

DEPARTMENT OF HEALTH SERVICES
COUNTY OF LOS ANGELES



SUBJECT: DRAWING OF BLOOD ON NON-CONSENTING PERSONS
UNDER ARREST FOR DRIVING UNDER THE INFLUENCE
OF ALCOHOL AND/OR DRUGS

POLICY NO. 377

PURPOSE:: To establish a policy that will address those circumstances under which emergency room personnel may draw blood on DUI arrestees brought to the emergency room by law enforcement when a patient explicitly refuses to give consent to perform the test.

POLICY:: The primary mission of the Department is to provide medical care to those who are ill or injured. Only within the context of that care will the Department participate in the collection of blood of patients who may be non-consenting DUI arrestees.

The United States Supreme Court has upheld the constitutionality of subjecting a person to an involuntary blood test under certain circumstances and found that it does not violate the due process clause, the person's privilege against self-incrimination or the right to counsel. Neither written nor oral consent from the patient is required.

The policy does not apply to other diagnostic tests or other therapy. Such requests must be accompanied by the patient's consent or a court order.

CONDITIONS:: DHS will make every reasonable effort to draw blood for evidence purposes on behalf of arresting agencies on those DUI arrestees brought into a county hospital emergency room injured and in need of medical care. The following will outline under what conditions the Department will comply with the request of law enforcement. Failure for any of these conditions to be met may result in refusal by medical personnel to perform said procedure:

- Law enforcement must submit a written request for the procedure;
- patient is being provided necessary medical care for any injury or illness;
- blood test is incident to a lawful arrest of the driver for DUI, or the officer has probable cause to believe the patient was driving under the influence of alcohol and/or drugs;
- procedure should not interfere with the delivery of emergency medical care to the patient;
- drawing of blood shall be performed in a reasonable manner, according to medically acceptable practices, without coercion by the person administering the test; and

EXCEPTIONS:: - that the patient with hemophilia or who is using anticoagulant therapy for heart conditions is exempt by statute from the requirement to submit to a blood test for DUI.

PERSONNEL IMMUNITY:: - California provides statutory immunity to hospital personnel who take such a blood sample without the patient's consent per Vehicle Code subsection 23158(d).

ROLE OF LAW ENFORCEMENT:: Law enforcement shall:

- provide security support, (exception: LAC/USC Jail Ward), when requested:
- provide written request that the blood sample be drawn.
- written requests which must be witnessed, should include:
 - statement by law enforcement that probable cause exists to believe the person was driving under the influence, or is under arrest for DUI;
 - officer's name;
 - officer's badge number;
 - law enforcement agency;
 - patient's name; and
 - date, time and place.

ATTACHMENT1: [DHS Policy #377 Attachments](#)

EFFECTIVE DATE: Dec 01, 1990

SUPERCEDES:

APPROVED: Signature on File
