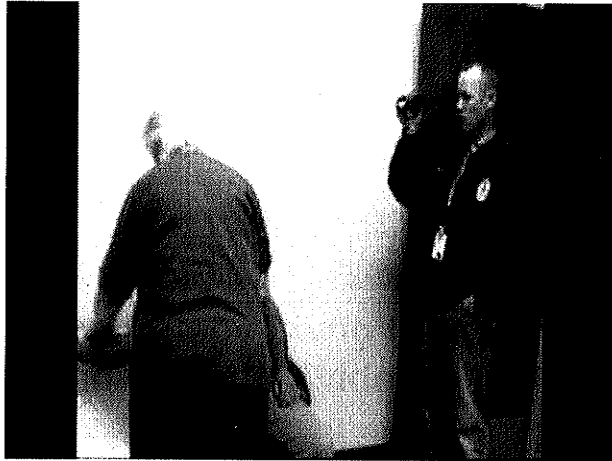


New Strategy Being Used in Florida for DUI Evidence

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Blood being taken from a suspect at a Texas jail

JACKSONVILLE, Fla. -- Florida is one of nine states now using a "no refusal" strategy to obtain evidence in DUI arrests.

Many Florida drivers, as many as one-third, refuse to take Breathalyzer tests when arrested for driving under the influence to prevent police from getting evidence they need for a possible DUI conviction.

Now a new strategy is being used: A judge is on site at checkpoints, at local jails or available by phone to order a search warrant to immediately take blood from a driver who refuses the Breathalyzer. Refusing the test results in the loss of a driver's license.

Jacksonville DUI defense attorney Robert Gibson said this is being done in some - not all - Florida counties. He doesn't like the new rules because he feels it takes away rights from Florida citizen.

Gibson anticipates a court challenge of its constitutionality. "I think they are going to do it sooner than later because the federal government is urging the states to adopt these rules and make them a permanent situation," he said.

Jacksonville DUI defense attorney Mitch Stone has

challenged the new rules without success. Florida has written very good search warrant laws, he said, adding that the procedure will likely come before the Florida Supreme Court.

"I imagine one day they will have to rule on it; they have taken (search warrant laws) and circumvented it," said Stone. "At some point it will have to go to the Supreme Court and they will have to make a decision on it."

Stone wants new laws passed by the Legislature to make sure proper procedures are used when deciding to take blood forcibly from a person.

In some cases, he said, a blood test done properly could help as much as hurt in a DUI case. "I don't have a lot of confidence in the breath tests they are using in the state of Florida: They are tending to have much higher numbers."

Of course, all this can be avoided. "If you think you might be drinking this New Year's Eve or any time, don't drive," said Gibson.

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NO, I have some rules!

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