

Low ISDT areas:¹ Prior to 10/06 the lower limit was 1,000, thereafter it was 900.²

Solution	Type	Area	Sample	Toxicologist	Chromatograph	Page
04026	Field	553	Blank	Capron	5	20
05013	QAP	992	Sample	Louis	5	8
		987	Sample	Louis	5	9
		991	Sample	Louis	5	10
		970	Blank	Louis	5	16
		995	Blank	Louis	5	21
05014	QAP	982	Sample	Louis	5	8
05015	Field	686	Blank	Capron	5	51
05016	Field	598	Blank	Capron	4	28
06025	Field	914	Blank	Capron	5	109
06029	Field	863	Blank	Capron	5	161
06030	Field	103	Blank	Capron	4	78
06034	QAP	860	Blank	Capron	5	13
06035	QAP	131	Blank	Capron	5	13
06043	Field	852	Blank	Capron	5	83
07015	Field	742	Blank	Capron	4	46
07045	Field	784	Blank	Capron	4	204

Where there is an identifiable physical malfunction of a chromatograph during the certification process that calls into question the values of the data collected, the data should be discarded and rerun.³ If a chromatograph returns an ISTD area of less than 900, it is an indication that the gas chromatograph has a stuck injection needle.⁴ When this occurs, the “result isn’t acceptable”.⁵ The protocols require that any data set that includes an ISTD area of less than 900 must be discarded and rerun.⁶ Both Brian Capron and Dr. Nuwayhid relied on this in justifying the data they discarded in the certifications of solutions 05009 and 07018.

¹ FUBAR brief, p.12, 43-4.

² WASHINGTON STATE TOXICOLOGY LABORATORY, *Analysis of Alcohols in Aqueous and Biological Samples by Headspace Gas Chromatography*, §k2, versions (2004) – (2006).

³ AMERICAN SOCIETY FOR TESTING AND MATERIALS, STANDARD PRACTICE FOR DEALING WITH OUTLYING OBSERVATIONS, ASTM DESIGNATION E 178 – 02, § 4 (2002).

⁴ KC Ex 126 (Declaration of Brian Capron – solution 05009 # 6); KC Ex. 128 (Declaration of Naziha Nuwayhid – solution 07018 # 33); Testimony of Dr. Logan, KC5, p. 169; WASHINGTON STATE TOXICOLOGY LABORATORY, ANALYSIS OF ALCOHOLS IN AQUEOUS AND BIOLOGICAL SAMPLES BY HEADSPACE GAS CHROMATOGRAPHY, §k2, versions (2004) – (2006).

⁵ Testimony of Dr. Nuwayhid, KC6, p.162; Declaration of Brian Capron, KC Ex 126 (Solution 05009 - # 6); Declaration of Dr. Nuwayhid, KC Ex. 128 (Solution 07018 - # 33); Testimony of Dr. Logan, KC5, p. 169; WASHINGTON STATE TOXICOLOGY LABORATORY, ANALYSIS OF ALCOHOLS IN AQUEOUS AND BIOLOGICAL SAMPLES BY HEADSPACE GAS CHROMATOGRAPHY, §k2, versions (2004) – (2006).

⁶ Declaration of Brian Capron, KC Ex 126 (Solution 05009 - # 6); Declaration of Dr. Nuwayhid, KC Ex. 128 (Solution 07018 - # 33); Testimony of Dr. Logan, KC5, p. 169; Testimony of Dr. Nuwayhid, KC6, p.161-2, 164-5; WASHINGTON STATE TOXICOLOGY LABORATORY, ANALYSIS OF ALCOHOLS IN AQUEOUS AND BIOLOGICAL SAMPLES BY HEADSPACE GAS CHROMATOGRAPHY, §k2, versions (2004) – (2006); *State v. Lycksell*, # C0677464 at 5 (Skagit Co. Dist. Ct. – 3/28/08); STATE’S STIPULATION TO SUPPRESSION OF BREATH TEST RESULTS, Pierce County Prosecutor’s Office, (3/20/08).