

**BY ORDER OF THE COMMANDER
8TH FIGHTER WING**

8TH FIGHTER WING INSTRUCTION 44-102

10 MAY 2012



Medical

**NON-MEDICAL BLOOD
ALCOHOL TESTING (BAT) (PA)**

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This instruction implements AFPD 44-1, *Medical Operations*. This instruction applies to all units assigned to the 8th Fighter Wing, Kunsan Air Base, Korea or those using the 8th Medical Group, as well as those medical personnel collecting or processing non-medical Blood Alcohol Tests (BAT). BAT results may be used as evidence in military and civilian judicial or administrative proceedings. If at any time a legal question occurs, the individual requesting the BAT should contact the 8th Fighter Wing, Staff Judge Advocate (8 FW/JA). Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route the AF Forms 847 from the field through the appropriate functional chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afirms/afirms/afirms/rims.cfm>. The use of the name or mark of any specific manufacturer, commercial product, commodity, or service in this publication does not imply endorsement by the Air Force.

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SUMMARY OF CHANGES

This instruction is updated and the 8 FW Form 23, *Blood Alcohol Testing Record*, has been revised.

1. General Policy: The act of withdrawing blood samples to determine level of intoxication is termed Blood Alcohol Testing (BAT). Since the results of examinations of biological specimens as well as the specimens themselves may be used as evidence in military and civilian judicial or administrative proceedings, the Air Force Medical Service must cooperate in collecting and presenting such evidence (See AFI 44-102, paragraph 16.3.1.). The 8 MDG personnel will cooperate in the collection and testing of blood in accordance with AFI 44-102 and with the provisions of this instruction. In every situation, the medical needs of the individual must receive primary attention. A BAT should not be drawn if the health of the individual will be endangered. If this is believed to be the case, the matter should be referred to a credentialed medical provider for determination. Military medical personnel may not take biological specimens solely at the request of and for use of civilian law enforcement authorities (See AFI 44-102, paragraph 16.3.2.3.6.).

2. Responsibilities:

2.1. All Commanders must provide an updated Personal Health Information appointment letter to the 8 MDG TRICARE Office designating individuals authorized to pick up legal BAT results from TRICARE.

2.2. 8th Security Forces Squadron (8 SFS) when it is appropriate will consult and coordinate with the 8 Fighter Wing, Staff Judge Advocate (8 FW/JA) prior to escorting individuals (active duty military, DOD civilians, and dependents) for blood alcohol testing. For those individuals who do not consent to the blood alcohol testing, the 8 FW/JA must be contacted at 782-4283 during duty hours. After normal duty hours personnel shall contact the 8 FW Command Post (8 FW/CP) at 782-6000 to contact the on-call judge advocate. Do not extract blood without having contacted the 8 FW/JA. A signed Consent for Search and Seizure/AF IMT 1364 form or an AF Form 1176, *Authority to Search and Seize*, must be completed before blood samples can be collected.

2.3. The Laboratory Technician responds to BAT requests and can be reached via on-call cell phone by calling Ambulance services during non-duty hours or by telephone at 782-4090/4507 from 0800-1700, Monday through Friday. The Laboratory Technician will complete Section III, of the 8 FW Form 23, *Blood Alcohol Testing Record*.

2.4. The Laboratory Technician ensures that BAT samples and 8 FW Form 23, *Blood Alcohol Testing Record*, are secured in the lock-box until the specimen is sent to the 51 MDG Laboratory via the courier.

3. Withdrawal of Blood from Military Patients:

3.1. The following procedures will be used only on active duty military patients. (**NOTE:** Unlike the urinalysis program, command directed blood testing is NOT authorized.) Although a commander/first sergeant may ask a member to submit to voluntary legal BAT (See paragraph 3.1.1. below), if the member refuses the only recourse is to request search authorization approval. (See paragraph 3.1.2. below).

3.1.1. Voluntary: When requested for a judicial or administrative purpose, and if the member is competent, law enforcement personnel, commander or first sergeant will usually ask the member to consent. It is not a requirement to advise military subjects of their rights under Article 31 of the Uniform Code of Military Justice (UCMJ), before requesting consent to withdrawal of blood for legal BATs. However, the act of requesting the member to consent to a blood alcohol test is a function of Law Enforcement or Command and should be done only by these personnel (who will fill out an AF IMT 1364, *Consent for Search and Seizure*). If the subject freely and voluntarily gives his/her consent, and if there is no reason to believe that withdrawal of blood will endanger the subject's health, then blood may be withdrawn by a laboratory technician in the laboratory.

3.1.2. Involuntary:

3.1.2.1. Search authorization:

3.1.2.1.1. If medical personnel are presented with a search authorization for an active duty person, blood may be obtained from the military member without the member's consent. The installation commander may issue such an authorization or the military magistrate based on a finding of probable cause.

3.1.2.1.2. If written authorization, AF Form 1176, *Authority to Search and Seize*, is not immediately available; an oral search authorization must be received by 8 FW/JA. Written authorization must be accomplished and added to other documentation within the next duty day.

3.1.3. No consent and No Search Authorization: Medical personnel may take blood without the donor's consent and without a search warrant authorization when there is clear indication that evidence of a crime will be found and authorities have reason to believe that the delay would result in the destruction of evidence (See AFI 44-102, paragraph 16.3.2.3.2.). In such an instance, prior to the extraction of blood, contact should be made with the Chief of Military Justice during duty hours at 782-4283. After normal duty hours personnel shall contact the 8 FW Command Post to contact on-call Judge Advocate General (JAG). (See paragraph 6, *infra*.)

3.1.4. Procedure for Involuntary Blood Extraction for Active Duty Members:

3.1.4.1. Extraction of the blood will occur in the Ambulance Services or the laboratory by the lab tech on duty/call.

3.1.4.2. The 8 SFS is responsible for restraining the subject. The 8 SFS personnel must have adequate 8 SFS personnel present to restrain the member, if available owing unit or medical personnel not directly involved in caring for the subject can be utilized to assist SF personnel in restraining the subject. Upon request and when necessary, Ambulance Service personnel will provide a gurney with appropriate restraining straps, if necessary to restrain the subject.

3.1.4.3. If necessary, 8 SFS personnel can assist in maintaining adequate exposure of the members arm to obtain a blood sample and to insure the safety of both the individual and medical staff.

3.1.4.4. If there are insufficient 8 SFS or owning unit personnel present to subdue the subject or the 8 SFS personnel cannot adequately restrain the subject, medical facility personnel will not attempt to extract blood.

3.1.4.5. Involuntary extraction of blood will be performed in a reasonable fashion by the laboratory technician.

4. Withdrawal of Blood from Non-Military Patients: A BAT for use in judicial or administrative purposes generally will not be performed on non-military personnel unless law enforcement personnel have obtained the patient's consent. However, blood may be extracted for medical purposes, as described in paragraph 5.

5. Blood Extraction for Medical Purposes: If a provider determines that a blood alcohol test is necessary for medical treatment, a medical BAT may be performed. No search authorization or consent obtained by law enforcement personnel is required. Proceed according to established medical protocols.

6. Contact Chief of Military Justice or On-Call JAG If Problems or Questions Arise: If problems or questions arise during duty hours, medical or 8 SFS personnel shall contact the Chief of Military Justice, 8 FW/JA, at 782-4283. If problems or questions arise during non-duty hours, medical or 8 SFS personnel shall contact the 8th Fighter Wing Command Post (8 FW/CP) at 782-6000 to contact the on-call JAG.

7. Procedures:

7.1. 8 SFS personnel escort all detained individuals (Unit Commander or designee, First Sergeant can escort their personnel in cases where the person is not detained by 8 SFS) for non-medical BAT determination to the Ambulance Services at Building 405 to provide blood samples for BAT. It is essential to draw the BAT sample as soon as feasible to minimize metabolic reduction of blood alcohol content. The individual being tested and the escorting official will report to Ambulance Services and inform personnel on shift on duty or the lab tech on call during non-duty hours to come to Ambulance Services to obtain the sample.

7.2. An 8 FW Form 23, *Blood Alcohol Testing Record*, must be utilized for all legal BATs.

7.3. The 8 FW Form 23, *Blood Alcohol Testing Record*, initiates a chain of custody document. There should not be any changes on this form. However, if a change must be made cross it through with one line and initial and date the correction. If the error is too large, re-accomplish the form completely.

7.4. The escorting personnel will follow the instructions of the laboratory personnel in accomplishing the 8 FW Form 23, *Blood Alcohol Testing Record*.

7.5. The 8th Medical Group Laboratory will collect two (2) Sodium Fluoride (NaFl) (Grey top) tubes, (approximately 14 mLs of blood). One sample will be placed in a secured lock-box along with the 8 FW Form 23, *Blood Alcohol Testing Record*, to be shipped to the 51st Medical Group Laboratory Osan, AB, Korea for whole blood BAT testing via courier. The second specimen will be stored in the 8 MDG Laboratory's secured lock box maintained in the laboratory for additional testing, if necessary.

7.6. If at any time the 51 MDG Laboratory cannot run the specimen the 8 MDG Laboratory will ship the specimen to the Armed Forces Medical Examiner's System (AFMES) located in Rockville, MD for testing.

8. Reports and Release of Results:

8.1. Test values are reported in Part V of the 8 FW Form 23, *Blood Alcohol Testing Record*. A reportable value is defined as any specimen containing a concentration greater than the test detection threshold (0.01gm%). Legal intoxication on Kunsan AB is a blood alcohol content of 0.10gm% (100mg/dL).

8.2. The completed 8 FW Form 23, *Blood Alcohol Testing Record*, will be distributed as follows: A copy of the original will be hand-carried to the TRICARE office and given to the TRICARE technician on duty; a second copy will be on file by the Kunsan Laboratory and kept for two years; while the original will be maintained by the 51 MDG Laboratory. Results received from AFMES will be distributed in the same manner.

8.3. The Privacy Act governs the release of a legal blood alcohol test result. The 8th Medical Group's TRICARE office may provide a copy of results during normal duty hours to 8 SFS, 8 FW/JA, the Air Force Office of Special Investigations, or to the member's Commander/First Sergeant (or commander designee). A commander designee must be named in writing within a letter on file in the medical records release office. The member will normally obtain result from his/her Commander or First Sergeant. For all other requests for release, consult with the Chief of Military Justice. No results will ever be released over the telephone.

8.4. TRICARE personnel will contact the 8 SFS Desk Sergeant at 782-4944 and the member's commander when the test result is available to arrange for the result to be picked up. Under no circumstances will results be given over the telephone.

8.5. The member's Commander, First Sergeant, Air Force Office of Special Investigations (AFOSI) agents, 8 FW/JA, and the appropriate 8 SFS representative are authorized recipients of BAT results. Only TRICARE personnel are authorized to release BAT results.

8.6. Interpretation of BAT results from 8th or 51st Medical Group are reported as milligrams per deciliter (mg/dL) of alcohol present in the individual's blood, is as follows:

<u>Result in mg/dL (gm%)</u>	<u>Interpretation</u>
Less than 13 (0.01)	Negative, below detectable limits
14 – 49 (0.01 – 0.04)	Possibly under influence of alcohol
50-99 (0.05 – 0.09)	Under influence of alcohol
100 or greater (0.10) or greater	Legally intoxicated

SCOTT L. PLEUS, Colonel, USAF
Commander

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 44-1, *Medical Operations*, 1 September 1999

AFI 44-102, *Medical Care Management*, 20 January 2012

AFI 51-201, *Administration of Military Justice*, 21 December 2007

The Military Commander and the Law (2002)

AFI 31-201, *Security Police Standards and Procedure*, 30 March 2009

AFI 44-120, *Military Drug Demand Reduction Program*, 3 January 2011

AFI 44-121, *Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program*, 11 April 2011

USFK Regulation 190-50: *Law Enforcement Procedures in Korea*, 10 August 2009

8 MDGI 44-101, *Blood Alcohol Testing (BAT) For Judicial and Administrative Purposes*, 5 October 2011

8 MDGI 44-113, *Plan for Provision of Care*, 15 February 2012

Prescribed Forms

8 FW Form 23, *Blood Alcohol Testing Record*

Adopted Forms

AF Form 847, Recommendation for Change of Publication

AF Form 1176, Authority to Search and Seize

AF IMT 1364, Consent for Search and Seizure

Abbreviations and Acronyms

AFI—Air Force Instruction

AFMES—Armed Forces Medical Examiner's System

AFOSI—Air Force Office of Special Investigations

BAT—Blood Alcohol Test

DOD—Department of Defense

JAG—Judge Advocate General

OPR—Office of Primary Responsibility

UCMJ—Uniform Code of Military Justice