



**CITY ATTORNEY UPDATE**

**“WET RECKLESS” CONVICTIONS CARRY PENALTIES THAT ARE NEARLY AS SEVERE AS THOSE LEVELED AGAINST DUI OFFENDERS**

In an attempt to minimize the crime known as a “wet reckless” (i.e. reckless driving with alcohol in the defendant’s system), the political blog Voice of San Diego recently wrote that “the penalties aren’t nearly as severe as those leveled against DUI offenders.”

Our office prosecuted more than 5,500 DUI cases last year with a conviction rate of higher than 99%.

Among those convictions included DUI cases that resulted in so-called “wet reckless” convictions, a crime with penalties that are nearly as severe as those leveled against DUI offenders. The common penalties typically include, among others, a ban on driving with any measurable amount of alcohol and other conditions of probation, surrender of driver’s license, obligations to attend alcohol programs and potential for custody. Most significantly, a “wet reckless” conviction counts as a “prior DUI” which would enhance penalties for any future DUI.

Criminal prosecutors throughout California use discretion to offer “wet reckless” convictions in plea bargains in the right case. They do so knowing that the penalties are nearly as severe as those leveled against DUI offenders. Our prosecutors will continue to exercise their discretion in the right DUI case.

Here is a side-by-side comparison of likely penalties for the two crimes:

Likely Penalty	First Time DUI Conviction	“Wet Reckless” Conviction
Custody exposure	180 days (typically not imposed, unless probation terms violated)	90 days (typically not imposed, unless probation terms violated)
Probation	5 years	3 years
Attend and complete a First Conviction Program	Required	Required (12 hour course only if BAC is below 0.08%)
Attend and complete a DUI Impact Panel	Required	Required
Fines	\$2,133.00	\$1,170.00
One year license suspension if under 21.	Required	Required
Surrender license to law enforcement or DMV	Required	Required

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Follow directions of Court's Substance Abuse Assessment Unit (e.g. AA meetings)	Required	Required
Standard Alcohol Conditions of probation (Don't drive with measurable amount of alcohol; submit to a test for alcohol or drugs requested by a peace officer, etc.)	Required	Required
Murder Advisal – If defendant drinks and drives again and kills someone, can be charged with murder.	Required	Required
Priorable Offense – Counts as a DUI prior for any subsequent DUI offense	10 years	10 years

**The Voice of San Diego said comparing a “wet reckless” to a DUI conviction is “akin” to comparing jaywalking to bank robbery. Such statements may give drunk drivers some encouragement, but they are false and misleading.**

Let there be no doubt: Do not drink and drive! Whether it is a DUI, “wet reckless,” or prison time if someone is injured or killed, the risk and consequences will be severe.

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