

Drunken Driving Cases Disputed

Adam Wilson

Evidence in drunken driving cases across the state are likely to be challenged because of questions about the state's toxicology lab manager's role in checking breath analyzers, defense attorneys say.

The Washington State Patrol and prosecutors say the former manager's failure to personally check batches of a solution used in breath analyzers has no effect on the machines' accuracy, because other analysts did test the solution.

But the lab manager, Ann Marie Gordon, signed an undetermined number of legal certificates since 2002 saying she had checked the solution. It is used by police officers to confirm their machines are accurately measuring the amount of alcohol in a person's breath.

"Defense attorneys across the state now are going to challenge the admissibility of the breath tests," said Bill Bowman, president-elect of the Washington Association of Criminal Defense Lawyers.

"The bigger implication, in my opinion, is to the credibility of the state," he added, explaining the state toxicology lab is expected to produce objective, accurate information for use by both the accused person and prosecutors.

"Because now her honesty is in question, any tests she had done, including blood work, could be challenged. Personal credibility is at issue," Bowman said.

Gordon could not be reached for comment.

Barry Logan, director of the patrol's Forensic Laboratory Services Bureau, confirmed Gordon's resignation last week. He said her practices as manager were under investigation, but declined to elaborate.

Because the solutions in question are inspected by several analysts at the Seattle lab, they are still valid, said Whitman County Prosecutor Denis Tracy.

"If there was a problem where she said it was tested and it wasn't, there's still eight or nine redundant tests by other analysts," Tracy said.

Tracy wrote a terse letter to the crime lab after he learned blood evidence in a Whitman County case, the vehicular homicide trial of Frederick Russell, had been destroyed. Russell was apprehended in Ireland in 2005 and was returned to Washington.

Logan, Gordon's supervisor, testified in a recent hearing in Russell's case that Gordon had accidentally destroyed the evidence three years after the crash in question, but before Russell was brought to trial.

That news came in the same week that Gordon resigned, but Tracy said he knew of no connection between the Russell case and her departure.

"I'm aware of the situation. It happens to be the same time as the Frederick Russell case, but they're not related," said Lanna Weinmann, the Attorney General's Office lawyer leading the Russell prosecution.

Gordon's departure and the State Patrol's decision to remove her certificates from its online database mean more than just challenging breath test results, said Scott Wonder, a Bellevue attorney who handles drunken driving cases.

"Ms. Gordon was the supervisor for all kinds of breath and blood tests," he said. "It makes you wonder at the very least what corners she cut."

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