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To: Ernesto Behrens c/o Franziska Kaltenbach **Date:** September 25, 2020

RE: Review of DNA Analysis results from Broward County Sheriff's Office DNA Lab in the matter of the State of Florida v. Ernesto Behrens Case Number 98-5739CF10A Lab Number 09186F.

Samples associated:

Sexual Assault Kit from Denise Wood
Black and White print dress
Green top sheet
Green fitted sheet
Multicolored comforter
Pillowcase

Scope of review:

Documents reviewed in relation to this case were;

- Peer-reviewed, published literature, standards and guidelines which form the best practices for forensic DNA analysis in the United States,
- The case file notes which detail DNA testing performed on the evidence in this case,
- Reports detailing the opinions of the analyst who reviewed and interpreted those results.

Mr. Behrens,

During the review of the files provided in response to a court order for disclosure of "All DNA physical evidence handled and tested by laboratory technician Donna Marchese and/or DNA Consultant Martin Tracey; lab number 95-9186F Agency number 1619-95-05 (Plantation Police Department/Detective Steven Geller); Criminal case number 95-5739CF10A" I developed several concerns.

There are several pages in the file that give rise to these concerns. In his case, the victim reported being assaulted in her bed and wiping herself with a black and white dress. The black and white dress and SAEK were sent to the laboratory, and the laboratory (via analyst Marchese) determined there was nothing of value detected on those items at that time. The evidence examination then moved on to the bedding, specifically a green fitted sheet. Four cuttings were taken of the sheet, one of them (cutting #1) produced a 5 locus RFLP profile that "hit" in the local database to Behrens in 1995-1997. This local database preceded the national CODIS database we recognize today, which is federally administrated and regulated.

All of the evidence related to this matter was then returned to Plantation PD in 1995. Ernesto Behrens stands trial, is convicted and sentenced for the sexual assault of Denise Wood in 2000.

For some unknown and undocumented reason, Donna Marchese and some unknown lab authority recalled the evidence from the Plantation PD for re-examination in the lab. This occurred in June before the trial of Behrens and the evidence remained at the BSO Crime lab until September of 2000. I have no idea why they would have done this, as it was not documented in the file. It appears to be some kind of "double check" of the green fitted sheet compared to the cuttings to ascertain if/where the cuttings originated from. I have attached to this report the note that exists in the file for easy reference, these cuttings clearly existed and were maintained by the lab such that Marchese and analyst X accessed them in the 90's then again in 6/2000. Note language "for me and Marchese to review" and "conforms with..." it appears they are fitting the cuttings back in the sheet like a puzzle. If there was some reason to suspect an error occurred that necessitated this review, this should have been explained in the case file and described for defense counsel and the court.

The note does not state who the author is, and the note does not describe re-packaging of evidence.

In the case file, there are clear chain of custody logs showing that, not only the green fitted sheet (subject of the attached note regarding re-examination), but the rest of the bedding were submitted back to the lab in 2/2000 and returned to the PD in 6/2000. The black and white dress was returned to the lab separately in 6/2000 and presumably re-examined by Marchese on 6/28/2000 in a fashion consistent with the examination of the green sheet. Chain of custody documents detail that the item was returned to the PD 6/29/00. No notes exist to describe what examinations were performed on the dress or why it was resubmitted to the crime lab just before trial. No report was ever issued regarding this re-examination and it is unclear if Behrens defense attorney was discovered this information at the time of trial. No notations were made on the custody logs to describe that the cuttings were returned, and on paper they remained in the custody of the crime lab.

Behrens, representing himself, requested the location of the cuttings in a public records request, in an email (attached) George Duncan asserts he can no longer find the cuttings and that means they were returned to the Plantation PD. Obviously this isn't how chain of custody works.

There are gaps in the paperwork and chain of custody that make me concerned. The black and white dress is the best evidence to link a perpetrator to the crime, though it was never tested. The dress still exists and has never been tested for DNA. The state asserts in their most recent filing that full discovery of all the documents that exist have been provided to Behrens, and therefore to me. Notes regarding this re-examination and chain of custody documents demonstrating the location of the cutting actually used convict Behrens are missing. Originally, my objective was re-testing the original cutting with updated technology to confirm or refute previously reported link to Behrens. The scientific basis for this is that the technology is much more robust and

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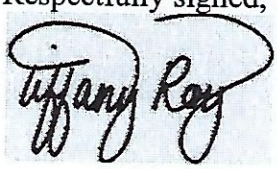
The technology has advanced so much that it would likely be possible to test the SAEK or the dress and obtain results. The case file notes make me concerned that an error may have been committed in the DNA testing in this case. This error may have been recognized by individuals at BSO prior to the trial and never disclosed to Behrens defense team. The existence of the "review" note from the DNA file suggest that re-testing the DNA evidence in this case is warranted and necessary.

This report represents my opinion at the time this review was performed.

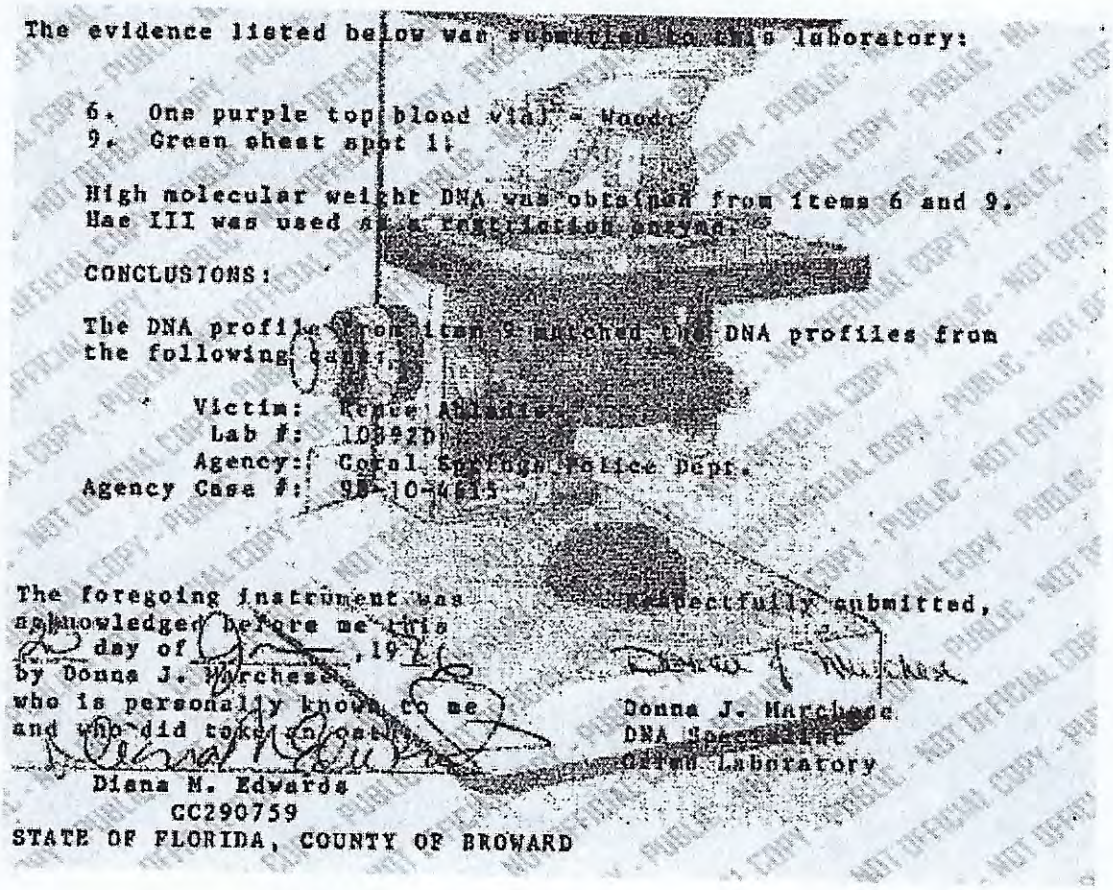
Respectfully signed,



Tiffany A. Roy, ABC-MB

discriminating. Modern STR testing examines 24 loci instead of 5. At the time of the testing in this case RFLP was relatively new and history has shown us it was prone to error and subjectivity. I have concerns the original results were reported incorrectly and that it was presented in the report as a single source match, but the notes table in the file appear to show the profile obtained from the green fitted sheet was mixed. The apparent loss of the cuttings make that impossible.

Finally, an ambiguous DNA database "hit" report was contained in the file. I have attached the language from the concerning hit report here:



The evidence listed below was submitted to this laboratory:

6. One purple top blood vial - Woods
9. Green sheet spot 1;

High molecular weight DNA was obtained from items 6 and 9. Hae III was used as a restriction enzyme.

CONCLUSIONS:

The DNA profile from item 9 matched the DNA profiles from the following case:

Victim: Renee Ahladis
Lab #: 103920
Agency: Coral Springs Police Dept.
Agency Case #: 95-10-4615

The foregoing instrument was acknowledged before me this 20 day of [illegible], 19[illegible] by Donna J. Marchese who is personally known to me and who did take an oath.

Diana M. Edwards
CC290759
STATE OF FLORIDA, COUNTY OF BROWARD

Respectfully submitted,

Donna J. Marchese
DNA Specialist
Crime Laboratory

This report shows the DNA profile obtained from item 9, the green fitted sheet spot 1, matched the DNA profiles from a previous case processed by BSO. In this report, the only individual mentioned in the victim for the listed case, Renee Ahladis. In the case listed, Ernesto Behrens was suspect and acquitted of a sexual assault crime. On its face, this report appears to link Renee Ahladis' DNA profile to item 9. At the very least, this is confusing.

Meeting w/ Donna Morales at Dal - 6/7/00

12/1/99 - repackaged 12/1/99 w/ Teller initials on tape over original packaging

new package opened 6/7/00 for me + Gretchen to review sheet

4 cuttings

#2 is smallest cutting + is negative

manilla envelope holding cuttings cut open

#1 is small circular cutting - conforms w/ outer ring shape - middle cut out for testing

#3 is long narrow strip - conforms w/ section cut out

#4 is biggest cutting - conforms w/ section cut out

#1 - whole strip cut out
#3 - majority strip cut out
#4 - small strip left in sheet

#1 is probably positive one

original bag into has run + suggests drug got wet

Sheet Dan section that looks like ruined ink

#3 & #4 positive for AP + sperm, but no DNA profile
came up - probably insufficient sample for RFLP testing

Duncan, George

From:	Duncan, George
Sent:	Monday, July 03, 2017 11:01 AM
To:	Edwards, Diana
Cc:	Koval, Roman
Subject:	9186F

Here is the particulars for the public records request of Mr. Ernesto Behrens

>This is an RFLP case; NOT a case where CPI calculation were performed
>We have searched our freezers for any cutting we may have had but cannot find any which means we did not save cuttings and gave it all back to the Plantation Pd which occurred on 6-29-2000
>We do not have nor do we keep records for the State Witness; Dr. Martin Tracey

George Duncan