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STATE of TEXAS

IN THE COUNTY COURT

AND THE HANDLING
OF DWI CASES

AT LAW NO. 2

BEXAR COUNTY, TEXAS

**BEXAR COUNTY COURT AT LAW #2 SPECIAL ORDER DIRECTING
THE STATE TO PRODUCE BLOOD TEST RECORDS**

THE COURT HEREBY ORDERS the State to produce the following documents pursuant to *Brady v. Maryland*, *Watkins v. State*, and Article 39.14 of the Texas Code of Criminal Procedure:

A. Items Related to General Laboratory Matters

1. All Laboratory Accreditation Certificates in effect at the time of the blood analysis in this case.
2. The latest inspection report and final accreditation audit of the laboratory.
3. Any Accreditation Reports and/or Reviews of the Laboratory that occurred after the blood analysis in this case as well as any that occurred after the latest inspection and final accreditation audit.
4. Any reports or documents that reflect the Laboratory's failure to comply with the criteria for accreditation or re-accreditation as well as any documents that show the criteria was subsequently satisfied.
5. The Laboratory's policies, protocols, and procedures concerning testing, quality control, quality assurance, calibration, achievement of the calibration curve, and administrative or technical review.
6. The Laboratory's policies, protocols, and procedures as to the testing, quality control, quality assurance, calibration, achievement of the calibration curve,

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and administrative or technical review of all samples, solutions, and equipment used in or related to the testing of the sample, solutions, and equipment used in this case.

7. The laboratory's policies, protocols, and procedures related to the sample selection criteria used in this case.

B. Items Related to Pre-Analysis

1. The validation studies that prove the validation of the method, equipment, and instructions used.
2. The identification and source of all internal standards, standard mixtures (separation matrix), verifiers, blanks, and controls that were run within the batch in which the sample in this case was run as well as the vendor certificate for these items that were from an outside vendor.
3. All records reflecting internal testing, verification, and ongoing quality control testing of all solutions, reagents, or standard mixtures used as, as part of, or in relation to calibrators, internal standards, controls, standard mixtures, or standards in the batch in which the sample in this case was run.
4. All refrigeration logs, reports, and documents for all refrigerated compartments in which this sample, other unknowns within the run, calibrators, internal standards, controls, standard mixtures, standards, and reagents used in or in relation to the analysis in this case were stored or kept at any time.
5. All proficiency testing results for any person within the chain of custody for the sample in this case, including the person who conducted the analysis, for six (6) months prior to the sample in this case and for any such testing since the testing in this case. This includes the summary report of expected results for the proficiency testing (and the manufacturer's information sheet) against which the proficiency test results are judged.
6. Balance quality control records on any balance instrument used in relation to the calibrators, samples, controls, internal standards, mixtures, or other solutions used in relation to the preparation of knowns or unknowns used in the blood alcohol testing of the samples in this case. This includes the records reflecting the calibration of weights on any balance related to the solutions,

mixtures, or equipment used in relation to this case as well as any control charts, for six (6) months before and at any time since the testing of the sample in this case.

7. Pipette quality control records on any pipette used in relation to the calibrators, samples, controls, internal standards, mixtures, or other solutions or used in relation to the preparation of knowns or unknowns used in the blood alcohol testing of the samples in this case for six (6) months before and at any time since the testing of the sample in this case.
8. The employee training records, curriculum vitae, resume, and disciplinary actions and/or reprimands for the person who performed the analysis in this case and any person listed in its chain of custody. Disciplinary actions and/or reprimands include documentation of the sanctions imposed.
9. Maintenance and repair records (internal and external) for all equipment used in relation to the testing in this case for six (6) months before the test in this case and since the test in this case.

C. *Items Related to the Analysis*

1. The identity, make, model, and brand or manufacturer of all equipment (GS, MS, and auto sampler) and other supporting equipment (i.e., balance, pipette, etc.) used during the analysis and/or preparation of the samples in this case and the variables used in its installation and operation.
2. The source and type of all consumables (reagents, columns, headspace vials & caps, disposable pipettes, etc.), used in collection, preparation, and analysis of the samples run in the batch.
3. If Gas or Liquid Chromatograph is used, the reporting of t_0 time (time zero) according to the method.
4. The calibration curve and chromatograms related thereto and all chromatograms generated in the batch in which the sample in this case was tested.
5. All logs, spreadsheets, or other documents reflecting the sequence, order and/or analytical results of all calibrators, samples, standards, controls and blanks in the batch containing the sample in this case.

6. Documentation of all machine parameters, settings, variables, and integration criteria in relation to the batch in which the sample in this case was tested.
7. Identify whether a Mass Spectrometer was used in this case and if so, provide the following:
 - a. The source of library spectra used to examine spectra and elucidate spectra.
 - b. The hit list and the hit histogram for the testing.
 - c. All “tune” reports ran one year before the MS was used in this case and one year after.

D. Items Related to Reporting Matters

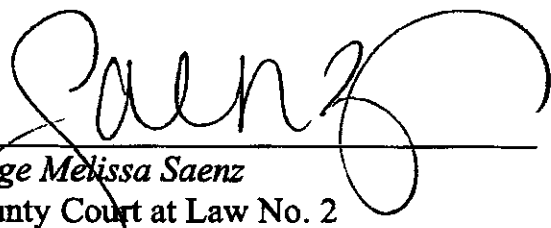
1. All records maintained for this testing and calibration event.
2. All documents and bench notes contained within the folder or file for the sample in this case, including a copy of any note or notation on the sample folder or file. These documents shall be segregated from all other documents produced.
3. If the lab received more than one vial or container of blood or other substance, records reflecting which vial was tested in this case.
4. The full reporting and the underlying validation of the valuation of the uncertainty measurement (UM) in the ultimate reported result.
5. All chain of custody logs or reports in relation to the sample, and the case file and/or folder related to the sample in this case.
6. Any quality action plan and deviation request related to the type of testing, equipment, or personnel involved in this case for six (6) months before the test in this case and since the test in this case.

E. Defense Right to Inspection

1. The opportunity for defense counsel and defense experts to view, visually inspect, diagram, photograph, and visually record the GC and/or MS, and its ancillary equipment used to test the sample in this case as well as the area, and all immediately adjacent and adjoining areas, in which the equipment used in this case are kept, and the sample(s) and kit or packaging in which the sample was received or may be contained. If the defense wants such an inspection, it shall be at a time mutually agreed upon by the parties and the laboratories.

THE STATE IS ORDERED to produce the above-listed items on or before the 60th day of the date a DWI Information is filed. The State's production of any of these items after the 60th day will be reviewed on a case-by-case basis to determine whether the Blood Test Result will be admissible at a Defendant's trial.

Regarding DWI cases that have already been filed prior to the date this order is signed, **THE STATE IS ORDERED** to produce the above-listed items on or before December 31, 2023. The State's production of any of the above listed items after this deadline will be reviewed on a case-by-case basis to determine whether the Blood Test Result will be admissible at the Defendant's trial.



Judge Melissa Saenz
County Court at Law No. 2

ORDERED: NOV. 1, 2023