

DUI & College

Continued from page 1

Your second offense often results in suspension for at least the current semester. Your prior record can affect sanctions, so that high school DUI could come back to haunt you if you are caught drinking on campus.

Students who are suspended from a university can lose tuition, residence hall costs and fees, student financial aid, athletic participation and eligibility, immigration status for international students, internships, assistantships, study abroad eligibility and more.

Scholarship recipients have extra sanctions. HOPE scholars lose their scholarship for two terms, with no early reinstatement, if convicted of a felony drug offense. Federal scholarship recipients convicted of any drug offense, including a state

misdemeanor marijuana charge, will lose a scholarship for at least one year and maybe even permanently. Early reinstatement is possible if certain criteria are satisfied.

In addition to court fees, DUI fines, DUI school tuition, license reinstatement fees, towing charges, probation fees, the cost of missing school and work to attend court and jail, and the price of an ignition interlock device, you will have to pay legal fees. Do not expect a good DUI lawyer to be cheap. A good lawyer with experience in DUI law has a much

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.

WWW.CLARKTOWNE.COM

Volunteer Spotlight

The Society of St. Vincent de Paul

Archdiocesan Council of Atlanta
2050-C Chamblee Tucker Road
Atlanta, GA 30341
678-892-6160
volunteers@svdpatl.org

Located in Chamblee, Georgia, the Society's Conference Support Center offers many volunteer opportunities. Georgia volunteer projects range from a few hours to on-going projects. In addition to our CSC, the Thrift Shop and Food Pantry offer Georgia volunteers the opportunity to give hundreds of hours per week.

Additional Charities

Click "Law Links & Resources" on the DUI Information page of the clarktowne.com website for a detailed listing of charity web addresses and contact information.

Let Me Know

If you've worked with any non-profit in the area, let me know what you think of the organization and if I should continue to suggest it as a worthy place to volunteer. I'd also like suggestions of other local non-profits to add to this list.

Email: jtowne@clarktowne.com

Continued

better chance to get your charges reduced or even thrown out than a lawyer who doesn't know DUI law and tells you to just plead guilty.

If you are going to college to prepare for your future career and get a DUI or other criminal charge, you must get a good DUI lawyer. Some professions, such as teaching, won't accept applicants with a record.

Clark & Towne Believes...

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.

Pass this newsletter
on to a friend or recycle



JULY 2011

1755 NORTH
BROWN RD NW
SUITE 200
LAWRENCEVILLE,
GA 30043

(770)338-2338
CLARKTOWNE.COM

*"Most people are about
as happy as they make
up their minds to be."
—Abraham Lincoln*

Inside this issue:

Search & Seizure

From Our Blog

Ask Jessica

Thank You!

DUI & College Cont.

Volunteer Spotlight

CLARK & TOWNE ATTORNEYS

WE'RE HERE TO GUIDE YOU THROUGH ANY
UNEXPECTED LEGAL CRISIS

DUI & College

If you are a high school senior who has already been accepted by a college when you get a DUI, consider yourself lucky; colleges usually won't worry about a student's DUI charge or conviction unless he or she is actually enrolled.

Likewise, a high school DUI shouldn't affect your chance of getting into college, and may even make a compelling application essay. Many colleges ask for your criminal history, so it's likely they will know. If you are arrested right before you start college, you may be required to tell your school. Things change radically once you are in college or even just on campus.

But how does the University find out about your arrest? You have to tell them. Yes, as an adult over the age of 18 you don't have to tell your parents if you are arrested, but you are required by the University of Georgia (and the 35+ other Georgia state colleges) and many other private colleges to report any arrest within three days.

All colleges have substance abuse and under-age drinking policies. These vary from college to college, but the penalties are harsh. For instance, if you go to any school in the University of Georgia system and are charged with a DUI, you can be suspended. You don't

even have to be convicted—just charged. Statute 406.02 Violations of State or Federal Law says: "A student in any institution of the University System of Georgia who is charged with or indicted for a felony or crime involving moral turpitude, may be suspended pending the disposition of the criminal charges against him."

If this is your first DUI and you haven't been in trouble for drugs or alcohol at college before, you will probably have to take some sort of alcohol awareness class and be on academic probation for a while.

Continued on back.

Ripped from the Headlines: One Student's Story

"Last June I went to Athens to attend Freshman Orientation. Orientation was fun, but the after party was much more fun. I drank way too much; the campus cops charged me with underage consumption of alcohol and public urination.

Of course the campus police notified campus officials who decided that they didn't want me to attend UGA after all. They actually revoked my admission. Now I have to start the application process all over again and wait an entire year before I can start school at a good college."

What a tale! If you are heading off to college this year, my best words of wisdom are "don't be



like this guy." Frankly, if this guy hadn't been caught by the

cops, he probably has the kinds of "friends" who take pictures of him passed out at a party or with a wardrobe malfunction and post them online.

College is a time of self-discovery and exploration, but don't get carried away. Friends don't help you get arrested. Don't "friend" everyone on Facebook. Set an alarm and stop checking your emails and Facebook page after ten minutes and get back to studying. Make friends in-person—those are the ones you'll keep and treasure.

There is one amendment I see abused more than any other. I have it memorized. You should memorize it too.

Search & Seizure 4th of July Style

The 4th of July never fails to stir my patriotism. This year as I celebrate the anniversary of our country's declaration of independence from British rule and the birth of our nation I reflect: What makes a nation? In our case, it's the Constitution, which spells out the system of laws, the rights of the people and the powers of the government.

The Constitution wasn't complete when it was first

signed. It failed to describe special protections for individual citizens from the government. These were added nearly two years later as the first ten amendments to the constitution, known as the Bill of Rights. I can't say I have a favorite amendment from the Bill of Rights as they are all important. However, I can say there is one I see abused more than any other. I have it memorized. You should memorize it too:

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

From Our Blog

An Old Story, New Twist

A Lincoln County sheriff's deputy was charged in June with driving under the influence while in his patrol car. The police believe the deputy was actually on prescription drugs when he was taken into custody near Augusta. A citizen's call in the middle of the night of an officer driving erratically put the police on alert. Harwell was eventually found parked in his patrol car on the side of a highway.

This story brings up two great questions:

1. Can you be arrested for DUI if you're just sitting in your car, not driving it, and
2. Is driving under the influence of prescription drugs the same as driving while intoxicated on alcohol or illegal drugs?

So, first questions first: absolutely, yes, you can and will be arrested for DUI if you have the keys to any type of motor vehicle (golf cart, riding mower, car) and have a

blood alcohol content over the legal limit, or if an officer suspects you are "less safe" (incapable of driving safely) to drive.

The second question doesn't have a simple answer. It is very difficult to establish the influence of most prescription drugs. How much of a particular drug makes someone less safe to drive? Prescription drugs simply haven't been studied the same way alcohol has. Having said that, the police will arrest you for DUI if they think you are intoxicated on any kind of drug.

When the police arrest you for DUI, they don't care what substance is making you drive poorly—they just want you off the street. *Proving* you were less safe to drive while taking prescription medication is a whole other story.

One of my cases of which I'm most proud is from way back in 1999. That is when my

partner David Clark and I got Georgia's DUI-marijuana law struck down as unconstitutional in *Love v. State*. Back then we argued that the government can't claim someone is unsafe to drive just because that person shows any amount of marijuana in their system—they must show that due to consumption of drugs, a person is incapable of driving safely. It's not the same, and it's really helped a lot of people avoid unjust charges over the years.

Our case is still cited and used by many Georgia defense attorneys. In fact, just this last year, *Love v. State* helped win a case that involved prescription drugs as well as marijuana.

I'm not condoning the use of marijuana and then driving, it's just that some amount of marijuana is going to show up in a blood or urine test long after the effects that can influence driving ability are long gone. That is not right.



Ask Jessica

Legitimate Field Sobriety Tests

Question: Are the results of my SFSTs allowed at trial?

Answer: Last month we discussed the three SFSTs: horizontal gaze nystagmus (aka HGN or "follow the pen with your eyes"), walk and turn (aka heel to toe) and one-leg stand — and learned that they are voluntary. If you do decide to take the tests, don't panic. The results are only used to help the officer decide whether to arrest a person.

In my opinion, since the officer does not know how a driver would perform on these tests completely sober, they are not relevant. SFSTs are designed to only be used in deciding whether to arrest an individual, not as substantive evidence at trial.

If the results make it to court, there are many defenses a good DUI lawyer can use. One likely defense is that the roadside was simply not a good place to take the tests. Most SFSTs are performed on the shoulder of a highway or road. All highway shoulders are banked to allow water to run off. All highway shoulders are littered with rocks and debris. If during cross-examination the officer is unwilling to admit the shoulder was banked, a good DUI attorney reminds the judge and jury to view the officer's entire testimony with skepticism.

Listing the other conditions that may have been present during the arrest is another defense. For instance, there

are many factors known to cause nystagmus other than alcohol – lack of sleep, caffeine and cold medications are just a few. Some of these factors exist in the overwhelming majority of DUI cases.

In over 20 years of DUI trial experience, I've seen many officers who cannot pronounce "nystagmus," or define what it is. I've yet to find one officer who can testify how alcohol travels through the body to cause this involuntary jerking of the eyes. There are very few officers who truly can conduct one of these tests correctly under typical conditions.

Bottom line, don't take the tests. And if you do, don't panic.



Standardized Field Sobriety Tests in Georgia are not mandatory.

Find Us Online

We're *everywhere* online. Read our articles or ask us questions. We'd love to hear from you.
Avvo: tinyurl.com/3m55k7s

Twitter: twitter.com/jessicatowne

Facebook: companies.to/clarktowne/

LinkedIn: www.linkedin.com/in/clarktowne

You Tube: www.youtube.com/user/ClarkTowneAttorneys

Come join a group of clients who learn about how the law affects them.

WWW.CLARKTOWNE.COM

Thank You!

My staff and I welcome the new clients who've joined the Clark & Towne family this past month. I would also like to send out my personal thanks to all that have referred friends and family to us in ever growing numbers. My success over the years has been mainly built upon referrals from previous clients and friends. Referrals are the highest compliment that I and my law office can receive.

