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Garden State CLE Presents:

Alcotest Trial



Lesson Plan

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Alcotest Trial

1. Introduction - Strategic Concerns

a. *Per se* nature of NJSA 39:4-50(a) – Impact on opening and closing arguments.

Per Se Prosecution: General Elements of Proof

1. Operation of a motor vehicle in New Jersey proved by:
 - Direct Evidence
 - Circumstantial Evidence
 - Admission
 - Stipulation;
 2. Arrest based upon probable cause to believe operation while under influence;
 3. Request by Police Officer to submit to the test;
-
4. Test Administered within a reasonable period of time (core);
 5. Test properly administered by qualified operator (core);
 6. Instrument working properly (core);
 7. Valid samples provided (core);
 8. Results are .08 or greater constitutes a *per se* violation. (core)
- b. Critical nature of NJRE 104(a) hearing

2. Presentation of Proofs

a. Procedure – NJRE 104(a)

(a) Questions of admissibility generally. When the qualification of a person to be a witness, or the *admissibility of evidence*, or the existence of a privilege is subject to a condition, and the fulfillment of the condition is in issue, that issue is to be determined by the judge. In making that determination the judge shall not apply the rules of evidence except for Rule 403 or a valid claim of privilege.

“Clearly the rule contemplated the use of affidavits and other hearsay in such preliminary inquiries so long as the evidence appears to be reliable.” *State v. Cardone*, 146 NJ Super. 23, 29 (App. Div. 1976). Accord *State v. Dohme*, 229 NJ Super. 49 (App. Div. 1988) (DWI Prosecution).

b. Testimonial Immunity – NJRE 104(d)

(d) Testimony by accused. By testifying upon a preliminary matter, the accused does not become subject to cross-examination as to other issues in the case.

c. Burden of Proof

[I]n this case we hold that the burden of proof prescribed under State v. Johnson, [citation omitted], is to be followed to establish all of the conditions necessary for the admissibility of a breathalyzer test.

Under *Johnson*, conditions of admissibility must be “clearly established.” To avoid any confusion over what is intended by this level of proof, it should be understood that it conforms to that standard conventionally referred to as “clear and convincing proof.” The conditions of admissibility to which this burden of proof shall apply include those presently required to establish the admissibility of the results of a breathalyzer test, namely, the proper operating condition of the machine, the requisite qualifications of the operator, and the proper administration of the test.

We hold further that the responsibility for establishing all conditions as to the admissibility of the breathalyzer results is properly allocated to the State. This is the rule with respect to the usual conditions of admissibility under *Johnson*.

Romano v. Kimmelman, 96 NJ 66, 90-91 (1984)

d. Clear and Convincing Evidence – Defined

Clear-and-convincing evidence is that which produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the fact-finder to come to a clear conviction, without hesitancy, of the precise facts in issue. In re Seaman, 133 NJ 67, 74 (1993).

3. Elements of Proof

a. Requirement to submit to a breathtest

NJSA 39:4-50.2(a) - -Any person who operates a motor vehicle on any public road, street or highway or quasi-public area in this State shall be deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of alcohol in his blood; provided, however, that the taking of samples is [sic] made in accordance with the provisions of this act and at the request of a police officer who has reasonable grounds to believe that such person has been operating a motor vehicle in violation of the provisions of R.S.39:4-50 or section 1 of P.L.1992, c. 189 (C.39:4-50.14).

b. Core Foundational Documents

Our analysis of the general scientific reliability of the Alcotest is grounded, in part, on our expectation that there will be proof that the particular device that has generated an AIR being offered into evidence was in good working order and that the operator of the device was appropriately qualified to administer the test. This requirement that the test results be supported by foundational proofs for admissibility has been part of our jurisprudence since we decided *Romano*. There we demanded that, as a precondition for admissibility of the results of a breathalyzer, the State was required to establish that: (1) the device was in working order and had been inspected according to procedure; (2) the operator was certified; and (3) the test was administered according to official procedure. *State v. Chun*, 194 NJ 54, 134 (2008)

The foundational documents that we conclude need to be entered into evidence therefore are few. They are: (1) the most recent calibration report prior to a defendant's test, with part I-control tests, part II-linearity tests, and the credentials of the coordinator who performed the calibration; (2) the most recent new standard solution report prior to a defendant's test; and (3) the certificate of analysis of the 0.10 simulator solution used in a defendant's control tests. Absent a pre-trial challenge to the admissibility of the AIR based on one of the other foundational documents produced in discovery, we perceive of no reason to require that they be made a part of the record routinely. State v . Chun, 194 NJ 54, 145 (2008).

List of Core Foundational Documents

- 1. Operator's Qualification Card (*Chun* at 134) [Good for the year granted + 2 calendar years];**
- 2. Most recent calibration report from NJSP - (*Chun* at 145);**
- 3. Most recent standard solution change report prior to defendant's test (*Chun* at 145) (Note – this document may sometimes be included as part of #2 above);**
- 4. Certificate of analysis used in defendant's control tests - (*Chun* 145);**
- 5. The Alcohol Influence Report; (*Chun* at 134)**
- 6. Worksheet A Tolerance Calculations (*Chun* 150-151).**

c. Direct Examination Demonstration

S-1

DEPARTMENT OF
Motor and Public Safety
This is to certify that

Thomas J. Everist
Lawrence Township

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 142 OF THE LAWS OF 1966 IN THE OPERATION OF THE ALCO TEST 7110 MK III C A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 23rd DAY OF September

TWO THOUSAND AND FIVE

[Signature]
SUPERINTENDENT
NEW JERSEY STATE POLICE

[Signature]
ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES

	DATE	Refresher Course PLACE	INSTRUCTOR
1.	<u>12-15-07</u>	<u>OCDA</u>	<u>[Signature]</u>
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			

S-2
A #6

Alcotest 7110 Calibration Certificate

Part I - Control Tests

Equipment:	Alcotest 7110 MKIII-C	Serial No.:	ARWF-0359
Location:	LAWRENCE TWP POLICE		
Calibration File No.:	00203	Calib. Date:	10/23/2007
Certification File No.:	00204	Cert. Date:	10/23/2007
Linearity File No.:	00080	Lin. Date:	10/23/2006
Solution File No.:	00201	Soln. Date:	10/20/2007
Sequential File No.:	00204	File Date:	10/23/2007
Calibrating Unit:	WET	Model No.:	CU-34
Control Solution %:	0.100%	Serial No.:	DDWJ S3-0355
Solution Control Lot:	07B045	Expires:	02/22/2009
		Bottle No.:	0024

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	14:15D		
Control 1 EC	0.099%	14:16D	33.9°C	*** TEST PASSED ***
Control 1 IR	0.100%	14:16D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:16D		
Control 2 EC	0.099%	14:17D	33.9°C	*** TEST PASSED ***
Control 2 IR	0.101%	14:17D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:18D		
Control 3 EC	0.100%	14:18D	33.9°C	*** TEST PASSED ***
Control 3 IR	0.100%	14:18D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:19D		

All tests within acceptable tolerance.

Coordinator

Last Name: SNYDER

First Name: THOMAS

MI: J.

Badge No.: 5792

Signature: TBS II Thomas J Snyder 5792

Date: 10/23/2007

Pursuant to law, and the "Chemical Breath Testing Regulations" N.J.A.C. 13:51, I am a duly appointed Breath Test Coordinator/Instructor. In my official capacity, and consistent with "Calibration Check Procedure for Alcotest 7110," as established by the Chief Forensic Scientist of the Division of State Police, I perform calibration checks on approved instruments employing infrared analysis and electrochemical analysis when utilized in a single approved instrument as a dual system of chemical breath testing. Pursuant to, and consistent with, the current "Calibration Check Procedure for Alcotest 7110," as established by the Chief Forensic Scientist, I performed a Calibration Check on the approved instrument identified on this certificate. The results of my Calibration Check are recorded on this certificate, which consists of two parts on two pages: Part I - Control Tests; and Part II - Linearity Tests. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

S-2
B #6

Alcotest 7110 Calibration Certificate

Part II - Linearity Tests

Equipment: Alcotest 7110 MKIII-C Serial No.: ARWF-0359
 Location: LAWRENCE TWP POLICE
 Calibration File No.: 00203 Calib. Date: 10/23/2007 Calib. No.: 00004
 Certification File No.: 00204 Cert. Date: 10/23/2007 Cert. No.: 00003
 Linearity File No.: 00205 Lin. Date: 10/23/2007 Lin. No.: 00003
 Solution File No.: 00201 Soln. Date: 10/20/2007 Soln. No.: 00033
 Sequential File No.: 00205 File Date: 10/23/2007

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDRK S3-0003
 Control Solution %: 0.040% Expires: 01/26/2009
 Solution Control Lot: 07A041 Bottle No.: 0452

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDXD S3-0184
 Control Solution %: 0.080% Expires: 01/26/2009
 Solution Control Lot: 07A042 Bottle No.: 0236

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDSC S3-0009
 Control Solution %: 0.160% Expires: 01/26/2009
 Solution Control Lot: 07A043 Bottle No.: 0589

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	14:34D		
Control 1 EC	0.040%	14:35D	34.0°C	*** TEST PASSED ***
Control 1 IR	0.041%	14:35D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:36D		
Control 2 EC	0.041%	14:37D	34.0°C	*** TEST PASSED ***
Control 2 IR	0.041%	14:37D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:38D		
Control 3 EC	0.081%	14:39D	34.0°C	*** TEST PASSED ***
Control 3 IR	0.081%	14:39D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:41D		
Control 4 EC	0.081%	14:41D	34.0°C	*** TEST PASSED ***
Control 4 IR	0.080%	14:41D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:43D		
Control 5 EC	0.159%	14:43D	34.0°C	*** TEST PASSED ***
Control 5 IR	0.161%	14:43D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:45D		
Control 6 EC	0.159%	14:45D	33.9°C	*** TEST PASSED ***
Control 6 IR	0.160%	14:45D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	14:47D		

All tests within acceptable tolerance.

Coordinator

Last Name: SNYDER

First Name: THOMAS

MI: J.

Signature: *T.P.C. II Thomas J. Snyder #5792*

Badge No.: 5792

Date: 10/23/2007

S-2
D #6

DEPARTMENT OF
Traffic and Public Safety
This is to certify that

Thomas J. Snyder
Breath Test Coordinator/Instructor

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 172 OF THE LAWS OF 1964 IN THE OPERATION OF THE ALCOHOL TEST 7110 MK III-C A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 17th DAY OF June TWO THOUSAND AND SIX

[Signature]
SUPERINTENDENT
NEW JERSEY STATE POLICE

[Signature]
ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES _____

DATE	Refresher Course PLACE	INSTRUCTOR
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____

S.P. 2930 (Rev. 01/01)

DEPARTMENT OF
Traffic and Public Safety
This is to certify that

Thomas J. Snyder
New Jersey State Police

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 172 OF THE LAWS OF 1964 IN THE OPERATION OF THE ALCOHOL TEST 7110 MK III-C A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 22nd DAY OF February TWO THOUSAND AND SIX

[Signature]
SUPERINTENDENT
NEW JERSEY STATE POLICE

[Signature]
ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES _____

DATE	Refresher Course PLACE	INSTRUCTOR
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____

S.P. 2930 (Rev. 01/01)

DEPARTMENT OF
Traffic and Public Safety
This is to certify that

Thomas J. Snyder
New Jersey State Police

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 172 OF THE LAWS OF 1964 IN THE OPERATION OF THE Breathalyzer A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 11th DAY OF Aug. TWO THOUSAND AND 00

[Signature]
SUPERINTENDENT
NEW JERSEY STATE POLICE

[Signature]
ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES _____

DATE	Refresher Course PLACE	INSTRUCTOR
1. <u>11-14-01</u>	<u>ALICE</u>	<u>[Signature]</u>
2. <u>5-5-03</u>	<u>OCFA</u>	<u>[Signature]</u>
3. <u>4-4-05</u>	<u>ACTC</u>	<u>[Signature]</u>
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____

S.P. 2930 (Rev. 11/05)

S-12 #9
E

Calibrating Unit New Standard Solution Report

Equipment: Alcotest 7110 MKIII-C Serial No.: ARWF-0359
Location: LAWRENCE TWP POLICE
Calibration File No.: 00203 Calib. Date: 10/23/2007 Calib. No.: 00004
Certification File No.: 00204 Cert. Date: 10/23/2007 Cert. No.: 00003
Linearity File No.: 00205 Lin. Date: 10/23/2007 Lin. No.: 00003
Solution File No.: 00206 Soln. Date: 10/23/2007 Soln. No.: 00034
Sequential File No.: 00206 File Date: 10/23/2007

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDWJ S3-0355
Control Solution %: 0.100% Expires: 08/21/2008
Solution Control Lot: 06H035 Bottle No.: 0373

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	16:00D		
Control 1 EC	0.100%	16:00D	33.9°C	*** TEST PASSED ***
Control 1 IR	0.100%	16:00D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	16:01D		
Control 2 EC	0.100%	16:01D	33.9°C	*** TEST PASSED ***
Control 2 IR	0.099%	16:01D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	16:02D		
Control 3 EC	0.099%	16:03D	33.9°C	*** TEST PASSED ***
Control 3 IR	0.100%	16:03D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	16:03D		

All tests within acceptable tolerance.

On this date, I installed the above indicated "NEW SOLUTION" in accordance with Alcotest 7110 operator training and procedures established by the (NJSP) Chief Forensic Scientist.

TEMPERATURE PROBE SERIAL NUMBER: DDWAP2-213 (5792)

Changed By: Last Name: SNYDER First Name: THOMAS MI: J.
Signature: TRK. II J. Thomas J. Snyder #5792 Badge No.: 5792 Date: 10/23/2007

5-3

#1

Calibrating Unit New Standard Solution Report

Equipment	Alcotest 7110 MKIII-C	Serial No.:	ARWF-0359
Location:	LAWRENCE TWP POLICE		
Calibration File No.:	00203	Calib. Date:	10/23/2007
Certification File No.:	00204	Cert. Date:	10/23/2007
Linearity File No.:	00205	Lin. Date:	10/23/2007
Solution File No.:	00247	Soln. Date:	01/20/2008
Sequential File No.:	00247	File Date:	01/20/2008
Calibrating Unit:	WET	Model No.:	CU-34
Control Solution %:	0.100%	Serial No.:	DDWJ S3-0355
Solution Control Lot:	06H035	Expires:	08/21/2008
		Bottle No.:	0358

Function	Result %BAC	Time HH:MM	Temperature Simulator (°C)	Comment(s) or Error(s)
Ambient Air Blank	0.000%	10:09S		
Control 1 EC	0.100%	10:09S	33.9°C	*** TEST PASSED ***
Control 1 IR	0.101%	10:09S	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	10:10S		
Control 2 EC	0.099%	10:11S	33.9°C	*** TEST PASSED ***
Control 2 IR	0.100%	10:11S	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	10:11S		
Control 3 EC	0.099%	10:12S	33.9°C	*** TEST PASSED ***
Control 3 IR	0.100%	10:12S	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	10:13S		

All tests within acceptable tolerance.

On this date, I installed the above indicated "NEW SOLUTION" in accordance with Alcotest 7110 operator training and procedures established by the (NJSP) Chief Forensic Scientist.

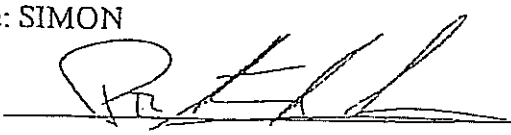
Changed By:

Last Name: SIMON

First Name: STEVEN

MI: R

Signature:



#212

Badge No.: 212

Date: 01/20/2008

S-4

#2



JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF STATE POLICE
POST OFFICE BOX 7068
WEST TRENTON NJ 08628-0068
(609) 882-2000

STUART RABNER
Attorney General

COLONEL JOSEPH R. FUENTES
Superintendent

CERTIFICATION OF ANALYSIS
0.10 PERCENT BREATH ALCOHOL SIMULATOR SOLUTION

ACCEPTANCE SPECIFICATIONS FOR BREATH ALCOHOL SIMULATOR SOLUTION: Ethyl alcohol concentration within, but not exceeding, the range of 0.117 to 0.125 grams per 100 milliliters of solution.

MANUFACTURER: Drager Safety, Inc. ANALYSIS DATE: 9/15/06

BREATH ALCOHOL SIMULATOR SOLUTION LOT NUMBER: 06H035

Representative samples of the above-referenced Lot Number were tested by Gas Chromatography and found to have an ethyl alcohol concentration range of 0.1213 to 0.1215 grams per 100 milliliters of solution.

This lot of breath alcohol simulator solution may be utilized as a known traceable standard for the purpose of conducting periodic tests, pursuant to N.J.A.C. 13:51-3.4, of approved breath test instruments (N.J.A.C. 13:51-3.5) utilized by law enforcement agencies in this State. The manufacturer's expiration date for this lot of breath alcohol simulator solution is August 21, 2008.

As Chief Forensic Scientist of the Division of State Police, I hereby certify and attest that the tests and results documented in this Certificate of Analysis were performed at my direction and under my supervision by personnel of, and at, the Office of Forensic Sciences of the Division of State Police on properly functioning and calibrated instruments and equipment. All procedures utilized are accurate, objective, and performed on a routine basis by personnel within the Office of Forensic Sciences, in accordance with their professional duties and responsibilities.

Ajit R. Tunga
Chief Forensic Scientist
Division of State Police

Sworn to and subscribed before me this 11th day of October, 2006.

Notary

Linda L. DeSantis
My Commission
Expires Aug. 17, 2009



S-5

ALCOHOL INFLUENCE REPORT FORM, ALCOTEST 7110 MKIII-C
LAWRENCE TWP POLICE

#6673

Department Case No.: 08-004382
Summons No(s):
Sequential File No.: 00249

Subject

Last Name: First Name: MI:
D.O.B.: 05/17/1963 Age: 44 Gender: MALE Ht: 6 ft. 03 in. Wt: 295 lbs.
Driver License Number: Issuing State: NJ

Arresting Officer

Last Name: LEE First Name: ANDREW MI: F
Badge No.: 213 Arrest Date: 01/27/2008 Arrest Time: 19:03S Arrest Location: 1107

Instrument

Alcotest 7110 MKIII-C Serial No.: ARWF-0359
Location: LAWRENCE TWP POLICE
Calibration File No.: 00203 Calib. Date: 10/23/2007 Calib. No.: 00004
Certification File No.: 00204 Cert. Date: 10/23/2007 Cert. No.: 00003
Linearity File No.: 00205 Lin. Date: 10/23/2007 Lin. No.: 00003
Solution File No.: 00247 Soln. Date: 01/20/2008 Soln. No.: 00037
Sequential File No.: 00249 File Date: 01/27/2008

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDWJ S3-0355
Control Solution %: 0.100% Expires: 08/21/2008
Solution Control Lot: 06H035 Bottle No.: 0358

Breath Test Information

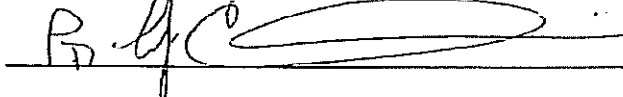
Date of Test: 01/27/2008

Function	Result %BAC	Time HH:MM	Volume (L)	Duration Sec (s)	Temp. Sim.(°C)	Error Message
Ambient Air Blank	0.000%	20:01S				
Control Test 1					33.9°C	
EC Result	0.101%	20:01S				
IR Result	0.100%	20:01S				
Ambient Air Blank	0.000%	20:02S				
Breath Test 1			2.8L	5.4s		
EC Result	0.175%	20:03S				
IR Result	0.175%	20:03S				
Ambient Air Blank	0.000%	20:04S				
Breath Test 2			3.0L	5.9s		
EC Result	0.174%	20:06S				
IR Result	0.171%	20:06S				
Ambient Air Blank	0.000%	20:08S				
Control Test 2					33.9°C	
EC Result	0.098%	20:08S				
IR Result	0.099%	20:08S				
Ambient Air Blank	0.000%	20:08S				

REPORTED BREATH TEST RESULT: 0.17% BAC

Breath Test Operator

Last Name: EVERIST First Name: THOMAS MI: J

Signature:  Badge No.: 193
Date: 01/27/2008

Copy Given to Subject

S.6

WORKSHEET A

State v. Chun, et al.
Supreme Court of New Jersey
A-96 September Term 2006 (Docket No. 58,879)

Tolerance Worksheet (for use in connection with Alcotest New Jersey Firmware 3.11)
How to Calculate Whether Two Breath Samples are in Tolerance Under Acceptable Tolerance Standard

Line #	Subject Alcohol Results to be Input from Alcohol Influence Report		
1	Valid Breath Sample 1 IR		(Value entered from AIR)
2	Valid Breath Sample 1 EC		(Value entered from AIR)
3	Valid Breath Sample 2 IR		(Value entered from AIR)
4	Valid Breath Sample 2 EC		(Value entered from AIR)
	Breath Samples Tolerance Agreement Check		
5	Add Lines #1, #2, #3, and #4:		(This is the sum)
6	Divide Line #5 by 4:		(This is the arithmetic mean)
7	Multiply Line #6 by 1.05:		(This is relative tolerance upper limit)
8	Add 0.005%BAC to Line #6:		(This is absolute tolerance upper limit)
9	Multiply Line #6 by 0.95:		(This is relative tolerance lower limit)
10	Subtract 0.005%BAC from Line #6:		(This is absolute tolerance lower limit)
11	Report the greater of Line #7 or Line #8, to four digits after decimal point:		(This is the upper tolerance limit)
12	Report the lesser of Line #9 or Line #10, to four digits after decimal point:		(This is the lower tolerance limit)
13	Lines #1, #2, #3, and #4 are within the values of Lines #11 and #12. TRUE or FALSE?:		(If TRUE, breath samples are in tolerance and AIR is valid; if FALSE, breath samples are not in tolerance and the AIR is invalid)

4. Cross-Examination – In General

Operators must wait twenty minutes before collecting a sample to avoid overestimated readings due to residual effects of mouth alcohol. The software is programmed to prohibit operation of the device before the passage of twenty minutes from the time entered as the time of the arrest. Moreover, the operator must observe the test subject for the required twenty-minute period of time to ensure that no alcohol has entered the person's mouth while he or she is awaiting the start of the testing sequence. In addition, if the arrestee swallows anything or regurgitates, or if the operator notices chewing gum or tobacco in the person's mouth, the operator is required to begin counting the twenty-minute period anew. *State v. Chun*, 194 NJ 54, 79 (2008)

Assuming that the results of the control test are within the established parameters, the instrument prompts the operator through a message on the LED screen to collect a breath sample. The operator then attaches a new, disposable mouthpiece and removes cell phones and portable electronic devices from the testing area. The operator is required to read the following instruction to the test subject: "I want you to take a deep breath and blow into the mouthpiece with one long, continuous breath. Continue to blow until I tell you to stop. Do you understand these instructions?" The arrestee then provides the first breath sample, which is measured in the IR and EC chambers. *State v. Chun*, 194 NJ 54, 80-81 (2008)

a. Twenty-minute-observation

State v. Ugrovics, 410 NJ Super. 482 (App. Div. 2009);
State v. Filson, 409 NJ Super. 246 (Law Div. 2009);

b. Tolerance Calculations on Worksheet A

State v. Rivera, 411 NJ Super. 492 (App. Div. 2010)

c. Officer must testify (*Chun* at 148)

State v. Rehmann, 419 NJ Super. 451 (App. Div. 2011)

d. Reasonable time (*Alcotest Roadshow*)

State v. Tischio, 107 N J 504, 519 (1987) (arrest/actual operation)

State v. Dannemiller, 229 NJ Super. 187 (App. Div. 1988)

e. Other issues

Blank fields (Report “adopted as modified” - *Chun* at 149)

Mouthpieces

Cell phones & portable electronic devices

Tongue-devices and other objects in oral cavity (Error messages)

5. Expert testimony

a. NJRE 702.

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

Generally, there are three criteria that expert testimony must meet in order to be admissible:

- (1) The intended testimony must concern a subject matter that is beyond the ken of the average juror;**
- (2) The field testified to must be at a state of the act such that an expert's testimony could be sufficiently reliable; and**
- (3) The witness must have sufficient expertise to offer the intended testimony.**

b. Demonstration of Expert Defense Testimony

c. Data Downloads – State v. Maricic, 417 NJ Super. 280 (App. Div. 2010)

6. Discovery Issues

a. Foundational Documents to be provided in discovery (*Chun* order at 153)

(1) New Standard Solution Report of the most recent control test solution change, and the credentials of the operator who performed that change;

(2) Certificate of Analysis for the 0.10 percent solution used in that New Solution Report;

(3) Draeger Safety Certificate of Accuracy for the Alcotest CU34 Simulator;

(4) Draeger Safety Certificate of Accuracy for the Alcotest 7110 Temperature Probe;

(5) Draeger Safety Certificate of Accuracy for the Alcotest 7110 Instrument;

(6) Calibration Records, including control tests, linearity tests, and the credentials of the coordinator who performed the calibration;

(7) Certificate of Analysis for the 0.10 percent solution used in the calibration control test;

(8) Certificate of Analysis for the 0.04, 0.08, and 0.16 percent solutions used in the calibration linearity test;

(9) New Standard Solution Report, following the most recent calibration;

(10) Draeger Safety Certificates of Accuracy for the Simulators used in calibration;

(11) Draeger Safety Certificate of Accuracy for the Alcotest 7110 Temperature Probe used in calibration; and

(12) Draeger Safety Erteco-Hart Calibration Report.

b. Data Downloads

Create and maintain a centralized statewide database, comprised of downloaded Alcotest results, and shall make the data, following appropriate redactions of personal identification as needed, available to defendants and counsel; (*Chun* order at 153) (See *State v. Maricic*, 417 NJ Super. 280 (App. Div. 2010))

c. Remedies for missing/incomplete discovery

1. Rule 7:7-7(g)

- **(g) Continuing Duty to Disclose; Failure to Comply.** If a party who has complied with this rule discovers, either before or during trial, additional material or names of witnesses previously requested or ordered subject to discovery or inspection, that party shall promptly notify the other party or that party's attorney of the existence of these additional materials and witnesses. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule or with an order issued pursuant to this rule, the court may order that party to permit the discovery, inspection, copying or photographing of materials not previously disclosed, grant a continuance, prohibit the party from introducing in evidence the material not disclosed or enter such other order as it deems appropriate.

2. *Holup* orders

By way of clarification of the situation where discovery has not been provided, we would also recommend that defense counsel serve a motion, on the papers, with certification similar to *R. 1:6-2*, upon the municipal prosecutor, filing the original with the municipal court seeking an order limiting time for the production of discovery and upon the municipal prosecutor's failure to do so, dismissal of the action. Such an application and the ensuing order would alert the municipal prosecutor and enforcement authorities to their discovery responsibilities and avoid the inconvenience to litigants and witnesses that occurs with such frequency when all parties appear in court for trial. Another salutary affect of such a practice is to expedite the processing of cases by assuring both sides of the certainty of the trial date and eliminating the unnecessary work, expense and delay resulting from the continuance of a case because the discovery process has not been completed. *State v. Holup*, 253 NJ Super. 320, 325 (App. Div. 1992)

NARRATIVE OF INVESTIGATION (CONTINUED)

1. Operation of the motor vehicle:

Observation was not observed by this officer.

2. When arrived at the scene:

I ([REDACTED]) was detailed to Whitehorse-Hamilton Sq Rd for a reported motor vehicle crash. When I arrived I observed a silver Chevy Monte Carlo with heavy front end damage. See NJTR-1 for more details. There were several people standing around the scene I then asked who's the operator of the vehicle was. The operator then raised his hand while he was on the cell phone, I asked him to end his call so I can continued the investigation. The operator identified himself as David [REDACTED]. David then began telling me how the crash occurred at that point I could smell a strong odor of an alcoholic beverage coming from his breath along with his red and watery eyes. I then asked David has he been drinking tonight. David stated "Yes". David said that he had about six beers and during this conversation David speech was slurred. I then escorted David to the front of my vehicle to conduct roadside field sobriety test.

The first test I conducted was the Horizontal Gaze Nystagmus test (Explained)

- I observed lack of smooth pursuit, distinct and sustained nystagmus at maximum deviation, and onset of nystagmus prior to 45 degrees in both eyes.

The second test I conducted was the One Leg Stand (Explained & Demonstrated):

- I had to tell David several times to stand in position.
- David was leaning to the side and put his foot down after 4 seconds because he was swaying off balance.

Second attempt:

- David, began to swaying and leaning from left to right
- David, began to start hopping

The third test I conducted was the Walk & Turn (Explained & Demonstrated):

- Instruction stage: David started before I told him to start.
- David completed the test without stepping off the line but was swaying while walking.

Based on the following information, I found that David was driving under the influence of an alcoholic beverage:

- His red, watery eyes
- His admissions to consuming alcoholic beverages
- Odor of alcohol beverages emitting from his breath

3. Enroute to the station:

David was calm during the transport to HQ and arrived without incident.

4. At the station:

At HQ I received information for the arrest report from David then I read paragraph 36 of the DWI report. I then entered David information into the Alcotest 7110 MKIII-C. After the first attempt David then provided me with two good breath samples. The results of the breath samples were BAC .18%.

5. Additional traffic summons:

HT [REDACTED] 39:4-96 & HT [REDACTED] 39:4-97

5-2

TITLE

Ptl K. [REDACTED]

SIGNATURE

[Handwritten Signature]

7. BADGE #

REVIEWED BY:

[REDACTED]

[Handwritten Signature]

HAMILTON POLICE

ARREST REPORT

MISSING PERSON REPORT

SUSPECT REPORT

1. INCIDENT #		2. CODE # 02111		3. NAME (LAST, FIRST, MIDDLE, SUFFIX) [REDACTED], David B			4. DEPT. CASE # [REDACTED]		
5. SEX <input checked="" type="radio"/> M <input type="radio"/> F	6. RACE <input checked="" type="radio"/> WHITE <input type="radio"/> BLACK	7. ETHNICITY A - ASIA OR PAC. ISLD. <input checked="" type="radio"/> NONHISPANIC	8. DOB 10/3/1965	9. SOCIAL SEC. # [REDACTED]	10. ADDRESS (STREET, APT., MUN., STATE, ZIP) [REDACTED] Rd Hamilton, NJ 08690				
11. HOME PHONE (609) [REDACTED]		12. EMPLOYER/SCHOOL Budco			13. OCCUPATION Supervisor				
14. BUSINESS PHONE (609) [REDACTED]		15. BUSINESS ADDRESS, STATE, ZIP [REDACTED] Robbinsville, NJ			16. HEIGHT 5-09	17. WEIGHT 240	18. AGE 44		
19. BUILD <input checked="" type="radio"/> LARGE <input type="radio"/> MEDIUM <input type="radio"/> SMALL		21. EYE COLOR 01 BLACK 02 BLUE 03 BROWN 04 GREEN 05 GRAY <input checked="" type="radio"/> HAZEL 06 MAROON 08 MULTICOLOR 09 PINK 10 UNKNOWN		23. SKIN 1 UNKNOWN <input checked="" type="radio"/> TIGHT 3 MEDIUM 4 DARK 5 ACNE 6 FRECKLED 7 RUDDY 8 OTHER		25. SPEECH <input checked="" type="radio"/> NORMAL 2 ACCENT 3 NON-ENGLISH 4 HIGH PITCH 5 LOW PITCH 6 NASAL 7 RASPY 8 STUTTERS 9 OTHER		27. HAIR COLOR <input checked="" type="radio"/> BLACK 2 BLOND 3 BROWN <input checked="" type="radio"/> GRAY 5 RED 6 SANDY 7 WHITE 8 UNKNOWN	
20. FACIAL HAIR 01 UNKNOWN 02 CLEAN SHAVEN 03 UNSHAVEN 04 SIDE BURNS 05 MUSTACHE 06 FUMANCHU 07 LOWER LIP 08 GOATEE 09 FULL BEARD 10 OTHER		22. GLASSES Y - YES <input checked="" type="radio"/> NO		24. TEETH 1 BRACES 2 ROTTEN 3 BROKEN 4 DISCOLORED 5 CROOKED 6 FALSE 7 MISSING 8 NORMAL		26. HANDED <input checked="" type="radio"/> RIGHT <input type="radio"/> LEFT A AMBIDEXTROUS		28. HAIR STYLE 01 UNKNOWN 02 AFRO 03 BRAIDED 04 BUSHY 05 CREW CUT 06 PONY TAIL 07 PROCESSED 08 STRAIGHT <input checked="" type="radio"/> WAVY / CURLY 10 WIG 11 OTHER	
30. ALIAS / NICKNAME None			31. OTHER ID NUMBER N/A		32. DRIVERS LICENSE # AND STATE [REDACTED] (NJ)				
33. SCARS / MARKS / TATOOS None									
34. INCIDENT / CRIME LOCATION Whitehorse-Hamilton Sq Rd & Silver Ct									
35. ARRESTED ON: 1. WARRANT <input checked="" type="radio"/> PC		36. CRIMINAL WARRANT / SUMMONS #			37. CRIME / OFFENSE DWI		38. NJ STATUTE 39:4-50		
39. DATE/TIME OF ARREST 4/3/10 2120hrs		40. MV SUMMONS / WARRANT # HT1 [REDACTED]							
41. DATE OF OFFENSE 4/3/10		42. ALARM #							
43. LOCATION OF ARREST Whitehorse-Hamilton Sq Rd & Silver Ct									
44. REPORTING PERSON (LAST, FIRST, MIDDLE) [REDACTED]				ADDRESS (STREET, MUN., STATE, ZIP) HTPD			PHONE # 581-4000		
45. VEHICLE OWNERS NAME David B. [REDACTED]		YEAR 2001	MAKE Chevrolet	MODEL Monte Carlo	BODY TYPE 2DR	REG NJ	STATE [REDACTED]	VIN [REDACTED]	
45A. VEHICLE OWNERS ADDRESS [REDACTED] Hamilton, NJ 08690									
46. JUVENILES NEXT OF KIN INFORMATION PARENT / GUARDIAN NAME:				ADDRESS			WORK PHONE		
47. DATE CONTACTED		48. TIME CONTACTED		49. RELEASED TO / DETAINED AT		50. DATE		51. TIME	
52. NARRATIVE / ADDITIONAL CHARGES On the above date the above party was arrested for Driving While Intoxicated which resulted from and motor vehicle crash investigation. The above party was transported to HQ for processing and released on the Potential Liability Warning. Mr. [REDACTED] was issued additional summons, as follows: HT1 [REDACTED] /39:4-96 & HT [REDACTED] /39:4-97.									
53. PRINT NAME PII K. [REDACTED]		SIGNATURE [REDACTED]		54. BADGE # #3 [REDACTED]	55. PAGE OF 1 1	56. DATE 4/3/2010	57. UCR/AGENCY STATUS CBA	58. REVIEWED BY [REDACTED]	

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**ALCOHOL INFLUENCE REPORT FORM, ALCOTEST 7110 MKIII-C
HAMILTON TOWNSHIP PD**

Department Case No.: [REDACTED]
 Summons No(s): [REDACTED]
 Sequential File No.: 00684

Subject

Last Name: [REDACTED] First Name: DAVID MI: B
 D.O.B.: 10/03/1965 Age: 44 Gender: MALE Ht: 5 ft. 09 in. Wt: 240 lbs.
 Driver License Number: [REDACTED] Issuing State: NJ

Arresting Officer

Last Name: [REDACTED] First Name: [REDACTED] MI: A
 Badge No.: [REDACTED] Arrest Date: 04/03/2010 Arrest Time: 09:20S Arrest Location: 1103

Instrument

Alcotest 7110 MKIII-C Serial No.: ARWA-0162
 Location: HAMILTON TOWNSHIP PD
 Calibration File No.: 00673 Calib. Date: 03/18/2010 Calib. No.: 00015
 Certification File No.: 00674 Cert. Date: 03/18/2010 Cert. No.: 00009
 Linearity File No.: 00675 Lin. Date: 03/18/2010 Lin. No.: 00009
 Solution File No.: 00676 Soln. Date: 03/18/2010 Soln. No.: 00091
 Sequential File No.: 00684 File Date: 04/03/2010
 Calibrating Unit: WET Model No.: CU-34 Serial No.: DDWC S3-0092
 Control Solution %: 0.100% Expires: 12/01/2010
 Solution Control Lot: 08L061 Bottle No.: 0070

Breath Test Information

Date of Test: 04/03/2010

Function	Result %BAC	Time HH:MM	Volume (L)	Duration Sec (s)	Temp. Sim.(°C)	Error Message
Ambient Air Blank	0.000%	20:47S				
Control Test 1					34.0°C	
EC Result	0.102%	20:48S				
IR Result	0.101%	20:48S				
Ambient Air Blank	0.000%	20:48S				
Breath Test 1			1.4L	5.4s		MIN. VOL. NOT ACHIEVED
EC Result	----%	20:49S				
IR Result	----%	20:49S				
Ambient Air Blank	0.000%	20:50S				
Breath Test 2			2.3L	9.9s		
EC Result	0.186%	20:51S				
IR Result	0.186%	20:51S				
Ambient Air Blank	0.000%	20:52S				
Breath Test 3			2.7L	9.9s		
EC Result	0.185%	20:54S				
IR Result	0.187%	20:54S				
Ambient Air Blank	0.000%	20:56S				

ALCOHOL INFLUENCE REPORT FORM, ALCOTEST 7110 MKIII-C
HAMILTON TOWNSHIP PD

Department Case No.: [REDACTED]
Summons No(s): [REDACTED]
Sequential File No.: 00684
Subject Last Name: [REDACTED]

Breath Test Information (continued)

Date of Test: 04/03/2010

Function	Result %BAC	Time HH:MM	Volume (L)	Duration Sec (s)	Temp. Sim.(°C)	Error Message
Control Test 2					34.0°C	
EC Result	0.101%	20:56S				
IR Result	0.101%	20:56S				
Ambient Air Blank	0.000%	20:57S				

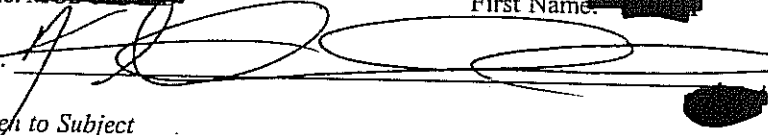
REPORTED BREATH TEST RESULT: 0.18% BAC

Breath Test Operator

Last Name: [REDACTED]

First Name: [REDACTED]

MI: A

Signature: 

Badge No.: [REDACTED]

Date: 04/03/2010

Copy Given to Subject

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State of New Jersey Alcotest Calculator

Score 1:

EC: . 186 IR: . 186

Score 2:

EC: . 185 IR: . 187

Reported Breath Test Result: . 18

Total: . 744

Mean: . 18600

Upper Limit Relative Tolerance: . 1953

Upper Limit Absolute Tolerance: . 1910

Lower Limit Relative Tolerance: . 1767

Lower Limit Absolute Tolerance: . 1810

Upper Tolerance Limit: . 1953

Lower Tolerance Limit: . 1767

Breath Samples Are Within Acceptable Tolerance

Printed:

Date: 4/3/110 Time: 22:29:13

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POTENTIAL LIABILITY WARNING - N.J.S.A. 39:4-50.22 (Rev. 2-20-2004) FORM

Defendant Information		Case #
Name: Last, First, M.I. [REDACTED] DAVID B	DL# & State [REDACTED]	Arresting Officer Information
Street Address [REDACTED] RD	Birth Date 10/3/1965	Name: Last, First, M.I. Rank [REDACTED]
Town, State, ZIP [REDACTED] 08640	Arrest: Date & Time 4/3/10 2120 HRS	Badge # [REDACTED]
Violation(s) Charged: (Check appropriate boxes)	<input checked="" type="checkbox"/> N.J.S.A. 39:4-50(a), DWI <input type="checkbox"/> N.J.S.A. 39:4-50.2, Refusal to submit to chemical breath testing	

You have been summoned by, or on behalf of, the person whose name appears above as "defendant," to transport or accompany the defendant from this law enforcement agency. The defendant has been arrested and charged with one or both of the motor vehicle violations checked in the box above. Pursuant to N.J.S.A. 39:4-50.22, this WARNING is to advise you that if you accept responsibility to transport or accompany the defendant, and you permit or facilitate the operation of a motor vehicle by the defendant while the defendant is intoxicated or has a blood alcohol concentration at, or above, that permitted by law (N.J.S.A. 39:4-50), then you are potentially subject to criminal penalties and civil liability. Permitting a person who is intoxicated or who has a blood alcohol concentration at, or above, that permitted by law, to operate a motor vehicle is a violation of N.J.S.A. 39:4-50(a). If you are charged and convicted under that statute: your driving privilege will be suspended; fines and monetary penalties will be imposed; and you may be incarcerated. If you permit or facilitate the defendant to operate a motor vehicle while the defendant remains intoxicated or has a blood alcohol concentration at, or above, that permitted by law, and the defendant becomes involved in a motor vehicle collision where other persons are injured or killed, then you may be subject to indictment and criminal prosecution. If you are prosecuted and found guilty, the court can impose fines and mandatory penalties, and a prison sentence. In addition to any criminal liability, if you permit or facilitate the defendant to operate a motor vehicle while the defendant remains intoxicated or has a blood alcohol concentration at, or above, that permitted by law, and the defendant becomes involved in a motor vehicle collision where there is property damage, or personal injury or death, then you may be held liable for civil damages, and those damages may not be covered by insurance.

Person Acknowledging Receipt

[REDACTED] JA
 Print Name
 [REDACTED]
 Street Address
 Trenton, NJ 08640
 City & State

Law Enforcement Officer

[REDACTED]
 Print Name
 PTL [REDACTED]
 Rank & Badge No.
 4/3/10 2220 HAS
 Date & Time of Acknowledgment

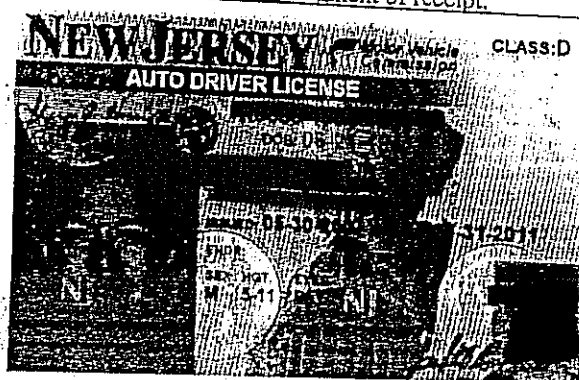
ACKNOWLEDGMENT OF RECEIPT OF POTENTIAL LIABILITY WARNING

I, David B. [REDACTED], have received this POTENTIAL LIABILITY WARNING from the Law Enforcement Officer whose name appears below.

REFUSAL TO ACKNOWLEDGE, IN WRITING, RECEIPT OF POTENTIAL LIABILITY WARNING

[REDACTED] was given a copy of this POTENTIAL LIABILITY WARNING, but refused to sign the acknowledgment of receipt.

Signature of Law Enforce



Refusal to Acknowledge

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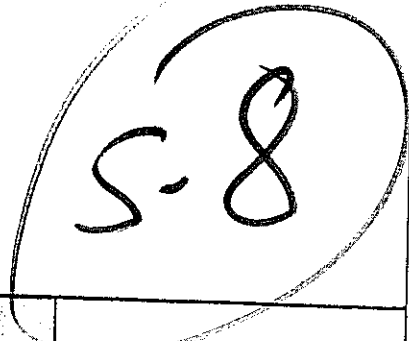
STATE OF NEW JERSEY
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 INVESTIGATIONS BUREAU

INVESTIGATIONS BUREAU
 PHONE NUMBER
 866-713-8392

DRIVING WHILE IMPAIRED - LAST DRINK LOCATION REPORT

INSTRUCTIONS: To ALL LAW ENFORCEMENT OFFICERS, ENFORCING NJ's driving while impaired laws and completing the Alcohol Influence Report. Whenever a subject indicates that his/her last drink was at a location other than a private residence or public property, you must also ask for the information requested on this form, write the information in block printing using black ink, and FAX the form to the NJ Division of Alcoholic Beverage Control.

NJABC FAX NUMBER: 609-292-1707 (24 HOURS)

S.P. BARRACKS OR POLICE DEPARTMENT		Hamilton Twp		MUNICIPAL CODE		1103	
CASE #	[REDACTED]	ACCIDENT INVOLVED (Y/N)	Y	SERIOUS INJURY (S) FATAL (F)		NO	
DATE OF ARREST		4/3/10		TIME OF ARREST		2126HRS	
MALE	<input checked="" type="checkbox"/>	FEMALE	<input type="checkbox"/>	AGE	44	B.A.C. (%)	.18
NAME OF PLACE WHERE LAST DRINK WAS CONSUMED		Sticky Wicket					
STREET		2465 S. Broad St					
CITY		Hamilton, NJ 08610					
----- FOR NJABC USE ONLY -----							
TRADE NAME MATCH		YES		NO			
IDENTIFIED ABC LICENSE NUMBER		ATTACH PAGE TWO SCREEN PRINT					
NOTES:							
							
REVIEWED & ENTERED Date		REVIEWED & REJECTED DATE		OPERATOR INITIALS			

CASE NUMBER 10-13790
 HAMILTON TOWNSHIP POLICE
 DRINKING - DRIVING REPORT
 (1) DEFENDANT First Name Initial Last Name
 DAVID B. [REDACTED]
 (2) Age 44 (3) Sex M (4) Weight 240 (5) Eye Color [REDACTED] (6) Race white
 (7) Street Address [REDACTED] (8) City and State Hamilton, NJ
 (9) Summons Number (39:4-50 Or 39:4-14.3g ONLY) [REDACTED]
 (10) Drivers License Number and State [REDACTED] (11) Day of Week Sat Violation Date 4/13/10 Time of Day 8:41 A.M. (RM)
 (12) Make of Vehicle Used Chev Monte Carlo (13) Year - Model - Color 2001 Monte Carlo Gray (14) License Number and State [REDACTED] NJ
 (15) Name of Vehicle Owner David [REDACTED] (16) Address of Owner [REDACTED]
 (17) Municipality of Violation Code No. (18) Roadway or Location (19) County
 Hamilton Twp 1103 Whitehorse-Hamilton Sq Rd E Silver Ct Hamilton NJ
 (20) Arrested By - Badge Number - Station [REDACTED] (21) Tested By - Badge Number [REDACTED] Mercer

(22) ACCIDENT INVOLVED
 1 NONE
 2 PEDESTRIAN
 3 FATAL
 4 INJURY
 5 1 VEHICLE
 6 2 VEHICLES OR MORE
 (23) EXAMINATION
 1 CHEM. BREATH TEST
 2 BREATH TEST REFUSED
 3 OBSERVATION
 4 DOCTOR'S EXAMINATION
 5 BLOOD TEST
 6 NARCOTICS, HABIT PRODUCING DRUGS, OR HALLUCINOGENIC
 (24) SUMMONS ISSUED FOR
 1 39:4-50 INFLUENCE
 2 39:4-14.3g INFLUENCE (Moped)
 3 OR ALLOWING _____
 TO OPERATE
 BLOOD ALCOHOL RESULTS 0.18%
 SUMMONS NUMBER (39:4-50.2 REFUSAL ONLY)
 SUMMONS NUMBER (39:4-14.3g REFUSAL ONLY)

OBSERVATIONS WERE: LABORATORY YES NO REPORT # _____
 (25) ABILITY TO WALK
 UNABLE TO ON HANDS AND KNEES SWAYING GRASPING FOR SUPPORT
 FALLING MOVED IN CIRCLES SAGGING STAGGERING
 (26) ABILITY TO STAND
 SWAYING UNABLE TO STAND CONTINUAL LEANING FOR BALANCE
 RIGID SAGGING KNEES FEET WIDE APART FOR BALANCE
 (27) SPEECH
 SHOUTING SLOBBERING BOISTEROUS SLURRED WHINING STUTTERING
 RAMBLING INCOHERENT WHISPERING HOARSE CRYING ACCENT SLOW
 (28) Demeanor
 FIGHTING INDIFFERENT ANTAGONISTIC POLITE SLEEPY
 EXCITED HILARIOUS COOPERATIVE CALM CRYING
 (29) ACTIONS
 PUNCHING RESISTING THUMBING NOSE DIFFICULT TO AWAKEN
 KICKING PROFANITY THREATENING
 (30) EYES
 BLOODSHOT WATERY DROOPY LIDS WEARING GLASSES NOT WEARING GLASSES?
 GLASS EYE? RIGHT LEFT
 (31) CLOTHING
 MUSSED PARTLY DRESSED DEFECATED IN SAME FUMBLING SLOW
 DIRTY VOMITED ON URINATED IN SAME
 (32) MOVEMENT OF HANDS
 (33) FACE
 FLUSHED PALE
 (34) ODOR OF ALCOHOLIC BEVERAGE ON BREATH
 NONE YES

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INCIDENT #: 2010-00013790 ORI #: HAM INCIDENT TYPE: 0110 P MVA

LOCATION . . . : WHITEHORSE HAM SQ ROAD VENUE: HAM
CROSS STREET : SILVER CT
NATURE OF CALL:

DATE: TIME:
CALL : 04/03/2010 20:41:36 Saturday
DISPATCH . . . : 04/03/2010 20:42:18
ARRIVE 1 . . . : 04/03/2010 20:51:25
CLEAR : 04/04/2010 0:42:03

AREA . . : D3 SECTION : Zone 5 BEAT: Zone 5
QUADRANT: Nott FD DISTRICT: Nott AMB GRID: Grid 56

UNIT 1 #: 720 ID # 1: [REDACTED] ID # 2:
UNIT 2 #: 702 ID # 3: [REDACTED] ID # 4: [REDACTED]

RECEIVED ORI/ID/TERM : HAM WEIGAND, JAMES,, CAD4MAIN
DISPATCH ORI/ID/TERM : HAM SMITH, MATTHEW,, CAD2MAIN
CLEARING ORI/ID/TERM : HAM SMITH, MATTHEW,, CAD2MAIN
DISPATCH SHIFT : 1500-2300
SOURCE : Telephone REPORT REQUIRED: YES MUTUAL AID:
DISPOSITION . . . : SUM 381 PRIORITY : 3
LICENSE PLATE . . : [REDACTED] LICENSE STATE : NJ

ORIGINAL INFORMATION:
LOCATION : WHITEHORSE HAM SQ ROAD VENUE: HAM
CROSS ST : SILVER CT
INCD TYPE: 0110 P MVA PRIORITY: 3

STATUS/DISPOSITIONS:
DISPOSITION: UNIT: DATE: TIME: ID # 1: / ID # 2:
SUM 381 720 04/04/2010 42:03 [REDACTED]

RADIO LOG:
UNIT: TYPE: STATUS: DISPATCH: ARRIVE: CLEAR: ID # 1:
720 TRAF Dispatch 20:42:18 [REDACTED]
720 TRAF Arrive 20:51:25 [REDACTED]
702 PTL Dispatch 21:07:29 [REDACTED]
702 PTL Arrive 21:07:33 [REDACTED]
702 PTL Secd Loc 21:21:27 [REDACTED]
 SEC. LOC.: HQ
720 TRAF Secd Loc 21:21:27 [REDACTED]
 SEC. LOC.: HQ
702 PTL Unit Avail 21:25:16 [REDACTED]
720 TRAF Clear Call 0:42:03 [REDACTED]

DOCUMENTS:
Dispatch Narrative
CHEVY IMPALA TYPE CAR DS32 20:43:14
#381 INQUIRED AS TO WHO WAS NEXT WOC, AS BILLS DS32 21:07:13
TOWING WAS ARRIVING ON SCENE. NEXT WOC WAS DS32 21:07:27

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BILLS AND THEY ARE TAKING VEHICLE. DS32 21:07:35
PSE&G NOTIFIED TO HAVE POLE B67572HM CHECKED DS12 21:13:31
UNIT: 702 HQ 21:21:27
UNIT: 720 HQ 21:21:27
ARR: DAVID B [REDACTED] DOB/10031965 [REDACTED] DS32 22:26:56
OF [REDACTED] HAMILTON NJ DS32 22:27:03
CLEAR LOCALS/NCIC DS32 22:27:05
PSE&G WAS NOTIFIED TO DISREGARD DS12 22:43:25
CAD System Narrative
DS32 CHANGED LICENSE PLATE FROM 22:25:28

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