

Atascadero Police Department  
Standard Operating Procedure  
Force Blood/DUI Warrant  
Section # 19

<b>Date Issued</b> October 1, 2014	<b>Date Effective</b> October 1, 2014	<b>Date Last Revised</b> November 1, 2014	<b>Due for Review</b> November 1, 2015	<b>Revision No. 1</b>	<b>Page 1 of 2</b>
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Statement of Purpose:

This SOP will provide a guideline for the procedures surrounding a Force Blood Draw on a DUI arrest.

Lexipol Policy:

Lexipol Policy 514.6, 514.6.1 and 514.6.2

Penal Code:

PC 1524(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

Vehicle Code:

23612. (a) (1) (A) A person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood or breath test, or both, is unavailable, then paragraph (2) of subdivision (d) applies.

(B) A person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood for the purpose of determining the drug content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood test is unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

Procedure:

Upon an officer establishing probable cause to affect an arrest for VC 23140, 23152, or 23153 the officer shall inform the arrestee of their requirement to provide a chemical test. If the arrestee refuses to willfully provide a chemical test the officer shall inform the arrestee of the requirement to provide a sample and read to them the DUI admonishment form. Once the refusal has been confirmed officers shall write a warrant to obtain the blood sample from the arrestee. The officer shall follow department procedures for obtaining the warrant and obtain a magistrates approval. Upon receiving the approved warrant officers shall obtain the arrestees blood in a medically approved manner. Per Lexipol Policy 514.6.1 if the suspect becomes physically resistive or informs the officer they will physically resist the officer shall contact a supervisor to respond. If the supervisor determines, as a result of the arrestees behavior, that in order to obtain the blood, using the warrant provided, too much physical

force would be needed that may “shock the conscience of the people” then the situation shall be fully documented in the officers report and forwarded to the District Attorney’s Office for filing charges with the appropriate enhancement sections. If it is determined that the arrestee has willfully resisted or delay the officer in the commission of his/her duty an additional charge of PC 148(a) (1) may be added.

Obtaining evidence provides the best possible way to obtain a conviction in a court of law; therefore it is always the recommended practice. Obtaining a warrant in these instances would be the recommended practice. If extenuating circumstances arise and obtaining a warrant is not feasible then the watch commander shall be notified and the officer shall explain the circumstances in the report.

Samples:

The directions for obtaining a DUI Force Blood warrant can be found on the T-drive under “FORCE BLOOD WARRANT”.

This Standard Operating Procedure was approved and distributed for training by:



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Joe Allen  
Commander



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Jerel Haley  
Chief of Police

Attachments: None.