STEPHEN HAMILTON
Board-Certified Criminal Defense Attorney

DWI BLOOD TESTS IN TEXAS

Understanding and Challenging Them

James Publishing

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By Stephen Hamilton

Board-Certified in Criminal Law by
the Texas Board of Legal Specialization

The Texas Criminal Defense Group

Authors:
Stephen Hamilton
Texas Criminal Defense Group
https://texascriminaldefensegroup.com/
806-444-4444

Publisher:
James Publishing, Inc.
3303 Harbor Blvd., Suite F-8
Costa Mesa, CA 92626
www.jamesamplifier.com
866-725-2637

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The Texas Criminal Defense Group
www.texascriminaldefensegroup.com

About Me and DWI Cases

Over the years I have tried on average more cases in a year than most criminal lawyers try in ten years, and I have handled over 100 jury trials.

I believe I am in court so often for two reasons. First, I like my clients. If I can help them in their time of need I want to do whatever I can. Second, I like trials. I enjoy the stress that comes with being in trial. I believe that when I walk in that courtroom, as arrogant as this might sound, I am in charge.

DWIs are the cases I handle most frequently. Seven attributes make them challenging.

1. **Dual Track System**
    - Attorneys must fight on two fronts simultaneously: the criminal case and the Administrative License Revocation (ALR) hearing
    - These are separate proceedings with different rules, timelines, and outcomes
    - The 15-day deadline for the ALR hearing creates immediate time pressure

2. **Strong Prosecution Evidence**
    - BAC test results (0.08% or higher creates a legal presumption of intoxication)
    - Field sobriety test observations
    - Officer testimony about driving behavior, appearance, and demeanor

- Video evidence from dashcams and bodycams
- Police reports documenting every detail

3. **Need for Scientific Expertise**
   - Challenging breath/blood tests requires understanding calibration, maintenance logs, and testing procedures
   - Medical conditions (diabetes, GERD, neurological issues) need expert testimony to explain
   - Rising BAC defenses require toxicology expertise
   - Expert witnesses are expensive and time-consuming

4. **Limited Suppression Opportunities**
   - Must prove the traffic stop was completely unlawful
   - Must show field sobriety tests were improperly administered
   - Must demonstrate concrete chain of custody or procedural errors
   - Video evidence often supports officer's version

5. **Texas Takes DWI Seriously**
   - Even first offenses carry mandatory minimums (72 hours jail)
   - Enhancement for BAC ≥ 0.15% (Class A misdemeanor)
   - Judges and juries tend to be less sympathetic

6. **High Stakes**
   - License suspension affects employment
   - SR-22 insurance requirements
   - Professional license implications
   - Immigration consequences for non-citizens
   - Future DWIs carry enhanced penalties

Despite these challenges, many DWI cases are successfully defended through:

- Challenging illegal stops
- Exposing test administration errors
- Highlighting officer credibility issues
- Finding missing/lost evidence
- Demonstrating medical conditions
- Creating reasonable doubt

I hope you find the information and advice in this guide helpful.

Stephen Hamilton

Google Reviews

4.9 rating, 500+ reviews

Jeremy Belvin ★★★★★

My attorney was phenomenal and wrapped up the entire felony case and had it reduced to a misdemeanor in in 3 months time start to finish. The office personnel were just as amazing and messaged me about any updates. I wasn't a bargaining chip like most attorneys use clients for. Everything was laid out plain and simple, and I had to do my part.

Kevin Mosansky ★★★★★

I am grateful to the Texas Criminal Defense Group for getting my case dismissed.

Carlos Per ★★★★★

The attorney assigned to my case was not only knowledgeable but also genuinely cared about my situation. He took the time to explain the implications of my charges, the potential outcomes, and the strategy they would employ to advocate for me.

When the day of my court appearance arrived, I felt prepared and supported. The outcome was far better than I had anticipated, and I left the courtroom relieved. I learned a valuable lesson about responsibility and the importance of making better choices.

Brandon Wright ★★★★★

They kept me informed the whole time. Anytime I had questions they were quick to give me answers. Very knowledgeable and professional. Definitely recommend to everyone.

Freddie Young ★★★★★

Very professional lawyers, they weren't afraid to step in the middle of the prosecutors' circle and talk them down to a lesser charge. I'm very satisfied with the outcome of my case. Hopefully I won't have to, but if I do I will call them for their service again.

Kendall Anderson ★★★★★

Texas Criminal Defense Group came through for me in one of the scariest times of my life. Having representation that is familiar with the process was very important to me. I had that with them, and would recommend and use them again.

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INTRODUCTION

When a Number Changes Everything

If you are reading this book, chances are a blood test is now part of your life. Maybe you were stopped late at night. Maybe you were asked to step out of your vehicle. Maybe you were arrested. Maybe your blood was taken — with or without your consent.

And now there is a number. A number on a lab report. A number the prosecutor says proves intoxication. A number that may affect your license, your job, your reputation, and your future. It can feel overwhelming. Many people charged with DWI believe the same thing: "There's a blood test. The case must be over." That belief is often wrong.

The Power and the Problem With Blood Tests

Blood tests carry weight in court. They sound scientific, appear precise, and seem objective. Jurors tend to trust them. Judges tend to admit them. Prosecutors rely on them. But here is what most people do not understand: a blood alcohol result is not a simple fact.

It is the product of police decisions, legal procedures, search warrants, medical practices, evidence handling, laboratory

testing, machine calibration, and human interpretation. Every step matters. And every step can be examined.

▪ WHAT GOES INTO A BLOOD TEST RESULT?

- *A lawful traffic stop and arrest*
- *A valid search warrant or voluntary consent*
- *A properly conducted blood draw*
- *Correct storage and transportation of the sample*
- *Accurate laboratory testing and machine calibration*
- *Analyst interpretation and documentation*

Each of these steps must be done correctly. If any one of them fails, the reliability of the final number can be questioned.

This Book Is About Understanding, Not Panic

This book is not about technical loopholes, and it is not about avoiding responsibility. It is about understanding how blood testing actually works — and how it can sometimes fail.

In the chapters that follow, you will learn how blood is drawn in Texas DWI cases, how search warrants are obtained, how samples are stored and transported, how crime labs test blood for alcohol, where testing can go wrong, how rising BAC can affect results, how constitutional violations can lead to suppression, how toxicologists review lab work, how blood test evidence is challenged in court, and how trial strategy works in science-driven cases.

Most importantly, you will learn that a BAC number is not automatically the end of the story.

Knowledge Changes the Conversation

When you understand the science, you are no longer intimidated by it. When you understand the law, you are no longer confused by it. When you understand the process, you are no longer powerless in it.

This does not mean every case will be dismissed, and it does not mean every blood test is flawed. It means every case deserves careful review. Because when the government accuses you of a crime, it must follow the rules. And if it does not, that matters.

A Word About Fairness

Our legal system is built on one simple idea: the state must prove its case beyond a reasonable doubt. Not probably. Not most likely. Not because a machine printed a number. Beyond a reasonable doubt.

If there are gaps in the process, those gaps matter. If there are assumptions in the science, those assumptions matter. If rights were violated, those violations matter. Fairness demands scrutiny — and scrutiny is exactly what this book is designed to help you understand.

▪ THE STANDARD THAT PROTECTS YOU

In every criminal case in Texas, the prosecution must prove guilt beyond a reasonable doubt. That standard applies to every piece of evidence, including blood test results. It is not enough for the state to say the number is probably accurate. It must prove the entire process was reliable — from the moment you were stopped to the moment the lab generated its report.

You Are Not Alone in This

Being charged with DWI can feel isolating. It can be embarrassing, frightening, and it can feel as though the outcome is already decided. But it is not. A blood test is evidence — and evidence must withstand scrutiny.

The purpose of this book is simple: to help you understand what that scrutiny looks like. Because informed decisions are better decisions. And when your future is on the line, clarity matters.

In the chapters that follow, we begin with the basics — how blood tests became central to DWI enforcement in Texas — and then walk step by step through the science, the law, and the strategies that can shape the outcome of your case.

The number on the lab report may feel powerful. But knowledge is power too. And now, you have it.

CHAPTER 1

WHAT TO DO IF YOU'VE BEEN ARRESTED FOR DWI IN TEXAS

A Step-by-Step Guide for Protecting Yourself, Your License, and Your Future

1.1. Take a Breath: You've Been Arrested — Now What?
1.2. Step-by-Step: What to Do Immediately After Your Arrest
1.3. Your Driver's License Is at Risk: Here's How to Protect It
1.4. Why You Need an Attorney — Sooner Than You Think
1.5. Mistakes That Can Hurt Your Case — and How to Avoid Them
1.6. Final Thoughts: You're Not Alone, and This Is Not the End

1.1. Take a Breath: You've Been Arrested — Now What?

Getting arrested for DWI (Driving While Intoxicated) can feel like a nightmare. You may be scared, confused, angry, or ashamed. Maybe it's your first time in trouble with the law. Maybe you've been through this before and know how quickly the situation can spin out of control. Either way, what you do next matters — and it matters a lot.

Let's start with the most important truth: **being arrested is not the same as being convicted**.

Even if you submitted to a breath or blood test, even if you performed field sobriety tests, even if the officer told you that you "failed" — your case is far from over. Texas DWI cases can be challenged, evidence can be suppressed, and charges can be reduced or dismissed. But you need to act quickly and strategically.

This chapter is your roadmap for the first few days after a DWI arrest. Follow these steps to protect your rights, your driver's license, and your future.

▪ **KEY REMINDER**

An arrest is not a conviction. You have rights. You have time. You have options.

1.2. Step-by-Step: What to Do Immediately After Your Arrest

Step 1: Write Down Everything You Remember

As soon as possible — ideally within 24 hours — write down a detailed account of what happened before, during, and after your arrest. Include:

- What you were doing before you got in the car
- What you ate or drank, and when
- How the officer pulled you over and what they said
- Whether they asked you to take field sobriety tests
- Whether you took a breath or blood test (or refused)
- Where and how the arrest took place
- Who else was present (friends, passengers, witnesses)

Even small details can become important later. Your memory will fade over time — preserve it now.

Step 2: Save and Protect Any Evidence

Did you use a rideshare app earlier that evening? Text someone? Take photos or videos at dinner or a party? Save that information. Screenshots of texts, Uber/Lyft receipts, and timestamps on social media posts may all help verify your timeline or challenge the officer's version of events.

If your vehicle was towed, retrieve the paperwork. Keep your citation, any paperwork from jail, and any bond conditions you were given. Don't throw anything away.

Step 3: Request an ALR Hearing to Save Your License

▪ **URGENT: 15-DAY DEADLINE**

You have only 15 days from the date of your arrest to request a hearing to challenge your license suspension. Miss it, and your license will be automatically suspended — even if you are never convicted.

This hearing is called an Administrative License Revocation (ALR) hearing. The ALR hearing is a separate process from your criminal DWI case. It's run by the Texas Department of Public Safety (DPS), not the criminal court. But it's an important chance for your attorney to challenge the legality of the stop, the arrest, or the chemical test. Your lawyer can handle this for you — but only if you act in time.

Step 4: Call a DWI Attorney Right Away

Don't wait to "see what happens" or hope it will blow over. DWI cases in Texas move quickly, and the earlier your attorney

gets involved, the more opportunities there are to protect you. Don't just "call a lawyer" — call a lawyer who focuses on DWI defense. Experience with ALR hearings, blood test challenges, and trial work matters — a lot.

A qualified DWI lawyer will:

- Request your ALR hearing before the deadline
- Begin gathering police reports, videos, and lab results
- Advise you on bond conditions, travel restrictions, and license issues
- Investigate whether your rights were violated

Early intervention matters. An experienced attorney may even be able to keep charges from being filed in the first place.

1.3. Your Driver's License Is at Risk: Here's How to Protect It

Most people arrested for DWI in Texas face an automatic driver's license suspension unless they act quickly. Here's how it works:

- If you **refused** a breath or blood test, your license can be suspended for **180 days**
- If you **took** the test and failed (BAC 0.08 or higher), the suspension is **90 days**
- If you have prior DWI-related contact (refusal or conviction), the suspension may be longer

The only way to fight this suspension is to request an ALR hearing within 15 days of your arrest. An ALR hearing is not a criminal trial, but it can reveal useful information about the

case — including how the stop occurred, whether the officer followed procedure, and what evidence the state has.

If your license is suspended, you may qualify for an occupational license, which allows limited driving for work, school, and essential household needs. Your attorney can help you apply for this.

▪ WHAT IS AN ALR HEARING?

ALR stands for Administrative License Revocation. It's a civil (not criminal) hearing before the Texas Department of Public Safety. You're not trying to prove your innocence — you're fighting to keep your license.

Note: Even if you win your DWI case in court, you can still lose your license through the ALR process — unless you requested the hearing in time.

1.4. Why You Need an Attorney — Sooner Than You Think

You may be thinking: Do I really need a lawyer? The answer is yes — and not just any lawyer, but one who understands Texas DWI law and knows how to challenge blood test results, police conduct, and the science behind DWI charges.

Here is what a good DWI defense lawyer can do:

- **Challenge the stop:** Did the officer have a legal reason to pull you over?
- **Challenge the arrest:** Did the officer follow proper procedure?
- **Challenge the test:** Was the blood or breath test handled properly? Were your rights violated?
- **Negotiate effectively:** A strong defense can lead to reduced charges, dismissal, or a not guilty verdict.

- **Protect your record:** A DWI conviction can impact your job, insurance, license, and future.

The sooner your lawyer gets involved, the better your chances are — especially when evidence needs to be preserved or deadlines are ticking. Your attorney can request the dashcam video, bodycam footage, and maintenance records for the testing equipment. These can make or break your case.

1.5. Mistakes That Can Hurt Your Case — and How to Avoid Them

Many people arrested for DWI unintentionally make things worse by panicking or making assumptions. Avoid these common mistakes:

Talking to police or prosecutors without a lawyer. Anything you say can be used against you. Be polite, but assert your right to remain silent and to have an attorney present.

Posting about your arrest on social media. This is one of the biggest modern-day pitfalls. Even a joke or a meme can be used against you in court. Prosecutors look for damaging statements online. Don't hand them evidence.

Missing your ALR deadline. Waiting too long can cost you your license. Let your attorney handle it, but don't delay making that call.

Assuming you can't win. Many people think a high BAC means they're automatically guilty. That's not true. Lab errors,

improper procedures, and constitutional violations can all lead to dropped charges.

Hiring the wrong type of lawyer. Not all criminal defense lawyers are skilled in DWI defense. Look for someone who has experience specifically with DWI trials, ALR hearings, and blood test challenges.

■ WHAT TO BRING TO YOUR ATTORNEY CONSULTATION

- *Arrest paperwork*
- *Bond conditions*
- *Tow slip (if applicable)*
- *Your written summary of the incident*
- *List of witnesses (names and contact info)*
- *Any evidence (screenshots, photos, receipts)*

1.6. Final Thoughts: You're Not Alone, and This Is Not the End

A DWI arrest can be overwhelming, but it doesn't have to define your future. With the right legal strategy and a clear understanding of your rights, you can take control of your case — and your life.

Don't panic. Don't wait. Don't give up.

This book will help you understand what's ahead, and how to face it with confidence. You have options. You have rights. And with the right guidance, you have a path forward.

Frequently Asked Questions

Q: What is the legal limit in Texas?

A: The legal blood alcohol concentration (BAC) limit in Texas is 0.08% for drivers 21 and older. For commercial drivers, it's 0.04%, and for drivers under 21, any detectable alcohol may result in charges.

Q: Can I drive after my arrest?

A: Yes, if you were issued a temporary driving permit (usually on a yellow form) at the time of arrest. It is valid for 40 days unless you request an ALR hearing, in which case it remains valid until your hearing is decided.

Q: What if I refused the breath or blood test?

A: Refusal can result in a longer license suspension (180 days), but it may also strengthen your legal defense by reducing the evidence against you.

Q: Do I need a lawyer if I plan to plead guilty?

A: Yes. Even if you think you want to plead guilty, a lawyer can often reduce the charges or the penalties — or identify weaknesses in the case that might change your mind.

Q: Can a lawyer really beat a blood or breath test?

A: Yes. Many DWI cases are won by exposing:

- Unreliable lab results
- Improper draw or storage techniques
- Lack of probable cause for the stop or arrest
- Constitutional violations

Q: Can I get my record cleared later?

A: Possibly. Depending on the outcome of your case, you may be eligible for an expunction (if the case is dismissed or you're found not guilty) or a non-disclosure order (in certain plea situations). Your attorney can explain your options.

Q: What if this is my second DWI?

A: Second and third offenses carry stiffer penalties — longer license suspensions, higher fines, and possible jail time. The stakes are higher, but the right defense strategy still matters.

CHAPTER 2

WHAT IS A DWI BLOOD TEST?

Understanding How It Works, and What It Means for Your Case

2.1. Why Blood Tests Are Used in Texas DWI Cases
2.2. How a Blood Test Works: The Science Behind It
2.3. Legal Limits in Texas
2.4. Blood vs. Breath vs. Urine Testing
2.5. Can You Refuse a Blood Test in Texas?
2.6. Why Your Blood Test Isn't Always the Final Word
2.7. Takeaway: The Blood Test Is Just the Beginning

2.1. Why Blood Tests Are Used in Texas DWI Cases

▪ BLOOD DRAWS ARE NOT ROUTINE

A blood draw is a search under the Fourth Amendment. It requires a valid reason and, in most cases, a warrant or your consent.

If you've been arrested for DWI and your blood was taken for testing, it's normal to feel alarmed — even hopeless. Blood tests sound final. Medical. Scientific. They carry a certain weight in the courtroom, and jurors often see them as more trustworthy than breath tests. But are they?

Not always.

While Texas law treats blood testing as a highly accurate method for determining blood alcohol concentration (BAC), the reality is far more complicated. Errors can happen at every stage — from the way your blood is drawn, to how it's stored, to how it's analyzed in the lab.

This chapter will break down what a DWI blood test is, how it works, what the legal limits are, and how blood testing compares to other methods like breath or urine tests. By the end, you'll understand why a blood test result is not the end of your case — it's just the beginning of the investigation.

2.2. How a Blood Test Works: The Science Behind It

When someone is suspected of driving while intoxicated, officers have several tools to estimate their level of alcohol impairment. One of the most invasive — and often the most contested — is the blood test.

Step 1: Blood Collection

A blood draw typically takes place at a hospital or other medical setting, sometimes under warrant. A medical professional uses a needle to take a vial or two of your blood, which is then sealed and labeled for transport. But this part of the process is already full of potential problems:

- Was the draw performed by a licensed person?
- Was the blood mixed with the right preservatives?
- Was it refrigerated right away?
- Was the labeling and chain of custody properly documented?

If not, the results may be unreliable or even inadmissible in court.

■ CHAIN OF CUSTODY CAN MAKE OR BREAK THE CASE

Every person who handles your blood sample must document exactly when and how they did so. If even one link in that chain is missing or unclear, the sample's reliability — and admissibility — can be challenged.

Step 2: Testing the Blood

Once the blood sample reaches the lab, it's analyzed using a technique called gas chromatography. This machine breaks down the chemicals in your blood to measure how much alcohol is present. It sounds high-tech, and it is — but gas chromatography can be sensitive to:

- Calibration errors
- Contamination from other samples
- Poor maintenance
- Inadequate quality control

Mistakes here can drastically affect your reported BAC level. That's one reason why defense attorneys often bring in forensic toxicologists to review the lab's methods and challenge the reliability of the results.

■ WHAT IS GAS CHROMATOGRAPHY?

Gas chromatography is a scientific method that separates and measures chemicals in your blood. In DWI cases, it identifies the type and amount of alcohol present. But if the machine isn't calibrated, or if samples are contaminated, results can be wrong — and often are.

Ask your attorney whether your sample was tested using a dual-column GC machine. Single-column tests are more likely to produce false positives.

Step 3: Reporting BAC

Your BAC, or blood alcohol concentration, is the percentage of alcohol in your bloodstream. For example, a BAC of 0.08% means 0.08 grams of alcohol per 100 milliliters of blood.

▪ **BAC CHANGES OVER TIME**

Alcohol levels rise as alcohol is absorbed and fall as it's processed. That means your BAC at the time of the test may not reflect your BAC at the time of driving — and that difference can be crucial to your defense.

2.3. Legal Limits in Texas

Texas has strict laws about blood alcohol levels — but not all BACs are treated the same.

▪ **TEXAS BAC LIMITS AT A GLANCE**

- ***0.08%** — Standard limit for drivers 21 and older*
- ***0.04%** — Commercial drivers (CDL holders)*
- ***0.00%** — Under 21 (zero tolerance; any detectable alcohol)*
- ***0.15%+** — Triggers enhanced penalties, including possible Class A misdemeanor*

Standard Limit: 0.08%

This is the legal limit for most adult drivers. If your BAC is 0.08% or higher, you can be charged with per se DWI, even if you weren't driving erratically or showing signs of intoxication.

Commercial Drivers: 0.04%

If you hold a commercial driver's license (CDL), the standard is even lower — just 0.04%. That means just one or two drinks could put you over the legal threshold.

Under 21: Any Detectable Alcohol

Texas has a zero-tolerance policy for drivers under 21. If any alcohol is detected — even a BAC of 0.01% — you could face license suspension and other penalties, even if it's your first offense.

Enhanced Penalties at 0.15% or Higher

If your BAC is 0.15% or above, you may face increased charges even on a first-time offense. These can include:

- Mandatory ignition interlock device
- Higher fines
- Jail time
- Longer license suspension

But that number must be accurate, and there are many ways to challenge its reliability.

2.4. Blood vs. Breath vs. Urine Testing

Each type of chemical test has pros and cons — and each can be challenged in court.

Breath Tests

- Quick and non-invasive
- Often administered roadside or at a police station

- Subject to mechanical error, poor calibration, and environmental interference such as mouth alcohol or radio signals
- Generally easier to challenge than blood tests

Blood Tests

- Considered the "gold standard" of DWI testing
- Often used when someone refuses a breath test or when there is an accident
- Requires a warrant unless the driver consents
- More complex to analyze, and also more prone to human error and lab mistakes

Urine Tests

- Rarely used in Texas for alcohol DWI cases
- Less accurate and reliable than blood or breath
- May be used in drug-impaired driving cases

▪ **NO METHOD IS PERFECT**

Your defense starts with a close examination of how your test was conducted — not just what the result says. Blood drawn long after the stop, alcohol still rising in your system, a contaminated or fermented sample, or testing done on plasma rather than whole blood can all produce misleading results.

2.5. Can You Refuse a Blood Test in Texas?

Under Texas's Implied Consent Law, anyone driving on public roads is deemed to have given "implied consent" to a blood or breath test if lawfully arrested for DWI. But you still have the right to refuse — with consequences.

If You Refuse

- Your license can be suspended for 180 days on a first offense
- The refusal can be used against you in court
- Police may still obtain a warrant to draw your blood

If You Consent

- Your BAC result becomes key evidence against you
- You may avoid the longer license suspension, but not the DWI charge itself

There is no one-size-fits-all answer. Sometimes refusing a test strengthens your case. Other times, it makes things harder. An experienced attorney can explain the best course of action based on your specific situation.

■ **WHEN CAN POLICE TAKE YOUR BLOOD WITHOUT CONSENT?**

- *If they have a **valid search warrant***
- *If you are **unconscious** and considered incapable of refusing*
- *In some **felony DWI** cases, such as those involving serious injury or death*

Note: A forced blood draw must still follow strict legal procedures. If it doesn't, your lawyer may be able to have the evidence thrown out.

2.6. Why Your Blood Test Isn't Always the Final Word

Many people think: "Well, the blood test says I was over the limit, so I must be guilty." But science — and the law — are rarely that simple.

Here are just a few reasons your blood test may not be accurate:

- **Your BAC was still rising** at the time of the test, meaning it was lower when you were actually driving
- **The blood wasn't refrigerated properly** after the draw, allowing alcohol to form inside the vial
- **The preservatives or anticoagulants were expired** or missing from the collection tube
- **The sample was tested using a single-column method,** increasing the risk of error
- **The lab didn't follow standard operating procedures**

These are not technicalities — they are constitutional and scientific issues that can form the foundation of your defense.

▪ COMMON DEFENSES AGAINST BLOOD TEST RESULTS

- **Rising BAC:** *You were under the limit while driving, but over it later when tested*
- **Faulty preservatives:** *Alcohol may have fermented in the vial*
- **Unreliable lab methods:** *No quality controls or improper validation*
- **Improper refrigeration or storage:** *Spoiled samples can produce false readings*
- **Plasma vs. whole blood testing:** *Results can be up to 20% too high*

2.7. Takeaway: The Blood Test Is Just the Beginning

Being told that your blood test shows a BAC above the legal limit can be devastating — but don't let that number define your case. The science behind DWI blood tests is complex. The

systems used to collect and analyze your blood are operated by humans — and humans make mistakes.

Your attorney will review:

- Who drew the blood, and how
- What kind of tubes were used, and whether they contained proper additives
- How the blood was stored and transported
- Which lab tested it, and how
- Whether proper scientific controls were used
- Whether your rights were violated at any stage

A blood test may be powerful evidence — but only if it was done right. In many cases, it wasn't. The truth is: **no DWI case is unwinnable.**

Frequently Asked Questions

Q: What is BAC?

A: BAC stands for Blood Alcohol Concentration. It measures the amount of alcohol in your bloodstream as a percentage. A BAC of 0.08% means there is 0.08 grams of alcohol per 100 milliliters of blood.

Q: Can I be charged with DWI if my BAC is under 0.08%?

A: Yes. Texas law allows DWI charges based on impairment, even if your BAC is under the legal limit. The officer simply has to claim you didn't have the "normal use" of your mental or physical faculties due to alcohol or drugs.

Q: Is blood testing more accurate than breath testing?

A: Not necessarily. While blood tests are more detailed and appear more scientific, they are also more prone to errors in

collection, storage, and lab processing. A poorly handled blood test can be less reliable than a properly conducted breath test.

Q: What happens if I refuse a blood or breath test?

A: Your license will likely be suspended for 180 days, and the refusal can be used against you in court. In some cases, refusing can limit the evidence the state has. Always consult a lawyer before making this decision.

Q: Can my attorney challenge my blood test results?

A: Absolutely. A skilled attorney can challenge the collection process, chain of custody, lab procedures, and interpretation of results. They may also bring in an expert toxicologist to uncover scientific errors.

Q: Can I beat a DWI charge if my blood test shows I was over the limit?

A: Yes. Many DWI cases with over-the-limit blood tests are still successfully defended. The number isn't the whole story — the process behind that number is what matters most.

CHAPTER 3

WHEN CAN THE POLICE TAKE YOUR BLOOD?

Understanding Consent, Refusal, Warrants, and Implied Consent in Texas DWI Law

3.1. Who Decides? The Law Behind Blood Draws
3.2. Consent vs. Coercion: What It Means to "Agree" to a Blood Draw
3.3. Forced Blood Draws and When They're Legal
3.4. What Is Implied Consent — and Does It Really Mean You Agreed?
3.5. What Happens If You Refuse?
3.6. Practical Scenarios: What Happens in the Real World
3.7. Why This Matters to Your Defense
3.8. Final Thoughts: Know Your Rights — Then Use Them

Getting arrested for DWI in Texas often leads to a critical — and often confusing — moment: Can the police take your blood? And what happens if you say no?

In most cases, a police officer will ask you to provide either a breath or blood sample. You might feel pressured to agree. Or you might refuse, thinking it will help you. Either way, what

happens next depends on a complex mix of constitutional law, Texas statutes, and how well the officer follows the rules.

This chapter will walk you through when the police can take your blood, when they cannot — and why it matters more than you might think.

3.1. Who Decides? The Law Behind Blood Draws

▪ **A BLOOD DRAW IS A LEGAL SEARCH**

Taking your blood is legally treated the same as searching your home or phone — it is an invasion of privacy that requires one of the following:

- *Your voluntary consent*
- *A valid warrant*
- *Emergency ("exigent") circumstances*

Taking someone's blood isn't just a medical procedure — it's a search. Under the Fourth Amendment to the U.S. Constitution, any search of your body, including a blood draw, must be reasonable. That usually means you voluntarily consented, the police had a valid warrant, or there were special circumstances that allowed them to act without one.

If none of those conditions are met, the blood draw may have violated your rights — and the results could be thrown out in court.

3.2. Consent vs. Coercion: What It Means to "Agree" to a Blood Draw

Just because you said "yes" doesn't mean your consent was legal. Under Texas law, consent must be voluntary. If you

were misled, threatened, confused, or not told you could refuse, your consent may be invalid.

Officers often say things like:

- "We're going to take your blood now."
- "If you don't do this, it'll be worse for you."
- "You have to comply."

These statements can create the illusion that you have no choice — even though you do. A good DWI lawyer will look carefully at the bodycam footage, booking paperwork, and your description of the interaction to determine whether your consent was truly voluntary — or the result of pressure, confusion, or fear.

■ BODYCAM FOOTAGE CAN MAKE OR BREAK THIS ISSUE

If you felt pressured or confused at the time of the blood draw, your attorney may use the officer's own video to prove that your "consent" wasn't real. If the lawyer can prove your consent wasn't valid, the blood test results may be inadmissible in court.

3.3. Forced Blood Draws and When They're Legal

So what happens if you don't give consent? In most cases, officers must obtain a search warrant signed by a judge in order to legally take your blood. Thanks to modern technology, this can happen quickly — even in the middle of the night, with judges on call to issue digital warrants. But a warrant is still a legal document with strict requirements. If it wasn't obtained properly or executed lawfully, your attorney may be able to challenge the entire test.

Exceptions to the Warrant Rule

There are limited situations where police can take blood without consent and without a warrant. These include:

- When you are unconscious and suspected of DWI
- When a serious crash has occurred and there is no time to get a warrant
- If you are involved in a felony-level DWI case, such as one involving prior convictions, serious injury, or death

Even then, the state must show there were true exigent circumstances — meaning that waiting for a warrant would have caused a problem, such as the loss of the chance to test your BAC. If police had time to get a warrant but didn't, your lawyer will question whether the draw was lawful.

▪ WHEN POLICE CAN SKIP CONSENT AND GO TO A JUDGE

A warrant allows police to forcibly draw your blood if you refuse to submit to testing, a judge authorizes the draw based on probable cause, and the warrant follows strict legal guidelines. A police officer can physically hold you down to take your blood — but only if they have a valid warrant or a legally recognized exception. Your lawyer will check whether the warrant was valid, timely, and properly executed.

3.4. What Is Implied Consent — and Does It Really Mean You Agreed?

Texas has what's called an Implied Consent Law. That means simply by driving on public roads, you have "agreed in advance" to submit to a chemical test if you are lawfully

arrested for DWI. But here's what many people don't understand: implied consent does not mean you can't say no.

You can refuse the test — and many people do. But there are consequences:

- Automatic license suspension — 180 days for a first refusal; 2 years for a second
- The refusal can be used against you in court
- Police may still obtain a warrant and take your blood anyway

That's why it is often said that you have the "right to refuse" — but not without a cost. Police may phrase things to make it sound like you "have to comply." You don't — but you should understand the consequences before deciding, and call a lawyer as soon as possible.

■ WHAT TEXAS'S IMPLIED CONSENT LAW REALLY MEANS

By driving in Texas, you are presumed to have agreed to take a chemical test if lawfully arrested for DWI. But implied consent does not override your constitutional rights. You can still say no — refusal simply triggers its own set of penalties.

3.5. What Happens If You Refuse?

Refusing a blood or breath test may limit the immediate evidence the state has against you. But it also triggers certain penalties, regardless of whether you are ever convicted of DWI.

License Suspension

- **First refusal:** 180-day suspension
- **Prior alcohol-related contact:** 2-year suspension

To fight this, you must request an Administrative License Revocation (ALR) hearing within 15 days of your arrest. This is separate from your criminal case, and your lawyer can help you request and fight the ALR hearing to protect your license.

▪ REFUSAL CONSEQUENCES AT A GLANCE

- *No automatic DWI conviction from the refusal itself*
- *180-day license suspension on a first offense*
- *2-year suspension if there is prior alcohol-related contact*
- *Prosecutor may tell the jury you refused to hide your guilt*
- *Police may still get a warrant and take your blood anyway*

Used as Evidence

Prosecutors may tell a jury that you refused the test because you knew you were guilty. But your attorney can argue that refusal is your right — and that it proves nothing about intoxication.

Police May Still Get a Warrant

Refusal doesn't always stop the blood draw. In many cases, police will request a search warrant and take your blood anyway — by force if necessary. If this happens, your attorney will examine the warrant closely for any defects that might make the draw unlawful.

3.6. Practical Scenarios: What Happens in the Real World

The following scenarios show how these rules play out in actual cases:

Scenario 1: You Give Consent

The officer asks you to submit to a blood test and you agree. Blood is drawn at a hospital. Your attorney will examine

whether your consent was truly valid and whether the test was conducted properly.

Scenario 2: You Refuse, and They Get a Warrant

You say no. The officer applies for a digital warrant and a judge signs off. Blood is drawn. Your attorney will look for errors in the warrant process and draw procedure, including whether the warrant was valid, timely, and based on proper probable cause.

Scenario 3: You Are Unconscious or Hospitalized

You are in an accident and unresponsive. The officer orders a blood draw under the unconscious-driver exception to implied consent. Your attorney may argue that a warrant was still required, depending on how much time was available and whether a true emergency existed.

Scenario 4: Police Skip the Legal Steps

There is no consent, no warrant, and no qualifying emergency — yet blood is taken anyway. Your lawyer will file a motion to suppress the evidence. If granted, the blood test cannot be used at trial, and the prosecution's case may collapse.

■ **FOUR BLOOD DRAW SCENARIOS AND WHAT THEY MEAN**

1. **Consent given:** *Legal only if consent was truly voluntary*
2. **Refusal + warrant obtained:** *Legal only if the warrant was proper*
3. **Unconscious driver:** *Legal only if a true emergency existed and no time for a warrant*
4. **No consent, no warrant, no emergency:** *Likely illegal — your attorney may move to suppress the results*

3.7. Why This Matters to Your Defense

The question of how your blood was obtained is just as important — sometimes more important — than what the test says. If your rights were violated, the court may throw out the blood test. And without that key piece of evidence, the state's case could fall apart.

A skilled DWI attorney will:

- Review all video, paperwork, and timelines
- Examine the warrant, or the absence of one
- File motions to suppress unlawfully obtained evidence
- Challenge the officer's version of events
- Hold the prosecution to the highest standards of proof

▪ THE FOURTH AMENDMENT IS ON YOUR SIDE

If the police violated your rights when collecting your blood, your attorney can file a motion to suppress the evidence. That means the test result cannot be used at trial — and the prosecution's case may collapse without it.

3.8. Final Thoughts: Know Your Rights — Then Use Them

Texas takes DWI seriously — but that doesn't mean you have to give up your rights. The law sets strict rules for how blood can be taken, when it can be tested, and what happens if you say no. When those rules aren't followed, your defense gets stronger.

- You can refuse a test — but refusal has consequences
- Police generally need a warrant to take your blood without consent

- Your consent must be real and voluntary, not forced or manufactured
- Implied consent does not erase your constitutional rights

If your blood was drawn, your case isn't over — it's just getting started. Understanding how and whether your blood was taken legally gives your attorney a powerful opening to challenge the state's case. The state must follow strict rules. If it didn't, your defense just got stronger.

▪ QUICK DEFENSE CHECKLIST

- *Did the police obtain your voluntary consent?*
- *If not, did they get a valid warrant?*
- *Was there a genuine emergency justifying the draw without a warrant?*
- *Was the draw performed properly and fully documented?*
- *Were your constitutional rights respected throughout?*

Frequently Asked Questions

Q: Can I be forced to give blood?

A: Yes — but only with a valid warrant or in very limited emergency situations. Police cannot force a blood draw simply because you refused. If they do, your lawyer may be able to have the results thrown out.

Q: I said yes to the blood test, but I felt like I had no choice. Does that still count as consent?

A: Maybe not. Consent must be freely and voluntarily given. If the officer's words or behavior made you believe you had no choice,

your lawyer may be able to challenge the validity of that consent. Bodycam footage, booking records, and your own account of the interaction can all be used to support this challenge.

Q: What if I was unconscious or injured? Can they just take my blood?

A: Sometimes, yes — under certain exceptions, officers may order a draw without a warrant if they can show it was a genuine emergency and that waiting would have compromised the evidence. However, if there was time to get a warrant and police chose not to, your attorney can challenge the legality of the draw.

Q: Does implied consent mean I have no choice?

A: No. You can refuse. Implied consent means you may face penalties, such as license suspension, but it does not take away your right to say no. It also does not override your Fourth Amendment rights.

Q: If I refuse, won't that help my case?

A: Sometimes. Refusal may reduce the evidence the state has against you. But you will likely lose your license, and the refusal can be used in court to suggest consciousness of guilt. Whether refusal helps or hurts depends on the specific facts of your case.

Q: Can I still drive if my license is suspended for refusal?

A: You may qualify for an occupational license, which allows limited driving to work, school, or essential errands. Your attorney can help you apply.

Q: Can a defective warrant get the blood test thrown out?

A: Yes. If the warrant contained incorrect information, was based on insufficient probable cause, or was improperly executed, your attorney may be able to exclude the blood test results entirely through a motion to suppress.

Q: What should I tell my lawyer after a blood draw?

A: Be as specific as possible. Your lawyer will want to know:

- Whether police asked for your consent and what they said
- Whether you refused and how they responded
- Whether they said they had a warrant — and whether you saw it
- Whether you were told you could say no
- Exactly how and where the blood draw took place

The details matter — a lot.

CHAPTER 4

HOW BLOOD IS COLLECTED AND WHY IT MATTERS

Protocols, Procedures, and Pitfalls That Can Make or Break Your DWI Case

4.1. Why Blood Collection Matters More Than You Think
4.2. Legal and Medical Standards for Drawing Blood in DWI Cases
4.3. Who Is Legally Allowed to Draw Blood?
4.4. Chain of Custody: Tracking Your Blood Sample
4.5. Common Blood Draw Errors That Can Hurt the State's Case
4.6. How Your Attorney Uses This to Build a Defense
4.7. Case Examples: When Bad Collection Means Bad Evidence
4.8. Final Thoughts: Procedures Matter — A Lot

When you hear "blood alcohol test," most people imagine a laboratory, a result, a number — something precise and scientific. But few realize that the entire case often hinges on what happened before that sample ever reached the lab.

How your blood was collected can be just as important — and sometimes more important — than what the final test result says. This chapter explores what is supposed to happen during

a DWI blood draw in Texas, what actually happens in many real-world cases, and how small mistakes in the early stages can raise serious questions about the entire prosecution.

4.1. Why Blood Collection Matters More Than You Think

Blood tests are often viewed as the "gold standard" of DWI evidence — more reliable than breath tests, more scientific, harder to challenge. But that perception only holds if the blood was collected properly.

The truth is that blood collection is a process involving people, paperwork, timing, and equipment — and where there are people, there are errors. Hospital staff work under pressure. Officers are busy. Paperwork gets rushed. If the officer, nurse, or technician skips a single step — or uses the wrong type of swab — the accuracy and admissibility of your blood test can be called into question. That's why experienced DWI defense attorneys always start by asking: **Was this blood draw done by the book?**

▪ **A PERFECT SAMPLE IS RARE**

In theory, blood tests are precise. In practice, they depend on human hands, hospital staff under pressure, busy officers, and chain-of-custody paperwork. One mistake can change the whole case — and it often does.

Many blood samples are drawn using hospital kits rather than dedicated DWI kits. Hospital kits may lack the proper preservatives or seals required for a legally valid DWI test — and that is a serious problem.

4.2. Legal and Medical Standards for Drawing Blood in DWI Cases

In Texas, blood draws for DWI purposes are governed by a combination of criminal procedure laws, health codes, and basic medical guidelines. These standards exist to protect your safety, preserve the integrity of the evidence, and ensure test results can be trusted in court.

Key requirements include:

- Using a sterile, non-alcoholic antiseptic such as Betadine
- Drawing blood into vacutainer tubes with proper preservatives and anticoagulants
- Properly labeling and sealing the samples
- Maintaining a clear record of everyone who handled the blood
- Storing the sample at the correct temperature

Even one misstep in this process could compromise the sample — or result in the judge being asked to throw out the results entirely.

▪ WHAT'S IN A DWI BLOOD DRAW KIT?

A standard DWI blood draw kit includes:

- *Two gray-top tubes containing anticoagulants and preservatives*
- *An iodine-based swab (not alcohol-based)*
- *Seals, labels, and documentation forms*
- *A chain-of-custody form*

If the wrong kit is used — or if any part of the kit is missing — your attorney may have grounds to challenge the result.

4.3. Who Is Legally Allowed to Draw Blood?

Not just anyone can perform a blood draw for a Texas DWI case. State law limits who is authorized to collect blood in these situations.

Approved Individuals

- Licensed physicians
- Registered nurses (RNs)
- Licensed vocational nurses (LVNs)
- Emergency medical technicians (EMTs)
- Qualified phlebotomists, if properly certified

Who Is Not Allowed

- Police officers, unless separately trained and certified
- Jailers or detention officers without medical credentials
- Unlicensed or uncertified personnel

▪ **UNAUTHORIZED DRAW = SUPPRESSED EVIDENCE**

If someone who is not legally qualified draws your blood, your attorney can file a motion to suppress the test results. Courts have thrown out evidence when this law was violated — and charges have been dropped as a result.

4.4. Chain of Custody: Tracking Your Blood Sample

Once your blood is drawn, the sample must be handled like the critical evidence it is. The chain of custody refers to the documented timeline of where your blood went, who handled it, and how it was stored. Every handoff must be recorded, every seal kept intact, and every step made traceable.

A complete chain of custody includes:

- The name and title of the person who drew your blood
- Date, time, and location of the draw
- Type of blood collection kit used
- When and how the sample was transferred to law enforcement or the lab
- Where and how it was stored
- Documentation from the lab confirming receipt and testing

If even one link in this chain is missing, unclear, or suspicious, your attorney may be able to challenge the reliability — or admissibility — of the blood test results.

■ COMMON CHAIN OF CUSTODY FAILURES

- *No signature from the person who transported the blood*
- *Vial label does not match the case number*
- *Sample was not refrigerated during transport*
- *Missing log sheets or timestamps*
- *Sample stored in the wrong location at the lab*

If your attorney cannot track your blood sample step by step, they can challenge whether the test result is even admissible in court.

4.5. Common Blood Draw Errors That Can Hurt the State's Case

Despite the rules, mistakes happen — and when they do, they can give rise to reasonable doubt about the entire test result. Some of the most common blood draw errors in Texas DWI cases include:

Using an Alcohol-Based Swab

Alcohol swabs can introduce external alcohol into the blood draw site, which can falsely inflate your BAC reading. Even small amounts of residue at the puncture site may affect the results, particularly in cases where BAC was already near the legal limit.

Failure to Properly Mix Preservatives

Vacutainer tubes contain chemicals that must be mixed with the blood immediately after the draw by gentle inversion. If this step is skipped, the sample can degrade or clot, directly affecting the test results.

Improper Storage or Temperature Control

Blood must be refrigerated promptly and stored under controlled conditions. If it is left in a hot patrol car or improperly stored at the lab, fermentation can occur — creating alcohol inside the vial that was not in your system when you were driving. One of the easiest ways to challenge a DWI blood test is to ask when and how the sample was refrigerated. If no one has a clear answer, that is reasonable doubt.

Contaminated or Expired Tubes

Blood tubes contain a preservative to stop fermentation and an anticoagulant to prevent clotting. If a tube is past its shelf life or contaminated, neither chemical may work properly — and your BAC could rise artificially after the draw. The blood must be drawn into sterile, non-expired tubes; anything less is a serious problem.

Mislabeling or Mix-Ups

Lab errors are more common than most people realize. These include switching samples between defendants,

mislabeling vials, or sending incomplete documentation. Any one of these errors can cast doubt on whether the test result actually belongs to you.

These are not mere technicalities — they are real scientific and legal problems that can create serious doubt about whether the test result reflects your actual BAC.

4.6. How Your Attorney Uses This to Build a Defense

A strong DWI defense attorney will carefully review every detail of your blood draw. The documents and records they will request include:

- Police reports
- Medical records or draw logs
- Chain-of-custody documents
- Blood collection kit records, including lot numbers and expiration dates
- Lab technician reports
- Photos of the kit, seals, and vials, if available
- Testimony from medical and lab staff

Your attorney may also consult a forensic toxicologist to analyze the condition and handling of the sample, review lab procedures for compliance, identify alternative explanations for an elevated BAC, and testify about flaws or errors in the collection process.

If your lawyer can show that proper procedures were not followed — or that the integrity of the sample is in question — the judge may suppress the blood test results. Even if your BAC result looks unfavorable, a flawed collection process can lead

to the entire test being excluded, meaning the jury never sees it. That can radically change the outcome of your case.

▪ **EVIDENCE YOUR ATTORNEY WILL REVIEW**

- *Hospital records showing who drew the blood and how*
- *Blood draw kit documentation, including lot number and expiration date*
- *Chain-of-custody logs from draw to lab*
- *Lab intake notes and testing records*
- *Photos of the kit, seals, and vials if available*
- *Statements from medical and lab personnel*

4.7. Case Examples: When Bad Collection Means Bad Evidence

Case 1: The Alcohol Swab Mistake

A man pulled over for suspected DWI consented to a blood test. The nurse used an alcohol-based swab before the draw. The defense's toxicologist testified that this could have contaminated the sample. The BAC result was thrown out due to unreliable scientific handling.

Case 2: Break in Chain of Custody

In another case, the blood sample sat in an unmarked evidence locker over a holiday weekend. No one could verify where it was or who had access. The defense moved to suppress the evidence, and the judge agreed — the sample was deemed compromised.

Case 3: Wrong Person, Wrong Kit

A rural Texas case revealed that a jailer — not a certified medical provider — drew the defendant's blood using an expired

kit. The defense filed a motion to exclude the result and won. The charges were later dropped due to lack of admissible evidence.

▪ **REAL MISTAKES, REAL CONSEQUENCES**

- *A nurse used an alcohol swab → BAC result excluded*
- *A phlebotomist forgot to label one vial → sample thrown out*
- *Blood stored in a patrol car overnight → expert testified fermentation was likely*
- *Chain-of-custody log missing the lab tech's name → judge ruled test inadmissible*

4.8.Final Thoughts: Procedures Matter — A Lot

You might think a blood test result is the final word in your DWI case. But unless that blood was drawn, sealed, stored, and tested exactly as required by law and science, the result may not hold up in court.

The blood draw is not just a medical step — it is a legal battleground. **The process is just as important as the number.** Your defense doesn't begin at the lab. It begins the moment the needle hits your arm.

Let your attorney investigate every aspect of how the blood was collected. Because sometimes, the best way to fight a number is to question the process that created it.

Frequently Asked Questions

Q: Isn't a blood test more accurate than a breath test?

A: It can be — if collected and handled correctly. But if the draw, storage, or lab process is flawed, a blood test result may

actually be less reliable than a properly conducted breath test. Accuracy depends on the entire process, not just the technology.

Q: Who is allowed to take blood in a Texas DWI case?

A: Only trained, licensed medical professionals: doctors, registered nurses, licensed vocational nurses, EMTs, and certified phlebotomists. A jailer or police officer without proper medical certification cannot legally perform a DWI blood draw.

Q: What is chain of custody?

A: It is the official, documented record of every person who handled your blood sample from the moment it was drawn to the moment it was tested. If there is a gap, a missing name, or no temperature record, your attorney may argue that the evidence has been compromised.

Q: What are the most common mistakes in DWI blood draws?

A: Common errors include:

- Using alcohol-based swabs, which can contaminate the sample
- Improper or skipped mixing of blood with preservatives
- Using expired tubes or kits
- Failing to refrigerate the sample promptly
- Blood drawn by an unauthorized person
- Poor labeling or lost paperwork

Q: Can a toxicologist help challenge a blood draw?

A: Yes. A forensic toxicologist can review the collection and testing process, confirm whether proper procedures were followed, and testify about the impact of errors — such as

spoiled samples or improper handling — on the reliability of the BAC result.

Q: Can I win my case because of a bad blood draw?

A: Absolutely. If the blood was not drawn, stored, or documented properly, your attorney may be able to have the test excluded entirely. Without the blood test, the prosecution's case may be too weak to proceed, and that can lead to a dismissal or a not guilty verdict.

Q: What should I tell my lawyer about the blood draw?

A: Be as specific as possible. Your lawyer will want to know:

- Who drew the blood and where it happened
- What kind of kit appeared to be used
- Whether they used an alcohol swab before inserting the needle
- Whether you were told what was happening at each step
- How long the sample appeared to sit before being taken to the lab

Every detail matters.

CHAPTER 5

HOW BLOOD SAMPLES ARE TESTED IN THE LAB

Understanding the Science Behind Your BAC Result

5.1. What Happens After Your Blood Leaves the Hospital?
5.2. The Basics of Gas Chromatography
5.3. Dual Column vs. Single Column Testing
5.4. Calibration, Controls, and Quality Assurance
5.5. Contamination and Sample Integrity Issues
5.6. Fermentation: Can Alcohol Form After the Blood Draw?
5.7. Preservatives and Anticoagulants
5.8. Lab Accreditation and Oversight
5.9. Common Testing Errors in Texas DWI Cases
5.10. Why Lab Testing Is Not Infallible
5.11. Why This Matters for Your Defense

When people hear that their blood was tested in a crime lab, they often assume the result must be accurate. After all, this is science — there are machines, trained analysts, and established procedures. It sounds precise and reliable.

But here is something most people do not realize: a blood alcohol result is not produced by magic. It is produced by a process. And every step in that process involves people, equipment, paperwork, and judgment calls. That means mistakes can happen.

In this chapter, you will learn how blood samples are tested in Texas DWI cases, what gas chromatography really is, and where things can go wrong — even inside an accredited crime lab. Understanding the science is the first step in challenging it.

5.1. What Happens After Your Blood Leaves the Hospital?

By the time your blood reaches the lab, it has already passed through several hands. After it is drawn, the vial is sealed, labeled, logged into evidence, transported to a crime lab, and received and documented by lab personnel. Each of these steps must be properly recorded — this is still part of the chain of custody.

At the lab, your sample is assigned a case number, stored under refrigeration, and placed in a queue for testing. If refrigeration fails, paperwork is incomplete, or labeling is unclear, the reliability of the result may already be compromised before testing even begins.

5.2. The Basics of Gas Chromatography

Most Texas crime labs use a method called gas chromatography (GC) to measure blood alcohol concentration. Your blood contains many substances — water, proteins, sugars,

and possibly alcohol. Gas chromatography separates those substances so the machine can measure how much alcohol is present.

How It Works

Here is a simplified version of the process:

1. A small amount of the blood sample is heated in a sealed vial
2. Alcohol in the blood turns into vapor
3. That vapor travels through a long, narrow tube called a column
4. Different chemicals move through the column at different speeds
5. A detector measures what exits the other end
6. The machine generates a graph called a chromatogram

The chromatogram shows a series of peaks. Each peak represents a chemical. One of those peaks should represent ethanol — drinking alcohol. The size of the ethanol peak determines the reported BAC.

▪ WHAT IS A CHROMATOGRAM?

A chromatogram is the graph produced by the gas chromatography machine. Each peak represents a chemical detected in the sample. One peak is supposed to represent ethanol.

The machine does not "know" what alcohol is — it detects chemical signals. A human analyst must interpret the data and confirm that the correct substance was measured. If peaks overlap, are misread, or are affected by contamination, the reported number can be wrong.

▪ **WHAT IS "HEADSPACE" TESTING?**

Most labs use headspace gas chromatography. Instead of testing the liquid blood directly, the lab heats the sample and tests the vapor above it. Alcohol evaporates easily, so measuring the vapor can produce more consistent results.

However, the process depends on correct temperature, proper sealing of the vial, and accurate timing. If the heating process is inconsistent, results can vary — and small technical details matter.

5.3. Dual Column vs. Single Column Testing

One of the most important reliability safeguards in blood testing is the number of columns used in gas chromatography. A column is the long tube inside the gas chromatograph that separates chemicals. Each column has slightly different chemical properties.

Why Two Columns Matter

Many labs use dual-column testing, meaning the sample is run through two different columns and the results from both are compared. If the numbers closely match, the result is considered confirmed. This reduces the risk of misidentifying another chemical as alcohol.

The Risk of Single-Column Testing

If only one column is used, there is a greater risk of co-elution — a condition where two different chemicals exit the column at the same time and appear as a single peak on the chromatogram. If another substance overlaps

with ethanol, it could falsely elevate the reported BAC. Dual-column testing reduces that risk, but it does not eliminate human error in interpretation.

▪ WHAT IS CO-ELUTION?

Co-elution happens when two different chemicals exit the testing column at the same time and appear as one peak on the chromatogram. If another chemical overlaps with ethanol, it could artificially inflate the reported BAC. This is one reason many labs use dual-column testing — to confirm results on two separate systems.

5.4.Calibration, Controls, and Quality Assurance

Gas chromatography machines do not automatically produce accurate results. They must be regularly calibrated, properly maintained, and tested with known reference samples.

Calibration

Calibration involves running samples with known alcohol concentrations through the machine to verify it produces accurate readings. If the calibration is off, every test result that follows may be off as well.

Quality Control Samples

Labs also run "control" samples alongside real cases — known reference samples used to verify accuracy at each testing session. If controls fail and testing continues anyway, that is a serious problem that calls the surrounding results into question.

Maintenance Logs

Machines require regular maintenance. Parts wear out and sensors degrade over time. If maintenance logs are missing, incomplete, or show skipped service intervals, the reliability of results can be questioned. Machines do not testify in court — people do. And people sometimes cut corners.

▪ **SCIENCE VS. PROCEDURE**

Science itself is neutral. But lab testing depends entirely on people following procedures correctly. The relevant questions are: Was the machine properly calibrated? Were controls run correctly? Were maintenance logs complete? Did the analyst follow the written protocol?

If procedures are not followed, the reliability of the result can be challenged — even if the underlying science is sound.

5.5. Contamination and Sample Integrity Issues

Blood samples can be contaminated in several ways, including improper cleaning of lab equipment, carryover from a previous sample, unsealed or improperly sealed vials, and mishandling by lab personnel. If even a tiny amount of alcohol from another sample contaminates yours, it can artificially increase your reported BAC.

Strict procedures exist to prevent this. But strict procedures only matter if they are actually followed. In busy labs, where analysts handle dozens of cases at once, fatigue and workload can increase the likelihood of overlooked steps.

5.6. Fermentation: Can Alcohol Form After the Blood Draw?

Alcohol can sometimes form inside the vial after the blood draw. This process is called fermentation. If bacteria or yeast are present in the sample, they can convert sugars in the blood into alcohol over time.

Fermentation is more likely when the vial lacks proper preservatives, the sample is not refrigerated promptly, or there is a significant delay between the draw and testing. It can increase the alcohol concentration inside the tube — even if your BAC was lower at the time of driving.

Defense attorneys and toxicologists look for signs of fermentation, such as the presence of other alcohols, unusual chromatogram patterns, and evidence of long storage times. Fermentation is rare when procedures are perfect — but procedures are not always perfect.

▪ **WARNING SIGNS OF FERMENTATION**

- *Presence of other alcohols such as n-propanol in the chromatogram*
- *Unusual or unexpected peaks in the test results*
- *Long gap between the blood draw and lab testing*
- *Evidence that the sample was not refrigerated promptly*

5.7. Preservatives and Anticoagulants

Blood collection tubes used in DWI cases typically contain two chemicals: sodium fluoride, which is a preservative, and potassium oxalate, which is an anticoagulant.

Why Preservatives Matter

Sodium fluoride helps prevent fermentation by inhibiting bacterial growth. If the preservative is missing, expired, or improperly mixed into the sample, the risk of alcohol formation inside the vial increases significantly.

Mixing the Tube

After blood is drawn, the tube must be gently inverted several times to mix the preservatives with the blood. If that step is skipped, the sample may not be properly protected — and the resulting test may not reflect your actual BAC at the time of driving. Small details matter enormously.

5.8. Lab Accreditation and Oversight

Texas crime labs are typically accredited, which means they have met certain standards and undergone inspection. That should provide some assurance. But accreditation does not mean perfection.

Accreditation does not ensure that every analyst follows every rule, that every machine is perfectly maintained, or that every result is error-free. Even accredited labs have made serious mistakes. Some Texas labs have faced public scrutiny for procedural failures. Accreditation is a baseline — not a guarantee.

▪ **ACCREDITATION DOES NOT MEAN "ERROR-FREE"**

Many jurors assume that if a lab is accredited, the results must be accurate. But accreditation simply means the lab met certain standards during periodic inspections. It does not mean every analyst performs perfectly, every machine is flawless, or

every case is free of mistakes. Even highly respected labs have made errors in real cases.

Accreditation is a starting point — not the final word.

5.9. Common Testing Errors in Texas DWI Cases

Some of the most common lab-related problems in Texas DWI blood testing include:

- Analyst transcription errors
- Mislabeling of samples
- Improper dilution of the sample
- Incorrect calculations
- Failure to follow written protocols
- Overreliance on automated software without independent verification

In busy labs, analysts may handle dozens of cases simultaneously. Fatigue, workload, and time pressure can increase the likelihood of mistakes. And once a number is generated, it often carries enormous weight in court — regardless of how it was produced.

5.10. Why Lab Testing Is Not Infallible

Jurors tend to trust scientific evidence. But science is only as reliable as the people performing it. A BAC result is not a simple fact. It is the product of a blood draw, proper preservatives, correct storage, accurate transport, machine calibration, and analyst interpretation. If any of those steps are flawed, the final number can be questioned.

This is not about attacking science. It is about demanding that science be done correctly. The question is never whether gas chromatography works in theory — it is whether this particular test, on this particular sample, on this particular day, was conducted properly.

5.11. Why This Matters for Your Defense

In many DWI cases, the blood test is the centerpiece of the prosecution's case. But the lab report is not the end of the story. An experienced DWI defense attorney may request maintenance and calibration records, review chromatograms, examine chain-of-custody documents, consult a forensic toxicologist, and identify deviations from protocol.

If significant problems are found, the defense may challenge the reliability of the result, cross-examine the lab analyst, argue reasonable doubt, and in some cases seek to exclude the result entirely.

A blood test is powerful evidence — but it is not unbeatable. **Understanding how the lab works gives you power.** It allows your defense team to ask the right questions, challenge assumptions, and hold the state to its burden of proof.

▪ **THE NUMBER IS NOT THE WHOLE STORY**

When you are charged with DWI, the BAC number can feel overwhelming. But that number is the product of a long chain of events — from roadside stop to blood draw to lab analysis.

If any link in that chain is weak, the reliability of the result can be questioned. The lab report may look official. But official does not mean unquestionable.

Frequently Asked Questions

Q: If my blood test shows over 0.08, is my case over?

A: No. A reported BAC over 0.08 does not automatically mean the test is accurate or that you will be convicted. Your attorney can examine how the blood was collected, how it was stored, how it was tested, whether protocols were followed, and whether machine maintenance was current. The number on the report is not immune from challenge.

Q: Can lab machines make mistakes?

A: Yes. Machines require calibration, regular maintenance, and human oversight. If a machine is not properly maintained or calibrated, it can produce inaccurate results. Technology reduces error — it does not eliminate it. And remember that humans input data, interpret results, and generate the final reports.

Q: What is co-elution, and why does it matter?

A: Co-elution occurs when two different chemicals exit the testing column at the same time and appear as a single peak on the chromatogram. If another chemical overlaps with ethanol, it can inflate the reported BAC. That is one reason many labs use dual-column testing — to confirm results on two separate systems.

Q: Can alcohol actually form inside the tube after the blood draw?

A: In some circumstances, yes. If preservatives are missing, expired, or not properly mixed — and bacteria are present — fermentation can occur inside the vial after the blood was

drawn. Proper storage and preservatives are designed to prevent this, but if procedures fail, the resulting BAC measurement may not reflect what was in your blood when you were driving.

Q: What if the lab analyst appeared to follow all procedures?

A: Even when procedures appear to have been followed, an independent review may still uncover issues — such as incomplete documentation, minor deviations from protocol, statistical or calculation errors, or interpretation disagreements. An experienced defense attorney or toxicologist looks beyond the summary report.

Q: Will a jury automatically believe the lab results?

A: Not necessarily. Jurors often trust scientific evidence, but they also understand that humans make mistakes, institutions cut corners, and overworked employees can miss details. When a defense attorney carefully explains weaknesses in testing procedures, jurors may begin to question whether the state has truly proven its case beyond a reasonable doubt.

Q: Why might the state's expert be wrong?

A: State experts are not intentionally trying to be wrong. But they work for the same agency that brought the charges, handle high volumes of cases, rely on standardized procedures, and may assume everything was done correctly without independently verifying every step. A defense expert may examine the same data and reach different conclusions. Science often involves interpretation — not just numbers.

Q: Should every DWI blood case be reviewed by an independent expert?

A: In many cases, yes. Blood testing is technical and complex. A forensic toxicologist can review chromatograms, examine calibration records, analyze maintenance logs, evaluate possible contamination, and identify deviations from best practices. Sometimes the review confirms the state's result. Other times, it uncovers weaknesses that change the direction of the case entirely.

CHAPTER 6

COMMON PROBLEMS WITH TEXAS DWI BLOOD TESTS

Where the System Breaks Down, and Why It Matters

6.1. Why Blood Test Problems Are More Common Than You Think
6.2. Co-Elution and False Positives
6.3. Improper Refrigeration and Storage
6.4. Inadequate or Compromised Preservatives
6.5. Lack of Calibration and Maintenance Records
6.6. Analyst and Documentation Errors
6.7. Backlogs, Workload, and System Pressure
6.8. How These Problems Are Used in Court
6.9. The Big Picture: A Blood Test Is Not the Final Word

The prosecution may present your BAC number as if it were precise and unquestionable. But that number is the result of a long chain of events — from the blood draw to storage, transport, lab intake, machine calibration, and analyst interpretation. If any link in that chain is weak, the result can be challenged.

This chapter focuses on the most common problems found in Texas DWI blood test cases and why each one matters for your defense.

6.1. Why Blood Test Problems Are More Common Than You Think

Forensic science carries an aura of certainty. Jurors tend to trust it. Judges often rely on it. But forensic testing is performed by busy crime labs, overworked analysts, complex machines, and bureaucratic systems. When you combine human beings, technical equipment, and high case volume, mistakes are inevitable.

That does not mean the system is corrupt. It means the system is human. And when your freedom, license, job, and reputation are at stake, "good enough" is not good enough.

6.2. Co-Elution and False Positives

One of the most technical — and most misunderstood — problems in blood testing is co-elution. Co-elution occurs when two different chemicals exit the testing column at the same time and appear as one single peak on the chromatogram. If one of those chemicals overlaps with ethanol, it can artificially inflate the reported BAC. In plain terms, the machine may appear to measure alcohol when it is actually detecting something else — or a mixture of substances.

How False Positives Happen

A false positive does not necessarily mean there was no alcohol in the blood. It can mean the amount was overstated,

another substance interfered with the reading, or the peak was misidentified. Certain medical conditions, bacterial activity, or other volatile compounds can complicate testing.

That is why dual-column testing exists — to reduce this risk. But dual-column testing is not foolproof. If both columns experience similar interference, the problem may go unnoticed unless someone closely examines the raw chromatogram data. A summary report alone does not tell the full story.

▪ **WHAT IS A "FALSE POSITIVE"?**

In DWI blood testing, a false positive does not always mean there was no alcohol present. It can mean:

- *The alcohol level was overstated*
- *Another chemical was misidentified as ethanol*
- *A testing error inflated the number*

In close cases — especially those barely above 0.08 — even a small error can make a significant difference.

6.3. Improper Refrigeration and Storage

Blood is a biological sample — it changes over time. After a draw, the vial should be refrigerated promptly. Without proper refrigeration, bacteria can grow, fermentation can occur, and alcohol concentration can change. Even small temperature fluctuations sustained over time can affect sample integrity.

Delays and Backlogs

Texas labs handle thousands of cases per year, and backlogs are real. Blood samples may sit in evidence lockers, in transit, or in testing queues for days or longer. The further the

gap between draw and testing — especially where storage conditions are undocumented — the greater the risk of degradation or undetected chemical changes.

Defense attorneys routinely examine the time between draw and testing, storage logs, temperature documentation, and evidence handling records. If refrigeration cannot be confirmed through documentation, that creates questions — and questions create reasonable doubt.

▪ **WHY CLOSE CASES MATTER**

If your BAC is reported as 0.081, 0.084, or 0.089, small testing issues become especially significant. Even minor problems with calibration, storage, or preservatives may be enough to create reasonable doubt. The closer the number is to 0.08, the more important accuracy becomes.

6.4.Inadequate or Compromised Preservatives

Blood collection tubes used in DWI cases contain sodium fluoride, a preservative designed to prevent fermentation. If preservatives are missing, expired, improperly mixed, or present in insufficient quantity, bacteria in the blood can produce alcohol after the draw. That means the alcohol level at the time of testing may be higher than the alcohol level at the time of driving.

Mixing Matters

After blood is drawn, the tube must be gently inverted several times to distribute the preservative throughout the sample. If this step is skipped or done improperly, parts of the

sample may not be protected. An independent toxicologist may examine tube type, expiration dates, storage time, and signs of fermentation. Even subtle preservative issues can be decisive in a close case.

▪ WHAT IS FERMENTATION IN A BLOOD SAMPLE?

Fermentation occurs when bacteria convert sugar in the blood into alcohol after the sample has been drawn. It can happen when preservatives are missing or degraded, the sample was not refrigerated properly, or there was a long delay before testing. Fermentation does not occur in every case — but if proper procedures were not followed, it becomes a real and important concern.

6.5. Lack of Calibration and Maintenance Records

Gas chromatography machines must be calibrated and maintained regularly. If they are not, their results cannot be trusted.

Calibration Logs

Labs are required to keep detailed calibration records showing when the machine was calibrated, what reference standards were used, and whether results fell within acceptable ranges. If calibration logs are missing or incomplete, that is a significant red flag that defense attorneys will raise.

Maintenance Records

Machines require routine service including column replacements, detector cleaning, leak checks, and software updates. If maintenance was overdue or undocumented, the defense can question whether the machine was functioning properly

at the time of your test. Sometimes machines continue running even after internal errors are detected. If no one reviews the logs, those errors may never come to light.

▪ **MISSING LOGS MEAN MISSING CONFIDENCE**

Calibration and maintenance logs are the paper trail that demonstrates the machine was working properly. If those logs are missing, incomplete, poorly documented, or out of date, the state cannot easily prove the machine was functioning correctly at the time of your test.

In a criminal case, the burden of proof is on the state — not you.

6.6. Analyst and Documentation Errors

Crime lab analysts are trained professionals — but they are also human. In high-volume labs, analysts may process dozens of samples in a single shift. Fatigue and workload pressure increase the risk of small errors, and small errors in laboratory testing can have large consequences.

Common human errors include typographical mistakes, transposed numbers, incorrect dilution entries, mislabeled samples, and data entry errors. Even something as straightforward as switching two sample labels can produce a catastrophic mistake for the defendant whose result gets misattributed. That is why documentation must be precise — and why it must be reviewed carefully.

▪ **BUSY LABS MAKE MISTAKES**

Texas crime labs process thousands of DWI blood samples each year. Analysts work under deadlines and manage large caseloads. Even careful professionals can make small errors under

pressure. The relevant question is not whether the lab intended to make a mistake — it is whether the state can prove beyond a reasonable doubt that no mistake occurred in your specific case.

6.7. Backlogs, Workload, and System Pressure

Texas is a large state with a high number of DWI arrests, and crime labs face significant pressure to process cases quickly. High volume can lead to rushed procedures, delayed maintenance, incomplete documentation, and reduced oversight. Speed and scientific caution do not always go hand in hand.

When labs are under pressure, corners can be cut — sometimes unintentionally. That does not mean every case is flawed. But it does mean every case deserves independent review.

6.8. How These Problems Are Used in Court

Identifying a problem is only the first step. Using it effectively in court is where experience matters.

Defense attorneys may file motions to suppress unreliable results, cross-examine lab analysts about deviations from protocol, highlight missing or incomplete logs, present independent toxicology experts, and demonstrate inconsistencies in the underlying data. Sometimes a single issue may not be enough on its own to exclude a result. But multiple smaller issues, viewed together, can systematically undermine confidence in the entire testing process.

The legal standard is not "probably accurate." It is **proof beyond a reasonable doubt.** If the state's testing process leaves reasonable doubt, that doubt must benefit the accused.

6.9. The Big Picture: A Blood Test Is Not the Final Word

A BAC number can feel overwhelming. It may look precise — 0.092, 0.134, 0.161. But that number is the product of a blood draw, storage conditions, preservative integrity, transportation, machine calibration, analyst interpretation, and documentation. If any of those components are flawed, the reliability of the final result can be challenged.

The prosecution may treat the blood test as the centerpiece of its case. But the blood test is not untouchable. It is evidence — and like all evidence, it must withstand scrutiny.

▪ **THE STATE MUST PROVE RELIABILITY**

In a Texas DWI case, the prosecution must prove more than just a number. They must prove that the blood was drawn properly, preserved properly, stored properly, tested properly, and that the machine was functioning correctly and the analyst followed protocol.

If the state cannot confidently establish each of those steps, the reliability of the result can be questioned. And when reliability is questioned, reasonable doubt begins.

Frequently Asked Questions

Q: If there was a lab error, does that mean my case gets dismissed?

A: Not automatically. Some errors are minor; others are serious. If a problem significantly affects reliability, your attorney may file a motion to suppress the blood result, challenge its admissibility, or use the issue to create reasonable doubt at trial. The impact depends on the severity of the problem and how effectively it is presented in court.

Q: How does a defense attorney discover these problems?

A: Through investigation and discovery. Your attorney may request:

- Raw chromatogram data
- Calibration and maintenance records
- Storage and temperature documentation
- Analyst notes and worksheets
- Chain-of-custody records

Sometimes problems are obvious. Other times, it takes an independent forensic toxicologist to uncover subtle issues buried in the underlying data.

Q: Can the alcohol level actually increase after the blood draw?

A: Under certain conditions, yes. If preservatives are inadequate or storage conditions are poor, alcohol levels inside the vial can increase through fermentation. This is not common when procedures are followed correctly — but if procedures were not followed, it becomes a critical issue for your defense.

Q: What if the lab says everything was done correctly?

A: That is a common claim. The lab will typically testify that proper procedures were followed, the machine was working properly, and the result is reliable. But documentation must support those claims. If records are incomplete, inconsistent, or unclear, cross-examination can reveal the weaknesses. Testimony alone is not proof — records matter.

Q: Is it common for Texas labs to have backlogs?

A: Yes. High case volume leads to delays between the blood draw, evidence intake, testing, and reporting. Long delays are

not automatically illegal, but they raise legitimate questions about storage conditions, sample stability, and oversight — all of which your attorney can explore.

Q: Why would a jury care about technical lab issues?

A: Because the state must prove its case beyond a reasonable doubt. If the reliability of the blood test is uncertain, jurors may question whether the number is accurate, whether the process was rushed, or whether mistakes were overlooked. Scientific evidence carries weight — but only when it is trustworthy.

Q: What if my BAC was very high? Does any of this still apply?

A: Yes. Even in higher BAC cases, accuracy matters. Significant errors may affect the severity of the charge, influence sentencing, or impact plea negotiations. A reported BAC of, say, 0.16 could reflect a true reading — or it could reflect a combination of actual alcohol and testing error. Every case deserves careful review, regardless of the number reported.

CHAPTER 7

CAN YOU CHALLENGE THE BLOOD TEST IN COURT?

Turning Science into a Defense Strategy

7.1. The Right to Challenge the Evidence
7.2. Motions to Suppress the Blood Test
7.3. Discovery: Obtaining the Lab's Internal Records
7.4. Cross-Examining the Lab Analyst
7.5. Using Independent Experts
7.6. Examples of Successful Challenges
7.7. Suppression vs. Trial Strategy
7.8. The Bigger Picture: Holding the State Accountable

If you have been charged with DWI based on a blood test, you may feel like the case is already decided. There is a number on paper. It looks scientific. It sounds official. But yes — blood test evidence can absolutely be challenged in court. Not every challenge will result in suppression, and not every challenge will win. But in many cases, careful legal work exposes weaknesses the prosecution hoped no one would notice.

This chapter explains how blood test evidence is challenged in court — and how science becomes part of your defense strategy.

7.1. The Right to Challenge the Evidence

In Texas, and throughout the United States, you are presumed innocent. The burden is on the state to prove that the stop was lawful, the arrest was lawful, the blood draw was lawful, the testing was reliable, and the result is accurate.

Scientific evidence does not receive a free pass. It must meet legal standards, be obtained legally, be reliable, and be properly documented. If it fails at any point along the way, it can be challenged — and sometimes successfully.

▪ **THE BURDEN IS ON THE STATE — NOT YOU**

You do not have to prove the blood test is wrong. The state must prove it is reliable. In a criminal case, the standard is proof beyond a reasonable doubt. Unanswered questions about the warrant, storage, calibration, chain of custody, or testing process are not your problem to resolve — they are doubts the state must overcome. And if it cannot, those doubts must benefit you.

7.2. Motions to Suppress the Blood Test

One of the most powerful tools in a DWI blood case is a motion to suppress. This asks the judge to exclude certain evidence from trial. If the judge grants the motion, the jury will never hear about that evidence — and in a DWI blood case, that could mean the BAC result is excluded entirely.

▪ WHAT DOES "SUPPRESSING EVIDENCE" REALLY MEAN?

To suppress evidence means to keep it out of trial. If a judge grants a motion to suppress the blood test, the jury never hears the BAC number, the prosecutor cannot rely on the lab result, and the case may become significantly weaker.

Suppression does not mean you "got away with something." It means the state did not follow the rules — and when the government breaks the rules, courts can and do exclude the evidence.

Common Grounds for Suppression

An illegal stop is among the most common grounds. If the officer did not have reasonable suspicion to pull you over, everything that followed — including the blood draw — may be invalid. Similarly, if the officer lacked probable cause to arrest you, the blood test that followed may be suppressed.

A defective search warrant is another powerful ground. If the warrant affidavit contains false information, omits critical facts, or lacks sufficient probable cause, the blood result may be excluded. Defense attorneys also scrutinize chain-of-custody records closely: if the state cannot demonstrate that the blood tested was actually your blood and that it was never tampered with, the result may be challenged as unreliable.

Suppression is not automatic. But when constitutional or procedural violations occur, judges can and do exclude blood evidence.

7.3. Discovery: Obtaining the Lab's Internal Records

You cannot challenge what you cannot see. That is where discovery comes in. Discovery is the legal process that allows the defense to request evidence from the prosecution. In a DWI blood case, the lab report alone is not enough — the report summarizes the result, but the real story is often found in the underlying records.

Through discovery, your attorney may request:

- Calibration logs
- Maintenance and service records
- Quality control data
- Standard operating procedures (SOPs)
- Analyst training and certification records
- Chromatograms and other raw test data
- Complete chain-of-custody documentation

Sometimes those records are complete and clean. Other times, they reveal gaps, inconsistencies, or missed steps. An experienced defense attorney knows what to ask for — and what to look for once it arrives.

■ CHAIN OF CUSTODY EXPLAINED

Chain of custody refers to the fully documented handling of evidence from start to finish. For a blood sample, that means recording who drew it, who sealed it, who transported it, who stored it, and who tested it. Gaps in that chain give the defense a foundation to argue: how can we know this sample was not switched, contaminated, or mishandled? Clear documentation builds confidence. Missing documentation raises questions.

7.4. Cross-Examining the Lab Analyst

Even if the blood result is not suppressed before trial, it can still be challenged in front of a jury through cross-examination. The goal of cross-examination is not to argue — it is to reveal weaknesses.

Common Areas of Questioning

A defense attorney may ask the lab analyst whether they personally drew the blood, how they know it was stored properly, whether they were present during transport, when the machine was last calibrated, whether there are any missing maintenance logs, how many cases they were handling that week, and whether they personally verified every calculation.

Jurors often assume lab analysts know everything about a case. But in reality, analysts typically receive a sealed vial, perform a test, and generate a report. They were not present for the stop, the arrest, or the storage and transport. Cross-examination can show jurors that the state's "scientific certainty" rests on a series of assumptions — and assumptions are not proof beyond a reasonable doubt.

▪ JUDGES DECIDE SUPPRESSION — JURIES DECIDE GUILT

A judge decides whether evidence is admissible at a suppression hearing. A jury decides whether the state has proven guilt beyond a reasonable doubt at trial.

Even if the judge allows the blood test into evidence, the jury may still question its reliability after hearing cross-examination. A denied motion to suppress is not the end of the defense — it is the beginning of a different strategy.

7.5. Using Independent Experts

In some cases, the defense retains an independent forensic toxicologist. An independent expert may review chromatograms, examine calibration logs, analyze maintenance records, evaluate storage times, and identify protocol deviations. Sometimes the expert confirms the lab's findings. Other times, the expert uncovers problems that significantly weaken the state's case.

Independent review also helps the defense explain complex science to a jury in plain English. Science becomes far less intimidating — and far easier to question — when it is broken down clearly and calmly by a knowledgeable witness who can walk jurors through exactly what the records show.

7.6. Examples of Successful Challenges

Not every challenge results in dismissal. But many DWI blood cases have been weakened — or won outright — because of careful review. Here are examples of issues that have supported successful defenses:

Missing Calibration Records

When the state cannot prove the machine was properly calibrated at the time of testing, the reliability of the result is open to question. In close cases, that uncertainty alone can create reasonable doubt.

Improper Storage

Evidence that blood was not refrigerated promptly — or that storage logs are incomplete — gives defense attorneys

a basis to argue the sample was compromised before it ever reached the testing instrument.

Fermentation Concerns

When preservatives were inadequate or there was a significant delay before testing, experts may testify that alcohol levels could have increased inside the vial after the draw — meaning the measured BAC may not reflect what was actually in the defendant's bloodstream while driving.

Faulty Warrants

Courts have suppressed blood test results entirely when a search warrant affidavit contained incorrect or misleading information. When that happens, the prosecution's case often collapses for lack of admissible evidence.

Accumulation of Small Errors

Sometimes no single issue is dramatic on its own. But when incomplete logs, minor protocol deviations, analyst workload issues, and documentation gaps are viewed together, the overall reliability of the testing process may be called into question. The law does not require certainty — it requires proof beyond a reasonable doubt. A pattern of small problems can satisfy that threshold.

7.7. Suppression vs. Trial Strategy

Not every challenge happens before trial. When a judge denies suppression and allows the evidence in, that does not mean the defense has lost — it means the strategy shifts. Rather than excluding the evidence, the defense focuses on

undermining confidence in the number, highlighting weaknesses in the testing process, educating the jury about how the science works, and emphasizing reasonable doubt.

In some cases, jurors are more persuaded by careful, systematic cross-examination than by technical legal motions. Every case is different, and experienced defense attorneys adapt their strategy accordingly.

7.8. The Bigger Picture: Holding the State Accountable

Challenging a blood test is not about attacking science. It is about demanding accountability. When the government accuses someone of a crime, it must follow the law, adhere to its own procedures, preserve evidence properly, maintain accurate records, and prove reliability. If it fails to do so, the defense has not only the right but the obligation to point that out.

The blood test may feel overwhelming. But it is not untouchable. It is evidence — and in our system, evidence must withstand scrutiny.

▪ **YOU ARE NOT POWERLESS**

A DWI blood test can feel intimidating. It may seem like the case is already decided. But you have rights — the right to review the evidence, question the procedures, challenge the warrant, cross-examine the analyst, present expert testimony, and hold the state to its burden of proof.

The blood test is evidence. In court, evidence must withstand scrutiny. That scrutiny is not a loophole. It is justice.

Frequently Asked Questions

Q: Is challenging a blood test just exploiting a technicality?

A: No. Constitutional protections and proper lab procedures are not technicalities — they are safeguards designed to prevent wrongful convictions. When the government seeks to take away your freedom, it must follow strict rules. If it fails to do so, that failure is legally significant and must be addressed.

Q: How often are blood tests actually suppressed?

A: Suppression is not automatic and does not happen in every case — but it does happen. Blood test results have been excluded when:

- Warrants were defective or affidavits contained false information
- Officers lacked probable cause for the stop or arrest
- Evidence handling procedures were violated
- Chain-of-custody documentation was incomplete or missing

Each case depends on its specific facts, which is why thorough investigation is essential.

Q: What happens at a suppression hearing?

A: A suppression hearing takes place before trial. The arresting officer may testify, the lab analyst may testify, and the defense attorney questions them both. The judge reviews the warrant, the evidence, and the arguments — then decides whether the blood result can be used at trial.

Q: What if the judge denies the motion to suppress?

A: That does not mean you lose. It means the evidence will be presented to the jury. At that point, your attorney can:

- Cross-examine the lab analyst about deviations and assumptions
- Highlight missing or incomplete documentation
- Present independent expert testimony
- Emphasize weaknesses in the overall testing process

Jurors are permitted to question the reliability of evidence even after a judge has allowed it in.

Q: Why might an independent expert disagree with the state's expert?

A: Experts can reach different conclusions because they may interpret data differently, identify different risk factors, apply different analytical standards, or scrutinize documentation more closely. Science often involves interpretation, not just numbers. Legitimate disagreement between qualified experts is itself a form of reasonable doubt.

Q: Is it expensive to challenge a blood test?

A: It can be. Hiring experts, reviewing records, and preparing motions require time and resources. But the decision to challenge evidence should be based on the strength of the state's case, the specific weaknesses identified, the potential penalties you face, and the long-term consequences for your life and career. A strategic defense is not about fighting everything — it is about focusing on what matters most.

Q: Can small issues really make a difference at trial?

A: Yes. Sometimes there is no single dramatic mistake. Instead there may be a small documentation gap, a minor protocol deviation, an unclear storage record, or an analyst who cannot recall specific details about your sample. Individually, these may seem minor. Together, they can cause a jury to hesitate. And hesitation is reasonable doubt.

Q: What is the ultimate goal of challenging the blood test?

A: The goal is not to attack science. It is to ensure the evidence was obtained legally, that procedures were followed correctly, that testing was reliable, and that the state can prove its case beyond a reasonable doubt. If the state cannot meet that standard, the law requires that doubt be resolved in your favor.

CHAPTER 8

DEFENSES AGAINST BLOOD TEST EVIDENCE

Practical Strategies That Can Change the Outcome of Your Case

8.1. Understanding What a "Defense" Really Means
8.2. Rising BAC: Was Your Alcohol Level Lower While Driving?
8.3. Improper Storage or Testing Procedures
8.4. Violation of Constitutional Rights
8.5. Bad Warrant or No Warrant
8.6. Medical and Physiological Defenses
8.7. Combining Defenses for Maximum Impact
8.8. The Bottom Line: A BAC Number Is Not the End of the Story

If you have been charged with DWI and there is a blood test in your case, you may feel like everything revolves around one number. But that number does not exist in a vacuum. It depends on timing, procedure, whether your rights were respected, and whether the government followed the law.

This chapter focuses on the real-world defenses that can be used against blood test evidence — the kinds of defenses

that can change negotiations, weaken the prosecution's case, or even lead to dismissal.

8.1. Understanding What a "Defense" Really Means

A defense does not always mean standing up in court and saying you had nothing to drink. In blood test cases, a defense may mean the test was unreliable, the timing matters, the procedures were flawed, your constitutional rights were violated, or the state simply cannot prove its case beyond a reasonable doubt.

There are two broad categories of defenses in blood test cases that often work together. Scientific defenses challenge the reliability or meaning of the BAC result itself. Legal defenses challenge whether the blood evidence was obtained lawfully. The goal of both is not to confuse the jury — it is to raise legitimate, fact-based doubt about whether the state can prove guilt beyond a reasonable doubt.

▪ **SCIENCE + LAW = STRATEGY**

Blood test defenses are often a combination of scientific issues — rising BAC, fermentation, contamination — and legal issues — an illegal stop, a bad warrant, improper detention. When both types of problems exist in the same case, the defense becomes significantly stronger. The key is knowing where to look.

8.2. Rising BAC: Was Your Alcohol Level Lower While Driving?

One of the most important scientific defenses in DWI cases is called rising blood alcohol concentration — or rising BAC.

Alcohol does not instantly enter your bloodstream the moment you take a drink. Your body moves through two phases: an absorption phase, during which BAC is rising, and an elimination phase, during which your body metabolizes and removes the alcohol.

If you were stopped shortly after your last drink, your BAC may have been lower at the time of driving and higher at the time of the blood draw. In many DWI cases, there is a delay of 30 minutes, an hour, or more between the time of driving, the time of arrest, and the time the blood is drawn. If alcohol was still being absorbed during that window, your BAC while driving could have been below 0.08 — even if the later test shows a higher number.

Retrograde Extrapolation

The state sometimes uses a method called retrograde extrapolation to estimate what your BAC was at an earlier point in time. But this method depends on assumptions about when you stopped drinking, how much you drank, your body weight, your metabolism, and your food consumption. If any of those assumptions are wrong, the estimate may be wrong. In close cases, rising BAC can be a decisive defense — and timing is everything.

▪ TIMING IS EVERYTHING

In most DWI blood cases, there is a delay between the traffic stop, the arrest, and the blood draw. Even a 45-minute gap can matter. The prosecution must prove your BAC at the time of driving — not just at the time of the blood test. That distinction is legally important and scientifically significant.

8.3. Improper Storage or Testing Procedures

Blood testing involves multiple steps, and if those steps are not followed properly the reliability of the result can be questioned.

Improper Refrigeration

Blood samples should be refrigerated promptly after the draw. If they are not, bacterial growth can occur, which may change alcohol levels and affect sample stability. Long delays without documented refrigeration raise legitimate concerns about the integrity of the result.

Inadequate Preservatives

If sodium fluoride is missing, expired, or improperly mixed, fermentation can occur — meaning alcohol levels inside the vial can increase after the blood draw. In a close case where BAC is near the legal limit, that post-draw increase could be the difference between a conviction and an acquittal.

Contamination

Improperly cleaned lab equipment or carryover from a previous sample can affect results. Even small amounts of contamination can distort the reported number in ways that are difficult to detect without a close review of the raw data.

Failure to Follow Protocol

Crime labs operate under written procedures. If an analyst deviates from those procedures, skips required steps, or fails to document actions taken, the defense can argue the testing process was not reliable. Testing errors do not automatically

establish innocence, but they can mean the state is unable to meet its burden of proof.

8.4. Violation of Constitutional Rights

Some of the strongest defenses in DWI blood cases are not scientific — they are constitutional. The Fourth Amendment protects against unreasonable searches and seizures, and a blood draw is legally considered a search. That means the government must follow strict rules to conduct one lawfully.

Illegal Stop

If the officer did not have reasonable suspicion to stop you, everything that followed — including the blood draw — may be invalid. The initial stop is often the first and most important place a defense attorney looks.

Lack of Probable Cause for Arrest

If the officer lacked sufficient evidence to arrest you for DWI, the blood test that followed may be subject to suppression. Probable cause to arrest is a separate legal requirement from reasonable suspicion to stop — and both must be satisfied.

Invalid or Coerced Consent

If you agreed to a blood draw but that consent was coerced, involuntary, or based on a false impression that you had no choice, the defense may argue the search was unlawful. Courts have suppressed blood test results obtained under these circumstances. Extended detention without legal justification can also affect the admissibility of evidence gathered during that period.

8.5. Bad Warrant or No Warrant

In many Texas DWI cases, officers obtain a search warrant to draw blood. But not all warrants are valid.

Defective Affidavits

To obtain a warrant, an officer must submit a sworn affidavit establishing probable cause. If that affidavit contains false statements, omits important facts, relies on weak or conclusory language, or fails to establish the required level of probable cause, the warrant may be invalid — and if the warrant is invalid, the blood evidence may be suppressed.

No Warrant at All

In most situations, a warrant is required to draw blood over a driver's objection. If no warrant was obtained and no recognized exception applies, the blood draw may violate constitutional protections. When blood evidence is suppressed, the prosecution's case can weaken dramatically. Charges may be reduced, or in some cases the case may be dismissed entirely.

▪ A WARRANT IS NOT AUTOMATICALLY VALID

Many people assume that if a judge signed a warrant, the warrant must be valid. That is not always true. A warrant can be challenged when the affidavit contains incorrect information, omits important facts, or fails to establish genuine probable cause. Judges must rely on what officers put in the affidavit — and if that information is flawed, the warrant can be flawed too.

8.6. Medical and Physiological Defenses

Every person's body processes alcohol differently. Two people can drink the same amount and have very different BAC results, because factors such as body weight, gender, food consumption, metabolism, medications, and medical conditions all influence how alcohol is absorbed and measured.

For example, diabetes can affect certain chemical readings, gastrointestinal conditions such as GERD can influence alcohol absorption patterns, and some medical issues can create compounds that interfere with gas chromatography testing. These defenses do not apply in every case, but when they do apply they can provide important context that the BAC number alone does not capture.

8.7. Combining Defenses for Maximum Impact

Rarely does one dramatic issue decide a DWI case. More often, a defense strategy weaves together several smaller issues: a questionable warrant, a significant delay before the blood draw, incomplete storage logs, minor protocol deviations, and uncertainty about rising BAC. Individually, each issue may appear modest. Together, they can create meaningful and cumulative doubt.

Defense strategy is about evaluating the strength of the state's evidence, the risks of going to trial, the potential penalties, and your personal circumstances. Sometimes the goal is suppression of the blood test before trial. Sometimes it is a negotiated resolution. Sometimes it is a jury trial. There is no single formula — there is only careful preparation and informed strategy.

▪ **NOT ALL DEFENSES APPLY IN EVERY CASE**

Every DWI case is different. Some cases present strong constitutional issues; others involve clear testing problems or questionable timing. Defense strategy is not about forcing a theory that does not fit the facts — it is about identifying the defenses that genuinely apply to your specific situation and building the strongest possible case from those facts.

8.8. The Bottom Line: A BAC Number Is Not the End of the Story

A blood test can feel intimidating — but it is not unbeatable. It can be challenged based on timing, storage, testing procedures, constitutional violations, defective warrants, and scientific interpretation. The prosecution must do more than present a number. They must prove the number is accurate, that it reflects your BAC at the time of driving, that the evidence was obtained lawfully, and that the testing was reliable.

If they cannot establish all of that beyond a reasonable doubt, the law requires that doubt to be resolved in your favor. You are not defined by a lab report. **Knowledge is your first defense. Preparation is your second.**

▪ **A STRATEGY BUILT AROUND YOU**

There is no one-size-fits-all DWI defense. The right strategy depends on the facts, the timing, the science, the law, and your personal goals. A BAC number is not the end of your story — it is one piece of evidence.

When that evidence is carefully examined, legally and scientifically, it may not be as overwhelming as it first appears. You have rights. You have defenses. And you have options.

Frequently Asked Questions

Q: What if I admitted to drinking? Does that hurt my case?

A: Admitting to drinking does not automatically mean you were over 0.08 while driving. You can drink and still be under the legal limit. You can also be in the absorption phase when stopped, meaning your BAC could have still been rising. The issue in court is not whether you drank — it is whether the state can prove you were legally intoxicated at the specific time you were driving.

Q: Can a rising BAC defense actually beat a blood test?

A: In some cases, yes — especially when the blood draw occurred significantly after the time of driving, there is uncertainty about when you stopped drinking, and the reported BAC is close to 0.08. Rising BAC does not automatically win a case, but it can create meaningful doubt about whether you were over the legal limit while behind the wheel.

Q What if my BAC was well over 0.08? Are defenses still available?

A: Yes. Even in higher BAC cases, defenses may still apply. For example:

- A defective warrant could result in suppression of the blood test
- Improper storage or fermentation could undermine the reliability of the result
- Constitutional violations during the stop or arrest could exclude the evidence entirely

Each case requires individual review. Do not assume the number alone determines the outcome.

Q: If there was a bad warrant, does my case automatically get dismissed?

A: Not automatically — but it can dramatically change the case. If the blood test is suppressed, the prosecution loses its strongest evidence. Charges may be reduced, or the case may be dismissed entirely in some situations. Suppression of the blood test often shifts negotiating power significantly in the defendant's favor.

Q: Is it worth challenging the blood test?

A: That depends on the strength of the evidence, the potential penalties, your driving record, and your personal and professional circumstances. Challenging evidence is a strategic decision that cannot be made wisely without a thorough review of the facts. The only way to know whether a challenge is worthwhile is to have an experienced attorney examine the records carefully.

Q: What is the actual goal of these defenses?

A: The goal is not to "beat the system." The goal is to ensure that:

- The law was followed
- Your rights were respected
- The science is reliable
- The state can genuinely meet its burden of proof beyond a reasonable doubt

If the state cannot satisfy that standard, the law requires an acquittal.

Q: Can multiple small issues really add up to a meaningful defense?

A: Yes. One small issue may not seem significant on its own. But several issues together — such as a questionable warrant, delayed testing, incomplete storage logs, unclear timing, and minor protocol deviations — can build a larger picture of uncertainty. And uncertainty is reasonable doubt.

CHAPTER 9

HOW A TOXICOLOGIST CAN HELP YOUR DWI DEFENSE

Using Science to Protect Your Rights

9.1. Why Science Matters in DWI Blood Test Cases
9.2. What Is a Forensic Toxicologist?
9.3. The Role of a Toxicologist in a DWI Case
9.4. How Blood Alcohol Testing Works — and Where It Can Go Wrong
9.5. Translating Science into a Legal Defense
9.6. Strategic Uses of a Toxicologist in Pretrial Proceedings
9.7. Strategic Uses of a Toxicologist at Trial
9.8. When Is Hiring a Toxicologist Worth It?
9.9. Conclusion: Leveling the Playing Field

A DWI blood test is not just a number. It is the result of science, procedure, assumptions, timing, and human judgment. And when science becomes the centerpiece of the prosecution's case, you need someone who understands that science just as well — or better. That is where a forensic toxicologist can make a real difference.

9.1. Why Science Matters in DWI Blood Test Cases

In many DWI cases, the prosecution builds its case around one central idea: the lab says the BAC was over 0.08. To a jury, that sounds powerful — scientific, precise, and objective. But jurors often do not see the assumptions behind the testing, the limitations of the equipment, the potential for human error, or the gap between theory and practice.

Science in court can feel intimidating. But science is not magic. It must be explained, interpreted, and applied correctly. When scientific evidence is misunderstood, it can overwhelm a case. When it is explained clearly and challenged appropriately, it can level the playing field.

▪ **SCIENCE IS NOT ALWAYS CERTAIN**

In court, science is sometimes presented as absolute. But in reality, scientific testing involves assumptions, ranges, margins of error, and interpretation. Retrograde extrapolation, for example, depends on knowing exactly when a person stopped drinking — and if that information is uncertain, the estimate is uncertain. A toxicologist helps identify where scientific certainty ends and where assumptions begin.

9.2. What Is a Forensic Toxicologist?

A forensic toxicologist is a scientist who studies how chemicals — including alcohol — affect the human body. Unlike a general chemist, a toxicologist focuses specifically on absorption, distribution, metabolism, and elimination: how substances enter, move through, and leave the body.

A forensic toxicologist may hold advanced degrees in chemistry or toxicology, have specialized training in alcohol testing, have experience reviewing crime lab procedures, and have testified in court proceedings. Their role is not to "beat" the state's expert. Their role is to evaluate whether the science in your case holds up under scrutiny — and to explain clearly what they find.

9.3. The Role of a Toxicologist in a DWI Case

A toxicologist does not simply look at the final BAC number — they examine everything behind it. That may include reviewing the raw chromatograms, examining calibration and maintenance records, evaluating how and when the sample was stored, assessing whether preservatives were adequate, looking for signs of fermentation, and identifying any deviations from established lab protocols.

Sometimes the toxicologist confirms that the testing appears solid. Other times, they uncover weaknesses that significantly affect the reliability of the result. Even small issues, when properly explained to a judge or jury, can create the kind of doubt that changes a case.

▪ WHAT DOES A TOXICOLOGIST ACTUALLY DO?

A toxicologist does not change your BAC or erase lab results. What they do is review the testing process, examine the raw data, identify weaknesses, evaluate assumptions, and explain the science clearly. Their job is not to manufacture doubt where none exists. Their job is to determine whether doubt already exists in the evidence — and to make sure it is understood by the court.

9.4. How Blood Alcohol Testing Works — and Where It Can Go Wrong

A forensic toxicologist understands both how blood testing should work and how it can fail. They are trained in headspace gas chromatography, the standard method used by Texas crime labs. They understand the risks of co-elution, sample contamination, instrument drift, calibration errors, and sample degradation. They also understand human physiology — including rising BAC, absorption curves, elimination rates, and the individual metabolic differences that can cause two people who consumed the same amount of alcohol to test very differently.

When the state presents a BAC number with confidence, a toxicologist can ask the questions that matter: What assumptions were made? What was independently verified? What was simply accepted as true without confirmation? That kind of analysis can shift the tone and direction of a case.

9.5. Translating Science into a Legal Defense

Science alone does not win cases — understanding does. One of the most important roles of a forensic toxicologist is explaining complex science in plain, accessible language that judges and jurors can evaluate for themselves.

Instead of saying "retrograde extrapolation assumptions were unreliable," a skilled toxicologist might explain: "You cannot accurately estimate someone's earlier alcohol level without knowing exactly when and how much they drank." Instead of citing "potential co-elution," they might say: "Another chemical may have overlapped with alcohol during testing, which could have inflated

the result." Jurors do not need technical jargon — they need clarity. When science becomes understandable, it becomes less intimidating and more open to genuine questioning.

▪ **CALM, CLEAR TESTIMONY CAN BE POWERFUL**

The most effective toxicologists do not try to overwhelm the jury with technical language. They speak plainly, avoid jargon, explain complex concepts in everyday terms, and acknowledge what they do and do not know. Jurors respond to clarity and candor. When science is explained honestly and simply, it becomes easier to evaluate — and easier to question.

9.6. Strategic Uses of a Toxicologist in Pretrial Proceedings

A toxicologist can contribute meaningfully long before a case goes to trial.

Assisting with Discovery Review

By reviewing lab records early in the process, a toxicologist can identify weaknesses and flag issues that may support a motion to suppress or influence the overall defense strategy.

Identifying Grounds for Suppression

If the testing process was demonstrably flawed, expert analysis may provide the scientific foundation for a motion to exclude the blood test result before trial.

Evaluating Retrograde Extrapolation

If the prosecution claims your BAC was higher at the time of driving than at the time of the blood draw, a toxicologist can

evaluate whether that estimate is scientifically sound — or built on assumptions that cannot be substantiated.

Strengthening Negotiations

When the prosecution knows the defense has a credible, qualified expert prepared to testify about weaknesses in the testing process, it often changes how the case is approached at the negotiating table. Science can influence leverage in ways that purely legal arguments sometimes cannot.

9.7. Strategic Uses of a Toxicologist at Trial

If the case proceeds to trial, the toxicologist may take the stand. Their testimony may educate the jury about how alcohol is absorbed and eliminated, explain the practical limits of gas chromatography testing, highlight the assumptions embedded in the state's analysis, show how standard procedures can fail or be poorly documented, and demonstrate why the precision implied by a specific BAC number may be overstated.

Sometimes the most powerful expert testimony is not dramatic. It is calm, methodical, and honest. When a qualified scientist explains — in plain terms — why a reported number may not be as definitive as it appears, jurors tend to listen carefully. They understand that science deserves careful examination, not blind acceptance.

▪ **THE STATE HAS AN EXPERT — SHOULDN'T YOU?**

In most DWI blood cases, the state's lab analyst will testify as an expert witness. The prosecution has a trained scientist explaining the test and presenting the BAC number with

confidence. If only one side presents scientific testimony, jurors may assume the science is settled and uncontested.

An independent toxicologist provides balance — not to overwhelm the jury, but to ensure they hear both sides of the science before deciding.

9.8. When Is Hiring a Toxicologist Worth It?

Not every DWI case requires an independent expert. The decision depends on the reported BAC level, whether procedural issues are present, the strength of the other evidence, the potential penalties, and your personal and professional circumstances.

In close cases — especially those near 0.08 — expert review can be extremely valuable. In cases with higher reported BAC levels, a toxicologist may still be important if there are warrant issues, if storage was questionable, or if testing procedures were flawed. The decision is always strategic. But the first step is always review: you cannot evaluate whether an expert is needed until someone has examined the actual records.

▪ NOT EVERY CASE NEEDS AN EXPERT

Hiring a toxicologist is a strategic decision, not an automatic one. Expert review may be especially valuable when the BAC is close to 0.08, there are testing irregularities, retrograde extrapolation is being used by the prosecution, storage or fermentation issues are present, or the potential consequences are particularly significant. In some cases, skilled cross-examination alone may be sufficient. In others, expert testimony can make a meaningful difference.

9.9. Conclusion: Leveling the Playing Field

The state comes to court with built-in advantages: a crime lab, trained analysts, official reports, scientific terminology, and experience presenting forensic evidence. That can feel overwhelming. But it does not mean the state is unbeatable. It means preparation matters.

When the prosecution presents scientific evidence, having your own independent scientific review restores balance. A toxicologist does not change the facts — they clarify them. They ask the questions that should be asked. They evaluate the assumptions that would otherwise go unexamined. They ensure the science is not simply accepted on authority, but tested against reality.

If the government is going to use science to prosecute you, that science must be accurate, reliable, and properly applied. When it is not, you have the right to challenge it. And sometimes, that challenge makes all the difference.

▪ LEVELING THE PLAYING FIELD

In a DWI blood case, the state comes to court with a crime lab, a trained analyst, official reports, and scientific terminology. That can feel overwhelming. But you are not required to accept the state's science at face value.

An independent toxicologist helps ensure the testing process is examined carefully, the assumptions are questioned, and the science is not overstated. When science is used to accuse you, science can also be used to defend you — and when both sides are heard, the playing field becomes more balanced.

Frequently Asked Questions

Q: Does hiring a toxicologist mean I'm going to trial?

A: Not necessarily. A toxicologist can contribute at multiple stages of a case, including:

- Evaluating the overall strength of the state's evidence
- Identifying weaknesses early in the process
- Influencing pretrial plea negotiations
- Supporting motions to suppress before trial

Sometimes the presence of a credible expert changes how the prosecution views the case — even without a single day in court.

Q: Can a toxicologist lower my BAC number?

A: A toxicologist does not change the number the lab reported. However, they may testify that the number may not reflect your BAC at the time of driving, that the testing process had specific weaknesses, that certain assumptions underlying the result were unreliable, or that the result carries a meaningful margin of error. The goal is not to rewrite the number — it is to question how reliable and meaningful that number actually is.

Q: What is retrograde extrapolation, and why does it matter?

A: Retrograde extrapolation is a method used to estimate what your BAC was at an earlier point in time — specifically, at the time of driving rather than at the time of the blood draw. It requires assumptions about when you stopped drinking, how much you consumed, your body weight, your metabolism, and whether you were still absorbing or already eliminating alcohol. If any of those assumptions are inaccurate, the estimate may be inaccurate. A

toxicologist can evaluate whether the state's retrograde estimate is scientifically sound or built on questionable foundations.

Q: Can a defense toxicologist disagree with the state's analyst?

A: Yes. Two qualified scientists can review the same data and reach different conclusions. They may disagree about the interpretation of chromatograms, the reliability of retrograde extrapolation, the impact of storage delays, or the significance of protocol deviations. Legitimate, well-reasoned disagreement between qualified experts can itself create reasonable doubt in the minds of jurors.

Q: Is expert testimony expensive?

A: Expert review involves additional cost, but the decision should be weighed against the potential consequences of a conviction — including fines, license suspension, incarceration, and long-term effects on your career and record. In many cases, an independent review reveals weaknesses that significantly affect the outcome. It is not about spending money unnecessarily; it is about making an informed strategic decision with full knowledge of what the evidence actually shows.

Q: What if the toxicologist agrees with the state's lab?

A: That information is genuinely valuable. An honest independent review helps you understand the realistic strength of the state's case, make well-informed decisions about whether to negotiate or proceed to trial, avoid unnecessary risks, and focus energy on the strongest available strategy. Good defense strategy is built on information, not assumptions — and knowing your position clearly is always an advantage.

Q: Will a jury actually understand what a toxicologist testifies about?

A: Yes — if the testimony is delivered clearly. Jurors do not need advanced degrees in chemistry. They need clear explanations, simple and concrete examples, and honest, direct answers. A skilled forensic toxicologist translates complex chemistry into everyday language that any thoughtful person can follow and evaluate. When that happens, jurors are fully capable of questioning whether the state's science meets the burden of proof beyond a reasonable doubt.

CHAPTER 10

TRIAL STRATEGY IN DWI BLOOD TEST CASES

Turning Scientific Evidence into a Persuasive Defense

10.1. Should You Take Your Case to Trial?
10.2. Jury Psychology: Why a Blood Test Is Not a Slam Dunk
10.3. Cross-Examining the State's Expert: Separating Confidence from Certainty
10.4 Using Your Own Expert Witness to Expose Scientific Flaws
10.5. Making Complex Science Simple for Jurors
10.6. Framing the Reasonable Doubt: Science vs. Story
10.7. Voir Dire in Blood Test Cases
10.8. Themes That Resonate with Jurors
10.9. Building a Persuasive Narrative: It's Not Just About BAC
10.10. Sample Case Theory Examples
10.11. The Final Trial Message

If your DWI case involves a blood test, one question eventually becomes unavoidable: should you take your case to trial? Trial is not about emotion. It is not about hope. It is about strategy. This chapter walks through how trial decisions are made

in blood test cases — and how scientific evidence is handled in front of a jury. Because a blood test may look powerful on paper, but in a courtroom it is only as strong as the story behind it.

10.1. Should You Take Your Case to Trial?

Going to trial is a serious decision. It requires weighing the strength of the state's evidence, the risks of conviction, the potential penalties, the plea offer on the table, and your personal and professional circumstances. A blood test does not automatically make trial hopeless — nor does it automatically make trial the right choice.

The decision usually comes down to three key questions. First, how strong is the blood evidence? Were there testing issues, warrant problems, or timing concerns? Second, how strong is the rest of the state's case? Officer observations, field sobriety tests, and body camera footage all factor in. Third, what are the consequences if you lose? Jail time, license suspension, and professional impact must all be weighed honestly.

Trial is not about gambling. It is about informed risk. When the science is weaker than it first appears, trial can become a genuinely viable option.

▪ TRIAL IS ABOUT RISK — NOT EMOTION

Deciding to go to trial is not about pride or frustration — it is about strategy. Before trial, you and your attorney should carefully consider the strength of the blood evidence, the officer's testimony, the plea offer, and the possible penalties if convicted. Sometimes trial is the right move. Sometimes negotiation is the better option. The key is informed judgment, not fear.

10.2. Jury Psychology: Why a Blood Test Is Not a Slam Dunk

Many people believe that if there is a blood test, the case is effectively over. Jurors often walk into the courtroom thinking "science doesn't lie" or "numbers don't lie." But jurors also understand that humans make mistakes, bureaucracies cut corners, and government agencies are not perfect.

The key is education. When jurors learn how testing actually works, where it can go wrong, and what assumptions are built into the process, the blood test transforms from a verdict into evidence. The goal at trial is not to attack science — it is to show that science is performed by human beings, and human beings are fallible.

▪ "NUMBERS DON'T LIE" — OR DO THEY?

Many jurors start with the assumption that a blood test must be accurate because it is scientific. But once they learn that machines require maintenance, that humans interpret the data, that assumptions affect results, and that timing can change BAC readings, that assumption can soften. A number is powerful — but it must be proven reliable, not simply accepted on authority.

10.3. Cross-Examining the State's Expert: Separating Confidence from Certainty

Cross-examination is one of the most powerful tools available in a blood test trial. The goal is not to argue with the state's expert or embarrass them — it is to separate confidence from certainty. A skilled cross-examination may highlight missing

calibration logs, point out incomplete maintenance records, question retrograde extrapolation assumptions, emphasize storage delays, show that the analyst was not personally present for the blood draw, and reveal that the analyst relied on standard procedures rather than independent personal knowledge of your specific sample.

State experts often appear calm and confident on the stand. But careful, methodical questioning can reveal the assumptions underlying that confidence — the gaps, the limitations, and the areas where certainty ends and inference begins. Jurors do not expect perfection. But when they see uncertainty, they begin to question the weight of the evidence.

▪ CONFIDENCE IS NOT THE SAME AS CERTAINTY

State experts testify with training, experience, and apparent authority. But confidence does not equal proof. Cross-examination often reveals what the analyst does not personally know, what they assumed without verifying, what they relied on others to do correctly, and what documentation is missing or incomplete. Jurors are entitled to question confidence — because confidence alone is not proof beyond a reasonable doubt.

10.4. Using Your Own Expert Witness to Expose Scientific Flaws

In some cases, the defense presents its own forensic toxicologist. The impact can be significant. When jurors see two qualified experts reviewing the same data and reaching different conclusions, they begin to understand that the science is not settled and not one-sided.

A defense expert may explain rising BAC, the margin of error in gas chromatography, fermentation risks, testing limitations, and why the assumptions built into the state's analysis matter. The key is not to overwhelm jurors with technical language — it is to explain clearly and calmly why certainty may be overstated. Expert disagreement alone can be enough to create reasonable doubt.

10.5. Making Complex Science Simple for Jurors

Jurors are not chemists. They are teachers, nurses, mechanics, parents, and business owners. The best trial strategy turns chemistry into common sense.

Instead of "absorption curve variability," the explanation might be: "Alcohol takes time to absorb. If the test happened later, the number could have been going up." Instead of "instrument drift," the explanation might be: "Machines require calibration. If they aren't properly maintained, the results can shift." Simple explanations build trust. Confusing jargon loses jurors. The goal is always clarity — not complexity.

10.6. Framing the Reasonable Doubt: Science vs. Story

Trials are not decided by spreadsheets. They are decided by stories. The prosecution's story is often simple: the defendant drove, the blood test says over 0.08, case closed. The defense story may be that the number is not as reliable as it sounds, that the test was taken significantly later and timing matters, that the government cut corners, or that the science depends on assumptions that were never independently verified.

Jurors compare stories and ask which one makes more sense, which one feels fair, and which one leaves them confident beyond a reasonable doubt. Reasonable doubt is not about proving innocence. It is about showing that the state has not proven certainty — and a well-constructed defense narrative makes that case persuasively.

▪ JURORS DECIDE STORIES — NOT JUST SCIENCE

At trial, jurors are comparing two versions of events. The prosecution's story may be: "over 0.08 equals guilty." The defense story may be: "The testing process leaves unanswered questions." Trials are decided by which story feels fair, logical, and complete. If the defense story creates hesitation, reasonable doubt exists.

10.7. Voir Dire in Blood Test Cases

Voir dire — the process of questioning potential jurors before trial — is critical in blood test cases. The defense needs to identify jurors who believe scientific evidence is always correct, who assume that police never make mistakes, or who feel that being charged means you probably did something wrong. These attitudes, if left unaddressed, can undermine an otherwise strong defense.

Voir dire is also the first opportunity to talk openly with jurors about the presumption of innocence, the burden of proof, and the real possibility of lab error. When jurors acknowledge early in the process that science can be questioned, they are more likely to apply that belief during deliberations. Good voir dire is not about tricking jurors — it is about identifying those who can keep a genuinely open mind and building an expectation of fairness from the very start.

▪ VOIR DIRE SETS THE TONE

Voir dire is the first opportunity to discuss the presumption of innocence, introduce reasonable doubt, address blind faith in scientific results, and explore juror attitudes about alcohol and driving. If jurors admit early that labs can make mistakes, they are more likely to weigh that possibility seriously during deliberations. Good voir dire builds a foundation of fairness before a single witness takes the stand.

10.8. Themes That Resonate with Jurors

Certain themes tend to connect with jurors in blood test trials because they reflect everyday values and experiences rather than technical expertise.

Fairness

The government must follow the rules. When it does not — whether in how the blood was collected, stored, or tested — that failure matters and must have consequences.

Accountability

If labs make mistakes, those mistakes affect real people. The system is only trustworthy if it is held accountable.

Fallibility

Machines require maintenance. Humans require oversight. Every juror has seen a computer glitch, a miscalculation, or a system failure. The assumption that lab equipment is infallible is not grounded in everyday experience.

Burden of Proof

It is not the defendant's job to prove innocence. It is the state's job to prove guilt beyond a reasonable doubt. These themes connect the technical aspects of blood testing to the universal principles of fairness that jurors already understand and believe in.

10.9. Building a Persuasive Narrative: It's Not Just About BAC

A trial is not just about a number — it is about a person, a context, and whether the state can prove guilt beyond a reasonable doubt. A persuasive defense narrative may focus on timing, procedure, assumptions, human error, and constitutional protections. It reminds jurors that being accused is not the same as being guilty.

The goal is to shift the focus from a number on a page to a process that must be proven reliable. When the jury understands that the BAC result is the end product of a long chain of human decisions and technical steps — each of which could have introduced error — the number becomes far less definitive than it first appeared.

10.10. Sample Case Theory Examples

Different facts produce different strategies. Here are four common case theories used in DWI blood test trials, each grounded in a specific factual pattern:

The Rising BAC Case

"The blood was drawn an hour after the stop. Alcohol was still being absorbed at the time of driving. The number in the

lab report reflects what was in the defendant's blood later — not at the wheel."

The Faulty Warrant Case

"The officer rushed the warrant application. Critical facts were omitted from the affidavit. The blood draw that followed was not constitutionally authorized, and the result must be excluded."

The Lab Reliability Case

"Maintenance logs were incomplete. Calibration records were missing. The state cannot prove the machine was functioning reliably at the time this sample was tested."

The Accumulated Doubt Case

"No single issue decides this case. But when you add up the timing of the blood draw, the gaps in documentation, the testing assumptions, and the storage concerns, the state has not proven its case to the standard the law requires."

10.11. The Final Trial Message

At the end of a blood test trial, the defense message is often straightforward: science deserves respect, but science must be reliable, and reliability must be proven — not assumed.

If jurors walk into deliberations saying "I'm not sure that number tells the whole story," then reasonable doubt exists. And reasonable doubt requires a not guilty verdict.

A blood test may look powerful. But in a courtroom, it is still evidence. And evidence must withstand scrutiny. **When science meets strategy, outcomes can change.**

▪ TRIAL IS ABOUT FAIRNESS

At the end of a DWI blood test trial, the question is simple: has the state proven its case beyond a reasonable doubt? Not "probably." Not "most likely." Not "the number says so." Beyond a reasonable doubt.

A blood test must survive scrutiny, cross-examination, and careful evaluation. Trial strategy is about ensuring that happens — because fairness requires nothing less.

Frequently Asked Questions

Q: If there's a blood test, isn't trial too risky?

A: Not necessarily. The risk level depends on the quality of the testing, the strength of the warrant, the timing of the blood draw, the credibility of the officer's testimony, and the availability of specific defenses. Some blood test cases are strong for the state. Others are considerably weaker than they first appear. The decision must be based on the specific facts of your case, not on a general assumption that blood tests are unbeatable.

Q: Do juries usually believe the state's expert?

A: Many jurors begin by trusting scientific testimony — but jurors also value fairness and transparency, notice gaps in the evidence, and respond to clear, honest explanations. When weaknesses in the testing process are exposed calmly and methodically, jurors often listen carefully and take those weaknesses seriously. They are not required to accept expert testimony without question.

Q: What is the actual goal of cross-examining the state's expert?

A: The goal is not to embarrass the expert. It is to:

- Clarify the limitations of what the analyst personally knows
- Highlight the assumptions that underlie the BAC result
- Reveal missing or incomplete documentation
- Show areas where certainty ends and inference begins

Even small admissions can carry weight. When an expert acknowledges that there is always a margin of error, that statement can resonate with jurors who are trying to decide whether the state has proven its case.

Q: Should I testify at trial?

A: That is a personal and strategic decision that depends on the overall defense theory and the specific facts of your case. In many DWI blood test trials, the defense focuses on challenging the science and the process, holding the state to its burden of proof, without the defendant taking the stand. You are never required to prove your innocence. The state must prove guilt beyond a reasonable doubt. Whether your testimony would help or hurt that effort is something to evaluate carefully with your attorney.

Q: What if my BAC was significantly over 0.08?

A: Even in higher BAC cases, trial may be worth considering if there were constitutional violations, the warrant was defective, the testing procedures were seriously flawed, or the prosecution has overreached. The risks must be honestly evaluated — high BAC cases require clear-eyed strategic assessment, not wishful thinking. But the number alone does not end the analysis.

Q: What does "framing reasonable doubt" mean in practice?

A: It means organizing the presentation of evidence so that jurors clearly see the assumptions, the uncertainties, and the unanswered questions that run through the state's case. Reasonable doubt does not require proving innocence — it requires showing that certainty is genuinely lacking. If jurors leave the courtroom saying "I'm not sure," that is reasonable doubt, and the law requires an acquittal.

Q: Can small issues really influence a jury?

A: Yes. Jurors often make decisions based on accumulated concerns, consistency, credibility, and a sense of fairness. One minor issue may not decide a case. But several small issues combined — a documentation gap here, an assumption there, a storage question somewhere else — can create hesitation. And hesitation is reasonable doubt.

CONCLUSION

Knowledge Is Power, and Preparation Is Protection

If you have read this far, you now understand something most people never learn: a DWI blood test is not just a number. It is the result of a traffic stop, an arrest decision, a warrant or consent, a blood draw, storage and transport, laboratory testing, machine calibration, human interpretation, and legal procedure. Every step matters. And every step can be examined.

When someone is charged with DWI based on a blood test, it can feel overwhelming. The number seems precise, official, and scientific. But as this book has shown, science is not immune from error. Machines must be maintained. Procedures must be followed. Assumptions must be questioned. Rights must be respected. If any part of the process fails, the reliability of the result can be challenged.

The Blood Test Is Not the End of the Story

The prosecution may present a BAC result as if it settles everything. But the law requires more. The state must prove that the stop was lawful, the arrest was lawful, the warrant was valid, the blood draw was proper, the sample was preserved correctly, the machine was functioning properly, the

analyst followed protocol, and the result reflects your BAC at the time of driving. All of that must be proven beyond a reasonable doubt.

If the state cannot meet that burden, the law requires a not guilty verdict. That is not a loophole. That is the foundation of our justice system.

▪ WHAT THE STATE MUST PROVE

- *The stop was lawful*
- *The arrest was lawful*
- *The warrant was valid*
- *The blood draw was conducted properly*
- *The sample was preserved and stored correctly*
- *The machine was functioning and properly calibrated*
- *The analyst followed protocol*
- *The result reflects BAC at the time of driving*

Why This Knowledge Matters

Many people charged with DWI assume there is nothing they can do. They see a blood test result and conclude the case is already decided. That assumption is often wrong.

You now understand how rising BAC can affect what the test actually measures. You understand how improper storage, inadequate preservatives, and fermentation can change the alcohol level in a vial after it leaves your body. You understand how co-elution can distort a chromatogram, how warrants can be legally defective, how qualified experts can reach different conclusions from the same data, and how jurors evaluate scientific evidence when it is explained clearly.

You are no longer looking at a lab report in isolation. You are looking at a process. And processes can be tested.

Every Case Is Unique

Some DWI blood test cases are strong for the state. Others are not. Some involve clear constitutional violations. Others involve subtle scientific weaknesses that only emerge after careful review. Some are best resolved through negotiation. Others are best resolved at trial. There is no single answer that applies to every situation.

What matters in every case is careful review, strategic thinking, and informed decision-making. The first step is always to look closely at what the evidence actually shows — not what it appears to show at first glance.

Protecting Your Future

A DWI conviction can affect your driver's license, your job, your professional license, your insurance, your criminal record, and your reputation. This is not just about a number. It is about your future, your livelihood, and the opportunities that depend on keeping your record clean.

That is why preparation matters. That is why knowledge matters. That is why careful legal and scientific review — before any decision is made — matters so much.

Leveling the Playing Field

The state comes to court with resources: crime labs, prosecutors, trained analysts, and experience presenting forensic

evidence. But you have rights. The right to challenge the evidence. The right to demand proof. The right to hold the government accountable when its procedures fall short.

When science is used to accuse you, science can also be used to defend you. When procedure is overlooked, it can be questioned. When certainty is overstated, it can be tested. That is not avoiding responsibility — that is insisting on fairness.

▪ YOUR RIGHTS IN A DWI BLOOD TEST CASE

- *The right to challenge the evidence against you*
- *The right to demand proof beyond a reasonable doubt*
- *The right to cross-examine the state's witnesses*
- *The right to present your own expert testimony*
- *The right to hold the government to its own procedures*

A Final Thought

At the end of every DWI blood test case, the question is simple: has the state proven its case beyond a reasonable doubt? Not probably. Not possibly. Not because a machine produced a number. Beyond a reasonable doubt.

If there is genuine uncertainty about how the blood was drawn, stored, tested, or interpreted — that uncertainty matters. If constitutional rights were violated, that violation matters. If assumptions were made without verification, those assumptions matter. Justice requires careful examination. And careful examination is your right.

A blood test may feel intimidating. But it is not untouchable. It is evidence. And in our system, evidence must withstand scrutiny. Armed with knowledge, strategy, and preparation, **you are**

no longer powerless in the face of scientific accusation. You are informed. And informed defendants make better decisions.

▪ THE STANDARD IS BEYOND A REASONABLE DOUBT

Not "probably guilty." Not "most likely guilty." Not "the machine said so." The state must prove every element of its case — including the reliability of the blood test — beyond a reasonable doubt. If it cannot, the law requires a verdict in your favor.

That is not a technicality. That is justice.

About Texas Criminal Defense Group

We understand the gravity of the situations our clients face and we go the extra mile to ensure your rights are protected. We leave no stone unturned in building a robust defense strategy. From investigating the case to gathering evidence, interviewing witnesses, and analyzing every aspect of the prosecution's case, we leave no room for oversight. We understand the nuances of the law and leverage our expertise to identify potential weaknesses or inconsistencies in the prosecution's argument.

We go beyond the courtroom and offer guidance, reassurance, and emotional support throughout the legal process. We understand the stress and anxiety our clients experience and work tirelessly to alleviate their concerns. Whether it's explaining legal procedures, addressing questions, or preparing clients for trial, we ensure that our clients are well-informed and empowered every step of the way. By going the extra mile, we demonstrate our commitment to achieving the best possible outcome for our clients and upholding justice.

Results, Period

We believe that winning is not just important, but the ultimate goal. When it comes to your case, achieving victory is the sole focus, and if you choose to hire our services, it becomes our utmost responsibility to deliver the desired results to you.

People over Process Always

Our commitment is to provide Five-Star Service, and the abundance of success stories is a testament to our dedication. Our team of attorneys is passionate about advocating for our clients and ensuring their rights are protected. We go above and beyond to deliver exceptional representation, tailored to each individual case. From the initial consultation to the final resolution, we prioritize clear communication, responsiveness, and personalized attention. Our attorneys possess extensive legal knowledge, courtroom expertise, and a track record of achieving favorable outcomes for our clients. With a client-centered approach, we strive to exceed expectations and provide the highest level of service throughout the entire legal process.

Texas Criminal Defense Group
https://texascriminaldefensegroup.com/
806-444-4444

Google Reviews

4.9 rating, 500+ reviews

Adrian Hernandez ★★★★★

My experience with them was just awesome! Never felt like I was clueless, they were super helpful through the whole process and we got exactly what we were fighting for without me even having to lift a finger really! 10 out of 10, great work!

Anayancy Quintana ★★★★★

I had a case opened from about 3 years ago, that I had no idea about. I contacted this firm for all the great reviews. I didn't have to show up or do anything really, my lawyer got the charge dismissed and I got to go on with my life. Highly recommend.

Brandon Paz ★★★★★

This team of professionals are highly versed in all areas of criminal defense! They have come through time and time again with favorable results! I like to say that they "work their magic!" Very thorough, and precise in their work! Highly recommend!!

caitlin nino ★★★★★

If I could give 10 stars I would! This group not only did their best to get the best outcome for me, but they treated me like a friend as well. It's very easy to get in contact with them if you have any questions which was the best part. TCDG are very attentive, very friendly personally I believe they deserve the Best In Texas plaque! If you've ever found yourself in a pickle this family is the way you want to go!

Daniel ★★★★★

I cannot thank the Texas Criminal Defense Group enough for their incredible work on my case. Facing 2 to 10 years for a crime I didn't commit was the hardest thing I've ever endured, but they gave me peace of mind throughout the entire process. They were extremely thorough, professional, and dedicated, always keeping me informed and reassured. Their commitment to proving my innocence was unwavering. They went above and beyond, treating my case with the seriousness and care it deserved. Thanks to their expertise and tireless efforts, I was able to walk away with my name cleared, and I can now move forward with my life.

Juan Montez ★★★★★

TCDG has been great in helping me with my case! My lawyer was straight forward about what to expect and that helped me prepare mentally about what was to come. Everyone has been amazing at communicating to me what needed to be done throughout the process! I would recommend them to anyone!

A Blood Test Doesn't Automatically Decide Your Case

If you've been charged with DWI in Texas and there's a blood test involved, you may feel like the outcome is already determined. It's not.

In this book you'll learn how blood alcohol testing really works, and where it can go wrong. Inside, you'll discover:

- How blood is drawn and tested
- What "rising BAC" means
- How storage and lab errors affect results
- When warrants can be challenged
- How toxicologists uncover weaknesses
- How blood evidence is attacked in court

A BAC number is powerful, but it is not untouchable.

Before you make decisions about your future, understand the science, the law, and your rights. Because when the government relies on a number, that number must withstand scrutiny.

About the Author

Attorney Stephen Hamilton is the founding partner and lead trial attorney at The Texas Criminal Defense Group. Stephen ranks among the fewer than 1% of practicing criminal attorneys across Texas who have achieved coveted board certification in criminal law by the Texas Board of Legal Specialization. He has been awarded numerous awards, and his counsel is highly esteemed by his peers. He is a lifetime legal member of the National Association of Criminal Defense Attorneys, the Texas Criminal Defense Lawyer's Association, and several other regional legal associations.

James Publishing