

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 15

September 9, 2021

SUBJECT: BLOOD TEST – REVISED; AND, ANALYZED EVIDENCE TO BE REFRIGERATED ENVELOPE, FORM 12.51.01 – REVISED

PURPOSE: This Order amends Department Manual Section 4/343.40, Blood Test, to reflect changes in the amount of blood to be drawn if possible, in order to ensure a sufficient amount of blood for screening and provide for an evidence split. The Analyzed Evidence To Be Refrigerated Envelope, Form 12.51.01, has been revised to reflect the change in collection of blood.

PROCEDURE:

- I. BLOOD TEST – REVISED.** Attached is the revised Department Manual Section 4/343.40, *Blood Test*, with the revisions indicated in italics.
- II. ANALYZED EVIDENCE TO BE REFRIGERATED ENVELOPE, FORM 12.51.01 – REVISED.** The following edits have been made to the Analyzed Evidence To Be Refrigerated, Form 12.51.01:
 - “SALIVA” has been deleted from the “SAMPLE OF” section;
 - “BLOOD GROUPING” has been deleted from “COLLECTED FOR” section;
 - “RESULT OF ANALYSIS (COMPLETED BY CHEMIST)” section has been deleted;
 - “Number of vial(s)” was added to the “AFFIDAVIT OF PERSON WITHDRAWING BLOOD” section; and,
 - The word “vial” has been changed to “vial(s)” throughout the document.

AMENDMENT: This Order amends Section 4/343.40 of the Department Manual.

FORM AVAILABILITY: The revised Analyzed Evidence To Be Refrigerated Envelope will be available in 90-120 days from Publishing Services, Department of General Services, by submitting a Supply Order Form, Form 15.11.00, to the Supply Section, Fiscal Group. All other versions of the form shall be marked “obsolete” and placed into the Area/division recycling bin. The use, completion, and distribution of this form remain unchanged.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.


MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION “D”

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343.40 BLOOD TEST.

Criteria for Requesting. A blood sample may be requested in the following situations:

- The arrestee indicates a willingness to submit to a blood test incidental to a Driving Under the Influence (DUI) arrest; or,
- The arrestee is in custody for a misdemeanor or felony and the level of intoxication would be an essential element in the alleged violation; or,
- The arrestee is unconscious or is so impaired and is unable to consent to a chemical test. When such a condition exists, the following steps shall be taken in order to determine if the arrestee is a hemophiliac or a heart patient possibly using anticoagulant medication:
 - Check for medical information on the arrestee's person such as a "Medic Alert" bracelet or necklace, or any other item indicative of the arrestee's medical background;
 - If a relative or a friend of the arrestee is present who can provide information about the arrestee's medical condition, record the name, the relationship to the arrestee, and the statements of that person in the arrest report; and,
 - Inform the attending physician of all information in the officer's possession which may have a bearing on the arrestee's physical condition.

The Supreme Court acknowledged at least two situations where an unavoidable delay could justify a **warrantless** blood draw as follows:

- **No magistrate available.** Improvements in communication technology do not guarantee that a magistrate judge will be available when an officer needs a warrant after making a late-night arrest; or,
- **Delays from the application process.** Exigent circumstances justifying a warrantless blood sample may arise in the regular course of law enforcement due to delays from the warrant application process (e.g., equipment malfunctions).

Note: If an exigency exists, both the supervisor and officer *shall* consult with their bureau traffic watch commander for concurrence and document the exigency in the Arrest Report, Form 05.02.00. The dissipation of alcohol in the bloodstream is not, in and of itself, a sufficient exigency to justify a warrantless blood draw (*Missouri v. McNeely*).

Search Warrant. Department employees *shall* utilize the following procedures to obtain a search warrant when it is necessary to obtain a blood sample from an arrestee for a misdemeanor or felony DUI who refuses to comply with the "implied consent" law.

Officer's Responsibilities. If after an officer has given the chemical consent admonition to the arrestee and he or she refuses to provide a blood sample (Vehicle Code Section 23612 – Implied Consent for Chemical Testing), the officer shall:

- Notify a supervisor;

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- After the supervisor witnesses the refusal, the officer *shall* complete the Chemical Test Admonition portion of the Driving Under The Influence Arrest Report Supplemental, Form 05.02.05;
- Record observations, and complete the Request of Medical Professional & Consent for Withdrawal of Blood, Form 04.35.00;
- Seek advice and approval from the concerned bureau/traffic watch commander prior to obtaining a search warrant. If the bureau traffic watch commander concurs, complete the Affidavit in Support of Search Warrant, Form 12.25.05;
- Contact *the* Department Operations Center (DOC), *Communications Division*, to be connected with the Los Angeles County District Attorney's 24-hour Command Post in order to be transferred to a judge;
- Once approval is obtained from the judge, officers shall transport the arrestee to a Custody Services Division jail dispensary or local hospital for a blood sample withdrawal;

Note: If the hospital refuses to withdraw blood, officers shall document the hospital's refusal in the Arrest Report.

- Ensure a supervisor is present to witness the blood withdrawal;
- Once the blood sample is collected, the blood sample vial(s) *shall* be booked as evidence in an Analyzed Evidence To Be Refrigerated Envelope, *Form 12.51.01*. Officers shall document in the Arrest Report, the name of the person obtaining the blood sample and the exact time the blood sample was obtained;

Note: Ensure the names and serial numbers of the advising traffic watch commander, the booking approval watch commander, and the supervisor present during the forced blood withdrawal are written on the Arrest Report.

- Return all documents to the traffic watch commander for approval; and,
- Ensure the Return to Search Warrant has been completed, signed and returned to a judge or magistrate within 10 *calendar* days from the date of issuance.

Exception: An arrestee whose **medical condition prohibits** a blood sample (e.g. hemophiliac, or usage of an anticoagulant medication) from being taken shall not be forced to submit to a blood withdrawal.

Requesting Withdrawal. Whenever a blood sample is to be obtained from an arrestee, the arresting officer shall direct a Request of Medical Professional & Consent for Withdrawal of Blood, Form 04.35.00, to any of the following hospital personnel:

- Physician;
- Registered nurse or licensed vocational nurse;
- Certified phlebotomy technician;
- Licensed clinical laboratory technologist; or,
- Licensed clinical *phlebotomist*.

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Requesting Forced Blood Sample Withdrawal. A forced blood sample may be obtained from an arrestee only when **all** of the following conditions have been met:

- The arrestee is in custody for a misdemeanor or felony traffic offense; **and**,
- The arrestee refuses to voluntarily submit to **any of the available chemical tests**; **and**,
- Prior approval from a traffic watch commander has been obtained; **and**,
- A supervisor is present at the medical facility (e.g., Custody Services Division, local hospital) to witness the withdrawal of blood from the arrestee; **and**,
- A search warrant has been obtained (if no exigency exists).

Exception: An arrestee whose medical condition prohibits a blood sample from being taken shall not be forced to submit to a blood test.

Physician or Hospital Employee Refusal. When a physician or hospital employee authorized by Vehicle Code Section 23158 VC refuses to withdraw a blood sample, the officers having custody of the arrestee shall request a supervisor to respond to their location. Upon arrival, the responding supervisor shall:

- Conduct an investigation into the circumstances of the arrest and the request to withdraw a blood sample to verify that Department policy was followed; **and**,
- Verify the refusal by the hospital employee to withdraw blood.

If the hospital employee *still* refuses to withdraw a blood sample, the supervisor shall then request the arrestee to submit to one of the other two remaining chemical tests. When the arrestee refuses the other tests, the supervisor shall advise the officers to complete the appropriate arrest report, including a notation regarding the absence of a chemical test.

Note: *The supervisor shall contact the Traffic Bureau Watch Commander for an on-call licensed phlebotomist when hospital staff is refusing to withdraw a blood sample. If a licensed phlebotomist is not available the arrestee shall be transported to a Custody Services Division jail dispensary to obtain the blood sample, if no other existing medical treatment is needed.*

After the arrestee is booked and all appropriate reports are completed, the concerned supervisor and officers shall each complete an Employee's Report, Form 15.07.00, recording all pertinent information regarding the refusal to withdraw blood. The completed Employee's Reports shall be forwarded through channels to *the* DOC.

Obtaining and Packaging. The withdrawal of all blood samples shall be witnessed by the requesting officer. *Officers shall provide two blood vials when drugs are suspected and one blood vile when alcohol is suspected to hospital/medical personnel.* Officers obtaining blood samples for alcohol or drug analysis shall, in addition to following the procedures outlined on the Analyzed Evidence To Be Refrigerated Envelope, Form 12.51.01, place the defendant's booking number above the officer's serial number when completing the Sealed Evidence Label. If there is no arrestee, the *Division of Records* (DR) number shall be placed in the space above the booking officer's serial number. When there is more than one suspect and a DR number is

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used, both the DR number and the last name of the suspect shall be used. *When a blood sample is taken, officers shall collect two vials, if possible, when drugs are suspected and one blood vial when alcohol is suspected. When two or more blood vials are obtained, the officer shall ensure all vials are collected from the same venipuncture. This is then documented under the evidence heading of the arrest report and on either the arrest face sheet (Form 05.01.02) under "COMBINED EVID. RPT." or on the Property Report (Form 10.01.00). If a second venipuncture is needed to obtain a second sample, the blood vial shall be listed as a separate item on either the arrest face sheet under "COMBINED EVID. RPT." or on the Property Report.*

When officers obtain whole blood samples from medical staff, employees shall:

- Invert the vial(s) several times to ensure that the preservative in the vial mixes with the blood;
- Complete the label on the vial(s) with the suspect's name, date of blood withdrawal, booking officer's initials, and the initials of the person conducting the blood withdrawal;
- Check the *appropriate boxes* on the Analyzed Evidence To Be Refrigerated Envelope, and complete all other applicable reports;
- Place the vial(s) in the Analyzed Evidence To Be Refrigerated *Envelope* and seal the envelope with a Sealed Evidence Label bearing the date the Sealed Evidence Label was placed on the envelope and DR number and the officer's payroll signature and serial number signed in ink;
- Affix the Biohazard Label, *or write in red "Biohazard"*, to the **upper left corner** of the front of the Analyzed Evidence To Be Refrigerated Envelope; *and,*
- *If a separate venipuncture occurs for a second sample, this shall be booked as a separate item and in a separate Analyzed Evidence To Be Refrigerated Envelope.*

Supervisor Approving. The supervisor approving the booking of the blood sample shall inspect the blood sample vial or container label to ensure that the required identifying information is included.

Booking. Whole blood samples shall be booked in the evidence courier refrigerated temporary storage locker most convenient for the booking employee. The evidence courier shall be responsible for transporting items to be analyzed to Forensic Science Division.

Traffic Watch Commander's Responsibilities. Upon being advised of a request for a forced blood withdrawal, the watch commander shall:

- Determine if the criteria for forced blood withdrawal is met;
- Ensure the investigating officer received advice from the concerned traffic watch commander;
- Ensure a supervisor is present during the blood withdrawal procedure;

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Note: The supervisor who is present at the scene of a forced blood withdrawal where a use of force becomes necessary, shall ensure that the use of force investigation is conducted by a non-involved supervisor.

- Review the Affidavit in Support of Search Warrant, placing his or her initials and serial number on the bottom right-hand corner confirming he or she reviewed the documents; and,
- For **misdemeanor** arrests, attach the original Affidavit in Support of Search Warrant to a copy of the Arrest Report, Form 05.02.00, and Traffic Collision Report, CHP 555 OPI 065, if applicable and forward to the Records Unit for processing.

Records Unit's Responsibilities. The Records Unit shall:

- Assign a DR number to the Arrest Report, Affidavit in Support of Search Warrant, and any other related document; and,
- Ensure a copy of the Arrest Report, Affidavit in Support of Search Warrant, and any other related documents are hand carried to the warrant review officer or his or her designee in a timely manner.

Warrant Review Officer's Responsibilities. The warrant review officer shall conduct a final quality assurance review for completeness and accuracy of all warrant documentation and shall ensure that:

- The Return to Search Warrant has been completed by the arresting officer and signed by a judge or magistrate within 10 *calendar* days from the date of issuance;
- The Warrant Tracking Log, Form 08.17.05, entry is complete and accurate;
- The Property Report and the Receipt for Property Taken Into Custody forms match; and,
- Any errors, inaccuracies, or omissions within the Affidavit in Support of Search Warrant are promptly corrected prior to proper storage.

Detective Officer In Charge Responsibilities. The Area detective officer in charge shall determine that:

- The Affidavit in Support of Search Warrant is entered into the Warrant Tracking Log;
- The Return to Search Warrant is completed and filed with the court within 10 *calendar* days after being signed by the judge or magistrate; and,
- Any necessary follow-up investigation is conducted in a timely manner.

LOS ANGELES POLICE DEPARTMENT

ANALYZED EVIDENCE**TO BE REFRIGERATED**

THIS IS PKG. NO.:	TOTAL PKGS.:	JUVENILE INVOLVED <input type="checkbox"/>	DR NO.:	
DATE:		TIME BKD. INTO PROP. DIV.:	BOOKING NO.:	RD OF ARREST:
BOOKED TO:			DOB:	DL NO.:
LOCATION BOOKED:			CHARGE:	
BOOKED BY:		SERIAL NO.:	OFCR. DIV. CLETS CODE:	
DETAIL WORKING: (CHECK ONE)	<input type="checkbox"/> PATROL <input type="checkbox"/> TRAF ENFORCEMENT	<input type="checkbox"/> COLLISION INV <input type="checkbox"/> DETECTIVES	<input type="checkbox"/> IBARS (TE & AI) <input type="checkbox"/> ADMIN/OTHER	<input type="checkbox"/> DUI WATCH <input type="checkbox"/> NON-LAPD
REASON FOR TEST: (CHECK ONE)	<input type="checkbox"/> DUI	<input type="checkbox"/> DRUGS (NOT DUI RELATED)	<input type="checkbox"/> OTHER CRIME	<input type="checkbox"/> ADMINISTRATIVE
SAMPLE OF: (CHECK ONE)	<input type="checkbox"/> WHOLE BLOOD <input type="checkbox"/> LIQUID URINE			
COLLECTED FOR: (CHECK ONE)	<input type="checkbox"/> ALCOHOL ANALYSIS <input type="checkbox"/> DRUG ANALYSIS			

BREATH ALCOHOL TEST GIVEN: YES ☐ NO ☐ RESULTS _____**OFFICER REQUESTING WITHDRAWAL OF BLOOD SHALL:**

1. Enter date and subject's full name on label of vial(s) from this envelope and give vial(s) to person withdrawing blood.
2. Instruct person withdrawing blood to:
 - a) Use no alcohol or other volatile organic disinfectant on subject's arm.
 - b) Completely fill vial(s) in your presence; then,
 - c) Initial the vial(s) label, and
 - d) Complete the below affidavit.
3. When the vial(s) is returned to you, enter your initials on the label and shake the vial(s) vigorously.
4. When the affidavit is completed, sign below it as a witnessing officer and seal the vial(s) in this envelope using completed Sealed Evidence Labels.

AFFIDAVIT OF PERSON WITHDRAWING BLOOD:

I, _____ collected a blood sample from the		
(NAME)	(PROFESSIONAL DESIGNATION)	
_____ arm of the above named subject on _____ at _____		
(RIGHT/LEFT)	(DATE)	(TIME BLOOD DRAWN)
by venipuncture, using a sterile, dry hypodermic needle or syringe and using only _____ as a disinfectant. I deposited said sample into an evacuated, clean, dry vial(s), labeled as containing sodium fluoride (preservative) and potassium oxalate (anticoagulant), which vial(s) I received from Officer _____. After initialing a label on the vial(s) bearing the subject's full name and the date, I returned the vial(s) containing the blood sample to the above officer.		
I declare under penalty of perjury that the foregoing is true and that this declaration was executed on:		
_____ at _____, California.		
(DATE)	(CITY)	
Number of vial(s): _____	SIGNATURE: _____	
HOSPITAL OR CLINIC :	ADDRESS:	SIGNATURE OF WITNESSING OFCR/SERIAL NO.: