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2023 DEC -1 AM 7:50

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STATE of TEXAS

IN THE COUNTY COURT

AND THE HANDLING  
OF DWI CASES

AT LAW NO. 7

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BEXAR COUNTY, TEXAS

**BEXAR COUNTY COURT AT LAW #7 SPECIAL ORDER DIRECTING  
THE STATE TO PRODUCE BREATH 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:

1. All items contained and maintained in the "Instrument Certificate File" as required by the Standard Operating Guidelines for Technical Supervisors (OSD-TST-01 5.A) for the Intoxilyzer used for the test in this case.
2. All items contained and maintained in the "Solution File" as required by OSD-TST-015.5, for the Intoxilyzer solution that was used for the test in this case. This includes:
  - a. All certifications, confirmations or verifications from any source for the AutoCal and simulator solutions that were used in relation to the Intoxilyzer used for the test in this case; and
  - b. All logs, records, or other documents reflecting the expiration date of the pure ethanol used to create any AutoCal or reference solutions in relation to the Intoxilyzer used for the test in this case.
3. The full database report, also known as the Cobra Data Log, as provided by the Standard Operating Guidelines for Technical Supervisors OSD-TST-01 5.1 for the Intoxilyzer used for the test in this case. This request is limited to items dating from six months before and since the test in this case.

4. All items in the "Maintenance File" as required by OSD-TST-015.2, for the Intoxilyzer used for the test in this case. This includes all items relating to the calibration, maintenance, repair, and operation of the Intoxilyzer Instrument used for the test in this case. This request is limited to items dating from six months before and since the test in this case.
5. All documents provided or required by OSD-CAL-01 4.3 relating to NIST traceability, unbiased estimate, nominal value and combined uncertainty of the reference solutions used to perform instrument calibrations on the Intoxilyzer used for the test in this case.
6. All items relating to the calibration of the NIST traceable thermometers by an approved vendor during the instrument calibration procedure performed prior to the defendant's test as required by OSD-CAL-01 4.4A for the Intoxilyzer used for the test in this case.
7. Any items relating to the procedures for the creation of the simulator solution used in the Intoxilyzer used for the test in this case.
8. Any items related to how the Intoxilyzer software in this case works. This includes all items related to how the Intoxilyzer software collects, stores, and manages data downloaded from the Intoxilyzer.
9. All items reflecting or documenting software updates to the Intoxilyzer Instrument used for the test in this case.
10. Specific to the Intoxilyzer Operator who performed the test in this case: A copy of their history file and resume, Intoxilyzer Operator Certificate, reprimands, and disciplinary actions, if any. If a disciplinary action and/or reprimand exists, please provide all documents pertaining to the violation and outcome.
11. Specific to the Technical Supervisor for the Intoxilyzer Instrument used in this case: A copy of their history file and resume, Technical Supervisor Certificate, reprimands, and disciplinary actions, if any. If a disciplinary action and/or reprimand exists, please provide all documents pertaining to the violation and outcome.
12. The policies governing the operation of the Intoxilyzer used in this case that are not otherwise published or contained in the Texas Administrative Code. This includes any Standard Operating Procedures governing operation of the Intoxilyzer used in this case.

13. Any DPS Annual Inspection Report of the Intoxilyzer Instrument used in this case one year before and since the test in this case.

**THE STATE IS ORDERED** to produce the above-listed items on or before the 60<sup>th</sup> day of the date a DWI Information is filed. The State's production of any of these items after the 60<sup>th</sup> day will be reviewed on a case-by-case basis to determine whether the Breath 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 February 2, 2024. 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 Breath Test Result will be admissible at the Defendant's trial.

This Order shall take effect on December 4, 2023.

  
Melanie Lira (Nov 30, 2023 14:34 CST)

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Judge Melanie Lira  
County Court at Law No. 7