

Who you gonna call?

MICHAEL ROBINSON, 35 | Lawyer

He is one of the greatest guys you don't want to know ... professionally anyway. By the time many clients meet this associate at the Newport firm of Sayer, Regan, Thayer & Flanagan, they're already in deep trouble. But Michael Robinson can help them avoid more. A former public defender who's been practicing law in Rhode Island for nearly 10 years, he's written and self-published a book entitled "The DUI Trap!: The Rhode Island Survival Guide for DUI & Refusal Charges." And he's giving it away to anyone who wants it. With DUI convictions promising temporary loss of license, possible jail time and huge fines, it can't hurt to be educated. And why not take advantage of a lawyer offering free advice? **BY OLIVIA SMITH**

Why did you write "The DUI Trap!"?

I've probably handled about 2,000-plus DUIs. They are among the most complicated criminal charges. The police have to go through so many hurdles to get this right and there are traps for them all over the place and traps for motorists, too. The book is designed to take the average person through a DUI from the time when an officer puts his lights on through the prosecution. And believe me, it's written so that everyone can understand it.

So a person sees those flashing lights behind them — what's next?

If the officer suspects erratic driving — crossing over the lines, inconsistent speeds, stuff like that — there's a suspicion of operating under the influence. When they get to the car, you have to roll your window down. First thing they smell is the aroma. You can smell it. Drunks don't think so, but you can. First question out of the officer's mouth is typically, "Have you been drinking?"

What's a good answer?

You don't have to answer it. There is no good answer, I've thought about it for years. If you lie, he's going to know you're lying. If you tell the truth, you've given him some evidence.

What happens after the officer suspects that you're drunk?

He's going to do what's called divided attention tests. He's going to ask you to do two things at once. He's going to say, "License and registration. Do you know what time it is?" If you stop to answer the second one, that's a clue. At that stage, he's going to ask you to step out of the car.

Then what?

You have to step out of the car. Beyond that, you have to do nothing. He's going to tell you you're going to perform some routine field sobriety tests. Here's the big one: You don't have to take them! This is all pre-arrest. At this stage, the officer is gathering evidence to arrest you. You don't have to give it to him.

What are the field sobriety tests?

There's the Walk-and-Turn test, there is the One-Leg Stand test, and there is what's called the Horizontal Gaze Nystagmus test (where your eyes are supposed to follow a light). Three absolutely stone-cold sober people out of 10 will fail the Walk-and-Turn and the One-Leg Stand test. Two out of 10 will fail the Horizontal Gaze Nystagmus. These tests were first designed at UCLA in 1977. When they were originally studied, they found that in combination these tests had an accuracy rate of 47 percent. Basically, you could flip a coin. I can't think of a good reason to take the tests, to be honest with you. They don't measure your ability to drive, they measure your ability to perform those tests. These are only designed for probable cause to make the arrest — these are not designed for conviction.

What about taking the Breathalyzer?

Unlike not taking the field sobriety test — for which there is no penalty at all, you're not even going to get the officer angry — if you don't take the portable breath test, it's a \$75 ticket. It's a traffic ticket, like speeding. It's the mother ship of traffic tickets — it's the Enterprise. It is, at the end of the day, nothing more than a traffic ticket.

Is the Breathalyzer a better test?

Whether the Breathalyzer is accurate or not is a matter of opinion. Nobody in this state is trained to fix them and they don't run routine maintenance checks on the working parts. They test them once a month to see that the solution matches what the machine says it's supposed to. The machine works on infrared light. Infrared light will absorb certain molecules in the air; it doesn't cover the full spectrum. The manufacturer does not warranty accuracy.

How does the procedure work?

You're required to blow until you can't blow anymore. What it's designed to do is to get the deep alveolar lung air. That is the highest concentration of alcohol in your system because alcohol is heavier than air molecules. It sits way deep in your lungs and gives an inaccurate picture of actually how much alcohol is there.



Call a cab. And save yourself from needing the legal services of Michael Robinson. Better you take his free advice now. It will cost you later. PHOTO BY JACQUELINE MARQUE

Would it help to stall before taking the Breathalyzer?

There's the absorption phase and the elimination phase. Absorption happens very quickly, within two minutes. If you shotgun a can of beer, within two minutes, that entire can of beer — that one ounce of alcohol — is going to be in your system pretty quickly. You begin eliminating within an hour. If you are pounding them before you leave, you are in the absorption stage for almost a full hour before you begin eliminating. You are actually rising.

What's your advice to people at this point?

Shut the hell up. I mean that, people get Chatty-Cathy. You're not entitled to an attorney at the time they ask you to take the chemical test — the breath test. The only time you're entitled to an attorney is when the justice of the peace shows up, when you get taken before a judge.

How much does a DUI end up costing versus a cab?

The court costs and fines alone for DUI, \$850. For refusal it's \$925 plus \$300 for DUI School, plus \$50 for license reinstatement, plus \$75 for registration reinstatement, plus attorney fees — generally that's at least several thousand dollars. Plus you have to purchase an SR22 (special restriction insurance on your license) that can be usually about \$500 a year or more. Plus your insurance rates, if the company does not drop you or fail to renew your policy, plan on spending at least a couple of thousand dollars a year in insurance. So you're talking, over the course of three years, a DUI — and I'm not kidding about this — can cost up to about \$10,000 versus \$20 for a cab.

For a free copy of Michael Robinson's "The DUI Trap!: The Rhode Island Survival Guide for DUI & Refusal Charges," call Sayer, Regan, Thayer & Flanagan at (401) 849-3040, Ext. 251.