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ORANGE COUNTY, CALIFORNIA

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LISA BOHAN - JOHNSTON
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February 23, 2011

Orange County Sheriff's Department
Sheriff Sandra Hutchens
550 North Flower
Santa Ana, CA 92702

Re: Officer Involved Shooting – October 5, 2010
Deputy Michelle Rodriguez

Dear Sheriff Sandra Hutchens,

The Orange County District Attorney's Office conducted a legal review of the shooting incident involving the above named Orange County Sheriff's Deputy. The incident occurred on October 5, 2010, at approximately 9:37 p.m. in the area of 28940 Golden Lantern, in the city of Laguna Niguel.

This incident involved an altercation between Deputy Rodriguez and defendant Thomas Spence. Spence's blood alcohol level was .17 nearly three hours after the incident. Spence has a prior history of being combative with police and being under the influence of alcohol; reference a May 7, 2010, driving under the influence arrest made by the Huntington Beach Police Department, DR #10-7499. Spence was witnessed by other deputies who arrived at the scene to be non-complaint and struggling with Deputy Rodriguez who was attempting to handcuff Spence. By Spence's own admission, he was under the influence of alcohol, and has trouble remembering the details of the incident. Bar employees at the bar Spence was last drinking described him as aggressive and combative.

This incident started when Deputy Rodriguez, after being called to a disturbance call in the area, noted a suspicious subject lying in the bushes with his hands in his pants, defendant Spence. She tried to conduct an investigatory pedestrian detention, but Spence began running from her. Throughout this encounter, Spence was non-compliant and physically combative. Deputy Rodriguez tried to gain Spence's compliance by using her Taser and her baton. Spence was able to get Deputy Rodriguez's flashlight and took a fighting stance with it. Fearing he would use it as a weapon, she drew her firearm, identified herself as the Sheriff's Department, and ordered Spence to the ground. Spence grabbed her firearm and attempted to gain control of it. Deputy Rodriguez fired her weapon during a violent struggle for control of her duty weapon which Spence was positioning toward Deputy Rodriguez. Spence was subsequently charged with several felonies related to this incident with Deputy Rodriguez by the Orange County District Attorney's Office in case number 10SF1004.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: www.OrangeCountyDA.com

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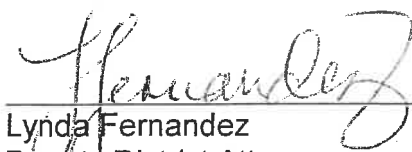
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I have reviewed the investigative reports prepared by the Orange County Sheriff's Department, as well as the forensic reports, and the interviews of the witnesses at the scene and the officers involved in the incident. We have now completed our legal review.

Based upon my review of the facts and the applicable principles of law, it is our conclusion the evidence does not support a finding of any criminal culpability on the part of Deputy Michelle Rodriguez involved in this shooting. Deputy Rodriguez's actions were reasonable and justified under the circumstances.

Accordingly, the Office of the District Attorney is closing its inquiry into this matter. If you have any questions, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lynda Fernandez", is written over a horizontal line.

Lynda Fernandez
Deputy District Attorney
Special Prosecutions Unit
(714) 347-8731