COLORADO SUPREME COURT 2 East 14th Ave. Denver, CO 80203 District Court, Weld County Hon. Vincente Vigil Case No. 20CR498	
THE PEOPLE OF THE STATE OF COLORADO, Petitioner, v. DANIEL EATINGER, Respondent.	**▲ COURT USE ONLY ▲**
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BRIEF OF *AMICI CURIAE* THE AMERICAN CIVIL LIBERTIES UNION, THE AMERICAN CIVIL LIBERTIES UNION OF COLORADO, AND THE EXONERATION PROJECT IN SUPPORT OF RESPONDENT

CERTIFICATE OF COMPLIANCE

I certify that this amicus brief complies with all requirements of C.A.R. 21(m), C.A.R. 29, and C.A.R. 32.

This amicus brief complies with the applicable word limit in C.A.R 29(d) (an amicus brief may be no more than one-half the length authorized for a party's principal brief). It contains 4,740 words.

I acknowledge that the Court may strike this amicus brief if it fails to comply with the requirements in the foregoing rules.

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IDENTITY AND INTERESTS OF AMICI CURIAE

The American Civil Liberties Union (ACLU) is a nationwide, nonpartisan, nonprofit organization with more than six million members and supporters. The ACLU of Colorado, with over 45,000 members and supporters, is one of the ACLU's state affiliates. The ACLU and its affiliates have experience litigating cases implicating thousands of wrongful convictions, including cases addressing the Annie Dookhan and Sonja Farak scandals, discussed below.

The Exoneration Project is a not-for-profit organization that represents individuals who are innocent of the crime for which they were convicted. To date, the Exoneration Project's litigation has helped overturn over 250 wrongful convictions. Many of these cases have involved government misconduct and led to mass remedies for those affected, including exonerations and mass dismissals of convictions.[1]

[1] *See* Nat'l Registry of Exonerations, The Groups Registry, *Illinois 2016 (1)*, https://exonerationregistry.org/groups/4235; The Exoneration Project, *'Exoneration Day': Families Celebrate Mass Exoneration*, https://www.exonerationproject.org/stories/exoneration-day-families-celebrate-mass-exoneration/; Nat'l Registry of Exonerations, The Groups Registry, *New York 2021 (2)*, https://exonerationregistry.org/groups/4262; Nat'l Registry of Exonerations, The Groups Registry, *New York 2023*, https://exonerationregistry.org/groups/4276.

SUMMARY OF ARGUMENT

When the government commits massive misconduct in thousands of criminal cases, the burden of addressing the resulting harm should fall on the government, not the people harmed. That is the situation here. Through fraud committed by former DNA analyst Missy Woods and a cover-up perpetrated by lab supervisors, the government violated the constitutional rights of as many as 10,786 defendants. It should be the government's responsibility to remedy that misconduct. *Amici* write to explain that this Court has ample authority, and a range of options, to enforce that responsibility.

It is undisputed that Woods committed massive misconduct. It should also be undisputed that her lab supervisors violated the constitutional rights of defendants by covering up the misconduct. Despite being alerted to fraud by Woods in 2014 and again in 2018, supervisors concealed it. One even wrote that she was concerned that evidence of Woods's misconduct would get into "the hands of [the] defense." That is a systemic violation of the duty to disclose exculpatory evidence, and it demands a remedy.

Yet the government's proposed remedy is, simply, nothing. It contends that the only tainted cases are the 1,045 in which it has definitively proven misconduct. It further contends that those tainted cases do not include this case because in 2024—

a decade after managers began covering up Woods's fraud—the government reassigned this case from Woods to another analyst. In effect, the government contends that if its agents commit and then conceal fraud, and are eventually caught, it should just get a mulligan. That is not so.

In fact, there are far more than 1,045 tainted cases. The cover-up enabled Woods to keep working on cases, including this one, from 2014 until 2023. During that time, data stored on testing instruments, which might have revealed more malfeasance by Woods, was erased. Each of those cases potentially involves the withholding of impeachment evidence (supervisors' knowledge of Woods's fraud) and the erasure of potentially exculpatory evidence (data on instruments).

A mulligan is not the right remedy. And if this Court concludes that the right remedy is not *dismissal*, it should still be *something*.

This Court has substantial authority, including under its superintending power, to address egregious government misconduct that harms defendants and defrauds courts. In crafting relief, this Court could look to Massachusetts, where there have been three scandals resembling Colorado's. There, exercising its superintending authority, the Massachusetts Supreme Judicial Court crafted remedies guided by the principle that criminal defendants should not "bear the burden of a systemic lapse" that is "entirely attributable to the government."

Bridgeman v. Dist. Att'y for Suffolk Dist., 30 N.E.3d 806, 816 (Mass. 2015) ("*Bridgeman I*").

Guided by that same principle, this Court should consider at least the following remedies here:

1. A presumption of egregious government misconduct in the 10,786 cases that Woods worked on over the period when she was committing fraud. *See, e.g.*, *Commonwealth v. Scott*, 5 N.E.3d 530, 545 (Mass. 2014).
2. A duty on the part of prosecutors to dismiss cases unless they can produce evidence, not involving Missy Woods, sufficient to establish guilt beyond a reasonable doubt. *See Bridgeman v. Dist. Att'y for Suffolk Dist.*, 67 N.E.3d 673, 676 (Mass. 2017) ("*Bridgeman II*").
3. The imposition of sanctions based on a pattern of willful misconduct. *See People v. Tippet*, 539 P.3d 547, 558 (Colo. 2023).

FACTUAL BACKGROUND

I. The fraud.

Woods was involved in the investigation of 10,786 cases in her 29-year career with the Colorado Bureau of Investigation ("CBI"). Ex. DD at 6.[2] During that time,

[2] All exhibit citations refer to the exhibits accompanying Defendant's November 26, 2025 motion to dismiss.

she engaged in a range of "malfeasance," District Ct. Order ("Order") at 2, including concealing contamination by altering quantitation[3] data in control samples, Ex. A at 91; deleting quantitation target values, *id.* at 92; tampering with control samples, *id.* at 3; falsely reporting the absence of male DNA, *id.* at 92; and performing unauthorized and undocumented extractions that fully consumed physical evidence, *id.* at 94. State investigators have identified 1,045 cases of undisputed misconduct. Mar. 3, 2026 Tr. at 186.

But that does not mean other cases, including this one, were fraud-free. Investigators appear to have identified tainted cases largely through "data mining" that could discern cases in which Woods manipulated data after it had been correctly input into an electronic system. *See id.* at 108, 193. But if Woods input the data incorrectly in the first place or contaminated evidence directly—as the record indicates she did—her fraud would have left no digital trail for the "data mining" to detect. *See* Ex. A at 51 (lab supervisor surmising that Woods edited data manually before uploading it to the system), 42 (Woods touched evidence directly); Mar. 3, 2026 Tr. at 187–89 (Woods performed "undocumented work" that "precludes a full

[3] Quantification is the process of determining the amount of DNA in a sample, which in turn allows analysts to determine, among other things, whether to replicate DNA to ensure a sufficient amount for analysis. Ex. A at 89.

evaluation" of fraud). Moreover, by the time the government finally investigated Woods, significant amounts of the lab's instrument data had been purged, rendering investigators unable to detect even data-entry discrepancies in many cases. *See* Ex. A at 11.

In short, there is no case involving Woods in which investigators have proved an absence of fraud.

II. The cover-up.

Lab supervisors were alerted to misconduct by Woods in 2014 and 2018, yet CBI did not "initiate[]" its investigation until September 2023. People's Pet. for O.S.C. ("Pet.") at 9. This cover-up implicates all cases assigned to Woods after 2014.

In 2014, while reviewing a batch of Woods's data, CBI forensic scientist Jennifer Dahlberg determined that Woods had deleted DNA quantitation data "on purpose." Ex. E at 1–2. Dahlberg reported the fraud to supervisor Sarah Miller. *Id.* at 2–3; Ex. A at 35. Miller did nothing. *See* Ex. A at 44.

In July 2018, DNA analyst Kiffin Champlin found that Woods had deleted data showing a contamination flare. *Id.* at 30. Champlin even confirmed the fraud by checking Woods's data against raw data from the instrument before the instrument data was purged (which occurred on a quarterly basis). *Id.* at 11, 45; Ex. C at 8. Champlin knew it was "not an accident." Ex. C at 8. And she knew it

suggested the existence of other misconduct that "we never catch." *Id.* at 11. Champlin reported her findings to Miller as well as multiple members of CBI management, including lab director Katie Featherstone, lab quality director Lisa Yoshida, and deputy director of CBI Forensic Services Jan Girten. Ex. C at 10–13. In Miller's contemporaneous notes, she admitted that Woods had "deleted the values." Ex. F at 1; Ex. A at 9.

Instead of disclosing Woods's misconduct, CBI management buried it. Miller wrote that she "wanted to make sure all the 'I's were dotted and T's were crossed' before this gets in the hands of defense." Ex. F at 1; Mar. 3, 2026 Tr. at 133. But the evidence did not reach the hands of the defense. No one in CBI management informed prosecutors, defense counsel, or judges about Woods's 2018 data deletions until late 2023. *See* Mar. 3, 2026 Tr. at 133–34; Ex. A at 16–18.

Managers also silenced whistleblowers. Featherstone and Girten instructed Champlin not to discuss the 2018 fraud. Ex. C at 20. Yoshida falsely reported that there was "no indication of bad faith" by Woods, and that CBI imposed a "monitoring period" that uncovered "no additional instances" of misconduct. Ex. H at 2. In fact, there was no "monitoring period," and Yoshida admitted that "everyone believed Woods'[s] [2018] action was intentional." Mar. 3, 2026 Tr. at 155–56. Managers briefly removed Woods from case work for "counseling sessions," but

they restored her to case work by November 2018. Ex. H at 1–2.

Those managerial actions enabled Woods's fraud to continue and become harder to reconstruct. In many cases, the lab-wide cover-up has made it impossible to check Woods's data entry against now-deleted instrument data. *See* Ex. A at 11.

ARGUMENT

I. The government unconstitutionally withheld exculpatory evidence in countless cases.

The government's contention that it did not violate defendants' rights except in cases with proven tampering by Woods, *see* Pet. at 21, is wrong. Even in cases with no proven tampering, the government had a duty to disclose Woods's misconduct as *impeachment* evidence. It failed to do so. That failure was particularly abject following the discovery of misconduct by Woods in 2014 and 2018; lab supervisors and prosecutors had constitutional and statutory obligations to disclose that misconduct to defendants. Instead, they unconstitutionally suppressed it.

A. The constitutional duty to disclose exculpatory evidence extends to every member of the prosecution team.

Under "[t]he U.S. and Colorado Constitutions," due process requires the prosecution to disclose to defendants exculpatory information that "is material either to guilt or to punishment." *People v. Bueno*, 409 P.3d 320, 326 (Colo. 2018) (quoting *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). This includes evidence that "affect[s]

a witness's credibility." *Zapata v. People*, 428 P.3d 517, 528 (Colo. 2018) (citing *Giglio v. United States*, 405 U.S. 150, 154–55 (1972)).

Two features of the prosecution's duty to disclose are particularly relevant here. First, it extends not just to prosecutors but to every member of a "prosecution team." The prosecution team encompasses everyone "act[ing] on the government's behalf" in criminal cases, including police and forensic analysts. *Kyles v. Whitley*, 514 U.S. 419, 437 (1995); s*ee Ortiz-Ortiz v. Colo. State Patrol*, No. 14CA0612, 2015 WL 14124375, at *4 (Colo. App. Oct. 8, 2015) (Colorado State Patrol recognizing "its obligations under *Brady*" to "identify material related to the credibility of its troopers and officers").

Second, all evidence known to prosecution team members is imputed to the prosecutor. A "prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case." *Kyles*, 514 U.S. at 437. When the prosecution fails to disclose exculpatory information known to anyone acting on the government's behalf, that is a *Brady* violation—"even if the prosecutor has no 'actual knowledge of the existence of the evidence.'" *McCormick v. Parker*, 821 F.3d 1240, 1246–47 (10th Cir. 2016); *Smith v. Sec'y of N.M. Dep't of Corrs.*, 50 F.3d 801, 824 (10th Cir. 1995) ("[T]he prosecutor is the party who is ultimately accountable for the nondisclosure of evidence." (citing *Giglio*, 405 U.S. at 154)).

The Colorado Rules of Criminal Procedure likewise "extend" a prosecutor's disclosure obligations to everyone "who ha[s] participated in the investigation or evaluation of the case and who either regularly report[s], or with reference to the particular case have reported, to [the prosecutor's] office." Crim. P. 16(I)(a)(3); *see People v. Walthour*, 537 P.3d 371, 376 (Colo. 2023) (including CBI under Rule 16's disclosure requirements).

Together, these obligations mean that the prosecution must disclose any exculpatory or impeachment evidence known to any prosecution team member, "even if the prosecutor has no 'actual knowledge'" of the evidence. *McCormick*, 821 F.3d at 1246–47 (quoting *Smith*, 50 F.3d at 824). Thus, in *McCormick*, the Tenth Circuit held that the prosecution violated *Brady* by failing to disclose that a nurse who "conducted a sexual-assault examination" for the state misrepresented her qualifications. *Id.* at 1242–43. Although only the nurse knew her representation to be false, the court "impute[d] her knowledge of her own lack of certification to the prosecutor." *Id.* at 1246–47.[4]

[4] The cases the government cites in support of its argument that "prosecutors are not chargeable for the outrageous misconduct committed by other governmental agencies," Pet. at 25, pertain to government interference with the Sixth Amendment right to counsel. They are not applicable to the constitutional and statutory standards that apply under *Brady*.

B. Prosecution teams suppressed evidence of Woods's fraud.

The government has violated the due process rights of defendants in Woods-involved cases not just in one way, but in two: first by Woods concealing her own misconduct, and again by Woods's supervisors suppressing evidence of her misconduct instead of disclosing it to defendants.

Woods was part of the prosecution team in every prosecution in which she participated at CBI. She conducted her forensic work "'at the behest of' law enforcement as part of … criminal investigation[s]." *McCormick*, 821 F.3d at 1247. Because courts "must impute her knowledge of her own [malfeasance] to the prosecutor," the government violated its duty to disclose her misconduct in numerous Woods-involved cases—even if Woods did not tamper with evidence in those cases. *Id.*; *see also Kyles*, 514 U.S. at 437; Crim. P. 16(I)(a)(3).

But the malfeasance did not end with Woods. Her decades-long fraud was "enabled by an agency." Order at 5. CBI supervisors not only "ignore[d]," but also "actively … shield[ed]" her actions from "com[ing] to light." *Id.* at 1–2, 5; *see* Factual Background II, *supra*.

For two reasons, those supervisors were also part of prosecution teams. First, CBI as a whole is on the prosecution team in every case where it provides DNA evidence for the government. Its legislative mandate is "to assist" requesting

agencies and law enforcement "in the investigation and detection of crime." C.R.S. § 24-33.5-412(1)(a)(I). By overseeing the lab's investigative work and vouching for its compliance with rules and accreditation requirements, CBI and its managers are "act[ing] on the government's behalf" in criminal cases.[5] *Kyles*, 514 U.S. at 437; *see* 22A C.J.S. *Criminal Procedure and Rights of Accused* § 386 (2026) ("The government has a duty to disclose material that is in the possession of … the crime laboratory."); *Commonwealth v. Hallinan*, 207 N.E.3d 465, 475–80 (Mass. 2023) (holding that the state Office of Alcohol Testing "forms part of the prosecution team in OUI cases, given that proof of compliance with calibration and certification protocols is an essential aspect of any OUI prosecution involving a breathalyzer"); *Fuselier v. State*, 468 So.2d 45, 56 (Miss. 1985) (affirming "the prosecution's obligation to produce" exculpatory material "in the possession of the state crime laboratory"); *United States v. Bundy*, 968 F.3d 1019, 1037 (9th Cir. 2020) ("As a matter of law, the prosecution is deemed to have knowledge of" anything known to any "agency participating in the same investigation…." (quotation marks omitted)).

[5] CBI's Discipline Operating Manuals provide that managers are responsible for "[e]nsur[ing] that the DNA section complies with all applicable accreditation requirements." Colorado Bureau of Investigation, *DNA 2 Personnel* (Sept. 18, 2026), https://cbifs.qualtraxcloud.com/ShowDocument.aspx?ID=7078.

Second, managers *inserted themselves* into prosecution teams by affirmatively ensuring Woods's assignment to those teams despite her misconduct in 2014 and 2018. That is, even assuming managers were not already part of those prosecution teams, they joined them when they caused Woods to work on them. *See Hallinan*, 207 N.E.3d at 476 & n.12 (discussing conduct of supervisor who made decisions causing the withholding of exculpatory documents).

CBI's unconstitutional cover-up has been profoundly consequential. By enabling Woods to continue working after her misconduct in 2014, CBI needlessly tainted thousands of additional cases. And by ensuring the spoliation of evidence—as the fraud continued and instrument data was deleted—CBI thwarted efforts to ascertain the precise scope of Woods's malfeasance. On that record, the government's insistence that the fraud tainted only 1,045 cases, and that defendants in other cases should be denied relief unless they can somehow disinter the evidence that the government buried, is untenable.

II. This Court has ample authority to order systemic remedies for systemic government misconduct.

The constitutional harm wrought by Woods's misconduct and compounded by CBI's cover-up warrants the exercise of this Court's substantial remedial authority. As the decisions of other state supreme courts demonstrate, when the

government commits misconduct in thousands of cases, the Court's remedial authority includes the power to articulate doctrines and systemic remedies capable of ensuring timely, uniform, and just dispositions of affected cases.

A. The Colorado Constitution gives this Court broad superintending authority to remedy systemic violations of Coloradans' rights.

Relying heavily on federal precedent, the government argues that this Court's superintending authority is "narrow" and incapable of providing meaningful remedies here. Pet. at 30–31. That is incorrect.

The Colorado Constitution vests this Court with "general superintending control over all inferior courts." Colo. Const. art. VI, § 2(1).[6] That authority is fundamental to the judiciary's functioning. *See Greeley & Loveland Irr. Co. v. Handy Ditch Co.*, 240 P. 270, 272 (Colo. 1925). It is also flexible and unconstrained by justiciability requirements. *See GHP Horwath, P.C. v. Kazazian*, 543 P.3d 1035, 1050 (Colo. 2024); *see generally* Adam B. Sopko, *The Supervisory Power of State Supreme Courts*, 98 S. Cal. L. Rev. 1543, 1565–68, 1588–91 (2025) (distinguishing state court supervisory power from the narrower authority of federal courts).

[6] Article VI, § 2 is buttressed by Article VI, § 1, which vests "the judicial power of the state … in the courts," and Article III, which protects the judicial power from undue encroachment. *See Kolkman v. People*, 300 P. 575, 584 (Colo. 1931).

This Court's broad superintending power is well-suited to adjudicating important issues on a statewide basis. For example, in *Southeastern Colorado Water Conservancy District v. Huston*, this Court consolidated hundreds of related water-rights cases before one judge and prescribed a bespoke procedure for resolving them efficiently. *See* 593 P.2d 1347, 1354–55 (Colo. 1979). The Court explained that its "constitutional supervisory power" was "a proper basis" for crafting this statewide procedure for two reasons. *Id.* at 1351. First, the cases presented common questions "of great public importance" that concerned "many persons[']… rights." *Id.* Second, the Court sought "'to insure the harmonious working of our judicial system'"; allowing different courts to adjudicate each case individually would have been a "waste of judicial time" and risked producing "different conclusions." *Id.* at 1350–51 (citation omitted). Similarly, this Court used its superintending power in *People v. Wolff* to establish "the proper procedure" for applying "habitual criminal statutes" because doing so was "indispensable to the ordinary and effective prosecution" of repeat-offender cases. 137 P.2d 693, 694–95 (Colo. 1943).[7]

[7] This Court has also exercised its superintending power to provide a resolution when "no other adequate remedy [was] available," *People In Interest of T.T.*, 442 P.3d 851, 856 (Colo. 2019); correct an unjust adjudication, *Spann v. People*, 561 P.2d 1268, 1269–70 (Colo. 1977); and resolve otherwise non-justiciable issues, *GHP Horwath, P.C.*, 543 P.3d at 1050.

Systemic remedies are warranted here for the same reasons. Redressing the Woods scandal is a matter of great public importance, implicating rights of numerous defendants and the integrity of the justice system. Having trial courts adjudicate cases one by one would be enormously inefficient and inevitably produce inconsistent approaches. And this Court's superintending role is at its peak here because the government defrauded not only defendants but courts; the superintending authority is designed to "protect … courts from conduct that impairs the normal functioning of the state's judicial processes." *GHP Horwath, P.C.*, 543 P.3d at 1050.

B. Remedies ordered following similar scandals can inform this Court's exercise of its superintending authority.

In approaching this scandal, this Court need not write on a blank slate. Faced with three scandals resembling this one, the Massachusetts Supreme Judicial Court deployed its supervisory authority to implement systemic remedies that sought to "account for the due process rights of defendants, the integrity of the criminal justice system, the efficient administration of justice … , and the myriad public interests at stake." *Comm. for Pub. Couns. Servs. v. Att'y Gen.*, 108 N.E.3d 966, 984–85 (Mass. 2018) ("*CPCS*") (citation and quotation marks omitted). Other state supreme courts have done the same.

The Dookhan scandal. One Massachusetts scandal concerned a state chemist, Annie Dookhan, who engaged in "numerous improprieties," including guessing at test results. *Bridgeman II*, 67 N.E.3d at 675–77. With Dookhan, as with Woods, it was "impossible" for some "defendant[s] to prove that the drug analysis in [their] case was tainted" because Dookhan's misconduct "belie[d] reconstruction." *Id.* at 678–80. But the court reasoned that defendants should not "bear the burden of a systemic lapse … entirely attributable to the government." *Bridgeman I*, 30 N.E.3d at 816. Instead, "in the wake of government misconduct that has cast a shadow over the entire criminal justice system, it is most appropriate that the benefit of our remedy inure to defendants." *Id.* Accordingly, over the course of several decisions, the court exercised its superintending power to adopt certain remedies:

- In every case in which Dookhan signed a drug certificate, "the defendant [was] entitled to a conclusive presumption that Dookhan's misconduct occurred in his case, that it was egregious, and that it is attributable to the Commonwealth." *Scott*, 5 N.E.3d at 535.
- District attorneys were required to "dismiss with prejudice all drug cases [they] would not or could not reprosecute [with untainted evidence] if a new trial were ordered." *Bridgeman II*, 67 N.E.3d at 675–76.

- District attorneys were required to notify "all relevant Dookhan defendants whose cases have not been dismissed." *Id.*
- Every defendant whose case was not dismissed was entitled to appointed counsel.

As a result of these rulings, charges were dismissed in more than 21,000 Dookhan cases.[8]

The Farak scandal. Sonja Farak was a state chemist who consumed drugs at the lab. *CPCS*, 108 N.E.3d at 969. And, as with the Woods scandal, prosecution team members "who were duty-bound to investigate and disclose Farak's wrongdoing" instead "withh[eld]" exculpatory evidence from defendants. *Id.* Due to that cover-up, the Supreme Judicial Court imposed "harsher sanctions" than it did for the Dookhan scandal. *Id.* at 986. Again exercising its superintending authority, the court imposed several remedies that resulted in the dismissal of convictions in over 16,000 cases[9]:

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[8] Press Release, Massachusetts Supreme Judicial Court, *Supreme Judicial Court Dismisses Over 21,000 Cases Affected by the Breach at the Hinton State Laboratory Institute* (Apr. 20, 2017), https://www.mass.gov/news/supreme-judicial-court-dismisses-over-21000-cases-affected-by-the-breach-at-the-hinton-state-laboratory-institute.

[9] Sept. 23, 2019 Report of the Special Master ¶ 11, *CPCS*, 108 N.E.3d 966

- Dismissal with prejudice in every case in which Farak signed a drug certificate, as well as any case Farak's misconduct might have tainted. *Id.* at 988.
- An order for the state attorney general's office to "bear the entire financial burden associated with notifying … affected defendants" as a sanction for the cover-up. *Id.* at 989 n.13.

The breathalyzer scandal. The Massachusetts Office of Alcohol Testing ("OAT") systematically failed to disclose to defendants documentation that breathalyzer devices failed calibration tests. *Hallinan*, 207 N.E.3d at 475–77. That failure, the Supreme Judicial Court held, amounted to "intentionally withholding exculpatory evidence" across "thousands of prosecutions for OUI offenses." *Id.* at 479–80. The court held that OAT was "part of the prosecution team" for *Brady* purposes because it "assists prosecutors" and "proof of compliance with calibration and certification protocols is an essential aspect of any OUI prosecution involving a breathalyzer machine." *Id.* at 480. So, even though prosecutors were not aware of the lab's misconduct, it was "attributable to the Commonwealth." *Id.* Again, the

(No. SJ-2017-347), https://www.aclum.org/cases/committee-public-counsel-services-v-attorney-general/?document=Sept-2019-%E2%80%93-Special-Master%E2%80%99s-Report.

court exercised its superintending authority to ensure that defendants did not "bear the burden of the Commonwealth's systemic failures." *Id.* (cleaned up). The court imposed:

- "[A] conclusive presumption that egregious government misconduct occurred" in the 27,000 affected cases, *id.* at 482;
- the exclusion of breathalyzer results from new trials, *id.* at 486; and
- an order capping any sentence after retrial "at what it was under [the defendant's] original plea arrangement," *id.* at 469–71.

Scandals in other states. Other state supreme courts have taken similar actions to address systemic government misconduct. For example, the West Virginia Supreme Court exercised its "general supervisory [power]" under the state constitution to "fashion special relief" for victims of a state serology lab's misconduct. *In re Renewed Investigation of State Police Crime Lab'y*, 633 S.E.2d 762, 769 n.9 (W. Va. 2006). As to the main culprit who "intentionally and systematically" provided inaccurate or false evidence, the court imposed "a presumption of invalidity" on "any testimonial or documentary evidence [he] offered." *Id.* at 764–67. As to other serologists who committed "recurring" but apparently unintentional errors, the court "enact[ed] a special habeas corpus

procedure" for affected defendants. *Id.* at 764.

Similarly, the Texas Court of Criminal Appeals fashioned general procedures to address misconduct by a crime-lab technician who falsified results. *See Ex Parte Coty*, 418 S.W.3d 597, 598 (Tex. Crim. App. 2014). The court initially "found a presumptive due-process violation in each [affected] case" and simply set aside judgments. *Id.* at 599–600. It then developed a more detailed framework wherein courts would "infer" that evidence provided by the technician was "false." *Id.* at 605. At that point, "the burden shift[ed] to the State" to prove that the "technician committed no such intentional misconduct in the [defendant's] case." *Id.*

* * *

These examples affirm this Court's broad supervisory authority to order systemic remedies that place the burden of systemic misconduct by state actors squarely on the government and not on defendants—especially when the misconduct prevents defendants from proving that their specific cases were affected.

III. This Court should order substantial relief, starting with a presumption of misconduct in all cases Woods worked on.

Amici take no position on whether this Court should dismiss this specific case with prejudice. But the government's proposed remedy—nothing—cannot be right. When a government analyst commits misconduct in untold cases, and government

managers act to hide and extend that misconduct, the remedy cannot simply be to give the government a do-over. Instead, this Court should exercise its superintending authority to order systemic remedies that ensure the burden of the systemic lapse here falls on the government that committed misconduct, and not the people against whom that misconduct was committed.

The most straightforward remedy is dismissing some cases with prejudice. That may be strong medicine, but it is warranted to "prevent repetition of [government] misconduct." *CPCS*, 108 N.E.3d at 985–86. This Court has "long recognized" that "the exclusion of evidence or even complete dismissal can be proper remedies to assure compliance with discovery orders." *Tippet*, 539 P.3d at 555, 560 (holding that the reduction of a first-degree murder charge was a proper remedy for a district attorney's office's "pattern and practice of neglect of its discovery obligations," even if that neglect did not rise to the level of willfulness).

If the Court declines to take that approach, it should consider three remedies.

First, it should impose a presumption of egregious government misconduct in Woods's 10,786 cases. *See Bridgeman II*, 67 N.E.3d at 676 (ordering such a presumption); *In re Renewed Investigation of State Police Crime Lab'y*, 633 S.E.2d at 764, 767 (same). In any of these cases where the government wishes to continue a prosecution or defend a conviction, it must affirmatively establish that Woods's

misconduct did not taint the evidence.

Second, the Court should order prosecutors to "exercise their prosecutorial discretion" and "vacate and dismiss with prejudice all [affected] cases the [State] would not or could not reprosecute if a new trial were ordered." *Bridgeman II*, 67 N.E.3d at 676.

Third, this Court should consider any other measures it deems necessary for deterring similar prosecution-team misconduct. Especially if this Court concludes that dismissals are not an appropriate remedy, monetary sanctions may be warranted. *See CPCS*, 108 N.E.3d at 989 n.13.

CONCLUSION

For these reasons, *amici* respectfully submit that this Court should order systemic remedies for defendants harmed by Woods's misconduct and CBI's cover-up.

Dated: November 9, 2026

Respectfully submitted,

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** Applications for pro hac vice admission forthcoming*

CERTIFICATE OF SERVICE

I certify that on November 9, 2026, a copy of the above **BRIEF OF *AMICI CURIAE* THE AMERICAN CIVIL LIBERTIES UNION, THE AMERICAN CIVIL LIBERTIES UNION OF COLORADO, AND THE EXONERATION PROJECT IN SUPPORT OF RESPONDENT** was filed with the Court and served via the Colorado Courts E-Filing System, which notifies all counsel of record.

Respectfully Submitted,

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