

## **No Refusal Programs**

Test refusals are a major problem for the judicial system in confronting and identifying hardcore drunk drivers. Many DUI suspects refuse to answer questions, perform field sobriety tests, or provide breath samples. BAC test refusals are common with hardcore repeat offenders, primarily because they know they will test high. In most jurisdictions, sanctions for BAC test refusal are much less severe than sanctions for a DUI conviction. Additionally, BAC test refusal deprives the court of the most important evidence needed for a DUI conviction.

A No Refusal, or warrant program, enables police officers to obtain a search warrant from a judge or magistrate for blood samples of drunk driving suspects when probable cause has been established and a suspect refuses BAC testing. These programs coordinate efforts of paralegals, prosecutors, nurses, and judges to ensure BAC testing when circumstances warrant a test.

After a law enforcement stop for DUI, the suspect is given an opportunity to participate in sobriety testing. If the suspect refuses to provide a breath sample, the on-site or on-call prosecutor reviews the case and may present a warrant to the on-site or on-call judge. If the judge grants the warrant, qualified on-site personnel may draw a blood sample.

### **Research Highlights:**

- Three-fourths of prosecutors interviewed in 2002 said the blood alcohol test was the single most critical piece of evidence needed for a conviction, evidence they are frequently without (Simpson and Robertson, 2002).
- After implementation, Montgomery County, Texas, reduced refusals from 45% to 10% in 2010 (James, 2013).
- Phoenix Police reported a decrease in the refusal rate from 40% to 5% after implementation (Berning et al., 2007).
- Arizona, Michigan, and Utah found repeat offenders were most likely to refuse breath tests and the BAC data collected has led to fewer trials and more convictions (Berning et al., 2007).

### **States currently conducting No Refusal programs:**

Arizona, Idaho, Illinois, Kansas, Louisiana, Michigan, Missouri, Texas, and Utah

### **States with legal authority to conduct No Refusal programs:**

Alaska, Alabama, California, Colorado, Georgia, Indiana, Maryland, Michigan, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, South Dakota, Virginia, Washington, Wisconsin, and West Virginia.

### **Responsibility.org Position:**

The Foundation for Advancing Alcohol Responsibility supports the efforts of law enforcement and prosecutors to effectively identify and prosecute suspected DUI offenders. No Refusal programs provide law enforcement with a tool to increase compliance with BAC testing.

### **References:**

Berning, A., Beirness, D., Hedlund, J., & Jones, R., (2007). *Traffic Safety Facts: Breath Test Refusals*. DOT HS 810 871. Washington, D.C.: U.S. Department of Transportation.

James, A. (2013). A history of the No Refusal Program. *The Vehicular Crime Prosecutor*, 4(1), 2-5.

Simpson, H., & Robertson, R. (2002). *DWI System Improvements for Dealing with Hard Core Drinking Drivers: Prosecution*. Ottawa: Traffic Injury Research Foundation.