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STATE OF WASHINGTON  
WASHINGTON STATE PATROL

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June 16, 2021

Washington Association of Prosecuting Attorneys  
206 10<sup>th</sup> Ave SE  
Olympia, WA 98501

Subject: Potential Impeachment Disclosure Concerning Evidential Breath Test Results


On June 3, 2021, the Washington State Patrol Impaired Driving Section (IDS) was notified that the process used by the Draeger Alcotest 9510 to determine agreement of duplicate breath samples is potentially not calculated in accordance with the Washington Administrative Code (WAC 448-16-060).

The WAC states, for determining whether two breath samples agree to within  $\pm 10\%$  of their mean, the mean of the four breath test results is calculated and rounded to four decimal places. Initial investigation indicates the Draeger Alcotest performs this mean calculation and truncates to four decimal places. A comprehensive review of approximately 81,000 evidential breath test results has been initiated. To date, preliminary evaluation of these results has found no instance of a subject test which was accepted at the time of the breath test (samples within  $\pm 10\%$  of the truncated mean) but would not be acceptable where the mean is rounded. Only four (4) tests appear to have met the acceptance criteria outlined in WAC 448-16-060 and were not accepted.

The Impaired Driving Section has contacted Draeger Safety Diagnostics Incorporated for assistance in this ongoing investigation. An updated disclosure letter will be provided within thirty (30) days, as additional information becomes available.

If you need additional information, please contact the Impaired Driving Section at 206-720-3018.

Sincerely,

  
Lieutenant Clark G. Jones  
Impaired Driving Section

CGJ:cgj

cc: Dr. Fiona J. Couper, Forensic Laboratory Services Bureau  
Ms. Amanda M. Black, Toxicology Laboratory Division

