

Irvine Police Sued Over Use of Blood Tests

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Irvine police officers routinely coerce drunk-driving suspects into taking a blood test to measure alcohol content and disregard their right to take a urine or breath test instead, according to a class-action lawsuit filed against the city and police officials.

The lawsuit, which was filed in Orange County Superior Court last week, listed David Scott Nelson and Mauricio Baez Fernandez as the only plaintiffs, but lawyers for the two men said that as many as 1,000 people eventually may be included as plaintiffs.

At issue are alleged violations of the state's implied consent law,

which gives a drunk-driving suspect a choice of tests. In addition, the lawsuit alleges that the department's policy violates the 4th Amendment, which protects a person from unreasonable search and seizure.

Laguna Beach attorney Barry T. Simons, one of the attorneys filing the suit, said police believe that drunk-driving convictions are more likely with blood tests than with breath or urine tests.

"Our research showed that 75% of the drivers arrested [for drunk driving] in Irvine in 1994 provided blood samples. The state average was 30%," Simons said.

Irvine City Manager Paul O. Brady Jr. said, "We don't believe the officers have done anything in vio-

lation of what the law provides."

Police Chief Charles S. Brobeck and Officers Troy Gielesh and Shirley Sumner are also named as defendants in the lawsuit. Brobeck was out of town and unavailable for comment. Officers Gielesh and Sumner did not respond to requests for comment. Inquiries about the department's policy on administering sobriety tests were referred to Lt. Mike White, head of the traffic division, who did not return phone calls.

Plaintiffs Nelson and Fernandez were arrested in Nov. 23, 1995, and Jan. 1 respectively. They are asking for a minimum of \$25,000 in actual damages, along with an undetermined amount in punitive damages.