



REPORT OF
THE
STATE AUDITOR

**Colorado Bureau of Investigation
Department of Public Safety**

**Performance Audit
July 2003**

**LEGISLATIVE AUDIT COMMITTEE
2003 MEMBERS**

Senator Ron Tupa
Chairman

Representative Tambor Williams
Vice-Chairman

Senator Norma Anderson
Representative Fran Coleman
Representative Pamela Rhodes
Senator Stephanie Takis
Senator Jack Taylor
Representative Val Vigil

Office of the State Auditor Staff

Joanne Hill
State Auditor

David Kaye
Deputy State Auditor

Stephen M. Bouey
Barb Gold
Heather Moritz
Jonathan Trull
Wendy Wilson
Legislative Auditors



STATE OF COLORADO

JOANNE HILL, CPA
State Auditor

OFFICE OF THE STATE AUDITOR
(303) 869-2800
FAX (303) 869-3060

Legislative Services Building
200 East 14th Avenue
Denver, Colorado 80203-2211

July 18, 2003

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Criminal Bureau of Investigations within the Department of Public Safety. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Colorado Bureau of Investigation.

TABLE OF CONTENTS

	PAGE
REPORT SUMMARY	1
Recommendation Locator	5
DESCRIPTION OF THE COLORADO BUREAU OF INVESTIGATION	7
CHAPTER 1. LABORATORY OPERATIONS	9
Timeliness of Evidence Processing and Backlogs	10
Laboratory Facilities	17
Information Management	20
Crime Scene Response Training	23
CHAPTER 2. INSTANT CRIMINAL BACKGROUND CHECK SYSTEM	27
Firearms Dealer Inspections	28
Web-Based Instachecks	31
Instacheck Denials	35
Instacheck Violation Data	37
CHAPTER 3. MISSING CHILDREN AND THE COLORADO CRIME INFORMATION CENTER	41
Comparisons of School Enrollment Data With Information on Missing Children	41
Access to the Colorado Crime Information Center	45
Audit Process	47
Agency User Agreements	50
User Certification Process	51
CHAPTER 4. GENERAL MANAGEMENT ISSUES	53
Resource Management	53



JOANNE HILL, CPA
State Auditor

**Colorado Bureau of Investigation
Performance Audit
July 2003**

Authority, Purpose, and Scope

This performance audit of the Colorado Bureau of Investigation (CBI) within the Department of Public Safety was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The audit was conducted in accordance with generally accepted government auditing standards. Audit work was performed from December 2002 through May 2003.

This report contains findings and 14 recommendations for improvements that are needed in CBI's laboratory operations, Instant Criminal Background Check unit, Missing Children program, and the Colorado Crime Information Center. We would like to acknowledge the efforts and assistance extended by CBI management and staff during the course of this audit. The following summary provides highlights of the comments contained in the report.

Overview

Section 24-33.5-401, C.R.S., creates the CBI within the Department of Public Safety. The CBI is organized into five units—i.e., Administration, the Colorado Crime Information Center (CCIC), the Instant Criminal Background Check (Instacheck) unit, Investigative Services, and Laboratory Services. CBI was appropriated approximately \$21.8 million and 200 FTE for Fiscal Year 2004. Of this amount, approximately \$14.3 million came from general funds, \$6.7 million from cash funds, and \$0.8 million from federal funds.

Laboratory Operations

The CBI operates three laboratories located in Denver, Montrose, and Pueblo that provide forensic laboratory services and crime scene support to local criminal justice agencies throughout Colorado. We found that between Fiscal Years 1999 and 2002, workload in the CBI laboratories increased by about 16 percent (i.e., from about 51,400 to 59,800 total evidence submissions). Much of this growth resulted from an increase in CBI's DNA-related workload and, more specifically, a rise in the number of convicted offender DNA cases. Statutes require certain convicted offenders to provide a blood sample to CBI so that their DNA profiles can be added to a national database called the Combined DNA Index System, or CODIS. Despite additional staffing, there is a substantial evidence analysis backlog within the laboratories. In early April 2003, for example, nearly 1,300 evidence submissions were awaiting analysis at the CBI laboratories. About 75 percent of this backlog was older than 30 days and 17 percent was older than three months. We also found that CBI

SUMMARY

routinely does not meet its own goals for timely evidence analysis. Slow turnaround times and backlogs at the CBI laboratories adversely affect the abilities of local criminal justice agencies to swiftly identify, arrest, and prosecute criminals.

Our review also identified several problems with the adequacy and safety of CBI laboratory facilities. Space limitations and hazardous working conditions endanger employees, increase the possibility of evidence contamination, and unnecessarily increase CBI's operating costs. CBI needs to develop and implement a formal plan that identifies and prioritizes laboratory facility problems, emphasizing those which negatively affect mission-critical areas and/or employee health and safety.

Finally, we found that CBI's antiquated laboratory information management systems have resulted in added costs, poor data quality, and delays in transmitting testing results to local criminal justice agencies. Improving these systems could decrease CBI's administrative costs and will improve the timeliness and quality of information throughout the laboratories and at the local level.

Instacheck

In accordance with the federal Brady Handgun Violence Prevention Act (Brady Act), before a firearm is sold or transferred within Colorado a dealer must contact CBI's Instacheck unit and request a criminal history check on the prospective buyer. In addition, Section 12-26-102, C.R.S., gives CBI the authority to inspect certain firearms dealer records. We found that CBI does not currently conduct such inspections to ensure that firearms dealers comply with Instacheck requirements. Further, although the federal bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) also conducts dealer inspections, the ATF reported that these inspections are limited. In Calendar Year 2001, for example, the ATF conducted 138 inspections of Colorado's 1,900 firearms dealers. Inspecting dealer records is the only way to ensure that all firearms transfers in Colorado include the required criminal history check and that firearms dealers are in compliance with the federal Brady Handgun Violence Protection Act and related state statutes.

We also found that CBI has not maximized the utility of its Web-based Instacheck system to improve customer service and reduce operating costs. Further, missing case disposition is a key factor influencing the large number of Instacheck denials that are subsequently overturned through the appeals process. Currently, CBI staff estimate that about 2.25 FTE are needed to handle Instacheck appeals on a yearly basis. In addition to improving the Web-based Instacheck system, CBI needs to work with the Colorado Integrated Criminal Justice Information System Task Force to improve case disposition information.

Missing Children

Section 24-33.5-415.1, C.R.S., sets forth several responsibilities for CBI with regard to missing children, including a requirement to conduct periodic comparisons of school enrollment data with

lists of missing children. The school enrollment data match is one method that has proven useful in helping locate missing children, especially in cases involving a noncustodial parent abduction. Currently, school districts may conduct the match themselves or they may ask CBI to perform the match for them. The existing matching process is time-consuming, labor-intensive, prone to data entry errors, and not as thorough as it could be. The Colorado Department of Education recently created a computerized central registry of all students enrolled in public schools statewide. CBI could work with the Department to access this database to conduct its missing children data match, thereby eliminating problems with the existing process.

Colorado Crime Information Center

CBI operates a computerized crime information system known as the Colorado Crime Information Center, or CCIC, which is linked to the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC). To maintain data integrity within these systems and ensure access is restricted to legitimate users, FBI policies require CBI to train and certify users, audit local user agencies to ensure compliance with established policies and procedures, and investigate any allegations of system misuse. We found that CCIC is currently out of compliance with requirements to conduct periodic local agency audits. Further, CBI's planned audit approach does not include adequate criteria to identify problem agencies for prioritization and scheduling purposes, will not provide complete statewide coverage, and lacks appropriate follow-up protocols. We also found that CBI needs to improve its record keeping associated with user agreement files. For example 6 of the 30 users we sampled did not have fingerprint cards on file at CBI, and 12 of the 30 User Agreements we tested did not have evidence of proper access authority.

Resource Management

Throughout our review of CBI operations we were informed of agency concerns about meeting continually increasing demand for services in the face of limited resources. These problems were especially apparent at the CBI laboratories and the Instacheck unit. Although we did not conduct a workload or resource evaluation, the pervasiveness of CBI staff concerns, along with CBI's failure to correct known problems identified through external and internal audits and evaluations, indicates that CBI needs to perform a comprehensive analysis of its mission and resources. To this end, CBI should investigate options to increase cash and federal funding, develop and implement cost-cutting proposals, and ensure reasonable user expectations.

Our recommendations and the responses of the Colorado Bureau of Investigation and the Colorado Department of Education can be found in the Recommendation Locator.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	CBI Response	Implementation Date
1	16	Work with the General Assembly and other agencies to reduce evidence processing backlogs and processing times.	Agree	July 2005
2	20	Develop and implement a formal plan that identifies and prioritizes existing facility problems at the laboratories.	Agree	December 2003
3	23	Review existing laboratory information management systems to identify and correct data quality and administrative problems. Investigate the possibility of securing federal or other funding sources for implementing a new laboratory information management system.	Agree	Implemented/ Ongoing
4	25	Explore the cost-benefit of providing additional training to local law enforcement agencies in crime scene response and evidence collection.	Agree	July 2004
5	30	Conduct inspections of federally licensed firearms dealers at both retail locations and gun shows.	Partially Agree	September 2003/ Ongoing
6	34	Improve the Web-based Instacheck system.	Agree	September 2004
7	37	Improve methods to compile and analyze information on the reasons for successful Instacheck appeals.	Agree	January 2004
8	38	Improve efforts to maintain, compile, and periodically report Instacheck-related outcome data.	Agree	July 2004

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	CBI Response	Implementation Date
9	43	Work with the Colorado Department of Education to clarify the legal authority to automate the data match required by Section 24-33.5-415.1(5), C.R.S.	Agree The Colorado Department of Education also agrees	October 2003
10	46	Improve oversight of Colorado Crime Information Center users.	Agree	Implemented
11	49	Comply with Federal Bureau of Investigation requirements to conduct periodic audits of Colorado Crime Information Center user agencies.	Agree	December 2003
12	50	Improve record keeping associated with Colorado Crime Information Center agency user agreements.	Agree	March 2004
13	52	Continue efforts to ensure that the Colorado Crime Information Center user certification automation project is completed on time and within budget.	Agree	December 2003
14	55	Improve methods for addressing organizational resource constraints.	Agree in part; Disagree in part	September 2004

Description of the Colorado Bureau of Investigation

Overview

Section 24-33.5-401, C.R.S., creates the Colorado Bureau of Investigation (CBI) and places it within the Colorado Department of Public Safety. CBI is organized into five units that perform the following functions:

- C **Administration**—This unit provides administrative oversight for all agency functions including planning, budgeting, human resources, and fiscal management. This unit currently employs 7 FTE. Three of these FTE are assigned to federally funded projects managed elsewhere in the organization.
- C **Colorado Crime Information Center (CCIC)**—This unit operates CBI's computerized crime information system, which is linked to the Federal Bureau of Investigation's National Crime Information Center (NCIC). These systems allow criminal justice agencies to communicate nationwide to identify known criminal offenders, missing persons, and stolen property. This unit also acts as Colorado's repository for criminal history information and processes requests for name- and fingerprint-based criminal history checks. This unit currently employs 75.1 FTE.
- C **Instant Criminal Background Check Program (Instacheck)**—Section 24-33.5-424, C.R.S., designates CBI as the state point of contact for criminal history checks for persons wishing to purchase firearms. These checks are required by the federal Brady Handgun Violence Prevention Act. In Fiscal Year 2002 the Instacheck unit processed over 138,000 requests for background checks. In May 2003 this unit also became responsible for processing state concealed weapons permits as a result of the passage of Senate Bill 03-024. This unit currently employs 20 FTE.
- C **Investigative Services**—This unit has three main sections: Major Crimes, Gaming, and Missing Children. The Major Crimes section provides assistance upon request to local law enforcement agencies in investigations (e.g., homicide, sexual assault, organized crime, public corruption, and arson). The Gaming section serves as a liaison between state gaming officials

and local law enforcement agencies. The Missing Children section assists with identifying, locating, and returning missing children. This section also administers the Amber Alert Program. This unit currently employs 33 FTE.

- C **Laboratory Services**—CBI operates three laboratories that provide investigative support to law enforcement agencies throughout Colorado. The laboratories are located in Denver, Montrose, and Pueblo. This unit currently employs 55.5 FTE.

As of June 1, 2003, 9 of the 199.6 total FTE appropriated to CBI were vacant. CBI's funding comes from general, cash, and federal sources. As shown in the table below, CBI was appropriated a total of about \$21.8 million for Fiscal Year 2004. Of this amount, approximately \$14.3 million (66 percent) was general funds, \$6.7 million (31 percent) was cash funds or cash funds exempt, and \$0.8 million was federal funds (less than 4 percent). The following table shows CBI expenditures or appropriations by unit for Fiscal Years 2001 through 2004:

Colorado Bureau of Investigation Unit Expenditures and Appropriations Fiscal Years 2001 to 2004				
Unit	FY 2001 Actual	FY 2002 Actual	FY 2003 Appropriation	FY 2004 Appropriation
Administration ¹	\$ 2,565,300	\$ 2,559,300	\$ 2,736,900	\$ 2,510,300
CCIC	6,778,100	7,504,100	8,947,700	9,503,500
Instacheck	2,098,700	1,617,100	1,284,600	1,344,400
Investigative Services	2,690,300	2,772,800	2,831,400	2,870,600
Laboratory Services	4,949,000	5,191,500	5,491,600	5,612,400
Total	\$19,081,400	\$19,644,800	\$21,292,200	\$21,841,200
Source: Office of the State Auditor analysis of Long Bill and CBI data.				
¹ Includes federal funding, Pots, statewide indirect costs, and vehicle leases.				

Laboratory Operations

Chapter 1

Overview

Section 24-33.5-412(1)(c), C.R.S., gives CBI the authority to arrange for scientific laboratory services and facilities in its efforts to assist law enforcement agencies. In addition to providing forensic laboratory services to local agencies, statutes also give CBI the responsibility to conduct DNA testing on samples obtained from certain convicted offenders. Because CBI's laboratories are supported by the General Fund, all laboratory services are provided to local law enforcement agencies free-of-charge.

CBI operates three laboratories: one at CBI headquarters in Denver, one in Montrose, and one in Pueblo. Systemwide, CBI provides forensic analysis and services in the following disciplines:

- C Chemistry Analysis
- C Crime Scene Response
- C DNA Analysis
- C Document Examination
- C Fingerprint Analysis
- C Firearms Analysis
- C Gun Shot Residue Analysis
- C Hair and Fiber Analysis
- C Serology
- C Shoe and Tire Impression Analysis
- C Trace Evidence Analysis

Not all of the laboratories perform the same range of services. For example, the Denver laboratory is the only facility that currently performs gun shot residue analysis.

The following table shows the number of pieces of evidence each CBI laboratory facility handled over the past four fiscal years. It should be noted that some evidence may require analysis from several different laboratory disciplines. According to CBI staff, multiple-analysis submissions make up over 60 percent of the laboratory workload. In addition, it is important to remember that the number of evidence submissions does not reflect the number of cases processed by a laboratory. Many of

the cases handled by CBI comprise numerous pieces of evidence that must be examined. Overall, the number of evidence submissions has increased by about 16 percent over the past four years (i.e., an increase of over 8,400 submissions). During the same time period, total laboratory staffing increased by about 35 percent (from 41.0 to 55.5 FTE). Each laboratory was staffed as follows for Fiscal Year 2002: Denver—36.5 FTE, Pueblo—11.0 FTE, and Montrose—8 FTE.

Colorado Bureau of Investigation Laboratory Evidence Submissions Fiscal Years 1999 to 2002				
Laboratory	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002
Denver	35,086	41,040	40,585	39,649
Montrose	6,488	5,689	7,057	10,973
Pueblo	9,829	11,098	12,209	9,195
Total	51,403	57,827	59,851	59,817
Source: Colorado Bureau of Investigation.				

Timeliness of Evidence Processing and Backlogs

We found that a significant increase in the volume of DNA evidence submissions accounts for the vast majority (over 80 percent) of the overall increase in CBI's laboratory workload over the past four fiscal years. CBI processes both crime scene/forensic cases and convicted offender (i.e., database) DNA cases. This latter case type involves the analysis of blood samples taken from convicted offenders to add to the national Combined DNA Index System, or CODIS. This system contains three sub-indexes: (1) the forensic index, which contains DNA profiles compiled from crime scene evidence; (2) the convicted offender index, which contains DNA profiles of individuals convicted of certain crimes; and (3) the missing person and related DNA index, which contains information regarding unidentified human remains and missing persons. As such, some of the cases included in CBI's forensic/crime scene DNA analysis workload may also be added to CODIS at some point (e.g., DNA profiles of unidentified persons involved in unsolved Colorado crimes). As the following table shows, CBI's DNA analysis caseload has increased

more than 200 percent since Fiscal Year 1999 (i.e., over 6,750 submissions), mostly in the convicted offender area:

Colorado Bureau of Investigation DNA Evidence Submissions Fiscal Years 1999 to 2002					
Type	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Percent Increase 1999-2002
Forensic/ Crime Scene	1,620	3,697	2,467	2,813	73.6%
Convicted Offender	1,676	1,797	5,910	7,235	331.7%
Total	3,296	5,494	8,377	10,048	204.9%
Source: Colorado Bureau of Investigation.					

Although staffing has increased significantly in recent years, the time needed to process evidence at the CBI laboratories has lengthened and backlogs exist. As shown in the following table, for example, nearly half of the convicted offender DNA processing performed in Fiscal Year 2003 did not meet CBI's 45-day processing goal:

Colorado Bureau of Investigation DNA Analysis Turnaround Times Fiscal Years 2002 and 2003				
Forensic/Crime Scene¹:	Fiscal Year 2002	Percent of Total	Fiscal Year 2003²	Percent of Total
Under 45 days	100	55.2%	94	79.7%
Over 45 days	81	44.8%	24	20.3%
TOTAL	181	100.0%	118	100.0%
Convicted Offender:				
Under 45 days	5,704	78.8%	3,652	51.0%
Over 45 days	1,531	21.2%	3,512	49.0%
TOTAL	7,235	100.0%	7,164	100.0%
Source: Office of the State Auditor analysis of CBI data.				
¹ Single-analysis DNA cases only. CBI could not provide useful turnaround data on multiple-analysis DNA cases, which comprise the bulk of CBI's forensic/crime scene DNA analysis workload (i.e., 2,632 of the 2,813 total cases for Fiscal Year 2002, or 94 percent).				
² Data for Fiscal Year 2003 is from July 1, 2002, through mid-April 2003.				

As shown in the table notes, we could not determine whether CBI met the 45-day turnaround goal for over 2,600 multiple-analysis DNA evidence submissions because the agency's antiquated laboratory information management system is unable to track and compile this information in any useful way. (These issues will be discussed in more depth later in this chapter.) It should be noted that cross-training of three staff in early Calendar Year 2003 improved CBI's DNA evidence submission turnaround time significantly. Specifically, 75.5 percent of the submissions analyzed during the period January through April 2003 met the 45-day turnaround goal. It is difficult to determine, however, if this improvement will be lasting, given CBI's steadily increasing DNA-related workload.

For all of the other analyses performed by the laboratories, CBI has established a 30-day turnaround goal. Again, we could not accurately determine whether multiple-analysis evidence submissions met this goal because of problems with CBI's information management systems. For the non-DNA cases involving only one type of analysis, the following table shows the number and percentage of submissions that exceeded the 30-day turnaround goal in Fiscal Years 2002 and 2003:

Colorado Bureau of Investigation Non-DNA Single-Analysis Evidence Submissions Exceeding the 30-Day Turnaround Goal Fiscal Years 2002 & 2003				
Laboratory	Fiscal Year 2002	Percent of Total	Fiscal Year 2003¹	Percent of Total
Denver	2,205 of 3,968	55.6%	1,806 of 3,024	59.7%
Montrose	434 of 911	47.6%	373 of 475	78.5%
Pueblo	1,005 of 1,325	75.8%	517 of 846	61.1%
TOTAL	3,644 of 6,204	58.7%	2,696 of 4,345	62.0%
Source: Office of the State Auditor analysis of CBI data. ¹ Through April 18, 2003.				

As the table shows, with the exception of the Pueblo facility, the percentage of non-DNA single-analysis evidence submissions not meeting the established turnaround goal has increased over the past two years. In addition to CBI's inability to consistently meet established laboratory turnaround goals, casework backlogs now exist in virtually every part of the laboratories, as shown in the following table. Backlogs are especially significant in the DNA and chemistry sections.

Colorado Bureau of Investigation Backlogged Evidence Submissions for All Disciplines As of April 6, 2003			
Laboratory	Total Backlogged Submissions	Submissions Backlogged for Longer Than 30 Days	Percent Backlogged for Longer Than 30 Days
Denver	629	436	69.3%
Montrose	423	322	76.1%
Pueblo	224	181	80.8%
Total	1,276	939	73.5%
Source: Office of the State Auditor analysis of CBI data.			

As indicated in the table, nearly 75 percent of the evidence awaiting analysis in the CBI laboratories in April had been backlogged for more than 30 days. Around 220 of these submissions (over 17 percent) had been backlogged for over three months.

During our audit we surveyed representatives of both local law enforcement agencies and district attorneys offices to learn more about how slow turnaround times and backlogs at the CBI laboratories affect their work. Representatives from 47 law enforcement agencies and 5 district attorneys offices responded to our questionnaires. About half of the law enforcement agency respondents (i.e., 23 of 47, or 49 percent) stated that they had experienced problems as a result of lengthy turnaround times at CBI laboratories, including obstacles in conducting investigations (e.g., following up on potential leads in a timely manner). In addition, 15 of the 47 respondents (32 percent) stated that they were hesitant to submit additional evidence to CBI for testing because of past timeliness problems. District attorneys offices also responded that lengthy turnaround times negatively affect their prosecution efforts and may result in costly trial delays. Respondents further reported that some Colorado judges are reluctant to grant continuances on the basis of backlogged evidence analyses. Consequently, prosecutors may try cases without all the evidence and, in some instances, may be forced to offer plea agreements to avoid going to trial with insufficient evidence.

The situation at the CBI laboratories is not uncommon nationwide. According to the National Institute of Justice, public crime laboratories throughout the country frequently suffer from caseloads that exceed their capacities, often resulting in delayed reporting, backlogs, and costly or time-consuming outsourcing. Our review showed that many factors may be contributing to the lengthy turnaround times and evidence backlogs at CBI laboratories, including CBI's reticence to outsource or otherwise shed some of its DNA-related workload, facility constraints, and antiquated information management systems, among other reasons. (These issues are discussed in more detail later in this chapter).

Options for Improving Timeliness

Currently all DNA samples that are required by law to be obtained from convicted offenders in Colorado are analyzed and processed by CBI laboratories. Department of Corrections, county jail, and community corrections program staff initially collect the required blood samples and then ship them to the Denver CBI laboratory. As the samples are received, Denver laboratory staff prepare them for analysis and then distribute them among the three laboratories for processing and eventual uploading into CODIS. Processing of convicted offender DNA samples is routine, accounts for a large portion of the laboratories' workload (i.e., 7,235 of the 10,048 total DNA

evidence submissions for Fiscal Year 2002), and of course, relates to known persons who are already in custody.

CBI should improve its methods for assessing staff productivity to determine if additional cross-training or better workload management among the three laboratories could help alleviate backlogs and slow turnaround times. As noted previously, the cross-training provided to three staff in early Calendar Year 2003 improved the timeliness of CBI's DNA evidence processing. Further, because some of the laboratories are not staffed or equipped to perform all types of testing, some evidence must now be shipped between facilities, which increases turnaround time. As noted later in this chapter, however, problems with CBI's information management systems make it difficult to analyze and assess staff productivity and workload to identify where particular improvements are needed.

Should productivity and workload management improvements not fully resolve the problem, we believe that CBI should explore other options for improving the timeliness of evidence processing. For example, several state crime laboratories, including those in Utah and Virginia, have outsourced significant portions of their convicted offender DNA testing to private laboratories, thereby allowing their staff to dedicate more time to casework DNA analysis and other activities. Although Section 16-11-102.3(6), C.R.S., requires CBI to perform the State's convicted offender DNA testing, we found nothing in the law that specifically prohibits CBI from working with a contractor to fulfill its responsibilities.

Using a contractor raises quality assurance and cost issues that have led CBI to reject outsourcing thus far. However, there may be ways to address these concerns. Virginia, for example, requires its contract laboratories to be accredited, follow specific analysis standards, and submit to periodic inspections. We also found that the National Institute of Justice has grants available that could be used to offset the costs of outsourcing CODIS-related DNA analysis. Through careful monitoring, and possibly the assistance of federal funding, CBI could successfully privatize some DNA-related responsibilities and thus reduce its workload, thereby alleviating some of the backlogs and slow turnaround times that have plagued its laboratories for years.

Another option to reduce CBI's DNA-related workload would be to work with the Department of Corrections to explore options for handling a greater portion of the convicted offender DNA analysis at the Department instead of CBI. About 81 percent of CBI's convicted offender DNA testing workload comes from the Department of Corrections (i.e., 19,675 of 24,425 total submissions received through June 2003). As mentioned previously, staff at the Department of Corrections are already involved with the testing process to a certain extent because they are

responsible for collecting the requisite blood samples. At a minimum, Corrections' staff could be trained to prepare the stain cards necessary for DNA analysis at CBI.

Recommendation No. 1:

The Colorado Bureau of Investigation should reduce evidence backlogs and processing times in its laboratories by:

- a. Improving its methods for assessing staff productivity to determine if additional cross-training or better workload management could help alleviate backlogs and slow turnaround times.
- b. Evaluating outsourcing opportunities used by other states and, if appropriate, seeking federal funding to help offset costs.
- c. Working with the Department of Corrections to streamline DNA processing.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: July 2005. CBI agrees that any backlog that causes a negative impact on law enforcement, prosecutors, and the courts is not acceptable. To address this issue within existing resources, CBI has cross-trained some laboratory staff to address the turnaround time of DNA casework. As this report has pointed out, CBI has already obtained the benefits of cross-training, however, additional cross-training will create larger backlogs in other laboratory disciplines. CBI laboratory personnel also work together with local law enforcement to determine the most probative pieces of DNA evidence and to establish priorities. These measures have helped, but the growth in submissions has overwhelmed these efficiencies.

- a. CBI will continue to pursue the purchase or lease of a new laboratory management information system through a variety of means. This system will be invaluable in the evaluation of case submissions and staff productivity.
- b. CBI will continue to evaluate the cost and benefits of outsourcing the DNA database functions without jeopardizing the highest analytical standards possible to protect both public safety and individual rights. The Combined DNA Index System (CODIS) enables CBI and other state and local law enforcement laboratories to exchange and compare DNA information electronically, thereby linking serial violent crimes to each

other and known offenders. The FBI has strict standards for government laboratories that choose to participate.

Outsourcing would require additional personnel resources to comply with the audit requirements for the use of DNA subcontractors. Operating funds would also be necessary to cover the costs of outsourcing the DNA samples to a subcontractor. CBI believes the most reliable and appropriate source of revenue to fund on going DNA database operations is the State's General Fund. This would ensure continuing operations for this vital DNA function rather than federal grants, which may be unpredictable with regard to availability, amounts, and timing.

- c. CBI is consistently looking at the possibility of streamlining DNA extraction methods that could not only be utilized by Department of Corrections, but also by Judicial Department's probation officers, youth corrections, and county sheriffs. Currently, blood is the medium that is used to obtain DNA for the various convicted offenders. If new extraction methods are identified it will not have an impact on turnaround time, but it will ensure the quality of the samples that are analyzed. However, any recommendation to explore sharing convicted offender DNA testing responsibilities with other entities, such as the Department of Corrections is strongly discouraged.

Laboratory Facilities

As mentioned previously, CBI maintains three laboratory facilities located in Denver, Montrose, and Pueblo. The Denver laboratory facility occupies the fourth floor of the CBI headquarters at 690 Kipling, which is a state-owned building. The Montrose and Pueblo laboratories lease space from Montrose Memorial Hospital and a private firm, respectively. Throughout the course of our audit, we identified several issues related to the adequacy and safety of CBI's laboratory facilities. We used industry guidelines such as those promulgated by the National Institute of Justice and the American Society of Crime Laboratory Directors (ASCLD) to gauge CBI's performance in this area. As shown below, we categorized the problems we found in terms of their potential negative impact on the integrity of evidence processing, employee safety, and other areas such as increasing the cost of doing business:

- C **Evidence Processing:** Maintaining the integrity of evidence submitted to the laboratories is a mission-critical objective for CBI. When evidence is improperly handled, it can become contaminated or degraded, thereby diminishing or eliminating its usefulness in an investigation or criminal case.

Further, the reputation of a laboratory found to have evidence handling deficiencies can be seriously compromised, as was the case after a 1997 Department of Justice review of the FBI laboratory uncovered numerous problems. Space limitations are one problem that may compromise the integrity of evidence processing within a laboratory. We found that workspace is seriously limited within all of the CBI laboratory facilities, especially in Denver. Industry guidelines suggest an optimal workspace per staff member of 700-1,000 gross square feet. Currently the Denver laboratory has a space ratio of about 300 gross square feet per staff member. The space ratios at the Montrose and Pueblo facilities are about 450 gross square feet per staff member. We also found that the chemistry and serology units within the Montrose laboratory share a common workspace. Cross-traffic within this area increases the risk of evidence contamination. In addition, we observed that the Montrose laboratory lacks a secure, isolated area to spread out evidence early in the analysis process, which is also a threat to evidence integrity.

- C **Employee Safety:** The health and safety of laboratory staff should be a top priority for CBI management. We found, however, that a variety of health and safety problems currently exist at the CBI laboratories. For example, the Denver laboratory has a shower that employees can use in the event of a chemical spill. The shower lacks a containment barrier to hold water and chemical runoff when it is operated. In addition, the shower is located in an area directly above the CCIC computer servers on the floor below. As such, if the shower were operated after a spill, water and chemicals could seep through the floor and damage the equipment below. We also found that the chemical storage rooms in Denver and Montrose violate several safety regulations including various building codes and National Fire Protection Association guidelines. Specifically, these rooms lack blowout panels, floor-level exhaust mechanisms, and adequate spill containment barriers. A chemical spill or explosion in these areas could cause serious health and safety issues.

- C **Increased Costs:** The Denver facility has a refrigeration unit that is used to store DNA analysis kits. This unit is not connected to a backup power source, and consequently, if the electricity goes out in the building, the refrigeration unit loses power as well. According to CBI staff, recent power outages have led to the loss of thousands of dollars' worth of DNA testing supplies. Further, as previously mentioned, the lack of containment barriers and other safety equipment within the laboratories could result in costly damage to CBI facilities. In addition, any of the health and safety problems noted above could result in employee injuries that could increase CBI's

workers' compensation costs and negatively affect staff productivity and morale.

CBI is currently in the process of obtaining national accreditation for its forensic laboratories through ASCLD. Obtaining accreditation was a recommendation we made in our 1996 performance audit of CBI. Accreditation includes a component that focuses on physical laboratory facilities. Existing conditions at the laboratory facilities could raise questions of whether CBI will pass this portion of the accreditation process. Scoring poorly in this area may not prevent CBI from becoming accredited, because the accreditation process uses a cumulative scoring approach, but it may necessitate performing at more proficient levels in the other organizational areas to make up for facility-related shortcomings.

CBI's laboratories occupy spaces that were not originally designed for laboratory use and there is currently little or no room for expansion in most of the facilities. Agency managers have acknowledged that many deficiencies exist within their laboratory facilities and indicated that they have tried to operate within these limitations as best they can. In the past when additional space has become available for laboratory-related needs, CBI managers have taken advantage of these opportunities. For example, additional workstations were recently added within the Denver laboratory when non-laboratory staff moved to another location. These opportunities are limited, however, and without a formal plan addressing how additional space could be utilized, it is difficult to ensure that when space does become available, it will be used to CBI's best advantage.

In 2000 and 2001, CBI contracted with an architectural firm to conduct evaluations of the Denver and Montrose laboratory facilities. These reviews focused on evaluating workspace and identifying safety and efficiency problems but did not include any recommendations regarding how CBI should address identified deficiencies other than acquiring new facilities. Further, the Pueblo facility was not included in this evaluation. Our review showed that several of the problems noted in these reviews still exist. Given the State's current budget situation, the possibility of funding the construction of new laboratory facilities is virtually nonexistent. Dealing with the most serious facility problems, however, should still be a priority for CBI, especially in light of upcoming accreditation-related site reviews. CBI should develop a comprehensive plan that details existing facility weaknesses and prioritizes mission-critical and safety-related problems, among others, for correction within existing funding levels, or as soon as additional resources become available.

Recommendation No. 2:

The Colorado Bureau of Investigation should develop and implement a formal plan that identifies and prioritizes laboratory facility problems, specifically those related to mission-critical areas or health and safety violations, to ensure that these concerns are adequately addressed in a timely manner.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: December 2003. The CBI has taken a detailed look at those mission-critical areas that are experiencing health and safety violations. A component of American Society of Crime Lab Directors (ASCLD) accreditation is a review of laboratory safety procedures, as well as a facility and infrastructure evaluation. Safety committees are in place at each of the laboratories to address the problems within existing resources. It should be noted that some of the problems identified cannot be resolved in the existing facilities. CBI will continue to seek funding to address the safety issues and the facility concerns.

CBI had a facility Master Plan review done in June of 2000 of our laboratories located in Denver and Montrose. This group was charged with reviewing and evaluating existing space and operations, and asked to evaluate current and future space needs. The State's Space Allocation Guidelines, standards developed by ASCLD and by the Forensic Laboratory Facility Handbook, defined the standards used. Numerous problems were identified in those Master Plans, which include severe overcrowding, inadequate workstations, inadequate laboratory space, inadequate storage space, inadequate space for instruments, numerous safety issues, and insufficient support spaces (examination rooms, evidence rooms, and evidence dispersing areas).

Information Management

CBI currently utilizes two main databases (i.e., Repsum and AdminTrack) and CCIC to track, record, and report laboratory-related information. Our review showed that CBI's laboratory information management systems are quite antiquated, which results in poor information quality, added expense, and delays in transmitting laboratory testing results to local criminal justice agencies. Various problems with CBI's laboratory information management systems were also noted in our 1996 performance audit. The following discussion details the problems we found during our current audit.

Repsum Issues

Repsum is the name of one of the data systems that CBI uses to manage statistical information (e.g., the status of evidence submissions and turnaround time) in its laboratories. According to CBI management, Repsum is an extremely outdated database system originally developed in the late 1970s. Few changes or improvements have been made to the system since it was developed. Administrative assistants manually enter all information into Repsum, using a variety of forms and other data obtained from the laboratory analysts. During the audit we requested several simple statistical reports from Repsum to gauge the timeliness of evidence processing and staff productivity. Some of these requests could not be fulfilled because of the problems with the system. As mentioned previously, for instance, Repsum cannot be used to easily separate out data for measuring turnaround time on multiple-analysis evidence submissions. As a result, determining compliance with established turnaround times was problematic for cases other than those involving a single analysis. We also found it difficult to analyze individual staff productivity because Repsum does not contain information on the type and quantity of evidence submitted by case. For example, Repsum may show that two analysts completed two cases during the same time period; however, one of these analysts may have worked on more individual pieces of evidence, making the comparison useless. In addition, we found that Repsum does not easily create customized reports—that is, ad hoc reports may take several weeks to produce. Repsum also requires a significant amount of manual data entry, a portion of which is duplicative. For example, when staff initially enter cases into Repsum, they must input some of the same data elements into several different computer screens. Overall, Repsum contains valuable statistical information that could be used to gauge attainment of various laboratory performance goals and assess staff productivity, but its cumbersome nature makes it difficult to extract useful, real-time information.

AdminTrack Issues

Problems related to Repsum have forced laboratory managers to maintain duplicative databases including one called AdminTrack, which is used to track staff productivity data, among other information. Although this system did provide some useful information on the time it takes for laboratory staff to complete reports and other administrative tasks, we also found problems with the accuracy of the information within the system. Specifically, we found that over 28 percent of the laboratory reports entered into AdminTrack in Fiscal Year 2002 (i.e., about 1,260 of 4,480 reports) required at least one correction or modification, which necessitated sending reports back to analysts for review and correction and then re-entering information. We also compared 25 hard copy case files against the information contained in AdminTrack to assess the accuracy of system data. We found 11 errors in

AdminTrack for the 120 data points we selected for comparison (a 9 percent error rate) as well as missing information such as report transmittal and evidence submission dates. Further, post-March 2001 information related to the Montrose laboratory was missing from AdminTrack. All of these problems reduce the usefulness of the system and increase turnaround time for laboratory reports.

Report Transmission

Once laboratory tests are completed and reports are prepared, this information is transmitted via CCIC, fax, or telephone to the appropriate local agencies. Given the nature of the work conducted by the CBI laboratories, it is essential to provide law enforcement agencies with testing results as quickly as possible. As we found during the 1996 performance audit, however, there are often delays in the transmission of CBI laboratory reports. Specifically, during Fiscal Year 2002, the amount of time required to complete data entry of laboratory results after analyses were completed averaged nearly five business days plus an additional three days for quality control and final report transmission. The report transmission process is further complicated by the fact that the CCIC system does not have common word processing tools such as insert, cut and paste, text wrap, and spellcheck functions. CBI staff also told us of problems that agencies have experienced in printing CCIC-generated laboratory reports. If a local agency printer is not configured correctly, for example, report information may be omitted, requiring retransmittal or resulting in other problems such as incomplete data. According to CBI management, one of the main reasons that laboratory reports continue to be sent using the CCIC system is that the major statistical tracking and submission systems, such as Repsum, are connected to the data entry and reporting processes built into CCIC. Using another mechanism to transmit laboratory results would further fragment the system.

As we noted in our 1996 performance audit, laboratory information management problems have existed for several years. In response to our 1996 recommendations on these issues, CBI managers stated that they were seeking funding for a new, fully integrated laboratory information management system (LIMS), which would streamline work flow, eliminate redundant data entry processes, and shorten report preparation time. According to CBI staff, this automation project was deemed a "major priority." Even so, CBI did not submit a final decision item for a new LIMS until the Fiscal Year 2002 budget cycle. According to CBI management, the LIMS decision item was approved by the General Assembly; however, the project was suspended in Fiscal Year 2003 due to statewide budget cuts. Problems with inefficient information management systems have been exacerbated as laboratory workload increased over the last four years. Inaction has also increased the cost of addressing this problem. Specifically, in 1996 CBI staff estimated that a new LIMS would cost approximately \$160,000, but by the time the agency's first decision item

was submitted over five years later, estimated costs had quadrupled to nearly \$640,000.

Improving information management within the laboratories should be a major priority. Although the likelihood of securing state funding for a new LIMS is low at this time, CBI may be able to find federal funding to assist its efforts to improve data management. Also, CBI should review existing data systems such as Repsum and AdminTrack, as well as their interface to CCIC, to identify those data quality and administrative issues (e.g., duplicative data entry and report submission timeliness problems) that can be corrected within existing resources.

Recommendation No. 3:

The Colorado Bureau of Investigation should review existing information management systems within the laboratories to identify and correct data quality and administrative problems such as duplicative data entry and report submission timeliness issues. In addition, CBI should investigate the possibility of securing federal or other funding sources for implementing a new laboratory information management system.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: Implemented/Ongoing. CBI agrees that differences should not exist between the statistical database and the case file. To correct this problem, CBI has added additional edits to the statistical database that will prevent incomplete data entry problems. CBI will continue to pursue the purchase or lease of a new laboratory management information system through a variety of means.

Crime Scene Response Training

As part of its mission to serve local law enforcement agencies, CBI assists local agencies in documenting and collecting evidence at crime scenes. This service is especially valuable to local law enforcement agencies with inadequate knowledge and resources to perform these functions themselves. Currently those CBI laboratory staff who are cross-trained in crime scene response must perform these duties on an on-call basis in addition to their routine laboratory work. While they are doing crime scene work, their regular laboratory work is placed on hold. On average, CBI staff estimate that each crime scene response requires a minimum of approximately two

days' time for two staff (excluding report preparation time). The following table shows the number of crime scenes to which staff at each laboratory responded in Fiscal Year 2002 and the staff time associated with response actions:

Colorado Bureau of Investigation Laboratory Crime Scene Response Fiscal Year 2002			
Laboratory	Crime Scenes	Estimated Time (Days)	Staff Hours¹
Denver	34	68	1,088
Montrose	29	58	928
Pueblo	48	96	1,536
Total	111	222	3,552
Source: Office of the State Auditor analysis of CBI data.			
¹ Eight hours for two staff multiplied by the estimated time in the previous column.			

Systemwide, the hours spent on crime scene response are significant, equaling almost 2 FTE on an annual basis. Ideally, staff told us that crime scene response and laboratory analysis should be separately staffed functions. Given current resource levels, however, it is probably unrealistic to expect any changes in existing staffing patterns for these activities. As such, it is incumbent upon CBI management to find ways to make better use of existing resources for crime scene response, whether internal or external to the agency, so that they can meet their evidence processing goals.

Making local law enforcement agencies more self-sufficient in crime scene response and evidence collection is one way that CBI can lessen its laboratory workload. To this end, CBI hosts an annual Crime Scene Evidence Collection and Approach School. CBI provides the class free-of-charge and covers topics such as crime scene approaches, latent print processing, photography, polygraphs, and computer crime. In our survey of local law enforcement agencies, nearly 90 percent of the respondents (i.e., 42 of 47) stated that they were pleased with the training provided by CBI and specifically noted the usefulness of the crime scene and evidence collection training classes. Many respondents, however, also indicated that the once-a-year class frequency and limits placed on class size seriously restricted the number of individuals who can attend.

CBI should explore the cost-benefit of expanding its existing crime scene and evidence collection training so that additional students can be accommodated. CBI could begin charging a nominal fee to offset any additional costs it would incur by expanding training. CBI could also explore the possibility of sponsoring joint training sessions with the FBI or other law enforcement agencies and sharing the associated costs. Possible benefits of providing more training include improving the quality and reducing the number of evidence submissions sent to CBI for analysis, which could alleviate some of the agency's laboratory workload problems. In addition, strengthening the crime scene-related skills of local law enforcement agency staff will help them become more self-sufficient, thereby freeing up more time for CBI staff to focus on their regular laboratory duties.

Recommendation No. 4:

The Colorado Bureau of Investigation should explore the cost-benefit of providing additional training to local law enforcement agencies in the area of crime scene response and evidence collection.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: July 2004. CBI realizes the benefits of providing additional training to law enforcement agencies. However, since the same CBI personnel who provide forensic examinations are the same personnel who provide the training, CBI can provide only a limited amount of training at this time without taking existing staff away from bench work. CBI will explore an alternative to use Investigative Agents to provide this training.

Instant Criminal Background Check System

Chapter 2

Overview

In 1994 the General Assembly passed the Statewide Instant Criminal Background Check (Instacheck) System Act (House Bill 94-1276) in response to the federal Brady Handgun Violence Prevention Act. This legislation prohibits the transfer of firearms to certain individuals (e.g., persons with specific types of criminal records and/or restraining orders, illegal aliens, and fugitives, among others). The Acts require prospective firearms buyers to complete a form before a firearm sale or transfer may occur. Further, in Colorado, firearms dealers must contact the CBI Instacheck unit and request a background check on the prospective buyer before completing the transaction. An Instacheck includes searching the National Instant Criminal Background Check System (NICS) and other databases, such as the Integrated Colorado Online Network (ICON), to identify any information that would preclude a person from owning a firearm (e.g., arrest and/or convictions for certain crimes, institutionalization, active restraining orders). In addition, all firearms dealers must be licensed by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). According to the U.S. Department of the Treasury, there were 1,879 licensed firearms dealers in Colorado in 2001 and 2002. Not all of these dealers operated retail establishments; rather, some were wholesalers, collectors, or importers.

CBI's Instacheck unit has administered Colorado's Brady Act-related responsibilities since 1994, with the exception of a period during 1999, when the federal government conducted these checks for the State. The Instacheck unit currently operates with 22 FTE. Two of these positions were vacant as of June 1, 2003. Over the period Fiscal Year 2001 to 2004, the unit's appropriations decreased by about 36 percent, from approximately \$2,098,700 to about \$1,344,400. Although the unit is now entirely supported by general funds, it was cash-funded by fees collected from prospective gun buyers until 1999. Instacheck fees, however, were abolished by the General Assembly through the passage of Senate Bill 00-125. During the 2003 Legislative Session, Senate Bill 03-289 was introduced to reinstate Instacheck fees but was postponed indefinitely. The bill's fiscal note stated that this change would

have resulted in the replacement of about \$1.3 million in general funds with cash funds. The following table shows key Instacheck statistics for the past four years:

Colorado Bureau of Investigation Instacheck Transaction Volume Calendar Years 1999 to 2003					
	1999¹	2000	2001	2002	2003²
Requests	76,728	137,916	145,403	138,779	64,410
Approvals	71,703	130,993	138,698	133,464	62,072
Denials	5,025	6,923	6,705	5,315	2,338
Percent Approved	93.5%	95.0%	95.4%	96.2%	96.4%
Average Queue Time (Minutes)	Not Available ³	Not Available ³	3:28	1:26	10:55
Source: Office of the State Auditor analysis of CBI data.					
¹ August through December only (the Instacheck unit was closed for several months in 1999 when criminal history checks were handled by federal officials).					
² Through June 2003.					
³ CBI did not track average queue time until 2001.					

The table shows that, on average, about 95 percent of all firearm transfers are approved after CBI conducts an Instacheck on the prospective buyer. Individuals who are denied through the process may file a written appeal with CBI. Statutes require CBI to review and make final decisions on all appealed cases within 30 days of receiving the appeal paperwork.

Firearms Dealer Inspections

CBI does not currently conduct inspections of the nearly 1,900 federally licensed firearms dealers in the State, although it has conducted these inspections in the past (i.e., during the period June 1995 through August 1996). According to CBI managers, inspections were discontinued because of conflicting opinions about the agency's legal authority to conduct them. This issue was discussed as part of our August 1996 performance audit where we recommended that CBI obtain clarification regarding its inspection authority. At that time, CBI managers stated that the inspection program would be permanently discontinued unless the General Assembly amended statutes to require and appropriate resources for inspections. However, no legislation was sought to address this issue. After CBI discontinued its inspection program, the ATF became the only governmental agency conducting inspections of

firearms dealers within the State. The ATF reports that its inspection activities are limited. Specifically, information obtained from the ATF shows that in Calendar Year 2001, 138 of the approximately 1,900 firearms dealers in Colorado were inspected. We also found that neither CBI nor the ATF routinely conduct inspections of the paperwork associated with firearms transfers made at gun shows. Staff from the ATF stated that they will occasionally do undercover work at gun shows but that there is no regular oversight of these venues. Staff also reported that CBI has no regular presence at gun shows held in the State.

Interviews with CBI staff showed that the agency's past inspection efforts were important and useful for many reasons. In addition to uncovering numerous cases of noncompliance with various laws and regulations (e.g., illegal firearm sales, falsified paperwork, and mishandled fees), dealer inspections are really the only method to ensure that Instachecks are actually conducted every time they should be. That is, performing a comparison of dealer inventory and sales records against Instacheck records is the only way to determine if all firearms transfers include the required background check. Without periodic records checks, therefore, there is no assurance that all firearms dealers are actually in compliance with the Brady law and associated state statutes.

CBI's current position on its authority to conduct firearms dealer inspections is different than it was during the prior audit. CBI staff now believe that a broad reading of the statutes provides them with the authority to inspect all transfer records to ensure compliance with laws that restrict who may acquire a gun of any type. We agree, at least with respect to handgun-related sales. Handgun-related Instachecks comprised about 39 percent of CBI's Calendar Year 2002 workload, whereas Instachecks for other types of firearm sales (e.g., long guns) made up the rest. The authority for CBI agents (acting in their peace officer status) to review the paperwork associated with handgun sales (i.e., sales of firearms with barrels shorter than 12 inches) is granted by Section 12-26-102, C.R.S., which states, in part:

Every individual, firm, or corporation engaged, within this State, in the retail sale, rental or exchange of firearms, pistols, or revolvers shall keep a record of each pistol or revolver sold, rented, or exchanged at retail. The record shall be made at the time of the transaction in a book kept for that purpose and shall include...(various identifying information). The record book shall be open at all times to the inspection of any duly authorized police officer.

Section 24-33.5-409, C.R.S., gives CBI agents all of the powers of any police officer with respect to the investigation, detection, and prevention of crime. However, statutes do not currently address the issue of CBI's ability to inspect transfer records related to firearms other than handguns (e.g., long guns), which account for the

majority of gun transfers in Colorado. Consequently, we believe that CBI should seek an attorney general's opinion prior to committing resources to inspections of long gun-related records.

Although CBI managers agree that past inspections were useful, they also expressed concerns that resuming dealer inspections would require additional FTE. We believe that CBI has not thoroughly explored its options for staffing an inspection function and, specifically, whether existing resources could be shifted so that inspection duties could resume within current funding levels. For example, increasing use of CBI's Web-based Instacheck system could reduce the resources needed to operate the Instacheck unit, thus freeing up funds that could be used for inspection-related activities. (This issue is discussed more in the next section of the report.) In addition, CBI could partner with the ATF and/or local law enforcement agencies to conduct inspections. Finally, CBI could establish a two-tiered, risk-based inspection process that initially utilizes lower-cost options such as desk audits to identify dealers with a higher likelihood of compliance problems. A second, more intensive inspection approach (e.g., on-site reviews) could then be used if problems are found during the initial review process.

Recommendation No. 5:

The Colorado Bureau of Investigation should resume its inspections of federally licensed firearms dealers at retail locations and initiate inspections at gun shows. This should include exploring options for instituting an inspection process within current resources, working cooperatively with other law enforcement agencies to ensure a cost-effective inspection approach, and seeking an attorney general's opinion to clarify its inspection authority related to long gun sales.

Colorado Bureau of Investigation Response:

Partially Agree. Implementation Date: September 2003 and Ongoing. CBI is a law enforcement agency that has the statutory authority to inspect the records and books of individuals and businesses that sell firearms. CBI will seek a clarifying opinion from the Attorney General's Office about CBI's authority under Section 12-26-102, C.R.S., to inspect long guns.

Firearm violations can have a direct impact on public safety and the inspection of federally licensed firearm (FFL) dealers is rarely done by any law enforcement agency, including CBI. During the late 1990s, the CBI conducted inspections of some FFLs. Numerous violations of state and federal law were discovered, and several criminal cases were filed against

FFLs. With limited resources CBI is unable at this time to be proactive in inspecting firearm dealers.

CBI works with the ATF and provides it with assistance when requested. CBI also works with local law enforcement agencies when an active warrant exists for the arrest of an individual who is seeking to purchase a firearm. In Calendar Year 2002, 246 arrests were made as a result of those notifications. Additionally, CBI operators prepare reports on suspected straw purchases, transfers to prohibited individuals, and other potential crimes. These reports are forwarded to law enforcement agencies to determine if additional investigation is required.

Web-Based Instachecks

Firearms dealers may use the telephone or the Internet to request an Instacheck. CBI's Instacheck system came online in September 2001. Currently the Web-based Instacheck system is not entirely automated; that is, staff must still intervene on each request to check databases like ICON that are not automatically searched through the existing Web-based protocols. Even without full automation, however, CBI staff believe that Web-based checks are faster and less expensive than those conducted via telephone because the other required database searches are automated. The following table shows recent use of the Web-based system relative to total Instacheck transactions:

Colorado Bureau of Investigation Instacheck Transactions by Method April 2002 Through June 2003¹			
Month	Total Instacheck Transactions	Web-based Instacheck Transactions	Web-based % of Total
April '02	10,457	619	5.9%
May '02	9,776	443	4.5%
July '02	8,957	559	6.2%
August '02	12,384	659	5.3%
September '02	12,153	767	6.3%
October '02	13,894	737	5.3%
November '02	13,205	985	7.5%
December '02	15,514	1,158	7.5%
January '03	10,872	835	7.7%
February '03	11,484	1,049	9.1%
March '03	12,628	1,470	11.6%
April '03	10,497	1,210	11.5%
May '03	9,818	2,078	21.2%
June '03	9,111	1,505	16.5%
Total	160,750	14,074	8.8%
Source: Office of the State Auditor analysis of CBI data. ¹ CBI did not begin tracking Web-based Instacheck transaction data until April 2002. In addition, June 2002 data are missing due to a system crash.			

Although the table shows that use of the Web-based system has increased in the last year, Web-based Instachecks still account for only about 9 percent of total transactions. Most dealers continue to use the telephone to submit background checks for firearms transfers.

We surveyed 25 federally licensed firearms dealers located within Colorado to identify the reasons why the Web-based Instacheck system continues to be underutilized. Dealers provided a variety of explanations, including the absence of

computer equipment, a lack of awareness about the Web-based system, a higher comfort level with the telephone-based system, reticence in allowing employees the required Internet access to use the system, and a frustration with technical problems associated with using the Internet. Prior to implementing the Web-based system, CBI staff contacted nine dealers to gauge interest, but no additional surveys have been conducted since that time to determine why the system is not better utilized. Increasing use of the Web-based system potentially could reduce the staffing and other resources needed to operate the Instacheck unit, and consequently, it is important for CBI to identify ways to make this option more attractive to dealers. Our review also showed that additional improvements are needed to maximize the utility of the Web-based Instacheck system. For example, CBI has not:

- C **Completely automated all required search functions via the Web-based system.** As mentioned previously, the ICON search component has not been fully automated as part of the Web-based system, and therefore, staff intervention is still necessary to complete this part of the check. Staff stated that the ICON search was not initially planned to be included in the automated system but that a work plan has been developed to add it, if feasible, once funding is available. Staff stated that they plan to pursue federal funding as a means for completing this project but have not yet identified or applied for any grants.
- C **Developed a method for tracking system outages or other problems with the Web-based system.** Some dealers we surveyed believe that the Web-based system is less reliable and more prone to technical problems than the telephone-based Instacheck system. We could not confirm this perception because CBI does not currently track and report on any performance metrics related to the Web-based system (e.g., queue time or downtime relative to the telephone-based system, number and resolution of user complaints). The Instacheck unit keeps informal notes on system problems, but these do not include detailed information describing the duration, effect, and resolution of system problems. Maintaining, analyzing, and periodically reporting information on system problems would assist CBI in identifying and correcting deficiencies that may be negatively affecting use of the Web-based system.
- C **Devised a method to track data useful for comparing the relative cost of Web- and telephone-based Instachecks.** Agency staff believe that the Web-based Instacheck system is a less costly alternative, but we could not compare the relative cost of conducting a Web- and telephone-based Instacheck because CBI does not collect the requisite data. Compiling and analyzing these data is important so that CBI management can make informed resource allocation decisions.

Recommendation No. 6:

The Colorado Bureau of Investigation should improve its Web-based Instacheck system by:

- a. Improving its communication with federally licensed dealers to identify ways to increase system use.
- b. Obtaining the funding needed to complete system automation plans.
- c. Developing a method for tracking and analyzing system performance data (e.g., system downtime and complaint information).
- d. Devising a method to track and analyze data comparing the costs of the Web- and telephone-based Instacheck systems.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: September 2004.

- a. CBI has sent letters and has talked to the major federally licensed firearms dealers regarding the Web-based system as well as offering onsite assistance and we will continue these efforts to improve/encourage the use of the Web-based system.
- b. In July 2003 CBI applied for a \$90,000 grant from the 2003 Project Safe Neighborhood Program to improve the Internet (Web-based) system. CBI will continue to seek funding sources to improve this system. The system design that was originally submitted has undergone changes and its objectives have been altered due to the inclusion of ICON (court records) checks for every Instacheck. At this time, it is not within CBI's current plans to attempt to fully automate the process, which will continue to require human intervention in every case. The system design no longer focuses strictly on Internet checks, but rather attempts to improve and automate features common to every Instacheck (phone or Web-based).
- c. During the next grant cycle CBI will request a statement of work from our contractor to include information about system availability and complaint tracking. If these costs are reasonable they will be included in that grant request.

- d. CBI will devise a method to capture and analyze data comparing costs of Internet vs. phone Instachecks.

Instacheck Denials

As previously mentioned, federal and state statutes allow CBI to deny a firearms transfer for a variety of reasons (e.g., the prospective buyer is a fugitive or has been convicted of a felony, among other reasons). Over the period August 1999 through June 2003, CBI approved approximately 536,900 firearms transfers and denied about 26,300—about 5 percent of the total 563,200 Instacheck requests. The following table shows the reasons for Instacheck denials over this time period:

Colorado Bureau of Investigation Reasons for Instacheck Denials August 1999–June 2003	
Denial Reason	Cumulative Totals
Kidnapping	125
Homicide	193
Robbery	465
Sexual Assault	587
Larceny	1,584
Restraining Order	2,290
Burglary	2,608
Dangerous Drugs	3,403
Assault	6,347
Other	8,704
TOTAL	26,306
Source: Colorado Bureau of Investigation.	

About 8,300 of the 26,300 denials were subsequently appealed (32 percent), and over half of the appeals—or 4,600—were successful (56 percent). Because of the high incidence of successful appeals, we reviewed the documentation associated with 25 denied firearms transfers that occurred during the period August 2001 to April 2003 to identify the reasons why the denials were issued. A file review of denied cases was necessary because CBI does not compile and analyze information on the reasons for successful appeals. Our file review showed that missing criminal case disposition information is a common reason for issuing an Instacheck denial. Statutes specifically allow CBI to deny a firearms transfer if Instacheck staff are unable to determine the disposition of a criminal case. However, as they may with other denial situations, a prospective gun buyer can appeal denials made on the basis of missing information, and these decisions will be reversed if the individual presents appropriate documentation clearing his or her criminal history.

Case disposition information may not be available for several reasons including pending charges or missing information within the databases that Instacheck staff use to conduct their checks. Information obtained from CBI shows, for example, that nearly 2.5 million arrest records within CCIC are missing case disposition data. Many of these arrest records are not recent (i.e., pre-January 2000), and Judicial Branch officials report that they currently have no plans to backfill corresponding case disposition information. Other records are incomplete because of record matching problems. Although Colorado cannot ensure that other states' criminal history databases are complete (beyond communicating missing case disposition information to the appropriate authorities when it is received), Colorado state officials can work together to improve the reliability of its criminal history databases such as CCIC and ICON. Improving the completeness and accuracy of case disposition information could help eliminate some of the administrative workload associated with processing Instacheck appeals at CBI, as well as reducing the inconvenience to would-be gun buyers. Resource constraints may necessitate prioritizing the workload associated with this task. If prioritization is necessary, CBI should work with the appropriate entities, like the Colorado Integrated Criminal Justice Information System (CICJIS) Task Force, to shore up case disposition information related to offenses that would result in an Instacheck denial (e.g., felonies), as recommended in our recent CICJIS audit report. In addition, CBI should compile and analyze statistics on the reasons behind successful appeals so that it can use this information in its efforts to identify needed database improvements, train its staff, and, ultimately, improve the overall efficiency and effectiveness of the Instacheck process.

It is important to note that Instacheck staff are erring on the side of caution when they deny a firearms transfer on the basis of missing case disposition information. However, these denials do increase CBI's appeal-related workload. Staff estimate that approximately 2.25 FTE are devoted to processing Instacheck appeals. As such,

improving the quality online criminal history data could ultimately reduce the Instacheck unit's operating costs.

Recommendation No. 7:

The Colorado Bureau of Investigation should improve its methods to compile and analyze information on the reasons for successful Instacheck appeals and use this information to improve the overall efficiency and effectiveness of the Instacheck process.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: January 2004. 90 to 95 percent of successful appeals are generally denied due to dispositions that are lacking from arrests records, both from Colorado and other states, at the time of the Instacheck. The remainder of denials is primarily comprised of misidentifications, which occur when an individual has a common name and date of birth.

The Colorado Integrated Criminal Justice System (CICJIS), in which the CBI participates, has made significant strides on matching court dispositions to arrests for current arrests and collects disposition match records, however this will not address missing dispositions of arrests that occurred in the past. CBI believes that capturing and analyzing the reasons for successful appeal with recent dispositions would be a good tool for CICJIS to have to evaluate its system. Any other analysis or record keeping about older denials would not be beneficial. At the present time with the shortage of Instacheck staff and the increase in wait times, it would not be a good use of Instacheck's limited resources to collect this information and would drive the wait times even higher.

Instacheck Violation Data

Staff in the Instacheck unit keep basic information on all Instacheck denials they issue (e.g., identifying information on prospective buyers, reasons for denials) and fill out an incident report on denials that may involve a crime or where additional actions may be required. For example, in cases involving a wanted person, an incident report should note that CBI staff notified the appropriate law enforcement officials.

During the audit we observed that it was often difficult to determine the final outcome in denial cases involving possible crimes or other types of violations of the Instacheck laws. Specifically, the only outcome statistic that CBI currently reports regarding Instacheck violations is the number of arrests made on the basis of outstanding warrants (e.g., 246 arrests in Calendar Year 2002). Maintaining, compiling, and reporting additional data such as the number of criminal prosecutions brought forward or the number of parole or probation violations filed against individuals would provide a more complete picture of the effect that the Instacheck program has on public safety. Further, should CBI resume its firearms dealer inspections, it is likely that staff will find additional violations of the Instacheck laws since the previous inspection process routinely uncovered them. Data on violations found through the inspection process should also be compiled and reported to show the effect that inspection activities have on ensuring compliance with Instacheck laws.

Recommendation No. 8:

The Colorado Bureau of Investigation should improve its efforts to maintain, compile, and periodically report outcome data showing the impact of the Instacheck program by:

- a. Evaluating cost-effective methods of obtaining and reporting data on the ultimate disposition of criminal cases resulting from Instacheck denials.
- b. Compiling and analyzing data on the cost-benefit of using records inspections as an additional tool to ensure compliance with Instacheck laws.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: July 2004.

- a. CBI agrees that this would be useful information to obtain and can develop and evaluate alternatives. It should be noted there is considerable difficulty in tracking the activity of other agencies. In past years, when case reports have been sent to the Bureau of Alcohol, Tobacco, and Firearms and to local law enforcement and/or prosecutors, the cover letters requested feedback on the outcomes. No responses were ever received. Further inquiries into cases that have not been filed are particularly cumbersome, because cases not filed are rarely contained in the agencies' databases. In addition, CBI would have to follow-up with

parole and probation officers around the State to determine if individuals were revoked instead of new charges being filed

- b. If CBI were to resume record inspections of licensed firearm dealers, CBI would want to collect and assess the benefits of those inspections.
-

Missing Children and the Colorado Crime Information Center

Chapter 3

Overview

This chapter discusses improvements needed in CBI's methods to locate missing children by using school enrollment data and ensure the integrity of data contained in the Colorado Crime Information Center's (CCIC) databases.

Comparisons of School Enrollment Data With Information on Missing Children

In Calendar Year 2002, 15,210 children were reported missing in Colorado according to CBI data. Section 24-33.5-415.1, C.R.S., sets forth several responsibilities for CBI with regard to missing children including maintaining and distributing missing children reports, compiling and disseminating statistics, issuing Amber Alerts, and conducting a regular comparison of missing children reports with Colorado school enrollment data. Currently CBI staffs its missing children program with 1 FTE and three part-time interns.

The school enrollment data match is one method that has proven useful in helping to locate missing children, especially in cases involving a noncustodial parent abduction. For instance, CBI staff report that 67 names were matched as a result of the comparison performed using enrollment data for the 2002-2003 school year. Statutes provide Colorado school districts with two options for conducting the school enrollment data match: (1) districts may conduct the match themselves using information provided by CBI, or (2) districts may send the names of all new and transfer students to CBI, and CBI will conduct the match for them. When using the latter option, districts may submit their enrollment information to CBI in an electronic or hard copy format. In addition, if CBI conducts the match for a district, staff will compare that district's enrollment information against both state and national data on missing children (i.e., CCIC and NCIC databases). If a district opts to conduct the match itself, only Colorado-specific data on missing children will be used for the comparison. Of the 178 school districts in Colorado, 112 (63 percent)

currently conduct the match themselves and 66 (37 percent) allow CBI to perform the match for them. Of this latter group, 24 districts provide their enrollment information to CBI in an electronic format and 42 provide it in a hard copy format.

Our audit found several problems with the processes used to conduct the school enrollment data match. Specifically:

- C **Comparisons performed by the districts:** We found that CBI has no method to ensure that local officials are actually conducting the match in a thorough, systematic manner. Further, district-level comparisons utilize only Colorado-specific data on missing children and do not incorporate national information. Consequently, children who have been reported missing in other states and who are subsequently enrolled in Colorado schools would not be identified by matches conducted by districts. As mentioned previously, 112 of Colorado's 178 districts, or 63 percent, perform the match themselves and, therefore, do not match their records against national-level missing children data, which is preferable for the most thorough result. These districts represent 46 percent of Colorado's total pupil membership for 2002 (i.e., about 342,300 of the 751,000 total pupils).

- C **Comparisons performed by CBI:** We found that the data submitted to CBI vary widely in terms of format (e.g., electronic versus hard copy, typed versus handwritten, the specific data provided on each child), submission frequency, and scope (i.e., some districts do not provide enrollment information for all of their schools). In addition, if a district provides its enrollment data via hard copy, CBI staff must manually enter each child's name into CCIC before staff can conduct the comparison. This process, which is necessary for the 42 districts noted previously, is prone to data entry errors. These districts comprise about 139,700 pupils, or 19 percent, of Colorado's total pupil membership for 2002.

Overall, only 24 of Colorado's 178 school districts now conduct the match using comprehensive, fully automated means. These districts comprise about 36 percent (i.e., 269,000 pupils) of the State's total pupil membership for 2002. All of these problems increase the cost of conducting the matching process and seriously reduce the possibility that a missing child will be identified in a timely manner.

The Colorado Department of Education recently created a computerized central registry of all students enrolled in public schools statewide for purposes of tracking longitudinal testing data. The Department's student information database assigns each child a unique identifying number on the basis of his or her personal information. This database, which was initially populated in November 2002, could be used to conduct an automated, statewide comparison of state- and national-level

data on missing children against a record of all students currently enrolled in Colorado public schools. Automating the comparison process would have several benefits including eliminating administrative workload at both the state and local levels, ensuring a more thorough comparison process, and allowing matches to be performed as frequently as desired. All of these benefits would help ensure that missing children are identified and returned to their homes in a timely manner. If this recommendation is implemented, CBI should work with the General Assembly to eliminate the options for conducting the match that now exist in Section 24-33.5-415.1(5), C.R.S., since options would be unnecessary.

Colorado Department of Education staff have been cautious about sharing student registry information for any purpose other than tracking student testing results. More specifically, Colorado Department of Education staff expressed concern that the Department and CBI remain in compliance with all aspects of the federal Family Educational Rights and Privacy Act (FERPA) if cooperative data sharing occurs. This particular data exchange appears to be allowable under federal law because the federal act expressly stipulates that information sharing is allowed in cases where a child's health or safety may be compromised. To ensure continued compliance with FERPA, however, CBI should work with the Colorado Department of Education to clarify the legal authority needed to automate the matching process (e.g., an attorney general's opinion or statutory changes) before proceeding.

Recommendation No. 9:

The Colorado Bureau of Investigation should work with the Colorado Department of Education to clarify the legal authority to automate the data match required by Section 24-33.5-415.1(5), C.R.S. If this recommendation is implemented, CBI should work with the General Assembly to eliminate the existing statutory options for conducting the match.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: October 2003. CBI will work with the Department of Education and the Attorney General's Office to establish a committee to ensure that federal provisions of the Family Educational Rights and Privacy Act can be complied with in order to obtain these data.

Colorado Department of Education Response:

Agree. Implementation Date: October 2003. The Colorado Department of Education would like to have the Attorney General's opinion on sharing the

Record Integration Tracking System (RITS) database with CBI, not only for using the data for other purposes than designated by state statutes in Section 22-7-603.5, C.R.S., but also meeting compliance issues with federal law (FERPA).

If authorization to proceed with the project is approved by the Attorney General's opinion and the Colorado Department of Education/CBI terms of implementation, a determination of the most effective means of application will need to be developed. This may involve some system enhancements to give CBI access to RITS.

Possibilities for delivery would be an initial file dump of every student on the RITS database to date. Access for CBI after receiving the Master Student Index (MSI) could be a monthly (or other timelines determined as appropriate) extract of activity generating adds and updates to the MSI. This process would be through an automated Web interface to be developed by the Department's Management Services staff.

Colorado Crime Information Center

CBI operates a computerized crime information system, known as the Colorado Crime Information Center (CCIC), which is linked to the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC). These information systems allow criminal justice agencies to communicate among one another to identify known criminal offenders, missing persons, and stolen property. To maintain data integrity within CCIC (and ultimately, NCIC) and ensure system access is restricted to legitimate users, FBI policies require CBI to:

- C Obtain user agreements from all agencies with access to the system.
- C Train and certify all system users.
- C Audit local user agencies to ensure compliance with established policies and procedures.
- C Investigate any allegations of system misuse.

As of June 2003, more than 11,000 individuals in approximately 513 locations throughout Colorado were authorized CCIC users.

Access to CCIC

According to FBI policy, CBI must conduct state and national fingerprint-based criminal history checks on all individuals requesting access to CCIC (e.g., criminal justice officials, law enforcement officers) within 30 days of receiving a user's application. A fingerprint-based background check is the only reliable way to authenticate the identity of individuals and ensure that they have no criminal record that would preclude granting access to CCIC. The FBI further recommends periodically rechecking all users' criminal histories (e.g., on a five-year basis) to ensure they have not been involved in criminal activity subsequent to gaining system access.

To comply with these guidelines, CBI requires all persons seeking CCIC access to submit a fingerprint card to its Program Support Unit in Denver. If a fingerprint card is not currently on file or is not initially submitted with a user's application, CBI runs a name-based criminal history check on the applicant and, if it is clear (i.e., the applicant has no felony convictions), grants the applicant an Operator Security Number. Operator Security Numbers provide users with access to CCIC and allow the tracing of individual user activity within the system. If a fingerprint card has still not been received at this point in the process, the Program Support Unit sends a notice to the applicant's home agency reminding it to submit the card. To comply with the FBI guidelines regarding periodic rechecks, CBI flags individuals with Operator Security Numbers so that if these individuals are arrested or convicted of a crime, the system will generate an automatic notification. A fingerprint card is needed, however, to flag a record within CCIC.

We reviewed the documentation associated with a sample of 30 Operator Security Numbers that were active in April 2003 in order to determine compliance with FBI and CBI policies regarding criminal history checks. We found that 6 of the 30 users in our sample (20 percent) did not have fingerprint cards on file at CBI. One of these users was granted access to CCIC nine years ago (1994). Further, because individuals cannot be flagged within CCIC without a fingerprint card, none of these individuals was flagged within the system. CBI managers informed us that following up on applications with missing fingerprint cards is difficult because staff are continually processing new applications. Without a fingerprint card and the accompanying background checks, however, CBI cannot positively identify all CCIC users and ensure they are free of criminal records. For CBI to avoid this problem in the future, we believe that it should always obtain fingerprint cards prior to granting access to CCIC. CBI should also review all active Operator Security Numbers to identify any that are missing fingerprint cards and obtain cards as soon as possible so that required checks and flagging can be completed. It should be noted that each of the 24 users who had fingerprint cards on file at CBI was flagged within CCIC.

We also requested that CBI run name-based criminal history checks on all of the 30 users in our sample and found that none had a criminal record that would preclude his or her continued access to CCIC. Without fingerprint cards, however, conducting the more thorough, required background check on these individuals was impossible.

One additional issue came to light when we were reviewing CBI's process for dealing with flagged records involving individuals with Operator Security Numbers. We noted that the Program Support Unit, which administers all CCIC access issues, is not notified when a record involving an Operator Security Number gets a "hit." Instead, these notifications are sent to an employee in CBI's Administrative office, who forwards it to the appropriate local agency and/or the Peace Officer Standards and Training Board (if a sworn officer is involved). The system generates several "hits" a day, a portion of which are related to individuals with active Operator Security Numbers. We believe that all notifications involving persons with Operator Security Numbers should also be routed to the Program Support Unit so that appropriate actions can be taken with regard to CCIC access. Without this type of routine notification, there is no assurance that a person who may have become involved with criminal activity would have his or her CCIC access deactivated in a timely manner.

Recommendation No. 10:

The Colorado Bureau of Investigation should improve oversight of CCIC users by:

- a. Issuing Operator Security Numbers only after fingerprint cards are received, the appropriate state and national background checks are completed, and user records are flagged within the system.
- b. Reviewing all active Operator Security Numbers to identify those missing fingerprint cards and obtaining cards as soon as possible so that required checks and flagging can be completed.
- c. Ensuring the Program Support Unit is informed when any individual with an active Operator Security Number is arrested or convicted of a crime so that appropriate actions may be taken (e.g., the user's Operator Security Number can be deactivated).

Colorado Bureau of Investigation Response:

Agree. Implementation Date: Implemented. CBI appreciates the State Auditor's staff bringing this recommendation to the attention of the CBI

management and concurs that the oversight of Colorado Crime Information Center (CCIC) users needs to be improved and the following as been implemented:

- a. CBI has implemented a system whereby Operator Security Numbers (OSNs) are not issued until fingerprint cards are received and the state and federal criminal history checks are completed. The CCIC user records are then flagged within the system. A flagged record provides CBI subsequent notice if the operator is later arrested in Colorado after the initial record search.
- b. CBI has reviewed all active OSNs. Fingerprint cards have been requested and received for those OSNs that had not submitted fingerprint cards and the required flagging has been completed.
- c. CBI now includes notification to the Program Support Unit when a CCIC operator is arrested and/or convicted.

Audit Process

To help ensure the integrity of data within NCIC, both the FBI and CBI conduct periodic audits of user agencies. Audits are aimed at ensuring compliance with FBI policies governing the accuracy, completeness, timeliness, security, and dissemination of system data. The most recent FBI audit in Colorado was completed in November 2002 and included a review of procedures at CBI and 12 local criminal justice agencies. The FBI audit noted that CBI was out of compliance with certain policies and guidelines, including standards for timely data entry of wanted persons information and requirements for periodic audits of all user agencies within the State. This latter problem is recurring. Specifically, CBI's failure to conduct audits of local user agencies has been noted as a deficiency in the last four FBI audits. In the 2002 audit report, for example, FBI auditors reported that during the period May 1999 to November 2002, CBI conducted only nine audits of the State's 586 terminal agencies (about 1.5 percent). CBI's failure to conduct routine audits of local user agencies was also a finding in our 1996 performance audit of CBI. According to the FBI, approximately 80 percent of the states conduct audits of all local agencies in accordance with FBI standards.

Agency managers told us that they plan to resume their audit process sometime after October 2003 when at least 1 FTE is freed up as a result of planned automation of the CCIC user certification process (discussed later in this chapter). When the audit process resumes, CBI plans to use both on-site and mail-in audit approaches. The

on-site audit methodology involves CBI staff visiting a user agency, observing current operating procedures, examining a sample of criminal history queries to identify possible cases of misuse, and reviewing a sample of hot files (e.g., missing or wanted persons files, stolen vehicle files) to ensure that local staff are complying with routine validation requirements. Mail-in audits follow a questionnaire format and cover areas similar to those of the on-site audit process. Once CBI receives the mail-in audit and any accompanying documentation, it will contact the agency to discuss areas of concern. Mail-in audits require less time than on-site audits and make up the majority of CBI's planned audit approach.

When reviewing CBI's planned audit approach, we found several problems. For example, CBI's planned audit methodology:

- C **Does not include adequate criteria to identify problem or at-risk agencies for audit scheduling purposes.** CBI staff told us that only one criterion (i.e., the number of hot files administered by an agency) will be used to determine the type and frequency of audits conducted at a particular user agency. Although the number of hot files is one criterion that should be used to guide audit activity, we believe that additional factors should also be considered (e.g., previous audit findings, allegations of system misuse, and high staff turnover). Agencies with more risk factors should be either audited more frequently or should be subject to the more thorough on-site audit process.
- C **Will not provide adequate coverage, given FBI's audit frequency requirements.** According to CBI staff, the FBI is currently in the process of shifting the required audit frequency from two to three years. Colorado has approximately 513 user agencies, and CBI management plans to audit approximately 150 agencies a year through either on-site or mail-in audits. This would mean that it would actually take between three and four years to audit all user agencies. Further, the number of user agencies changes constantly. CBI needs to ensure it has mechanisms in place to identify the population of entities subject to audit so that it can devise a plan that ensures complete audit coverage in accordance with FBI requirements.
- C **Lacks a specific protocol for ensuring that identified deficiencies are corrected in a timely manner.** CBI's planned audit methodology does not include specific follow-up audit procedures or a requirement for audited agencies to develop and implement timely corrective action plans. A sound audit methodology always includes a process to ensure that identified deficiencies are addressed in an appropriate and timely manner.

It is clear from previous CBI and FBI audits, as well as our own audit work, that the audit process is valuable in identifying potential problems that could negatively affect CCIC operations. For example, past CBI audits included procedures to review user query histories to ensure that users were not accessing or disseminating CCIC data for personal gain or for other non-business purposes. In the absence of an audit process, CBI has relied upon local agencies to self-report instances of suspected misuse of system data. In Calendar Year 2002, 35 allegations of misuse were reported to CBI's Program Support Unit and 23 were eventually sustained (i.e., founded). Several of the founded cases were quite serious, resulting in employee suspensions, resignations, or terminations. None of the 25 local agencies we contacted during the course of our audit performed routine reviews of user queries to identify possible cases of misuse. As a result, it is important for CBI to resume its audit process so that these situations can be identified in a systematic, ongoing manner. Finally, our audit work showed that local agencies were not always operating in accordance with FBI policies regarding the testing of CCIC users (i.e., 4 of the 25 agencies that responded to our inquiries) and completion of second-party checks (i.e., 3 of the 14 agencies that responded to our inquiries), among other areas of concern. CBI management was unaware of these problems and it is unlikely that they would have discovered these issues using methods other than an audit.

Recommendation No. 11:

The Colorado Bureau of Investigation should comply with Federal Bureau of Investigation requirements to conduct periodic audits of all CCIC user agencies. CBI's audit methodology should include adequate criteria for identifying problem or at-risk agencies for audit scheduling purposes, include mechanisms to accurately identify all entities subject to audit, provide statewide coverage, and include procedures for ensuring identified deficiencies are corrected in a timely manner.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: December 2003. The CBI agrees with this recommendation and CBI has implemented a plan to meet the triennial audits of all CCIC user agencies. With the planned automation of the CCIC operator certification process, the audit process will begin during the last quarter of 2003. One FTE will be assigned to the audit process. Even with limited resources, CBI has made it a priority to thoroughly investigate all instances of alleged system misuse. Based on the Federal Bureau of Investigation's requirements, CBI believes that additional audit methodology requirements of this recommendation are not necessary.

Agency User Agreements

The FBI requires all CCIC user agencies to be advised of the various policies and procedures that govern access to and use of the system. To comply with this requirement, CBI requires each agency that is granted CCIC access to enter into a signed user agreement. These agreements set forth the responsibilities of CBI and user agencies with regard to system access, security, data integrity, and other issues such as training. The agreements also state that CBI may revoke access to the system if certain problems are found (e.g., security or information dissemination violations). We tested a sample of 30 agency user agreements and found that many (i.e., 12 of 30 agreements, or 40 percent of our sample) did not have evidence of proper access authority (i.e., CBI staff were unable to tell us whether the persons who signed the agreements were valid signatories because they did not have up-to-date lists of the management staff at each local agency). Finally, CBI could not locate 1 of the 30 files that we selected for testing.

Maintaining up-to-date and complete agency user agreement files is important for a number of reasons. In addition to serving as a method to document compliance with certain FBI policies, for example, these agreements help ensure that local agency staff are aware of existing policies and the ramifications of noncompliance with those standards. In addition, CBI's user agreement files can serve as a resource for staff in their efforts to identify the number of agencies subject to audit—a need that was discussed previously in this chapter.

Recommendation No. 12:

The Colorado Bureau of Investigation should improve its record keeping associated with agency user agreements to ensure its files are up to date and complete.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: March 2004. A new electronic system of tracking user agencies has been implemented. Additionally, a part-time volunteer intern will be employed to track the user agencies. The list of Chief Executive Officers of each agency will also be validated every six months. This list will then be compared to user agreements to ensure that valid signatories are still in place. The intern will update the files as needed.

User Certification Process

The FBI requires all new system users to complete a proficiency test within six months of CBI's granting them access to CCIC and also requires users to complete and pass biennial recertifications to reaffirm their proficiency at using each CCIC subsystem. In the past, CBI required local agencies to administer these user certification processes. Upon successful completion of a test, the local agency would then send CBI a signed declaration of understanding documenting the individual's test results. In Fiscal Year 2002, CBI estimated it processed approximately 8,600 declarations of understanding.

When we reviewed CBI's existing user certification process, we found several problems. For example, CBI has not standardized its testing formats. Specifically, CBI distributes four different test formats to local agencies but also allows agencies to create and administer their own tests. We contacted 25 local agencies and found that 17 agencies (68 percent) used a CBI-produced test, while the other 8 agencies (32 percent) used a test they created themselves. CBI neither reviews nor approves the tests that local agencies create. We also found that CBI had not established certain basic testing standards such as a minimum passing score or the maximum time allowed to complete a test. In addition, 4 of the 25 local agencies we contacted (16 percent) were in violation of CBI requirements to maintain documentation related to the certification process.

CBI recently received an \$83,600 grant from the National Criminal History Improvement Program to automate its user certification process. Under the new process, users will take their certification and recertification tests online. The automation project has been overseen by CBI staff and a group of individuals representing local user agencies. The FBI has approved CBI's user certification automation project, and the Program Support Unit plans to have the certification process fully automated by October 2003.

Automation will have several benefits. First, we believe that if the automation project is implemented as planned, the problems we identified with the existing certification process will be eliminated. In addition, CBI management staff estimate that automation will free up at least 1 FTE, who can then be shifted to local agency audit work discussed previously. To ensure these benefits are fully realized, CBI should continue its efforts to ensure that the automation project is completed on time and within budget.

Recommendation No. 13:

The Colorado Bureau of Investigation should continue its efforts to ensure that the user certification automation project is completed on time and within budget.

Colorado Bureau of Investigation Response:

Agree. Implementation Date: December 2003. CBI has received an NCHIP (National Criminal History Improvement Program) grant to obtain software to accomplish online electronic certification of all 11,000 operators within the State. This automation project is scheduled for completion during the fourth quarter of 2003 and is currently within budget.

General Management Issues

Chapter 4

Overview

This chapter discusses approaches that CBI can use to help address the increasing demand for its services in the face of limited resources.

Resource Management

Throughout our review of CBI operations, we were informed of agency concerns about meeting the continually increasing demand for services. As noted in Chapter 1, for example, CBI staff pointed out that their laboratories have been experiencing dramatic increases in workload with which staff have been unable to cope, creating backlogs and slow turnaround times. Another example is found in the Instacheck unit, which is discussed in Chapter 2. This unit experienced relatively stable workload levels over the period Calendar Year 2000 to present, but its funding decreased over the same period. Additional examples include CBI's inability to implement technological and facility improvements because of funding issues and its general failure to implement previous external and internal audit recommendations.

Although we did not conduct a workload or a resource evaluation, the pervasiveness of CBI staff concerns, along with the lack of correction of known problems, indicates that CBI needs to perform a comprehensive analysis of its resources and its mission. To assist, we offer the following suggestions:

- C **Investigate options to increase cash and federal funding.** Several possibilities exist to either modify CBI's revenue sources to decrease its reliance on general funds and/or increase overall agency funding. Currently about 66 percent of CBI's total funding comes from general funds (i.e., \$14.3 million of \$21.8 million). For example, the Instacheck unit was cash-funded by fees imposed on prospective firearms buyers until 1999. A bill (Senate Bill 03-289) was recently introduced in the General Assembly to reinstate Instacheck fees but was postponed indefinitely. CBI should examine the viability of introducing similar legislation in the future to decrease its reliance on general funds in light of declining state revenues.

CBI can also improve its methods for identifying and pursuing federal funding opportunities. Several recent federal initiatives (e.g., the Crime Laboratory Improvement and Convicted Offender DNA Index Sample Backlog Reduction Programs) have increased the funding available to organizations like CBI. A more formalized, systematic method for identifying and securing these dollars (i.e., designating one individual who has responsibility for identifying, communicating, and following up on federal funding opportunities) could help CBI fund needed improvements in its laboratories, as well as other operational areas. Only about \$850,000 of CBI's \$21.8 million in total Fiscal Year 2004 funding (less than 4 percent) is expected to come from federal sources.

- C **Develop and implement cost-cutting proposals.** All governmental agencies are faced with ongoing challenges to streamline or eliminate services, especially in tight fiscal times. CBI has easily identifiable services and service delivery systems that could be more thoroughly reviewed to identify opportunities for eliminating or reducing staffing and/or workload. To date, for example, CBI has not fully explored options such as closing or consolidating some laboratory operations to determine what effect such actions might have on service delivery.

- C **Ensure reasonable user expectations.** If additional resources are not forthcoming, CBI may need to change various operating standards so that its users (e.g., local law enforcement agencies, firearms dealers, prospective gun buyers) have more realistic service delivery expectations. This is especially apparent in those organizational units that continue to be supported by general fund dollars. For example, if CBI cannot meet established turnaround times for analyzing DNA evidence within its current resource levels, it may need to change its 45-day turnaround goal to be more realistic. If local law enforcement agencies need faster service and their resources allow, they can purchase forensic laboratory services from the private sector. Further, CBI could use its Web site and other low-cost communication methods such as email to provide user agencies with up-to-date information about the status of laboratory backlogs or other service delivery bottlenecks. Better communication often helps alleviate the frustration and dissatisfaction that users may have with services that may not be meeting their timeliness expectations.

Recommendation No. 14:

The Colorado Bureau of Investigation should improve its methods for addressing organizational resource constraints. This should include the following:

- a. Working with the General Assembly to identify opportunities for decreasing agency reliance on general funds.
- b. Formalizing processes for accessing federal funding, including designating a specific individual who will be responsible for identifying federal funding opportunities and communicating these opportunities to the appropriate management staff.
- c. Reviewing established service delivery goals to determine whether modifications are needed to make them more realistic.
- d. Working to improve communication with users regarding the status of laboratory backlogs or other service delivery problems.

Colorado Bureau of Investigation Response:

- a. Agree. Implementation Date: September 2004. CBI will continue to propose alternatives to general funds where it is appropriate. Alternatives would be to approach those private industries that benefit from CBI investigations. However, to require cash funding for CBI services for local law enforcement would have a detrimental effect on those local law enforcement agencies and prosecutors. Those agencies cannot afford to pay for CBI services, which would have detrimental consequences on public safety, not to mention the crimes that would go unsolved because of lack of resources to conduct a thorough investigation. When CBI was created in 1967, it was the legislative intent to have a state investigative and state laboratory agency that would provide assistance to any Colorado law enforcement agency if requested, primarily the smaller agencies that do not have the resources nor expertise, at no cost.

CBI knows that fees from individuals convicted of felony crimes would not represent a sufficient funding stream to support the resources needed to support laboratory or investigative functions.

- b. Agree. Implementation Date: September 2004. CBI will formalize its process for identifying and applying for federal grants. CBI will continue

to work with Division of Criminal Justice and Department of Public Safety staff in identifying grant opportunities.

- c. Disagree. CBI believes that the service delivery goals that it has established bureau-wide are appropriate. The services CBI provides have a direct and immediate impact on public safety in this State. Lowering those goals communicates to the citizens of Colorado and those with the duty of protecting them, that their safety is not as important today as it was a couple of years ago. CBI instead believes the challenge lies in still meeting those goals through innovative ideas and approaches. CBI will continue to work the District Attorney's Association, Colorado Chiefs of Police Association, and the Colorado Sheriffs' Association to address their needs and obtain any thoughts they may have that could improve CBI's delivery goals.

Auditor's Addendum

We agree that meeting service delivery goals is critical. Throughout this report we have noted areas for improving service delivery. The point of this recommendation is to ensure that customers are apprised of what to expect in terms of CBI service delivery (e.g., laboratory turnaround times, Instacheck wait times).

- d. Agree. Implementation Date: September 2004. The laboratory staff continues to contact the submitting law enforcement agencies to convey to them the status of their cases as they are being worked. This is done to communicate results back to them as quickly as possible as well as to ensure that their expectations of what evidence should be processed is communicated efficiently. It is not uncommon for the analysts, the district attorneys, and the investigators to sit down and discuss the case as it is being worked or certainly at the conclusion.
-

The electronic version of this report is available on the Web site of the
Office of the State Auditor
www.state.co.us/auditor

A bound report may be obtained by calling the
Office of the State Auditor
303-869-2800

Please refer to the Report Control Number below when requesting this report.

Report Control Number 1519