



DEPARTMENTAL  
GENERAL  
ORDER

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Index as:

Administrative Per Se Suspension/  
Revocation Order  
Alcohol Tests  
Blood Tests  
Breath Tests  
Chemical Tests  
Chemical Testing of Hospitalized  
Offenders  
Drunk or Drug Arrests  
Order of Suspension  
Tests, Chemical  
Urine Tests

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**ADMINISTRATIVE PER SE PROGRAM AND CHEMICAL TESTS  
FOR DRUG AND ALCOHOL RELATED ARRESTS**

The purpose of this order is to set forth policy and procedures for the collection of blood, urine, and breath samples from drunk and drugged suspects and revocation of drivers' licenses of motorists arrested for driving under the influence. This order also references other related Departmental publications.

**I. TEST REQUIREMENTS**

A. Driving Under the Influence of Alcohol and/or Drugs (DUI)

1. Pursuant to Vehicle Code Section 23157(a)(1), any person who drives a motor vehicle is considered to have given his/her consent to a chemical test to determine his/her alcohol and/or drug level.

2. The arresting officer shall retain the license of any driver 21 years of age or older, whose blood alcohol concentration (BAC) level is .08 or greater; who is suspected of having a BAC level of .08 or greater; or who refuses to take a chemical test. The seized license shall be included in the case envelope in accordance with the procedures in Part VI, D, 5 of this order. BAC levels for drivers under 21 years of age and for commercial vehicle drivers are .05 and .04 respectively. Vehicle Code Section 13353 sets forth the duration and terms of suspension. (Suspension procedures are described in Part VI of this order.)
3. Pursuant to Vehicle Code Section 23137, the officer shall request that a person under 21 years of age and suspected of driving under the influence submit to a Preliminary Alcohol Screening (PAS) test if one is immediately available to determine the presence of alcohol. If a PAS test is not immediately available, the officer may request the person to submit to chemical testing of his/her blood or breath [Section 23137(a)].
4. A subject suspected of driving under the influence shall be observed for a minimum of fifteen (15) minutes prior to administering a PAS test. The subject shall be observed for this period to prevent him/her from burping, urinating or consuming or placing anything in their mouth (e.g. gum, mints, or breath spray) which might invalidate the PAS test.
5. If a person under 21 years of age completes the test and the results are .01 percent or greater (BAC), or if a person under 21 years of age refuses or fails to complete the test, the officer shall retain the driver's license, and issue a temporary driver license (DMV form 367M), but shall not make a physical arrest. The seized license shall be included in the case envelope in accordance with the procedures in Part VI, D, 5 of this order.

B. Under the Influence of Drug and/or Alcohol

A person arrested for being under the influence of any controlled substance (Penal Code Section 647(f) drugs, and Health and Safety Code Section 11550) shall be offered a chemical test to determine the presence or absence of a narcotic in his/her body. Such test shall be provided at the City Jail.

Choice of Tests

1. A person arrested for driving under the influence of alcohol has the choice of whether the test shall be of his/her blood or breath. A person arrested for driving under the influence of drugs has the choice of whether the test shall be of his/her blood or urine. The arresting officer shall advise the person of his/her available choices. If the person arrested requires immediate medical treatment, that person shall first be transported to a medical facility and the tests offered shall be only those tests which are available at that facility.
2. A person arrested for Penal Code Section 647(f) drugs or Health and Safety Code Section 11550 shall be offered a urine test at the Jail. A blood test will be offered only upon the specific request of the suspect. The arresting officer shall complete a Narcotic Influence Report (TF-680) for such arrests.
3. All samples for chemical tests shall be collected within three hours of the suspect's arrest (23152 CVC).
  - a. The blood test shall be offered only once at the scene of the arrest. Once the person arrested has been transported to the City Jail, he/she will only be offered a urine or breath test.
  - b. If the suspect chooses a breath test at the scene of the arrest, he/she should also be offered the opportunity to receive an additional blood or urine test for evidentiary retention purposes.

## II. BLOOD TESTS

### A. Location of Test Administration

Blood samples normally are taken at Highland Hospital. The arresting officer shall, whenever possible, take the offender to the hospital and act as the blood witness. If the arresting officer must remain at the scene, he/she shall request transportation and blood witness assistance through the Communications Division.

### B. Testing Procedures

#### 1. General Information

- a. Persons who suffer from hemophilia or who use an anti-coagulant under a physician's care are exempt from blood testing.
- b. Vehicle Code Section 23158(d) releases the clinician from civil and criminal liability as a result of the administration of a blood test, in a reasonable manner, according to acceptable medical practices and without violence, when such a test is requested in writing by a peace officer.

#### 2. Empty sample vials and labels are available in designated storage areas at Highland Hospital. Upon arrival at the hospital, the arresting or witnessing officer, hereinafter referred to as the blood test witness, shall:

- a. Complete the necessary hospital form and note the request under "BLOOD TEST SAMPLE" of the Sobriety Report (TF-964).
- b. Obtain two (2) sample vials and label them.
- c. Remain with the suspect while the technician or physician draws the blood sample.

3. After the blood sample has been drawn, the blood test witness shall:
  - a. Complete the evidence envelope and blood vial seal information.
  - b. If the blood sample was obtained for preservation purposes, write on the evidence envelope: "Retention Only."
  - c. Seal the vials.
  - d. Place the vials in the evidence envelope.
  - e. Seal the evidence envelope.
  
4. Whenever the blood test witness is not the arresting officer, he/she shall document the following information on the Consolidated Arrest Report (536-252) or Additional Information Report (536-937):
  - a. Type of test completed and whether the test was conducted only for a retainable sample.
  - b. The date and time the test was completed.
  - c. The body location from which the blood sample was taken.  
Example: left forearm, right forearm.
  - d. The name of the doctor or medical technician who administered the blood test.
  - e. Any observations that would indicate that the subject was under the influence of alcohol and/or drugs.
  - f. Exact incriminating words or statements, if any, volunteered by the subject.
  - g. The name and serial number of the transporting officer who delivers the blood sample to the testing laboratory.

5. When collection of the sample is completed, the suspect shall be transported to the Jail or Youth Services Division (YSD). Hospital physician clearance is required before a juvenile can be transported to YSD for booking.
6. If the suspect refuses at some point to continue with the blood test, the test witness shall offer the remaining tests available at the hospital if those tests can reasonably be performed within three hours of the arrest.
7. The test witness shall deliver the sealed evidence envelope containing the blood vials to the Institute of Forensic Sciences (2945 Webster Street, Oakland) immediately after the arrested suspect is transported to the Jail. If more than one person takes custody of the blood vials, the chain of possession must be documented on the arrest report.
8. Evidence envelopes shall be placed in the mail slot on the door located on the left/south side of 2945 Webster Street.
9. Arresting officers shall complete:
  - a. Sobriety Report
  - b. Officer's Statement
    - 1) DMV form DS 367, age 21 and older (printed in black ink)
    - 2) DMV form DS 367M (Spanish), age 21 and older (printed in red ink) or,
    - 3) DMV form DS 367M, under 21 (printed in green ink),
  - c. Any other forms required for DUI arrests. Instructions for forms completion are contained in Report Writing Manual L-1, SOBRIETY REPORT. Administrative Per Se Suspension/ Revocation procedures are set forth in Part VI of this order.

10. Completed reports shall be placed in a Collision Report Envelope (336-599) and delivered to the Jail or YSD. As applicable, collision investigation reports and Additional Information Reports are placed in a **second** Collision Report Envelope and deposited in the basement (Traffic) report receptacle at the end of the officer's shift.

### **III. URINE TESTS**

#### **A. Transportation Procedures**

The collection of urine samples (original samples or samples collected for "retention only") normally is conducted at the Jail. If the suspect needs medical treatment, the transporting officer shall transport him/her directly to the hospital where he/she shall be offered only those tests which are available at that hospital.

#### **B. Testing Procedures in the Hospital**

If the suspect chooses to take a urine test, the officer shall obtain a urine test kit from the storage area and proceed to obtain the sample(s) according to the following procedures:

1. If the physician permits, give the suspect a paper cup and instruct him/her to void his/her bladder as soon as the offender arrives at the hospital. Ensure as much privacy as possible during the collection process. The suspect must be watched at all times to ensure the sample is not tampered with. Any attempts to tamper with or possible contamination of the samples should be noted on the envelope and the Arrest or Additional Information Report being completed.

2. There are two types of urine sample bottles:
  - a. Bottle with red label "DRUGS NO PRESERVATIVES" for drug tests.
  - b. Bottle with a blue label, containing preservatives for alcohol tests.

**If testing for alcohol and/or drugs** - take the first sample in the bottle with the red label and the second sample in the blue labeled bottle.

**If testing for drugs only** - take one sample in bottle with red label.

3. Pour the sample into the appropriate test bottle and cap the bottle tightly to prevent spillage. A minimum of half a bottle of urine is needed.
4. Complete an identification label and attach it to the first bottle.
5. Collect the second sample twenty (20) minutes after the first one if conducting an alcohol or alcohol and/or drug test. Repeat procedures described under paragraph III, C, 1-4.
6. Complete the envelope with the required information and write the charge followed by the type of test needed. For 23152(a) VC arrest, specify test type as "drug screen."
7. Place both bottles in the envelope and seal the envelope by moistening the gummed flap. Do not staple or tape.
8. Document the following information on an Arrest or Additional Information Report and Officer's Statement (DMV form DS 367 or DS 367M):
  - a. Type of test samples collected.
  - b. Date and time the test samples were taken.
  - c. The name and serial number of the member who collected the urine samples.



- d. Any observations that would indicate that the subject was under the influence of alcohol and/or drugs.
  - e. Exact incriminating words or statements, if any, volunteered by the subject.
9. Transport the sample envelopes to the Institute of Forensic Sciences immediately after delivering the suspect into the Jail or YSD.
  10. Follow reporting and form depositing instructions described under Part II, B, 9-10, of this order.

#### IV. HOSPITALIZED OFFENDERS

Suspects who need emergency medical treatment shall be transported to Highland Hospital except in life threatening situations when, in the judgment of emergency medical personnel, a closer hospital is required.

- A. When a suspect is injured seriously enough to be admitted to the hospital, he/she shall be placed under arrest prior to requesting that a blood or urine sample be taken. This action is necessary to obtain the sample legally.
- B. If the suspect is unconscious, the transporting officer shall ensure that a blood sample is taken if the physician approves. If a blood sample cannot be obtained, ask the physician to obtain a urine sample.
- C. The transporting officer shall obtain the suspect's **left and right thumb prints** on the Consolidated Arrest Report whenever **a citation is not to be issued**. The Arrest Report and any accompanying paperwork shall be delivered directly to the Jail.
- D. A hospitalized suspect with valid identification may be left unguarded pursuant to Penal Code Section 4011.7, if arrested for a misdemeanor offense, or Penal Code Section 4011.9 if arrested for a felony offense. The transporting officer shall:
  1. Obtain the suspect's fingerprints.
  2. Notify the proper hospital staff.

3. Note the guard status on the Arrest Report, which shall be delivered to the Jail for booking.
- E. If a person arrested for a misdemeanor DUI violation is admitted to a hospital, he/she may be cited and released from police custody.
1. The suspect must possess valid identification in order to be eligible for a citation release.
  2. The transporting officer shall summarize the circumstances surrounding the citation release on an Arrest or Additional Information Report.
  3. The officer shall attempt to ensure the authenticity of the suspect's identification through signature and physical description. The type of identification presented shall be documented on an Arrest or Additional Information Report.
  4. A warrant check shall be completed prior to issuing a citation.
  5. If a juvenile is arrested for DUI violation, he/she must remain under police guard and the Youth Services Division shall be notified immediately. The Youth Services Division may, with the concurrence of the Juvenile Probation Department, advise the guard officer to issue a Juvenile Notice to Appear.

## **V. BREATH TESTS**

Breath tests are conducted at the Jail by Jail Division personnel, or officers, who have been certified in the operation of breath testing instruments.

If the need for medical treatment precludes immediate transportation to the Jail, the injured suspect shall be offered only a blood or urine test, which shall be conducted at the hospital.

**VI. ADMINISTRATIVE PER SE SUSPENSION/REVOCATION ORDER  
AND TEMPORARY DRIVER LICENSE - PROCEDURES**

- A. An Administrative Per Se Suspension/Revocation Order form (DMV Form DS 367 or 367M) shall be completed whenever a motorist (adult or licensed juvenile) is arrested for driving under the influence in violation of Vehicle Code Sections 23152 or 23153. The form serves as a temporary license if the motorist has a valid California driving privilege at the time of the arrest. If the driving privilege is suspended or revoked for any other reason, the temporary license will become invalid.
- B. The "Temporary License" portion of form DS 367 or 367M, shall be completed and is valid only whenever the suspect has a valid California driving privilege and:
1. The suspect (over 21) selected a chemical test and there is probable cause to believe the results will indicate a BAC level of .08 or more (DS 367).
  2. The suspect (under 21) selected a chemical test or completed a Preliminary Alcohol Screening (PAS) test and there is probable cause to believe the results will indicate a BAC level of .01 or more (DS 367M).
  3. The suspect (commercial vehicle driver) selected a chemical test and there is reasonable cause to believe the results will indicate a BAC level of .04 or more.
  4. The suspect refused or was unable to complete a chemical test.
- C. The Officer's Statement (DS 367 or 367M) shall be completed (along with the Sobriety Report) without issuing the temporary license if:
1. The suspect has an out-of-state license. An out-of-state license shall not be seized.
  2. The suspect has an invalid California license. The invalid license shall be seized and placed in a Collision Report Envelope.
  3. The suspect has no license.
- D. Arresting Officer's Responsibilities

1. Document the apparent status of the suspect's license in the narrative section of the Consolidated Arrest Report.
2. Follow transportation procedures described under Parts II to IV of this order.
3. Complete the suspension form (DS 367 or 367M) and give the last (pink) copy to the suspect.
4. Complete the Officer's Statement **and** the Sobriety Report.
5. Place the first and second copies of the suspension/revocation order form, the seized license, Officer's Statement, Sobriety Report, Consolidated Arrest Report, and Additional Information and accident report(s) (if applicable) in a Collision Report Envelope.
6. If the arresting officer cannot deliver the last copy of the suspension form to the suspect personally (e.g. suspect is unconscious and/or hospitalized), all copies shall be left in the Collision Report Envelope and the information noted on the Sobriety Report.

E. Jail Division Responsibilities

When a suspect is transported to the Jail Division, the Watch Sergeant shall be responsible for reviewing all DUI documentation, including the suspension form.

1. If an arrestee is unable or refuses to complete the selected test or wishes to select another test, the Jail Division Sergeant shall complete an Additional Information Report to document all actions taken.
2. If the suspect completes a breath test, and the results indicate a BAC level of less than .08, the Jail Division Sergeant shall:
  - a. Return the license if it is valid.
  - b. Retain and place an invalid license in the Collision Report Envelope.

- c. Destroy all copies of the suspension form.
  - d. Complete an Additional Information Report to document all actions taken.
- F. Traffic Investigations Unit (TIU) Responsibilities

The TIU follow-up officer shall:

1. Send the last (pink) copy of the suspension form (DS 367 or 367M) to the suspect if it was not delivered in the field.
2. Forward the first copy of the suspension form, the seized license, and copies of the Sobriety Report, Officer's Statement (DS 367 or 367M), Additional Information Report, Consolidated Arrest Report, and Accident report, if applicable, to the Department of Motor Vehicles (DMV).
3. Retain the second copy of the suspension form in the unit's case files.
4. Send a copy of the test results received from the Institute of forensic Sciences to DMV. If the blood or urine test results are less than .08 blood alcohol level, DMV will return the license to the suspect.

## **VII. YOUTH SERVICES DIVISION PROCEDURES**

- A. The Youth Services Division (YSD) shall arrange for juvenile suspects to have urine and/or breath samples taken at the Jail. Juvenile suspects brought into the Jail shall constantly be supervised and prohibited from having physical or verbal contact with any adult prisoner.
- B. If notified that a juvenile arrested for a DUI offense is to be admitted to a hospital, the assigned member shall obtain the details, ascertain whether a Juvenile Notice to Appear should be issued, and advise the hospital guard to issue one, if necessary.
- C. If a juvenile DUI arrestee is unable or unwilling to complete the selected chemical test, the YSD receiving officer shall follow Departmental procedures for disposing of the juvenile's driver license.

**VIII. REFERENCE**

- A. Instructions for completing the Sobriety Report and listing of forms required for DUI arrests are contained in Report Writing Manual Insert L-1, SOBRIETY REPORT.
- B. Instructions for completing the Narcotics Influence Report are contained in Report Writing Manual Insert L-3.
- C. Departmental General Order O-2, TRANSPORTATION OF PRISONERS AND PERSONS IN CUSTODY (Rev. 23 Mar 00). contains legal authority and procedures for removal of officers from guard duty.

By order of

Richard L. Word  
Chief of Police