IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO

STATE OF CALIFORNIA

#### SEARCH WARRANT

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF SAN MATEO:**  proof by affidavit having been made and sworn to as true before me by | | | | | |
|  | | Detective David Manion | | that there is probable cause to | |
|  | | (Name of Affiant) | |  | |
| believe the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524, as indicated below by “x”, in that it: | | | | | |
|  | | was stolen or embezzled | | |
|  | | was used as the means of committing a felony | | |
|  | | is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by | | |
|  | | another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery | |
| \_X | | Tends to show that a felony has been committed or that a particular person has committed a felony | | |

|  |
| --- |
| **YOU ARE THEREFORE COMMANDED TO SEARCH:** |
| **Refer to attached Appendix “A” hereto and incorporated herein** |
| **FOR THE FOLLOWING PROPERTY:** |
| **Refer to attached Appendix “B” hereto and incorporated herein**  **YOU ARE COMMANDED**, within five business days after receipt of this search warrant, to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable and legible copy of the requested records listed in Appendix “B” (See California Pen. Code, § 1524.2)  **NON RESPONSIVE CONTENT**: Any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court. (See California Penal Code § 1546.1 (d)(2).)  **PROCEDURE**: The custodian shall complete and sign the "Declaration of Custodian" which accompanies this search warrant. The "Declaration of Custodian" shall be returned with a copy of the requested records. (See California Pen. Code, §§ 1546.1(d)(3), 1524.2 (b)(4).) |
| **AND IF FOUND, SEIZE IT,** or any part thereof, and bring it forthwith before me, or this court, at the courthouse of this court. |

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | | | | | | |
| The Affidavit in support of this Search Warrant is incorporated herein, subscribed and sworn to | | | | | | | | | | | |
| as true before me this | |  | day of | |  | | | | 20  , at |  | A.M./P.M. |
|  | | | | | | | | | | | |
| **WHEREFORE,** I find probable cause for the issuance of this Search Warrant and do issue it. | | | | | | | | | | | |
| **NIGHT SEARCH APPROVED:** | | | **YES** | |  | **NO** | X |  | | | |

**HOBBS SEALING APPROVED: YES \_\_X\_\_\_\_ NO \_\_\_\_\_\_\_**

|  |  |
| --- | --- |
|  |  |
|  | JUDGE OF THE ABOVE ENTITLED SUPERIOR COURT |

The undersigned, being first duly sworn, deposes and says: That on August 14, 2018, in the City and County of San Mateo the crimes of:

**261(a)(2) PC – Rape**

**220 PC – Assault to Commit Rape**

**207(a) PC – Kidnapping**

**245(a)(4) PC – Assault likely to Produce GBI**

was/were committed by:

**Unknown**

That there is probable cause to believe that the following items:

**As described in attached Appendix “B”**

are now upon the premises, held electronically, and person described:

**As described in attached Appendix “A”**

**REDACTED VERSION**

Based on my experience, I know the most common types of cell phones used by the vast majority of the public are smart phones. Based on my training and experience, I know the two smart phones available are Apple iPhones, which run on the iOS operating system and Android cell phones, which run on the Android operating system.

I know that when an Android device user first turns on a new Android device they are prompted to add a Google account. The Android account creation process generates an account and email account using the familiar gmail.com format. Based on my training and experience, I know it is impossible for an Android device user to install applications from the Google Play Store without a Google account. Therefore, it is nearly certain that a person using an Android device has an associated Google account.

Based on my training and experience, I know Google collects and retains location data from Android enabled mobile devices. Google can also collect location data from non-Android devices if the device is registered to a Google account and the user has location services enabled. The company uses this information for location based advertising and location based search results. Per Google, this information is derived from Global Position System (GPS) data, cell site/cell tower information, and Wi-Fi access points. While the specific parameters of when this data is collected are not entirely clear, it appears that Google collects this data whenever one of their services is activated and/or whenever there is an event on the mobile device such as a phone call, text messages, internet access, or email access.

Based on my training and experience, I know Google collects the following information for a user’s Google Account: subscriber name, email address, IMEI and phone numbers, services subscribed to, SMS recovery phone number and a recovery email address.

Based on the fact the CV observed the suspect using an Android cell phone with the Uber application running, the suspect and the CV were stationary in three known locations during specific timeframes and my knowledge that Google collects and retains location data from Android enabled mobile devices, it is my belief that by requesting that Google conduct a search of all Android enabled mobile devices that recorded location data within the geographical areas (Target Locations #1, #2 and #3) on August 14, 2018, from 1745 hours (PST) through 1800 hours (PST) {Target Location #1} on August 14, 2018, from 1805 hours (PST) through 1835 hours (PST) {Target Location #2} and on August 14, 2018, from 1858 hours (PST) through 1905 hours (PST) {Target Location #3} as described in Appendix “A”, it would assist in identifying the suspect. The Target Locations are defined below by a geographical polygon with latitude and longitude coordinates:

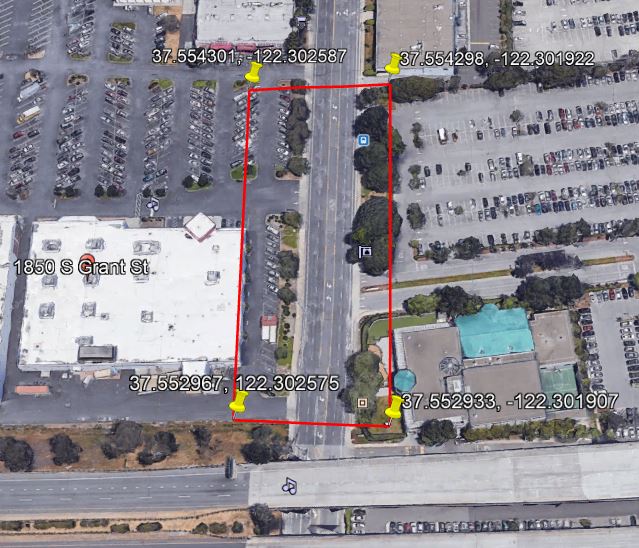
***Target Location #1 (Location where the CV was picked up by the suspect)***

37.552967, -122.302575 (southwest corner of defined area)

37.552933, -122.301907 (southeast corner of defined area)

37.554301, -122.302587 (northwest corner of defined area)

37.554298, -122.301922 (northeast corner of defined area)



***Target Location #2 (Location where the CV was raped by the suspect)***

37.490132, -122.362918 (southwest corner of defined area)

37.510387, -122.346490 (southeast corner of defined area)

37.500204, -122.371132 (northwest corner of defined area)

37.513851, -122.350088 (northeast corner of defined area)



***Target Location #3 (Location where the CV fled from the suspect vehicle)***

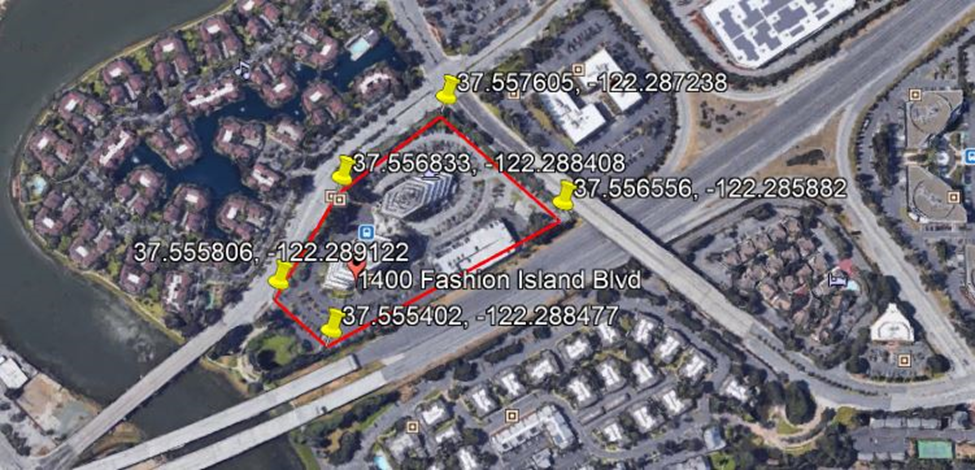
37.557605, -122.287238 (northeast corner of defined area)

37.556833, -122.288408 (northern mid corner of defined area)

37.555806, -122.289122 (northwest corner of defined area)

37.555402, -122.288477 (southwest corner of defined area)

37.556556, -122.285882 (southeast corner of defined area)



Target Location #1 between 1745 hours (PST) through 1800 hours (PST) is significant because the CV sent Padilla her location at 1751 hours and the CV stated she was picked up by the suspect approximately 10 minutes after she sent her location to Padilla.

Target Location #2 between 1805 hours (PST) through 1835 hours (PST) is significant because the CV took a photo of the Crystal Springs Reservoir at 1808 hours as she was being driven westbound on State Route 92, the suspect stopped the vehicle just prior to the crest of the mountain (State Route 92) and raped the CV and the CV sent Padilla a text message at 1825 hours just after the suspect raped her and drove back eastbound on State Route 92.

Target Location #3 between 1858 hours (PST) through 1905 hours (PST) is significant because the CV stated that as she was being driven through the intersection of Roberta Dr and S Norfolk St she observed an Officer talking to a subject. It was determined that Officer Valencia had contacted a subject at the same intersection at 1846 hours. The suspect continued to drive the CV to 1400 / 4150 Fashion Island Blvd, which is in close proximity to the intersection of Roberta Dr and S Norfolk Street. Video footage depicts the suspect vehicle entering the parking lot of 1400 / 1450 Fashion Island Blvd at 1901 hours and fleeing the scene at a high rate of speed approximately one minute later. The reporting party contacted SMPD at 1905 hours to report the CV was crying and asking for help.

This affidavit seeks authority to collect certain location information related to Google accounts that were located within the Target Locations during the Target Time Periods (the “Subject Accounts”). The information sought from Google regarding the Subject Accounts, as described in Appendix “B”, will identify which cellular devices were in the area of the described Target Locations. The information being requested includes:

1. Location information: All location data, whether derived from Global Positioning System (GPS) data, cell site/cell tower triangulation/Trilateration, and precision measurement information such as timing advance or per call measurement data and Wi-Fi location, including GPS coordinates, estimated radius and the dates and times of all location recordings during the Target Time Periods.
2. Each device corresponding to the location data to be provided by Google will be initially identified only by a numerical identifier, without any further content or information identifying user of a particular device. Investigators will analyze this initial data to identify who may have witnessed or been involved in the crime.
3. For those accounts identified as relevant to the ongoing investigation through an analysis of provided records, and upon demand, Google shall provide additional location history outside of the predefined area for those relevant accounts to determine path of travel. This additional location history shall not exceed 45 minutes plus or minus the first and last timestamp associated with the account in the initial dataset. The purpose of path of travel/contextual location points is to eliminate outlier points where, from surrounding data, it becomes clear the reported point(s) are not indicative of the device actually being within the scope of the warrant.
4. For those accounts identified as relevant to the ongoing investigation through an analysis of the records provided and upon demand of investigators, Google shall provide the subscriber’s information for those relevant accounts to include, subscriber name, IMEI and phone numbers, email address, services subscribed to, SMS recovery phone number and recovery email address.

In preparation for this affidavit/search warrant, I have personally spoken with Google representatives and a law enforcement officer regarding the above described request/process and learned this is Google’s preferred method for providing law enforcement with the information being sought. In addition, in my discussions with Google representatives, I have learned that Google has the capability to provide such information to law enforcement. Furthermore, I have also personally authored a search warrant to Google for what is known as reverse location history data, which is what this search warrant is requesting, and received the results from Google in the aforementioned manner.

Based on my training and experience, I am aware Google LLC Custodian of Records is located at 1600 Amphitheatre Parkway, Mountain View, CA 94043 and receives search warrants via Google LLC’s secure web portal known as the law enforcement request system (LERS).

Your affiant is aware that Penal Code 1546.2 mandates that the law enforcement agency serving this warrant notify the target of the warrant contemporaneously with the service of the search warrant unless an order delaying notification is granted. It is further requested, pursuant to the delayed notice provisions of the Penal Code 1546.2(b), an order delaying any notification for a period of ninety days.

Such an order is justified because providing notification of this search warrant would lead to an adverse result which may result in the destruction of evidence and otherwise seriously jeopardize the investigation. It is further requested that pursuant to the preclusion of notice provisions of Penal Code 1546.2 and 18 U.S.C. 2703(b), Google LLC be ordered not to notify any person (including the subscriber, customer, or owner of the electronic communication or device information to which the materials relate) of the existence of this warrant for ninety days.

I, your affiant, also request that this affidavit be sealed unless and until this or any other competent court orders the affidavit be unsealed. This request is based on the fact that this affidavit is relevant to an ongoing sexual assault investigation and contains specified details of the crime, as well as the names of witnesses, and other persons involved in the case that have not yet been released to the public. I, your affiant, believe that any such release would compromise the integrity of an on-going investigation. Therefore, I am requesting that this affidavit be sealed.

WHEREFORE, AFFIANT PRAYS that a Search Warrant issue commanding that a search be made upon the person, premises, and items seized as described above for said articles and property.

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

**David Manion**

San Mateo Police Department

Subscribed and sworn to before

me this

(SEAL HERE)

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

JUDGE OF THE SUPERIOR COURT

County of San Mateo, State of California