



Roadside Olympics

by John D. Whitaker

Well, the holiday season is upon us and I thought I would give you all a little free legal advice — Do not drink and drive! I know a lot of you will agree that drinking and driving is a bad idea, yet for some reason DWUI arrests in this state are increasing dramatically. I had one of the hearing examiners for the state tell me a couple of days ago that his office had seen more drivers' license suspension actions as of the first of October than they had all last year. For some reason, people are not getting the message.

I thought it might be a good idea to tell you what to expect if you get stopped for drunk driving. If a police officer suspects that a person has violated or is violating the law, they can lawfully conduct a traffic stop. When the police see a car doing something unusual they will often make contact with the driver to see whether they are OK to drive. What usually happens is that the officer makes contact with the driver and asks whether he/she has had anything to drink. As soon as the driver admits that he has had the obligatory "two beers," the Roadside Olympics begin. They are actually called field sobriety maneuvers. I have watched a number of videos of arrests lately and I can tell you that these tests are pretty hard to do sober. In fact, I would bet that unless you are a member of Cirque Du Soleil you will probably not do all that well on these tests.

They usually start by making you say the ABCs, but they won't let you sing or rhyme them. Most people learned the ABCs by singing them and that is the way they remember them. When you are standing on the side of the road with the wind blowing and a police officer shining a flashlight in your eyes, your memory can play tricks on you. If you get confused, you lose. The next test is to count backwards from 68 to 52. This can be difficult if you are thinking about how mad your wife is going to be if you get a DWUI while you are trying to do it. If you get confused, you lose. Next is the horizontal



gaze nystagmus test where the officer has you follow a pen light with your eye as he moves the light horizontally to force your eyes out to the far end of your ability to look from side to side without moving your head. If your eyeball begins jumping up and down as you get near 45 degrees from center you lose. The next test is really a hard thing to do. It is called the walk and turn test and requires the driver to walk along an imaginary straight line touching his heel to his toe for nine steps out and nine steps back. Setting aside the difficulty of walking along an imaginary line, walking with your

heels to your toes is pretty hard to do. If you stop at 8 or go to 10 steps, you lose. If your imaginary line is not that straight, you lose. This test gets harder to do the older you are. Try and imagine old Nana out on 2nd Street at night trying to walk heel to toe. She can barely make it to the kitchen, but she drives to the grocery store every Saturday. I would bet that there are a few people at the senior center who couldn't do this test well on a good day. The final test is the one leg stand. You must stand with your hands at your side and lift one foot 6 inches off the ground and count to 30. I was in a yoga class a couple of weeks ago and there were 10 students, none of which could stand on one leg for 30 seconds with the other leg up in the air. The teacher could do it, but she had been practicing. It is unbelievably hard to do if you have been sitting on a bar stool for two hours before you try it.

The truth is that these tests are designed to be hard, and unless you are an acrobat you will likely get to spend the night in the crossbar motel. A minor traffic violation and smelling like alcohol is enough for a police officer to run you through the tests. If it goes that far, you are probably toast. I am not trying to preach here, but using a designated driver is the only safe way to spend a night out on the town. If there is any chance you are going to be driving, don't drink. It's that simple. Most DWUI stops in Natrona County are videotaped, so if you get stopped, remember to smile. It may be the last time you have anything to smile about for a while.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at jw@wyoinjury.com or by calling his office in Casper at 265-6204.