

STATE OF THE PRACTICE:

JUSTICES OF THE PEACE AND TOXICOLOGY TESTING IN TEXAS

INTRODUCTION

Currently, there are 12 counties in Texas with a medical examiner's (ME's) office, responsible for investigating crash fatalities. However, in most Texas counties, a **justice of the peace (JP)** investigates fatalities to determine cause and manner of death. When a fatal crash occurs, law enforcement agencies respond to investigate the scene. Typically, law enforcement officials will then request a JP to respond to the scene and pronounce death and determine if an autopsy is necessary. It's important to note that each case is evaluated independently.

In 2018, the Texas A&M Transportation Institute (TTI) was tasked to identify issues that adversely affect JPs who report blood alcohol content (BAC) toxicology results for fatally injured drivers. TTI surveyed JPs to better understand their experiences reporting BAC toxicology results of fatally injured drivers to the Texas Department of Transportation's (TxDOT's) Crash Records Section. This survey focused on current BAC testing and reporting practices for fatal crashes, as well as evaluating current TTI education and outreach activities for JPs.

SURVEY RESULTS

Current BAC Testing and Reporting Practices

When a fatal crash occurs, 75 percent of JPs reported they are always notified. Reasons they may not be notified include:

- the incident takes place when they are not on call,
- the presence of an ME or coroner in their county, or
- they are only notified if the judge is notified.

Approximately 88 percent of the time, the JP is one official who requests toxicology testing be completed for fatal crashes. Approximately 43 percent of JPs reported being the only official who requests a toxicology test. However, circumstances do exist in which a district attorney, law enforcement officer, and/or coroner would order toxicology tests.

TTI received **148 completed surveys** representing **103 counties.**



Toxicology Requests of Fatally Injured Drivers by Requester



Justice of the Peace



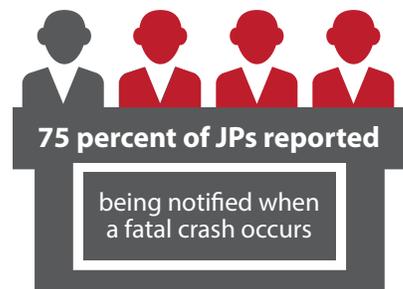
Law Enforcement



District Attorney



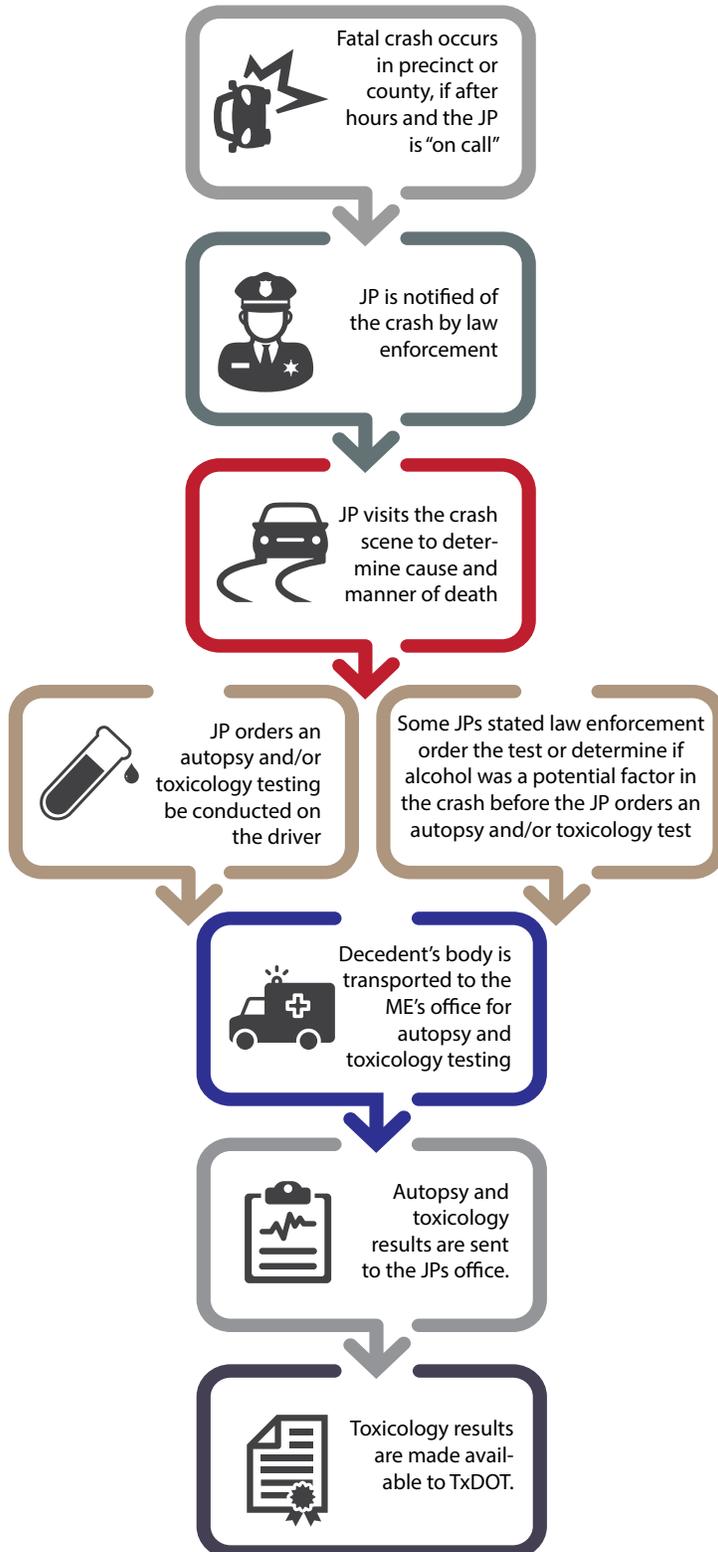
Other



JP PROCESS

Survey results indicate that, after visiting the scene of a fatal crash, most JP offices adhere to a similar protocol in determining the need for a toxicology test.

JP Process for Determining the Need for a Toxicology Test



51% of JPs

reported circumstances that preclude their office performing toxicology testing when impaired driving was suspected.

The different factors cited by JPs as reasons for not performing toxicology testing are summarized below.

JPs: Reasons for Not Performing Toxicology Testing

Percentage of JP Offices



Fatality was not driver



Lack of evidence indicating drug or alcohol use



Single motor vehicle drivers



No criminal charges were filed on drivers



Length of time between death and discovery of body



Hospitalization



Other



Cost

TOXICOLOGY TESTS

Who Is Testing?

Seventy-seven percent of JPs have an active agreement with an ME or private laboratory to conduct toxicology testing. Of those with an active agreement:

- **52 percent** reported using a medical examiner's office.
- **46 percent** reported using a private lab.
- Other JPs reported using hospitals (1 percent) or the Texas Department of Public Safety (4 percent).

How Much Does It Cost?

- **\$201 to \$2,700** if toxicology testing was not included with an autopsy.
- **\$600 to \$4,500** (avg. = \$2,382.24) if toxicology testing was included with an autopsy.

Thirty-one percent of JPs did not know or were unsure of the cost of toxicology testing, though a majority (84 percent) reported the county was responsible for paying it. Other assumptions for who pays were law enforcement (8 percent), don't know (7 percent), JPs (3 percent), and MEs (1 percent).

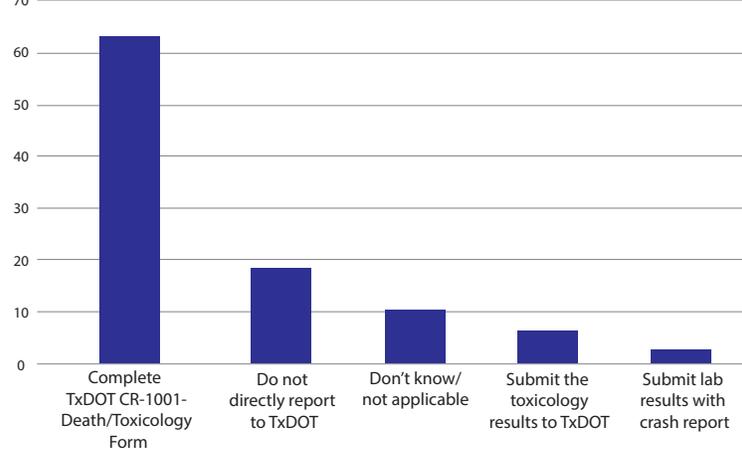
How Long Does Testing Take?

Toxicology test results can take two weeks to six months to receive. This time typically fluctuates as laboratory workload rises and falls. The type of testing requested (screening vs. confirmatory) can also affect turnaround time. Reported turnaround time breaks down as follows:

- **24 percent:** 5–6 weeks,
- **19 percent:** 2–3 months,
- **17 percent:** 3–6 months, and
- **15 percent:** 7–8 weeks.

What Happens after Receiving Reports?

Once JPs receive toxicology results, 74 percent forward the results to law enforcement. Though required to do so by statute, only 55 percent of JPs report toxicology results directly to TxDOT, according to the survey.



JPs who do not report results to TxDOT



51%

believe law enforcement is responsible

49%

are not sure who is responsible



Of JPs not reporting results to TxDOT, half (51 percent) report that law enforcement is responsible for submitting toxicology results to TxDOT, whereas the other 49 percent were not sure who reported results to TxDOT.

- **89 percent** of JPs who directly report BAC toxicology results to TxDOT do so upon receipt of results.
- **9 percent** are unsure of when results are submitted.
- **1 percent** report toxicology results monthly to TxDOT.

Overall, 74 percent of JPs use TxDOT's CR-1001- Death/ Toxicology Form. Of these:

- **84 percent** prefer to continue using the form.
- **16 percent** prefer to send lab results directly to TxDOT (with no additional form).

Of those not using the CR-1001 form, 44 percent indicated they do not send results directly to TxDOT, and 39 percent indicated "other," with the most common response being they were unaware of the form.

Approximately 80 percent of JPs using the CR-1001 form judged the current reporting system efficient, rating the average usefulness of the form 3.96 out of 5 (5 = extremely useful). Other respondents recommended improvements such as an easy online form or streamlining the current form, a need to address potential loopholes, and better education for judges.



80% of JPs

using the CR-1001 form found the current reporting system efficient.

Regarding the Current BAC Reporting System

- **15 percent:** JPs would like to see changes that could improve or enhance BAC reporting in general.
- **Most common suggestion:** remove JPs from the process and have law enforcement handle reporting. Other suggestions included better follow-up, clearer instructions, and training in the required reporting procedures for JPs.
- **62 percent:** JPs are willing to work with a third-party organization to increase reporting of BAC results to TxDOT's Crash Records Section.

TTI Educational Activity Feedback

Over the past three years, TTI's project team has conducted free educational activities that focus on BAC and toxicology reporting for JPs. Activities included webinars and presentations at educational events on related laws, duty to report, TxDOT acceptance, where to send, and experiences with the current system. The survey asked briefly about these current educational activities and solicited potential topics for future activities.

Eleven JPs who responded reported participating in the educational webinar hosted by TTI. Approximately 91 percent of those who participated stated the educational webinar was beneficial.

Approximately 65 percent of JPs stated they were either extremely or somewhat likely to attend an educational webinar conducted by TTI, whereas 14 percent of JPs stated they were somewhat unlikely to participate. In general, many JPs wanted to better understand BAC reporting and toxicology testing to determine the required procedures, as well as the importance of correct statistics. Recommendations for future educational activities included:

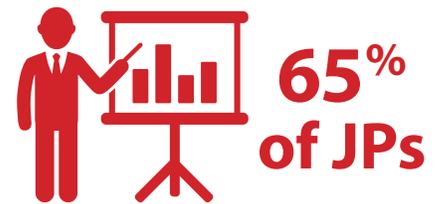
- Chapter 49 Code of Criminal Procedures,
- on-scene blood draws of decedents,
- methods for requesting toxicology testing without a full autopsy,
- crash reporting and when BAC is required, and
- levels of intoxication.



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Most survey responses suggest removing JPs from the process and letting law enforcement handle BAC reporting.



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Save a Life™
Texas Department of Transportation



MORE INFO

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