

SUPERIOR COURT OF NEW JERSEY
COUNTY OF SOMERSET

IN THE MATTER OF AN APPLICATION
BY THE STATE OF NEW JERSEY
FOR AN ARREST WARRANT.

AFFIDAVIT

STATE OF NEW JERSEY)

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COUNTY OF SOMERSET)

I, Detective Elizabeth Lansing, being of full age, upon my oath, depose and say:

1. I am a duly sworn law enforcement officer employed by the Division of Criminal Justice, Office of Public Integrity and Accountability.

2. I am currently assigned as a Detective for the New Jersey Division of Criminal Justice (“DCJ”), Office of Public Integrity and Accountability (“OPIA”). I have been a sworn Detective for the State of New Jersey since July 2021. I serve as a Detective in OPIA’s Corruption Bureau and am empowered to conduct investigations and make arrests for violations of the New Jersey Criminal Code and other crimes, including official misconduct, sexual assault, theft, possession and distribution of controlled dangerous substances, fraud, assault, weapons violations, homicide, suspicious deaths, conspiracy and other offenses. I have also investigated police-

involved shootings and deaths that occur during encounters with a law enforcement officer acting in the officer's official capacity or while the decedent is in custody throughout the State of New Jersey. I have a Master of Arts Degree in International Security from the University of Arizona, as well as a Bachelor of Arts Degree in Psychology from Duke University. I have completed a nineteen-week Basic Course for Investigators at the New Jersey Division of Criminal Justice Training Academy in Sea Girt, New Jersey. This course covered all phases of criminal law and investigation, including search and seizure law, the control of evidence, grand jury and case trial preparation, criminal statutes and court room presentation.

3. During the course of my employment with DCJ, I have attended numerous in-service training courses pertaining to criminal investigation. I have conducted field investigations, obtained statements, and conducted surveillance. I currently work in OPIA, where I conduct criminal investigations including, but not limited to assault, official misconduct, bribery, and harassment. From my training and experience and various discussions with, supervisors, and other law enforcement officers and colleagues that have experience in the investigation of official misconduct, as well as other corruption related criminal offenses, as well as being involved in numerous corruption related investigations, I have become familiar with the practices, methods, techniques, and jargon used by those involved in corruption. The opinions expressed in this Affidavit are based upon my training and experience, along with the training and experience of my supervisors, and other law enforcement officers involved in this investigation that have experience in the investigation of official misconduct as well as other corruption related criminal offenses. I am currently assigned to the investigation detailed hereinafter in aid of which this

application is made. I am personally familiar with all aspects of, and the circumstances surrounding, said investigation.

4. I have probable cause to believe and do believe that the below listed individual has committed one or more of the following crimes: Official Misconduct (N.J.S.A. 2C:30-2a), Pattern of Official Misconduct (N.J.S.A. 2C:30-7), Sexual Assault (N.J.S.A. 2C:14-2c(1)), and Criminal Sexual Contact (N.J.S.A. 2C:14-3b) (hereinafter collectively referred to as the “Specified Crimes”).

5. This Affidavit is submitted for an Arrest Order and Warrant authorizing the arrest of the following individual:

INDIVIDUAL TO ARREST

A. THOMAS HERBST

Thomas Herbst, (hereinafter “Herbst”) is more specifically described as: a white male, 5’ 11” in height, approximately 185 lbs. in weight, blue eyes, bald, date of birth August 25, 1967, and who is assigned social security number xxx-xx-9844.

Crimes:

- Second Degree Official Misconduct – N.J.S.A. 2C:30-2a (three counts)
- Second Degree Pattern of Official Misconduct – N.J.S.A. 2C:30-7
- Second Degree Sexual Assault – N.J.S.A. 2C:14-2c(1) (two counts)
- Fourth Degree Criminal Sexual Contact – N.J.S.A. 2C:14-3b

Summary of the Investigation

6. Defendant Thomas Herbst served as a sworn law enforcement officer and a member of the Borough of Manville Police Department at all times relevant to this investigation. By virtue of Herbst's public employment, and as a public servant, Herbst had various official duties, including the duty to conduct and manage the day-to-day activities and operations of the Manville Police Department; administer and enforce rules and regulations for the discipline of the force and its officers and personnel, including the Borough of Manville's Policy Against Sexual Harassment and the Borough's Internet Policy; be exemplary in obeying the laws of the land and the regulations of his department; and to prevent crime and conduct his private and professional life in a manner as to avoid bringing the Department into disrepute. The Borough of Manville's Policy Against Sexual Harassment prohibits unwelcome sexual advances or other physical conduct of a sexual nature of an employee by another employee in the workplace when such conduct has the purpose or effect of unreasonably interfering with an individual's work or creating an offensive work environment and further prohibits requests for sexual favors of an employee by another employee in the workplace when submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual. The Borough's Internet Policy prohibits employees from viewing or accessing via the Internet sexually explicit, obscene, or other unlawful or inappropriate material. These duties are set forth in the Manville Police Department's Rules and Regulations and the Borough of Manville's Employee Handbook. Herbst's duties also stem from the duties inherent to all public servants as a matter of common law and as recognized by our courts.

7. On February 15, 2022, a victim (“Victim 1”) in this case filed a civil lawsuit alleging that Herbst, who was Victim 1’s direct supervisor at the Manville Police Department, had sexually harassed and assaulted her from 2008 through 2021 using coercion or without Victim 1’s affirmative and freely-given permission. Victim 1 was initially employed as a records clerk and was later promoted to her current position, executive assistant to the Chief of Police. Herbst was initially employed in 1991 as a patrol officer, then sergeant, followed by lieutenant and was later promoted to Chief of Police. While a lieutenant and Chief of Police, Herbst was Victim 1’s direct supervisor. Victim 1 alleged Herbst sexually assaulted her and masturbated in her presence multiple times and in multiple locations at their place of employment, the Manville Police Department, as well as her home. The Somerset County Prosecutor’s Office initiated an investigation into this matter after the civil lawsuit was filed.

8. During the month of February 2022, the Somerset County Prosecutor’s Office conducted multiple interviews of witnesses to this case. Victim 1 told detectives she was hired by the Manville Police Department in May 2000 as the records clerk. Herbst became her direct supervisor upon his promotion to lieutenant in 2005. Initially, Victim 1’s work station was in a public area. Later, she was given her own office. In November or December of 2008, Victim 1 was called into Herbst’s office, and he told her he was going to let her leave work early as it was starting to snow. Victim 1 alleged that Herbst then stood next to her chair, preventing her from getting out of the chair, and removed his penis from his pants. He then proceeded to masturbate and eventually ejaculated onto her hair and clothing. After, Herbst told her he was sorry and to go home. Victim 1 went home.

9. After this incident, per Victim 1, Herbst, while serving in a supervisory capacity with respect to Victim 1, repeatedly masturbated in front of Victim 1 and ejaculated on Victim 1 multiple times over several years, specifically between 2009 and 2015, while both Herbst and Victim 1 were on duty with the Manville Police Department, in violation of the Borough of Manville's Sexual Harassment Policy and the criminal laws of the state. The masturbation occurred in Victim 1's office, as well as in Herbst's office at the Manville Police Department Headquarters. The masturbation eventually escalated to incidents in which Herbst sexual assaulted Victim 1 by penetration. According to Victim 1, the sexual assaults occurred on multiple occasions while on duty inside the Archives Room at the Manville Police Department Headquarters. The assaults also occurred in the parking lot of a local motel, inside the local motel and inside Victim 1's residence. Victim 1 further stated that she frequently would go home for lunch and Herbst would drive by her home to see if her car was in the driveway. Victim 1 stated, upon seeing her vehicle in the driveway, Herbst would enter her home through the back door and sexually assault her inside her home. Victim 1 stated she attempted to avert his surveillance by closing her blinds, and locking her doors. She also cleaned out her garage so that she could park her vehicle inside and thus conceal the vehicle from the roadway. Other witnesses interviewed by law enforcement have supported Victim 1's account that she needed to clean out the garage to be able to park her vehicle inside, although they were not told specifics as to why she needed to do so. Victim 1 stated she would also lie to Herbst and tell him her daughters would be home at lunchtime in an attempt to thwart his repeated assaults.

10. Victim 1 stated that Herbst also ordered Victim 1 to begin wearing skirts to work to facilitate and escalate the assaults. On occasion, Herbst would arrange to meet Victim 1 at a hotel to assault her, and at one point when she resisted, he accused her of disobeying orders.

11. Victim 1 also reported that in or about January 2021, Herbst committed an additional act of sexual contact with Victim 1, where she did not sustain severe personal injury, by approaching her from behind at work, sliding his hand down her shirt, and fondling her bare breasts. Victim 1 attempted to push his hand away while stating “No, this is not going to happen again, you’re married....”

12. OPIA assumed this investigation from the Somerset County Prosecutor’s Office in May of 2022. During the course of the investigation, numerous witness interviews were conducted, and information obtained through the investigation revealed additional criminal conduct committed by Herbst against other victims.

13. During the course of the investigation, witness interviews and information obtained revealed Herbst committed an act of sexual penetration with a second victim (“Victim 2”) without Victim 2’s affirmative and freely-given consent, where Victim 2 did not sustain severe personal injury. Victim 2 was previously an entry-level civilian employee for the Manville Police Department and initially reported to Herbst at the beginning of her career while he was a Sergeant. Victim 2 told investigators that Herbst went to her newly purchased home in 2005 or 2006. While touring the house, Herbst sexually assaulted Victim 2. Victim 2 stated that she first denied Herbst’s request for a sexual act but eventually performed the sexual act, though she did not want to engage in the act, and that Herbst committed an act of sexual penetration.

14. Investigators also learned that Herbst contacted a subordinate police officer (“Victim 3”) employed with the Manville Police Department to solicit sex acts from Victim 3’s wife in exchange for scheduling preference and/or promotional consideration while he was the administrative lieutenant in charge of scheduling, in violation of, among other things, the Borough of Manville’s Sexual Harassment Policy. Victim 3 provided investigators with text messages sent from Herbst between October 31, 2016 and November 2, 2016, from Herbst’s Manville Police Department-issued smart phone, in which Herbst requests “a monumental bribe” in exchange for Victim 3’s preferred scheduling assignment. In the text messages, Herbst goes on to say that he thought that Victim 3 was going to offer his wife in exchange for the preferred scheduling assignment. When Victim 3 refused that request, Herbst replied he was “kind of offended, [Victim 3’s wife’s] being held back for stripes, wtf,” referring to Victim 3’s next rank if promoted. Victim 3 stated that he understood Herbst was referring to a sexual encounter with his wife. Victim 3 further told investigators that in April 2017, Herbst texted him to demand oral sex from his wife in exchange for a promotion. This conduct violated the Borough of Manville Employee Handbook Sexual Harassment Policy which prohibits a town employee from requesting sexual favors or visual conduct of a sexual nature when submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual.

15. A forensic examination of Herbst’s office computer at the Manville Police Department revealed that the computer was used to access pornographic videos on November 25, 2020. The Borough of Manville Policies and Procedures Employee Handbook specifically

prohibits the use of Borough computers for “obscene activities.” That computer was password-protected and inside of Herbst’s office.

16. Based upon the foregoing facts, coupled with my training and experience as described in Paragraphs 2 and 3, *supra*, I have probable cause to believe and do believe the evidence gathered in this case, including witness statements and text messages, shows the commission of the Specified Crimes enumerated in Paragraph 4, *supra*. Based upon all of the foregoing facts and circumstances, I have probable cause to believe and do believe, that Thomas Herbst engaged in official misconduct, pattern of official misconduct, sexual assault, and criminal sexual contact. This belief is supported by my training and experience, as well as the information learned through the investigation.

17. The victims have alleged Herbst engaged in repeated sexual assaults, criminal conduct that could have serious penalties and is grounds for the issuance of a Complaint Warrant pursuant to New Jersey Court Rules, R. 3:3-1. Victim 1 also alleged that Herbst would drive by her home to see if she was there before entering and assaulting her. Based on my training and experience, I believe Herbst poses a danger to the victims, specifically in the possibility that he may retaliate against the victims and/or attempt to continue the abuse. Based on my training and experience, I know that it is common for individuals charged with serious criminal conduct that rests largely on witness and/or victim testimony to attempt to influence the witnesses and/or victims to thwart prosecution. Additionally, I believe pretrial conditions of release, including no victim contact, are necessary to protect the victims.

18. I am requesting an Order authorizing the arrest of the individual described in paragraph 5, *supra*, for the crimes listed in paragraph 4, *supra*, and further specified in paragraph 5A, *supra*, rather than requesting the issuance of arrest warrants through the Automated Complaint System (ACS) for the following reasons. The ACS contains a character limit imposed on the Affidavit of Probable Cause accompanying the arrest warrant. Based on the complex and lengthy investigation detailed herein, the probable cause for the arrest of the individual described in this application cannot be fully articulated within the confines of the ACS. The ACS does not allow for the drafting of complaints for the court's review without making those complaints available for public review. Although the ACS permits complaints to be sealed, the name of the defendant in the complaint is visible in the title of the document, though the complaint itself cannot be opened. I am aware of situations when targets of investigations have been made aware of the anticipated charges through ACS prior to the execution of arrest warrants or even prior to a court's review of those charges. In one instance, letters from several criminal defense attorneys offering their services regarding the charges that were the basis for the arrest warrant were found by officers during the execution of the warrant prior to the target. In that case, the target was made aware of the charges by defense attorneys before being served with the complaints and before the execution of the arrest warrant. Therefore, it would pose a risk to officer safety and would tend to thwart the goals of the investigation to draft an arrest warrant prior to the execution of the warrant requested herein and the actual arrest of the individual listed in Paragraph 5, *supra*. To draft the arrest warrant prior to the court's review of this application would create a situation where Herbst could be alerted to the pending warrant well in advance of his arrest. Though he is currently suspended,

Herbst remains the Chief of Police of the Manville Police Department. As such, there is an increased likelihood that Herbst could be alerted to the pending warrant well in advance of his arrest. As a result, Herbst would be afforded an opportunity to potentially retaliate against the victims and officers would be placed at risk when executing any arrest warrant issued as a result of this application. Therefore, I am requesting that an Order authorizing the arrest of the said individual and will generate the forms of complaint through ACS once the target of the investigation is taken into custody.

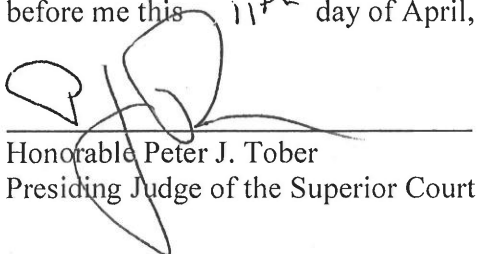
19. **WHEREFORE**, I respectfully request that an Order be issued, authorizing the arrest of the individual described in Paragraph 5, *supra*, for the Specified Crimes; and

20. It is further requested that due to the ongoing nature of this investigation, this document be sealed until the resulting arrest warrant may be executed. Upon the arrest of Herbst, I request that this document be unsealed and be incorporated as an attachment to the complaint entered through ACS at the time of arrest.

Dated: April 11, 2023

Det. Elizabeth Lansing #2259
Detective Elizabeth Lansing # 2259
New Jersey Division of Criminal Justice

Sworn and subscribed to
before me this 11th day of April, 2023.



Honorable Peter J. Tober
Presiding Judge of the Superior Court