

## Los Angeles DUI & DMV Defense Lawyer Tracy M. Grayson

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## **DUI Track Record – Attorney Tracy Grayson --> [Return to Top](#)**

When facing charges related to driving under the influence of alcohol and/or drugs (DUI), driver's license offenses, DMV matters, or any accusation affecting your ability to drive, you need an experienced, knowledgeable, and aggressive attorney like Tracy M. Grayson fighting to win your case or hearing. Mr. Grayson has an outstanding trial, settlement, and DMV hearing track record, has handled thousands of these cases, and has beaten many of them by winning at trial, by getting a dismissal, or by getting the charge reduced. Mr. Grayson has gotten many DUI's reduced to a lesser charge, for example, to a dry reckless, speed contest, exhibition of speed, etc. The overwhelming majority of his clients have been granted probation with no additional jail time after their initial release from custody.

Attorney Grayson is a skilled trial attorney and negotiator who works with a team of investigators and experts who have a great depth of knowledge and a combined experience of over 100 years working DUI's and other vehicle offenses.

### **Sample DUI & DMV-Related Cases Handled by Attorney Grayson**

In October 2011, Mr. Grayson was hired by a young lady and her family to defend her in both criminal court and against the DMV. After she was charged with arson-related insurance fraud, her license to drive a school bus was suspended and was going to remain so for an entire year.

In a bad economy, the suspension was already wreaking havoc in her life. Mr. Grayson fought hard to get her license back and soon she was able to resume working and return to the lifestyle to which she was accustomed.

Mr. Grayson and his team had an even more challenging DUI case not long ago where the client not only had a blood alcohol level of 0.16, which is twice the legal limit, but the client also crashed his car into someone else's. Nevertheless, Mr. Grayson worked tirelessly to defend the gentleman using a defense related to the client's medical condition and the jury returned with a verdict of not guilty on all counts.

### **Client Confidentiality in DUI & DMV Cases > [Return to Top](#)**

Mr. Grayson is very sensitive to the fact that many of his DUI and DMV clients have never violated the law before and that the whole ordeal can be very embarrassing to them. This is the

reason he exercises the utmost discretion and takes the matter of client confidentiality very seriously. Most of these clients decide to skip going to court and to DMV hearings altogether, thus avoiding any public embarrassment, and instead allow Mr. Grayson to make the appearances on their behalf at no extra charge.

### **DUI - Misdemeanor or Felony** [--> Return to Top](#)

Although DUI's and other vehicle offenses are most often filed as misdemeanors, it is not uncommon for DUI's and such crimes as hit and run, evasion, vehicular manslaughter, and alcohol-related accidents involving injuries or death to be charged as felonies. Regardless, whether charged with a misdemeanor or felony, the consequences of being convicted are significant and could consume a great deal of your time and money.

### **DMV-Related Issues and Driving Privileges** [--> Return to Top](#)

#### **DMV Hearing (APS hearing)**

When you are arrested for driving under the influence, you face being punished by two completely separate legal entities--the criminal court and the DMV. Both will seek to restrict, suspend, or revoke your driver's license.

If you are arrested for a DUI, you must contact your local DMV Driver's Safety Office to request a hearing ASAP. You have only ten days to request a hearing from the time of your arrest. In

some cases, Attorney Grayson has been successful getting hearings for his clients who did not know about this ten-day rule or who forgot about it. However, you should not take this chance. If you do not request a hearing within 10 days of your arrest, your license will be automatically suspended or revoked by the DMV.

### **Other Vehicle and License Offenses, DMV Matters**

Besides DUI's, Attorney Grayson has successfully represented thousands of clients on dozens of other crimes affecting their ability to drive. Here are just a few of those crimes:

- Driving on a suspended license
- Driving while not licensed
- Driving while in possession of marijuana
- Evasion or fleeing from law enforcement
- Exhibition of speed
- Hit and run
- Reckless driving (with and without involvement of alcohol)
- Speed contest

### **The Law of Driving Under the Influence (DUI) --> [Return to Top](#)**

A person charged with DUI typically faces two counts: (a) driving under the influence of alcohol and/or drugs; and (b) driving with a blood alcohol level of .08 or more.

### **Driving under the Influence of Alcohol and/or Drugs**

To be found guilty of driving under the influence, the prosecutor must prove that: you drove a vehicle; and when you drove, you were under the influence of an alcoholic beverage and/or drug(s). Under the influence means that your mental and/or physical abilities are so impaired that you are no longer able to drive a vehicle like a sober person under similar circumstances.

### **Driving with a Blood Alcohol Level of .08 or More**

To be found guilty of driving with a blood alcohol level of .08 or more, the prosecutor must prove that: you drove a vehicle; and when you drove, your blood alcohol level was .08 percent or more by weight.

### **DUI Enhancements**

When you are charged with a DUI, the DA or prosecutor will examine the particular facts and circumstances of your case, your criminal and driving history, and if there are aggravating factors, will seek to punish you more harshly by filing certain enhancements against you. The whole point of having an attorney is to prevent you from being punished at all or to at least minimize the punishment that would result from being convicted. Here are some of the most common DUI enhancements:

- 
- Prior DUI conviction(s) within 10 years of the current DUI
- Refusal to submit to or failure to complete chemical test (breath or blood test)
- Driving with an excessive blood alcohol level (.20 or more)
- DUI which causes bodily injury
- DUI involving a car accident (with or without injuries)
- DUI while speeding 20 mph over the limit on a street

- DUI while speeding 30 mph over the limit on a freeway or highway
- DUI with passenger under 14 years old
- DUI in highway construction or maintenance zone
- DUI at time when you are less than 21 years old
- Fourth DUI conviction within 10 years can be filed as felony

Also, the DA or prosecutor may be able to add a special allegation if someone suffers serious or great bodily injury (GBI) under Penal Code section 12022.7. Such an enhancement would constitute a strike under California's Three Strikes Law and may result in a longer prison sentence.

### **Punishment for Being Convicted of DUI**

If you are convicted of DUI, it will consume a lot of your time and money. Listed below are some of the penalties you may suffer if you are convicted as a first-time offender and for multiple convictions within a ten-year period:

#### First DUI Conviction

- 
- 48 hours (2 days) to 6 months in jail
- \$390 to \$1000 base fine + penalty assessment (more than three times the base fine)
- Other fees and fines, restitution
- 3-month alcohol program (AB541), sometimes longer
- Six-months driver's license suspension
- Ignition interlock device (to prevent you from starting your car's engine if intoxicated)
- Attendance at various programs such as ham (hospital and morgue)
- Probation

### Second DUI Conviction

- 
- 96 hours (4 days) to 1 year in jail
- \$390 to \$1000 base fine + penalty assessment (more than three times the base fine)
- Other fees and fines, restitution
- 18-month alcohol program (SB38)
- 2-year driver's license suspension
- Ignition interlock device (to prevent you from starting your car's engine if intoxicated)
- Attendance at various programs such as ham (hospital and morgue)
- Car could be impounded
- Probation

### Third DUI Conviction

- 
- 120 days to 1 year in jail
- \$390 to \$1000 base fine + penalty assessment (more than three times the base fine)
- Other fees and fines, restitution
- 30-month alcohol program (SB1365)
- 3-year driver's license revocation
- Ignition interlock device (to prevent you from starting your car's engine if intoxicated)
- Car could be impounded
- Probation

### Fourth (Felony) DUI Conviction

- 
- 180 days to one year in jail if granted probation
- Up to 3 years in prison if not granted probation
- \$390 to \$1000 base fine + penalty assessment (more than three times the base fine)



- Other fees and fines, restitution
- At least a 30-month alcohol program
- 3-year driver's license revocation
- Ignition interlock device (to prevent you from starting your car's engine if intoxicated)
- Probation or prison
- Parole (if not granted probation)

### **DUI Causing Injury**

To be found guilty of driving under the influence causing injury, the prosecutor must prove that: you drove a vehicle; when you drove, you were under the influence of an alcoholic beverage and/or drug(s); while driving under the influence, you also committed an illegal act or neglected to perform a legal duty; and your illegal act or failure to perform a legal duty caused bodily injury to another person

To be found guilty of driving with a blood alcohol level of .08 or more causing injury, the prosecutor must prove that: you drove a vehicle; when you drove, your blood alcohol level was .08 percent or more by weight; when you were driving with that blood alcohol level, you committed an illegal act or neglected to perform a legal duty; and your legal act or failure to perform a legal duty caused bodily injury to another person.

If convicted of a felony as a first-time offender, you face up to three years in state prison, and 90 days to a year in jail if convicted of a misdemeanor. Multiple offenders face more time in jail and prison. As a condition of probation, you could also face penalties similar to the ones discussed above regarding first-time and multiple-offenders (fees and fines, DUI classes, license suspension or revocation, etc.)

### **Refusal to Submit to or Failure to Complete Breath or Blood Test**

If a police officer has reasonable cause to believe you were driving under the influence, the law requires that you submit to a blood or breath test. If you refuse to submit to a test after the officer asks you to do so and explains the procedure, at trial a jury may use your behavior against you to prove you knew you were guilty of being under the influence. However, the jury may not use this evidence alone to prove your guilt.

If you select one test but you are physically unable to complete it, refusal to do another test will count as a refusal. If you don't answer the officer and simply remain silent while failing to do a chemical test, this will also count as a refusal.

If a refusal is found to be true, your driver's license will be suspended for one year by the DMV. The court will impose additional punishment similar to those listed in the section regarding first-time and multiple offenders (fees and fines, DUI classes, etc.).

### **Under Age 21 and driving with blood alcohol level of .01 or more – Zero Tolerance**

It is unlawful for a person under 21 to drive a vehicle with a blood alcohol level of .01 or greater. If you fall into this category, your driver's license will be suspended for one year. The court will impose additional punishment, including fees and fines, DUI classes, etc.

### **Vehicular Manslaughter**

There are numerous charges related to driving under the influence which results in another person's death (including your own passenger): gross vehicular manslaughter while intoxicated; vehicular manslaughter while intoxicated (ordinary negligence); gross vehicular manslaughter

(no intoxication); misdemeanor vehicular manslaughter (ordinary negligence); vehicular manslaughter involving a vessel (boat); etc.

### **Gross Vehicular Manslaughter while Intoxicated**

To be found guilty of this crime, the prosecutor must prove that: you drove while under the influence of alcohol and/or drugs or while having a blood alcohol level of .08 or higher; while driving under the influence, you also committed a misdemeanor, infraction, or an otherwise lawful act that might cause death; you committed any of these acts with gross negligence; and your grossly negligent conduct caused the death of another person.

If convicted of this crime as a first-time offender, you face up to 10 years in state prison, although you could also get probation. If you have a prior conviction for this same crime, you face 15-years-to-life in prison.

### **Vehicular Manslaughter while Intoxicated (ordinary negligence, not gross negligence)**

To be found guilty of this crime, the prosecutor must prove that: you drove while under the influence of alcohol and/or drugs or while having a blood alcohol level of .08 or higher; while driving under the influence, you also committed a misdemeanor, infraction, or an otherwise lawful act that might cause death; you committed any of these acts with ordinary negligence; and your negligent conduct caused the death of another person.

If convicted of this crime as a first-time offender, you face up to 4 years in state prison, although you could also get probation. If you are convicted of a misdemeanor, you face up to one year in jail.

## **Possible Consequences of DUI, DMV and other Vehicle Offenses -->**

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- County jail or prison
- Summary (unsupervised) probation for most DUI's
- Supervised or formal probation when charged with a felony
- Parole
- Having a criminal record (which may or may not be later expunged or dismissed)
- Fines and fees involving hundreds and often thousands of dollars
- Community service or work (your time and money)
- Restitution or reimbursement to any victim(s) for injuries, property damage, etc.
- Could result in priorable offense, which may enhance a future crime or prison sentence
  
- Alcohol program, classes (your time and money)
- Alcohol and/or drug counseling
- Alcoholics anonymous (AA), narcotics anonymous (NA) meetings, etc.
- Alcohol and/or drug rehabilitation or treatment program (inpatient or outpatient)
- Drug testing
- Possible registration as a drug offender
- Driver's license could be suspended, revoked, restricted or otherwise affected
- Car or vehicle could be impounded
- Points added to your DMV record
- Installation of ignition interlock device on your car or vehicle
- Possible deportation or other immigration consequences
- Could affect current job, future employment or professional license
- May have to provide DNA sample which goes into a nationwide database
- May not be able to own, use or possess a gun or weapon any longer
- Could affect right to vote, jury service, and holding public office

### **Additional Consequences for More Serious Vehicle Offenses (manslaughter, DUI with injuries)**

- May constitute a violent and/or serious strike under California's Three Strikes Law, which could result in a longer prison sentence now and if you commit a future felony
- Five-year prior could later add five years to prison sentence if you commit future felony
  
- Will have to provide DNA sample which goes into a nationwide database
- Can no longer own, use or possess a gun or weapon
- Will affect right to vote, jury service, and holding public office

- Will likely be deported and/or face other immigration consequences

### **Defense Strategy --> [Return to Top](#)**

#### **Hire a Successful DUI Attorney**

Driving under the influence of alcohol and/or drugs is a very complex area of law. In fact, a DUI case can be more complicated than some murder cases. Thus, when facing DUI charges and/or other vehicle offenses, it is extremely important to immediately hire an experienced, knowledgeable, and aggressive attorney like Tracy Grayson early on, preferably the day you are arrested. Realize that once you are taken into custody, no matter what the arresting officer has told you, he or she is not going to simply drop the charges.

Nevertheless, Mr. Grayson has been very successful in convincing the DA or city prosecutor to reduce, and in some cases, dismiss the charges in many of the DUI cases he has handled, and has otherwise employed various legal tactics to ensure a great outcome for his clients facing a variety of vehicle offenses. Additionally, Mr. Grayson has been able to obtain for his clients deals involving no jail time, shorter DUI classes (or no classes at all), restoration of their driver's license, a restricted driver's license allowing his clients to drive to work and school, etc.

#### **Reduced Charges: Lesser Offenses to DUI**

Driving under the influence or "drunk driving" is one of the most common criminal charges in California. Attorney Grayson has been very successful at getting his client's cases reduced to a lesser charge. If you have been charged with a DUI, assuming Mr. Grayson cannot get the case dismissed or win at trial, he will fight hard to get you a deal which allows you to plead no-contest to one of the following:

- 
- Dry reckless (treated as if you had not consumed any alcohol)
- Speed contest
- Exhibition of speed

- Any infraction (a "ticket") such as illegal lane change or illegal turn

## **Successful DUI Defenses**

Barring a dismissal, during Attorney Grayson's 15 years of successfully fighting DUI's and other vehicle offenses, he has raised various defenses and issues to get great results for his clients including: operator error, non-compliance with Title 17, mechanical failure or error of breath machine, mouth alcohol, no proof of driving, certain medical conditions, failure to maintain or calibrate breath machine, witness credibility, insufficient or lack of evidence, mistakes by law enforcement, inconsistent statements (lies or mistakes), destruction of evidence, lack of documentation, violation of constitutional rights, failure to comply with discovery rules, and lack of notice (driver's license cases).

## **Police as Witnesses in DUI Cases**

With DUI's and other vehicle or traffic offenses, keep in mind that police officers are often present when the crime is allegedly committed, and therefore are percipient or eyewitnesses. Obviously, because the police are present, they become very important witnesses. At a trial or hearing, they will be able to testify about your driving, behavior, what you told them, how you exited the car, how you retrieved your driver's license, how you walked to the sidewalk, how you performed on field sobriety tests, your conduct during the breath or blood test, the results of the chemical test, etc.

This brings up two very important defense issues involving police officers that almost always come up in DUI cases: (1) how long the officer waited to conduct the test; and (2) whether the officer followed proper procedures. At trial, both issues will be considered by the jury and have even been written into their jury instructions: (1) if the prosecutor proves that a sample of the defendant's blood or breath was taken within three hours of driving and chemical analysis showed a blood alcohol level of .08 or more, the jury may, but is not required to, conclude that the defendant's blood alcohol level was .08 or more at the time of driving; (2) when evaluating

breath machine test results, the jury may consider whether or not the police officer who administered the test or the agency maintaining the testing device followed the regulations of the California Department of Health Services.

In Attorney Grayson's experience, law enforcement officers often delay conducting the breath or blood test, sometimes because they conduct several DUI stops in a row. By the time you are brought to the police station to be tested, several hours may have passed, affecting the test results. Also, officers often cut corners and do not follow the recommendations and even the requirements of the breath machine's manufacturer. For example, during one DUI case, while cross-examining the prosecution's DUI expert, Mr. Grayson had him read to the jury from the manufacturer's manual regarding an important advisement about their machine. The expert apparently thought he knew more about the machine than the maker of the machine, arrogantly telling the jury, "I don't agree with that." The jury found Mr. Grayson's client not-guilty on all charges.

### **Medical Marijuana Card is Not a Defense for DUI --> [Return to Top](#)**

The Compassionate Use Act gives certain people the right to cultivate, possess, and smoke (or otherwise ingest) marijuana if they have a doctor's prescription. You may be tempted to think that because you have a marijuana card, that it would provide a defense against driving under the influence of marijuana. Just remember, it is perfectly legal to drink alcohol, but it is not legal to drive while under the influence of alcohol if it impairs your ability to drive. Similarly, even if you can legally smoke marijuana, it is not legal to drive a motor vehicle while under the influence of marijuana if it impairs your ability to drive.

Remember, when the courts and the DMV are going after you for a DUI or other vehicle or license offense, you need an experienced, knowledgeable, and aggressive attorney like Tracy Grayson fighting for you. He will thoroughly review, investigate and prepare your case, interview prosecution and defense witnesses, obtain additional discovery, research complexities in the law, prepare motions, utilize appropriate experts, aggressively fight for your rights in court and at the DMV hearing, and make certain that we do everything possible to win your case and get you back on the road.

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