

SPECIAL ORDER

STATE of TEXAS

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FILED IN MY OFFICE
IN THE COUNTY COURTS OFFICE
COUNTY CLERK BEXAR CO.
GIVING PREFERENCE TO
CRIMINAL MATTERS
2018 MAY 22 A 10:47

COUNTY OF BEXAR

1,2,4,5,6,7,8,9,11,12,13,14, AND 15

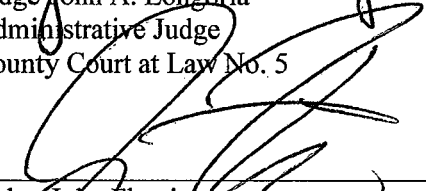
ADOPTION OF STANDARD ORDER FOR DISCOVERY
OF BLOOD TESTING RECORDS FOR INTOXILYZER 9000

The County Court at Law Judges hearing criminal matters hereby adopt the above-referenced Order. It is ORDERED that this Special Order be filed for record with the County Clerk of Bexar County.

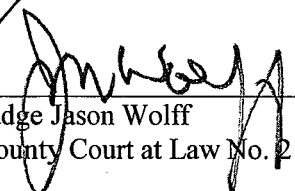
SIGNED, ORDERED, AND ENTERED ON THIS 22nd day of May 2018, by:



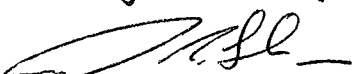
Judge John A. Longoria
Administrative Judge
County Court at Law No. 5



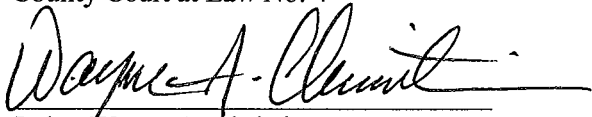
Judge John Fleming
County Court at Law No. 1



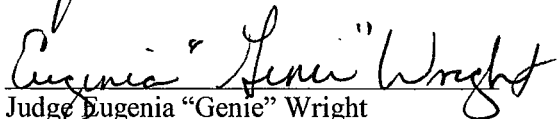
Judge Jason Wolff
County Court at Law No. 2



Judge Jason Garrahan
County Court at Law No. 4




Judge Wayne A. Christian
County Court at Law No. 6



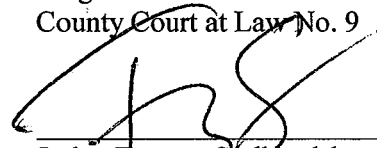
Judge Eugenia "Genie" Wright
County Court at Law No. 7



Judge Celeste Brown
County Court at Law No. 8



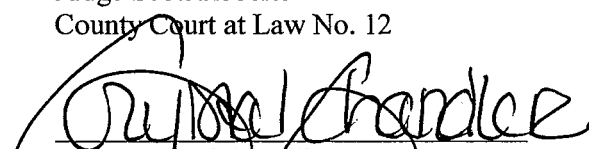
Judge Walden Shelton
County Court at Law No. 9



Judge Tommy Stohlhandske
County Court at Law No. 11



Judge Scott Roberts
County Court at Law No. 12



Judge Crystal Chandler
County Court at Law No. 13



Judge Susan Skinner
County Court at Law No. 14



Judge Robert D. Behrens
County Court at Law No. 15

Cause No. _____

STATE of TEXAS

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IN THE COUNTY COURT

v.

AT LAW NO. _____

BEXAR COUNTY, TEXAS

**STANDARD JOINT ORDER FOR DISCOVERY OF BREATH TEST
RECORDS FOR INTOXILYZER 9000**

THE COURT HEREBY ORDERS the State to produce the following designated documents pursuant to Article 39.14 of the Code of Criminal Procedure:

1. An electronic copy (.pdf) of any and 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. This information is available at: <http://www.dps.texas.gov/crimelaboratory/BAT/index.htm>.
2. An electronic copy (.pdf) of any and all items contained and maintained in the "Solution File" as required by OSD-TST-015.5, for the Intoxilyzer solution used for the test in this case. This includes:
 - a. Any and 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.
 - c. "Documents" includes items that are maintained either in paper or electronic form and specifically includes emails.

3. An electronic copy (.pdf) of the full database report 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 through one month after the test in this case.
4. An electronic copy (.pdf) of any and all items contained and maintained in the "Maintenance File" as required by OSD-TST-015.2, for the Intoxilyzer used for the test in this case. This request is limited to items dating from six months before through one month after the test in this case.
5. An electronic copy (.pdf) of any and 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. "Documents" includes items that are maintained either in paper or electronic form and specifically includes emails.
6. An electronic copy (.pdf) of any and all items and reports reflecting or evidencing 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 and all documents reflecting, evidencing or concerning communications between any technical supervisor having authority over the Intoxilyzer used for the test in this case and an employee or representative of the Department of Public Safety relating to calibration, maintenance, repair, or operation of the Intoxilyzer used for the test in this case. "Documents" includes items that are maintained either in paper or electronic form and specifically includes emails. This request is limited to items dating from six months before through two months after the test in this case.
8. An electronic copy (.pdf) of the protocol or instruction for the creation of the simulator solution used in the Intoxilyzer used for the test in this case.
9. A copy of the operator's manual or instruction (and all documents reflecting, evidencing or concerning procedures or instruction) for the software used to collect, store and manage data downloaded from the

Intoxilyzer as well as to communicate with the machine remotely. "Documents" includes items that are maintained either in paper or electronic form and specifically excludes any phone numbers and passwords. This information is available at <http://www.dps.texas.gov/crimelaboratory/BAT/index.htm>

10. All documents reflecting or documenting changes to the software update the Intoxilyzer used for the test in this case.
11. An electronic copy (.pdf) of the operator's history file and the certificate authorizing the Intoxilyzer operator in this case to operate the Intoxilyzer used in this case.
12. An electronic copy (.pdf) of the certificate authorizing the technical supervisor(s) to supervise the operator and machine in this case.
13. An electronic copy (.pdf) of all policies governing the operation of the Intoxilyzer used in this case not otherwise published or contained in the Texas Administrative Code, a statute of this State or contained in the Standard Operating Guidelines for Technical Supervisors.
14. An electronic copy (.pdf) of all DPS annual Inspection Reports for one year before and after the test in this case.
15. The electronic file(s) (.xls) containing the raw data generated by the Intoxilyzer used in this case. This request is limited to items dating from six months before through one month after the test in this case.
16. Any imposition of a charge for this request shall comply with subchapter F, Chapter 552, Government Code.
 - a. Standard paper copies may be charged at a rate of \$.10 per page or part of a page. Oversize paper copies may be charged at a rate of \$.50 per page. Copies on specialty paper may be charged for the actual cost of copies.
 - b. Non-paper copies may be charged at the following rates:
 - i. Per Diskette: \$1.00
 - ii. Per Data Cartridge, magnetic tape, or tape cartridge: actual cost
 - iii. Per Rewritable CD (CD-RW): \$1.00
 - iv. Per Non-rewritable CD (CD-R): \$1.00
 - v. Per Digital video disc (DVD): \$3.00

- vi. Per JAZ drive: Actual Cost
- vii. Per Other item of electronic media: Actual cost
- c. Labor charges
 - i. For Programming: If a particular discovery item requires the services of a programmer in order to execute an existing program or to create a new program so that the requested information may be accessed and copied, the hourly programmer's charge of \$28.50 per hour may be assessed. A written statement must be provided when response to this order requires cost of programming or manipulation of data or when compliance with the order is not feasible or will result in substantial interference with ongoing operations
 - ii. For locating, compiling, manipulating data, and reproducing discoverable information: A labor charge of \$15 per hour may be charged in complying with this order if providing responses that are 50 pages or more of paper records, or if the documents are located in two or more separate buildings that are not physically connected with each other, or a remote storage facility. Labor charge may include time spent redacting obscure confidential information.
 - a. If a labor charge is applicable to items ordered in discovery, an overhead charge of 20% of the labor costs may be assessed for items produced in response to discovery which are greater than 50 pages.
 - d. Microfiche and microfilm charges for information already existing on microfiche or microfilm may not exceed the cost of reproduction. If only a master copy of information on microfilm is maintained and more than 50 copies are required, a charge of \$.10 per page may be applied in addition to applicable labor and overhead charges.
 - e. A remote document retrieval charge may apply if retrieval of documents stored in remote locations results in a charge to comply with the discovery order.
 - f. Computer resource charge: A computer resource charge based on the actual time the computer takes to execute a particular program
 - g. Postal and shipping charges necessary to transmit the reproduced information to a requesting party may be assessed.
 - h. Miscellaneous charges: If payment by credit card is accepted, a "transaction fee" may be assessed by the credit card company that may recover that fee. The actual costs of miscellaneous supplies

used to produce the requested information may be added to the total charge.

17. If a discovery request will result in charges that exceed \$40, a written itemized statement detailing all estimated charges shall be provided.

Signed and entered on _____.

Judge Presiding
County Court at Law No. _____