



AG Nessel Charges Two with Multiple Felonies for Falsifying Service Records of Alcohol Breath Testing Equipment

Contact: Courtney Covington 517-335-7666

Agency: Attorney General

May 22, 2020

LANSING – Michigan Attorney General Dana Nessel on Thursday filed charges against two technicians contracted to service all the DataMaster DMT (DataMaster Transportable) breath alcohol testing instruments for the Lower Peninsula. The DataMaster DMT (often referred to as a breathalyzer) is the evidentiary instrument used by law enforcement across Michigan to measure the alcohol level of motor vehicle drivers suspected of being under the influence of alcohol.

The Michigan State Police (MSP) entered into a contract with Intoximeters Inc. that began Sept. 1, 2018 to provide ongoing maintenance and repairs, as well as 120-day on-site inspections on each of the 203 DataMaster DMTs in the state. Each technician was required to physically visit each site to conduct various diagnostic verifications, calibrations and repairs.

Discrepancies in some submitted diagnostic reports came to light during a routine technical review by MSP's Breath Alcohol Program on Jan. 2, 2020. Specifically, it is alleged that two of Intoximeters Inc.'s three technicians -- Andrew Clark and David John -- created fictitious documents to show they completed certain diagnostic tests and repairs on two DataMaster instruments for which they had responsibility for

calibration and performance—one incident involved the DataMaster DMT instrument located at the Beverly Hills Police Department and the other incident involved the DataMaster DMT instrument located at the Alpena County Sheriff's Office.

Upon discovery of this issue, the MSP temporarily removed all instruments from service and launched an investigation, notifying both its criminal justice partners and the public of its discovery. The MSP promptly began working with the Attorney General's Public Integrity Unit, continuing to demonstrate a steadfast belief that public trust and accountability are essential in government. The combined efforts of the MSP Breath Alcohol Program, MSP Fraud Investigation Section and the Attorney General's Public Integrity Unit have culminated in the charges announced today.

Following a four-month investigation led by the Attorney General's Public Integrity Unit and the MSP, a total of nine felony charges were filed against David John, age 59, of Kalamazoo, and a total of six felony charges were filed against Andrew Clark, 53, of Oxford. Specific charges are as follows:

Andrew Clark, charged in Eaton County:

- Two counts, forgery of a public record, a 14-year felony charge;
- Two counts, uttering and publishing, a 14-year felony charge; and
- Two counts, use of a computer to commit a crime, a 10-year felony charge.

David John, charged in Kalamazoo County:

- Three counts, forgery of a public record, a 14-year felony charge;
- Three counts, uttering and publishing, a 14-year felony charge; and
- Three counts, use of a computer to commit a crime, a 10-year felony charge.

"Those who hold positions of trust and responsibility at any level within our overall system of justice must be held to a high standard. When that trust is betrayed, it is incumbent upon my department to ensure accountability on behalf of the people of our state." Nessel said. "I'm grateful for the Michigan

State Police's assistance in this investigation, and I know that the MSP and my Public Integrity Unit have handled this matter appropriately and in the public's best interest."

"From the time we first uncovered discrepancies, the MSP was committed to conducting a complete and thorough investigation, and to being as transparent as possible regarding the outcomes of this situation," stated Col. Joe Gasper, director of the MSP. "We recognize the critical role these instruments can play in drunk driving convictions and we are confident that a properly calibrated and maintained DataMaster remains an extremely reliable instrument."

Certified MSP staff have been performing the ongoing maintenance, repairs and 120-day inspections for all DataMaster instruments since Jan. 10, 2020, and will continue to do so. The State of Michigan's contract with Intoximeter's Inc. was officially terminated effective April 9, 2020.

Clark has been arraigned in the Eaton County District Court and was given a personal recognizance bond. He is scheduled for a probable cause conference at 4 p.m. June 1.

John will be arraigned at a later date due to reduced court operations related to COVID-19.

[Click here to view a video from Attorney General Nessel.](#)

###



Please note: A criminal charge is merely an allegation and that the defendant is presumed innocent unless and until proven guilty. The Attorney General's Office does not provide photos of defendants, but one may be available by contacting the booking agency, the Michigan State Police.



RELATED CONTENT