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January 22, 2020

Colorado General Assembly  
200 E. Colfax Avenue  
Denver, CO 80203

Dear General Assembly:

I understand that the General Assembly is conducting a sunset review of the licensing program for private investigators. I am a business and consumer protection attorney in Colorado. I was the founder of the Colorado Bar Association Special Committee on Consumer Protection and chaired it for several years<sup>1</sup>. Consumer protection issues are very important to me.

In my personal opinion, allowing the law to sunset would be disastrous to consumers in general in Colorado, and in particular to lawyers like me who rely on licensed private detectives to work on cases and serve process. A license is an indicator to me, as a consumer of those services, that the detective is vetted, trustworthy, competent, ethical, and well trained. As you may know, there are considerable problems with unlicensed process servers working in Colorado, and there is some discussion as to licensing them. At this point, at the very least, consumers of those services like myself can hire a licensed detective for that work and know we are getting a quality process server .

I also understand that some have indicated the Colorado Bar Association has not come out in favor of renewing the statute. Getting the Bar Association to take a position on an issue before the legislature requires an internal process to be sure the conflicting interests of all its members are served by the Association taking a position. The default position of the Bar Association is often that it takes no position until this process is conducted and the different interests have an opportunity to weigh in. In my opinion, it would be an error to assume that the Bar Association taking no position means that it supports sunseting the licensing requirement for detectives.

I would also inquire about the position of the Colorado Trial Lawyers Association. It is more likely to take a position than the Colorado Bar Associations, as it tends to represent a more narrow range of competing interests and their members (mostly plaintiffs lawyers) are frequent consumers of private investigator services.

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<sup>1</sup> To be clear, I no longer chair this committee and do not speak on its behalf. I mention this only to demonstrate the importance I give to consumer protection issues.

I am also concerned about the potential for abuse of the general public as targets of investigations by unlicensed private detectives. I am concerned that without licensing, any individual, including felons, will be able to set up shop in Colorado as a private detective. In connections with investigations, these individuals will be receiving private, confidential information such as birth dates, social security numbers, and other information I often send my detectives to help them with an investigation. Without licensing, even non-felons will have no incentive to learn about ethics, privacy laws, and so many other issues that detectives need to learn about to keep from crossing the line and abusing clients and targets of investigations. It is easy to imagine a scenario where an unlicensed, untrained private detective violates an individual's privacy, is overly aggressive, or worse.

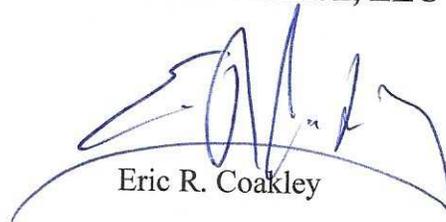
I also worked for several years in the mortgage industry and had a hand in drafting the Colorado Mortgage Broker Registration Act. I'm not sure if you were in Colorado during the time 2007 - 2008, when it became apparent the harm an important but unregulated and unlicensed industry caused to the people of Colorado. Colorado had one of the worst rates of mortgage defaults in the country. Because of the Act, and the hard work of people at DORA implementing that Act, Colorado now has a stable, ethical, reliable and thriving mortgage lending industry. It is important that professions in a position of public trust be licensed and regulated.

I support the mandatory licensing of private investigators. If there is an opportunity to testify regarding this issue, I would like to be invited. And as always, if you would like to discuss further please do not hesitate to call or write. This issue is important to me.

Thank you very much for considering my concerns.

Sincerely,

**COAKLEYKROL, LLC**



Eric R. Coakley



January 15, 2020

To Whom It May Concern:

We are attorneys and have been practicing civil rights, criminal defense and Title IX law for 22 and 25 years respectively.

We understand that the Professional Private Investigators Association of Colorado is facing an uphill battle as the PI licensing bill is under sunset review. We entrust other investigators with sensitive and confidential information for criminal defense matters. We are concerned if the licensing bill does not pass, without the condition of licensing, there will be lack of confidence by judges, DA's, educational institutions, and witnesses in the investigators work. Additionally, we will not be able to give our clients the needed assurance that their work is covered under my ethical umbrella. We do not see any way that sunseting can positively impact our profession's legitimacy or our work product's value in legal proceedings.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Iris Eytan', with a long, sweeping horizontal stroke extending to the right.

Iris Eytan

A handwritten signature in blue ink, appearing to read 'Dru Nielsen', with a stylized, cursive-like script.

Dru Nielsen

Committee on Transportation and Local Government  
Representative Mather Gray, Chairman  
February 12, 2020



**TESTIMONY OF JOHN O'DEA IN SUPPORT OF THE CONTINUATION OF THE REGULATION OF PRIVATE INVESTIGATORS (House Bill 20-1207)**

Chairman Gray and members of the House Transportation and Local Government Committee, I thank you for the opportunity to submit comments on this measure. My name is John O'Dea and I am a resident of Boulder. I appear in support of extending the sunset on Colorado's Private Investigator licensing law.

My comments today are from four perspectives:

- A former four-term legislator who served on the committee of jurisdiction for PI licensing matters in my home state of Maine;
- A (former) lobbyist on behalf of a state association representing PI's on licensing reform issues;
- A consumer of PI services; and
- A licensed Colorado Private Investigator and Certified Fraud Examiner.

If nothing else, I have an informed, multi-state perspective on these matters. In addition to being a private investigator, I am a Certified Fraud Examiner (CFE). My practice consists largely of due diligence investigations for investors, investigations for plaintiffs in civil legal proceedings and various business-related fraud investigations.

To give you an understanding of my world, in the past seven days, I have dealt with the following:

- Background investigation into a real estate developer for a large building contractor which has capital at risk;
- Due diligence investigation on behalf of new investors buying into a Colorado start-up company;
- A consumer fraud case with multiple victims up and down the Front Range; and
- Ongoing theft of materials from commercial construction sites in three states.

Other weeks have me conducting asset searches for companies and individuals in family disputes, investigating the theft of intellectual property, and assisting Fortune 500 companies with high risk employee terminations to ensure the safety of their other employees. In each instance cited above, access to quality investigative services is necessary to protect the interest of the client.

Let me begin by saying that Colorado's licensing law works. It protects consumers without being onerous, and it provides a mechanism for people to move into the profession in a way that requires new investigators to be competent and ethical. The law ensures that Colorado's private investigators understand their obligations to clients and their role in legal system. Unlike many states, where licensing is used to keep people out of this profession (and many others), Colorado's law provides a mechanism to get new people into the profession. It helps creates opportunity for those who want it.

Another benefit of the Colorado is that license applicants are asked if they have ever been disciplined or had their license revoked in another state. The presence of that question alone helps to keep the

“problem children” out of our state. The requirement that investigators maintain a surety bond has a similar effect as a bonding company will not issue a bond to a person who has faced legal problems in another jurisdiction.

Colorado’s PI licensing law is by far the best one I have encountered any place in the country. As policy makers, you should be proud of that fact. DORA should be proud, too. Their implementation of this law is a regulatory success and we should all be grateful for their efforts. They have been good partners with the industry.

If the licensing law is allowed to sunset, Colorado people and business interests will have no way of knowing if they are dealing with an informed, competent and ethical investigator. Whether a Colorado business in litigation in federal court, a case where a private investigator is working to safeguard a battered spouse or covertly monitor a custody exchange in a child endangerment case, private investigators are routinely entrusted with the most confidential of data. Absent licensing, Colorado businesses and residents would be playing Russian Roulette every time they got online and did a search for “Colorado Private Investigator”.

There are only five states that do not have private investigator licensing – Alaska, Idaho, Mississippi, South Dakota and Wyoming. The combined Gross State Product (GSP) of those five states is less than Colorado’s GSP. With all due respect to our friends in those other states, Colorado is a big player in our nation’s economy – and the adverse effect on Colorado’s business community of not having access to competent, lawful investigators would be significant. That setback would give our state’s businesses a competitive disadvantage against their out-of-state peers. Some would simply find another solution, such as resorting to using licensed out of state investigators. That would be bad for those of us who actually live, work and pay taxes here – and it would also eliminate the regulatory oversight of those investigators performing the work and the resulting protection of Colorado consumers and businesses.

Moreover, because of Colorado’s licensing law, consumers know that when they call a private investigator, that they are getting someone with the training and experience necessary to get the job done for them. Importantly, the licensed professional investigator also knows which cases to turn away. Every licensed investigator can tell you about the cases they turned away because the client’s intentions were unlawful. In an unregulated world, those outcomes would be different.

I urge you to maintain Colorado’s Private Investigator Licensing Law as it stands. It protects Colorado residents,

Sincerely,

A handwritten signature in black ink, appearing to read "J. O'Dea", written over a light blue rectangular background.

John O’Dea  
303 Alpha, LLC  
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Boulder, Colorado 80308

(303) 974-7530  
jodea@303alpha.com

January 19, 2020

Members of the Colorado State Legislature  
Denver, CO

Dear Members of the Legislature:

I am the Managing Partner of Johnson & Klein, PLLC, a civil-rights and criminal-defense law firm in Boulder. I am writing to you today in support of maintaining Colorado's law regarding the licensing of private investigators.

Our firm is dedicated to protecting the rights, liberties, and reputations of our clients. We represent plaintiffs in civil-rights cases, such as those seeking to hold law enforcement officials accountable for the use of excessive force or to ensure that prisoners are afforded adequate medical care and religious freedom of expression. We also defend adult and juvenile clients against accusations of criminal offenses in federal, state, and local courts. Our criminal-defense cases range from misdemeanors to capital felonies. We represent private clients who can afford to retain us as well as indigent clients under court appointment from the federal and state governments.

It is important to us that the private investigators we use for litigation support investigation services are licensed, bonded, and insured to protect our clients, our work product, and the general public. Investigators act as agents of the attorneys they contract with and are expected to maintain the highest level of professional ethics. They are also entrusted with highly personal financial and other confidential information. Our state's current licensing regime helps protect the confidentiality of such information. Additionally, for the purpose of legal proceedings, it is helpful for judges, jurors, and the general public to be able to rely on the fact that the work of a licensed private investigator is legitimate and professional.

Very Truly Yours,

*s/ Gail K. Johnson*  
Gail K. Johnson

**RE: Private Investigator Licenses**

To whom this may concern,

I am writing this letter as a concerned member of the Colorado criminal defense lawyer community. I am concerned that the Colorado legislature is going to let the current legislation which regulates Private Investigators lapse.

I have worked as a criminal defense lawyer for over 10-years. Private Investigators play a crucial role in a criminal defense lawyer's constitutional obligation guaranteed by the Sixth Amendment. The legal system attempts to determine the truth by using an adversarial system. The search for truth will negatively be impaired if Private Investigators are no longer regulated by the State of Colorado because the quality and integrity of the profession will be derogated.

Private Investigators need to be regulated to ensure that the profession continues to only employ quality people whose ethics are beyond reproach. Criminal defense lawyers trust Private Investigators with sensitive information and call on them to conduct ethical investigations. I need to know any Investigator that I hire is complying with the ethical rules. Continued regulation of the industry provides me reassurance that licensed Private Investigators are ethically trained and competent to assist me in protecting the liberty of individuals facing the power of the Government.

Best regards,

Joshua D. Amos



# NATIONAL COUNCIL OF INVESTIGATION & SECURITY SERVICES, INC.

The National VOICE of the Private Investigation & Security Industries

[www.nciss.org](http://www.nciss.org)

PO Box 200615, Evans, CO 80620

Email: [nciss1976@yahoo.com](mailto:nciss1976@yahoo.com) Phone: 1-800-445-8408

## BOARD MEMBERS

February 10, 2020

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Andrea Orozco

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Wes Bearden

Colorado General Assembly  
200 E. Colfax Avenue  
Denver, CO 80203

Second Vice President  
Michael Julian

On behalf of the National Council of Investigation and Security Services, (NCISS), I respectfully request your support to continue the licensing program for private investigators in Colorado. This licensing program provides regulation which protects the integrity of the work done in private investigations.

Third Vice President  
Lisa Turley

Secretary  
Candace Ivey

Our organization represents private investigators and security service professionals nationwide. It is our goal to support and uphold the values and standards of our profession. Because of licensure, PIs are required to have background checks, evaluations, and adhere to standards of practice, confidentiality, conflicts of interest, and ethics. PI licensing is the single-most effective way to protect consumers who need to utilize investigation work. Without licensing, it is more likely that individuals without proper evaluation will be allowed to conduct investigation activities which discredit the practice of those who are legitimate.

Treasurer  
Candace Ivey

Chairman of the Board  
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Region 1  
Tim Gilbert

Private investigators play an important role in legal matters. Their work in assisting law enforcement, attorneys, insurance companies and individual public consumers is validated by the licensing regulations. Licensing is critical to upholding the integrity of the profession, which benefits consumers and Investigators alike.

Region 2  
Paul Cicarella

Region 3  
Robert Dunn

Thank you for your consideration.

Region 4  
Kelly Riddle

Sincerely,

Region 5  
Tina Thomas

Brad Duffy  
Chairman of the Board, NCISS

Region 6  
Kelly Cory

Members at Large  
Michael Cook  
Dean Gluth  
Brandy Lord

January 29, 2020

Dear Members of the Colorado General Assembly:

I have been a practicing criminal and juvenile defense attorney in Colorado for the past eleven years. I started my career as a Colorado State Public Defender, and I now run a solo practice. I represent children, adults, and victims in courtrooms across Colorado.

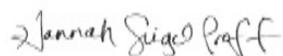
In the majority of my cases, I hire an investigator to assist me with a number of tasks, including locating and interviewing victims and witnesses, collect confidential records, review discovery, serving subpoenas, and much more. It is crucial that the individuals I hire to help me with these highly sensitive investigation services are licensed, bonded, and insured to protect our clients, our work product, and the general public.

Investigators act as agents of the attorneys they contract with and must to maintain the highest level of professional ethics. Investigators are often provided with highly personal financial and medical records. Additionally, investigators are provided with the name and contact information for witnesses and victims in criminal cases. Current licensing statutes prevent this information from landing in the wrong hands. It is imperative for the judges, jurors, and the general public to know that the work of a licensed private investigator is legitimate for the purpose of legal proceedings.

I urge you to renew the PI Licensing bill; the integrity of the criminal justice system depends on these protections.

Feel free to contact me if you have any additional questions.

Sincerely,



Hannah Seigel Proff, Esq.

Rachel Roberts Legal Investigations  
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Arvada, CO 80003  
(970) 363-6963 phone  
www.robertsinvestigations.com

January 27, 2020

Dear Members of the Legislature:

My name is Rachel Roberts and I'm a licensed private investigator in the state of Colorado. I am writing to express concerns over the potential sunset of the Private Investigators Practice Act that went into effect on June 1, 2015.

I have worked a wide variety of state and federal misdemeanor and felony criminal defense cases ranging from complex sexual assault to white-collar financial crime and have investigative experience in all stages of proceedings, from before the filing of charges to post-conviction relief. I am one of 61 active Certified Legal Investigators in the world, and I am also a Board Certified Criminal Defense Investigator. I currently serve as a Senior Director at Large for the Professional Private Investigators Association of Colorado and as the Chair of the Membership Committee for National Association of Legal Investigators. It would be wholly disheartening for me, my colleagues, and for the people of Colorado, to lose private investigator licensing in this state.

Colorado Revised Statutes Rule 8.4(c) notes that it is professional misconduct for an attorney to engage in dishonesty, fraud, deceit or misrepresentation. In September 2017, Rule 8.4(c) was appended to include, "except that a lawyer may advise, direct, or supervise others, including clients, law enforcement officers, or investigators, who participate in lawful investigative activities." The rule change language is concerning and completely contradicting in and of itself, but that is beside the point. A licensed private investigator is an agent of the attorney and as such, must abide by the same ethical obligations as the attorney. But what if that attorney is lacking in their professional ethical obligations? Since we as investigators work at the direction of the attorney, on first glance, this law change appears to allow for an investigator to conduct themselves in a manner that is deceiving, dishonest, and misrepresentative. However, 4 CCR 750-1 (10) states that, "No licensee shall knowingly associate with, or permit the use of his or her name in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature."

The morning the rule change was announced, I received a phone call from an attorney client that I had recently started working for related to a very serious juvenile sexual assault case. The attorney was calling to inform me of the rule

change and to ask me to pose as an investigator for the prosecution in an attempt to get the female juvenile victim to agree to an interview. For moral reasons I would have refused this request regardless of any ethical obligations I am bound to as a licensed investigator and as a member of my professional organizations. However, I was also able to tell this attorney that per Colorado Private Investigator Licensing Laws, I could not and would not engage in any such activity.

Private investigator licensing does not just exist to keep confidential information out of the wrong hands or for widespread consumer protection; it also exists to ensure that even if a barred attorney – who should know better, but might not act better – asks a licensed investigator to do something they shouldn't, that investigator has the legal, ethical and moral standards of a professional investigator and can fall back on their licensing regulations.

Respectfully Submitted,



Rachel Roberts, CLI, CCDI