

Venrurelli and Benner Cases

The head of the Department of Health's Alcohol and Drug Testing program is a high-level appointee in the Ohio Department of Health who is tasked with overseeing all aspects of drug and alcohol testing in Ohio. This job touches on all facets of breath testing, involving testing and approving breath machines for use in Ohio; writing the regulations and rules which govern their use; training and certifying police officers to use the machines, and otherwise testifying about the machines in Courts across the state.

In 2016, in *State v. Venturelli*, Mr. Huey cross-examined the head of the Ohio Department of Health's Alcohol and Drug Testing Program, who is also their chief toxicologist. Based upon his cross-examination the court found the state's head expert was not qualified to give expert testimony about the BAC DataMaster breath testing instrument.

In 2017, in *State v. Benner*, after the state's head expert (mentioned above) went to the DataMaster factory for additional training, Mr. Huey again cross-examined her about that device. Once again, the judge found the head of Ohio's breath testing program is not an expert on the DataMaster. In examining the State's expert, Mr. Huey was able to establish that she did not have a degree in forensic toxicology, and most critically, that she was unfamiliar with the specific models of breath machines currently approved by the Department of Health. In the transcript, she states that she believed the machine that was used to test the defendant in this case was no longer approved in the State of Ohio.

For a complete transcript of this case, please contact our office for more information.