

# Colorado District Attorneys' Council

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## PRESS RELEASE

On Friday, June 7<sup>th</sup>, Colorado Attorney General John Suthers released a letter and report from the Mountain States Employee Council, Inc., (MSEC) regarding a workplace investigation and personnel matter reviewed at the Colorado Department of Health and Environment (CDPHE). While the MSEC investigative report highlights perceived personnel and training issues, these issues have received attention in the public domain and through litigation over the past two years. Nowhere does it make findings of inaccurate or corrupted test results being utilized in a court proceeding. In fact, the numerous safeguards that are in place would make the reporting of such inaccurate test results remote.

Colorado's prosecutors are obligated to ensure the integrity of the criminal justice system in Colorado on behalf of not only victims and our communities, but also the accused. The job of the prosecutor is to seek justice not convictions. Any statement implying otherwise by any party is spurious, reckless and void of merit. There are a number of checks and balances inherent in the process to ensure that the prosecutor and the defendant in a criminal case receive an accurate and trustworthy result. Some of those checks include:

- When a person is arrested for a DUI, they provide a blood sample contained within two vials.
- When those two vials are submitted to CDPHE, one is preserved for the defendant, and the other is tested by a CDPHE analyst.
- The defendant always has the opportunity to request to have his/her blood tested elsewhere at a lab of his/her choosing.
- When the CDPHE analyst tests the defendant's blood, they conduct two separate tests. CDPHE performs multiple tests to ensure that the results are consistent with one another.
- In order for a test to be valid, the two separate tests must result within a scientifically acceptable range (within 5%).
- To ensure a just and accurate result, the instruments are checked daily before any person's blood is tested. The instruments are calibrated daily with fresh samples before every run.
- Additional testing is performed throughout the day to maintain just and accurate results. For example, between every ten unknown samples, a control sample (a known sample) is run to ensure that the instrument is functioning properly.

The only “new” revelation in the report is an assertion that a supervisor at the state lab exhibited a bias in favor of prosecutors on several occasions by verbally exhibiting pleasure or satisfaction with the successful prosecution of defendants or the importance of his/her role as an expert witness. This is separate and distinct from objective scientific results. The report makes no finding to suggest that this individual tampered with evidence, created false test results or otherwise compromised any test or testing procedure in the lab.

The accuracy and integrity of the testing processes in the CDPHE lab are integral to the criminal justice process and rectifying any issues that might result in inaccurate results must be a priority for Colorado. Further, Colorado’s prosecutors are committed to reviewing cases where it is demonstrated that the validity of the scientific results may be questionable.

In summary, Colorado’s prosecutors remain dedicated to protecting and maintaining the integrity of the criminal justice system and the rights of the accused.