COUNTY OF LARIMER )

 ) SS IN THE DISTRICT COURT

STATE OF COLORADO )

**SEALED**

**AFFIDAVIT FOR SEARCH WARRANT FOR**

**INSTALLATION AND USE OF pen register DEVICE**

## Before the Honorable \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge

Affiant, NAME, a commissioned law enforcement officer, being duly sworn, deposes and states that I believe the following facts establish the grounds for the installation and use of a pen register device for the following communication facilities:

**WhatsApp Account # XXXXXXXXXXX, believed to be utilized by TARGET NAME, who is also the subject of the investigation**

**WhatsApp Account # XXXXXXXXXX, (TARGET TELEPHONE TWELVE), believed to be utilized by TARGET NAME, who is also the subject of the investigation**

Your Affiant, NAME, is a Detective with the HOME AGENCY and is currently assigned to the Northern Colorado Drug Task Force (NCDTF). Your Affiant has been trained at the state and local levels with regard to my duties and is authorized by law to execute search and arrest warrants in the state of Colorado.

The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

Your Affiant believes the below-described facts to be true based upon official Northern Colorado Drug Task Force (NCDTF), conversations with fellow officers, personal observations and interviews.

The facts establishing grounds for issuance of a search warrant and showing probable cause to believe that they exist are as follows:

**PROBABLE CAUSE STATEMENT**

**CONCLUSION:**

Based on the above-referenced information, your Affiant believes that the above-referenced cellular telephone device(s) and WhatsApp electronic communications applications are being utilized by members of the above-referenced drug trafficking organization to communicate with each other and with third parties in order to facilitate the drug trafficking organization’s operations. Your Affiant believes that by utilizing a pen register on the above-referenced cellular telephone device(s) and WhatsApp electronic communications applications, investigators will be able to identify additional phone numbers which are in contact with the target telephone device(s) in order to identify other associates and participants in this illegal drug trafficking activity.

Therefore, based on the above information and facts, your Affiant respectfully requests that the Court make the following findings and orders:

 1. That the grounds for the issuance of this search warrant exist pursuant to C.R.S. §16-3-301(1) and (2); C.R.S. §16-3-301.1(1) and (2); and C.R.S. §16-3-303.5(1) and (2); and that there is probable cause to believe that such grounds exist.

 2. That the Affiant has certified that the information likely to be obtained by the execution of this search warrant is related to an ongoing criminal investigation into felony violations of the Colorado Uniform Controlled Substances Act, C.R.S. §18-18-405, being conducted by investigators from the Northern Colorado Drug Task Force (NCDTF).

 3. That there is probable cause to believe that the above-referenced individuals participate and conspire to participate in the illegal trafficking of controlled substances and that these individuals utilize the above-referenced cellular telephone device(s)and WhatsApp electronic communications applications to facilitate these illegal trafficking activities.

 4. That there is probable cause to believe that there is information likely to be obtained by the use of a pen register/trap-and-trace device on the cellular telephone device(s) and WhatsApp electronic communications applications specifically identified in Paragraph 5, and by the collection and use of the geographical location information for the cellular telephone device(s) and WhatsApp electronic communications applications specifically identified in Paragraph 5,that is related to the ongoing criminal investigation into felony violations of the Colorado Uniform Controlled Substances Act, C.R.S. §18-18-405, and that such information is needed in order to further the above-referenced investigation.

5. That the Court expressly authorize the installation and use of a pen register/trap-and-trace device, to include a caller identification device, on the below-referenced cellular telephone device(s) and WhatsApp electronic communications applications:

**WhatsApp Account # XXXXXXXXXXX, believed to be utilized by TARGET NAME, who is also the subject of the investigation**

**WhatsApp Account # XXXXXXXXXX, (TARGET TELEPHONE TWELVE), believed to be utilized by TARGET NAME, who is also the subject of the investigation**

6. That the Court expressly authorize the installation and use of the pen register/trap-and-trace device for a period of sixty (60) days from the date of this Order.

7. That NCDTF investigators may direct **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, to install a pen register/trap-and-trace device, to include a caller identification device, on the above-referenced cellular telephone device(s),the electronic impulses which identify the originating number of a wire, cellular, or electronic communication, which records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire, cellular, or electronic communication is transmitted; including the date, time, and duration of the communication without geographic limit.

8. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall forthwith furnish to NCDTF investigators all information, facilities, and technical assistance necessary to accomplish the installation of a pen register and trap and trace device unobtrusively and with minimum interference with the services that are accorded persons whose telephone is to be the subject of the device. This information includes any and all custom calling, class, or voice activated dialing features (to include call forwarding and any number to which incoming calls were forwarded) for any digits dialed, pulsed, signaled or accessed by voice activation from the target telephone number as well as the automatic number identification (ANI) and/or the electric serial number (ESN)/international mobile subscriber identification (IMSI) and/or subscriber identification module (SIM), and any other telephone number associated with that ESN/IMSI/SIM, and cell site tower information that exists for the above-referenced cellular telephone numbers.

 9. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall forthwith furnish to NCDTF investigators the results of a pen register/trap-and-trace device, to include a caller identification device, and the geographical location information on a twenty-four (24) hour expedited basis for the duration of the order. This includes subscriber information for both published and non-published telephone numbers, and billing information when necessary.

 10. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall notify the applicant and the NCDTF of any changes relating to the above-referenced telecommunications devices and WhatsApp account(s), including changes to subscriber information, and provide prior notice to the applicant and the NCDTF before terminating or changing service to the account(s).

11. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, SHALL NOT disclose the existence, either directly or on the subscriber's bill, of the pen register device, the caller identification device, or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the Court.

12. That the tracing operation shall be restricted to tracing and recording those incoming calls that either originate or terminate within the United States.

 13. That the authorization given is intended to apply not only to the target telephone number(s) listed above, but to any changed telephone number(s) subsequently assigned to the same cable, pair and binding post utilized by the target telephone device, or any subsequent ESN/IMSI/SIM associated with the target telephone device (provided the subscriber is the same), or to any subsequent telephone number associated with the ESN/IMSI/SIM cited herein, within the authorized period.

14. That the NCDTF will compensate the wire, cellular, or electronic communication service provider(s) for expenses reasonably incurred in complying with this order.

15. That DETECTIVE NAME, a NCDTF investigator, will make returns to this Court every sixty (60) days from the time the Order commences until the aforesaid objective is met or until this Order is terminated.

16. That this Affidavit, any Order granting a Search Warrant, and all records related to this Order be sealed until the completion of the law enforcement criminal investigation. Should this information be made public record prior to the completion of the investigation, your Affiant strongly believes that such disclosure would have an adverse impact on the criminal investigation in progress. Your Affiant further believes that sealing this Affidavit and any Order would be in the best interests of the community.

17. That the notification of this Search Warrant be delayed until the completion of the law enforcement criminal investigation. Due to the sensitive nature of the case and the ongoing investigation, your Affiant believes that notification of the installation and use of the pen register device is likely to reveal the criminal investigation to the owner or custodian of the above-reference cellular telephone. Such notification would likely jeopardize both the investigation and the safety of the officers involved.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AFFIANT NAME

Dated this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 2018, at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ AM / PM.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

COUNTY OF LARIMER )

 ) SS IN THE DISTRICT COURT

STATE OF COLORADO )

 **SEALED**

**SEARCH WARRANT FOR**

**INSTALLATION AND USE OF pen register DEVICE**

## Before the Honorable \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge

To: **WhatsApp Inc.**

 **Attn: WhatsApp Inc., Law Enforcement Response Team**

**1601 Willow Road**

 **Menlo Park, California 94025**

 **United State of America**

The Court, upon review of a sworn probable cause Affidavit filed by Affiant DETECTIVE NAME, a commissioned law enforcement officer, in support of the issuance of this order, hereby makes the following findings:

1. That the grounds for the issuance of this search warrant exist pursuant to C.R.S. §16-3-301(1) and (2); C.R.S. §16-3-301.1(1) and (2); and C.R.S. §16-3-303.5(1) and (2); and that there is probable cause to believe that such grounds exist.

 2. That the Affiant has certified that the information likely to be obtained by the execution of this search warrant is related to an ongoing criminal investigation into felony violations of the Colorado Uniform Controlled Substances Act, C.R.S. §18-18-405, being conducted by investigators from the Northern Colorado Drug Task Force.

 3. That there is probable cause to believe that the individuals identified in the accompanying Affidavit participate and conspire to participate in the illegal trafficking of controlled substances and that these individuals utilize the cellular telephone devicesand WhatsApp electronic communications applications specifically identified in Paragraph 5 to facilitate these illegal trafficking activities.

 4. That there is probable cause to believe that there is information likely to be obtained by the use of a pen register/trap-and-trace device on the cellular telephone devices and WhatsApp electronic communications applications specifically identified in Paragraph 5, that is related to the ongoing criminal investigation into felony violations of the Colorado Uniform Controlled Substances Act, C.R.S. §18-18-405, and that such information is needed in order to further the above-referenced investigation.

The Court hereby makes the following orders:

5. That the NCDTF may install and use a pen register/trap-and-trace device, to include a caller identification device, on the below-referenced cellular telephone device(s) and WhatsApp electronic communications applications:

**WhatsApp Account # XXXXXXXXXXX, believed to be utilized by TARGET NAME, who is also the subject of the investigation**

**WhatsApp Account # XXXXXXXXXX, (TARGET TELEPHONE TWELVE), believed to be utilized by TARGET NAME, who is also the subject of the investigation**

6. That the NCDTF may install and use the pen register/trap-and-trace device for a period of sixty (60) days from the date of this Order.

7. That NCDTF investigators may direct **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, to install a pen register/trap-and-trace device, to include a caller identification device, on the above-referenced cellular telephone device(s),the electronic impulses which identify the originating number of a wire, cellular, or electronic communication, which records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire, cellular, or electronic communication is transmitted; including the date, time, and duration of the communication without geographic limit.

8. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall forthwith furnish to NCDTF investigators all information, facilities, and technical assistance necessary to accomplish the installation of a pen register and trap and trace device unobtrusively and with minimum interference with the services that are accorded persons whose telephone is to be the subject of the device. This information includes any and all custom calling, class, or voice activated dialing features (to include call forwarding and any number to which incoming calls were forwarded) for any digits dialed, pulsed, signaled or accessed by voice activation from the target telephone number as well as the automatic number identification (ANI) and/or the electric serial number (ESN)/international mobile subscriber identification (IMSI) and/or subscriber identification module (SIM), and any other telephone number associated with that ESN/IMSI/SIM, and cell site tower information that exists for the above-referenced cellular telephone numbers.

9. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall forthwith furnish to NCDTF investigators the results of a pen register/trap-and-trace device, to include a caller identification device, and the geographical location information on a twenty-four (24) hour expedited basis for the duration of the order. This includes subscriber information for both published and non-published telephone numbers, and billing information when necessary.

 10. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, shall notify the applicant and the NCDTF of any changes relating to the above-referenced telecommunications devices and WhatsApp account(s), including changes to subscriber information, and provide prior notice to the applicant and the NCDTF before terminating or changing service to the account(s).

11. That **WhatsApp**, and any other provider of wire, cellular, or electronic communications service, to include local or long distance telephone service, SHALL NOT disclose the existence, either directly or on the subscriber's bill, of the pen register device, the caller identification device, or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the Court.

12. That the tracing operation shall be restricted to tracing and recording those incoming calls that either originate or terminate within the United States.

 13. That the authorization given is intended to apply not only to the target telephone number(s) listed above, but to any changed telephone number(s) subsequently assigned to the same cable, pair and binding post utilized by the target telephone device, or any subsequent ESN/IMSI/SIM associated with the target telephone device (provided the subscriber is the same), or to any subsequent telephone number associated with the ESN/IMSI/SIM cited herein, within the authorized period.

14. That the NCDTF shall compensate the wire, cellular, or electronic communication service provider(s) for expenses reasonably incurred in complying with this order.

15. That DETECTIVE NAME, a NCDTF investigator, shall make returns to this Court every sixty (60) days from the time the Order commences until the aforesaid objective is met or until this Order is terminated.

16. That this Affidavit, any Order granting a Search Warrant, and all records related to this Order shall be sealed until the completion of the law enforcement criminal investigation. This Court finds that should this information be made public record prior to the completion of the investigation, such disclosure would have an adverse impact on the criminal investigation in progress. This Court further finds that sealing this Affidavit and any Order would be in the best interests of the community.

17. That the notification of this Search Warrant shall be delayed until the completion of the law enforcement criminal investigation. Due to the sensitive nature of the case and the ongoing investigation, this Court finds that notification of the installation and use of the pen register device is likely to reveal the criminal investigation to the owner or custodian of the above-reference cellular telephone. This Court further finds that such notification would likely jeopardize both the investigation and the safety of the officers involved.

18. All records shall be produced to:

DETECTIVE NAME

 STREET ADDRESS

 CITY, STATE, ZIP

 DETECTIVE EMAIL ADDRESS

Dated this \_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_, 2018, at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ AM / PM.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge