**Facebook, Inc. / Instagram, LLC. Quick Reference Sheet**

**for the San Mateo County District Attorney’s Office**

**OUT OF STATE SEARCH WARRANTS**

If you need assistance obtaining records from Facebook, Inc., please first refer to Facebook’s “Information for Law Enforcement Authorities” Guide, which is located at the following link:

<https://www.facebook.com/safety/groups/law/guidelines/>

Instagram’s “Information for Law Enforcement” Guide can be located at the following link:

<https://help.instagram.com/494561080557017/>

**OUT OF STATE CUSTODIAN OF RECORD REQUESTS**

The following is the process for out of state prosecutors seeking a Facebook, Inc. or Instagram, LLC. custodian of records for trial or a hearing:

* California Penal Code § 1334.2 (<http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1334.2.&lawCode=PEN>) sets forth the steps necessary to obtain a California subpoena directing the witness to attend and testify in an out of state court.
* You must secure an Out of State Material Witness Order, signed by a Judge in the venue out of state jurisdiction.

1. Out of state material witness orders are titled differently in some states, but they are simply orders by a local Judge (in that state), requiring a witness to appear in that jurisdiction for criminal prosecution or grand jury investigation.
2. The orders must be addressed to the correct entity:

Facebook, Inc. or Instagram, LLC.

1. The orders must specify the number of days the witness is needed.
2. A simple subpoena will not suffice.
3. *The trial or hearing date should be at least three weeks away or there is a good likelihood that Facebook will not voluntarily agree to travel for the hearing or trial*.
4. The orders also need to be certified and filed with the Clerk’s Office in that out of state jurisdiction, often referred to as certification.

* The out of state material witness orders **MUST** include language that the Facebook, Inc. witness is exempt from arrest and service of subpoenas, while in that jurisdiction and that reasonable travel expenses (as defined by PC 1334.2) will be provided by that local jurisdiction.
* In addition to the out of state orders, three additional San Mateo County documents should be prepared at the same time.

1. Voluntary Waiver of Appearance
2. Order to Show Cause
3. Final San Mateo County Order

Links to those three documents are available at:

(Provide link)

* Once the Out of State Material Witness Orders and the three San Mateo County templates are complete, pdf and email them directly to Facebook at [Records@fb.com](mailto:Records@fb.com)

(Please do not send hard copies to Facebook, Inc. or the San Mateo County District Attorney’s Office).

The email should also address what type of charges the defendant(s) are facing and when the trial or hearing is scheduled to commence.

* Facebook, Inc. will respond directly via email. If Facebook, Inc. agrees to provide a custodian of record witness, they will sign the voluntary waiver of appearance form and will send that document back to you via email.
* Once you have the signed voluntary waiver of appearance form, please send that document and all of your out of state orders and Final San Mateo County Order via email to San Mateo County District Attorney’s Office Assistant Ron Lopez at [rdlopez@smcgov.org](mailto:rdlopez@smcgov.org). Please ensure that you have provided contact information with your email, in case there are complications with your order(s).
* The San Mateo County District Attorney’s Office will present your orders to a Superior Court Judge in San Mateo County, CA for signature on the San Mateo County Final Order. Once that order is signed, our office will email a copy back to you. Please forward a copy of the signed San Mateo County Final Order to Facebook, Inc. via the email string you established with them during the process.