

June 23, 1995
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

PEOPLE V. ALEXANDER JOEHNK NO. D022743
CALIFORNIA COURT OF APPEAL
FOURTH APPELLATE DISTRICT, DIVISION ONE

We are pleased to report to you that this week, based on the extensive professional efforts of Deputy City Attorney Annie Sahhar, the California Court of Appeal for the Fourth District, issued a landmark ruling in People v. Joehnk that will allow prosecutors all over California to use the gaze nystagmus test in convicting drunk drivers.

Although other prosecuting offices had been reluctant to seek an appellate court ruling on the use of the gaze nystagmus test out of a concern that a loss would make the test inadmissible in all courts, we took the aggressive approach. The gaze nystagmus test is used by traffic officers in the administration of field sobriety tests when suspects are stopped for driving under the influence of alcohol. The test shows an officer whether the subject is under the influence of alcohol by testing the movement of the eye as the suspect tracks an officer's pen or finger. Prior to this decision, many judges have refused to allow prosecutors to use the test in court.

Last year I authorized a "full court press" effort to provide evidence in a court hearing that would convince an appellate court to approve the gaze nystagmus test. Ms. Sahhar was authorized to call a battery of experts during the court proceedings to prove that the test was based on reliable scientific evidence. After obtaining a favorable pretrial ruling from then Municipal Court Judge Charles Rogers, Ms. Sahhar tried the case and obtained a conviction before Municipal Court Judge Alvin Green. In an opinion that emphatically found the gaze nystagmus test admissible, the Fourth District Court of Appeal upheld the conviction.

Through the efforts of Ms. Sahhar, those who illegally drink and drive will now find it more difficult to evade punishment and law enforcement officers across the State will be able to more freely testify as to this powerful evidence in court.

Respectfully submitted,
JOHN W. WITT
City Attorney

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RC-95-17