

VINCENT C. TODD
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Monday, April 23, 2012

Ann Hause, Director, Office of Legal and Regulatory Affairs
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
by email to ann.hause@state.co.us

Re: Request for Inspection of public records pursuant to
Article 72 of Title 24, COLORADO REVISED STATUTES.
Blood tests preformed by Michael Fox-Rivera for CDPHE
as referenced in e-mail of March 21, 2012 5:09 PM from
Cindy Burbach to Chris Halsor

Dear Ms. Hause:

This is a request to inspect and/or digitize certain Public Records under the authority of Article 72 of Title 24, COLORADO REVISED STATUTES. To the extent that any of the records are "public records" as that term is defined at § 24-72-202(6), COLORADO REVISED STATUTES, request for inspection is made pursuant to §§ 24-72-203 and 24-72-204, COLORADO REVISED STATUTES, and any denial should be explained in writing pursuant to § 24-72-204(4), COLORADO REVISED STATUTES. To the extent that any of the records requested are "criminal justice records" as defined at § 24-72-302(4), COLORADO REVISED STATUTES, this request is made pursuant to § 24-72-301, *et seq.*, COLORADO REVISED STATUTES. To the extent that any inspection requested herein of a criminal justice record is denied, said denial should be explained in writing pursuant to § 24-72-305(6), COLORADO REVISED STATUTES.

Specifically this request seeks:

- The written protocols of the CDPHE which demonstrate how Mr. Fox-Rivera was directed to perform the tests in question.

- The complete package on the five samples referenced in Ms. Burbach's e-mail, including all reports produced, the complete packet of supporting data, including controls (both as to the originally reported result and any retests).
- The complete package on any additional samples from the retesting references in Ms. Burbach's e-mail, including all reports produced, the complete packet of supporting data, including controls (both as to the originally reported result and any retests).
- Any correspondence with, or reports made to, any agency or organization providing the CDPHE Laboratory with any certification, license or accreditation, or to which the CDPHE has applied for the same in the past five years, reporting the mistakes referenced in Ms. Burbach's e-mail.
- Any working memos showing hypothesis testing or possible explanations for the discrepancies referenced in Ms. Burbach's e-mail.
- Any protocol of the laboratory for informing prosecutors in individual cases, as well as the Division of Motor Vehicles, when laboratory errors are detected

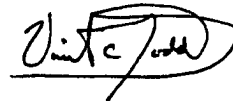
This public records request pursuant to Article 72 of Title 24, COLORADO REVISED STATUTES, seeks copies of the material in .pdf, excel or text files. For materials not maintained in electronic format, paper may be provided for inspection and scanning/digitizing. Electronic files may be compressed into a zip file or files of less than 8mb per e-mail and sent to vincent.todd@coloradowrits.com, or you may give notice of the availability of the materials for inspection. It is anticipated that we would digitize any materials provided for inspection. If the anticipated cost is more than \$50.00, please contact me in advance to discuss the expected cost.

Ann Hause, Director, Office of Legal and Regulatory Affairs
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If you have any questions about this request, please contact me by e-mail as shown above the or by phone at 303-980-0922.

Thank you for your consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vincent C. Todd", enclosed within a circular, stylized flourish.

Digitally signed by Vincent C. Todd
DN: cn=Vincent C. Todd, o, ou,
email=vincent.todd@coloradowrits.
com, c=US
Date: 2012.04.23 16:21:50 -06'00'

Vincent C. Todd

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

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

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Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

April 27, 2012

Vincent C. Todd
12600 West Colfax Ave., Suite C400
Lakewood, Colorado 80215-3761

RE: Colorado Open Records Act Request

Dear Mr. Todd:

The Colorado Department of Public Health and Environment is in receipt of your Colorado Open Records Act request dated April 23, 2012. A response to each request is set forth below.

Request 1: The written protocols of the CDPHE which demonstrate how Mr. Fox-Rivera was directed to perform the tests in question.

Response: Standard operating procedures are being provided.

Request 2: The complete package on the five samples referenced in Ms. Burbach's e-mail, including all reports produced, the complete packet of supporting data, including controls (both as to the originally reported result and any retests).

Response: The Department is not releasing its investigatory files pursuant to C.R.S. § 24-72-204(2)(a)(I). Litigation packets contain personally identifying information and are not subject to disclosure pursuant to C.R.S. § 24-72-204(3)(a)(IV).

Request 3: The complete package on any additional samples from the retesting reference in Ms. Burbach's e-mail, including all reports produced, the complete packet of supporting data, including controls (both as to the originally reported result and any retests).

Response: The Department is not releasing its investigatory files pursuant to C.R.S. § 24-72-204(2)(a)(I). Litigation packets contain personally identifying information and are not subject to disclosure pursuant to C.R.S. § 24-72-204(3)(a)(IV).

Vincent C. Todd
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Request 4: Any correspondence with, or reports made to, any agency or organization providing the CDPHE Laboratory with any certification, license or accreditation, or to which the CDPHE has applied for the same in the past five years, reporting the mistakes referenced in Ms. Burbach's e-mail.

Response: One responsive document is being provided.

Request 5: Any working memos showing hypothesis testing or possible explanations for the discrepancies referenced in Ms. Burbach's e-mail.

Response: The Department has no responsive documents.

Request 6: Any protocol of the laboratory for informing prosecutors in individual cases, as well as the Division of Motor Vehicles, when laboratory errors are detected.

Response: The Department has no responsive documents.

If you wish to receive a CD containing the responsive, public documents described above, please remit payment in accord with the attached invoice.

This concludes the department's good faith effort to respond to your Colorado Open Records request. If you have further questions, I may be reached at 303-692-3472 or ann.hause@state.co.us.

Sincerely,



Ann Hause, Director
Office of Legal and Regulatory Affairs

cc: Cindy Burbach, Laboratory Services Division
Dave Butcher, Laboratory Services Division
Jennifer Weaver, First Assistant Attorney General, State Services Section, Colorado Department of Law