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ENDORSED
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San Francisco County Superior Court

FEB 22 2024

CLERK OF THE COURT
BY: STEPHEN SPENGLER
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN FRANCISCO

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11 IN RE SEARCH OF SF BAY AREA IMC
12 (INDYBAY) WWW.INDYBAY.ORG

Case No.: 24500108
DECLARATION OF MARK BURDETT
IN SUPPORT OF MOTION TO QUASH
SEARCH WARRANT &
NONDISCLOSURE ORDER
Hearing: March 6, 2024
Time: 9:00 a.m.
Dept.: 23
Judge: Hon. Linda Colfax

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18 I, MARK BURDETT, declare as follows:

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20 1. I co-founded the San Francisco Bay Area Independent Media Center, also known as
21 Indybay, in 2000 and have served as a member of the Indybay editorial collective since that time. I
22 have accepted numerous awards from other media organizations on behalf of Indybay including
23 three "Best of the Bay" awards from the San Francisco Bay Guardian, trained and assisted members
24 of Indymedia outlets on six continents, worked on stories with veteran journalists from the Bay
25 Area and beyond, represented Indybay at numerous speaking engagements in the community, and
26 mentored up and coming media workers.
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1 2. Indybay is a not-for-profit online news outlet that generates and distributes edited
2 audio, visual, and print stories on local issues and events to media outlets around the world, as well
3 as to the general public. Stories are published to Indybay daily, and sometimes several times a day.
4 Indybay is associated with more than 20 Indymedia outlets worldwide, including seven in the
5 United States, and is syndicated by Google News and other online news indexing services.

6 3. The Indybay website at <https://www.indybay.org/> receives between 40,000-60,000
7 page views on any given day. News events such as those involving protests in the Bay Area can
8 cause that number to spike dramatically. Some of our readers report to us that they visit the
9 Indybay website on a daily basis.

10 4. Indybay is run by an editorial collective generally comprised of no more than 12
11 members. Members of the editorial collective serve many of the same functions as a staff member
12 or editorial board member at a traditional newspaper. They act as editors and managers of Indybay,
13 and many also contribute news stories. The distinctions are that members are unpaid volunteers, the
14 collective is democratically run, and collective members may also perform paid journalism work for
15 other media organizations. Collective membership is earned through an individual's level of
16 commitment and the length of time he or she is involved. There is no standardized probationary
17 period and membership is decided by the editorial collective.

18 5. Indybay issues press credentials to members of its editorial collective and a small
19 number of approved non-member stringers and correspondents. Recipients of the credential sign an
20 agreement that they are providing media to Indybay, will follow Indybay policies, and will not put
21 Indybay at legal risk. Credentials can be revoked if this agreement is not followed. These
22 credentials assist Indybay reporters and photographers in gaining access to press areas and
23 identifying themselves as members of the working press. At present, ten members and non-member
24 correspondents carry an Indybay press credential.

25 6. For its news content, Indybay relies on a combination of members of its editorial
26 collective, stringers, and other contributors from the general public to source original news content
27 from the field. The website is populated by both "newswire" stories written by anyone in the field
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1 and "feature" stories that are compiled by members of the Indybay editorial collective, which can
2 use and combine newswire stories as source material.

3 7. Indybay, along with other Indymedia outlets, pioneered the concept of the "open
4 publishing" newswire, which allows any member of the public to serve as a contributor by
5 publishing their story, photographs and other media to the Indybay newswire. Anyone can publish
6 to the news wire using a simple online form on the website. For a member of the public to publish
7 to the newswire, they must navigate to the "publish" section of the website and (1) write an article
8 title; (2) add author name, which is not verified; (3) write a summary; (4) and enter the article text.
9 An author can optionally add an email address and choose whether to display that address publicly
10 or display it only to the Indybay editors. An author can also optionally add a topic, region, website
11 URL, and attachments. After completing a Captcha, an author can click a "publish" button in order
12 to publish the story to the newswire.

13 8. Members of the editorial collective edit stories published to the newswire according
14 to its editorial policy. Only members of the editorial collective have edit access on the website.
15 Editors may compile newswire articles into a feature article displayed more prominently on the
16 website, classify articles based on their content, promote articles, copy edit articles, or hide articles.

17 9. When developing feature stories, members of the editorial collective search through
18 and compile related stories from the newswire to use as source material, regardless of the
19 contributor's affiliation with Indybay. Only one newswire article is required to serve as source
20 material for a feature article, but often they will repackage, summarize and link to multiple
21 contributed articles, photographs and other news items from the newswire.

22 10. Given its open copyright licensing policy, Indybay's editorial collective are further
23 empowered to nominate and repackage articles to other outlets and publications with which they
24 may be affiliated. In addition, reporters and journalists at other outlets elect to republish or rely on
25 articles from Indybay unprompted.

26 11. On January 18th, 2024, an unknown member of the public published a 54-word
27 article to the newswire, <https://www.indybay.org/newsitems/2024/01/18/18862190.php>. Indybay
28 editors were not able to gather further information to corroborate the incident described. However,

1 the story was deemed newsworthy and of general interest as apparent first-person source material,
2 so Indybay editors classified the story as local news, which causes it to appear alongside any related
3 local stories that might be published to the topical newswire at, <https://www.indybay.org/police/>.

4 12. The author of the January 18 article is unknown to Indybay.

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6 I declare under penalty of perjury under the laws of the State of California that the foregoing
7 statements are true and correct to the best of my knowledge, information, and belief.

8 Executed this 20th day of Feb., 2024, at San Francisco California.

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12 MARK BURDETT

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