

# WITHDRAWAL OF BLOOD SAMPLES FOR EVIDENTIARY PURPOSES

Directive: 6.36

## A. Authority

There are generally four circumstances under which police officers may need to withdraw blood for evidentiary purposes. The rationale for each circumstance is as follows:

1. D.U.I. (other than fatal or near-fatal accidents)

2. D.U.I. (fatal or near-fatal accidents)

In cases where the suspected drunk driver is charged with a more serious crime than D.U.I. (i.e. assault second degree or criminally negligent homicide), the Implied Consent Law guidelines will not be followed, but rather a blood sample will be taken under the provisions of the Schmerber v. California decision. The Traffic Supervisor conducting the investigation will make this determination.

3. Blood Group Testing

Here, blood will be withdrawn with the subject's consent or with a court order. Investigators needing a blood sample from the suspect, ( [REDACTED] ) for DNA testing are to transport the suspect to the [REDACTED]

At this location a representative from the lab will respond to withdraw the blood sample. Once the sample is taken from the suspect, it will be given to the investigator who is to follow the standard evidence procedure for such an item. One of the following documents, which authorizes the Technologist/Phlebotomist to obtain blood, must be produced:

- a. Consent Search
- b. Superior Court Order
- c. Search Warrant
- d. A.O. Forms in cases of search incident to arrest.

**NOTE:** If a suspect is injured or in need of any type of treatment, the investigators are to transport the suspect to the [REDACTED] as required by departmental policy. Medical Center Staff have advised that if the suspect(s) are in need of treatment, whether they are admitted or treated as out-patients, the Medical Center will withdraw blood from them. This will alleviate the need to take the prisoner to the [REDACTED] following treatment at the Medical Center.

#### 4. Blood-Alcohol Content Testing; Non-Motor Vehicle Crimes

##### B. Withdrawal Procedure

1. Blood Alcohol Evidence Collection Kits will be stored in the Intoxilyzer 5000 counter in the Intoxilyzer Room. Each kit should contain:
  - a. Instruction sheet
  - b. WPD Chemical Test Report
  - c. 2" x 2" gauze pad
  - d. A "povidone-iodine" prep pad
  - e. 5/8" x 4" glass test tube with rubber cap
  - f. A plastic syringe body
  - g. Syringe needle
  - h. Dark red evidence seal
  - i. Blaze orange evidence seal
  - j. Bubble packaging bag
  - k. 6" x 9" white collection kit envelope

Any officer needing a kit will obtain it from the Intoxilyzer Room.

The officer retrieving the kit will be responsible for signing the numerical log, completing all required information. The officer signing out a particular kit will be responsible for it until he turns custody over to another officer.

Each kit envelope contains a kit number, (i.e. A-      ), in the upper right corner of the white envelope face. Kits will be placed in the Intoxilyzer Room in a numerical order beginning with the lowest number. Any officer obtaining a kit will ensure that they obtain the lowest numerical kit available.

Each kit envelope is sealed by means of a 1/2" wide piece of "tamper resistant" tape placed along the flap edge. This integrity seal can be opened by grasping either side of the envelope flap and lifting up, thus using the flap edge to cut the integrity seal without damaging the envelope.

Should any officer find the seal on a particular kit to be broken prior to use, that kit will not be used and the officer will submit a Departmental Information report detailing the circumstances of the broken seal. A copy of said report will be placed in the Traffic Division summons bin, House Sergeant's Office, and will be directed to the D.U.I. technical supervisor.

2. The subject will be taken to the [REDACTED] and the medical authorities informed of the request for a blood sample. The officer will open the kit and remove the test tube, **maintaining visual contact with the tube at all times.** If the kit's seal is broken prior to usage then the kit will not be used, and the officer will submit a Departmental Information Report explaining the circumstances relative to the damaged kit.
3. Precautions will be taken when drawing blood to be tested for alcohol content. Officers should ensure that the doctor/technician uses the collection kit syringe which they have maintained in their custody, and that the subject's arm is sterilized with the povidone-iodine prep pad from the collection kit.
4. The officer will witness the blood drawn from the suspect, and have the doctor/technician place a minimum of 15cc directly into the test tube. If drug testing is to be done, it will be necessary to have (2) kits obtained such that a second test tube also containing 15cc can be obtained and packaged per the instructions page (blue in color).
5. The Blood Alcohol Evidence Collection Kit, if not immediately delivered to the Medical Examiner's Office, will be placed in the refrigerator located in the [REDACTED], and logged in the Chemical Test Report as such by the transporting officer.

**C. Delivery of Sample to the Medical Examiner's Office  
(D.U.I. cases)**

1. The officer will be responsible for removing the sample from the refrigerator and hand-delivering it to the Medical Examiner's Office as soon as possible. The Medical Examiner's Office is available Monday through Friday, from [REDACTED], and from [REDACTED]. The blood sample will be delivered directly to the blood-testing chemist who is assigned to do the cases of the Wilmington Police Department.
2. When the blood sample is removed from the refrigerator, the officer will complete the necessary information on the Chemical Test Report (see sample). The officer will retain the first (2) copies (white, yellow) of the Chemical Test Report.

Medical Examiner personnel will complete one of their evidence receipts and give a copy to the officer who will place the incident case number in the upper right

- hand corner. This receipt will be submitted along with the officer's supplement report to the Support Services Division.
3. The first (white) copy of the Chemical Test Report will be attached to a supplement report which the officer will complete detailing the removal and transport of the blood sample.
  4. The second (yellow) copy of the Chemical Test Report would be the officer's copy for his personal reference, from which he could later testify in court.

When the sample analysis is completed, a member of the Medical Examiner's Office will complete a laboratory report form detailing the results of the analysis. A copy of the laboratory report, with an original signature of the person performing the analysis, will be sent to the arresting officer. The arresting officer will place the incident case number in the upper right corner of this form and submit same, along with a supplement report, to the Support Services Division detailing his receipt of the analysis results.

**D. Delivery of Sample to the Federal Bureau of Investigation (criminal code)**

1. The detective assigned to the case will be responsible for hand-delivering the blood sample and a letter of transmittal to the Federal Bureau of Investigation lab as soon as possible. The detective will obtain a receipt from the receiving agent, and this receipt will be attached to a supplemental report describing the delivery.
2. Upon completing the analysis, the Federal Bureau of Investigation will forward a laboratory report to the Department of Police, via U.S. Mail. This laboratory report will then be maintained in the Investigative Case File.

**E. Responsibility of Kits**

The Traffic Division will be responsible for the blood sample kits. If there are any discrepancies in this procedure, or if there are any problems, the Technical Supervisor of the Traffic Division, shall be contacted immediately by a Departmental Information Report addressed to the technical supervisor.