

1 James R. Wheaton, State Bar No. 115230
David A. Greene, State Bar No. 160107
2 Geoffrey W. King SBN No. 267438
FIRST AMENDMENT PROJECT
3 1736 Franklin Street, 9th Floor
Oakland, CA 94612
4 Telephone: (510) 208-7744
Facsimile: (510) 208-4562

5 Attorneys for Movant
6 DAVID MORSE

ENDORSED
FILED
ALAMEDA COUNTY

APR 16 2010

CLERK OF THE SUPERIOR COURT
By A. SALTA

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ALAMEDA

10 IN RE SEARCH WARRANT ISSUED
11 DECEMBER 12, 2009

DECLARATION OF PETER MAIDEN IN
SUPPORT OF MOTION TO QUASH
SEARCH WARRANT AND RETURN
PROPERTY

DECLARATION OF PETER MAIDEN

I, PETER MAIDEN, declare under penalty of perjury that, unless otherwise indicated, the following is true and correct of my own personal knowledge, and would testify hereto if called at trial:

1. I co-founded the San Francisco Bay Area Independent Media Center, also known as *Indybay*, in 2000. *Indybay* is a not-for-profit online news outlet that generates and distributes edited audio, visual and print stories of local events to media outlets around the world, as well as to the general public. Stories are published to *Indybay* as they are generated, which generally occurs at least daily, and sometimes several times a day. *Indybay* is associated with more than 150 Indymedia outlets worldwide, including 60 in the United States, and is syndicated by Google News.

2. The *Indybay* website receives between 20,000-30,000 page views on any given day. News events such as those involving recent education protests in the Bay Area can cause that number to spike dramatically. Some of our readers report to us that they visit the *Indybay* website on a daily basis.

3. Until 2009, I was a member of the *Indybay* collective, which is typically comprised of no more than 12 people. Collective members serve as editors and managers of *Indybay*, and many also contribute news stories. Thus, an *Indybay* collective member is like a staff member at a for-profit news organization; the primary distinctions are that *Indybay* is democratically run, and all of its members are volunteers.

4. Collective membership is earned through an individual's level of commitment and the length of time he or she is involved. There is no standardized probationary period, however. Rather, the decision whether or not to extend an offer of membership is made by the existing members of the collective.

5. Only members of the collective are empowered to serve as editors. By contrast, *Indybay* relies on a combination of member-reporters and stringers to source original news content from the field.

6. When a member-reporter or stringer uploads his or her story to *Indybay*, it is reviewed by

an editor, who determines whether to categorize the story as "local," "global" or "breaking" and assigns it to a topic category. Stories are date stamped and remain on the website indefinitely.

7. An editor can pull stories from this news wire to be highlighted in the center column of the *Indybay* website with the permission of a second collective member.

8. Collective members are further empowered to nominate and repackage stories to the national Indymedia website and other publications. In addition, collective members at both Indymedia and non-Indymedia outlets elect to publish or rely on stories from *Indybay* unprompted.

9. David Morse has been a contributor to *Indybay* since March of 2004, and he has been a member of the collective since May of 2004. David's quick acceptance into the collective was due to the quality of his work, his professionalism, and his past journalism experience. David is intimately intertwined with *Indybay* and serves as a core member of the collective: he edits, has control over the design of the site, and regularly contributes stories. In my estimation, David works for *Indybay* 20 or more hours a week.

10. I signed David Morse's *Indybay* press pass in January of 2007. I started the *Indybay* credentialing system in 2001 after it became clear that press passes would be helpful to journalists in the field whose reportage either required contact with police officers or access to certain interview subjects. The press passes began issuing that same year. Some *Indybay* reporters also held California Highway Patrol press passes until 2004, when the agency changed its policy and stopped issuing press passes altogether.

11. *Indybay* takes its credentialing system seriously. To be eligible for an *Indybay* press pass, an individual has to contribute stories from the field on an ongoing basis; thus, some members of the collective who hold significant other responsibilities do not have press passes. In addition, an individual must agree to the following statement via email before a press pass issues: "I am currently providing media to *Indybay*. I agree that while using the *Indybay* credential, I will not put *Indybay* at legal risk. If I do so, I understand my card may be revoked." David Morse made this pledge in November 2006. To my knowledge, one person's *Indybay* press pass has been revoked for misconduct. Only about 20 *Indybay* press passes are in circulation at any given time.

12. Based on my interactions with David Morse, it is clear to me that he is a committed

1 journalist who is motivated by a strong desire to educate the public about the political priorities of
2 others in the community. That David does this on a voluntary basis is laudatory. He and I and others
3 like us have worked hard to make *Indybay* a genuine resource for other news outlets and for the
4 public, and I am proud of the vibrant news organization that it has become.

5 I declare under penalty of perjury of the laws of the State of California that the foregoing is
6 true and correct and executed this 14 day of April, 2010 in Palo Alto, California.

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9 By: _____

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