



documents evidencing subsequent satisfaction of any essential, important, or desirable criteria for accreditation or reaccreditation.

4. The laboratory's standard or general policies concerning testing, equipment, calibration, and administrative or technical review, as well as the laboratory's standard or general policies, protocol, procedures, and instructions concerning the general administration of the laboratory.
5. Validation studies (both internal and external) that prove the validation of the method, equipment, and instructions used.
6. The identification and source of all internal standards, standards, mixed standards (separation matrix), verifiers, blanks, and controls, as well as all certificates relating to the foregoing obtained from outside vendors. If such information is available, also include documentation as to which specific solutions were used within the batch in which the sample in this case was run.
7. All records reflecting internal testing and quality control testing of all solutions, reagents, or standard mixtures used as, as part of, or in relation to internal standards, controls, standard mixtures, or standards in the batch in which the sample in this case was run.
8. All laboratory refrigeration logs, reports, or other documents in whatever form, 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.
9. All proficiency testing results for the section of the laboratory testing the sample in this case as well as for the person who conducted the testing in this case --- since the last date of accreditation inspection preceding the test, and for any such testing since the testing in this case. This specifically includes, but is not limited to, the summary report of expected results for the proficiency testing (and the manufacturer's information sheet) against which the proficiency test results are judged.

10. Balance quality control records on any balance instrument related to the calibration of the ethanol standard solution or the preparation of knowns or unknowns used in the blood alcohol testing of the samples in this case. The State shall produce records reflecting the calibration of weights on any balance or instrument related to this case as well as the control charts kept. Records should include the most recent calibration prior to the test in this case to the date of the order.
11. Quality control records on any pipette (including any auto pipette-diluter) 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 one year before and at any time after until the date of the order.
12. The employee training record, curriculum vitae, and resume for the expert who performed the analysis.
13. Maintenance and repair records (internal and external) for all equipment used in relation to testing in this case for two years before the test in this case and since the test in this case.
14. The identity, make, model, and brand or manufacturer of all equipment and other supporting equipment used during the analysis and/or preparation of the samples in this case and the variables used in its installation and operation.
15. The full reporting and the underlying validation of the valuation of the uncertainty measurement (UM) in the ultimate reported result.
16. Notes of the staff meeting held by APD Forensic Chemistry Section for the year prior to testing and up to the date of the order.
17. The source and type of consumables other than standards and controls; including, but not limited to reagents, columns, and headspace vials.
18. *If Mass Spectrometer is used*, then the following additional materials should be provided: the source of the library spectra (if a spectral library is used to examine spectra and elucidate spectra), the hit list and hit histogram for the testing, and all “tune” reports ran within one year if a MS detector was used.

## CASE SPECIFIC DISCOVERY

1. The calibration curves and all chromatograms generated on the batch on the instrument on which the sample in this case was tested along with the “tic marks” and baseline used to integrate the alcohol peak and calculate the area underneath it.
2. 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 case.
3. Documentation of all instrument parameters, settings, variables, and integration criteria in relation to the batch in which the sample in this case was tested.
4. The particular records for this testing or calibration event.
5. 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.
6. If the lab received more than one vial or container of blood or other substance, records reflecting which vial was tested in this case. No physical evidence shall be released without a separate court order or by written agreement of the parties. Release of evidence must comply with the procedures set forth by the laboratory.
7. All chain of custody logs or reports in relation to the sample and the case file related to the sample in this case that are produced by the laboratory. Additionally, the State will make available for inspection the chain of custody tag on the evidence bag which contains the samples of blood (Inspection and photographing only; Defense shall request the inspection by emailing Chemlab@austintexas.gov and CC'ing BlooddiscoveryCA@traviscountytexas.gov). The lab shall make said items available for inspection at a time and date mutually agreed upon by Defense counsel and the lab; these items shall be made available at the lab within 15 business days of a request that complies with this order.
8. Any quality action plan and deviation request related to the type of testing, equipment, or personnel involved with this case for 1 year before and after the test in this case.
9. The laboratory’s policies, protocols, procedures, and instructions used in this case concerning: testing, quality control and/or quality assurance, calibration, achievement of the calibration curve, administrative or technical review, sample selection criteria.
10. Official Submission form of the blood alcohol concentration of the Defendant.

11. A bi-annual opportunity for members of the defense bar to view, visually inspect, diagram and photographically record the Gas Chromatograph, Mass Spectrometer (only if lab begins using for alcohol testing), Flame Ionization Detector, and all ancillary equipment used to test sample submissions, and all immediately adjacent and adjoining areas, in which the equipment used is kept, and the sample(s) and kit or packaging in which the sample was received or may be contained.

It is further **ORDERED** that any evidence within the scope of the items above be provided to defendant's attorney in the form of a compact disc. Said disc shall be made available for pickup at the County Attorney's Office on or before 5:00p.m. on the 20<sup>th</sup> day after the County Attorney receives such evidence, or by mutual agreement.

It is further **ORDERED** that this order is continuing and the State will immediately notify and make available to the Defendant's attorney any subsequent discoverable matter within the scope of the above granted items within 48 hours of the time it learns of or obtains such discoverable matter or within 10 days before jury selection, whichever is sooner. The admissibility of any subsequent discoverable matter disclosed 9 days or less before trial shall be determined in a hearing before the trial court, or by agreement.

It is further **ORDERED** that any items herein not produced in violation of this order shall be and are excluded from evidence in this case if offered by the State.

It is further **ORDERED** that testimony concerning the items not produced in violation of this order or the information contained in those items shall be and are excluded from evidence in this case if offered by the State.

It is further **ORDERED** that the compact disc containing documents responsive to this order shall be produced free of cost. If the recipient demands a printed version instead of the disc, any law enforcement agency, or person or entity having a contract with such law enforcement agency, shall be allowed as a copy cost that amount, and only that amount, that

would be allowable under the Texas Public Information Act for copying the documents required to be produced by this order.

It is further **ORDERED** that under the authority of *Brady v. Maryland*, 373 US 83; 83 S.Ct. 1194 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), *Kyles v. Whitley*, 514 U.S. 419 (1995) (“[t]he individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police”), and their progeny, all evidence favorable to the Defendant is to be produced. Additionally, as per Tex. Code Crim. Pro. art. 39.14(h), the state shall disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged. Additionally, as per the Texas Disciplinary Rules of Professional Conduct Rule 3.09(d), (“Duties of District Attorneys” requires that “[t]he prosecutor in a criminal case shall:...make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense...”) evidence that tends to negate guilt or mitigate the offense shall be disclosed. Said evidence is to be produced with 72 hours of its discovery.

Signed and entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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JUDGE PRESIDING