



FORT SILL LEGAL ASSISTANCE



DUI/DWI

I. INTRODUCTION

A motorist may be convicted of DUI in Oklahoma if he operates a vehicle while under the influence of an impairing substance or he is found to have an alcohol concentration (BAC) of .08% or more. The first DUI is a misdemeanor, but DUI charges after prior convictions may be filed as felony charges. However, a motorist operating a vehicle with a BAC of .15% or higher, may be convicted of the more serious Aggravated DUI on a first offense. The DWI charge is a lesser offense based upon a BAC between 0.05% and .08%, and is always a misdemeanor. Drivers under the age of 21 need to be aware that, in Oklahoma, conviction is possible with alcohol concentrations as low as .02%

Different factors affect an individual's reaction to alcohol and one person's body may vary from the average response. Research on the human body and alcohol consumption provides some very general guidelines. For example the guidelines indicate that a 150 pound male drinking three drinks within a two hour period would generally measure a .053% BAC. On the other hand, a 150 pound female drinking under the exact same conditions would measure a .067% BAC. Both drivers in the example could face DWI charges.

II. PROCESS WHEN PULLED OVER

The officer will probably have you perform several field sobriety tests. He may then decide to ask you to consent to a blood or breath test. You do not get to decide which test to take. The officer decides. You have a right to an additional chemical test at your own expense after your initial test is completed. The police need not assist you in obtaining it.

III. MANDATORY CONSENT

You can refuse to be tested but the Oklahoma Department of Public Safety will revoke your driver's license for six months and you may receive a military letter of reprimand. Under certain circumstances your commander can give you a direct order to submit to a blood test. The police can frequently prove the DUI charge without a test result by testifying about your driving and performance on the field sobriety tests or by testifying about your demeanor and appearance.

IV. ADMINISTRATIVE ACTION TAKEN BY THE ARMY

Your post-driving privileges will be suspended immediately upon arrest for DUI/DWI, and you may receive a letter of reprimand before you are convicted. Your commander may start separation proceedings against you. Conviction of DUI/DWI is not required to

support military administrative sanctions. Each case is carefully reviewed on its own facts and merits. If an acquittal was due to a technical defect (for example, absence of a particular witness at trial), which does not otherwise undermine the evidence of your impaired driving, administrative sanctions may still be imposed. These sanctions will usually only be lifted when it appears that you were not actually driving under the influence or driving while impaired. For example, if you could not be identified conclusively as the driver in an accident situation, the sanction might be lifted.

V. COSTS

Besides the possibility of jail time, DUI or DWI charges can be expensive. The usual expenses are attorney fees, fines, court costs, and payments for alcohol assessment and/or treatment. Other hidden costs include potential hikes in auto insurance, community service hours, license revocation/reinstatement fees, and probation fees. The impact of losing driving privileges may also affect a driver's ability to maintain employment.

VI. LEGAL ASSISTANCE

DUI and DWI are serious criminal charges. Conviction may result in jail, fines, community service, the loss of driving privileges and increased insurance premiums. If you are convicted, your on-post driving privileges will be revoked and you will receive a letter of reprimand from a General Officer. In addition, you can be barred from reenlistment or discharged.

Regulations prohibit Army Legal Assistance attorneys from representing persons charged with criminal offenses. Even if you are charged with a DUI/DWI on post, it will be addressed in the Federal Magistrate Court, downtown. A Legal Assistance attorney can assist you with military administrative actions that flow from a DUI/DWI charge. For example, a Legal Assistance attorney can help you respond to a letter of reprimand or revocation of driving privileges. If your commander recommends your administrative elimination, the Trial Defense Service will provide legal counseling.

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If you have questions concerning the information in this fact sheet, please call the Legal Assistance Office (580) 442-5058 or (580) 442-5059. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0800 – 1600, and Thursdays 1200-1600. The Fort Sill Legal Assistance Office is located on the 4th floor of Building 4700, Hartell Hall on Mow-Way Road.