

"Have you been drinking tonight?"

This is the first question an officer will ask if he suspects you of a DUI (or in Michigan, OWI) and what you say at this point will have ramifications on your case. At this point the officer only has a suspicion and is looking for more evidence that you are driving drunk to build his case against you. They will try to obtain more information based on each answer you give and investigate more thoroughly at each step in the process. Remember, they are trying to get enough evidence to arrest and charge you and build a case against you. At this point, the officer probably has already noticed the proverbial glassy eyes, strong odor of intoxicants, etc.

So should you answer this question? Remember, you have the right to remain silent and not have that silence used against you. A simple ***"I refuse to answer that question until I speak with a lawyer"*** is a very good response. Remember to be polite about it, as we do not want the officer to testify that you were a rude jerk. If you answer yes to this answer, then you have verified the officers suspicions and he will continue investigating his case. This right to refuse any incriminating remarks is guaranteed in the 5th Amendment to the Constitution.

The police are not required to read your ["Miranda" rights](#) when they ask you this question. The U.S. Supreme Court has ruled that Miranda rights do not apply to road side stops. Not being read your rights when you are asked this question is not a defense. The police are not required to read your rights..

Keep in mind that most of the time, the officer believes you have been driving drunk and they are trying to justify their belief. They must have probable cause to arrest you and they are building evidence to make the case for the probable cause. By readily admitting that you have been drinking, you are helping them to build a case against you. Whether you admit you have been drinking or not, more than likely you will be arrested anyway for a DUI.

If you have been arrested of a DUI or an OWI, call your [Metro-Detroit Criminal Lawyer](#) right away. It is important to start working on your defense immediately and move to preserve any evidence of your innocence. In Macomb County, call (586) 439-4297 or in Oakland County, Call (248) 581-0598 for a free consultation and see what I can do for you.