



**Date:** December 18, 2019  
**To:** WATCH REPORT  
**From:** Robert G. Luna, Chief of Police  
**Subject:** **SPECIAL ORDER - ELECTRONIC DEVICE SEARCHES**

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Effective immediately, this Special Order establishes policy in accordance with California Senate Bill 178 (California Electronic Communications Privacy Act "CalECPA", 2015) and California Penal Code Sections 1546, 1546.1, 1546.2, and 1546.4 which restricts when and how law enforcement uses software and hardware to obtain information from electronic devices.

**PERMITTED ACTIONS**

Department personnel are permitted to access electronic device information by means of physical interaction or electronic communication with the device as follows:

- Pursuant to a warrant;
- Pursuant to a wiretap order;
- With the specific consent of the authorized possessor of the device;
- With the specific consent of the owner of the device, only when the device has been reported as lost or stolen;
- If the government entity, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires access to the electronic device information;
  - If electronic information is obtained pursuant to an emergency, department personnel shall seek an authorizing warrant or order, or an approval motion, within three days after obtaining the electronic information.
- If the government entity, in good faith, believes the device to be lost, stolen, or abandoned, provided that the entity shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device;
- If the device is seized from an inmate's possession or found in an area of a correctional facility where inmates have access and the device is not in the possession of an individual and the device is not known or believed to be the possession of an authorized visitor, except as otherwise provided by state or federal law.
- Parole, PRCS, or Probation searches of electronic devices if "specific consent" is achieved in a search condition that expressly authorizes a search of electronic communications devices.
- Administrative investigations of city owned devices.

### **SEARCH WARRANT REQUIREMENTS**

Per CalECPA, any warrant for electronic information shall comply with the following:

- The warrant shall describe with particularity the information to be seized, including by specifying the time periods covered, and as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought;
- The warrant shall require that any obtained information unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure unless a court issues an order that there is probable cause to believe that the information is relevant to an active investigation, or is otherwise required by state or federal law;
- The warrant or order shall comply with all other provisions of California and federal law, including any provisions prohibiting, limiting, or imposing additional requirements on the use of search warrants. Warrants directed to a service provider must be accompanied by an order to verify the authenticity of the electronic information produced, as specified.

### **FORENSIC ANALYSIS REQUESTS - LBPD SPECIFIC**

Department personnel seeking a forensic analysis of an electronic device shall comply with CalECPA. The electronic device and search authorization should be submitted to the Computer Crimes detail. Personnel submitting electronic device(s) to the Computer Crimes detail shall check in and check out the device(s) to ensure an unbroken evidentiary chain of custody. Electronic device(s) should be free of chemical and biological hazards. Computer Crimes personnel will conduct a forensically sound examination in compliance with CalECPA.

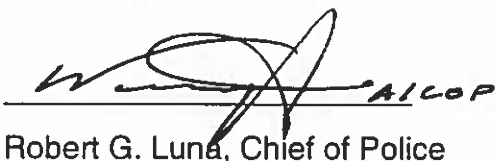
Department personnel may place an electronic device in airplane mode to secure the electronic evidence; however, no other manipulation of an electronic device or search of electronic device information shall occur unless authorized by this Special Order.

### **CONCLUSION**

This special order serves to remind personnel of actions permitted and prohibited under CalECPA as well as CalECPA requirements.

The information in this Special Order supersedes the information in Special Order "CELLBRITE HARDWARE/SOFTWARE" issued July 1, 2019.

This order will remain in effect until a manual section has been implemented.

  
Robert G. Luna, Chief of Police

12-23-19  
Date