pretty complicated. However, the drug cases, I believe, have more areas to criticize and come up with defenses.

Because the police are in such a routine with the alcohol cases, the drug cases are kind of unique and they aren't as well trained in identifying what the symptoms are, for instance, in someone who abuses Ambien.



The police don't know, for instance, how someone's eyes may be affected by prescription drug abuse, and what are the typical symptoms are with different drugs. It is more difficult to prosecute those, which means that they have more fertile ground to defend.

Interviewer: In Pennsylvania, will they ask for a urine test or a blood test, if they suspect drugs?

Paul: It varies from county to county. Most of the counties that I deal with ask for blood tests. After your arrest they will ask to stick you with a needle. They then take you to a DUI center which is staffed by phlebotomists. Your sample is then given to a technician who will test it. A report is generated and is presented at the preliminary hearing.

Interviewer: Are there laws in Pennsylvania that address drivers with a BAC below .08?

Paul: Yes, you can get a DUI below a .08. If you're under the age to buy alcohol legally, your BAC is lower than you have to have. But even a 50 year old who has a .06 could be found guilty of a DUI.

This really means you can't drink anything and drive.
If your ability to operate the motor vehicle is substantially impaired and you are incapable of safe driving, you can be convicted of a DUI.

A blood alcohol concentration (BAC) below .08 is the equivalent of that lower level of .08 to .10 on the first offense. It would not have mandatory jail time. It would have mandatory 6 months of probation.

Interviewer: It probably depends on the court, but how should people expect to be treated? Will they be treated fairly, or are they treated badly because they're assumed to be "drunkards" or "drunk drivers"?

Paul: Everybody in the system is a little bit different. For the most part, the judges and the district attorneys are good, smart, fair people. But they're not out to help the defense. Their job is to either prosecute or see that justice is done.

The only person that's out there to see that the defendant's penalties are minimized is the defense attorney, that's their job. My job is to minimize the penalty.

HOW PUBLIC MIGHT YOUR DUI ARREST BECOME?

Interviewer: How public will someone's situation be when they are charged with DUI? Even if not convicted yet but just charged, will work, school, friends, or family find out about your charges?

Paul: DUIs are public record. That means that anyone can go in and find out who was charged with a DUI, so there's no way to stop it from becoming public.

In Northampton County there are approximately 30 new DUIs a week. They don't show thirty DUIs in the newspaper. Most of them are not published, but it's kind of the luck of the draw.

It certainly could come to be public knowledge, it could be published in the newspaper, and your job might find out about it. I would say the majority of cases that's not automatic.

WHAT TYPES OF ALTERNATIVE SENTENCING TO JAIL ARE AVAILABLE?

Interviewer: For people that can't get into the ARD program, are there alternative punishments to help them avoid jail such as house arrest, ankle bracelets, ignition interlocks, that kind of thing?



Paul: There are mandatory jail penalties that go with anything over .10 BAC, even on a first offense.

When you say jail it's really incarceration, which can be served in one of four ways; one is actually in the jail; another one is in a work release center where you go to work during the day but sleep there at night. (By the way that's much better than the jail, because it's more like a dorm)

The other two ways are on house arrest, which is where you have electronic monitoring or an ankle

bracelet. If you do an inpatient rehab you can get credit for the time you successfully complete in there towards the jail time. That's difficult to do, it has to be approved by the judge, but it is a possible way of getting credit for the jail time. These types of alternatives are usually for second or greater offenders.

If a judge is going to sentence you to 3 days in jail, they're probably not going to give you ankle monitoring because of the cost of setting it up, so you're probably going to do a weekend in jail.

But you never make it into the jail in those circumstances - you do it in an intake, which is not a good place to be because it's full, and they don't really have a good facility. So it's something you want to avoid.

HOW TO GET BACK TO NORMAL LIFE AFTER A DUI

Interviewer: What do you see people do to get back on their feet, get back to normal life as quickly as possible either while their case is ongoing or after it concludes?

Paul: The first thing to realize is that it is not the end of the world. The reality is that you got in trouble because of alcohol.

My dad, who was a judge, told me when I was a kid that alcohol was the cause of nine out of ten cases that came before him. Not just with DUI cases, but any kind of case. Alcohol is the underlying cause of most people's problems in the legal system. I found that to be true.

The first thing you need to do after you've gotten charged with a DUI is to address the fact that you're drinking alcohol and driving. That frankly, is just playing Russian roulette with a full chamber.

It's something people have to think about avoiding all together, because alcohol makes you make stupid decisions.

I don't want to see good people coming back with a second offense. First offense, usually you can deal with, 2nd or 3rd offenses can be life-changing.

So that's critical to understand, and to get your life together, is vital. You also do not need to be self-medicating with alcohol because you're depressed over your DUI case either. That just leads to more DUI's.

Most people are able to keep their life going after a first offense but not in all instances. Sometimes the mandatory penalties seem unfair after a first offense because it will affect a person's livelihood.

For example a truck driver who gets first offense DUI will lose his commercial driver's license (CDL) for a year. It's mandatory if he gets convicted or even if he gets into the ARD program.

That's life changing for him and has a much more serious impact on his lifestyle than a typical person

who may have a desk job and just needs a ride to and from work for the 30 or 60 days through the ARD.

It's very specific to each person, and each person's situation is different. And I'm trying to make it easy on that particular person. It's not a cookie cutter type of a scenario.

PAUL, HOW CAN PEOPLE REACH YOU FOR A FREE CONSULTATION?

Interviewer: For people that have read this material, and are now convinced that they want to get a free initial consultation with you, how specifically should they contact you?

Paul: The best way is just to call my office and schedule the appointment. My phone number is 610-559-7401. I also can be reached by email, paul@aaroelaw.com or duiguy@aaroelaw.com

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This publication is intended to be of an informational nature only.

No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material.

If you are facing legal issues, whether criminal or civil, seek professional legal counsel immediately.

Paul Aaroe, Esq.
Aaroe Law Offices
2568 Nazareth Rd
Easton, PA 18045
www.AaroeLaw.com
(610) 559-7401