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# CLARK & TOWNE ATTORNEYS

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## Patient Privacy, Search Warrants & DUI At Issue Before Georgia Supreme Court

On February 8, 2010, Clark & Towne attorney David E. Clark argued before the Georgia Supreme Court. The highest court in Georgia must now decide whether a driver's own private medical hospital records can be used to prosecute him for the misdemeanor crime of DUI. The basic facts were that Mr. Brogdon

rear-ended another car. An investigating officer wrote up an accident report and an ambulance took Mr. Brogdon to the hospital (he was the only one taken for medical treatment).

Mr. Brogdon was not arrested for DUI; no one read the implied consent warning to him. Nearly a year later, he was convicted after trial based upon blood alcohol results the prosecutors obtained via search warrant for Mr. Brogdon's complete medical records. We'll update you when the Court issues an opinion.



## How Community Service Works

Anyone convicted of DUI or any crime can be required to perform community service as part of a sentence. Before you volunteer with the first worthwhile cause you find, make sure you know the rules the court insists you follow. First, make sure

you work on behalf of a nonprofit, public service organization, such as Habitat For Humanity. Second, verify the hours you spend volunteering. Document time in, time out, supervisor's signature and date. Third, at the end of all of your service hours, ask for a signed

letter on the organization's letterhead from someone in charge stating how many hours you worked. Make sure it contains a phone number the court can call to verify your hours. We keep a list of community service organizations on our website, [clarktowne.com](http://clarktowne.com).



## From Our Blog **Breathalyzers v. Blood Tests**



Order your  
FREE copy  
from  
clarktowne.com

Many of my trials involve clients who refused to take a breath test. The “penalties” for doing so are high (license suspension with no work permit), but those who do refuse, feel their rights will be better preserved in court than on the street with Officer Friendly.

Georgia penalties for refusing a breath test are light—in other states, those refusing to take the test are subjected to forcible blood tests, or a second crime of refusing.

In reality, an officer could ask a Georgia judge to issue a search warrant for a forced

blood test, but most of the time, if a driver refuses, that’s the end of the test. If you do take a test, there are many ways of getting results thrown out. I discuss these and more in my free Consumer Guide, “How to Choose a Georgia DUI Lawyer.”

Read more blogs at clarktowne.com.

**QUESTION:** I JUST  
MOVED HERE  
FROM A STATE  
WHERE AUTO  
INSURANCE WAS  
DISCRETIONARY.  
IS INSURANCE  
MANDATORY IN  
GEORGIA?

**REQUIRED:**

*Bodily Injury Liability of \$25,000 per person, \$50,000 per occurrence and Property Damage liability of \$25,000 per occurrence.*



## Ask Jessica

**Answer:** Yes, all Georgians must have automobile liability insurance for at least the minimum limits required by law.

Your Liability Insurance is insurance that pays damages to others, for injury to or damaged property of others, up to the policy limit, which you may have caused by your negligence or may protect you against claims made against you by someone who alleges you are at-fault.

Your Physical Damage Insurance is insurance to pay for loss or damage to your own vehicle. It consists of two types. The first part pays for theft, vandalism and fire type losses (comprehensive” or “other than collision coverage”). The second part is “collision” coverage. Physical Damage Insurance is not required by State law, but is usually required by a lender if there is a loan on the vehicle, or by the leasing company if it is leased. You can file a

claim under your own Physical Damage Insurance coverage even if someone else may have caused the accident.

Uninsured Motorist Insurance may also be included on your policy.

Although Georgia requires all drivers to have “liability insurance” to drive, there are unfortunately those who either do not obey the law or may have unknowingly allowed their insurance to cancel. *Continued on next page.*

# Ask Jessica, *continued*



*Continued from page 2.*

Uninsured Motorist protects you when an “uninsured” driver causes an accident, damaging your vehicle or injuring you or your passengers. This coverage protects you for loss or damages in an accident.

If you are injured by someone who carries minimal or no insurance, your own insurance company protects you with the Uninsured Motorist portion of your policy. You should plan on having between \$250,000 and one million dollars in uninsured/ underinsured coverage. This

is NOT umbrella coverage, as most umbrella policies do not provide uninsured motorist coverage.

Shop insurance providers for the most affordable coverage. You do not want to be an unfortunate car accident injury victim where the at-fault driver has insufficient insurance coverage.

“I’D LOVE TO HEAR YOUR STORY, AND RECOMMEND YOUR ORGANIZATION AS A WORTHY CAUSE.”

## Community Service Benefits Us All

I am always amazed by how many of my clients find they actually enjoy performing their mandatory community service hours. They discover when they give time to a nonprofit organization, no matter what their original motivation, everyone benefits. Using volun-

teers save an organization money while helping its target community, and volunteers themselves report finding personal benefits as well. In most situations, my clients learn new skills, meet people from all walks of life, and feel like they’ve become a part of something

really worthwhile. If you’ve started volunteering on a regular basis after performing court-ordered community service, drop me a line at [jtowne@clarktowne.com](mailto:jtowne@clarktowne.com). I’d love to hear your story, and recommend your organization as a worthy cause.

## DUI Minute **Can You Beat the Breath Test?**

If you’re asked to take a breath test in Georgia, it will be done on a machine called the Intoxilyzer 5000. I’ve taken enough training classes to feel like I’m an expert in how these machines work and I’m often

asked if placing something in your mouth will invalidate the results. Probably not: First, the officer is supposed to look inside your mouth before you blow. Second, you have to blow into the tube pretty hard,

and if you’ve got gum, a penny or a breath mint in your mouth, it will get stuck in the mouthpiece!



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## CLARKTOWNE.COM

*We strongly believe that education is the first step in the prevention of any type of legal crisis. We've proudly worked to resolve our clients' dilemmas since 1990. We are in your community, have the experience and resources required to work toward your goals, and we're here to help. We also accept a limited number of injury cases each year resulting from serious auto, truck or motorcycle accidents.*

### **Do you need a referral?**

Chances are we can refer you to an excellent local attorney outside our area of practice: Call us at 770.338.2338 or email jtowne@clarktowne.com.

### **VOLUNTEER SPOTLIGHT: GWINNETT HUMANE SOCIETY**

This non-profit focuses on adopting animals in their sponsor program or being cared for in temporary volunteer foster homes. It is run solely by volunteers who donate their time and energy to improve the lives of pets and animals in our local community. The Gwinnett Humane Society holds monthly volunteer orientations. Contact: volunteer@gwinnetthumane.com & www.gwinnetthumane.com.

