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## THE CHARGE

DWI IN VIRGINIA IS A CLASS 1 MISDEMEANOR CRIMINAL CHARGE PUNISHABLE BY UP TO ONE YEAR IN JAIL AND/OR UP TO \$2500 IN FINES. UPON CONVICTION, ONE'S LICENSE IS SUSPENDED FOR ONE YEAR.

FOR CASES INITIATED AFTER JULY 1, 2003, THE MINIMUM FINE IS \$250 FOR FIRST TIME OFFENDERS WITH INCREMENTAL INCREASES IN MINIMUM FINE FOR EACH SUBSEQUENT OFFENSE.

THERE IS NO DISTINCTION BETWEEN DWI AND DUI IN THE STATE COURTS OF VIRGINIA. STATE COURTS INCLUDE THE GENERAL DISTRICT COURTS OF FAIRFAX, ARLINGTON, PRINCE WILLIAM, AND LOUDOUN.

A CONVICTION FOR DWI MAY AFFECT ONE'S CAREER — PARTICULARLY FOR

PERSONS WHO DRIVE AS A PART OF THEIR RESPONSIBILITIES, CDLS, PERSONS WITH SECURITY CLEARANCES, MILITARY PERSONNEL, AND THOSE INVOLVED IN THE HEALTH CARE ARENA.

A DWI CONVICTION IS RECORDED ON THE DMV TRANSCRIPT FOR OVER A DECADE AND OFTEN LEADS TO COLLATERAL ISSUES INVOLVING CAR INSURANCE COVERAGE AND INSURANCE COSTS.

ALTHOUGH THERE IS A SOCIETAL STIGMA ATTACHED WITH THOSE CONVICTED OF DWI, THERE ARE USUALLY NO IMMIGRATION REMOVAL CONSEQUENCES FOR NON-CITIZENS FOR FIRST TIME CONVICTIONS. CONVICTION FOR ANY CRIME, HOWEVER, MAY AFFECT NATURALIZATION PROCESSES FOR NON-CITIZENS.

## THE DEFENSE

THE GOVERNMENT HAS THE BURDEN OF PROVING ITS CASE AGAINST A DEFENDANT "BEYOND A REASONABLE DOUBT." THIS IS THE SAME STANDARD APPLICABLE TO ALL CRIMINAL PROSECUTIONS. IN THE DRUNK DRIVING CONTEXT, THE GOVERNMENT PROVES ITS CASE AGAINST A DEFENDANT BY INTRODUCING THE DRIVER'S

(1) DRIVING BEHAVIOR (2) APPEARANCE AND COORDINATION, AND/OR (3) SCIENTIFIC EVIDENCE INCLUDING THE BLOOD ALCOHOL CONTENT CERTIFICATE (BAC CERTIFICATE).

ALTHOUGH EACH PERSON SHOULD OBTAIN THEIR OWN ATTORNEY FOR ANALYSIS OF THEIR CASE, THE GENERAL PARAMETERS FOR THE DEFENSE ARE FAIRLY COMMON.

FIRST, DID THE POLICE HAVE REASONABLE ARTICULABLE SUSPICION TO STOP THE VEHICLE? IF THE STOP WAS RANDOM, THE CASE MAY BE DISMISSED.

SECOND, DID THE ARRESTING OFFICER HAVE PROBABLE CAUSE (PC) FOR THE ARREST? PC IS GENERALLY ESTABLISHED BY ANALYZING OBJECTIVE STANDARDS SUCH AS THE FIELD SOBRIETY TESTS (FSTs) AND PRELIMINARY BREATH TEST (PBT),

LASTLY, DID THE POLICE MAINTAIN CHAIN OF CUSTODY OF THE DEFENDANT, WAS IMPLIED CONSENT TENDERED PROPERLY, WAS PROPER PROCEDURE FOLLOWED IN PROCURING THE BAC CERTIFICATE AND WAS THE MACHINE CALIBRATED AND MAINTAINED PURSUANT TO THE CODE OF VIRGINIA?

