From:

Celotti, Stella

Sent:

Monday, April 04, 2011 2:13 PM

To:

Kimball, Kirk

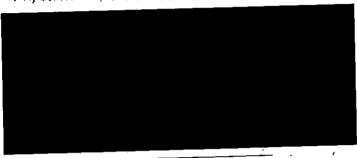
Subject:

FW: Revised Statement and answers

Importance:

High

FYI, Stella.



From Sent:

Stirewalt, Robert

Monday, April 04, 2011 1:35 PM

To:

Celotti, Stella; Henry, Dixie; Vincent, Margaret

Çc: Subject: Erickson, Nancy

Importance:

Statement and answers

To: Andy Bromage Seven Days

The Vermont Department of Health takes very seriously its responsibility to process and provide results for Driving Under the Influence (DUI) cases: After two state employees raised concerns to laboratory management in February 2010, we promptly initiated an investigation of the alleged issues and concerns. The report of that investigation has been provided to you.

Our investigation concluded that the employees' allegations of unethical behavior were not substantiated. Also, as further assurance of the accuracy and reliability of the test results, the datamaster instrument has internal controls so that it will not issue a subject test result if there was a problem with the instrument or test process.

The Health Department continues to encourage state employees to report any complaints to their supervisor and we will investigate allegations thoroughly, as part of our responsibility to serve the State of Vermont in serious matters such as DUI cases statewide.

Sincerely,

Mary Celotti Public Health Laboratory Director Vermont Department of Health

Answers to the questions you sent on Friday afternoon.

- How many Datamasters are currently deployed in Vermont? There are currently 67 DataMaster DMT evidential instruments in use throughout the state

- What was the schedule for deploying them?

Deployment schedule Franklin and Grand Isle counties were deployed in July 2008 a.

Chittenden county was deployed in November 2008 b.

Washington County December 2009 C.

Windham County February 2010 d.

Addison County April 2010 e.

Windsor County May/June 2010 f. Orleans County May/June 2010

g. Lamoille and Bennington County August 2010 h.

Rutland County September 2010

i. Essex and Caledonia, Orange Counties November 2010

- Why was it necessary to replace the old breath testing devices? The BAC DataMaster's were vintage 1988. Many of the components were obsolete and replacement parts were no longer available.
- -- How-much-did the state spent on the new Datamaster DMT machines? The Vermont Department of Health spent more than \$400,000 for the purchase of the DataMaster DMT machines.
- What was the source of those funds? State of Vermont Department of Public Safety Governor's Highway Safety Program federal grant, through the National Highway-Traffic Safety Administration
- Did the state return any Datamasters to the manufacturer because they weren't working properly? Various DataMasters over a period of years were returned to the manufacturer for service or replacement.
- If so, how many were returned, and on approximately what dates? Exact numbers of repaired and or replaced units would take additional time to research.
- Why were Datamaster machines selected over other breath test instruments, such as Drager? In 2005, when the VDHL Evidential Breath Testing Program reviewed the available instruments for replacing the BAC DataMaster, the DataMaster DMT was the instrument that met our specifications and was selected for purchase.
- Were the Datamasters deployed before all the bugs were worked out? There are allegations that they were. While the manufacturer of the DataMaster DMT continues to make hardware modifications and improvements to their product, all instruments in service for evidential use have met and continue to meet the performance standards promulgated by the Department of Health Rules and Regulations regarding breath testing instruments. The user-interface software designed by the VDHL Breath Testing Program has been upgraded and continues to be refined; however the user interface software does not affect the accuracy of a subject's breath sample test.
- Is DOH's alcohol testing program accredited? The DOH breath testing program is not accredited.
- If not, why not? Accreditation is not required in the state of Vermont for breath alcohol testing programs.
- Can anyone from DOH say anything about the integrity of the alcohol testing program in light of the

allegations made by Darcy and Amanda? See statement above.

Kimball, Kirk

From:

Kimball, Kirk

Sent:

Monday, April 04, 2011 1:32 PM Celotti, Stella

To:

Subject:

Questions

Stella,

I talked with Amanda and she said the changes were ok with her and reflect an accurate statement

Kirk L., Kimball Organic Chemistry Program Chief VT. Dept. of Health Burlington, VT 05402 (802) 951-1293

kirk.kimball@ahs.state.vt.us

Kimball, Kirk

From:

Celotti, Stella · 1

Sent:

Monday, April 04, 2011 1:19 PM

To:

Subject:

Kimball, Kirk FW: MEDIA CALL - Seven Days - Datamaster questions

From: Sent:

To: Subject:

Celotti, Stella Monday, April 04, 2011 1:19 PM Kimball, Kirk FW: Statement draft (please review)

From:

Bolduc, Amanda

Sent:

Monday, April 04, 2011 11:41 AM

To:

Celotti, Stella: Kimball, Kirk

Subject:

integrity

I have serious concerns that this article is going to paint me in a bad light. The last question basically lumps me in with Darcy. I want to make it clear that while I agreed with her in February 2010, that the program wasn't running well, I no longer have that opinion of the program. Can we make that clear to Stirewalt and in turn to the reporter?

A Bolduc

Amanda Bolduc, MFS PH Chemist III Vermont Department of Health Laboratory Alcohol and Toxicology Program 195 Colchester Ave Burlington, VT 05402 (802) 585-6707 (mobile) (802) 863-7412 (ph) (802) 863-7632 (fax) amanda.bolduc@ahs.state.vt.us *PLEASE NOTE* new phone and email as of 10/13/10

Kimball, Kirk

From: Sent:

Bolduc, Amanda

Monday, April 04, 2011 11:34 AM Kimball, Kirk; Celotti, Stella

To: Subject:

7days responce.doc



7days esponce.doc (23 KB

Kimball, Kirk

From:

BDRAWBA@aol.com

Sent:

Monday, April 04, 2011 10:37 AM

To:

Kimball, Kirk

Subject:

Re. Need for meeting

Hi Kirk, Just checking in to see if you folks have come up with a proposed meeting time re: the recent development(s). Also, since I do not have copies of the memos referenced, could I at least have an opportunity to review them before our meeting? Thanks. Hope you are inspired by the lovely weather we are having.

Bob

From:

Kimbail, Kirk

Sent:

Monday, April 04, 2011 9:56 AM Harnois, Steven Celotti, Stella

To: Cc:

Subject:

FW: Documents for Your Review

Sensitivity:

Confidential

These are the documents that 7 days ahs. Please read with the knowledge that these issues have been dealt with. I see nothing that is outstanding.

Kirk

----Original Message-----

From:

Celotti, Stella

Sent:

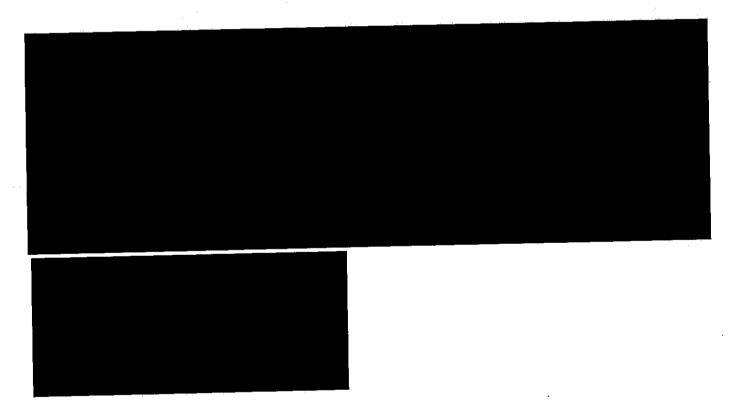
Friday, April 01, 2011 10:40 AM

To:

Kimball, Kirk FW: Documents for Your Review

Subject: Sensitivity:

Confidential



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Kimbali, Kirk

Sent:

Monday, April 04, 2011 9:56 AM

To:

Harnois, Steven Celotti, Stella

Cc: Subject:

FW: Documents for Your Review

Sensitivity:

Confidential

Attachments:

Emailing: feb 17 2010; RE: Emailing: feb 17 2010; Internal

MemorandumInvestigation2010.doc; Memo for Conclusion 07-29-2010.doc

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Sent:

Friday, April 01, 2011 10:40 AM

To:

Kimball, Kirk

Subject:

FW: Documents for Your Review

Sensitivity:

Confidential



From:

Bolduc, Amanda

Sent:

Wednesday, February 17, 2010 12:12 PM

To:

Cc: Subject: Celotti, Stella Lefebvre, Theresa; Richardson, Darcy

Emailing: feb 17 2010

Attachments:

feb 17 2010.doc



feb 17 2010.doc (27 KB)

Mary,

Darcy and I would like to meet with you as soon as possible regarding this and other issues. Due to court schedules, I believe the first day we both have available might not be until Monday. However, I am available Thursday morning or Friday if you would like to talk to me. I would appreciate if you would not mention this to my supervisor as I fear repercussions. Thank you,

Amanda

The message is ready to be sent with the following file or link attachments:

feb 17 2010

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

For the last five years, it has been my pleasure to work for the Department of Health Toxicology program. I have seen many advances in the breath alcohol program and have been honored to have had a lead role in implementing the new instruments and technology. Working with the law enforcement and judicial communities has been a very rewarding endeavor.

However, there is one looming aspect to my position that has become intolerable. There is a serious lack of leadership that as of late has become so blatant, it threatens the integrity of the program as a whole.

The alcohol program has four members. Our technician is responsible for the maintenance of the instruments and generating appropriate documentation to demonstrate the reliability of the instruments. Our two chemists testify in court to the accuracy and reliability of the instruments, and our program chief who is responsible for over seeing the program as a whole. The ability of each member to appropriately, effectively and efficiently complete their duties relies largely on the quality and reliability of the work completed by other members of the team.

For the last two years, the ability of the team to function as a group has faltered. The quality of work performed by the technician has been lacking. The record keeping and documentation required of this program has not been met or maintained by the technician. These records are crucial for the chemists to give the effective and accurate testimony. There have even been documented cases of inappropriate and unethical behavior being performed by the technician on instruments in service in police agencies.

These problems have been documented by the chemists in the alcohol program and brought to the attention of the program chief on a frequent basis. However, most of these problems remain unresolved. Further, it has become the attitude of the program chief that when problems are brought to his attention, the person relaying the concern becomes the target of retribution. The program chief will target and excessively critique the work anyone who brings concerns to him. I feel like not only am I being purposely set up for failure, but so is the entire alcohol program.

I am completely at a loss as to what to do. I love my job. In this position I have the ability to directly effect the safety of our communities by working with the law enforcement professionals in the prosecution of suspected impaired drivers. However, when the integrity of the program is in jeopardy, and the program chief gives the impression that not only does he not care, but that he seems to be blatantly covering up potential problems, I find myself deeply conflicted. I no longer have faith in our technician to appropriately maintain the evidentiary instruments. I have concerns in his level of integrity and ethics. These concerns have been brought to the attention of the program chief on numerous occasions, and still the problem persists. And now, I feel I can no longer bring concerns to my supervisor because not only does he not respond to my concerns, I feel actively targeted by him in retribution for my complaints.

If confronted with direct questions regarding the work performed by the technician or the supervision of the program chief, it is my duty and legal obligation to answer honestly. I cannot testify to the purported work performed by our technician because I know he fails to document his actions, both intentionally and unintentionally and the quality of his work is lacking. Our technician repeatedly falters in his work duties and behaves unethically, management knows this, and the situation has yet to be addressed. I fear that this may have severe and long lasting negative implications on our program. It is my hope that steps can be taken to rectify the situation, improve the program, and prevent major impacts and detrimental consequences.

From:

Richardson. Darcv

Sent:

Wednesday, February 17, 2010 6:50 PM

To:

Celotti, Stella; Bolduc, Amanda

Cc:

Lefebvre, Theresa

Subject:

RE: Emailing: feb 17 2010

Attachments:

Issues.doc



Issues.doc (31 KB)

Stella,

My trial has cancelled on Friday so I am available either day. I have attached the letter I sent to Bob on January 28th regarding several on going issues.

Over the last week there has been a definite shift where Bob has drawn a line with Steve and himself on one side and Amanda and myself on the other. After witnessing two conversations last week and this week I am no longer confident in Bob's desire to deal with these issues or in fact have a quality program at all. One of these was in regards to lying about serial numbers to get parts covered under warranty for instruments that are no longer under warranty and regarding taking parts from a demo model that we do not own. When I objected I was told that he felt NPAS "owed us" and that it wasn't an issue. I am not the biggest fan of NPAS but the time for objections was when we ordered new instruments not now when we have entered into a new agreement with them. We should not be trying to cheat warrantees. We are not allowed to discuss quality issues and when they come up were are told to ignore them. Additionally if we complain we are met with hostility which I had complained about before in 2008.

I look forward to speaking with you and Amanda. We are both truly at a loss.

Thanks, Darcy

----Original Message----

From: Celotti, Stella

Sent: Wednesday, February 17, 2010 12:25 PM

To: Bolduc, Amanda

Cc: Lefebvre, Theresa; Richardson, Darcy

Subject: RE: Emailing: feb 17 2010

Amanda, I have time available on Monday, 2/22 @ 11 a.m. to meet with both you and Darcy. If both of your court schedules change, I have Friday, 2/19 available, after 11 a.m.. Please let me know what time would work best. Thanks, Stella (Mary).

----Original Message----

From: Bolduc, Amanda

Sent: Wednesday, February 17, 2010 12:12 PM

To: Celotti, Stella

Cc: Lefebvre, Theresa; Richardson, Darcy

Subject: Emailing: feb 17 2010

Mary.

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Amanda

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feb 17 2010

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Dear Bob,

Over the last several years I have brought up many issues in regards to the work being performed by Steven Harnois. We have had numerous meetings as a group and privately, we have held new trainings, we have added new policies and for some time in 2008 Amanda Bolduc was assigned to review his paperwork for completeness prior to it being distributed for discovery and filing. For that time the paperwork was kept up to date. As he bristled under her review, the reviewing stopped and the paperwork has again fallen to the point where it can not be relied upon as an accurate indication of the status or history of the instruments in the field or in-house.

We have discussed the importance of keeping the paperwork complete and up-to-date in numerous meetings over the years and nothing we have done has remedied the problem. TSI's are not being filled out. When they are filled out, they are often incomplete. Paperwork has been lost including calibration and certifications of the instrumentation as well as Routine Performance Check's from the DataMaster Supervisors. This is despite adding new folders (which are not used) and adding timeframes to paperwork completion and filing. Emails have gone out repeatedly as a reminder when we find the lacking paperwork while putting together discovery information. The problem remains.

Beyond the lack of paperwork and organization Steven Harnois has a lack of understanding in regards to how the instruments, both BAC and DMT, operate. Mr. Harnois has been trained by the manufacturer on both instruments as well as taking an additional course by the manufacturer at their facility. I had told you previously where Mr. Harnois advised me that the ethanol molecules change their absorbance based on how old the calibration is. This statement reflects a complete lack of understanding in the basic principle of the operation of the instruments. In a meeting a month ago we had to explain how calibration worked again to Mr. Harnois. He has been in this position for 7 years and should be extremely familiar with this concept but he is not.

This is a very concerning problem considering that part of his job is to troubleshoot and repair the instruments. That is simply not possible without understanding how the instrument works. At one point during one of our discussions between the two of us you had suggested that perhaps we needed someone else to troubleshoot and simply advise Mr. Harnois as to the action to take. In the year that has passed since then though we have not implemented that. His standard response to an instrument that is not working properly over the years has been to blame the simulator solution and run it repeatedly until it passes or to simply keep replacing parts until the instrument works again. This is inefficient at best and ineffective at worse. Further concerning is that in order to get instruments to pass he has changed methodology such as adding acetone to an interference solution, raising the temperature of a simulator when it is not out of range, or neglecting to perform suck back tests on instruments with broken one way valves. Myself and Amanda Bolduc have raised these issues repeatedly but nothing has changed nor does Mr. Harnois seem to understand that changing methodology is inappropriate just to get an instrument to pass. He has taken the laboratory ethics training that we have been required to attend in the past.

I understand that personnel issues are private and I am not asking to know what has been said to Mr. Harnois but I feel the need to put this all in one place. This situation can not remain if we want a program that is solid and focused on quality. At this point I have very little faith in the work and documentation of Mr. Harnois's that I am asked to defend in court. Being surprised by paperwork on the stand or having to learn the history of an instrument from an attorney is inappropriate and quite honestly, embarrassing. It undermines our credibility and the credibility of the program.

In order for Mr. Harnois to be successful in this program there needs to be someone else in that laboratory who interacts with the police agencies, who troubleshoots the instruments and decides the correct course of action as well as reviewing all paperwork generated for completeness and accuracy. Mr. Harnois is simply in over his head and cannot successfully work independently in that position. Perhaps with additional oversight and guidance he can be more effective in what he does.

I do not enjoy writing this but at this point I am at a loss of what to do.

~Darcy Richardson

Internal Memorandum

TO:

Ed Luce, Quality Systems Specialist

FROM:

Mary Celotti, Laboratory Director

DATE:

February 24, 2010

RE:

Request for Investigation - Quality Aspects of the Alcohol Program

Based on our discussions, listed below are the areas that should be addressed in your investigation:

- Review of Record-keeping practices in the DataMaster Breath Testing equipment maintenance/repair area. This should also include a review of the process for documenting, reviewing and filing of the paperwork. Suggestions for improving the record-keeping processes should be noted if applicable.
- 2.) Review of Standard Operating Procedures (SOPs) for calibrating, maintaining and repairing the DataMaster instruments: Specifically, do the SOPSs exist and include reference to:
 - a. Repeatedly running the simulator solution until the instrument passes
 - b. Keep replacing parts until the instrument work again
 - c. Adding Acetone to the interference solution to pass the instrument
 - d. Raising the temperature of a simulator when it's not out of range in order to pass the instrument
 - e. Neglecting to perform suck-back tests on instruments with broken oneway valves in order to pass the instrument
- 3.) Review of Instrument Technical Support Inquiries to determine if the above have occurred and number of instances:
 - a. Repeatedly running the simulator solution until the instrument passes
 - b. Keep replacing parts until the instrument work again
 - c. Adding Acetone to the interference solution
 - d. Raising the temperature of a simulator when it's not out of range
 - e. Neglecting to perform suck-back tests on instruments with broken oneway valves
- 4.) Review of Instrument Warranty and Part Ordering Process to Determine if Additional Parts for Older Instruments Are Being Ordered Under Newer Instrument Serial Numbers (for no charge).

- 5.) Determine with NPAS, whether NPAS Demo model can be used for parts
- 6.) Washington County Instruments: 1.) Determine if installation of "insulation" on simulator (Montpelier DMT) is an ethical issue 2.) Determine if DMT instruments with simulator vapor readings biased low, need to be pulled and recalibrated. Determine if instruments with identical issues in other counties, were pulled and recalibrated (consistency of practice).

Vermont Department of Health Laboratory

Memo

To: Mary-Stella Ceiotti, Laboratory Director

From: Edmond P. Luce, Laboratory Ethics & Compliance Officer

cc: Robert Drawbaugh, Toxicology Program Chief

Date: July 29, 2010

Re: Investigation of DataMaster Processes in Franklin County vs. Washington County

This investigation is to determine the consistency of practices across the DataMasters installed in Franklin County and Washington County and to review these practices and related processes against allegations of unethical conduct.

The observations of this investigation are as follows:

- For the Franklin County DataMasters, only the Franklin County Sheriffs Office Instrument and the Grand Isle Sheriffs Office Instrument showed TSIs initiated for issues related to low Simulator Solution Concentrations. Each DataMaster had two TSIs initiated for this issue.
 - a. The Franklin County Sheriffs Office TSIs were both resolved as follows; one with an on-site visit and after review of Simulator Solution Change protocol with the instrument supervisor and the other was resolved in-house after the adjustment of instrument parameters (lamp & cooler) back into specifications.
 - b. The Grand Isle Sheriffs Office TSIs were both resolved on-site; one was resolved after the correct Simulator Solution information was used by the instrument supervisor and the other was resolved after the repair of leaks in the Simulator Jar.
- All other TSIs for the Franklin County DataMasters were for instrument related issues: including, Pump Errors, Blank Screens, Detector Voltage Issues, Instrument Room Renovations and failure of the Suck-Back Test at Installation.
- For the Washington County DataMasters, four of the six instruments had TSis initiated for issues related to low Simulator Solution Concentrations.
 - a. The Barre Police Department single TSI was resolved on-site after adjustment of Simulator Temperature closer to specifications.
 - The Berlin Police Department single TSI was resolved on-site after instrument parameters were confirmed to be within specifications.
 - c. The Middlesex VT State Police single TSI was resolved on-site after instrument parameters were confirmed to be within specifications.
 - d. The Montpelier Police Department two TSIs were both resolved on-site. The first one was resolved by closing a HVAC vent blowing on the Simulator Jar and the second

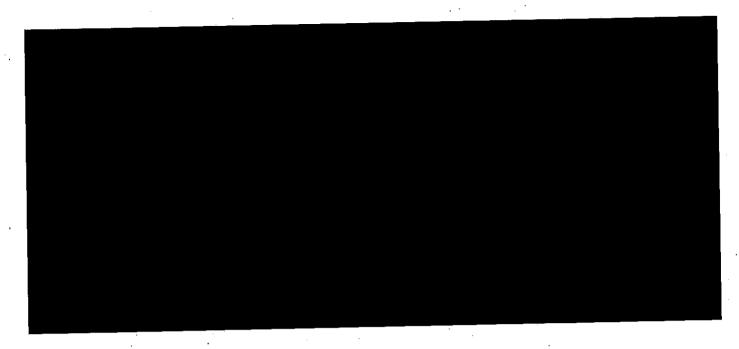
was resolved by insulating the Simulator Jar with foam packing material. This insulation was removed approximately two months later.

4. The other two TSIs for the Washington County DataMasters were for instrument issues; one for Touch-Screen issues and the other for the temperature monitoring not being turned on at installation.

After reviewing and comparing the DataMaster processes for these two installation batches, there appears to be no faults in the actions taken to maintain these instruments.

- 5. .This investigator does not believe the installation of insulation on the Simulator jar on the Montpelier Police Department DataMaster presents an ethical issue. Two TSIs documented this process and both included documentation of what was done and the rationale behind it. The first TSI showed resolution after the HVAC vent was closed and this lead to the logical next step of insulating the Simulator jar to resolve the second TSI. There was no malicious intent indicated and these processes are a part of troubleshooting DataMaster issues.
- Investigation of the failure to perform suck-back tests is not possible as there is no instrument
 produced documentation when this test is done; however, the DataMaster would not proceed
 with Diagnostic Testing if this portion of the test was not performed.
- 7. Review of Standard Operating Procedures (SOP) related to these processes indicates that there are SOPs available for the Calibration & Certification of these DataMasters; including Installation. There are no SOPs for the Maintenance & Repair portion of these processes. The review of TSis leads to the conclusion that the processes used to resolve DataMaster TSis are an evolving process and the allegation of unethical practices is inappropriate and unwarranted.
- The DataMaster Warranty and the ordering procedures of parts for these DataMasters were reviewed and no faults or unethical practices were found in these processes as confirmed by a letter from the instrument manufacturer, National Patent Analytical Systems Inc., dated March 15th, 2010.
- 9. The review of the record keeping practices throughout this investigation indicates that the Program is doing it's best to maintain complete and accurate records. The records that were available were well organized and accessible. There were a few minor deficiencies noted and these will be shared with the Program at a later date and suggestions for improvements will be discuss at that time.

This investigator concludes that there have not been any unethical practices demonstrated during this lengthy and through investigation. (Reference Memo from the Laboratory Director to the Quality Systems Specialist dated February 24th, 2010.)



From:

Kimball, Kirk

Sent:

Monday, April 04, 2011 9:40 AM

To:

Celotti, Stelia

Subject:

Meeting with Bob

Stella,

I talked with Bob on Friday and he is available today or tomorrow. If you pick a time I will let him know. Thanks Kirk

Kirk L. Kimball Organic Chemistry Program Chief VT. Dept. of Health Burlington, VT 05402

(802) 951-1293

kirk.kimball@ahs.state.vt.us

Kimball, Kirk

From: Sent:

Harnois, Steven

To:

Friday, April 01, 2011 5:12 PM Celotti, Stella; Kimball, Kirk

Subject:

FW: Datamaster

From: Andy Bromage [mailto:andy@sevendaysvt.com]

Sent: Fri 4/1/2011 10:25 AM

To: Harnois, Steven Subject: Datamaster

I'm a writer for Seven Days newspaper. I've come across a DUI case in which Darcy Richardson and Amanda Bolduc make some pretty serious allegations about your work performance in the Dept. of Health alcohol testing program and I wanted to give you a chance to respond. I assume you're familiar with the case and the allegations made, but if not, I can send you the documents. I'm writing the story for next week's paper, which means I'm on deadline. You can reach me by phone at 865-1020 x39. I also left you a voicemail this morning.

Andy

// SEVEN DAYS //

- :: Andy Bromage
- :: Staff Writer
- :: andy@sevendaysvt.com
- :: http://www.sevendaysvt.com
- :: 802.864.5684

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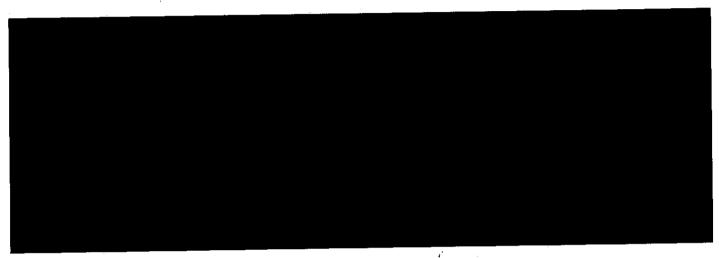
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Mary (Stella) Celotti
Laboratory Director
Vermont Department of Health Laboratory
195 Colchester Avenue
Burlington, Vermont 05401
802-863-7570
(Fax) 802-863-7632
Stella,Celotti@ahs.state.vt.us

Kimball, Kirk

From:

Bolduc, Amanda

Sent:

Thursday, March 31, 2011 12:44 PM

To:

Celotti, Stella; Kimball, Kirk; Harnois, Steven

Subject:

Search 7D: | Seven Days

http://www.7dvt.com/searchindex?filter1=38617

This is the journalist whose writing the article

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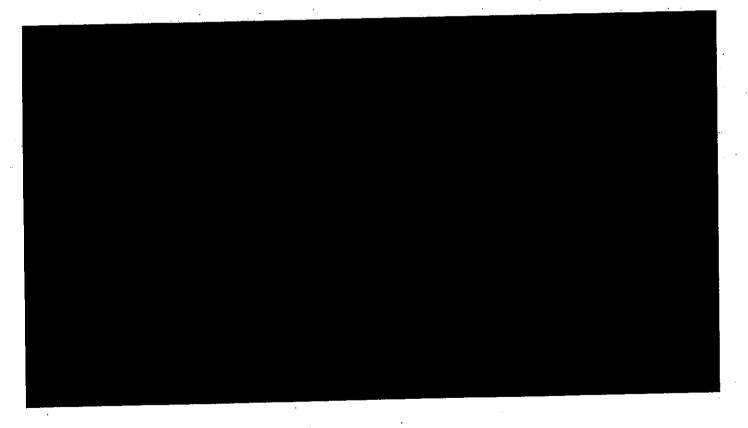
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These problems have been documented by the chemists in the alcohol program and brought to the attention of the program chief on a frequent basis. However, most of these problems remain unresolved. Further, it has become the attitude of the program chief that when problems are brought to his attention, the person relaying the concern becomes the target of retribution. The program chief will target and excessively critique the work anyone who brings concerns to him. I feel like not only am I being purposely set up for failure, but so is the entire alcohol program.

I am completely at a loss as to what to do. I love my job. In this position I have the ability to directly effect the safety of our communities by working with the law enforcement professionals in the prosecution of suspected impaired drivers. However, when the integrity of the program is in jeopardy, and the program chief gives the impression that not only does he not care, but that he seems to be blatantly covering up potential problems, I find myself deeply conflicted. I no longer have faith in our technician to appropriately maintain the evidentiary instruments. I have concerns in his level of integrity and ethics. These concerns have been brought to the attention of the program chief on numerous occasions, and still the problem persists. And now, I feel I can no longer bring concerns to my supervisor because not only does he not respond to my concerns, I feel actively targeted by him in retribution for my complaints.

If confronted with direct questions regarding the work performed by the technician or the supervision of the program chief, it is my duty and legal obligation to answer honestly. I cannot testify to the purported work performed by our technician because I know he fails to document his actions, both intentionally and unintentionally and the quality of his work is lacking. Our technician repeatedly falters in his work duties and behaves unethically, management knows this, and the situation has yet to be addressed. I fear that this may have severe and long lasting negative implications on our program. It is my hope that steps can be taken to rectify the situation, improve the program, and prevent major impacts and detrimental consequences.

From:

Richardson, Darcy

Sent:

Wednesday, February 17, 2010 6:50 PM

To:

Celotti, Stella; Bolduc, Amanda

Cc: Subject: Lefebvre, Theresa RE: Emailing: feb 17 2010

Attachments:

Issues.doc



Issues.doc (31 KB)

Stella,

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I look forward to speaking with you and Amanda. We are both truly at a loss.

Thanks, Darcy

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Sent: Wednesday, February 17, 2010 12:25 PM

To: Bolduc, Amanda

Cc: Lefebvre, Theresa; Richardson, Darcy

Subject: RE: Emailing: feb 17 2010

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Cc: Lefebvre, Theresa; Richardson, Darcy

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I understand that personnel issues are private and I am not asking to know what has been said to Mr. Harnois but I feel the need to put this all in one place. This situation can not remain if we want a program that is solid and focused on quality. At this point I have very little faith in the work and documentation of Mr. Harnois's that I am asked to defend in court. Being surprised by paperwork on the stand or having to learn the history of an instrument from an attorney is inappropriate and quite honestly, embarrassing. It undermines our credibility and the credibility of the program.

In order for Mr. Harnois to be successful in this program there needs to be someone else in that laboratory who interacts with the police agencies, who troubleshoots the instruments and decides the correct course of action as well as reviewing all paperwork generated for completeness and accuracy. Mr. Harnois is simply in over his head and cannot successfully work independently in that position. Perhaps with additional oversight and guidance he can be more effective in what he does.

I do not enjoy writing this but at this point I am at a loss of what to do.

~Darcy Richardson

Internal Memorandum

TO:

Ed Luce, Quality Systems Specialist

FROM:

Mary Celotti, Laboratory Director

DATE:

February 24, 2010

RE:

Request for Investigation - Quality Aspects of the Alcohol Program

Based on our discussions, listed below are the areas that should be addressed in your investigation:

- 1.) Review of Record-keeping practices in the DataMaster Breath Testing equipment maintenance/repair area. This should also include a review of the process for documenting, reviewing and filing of the paperwork. Suggestions for improving the record-keeping processes should be noted if applicable.
- 2.) Review of Standard Operating Procedures (SOPs) for calibrating, maintaining and repairing the DataMaster instruments: Specifically, do the SOPSs exist and include reference to:
 - a. Repeatedly running the simulator solution until the instrument passes
 - b. Keep replacing parts until the instrument work again
 - c. Adding Acetone to the interference solution to pass the instrument
 - d. Raising the temperature of a simulator when it's not out of range in order to pass the instrument
 - e. Neglecting to perform suck-back tests on instruments with broken oneway valves in order to pass the instrument
- 3.) Review of Instrument Technical Support Inquiries to determine if the above have occurred and number of instances:
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 - c. Adding Acetone to the interference solution
 - d. Raising the temperature of a simulator when it's not out of range
 - e. Neglecting to perform suck-back tests on instruments with broken oneway valves
- 4.) Review of Instrument Warranty and Part Ordering Process to Determine if Additional Parts for Older Instruments Are Being Ordered Under Newer Instrument Serial Numbers (for no charge).

- 5.) Determine with NPAS, whether NPAS Demo model can be used for parts
- 6.) Washington County Instruments: 1.) Determine if installation of "insulation" on simulator (Montpelier DMT) is an ethical issue 2.) Determine if DMT instruments with simulator vapor readings biased low, need to be pulled and recalibrated. Determine if instruments with identical issues in other counties, were pulled and recalibrated (consistency of practice).

Vermont Department of Health Laboratory

Memo

To: Mary-Stella Celotti, Laboratory Director

From: Edmond P. Luce, Laboratory Ethics & Compliance Officer

cc: Robert Drawbaugh, Toxicology Program Chief

Date: July 29, 2010

Re: Investigation of DataMaster Processes in Franklin County vs. Washington County

This investigation is to determine the consistency of practices across the DataMasters installed in Franklin County and Washington County and to review these practices and related processes against allegations of unethical conduct.

The observations of this investigation are as follows:

- For the Franklin County DataMasters, only the Franklin County Sheriffs Office Instrument and the Grand Isle Sheriffs Office Instrument showed TSIs initiated for issues related to low Simulator Solution Concentrations. Each DataMaster had two TSIs initiated for this issue.
 - a. The Franklin County Sheriffs Office TSIs were both resolved as follows; one with an on-site visit and after review of Simulator Solution Change protocol with the instrument supervisor and the other was resolved in-house after the adjustment of instrument parameters (lamp & cooler) back into specifications.
 - b. The Grand Isle Sheriffs Office TSIs were both resolved on-site; one was resolved after the correct Simulator Solution information was used by the instrument supervisor and the other was resolved after the repair of leaks in the Simulator Jar.
- 2. All other TSIs for the Franklin County DataMasters were for instrument related issues: including, Pump Errors, Blank Screens, Detector Voltage Issues, Instrument Room Renovations and failure of the Suck-Back Test at Installation.
- 3. For the Washington County DataMasters, four of the six instruments had TSIs initiated for issues related to low Simulator Solution Concentrations.
 - The Barre Police Department single TSI was resolved on-site after adjustment of Simulator Temperature closer to specifications.
 - The Berlin Police Department single TSI was resolved on-site after instrument parameters were confirmed to be within specifications.
 - c. The Middlesex VT State Police single TSI was resolved on-site after instrument parameters were confirmed to be within specifications.
 - d. The Montpelier Police Department two TSIs were both resolved on-site. The first one was resolved by closing a HVAC vent blowing on the Simulator Jar and the second

was resolved by insulating the Simulator Jar with foam packing material. This insulation was removed approximately two months later.

4. The other two TSIs for the Washington County DataMasters were for Instrument issues; one for Touch-Screen issues and the other for the temperature monltoring not being turned on at installation.

After reviewing and comparing the DataMaster processes for these two installation batches, there appears to be no faults in the actions taken to maintain these instruments.

- 5. This investigator does not believe the installation of insulation on the Simulator jar on the Montpelier Police Department DataMaster presents an ethical issue. Two TSIs documented this process and both included documentation of what was done and the rationale behind it. The first TSI showed resolution after the HVAC vent was closed and this lead to the logical next step of insulating the Simulator jar to resolve the second TSI. There was no malicious intent indicated and these processes are a part of troubleshooting DataMaster issues.
- Investigation of the failure to perform suck-back tests is not possible as there is no instrument produced documentation when this test is done; however, the DataMaster would not proceed with Diagnostic Testing if this portion of the test was not performed.
- 7. Review of Standard Operating Procedures (SOP) related to these processes indicates that there are SOPs available for the Calibration & Certification of these DataMasters; including Installation. There are no SOPs for the Maintenance & Repair portion of these processes. The review of TSIs leads to the conclusion that the processes used to resolve DataMaster TSIs are an evolving process and the allegation of unethical practices is inappropriate and unwarranted.
- 8. The DataMaster Warranty and the ordering procedures of parts for these DataMasters were reviewed and no faults or unethical practices were found in these processes as confirmed by a letter from the instrument manufacturer, National Patent Analytical Systems Inc., dated March 15th, 2010.
- 9. The review of the record keeping practices throughout this investigation indicates that the Program is doing it's best to maintain complete and accurate records. The records that were available were well organized and accessible. There were a few minor deficiencies noted and these will be shared with the Program at a later date and suggestions for improvements will be discuss at that time.

This investigator concludes that there have not been any unethical practices demonstrated during this lengthy and through investigation. (Reference Memo from the Laboratory Director to the Quality Systems Specialist dated February 24th, 2010.)

From:

Kimball, Kirk

Sent:

Monday, April 04, 2011 9:56 AM

To:

Harnois, Steven

Cc:

Celotti, Stella

Subject:

FW: Documents for Your Review

Sensitivity:

Confidential

Attachments:

Emailing: feb 17 2010; RE; Emailing: feb 17 2010; Internal

MemorandumInvestigation2010.doc; Memo for Conclusion 07-29-2010.doc

These are the documents that 7 days ahs. Please read with the knowledge that these issues have been dealt with. I see nothing that is outstanding.

Kirk

----Original Message--

From:

Celotti, Stella

Sent:

Friday, April 01, 2011 10:40 AM

To: Subject: Kimball, Kirk FW: Documents for Your Review

Sensitivity:

Confidential

From:

Bolduc, Amanda

Sent:

Wednesday, February 17, 2010 12:12 PM

To:

Celotti, Stella

Cc:

Lefebvre, Theresa; Richardson, Darcy

Subject:

Emailing; feb 17 2010

Attachments:

feb.17 2010.doc



feb 17 2010.doc (27 KB)

Mary,

Darcy and I would like to meet with you as soon as possible regarding this and other issues. Due to court schedules, I believe the first day we both have available might not be until Monday. However, I am available Thursday morning or Friday if you would like to talk to me. I would appreciate if you would not mention this to my supervisor as I fear repercussions.

Thank you,

Amanda

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feb 17 2010

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For the last five years, it has been my pleasure to work for the Department of Health Toxicology program. I have seen many advances in the breath alcohol program and have been honored to have had a lead role in implementing the new instruments and technology. Working with the law enforcement and judicial communities has been a very rewarding endeavor.

However, there is one looming aspect to my position that has become intolerable. There is a serious lack of leadership that as of late has become so blatant, it threatens the integrity of the program as a whole.

The alcohol program has four members. Our technician is responsible for the maintenance of the instruments and generating appropriate documentation to demonstrate the reliability of the instruments. Our two chemists testify in court to the accuracy and reliability of the instruments, and our program chief who is responsible for over seeing the program as a whole. The ability of each member to appropriately, effectively and efficiently complete their duties relies largely on the quality and reliability of the work completed by other members of the team.

For the last two years, the ability of the team to function as a group has faltered. The quality of work performed by the technician has been lacking. The record keeping and documentation required of this program has not been met or maintained by the technician. These records are crucial for the chemists to give the effective and accurate testimony. There have even been documented cases of inappropriate and unethical behavior being performed by the technician on instruments in service in police agencies.

These problems have been documented by the chemists in the alcohol program and brought to the attention of the program chief on a frequent basis. However, most of these problems remain unresolved. Further, it has become the attitude of the program chief that when problems are brought to his attention, the person relaying the concern becomes the target of retribution. The program chief will target and excessively critique the work anyone who brings concerns to him. I feel like not only am I being purposely set up for failure, but so is the entire alcohol program.

I am completely at a loss as to what to do. I love my job. In this position I have the ability to directly effect the safety of our communities by working with the law enforcement professionals in the prosecution of suspected impaired drivers. However, when the integrity of the program is in jeopardy, and the program chief gives the impression that not only does he not care, but that he seems to be blatantly covering up potential problems, I find myself deeply conflicted. I no longer have faith in our technician to appropriately maintain the evidentiary instruments. I have concerns in his level of integrity and ethics. These concerns have been brought to the attention of the program chief on numerous occasions, and still the problem persists. And now, I feel I can no longer bring concerns to my supervisor because not only does he not respond to my concerns, I feel actively targeted by him in retribution for my complaints.

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Richardson, Darcy

Sent:

Wednesday, February 17, 2010 6:50 PM

To:

Celotti, Stella; Bolduc, Amanda

Cc:

Lefebvre, Theresa

Subject:

RE: Emailing: feb 17 2010

Attachments:

Issues.doc



Issues.doc (31

KB)

Stella,

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Over the last week there has been a definite shift where Bob has drawn a line with Steve and himself on one side and Amanda and myself on the other. After witnessing two conversations last week and this week I am no longer confident in Bob's desire to deal with these issues or in fact have a quality program at all. One of these was in regards to lying about serial numbers to get parts covered under warranty for instruments that are no longer under warranty and regarding taking parts from a demo model that we do not own. When I objected I was told that he felt NPAS "owed us" and that it wasn't an issue. I am not the biggest fan of NPAS but the time for objections was when we ordered new instruments not now when we have entered into a new agreement with them. We should not be trying to cheat warrantees. We are not allowed to discuss quality issues and when they come up were are told to ignore them. Additionally if we complain we are met with hostility which I had complained about before in 2008.

I look forward to speaking with you and Amanda. We are both truly at a loss.

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Internal Memorandum

TO:

Ed Luce, Quality Systems Specialist

FROM:

Mary Celotti, Laboratory Director

DATE:

February 24, 2010

RE:

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Vermont Department of Health Laboratory

Memo

To: Mary-Stella Celotti, Laboratory Director

From: Edmond P. Luce, Laboratory Ethics & Compliance Officer

cc: Robert Drawbaugh, Toxicology Program Chief

Date: July 29, 2010

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4. The other two TSIs for the Washington County DataMasters were for instrument issues; one for Touch-Screen issues and the other for the temperature monitoring not being turned on at installation.

After reviewing and comparing the DataMaster processes for these two installation batches, there appears to be no faults in the actions taken to maintain these instruments.

- 5. This investigator does not believe the installation of insulation on the Simulator jar on the Montpelier Police Department DataMaster presents an ethical issue. Two TSIs documented this process and both included documentation of what was done and the rationale behind it. The first TSI showed resolution after the HVAC vent was closed and this lead to the logical next step of insulating the Simulator jar to resolve the second TSI. There was no malicious intent indicated and these processes are a part of troubleshooting DataMaster issues.
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- 9. The review of the record keeping practices throughout this investigation indicates that the Program is doing it's best to maintain complete and accurate records. The records that were available were well organized and accessible. There were a few minor deficiencies noted and these will be shared with the Program at a later date and suggestions for improvements will be discuss at that time.

This investigator concludes that there have not been any unethical practices demonstrated during this lengthy and through investigation. (Reference Memo from the Laboratory Director to the Quality Systems Specialist dated February 24th, 2010.)

Department of Health Privilege Log

Discovery Request
State of Vermont v. Aten, et al
Docket Nos. 82-9-10 Wncs, 1109-9-10 Wncr, 56-6-10 Wncs, 677-6-10 Wncr, 1647-12-10 Wncr, 127-12-10 Wncs

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	Redaction/Exemption	document not provided	Provided
4/4/2011; 2:13 pm e-mail from Stella	Attorney-client	Redacted forwarded e-mail	2
Celotti to Kirk Kimball	privileged	(4/4/2011; 1:38 pm) to VDH	
	communication	legal counsel and other VDH	
		staff.	
4/4/2011; 1:32 pm e-mail from Stella	Attorney-client	Redacted attachment to e-mail	
Celotti to Kirk Kimball	privileged	of 4/4/2011; 1:19 pm. Redacted	
	communication and	e-mail of 4/4/2011 at 12:18 to	
	non-responsive	VDH legal counsel and other	
		VDH staff. Redacted 4/1/2011;	
		3:34 pm e-mail as non-	
		responsive.	
4/4/2011; 1:19 pm e-mail from Stella	Attorney-client	Document exempt; redacted	1
Celotti to Kirk Kimball	privileged	forwarded e-mails (4/4/2011;	
	communication	12:15 pm and 11:25 am) to	
		VDH legal counsel and other	
		VDH staff.	
4/4/2011; 9:56 am e-mail and	Attorney-client	Redacted forwarded e-mail	13
attachments from Kirk Kimball to	privileged	(1/7/2011; 9:39 am) to VDH	
Steven Harnois	communication	legal counsel. Attachments in	-
		the 1/7/2011 9:39 am e-mail are	
		provided.	
4/4/2011; 9:40 am e-mail from Kirk	Not responsive to	Portion of page redacted	1

Kimball to Stella CelottirequestPonPage 41 e-mail redactedNot responsive toPon4/1/2011; 10:40 am e-mail from StellaAttorney-clientReaCelotti to Kirk Kimballprivileged(1/Celotti to Kirk Kimballcommunicationleg4/4/2011; 9:56 am e-mail from KirkAttorney-clientReaKimball to Steven Harnoisprivileged(1/(forwarding documents)communicationleg	Basis for Portion of or complete Total Pages	Pages
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	nication legal counsel.	