

WHAT'S GOING TO HAPPEN TO ME?



A DEFENDANT'S GUIDE TO DRIVING WHILE SUSPENDED OR REVOKED CHARGES

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Dear Reader,

Thank you for making the choice to get this special report.

Every year, thousands of people like you deal with driving while suspended or revoked charges. You might even be surprised how many of your neighbors and people in your area have gone through exactly what you are dealing with right now.

I also have a piece of good news for you... By getting this report, you've taken the first of several steps you need to defend yourself in court. You could have ignored this information and kept on sifting through all the random pieces of information available for you online. Instead, you now have a comprehensive resource about driving with a suspended or revoked license.

A suspended or revoked license can seem like a death sentence throughout most of Virginia. Unless you live in a major city or very close to one, public transportation is minimal at best. In many cases, the only way to get to work or buy things needed for a healthy life such as groceries and medicine is to drive. A restricted license only allows people to drive for very limited purposes which don't include things like personal emergencies, grocery shopping, car maintenance, or special events. To make matters worse, not everyone qualifies for a restricted license and those who do can be stopped by the police for no reason other than just to make sure they're driving to a place they're allowed to drive to at a time when they are allowed to drive.

This unfortunate reality often leaves people with no choice but to drive illegally. Some of them get caught by the police and are shocked to learn they are facing a criminal charge with the very real possibility of jail time, hundreds of dollars in fines, and even more time with a suspended license with no hope of getting a restricted license. In some cases there is a mandatory jail sentence. In a few cases, driving on a suspended can even be charged as a felony. It becomes a vicious cycle with more and more charges adding up to cause the financial and social devastation of being labeled a "criminal" without ever having committed a traditional crime.

I love helping regular people like you find their way through this type of mess and fight for the right to live a normal lifestyle. I have always loved criminal justice ever since my great uncle Lou gave me my first Nancy Drew book. The things people will do out of anger, greed, or desperation fascinated me. When I was choosing a major in college the only real question was what field of the criminal justice system was right for me. I even studied Spanish in high school and college because I knew it would help me get the job I dreamed of.

After college, I went to work at Chester County Prison in West Chester, Pennsylvania. Clients and colleagues alike are often surprised to hear I was once a corrections officer, because they think I'm too nice to be enforcing rules for a living. Not only is it true, but I was actually a very strict officer, especially during that first year after I graduated college. I saw things as black and white. Either the inmates followed the rules or they didn't. If they didn't, then my job was to report that without exception and often without so much as a warning. I had trouble

understanding that some rules can be unreasonable in certain circumstances like what often happens when a driver's license is suspended by DMV or revoked by a court. It took time for me to learn how to be more reasonable and still do my job well.

While I was working at the jail, I knew my destiny was not there. I began to discern the career path I should take and applied to law school. I never considered any field except criminal law. The only real question in my mind was whether I would prosecute or defend people in court. I used to watch the inmates and daydream about prosecuting the ones I knew belonged in jail. I also used to daydream about defending other inmates who I had no doubt do not belong in jail. So, it was off to law school for me.

In the end, the people who did not belong in jail won my heart. Since graduating law school, I have devoted the vast majority of my legal career to criminal defense work. I believe everyone needs a lawyer who will listen to them and work to protect their rights and fight off any aggressors who seek their downfall.

Once you've looked through this report, you should feel free to call us to discuss your legal issue. My hope is that you will look to us for help when you need it. We are excited to serve you.

Sincerely,

Jennifer Raimo

P.S. We are just a phone call away at (703) 591-4868. Make sure you mention that you received this report, and we'll answer whatever questions you may have!

The 5 Most Frequently Asked Questions About Driving With a Suspended or Revoked License

1. The police officer did not read me my rights. Does that help me?



Ever since the famous case of *Miranda v. Arizona* was decided by the United States Supreme Court, Hollywood has done an excellent job of teaching Americans about rights that are guaranteed to all criminal defendants. Unfortunately, Hollywood has been equally successful about misinforming people as to when those rights must be read to a suspect. The short answer to the question is to say that “reading rights” is not merely some magic words that an officer should say while placing handcuffs on your wrists during the arrest process. The fact that a person’s rights were not read to him will not help the accused in most cases.

Miranda v. Arizona requires police officers to advise a suspect or criminal defendant of certain rights before beginning a custodial interrogation. There are four warnings: (1) the suspect has the right to remain silent; (2) anything the suspect says can and will be used against him; (3) the suspect has the right to have an attorney present during questioning; and (4) if the suspect cannot afford to have an attorney, one will be appointed to represent him.¹ If a police officer interrogates (or as they prefer to say “interviews”) a suspect before arresting him, the officer does not normally have to read the Miranda warnings, because the accused is not in custody. Likewise, if a person is arrested and starts sharing information about the crime with a police officer on his own without being asked about the crime, the statement(s) can be used against the accused in court because, although he was in custody, he was not being interrogated when that information was revealed.

2. Will the judge let me go if I just explain why I needed to drive?

No, it is very unlikely. The law expects that if there is truly an emergency (think life threatening here), you will call 911 and an ambulance will take care of transportation. Every day, judges hear people try to explain why they needed to drive to work, lost their ride, or couldn’t say “no” to someone who asked them to drive. It may or may not be true, but it doesn’t

¹ 384 U.S. 436 (1966).

matter. The driving while suspended or revoked statutes that allow any leniency for a true life-threatening emergency do not allow a judge to dismiss a case for that reason, but instead only authorize a suspended jail sentence in cases where there is normally a mandatory minimum jail sentence. Yes, the written law is that unforgiving and unreasonable. So, don't hope for leniency without the help of someone who knows the law and the court system.

3. What can I do to help convince the prosecutor to drop the charge or at least convict me of something that doesn't suspend my license longer?

As a defense strategy, the best thing you can do for your case is get your license reinstated at the Virginia Department of Motor Vehicles. If you are suspended in another state, you will need to get reinstated in the other state AND in Virginia. In many first offense cases, a lawyer can convince a prosecutor to drop the charge completely if the driver has a valid license on the day of court. Repeat drivers don't always get completely out of trouble, but a good lawyer can use a valid license to minimize the harm you face in court and get a lighter sentence for you than what you might get if you're not reinstated before court (assuming, of course, there is enough proof to find you guilty in the first place). In some cases like this, it may be possible for your lawyer to convince the CA to amend to NOL.



4. Do I really need a lawyer if I know I am guilty? Should I just plead guilty?

A lawyer can make sure the prosecutor can prove the case against you. After all, why do you want to take a conviction which could have a bad impact on your life if your lawyer can discover it's not necessary? If the prosecutor can prove the case against you, a lawyer can help minimize

the damage through negotiation with the prosecutor and/or presenting your side of the story to the judge in the best light possible. Most defendants do not know what will help persuade a judge to see things their way or how to protect themselves if a police officer or prosecutor wants to put you in jail.

5. Why can't I have a restricted license if I'm convicted when drunk drivers get a restricted license all the time?

The law gives many people who have a valid license at the time it is suspended or revoked to apply for a restricted operator's license. However, this opportunity is only offered once, meaning a person who is ordered not to drive and drives anyway does not get a second try at living with a restricted license even if he never asked for a restricted license before he got caught driving while suspended or revoked.

A drunk driver usually has a valid license at the time she makes the poor decision to get behind the wheel. No one ever told her she can't drive at all or can only drive at very limited times. Because judges often understand how difficult life is without a driver's license, judges often (but not always) allow first offense drunk drivers to have a restricted license on the same day they are convicted. That does not mean the drunk driver is the better offense than the DOS driver. If that same drunk driver later drives outside the terms of her restricted license, she will be charged with driving while revoked and lose her restricted license in addition to facing up to twelve months in jail, an additional one year loss of license with no restricted license, and a probation violation hearing to impose the full suspended jail sentence on the underlying driving while intoxicated case.

Answers to Questions You Didn't Know You Should Ask

1. What must the prosecutor or police officer prove in order for me to be convicted of driving while my license is suspended?

There are several statutes that could be used to accuse a person of driving while suspended or revoked and each has their own list of elements that must be proven. In general, it's not just a matter of proving you were driving and your license was suspended. It must also be proven that you knew or had legal notice that your license was suspended on the day of the traffic stop. In many cases, the question of whether or not the driver knew her license was suspended is the deciding factor between a guilty and a not guilty verdict in court.

2. What is "legal notice" that my license was suspended?

There are a number of ways for a police officer or prosecutor to prove a driver had legal notice of the fact his license was suspended. The most common way is through the driver's statement admitting he knew and drove anyway. Other ways it is proven is through:

- A Notice of Suspension signed by the driver in court. This type of Notice sometimes suspends a license immediately, but is also used to tell a defendant his license will be automatically suspended by the Virginia DMV if his fines and court costs are not paid in full by a specific deadline.
- A Notice of Suspension from the Virginia DMV mailed by certified mail to the defendant's address of record with a return receipt on file. A note in the person's driving record that this type of notice was received creates a presumption that the person did in fact receive the Notice.
- A Notice of Suspension issued by a law enforcement officer before the day of the stop at issue in the driver's present case. The Virginia DMV receives a copy of this type of Notice and notes it in the person's driving record. The driving record can be used against the accused in court without having an official copy of the actual notice or any testimony from the officer who gave the accused that notice.

3. What if I told the police officer I knew my license was suspended or revoked? Is there a way I could still have my case dismissed?



Maybe. A good lawyer looks at the legal issues surrounding the stop. If the officer did not have a valid reason to stop you, then everything that followed the stop can be kept out of evidence at trial. You should discuss your case with a qualified lawyer to learn whether you may be able to qualify for this type of defense.

4. What is a *nolle prosequi*?

A *nolle prosequi* or “null pross” is the legal phrase for “dropping the charge.” It is a dismissal without prejudice before trial, meaning the prosecutor can bring it back if he wants to. Some common reasons charges tend to get dropped are because the police officer or other driver in a car accident case did not come to court, the prosecutor does not believe there is enough evidence for him to win at trial, or there is a plea agreement to drop one or some charges in exchange for a guilty plea to one or more others. It’s pretty rare that a charge that has been dropped will be revived, but it is most likely to happen if the defendant doesn’t live up to a plea bargain or if the prosecutor only dropped the charge because he was forced to do it and not because he wanted to do it.



5. Can this charge get me deported?

If you are not an American citizen, you will want to check with an immigration lawyer about the consequences of a conviction for driving while suspended or revoked. For most people with a legal immigration status, a driving while suspended or revoked conviction will not create a problem with USCIS. However, most cases of this type are a class 1 misdemeanor. A few types of immigration visas do not allow you to have any criminal convictions. A few more visas will allow noncitizens to remain in the country with one criminal conviction, but not two. Immigrants who rely on the Dream Act (DACA) or temporary protected status (TPS) need to be especially careful to avoid criminal convictions. Lifetime permanent residents have a little more leniency, but should still consider their immigration status and any possible problems a criminal conviction could create with USCIS.

Immigration law is complicated with many exceptions and waivers that may be available to people with certain types of visas and not to others. It’s also an area of the law that changes constantly. If you are not an American citizen, it’s best to consult with an immigration lawyer before your traffic trial date to make sure there are not any pitfalls to avoid.

Questions? Call us at (703) 591-4868 if you have additional questions about driving with a revoked or suspended license. We would love to hear from you, and your question may also help us improve future versions of this guide!

How It Works

1. **Bond Motion** – If the client is still in jail, we will ask a judge to let you out while you're waiting for a trial. The motion gets filed right away and is usually in court the day after we are hired. Some courts require more time, but rest assured we will be in court fighting for your release as soon as possible.
2. **Investigating Your Case** – We will review your driving record and request a copy of all documentation regarding your suspension or revocation. If your case involves a car accident, we will also request a copy of the crash accident report to help us understand what the officer believes happened.

Whether or not we can learn anything about your case from the prosecutor's office before your court date depends on what county or city your court is in. Virginia law does not give us a right to get the important information in advance of your trial, but some counties, like Arlington, Loudoun, Prince William, and Alexandria City do have a procedure to learn about the case in advance. Fairfax County, on the other hand, does not normally provide any information in advance of the trial date except any facts the prosecutor may choose to disclose during a bond motion. However, Fairfax prosecutors and police officers will usually share information in the courthouse hallway on the day of court and continuances are often granted if the case has not already been postponed.

3. **Legal Research** – The factual scenario of a particular case may require research of an unusual point or a recent development in the law. A good lawyer will come to court prepared with copies of the relevant case law to argue any issues she can anticipate based on her client's side of the story and the investigation of the case.
4. **Court Appearance/Trial** – On the day of your court hearing, the lawyer will get to speak with the prosecutor and police officer about your case. The prosecutor will almost always make some offer for a plea agreement, even if it's a bad offer. Your lawyer will discuss with you what the evidence is that the prosecutor has, what the plea offer is, and whether that is a good or bad offer. You will have the choice whether to plead guilty and accept the offer, plead not guilty and have a trial, or plead guilty without accepting the offer. In most misdemeanor cases, people who decide to plead not guilty will have a trial the same day. For felony cases, there will be a few more court hearings in circuit court regardless of whether you are pleading guilty or not guilty, but your lawyer will be with you every step of the way.

Want to meet with us to discuss your case and how this process could help you reach the best resolution possible? Call us at (703) 591-4868 to arrange a free legal analysis of your situation.

The End Result

Below you will find stories of people who have been through the process you just learned about. As you will discover, it doesn't have to lead to a conviction, and help is available to you. All names have been changed to protect the privacy of our past clients.

CASE RESULTS DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH CASE. CASE RESULTS DO NOT GUARANTEE OR PREDICT A SIMILAR RESULT IN ANY FUTURE CASE I MAY HANDLE. As much as I would like judges to agree with my clients every time, they do make their own decisions as they apply the circumstances of each case to the law.

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Antonio used to enjoy drinking alcohol too much. Many years ago, he was convicted of driving while intoxicated once and driving while revoked 3 times. The Virginia DMV declared him to be a "habitual offender" in the 1990s and his license was suspended for many years. After he gave up alcohol, Antonio convinced a circuit court judge to order the DMV to give him back his license. The DMV made a mistake. They gave him a license, but still noted it was suspended on his driving record even though the judge had ordered full restoration.

One day, Antonio was stopped for a routine traffic violation and was shocked to find himself being arrested for driving after having been declared a habitual offender (a very serious form of driving while suspended). To make matters worse, Antonio had been driving a company car from work and it was towed and impounded for 30 days.

Within a few days, I was able to get a copy of the court Order and filed it in the traffic court with a Motion asking the traffic court judge to release the car from the impound lot and make the state pay the towing bill. The judge ruled that there was no probable cause to arrest Antonio since he did have a valid license, meaning he should never have been arrested in the first place and therefore the car should never have been towed. He released the car right away and made the state pay the towing and storage bill. When we came back to court for the actual trial, the prosecutor dropped the charge based on the fact the judge had already ruled that Antonio should not have been arrested for driving while suspended.

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One day, Tina was stopped for reckless driving, because the officer watched her make a left turn and believed she cut off oncoming traffic in the process. She gave the police officer her driver's license and registration just as she was supposed to do. The officer checked the license and told Tina she was suspended. "I am?" Tina replied, but all the officer heard was "I am."

I helped Tina plead not guilty to both charges in court. The only issue in the driving while suspended case was whether she knew her license was suspended. The driving record did not show legal notice. So, it was a question of whether Tina had asked the officer a question or confirmed his discovery when the officer told her she was suspended.

At the end of the trial, the judge found reasonable doubt as to whether Tina knew her license was suspended and dismissed the case. This was only half the win for Tina: we were also able to raise reasonable doubt as to whether the driving behavior was actually reckless and got the reckless driving charge dismissed, too.

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Tim lives in Virginia. While he was visiting Maryland on vacation, Tim got a speeding ticket and forgot to pay the fine. Maryland suspended Tim's license and entered the suspension into an interstate database. Virginia discovered the suspension and mailed a Notice of Suspension to Tim's address. Before Tim received the Notice of Suspension, he was stopped by the police for making an illegal u-turn. The police officer did not listen when Tim tried to explain he didn't know his license was suspended. Before the court date arrived, Tim paid the Maryland ticket and had his license reinstated in both Maryland and Virginia. I pointed out to the prosecutor the lack of evidence as to whether Tim knew about the license suspension before he was stopped in Virginia and argued that the fact he took care of the problem before court could be evidence that he didn't know about the suspension. The prosecutor agreed to drop the charge.

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Finally, I'd like to tell you about a case where getting a driver's license reinstated helped minimize the damage where nothing else could be done.

Larry was a college student charged with his 7th offense of driving while suspended. He'd been stopped by the police so many times before that the police officer recognized his face when she saw Larry behind the wheel of a car. Before the case was ready for trial, Larry was charged with his 8th and 9th offense in a nearby county.

When we went to court for the 7th offense, the prosecutor knew about the new charges and wanted the full 12 months in jail, \$2,500 fine, and additional license suspension that is the maximum possible sentence. I was able to convince the judge that neither Larry nor the general public would benefit from such a decision. I explained to the judge that despite his record, Larry had been able to get his license reinstated and legally drove himself to court that morning. I also described to the judge in great detail how difficult it was for Larry to live without a license and informed the judge that a lengthy jail sentence would cause Larry to miss final exams and lose a semester's worth of work.

The judge listened to my argument. He told Larry he can't drive when his license is suspended and told Larry he is getting very close to serving 12 months in jail every time he is caught driving. He still sent Larry to jail, but it was not for the maximum sentence. He also gave Larry a furlough for a few hours every day he had exams so he would not lose any credit towards his college degree. That saved Larry thousands of dollars in lost tuition money and a few months of having to repeat his hard work toward his college degree.

Our team is standing by to help you. As a matter of fact, we look forward to your call and the chance to serve you as we have served others in our community. While we certainly can't guarantee any results, we may be the right law firm for you. The best way for us to find out is by calling us at (703)591-4868 to schedule a free consultation and legal analysis of your personal situation.