

Representative LaLonde,

I'm cc'ing Mike Bailey on this email and asking him to post *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016) on the Committee's website. This case effectively resolves the discrepancy between Commissioner Anderson and Ms. Brochu's conflicting testimony regarding warrants for blood draws. The VT Legislature updated our DUI statute after *Birchfield* to require a warrant for a blood draw anytime that a suspect does not give consent - this is the current state of our law. If a suspect gives consent, no warrant is necessary. I followed up with Dr. Conti after her testimony, checked the statute, and consulted Michele - all confirmed this, so we can put that confusion to rest.

In case you're referring to Bram Kranichfield's testimony, I'm asking Mike to post the following cases, all of which are referenced on pgs. 11 and 12 of the report Mr. Kranichfield based his testimony on:

- 1) *State v. McGuigan*, 2008 VT 111
- 2) *Maryland v. King*, 569 U.S. 435 (2013)
- 3) *In re Nontestimonial Identification Order Directed To R.H.*, 171 Vt. 227 (2000)

I sent Mr. Kranichfield's report (DUI/Drug Offense Enforcement Challenges, Report of Act 158 of 2016) to the committee assistant yesterday and it is in yesterday's (2/22) folder of documents.

Mr. Kranichfield downplayed *State v. Medina*, 2014 VT 69, but it's worth considering as an opposing authority (also attached). *Medina's* direct relevance to 237 is debatable, but it's a key VT case on the larger subject of saliva swabbing.

The key case that Defender General Valerio relied on for his objections to 237's permissive inference section is *State v. Rounds*, 2011 VT 39.

Happy reading. I will confer with Brynn as soon as she returns to work and we will provide the Committee with guidance on the arguable parts of Mr. Kranichfield and Defender General Valerio's testimonies.

Let me know how else I can help.
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