

Attorney general to revive tossed D.C. drunken-driving cases

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The D.C. Attorney General's Office says it plans to revive dozens of drunken-driving cases dropped in recent weeks because of the city's broken alcohol breath-test program, even as questions are being raised by defense attorneys about two officers who were involved in numerous dismissed cases. The Washington Examiner reported on Wednesday that D.C. police have completely abandoned alcohol breath tests and are relying entirely on urine analysis of suspected drunk drivers going forward. It has been a year since accuracy problems with the breath analyzers were made public and the city's breath-test program remains uncertified by the medical examiner's office, making the results they produce worthless as courtroom evidence.

Now, Attorney General Irvin Nathan "is re-evaluating all our [driving under the influence] prosecutions," Nathan's senior counsel, Ariel Waldman, told The Examiner. "If cases have been dismissed, it is because we have either concluded that they are not worthy of going forward or we are missing evidence and will rebring the case at a later date, which we plan to do in many cases."

He could not comment on a timeline for refiling the cases.

Defense attorneys say, however, Nathan is killing the cases because he doesn't want to turn over details on an internal investigation that could undermine the testimony of two D.C. police officers who are responsible for a third of the city's 1,400 annual drunken-driving arrests.

"The attorney general needs to be upfront and transparent," said attorney David Benowitz. "He can't come back and say this about the breath analyzers being invalid."

Officers Jose Rodriguez and Andrew Zabavsky are under investigation for what Nathan has called in court documents "failing to properly handle a urine sample." Either Rodriguez or Zabavsky is the arresting officer in the 25 dropped cases reviewed by The Examiner.

On Jan. 19, Pamela Satterfield filed a motion for her client Luis Reyes, who was accused of DUI in August. She asked D.C. Superior Court Judge Robert Morin to order Nathan to turn over more details on the investigation.

"We don't know what happened with the urine sample, but it could undermine [the officers'] credibility," Satterfield told The Examiner.

Morin's Jan. 28 order required Nathan to hand over the investigation's details.

But "rather than provide the information, we got to court for the trial [on Feb. 1] and they dismissed the case," Satterfield said.

Other cases reviewed by The Examiner were dismissed starting Jan. 31.

Waldman said he couldn't comment on any specific cases.

"The attorney general is committed to working to continue to improve the prosecution of drunk driving in the District," Waldman said.

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