



K32 Refusing the Refusal: A Review of Texas' Mandatory Blood Draw Initiative

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The goal of this presentation is to reveal the abuse patterns of individuals who refuse to provide a specimen in a DWI investigation. Attendees will understand the levels of drugs and alcohol that are present in the refusal demographic as compared to those who provide a specimen.

This presentation will impact the forensic community by providing toxicologists, investigators, and prosecutors with the impact that the mandatory blood draw initiative has had across the State of Texas from public awareness to numbers of arrests to prosecution of intoxicated drivers. It will also provide assurance that a mandatory draw program does not improperly target innocent drivers.

It is thought that those who refuse to provide a specimen have experience with driving under the influence of drugs and/or alcohol and their results will be elevated when compared to non-refusals.

The State of Texas is among the leaders in DWI fatalities. By statute, all drivers in Texas have consented to providing a specimen of breath or blood; however, roughly half of all DWI investigations result in the driver refusing to provide a specimen. This has been viewed by the investigating agencies as paramount to hiding evidence in a criminal investigation. Although the Mandatory Blood Draw process has been questioned and challenged by defense attorneys across the State, the process has been upheld in the Court of Appeals in the State of Texas. This has paved the way for a statewide initiative to obtain a search warrant and take a blood specimen when the driver will not voluntarily provide one.

This initiative began with a small agency in North Texas and has spread throughout the State. Most agencies will target certain "peak" times such as holidays or certain weekends to carry out the Mandatory Blood Draw event. During this time media is involved to raise awareness of the event. However, there are agencies that have gone to a full time mandatory system. The process requires the coordination of law enforcement agencies, court administrators, judges, and nurses. Each must be on call throughout the period in which the mandatory event is under way so the warrant can be issued and carried out in a timely manner.

The data suggests that the alcohol concentration is higher on average for those that refuse and the prevalence of drugs is approximately the same. This correlates well with the thought that the refusal drivers have experience with driving under the influence. Statewide alcohol and drug results will be presented comparing historical data from voluntary submissions with these new mandatory specimen results. Arrest statistics, prosecution statistics, and DWI in non-mandatory situations will also be discussed.

DWI, Mandatory, Blood