

Filed

October 9, 2024

Clerk of the Court

Superior Court of CA

County of Santa Clara

24CSW003126

By: JFuentes

STATE OF CALIFORNIA - COUNTY OF SANTA CLARA, SW NO. _____

AFFIDAVIT 24CSW003126

San Jose Police Officer Mark Minten #4269 swears under penalty of perjury that the facts expressed by him/her in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he/she has probable cause for believing and does believe that the **PROPERTY/PERSON TO BE SEIZED**, described below, is lawfully seizable pursuant to Penal Code Sections 1524 and 1534, in that:

___ it was stolen or embezzled

___ It was used as the means of committing a felony

X It is possessed by a person with the intent to use it as 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

___ It tends to show that a felony has been committed or that a particular person has committed a felony

___ It tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring

___ there is a warrant to arrest the person

___ when property is a firearm or deadly weapon pursuant to Penal Code section 12028.5

___ when property is a firearm or deadly weapon pursuant to Welfare and Institutions Code section 8102

___ when property is a firearm or deadly weapon pursuant to Family code section 6389 or 6218; and is now located at

X information received from a tracking device will assist in locating a person who has committed a felony.

YOU ARE THEREFORE COMMANDED TO SEARCH:

The **VEHICLE** described as a **2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012**, which is currently registered to **Omar Torres at 410 Lyndale Ave, San Jose CA, 95127** wherever it may be found in California.

FOR THE FOLLOWING PURPOSES:

- 1) **Install a Global Positioning System ("GPS") tracking device on the vehicle(s) described above, wherever located in California;**
- 2) **Monitor signals from the GPS tracking device(s) to record the location and movement of the tracking device within California for a period of 30 days, including signals produced from inside a location not open to the public;**
- 3) **Replace or relocate the GPS tracking device and/or replace the device's batteries as needed during the authorized monitoring period; and;**
- 4) **Remove the GPS tracker as soon as practical after the expiration of the authorized monitoring period or a shorter time at the discretion of the executing officer;**

AND TO BRING ANY CAPTURED DATA before this court.

Wherefore, he/she requests that this Search Warrant be issued.

[Signature(s) of Affiant(s)]

SWORN AND SIGNED IN SANTA CLARA COUNTY

SUPERIOR COURT OF CALIFORNIA
SANTA CLARA COUNTY JUDICIAL DISTRICT
SAN JOSE FACILITY

STATE OF CALIFORNIA)
 : ss
COUNTY OF SANTA CLARA)

PROBABLE CAUSE STATEMENT
"EXHIBIT A"

SUMMARY

I am currently investigating a case involving oral copulation of a minor in violation of **California Penal Code § 288a(b)(1)** and having an abnormal interest in children in violation of **California Penal Code § 288.4(a)(1)** occurring in SAN JOSE, SANTA CLARA COUNTY, CA and believe to involve **OMAR TORRES (DOB:10/14/1981)**. Assisting me in this investigation are fellow San Jose Police Department officers who have discussed all of their relevant information and observations in this investigation with me.

The purpose of this search warrant is to request a GPS tracking device be installed on a **2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012**, wherever it may be found in California and remain for a duration of 30 days. I have not included all the details of the investigation, only sufficient details to support the probable cause affidavit to request a search warrant for a GPS tracking device to be installed on a **2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012**.

AFFIANT'S TRAINING AND EXPERIENCE

My name is **MARK MINTEN**. I am a police officer for the City of San Jose and have been so employed since March 2013. Prior to being hired by the San Jose Police Department, I attended the Basic San Jose Police Academy at Evergreen Valley College in San Jose, CA from September 2012 to March 2013. My daily occupation is investigating, documenting, and enforcing criminal violations including, but not limited to, sex crimes against children. I am currently assigned as a Detective with the Silicon Valley Internet Crimes Against

Children Unit in order to uncover child predators that are communicating with youth for the purpose of sexual gratification and exploitation.

While in the Police Academy I received formal training on recognition of child exploitation (approximately 7 hours). I received approximately 880 hours of training overall while attending the San Jose Police Academy. I currently possess an Advanced P.O.S.T. Certificate.

After I graduated from the Basic Police Academy, I completed the San Jose Police Department field-training officer program. I received hands-on training for all aspects of police work, including that related to sex crimes against children. After completing the field-training program in 2013, I received my assignment to the Bureau of Field Operations, Patrol Division.

While working patrol, I routinely worked directly with more senior and experienced police officers who would regularly discuss their training and experience with sex crimes against children. I have previously trained newer officers on investigating, documenting, and enforcing criminal violations including, but not limited to, sex crimes against children.

As part of my ongoing training, I have attended numerous courses over the years as an officer that pertain to criminals, their behaviors and motives, I have attended the following courses:

- I attended a 40 hour gang training presented by the San Jose Police Department (Dec 2014)
- I attended an 8 hour course on Chasing Phones presented by the California Narcotic Officers' Association (July 2015).
- I attended an 8 hour course on Search and Seizure Update presented by the California Narcotic Officers' Association (Oct 2015)
- I attended a 16 hour course on Search Warrants A-Z presented by the Northern California High Intensity Drug Trafficking Area (Mar. 2016)
- I attended a 40 hour METRO/ VCET academy presented by the San Jose Police Department (Apr. 2018)

- I attended a 4 hour class on Search and Seizure Update presented by the California Narcotic Officers' Association (Nov 2019)
- I attended a 4 hour class on the Dark Web presented by the California Narcotic Officers' Association (Nov 2019)
- I attended a 10 hour class on the Introduction to internet against children, presented by SVICAC (Sep. 2022)
- I attended a 10 hour class on the Open source intelligence, presented by SVICAC (Sep. 2022)
- I attended a 10.5 hour BOI Academy over 7 weeks presented by the San Jose Police Department (Sept – Oct 2022)
- I attended the National Law Enforcement Training on Child Exploitation Conference, (June 11-13 2024)
- I attended a 24 hour class on BitTorrent Investigations, presented by NCJTC (July 2024)
- I attended a 32 hour Child Forensic Interview Training, presented by the CIR (Aug 2024)
- I attended a 40 hour ICI Sexual Assault Investigations class, presented by CA POST (Sept 2024)

As a result of my training and experience, I know there are persons who sexually objectify minors.

They receive sexual gratification and satisfaction from actual physical contact with minors and from fantasy involving the use of images, videos, electronic media, and/or writings on or about sexual activity with minors.

Most of such persons prefer contact with minors of a particular sex, as well as of a particular age or developmental range. Often, these persons will search the Internet for pictures of children or take pictures of children which they use as a means of fantasy relationships. These pictures help to identify the age range of the victims sexually preferred by the person under investigation.

These persons often collect and maintain sexually explicit artifacts, statues, paintings or other art, media, magazines, books, or digital files (such as images or videos) which depict children or other young persons. These individuals that sexually objectify children can also attempt to locate and obtain child pornography. Many individuals will try different methods of finding it. This can include Internet searches, file sharing networks and programs, contacting other adults with a similar sexual interest in children who are willing to share it, or contacting and/or meeting minors themselves. Because child pornography is illegal and not easily

available, these persons must typically use significant effort to locate and obtain it. This effort will typically lead a child predator to save or retain the child pornography, so they don't lose it. Such persons rarely, if ever, dispose of their sexually explicit materials, especially when they have made the personal effort to solicit the photographs, videos, or other materials from the minors themselves, as these materials are treated as prized possessions. This material also allows for the person to re-live their sexual fantasies.

These persons typically store child pornography and other sexually explicit artifacts involving children in physical locations, such as a house or vehicle, or on their persons, or retain digital copies on electronic/digital storage media devices. These devices can include but are not limited to computers, laptops, cell phones, smart phones, tablets, media players, gaming systems, digital cameras, video equipment, hard drives, solid state drives, flash drives, thumb drives, CD's, DVD's, Blu-Ray discs, data cards, and memory cards. These files may be saved or stored across a variety of devices for the user's ease of access or to conceal their sexually explicit material from discovery. Electronic/digital storage media devices can be as small as a fingernail and store thousands of images and/or video files containing child pornography or other files documenting the exploitation and sexual molestation of children. Many times, these materials are also kept on one's person, in one's vehicle, or uploaded to cloud-storage for readily available access at any time or place, or to further reduce the likelihood of discovery.

Persons who sexually objectify minors typically utilize electronic communication providers in an attempt to contact minors via the Internet or mobile applications for the purposes of sexual gratification. These persons will typically use phone calls, text messages, emails, social media websites and applications, and other messaging applications in order to initiate contact with minors. During messaging or chat-based communications, these persons will commonly try to discuss sex acts with minors. These persons will also commonly encourage minors to send pictures and/or videos of themselves in various stages of undress or performing sex acts on themselves. These persons will also commonly send explicit images and/or videos of themselves or other adults to minors to further desensitize the children and lower the minors' inhibitions, to sexually gratify or stimulate the children and/or themselves, and for demonstrating sexual activity to children. These persons will also attempt to arrange dates, times, and locations for them to meet in order to engage in sex

acts with minors. These persons often collect and maintain sexually explicit artifacts of these conversations, including but not limited to the sent and/or received photos and videos, as well as the chat conversations themselves. These items are used for their own sexual gratification and fantasy.

These persons may also maintain contact information for their victims, including but not limited to names, genders, ages, usernames, screen names, email addresses, physical addresses, phone numbers, IP Addresses, GPS and mapping/location data, and social media internet uniform resource locators (URL's), also known as website addresses. This can also include information about schools, churches, sports leagues, youth groups, and other community groups/programs to which their victims may be a part of. Some predators will also collect or save this information for the victim's friends and family as another way of trying to feel close to their victims, learn things about their victims, or locate and identify new victims. This identifying information may be maintained in the original publication, in phones, notebooks, in documents stored on digital media, or saved in cloud-storage or among their everyday list of contacts or address book. These contact lists cannot only be located on electronic devices, such as cell phones and computers, but stored remotely by social media outlets or wireless carriers, Internet Service Providers, Electronic Communication Service Providers, and companies providing email services and/or cloud-storage.

Such persons commonly engage in activities or programs which will be of interest to the type of victims they desire to attract. These persons often keep and obtain things of interest to their victims. This may consist of magazines, books, games, and toys for the age level of victims they desire to attract, and may be as complicated as video games, toy train sets, and computers. Photography and videography involving minor children is one common activity, preying upon the common desire among under-aged children to become models. These persons use sexually explicit materials for lowering the inhibitions of children, sexually stimulating children and themselves, and for demonstrating activity with children. Both drugs and alcohol can be used as a means of seduction, reducing the child's inhibitions, and for sexual excitement.

These persons often collect and maintain photographs or videos of children they are or have been involved with. These photos or videos may depict children fully clothed, in various stages of undressing, or totally nude, and performing various activities, not necessarily sexually explicit in nature. These persons will

sometimes attempt to reduce the risk of discovery by maintaining their own photo developing equipment, including the use of instant development equipment, such as Polaroid, video recorders, digital cameras, etc. In addition, they may patronize larger volume development labs or developing labs that deal strictly in hard-core adult pornographic material to avoid detection.

These persons sometimes maintain diaries relating to their sexual encounters with children. These accounts of their sexual experiences are used as a means of re-living the encounter when these persons have no children to molest. Such diaries might consist of notebooks, scraps of paper, formal diaries and/or computer/digital entries.

These persons often collect, read, copy or maintain names, addresses, phone numbers or lists of persons who have similar sexual interests. These may have been collected by personal contact or through advertisements in various publications. These contacts are maintained as a means of personal referral, exchange, and/or commercial profit. These names and contact information may be maintained in the original publication, in phones, notebooks, in documents stored on digital media, or merely on scraps of paper. These persons often correspond via mail, e-mail, instant messages, or in person to share information about their exploits of children and/or the identities of their victims. These persons will also commonly exchange, trade, or sell photos and/or videos of child pornography with other people with similar interests. Such persons commonly engage in these activities to expand their own personal collection of child pornography, to find new victims, and/or to gain status, trust, acceptance, and psychological support.

Such persons go to great lengths to conceal and to protect their collections of illicit materials from discovery, theft, and damage. This includes carrying the materials on their person, utilizing locked storage facilities which may often be located apart from their residence, compartments within vehicles, and hidden storage areas within their homes. These photos and/or videos are sometimes also carried and kept by these persons as a constant threat to the child as blackmail and exposure. Additionally, sometimes these subjects intentionally mislabel videotapes or computer files with deceptive names. Image and/or video files can be converted to a different file type. For instance, an image can be pasted onto a word document and the related image file deleted, however the image will still remain within the word document. A video file can also be

converted into numerous image files and the related video file deleted. In some cases, a person may simply download, view, and then delete their digital files containing child pornography. These deleted files can typically be recovered using forensic software.

CURRENT INVESTIGATION

I am currently investigating a case involving oral copulation of a minor in violation of **California Penal Code § 288a(b)(1)** and having an abnormal interest in children in violation of **California Penal Code § 288.4(a)(1)** occurring in **SAN JOSE, SANTA CLARA COUNTY, CA** and believe to involve **OMAR TORRES (DOB:10/14/1981)**. Assisting me in this investigation are fellow San Jose Police Department officers who have discussed all of their relevant information and observations in this investigation with me.

I am currently assigned to the San Jose Police Department Child Exploits Detail / Internet Crimes Against Children (ICAC) Task Force. I was assigned to investigate San Jose Police case #24-242-0652.

On 08/29/2024, Ofc. Biebel was contacted by the victim, Identified as Omar Torres. Torres reported to Ofc. Biebel that Terry Beeks messaged Torres saying if he did not send Beeks \$2500.00, he would release photos/videos of him. In fear of the repercussions Torres sent the money to Beeks. Torres went to Chicago, Beeks place of residence, for the Democratic National Convention. While in Chicago Torres met with Beeks in person to discuss their ongoing relationship and find closure. Shortly after that in person meeting Beeks began asking Torres for money and threatening to release the nude photos/videos if he was not paid. Multiple text messages provided from Torres have been reviewed showing that Beeks making threats to Torres for money.

On 09/02/2024, Sgt. Pierce met with Torres and obtained a statement from him. The following additional information on this situation was obtained from that interview and further investigation into the incident. Torres advised that two years ago he and Beeks met online. They have communicated through various social media platforms as well as text messages and phone calls over the course of that two years. It was determined Beeks and Torres had an ongoing sexual online relationship. During that time Torres has sent Beeks nude photos and videos of himself, some of which include his face to Beeks. Torres admitted that this extortion

had been going on for a long time and that in total he had sent the suspect approximately \$22,000.00 to keep Beeks from posting/sending the nude images/videos of him or contacting his partner (Nick) who is referenced in the below messages and or/staff.

Beeks has a history of harassing the Torres partner Nick and his staff members when he does not acknowledge or tries to ignore Beeks and his demands.

Torres provided messages between him and Beeks. The following are a few examples of the messages/threats that have been sent.

Beeks texts the victim "How if I send your nudes out" "They see how small your dick is an really laughing."

On 8/20/2024 at 0514 hours, Beeks sent a text "No I'm posting them Now," "I'll take them down once I receive my 800\$"

On 8/20/2024 at 0530 hours, Beeks sent a text "Noo I'm texting anyone I see u with." Torres responds back "Pls stop o keep telling you." Beeks text back "I'm printing out slot of our messages."

On 8/20/2024 at 0536 hours, Beeks text the victim "I'm Done texting", "Finna text family", Torres responds "Im gonna have ur money." Beeks text back "Finna text Nick again" "That wat im Finna do", Torres responds, "Terry stop."

Beeks responds back again "Send him the vi" "Watch this."

On 8/20/2024 at 0553 hours, Beeks sent a text "I'm texting Nick." Beeks then sent a text box, in the text box was "Goodmorning Nick I have sum information you will like to hear."

On 8/21/2024, Beeks asks for \$75 that Torres was going to pay for them to go out to lunch but Torres canceled. Torres asks cash app or Venmo. Beeks replies Cashapp and then states he's sad because he really wanted to have lunch with Torres.

Later on, 8/21/2024, they discuss Torres making a payment plan to Beeks. They discuss \$200 every two weeks or \$100 every week.

On 8/21/ 2024 at 2217 hours, Beeks sent a text stating "I'm not can u but me a 2000\$ car an i won't post the video an u can leave for good."

On 8/29/2024 at 1633 hours, Beeks asked for another \$1200 for his car insurance. Torres responds back telling Beeks all the texts are just more evidence for when this gets reported to the police. Torres text "2500 i sent was the last thing I'm sending." Beeks responds "Well I won't stop posting the video under ppl comments I see u interact with."

In addition to the messages Torres provided screenshots of receipts of the money transactions when he sent money to Beeks.

ASSOCIATED SUBPEONAS

On 09/04/2024, F.B.I Special Agent Dettling served a subpoena to T-Mobile for the cell phone number of 312-538-8840 that was used by the suspect to communicate. Returns showed the following:

Subscriber Status;

- Subscriber Status: Active
- Subscriber Name Effective Date:04/11/2024

Account Details:

- Brand: DISH_MVNO
- Activation Date: 04/11/2024

On 09/09/2024, F.B.I Special Agent Dettling served a subpoena to DISH for the cell phone number of 312-538-8840 that was used by the suspect to communicate. Returns showed the following:

Subscriber Information: Boost Mobile

- Subscriber Name: TERRY BEEKS
- Subscriber & Billing Address:9412 S LAFAYETTE AVE CHICAGO IL 60620
- Account Activation Date:04/11/2024.

- **Account Status:** active.
- **Phone # Assignment Date(s):**
- 04/11/2024 16:06:33 - Currently Active (UTC)
- **Device IDs:** IMEI: 351440820487596 / 357771759357192 IMSI: 310240146046771

IDENTIFICATION OF TERRY BEEKS

Through the use of law enforcement data bases, subpoenas, and information provided by the victim the suspect was identified as Terry Beeks with a date of birth of January 9th, 2003. His current address is 9412 S Lafayette Ave, Chicago, IL 60620. The cell phone number associated to the suspect is **312-538-8840**. That number has been used to communicate with the suspect by the victim. Sgt. Pierce also spoke with the suspect during a pervious case using that cell phone number, and that same number was used during the pre- text phone call to speak with the suspect. Both law enforcement data bases and the subpoenas for subscriber information shows that the number is registered to Terry Beeks. Sgt. Pierce sent Torres a picture of Terry Beeks and he positively identified him as the suspect that had been extorting him.

The above listed information shows that Terry Beeks has a date of birth of 01/09/2003 and has control of cell phone number used to send the messages to the victim extorting him for money.

INVESTIGATION CONTINUED

On 9/20/24, Chicago Police Department executed a search warrant for Beeks and his residence at 9412 S Lafayette Ave., Chicago Illinois for electronic devices. Chicago Police seaized and turned over to San Jose Police Department, three Apple iPhone, an iPad, iWatch and a HP Laptop.

I spoke to Beeks and he stated his relationship with Torres started approximately 3-4 years prior to this interview. He stated they met on social media and started texting. Beeks stated early in their relationship, Torres

sent him a photo of a younger kid that Torres said was autistic. Beeks stated Torres sent text messages talking about the minor's penis size and pubic hair. Beeks also stated that Torres had asked him about finding minors.

On 9/24/24, Santa Clara County Judge Franklin Bondonno authorized a search warrant to search the items of Beeks that were seized from Chicago during the search warrant that was executed at Beeks residence. Detective Mendoza #3883 forensically processed the electronic items and provided me the evidence to review. I reviewed the contents of the Apple iPhone 14 Pro, San Jose Evidence #SJ470286-4 and located an exchange of text messages between Torres and Beeks. Below is an excerpt of some of the text exchanges between Torres and Beeks.

The text messages start on 2/24/2022, based on the messages it is believed they first started talking on Snapchat at an unknown timeframe.

Based on the messages, Torres was paying Beeks for masturbation videos and nude photos. He was also paying to facetime with Beeks while he masturbated.

On 2/24/2022, states he paid for videos from Beeks and asks to Facetime for Beeks to masturbate while he drives to work. After the Facetime they share names, Torres states his name is Oscar, and photos of each other. I viewed both photos and identified both Omar Torres and Terry Beeks from the photos. Torres states he has a son with Autism. They both discuss having sex with men and women. Torres tells Beeks he will pay for a video of Beeks having sex with a Mexican or Latin male. On 2/24/2022 at the 6:40:22 PM timestamp, Torres states "They love to suck dick huh." Beeks responds "yes I wanna have a 3 w a dude an a girl." Torres responds back "Dope", "Never done that", "I sucked 4 black dudes on vacation here. Then they fucked me. That's about it but never orgies w women."

On 2/24/2022 at the 6:54:41 PM timestamp, Torres sent a photo of a juvenile male smiling. They then have the following text exchange:

Torres: My autistic son

Beeks: He looks just like u

Beeks: Seems like a nice kid

Torres: He is great

Beeks: I know you a good dad

Torres: Getting better can brush his teeth now

Beeks: That's good how old is he

Torres: He can't put on socks yet lol or undies

Torres: 11
Beeks: Can he walk
Torres: He is like daddy lol he already has a big penis haha
Torres: Oh yes he can
Beeks: Lol
Torres: He 11 and has hair on his nuts
Beeks: How big
Torres: And arm pits
Beeks: I was like that
Torres: My son is 11 and 6 inches Im 8incher lol
Beeks: When I was like 13 as well
Beeks: Lol
Torres: How big was ur bbc 12
Beeks: Like 6
Torres: Got bigger at 15 huh
Torres: Ur what 9 inches now?
Beeks: 9.5
Torres: Fuck sexy

They continue texting from 2/24/2022 – 3/10/2022

On 3/10/2022 at the 12:44:43 timestamp Torres and Beeks started the following text exchange

Torres: I'm working next to a barber shop today and fuck so many fine ass black men coming and going.
Torres: Starting to get turned oh
Torres: On
Beeks: Lol really
Torres: Yea lol
Torres: Fine ass men
Beeks: You horny
Torres: California has nice weather so they are wearing shirts and u can see they're bulge
Beeks: Lol got me hard
Torres: I'm not quite there tho
Beeks: Aww ok
Torres: I'm leaving the site now
Torres: I'm gonna tune it out
Beeks: Awe okay
Beeks: Lol
Torres: One did look (looking eyes emoji) when I was slobbering over hus bulge
Beeks: He should came an nut on your face
Torres: Right
Torres: So many DL dudes in CA too
Beeks: With big dicks
Torres: Sniffies has tons of DL dudes. That's what I log on when I want my dick sucked
Torres: Yea bro
Torres: Every black I have sucked had a huge dick
Beeks: Yes
Torres: When I worked a site at a college I sucked a student in the control room. **Black 17 year old and boom. 9.5 inches at 17.**
Torres: How big was ur dick at 15
Beeks: like 7 half

Beeks: It was fat

They continue texting about their penis sizes and Torres discusses the type of pornography he started watching that lead him to gay pornography. He also discusses sexually explicit things he likes done to him while having sex with black men. Beeks asks if Torres wants to start a show, Torres states he has a meeting.

They continue texting from 3/10/2022 – 4/08/2022

On 4/8/2022 at the 10:13:05 AM timestamp Torres and Beeks have the following text message exchange.

Torres: I can't wait to meet u

Beeks: I can't wait to meet u

Torres: Right!

Beeks: Lol I don't know why I have so many number

Torres: I'm still hard ugh

Beeks: I'll fix that for u

Torres: Really r u vers baby

Beeks: Nawl I'm not

Torres: All good

Beeks: I top

Torres: I want to be boned by u first then ur homies

Torres: But like I want to be fucked hard papa

Torres: But does u and me

Beeks: Yea I got u

Torres: U gonna be ok if ur friends fuck me

Beeks: Ima show u I love u

Beeks: Yea I think

Beeks: I don't know

Torres: Bc I'm ok just us

Beeks: But I think Ill be fine lol

Torres: Well my love it's respect

Beeks: I know

Torres: If u want just us im coo but u gotta understand I don't do this much and I want to hella get down.

Beeks: Right

Torres: I want my youth and asshole to be drilled

Torres: Hella hard

Beeks: So I'll bring a. Homie

Torres: Well bring a few my love

Torres: Just know after they leave it's just us

Torres: I'm gonna go home w u

Beeks: Okay I understand

Torres: So yea lol

Beeks: I got a homie

Beeks: sends photo of male

Beeks: This him we on the phone talking about it now

Torres: Dope lol he sexy how old is he?

Torres: U got any homies under 18

Beeks: Nawl not really

Beeks: But I can get one tho

Torres: Coo coo remember if don't want to do orgies u let me know but I'm all urs papa

Beeks: Ok

Torres: I want hella homies u Will see im wild in bed

A. BACKGROUND CHECK ON THE 2019 Mazda CX-9

Within ten days prior to this affidavit, I conducted a records check on a The **VEHICLE** described as a **2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012**, which is currently registered to **Omar Torres at 410 Lyndale Ave, San Jose CA, 95127** wherever it may be found in California.

B. BACKGROUND CHECK ON OMAR TORRES

I checked the Santa Clara County Criminal Justice Information and Control (CJIC/2) records to view **Omar Torres** prior arrest records in Santa Clara County. **TORRES** does not have a Personal File Number (PFN), and is described as a Hispanic Male Adult, 5ft 8in tall, 170lbs, black hair and brown eyes. **TORRES** primary place of residence per his California Drivers license is 28 Bassett Street Apartment #222, San Jose. The address that his vehicle, the 2019 Mazda CX-9, CA license plate #8HFX123 is registered to 410 Lyndale Avenue, San Jose. The address Torres reports to his place of work is 1055 Lick Avenue, San Jose. Based on the multiple associated addresses it is unknown which address is his permanent place of residence.

REAL-TIME LOCATION TRACKING VIA MOBILE TRACKING DEVICES

This affidavit is made in support of a tracking device search warrant governed by Penal Code section 1534(b), authorizing the installation of a Tracking Device on the Target Vehicle(s) and the monitoring of the signals from said device for a period of up to 30 days. California Penal Code section 1534(b)(6) defines a "tracking device" as "any electronic or mechanical device that permits the tracking of the movement of a person or object."

Based on my training and experience, I know that The Global Positioning System ("GPS") is the most commonly utilized technology for determining real-time precision location information. GPS is a

network of ground stations and satellites originally deployed by the Department of Defense for military applications and later made available for civilian use. The exact position of GPS satellites is known at any given time, and they constantly transmit radio signals containing data about their exact location and the exact time of transmissions. These signals are received by GPS receivers on Earth and used to calculate precise estimates of the receivers' position on the planet, based on the amount of time it takes for signals to travel to the receiver from at least three satellites in view of the receiver. GPS is widely relied upon for accurate location information, including by numerous critical land, air and sea navigation applications which depend on accurate GPS data to function. GPS location data is capable of a high degree of accuracy, sometimes with confidence intervals as low as a few feet, depending on the particular type of GPS receiver; however, because it depends on line of sight to numerous satellites, it may not be available indoors and may be adversely affected by obstructions.

GPS tracking devices use various technologies depending on the make, model or manufacturer of the device. They share the common primary objective of finding and recording a fixed location of coordinates and either logging that data locally in the device, or transmitting it to a computer server that can be accessed by law enforcement. The location coordinates tell the law enforcement officers where the device is or was located at a particular time on a map. Many GPS tracking device models can wirelessly transmit the recorded or real-time coordinate information, with time stamps, remotely to law enforcement officers. This monitoring allows law enforcement the ability to recover information captured by the surveillance device without making physical contact with the device and jeopardizing the existence of the investigation or destruction of evidence or equipment.

Many GPS tracking devices used for tracking vehicles have independent power sources and do not require the devices to be hardwired to the suspect's vehicle in order to power the devices. The devices are installed by affixing them to the vehicle, typically the undercarriage, utilizing a magnet. The devices transmit a signal at interval times that can range from every few seconds to every several minutes and the interval times can be remotely set and changed in order to conserve power to the device. The more often

a device transmits a signal of its location, the more power the device utilizes. It is sometimes necessary to re-access the vehicle during the monitoring period in order to service or remove the tracking device.

The specific device to be used is owned by the San Jose Police Department. The specific device to be used is battery operated and is not hard wired to the vehicle. The device uses GPS and transmits the GPS information wirelessly.

OPINIONS AND CONCLUSIONS

Location tracking via GPS tracking devices has proven to be an invaluable tool in assisting with, or even substituting for, actual physical surveillance of criminal suspects in past investigations. Aided by this technology, peace officers conducting physical surveillances have been able to track the whereabouts of suspects and vehicles related to criminal activity without having to closely and constantly follow a person utilizing the vehicle, or having to closely and constantly observe a location believed to be associated with the person utilizing the vehicle. The use of this technology provides law enforcement the ability to know the approximate location of a target vehicle at any time, while reducing or eliminating the chance that the suspect will detect that he/she is the subject of a physical surveillance, which often causes suspects to take actions to thwart law enforcement surveillance, apprehension and/or evidence collection.

Moreover, since the 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012 is used in the furtherance of ~~XXXXXX XXXX XXXX XXXX~~ ~~XXXXXX XXXX XXXX XXXX~~, physical surveillance will be extremely difficult to perform without being detected.

In this investigation, the use of the tracking device will permit law enforcement to know exactly where the 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012 are located, without the need for close physical surveillance of the vehicle. Close physical surveillances may result in our detection, which in turn will cause the suspects to change their plans. Furthermore, with physical surveillance there is always the possibility that the suspects will evade the surveillance teams, especially at night when such surveillances are difficult due to reduced traffic on the roads or during the daylight hours into isolated neighborhoods without raising the possibility the suspects will realize the surveillance and alter or curtail their activities.

Most importantly, in this particular case, without knowing the exact location of where this vehicle goes, we may not be able to determine where the subject is residing. The tracking device would allow law enforcement to determine the location, routes and destinations of the above-captioned vehicle without jeopardizing the investigation. Investigators in placing the device may be required to make alterations or modifications to the vehicle. These modifications are required to provide power to the device and to avoid detection of the device.

Installation and Monitoring of Tracking Device

In this investigation, based on the information outlined above, I believe that the Suspect has been utilizing the Target Vehicle and will continue to do so for the duration of the time period covered in the requested Search Warrant. Information received from use of the tracking device will permit law enforcement to know approximately where the Target Vehicle is located, without the need for close physical surveillance of locations where the vehicle's owner, driver or occupant might potentially be located. Therefore, I believe that the information to be received from the use of this tracking device will constitute evidence that the GPS tracking device information obtained for this investigation will aid law enforcement by showing the time, date and location of the monitored vehicle. This, in turn, will allow law enforcement to determine the location of the monitored vehicle and assist law enforcement in identifying the suspects residence where electronics items may be located that possess evidence and identify victims showing Torres is in violation of oral copulation of a minor in violation of **California Penal Code § 288a(b)(1)** and having an abnormal interest in children in violation of **California Penal Code § 288.4(a)(1)**

Penal Code section 1534(b)(5) states that an officer installing a device authorized by a tracking device search warrant may install and use the device only within California. Therefore, I request that the order authorizing monitoring reflect this constraint.

Time period of monitoring

Penal Code section 1534(b)(1) requires that a tracking device search warrant issued pursuant to section 1524(a)(12) shall specify a reasonable length of time, not to exceed 30 days from the date the warrant is issued, that the device may be used, and that the Court may, for good cause, grant one or more extensions for the time that the device may be used, with each extension lasting for a reasonable length of time, not to exceed 30 days.

For the following reasons, I am requesting authorization to monitor tracking data for a period of 30 days from the date the Search Warrant is issued.

Servicing and Removal of Tracking Device

Investigators may be required to re-access the vehicle during the monitoring period authorized by this order in order to service or remove the tracking device. Servicing may include (1) replacement of batteries, (2) replacement of the device if it is malfunctioning, or (3) relocation or reinstallation of the device if it is not functioning properly in its installed location. If the device is not removed prior to the end of the monitoring period authorized by this order, all monitoring will cease at the end of the monitoring period authorized by the order and investigators will either remove the device as soon as practical thereafter, or will reapply for an additional search warrant seeking renewed monitoring via the tracking device.

ADDITIONAL CONSIDERATIONS SPECIFIC TO

TRACKING DEVICE WARRANTS

I am aware that Penal Code section 1534(b) and its subsections set forth additional requirements and exceptions that apply to tracking device search warrants issued pursuant to Penal Code section 1524(a)(12), even though these provisions may not be addressed on the face of this Search Warrant. Such provisions include the following:

- Any installation authorized by the warrant shall be performed during the daytime (defined as between the hours of 6 a.m. and 10 p.m.) unless the magistrate, for good cause shown, expressly authorizes installation at another time.
- Execution of the warrant shall be completed no later than 10 days immediately after the date of issuance.
- An officer executing a tracking device search warrant shall not be required to knock and announce his or her presence before executing the warrant.
- No later than 10 calendar days after the use of the tracking device has ended, the officer executing the warrant shall file a return to the warrant.
- Although a tracking device owned by the agency deploying it is not otherwise subject to the provisions of Penal Code section 1546 et seq. (the California Electronic Communications Privacy Act), Penal Code section 1534(b)(4) does require that no later than 10 calendar days after the use of the tracking device has ended, the officer who executed the tracking device warrant shall notify the person who was tracked or whose property was tracked pursuant to Penal Code section 1546.2(a), subject to delay pursuant to Penal Code section 1546.2(b).
 - Penal Code section 1546.2(a) requires that the executing officer deliver to the identified target of the warrant a notice that informs the recipient that information about the recipient has been compelled or obtained, and states with reasonable specificity the nature of the government investigation under which the information is sought. A copy of the warrant must be attached.
 - Penal Code section 1546.2(b) requires that where a delay of such notice has been granted pursuant to that section, the required notice when given shall also include a copy of all electronic information obtained or a summary of that information, including, at a minimum, the number and types of records disclosed, the date and time when the earliest and latest records were created, and a statement of the grounds for the court's determination to grant a delay in notifying the individual.

Request for Additional Orders

REQUEST FOR NIGHT SERVICE

As it cannot be determined with precision when the 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012 will be available on a public roadway for surreptitious installation of the GPS device and because this warrant contemplates monitoring and collection of location information both day and night, your affiant seeks night service for all aspects of this warrant request. The warrant contemplates collection of position data at night because even though the crime(s) may have occurred during the day, your affiant knows from his training and experience that the position information at night can and will reveal the locations that the owner/occupants of the 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012 frequent and will necessarily provide information in support of probable cause for locations that may contain further evidence related to the crime(s) described above.

Furthermore, this warrant will only be executed surreptitiously, likely under cover of darkness while the car is parked on a public street, public parking lot, private carport, or public parking garage, or locations describe in the warrant. However, for purposes of concealment and officer safety, especially when considering the nature of the charges and criminal history of the suspects involved in this case, I believe there is good cause to believe that officer safety and the safety of the community will be best served and protected through the installation of the GPS tracking through the hours of 10:00 p.m. and 7:00 a.m. Therefore, I am requesting the warrant be authorized for nighttime service pursuant to Penal Code section 1533.

DISPOSITION OF SEIZED PROPERTY

In order to facilitate the proper disposition of property seized pursuant to this search warrant request, I request that the Court specifically authorize that, upon adjudication of the case(s) against all defendant(s) in this action, including the resolution of any and all appeals, and with the written concurrence of the District

Attorney's Office, the property may be disposed of in accordance with the procedures set forth in California Penal Code sections 1407 to 1413, without the necessity of a further Court Order issued pursuant to California Penal Code section 1536.

CONTENT UNRELATED TO THE OBJECTIVE OF THE WARRANT

I am aware that Penal Code §1534(b)(5) permits an officer installing a device authorized by a tracking device search warrant to install and use the device only within California. Although Tracking Data pertaining to locations outside of California may be transmitted to peace officers and/or their representatives due to the impracticality of filtering out locations that might lie outside of the boundaries of the State of California, I do not intend to utilize any such information for any purpose. Should any such information be received, once it is determined that the information identifies a location outside of the State of California it will not be used for intelligence, analysis, evidence, or any other purpose, and will be treated as information that falls outside of the objective of the warrant. To clarify the manner in which any such information should be handled, I request that an order be included in the Search Warrant that any electronic information obtained through the execution of this warrant that is unrelated to the objective of the warrant, to include information pertaining to locations outside of California, shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court or to comply with discovery as required by Penal Code §§1054.1 and 1054.7.

DELAYED NOTIFICATION

I request officers executing this warrant be excused from the immediate receipt requirement of Penal Code section 1535 as described under Penal Code section 1534(b)(4). Notifying the owner or custodian of 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012, that a warrant was executed to install a tracking device in/upon the vehicle will alert the owner/custodian to law enforcement's ongoing investigation and prompt the person to locate and remove the tracking device or to move or destroy any contraband from related premises before a subsequent warrant can be obtained and executed.

This request is further supported by the fact officers will not remove any property from the vehicle, further negating the necessity of leaving a receipt and inventory form. However, because I am aware the owner

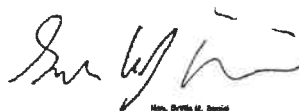
of the 2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012, is entitled to a receipt, I will provide notice to the owner that a tracking device was attached to his/her vehicle following the conclusion of the investigation. I further request, based on the facts stated herein and ongoing investigation, that the Court authorize notification of the search warrant (pursuant to Penal Code section 1528 through 1535) be delayed not to exceed 90 days after the collection of the GPS device, unless further extended by the Court for good cause.

CONCLUSION

I believe that each of the listed items, being sought under this search warrant, is seizable under California Penal Code section 1524 in that it is property which constitutes evidence which tends to show a felony has been committed. Based on the above facts, I believe that evidence of the commissions of felonies, to wit: violations of **CALIFORNIA PENAL CODE §288A(B)(1) (ORAL COPULATION OF A MINOR)**, and a misdemeanor in violation of **CALIFORNIA PENAL CODE §288.4(A)(1) (HAVING AN ABNORMAL INTEREST IN A CHILD)** property used in the commission of said felonies, will be located where described above.

WHEREFORE, your affiant respectfully requests that the Court authorize searching officers or their authorized representatives, including, but not limited to, other law enforcement agents and technicians assisting in the above-described investigation, to enter and install within 10 days a GPS tracking device in or on the subject vehicle; to monitor the signals from that tracking device, for a period of 30 days pursuant to the Court's order, including signals produced from inside private garages and other locations not open to the public or visual surveillance, and signals produced throughout the state of California (pursuant to Penal Code section 1534 (b)(5); and to delay provision of notice of the search warrant. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on the date listed below.

Submitted and reviewed October 1, 2024


Hon. Doreen M. Davis



Filed
October 9, 2024

24CSW003126

CLERK OF THE COURT
STATE OF CALIFORNIA - COUNTY OF SANTA CLARA, SW NO. _____

Superior Court of CA
County of Santa Clara
24CSW003126

SEARCH WARRANT

By: JFuentes

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF SANTA CLARA:

Proof by affidavit and under penalty of perjury having been sworn to this day before me by San Jose Police Officer Mark Minten #4269 that there is probable cause for believing that the property and/or person described below may be found at the location(s)

set forth below and is lawfully seizable pursuant to Penal Code Sections 1524 and 1534 as indicated below by "x"(s) 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 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
- ☒ tends show that a felony has been committed or that a particular person has committed a felony
- ☐ tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- ☐ there is a warrant to arrest the person
- ☐ when property is a firearm or deadly weapon pursuant to Penal Code section 12028.5
- ☐ when property is a firearm or deadly weapon pursuant to Welfare and Institutions Code section 8102
- ☐ when property is a firearm or deadly weapon pursuant to Family code section 6389 or 6218;
- ☒ information received from a tracking device will assist in locating a person who has committed a felony.

YOU ARE THEREFORE COMMANDED TO SEARCH:

The **VEHICLE** described as a **2019 black Mazda CX-9 bearing California license plate #8HFX123 and assigned VIN # JM3TCBCY8K0304012**, which is currently registered to **Omar Torres at 410 Lyndale Ave, San Jose CA, 95127** wherever it may be found in California.

FOR THE FOLLOWING PURPOSES:

- 1) **Install a Global Positioning System ("GPS") tracking device on the vehicle(s) described above, wherever located in California;**
- 2) **Monitor signals from the GPS tracking device(s) to record the location and movement of the tracking device within California for a period of 30 days, including signals produced from inside a location not open to the public;**
- 3) **Replace or relocate the GPS tracking device and/or replace the device's batteries as needed during the authorized monitoring period; and;**
- 4) **Remove the GPS tracker as soon as practical after the expiration of the authorized monitoring period or a shorter time at the discretion of the executing officer;**

AND TO BRING ANY CAPTURED DATA before this court.

EACH OF THE FOLLOWING ARE ALSO HEREBY ORDERED:

Endorsement for Night Service

Based on the information contained in the affidavit, Probable Cause Attachment "Exhibit A", I find that there is a need to protect and ensure the safety of the peace officers serving the warrant and safety of the public. I find good cause that the warrant may be served at any time of the day or night pursuant to Penal Code section

IT IS HEREBY ORDERED that this warrant may be served at any time of the day or night pursuant to Penal Code §§ 1533 and 1534(b)(1).

Order for Delayed Notice

The Court finds that there is reason to believe that contemporaneous notification of the existence of this warrant may have an adverse result. Therefore, **IT IS HEREBY ORDERED**, pursuant to California Penal Code §§ 1534(b)(4) and 1546.2(b), that the executing agency shall delay notification of the existence of this warrant, or the existence of the investigation, to the person who was tracked or whose property was tracked or to any other person, for a period of **90 days** after use of the tracking device has ended unless otherwise directed by the Court.

Order To Extend Filing Of Search Warrant Return

IT IS HEREBY ORDERED that a Search Warrant Return pursuant to Penal Code §1534 shall be filed within 10 days after the completion of the use of the tracking device as requested above or the Affiant orders the request terminated, whichever occurs first.

Order for Content Unrelated to The Objective Of The Warrant

IT IS HEREBY ORDERED, pursuant to California Penal Code §1546.1(d), that any electronic information obtained through the execution of this warrant that is unrelated to the objective of the warrant, to include information pertaining to locations outside of California, shall be sealed and shall not be subject further review, use, or disclosure absent an order from the Court or to comply with California Penal Code §§ 1054.1 and 1054.7.

Order for Disposition of Evidence

IT IS HEREBY ORDERED that upon adjudication of the case(s) against all defendant(s) in this action, including the resolution of any and all appeals, or with the written concurrence of the Santa Clara County District Attorney's Office, the property be disposed of in accordance with the procedures set forth in California Penal Code §§ 1407 to 1413, without the necessity of a further Court Order issued pursuant to California Penal Code §1536.

Based on the incorporated Affidavit, I find probable cause for the issuance of this Search Warrant and do issue it on this date October 1, 2024. 4:58pm



Hon. Griffin M. Bernal

[Signature of Magistrate]

Judge of the Superior Court, County of Santa Clara



Filed

October 9, 2024

Clerk of the Court

Superior Court of CA

County of Santa Clara

24CSW003126

By: JFuentes

24CSW003126

STATE OF CALIFORNIA – COUNTY OF SANTA CLARA, SW No. _____

RETURN TO SEARCH WARRANT

Ofc. Mark Minten #4269, says that she conducted a search pursuant to the below described search warrant:

Issuing magistrate: **Griffin Bonini**

Superior Court, County of Santa Clara

Date of Issuance: October 1st, 2024

Date of Service: October 1st, 2024

and searched the following location(s), person(s), item(s):

Search Warrant for the following:

GPS Tracker data

and seized the items*:

 described in the attached and incorporated inventory.

x described below:

The tracker return obtained electronic data.

I, Officer Mark Minten #4269, by whom this warrant was executed, do swear that the above described items are a true and detailed account of all the property taken by me under the warrant. All the property taken by virtue of said warrant will be retained in custody subject of the order of this court or of any other court which the offense in respect to which the property or things taken, is triable. Signed by me, Officer Mark Minten #4269, under penalty of perjury under the laws of the State of California on this date of

Mark Minten

Officer Mark Minten #4269

AFFIANT

*List all items seized, including those not listed on the search warrant.
(revised 12-03-08)

REPRINTED RECEIPT

Superior Court of California
County of Santa Clara
191 North First St.
San Jose CA 95113

Receipt No. **H-2024-04444**
Transaction Date 10/10/2024
Payor
Cash 24CSW003126

Description	Amount Paid
Miscellaneous Payment	
Preparing a copy of any	13.00
SUBTOTAL	13.00
 PAYMENT TOTAL	 13.00
 Cash Tendered	 50.00
Total Tendered	50.00
Change	37.00

10/10/2024	Cashier	Audit
08:52 AM	Station HJWNDW6	14183514

REPRINTED RECEIPT