



# SACRAMENTO POLICE DEPARTMENT GENERAL ORDERS



## GO 522.04 CHEMICAL TESTING OF ARRESTEES

12-02-14

### PURPOSE

The purpose of this order is to outline the procedures and circumstances in which officers should obtain a chemical test sample from a subject who has been arrested.

### POLICY

It shall be the policy of the Sacramento Police Department to obtain chemical test samples from suspects arrested for crimes where the chemical test may result in evidence that is likely to be relevant in subsequent administrative or judicial proceedings. Chemical tests shall be conducted in accordance with applicable legal requirements and in a manner that preserves the integrity and admissibility of the evidence.

### PROCEDURE

#### A. WHEN TESTING SHOULD BE CONDUCTED

1. An officer should obtain chemical test samples from arrestees in all cases where the evidence is likely to be relevant in administrative or judicial proceedings and the arrest takes place within a reasonable time period after the commission of the related crime.
  - a. A reasonable time period includes any period of time where it is likely that evidence of drugs and/or alcohol remains present in the arrestee's chemical sample.
  - b. In DUI cases, an officer shall make every reasonable attempt to complete the chemical test within three hours of the time the arrestee was driving.
2. An officer must have legal search authority to conduct a chemical test. To conduct a chemical test, officers shall have consent, searchable probation/parole status, exigent circumstances or a search warrant.

#### B. SELECTION OF A TEST

1. Alcohol only DUI Cases
  - a. An arrestee shall have the choice of completing a breath test or a blood test.
2. Drug Only DUI Cases and Drug-Alcohol Combination DUI Cases
  - a. A blood test shall be completed.
  - b. Blood tests shall not be obtained from an arrestee who is afflicted with hemophilia or who is using an anticoagulant medication. A urine test shall be obtained from these arrestees.
  - c. Procedurally, the arrestee shall have the choice of completing a breath test or a blood test. However, if an arrestee selects a breath test, the arrestee shall be allowed to complete the breath test but shall be notified that a blood test is also required.
3. Non-DUI Cases
  - a. The arresting officer shall determine the appropriate test to conduct. Generally the test should be a blood test.

#### C. BREATH TEST

1. Breath tests only detect alcohol.
2. Breath tests shall be completed on equipment selected and maintained by the Sacramento District Attorney's Crime Laboratory.
3. Breath tests shall be completed by trained officers, following protocols determined by the crime lab.
4. In DUI cases, a driver who completes a breath test shall be given the Trombetta Advisement as contained on the back of DUI Intoxication Form (SPD 170).

#### D. BLOOD TESTS

1. Blood draws shall only be completed by trained medical personnel.
2. Blood draws should be conducted at the Main Jail by the assigned jail phlebotomist. When it is necessary to conduct a blood draw at a location other than the Main Jail (including blood draws



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conducted at hospitals), the on-call phlebotomist shall be requested to respond and conduct the blood draw.

3. When an officer is unable to wait for the on call phlebotomist, an officer may request the hospital medical staff to collect an evidentiary sample.
  - a. All officers should follow the hospital's procedure for obtaining the sample.
  - b. An officer cannot require the hospital staff to complete the blood draw.
4. Officers collecting blood specimens from suspects for a blood test shall:
  - a. Label the blood evidence box.
  - b. Request the phlebotomist or other appropriate medical personnel to conduct the blood draw.
  - c. Witness the blood draw.
  - d. Sign the label for the blood vial and ensure it has been signed by the medical personnel conducting the blood draw.
  - e. Label and seal the evidence box or witness the medical personnel label and seal the evidence box.
  - f. Place the blood evidence box in the locked evidence containers (drop boxes) maintained at the Main Jail.
5. An officer shall document in the report:
  - a. The time of the blood draw.
  - b. Where the blood draw was conducted (e.g jail).
  - c. The location on the arrestee where the blood was drawn from (e.g. arrestee's left arm).
  - d. The name of the medical personnel who conducted the blood draw.
  - e. The authority for obtaining the blood draw.

## E. URINE TEST

1. Except as outlined in Section B2, an arrestee does not have the right to select a urine test.
2. An officer collecting a urine sample shall:
  - a. Accompany the subject to the restroom to witness the collection of the urine sample and to prevent destruction or contamination of the evidence. **NOTE: The witnessing officer shall be the same sex as the subject giving the sample.**
  - b. Give the specimen container to the suspect and request the necessary sample.
  - c. Process the urine evidence box the same as a blood evidence box described in blood test procedures above.

## F. NON-CONSENSUAL CHEMICAL TESTING

1. The arrestee shall be given the opportunity to voluntarily submit to a chemical test.
2. DUI Cases:
  - a. If the arrestee refuses to take a test, refuses to select a test, or fails to complete a selected test, the arresting officer shall read the appropriate Chemical or Drug Test Admonition to the suspect verbatim. The admonishment is located on the back of the DMV form DS367, "*Age 21 and Older Officer's Statement*" and DMV form DS367M, "*Under Age 21 Officer's Statement*".
  - b. If, after hearing the admonition, an arrestee selects a test, the arrestee shall be allowed to complete that test, unless the arrestee has already attempted and failed to complete that test.
3. An arrestee is deemed to have refused the chemical test if, after being read the admonition they:
  - a. Refuse to complete a test.
  - b. Refuse to select a test.
  - c. Fail to complete a selected test.
4. Upon refusal to submit a chemical test, the arresting officer shall:
  - a. Advise the sector Sergeant.
  - b. Determine if there is enough authority to conduct a non-consensual blood draw. If a search warrant is needed the officer shall :
    - (1) Complete a blood draw warrant affidavit to obtain a search warrant; the affidavit shall be approved by the on-call District Attorney.
    - (2) Contact the on-call Judge and request a search warrant after the affidavit is approved.



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- c. Transport the subject to the Main Jail or to another approved non-consensual blood draw location to conduct the blood draw. NOTE: Blood draws conducted at the Main Jail shall be conducted by the assigned jail phlebotomist. Blood draws done outside the jail shall be done by the on-call phlebotomist.
- d. Ask the arrestee the medical questions on the Non-Consensual Blood Draw Screening Questionnaire (SPD 168).
- e. Complete the Instructions for a Non-Consensual Blood Sample (SPD 169) and read verbatim the admonition on the form.
- f. If the arrestee continues to refuse to provide a test, the officer shall conduct a non-consensual blood draw.
- g. The drawing of blood shall be done using equipment supplied by the on-call phlebotomist.
- h. The drawing of the blood shall be video recorded.

## G. REFUSAL TO VOLUNTARILY COMPLY

1. If an arrested subject refuses to voluntarily comply with the blood draw officers shall place mats on the floors and restrain the arrestee to the point where it is possible for the phlebotomist to take a blood sample in a safe, medically approved manner.
  - a. If an arrestee states oral opposition but does not physically resist, then no force shall be used.
  - b. If an arrestee resists passively without using violence, the officers shall only use such force reasonably necessary to obtain a blood sample.
  - c. If the arrestee resists so violently such that the draw cannot be obtained without undue risk of injury to the arrestee, the officers, and/or the phlebotomist, then the officers shall not attempt to conduct the blood draw.
  - d. If in the opinion of the phlebotomist the level of an arrestee's resistance creates an undue risk of injury, the phlebotomist may elect to not attempt the blood draw
2. After the blood is drawn, the arresting officer shall book the suspect into the Main Jail.
3. The refusal, admonishments, and the amount of force used shall be documented in the appropriate reports.