

STATE OFFICE OF ADMINISTRATIVE HEARINGS
_____ REGIONAL OFFICE

TEXAS DEPARTMENT OF PUBLIC SAFETY

VS.

AFFIDAVIT OF GOOD CAUSE UNDER 1 TAC §159.101

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority personally appeared _____, attorney of record for _____, who being by me duly sworn, on his oath stated the following:

"I, _____, am an _____ (____)-year old male. My office address is _____, Dallas County, Texas 75205. I have personal knowledge of all of the information contained herein based upon, e.g., information obtained from the Department in the discovery process. **{Note:** This might include entries in the documentation provided by DPS reflecting a discrepancy between the stated time of arrival at the jail (i.e, "sally-port time") and the time reflected on the breath test slip, showing that less than 15 minutes elapsed between the time of arrival at the jail and the time on the breath test slip; information that the Intoxilyzer was out of tolerance and taken out of service on the date of arrest; or, an Intoxilyzer Room video showing the BTO leaving the room during the fifteen minute waiting period.}"

"On the ____ day of _____, 2010, _____ submitted to an Intoxilyzer Breath Test while under arrest for the offense of driving while intoxicated. The DIC-23 obtained through discovery from the Department, a copy of which is attached hereto and incorporated herein by reference for the purpose of this affidavit only, shows that Defendant arrived at the "sally-port" of the jail at 2:15 a.m. on the __ day of _____, 2010. However, the breath test slip, which is also attached hereto and incorporated herein for purpose of this affidavit, shows that the test result was obtained at 2:25 a.m. that same day, thereby appearing to preclude proper compliance with the 15-minute presence requirement under DPS breath testing Reg. §19.4, which appears to render the breath test in this case invalid by virtue of DPS's own regulations."

This statement is made in the belief that justice will be served by granting a subpoena for the Technical Supervisor in this matter."

LAWRENCE G. BOYD

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority,
on this the ____ day of _____, 2010.

NOTARY PUBLIC
STATE OF TEXAS
My commission expires: