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Oakland County drug test results vanish, courts misled

BY John Wisely

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A computer error is being blamed for wrongly accusing hundreds of people of skipping court-ordered drug tests, subjecting them to potential penalties including fines and jail time.

Jail Alternatives for Michigan Services, known as JAMS, is metro Detroit's largest provider of court-ordered drug testing. The company experienced the issue in late August, but apparently didn't notice it until Dana O'Neal of Oakland County pre-trial services called to ask why no positive test results had been submitted in recent weeks, said Barbara Hankey, manager of Oakland County Community Corrections.

O'Neal learned that instead of forwarding test results, JAMS computers had been wrongly forwarding notices indicating defendants failed to show up for the tests at all, Hankey said.

"She saw something was up, she contacted JAMS and tried to make them aware of the problem," Hankey said. "It was a couple of weeks after we notified them before the conversations started."

JAMS general manager Michelle Foster did not respond to voice mail and e-mail messages seeking comment.

As of late Friday, it was unclear whether any of the defendants were jailed or fined for skipping a drug test. It was also unclear whether incorrect notices had been forwarded to courts in Wayne and Macomb counties, where JAMS also operates testing facilities.

O'Neal on Thursday sent a notice out to judges across Oakland County alerting them that between Aug. 26, and Sept. 11, "the JAMS drug and alcohol testing agency experienced a software issue resulting in false reports of no-show tests."

"As a result, failure to appear notifications were sent by our department for tests that were actually completed." O'Neal wrote in the notice.

Judges often order people charged with drunken driving, drug crimes and other offenses to report for drug and alcohol testing while they await trial. Testing, often daily, is typically required as a bond condition. Failing or skipping a test can prompt a judge to jail a defendant for violating court orders.

But many defendants count on JAMS and other testing agencies to inform the court properly of their test results. They don't necessarily get a receipt showing every test they took, said Robert Larin, a long-time defense attorney and expert in drunken-driving law.

"They'll require someone to prove that he took a test and that might be impossible for the defendant to prove," Larin said. "Most judges have common sense. But there are some who don't."

Larin said any defendant accused of skipping a test should request a hearing before the judge to contest the notice.

Troy District Judge Kirsten Nielsen Hartig said that drug-testing agencies are largely unregulated and judges must scrutinize their results. Several months ago, she stopped allowing defendants in her court to use JAMS because of inaccurate reports.

"This problem is not just JAMS," she said. "This is the underbelly of the criminal justice system."

She said defendants, particularly addicts, often lie about whether or not they tested, but the problem at JAMS shows that judges can't accept a testing agency's word without documentation.

O'Neal's notice told judges and others that her group was "working diligently to correct these inaccurate reports."

"It is strongly recommended that prior to negative consequences being imposed that all tests be confirmed with our office," she wrote.

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