

Department of the Army, DoD

§ 634.42

the actual extraction may be accomplished by other qualified medical personnel.

(iii) The authorizing official may consider his or her own observations of the individual in determining probable cause.

(c) *Role of medical personnel.* Authorization for the nonconsensual extraction of blood samples for evidentiary purposes by qualified medical personnel is independent of, and not limited by, provisions defining medical care, such as the provision for nonconsensual medical care pursuant to AR 600-20, section IV.

(1) Extraction of blood will be accomplished by qualified medical personnel. (See Military Rules of Evidence 312(g).)

(i) In performing this duty, medical personnel are expected to use only that amount of force that is reasonable and necessary to administer the extraction.

(ii) Any force necessary to overcome an individual's resistance to the extraction normally will be provided by law enforcement personnel or by personnel acting under orders from the member's unit commander.

(iii) Life endangering force will not be used in an attempt to effect nonconsensual extractions.

(iv) All law enforcement and medical personnel will keep in mind the possibility that the individual may require medical attention for possible disease or injury.

(2) Nonconsensual extractions of blood will be done in a manner that will not interfere with or delay proper medical attention. Medical personnel will determine the priority to be given involuntary blood extractions when other medical treatment is required.

§ 634.39 Testing at the request of the apprehended person.

(a) A person subject to tests under § 634.8 may request that an additional test be done privately. The person may choose a doctor, qualified technician, chemist, registered nurse, or other qualified person to do the test. The person must pay the cost of the test. The test must be a chemical test approved by the State or host nation in an overseas command. All tests will be completed as soon as possible, with any delay being noted on the results.

(b) If the person requests this test, the apprehending police official may assist the suspect in making arrangements. If the police official fails to or cannot obtain the additional test, the results of the tests done at the direction of a law enforcement official are not invalid and may still be used to support actions under separate Service regulations, UCMJ, and the U.S. Magistrate Court.

§ 634.40 Preparation of sworn statement.

For an example of a property prepared sworn statement on an intoxicated driver, see Army Form 2823.

SECTION IV—OFF-INSTALLATION TRAFFIC ACTIVITIES

§ 634.41 General.

In areas not under military control, civil authorities enforce traffic laws. Law enforcement authorities will establish a system to exchange information with civil authorities. Off-installation traffic activities in overseas areas are governed by formal agreements with the host nation government. Procedures should be established to process reports received from civil authorities on serious traffic violations, accidents, and intoxicated driving incidents involving persons subject to this regulation.

§ 634.42 Compliance with State laws.

(a) Installation commanders will inform service members and DOD civilian employees to comply with State and local traffic laws when operating military motor vehicles.

(b) Commanders will coordinate with the proper civil law enforcement agency before moving Government vehicles that exceed legal limits or regulations or that may subject highway users to unusual hazards. (See AR-162/OPNAVINST 4600.11D/AFR 75-24/MCO 4643.5C/DLAR 4580.8.)

(c) Installation commanders will maintain liaison with civil enforcement agencies and encourage the following:

(1) Release of a Government vehicle operator to military authorities unless one of the conditions below exists.

(i) The offense warrants detention.