

TAKING OF BLOOD SAMPLES

Medical practitioners are often requested by police officials to take blood samples from persons who were allegedly driving under the influence of alcohol. Doctors have to be certain that the person brought in by the police official is in fact arrested, or charged with, or convicted of a crime, before engaging in any medical procedure or examination requested by the police official. Prior to any examination or intervention, the medical practitioner should receive from the police a written request for the examination of the arrested person (Form SAP 308(a)). Since the accused is under arrest, his/ her consent is not necessary and the police official/ arresting officer may use a reasonable amount of force in order to assist the doctor in taking the blood sample. However, as with any other medical examination, the patient's welfare is paramount and it is accordingly advisable that the patient's consent be obtained, as far as possible. This consent could be tacit and/or implied. If no arrest had been made, the doctor is under no obligation to do such examination.

The arrested person is also entitled, and should be informed as such, to request his/her own doctor to be present at the examination and/or to examine him. However, in exercising this right, the examination should not be delayed beyond a two-hour limit while awaiting the arrival of the medical practitioner. Likewise, an arrested person is entitled to consult his/her legal practitioner but this should not be delayed beyond the two-hour limit.

Finally, it is important for the doctor to ascertain and record in writing that the impairment of the arrested person is due to alcohol consumption. If, in the professional opinion and experience of the doctor, the reason for the patient's impairment is due to other factors, for example, drugs, hypoglycaemia, head injury or mental illness, it should be recorded as such.