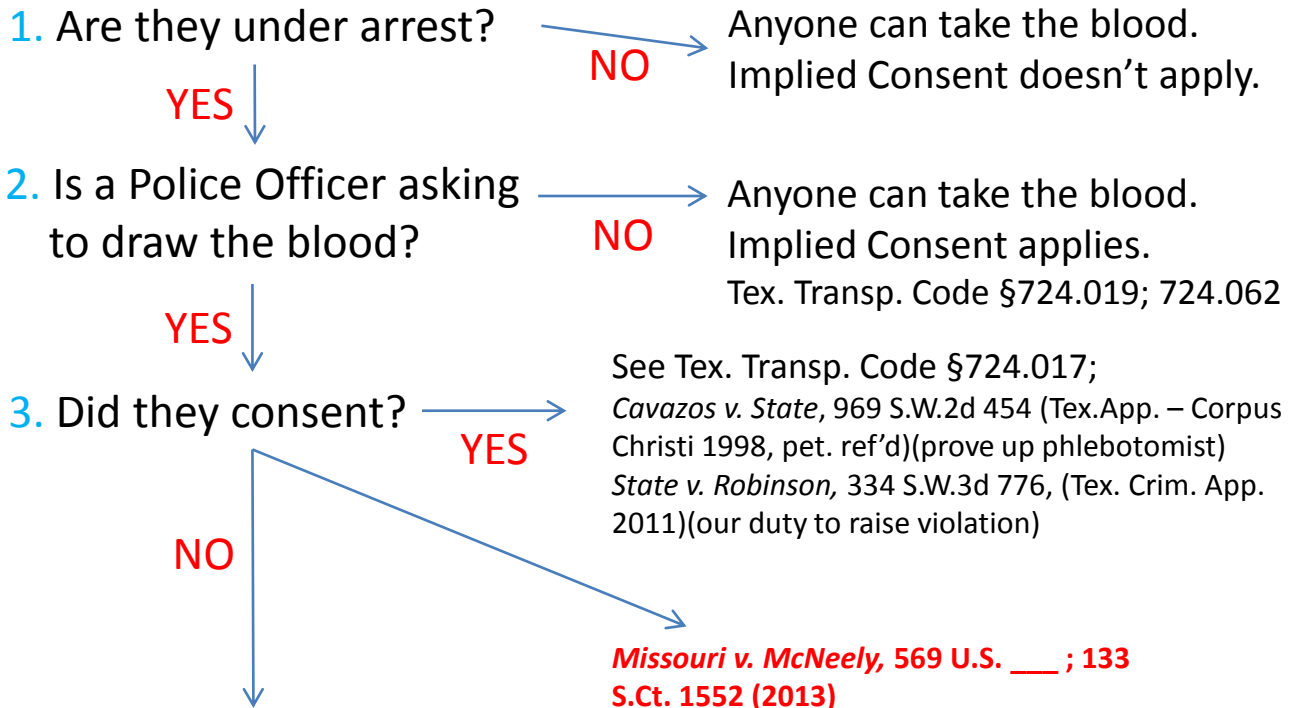


Blood Draw



WARRANT

4th Amendment
EMT can draw if expressly stated
Reasonableness
4 Corners
FRANKS hearing
Dates/Times/Signatures
Anyone can draw? (reasonableness)
State v. Johnston, 336 S.W.3d 649 (Tex. Crim. App. 2011) (Medical History)
Hereford v. State, 302 S.W.3d 903 (Tex.App.-Amarillo 2009), aff'd. (Excessive Force)

WARRANTLESS

Governed under §724.017
No EMT allowed (9/1 HB434)
Phlebotomist must be qualified
Must be in a certified place
Must be sanitary
Jackson v. State, 2009 WL 1552890 (Tex.App –El Paso 2009)
State v. Laird, 38 S.W.3d 707 (Tex.Crim.App.2000) (paramedic)
Krause v. State, 368 S.W.3d 863 (Tex. App. Houston 14th Dist. 2012), *rev'd*, 2013 WL 1890731 (Tex. Crim App. 2013)(EMT)

4. What is the record?

Durrett v. State, 36 S.W.3d 205, 208 (Tex.App.-Houston [14th Dist] 2001, no pet.) (**State's Case**)

- A. GC Blood Test or Forensic → *Bullcoming v. New Mexico*, 131 S.Ct. 2705 (2011)
- B. Medical Record → 803(6) Business Record Exception
902(10) Affidavit Rule or Custodian of Records