

# Blood test to be city DUI gauge by 2010

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An increasing number of police departments are trying to make it more difficult for drunken drivers to fight their DUIs.

More cities are using blood samples vs. breath samples to build DUI cases, which proponents say is the most accurate way to test a person's blood-alcohol concentration.

The stakes for drunken drivers could never be higher, especially since a new DUI law went into effect last month requiring first-time offenders to use a device that requires them to provide a breath sample to start their car.

By 2010, the Phoenix Police Department will accept only blood evidence.

Phoenix joins Mesa, Scottsdale, Chandler and Peoria police departments in the switch, and Tempe police could follow; officials there are re-evaluating whether breath evidence is best.

Blood and breath tests determine a person's blood-alcohol concentration. Either is a crucial component of cases against suspected drunken drivers.

Most agencies still rely on breath tests for their immediacy, but because the Breathalyzer is a machine, defendants can challenge whether it was properly maintained and calibrated and whether an officer operated it correctly.

Nearly 1,400 DUI cases in Phoenix and Glendale were dismissed in 2000 after judges upheld challenges to the machines.

## **Accuracy at issue**

Agencies that test only blood say it's better to go to the source.

"Blood is highly accurate," said Jeff Thompson, a Mesa DUI squad sergeant. "When blood is taken, we take two samples. One sample is provided to the defense. They can have it independently tested. With breath, there's no going back."

Mesa has been using blood for nearly a decade. Phoenix wasn't ready to process large quantities of blood until recently, according to Sgt. Chris Moore, a vehicular crimes unit supervisor.

The transition to blood testing earlier this year coincided with the opening of Phoenix police's expanded crime lab.

About 40 percent of the department has transitioned from breath to blood since March. So far, South Mountain, which covers the southern portion of the city, and Desert Horizon, which covers the northeast, are the only precincts to routinely use blood draws.

Squaw Peak will be next, and other Phoenix precincts will follow.

Before the initiative, only 5 percent of the city's yearly estimated 8,000 DUI cases involved blood tests, Moore said.

"The only thing that changes is the manner in which we collect the evidence," Moore said. "The DUI stop, the probable cause, witnessing bad behavior, all those things don't change."

Blood evidence is collected at the precinct or inside a DUI van by an officer who is a trained phlebotomist.

About 60 officers have gone through phlebotomist training, a weeklong class in which officers practice blood draws up to 100 times at various hospitals.

"The hope is that (blood) evidence won't be challenged as much because of its reliability and more people will plead guilty," Moore said.

"More people will be convicted because of the reliability of the blood vs. an instrument."

## **Method not 'bulletproof'**

Defense attorneys have said the stiff consequences imposed in the new DUI law makes it more imperative for them to challenge their cases. The law requires first-time offenders to equip their vehicles with ignition-interlock devices for at least a year.

The device typically costs \$100 for installation and about \$80 a month to maintain.

"Super extreme" offenders, or those with a 0.20 percent blood-alcohol content or higher, will face a minimum of 45 days in jail.

Craig Penrod, a Tempe DUI attorney, said blood evidence is more difficult to refute, but it's not bulletproof.

"The breath test has been a nightmare for the courts in recent years and a lot of that will go away, but it's still a machine that does analysis in a similar way to how the breath test does it," he said. "It's not really what the average guy envisions."

Lab technicians do not test the blood, but the alcohol molecules in the air space above it. The accuracy there could come under fire, Penrod said, or when officers draw blood from suspects.

"It's a completely different process at a hospital," he said. "Now, we have police officers with minimal experience doing blood draws. Sometimes I think they just get it wrong."