

1755 NORTH
BROWN RD NW
SUITE 200
LAWRENCEVILLE,
GA 30043
770.338.2338
CLARKTOWNE.COM

CLARK & TOWNNE ATTORNEYS

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*"Live as if you were
to die tomorrow.
Learn as if you were
to live forever."*

—Ghandi



Nighthawks Expand to Gwinnett

The Georgia State Troopers' Nighthawk task force is expanding. These folks are thought to be the best trained, equipped and funded law enforcement officers in the state. They patrol the highways in and around Atlanta, including those in Gwinnett County, during "peak DUI times." Thanks to new funding, they've recently added six new officers to their ranks and updated their technology.

Each patrol car is now equipped with a state-of-the-art communication system that gives troopers instant access to critical information from national, state, federal, and local crime databases. This system's information is both faster and more

detailed than what other police agencies in all of Georgia can obtain in the field.

The sixteen members of the task force are specially trained to detect impaired driving and nearly one-third of all the arrests the Nighthawks make are for DUI. Their arrest procedures are solid. In addition to extra training, the Nighthawks have special access to legal assistance and even legal representation at Administrative License Suspension hearings. Their own dedicated attorney from the Department of Driver

Services prosecutes the license hearings and is available to answer troopers' questions even in the middle of the night.



From Our Blog **How to Avoid a Ticket**

No one likes a traffic ticket. They slow you down, cost you money, and are embarrassing. But worse than that, law enforcement officers use common auto maintenance issues as reasons for stops. This means that if you are stopped because your taillight is broken, the officer can use this as an opportunity to find other violations, both large and small.

Follow these tips to minimize your chances of being stopped or for the situation to get even worse.

Keep your car in tiptop shape. Even the smallest problem, such as a broken taillight, can give an

officer a legal reason to stop you.

Don't "pimp" your car. Too-dark tint, custom lighting, and loud mufflers are common reasons for a stop.

Watch the speed limit. Many roads and highways have speed limits that change several times. This is where the cops like to hang out! Once you pass a speed limit sign, check your speed and adjust it to the posted speed: it's the speed you should be traveling—not just slowing down to.

Watch the time. The cops are out looking for speeders and other traffic offenders when they think it's most likely to find them. Holidays, weekend nights and right after closing time for the bars are obvious times when police look for drivers under the influence.

Read more of our blog on www.clarktowne.com.

Driving Safety Tip of the Month



We all know by now that texting while driving is incredibly dangerous.

Many states are passing legislation banning texting while behind the wheel, and Georgia could be

next. Although I don't believe it will be possible to enforce such laws, I do agree that texting drivers pose a risk to everyone on the road. If you, or someone you love, just can't stop texting

while behind the wheel, there are several devices on the market that can disable the texting function of a phone based on movement or even by physical location, such as a school zone or work sites. Others devices block incoming text messages and calls with a "busy" message indicating the recipient is driving. I strongly encourage parents to install these devices on their teenagers' phones to keep young drivers and the roads that much safer. Check the www.clarktowne.com DUI blog for details.

DON'T TEXT & DRIVE

"ONE OF THE MOST COMMON PURPOSES OF ANY ROAD BLOCK OPERATION IS TO SPECIFICALLY IDENTIFY PEOPLE WHO HAVE BEEN DRINKING"

How Can I Tell if a Roadblock is Legal?

Have you ever been stopped as part of a roadblock? What went through your mind as you realized what was waiting for you over the hill or around the blind curve? If you are like most drivers, once you realize it's not an accident up ahead, you began asking yourself, "how can the cops do this? Is this roadblock legal?" Every state has different laws governing the use of roadblocks.

To be legal, roadblocks in Georgia must meet these five requirements:

1. Supervisory officers plan where and when to implement a stop for a legitimate purpose (so, no one or group of officers can decide on a whim to set one up);
2. All vehicles are stopped (officers can't profile or cherry-pick drivers);
3. The delay to motorists is minimal, and if traffic is backed up, the roadblock is temporarily halted;
4. The stop is marked as a police checkpoint, usually with signs or road cones;



5. Screening officers are trained to determine which motorists should be given field tests for intoxication. The requirement that screening officers be trained is especially troubling to me. This means that even though the given purpose of a roadblock can be for something other than making DUI arrests, one of the most common purposes of any road block operation is to specifically identify people who have been drinking.

Legal reasons for a Georgia roadblock are:

- Enhancing roadway safety by checking for drivers' licenses, seat belt use and current tags;
- Locating witnesses to a recent crime (within a week or so for a non-vehicular crime) or recent traffic accident (usually held at the same time as the accident to target people who use the same commuter route.)

Illegal reasons for a Georgia roadblock:

- Detecting evidence of ordinary criminal wrongdoing; for example, checking for illegal drug activities or general law-enforcement purposes.



Ask Jessica What's the difference between probation & parole?

Although probation and parole are often used interchangeably by people unfamiliar with the legal system, they mean two very different things.

Probation is part of the sentence for committing a crime. It is essentially a jail sentence that one is permitted to serve outside of jail, usually in increments of months. A judge determines the length and the terms (rules) of probation. A person on probation reports monthly to a probation officer. If the terms of probation are broken, the person may be sent to jail by the judge. Someone convicted of a misdemeanor or felony may serve part or all of a sentence on probation.

Parole is the early release of an inmate who has served part of a prison sentence. The inmate is allowed to return to the community under the conditions of parole and the supervision of a parole officer, much like someone on probation. Parole is usually measured in years, and applies to felony sentences. If the terms of parole are broken, the parolee may be sent back to prison. A prison sentence is usually followed by probation, so someone may be sent to prison, released early on parole and then, once the original length of the prison sentence is completed, continue the sentence on probation.

DUI Minute Standardized Field Sobriety Tests (SFSTs)

SFSTs include such well known tests as the "heel-to-toe" test and the "hold out your arms and touch your nose" test. The National Highway Traffic Safety Administration came up with SFSTs many years ago. They were originally developed by a psychologist to help an officer make an arrest/don't arrest decision. They were not developed to determine precise blood alcohol content level.

Under current Georgia law, voluntary SFSTs can be administered by the police whenever a driver is investigated for a traffic violation. An officer may ask a driver as many questions and have the driver try as many tests as the officer wants, without reading the driver his Miranda rights or warning him that the information is being recorded or carefully noted for later prosecution.

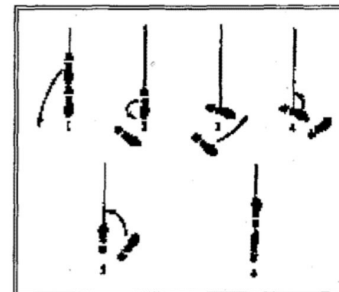
A police video is very important in a DUI case; but, you can't rely on the police having a camera in every car. These days, since almost everyone has a cell phone with a camera, I encourage people to take their own video just in case. If there is a police video of the arrest, the DUI

defense attorney and expert witness need to have a copy of it in order to fairly defend their client.

In my opinion, the purpose of SFSTs is to help the police gather evidence that will be used to prosecute the driver in court. Whether someone can walk heel-to-toe isn't the issue. Nobody walks heel-to-toe in that fashion, except police recruits and drivers suspected of having had too much to drink.

Whether you choose to comply with a request to take these voluntary tests is entirely up to you. An officer can't arrest you just because you refuse to take a SFST; however, the officer will note your refusal and then most likely ask you to take a roadside breath test.

You can still be arrested for DUI if an officer believes he has probable cause to support his arrest decision, no matter which tests you decline. Another factor to consider when faced with taking SFSTs is when your case goes before a judge, the prosecutor may argue to the jurors that your refusal to take SFSTs means you would have failed the tests.



"AN OFFICER MAY ASK A DRIVER AS MANY QUESTIONS AND HAVE THE DRIVER TRY AS MANY TESTS AS THE OFFICER WANTS, WITHOUT READING THE DRIVER HIS MIRANDA RIGHTS ..."

CLARK & TOWNE ATTORNEYS

PO Box 2224
LAWRENCEVILLE, GA 30046
770.338.2338
JTOWNE@CLARKTOWNE.COM

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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: FORT YARGO STATE PARK

Volunteers contribute time and talent without compensation but with a whole lot of heart.

They assist in accomplishing our mission of teaching visitors the importance of our natural and cultural resources. The beauty of this state and the diversity of its resources have attracted millions to learn, stretch, relax, explore and appreciate a world of grandeur and wonder.

Fort Yargo State Park is located near Highways 316 and 81, just one mile south of Winder.

Contact: 770-867-3489

<http://www.gastateparks.org/FTYargo>

