

**MANDATORY BLOOD TESTS FOR DRIVERS
UNDER THE INFLUENCE**

The purpose of this order is to establish the policy and procedures for the chemical testing of non-consensual blood samples taken from persons arrested for driving under the influence of alcohol and/or drugs. This order cancels and supersedes all prior orders on this subject.

I. POLICY

A. Officers shall adhere to the following procedures regarding the nonconsensual withdrawal of blood samples from persons arrested pursuant to section 23152 (misdemeanor), 23152/23175 (felony) of the State of California Vehicle Code (V.C.).

1. When an officer makes a lawful arrest for driving under the influence Sections 23152, 23152/23175, or 23153 of the State of California Vehicle Code, based upon the reasonable belief that the person arrested is intoxicated, the arrestee will be given the opportunity to voluntarily submit to a blood, breath, or urine test, but reasonable force may be used to obtain a sample of arrested persons' blood upon refusal to submit to tests (blood, breath or urine) as per Chemical Test Admonition (23157 V.C.)
2. The individual (driver) shall be admonished that refusal to voluntarily submit to, or complete a chemical test of his or her choice, will result in the *forcible withdrawal of a blood sample*, and that the mandatory license suspension pursuant to 13353 (Implied Consent) and 13353.2 (Administrative Per Se) of the California Vehicle Code will be invoked.
3. The force used to obtain the non-consensual blood sample must be limited to the amount necessary to obtain the sample and not disproportionate to the need.
4. The sample must be drawn by a medically qualified person, as per Section 23158 V.C., in a reasonable and medically approved manner.
5. All non-consensual blood samples shall be withdrawn by an emergency attending physician or charge nurse at San Francisco General Hospital, or by the jail nurse at the Hall of Justice.

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6. Blood samples shall *not* be withdrawn from persons who are hemophiliacs, or who have a heart condition and are using a prescribed anticoagulant as per Section 23157(b) V.C. A statement by the arrestee to that effect is sufficient for the officer to assume that the subject qualifies for exemption. It is recommended that officers make this determination early in the arrest procedure to assist with determining which chemical tests are applicable to the subject.
7. Except in cases of felonies, persons under 18 years of age will not be subject to non-consensual chemical testing.

II. ARREST PROCEDURES

- A. The individual (driver) must have been placed under arrest for any violation of Sections 23152, 23152/23175, or 23153 of the State of California Vehicle Code.
 1. The Individual (driver) arrested for violation of Section 23152, 23152/23175, or 23153 V.C. (felony or as a misdemeanor) shall be given the opportunity to submit to a chemical test of his or her choice (blood, breath or urine). This will be accomplished by the officer reading verbatim the formal admonishment (Chemical Test Admonition [23157 V.C.] located on page 3 of 4 of SFPD 284 (Driving Under the Influence).
 2. If the individual (driver) arrested is in need of medical treatment and is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which the person has been transported.
 3. If the individual (driver) has chosen a breath test and upon completion of that test, drug use is suspected, officers shall then read verbatim the Drug Admonition located on page 4 of 4 of SFPD 284 (Driving Under the Influence). The arrestee will then have a choice of a blood or urine test. The officer shall state in his or her report the facts upon which the test was requested [23157 (a)(1) V.C.]
 4. If the individual (driver) has refused to submit to chemical testing after: (1) being read the Chemical Test Admonition (23157 V.C.); (2) being asked to submit to a blood test in a felony arrest situation; or (3) upon being read the Drug Admonition after submitting to a breath test, a non-consensual blood sample will be drawn.

5. Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent, and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead and is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer (Section 23157 [a] [5] V.C.)

III. VOLUNTARY BLOOD SAMPLES

A. Procedures

1. If an individual (driver) is suspected of driving under the influence and voluntarily submits to a blood sampling, the arresting or assigned officers shall transport the arrestee to the basement holding cell of County Jail Number 1 at the Hall of Justice where the test will be administered.
2. If an individual (driver) is suspected of driving under the influence and has refused to submit to a chemical testing, and will not physically resist the non-consensual blood Withdrawal, the arrestee will be transported to the basement holding cell of the County Jail Number 1 at the Hall of Justice where the test will be administered.
 - a. The arresting officer will complete the Department of Public Health form, "Test Request for Blood Alcohol Determination Despite the Refusal of the Patient."
3. Officers en route to the Hall of Justice shall contact Dispatch to advise them that they will need the jail nurse to draw blood from the arrestee.
 - a. In the event of a mass arrest filling the basement holding area, Dispatch shall divert officers to San Francisco General Hospital (SFGH), Emergency Department.
 - b. In the event of a nursing staff shortage at the Hall of Justice, the head nurse or designee shall contact Dispatch and SFGH to notify them of the situation. Dispatch will advise the officers and divert the officers to San Francisco General Hospital (SFGH), Emergency Department.

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IV. NON-CONSENSUAL BLOOD SAMPLES (Uncooperative/Resister)

A. Procedures

1. If the individual (driver) is suspected of driving under the influence and has refused to submit to a chemical testing and is uncooperative, and/or combative, and/or resistive, he or she will be transported to the Emergency Department of San Francisco General Hospital and shall remain there for the duration of the test.
2. In all non-consensual blood withdrawals which involve an uncooperative, and/or resistive, and/or combative individual (driver), a sergeant or a commissioned officer shall respond to the Emergency Department of San Francisco General Hospital.
 - a. The sergeant or commissioned officer shall make a determination if additional officers will be needed to assist the hospital staff in restraining the individual (driver) during the withdrawal.
 - b. The test (blood withdrawal) will be administered under the direction of the senior physician on duty or his or her designee.
 - c. The sergeant or commissioned officer shall complete the Department of Public Health form, "Test Request for Blood Alcohol Determination Despite the Refusal of the Patient."
 - d. The sergeant or commissioned officer shall insure that no more force of restraint than necessary is used to accomplish the procedure (blood withdrawal).
 - e. The arresting officer shall articulate in his or her incident report that it became necessary to forcibly remove a blood sample from the subject. The procedure shall be described in the report (i.e., how the subject was secured, resistance, and the amount of force used).
3. In all cases where the individual (driver) changes his or her mind once the blood withdrawal is about to begin, the individual (driver) will be limited to those tests which are available at that testing site.
 - a. Basement Holding Cell of County Jail Number 1: If at the time of the blood withdrawal, the individual (driver) changes his or her mind, he or she can then choose and complete either a breath or urine test.

b. San Francisco General Hospital, Emergency Department: If at the time of the blood withdrawal, the individual (driver) changes his or her mind, he or she would be limited to urine test at this facility. The arresting officer must warn individuals being transferred to San Francisco General Hospital of this limitation.

V. CHAIN OF CUSTODY

A. Procedures

1. The appropriate testing kits shall be utilized. These kits will be located at the testing sites.
2. The blood samples obtained will be marked and sealed according to Department policy and then placed in the refrigerator in the appropriate box (alcohol or drugs) in the basement holding cell area of the Hall of Justice.

References

DGO 5.09, Absentia Bookings and Prisoner Security
DGO 9.02, Traffic Accidents