




ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

Chapter: 5 Procedures	Effective Date: June 14, 2018	Amends/Supersedes: March 1, 2005	By Authority of the Chief of Police  Charles A. Penn
Accreditation Standard(s): ADM.16.02, OPR.02.01, OPR.02.03			

540.04 Blood Samples in Fatal Accidents

I. Policy

Driving under the influence of alcohol and drugs is a major contributor to traffic fatalities. The successful prosecution of drivers who were driving under the influence and involved in a motor vehicle accident involving fatalities or which is likely to result in a fatality requires the collection of blood samples within established guidelines.

II. Procedure

A. Initial Response - Upon arrival at the accident scene:

1. Determine the need for medical assistance and summon appropriate rescue personnel if they are not present.
2. Immediately identify all drivers and determine which driver is apparently at fault. It is critical to establish who the drivers of the vehicles were at the time of the accident.
3. Detain driver at fault and ensure that no alcoholic beverages or other substances, other than administered by rescue or medical personnel, are ingested. If available, one officer shall be assigned to keep direct custody of the subject.
4. At the earliest practical moment, search the vehicles for alcoholic beverages, containers, or evidence of other substances within the parameters of 4th Amendment.
5. Obtain statements from witnesses and other drivers probably not at fault pertaining to time of accident and arrival time of police personnel.
6. Get names, addresses, telephone numbers, and email addresses of all witnesses.
7. The driver probably not at fault should submit to appropriate tests to assure that drugs or other substances did not impair performance prior to the accident. A minimal level of testing is the administration of a preliminary breath test.
8. If the driver apparently at fault is not seriously injured, a statement should be taken as soon as possible that obtains the following information:
 - a. That he/she was driving/operating the vehicle responsible for the accident at the time of the accident.
 - b. That there was no mechanical failure.

- c. The time the accident happened.
- d. Whether alcoholic beverages, drugs, and/or other substances had been ingested.
- e. Where the driver had been drinking, how much did he/she have to drink, what did he/she have to drink, what time did he/she have last drink, who he/she was with when drinking or doing drugs.
- f. That no alcohol or drugs have been consumed since the accident.
- g. When, where, and with whom he/she had been prior to the accident.

B. Collecting Blood Samples

1. An officer should attempt to get a suspect's consent to draw blood.

a. Suspect Consents

- 1) Have them sign a consent form, if practical under the circumstances.
- 2) Have hospital medical personnel use a Virginia Department of Forensic Science (DFS) Blood Draw kit in accordance with the instructions that come with the kit. When a DFS kit is not available, officers should instruct medical personnel to use blood collection vials containing an anti-coagulant.
- 3) Two vials of blood should be obtained from each suspect and if possible, a non-alcohol based swab should be used.

b. Suspect Does Not Consent

- 1) Advise the suspect that blood will be drawn. Proceed under the exigent circumstances exception to the warrant requirement. Be aware, however, that a warrantless search of this kind (drawing blood) will only be upheld when:
 - a) The process is a reasonable one and is performed in a reasonable manner by trained medical personnel in a safe medical environment.
 - b) There is in advance a clear indication that in fact the evidence sought will be found. It is important to note all observations about the suspect that indicate intoxication (such as odor of alcohol, statements about drinking, slurred speech, bloodshot eyes, etc.).
 - c) There were, in fact, exigent circumstances. (e.g., the exigency exists because of the need to have the blood drawn before the percentage of alcohol in the blood diminishes).

2. Search Warrant

A search warrant shall be requested immediately from a magistrate or judge when a suspect is unconscious or the hospital refuses to draw blood without one. The preparation of the warrant should begin as soon as

possible in the event a warrant is needed. The disposition of blood samples drawn pursuant to a search warrant is recorded on the warrant.

- C. Chain of Custody - Establishing and following the chain of custody of a blood sample is crucial and requires that the following information must be properly documented.
 - 1. The type of swab used to clean the subjects arm, the type of needle used (sterile), and whether the test was a whole blood or serum test.
 - 2. The date, time and location where the sample was drawn.
 - 3. The name, address, and phone number of the person drawing the sample.
- D. Storage - All blood samples will be documented in LERMS Property Quick Entry. The blood vials must be sealed, labeled, and stored in a refrigerated locker in the Property Management Unit, Room 33 for safekeeping.
- E. Laboratory Analysis - The primary officer conducting the investigation shall complete a Request for Laboratory Analysis Form prior to submitting blood samples into property.
 - 1. They form shall indicate if the blood was drawn under Consent or a Search Warrant.
 - 2. The form shall indicate if the blood shall be tested for alcohol and/or drug contents.
 - 3. All of the Commonwealth's blood samples in fatal/serious injury cases will be delivered, as soon as possible, to Division of Forensic Science, Northern Laboratory, in Manassas by the officer assigned to complete the investigation.
- F. Use of Blood Samples Drawn for Medical Purposes

If the driver apparently at fault has been injured and is treated at the scene by a paramedic unit, determine whether the paramedics have drawn a blood sample incidental to medical treatment. Police personnel should not request or initiate the taking of blood by paramedics at the scene. If a blood sample has been drawn, record the name of the paramedic taking the sample and monitor but do not interfere with the blood sample. Blood samples drawn and analyzed incidental to medical treatment are admissible as evidence if an adequate chain of custody can be established. If a paramedic drew blood, an officer should follow the chain of custody policy and record the name, addresses, and phone numbers of all individuals who handle the blood.

If the driver apparently at fault is transported to the hospital for medical treatment, determine whether emergency room personnel have drawn a blood sample incidental to medical treatment. If a sample has been drawn, follow the chain of custody procedures described above. The officer assigned to observe the driver at fault accompanies this driver to the hospital in the medic unit. The officer should make note of any medications given and/or any medical procedures administered to the driver.

Blood samples drawn for medical purposes by hospital personnel or paramedics are admissible as other evidence provided the Commonwealth can establish an appropriate chain of custody. Police personnel do not interfere with such blood samples. The date, time and location at which the sample was drawn, the name of the person drawing the sample, the disposition of the sample (to whom and where delivered for analysis), the name of the person analyzing the sample, and the results of the analysis are recorded.

The provision of appropriate medical assistance is the primary function of paramedic and hospital personnel. Under no circumstance shall the drawing of blood samples for chemical analysis of the alcoholic or drug content of the blood interfere with patient care.

G. Analysis of Blood Evidence

An expert witness, a pathologist, a pharmacologist, or a toxicologist must interpret blood test results. This witness renders an expert opinion on the level of impairment or intoxication at the time of the accident based on the results of the analysis. Consequently, the investigation of a fatal accident may involve both the statutory procedures related to obtaining blood or breath samples in DUI cases and procedures related to the collection of evidence in a manslaughter case.

H. Fatal or Potentially Fatal Accidents

Obtaining blood samples from a motorist involved in a fatal accident or serious injury accident, which is likely to result in a fatality, differ from those used in routine DUI cases. In the prosecution of an involuntary manslaughter charge ([§ 18.2-36.1](#)), the Commonwealth is not entitled to rely on the presumptions of [§18.2-269](#) of the Code of Virginia to prove that the driver at fault was under the influence.

In a fatal accident case, blood samples should be obtained from any suspect driver. The Commonwealth does not proceed under the implied consent statute. Implied consent should not be read to the driver, and blood samples are not drawn under the implied consent statute.

I. Medical Transport - Arlington County Fire Department rescue units will not be used to transport an individual to a hospital solely for the purpose of obtaining a blood sample. Transportation of individuals for such purposes must be provided by other means.

If a suspected at-fault driver is transported outside the Commonwealth for medical treatment, an officer shall not request the hospital draw additional blood vials for criminal analysis purposes. If blood is drawn for medical purposes, officers shall not interfere with medical treatment, but shall attempt to obtain the name of the medical personnel who drew the blood and the location that the blood will be sent to within the hospital. The officer shall document this information in their case report.