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Jury Verdict in HPD “BAT-Van” Trial Reaffirms DA Office’s Position on Accuracy of Intoxilyzer Instruments

A Harris County jury deliberated less than half an hour before returning a guilty verdict on a DWI case that utilized evidence from the Houston Police Department’s mobile breath testing program (aka “BAT-vans”).

On May 12, 2011, Mr. Troy Freudenburg was pulled over HPD Officer J.H. Scott after being observed driving erratically and striking a curb. A strong odor of alcohol was smelled on the defendant’s breath, and field sobriety tests were conducted.

Failing these, Freudenburg was transported to a nearby BAT-van for testing with an “Intoxilyzer” breath-alcohol measuring instrument. The defendant’s breath-alcohol level was recorded as 0.17, which is more than twice the legal limit of 0.08.

During trial, Assistant District Attorney David Abrams presented evidence of Freudenburg’s intoxication, including his erratic driving, poor performance on field sobriety tests, and the results of the Intoxilyzer test. Testimony by Department of Public Safety Technical Supervisor Ron Oliver effectively dispelled defense attorney’s contentions that Intoxilyzer instruments are inaccurate when operated in a BAT-van.

After concerns were raised last year, Oliver and other scientific experts at DPS’ laboratory in Austin conducted tests, utilizing HPD’s actual instruments and vans, to examine whether variations in ambient temperatures or vehicle power fluctuations would impact the accuracy or scientific-validity of Intoxilyzer test results. No evidence of any such negative impact was found.

After hearing Oliver’s testimony in Freudenburg’s trial, a jury representing a cross-section of Harris County citizens heard and weighed all the evidence presented, agreed with his assessment and voted to convict.

Said District Attorney Pat Lykos—

“My number one concern has always been to ensure that prosecutors were only utilizing scientifically accurate and reliable evidence in their cases. When the issue of BAT van breath-testing reliability was first raised, I immediately had the devices tested by a renowned expert in the field. Department of Public Safety experts conclusively determined the scientific validity of the breath-testing equipment. A jury of Harris County citizens reviewed the facts directly for themselves and reached the same conclusion. In the near future, additional breath-testing instruments will be installed throughout Houston to improve efficiency and get officers back on the streets as quickly as possible. We will never relent in our fight against the carnage inflicted by intoxicated drivers.”