

STATE OF COLORADO

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Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

March 20th, 2012

Ms. Jennifer Kresel
Physical Scientist I
Colorado Department of Public Health and Environment
Laboratory Services Division
Certification Unit

RE: Mitchell Fox-Rivera Blood Samples

Dear Ms. Kresel,

On Friday March 9th, 2012 it was brought to my attention that several blood samples analyzed by Mr. Fox Rivera were reported outside the appropriate reporting range. This was confirmed through independent testing by defense counsel, and through another analyst in the Forensic Toxicology Laboratory. As of today (March 20th, 2012) I know of 5 samples that were reported outside of the appropriate reporting range. Four of these samples have been re-tested and an amended report was issued to the submitting agency. The fifth sample is in process and once completed an amended report will be issued. The Toxicology Laboratory is in the process of re-analyzing approximately 1,700 samples that were initially analyzed by Mr. Fox-Rivera.

Mr. Fox-Rivera did not inform his supervisor or work-leader with regard to his blood samples not yielding results in an acceptable range. In fact, the analyst did not recognize that the sample values were outside of the 20% range, which would indicate that a third analysis was necessary. Mr. Fox-Rivera did not seek advice from his supervisor, co-workers or work-leader with regard to this issue. In addition, he did not include the original results in the data packet for my review, and final approval, therefore I had no knowledge or indication that it was a re-do. In the future all re-analysis of samples will be dated and flagged for my review and final approval. All results will be compared to the prior results before being reported. This new procedure has been implemented as of Monday March 12th, 2012.

Once the re-analysis of Mr. Fox-Rivera's samples is complete a detail excel spreadsheet will be forwarded documenting the results of the re-analysis. This testing will be completed over the course of 2 months between two analysts. This time frame was chosen to ensure that the Toxicology Laboratory does not get back-logged in the analytical testing of blood alcohol samples.

Respectfully,

Cynthia Silva Burbach
Forensic Toxicologist
Toxicology Laboratory Director
Colorado Department of Public Health and Environment
Laboratory Services Division