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Hawley, Pa. - A civil lawsuit over the death of a Hawley woman in a car accident in 2005 is raising questions about the prosecution of the driver of one of the vehicles.

Diane Glynn was killed when her car was struck head-on by a truck driven by Dean O'Halloran on Route 590 in Salem Township at 9 am on April 15, 2005. Attorney Mark W. Tanner, who represented Glynn's estate on behalf of her three children, wrote a letter to the PA Attorney General and Wayne County District Attorney Michael Lehutsky saying, "I believe a serious crime has gone unpunished."

He states in the letter that information uncovered in a civil lawsuit against the company which owned the truck indicates O'Halloran had been involved in a hit and run accident three hours prior to the accident with Glynn and that two hours after the accident his blood alcohol was .149 percent in a test requested by hospital personnel. O'Halloran was given a breathalyzer test at 3:42 pm that same day which recorded a .059 percent.

Tanner states that despite a statement given to the investigating officer, State Police Trooper Patrick Foy, that O'Halloran was seen weaving "for several miles" prior to the accident with Glynn, no sobriety tests or blood alcohol tests were ordered by police.

Tanner adds that O'Halloran called his stepfather Michael McTavish who is a corporal with the PA State Police before the investigation into the accident began.

Tanner states that two of Glynn's children were placed in foster care as her oldest daughter who was in college struggled to keep the family together. "As an attorney for the children of Ms. Glynn, we would simply ask that someone from law enforcement provide us with a detailed explanation as to why Mr. O'Halloran was never prosecuted in any way in connection with these events," Tanner said. "As far as I can tell, he did not even receive a traffic ticket."

In a statement released last week, Lehutsky said the information provided by Tanner was not available to investigators at the time of the investigation.

Lehutsky said Foy interviewed O'Halloran in the ambulance and did not detect any evidence of intoxication, nor did any of the witnesses who saw him weaving and had contact with him at the scene.

Lehutsky explained that weaving alone is not enough to provide probable cause to request a DUI analysis. Weaving he said could be the result of sleep deprivation or distracted driving. Without additional evidence, the officer did not have probable cause which is needed to order the blood test or even get the medical records to obtain the one requested by hospital personnel.

Lehutsky said Foy retired sometime after the accident and he spoke with his replacement about the need to get probable cause to obtain a search warrant to get the medical records. Subsequent interviews with witnesses failed to produce such evidence Lehutsky said.

Lehutsky explained that discovery in Civil actions is broader than criminal investigations can be. "The threshold for access to information is much lower," Lehutsky said.

He added he was not aware of the relationship between O'Halloran and a state police officer, but that Foy the investigating officer had become aware of it at some point, but it is not mentioned in the records.

However, Lehutsky said he saw no evidence that something improper happened as a result of that relationship as hinted at in Tanner's letter.

"Nonetheless, the matter will be investigated further and if there was any improper influence it will be addressed appropriately," Lehutsky said.

Lehutsky added the tests taken by the hospital were different than the blood alcohol tests used in criminal investigations. He said the hospital tests are to ensure medications do not interact with something that is in the patient's blood stream.

While different it can be converted, Lehutsky said, estimating O'Halloran's BAC would have been around .12 percent slightly less than twice the legal limit.

Lehutsky said, "Clearly, if a criminal case can properly be built and successfully prosecuted, I have every intent to ensure that justice is done. However, I have concerns regarding the delay that has occurred in getting the critical information related to Mr. O'Halloran's post-crash BAC."

He pointed to the delay in getting the post accident BAC information, not only to him but also by Tanner, who sent files indicating information about the BAC was obtained in December 2007.

Lehutsky said the State Police have "also re-invigorated their investigation based upon receipt of the information." He also an investigation by the State Police Bureau of Professional Relations has also been started into the allegation of improper influence raised by Tanner.

"Everyone involved in this matter has a sincere interest in seeing that justice is properly served in this case," Lehutsky said. "However, law enforcement officers also need to be

cognizant of the laws that regulate how they conduct their investigations. There are situations that are tragic, but their tragic nature does not provide the police a license to ignore the laws they are sworn to enforce.

“I want to ensure the people of Wayne County that all steps will be taken to ensure that whatever can be done to ensure justice, is done,” Lehutsky concluded.