

ALBUQUERQUE CRIMINAL LAWYER BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

May 31, 2011

Driving Behavior and Alcohol Impairment (or "Officer Why was I Stopped?")

There have been many studies that attempt to correlate traffic accidents with alcohol use. For example, a 1978 study by the Department of Transportation found that five percent of drivers in accidents resulting in property damage were intoxicated. The same study found that 9-13 percent of drivers in injury accidents were intoxicated.

According to National Highway Traffic Safety Administration (NHTSA) data from 1998, the number of drivers or non-occupants (e.g., pedestrians) with a blood alcohol level of at least 0.10 rises to an astonishing 30 percent in auto accidents involving fatalities.

Though it cannot necessarily be proven that alcohol was the cause of these accidents, there was a clear relationship. The data and the correlations between alcohol and auto accidents led the Department of Transportation to what most of us would consider the obvious conclusion that "alcohol beyond a certain amount ... is associated with increased crash risk."

Both the 1978 and 1998 studies use a .10 breath alcohol standard for their measurements. In New Mexico the so-called standard is .08. However, one would be advised to understand the true standard in New Mexico of "impaired to the slightest degree" which often leads to arrest and conviction at levels well below .08.

In addition to studying the correlation between alcohol and auto accidents, there have been significant efforts to determine which observable driving behaviors most closely correlate with alcohol impairment. For example, a 1997 study by the National Highway Traffic Safety Administration used data from 379 Florida traffic stops to try to determine which driving behaviors were most closely associated with an increased blood alcohol levels.

The study's authors were particularly interested in the correlation between certain driving behaviors and the magic 0.08 percent blood alcohol levels now most commonly

DISCLAIMER

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquecriminallawyerblog.com/>

used as the standard. The study found that observable deterioration driving ability occurs at high levels of alcohol. The study found further that driving was impaired at lower levels as well, hence the interest in the .08 correlation.

NHTSA concluded that there was a problem with many drivers on the road at .08 or above. And though high BAC drivers are perhaps "easier to detect, ... there is a serious problem if many people drive at and near the statutory limit without being detected." In order to address the problems with detection, NHTSA attempted to identify those behaviors that most closely correlate with alcohol impairment.

NHTSA found that failure to maintain a single lane was most closely associated with increased blood alcohol content and equipment violations had the lowest correlation. Drifting or weaving, running stop signs and improper speed came in close behind lane violations as predictors of impairment.

If you are unfortunate enough to be stopped for DWI, the police report will often read like a laundry list of these factors in order to justify the stop. As you might imagine, several of these are quite subjective and quite difficult to disprove. On the other hand, most police officers are surprisingly honest and forthright about the presence and magnitude of these factors when questioned during pretrial interviews and at trial if it comes to that. Thus, it is always advisable to seek the counsel of an experienced DWI attorney, whether that attorney is private or court-appointed. It is never a good idea to go it alone!

DISCLAIMER

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.albuquerquecriminallawyerblog.com/>