

FILED
Superior Court of California
County of San Francisco

SUPERIOR COURT OF CALIFORNIA

City and County of San Francisco

FEB - 6 2024



CLERK OF THE COURT

BY: Michael Canning
Deputy Clerk

SEARCH WARRANT

(AFFIDAVIT)

I, **Sergeant Michael Canning #2269**, swear under oath and 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 to believe and does believe that the articles, property, and persons described below are lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below, and are now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

[Signature] 2269
(Signature of Affiant)



Non-Disclosure Requested: YES NO
Hobbs Sealing Requested: YES NO
Night Service Requested: YES NO

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER, OR PEACE OFFICER IN THE COUNTY OF SAN FRANCISCO: proof by affidavit, under penalty of perjury, having been made before me by **Sergeant Michael Canning #2269** that there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below by ""(s), in that:

- It tends to show that a felony has been committed or that a particular person has committed a felony – [1524(a)(4) PC];
- A provider of "electronic communication service" or "remote computing service", as defined in Penal Code Section 1524.2(a) (including "California corporations" defined as any corporation or other entity that is subject to Section 102 of the Corporations Code and "Foreign corporations" defined as any corporation that is qualified to do business in this state pursuant to Section 2105 of the Corporations Code), has records or evidence regarding a subscriber or customer which (1) is of a type specified in Penal Code Section 1524.3 (i.e the subscriber/customer's name, address, telephone number or other subscriber number or identity; the types of services the subscriber/customer utilized, the length of time the person has been a subscriber/customer of that service; and the local and long distance telephone toll billing records); and (2) which records or evidence shows that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery – [1524(a)(7) PC];

SW 571470

You are therefore COMMANDED to SEARCH:

www.indybav.org, c/o San Francisco Bay Area Independent Media Center, Also Known As, "Indybav"
Area IMC," Also Known As, "Indybav"
115 ½ Bartlett St.
San Francisco, CA 94110

THE ANNEXED INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN MY OFFICE.
INVESTIGATED

FEB - 6 2024

CLERK OF THE COURT
Superior Court of California, County of San Francisco
BY: [Signature]
DEPUTY CLERK

For the FOLLOWING EVIDENCE:

1. Published Website Article URL: https://www.indybav.org/newsitems/2024_01_18_18862190.php
2. IP Addresses associated with the above-mentioned published Website Article URL
3. Personal identifying information of authors of the above-mentioned published Website Article URL
4. User name and user login information of the above-mentioned published Website Article URL

5. Email address(es) associated with the above-mentioned published Website Article URL (the sender's reported name and e-mail address, either private and/or public)
6. Phone Number and Address Display of the User of the above-mentioned published Website Article URL
7. E-mail addresses, hosted by lists.risup.net, as it relates to the above-mentioned published Website Article URL
8. Text messages sent to the e-mail lists, hosted by lists.risup.net, as it relates to the above-mentioned published Website Article URL

Field Entries of "Enter Article Info," including:

9. Article Title
10. Author
11. E-mail
12. Topic
13. Region
14. Summary
15. Website URL
16. Article Text
17. Uploaded Attachments


Additionally, it is the ORDER of this court that:

Compliance can be fulfilled by email to **Michael.canning@sfgov.org** by January 31, 2024

Ninety (90) Day Delayed Notice Notification: pursuant to the preclusion of notice provisions of California Penal Code 1546.2 SF Bay Area IMC (Indybay) **SHALL NOT** disclose to the subscriber, customer or owner of the electronic communication or device information to which materials relate the existence or content of this search warrant for a period of ninety (90) days.

It is ordered that all information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order.

This **Search Warrant** and **Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true on this 24 day of JANUARY, 2024, at 11:25 A.M. P.M. wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



 (Signature of Magistrate)

Non-Disclosure Authorized: YES NO
 Hobbs Sealing Authorized: YES NO
 Night Service Authorized: YES NO

Judge of the Superior Court of California, County of San Francisco, Dept.# 23



**STATE OF CALIFORNIA - COUNTY OF SAN FRANCISCO
RETURN TO SEARCH WARRANT**

Sergeant Michael Canning #2269, being sworn, says that he/she conducted a search pursuant to the below-described search warrant:

Case number: 240-038-243

Issuing Magistrate: Honorable Judge Linda Colfax

Magistrate's Court: Superior # Dept 27, County of San Francisco.

Date of Issuance: 01/24/2024

Date of Service: 01/24/2024

and searched the following location(s), Vehicle(s), and/or person(s):

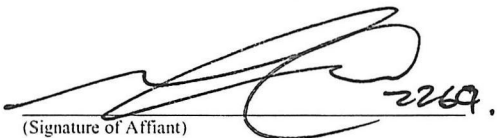
www.indybay.org

and seized the following items and/or information received:

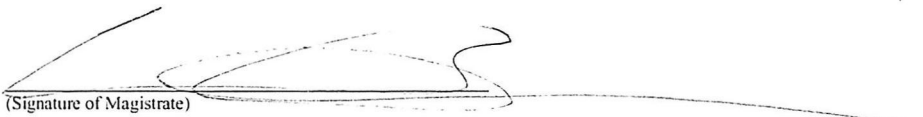
Service was executed to service provider (Indybay.org). No records received.

I further swear that this is a true and detailed account of all the property taken by me pursuant to the search warrant and that pursuant to Penal Code Sections 1528 and 1536 this property will be retained in my custody, subject to the order of this court or of any other court in which the offense in respect to which the seized property is triable.

Be advised that pursuant to California Penal Code Sections 1539 and 1540, you may file a written motion in the court of the above-named magistrate who issued the search warrant, seeking the return of the property seized pursuant to this warrant. For further information concerning this search warrant contact **Sergeant Michael Canning #2269** at telephone number **(415) 553-9513**.


(Signature of Affiant)

Sworn to as true and subscribed before me on 6th day of FEBRUARY, 2024, at 1:35 A.M. (P.M.)


(Signature of Magistrate)

Judge of the Superior Court of California, City and County of San Francisco, Dept.# 23



Statement of Probable Cause—Sergeant Michael Canning #2269

My name is Michael Canning and I am currently employed as a Police Sergeant for the City and County of San Francisco, California. I have been so employed as a peace officer for the City and County of San Francisco since February 04, 2013. I am currently assigned to the Bureau of Investigations and detailed to the General Works Unit. My prior assignments include uniformed patrol in the Tenderloin, Ingleside, Southern, Richmond, and Taraval Districts, and investigations for the Special Operations Bureau (MUNI Task Force) and the Special Victims Unit (SVU).

My training includes the Basic San Francisco Police Academy and continuing professional education (Basic, Intermediate, Advanced, and Supervisory Certificates). I have successfully completed the following related courses:

- 80-hour ICI Core Criminal Investigations (POST)
- 24-hour Detective School (SFPD-POST)
- 16-hour Search Warrants, Investigators (POST)
- 16-hour Search Warrants “A to Z” (POST)
- 40-hour POST-Certified Interview and Interrogation



As part of my employment with the San Francisco Police Department, I have conducted hundreds of preliminary and follow-up investigations into a wide variety of crimes, both violent and property-related crimes. These investigations have included documenting police reports; interviewing victims, witnesses and suspects of crimes; and assisting in serving search and arrest warrants. During these investigations, I have obtained information on the means by which these crimes were committed and concealed. I have also worked with and consulted with other veteran law enforcement officers with whom I have had conversations and/or from whom I have received training regarding these types of incidents. My arrests have led to prosecutions where I have testified in Superior Court, and convictions have been obtained as a result of my investigations and testimony.

I am familiar with the facts below based on personal observations, observations by other law enforcement officers shared with me through conversation, written report(s), and from records, documents, and evidence obtained as a result of this investigation. The below information is set forth solely for the purpose of establishing probable cause for the arrest warrant and does not represent all known information concerning this investigation.

Incident Report Summary

On January 22, 2024, I was employed as a peace officer for the City and County and San Francisco, assigned to the Bureau of Investigations and detailed to the General Work Unit, and tasked with investigating a vandalism incident, memorialized in San Francisco Police Department (SFPD) incident report number 240-038-243.

The following is a brief summary of SFPD incident report number 240-038-243, authored by SFPD Officer Menis #1741:

On January 18, 2024, at approximately 0108 hours, SFPD responded to an alarm activation of (V) The Police Credit Union, located at 2400 Irving Street, within the City and County of San Francisco. Upon arrival, SFPD observed 18 glass windows were damaged by an unknown suspect. The windows appeared to be shattered in the center, but intact where a suspect would not be able to climb inside. The exterior doors of The Police Credit Union did not appear to be tampered with. The ATMs on the

interior and exterior of The Police Credit Union did not appear to be tampered. At the time of this call for service, SFPD was unable to meet and confer with a representative of The Police Credit Union in order to assess and estimate the value of the damaged property.

Investigation

RP1 Interview

On January 22, 2024, I contacted a representative of The Police Credit Union, RP1. RP1 informed me that there was no structural damage incurred on the property, and no items were stolen from the property. RP1 stated that the only reportable damage was 18 panels of windows which were shattered by unknown instruments. RP1 told me that he does not believe any customers, employees (current or former), are responsible for this act of vandalism.

RP1 informed me that he discovered an online post whose author reportedly took responsibility for the vandalism incident. RP1 later forwarded me the URL link:

<https://www.indybay.org/newsitems/2024/01/18/18862190.php>

On January 23, 2024, during a subsequent interview, RP1 stated he is in the process of filing a claim with The Police Credit Union insurance company. RP1 estimated the value to repair the 18 panels of glass window to be \$15,000-\$18,000 (parts and labor).

RP2 Interview and Video Surveillance Footage

On January 22, 2024, I contacted a representative of The Police Credit Union, RP2. RP2 informed me there was video footage which captured a portion of the incident. RP2 stated that the video surveillance begins recording upon motion activation. RP2 told me that due to this motion activation feature, the unknown suspects were not captured preceding, or following, the act of vandalism. The suspects, however, were captured in the act of shattering the windows.

On January 22, 2024, I responded to The Police Credit Union and recovered the video surveillance footage, which contained two separate video clips.

I reviewed the two separate video clips:

- 1) "SFI2 Outside Rear exit walkway (next to 25th Ave)"
 - 12:59:12—S1 is standing on the walkway at the corner of Irving Street and 25th Avenue (southeast corner of building). S1 is wearing a black zip up jacket, black hoody, black baseball cap, black mask covering from S1's nose and chin, black gloves, black pants, black shoes, while wearing a black backpack, and carrying a hammer with a wooden shaft.
 - 12:59:20—S1 motions to S2 using his left hand. Simultaneously, and systematically, S1 struck the windows three (3) times causing the glass to shatter, while S2 struck additional windows.
 - 12:59:23—the video recording stops.
 - 01:11:50—the video recording activates again when the police arrive on scene.
- 2) "SFI2 Outside Walkway CU Logo 25th Ave"
 - 12:58:25—S2 is standing on the southwest corner of the building, on Irving Street at 25th Avenue. S2 approaches the window while S1 moves to the southeast corner of the



building. S2 is wearing a black hoody, black baseball cap, wearing a black backpack, grey/black gloves, black pants, black shoes, and carrying a crowbar.

- 12:58:46—S1 peers around the corner of the building and motions to S2 with his left hand. S2 then peers around the corner of the building, raises the crowbar in S2's right hand, and struck the glass two times. The video recording stops during S2's second strike of the glass.
- 01:08:20—an unknown bystander activates the motion and notices the damage. The video recording stops.
- 01:11:19—the police arrive on scene.

Due to the motion activated setting of the camera, and because of the video surveillance features as described by RP2, this video surveillance footage did not capture the preceding moments prior to, and/or the Suspects flight from, the scene. Furthermore, the video surveillance captured S1 striking the glass window three times, while S2 simultaneously struck the glass window two times.

On January 23, 2024, I received an e-mail from SFPD Officer Grande #302. Officer Grande corresponded with the nearby owners of the following properties: 1279 25th Avenue and 1275 25th Avenue, within the City and County of San Francisco. It should be noted that a Google Maps query revealed the distance from The Police Credit Union (2400 Irving Street) to 1275-1279 25th Avenue is approximately 100 feet.

A resident of 1279 25th Avenue provided Officer Grande with an approximate 7-minute video clip. I reviewed the video clip and discovered the following: The video clip captures the front door only; however, an audible sound consistent with glass breaking is heard at the 1 minute and 28 second mark.

A resident of 1275 25th Avenue provided Officer Grande with four (4) separate video clips. I reviewed the video clips and discovered the following:

Video 1 (00:59 hrs):

S1 and S2 were captured fleeing on the west sidewalk, northbound 25th Ave toward Lincoln Ave. S1 and S2 appear to be clothed the same manner as captured on the credit union surveillance. Due to suspects' flight, only a blur is captured.

Video 2 (01:09 hrs):

Two unknown subjects are walking side by side on the west sidewalk, northbound 25th Avenue toward Lincoln Way. Subject 1 is wearing a backwards-facing baseball cap, unzipped jacket, unknown shirt, pants, shoes. Subject 2 unknown hat/beanie, long sleeve shirt, pants, and shoes. Due to lack of night vision, the color of the suspect's clothing is indiscernible. No backpacks seen on subjects.

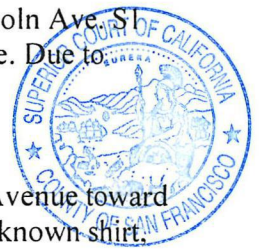
Video 3 (01:36 hrs):

Two unknown subjects are walking side by side on the west sidewalk, northbound 25th Avenue toward Lincoln Way. These two subjects appear to be the same subjects as the video depicted at 0109 hours.

Subject 1 is wearing a forward-facing baseball cap and zip up jacket, pants, and shoes. Subject 2 is wearing an unknown hat/beanie, long sleeve shirt/jacket, pants, and shoes. Due to lack of night vision, the color of the suspect's clothing is indiscernible. No backpacks seen on subjects.

Video 4 (01:59 hrs):

Two unknown subjects are walking side by side on the west sidewalk, southbound 25th Avenue toward Irving Street. These two subjects appear to be the same subjects as the video depicted at 0136 hours.



Subject 1 (standing on the left side) is wearing a forward-facing baseball cap and zip up jacket, pants, and shoes. Subject 2 is wearing an unknown hat/beanie, long sleeve shirt/jacket, pants, and shoes. Due to lack of night vision, the color of the suspect's clothing is indiscernible. No backpacks seen on subjects.

San Francisco Bay Area Independent Media Center ("Indybay")

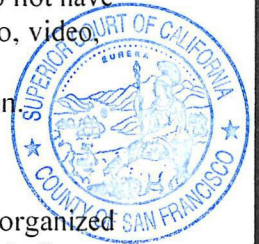
On January 22, 2024, I conducted an open-source internet query of the website posting that was forwarded to me by RPI.

I located the article posted on the website, "https://www.indybay.org," which is a website owned and operated by "San Francisco Bay Area Independent Media Center," also known as, "SF Bay Area IMC," also known as, "Indybay."

According to the "About Us" section, I discovered the following:

"The San Francisco Bay Area Independent Media Century is non-commercial, democratic collective of bay area independent media makers and media outlets, and serves as the local organizing unit of the global Indymedia network.

1. We strive to provide an information infrastructure for people and opinions who do not have access to the airwaves, tools and resources of corporate media. This includes audio, video, photography, internet distribution and any other communication medium.
2. We support local, regional and global struggles against exploitation and oppression.
3. We function as a non-commercial, non-corporate, anti-capitalist collective.



San Francisco Bay Area Indymedia involves volunteer participants and allied collectives organized along anti-authoritarian principles of open and transparent decision-making processes, including open public meetings; a form of modified consensus; and the elimination of hierarchies."

According to the "Editorial Policy," I discovered the following:

"The Indybay newswire operates on the principle of open publishing, an element essential to the global Indymedia network. Simply put, open publishing is to news and information what open-source code is to software. In practice, the open publishing newswire allows anyone to instantaneously self-publish their work on <https://www.indybay.org>.

People are encouraged to "become the media," to use their own skills and abilities of observation, writing, and creativity in posting text, video, audio, photos, and artwork directly to the website. The post is then viewable at the top of the breaking newswire."

According to the website, one could subscribe to an e-mail distribution list by creating a username and password (https://lists.riseup.net/www/subscribe_indybay-news). This would allow any "Indybay" volunteer to periodically send e-mails which contain "Information on upcoming events," and "A summary and link to recent Indybay feature articles." Furthermore, "The content of 'indybay-news' emails comes exclusively from content already published (by you and your friends) on Indybay."

According to the website, one could "Publish to the Newswire." In order to publish to this open-source public forum, one must fill in a variety of fields, including: Article Title (*required*); Author (*required*); E-mail; Topic; Region; Summary; Website URL; Enter Article Text; Upload Attachments; and

“CAPTCHA” (anti-spam question). Once the user completes the above-mentioned fields of entry, one could, preview and later Publish any article which will then be viewable in the open-source forum.

Newsire Article Discovery

On January 22, 2024, I conducted a search query of “SF Police Credit Union,” on the Indybay website. I located a published post on the website Newsire, entitled, “**SF Police Credit Union Attacked for Tortuguita.**”

The publishing was posted by an author named, “*some anarchists*” on “**Thu, Jan 18, 2024 1:41AM:**”

“In the early hours of January 18, one year after the police murder of Tortuguita, we smashed 18 windows at the San Francisco Police Credit Union as an act of vengeance for it.

We also honor the memories of Kelee Benally, Sekou Odinga, and Banko Brown. Fight for the dea, fight for the living!”

On January 22, 2024, I conducted an open-source internet query of “Police killing of tortuguita.” The query revealed a Wikipedia article which described the “Killing of Manuel Esteban Paez Teran, also known as Tortuguita, was a Venezuelan environmental activist and eco-anarchist who was shot and killed by Georgia State Patrol Troopers, after a Georgia State Patrol Trooper was wounded during a raid of the Stop Cop City encampment on January 18, 2023.”

Conclusion

I know that based on my research of www.indybay.org, “the SF Bay Area IMC web server does not normally track the domains or IP addresses from which people visit and/or post to the SF Bay Area Indymedia web site. Usage of other services, however, *may be logged* (emphasis added).

Due to repeated denial-of-service (DOS)/spam attacks conducted against the SF Bay Area Indymedia website, SF Bay Area IMC may at times log all webserver activity, including client IP addresses. Any such logs will be stored on a RAM disk and discarded within 24 to 48 hours. SF Bay Area IMC reserves the right to send reports of DOS/spam activity to the spammer’s internet service provider, and to post them publicly on its website. Only log entries pertaining directly to clear cases of website abuse will be so disseminated and/or preserved.

The SF Bay Area IMC web site contains links to other websites, whether controlled by Indymedia affiliates or unrelated third parties.

Currently, the SF Bay Area IMC uses personal information as a basis for identifying the authors of published articles, and in order to allow individual user login to certain site functions, including ratings and admin. Names (and additional information that a user may choose to post) are publicly available on the SF Bay Area IMC site.

All e-mail sent to the SF Bay Area IMC is stored and accessible to members of Indybay’s private email list, including the sender’s reported name and e-mail address.

Users may subscribe to receive site notifications, newsletters or other information via email. Users may remove themselves from such services at their discretion.



Users' personal information may be publicly available through a user's published articles. Users have the option to opt out of publicly displaying their real names by typing in a pseudonym; users may choose not to disclose address or telephone contact information at all."

Your affiant believes that the information associated with the above-mentioned published website article URL will assist to verify the internet protocol address, and location of the suspect(s) who created said posting.

Delay of Notification Request

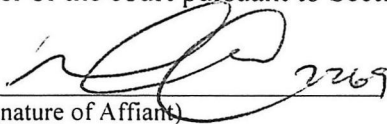
Your affiant requests that a delayed notification order be granted for this warrant. The focus of this investigation, in its current state, is to identify and arrest the suspect guilty of California Penal Code § 594(b)(1) – **malicious mischief, vandalism**. If SF Bay Area IMC (Indybay) provides immediate notification to the subscriber upon complying with this search warrant, the suspect(s) involved will certainly become aware that this is a technique used in criminal investigation. Such notification will prompt the suspect(s) to prematurely discard or cease using the subject electronic service provider (ESP) account, electronic device(s), telephone number, or employ countermeasures that will obstruct or severely impair law enforcement from fully executing the Search Warrant requested herein, or making progress in this investigation. Therefore, your affiant is requesting that the ninety (90) days Delay Notification Request be granted.

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 warrant unless an order delaying notification is granted. It is further requested, pursuant to the delayed notice provisions of Penal Code 1546.2(b), an order delaying any notification to the target / party that may be required by 1546.2(b) about this warrant, for a period of ninety (90) days.


Additionally, it is further requested that pursuant to the preclusion of notice provisions of Penal Code 1546.2, SF Bay Area IMC (Indybay) be ordered not to notify any person (including the subscriber, customer or owner of the electronic communication or device information to which materials relate) of the existence of this warrant for ninety (90) days.

It is ordered that all information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order.

I request that a Search Warrant be issued based upon the aforementioned facts, commanding the search of the person, premise(s) or vehicle(s) designated above for the property or things described, or any part thereof, and that such items or property be brought before this magistrate or retained subject to the order of the court pursuant to Section 1536 of the Penal Code.


(Signature of Affiant)

Sworn to as true on 27 day of Jan, 2024, at 11:25 AM / P.M.


(Signature of Magistrate)

Judge of the Superior Court of California, City and County of San Francisco, Dept.# 23



SUPERIOR COURT OF CALIFORNIA
City and County of San Francisco

IN RE SEARCH OF

SF Bay Area IMC (Indybay)
www.indybay.org

ORDER TO DELAY

NOTIFICATION OF SEARCH WARRANT

ORDER

Your Affiant, **Sergeant Michael Canning #2269** requests:

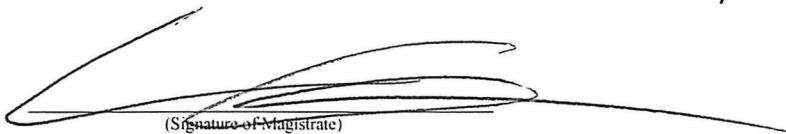
This matter having come before the Court pursuant to an application under Penal Code Section 1524 et seq, which affiants requests that notification of this warrant be delayed. Based upon the reading of the Search Warrant, and Affidavit in Support thereof;

IT APPEARING that there is reason to believe that the notification of the existence of the warrant to any person will result in endanger the life or physical safety of an individual; lead to flight from prosecution; lead to destruction of or tampering with evidence; lead to intimidation of potential witnesses; or otherwise seriously jeopardize an investigation or unduly delay a trial or otherwise lead to an adverse result.

IT IS ORDERED that SF Bay Area IMC (Indybay) shall delay notification of the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, for a period of ninety (90) days unless otherwise directed by the Court.

IT IS FURTHER ORDERED that the notification by the government otherwise required under Penal Code Section 1546.2 (a) be delayed for a period of ninety (90) days.

Sworn to as true and subscribed to me on 29 day of Jan, 2024, at 11:25 ~~A.M.~~ P.M.


(Signature of Magistrate)

Judge of the Superior Court of California, City and County of San Francisco, Dept.# 23

