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14 News 8, FOX5 San Diego and The Associated Press

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF  
CALIFORNIA

v.

JOHN T. EARNEST

Defendant

**Case No. CD281508**

Assigned to Hon. Peter C. Deddeh  
Department SD-P

**NOTICE OF MOTION AND MOTION BY  
NON-PARTY MEDIA ENTITIES TO UNSEAL  
SEARCH WARRANT RECORDS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT;  
DECLARATION OF ELIZBETH  
BALDRIDGE, EXS. A-E**

Date: July 25, 2019  
Time: 9:00 a.m.

**FILED**  
Clerk of the Superior Court

JUN 27 2019

By: T. STEPPAT

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on July 25, 2019, at 9:00 a.m. or as soon thereafter as counsel  
3 may be heard in Department SD-P of the above-entitled Court, located at 1100 Union Street, San  
4 Diego, CA 92101, non-party media entities San Diego Union-Tribune, NBC 7 San Diego, KFMB  
5 News 8, FOX5 San Diego and The Associated Press (collectively, “Media Entities”) will and  
6 hereby do move to intervene and seek a court order unsealing court records pertaining to seventeen  
7 search warrants issued in connection with the arrest of John T. Earnest and/or with the investigation  
8 into the April 27, 2019, Chabad of Poway synagogue shooting (“the Poway Shooting”).<sup>1</sup> Media  
9 Entities also request that the Court unseal all records associated with the search warrants that have  
10 been filed in San Diego County Superior Court, including applications, motions, orders, receipts,  
11 lists of inventory, and any other details attendant to the warrants.

12 Media Entities make this motion on the following independent grounds:

13 First, pursuant to the express provisions of California Penal Code § 1534(a), executed and  
14 returned search warrant materials “shall be open to the public as a judicial record.” Additionally,  
15 pursuant to the United States Constitution, the California Constitution, Article I, § 2(a) and § 2(b),  
16 California Code of Civil Procedure § 1904, California Rule of Court 2.550, *et seq.*, and the common  
17 law, judicial records are presumptively open, and cannot be sealed absent specific, on-the-record  
18 findings that there is an overriding interest that overcomes the right of public access to the records.

19 Media Entities are informed that there have been no judicial findings in support of the  
20 continued sealing of these materials beyond the date that the warrants were executed or 10 days  
21 after their issuance. *See* Cal. Pen. Code § 1534(a). Additionally, Media Entities are informed that  
22 the Court has not made supporting on-the-record findings justifying the continued sealing of the  
23 search warrants and related materials after their execution and return; nor could such a justification  
24 be made for a continuing or perpetual seal over these warrant materials. Tellingly, a federal court  
25 presiding over Mr. Earnest’s charges of violating federal law recently unsealed two search warrants

26 \_\_\_\_\_  
27 <sup>1</sup> Media Entities seek records associated with the following numbered search warrants: E2019-413;  
28 E2019-414; E2019-418; E2019-434; E2019-435; E2019-436; E2019-437; E2019-438; E2019-439;  
E2019-442; 60576; 60577; 60578; 60579; 60580; 60581; and 60742.


1 related to the case once the defendant had been indicted, meaning the Court there determined that  
2 release of the warrants would not impede or undermine any continuing investigation. The same  
3 circumstances exist here, and the warrants and related materials should be unsealed.

4 For these reasons, Media Entities respectfully request that the Court make immediately  
5 available to the public all of the warrant materials related to the search of Mr. Earnest's property, or  
6 other property owned by Mr. Earnest, and related to the arrest of Mr. Earnest and/or the  
7 investigation of the Poway Shooting.

8 This Motion is based upon the attached Memorandum of Points and Authorities, the  
9 Declaration of Elizabeth Baldrige and accompanying Exhibits A-E, on all pleadings, records, and  
10 files in this action, on all matters of which judicial notice may be taken, and on argument and  
11 evidence presented at the hearing on this Motion.

12  
13 DATED: June 27, 2019

JASSY VICK CAROLAN LLP

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15   
16 ELIZABETH BALDRIDGE  
17 Attorneys for Non-Party Media Entities  
18 San Diego Union-Tribune, NBC 7 San Diego,  
19 KFMB News 8, FOX5 San Diego and The  
20 Associated Press  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The Poway Shooting and the resulting criminal investigation and case are matters of  
4 significant public interest. Public access to these materials is exactly what state and federal  
5 constitutional, statutory, and common law intend. The criminal defendant in the Poway Shooting,  
6 John Earnest, has already been charged with crimes and is in custody, making the search warrants at  
7 issue post-indictment court records. Releasing the records would add substantial transparency to  
8 this important public matter.

9 Penal Code Section 1534(a) expressly requires that executed and returned search warrants  
10 “shall be open to the public as a judicial record.” Cal. Pen. Code § 1534(a) (emphasis added).  
11 Courts interpreting Section 1534(a) have recognized only narrow exceptions to this presumption of  
12 openness, and there is no categorical exemption for information relating to an ongoing  
13 investigation. *See PSC Geothermal Svcs. v. Superior Court*, 25 Cal. App. 4th 1697, 1713 (1994)  
14 (recognizing exception solely to protect an ongoing investigation would create an impermissibly  
15 broad exemption to the Legislature’s guarantee that these materials will be available to the public  
16 after a warrant has been executed). Indeed, even in the unusual circumstances where certain  
17 information may legitimately be redacted from the search warrant materials, the California Supreme  
18 Court has made clear that a court should “take whatever further action may be necessary to ensure  
19 full public disclosure of the remainder” of the records. *People v. Hobbs*, 7 Cal. 4th 948, 971 (1994).

20 Based on its presumptive First Amendment right of access to court records, the public is  
21 entitled to greater transparency here. The California Supreme Court has emphasized that such  
22 records may be sealed only “in the rarest of circumstances.” *NBC Subsidiary (KNBC-TV), Inc. v.*  
23 *Superior Court*, 20 Cal. 4th 1178, 1226 (1999). Under the *NBC Subsidiary* standards, subsequently  
24 codified by the Judicial Council in California Rules of Court 2.550(d) and 2.550(e)(1), court records  
25 cannot be maintained under seal unless a court specifically finds: (1) that there is an overriding  
26 interest superseding the public’s right of access; (2) that there is a substantial probability that  
27 sealing will promote that interest; (3) that the sealing order is narrowly tailored to serve the  
28

1 overriding interest; and (4) that there are no less restrictive alternatives to sealing. *See NBC*  
2 *Subsidiary*, 20 Cal. 4th at 1208; Cal. R. Ct. 2.550(d), 2.550(e)(1).

3 Media Entities seek to enforce their statutory and constitutional rights of access to the  
4 warrant materials pertaining to the search and arrest of John T. Earnest and/or the investigation in  
5 the Poway Shooting, and to any supporting affidavits, inventory lists, returns, and records the Court  
6 has relied on in issuing the warrants.<sup>1</sup> The warrants were executed in connection with the Poway  
7 Shooting which took place on April 27, 2019, and for which Mr. Earnest has been arrested. On  
8 May 21, 2019, Mr. Earnest was also indicted in the United States District Court for the Southern  
9 District of California on 113 federal charges relating to the Poway Shooting.<sup>2</sup>

10 A key element of the criminal cases against Mr. Earnest are the allegations that the Poway  
11 Shooting was religiously and/or racially motivated. The Complaint filed in this action charges Mr.  
12 Earnest with murder and alleges that he “intentionally killed [the victim] because of her religion”  
13 and also charges him with attempts to commit hate crimes. Exhibit A to the Declaration of  
14 Elizabeth Baldrige (“Baldrige Decl.”), Superior Court Complaint, at 2, 3, and 4. And the federal  
15 indictment of Mr. Earnest cites, variously, to harm inflicted on “the enjoyment of th[e] victim’s free  
16 exercise and religious beliefs”; “because of the actual and perceived race of any person”; and  
17 “because of the religious character of th[e] property” in 109 of the 113 counts against him. *See*  
18 Baldrige Decl., Ex. B, May 21, 2019, Federal Indictment, at, *e.g.*, 2, 5, and 8. The occurrence of  
19 hate crimes such as those alleged in the Poway Shooting is of significant public interest. The nature  
20 of the crimes at issue here, and their profound and sustained impact on the victims, families, and  
21 loved ones also calls out for a transparent process to ensure confidence in the judicial process and

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24 <sup>1</sup> Media Entities have standing to move to unseal these court records. *See, e.g., Globe Newspaper*  
25 *Co. v. Superior Court*, 457 U.S. 596, 610 n.25 (1982) (recognizing that public and the media “must  
26 be given an opportunity to be heard on the issue of their exclusion” from courtroom proceedings);  
*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1217-1218 (1999)  
(recognizing that the media has standing to challenge orders closing court proceedings and sealing  
court records); *Estate of Hearst*, 67 Cal. App. 3d 777, 782 (1977) (same).

27 <sup>2</sup> The case number in the United States District Court for the Southern District of California is 3:19-  
28 cr-1850.



1 eventual outcome, and to provide a therapeutic value to the community through an open judicial  
2 process that instills confidence that justice is being served.

3 Under either Penal Code Section 1534(a), the First Amendment or the California Rules of  
4 Court, the onerous burden to justify any continued restrictions on public access to these materials  
5 cannot be met in this case. Moreover, while the sealing of the warrants at the time of their issuance  
6 was legitimate, there have not been any on-the-record findings justifying the continued sealing of  
7 these records after the date on which they were statutorily required to be made part of the public  
8 court record. Thus, the continued sealing of these materials is procedurally improper, as well as  
9 constitutionally infirm.

10 For these reasons, Media Entities respectfully request that this Court unseal the arrest and  
11 search warrants and all related materials immediately.

## 12 **II. STATEMENT OF FACTS**

13 On April 27, 2019, a shooter opened fire on the Chabad of Poway Synagogue in Poway,  
14 California, killing one person and injuring three others. Investigators and prosecutors believe the  
15 crimes to be religiously and/or racially motivated. *See generally* Baldridge Decl., Ex. A. Police  
16 apprehended the suspect, Mr. Earnest, the same day. He is being held without bail. These and  
17 various other facts are part of the underlying record of this criminal matter, and as such Media  
18 Entities do not repeat them here.

19 Pertinent to this motion are the seventeen search warrants issued in connection with the  
20 investigation into the Poway Shooting: warrant numbers E2019-413; E2019-414; E2019-418;  
21 E2019-434; E2019-435; E2019-436; E2019-437; E2019-438; E2019-439; E2019-442; 60576;  
22 60577; 60578; 60579; 60580; 60581; and 60742. On May 2, 2019, NBC 7 San Diego news  
23 producer Paul Krueger inquired with San Diego County Superior Court Public Information Officer  
24 Karen Dalton about whether search warrant information pertaining to the Poway Shooting would be  
25 disclosed by the Court. *See* Baldridge Decl., Ex. E. On May 16, 2019, Ms. Dalton informed Mr.  
26 Krueger that the records were sealed, and that a motion to unseal would be necessary to obtain  
27 access to these records. *Id.* There has been no sealing order justifying a continued sealing over  
28 these materials after execution and return of the warrants is part of the public court record. Because

1 the warrants were sealed, presiding Judge Peter C. Deddeh would provide no further information  
2 about the court records. This Motion follows.

### 3 **III. LEGAL ANALYSIS**

#### 4 **A. Penal Code Section 1534(a) Mandates that All Materials Related to a Returned** 5 **Search Warrant be Made Public.**

6 California Penal Code § 1534(a) provides that after a search warrant is executed and  
7 returned to the court, all “documents and records of the court relating to the [search] warrant . . .  
8 *shall be open to the public as a judicial record.*” Cal. Penal Code § 1534(a) (emphasis added).  
9 Importantly, the California Legislature did not impose *any* qualifications or limitations upon this  
10 right of access to search warrant materials other than the passage of time. *See, e.g., PSC*  
11 *Geothermal*, 25 Cal. App. 4th at 1713 (“documents associated with the warrant are public  
12 documents 10 days after its execution”).

13 Although the statutory right of access to search warrant materials is not absolute, California  
14 courts have recognized only limited exceptions to the presumption of openness. The leading  
15 decision is *Hobbs*, where the California Supreme Court considered a criminal defendant’s request to  
16 unseal a search warrant affidavit. 7 Cal. 4th at 954-955. As the Court explained, the case involved  
17 the “the inherent tension between the public need to protect the identities of confidential informants,  
18 and a criminal defendant’s right of reasonable access to information upon which to base a challenge  
19 to the legality of a search warrant.” *Id.* at 957. After carefully analyzing Evidence Code Section  
20 1041, which gives prosecutors a qualified privilege to withhold a confidential informant’s identity,  
21 and Evidence Code Section 1042, which sets forth the consequences of a prosecutor’s successful  
22 invocation of Section 1041, the Court held that these privileges “together compromise an exception  
23 to the statutory requirement that the contents of a search warrant, including any supporting  
24 affidavits . . ., become a public record once the warrant is executed.” *Id.* at 962. Nevertheless, the  
25 Court instructed the trial court to “take whatever further actions may be necessary to ensure *full*  
26 *public disclosure of the remainder of the [search warrant] affidavit.*” *Id.* (emphasis added). In  
27 other words, redaction rather than sealing is the appropriate means of protecting even a confidential  
28

1 informant's identity. *Id.* Media Entities are unaware of any confidential informant issues in this  
2 case.

3       Soon after *Hobbs*, the Court of Appeal in *PSC Geothermal* addressed the issue of whether a  
4 prosecutor's asserted desire to protect an ongoing investigation also would justify an exception to  
5 Section 1534(a)'s statutory right of access to search warrant materials. In *PSC Geothermal*, the  
6 subjects of an investigation moved to unseal search warrant materials in order to challenge the  
7 seizure of items from their environmental consultant's office. 25 Cal. App. 4th at 1700-1702. The  
8 trial court had sealed the affidavits, ruling that before a criminal complaint is filed, affidavits may  
9 be sealed if disclosure would adversely affect a criminal investigation. *Id.* at 1713. On review, the  
10 appellate court rejected that ruling, holding that "[t]here is no exception in [Penal Code § 1534(a)]  
11 for instances ... where the search [warrant] is used to further an ongoing investigation." *Id.* at 1714.  
12 The court observed, however, that a prosecutor need not reveal the "identity of an informant" or  
13 "official information" as defined under Evidence Code Section 1040(a)<sup>3</sup> and 1043(b). *Id.* at 1714.  
14 Even under such circumstances, the privilege applies only if a "court determines, in accordance  
15 with precise statutory standards, that disclosure is *against the public interest*." *Sheppard v.*  
16 *Superior Court*, 17 Cal. 3d 107, 123 (1976) (emphasis added); overruled on other grounds by  
17 *People v. Holloway*, 33 Cal. 4th 96 (2004); *see also PSC Geothermal*, 25 Cal. App. 4th at 1714.  
18 This is an arduous standard. *Sheppard*, 17 Cal. 3d at 123; *Torres v. Superior Court*, 80 Cal. App.  
19 4th 867, 873 (2000) ("[t]he official information privilege, once asserted, shouldn't be sustained  
20 unless the court is presented with a showing that the information sought to be protected is covered  
21 by the privilege").

22       Importantly, the court in *PSC Geothermal*, like the court in *Hobbs*, emphasized the  
23 importance of "redacting the [search warrant] affidavit and sealing only that portion which might be  
24 found ... to be official information." 25 Cal. App. 4th at 1714-1715. Because the trial court failed  
25 to conduct the two-stage analysis of confidentiality and public interest and because sealing in *PSC*

26 \_\_\_\_\_  
27 <sup>3</sup> "Official information" is defined as "information acquired in confidence by a public employee in  
28 the course of his duty and not open, or officially disclosed, to the public prior to the time the claim  
of privilege is made." Cal. Evid. Code § 1040(a).

1 *Geothermal* appeared overbroad, the court issued a writ of mandate directing the trial court to  
2 unseal the affidavit subject to a claim of privilege and further in camera review. *Id.* at 1715.

3 In *People v. Jackson*, 128 Cal. App. 4th 1009, 1023 (2005), a case involving a media request  
4 to unseal a search warrant affidavit, the appellate court unequivocally recognized that the public's  
5 constitutional right of access to court records extends to search warrant materials, and that the order  
6 sealing such materials must comply with the constitutional tests *NBC Subsidiary* affirmed and Rules  
7 of Court 2.550 and 2.551 codified. *Jackson* at 1022. The unique combination in that case of the  
8 celebrity status of the defendant, entertainer Michael Jackson, the crimes alleged, and the ongoing  
9 nature of the criminal investigation lead the court to uphold the trial court's order sealing the search  
10 warrant affidavit "until, at a minimum, the arraignment in the matter." *Id.* at 1023-24, 1015. In  
11 doing so, the court recognized that in appropriate cases courts can remove material from public  
12 scrutiny if it would be so prejudicial as to put the defendant's right to a fair trial in jeopardy. *Id.* at  
13 1021. In particular, the *Jackson* court took account of the intense scrutiny in the world-wide media  
14 the case had already garnered and the risk to the then-ongoing criminal investigation as evidenced  
15 by the government's issuance of 65 additional warrants soon after the indictment. *Id.* at 1205, 1024.  
16 The court also recognized that the graphic and detailed descriptions of the molestation incidents in  
17 the affidavit "would likely be embarrassing, if not devastating, to the minors." *Id.* The unique  
18 confluence of all these factors led the court to uphold the trial court's order temporarily sealing the  
19 affidavit. *Id.* at 1016, 1024 ("Here, it is the combination of celebrity status, the crimes alleged and  
20 the ongoing criminal investigation that justifies sealing.")

21 A proponent of sealing must show that absent the sealing order a "substantial probability"  
22 exists that alleged harms will occur. *NBC Subsidiary*, 20 Cal. 4th at 1208. In the instant case,  
23 redaction of identifying information for minor witnesses, if any, can adequately protect victim  
24 privacy interests not already a matter of public record. And, even if the police are continuing to  
25 investigate the Poway Shooting and/or other possible crimes of Mr. Earnest, disclosure will not  
26 jeopardize the investigation in the classic sense of tipping the government's hand to imminent  
27 action, with its attendant risk of destruction of evidence, since the sole subject of the investigation is  
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1 now under arrest. Simply asserting “ongoing investigation,” therefore, does not justify non-  
2 disclosure.

3 The recently-unsealed federal warrants relating to the Poway Shooting illustrates this  
4 principle in action. *See* Baldrige Decl., Exs. C-D. There, the magistrate judge issued the warrants  
5 in April of 2019, prior to Mr. Earnest’s indictment in federal court. *Id.* But because Mr. Earnest  
6 was indicted in May of 2019, and despite the ongoing nature of the case, the court ordered the  
7 warrants unsealed in June of 2019 in keeping with the public’s right of access to such records. *Id.*

8 The existence of two unsealed federal warrants reflects the fact that there is a substantial  
9 public interest in access to the materials sought here. Mass shootings, religiously and/or racially-  
10 motivated attacks, and violence at places of worship have all become tragically common in the  
11 United States, and the public has a substantial interest in understanding the motivations behind these  
12 crimes and obtaining transparency in the process of bringing alleged perpetrators to justice. Access  
13 to the materials will also serve one of the core functions underlying our open courts jurisprudence:  
14 providing a “therapeutic” value for families and community members. *See NBC Subsidiary*, 20 Cal.  
15 4th at 1200 (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569-573 (1980)).

16 Because the narrow interests identified in *Hobbs*, *PSC Geothermal* and *Jackson* are not at  
17 issue here or can be protected through limited redaction, and because Section 1534(a) otherwise  
18 mandates that the warrant materials shall be made public after the statutory time period has lapsed,  
19 this Court should unseal the warrant materials without further delay.

20 **B. The Strong Presumption Favoring Public Access To Judicial Proceedings and**  
21 **Records Independently Justifies Disclosure of the Search Warrant Materials**

22 The California Supreme Court made clear that the public has a First Amendment right of  
23 access to court documents in *NBC Subsidiary*.<sup>4</sup> Although *NBC Subsidiary* involved access to civil  
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25 <sup>4</sup> Under California law, there is no question that arrest and search warrants and related materials are  
26 court records subject to the public’s and media’s constitutional right of access. In fact, Penal Code  
27 Section 1534(a) expressly defines post-execution search warrant documents as “public ... judicial  
28 record[s].” In addition, both arrest and search warrant materials fall within Rule of Court 2.550(b)’s  
definition of court records, which covers “all or a portion of *any* document, paper, exhibit,  
transcript, or other thing filed or lodged with the court.” (Emphasis added.)

1 court proceedings, the Court’s sweeping, unanimous decision cited with approval numerous  
2 decisions upholding a First Amendment “presumption of access . . . [for any] documents or records  
3 of . . . [judicial] proceedings [that] are filed with the court or are used in a judicial proceeding.” 20  
4 Cal. 4th at 1208 & n.25. Moreover, *NBC Subsidiary* explicitly made clear that “the First  
5 Amendment right of access to trials encompasses civil proceedings *as well as criminal*  
6 proceedings.” *Id.* at 1209 (emphasis added).

7       Following the opinion in *NBC Subsidiary*, the Judicial Council voted to amend then-  
8 California Rules of Court 12.5, 243.1, 243.2, 243.3, and 243.4 to reflect that, “unless confidentiality  
9 is required by law, court records are presumed to be open.” Cal. R. Ct. 2.550. Under *NBC*  
10 *Subsidiary* and California Rule of Court 2.550, a court cannot close a judicial proceeding or seal a  
11 court record without first finding: (1) that an overriding interest supports sealing; (2) that a  
12 substantial probability exists that the interest will be prejudiced absent sealing; (3) that the sealing is  
13 narrowly tailored to serve the overriding interest; and (4) that no less restrictive means exist to  
14 achieve the identified overriding interest. 20 Cal. 4th at 1218-19; Cal. Rule of Ct. 2.550.<sup>5</sup>

15       The strict sealing test enunciated in *NBC Subsidiary* is consistent with previous decisions  
16 from other courts. *See, e.g., Associated Press v. District Court*, 705 F.2d 1143, 1145 (9th Cir. 1983)  
17 (public’s right of access to documents filed in conjunction with criminal proceeding can be  
18 overcome *only* by an affirmative showing that the sealing of documents is “*strictly and inescapably*  
19 *necessary*” to promote competing interest of the highest order) (emphasis added); *Estate of Hearst*,  
20 67 Cal. App. 3d at 785 (sealing orders can be justified only in “exceptional” circumstances where  
21 sealing is necessary to promote a “compelling” interest).

22       Because Penal Code § 1534(a) expressly defines post-execution search warrant documents  
23 as “public . . . judicial record[s]” and because the arrest and search warrants and the materials  
24  
25  
26

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27 <sup>5</sup> California Rule of Court 2.550 outlines a five-part analysis, while *NBC Subsidiary* has a four-part  
28 analysis, but they are essentially the same.

1 related to them here were filed in San Diego County Superior Court, the materials at issue are  
2 subject to the presumptive First Amendment right of access.<sup>6</sup>

3 **i. Any Sealing Request Must Comply with Rules of Court 2.550 and *NBC***  
4 ***Subsidiary*.**

5 Since the adoption of then-California Rule of Court 243.2 (now Rule 2.550), any party  
6 seeking to seal court records must satisfy the strict procedural and substantive requirements the  
7 California Supreme Court endorsed in *NBC Subsidiary*. Any party requesting that a court record be  
8 sealed “*must file a noticed motion* for an order sealing the record.” Cal. Rule of Ct. 2.550  
9 (emphasis added). The motion “must be accompanied by a memorandum of points and authorities  
10 and a declaration containing facts sufficient to justify the sealing.” *Id.* A “court must not permit a  
11 record to be filed under seal based solely upon the agreement or stipulation of the parties.” Cal.  
12 Rule of Ct. 2.550. These rules apply to both criminal and civil cases. *See* Advisory Committee  
13 Comment (2000) to Rule 2.550.

14 The party advocating sealing must provide evidence to support its argument that sealing is  
15 necessary. *Oregonian Publ. Co. v. District Court*, 920 F.2d 1462, 1467 (9th Cir. 1990) (vacating  
16 trial court’s sealing order because the trial court had “no evidentiary support” for its belief that  
17 sealing documents would “serve ‘higher values’”). The court must base its sealing order on  
18 “specific, on-the-record findings” of fact. *Press-Enterprise v. Superior Court*, 478 U.S. 1, 13-14  
19 (1986) (*Press-Enterprise II*) (emphasis added). “[T]he court may not base its decision on  
20 conclusory assertions alone, but must make specific factual findings.” *Washington Post Co. v.*  
21 *Soussoudis*, 807 F.2d 383, 392-93 & n.9 (4th Cir. 1986). *Accord Oregonian*, 920 F.2d at 1467.

22 Here, the procedural requirements for sealing have not been met. While a sealing order  
23 issued at the time of issuance of the warrants is proper, in this case, there have not been on-the-  
24 record findings of fact to support a continued sealing after the time set forth under Penal Code

25 \_\_\_\_\_  
26 <sup>6</sup> With the passage of Proposition 59, effective November 3, 2004, the right of access to public  
27 records and the writings of public officials, including court records, also has been expressly  
28 incorporated into the California Constitution, Article I, Section 3(b). This right of access grounds  
“the presumption of openness in civil court proceedings with state constitutional roots.” *Savaglio v.*  
*Wal-Mart Stores*, 149 Cal. App. 4th 588, 597 (2007).

1 Section 1534(a) in which the materials are to be open to public inspection. Accordingly, the  
2 continued sealing of the arrest and search warrant materials violates California Rule of Court 2.550  
3 and the constitutional requirements embodied in *Press-Enterprise II*.

4 **ii. The Heavy Burden of Showing That a Blanket Sealing is Necessary**  
5 **Cannot Be Made Here.**

6 No showing has been—or could be—made justifying a blanket sealing order over all of the  
7 warrant materials. As explained in *Hobbs* and again in *PSC Geothermal*, any legitimate interests in  
8 confidentiality must be accomplished through redaction, not wholesale sealing of the warrant  
9 materials. The United States Supreme Court, the California Supreme Court, and the Judicial  
10 Council have similarly mandated “narrow[] tailor[ing]” of sealing orders. *Press-Enterprise v.*  
11 *Superior Court*, 464 U.S. 501, 509-510 (1984) (*Press-Enterprise I*); *NBC Subsidiary*, 20 Cal. 4th at  
12 1208; Cal. R. Ct. 2.550(d)(4). To qualify as “narrowly tailored,” a sealing order may shield from  
13 public view only the specific information that, if disclosed, would prejudice the overriding interest  
14 at issue, not the entire document. *See, e.g., In re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1066  
15 (2006) (approving limited redactions, not sealing, of court records).

16 This is particularly appropriate in this case, where any privacy interests of victims  
17 referenced in the affidavits can be adequately protected through redaction of identifying  
18 information. Nor is there any legitimate fear that disclosure will interfere with or jeopardize an  
19 ongoing investigation, given the incarceration of the lone suspect and the willingness of the federal  
20 court overseeing a parallel case to release details post-arrest and indictment. *See* Baldrige Decl.,  
21 Ex. B. The prospect that disclosure would negatively impact anyone’s fair trial rights is also absent  
22 here. Even in the face of a showing that fair trial rights are at issue, generalized fears of negative  
23 publicity are insufficient to overcome the public’s right of access, particularly in San Diego County,  
24 where there is a large jury pool. In *Press-Enterprise II*, the United States Supreme Court made  
25 clear that “[t]he First Amendment right of access cannot be overcome by the conclusory assertion  
26 that publicity might deprive the defendant [of the right to a fair trial].” 478 U.S. at 15. Instead, the  
27 party advocating secrecy must affirmatively show that, absent sealing, there is a substantial  
28 probability that a defendant’s fair-trial interests will be prejudiced. *Id.* at 9. “Substantial



1 probability” is a high hurdle: it is not sufficient to show simply “a reasonable likelihood” of  
2 prejudice. *Id.*

3 Furthermore, the notion that publicity is inherently prejudicial, and thus justifies sealing, is  
4 contrary to well-established precedent. For example, despite widespread publicity surrounding the  
5 criminal cases of John DeLorean, Sirhan Sirhan, Charles Manson, and Watergate, courts have  
6 repeatedly rejected criminal defendants’ allegations that their convictions must be reversed because  
7 juries were tainted by prejudicial publicity.<sup>7</sup> Similarly, the court in *Press-Enterprise v. Superior*  
8 *Court*, 22 Cal. App. 4th 498, 503 (1994) (*Press-Enterprise III*), explained in overturning a sealing  
9 of just 3 percent of a grand jury transcript that “even accepting the trial court’s finding that  
10 prospective jurors reading newspaper accounts of the grand jury transcripts are likely to remember  
11 these reports and may even develop a preconception” concerning the defendant’s “guilt or  
12 innocence,” it could not “conclude that release of this material would make it difficult to find 12  
13 jurors capable of acting impartially.”

14 These cases and statutes demonstrate an overwhelming acceptance of the strong  
15 presumption that the public has a constitutional right of access to criminal judicial proceedings and  
16 related documents, including search warrant information. Because there is no interest here that can  
17 overcome this strong presumption, or that cannot be protected through limited redaction, if any,  
18 Media Entities respectfully request that this Court issue an order immediately releasing to the public  
19 the seventeen search warrants at issue along with all related material, including any supporting  
20 affidavits, inventory lists, returns, and records the Court has relied on in issuing the warrants.

21  
22  
23 <sup>7</sup> See, e.g., *CBS v. United States Dist. Court*, 729 F.2d 1174 (9th Cir. 1983) (in DeLorean criminal  
24 trial, showing of extensive media coverage was inadequate to establish the requisite level of  
25 prejudice); *United States v. Haldeman*, 559 F.2d 31 (D.C. Cir. 1976) (court found that despite the  
26 reams of newsprint and enormous number of hours of viewing time devoted to coverage of the  
27 Watergate affair, publicity had made little impression on most citizens); *People v. Sirhan*, 7 Cal. 3d  
28 710 (1972) (finding that Robert Kennedy’s assassin had been tried by an impartial jury despite  
numerous newspaper articles and broadcasts reporting he would probably plead guilty); *overruled*  
*on other grounds*, *Hawkins v. Superior Court*, 22 Cal. 3d 584 (1978); *People v. Manson*, 61 Cal.  
App. 3d 102 (1977) (rejecting defendants’ prejudicial publicity claims in what was one of the most  
massively publicized cases in California history).

1 **IV. CONCLUSION**

2 By enacting Penal Code § 1534(a), the Legislature dictated that search warrants “shall be  
3 open to the public as a judicial record” after they are executed and returned to the court. Courts  
4 have respected this legislative mandate, and have recognized only very narrow exceptions to this  
5 statutory right of access. Because any stated privacy interest can be protected here through  
6 appropriate redaction and because the narrow exceptions to the presumption in favor of disclosure  
7 are otherwise not implicated, the court should release the warrants and related materials.

8 The First Amendment provides an independent basis for unsealing these records. Because  
9 the continued sealing of these materials after the time period set out under Section 1534(a) cannot  
10 be justified under the standards set forth in *Press-Enterprise I*, *NBC Subsidiary*, and the Rules of  
11 Court, and because no on-the-record findings have been made to justify the continued sealing of  
12 these materials, the search warrants at issues should be unsealed promptly.

13 For these reasons, Media Entities respectfully request that the Court make the arrest and  
14 search warrants and related materials available to the public without further delay.

15  
16 DATED: June 27, 2019

JASSY VICK CAROLAN LLP

17  
18 

ELIZABETH BALDRIDGE

19 Attorneys for Non-Party Media Entities  
20 San Diego Union-Tribune, NBC 7 San Diego,  
21 KFMB News 8, FOX5 San Diego and The  
22 Associated Press  
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**DECLARATION OF ELIZABETH BALDRIDGE**

I, Elizabeth Baldridge, declare:

1. I am an attorney admitted to practice before this Court and an associate of Jassy Vick Carolan LLP, counsel of record for non-party media entities San Diego Union-Tribune, NBC 7 San Diego, KFMB News 8, FOX5 San Diego and The Associated Press. The matters stated in this declaration are true of my own personal knowledge, except for those matters stated on information and belief, which matters I believe to be true.

2. Attached as **Exhibit A** to this declaration is, upon information and belief, a true and correct copy of the Complaint filed in this action on April 29, 2019.

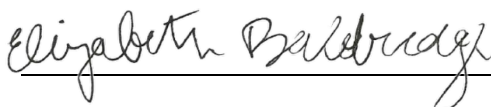
3. Attached as **Exhibit B** to this declaration is a true and correct copy of the indictment in the parallel federal proceeding relating to the Poway Shooting, United States District Court for the Southern District of California case no. 3:19-cr-1850.

4. Attached as **Exhibit C** to this declaration is, upon information and belief, a true and correct copy of the federal warrant for a search of IP address and metadata information relating to an 8chan account in connection with the Poway Shooting investigation, unsealed on June 13, 2019.

5. Attached as **Exhibit D** to this declaration is, upon information and belief, a true and correct copy of the federal warrant for a search of two Facebook accounts in connection with the Poway Shooting investigation, unsealed on June 13, 2019.

6. Attached as **Exhibit E** to this declaration is, upon information and belief, a true and correct copy of email communications between NBC 7 San Diego news producer Paul Krueger and San Diego County Superior Court Public Information Officer Karen Dalton concerning the search warrants at issue.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 27th day of June, 2019, at Los Angeles, California.



Elizabeth Baldridge

# **EXHIBIT A**

IN CUSTODY

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
CENTRAL DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,  <div style="text-align: center;">v.</div> JOHN T EARNEST, <i>dob 06/08/99, Booking No. 19726575A;</i>	Plaintiff,          Defendant
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CT No. CD281508  
DA No. AEM547

COMPLAINT-FELONY

INFORMATION          Date: _____
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**PC296 DNA TEST STATUS SUMMARY**

Defendant	DNA Testing Requirements
EARNEST, JOHN T	DNA sample required upon conviction

**CHARGE SUMMARY**

Count	Charge	Issue Type	Sentence Range	Special Allegations	Allegation Effect
1	PC187(a) EARNEST, JOHN T	Felony	25 Yrs-Life	PC190.2(a)(16) PC190.03(a) PC12022.53(d) PC1203(e)(1)	Life\Death LWOP +25 Yrs-Life Prison Presum
2	PC664\PC187(a) EARNEST, JOHN T	Felony	Life W Parole	PC189 PC12022.53(d) PC12022.7(a) PC422.75(a) PC1203(e)(1)	Life W Parole +25 Yrs-Life +3 Yrs +12-2-3 Prison Presum

## CHARGE SUMMARY (cont'd)

Count	Charge	Issue Type	Sentence Range	Special Allegations	Allegation Effect
3	PC664\PC187(a) EARNEST, JOHN T	Felony	Life W Parole	PC189 PC12022.53(c) PC422.75(a) PC1203(e)(1)	Life W Parole +20 Yrs +12-2-3 Prison Presum
4	PC664\PC187(a) EARNEST, JOHN T	Felony	Life W Parole	PC189 PC12022.53(c) PC422.75(a) PC1203(e)(1)	Life W Parole +20 Yrs +12-2-3 Prison Presum
5	PC11413(a) EARNEST, JOHN T	Felony	3-5-7		
	PC1054.3		INFORMAL REQUEST FOR DISCOVERY		

The undersigned, certifying upon information and belief, complains that in the County of San Diego, State of California, the Defendant(s) did commit the following crime(s):

## CHARGES

### COUNT 1 - MURDER

On or about April 27, 2019, JOHN T EARNEST did unlawfully murder Lori Kaye, a human being, in violation of PENAL CODE SECTION 187(a).

#### SPECIAL CIRCUMSTANCE

And it is further alleged that the murder of Lori Kaye was committed by defendant JOHN T EARNEST, and that Lori Kaye was intentionally killed because of her religion, within the meaning of PENAL CODE SECTION 190.2(a)(16).

And it is further alleged that said Defendant(s) committed the above offense in whole and in part because of one or more of the following actual and perceived characteristics of Lori Kaye: Disability, Gender, Nationality, Race and Ethnicity, Religion, Sexual orientation and association with a person and group with one or more of these actual and perceived characteristics, within the meaning of PENAL CODE SECTION 190.03(a).

## **CHARGES (cont'd)**

And it is further alleged that in the commission and attempted commission of the above offense, the defendant JOHN T EARNEST intentionally and personally discharged a firearm, to wit: a rifle, and proximately caused great bodily injury and death to a person (other than an accomplice), within the meaning of PENAL CODE SECTION 12022.53(d).

And it is further alleged that the defendant is ineligible for probation pursuant to PENAL CODE SECTION 1203(e)(1).

### **COUNT 2 - ATTEMPT MURDER**

On or about April 27, 2019, JOHN T EARNEST did unlawfully attempt to murder Yisroel Goldstein, a human being, in violation of PENAL CODE SECTION 187(a) and PENAL CODE SECTION 664.

And it is further alleged that the above offense was willful, deliberate and premeditated, within the meaning of PENAL CODE SECTION 189.

And it is further alleged that in the commission and attempted commission of the above offense, the defendant JOHN T EARNEST intentionally and personally discharged a firearm, to wit: a rifle, and proximately caused great bodily injury and death to a person (other than an accomplice), within the meaning of PENAL CODE SECTION 12022.53(d).

And it is further alleged that in the commission and attempted commission of the above offense the defendant, JOHN T EARNEST, personally inflicted great bodily injury upon Yisroel Goldstein, not an accomplice to the above offense, within the meaning of PENAL CODE SECTION 12022.7(a).

And it is further alleged that defendant JOHN T EARNEST committed and attempted to commit a hate crime within the meaning of PENAL CODE SECTION 422.75(a).

And it is further alleged that the defendant is ineligible for probation pursuant to PENAL CODE SECTION 1203(e)(1).

### **COUNT 3 - ATTEMPT MURDER**

On or about April 27, 2019, JOHN T EARNEST did unlawfully attempt to murder Almog Peretz, a human being, in violation of PENAL CODE SECTION 187(a) and PENAL CODE SECTION 664.

And it is further alleged that the above offense was willful, deliberate and premeditated, within the meaning of PENAL CODE SECTION 189.

## **CHARGES (cont'd)**

And it is further alleged that in the commission and attempted commission of the above offense, the defendant, JOHN T EARNEST, intentionally and personally discharged a firearm, to wit: a rifle, within the meaning of PENAL CODE SECTION 12022.53(c).

And it is further alleged that defendant JOHN T EARNEST committed and attempted to commit a hate crime within the meaning of PENAL CODE SECTION 422.75(a).

And it is further alleged that the defendant is ineligible for probation pursuant to PENAL CODE SECTION 1203(e)(1).

### **COUNT 4 - ATTEMPT MURDER**

On or about April 27, 2019, JOHN T EARNEST did unlawfully attempt to murder Noya D., a human being, in violation of PENAL CODE SECTION 187(a) and PENAL CODE SECTION 664.

And it is further alleged that the above offense was willful, deliberate and premeditated, within the meaning of PENAL CODE SECTION 189.

And it is further alleged that in the commission and attempted commission of the above offense, the defendant, JOHN T EARNEST, intentionally and personally discharged a firearm, to wit: a rifle, within the meaning of PENAL CODE SECTION 12022.53(c).

And it is further alleged that defendant JOHN T EARNEST committed and attempted to commit a hate crime within the meaning of PENAL CODE SECTION 422.75(a).

And it is further alleged that the defendant is ineligible for probation pursuant to PENAL CODE SECTION 1203(e)(1).

### **COUNT 5 - USE OF EXPLOSIVES IN ACTS OF TERRORISM IN SPECIFIED PLACES**

On or about March 23, 2019, JOHN T EARNEST did unlawfully explode, ignite and attempt to explode and ignite a destructive device and explosive, and commit arson in and about a church, temple, synagogue, and other place of worship, for the purpose of terrorizing another person and in reckless disregard of terrorizing another person in violation of PENAL CODE SECTION 11413(a).

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NOTICE: Any defendant named on this complaint who is on criminal probation in San Diego County is, by receiving this complaint, on notice that the evidence presented to the court at the preliminary hearing on this complaint is presented for a dual purpose: the People are seeking a holding order on the charges pursuant to Penal Code Section 872 and simultaneously, the People are seeking a revocation of the defendant's probation, on any and all such probation grants, utilizing the same evidence, at the preliminary hearing. Defenses to either or both procedures should be considered and presented as appropriate at the preliminary hearing.

NOTICE: Any defendant named on this complaint who is on Mandatory Supervision in San Diego County is, by receiving this complaint, on notice that the evidence presented to the court at the preliminary hearing on this complaint is presented for a dual purpose: the People are seeking a holding order on the charges pursuant to Penal Code Section 872 and simultaneously, the People are seeking a revocation of the defendant's Mandatory Supervision pursuant to Penal Code Sections 1170(h)(5)(B) and 1203.2, on any and all such grants, utilizing the same evidence, at the preliminary hearing. Defense to either or both procedures should be considered and presented as appropriate at the preliminary hearing.

Pursuant to PENAL CODE SECTION 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by PENAL CODE SECTION 1054.3.

Sheriff's records indicate that as of the booking date one or more defendants have not yet provided a DNA sample to the DOJ database. Pursuant to Penal Code Section 296(e), the court shall order collection of DNA from the defendant(s) if advised by the prosecuting attorney that a sample is required but has not been provided by the defendant. Pursuant to Penal Code sections 296/296.1, if not already required from a past conviction, any defendants who have not done so will be required to provide a sample upon conviction of this felony offense.

MANDATORY STATE PRISON INCARCERATION: An executed sentence for a felony shall be served by defendant JOHN T EARNEST in state prison pursuant to PENAL CODE SECTIONS 1170(f) and (h)(3).

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER CD281508, CONSISTS OF 5 COUNTS.

Executed at City of San Diego, County of San Diego, State of California, on April 29, 2019.

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COMPLAINANT

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INFORMATION

SUMMER STEPHAN  
District Attorney  
County of San Diego  
State of California  
by:

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Date

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Deputy District Attorney

# **EXHIBIT B**

FILED

19 MAY 21 PM 12:54

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *AS* DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

April 2018 Grand Jury

19 CR 1850 AJB

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN TIMOTHY EARNEST,

Defendant.

Case No. \_\_\_\_\_

I N D I C T M E N T

Title 18, U.S.C., Sec. 247(a)(2),  
247(d)(1), and 247(d)(3) -  
Obstruction of Free Exercise of  
Religious Beliefs; Title 18,  
U.S.C., Sec. 249(a)(1)(B) - Hate  
Crime Acts; Title 18, U.S.C.,  
Sec. 247(a)(1) and 247(d)(3) -  
Attempted Damage to Religious  
Property; Title 18, U.S.C.,  
Sec. 924(c) and 924(j) - Using and  
Carrying a Firearm During and In  
Relation to a Crime of Violence;  
Title 18, U.S.C., Sec. 924(d) and  
Title 28, U.S.C., Sec. 2461(c) -  
Criminal Forfeiture

The grand jury charges:

Count 1

On or about April 27, 2019, within the Southern District of  
California, defendant JOHN TIMOTHY EARNEST intentionally obstructed, by  
force, victim L.G-K. in the enjoyment of her free exercise of religious  
beliefs and the offense was in and affected interstate commerce. The  
acts of defendant JOHN TIMOTHY EARNEST resulted in the death of L.G-K.  
All in violation of Title 18, United States Code, Sections 247(a)(2)  
and 247(d)(1).

[illegible]

All in violation of Title 18, United States Code, Sections 247(a)(2), 247(d)(1), and 247(d)(3).

Counts 5-54

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Count	Victim
5	S.A.
6	D.A.
7	N.A., a juvenile
8	Y.A., a juvenile
9	I.A.
10	J.A.
11	Ja.A.
12	F.A.
13	A.A.
14	Z.B.
15	J.M.C.
16	L.C.
17	J.C.
18	D.C.
19	N.C.
20	I.D.
21	L.D., a juvenile
22	Li.D., a juvenile
23	M.D.
24	R.E., a juvenile
25	T.E.
26	P.F.
27	G.F.
28	S.G.
29	C.G., a juvenile
30	R.G., a juvenile

Count	Victim
31	Yo.G., a juvenile
32	M.G.
33	Ye.G.
34	J.H.
35	R.I.
36	R.K.
37	H.K.
38	Ha.K.
39	A.L.
40	A.M.
41	J.M.
42	R.P.
43	G.P.
44	S.P.
45	R.S.
46	H.S.
47	K.S.
48	L.S.
49	A.S., a juvenile
50	O.S.
51	K.T.
52	S.T., a juvenile
53	N.T., a juvenile
54	A.T., a juvenile

All in violation of Title 18, United States Code, Sections 247(a) (2),  
247(d) (1), and 247(d) (3).

Count 55

On or about April 27, 2019, within the Southern District of California, defendant JOHN TIMOTHY EARNEST willfully caused bodily injury to L.G-K., because of the actual and perceived race of any person. The offense resulted in the death of L.G-K. All in violation of Title 18, United States Code, Section 249(a)(1)(B)(i).

Counts 56-58

On or about April 27, 2019, within the Southern District of California, defendant JOHN TIMOTHY EARNEST willfully caused bodily injury to the victims listed below, because of the actual and perceived race of any person. Each offense included an attempt to kill each victim listed in Counts 56 through 58:

Count	Victim
56	Y.G.
57	A.P.
58	N.D.

All in violation of Title 18, United States Code, Section 249(a)(1)(B)(ii).

Counts 59-108

On or about April 27, 2019, in the Southern District of California, defendant JOHN TIMOTHY EARNEST, through the use of a firearm, willfully attempted to cause bodily injury to each victim listed below, because of the actual and perceived race of any person. Each offense included an attempt to kill each victim listed in Counts 59 through 108:

Count	Victim
59	S.A.
60	D.A.

Count	Victim
61	N.A., a juvenile
62	Y.A., a juvenile
63	I.A.
64	J.A.
65	Ja.A.
66	F.A.
67	A.A.
68	Z.B.
69	J.M.C.
70	L.C.
71	J.C.
72	D.C.
73	N.C.
74	I.D.
75	L.D., a juvenile
76	Li.D., a juvenile
77	M.D.
78	R.E., a juvenile
79	T.E.
80	P.F.
81	G.F.
82	S.G.
83	C.G., a juvenile
84	R.G., a juvenile
85	Yo.G., a juvenile
86	M.G.



Count	Victim
87	Ye.G.
88	J.H.
89	R.I.
90	R.K.
91	H.K.
92	Ha.K.
93	A.L.
94	A.M.
95	J.M.
96	R.P.
97	G.P.
98	S.P.
99	R.S.
100	H.S.
101	K.S.
102	L.S.
103	A.S., a juvenile
104	O.S.
105	K.T.
106	S.T., a juvenile
107	N.T., a juvenile
108	A.T., a juvenile

All in violation of Title 18, United States Code,  
Section 249(a)(1)(B)(ii).

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[illegible]

Count 110

On or about April 27, 2019, within the Southern District of California, defendant JOHN TIMOTHY EARNEST knowingly used, carried, and discharged a firearm, that is, a Smith & Wesson Model M&P 15 Sport II semi-automatic rifle, bearing serial number ending in 950, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, the offenses charged in Counts 1 and 55 of this Indictment; and caused the death of and unlawfully killed with malice aforethought victim L.G-K., a human being, through the use of a firearm. All in violation of Title 18, United States Code, Sections 924(c) and 924(j).

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Count	Offense
111	Counts 2 and 56
112	Counts 3 and 57
113	Counts 4 and 58

All in violation of Title 18, United States Code, Section 924(c).

SPECIAL FINDINGS

For Counts 1 and 110, pursuant to Title 18, United States Code, Section 3591(a)(2)(A)-(D), defendant JOHN TIMOTHY EARNEST was over 18 years of age at the time of the offense and:

1. intentionally killed the victim,
2. intentionally inflicted serious bodily injury that resulted in the death of the victim,
3. intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act, and
4. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act.

For counts 1 and 110, pursuant to Title 18, United States Code, Sections 3592(c)(5), (c)(9), and (c)(16), defendant JOHN TIMOTHY EARNEST:

1. in the commission of the offense, knowingly created a grave risk of death to one and more persons in addition to the victim of the offense,

1 2. committed the offense after substantial planning and  
2 premeditation to cause the death of a person,

3 3. intentionally killed and attempted to kill more than one person  
4 in a single episode.

5 FORFEITURE ALLEGATIONS

6 1. Counts 1 through 113 are realleged and incorporated to allege  
7 forfeiture to the United States of America pursuant to Title 18, United  
8 States Code, Section 924(d) and Title 28, United States Code,  
9 Section 2461(c).

10 2. Upon conviction of one or more of the offenses alleged in  
11 Counts 1 through 113 of this Indictment, defendant JOHN TIMOTHY EARNEST  
12 shall forfeit to the United States, pursuant to Title 18, United States  
13 Code, Section 924(d), and Title 28, United States Code, Section 2461(c),  
14 all firearms and ammunition involved in the commission of the offenses,  
15 including, but not limited to, a Smith & Wesson Model M&P 15 Sport II  
16 semi-automatic rifle, bearing serial number ending in 950, and  
17 approximately 50 rounds of .223 ammunition.

18 3. If any of the above-described forfeitable property, as a result  
19 of any act or omission of the defendant: 1) cannot be located upon the  
20 exercise of due diligence; 2) has been transferred or sold to, or  
21 deposited with, a third party; 3) has been placed beyond the jurisdiction  
22 of the Court; 4) has been substantially diminished in value; or 5) has  
23 been commingled with other property which cannot be subdivided without  
24 difficulty,

25 //

26 //

27 //

28 //

1 it is the intent of the United States, pursuant to Title 28, United  
2 States Code, Section 2461(c), which incorporates Title 21, United States  
3 Code, Section 853(p), to seek forfeiture of any other property of the  
4 defendant up to the value of the property listed above as being subject  
5 to forfeiture.

6 All in violation of Title 18, United States Code, Sections 924(d),  
7 and Title 28, United States Code, Section 2461(c).

8 DATED: May 21, 2019.

9  
10  
11  
12 ROBERT S. BREWER, JR.  
United States Attorney

13  
14 ERIC S. DREIBAND  
15 Assistant Attorney General  
Civil Rights Division

16  
17 By: Caroline P. Han  
CAROLINE P. HAN  
18 SHANE P. HARRIGAN  
PETER G. KO  
19 Assistant U.S. Attorneys

20  
21 By: Rose Gibson  
22 ROSE GIBSON  
Special Asst. U.S. Attorney  
23  
24  
25  
26  
27  
28

# **EXHIBIT C**

AO 106 (Rev. 04/10) Application for a Search Warrant

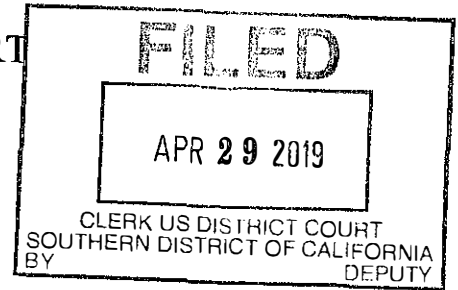
## UNITED STATES DISTRICT COURT

for the  
Southern District of California~~SEALED~~

In the Matter of the Search of

*(Briefly describe the property to be searched  
or identify the person by name and address)*8ch.net  
9120 Double Diamond Parkway, Suite 5901,  
Reno, NV 89521

Case No.



19MJ1755

## APPLICATION FOR A SEARCH WARRANT CASE UNSEALED PER ORDER OF COURT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

SEE ATTACHMENT A  
(INCORPORATED HEREIN)

located in the \_\_\_\_\_ District of Nevada \_\_\_\_\_, there is now concealed *(identify the person or describe the property to be seized)*:  
8ch.net

SEE ATTACHMENT B  
(INCORPORATED HEREIN)The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. 247(a)(1), (a)(2)	Intentional obstruction, by force or threat of force of persons in the free exercise of religious belief, resulting in death; willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, re
18 U.S.C. 249(a)(1)	

The application is based on these facts:

SEE AFFIDAVIT OF SPECIAL AGENT MICHAEL J. ROD, INCORPORATED HEREIN.

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Special Agent Michael J. Rod, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/28/2019

City and state: San Diego, CA

Judge's signature

Honorable Jill L. Burkhardt

Printed name and title

1 ENC

AFFIDAVIT IN SUPPORT OF  
AN APPLICATION FOR A SEARCH WARRANT

I, Michael J. Rod, being first duly sworn, hereby depose and state as follows:

**I. INTRODUCTION**

1. This affidavit is submitted in support of an application for a search warrant, pursuant to 18 U.S.C. 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A), for information associated with the following 8chan posting with ID 4e267a and No. 13192921 (hereinafter the “subject posting”), created by John Earnest and others, known and unknown, and stored at the premises owned, maintained, controlled, or operated by 8ch.net, 9120 Double Diamond Parkway, Suite 5901, Reno, NV 89521.

2. As described in further detail below, on April 28, 2019, John Earnest, armed with an AR15 style rifle, conducted an attack at the Chabad of Poway synagogue, injuring three individuals and killing one individual. He was later arrested and interviewed and admitted to the Chabad of Poway incident, as well as an arson at the Dar-ul-Arqam Mosque and Islamic Center on March 24, 2019.

3. There is probable cause to believe that within 8chan, more fully described in Attachment A, will be found evidence of violations of federal law, namely, intentional obstruction, by force or threat of force of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. § 247(a)(1), as more fully described in Attachment B.



1           4. I am an investigative or law enforcement officer within the meaning of  
2 Title 18, United States Code, Section 2510(7); that is, an officer of the United States,  
3 who is empowered by law to conduct investigations of and to make arrests for  
4 offenses enumerated in Titles 18 and 21 of the United States Code.

5           5. I am a Special Agent of the FBI, and have been so employed since May  
6 2010. I am currently assigned to the San Diego Field Division. Prior to joining the  
7 FBI, I was a United States Marine Corps Judge Advocate serving on active duty  
8 from November 2001 until May 2010. In my capacity as a Judge Advocate, I  
9 prosecuted and defended violations of the Uniform Code of Military Justice, acted  
10 as the Investigating Officer during criminal proceedings, provided legal assistance  
11 to service members, and advised military commanders on a wide variety of civil and  
12 administrative matters.

13  
14           6. I have received twenty-one weeks of training at the FBI Academy in  
15 Quantico, Virginia. During that training, I received instruction regarding a wide  
16 variety of investigative techniques that are commonly used in support of a wide  
17 range of the FBI's investigative priorities. The training included instruction  
18 regarding the use of sources, electronic surveillance techniques, law enforcement  
19 tactics, search and seizure laws and techniques, surveillance, forensic techniques,  
20 interviewing, and a variety of other subjects. I have acted as the lead investigator on  
21 a variety of cases and have participated in multiple cases that have focused on gang  
22 related matters.

23           7. Between July 2012 and February 2019, I was assigned to the North  
24 County Regional Gang Task Force (NCRGTF). During my time at the NCRGTF, I  
25 had personal contact with dozens of self-admitted or known gang members and their  
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1 associates and have discussed their lifestyles, method of operations regarding violent  
2 and property crimes, and their drug trafficking and drug distributing activities. I have  
3 participated in investigations involving criminal gang members including but not  
4 limited to Hispanic criminal street gangs. In March 2019, I was assigned to the HTTF  
5 and have assisted in cases involving human trafficking and the sexual exploitation  
6 of adults and children. The facts set forth in this affidavit are based on my own  
7 personal knowledge, knowledge obtained from other individuals during my  
8 participation in this investigation (including other law enforcement officers), my  
9 review of documents and computer records related to this investigation, and  
10 information gained through my training and experience. Because this affidavit is  
11 submitted for the limited purpose of establishing probable cause for a search warrant,  
12 it does not set forth every fact that I or others have learned during this investigation.

## 13 **II. PROBABLE CAUSE**

### 14 **A. Chabad of Poway Attack**

15 8. During the course of my current duties, I have learned the following  
16 from consulting with other state, local and federal law enforcement officers,  
17 including San Diego Sheriff's Department (SDSD) Detectives, San Diego County  
18 District Attorney Investigators, and my fellow FBI agents.

19 9. On April 27, 2019 at approximately 11:23 am. San Diego Sheriff's  
20 Communication Center received a 911 call of shots fired at the synagogue located  
21 on Chabad Way in Poway. The reporting party, Dan Sedereff, stated shots were  
22 fired in the synagogue.

23 10. During a briefing by the SDSD following the incident, it was reported  
24 that a white male, later identified as John Earnest, entered the synagogue through  
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1 the front door and fired several rounds from an AR15 rifle. He then proceeded  
2 further into the synagogue where he began firing rounds.

3 11. The SDSO stated that inside the synagogue was off-duty Border Patrol  
4 Agent Jonathan Morales who retrieved a revolver weapon from one of the  
5 congregation members and chased the suspect out of synagogue firing four shots at  
6 him as he got into a silver Honda that was parked across the street from the church.  
7 The Honda fled northbound on Rancho Bernardo Road. Morales then returned the  
8 gun to the congregation members who placed it in a black prayer bag and left it in  
9 the synagogue.

10 12. It was determined by officers that four people were shot and transported  
11 to the hospital.

12 13. SDSO Deputies responded to the synagogue along with paramedics.  
13 The synagogue was secured by deputies pending obtaining a search warrant from  
14 state authorities, which was planned to be executed later that day.

15 14. The same day (April 27, 2019), at approximately 11:30 a.m., a male  
16 who identified himself as John Earnest called into California Highway Patrol  
17 emergency line stating that he had fired shots into the synagogue and was willing to  
18 surrender to law enforcement. Earnest called from phone number 858.999.1461.  
19 Earnest gave his location as Phil's BBQ at 17051 West Bernardo Center Dr. He  
20 stated he was in possession of an AR15 Smith & Wesson MP15 rifle and several  
21 rounds of ammunition in his vehicle but that he would not use them against law  
22 enforcement. During that call, Earnest made the following comments, among others:  
23 "I just shot up a synagogue. I'm defending my country . . . I'm just trying to defend  
24 my nation against the Jewish people; they're destroying our people . . . I opened fire  
25 at a synagogue; I think I killed some people." I am informed and believed that Smith  
26 & Wesson does not manufacture firearms in the State of California.

1           15. San Diego Police Department ("SDPD") Officers responded to that  
2 location and took John Earnest into custody without further incident. Seen on the  
3 front passenger seat was an AR15 rifle but no handgun was visible. Additionally, in  
4 the vehicle was a helmet with a Go-Pro camera on it. SDPD Officers were holding  
5 the vehicle secure at the location pending obtaining and executing a state search  
6 warrant.

7           16. While on scene at the vehicle, it was learned that one of the victims,  
8 Laurie Kaye, died as a result of gunshot wounds.

9           17. During a public safety interview with SDPD Detective Rudy Castro,  
10 John Earnest confirmed his home address as 10134 Freeport Ct., San Diego CA. He  
11 further stated that there were no further weapons at the home. At that time, Earnest  
12 did not appear to be under the influence of a controlled substance but did appear to  
13 have a "flat affect" as though he was detached or unaffected by his actions.

14           18. SDPD SWAT officers and Detectives responded to the residence on  
15 Freeport Ct. The parents of the suspect were contacted and escorted from the home  
16 and taken to the Sheriff's Poway substation, pending the execution of a state search  
17 warrant on their residence. While at the substation, the parents informed law  
18 enforcement that their son frequently uses a computer in their home.

19           19. Using various search methods, Whitney Buckingham an SDSO system  
20 data miner, found a manifesto on Pastebin.com written by a person identifying  
21 himself as John Earnest. In the manifesto, which he named "An Open Letter",  
22 Earnest made many anti-Semitic and anti-muslim statements. One such statement  
23 which is a direct quote is, "As an individual, I can only kill so many Jews." He states  
24 he is not a terrorist but that he hates anyone who he sees as a threat to his country.  
25 Earnest took credit for a fire that had been set at mosque in Escondido a few weeks  
26 earlier. His exact statement was "I scorched a mosque in Escondido with gasoline a  
27  
28

1 week after Brenton Tarrant's sacrifice and they never found shit on me."

2 Additionally, he wrote "I spray-painted on the parking lot. I wrote 'For  
3 Brenton Tarrant -t./pol/'."

4 20. FBI Special Agent Maria Solomon observed part of the post-*Miranda*  
5 statement of Earnest. During that interview, he informed an SDSO Detective that  
6 he had adopted his ideology of hate for members of the Jewish religion  
7 approximately 18 month earlier. Based on my training and experience, I know that  
8 there is a process in which someone undergoes adoption of radical ideologies. This  
9 process can take several months or several years before a person actually commits  
10 to those ideologies. During the interview, Earnest also stated that he was inspired  
11 by individuals such as Adolph Hitler and Brenton Tarrant.

12 **B. Dar-ul-Arqam Mosque and Islamic Center Arson**

13 21. Based on information received from Bureau of Alcohol, Tobacco,  
14 Firearms and Explosives ("ATF") Special Agent Scott Brahin, on March 24, 2019,  
15 an unknown individual set fire to a mosque in Escondido, California.

16 22. Specifically, on March 24, 2019, at approximately 3:19 a.m., a 911 call  
17 was placed to report a fire at the Dar-ul-Arqam Mosque and Islamic Center  
18 ("mosque"), located at 318 West 6th Avenue in Escondido, California. The  
19 Escondido Fire Department and then Escondido Police Department ("EPD")  
20 responded. First responders learned approximately seven individuals had been  
21 spending the night at the mosque and, at approximately 3:15 a.m., they had observed  
22 flames and rushed outside to extinguish them with a fire extinguisher. First  
23 responders noticed ash or charring along approximately half the length of the  
24 mosque's west side and spray-painted writing on the asphalt parking lot near where  
25 the fire had occurred that read, "FOR BRENTON TARRANT r/pol/." First responders  
26 also noticed the odor of, or similar to, gasoline at the location of the fire.

23. Investigators conducted an online search for “Brenton Tarran” and noted that he was arrested for the mass shootings at two mosques in New Zealand that occurred on March 15, 2019 and is believed to be a white supremacist. Investigators also learned “r/pol/” is a reference to an online political discussion board that has been characterized as predominately racist, espousing views embraced by white supremacist groups.

24. Investigators reviewed surveillance footage retrieved from a business across the street from the mosque. The camera recorded an individual (“suspect”) park his/her four-door sedan in front of the mosque at approximately 3:00 a.m. In the video, the suspect exited the vehicle, walked towards the parking lot where the message was later found spray painted, and then returned to the vehicle. Shortly thereafter, the suspect again exited the car carrying a large container and walked toward the area of the mosque where the fire was set. A short time later, at approximately 3:15 a.m., a large flash of light and smoke are seen in the video and the suspect walked back to the vehicle and drove away westbound on West 6th Avenue. In surveillance videos obtained from businesses along the route, investigators observed that the suspect appeared to arrive at the mosque on March 24, 2019 by driving eastbound on West 9th Avenue, northbound on South Escondido Boulevard, and then westbound on West 6th Avenue, where he parked in front of the mosque. Investigators also observed, as noted above, that the suspect left the area by driving westbound on West 6th Avenue. Based on their review of surveillance videos, investigators believed that the suspect was driving a 2010 to 2015 Civic Honda, silver in color.

25. Earnest’s statements in the manifesto that he set fire to the Escondido mosque on March 24, 2019, are corroborated by the following. At the time of his arrest for the synagogue shooting, Earnest was driving a 2012 Honda Civic, grey in



1 color. Additionally, the spray painted message left by the mosque arsonist was not  
2 released to the media. The fact that the manifesto specifically makes reference to  
3 that message further corroborates that Earnest committed the mosque arson.

#### 4 **C. 8chan Posting**

5 **26.** Based on my training and experience, and online research, 8chan, also  
6 known as Infinitechan or Infinitychan (sometimes stylized as ∞chan), is an  
7 American-based website composed of user-created boards. According to Wikipedia,  
8 “An owner moderates each board, with minimal interaction from other site  
9 administration.”

10 **27.** On April 27, 2019, an Anonymous user posted on 8chan a posting with  
11 thread number 13192921 and posting ID number 4e267a. The posting read in part:

12 It's been real dudes. From the bottom of my heart thank you for  
13 everything. Keep up the infographic redpill threads. I've only been  
14 lurking for a year and a half, yet, what I've learned here is priceless.

15  
16 It's been an honor.

17  
18 Livestream link is below as well as my open letter. Livestream will  
19 begin shortly. <https://www.facebook.com/john.earnest.96780>

20  
21 An open letter.

22 <https://pastebin.com/VXXFQMTW>

23 [https://www.mediafire.com/file/d9oilcmjbenxiyz/Open\\_Letter.pdf.file](https://www.mediafire.com/file/d9oilcmjbenxiyz/Open_Letter.pdf.file)

24  
25 **28.** As discussed above, agents observed the content at the above described  
26 pastebin.com address and observed an open letter believed to be written by Earnest.  
27  
28

1 Additionally, on April 27, 2019, Greg Simon of the SDPD located the above  
 2 described posting that included information about a livestream using a Facebook  
 3 account, <https://www.facebook.com/john.earnest.96780> (i.e., Facebook Account  
 4 Number 100035547390347, with user name "john.earnest.96780."). On or about  
 5 April 27, 2019, following the synagogue shooting, local law enforcement authorities  
 6 served a search warrant on Facebook for records for the "john.earnest.96780"  
 7 Facebook account, pursuant. In response to that request, Facebook provided records  
 8 which listed the user's phone as 858.999.1461 (the same number Earnest used to call  
 9 the CHP on April 27, 2019). Facebook verified the number on April 7, 2019.  
 10 Facebook identified two additional Facebook accounts possibly utilized by the user  
 11 of the john.earnest.96780 Facebook account, which were accessed via the same  
 12 browser and the same electronic device.

13 29. Agents observed that there were several postings responding to the  
 14 above described posting and thread. *this affidavit* *FD*  
 15 See Appendix 1, attached to Attachment B. For *MP*  
 16 example, on April 27, 2019, a posting with ID 2d7a65 and thread number 13193230  
 17 posted, "anyone had a decent read of his manifesto yet?" Another posting, ID  
 18 cb34c8 and thread number 13193259, stated:

19 It's very much written for /pol/, he goes into some depth about things  
 20 being called falseflags, about how you should start getting  
 21 prepared...Tarrant was a much more articulate writer, and walked  
 22 through his thought process much more, which leads to people being  
 23 able to understand (even if they can't publicly admit) why he did what  
 24 he did. Earnest's honest passion is his highlight and his weakness – no  
 25 boomer is going to read this and suddenly became aware of the JQ."

26 Another April 27, 2019 with ID 078285 and thread number 13193283 posted an  
 27 image of a news station article posted on April 27, 2019 at 12:11 pm. The headline  
 28



1 stated, "Multiple people gunned down at Poway Synagogue, police search for  
2 shooter."

3 **D. Basis for Information Sought**

4 30. Agents seek IP address and metadata information about Earnest's  
5 original posting and the postings of all of the individuals who responded to the  
6 subject posting and/or commented about it. Additionally, agents seek information  
7 about any other posting coming from the IP address used by Earnest to post the  
8 subject posting.

9 31. As discussed above, Earnest made a posting in which he thought to  
10 draw attention to his forthcoming attack on the Chabad of Poway, share his views  
11 through his open letter, and offer people the opportunity to observe the attack itself.  
12 Several people responded, both individuals who were taken aback about the posting  
13 as well as people who were sympathizers. As a result, some of the individuals may  
14 be potential witnesses, co-conspirators and/or individuals who are inspired by the  
15 subject posting. Based on agents' training and experience, following attacks such  
16 as those conducted by Earnest, other individuals are inspired by the attacks and may  
17 act of their own accord. For example, as described above, Earnest himself was  
18 inspired by the Christchurch event in New Zealand. Regardless of the nature of the  
19 comments, the evidence sought to be seized as described in Attachment B is relevant  
20 as evidence of Earnest's bias and motivation in committing the hate crimes set forth  
21 in Attachment B. Even comments made in response to the subject posting or about  
22 it are relevant to Earnest's motivation for his violent attacks to the extent that as  
23 explained above, some of the posters may be potential witnesses, co-conspirators  
24 and/or individuals who are inspired by the subject posting. As discussed above,  
25 Earnest stated in the subject posting, "I've only been lurking for a year and a half,  
26 yet, what I've learned here is priceless." This information suggests that Earnest was  
27  
28

1 inspired and/or educated by individuals who commented on his threads. Based on  
 2 this information, there is reasonable cause to believe that the information sought,  
 3 specifically IP address and metadata for all commenters, constitute evidence of his  
 4 motivation in committing the offenses described herein and are thus relevant and  
 5 material to an ongoing criminal investigation, information that may be sought by an  
 6 order issued pursuant to 18 U.S.C. § 2703(c) and (d). That is, the information may  
 7 lead to the identity of individuals who inspired and/or educated Earnest or are aware  
 8 of his motivation in committing the attacks.

9 32. FBI agents have consulted with 8ch.net about the kind of information  
 10 that the website maintains and understand that 8ch.net is an anonymous imageboard  
 11 and users are not required to create an account or use a name or an email address to  
 12 post. Hence, regular users usually have no usernames or email addresses linked to  
 13 their posts. However, agents have also learned that 8ch.net has used data forensics  
 14 in the past to find information about individuals who have posted on 8ch.net,  
 15 including IP address and metadata information (although not if the thread or post has

16 been deleted). On April 28, 2019, FBI agents communicated with 8ch.net about  
 17 this search warrant. Representatives are expecting the ~~application~~ <sup>warrant</sup>, so authority  
 18 April 29, 2019 is sought, given that the application is being submitted at  
 19 A. Genuine Risk of Destruction of Evidence  
 20 10:00 pm, thereby risking that the warrant will not be served prior to 10:00 pm.

21 33. Based upon my experience and training, and the experience and training  
 22 of other agents with whom I have consulted with, electronically stored data can be  
 23 permanently deleted or modified by users possessing basic computer skills. In this  
 24 case, only if the subject receives advance warning of the execution of this warrant,  
 25 will there be a genuine risk of destruction of evidence.

#### 26 **B. Prior Attempt to Obtain Evidence**

27 34. The United States is aware that individual users of ch.net contacted law  
 28 enforcement authorities about the subject posting and may have provided the subject

1 posting to law enforcement authorities. The United States is unaware of other efforts  
2 except as described herein.

3 **C. Ch.net**

4 35. Ch.net is an Internet company that, among other things, provides electronic  
5 communication services to its subscribers. Ch.net's electronic mail service allows  
6 its subscribers to exchange electronic communications with others through the  
7 Internet.

8 36. At the creation of a Ch.net account and for each subsequent access to  
9 the account, Ch.net logs the Internet Protocol ("IP") address of the computer  
10 accessing the account. An IP address is a unique address through which a computer  
11 connects to the Internet. IP addresses are leased to businesses and individuals by  
12 Internet Service Providers. Obtaining the IP addresses that have accessed a  
13 particular Ch.net account often identifies the Internet Service Provider that owns and  
14 has leased that address to its customer. Subscriber information for that customer  
15 then can be obtained using appropriate legal process.

16 **D. Procedures for Electronically Stored Information**

17 37. Federal agents and investigative support personnel are trained and  
18 experienced in identifying communications relevant to the crimes under  
19 investigation. The personnel of Ch.net are not. It would be inappropriate and  
20 impractical for federal agents to search the vast computer network of Ch.net for the  
21 relevant accounts and then to analyze the contents of those accounts on the premises  
22 of Ch.net. The impact on Ch.net's business would be severe.

23 38. Therefore, I request authority to seize all content, including electronic  
24 mail and attachments, stored instant messages, stored voice messages, photographs  
25 and any other content, as described in Attachment B. In order to accomplish the  
26 objective of the search warrant with a minimum of interference with the business  
27

1 activities of Ch.net, to protect the rights of the subject of the investigation and to  
2 effectively pursue this investigation, authority is sought to allow Ch.net to make a  
3 digital copy of the entire contents of the accounts subject to seizure. That copy will  
4 be provided to me or to any authorized federal agent. The copy will be forensically  
5 imaged and the image will then be analyzed to identify communications and other  
6 data subject to seizure pursuant to Attachment B. Relevant data will be copied to  
7 separate media. The original media will be sealed and maintained to establish  
8 authenticity, if necessary.

9 39. Analyzing the data to be provided by Ch.net may require special  
10 technical skills, equipment and software. It also can be very time-consuming.  
11 Searching by keywords, for example, often yields many thousands of "hits," each of  
12 which must be reviewed in its context by the examiner to determine whether the data  
13 is within the scope of the warrant. Merely finding a relevant "hit" does not end the  
14 review process. Certain file formats do not lend themselves to keyword searches and  
15 keyword search text. Many common electronic mail, database and spreadsheet  
16 applications, which files may have been attached to electronic mail, do not store data  
17 as searchable text. The data is saved in a proprietary non-text format. The volume of  
18 storage allotted by service providers increases, the time it takes to properly analyze  
19 recovered data increases dramatically.

20 40. Based on the foregoing, searching the recovered data for the  
21 information subject to seizure pursuant to this warrant may require a range of data  
22 analysis techniques and may take weeks or even months. Keywords need to be  
23 modified continuously based upon the results obtained. The personnel conducting  
24 the examination will complete the analysis within (90) days of receipt of the data  
25 from the service provider, absent further application to this court.  
26  
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1       41. Based upon my experience and training, and the experience and training  
2 of other agents with whom I have communicated, it is necessary to review and seize  
3 all posting that identify any poster of the subject posting and any postings sent or  
4 received in temporal proximity to incriminating electronic mails that provide context  
5 to the incrimination mails.

6       42. All forensic analysis of the imaged data will employ search protocols  
7 directed exclusively to the identification and extraction of data within the scope of  
8 this warrant.

9       IV. REQUEST FOR SEALING AND PRECLUSION OF NOTICE

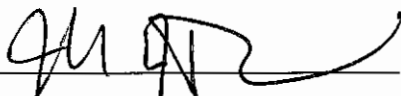
10       43. Although John Earnest has been arrested by state authorities, he is  
11 unaware of the scope and nature of law enforcement's investigation into his  
12 activities. Additionally, law enforcement is still investigating whether he acted  
13 alone, or conspired with others or was inspired by others. As such, there is reason  
14 to believe that that disclosure of the affidavit and warrant will result in destruction  
15 of or tampering with evidence or otherwise seriously jeopardize the investigation.  
16 Accordingly, it is requested that this warrant and its related materials be sealed until  
17 further order of the Court. In addition, pursuant to Title 18, United States Code,  
18 Section 2705(b), it is requested that this Court order Ch.net to whom this warrant is  
19 directed not to notify anyone of the existence of this warrant, other than its personnel  
20 essential to compliance with the execution of this warrant until October 28, 2019,  
21 absent order from the Court.

22       V. CONCLUSION

23       44. Based on the foregoing, your affiant submits that there is probable  
24 cause to believe that violations of federal criminal law, namely, violations of federal  
25 law, namely, intentional obstruction, by force or threat of force of persons in the free  
26 exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2),  
27  
28

1 willfully causing bodily injury to persons through the use of a firearm because of the  
2 actual or perceived religion of said persons, resulting in death, in violation of 18  
3 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. §  
4 247(a)(1), have occurred, and that evidence of said violations, as described in  
5 Attachment B will be found within the subject posting and all the postings of all of  
6 the individuals who responded to the subject posting and/or commented about his  
7 posting.

8  
9  
10 I declare under penalty of perjury under the laws of the United States that the  
11 foregoing is true and correct.


12   
13 \_\_\_\_\_

14 Michael J. Rod

15 FBI, Special Agent

16 Sworn to before me this

17 28<sup>th</sup> day of April \_\_\_\_ 2019

18   
19 \_\_\_\_\_

20 Hon. Jill L. Burkhardt

21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26  
27  
28

Appendix 1



File (hide): 24426db81e67b3d....jpg (90.68 KB, 750x936, 125:156, Beware the fury of nighted....jpg) (b) (u)



[ ] ► **\*ahem\* Anonymous** 04/27/19 (Sat) 14:00:15 ID: 4e267a No.13192921 [Watch Thread] [Show All Posts] >>13192955

It's been real dudes. From the bottom of my heart thank you for everything. Keep up the infographic redpill threads. I've only been lurking for a year and a half, yet what I've learned here is priceless.

It's been an honor.

Livestream link is below as well as my open letter. Livestream will begin shortly.

<https://www.facebook.com/john.eamest.96780>

An open letter.

<https://pastebin.com/VXXFQMTW>

[https://www.mediafire.com/file/d9oilcmjbenxiyz/Open\\_Letter.pdf/file](https://www.mediafire.com/file/d9oilcmjbenxiyz/Open_Letter.pdf/file)

Also, in case they take down my livestream too soon and you don't get to hear all the awesome tunes I had planned—here they are. Very meme-able songs—you should have no problem.

-Sloop John B by The Beach Boys

-Original Pokemon Theme Song

- Warthog Run Theme from Halo Combat Evolved
- Warriors by Imagine Dragons
- The Last Stand by Sabaton
- Blow Me Away by Breaking Benjamin
- Winged Hussars by Sabaton
- Rose Tattoo by Dropkick Murphys
- The Path (A New Beginning) from The Last of Us

Meme magic is real. May the LORD Christ be with you all.



3:05 7



Schurter

\* = required field

[\[L\] Show post options & limits](#)[Continued? See the FAQ.](#)[Expand all images](#)☐ Tree view[Enable gallery mode](#)<[The 8chan Global Rule](#)>

[\[ The Gentleperson's Guide to Forum Spies | Global Volunteers |](#)  
[Post Test | FAQ \]](#)

File (hide): [8b192237f8d931....png](#) (51.61 KB, 1050x1024, 525 512,  
 1050px-White Pride World W...png)(1/1)



[\[L\] Inspired](#)  
 by Tarrant  
 shooting  
 muslims  
 Anonymous  
 04/27/19 (Sat)  
 08:39:26  
 ID: 550293

No.13192480 >>13192485 >>13192495 >>13192522 >>13192556  
 >>13192611 >>13192617 >>13192642 >>13192758 >>13192823  
 >>13192940 >>13193123 >>13194151 >>13194351 [\[Watch Thread\]](#)  
[\[Show All Posts\]](#)

French friend of mine sent me this, he claims to eliminate  
 muslim drug-dealers, who sell heroin to the kids.

Kill your local muslim drugs dealer

Everybody can do something for this world

[https://t.me/Tarants\\_Lads](https://t.me/Tarants_Lads)

[\[L\] Anonymous](#) 04/27/19 (Sat) 08:41:30 ID: 550293  
 No.13192485 >>13193200

>>13192480 (OP)

Fucking videos are the last two in that TG channel. I  
 cant fucking upload them here. Fucking 8chan

[\[L\] Anonymous](#) 04/27/19 (Sat) 08:42:21 ID: 066581  
 No.13192487 >>13192492 >>13192518

3:05



Schur

File (hide): 8b192237f8d931...png (51.61 KB, 1050x1024, 525.512, 1050x-White Pride World W...png) (1/1)



☐ Inspired  
by Tarrant  
shooting  
muslims  
Anonymous  
04/27/19 (Sat)  
08:39:26  
ID: 550293

No.13192480 >>13192485 >>13192496 >>13192522 >>13192536  
>>13192611 >>13192617 >>13192642 >>13192724 >>13192822  
>>13192940 >>13193123 >>13194261 >>13194321 [Watch Thread]  
[Show All Posts]

French friend of mine sent me this, he claims to eliminate muslim drug-dealers, who sell heroin to the kids.

Kill your local muslim drugs dealer

Everybody can do something for this world

[https://t.me/Tarants\\_Lads](https://t.me/Tarants_Lads)

☐ Anonymous 04/27/19 (Sat) 08:41:30 ID: 550293  
No.13192485 >>13192523

>>13192480 (OP)

Fucking videos are the last two in that TG channel, I cant fucking upload them here, Fucking Behan

☐ Anonymous 04/27/19 (Sat) 08:42:21 ID: 066581  
No.13192487 >>13192492 >>13192518

jews don't have friends.

☐ Anonymous 04/27/19 (Sat) 08:43:41 ID: 550293  
No.13192492

>>13192487

When you are so pathetic, that see kikes everywhere.  
Retard.

3:06



Schur.net

[https://t.me/Tarants\\_Lads](https://t.me/Tarants_Lads)

Anonymous 04/27/19 (Sat) 06:41:30 ID: 550293  
No.13192485 >>13192500

>>13192480 (OP)

Fucking videos are the last two in that TG channel. I  
cant fucking upload them here. Fucking Bchan

Anonymous 04/27/19 (Sat) 06:42:21 ID: 066581  
No.13192487 >>13192492 >>13192515

jews don't have friends.

Anonymous 04/27/19 (Sat) 06:43:41 ID: 550293  
No.13192492

>>13192487

When you are so pathetic, that see likes everywhere.  
Retard.

Anonymous 04/27/19 (Sat) 06:44:43 ID: 26f1f3  
No.13192496 >>13192502 >>13192506 >>13192711 >>13192486

>>13192480 (OP)

Props to your friend, as someone who lived in  
France, there is a astounding amount of muslims.

Anonymous 04/27/19 (Sat) 06:45:29 ID: 26f1f3  
No.13192502 >>13192506

>>13192486

But hey, 1 White is better than thousand muslims or  
more, a muslim (especially a sandnigger) is so stupid  
they can't do much harm.

Anonymous 04/27/19 (Sat) 06:46:33 ID: 550293  
No.13192506 >>13192512

>>13192502

>>13192496

How I drop videos here? Keep getting this error:  
MP4 must be made up of one H264 and one AAC  
stream only.

Anonymous 04/27/19 (Sat) 06:48:34 ID: e98225  
No.13192512 >>13192523

>>13192506

That seems to suggest that your video has dual  
audio. You have to rip one of the audio streams out  
using ffmpeg or ~~some equivalent program~~ to be able



3:06 4



Sch.net

Anonymous 04/27/19 (Sat) 08:52:44 ID: 550293

No.13192523 >>13192532 >>13192536 >>13192547 >>13192548

>>13192556 >>13192566 >>13192569 >>13192561 >>13192569  
 >>13192566 >>13192561 >>13192565 >>13192600 >>13192624  
 >>13192642 >>13192644 >>13192670 >>13192683 >>13192700  
 >>13192706 >>13192821 >>13192835 >>13193262 >>13193560  
 >>13194051 >>13194358

File (hide):

c2e724216458359...webm

(1.82 MB, 362x640, 151.320,

video, 2019-04-27 10:58:05.webm) (h) (u)

[u] [play once] [loop]



>>13192512

DID IT

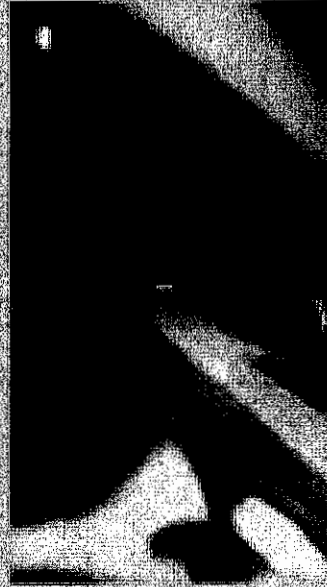
File (hide):

f185a179e44601e...webm

(1.44 MB, 362x640, R-15, video, 2019-

04-27 10:58:08.webm) (h) (u)

[u] [play once] [loop]



Anonymous 04/27/19 (Sat) 08:56:01 ID: 10be98

No.13192532

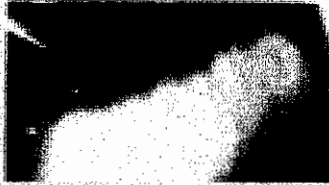
File (hide): 2ed1745e9a2445a...jpg (14.9 KB,

366x402, 66.67, 10779512.jpg) (h) (u)



3:07

Schulnet



>>13192512

DID IT

Anonymous 04/27/19 (Sat) 08:56:01 ID: f0be68  
No.13192532

File (hide): [2ed1745e9a2445a...jpg](#) (14.9 KB)

396x402, 66:67, 10779512.jpg (P) (U)



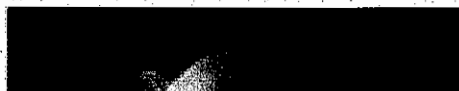
File (hide): [432d5529b6a33f2...png](#) (66.97 KB)

247x248, 247:248, 71925533.png (P) (U)



File (hide): [f8b9d7981d3d758...jpg](#) (14.85

KB, 201x212, 201:212, 05818915.jpg (P) (U)



3:09



Sch.net

Anonymous 04/27/19 (Sat) 09:04:37 ID: f5ea4a  
No.13192552

You shouldn't film yourself doing something you  
intend on getting away with

Anonymous 04/27/19 (Sat) 09:06:25 ID: 54d879  
No.13192556 >>13192576 >>13192584

>>13192523

What the fuck shooting style is this. You know a  
"drive-by" usually involves more or less stopping to  
take a shot.  
Garbage.

Anonymous 04/27/19 (Sat) 09:06:40 ID: f08ca7  
No.13192558

File (hide): f04a87c65e5338d---.png (83.29 KB,  
224x225, 234/225, 1556267350450-0.png) (h) (u)



The violence has escalated



File (hide): c2ca3a18076b440---.png (54.94 KB,  
225x219, 75/73, 1556264592241-2.png) (h) (u)





3:09

■ Schurter

No.13192560 >>13192562 >>13192568 >>13192584

>>13192523

did he shoot at anything? The first video is just gun shot noises, but no context, and the second video looks like just shooting into the night.

Anonymous 04/27/19 (Sat) 09:07:32 ID: 2611f3  
No.13192561

File (size): 2d9b41b441c3b54...jpg (76.85 KB, 672x767, 672x767, 119er5cdko21.jpg) (D) (U)



>>13192523

Absolute legend.

Anonymous 04/27/19 (Sat) 09:07:45 ID: 878285  
No.13192562 >>13192576

>>13192560

Tbh i was asking myself that too

Anonymous 04/27/19 (Sat) 09:08:31 ID: 60edb4  
No.13192565

Reminder to only post shit like this through Tor unless you want a visit from Interpol.

Anonymous 04/27/19 (Sat) 09:09:29 ID: S4d879  
No.13192568 >>13192573 >>13192576 >>13192584

>>13192560

>did he shoot at anything?

No.

The guy's just letting off fireworks.

Anonymous 04/27/19 (Sat) 09:10:01 ID: 2611f3

3:10



Schur.net

>>13192560

Tbh i was asking myself that too

Anonymous 04/27/19 (Sat) 09:08:31 ID: 60edb4  
No.13192565

Reminder to only post shit like this through Tor unless  
you want a visit from Interpol.

Anonymous 04/27/19 (Sat) 09:09:29 ID: 54d879  
No.13192568 >>13192573 >>13192576 >>13192584

>>13192560

>did he shoot at anything?

No.

The guy's just letting off fireworks.

Anonymous 04/27/19 (Sat) 09:09:30 ID: 2611f3  
No.13192569

File (hide): 2bbf50462da88555... .png (377.54 KB, 500x574, 250:287,  
2bbf50462da88555n6c9w31f0 .png) (i) (u)



>>13192523

Muslims and arabs (sandriggers) can suck my dick,  
one less subhuman

Anonymous 04/27/19 (Sat) 09:10:12 ID: aad864  
No.13192571

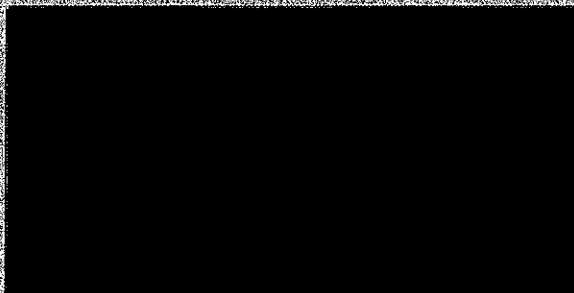
>okramians shooting out of a car at nothing

Tarrani walked into a crowded area and shot them.  
Your buddy is doing nigger tier shit.

Anonymous 04/27/19 (Sat) 09:10:36 ID: 2de262  
No.13192573



doDette50 jean in can



2-13192490 10F

**Upgrade the arsenal all the bases are belong to us.**

Stay safe blessed legends, no quarter asked none given.

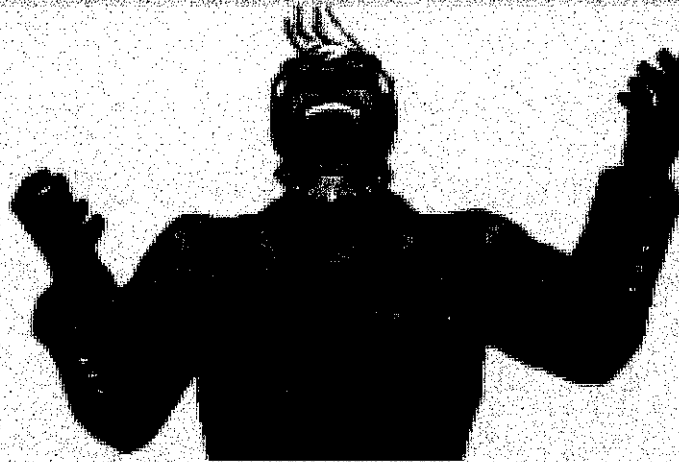
6:12

Sch.net

forever. Most likely not for the better.

Anonymous 04/27/19 (Sat) 14:01:18 ID: 946d83  
No.13193986

File (hide): 04db8bc83fee423....gif (107.59 KB, 258x192, 4:3,  
Gant Breakdown 2.gif) (h) (u)



>>13193965

Chad mode. Let's hope for 3 more

>>13193977

Checked, lucky sevens.

>>13193973

They lived if the Russians got to their carcasses  
first.....

Anonymous 04/27/19 (Sat) 14:02:18 ID: bc3969  
No.13193990

>>13193896

almost all large scale muzzie terrorist attacks were  
proxy by ZOG

>>13192601

kys you genetic garbage

Anonymous 04/27/19 (Sat) 14:02:23 ID: 9efe38  
No.13193991 >>13194019

>>13193982

Well, I am in an engineering programs right now. In a  
couple years we might have something like that.



12:25



Sch.net



**Anonymous (You) 04/27/19 (Sat) 12:15:58 ID: 8f4812**  
**No.13193248** >>13193252 >>13193254 >>13193290 >>13193294

>>13193230 **Anonymous 04/27/19 (Sat) 12:11:40**  
 Yeah i just re: ID: 2d7a65 No.13193230 >>13193237  
 happening.... >>13193248 >>13193259

<https://www.n-center-escon-arson-unit-50> anyone had a decent read of the manifesto yet?

**Anonymous 04/27/19 (Sat) 12:16:34 ID: ec359e**  
**No.13193252** >>13193261 >>13193265 >>13193275

>>13193248 (You)  
 >Published Mar 24, 2019 at 6:40 AM | Updated at 6:52 PM PDT on Mar 25, 2019

**Anonymous (You) 04/27/19 (Sat) 12:16:46 ID: 8f4812**  
**No.13193254** >>13193290

>>13193248 (You)  
 Id imagine were looking at call here

**Anonymous 04/27/19 (Sat) 12:17:49 ID: cb34c8**  
**No.13193259**  
 File (hide): 5269369d15cb374... .png (122.29 KB, 498x281, 498x281,  
 7eb18904314bd09a0153e1e5... .png) (b) (u)



12:25



Schuler

IN REPLY TO YOUR EMAIL OF APR 27, 2019

Anonymous 04/27/19 (Sat) 12:17:49 ID: cb34c8  
No.13193259

File (hide): 5269369d15db374...png (122.29 KB, 499x281, 499:281)

Tab:18750431abc09a2f527a1a5...png (51 KB)



>>13193230

It's very much written for /pol/. he goes into some depth about things being called falseflags, about how you should start getting prepared. He doesn't hold back from using /pol/ approved terms, and paints in pretty broad brushes. Clocks in at 8 pages (minus his signature) and that's the longest I'd want it to be, tbh. Tarrant was a much more articulate writer, and walked through his thought process much more, which leads to people being able to understand (even if they can't publicly admit) why he did what he did. Earnest's honest passion is his highlight and his weakness - no boomer is going to read this and suddenly become aware of the JO.

Anonymous 04/27/19 (Sat) 12:17:59 ID: Seec52  
No.13193261 >>13193258

>>13193252

First thing I looked at too.

This whole thing is a LARP to get people to friend a Facebook account to out stupid people. It's a clever glownigger tactic, but...meh. Whatever.

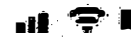
Anonymous 04/27/19 (Sat) 12:17:59 ID: 73c768  
No.13193262 >>13193261

File (hide): c53a7d16d742538...webm (3.15 MB, 720x480, 3:2)

c53a7d16d7425387b2c273792...webm (51 KB) [play once] [loop]



12:25



Schurmer

Anonymous 04/27/19 (Sat) 12:19:29 ID: 000000  
No.13193268

>>13193246

Anybody not already at least on tor or a vpn is playing  
with fire here. don't get yourselves caught before  
actually making an effort

>>13193252

>>13193251

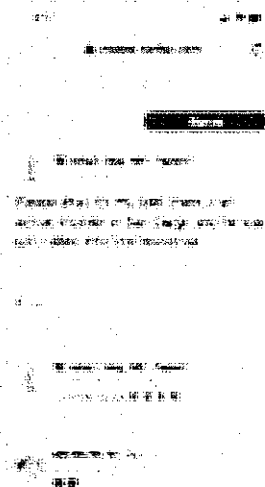
He said he burned that mosque directly after Tarrant,  
not now.

So it still checks out.

Anonymous 04/27/19 (Sat) 12:19:32 ID: 078285  
No.13193269 >>13193277 >>13193282

File (hide): 749e6c042f8b2b6...png (308.15 KB, 1125x2436, 375:812,

CaptureImage.png) (1) (2)

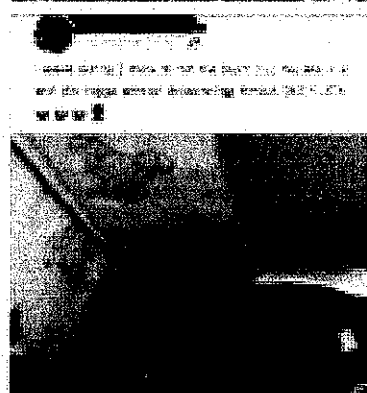


GUYS

Anonymous 04/27/19 (Sat) 12:19:35 ID: c50598  
No.13193271

File (hide): 4ab205b45ce7a75...jpg (81.13 KB, 478x768, 478:768,

niggers in charge of par...jpg) (1) (2)



12:26



Sch.net

probably to throw off the sloppy job mossad retards  
claiming tarrant didn't name the jew so in a way he  
would be a worthy sequel to tarrants original  
masterpiece

Anonymous 04/27/19 (Sat) 12:20:20 ID: 8f4812  
No.13193275 >>13193294

&gt;&gt;13193252

Read

He admits he toasted the mosque and memes St BT

Anonymous 04/27/19 (Sat) 12:20:32 ID: 1a0845  
No.13193277 >>13193294

&gt;&gt;13193269

&gt;&gt;13193272

Oh shit, have we started the fire?

Anonymous 04/27/19 (Sat) 12:22:04 ID: f08ca7  
No.13193282 >>13193306

&gt;&gt;13193269

&gt;&gt;13193272

AND THERE WE GO

Anonymous 04/27/19 (Sat) 12:22:06 ID: 078285  
No.13193283

File (index: 25154a1a81b161c... png (1.34 MB, 1000x1443, 360:481,  
ClipboardImage.png) (10/10)



## Multiple people gunned down at Poway Synagogue, police search for shooter

Posted: 12:11 PM, Apr 27, 2019 Updated: 2 minutes ago



By: Maria Serrano





**Group Work: Rotational Group Work**



12:26 4



Sch.net

## SAY IT WITH ME GUYS: HAIL JOHN "THE EARNEST" EARNEST!

Anonymous (You) 04/27/19 (Sat) 12:23:19 ID: 844612  
No.13193290

>>13193272

>>13193254 (You)

>>13193248 (You)

mb4 shooter in san diego tweet

Anonymous 04/27/19 (Sat) 12:23:24 ID: 5471dd  
No.13193291

Did he livestream it?

Anonymous 04/27/19 (Sat) 12:23:57 ID: 5aac52  
No.13193294

>>13193277

>We

You haven't done shit. HE started the fire. At a mosque in California, apparently. Kudos on

>>13193275 (You) for catching that.

>>13193248 (You)

Do you guys think we have another "Can't Corner the Dornier" scenario? Is he on the move?

Anonymous 04/27/19 (Sat) 12:24:07 ID: 000000  
No.13193295 >>13193305

Hopefully this was not the happening.

Steve Werby  
@stevewerby  
28s29 seconds ago

Steve Werby Retweeted Steve Werby

According to my wife, who just walked the half mile to the edge of the Chabad of Poway property, law enforcement has said the shooter has been captured. #sandiego #poway #chabad #activeshooter

Shooting inside the Chabad of Poway, California. Just across city of San Diego border. During religious services. At least one person shot. 2 children injured. 2 children missing. My source is County Sheriff via



12:26 4



Sch.net

Anonymous 04/27/19 (Sat) 12:23:57 ID: 5ecc52  
No.13193294

>>13193277

>We

You haven't done shit. HE started the fire. At a mosque in California, apparently. Kudos on

>>13193275 (you) for catching that.

>>13193248 (you)

Do you guys think we have another "Can't Corner the Domer" scenario? Is he on the move?

Anonymous 04/27/19 (Sat) 12:24:07 ID: 000000  
No.13193295 >>13193305

Hopefully this was not the happening:

Steve Werby

@stevewerby

28s29 seconds ago

Steve Werby Retweeted Steve Werby

According to my wife, who just walked the half mile to the edge of the Chabad of Poway property, law enforcement has said the shooter has been captured. #sandiego #poway #chabad #activeshooter

Shooting inside the Chabad of Poway, California. Just across city of San Diego border. During religious services. At least one person shot. 2 children injured. 2 children missing. My source is deputy sheriff via direct conversation, police band, and relative of person at Chabad.

Be aware of increased law enforcement activity in the 16000 block of Chabad Way as @SDSOPoway Deputies investigate reports of a man with a gun. Please stay clear of the area and allow deputies to safely do their job. Thank you for your patience and cooperation.

Anonymous 04/27/19 (Sat) 12:24:07 ID: 978a52  
No.13193296

File (hide): e8e735ce73c5181...jpg (880.83 KB, 1439x2161, 1439x2161,

SmartSelect\_20190427-15233...jpg) (h) (u)

FOX 5

ATTACHMENT A

This warrant applies to information associated with 8chan posting with ID 4e267a and No. 13192921 and all postings by individuals <sup>in response to</sup> ~~who responded~~ to said posting and <sup>or comments</sup> ~~or commented~~ about the posting, owned, maintained, controlled, or operated by 8ch.net, 9120 Double Diamond Parkway, Suite 5901, Reno, NV 89521.

## ATTACHMENT B

All information, including but not limited to, IP address and metadata information, related to 8chan posting with ID 4e267a and No. 13192921 and all postings by individuals <sup>in response</sup> ~~who responded~~ to said posting and/or <sup>Comments</sup> ~~commented~~ about said posting, as well as all postings made by the same IP addresses that were used to post ID 4e267a and No. 13192921, which are evidence of violations of federal law, namely, intentional obstruction by force or threat of force of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1) and damage to religious property, in violation of 18 U.S.C. § 247(a)(1).

M/R  
 JMS

NOT  
 gph

# **EXHIBIT D**

## UNITED STATES DISTRICT COURT

FILED

~~SEALED~~for the  
Southern District of California

APR 29 2019

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY DEPUTYIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Case No.

Information that is stored at Facebook,  
1601 Willow Road, Menlo Park, California 94025

CASE UNSEALED PER ORDER OF COURT

19MJ1756

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 247(a)(2);	Intentional obstruction by force of persons in the free exercise of religious belief;
18 U.S.C. § 249(a)(1);	Willfully causing bodily injury to persons through the use of a firearm because of
18 U.S.C. § 247(a)(1)	their actual or perceived religion; damage to religious property

The application is based on these facts:

See attached affidavit of ATF Senior Special Agent Matthew Beals

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Maria Solomon

Applicant's signature

FBI Special Agent Maria Solomon

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/28/19

Jill Burkhardt

Judge's signature

City and state: San Diego, California

Magistrate Judge Jill L. Burkhardt

Printed name and title

1 RMC

**ATTACHMENT A**

This warrant applies to information associated with following Facebook accounts:

Facebook ID Account Number 100027636555708, with Facebook User Name "John Earnest"; and

Facebook ID Account Number 100005829157939, with Facebook Username: "John Tocatina,"

that are stored at premises owned, maintained, controlled, or operated by Facebook, 1601 Willow Road, Menlo Park, California 94025

## **ATTACHMENT B**

### **I. Service of Warrant**

The officer executing the warrant shall permit Facebook, as custodian of the computer files described in Section II below, to locate the files and copy them onto removable electronic storage media and deliver the same to the officer.

### **II. Items Subject to Seizure**

All registration information; Phone and associated devices; Trusted devices; Deleted friends; Last location; IP history; Stored video and audio direct message communications; Any and all accounts associated by cookie; User Names and profile names; E-mail addresses and passwords; Any and all live stream video associated with account; Profile information; Friends information; Private messages in the user's inbox, sent messages, trash/deleted messages, notifications and updates involving any and all user; Chat information in the user's inbox, sent messages, trash/deleted messages, notifications and updates involving any and all user; IP logs (which includes the date stamps of the IP logs at login), initial login IP address and account activity and other information including name, address, phone number and other screen names that may tend to identify the user; and any other files associated with the following accounts:

Facebook ID Account Number 100027636555708, with Facebook User Name "John Earnest"; and

Facebook ID Account Number 100005829157939, with Facebook Username: "John Tocatina,"

(hereinafter, the "**SUBJECT ACCOUNTS**"). The search of the data supplied by Facebook, Inc., pursuant to this warrant will be conducted as provided in the "Procedures for Electronically Stored Information" of the affidavit submitted in support of this search warrant and will be limited to:

a. Communications, data, or attachments relating to the research, purchase, or acquisition of firearms, and the research or manufacture of incendiary or explosive devices;

b. Communications, data, or attachments tending to identify others involved in the criminal activity described below;

c. Communications, data, or attachments third parties with whom John Ernest discussed the criminal activities described below;

d. Communications, data, or attachments relating to John Earnests' motivation and bias for committing the criminal activities described below;

e. Communications, data, or attachments relating to the research of, visits to, or other connections with the Synagogue located on Chabad Way in Poway, California, and/or the Dar-ul-Arqam Mosque and Islamic Center (the "mosque"), located at 318 West 6th Avenue in Escondido, California;

f. Communications, data, or attachments relating to the research or viewing of news articles and reports about the arson that occurred at the mosque in Escondido, California on March 24, 2019, or criminal acts committed by other individuals involving criminal activity described below;

g. Communications, data, or attachments relating to recruiting and inspiring individuals to engage in the criminal activity described below;

h. Communications, data, or attachments relating to the whereabouts of John Earnest and any criminal associates or co-conspirators at the of the April 27, 2019, shooting at the synagogue on Chabad Way in Poway, and the March 24, 2019, arson of the mosque in Escondido, California;

i. Communications, data, or attachments that tend to provide context to the information described above, such as direct messages sent or received in temporal proximity to any relevant communications, or communications, data, or attachments tending to identify the user of or person with control over the **SUBJECT ACCOUNTS**.



during the time period from January 1, 2017, through April 27, 2019, which tend to prove violations of federal law, namely, intentional obstruction, by force or threat of force, of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. § 247(a)(1).

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT**

I, Maria Solomon, being duly sworn, state:

**I. INTRODUCTION**

1. This affidavit is submitted in support of an application for a search warrant pursuant to 18 U.S.C. 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A), for information associated with the following Facebook accounts:

Facebook ID Account Number 100027636555708, with Facebook User Name "John Earnest"; and

Facebook ID Account Number 100005829157939, with Facebook Username: "John Tocatina,"

(hereinafter the "**SUBJECT ACCOUNTS**"), used by John Earnest, and stored at the premises owned, maintained, controlled, or operated by Facebook, 1601 Willow Road, Menlo Park, California 94025, more fully described in Attachment A.

2. As more fully described herein, there is probable cause to believe that within the **SUBJECT ACCOUNTS**, more fully described in Attachment A, will be found evidence of violations of federal law, namely, intentional obstruction, by force or threat of force of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. § 247(a)(1), as more fully described in Attachment B.

**II. EXPERIENCE AND TRAINING**

3. I am Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed as such for eight years. I am currently assigned to the San Diego FBI Joint Terrorism Task Force ("JTTF") and have been assigned to this position since 2015. Prior to being assigned to the JTTF, I investigated National

Security matters including espionage and proliferation. I have received extensive training in evidence collection to include post blast investigations and served on the FBI's Evidence Response Team for six years. As part of my duties as a Special Agent, I have been responsible for investigation violations of federal law, including violations of material support to terrorism, espionage, weapons proliferation and weapons of mass destruction.

4. My knowledge of the facts alleged in this affidavit arises from my training and experience, my personal observations, my participation in the federal investigation described herein, my conversations with other law enforcement agents, and my review of documents obtained during this investigation. Because this affidavit is submitted for the limited purpose of securing a search warrant as described herein, it does not include every fact known to me concerning this investigation.

### **III. FACEBOOK**

5. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

6. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook, passwords, Facebook security questions and answers (for passwords retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

7. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend request.” If the recipient of a “Friend request” accepts the requests, then the two users will become “Friends” for the purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “News Feed,” which highlights information about the user’s “Friends,” such as status updates, profile changes, upcoming events, and birthdays.

8. Facebook users can select different levels of privacy for the communications and information associate with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users. A Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that user can adjust to control, for example, the types of notifications they receive from Facebook.

9. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

10. Facebook has a Photos application, where users can upload an unlimited number of albums and photos. Another feature of the Photos application is the ability to “tag” (i.e., label) other Facebook users in a photo or video. For

Facebook's purposes, the photos associated with a user's account will include all photos upload by that user that have not been deleted, as well as all photos uploaded by any user that have that user tagged in them.

11. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail message, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

#### **IV. PROBABLE CAUSE**

12. During the course of my current duties, I have learned the following from consulting with other state, local and federal law enforcement officers, including San Diego Sheriff's Department (SDSD) Detectives, San Diego County District Attorney Investigators, and my fellow FBI agents.

13. On April 27, 2019 at approximately 11:23 am. San Diego Sheriff's Communication Center received a 911 call of shots fired at the Synagogue located on Chabad Way in Poway. The reporting party, Dan Sedereff, stated shots were fired in the synagogue.

14. During a briefing by the SDSD following the incident, it was reported that a white male, later identified as John Earnest, entered the synagogue through the front door and fired several rounds from an AR15 rifle. He then proceeded further into the synagogue where he began firing rounds from a handgun.

15. The SDSD stated that inside the synagogue was off-duty Border Patrol Agent Jonathan Morales who retrieved a revolver weapon from one of the congregation members and chased the suspect out of synagogue firing four shots at him as he got into a silver Honda that was parked across the street from the church. The Honda fled northbound on Rancho Bernardo Road. Morales then returned the gun to the congregation members who placed it in a black prayer bag and left it in the synagogue.

16. It was determined by officers that four people were shot and transported to the hospital.

17. SDSD Deputies responded to the synagogue along with paramedics. The synagogue was secured by deputies pending obtaining a search warrant from state authorities, which was planned to be executed later that day.

18. The same day (April 27, 2019), at approximately 11:30 a.m., a male who identified himself as John Earnest called into California Highway Patrol emergency line stating that he had fired shots into the synagogue and was willing to surrender to law enforcement. Earnest called from phone number 858.999.1461. Earnest gave his location as Phil's BBQ at 17051 West Bernardo Center Dr. He stated he was in possession of an AR15 Smith & Wesson MP15 rifle and several rounds of ammunition in his vehicle but that he would not use them against law enforcement. During that call, Earnest made the following comments, among others: "I just shot up a synagogue. I'm defending my country . . . I'm just trying to defend my nation against the Jewish people; they're destroying our people . . . I opened fire at a synagogue; I think I killed some people." I am informed and believed that Smith & Wesson does not manufacture firearms in the State of California.

19. San Diego Police Department ("SDPD") Officers responded to that location and took John Earnest into custody without further incident. Seen on the front passenger seat was an AR15 rifle but no handgun was visible. Additionally, in

the vehicle was a helmet with a Go-Pro camera on it. SDPD Officers were holding the vehicle secure at the location pending obtaining and executing a state search warrant.

20. While on scene at the vehicle, it was learned that one of the victims, Laurie Kay, died as a result of gunshot wounds.

21. During a public safety interview with SDPD Detective Rudy Castro, John Earnest confirmed his home address as 10134 Freeport Ct., San Diego CA. He further stated that there were no further weapons at the home. At that time, Earnest did not appear to be under the influence of a controlled substance but did appear to have a "flat affect" as though he was detached or unaffected by his actions.

22. SDPD SWAT officers and Detectives responded to the residence on Freeport Ct. The parents of the suspect were contacted and escorted from the home and taken to the Sheriff's Poway substation, pending the execution of a state search warrant on their residence. While at the substation, the parents informed law enforcement that their son frequently uses a computer in their home.

23. Using various search methods, Whitney Buckingham an SDSD system data miner, found a manifesto on Pastebin.com written by a person identifying himself as John Earnest. In the manifesto, which he named "An Open Letter", Earnest made many anti-semitic and anti-muslim statements. One such statement which is a direct quote is, "As an individual, I can only kill so many Jews." He states he is not a terrorist but that he hates anyone who he sees as a threat to his country. Earnest took credit for a fire that had been set at mosque in Escondido a few weeks earlier. His exact statement was "I scorched a mosque in Escondido with gasoline a week after Brenton Tarrant's sacrifice and they never found shit on me." Additionally, he wrote "I spray-painted on the parking lot. I wrote 'For Brenton Tarrant -t./pol/'."

24. I observed part of the post-Miranda statement of Earnest. During that interview, he informed an SDSD Detective that he had adopted his ideology of hate for members of the Jewish religion approximately 18 month earlier. Based on my training and experience, I know that there is a process in which someone undergoes adoption of radical ideologies. This process can take several months or several years before a person actually commits to those ideologies. During the interview, Earnest also stated that he was inspired by individuals such as Adolph Hitler and Brenton Tarrant.

25. Based on information received from Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) Special Agent Scott Brahlin, on March 24, 2019, an unknown individual set fire to a mosque in Escondido, California.

26. Specifically, on March 24, 2019, at approximately 3:19 a.m., a 911 call was placed to report a fire at the Dar-ul-Arqam Mosque and Islamic Center (“mosque”), located at 318 West 6th Avenue in Escondido, California. The Escondido Fire Department and then Escondido Police Department (“EPD”) responded. First responders learned approximately seven individuals had been spending the night at the mosque and, at approximately 3:15 a.m., they had observed flames and rushed outside to extinguish them with a fire extinguisher. First responders noticed ash or charring along approximately half the length of the mosque’s west side and spray-painted writing on the asphalt parking lot near where the fire had occurred that read, “FOR BRENTON TARRAN r/pol/.” First responders also noticed the odor of, or similar to, gasoline at the location of the fire.

27. Investigators conducted an online search for “Brenton Tarran” and noted that he was arrested for the mass shootings at two mosques in New Zealand that occurred on March 15, 2019 and is believed to be a white supremacist. Investigators also learned “r/pol/” is a reference to an online political discussion



board that has been characterized as predominately racist, espousing views embraced by white supremacist groups.

28. Investigators reviewed surveillance footage retrieved from a business across the street from the mosque. The camera recorded an individual (“suspect”) park his/her four-door sedan in front of the mosque at approximately 3:00 a.m. In the video, the suspect exited the vehicle, walked towards the parking lot where the message was later found spray painted, and then returned to the vehicle. Shortly thereafter, the suspect again exited the car carrying a large container and walked toward the area of the mosque where the fire was set. A short time later, at approximately 3:15 a.m., a large flash of light and smoke are seen in the video and the suspect walked back to the vehicle and drove away westbound on West 6th Avenue. In surveillance videos obtained from businesses along the route, investigators observed that the suspect appeared to arrive at the mosque on March 24, 2019 by driving eastbound on West 9th Avenue, northbound on South Escondido Boulevard, and then westbound on West 6th Avenue, where he parked in front of the mosque. Investigators also observed, as noted above, that the suspect left the area by driving westbound on West 6th Avenue. Based on their review of surveillance videos, investigators believed that the suspect was driving a 2010 to 2015 Civic Honda, silver in color.

29. Earnest’s statements in the manifesto that he set fire to the Escondido mosque on March 24, 2019, is corroborated by the following. At the time of his arrest for the synagogue shooting, Earnest was driving a 2012 Honda Civic, grey in color. Additionally, the spray painted message left by the mosque arsonist was not released to the media. The fact that the manifesto specifically makes reference to that message further corroborates that Earnest committed the mosque arson.

30. On April 27, 2019, Greg Simon of the SDPD located and viewed an open source online post regarding the shooting at the synagogue. The post

purportedly contains a livestream link referencing the shooting at <https://www.facebook.com/john.earnest.96780> (i.e., Facebook Account Number 100035547390347, with user name “john.earnest.96780.”

31. On April 27, 2019, following the synagogue shooting, FBI Special Agent Scott Norris submitted a request to Facebook for emergency disclosure of records for the “john.earnest.96780” Facebook account, pursuant to 18 U.S.C. § 2702. In response to that request, the Facebook provided records which listed the user’s phone as 858.999.1461 (the same number Ernest used to call the CHP on April 27, 2019). Facebook verified the number on April 7, 2019. Facebook identified two additional Facebook accounts possibly utilized by the user of the john.earnest.96780 Facebook account, which were accessed via the same browser and the same electronic device. Those accounts are the **SUBJECT ACCOUNTS**. ~~The response also indicated that the user of phone number of 858.999.1461 (the same number Ernest used to call the CHP on April 27, 2019).~~ *PCB JLB*

### Opinions and Conclusions

32. I know from my training and experience, including consultation with other law enforcement agents, in investigations involving Facebook that electronic service providers maintain business records that include information listed under the Items Subject to Seizure in Attachment B.

33. Based on my training and experience, including consultation with other agents involved in the investigation and prosecution of hate crimes, I know the following:

a. It is common for individuals who commit hate crimes to discuss such matters, with co-conspirators via telephone, text messages, emails and social media – both before and after such crimes – for the purpose of planning and providing updates to one another.

b. It is also common that individuals who commit hate crimes to discuss their criminal activities with trusted third parties, including friends or loved ones, before and after the commission of such crimes, via text messages, emails and social media.

c. It is also common for such individuals who commit hate crimes to communicate with other like-minded individuals who support their ideologies, beliefs and violent actions, via text messages, emails and social media;

d. It is common for individuals who commit hate crimes to visit or research the planned site of the crimes, prior to committing said crimes, for the purposes of planning the successful execution of their criminal activity and their getaway, and evidence of such research or prior connection may be in their social media sites, including private messaging with third parties;

e. It is common for individuals who commit hate crimes to post statements or send messages to others regarding their bias and motivation for committing such crimes, which evidence may be found in their social media sites, including private messaging with third parties;

f. It is common for individuals who commit hate crimes to conduct research regarding hate crimes committed by themselves and others, and evidence of such research may be found in their social media sites, including private messaging with third parties;

g. It is common for individuals who commit hate crimes to recruit others individuals to adopt their ideological beliefs and inspire others to commit violent acts in support of those beliefs, and evidence of such recruitment may be found in their social media sites, including private messaging with third parties.

h. It is common for individuals who commit hate crimes to conduct research regarding the tools and means to carry out their hate crimes, including

research involving obtaining, manufacturing and/or using firearms, dangerous weapons, and incendiary and explosive devices.

34. Based on my training and experience, and my consultation with my fellow agents, I also believe that the evidence I seek remains in and will be found in the **SUBJECT ACCOUNTS** despite the passage of time. Routinely, during previous cases involving the search of electronically stored data, relevant investigative information is found dating back several months or even years.

## **V. SEARCH PROTOCOL**

### **A. Genuine Risk of Destruction of Evidence**

35. Based upon my experience and training, and the experience and training of other agents with whom I have consulted with, electronically stored data can be permanently deleted or modified by users possessing basic computer skills. In this case, only if the subject receives advance warning of the execution of this warrant, will there be a genuine risk of destruction of evidence.

### **B. Prior Attempt to Obtain Evidence**

36. State authorities have obtained a state search warrant for the Facebook Account, User Name "john.earnest.96780." As indicated above, federal agents also obtained emergency disclosure of limited records for the "john.earnest.96780" Facebook Account which information disclosed the additional **SUBJECT ACCOUNTS**. The United States is unaware of any search warrant applications for the **SUBJECT ACCOUNTS**.

### **C. Procedures for Electronically Stored Information**

37. Federal agents and investigative support personnel are trained and experienced in identifying communications relevant to the crimes under investigation. The personnel of Facebook are not. It would be inappropriate and impractical for federal agents to search the vast computer network of Facebook for

the relevant accounts and then to analyze the contents of those accounts on the premises of Facebook. The impact on Facebook's business would be severe.

38. Therefore, I request authority to seize all content, including electronic mail and attachments, stored instant messages, stored voice messages, photographs and any other content from the **SUBJECT ACCOUNTS**, as described in Attachment B. In order to accomplish the objective of the search warrant with a minimum of interference with the business activities of Facebook, to protect the rights of the subject of the investigation and to effectively pursue this investigation, authority is sought to allow Facebook to make a digital copy of the entire contents of the accounts subject to seizure. That copy will be provided to me or to any authorized federal agent. The copy will be forensically imaged and the image will then be analyzed to identify communications and other data subject to seizure pursuant to Attachment B. Relevant data will be copied to separate media. The original media will be sealed and maintained to establish authenticity, if necessary.

39. Analyzing the data to be provided by Facebook may require special technical skills, equipment and software. It also can be very time-consuming. Searching by keywords, for example, often yields many thousands of "hits," each of which must be reviewed in its context by the examiner to determine whether the data is within the scope of the warrant. Merely finding a relevant "hit" does not end the review process. Certain file formats do not lend themselves to keyword searches and keyword search text. Many common electronic mail, database and spreadsheet applications, which files may have been attached to electronic mail, do not store data as searchable text. The data is saved in a proprietary non-text format. The volume of storage allotted by service providers increases, the time it takes to properly analyze recovered data increases dramatically.

40. Based on the foregoing, searching the recovered data for the information subject to seizure pursuant to this warrant may require a range of data

analysis techniques and may take weeks or even months. Keywords need to be modified continuously based upon the results obtained. The personnel conducting the examination will complete the analysis within (90) days of receipt of the data from the service provider, absent further application to this court.

41. Based upon my experience and training, and the experience and training of other agents with whom I have communicated, it is necessary to review and seize all electronic mails that identify any users of the **SUBJECT ACCOUNTS** and any electronic mails sent or received in temporal proximity to incriminating electronic mails that provide context to the incrimination mails.

42. All forensic analysis of the imaged data will employ search protocols directed exclusively to the identification and extraction of data within the scope of this warrant.

43. FBI Special Agents have been in contact with Facebook, who is expecting FBI to serve them with the warrant as soon as it is signed. For that reason, we are requesting permission to serve the warrant on Facebook at any time, day or night.

#### **VI. REQUEST FOR SEALING AND PRECLUSION OF NOTICE**

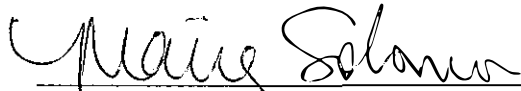
44. Although John Earnest has been arrested by state authorities, he is unaware of the scope and nature of law enforcement's investigation into his activities. Additionally, law enforcement is still investigating whether he acted alone, or conspired with others or was inspired by others. As such, there is reason to believe that that disclosure of the affidavit and warrant will result in destruction of or tampering with evidence or otherwise seriously jeopardize the investigation. Accordingly, it is requested that this warrant and its related materials be sealed until further order of the Court. In addition, pursuant to Title 18, United States Code, Section 2705(b), it is requested that this Court order Facebook to whom this warrant is directed not to notify anyone of the existence of this warrant, other than its

personnel essential to compliance with the execution of this warrant until October 25, 2019, absent order from the Court.

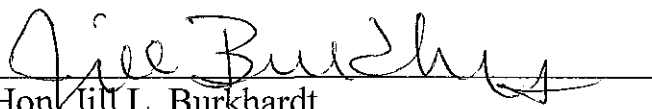
**VII. CONCLUSION**

45. Based on the foregoing, your affiant submits that there is probable cause to believe that violations of federal criminal law, namely, violations of federal law, namely, intentional obstruction, by force or threat of force of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. § 247(a)(1), have occurred, and that evidence of said violations, as described in Attachment B will be found within the **SUBJECT ACCOUNTS**.

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

  
\_\_\_\_\_  
Maria Solomon  
FBI, Special Agent

Sworn to before me this  
28<sup>th</sup> day of April \_\_\_\_ 2019

  
\_\_\_\_\_  
Hon. Jill L. Burkhardt  
UNITED STATES MAGISTRATE JUDGE

**ATTACHMENT A**

This warrant applies to information associated with following Facebook accounts:

Facebook ID Account Number 100027636555708, with Facebook User Name "John Earnest"; and

Facebook ID Account Number 100005829157939, with Facebook Username: "John Tocatina,"

that are stored at premises owned, maintained, controlled, or operated by Facebook, 1601 Willow Road, Menlo Park, California 94025



## **ATTACHMENT B**

### **I. Service of Warrant**

The officer executing the warrant shall permit Facebook, as custodian of the computer files described in Section II below, to locate the files and copy them onto removable electronic storage media and deliver the same to the officer.

### **II. Items Subject to Seizure**

All registration information; Phone and associated devices; Trusted devices; Deleted friends; Last location; IP history; Stored video and audio direct message communications; Any and all accounts associated by cookie; User Names and profile names; E-mail addresses and passwords; Any and all live stream video associated with account; Profile information; Friends information; Private messages in the user's inbox, sent messages, trash/deleted messages, notifications and updates involving any and all user; Chat information in the user's inbox, sent messages, trash/deleted messages, notifications and updates involving any and all user; IP logs (which includes the date stamps of the IP logs at login), initial login IP address and account activity and other information including name, address, phone number and other screen names that may tend to identify the user; and any other files associated with the following accounts:

Facebook ID Account Number 100027636555708, with Facebook User Name "John Earnest"; and

Facebook ID Account Number 100005829157939, with Facebook |  
Username: "John Tocatina,"

(hereinafter, the "**SUBJECT ACCOUNTS**"). The search of the data supplied by Facebook, Inc., pursuant to this warrant will be conducted as provided in the "Procedures for Electronically Stored Information" of the affidavit submitted in support of this search warrant and will be limited to:

a. Communications, data, or attachments relating to the research, purchase, or acquisition of firearms, and the research or manufacture of incendiary or explosive devices;

b. Communications, data, or attachments tending to identify others involved in the criminal activity described below;

c. Communications, data, or attachments third parties with whom John Ernest discussed the criminal activities described below;

d. Communications, data, or attachments relating to John Earnests' motivation and bias for committing the criminal activities described below;

e. Communications, data, or attachments relating to the research of, visits to, or other connections with the Synagogue located on Chabad Way in Poway, California, and/or the Dar-ul-Arqam Mosque and Islamic Center (the "mosque"), located at 318 West 6th Avenue in Escondido, California;

f. Communications, data, or attachments relating to the research or viewing of news articles and reports about the arson that occurred at the mosque in Escondido, California on March 24, 2019, or criminal acts committed by other individuals involving criminal activity described below;

g. Communications, data, or attachments relating to recruiting and inspiring individuals to engage in the criminal activity described below;

h. Communications, data, or attachments relating to the whereabouts of John Earnest and any criminal associates or co-conspirators at the of the April 27, 2019, shooting at the synagogue on Chabad Way in Poway, and the March 24, 2019, arson of the mosque in Escondido, California;

i. Communications, data, or attachments that tend to provide context to the information described above, such as direct messages sent or received in temporal proximity to any relevant communications, or communications, data, or attachments tending to identify the user of or person with control over the **SUBJECT ACCOUNTS**.

during the time period from January 1, 2017, through April 27, 2019, which tend to prove violations of federal law, namely, intentional obstruction, by force or threat of force, of persons in the free exercise of religious belief, resulting in death, in violation of 18 U.S.C. § 247(a)(2), willfully causing bodily injury to persons through the use of a firearm because of the actual or perceived religion of said persons, resulting in death, in violation of 18 U.S.C. § 249(a)(1), and damage to religious property, in violation of 18 U.S.C. § 247(a)(1).

# **EXHIBIT E**

**From:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>

**Sent:** Thursday, May 2, 2019 5:53 PM

**To:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>; Walker, Steve (DA) <[Steve.Walker@sdca.org](mailto:Steve.Walker@sdca.org)>

**Cc:** Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawson, Greg (NBCUniversal) <[Greg.Dawson@nbcuni.com](mailto:Greg.Dawson@nbcuni.com)>

**Subject:** John Earnest search warrants

Karen and Steve,

Can you help me find the location of the search warrants issued so far in the E  
I'm assuming the first warrants were approved telephonically on Saturday an  
conference, that significant number of additional warrants approved and exec  
While I also assume some or all of those warrants have not yet been returned  
upon return, I want to find out, as soon as possible, how may warrants were s  
warrant book, even if they are sealed.

In the past, the Court has, as a courtesy, identified for us the basic info about v  
The agency that sought the warrants.

The number of warrants and their identifying numbers.

The name of the judge who approved them.

The courthouse where the warrants have, or will, be returned.

It's our intention to pursue the warrant documents.

If they are sealed, it's our intention to seek a hearing before the appropriate j  
If a hearing is necessary, we may join with NBC national and/or KNBC in filing  
I haven't asked other local media about any plans they might have to also obt  
If you do get a similar request for information from other media outlets, I hop  
matter as uncomplicated as possible and avoid having multiple parties pursu  
joint request to unseal the warrants.

Thanks much as always for your help on this.

Paul

**Paul Krueger**

**Senior Producer, News and Investigations**

o 619.578.0269 | c 619.250.3887

9680 Granite Ridge Drive, San Diego, CA 92123



We of course want to avoid the time and cost of a hearing if all parties can agree in that fashion, at least for starters.

Thanks for sharing our thoughts on this with him.

Paul

---

**From:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>

**Sent:** Friday, May 03, 2019 2:34 PM

**To:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>; Walker, Steve (DA) <[Steve.Walker@sdccda.org](mailto:Steve.Walker@sdccda.org)>

**Cc:** Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawson, Greg (NBCUniversal) <[Greg.Dawson@nbcuni.com](mailto:Greg.Dawson@nbcuni.com)>

**Subject:** [EXTERNAL] RE: John Earnest search warrants

Good Afternoon Paul,

Presiding Judge Peter C. Deddeh is surveying all Superior Court Judges to see if they have signed warrants connected

It is my understanding there are multiple warrants signed by different judges. Because some of the warrants were signed by Judge Deddeh, he is asking to have all warrants sent to the Central Court for his review. He will discuss these warrants with all

I should have more information next week.

Karen Dalton

Public Affairs Office

Superior Court of California, County of San Diego

619-844-2353

---

**From:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>

**Sent:** Thursday, May 2, 2019 5:53 PM

**To:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>; Walker, Steve (DA) <[Steve.Walker@sdccda.org](mailto:Steve.Walker@sdccda.org)>

**Cc:** Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawson, Greg (NBCUniversal) <[Greg.Dawson@nbcuni.com](mailto:Greg.Dawson@nbcuni.com)>

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The agency that sought the warrants.

The number of warrants and their identifying numbers.

The name of the judge who approved them.

The courthouse where the warrants have, or will, be returned.

Hi Paul,

At this point, I can only let you know that the warrants are all sealed.

Best,

**Steve Walker**  
Communications Director, Special Assistant  
San Diego County District Attorney's Office  
O: (619) 531-3890 M: (619) 843-7977

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**From:** Krueger, Paul (NBCUniversal, KNSD) [<mailto:Paul.Krueger@nbcuni.com>]  
**Sent:** Friday, May 03, 2019 2:42 PM  
**To:** Dalton, Karen\_SDCOURT; Walker, Steve; Sierra, Tanya  
**Cc:** Jones, Thomas (NBCUniversal); Dawson, Greg (NBCUniversal)  
**Subject:** RE: John Earnest search warrants

Karen,

Thanks so much for getting to work on this so quickly, and getting us this initiative. When Judge Deddeh rounds up all the warrants, we'd like to participate, if possible, in copying any unsealed warrants and the possibility of unsealing sealed warrant information, as we did in the past with Judge Danielson.

We of course want to avoid the time and cost of a hearing if all parties can agree in that fashion, at least for starters.

Thanks for sharing our thoughts on this with him.

Paul

---

**From:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>  
**Sent:** Friday, May 03, 2019 2:34 PM  
**To:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>; Walker, Steve (DA) <[Steve.Walker@nbcuni.com](mailto:Steve.Walker@nbcuni.com)>  
**Cc:** Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawson, Greg (NBCUniversal) <[Greg.Dawson@nbcuni.com](mailto:Greg.Dawson@nbcuni.com)>  
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- Judge Deddeh has brought all warrants and the supporting affidavit to the Central Courthouse.
- On April 27<sup>th</sup> - ten (10) warrants were signed by Judge Lantz Lewis (EAST). They have temporary #s not ready for
- On April 28<sup>th</sup> - six (6) search warrants were granted by Judge Jay Bloom (CENTRAL). Their numbers are: 60576, 6
- All warrants and their supporting affidavit are sealed.
- Judge Deddeh will not hold an informal discussion on the unsealing.
- Should the media wish to request an unsealing, it should file accordingly and Judge Deddeh will inform all parties.

Karen Dalton  
Public Affairs Office  
Superior Court of California, County of San Diego  
619-844-2353

---

**From:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>

**Sent:** Wednesday, May 8, 2019 9:55 AM

**To:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>

**Cc:** Sierra, Tanya (DA) <[Tanya.Sierra@sdcca.org](mailto:Tanya.Sierra@sdcca.org)>; Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawso

**Subject:** Update on John Earnest search warrants?

Karen,

Can you get me an update, if info is available yet from Judge Deddeh, about the number of warrants and any the

Thx

Paul

Sent from my iPhone

On May 3, 2019, at 3:04 PM, Walker, Steve <[Steve.Walker@sdcca.org](mailto:Steve.Walker@sdcca.org)> wrote:

Hi Paul,

At this point, I can only let you know that the warrants are all sealed.

Best,

**Steve Walker**  
Communications Director, Special Assistant  
San Diego County District Attorney's Office  
O: (619) 531-3890 M: (619) 843-7977

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**From:** Krueger, Paul (NBCUniversal, KNSD) [<mailto:Paul.Krueger@nbcuni.com>]

**Sent:** Friday, May 03, 2019 2:42 PM

**To:** Dalton, Karen; SDCOIRT; Walker, Steve; Sierra, Tanya



619-844-2353

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**From:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>**Sent:** Thursday, May 9, 2019 12:10 PM**To:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>**Cc:** Sierra, Tanya (DA) <[Tanya.Sierra@sdcdca.org](mailto:Tanya.Sierra@sdcdca.org)>; Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawso**Subject:** RE: Update on John Earnest search warrants?

Thanks for this info, Karen.

When can we get the number for the ten warrants signed by Judge Lewis on 4/27/

Can you confirm that all of the warrants have been returned with receipts and inve

Thx,

Paul

---

**From:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>**Sent:** Thursday, May 09, 2019 12:01 PM**To:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>**Cc:** Sierra, Tanya (DA) <[Tanya.Sierra@sdcdca.org](mailto:Tanya.Sierra@sdcdca.org)>; Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawso**Subject:** [EXTERNAL] RE: Update on John Earnest search warrants?

Dear Paul,

Thank you for your patience as we queried our judges as to who may have signed a search warrant in this case.

Here is what we have compiled:

- Judge Deddeh has brought all warrants and the supporting affidavit to the Central Courthouse.
- On April 27<sup>th</sup> - ten (10) warrants were signed by Judge Lantz Lewis (EAST). They have temporary #s not ready for
- On April 28<sup>th</sup> - six (6) search warrants were granted by Judge Jay Bloom (CENTRAL). Their numbers are: 60576, 6
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Public Affairs Office

Superior Court of California, County of San Diego

619-844-2353

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**From:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>

**Sent:** Friday, May 10, 2019 2:36 PM

**To:** Krueger, Paul (NBCUniversal, KNSD) <[Paul.Krueger@nbcuni.com](mailto:Paul.Krueger@nbcuni.com)>

**Cc:** Sierra, Tanya (DA) <[Tanya.Sierra@sdcd.org](mailto:Tanya.Sierra@sdcd.org)>; Jones, Thomas (NBCUniversal) <[TomJ@nbcuni.com](mailto:TomJ@nbcuni.com)>; Dawso

**Subject:** [EXTERNAL] RE: Update on John Earnest search warrants?

Good Afternoon Paul,

The Judge Lewis warrants have the following numbers:

E2019-413

E2019-414

E2019-418

E2019-434

E2019-435

E2019-436

E2019-437

E2019-438

E2019-439

E2019-442

Returns have been made on all the warrants except for E2019-442

All are sealed including the receipt and inventories.

Karen Dalton

Public Affairs Office

Superior Court of California, County of San Diego

619-844-2353

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Can you confirm that all of the warrants have been returned with receipts and inve

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Paul

---

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## Subject: RE: Update on John Earnest search warrants?



**Krueger, Paul (NBCUniversal, KNSD)** <Paul.Krueger@nbcuni.com>

to Dalton, Karen, Sierra, Tanya (DA), Jones, Thomas (NBCUniversal), Dawson, Greg (NBCUniversal), Walker, Steve

You are viewing an attached message. Jassy Vick LLP Mail can't verify the authenticity of atta

Thx much Karen.

We'll discuss our options here, and get back to you next week.

Paul

---

**From:** Dalton, Karen <[Karen.Dalton@SDCourt.CA.Gov](mailto:Karen.Dalton@SDCourt.CA.Gov)>

**Sent:** Friday, May 10, 2019 2:36 PM

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All are sealed including the receipt and inventories.

Karen Dalton

Public Affairs Office

Superior Court of California, County of San Diego

619-844-2353

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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to this action. My business address is 800 Wilshire Blvd., Suite 800, Los Angeles, CA 90017.

**NOTICE OF MOTION AND MOTION BY NON-PARTY MEDIA ENTITIES TO  
UNSEAL SEARCH WARRANT RECORDS; MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT; DECLARATION OF ELIZABETH BALDRIDGE, EXS. A-  
E**

District Attorney Summer Stephan  
Hall of Justice  
330 W. Broadway  
San Diego, CA 92101

John Denis O'Connell Jr.  
San Diego County Public Defender  
450 B. St., Suite 900  
San Diego, CA 92101

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

Maureen R.

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