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From The Morning Call

Whitehall man fighting DUI charge says radar units were banned during incident

State memos revealed they may not measure speed accurately.

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A Whitehall Township man who hopes to beat a drunken driving charge has become part of a statewide debate about controversial handheld radar guns.

Joshua Heath Losito, 29, of 1303 N. 13th St. was charged with speeding and drunken driving after a traffic stop Dec. 4, 2003, on Route 22 in Hanover Township, Northampton County. Cpl. Edgardo Colon of state police at Bethlehem stopped Losito about 1:15 a.m. just east of Route 512. Colon, using a handheld Genesis radar unit, said he determined Losito was driving 75 mph in a 55 mph zone.

During the stop, Colon said he smelled alcohol on Losito's breath. Losito said he had been in Manhattan and had consumed two cocktails. Losito's blood-alcohol content was 0.149 percent, according to court records.

On Friday, Losito's attorney, Jason Jenkins of Souderton, was in court for a hearing on pretrial motions. Jenkins maintained that the radar units are unreliable and that at the time Colon stopped Losito, use of the units was banned.

Judge Leonard Zito ordered Jenkins and prosecutor Abraham P. Kassis after the hearing to file legal briefs outlining their positions.

The Genesis radar units were the subject of a news story this week in the Philadelphia Daily News, which reported that internal memos show state police commanders were concerned that thousands of motorists would challenge speeding tickets if they learned that the department was considering a recall of hundreds of Genesis radar guns.

In some of the memos, the newspaper reported, officials said they knew of complaints that the radar guns gave false readings but believed a recall for repairs would be harmful to the agency's reputation.

In a 2003 memo, Maj. Kathryn Doutt, then commander of the state police patrol bureau, wrote that any corrective action needed to be accomplished with discretion.



Sgt. Martin Henry, the state police supervisor of enforcement programs, said in a memo this year that speeding convictions would be overturned if the radar problems became public.

In a 1999 memo, Lt. Gerald Roberts suggested the radar guns be repaired one at a time during routine service.

In Northampton County Court on Friday, Jenkins presented testimony from John T. Shingara, who works for the state police technical support services department. Shingara said the Genesis handheld units are prone to malfunction with the Ford Crown Victoria cars state police use.

The units are powered by being plugged into the cars' cigarette lighter sockets. If the car has a bad battery or an alternator problem, he said, the unit can cause a whining that the radar unit interprets as a speed reading.

State police spokesman Jack Lewis told the Daily News that authorities were confident the guns weren't giving inaccurate readings when pointed at moving cars. The battery packs would be just one more unnecessary piece of equipment for officers to carry, he said.

Lewis acknowledged that commanders were concerned that the public might react badly to a recall, but he said that wasn't the deciding factor in the decision not to accept the battery packs.

Shingara testified that the units have led to a "large amount of phantom readings," generally in the 70 mph or higher range. Shingara said he first learned of the problem in May 2003 and immediately notified his supervisors and others in the chain of command.

"I was ordered not to discuss this," Shingara said. "I was threatened with termination." Shingara said he still works in the technical services department, but now works with computers, not radar units. He said he has sued state police over "what happened to me," but he did not elaborate.

Shingara, under questioning by Kassis, said he is not an engineer, has no degree in electronics and did no testing on the radar units. He said he was subpoenaed at a Cumberland County trial that dealt with the Genesis radar unit on Sept. 3, 2003. He gave his testimony while the jury was out of the courtroom so the judge could determine if the jury should hear him. Jurors didn't hear Shingara's testimony because the prosecution dropped the speeding charge related to the unit, Jenkins said.

Shingara told Zito that state police on Sept. 3, 2003, imposed a temporary ban on the radar units. He said that ban was in effect until Dec. 12, 2003.

Colon testified Friday that he was driving a 2001 Crown Victoria on Dec. 3, 2003, and that he believed the radar unit was banned only from the 2003 model. Colon said he had tested the unit before leaving the barracks. "It was functioning properly," Colon said.

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The Associated Press contributed to this story.

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