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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

OCT 31 2018

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Telephone Number 951-314-0550

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF RIVERSIDE

13 IN THE MATTER OF THE APPLICATION  
14 OF MICHAEL A. HESTRIN, DISTRICT  
ATTORNEY OF THE COUNTY OF  
15 RIVERSIDE, STATE OF CALIFORNIA,  
FOR AN ORDER AUTHORIZING THE  
16 INTERCEPT OF WIRE  
COMMUNICATIONS.

Wiretap No. 15-409 # M7060

NOTICE OF MOTION AND  
MOTION FOR INSPECTION OF  
INTERCEPTED COMMUNICATIONS,  
APPLICATIONS, AND ORDERS  
PURSUANT TO PENAL CODE SECTION  
629.68

Date: 11/15/18  
Dept: 8:30am  
Time: 64

[Filed concurrently with Memorandum of  
Points and Authorities; Declaration of  
Stephanie J. Lacambra; and [Proposed] Order  
Granting Motion for Inspection]

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23 TO THE DISTRICT ATTORNEY FOR THE COUNTY OF RIVERSIDE, AND TO THE  
24 ABOVE ENTITLED COURT:

25 PLEASE TAKE NOTICE that on the above date in the above department of the above-  
26 entitled court, the Registered Owner of Target Telephone Number 951-314-0550, by and through  
27 his attorneys, Stephanie J. Lacambra of the Electronic Frontier Foundation and Cristina M.  
28 Salvato of Sheppard, Mullin, Richter & Hampton, LLP, will request this Court to enter an order

SMRH:488263499.1

NOTICE OF MOTION AND  
MOTION FOR INSPECTION OF INTERCEPTED COMMUNICATIONS,  
APPLICATIONS, AND ORDERS PURSUANT TO PENAL CODE SECTION 629.68

FAXED

1 unsealing the wiretap application and supporting affidavits in Wiretap No. 15-409 and permitting  
2 inspection of the intercepted communications, applications, and orders pertaining to Wiretap No.  
3 15-409 in the interest of justice pursuant to the First Amendment to the U.S. Constitution and  
4 California Penal Code Section 629.68.

5 This motion is based on this notice, the memorandum of points and authorities, the  
6 declaration of Stephanie J. Lacambra, and such other argument and evidence that may be  
7 presented at the hearing.

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9 Dated: October 31, 2018

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By



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STEPHANIE J. LACAMBRA

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*Attorneys for Registered Owner of  
Target Telephone Number 951-314-0550*

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**TABLE OF CONTENTS**

**Page**

I. INTRODUCTION.....1

II. STATEMENT OF FACTS.....1

    A. Riverside County’s Excessive Issuance of Wiretap Orders .....1

    B. The Wiretap of the Petitioner .....2

III. THE COURT SHOULD MAKE THE INTERCEPTED COMMUNICATIONS,  
WIRETAP APPLICATIONS, AND ORDERS AVAILABLE TO THE  
REGISTERED OWNER FOR INSPECTION.....3

    A. The Court Should Grant the Registered Owner Access to the Requested  
Records Under Penal Code Section 629.68 .....3

IV. THE TARGET AND THE PUBLIC HAVE A FIRST AMENDMENT RIGHT TO  
ACCESS THE WIRETAP ORDER, SUPPORTING DOCUMENTS, AND ANY  
OTHER INFORMATION SUBMITTED TO THE COURT .....5

    A. There is a Presumptive Right of Access to Court Records Under the First  
Amendment .....5

        1. Wiretap Orders and Their Supporting Documents Are Court  
Records.....6

        2. The First Amendment Right of Access Attaches to Wiretap Orders .....6

    B. The Presumptive Right of Access is Especially Compelling Here Given the  
Public’s Interest in Overseeing the Court’s Wiretap Order Practices .....8

    C. There is No Basis for Denial of Access .....9

V. CONCLUSION .....11

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Wiretap orders are an exercise of the state’s extraordinary power to intrude upon the  
4 private communications of its citizens, and as such are subject to protective measures meant to  
5 ensure that this power is not exercised arbitrarily or without just cause.<sup>1</sup>

6 This Court should allow inspection here in the interest of justice, where the target was not  
7 properly noticed, never charged, and the wiretap was issued in the midst of a highly scrutinized  
8 practice of excessive amounts of wiretap authorizations being issued by a single judge in  
9 Riverside County.<sup>2</sup> Additionally, the First Amendment right of access to court records should  
10 apply here and the state cannot carry the burden of justifying nondisclosure.

11 **II. STATEMENT OF FACTS**

12 **A. Riverside County’s Excessive Issuance of Wiretap Orders**

13 At the time the wiretap order at issue was authorized, Riverside County courts had been  
14 authorizing a record number of wiretap orders and the county came under scrutiny for its  
15 practices.<sup>3</sup> According to the Attorney General’s 2015 *California Electronic Interceptions Report*  
16 (“Report”), Riverside County authorized a record 640 wiretap orders during the 2015 calendar  
17 year, far more than any other county in the state<sup>4</sup> or even nationwide.<sup>5</sup> The unusually high number

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19 <sup>1</sup> See *U.S. v. Giordano*, 416 U.S. 505, 527-28 (1974) (“[W]e think Congress intended to require  
20 suppression . . . to limit the use of intercept procedures to those situations clearly calling for the  
employment of this extraordinary investigative device.”).

21 <sup>2</sup> Brad Heath & Brett Kelman, *Justice officials fear nation’s biggest wiretap operation may not be*  
22 *legal*, USA TODAY (Nov. 11, 2015), <https://www.usatoday.com/story/news/2015/11/11/dea-wiretap-operation-riverside-california/75484076/>.

23 <sup>3</sup> See Office of the Attorney General, *California Electronic Interceptions Report*, Annual Report to  
24 the Legislature 2015 (hereinafter cited as the “Attorney General’s 2015 Report”),  
<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/annual-rpt-legislature-2015.pdf>; S.E.  
25 Williams, *There Was So Much Wiretapping in Riverside County . . . Even the Bugs Had Bugs*, THE  
26 VOICE (Feb. 25, 2016), <http://theivoice.com/there-was-so-much-wiretapping-in-riverside-county-even-the-bugs-had-bugs/>.

27 <sup>4</sup> Attorney General’s 2015 Report at 5.

28 <sup>5</sup> See Heath & Kelman, *supra* note 2 (stating that Judge Hernandez signed off on almost five times  
as many wiretaps as any other judge in the United States).

1 of wiretap orders approved by Riverside County courts—and by the same judge in the instant  
2 case, Helios J. Hernandez, in particular—raised questions about the legitimacy of the process, and  
3 whether sufficient justification existed for their issuance.<sup>6</sup>

4 **B. The Wiretap of the Petitioner**

5 On June 19, 2015, Riverside County Superior Court Judge Helios J. Hernandez signed  
6 Riverside Wiretap Order No. 15-409, authorizing the interception of electronic wire  
7 communications of certain individuals to and from target phone number 951-314-0550 (the  
8 “Target Phone Number”) for a period of thirty days. [See Declaration of Stephanie J. Lacambra,  
9 hereinafter “Lacambra Decl.”, Exhibit A, Inventory pursuant to Penal Code § 629.68 (the  
10 “Notice”).] The Court authorized the interception of communications to and from the Target  
11 Phone Number from June 19, 2015 to July 19, 2015, and communications were intercepted during  
12 this period. [Id.]

13 The registered owner (the “Registered Owner”) of the Target Phone Number never  
14 personally received notice of Wiretap No. 15-409, but learned of the wiretap from family and  
15 friends who received notice that their communications were intercepted during the existence of the  
16 wiretap from the Riverside District Attorney’s Office. [Lacambra Decl. ¶¶ 4, 6, Exhibit A.] The  
17 Notice indicated that the Registered Owner’s phone was wiretapped and that communications  
18 were intercepted. The Notice was signed by Deputy District Attorney Deena Bennett, but  
19 conspicuously not dated. [Lacambra Decl. ¶ 4, Exhibit A.] By law, the DA should have notified  
20 the Registered Owner by October 17, 2015, no later than 90 days after July 19, 2015, in the  
21 absence of permissible extensions. Pen. Code § 629.68. The Notice that was provided to one of the  
22 Registered Owner’s contacts does not mention any extensions. [Lacambra Decl. ¶ 4, Exhibit A.]

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26 <sup>6</sup> Brett Kelman, *Judge: So many Riverside wiretaps, they can’t be legal*, DESERT SUN (July 6,  
27 2016), [https://www.desertsun.com/story/news/crime\\_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/](https://www.desertsun.com/story/news/crime_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/); Tim Cushing, *DEA Loses Big Drug Case, Thanks to illegal Wiretap Warrants Prosecutor Calls ‘Procedural Errors’*, TECHDIRT (Dec. 15, 2015),  
28 <https://www.techdirt.com/articles/20151214/08492533071/dea-loses-big-drug-case-thanks-to-illegal-wiretap-warrants-prosecutor-calls-procedural-errors.shtml>.

1 The Registered Owner is a retired California Highway Patrol Officer with no prior criminal  
2 record. [Lacambra Decl. ¶ 3.]

3 The Registered Owner has not been charged with any crime and over three years have  
4 passed since the conclusion of the wiretap. [Lacambra Decl. ¶ 8.]

5 **III. THE COURT SHOULD MAKE THE INTERCEPTED COMMUNICATIONS,  
6 WIRETAP APPLICATIONS, AND ORDERS AVAILABLE TO THE  
7 REGISTERED OWNER FOR INSPECTION**

8 Pursuant to the provisions of California Penal Code Section 629.68 and the First  
9 Amendment to the U.S. Constitution, the Registered Owner seeks inspection of the intercepted  
10 communications, applications and orders concerning Wiretap Order No. 15-409.

11 **A. The Court Should Grant the Registered Owner Access to the Requested  
12 Records Under Penal Code Section 629.68**

13 This Court should grant access to the requested records to the Registered Owner because it  
14 is clearly in the interest of justice. Indeed, this particular wiretap presents an especially compelling  
15 case for oversight of the government’s powers because of the questionable circumstances  
16 surrounding its issuance. Justice demands that the Registered Owner be told the reasons for the  
17 wiretap in order to understand whether the targeting of the Registered Owner’s phone was  
18 inadvertent or intentional, and whether it resulted in helpful evidence gathering in furtherance of  
19 the state’s legitimate crime-fighting efforts.

20 This Court has the power to grant this motion and allow inspection of “the portions of the  
21 intercepted communications, applications, and orders that the judge determines to be in the interest  
22 of justice.” Cal. Penal Code § 629.68. Access will further the interest of justice because several  
23 factors call into question the proper functioning of wiretap procedures in general and the  
24 legitimacy of the instant wiretap specifically.

25 First, the interest of justice is furthered by strict enforcement of Section 629.68’s notice  
26 requirement,<sup>7</sup> which works hand-in-hand with the inspection provision as critical checks against  
27 the state’s abuse of its spying powers.

28 <sup>7</sup> Specifically, Section 629.68 provides:

1 The Riverside County District Attorney's Office (the requesting agency) never provided  
2 the requisite notice of the wiretap to the Registered Owner, although it did notify some contacts of  
3 the Registered Owner. [*See, e.g.*, Lacambra Decl. ¶¶ 4, 6, Exhibit A].

4 Second, the DA never filed any charges against the Registered Owner.

5 Third, there is an enhanced public interest in transparency about wiretap orders issued at  
6 this time, when the Riverside County courts—and this judge in particular—authorized a  
7 disproportionately large number of wiretap orders, and was rightly scrutinized and criticized for  
8 doing so.<sup>8</sup>

9 Finally, there are no countervailing law enforcement concerns that might weigh against  
10 disclosure, given the lack of any charges brought against the Registered Owner in the intervening  
11 three years since the wiretap. Because the wiretap occurred so long ago, and there is no indication  
12 it was ever extended, it is unlikely that the disclosure of these records would interfere with any  
13 ongoing investigations. And even if such a concern were present, the Court can address it by  
14 reviewing and redacting, if necessary, any sensitive records pertaining to ongoing investigations.

15 Accordingly, under Section 629.68, the Court should exercise its discretion and provide the  
16 Registered Owner with access to the requested records.

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19 Within a reasonable time, but no later than 90 days, after the termination of the  
20 period of an order or extensions thereof, or after the filing of an application for an  
21 order of approval under Section 629.56 which has been denied, the issuing judge  
22 shall issue an order that shall require the requesting agency to serve upon persons  
named in the order or the application, and other known parties to intercepted  
communications, an inventory which shall include notice of all of the following:

- 23 (a) The fact of the entry of the order.  
24 (b) The date of the entry and the period of authorized interception.  
25 (c) The fact that during the period wire or electronic communications were or were  
not intercepted.

26 <sup>8</sup> Brett Kelman, *Judge: So many Riverside wiretaps, they can't be legal*, DESERT SUN (July 6,  
27 2016), [https://www.desertsun.com/story/news/crime\\_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/](https://www.desertsun.com/story/news/crime_courts/2016/07/06/riverside-county-wiretaps-judge/86779116/); Tim Cushing, *DEA Loses Big Drug Case, Thanks to illegal Wiretap Warrants Prosecutor Calls 'Procedural Errors'*, TECHDIRT (Dec. 15, 2015),  
28 <https://www.techdirt.com/articles/20151214/08492533071/dea-loses-big-drug-case-thanks-to-illegal-wiretap-warrants-prosecutor-calls-procedural-errors.shtml>.

1 **IV. THE TARGET AND THE PUBLIC HAVE A FIRST AMENDMENT RIGHT TO**  
2 **ACCESS THE WIRETAP ORDER, SUPPORTING DOCUMENTS, AND ANY**  
3 **OTHER INFORMATION SUBMITTED TO THE COURT**

4 Wiretap orders and the affidavits and applications supporting their issuance are court  
5 records; as such, the public, including the Registered Owner, has a qualified First Amendment  
6 right of access to them. This Court cannot deny the Registered Owner the requested access unless  
7 it finds that the qualified test is met. The test is not met here.

8 **A. There is a Presumptive Right of Access to Court Records Under the First**  
9 **Amendment**

10 The California Supreme Court has interpreted the First Amendment right of access  
11 expansively, finding that the right applies to both civil and criminal proceedings and to court  
12 hearings and the records filed in all court proceedings. *NBC Subsidiary (KNBC-TV), Inc. v.*  
13 *Superior Court*, 20 Cal. 4th 1178, 1209 (1999). In so doing, the Court followed an extended line of  
14 U.S. Supreme Court cases that emphasized the vital importance of the public’s right of access to  
15 court proceedings to our democracy. As the U.S. Supreme Court explained, the First Amendment  
16 “has a structural role to play in securing and fostering our republican system of self-government.  
17 Implicit in this structural role is not only ‘the principle that debate on public issues should be  
18 uninhibited, robust, and wide open,’ but also the antecedent assumption that valuable public  
19 debate – as well as other civic behavior – must be informed.” *Richmond Newspapers, Inc. v.*  
20 *Virginia*, 448 U.S. 555, 587 (1980). The public’s access to trials are meant to “enhance the  
21 performance and accuracy of trial proceedings, educate the public, and serve a ‘therapeutic’ value  
22 to the community.” *Id.* at 569-73. *See also Globe Newspaper Co. v. Superior Court*, 457 U.S. 596,  
23 604-05 (1982) (recognizing that “to the extent that the First Amendment embraces a right of  
24 access to criminal trials, it is to ensure that [the] constitutionally protected ‘discussion of  
25 government affairs’ is an informed one”); *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501  
26 (1984) (*Press-Enterprise I*) (recognizing a First Amendment presumption of access applies to voir  
27 dire); *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (*Press-Enterprise II*) (recognizing a  
28 First Amendment presumption of access applies to preliminary hearings in criminal cases).



1 In recognizing the public’s right of access to civil proceedings, the California Supreme  
2 Court extended the reasoning of U.S. Supreme Court precedent in *Richmond Newspapers, Globe,*  
3 *Press-Enterprise I,* and *Press-Enterprise II* from the criminal context to encompass civil  
4 proceedings as well. *NBC Subsidiary*, 20 Cal. 4th at 1207, 1210 (“We believe that the public has  
5 an interest, in all civil cases, in observing and assessing the performance of its public judicial  
6 system, and that interest strongly supports a general right of access in ordinary civil cases.”).

7 **1. Wiretap Orders and Their Supporting Documents Are Court Records**

8 As a threshold matter, wiretap orders and their supporting documents fall squarely within  
9 the category of court records because they are orders and other papers filed in court. As the Court  
10 of Appeal explained in *Copley Press v. Superior Court*, court records include “documentation  
11 which accurately and officially reflects the work of the court, such as its orders and judgments, . . .  
12 all its written orders and dispositions, the official reports of oral proceedings, . . . the various  
13 documents filed in or received by the court . . . and the evidence admitted in court proceedings.” 6  
14 Cal. App. 4th 106, 113 (1992).

15 **2. The First Amendment Right of Access Attaches to Wiretap Orders**

16 Although California courts have yet to apply the First Amendment right of access to court  
17 records specifically to wiretap orders and supporting documents, the Court of Appeal has applied  
18 *NBC Subsidiary* to a search warrant affidavit, a closely analogous court record, based on the  
19 “general right to inspect and copy . . . judicial documents and records” under the First  
20 Amendment. *See People v. Jackson*, 128 Cal. App. 4th 1009, 1021-22 (2005) (finding the  
21 presumption of public access to judicial documents and records applied to a search warrant  
22 affidavit, but concluding that the presumption may be overcome by countervailing privacy  
23 interests and the defendant’s right to a fair trial).<sup>9</sup>

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27 <sup>9</sup> *See Oziel v. Superior Court*, 223 Cal. App. 3d 1284, 1285 (1990) (finding “the right of access to  
28 judicial records is not absolute; nondisclosure may be appropriate for compelling countervailing  
reasons. Historically, the public had no right of pretrial access to items seized under a search  
warrant or other evidence the disclosure of which might violate defendant’s right to a fair trial”).

1 Typically, when there is uncertainty as to whether the First Amendment right of access  
2 applies to a particular category of court records, the court must apply the two-factor “experience  
3 and logic” test set forth by the U.S. Supreme Court in *Press-Enterprise II*; see also *Richmond*  
4 *Newspapers*, 448 U.S. at 589 (Brennan, J., concurring). Under this test, courts consider (1)  
5 “whether the place and process have historically been open to the press and general public” and  
6 (2) “whether public access plays a significant positive role in the functioning of the particular  
7 process in question.” *Press-Enterprise II*, 478 U.S. at 8. Both of these factors weigh in favor of  
8 disclosure of the wiretap orders and supporting documents at issue in this case.

9 **a. Experience**

10 Wiretap orders constitute court orders, akin to courtroom proceedings for purposes of First  
11 Amendment access rights, and have generally enjoyed a long history of public access. See, e.g., *In*  
12 *re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1061 (2006) (“No meaningful distinction may be  
13 drawn between the right of access to courtroom proceedings and the right of access to court  
14 records.”); *Brown & Williamson*, 710 F.2d at 1177 (opinions and records are presumptively public  
15 because “court records often provide important, sometimes the only, bases or explanations for a  
16 court’s decision”).

17 Additionally, the experience prong should be informed by statutory authority granting  
18 access, as California Penal Code section 629.68 does here. Since the use of wiretaps is relatively  
19 recent, there has not been a long tradition of California cases examining the application of the First  
20 Amendment right of access to the wiretap materials at issue. However, the California Legislature  
21 recognized the need for transparency and disclosure of wiretaps and their supporting materials  
22 when it enacted Penal Code Section 629.68, which took effect on January 1, 2011, allowing the  
23 court in its discretion to release wiretap materials to persons affected by the wiretap once the  
24 wiretap period has ended and regardless of whether there has been any indictment or an end to the  
25 investigation.

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**b. Logic**

Even in the absence of a long history of openness, Courts have found the First Amendment right of access attaches where logic provides a strong justification for access.<sup>10</sup> Here, it is clear that access to wiretap orders and their supporting materials serves a “significant positive role in the functioning of the particular process in question.” *Press-Enterprise II*, 478 U.S. at 8-9. The Supreme Court has explained that the logic test looks to the benefits that public access to the proceeding or materials would confer, such as “enhanc[ing] both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the system.” *Id.* In the criminal context, a public trial can have “therapeutic value,” serving as an outlet for “community concern, hostility, and emotion.” *Richmond Newspapers*, 448 U.S. at 569. Perhaps even more important, public access to judicial proceedings ensures accuracy and fairness in the process. *Id.* at 592 (citing *In re Oliver*, 333 U.S. 257, 270 (1948)).

The experience prong is satisfied here based on the general tradition of openness applied to court opinions and on California’s statutory recognition of the importance of providing access to wiretap materials. The logic prong is likewise satisfied here because disclosure serves the compelling public interest in public oversight of the fair and impartial administration of justice. Thus, both experience and logic dictate that the First Amendment right of access attaches to wiretap orders and their supporting materials.

**B. The Presumptive Right of Access is Especially Compelling Here Given the Public’s Interest in Overseeing the Court’s Wiretap Order Practices**

Once the First Amendment right of access has been established, the Court must determine whether the presumption of access is overcome with respect to the particular documents requested here.

This case presents an especially compelling case for the disclosure of wiretap orders and their supporting materials because the public has a strong interest in monitoring potential abuses in

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<sup>10</sup> See *U.S. v. Index Papers LLC*, 766 F.3d 1072, 1094 (9th Cir. 2014) (citing *Copley*, 518 F.3d at 1026) (“as far as the First Amendment is concerned, ‘logic alone, even without experience, may be enough to establish the right.’”).

1 the application for wiretap orders. As noted in section III, subsection A above, the high number of  
2 wiretap orders issued out of Riverside County raises serious questions regarding their legitimacy.  
3 The wiretap materials at issue here contain foundational legal analysis, including interpretation of  
4 public statutes and the Constitution itself. As public debate over the Riverside wiretaps grows, the  
5 release of the court’s opinions and the basis for these opinions become ever more significant in  
6 enhancing both the basic fairness of the criminal justice system and the appearance of fairness so  
7 essential to public confidence in that system. *See Hicklin Engineering, LC v. Bartell*, 439 F.3d 346  
8 (7th Cir. 2006) (“The political branches of government claim legitimacy by election, judges by  
9 reason. Any step that withdraws an element of the judicial process from public view makes the  
10 ensuing decision look more like fiat and requires rigorous justification.”); *Brown & Williamson*,  
11 710 F.2d at 1177 n.6 (“Long ago Locke emphasized the need for ‘promulgated standing laws’ —  
12 ‘established, settled, known laws received and allowed by common consent’ . . . They would not  
13 ‘put a force into the magistrate’s hands to execute his unlimited will arbitrarily upon them.’”)  
14 (quoting Locke, *Treatise of Civil Government* §§ 124, 136-37 (1690)).

15 **C. There is No Basis for Denial of Access**

16 Because the First Amendment right of access applies to wiretap orders, access must be  
17 granted here unless this Court makes the four findings set forth in *NBC Subsidiary*: “(i) there  
18 exists an overriding interest supporting closure and/or sealing; (ii) there is a substantial probability  
19 that the interest will be prejudiced absent closure and/or sealing; (iii) the proposed closure and/or  
20 sealing is narrowly tailored to serve the overriding interest; and (iv) there is no less restrictive  
21 means of achieving the overriding interest.” *NBC Subsidiary*, 20 Cal. 4th at 1217-18; *see also*  
22 *Globe*, 457 U.S. at 607 (access restrictions must be “necessitated by a compelling governmental  
23 interest, and . . . narrowly tailored to serve that interest”).

24 This is a case-by-case determination; the result may vary depending on the specifics of  
25 each wiretap order and the supporting materials. *See Globe*, 457 U.S. at 609 (requiring that once a  
26 First Amendment right of access attaches to a particular category of court proceedings, courts  
27 determine on a case-by-case basis whether the state’s asserted interest necessitates sealing to  
28 protect the state’s overriding interest).

1           There is no evidence that the issuing court ever held a hearing and made the required *NBC*  
2 *Subsidiary* findings prior to issuing and sealing the instant wiretap. Applying the test now, access  
3 must be granted because the *NBC Subsidiary* findings are absent.

4           First, there is no overriding interest supporting government secrecy in a wiretap order that  
5 is over three years old and has not yielded any basis for prosecution. As discussed above, all  
6 public interests point in favor of disclosure.

7           Second, there is no substantial probability that any purported interest would be prejudiced  
8 absent closure and/or sealing of the instant wiretap. There is no evidence of any ongoing  
9 investigation in connection with the instant wiretap and the excessive number of wiretaps issued  
10 by Riverside County is already public knowledge.<sup>11</sup>

11           Third, any proposed closure and sealing must be narrowly tailored to serve a purported  
12 overriding interest. But since there is no viable governmental interest proffered here, it would be  
13 impossible to do so.

14           Fourth and finally, it is impossible to employ the least restrictive means when the  
15 government fails to articulate an overriding interest.

16           Thus, this Court should order the inspection and release of the wiretap order, supporting  
17 documents, and any other information submitted to the Court based on the public's First  
18 Amendment right of access to public trial proceedings and in the absence of the findings required  
19 by *NBC Subsidiary*.

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<sup>11</sup> See Heath & Kelman, *supra*.

1 **V. CONCLUSION**

2 For the foregoing reasons, movant respectfully requests that this Court unseal the wiretap  
3 application and supporting affidavits in Wiretap No. 15-409 and enter an order for inspection of  
4 the intercepted communications, applications, and orders in the interest of justice pursuant to the  
5 First Amendment to the U.S. Constitution, California Code of Civil Procedure § 124 and  
6 California Penal Code § 629.68.

7  
8 Dated: October 31, 2018

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10 

11 By \_\_\_\_\_

STEPHANIE J. LACAMBRA

12 ELECTRONIC FRONTIER FOUNDATION  
13 STEPHANIE J. LACAMBRA, Cal. Bar No. 232517  
14 815 Eddy Street  
15 San Francisco, California 94109  
16 Tel: (415) 436-9333 x130  
17 Fax: (415) 436-9993  
18 Email: stephanie@eff.org

19 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
20 CRISTINA M. SALVATO, Cal. Bar No. 295898  
21 1901 Avenue of the Stars, Suite 1600  
22 Los Angeles, California 90067-6055  
23 Tel: (310) 228-2262  
24 Fax: (310) 228-3701  
25 Email: csalvato@sheppardmullin.com

26 *Attorneys for Registered Owner of*  
27 *Target Telephone Number 951-314-0550*  
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**DECLARATION OF STEPHANIE J. LACAMBRA**

I, **STEPHANIE J. LACAMBRA**, do hereby declare on information and belief that:

- 1. I am an attorney duly licensed to practice before all the Courts of the State of California and am a staff attorney for the Electronic Frontier Foundation (“EFF”).
- 2. I represent the Registered Owner of Target Telephone Number 951-314-0550 in this action and as such am familiar with the evidence necessary for litigation of this matter.
- 3. The Registered Owner is a retired California Highway Patrol Officer with no criminal history.
- 4. The Registered Owner contacted EFF to alert us that their family and friends had been served with notice that on June 19, 2015, Riverside County Superior Court Judge Helios J. Hernandez signed Riverside Wiretap Order No. 15-409, authorizing the interception of electronic wire communications of certain individuals to and from Target Phone Number 951-314-0550 for a period of thirty days. A true and correct copy of the Notice, titled “Inventory pursuant to Penal Code § 629.68”, is attached hereto and incorporated herein as Exhibit A.
- 5. The Notice indicates that the Court authorized the interception of communications to and from the Target Phone Number from June 19, 2015 to July 19, 2015, and communications were intercepted during this period.
- 6. The Registered Owner of Target Phone Number 951-314-0550 has never personally received notice of Wiretap No. 15-409.
- 7. The Notices were signed by Deputy District Attorney Deena Bennett, but conspicuously not dated.
- 8. To date, the Registered Owner has not been notified of any pending investigation or prosecution and has not been charged with any crime.

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9. The Registered Owner seeks inspection of the intercepted communications, wiretap applications, supporting affidavits, and orders concerning Wiretap Order No. 15-409.

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

Executed October 31, 2018, at San Francisco, California.



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STEPHANIE J. LACAMBRA  
EFF Criminal Defense Staff Attorney  
*Attorney for Registered Owner of  
Target Telephone Number 951-314-0550*



# **EXHIBIT A**

1 MICHAEL A. HESTRIN  
District Attorney  
2 County of Riverside  
Deena Bennett  
3 Deputy District Attorney  
3960 Orange Street  
4 Riverside, California 92501  
Telephone: (951) 955-5400  
5 Fax: (951) 955-9673

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE

7  
8 IN THE MATTER OF THE APPLICATION )  
OF MICHAEL A. HESTRIN, DISTRICT ATTORNEY )  
9 OF THE COUNTY OF RIVERSIDE, )  
STATE OF CALIFORNIA, )  
10 FOR AN ORDER AUTHORIZING THE )  
INTERCEPTION OF WIRE COMMUNICATIONS )

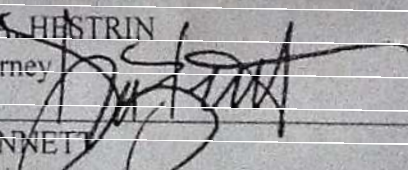
WIRETAP NO: 15-409  
INVENTORY PURSUANT  
TO CALIFORNIA PENAL  
CODE SECTION 629.68

11  
12 Pursuant to California Penal Code 629.68, you are hereby notified:

13 On June 19, 2015, in compliance with California Penal Code Sections 629.50 et seq., the Honorable Helios J. Hernandez,  
14 of the Riverside County Superior Court, signed Riverside County Wiretap Order No. 15-409, authorizing the interception  
15 of electronic wire communications of certain individuals to and from Target Telephone No. 951-314-0550, 818-441-  
16 3342, and 52-8115168317, for a period of thirty (30) days.

17 Interception of Target Telephone No. 951-314-0550 and 818-441-3342 commenced on June 19, 2015 and was  
18 terminated on July 19, 2015. During this time, communications were intercepted. Target Telephone 52-8115167318 was not  
19 intercepted.

20 This letter is intended only to notify you. You are not required to come to court, provide testimony, or respond to this  
21 letter in any way. This notice does not necessarily mean that your telephone was being intercepted; rather, it only indicates  
22 that you may have made a call to, or received a call from, an individual who was the subject of the above wiretap. The law  
23 requires us to notify each person who was intercepted during the existence of the wiretap. *Again, you do not have to take any*  
24 *action as a result of this notice.*

25 Respectfully submitted,  
26 MICHAEL A. HESTRIN  
District Attorney  
27 By:   
DEENA BENNETT  
28 Deputy District Attorney

1 **PROOF OF SERVICE**

2 *In the Matter of the Application of Michael A. Hestrin, District Attorney of the County*  
3 *of Riverside, State of California, for an Order Authorizing the Interception of Wire*  
4 *Communications in Wiretap No. 15-409,*

5 I, the undersigned say:

6 I am over eighteen years of age and not a party to the above action. My business address is  
7 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, located at 1901 Avenue of the Stars,  
8 Suite 1600, Los Angeles, California 90067-6055. I further certify that I caused copies of the  
9 following:

10 **NOTICE OF MOTION AND MOTION FOR INSPECTION OF INTERCEPTED**  
11 **COMMUNICATIONS, APPLICATIONS, AND ORDERS PURSUANT TO PENAL**  
12 **CODE SECTION 629.68**

13 to be served on the date of execution listed below by:

14 **BY MESSENGER SERVICE:** I served the documents by placing them in an envelope or  
15 package addressed to the persons at the addresses listed on the Service List and providing them to  
16 a professional messenger service for service.

17 upon the following:

18 Office of the District Attorney  
19 For the County of Riverside  
20 Attn: Deena Bennett  
21 3960 Orange Street  
22 Riverside, California 92501

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed on October 31, 2018, at San Francisco, California.

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CRISTINA M. SALVATO

1 ELECTRONIC FRONTIER FOUNDATION  
STEPHANIE J. LACAMBRA, Cal. Bar No. 232517  
2 815 Eddy Street  
San Francisco, California 94109  
3 Tel: (415) 436-9333 x130  
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5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
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7 Tel: (310) 228-2262  
Fax: (310) 228-3701  
8 Email: csalvato@sheppardmullin.com

9 *Attorneys for Registered Owner of Target*  
10 *Telephone Number 951-314-0550*

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13  
14 IN THE MATTER OF THE APPLICATION  
15 OF MICHAEL A. HESTRIN, DISTRICT  
16 ATTORNEY OF THE COUNTY OF  
RIVERSIDE, STATE OF CALIFORNIA,  
FOR AN ORDER AUTHORIZING THE  
INTERCEPT OF WIRE  
COMMUNICATIONS.

Wiretap No. 15-409

**[PROPOSED] ORDER GRANTING  
MOTION FOR INSPECTION OF  
INTERCEPTED COMMUNICATIONS,  
APPLICATIONS, AND ORDERS  
PURSUANT TO PENAL CODE SECTION  
629.68**

Date:  
Dept:  
Time:

[Filed concurrently with Notice of Motion;  
Memorandum of Points and Authorities; and  
Declaration of Stephanie J. Lacambra]

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Having reviewed the motion for inspection of intercepted communications, applications, and orders pursuant to Penal Code Section 629.68, the Court hereby GRANTS the motion and enters an order:

- 1) Unsealing the wiretap application and supporting affidavits in Wiretap No. 15-409; and
- 2) Permitting inspection of the intercepted communications, applications, and orders pertaining to Wiretap No. 15-409 pursuant to California Penal Code § 629.68

DATED: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Judge of the Superior Court, County of Riverside

1 PROOF OF SERVICE

2 *In the Matter of the Application of Michael A. Hestrin, District Attorney of the County*  
3 *of Riverside, State of California, for an Order Authorizing the Interception of Wire*  
4 *Communications in Wiretap No. 15-409,*

5 I, the undersigned say:

6 I am over eighteen years of age and not a party to the above action. My business address is  
7 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, located at 1901 Avenue of the Stars,  
8 Suite 1600, Los Angeles, California 90067-6055. I further certify that I caused copies of the  
9 following:

10 **[PROPOSED] ORDER GRANTING MOTION FOR INSPECTION OF**  
11 **INTERCEPTED COMMUNICATIONS, APPLICATIONS, AND ORDERS**  
12 **PURSUANT TO PENAL CODE SECTION 629.68**

13 to be served on the date of execution listed below by:

14 **BY MESSENGER SERVICE:** I served the documents by placing them in an envelope or  
15 package addressed to the persons at the addresses listed on the Service List and providing them to  
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18 Office of the District Attorney  
19 For the County of Riverside  
20 Attn: Deena Bennett  
21 3960 Orange Street  
22 Riverside, California 92501

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed on October 31, 2018, at San Francisco, California.

25 

26 

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CRISTINA M. SALVATO