

## Specific Search Examples

*(Includes affidavit, search warrant, and return and inventory)*

### SSE #3: House: computer with child solicitation evidence (Format C)

On CD as: #50  
Type of warrant: Search only  
Authority for search: CCP Article 18.02(a)(9)  
Place to be searched: House  
Controlled by: Named individual  
Thing to be seized: Computer and devices for recording electronic mail and documents evidencing communication between named individual and children for purposes of establishing sexual relations  
Offense contemplated: Aggravated sexual assault (child)  
Probable cause source: Personal observation of affiant; statements of victim and expert forensic examiner in similar offenses  
Other features: Format C; out-of-county removal of evidence in search warrant  
Forms used: Affidavit: #s 7, 39; Search Warrant: #s 8, 40; Return and Inventory: # 9

#### CAUTION:

Always read thoroughly and carefully every word of any affidavit and requested warrant submitted to a magistrate. Use of a form inapplicable to the specific circumstances of the case may invalidate results of the investigation and possibly expose affiant and others to criminal penalties and civil liabilities.

**READ IT BEFORE YOU SUBMIT IT!**

THE STATE OF TEXAS

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DOCKET # CR-023-09

COUNTY OF LIVE OAK

COURT: County Court of Live Oak County

#### **AFFIDAVIT FOR SEARCH WARRANT {Article 18.02(a)(1-9), Texas Code of Criminal Procedure}**

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN, A PEACE OFFICER UNDER THE LAWS OF TEXAS, WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS AND ACCUSATIONS:

My name is Larry Busby and I am the Sheriff of Live Oak County, Texas.

I request issuance of a search warrant and here follows the probable cause to justify my request: Today, May 5, 2014, I obtained a felony arrest warrant for Dirk O. Mann (hereafter referred to as "suspected party") charging him with the offense of Aggravated Sexual Assault. The charge was based upon results of my investigation into the allegations of a female child, age 15, who had sexual relations with suspected party. The warrant was executed at approximately 7:00 P.M. this day by arresting the suspected party (named and described below in section 3) at his home. While present on the premises, I observed a personal computer on a desk in the living room area of the house. I believe this computer to be an implement used in the commission of the crime for which suspected party was arrested.

During my investigation of the Aggravated Sexual Assault case, the victim child advised me that she had established contact originally with suspected party through an Internet "chat room" and then began regular correspondence through electronic mail (E-mail) and the instant messaging feature provided by her internet service provider. According to her ac-

count, it was during this correspondence that suspected party solicited the opportunity for physical contact with the victim child. During my investigation I determined that suspected party is employed as a delivery truck driver for an area distributor of wholesale groceries, employment that does not ordinarily include day long access to an Internet-connected computer. The victim child remembered that most of the instant message conversations and the E-mail letters originated in the evenings or on weekends when she was not attending school. For these reasons, I believe the communications and correspondence in issue were accomplished with the computer observed in the home of suspected party.

I have spoken with Sgt. Emmanuel Santos, a criminal investigator commissioned and employed by the San Antonio Police Department. Sgt. Santos is assigned to the Major Offenders Division, Computer Crime/Forensic Unit of the Department, and he has personally participated in over 300 investigations involving criminal use of computers. He advised me that he has, through use of search warrants, inspected the contents of numerous computers and has frequently found evidence that perpetrators use computers to communicate with young men and women in order to meet with them with the intention of engaging in illicit sexual relations. He agrees with me that the facts and circumstances disclosed in the investigation of suspected party make it probable that evidence of such communications will be found on the computer observed at 418 W. Avenue C in Three Rivers or in other computer-related devices and instruments at that location. These would include electronic storage devices capable of receiving or storing electrical data regarding the aforementioned internet recorded communications.

Since computer evidence is extremely vulnerable to tampering and destruction, removal of the system and described items from the premises will assist in retrieving the records authorized to be seized, while avoiding accidental destruction or deliberate alteration of the records. It would be extremely difficult to secure the system on the premises during the search, especially when it is connected by modem to internet communication sources through which destruction or alteration could result from remote locations. Seizure and removal of the computer and all media capable of recording and preserving the communications in issue from the premises under the control of suspected party will be necessary to insure preservation of the evidence.

I will also request that the issuing magistrate approve that all property seized pursuant to the warrant requested herein be removed from Live Oak County to enable it to be forensically examined by experts in the City of San Antonio, Bexar County, Texas.

Therefore, considering the foregoing, I request a search warrant for the following

**1. Place:** In the City of Three Rivers at 418 W. Avenue C. Said suspected place is a single story, single family, wood siding house with an orange/brown composition roof. The front door, on the south side of the house, is in the center of the house and is approached via a raised concrete porch. The porch is covered by a gable in the roof. There are six windows in the gable and six windows on the front of the house, three on each side of the front door. The porch cover is supported by two columns, the bases of which are trimmed in white brick veneer. A sidewalk leads from the front porch to the street right-of-way but it does not connect in the front with a sidewalk nor with Avenue C. On the southwest corner of the house, front side, is the electrical supply connection evidenced by a gray metal circuit breaker box.

The location of the suspected place is found by proceeding eastward on West Avenue C from its intersection with Hester Street. The suspected place and premises is the first house on the left, or north side, of Avenue C, and is otherwise known as "418 W. Avenue C."

Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places and vehicles on said premises and within the curtilage, if said premises is a residence, that are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein.

Attached hereto as Exhibit A, to be considered as part of this affidavit as if written herein, is a diagram illustrating the relative location of the place to be searched.

**2. Thing:** Electronically stored data, meta data, Exchangeable Image File Format Data (Exif), and other digital information, in the form of communication records evidencing digital conversations with third parties wherein sexual relationships were solicited, same being recorded and stored in personal computers, tablet computers, and all electronic storage devices capable of receiving or storing electronic data, including but not limited to, any external storage devices such as floppy discs and diskettes, digital video discs (DVDs), compact discs (CDs), flash drives ("thumb drives"), external hard drives, tape drives, digital video recorders (DVRs), television sets and set-top boxes with integrated digital video recorders and computerized multi-media functions (Smart TVs), internet appliances, video game consoles and peripherals, digital audio encoding (MP3) devices and players, digital cameras and digital camera memory media, Secure Digital (SD) memory cards, magnetic tapes and disks, cellular telephones, wearable computer devices ("smart watches" and optical head-mounted interface displays), personal digital assistants (PDAs), Global Positioning System (GPS) devices, tape recordings, video tapes, and audio tapes; the hardware necessary to retrieve such data, including, but not limited to, central processing units (CPUs), connecting devices, viewing screens, disc and cartridge drives, tape drives, printers, and monitors; the manuals, with all software, handwritten notes, or printed materials describing

the operation of said devices, equipment and software; and, any and all passwords, cryptographic keys, digital security tokens, integrated circuit cards (Smart cards), radio-frequency identification (RFID) cards found at the location that may allow access to the electronically stored data, meta data, Exchangeable Image File Format Data (Exif), and other digital information, contained in any of the aforementioned devices and equipment.

3. The above-described place to be searched and the above-described thing to be seized are in the care, custody, control, or management of one or more following individuals described herein as "suspected party": Dirk O. Mann, described as a white male, date of birth August 6, 1955.

I request authority from the Court to transport, remove, or take any property or evidence seized pursuant to the warrant requested herein to any location deemed necessary for purposes of safekeeping and completion of any investigation or proceedings related to the activities described in this Affidavit.

Wherefore, I ask for issuance of a warrant that will authorize me and other peace officers to search said place and premises for the property described above and to seize same.

/s/ Larry Busby

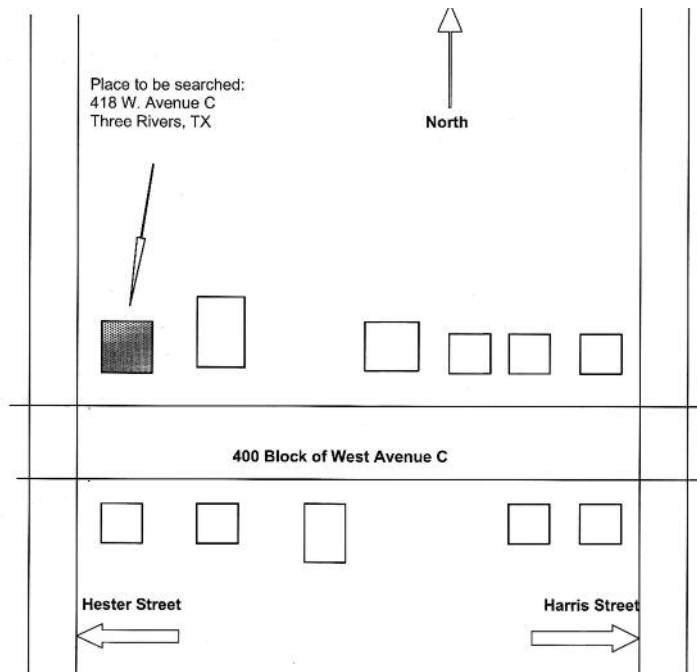
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY SAID AFFIANT ON THIS THE 5th DAY OF MAY, 2014.

/s/ Simpson Huff

Judge, County Court  
Live Oak County, Texas

**Exhibit A**



THE STATE OF TEXAS

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DOCKET # CR-023-14

COUNTY OF LIVE OAK

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COURT: County Court of Live Oak County

### SEARCH WARRANT

{Article 18.02(a)(1-9), Texas Code of Criminal Procedure}

The State of Texas: To the Sheriff or any Peace Officer of Live Oak County, Texas, or any Peace Officer of the State of Texas:

Whereas I have been presented an affidavit requesting issuance of a search warrant by the affiant therein, and whereas I find that the verified facts stated by affiant in said affidavit show that affiant has probable cause for the belief he/she expresses therein, and whereas I believe said affidavit properly establishes grounds for issuance of this Warrant;

Now, therefore, you are commanded to enter the suspected place, vehicles, and premises described in said affidavit, to-wit: In the City of Three Rivers at 418 W. Avenue C, a single story, single family, wood siding house with an orange/brown composition roof. The front door, on the south side of the house, is in the center of the house and is approached via a raised concrete porch. The porch is covered by a gable in the roof. There are six windows in the gable and six windows on the front of the house, three on each side of the front door. The porch cover is supported by two columns, the bases of which are trimmed in white brick veneer. A sidewalk leads from the front porch to the street right-of-way but it does not connect in the front with a sidewalk nor with Avenue C. On the southwest corner of the house, front side, is the electrical supply connection evidenced by a gray metal circuit breaker box.

The location of the suspected place is found by proceeding eastward from the intersection of West Avenue C and Hester Street. The suspected place and premises is the first house on the left, or north side, of Avenue C, and is otherwise known as "418 W. Avenue C."

Said suspected place, in addition to the foregoing description, also includes all other buildings, structures, places and vehicles on said premises and within the curtilage, if said premises is a residence, that are found to be under the control of the suspected party named below and in, on, or around which said suspected party may reasonably reposit or secrete property that is the object of the search requested herein.

Attached hereto as Exhibit A, to be considered as part of this warrant as if written herein, is a diagram illustrating the relative location of the place to be searched.

At said places you shall search for and, if same be found, seize and bring before me the property described in the affidavit, to-wit: Electronically stored data, meta data, Exchangeable Image File Format Data (Exif), and other digital information, in the form of communication records evidencing digital conversations with third parties wherein sexual relationships were solicited, same being recorded and stored in personal computers, tablet computers, and all electronic storage devices capable of receiving or storing electronic data, including but not limited to, any external storage devices such as floppy discs and diskettes, digital video discs (DVDs), compact discs (CDs), flash drives ("thumb drives"), external hard drives, tape drives, digital video recorders (DVRs), television sets and set-top boxes with integrated digital video recorders and computerized multi-media functions (Smart TVs), internet appliances, video game consoles and peripherals, digital audio encoding (MP3) devices and players, digital cameras and digital camera memory media, Secure Digital (SD) memory cards, magnetic tapes and disks, cellular telephones, wearable computer devices ("smart watches" and optical head-mounted interface displays), personal digital assistants (PDAs), Global Positioning System (GPS) devices, tape recordings, video tapes, and audio tapes; the hardware necessary to retrieve such data, including, but not limited to, central processing units (CPUs), connecting devices, viewing screens, disc and cartridge drives, tape drives, printers, and monitors; the manuals, with all software, handwritten notes, or printed materials describing the operation of said devices, equipment and software; and, any and all passwords, cryptographic keys, digital security tokens, integrated circuit cards (Smart cards), radio-frequency identification (RFID) cards found at the location that may allow access to the electronically stored data, meta data, Exchangeable Image File Format Data (Exif), and other digital information, contained in any of the aforementioned devices and equipment.

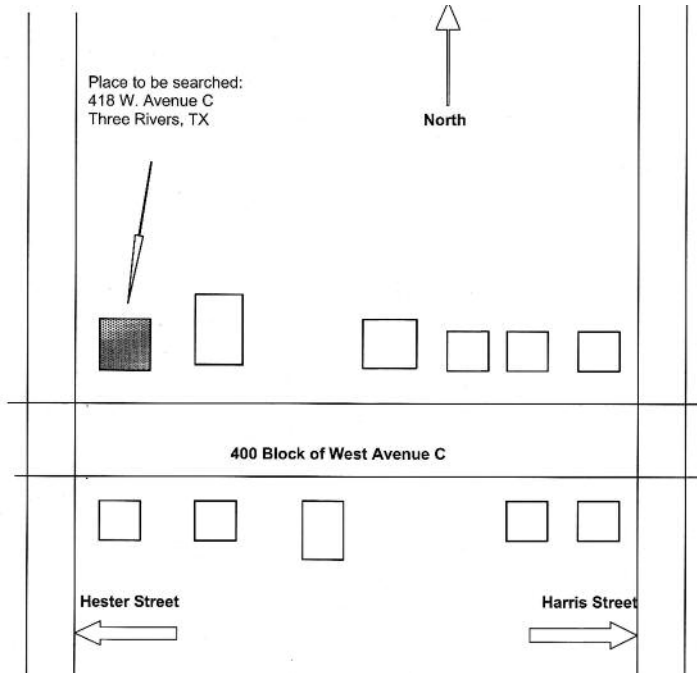
It is further ordered that any and all property seized by authority of this Warrant or during the execution thereof shall be and remain under the care, custody, and control of any peace officer to whom this Warrant is delivered for execution. Further, said property may be removed and taken to any location as deemed necessary by such peace officer for purposes of safekeeping and completion of any investigation or proceedings related to the activities described in the Affidavit upon which the foregoing Warrant was issued.

Herein fail not, but have you then and there this Warrant to be executed without delay; and upon compliance with the orders herein, make return forthwith showing how you have executed same within three days of the date shown below, exclusive of said date and the day of its execution.

Issued this the 5th day of May, 2014, at 10:30 o'clock P.M. to certify which witness my hand this day.

/s/ Simpson Huff  
Judge, County Court  
Live Oak County, Texas

**Exhibit A**



THE STATE OF TEXAS

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DOCKET # CR-023-14

COUNTY OF LIVE OAK

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COURT: County Court of Live Oak County

**OFFICER'S RETURN AND INVENTORY  
FOR SEARCH WARRANT  
{Article 18.02(a)(1-9), Texas Code of Criminal Procedure}**

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN, A PEACE OFFICER UNDER THE LAWS OF TEXAS, WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS:

My name is Larry Busby and I am the Sheriff of Live Oak County, Texas.

The attached Search Warrant came to hand on the day it was issued and it was executed on the 5th day of May, 2009, by conducting the search directed therein and by seizing during such search the following described property:

- 1 Dell personal computer, serial number 345987612CQ w/ monitor
- 34 CD-ROM discs
- 1 PNY 1gb flash drive ("thumb drive") storage device

/s/ Larry Busby  
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME BY SAID PEACE OFFICER WHOSE NAME IS SIGNED ABOVE ON THIS THE 6th DAY OF MAY, 2014.

/s/ Simpson Huff  
Judge, County Court  
Live Oak County, Texas