

## AREAS OF PRACTICE

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## Defective Breathalyzers Responsible for Nearly 400 DUI Convictions

Maryland DUI lawyers have long known that the results of clinical and field sobriety tests are far from infallible. Lack of training of test administrators, subjectivity of tests, human error, and defective equipment can all impact the results of a field sobriety test, breath test, blood test, or urinalysis. The recent discovery of uncalibrated breathalyzer machines in the DC Metropolitan Police Department underscores DC DUI attorneys' assertions that the results of such a test should not be the sole factor in a DUI conviction.

Earlier this year, an independent consultant suspected that at least eight of the Department's ten Intoxilyzer machines were not calibrated correctly, giving inaccurate readings. The Intoxilyzers, which are larger than the field breathalyzer equipment, are housed at the police stations and administered after a person's arrest. While it was initially suspected that eight of the machines were not calibrated correctly, the investigation into the matter recently revealed that all ten of the Department's Intoxilyzer machines were defective. The machines, which have been in use since 2008, were reading blood alcohol concentration levels up to 20% higher than the person's actual BAC. These inaccurate results were responsible for nearly 400 DUI convictions. Half of those convicted under the flawed evidence served jail time of five days or more, and others saw fines, probation, suspension of their licenses, and criminal records as a result of their erroneous convictions. At least one lawsuit has been filed because of the wrongful convictions.

The DC case shows that breathalyzer results alone should not be the sole factor in determining guilt, a fact which Maryland DUI attorneys have repeatedly affirmed. While results from clinical sobriety tests have been said to be "scientific proof," human error and faulty equipment negate the ability of these tests to provide indisputably accurate evidence.