

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

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CRIMINAL NO.: 10-032

v.

*

SECTION: "B"

MICHAEL LOHMAN

*

VIOLATIONS: 18 U.S.C. § 371

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FACTUAL BASIS

If this matter were to go to trial, the Government would prove, through the introduction of competent testimony and admissible tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against defendant **MICHAEL LOHMAN**. The defendant has agreed to plead guilty to conspiring with other New Orleans Police Department Officers to commit the following offenses against the United States:

a. to knowingly falsify and make a false entry in a document with intent to impede, obstruct, or influence the investigation or proper administration of a matter within federal jurisdiction, or in relation to and in contemplation of such a matter, in violation of Title 18, United States Code, Section 1519;

b. to knowingly engage in misleading conduct toward another person with intent to hinder, delay, or prevent the communication of truthful information to a federal law enforcement officer or judge of information relating to the commission or possible commission of a federal offense, in violation of Title 18, United States Code, Section 1512(b)(3); and

c. to knowingly and willfully make materially false statements or representations in a matter within the jurisdiction of the FBI, an agency of the executive branch of the United States, in violation of Title 18, United States Code, Section 1001.

All in violation of 18 U.S.C. § 371, as charged in the Bill of Information.

The Shootings and the Start of the Conspiracy

In 2005, defendant **LOHMAN** was a Lieutenant with the New Orleans Police Department (NOPD), assigned to NOPD's Seventh District. On September 4, 2005, in the wake of Hurricane Katrina, the defendant and his fellow Seventh District officers were working out of a temporary station at the Crystal Palace on Chef Menteur Highway. That morning, defendant **LOHMAN** was at the Crystal Palace when he learned a radio call for police assistance at the Danziger Bridge and he saw numerous NOPD officers load into a large Budget rental truck and head toward the bridge. Defendant **LOHMAN** responded to the bridge shortly after the officers in the Budget truck responded, and he arrived to find that the officers in the truck had been involved in two separate shooting incidents on the bridge. The first shooting incident, on the east side of the bridge,

resulted in the death of one civilian (later identified as J.B.), and the wounding of four other civilians (later identified as J.H. and three other members of the B. Family). The second shooting incident, on the west side of the bridge, resulted in the death of one civilian (later identified as Ronald Madison, a 40-year-old severely disabled man).

When defendant **LOHMAN** arrived at the bridge, he saw the dead or severely-injured civilians on the east side and noticed that there were no guns on or near the civilians. When officers at the scene could not identify any evidence that would justify the shooting, defendant **LOHMAN** concluded that the officers had been involved in a "bad shoot" (a shooting incident that was legally unjustified). Defendant **LOHMAN** spoke to two sergeants on the scene, Sergeant A and Sergeant B, who claimed that the civilians had fired at the police and that the police had shot in self-defense. When defendant **LOHMAN** asked them where all of the civilians' guns had gone, the sergeants did not have a good explanation. Defendant **LOHMAN** then instructed the sergeants to go decide what happened and then to come back to tell defendant **LOHMAN**. Defendant **LOHMAN** intended for the sergeants and the other officers involved in the shooting to come up with a plausible story that would allow defendant **LOHMAN** and other supervisors to conclude that the shooting was justified.

While still on the bridge, defendant **LOHMAN** instructed a sergeant under his command (the Investigator), to take charge of the investigation into the shooting incident. The Investigator, under defendant **LOHMAN**'s supervision, began investigating the

matter as the attempted murder of the police officers who had driven to the bridge in the Budget truck. At the crime scene, defendant **LOHMAN** and the other officers purposely neglected to take steps that would have allowed for a true investigation of the incident to occur. Among other things, they failed to conduct or direct evidence-collection at the scene; they failed to diagram the scene or conduct a neighborhood canvass, or ensure that someone else would do so; and they left the scene without any evidence having been picked up, even though there were numerous officers at the scene – and several homicide investigators under defendant **LOHMAN**'s command – who were available and able to work the scene.

On the day of the shooting, defendant **LOHMAN** did not hear NOPD Superintendent Eddie Compass on the radio. However, when defendant **LOHMAN** assigned the investigation to the Investigator, the Investigator responded, "21 NAT, Babe, we don't have to do anything." The abbreviation "NAT" stands for "Necessary Action Taken," and defendant **LOHMAN** understood the Investigator to mean that he did not think he had to write a report. Defendant **LOHMAN** told the Investigator that he did have to write a report.

The Planted Gun

Sometime after the shooting, the Investigator told defendant **LOHMAN**, "I have a gun and I'm going to put it under the bridge." Defendant **LOHMAN** understood that the Investigator was going to plant a weapon to be used as evidence to justify the police

shooting, and asked the Investigator whether the gun was “clean,” meaning that it could not be traced back to another crime. When the Investigator assured defendant **LOHMAN** that the gun was “clean,” defendant **LOHMAN** went along with the plan to plant the gun. Sometime later, defendant **LOHMAN** signed off on a report stating that the Investigator had found the gun under the bridge on September 5, 2005, despite the fact that defendant **LOHMAN** knew that the gun had been planted by the Investigator.

The Evolution of the False Stories

Later that day, back at the Crystal Palace, the Investigator met with the officers and sergeants who had been involved in the shooting (collectively, the shooters) and discussed the statements they should give about the incident on the bridge. At this meeting, which occurred at a round table at the Crystal Palace, defendant **LOHMAN** told the shooters that the Investigator would investigate the incident. During the conversation at the round table, one of the shooters admitted that he had fired his weapon numerous times on the bridge. Defendant **LOHMAN** then called aside his sergeants – Sergeant A, Sergeant B, and the Investigator – and told them to let the officers “get their stories straight” before giving statements. Defendant **LOHMAN** and the sergeants also discussed returning to the bridge to pick up some of the shell casings left behind by the officers’ multiple shots. The sergeants then returned to the round table to continue the discussion with the other shooters.

Defendant **LOHMAN** understood that the shooters and the Investigator were coming up with false stories to justify the shootings, and he intended for them to come up with an overall story and then report that final story to him for his sign-off.

Over the course of approximately five or six weeks following the shooting, the Investigator met repeatedly with the shooters and, aided by another officer, documented the stories they had come up with to justify the shooting. During that time, defendant **LOHMAN** also met on occasion with some of the shooters and discussed with them their stories.

Sometime approximately in October 2005, the Investigator submitted a draft report to Defendant **LOHMAN**, which included summaries of statements attributed to the shooters. The stories attributed to the shooters did not make sense to defendant **LOHMAN**, so he suggested changes that would help make the cover story more specific and more plausible. For example, one of the shooters, Sergeant A, had initially claimed that he kicked the civilians' guns off of the bridge, down onto a grassy area to which he had just seen a potential suspect flee, and that he then ran below the bridge to look for the suspect who had fled. However, because Sergeant A had not collected any guns from below the bridge, defendant **LOHMAN** and other co-conspirators determined that this story was not believable. Sergeant A therefore changed his story, in consultation with defendant **LOHMAN** and the Investigator, among others, to say that he did not run under the bridge after kicking the guns.

During the course of the cover-up, defendant **LOHMAN** also spoke to another officer from the Budget truck, who told him that he had not fired his gun at the bridge. That officer told defendant **LOHMAN** that he had seen a juvenile running away from officers, back down the Danziger Bridge, and that he had chased the juvenile down and under the bridge. That officer told defendant **LOHMAN** that he had not fired his gun during the incident. Defendant **LOHMAN** later learned that the same officer provided an audiotaped statement to NOPD in which he admitted that he fired two times at the subject fleeing down the bridge, but in which he claimed that he fired because the subject had turned toward him and reached for a shiny object in his waistband. In the later statement, that officer, like Sergeant A, changed his story to say that he did not run down under the Bridge.

During the course of the cover-up, defendant **LOHMAN** also met with the other shooters, including the officer who had shot and killed Ronald Madison. Defendant **LOHMAN** asked leading questions of the officer who killed Ronald Madison, in order to guide the officer to answers that would help justify the shooting of Madison.

The series of false reports

Sometime approximately in October 2005, the Investigator submitted to defendant **LOHMAN** a first draft of an incident report about the bridge shooting. The report included summaries of statements that the Investigator had obtained from each of the shooters. In the report, the Investigator wrote, among other things, that S.B. (one of the

civilians shot on the bridge) had, on September 8, 2005, admitted to the Investigator and another officer that her nephew and some of his friends had fired guns on the bridge before the police returned fire. Defendant **LOHMAN**, who knew that the civilians on the bridge had not actually had guns, knew that the Investigator had made up that interview. In the report, the Investigator also wrote that L.B. (another one of the civilians shot on the bridge) had, on September 8, 2005, admitted to the Investigator and the other officer that his nephew had fired a gun on the bridge before the officers returned fire. Again, defendant **LOHMAN** knew that the Investigator had made up the interview.

Additionally, the report submitted by the Investigator included the claim, which defendant **LOHMAN** understood to be part of the false story justifying the shooting, that Lance and Ronald Madison had run over the bridge, shooting at police, and that Sergeant A had seen Lance Madison throw his gun off the bridge and into the Industrial Canal.

On several occasions in approximately October 2005, defendant **LOHMAN** reviewed drafts of the false report written by the Investigator (with help from an assisting officer) and counseled the Investigator, Sergeant A, and Sergeant B on ways to make the false story in the report sound more plausible.

After reading through several drafts from the Investigator, defendant **LOHMAN** became frustrated that the cover-up story in the report was not logical, and he personally drafted a 17-page report, which he knew to be false, and he provided that report to the Investigator to submit as the official incident report. In the 17-page report, defendant

LOHMAN included numerous false facts that would help justify the police shooting. For example, defendant **LOHMAN** changed the story about Sergeant A seeing Lance Madison throw a gun into the Canal, and instead wrote that Sergeant B and three other officers had been chasing the Madisons over the bridge when Lance Madison threw his gun into the Canal. Defendant **LOHMAN** made this change because he thought the cover-up story would be stronger and more logical if four officers said they saw Madison throw the gun as they chased behind him, rather than one officer saying he saw it from the bottom of the east side of the bridge.

Also in the 17-page report, defendant **LOHMAN** amended the story about Ronald Madison having a gun and shooting at police, by adding that Ronald Madison ran “sharply to his right toward the north side of the bridge,” where “the officers [who were chasing him] lost sight of him momentarily.” Defendant **LOHMAN** made this change because it offered an excuse for how Ronald Madison could have thrown a gun off the bridge, and therefore offered an excuse for why Ronald Madison did not have a gun on or near him when he was shot to death by an officer.

In the 17-page report, defendant **LOHMAN** further falsified the story about civilian victims S.B. and L.B. allegedly admitting to the Investigator and the other officer that their nephew had fired a gun on the bridge. Specifically, defendant **LOHMAN** in the 17-page version added that S.B. told the investigators that Lance and Ronald Madison had been walking with her family on the Danziger Bridge at the time of the shooting, and

that, as police drove onto the bridge, three members of her group -- including Ronald Madison -- had fired at the police. Furthermore, defendant **LOHMAN** added to the story the claim that L.B. said that his family and others (including Ronald Madison) were on their way to "loot" a supermarket when the incident occurred. Defendant **LOHMAN** added this information at the direction of the Investigator. He and the Investigator thought that the cover story would be more plausible if the report made absolutely clear that the Madisons and the B. Family were all part of the same group of perpetrators.

After drafting the 17-page false report, defendant **LOHMAN** directed the Investigator to speak with each of the shooters to make sure that they were "okay with" the 17-page report, and were willing to give statements consistent with that report. The Investigator then got approval for the 17-page report from each of the shooters (except possibly from one officer who had by that time resigned from NOPD), and assured defendant **LOHMAN** that everyone was "okay" with the report. The Investigator then signed and submitted the 17-page false report, which defendant **LOHMAN** also signed, knowing that it was false.

When defendant **LOHMAN** later asked the Investigator for a copy of the report, sometime approximately in 2006, the Investigator showed him a copy of a 7-page report defendant **LOHMAN** had never seen before. The Investigator had removed from the 17-page report the signed cover-page containing both the Investigator's signature and defendant **LOHMAN**'s, and had attached it to the top of the new 7-page report. The

Investigator explained to defendant **LOHMAN** that he had switched out the report because he wrote a new report to match the shooters' audiotaped statements.

False Statements to the Federal Bureau of Investigation (FBI)

Sometime approximately in January 2009, the Investigator told defendant **LOHMAN** that he had given a voluntary statement to the FBI. The Investigator had continued, during that interview, to give the cover-up story about what happened on the bridge, and he assured defendant **LOHMAN** that, "It's all cool, Babe."

On May 27, 2009, defendant **LOHMAN** provided a voluntary statement to the FBI. Knowing that the Investigator had stuck to the cover-up story when he talked to the FBI, defendant **LOHMAN** also concealed from the FBI that he and his co-conspirators were involved in a cover-up of the Danziger Bridge shooting. Defendant **LOHMAN** knew that the person he was lying to was an FBI agent assigned to investigate the Danziger Bridge shooting.

Miscellaneous Matters

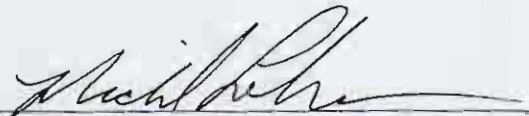
At no point during the investigation of the Danziger Bridge incident did defendant **LOHMAN** take any compelled statement from any officer. At no point did defendant **LOHMAN** learn of any other NOPD personnel taking any compelled statement from any officer. At no point did defendant **LOHMAN** learn of any administrative inquiry into the Danziger Bridge shooting, as the investigation of the incident was, from the start, criminal

in nature. Moreover, the matter was investigated as a criminal case of Attempted Murder of a Police Officer, rather than as assaults or murders by police officers.

Defendant **LOHMAN**, like every sworn officer with NOPD, had been trained about the proper use of physical force, including deadly force, and about the consequences for a use of excessive force. The defendant, along with every other sworn NOPD officer, was taught that one of the consequences of an excessive use of force was that the FBI could investigate the incident as a criminal matter. The defendant and every other sworn NOPD officer also learned that an incident of excessive force could result in a federal civil suit and/or criminal prosecution in federal court.

During the course of the cover-up, defendant **LOHMAN** spoke to every shooter involved in the incident and talked to them about their version of what happened on the bridge. At no point did anyone ever mention a suspect who had gotten away. Defendant **LOHMAN** also talked to other officers and supervisors who responded to the scene. At no point did anyone ever mention a civilian on the bridge with an assault rifle. And at no point did anyone ever mention Lance Madison having admitted that either he or his brother had a gun on the bridge that day.

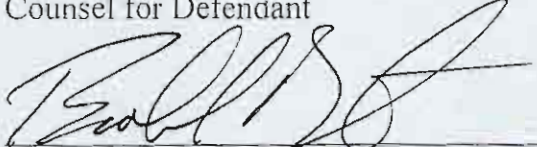
Both the Government and the defendant, **MICHAEL LOHMAN**, do hereby stipulate and agree that the above facts are true, and that they set forth a sufficient factual basis for the crime to which the defendant is pleading guilty.


MICHAEL LOHMAN
Defendant

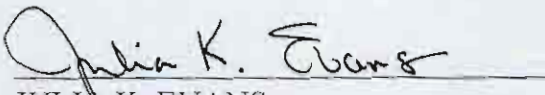
2/24/10
DATE


DYLAN UTLEY
Counsel for Defendant

2/24/10
DATE


BARBARA "BOBBI" BERNSTEIN
Deputy Chief, Civil Rights Division
U.S. Department of Justice

2/24/10
DATE


JULIA K. EVANS
Assistant United States Attorney

2/24/10
DATE