

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



**ATTORNEY GENERAL**  
**KARL A. RACINE**

August 27, 2015

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Dear Colleagues:

As you know, the Office of the Attorney General for the District of Columbia ("OAG") is charged with prosecuting a limited class of misdemeanors committed in the District of Columbia, including the offense of Driving Under the Influence. In recent weeks OAG has been made aware of two important developments that have occurred at the Office of the Chief Medical Examiner ("OCME"). The developments concern the District's Breath Alcohol Testing and Calibration Program and OCME's Division of Forensic Toxicology. Please note for your review the attached letter to Chief Judge Lee F. Satterfield explaining these developments.

As noted in the attached letter, OAG will continue to take steps to review OCME's findings and ensure necessary disclosures are provided to the court and the defense bar. Should you have any questions or concerns regarding a specific case, please contact the Assistant Attorney General assigned to the case. For any general questions or concerns, please feel free to contact me at [tamar.meekins@dc.gov](mailto:tamar.meekins@dc.gov), or Acting Criminal Section Chief Peter Saba at [peter.saba@dc.gov](mailto:peter.saba@dc.gov).

Sincerely,



Tamar M. Meekins  
Deputy Attorney General  
Public Safety Division  
Office of the Attorney General  
For the District of Columbia

Attachments

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



ATTORNEY GENERAL  
KARL A. RACINE

August 27, 2015

The Honorable Lee F. Satterfield  
Chief Judge  
Superior Court for the District of Columbia  
500 Indiana Avenue, NW  
Washington, DC 20001

Dear Judge Satterfield:

As you know, the Office of the Attorney General for the District of Columbia ("OAG") is charged with prosecuting a limited class of misdemeanors committed in the District of Columbia, including the offense of Driving Under the Influence ("DUI"). In recent weeks OAG has been made aware of two important developments that have occurred at the Office of the Chief Medical Examiner ("OCME"). The developments concern the District's Breath Alcohol Testing and Calibration Program ("Breath Program") and OCME's Division of Forensic Toxicology ("Toxicology Lab").

Specifically, the Breath Program was officially deactivated by OCME on July 26, 2015 due to the resignation of OCME's breath test manager. Until OCME hires a new manager to maintain the instruments, the Metropolitan Police Department will rely on urine and blood specimens for chemical testing in DUI arrests.

Additionally, OCME's Toxicology Lab ceased operations on May 22, 2015, upon findings by Chief Toxicologist Lucas Zarwell of quality control and assurance failures by two staff members. The initial closure was projected for three to six weeks, but ultimately extended to on or about July 31, 2015. According to OCME, the quality control failures occurred with four opiate assays in a single batch of testing which were read as false negatives and instrument alerts were not detected by the testing technician or on initial technical review. The instrument alerts, however, were detected by Mr. Zarwell upon final review. Three of the specimens were from DUI arrests by U.S. Park Police in Maryland, and the other was a postmortem specimen. Because OAG takes its legal and ethical responsibilities very seriously, we will be continuing to review OCME's findings and audits regarding the quality control failures. OAG is also awaiting additional documentation from OCME to determine what disclosures, if any, need to be made to the Court and/or to the appropriate defense counsel(s).

For your further review and information, please find attached the following: (1) OCME's May 22, 2015 Notice of Delayed Testing (Attachment A); (2) OCME's July 31, 2015 notice of resumed operations (Attachment B); and (3) OCME's July 24, 2015 Breath Alcohol Program Updates (Attachment C). OAG will continue to take steps to review OCME's findings and ensure necessary disclosures are provided to the court and the defense bar. Please feel free to contact Deputy Attorney General Tamar Meekins at [tamar.meekins@dc.gov](mailto:tamar.meekins@dc.gov), or Acting Criminal Section Chief Peter Saba at [peter.saba@dc.gov](mailto:peter.saba@dc.gov), should you have any questions or concerns.

Sincerely,

*Karl A. Racine (KRM)*

KARL A. RACINE  
Attorney General

cc: The Honorable Robert E. Morin  
Presiding Judge, Criminal Division  
DC Superior Court

The Honorable Hiram E. Puig-Lugo  
Presiding Judge, Family Court of the District of Columbia

The Honorable Lynn Leibovitz  
Deputy Presiding Judge, Criminal Division  
D.C. Superior Court

The Honorable Carol Ann Dalton  
Deputy Presiding Judge, Family Court of the District of Columbia



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF MEDICAL EXAMINER  
401 E Street, S.W., 6<sup>th</sup> Floor  
Washington, D.C. 20024

Lucas Zarwell, MFS, MFS, D-ABFT-FT  
Chief Toxicologist

202-698-9059 (Office)  
202-698-9101 (Fax)

May 22, 2015

To Whom It May Concern:

As a stakeholder of the Office of the Chief Medical Examiner, Division of Forensic Toxicology Laboratory, this is a letter to notify you of recent events which may result in delayed reporting. The Laboratory has an effective Quality Assurance Program in place to ensure the integrity of testing and the forensic defensibility of reported results. The purpose of this program is to ensure that the results reported remain at the highest standards of quality, meet the requirements of the American Board of Forensic Toxicology, as well as meet guidelines from the International Standards Organization.

In response to recent Quality Assurance Program findings, the Laboratory has self-imposed corrective and preventive actions that in this instance, will include training development, implementation of new requirements and staff conformance. The Laboratory is confident that the outcome of these actions will enhance the products provided and continuity of quality services. The Laboratory's management staff appreciates your patience and apologizes for any inconvenience this temporary disruption may cause. We anticipate that the Laboratory will reopen in the coming weeks.

During this period limited third party testing will be facilitated by the Laboratory for high priority cases. If there are cases that need immediate attention please contact Chief Toxicologist Lucas Zarwell.


For any questions, further clarification, or to express concerns, please do not hesitate to contact us using the information below.

Thank you,

Lucas Zarwell, MFS, D-ABFT-FTS  
Chief Toxicologist  
Office of the Chief Medical Examiner  
Toxicology Division  
202-698-9059  
lucas.zarwell@dc.gov

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[Redacted]  
[Redacted]

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF MEDICAL EXAMINER  
401 E Street, S.W.  
Washington, D.C. 20024

TO: District of Columbia Division of Forensic Toxicology Stakeholders  
FROM: Lucas Zarwell  
Chief Toxicologist   
DATE: July 31, 2015  
RE: Update to May 22, 2015 Notice

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The Office of the Chief Medical Examiner is pleased to announce that of the Division of Forensic Toxicology will resume operations consistent with the self-imposed corrective and preventative actions resultant from the Quality Assurance Program findings in May 2015 regarding training program development, new requirements, and staff conformance.

While in-house toxicological testing has begun, the Division of Forensic Toxicology retains the right to use third party laboratories to test samples on an as needed, case-by-case basis, with notice provided to the submitting entity.

If you have immediate questions, please contact me via telephone at (202) 698-9004 or via email at [lucas.zarwell@dc.gov](mailto:lucas.zarwell@dc.gov).



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF MEDICAL EXAMINER  
401 E Street, S.W.  
Washington, D.C. 20024

TO: District of Columbia Breath Alcohol Program Stakeholders  
FROM: Chief Toxicologist Lucas Zarwell  
DATE: July 24, 2015  
RE: Breath Alcohol Program Updates

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Due to a change in personnel in the District's Breath Alcohol Testing and Calibration Program (Program), there will be temporary programmatic deactivations of specific Intoximeter instruments that may impact the functionality of the Program until such time replacement personnel is identified and trained. This is a proactive measure to ensure that the integrity of the Program is preserved as we work to identify new personnel and initiatives in support of administrative continuity.

Effective July 26, 2015 the certifications for following Intoximeter instruments will lapse and will automatically disable:

- SN (011678) – Location: 1D
- SN (011676) – Location: 3D

Effective July 28, 2015 the certifications for following Intoximeter instruments will lapse and will automatically disable:

- SN (011677) – Location: 6D
- SN (010812) – Location: 7D

Effective July 31, 2015 the following Intoximeter instruments will be deactivated:

- SN (012586) – Location: 2D
- SN (012587) – Location: 5D
- SN (012941) – Location: Alcohol Van

Please note that SN (012583) located at 4D will remain certified, notwithstanding unanticipated maintenance requirements that may result in earlier closing, until September 26, 2015. This 4D instrument is properly certified by an existing OCME toxicologist who is a Breath Alcohol Certified Maintenance Technician.

During this time of programmatic instrument deactivations, the OCME Toxicology Laboratory will resume DUI testing of urine and blood samples submitted by law enforcement (Submission Protocols titled, "Description of Services and Guidelines for the Collection and Preparation of Specimens for Toxicology Analysis", dated January 2014, attached).

All Operator certification and re-certification classes will be suspended until such time Program personnel is properly trained and certified to conduct the current course offerings for Operators.

Updates regarding the reactivation of breath alcohol testing instruments and Operator certification and re-certification classes will be provided within the coming weeks. If you have immediate questions, please contact me via telephone at (202) 698-9004 or via email at [lucas.zarwell@dc.gov](mailto:lucas.zarwell@dc.gov).