



## **John S. Foote, District Attorney for Clackamas County**

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### **PRESS RELEASE**

RE: Criminal Investigation of Oregon State Police (OSP) Criminalist Nika Larson

In 2015 the Oregon State Police and the Oregon Department of Justice initiated a criminal investigation into the work conduct of Oregon State criminalist Nika Larson. Criminalist Larsen worked exclusively in the crime labs in Pendleton and Bend, Oregon. However, on occasion Larson would receive evidence from other police agencies for analysis as well. The criminal investigation was in response to missing narcotics (Oxycodone pills) in the Bend lab in 2015.

The Clackamas County District Attorneys' Office identified 39 cases in which the office received investigative reports for criminal prosecution in which Criminalist Larsen conducted drug analysis. Of the 39, ten were never prosecuted for a variety of reasons. One case was tried and the defendant was acquitted. One case is still pending and is in warrant status and 27 resulted in conviction by guilty pleas.

As an initial first step, the attorneys representing those defendants who were convicted were notified by letter of the pending criminal investigation and were also informed that when the investigation was completed, further notice of the results of the investigation would be provided. Now that the investigation has been completed by the Oregon State Police and the Oregon Department of Justice, the Clackamas County District Attorney's Office has carefully evaluated each of the 27 cases in which convictions were obtained to determine if there was any evidence of misconduct by Criminalist Larson in each case. This careful case-by-case examination also attempted to determine if any of those convictions were obtained as a result of any unreliable evidence or misconduct by Larson. After careful examination, it has been determined that there is only one case in which Larson tampered with the drugs in evidence. That is State vs. Mitchell, which will be discussed further below.

Although we have direct evidence of tampering in only one case, all of the cases were reviewed with an eye of distrust in any report authored by Larson. There had to be reliable independent evidence of guilt to establish a trustworthy finding of guilt. Factors

such as whether or not there was a NIK (Narcotic Information Kit) test conducted by officers in the field, judicial admissions of guilt (guilty pleas) and out of court admissions to witnesses other than Larson were carefully considered.

Of the 27 cases, all but one had a NIK test conducted by an officer in the field. All 27 cases also had judicial pleas of guilt. Therefore 25 of the cases had both positive NIK tests and guilty pleas and have been determined to be based upon reliable and trustworthy evidence of guilt. The one case in which there was no NIK test will be dismissed by the Clackamas County District Attorney's office after his defense counsel has been notified. This case only involved a charge of Possession of Controlled substances.

The final case, State vs, Mitchell, is the most troubling. The defendant was arrested while in possession of more than 100 grams of methamphetamine as well as 6 oxycodone pills. The methamphetamine was NIK tested and found to be meth. It was subsequently tested in the lab by Larson and that lab test was also positive for meth. Mitchell plead guilty to Delivery of Methamphetamine and was sentenced to 50 months in prison where he is currently housed. However, the subsequent criminal investigation determined that Larson stole the 6 oxycodone pills after testing them in the lab.

In the interests of justice, the Clackamas County District Attorney's office will move to dismiss the PCS case mentioned above in which there was no NIK case. Further, the office will move to vacate the conviction in the Mitchell case and allow the defendant to withdraw his guilty plea. Since the methamphetamine in the case is still in evidence and can be retested, the case will not be dismissed. However, the office will enter into plea negotiations with defense counsel to determine if the case can be resolved with a new plea agreement taking into account the misconduct by Larson and the time Mitchell has already served in prison.

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