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## DUI BLOOD TESTS FLOOD DPS LAB

*Jim Walsh, The Arizona Republic*

A backlog of blood test requests from police to the state Department of Public Safety's laboratory has forced prosecution delays and some case dismissals.

Todd Griffith, DPS' scientific analysis superintendent, acknowledged that blood test requests from police have swamped the lab. The three criminalists on duty tested about 9,000 blood samples last year, double the 4,000 to 5,000 routinely tested only a couple of years ago, he said.

But he predicted that backlog would be whittled down once three recently hired criminalists are trained and on the job.

Meanwhile, Chandler has become the latest city to expand its own lab to counter the delays after police were forced to dismiss cases against about a dozen drunken drivers because the lab didn't complete tests within the one-year statute of limitations. Griffith said he knew of no dismissals caused by his lab's backlog.

Prosecutors, judges and defense attorneys say the DPS lab delays routinely lead to continuances in misdemeanor drunken-driving cases, and that some cases are dismissed for lack of evidence. Most are refiled when tests are completed.

**Craig Penrod**, a defense attorney, said blood testing became more popular with police after judges in Phoenix and Glendale city courts tossed out thousands of breath tests following challenges to the accuracy of breath testing machines.

Now, Glendale City Prosecutor Nancy Khiel said she waits up to six months for the DPS lab to analyze a blood sample.

But police in Scottsdale and Mesa avoid the DPS bottleneck by analyzing DUI blood samples at their own labs. Tempe never went to blood tests for most DUIs because it was obvious DPS could not handle the additional tests, Sgt. Randy Fougner said.

Phoenix also has a police lab but generally uses breath tests for DUI cases.

Sgt. Doug Dirren, a Scottsdale police spokesman, said blood tests usually are completed within 10 days by his department.

In August, Chandler police hired two chemists, bought specialized equipment and took back 900 pending samples from the DPS lab.

Already, the chemists have cut the backlog in half by analyzing 400 samples and expect to examine the remaining 500 by Thanksgiving, said Officer Emma Burstein, a police spokeswoman.

Griffith said Chandler's switch from breath to blood tests took the lab by surprise. "The result was we didn't have the personnel to provide a special program for them," he said.

Chandler City Prosecutor Tom Zaworski acknowledges the city erred by failing to notify DPS that Chandler police were switching to blood tests. He said Chandler was sending 1,400 DUI cases a year to the state lab.

As a result of the backlog that these cases created, Zaworski said, "There were some cases where we missed the statute of limitations."

In many more cases, defendants failed to show up for court when charges were filed long after their arrests, he said. Many were never apprehended by police.

Jerry Landau, a Maricopa County assistant attorney who specializes in DUI cases, said that while only a few cases a month are dismissed because of blood test delays, "we don't want to have any cases dismissed for failure of having evidence to proceed."

And South Mesa/Gilbert Justice of the Peace Tom Freestone predicted that the backlog in blood tests is bound to increase because the state lowered the level at which drivers are presumed under the influence from 0.10 percent to 0.08 percent blood-alcohol concentration.