

## Field Sobriety and Test Refusals

The criminal defense attorneys at Tully Rinckey PLLC are experienced in defending DWI charges. We serve the Capital District area including Albany, Saratoga, Schenectady, and Troy. There are a number of tests that officers can perform right away to determine whether or not you have been drinking or are under the influence. These tests are not 100% reliable and need to be done properly to have any weight in court. An attorney can assist you in determining if each test was conducted as it should have been. **Types of Field Sobriety Tests**

### Sobriety Checkpoints

Also known as “road blocks” - these checkpoints are put into place periodically in high traffic areas to attempt to curb instances of DWI

and catch violators. These stops are absolutely legal and police are allowed to ask preliminary questions about any alcohol consumption that night. There are specific rules that must be followed during this procedure and the failure to do so can be included in defense of a DWI

### .Coordination

Often times, if an officer suspects that you are intoxicated, you may be asked to step out of the car and perform certain tasks. One of these is a coordination test in which you will be asked to touch your finger to your nose. This is a test of your hand-eye coordination. While not a determining factor for a DWI

charge, this test can open the door for the police to perform more tests and ask other questions. Alphabet

While you will most likely not be asked to recite the alphabet backwards, the officer may ask you to say a certain part of the alphabet, such as L through P. The officer is not testing your knowledge of the alphabet but the amount of concentration you have to handle the task and if there is any adverse affect on your balance or stature. Balance

The officer will ask you to stand on one leg and count to test your ability to process information and continue to stand without swaying or falling over, which could be deemed as a sign of possible intoxication. The above tests are subjective and not 100% reliable, even when done correctly. Two other tests can be done that are considered scientific and can be held up in court. These tests cannot be tricked or faked in any way: Horizontal Sight Nystagma

This is a test of an involuntary reaction in your eye. The officer will ask you to follow his finger with your eyes. Alcohol consumption causes an involuntary reaction causing the pupil to “jump” instead of moving smoothly. However, this is not an all-encompassing test and some other medical ailments can cause the same reaction. An attorney will know which afflictions can cause this reaction. Alco-Sensor

This test is commonly referred to as a “breathalyzer” or chemical blood test conducted to determine your Blood Alcohol Content (BAC). This is a test that needs to be done within a certain time period after being stopped and is not the same as the test done on the side of the road. This procedure usually takes place at the police station. An attorney can ensure that all of the rules and time restraints were followed, if and when you have been given this test after a DWI

stop. Field Sobriety Test Refusals

While submission to a field sobriety test is voluntary, it is important to remember that refusal to participate can result in your arrest. Chemical Test Refusals

Refusal to participate in the field sobriety test can result in your arrest – but refusal to participate in the chemical test can result in more severe penalties. Generally, a driver who refuses to take a chemical test, normally a test of breath (Breathalyzer), blood or urine, can have their driver license revoked for at least one year and must pay a \$500 civil penalty to apply for a new driver license. A driver that refuses a chemical test during the five years after a DWI-related

charge or previous refusal will have their license revoked for at least 18 months and must pay a \$750 civil penalty to apply for a license. If you are an underage offender or commercial driver, you will be subject to different penalties. If you have questions about the legality of a field sobriety test or are facing DWI charges, contact one of our experienced criminal defense attorneys today for a FREE case evaluation. Call us 24 hours a day, 7 days a week at 518-218-7100 or email us at [info@tullylegal.com](mailto:info@tullylegal.com)

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