

KWIP

KOREY WISE INNOCENCE PROJECT

ACLU

AMERICAN CIVIL LIBERTIES UNION

Colorado

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To:

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Director Schaefer and Deputy Director Allen,

The Korey Wise Innocence Project (KWIP) and the American Civil Liberties Union of Colorado (ACLU-CO) are deeply invested in the integrity of the criminal legal system in Colorado, which relies on state crime laboratories. We write with inquiries about external auditing and monitoring activities at the Colorado Bureau of Investigation (CBI). This letter seeks to gain clarity regarding CBI's actions regarding the misconduct of DNA analyst Yvonne "Missy" Woods, including: (1) CBI's nonconformance with federal law and the requirements of the Paul Coverdell Forensic Science Improvement Grant, and (2) the scope of the audit and assessment of forensic services in response to Ms. Woods' pervasive misconduct.

Ms. Woods spent nearly thirty years as a DNA analyst at CBI. While directors and supervisors lauded her as an “all-star” and a “workhorse,” CBI’s Internal Affairs Report revealed her colleagues repeatedly raised concerns about the quality of her work dating back at least a decade. In 2014, and again in 2018, CBI technical reviewers identified data deletions in Ms. Woods’ cases and reported the misconduct to their superiors at CBI. In each instance, CBI technical reviewers’ reports – and Woods’ intentional misconduct – were brushed aside by CBI management. Ms. Woods’ misconduct was not made public until 2023, after an undergraduate CBI intern spoke up about “anomalies” in Ms. Woods’ casework. Ms. Woods deleted data showing that male DNA was present in swabs from sexual assault kits administered on female victims. By deleting the data, Ms. Woods could quickly close the case without testing for male DNA profiles. This intentional misconduct had the potential to cause grave injustices. Victims of sexual assault who endured invasive and traumatic forensic exams may have lost their chance to have their attackers identified, and innocent defendants in highly charged sexual assault cases may have lost the only evidence that could prove their factual innocence. Ms. Woods’ misconduct, which irrevocably tainted hundreds – maybe thousands – of cases while leadership failed to address reports of her misconduct, exemplifies the devastating consequences of insufficient internal and external accountability at CBI.

Our urgency in this matter stems from the fact that forensic evidence is being used every day in criminal trials and the longer it takes to resolve questions regarding Ms. Woods’ misconduct, the longer it will delay relief for those impacted by her misconduct.

1. Nonconformance with federal law and the Paul Coverdell Forensic Science Improvement Grant

As we began to investigate *how* Ms. Woods’ misconduct went unchecked for so long, we were alarmed to discover that CBI’s response did not conform to the terms established for recipients of the federal Paul Coverdell Forensic Science Improvements Grants Program pursuant to the *Justice for All Act of 2004*, Pub. L. No. 108-405, 118 Stat. 2260, sec. 311. Federal law required CBI to certify that “a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees.” 34 U.S.C. §10562(4).

We ask for clarification as to why CBI did not use its designated Coverdell entity in response to the allegations of negligence and misconduct by Ms. Woods. According to Amy Miller, Grant Program Manager at the Colorado Department of Public Safety, CBI named the Jefferson County Sheriff’s Office (JCSO) in its Coverdell Grant applications as the government entity that would conduct investigations into

allegations of misconduct at CBI. Based on our review, however, JCSO has never had a process in place to investigate misconduct at CBI's laboratories and indeed has never done any investigations of misconduct.

KWIP filed an open records request on JCSO asking for all records concerning JCSO's role as the independent investigator of CBI under the Coverdell Grants program. JCSO replied that it had no such records. From our communications with JCSO, it seems that JCSO:

- Would only conduct investigations involving CBI at CBI's request.
- Has never received or investigated an allegation of serious negligence or misconduct at CBI.
- May not have known it was CBI's Coverdell entity prior to KWIP's open records request.

These findings raise the following questions:

- Why did the Coverdell entity not have a "process in place" to conduct an independent external investigation into allegations of serious negligence or misconduct at CBI's laboratories?
- Did CBI ever notify the public or its own employees that JCSO is the "governmental entity" to which allegations of serious negligence or misconduct at CBI may be reported?
- Were there any processes in place for an individual in the community to independently request or require JCSO to investigate CBI?

We request that CBI explain what process it believed was in place for external investigations of serious negligence or misconduct at CBI and how that process conformed with federal law.

2. The scope of CBI's audit and assessment of forensic services

In a June 5, 2024, press release announcing the completion of its Internal Affairs investigation into Missy Woods, CBI announced: "CBI is reviewing its processes and procedures to prevent similar manipulation from occurring in the future. Additionally, a third-party organizational assessment of our forensic services procedures and management structures will be completed."¹ On July 25, 2024, CBI posted a solicitation for bids to conduct a Forensic Services Audit and Assessment at CBI. A Denver Post article from October 16, 2024, reported that CBI intended to award a \$770,000 contract to

¹ "Colorado Bureau of Investigation Releases Internal Affairs Report Into Former Forensic Scientist Missy Woods," Colorado Bureau of Investigation (Jun. 5, 2024), <https://cbi.colorado.gov/news-article/colorado-bureau-of-investigation-releases-internal-affairs-report-into-former-forensic>.

“a fledgling Wisconsin consulting firm to audit its forensic services as the agency attempts to move forward after discovering its star DNA scientist manipulated testing data for years.”²

While we are encouraged that CBI is preparing to have an external entity conduct an independent investigation into the root cause of Woods’ misconduct and CBI’s failure to prevent it, we are concerned about the scope of the Audit and Assessment. According to CBI, Ms. Woods was first reported by a coworker in 2014, and in 2018 she was accused of data manipulation. However, CBI’s solicitation indicated that the external audit would cover only a two-year period, 2022 to 2024. The external auditors responsible for reviewing the root cause of the unchecked misconduct at the crime laboratory will not be tasked with reviewing the complete record, dating back to when Ms. Woods’ misconduct was first detected and reported. Moreover, the diversity and richness of input and the audit’s independence may be restricted because CBI executive staff will oversee it and will identify “key stakeholders who could provide insights into the assessment, as identified by the CBI Executive staff.” An independent audit is one that is free from the influence and direction of CBI. External auditors should be free to engage with the many departments, government agencies, and organizations who receive information about, work with, and challenge crime laboratory practices and findings.

External investigations and audits of state crime laboratories are essential to identifying the system-level root causes of past misconduct to create safeguards that can reduce the risk of future misconduct. We raise these concerns with you because a strong, transparent, and high-quality forensic science system will be essential to restoring public trust. It will be crucial that all criminal justice stakeholders agree that CBI has undergone a thorough and independent audit conducted with competence and integrity. We urge you to ensure that the audit of CBI is retrospective and complete; that the auditors are permitted to review all relevant documents, including case files, manuals, policies, standard operating procedures, validation studies, training records and curricula, proficiency test records, and competency assessment records; that the auditors have the knowledge, abilities, and skills based on education and experience to conduct the audit; and that the auditors perform their duties in a way that is independent, objective, based on facts, nonpartisan, and insulated from CBI influence. Given the gravity of these circumstances, we expect CBI is pursuing other initiatives to restore Coloradan’s trust. We also request any additional information about programs that CBI plans to implement to this end.

We are sharing this letter with the media and members of the criminal legal community because we believe CBI’s response to Ms. Woods’ misconduct is a matter of

² Shelly Bradbury, “CBI Selects Fledgling Consulting Firm to Audit Forensic Services in Wake of DNA Scandal,” Denver Post (Oct. 16, 2024), <https://www.denverpost.com/2024/10/16/forward-resolutions-cbi-contract-missy-woods-dna-lab-misconduct/>.

importance to all Coloradans. KWIP previously asked CBI Director Chris Schaefer to create a working group of stakeholders to determine how affected persons should be notified of Ms. Woods' misconduct and its impact on their cases. Mr. Schaefer declined, stating that CBI would work only with "its law enforcement partners." We are sharing this new request publicly in an effort to bring this important dialogue into the public space, where it belongs. Thank you for your time and consideration. We respectfully request a substantive response by December 3, 2024.

Sincerely,



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