STATE OF COLORADO

John W. Hickenlooper, Governor
Larry Wolk, MD, MSPH
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

June 5, 2014

Chief of Police David Montgomery
Firestone Police Department
P.O. Box 100
Firestone, CO 80520

RE: Evidential Breath Alcohol Testing
Intoxilizer-9000 Testing Issue

Dear Chief Montgomery:

The Colorado Department of Public Health and Environment (Department) recently conducted an investigation into a report of a quality control issue with an Intoxilyzer-9000 instrument in Weld County. This letter is to apprise you of the results of that investigation as it pertains to one or more evidential breath-alcohol tests administered by your office. The detailed results of that investigation are contained in the attached report.

The issue originally concerned the temperature reports for a specific I-9000 instrument (SN 90-000381) being out of the acceptable range for the performance of evidential breath-alcohol testing. Our investigation concluded that only two breath alcohol tests were run on this instrument when the temperature report demonstrated the test was outside of the normal operating range. Further investigation of data from all I-9000 instruments in use across the state revealed a total of 33 tests run on this same instrument between August 2013 and January 2014 were performed when the quality control calibration checks were outside of the acceptable range. Enclosed is a list of the test(s) conducted by your office that had quality control calibration checks outside of the acceptable range. Although both of these issues pertained to the quality control of the instrument rather than the validity of the test that was run, because the quality control features on this instrument did not meet the Board of Health regulatory requirements when these 33 tests were run, the Department cannot endorse the test results.

While the quality control issue identified was linked to the specific I-9000 instrument in Weld County, data from all other 164 I-9000 instruments in use in the state was reviewed in this investigation. The investigation showed all other I-9000 instruments were calibrated correctly, thus all test results on other instruments were in the acceptable range.

On April 4, 2014, the Weld County I-9000 instrument was recertified by EBAT staff. When the instrument was recertified, the technician properly loaded the simulator solution target value into the instrument. No investigation was initiated at the time of the recertification to determine if any subject tests were performed when the simulator target value was not present. The investigation was initiated after the report from the I-9000 manufacturer on May 9, 2014. We apologize for the impact this error will have on the cases you are handling. If you have any questions about the report or the results of our investigation, please contact Laura Gillim-Ross at 303-692-3484.

Sincerely,

Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer

cc: Ken Buck, District Attorney, Weld County, w/o attachment
Tom Raynes, Executive Director, Colorado District Attorneys Council, w/o attachment
Doug Wilson, Colorado Public Defender, w/o attachment
David Beller, President, Colorado Criminal Defense Bar, w/o attachment