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(i) A search authorization by an appropriate commander or military magistrate obtained pursuant to MRE 315, is required prior to such nonconsensual extraction.

(ii) A search authorization is not required under such circumstances when there is a clear indication that evidence of intoxication will be found and there is reason to believe that the delay necessary to obtain a search authorization would result in the loss or destruction of the evidence sought.

(iii) Because warrantless searches are subject to close scrutiny by the courts, obtaining an authorization is highly preferable. Warrantless searches generally should be conducted only after coordination with the servicing staff judge advocate or legal officer, and attempts to obtain authorization from an appropriate official prove unsuccessful due to the unavailability of a commander or military magistrate.

(2) If authorization from the military magistrate or commander proves unsuccessful due to the unavailability of such officials, the commander of a medical facility is empowered by MRE 315, to authorize such extraction from an individual located in the facility at the time the authorization is sought.

(i) Before authorizing the involuntary extraction, the commander of the medical facility should, if circumstances permit, coordinate with the servicing staff judge advocate or legal officer.

(ii) The medical facility commander authorizing the extraction under MRE 315 need not be on duty as the attending physician at the facility where the extraction is to be performed and 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. Extraction of blood will be accomplished by qualified medical personnel. (See MRE 312(g)).

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

(2) 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.

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

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

(d) 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.

(e) Use of Army medical treatment facilities and personnel for blood alcohol testing has no relevance to whether or not the suspect is eligible for military medical treatment. The medical effort in such instances is in support of a valid military mission (law enforcement), not related to providing medical treatment to an individual.

§ 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 suspect is responsible for making all arrangements. If the suspect fails to or cannot obtain any additional test, the results of the tests that were 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 General off installation traffic activities.

In areas not under military control, civil authorities enforce traffic laws. Law enforcement authorities will establish a system to exchange information with civil authorities. Army and Air Force installation law enforcement authorities will establish a system to exchange information with civil authorities to enhance the chain of command's visibility of a soldier's and airman's off post traffic violations. These agreements will provide for the assessment of traffic points based on reports from state licensing authorities involving Army military personnel. The provisions of subpart E of this part and the VRS automated system provide for the collection of off post traffic incident reports and data. As provided in AR 190–45, civilian law enforcement agencies are considered routine users of Army law enforcement data and will be granted access to data when available from Army law enforcement systems of records. 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 part. The exchange of information is limited to Army and Air Force military personnel. Provost marshals will not collect and use data concerning civilian employees, family members, and contract personnel except as allowed by state and Federal laws.

§ 634.41 Compliance with State laws.

(a) Installation commanders will inform service members, contractors and DOD civilian employees to comply with State and local traffic laws when operating government 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 55–162/OPNAVINST 4600.11D/AFJI 24–216/MCO 4643.5C).

(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 following conditions exists.

(i) The offense warrants detention.

(ii) The person's condition is such that further operation of a motor vehicle could result in injury to the person or others.

(2) Prompt notice to military authorities when military personnel or drivers of Government motor vehicles have—

(i) Committed serious violations of civil traffic laws.

(ii) Been involved in traffic accidents.

(3) Prompt notice of actions by a State or host nation to suspend, revoke, or restrict the State or host nation driver's license (vehicle operation privilege) of persons who—

(i) Operate Government motor vehicles.

(ii) Regularly operate a POV on the installation. (See also § 634.16).

§ 634.42 Civil-military cooperative programs.

(a) *State-Armed Forces Traffic Workshop Program.* This program is an organized effort to coordinate military and civil traffic safety activities throughout a State or area. Installation commanders will cooperate with State and local officials in this program and provide proper support and participation.

(b) *Community-Installation Traffic Workshop Program.* Installation commanders should establish a local workshop program to coordinate the installation traffic efforts with those of local communities. Sound and practical traffic planning depends on a balanced program of traffic enforcement, engineering, and education. Civilian and military legal and law enforcement officers, traffic engineers, safety officials, and public affairs officers should take part.