

Duty of the Medical Examiner and Justice of the Peace to Report Blood Alcohol Concentration Results



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Agenda

- Texas Laws Related to BAC Toxicology Reporting
- Duty to Report
- Ways to Report
- When to Report
- Where to Report
- BAC Reporting Fact Sheet

Texas Laws Related to BAC Testing and Reporting

- Found in two places:

Texas Code of
Criminal Procedure
Chapter 49

Texas
Transportation
Cody 550.081 (b)

Texas Code of Criminal Procedure, Chapter 49

Inquests Upon Dead Bodies

Duties Performed by Justice of the Peace

- Article 49.04. Deaths Requiring an Inquest
- Article 49.10. Autopsies and Tests
- Article 49.11. Chemical Analysis
- Article 49.15. Inquest Record

Texas Code of Criminal Procedure

Article 49.04-Deaths Requiring an Inquest

- a) A justice of the peace ***shall conduct*** an inquest into the death of a person who dies in the county served by the justice if:
- 1) the person dies in prison under circumstances other than those described by Section 501.055(b), Government Code, or in jail;
 - 2) the person dies an unnatural death from a cause other than a legal execution;
 - 3) the body or a body part of a person is found, the cause or circumstances of death are unknown, and:
 - A) the person is identified; or
 - B) the person is unidentified;

Texas Code of Criminal Procedure

Article 49.04-Deaths Requiring an Inquest (cont.)

- 4) the circumstances of the death indicate that the death may have been caused by unlawful means;
- 5) the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide;
- 6) the person dies without having been attended by a physician;
- 7) the person dies while attended by a physician who is unable to certify the cause of death and who requests the justice of the peace to conduct an inquest; or
- 8) the person is a child younger than six years of age and an inquest is required by Chapter 264, Family Code.

Texas Code of Criminal Procedure

Article 49.10- Autopsies and Tests

a) At his discretion, a justice of the peace may obtain the opinion of a county health officer or a physician concerning the necessity of obtaining an autopsy in order to determine or confirm the nature and cause of a death.

b) The commissioners court of the county shall pay a reasonable fee for a consultation obtained by a justice of the peace under Subsection (a) of this article.

c) Except as required by Section 264.514, Family Code, for each body that is the subject of an inquest by a justice of the peace, the justice, in the justice's discretion, **shall:**

- 1) direct a physician to perform an autopsy; or
- 2) certify that no autopsy is necessary.

Texas Code of Criminal Procedure

Article 49.10- Autopsies and Tests (cont.)

- e) A justice of the peace **shall** order an autopsy performed on a body if:
- 1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death;
 - 2) the deceased was a child younger than six years of age and the death is determined under Section 264.514, Family Code, to be unexpected or the result of abuse or neglect; or
 - 3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.
- f) A justice of the peace **shall** request a physician to perform the autopsy.
- g) The commissioners court **shall** pay a reasonable fee to a physician performing an autopsy on the order of a justice of the peace, if a fee is assessed.
- h) The commissioners court **shall** pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed under this article if a justice of the peace orders the body to be transported to the place.

Texas Code of Criminal Procedure

Article 49.10- Autopsies and Tests (cont.)

i) If a justice of the peace determines that a complete autopsy is unnecessary to confirm or determine the cause of death, the justice may order a physician to take or remove from a body a sample of body fluids, tissues, or organs in order to determine the nature and cause of death. Except as provided by Subsection (j) of this article, a justice may not order any person other than a physician to take samples from the body of a deceased person.

j) A justice of the peace may order a physician, qualified technician, paramedic, chemist, registered professional nurse, or licensed vocational nurse to take a specimen of blood from the body of a person who died as the result of a motor vehicle accident if the justice determines that circumstances indicate that the person may have been driving while intoxicated.

Texas Code of Criminal Procedure

Article 49.10- Autopsies and Tests (cont.)

k) A justice of the peace may order an investigative or laboratory test to determine the identity of a deceased person. After proper removal of a sample from a body, a justice may order any person specially trained in identification work to complete any tests necessary to determine the identity of the deceased person.

l) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:

- 1) all available fingerprints and palm prints;
 - 2) dental charts and radiographs (X-rays) of the person's teeth;
 - 3) frontal and lateral facial photographs with scale indicated;
 - 4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - 5) notation of antemortem medical conditions;
 - 6) notation of observations pertinent to the estimation of time of death;
- and

Texas Code of Criminal Procedure

Article 49.11- Chemical Analysis

- a) A justice of the peace *may obtain* a chemical analysis of a sample taken from a body in order to determine whether death was caused, in whole or in part, by the ingestion, injection, or introduction into the body of a poison or other chemical substance. A justice *may obtain* a chemical analysis under this article from a chemist, toxicologist, pathologist, or other medical expert.
- b) A justice of the peace *shall obtain* a chemical analysis under Subsection (a) of this article if requested to do so by the physician who performed an autopsy on the body.
- c) The commissioners court *shall pay* a reasonable fee to a person who conducts a chemical analysis at the request of a justice of the peace.

Texas Code of Criminal Procedure

Article 49.15- Inquest Record

a) A justice of the peace or other person authorized under this subchapter to conduct an inquest **shall make an inquest record** for each inquest he conducts. The inquest record **must include** a report of the events, proceedings, findings, and conclusions of the inquest. The record **must also include** any autopsy prepared in the case and all other papers of the case. All papers of the inquest record **must be marked** with the case number and be clearly indexed and be maintained in the office of the justice of the peace and be made available to the appropriate officials upon request.

b) As part of the inquest record, the justice of the peace **shall make** and keep complete and permanent records of all inquest hearings. **The inquest hearing records must include:**

- 1) the name of the deceased person or, if the person is unidentified, a description of the body;
- 2) the time, date, and place where the body was found;
- 3) the time, date, and place where the inquest was held;
- 4) the name of every witness who testified at the inquest;

Texas Code of Criminal Procedure

Article 49.15- Inquest Record (cont.)

- 5) the name of every person who provided to the justice information pertinent to the inquest;
- 6) the amount of bail set for each witness and person charged in the death;
- 7) a transcript of the testimony given by each witness at the inquest hearing;
- 8) the autopsy report, if an autopsy was performed; and
- 9) the name of every person arrested as a suspect in the death who appeared at the inquest and the details of that person's arrest.

c) The commissioners court **shall pay** a reasonable fee to a person who records or transcribes sworn testimony during an inquest hearing.

d) The justice of the peace **shall certify** a copy of the inquest summary report and deliver the certified copy in a sealed envelope to the clerk of the district court.

The clerk of the district court **shall retain** the summary report subject to an order by the district court.

In some cases, toxicology blood testing
is **not** performed on all fatal injured
drivers suspected of DUI



Duty to Report

Reporting toxicology results for fatal crashes to the Texas Department of Transportation (TxDOT)'s Crash Records Section (TxDOT- CRS) is a **STATUTORY** requirement

Transportation Code 550.081

Transportation Code Section 550.081

Report of Medical Examiner or Justice of the Peace

- b) A medical examiner or justice of the peace acting as coroner in a county that does not have a medical examiner's office or that is not part of a medical examiner's district ***shall submit a report*** in writing to the department of the death of a person that was the result of a traffic accident or bridge collapse to which this chapter applies and that occurred within the jurisdiction of the medical examiner or justice of the peace in the preceding calendar quarter.
- c) The report ***must be*** submitted before the 11th day of each calendar month and include:
- 1) the name of the deceased and a statement as to whether the deceased was:
 - A) the operator of or a passenger in a vehicle involved in the accident;
or
 - B) a pedestrian or other non-occupant of a vehicle;
 - 2) the date of the accident and the name of the county in which the accident occurred, and, if a bridge collapse, the location of the bridge in that county;
 - 3) the name of any laboratory, medical examiner's office, or other facility that conducted toxicological testing relative to the deceased; and
 - 4) the results of any toxicological testing that was conducted.

Transportation Code Section 550.081

Report of Medical Examiner or Justice of the Peace (cont.)

d) A report required by this section **shall be** sent to:

- 1) the crash records bureau of the department at its headquarters in Austin;
or
- 2) any other office or bureau of the department that the department designates.

e) If toxicological test results are not available to the medical examiner or justice of the peace on the date a report must be submitted, the medical examiner or justice **shall:**

- 1) submit a report that includes the statement "toxicological test results unavailable"; and
- 2) submit a supplement to the report that contains the information required by Subsections (c)(3) and (4) as soon as practicable after the toxicological test results become available.

f) The department **shall prepare** and when requested supply to medical examiners' offices and justices of the peace the forms necessary to make the reports required by this section.

Texas' statutes
are permissive,
not mandatory

Ways To Report

- TxDOT CR-1001 – Death/Toxicology Report (Medical Examiner/Justice of the Peace)
- Send full autopsy and/or toxicology results
- In-house generated form/database, approved by TxDOT
- ***TxDOT's preferred method is to send the full autopsy and/or full toxicology results***



DEATH / TOXICOLOGY REPORT

(Medical Examiner / Justice of the Peace)

Indicate whether this is... an Initial Report or... a Supplemental Report

Reporting Agency: _____

Name of Person Submitting Report: _____

DEATH DATA

Underlying Cause: An underlying cause of death was due to (or was a likely consequence of):

Motor Vehicle Crash Bridge Collapse

Deceased Role: Driver Passenger Pedestrian Pedalcyclist

Name of Deceased: Last: _____

First: _____

Middle: _____

Date of Death: _____

Date of Crash: _____

County Name: _____ City Name (if known): _____
(where crash occurred) (where crash occurred)

Crash/Bridge Location: _____
(street/hwy or lat-long)

TOXICOLOGY DATA

Test Type	Alcohol Results (%)	Drugs Found (List name of drug)
Whole Blood:		
Urine:		
Vitreous:		
Other Test Type:		
Not Tested:	<input type="checkbox"/>	<input type="checkbox"/>

Check if toxicological test results are not available at this time and supplemental report will be filed later.

Name of laboratory, medical examiner's office, or other facility that conducted toxicology testing: _____

Mail to: Texas Department of Transportation — or — Fax to: 512/486-5794
Traffic Operations Division - Crash Data and Analysis Section
PO Box 149349
Austin, TX 78714

Questions? Call: 844/274-7457 — or — Submit by e-mail by clicking on the button below.

[Submit by E-mail](#) [Contact/Help](#)

TxDOT CR-1001 – Death/Toxicology Report (ME/JP)

When to Report

The report must be submitted before the **11th** day of each calendar month and include:

- 1) the **name of the deceased** and a statement as to whether the deceased was:
 - A) the operator of or a passenger in a vehicle involved in the accident; or
 - B) a pedestrian or other non-occupant of a vehicle;
- 2) the **date of the accident** and the **name of the county** in which the accident occurred, and, if a bridge collapse, the location of the bridge in that county;
- 3) the name of **any laboratory, medical examiner's office, or other facility that conducted toxicological testing** relative to the deceased; and
- 4) the **results of any toxicological testing** that was conducted.

Where to Report

Mailing Address: Texas Department of Transportation
Traffic Operations Division-Crash Data
& Analysis Section
P.O. Box 149349
Austin TX 78714

Fax Number: 512-486-5794

Email Address: TRF_FatalityData@txdot.gov

Questions: 844-274-7457 (CRIS Help Desk)

BLOOD ALCOHOL CONCENTRATION

TOXICOLOGY REPORTING IN TEXAS

WHY TO REPORT

In 2017, Texas had 1,235 fatal crashes involving a person that was driving under the influence of alcohol. A total of 1,402 people were killed in those crashes with another 15,730 injured. One death is too many, and improving Blood Alcohol Concentration Toxicology Reporting is not only a duty to Justices of the Peace, but is a step in the direction toward zero impaired motor-vehicle deaths in the state of Texas.

DUTY TO REPORT

Justices of the Peace have a duty to report toxicology results for fatal crashes to the Texas Department of Transportation (TxDOT)'s Crash Records Section (TxDOT-CRS). This is a **STATUTORY** requirement based on Transportation Code 550.081.

WAYS TO REPORT

The ways to report are:

- **TxDOT CR-1001**—Death/Toxicology Report (Medical Examiner/Justice of the Peace)
- **Send full autopsy and/or toxicology results**—TxDOT's preferred method
- **In-house generated form/database**—approved by TxDOT

WHEN TO REPORT

The report should be submitted before the 11th day of each calendar month and include:

- 1) **the name of the deceased and a statement** as to whether the deceased was:
 - a) the operator of or a passenger in a vehicle involved in the accident; or
 - b) a pedestrian or other non-occupant of a vehicle;
- 2) **the date of the accident and the name of the county** in which the accident occurred, and, if a bridge collapsed, the location of the bridge in that county;
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- 4) **the results of any toxicological testing** that was conducted.



Driving Under the Influence

1,235
FATAL CRASHES

1,402
FATALITIES

15,730
INJURIES

WHERE TO REPORT

MAILING ADDRESS:

Texas Department of
Transportation
Traffic Operations Division-
Crash Data & Analysis Section
P.O. Box 149349
Austin, Texas 78714

FAX NUMBER:

512-486-5794

EMAIL ADDRESS:

TRF_FatalityData@txdot.gov

QUESTIONS:

844-274-7457
Crash Records Information
System (CRIS) Help Desk

Quick Reference Guide to Blood Alcohol Concentration Reporting in Texas

Available for Download at:

Dyingtodrink.org/resources

TTI.CTS17094551.0717

Thank You!

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