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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 31 2018

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13 IN THE MATTER OF THE APPLICATION
14 OF MICHAEL A. HESTRIN, DISTRICT
ATTORNEY OF THE COUNTY OF
15 RIVERSIDE, STATE OF CALIFORNIA,
FOR AN ORDER AUTHORIZING THE
16 INTERCEPT OF WIRE
COMMUNICATIONS.

Wiretap No. 15-409

M7061

**NOTICE OF MOTION AND
MOTION FOR INSPECTION OF
INTERCEPTED COMMUNICATIONS,
APPLICATIONS, AND ORDERS
PURSUANT TO PENAL CODE SECTION
629.68**

Date: 11/15/18
Dept: 8:30am
Time: 64

[Filed concurrently with Memorandum of
Points and Authorities; Declaration of
Stephanie J. Lacambra; and [Proposed] Order
Granting Motion for Inspection]

22 **TO THE DISTRICT ATTORNEY FOR THE COUNTY OF RIVERSIDE, AND TO THE**
23 **ABOVE ENTITLED COURT:**

24 **PLEASE TAKE NOTICE** that on the above date in the above department of the above-
25 entitled court, the Registered Owner of Target Telephone Number 818-441-3342, by and through
26 his attorneys, Stephanie J. Lacambra of the Electronic Frontier Foundation and Cristina M.
27 Salvato of Sheppard, Mullin, Richter & Hampton LLP, will request this Court to enter an order
28

FAXED

1 unsealing the wiretap application and supporting affidavits in Wiretap No. 15-409 and permitting
2 inspection of the intercepted communications, applications, and orders pertaining to Wiretap No.
3 15-409 in the interest of justice pursuant to the First Amendment to the U.S. Constitution and
4 California Penal Code Section 629.68.

5 This motion is based on this notice, the memorandum of points and authorities, the
6 declaration of Stephanie J. Lacambra, and such other argument and evidence that may be
7 presented at the hearing.

8
9 Dated: October 31, 2018

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12 By

CRISTINA M. SALVATO

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27 *Attorneys for Registered Owner of*
28 *Target Telephone Number 818-441-3342*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Wiretap orders are an exercise of the state’s extraordinary power to intrude upon the
4 private communications of its citizens, and as such are subject to protective measures meant to
5 ensure that this power is not exercised arbitrarily or without just cause.¹

6 This Court should allow inspection here in the interest of justice, where the target was not
7 properly noticed, never charged, and the wiretap was issued in the midst of a highly scrutinized
8 practice of excessive amounts of wiretap authorizations being issued by a single judge in
9 Riverside County.² Additionally, the First Amendment right of access to court records should
10 apply here and the state cannot carry the burden of justifying nondisclosure.

11 **II. STATEMENT OF FACTS**

12 **A. Riverside County’s Excessive Issuance of Wiretap Orders**

13 At the time the wiretap order at issue was authorized, Riverside County courts had been
14 authorizing a record number of wiretap orders and the county came under scrutiny for its
15 practices.³ According to the Attorney General’s 2015 *California Electronic Interceptions Report*
16 (“Report”), Riverside County authorized a record 640 wiretap orders during the 2015 calendar
17 year, far more than any other county in the state⁴ or even nationwide.⁵ The unusually high number

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19 ¹ See *U.S. v. Giordano*, 416 U.S. 505, 527-28 (1974) (“[W]e think Congress intended to require
20 suppression . . . to limit the use of intercept procedures to those situations clearly calling for the
employment of this extraordinary investigative device.”).

21 ² Brad Heath & Brett Kelman, *Justice officials fear nation’s biggest wiretap operation may not be*
22 *legal*, USA TODAY (Nov. 11, 2015), <https://www.usatoday.com/story/news/2015/11/11/dea-wiretap-operation-riverside-california/75484076/>.

23 ³ See Office of the Attorney General, *California Electronic Interceptions Report*, Annual Report to
24 the Legislature 2015 (hereinafter cited as the “Attorney General’s 2015 Report”),
<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/annual-rpt-legislature-2015.pdf>; S.E.
25 Williams, *There Was So Much Wiretapping in Riverside County . . . Even the Bugs Had Bugs*, THE
26 VOICE (Feb. 25, 2016), <http://theivoice.com/there-was-so-much-wiretapping-in-riverside-county-even-the-bugs-had-bugs/>.

27 ⁴ Attorney General’s 2015 Report at 5.

28 ⁵ See Heath & Kelman, *supra* note 2 (stating that Judge Hernandez signed off on almost five times
as many wiretaps as any other judge in the United States).

1 of wiretap orders approved by Riverside County courts—and by the same judge in the instant
2 case, Helios J. Hernandez, in particular—raised questions about the legitimacy of the process, and
3 whether sufficient justification existed for their issuance.⁶

4 **B. The Wiretap of the Petitioner**

5 On June 19, 2015, Riverside County Superior Court Judge Helios J. Hernandez signed
6 Riverside Wiretap Order No. 15-409, authorizing the interception of electronic wire
7 communications of certain individuals to and from target phone number 818-441-3342 (the
8 “Target Phone Number”) for a period of thirty days. [See Declaration of Stephanie J. Lacambra,
9 hereinafter “Lacambra Decl.”, Exhibit A, Inventory pursuant to Penal Code § 629.68 (the
10 “Notice”).] The Court authorized the interception of communications to and from the Target
11 Phone Number from June 19, 2015 to July 19, 2015, and communications were intercepted during
12 this period. [Id.]

13 The registered owner (the “Registered Owner”) of the Target Phone Number never
14 personally received notice of Wiretap No. 15-409, but learned of the wiretap from family and
15 friends who received notice that their communications were intercepted during the existence of the
16 wiretap from the Riverside District Attorney’s Office. [Lacambra Decl. ¶¶ 4, 6, Exhibit A.] The
17 Notice indicated that the Registered Owner’s phone was wiretapped and that communications
18 were intercepted. The Notice was signed by Deputy District Attorney Deena Bennett, but
19 conspicuously not dated. [Lacambra Decl. ¶ 4, Exhibit A.] By law, the DA should have notified
20 the Registered Owner by October 17, 2015, no later than 90 days after July 19, 2015, in the
21 absence of permissible extensions. Pen. Code § 629.68. The Notice that was provided to one of the
22 Registered Owner’s contacts does not mention any extensions. [Lacambra Decl. ¶ 4, Exhibit A.]

23 The Registered Owner has no prior criminal record. [Lacambra Decl. ¶ 3.]

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26 ⁶ Brett Kelman, *Judge: So many Riverside wiretaps, they can’t be legal*, DESERT SUN (July 6,
27 2016), https://www.desertsun.com/story/news/crime_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/; Tim Cushing, *DEA Loses Big Drug Case, Thanks to illegal Wiretap Warrants Prosecutor Calls ‘Procedural Errors’*, TECHDIRT (Dec. 15, 2015),
28 <https://www.techdirt.com/articles/20151214/08492533071/dea-loses-big-drug-case-thanks-to-illegal-wiretap-warrants-prosecutor-calls-procedural-errors.shtml>.

1 The Registered Owner has not been charged with any crime and over three years have
2 passed since the conclusion of the wiretap. [Lacambra Decl. ¶ 8.]

3 **III. THE COURT SHOULD MAKE THE INTERCEPTED COMMUNICATIONS,
4 WIRETAP APPLICATIONS, AND ORDERS AVAILABLE TO THE
5 REGISTERED OWNER FOR INSPECTION**

6 Pursuant to the provisions of California Penal Code Section 629.68 and the First
7 Amendment to the U.S. Constitution, the Registered Owner seeks inspection of the intercepted
8 communications, applications and orders concerning Wiretap Order No. 15-409.

9 **A. The Court Should Grant the Registered Owner Access to the Requested
10 Records Under Penal Code Section 629.68**

11 This Court should grant access to the requested records to the Registered Owner because it
12 is clearly in the interest of justice. Indeed, this particular wiretap presents an especially compelling
13 case for oversight of the government’s powers because of the questionable circumstances
14 surrounding its issuance. Justice demands that the Registered Owner be told the reasons for the
15 wiretap in order to understand whether the targeting of the Registered Owner’s phone was
16 inadvertent or intentional, and whether it resulted in helpful evidence gathering in furtherance of
17 the state’s legitimate crime-fighting efforts.

18 This Court has the power to grant this motion and allow inspection of “the portions of the
19 intercepted communications, applications, and orders that the judge determines to be in the interest
20 of justice.” Cal. Penal Code § 629.68. Access will further the interest of justice because several
21 factors call into question the proper functioning of wiretap procedures in general and the
22 legitimacy of the instant wiretap specifically.

23 First, the interest of justice is furthered by strict enforcement of Section 629.68’s notice
24 requirement,⁷ which works hand-in-hand with the inspection provision as critical checks against
25 the state’s abuse of its spying powers.

26 ⁷ Specifically, Section 629.68 provides:

27 Within a reasonable time, but no later than 90 days, after the termination of the
28 period of an order or extensions thereof, or after the filing of an application for an
order of approval under Section 629.56 which has been denied, the issuing judge

1 The Riverside County District Attorney's Office (the requesting agency) never provided
2 the requisite notice of the wiretap to the Registered Owner, although it did notify some contacts of
3 the Registered Owner. [*See, e.g.*, Lacambra Decl. ¶¶ 4, 6, Exhibit A].

4 Second, the DA never filed any charges against the Registered Owner.

5 Third, there is an enhanced public interest in transparency about wiretap orders issued at
6 this time, when the Riverside County courts—and this judge in particular—authorized a
7 disproportionately large number of wiretap orders, and was rightly scrutinized and criticized for
8 doing so.⁸

9 Finally, there are no countervailing law enforcement concerns that might weigh against
10 disclosure, given the lack of any charges brought against the Registered Owner in the intervening
11 three years since the wiretap. Because the wiretap occurred so long ago, and there is no indication
12 it was ever extended, it is unlikely that the disclosure of these records would interfere with any
13 ongoing investigations. And even if such a concern were present, the Court can address it by
14 reviewing and redacting, if necessary, any sensitive records pertaining to ongoing investigations.

15 Accordingly, under Section 629.68, the Court should exercise its discretion and provide the
16 Registered Owner with access to the requested records.

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21 shall issue an order that shall require the requesting agency to serve upon persons
22 named in the order or the application, and other known parties to intercepted
communications, an inventory which shall include notice of all of the following:

- 23 (a) The fact of the entry of the order.
24 (b) The date of the entry and the period of authorized interception.
25 (c) The fact that during the period wire or electronic communications were or were
not intercepted.

26 ⁸ Brett Kelman, *Judge: So many Riverside wiretaps, they can't be legal*, DESERT SUN (July 6,
27 2016), https://www.desertsun.com/story/news/crime_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/; Tim Cushing, *DEA Loses Big Drug Case, Thanks to illegal Wiretap Warrants Prosecutor Calls 'Procedural Errors'*, TECHDIRT (Dec. 15, 2015),
28 <https://www.techdirt.com/articles/20151214/08492533071/dea-loses-big-drug-case-thanks-to-illegal-wiretap-warrants-prosecutor-calls-procedural-errors.shtml>.

1 **IV. THE TARGET AND THE PUBLIC HAVE A FIRST AMENDMENT RIGHT TO**
2 **ACCESS THE WIRETAP ORDER, SUPPORTING DOCUMENTS, AND ANY**
3 **OTHER INFORMATION SUBMITTED TO THE COURT**

4 Wiretap orders and the affidavits and applications supporting their issuance are court
5 records; as such, the public, including the Registered Owner, has a qualified First Amendment
6 right of access to them. This Court cannot deny the Registered Owner the requested access unless
7 it finds that the qualified test is met. The test is not met here.

8 **A. There is a Presumptive Right of Access to Court Records Under the First**
9 **Amendment**

10 The California Supreme Court has interpreted the First Amendment right of access
11 expansively, finding that the right applies to both civil and criminal proceedings and to court
12 hearings and the records filed in all court proceedings. *NBC Subsidiary (KNBC-TV), Inc. v.*
13 *Superior Court*, 20 Cal. 4th 1178, 1209 (1999). In so doing, the Court followed an extended line of
14 U.S. Supreme Court cases that emphasized the vital importance of the public’s right of access to
15 court proceedings to our democracy. As the U.S. Supreme Court explained, the First Amendment
16 “has a structural role to play in securing and fostering our republican system of self-government.
17 Implicit in this structural role is not only ‘the principle that debate on public issues should be
18 uninhibited, robust, and wide open,’ but also the antecedent assumption that valuable public
19 debate – as well as other civic behavior – must be informed.” *Richmond Newspapers, Inc. v.*
20 *Virginia*, 448 U.S. 555, 587 (1980). The public’s access to trials are meant to “enhance the
21 performance and accuracy of trial proceedings, educate the public, and serve a ‘therapeutic’ value
22 to the community.” *Id.* at 569-73. *See also Globe Newspaper Co. v. Superior Court*, 457 U.S. 596,
23 604-05 (1982) (recognizing that “to the extent that the First Amendment embraces a right of
24 access to criminal trials, it is to ensure that [the] constitutionally protected ‘discussion of
25 government affairs’ is an informed one”); *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501
26 (1984) (*Press-Enterprise I*) (recognizing a First Amendment presumption of access applies to voir
27 dire); *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (*Press-Enterprise II*) (recognizing a
28 First Amendment presumption of access applies to preliminary hearings in criminal cases).

1 In recognizing the public’s right of access to civil proceedings, the California Supreme
2 Court extended the reasoning of U.S. Supreme Court precedent in *Richmond Newspapers, Globe,*
3 *Press-Enterprise I,* and *Press-Enterprise II* from the criminal context to encompass civil
4 proceedings as well. *NBC Subsidiary*, 20 Cal. 4th at 1207, 1210 (“We believe that the public has
5 an interest, in all civil cases, in observing and assessing the performance of its public judicial
6 system, and that interest strongly supports a general right of access in ordinary civil cases.”).

7 **1. Wiretap Orders and Their Supporting Documents Are Court Records**

8 As a threshold matter, wiretap orders and their supporting documents fall squarely within
9 the category of court records because they are orders and other papers filed in court. As the Court
10 of Appeal explained in *Copley Press v. Superior Court*, court records include “documentation
11 which accurately and officially reflects the work of the court, such as its orders and judgments, . . .
12 all its written orders and dispositions, the official reports of oral proceedings, . . . the various
13 documents filed in or received by the court . . . and the evidence admitted in court proceedings.” 6
14 Cal. App. 4th 106, 113 (1992).

15 **2. The First Amendment Right of Access Attaches to Wiretap Orders**

16 Although California courts have yet to apply the First Amendment right of access to court
17 records specifically to wiretap orders and supporting documents, the Court of Appeal has applied
18 *NBC Subsidiary* to a search warrant affidavit, a closely analogous court record, based on the
19 “general right to inspect and copy . . . judicial documents and records” under the First
20 Amendment. *See People v. Jackson*, 128 Cal. App. 4th 1009, 1021-22 (2005) (finding the
21 presumption of public access to judicial documents and records applied to a search warrant
22 affidavit, but concluding that the presumption may be overcome by countervailing privacy
23 interests and the defendant’s right to a fair trial).⁹

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27 ⁹ *See Oziel v. Superior Court*, 223 Cal. App. 3d 1284, 1285 (1990) (finding “the right of access to
28 judicial records is not absolute; nondisclosure may be appropriate for compelling countervailing
reasons. Historically, the public had no right of pretrial access to items seized under a search
warrant or other evidence the disclosure of which might violate defendant’s right to a fair trial”).

1 Typically, when there is uncertainty as to whether the First Amendment right of access
2 applies to a particular category of court records, the court must apply the two-factor “experience
3 and logic” test set forth by the U.S. Supreme Court in *Press-Enterprise II*; see also *Richmond*
4 *Newspapers*, 448 U.S. at 589 (Brennan, J., concurring). Under this test, courts consider (1)
5 “whether the place and process have historically been open to the press and general public” and
6 (2) “whether public access plays a significant positive role in the functioning of the particular
7 process in question.” *Press-Enterprise II*, 478 U.S. at 8. Both of these factors weigh in favor of
8 disclosure of the wiretap orders and supporting documents at issue in this case.

9 **a. Experience**

10 Wiretap orders constitute court orders, akin to courtroom proceedings for purposes of First
11 Amendment access rights, and have generally enjoyed a long history of public access. See, e.g., *In*
12 *re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1061 (2006) (“No meaningful distinction may be
13 drawn between the right of access to courtroom proceedings and the right of access to court
14 records.”); *Brown & Williamson*, 710 F.2d at 1177 (opinions and records are presumptively public
15 because “court records often provide important, sometimes the only, bases or explanations for a
16 court’s decision”).

17 Additionally, the experience prong should be informed by statutory authority granting
18 access, as California Penal Code section 629.68 does here. Since the use of wiretaps is relatively
19 recent, there has not been a long tradition of California cases examining the application of the First
20 Amendment right of access to the wiretap materials at issue. However, the California Legislature
21 recognized the need for transparency and disclosure of wiretaps and their supporting materials
22 when it enacted Penal Code Section 629.68, which took effect on January 1, 2011, allowing the
23 court in its discretion to release wiretap materials to persons affected by the wiretap once the
24 wiretap period has ended and regardless of whether there has been any indictment or an end to the
25 investigation.

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b. Logic

Even in the absence of a long history of openness, Courts have found the First Amendment right of access attaches where logic provides a strong justification for access.¹⁰ Here, it is clear that access to wiretap orders and their supporting materials serves a “significant positive role in the functioning of the particular process in question.” *Press-Enterprise II*, 478 U.S. at 8-9. The Supreme Court has explained that the logic test looks to the benefits that public access to the proceeding or materials would confer, such as “enhanc[ing] both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the system.” *Id.* In the criminal context, a public trial can have “therapeutic value,” serving as an outlet for “community concern, hostility, and emotion.” *Richmond Newspapers*, 448 U.S. at 569. Perhaps even more important, public access to judicial proceedings ensures accuracy and fairness in the process. *Id.* at 592 (citing *In re Oliver*, 333 U.S. 257, 270 (1948)).

The experience prong is satisfied here based on the general tradition of openness applied to court opinions and on California’s statutory recognition of the importance of providing access to wiretap materials. The logic prong is likewise satisfied here because disclosure serves the compelling public interest in public oversight of the fair and impartial administration of justice. Thus, both experience and logic dictate that the First Amendment right of access attaches to wiretap orders and their supporting materials.

B. The Presumptive Right of Access is Especially Compelling Here Given the Public’s Interest in Overseeing the Court’s Wiretap Order Practices

Once the First Amendment right of access has been established, the Court must determine whether the presumption of access is overcome with respect to the particular documents requested here.

This case presents an especially compelling case for the disclosure of wiretap orders and their supporting materials because the public has a strong interest in monitoring potential abuses in

¹⁰ See *U.S. v. Index Papers LLC*, 766 F.3d 1072, 1094 (9th Cir. 2014) (citing *Copley*, 518 F.3d at 1026) (“as far as the First Amendment is concerned, ‘logic alone, even without experience, may be enough to establish the right.’”).

1 the application for wiretap orders. As noted in section III, subsection A above, the high number of
2 wiretap orders issued out of Riverside County raises serious questions regarding their legitimacy.
3 The wiretap materials at issue here contain foundational legal analysis, including interpretation of
4 public statutes and the Constitution itself. As public debate over the Riverside wiretaps grows, the
5 release of the court’s opinions and the basis for these opinions become ever more significant in
6 enhancing both the basic fairness of the criminal justice system and the appearance of fairness so
7 essential to public confidence in that system. *See Hicklin Engineering, LC v. Bartell*, 439 F.3d 346
8 (7th Cir. 2006) (“The political branches of government claim legitimacy by election, judges by
9 reason. Any step that withdraws an element of the judicial process from public view makes the
10 ensuing decision look more like fiat and requires rigorous justification.”); *Brown & Williamson*,
11 710 F.2d at 1177 n.6 (“Long ago Locke emphasized the need for ‘promulgated standing laws’ —
12 ‘established, settled, known laws received and allowed by common consent’ . . . They would not
13 ‘put a force into the magistrate’s hands to execute his unlimited will arbitrarily upon them.’”) (quoting Locke, *Treatise of Civil Government* §§ 124, 136-37 (1690)).

14
15 **C. There is No Basis for Denial of Access**

16 Because the First Amendment right of access applies to wiretap orders, access must be
17 granted here unless this Court makes the four findings set forth in *NBC Subsidiary*: “(i) there
18 exists an overriding interest supporting closure and/or sealing; (ii) there is a substantial probability
19 that the interest will be prejudiced absent closure and/or sealing; (iii) the proposed closure and/or
20 sealing is narrowly tailored to serve the overriding interest; and (iv) there is no less restrictive
21 means of achieving the overriding interest.” *NBC Subsidiary*, 20 Cal. 4th at 1217-18; *see also*
22 *Globe*, 457 U.S. at 607 (access restrictions must be “necessitated by a compelling governmental
23 interest, and . . . narrowly tailored to serve that interest”).

24 This is a case-by-case determination; the result may vary depending on the specifics of
25 each wiretap order and the supporting materials. *See Globe*, 457 U.S. at 609 (requiring that once a
26 First Amendment right of access attaches to a particular category of court proceedings, courts
27 determine on a case-by-case basis whether the state’s asserted interest necessitates sealing to
28 protect the state’s overriding interest).

1 There is no evidence that the issuing court ever held a hearing and made the required *NBC*
2 *Subsidiary* findings prior to issuing and sealing the instant wiretap. Applying the test now, access
3 must be granted because the *NBC Subsidiary* findings are absent.

4 First, there is no overriding interest supporting government secrecy in a wiretap order that
5 is over three years old and has not yielded any basis for prosecution. As discussed above, all
6 public interests point in favor of disclosure.

7 Second, there is no substantial probability that any purported interest would be prejudiced
8 absent closure and/or sealing of the instant wiretap. There is no evidence of any ongoing
9 investigation in connection with the instant wiretap and the excessive number of wiretaps issued
10 by Riverside County is already public knowledge.¹¹

11 Third, any proposed closure and sealing must be narrowly tailored to serve a purported
12 overriding interest. But since there is no viable governmental interest proffered here, it would be
13 impossible to do so.

14 Fourth and finally, it is impossible to employ the least restrictive means when the
15 government fails to articulate an overriding interest.

16 Thus, this Court should order the inspection and release of the wiretap order, supporting
17 documents, and any other information submitted to the Court based on the public's First
18 Amendment right of access to public trial proceedings and in the absence of the findings required
19 by *NBC Subsidiary*.

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¹¹ See Heath & Kelman, *supra*.

1 **V. CONCLUSION**

2 For the foregoing reasons, movant respectfully requests that this Court unseal the wiretap
3 application and supporting affidavits in Wiretap No. 15-409 and enter an order for inspection of
4 the intercepted communications, applications, and orders in the interest of justice pursuant to the
5 First Amendment to the U.S. Constitution, California Code of Civil Procedure § 124 and
6 California Penal Code § 629.68.

7
8 Dated: October 31, 2018

9 

10 By

11 CRISTINA M. SALVATO

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26 *Attorneys for Registered Owner of*
27 *Target Telephone Number 818-441-3342*
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DECLARATION OF STEPHANIE J. LACAMBRA

I, **STEPHANIE J. LACAMBRA**, do hereby declare on information and belief that:

- 1. I am an attorney duly licensed to practice before all the Courts of the State of California and am a staff attorney for the Electronic Frontier Foundation (“EFF”).
- 2. I represent the Registered Owner of Target Telephone Number 818-441-3342 in this action and as such am familiar with the evidence necessary for litigation of this matter.
- 3. The Registered Owner has no criminal history.
- 4. The Registered Owner contacted EFF to alert us that their family and friends had been served with notice that on June 19, 2015, Riverside County Superior Court Judge Helios J. Hernandez signed Riverside Wiretap Order No. 15-409, authorizing the interception of electronic wire communications of certain individuals to and from Target Phone Number 818-441-3342 for a period of thirty days. A true and correct copy of the Notice, titled “Inventory pursuant to Penal Code § 629.68”, is attached hereto and incorporated herein as Exhibit A.
- 5. The Notice indicates that the Court authorized the interception of communications to and from the Target Phone Number from June 19, 2015 to July 19, 2015, and communications were intercepted during this period.
- 6. The Registered Owner of Target Phone Number 818-441-3342 has never personally received notice of Wiretap No. 15-409.
- 7. The Notices were signed by Deputy District Attorney Deena Bennett, but conspicuously not dated.
- 8. To date, the Registered Owner has not been notified of any pending investigation or prosecution and has not been charged with any crime.

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9. The Registered Owner seeks inspection of the intercepted communications, wiretap applications, supporting affidavits, and orders concerning Wiretap Order No. 15-409.

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

Executed October 31, 2018, at San Francisco, California.



STEPHANIE J. LACAMBRA
EFF Criminal Defense Staff Attorney
*Attorney for Registered Owner of
Target Telephone Number 818-441-3342*

EXHIBIT A

1 MICHAEL A. HESTRIN
2 District Attorney
3 County of Riverside
4 Deena Bennett
5 Deputy District Attorney
6 3960 Orange Street
7 Riverside, California 92501
8 Telephone: (951) 955-5400
9 Fax: (951) 955-9673

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF RIVERSIDE

12 IN THE MATTER OF THE APPLICATION)
13 OF MICHAEL A. HESTRIN, DISTRICT ATTORNEY)
14 OF THE COUNTY OF RIVERSIDE,)
15 STATE OF CALIFORNIA,)
16 FOR AN ORDER AUTHORIZING THE)
17 INTERCEPTION OF WIRE COMMUNICATIONS)

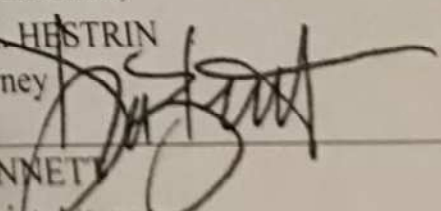
18 **WIRETAP NO: 15-409**
19 INVENTORY PURSUANT
20 TO CALIFORNIA PENAL
21 CODE SECTION 629.68

22 Pursuant to California Penal Code 629.68, you are hereby notified:

23 On June 19, 2015, in compliance with California Penal Code Sections 629.50 et seq., the Honorable Helios J. Hernandez
24 of the Riverside County Superior Court, signed Riverside County Wiretap Order No. 15-409, authorizing the interception
25 of electronic wire communications of certain individuals to and from Target Telephone No. 951-314-0550, 818-441-
26 3342, and 52-8115168317, for a period of thirty (30) days.

27 Interception of Target Telephone No. 951-314-0550 and 818-441-3342 commenced on June 19, 2015 and was
28 terminated on July 19, 2015. During this time, communications were intercepted. Target Telephone 52-8115167318 was not
29 intercepted.

30 This letter is intended only to notify you. You are not required to come to court, provide testimony, or respond to this
31 letter in any way. This notice does not necessarily mean that your telephone was being intercepted; rather, it only indicates
32 that you may have made a call to, or received a call from, an individual who was the subject of the above wiretap. The law
33 requires us to notify each person who was intercepted during the existence of the wiretap. Again, you do not have to take
34 action as a result of this notice.

Respectfully submitted,
MICHAEL A. HESTRIN
District Attorney
By: 
DEENA BENNETT
Deputy District Attorney

1 **PROOF OF SERVICE**

2 *In the Matter of the Application of Michael A. Hestrin, District Attorney of the County*
3 *of Riverside, State of California, for an Order Authorizing the Interception of Wire*
4 *Communications in Wiretap No. 15-409,*

5 I, the undersigned say:

6 I am over eighteen years of age and not a party to the above action. My business address is
7 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, located at 1901 Avenue of the Stars,
8 Suite 1600, Los Angeles, California 90067-6055. I further certify that I caused copies of the
9 following:

10 **NOTICE OF MOTION AND MOTION FOR INSPECTION OF INTERCEPTED**
11 **COMMUNICATIONS, APPLICATIONS, AND ORDERS PURSUANT TO PENAL**
12 **CODE SECTION 629.68**

13 to be served on the date of execution listed below by:

14 **BY MESSENGER SERVICE:** I served the documents by placing them in an envelope or
15 package addressed to the persons at the addresses listed on the Service List and providing them to
16 a professional messenger service for service.

17 upon the following:

18 Office of the District Attorney
19 For the County of Riverside
20 Attn: Deena Bennett
21 3960 Orange Street
22 Riverside, California 92501

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed on October 31, 2018, at San Francisco, California.

25 

26

CRISTINA M. SALVATO

1 ELECTRONIC FRONTIER FOUNDATION
STEPHANIE J. LACAMBRA, Cal. Bar No. 232517
2 815 Eddy Street
San Francisco, California 94109
3 Tel: (415) 436-9333 x130
Fax: (415) 436-9993
4 Email: stephanie@eff.org

5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
CRISTINA M. SALVATO, Cal. Bar No. 295898
6 1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6055
7 Tel: (310) 228-2262
Fax: (310) 228-3701
8 Email: csalvato@sheppardmullin.com

9 *Attorneys for Registered Owner of Target*
10 *Telephone Number 818-441-3342*

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13
14 IN THE MATTER OF THE APPLICATION
15 OF MICHAEL A. HESTRIN, DISTRICT
16 ATTORNEY OF THE COUNTY OF
RIVERSIDE, STATE OF CALIFORNIA,
FOR AN ORDER AUTHORIZING THE
INTERCEPT OF WIRE
COMMUNICATIONS.

Wiretap No. 15-409

**[PROPOSED] ORDER GRANTING
MOTION FOR INSPECTION OF
INTERCEPTED COMMUNICATIONS,
APPLICATIONS, AND ORDERS
PURSUANT TO PENAL CODE SECTION
629.68**

Date:
Dept:
Time:

[Filed concurrently with Notice of Motion;
Memorandum of Points and Authorities; and
Declaration of Stephanie J. Lacambra]

1 PROOF OF SERVICE

2 *In the Matter of the Application of Michael A. Hestrin, District Attorney of the County*
3 *of Riverside, State of California, for an Order Authorizing the Interception of Wire*
4 *Communications in Wiretap No. 15-409,*

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8 Suite 1600, Los Angeles, California 90067-6055. I further certify that I caused copies of the
9 following:

10 **[PROPOSED] ORDER GRANTING MOTION FOR INSPECTION OF**
11 **INTERCEPTED COMMUNICATIONS, APPLICATIONS, AND ORDERS**
12 **PURSUANT TO PENAL CODE SECTION 629.68**

13 to be served on the date of execution listed below by:

14 **BY MESSENGER SERVICE:** I served the documents by placing them in an envelope or
15 package addressed to the persons at the addresses listed on the Service List and providing them to
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20 Attn: Deena Bennett
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22 Riverside, California 92501

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26

CRISTINA M. SALVATO