

GARDEN STATE CLE LESSON PLAN

A 3.0 credit course

**FREE DOWNLOAD
LESSON PLAN AND EVALUATION**

BEAT THE MACHINE: THE ART AND SCIENCE OF WINNING YOUR ALCOTEST CASE

Featuring...

**Lt. Kevin Flanigan
New Jersey State Police (retired)**

**John J. Dell'Aquilo, Esq.
Deputy Attorney General (retired)**

**Robert Ramsey, Esq.
Author, New Jersey Drunk Driving Law 2012**

Program description

Often, eliminating BAC evidence from the Alcotest is the first step in a successful DWI defense. This 3 credit CLE will teach you the art and the science of challenging Alcotest evidence..

I. Introduction

- **Jill Myra**
 - **State v. Chun, 194 NJ 54 (2008)**
 - **Success in a DWI case requires art and science – the art of persuasively arguing fact and law at trial includes a solid knowledge of the Alcotest**
- **John J. Dell'Aquilo, Esq.**
 - **Deputy Attorney General (retired)**
 - **Personally litigated State v. Chun**
 - **Extensive knowledge of science of Alcotest and case law**
- **Lt. Kevin Flanigan**
 - **New Jersey State Police (retired)**
 - **Headed Breath Test Unit and responsible for training police officers and NJSP on operation of the Alcotest**
- **Robert Ramsey, Esq.**
 - **Senior CLE Instructor**
 - **Author, NJ Drunk Driving Law 2012**

II. Science Behind Alcotest

- **Kevin Flanigan presenting**
- **Set up of Alcotest 7110**
- **Keyboard is underneath, CU34 Simulator/Calibrating Unit, Brother laser deskjet printer**
- **Alcotest is main component - \$8K separately, whole package \$12K cost**
- **Breath hose – 46” long – completely heated**
- **Components on the back – how to hook up the instrument and errors that can occur**
- **34 degrees Celcius -why CU34 is named that way**
- **Alcotest 7110 MK III – C**
 - **Brand new in 1995**
 - **NJ thought going to be first one to use in country**
 - **January 2005 is the first time that the unit was used in NJ**
 - **“C” – refers to communications**
- **NJ is putting together a database and the unit will be hooked up to a phone/modem cable**

- **Instrument is outdated because phone modem is not updated**
- **Draeger has new instrument called 9510 but has new features – cable modem to upload information more quickly and touch screen**
- **Current model being used can still communicate but just slower**
- **128 diagnostic checks per second in 7110 machine**
 - **Compare to current technology is doing millions of pieces of information per second**
- **Basically it is a computer and has a memory**
 - **Can memorize 1000 tests**
 - **Once instrument reaches 500 tests must download – memo by Chief Forensic Examiner because did not want to lose data**
 - **Not an issue anymore with State v. Chun because March 2008 instruments were being inspected once per year – per manufacturer requirements – Chun changed rules – must inspect instrument every six months – doubled workload**
- **Data download**
 - **Instrument has internal memory**
 - **When coordinator comes in he/she does a recalibration**
 - **First thing hooks up to “null modem cable”**
 - **Transferring data from 7110 to laptop**
 - **Burn 3 CDS – 1 police department (non-redacted), 1 for court (for discovery – redacted removing 6 identifying items – defendant’s last name, first name, middle initial, driver’s license number, date of birth, state), 1 NJSP (non-redacted)**
 - **Find client’s case by looking for “sequential file number” in data download**
 - **Every time something is done with machine it receives a sequential file number – starting at 1 and going to infinity**
 - **Open data download with Quattro Pro – opens 356 fields – not all information on AIR**

- **State v. Maricic, 417 NJ Super 280 (App. Div. 2010) – allows defendants to get data downloads and maintenance records in discovery**
- **Imperative to get data download to best defend your client – don't plead a client guilty unless you have a data download**
- **Hypothetical:**
 - **Driver arrested and get error message in Alcotest “mouth alcohol detected”**
 - **Instrument has a “slope detector” – if it detects mouth alcohol – test will be aborted – message reads out error**
 - **Officers should wait an additional 20 minutes before starting over again – but nothing to stop officers from restarting and entering data again without waiting period**
 - **Machine must be restarted after error**
 - **Successful reading the 2nd time – only get 1 AIR and you would not know that the first test was aborted unless you received the data download**
 - **Data download would tell you what time the prior test ended and new test started – to establish 20 minutes before second test**
- **Hypothetical:**
 - **Conducting Alcotest and “control test failure”**
 - **Instrument will shut down until solution is changed by PD**
 - **Then must take driver to another police department**
 - **Complete test at the other department and get a reading**
 - **You would not know that they received a control test failure at the other department to determine the 20 minute waiting period**
 - **Data download will tell time last test ended and when next test started**
 - **Will see arrest in one town and Alcotest in another town – look at police reports**
 - **Data download will tell you what time they ended the first aborted test to determine whether or not**

they did the 20 minute observation before starting the new test

- **CU34/Simulator**
 - **Neoprene hose – 1 ¼” long – connects Simulator to the Alcotest – leads to cuvette or IR chamber – did not want to lost concentration of vapor between both machines (Simulator and instrument)**
 - **20” plastic hose leads to pump in instrument – when instrument wants to see a sample it pumps air into the simulator, bubbling up and creating that vapor being forced into the instrument, then the instrument will analyze that vapor**
 - **Off/on switch**
 - **Driver locked up in Camden County, sitting next to instrument, officers did not pay attention and he turned off simulator – must have been coached**
 - **Simulator was turned off and lost power and lost temperature – simulator temperature error came on screen – rendered inoperable**
 - **Driver taken to another jurisdiction**
 - **Instrument stays on 24/7 as does simulator – goes into sleep mode if not in use – simulator is constantly heating up and cooling off to 34 degree Celsius, +/- .2 degree Celsius (33.8-34.2 degrees C) – won’t do anything until reaches 33.8 degrees C**
 - **Cord to temperature probe which goes into simulator – temperature probe tells instrument temperature of simulator solution**
- **Two types of temperature probe:**
 - **Black key temperature probe**
 - **Carried by Coordinators (NJSP)**
 - **Coordinators have deeper access to gain into instrument – can change tolerances, can change the date, can change different features in instrument**
 - **Regular temperature probe:**
 - **Each police department has one**
 - **Only allows solution change, getting reports from instrument, and temperature of solution**

- **Limited access by local PDs**
- **Simulator**
 - **Simulating what a human being with a BAC of .10 would be**
 - **.10 BAC and blew sample into instrument and would test and come back with .10 BAC**
 - **CU34 – simulates a live human being who would have a level of BAC in his body as .10**
 - **“bracketing” –**
 - **with breathalyzer we used to bracket machines**
 - **Coordinator would inspect machine at an interval**
 - **As long as the machine was in proper working order at beginning of interval (day 1) and end of interval (day 90) – the court could assume that the tests in between were done on a machine that was in proper working order – circumstantial evidence - inference**
 - **With new technology – 7110**
 - **Bracketing is down to every single drunk driver**
 - **Before samples are provided the instrument will do a control test before any further testing can be done**
 - **A tolerance between .095 and .105 shows the instrument is working properly**
 - **Instrument will then take breath samples and allow operator 11 attempts to get 2 good, valid samples – not necessarily consecutive**
 - **At the end of breath sample, instrument will do another control test – this is the bracketing for each drunk driver**
- **Simulator Solution**
 - **Measuring gas – fluid 500 milliliters in bottle (simulator solution) – good for 25 test sequences or 30 days – every 30 days no matter how many tests – solution must be changed - \$7.50 per bottle**
 - **Solution is 500 ml of ethyl alcohol and water – mixed to a liquid concentration of .12 – lab report from NJSP Forensic Lab that provides that a random**

test was done of samples of lot that solution came in and found that within the proper range

- **Ideal mixture for solution - tolerance of simulator solution is .117 to .125 (a .121 equals a perfect .10 vapor)**
- **If take mixture and heat to 34 degrees C and create a gas in head space (space between liquid and top of container) – if test gas – it should be .10 BAC – molecules of vapor would test to .10 BAC**
- **500 ml has to be heated 34 degrees C +/- 0.2 degrees – if solution change must be conducted it takes 1.25-1.5 hours to complete**
 - **if instrument goes down because of control test failure not going to call someone in – 2-3 people at each PD should be trained to change solution**
 - **if officer holds Alcotest Certification Card – then authorized to change solution**
 - **need to be meticulous to detail because must be done the same way each time in order for machine to properly function – if don't do this each time, then accuracy of machine gets called into question**
 - **heating to 34 degrees – approximately 10 minutes**
 - **solution heats up quickly but as it goes through metal components of simulator it was cooling down so not getting good control tests – Draeger said let it heat additional 20 minutes – but Director of Forensic Bureau in NJ said let it heat for 60 minutes**
 - **Simulation Equilibration Timer – 60 minutes in NJ**
 - **So – solution heats up 10 minutes then timer kicks in and the solution cooks for 60 minutes before test is run – we know everything is good and heated so that the tests are accurate**
 - **Heating stick in jar and a paddle to circulate solution (not mixing) in the jar so that the jar is equally heated – otherwise liquid near**

- heating stick would be hotter than liquid on other side of the jar
 - Paddle stays on 24/7 also
 - Thermostat set at 34 degrees – when reaches that temperature it turns off – like your heater at home – keeps within range
 - **Solution has short life span – 5 occasions when this solution must be changed – solution depletes over time**
 - **Pure passage of time (30 days) – if after midnight, on 30 days – instrument will not work without change**
 - **25 drunk drivers tested – instrument will allow you to test 25 drunk drivers and then need a solution change – instrument will not function until solution change**
 - **Control test failure (bracketing) – range allowable for instrument, tolerances in instrument within a range of .095 and .105, if instrument is out of range then shuts off and need another control test**
 - **Routine maintenance of instrument – every 6 months – Chun requires every 6 months – coordinator will put new solution in before completing inspection**
 - **Simulator about to expire – simulator and probe need to be recalibrated every year – breath test coordinator must calibrate – probe value 101 or 102 – black key function – probe value must be set in simulator**
 - **SOP for each police department to have 2-3 officers who pay attention to detail to do solution changes**
 - **SOP when there is some failure that shuts off the instrument such that cannot conduct test – bring to other PDs – protocol established but not hard and fast rule – thinking was not to waste time diagnosing problem**
 - **BEFORE going to another PD - can change solution – call designated person – 1.25-1.5 for change solution**

- **Police fear that if they wait too long going to lose alcohol – tend to rush through it**
- **Alcohol dissipates at a constant rate of .015 BAC per hour**
- **Stressful for police officer to go to another town – dealing with new group of people, don't know where stuff is, Sgt or Lt from other department watching – tend to make more mistakes under these circumstances – get frustrated**
- **Training to give new 20 minute observation once at new PD**
- **REMEMBER psychologically want to get out of new PD asap and therefore more likely that 20 minute observation is not conducted**
- **Check as to whether test administered in reasonable period of time – sometimes defendants will then refuse after being carted around to different PDs**
- **If AIR from other PD, check for 20 minute observation and check on what happened at prior PD**
- **Digital NIST or Ertco-Hart Thermometer**
 - **State v. Holland, 422 NJ Super 185 (App. Div. 2011)**
 - **Each NJSP coordinator has an NIST Thermometer (National Institute of Standards and Technology)**
 - **\$1200 each thermometer - \$500 for recalibration**
 - **Each coordinator has their own – have 4 simulators for calibration – 3 simulators from NJSP and 1 from local PD – once all heated up for over an hour – get thermometer and checking each simulator to make sure heating up to 34 degrees – to insure that simulator was heating up properly for accuracy**
 - **State went to another thermometer which was cheaper to calibrate – use Control Company NIST Traceable Temperature Measuring System**
 - **Runs on batteries – portable –turn it on and put probe into each simulator**
 - **Whole process is very quick**

- **Probe just checks temperature of each simulator for purpose of calibration – does not have anything to do with accuracy of machine**
- **Idea of Alcotest is sample of breath from human being or from simulator that is going to be tested by 2 independent technology**
 - **Instrument tests**
 - **Instrument will compare results from both technologies and as long as IR and EC within .008 or 10% whichever is greater**
- **Cuvette – solid polished brass**
 - **Sample chamber**
 - **2 ¼ inches long**
 - **Maximum capacity of 70 ml**
 - **Instruments says “please blow/R”**
 - **Officer says “I want you to take a deep breath....”**
 - **Instruments reads “****” – means defendant is blowing**
 - **10 asterisks – 1.5 L of air – minimum volume to receive in order for instrument to analyze sample**
 - **Air blown into breath hose and through flow sensor – once sample enters cuvette and IR emitter is activated**
 - **IR = energy – ethanol molecules absorb IR energy**
 - **Instrument emits a beam which must make 6 reflections, 7 passes inside that chamber because need specific distance in order to measure IR energy – molecules of ethanol absorb energy and you have the results**
 - **Send out 100 units of energy, if molecules absorb 10 units, our alcohol detector receives 90 units back – maybe an .05 reading; higher concentration of molecules = more absorption – higher reading**
 - **More molecules of ethanol in chamber the higher the reading**
 - **Molecules are also from simulator into chamber – enter from top of cuvette from neoprene hose – we know reading because we know it was tested by NJSP lab**

- **Between each test (human or simulator) all molecules are blown out – room air purges instrument out**
- **70 ml cuvette – first in, first out – one way check valve –when pressure stops, valve closes – free flowing system**
- **Electrochemical sensor (EC)**
 - **Once IR is done being analyzed – reach IR absorption plateau**
 - **Defendant stops blowing, chambers shuts, fuel cell piggybacks cuvette**
 - **When IR is done, fuel cell draws 1cc of air and analyzes 1 cc of same breath that IR has just finished analyzing**
 - **Independent from IR testing**
 - **Like a battery – measuring current**
- **Not practical to get a blood sample – so next best thing is a breath sample from lowest part of the lungs – closest to arterial blood – want to test molecules in deepest part of the lungs**
 - **When first start blowing – the air from mouth, throat, upper chest is emitted**
 - **Must continue blowing for a while so that molecules of alcohol have time to come through instrument**
 - **Most human beings blowing 3.5 seconds or 1.5 L of air should be enough time for molecules to come out for representation of what was in the lung**
 - **1.2 L of air for women over 60 – NJ doing studies on breath volume, women are generally smaller than men and older females have less breath volume – however the 1.2 and 60 years old were not based on a scientific analysis**
- **In order to get proper sample from a person there is language that the officer must “coach” defendants – specific verbiage – from Chun case**
 - **Every attempt of a breath sample – language must be read and must change mouth piece**
 - **Coach them – “keep blowing, keep blowing, keep blowing”**

- **Error – “blowing not allowed” – defendant stops sample for a short period – once you stop blowing you cannot start again – it is an interruption in the blowing – can also be an error if defendant began blowing before instrument was ready**
 - **These points are at issue in refusal cases**
 - **Can argue that pulmonary system is compromised such that person is unable to take the test – attempted but unable to give proper volume sample – get letter from doctor to establish medical issue**
 - **State v. Marquez, 408 NJ Super 273 (App. Div. 2009) – must read paragraph 36 in native language; no defense that you are too drunk to understand you have an obligation to take the test**
 - **State v. Schmidt, 206 NJ 71 (2011) – in refusal case, issue related to pulmonary function, need MD or expert to provide evidence that person physically incapable to provide proper volume sample**
 - **State v. Rodriguez-Alejo, 419 NJ Super 33 (App. Div. 2011) – defendant from Cuba and does not speak English, reading paragraph 36 and says “yes”, defendant does not understand instructions on how to administer test – officers do not speak Spanish, affirmative defense created for refusal case when language issue – just did not understand instructions to provide proper sample; mistake in case – burden of production on defendant (that is ok), burden of proof also on defendant – do not say what burden of proof may be, prosecution would have to then disprove beyond a reasonable doubt**
- **Specific language from case – instructions on how to take test – coaching by police**
- **Birthdate candle point – “Continuous flow rate of 2.5 L/min”**

- **Defendant must blow minimum of 2.5 L/min – barely a whisper is required – slow, steady sample is better than a forceful breath**
- **Tube is heated so that condensation does not form in the tube**
- **More molecules of ethanol as the “richer” sample of the lung is reached – concentration of molecules should be increasing as the person is breathing – but there is only a limit – you can only be so drunk**
- **Instrument detects ethanol in the chamber and starts doing calculations – anticipating a standardized pattern – you can graph the expected results**
 - **Start at 0 – no molecules of ethanol**
 - **As the time increases and you continue to breath, the BAC increases but then there is a plateau – reading every $\frac{1}{4}$ second to establish pattern – can’t see more than 1% change in $\frac{1}{4}$ second interval**
 - **Some states do graph the results – but there is no graph that is generated by the machine**
 - **When pattern deviates then you get an error message**
 - **If don’t reach the plateau or it drops off, then “plateau not achieved” is the error message you receive – “mouth alcohol” is one reason error you may get**
 - **If graph spikes then drops off but no plateau – then mouth alcohol detected – no additional tests can be taken – new sequential file number – instrument shuts down – MUST WAIT 20 MINUTES AGAIN....get data download because otherwise cannot see this process happening and whether 20 minute observation was done**
 - **Officers can inadvertently create an error because the officer may tell the defendant to stop breathing because there are 10 asterisks on the readout screen**



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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
 Location: LAWRENCE TWP POLICE
 Serial No.: ARWF-0359
 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: *Thomas J. Snyder #5792*

Badge No.: 5792

Date: 10/23/2007

S-2
C #6

Alcotest 7110 Calibration Record

Equipment	Alcotest 7110 MKIII-C	Serial No.:	ARWE-0359
Location:	LAWRENCE TWP POLICE		
Calibration File No.:	00203	Calib. Date:	10/23/2007
Certification File No.:	00079	Cert. No.:	00004
Linearity File No.:	00080	Cert. Date:	10/23/2006
Solution File No.:	00201	Lin. No.:	00002
Sequential File No.:	00203	Soln. Date:	10/20/2007
		Soln. No.:	00033
		File Date:	10/23/2007

Calibrating Unit:	WET	Model No.:	CU-34	Serial No.:	DDWJ S3-0355
Control Solution %:	0.100%			Expires:	02/22/2009
Solution Control Lot:	07B045			Bottle No.:	0024

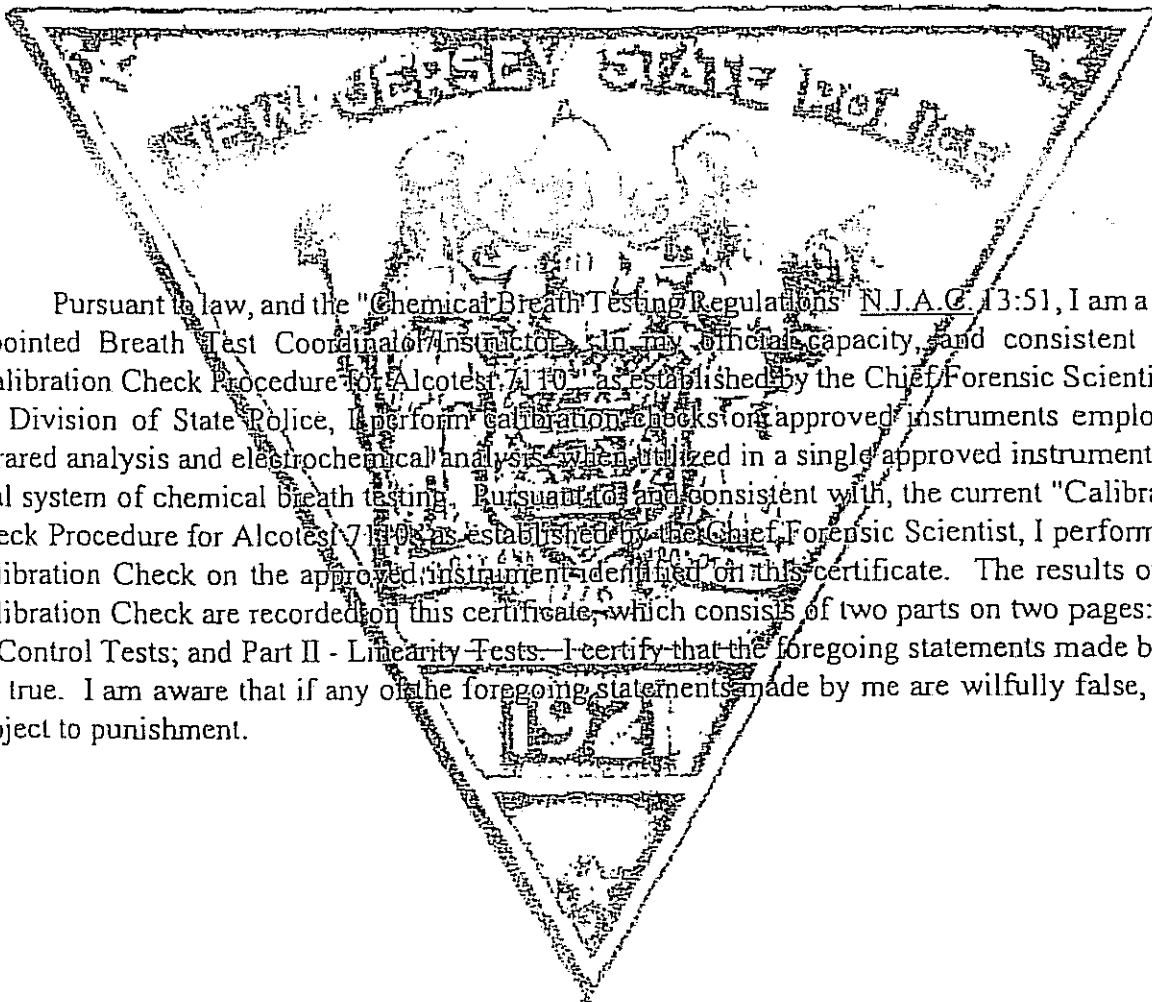
Coordinator

Last Name:	SNYDER	First Name:	THOMAS	MI:	J.
------------	--------	-------------	--------	-----	----

Signature:	<u>TPR. II Thomas J. Snyder #5792</u>	Badge No.:	5792
		Date:	10/23/2007

*Black Key Temperature Probe Serial # DDUNP2-229 (592)

*Ertco-Hart Digital Temperature Measuring System Serial# A29881 (592)



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
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 142 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 142 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 142 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

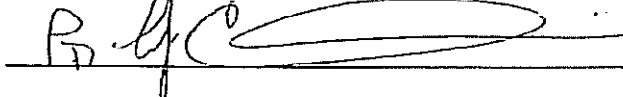
Date of Test: 01/27/2008

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)

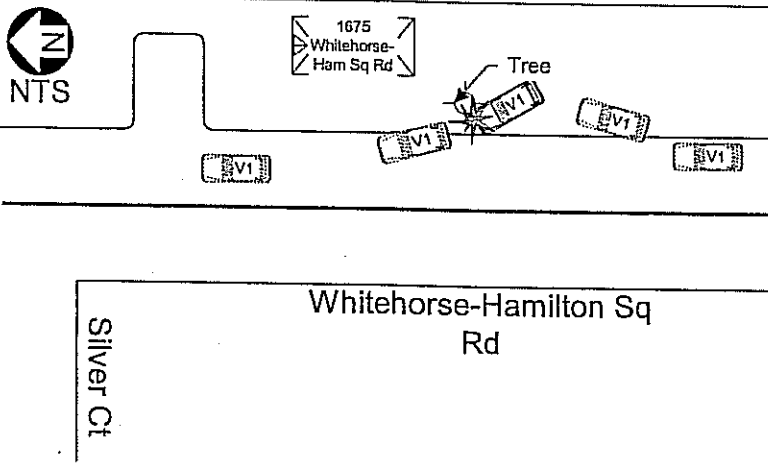
1 Case Number **10-13790** 10 Crash Occurred On: **Whitehorse-Hamilton Sq Rd** 11 Speed Limit **40** 118a
 01 2 Police Department of **HAMILTON TOWNSHIP** Code **01** Road Name Dir 12 Route No. Suffix 13 Milepost 118b
 07 3 Station/Precinct **100** At Intersection with N E of: **Silver Ct** 18 Milepost **215** 119a
 09 4 Date of Crash 5 Day of Week 6 Time (use 2400 hrs) 7 Municipality Code 8 Total Killed 9 Total Injured 19 To: 17 Cross Road Name NB EB 20a
 01 040310 Su M Tu W Th F Sa 2041 1103 - - - - RAMP From: 20 (Route No.) SB WB 119b
 101 23 Veh No. **01** 24 Policy No. **1200385549** 25 Ins Code **279** 53 Veh No. 54 Policy No. 55 Ins Code 21 Latitude 22 Longitude

102 26 Driver's First Name **David** Initial Last Name 29 Sex **M** 56 Driver's First Name Initial Last Name 59 Sex 120
 01 Parked Ped Pedalcyclist Resp to Emergency Hit & Run Parked Ped Pedalcyclist Resp to Emergency Hit & Run 121
 103 27 Number and Street 30 Eyes **5** 57 Number and Street 60 Eyes 122

104 28 City **Hamilton** State **NJ** Zip **08690** 58 City State Zip 123
 01 31 State **NJ** 32 Driver's License No. 33 DOB **10/03/65** 34 Expires **09/13** 61 State 62 Driver's License No. 63 DOB mm dd yy 64 Expires mm yy 124
 105 35 Owner's First Name Initial Last Name 65 Owner's First Name Initial Last Name 125
 11 Same As Driver Same As Driver

36 Number and Street **Same** 66 Number and Street 126
 106 37 City **Same** State Zip 67 City State Zip 127
 38 Make **Chev** 39 Model **Monte Carlo** 40 Color **Gray** 41 Year **2001** 42 Plate No. 43 State **NJ** 68 Make 69 Model 70 Color 71 Year 72 Plate No. 73 State 128a
 107 44 VIN Number 45 Expires **04/11** 74 VIN Number 75 Expires 128b
 108 46 Vehicle Removed To Driven Left at Scene Towed 47 Authority Owner Driver Police 76 Vehicle Removed To Driven Left at Scene Towed 77 Authority Owner Driver Police 128c
 01 **Bill's towing** Impounded Disabled Impounded Disabled Impounded Disabled Impounded Disabled 128d

48 Alcohol/Drug Test 78 Alcohol/Drug Test 129a
 111 Given: No Yes Refused 79 Given: No Yes Refused 129b
 112 Type: Breath Blood Urine 79 Type: Breath Blood Urine 129c
 113 Results: 0. 18 % Pending 79 Results: 0. % Pending 129d
 114 49 Hazardous Material Name or Placard No. 80 Hazardous Material Name or Placard No. 129e
 115 On Board Spill On Board Spill 129f
 116 50 Carrier No. USDOT Other* 81 Carrier No. USDOT Other* 129g
 117 51 Commercial Vehicle Weight 82 Commercial Vehicle Weight 129h
 < 10,000 lbs < 10,000 lbs 10,001 - 26,000 lbs 10,001 - 26,000 lbs > 26,001 lbs > 26,001 lbs 129i
 52 Carrier Name 82 Carrier Name 129j



111 Given: No Yes Refused
 112 Type: Breath Blood Urine
 113 Results: 0. 18 % Pending
 114 49 Hazardous Material Name or Placard No.
 On Board Spill
 115 50 Carrier No. USDOT Other*
 116 51 Commercial Vehicle Weight
 < 10,000 lbs
 10,001 - 26,000 lbs
 > 26,001 lbs
 52 Carrier Name

135 Crash Description
 D-1 stated he was traveling N/B on Whitehorse-Ham Sq Rd when a "Deer" jump out in front of his vehicle. D-1 said he swerved to avoid the deer and impacted the tree.
 A.I. Summary: Based on my investigation and the physical evidence I find D-1 at fault of the crash. Subsequently D-1 was arrested for Driving While Intoxicated. It was the impairment by D-1 that caused the crash. 130
 131

136 Damage To Other Property
Property of 1675 Whitehorse-Ham Sq Rd
 Oper. **01** 137 Charge **39:4-90** Multiple Charges 138 Summons No. Oper. 139 Charge Multiple Charges 140 Summons No. 132
 141 Officer's Signature 142 Badge No. **#381** 143 Reviewed By 144 Case Status Pending Complete 133

B3	B4	B5	B6	B7	B8	B9	B0	B1	B2	B3	B4	B5	Names & Addresses of Occupants - If Deceased, Date & Time of Death		
A01	01	01	--	44	M	--	--	09	09	--	--	D-01			
B															
C															
D															
E															

S-1

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:

[Handwritten initials]

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"/> 01 LARGE <input type="radio"/> 02 MEDIUM <input type="radio"/> 03 SMALL		21. EYE COLOR <input type="radio"/> 01 BLACK <input type="radio"/> 02 BLUE <input type="radio"/> 03 BROWN <input type="radio"/> 04 GREEN <input type="radio"/> 05 GRAY <input checked="" type="radio"/> 06 HAZEL <input type="radio"/> 07 MAROON <input type="radio"/> 08 MULTICOLOR <input type="radio"/> 09 PINK <input type="radio"/> 10 UNKNOWN		23. SKIN <input type="radio"/> 1 UNKNOWN <input checked="" type="radio"/> 2 LIGHT <input type="radio"/> 3 MEDIUM <input type="radio"/> 4 DARK <input type="radio"/> 5 ACNE <input type="radio"/> 6 FRECKLED <input type="radio"/> 7 RUDDY <input type="radio"/> 8 OTHER		25. SPEECH <input checked="" type="radio"/> 1 NORMAL <input type="radio"/> 2 ACCENT <input type="radio"/> 3 NON-ENGLISH <input type="radio"/> 4 HIGH PITCH <input type="radio"/> 5 LOW PITCH <input type="radio"/> 6 NASAL <input type="radio"/> 7 RASPY <input type="radio"/> 8 STUTTERS <input type="radio"/> 9 OTHER		27. HAIR COLOR <input checked="" type="radio"/> 1 BLACK <input type="radio"/> 2 BLOND <input type="radio"/> 3 BROWN <input checked="" type="radio"/> 4 GRAY <input type="radio"/> 5 RED <input type="radio"/> 6 SANDY <input type="radio"/> 7 WHITE <input type="radio"/> 8 UNKNOWN	
20. FACIAL HAIR <input type="radio"/> 01 UNKNOWN <input type="radio"/> 02 CLEAN SHAVEN <input type="radio"/> 03 UNSHAVEN <input type="radio"/> 04 SIDE BURNS <input type="radio"/> 05 MUSTACHE <input type="radio"/> 06 FUMANCHU <input type="radio"/> 07 LOWER LIP <input type="radio"/> 08 GOATEE <input type="radio"/> 09 FULL BEARD <input type="radio"/> 10 OTHER		22. GLASSES Y - YES <input checked="" type="radio"/> N - NO		24. TEETH <input type="radio"/> 1 BRACES <input type="radio"/> 2 ROTTEN <input type="radio"/> 3 BROKEN <input type="radio"/> 4 DISCOLORED <input type="radio"/> 5 CROOKED <input type="radio"/> 6 FALSE <input type="radio"/> 7 MISSING <input type="radio"/> 8 NORMAL		26. HANDED <input checked="" type="radio"/> R RIGHT <input type="radio"/> L LEFT <input type="radio"/> A AMBIDEXTROUS		28. HAIR STYLE <input type="radio"/> 01 UNKNOWN <input type="radio"/> 02 AFRO <input type="radio"/> 03 BRAIDED <input type="radio"/> 04 BUSHY <input type="radio"/> 05 CREW CUT <input type="radio"/> 06 PONY TAIL <input type="radio"/> 07 PROCESSED <input type="radio"/> 08 STRAIGHT <input checked="" type="radio"/> 09 WAVY / CURLY <input type="radio"/> 10 WIG <input type="radio"/> 11 OTHER	
29. HAIR LENGTH <input type="radio"/> 01 UNKNOWN <input type="radio"/> 02 SHAVED <input type="radio"/> 03 BALD <input type="radio"/> 04 BALDING <input type="radio"/> 05 SHORT <input type="radio"/> 06 NECK LENGTH <input type="radio"/> 07 COLLAR LENGTH <input type="radio"/> 08 SHOULDER LENGTH <input type="radio"/> 09 LONGER <input type="radio"/> 10 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 MAKE MODEL BODY TYPE REG STATE VIN [REDACTED] 2001 Chev Monte Carlo 2DR [REDACTED] NJ [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]			BADGE # # [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]	[REDACTED]
Street Address [REDACTED] RD	Birth Date 10/3/1965	Arresting Officer Information
Town, State, ZIP [REDACTED] 08640	Arrest: Date & Time 4/3/10 2120 HRS	Name: Last, First, M.I., Rank [REDACTED]
Violation(s) Charged: (Check appropriate boxes)	Badge # [REDACTED]	
	<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

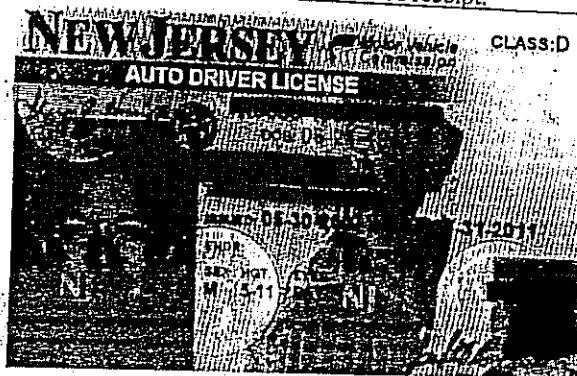
ACKNOWLEDGMENT OF RECEIPT OF POTENTIAL LIABILITY WARNING

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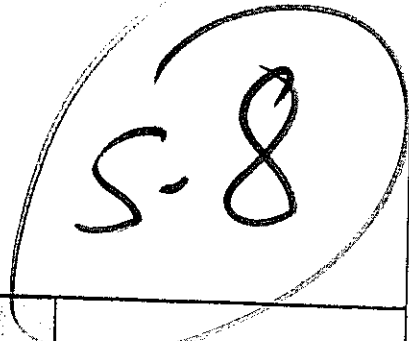
STATE OF NEW JERSEY
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 INVESTIGATIONS BUREAU

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 Hamilton Twp Code No. 1103 (18) Roadway or Location Whitehorse-Hamilton Sq Rd E Silver Ct (19) County Mercer
 (20) Arrested By - Badge Number - Station [REDACTED] (21) Tested By - Badge Number [REDACTED]

(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:

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
720 TRAF Arrive 20:51:25
702 PTL Dispatch 21:07:29
702 PTL Arrive 21:07:33
702 PTL Secd Loc 21:21:27
SEC. LOC.: HQ
720 TRAF Secd Loc 21:21:27
SEC. LOC.: HQ
702 PTL Unit Avail 21:25:16
720 TRAF Clear Call 0:42:03

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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