

# HOW TO SURVIVE A **DUI** CHARGE IN ARIZONA

Call A Former DUI Judge With Over 40 Years Of  
Experience To Discuss Your Case



Mark N. Weingart, Esq.

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# FOREWORD

I wrote this book to impart some of my 40 years of experience to those in need of some Quick and accurate answers to the very complex experience we call DUI. Arizona has among the toughest DUI Laws and Penalties in the Country. This book is by no means a complete guide to DUI Defense and consequences. Many Courts are different in their treatment of DUI prosecutions. My hope is that one can get accurate information in a nut shell before seeking to hire an Attorney. It is not enough to hire an Attorney. You need to hire the best you can get with the experience to minimize the consequences and perform in your best interest.

As a former Judge, I can tell you that most people who walk into a DUI unrepresented are clueless as to all of the ancillary consequences involving the DMV, and compliance agencies. My staff is expert at these issues and we help from beginning to the end, and beyond.

# **DEDICATION**

I dedicate this book to my Family, for all of the hours when I can't be there. I also dedicate this book to the tens of thousands of clients we have been able to help over the years. Finally, I dedicate this to my protégé, my son Attorney Adam Weingart for perpetuating this Firm.

# DISCLAIMER

This publication is intended to be used for educational purposes only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. The author assumes no liability for any errors or omissions or for how this book or its contents are used or interpreted or for any consequences resulting directly or indirectly from the use of this book. **For legal or any other advice, please consult an experienced attorney or the appropriate expert who is aware of the specific facts of your case and is knowledgeable of the law in your jurisdiction.**

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# TESTIMONIALS

*“Mine was a DUI matter and I learned that there are basically three types of DUI attorneys in general: 1) Bait and Switch; 2) Dishonest and greedy and; 3) Honest and ethical. Mark is the latter. The clients who give him a bad rating probably think that they can just pay their way out of trouble. It doesn't work that way. The reality hurts and is scary. Don't expect to pay Mark to hold your hand and promise you that everything will go the way you want. Also, do not expect Mark to create a solid stance if you are dishonest to him about the facts to gain sympathy or advantage. He knows which clients are honest and upfront. He will put his best foot forward regardless, but if you feed him garbage, you can't expect him to fix the problem you are facing with the best possible outcome just because you paid him.*

*His prices are slightly above average for a reason. You get what you pay for. Actually, he is inexpensive compared to the type 1 and 2 attorneys I mentioned above because he does not have to spend tons of money on cute commercials and full page flashy yellow page ads in this stage in his career. That means more money spent on your case. The startup attorney and the*

*ones that are looking for sheer volume will lure and hook at any price to keep the lights on. Mark has a network of attorneys that work with him and with less experience than himself that may show up at some hearings that are not critical to your case at the time. He does this so he can be present for the hearings for his clients where knows his presence is critical. And, because of his excellent reputation with the courts, judges and prosecutors, they are much much more likely than not to reschedule critical visits when Mark is available when requested.*

*This is difficult to grasp, but that's how it works. But he will always be there when it is critical for him to be there. I used Mark and he did what he said he would do - that is to get my case the best possible outcome which he knows from experience. Once you sign contract, you got to trust him. It is scary because, say like a passenger in a plane, you got to trust the pilot over a situation you have absolutely no control over and most likely also do not how the system works. There were plenty of opportunities that Mark could have taken advantage of my situation and I'm a bright guy. He never charged me more than the original agreed contract even though I knew he put in more effort when needed. He also wouldn't accept extra compensation when I thought it would somehow make him work harder to get better results or give me a promise. That my unfortunate friend's is extremely rare trait even for other AV rated attorneys.*



*Mark is not out to be the richest lawyer in Arizona. He could easily retire. But, he likes his practice and truly wants to make sure his clients are not taken advantage of from the prosecution. During my case proceedings and interactions with Mark, I saw a man who is truly like a white knight in a gloomy and dark place. The penalties are too high and ridiculous for first time non-dangerous offenders. Mark, like many others knows this and wants to fight the good fight. I highly recommend Mark. And when I tell others what he has done for me that were in a similar situation, they always say they wish they would have hired Mark. It gives me pride that I made a wise decision to hire him. Mark also has many reputable and discounted connections for other requirements like separate MVD issues (i.e. IID and SR-22) and court ordered DUI treatment screenings. It seems a lot of professionals in the valley respect and like being a help to Mark's clients. Do you own due diligence first before you hire any attorney and preferably by a face to face interview? Get a feel for the attorney that will affect your future. Mark, like most attorneys will not charge a consult fee. If they do run."*

**- JJ**

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*“Mark and his staff did a wonderful job of not only ensuring me of an amicable outcome to my case should the worst-case scenario arise... but eventually they were able to present me with the best possible outcome I could have hoped for - dismissal. I was up against a super-extreme DUI and looking at some jail time together with a whole lot of my personal freedom and a whole lot of my money gone; I had prepared to pay for my mistakes.*

*Mark and his staff, although distant at times, were obviously just busy working hard for their clients. I spoke to them only when necessary which made me feel nervous and in the dark at times but now I see that's to be expected with your future in limbo and at the mercy of persons, mostly unknown. It took time to convince myself the case was no longer in my hands and that I had to put my trust in Mark and let everything unfold.*

*Mark and his staff worked diligently to provide me with the best possible defense and at the end of the day I walked away from the whole situation without my license for three months - that's my punishment. I also paid a lawyer fee which I would have paid twice over had I known what I know now. I would highly recommend Mark and his staff. I would highly recommend this firm to anyone in the area facing a DUI or in need of other criminal defense. Put your trust in Mark - he's an expert and a professional. Thanks again for all your help, Mark.”*

**- Jesse**

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*“Mark and his amazing dynamic team did an incredible job on my case. Given the unfortunate and stressful predicament I found myself in, it was both mentally and emotionally reassuring to know that I was being taken care of by the very best. The process was seamless and professional from the beginning. I was given a few directions on what I needed to take care of on my own, then after that I was able to resume my daily schedule and await notice of next steps. I did not have very many questions throughout the whole process because all the instructions were always so clear, but when I did someone from the team was ready to help. Overall, Mark is the preeminent authority on these matters, and has the knowledge, experience, and creativity to seek out the best resolution to your situation.”*

**- James**

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*“Mark and his team got me out of a really serious bind in Gilbert. As we all know, Gilbert is a great city with the toughest laws known to a man! If he wins in Gilbert, he can win anywhere. If you need a great lawyer, call Mark!!!!”*

**- Anonymous**

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*“I was charged with a super extreme DUI. With AZ having one of the harshest penalties in the US and considering I was facing jail time and a very large fine, I contacted Mark regarding my situation. He handled my case ethically and professionally. I appreciate he never once sugarcoated anything and was very upfront about all aspects of my case. A real straight shooter. My situation was unique but the bottom line is he represented me very well and my case was ultimately dismissed.”*

**- Adam**

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*“I was facing assault and disorderly conduct charges and could not face having these charges on my record. I found Mark while searching online for reputable lawyers in Tempe. I was very happy to have Mark Weingart as my attorney. I felt better the minute I sat down with him. After a few months of interviews, he fought to have my assault charged dropped completely and negotiated to have my disorderly conduct charge dropped after a diversion course. I was very happy with the outcome and would recommend Mark to anyone. Hopefully, I never have to be in this situation again, but now I know who to call.”*

**- Anthony**

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## ABOUT THE AUTHOR



Founding member Mark N. Weingart is a board-certified specialist in criminal law under standards established by the Arizona Board of Legal Specialization.

Mark has been practicing law for 41 years. He is a former assistant county prosecuting attorney in the State of Ohio, where he prosecuted in excess of 100 D.U.I. cases early in his career. When he came to Arizona in 1979, he was appointed as a city court judge in the City of Tempe, where he presided over D.U.I. cases. At the time Mark was the youngest appointed city judge in Arizona. He

worked full and part-time in that capacity as a judge from 1979 until 1986. Also for a six-year period, he served as an Assistant Attorney General for the State of Arizona.

Respectfully referred to as the "Godfather" of DUI defense because of his vast experience and tens of thousands of former clients, he enjoys great success and pride in his representation of the wrongfully accused. He graduated from the University of Akron School of Law in 1976. He is Martindale-Hubbell AV rated and peer review rated. This is the absolute best national rating attainable. He is a founding member of the National College for DUI Defense, Harvard University. He has represented over 25,000 clients and handled more than 200 jury trials, alone. When a client comes in for a no pressure, free initial consultation, he talks to Mark, not some high-pressured assistant or attorney who will never handle his case again and pass him off to another associate whom he has never met! His representation is very affordable, with financing options. His firm is not a discount type firm. I will earn your trust and your fee.

# CHAPTER 1

## HOW ARE DUI CHARGES DEFINED IN ARIZONA?



Arizona has very specific DUI laws. Laws are called statutes, but they're still laws. There are two types of charges for DUI. There are misdemeanor charges, which are the lesser charges. They're still criminal, but you can only be sentenced to jail. First there's the felony charges, felony DUIs, aggravated DUIs, for which you can go to prison, and under some circumstances, it's mandatory. What makes Arizona unique is that several years ago the legislature built into the law the mandatory minimum penalties that someone must suffer if they are



convicted of any of the misdemeanor forms of DUI. Our first level, if you will, is to decide whether or not the alcohol or drugs affected a person's ability to drive, and the penalties are the lowest for that.

If you have an alcohol concentration, which is the ratio between alcohol and blood, of .08 up to .15, the mandatory minimum penalties are a day in jail (ten days with 9 suspended if an alcohol/drug course is taken) and a \$1,600 fine, alcohol and/or drug education, and in some instances, I guess if it's alcohol, then you are required to do an ignition interlock device for anywhere from 6 months to a year. Now a judge can give more than that, but the judge cannot give less than that on that first tier of DUI.

On the second tier of DUI it's called extreme. It does not have anything to do with the degree of impairment, it's just what it was called. Extreme DUI meaning alcohol concentration over .15 but less than .20. This is a very small spread, and so surprisingly you get a lot of cases that end up in this category, but it has a very small percentage spread. .15 to .199. If you're convicted of that, depending upon the courts, the sentence can be as

much as 30 days in jail and it can be as little, in some courts, as 2 days in jail followed by home detention. The fines double, to \$3200, and the interlock device is solid for at least, a year. This is all first offense.

The last tier for the misdemeanors is over .20. So .20, which is high, all the way up, to I've seen as high as .40. Anything in that classification is a mandatory minimum penalty, first offense, 45 days in jail, fines and fees in excess of \$5,000, a lot of education, as well as the mandatory ignition interlock device for a minimum of 18 months.

Second offense, meaning a prior conviction for DUI within 7 years, and that timeframe of 7 years is from an occurrence date to occurrence date. For example, if you got a DUI arrest in 2012 but you didn't get convicted until 2013, the date that is used for the spread is the date of the violation, which would be 2012. Add 7 years to that date, and then if your occurrence date on the new charge is within that timeframe, it now becomes a second offense.

Second offenses are very punitive. For example, on the baseline first level DUI impairment and/or alcohol concentration .08 up to .15, if convicted it's a mandatory

30 days in jail minimum. Now the fines and fees also go up another \$500 to \$700. There is a mandatory revocation of license for a year. Under some circumstances, part of the 30-day sentence can be served on what we call home detention, which is simply being monitored for drugs and alcohol, and not having to go back to jail. However, this is jurisdiction-specific, simply meaning that each city is different, the county system is different, so not only does it depend on when your prior was, but it now depends upon where your new charge is as to how the penalties will affect you. If you are given a 30 day or more jail sentence on the second offense, you are most probably eligible for work release. Work release simply means that for most of the sentence, you can get released from the jail 12 hours a day to go to work and then you have to come back and sleep.

If you get a second DUI on the second tier, or extreme DUI charge, over .15, mandatory penalty is 4 months in the county jail. Depending upon where this happens you could be serving anywhere from 20% of that sentence all the way up to the entire sentence depending on either home detention or work release,

and the fines, again, go much higher. You're talking very close to, by the time you're finished, about \$10,000 in fines and fees, a lot of alcohol education, mandatory community service, and a revocation of the driver's license. Mandatory license revocation applies to all second offenses, and all levels of DUI.

On the highest tier, over .20, second offense, that's a mandatory 6 months in the county jail. Again, in some Courts you can maybe be eligible for home detention, other Courts, you can't. It just becomes very specific and you need to get a lawyer that knows and understands the inner workings of each of the cities and the counties that you're dealing with so that those types of things can be outlined and good advice can be given as to what your true exposure really is.

A license revocation is different than a suspension. If your license is suspended that means you can't drive for a certain period of time, but then you can pay some money, reinstate, and drive. If your license is revoked, that means you don't have one, and in order to get it reinstated you have to reapply. Most people cannot go a year without violating the law. They have to drive, work, etc. We don't

have public transportation here to speak of. So, the Legislature has now allowed people to put an ignition interlock device in a vehicle after 90 days and drive for the remaining 9 months. So instead of a 1-year revocation it could be as short as 90 days. This is very alcohol-specific. For DUI drug charges the, the process is different.

As of January 1st, 2017, the ignition interlock device requirement, is no longer required if you are convicted of a DUI drug offense. It really was an unnecessary burden for someone who doesn't drink to have to blow into the device every time they drive. So, the legislature last year changed the law effective to January 1st of this year, 2017, taking that interlock requirement out of the DUI drug protocol. Suspensions still remain.

# **CHAPTER 2**

## **WHAT HAPPENS AFTER A DUI ARREST IN ARIZONA?**



After arrest and processing, most people are released without booking on misdemeanors. Some people will go directly to a hospital to get a separate test. This is very expensive. An alternative is to find a service that will come to you to draw and store the blood for later analysis. These services are more difficult to locate, but available. Some people go home and jump on the internet and start getting scared and then calling a dozen lawyers until someone answers.

The best thing to do is rest, reflect, and then call a very good lawyer, not someone that wants you to hire them by phone. You are vulnerable and too many lawyers will take advantage of that and scare you then promise to get your case dismissed, in order to get your money.

Nobody can promise a result with a 5-minute phone consult. Do your research and call a reputable firm. We try to get people in within 24 hours, even if a weekend. You have all kinds of questions, such as, can I get my car out of impound? Also, if the cop took your license, can you still drive? Am I going to jail? Will I lose my job? Can jail be done at home? Can I still work? Do I have to go to Court? Therefore, get in to see us ASAP to get these questions answered. Then you can relax a bit and go back to normal.

If arrested, you have a right to contact an attorney before deciding whether to take the chemical test. We answer 24/7 for this very reason. Upon release you should still be able to drive for 15 days. Consult a lawyer about your particular situation.

As to counseling, many people think that if they get counseling immediately, it will help the case. Not really, but if you feel that you need help, seek it for your own wellbeing. There is plenty of time to determine what type of mandatory counseling, if any, the Court will require.



# **CHAPTER 3**

## **PENALTIES FOR AN ENHANCED OR AGGRAVATED DUI**



Aggravated DUI is a felony DUI, and a felony is much more serious than a misdemeanor. There are two types of aggravated DUI charges. The first one is a DUI at a time when you have a child under 15 years old in the vehicle with you. That is a Class 6, or lowest form of felony DUI. Basically, the penalties are very similar to the penalties for the misdemeanor DUIs. The only difference is that it starts off as a felony, and under some circumstances through probation you have to earn the misdemeanor. The other difference is that on any type of

felony DUI there is a mandatory revocation of license for a year. So instead of the administrative penalties that we will talk about in a minute, that are associated with the misdemeanor DUIs, on the aggravated DUI it is a flat 1-year revocation.

Then there is the most serious of the DUI charges, and that is the Class 4 felony, which is a middle-grade felony, of aggravated DUI. That is a DUI that is your third offense within a seven-year period, and/or, a DUI any time when your license is suspended, cancelled, or revoked. If convicted of that offense the aggravating factor, being the suspended or revoked license at the time, the legislature has built in a mandatory minimum period of probation and as a term of probation. You're supposed to serve 4 months in prison at the state department of corrections. It also carries a mandatory revocation of license, fines, fees, and probation. But these felonies are bad because under our law aggravated DUI is what's called a forever felony, and it can be used any time to enhance or aggravate another felony offense, if you ever get one.

What about DUI where one causes serious injury or death to another? Some states have levels of DUI for accidents, injuries, and they still call it basically DUI. In Arizona that is not the case. You either have a misdemeanor DUI or a felony DUI. If there's any injury substantial enough to qualify under the law, then those charges are actually filed as aggravated assault charges. If someone dies they can be filed as any type of homicide depending upon what the state can prove, those charges carry mandatory prison even on a first offense. That mandatory prison starts at two and a half years and goes up very quickly depending upon the severity of the crime. That's how DUI actually plays into the more general crimes of aggravated assault, negligent homicide, manslaughter, and second-degree murder.

### *Consequences Associated With A DUI Conviction*

There are obviously several considerations. The first consideration for some people are the immigration consequences. For example, if you're not in the United States legally and you get any offense you could be deported, and the more severe offense the more likely that is to happen. Misdemeanors are not as likely to

have adverse consequences, but felonies are much more likely to. If you're a US citizen and you get any type of a DUI conviction, Canada will not let you in for at least 5 years, and it's a very hard process to ever be able to get status to go into Canada.

As my counterparts in Canada tell us, any form of DUI in Canada is very serious and it's akin to a felony. That's why the restrictions are so tough for Americans trying to go into Canada with a DUI. I also have Canadians who come down here and they get a misdemeanor DUI. Obviously, they can go back to their native Canada, but trying to get out again to come visit can be a big challenge, and that's why we always refer those clients to the people that do almost exclusively immigration law. Immigration consequences for non-US citizens are always a concern.

There are also collateral consequences on professions. For example, the medical board, the nursing board, state BAR of Arizona, who licenses lawyers, as well as the real estate board, frown heavily on any type of DUI situation, and they will take their own action in addition to whatever happens in court to you, and that's something everybody needs to be

aware of. We have represented many doctors, nurses, lawyers, and realtors, and are familiar with the regulatory agencies and their actions.

If you're not a professional there are still collateral consequences for those who drive for a living. For example, UPS drivers, post office drivers. Long-haul truckers. Anybody who has a commercial driver's license has added consequences as a DUI conviction results in loss of the CDL for 1 year. If you get two DUIs in your lifetime, then you will no longer ever be eligible for the CDL, which is the commercial driver's license endorsement. That's very, very important. Pilots have to be treated a little bit differently, we often associate counsel that deal exclusively with the FAA to make sure that whatever sanction they're facing is the minimum that they can face and they can continue to work.

# CHAPTER 4

## DRUG DUI IN ARIZONA



One can be charged with a DUI for having an illegal drug in the system, even if not impairing at the time. One can also get a Dui for driving with a prescription drug on board, but conviction depends on proof of impairment.

### *What Happens After Someone Is Pulled Over On Suspicion Of Drug DUI?*

If pulled over, and a police officer suspects drug involvement, he/she will start quizzing you about that. Do not discuss any drugs or medication, you don't have

to. Dui drugs is harder to prove especially if prescription drugs. The Police rely on you to help them convict you. Say nothing and ask to call us immediately. Police may ask you to perform the same field sobriety tests as with alcohol. Don't do it, it is NOT required and there is no penalty for refusing. These tests have been studied for decades as they relate to a blood alcohol level, not impairment, and not for drugs. Because they are difficult, cops will try and relate anything other than perfect performance to impairment. There are no credible studies to so relate.

If arrested, ask to call us immediately. The next step is a so called Drug Recognition Expert. These are police who have gone through extra training and believe they can give you more unscientifically validated tests to guess what you are on. If you tell them, they will guess that. Don't do these tests. The next step is a blood test. Because you have been arrested and they want your blood, you must agree or face a one-year suspension, they get an electronic warrant, and get it anyway.

## *Penalties Associated With Drug DUI in Arizona*

DUI drug penalties are basically the same as alcohol DUI except, there is potentially a one-year license revocation. As of 2017, no interlock is allowed or required for this type of revocation. It is one flat year, no driving.

## *Role Of Science In A Drug DUI Case*

Science is more involved in the drug cases because of the blood analysis. Say for example, that you have a prescription for Xanax and you take it as prescribed. The blood will report out with a level of Nano grams per deciliter. There are published ranges which can give a therapeutic range. In other words, if the drug is doing what it is supposed to do, it should be within that range. The range is very broad. Experts are used in this type of trial. Also remember that most state analysts are not well versed in drug impairment and won't give an opinion, especially if the drug is within therapeutic range. If the Xanax is doing what it is supposed to, it is helping, not impairing. Fascinating cases.



## *Marijuana DUI Cases*

The problem is that we have several recent Supreme Court decisions, the U.S. and Arizona, that impact on this, and it's really hard to fully explain here it is very, very complicated, but that's good. Anytime something is complicated that's better for the defense, every time.

We're very excited about defending medical marijuana DUI's, because we are able to go in and fight these marijuana DUI cases with a very, very, very good chance of winning. Briefly, marijuana is quantifiable, meaning they can do a blood test analysis and say there are x nanograms of active THC in a person's system. The problem is that unlike with alcohol, there are no per say levels that mean you are impaired, and because marijuana is so much different than alcohol for a whole host of reasons, really there are no good studies out there, and no experts who like to give opinions as to whether or not x nanograms of active THC, caused this person to be impaired. If you smoke weed, get a card!!

# CHAPTER 5

## WHAT IS PROP 200 UNDER ARIZONA LAW?



Prop 200 was a referendum that was passed by the voters many years ago, and it has to do with what we call three strikes and you are out. For simple possession, meaning not for sale and certainly not having to do with methamphetamines, regardless of the class of felony that it is, if you qualify and you fit, then on the first strike (meaning the first charge) if you enter a plea under the provisions of Prop 200 you can be sentenced to probation only. Now, if you violate probation you can go to jail, but you cannot be given any jail or prison time regardless of

the class of felony that it is. On a second strike, meaning that if you get another, you still can't go to prison, but you can go to the county jail for up to a year.

Of course, on the third strike if you do get a third strike, now you're looking at mandatory prison unless it's negotiated out by your lawyer, but technically speaking that is mandatory prison. Three strikes, you're out. In Maricopa County we also have a program called TASC, and that is an acronym, and it basically is a first-time diversion program. So, if someone gets a possession, for example, of marijuana charge and they want to not even take advantage of Prop 200, they can go through a diversion program, that TASC program. The TASC program is expensive depending upon the class of drugs. It starts anywhere from \$1,000 and goes up to over \$2,000.

There is some education involved in it, but then there's random urinalysis that you have to take on top of that every week or days depending, it's random, and you have to test clean for a minimum of a year and if you don't you wash out of TASC, meaning the charges come back, they're reinstated, and now we get into the Prop 200 type of protocol.

## *Consequences Of Methamphetamine Possession*

With methamphetamines, that has by statute been specifically taken out of the Prop 200 consideration, and for whatever reason in Arizona, methamphetamines seems to be the bad drug, and so you don't get a do-over, you don't get a second chance. Technically speaking on methamphetamine possession, you're supposed to go to prison on a first offense because it is a middle-grade felony. Sometimes we are able to negotiate that out to a different charge such as a possession of paraphernalia charge or something that would be Prop 200 eligible. For people who don't understand this and just walk into court and plead guilty, they're going to go to prison on a meth charge.

## *Medical Marijuana*

We can talk about this a little bit more later as it applies to the DUI situation, but Arizona is a medical marijuana act state (MMA). Many states have medical marijuana provisions in the law. Again, this was passed by a referendum, not the legislature. The legislature didn't want it, but we have it. Also, there was another referendum that

went through the last general election in November of 2016 to legalize recreational use of marijuana. That didn't pass, but it didn't fail by very much, and probably in the next 4 years we will see Arizona joining the ranks of Colorado, and Washington, and to some extent California, where the recreational marijuana will be regulated and not illegal.

There are always going to be problems with it because even with medical marijuana the rules are very strict on how much you can possess. You have to be able to trace it back that you purchased it from a dispensary. Just because you have a card, doesn't mean you can go out to your local drug dealer and score some weed and be exempt from being prosecuted. So that, of course, is one big problem.

But there is one other problem, and everybody brings it up. It doesn't matter whether the state has a medical marijuana or recreational marijuana law. It's still a federal offense, and although during the Obama administration it was made very clear that there would be no federal intervention, we don't know now, with the new administration, what's going to happen and how that's going to be handled by the Department of Justice. So, you

always are going to have this struggle between the state authority versus the federal authority, which is still a very open question in this state and every other state, until we get a better feel for this current administration and how they're going to react to it.

# CHAPTER 6

## WHY RETAIN AN EXPERIENCED DUI TRIAL ATTORNEY?



We have handled somewhere between 35,000 and 50,000 DUIs over the course of the time that the firm has been in existence. In each case, there are unique facts. There are potentially legal challenges to the way the police stopped the vehicle. That can sometimes result in a case getting dismissed. With regard to the jail reduction provisions that you can take advantage of, your lawyer needs to know about the home detention programs that are available out there and how to make you eligible for

them so that no matter what happens, the impact of this on your life is as minimal as possible.

Additionally, there are some police agencies that do not follow what I call proper protocol on an administrative license suspension, and by not following through with that protocol it can potentially cause someone accused of a DUI, who walks into court and pleads guilty to a misdemeanor DUI, the requirement of having to have an awful thing called SR-22. This is a certificate of high risk insurability which you have to carry for a period of 3 years, and that's a mistake that can cost about \$6,000. It's totally unnecessary as long as you have an experienced lawyer and law firm that are sensitive to these types of things.

For example, blood cases. Blood alcohol. Some places draw blood, some police agencies still do breath, but blood is really the standard in our state for most of the police agencies. Blood testing is not easy, and there is a lot of potential for mistakes with regard to the whole process. However, your blood alcohol level determines the penalty you're going to get, and if that blood alcohol level is not accurate then you're pleading guilty to something you may not be guilty of and paying a much higher price and



consequences than if someone were to go through the case and review the case.

Most of the law enforcement agencies in Maricopa County require their officers now to wear body cameras. This is 1080p high definition body camera, and this has put a whole new dimension on the way we look at and defend cases. Now there's no more guess work in most cases as to whether or not the officers did something wrong. Probably it's going to be on the body cam footage. It takes us, on average, 2 to 3 additional hours now to review body cam footage on every case. We do it, because that's the difference between potentially winning and losing. If you don't know about it, you are just taking the charge at face value and walking into court and pleading guilty when in fact you didn't need to. We are getting clients much better resolutions of cases because we spend the time nit picking through the camera footage.

Also, with regard to blood testing and breath testing, a number is not a number. For example, take a subject test result, alcohol concentration of .080. That's not really a .080 because it's science, and in science there is always going to be a deviation from what is the true

value. Almost never is that value what we call a true value, and there are so many things that need to be looked at. With regard to the number, and how the number plays into being beyond a reasonable doubt accurate, over a certain level, is really where I think we earn our keep almost all the time. We keep current on every machine, on every crime lab, on every person within those labs, and we interview them. Sometimes, they don't tell you upfront that there was a problem with the blood test or the breath test, but once you dig a little bit deeper and then finally get them in on an interview, they will review to you that, oh yeah, there was a problem here. "We didn't think it was significant so we didn't report it". Well, it's not up to them to decide whether it's significant. A lot of time is spent preparing, getting judges involved, determining whether or not protocol was followed and whether or not the alcohol concentration is admissible against somebody.

## **WHAT IS THE NEXT STEP?**

If you have already set an appointment to meet with me, keep the appointment. You will not be disappointed and I will not scare or intimidate you. To the contrary, most people retain my services because they see that I am genuine and exude confidence. If you don't retain, you will have a much better grasp of the process.

If you haven't yet set an appointment, I encourage you to do so as soon as possible. I will not waste your time with a pressured sales pitch. There are time sensitive issues that need to be addressed in the first few days after arrest. Do not procrastinate, this isn't going to magically disappear.

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# NOTES





# HOW TO SURVIVE A DUI CHARGE IN ARIZONA

Call A Former DUI Judge With Over 40 Years Of Experience To Discuss Your Case



## Mark N. Weingart, Esq.

Founding member Mark Weingart is a board-certified specialist in criminal law under standards established by the Arizona Board of Legal Specialization.

Mark N. Weingart has been practicing law for 41 years. He is a former assistant county prosecuting attorney in the State of Ohio, where he prosecuted in excess of 100 D.U.I. cases early in his career. When he came to Arizona in 1979, he was appointed as a city court judge in the City of Tempe, where he presided over D.U.I. cases. At the time Mr. Weingart was the youngest appointed city judge in Arizona. He worked full and part-time in that capacity as a judge from 1979 until 1986. Also for a six-year period, he served as an Assistant Attorney General for the State of Arizona.

Respectfully referred to as the "Godfather" of DUI defense because of his vast experience and tens of thousands of former clients, he enjoys great success and pride in his representation of the wrongfully accused. He graduated from the University of Akron School of Law in 1976. He is Martindale-Hubbell AV rated and peer review rated. This is the absolute best national rating attainable. He is a founding member of the National College for DUI Defense, Harvard University. He has represented over 25,000 clients and handled more than 200 jury trials, alone. When a client comes in for a no pressure, free initial consultation, he talks to Mark, not some high-pressured assistant or attorney who will never handle his case again and pass him off to another associate whom he has never met! His representation is very affordable, with financing options. His firm is not a discount type firm. I will earn your trust and your fee.

*"I was charged with a super extreme DUI. With AZ having one of the harshest penalties in the US and considering I was facing jail time and a very large fine, I contacted Mark regarding my situation. He handled my case ethically and professionally. I appreciate he never once sugarcoated anything and was very upfront about all aspects of my case. A real straight shooter. My situation was unique but the bottom line is he represented me very well and my case was ultimately dismissed."*

- Adam

*"Mark and his team got me out of a really serious bind in Gilbert. As we all know, Gilbert is a great city with the toughest laws known to a man! If he wins in Gilbert, he can win anywhere. If you need a great lawyer, call Mark!!!!"*

- Anonymous

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