

Specific Search Examples

(Includes affidavit, search warrant, return and inventory, and verification request)

SSE #21: Electronic customer data for email (Format A)

On CD as: #68
Type of warrant: Search only
Authority for search: CCP Article 18.02(a)(13)
Place to be searched: Email account of suspect
Controlled by: Yahoo Inc., an internet corporation
Thing to be seized: Email correspondence disclosing misuse of official information
Offense charged: None by this affidavit
Probable cause source: Investigating officer
Other features: Format A; includes Verification Request and Form
Forms used: Affidavit: # 27; Search Warrant: # 30; Return and Inventory: # 31; Verification Request and Affidavit # 32

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 # M-14-231

COUNTY OF SAN ARANSAS

COURT: 343rd Judicial District

AFFIDAVIT FOR SEARCH WARRANT

{Article 18.02(a)(13), 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 Melba Molina and I am commissioned as a peace officer by the Texas Department of Public Safety. I am a sergeant in the Texas Ranger Division.

1. There is a provider of an electronic communication service, hereafter referred to as Provider, further described as Yahoo, Inc., 701 First Avenue, Sunnyvale, California 94089; telephone number (408) 349-3300 and telefax number (408) 349-3301.

2. Provider may be contacted for service of process and execution of the search warrant requested herein by serving its registered agent for process in Texas:

Address: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136

Telephone: 214-979-9450

3. It is my belief and I hereby charge that Provider has possession of the following electronic customer data as defined by Chapter 18 of the Texas Code of Criminal Procedure:

Records pertaining to an email account known as **SSENo.21@yahoo.com** hereafter referred to as "Account," to include:

A. The contents of all electronic communications, including email messages, stored and presently contained in,

or on behalf of Account; the source and destination addresses associated with each communication, the date and time at which each communication was sent or received, and the size and length of each communication, and originating IP address.

- B. Records of user activity for each connection made to and from Account and for each communication sent or received by Account, including the date, time, length, method of connections, user names, and source and destination of each communication, including PIN-to-PIN logs, messaging logs and IM logs.
- C. Other records stored on behalf of or presently contained in Account, including profiles, address books, contact and buddy lists, contact categories, task lists, calendars, photographs, media files, and group membership associated with Account.
- D. All associated email addresses or secondary email addresses.
- E. Any and all contacts stored in said user's Account.
- F. IP addresses used to send or receive email from SSENo.21@yahoo.com , and /or IP addresses used to access the email account associated with that email address.

Said records are to concern and be within a date range of December 1, 2013 through December 21, 2013; same are to be verified by a sworn verification of authenticity.

4. Said electronic customer data is held in electronic storage by Provider and constitutes evidence of the below-described offense and that Jaime Precio committed that offense.

5. I have probable cause to believe that the above-described electronic customer data is held in storage by Provider and that same constitutes evidence related to an offense by reason of the following facts and circumstances: On May 1, 2014, I was contacted by the Sheriff of San Aransas County, Texas. I was informed of an investigation that was started concerning misconduct by a county official. County Commissioner Jaime Precio has reportedly provided official information to a prospective contractor that aided the contractor in the preparation of a request for proposal (RfP). The individual receiving the official information is named Wylie Tramposo; he operates a security business doing business as Guardian Services.

From the investigation reports prepared by Deputy Sheriff David Cisneros of the Criminal Investigation Division of the San Aransas County Sheriff's Office, I learned that Tramposo and Precio are long time friends since both attended high school in Alice, Texas.

San Aransas County owns and operates a medical facility in the City of Taft Harbor; this facility is a combination hospital, rehabilitation facility, and nursing home. State licensing requirements, law enforcement experience in the geographical area of the facility, and liability insurance requirements established a specialized need for security services at the facility. In early December, 2013, the County Commissioner's Court announced that they would receive requests for proposals from qualified security service providers. They intended to award a contract for the services beginning with the calendar and budget year 2014. There was an end-of-year fund balance in a designated account that was to be used as start-up money to assist the new contractor to install necessary equipment for performance of the contract. The County wanted to own this equipment independently of the service provider in the event their experience with the first contractor necessitated seeking another provider.

The amount of this fund balance was not announced publicly nor disclosed in the specifications for the RfP. If the proposals submitted would enable completion of the initial installations without use of 2014 funds, the contractor would have the option of being paid in either 2013 or 2014, thereby enjoying in effect a customized tax advantage.

Deputy Sheriff Cisneros advised me that an employee in Commissioner Precio's office became aware of email correspondence between Precio and Tramposo. Precio has an official email address through the County's internet web site; he also has a personal Yahoo! email address: SSENo.21@yahoo.com

The employee advised Deputy Cisneros that Precio informed Tramposo of details that were unique to the County's requirements as well as the amount in the fund balance. This information was privileged and not available to others wishing to submit RfP's.

The Sheriff asked if I would assume responsibility for investigating this matter further since it required investigation of a county official for the felony offense of Misuse of Official Information. I advised my supervisor of the request and I was instructed to assist the sheriff as needed, including completing the investigation if possible.

I began by having Deputy Cisneros introduce me to the employee from the Commissioner's office. This individual agreed to cooperate with me in my investigation and after a thorough discussion and review of what this individual could tell me, I began my interview.

The employee learned of the disclosures when the employee saw printed copies of certain email correspondence between Commissioner Precio and Wylie Tramposo. A routine procedure in the Commissioners' office involves recycling paper that has been printed on one side. When for any reason the original printing is not used, instead of discarding it, it is placed in a box; if the need is appropriate, pages from this box are used again for unofficial documents, by printing or copying on the blank side of the recycled sheet of paper.

On a Saturday, working alone in the office during December, the employee was making draft copies of documents on the copy machine. The employee removed some of the recycled pages from the box and noticed what was obviously email correspondence on the printed side of one of the pages. The heading indicated that the email was from SSENo.21@yahoo.com and it was addressed to 6gun4hire@nra.com. The subject line said "Your deal." The body of the email letter instructed the recipient to propose a certain amount as costs for equipment installation. There were also some comments about types of and specifications for surveillance cameras and video equipment.

The employee shredded the document instead of retaining it or using it in the copy machine, knowing that it contained privileged information. The employee surmised that it was placed in the recycled paper box unintentionally by Commissioner Precio. Pangs of conscience, as well as concern over other questionable behavior of the Commissioner, prompted the employee to inform Deputy Sheriff Cisneros of the email discovery.

I went to the San Aransas County Auditor's office and asked for a copy of the winning RfP. It was awarded on December 21, 2013, to Guardian Services. The individual signing the RfP was Wylie Tramposo. The contact information for Tramposo included the email address, 6gun4hire@nra.com.

I interviewed the County Auditor, Dezirae Hanks, who informed me that one of the reasons stated for awarding the security services contract to Guardian Services included a proposal for equipment installation costs in an amount \$5 less than the exact amount set aside from last year's fund balance. She said that other reasons were due to Guardian Services having unique equipment exactly appropriate for the needs at the medical facility.

Section 39.06 of the Texas Penal Code prohibits a public servant from aiding another to acquire a pecuniary interest in a transaction by disclosing non-public information to which the public servant has access by virtue of his office or employment. If Commissioner Jaime Precio disclosed such information to Wylie Tramposo, thereby enabling Guardian Services an unfair advantage in the RfP process, Precio may be charged with the felony offense of Misuse of Official Information.

I will include with the Search Warrant requested herein, directed to the Provider or its agents, a Request for Verification of Authenticity concerning the evidence seized pursuant to the Search Warrant; I request the Court order that the Affidavit of Authenticity be included with the evidence seized.

I further request that the Court order, to prevent an adverse result as defined by Article 18.21, §8, Texas Code of Criminal Procedure, that any provider, individual, or entity, including their employees or agents, who receives a copy of this Search Warrant to keep confidential the existence of said Search Warrant for an indefinite period of time, unless otherwise ordered by this or any other court of competent jurisdiction.

Wherefore, I ask for issuance of a search warrant that will authorize me or other peace officers to search for, or compel an agent of Yahoo Inc. to search for, the property described above and to seize same to be held as evidence of the offense described above.

/s/ Melba Molina
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY SAID AFFIANT ON THIS THE 14th DAY OF MAY, 2014.

/s/ James Denton
Judge, 343rd Judicial District Court
San Aransas County, Texas

THE STATE OF TEXAS

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DOCKET # M-14-231

COUNTY OF SAN ARANSAS

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COURT: 343rd Judicial District

SEARCH WARRANT

{Article 18.02(a)(13), Texas Code of Criminal Procedure}

The State of Texas: To any Peace Officer of the State of Texas or any Peace Officer of Santa Clara County, California:

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 she expresses therein, and whereas I believe said affidavit properly establishes grounds for issuance of this Warrant;

Now, therefore, you are commanded to search Yahoo, Inc., 701 First Avenue, Sunnyvale, California 94089; telephone number (408) 349-3300 and telefax number (408) 349-3301 for, and seize, electronic customer data described below, or compel agents of said service provider to search for, seize, and deliver to officers bearing this search warrant said electronic customer data within fifteen (15) business days of receipt of this search warrant.

This Search Warrant shall be executed by serving CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136, the individual or entity designated for service as provided by Article 18.21, §5A, Texas Code of Criminal Procedure.

You are commanded to seize the following described electronic customer data held in storage by the above-named provider:

Records pertaining to an email account known as
SSENo.21@yahoo.com

hereafter referred to as "Account," to include:

1. The contents of all electronic communications, including email messages, stored and presently contained in, or on behalf of Account; the source and destination addresses associated with each communication, the date and time at which each communication was sent or received, and the size and length of each communication, and originating IP address.

2. Records of user activity for each connection made to and from Account and for each communication sent or received by Account, including the date, time, length, method of connections, user names, and source and destination of each communication, including PIN-to-PIN logs, messaging logs and IM logs.

3. Other records stored on behalf of or presently contained in Account, including profiles, address books, contact and buddy lists, contact categories, task lists, calendars, photographs, media files, and group membership associated with Account.

4. All associated email addresses or secondary email addresses.

5. Any and all contacts stored in said user's Account.

6. IP addresses used to send or receive email from SSENo.21@yahoo.com , and /or IP addresses used to access the email account associated with that email address

Said records are to concern and be within a date range of December 1, 2013 through December 21, 2013;

It is further ordered that said records seized pursuant to this search warrant are to be verified by a sworn verification of authenticity as per the request of the peace officer acting as the affiant for this Search Warrant.

It is further ordered, to prevent an adverse result as defined by Article 18.21, Section 8, Texas Code of Criminal Procedure, that any provider, individual, or entity, including their employees or agents, who receives a copy of this Search Warrant shall keep confidential the existence of said Search Warrant for an indefinite period of time, unless otherwise ordered by this or any other court of competent jurisdiction.

Herein fail not, but have you then and there this Search Warrant to be executed without delay; and upon compliance with the orders herein, make return forthwith showing how you have executed same within eleven (11) days of the date shown below, exclusive of said date and the day of its execution.

Issued this the 14th day of May, 2014, at 2:37 o'clock P. M., to certify which witness my hand this day.

/s/ James Denton
Judge, 343rd District Court
San Aransas County, Texas

REQUEST FOR VERIFICATION OF AUTHENTICITY
{Article 18.02(a)(13), Texas Code of Criminal Procedure}

I, the undersigned peace officer, in conjunction with service and execution of a Search Warrant issued pursuant to Chapter 18, Texas Code of Criminal Procedure, to search for and seize electronic customer data from Yahoo, Inc., 701 First Avenue, Sunnyvale, California 94089; telephone number (408) 349-3300 and telefax number (408) 349-3301, an electronics service provider (or a remote computing service), hereby notify said provider that I require an executed affidavit verifying the authenticity of all customer data, communications contents, and other information produced in compliance with said Search Warrant.

Included with this notification is an affidavit form that shall be completed and sworn to by a person who is a custodian of the information produced in compliance with said Search Warrant, or an individual otherwise qualified to attest to its authenticity. The completed affidavit shall be included among and delivered with the electronic customer data and other information seized pursuant to the Search Warrant.

/s/ Melba Molina (signed)

Date: May 14, 2014

MELBA MOLINA (printed)
Texas Ranger
Texas Department of Public Safety

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

AFFIDAVIT OF AUTHENTICITY
{Article 18.02(a)(13), Texas Code of Criminal Procedure}

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS:

My name is _____ . I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated. I am the custodian of, and qualified to attest to the authenticity of, the information produced in compliance with a Search Warrant issued by James Denton, 343rd Judicial District Judge on May 14, 2014 ordering production of electronic customer data from Yahoo Inc. who shall hereafter be referred to as "Provider." Attached hereto are _____ pages of records seized from Provider pursuant to the Search Warrant. These records contain information and customer data that was stored in the course of regularly conducted business of Provider and it is the regular practice of Provider to store that information. The information and customer data was stored at or reasonably soon after it was received by an individual employed by Provider with personal knowledge of the information or customer data or by recording instruments maintained for that purpose by Provider. The records attached are original copies or exact duplicates of the originals.

Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY THE SAID AFFIANT ON THIS THE ____ DAY OF _____,
_____.

[Title or name of office held by official taking oath of Affiant]
_____ County, California

THE STATE OF TEXAS

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DOCKET # M-14-231

COUNTY OF SAN ARANSAS

COURT: 343rd Judicial District

RETURN AND INVENTORY
{Article 18.02(a)(13), 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 Melba Molina and I am commissioned as a Texas Ranger by the Texas Department of Public Service. The attached Search Warrant came to hand on the day it was issued and it was executed on the 16th day of May, 2014, by conducting the search directed therein and by seizing during such search the following described property:

Fourteen (14) pages of documents, including cover letter from Yahoo Inc.

Affidavit of Authenticity signed by G. K. Sonoma on June 10, 2014 (attached)

/s/ Melba Molina
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME BY SAID PEACE OFFICER WHOSE NAME IS SIGNED ABOVE ON THIS THE 13th DAY OF JUNE, 2014.

/S/ Jessica Encinia
Deputy District Clerk, San Aransas County, Texas

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

AFFIDAVIT OF AUTHENTICITY
{Article 18.02(a)(13), Texas Code of Criminal Procedure}

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT HEREIN WHO, BEING DULY SWORN, ON OATH MADE THE FOLLOWING STATEMENTS:

My name is G. K. Sonoma. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated. I am the custodian of, and qualified to attest to the authenticity of, the information produced in compliance with a Search Warrant issued by James Denton, 343rd Judicial District Judge on May 14, 2014 ordering production of electronic customer data from Yahoo Inc., who shall hereafter be referred to as "Provider." Attached hereto are 14 pages of records seized from Provider pursuant to the Search Warrant. These records contain information and customer data that was stored in the course of regularly conducted business of Provider and it is the regular practice of Provider to store that information. The information and customer data was stored at or reasonably soon after it was received by an individual employed by Provider with personal knowledge of the information or customer data or by recording instruments maintained for that purpose by Provider. The records attached are original copies or exact duplicates of the originals.

/s/ G. K. Sonoma
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY THE SAID AFFIANT ON THIS THE 10th DAY OF June, 2014.

/s/ Arnold Schwarzenegger
Notary Public in and for
Santa Clara County, Texas