

Friday, September 5, 2008

Lobotomy of police-handled phlebotomies.

Â Bill of RightsÂ (From public domain.)Â Who wants police to be permitted to pin down a drunk driving suspect to draw blood? What medical professional in his or her right mind would agree to draw the pinned-down suspect's blood? Then again, will some police just take the lobotomized route of skipping the phlebotomist entirely, and draw the blood themselves? Not if such judges as Pima County Superior Court Judge Richard S. Fields are presiding. Judge Fields recently wrote that blood drawsÂ "carried out in roadside situations with poor lighting and in less than sanitary conditions" present "an unreasonable risk of infection and injury."Â Of course, the prosecution says it plans to appeal, which is another reason I am happy that I have never prosecuted. (Thanks, Lawrence Taylor, for posting on all topics contained in this blog entry). Â Then again, will law enforcement agencies get their cops certified as phlebotomists? That is what theÂ Utah Highway Patrol did with its troopers, to save the time and \$50 per blood draw of calling in a medical technician. AsÂ blogger Lawrence Taylor aptly points out: "Ignoring the pain, injury and infection aspects for the moment, bear in mind that the blood must be taken from a vein, not an artery (which has a higher blood-alcohol concentration); the skin must be swabbed with an approved antiseptic (not isopropyl alcohol, which can raise the blood-alcohol concentration); the correct amount must be taken, with no contamination from the officer; it must be placed in a sterile and sealed vial; an approved preservative in the correct amount must be added and mixed in (to prevent fermentation, which increases BAC); an anti-coagulant (to prevent clotting, which increases BAC) must also be added, again in the correct amounts." Â If a drunk driving suspect is going to be coerced or forced into submitting to a blood test, the least the powers that be can do is to provide the suspect at least some comfort, confidence and dignityÂ by providing an experiencedÂ medical technician for the blood-drawing, rather than to have it done by a handgun-toting cop who claims to be certified in the procedure. Â All of this Orwellian forced blood drawing comes to you thanks to the 5-4 decision inÂ *Schmerber v. California*, 384 U.S. 757 (1966) (finding no Constitutional violation from a non-consensual blood draw), which, sadly, was penned by my otherwise hero Justice Brennan. Jon Katz

Posted by Jon Katz in Drunk driving/DWI/DUI at 08:27