1. Facebook owns and operates a free-access social networking website of the same name that can be accessed at http://www.facebook.com. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.
2. Facebook asks users to provide basic contact information to Facebook, either during the registration process or thereafter. This information may include the user’s full name, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.
3. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, to all Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.
4. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “Mini-Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.
5. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.
6. Facebook has a Photos application, where users can upload an unlimited number of albums and photos. Another feature of the Photos application is the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, a user’s “Photoprint” includes all photos uploaded by that user that have not been deleted, as well as all photos uploaded by any user that have that user tagged in them.
7. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile.
8. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.
9. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.
10. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.
11. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.
12. [[**For requests for information about a Facebook group:** Some Facebook pages are affiliated with groups of users, rather than one individual user. Membership in the group is monitored and regulated by the administrator or head of the group, who can invite new members and reject or accept requests by users to enter. Facebook can identify all users who are currently registered to a particular group and can identify the administrator and/or creator of the group. Facebook also assigns a group identification number to each group. Facebook uses the term “Group Contact Info” to describe the contact information for the group’s creator and/or administrator, as well as a PDF of the current status of the group profile page.**]]**
13. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; Mini-Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.
14. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.
15. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their account, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider’s support services, as well records of any actions taken by the provider or user as a result of the communications.
16. Therefore, the computers of Facebook are likely to contain all the material just described, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and account application.

**INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

1. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

**CONCLUSION**

1. Based on the forgoing, I request that the Court issue the proposed search warrant.
2. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court **[[CHOOSE ONE OR MORE:** [is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).] **AND/OR** **[**“is in . . . a district in which the provider . . . is located or in which the wire or electronic communications, records, or other information are stored.” 18 U.S.C. § 2711(3)(A)(ii).**] AND/OR [**“is acting on a request for foreign assistance pursuant to [18 U.S.C. § 3512].” 18 U.S.C. § 2711(3)(A)(iii).**]]**
3. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

**REQUEST FOR SEALING**

1. [[**If you want to file under seal, you can insert this language in the affidavit:** I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.]]

**ATTACHMENT A**

**Property to Be Searched**

This warrant applies to information associated with the Facebook user ID [[**IDENTIFY USER ID NUMBER**]]that is stored at premises owned, maintained, controlled, or operated by Facebook, a company headquartered in Palo Alto, California.

**ATTACHMENT B**

**Particular Things to be Seized**

**I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

1. All contact information, including **[[for user IDs:** full name, user identification number, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.]**]** [**[for group IDs:** group identification number, a list of users currently registered to the group, and Group Contact Info, including all contact information for the creator and/or administrator of the group and a PDF of the current status of the group profile page.**]]**
2. All Photoprints, including all photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;
3. All Neoprints, including profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications;
4. All activity logs for the account and all other documents showing the user’s posts and other Facebook activities;
5. All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending “Friend” requests;
6. All “check ins” and other location information;
7. All IP logs, including all records of the IP addresses that logged into the account;
8. All records of the account’s usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user has “liked”;
9. All information about the Facebook pages that the account is or was a “fan” of;
10. All past and present lists of friends created by the account;
11. All records of Facebook searches performed by the account;
12. All information about the user’s access and use of Facebook Marketplace;
13. The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the service (including any credit card or bank account number);
14. All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
15. All records pertaining to communications between Facebook and any person regarding the user or the user’s Facebook account, including contacts with support services and records of actions taken.

**II. Information to be seized by the government**

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of [[**STATUTES**]]involving [[**SUSPECT**]] since [[**DATE**]], including, for each user ID identified on Attachment A, information pertaining to the following matters:

1. [[**insert specific descriptions of the records which your probable cause supports seizure and copying of; example: “Messages, correspondence, documents and records pertaining to …**

**“the sale of illegal drugs,” “a threat to bomb a laboratory,” … communications between John and Mary,” “robberies or other violent crimes,” the possession, ownership, or use of any firearms,” “the location of the account user,” “preparatory steps taken in furtherance of the scheme.” Tailor the list to items that would be helpful to the investigation.**]]

1. Records relating to who created, used, or communicated with the user ID, including records about their identities and whereabouts.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS RECORDS PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Facebook, and my official title is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. I am a custodian of records for Facebook. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Facebook, and that I am the custodian of the attached records consisting of \_\_\_\_\_\_\_\_\_\_ (pages/CDs/kilobytes). I further state that:

a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;

b. such records were kept in the ordinary course of a regularly conducted business activity of Facebook; and

c. such records were made by Facebook as a regular practice.

I further state that this certification is intended to satisfy Rule 902(11) of the Federal Rules of Evidence.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Date |  | Signature |

### Non-Disclosure Orders

After Edward Snowden betrayed his country by stealing and releasing classified documents, the high-tech community has bent over backwards to avoid the appearance of cooperating with the government. One of the reactions adopted by many social media and Internet companies, including Facebook, has been a practice of going out of their way to notify their customers when they receive a legal demand from law enforcement. Unless specifically ordered not to do so Facebook will notify a criminal suspect of the receipt of a search warrant, court order, or subpoena for their information.

Facebook has an internal policy whereby they will notify their customers of the receipt of legal process within seven days unless expressly prohibited from doing so. During that time, Facebook states they will **attempt** to notify the submitting law enforcement officer during prior to the eighth day. The submitting officer has several options including retracting the legal demand or obtaining a sealing order.

To prevent the suspect from being notified about the existence of a search warrant, court order, or subpoena Facebook must be ordered by a magistrate not to do so. Many law enforcement officers are used to sealing their search warrants. Unfortunately, sealing the warrant affidavit is insufficient to prevent Facebook from disclosing receipt of the warrant. Specific non-disclosure language must be included in the originally submitted search warrant directing Facebook not to disclose the existence of the warrant.

Investigators who have already submitted a legal demand to Facebook have two options. Retract the search warrant and obtain a new one with the nondisclosure statement or obtain a separate sealing order after the fact.

Nondisclosure language in a search warrant may specify the length of time Facebook is prevented from disclosing the warrant. These may be in increments of time such as 30, 60, or 90 days. Law enforcement officers should be cautious about using a finite number of days or a specific date for when the company can notify their customer. It is not uncommon for a ‘simple’ investigation to become complex after the investigation of one Facebook account. This is particularly true for investigations involving child pornography, child exploitation, human trafficking, gangs, and narcotics. As the investigation progresses the clock on the original legal demand is ticking. Facebook may notify the original suspect just as the larger investigation comes to fruition. This may seriously impair the investigation into the underlying conspiracy.

An alternate strategy for nondisclosure language is to request the authorizing judge prevent Facebook from disclosing the existence of the search warrant until further order of the court. Facebook would be prevented from notifying their customer until the original law enforcement officer sought an additional court order authorizing the company to notify them, the suspect’s legal representation sought an order from the court authorizing their client to be notified, or the company sought a court order authorizing the notification. None of those situations are likely so the effect of the nondisclosure order would be to prevent notification for the duration of the investigation.

Some magistrates object to preventing notification indefinitely. An alternate strategy would be to request Facebook be prevented from disclosing the receipt of the legal demand until the suspect has been arrested for the crime under investigation. This may be a more palatable strategy as Federal search warrants and grand jury indictments remain sealed until they are executed or the suspect is arrested for the charge.

Simply requesting non-disclosure by Facebook is insufficient. The reason for non-disclosure must be supported in the search warrant affidavit. Guidance for the justification of a nondisclosure order can be found in 18 USC § 2705(b). While this section only applies to non-disclosure for court order obtained pursuant to 18 USC § 2705(b) the language can be adopted and utilized for state search warrants.

Ground for nondisclosure may include:

* Endangering the life or physical safety of an individual

*Your Affiant is aware Facebook has a policy of notifying their customers seven days after receipt of process such as a search warrant. Your Affiant believes notification to the suspect of receipt of this Search Warrant by Facebook would cause them to become aware of the law enforcement investigation. Your Affiant believes, upon being notified of the law enforcement investigation the suspects, known and unknown, would take steps to accelerate their plans to commit homicide or serious bodily injury against their intended victim. Therefore, your Affiant requests Facebook be prevented from disclosing the existence of the Search Warrant to the suspect or any other person not directly involved with complying seeks until further order of the Court.*

* Flight from prosecution

*Your Affiant is aware Facebook has a policy of notifying their customers seven days after receipt of process such as a search warrant. Your Affiant believes notification to the suspect of receipt of this Search Warrant by Facebook would cause them to become aware of the law enforcement investigation. Your Affiant believes, upon being notified of the law enforcement investigation the suspect would immediately flee the jurisdiction of this court. Thus far the investigation has revealed the suspect has multiple family members in Mexico and frequent contact with those family members via cellular telephone and electronic mail. Your Affiant believes if the suspect were aware of the investigation they would seek refuge from those same family members. Therefore, your Affiant requests Facebook be prevented from disclosing the existence of the Search Warrant to the suspect or any other person not directly involved with complying seeks until further order of the Court.*

* Destruction of or tampering with evidence

*Your Affiant is aware Facebook has a policy of notifying their customers seven days after receipt of process such as a search warrant. Your Affiant believes notification to the suspect of receipt of this Search Warrant by Facebook would cause them to become aware of the law enforcement investigation. Your Affiant believes, upon being notified of the law enforcement investigation they would conceal, secrete, delete, destroy or encrypt the very evidence this Affidavit for Search Warrant seeks to retrieve and preserve. Through the investigation your Affiant has become aware the suspect has sufficient technical proficiency to seriously impede or prevent subsequent forensic examination of their computer, mobile devices, and removable storage media using secure deletion methods, software encryption, and/or physical destruction of the devices. Therefore, your Affiant requests Facebook be prevented from disclosing the existence of the Search Warrant to the suspect or any other person not directly involved with complying seeks until further order of the Court.*

* Intimidation of potential witnesses

*Your Affiant is aware Facebook has a policy of notifying their customers seven days after receipt of process such as a search warrant. Your Affiant believes notification to the suspect of receipt of this Search Warrant by Facebook would cause them to become aware of the law enforcement investigation. Your Affiant believes, upon being notified of the law enforcement investigation they would seek to intimidate witnesses and/or the victim in this investigation. Your Affiant is aware the suspect is a validated member of the West Side Locos (WSL) street gang. Your Affiant is further aware WSL gang members have a documented history of threatening victims and witnesses to prevent them from cooperating with law enforcement investigations and/or testifying in court. Your Affiant is further aware WSL gang members have a documented history in retaliating against victims and witnesses who do cooperate with law enforcement investigations and/or testify in court. Therefore, your Affiant requests Facebook be prevented from disclosing the existence of the Search Warrant to the suspect or any other person not directly involved with complying seeks until further order of the Court.*

* Otherwise seriously jeopardizing an investigation or unduly delaying a trial

*Your Affiant is aware Facebook has a policy of notifying their customers seven days after receipt of process such as a search warrant. Your Affiant believes notification to the suspect of receipt of this Search Warrant by Facebook would cause them to become aware of the law enforcement investigation. Your Affiant believes, upon being notified of the law enforcement investigation they would conceal, secrete, delete, destroy or encrypt the very evidence this Affidavit for Search Warrant seeks to retrieve and preserve. Your Affiant also believes the suspect may attempt to dissuade witnesses from cooperating with the law enforcement investigation and/or testifying in court. Notification would also allow the suspect to conspire with others to create alibis and fabricate a version of events to avoid successful prosecution. Therefore, your Affiant requests Facebook be prevented from disclosing the existence of the Search Warrant to the suspect or any other person not directly involved with complying seeks until further order of the Court.*