

El Derecho Del Pueblo

Columna de comentario [Situaciones de Riesgo Policial](#) abogado y maestro Matthew “Mateo” Katz.

The People’s Right

A column of social comment [Destiny](#) and legal advice by attorney and teacher Matthew “Mateo” Katz.

So you and your friend went out extra late that one night and had one too many Miller Lites. You stupidly hop into your Corvette right after you leave the bar and stick your keys into the ignition. Just as you take a turn out of the bar’s parking lot you see the swirling lights of a police squad car move up toward the rear of your car.

“Damn!” you think to yourself. Am I in for it, now...

The police officer tells you to step out of the car. He asks for, and you give him, your license and registration. “Please don’t ask. Please don’t ask. Don’t ask me to walk the line, you say to yourself, as you regret downing that last shot of tequila before following it with another beer...”. Ooooh. You’re going to be sick to your stomach.

“Walk in a straight line, sir, along the median,” the copper tells you.

“Okay,” you respond, about to cry.

You walk the line, barely able to stay straight. Next, the policeman asks you to breathe into a breathalyzer tube. Ah oh. The machine reads back: .99. The next thing you know, you’re arrested, your car is impounded, and you’re on the phone to mommy asking for bail money.

What can you do?! Well, given the severity of these facts, above, not very much.

However...there are some strategies that a conscientious lawyer can employ on your behalf to ensure the government has followed its own rules.

For one, many people believe that because these “breathalyzer” machines are computerized, they can do no wrong. This belief, my friends, is a mistake. These machines must undergo rigorous certification by maintenance crews in order to ensure their accuracy. If this certification is unreliable, a court can throw out the machine’s results.

Second, the police officer administering the test must follow strict procedures in giving the tests to a detainee in order to ensure their accuracy. For one, the police are required to wait twenty minutes before administering a breathalyzer test, during which time they must observe the detainee to see if s/he burps, vomits or otherwise admits any foreign substance into his/her mouth, otherwise the test results are compromised.

Do I have to take the test, you ask? No. However, if you decline the test you will face a mandatory several months suspension of your driving privileges. Likewise, if the test results are positive, you will similarly face such consequences.

However, you can contest the suspension of your driving privileges by filing what is called a “Petition to Rescind a Statutory Summary License Suspension” which allows you to argue that your driving privileges should not be taken away.

Of course, though, we all know that the best advice to be given in these matters is that same old adage: don’t drink and drive. Besides, who wants to pay some lawyer all that money, anyway!