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| Police Technical |
| CELLULAR PHONE MODEL SEARCH WARRANT |
| DDA Mike Galli, Santa Clara County |

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# About the Author:

Mike Galli, DDA for the County of Santa Clara (CA), wrote the Search Warrant Law & Practice Manual the California District Attorney’s Association (CDAA) in 2009; currently in the 3rd Edition. It is approximately 632 pages long, and contains 200 pages of sample search warrants. He has taught search and seizure law for over 28 years to law enforcement and deputy district attorney’s.

DDA Galli has made his template available to the law enforcement community via POLICE TECHNICAL. While specific to California and referencing California statute, the document may be modified and shared with other officers in your department.

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Search Warrant Law & Practice Manual, Cell Phone Search Warrant Affidavit, Form #8.doc

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**SW #: \_\_\_\_\_\_\_**

SUPERIOR COURT OF CALIFORNIA

**[INSERT COUNTY NAME, IN UPPERCASE, but not bold]** COUNTY JUDICIAL DISTRICT

**[INSERT LOCATION, IN UPPERCASE, but not bold]** FACILITY

**SEARCH WARRANT**

THE PEOPLE OF THE STATE OF CALIFORNIA

To any Peace Officer in the County of **[Insert County Name, but not in bold or uppercase]**:

Proof, by affidavit, having been made before me this day by \_\_\_\_\_\_\_\_\_\_\_ **[INSERT AFFIANT’S NAME IN BOLD & UPPERCASE]**, that there is probable cause for believing that items lawfully seizable pursuant to California Penal Code §1524 in that:

the property or things were used as the means of committing a felony.

the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.

the property or things to be seized constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of California Penal Code §311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of California Penal Code §311.11, has occurred or is occurring.

more particularly described below and property used in the commission of felony violations of **CALIFORNIA [INSERT CODE § & NAME(S) OF FELONY(S) IN BOLD & UPPERCASE, e.g., HEALTH & SAFETY CODE §11351 (POSSESSION FOR SALE OF COCAINE) and 11352 (SALES OF COCAINE)] \_\_\_\_\_\_\_\_**,will be located on the cellular communication device(s)[[1]](#footnote-1)described below.

**YOU ARE THEREFORE COMMANDED**, in the daytime to make search of the following [**insert either “a” or the actual number of cellular communication device(s) (e.g., “two”) to search if multiple communication device(s) involved, but not in bold or uppercase**], cellular communication device(s) currently under the custody and control of the [**INSERT NAME OF POLICE AGENCY IN BOLD & UPPERCASE**]**,** whose primary business address is [**INSERT STREET ADDRESS & CITY IN BOLD & UPPERCASE**]**, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY,** **CALIFORNIA:**

1. [**Insert, make, model and serial number of the cellular communication device(s) to be searched, in single space, but not in bold or uppercase**]

for the following property and evidence located within the above described device(s):

1. The following items that may be located on and in the above-described cellular communication device(s):

A. Data that may identify the owner or user of the above-described cellular communication device(s);

B. Address books and calendars;

C. Audio and video clips related to the above-described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference;

D. Call histories and call logs related to the above-described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference;

E. Photographs and associated metadata[[2]](#footnote-2) related to the above-described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference;

F. Text messages (SMS[[3]](#footnote-3)), multimedia messages (MMS[[4]](#footnote-4)), recorded messages and subscriber information modules [SIM cards[[5]](#footnote-5)] between \_\_\_\_\_\_\_\_\_\_\_ and co-conspirators involved in the above described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference;

G. E-mail messages and attachments, whether read or unread and related to the above-described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference.

H Internet World Wide Web (WWW) browser files including, but not limited to, browser history, browser cache, stored cookies; browser favorites, auto-complete form history and stored passwords;

I. Global position system (GPS[[6]](#footnote-6)) data including, but not limited to coordinates, way points and tracks;

J. Documents and other text based files related to the above described criminal activity and further described in the affidavit in support of this search warrant, which is attached hereto and entirely incorporated herein by reference;

2. With respect to the above items listed in #1 and its subsections above, the executing law enforcement officer(s) is\are authorized to view, photograph, record, copy, forensic image and conduct forensic analysis of any and all data, programs and applications on the above-described cellular communication device(s), as well as on any data storage devices and or mediums attached to those cellular communication device(s);

3. The executing law enforcement officer may enlist the aid of a law enforcement computer forensic laboratory in the searching, viewing, photographing, recording, copying, forensic imagining and analysis of any and all of the information described in item list #1 and its subsections above.

And if you find the same or any part thereof, to hold such property in your possession under California Penal Code §1536. Furthermore, upon adjudication of the case(s) against all defendant(s) in this action, including the resolution of any and all appeals, and the written concurrence of the **[Insert County Name, but not in bold or uppercase]** \_\_\_\_\_\_\_\_\_\_ County District Attorney's Office, the

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property be disposed of in accordance with the procedures set forth in California Penal Code §§1407 to 1422, without the necessity of a further Court Order issued pursuant to California Penal Code §1536.

**HOBBS SEALING AUTHORIZED: YES [ ] NO [ ]**

**(People v. Hobbs (1994) 7 Cal.4th 948).**

**NIGHTTIME SERVICE AUTHORIZED: YES [ ] NO [ ]**

Given under my hand this \_\_\_\_\_ **[Judge fills in day date]** day of \_\_\_\_\_\_\_\_\_ **[Affiant inserts month, but not in bold or uppercase]** 20\_\_\_\_ **[Affiant inserts year, but not in bold]**.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

1. Cellular communication devices as used herein encompass devices that are primarily used for personal communications. These devices may include cell phones, PDAs, “Smart Phones” and other handheld data processing devices that connect to cellular communications networks, for the primary purpose of personal communications. What is not included are desktop and laptop computers. [↑](#footnote-ref-1)
2. Metadata is generally defined as data about data. It is stored within the data file itself, but is not normally seen when viewing the file. Metadata includes Exchangable Image File Format (EXIF) which is a specification for image file formats used by digital camera and includes specific information about the photograph. [↑](#footnote-ref-2)
3. Short Message Service (SMS) is the text communication service that allows the exchange of short text messages between mobile phone devices. [↑](#footnote-ref-3)
4. Multimedia Message Service (MMS) is a communication service that allows the exchange of messages that include multimedia content to and from mobile phones. [↑](#footnote-ref-4)
5. Subscriber Identity Modules, sometimes referred to as SIM cards, are portable memory chips often used in notebook computers and some models of mobile phones. SIM cards securely store the service-subscriber key used to identify subscribers. The SIM card allows users to change phones by simply removing the SIM card from one mobile phone and inserting it into another mobile phone or broadband telephony device. SIM cards store information used to authenticate and identify subscribers, including but not limited to the Service Provider Name, Service Dialing Numbers and Value Added Service applications. They can also be used to store personal address books and SMS data. [↑](#footnote-ref-5)
6. The Global Positioning System (GPS) is a satellite-based navigation system which provides location and time information. [↑](#footnote-ref-6)