

Anne Taylor Law, PLLC  
Anne C. Taylor, Attorney at Law  
PO Box 2347  
Coeur d'Alene, Idaho 83816  
Phone: (208) 512-9611  
iCourt Email: [info@annetaylorlaw.com](mailto:info@annetaylorlaw.com)

Jay W. Logsdon, First District Public Defender  
Idaho State Public Defender  
1450 Northwest Blvd.  
Coeur d'Alene, Idaho 83814  
Phone: (208) 605-4575

Elisa G. Massoth, PLLC  
Attorney at Law  
P.O. Box 1003  
Payette, Idaho 83661  
Phone: (208) 642-3797; Fax: (208)642-3799

*Assigned Attorney:*

Anne C. Taylor, Attorney at Law, Bar Number: 5836  
Jay W. Logsdon, First District Public Defender, Bar Number: 8759  
Elisa G. Massoth, Attorney at Law, Bar Number: 5647

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**V.**

**BRYAN C. KOHBERGER,**

**Defendant.**

**CASE NUMBER CR01-24-31665**

**REPLY TO STATE'S OBJECTION TO  
DEFENDANT'S MOTION TO  
SUPPRESS AND MEMORANDUM IN  
SUPPORT**

**RE: PEN TRAP AND TRACE DEVICE**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and submits the following Reply to the State's objection to his Motion to Suppress and Memorandum in Support Re: Pen Trap and Trace Device. The words "proof upon oath" are not synonymous with

“the affidavit for search warrant and its exhibits are hereby incorporated”. A non-particularized general affidavit in support of a search warrant held in the hands of law enforcement, which never accompanied the electronically served warrant, cannot be relied upon to validate a warrant.

**I. The AT&T (Trap and Trace, or AT&T 2) Warrant was General, and the Affidavit was Not Incorporated into the Warrant or Served with the Warrant**

The Fourth Amendment to the United States Constitution states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article I, Section 17 of the Idaho Constitution is virtually identical to the Fourth Amendment, except that “oath or affirmation” is termed “affidavit.”

The Supreme Court has acknowledged “that a court may construe a warrant with reference to a supporting application or affidavit if the warrant uses appropriate words of incorporation, and if the supporting document accompanies the warrant.” *Groh v. Ramirez*, 540 U.S. 551, 557–58, 124 S.Ct. 1284, 157 L.Ed.2d 1068 (2004). In *SDI Future*, the Ninth Circuit held that a statement on the face of the warrant noting “the supporting affidavit(s)” was sufficient as a suitable reference and incorporation. *U.S. v. SDI Future Health, Inc.*, 568 F.3d 684, 699–700 (9th Cir. 2009). The warrants contained no language that the affidavit was incorporated. In misguided fashion, the State asserts that there is no requirement for specific language and relies on *Adamcik v. State*, which upheld a warrant where “the opening paragraph of the warrant unambiguously referenced the affidavit and sworn testimony of Detective Sellers as the basis for the warrant.” 163 Idaho 114, 125 (Idaho S. Ct. 2017). In this case, no such words exist in the warrant. The affidavit nor any of

its exhibits were incorporated. On page 3, in reference to the installation of a pen register and/or trap and trace device, there is language that states: “[t]he court finds that Brett Payne, investigating officer, and Ashley Jennings, Senior Deputy Prosecutor, has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.” *See* State Exhibit S-2, p. 3. While this language is unique to the trap and trace warrant, it does not incorporate the search warrant affidavit or any of its attachments.

The search warrant affidavit did not accompany service of the warrant. The state, in its Objection, attached the search warrant affidavit, its exhibit and the order to install the trap and trace device. It did not attach the documents that provide clarity that the search warrant affidavit was not included with the service of the search warrant. Those documents are therefore included in this filing as attachments. Where a supporting affidavit does not accompany the search warrant at the time of execution, the detail set out in the affidavit does not cure any deficiencies. *U.S. v. Pilling*, 721 F.Supp. 3d 1113, 1126 (D. Idaho 2024) (warrant suppressed where supporting affidavit was not provided to Apple). An affidavit is considered “to be part of a warrant, and therefore potential curative of any defects, ‘only if (1) the warrant expressly incorporated the affidavit by reference and (2) the affidavit either is attached physically to the warrant or at least accompanies the warrant while agents execute the search.’” *SDI Future Health Inc.*, at 699 (citing *United States v. Kow*, 58 F.3d 423, 429 n. 3 (9th Cir.1995)).

The Affidavit of Cpl. Brett Payne swears that warrant was “served on 12/23/2022, by sending to FBI for service.” *See* Exhibit A, p. 2.<sup>1</sup> An FBI form similarly reflects that a “prospective location tracking search warrant that included a Pen Register/Trap and Trace for telephone number 509-592-8458 on behalf of the Moscow Police Department” was served on December 23, 2022.

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<sup>1</sup> Exhibits A-C to Reply in Support of Defendant’s Motion to Suppress and Memorandum Re: Pen Trap and Trace Device was filed under seal concurrently with this Reply.

See Exhibit B. On or about December 23, 2022, an AT&T Mobility Carrier Request Form was completed. See Exhibit C, p. 1. Attached to the AT&T form is the Pen Tap and Trace search warrant at issue. The Affidavit in Support of Search Warrant not included. *Id.*, pp. 3-10. The return documents, the FBI form and the AT&T form do not reference the Affidavit in Support of Search Warrant as having accompanied the Pen Trap and Trace search warrant. See Exhibits A-C. Nor does the State produce such records in its Objection.

The process described by the State as meeting the criteria of *State v. Teal* simply does not exist. In its incorporated Objection to the Motion to Suppress Apple Warrant, the State indicates that the “investigators necessarily had copies of the affidavit in their possession when they executed the warrant by emailing it to Apple.” See Apple Objection, p. 5. Further, the State offers that “[t]he effect of this is that the Affidavit for Search Warrant and appended Exhibit A cure any supposed deficiencies in the naked warrant.” See Apple Objection, pp. 5-6. An officer sitting at a computer executing a search warrant by submitting it electronically to AT&T and having the affidavit for search warrant in his hand is different than an officer being physically present when executing a search warrant and having the affidavit for search warrant available for reference.

## **II. The Affidavit Submitted in Support of the Application for the Issued Search Warrant Recklessly or Intentionally Omitted Material Information.**

In response to the State’s arguments under “Defendant Has Not Demonstrated the Search Warrant Affidavits Contain Intentionally or Recklessly False Statements or Omissions,” Defendant refers the Court to and hereby incorporates “Defendant’s Reply in Support of Defendant’s Motion and Memorandum in Support for a *Franks* Hearing” and “Reply in Support of Motion to Suppress Genetic Information.”

**CONCLUSION**

Mr. Kohberger requests that this Court suppress all evidence obtained by police via the warrant that permitted them to place a trace on Mr. Kohberger’s cel phone number.

DATED this 19 day of December, 2024.

BY: /s/ Elisa G. Massoth  
Elisa G. Massoth

**CERTIFICATE OF DELIVERY**

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 19 day of December, 2024 addressed to:

Latah County Prosecuting Attorney –via Email: [paservice@latahcountyid.gov](mailto:paservice@latahcountyid.gov)

Elisa Massoth – via Email: [legalassistant@kmrs.net](mailto:legalassistant@kmrs.net)

Jay Logsdon – via Email: [Jay.Logsdon@spd.idaho.gov](mailto:Jay.Logsdon@spd.idaho.gov)

Jeffery Nye, Deputy Attorney General – via Email: [Jeff.nye@ag.idaho.gov](mailto:Jeff.nye@ag.idaho.gov)



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MM 9 2023 AM 7:17  
CLERK OF DIST CT. LATAH  
OFFICE  
BY \_\_\_\_\_ DEPT

LATAH COUNTY PROSECUTOR'S OFFICE  
Ashley S. Jennings  
Sr. Deputy Prosecuting Attorney  
Latah County Courthouse  
P.O. Box 8068  
Moscow, ID 83843-0568  
(208) 883-2246  
ISB No. 8491  
paservice@latah.id.us

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH

In the Matter of the Application ) Case No. CR29-  
for a Search Warrant for: )  
)  
AT&T Mobility ) RETURN OF SEARCH WARRANT  
11760 U.S. Highway 1, Suite 300 )  
North Palm Beach, FL 33408-3029 )  
)  
MPD Case No. 22-M09903 )

STATE OF IDAHO )  
 ) :ss.  
County of Latah )

I, Cpl Brett Payne, the officer by whom this Warrant was executed, do certify the appended inventory contains a true and detailed account of all property taken by me or other officers pursuant to this Warrant, and that this Warrant and property have been duly returned before Judge Megan E. Marshall at 9:00 o'clock a.m., this 6<sup>th</sup> day of January, 2023.

I certify under penalty of perjury pursuant to the law the State of Idaho that the foregoing is true and correct.

1/6/23  
(Date)

B Payne #157  
Peace Officer

AFFIDAVIT OF LAWRENCE MOWERY

STATE OF IDAHO )  
  :SS.  
County of Latah    )

I, Cpl Brett Payne, being duly sworn, do hereby state the following information is true and correct to the best of my knowledge and belief:

- (1) That I am employed by Moscow Police Department in the official position of Detective;
- (2) Affidavit has been a trained and qualified peace officer for 4 years;
- (3) On 12/23/2022, I obtained a search warrant for AT&T;
- (4) The warrant was served on 12/23/2022, by sending to FBI for service, as FBI hosted the Pen Register and Precision Location response portion of this warrant;
- (5) An inventory was prepared for all the items received; and
- (6) The information received was placed into evidence at the Moscow Police Department.

FURTHER your Affiant sayeth not.

CPL BRETT PAYNE

Affiant

I certify (or declare) under penalty of perjury pursuant to the law the State of Idaho that the foregoing is true and correct.

1/6/23  
(Date)

BPA #157  
(Signature)

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH

IN THE MATTER OF  
THE APPLICATION  
FOR A SEARCH WARRANT FOR

AT&T  
11760 U.S. Highway 1, Suite 300  
North Palm Beach, FL 33408

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

RECEIPT AND  
INVENTORY OF WARRANT

On the 23rd day of December, 2022, at approximately 5:07 o'clock p.M.,  
the following peace officers: Cpl Brett Payne

served the Search Warrant heretofore issued upon the place and/or person(s) described therein as  
directed in said Search Warrant. Entrance was obtained by: sending to FBI for service,  
as FBI hosted the Pen Register and Precision Location response portion of this warrant.

The person(s) found in said place were: \_\_\_\_\_

The property found and taken and the location within or upon said place and/or person(s) are  
as follows:

DESCRIPTION OF PROPERTY	LOCATION/PERSON
<u>509-592-8458</u>	_____
_____	_____
_____	_____
_____	_____

RECEIPT AND INVENTORY

PAGE 1 OF 2 PAGES

003741



This Receipt and Inventory was made in the presence of: \_\_\_\_\_

A copy hereof was given to the following named person(s) on the 23<sup>rd</sup> day of  
DECEMBER, 2022:

COMPCENT @ AT+T. Com

A copy hereof was left on this date in a conspicuous place in the place searched, there being no  
person(s) present during said search: SERVED TO AT+T

DATED this 6 day of January, 2023.

\_\_\_\_\_  
WITNESS

B. [Signature] #157  
PEACE OFFICER

The undersigned person(s) hereby acknowledge receiving a copy hereof on this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_:

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

JAN 9 2028 04:11  
CLERK OF DIST. COURT  
CASE NO. \_\_\_\_\_  
BY \_\_\_\_\_ DEPUTY

LATAH COUNTY PROSECUTOR'S OFFICE  
ASHLEY S. JENNINGS  
SR. DEPUTY PROSECUTING ATTORNEY  
Latah County Courthouse  
P.O. Box 8068  
Moscow, Idaho 83843-0568  
(208) 883-2246  
ISB No.8491  
paservice@latah.id.us

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH

In the Matter of the Application ) Case No.  
for a Search Warrant for: )  
)  
AT&T Mobility ) ORDER  
11760 U.S. Highway 1, Suite 300 )  
North Palm Beach, FL 33408-3029 )  
)  
MPD Case No. 22-M09903 )

In the above-titled matter, this Court having heretofore issued a Search Warrant, and the said Search Warrant having been served according to law, and the Return of Warrant having been duly made as directed in said Search Warrant to this Court, and a written inventory of the property found and seized having been duly made and taken before the undersigned Magistrate or Judge and filed herein;


NOW, THEREFORE IT IS HEREBY ORDERED that the said Peace Officer shall deliver or cause to be delivered, the property described in said inventory to the Moscow Police Department or such other law enforcement agency as may be appropriate for the purpose of preserving said property for use as evidence or until further order of a court of competent jurisdiction. Once any related criminal case has been concluded, including the expiration of time for appeal, or at such other appropriate time, the property can be released or disposed of upon authorization of the jurisdictional

ORDER 003743

prosecuting attorney.

IT IS FURTHER ORDERED that said property or any part thereof, may be delivered to any person or laboratory or laboratories for the purpose of conducting or obtaining any tests, analysis, or identification of said property which is deemed necessary by the custodial law enforcement agency or jurisdictional prosecuting attorney without further order of this Court.

DATED 1/7/23 @ 9:14 am.

  
Megan E. Marshall  
Magistrate Judge

9A-SU-3683464 Serial 303

- 1 of 1 -

FD-302 (Rev. 5-8-10)

**UNCLASSIFIED//FOUO**  
**FEDERAL BUREAU OF INVESTIGATION**

Date of entry 02/24/2023

On December 23, 2022, the Federal Bureau of Investigation served a prospective location tracking search warrant that included a Pen Register/Trap and Trace for telephone number 509-592-8458 on behalf of the Moscow Police Department. The information captured as part of this legal process is being attached to the 1A section of this serial.

UNREDACTED

**UNCLASSIFIED//FOUO**

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Investigation on 02/24/2023 at Moscow, Idaho, United States (Other (Legal Process Return))

File # 9A-SU-3683464 Date drafted 02/24/2023

by Nicholas J. Ballance

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

009001

**Exhibit B - Trap & Trace - Page 1**

# AT&T Mobility Carrier Request Form



11760 U.S. Hwy One, 6th Floor, North Palm Beach, FL 33408

Phone: 800-635-6840

Fax: 888-938-4715

Email: gldc@att.com

CONTACT INFORMATION	
Requesting Agency: FBI-Salt Lake City	
LEA Tracking Number: [REDACTED]	Date: 12/24/2022
Primary POC: Seth Footlik	Office: (801) 579-6949      Mobile: [REDACTED]
Email Addr: [REDACTED]	Fax:
Additional Authorized Contacts: <See Attachment>	Billing Address: Federal Bureau of Investigation Mailstop/Attn to: FBI ETMU FRF. Building 27958A Quantico, VA 22135
**Please include last four digits of Target's telephone number and the FBI Tracking Number on invoice**	
LEGAL AUTHORITY	
Legal Authority: Criminal Court Order	Court Order / Docket Number : CR29-
Action: New Activation	Date/Time Signed: 12/23/2022 05:53 PM <small>Time Zone</small> MST
Cell Site Location Authorized: Yes	Judges Name: Megan Marshall
PROVISIONING INFORMATION	
Target Identifier: (509) 592-8458	International Number <input type="checkbox"/> IMSI/MSID
<b>CALEA Services</b> <b>Pen Register / Trap and Trace</b> Start 12/23/2022      End 02/23/2023 <input checked="" type="checkbox"/> Telephony <input checked="" type="checkbox"/> w/ Cell Site Location <input checked="" type="checkbox"/> Text Messaging <input type="checkbox"/> w/ PCTDD <input type="checkbox"/> Push-To-Talk <input checked="" type="checkbox"/> Packet Data/WiFi PTT ID:	<b>Historical Records Services</b> Start 06/23/2022      End 12/23/2022 <input checked="" type="checkbox"/> Call Detail Records <input checked="" type="checkbox"/> w/ Cell Site Location <input type="checkbox"/> w/ PCTDD <input checked="" type="checkbox"/> w/ PCMD / RTT / TRUECALL / NELOS <input type="checkbox"/> Stored Content <input checked="" type="checkbox"/> Subscriber Info Email records to: njballance@fbi.gov <input type="checkbox"/> Cell Tower Search Email records to:
<b>Full Content</b> Start      End <input type="checkbox"/> Telephony <input type="checkbox"/> w/ PR/TT <input type="checkbox"/> Text Messaging <input type="checkbox"/> w/ Cell Site Location <input type="checkbox"/> Packet Data/WiFi <input type="checkbox"/> w/ PCTDD <input type="checkbox"/> Push-To-Talk PTT ID:	<b>Location Services</b> Start 12/23/2022      End 02/23/2023 17:53:00 MST <input checked="" type="checkbox"/> GPS PING <input checked="" type="checkbox"/> CALEA Event-Based Location Frequency: <input checked="" type="checkbox"/> 15 Min <input type="checkbox"/> 30 Min <input type="checkbox"/> 60 Min Primary email: precisionlocation@4A35rack6.com Secondary email: PrecisionLocation@RakeReceiver.com
Audio Delivery: Dial Down 1:	Dial Down 2:      Method:
Call Data Channel Delivery: IP:	Port:      CFID:
Packet Data/WiFi Delivery: IP:	Port:      CFID:
Markets/Switches: Northeast, Southeast, Central, West	
REMARKS/SPECIAL INSTRUCTIONS	
Non-disclosure order included. Past seven (7) days of Timing Advance data, as available. Please include Cellular Analysis Survey Team SA Sean Kennedy, as well as SA Nicholas Ballance and Anthony Vega as additional contacts. Thank you,	

## ADDITIONAL CONTACTS

Wilson, Brandon

Woodall, Brian

Fellenz, Erich

Capson, Karen

Watson, Ken

Kohn, Michael

Footlik, Seth

Fellenz, Mandy

Wilson, Robert

Nielsen, Jeremy

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH

In the Matter of the Application )  
For a Search Warrant for: ) Case No. CR29-  
 )  
AT&T ) SEARCH WARRANT AND  
11760 U.S. Highway 1, Suite 300 ) ORDER AUTHORIZING  
North Palm Beach, FL 33408-3029 ) INSTALLATION AND/OR  
 ) USE OF A PEN REGISTER,  
 ) TRAP AND TRACE DEVICE  
 )  
 ) AND  
 ) NON-DISCLOSURE ORDER  
 ) PURSUANT TO I.C. 18-6722  
MPD Case No. 22-M09903 )

TO: ANY PEACE OFFICER AUTHORIZED TO ENFORCE OR ASSIST IN  
ENFORCING ANY LAW OF THE STATE OF IDAHO.

Brett Payne, having given me proof, upon oath, this day showing probable cause establishing grounds for issuing a search warrant and probable cause to believe there are records related to the crime(s) of homicide at 1122 King Road, Moscow, Idaho and are currently under the control of AT&T for historic call detail records for the telephone number 509-592-8458 with cell sites for all voice, sms, and data connections between June 23, 2022, to present, to include:

SEARCH WARRANT  
AND ORDER FOR A  
PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722

- Subscriber or Registration Account Information, including subscriber or registered user name or identity, address, billing/payment information; account initiation date; type of account; custom account features; additional phone numbers; addresses (both physical and electronic) and/or other contact information; additional persons having authority on the account; any additional accounts linked to the subject account; account changes for the target address and any linked accounts; and
- Device Identifying Information for the device using the target address, such as phone number, MAC address, IP address, and other unique hardware and software identifiers; and
- Usage and Location Information, including stored and transactional records for all voice, sms and data connections such as inbound and outbound call, message, radio or other communication detail data, together with date and time of each communication; including positioning information such as GPS longitude/latitude or multilateration or precision location, historical and prospective cell site location information (CSLI), or other information tending to reveal the proximate or precise location of the device associated with the above-identified target address; E911 data for the target address; and, for internet communications, detail such as IP address, Port, Socket Address, VoIP address, routing information; the address(es) from which the communication is made, conducted, and terminated; non-content text or email, header, IP address; and other non-content information; and
- such as cell site positioning information, GPS longitude/latitude or multilateration or precision location (including RTT and LocDBoR reports or similarly generated location information), Timing Advance and/or True Call or other information tending to reveal the proximate or precise location of the device associated with the target address; E911 data for the target address; and
- Physical address of cellular antenna towers used by the customer's device, together with RF coverage map(s) and/or satellites contacted or used by the above-identified customer/number/account(s)/device(s), and periods of telephone activation, session times, duration, and the identity of any temporarily assigned network addresses; and
- subscriber identity information for customers who contact or are contacted by the device using the target address;

located at the following premises:

SEARCH WARRANT  
AND ORDER FOR A  
PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722



AT&T  
11760 U.S. Highway 1, Suite 300  
North Palm Beach, FL 33408-3029

You are therefore commanded to search the above-described premises for the property described above, to seize it if found and bring it promptly before the court above named. This warrant shall be executed within 14 days of issuance, and is authorized for daytime and nighttime service (pursuant to Idaho Criminal Rule 41, "daytime" means the hours between 6:00 a.m. and 10:00 p.m. PST).

FURTHER, there is probable cause to believe that use of a pen register and/or trap and trace device will lead to law enforcement acquisition of real time pen register and/or trap and trace information, and that this information would be evidence related to the crime(s) of homicide which are currently under the control of AT&T. The court finds that Brett Payne, investigating officer, and Ashley Jennings, Senior Deputy Prosecutor, has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

Pursuant to I.C. 18-6722(2) the Court finds that the identity of the person to whom the phone is leased or in whose name is listed to the telephone line to which the pen register or trap and trace device is to be attached is Bryan Kohberger; the identity of the person who is subject of the criminal investigation is Bryan Kohberger who resides at 1630 Northeast Valley Road, Apt. G201, Pullman, WA; the phone number is 509-592-8458 and the physical location of the phone is currently Albrightsville, Pennsylvania; the phone's

SEARCH WARRANT  
AND ORDER FOR A  
PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722

service provider is:

AT&T  
11760 U.S. Highway 1, Suite 300  
North Palm Beach, FL 33408-3029

The geographic limits of the trap and trace order are the United States and U.S. Territories.

IT IS HEREBY ORDERED pursuant to I.C. 18-6722 that the above-identified investigators and investigative agency/agencies are authorized to install and use a pen register to register, filter, record and decode electronic or other impulses, including, but not limited to dialing, routing, addressing, signs and signaling information, or other impulses that together with date time and duration identify the numbers dialed, electronic mail addressing or routing information, email address, IP address and/or other non-content information otherwise transmitted from the target address; and information tending to identify the device using the target address including any other unique identifiers for the device, including the information referenced above; and

IT IS FURTHER ORDERED pursuant to I.C. 18-6722 that the above-identified investigators and investigative agency/agencies are authorized to install and use a trap and trace device to trace, identify, register, filter, record and decode electronic or other impulses, including, but not limited to dialing, routing, addressing, signs and signaling information, or other impulses that, together with date time and duration, identify the numbers dialed, electronic mail addressing or routing information, email address, IP address and/or other non-

SEARCH WARRANT  
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content information otherwise transmitted to the target address, or other impulses that identify the originating numbers or digital addresses from which a wire or electronic communication is transmitted; and, if known, the customer or user name or identity associated with the device, number or address sending communications, signals, messages, or other electronic impulses to the above-identified target address, from any location within the United States; and

IT IS FURTHER ORDERED based upon probable cause, that the above-identified service provider, investigators and investigative agencies are authorized to use a cell site simulator in connection with the target address; and that any cell site simulator device may be used in any geographic area necessary to locate the device using the target address in real time; and that the above-listed service provider and any other person served with this order shall, upon request by law enforcement, assist by providing, on a 24-hour basis the listed investigative agency with all information tending to reveal or to lead to learning the location of the device using the target address, including positioning information such as GPS longitude/latitude or multilateration or precision location, prospective cell site location information (CSLI), or other information tending to reveal the proximate or precise location of the device associated with the target address, including positioning information such as GPS longitude/latitude or multilateration or precision location, prospective cell site location information (CSLI), or other information tending to reveal the proximate or precise location of the device associated with the target address; and

IT IS FURTHER ORDERED that, for purposes of this order, the terms "cell site SEARCH WARRANT AND ORDER FOR A PEN REGISTER OR A TRAP AND TRACE DEVICE AND NON-DISCLOSURE ORDER PURSUANT TO I.C. 18-6722

simulator” and “cell site simulator data” include pen register and trap and trace, and data derived from pen register and/or trap and trace for the target device, as those terms are defined by I.C. 18-6719 and also includes real time location information collected by a law enforcement operated cell site simulator device and/or by a service provider when, at law enforcement request, the provider deliberately seeks to locate the target device, to the extent the terms or technology overlap.

IT IS FURTHER ORDERED that the above listed service provider and any other person served with this order shall furnish agents of the above-identified investigative agency/agencies forthwith all information, facilities, and technical assistance necessary to accomplish the installation and/or operation of the pen register, trap and trace, and cell site simulator, and search of their facilities and records unobtrusively and with minimum interference to the services accorded persons with respect to whom the installation and/or use is to take place; and upon request from law enforcement and for the duration of this warrant; AT&T will provide all RTT reports.

IT IS FURTHER ORDERED that this Order shall apply to, and the definition of target address shall include, any other account, target address, network, hardware or software identity or other unique device identifier, to which the target address has changed for the two months preceding the signing of this order through the end date of the authority granted pursuant to this order; and

IT IS FURTHER ORDERED, that investigators and service providers are authorized

SEARCH WARRANT  
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PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722

to continue using the tools and techniques authorized by this order during any time that the devices being monitored enter private property; and

IT IS FURTHER ORDERED that the investigators and investigative agencies using a cell site simulator shall take all steps necessary to limit collection of any information or metadata to the target address; take all steps necessary to permanently delete any information or metadata collected from any party not specified in this order immediately following its collection; and must not transmit, use, or retain such information or metadata for any purpose whatsoever; and must delete any information or metadata collected from the device using the target address within thirty days if there is no longer any probable cause to support the believe that such information or metadata is evidence of a crime.

IT IS FURTHER ORDERED that the listed service provider and any other person or entity providing assistance be compensated by the above-identified investigative agency/agencies for reasonable expenses incurred in complying with this Order; and records and information provided pursuant to this order should be provided in a commercially-reasonable electronic format and delivered forthwith via electronic mail as specified by the law enforcement officer serving this Order.

IT IS FURTHER ORDERED that this Order is effective on December 23, 2022 at 4:53 pm PST to be completed no later than February 23, 2023, at the same time of day.

IT IS FURTHER ORDERED pursuant to I.C. 18-6722(4)(a) this order will be sealed

SEARCH WARRANT  
AND ORDER FOR A  
PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722

until otherwise ordered by the court; and

IT IS FURTHER ORDERED pursuant to I.C. 18-6722(4)(b) that the service provider to whom this order is addressed, or any other person served with this order, are prohibited from giving notice of the existence of this order to any person, including the subscriber or customer to whom the target address relates, except that the service provider may disclose the order to its legal counsel for purpose of receiving legal advice.

GIVEN UNDER MY HAND and DATED this 23rd day of December, 2022, at  
4:53 P.m.

  
Magistrate Judge

SEARCH WARRANT  
AND ORDER FOR A  
PEN REGISTER OR A  
TRAP AND TRACE DEVICE  
AND NON-DISCLOSURE ORDER  
PURSUANT TO I.C. 18-6722