

*** NEWS RELEASE ***

DA'S OFFICE CONCLUDES INVESTIGATION CONCERNING SHERIFF'S SEARCH WARRANTS

FOR IMMEDIATE RELEASE

April 25, 2018

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In January 2018, the Monterey County District Attorney's Office received an anonymous letter and a complaint from an identified sheriff's deputy alleging that a supervising detective in the sheriff's office "ghostwrote" statements of probable cause in search warrants for subordinates. The District Attorney's Office decided to investigate to determine whether evidence of perjury existed.

A magistrate who approves a search warrant does so because the statement of probable cause demonstrates a strong suspicion that a crime was committed, and that particularly described evidence exists in the place to be searched. The affiant, a peace officer who authors the statement of probable cause, must declare under penalty of perjury that the affiant believes the information in the statement of probable cause is true. The affiant may lawfully relate the statements of other persons, including peace officers, in the statement of probable cause. However, it is unlawful for an affiant to expressly claim personal knowledge of facts when the affiant does not have personal knowledge.

The District Attorney's office found no evidence of perjury or any crime during this investigation which focused on calendar year 2017. The investigation examined 27 sheriff's office search warrants authored during calendar year 2017, and investigators interviewed 14 current and former sheriff's personnel. The investigation also examined emails between the supervising detective and subordinates who wrote search warrants. Some emails contained search warrant templates written by the supervising detective sent to the deputy sheriff affiant. In only 6 of the 27 search warrants did the supervising detective write a template for the deputy sheriff affiant. Five were provided to one deputy sheriff affiant. Comparing those five templates to the final warrants, the deputy always made extensive changes to the template, and the deputy verified the contents of the final statement of probable cause by communicating with all sources of information referenced in the statement of probable cause and had personal knowledge of the facts and/or statements recounted by sources in the statement of probable cause. Three of these warrants resulted in criminal prosecutions. The remaining template authored by the supervising detective was provided it to a different deputy sheriff affiant. That affiant made changes to the statement of probable cause and had personal knowledge of the facts and/or statements recounted in the statement of probable cause. That investigation was not submitted for prosecution.

The practice of using a warrant template written by another person is acceptable if the affiant either has personal knowledge of the facts in the statement of probable cause, verifies those facts, or otherwise explicitly identifies another peace officer or source as possessing that personal knowledge. Both deputy affiants who wrote warrants using templates from their supervising detective, stated to investigators that the supervisor instructed them to confirm and verify all information in the statement of probable cause before they attested to its accuracy. The investigation uncovered no evidence of any criminal law violation. The Sheriff's Office, including upper management, fully cooperated throughout the investigation.