

LAW ENFORCEMENT PHLEBOTOMY PROGRAM

PRESENTATION FOR THE TEXAS STATEWIDE
IMPAIRED DRIVING FORUM

BY

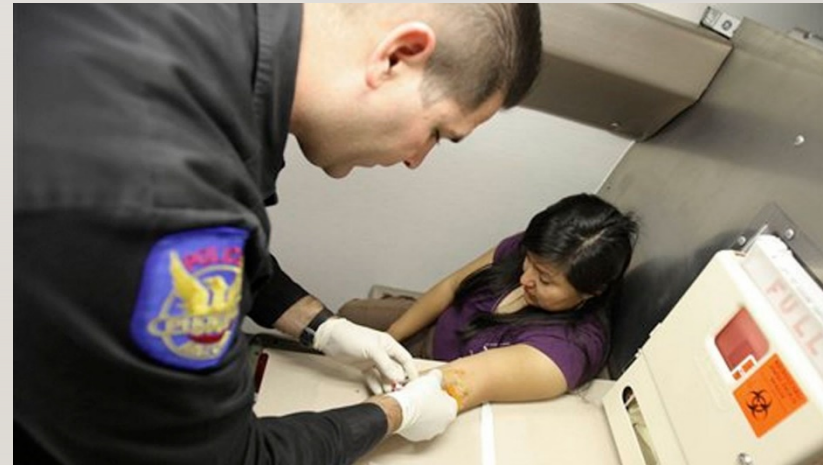
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WHY?

- Many Reasons....We will discuss today.

- #1 Reason-Highway Safety!



TODAY'S AGENDA

- **Why?**
- History of the Arizona Law Enforcement Phlebotomy Program
- Some of my experiences/challenges
- Evolution of the Program
- Electronic Search Warrants
- Legality
- Successes
- Justice for Victims
- **Highway Safety #1**



THE PROBLEM....

- High incidences of DUI offenders refusing to provide a breath or blood test when arrested for DUI/DWAI/DUID.
- Short lived evidence is lost (BAC, Delta 9 THC nanograms, etc.).
- District/County Attorneys and Jurors do not have a tangible number to consider.



HISTORY OF THE ARIZONA PROGRAM

- Reluctance by some civilian phlebotomists.
- 1995-Arizona Department of Public Safety Sergeant/Paramedics.
- 1999-Full semester-American Society of Clinical Pathologists Certification as a Phlebotomy Technician.
- Developed the program in partnership with Phoenix College (PC).
- Selection of officers.
- Evolution of the PC program from a semester class to a 40-hour law enforcement course.



2000-PHOENIX COLLEGE

- Developed in partnership with Phlebotomy Director Cathee Tankersley.
- OSHA Guidelines.
- 20-30 hours of clinical setting.
- More than 50 successful venipunctures.
- Practical and Written Exams.
- Refresher trainings every two years.
- Evolved to Pima, Gateway, Eastern AZ, and Northland Pioneer Colleges.



ARIZONA PROGRAM

- Officers selected and trained.
- Procedures-DUI Arrest based upon probable cause; subject consents and blood is drawn by phlebotomist; or subject refuses consent and a search warrant is obtained; blood is seized via the warrant process using minimum and reasonable force necessary.
- Subject still loses license for refusing to provide the sample.
- Procedures for violent suspects when a draw is too dangerous.

A SOLUTION.....

- Use of Electronic Search Warrants to obtain blood evidence from DUI/DWAI/DUID offenders when the offender refuses to provide a sample under Implied Consent.
- **USE ON ALL CASES** including misdemeanors and first time offenders.

SUCCESSSES



- Evidence is obtained

- Evidence is **obtained** quicker and streamlined
- Chain of custody is shortened
- Less time in court for officers
- Higher conviction rates
- Higher rates of **consent**/refusal rates lower
- Additional Charges (^ .08, Extreme/Super Extreme DUI, **DUID**, Juvenile DUI)
- Active Public Information Campaigns
- SAFER COMMUNITY-REDUCED NUMBER OF ALCOHOL/DRUG RELATED CRASHES!

IS THIS LAWFUL?

- YES!
- *Schmerber v. California*, 384 U.S. 757 (1966). Leading case on compulsory blood tests.
- *State v. Woomer*, 196 N.J. Super 583 (N.J.App. Division 1984). Police may use force to obtain blood sample.

CAN THIS WORK IN TEXAS?



- Yes it can.
- Support of Law Enforcement Executives.
- Support of the District/County Attorney and Judges.
- Secure the use of phlebotomists that are authorized to draw blood per state statute.
- Ensure proper policies and procedures are in tact and followed. (Phlebotomy Manual).
- Standard electronic search warrants and process.

ARIZONA'S IMPLIED CONSENT LAW

- It is the officer's choice of test or tests, not the suspect.
(Colorado-it is the suspect's choice, not the officer)
- Arizona's statutes are similar to Texas statutes for qualifications of phlebotomists.

A.R.S. 13-1321 Implied Consent

- ✓ Applies to all drivers in Arizona subject to 'DUI' laws.
- ✓ A 'DUI' breathalyzer test refusal results in suspension of driving privileges.
- ✓ After a refusal, police may get a warrant to conduct a 'DUI' breath, blood or urine test.
- ✓ The driver has 15 days to request MVD license suspension hearing.

The infographic features several icons: a police car, a dark car, a police officer with a 'no cell phone' sign, a hand with a 'no suspension' sign, a police officer with a 'WARRANT' document, a police officer with a phone, a scale of justice, and a judge.

ARIZONA STATE ALLOWS LAW ENFORCEMENT PHLEBOTOMISTS

- **A.R.S. §28-1388 – Blood**

If blood is drawn under §28-1321, only a physician, a registered nurse or **another qualified person** may withdraw blood for the purpose of determining the alcohol concentration or drug content in the blood. The qualifications of the individual withdrawing the blood and the method used to withdraw the blood are not foundational prerequisites for the admissibility of a blood alcohol content determination made pursuant to this subsection.

- **Arizona Case Law:**

- **State v. Olcavage**, 200 Ariz. 582, 30 P.3d 649 (App. 2002) - A phlebotomist was determined to be a qualified person by the Arizona Court of Appeals.
 - **it is the training and experience that make a person qualified**
- **State v. Carrasco**, 203 Ariz. 44, 49 P.3d 1140 (App. 2002) - A medical assistant was determined to be a qualified person.

WHO CAN DRAW BLOOD UNDER TEXAS TRANSPORTATION CODE?

Sec. 724.017

Taking of Blood Specimen

- (a) Only the following may take a blood specimen at the request or order of a peace officer under this chapter:
 - (1) a physician;
 - (2) **a qualified technician;**
 - (3) a registered professional nurse;
 - (4) a licensed vocational nurse; or
 - (5) a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic authorized to take a blood specimen under Subsection (c).
- (a-1) The blood specimen must be taken in a sanitary place.

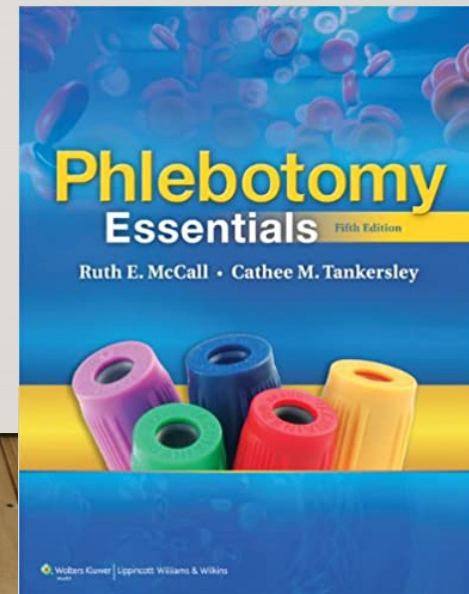
CHALLENGES.....

- Today's Climate (different than 1995)...but remember #1 reason why?
- Marijuana DUI.
- Politics.
- Law Enforcement Executives, Judges, and District/County Attorney's.
- Finding the officer/trooper/deputy to take this on.



MOVING FORWARD-THE LAW ENFORCEMENT PHLEBOTOMIST

- From a couple state troopers on a helicopter in 1995 to the year 2023-Arizona Law Enforcement Phlebotomists number 674, with 69 agencies participating.
- Supported and funded by the Arizona Governor's Office of Highway Safety.



RESOURCES

- *Law Enforcement Phlebotomy Toolkit: A Guide to Assist Law Enforcement Agencies With Planning and Implementing a Phlebotomy Program.*
NHTSA March 2019

https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/14222-phlebotomy_toolkit_final-032819-v1a_tag_0.pdf

- *The Role of the Law Enforcement Phlebotomist.* IACP Police Chief, September 2005. Robert L. Ticer

<https://www.policechiefmagazine.org/the-role-of-the-law-enforcement-phlebotomist/>

QUESTIONS?

Thank you!

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