

Appendix D:
Templates for Search Warrant and Supporting Affidavit

1 IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
2 CENTRAL DIVISION

3 STATE OF CALIFORNIA) AFFIDAVIT FOR SEARCH WARRANT
4 (ss.
COUNTY OF SAN DIEGO)
5 No. _____

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7 I, XX, do on oath make complaint, say and depose the
8 following on this 20th day of June, 2007: that I have
9 substantial probable cause to believe and I do believe that
10 I have cause to search: the person known as -, a- male adult
11 having a date of birth of -, being about ' " in height and -
12 lbs. in weight, and is believed to be currently residing at-
13 , in-, California, for the following property, to wit: to
14 seize the person to conduct a full body and genital
15 examination, identifying and documenting marks such as
16 tattoos or scars, and identifying and documenting any
17 evidence of injury, as well as collecting any physical
18 evidence such as clothing, hair, blood and saliva samples,
19 foreign debris, and swabs of the penis and scrotum (as well
20 as rectal and any other swabs if appropriate depending on
21 history) sufficient for comparison purposes using the least
22 amount of force necessary to take said samples, and to take
23 a set of major case fingerprints and palm prints. Injury
documentation will include not only written documentation of

1 the injury, but also photographic and any other medically
2 appropriate documentation.

3 I am a peace officer employed by the San Diego Police
4 Department (hereafter SDPD) and have been so employed for
5 about- years. I am currently assigned to the- Division and
6 have been so assigned for over- years. During my career, I
7 have investigated at least - sexual assault cases.

8 During the course of my duties, I have learned the
9 following information based upon my discussions with the
10 named witnesses or by having read the reports of or talked
11 with other SDPD officers who have spoken directly with the
12 named witness. All references to dates refer to the current
13 calendar year unless otherwise stated.

14 (ADD PROBABLE CAUSE HERE. ENSURE THAT PROBABLE CAUSE
15 DESCRIBES THE REASONS FOR ALL SWABS THAT WILL BE TAKEN.)
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2 Numbered Pleading Paper
Press [F9] after required entry IN THE SUPERIOR COURT OF
CALIFORNIA, COUNTY OF SAN DIEGO

3 CENTRAL DIVISION

4 STATE OF CALIFORNIA) AFFIDAVIT FOR SEARCH WARRANT
(ss.
5 COUNTY OF SAN DIEGO) No. _____

6
7 I, Joseph Cristinziani, do on oath make complaint, say and
8 depose the following on this - day of -, 1999: that I have
9 substantial probable cause to believe and I do believe that I have
10 cause to search: the person known as Paul Velasquez, an Hispanic male
11 adult having a date of birth of 01-06-70, being about 5'8" in height
12 and 145 lbs. in weight, and is believed to be currently residing and
13 in custody of the State of California under California Department of
14 Corrections number E04294, located at the North Kern State Prison; at
15 2737 West Cecil Avenue, Delano, California; for the following
16 property, to wit: to seize the person and take hair, blood and saliva
17 samples sufficient for comparison purposes using the least amount of
18 force necessary to take said samples.

19 I am a peace officer employed by the San Diego Police Department
20 (hereafter SDPD) and have been so employed for about 20 years. I am
21 currently assigned to the Homicide Division and have been so assigned
22 for about 4 years. Prior to this assignment, I was assigned to the
23 Sex Crimes Unit. I was so assigned for approximately 14 months.
During my career, I have investigated at least 100 Homicide cases as
well as approximately 100 sexual assault cases.

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2 During the course of my duties, I have learned the following
3 information based upon my discussions with the named witnesses or by
4 having read the reports of or talked with other SDPD officers who have
5 spoken directly with the named witness. All references to dates refer
6 to the current calendar year unless otherwise stated.

7 I have prepared the attached 17 page report in the course of my
8 duties. I was assigned the case after the victim initially reported
9 the crime to SDPD patrol officers. I hereby request incorporation by
10 reference herein of said report as if fully set forth and identified
11 by SDPD case number 95-091454 located in the upper left portion of the
12 front page. This crime was a forcible rape, committed in violation of
13 section 261(2) of the California Penal Code. The victim in this case
14 was identified as Ms. Jackie Lindsay.

15 During the course of the investigation, the victim, Jackie
16 Lindsay, was examined by medical personnel following the rape and
17 biological samples were taken from her vaginal vault. The evidence
18 was analyzed by the San Diego Police Department and biological samples
19 sufficient for DNA testing were identified. The San Diego Police
20 Department used a Polymerase Chain Reaction (PCR) DNA test to identify
21 the genetic markers of the assailant in Lindsay's assault. The
22 evidence was then sent to Cellmark for RFLP testing with the intent to
23 attempt to identify the suspect using the Combined DNA index system
computer data base (CODIS) maintained by the FBI. RFLP was obtained,
however, there was no match in CODIS.

In June of 1999, Mr. Brian Burritt was hired by the San Diego
Police Department Crime Laboratory as a Criminalist. His specific
field of expertise is that of a DNA Analyst. Prior to his employment

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2 with the San Diego Police Department, Mr. Burritt was employed as a
3 Criminalist with the California Department of Justice, DNA Laboratory,
4 Berkeley, California. Mr. Burritt has been qualified as an expert
5 witness, in the area of DNA in the Superior Courts of 11 different
6 counties within the State of California. The San Diego Superior Court
is included in that list.

7 Upon his employment with the San Diego Police Department's Crime
8 Laboratory, part of Mr. Burritt's job description was to examine any
9 and all unsolved cases containing DNA evidence and, to create a SDPD
10 data base for unsolved cases with PCR evidence.

11 On June 20, 1999, Mr. Burritt began an analysis of the PCR
12 profile collected from Lindsay's case. Once the PCR profile from this
13 case was entered into the data base, the data base compares the
14 profile against at least 200 other PCR profiles collected from known
15 sex and/or violent crime scenes from within San Diego County. The
16 data base compares against other PCR profiles searching for matches.
17 The search revealed a PCR profile match to Paul Velasquez, an
18 identified suspect in an indecent exposure investigation. Mr.
19 Burritt examined Velasquez' PCR profile and found that in the
20 Caucasian population the frequency is 1 in 2600; in the Hispanic
population the frequency is 1 in 5400 and in the Black population the
frequency is 1 in 110,000.

21 Utilizing official police computers, I conducted a background
22 investigation on Velasquez. I learned Velasquez was not in custody at
23 the time Lindsay was forcibly raped. I learned Velasquez was living
within the City of San Diego at the time the rape occurred.

Velasquez' residence was located at 7106 Armadillo Street, in the City

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2 and County of San Diego. Armadillo Street is well within a three (3)
3 miles radius of the location where Lindsay was raped. Through my
4 background investigation, I learned Velasquez' physical description
5 matched the suspect description given to me by Lindsay. Additionally,
6 I learned Velasquez has prior convictions for sexually related type
7 crimes.

8 A biological reference sample is now needed from Velasquez for
9 RFLP testing which will provide additional genetic information to more
10 conclusively include or exclude Velasquez as the person who sexually
11 assaulted Jackie Lindsay. By obtaining saliva swabs from Velasquez,
12 forensic laboratory personnel will be able to make further comparisons
13 to the RFLP identified in Lindsay's case. I know that comparisons can
14 be made between fluids found on or in the victim and that of the
15 suspect. By removing blood and saliva, laboratory personnel will be
16 able to make comparisons with those samples taken from the suspect to
17 those taken from the victim using DNA and/or more conventional
18 laboratory comparisons.

19 I have been advised that DNA is short for deoxyribonucleic acid.
20 DNA molecules are contained within human cells and hold the genetic
21 'coding' that makes each of us individually distinctive (except
22 identical twins). While forensic DNA technology cannot yet
23 discriminate among human beings to the same extent as fingerprint
evidence, it is capable of identification within a very small percent
of major populations depending on the type of analysis employed.
Forensic DNA evidence has been routinely admitted in courts of
California since 1989. Samples taken from the suspect as described
more fully above will be compared against that found on the victim.

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2 In removing the blood and other samples from the suspect, I will use
3 medically accepted practices, utilize the services of a trained person
4 in drawing the blood, and use the least amount of force necessary to
5 collect the described evidence.

6 The suspect was booked into State Prison on an unrelated charge
7 and was booked under the above described California Department of
8 Corrections number.

9 I request that this declaration, the affidavit, search warrant
10 and supporting attachments be sealed pending further order of the
11 court. I make the request for the following reason. Without sealing,
12 the affidavit and supporting documentation and warrant become a matter
13 of public record within ten days. Penal Code section 1534(a).

14 Also, Penal Code section 293 provides that a victim of a sex
15 offense be advised that his or her name will become a matter of public
16 record unless he or she requests that it not become a matter of public
17 record. The victim in this matter has not yet determined whether or
18 not she wishes her name to become a part of the public record. If the
19 information in these documents is not sealed, the victim's name can be
20 revealed to anyone who wishes to examine the court files, and the
21 victim will be denied her rights under Penal Code section 293. For
22 this reason, I believe all information identifying the victim should
23 remain sealed pending further order of the court.

Therefore, based on my training, experience, and the above facts,
I believe that I have substantial cause to believe the above described
property or a portion thereof will be on said person when the warrant
is served. Based on the aforementioned information and investigation,
I believe that grounds for the issuance of a search warrant exist as

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set forth in Penal Code section 1524. I, the affiant, hereby pray that a search warrant be issued for the seizure of said property, or any part thereof, from said person at any time of the day, good cause being shown therefore, and that the same be brought before this magistrate or retained subject to the order of this Court.

This affidavit has been reviewed for legal sufficiency Deputy District Attorney David J. Lattuca.

Given under my hand and dated this - day of -, 1999.

Joseph Cristinziani ID #2913
San Diego Police Department
Homicide Section

Subscribed and sworn to before me
this - day of , 1999
at a.m./p.m.

Judge of the Superior Court
Central Division

1
2 IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

3 CENTRAL DIVISION

4 S E A R C H W A R R A N T

5 No. _____

6 The People of the State of California, to any
7 sheriff, constable, marshal, police officer, or any other
8 peace officer in the County of San Diego: Proof, by
9 affidavit, having been this day made before me by Joseph
10 Cristinziani, a peace officer employed by the San Diego
11 Police Department, that there is substantial probable
12 cause for the issuance of the search warrant pursuant to
13 Penal Code section 1524, you are therefore, commanded to
14 make search at any time of the day, good cause being shown
15 therefore, the: person known as Paul Velasquez, an
16 Hispanic male adult having a date of birth of 01-06-70,
17 being about 5'8" in height and 145 lbs. in weight, and is
18 believed to be currently residing and in custody of the
19 State of California under California Department of
20 Corrections number E04294, located at the North Kern State
21 Prison; at 2737 West Cecil Avenue, Delano, California; for
22 the following property, to wit: to seize the person and
23 take hair, blood and saliva samples sufficient for
comparison purposes using the least amount of force
necessary to take said samples, and, if you find the same,
or any part thereof, to bring it forthwith before me at

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the Superior Court of the Central Division, County of San Diego, State of California, or to any other court in which the offense in respect to which the property or things is triable, or retain such property in your custody, subject to the order of this Court, pursuant to section 1536 of the Penal Code.

Given under my hand and dated this - day of -, 1999.

Judge of the Superior Court
Central Division