

Appellate Case No. E076778

**IN THE COURT OF APPEAL FOR THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO**

ELECTRONIC FRONTIER FOUNDATION,

Plaintiff and Appellant,

v.

THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF SAN BERNARDINO,

Defendant and Respondent,

and

THE PEOPLE OF SAN BERNARDINO COUNTY, and
SAN BERNARDINO DISTRICT ATTORNEY, and
SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT,

Real Parties in Interest and Respondents.

Appeal from the Superior Court for the County of San Bernardino
The Honorable Brian S. McCarville, Presiding Judge
The Honorable Dwight W. Moore
Case No. CIVDS1930054

**JOINT APPENDIX
VOL. 1 OF 2
(1-155)**

Aaron Mackey (SBN 286647)
amackey@eff.org
ELECTRONIC FRONTIER FOUNDATION
815 Eddy Street
San Francisco, CA 94109
Tel.: 415.436.9333

Fax: 415.436.9993

Michael T. Risher (SBN 191627)

michael@risherlaw.com

LAW OFFICE OF MICHAEL T. RISHER

2081 Center Street, #154

Berkeley, CA 94702

Tel.: 510.689.1657

Fax: 510.225.0941

Counsel for Plaintiff-Appellant

EXHIBIT 1

CASE SUMMARY
REGISTER OF ACTIONS
CASE NO. CIVDS1930054

ELECTRONIC FRONTIER-V-SUPERIOR COURT § § § § §	Location: San Bernardino Judicial Officer: Moore, Dwight W Filed on: 10/08/2019 Court of Appeal Case Number: E076778
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CASE INFORMATION

File Date 03/25/2021		Case Type: Other Petition (Not Spec) Unlimited
Filed By ELECTRONIC FRONTIER FOUNDATION	Filed Against SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO; COUNTY OF SAN BERNARDINO; OFFICE OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY	Case Status: 03/25/2021 Appealed
Cause of Action Appeal	Description/Remedy Action	Case Flags: Appealed Case
File Date 10/08/2019		
Filed By ELECTRONIC FRONTIER FOUNDATION	Filed Against SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO; COUNTY OF SAN BERNARDINO; OFFICE OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY	
Cause of Action Miscellaneous Petition	Description/Remedy Action 10/8/2019 - 0001 - MPUMisc. Petition - Civil (Unlimited) \$0.00 Non-Monetary	

DATE	CASE ASSIGNMENT
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Current Case Assignment	
Case Number	CIVDS1930054
Court	San Bernardino
Date Assigned	08/05/2020
Judicial Officer	Moore, Dwight W

PARTY INFORMATION

Appellant in 1st Appeal	ELECTRONIC FRONTIER FOUNDATION	<i>Attorneys</i> MACKEY, AARON <i>Retained</i>
Defendant	SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO	
Plaintiff	ELECTRONIC FRONTIER FOUNDATION	Risher, Michael Temple <i>Retained</i>
Real Party in Interest	COUNTY OF SAN BERNARDINO OFFICE OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY	
Respondent in 1st Appeal	COUNTY OF SAN BERNARDINO	


REGISTER OF ACTIONS


CASE NO. CIVDS1930054


Resource: Bailiff Donovan, R
Resource: Department Department S19 - SBJC

11/13/2020 **Hearing Re: (1:30 PM)** (Judicial Officer: McCarville, Brian S ;Location: Department S30 - SBJC)
HEARING RE: DEMURRER
Resource: Department Department S30 - SBJC
11/15/2020 Reset by Court to 11/13/2020

11/13/2020 Legacy Minutes
HEARING RE: DEMURRER

11/10/2020  Reply Filed
Real Party District Attorney's Reply (Re Motion for Judgment on the Pleadings)
Filed by: Real Party in Interest COUNTY OF SAN BERNARDINO


11/09/2020  Declaration Filed
DECLARATION OF MICHAEL T RISHER FILED


11/09/2020  Opposition to Motion Filed
OPPOSITION TO MOTION RE: TO UNSEAL, FOR JUDGMENT ON PLEADINGS SET FOR HEARING ON 11/13/20, FILED BY PLAINTIFF ELECTRONIC FRONTIER FOUNDATION (IMAGED)
Motion Date: 11/13/2020


11/09/2020 Filing Fee Paid by
FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR FAX FILING 201109-0345-VS FAX/ 39.00 PAYMT 201109-0345-VS REFERENCE NUMBER 035-0044660032

09/11/2020 **CANCELED Hearing Re: (9:00 AM)**
HEARING RE: STATUS/SETTING HEARING ON PETITION
Vacated

09/11/2020 Legacy Minutes
HEARING RE: STATUS/SETTING HEARING ON PETITION

08/25/2020  Proof of Service Filed
PROOF OF SERVICE OF STIP/ORDER TO PARTIALLY UNSEAL COURT RECORDS BY MAIL ON 07/27/20 AS TO SEE SERVICE LIST, FILED.
Served on: 07/27/2020

08/25/2020  Stipulation & Order filed
STIPULATION AND ORDER RE: TO PARTIALLY UNSEAL COURT RECORDS FILED.

08/15/2020  Order Re: Filed
ORDER ORDER UNSEALING COURT RECORDS FILED

08/07/2020 **CANCELED Hearing Re: (2:30 PM)**
HEARING RE: STATUS CONFERENCE
Vacated

08/07/2020 Legacy Minutes
HEARING RE: STATUS CONFERENCE

08/07/2020 Vacate Hearing Scheduled
VACATE HRG HEARING SCHEDULED FOR 08/07/20 AT 02:30 IN DEPARTMENT S19.
Hearing Date: 08/07/2020

08/05/2020 **Hearing Re: (8:30 AM)** (Judicial Officer: Moore, Dwight W)
HEARING RE: STATUS CONFERENCE
Held;

08/05/2020 Legacy Minutes (Judicial Officer: Moore, Dwight W)
HEARING RE: STATUS CONFERENCE
DWIGHT W MOORE, JUDGE
CLERK: ESPERANZA RANDLE
NOT REPORTED
-
PROCEEDINGS:
ALL PARTIES HAVE AGREED TO MR. RISHER'S STIPULATION. PURSUANT TO THAT

CASE SUMMARY
REGISTER OF ACTIONS
CASE No. CIVDS1930054

AGREEMENT,
MR. RISHER WILL CIRCULATE THE AGREEMENT TO MESSRS VOS AND KOWALSKI
FOR SIGNATURE.
THE STIPULATION WILL THEN BE FORWARDED TO THE COURT FOR SIGNATURE
AND FILING.
PURSUANT TO THE AGREEMENT MR. VOS WILL MAKE THE REDACTIONS TO
THE DOCUMENTS SUBMITTED AND
FORWARD THE REDACTED COPIES TO MR. RISHER. MR. VOS WILL PROVIDE COPIES
OF THE REDACTED DOCUMENTS
TO MR. KOWALSKI AND THE COURT. MR. RISHER WILL REVIEW THE REDACTED
DOCUMENTS
AND DETERMINE WHETHER OR NOT HE SEEKS TO OBTAIN ANY OF THE
INFORMATION WHICH HAS BEEN
REDACTED. THE CONFERENCE SCHEDULED FOR 8/7/20 IS VACATED.

-
A FURTHER STATUS CONFERENCE WILL BE SCHEDULED
WHEN MR. RISHER NOTIFIES THE COURT AND PARTIES.

-
ACTION - COMPLETE
=== MINUTE ORDER END ===

07/27/2020 Filing Fee Paid by
FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR STIP/ORDER FEE
200729-0481-VS RSO/ 20.00 PAYMT
200729-0481-VS REFERENCE NUMBER 035-0027101481

07/24/2020 **Hearing Re:** (1:30 PM) (Judicial Officer: Moore, Dwight W)
HEARING RE: CONFERENCE CALL
Continued Party's motion;

07/24/2020 Legacy Minutes (Judicial Officer: Moore, Dwight W)
HEARING RE: CONFERENCE CALL
DWIGHT W MOORE, JUDGE
(PRESENT BY TELEPHONE)
CLERK: STEVEN ROTH
CSR NOT PRESENT

-
APPEARANCES:
ATTORNEY MARK RUMOLB AND MICHAEL RISCHER (BY TELEPHONE) PRESENT FOR
PLAINTIFF/PETITIONER.
ATTORNEY STEVE PASCOVER PRESENT FOR SUPERIOR
COURT.
ATTORNEY MILES KOWALSKI PRESENT FOR COUNTY COUNSEL

-
PROCEEDINGS:
PREDISPOSITION HEARING HELD

-
01:37
PARTIES WAIVE CSR.

-
COURT AND COUNSEL DISCUSS CAUSES OF ACTION AND
STIPULATION OF RELEASE OF 9 WARRANTS.

-
02:12
ATTORNEY MARK VOS IS NOW PRESENT FOR THE
DISTRICT ATTORNEY'S OFFICE.

-
AFTER FURTHER DISCUSSIONS COURT ORDERS ATTORNEY MARK RISCHER TO
PREPARE AGREED UPON STIPULATION;
PARTIES STIPULATE THAT THE NINE WARRANTS AT ISSUE WILL BE RELEASED
UNDER SEAL TO COUNTY
COUNSEL AND DISTRICT ATTORNEY FOR REVIEW AND DETERMINE IF THEY HAVE
ANY OBJECTIONS FOR
RELEASE OF WARRANTS. ANY OBJECTIONS MUST BE RELAYED TO THE COURT BY
08-3-20 AND BE ITEMIZED
IN DECLARATION.

-
HEARINGS:

CASE SUMMARY
REGISTER OF ACTIONS
CASE NO. CIVDS1930054

HEARING RE: STATUS CONFERENCE SET FOR 08/07/20 AT 02:30 IN DEPARTMENT S19.

STIPULATION TO BE PREPARED BY 07-27-20 AND
WARRANTS TO BE READY FOR DISTRICT ATTORNEY/
COUNTY COUNSEL TO PICK UP ON 7-28-20 FROM
COURT MANAGER.

COURT ORDERS 9-11-20 HEARING VACATED.


ACTION - COMPLETE
=== MINUTE ORDER END ===

07/24/2020 Vacate Hearing Scheduled
VACATE HRG HEARING SCHEDULED FOR 09/11/20 AT 09:00 IN DEPARTMENT S30.
Hearing Date: 09/11/2020

05/28/2020 CANCELED Hearing Re: (8:30 AM)
HEARING RE: STATUS/SETTING HEARING ON PETITION
Vacated

05/28/2020 Legacy Minutes
HEARING RE: STATUS/SETTING HEARING ON PETITION

05/06/2020 Vacate Hearing Scheduled
VACATE HRG HEARING SCHEDULED FOR 05/28/20 AT 08:30 IN DEPARTMENT S30.
Hearing Date: 05/28/2020

05/06/2020  Notice Imaged
NOTICE IMAGED

05/06/2020 On Court's Motion, Hearing Previously Set is Ordered Reset
ON COURT'S MOTION, THE STATUS OF SETTING HEARING ON PETITION HEARING
PRESENTLY SET IN THIS CASE, IS ORDERED RESET FOR 09/11/20 AT 08:30 IN
DEPARTMENT S30. NOTICE SENT TO ALL COUNSEL OF RECORD.

05/06/2020 On the Courts own Motion, the Court Continues This Matter re
ON THE COURTS OWN MOTION, THE COURT CONTINUES THIS MATTER PURS. TO
GEN. ORDER OF TRHE PRESIDING JUDGE IN RE: IMPLEMENTATIN OF EMERGENCY
RELIEF AUTHORIZED PURS. GC6815 BY CHAIR OF JUDICIAL COUNCIL.

02/28/2020 Status Hearing on Petition (8:30 AM) (Judicial Officer: McCarville, Brian S)
STATUS HEARING ON PETITION
Held;

02/28/2020 Legacy Minutes (Judicial Officer: McCarville, Brian S)
STATUS HEARING ON PETITION
BRIAN S MCCARVILLE, JUDGE
CLERK: OLIVIA MCDONALD
COURT REPORTER CATHY ALBRITTON; 7137
COURT ATTENDANT S CARR

APPEARANCES:
MICHAEL T. RISCHER APPEARS BY COURTCALL FOR ELECTRONIC FRONTIER
FOUNDATION.
ATTORNEY STEVE PASCOVER PRESENT FOR SUPERIOR COURT FOR THE STATE OF
CALIFORNIA.
ATTORNEY MILES KOWALSKI PRESENT FOR COUNTY OF SAN BERNARDINO.
ATTORNEY MARK VOS & CHRISTINE MASONER PRESENT FOR OFFICE OF THE SAN
BERNARDINO COUNTY D.A..

PROCEEDINGS:
PREDISPOSITION HEARING HELD
THE DISTRICT ATTORNEY PLANS TO FILE A DEMURRER OR MOTION FOR
JUDGMENT ON PLEADINGS TO CHALLENGE
PLAINTIFF'S STANDING. COUNSEL FURTHER REPORTS THAT DISCOVERABLE ITEMS
HAVE BEEN TURNED OVER,
WITH EXCEPTION OF HOBBS REQUESTS. THE COURT CONTINUES THIS MATTER
AND INSTRUCTS COUNSEL TO
MEET AND CONFER TO EXCHANGE UNDERLYING CASE NUMBERS.

HEARINGS:

REGISTER OF ACTIONS

CASE No. CIVDS1930054

HEARING RE:STATUS/SETTING HEARING ON PETITION SET FOR 05/28/20 AT 08:30 IN DEPARTMENT S30.

=== MINUTE ORDER END ===

ACTION - COMPLETE

02/21/2020

Filing Fee Paid by

FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR FAX FILING FEES
200228-0782-VS FAX/ 2.00 PAYMT
200228-0782-VS REFERENCE NUMBER 037-0025154254

02/21/2020



Notice Filed Re:

NOTICE THAT PLAINTIFF WILL APPEAR TELEPHONICALLY FILED BY ELECTRONIC FRONTIER FOUNDATION.

02/13/2020

CANCELED Status Hearing on Petition (8:30 AM)

STATUS HEARING ON PETITION

Vacated

02/13/2020

Legacy Minutes

STATUS HEARING ON PETITION

01/17/2020



Notice Imaged

NOTICE IMAGED

01/17/2020

On Court's Motion, Hearing Previously Set is Ordered Reset

ON COURT'S MOTION, THE STATUS HEARING ON PETITION HEARING PRESENTLY SET IN THIS CASE, IS ORDERED RESET FOR 02/28/20 AT 08:30 IN DEPARTMENT S30. NOTICE SENT TO ALL COUNSEL OF RECORD.

VACATE STATP HEARING SCHEDULED FOR 02/13/20 AT 08:30 IN DEPARTMENT S30.

01/09/2020

Ex Parte Hearing (8:30 AM) (Judicial Officer: McCarville, Brian S)

EX PARTE HEARING RE: TO REQUEST FOR STATUS CONFERENCE
Held;

01/09/2020

Legacy Minutes (Judicial Officer: McCarville, Brian S)

EX PARTE HEARING RE: TO REQUEST FOR STATUS CONFERENCE
BRIAN S MCCARVILLE, JUDGE
CLERK: OLIVIA MCDONALD
COURT REPORTER DEENA MACIAS; 9826
COURT ATTENDANT S CARR

APPEARANCES:

THE FOLLOWING ATTORNEYS WERE PRESENT, BUT DID NOT STATE THEIR APPEARANCE ON THE RECORD.

MICHAEL T. RISCHER APPEARS BY COURTCALL FOR ELECTRONIC FRONTIER FOUNDATION.

ATTORNEY STEVE PASCOVER PRESENT FOR SUPERIOR COURT OF CALIFORNIA.

ATTORNEY MARK VOS PRESENT FOR REAL PARTY IN INTEREST.

ATTORNEY MILES ABERNATHY KOWALKI PRESENT FOR SAN BERNARDINO COUNTY SHERIFF'S DEPT..

PROCEEDINGS:

PREDISPOSITION HEARING HELD

ACTION CAME ON FOR EX-PARTE REQ FOR STATUS CONFERENCE.

EX PARTE ORDERS DENIED

=== MINUTE ORDER END ===

ACTION - COMPLETE

01/07/2020



Declaration Filed

DECLARATION OF VICTORIA PYTHON FILED

01/07/2020



Declaration Filed

DECLARATION OF MICHAEL RISHNER ISO EX PARTE FILED

01/07/2020



Ex Parte Filed

EX PARTE REQUEST FOR STATUS CONFERENCE FILED.

01/07/2020

Filing Fee Paid by

FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR EX PARTE APPLICATION FOR APP/REQUEST

REGISTER OF ACTIONS


CASE No. CIVDS1930054

200107-0613-VS MMF/ 60.00 CRU/ 30.00 PAYMT
200107-0613-VS REFERENCE NUMBER 039-0016987923


01/07/2020

Filing Fee Paid by
FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR FAX FILING OF EXPARTE
200107-0611-VS FAX/ 21.00 PAYMT
200107-0611-VS REFERENCE NUMBER 039-0016987923

10/21/2019

 Proof of Service of Summons and Comp/Pet Filed
PROOF OF SERVICE OF SUMMONS AND COMP/PET ON OFFICE OF THE SAN B TERNARDINO COUNTY DISTRIC; DEFENDANT/RESPONDENT SERVED ON 10/15/19 WITH COSTS OF \$0.00 FILED.
Served on: 10/15/2019
Miscellaneous Petition : 10/8/2019 - 0001 - MPUMisc. Petition - Civil (Unlimited)

10/21/2019

 Proof of Service of Summons and Comp/Pet Filed
PROOF OF SERVICE OF SUMMONS AND COMP/PET ON SUPERIOR COURT FORTHE STATE OF CALIFORNIA; DEFENDANT/RESPONDENT SERVED ON 10/15/19 WITH COSTS OF \$0.00 FILED.
Served on: 10/15/2019
Miscellaneous Petition : 10/8/2019 - 0001 - MPUMisc. Petition - Civil (Unlimited)

10/21/2019

 Proof of Service of Summons and Comp/Pet Filed
PROOF OF SERVICE OF SUMMONS AND COMP/PET ON COUNTY OF SAN BERNARDINO; DEFENDANT/RESPONDENT SERVED ON 10/15/19 WITH COSTS OF \$0.00 FILED.
Served on: 10/15/2019
Miscellaneous Petition : 10/8/2019 - 0001 - MPUMisc. Petition - Civil (Unlimited)

10/16/2019

Document(s) Placed in File
SERVICE COPY OF PETITION TO UNSEAL COURT RECORDS PLACED IN FILE

10/08/2019

Plaintiff First Paper Fee Previously Paid in Full
PLAINTIFF ELECTRONIC FRONTIER FOUNDATION FIRST PAPER FEE PREVIOUSLY PAID IN FULL.

10/08/2019

Filing Fee Paid by
FILING FEE PAID BY ELECTRONIC FRONTIER FOUNDATION FOR FIRST APPEARANCE FEES
191008-0513-CK CVH/ 435.00 PAYMT
191008-0513-CK REFERENCE NUMBER 146045

10/08/2019

 Notice Imaged
NOTICE IMAGED

10/08/2019

 Certificate of Assignment Received
CERTIFICATE OF ASSIGNMENT RECEIVED.

10/08/2019

 Civil Case Cover Sheet Filed
CIVIL CASE COVER SHEET FILED.

10/08/2019

Set Default Department to
SET DEFAULT DEPARTMENT TO S30

10/08/2019

 Petition Filed (Civil)
PETITION FILED (CIVIL)

10/08/2019

Cause of Action Miscellaneous Petition (10/8/2019 - 0001 - MPUMisc. Petition - Civil (Unlimited))
Filed By ELECTRONIC FRONTIER FOUNDATION
SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO; COUNTY OF SAN BERNARDINO; OFFICE OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY
Filed Against
Action Type Action
Remedies Sought Non-Monetary

CASE SUMMARY
REGISTER OF ACTIONS
CASE NO. CIVDS1930054
FINANCIAL INFORMATION

DATE

Conversion Event CONV	
Total Charges	607.00
Total Payments and Credits	607.00
Balance Due as of 3/26/2021	0.00

EXHIBIT 2

1 Michael T. Risher (State Bar No. 191627)
2 Law Office of Michael T. Risher
3 2081 Center St. #154
4 Berkeley CA 94702
5 Email: michael@risherlaw.com
6 T: (510) 689-1657
7 F: (510) 225-0941

8 David Greene (State Bar No. 160107)
9 Lee Tien (State Bar No. 148216)
10 Electronic Frontier Foundation
11 815 Eddy Street
12 San Francisco, California 94109
13 T: (415) 436-9333
14 F: (415) 436-9993
15 Email: davidg@eff.org

16 *Attorneys for Plaintiff*
17 *Electronic Frontier Foundation*

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

OCT 08 2019

BY ANGELINE GARCIA
ANGELINE GARCIA, DEPUTY

11
12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN BERNARDINO**

14 In re sealed Warrants and Orders, or)
15 ELECTRONIC FRONTIER FOUNDATION,)
16)
17 Plaintiff,)
18 v.)
19 SUPERIOR COURT FOR THE STATE OF)
20 CALIFORNIA, COUNTY OF SAN)
21 BERNARDINO,)
22)
23 Defendant, and)
24)
25 COUNTY OF SAN BERNARDINO, and)
26)
27 OFFICE OF THE SAN BERNARDINO)
28 COUNTY DISTRICT ATTORNEY,)
Real Parties in Interest.)

Case No. WDS 1930054

**Verified Petition to Unseal Court Records
(Ca. Rule of Court 2.551(h)(2))**

Special Proceeding

Judge:
Department:

1 1. Petitioner brings this action to unseal 12 search warrants and orders issued and sealed
2 by this Court, along with related documents.

3 2. The records at issue include both search warrants authorizing electronic searches
4 under Penal Code § 1546.1 and pen-register/trap-trace orders issued under Penal Code § 638.52. The
5 San Bernardino Sheriff's Department, which applied for each of these orders, has confirmed this.

6 3. These files should long ago have been unsealed, at least in part, under the governing
7 statutory provisions. The statutory schemes governing these warrants and orders do not allow for
8 indefinite sealing. To the contrary, they require that copies of the warrants be provided to the target
9 of the search and made public after they are executed or expire, respectively, if that target is known.
10 *See* Penal Code §§ 1534(a), 638.52(g).¹ Although the Court has some authority to issue orders
11 delaying notification under certain conditions, it cannot do so indefinitely. *See id.* And the fact that
12 the California Department of Justice has posted on its website information about these warrants –
13 which issued in 2017 and 2018 – indicates that any such orders have expired.

14 4. Moreover, California Rules of Court 2.550-2.551 require that any continued sealing
15 of the records, even in part, be justified by specific findings on the record that have not to date been
16 made.

17 5. In addition, the public has a First Amendment right of access to the records that also
18 requires unsealing, at least in part.

19 6. But contrary to these provisions, these records remain completely sealed until further
20 order of the Court.

21 7. Plaintiff requested six of these records pursuant to the California Public Records Act,
22 Gov. Code § 6250 *et seq.*, directly from the San Bernardino Sheriff's Department by letter dated
23 August 22, 2018. This request sought both the warrant numbers and the records themselves. The
24 Sheriff declined to produce the records. EFF thus filed a lawsuit, *EFF v. County of San Bernardino*,
25 No. CIVDS1827591, to enforce the request. As a result of that litigation, the Sheriff disclosed the
26 warrant numbers. But the Sheriff asserted that the records were otherwise exempt from disclosure
27

28 ¹ All unspecified statutory references are to the Penal Code. This petition uses the term “warrant” to include both types of these orders, unless the context indicates otherwise.

1 because they remained sealed by this Court. The judge hearing that case indicated that he would not
2 hear a motion to unseal the records as part of that lawsuit. *See id.*, transcript of March 8, 2019
3 hearing at 7-10. A true copy of these transcript pages are attached to this Petition as Exhibit A. EFF
4 dismissed *EFF v. County of San Bernardino* without prejudice on September 10, 2019.

5 8. Plaintiff requested an additional six of these warrants and warrant numbers from the
6 San Bernardino Sheriff's Department by letter dated January 24, 2019. That Department refused to
7 release the warrants, stating that they are sealed by order of this Court, but did release the warrant
8 numbers.

9 9. Plaintiff requested that this Court unseal the records at issue in this case by letter to
10 the Presiding Judge dated May 16, 2019, but the Court declined to do so, citing the then-pending
11 Public Records Act litigation. A true copy of Plaintiff's letter is attached to this Petition as Exhibit
12 B; a true copy of the Presiding Judge's June 6, 2019 response is attached as Exhibit C.

13 10. Petitioner therefore brings this petition under Rule of Court 2.551(h)(2), asking that
14 the Court unseal these records in whole or in part, as required by law.

15 **Parties²**

16 11. Petitioner Electronic Frontier Foundation ("EFF") is a San Francisco-based, donor-
17 supported, non-profit civil liberties organization working to protect and promote fundamental
18 liberties in the digital world. Through direct advocacy, impact litigation, and technological
19 innovation, EFF's team of attorneys, activists, and technologists encourage and challenge industry,
20 government, and courts to support free expression, privacy, and transparency in the information
21 society. EFF has over 30,000 dues-paying members and represents the interests of everyday users of
22 the Internet. EFF was a prominent supporter of the passage of the California Electronic
23 Communications Privacy Act and served as a key advisor to the law's authors, Senators Mark Leno
24 and Joel Anderson, throughout the legislative process.

25 12. Respondent Superior Court of California, County of San Bernardino, is an agency of
26 the State of California that possesses the records in question and has the authority to unseal them.

27 _____
28 ² This Complaint refers to the parties as Plaintiff and Defendant as authorized by Code of Civil
Procedure § 1063. The Real Parties in Interest are named and will be served under Code of Civil
Procedure § 1107.

1 20. In addition, CalECPA requires California law-enforcement agencies to provide the
2 target of a warrant with information about the search and a copy of the warrant when they execute it.
3 § 1546.2(a). If the identity of the target is unknown, law enforcement must instead provide the
4 information to the California Department of Justice. § 1546.2(c). Under certain conditions, the Court
5 may delay either of these notifications for renewable 90-day periods. § 1546.2(b).

6 21. The statute also requires the Department of Justice to publish information about these
7 warrants on its website within 90 days of receiving it. § 1546.2(c).

8 22. Plaintiff Electronic Frontier Foundation obtained information about a number of these
9 warrants from this website. It then requested from the San Bernardino Sheriff’s Department (Sheriff)
10 a number of these warrants that the Sheriff obtained from this Court, along with their supporting
11 affidavits. But the Sheriff refuses to provide them, stating that they are exempt from disclosure
12 because have been sealed by order of this Court.

13 23. The warrants at issue were issued and executed more than 10 days ago. That
14 information about them appears on the Department of Justice website shows that any non-disclosure
15 orders authorized by the statute have expired. They must therefore now be “open to the public” as
16 judicial records. § 1534(a).

17 24. Some of the orders at issue “authoriz[e] or approv[e] the installation and use of a pen
18 register or trap and trace device,” which are methods of obtaining routing and dialing information for
19 telephone calls and other electronic communications, respectively. *See* §§ 638.52(a), 638.51. These
20 orders may be issued for periods of up to 60 days, and extended for additional 60-day periods if
21 there is continuing probable cause to do so. *See* §§ 638.52(e), 638.52(f).

22 25. Until recently, a magistrate issuing these types of orders was required to “direct that
23 the order be sealed until otherwise ordered” by the Court. *See* § 638.52(g) (2016). But the
24 Legislature opened these records to public inspection in 2016 by changing this provision so that it
25 now requires that “[a]n order or extension order authorizing or approving the installation and use of
26 a pen register or a trap and trace device shall direct that the order be sealed until the order, including
27 any extension, expires.” *See* § 638.52(g).

1 26. Information about these orders, along with a copy of the order, must be provided to
2 the target within 30 days of the end of the surveillance. § 638.54(a). If the target is unknown, the
3 information must be provided to the Department of Justice to post on its website. § 638.54(c). Under
4 certain conditions, the Court may delay either of these notifications for renewable 90-day periods. §
5 638.54(b).

6 27. That information about the orders at issue that authorized or approved the installation
7 and use of a pen register or trap and trace device appears on the Department of Justice website shows
8 that the orders, the 30-day period before notification is required, and any extensions of that period,
9 have expired.

10 28. California Rule of Court 2.550 prohibits the sealing of court records, other than those
11 that “courts must keep confidential by law,” without compliance with its substantive and procedural
12 requirements. The continued categorical sealing of the records at issue violates this Rule.

13 29. The First Amendment creates a strong presumption that judicial records are open to
14 public inspection. See *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1217-
15 18 (1999); see also in re *Sealing & Non-Disclosure of Pen/Trap/2703(d) Orders*, 562 F. Supp. 2d
16 876, 880-887 (S.D. Tex. 2008) (holding that the First Amendment prohibits indefinite sealing of
17 electronic-surveillance orders). The indefinite and categorical sealing of the files at issue violates the
18 First Amendment.

19 30. The California Constitution provides an additional, independent right of access to
20 government records: “The people have the right of access to information concerning the conduct of
21 the people’s business, and, therefore, the meetings of public bodies and the writings of public
22 officials and agencies shall be open to public scrutiny.” CAL. CONST., ART. 1 § 3(b)(1). The
23 continued categorical sealing of the records at issue violates this provision.

24 **First Cause of Action**

25 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

26 31. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

27 32. San Bernardino Superior Court search warrant SBSW 18-0850 was issued by this
28 Court on or about January 12, 2018.

1 33. It, along with all of the other documents maintained in the same file with it, are
2 completely sealed by order of this Court.

3 34. The warrant has been executed, and any non-disclosure orders issued under
4 § 638.52(g) or CalECPA have expired.

5 35. These materials are not part of this Court's file in any pending action.

6 36. This continued categorical sealing of this court order and other records maintained
7 along with it is unlawful.

8 **Second Cause of Action**

9 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

10 37. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

11 38. San Bernardino Superior Court search warrant SBSW 17-0615 was issued by this
12 Court; it was executed on or about March 2, 2017.

13 39. It, along with all of the other documents maintained in the same file with it, are
14 completely sealed by order of this Court.

15 40. The warrant has been executed, and any non-disclosure orders issued under
16 § 638.52(g) or CalECPA have expired.

17 41. These materials are not part of this Court's file in any pending action.

18 42. This continued categorical sealing of this court order and other records maintained
19 along with it is unlawful.

20 **Third Cause of Action**

21 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

22 43. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

23 44. San Bernardino Superior Court search warrant SBSW 17-0694 was issued by this
24 Court; it was executed on or about March 2, 2017.

25 45. It, along with all of the other documents maintained in the same file with it, are
26 completely sealed by order of this Court.

27 46. The warrant has been executed, and any non-disclosure orders issued under
28 § 638.52(g) or CalECPA have expired.

47. These materials are not part of this Court's file in any pending action.

1 48. This continued categorical sealing of this court order and other records maintained
2 along with it is unlawful.

3 **Fourth Cause of Action**

4 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

5 49. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

6 50. San Bernardino Superior Court search warrant SBSW 17-0695 was issued by this
7 Court; it was executed on or about March 2, 2017.

8 51. It, along with all of the other documents maintained in the same file with it, are
9 completely sealed by order of this Court.

10 52. The warrant has been executed, and any non-disclosure orders issued under
11 § 638.52(g) or CalECPA have expired.

12 53. These materials are not part of this Court's file in any pending action.

13 54. This continued categorical sealing of this court order and other records maintained
14 along with it is unlawful.

15 **Fifth Cause of Action**

16 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

17 55. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

18 56. San Bernardino Superior Court search warrant SBSW 17-0834 was issued by this
19 Court; it was executed on or about March 21, 2017.

20 57. It, along with all of the other documents maintained in the same file with it, are
21 completely sealed by order of this Court.

22 58. The warrant has been executed, and any non-disclosure orders issued under
23 § 638.52(g) or CalECPA have expired.

24 59. These materials are not part of this Court's file in any pending action.

25 60. This continued categorical sealing of this court order and other records maintained
26 along with it is unlawful.

27 **Sixth Cause of Action**

28 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

61. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

1 62. San Bernardino Superior Court search warrant SBSW 17-0890 was issued by this
2 Court; it was executed on or about March 14, 2017.

3 63. It, along with all of the other documents maintained in the same file with it, are
4 completely sealed by order of this Court.

5 64. The warrant has been executed, and any non-disclosure orders issued under
6 § 638.52(g) or CalECPA have expired.

7 65. These materials are not part of this Court's file in any pending action.

8 66. This continued categorical sealing of this court order and other records maintained
9 along with it is unlawful.

10 **Seventh Cause of Action**

11 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

12 67. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

13 68. San Bernardino Superior Court search warrant SBSW 17-0892 was issued by this
14 Court; it was executed on or about March 14, 2017.

15 69. It, along with all of the other documents maintained in the same file with it, are
16 completely sealed by order of this Court.

17 70. The warrant has been executed, and any non-disclosure orders issued under
18 § 638.52(g) or CalECPA have expired.

19 71. These materials are not part of this Court's file in any pending action.

20 72. This continued categorical sealing of this court order and other records maintained
21 along with it is unlawful.

22 **Eighth Cause of Action**

23 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

24 73. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

25 74. San Bernardino Superior Court search warrant SBSW 18-0259 was issued by this
26 Court on or about August 1, 2017.

27 75. It, along with all of the other documents maintained in the same file with it, are
28 completely sealed by order of this Court.

1 76. The warrant has been executed, and any non-disclosure orders issued under
2 § 638.52(g) or CalECPA have expired.

3 77. These materials are not part of this Court's file in any pending action.

4 78. This continued categorical sealing of this court order and other records maintained
5 along with it is unlawful.

6 **Ninth Cause of Action**

7 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

8 79. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

9 80. San Bernardino Superior Court search warrant SBSW 18-0298 was issued by this
10 Court on or about October 26, 2017.

11 81. It, along with all of the other documents maintained in the same file with it, are
12 completely sealed by order of this Court.

13 82. The warrant has been executed, and any non-disclosure orders issued under
14 § 638.52(g) or CalECPA have expired.

15 83. These materials are not part of this Court's file in any pending action.

16 84. This continued categorical sealing of this court order and other records maintained
17 along with it is unlawful.

18 **Tenth Cause of Action**

19 **(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)**

20 85. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

21 86. San Bernardino Superior Court search warrant SBSW 17-0615 was issued by this
22 Court.

23 87. It, along with all of the other documents maintained in the same file with it, are
24 completely sealed by order of this Court.

25 88. The warrant has been executed, and any non-disclosure orders issued under
26 § 638.52(g) or CalECPA have expired.

27 89. These materials are not part of this Court's file in any pending action.

28 90. This continued categorical sealing of this court order and other records maintained
along with it is unlawful.

Eleventh Cause of Action

(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)

91. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

92. San Bernardino Superior Court search warrant SBSW 17-0892 was issued by this Court.

93. It, along with all of the other documents maintained in the same file with it, are completely sealed by order of this Court.

94. The warrant has been executed, and any non-disclosure orders issued under § 638.52(g) or CalECPA have expired.

95. These materials are not part of this Court’s file in any pending action.

96. This continued categorical sealing of this court order and other records maintained along with it is unlawful.

Twelfth Cause of Action

(§ 638.52(g), § 1534(a), Rule of Court 2.550, U.S. Const. amd. I; Cal. Const. art. I § 3)

97. Plaintiff incorporates herein by reference the above allegations, as if set forth in full.

98. San Bernardino Superior Court search warrant SBSW 17-0834 was issued by this Court.

99. It, along with all of the other documents maintained in the same file with it, are completely sealed by order of this Court.

100. The warrant has been executed, and any non-disclosure orders issued under § 638.52(g) or CalECPA have expired.

101. These materials are not part of this Court’s file in any pending action.

102. This continued categorical sealing of this court order and other records maintained along with it is unlawful.


Wherefore, Plaintiff requests the following:

1. That the Court unseal each of the warrants, orders, and files listed above – or any parts of them – that do not meet the criterial for sealing under the applicable statutes, rules, and constitutional provisions.

2. That Plaintiff be awarded attorneys’ fees and costs;

1 3. For such other and further relief as the Court deems proper and just.

2
3 Dated: 9/19/19

4 By: 
5 Michael T. Risher
6 *Attorney for Plaintiff*
7 *Electronic Frontier Foundation*

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Verification

I, Corynne McSherry, am the Legal Director of the Electronic Frontier Foundation and authorized to verify this Petition as an officer. I have read this Verified Petition for Writ of Mandate in *Electronic Frontier Foundation v. Superior Court, County of San Bernardino* and am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 9/20/19 at San Francisco, CA



Corynne McSherry

EXHIBIT 3

Exhibit A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT S26

HONORABLE DAVID COHN, JUDGE

ELECTRONIC FRONTIER FOUNDATION,)
)
 Plaintiff,)

-vs-)

Case No. CIVDS1827591

COUNTY OF SAN BERNARDINO, ET AL.,)
)
 Defendants.)
)

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

Friday, March 8, 2019

APPEARANCES:

FOR THE PLAINTIFF:

LAW OFFICE OF MICHAEL T. RISHER
BY: MICHAEL T. RISHER
Attorney at Law

FOR THE DEFENDANT:

OFFICE OF COUNTY COUNSEL
BY: MILES KOWALSKI
Attorney at Law

REPORTED BY:

REGINA B. VEGA
Official Reporter
C.S.R. No. 12612

1 were submitted to the court, submitted to the DOJ and not
2 maintained because it's a San Bernardino Police Department
3 homicide investigation. They were compiling and submitting the
4 records associated with this to the DA.

5 THE COURT: Which is it, they can't be found or they
6 were destroyed?

7 MR. KOWALSKI: They were not maintained in the
8 custody of the sheriff's department.

9 THE COURT: All right. And have -- and you've
10 represented that to counsel in, what, a letter or something?

11 MR. KOWALSKI: In discovery.

12 THE COURT: In discovery, all right. Let's go to my
13 second question. Shouldn't you be going to the judge who
14 ordered that the warrant applications be sealed?

15 MR. RISHER: Well, that's not a requirement. And the
16 case that holds that is in re Marriage of Nicholas, cited on
17 page 13 of our brief, whether under the Rule of Court any judge
18 can unseal the record. And of course the records here were
19 sealed until further order of the court, not until further
20 order of the judge that signed the sealing --

21 THE COURT: I have to tell you I'm pretty
22 uncomfortable issuing such an order if there is a pending
23 criminal case to which these warrants apply.

24 MR. KOWALSKI: And, your Honor --

25 MR. RISHER: And I was about to say, your Honor, I
26 understand that as matter of common -- or practicality, it may

1 be more appropriate for some other judge, even the judge who
2 issued these orders. I don't think those are the same judges
3 that are handling it the criminal matter. It may be that those
4 judges should have a say in this. It may not be because it's
5 my understanding -- well, I don't know whether the fruits of
6 these orders are involved in the criminal cases. We simply
7 haven't had a chance to research that yet.

8 So at this point I don't know whether it would affect
9 the pending criminal proceedings. The criminal proceedings
10 might not be pending by the time this issue finally becomes
11 ripe for decision. And in any event we of course would provide
12 notice of any motion to unseal to those -- the parties in this
13 case, the People and the defense lawyers.

14 So it may eventually be that it's more appropriate to
15 have a different judge look at these. I don't think we're
16 there yet in terms -- at least certainly figuring out which of
17 those two judges it should be: The one dealing with the
18 criminal case or the one who issued the warrants.

19 THE COURT: I don't know the answer to that question,
20 which judge it would be. But I'm fairly confident that it's
21 not me.

22 In any event, whatever judge, if a judge, either the
23 judge who issued the warrant, the judge handling the
24 prosecution of the criminal case, or this Court, orders that
25 they're unsealed, that still doesn't -- if the County doesn't
26 have these materials, it doesn't matter that they've been

1 unsealed, they still can't be produced from the County.

2 Now certain things in the court file, you might be
3 able to obtain them. But that certainly would need to be
4 handled by a criminal department.

5 So thank you for your arguments. I'm not going to
6 issue --

7 MR. RISHER: Well, if I could say two more things
8 about that?

9 THE COURT: Sure.

10 MR. RISHER: When I learned that counsel had obtained
11 these documents, I agreed to withdraw my discovery requests
12 about their efforts to locate them. And -- and why the
13 department wasn't able to locate them. I mean to the extent
14 that counsel is now saying, well, it's not -- we haven't denied
15 anything improperly because we didn't have those things, I'll
16 need to renew the discovery requests and find out what the
17 basis for that is.

18 THE COURT: Well, as I sit here right now, I don't
19 know the answer to that question.

20 MR. RISHER: Of course.

21 THE COURT: If a discovery request is propounded and
22 the documents are not in the possession, custody, or control of
23 the responding party, but then counsel goes out through his or
24 her own efforts and obtains those documents, are they then
25 discoverable? I don't know the answer to that question.
26 You'll need to propound that discovery request, meet and confer

1 about it, and bring a motion before this Court if appropriate.

2 But if so far as you're requesting that I order
3 these search warrant materials unsealed, I'm going to deny that
4 request without prejudice. That should be handled either by
5 the judge who issued the warrants -- and that's probably the
6 case, but I'm not sure. It might be the judge assigned to the
7 pending litigation case.

8 MR. RISHER: Just to be clear, we weren't asking the
9 Court to make any order today, merely briefing it as the Court
10 had ordered us at the last hearing.

11 THE COURT: If you're not making that request, then I
12 won't deny it. What further -- what else do we need to do on
13 this case? We should probably have a status conference I
14 imagine. It sounds like you're going to meet and confer about
15 some discovery issues. When would you like to come back to
16 court?

17 90 days?

18 MR. RISHER: That sounds about right. Maybe April,
19 May, June.

20 THE COURT: I guess we should probably call that a
21 trial setting conference.

22 MR. KOWALSKI: Yes, your Honor.

23 THE COURT: Okay.

24 THE JUDICIAL ASSISTANT: June 12.

25 THE COURT: How is June 12 at 8:30?

26 MR. KOWALSKI: That works for defense, your Honor.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT S26 HONORABLE DAVID COHN, JUDGE

ELECTRONIC FRONTIER FOUNDATION,)	
)	
Plaintiff,)	Reporter's
)	Certification
-vs-)	
)	Case No. CIVDS1806921
COUNTY OF SAN BERNARDINO, ET AL.,)	
)	
Defendant.)	
)	

STATE OF CALIFORNIA)	
)	ss.
COUNTY OF SAN BERNARDINO)	

I, Regina Vega, Official Reporter of the Superior Court of the State of California, for the County of San Bernardino, do hereby certify under penalty of perjury that the foregoing pages, 1 through 11, comprise a full, true, and correct transcript of the proceedings held in the above-entitled matter on Friday, March 8, 2019.

Dated this 26th day of June, 2019.

Official Reporter
CSR No. 12612

EXHIBIT 4

Exhibit B



Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109 USA
415.436.9333
eff.org

Honorable John P. Vander Feer
Presiding Judge
Superior Court of California
County of San Bernardino
San Bernardino Justice Center
247 W. Third Street, 11th Floor
San Bernardino, CA 92415-0240

May 16, 2019

Dear Judge Vander Feer:

We are writing on behalf of the Electronic Frontier Foundation to ask that the Court review and unseal 22 of its files that, from what we can tell, are indefinitely and completely sealed in violation of the Penal Code and Rule of Court 2.551. The San Bernardino Sheriff's Department has informed us that these files relate to search warrants authorizing electronic searches under Penal Code § 1546.1 and pen-register/trap-trace orders issued under Penal Code § 638.52. The statutory schemes governing these warrants and orders allow sealing only until they are executed or expire, respectively. *See* Penal Code §§ 1534(a), 638.52(g).¹ Thus, these files should long ago have been unsealed under these provisions. Nevertheless, it appears that, at the request of the Sheriff's Department, these court files remain completely sealed until further order of the Court.

We therefore ask that the Court review the files listed in the attached Exhibit A to determine whether they are properly sealed and to unseal any of them – or any parts of them – that do not meet the criteria for sealing. *See* Rule of Court 2.551(h) (authorizing Court to unseal records sua sponte after notice to affected parties).

We also ask that the Court take steps to ensure that any future sealing orders in these types of matters comport with statutory and constitutional requirements.

1. Background

The California Electronic Communications Privacy Act (CalECPA) requires law-enforcement agencies to obtain a search warrant or wiretap order before they “[a]ccess electronic device information by means of physical interaction or electronic communication with the electronic device,” unless one of the statute’s enumerated exceptions applies. §§ 1546.1(a)(3), (c); *see* 2015 stats. ch. 651, codified at Penal Code § 1546 *et seq.* The Penal Code similarly requires the police to obtain a court order before installing a pen register or trap-and-trace device. *See* §§ 638.51, 638.52(g).

¹ All unspecified statutory references are to the Penal Code.



Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109 USA
415.436.9333
eff.org

Both of these statutes generally require that, if the government knows the identity of the target of the search, it must provide that person with notice, a variety of specified information, and a copy of the court order when it executes one of these orders. §§ 1546.2(a), 638.54. If the government does not know the identity of the target, it must instead report this same information to the California Department of Justice within three days of the termination of the pen-register or trap-and-trace order or execution of the warrant. §§ 638.54(c), 1546.2(c). The Department must then post this information on its Open Justice website within 90 days after redacting whatever “names or other personal identifying information” it deems appropriate. *See id.*; *see also* California Department of Justice, Electronic Search Warrant Notifications at <https://openjustice.doj.ca.gov/data>.

Both statutes allow the police to request court authorization to delay this notice for renewable periods of 90 days if they can show a need to do so. §§ 638.54(b), 1546.2. After these periods expire, they must then send the requisite notice to the target or, if the target is unknown, to the Department of Justice for publication on its website. §§ 638.54(b)(3), 1546.2(c).

In August 2018, the Electronic Frontier Foundation (EFF) sent the Sheriff’s Department a request for copies of six warrants and orders issued under these provisions, as well as the related search warrant numbers and supporting affidavits. After that Department refused to provide these records, EFF brought suit in this Court under the Public Records Act, Gov’t Code § 6250 *et seq.* *See* Case No. CivDS-1827591.

In the course of this litigation, the Sheriff’s Department has provided the search warrant numbers of these six warrants,² but refuses to provide the warrants themselves, asserting among other things, that it cannot do so because they have all been indefinitely sealed by this Court.

EFF has since requested 18 other warrants pertaining to electronic searches that the Sheriff’s department obtained under similar circumstances from this Court. The Department has provided two of them but has refused to provide the rest, again on the grounds that they are sealed. The two warrants that it did provide both contain sealing requests that were denied by the issuing magistrates: warrant numbers VVSW18-1048 and VVSW18-1286. It thus appears that the Sheriff’s Department requests indefinite sealing orders as part of every application for a warrant or court order under these statutes.

² The warrant numbers are SBSW 17-0615, SBSW 17-0694, SBSW 17-0695, SBSW 17-0834, SBSW 17-0890, and SBSW 17-0892. The Sheriff’s Department has informed us that these warrants are in some way connected to San Bernardino Superior Court case numbers FSB18002619, FSB18002622, and FSB18002623, all of which appear to have been consolidated for trial.



Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109 USA
415.436.9333
eff.org

The warrants/orders at issue are listed in Exhibit A to this letter. All of these warrants and orders were issued in 2017 and 2018, and the fact that they are listed on the Department of Justice website indicates that they have been executed or expired.

Although the sealing orders prevent us from reviewing information about the proffered justification for sealing, or even if any such justification was asserted, we believe that these files should be unsealed, in whole or in part, for the following reasons.

2. Pen Register or Trap and Trace Orders Must Be Disclosed After They Expire

Some of the files at issue apparently involve orders “authorizing or approving the installation and use of a pen register or trap and trace device,” which are methods of obtaining routing and dialing information for telephone calls and other electronic communications, respectively. *See* §§ 638.52(a), 638.51 (definitions). These orders may be issued for periods of up to 60 days, and extended for additional 60-day periods if there is continuing probable cause to do so. *See* §§ 638.52(e), 638.52(f).

Until recently, a magistrate issuing these types of orders was required to “direct that the order be sealed until otherwise ordered” by the Court. *See* § 638.52(g) (2016). These indefinite sealing orders may well have violated the First Amendment. *See in re Sealing & Non-Disclosure of Pen/Trap/2703(d) Orders*, 562 F. Supp. 2d 876, 880-887 (S.D. Tex. 2008) (holding that the First Amendment prohibits indefinite sealing of electronic-surveillance orders). The Legislature addressed this problem in 2016 by changing this provision so that it now requires that “[a]n order or extension order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that the order be sealed until the order, including any extension, expires.” *See* § 638.52(g) (amended by 2016 Cal. Stats. ch. 511 §§ 1, 6). This legislative history and the language of the amended statute make it clear that these sealing orders must now expire when the underlying order does, particularly given the constitutional requirement that the statute be read so as to promote public access. *See* Cal. Const. art. I, § 3(b)(2); *Overstock.com, Inc. v. Goldman Sachs Grp., Inc.*, 231 Cal. App. 4th 471, 495 (2014) (“[W]e must interpret the sealed records rules broadly to further the public’s right of access” to court records). But it appears that the warrant application forms submitted by the Sheriff’s Department fail to comply with this statutory change; though it may well be that the issuing magistrates in many of these cases were not aware of this statutory non-compliance.

Law enforcement must provide notice to the target, if known, within 30 days of the expiration of the order. § 638.54(a). The issuing court may grant delays of this period under certain conditions. *Id.* If there is no identified target, the agency must provide notice to the Department of Justice after the order and any authorized delay periods expire; the Department must then post information about the order on its website within 90 days. § 638.54(c). Information

about all of the orders in question appears on the Department’s website, which shows that they have been executed and that any non-disclosure order has expired.

3. Executed Search Warrants Become Public Ten Days After They are Issued

Many of the orders in question authorize the use of a cell-site simulator. These devices, commonly known as Stingrays (a brand name), masquerade as cell-phone towers and allow law enforcement to locate specific cell phones by diverting these phones’ signals to the simulator, rather than to the carrier’s real tower. They can also be used to determine the unique international-mobile-subscriber identifiers (IMSI) of unknown devices.

Law enforcement must obtain a special kind of search warrant under CalECPA before deploying a cell-site simulator. *See* §§ 1546.1(a)(3), 1546.1(c). Warrants issued under CalECPA must comply with specific particularity and notice requirements mandated by statute and aimed to improve public oversight and transparency. § 1546.1(d). They must also comply with § 1534, which makes all warrants and related documents public 10 days after they are issued, assuming they have been executed:

A search warrant shall be executed and returned within 10 days after date of issuance.... The documents and records of the court relating to the warrant need not be open to the public until the execution and return of the warrant or the expiration of the 10-day period after issuance. Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record.
§ 1534(a).

As with pen registers, the police must provide information about these warrants to the target, if known, after execution; if the target is unknown, they must provide the information to the Department of Justice, which then posts it on its website. § 1546.2. Although the police may apply to the court for authorization to delay notice for up to 90 days at a time, the fact that information about these warrants was posted on the Department of Justice website shows that any such periods have long since expired. *See* § 1546.2(c).

4. The Court should examine these warrant files and unseal any parts of them that are not properly sealed

“Since orders to seal court records implicate the public’s right of access under the First Amendment, they inherently are subject to ongoing judicial scrutiny, including at the trial court level.” *In re Marriage of Nicholas*, 186 Cal. App. 4th 1566, 1575 (2010). Thus, the “court on its own motion may move ... to unseal a record” “entirely or in part.” Rule of Court 2.551(h)(2), (5). “If the court proposes to order a record unsealed on its own motion, the court must give notice to the parties stating the reason for unsealing the record. Unless otherwise ordered by the court, any

party may serve and file an opposition within 10 days after the notice is provided and any other party may file a response within 5 days after the filing of an opposition.” *Id.* 2.551(h)(3). “No showing of changed circumstances is necessary on a motion to unseal” brought under this Rule. *In re Marriage of Nicholas*, 186 Cal. App. 4th at 1577. To the contrary, any party seeking to restrict access has a “continuing burden” to show that the materials currently meet the standards for sealing. *Id.* at 1576. A different judge may unseal records sealed by another judge of the court. *Id.* at 1577-78. “These Rules apply to civil and criminal cases.” Rule 2.550 advisory committee comment; see *People v. Jackson*, 128 Cal. App. 4th 1009, 1022 (2005) (motion to unseal search warrants under prior rule).

The Court may order the records “unsealed entirely or in part.” Rule 2.551(h)(5). If redaction of a record is sufficient, sealing the entire record is improper. See Rule 2.551(h)(4); Rule 2.550(e)(1)(B); *People v. Hobbs*, 7 Cal. 4th 948, 972 (1994); *In re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1067 (2006). The California Constitutional right of access requires that these Rules be read so as to promote public access. See *Overstock.com*, 231 Cal. App. 4th at 495; Cal. Const. art. I, § 3(b)(2); see also *In re Sealing & Non-Disclosure of Pen/Trap/2703(d) Orders*, 562 F. Supp. 2d at 880-887.

Because we do not have access to the sealed materials, we cannot know whether parts of them are properly sealed; but for the following reasons it seems almost certain that much of the material should be unsealed.

5. Sealing is proper only in narrow circumstances authorized by statute or the state or federal constitutions

Because the statutes governing these court files make them open to the public after the expiration of a pen-register/trap trace order or the execution of a search warrant, the Court must unseal this material unless some other statute or constitutional provision authorizes continued sealing. To assist the court in making this determination, we next discuss some of the provisions that could justify continued sealing.

The Court may partially seal an affidavit as necessary to protect the identity of a confidential informant, which is protected under Evidence Code § 1041. *Hobbs*, 7 Cal. 4th at 972-78. But “[a]ny portions of the sealed materials which, if disclosed, would *not* reveal or tend to reveal the informant’s identity must be made public.” *Id.* at 963 (emphasis added). These same rules apply when the government asks to withhold information in warrant materials that have yet to result in a prosecution under Evidence Code § 1040, which applies when the government proves that “disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.” Evid. Code § 1040(b)(2); see *PSC Geothermal Servs. Co. v. Superior*

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Court, 25 Cal. App. 4th 1697, 1714-15 (1994) (superior court erred by failing to consider whether redacting, rather than completely sealing, affidavit would sufficiently protect official information).

In addition, affidavits and related materials may be sealed in whole or in part as necessary to protect a criminal defendants' Sixth Amendment right to a fair trial and minor victims' right to privacy, so long as the sealing orders comply with former Rule of Court 243.1, now Rule 5.550, which itself incorporates the requirements of the First Amendment. *Jackson*, 128 Cal. App. 4th at 1022. *Jackson* involved a media request in the child-sex-abuse trial of pop star Michael Jackson to unseal documents, including search warrant affidavits, returns, and inventories, but not the warrants themselves. *See id.* The Court of Appeal held that under both the First Amendment and the Rules of Court, the public's right of access to these materials

may be denied only if the court, after notice and hearing, makes four supported findings: (i) there exists an overriding ... interest supporting closure and/or sealing; (ii) there is a substantial probability ... that the interest will be prejudiced absent closure and/or sealing; (iii) the proposed closure and/or sealing is narrowly tailored to serve the overriding interest; and (iv) there is no less restrictive means of achieving the overriding interest.³

The court went on to hold that because the search warrant affidavits, returns, and inventories contained "highly prejudicial" "details of the crimes alleged," "combined with the celebrity of the defendant," and the "torrent of pretrial publicity," sealing them was appropriate because doing so was necessary to protect the Defendant's Sixth Amendment rights and the privacy rights of minors who had allegedly been the subject of sex abuse. *See Jackson*. at 1023, 1025. This unique combination of factors distinguished the case from others where sealing was inappropriate. *See id.* at 1024 ("[T]he combination of celebrity status, the crimes alleged and the ongoing criminal investigation that justifies sealing."); *cf. id.* at 1014 (noting "sui generis nature of [the] case").⁴ Even so, the court held that continued sealing of the indictment was improper. *Id.* at 2018.

³ *Id.* (citing *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1217-18 (1999)); *see also Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607 (1982) (access restrictions must be "necessitated by a compelling governmental interest, and . . . narrowly tailored to serve that interest").

⁴ Although Rule 2.550 cannot in itself authorize sealing orders and warrants that are declared open by statute, the right to privacy protected by Article I § 1 of the California Constitution could of course override the statute. *See Cal. Court Reporters Ass'n. v. Judicial Council of Cal.*, 39 Cal. App. 4th 15, 21–22, 33-34 (1995) (Rules of Court must be consistent with statutes).

Jackson thus illustrates the unusual case in which sealing may be appropriate; but it is highly doubtful that these factors would apply to all – or even most – of the electronic search warrants obtained by the San Bernardino Sheriff’s Department. In any event, the public’s right of access to the requested materials cannot be denied under *Jackson* unless the court makes the four required factual findings. *See NBC Subsidiary*, 20 Cal. 4th at 1217-18.

6. These files should be completely or partially unsealed

We believe that an examination of the materials will show that they should be unsealed under these rules, at least in part because:

- a. The fact that information about these warrants and orders is available on the Department of Justice website indicates that any period for which the governing statutes authorize sealing has long since expired. These statutes therefore make them public unless some other statute or constitutional provision overrides that presumption.
- b. There can be no justification for sealing boilerplate parts of the files such as the outdated indefinite sealing orders or other parts containing general legal propositions, unrelated to any specific case, that were presented to the court. This information cannot be privileged and, because it does not relate to any individual case, cannot implicate any constitutional right. Moreover, there is no compelling interest that justifies sealing these materials. Both the Penal Code and the First Amendment therefore require that they be unsealed.
- c. For these same reasons, there cannot be any justification for sealing the orders authorizing Defendants to delay sending notification to the targets or the DOJ, along with the dates that those orders were issued and when they expired. The court will have to determine whether any of the facts presented to support these delayed-notification orders should continue to be sealed under *Hobbs* or *Jackson*. But the remainder of these documents must be unsealed.
- d. We are not aware of any precedent authorizing a court to seal a warrant or judicial order (as opposed to the supporting affidavit) after it has expired or been executed. This makes sense because it seems unlikely that a search warrant would itself contain much, if any, information that would meet the standards for sealing under *Hobbs* or *Jackson*: warrants do not generally contain the names of informants or the type of information that would jeopardize the right to a fair trial or constitute such a severe infringement on personal privacy so as to merit sealing. And there is an extremely significant countervailing public interest in government transparency and accountability by allowing the public to see how and why courts are authorizing the police to conduct digital searches.

- e. Information that has already been disclosed cannot be sealed because “there is no justification for sealing records that contain only facts already known or available to the public.” *H.B. Fuller Co. v. Doe*, 151 Cal. App. 4th 879, 898 (2007); *see Jackson*, 128 Cal. App. 4th at 1028. It seems likely that much of the information in the sealed documents has been revealed in the course of criminal proceedings, either in discovery provided to the defense without any sort of protective order or in the preliminary hearings, trials, or other evidentiary hearings.
- f. Summary sealing of the entirety of the requested search warrants and supporting materials is not narrowly tailored to serve any legitimate government interest in sealing.

7. Some of the Court’s files may be erroneously designated as sealed

We note one final concern: a boilerplate checkbox on the second page of one of the warrants that we did obtain from the Sheriff’s Department indicates that it is sealed until further order of the Court, even though the issuing magistrate specifically refused the requested sealing order. *Compare* VVSW18-1048 at 2 ¶ 9 (box apparently checked by Sheriff’s Department purporting to seal all records “unless further ordered by the Court”) *with id.* at 2 (magistrate refused to approve sealing) (attached as Exhibit B to this letter). Because it appears that this application is a standard template and that the Sheriff’s Department always asks that these orders be sealed, this may lead to confusion and to the erroneous withholding from the public of files that a judge of this Court has refused to seal.

8. Conclusion

For these reasons, we ask the Court take the following steps to ensure that the public has access to this Court’s judicial records as required by law:

- a. Review the files specified in Exhibit A to determine whether they are in fact sealed.
- b. Unseal any files or parts of files that are not properly sealed under Rule of Court 2.551(h) and the standards discussed above.
- c. Take whatever steps are necessary to ensure that similar files – both in the past and in the future – are open to the public as required by law.



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Thank you for your kind consideration and please advise us as to your position on this issue on or before June 5, 2019. If you or your colleagues or staff should have any questions or concerns you would like to discuss, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Michael T. Risher'.

for Michael T. Risher (CA State Bar No. 191627)
Law Office of Michael T. Risher
2081 Center St. #154
Berkeley CA 94702
Email: michael@risherlaw.com
T: (510) 689-1657
F: (510) 225-0941

Stephanie J. Lacambra (CA State Bar No. 232517)
David Greene (CA State Bar No. 160107)
Electronic Frontier Foundation
815 Eddy Street
San Francisco, California 94109
T: (415) 436-9333 x130
F: (415) 436-9993
Email: stephanie@eff.org; davidg@eff.org

cc:
Miles Kowalski (CA State Bar No. 257269)
Deputy County Counsel
Michelle D. Blakemore (CA State Bar No. 110474)
County Counsel
Office of County Counsel
385 North Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140
T: (909) 387-5455
F: (909) 387-4381
Email: Miles.Kowalski@cc.sbcounty.gov



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815 Eddy Street
San Francisco, CA 94109 USA
415.436.9333
eff.org

Exhibit A: Search Warrants to be Unsealed

1. SBSW 18-0259
2. SBSW 18-0256
3. SBSW 18-0269
4. SBSW 18-0275
5. SBSW 18-0278
6. SBSW 18-0281
7. SBSW 18-0292
8. SBSW 18-0298
9. SBSW 18-0293
10. SBSW 18-0302
11. SBSW 18-0297
12. VVSW 18-0164
13. SBSW 18-0849
14. SBSW 18-0850
15. VVSW 18-1051
16. VVSW 18-1047
17. SBSW 17-0615
18. SBSW 17-0694
19. SBSW 17-0695
20. SBSW 17-0834
21. SBSW 17-0890
22. SBSW 17-0892



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415.436.9333
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Exhibit B: Search Warrant No. VVSW18-1048

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

RETURN TO SEARCH WARRANT

The following property was taken from AT&T Cell phone [redacted] and seized pursuant to Penal Code Section 1524 by virtue of a Search Warrant dated 05/21/2018, and executed by the Honorable Judge D. Harris of the Superior/Municipal Court, Victorville Judicial District, County of San Bernardino, State of California.

ITEMS SEIZED:

- 1.) Digital Records

I, Deputy Michael Corral of the San Bernardino County Sheriff's Department, by whom this Search Warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me under this warrant.

It is further requested that for the purpose of retaining custody of this property and conducting further investigation and/or analysis of the property seized, that the court order the San Bernardino County Sheriff's Department to retain the property until it is brought before the court for hearing or other disposition, and/or that the San Bernardino County Sheriff's Department release the property to appropriate investigators, victims, and/or laboratories for further investigation and analysis without further order of this court.

[Signature of Affiant]
(Signature of Affiant)

Deputy Sheriff, San Bernardino County Sheriff's Department

[Signature of Magistrate]
(Signature of Magistrate)



Judge of the Superior/Municipal Court, Victorville Judicial District, County of San Bernardino, State of California

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT

JUN 11 2018

BY [Signature]
WENDY ALVAREZ-MEDINA, DEPUTY

Subscribed and sworn to before me this 11 day of June, 2018

**STATE OF CALIFORNIA - COUNTY OF SAN
BERNARDINO**

SW NO. VVSW 18-1048

SEARCH WARRANT

**THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN
THE COUNTY OF SAN BERNARDINO:**

THE UNITED STATES MARSHALS SERVICE and the SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT by Task Force Officer Scott Abernathy and, under authority of 28 U.S.C. Sec 564, and 566, and pursuant to special apprehension authority delegated to the United States Marshals Service by the Attorney General of the United States proof by affidavit and under penalty of perjury having been sworn to this day before me that there is probable cause for believing that the property and/or person described below may be found at the location(s) set forth below and is lawfully seizable pursuant to Penal Code Section 1524 and 1534 as indicated below by "x"(s) in that it:

- was stolen or embezzled
- was used as the means of committing a felony
- is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- tends to show that a felony has been committed or that a particular person has committed a felony
- tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- the location of a person for whose arrest there is probable cause for: [REDACTED] DOB: [REDACTED] for CA Penal Code 664/187; Attempted Murder
- is information to be received from the use of the Target Telephone(s), as tracking device(s) that constitutes evidence that tends to show that a felony has been or is being committed, tends to show that a particular person has committed or is committing a felony, or will assist in locating an individual who has committed or is committing a felony.

Additional Orders:

VVSW 18-1048

- 1. **Seal Unrelated Information:** As required by California Penal Code § 1546.1(d)(2), any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed by the affiant and shall not be subject to further review, use, or disclosure absent an order from the Court. Pursuant to CA Penal Code §§ 638.52 and 638.54, no content data is to be obtained and no SEALING of unrelated data is required.
- 2. **Production:** The listed service providers in Attachment A are commanded, within five (5) business days after receipt of this Search Warrant, to deliver by mail or otherwise, to the above-named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records (See California Penal Code § 1524.2).
- 3. **Verification:** The custodian shall complete and sign the "Declaration of Custodian" which accompanies this Search Warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Penal Code §§ 1546.1(d)(3), 1524.2 (b)(4).)
- 4. **Disposition of Communications and/or Data:** Pursuant to California Penal Code §§ 1528(a) and 1536, all communications and/or data seized pursuant to this Search Warrant shall be retained in affiant's custody pending further Court order.
- 5. **Night Service Authorization:** This warrant may be served on provider at any hour of the day or night.

- Order granted
- Order not granted and/or not applicable

- 6. **Non-Disclosure Order:** Applicant's declaration has established grounds for a non-disclosure order pursuant to Penal Code § 1546.2 and 18 U.S.C. §§ 2705(b). The listed service providers in Attachment A are ordered not to notify the subscriber or any other person of the existence of this warrant pending further Court order.

- Order granted
- Order not granted and/or not applicable

- 7. **Delay of Notification:** This application requests that the notice required under Penal Code § 1546.2 be delayed for ninety (90) days as provided in subsection (b)(1). If investigators are able to obtain sufficient evidence to arrest all the suspects in this case prior to the end of the 90-day period, notice will be provided upon that arrest or within forty-eight (48) hours. Based upon the reading of the Search Warrant and Affidavit in support thereof, the notice required under § 1546.1 is hereby delayed for ninety (90) days, it appearing that there is reason to believe that the notification of the existence of the warrant to any person will result in one of the following:

- Endangering the life or physical safety of an individual
- Lead to flight from prosecution
- Lead to destruction of or tampering with evidence
- Lead to intimidation of potential witnesses
- Seriously jeopardize an investigation
- Unduly delay a trial or otherwise lead to an adverse result

8. **Extension of Time for Return:** The 10-day requirement for the Return to Search Warrant is extended in order to provide ample time for the listed service providers in Attachment A to provide the requested information. The Return to Search Warrant and Search Warrant are ordered to be filed with the Court within sixty (60) days of execution of the warrant.

- Order granted
- Order not granted and/or not applicable

9. **Sealing of Search Warrant, Attachment A, Affidavit, and Return:** Affiant has established good cause for a sealing order and as such, this Search Warrant, Attachment(s), the supporting Affidavit, and the Return are ordered sealed and shall not become a public record. This Search Warrant, Attachment(s) Affidavit, and Return shall be delivered into the custody of the Clerk of the Superior Court and remain sealed in the custody of the Clerk unless further ordered by the Court.

- Order granted
- Order not granted and/or not applicable

YOU ARE THEREFORE COMMANDED TO SEARCH: and obtain information to be received from the use of the Subject Telephone(s) in order to obtain real-time tracking information, including but not limited to satellite Global Positioning System (GPS), latitude and longitude coordinates and/or other Precise Location information relating to the following Subject Telephone(s), and cell-site/tower data information for signals transmitted to and from the following Subject Telephone(s) by executing the warrant by serving the named third party possessor of the location data within 30 days after issuance.

Subject Telephone #1: A cellular telephone serviced by AT&T Wireless, assigned telephone number [REDACTED] [REDACTED] believed to be prepaid cellular device (hereinafter referred to as the "Subject Telephone(s)" or "Subject Telephone Number(s)").

PROBABLE CAUSE having been shown by the applicant, TFO Michael Corral, certifying that the information likely to be obtained from the installation and use of the pen/trap device is relevant to an ongoing criminal investigation being conducted by the United States Marshals Service, in coordination with San Bernardino County Sheriff's Department, in connection with possible violations by [REDACTED] DOB [REDACTED] for violation of California Penal Code 664/187; Attempted Murder and pursuant to Title 18, United States Code, §§ 3122 and 3123 and California Penal Code §§ 638.50, 638.51, 638.52, 638.53 and 1546.1(b)(5); and further, the Government having offered specific and articulable facts showing that there are reasonable grounds, as well as probable cause, to believe that the records or information sought is relevant and material to said ongoing criminal investigation, pursuant to Title 18, United States Code, § 2703(c) and (d), and California Penal Code § 1546.1(b)(1).

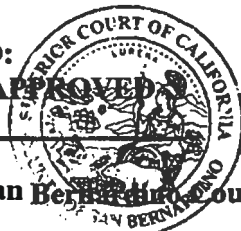
And by Order, attached hereto as Attachment A, and further incorporated by reference.

AND TO SEIZE IT/THEM IF FOUND and bring it/them forthwith before me, or this Court, at the courthouse of this Court except that the 10-day requirement for the Return to Search Warrant is extended, as referenced above, and the Return is authorized within sixty (60) days of execution of the Warrant. Federal law enforcement agents employed by the United States Marshals Service are authorized to assist in the service of this Search Warrant/Order. This Search Warrant/Order and incorporated Affidavit was sworn to as true before me this 2nd day of May 2018, at 1548 A.M. / ~~P.M.~~ Wherefore, I find probable cause for the issuance of this Search Warrant/Order and do issue it.

SEALING APPROVED:
NIGHT SEARCH APPROVED:
90 DAY DELAYED NOTICE APPROVED:

YES [] NO []
YES [] NO []
YES [] NO []

[Signature]
[Signature of Magistrate]
Judge of the Superior Court, San Bernardino County



FOR THE FOLLOWING PROPERTY/PERSONS: This Search Warrant is for the purpose of receiving information from the use of the **Subject Telephone(s)**, including but not limited to real-time monitoring of location data from satellite GPS, latitude and longitude coordinates, and/or other Precise Location information, and cellular site/tower data concerning the **Subject Telephone(s)**.

PROBABLE CAUSE HAVING BEEN SHOWN, THIS COURT HEREBY ORDERS:

Cellular telephone provider(s) known as: VERIZON WIRELESS, AT&T WIRELESS, AT&T, ALLEGIANCE TELECOM, SBC, VERIZON, VERIZON OF CALIFORNIA, AT&T BROADBAND, CRICKET, METRO PCS, LEAP WIRELESS, CINGULAR WIRELESS, CONEXONE WIRELESS, CONNECT COMMUNICATIONS CORP., CONNECT COMMUNICATIONS, COX COMMUNICATIONS, COX TELECOM, GST TELECOM XO, INTOUCH COMMUNICATIONS, MCI WORLDCOM, MEDIA ONE COMMUNICATIONS, NEXTEL COMMUNICATIONS, OPTEL, QUEST, QWEST WIRELESS, SPRINT LONG DISTANCE, SPRINT PCS, SPRINT SPECTRUM L.P., T-MOBILE COMMUNICATIONS, TELEPACIFIC COMMUNICATIONS, TIME WARNER TELECOM, M-POWER COMMUNICATIONS, U.S. SPRINT, QWEST, AND XO CALIFORNIA INC., upon the request of Inspectors of the United States Marshals Service, shall provide the following information and services without delay:

- (a) IT IS ORDERED, based on findings of probable cause and that the information sought is relevant to the ongoing criminal investigation pursuant to CA Penal Code §§ 638.52 et seq, 1546.1(b)(5) and Title 18, United States Code, §§ 3122(a)(2) and 3123(a)(2), that the U.S. Marshals Service is authorized to install and use a pen register, to register numbers dialed or otherwise transmitted from telephone number [REDACTED] (hereinafter referred to as the “**Subject Telephone Number(s)**”), to record the date and time of such dialings or transmissions, and to record the length of time the telephone receiver in question is “off the hook” for incoming or outgoing calls, LTE incoming and outgoing calls, for a period of thirty (30) days from the date of this Order. The installation and use of a trap and trace device, including the “caller identification feature,” on the **Subject Telephone Number(s)**, to capture and record the incoming electronic or other impulses which identify the originating numbers of wire or electronic communications, and to record the date, time, and duration of calls created by such incoming impulses, is also authorized for a period of thirty (30) days from the date of this Order, and that tracing operations including the use of the “caller identification feature” be without geographical limits.
- (b) IT IS FURTHER ORDERED, pursuant to CA Penal Code §§ 638.52 et seq, 1546.1(b)(1) and (5) and Title 18, United States Code, §§ 2703(c) and (d), 3122 and 3123, and the Court’s findings of probable cause and that the information sought is relevant and material to the ongoing criminal investigation, that Verizon, Verizon of California, Qwest, Media One Communications, M-Power Communications and Allegiance Telecom (hereinafter referred to as “the local carriers”); AT&T, US Sprint, MCI World Com (hereinafter referred to as “the long distance carriers”); Verizon Wireless, AT&T Wireless, Sprint Spectrum L.P., Sprint PCS, Cricket, T-Mobile Communications, and Metro PCS (hereinafter referred to as “the wireless carriers”); and any other local, long distance or wireless carrier shall provide subscriber information including, but not limited to: name and billing address, call activity, (which includes all inbound and outbound telephone calls) on all telephone numbers, call detail reports and non-content text messaging incoming or outgoing activity data, whether published or nonpublished (listed or unlisted), blocked or unblocked, LTE, to include cell site/sector beginning thirty (30) days prior from the date of this Order and continuing through thirty (30) days from the date of this Order, and that the local and long distance or wireless carrier(s) shall activate the dial digit extraction (AKA punch list) feature, along with 24 hour expedited service on all telephone numbers upon oral or written request made by Inspectors of the United States Marshals Service.

- (c) IT IS FURTHER ORDERED, that the “wireless carriers,” based upon the Court’s findings of specific and articulable facts supporting probable cause and that the information is relevant and material to an ongoing criminal investigation, shall provide, on an ongoing and/or real time basis, the location of cell-site/sector (physical address) at call origination (for outbound calls) to United States Marshals Service Headquarters CALEA network, call termination (for incoming calls) and during the progress of a call via United States Marshals Service Headquarters CALEA network, and direction and strength of signal, call progress locations (Automated Message Accounting (AMA) Data), dialed digit information and extended digit dialing (excluding content), and a listing of all control channels and their corresponding cell-sites for the **Subject Telephone Number(s)**, including local and “roam” mode cellular telephone calls, beginning from the date of the Court Order and continuing for thirty (30) days from the date of this Order.
- (d) IT IS FURTHER ORDERED, pursuant to California Penal Code §§ 629.50, 629.51, 629.52, 629.90, 629.91, 1546.1(b)(1) and (5) and 18 U.S.C. §§ 2703(c)(1)(B) and 2703(d) and the Court’s findings of probable cause and that the requested information is relevant and material to the ongoing criminal investigation, that AT&T Wireless, shall supply for the Subject Telephone Number(s): the subscriber name and address, call detail records and incoming and outgoing communication session records relating to all voice, push-to-talk, non-content text messages, SMS, MMS, data sessions, packet data activity records, IP logs, destination port logs, origination port logs, socket address logs, etc. (including for phone applications purchased or downloaded), Per Call Measurement Data (PCMD), Trucall record data, LTE and any other stored records pertaining to packet data transmission, signaling, and delivery for the **Subject Telephone Number(s)** starting from March 30, 2018 to the present to include historical cell-site/sectors (physical address) and historical GPS Precision Location and/or latitude and longitude information upon oral or written request made by Inspectors of the United States Marshals Service.
- (e) IT IS FURTHER ORDERED, that this authorization for the installation and use of a pen register and trap and trace device, including the “caller identification feature,” and for the disclosure of cell-site location information, GPS, latitude and longitude information, and other Precise Location information, applies not only to the telephone number listed above for the **Subject Telephone(s)**, but also to any changed telephone number(s) subsequently assigned to the same instrument bearing the same Mobile Station ID (MSID), Mobile Equipment Identifier (MEID), Mobile Identification Number (MIN), International Mobile Subscriber Identity (IMSI), Electronic Serial Number (ESN), International Mobile Equipment Identity (IMEI), Subscriber Identity Module (SIM) or Media Access Control addresses (MAC) and/or or any new MSID, MEID, MIN, IMSI, ESN, IMEI, SIM, or MAC, whether the changes occur consecutively or simultaneously, listed to the same subscriber and wireless telephone account number as the Subject Telephone(s) within the thirty (30) day period authorized by the Warrant/Order; and/or any new MSID, MEID, MIN, IMSI, ESN, IMEI, SIM, or MAC assigned to the Subject Telephone(s) or new/changed telephone number(s), whether the changes occur consecutively or simultaneously, listed to the same subscriber and wireless telephone account number as the Subject Telephone(s) within the thirty (30) day period authorized by this Warrant/Order.
- (f) IT IS FURTHER ORDERED, in the event the Subject Telephone Number(s) was changed by the subscriber or customer during the thirty (30) days prior to the date of this Order, that the Service Provider shall provide the United States Marshals Service with the new unique telephone number, hardware or network identity number. The Court finds Applicant has offered specific and articulable facts showing there are reasonable grounds and probable cause to believe that the identification of any telephone number or unique device identifier which was assigned within the thirty (30) day period prior to the date of the Order is also relevant and material to the ongoing criminal investigation. Further, the Subject Telephone’s Service Provider, and all other telecommunications providers, persons or entities providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the Order, shall notify agents of the United

States Marshals Service, upon oral or written request, of any and all subscriber identity changes (including without limitation, additions, deletions, and transfers of telephone numbers, hardware, network identity or subscriber/customer/user identity) regarding the Subject Telephone(s) for a period of thirty (30) days from the date of this Order.

- (g) IT IS FURTHER ORDERED, that the **Subject Telephone Number(s)** remain active and in service and if the cellular telephone has been targeted for deactivation due to non-payment or breach of contract, that the Service Provider shall advise the United States Marshals Service and the United States Marshals Service will incur the future billing costs at the point of deactivation and compensate the wireless carrier for such additional billing costs beginning from the date of deactivation and continuing through the thirty (30) day time period authorized by this Order.
- (h) IT IS FURTHER ORDERED, based on probable cause having been shown, that “the wireless carrier” AT&T Wireless provide Inspectors of the United States Marshals Service, at their request, GPS latitude / longitude coordinates, and/or other Precision Location Information for the Subject Telephone Number(s) for thirty (30) days from the date of this Order.
- (i) IT IS FURTHER ORDERED, pursuant to CA Penal Code §§ 638.52 et seq, 1546.1(b)(1) and (5) and Title 18, United States Code, §§ 2703(c) and (d), 3122 and 3123 and the Court’s finding of probable cause and a finding that the information sought is relevant and material to an ongoing criminal investigation, that the local, long distance and wireless carriers shall furnish Inspectors of the United States Marshals Service and the San Bernardino County Sheriff’s Department forthwith, for thirty (30) days from the date of the Order: Direct connect, dispatch, or group call connections or attempts, non-content Short Message Service (SMS) data, all cell-site activations and sectors, together with a complete listing of cell site identification numbers, physical addresses, latitude and longitude records, sector identifiers, and true orientations of all cell-sites and sectors in the market where the **Subject Telephone(s)** may be located; together with a nationwide System Identity/Billing Identity (SID/BID) listing; and, upon request, an engineering map or maps identifying same (if the provider possesses such a map). Further, that the AT&T Wireless shall provide a list of control/radio channels and PN offsets (by sector) with their corresponding cell-sites in the market where the **Subject Telephone(s)** may be located. Further, that the PROVIDER shall provide all additional technical assistance necessary to accomplish the installation and use of the pen register-trap and trace device, including the “caller identification feature,” unobtrusively and with minimum interference with the services that are accorded the persons whose dialings or transmissions are the subject of the pen register-trap and trace device.
- (j) IT IS FURTHER ORDERED, probable cause having been shown, pursuant to CA Penal Code §§ 629.66, that this entire Search Warrant be sealed until otherwise ordered by the Court, that the identity of any target(s) of the underlying criminal investigation may be redacted from any copy of this Order to be served on any Service Provider or other person, and that the local, long distance and wireless carriers and their representatives, agents and employees shall not disclose in any manner, directly or indirectly, by any action or inaction, the existence of this Warrant/Order or the existence of the above-described investigation, to the listed subscriber for the **Subject Telephone Number(s)**, the occupant of said premises, the subscribers of the incoming calls to or outgoing calls from the **Subject Telephone Number(s)**, or to any other person, in full or redacted form, unless or until otherwise ordered by the Court.
- (k) IT IS FURTHER ORDERED, probable cause having been shown, pursuant to CA Penal Code §§ 1546.2, that notification be delayed for ninety (90) days based on the statement in the attached Affidavit and a finding of adverse results in that notification would seriously jeopardize the ongoing investigation and cause undue delay of trial, and further cause the fugitive of the investigation to flee from prosecution. Upon arrest of the fugitive, if located before the 90-day expiration period, the

VVSW 18 1048

affiant shall file a return to the warrant within sixty (60) days of the execution of the warrant and serve a copy of the warrant to the authorized handler of the device and the notice of the nature of the government's investigation.

- (l) IT IS FURTHER ORDERED, as part of the receipt of the requested data, that the U.S. Marshals Service is prohibited from seizing any tangible property, or any other prohibited wire or electronic information which would require an application under Penal Code §§ 629.50 et seq. The U.S. Marshals Service is not prohibited from doing so in relation to any other investigation or order authorized by law.

AND TO SEIZE IT/THEM IF FOUND and bring it/them forthwith before me, or this Court, at the courthouse of this Court except that the 10-day requirement for the Return to Search Warrant is extended, as referenced above, and the Return is authorized within sixty (60) days of execution of the Warrant/Order. Federal law enforcement agents employed by the United States Marshals Service are authorized to assist in the service of this Search Warrant/Order. This Search Warrant/Order and incorporated Affidavit was sworn to as true before me this 21st day of May 2018, at 1:48 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant/Order and do issue it.

Diana
 [Signature of Magistrate]
 Judge of the Superior Court, San Bernardino County



**STATE OF CALIFORNIA - COUNTY OF SAN
BERNARDINO**

SW NO. VVSW 18-1048

AFFIDAVIT

I, Michael Corral, being duly sworn, hereby depose and say that: I am a Deputy with the San Bernardino County Sheriff Department, State of California, and have been so employed since September 2010. As part of my regular assigned duties, I conduct investigations regarding the whereabouts of Federal and State Fugitives, most of which are violent offenders with extensive criminal histories. I am a duly commissioned federal law enforcement officer of the United States Marshals Service and San Bernardino County Sheriff, currently assigned to the Pacific Southwest Regional Fugitive Task Force – California. Deputy United States Marshals are empowered under Title 28, U.S.C. §§ 566 & 564 to carry firearms, execute state and federal warrants, make arrests for offenses against the United States of America and to perform other law enforcement duties as authorized by law.

In the experience of Deputy Michael Corral, fugitives, their family and close associates communicate with each other via cell phone or social media through multiple accounts and cellular devices. This method of communication is employed to assist the fugitive in avoiding being detected by law enforcement. As chronicled in past investigations, it is the experience of Deputy Michael Corral that these set of behaviors and actions provide the fugitive bearings to avert all contact with law enforcement. Based on my experience, Deputy Michael Corral has worked multiple cases in which fugitives will change their numbers or purchase new communication devices after being notified by family and friends that law enforcement is attempting to locate them, or shortly after committing a crime. Fugitives tend to discard, change their cellular number or purchase new cellular devices via prepaid phones after becoming a Fugitive from Justice. In the experience of Deputy Michael Corral, fugitives will instruct close family members and friends to do the same and / or on a frequent basis change devices to avoid detection. History has proven, after a fugitive establishes a new phone number and device, they will communicate with close family and friends via the new cell phone and sometimes instruct "top callers" to establish a new cell phone number and device for future communication. Additionally, the call historical detail records and subscriber information for the numbers the fugitive is in contact with have yielded information that is relevant and provides lead information for fugitive investigations. Lead information consists of names of family members, friends, associates, frequently visited locations and other individuals who can assist in the apprehension of the fugitive. As a result, the additional information sheds light on any individuals who may be harboring or aiding the wanted fugitive. In the experience of Deputy Michael Corral, fugitives will continue to keep in contact with close family and friends via cell phone. Furthermore, if the fugitive of justice or user of the **Subject Telephone** is informed that a warrant has been executed to allow for tracking of the **Subject Telephone(s)**, it would alert the user/subscriber and impede law enforcement's ongoing investigation. Consequently, this would prompt the person of interest to discard or "dump" the **Subject Telephone**. As a result of this notification, there will be a delay in the apprehension of the fugitive causing prolonged flight from prosecution, serious jeopardy to an investigation, or unjust delay of trial.

I receive, on an ongoing basis, training in various laws, regulations, and techniques related to my employment as a Deputy Sheriff. I have successfully completed the following training courses:

I, Deputy Michael Corral, am currently assigned to the Specialized Enforcement Division / SWAT. I currently hold an Advanced POST Certification. I am also SMASH certified, advanced Gang investigator and a major accident investigator. During the past 6 years, I have conducted numerous investigations of murders,

kidnappings, burglaries, assaults, grand theft, distribution, sales and use of controlled substances and other felony crimes. I have compiled information; collected evidence; and interviewed victims, witnesses, and informants to support the filing of criminal complaints. I have also been trained in the identification of potential Marijuana cultivation sites and assisted in the processing of Marijuana cultivation sites. I have been trained in the apprehension of fleeing felons, as well as organized and participated in the apprehension of numerous fugitives from justice. I am also cross sworn as a US Marshal and I have located and assisted others in locating several wanted subjects.

APPLICATION AND STATEMENT OF PROBABLE CAUSE

Your Affiant, in coordination with the United States Marshals Service, hereby applies for a Search Warrant/Order authorizing 1) the use of a "Pen Register" and "Trap-and-Trace" device for a period of thirty (30) days from the date of the Warrant/Order on AT&T Wireless telephone number(s) [REDACTED] subscribed to by an unknown subscriber (hereinafter the **Subject Telephone Number(s) or Subject Telephone(s)**); 2) the disclosure of subscriber and other historical and real-time information and records relating to the Subject Telephone Number(s), as further requested herein and in the attached proposed Warrant/Order; 3) the disclosure of subscriber names and addresses whether listed, unlisted or non-published, and the periods of telephone activation for numbers dialed or otherwise transmitted to and from the **Subject Telephone Number(s)**, along with 24 hour expedited service on all telephone numbers upon oral or written demand by investigators of the United States Marshals Service; 4) the disclosure, on an ongoing and real time basis and for a period of thirty (30) days from the date of the Warrant/Order, GPS, latitude/longitude coordinates, or other Precision Location, the location information for the **Subject Telephone Number(s)**, the location of cell-site/sector (physical address) at the call origination (for outbound calling), call termination (for incoming calls), and during the progress of a call; and the direction and strength of the signal, for the **Subject Telephone Number(s)**, which will help reveal the general geographical position and movement of the cellular phone handset subscribed to the **Subject Telephone Number(s)**, to aid in locating and apprehending [REDACTED] DOB [REDACTED] wanted for a violation of Calif. Penal Code Section 664/187; Attempted Murder. The information sought by the court Warrant/Order is relevant and material to the above listed investigation.

1. A "Pen Register" allows a telephone utility to capture the telephone numbers dialed out by the target telephone; a "Trap-and-Trace" device allows a telephone utility to capture the telephone numbers of telephones that call the **Subject Telephone Number(s)**.

2. PROBABLE CAUSE:

On Saturday, May 19, 2018, Deputies from the Barstow Sheriff station were dispatched to the area of Yermo Road and Interstate 15 Freeway in Yermo, California. Through investigation, it was learned that the Victim, [REDACTED], was staying with her boyfriend [REDACTED] (Date of birth [REDACTED]), at the El Rancho Motel in Yermo. [REDACTED] and [REDACTED] were involved in a verbal argument, when [REDACTED] called her family to pick her up from the location. [REDACTED] told [REDACTED] if she gets into a vehicle he will shoot her in the head.

[REDACTED] continued and got into the vehicle, which was occupied by two additional people. [REDACTED] left the motel. [REDACTED] got into his vehicle, a white 2008 Infiniti G35, bearing license plate [REDACTED] and gave chase to [REDACTED] vehicle. [REDACTED] aggressively pulled in front of [REDACTED] vehicle and forced her to pull the vehicle off the road way edge. [REDACTED] pointed a handgun at the vehicle and all the occupants inside the vehicle. [REDACTED] started shooting the vehicle multiple times. [REDACTED] vehicle was hit several times with bullets. [REDACTED] vehicle was able to drive away without further incident.

Deputies searched the area of the original incident and located approximately eight (8) fired casing of a .45 caliber round. [REDACTED] has not be located in the area. On May 20, 2018, [REDACTED] contacted [REDACTED] via telephone messages. [REDACTED] requested to meet with [REDACTED] in an attempt to apologize. [REDACTED] has been contacting [REDACTED] from the number of [REDACTED] each time he tries to meet up with her.

█ is currently a wanted fugitive and is considered armed and dangerous. █ has a history of violence and multiple arrests. An arrest warrant was authored for the apprehension of █ with a bail of \$1,000,000.00.

3. Deputy Michael Corral further advises that the general geographic location of the **Subject Telephone Number(s)** derived from cell-site and GPS (Global Positioning System), latitude and longitude coordinates, and/or other Precision Location information associated with the **Subject Telephone Number(s)** can be used to verify the identification and location of the user of the **Subject Telephone Number(s)** thereby aiding in apprehension of the named fugitive.

4. Because there are reasonable grounds to believe that such information is relevant and material to the ongoing investigation, as well as probable cause to believe this information will aid in locating the fugitive for apprehension purposes, your affiant requests that the local, long distance and wireless carriers listed in the proposed Order, filed concurrently herewith, and continuing thirty (30) days from the date of this Order upon oral or written demand by agents of the United States Marshals Service, also be ordered to disclose, on an ongoing and/or real time basis, the location of cell-site/sector (physical address) at call origination (for outbound calling), call termination (for incoming calls) and during the progress of a call, GPS, latitude and longitude coordinates, and/or other Precision Location information, and the strength of signal, for the **Subject Telephone Number(s)**.

5. Because there are reasonable grounds to believe that such information is relevant and material to the ongoing investigation, Deputy Michael Corral request that the local, long distance and wireless carrier(s) listed in the proposed Order, filed concurrently herewith, be ordered to supply subscriber names and addresses, whether listed or unlisted, and periods of telephone activation for numbers dialed or otherwise transmitted from (as captured by the pen register) and dialed or otherwise transmitted to (as captured by the trap and trace device) the **Subject Telephone Number(s)**, beginning on March 30, 2018 and continuing through thirty (30) days from the execution of this Order, upon oral or written demand by agents of the United States Marshals Service.

6. It is further requested that that the authorization for the installation and use of a pen register and trap and trace device, including the "caller identification feature," and for the disclosure of cell-site location information, GPS, latitude and longitude information, and other Precise Location information apply not only to the telephone number listed above for the Subject Telephone Number(s), but also to any changed telephone number(s) subsequently assigned to the same instrument bearing the same Mobile Station ID (MSID), Mobile Equipment Identifier (MEID), Mobile Identification Number (MIN), International Mobile Subscriber Identity (IMSI), Electronic Serial Number (ESN), International Mobile Equipment Identity (IMEI), Subscriber Identity Module (SIM) or Media Access Control addresses (MAC); and/or or any new MSID, MEID, MIN, IMSI, ESN, IMEI, SIM, or MAC, whether the changes occur consecutively or simultaneously, listed to the same subscriber and wireless telephone account number as the Subject Telephone(s) within the thirty (30) day period authorized by the Warrant/Order; and/or to any new MSID, MEID, MIN, IMSI, ESN, IMEI, SIM, or MAC assigned to the **Subject Telephone(s)** or new/changed telephone number(s), whether the changes occur consecutively or simultaneously, listed to the same subscriber and wireless telephone account number as the Subject Telephone(s) within the thirty (30) day period authorized by this Warrant/Order.

7. Applicant further requests that in the event the Subject Telephone's unique telephone number, hardware or network identity number identified in the Warrant/Order as associated with the Subject Telephone(s) was changed by the subscriber or customer during the thirty (30) days prior to the date of the Warrant/Order, the Service Provider be directed to provide the United States Marshals Service with that new unique telephone number, hardware or network identity number. Fugitives and other criminals are known to change telephone numbers or device identifiers, sometimes on a frequent basis, in a deliberate and calculated effort to avoid detection by law enforcement and despite law enforcement's due diligence in attempting to identify the current telephone number or unique device identifier of the target device at the time legal process is sought. Law enforcement's ability to learn the "new" telephone number or unique device identifier is essential to its ability

to locate the fugitive. Law enforcement's knowledge of this "new" telephone number or unique device identifier would allow law enforcement to obtain additional legal processes to investigate the telephone number or unique device identifier further, in an effort to locate the fugitive's whereabouts and to apprehend him/her on the outstanding arrest warrants, further ensuring public safety. Accordingly, Applicant has offered specific and articulable facts showing there are reasonable grounds, and probable cause, to believe that the identification of any telephone number or unique device identifier which, within the thirty (30) day period prior to the Warrant/Order's issuance, replaced the telephone number or unique device identifier associated with the **Subject Telephone(s)** for which probable cause of its association with the fugitive has already been established herein and pursuant to the Affidavit, is also relevant and material to the ongoing criminal investigation.

8. It is further requested, that AT&T Wireless keep the **Subject Telephone Number(s)** active and in service, and that if the cellular telephone has been targeted for deactivation due to non-payment or breach of contract, the Service Provider shall advise the United States Marshals Service and that the United States Marshals Service will incur the future billing costs at the point of deactivation and compensate the wireless carrier for such additional billing costs beginning from the date of deactivation and continuing through the thirty (30) day period from the date of the Warrant/Order.

9. Based on the information provided in this application, Deputy Michael Corral believes that the disclosure of the requested Court Order may result in the flight from potential prosecution or the destruction of or tampering with evidence, or may otherwise seriously jeopardize the investigation. Therefore, pursuant to California Penal Code § 629.66, I further request that the Court seal this record and direct the local, long distance and wireless carriers listed in the proposed Order, filed concurrently herewith, and their representatives, agents and employees, not to disclose in any manner, to the listed subscriber for the **Subject Telephone Number(s)**, or to any other person, the existence of this Order, in full or redacted form, or of this investigation unless otherwise ordered by this Court.

10. Based on my training and experience, Deputy Michael Corral knows that fugitives often move around at all hours of the day and night in order to avoid law enforcement detection; because of this, the location where a fugitives might ultimately be found is often unpredictable. I am requesting that this Court authorize the monitoring of the requested GPS, latitude and longitude / or Precision Location tracking of the **Subject Telephone(s)** 24 hours per day, seven days a week, for a period of thirty (30) days from the date of the Order requested herein.

11. JUSTIFICATION FOR DELAY OF NOTIFICATION COURT ORDER PURSUANT TO A FINDING OF PROBABLE CAUSE UNDER CALIFORNIA PENAL CODE 1546.2;

I, Deputy Michael Corral, hereby applies to this Court, pursuant to § 1546.2(b)(2) of the Penal Code, for an order delaying for ninety (90) days the notification required by § 1546.2(a) of the Penal Code in connection with this Search Warrant requested on May 21, 2018 that was issued to obtain electronic information records pertaining to AT&T Wireless **Subject Telephone Number (s)** [REDACTED] which will help aid in the investigation on [REDACTED] DOB [REDACTED] whereabouts. It is FURTHER REQUESTED pursuant to CA Penal Code § 1546.2 (b)(3) that based on the supporting Affidavit, the Court delay the notification for a period of ninety (90) days justified by the following adverse results because it is believe that the notice will: 1. LEAD TO FURTHER FLIGHT FROM PROSECUTION and 2. OTHERWISE SERIOUSLY JEOPARDIZE AN INVESTIGATION OR UNDULY DELAY A TRIAL.

That is, in the experience and training of Deputy Michael Corral, once a fugitive from justice or user of the **Subject Telephone(s)** is informed that a warrant has been executed to allow for a tracking on the **Subject Telephone(s)**, it would alert the user/subscriber to law enforcement's ongoing investigation causing the fugitive

to undertake additional efforts, to including relating to his communications, to subvert law enforcement's efforts to locate him/her for apprehension purposes.

CONCLUSION

Based upon the above listed facts and circumstances, I believe there is evidence the fugitive is currently in possession of the aforementioned cellular device. I also believe that evidence of the fugitive's whereabouts will be located with the information requested in this affidavit, ultimately leading to an arrest. Therefore, I am respectfully requesting that a Search Warrant/Order be issued in this case.

Sworn to and subscribed before me on this 21st day of May, 2018 at 1548 AM/PM 0

Wherefore, he/she requests that this Search Warrant/Order be issued.

NIGHT SEARCH REQUESTED: YES [] NO [] ;
SEALING REQUESTED: YES [] NO [] ;
90 DAY DELAYED NOTICE: YES [] NO [] ;

[Handwritten signature]

[Signature(s) of Affiant(s)]

[Handwritten signature]

[Signature of Magistrate]

Judge of the Superior Court, San Bernardino County



EXHIBIT 5

Exhibit C



Superior Court of California
County of San Bernardino

John P. Vander Feer
Presiding Judge

247 West Third Street, Eleventh Floor
San Bernardino, CA 92415-0302

(909) 708-8767

June 6, 2019

Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109
Attn: Stephanie Lacambra

Re: Letter dated May 16, 2019 / Received May 24, 2019

Dear Mr. Risher, Ms. Lacambra, and Mr. Greene:

Thank you for your letter and your analysis.

I write today to inform you I do not intend to act on your request. There are two reasons. First, your request and contentions are before our court in a Petition for Writ of Mandate, which proceeding appears to be approaching trial.

Second, my position as Presiding Judge does not provide authority to second guess a trial judge, or to sua sponte investigate our local law enforcement and prosecutorial agencies. [Please see California Rules of Court, rule 10.603.] As the statutory law you discuss makes clear, it is the role of the judge presiding over the proceeding to limit the reach of the warrant.

Thank you for your interest.

Sincerely,

A handwritten signature in black ink that reads "John P. Vander Feer".

John P. Vander Feer
Presiding Judge

JVF:sb

JA 070

EXHIBIT 6

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael T. Risher Law Office of Michael T. Risher 2081 Center St. #154 Berkeley CA 94704 TELEPHONE NO.: 510.689.1657 FAX NO.: 510.225.0941 ATTORNEY FOR (Name): Electronic Frontier Foundation		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT OCT 08 2019 BY: <u>ANGELINE GARCIA</u> ANGELINE GARCIA, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 247 West 3rd St, MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino, CA 92415-0210 BRANCH NAME: Civil Division of the San Bernardino District		
CASE NAME: Electronic Frontier Foundation v. Superior Court		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: CIV DS 1930054 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input checked="" type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses
 b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 12

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: Michael T. Risher

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

MOTR 9/19/19

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other P/PPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PPD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PPD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PPD/WD

Non-PI/PPD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PPD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint


RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

EXHIBIT 7

COPY

Attorney or Party without Attorney: ELECTRONIC FRONTIER FOUNDATION MICHAEL T. RISHER (SBN 191627) 815 EDDY STREET SAN FRANCISCO, CA 94109 Telephone No: (415) 436-9333 Attorney For: Plaintiff				For Court Use Only FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT OCT 21 2019  ANGELENE GARCIA, DEPUTY	
Ref. No. or File No.:					
Insert name of Court, and Judicial District and Branch Court: San Bernardino County Superior Court					
Plaintiff: ELECTRONIC FRONTIER FOUNDATION Defendant: SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO					
PROOF OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: CIV DS 1930054

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of the VERIFIED PETITION TO UNSEAL COURT RECORDS; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; NOTICE OF STATUS HEARING ON PETITION AND NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
- Party served: COUNTY OF SAN BERNARDINO - GARY MCBRIDE, CEO
 - Person served: Jessica Rulz, Relationship: deputy clerk
- Address where the party was served: 385 N. ARROWHEAD AVENUE 4TH FLOOR, SAN BERNARDINO, CA 92415
- I served the party:
 - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue, Oct 15 2019 (2) at: 04:00 PM

Recoverable cost Per CCP 1033.5(a)(4)(B)

- Person Who Served Papers:
 - Edgar Ibarz (1579, San Bernardino)
 - FIRST LEGAL
1202 Howard Street
SAN FRANCISCO, CA 94103
 - (415) 626-3111
 - The Fee for Service was:
 - I am: A Registered California Process Server

7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/17/2019

(Date)



(Signature)



Judicial Council Form
Rule 2.150.(a)&(b) Rev January 1, 2007

PROOF OF
SERVICE


3869342
(7655206)

Attorney or Party without Attorney: ELECTRONIC FRONTIER FOUNDATION MICHAEL T. RISHER (SBN 191627) 815 EDDY STREET SAN FRANCISCO, CA 94109 Telephone No: Attorney For: Plaintiff				For Court Use Only FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT OCT 21 2019 BY <u>ANGELINE GARCIA</u> ANGELINE GARCIA, DEPUTY	
Ref. No. or File No.:					
Insert name of Court, and Judicial District and Branch Court: San Bernardino County Superior Court					
Plaintiff: ELECTRONIC FRONTIER FOUNDATION Defendant: SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO					
PROOF OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: CIV DS 1930054

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of the VERIFIED PETITION TO UNSEAL COURT RECORDS; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; NOTICE OF STATUS HEARING ON PETITION AND NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
- Party served: SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 - Person served: Bonna Sauerbrun, Administrative Assistant I. Authorized to Accept.
- Address where the party was served: 247 W. 3RD STREET 2ND FLOOR, SAN BERNARDINO, CA 92415
- I served the party:
 - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue, Oct 15 2019 (2) at: 12:14 PM
- Person Who Served Papers:
 - John Llamas (PS-001899, Riverside County)
 - FIRST LEGAL
1202 Howard Street
SAN FRANCISCO, CA 94103
 - (415) 626-3111
 - The Fee for Service was:
e. I am: A Registered California Process Server
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/15/2019

(Date)



(Signature)



EXHIBIT 8

1 Michael T. Risher (State Bar No. 191627)
2 Law Office of Michael T. Risher
2081 Center St. #154
3 Berkeley CA 94702
4 Email: michael@risherlaw.com
T: (510) 689-1657
F: (510) 225-0941

5 David Greene (State Bar No. 160107)
6 Mark Rumold (State Bar No. 279060)
7 Lee Tien (State Bar No. 148216)
8 Electronic Frontier Foundation
815 Eddy Street
9 San Francisco, California 94109
T: (415) 436-9333
F: (415) 436-9993
Email: davidg@eff.org

10 *Attorneys for Plaintiff*
11 *Electronic Frontier Foundation*

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN BERNARDINO**

14 In re sealed Warrants and Orders, or
15 ELECTRONIC FRONTIER FOUNDATION,
16
17 Petitioner,
18 v.
19 SUPERIOR COURT FOR THE STATE OF
20 CALIFORNIA, COUNTY OF SAN
BERNARDINO,
21 Respondent,
22 and
23 COUNTY OF SAN BERNARDINO, and
24 OFFICE OF THE SAN BERNARDINO
COUNTY DISTRICT ATTORNEY,
25 Real Parties in Interest.

Case No. CIVDS 1930054

Stipulation and [proposed] order to
partially unseal court records

Special Proceeding

Judge: Hon. Dwight Moore
Department: 19
Hearing Date:
No trial date set
Case filed 10/9/2019

By Fax

1 Petitioner and Real Parties stipulate that the 9 search warrants, sealing orders, and non-
2 disclosure orders at issue in this case, which are listed below, should be unsealed in whole or in part
3 under the procedures set forth below.

4 1. This stipulation applies to the following files:

- 5 a) San Bernardino Superior Court search warrant SBSW 18-0850.
- 6 b) San Bernardino Superior Court search warrant SBSW 17-0615.
- 7 c) San Bernardino Superior Court search warrant SBSW 17-0694.
- 8 d) San Bernardino Superior Court search warrant SBSW 17-0695.
- 9 e) San Bernardino Superior Court search warrant SBSW 17-0834.
- 10 f) San Bernardino Superior Court search warrant SBSW 17-0890.
- 11 g) San Bernardino Superior Court search warrant SBSW 17-0892.
- 12 h) San Bernardino Superior Court search warrant SBSW 18-0259.
- 13 i) San Bernardino Superior Court search warrant SBSW 18-0298.

14 2. These warrants were requested by one or both of the Real Parties. There is no indication that any
15 other person or entity has requested that these materials be sealed.

16 3. Respondent Superior Court has indicated that it takes no position as to whether these materials
17 should be unsealed.

18 4. The warrants and related materials shall be released to Real Parties County of San Bernardino
19 and District Attorney on or about July 28, or as soon thereafter as reasonably possible, for
20 review. See Rule of Court 2.551(h)(5) (court may issue order that specifies "the particular person
21 who may have access" to otherwise sealed records).

22 5. Real Parties will review the materials to determine whether they have any objections to unsealing
23 any of the warrants, sealing orders, and non-disclosure orders. They will inform the Court in
24 writing on or before August 3, 2020, of any objections, specifying which warrants or other
25 materials their objections apply to.

26 6. The Court will then unseal the warrants, sealing orders, and non-disclosure orders that are not
27 identified in Real Parties' objections.

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- 7. For those files identified in Real Parties' objections, the Court will set an in camera hearing to determine whether, and if so to what extent, to unseal the warrants, sealing orders, and non-disclosure orders. Real Parties may participate in this hearing. *See generally People v. Hobbs*, 7 Cal.4th 948 (1994).
- 8. This stipulation is not intended to affect the status of the supporting affidavits or of any other materials in these files aside from the warrants, sealing orders, and non-disclosure orders.
- 9. This stipulation is not intended to suggest whether or how materials outside of its scope may be unsealed, or who may be entitled to request that they be unsealed.

7/27/2020

MOD Resti

Michael Risher
Attorney for Petitioner EFF

7-27-20

Miles Kowalski

Miles Kowalski
Attorney for Real Party County of San Bernardino

7/27/20

Mark Vos

Mark Vos
Attorney for Real Party Office of the San Bernardino District Attorney

So ordered.

Hon. Dwight Moore
Judge of the Superior Court

1 I am employed in the County of Alameda, State of California and a member of the
2 bar of this court. I am over the age of eighteen years, and not a party to this action. My business
3 address is 2081 Center St. #154 Berkeley CA 94702. I caused to be served a copy of the following
4 document(s):

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1. Stipulation and [proposed] order to partially unseal court records
 2. Proof of Service

on each of the following persons

Miles Kowalski
San Bernardino County Sheriff's Department
655 East Third Street
San Bernardino, California 92415-0061
Email: mkowalski@sbcasd.org

Mark Allen Vos
Ofc District Attorney
303 W 3rd St Fl 5
San Bernardino, CA 92415
Email: mvos@sbcda.org

Jay Stephen Pascover #159009
Superior Court,
247 W 3rd St,
San Bernardino, CA 92415
Email: spascover@sb-court.org

by the method(s) marked with an x below:

I enclosed a true and correct copy of these document(s) in an envelope addressed to the persons listed above and deposited the sealed envelope with the United States Postal Service at a post office or mailbox, with the postage fully prepaid, on July 27, 2020.

I enclosed a true and correct copy of these document(s) in an envelope or package designated by the express service carrier for overnight delivery and deposited it in a box or other facility regularly maintained by the express service carrier, with delivery fees paid or provided for, on July 27, 2020, for delivery on _____

I sent a true and correct copy of these document(s) by facsimile transmission to () _____ on July 27, 2020.

- A true and correct copy of the above document(s) was emailed on July 27, 2020 to the persons listed above at the email addresses listed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 27, 2020, at Berkeley, California.



Michael T. Risher

EXHIBIT 9

1 JASON ANDERSON
District Attorney
2 MARK VOS (SBN 190169)
Deputy District Attorney
3 Appellate Services Unit
303 West Third St., Fifth Floor
4 San Bernardino, CA 92415-0511
Telephone: (909) 382-7758
5 Email: mvos@sbcda.org

6 Attorneys for Real Party in Interest,
San Bernardino County District Attorney

7 **SUPERIOR COURT OF CALIFORNIA**

8 **COUNTY OF SAN BERNARDINO**

9 **In re Sealed Warrants and Orders, or**

Case No. CIVDS1930054

10 ELECTRONIC FRONTIER FOUNDATION,

OBJECTION STATEMENT

11 Plaintiff-Petitioner,

(DECLARATION BY MARK VOS, FOR
REAL PARTY IN INTEREST – DISTRICT
ATTORNEY).

12 vs.

13 SUPERIOR COURT OF THE STATE OF
14 CALIFORNIA, COUNTY OF SAN
BERNARDINO,

Date: August 3, 2020

Time: 8:30 a.m.

Dept: S19

15 Respondent, and

16 _____
17 COUNTY OF SAN BERNARDINO, and

18 SAN BERNARDINO COUNTY DISTRICT
19 ATTORNEY,

20 REAL PARTIES IN INTEREST.

21 To the Court and Involved Parties:
22

1 I, Mark Vos, state:

2 1. Pursuant to the stipulation entered into on July 27, 2020, and the related court
3 order, I reviewed and caused to be reviewed by fellow Deputy District Attorneys the
4 following warrant materials to determine whether Real Party District Attorney objects to
5 the proposed unsealing of the specified warrants, sealing orders, and nondisclosure
6 (delayed notification) orders. After this review, the District Attorney takes the following
7 position:

8 2. SBSW 18-0298:¹ The District Attorney DOES NOT OBJECT to the unsealing
9 of:

- 10 a. The warrant portion of the document on pp. 1-4;
- 11 b. The sealing order on page 8;
- 12 c. The delayed notification order on page 13.

13 3. SBSW 18-0850: The District Attorney DOES NOT OBJECT to the unsealing of
14 the warrant materials. There appears never to have been a sealing order for this warrant or
15 its supporting materials. Also, it appears to deal only with a closed criminal case, and
16 disclosure should not imperil the safety of involved persons or imperil the prosecution.

17 4. SBSW 17-0615: The District Attorney DOES NOT OBJECT to the unsealing of:

- 18 a. The warrant portion of the document on pp. 1-3;
- 19 b. The sealing order on page 3;

20
21 ¹ The enumerated pages in this packet do not match their physical sequence in the stapled packet. The
22 page references below refer to the page numbers printed in the respective pages' footers, no matter a
particular page's place in the physical sequence.

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- c. The delayed notification order on page 13.
- 5. SBSW 17-0694: The District Attorney DOES NOT OBJECT to the unsealing of:
 - a. The warrant portion of the document on pp. 1-3;
 - b. The sealing order on page 3;
 - c. The delayed notification order on page 14.
- 6. SBSW 17-0695: The District Attorney DOES NOT OBJECT to the unsealing of:
 - a. The warrant portion of the document on pp. 1-3;
 - b. The sealing order on page 3;
 - c. The delayed notification order on page 14.
- 7. SBSW 17-0834: The District Attorney DOES NOT OBJECT to the unsealing of:
 - a. The warrant portion of the document on pp. 1-4;
 - b. The sealing order on page 4;
 - c. The delayed notification order on page 11.
- 8. SBSW 17-0890: The District Attorney DOES NOT OBJECT to the unsealing of:
 - a. The warrant portion of the document on pp. 1-4;
 - b. The sealing order on page 4;
 - c. The delayed notification order on page 16.
- 9. SBSW 17-0892: The District Attorney DOES NOT OBJECT to the unsealing of:
 - a. The warrant portion of the document on pp. 1-4;
 - b. The sealing order on page 4;
 - c. The delayed notification order on page 16.

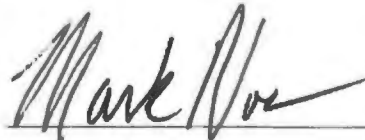
1 10. SBSW 18-0259:² The District Attorney DOES NOT OBJECT to the unsealing
2 of:

- 3 a. The warrant portion of the document on pp. 1-4;
4 b. The sealing order on page 8;
5 c. The delayed notification order on page 13.

6 11. The District Attorney's respectfully reserves to the extent of our real party
7 status the right to object to the release of any other pages, or information derived from any
8 other pages, in the nine sealed warrant packets referred to above.

9 12. The District Attorney's lack of objection to the unsealing of the pages specified
10 above does not concede or imply standing on the part of plaintiff-petitioner EFF to seek
11 unsealing or disclosure of any sealed search warrant materials. The District Attorney at this
12 time simply does not object to the unsealing of the specified page.

13
14 I declare under penalty of perjury the foregoing to be true. Executed this 3rd day
15 of August, 2020, at San Bernardino, California.

16
17 

18 Mark Vos
19 Deputy District Attorney
20 Appellate Services Unit

21 ² The enumerated pages in this packet do not match their physical sequence in the stapled packet. The
22 page references below refer to the page numbers printed in the respective pages' footers, no matter a
particular page's place in the physical sequence.

1 OFFICE OF THE DISTRICT ATTORNEY
2 SAN BERNARDINO COUNTY

3 PROOF OF SERVICE BY EMAIL

4 STATE OF CALIFORNIA

5 COUNTY OF SAN BERNARDINO

IN RE SEALED SEARCH
WARRANTS or EFF v. Superior
Court; Case no. CIVDS1930054

6 Mark Vos says:

7 That I am a citizen of the United States and employed in San Bernardino County,
8 over eighteen years of age and not a party to the within action; that my business address
9 is: 303 W. Third St., Fifth Floor, San Bernardino California 92415-0511.

10 That I am readily familiar with the business practice of sending court briefs over
11 county email; that service and receipt is dependable and takes a matter of seconds, and that
12 it is usually verifiable by means of read-receipt;

13 That on August 3, 2020, I served the within:

14 **Motion to Quash Subpoenas**

15 on interested party by sending an electronic copy in pdf format via San Bernardino County
16 email to:

17 **Michael T. Risher**
2081 Center St. #154
Berkeley, CA 94702

18 Email:
michael@risherlaw.com

Miles Kowalski
San Bernardino Co.
Sheriff's Dept.
655 E. Third St.

San Bernardino, CA
92415-0061

CA 94107
Email:
mkowalski@sbcasd.org

Stephen Pascover
Superior Court
247 West Third St.
San Bernardino, CA

92415
Email: spascover@sb-court.org

19 I certify under penalty of perjury that the foregoing is true, and that this declaration
20 was executed at San Bernardino California, on August 3, 2020.

21 
22 Mark Vos

EXHIBIT 10

1 MILES KOWALSKI (CSBN 257269)
Deputy County Counsel
2 MICHELLE D. BLAKEMORE (CSBN 110474)
County Counsel
3 Office of County Counsel
385 North Arrowhead Avenue, 4th Floor
4 San Bernardino, CA 92415-0140
Telephone: (909) 387-5455
5 FAX: (909) 387-4381

Exempt per Gov. Code, § 6103

6 Attorneys for San Bernardino County Sheriff's Department
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
9 SAN BERNARDINO DISTRICT

10 ELECTRONIC FRONTIER
11 FOUNDATION,

12 Plaintiff/Petitioner,

13 vs.

14 SUPERIOR COURT FOR THE STATE
15 OF CALIFORNIA, COUNTY OF SAN
16 BERNARDINO,

17 Respondents,

18 and

19 COUNTY OF SAN BERNARDINO, and
20 OFFICE OF THE SAN BERNARDINO
COUNTY DISTRICT ATTORNEY,

21 Real Parties in Interest.
22

CASE NO. CIVDS1827591

DECLARATION OF MILES KOWALSKI
REGARDING REVIEW WARRANT
MATERIALS

Special Proceeding

Judge: Hon. Dwight Moore

Department: 19

Hearing Date:

No trial date set

Case filed 10/9/2019

23 I, Miles Kowalski, declare as follows:

24 1. Pursuant to the stipulation between the Petitioner and Real Parties entered into July
25 27, 2020, I reviewed the following warrant materials to determine whether the San Bernardino County
26 Sheriff's Department (Department) has any objections to unsealing any of the warrants, sealing
27 orders, and non-disclosure (delayed notification) orders.

28 2. The Department DOES NOT OBJECT to release of any of the warrant materials

1 covered by the stipulation, as outlined below.

2 3. SBSW 18-0298: I have reviewed the warrant, sealing order, and delayed notification
3 order on the following pages of this document, and the Department does not object to release of the
4 material contained on those pages.

5 a. The warrant portion of the document is on pages 1-4

6 b. The sealing orders is on page 8

7 c. The delayed notification order is on page 13

8 4. SBSW 18-0850; This warrant does not appear to have been sealed by the court and
9 the Department does not object to release of the warrant materials.

10 5. SBSW 17-0615: I have reviewed the warrant, sealing order, and delayed notification
11 order on the following pages of this document, and the Department does not object to release of the
12 material contained on those pages.

13 a. The warrant portion of the document is on pages 1-3

14 b. The sealing orders is on page 3

15 c. The delayed notification order is on page 13

16 6. SBSW 17-0694: I have reviewed the warrant, sealing order, and delayed notification
17 order on the following pages of this document, and the Department does not object to release of the
18 material contained on those pages.

19 a. The warrant portion of the document is on pages 1-3

20 b. The sealing orders is on page 3

21 c. The delayed notification order is on page 14

22 7. SBSW 17-0695: I have reviewed the warrant, sealing order, and delayed notification
23 order on the following pages of this document, and the Department does not object to release of the
24 material contained on those pages.

25 a. The warrant portion of the document is on pages 1-3

26 b. The sealing orders is on page 3

27 c. The delayed notification order is on page 14

28 8. SBSW 17-0834: I have reviewed the warrant, sealing order, and delayed notification

1 order on the following pages of this document, and the Department does not object to release of the
2 material contained on those pages.

- 3 a. The warrant portion of the document is on pages 1-4
- 4 b. The sealing orders is on page 4
- 5 c. The delayed notification order is on page 11

6 9. **SBSW 17-0890:** I have reviewed the warrant, sealing order, and delayed notification
7 order on the following pages of this document, and the Department does not object to release of the
8 material contained on those pages.

- 9 a. The warrant portion of the document is on pages 1-4
- 10 b. The sealing orders is on page 4
- 11 c. The delayed notification order is on page 16

12 10. **SBSW 17-0892:** I have reviewed the warrant, sealing order, and delayed notification
13 order on the following pages of this document, and the Department does not object to release of the
14 material contained on those pages.

- 15 a. The warrant portion of the document is on pages 1-4
- 16 b. The sealing orders is on page 4
- 17 c. The delayed notification order is on page 16

18 11. **SBSW 18-0259:** I have reviewed the warrant, sealing order, and delayed notification
19 order on the following pages of this document, and the Department does not object to release of the
20 material contained on those pages.

- 21 a. The warrant portion of the document is on pages 1-4
- 22 b. The sealing orders is on page 8
- 23 c. The delayed notification order is on page 13

24 12. I declare under penalty of perjury under the laws of the State of California and the
25 United States of America that the foregoing is true and correct to the best of my knowledge.

26 Aug. 3, 2020

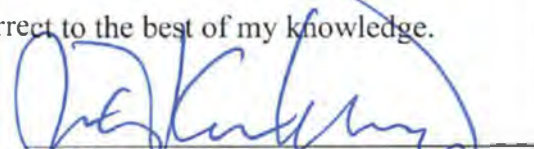
27 
28 Miles Kowalski

EXHIBIT 11

JASON ANDERSON
District Attorney
MARK VOS (SBN 190169)
Deputy District Attorney
Appellate Services Unit
303 West Third St., Fifth Floor
San Bernardino, CA 92415-0511
Telephone: (909) 382-7758
Email: mvos@sbcda.org

Attorneys for Real Party in Interest,
San Bernardino County District Attorney

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

In re Sealed Warrants and Orders, or

ELECTRONIC FRONTIER FOUNDATION,

Plaintiff-Petitioner,

vs.

SUPERIOR COURT OF THE STATE OF
CALIFORNIA, COUNTY OF SAN
BERNARDINO,

Respondent, and

COUNTY OF SAN BERNARDINO, and

SAN BERNARDINO COUNTY DISTRICT
ATTORNEY,

REAL PARTIES IN INTEREST.

Case No. CIVDS1930054

**DISCLOSURE OF UNSEALED PAGES
FROM NINE SEALED SEARCH
WARRANT PACKETS.**

(Pursuant to Court order on August 5,
2020.)

Date: August 6, 2020
Dept: S19

Attached are the documents ordered by the court to be unsealed and disclosed to plaintiff-petitioner, as attested to in the declaration below.

1 I, Mark Vos, state:

2 1. On July 27, 2020, in the courthouse lobby, I picked up a sealed envelope in
3 person from Nicci Martine, Administrative Assistant to Judge Dwight Moore. I
4 immediately returned to my office and found inside nine stapled packets of previously
5 sealed search warrants and supporting documents. I then personally copied these
6 documents by scanning them at 300dpi and saving them as nine separate Adobe pdf files,
7 each named for its respective search warrant number. I am able to produce duplicates of
8 these electronic files. From these files, I am also able to print accurate physical copies of the
9 original documents given me by the Court.

10 2. On August 5, 2020, the Court ordered unsealed certain pages in each of the
11 nine packets, and ordered disclosure of these newly unsealed pages to plaintiff-petitioner
12 EFF. Pursuant to that order, I attached hereto exact copies of the unsealed pages; these
13 copies derive from the scans and files I made. I rearranged a few of the unsealed pages from
14 SBSW 18-0298 and SBSW 18-0259 so that their original printed page numbers are now in
15 ascending order. I made no edits or redactions to any of the attached pages or their contents.
16 A large portion of "Page 3 of 9" from packet number SBSW 18-0850 appears to have been
17 redacted before I received it, and it is replicated here unaltered.

18 I declare under penalty of perjury the foregoing to be true. Executed this 6th day of
19 August, 2020, at San Bernardino, California.

20 
21 _____
22 Mark Vos
Deputy District Attorney
Appellate Services Unit

SBSW 18-0298

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SUPERIOR COURT OF CALIFORNIA

County of San Bernardino

JAN 30 2018

SEARCH WARRANT



BY Heidi Lee Smith
SHERIFF

Deputy Julian Enriquez, swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

J. S. # D6900
(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Deputy Julian Enriquez**, that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by ""(s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: Sprint, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): 760-541-6617, hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **Sprint**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 10/26/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **Sprint** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **Sprint** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **Sprint** shall provide, within 24 hours of request from Law Enforcement, the following information from the Target Telephone Number(s) for the time period beginning 10/26/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.

- **GPS Precision Location Information:** Service Provider shall initiate a signal to determine the location of the Target Telephone Number(s) mobile device on the Service Provider's network or with such other reference points as may be reasonably available at five (5) minute intervals for a thirty (30) day period from the date this Search Warrant was signed by the Court. Service Provider shall provide this information over the telephone upon demand and/or send the information to the e-mail addresses provided by the San Bernardino County Sheriff's Department.
- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of thirty (30) day from the signing date of this search warrant.
- **PEN Register / Trap-and-Trace with Cellular Site Location:** The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a thirty (30) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

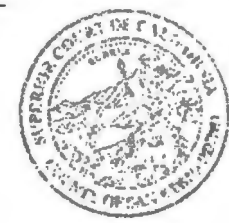
PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 26 day of October, 2017, at 4:20 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signature]
(Signature of Magistrate)

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of San Bernardino, Dept. 11



JAN 30 2018

Order Sealing the Affidavit or a Portion of the Affidavit

BY *[Signature]*
HELEN SMITH, DEPUTY

SBSW 18 - 0298

WHEREAS, the Affiant has requested the probable cause of the search warrant affidavit be ordered sealed by the magistrate in the order to implement the privilege under Evidence Code section 1041 and 1042, and to protect the identity of any citizen/confidential informant(s), pursuant to the Supreme Court decision in PEOPLE V. JANET MARIE HOBBS (1994) 7 Cal. 4th 948. The sealing of the entire Statement of Probable Cause / Affidavit is requested, because disclosure could irremediably harm the ongoing criminal investigation. In accordance with California Rules of Court Rule 243.1(d), this court finds that:

And the Affiant has stated that if any of the information within the requested sealed portion of the affidavit is made public, it will reveal or tend to reveal the identity of any citizen/confidential informant(s), endanger the life of the citizen/confidential informant(s), and impair further related investigations;

IT IS ORDERED THAT a portion of the search warrant affidavit identified as Probable Cause be sealed and kept in the custody of the Clerk of the Court, and not be made a part of the public record until further order of this court or any competent court.

Dated: 10/26/17

[Signature]
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



**ATTACH THIS ORDER TO THE FRONT OF ENVELOPE
CONTAINING SEALED PORTION OF WARRANT (HOBBS)**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

COUNTY OF SAN BERNARDINO

SBSW 18-0298

IN RE SEARCH OF
[760-541-6617]

JAN 30 2018

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

BY Heather Smith
HEATHER SMITH, DEPUTY

ORDER

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which application requests that notification of this warrant be delayed.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Sprint shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: October 26, 2017

TIME: 4:26 PM

[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO



SBSW 18-0850

MAR 09 2018

SBSW 18 - 0850

BY Tessa Minnett
TESSA MINNETT, DEPUTY

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

RETURN TO SEARCH WARRANT

The following property was taken from Metro PCS and seized pursuant to Penal Code Section 1524 by virtue of a Search Warrant dated 01/12/18, and executed by the Honorable Judge Tavil of the Superior/Municipal Court, Central Judicial District, County of San Bernardino, State of California.

ITEMS SEIZED:

Electronic data and GPS Information

I, Deputy Rudy Delgado of the San Bernardino County Sheriff's Department, by whom this Search Warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me under this warrant.

It is further requested that for the purpose of retaining custody of this property and conducting further investigation and/or analysis of the property seized, that the court order the San Bernardino County Sheriff's Department to retain the property until it is brought before the court for hearing or other disposition, and/or that the San Bernardino County Sheriff's Department release the property to appropriate investigators, victims, and/or laboratories for further investigation and analysis without further order of this court.

MM

(Signature of Affiant)

Deputy Sheriff, San Bernardino County Sheriff's Department

David Meud

(Signature of Magistrate)



Judge of the Superior/Municipal Court, Central Judicial District, County of San Bernardino, State of California

Subscribed and sworn to before me this 9 day of March, 2018.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SUPERIOR COURT OF CALIFORNIA

County of San Bernardino

MAR 09 2018

BY *Tessa Minnett*
TESSA MINNETT, DEPUTY

SEARCH WARRANT



Deputy Rudy Delgado, swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

RD

(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Deputy Rudy Delgado**, that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by ""(s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: Metro PCS, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): 909-534-1881, hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **MetroPCS**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 1/12/2018 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **MetroPCS** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **MetroPCS** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **MetroPCS** shall provide, within 24 hours of request from Law Enforcement, the following information from the Target Telephone Number(s) for the time period beginning 1/12/2018 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calera Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.
- **GPS Precision Location Information**: Service Provider shall initiate a signal to determine the location of the Target Telephone Number(s) mobile device on the Service Provider's network or with such other reference points as may be reasonably available at five (5) minute intervals for a thirty (30) day period

from the date this Search Warrant was signed by the Court. Service Provider shall provide this information over the telephone upon demand and/or send the information to the e-mail addresses provided by the San Bernardino County Sheriff's Department.

[REDACTED]

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

- Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this **12Th** day of **January, 2018**, at 3 pm A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Handwritten Signature]



(Signature of Magistrate)

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of San Bernardino, Dept. 20

WAR/FSB 77004190

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 09 2018



STATE of CALIFORNIA, COUNTY of San Bernardino,
ATTACHED and INCORPORATED

BY

STATEMENT OF PROBABLE CAUSE

Affiant declares under penalty of perjury that the following facts are true and that there is probable cause to believe, and Affiant does believe, that the requested information and services for the Target Telephone Number(s) are now in the described locations:

PLACE TO BE SEARCHED: MetroPCS, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): 909-534-1881, hereafter referred to as "Target Telephone Number(s)."

EXPERTISE OF AFFIANT:

Your Affiant, hereinafter referred to in the first person (i.e., me, myself, or I), R. Delgado, has been a Deputy Sheriff with the San Bernardino County Sheriff's Department since January of 2006, and I have been assigned to the Rancho Cucamonga Sheriff's Station since March of 2007. I was assigned to the Multi Enforcement Team, Gang Team, Retail Theft Team and Threat Assessment and Active Shooter Training Team. On May, 2015, I was assigned to the San Bernardino County Force Options Options Training Center and served as the Counties Active Shooter Expert. On October, 2017 I was assigned to the Special Enforcement Division.

Your affiant has attended the San Bernardino County Sheriff's Basic Academy and was given instruction in basic investigations, including crimes against persons, property, and narcotic controlled substance identification, along with advanced training classes in drug labs and hazardous materials, drug use, symptomology and recognition classes.

Your affiant has also attended monthly in-service training programs as well as special investigative classes taught and sponsored by the San Bernardino County Sheriff's Department, as well as several outside agencies. Your affiant has been employed as a law enforcement officer in the State of California by working with the County of San Bernardino County Sheriff's Department and possesses an advanced POST Certificate.

Your affiant has been involved in numerous cases involving stolen property and the recovery of such property as it relates burglary and theft investigations. Your affiant has interviewed subjects arrested for various crimes including property theft and damage, narcotic related, crimes against persons, and a wide number of vehicle related offenses.

SUMMARY OF PROBABLE CAUSE:

Ameno Bun is wanted for an outstanding PC 245 (A)(1) felony warrant in San Bernardino County. On October, 23, 2017, Bun was arrested for stabbing his girlfriend several times in the back.

On Thursday, January 11, 2018, the Specialized Enforcement Division (SED) was notified of the incident and began an investigation as to the whereabouts of Ameno Bun. During investigation, a citizen informant was contacted and provided a phone number belonging to Bun's girlfriend who was the victim. The informant said Bun shares the cell phone with his girlfriend Chang. The phone number provided was 909-534-1881. This number was verified through Sheriff databases and was registered to Chao Chang to Metro PCS cell phone provider.

THE CITIZEN INFORMANT WAS THE ORIGINAL REPORTING PARTY AND WITNESS TO THE PC245 ARREST. INFORMANT WAS ALSO THE LANDLORD OF BOTH THE SUSPECT AND VICTIM.
Based on the aforementioned information, I believe probable cause exists to examine the account associated with the Target Telephone Number(s) for subscriber information, call detail records with cellular site information, GPS location information, pen register/trap-and-trace. Based on my training and experience, I believe utilizing this information, in conjunction with traditional investigative techniques, may greatly assist in this investigation and help law enforcement locate and apprehend the outstanding suspect(s). The following explains how the information and services requested herein will assist in this investigation:

- Subscriber information for the Target Telephone Number(s) and phones contacting or contacted by the Target Telephone Number(s) during the period of time authorized by the Search Warrant will provide me with the cellular device's registered owner's name, address, device serial number, and activation/deactivation date. This basic information will aid in identifying the subscriber of the Target Telephone Number(s) as well as what type of cellular device is associated with the account (i.e. serial number and other network related numbers). The subscriber information of other phones communicating with the Target Telephone Number(s) is vital in the identification of coconspirators and associates of the suspect(s). By identifying the users of the phones contacted by the Target Telephone Number(s), in conjunction with traditional investigative techniques, law enforcement will be able to utilize this information to locate and arrest the suspect(s).
- Call detail records with cellular site information will tend to show telephone numbers that the Target Telephone(s) has communicated with before, during, and after the crime as well as basic cellular tower location information, which can range up to 20 miles depending on the environment. This information will aid with identifying the whereabouts and identity, if unknown, of the suspect(s). Call detail records with cellular tower location information of telephone numbers the Target Telephone Number(s) has contacted will tend to identify other co-conspirators, additional suspects, friends, family, and/or accessories involved in the case. It is important to identify the telephone numbers most commonly contacted by the Target Telephone Number(s) because this information may assist law enforcement locate and apprehend the suspect(s).
- The installation of a pen register/trap and trace device with cellular tower information will provide law enforcement with basic real time information pertaining to the Target Telephone Number(s), such as: date/time of call, duration, outgoing telephone number, incoming telephone number, and cellular

site/sector. This is very basic information that does not provide any call content (law enforcement cannot hear any voice communication or see the content of text messages). Although this is basic information, it may assist law enforcement identify a general location where the suspect may be hiding and/or help identify coconspirators or other persons who may be relevant to this investigation that could be assisting the suspect(s).

- GPS Precision Location Information will enable law enforcement to locate the Target Telephone(s) with a higher degree of certainty than a pen register/trap-and-trace. There are a lot of variables with the accuracy of GPS and some Service Providers do not offer this feature for law enforcement. Therefore, it is imperative to utilize traditional investigative techniques, call detail records, pen register/trap-and-trace data, and GPS in order to locate the suspect(s).
- The use of a cell site simulator pen register/trap and trace device to obtain a detailed GPS location of the Target device. As the technology has grown with the devices used by the Target, the GPS location information provided by the carrier has decreased in reliability, many times giving an area of certainty of several miles. The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target device.

SEALING ORDER / SERVICE OF WARRANT

Good cause appearing herein, I request that the Affidavit in Support of Search Warrant, the attached and incorporated Statement of Probable Cause, Search Warrant, and Return to Search warrant, be sealed. These documents shall be kept in the custody of the Clerk of the Superior Court of San Bernardino County. These documents shall not be made a public record until further order of this Court. This Court finds it is necessary to seal these documents in order to implement the official information privilege pursuant to Evidence Code sections 1040 to 1042 to preserve the confidentiality of official information. This Court further finds that disclosure of the information contained in these documents is against the public interest because there is a necessity for preserving the confidentiality of official information that outweighs the necessity for disclosure. Accordingly, I request this Court grant this Sealing Order to implement the privilege pursuant to California Evidence Code sections 1040 to 1042 to protect official information.

Add addition information to HOBBS the PROBABLE CAUSE.

NIGHT SEARCH REQUEST

I request night service be authorized allowing service of the Search Warrant to Service Provider Subpoena Compliance at any time, day or night, within ten days of issuance. Based on my training and experience, I know that Service Provider has Law Enforcement Compliance Analysts on duty 24 hours a days, 7 days a week to process requests. I also request permission to monitor the pen register/trap-and-trace as well as GPS precision location information at any time, day or night, for the time period covered by this Search Warrant.

CONCLUSION

Based upon the aforementioned facts and circumstances, I have reasonable cause to believe that grounds for the issuance of a Search Warrant exist, as set forth in Section 1524 of the California Penal Code. I ask that a Search Warrant be issued based upon the aforementioned facts, for the seizure of said property, or any part thereof, good cause being shown thereof, and the same be brought before this Magistrate or retained subject to the order of the court, or of any court in which the offense(s) in respect to which the property of things taken, pursuant to Section 1536 of the Penal Code.

Items attached and incorporated by Reference: YES NO

I certify (declare) under penalty of perjury that the foregoing is true and correct.

Executed at San Bernardino, California

M K a

(Signature of Affiant)

, 12 Th day of January, 2018, at 3 A.M. / (P.M.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

IN RE SEARCH OF
Electronic Information

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

ORDER

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which application requests that notification of this warrant be delayed.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Sprint shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: January 12, 2018

TIME: 3 PM AM

[Handwritten Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR
COUNTY OF SAN BERNARDINO



SBSW 17-0615

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 03 2017

SUPERIOR COURT OF CALIFORNIA

County of San Bernardino



BY *Tessa Minnett*
TESSA MINNETT, DEPUTY

SEARCH WARRANT

Detective Josh Guerry swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

Josh Guerry
(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Detective Josh Guerry** that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by ""(s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: AT&T Wireless, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (909) 499-7934, (909) 645-4771, (909) 709-9719 hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **AT&T Wireless** , shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **AT&T Wireless** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **AT&T Wireless** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **AT&T Wireless** shall provide, within 24 hours of request from Law Enforcement, the following information for any incoming/outgoing numbers dialed or captured from the Target Telephone Number(s) and/or any other identifying numbers relevant to this ongoing investigation, including: Telephone numbers, Electronic Serial Numbers (ESN), Mobile Identification Numbers (MIN), Mobile Station Identity (MSID), International Mobile Subscriber Identity (IMSI), and International Equipment Identity (IMEI) numbers, for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **GPS Precision Location Information:** Service Provider shall initiate a signal to determine the location of the Target Telephone Number(s) mobile device on the Service Provider's network or with such other reference points as may be reasonably available at five (5) minute intervals for a thirty (30) day period from the date this Search Warrant was signed by the Court. Service Provider shall provide this information over the telephone upon demand and/or send the information to the e-mail addresses provided by the San Bernardino County Sheriff's Department.
- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of 30 day from the signing date of this search warrant.

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

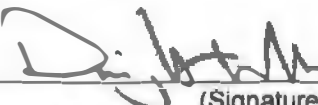
SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant** and **Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 2 day of MAR, 2017, at 0930 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it



(Signature of Magistrate)

Dwight W. Moore

(Printed Name of Magistrate)

Judge of the Superior Court of California, County of San Bernardino, Dept. 3/19

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SBSW 17-0615

IN RE SEARCH OF
AT&T Wireless
(909) 499-7934
(909) 645-4771
(909) 709-9719

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 03 2017

**ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT**

BY *Tessa Minnett* ORDER
TESSA MINNETT, DEPUTY

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, in which your affiant requests that notification of this warrant be delayed pursuant to Penal Code Sections 1546.2. Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that AT&T Wireless shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: 3/2, 2017

TIME: 0930 AM PM



[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO

SBSW 17-0694

SUPERIOR COURT OF CALIFORNIA County of San Bernardino



SEARCH WARRANT

Detective Josh Guerry swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by Detective Josh Guerry that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by "" (s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: MetroPCS, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (909) 787-9285 hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **MetroPCS**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **MetroPCS** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **MetroPCS** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **MetroPCS** shall provide, within 24 hours of request from Law Enforcement, the following information for any incoming/outgoing numbers dialed or captured from the Target Telephone Number(s) and/or any other identifying numbers relevant to this ongoing investigation, including: Telephone numbers, Electronic Serial Numbers (ESN), Mobile Identification Numbers (MIN), Mobile Station Identity (MSID), International Mobile Subscriber Identity (IMSI), and International Equipment Identity (IMEI) numbers, for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- Subscriber/Account Information, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- Call Detail Records with Cellular Site Location, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.

- PEN Register / Trap-and-Trace with Cellular Site Location: The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a ten (10) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. **Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers** shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 2nd day of March, 2017, at 235 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



 (Signature of Magistrate)

Alexander Martinez

 (Printed Name of Magistrate)

Judge of the Superior Court of California, County of San Bernardino, Dept. _____

SEALING ORDER APPROVED: YES NO
 NIGHT SEARCH APPROVED: YES NO



FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 09 2017

COUNTY OF SAN BERNARDINO

SBSW 17-0694

IN RE SEARCH OF
BY Tessa Minnett
Metro PCS TESSA MINNETT, DEPUTY
(909) 787-9285

**ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT**

ORDER

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, in which your affiant requests that notification of this warrant be delayed pursuant to Penal Code Sections 1546.2.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Metro PCS shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: 3/2, 2017

TIME: 235 AM PM



[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO

SBSW 17-0695

FILED
GO # 20090000
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SBSW No. 17-0695

SUPERIOR COURT OF CALIFORNIA
County of San Bernardino

BY Tess Minnett
TESS MINNETT, DEPUTY

SEARCH WARRANT



Detective Josh Guerry swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

Josh Guerry
(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by Detective Josh Guerry that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by "" (s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: MetroPCS, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (909) 787-9285 hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **MetroPCS**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **MetroPCS** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **MetroPCS** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **MetroPCS** shall provide, within 24 hours of request from Law Enforcement, the following information for any incoming/outgoing numbers dialed or captured from the Target Telephone Number(s) and/or any other identifying numbers relevant to this ongoing investigation, including: Telephone numbers, Electronic Serial Numbers (ESN), Mobile Identification Numbers (MIN), Mobile Station Identity (MSID), International Mobile Subscriber Identity (IMSI), and International Equipment Identity (IMEI) numbers, for the time period beginning 3/2/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **GPS Precision Location Information:** Service Provider shall initiate a signal to determine the location of the Target Telephone Number(s) mobile device on the Service Provider's network or with such other reference points as may be reasonably available at five (5) minute intervals for a thirty (30) day period from the date this Search Warrant was signed by the Court. Service Provider shall provide this information over the telephone upon demand and/or send the information to the e-mail addresses provided by the San Bernardino County Sheriff's Department.
- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of 30 day from the signing date of this search warrant.

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 2nd day of March, 2017, at 235

P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO



(Signature of Magistrate)
Alexander Martinez
(Printed Name of Magistrate)



Judge of the Superior Court of California, County of San Bernardino, Dept. 55

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 09 2017

SBSW 17-0695

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

IN RE SEARCH OF
Metro PCS
(909) 787-9285

[Signature]
TERESA MINNETT, DEPUTY

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

ORDER

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, in which your affiant requests that notification of this warrant be delayed pursuant to Penal Code Sections 1546.2. Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Metro PCS shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: 3-2, 2017

TIME: 235 AM/PM



[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO

SBSW 17-0834

GO #: 661700029

SW NO. _____

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SUPERIOR COURT OF CALIFORNIA

County of San Bernardino

SBSW 17-0834

MAR 22 2017

SEARCH WARRANT



BY VERONICA SALAMANCA, DEPUTY

Detective Carlos Godoy, swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

[Signature]
(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Detective Carlos Godoy**, that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by ""(s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: Verizon Wireless, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (626) 755-8234, hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **Verizon Wireless**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/21/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **Verizon Wireless** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **Verizon Wireless** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **Verizon Wireless** shall provide, within 24 hours of request from Law Enforcement, the following information from the Target Telephone Number(s) for the time period beginning 3/21/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.
- **PEN Register / Trap-and-Trace with Cellular Site Location**: The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data

session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a thirty (30) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).

- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of 30 day from the signing date of this search warrant

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 21 day of MAR, 2017, at 10:46

A.M. / ~~P.M.~~ Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Handwritten Signature]

Signature of Magistrate



SEALING ORDER APPROVED:

YES

NO

NIGHT SEARCH APPROVED:

YES

NO

Judge of the Superior Court of California, County of Santa Clara, Dept. S-4

MAR 22 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SBSW 17-0834

BY li A -
VERONICA SALAMANCA, DEPUTY
IN RE SEARCH OF
(626) 755-8234
Verizon Wireless

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

ORDER

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which application requests that notification of this warrant be delayed.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;


IT APPEARS G that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Verizon Wireless shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: March 21 2017

TIME: 10:46 AM


ONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO



SBSW 17-0890

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SUPERIOR COURT OF CALIFORNIA

County of San Bernardino



MAR 29 2017

SEARCH WARRANT

K. Collier
KRISTEN COLLIER, Deputy

Detective **Josh Guerry** swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant issued.

Josh Guerry

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Detective Josh Guerry** that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by "" (s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: Verizon Wireless, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (909) 486-1227 hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **Verizon Wireless**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/14/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **Verizon Wireless** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **Verizon Wireless** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **Verizon Wireless** shall provide, within 24 hours of request from Law Enforcement, the following information for any incoming/outgoing numbers dialed or captured from the Target Telephone Number(s) and/or any other identifying numbers relevant to this ongoing investigation, including: Telephone numbers, Electronic Serial Numbers (ESN), Mobile Identification Numbers (MIN), Mobile Station Identity (MSID), International Mobile Subscriber Identity (IMSI), and International Equipment Identity (IMEI) numbers, for the time period beginning 3/14/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination,

including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.

- **PEN Register / Trap-and-Trace with Cellular Site Location:** The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a ten (10) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).
- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of 30 days from the signing date of this search warrant.

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

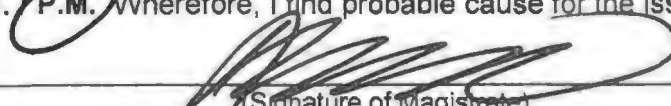
Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 14 day of March, 2017, at 3 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO


(Signature of Magistrate)

Alexander Martinez
(Printed Name of Magistrate)

Judge of the Superior Court of California, County of San Bernardino, Dept. 55



SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

IN RE SEARCH OF
Verizon Wireless
(909) 486-1227

MAR 29 2017

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

By K. Collier ORDER
KRISTEN COLLIER, Deputy

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, in which your affiant requests that notification of this warrant be delayed pursuant to Penal Code Sections 1546.2. Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that Verizon shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: 3/14, 2017

TIME: 3 AM/PM



[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO

SBSW 17-0892

GO #: 661700029

SBSV SW NO. 17-0892

SUPERIOR COURT OF CALIFORNIA

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

County of San Bernardino

MAR 29 017

SEARCH WARRANT



By K. Collier
KRISTEN COLLIER, Deputy

Detective Josh Guerry, swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

[Signature]
(Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by Detective Josh Guerry, that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by ""(s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: AT&T Wireless, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): (657) 227-6016, hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524.

IT IS HEREBY ORDERED that, based upon probable cause, **AT&T Wireless**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 3/14/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **AT&T Wireless** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **AT&T Wireless** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **AT&T Wireless** shall provide, within 24 hours of request from Law Enforcement, the following information from the Target Telephone Number(s) for the time period beginning 3/14/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of 60 days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.
- **GPS Precision Location Information:** Service Provider shall initiate a signal to determine the location of the Target Telephone Number(s) mobile device on the Service Provider's network or with such other

reference points as may be reasonably available at five (5) minute intervals for a thirty (30) day period from the date this Search Warrant was signed by the Court. Service Provider shall provide this information over the telephone upon demand and/or send the information to the e-mail addresses provided by the San Bernardino County Sheriff's Department.

- **PEN Register / Trap-and-Trace with Cellular Site Location:** The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a thirty (30) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).
- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of 30 day from the signing date of this search warrant.

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

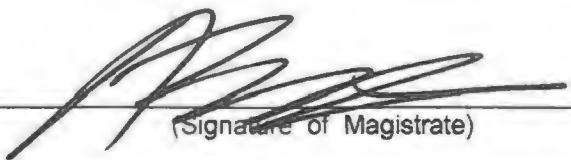
SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 17 day of March, 2017, at 3 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



(Signature of Magistrate)

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of San Bernardino, Dept. 55



SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

IN RE SEARCH OF
AT&T
(657) 227-6016

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 29 2017

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

By K. Collier
KRISTEN COLLIER, Deputy **ORDER**

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which application requests that notification of this warrant be delayed.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

AT&T
IT IS ORDERED that [ISP / COMPANY / ENTITY PRODUCING RECORDS] shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: *March* 14, 2017

TIME: 3 *PM*

[Signature]
HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO



SBSW 18-0259

SUPERIOR COURT OF CALIFORNIA
County of San Bernardino

SEARCH WARRANT



Deputy Julian Enriquez, swears under oath that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524 as indicated below, and are now located at the location(s) set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

J. Enriquez #D6900
 (Signature of Affiant)

SEALING ORDER REQUESTED: YES NO
 NIGHT SEARCH REQUESTED: YES NO

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF San Bernardino: proof by affidavit, having been this day made before me by **Deputy Julian Enriquez**, that there is probable cause to believe the use of a tracking device will provide information that may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to California Penal Code 1524, as indicated below by "" (s), in that:

- Was stolen or embezzled;
- Was used as the means of committing a felony;
- Is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing discovery;
- Tends to show that a felony has been committed or that a particular person has committed a felony;
- Tends to show that a particular person has committed or is committing a felony;
- Will assist in locating an individual who has committed or is committing a felony;

PLACE TO BE SEARCHED: Verizon Wireless, hereafter referred to as "Service Provider." **ATTN: Subpoena Compliance.** I verified that Service Provider is a California corporation or foreign corporation doing business in California at the aforementioned location, and is a provider of electronic communication service as defined in California Penal Code Section 1524. I request night service be authorized so Service Provider may be served after hours via FAX or e-mail and/or to allow law enforcement to monitor the phone data requested herein 24 hours a day for the duration of this Search Warrant.

FOR THE FOLLOWING TARGET TELEPHONE NUMBER(S): 701-260-9947, hereafter referred to as "Target Telephone Number(s)."

The San Bernardino County Sheriff's Department, or authorized civilians of the San Bernardino County Sheriff's Department, the United States Marshall's Service (USMS) and/or any other law enforcement agency, hereby applies for a Search Warrant authorizing the producing of, disclosure of, and use of the following information, services and equipment pursuant to Penal Code Section 1524:

IT IS HEREBY ORDERED that, based upon probable cause, **Verizon Wireless**, shall provide the following information and services for the account associated with the Target Telephone Number(s). The information and services requested within this Search Warrant not only applies to the original Target Telephone Number(s), but also includes any telephone number(s) subsequently assigned to the same handset, SIM card, and/or subscriber. Additionally, the information and services requested in this Search Warrant not only applies to Service Provider, but to any other telecommunications carrier that provides service to the Target Telephone Number(s). The following information and services shall be provided within 24 hours of request for the time period beginning 8/1/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

IT IS ORDERED that **Verizon Wireless** shall notify the San Bernardino County Sheriff's Department of any changes to the Target Telephone Number(s) and/or the account associated with the Target Telephone Number(s) during the time period covered by this Search Warrant.

IT IS ORDERED that the Target Telephone Number(s) account remain active during the time period covered by this Search Warrant even if it has been scheduled for deactivation due to non-payment or breach of contract. The law enforcement agency executing the Search Warrant will incur future billing costs at the point of deactivation and compensate Service Provider for such additional billing costs from the date of deactivation and continuing through the time authorized by this Search Warrant.

IT IS ORDERED that **Verizon Wireless** shall furnish information, facilities, and technical assistance 24 hours a day, 7 days a week, necessary to accomplish the installation and operation of the pen register/trap-and-trace unobtrusively and within minimum disruption of normal telephone service.

IT IS ORDERED that **Verizon Wireless** shall provide, within 24 hours of request from Law Enforcement, the following information from the Target Telephone Number(s) for the time period beginning 8/1/2017 and continuing for a thirty (30) day period from the date this Search Warrant was signed by the Court:

- **Subscriber/Account Information**, to include: Name, address, activation/suspension dates, payment method, account notes, account statements, additional telephone numbers/persons listed on the account, make/model of handset, Electronic Serial Number (ESN), International Mobile Equipment Identifier (IMEI), International Mobile Subscriber Identity (IMSI), Mobile Station Identifier (MSID), Mobile Identification Number (MIN), and Mobile Equipment Identifier (MEID).
- **Call Detail Records with Cellular Site Location**, to include: Incoming and outgoing call records, direction, duration, calls to destination, cell site/sector, beginning and ending location for each call, Location Area Code (LAC), Cellular Identification (CID), Per Call Measurement Data (PCMD), Real Time Tool (RTT), Historical Mobile Locator Tool (HMLT), Calea Event GPS locations, switch information, latitude, longitude, orientation, azimuth, direction and strength of signal from the cellular tower. The service provider shall also provide, toll information, Call Detail Record's (CDR's), calls to destination, including any and all historical data for a period of sixty (60) days prior to the date of this search warrant and/or for the duration of this order, originating and terminating call detail.

- **Cell Site Simulator PEN Register/Trap and Trace Device:** Authorize trained personnel to use the cell site simulator to obtain a detailed GPS location of the Target Telephone(s). The cell site simulator will be used in conjunction with the GPS location given by the carrier to determine a precise location of the Target Telephone(s) and can be used during the period of thirty (30) day from the signing date of this search warrant.
- **PEN Register / Trap-and-Trace with Cellular Site Location:** The installation and use of a pen register/trap-and-trace device with cellular site location information, including text message and data session/activity/transaction information (no content), the "caller identification feature" without geographical limitations, and dialed digits after connection (post-cut-through digits) for a thirty (30) day period from the date this Search Warrant was signed by the Court. The installation and use of a pen register on the Target Telephone Number(s) registers numbers dialed or otherwise transmitted from the Target Telephone Number(s) and records the date and time of such transmission and length of time the call was connected for outgoing calls. The installation and use of a trap-and-trace device on the Target Telephone Number(s), including the "caller identification feature" without geographical limitations, captures the incoming electronic or other impulses which identifies the originating numbers of wire or electronic communications and records the date, time, and duration of calls created by such incoming impulses. Service Provider, Google, Skype Communications SARL, Blackberry (RIM) and any and all telecommunications providers shall provide, on an ongoing and/or real time basis, the location of cell site/sector (physical address) at call origination and termination, direction of signal, strength of signal, Automated Message Accounting (AMA) data, dialed digit extraction, extended digit dialing, and a listing of control channels/PN offsets and their corresponding cell sites for the Target Telephone Number(s).

As required by California Penal Code § 1524.1 (d); any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. If no evidence of criminal activity is discovered relating to the seized property and associated peripherals, the system will be returned promptly.

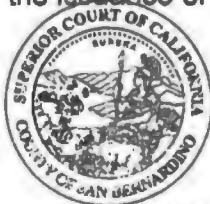
SEALING ORDER: Pending further order of the Court, this Search Warrant and all accompanying documents shall not become a public record and shall be sealed and delivered into the custody of the Clerk of the Superior Court. Grounds for sealing:

Official Information (Ca. Evidence Code § 1040) Informant Protection (Ca. Evidence Code § 1041)

YOU ARE COMMANDED, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed above (See California Pen. Code, § 1524.2)

PROCEDURE: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).)

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 1 day of August 2017, at 03 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



[Handwritten Signature]
(Signature of Magistrate)

SEALING ORDER APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of San Bernardino, Dept. SS

JAN 30 2018

Order Sealing the Affidavit or a Portion of the Affidavit

SBSW 18-0259

By Elizabeth Ramirez
Elizabeth Ramirez, Deputy

WHEREAS, the Affiant has requested the probable cause of the search warrant affidavit be ordered sealed by the magistrate in the order to implement the privilege under Evidence Code section 1041 and 1042, and to protect the identity of any citizen/confidential informant(s), pursuant to the Supreme Court decision in PEOPLE V. JANET MARIE HOBBS (1994) 7 Cal. 4th 948. The sealing of the entire Statement of Probable Cause / Affidavit is requested, because disclosure could irremediably harm the ongoing criminal investigation. In accordance with California Rules of Court Rule 243.1(d), this court finds that:

And the Affiant has stated that if any of the information within the requested sealed portion of the affidavit is made public, it will reveal or tend to reveal the identity of any citizen/confidential informant(s), endanger the life of the citizen/confidential informant(s), and impair further related investigations;

IT IS ORDERED THAT a portion of the search warrant affidavit identified as Probable Cause be sealed and kept in the custody of the Clerk of the Court, and not be made a part of the public record until further order of this court or any competent court.

Dated: 8-1-17



JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



**ATTACH THIS ORDER TO THE FRONT OF ENVELOPE
CONTAINING SEALED PORTION OF WARRANT (HOBBS)**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JAN 30 2018

IN RE SEARCH OF
[701-260-9947]

ORDER TO DELAY NOTIFICATION OF
SEARCH WARRANT

By Elizabeth Ramirez ORDER
Elizabeth Ramirez, Deputy

This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which application requests that notification of this warrant be delayed.

Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that **Verizon Wireless** shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety days.

DATE: August 1, 2017

TIME: 3 pm

HONORABLE JUDGE
JUDGE OF THE SUPERIOR COURT
COUNTY OF SAN BERNARDINO



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**OFFICE OF THE DISTRICT ATTORNEY
SAN BERNARDINO COUNTY**

PROOF OF SERVICE BY EMAIL

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

**IN RE SEALED SEARCH
WARRANTS or EFF v. Superior
Court; Case no. CIVDS1930054**

Mark Vos says:

That I am a citizen of the United States and employed in San Bernardino County, over eighteen years of age and not a party to the within action; that my business address is: 303 W. Third St., Fifth Floor, San Bernardino California 92415-0511.

That I am readily familiar with the business practice of sending court briefs over county email; that service and receipt is dependable and takes a matter of seconds, and that it is usually verifiable by means of read-receipt;

That on August 6, 2020, I served the within:

Disclosure of Unsealed Pages

on interested party by sending an electronic copy in pdf format via San Bernardino County email to:

Michael T. Risher
2081 Center St. #154
Berkeley, CA 94702

Email:
michael@risherlaw.com

Miles Kowalski
San Bernardino Co.
Sheriff's Dept.
655 E. Third St.

San Bernardino, CA
92415-0061
CA 94107

Email:
mkowalski@sbcasd.org

Stephen Pascover
Superior Court
247 West Third St.
San Bernardino, CA
92415

Email: spascover@sb-court.org

I certify under penalty of perjury that the foregoing is true, and that this declaration was executed at San Bernardino California, on August 6, 2020.



Mark Vos