

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## Independent Blood Alcohol Testing Now Available 24/7 in Albuquerque Area

You have a right to an independent blood alcohol test when you have been arrested for DWI/DUI in New Mexico. In the past, this was more theoretical than real due to the lack of availability of on the spot independent testing. This has now changed in Albuquerque with a new independent blood testing service, BATDRAW.

BATDRAW will show up 24/7 anywhere within Bernalillo County, and in many of the outlying areas. The organization will send out a certified phlebotomist to conduct the test. The test results are fully admissible in a DWI/DUI defense. The results are also admissible for the MVD license revocation hearing. The BATDRAW blood test is far more reliable than the breath alcohol test utilized by law enforcement which has a acceptable 10% error rate.

The test is free so long as you submit to the State's breath alcohol test. If you refuse the State's breath alcohol test, you will be charged for the test. In addition, you will be responsible for all costs associated with getting the testing technician to court at trial.

Take the State's test, then take the BATDRAW test to get accurate results. Insist on the BATDRAW independent blood alcohol test. Be vocal and leave no doubt that you made the request. As seen in *State v. Duarte*, any doubt in your request for an independent blood alcohol test will likely be construed against you.

You have the right to an independent blood test. You should exercise it if there are any doubts in your mind regarding the results of the law enforcement result. You should most definitely use the service if your results are close to .08 or .16 due to the recognized 10% error rate in the breath test. Clearly, you do not want the test if you are under the limit as the rate of error in the breath alcohol tests swings both ways.

The exercise could prove purely academic anyway due to New Mexico law that allows drivers to be convicted at levels below the legal .08 level, under the "impaired to the slightest degree" standard. However, it is far better to be fighting the "impaired to the slightest degree" than the statutory presumptive impairment above .08. And, anything over .16 puts you at a severe disadvantage due to aggravated DWI/DUI charges for levels over .16. In addition, .08 or higher virtually guarantees a revocation of your license by MVD.

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Put this number in your phone., 505.712.7180. Give to your friends and family. Hopefully, you will not need it, but if you do, you do!

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