

THE STATE OF TEXAS
VS.
HODGIE ARMSTRONG
1200 TRAVIS
HOUSTON, TX 77004

03059896

SPN:
DOB: **B M 8/29/1965**
DATE PREPARED: **7/1/2020**

D.A. LOG NUMBER: **2653097**
CJIS TRACKING NO.:
BY: **EH DA NO: 24259**
AGENCY: **DAO**
O/R NO: **S1907**
ARREST DATE: **TO BE**

FILED
Marilyn Burgess
District Clerk
JUL 01 2020
Time
By
Harris County, Texas
Deputy

NCIC CODE: **4802 32** RELATED CASES:
FELONY CHARGE: **TAMPERING GOVERNMENTAL RECORD**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO: **1680891**
FIRST SETTING DATE: **228**

COURT ORDERED BAIL: **TO BE SET AT**
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM: **1**

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **HODGIE ARMSTRONG**, hereafter styled the Defendant, heretofore on or about **January 22, 2019**, did then and there unlawfully, did then and there knowingly make a false entry in a governmental record, namely, Houston Police Department offense report number 0095844-19, with the intent to defraud or harm another.

PROBABLE CAUSE:

Affiant, Lieutenant Billy Milan, is a certified peace officer employed by the Harris County District Attorney's Office (HCDAO) and assigned to the Civil Rights Division. Affiant has probable cause to believe and does believe that former Houston Police Department (HPD) Officer Hodgie Armstrong, hereinafter defendant, did commit the state jail felony offense of tampering with a governmental record on or about January 22, 2019, in Houston, Harris County, Texas. Affiant bases this belief on the following:
On January 15, 2020, former HPD Narcotics Officers Gerald Goines (Goines) and Steven Bryant (Bryant) were indicted for Tampering with a Governmental Record, see Harris County Cause Nos. 1660764 and 1643521, respectively. These charges center on false statements sworn to by Goines in obtaining a narcotics search warrant for a residence located at 7815 Harding Street and false statements made in the corresponding offense report by the defendant. Execution of that search warrant led to the death of both homeowners, injury to four HPD officers, and thereafter an HPD investigation into Goines' and Bryant's use of confidential informants (C.I.s) to obtain search warrants.

Affiant is aware of and has reviewed HPD General Order 600-16 (GO) which governs C.I.s and payments to C.I.s. The GO holds that "all meetings between a C.I. and an officer shall be attended by two officers." This regulation requires that at least two officers be present when a controlled buy is conducted. It further mandates that "officers shall not pay a confidential informant without the appropriate witness present." The GO goes on to dictate how payments to C.I.s will be documented, stating that all payments to C.I.s "shall be fully documented on a division's 'Confidential Informant Receipt for Funds form'" (C.I. Form) with "control information" to include the signature of the C.I. as an agreement that the payment was received, the signature of the investigator making the payment, the signature of at least one other officer witnessing the payment, and the date of the payment. These forms, as dictated by the GO, require that at least three people – the C.I., the investigator, and a witness – be together in one place in order for a payment to occur. Affiant has reviewed numerous HPD C.I. Forms and has noted that these forms also include the time of the payment and the associated OR number for the OR wherein the controlled buy is documented.

Affiant has also reviewed the Special Investigation Command, Narcotics Division, Standard Operating Procedures (SOP). SOP 100/2.05 covers "Confidential Informant Funds/Expense Letters, Limits of Authorization and Use of Flash Money" and includes a section on "CI Payments & Receipt for Funds Form." That section repeats the requirements of GO 600-16 and also specifically states, "The CI Receipt for Funds form will be completed at the time of the payment to the CI" (emphasis in original). Affiant has reviewed the specific C.I. Form used by the HPD Narcotics Division, titled "C.I. Activity Sheet / Receipt for Funds Form." The form has six sections. The first section includes C.I. name, date, time, location, OR number, and blanks for up to two drug types and the corresponding weight. The second section is for an amount paid to the C.I. for information and assistance and includes blanks for the amount paid and the C.I.'s signature. The third section is for an amount provided to the C.I. to purchase narcotics and includes blanks for the amount paid and the C.I.'s initials. The fourth section provides a space for details. The fifth section starts with the word "Witness" followed by a blank for a printed name and a blank for a signature. The sixth section goes on to provide blanks for the signatures of the reviewing sergeant and the reviewing lieutenant. Affiant reviewed documents provided by HPD pursuant to this investigation, including C.I. Forms, expense reports, offense reports, and overtime request forms for HPD OR number 0095844-19. Affiant observed that the defendant submitted a C.I. Activity Sheet/Receipt for Funds Form associated with this report number, wherein the defendant stated that he made payments to a C.I. on January 22, 2019 for a buy

allegedly made at 4437 Knoxville in Houston, Harris County, Texas. The form indicates that this money was "paid and/or provided" on January 22, 2019. The original time documented appears to have been 20:00 hours (8:00pm), however a parenthetical reading "19:30" (7:30pm) is written in red ink above "20:00." Bryant's signature appears on the form in the blank provided for witness. Affiant additionally observed that Armstrong stated in HPD OR No. 0095844-19 that he and Bryant met with the C.I. and conducted the above-described controlled buy at 4437 Knoxville on January 22, 2019, at 6:00pm (18:00 hours).

Affiant previously obtained search warrants for cell site data for Bryant's personal cell phone. Affiant was provided a copy of the cell site data returned as a result of that warrant. Bryant's data came from Sprint and ranged from January 8, 2018 through February 1, 2019. This data was provided to Nathan Gates (Gates), a Lieutenant Investigator and Digital Forensic Examiner currently employed within the HCDAO Digital Forensic Unit. During the time period for which data was returned, Gates mapped the coordinates of the cell phone data for Bryant for the dates and times of each payment documented.

In reviewing Bryant's cell site mapping for January 22, 2019, at 18:00 hours (as documented by the defendant in the offense report), Affiant observed Bryant's cell phone was in use at approximately 18:06 hours in the area of I-10 and West 99, more than thirty (30) miles from 4437 Knoxville. In reviewing Bryant's cell site mapping for January 22, 2019 at 19:30 hours and 20:00 hours (as documented by the defendant in the C.I. Activity Sheet / Receipt for Funds Form), Affiant observed Bryant's cell phone was in use and travelling at approximately 18:24 hours, 18:39 hours, 19:21 hours, and 20:24 hours, all in the Richmond, Texas area, a location Affiant found to be more than twenty-five (25) miles from 4437 Knoxville.

Based on the above information, Affiant has reason to believe that neither the alleged buy nor the alleged payment for said buy took place as documented by Bryant and the defendant, and thus Affiant has reason to believe that the defendant knowingly made a false statement in documenting that Bryant was present for any alleged controlled buy or payment to a C.I. at 18:00 hours, 19:30 hours, or 20:00 hours on January 22, 2019, at 4437 Knoxville, as stated by the defendant in HPD offense report number 0095844-19 and in the corresponding C.I. Activity Sheet / Receipt for Funds Form.

Texas Penal Code Section 37.10, Tampering with a Governmental Record, provides that, amongst other means, "a person commits an offense if he knowingly makes a false entry in, or false alteration of, a governmental record." Texas Penal Code Section 37.01(2) provides that a "Governmental Record" includes "anything belonging to, received by, or kept by government for information, including a court record." Based on his experience and training, Affiant knows offense reports to be made and kept by HPD narcotics officers to document the activity and involvement of officers and witnesses in narcotics investigations. HPD is a subdivision of the City of Houston, a municipality. Affiant is additionally aware that Texas appellate courts have held offense reports to be governmental records under Texas Penal Code Section 37.01.

Affiant therefore believes that the defendant did commit the offense of tampering with a governmental record on or about January 22, 2019, in Houston, Harris County, Texas by knowingly making a false entry in a governmental record, namely a Houston Police Department offense report number 0095844-19, and that this offense was committed with the intent to defraud the Houston Police Department.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on 7/1/20

Duly attested by me on 07/01/2020

Billy Milan

Jim Leitner

AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 12187900

Witness (Peace Officer)

in Person

Witness Printed name & Badge or Payroll number

Unofficial Copy of Officer Marilyn Burgess District Clerk

COPY OF COMPLAINT/WARRANT DELIVERED TO
Officer's name: Marilyn Burgess
Police agency: HOJMO
Phone no: _____ date/time: 8/1/20