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RIGHTS
Continued from Page 5

ed that defendants are getting off too easily, while only 16 per cent said constitutional rights are being violated.

Interpretations on the Fourth's powers vary widely.

"When the Fourth Amendment was written there was no such thing as an organized police force that was in the business of catching and prosecuting criminals," Schuman said.

"The amendment was supposed to protect citizens from midnight knocks on the door by customs inspectors, the shakedown at border stations by agents of states, the seizure of documents that may be politically unpopular."

But the massive explosion of organized crime has changed

the nature of the Fourth Amendment. So far, Americans are willing to support drug testing of public employees by an overwhelming majority, Schuman said.

Random drug testing of government employees, as well as drug testing of state employees as a condition for states to receive federal aid, are eroding the Fourth Amendment, he said.

The Supreme Court has come down in support of drug testing for public employees.

In *Skinner vs. Railway Labor Executive's Association*, the court held that random drug testing of railroad employees without a warrant and without reasonable suspicion is reasonable.

"We believe that it is reasonable to conduct such tests in the absence of a warrant or reasonable suspicion that any particular employee may be impaired," the majority wrote in its 1989 decision.

Justice Thurgood Marshall, in his dissent, wrote, "I believe the framers would be appalled by the vision of mass governmental intrusion upon the integrity of the human body."

On the same day of this decision, the court held in *Von Raab vs. National Treasury Employees Union* that drug testing of customs inspectors also was constitutional.

The random testing of public employees is necessary for public safety, the court ruled.

The court must balance individual rights and public safety, Coffin said, adding that in certain occupations it is also reasonable because lives of others may be danger.

However, in his own opinion, Coffin added that random drug testing without any suspicion would "butt heads with the presumption of innocence."

Others, however, see random

drug testing as an invasion of privacy.

"I don't think taking into consideration public safety is out of bound of the Fourth Amendment," Schuman said. "But it's up to the lawmakers to make that determination if it's reasonable." The court's decision violates privacy because no warrant or suspicion is required to test an employee, he said.

The Oregon ACLU Oregon also disagrees with the Supreme Court's decision.

"We support legislation prohibiting drug testing," Remington said. "Drug testing does not measure job performance. They can't say how much drugs impair your performance."

There are job performance tests on the market that can determine if the employee is competent to perform his or her job. These tests are better indicators of performance than drug tests that involve "unreasonable search and seizure when done by the government without probable cause," she said.

Cases have been filed to challenge this ruling, but the issue is far from resolved. On its 200th birthday, the Bill of Rights may be going through its toughest test of survival yet.

Mix-up confounds OHSU doctors

PORTLAND (AP) — Doctors at one of the nation's top transplant centers struggled Friday to explain a mix-up that left a patient with an incompatible donor heart.

The man remained in critical but stable condition at Oregon Health Sciences University Hospital. His name was withheld at his family's request.

Dr. Adnan Cobanoglu, director of the heart transplant program at OHSU, said doctors would try to find a new, compatible heart for the patient.

It was impossible to say how long the man could live with the incompatible heart, Cobanoglu said. Doctors at OHSU could find only eight other cases worldwide in which incompatible hearts were transplanted, he said.

The transplant recipient has Type O blood, but received a heart from a donor with Type

A blood.

Cobanoglu said the donor heart somehow was mislabeled Type O in the frantic rush to complete the transplant early Wednesday morning.

Dr. Douglas Norman, director of the laboratory of immunogenetics and transplantation at OHSU, said the substance that characterizes Type A blood, known as the A molecule or A protein, occurs in tissue as well as blood.

The transplant recipient, because he has Type O blood, has naturally occurring antibodies that will recognize the presence of the A protein in the heart and attack it, he said. Therefore, he said, the transplant patient at OHSU runs a high risk of having his body suddenly reject the new heart.

Despite the incident, procedures used to match organs and recipients in the United

States are good, said Dr. Arnold G. Diethelm, president of the American Society of Transplant Surgeons.

"I think the procedures are fine, but there's always a chance of human error," said Diethelm, chairman of the surgery department at the University of Alabama. "Obviously it shouldn't happen, but when you think about the stress, it's understandable."


OHSU's program is one of the best in the country, he said. Doctors at OHSU have done 158 heart transplants in the last five years.

"I think it's a center with a long, successful record of organ transplantation," he said.

Cobanoglu told his patient Friday morning about the mistake.

"He did not say much," Cobanoglu said. "He was obviously very unhappy to hear the news, but he's not depressed by any means."

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