

**SUBPOENA DUCES TECUM**

To:

Ms.	Mr.	Ms.
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On \_\_\_\_\_, 2015, at your scheduled deposition, YOU ARE HEREBY COMMANDED to also produce the following records, documents and things, in order that they may be inquired into and used in evidence, if necessary:

**A copy of your entire Facebook ([www.Facebook.com](http://www.Facebook.com)) social media data archive. Specifically, information referencing the time period of January 1, 2006 to the present date. This request includes, but is not limited to, the following items:**

- **Your Timeline, including posts you have shared on Facebook, along with comments and other interactions from people. Additionally, any messages and/or chat conversations, items in your inbox, and/or photos and videos you have added or been tagged in.**
- **Your Activity Log: Within your account, your activity log is a history of your activity on Facebook, from posts you have commented on or liked, to apps you have used, to anything you have searched for.**
- **Your downloadable Facebook data. (See instructions below.)**
- **Any deleted or deactivated account information.**

Parties to litigation may satisfy party and non-party discovery requirements relating to their Facebook accounts by producing and authenticating the contents of their own accounts and by using Facebook's "Download Your Information" tool, which is accessible through the Facebook **Settings** drop down menu. You can download your information from your **settings**. To download your information:

1. Click ▼ at the top right of any Facebook page and select **Settings**

2. Click **Download a copy of your Facebook data** below your General Account Settings
3. Click **Start My Archive**

You are entitled to security against damages or payment of damages resulting from such request, and you may respond to such request by submitting to its terms, by proposing different terms, or by objecting specifically or generally to the request by serving a written response to Austin A. Shadle, Public Defenders' Offices, Wayne County Courthouse, 301 E. Main St., Richmond, IN 4737, within thirty (30) days of the receipt of this motion, or by moving to quash as permitted by Trial R. 45(B).

Respectfully submitted,

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One quick and potentially simple way to address it is to depose the A/V. Run a bluff. Print out a Facebook logo cover sheet of your own timeline or something in color big and obvious enough that the witness can see it. Put a bunch of small type Facebook timeline messages, contacts, messages and such under it in a thick stack. Put it in a file folder with her name and "Facebook Records" on the label big enough to see. Do the same thing with the officer's name on a folder. If you need to depose her about the rest of the allegations do that part of the deposition first and get what you need. Make the 2 files obvious. Have a 3rd/4th file with her statement or medical records similarly labeled. Same thing if there are any phone records. Take her through her statement or records making it obvious that you are looking through the separate folder and relying on it. I like to put post it notes on each individual point I want to make on the side of the statement or record. Put a few of those on each Facebook file. As you cover each point methodically remove the post it note and crumple it up. By the time you are done with the statement and other materials she will be trained to believe that you have every fact post it noted. Segue into social media and her social media presence and how on line posts and social media history are never really deleted. Ask her for her opinion on when people post stupid stuff and claim to have been hacked. Ask if she has ever been hacked. If so, when. Ask if she follows enough of the news to be aware of how police are being made to account for some of their actions by dash and body cams and how even a cop's social media is under scrutiny. (A cop just got caught posting some really stupid stuff about BLM and I think got fired.) While doing this be obviously thumbing through the 2 Facebook files enough for her to see it. Get some names of 6 or 7 of her friends that she definitely would have posted to on Facebook and ask if they are her Facebook friends. Remove a post it note from the Facebook file with each friend's name on it after asking about them. Have one or 2 left. Put the file down and ask her if she ever posted anything about the case to anyone on Facebook. Ask if she is Facebook friends with any police officers. Ask if she has ever messaged the cop about the case on Facebook .. Or anything else..or contacted him through any other social media or texts or messaging app..... and so on. Freelance from there. If you have set it up and she thinks you have all her and the cop's messages and social media history there to jam down her throat she is unlikely to flat out lie. She might tell you everything that is going on. If she denies it make sure you force her into a comprehensive denial of anything and everything your client thinks might be going on. Worst case scenario is that you have her locked in. If you later get the records you are ready either way.

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You have to subpoena them through a domestic California subpoena, either by sending it through the clerk of the county where you serve them or by getting local counsel to serve them. Also, they will fight back on giving actual messages out, instead of just IP records and email addresses. The police can request records pretty easily through an online system so if your prosecutor is on board or helpful they might be willing to have a detective request them. Facebook has a little info on their site about subpoenas but it's not very helpful and they won't answer questions.

On the other hand, a person can download their Facebook history themselves. Facebook has instructions on how to do this. If you could get the AV to do that either yourself or through the prosecutor you might get what you're looking for that way.

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