

Sunday, July 6, 2008

Four cops, t'ai chi, and heebie-jeebies revisited.

Â T'ai chi is about being as still as a mountain and powerful as a rushing river. It is a peaceful counterpoint to cops packing heat. Â On a national trial lawyer's listserv, I asked members what they would have done if faced with the same situation as mine -- about which I blogged on June 27 -- when a cop unlawfully Terry-detained me when an airport denizen allegedly got the heebie-jeebies seeing me practice t'ai chi at National Airport. (An irony of the stop is that t'ai chi is all about achieving relaxation, balance and harmony, which are the very things one would expect cops and the rest of society to value.) Â One listserv member replied: "What would have been the problem with stepping out of the bathroom and saying 'oh yeah I was just doing some sweet tai chi moves because I hadnâ€™t had a chance to work on that yet today'?" Â Then cop no. 2 says 'thatâ€™s what I thought.' Â No problem.' Â And everyone goes on their way." Â Accepting his invitation to detail what would have been the problem by wagging my tongue at the outset, I replied: Â Thanks. Answering your question: My problem with telling him is that I love the Fifth Amendment too much, believe I was unlawfully Terry-stopped, am wary of cops twisting suspectsâ€™ words to their detriment, too much dislike cops hassling people like this and in worse ways, bury my head in my hands everytime a client got screwed by not asserting his or her Fifth/Fourth Amendment rights, and probably would have given no explanation had I not been balancing my obligation to pickup two visitors coming directly from Japan and had I not intuited that cop number two (playing good cop) would likely help me when it was not so clear to know if cop number one would have detained me longer had I explained the situation to him (remember, he was the one who unlawfully imposed a Terry stop in the first place, saying I was not free to leave). Â Had I kept my mouth shut, if there had been an arrest, aside from having strong ammo to dismiss the case for failure to state a claim, if the so-called witness was an out-of-towner and a no-show in court, thereâ€™d have been insufficient evidence. However, when a suspect wags the tongue, sometimes thatâ€™s the only witness needed (together with slight corroboration), in addition to the cop to whom he or she wags the tongue. Silence is golden, sometimes even platinum. Â Â ADDENDUM: After writing my original June 27 blog entry on this matter, I reviewed the Washington Airports Authorities regulations, and saw no basis there for detaining me, just as I saw no basis under federal or state law for doing the same. Jon Katz.Â

Posted by Jon Katz in Criminal Defense at 00:05