EXHIBIT "B"

NEW YORK STATE | Department of Health | Wadsworth Center

This Permit Certifies That

[redacted]

Permit Number [redacted]
is a Breath Analysis Operator Certified in

ALCOTEST 9510 from 08/12/2020 to 08/12/2022

Continuously certified in Breath Alcohol Instrumentation
since 8/12/2018

CERTIFIED COPY (CPLR RULE 4518)

0.10% SIMULATOR SOLUTION RECORD

Lot Number 21170, dated June 11, 2021

I, Jennifer F Limoges, Associate Director of Forensic Science, Forensic Investigation Center, do hereby certify and authenticate, as provided by Rule 4518, subdivisions a and c, Civil Practice Law and Rules, that the document annexed hereto is a true and accurate representation of an electronic record of the New York State Police Forensic Investigation Center which has been delegated to my possession, custody and control by the Superintendent of the New York State Police. This record, once created, is stored in an electronic format that cannot, thereafter, be altered or modified. This record was made in the regular course of business of the New York State Police Forensic Investigation Center, it is the regular course of the Forensic Investigation Center business to make such record, and such record was made at the time of each event recorded in it or within a reasonable time thereafter.

Digitally signed under ESRA by Jennifer F Limoges on 2021.06.16 10:15:05 -04'00'

Jennifer F Limoges

Associate Director of Forensic Science

Forensic Investigation Center

EXHIBIT 8 | EXHIBIT 9 | EXHIBIT 10 | EXHIBIT 11

EXHIBIT "C"

NEW YORK STATE | State Police | Forensic Investigation Center

CERTIFIED COPY (CPLR RULE 4518)

0.10% SIMULATOR SOLUTION RECORD

Lot Number 21170, dated June 11, 2021

I, Jennifer F Limoges, Associate Director of Forensic Science, Forensic Investigation Center, do hereby certify and authenticate, as provided by Rule 4518, subdivisions a and c, Civil Practice Law and Rules, that the document annexed hereto is a true and accurate representation of an electronic record of the New York State Police Forensic Investigation Center which has been delegated to my possession, custody and control by the Superintendent of the New York State Police. This record, once created, is stored in an electronic format that cannot, thereafter, be altered or modified. This record was made in the regular course of business of the New York State Police Forensic Investigation Center, it is the regular course of the Forensic Investigation Center business to make such record, and such record was made at the time of each event recorded in it or within a reasonable time thereafter.

Jennifer F Limoges

Digitally signed under ESRA by Jennifer F Limoges on 2021.06.18 10:55:08 -04'00'

Jennifer F Limoges

Associate Director of Forensic Science

Forensic Investigation Center

NEW YORK STATE | State Police | Forensic Investigation Center

ANDREW M. CUOMO
Governor
KEVIN P. BRUEN
Superintendent
DR. RAY A. WICKENHEISER
Director

0.10% SIMULATOR SOLUTION RECORD

Report Date: June 11, 2021

Manufacturer: Guth Laboratories, Inc.

Lot Number: 21170

Expiration Date: 11/25/2021

Analysis Results: 122 mg Ethyl Alcohol / 100 mL of solution

I, Carol S Miller, D-ABFT-FA, tested simulator solution lot number 21170 by headspace gas chromatography and have determined that it contains the appropriate concentration of ethyl alcohol. This solution is hereby approved for use.

When this simulator solution is used with a properly operating breath testing instrument, it will provide a value of 0.10% within acceptable limits.

I, Carol S Miller, D-ABFT-FA, made the entries contained in this record at the time of each event recorded, or within a reasonable time thereafter.

Performed by:

Digitally signed under ESRA by Carol S Miller on 2021.06.11 10:17:39 -04'00'

Carol S Miller, D-ABFT-FA
Forensic Scientist III
Breath Analysis Technical Supervisor/Operator #43419

Reviewed by:

Digitally signed under ESRA by Carrie A Kirkton on 2021.06.14 07:07:48 -04'00'

Carrie A Kirkton, D-ABFT-FA
Supervisor of Forensic Services
Breath Analysis Technical Supervisor

Building 30, 1220 Washington Avenue, Albany, NY 12226-3000 | (518) 457-1208 | www.troopers.ny.gov

Technical & Administrative Review Checklist - Simulator Solution

Form: Report Form 4b (Version 6)

Effective Date: December 11, 2018

Page: 1 of 1

Solution Lot Number: 13360

Review Start Date: 12/12/18

Reviewer (Initials): CAS

Documentation:

- ✓ Handwritten initials on all pages
- ✓ Page number on all pages, total pages noted
- ✓ Solution lot number on all solution pages; bottle number on all analytical pages
- ✓ Proper sample loading documented
- ✓ All pages of the technical record were reviewed for corrections; if applicable, corrections were documented appropriately
- ✓ Dates of analyses documented
- ✓ If abbreviations/symbols specific to the laboratory are used, they have been defined in section procedures
- N/A Any deviations from acceptability criteria have documented approval

Quality Control Data:

- ✓ Correct version of the test method is indicated on the QC Worksheet
- ✓ Required control samples analyzed, expiration dates not exceeded
- ✓ Acceptance criteria met
- ✓ QC results are accurately entered in Test Form 11 QC Spreadsheet

Technical Data:

- ✓ The technical records demonstrate compliance with test methods
- ✓ Data transfers are accurate
- ✓ Retention times are recorded and acceptable
- ✓ Results meet acceptability criteria

Simulator Solution Record (electronic):

- ✓ Solution specific information is accurate (e.g. lot number, expiration date, etc)
- ✓ Results are accurately reported
- ✓ Electronic signature applied
- ✓ File name accurate

Review Completed:

- ✓ Upon review of the technical records available, I independently reached the same conclusion(s) reported.

Reviewer (Initials): CAS

EXHIBIT "D"

EXHIBIT 8 EXHIBIT 9 EXHIBIT 10 EXHIBIT 11

New York State Police Crime Laboratory System
BREATH TESTING

Technical & Administrative Review Checklist - Simulator Solution

Class: Form
ID: Breath Form 4b (Version 6)

Effective Date: December 11, 2018
Page: 1 of 1

Solution Lot Number: 18360

Review Start Date: 12/13/18

Reviewer (initials): AH

Documentation:

✓ Handwritten initials on all pages

✓ Page number on all pages, total pages noted

✓ Solution lot number on all solution pages; bottle number on all analytical pages

✓ Proper sample loading documented

✓ All pages of the technical record were reviewed for corrections; if applicable, corrections were documented appropriately

✓ Dates of analyses documented

✓ If abbreviations/symbols specific to the laboratory are used, they have been defined in section procedures

NA Any deviations from acceptability criteria have documented approval

Quality Control Data:

✓ Correct version of the test method is indicated on the QC Worksheet

✓ Required control samples analyzed, expiration dates not exceeded

✓ Acceptance criteria met

✓ QC results are accurately entered in Tox Form 11 QC Spreadsheet

Technical Data:

✓ The technical records demonstrate compliance with test methods

✓ Data transfers are accurate

✓ Retention times are recorded and acceptable

✓ Results meet acceptability criteria

Simulator Solution Record (electronic):

✓ Solution specific information is accurate (e.g. lot number, expiration date, etc)

✓ Results are accurately reported

✓ Electronic signature applied

✓ File name accurate

Review Completed:

✓ Upon review of the technical records available, I independently reached the same conclusion(s) reported.

Reviewer (initial/date): AH 12/13/18

New York State Police Crime Laboratory System
BREATH TESTING
Simulator Solution Verification Results

Class: Form
ID: Breath Form 2 (Version 3)

Simulator Solution Level: 0.10 %

Effective Date: June 1, 2015
Page: 1 of 1

Manufacturer: Guth Laboratories, Inc.
Lot Number: 18360

Target Concentration: 0.121 %
Acceptable Range: 0.117-0.125 %

Analyst: Carol S Miller
Analysis Date: 12/11/2018

Bottle Number	% by wt	AVG
3	0.1207	0.1202
	0.1192	
	0.1207	
4	0.1208	0.1212
	0.1216	
	0.1212	
719	0.1218	0.1220
	0.1221	
	0.1220	
720	0.1216	0.1218
	0.1221	
	0.1218	
1446	0.1204	0.1209
	0.1212	
	0.1211	
1447	0.1222	0.1218
	0.1206	
	0.1226	
Grand Average		0.1213

39 1 of 57 Cont

Print Date: 12/12/2018

Approved By:

New York State Police Crime Laboratory System
BREATH TESTING

Simulator Solution Verification QC Worksheet

Class: Form
ID: Breath Form 8 (Version 2)

Effective Date: January 10, 2017
Page: 1 of 1

Analysis Date: 12-11-18
Analyst Initials: CJ

Breath Instr 2 Version 5

Simulator Solution Lot# 13360

Expiration Date 05-31-19
Received Date 12-10-18
Level 0.10%
Bottle Number(s) 34, 719, 720, 1446, 1447

Internal Standard	Lot #	Expiration Date
n-propanol	AMC10178	01-17-19

Controls	Lot #	Expiration Date
0.08 % by wt	FNC-117-761	05/2022
0.10 % by wt	FNC-120-1202	04/2022
0.20 % by wt	FNC-123-761	03/2022
0.30 % by wt	NA	NA
0.40 % by wt	NA	NA
0.50 % by wt	NA	NA
Composite	CSM10-15-18	01-31-19

Instrumentation	Instrument ID/Serial #	Calibration Exp Date
Headspace GC	H-TX-HS2	01-17-19
Dilutor	MDFL-3E-12-22	03-31-19

Test Method Analyst Review

Batch Accepted ✓ Batch Rejected ____

Rejection reason/course of action: ____

Deviations/departures: ____

Comments: ____

Initial/Date: CJ 12-12-18 2CJ

Print Date: 12/11/2018

Approved By: Top Management

TotalChrom Sequence File C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq
Printed by : manager on: 12/11/2018 8:10:51 AM
Created by : toxicology on: 8/6/2009 1:12:05 PM
Edited by : manager on: 12/11/2018 8:10:48 AM
Number of Times Edited : 59

Description:

Sequence File Header Information:

Number of Rows	: 27
Instrument Type	: PE AutoSystem GC
Injection Type	: SINGLE
Raw tokens channel A	:
Result tokens channel A	:
Modified tokens channel A	:
Raw tokens channel B	:
Result tokens channel B	:
Modified tokens channel B	:

Sequence Sample Descriptions - Channel A

Row	Type	Name
1	Sample	COMPOSITE
2	Sample	0.08% CONTROL
3	Sample	0.10% CONTROL
4	Sample	NEG CONTROL
5	Sample	GUTH 18360 #3
6	Sample	GUTH 18360 #3
7	Sample	GUTH 18360 #3
8	Sample	GUTH 18360 #4
9	Sample	GUTH 18360 #4
10	Sample	GUTH 18360 #4
11	Sample	GUTH 18360 #719
12	Sample	GUTH 18360 #719
13	Sample	GUTH 18360 #719
14	Sample	0.10% CONTROL
15	Sample	NEG CONTROL
16	Sample	GUTH 18360 #720
17	Sample	GUTH 18360 #720
18	Sample	GUTH 18360 #720
19	Sample	GUTH 18360 #1446
20	Sample	GUTH 18360 #1446
21	Sample	GUTH 18360 #1446
22	Sample	GUTH 18360 #1447
23	Sample	GUTH 18360 #1447
24	Sample	GUTH 18360 #1447
25	Sample	0.10% CONTROL
26	Sample	0.20% CONTROL
27	Sample	NEG CONTROL

KJA
12/11/18

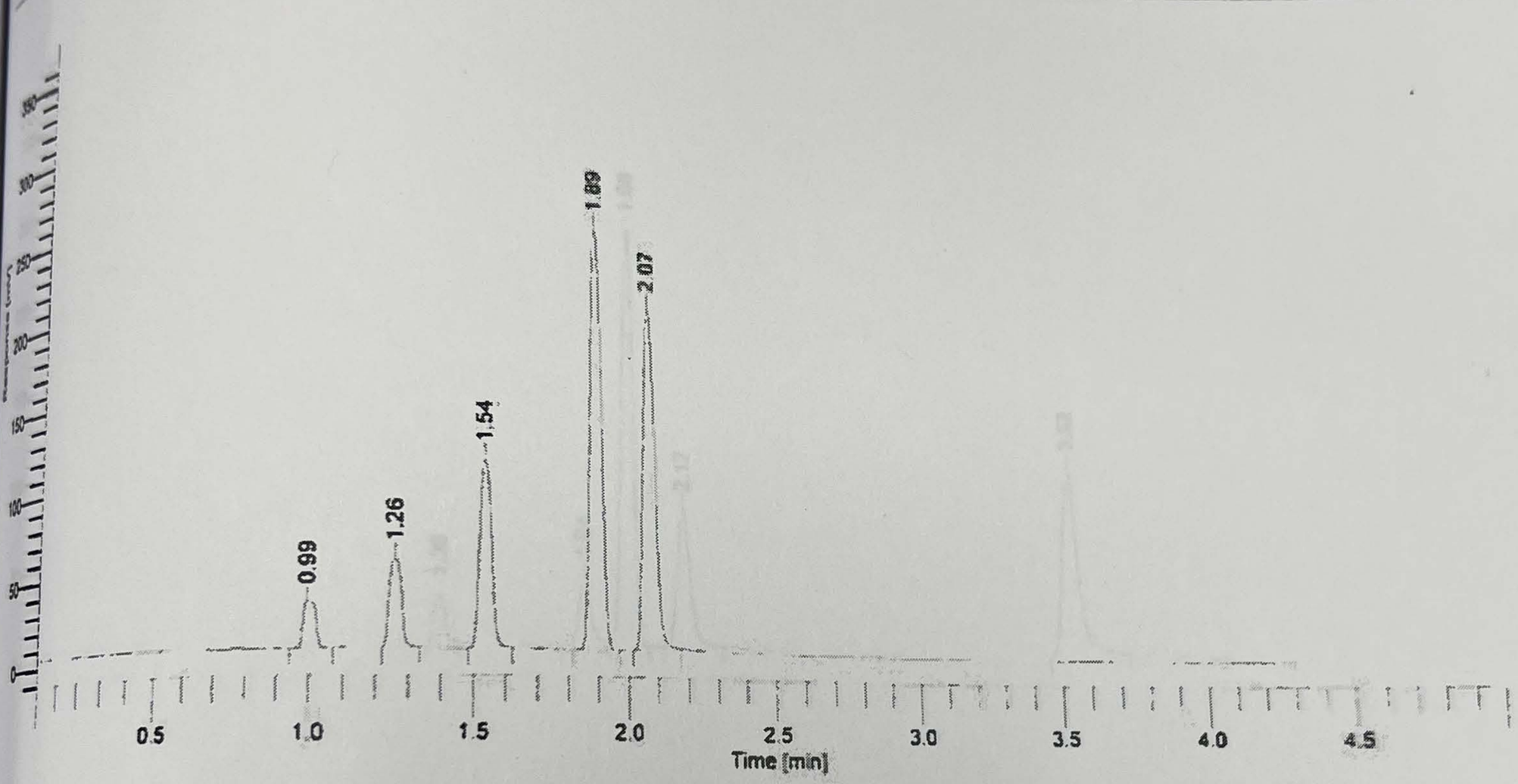
3

EXHIBIT 10 EXHIBIT 11

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47612
Sample Name : COMPOSITE
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Qnote : 1

Date : 12/11/2018 9:44:58 AM
Data Acquisition Time : 12/11/2018 9:40:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-001.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

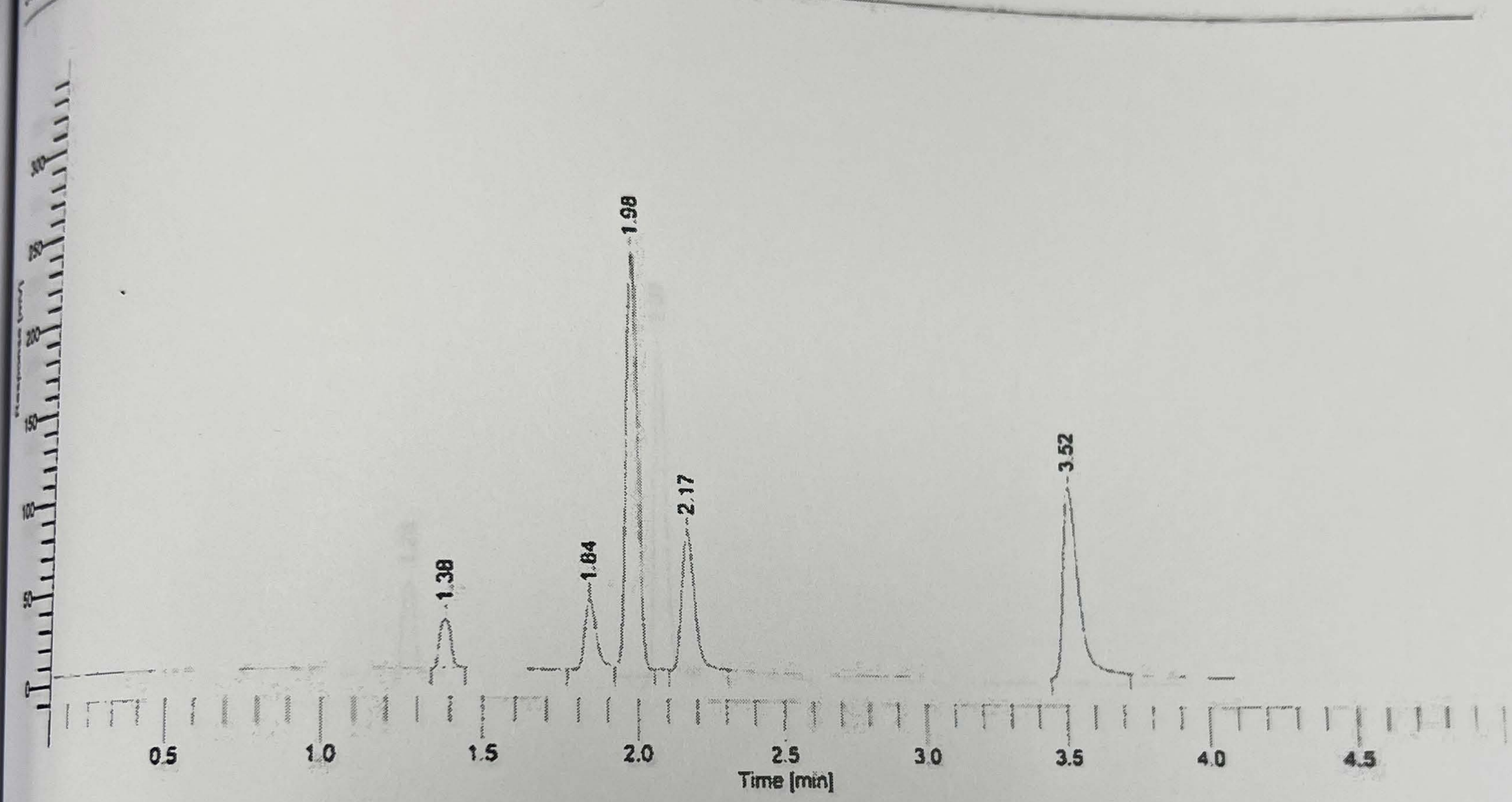
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0784	0.99	67407.6
ETHANOL	0.0761	1.26	125681.3
ISOPROPANOL	0.0793	1.54	270448.9
ACETONE	0.0783	1.89	626807.3
N-PROPANOL		2.07	539348.6

4 | Conn

Software Version	6.3.2.0646
Reprocess Number	d-2ua3120y7b: 47613
Sample Name	COMPOSITE
Instrument Name	GCHeadspace2
Rack/Vial	0/0
Sample Amount	1.000000
Note	1

Date	12/11/2018 9:44:59 AM
Data Acquisition Time	12/11/2018 9:40:33 AM
Channel	B
Operator	manager
Dilution Factor	1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-001.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

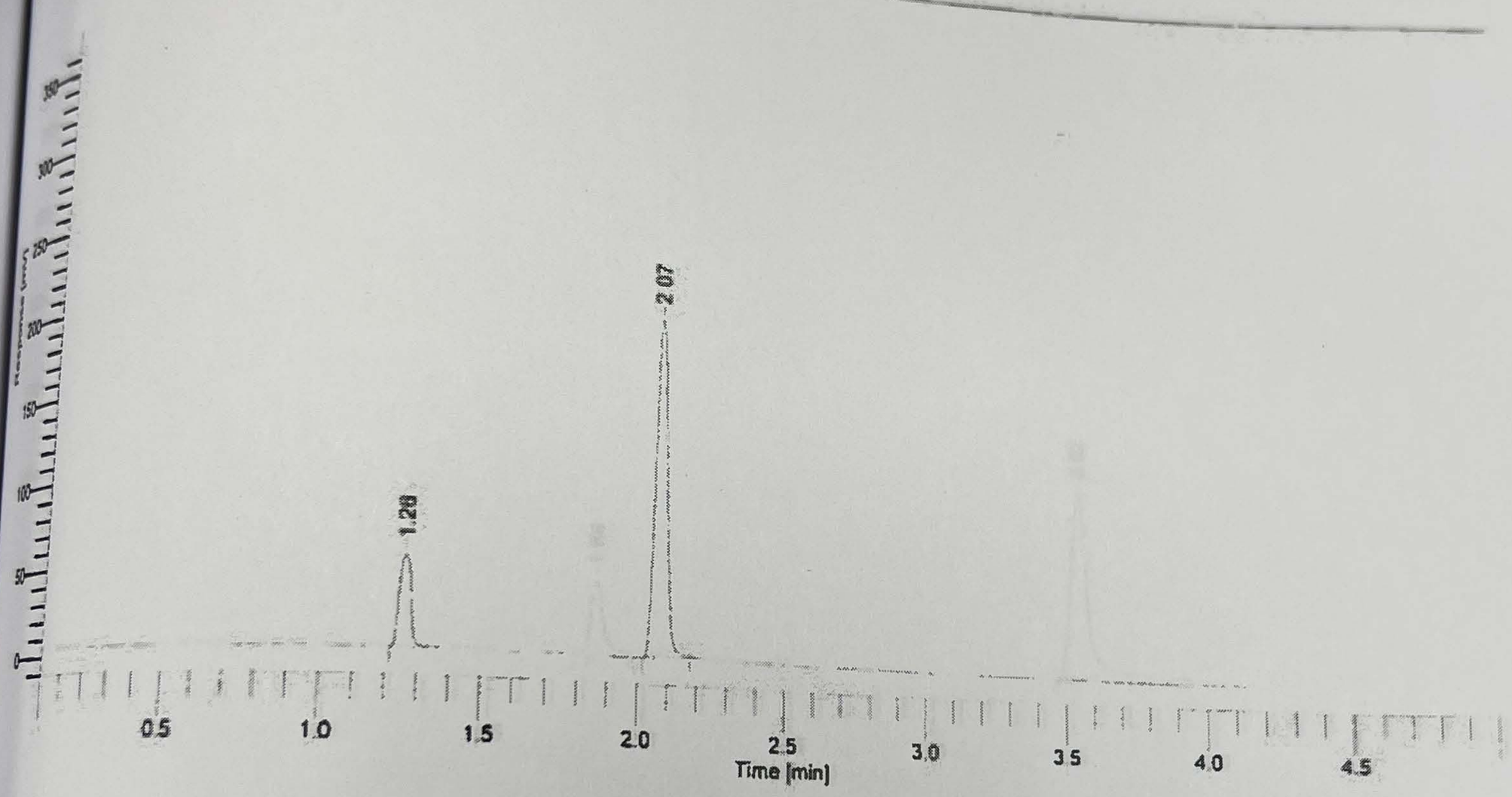
RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
METHANOL	1.38
ETHANOL	1.84
ACETONE	1.98
ISOPROPANOL	2.17
N-PROPANOL	3.52

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47614
Sample Name : 0.08% CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 2

Date : 12/11/2018 9:49:58 AM
Data Acquisition Time : 12/11/2018 9:45:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-002.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

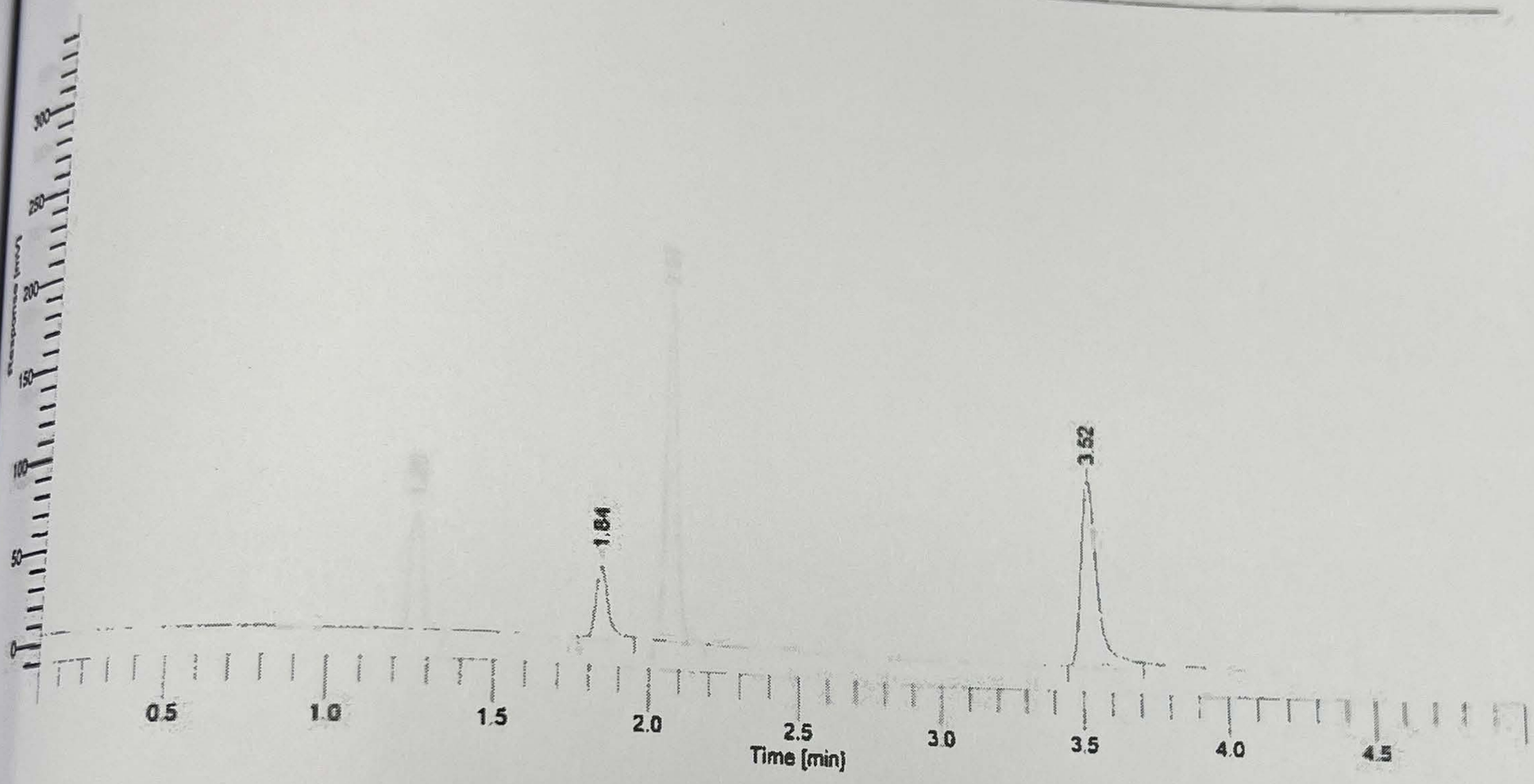
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0791	1.26	129151.1
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	532145.3

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47615
Sample Name : 0.08% CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 2

Date : 12/11/2018 9:49:59 AM
Data Acquisition Time : 12/11/2018 9:45:33 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-002.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

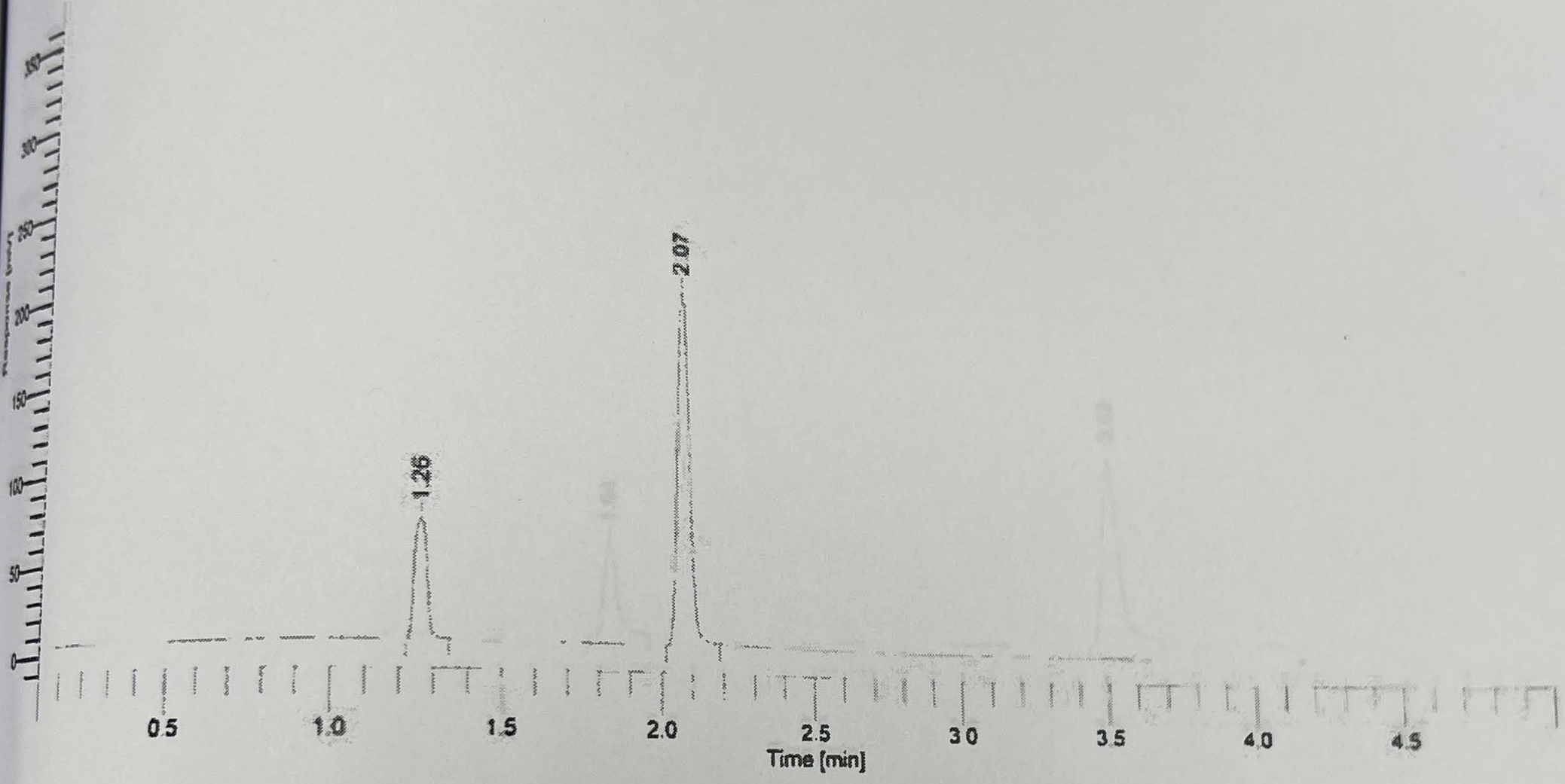
RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

7 Cm

Software Version	: 6.3.2.0646	Date	: 12/11/2018 9:54:58 AM
Reprocess Number	: d-2ua3120y7b: 47616		
Sample Name	: 0.10% CONTROL	Data Acquisition Time	: 12/11/2018 9:50:33 AM
Instrument Name	: GCHeadspace2	Channel	: A
Rack/Vial	: 0/0	Operator	: manager
Sample Amount	: 1.000000	Dilution Factor	: 1.000000
Cycle	: 3		

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-003.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

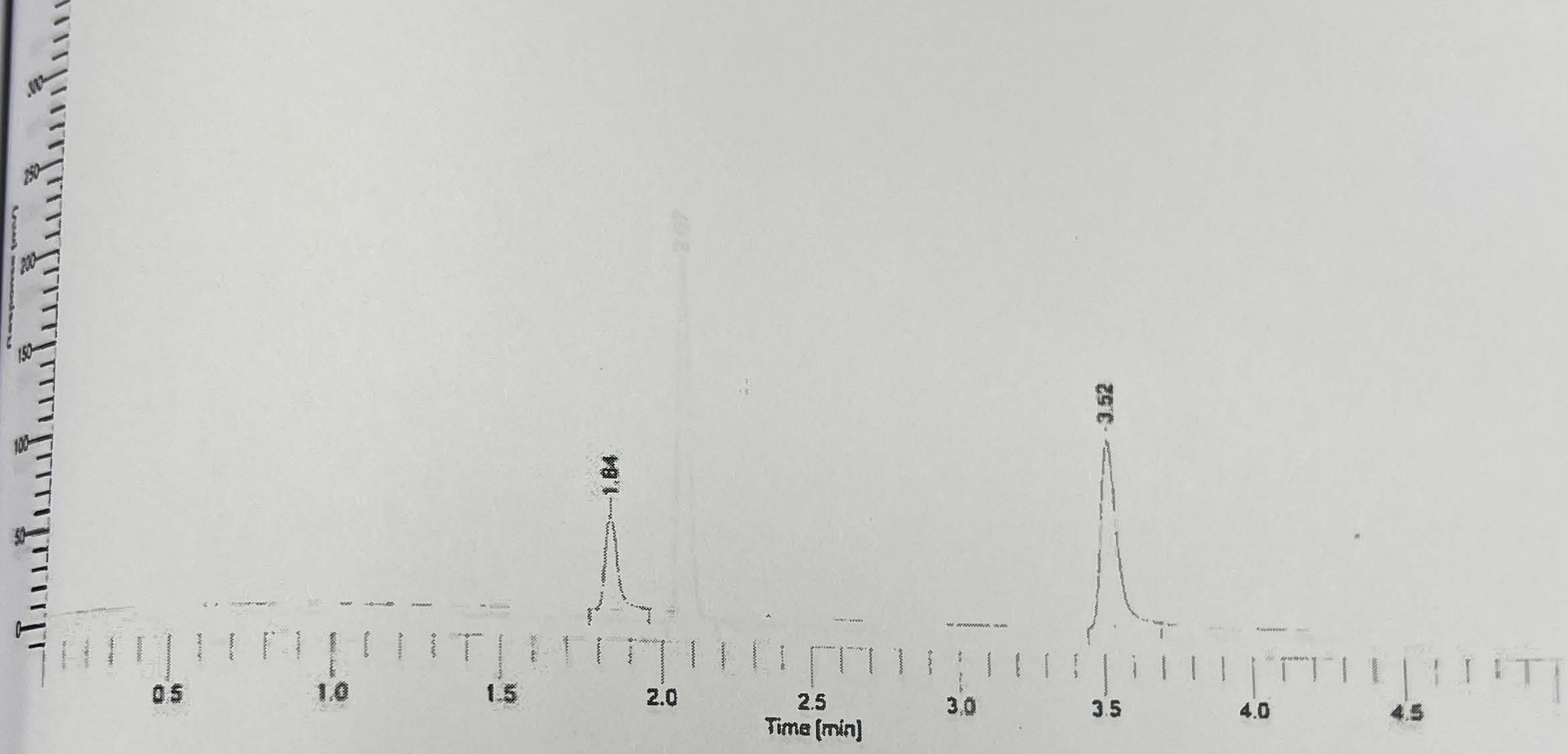
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0990	1.26	163810.1
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	535240.9

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47617
Sample Name : 0.10% CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 3

Date : 12/11/2018 9:54:59 AM
Data Acquisition Time : 12/11/2018 9:50:33 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-003.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

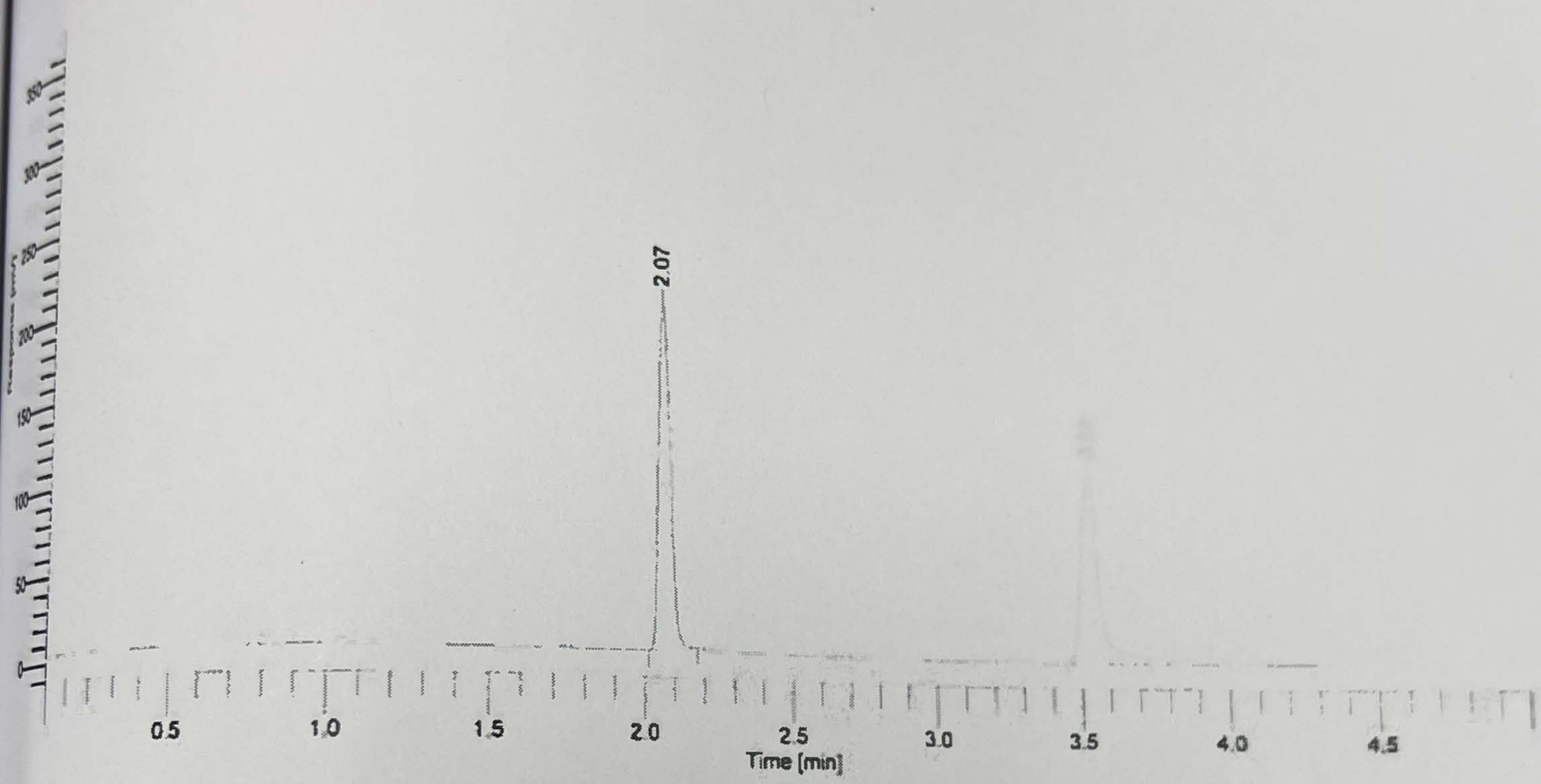
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

9 Cm

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47618
Sample Name : NEG CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 4

Date : 12/11/2018 9:59:58 AM
Data Acquisition Time : 12/11/2018 9:55:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-004.rst
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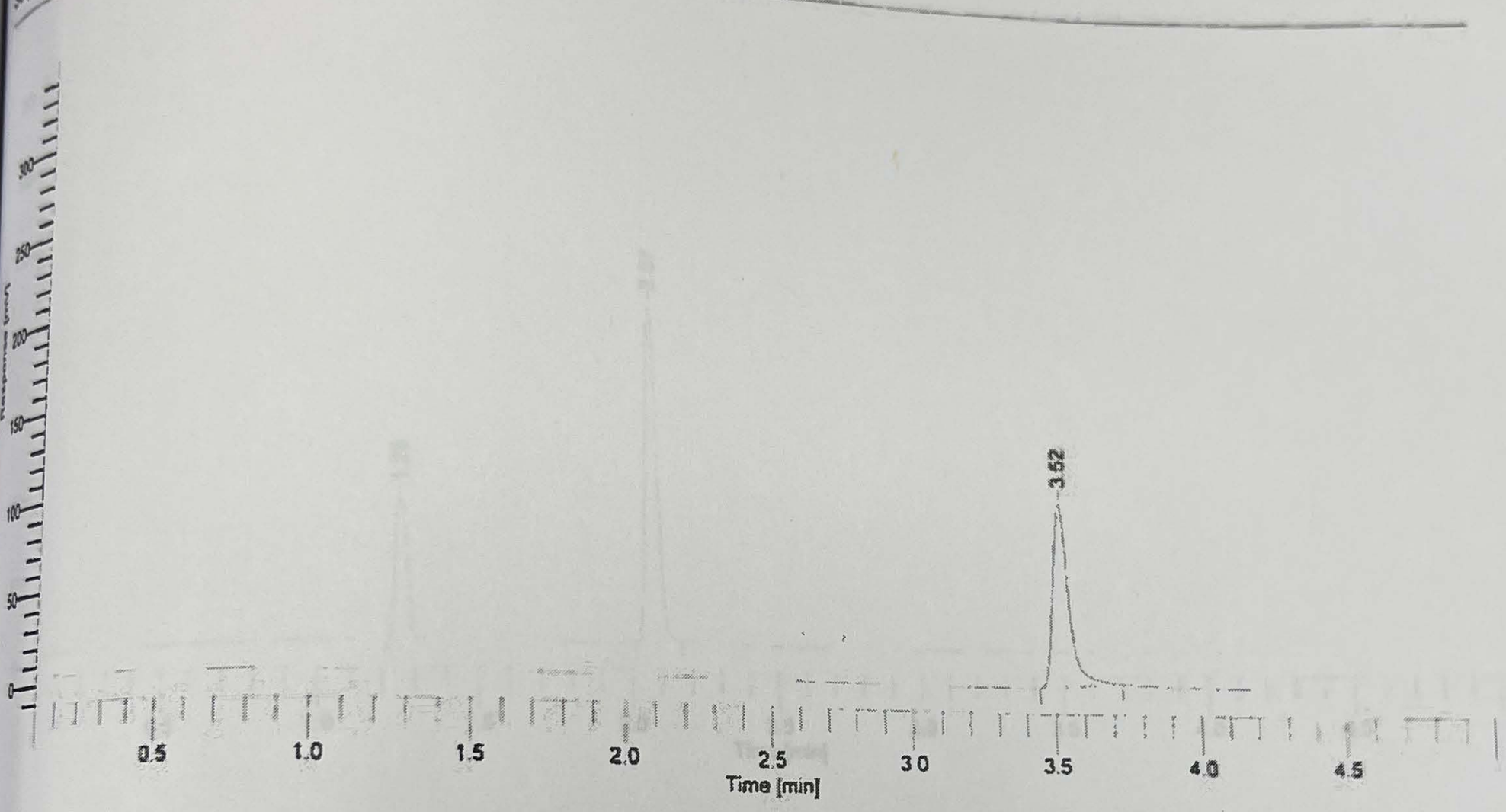
BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0000	1.26	0.0
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	534959.8

Software Version	: 6.3.2.0646	Date	: 12/11/2018 10:00:00 AM
Kbprocess Number	: d-2ua3120y7b: 47619	Data Acquisition Time	: 12/11/2018 9:55:33 AM
Sample Name	: NEG CONTROL	Channel	: B
Instrument Name	: GCHeadspace2	Operator	: manager
Rack/Vial	: 0/0	Dilution Factor	: 1.000000
Sample Amount	: 1.000000		
Cycle	: 4		

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-004.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

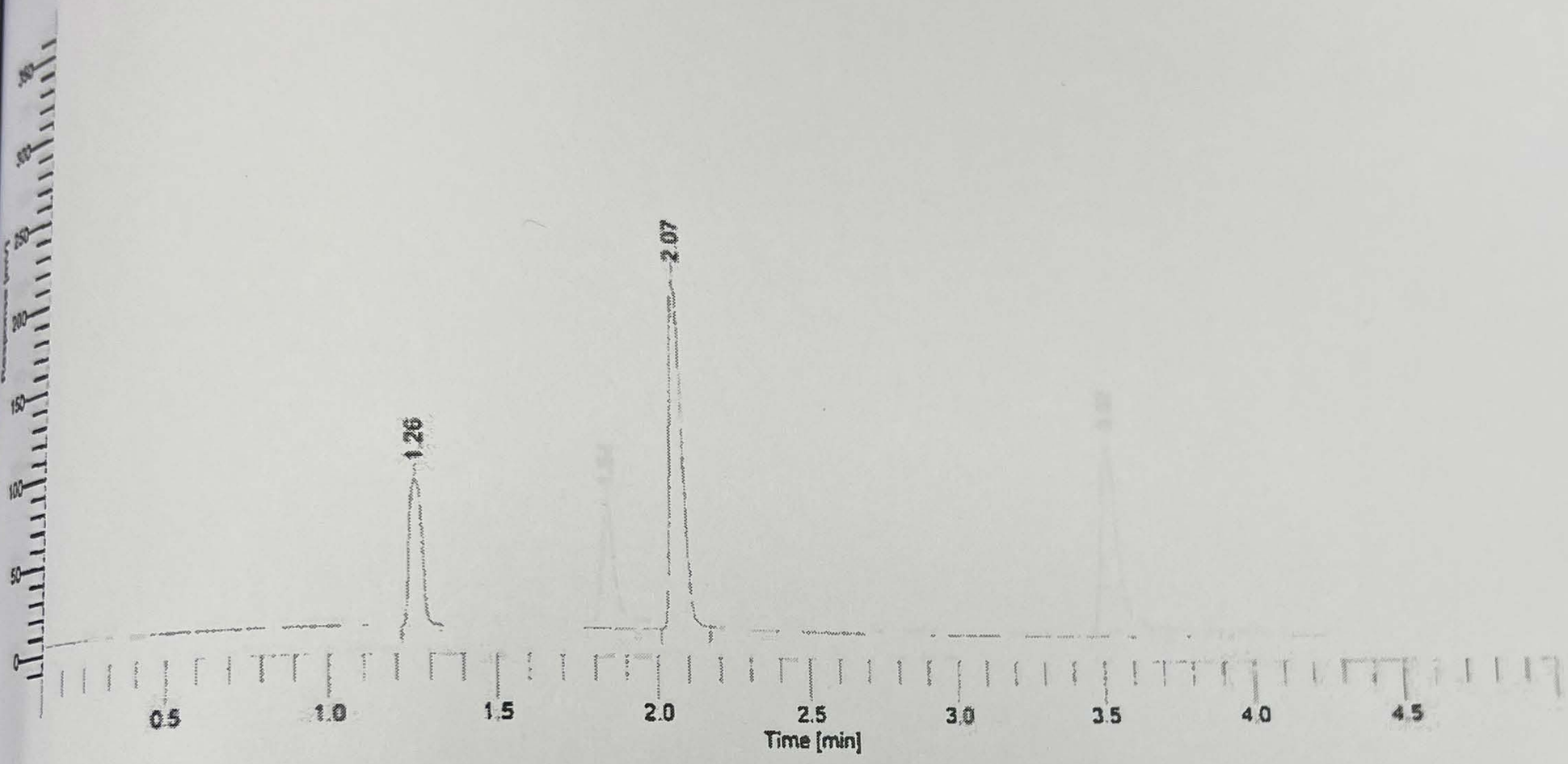
Component Name	Time [min]
N-PROPANOL	3.52

11

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47620
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 5

Date : 12/11/2018 10:04:58 AM
Data Acquisition Time : 12/11/2018 10:00:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-005.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1207	1.26	199646.9
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	532237.7

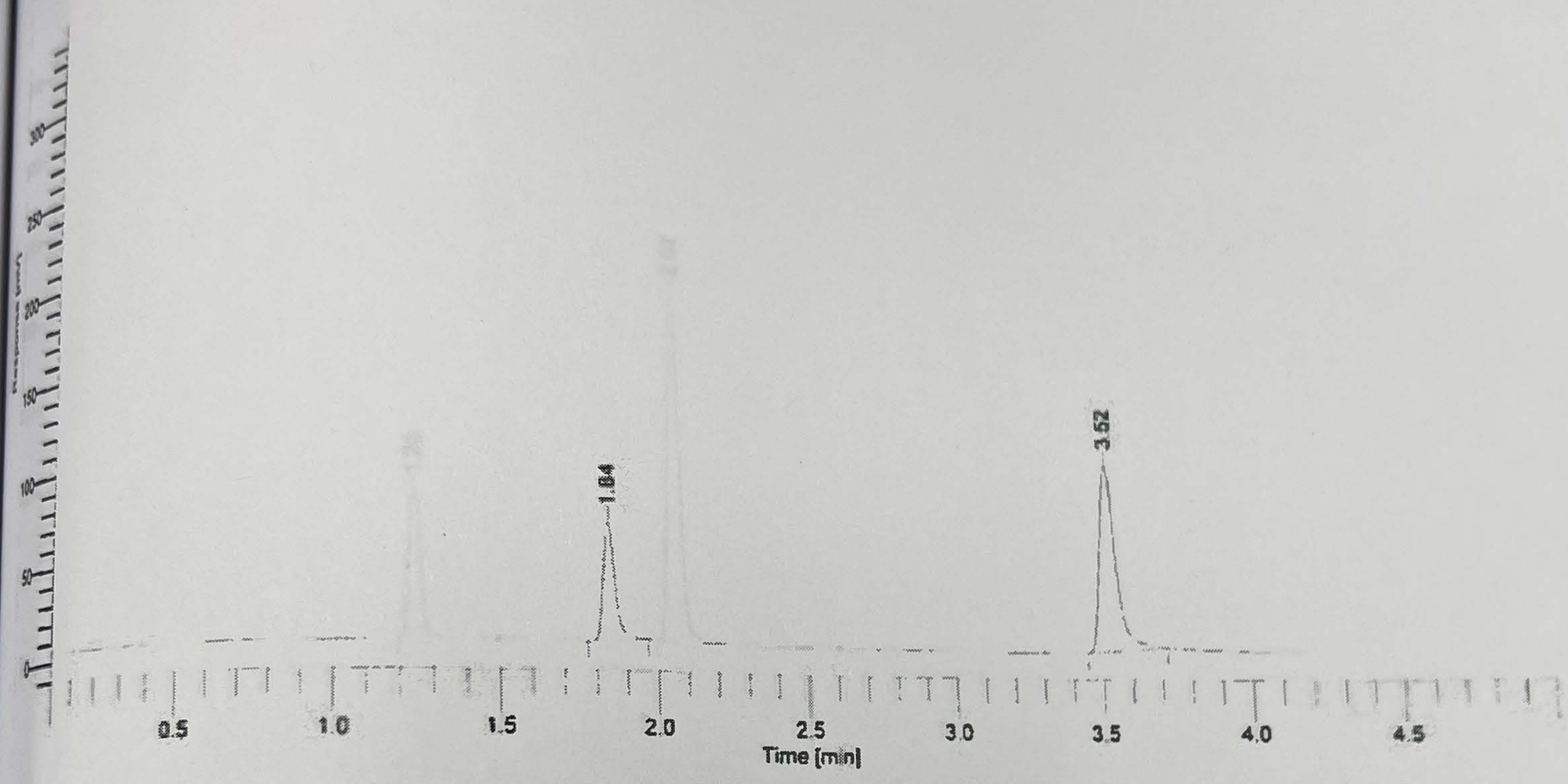
12 Can

EXHIBIT 9

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47621
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 5

Date : 12/11/2018 10:04:59 AM
Data Acquisition Time : 12/11/2018 10:00:33 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-005.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

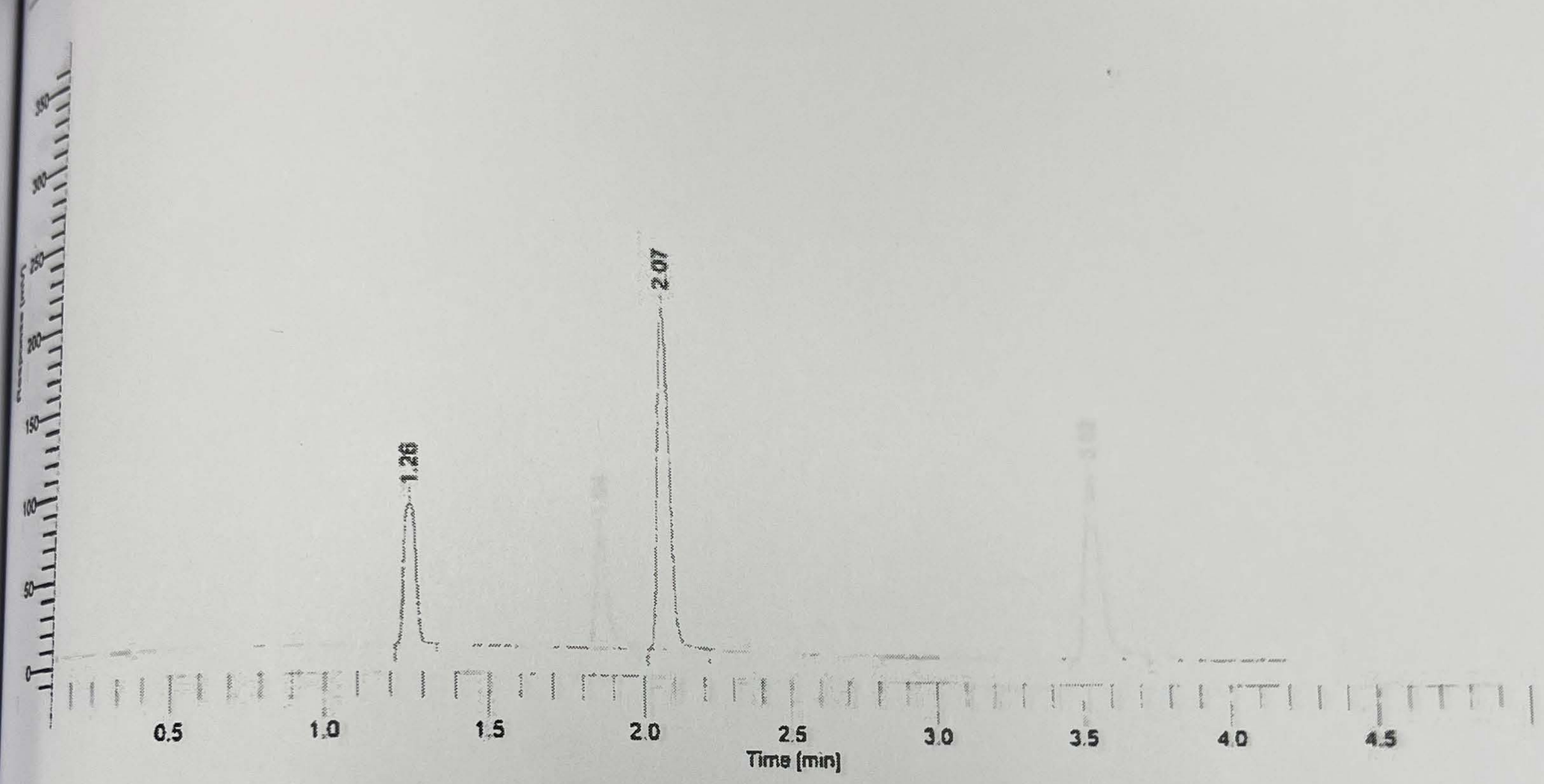
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

13 Cam

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47622
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Back/Mal : 0/0
Sample Amount : 1.000000
Vials : 6

Date : 12/11/2018 10:09:58 AM
Data Acquisition Time : 12/11/2018 10:05:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-006.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

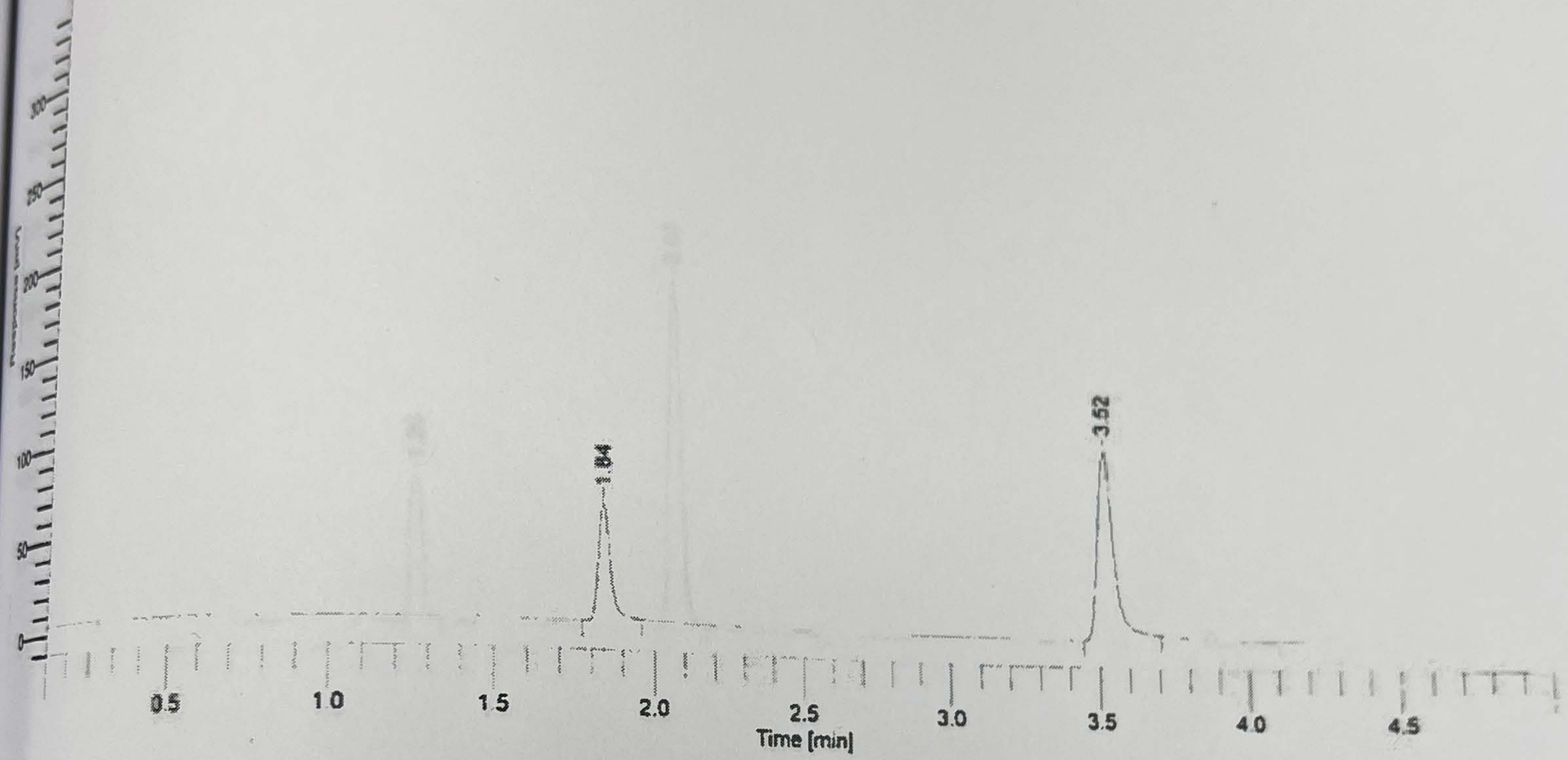
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1192	1.26	198959.6
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	537399.1

14 Cm

Software Version : 6.3.2.0646
Processs Number : d-2ua3120y7b: 47623
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Dilute : 6

Date : 12/11/2018 10:09:59 AM
Data Acquisition Time : 12/11/2018 10:05:33 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-006.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

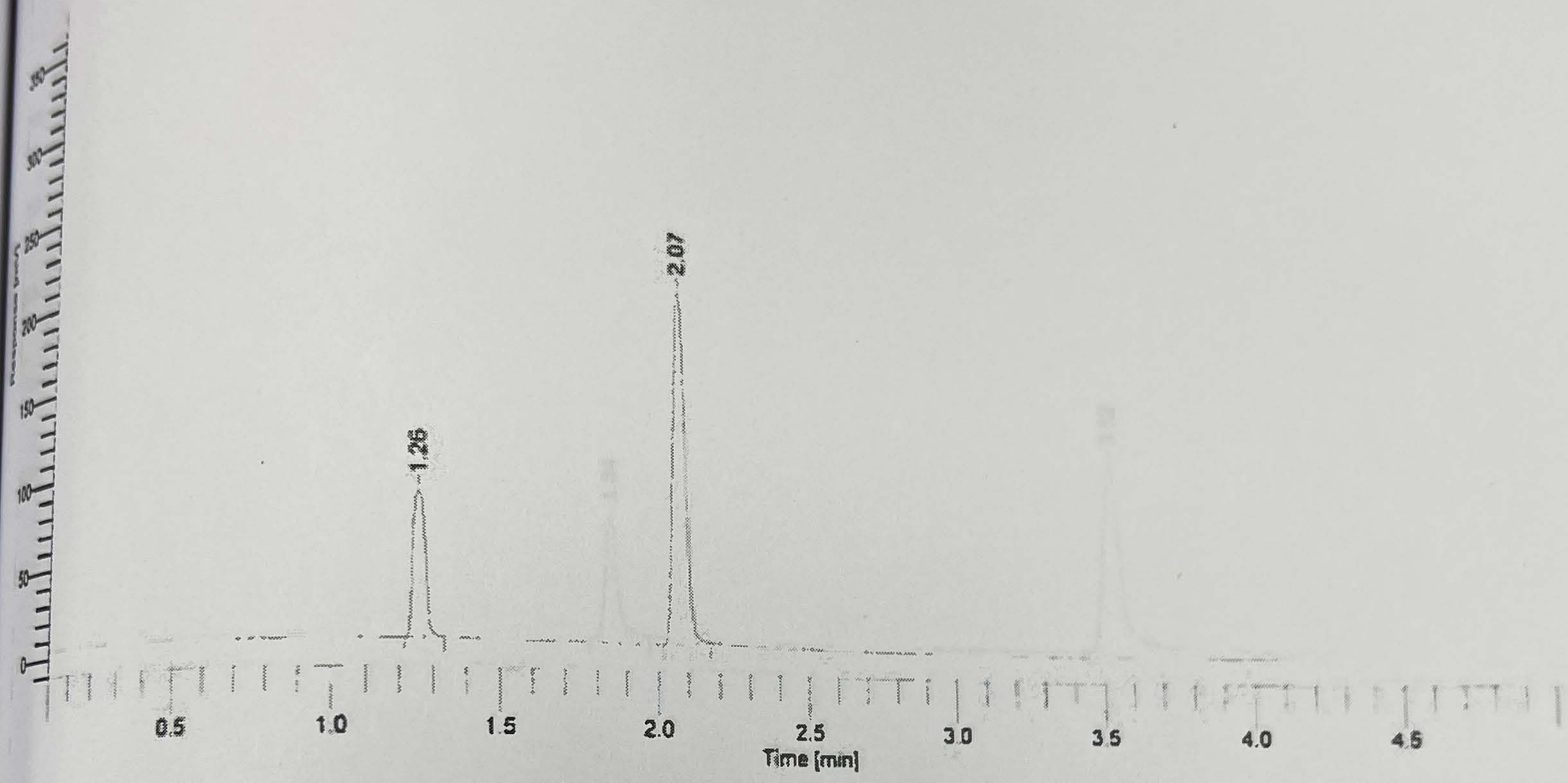
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

15 Cm.

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47624
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 7

Date : 12/11/2018 10:14:58 AM
Data Acquisition Time : 12/11/2018 10:10:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-007.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

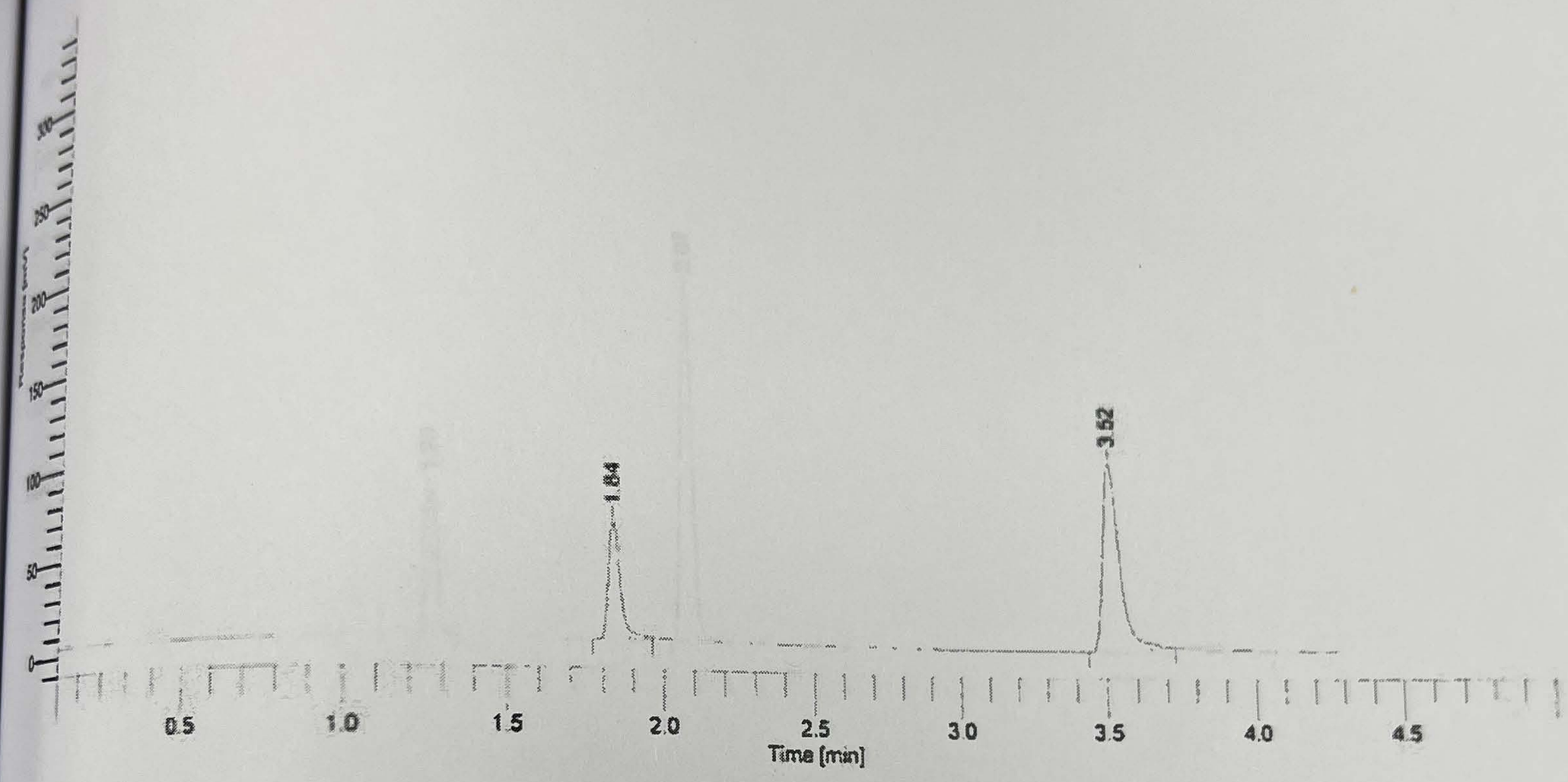
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1207	1.26	199247.0
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	531160.4

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47625
Sample Name : GUTH 18360 #3
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Units : 7

Date : 12/11/2018 10:15:00 AM
Data Acquisition Time : 12/11/2018 10:10:33 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-007.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

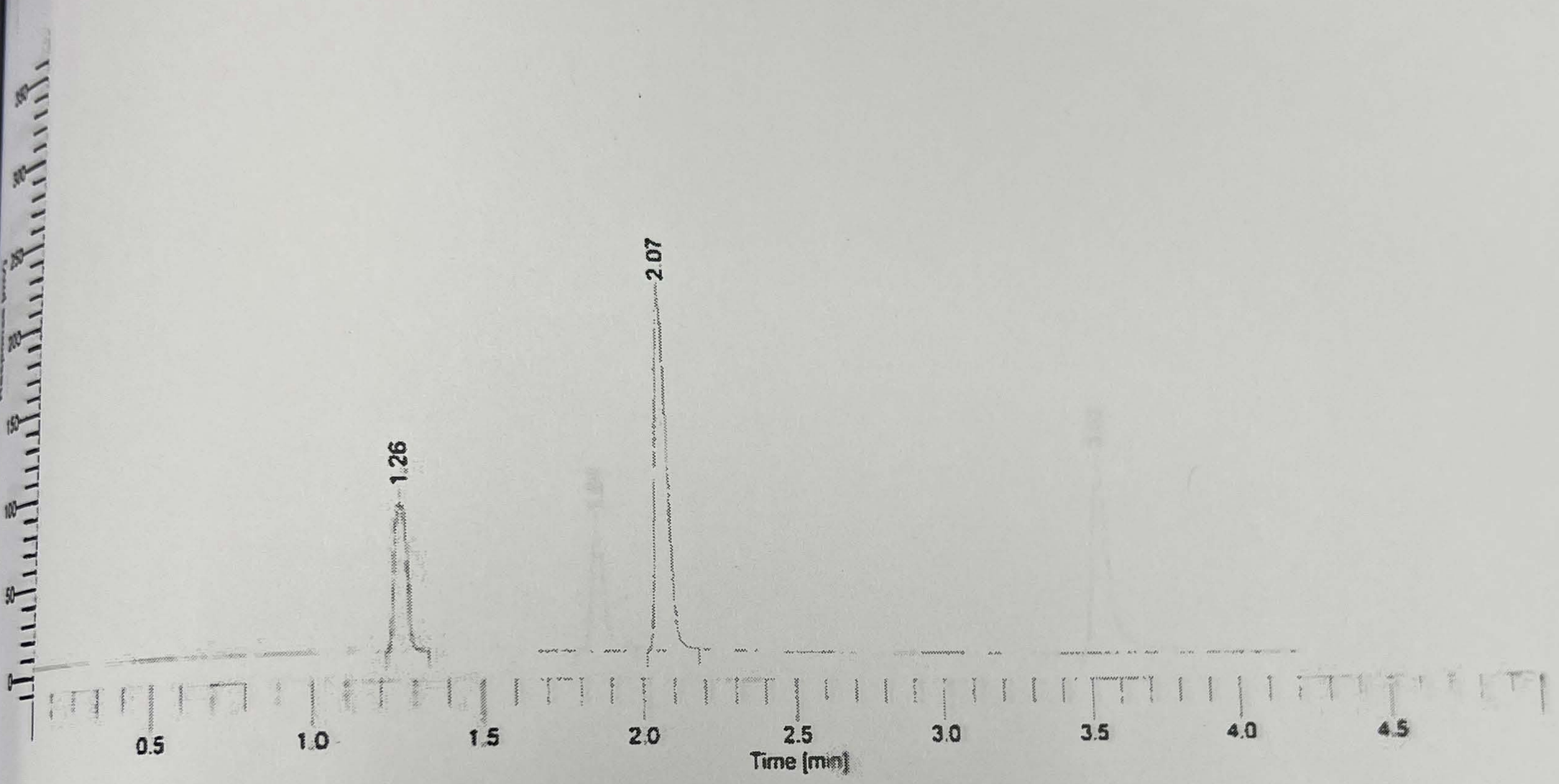
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

17 Can

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47626
Sample Name : GUTH 18360 #4
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Note : 8

Date : 12/11/2018 10:19:58 AM
Data Acquisition Time : 12/11/2018 10:15:33 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-008.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

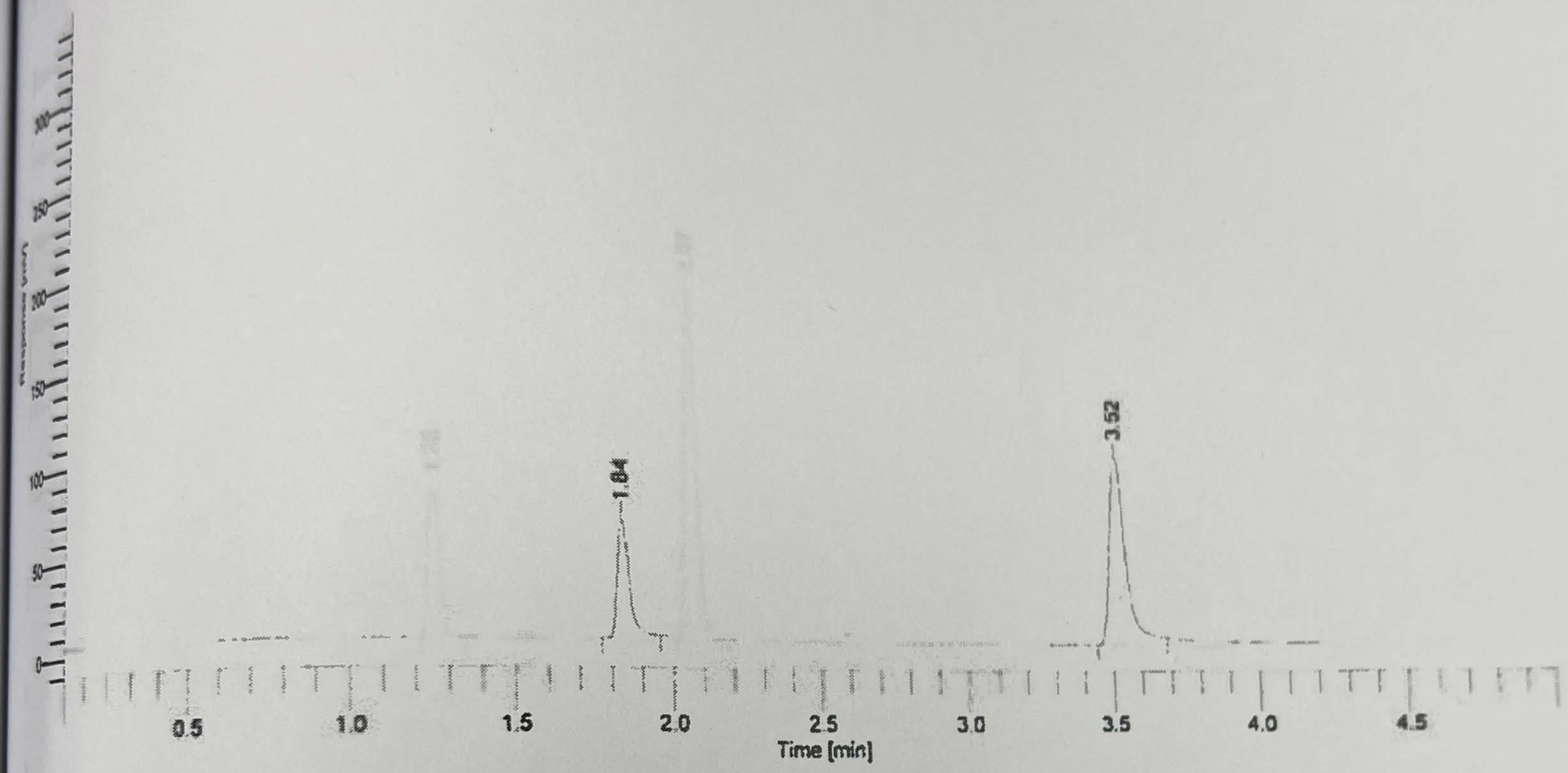
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1208	1.26	200561.6
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	534442.8

12 C

Software Version	6.3.2.0646
Bioprocess Number	d-2ua3120y7b: 47627
Sample Name	GUTH 18360 #4
Instrument Name	GCHeadspace2
Rack/Vial	0/0
Sample Amount	1.000000
Cycle	8

Date	: 12/11/2018 10:19:59 AM
Data Acquisition Time	: 12/11/2018 10:15:33 AM
Channel	: B
Operator	: manager
Dilution Factor	: 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-008.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

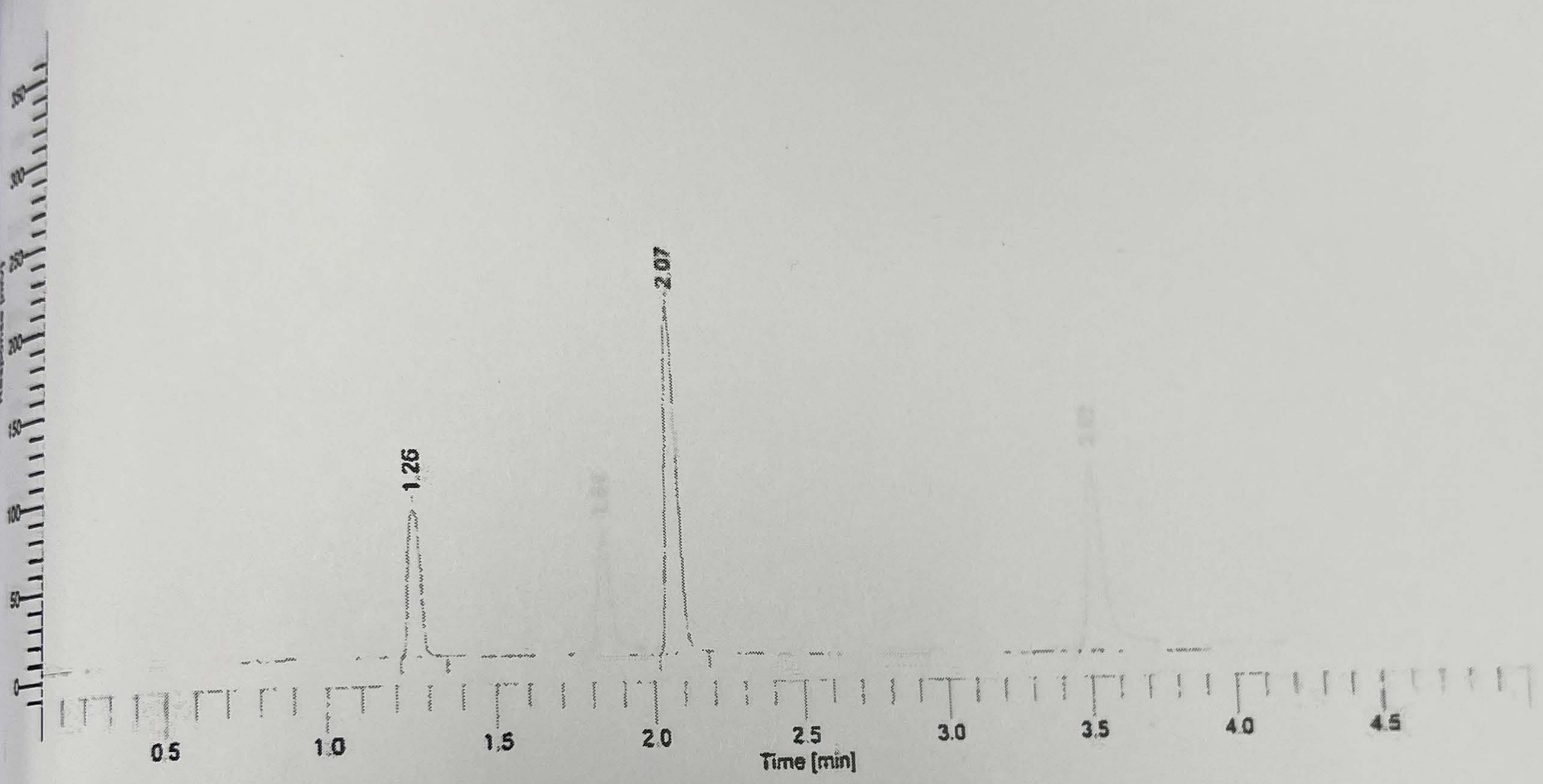
19 Cases

Software Version : 6.3.2.0646
Workprocess Number : d-2ua3120y7b: 47628
Sample Name : GUTH 18360 #4
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 9

Date : 12/11/2018 10:24:58 AM

Data Acquisition Time : 12/11/2018 10:20:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-009.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

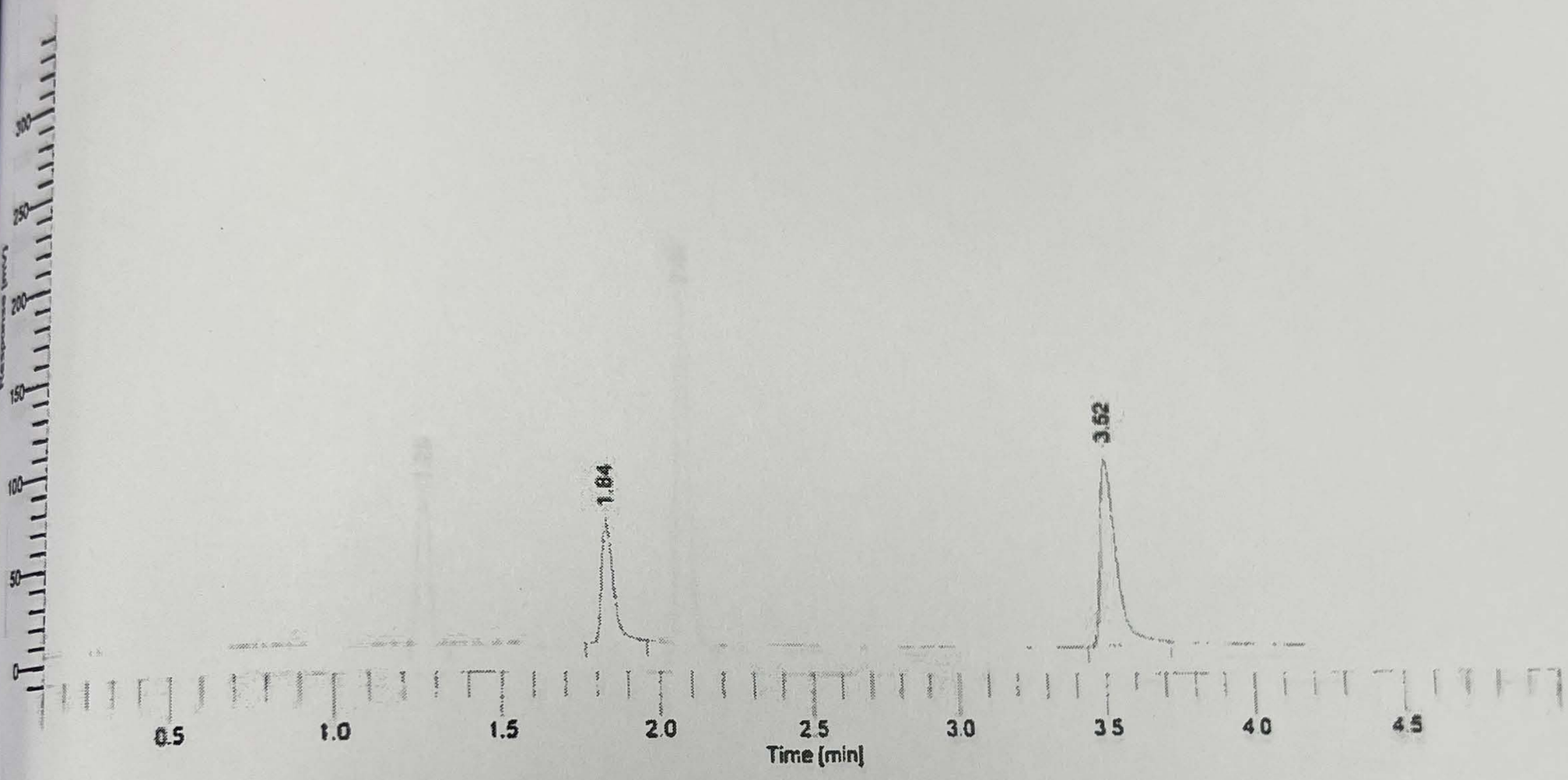
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1216	1.26	200378.9
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	530032.9

20 cm

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47629
Sample Name : GUTH 18360 #4
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Units : 9

Date : 12/11/2018 10:25:00 AM
Data Acquisition Time : 12/11/2018 10:20:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-009.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

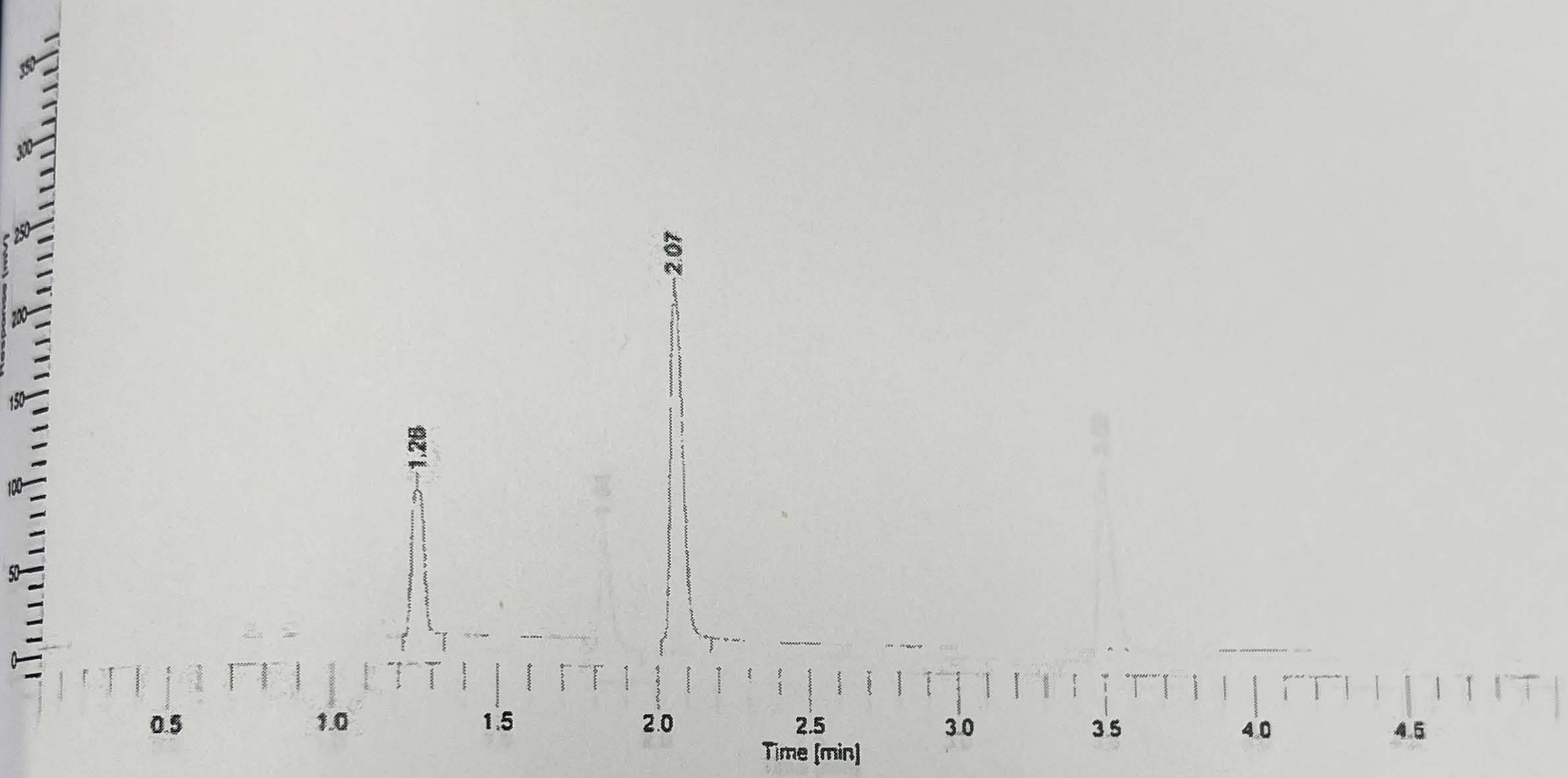
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

21 Cm

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47630
Sample Name : GUTH 18360 #4
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 10

Date : 12/11/2018 10:29:58 AM
Data Acquisition Time : 12/11/2018 10:25:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-010.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

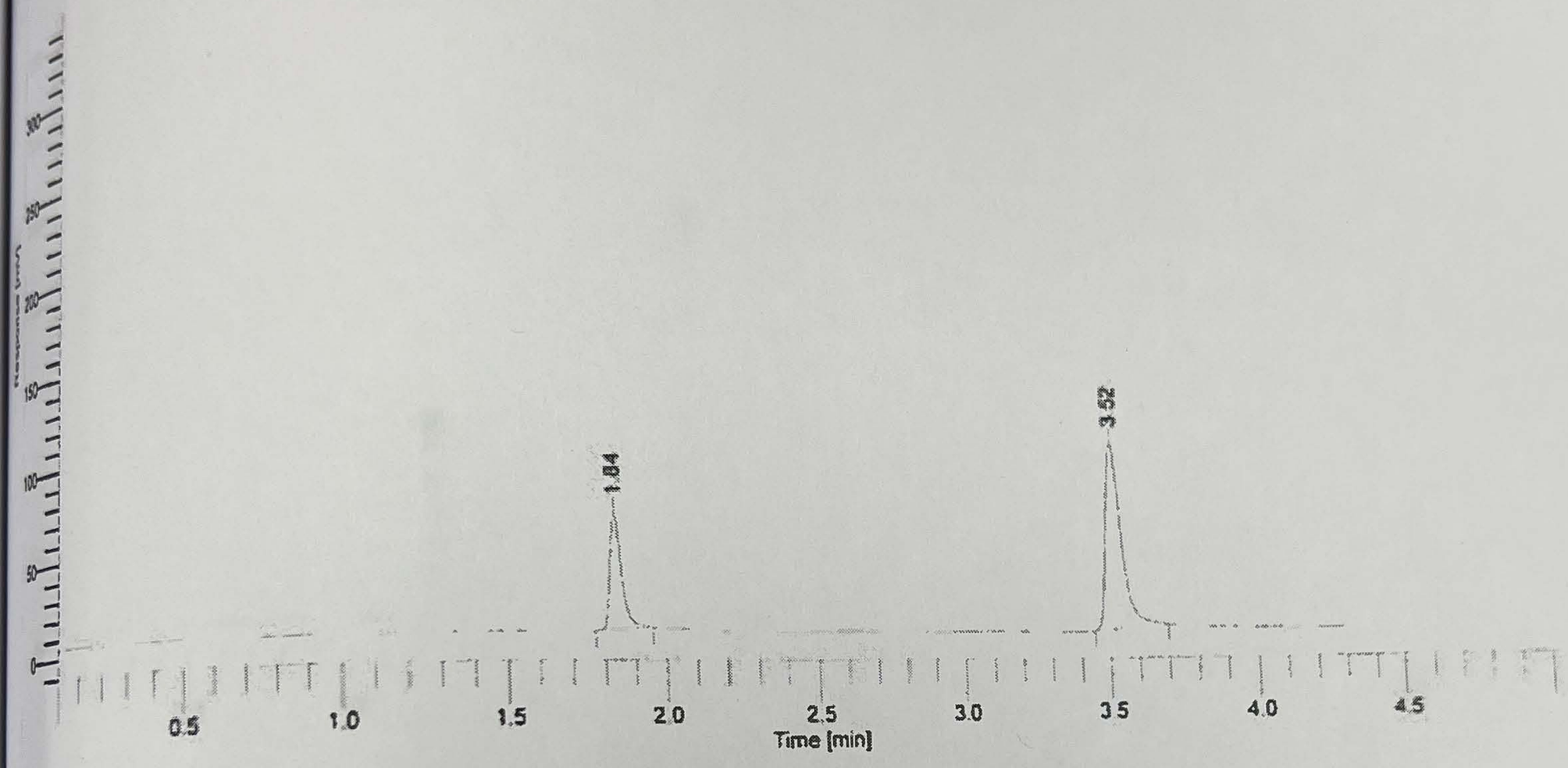
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1212	1.26	199364.5
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	529338.0

32 Cm

Software Version	: 6.3.2.0646	Date	: 12/11/2018 10:30:00 AM
Reprocess Number	: d-2ua3120y7b: 47631		
Sample Name	: GUTH 18360 #4	Data Acquisition Time	: 12/11/2018 10:25:34 AM
Instrument Name	: GCHeadspace2	Channel	: B
Rack/Vial	: 0/0	Operator	: manager
Sample Amount	: 1.000000	Dilution Factor	: 1.000000
Cycle	: 10		

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-010.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

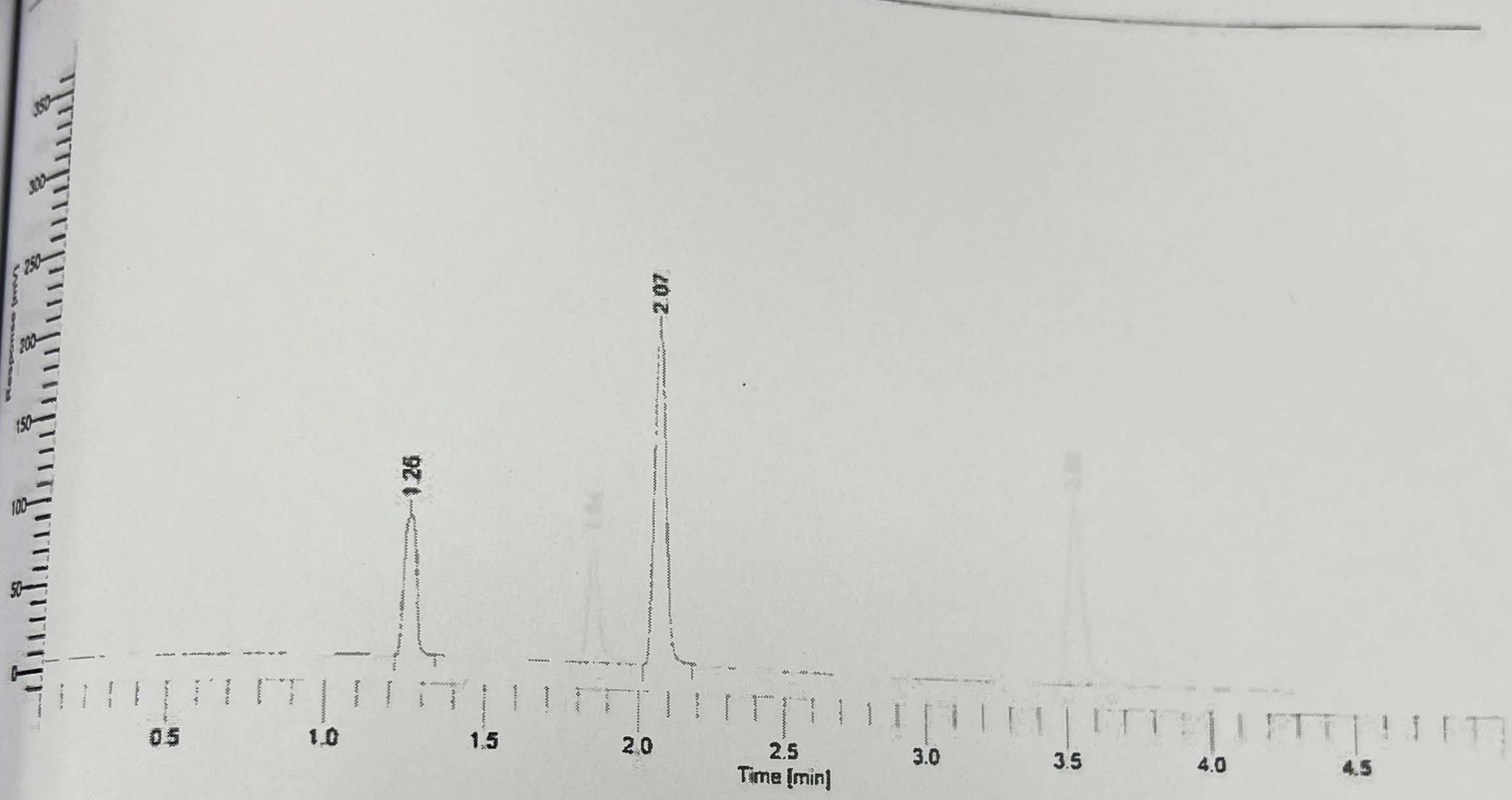
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

23

EXHIBIT 9

Software Version	: 6.3.2.0646	Date	: 12/11/2018 10:34:58 AM
Reprocess Number	: d-2ua3120y7b: 47632		
Sample Name	: GUTH 18360 #719	Data Acquisition Time	: 12/11/2018 10:30:34 AM
Instrument Name	: GCHeadspace2	Channel	: A
Rack/Vial	: 0/0	Operator	: manager
Sample Amount	: 1.000000	Dilution Factor	: 1.000000
Cycle	: 11		

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-011.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1218	1.26	200790.3
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	530572.5

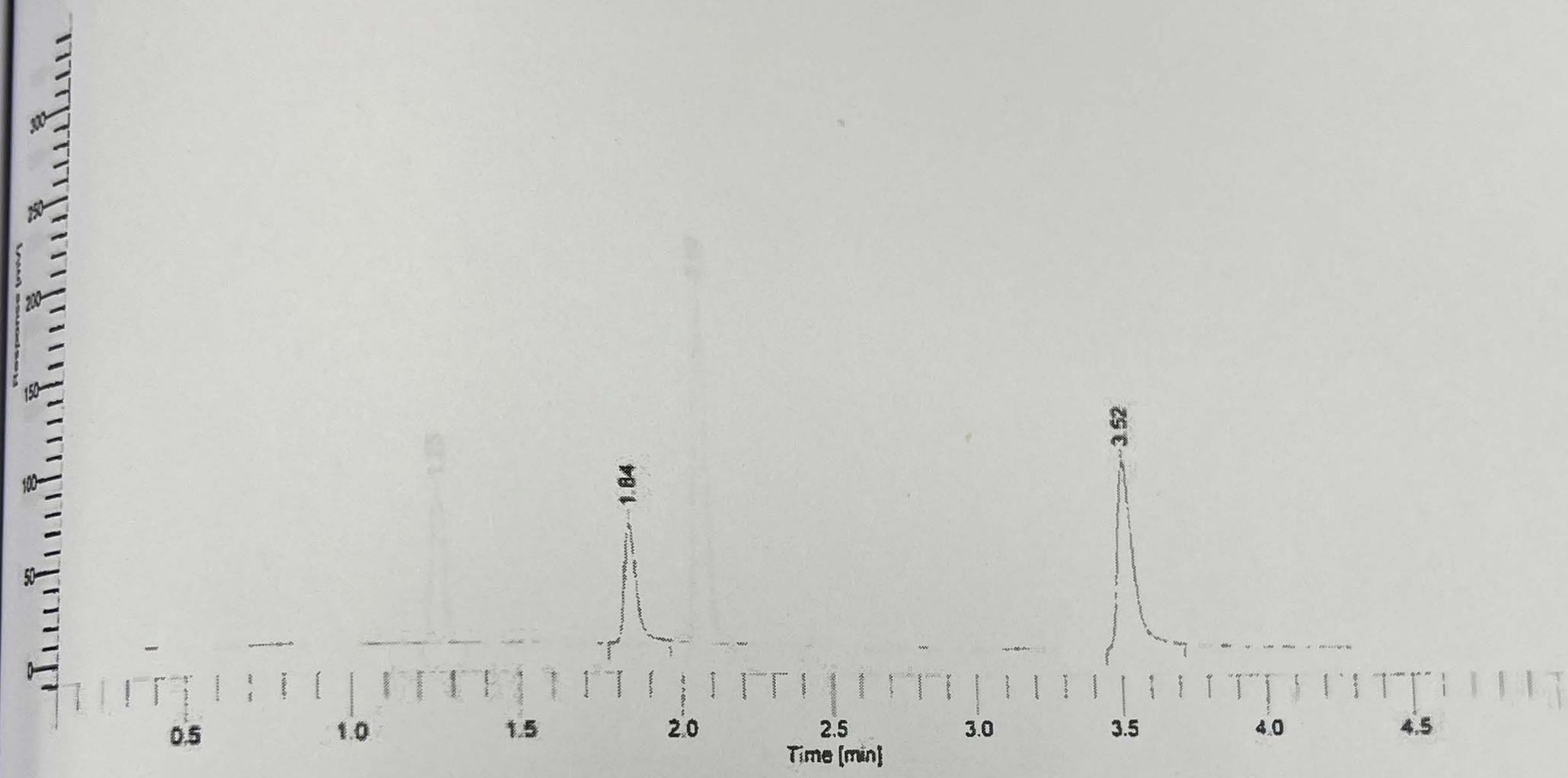
24 Cm

EXHIBIT 10

EXHIBIT 11

Software Version	6.3.2.0646
Reprocess Number	d-2ua3120y7b: 47633
Sample Name	GUTH 18360 #719
Instrument Name	GCHeadspace2
Rack/Vial	0/0
Sample Amount	1.000000
Cycle	11
Date	12/11/2018 10:34:59 AM
Data Acquisition Time	12/11/2018 10:30:34 AM
Channel	B
Operator	manager
Dilution Factor	1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-011.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

25 cm

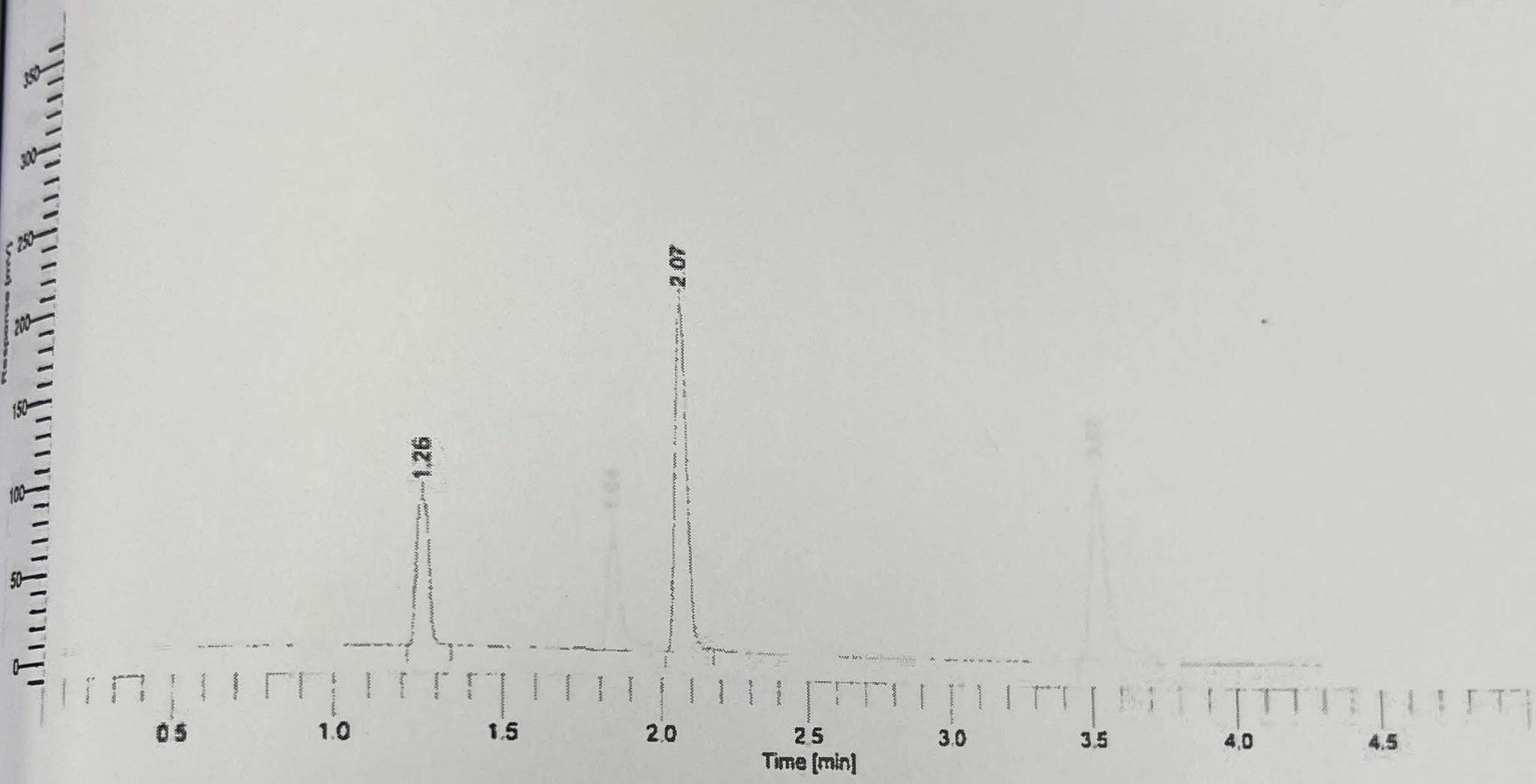
EXHIBIT 10

EXHIBIT 11

Software Version	6.3.2.0646
Reprocess Number	d-2ua3120y7b: 47634
Sample Name	GUTH 18360 #719
Instrument Name	GCHeadspace2
Rack/Vial	0/0
Sample Amount	1.000000
Cycle	12

Date	: 12/11/2018 10:39:58 AM
Data Acquisition Time	: 12/11/2018 10:35:34 AM
Channel	: A
Operator	: manager
Dilution Factor	: 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-012.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

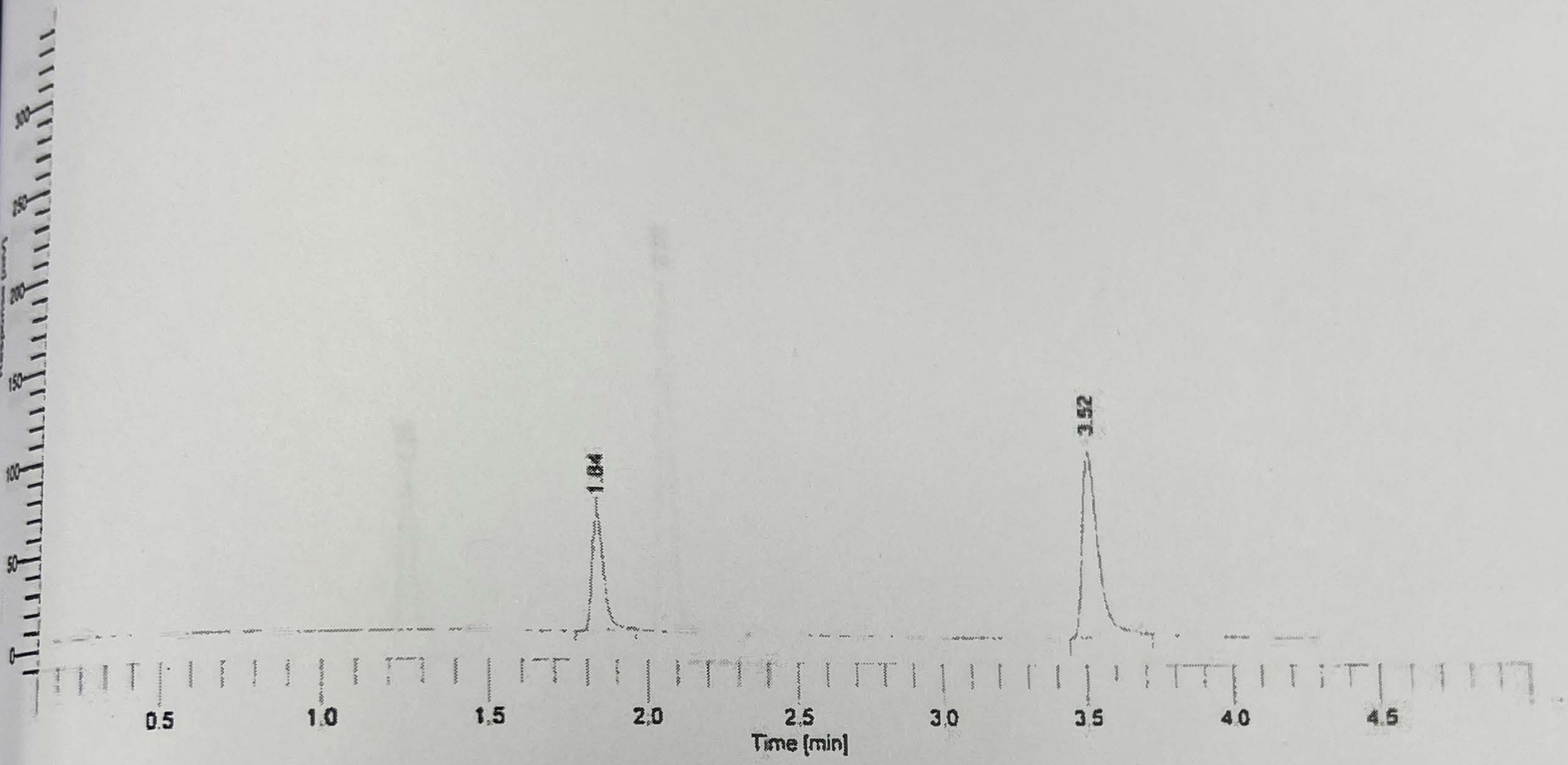
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV-s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1221	1.26	202829.7
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	534264.3

EXHIBIT 11

Software Version	6.3.2.0646
Reprocess Number	d-2ua3120y7b: 47635
Sample Name	GUTH 18360 #719
Instrument Name	GCHeadspace2
Rack/Vial	0/0
Sample Amount	1.000000
Cycle	12
Date	12/11/2018 10:40:00 AM
Data Acquisition Time	12/11/2018 10:35:34 AM
Channel	B
Operator	manager
Dilution Factor	1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-012.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

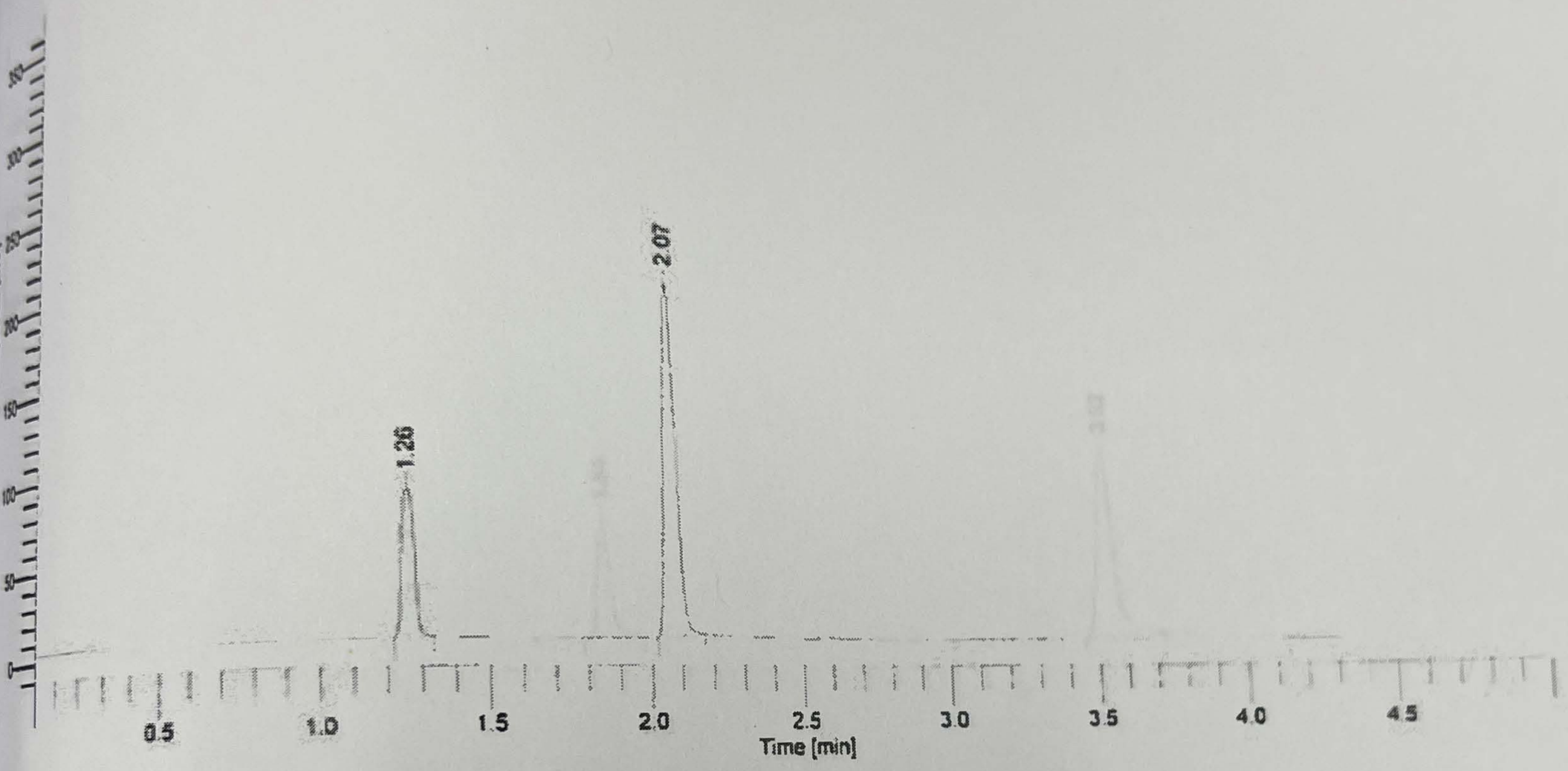
EXHIBIT 11

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47636
Sample Name : GUTH 18360 #719
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Note : 13

Date : 12/11/2018 10:44:58 AM

Data Acquisition Time : 12/11/2018 10:40:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-013.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1220	1.26	201350.1
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	530985.6

23 Cm

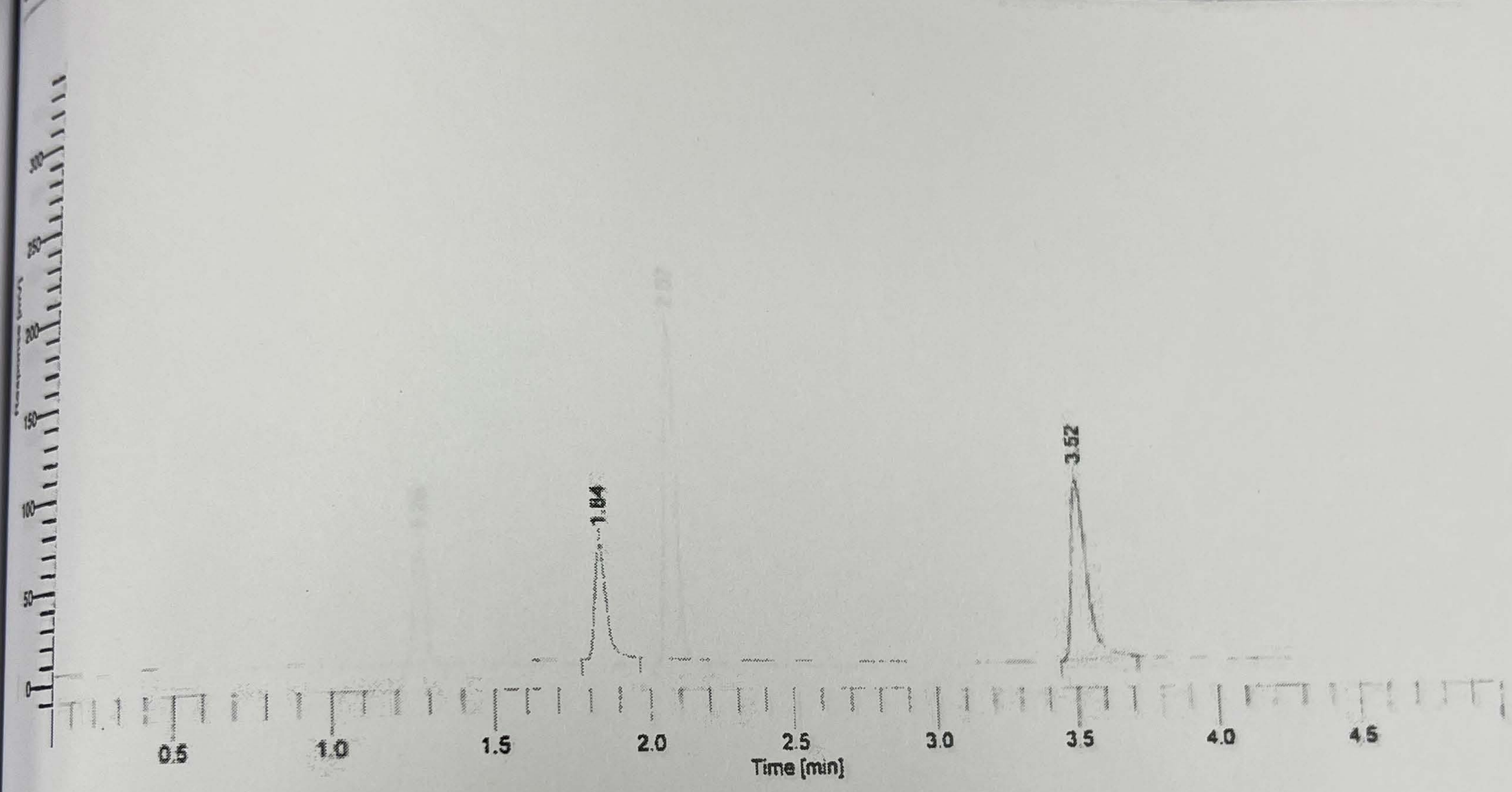
EXHIBIT 11

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47637
Sample Name : GUTH 18360 #719
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Note : 13

Date : 12/11/2018 10:45:00 AM

Data Acquisition Time : 12/11/2018 10:40:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-013.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

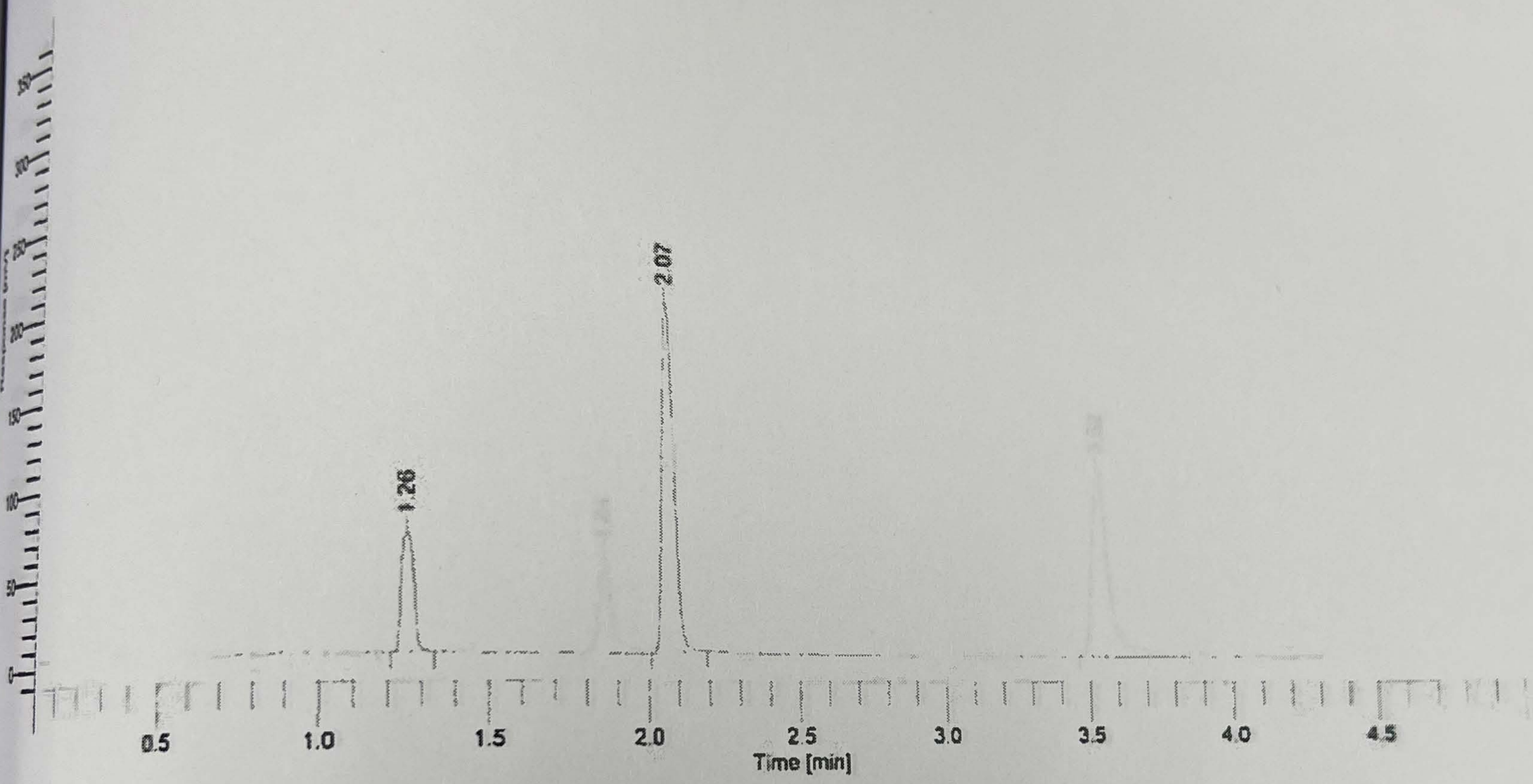
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

21 Cm

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47638
Sample Name : 0.10% CONTROL
Instrument Name : GCHeadspace2
Vial-to-Vial : 0/0
Sample Amount : 1.000000
Note : 14

Date : 12/11/2018 10:49:58 AM
Data Acquisition Time : 12/11/2018 10:45:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-014.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

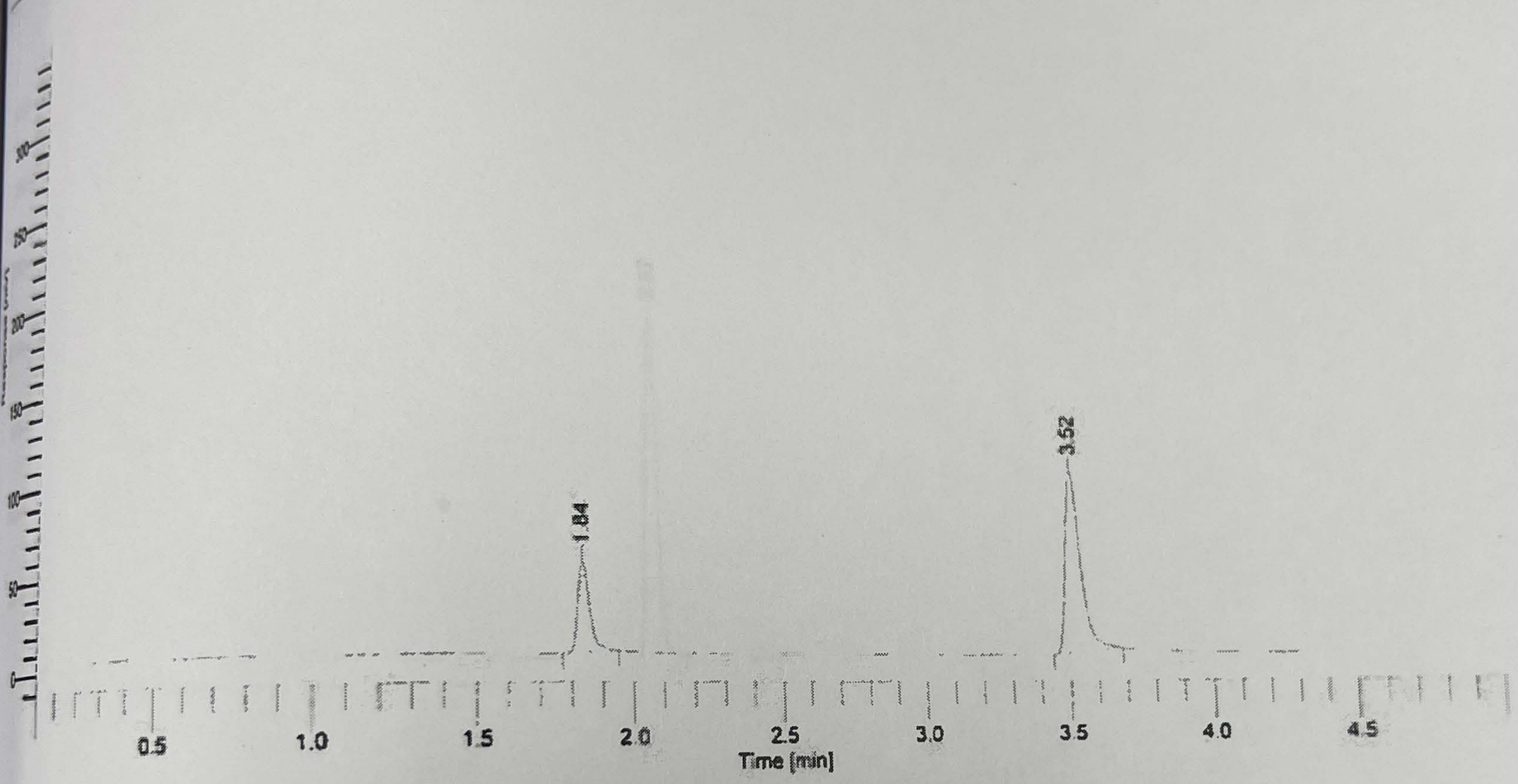
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0989	1.26	163130.8
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL	0.0000	2.07	533969.4

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47639
Sample Name : 0.10% CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Cycle : 14

Date : 12/11/2018 10:50:00 AM
Data Acquisition Time : 12/11/2018 10:45:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-014.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

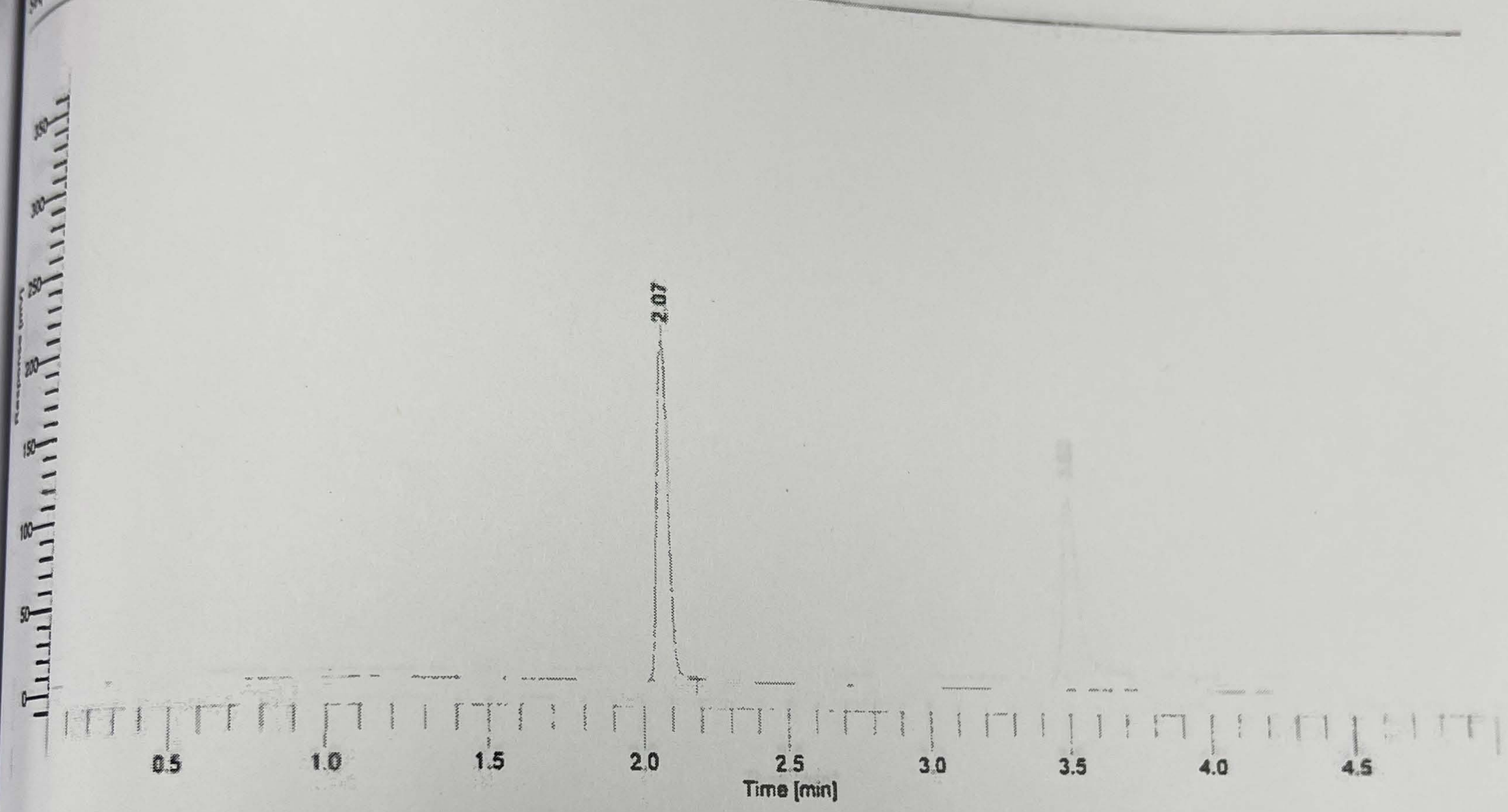
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

31 C

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47640
Sample Name : NEG CONTROL
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Code : 15

Date : 12/11/2018 10:54:58 AM
Data Acquisition Time : 12/11/2018 10:50:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-015.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

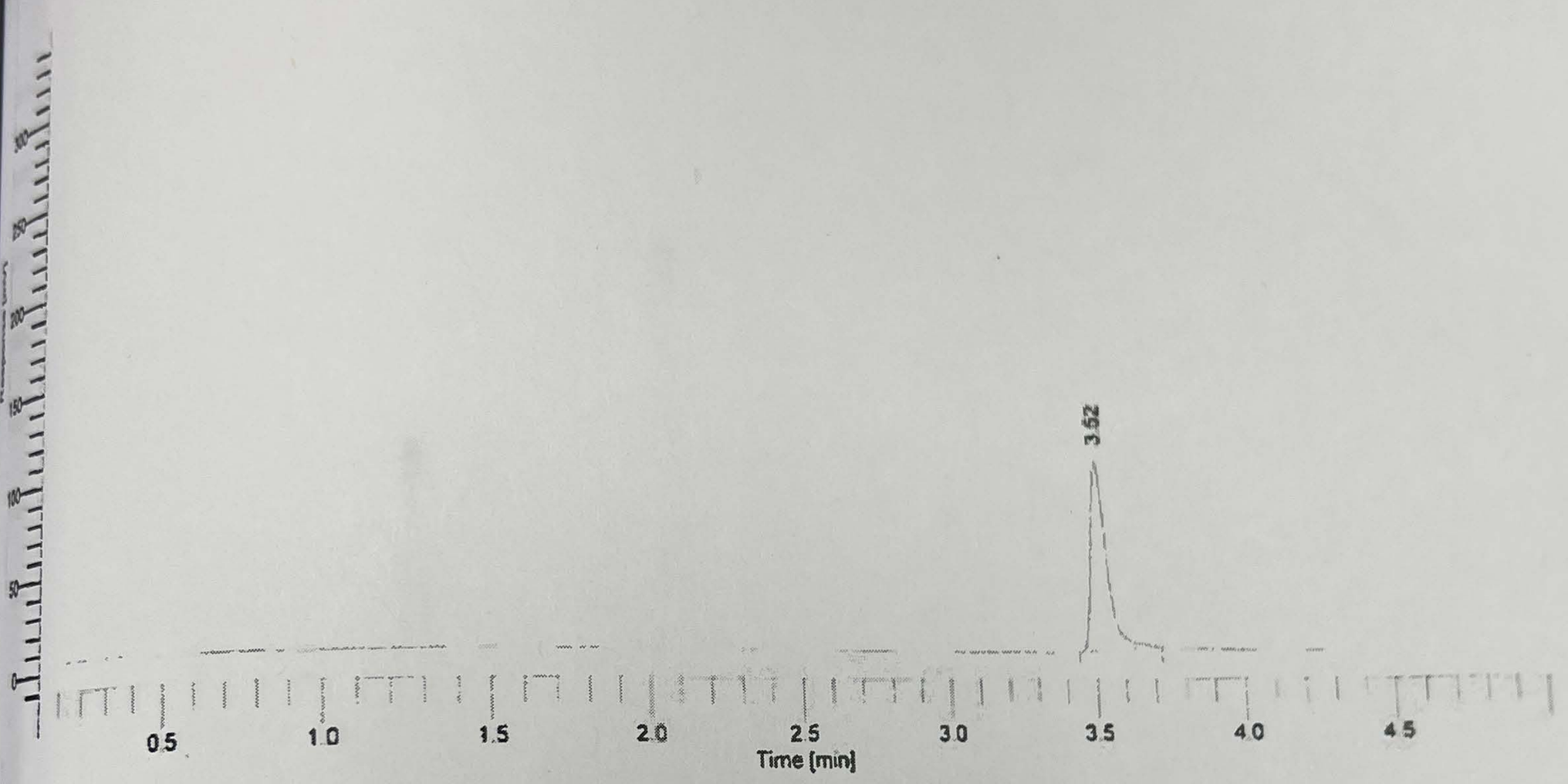
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0000	1.26	0.0
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL	0.0000	2.07	532606.0

32 cc

Software Version : 6.3.2.0646
Reprocess Number : d-2ua3120y7b: 47641
Sample Name : NEG CONTROL
Instrument Name : GCHeadspace2
Vials/Vial : 0/0
Sample Amount : 1.000000
Units : 15

Date : 12/11/2018 10:55:00 AM
Data Acquisition Time : 12/11/2018 10:50:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-015.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
N-PROPANOL	3.52

33

EXHIBIT 10

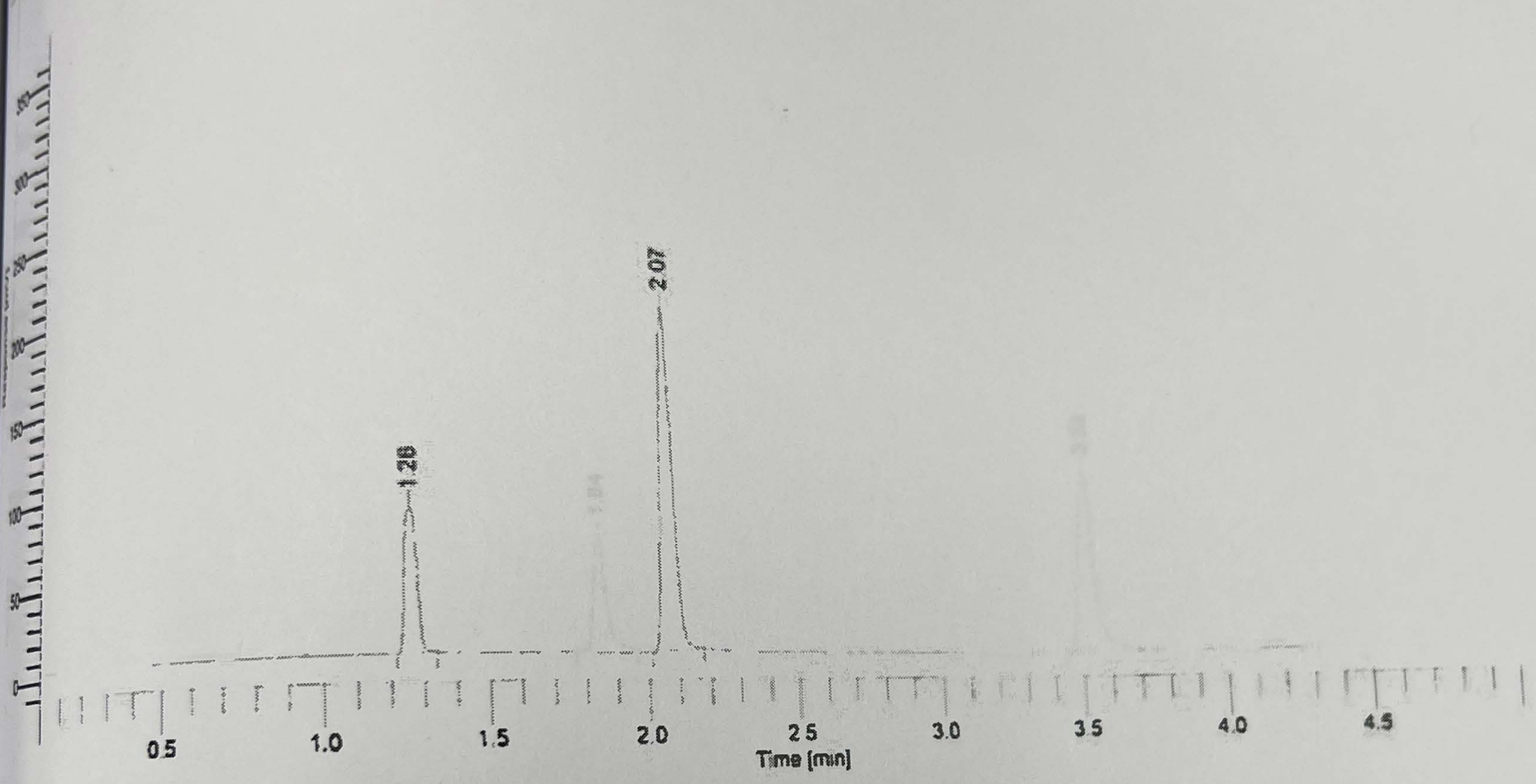
EXHIBIT 11

Software Version : 6.3.2.0646
Workprocess Number : d-2ua3120y7b: 47642
Sample Name : GUTH 18360 #720
Instrument Name : GCHeadspace2
Inject Vial : 0/0
Sample Amount : 1.000000
Note : 16

Date : 12/11/2018 10:59:58 AM

Data Acquisition Time : 12/11/2018 10:55:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-016.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

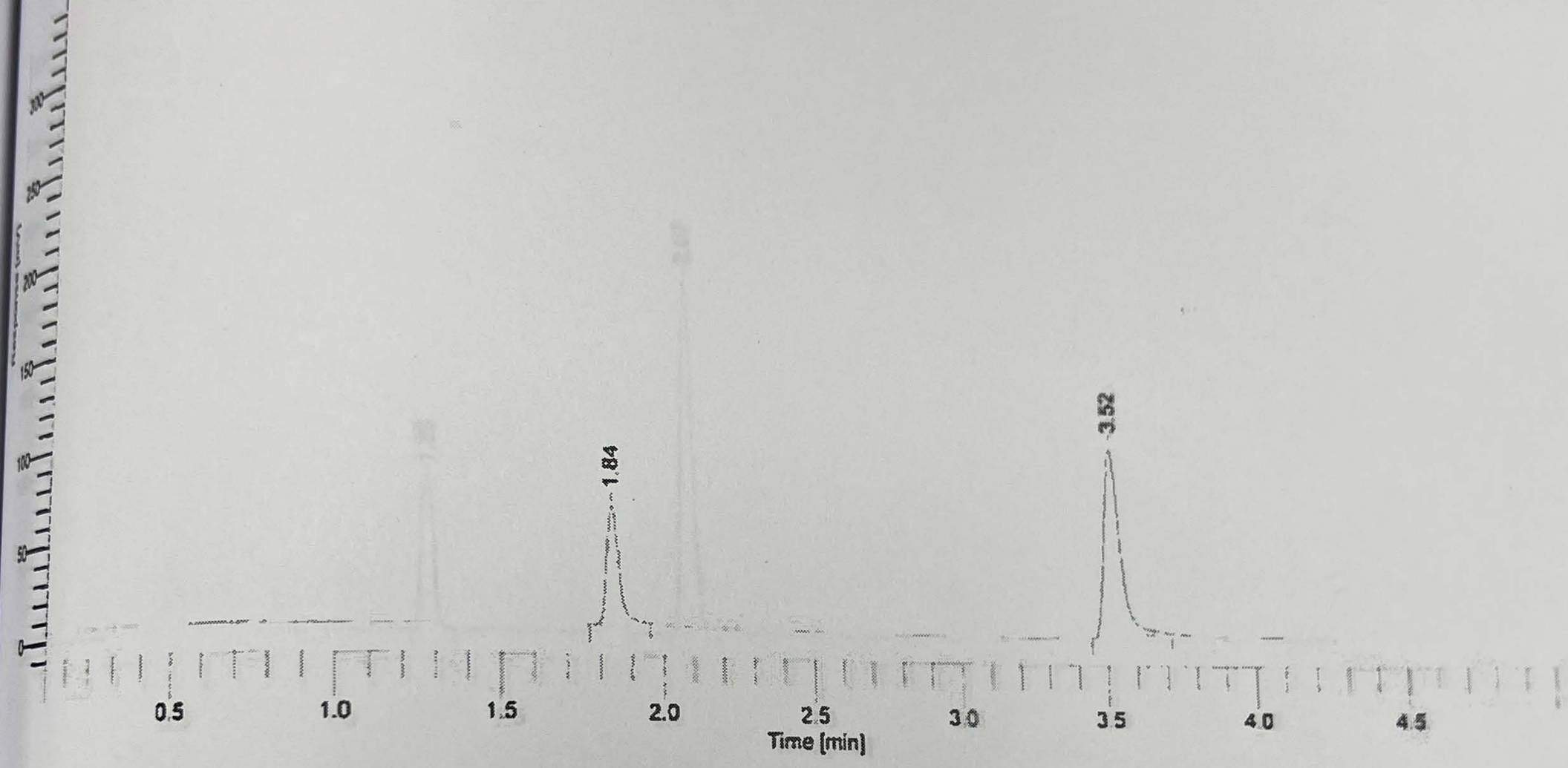
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1216	1.26	198838.3
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	525992.6

34 C2m

Software Version : 6.3.2.0646
Workprocess Number : d-2ua3120y7b: 47643
Sample Name : GUTH 18360 #720
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Code : 16

Date : 12/11/2018 11:00:00 AM
Data Acquisition Time : 12/11/2018 10:55:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-016.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

35 cm

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47644
Sample Name : GUTH 18360 #720
Equipment Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
Info : 17

Date : 12/11/2018 11:04:58 AM
Data Acquisition Time : 12/11/2018 11:00:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-017.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

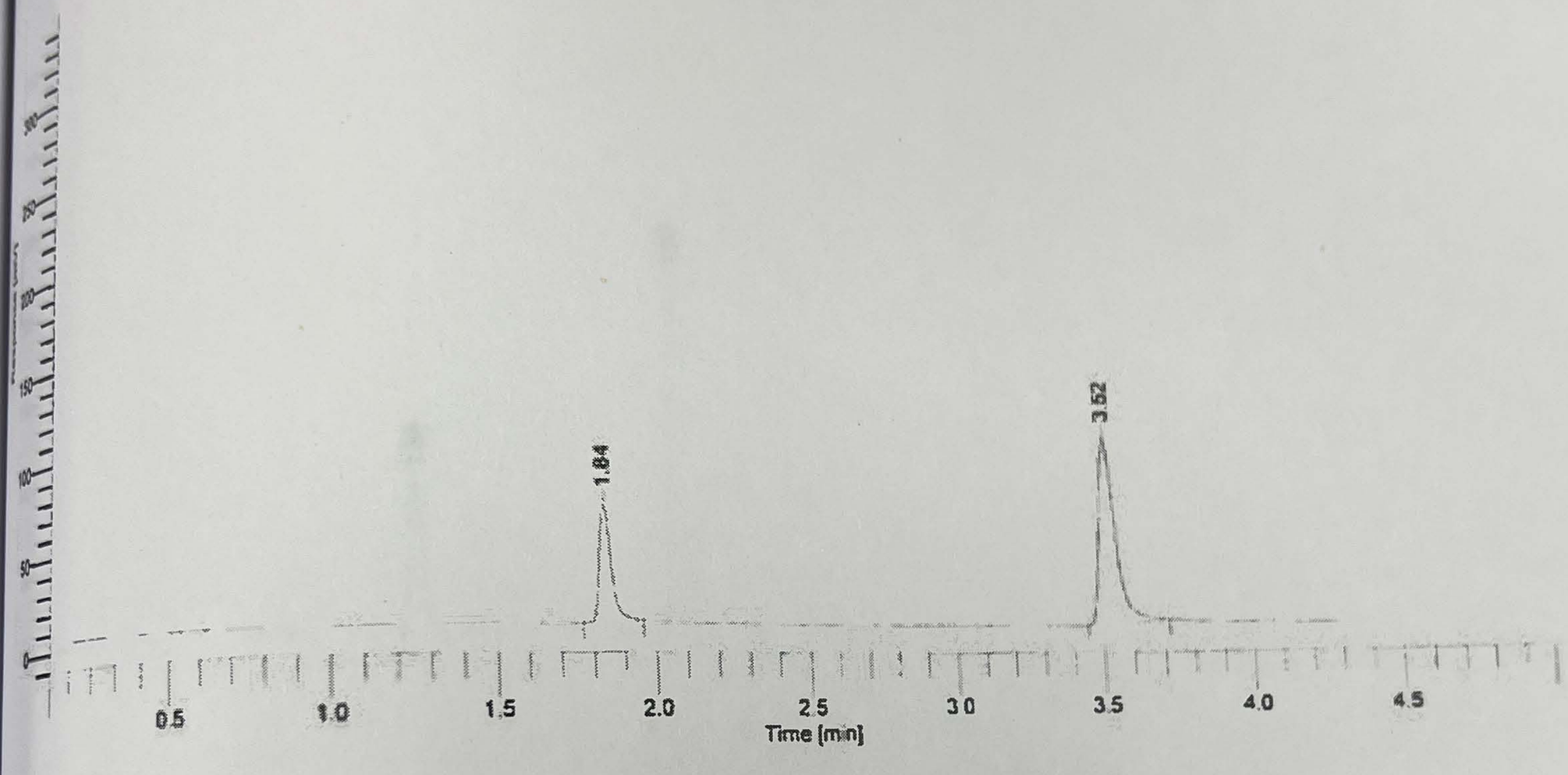
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1221	1.26	199490.8
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	525465.4

Software Version : 6.3.2.0646
Accession Number : d-2ua3120y7b: 47645
Sample Name : GUTH 18360 #720
Instrument Name : GCHeadspace2
Rack/Vial : 0/0
Sample Amount : 1.000000
Origin : 17

Date : 12/11/2018 11:05:00 AM
Data Acquisition Time : 12/11/2018 11:00:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-017.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

37 cm

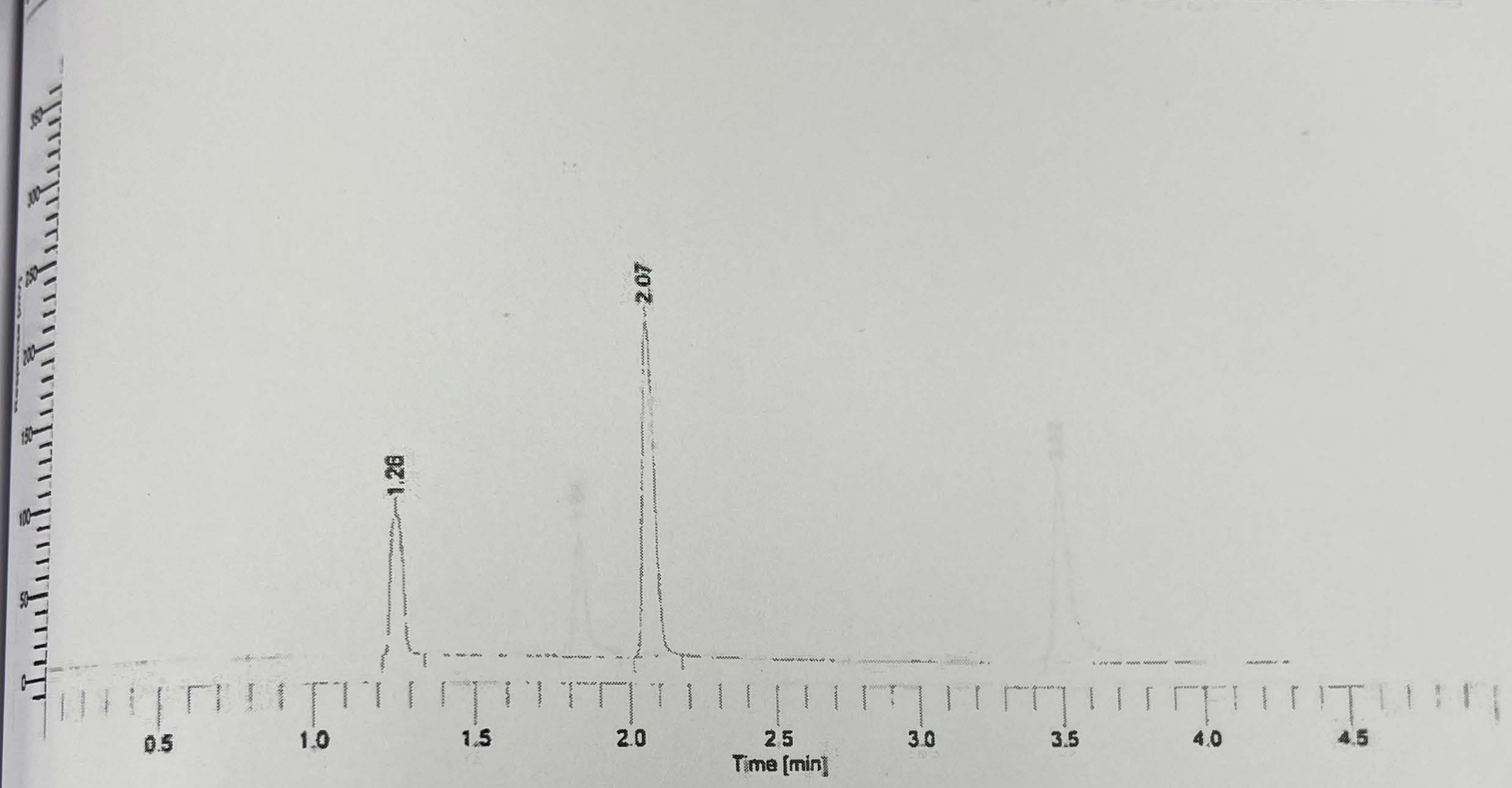
EXHIBIT 10

EXHIBIT 11

Software Version : 6.3.2.0646
Instrument Number : d-2ua3120y7b: 47646
Sample Name : GUTH 18360 #720
Instrument Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
Data : 18

Date : 12/11/2018 11:09:58 AM
Data Acquisition Time : 12/11/2018 11:05:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-018.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

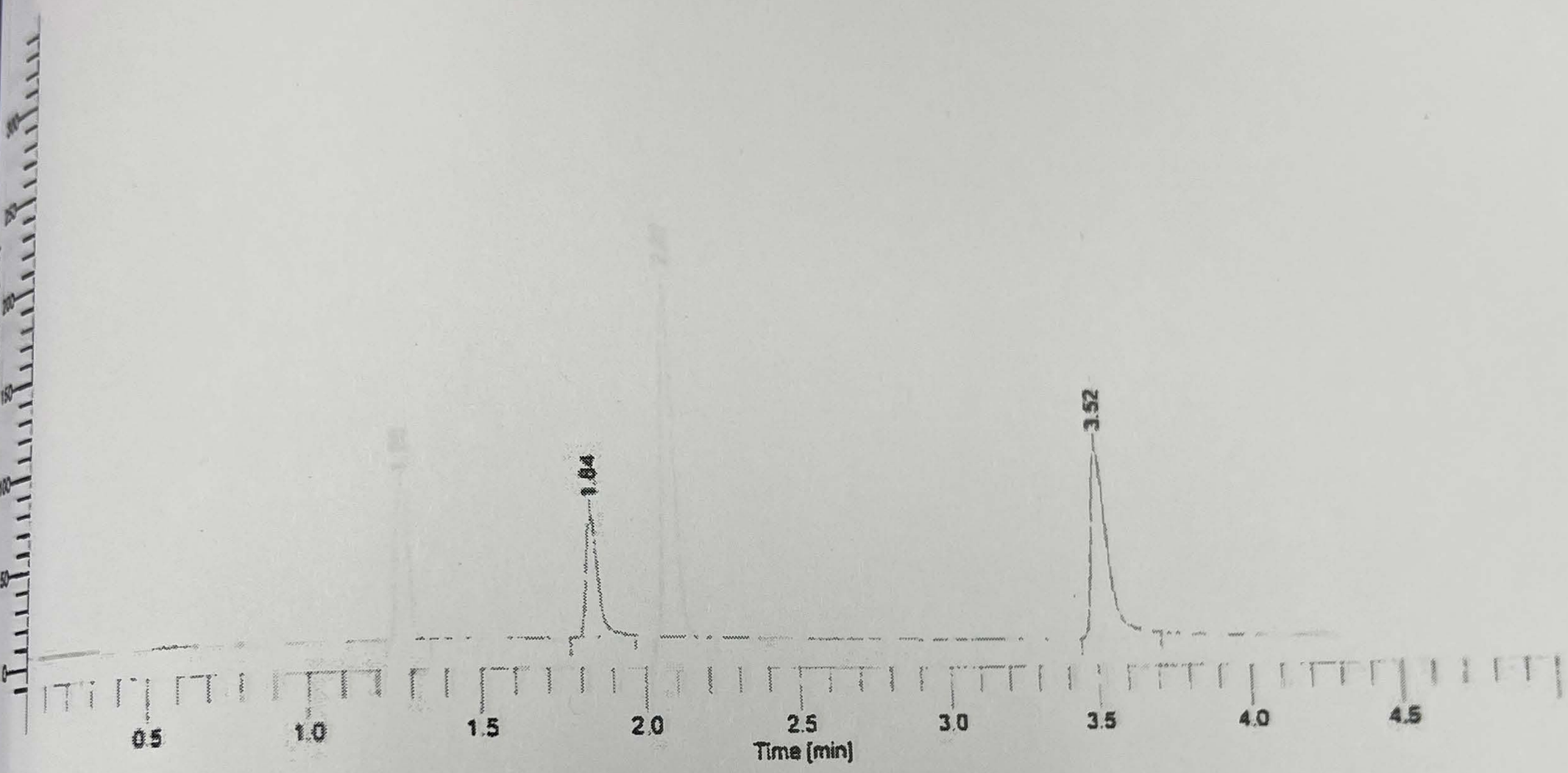
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1218	1.26	199918.0
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	527933.1

Software Version : 6.3.2.0646
Worksheet Number : d-2ua3120y7b: 47647
Sample Name : GUTH 18360 #720
Instrument Name : GCHeadspace2
Vial Mul : 0/0
Injected Amount : 1.000000
Type : 18

Date : 12/11/2018 11:10:00 AM

Data Acquisition Time : 12/11/2018 11:05:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-018.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time (min)
ETHANOL	1.84
I-PROPANOL	3.52

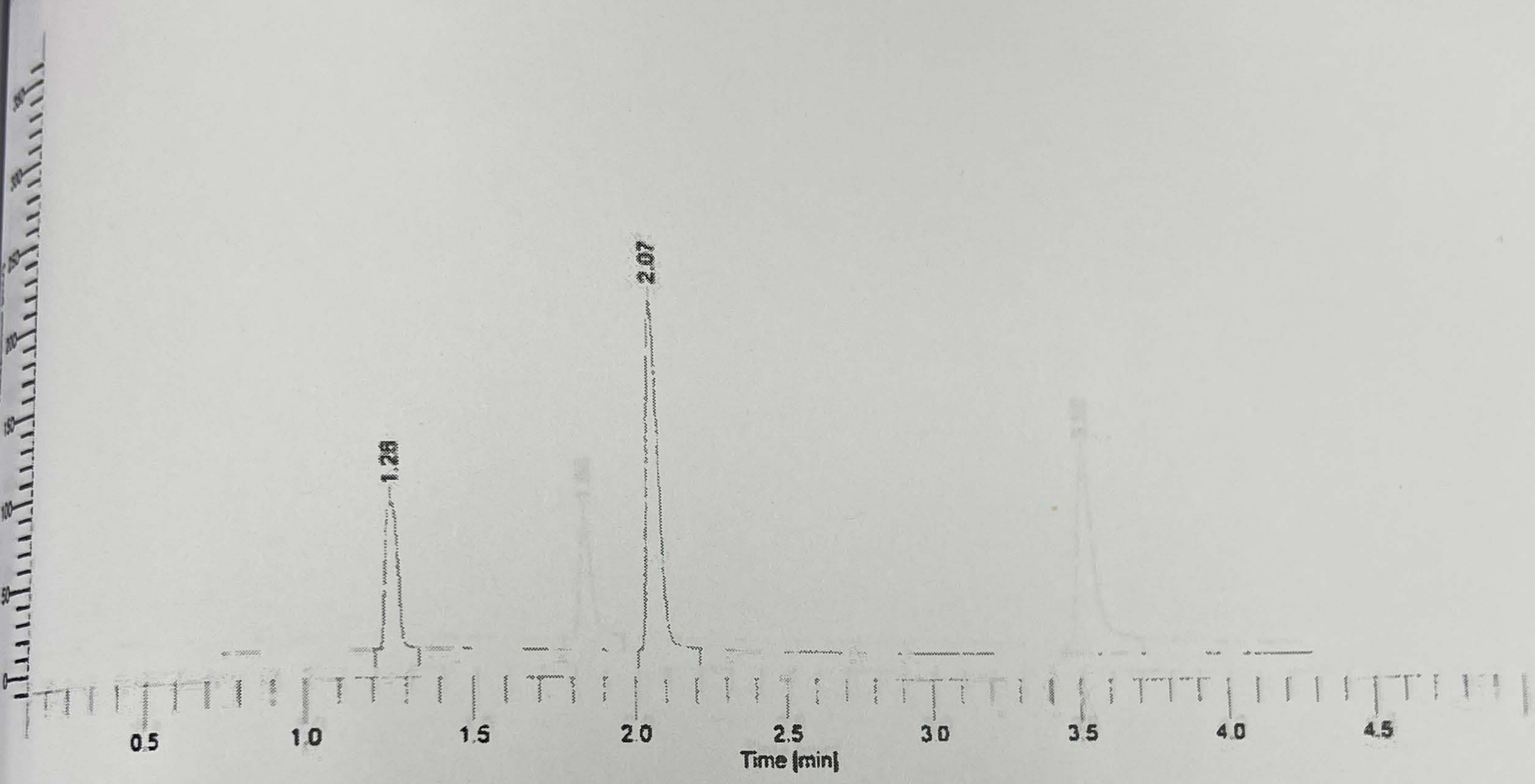
391

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47648
Sample Name : GUTH 18360 #1446
Instrument Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
Note : 19

Date : 12/11/2018 11:14:58 AM

Data Acquisition Time : 12/11/2018 11:10:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-019.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

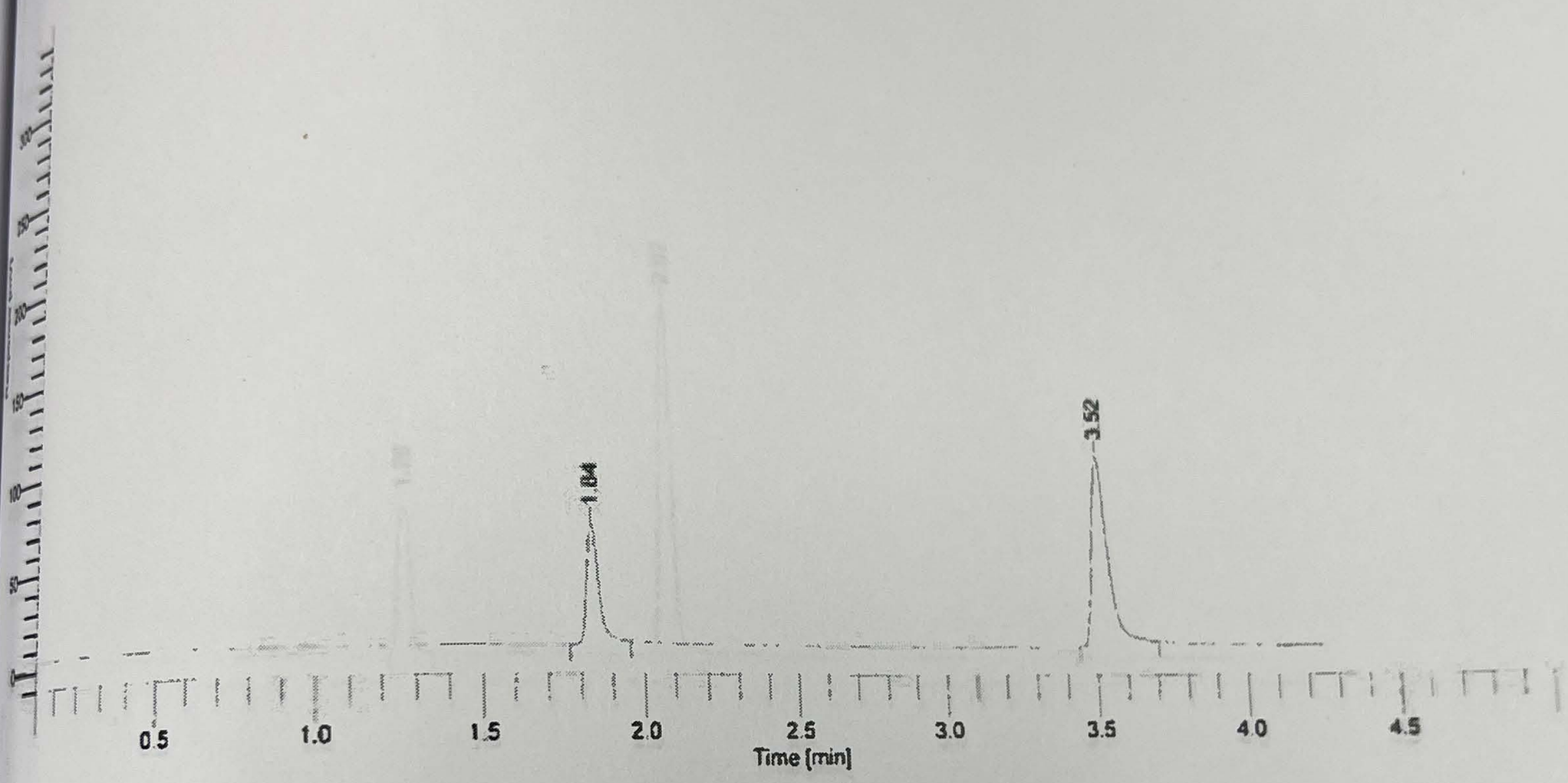
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1204	1.26	199745.7
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	533789.4

40 C

Software Version : 6.3.2.0646
Instrument Number : d-2ua3120y7b: 47649
Sample Name : GUTH 18360 #1446
Component Name : GCHeadspace2
Dilution Factor : 0/0
Sample Amount : 1.000000
Note : 19

Date : 12/11/2018 11:15:00 AM
Data Acquisition Time : 12/11/2018 11:10:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-019.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

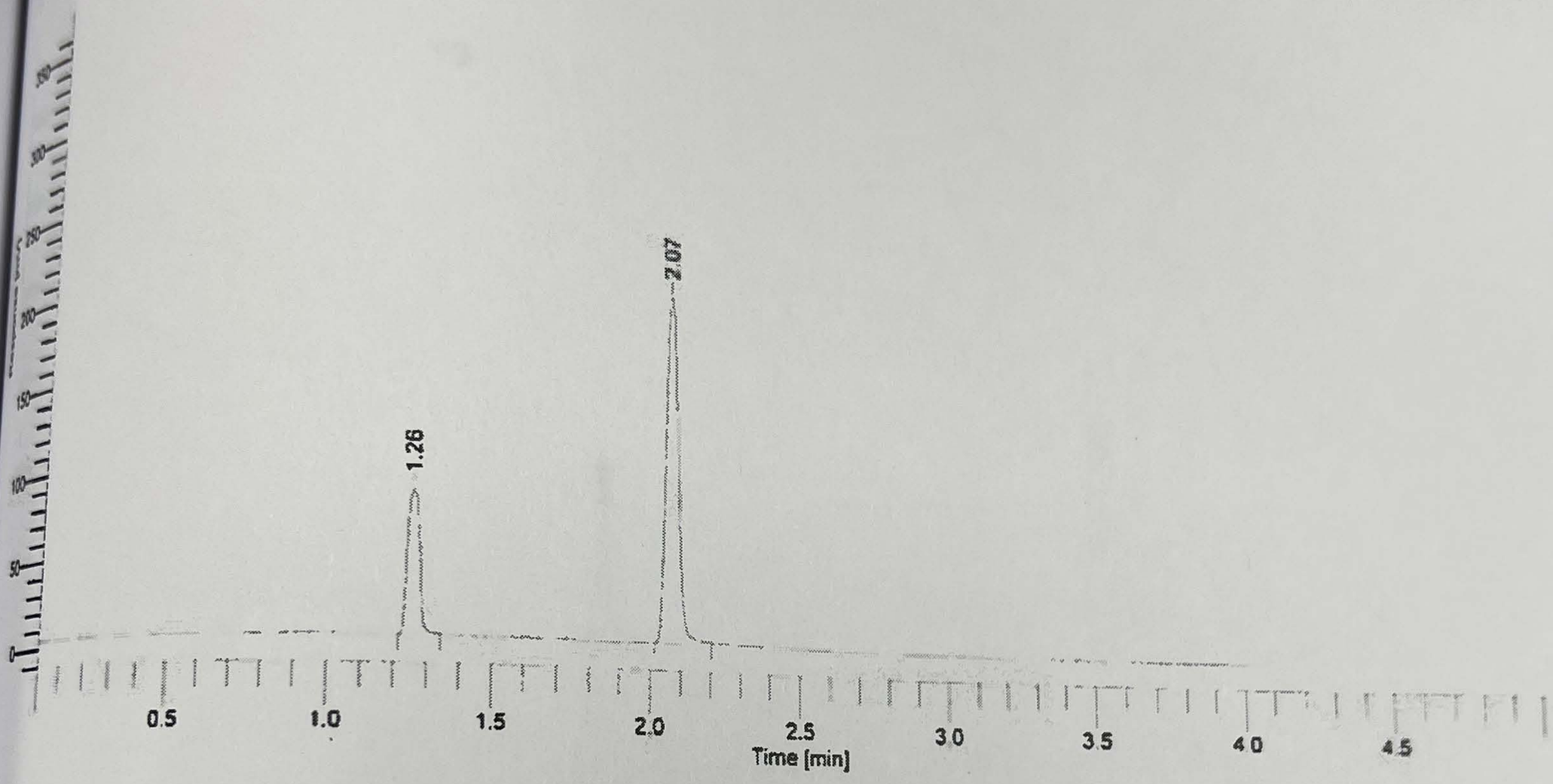
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

41 Cm

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47650
Sample Name : GUTH 18360 #1446
Instrument Name : GCHeadspace2
Back/Mal : 0/0
Sample Amount : 1.000000
Note : 20

Date : 12/11/2018 11:19:58 AM
Data Acquisition Time : 12/11/2018 11:15:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-020.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

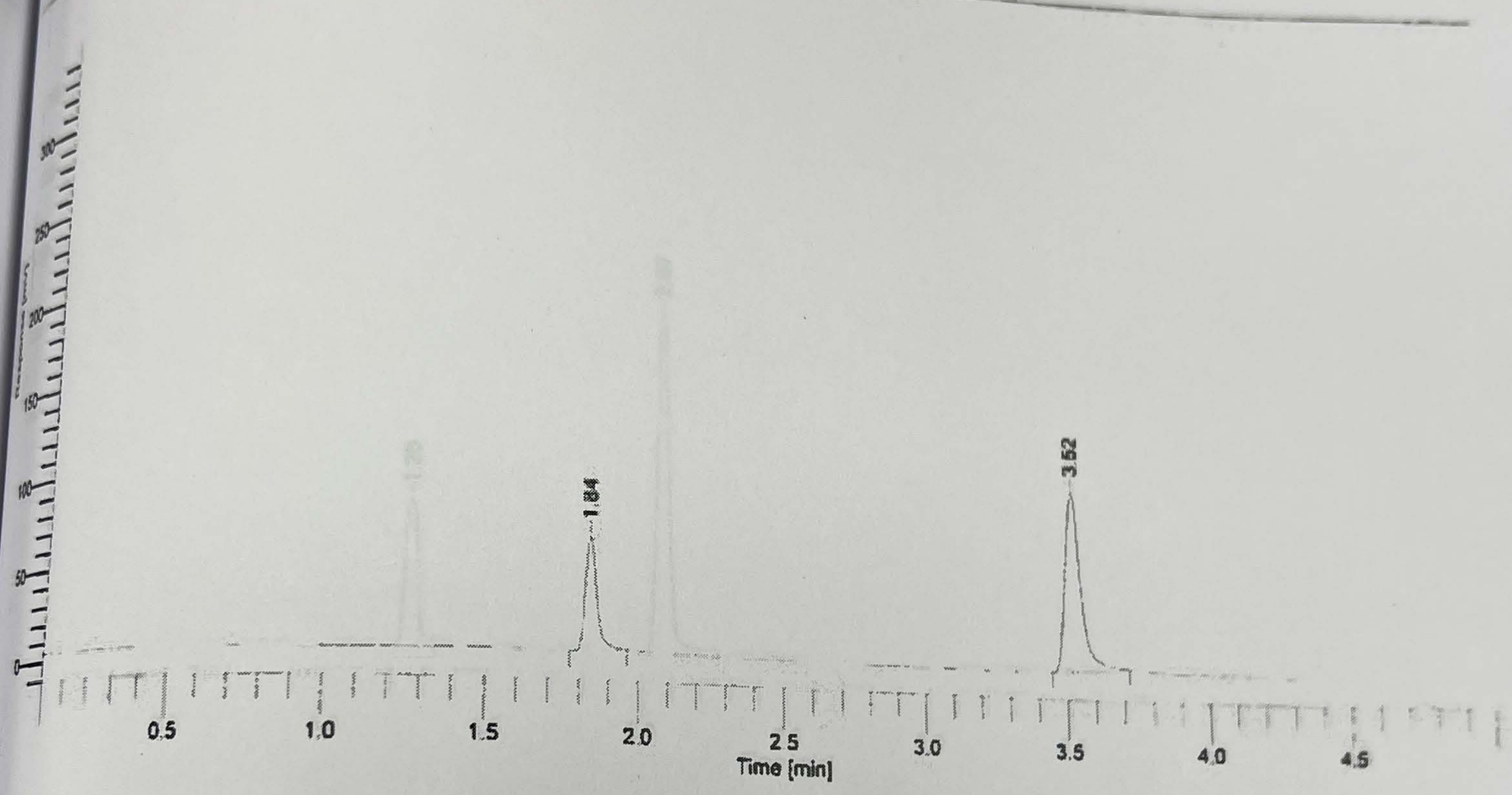
Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1212	1.26	200009.4
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	530857.5

4.2 ✓

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47651
Sample Name : GUTH 18360 #1446
Instrument Name : GCHeadspace2
Vial/Vial : 0/0
Sample Amount : 1.000000
Units : 20

Date : 12/11/2018 11:20:00 AM
Data Acquisition Time : 12/11/2018 11:15:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-020.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

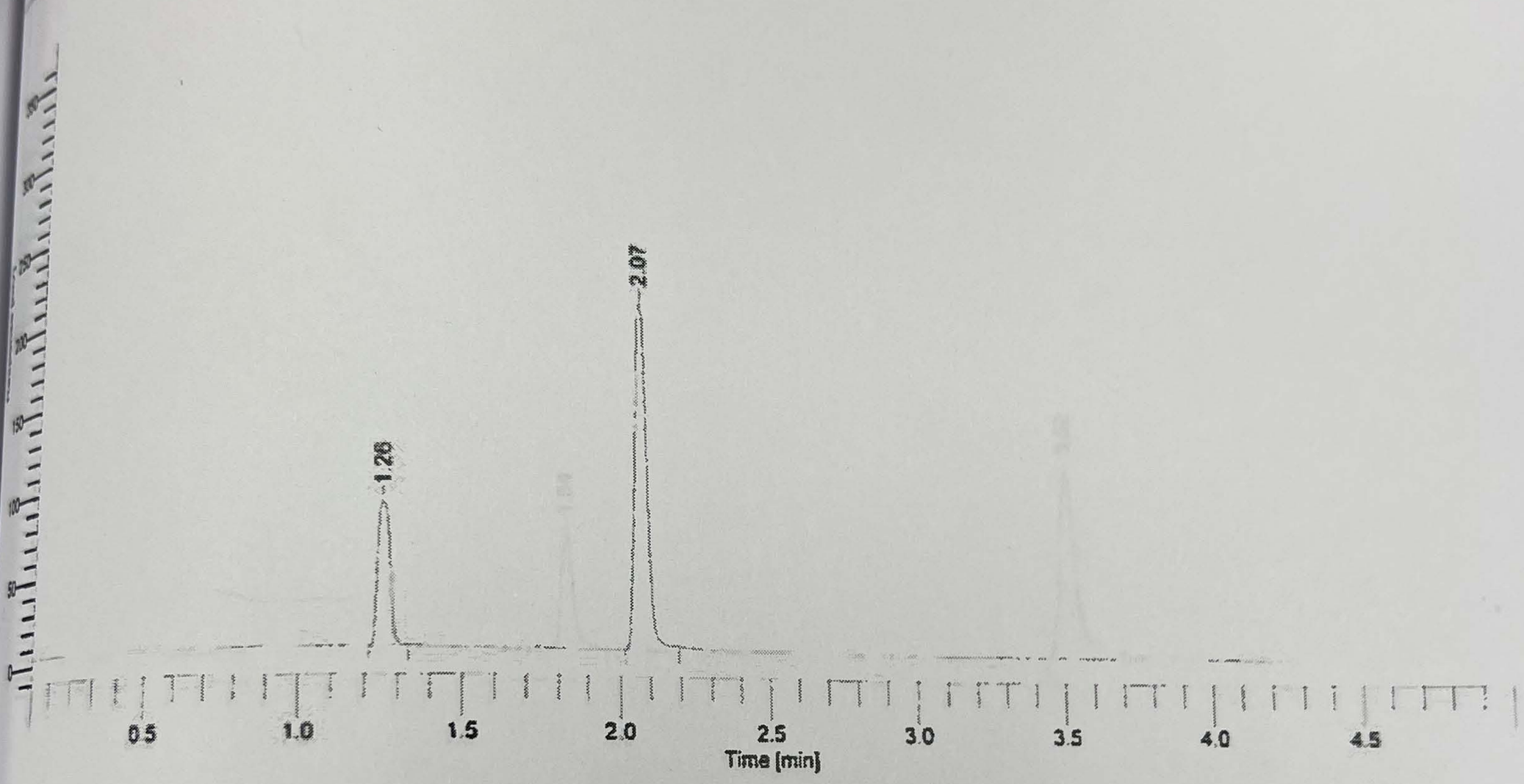
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

36

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47652
Sample Name : GUTH 18360 #1446
Component Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
ISTD : 21

Date : 12/11/2018 11:24:58 AM
Data Acquisition Time : 12/11/2018 11:20:34 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-021.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1211	1.26	200359.2
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	532555.1

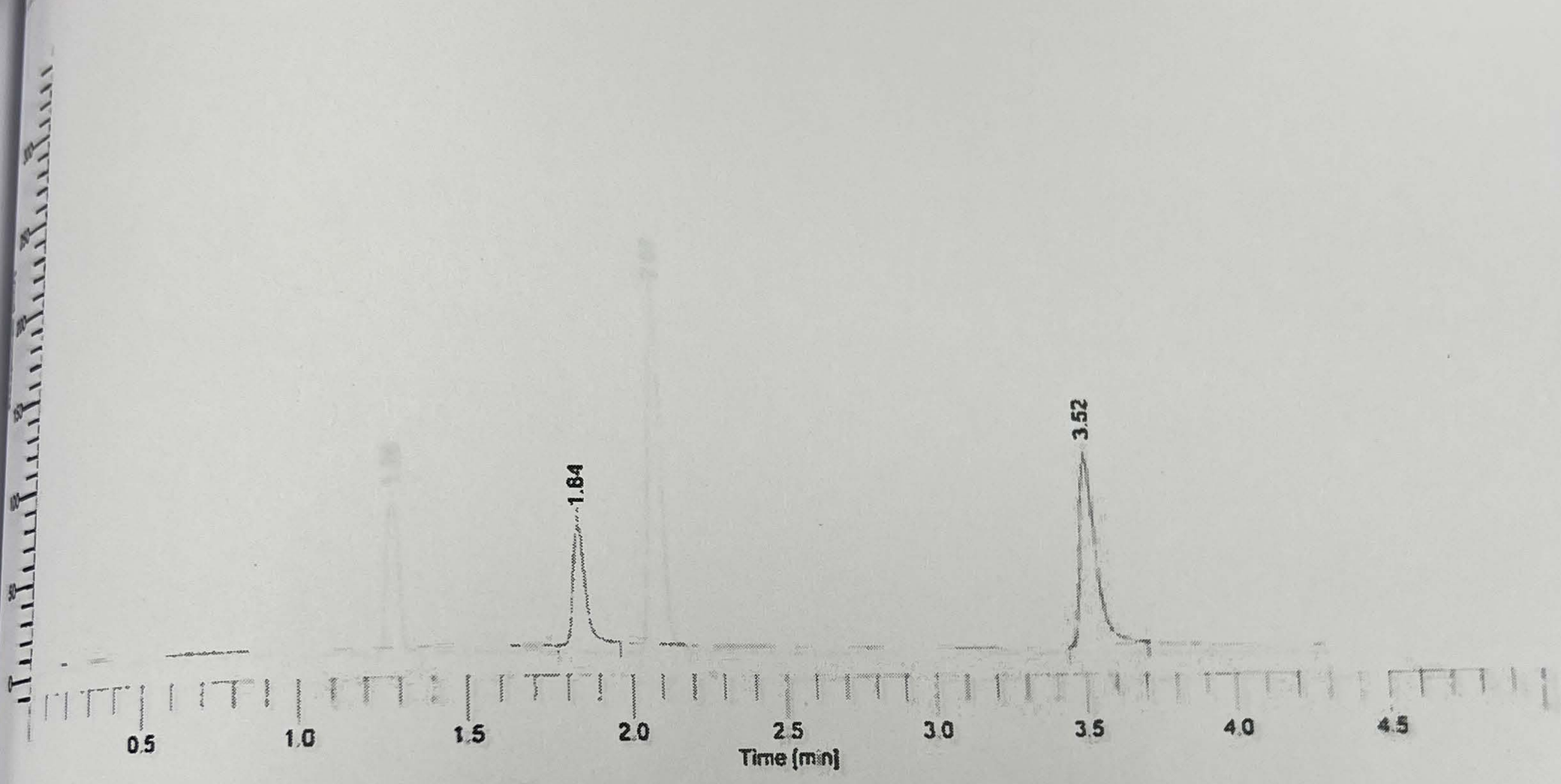
44 Com

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b; 47653
Method Name : GUTH 18360 #1446
Component Name : GCHeadspace2
ISTD Mul : 0/0
Sample Amount : 1.000000
ISTD : 21

Date : 12/11/2018 11:24:59 AM

Data Acquisition Time : 12/11/2018 11:20:34 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-021.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
1-PROPANOL	3.52

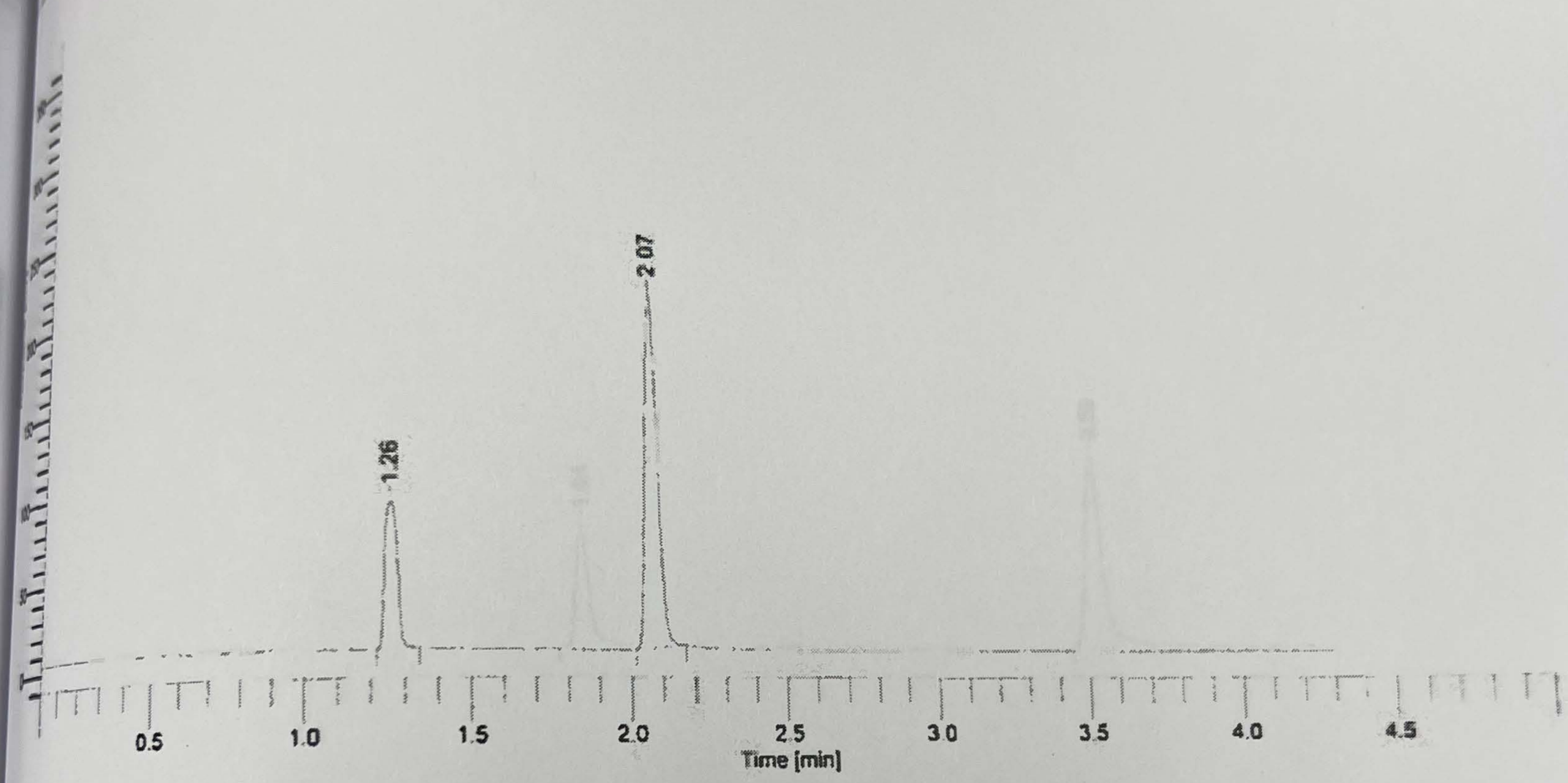
45 cm

Software Version : 6.3.2.0646
Accession Number : d-2ua3120y7b: 47654
Sample Name : GUTH 18360 #1447
Component Name : GCHeadspace2
Vial Nbr : 0/0
Sample Amount : 1.000000
ISTD : 22

Date : 12/11/2018 11:29:55 AM

Data Acquisition Time : 12/11/2018 11:25:31 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-022.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

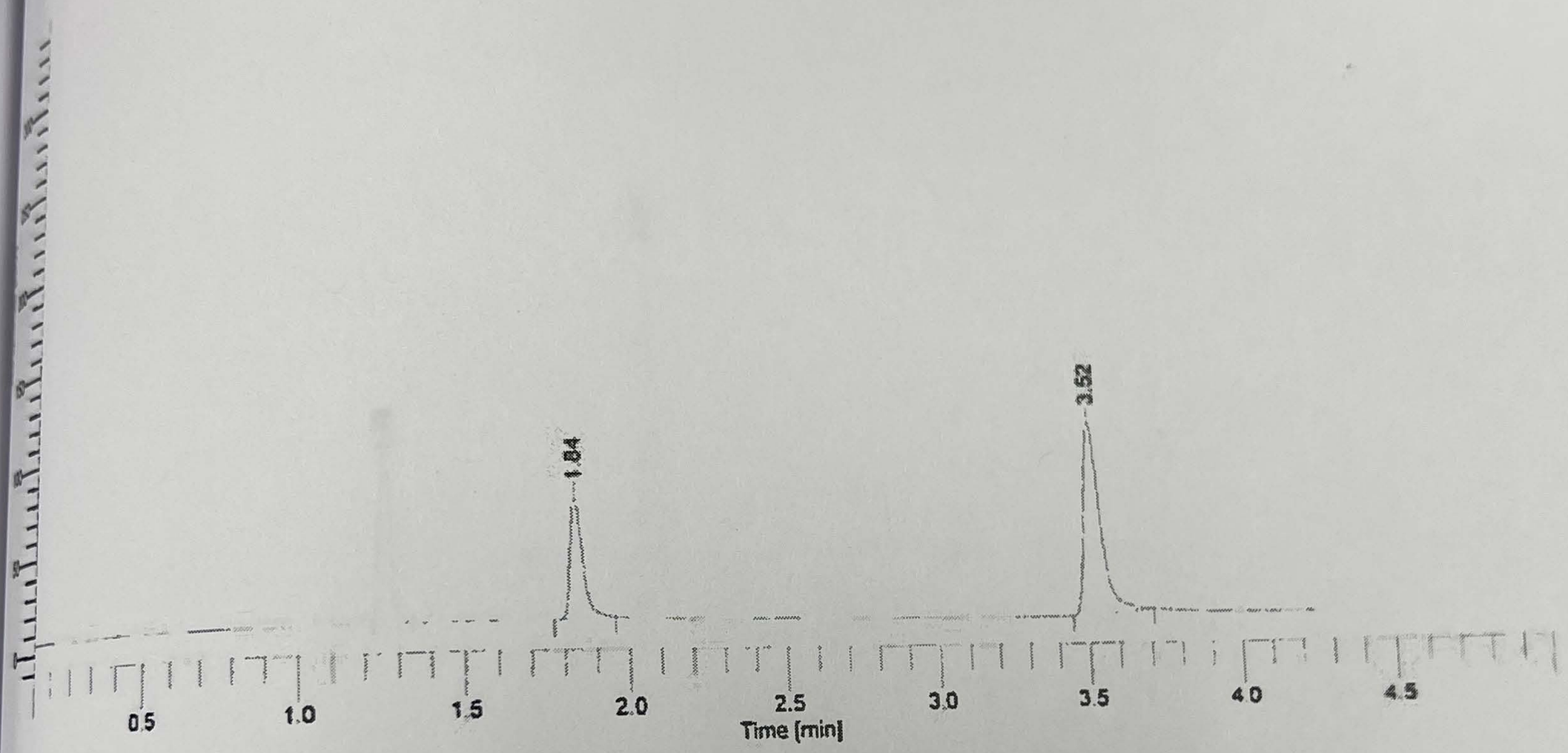
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1222	1.26	202016.6
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	531707.5

416 C

ware Version	: 6.3.2.0646	Date	: 12/11/2018 11:29:57 AM
rocess Number	: d-2ua3120y7b: 47655		
ple Name	: GUTH 18360 #1447	Data Acquisition Time	: 12/11/2018 11:25:31 AM
ment Name	: GCHeadspace2	Channel	: B
Vial	: 0/0	Operator	: manager
ple Amount	: 1.000000	Dilution Factor	: 1.000000
	: 22		

ta File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-022.rst
uence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

ESULTS FROM BAC2 COLUMN ON FID "B"

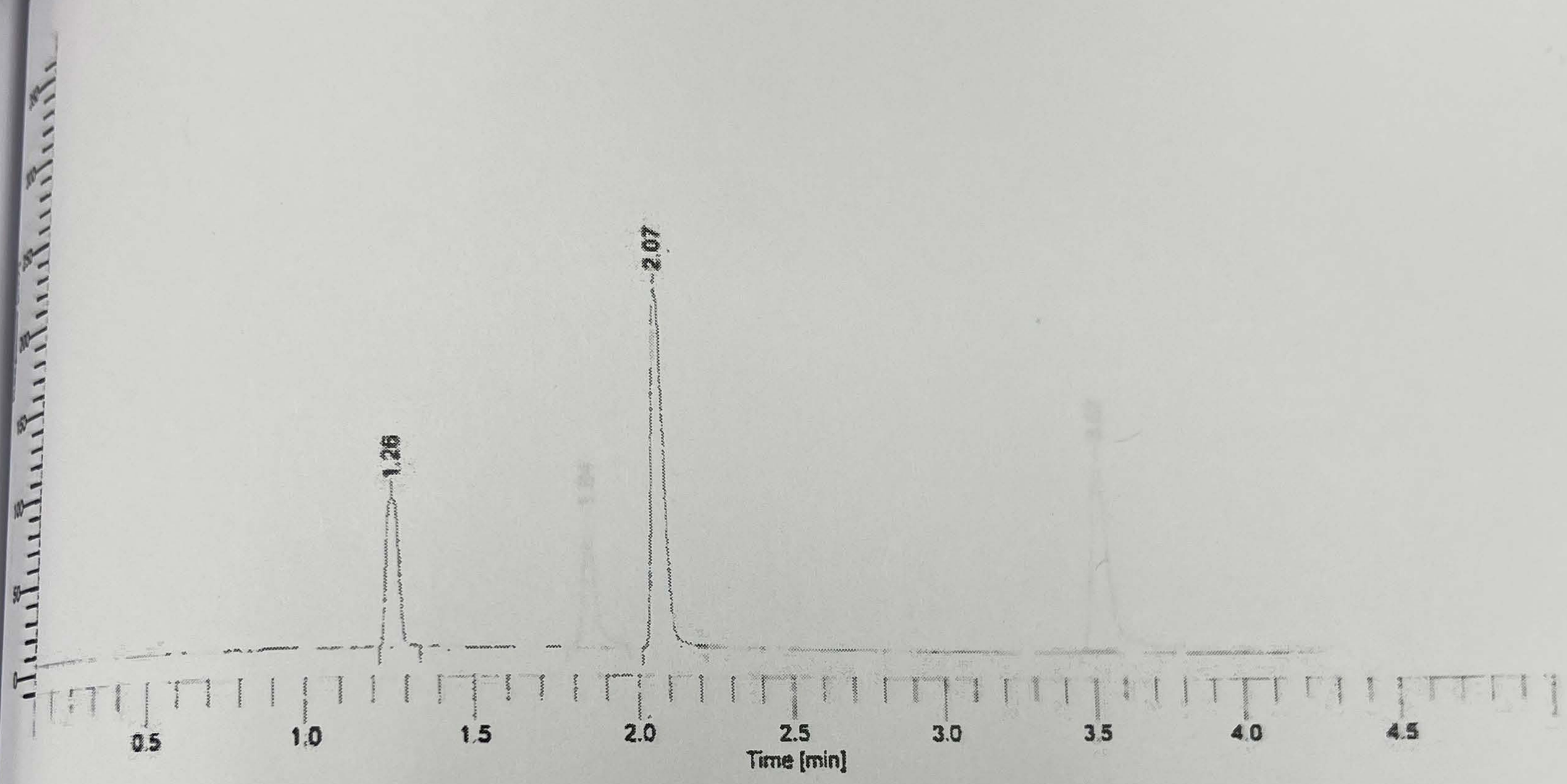
Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

47 cm

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b; 47656
Sample Name : GUTH 18360 #1447
Component Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
ISTD : 23

Date : 12/11/2018 11:34:55 AM
Data Acquisition Time : 12/11/2018 11:30:31 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-023.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1206	1.26	201921.8
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	538864.4

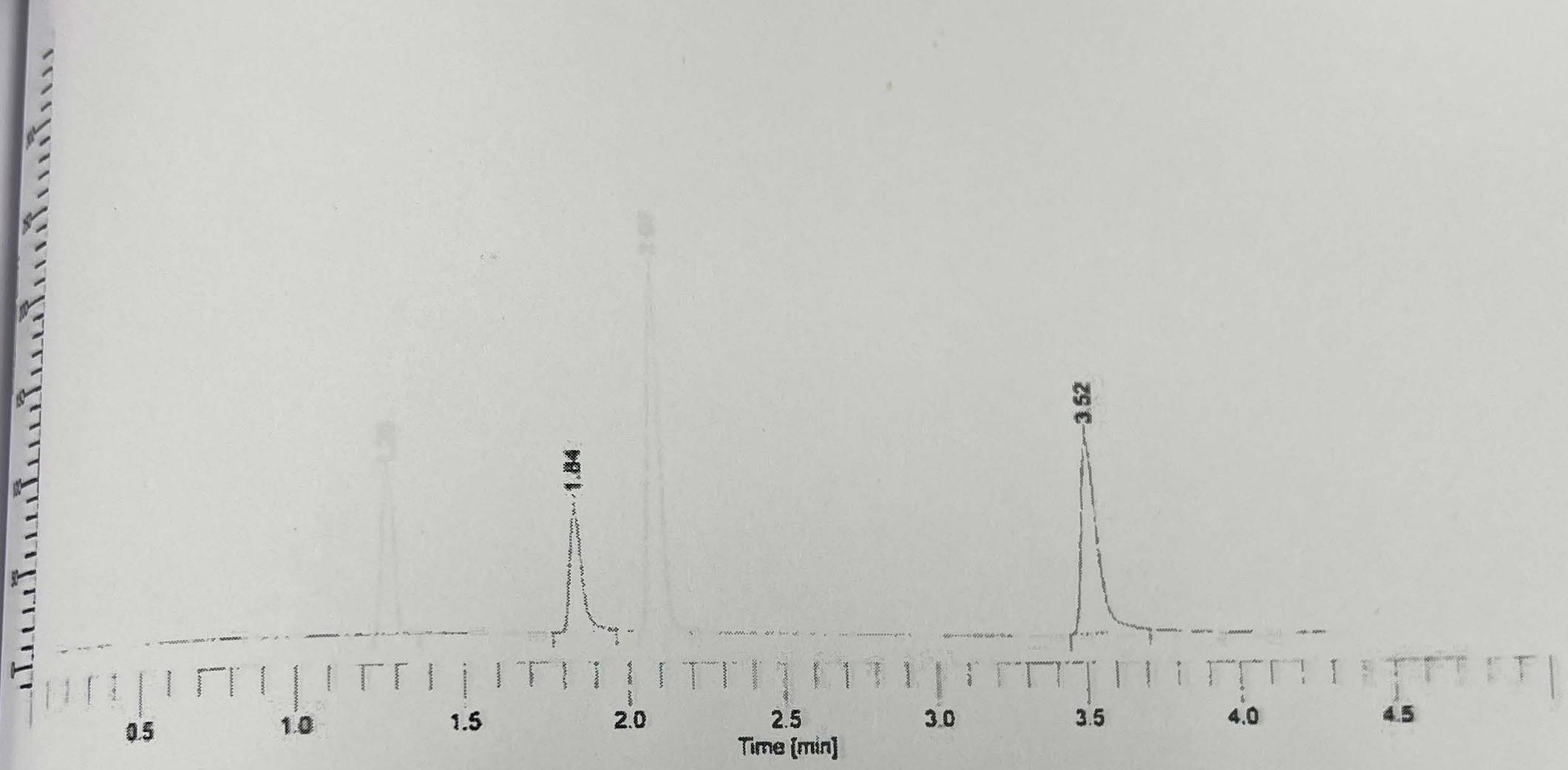
48

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47657
Sample Name : GUTH 18360 #1447
Component Name : GCHeadspace2
Vial : 0/0
Sample Amount : 1.000000
ISTD : 23

Date : 12/11/2018 11:34:57 AM

Data Acquisition Time : 12/11/2018 11:30:31 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-023.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SlmSoln.seq



BLOOD ALCOHOL REPORT NYSP

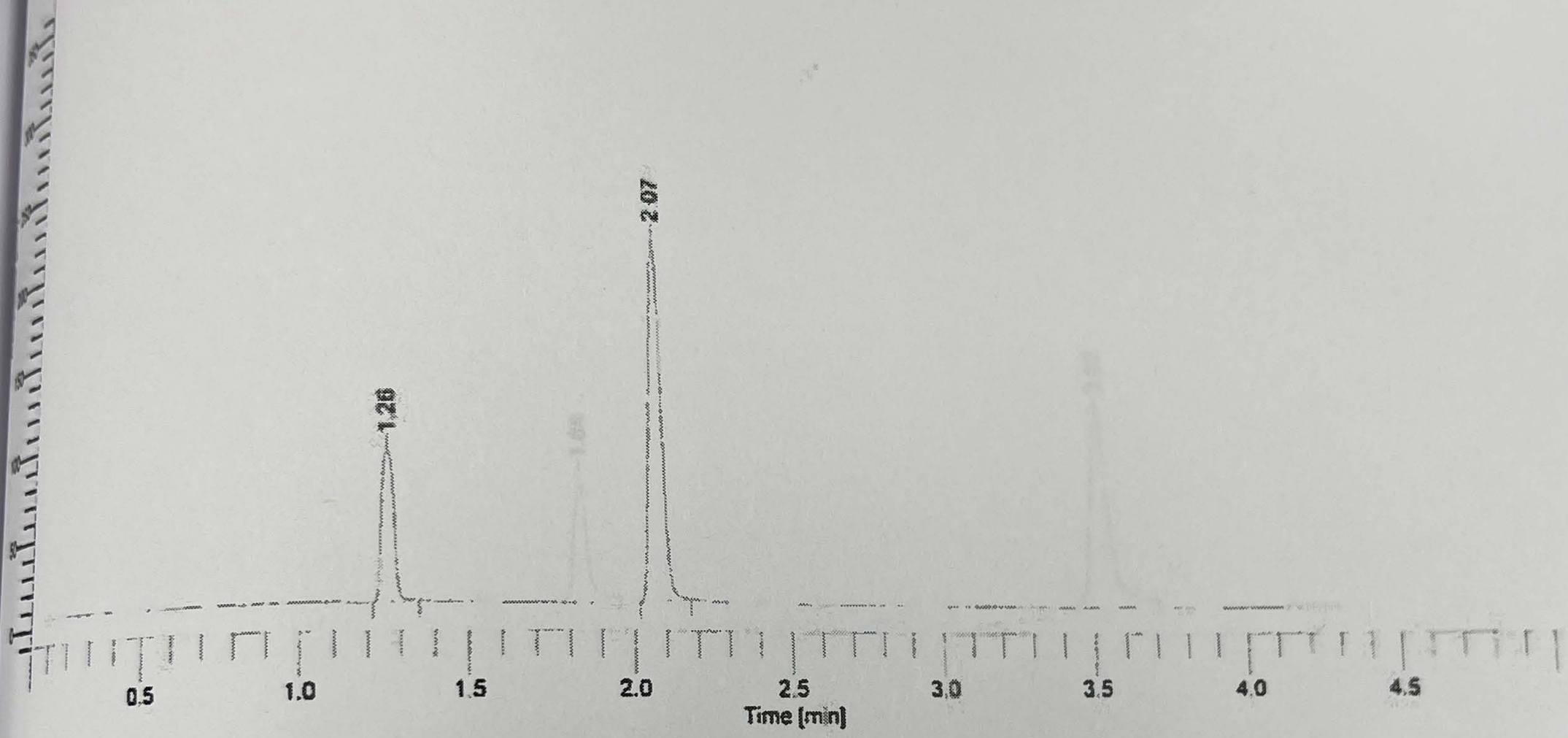
RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

49 Cm

Software Version	: 6.3.2.0646	Date	: 12/11/2018 11:39:55 AM
Process Number	: d-2ua3120y7b: 47658		
Group Name	: GUTH 18360 #1447	Data Acquisition Time	: 12/11/2018 11:35:31 AM
Component Name	: GCHeadspace2	Channel	: A
Vial	: 0/0	Operator	: manager
Sample Amount	: 1.000000	Dilution Factor	: 1.000000
File	: 24		

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-024.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

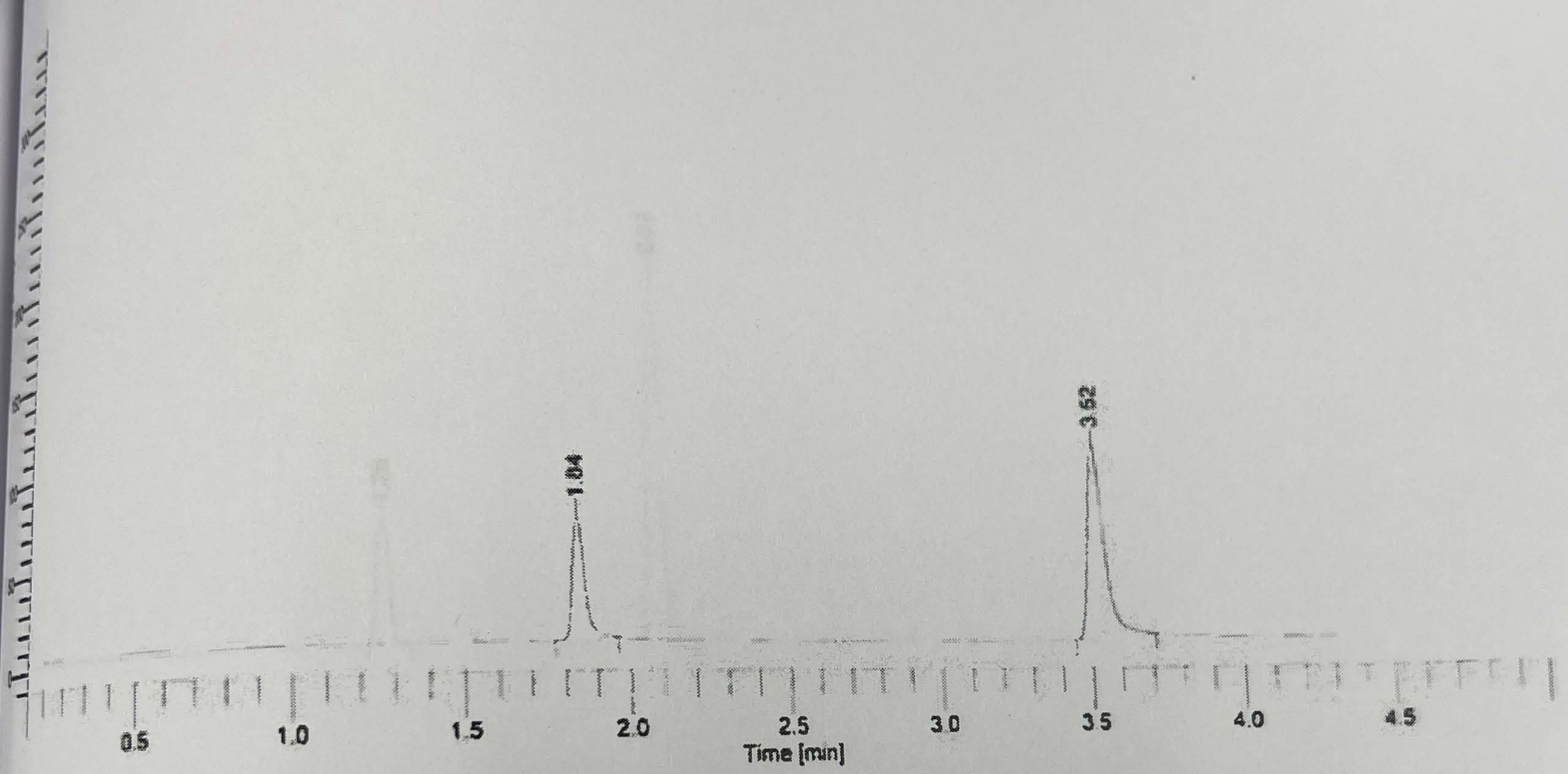
RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1226	1.26	203889.3
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	534999.0

50 Cm

ware Version	: 6.3.2.0646	Date	: 12/11/2018 11:39:57 AM
mpass Number	: d-2ua3120y7b: 47659		
mple Name	: GUTH 18360 #1447	Data Acquisition Time	: 12/11/2018 11:35:31 AM
trument Name	: GCHeadspace2	Channel	: B
Vial	: 0/0	Operator	: manager
mple Amount	: 1.000000	Dilution Factor	: 1.000000
	: 24		

ta File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-024.rst
thod File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

ESULTS FROM BAC2 COLUMN ON FID "B"

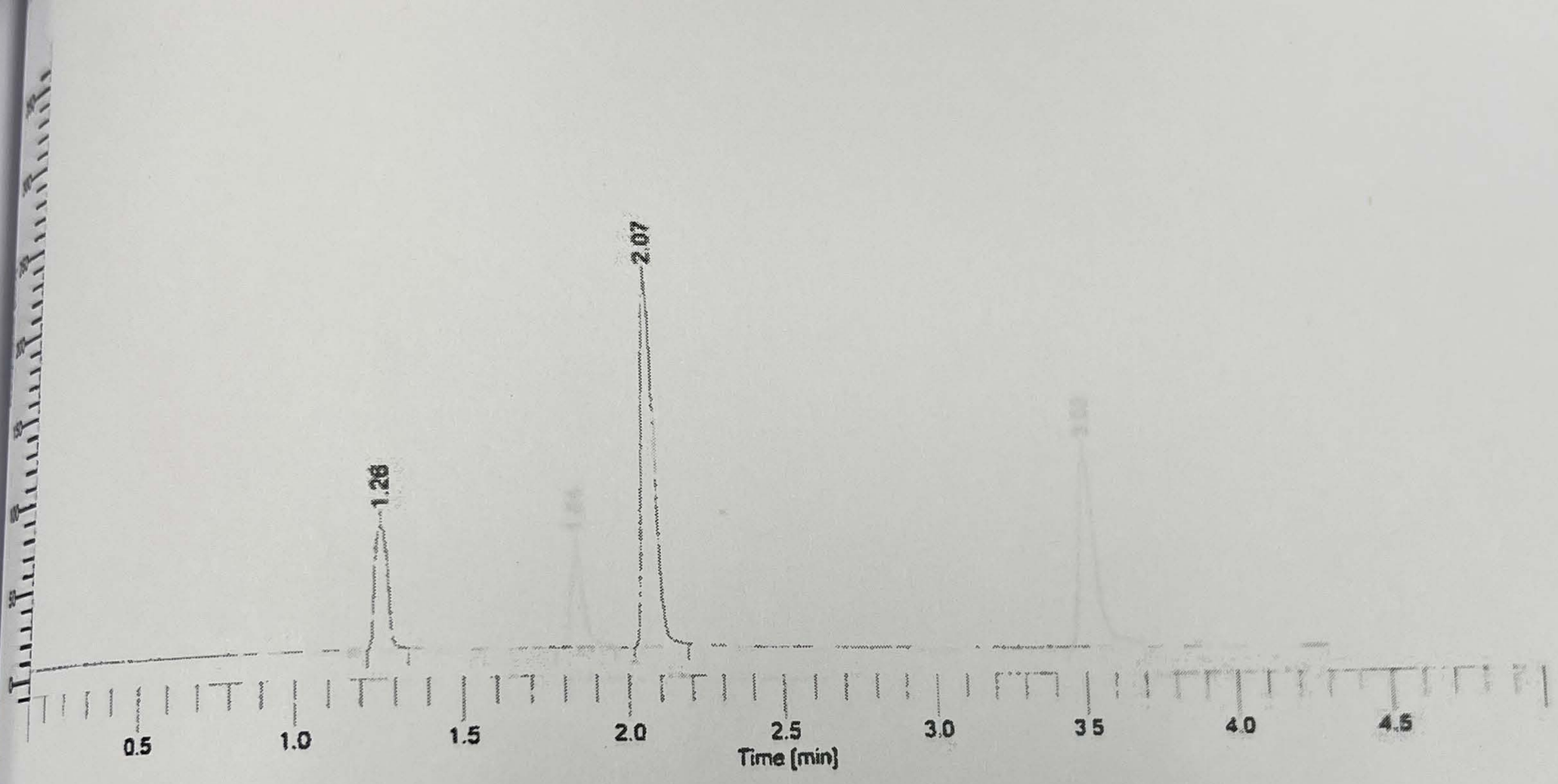
Component Name	Time [min]
THANOL	1.84
PROPANOL	3.52

51 Cm

Software Version	6.3.2.0646
Process Number	d-2ua3120y7b: 47660
Method Name	0.10% CONTROL
Component Name	GCHeadspace2
Vial	0/0
Sample Amount	1.000000
ID	25

Date	12/11/2018 11:44:55 AM
Data Acquisition Time	12/11/2018 11:40:31 AM
Channel	A
Operator	manager
Dilution Factor	1.000000

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Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.0989	1.26	166857.2
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	545842.6

ware Version	: 6.3.2.0646	Date	: 12/11/2018 11:44:57 AM
ocess Number	: d-2ua3120y7b: 47661		
ple Name	: 0.10% CONTROL	Data Acquisition Time	: 12/11/2018 11:40:31 AM
ument Name	: GCHeadspace2	Channel	: B
Vial	: 0/0	Operator	: manager
ple Amount	: 1.000000	Dilution Factor	: 1.000000
	: 25		

ta File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-025.rst
uence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

SULTS FROM BAC2 COLUMN ON FID "B"

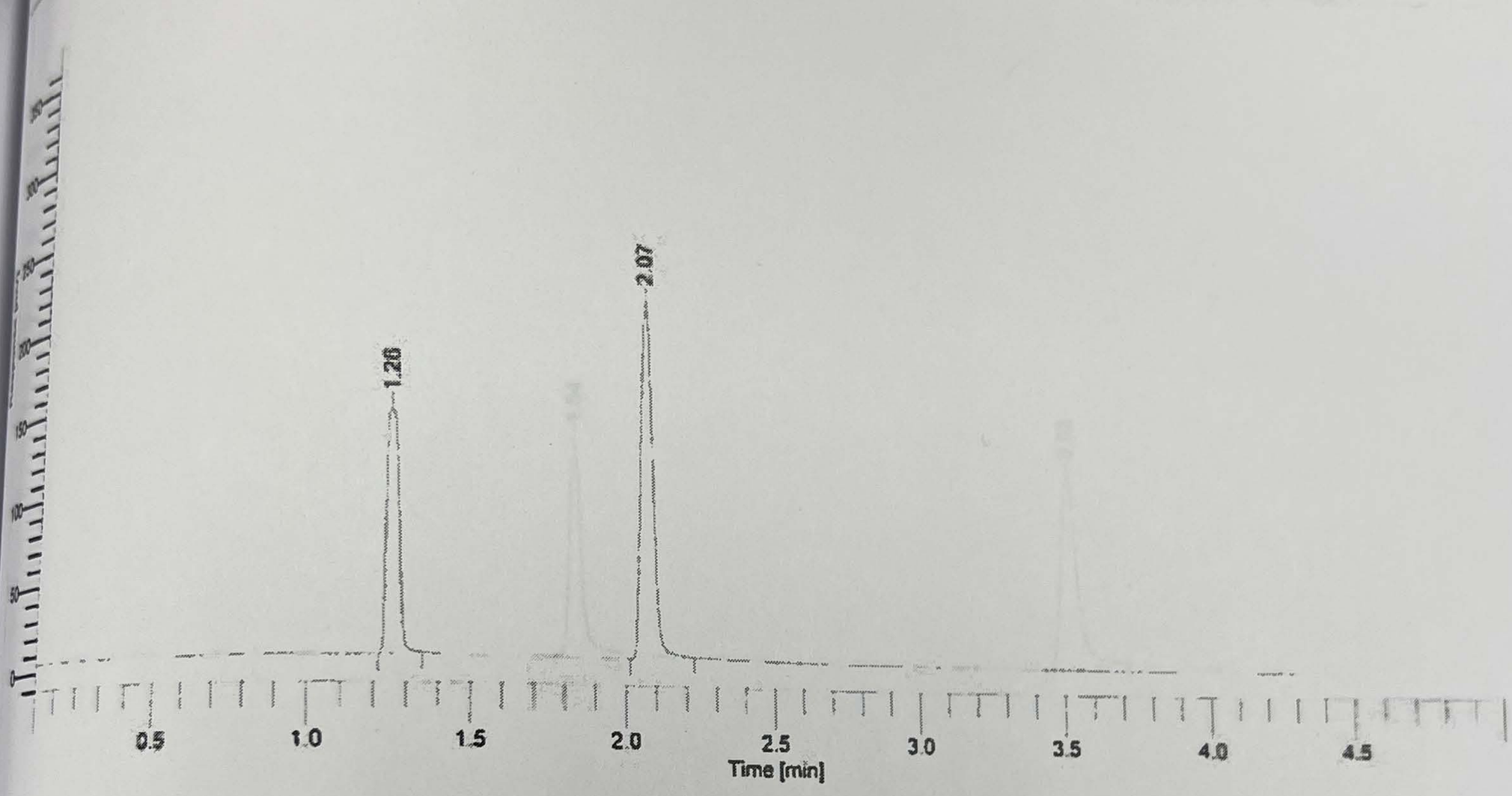
Component Name	Time [min]
HANOL	1.84
PROPANOL	3.52

Software Version : 6.3.2.0646
Process Number : d-2ua3120y7b: 47662
Sample Name : 0.20% CONTROL
Instrument Name : GCHeadspace2
Vial/Mal : 0/0
Sample Amount : 1.000000
Note : 26

Date : 12/11/2018 11:49:55 AM

Data Acquisition Time : 12/11/2018 11:45:31 AM
Channel : A
Operator : manager
Dilution Factor : 1.000000

Result File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-026.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

RESULTS FROM BAC1 COLUMN ON FID "A"

Component Name	% by Wt	Time [min]	Area [µV·s]
METHANOL	0.0000	0.99	0.0
ETHANOL	0.1984	1.26	345763.5
ISOPROPANOL	0.0000	1.53	0.0
ACETONE	0.0000	1.89	0.0
N-PROPANOL		2.07	555453.8

546

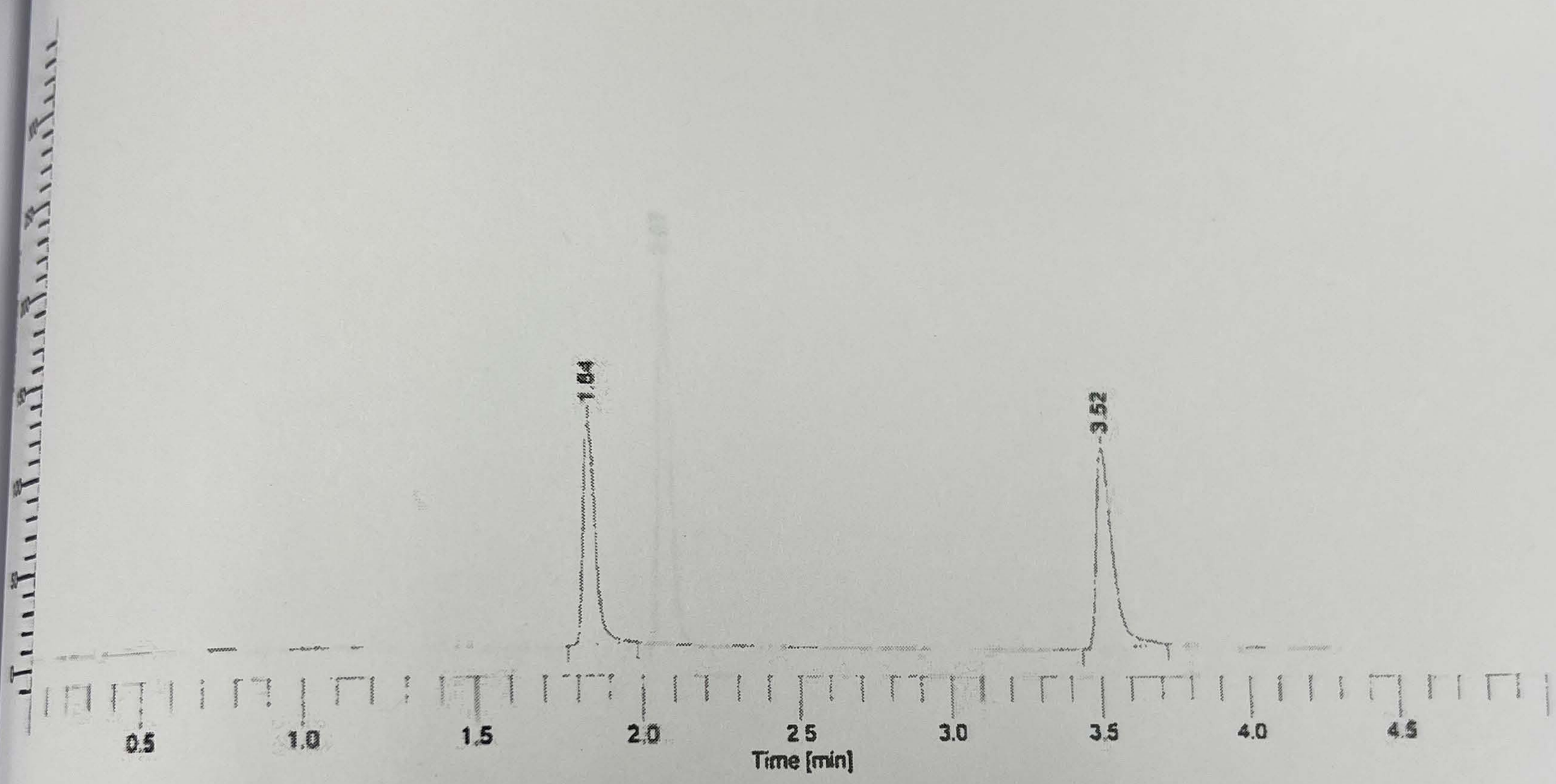
EXHIBIT 11

Software Version	: 6.3.2.0646
Process Number	: d-2ua3120y7b: 47663
Sample Name	: 0.20% CONTROL
Component Name	: GCHeadspace2
Vial	: 0/0
Sample Amount	: 1.000000
ID	: 26

Date : 12/11/2018 11:49:57 AM

Data Acquisition Time : 12/11/2018 11:45:31 AM
Channel : B
Operator : manager
Dilution Factor : 1.000000

Data File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-026.rst
Sequence File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

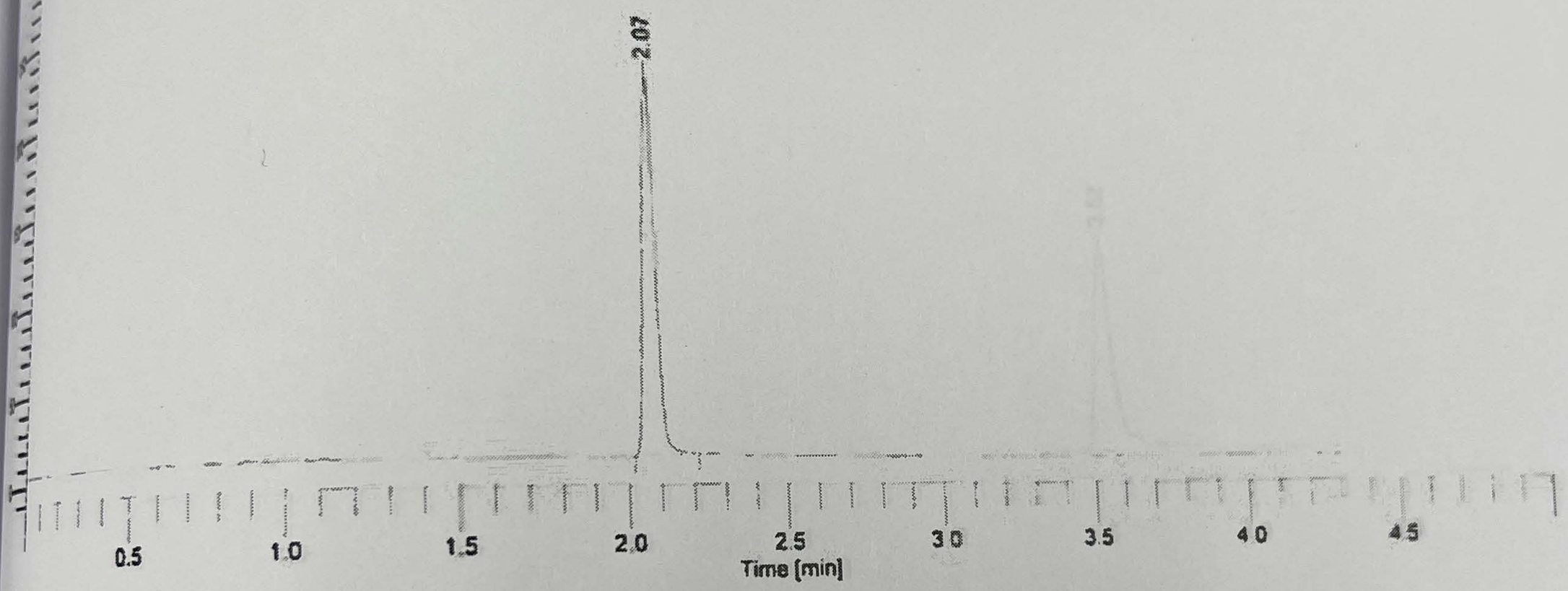
RESULTS FROM BAC2 COLUMN ON FID "B"

Component Name	Time [min]
ETHANOL	1.84
N-PROPANOL	3.52

55 Cm

...e Version	: 6.3.2.0646	Date	: 12/11/2018 11:54:55 AM
...ess Number	: d-2ua3120y7b: 47664		
...le Name	: NEG CONTROL	Data Acquisition Time	: 12/11/2018 11:50:31 AM
...thod Name	: GCHeadspace2	Channel	: A
...Vial	: 0/0	Operator	: manager
...ple Amount	: 1.000000	Dilution Factor	: 1.000000
...	: 27		

...l File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\A20181211-027.rst
...ce File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

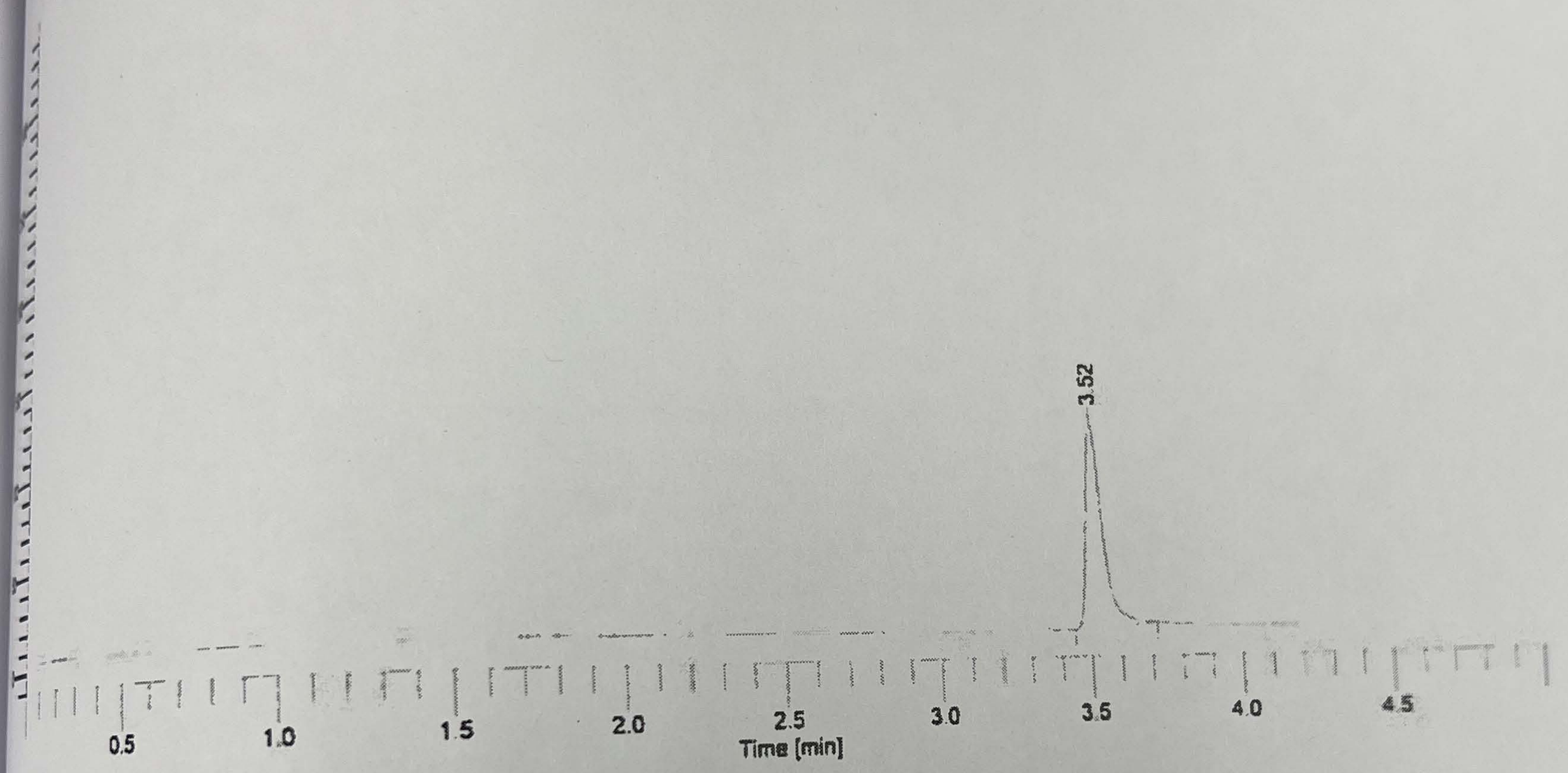
...SULTS FROM BAC1 COLUMN ON FID "A"

...Component Name	% by Wt	Time [min]	Area [µV·s]
...THANOL	0.0000	0.99	0.0
...HANOL	0.0000	1.26	0.0
...OPROPANOL	0.0000	1.53	0.0
...ETONE	0.0000	1.89	0.0
...ROPANOL	0.0000	2.07	560022.1

56

d Version	: 6.3.2.0646	Date	: 12/11/2018 11:54:56 AM
ess Number	: d-2ua3120y7b: 47665		
d Name	: NEG CONTROL	Data Acquisition Time	: 12/11/2018 11:50:31 AM
ple Name	: GCHeadspace2	Channel	: B
	: 0/0	Operator	: manager
n Amount	: 1.000000	Dilution Factor	: 1.000000
	: 27		

File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Data\B20181211-027.rst
ce File : C:\PenExe1\TcWS\Ver6.3.2\GCHeadspace2\Sequences\SimSoln.seq



BLOOD ALCOHOL REPORT NYSP

LTS FROM BAC2 COLUMN ON FID "B"

mponent Name	Time [min]
ROPANOL	3.52

5962

EXHIBIT “E”

STATE OF NEW YORK. _____ COURT
COUNTY OF _____: CRIMINAL TERM. PART __

PEOPLE OF THE STATE OF NEW YORK.

-against-

_____. Defendant.

Case No. _____

Order to Counsel in Criminal Cases

_____. J.

The court, pursuant to an Administrative Order of the Chief Administrative Judge and at the recommendation of the New York State Justice Task Force and in furtherance of the fair administration of justice, issues this order as both a reminder and a directive that counsel uphold their constitutional, statutory and ethical responsibilities in the above-captioned proceedings.

To the Prosecutor:

The District Attorney and the Assistant responsible for the case, or, if the matter is not being prosecuted by the District Attorney, the prosecuting agency and its assigned representative, is directed to make timely disclosures of information favorable to the defense as required by *Brady v Maryland*, 373 US 83 (1963), *Giglio v United States*, 405 US 150 (1972), *People v Geaslen*, 54 NY2d 510 (1981), and their progeny under the United States and New York State constitutions, and pr Rule 3.8(b) of the New York State Rules of Professional Conduct, as described hereafter.

- The District Attorney and the Assistant responsible for the case have a duty to learn of such favorable information that is known to others acting on the government's behalf in the case, including the police, and should therefore confer with investigative and prosecutorial personnel who acted in this case and review their and their agencies' files directly related to the prosecution or investigation of this case.

- Favorable information could include, but is not limited to:

  a) information that impeaches the credibility of a testifying prosecution witness, including (i) benefits, promises, or inducements, express or tacit, made to a witness by a law enforcement official or law enforcement victim services agency in connection with giving testimony or cooperating in the case; (ii) a witness's prior inconsistent statements, written or oral; (iii) a witness's prior convictions and uncharged criminal conduct; (iv) information that tends to show that a witness has a motive to lie to inculpate the defendant, or a bias against the defendant or in favor of the complainant or the prosecution; and (v) information that tends to show impairment of a witness's ability to perceive, recall, or recount relevant events, including impairment resulting from mental or physical illness or substance abuse;

  b) information that tends to exculpate, reduce the degree of an offense, or support a potential defense to a charged offense.

c) information that tends to mitigate the degree of the defendant's culpability as to a charged offense, or to mitigate punishment.

d) information that tends to undermine evidence of the defendant's identity as a perpetrator of a charged crime, such as a non-identification of the defendant by a witness to a charged crime or an identification or other evidence implicating another person in a manner that tends to cast doubt on the defendant's guilt.

e) information that could affect in the defendant's favor the ultimate decision on a suppression motion.

• favorable information shall be disclosed whether or not it is recorded in tangible form, and irrespective of whether the prosecutor credits the information.

• favorable information must be timely disclosed in accordance with the United States and New York State constitutional standards, as well as CPL article 240. Disclosures are presumptively "timely" if they are completed no later than 30 days before commencement of trial in a felony case and 15 days before commencement of trial in a misdemeanor case. Records of a judgment of conviction or a pending criminal action ordinarily are discoverable within the time frame provided in CPL 240.44 or 240.45(1). Disclosures that pertain to a suppression hearing are presumptively "timely" if they are made no later than 15 days before the scheduled hearing date. The prosecutor is reminded that the obligation to disclose is a continuing one. Prosecutors should strive to determine if favorable information exists. Nothing herein shall be understood to diminish a prosecutor's obligation to disclose exculpatory information as soon as reasonably possible.

• A protective order may be issued for good cause, and CPL 240.50 shall be deemed to apply, with respect to disclosures required under this order. The prosecutor may request a ruling from the court on the need for disclosure.

• Only willful and deliberate conduct will constitute a violation of this order or be eligible to result in personal sanctions against a prosecutor.

To Defense Counsel:

Defense counsel, having filed a notice of appearance in the above captioned case, is obligated under both the New York State and the United States Constitution to provide effective representation of defendant. Although the following list is not meant to be exhaustive, counsel shall remain cognizant of the obligation to:

a) Confer with the client about the case and keep the client informed about all significant developments in the case;

b) Timely communicate to the client any and all guilty plea offers, and provide reasonable advice about the advantages and disadvantages of such guilty plea offers and about the potential sentencing ranges that would apply in the case;

c) When applicable based upon the client's immigration status, ensure that the client receives competent advice regarding the immigration consequences in the case as required under *Padilla v. Kentucky*, 559 U.S. 356 (2010);

d) Perform a reasonable investigation of both the facts and the law pertinent to the case including as applicable, e.g., visiting the scene, interviewing witnesses, subpoenaing pertinent materials, consulting experts, inspecting exhibits, reviewing all discovery materials obtained from the prosecution, researching legal issues, etc.), or, if appropriate, make a reasonable professional judgment not to investigate a particular matter;

e) Comply with the requirements of the New York State Rules of Professional Conduct regarding conflicts of interest, and when appropriate, timely notify the court of a possible conflict so that an inquiry may be undertaken or a ruling made;

f) Possess or acquire a reasonable knowledge and familiarity with criminal procedural and evidentiary law to ensure constitutionally effective representation in the case; and

g) When the statutory requirements necessary to trigger notice from the defense are met (e.g., a demand, intent to introduce the evidence, etc.), comply with the statutory notice obligations for the defense as specified in CPL 250.10, 250.20, and 250.30.

So ordered.

_____

Judge or Justice

Dated:

EXHIBIT 7

EXHIBIT 8

EXHIBIT 9

CITY COURT OF THE CITY OF NEW ROCHELLE
STATE OF NEW YORK: COUNTY OF WESTCHESTER

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

GUSTAVO VILLAMARES SERRANO,
Defendant.

Docket No.: CR 5662-21

REPLY AFFIRMATION

DENNIS W. LIGHT, ESQ., an attorney duly admitted and licensed to practice law before the courts of the State of New York hereby affirms, pursuant to CPLR §2106, and states, upon the penalty for perjury, as follows:

1. That I am a member of Raneri, Light & O'Dell, PLLC, the attorneys of record for the above-named Defendant;

2. That I am fully familiar with the hereinafter facts and circumstances by reason of a file maintained in my office;

3. That the statements that hereinafter follow are made upon personal knowledge unless alleged to be made on information and belief and as to those statements I believe them to be true;

4. That this affirmation is respectfully submitted in reply to the People's answering papers and in further support of the Defendant's instant application for an Order striking the People's Certificate of Compliance dated January 4, 2022, pursuant to Criminal Procedure Law §§ 30.30(5) and 245.50(4), on the grounds it is improper, illusory and, therefore, invalid based on People's non-compliance with their automatic discovery obligations pursuant to CPL § 245.20(1) and the 35-day time restrictions set forth in CPL § 245.10(1)(a)(ii), as amended.

Prosecution's Continuning Non-Compliance with Automatic Discovery

5. The Court is respectfully informed that the defense will begin responding to the People's opposition to the instant application by first addressing the opening argument under Point III that avers, in essence, "PO Nerney's valid and current certification certificate as required by CPL § 245.20(1)(s) … was served on defense on November 30, 2021 and labeled 'Nerney BAO.pdf' (see attached Exhibit)." See, People's Memorandum of Law by ADA Brittany J. Burk dated Feb. 15, 2022, Point III, p.22, par.1).

EXHIBIT 8

EXHIBIT 9

6. The People, however, did not attach such an exhibit to their answering papers as stated above but Defendant submits the prosecution's "NerneyBAO.pdf" document herewith as Exhibit "A" for the Court's information and review.

7. The NerneyBAO.pdf is copy of a DCJS Municipal Police Training Council certificate of completion for a breath test operator course conducted at the Westchester County Police Academy (see, Ex. "A").

8. The automatic discovery required by CPL § 245.20(1)(s), in part, orders the People, pursuant to CPL § 245.20(5), to disclose and produce "the certification certificate, if any, held by the operator of the machine or instrument," which document refers, not to a breath test operator course, rather for the disclosure and production of a New York State Department of Heath Breath Analysis Operator Permit that certifies its holder is state certified in operation of breath alcohol instrumentation.

9. The Defendant respectfully submits a redacted example of the aforesaid BAO Permit from an unrelated criminal case, which is the certification certificate required by CPL § 245.20(s) issued to a qualified breath analysis operator pursuant to 10 NYCRR 59.7 in this state (see, Exhibit "B").

10. It is respectfully submitted that the People's proffer of the aforementioned breath test operator course certificate is analogous to an individual holding a *juris doctor* diploma and touting it as evidence he or she is state certified to appear and represent clients in court.

11. A law school educated individual is no more authorized and permitted to represent clients in court unless and until they pass a bar exam and are licensed by the state, which is a circumstance similar to the issue herein.

12. A law enforcement officer is not be authorized and permitted to collect evidentiary breath–alcohol samples from subjects for use in a criminal proceeding unless and until they are licensed by the state's Department of Health, which is verification such person has been properly educated and trained in the operation of breath alcohol instrumentation.

13. By reason of the foregoing, the People remain non-compliant, in part, with CPL § 245.20(1)(s) as it relates to disclosure and production of the certification certificate, if any, held by the operator of the breath analysis machine or instrument herein.

14. Additionally, CPL § 245.20(1)(s), in part, orders the People, pursuant to CPL § 245.20(5), to disclose and produce "[i]n any prosecution alleging a violation of the vehicle and

traffic law, ... , all records of calibration, certification, inspection, repair or maintenance of machines and instruments utilized to perform any scientific tests and experiments, including but not limited to any test of a person's breath, blood, urine or saliva, for the period of six months prior and six months after such test was conducted, ***including the records of gas chromatography related to the certification of all reference standards*** ... (***our emphasis added***)."

15. Here, the prosecution avers its compliance with the aforesaid gas chromatography disclosure requirement by stating "these records were also provided to defendant on November 30, 2021 labeled 'SimSoln21170.pdf' (see Exhibit)." See, Burk Memo of Law, Point III, p.22, par.2).

16. The People, however, did not attach such an exhibit to their answering papers as stated above but Defendant submits the prosecution's "SimSoln21170.pdf" document herewith as Exhibit "C" for the Court's information and review.

17. A review of the prosecution's "SimSoln21170.pdf" document reveals it to be a business record, certified pursuant to CPLR § 4518, that Simulator Solution Lot Number 21170 was tested using headspace gas chromatography and been determined to contain the appropriate concentration of ethyl alcohol (see, Ex. "C").

18. The Defendant respectfully submits that the aforementioned document is a conclusion unsupported by disclosure and production of the court-ordered records of gas chromatography.

19. Pursuant to CPL § 245.20(1)(s), the People, in part, are ordered, pursuant to CPL § 245.20(5), to disclose and produce "all ... records of gas chromatography related to the certification of all reference standards," not just the certified business record attached hereto which constitutes nothing more than a conclusion (see, Ex. "C").

20. By example, the Defendant respectfully submits an example of gas chromatography records disclosed and produced by the People in an unrelated criminal case, which evidences the People's ability to access, disclose and produce such records for compliance with CPL § 245.20(s) (see, Exhibit "D").

21. The Defendant respectfully submits, that by reason of the foregoing, the People remain non-compliant, in part, with CPL § 245.20(1)(s) as it relates to disclosure and production

of records of gas chromatography related to certification of all reference standards, namely: Simulator Solution Lot Number 21170.

22. The balance of this affirmation shall respond to the People's remaining argument against the Court granting the relief sought herein as it relates to the prosecution's alleged non-compliance with CPL § 245.20(1)(k).

23. It is the People's position that their "ongoing efforts to fulfill their discovery obligations shows that they exercised due diligence and filed a certificate of compliance in good faith that was reasonable under the circumstances (see, Burk Memo of Law, Point IV, p.26, par.2)."

24. The People apparently are claiming that "due diligence and reasonable under the circumstances" is defined as substantial compliance with CPL Article 245 qualifies for good faith efforts without the need to seek extensions of time or protective orders.

25. When discoverable materials are, despite diligent, good faith efforts, not in the actual possession of the prosecution, the relevant time period for disclosure and production may be extended pursuant to CPL § 245.10(1)(a)(iv)(B) by motion as provided in CPL § 245.70(2).

26. Moreover, the People are not without a remedy when it is claimed certain items and materials are not discoverable although requested by the Defendant.

27. CPL § 245.70(1) provides that, "[u]pon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be denied, restricted, conditioned or deferred, or make such other order as is appropriate."

28. The People, in either situation, have not sought intervention from the Court to extend their time for compliance with automatic discovery, nor a protective order to deny, restrict, condition or defer the materials or information sought by Defendant.

29. Therefore, the People's position that substantial compliance with court-ordered automatic discovery constitutes due diligence and reasonable under the circumstances is misguided and not in unison with developing case law.

30. The Court is respectfully informed that, "upon a challenge to a certificate of compliance, the People must articulate their efforts to comply with CPL § 245.20(1) with respect to the statutory subsections or specific items of discovery at issue. If the People establish that they exercised due diligence and acted in good faith in filing their certificate, their certificate of

compliance shall be deems valid. This [due diligence standard] may be accomplished by recounting the steps they took to obtain certain materials or ascertain the existence thereof, explaining the reasons why particular items are outstanding, lost or destroyed, and submitting their good-faith arguments for why certain materials are not discoverable under the statute." People v. Georgiopoulos, 2021 NY MiscLEXIS 2122, 8-9, 2021 NY SlipOp 50380(U), 3 (Sup. Ct., Queens Co., Apr. 29, 2021); see also, People v. Salters, 2021 NY MiscLEXIS 4498, 2021 NY SlipOp 50800(U)(Dist. Ct., 1st Dist., Nassau Co., Aug. 20, 2021), People v. Knorr, 73 Misc3d 285, 152 NYS3d 556 (Justice Ct., Monroe Co., Aug. 16, 2021).

31. Here, in the context of "good faith" disclosure and production of impeachment information and materials for law enforcement officers, the People claim statutory compliance with their automatic discovery obligations under CPL § 245.20(1)(k)(iv) insofar as they relied on the information self-reported by Police Officers Marco and Baker, Police Officer Hearle's impeachment information was not previously available prior to filing of their certificate of compliance, and Police Officer Nerney updated his 1k form on February 9, 2022, but refused to answer question number 6 thereon (see, Burk Memo of Law, Point II, p.8, par.1).

32. The People further claim that impeachment information is not in their possession or control, and their efforts to obtain same include sending a Discovery Demand Letter to the department on commencement of the case, requesting updated 1(k) forms twice from Police Officer Nerney via email (see, Burk Memo of Law, Point II, p.8, par.1).

33. The Court is respectfully informed that, contrary to the People's instant assertion that law enforcement impeachment information is not in their possession and control, CPL § 245.20(2) expressly states that "all information related to the prosecution of a charge in the possession of any New York state or local police or law enforcement shall be deemed to be in the possession of the prosecution," which is dovetailed by CPL § 245.55(1) that dictates the "District Attorney and the assistant responsible for the case … shall endeavor to ensure that a flow of information is maintained between the police and other investigative personnel and his or her office sufficient to place within his or her possession or control all material and information pertinent to the defendant and the offense or offenses charged" and, "[a]s a result, it is never sufficient for the People to affirm that [a potential police officer impeachment] item is not in their physical possession to defeat a certificate of compliance challenge." Georgiopoulos at 14-15, 2021 NY SlipOp at 5.

34. The Court is respectfully informed there is now Appellate authority holding that CPL § 245.20(1)(k) broadly requires disclosure of all impeachment evidence in criminal proceedings. See, Matter of Jayson C., 2021 NY AppDiv LEXIS 6865, 2021 NY SlipOp 06794 (1st Dept., Dec. 7, 2021).

35. It has also been recently held in a recent Article 78 proceeding that, in order to comply with CPL § 245.20(1)(k)(iv) – and while it is not up to a District Attorney to decide if a particular item may be admissible or may impeach a witness – all law enforcement personnel and employment records and substantiated or unsubstantiated complaints must be provided to the defense. See, Hudson Police Local 3979 v. Bower, 2021 NY MiscLEXIS 5997, 2021 NY SlipOp 21318 (Sup. Ct., Columbia Co., Nov. 24, 2021).

36. As previously indicated, *supra*, "CPL § 245.55(1) specifically obligates the People to ensure that a flow of information exists for 'any evidence or information discoverable under [CPL § 245.20(1)(k)]'." People v. Surgick, 2021 NY MiscLEXIS 5393, 7, 2021 NY SlipOp 51007(U), 3 (City Ct., Albany Co., (Oct. 15, 2021).

37. The aforesaid statute further provides "that each law enforcement agency 'shall make available to the prosecution a complete copy of its complete records and files related to the investigation of the case or the prosecution of the defendant for compliance with this article .' CPL § 245.55(2)." Id. at 7-8, 2021 NY SlipOp at 3.

38. "Moreover, a law enforcement agency's personnel files, like all items and information related to the prosecution of a charge, are statutorily 'deemed to be in the possession of the prosecution.' CPL § 245.20(2)." Id.

39. "The plain language of this presumption along with the People's statutory obligations demonstrate, unequivocally, the legislative's intent: **the People's due diligence and reasonable inquiries burden is exceptionally high to obtain, review, and disclose impeachment material concerning their law enforcement witnesses."** Id. **(our emphasis added).**

40. The Court is respectfully reminded that CPL Article 245 dramatically increased a criminal defendant's right to meaningful discovery of impeachment materials excluding only exonerated or unfounded complaints. See, People v. Montgomery, 2022 NY MiscLEXIS 73, 2022 NY SlipOp 22009 (Sup. Ct., NY County, Jan. 12, 2022); see also, People v. Barralaga, 73 Misc3d 510, 515-6, 153 NYS3d 808, 813 (Crim. Ct., NY County, Sept. 10, 2021).

41. When the Legislature greatly reduced the confidentiality of law enforcement records by repealing Civil Rights Law § 50-a, "all information and evidence that 'tends to impeach the credibility of a testifying witness' must be disclosed to the defense (CPL § 245.20(1)(k)." Barralaga at 515, 153 NYS3d at 813.

42. The prosecution's statutory disclosure obligation under CPL § 245.20(1)(k), therefore, requires more than providing a 1k self-reporting questionnaire completed by testifying officers. See, Id., see also, People v. Kelly, 71 Misc3d 1202(A), 142 NYS3d 788 (Crim. Ct., NY County, Mar. 19, 2021) (the use of impeachment materials ultimately falls soundly in the trial court's discretion, however, the People must provide defense with all underlying materials for substantiated and unsubstantiated cases against officers); People v. Cooper, 2021 NY MiscLEXIS 678, 2021 NY SlipOp 21039 (County Ct., Erie Co., Feb. 23, 2021) (summaries of records will not suffice, the entire record, subject to statutorily approved redactions, must be provided to the defendant); Surgick, *supra*, at 11, 2021 NY SlipOp at 4 (1k questionnaires are insufficient).

43. Moreover, the prosecution's use of a self-reporting law enforcement 1k questionnaire form is, likewise, an insufficient disclosure procedure and not a good faith, diligent and reasonable inquiry into the existence of impeachment materials insofar as the People, pursuant to 22 NYCRR § 200.27, are under court order that confirms their disclosure obligations pursuant to Brady v. Maryland, 373 US 83 (1963), Giglio v. United States, 405 US ISO (1972), People v Geaslen, 54 NY2d 510 (1981), and their progeny, where the Administrative Judge's Model Order created in 2017 directs the prosecution should review, not only their internal files, but the files of law enforcement directly related to the prosecution or investigation of this case (see, Exhibit "E")

44. By reason of the People's foregoing collective disclosure deficiencies, the Defendant respectfully submits that the People have not satisfied their disclosure obligations pursuant to CPL § 245.20(1)(k)(iv) and, therefore, the People have not filed a valid and proper certificate of compliance as required by CPL § 245.50(1). See, CPL § 245.50(3).

45. "The [certificate of compliance] serves only one practical purpose: It is a necessary prerequisite to a valid statement of readiness under CPL § 30.30[, and, u]nless the court makes 'an individualized finding of special circumstances' the People 'shall not be deemed ready for trial until they have filed a proper certificate of compliance pursuant to' CPL §

245.50(1)." People v. Barnett, 68 Misc3d 1000, 1001, 129 NYS3d 293, 294 (Sup. Ct., NY County, July 20, 2020); see also, People v. Napolitano, 2020 NY MiscLEXIS 3182, 2020 NY SlipOp 50802(U) (Sup. Ct., NY County, June 11, 2020); People v. Benitez, 73 Misc3d 804, 155 NYS3d 751 (Sup. Ct., NY county, Oct. 28, 2021).

CONCLUSION

46. It is respectfully submitted that, by reason of all the foregoing facts, law and undisclosed automatic discovery information and materials, the People are non-compliant with their initial disclosure obligations as mandated by CPL § 245.20 and, therefore, the Certificate of Compliance dated January 4, 2022, was improperly filed and invalid.

WHEREFORE, the Defendant respectfully requests the Court grant the relief sought herein in its entirety and strike the People's Certificate of Compliance based on it being filed in bad faith, which finding deems illusory the People's statement of readiness for trial.

Dated: White Plains, New York
March 1, 2022

Respectfully submitted,

Dennis W. Light, Esq.

State of New York
Division of Criminal Justice Services
Municipal Police Training Council

Hereby Acknowledges and Declares that

Niall J Nerney

has successfully completed the

Breath Analysis Operator Course

which satisfies the minimum
criteria established by the
Municipal Police Training Council
Westchester County Department of Public Safety Police Academy 485901M
Issue Date 12/12/2019

Expiration Date
12/12/2021

Ronald G. Spike
Chairman
Municipal Police Training Council

Michael R. Wood
Deputy Commissioner
Division of Criminal Justice Services

EXHIBIT 9

EXHIBIT 10

EXHIBIT 11

EXHIBIT "B"