

How Often Are DUI Cases Removed?

By Alicia Williamson on 02/04/2008

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While DUI is a very serious offense, hundreds if not thousands of people arrested for driving under the influence have their cases thrown out each year because of a clerical error. Mistakes can come about simply through a missing model number on state-approved breath-alcohol detection equipment. Other times, police officers forget to say or do certain things, leaving out details that affect the arrest. By way of example, in a lawsuit in Oklahoma County District Court, at least three people were attempting to take advantage of a legal loophole by seeking more than \$10,000 from the state's Department of Public Safety's Board of Tests for Alcohol and Drug influence. Each of the plaintiffs submitted to breath tests for alcohol content. They contend the results should be thrown out because equipment used was not on the list of approved equipment.

Other DUI Cases Thrown Out Due to Technicality

In another instance at least 83 DWI cases have been thrown out by New Hanover County district court judges after most of the county's 11 magistrate judges failed to include a required form in their files. In addition, a Wilmington criminal defense attorney said about 50 of his clients' DWI cases were dismissed in Brunswick, New Hanover and Pender counties because of a legal technicality. In San Diego, Prosecutors dropped 65 of a former sheriff's DUI arrests between October 2005 and October 2006. The officer arrested a gentleman after a two-car crash and then forced him to give a blood sample without having a legal reason to do so. As a result, The Hillsborough Sheriff's Office fired the officer after an internal review found that he arrested 58 people with blood-alcohol content below the legal threshold, often without evidence of suspicious driving behavior, positive urine samples or video to back his claims.

Following State Procedures Fails

Under state law, magistrates are required to follow certain procedures while processing

Suspected DWI offenders. If a defendant isn't able to make bond, magistrates are required to inform the DWI suspect of his right to have others come to the jail to observe his condition or administer another alcohol test. The magistrate is also supposed to require the defendant to list all people he wants to contact and their telephone numbers. And, according to the new law, a copy of the form that verifies that these procedures were followed, known as an "Implied Consent Offense Notice," is to be included in the defendant's case file. Unfortunately, magistrates in New Hanover County and elsewhere didn't know about the requirements or they simply failed to comply. As a result, the notices didn't show up in many of the defendant's files and many DUI cases were thrown out.

Drivers Arrested Receive Reduced Charges

The national anti-drunk driving organization MADD states that loopholes and the lack of enforcement of DUI laws have led to the highest drunk driving fatality statistics in South Carolina. During the past five years, nearly forty percent of South Carolina drivers arrested for repeat DUI offenses received reduced charges in exchange for pleading guilty. That number is 71 percent in one Circuit Court. Almost sixty percent of cases involving a third or fourth offense pled to a less serious charge. Offenders are often not sentenced to jail, and if they are it is typically for a minimal amount of time. Due to these cases, victim advocate groups say more could be done to keep dangerous, repeat DUI offenders off the roads. They cite the fact that South Carolina ranks ninth in the nation for the percentage of fatal accidents involving alcohol, which is 36%. Many of those drivers have been convicted of a previous DUI offense. It cites that there are eighteen states that prohibit or restrict plea bargains in DUI cases.

Obviously, a DUI is a very serious offense, as it puts so many people in danger. Yet despite the seriousness, not all DUI cases are cut and dry convictions. As you can see, there are many ways to challenge a DUI charge. Since a DUI can stay on a record permanently and remain on a motor vehicle record for years, there are many times, when it's important to find a way to get the case thrown out. A DUI affects a person's life in every area, whether it's the DMV, employment background checks, insurance companies and society in general, so it's best not to take chances with your life. A good DUI attorney that knows the law can help you beat your charges by keeping the most serious consequences to a minimum.

About the DUI Attorneys at Straight DUI

We at Straight DUI do everything we can to get you off, keep your record clean and prevent you from losing your license to drive. We start by believing that you shouldn't have been arrested, so with that uppermost in our minds, we fight for you. When you place yourself in the hands of the knowledgeable [DUI attorneys](#) at www.straightdui.com, you know you will be treated fairly and will receive the best defense possible. We understand how important a good defense is to your case and so we do everything to protect your rights. Call us today at (800-353-6348) and let us help.