


**State of California- City of San Francisco**  
**SEARCH WARRANT AND AFFIDAVIT**  
**(AFFIDAVIT)**

Sergeant Joseph Obidi #2328 swears under oath that the facts expressed by her in the attached and incorporated Statement of Probable Cause, are true and that based there on he has probable cause to believe and does believe that the person(s), property, and/or thing(s) described below is/are lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is/are now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

  
\_\_\_\_\_  
(Signature of Affiant)

HOBBS SEALING REQUESTED: YES (XX) NO ( )  
NIGHT SERVICE REQUESTED: YES ( ) NO (XX)

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE CITY AND COUNTY OF SAN FRANCISCO, CA: proof by affidavit having been made before me by Sergeant Joseph Obidi #2328, that there is probable cause to believe that the property, person(s), and/or things described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X" (s) in that it:

XXX tends to show the property was stolen or embezzled.  
XXX tends to show that a felony has been committed or that a particular person committed a felony

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

**Person(s):**

- The person of Bryan Carl Carmody, [REDACTED]  
-further described as a white male, Height: 6'-01", Weight: 240lbs, Hair: Blond, Eyes: Blue

**Place(s):**

- [REDACTED] further described as a two story single family home that is brown in color. The house is located on the Northeast corner of 45<sup>th</sup> Ave and Cabrillo Ave. The roof is brown in color. The numbers [REDACTED] are affixed on the front of the house next to the garage. The garage door is brown in color. There are stairs leading to the front door. The front door is brown in color and is located behind a black gate. See attached photo.
- Any safes, outhouses, storage sheds, containers, storage compartments that are capable of storing the item(s) to be sought, located on the grounds of [REDACTED].
- Bryan Carmody's personal cellphone (handset) using [REDACTED]. From February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.

**Vehicles:**

[REDACTED]

**FOR THE FOLLOWING PROPERTY; PERSON AND THING(S):**

See Exhibit A

**All information obtained through the execution of the warrant that is unrelated to the object of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order.**

**AND IN THE CASE OF PROPERTY, INFORMATION, AND/OR THINGS, TO SEIZE THEM IF FOUND** and bring it/them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated **Statement of Probable Cause** was sworn to as true and subscribed before me this 9<sup>th</sup> day of May, 2019 at 2:21 AM. (PM) Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

HOBBS SEALING AUTHORIZED: YES (  ) NO (  )  
NIGHT SERVICE AUTHORIZED: YES (  ) NO (  )



Honorable Judge Gail Debra  
Judge of the Superior Court # 53 City and County of San Francisco, CA.

**STATE OF CALIFORNIA- CITY AND COUNTY OF SAN FRANCISCO  
RETURN TO SEARCH WARRANT**

**Sgt. Joseph Obidi #2328**, being sworn, says that she conducted a search pursuant to the below described search warrant:

Search Warrant/Case number:

Issuing Magistrate: The Honorable Judge \_\_\_\_\_  
Magistrate's Court: Superior # \_\_\_\_\_, City and County of San Francisco.

Date of Issuance:  
Date of Service:

and searched and seized the following items:

I further swear that this is a true and detailed account of all the property taken by me pursuant to the search warrant and that pursuant to Penal Code Sections 1528 and 1536 this property will be retained in my custody, subject to the order of this court or of any other court in which the offense in respect to which the seized property is triable.

Be advised that pursuant to California Penal Code Sections 1539 and 1540, you may file a written motion in the court of the above-named magistrate who issued the search warrant, seeking the return of the property seized pursuant to this warrant. For further information concerning this search warrant contact Sgt. Obidi #2328 at telephone number 415-882-8431.

\_\_\_\_\_  
(Signature of Affiant)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
(Signature of Magistrate)

**Honorable Judge** \_\_\_\_\_  
**Judge of the Superior Court, Department** \_\_\_\_\_  
**City and County of San Francisco, California**

## Statement Of Probable Cause of Sergeant Joseph Obidi #2328

Your Affiant Joseph Obidi is a Police Officer in and for the City and County of San Francisco, California. Your Affiant has been so employed since 2008 and is currently assigned to the Investigative Services Detail holding the rank of Sergeant.

I was previously assigned to Mission Station Housing Team. During this time, I have investigated crimes related to burglaries and thefts. I have conducted investigations in the field of narcotics, including but not limited to arrests, buy/bust operations, and buy/walk operations. I have also worked directly and indirectly with more experienced officers in the field of narcotics. Additionally, I have successfully completed the following training courses:

- San Francisco Police Academy
- Robert Presley Institute of Criminal Investigation (ICI) Basic Core Course
- Search Warrants 101 (POST)
- Sex Crimes Investigation (SFPD Academy)
- Basic Narcotics Course (SFPD Academy)
- Investigative Services Detail (Formally Internal Affair Criminal Investigations)
- P.O.S.T. Supervisory Course

The facts alleged in this affidavit do not necessarily represent all facts known or gathered to date regarding this investigation, but the affidavit does include all known exculpatory information and has not had any illegal conduct or observations redacted or exercised from it. The facts averred herein I believe are those necessary to establish probable cause necessary to search and seize the things identified in this warrant application.

I am familiar with the facts set forth below from personal observations. The observations and investigations by other law enforcement officers was relayed to me in conversation and through written reports, from records and/or other documents and other evidence obtained as a result of this investigation. The below information is set forth solely for the purpose of establishing probable cause for the search warrant and does not represent the entire universe of information I possess about the facts of this case.

### Crimes being investigated:

- **148 PC Resist, Obstruct, Delay of Peace Officer or EMT**

**(a)(1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.**

- **484 PC Petty Theft**

**(a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted**

to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

- **496 PC Receiving Stolen Property**

(a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170. However, if the value of the property does not exceed nine hundred fifty dollars (\$950), the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year, if such person has no prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

## **Initial Incident:**

On 02/28/2019 I was assigned by Acting Lieutenant Watts #1594 to investigate the theft of a San Francisco incident report #190-134-636 and interference and obstruction of the confidential suspicious death investigation of the high ranking elected public official Jeff Adachi. Jeff Adachi was the elected Public Defender for the City and County of San Francisco. He was pronounced dead on Friday February 22<sup>nd</sup> 2018 at approximately 1854.

Acting Lieutenant Watts provided me with a copy of SFPD Incident Report #190-134-636. I reviewed the SPFD incident report and learned the following:

On 2/22/2019 at approximately 2037 hours Ofc. Stoffel #2739 and Officer Milligan #1254 responded to 46 Telegraph Place to meet with a Medical Examiner regarding the death of the public defender. While enroute, Officers Stoffel and Milligan were notified by dispatch that they were no longer needed and the call was cancelled.

Based on the suspicious nature of the call, Officer Milligan phoned the Medical Examiner to determine if the police were needed to assist. Officer Milligan spoke with Wirowek #101, the Director of Operations for the Medical Examiner Office. Wirowek confirmed the death of the Public Defender, Jeff Adachi, with his death being pronounced at 1854 hours. Wirowek stated he did not have reason to believe 46 Telegraph Place contained a crime scene but the death was still under investigation.

Based on the information provided, Officer Milligan, along with Ofc. Stoffel, Sgt. L. Ng #4290, Sgt. Toomey #1262, Sgt. Chan #1484 and Sgt. O'Mahoney #1928 responded to 46 Telegraph Place in an attempt to locate a possible crime scene. 46 Telegraph Place is a 3 story apartment building with a metal gated entrance. Upon their arrival, the metal gate was open. The Officers' knocks on the door to 46 Telegraph Pl. went unanswered.

Officer Milligan was advised that Night Investigations Unit would be responding to investigate. Ofc. Stoffel and Officer Milligan, along with other officers on scene froze 46 Telegraph Place to maintain the integrity of a possible crime scene and preservation of evidence.

While on scene, Officers were approached by Tho Le who identified herself as a neighbor living at 38 Telegraph Place. Le stated on 02/22/2019 at approximately 1720 hours she was on her way to her apartment to get a handbag. Le stated as she was walking by 46 Telegraph Pl, she observed a female which she did not recognize. Le described the female as either a white or Hispanic female between the age of 38 and 48 years old with dark brown curly hair. Le stated the female on the phone appeared to be "frantic" and asking questions to whomever she was talking to. Le stated she has lived on the street for approximately 1 1/2 years and has never seen anybody at 46 Telegraph Pl. Le came to her own conclusion that 46 Telegraph place was an Air B&B and the female was having a problem with the apartment. Le stated she went into her own apartment, got her handbag and then exited. Le stated she was in her apartment for approximately 10 seconds and when she went back outside, the female she had seen was gone. Le stated she did not think much of the female and her observations lasted probably less than 10 seconds.

When NIU arrived on scene, Sgt. Payne was able to obtain the following time line based on San Francisco Fire Department (SFFD) CAD entries: At 1741 hours a 911 call was placed by a female who identified herself as "Caterina" and told the dispatcher that a male had drank 2 glasses of wine. Had a stomach ache. Took a pill and was now not breathing. At 1751 hours King American 11 medic unit arrived on scene. King American was operated by Joe Ramirez and Anthony Sossa. At 1818 hours CPR was in progress. At 1829 hours King American was enroute with the male subject. At 1839 hours King American arrived at CPMC. It was later discovered that Dr. Chandra determined the time of death to be 1854 hours.

Sgt. Payne spoke with Medical Examiner Investigator Wirowek who was at the hospital. Wirowek told Sgt. Payne that he was speaking with a female who had been on scene. Wirowek advised that he would be responding to 46 Telegraph Pl with the female. Wirowek advised that his office had confirmed the identity of Adachi and taken custody of his body pending further investigation. Wirowek along with medical examiner investigator (1C81) Barbrich #114 arrived on scene with a female, identified as (R3) Susie Kurtz. Kurtz stated at approximately 1743 hours she received a phone call from a female identified as "Caterina" from Adachi's cell phone. Kurtz stated "Caterina" sounded hysterical and told her "something was wrong with Jeff".

Kurtz stated she wasn't too far away and responded to 46 Telegraph PL. Kurtz stated a fire engine and an ambulance was already on scene when she arrived. Kurtz stated she went into the apartment where medic units were working on Adachi in the bedroom. Kurtz stated she observed "Caterina" in the hallway who was crying. Kurtz stated she waited in the living room area for a short time until she saw medics wheel Adachi out on a stretcher and into the ambulance. Kurtz stated "Caterina" told her the two of them had been out to dinner at a nearby unspecified restaurant. "Caterina" told Kurtz that Adachi began to complain of stomach pains at the restaurant so they took an UBER ride back to 46 Telegraph Pl. "Caterina" told Kurtz Adachi told her to go to the store and get him an unspecified

medication. "Caterina" told Kurtz that Adachi then became unresponsive and she called for medics on Adachi's phone.

Kurtz stated she has known Adachi as a friend for approximately 10 years. Kurtz stated Adachi asked to use the apartment on 02/15/2018 and she gave him the keys. Kurtz stated Adachi told her he was going to be staying in the apartment for approximately 2 days and had also mentioned the name "Caterina". Kurtz stated she has heard Adachi mention "Caterina" a "couple of times" in the past but this was her first time meeting her in person. Kurtz stated she gave "Caterina" her cell phone number and told her to call her if she needed anything. Kurtz stated she did not get "Caterina's" phone number. Kurtz stated "Caterina" was left alone in the apartment after she and all other medical personnel had gone.

Kurtz stated the building is owned by Jesse Kaplan who has authorized her to stay in the apartment at her leisure. Kurtz stated she had no objections to a search of the apartment and signed a consent to search form. Kurtz called Jesse Kaplan on the phone who gave a verbal consent to search the apartment on the phone. Kurtz used a house key lock box to obtain the keys to the apartment which she had the code for.

Sgt. Saw, Sgt. Payne, Sgt. Chan, Ofc. Wilson, Ofc. Stoffel and Ofc. Milligan conducted a search of the apartment. The apartment appeared clean and well kept. A search of the apartment did not reveal any obvious signs of foul play.

Medical Examiners Investigator's Wirowek and Barbrich conducted their own investigation inside the apartment. Ofc. Wilson took 22 photos of the apartment. At Central Station Ofc. Stoffel transferred Ofc. Wilson's photo's to a (EVD2) CD photo disk and booked it into evidence along with the consent to search form. A copy of the disk was placed into the Central Station SIT team evidence drop box. The photos and consent to search form were scanned and uploaded to this report.

The SFPD incident report was completed and signed by the reporting Officer Milligan on 02/23/19 at 0515. The Report was signed by the Officer in Charge (OIC) O'Mahony at 0521 hours. At the time of the authoring of this affidavit, the death investigation of Public Defender Jeff Adachi is currently open and under investigation by the San Francisco Police Homicide Detail.

### **Secondary Incident:**

On Saturday February 23<sup>rd</sup> 2019 at 2244 hours, Dan Noyes, a reporter for ABC7 News, posted a picture that was taken by SFPD Officers at the scene of the death investigation on his Twitter social media account (@dannoyes). The picture depicted a living room area with a couch, chair and a table, on his Twitter account stating, "According to police report, a woman said SF Public Defender Jeff Adachi fell ill at dinner yesterday and became unresponsive later at this apartment. More of that witnesses say coming up at 11. #ABC7now"

On Sunday February 24<sup>th</sup> 2019 at 0112, Dan Noyes posted the same picture mentioned above on his Twitter account stating, "Police report sheds light on SF Public Defender Jeff Adachi's last hours. #ABC7now".

Acting Lieutenant Watts informed me that on Saturday February 23<sup>rd</sup> 2019 at 2300 hours, he witnessed the ABC7 News lead story showing Dan Noyes holding a copy of an SFPD incident report with the word "COPY" printed in red at the upper right hand corner.

On Sunday February 24<sup>th</sup> 2019 at approximately 0758 hours, ABC7 news station posted a report titled, "ABC7 obtains San Francisco police report on death of Public Defender Jeff Adachi". During this report, Dan Noyes was seen holding pages of the confidential San Francisco Police Report

related to the death investigation of Adachi,

Noyes states that the incident report was obtained by the ABC7 I Team. Noyes referenced to the police report and then shows the first page of the report which bares the SFPD incident report number and all markings that identifies the report to be the authentic police report. The incident report shown by ABC7 also has a "COPY" stamp on the upper right hand of the page, indicating that the report was copied from a police station. Acting Captain Braconi informed me that he knows that the police report possessed by Dan Noyes is a station copy due to the fact that it had the word "COPY" printed in the upper right hand corner. Lt. Braconi informed me that the red "COPY" stamp in the upper right hand corner indicates that the document was a "station copy".

Noyes also made references to specific details listed in the unpublished confidential police report. Noyes also makes detailed references to a witness and possible person of interest listed in the report as "Catarina". Noyes listed specific times that were listed in the police report. Furthermore, Noyes showed several colored photos of the scene that were taken by the investigating officers. The photos have printer line streaks throughout and distorted coloring as if copies had been made. Noyes also made references to specific statements made by a witness who was on scene.

On Sunday February 24<sup>th</sup> 2019 at 1349 hours, Noyes posted on Twitter again, "Where is Caterina? Witness to last hours of San Francisco Public Defender Jeff Adachi disappears. Adachi sought medical help during last trial he worked. #ABC7now abc7ne.ws/2EuGdUX". Noyes also posted a picture of a white page that contained 2 colored photos that were taken by the reporting officers. The page also has the police report number handwritten in marker ink at the bottom of the page.

On Sunday February 24<sup>th</sup> 2019 at approximately 0903 hours KTVU 2 News posted a news report titled "Police report contains new details into death of San Francisco Public Defender Jeff Adachi" on their website. During the 1min 36 seconds long news report clip, reporter Sara Zendenham referred to a police report which listed details contained in the death investigation police report. At approximately 50 seconds into the report, a grainy video of a subject flipping through the police report is shown.

The clip appeared to have been recorded via cellular phone video. The subject flipped through four pages of the reports quickly. Based on the pages that I observed the subject flipping through, I believed that the report was the same as the SFPD death investigation report that was not authorized for release. The police report was on dark brown desk. The subject flipped through the pages with a left hand. The hand was light in color. I observed the subject to be wearing a two tone gold watch with shinny watch wristband on the subject's left wrist.

Based on the fact that Noyes had obtained the complete death investigation police report prior to it being authorized for release, I believe that Noyes obtained it by illegitimate means. Noyes had gained access of the police report which contained details of a confidential suspicious death investigation of an elected official that was being investigated by the San Francisco Medical Examiner's officer with the assistance of the SFPD Homicide unit. Any information regarding any open deaths and suspicious death investigations shall not be released to the public or the media without prior expressed approval from the Police Chief or designee. Release of the report is prohibited by SFPD policy listed in DB 18-040.

The release of details contained in the stolen SFPD police report have jeopardized and interfered with the investigation by compromising the investigator's ability to identify and locate witnesses and suspects, and jeopardizing the collection of evidence. Due to the details of the death investigation police report being released I believe that the likelihood of evidence collection has been compromised.



I believe that the individual released the police report for financial gain and as a means of defamation of Public Defender Jeff Adachi's image and to interfere with the criminal investigation into his death. I also believe that the individual who released the death investigation report is a San Francisco Police Officer or San Francisco Police Department employee (Suspect).

I believe that the subject (hand) shown in the video clip shown on the KTVU news report is a San Francisco Police Officer, somebody employed by the San Francisco Police Department who had access to the completed police report or somebody that was provided the completed police report by a San Francisco Police Officer or San Francisco Police Department employee. I believe that the San Francisco Police Officer had obtained the report and released it to Noyes without proper approval and authorization, and in violation of penal code **148(a)(1) PC and 484(a)PC.**

By stealing the police report and illegally releasing it, the San Francisco Police Officer compromised the investigation.

### **Follow up Investigations**

On 02/28/19, I was advised by Acting Captain Braconi #2246 that SFPD had not authorized the release of the death investigation report to the public and media outlets. The department had denied the release of the death investigation report because the release of the report may endanger the successful completion of the investigation.

The death investigation report was written by an officer from the Central Police district. I reviewed body worn camera footage from the officers who worked at Central Police station around the time of the death investigation.

**This paragraph redacted by order of Judge Dekreon Aug. 2, 2019**

I conducted an internet search for Bryan Carmody and located a LinkedIn profile associated to Bryan Carmody which listed him as a "Freelance Videographer/ Communications Manager, USO Bay Area". Further internet research revealed that Bryan Carmody is not currently employed by any of the news organizations that obtained the death investigation report. Further internet search showed Bryan Carmody wearing a watch that is very similar to the one shown on the KTVU2 video clip.

Based on the above information regarding Bryan Carmody, I believe that the SFPD death investigation report was stolen by a San Francisco Police Officer. In doing so, the San Francisco Police Officer interfered with the investigation of the death of elected Public Defender Jeff Adachi.

Based on my investigation, I authored a search warrant for Carmody's phone records from 02/22/2019 to 02/23/2019. The warrant was granted by the Honorable Judge East of San Francisco Superior Court Department 406.

**This paragraph redacted by order of Judge Dekreon Aug. 2, 2019**

This page redacted by order of Judge Dekreon Aug. 2, 2019

During the course of my investigation, Acting Captain Braconi provided a copy of a memorandum that was written by Jackson Holland (San Francisco Public Defender, Senior Investigator, Investigations Unit) to his managing attorney, Hadi Razzag. In the memorandum, Holland stated that on 02/24/19, he drove to the location which Mr. Adachi's body was recovered. He saw a woman with a large video camera filming in front of 46 Telegraph Place, filming the exterior of the building. Mr. Holland engaged the woman in conversation, but did not identify himself as a public defender. The woman identified herself as a reporter for KRON4 news. The woman informed Holland that the story of what happened was developing because a police report related to Jeff Adachi's death had been offered for sale to news outlets for \$2,500 by a stringer. The woman further stated that because KRON4 is independent, it could not afford to pay the stringer, however, other news outlets had purchased the police report. The woman was very matter of fact that this is how it works and that, yes, a stringer was paid \$2,500 per copy of the police report of Jeff Adachi's death.

These paragraphs redacted by order of Judge Dekreon Aug. 2, 2019

Based on the fact that Mr. Carmody stated that he benefitted financially from the release of the police report, and the fact that a news reporter stated that the report was being offered for sale for the price of \$2,500, I believe that Mr. Carmody made substantial profits from selling the report that he obtained by illegal means. I believe that Mr. Carmody set a price of \$2,500, for a police report that is normally released to a requester free of charge. I believe that a news media outlet that wanted to be the first to report on the death investigation with intimate details would have paid such a price, due to the fact that if the news outlet had obtained the police report by legal means, intimate detailed information and photographs from the report would have been withheld (redacted) in order to avoid releasing information that would jeopardize the investigation.

Based on my investigation, I believe that Mr. Carmody had the only complete copy of the police report, and therefor he set the value of the report to \$2,500. A news media outlet paid \$2,500 for the report, therefor setting the value of the complete report to \$2,500. I believe that Mr. Carmody knew that he received the stolen police report illegally, he offered to sell the report, and he sold copies of the report for the price of \$2,500.

It is my belief that Mr. Carmody still has the original copy of the police report in order to further his financial profits by selling it to other interested parties or news outlets at the time. I also believe that Mr. Carmody kept the original copy the report as part of his portfolio/ records of news stories that he has participated in to keep track of his achievements. I believe that the police report is kept at his address of 794 45<sup>th</sup> Ave, San Francisco CA. I believe it is reasonable that someone who makes a career out of producing/selling hot news stories would keep a copy of that as part of his resume. It is my belief that Mr. Carmody kept a physical and electronic copy of the report.

Based on my training and experience, I know that subjects often communicate using third party or Over the Top (OTT) applications (i.e. iMessage, WhatsApp, Signal, etc.) on their cellphones in order to avoid the message being retrieved by law enforcement during the execution of a records search warrant. In those case, messages are delivered as a data session and show up on records as a data transaction and no other transactional information is stored by the service provider. I also know that these third party applications will often store the messages on the cellphone device(s) (handset). I believe that seizing and searching Mr. Carmody's personal cellphone (handsets) will prove that Mr. Carmody was in contact with a member of the SFPD to illegally obtain the report in this case.

Based on my training and experience, I believe that obtaining the stored digital data sought after will identify coconspirators involved as well as retaining data associated with evidence stored on an actual device. This data includes SMS (Short Message Service) or "text" messages, emails and mobile instant messaging, contact list or digital phone books, audio and files, photos and videos. This data once forensically extracted by law enforcement investigators or analyzed by a trained forensic technician can be stored on a digital medium such as a disc, flash drive or memory card, can be inspected by law enforcement investigators or analyzed by a trained forensic technician.

All information obtained through the execution of the warrant that is unrelated to the object of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order.

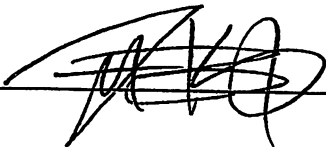
AFFIANT swears the information in this document to be true to the best of his knowledge.

Your Affiant requests this Search Warrant sought pursuant to the Search Warrant Affidavit, Statement of Probable Cause, and Return to Search Warrant and all documents relevant to this Search Warrant be ordered sealed by the Magistrate in order to implement the privilege under Evidence Code 1040 to 1042 and to protect the identity of any confidential informant(s) and/or official information, pursuant to the Supreme Court decision in People v. Hobbs (1994) 7 Cal.4<sup>th</sup> 948, and California Rules of Court 2.550(d).


Due to the ongoing Investigative Services Detail investigation and search for possible co-conspirators, your affiant further states that this search warrant and all documents relevant to this search warrant; relate to an ongoing investigation into an Investigative Services Detail investigation, I am requesting that they be sealed in their entirety including the return. If the information contained in the above listed documents is made public it would compromise the investigation to have a positive outcome in the location of the suspect(s) and/or co-conspirators.

It is expected that additional search warrants will be sought relating to this investigation. I request that this search warrant and all documents related to this search warrant remain sealed in the custody of the clerk of court until order of this court or other competent court having jurisdiction over this matter.

I request that a search warrant be issued based upon the aforementioned facts, commanding the search of the items designated above for the property or things described or any part thereof, and that such items or property be brought before this magistrate or retained subject to the order of the court pursuant to Section 1536 of the Penal Code.

AFFIANT 

Sworn to as true and subscribed before me  
On May 9, 2019

  
\_\_\_\_\_  
Judge of the Superior Court  
In and for the City and County of  
San Francisco, California



## Exhibit A

San Francisco Police Report number 190-134-636, any documents containing San Francisco Police Report number 190-134-636.

Seize, view, and forensically examine Cellphone(s) and tablets corresponding to the numbers #415-699-7381, including the following information contained within the cellphones.

- Any cellular phones, including the stored data within the phones, found in Bryan Carmody's possession (including his and person, or in his and her home or vehicles).
- All Instrument Identification Information, Including Telephone Number, MEID, IMEI, or ESN, as well as brand and model number and telecommunications service provider.
- Any and all stored telephone numbers associated with other callers or persons, commonly designated as a phone book or contact list.
- Any and all logs of telephone calls, including outgoing, incoming and missed calls from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Any and all stored alpha-numeric messages, including SMS or text messages, instant messaging or electronic mail from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Any and all stored voicemail accessed independently on the hand held instrument(s) from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019,
- Any and all stored digital images and sounds, including photographs, videos and movies from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Any stored audio files from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Any stored digital organization files, such as calendars, notations and itineraries from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Indicia: receipts, phone bills, utility bills, letters, mortgage receipts and other correspondence in the name of Bryan Carmody.
- Computer hardware, software, peripherals and data including, but not limited to central processing units (CPUs), tape drives, CD/DVD drives, optical drives, scanners, digital cameras, digital recorders/recording devices, and floppy disks found together or separately from one another that store any records or files, from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019.
- Computers, tablets, hard drives, digital cameras, from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019
- to seize, view, and forensically examine any tools and equipment including computers, printers and cameras; including any computing or data processing devices and associated peripheral equipment such as computer units, keyboards, central processing units, external drives and/or external storage, tape and/or disk, terminals and/or video display units and/or other receiving devices and peripheral equipment such as printers, automatic dialers, modems, acoustic couplers, associated telephone sets, and any other controlling device(s), any computer or data processing software and the device(s) on which such software is stored such as hard disks, floppy disks, JAZ disks, ZIP disks, integral RAM or ROM units, cassette tapes, magnetic tape reels, any other permanent or transient storage devices, any computing or data processing literature, printed or otherwise, and all manuals for the operation of the computer and software, together with all handwritten notes or printed material describing the operation of the computer, and confidential password lists to enter secured files, from February 22<sup>nd</sup> 2019 to May 1<sup>st</sup> 2019

AUG 8 - 2019

CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

Case No. 2516292/SW#43687

• IN RE: SEARCH WARRANT NO. 43687

ORDER PARTIALLY GRANTING  
MOTION TO UNSEAL SEARCH  
WARRANT AFFIDAVIT

On August 2, 2019, this Court heard the Motion of a third party media coalition: *First Amendment Coalition, Reporters Committee for Freedom of the Press and The Northern California Chapter of the Society of Professional Journalists* [hereafter "Coalition"] to unseal the search warrant affidavit.

This single search warrant was issued to search the person of Mr. Carmody, his home, outhouses, storage sheds, storage compartments, containers capable of storing the items to be sought, Mr. Carmody's personal cellphone and eight motor vehicles.

1 The Coalition has standing to bring this motion to unseal the search warrant affidavit to the extent  
2 that any member of the public is permitted access to judicial records under California Rules of Court  
3 2.551(h)(2).

4 Penal Code section 1534(a) provides the records “shall” be open to the public as a judicial record,  
5 however there are codified privileges and decisional rules that comprise exceptions to the statutory  
6 requirements.

7  
8 The San Francisco Police Department [hereafter SFPD] asserted the official information  
9 privilege. The court must make specific factual findings regarding this assertion. On August 2, 2019, after  
10 hearing arguments from the Coalition the court recessed to take evidence *in camera* regarding the SFPD  
11 assertion of privilege pursuant to Evid C 915(b). During the *in camera* hearing the court asked the single  
12 witness, SFPD Officer Ronnie Wagner, thirty-five (35) questions proffered by the attorney for the  
13 Coalition.

14  
15 The justification for this warrant, contained in the Statement of Probable Cause, was based on  
16 information seized from Mr. Carmody’s phone records and from the phone records of his suspected  
17 “sources”. These seizures were authorized by one to three previous search warrants. In addition, this  
18 court’s May 9, 2019 warrant also authorized the seizure and the search of Mr. Carmody’s personal  
19 cellphone.

20  
21 However, the California Shield Law provides immunity for news persons who refuse to disclose  
22 their sources. The court held that Mr. Carmody is a news person with a valid press pass issued by the  
23 SFPD several years ago, a fact that was not disclosed to this court at the time the search warrant was  
24 requested on May 9, 2019..

25  
26 On Aug 2, 2019 this court ruled that search warrant no. 43687 was invalid pursuant to Penal Code  
27 section 1524(g) and because the grounds for issuance were based on information seized pursuant to other  
28 warrants that were issued in violation of the California Constitution’s Shield Law. One or more of the  
previous warrants for search of cell phone records pertaining to Mr. Carmody’s “sources” have been



1 quashed as invalid and all information obtained as a result of searching those cell phone records were  
2 ordered destroyed. (July 18, 2019 order from the bench by Judge East, Case No. 2516763).

3 This court engaged in a balancing test to determine if the SFPD's assertion of privilege  
4 overcomes the Coalition's statutory right to access the judicial records. The Court made factual findings  
5 on the record as follows:

- 6 • There exists an overriding interest to seal portions of search warrant No. 43687:
  - 7 (1) a portion of the sealed information was ordered sealed by Judge
  - 8 East to protect the identity of a confidential informant
  - 9 (2) there is an on-going investigation regarding the alleged theft of the "subject
  - 10 police incident report" that could be compromised by disclosing the sealed
  - 11 information
  - 12 (3) portions of the warrant name suspects in the investigation who have not been
  - 13 confirmed to have committed a crime and may merely be a journalist's source
  - 14 entitled to protection.
- 15 • There is a substantial probability that the interest will be prejudiced absent a partial sealing
- 16 • The proposed sealing is narrowly tailored to serve the overriding interest;
- 17 • (1) The sealing consists of a certain paragraph on page 9 that was ordered sealed
- 18 by Judge East to protect a confidential informant's identity; this court joins in
- 19 that finding.
- 20 • (2) The remaining portions to be sealed contain information that was obtained by
- 21 an invalid warrant that violated the California Constitution and has been quashed
- 22 which means the information will be destroyed and is not to be used for any
- 23 purpose.
- 24 and
- 25 • There is no less restrictive means of achieving the overriding interest
- 26
- 27
- 28

1 ORDER:

2 The Motion to Unseal the Search Warrant Affidavit is granted in part.

3 SFPD's assertion of privilege under Evidence Code section 915(b) is partially sustained.

4 The court orders the following to remain sealed:

- 5 • paragraphs 6 and 10 of Page 9 will remain sealed
- 6 • page 10 in its entirety will remain sealed, and
- 7 • all but the last paragraph of page 11 will remain sealed.

8 August 2, 2019

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12 GAIL DEKREON  
13 JUDGE OF THE SUPERIOR COURT  
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**Superior Court of California  
County of San Francisco**

Case Number: 251692

**CERTIFICATE OF MAILING  
(CCP 1013a (4))**

IN RE: SEARCH WARRANT  
NO. 43687

I, Marsha Smith, a Deputy Clerk of the Superior Court of the City and County of San Francisco, certify that I am not a party to the within action.

On **August 8, 2019** I served the attached **ORDER PARTIALLY GRANTING MOTIN TO UNSEAL SEARCH WARRANT AFFIDAVIT** by placing a copy thereof in a sealed envelope, addressed as follows:

Duffy Carolan, Esq.  
Jassy Vick Carolan LLP  
501 Montgomery Street, Suite 850  
San Francisco, CA 94111

Thomas R. Burke, Esq.  
Davis Wright Tremaine LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111

Ronnie M. Wagner, Esq.  
SFPD Legal Division Attorney  
San Francisco Police Department  
850 Bryant Street, Room 511  
San Francisco, CA 94103

and, I then placed the addressed, postage paid, sealed envelopes in the outgoing mail at 850 Bryant Street, San Francisco, CA 94103 on the date indicated above for collection, and mailing on that date following standard court practices.

Dated: **August 8, 2019**

T. Michael Yuen, Clerk

By: 

Marsha Smith, Deputy Clerk