

17CSW 3438

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT**

I, Gregory Pemberton, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant for certain information that is stored at premises controlled by DreamHost Inc., ("DreamHost"), a web hosting company headquartered in Los Angeles, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require DreamHost to disclose to the government copies of the information (including the content of communications) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

2. I am a sworn law enforcement officer employed by the Washington, D.C., Metropolitan Police Department (MPD). Currently I am assigned to the Seventh District Detectives Office. 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.

3. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of D.C. Code §§ 22-1322, 22-1805a, and 22-303 (rioting or inciting to riot, conspiracy to riot, and destruction of property) have been committed by multiple individuals. There is also probable cause to search the information described in Attachment A for evidence, instrumentalities, contraband, or fruits of these crimes, further described in Attachment B.

**JURISDICTION AND RELEVANT LAW**

4. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants." 18 U.S.C. § 2711(3)(B). See 18 U.S.C. § 2510 (defining "State" to include "the District of Columbia"); 18 U.S.C. § 2711(1) (adopting the definitions of § 2510 for purposes of §§ 2701-2712).

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5. D.C. Code § 22-1322, entitled "Rioting or Inciting to Riot," provides as follows:

(a) A riot in the District of Columbia is a public disturbance involving an assemblage of 5 or more persons which by tumultuous and violent conduct or the threat thereof creates grave danger of damage or injury to property or persons.

(b) Whoever willfully engages in a riot in the District of Columbia shall be punished by imprisonment for not more than 180 days or a fine of not more than \$1,000 or both.

(c) Whoever willfully incites or urges other persons to engage in a riot shall be punished for not more than 180 days or a fine of not more than \$1,000, or both.

(d) If in the course and as a result of a riot a person suffers serious bodily harm or there is property damage in excess of \$5,000, every person who willfully incited or urged others to engage in the riot shall be punished by imprisonment for not more than 10 years or a fine of not more than \$10,000, or both.

**PROBABLE CAUSE**

6. The United States is investigating rioting and inciting to riot activity (as well as related conspiracy and felony destruction of property), in violation of D.C. Code § 22-1322, that occurred on January 20, 2017, between approximately 10:19 a.m. and 10:52 a.m., near the beginning of the U.S. Presidential Inauguration ("Inauguration") ceremony. The rioting activity under investigation took place in Northwest, Washington, D.C.

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7. MPD officers were monitoring a planned assembly of individuals that were known to be associated with an anarchist group. Officers from MPD Intelligence had prior knowledge that this group had previously scheduled a meeting at the intersection of 13th and O Streets NW with the expressed intent to disrupt Inauguration-related activities. MPD's prior knowledge of the group's intent to disrupt Inauguration-related activities came partly from social media postings and other publicly disseminated information from individuals who purported to associate with the anarchist group. In particular, as discussed further below, the group had organized various "non-peaceful resistance" events under the title "DisruptJ20" that were expressly intended to disrupt the Inauguration on January 20th, including the so-called "Anticapitalist+Antifascist Convergence" scheduled for 10:00 a.m. at Logan Circle.

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8. At approximately 10:00 a.m. on January 20, 2017, MPD officers observed a group assemble at 13th and O Streets NW, next to Logan Circle. This group was estimated by officials

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of MPD's Special Operations Division to be in excess of 300 people. Members of the group were observed carrying anarchist flags, and many wore related paraphernalia, including black bandanas and masks concealing their faces. Multiple members of the group were also observed carrying weapons, including a hammer, crow bar, and baseball bat. Finally, many members of the group were dressed similarly to one another in predominantly black clothing.

9. Once this group had assembled, at approximately 10:19 a.m., the group left the area of 13th and O Streets NW and began walking south on 13th Street. As the group proceeded southbound on 13th Street, MPD officers observed members of the group throw trash cans and newspaper boxes off of street corners, drag them into the street, and set those objects on fire. MPD officers also observed members of the group smash out the windows of a DC Fire & EMS vehicle parked in front of a fire house on 13th Street.

10. For approximately 33 minutes,<sup>1</sup> MPD officers continuously observed this group of rioters move together as a cohesive unit from the intersection at 13<sup>th</sup> and O Streets NW to the intersection at 12<sup>th</sup> and L Streets NW. During this time, members of the group were observed by MPD officers to be rioting and inciting riot by organizing, promoting, encouraging, and participating in acts of violence in furtherance of the rioting activity. For example, in addition to the acts of violence previously mentioned, members of the group smashed out large plate glass windows from two Starbucks Coffee stores, a McDonald's restaurant, and at least one bank. One member of the group was observed smashing windows with a baseball bat and another member was observed using a hammer. Members of the group also smashed out the windows of a limousine and attempted to set it on fire. (The limousine was successfully set on fire later in the day.) The damage caused by the group was in excess of \$100,000.

11. Based on the ongoing rioting activity by the group, which had already caused significant damage and which posed a continuing danger to the community, MPD officers of the Special Operations Division moved in and cordoned off the group of rioters at or near the intersection of 12<sup>th</sup> and L Streets NW at 10:28 a.m. Some members of the group charged the police line, breaking through. Some of these individuals were observed fleeing and escaping the

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<sup>1</sup> In prior affidavits in this matter, I stated that the approximate time of the riot was 28 minutes. Further review of aerial footage, surveillance video, and other video evidence show that the duration was approximately 33 minutes, starting at 10:19 a.m. and continuing until the group was stopped by law enforcement at 10:52 a.m.

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cordoned-off area. MPD officers arrested those persons who were unable to break through and escape the area, and whom the officers had observed to be members of the group of rioters that moved together south on 13th Street. This same group had been observed causing the most significant damage to property along the route of the riot beginning near Logan Circle and continuing over the course of sixteen (16) city blocks until the group was stopped at 12<sup>th</sup> and L Streets NW. In total, approximately 230 adult defendants were arrested as part of this group of rioters. Approximately 215 defendants were later indicted with felony rioting in violation of D.C. Code § 22-1322, conspiracy to riot, and felony destruction of property. At the time that I am writing this affidavit, sixteen of the defendants arrested on January 20, 2017 and indicted by a grand jury have entered guilty pleas. There are currently 198 felony cases still pending.

12. When members of MPD's Special Operations Division began to arrest the 230 defendants who had been observed to be members of the group of rioters that engaged in the riotous and destructive conduct described above, multiple MPD officers were assaulted by members of the group and some officers were injured. Members of the group were observed throwing objects at the police officers, including rocks or pieces of cement or brick. One MPD officer was struck in the head by a piece of concrete thrown by one of the members of the group and had to be transported to the hospital for treatment of his injuries.

13. Following the arrests of the more than 200 defendants on January 20, 2017, MPD officers seized as evidence multiple weapons, lighters, bandanas, goggles, masks, and other items used for rioting activity which had been found in the possession of defendants. Based on my training and experience, possession of such items together, and in the context of the defendants' predominantly black clothing and the other surrounding circumstances, is consistent with the group having planned to engage in a riot and/or destruction of property. Beyond the weapons and other instruments of rioting activity, MPD officers also seized cell phones and other types of electronic communication devices and recording equipment that were found in the defendants' possession. Later, the United States began the process of obtaining search warrants to authorize the forensic examination and search of some of these devices for electronically stored evidence of the criminal activity under investigation.

14. On January 24, 2017, after defendants learned that their phones had been seized, a social media account for the "Metropolitan Anarchist Coordinating Council" posted instructions to individuals who have had their cell phones taken during an arrest. These instructions included

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detailed information about how to remotely erase data from cell phones being held in police custody. These instructions were then re-posted by a "DisruptJ20" social media accounts.

15. I have viewed multiple videos taken from inside and outside the group of rioters as the group moved south on 13th Street, through the time when the police cordoned off the group and members of the group charged at the police line. The videos show multiple acts of destruction of property by members of the group as it moved through the city streets. In addition, the videos show many members of the group holding and using cell phones to photograph, record video, or communicate throughout the riot. Notably, many of these individuals have their faces covered with masks or bandanas. Based on my training and experience, there is probable cause to believe that members of the group sent and received electronic messages during and about the riot, and furthermore that they likely generated and shared images, videos, or audio recordings which depict or otherwise relate to the riot.

16. As previously mentioned, open-source research of social media posts and other web communications show that an anarchist group planned, incited, and helped carry out the rioting activity on January 20, 2017, for the express purpose of disrupting the Inauguration ceremony occurring that day. The group created and operated a website and several social media accounts named "DisruptJ20", apparently referring to the plan to disrupt the Inauguration ceremony on January 20<sup>th</sup>. Among other accounts, MPD has identified the group's Facebook and Instagram accounts having the user name "DisruptJ20" and its Twitter account having the handle "@DisruptJ20". The profiles for these Facebook and Twitter accounts display the large title "#DISRUPTJ20" followed by the subtitle, "NO PEACEFUL TRANSITION | 9AM | MCPHERSON SQUARE". The group's Instagram account has the same title "#DISRUPTJ20" followed by the subtitle, "Show up Against Trump Jan. 20th. No Peaceful Transition!"

17. The group also operated a website at [www.disruptj20.org](http://www.disruptj20.org). The website's home page displayed the title "#DISRUPTJ20"; provided links to the abovementioned Facebook, Instagram, and Twitter accounts; and contained information about various events being planned for January 20, 2017. The "Media" page shows a January 10, 2017, press release entitled "UPDATE ON INAUGURATION PROTESTS" which explained: "Beginning at 9 AM on January 20, McPherson Square in downtown Washington DC will be a DisruptJ20 staging area and rallying point for many marches, as well as spontaneous, unpermitted events. An unpermitted, anticapitalist march will begin at 10 AM in Logan Circle." The "Events" page contained a link to

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information about this “Anticapitalist+Antifascist Convergence” event with the following details: “Wear all black | January 20th, 10 AM | Logan Circle, DC”. The event description stated: “This January 20th, thousands of people will mobilize to disrupt Trump’s inauguration, rejecting the tyranny, greed, and bigotry he represents. Many different permitted marches, blockades, and other autonomous direct actions are planned. Those who travel to DC hoping to celebrate Trump’s ascendance to power will find the inaugural ceremonies reduced to a total clusterfuck.” Notably, the time and location listed on the website for this “unpermitted, anticapitalist march” correspond to the approximate time and location where MPD officers observed the rioting activity commence.

18. During the investigation of the January 20 riots, I have listened to a podcast from the website “itsgoingdown.org” which was made available online prior to January 20. “[I]tsgoingdown.org” describes itself as “a digital community center from anarchist, anti-fascist, autonomous anti-capitalist and anti-colonial movements” which publishes online content and a yearly magazine. The narrator-host for the podcast described the DisruptJ20 website as “a great and fabulous resource, as well as their Twitter account.” The narrator-host interviewed two individuals named “D” and “Mads” who were, according to the narrator-host, two “participants in the Counter-Inaugural Committee in Washington, D.C.” During the interview, D described himself as being “with the DisruptJ20 crew out here in DC [and] just really excited about trying to make Washington, D.C. a cluster fuck that day.” Mads explained the importance of the DisruptJ20 website to organizing the riots: “So, our logistics team. We have solidified mass housing for the entire week, starting in the 14<sup>th</sup> going through the 21<sup>st</sup>. To reserve that, RSVP on our website. You would go to the ‘Info’ tab and then under that, ‘Activist Housing.’ . . . We also have a Welcome Packet [that] will include a schedule of everything that’s happening at action camp.”

19. During this investigation, I have also learned that the email address “info@disruptj20.org” appeared on the DisruptJ20.org website which encouraged individuals who wanted to participate in the January 20 activities to use that email address for further information. Based on my training and experience, it is reasonable to think that individuals who wanted to participate in DisruptJ20’s actions corresponded with DisruptJ20 via this website. The contents of those communications—such as RSVPs for housing, assistance in securing transportation, and offers of other assistance—evidence the planning and coordination of the January 20, 2017 riot.

20. During the course of this investigation, your affiant interviewed an undercover officer employed by the Metropolitan Police Department (hereinafter, “U/C”) who had been

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operating in an undercover capacity and attended meetings and events organized by individuals associated with the DisruptJ20 organization.

21. In January 2017, the U/C attended several meetings sponsored by the group. These meetings included a multi-day "action camp" at American University in Washington, D.C., as well as a meeting held in the basement of a church located in Northwest, Washington, D.C. When the U/C arrived at the meetings, IT was required to log into a website on a computer maintained by the organizers to register ITS attendance at the meeting and to verify ITS identity. The U/C stated that the meetings were not public and, on at least one occasion, the U/C was told to put ITS cell phone in a microwave in an apparent effort to prevent infiltration of the meetings by law enforcement or individuals opposed to the group.

22. The U/C further reported that, on January 8, 2017, IT attended a meeting held in the basement of a church located in Northwest, Washington, D.C. During this meeting, the U/C observed DYLAN PETROHILOS leading a discussion of the events planned for January 20, 2017. (Your affiant is aware that DYLAN PETROHILOS has repeatedly represented in public social media postings and in public interviews that he is an activist and organizer with the DisruptJ20 organization.) During the meeting on January 8, 2017, PETROHILOS stated that the goal of the events was to cause a "clusterf\*ck" in Washington, D.C. during the inauguration, and PETROHILOS informed the attendees that an anti-capitalist block march would meet at approximately 10:00am at Logan Circle and would deploy from Logan Circle at 10:30am. PETROHILOS stated that he expected this to be one of the biggest anti-capitalist blocks organized in some time. PETROHILOS noted that specific "affinity groups" participating in the march would be planning the specific actions that would be committed within the march, and that PETROHILOS (and others) were the ones organizing the march. A question was posed by an attendee about how 'arrestable' this march was, and PETROHILOS responded that MPD does not conduct mass arrests in Washington, D.C. PETROHILOS further stated that the organizers were asking the participants to wear all black clothing, and that participants should not wear unique clothing because that will make it easier to arrest or identify them. PETROHILOS stated that the exact route would not be publicly announced, but that he would make sure ISAAC DALTO (one of the indicted felony rioting defendants) knew the route because DALTO and his "affinity group" would responsible for serving as "marshals" for the group. PETROHILOS also asked for individuals to volunteer to be "scouts" for the march, so that the participants would know where

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law enforcement was being deployed during the march, and that he PETROHILOS and other organizers were setting up a communication system so the "scouts" would be able to communicate with the "marshals". PETROHILOS and other attendees discussed the neighborhood in which the march was to take place. During this part of the discussion, PETROHILOS noted that the neighborhood where the march would take place was "gentrified" and there was discussion among attendees that this made the neighborhood "fair game" for the march. In addition, there was specific discussion about making sure the group did not target certain mental health or drug rehab centers located in the area because the attendees did not want to make lives worse for those individuals. Later in the meeting, PETROHILOS stated that, at the conclusion of the anti-capitalist march, participants should reconvene at the Festival of Resistance, which is where participants could remove their all-black clothing. PETROHILOS then reminded the participants that the Festival of Resistance was a family-friendly event so there should be no window breaking at the festival. PETROHILOS also discussed the potential for participants in the anti-capitalist march to be arrested, and discussed whether the participants should engage in "jail solidarity" which was described as follows: arrested defendants refuse to provide their name or other identifying information to law enforcement with the hope that law enforcement becomes so frustrated that they release the defendants back into the community without charges.

23. The U/C informed Detective Pemberton – (the lead detective in this investigation) – that, based on information provided to the U/C during these meetings, it was clear to the U/C that the anti-capitalist block would be employing "Black Bloc" tactics and would engage in destruction of property and/or violence during the planned January 20, 2017 anti-capitalist march.

24. Based on the foregoing, through my training and experience, there is probable cause to believe that the website "Disruptj20.org" contains evidence about the organization and planning of the riot that occurred on January 20, 2017, in Washington, D.C. The contents of posts, direct messages, press releases, RSVPs, and other communications likely contain evidence which may help to determine the intent, knowledge, and state of mind of the people who carried out the rioting activity. Furthermore, the contents of communications and other information associated with the accounts likely contain evidence helping to identify who organized and participated in the rioting activity.

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BACKGROUND CONCERNING DREAMHOST

25. Web hosting companies, such as DreamHost, maintain server computers connected to the Internet. Their customers use those computers to operate websites on the Internet.

26. In general, web hosting companies like DreamHost ask each of their customers to provide certain personal identifying information when registering for an account. This information can include the customer's full name, physical address, telephone number and other identifiers, e-mail addresses, and business information. Web hosting companies also may retain records of the length of service (including start date) and types of services utilized. In addition, for paying customers, web hosting companies typically retain information about the customers' means and source of payment for services (including any credit card or bank account number).

27. Web hosting companies' customers place files, software code, databases, and other data on the servers. To do this, customers connect from their own computers to the server computers across the Internet. This connection can occur in several ways. In some situations, it is possible for a customer to upload files using a special web site interface offered by the web hosting company. It is frequently also possible for the customer to directly access the server computer through the Secure Shell ("SSH") or Telnet protocols. These protocols allow remote users to type commands to the web server. The SSH protocol can also be used to copy files to the server. Customers can also upload files through a different protocol, known as File Transfer Protocol ("FTP"). Servers often maintain logs of SSH, Telnet, and FTP connections, showing the dates and times of the connections, the method of connecting, and the Internet Protocol addresses ("IP addresses") of the remote users' computers (IP addresses are used to identify computers connected to the Internet). Servers also commonly log the port number associated with the connection. Port numbers assist computers in determining how to interpret incoming and outgoing data. For example, SSH, Telnet, and FTP are generally assigned to different ports.

28. The servers use those files, software code, databases, and other data to respond to requests from Internet users for pages or other resources from the website. Commonly used terms to describe types of files sent by a server include HyperText Markup Language ("HTML") (a markup language for web content), Cascading Style Sheets ("CSS") (a language for styling web content), JavaScript (a programming language for code run on the client's browser), and image files. Web hosting companies frequently allow their customers to store collections of data in

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databases. Software running on the web server maintains those databases; two common such programs are named MySQL and PostgreSQL, although these are not the only ones.

29. Web hosting companies sometimes also provide their customers with e-mail accounts; contents of those accounts are also stored on the web hosting company's servers.

30. Web sites deliver their content to users through the Hypertext Transfer Protocol ("HTTP"). Every request for a page, image file, or other resource is made through an HTTP request between the client and the server. The server sometimes keeps a log of all of these HTTP requests that shows the client's IP address, the file or resource requested, the date and time of the request, and other related information, such as the type of Web browser the client uses.

31. Web sites are often known to the outside world by a domain name, such as www.uscourts.gov or www.amazon.com. Domain names must be registered to particular individuals. Sometimes, web hosting companies offer customers the separate service of registering domain names. When that occurs, web hosting companies typically retain information related to the domain name, including the date on which the domain was registered, the domain name itself, contact and billing information for the person or entity who registered the domain, administrative and technical contacts for the domain, and the method of payment tendered to secure and register the domain name.

32. In some cases, a subscriber or user will communicate directly with a web hosting company about issues relating to a website or account, such as technical problems, billing inquiries, or complaints from other users. Web hosting companies typically retain records about such communications, including records of contacts between the user and the company's support services, as well records of any actions taken by the company or user as a result of the communications.

**INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

33. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require DreamHost to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

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CONCLUSION

34. Based on the foregoing, I request that the Court issue the proposed search warrant. Because the search warrant will be served on DreamHost who will then compile the requested records at a time convenient to it pursuant to 18 U.S.C. § 2703, there exists reasonable cause to permit execution of the search warrant by service upon DreamHost at any time of day or night, and to permit returning the warrant to the Court on the next court day after DreamHost discloses the requested records.

Respectfully submitted,



Detective Gregory Pemberton

Badge Number D2-1645

Metropolitan Police Department

Subscribed and sworn to before me on July 12, 2017



JUDGE

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