



800 Third Street • Marble Falls, Texas 78654
Phone: (830) 693-3615 • Fax: (830) 693-6737

October 20, 2009

Mr. Josh Hinkle

Re: Open Records Request received October 16, 2009

Via e-mail

Mr. Hinkle:

This letter is in response to your open records request received October 16, 2009 in which you requested the following:

- July 2007 Marble Falls Police Search Warrant and Return for residence of Richard Asbill
- August 2009 Arrest Warrant for Richard Asbill issued by Marble Falls Police, executed by Burnet Police

The City of Marble Falls has reviewed its files and located documents that are responsive to your request. Although the Texas Public Information Act allows a governmental body to charge for copying documents, in accordance with Texas Government Code §552.267, the enclosed copies of documents are being provided to you at no charge.

If you have any questions or wish to discuss this matter further, you may contact me at (830) 798-7080.

Sincerely,

Christina Laine
Christina Laine, TRMC

City Secretary / Public Information Officer

Encl(s).

THE STATE OF TEXAS

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DOCKET# BU 07-0807-01

COUNTY OF BURNET

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COURT: 33rd Dist. Court

**AFFIDAVIT FOR A WARRANT TO
AUTHORIZE GOVERNMENT ACCESS TO
STORED ELECTRONIC COMMUNICATIONS**

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED THE AFFIANT
HEREIN, A PEACE OFFICER UNDER THE LAWS OF TEXAS, WHO, BEING DULY SWORN, ON
OATH MADE THE FOLLOWING STATEMENTS:

My name is [REDACTED] and I am commissioned as a peace officer by the Marble Falls Police Department. I have been a peace officer for more than ten years, over four of those years as a criminal investigator. I have received training in such fields as Protecting children on-line, Computer Crimes Against Children, Technical Aspects of Computer Investigation, and Search and Seizure of Electronic Evidence. I am also a member of the victim identification network established by the National Center for Missing and Exploited Children.

1. There is in the custody of the Marble Falls Police Department, suspected property described as follows: One Dell, central processing unit commonly called a personal computer, and bearing the following distinguishing marks: Tagged on the side and on the back "GZ8VT41" which is the service tag number, herein after called "suspect computer".

2. The suspect computer is the property of Richard Allen Asbill, W/M, 09/29/1947, Texas Drivers License SSN [REDACTED] herein after called "suspected party", and his wife, [REDACTED] Asbill.

3. The suspect computer was received from [REDACTED] Asbill, W/F, [REDACTED]/1947, Texas Drivers License [REDACTED] who is the spouse of the suspected party, hereinafter called "witness". The witness turned the computer over to law enforcement upon becoming suspicious of its content after the suspected party's use.

4. It is the belief of the affiant, and affiant hereby charges and accuses that said suspect computer is the personal property of the suspected party and that said suspect computer contains items constituting evidence of a criminal offense or constituting evidence tending to show that a particular person or persons committed a criminal offense, to wit: Possession/Promotion of Child Pornography, that being a violation of the Texas Penal Code and a third degree felony.

5. Affiant has probable cause for the said belief by reason of the following facts:

On July 26, 2007 Captain [REDACTED] and Officer [REDACTED] of the Marble Falls Police Department were summoned to 25 [REDACTED] Circle Dr., Marble Falls, Burnet County, Texas on the complaint of possession of child pornography. Officer [REDACTED] told Affiant that once there, officers made contact with the witness who stated that her husband, the suspected party, has been in counseling for approximately one year for an addiction to pornography. The witness stated that she had their computer formatted in such a way as to keep track of the suspected party's use of it and had the suspected party's user account password protected to deny the suspected party access to pornographic sites. The witness told officers that she has in the past awakened in the night to find the suspected party missing from their bed, only to find him masturbating in front of their computer to pornographic images.

Officer [REDACTED] told Affiant that the witness stated she had gone out of town from July 16, 2007 until July 20, 2007 leaving the suspected party at home alone. Upon her return, she checked the computer for usage, and noticed that a new user account had been set up labeled as "guest". This guest user account had no restrictions on web usage and therefore the user could visit web-sites unencumbered by protective software. The witness noted that the user had visited several pornographic web-sites with names such as "Teens", "Father-Daughter", and "Incest" which led the witness to suspect that there are images of child pornography contained on the computers hard drive. The witness asked the suspected party if he had set up this "guest" account and visited these web-sites and he admitted to her that he had. The witness made the suspected party move from their home and called the Police to turn over their computer for inspection.

Based on Affiant's training and experience in working similar criminal investigations, Affiant knows that web-sites such as those listed above contain pornographic images of children younger than 18 years of age, are frequented by those who collect, save, and trade images of child pornography, or have links to sites that contain images of child pornography.

6. Based on affiant's training and experience, and the knowledge, training, and experience of other law enforcement personnel with whom the affiant has consulted on this issue, the affiant knows that effective searches and seizures of evidence from computers commonly require law enforcement officers to have computers processed by a qualified computer forensics expert in a controlled office or laboratory environment. This is true because of the following:

- A. Computer storage devices (including but not limited to hard disks, diskettes, tape and removable drives) can store the equivalent of pages of information. When users desire to conceal criminal evidence, they often store the information in random order with deceptive file names. Directories and subdirectories that contain these files can also be electronically hidden from normal view. Special forensic software is required to detect these hidden directories. This requires that searching authorities examine all the stored data to determine whether all or part of the data falls within the scope of this warrant. The sorting process can take days, weeks or months, depending on the volume of data stored.
- B. Searching computer systems for criminal evidence is a highly technical process requiring expert skill in a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications. It is difficult to predict before a search, which expert should analyze the system and its data. The search of a computer is an exacting scientific procedure which is designed to protect the integrity of the evidence and to recover even hidden, erased, compressed, password protected, and/or encrypted files. Since computer evidence is extremely vulnerable to tampering or destruction from both external sources or from destructive codes imbedded in the system in the form of a "booby trap", the controlled environment of a forensic investigator's office or laboratory is essential to its complete and accurate analysis and retrieval.
- C. Computers can store information in several different ways. Some information is saved to the hard-disk, or other disks and forms of memory by the user. Other information pertaining to internet usage, web sites visited, information downloaded from web sites, and information sent to web sites or other users is stored by the computer in a section of memory commonly called "cookies". Experts trained in the forensic analysis of computer hardware and software, can by accessing these, determine if any illegal information, specifically child pornography, has been downloaded, exported, viewed, or possessed by the user of that computer.

WHEREFORE AFFIANT ASKS FOR ISSUANCE OF A WARRANT THAT WILL AUTHORIZE THE REMOVAL OF THE SUSPECT COMPUTER FROM BURNET COUNTY TO THE TEXAS DEPARTMENT OF PUBLIC SAFETY CRIME LABORATORY LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS FOR THE FORENSIC ANALYSIS OF SAID SUSPECT COMPUTER FOR THE SEIZURE AND SAFE STORAGE OF ANY AND ALL EVIDENCE OF THE FOREMENTIONED CRIMINAL OFFENSES.


AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME BY SAID AFFIANT ON THIS THE 17th DAY OF Aug., 2007, AT 3:15 A.M. P.M.




DISTRICT JUDGE

THE STATE OF TEXAS

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DOCKET# B407-0807-01

COUNTY OF BURNET

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COURT: 33RD DIST. COURT

SEARCH WARRANT

The State of Texas: To the Sheriff or any Peace Officer of Burnet County, Texas or any Peace Officer of the State of Texas:

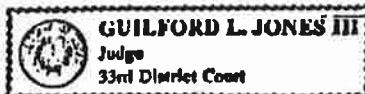
WHEREAS, the affiant whose name appears on the affidavit attached hereto is a peace officer under the laws of Texas and did heretofore this day subscribe and swear to said affidavit before me (which said affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this Warrant), and whereas I find that the verified facts stated by the affiant in said affidavit show that the affiant has probable cause for the belief he expresses herein and establishes existence of proper grounds for issuance of this Warrant;

NOW, THEREFORE, YOU ARE COMMANDED to search the suspect computer described in the affidavit for electronically stored information, namely, e-mails, other writings, photographs, moving pictures, downloaded files, exported files, "cookies" of web sites visited, and any and all other electronically stored information contained within the computer that would constitute evidence of a criminal offense or constituting evidence tending to show that a particular person or persons committed a criminal offense, to wit: Possession/Promotion of Child Pornography it being a violation of the Texas Penal Code and a felony.

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS.

HEREIN FAIL NOT, as the peace officer to whom this warrant is delivered, you shall execute it without delay and within three whole days and due return make by faithfully completing the form attached hereto designated for said purpose.

SIGNED, ENTERED and ORDERED this the 7th day of Aug, 2007 at 10 o'clock A.M., to attest to which I subscribe my name.



GUILFORD L. JONES III
Judge
33rd District Court

[Signature]
DISTRICT JUDGE

THE STATE OF TEXAS

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DOCKET# BU07-0807-01

COUNTY OF BURNET

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COURT: 33RD DIST. COURT

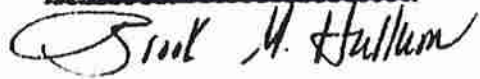
**OFFICER'S RETURN AND INVENTORY
SEARCH WARRANT**

Each of the undersigned Affiants, being a Peace Officer under the laws of Texas and being duly sworn, on oath certified that the foregoing Warrant came to hand on the day it was issued and that it was executed on the 8TH day of AUGUST, A.D., 2007, by making the search directed therein and by seizing during such search the following described property, retained by such Peace Officer, and kept, stored and held as hereinafter set out:

1 - DELL DIMENSION 4600 CPU NOW IN
CUSTODY OF THE TEXAS DPS LAB FOR
FORENSIC ANALYSIS OF THE CONTENTS
AS AUTHORIZED BY THIS WARRANT.


AFFIANT





No. 1531-0709

Case #:0791057

THE STATE OF TEXAS

COUNTY OF BURNET
CITY OF MARBLE FALLS

To any Peace Officer of the State of Texas

WHEREAS, on the 17th day of Aug, A.D. 2009, Complaint under oath in writing has been made before me, charging that in said City and State, one **RICHARD ALLEN ASBILL, W/M, 09/29/1947, TXDL** did commit the offense of Possession of Child Pornography, a violation of section 43.26(a) of the TEXAS PENAL CODE, a Third Degree Felony, contrary to the statutes in such cases made and provided, and against the laws, peace, and dignity of the State (and against the Ordinances of the City of Marble Falls, Texas.)

THESE ARE THEREFORE TO COMMAND YOU to arrest the said **RICHARD ALLEN ASBILL, W/M, 09/29/1947, TXDL** and immediately INSTANTER before the Judge of the Municipal Court in the City of Marble Falls, Texas to answer said complaint.

HEREIN FAIL NOT, but due service and return make of this Writ as the law directs.

WITNESS my signature and seal of office this the 17th day of Aug, A.D. 2009.

Gayle Price
GAYLE PRICE

Judge, Municipal Court, Marble Falls, and Texas



OFFICER'S RETURN

Came to hand the 17 day of Aug A.D. 2009, at 1754 o'clock P M.,
And executed the 17 day of Aug A.D. 2009, at 1754 o'clock P M.,
by arresting the said Richard Allen Asbill

City of _____, Texas

Patrolman/Deputy: BURNET P.O