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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

FACEBOOK, INC., et al,,
Petitioner,

Case No. A144315

(San Francisco Superior
Court Nos. 13035657, 13035658)

v.

SUPERIOR COURT OF THE
STATE OF CALIFORNIA,

Respondent.

DERRICK D. HUNTER and LEE
SULLIVAN,

Real Parties in Interest.

PETITION FOR REVIEW

After Published Opinion by the Court of Appeal,
First Appellate District, Division Five
Filed September 8, 2015

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TO: THE HONORABLE TANIA CANTIL-SAKAUYE, CHIEF JUSTICE, AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Real party in interest, Lee Sullivan, respectfully petitions for review of the published decision of the Court of Appeal, First Appellate District, filed on September 8, 2015, granting Facebook, Instagram, and Twitter's petition for writ of mandate directing the trial court to vacate its January 22, 2015, order denying petitioners' motion to quash the *subpoenas duces tecum* for the social media records of a witness and alleged victim in a homicide trial. (Exhibit A.) Real parties did not seek rehearing. The review petition is timely. (Cal. Rules of Court, rule 8.500(e).)

ISSUES PRESENTED FOR REVIEW

1.) This case presents an issue of first impression of statewide importance regarding whether criminal defendants are constitutionally entitled to *pretrial* access to social media records sought by *subpoena duces tecum* that are necessary for a fair trial, to present a complete defense, and to confront and cross-examine witnesses at jury trial, as guaranteed by Fifth, Sixth and Fourteenth Amendments of the United States Constitution, or whether social media records can only be subpoenaed *during trial* as the Court of Appeal held below?

2.) In light of the confusion and logistical problems created in the wake of *People v. Hammon* (1997) 15 Cal.4th 117, should this Court consider whether *Hammon* was wrongly decided on constitutional grounds and also on practical grounds because it does not promote the orderly administration of justice. Alternatively, this Court should clarify whether *Hammon's* ruling denying pretrial access to evidence is limited to records subject to the psychotherapist-patient privilege or applies to social media records.

FACTUAL CONTEXT AND PROCEDURAL HISTORY

Real parties, Lee Sullivan and Derrick Hunter, are indicted and awaiting trial for the murder of Joaquan Rice (Pen. Code § 187) and the attempted murder (Pen Code § 664/187) of minor, B.K. The charges stem from a drive-by shooting that occurred on June 24, 2013, at a bus stop located in the Bayview District of San Francisco. The District Attorney's theory of the case is that the crimes were committed for the benefit of "Big

Block" an alleged criminal street gang.[1] Quincy H., Derrick Hunter's 14-year old brother, confessed to the shooting to police inspectors shortly after it occurred, explaining that he shot Mr. Rice because he feared Mr Rice would kill him first if he did not act. According to Quincy, Mr. Rice repeatedly threatened and bullied him at his job, at his home, and on social media, including tagging him in violent posts on Facebook and Instagram. Quincy told police that Mr. Sullivan was not in the vehicle when the shooting occurred. Although the shooting occurred in front of a crowd, no eyewitnesses placed Mr. Sullivan at the scene. [2] (1 AE 124-128, 134-137.)

The sole witness who implicates Mr. Sullivan in the incident is Reneesha Lee, Mr. Sullivan's jilted former girlfriend who had rented the vehicle used in the shooting and who was detained by police driving alone in the car seven minutes after the shooting occurred. Several eyewitnesses told police a woman was driving the vehicle when shots were fired. Importantly, Ms. Lee did not implicate Mr. Sullivan in the shooting until several months after the incident, when police threatened to charge Ms. Lee with murder if she did not implicate Mr. Sullivan. (1 AE 87-88.)

In preparation for jury trial, counsel for Mr. Sullivan served third-party subpoenas duces tecum (Pen. Code, §1326) on Facebook, Twitter, and

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[1]Gang allegations pursuant to Penal Code sections 12022.53(d), 120022.53(e)(1), and Penal Code section 186.22 (b)(1), as well as other enhancements were alleged.

[2] Quincy was tried in juvenile court for the murder of Mr. Rice and attempted murder of Benjanay K. The petition was sustained on all counts.

Instagram seeking records from the social media accounts held by the deceased alleged victim, Mr. Rice, as well as Ms. Lee. (1 AE 12-18, 53-56.) Mr. Sullivan simultaneously attempted to serve Ms. Lee with subpoena duces tecum seeking production of her social media records, but was unable to locate her for service either in person or through the San Francisco District Attorney despite diligent efforts. (1 AE 107.)

Facebook, Instagram, and Twitter, moved to quash the subpoenas on grounds that disclosure is prohibited under the Stored Communications Act (hereafter "SCA") set forth in 18 U.S.C. § 2701, et. seq. The social media providers argued that the SCA is an absolute bar to producing records to criminal defendants, and that petitioners need only respond to search warrants or court orders obtained by the police or prosecutorial agencies. (1 AE 1-8.) Real party, Sullivan, filed an Opposition to petitioners' Motions to Quash, asserting that the SCA must yield to a criminal defendant's constitutional right to compulsory process, to present a complete defense, and to due process guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution. Mr. Sullivan made a detailed offer of proof as to the relevance of the records sought and requested that the records be produced for an *in camera* review by respondent court. (1 AE 84-105.)[3]

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[3] In support of his Opposition, Mr. Sullivan submitted a declaration from Quincy H.'s attorney, Rebecca Young, who stated that Quincy H. was denied his constitutional right to due process and to present a complete defense at his separate juvenile trial for the murder and attempted murder of Mr. Rice and Ms. K, respectively, because when Ms. Lee was called to testify as a witness, she refused to authenticate her social media posts that the defense had gathered in which Ms. Lee threatened others with violence. Counsel for Quincy H. was unable to lay a foundation to admit the records into evidence per the

On January 7, 2015, respondent court, the Hon. Bruce Chan issued a tentative ruling denying petitioners' Motions to Quash.

On January 22, 2015, the day before jury trial was to commence, respondent court affirmed the tentative ruling and denied petitioners' Motions to Quash ruling that Mr. Sullivan and Mr. Hunter have an independent constitutional right to access materials necessary to defend their case, and ordered the records produced for *in camera* review under Penal Code section 1326 on February 27, 2015. (1 AE 264-276.)

On February 24, 2015, petitioners filed a petition for writ of mandate and request for a stay of the production order in the Court of Appeal, First Appellate District, asserting that the respondent court abused its discretion in denying petitioners' Motion to Quash.

On February 26, 2015, the Court of Appeal issued a stay of respondent court's production order pending consideration of the petition. Sullivan submitted an answer which Hunter joined. An order to show cause to the respondent court was issued on March 30, 2015. Real party, Sullivan, filed a return to which Hunter joined. After briefing by the parties and amicus counsel, the Court of Appeal granted the petition for writ of mandate and issued a published opinion on September 8, 2015(Exhibit A) holding that although Hunter and Sullivan may be constitutionally entitled to social media records at trial notwithstanding the SCA, under *People v. Hammon* (1997) 15 Cal.4th 117, they had no constitutional right to pretrial

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trial judge's ruling and the critical defense evidence was not admitted at trial. (1 AE 196-197.)

access to social media records under the Compulsory Process Clause, the Due Process Clause, or the Sixth Amendment's Confrontation Clause.

Petitioners now seek review of the Court of Appeal's ruling that criminal defendant's are not constitutionally entitled to subpoena social media records pretrial even upon a showing of good cause.

WHY REVIEW SHOULD BE GRANTED

Review should be granted to settle an important question of law regarding whether criminal defendants have the constitutional right to pretrial access to social media records necessary for a fair trial. Given the explosion of social media use in recent years, trial courts throughout the state are grappling with whether and when criminal defendants can subpoena social media records necessary to defend a case in light of the fact that social media records are increasingly offered by the prosecution as evidence without parallel access to criminal defendants under the SCA.

In this case, the Court of Appeal substantively addressed for the first time in the nation, a criminal defendant's right to access social media records under the SCA and ruled that a criminal defendant's constitutional right to a fair trial may require disclosure of social media records at trial notwithstanding the federal Stored Communication Act's provision prohibiting disclosure of electronic records except to law enforcement. (18 U.S.C. 2701, et seq.) We agree that the SCA must yield to a criminal defendant's constitutional right to a fair trial. However, real parties challenge the Court of Appeal's ruling insofar as it held that criminal defendants do not have a constitutional right to *pretrial* access to this

evidence and may only subpoena social media records *during* trial.

Real parties respectfully assert the Court of Appeal is wrong as a matter of constitutional law and also in practicality because denying pretrial access does not promote the orderly ascertainment of the truth. The Court of Appeal's ruling ensures the opposite by delaying disclosure until after trial commences and then requiring continuances as they become necessary, as indeed they will given that an increasing number of criminal cases that use of social media records as evidence. Moreover, real parties assert that delaying access until trial without affording defense counsel reasonable pretrial investigation of the social media records impinges on defendants' ability to meaningfully challenge the state's evidence and, thus, runs afoul of a defendant's constitutional right to a due process, to receive a fair trial, to defend a case, to effective assistance of counsel, and to effectively confront and cross-examine witnesses.

Whether a criminal defendant has a constitutional right to pretrial access to social media records, or evidence in general, is an area that has not been resolved by the United States Supreme Court. Give that this Court is under a solemn obligation to interpret and implement the United States Constitution, this Court should grant review to settle this important question of law.

Finally, in ruling that criminal defendant's do not have a constitutional right to pretrial access to social media records, the Court of Appeal relied heavily upon *People v. Hammon* (1997) 15 Cal.4th 1117, which held that a child molest victim's confidential psychotherapy records

could only be released to a criminal defendant *at trial*, not pretrial, upon a showing of good case. This Court should grant review to determine if *Hammon* was wrongly decided because it has created logistical problems in trial courts for 18 years, and also because criminal defendants do, in fact, have a constitutional right to pretrial access to evidence necessary to defend his or her case, as real parties argue here. Alternatively, review should be granted to clarify whether *Hammon* is limited to records subject to the psychotherapist-patient privilege or whether it applies to social media records.

ARGUMENT

I. THE COURT OF APPEAL ERRED IN RULING THAT CRIMINAL DEFENDANTS DO NOT HAVE A CONSTITUTIONAL RIGHT TO PRETRIAL ACCESS TO DISCOVERY OF PRIVATELY HELD, CONFIDENTIAL RECORDS UPON A SHOWING OF GOOD CASE, WHEN THE MATERIALS ARE NECESSARY TO A FAIR TRIAL

The Court of Appeal erred when it ruled that criminal defendants could not subpoena social media records until trial on grounds that the United States Supreme Court has never squarely addressed whether a defendant has a constitutional right to a pretrial access to evidence from third-parties. The Court of Appeal cites *Weatherford v. Bursey* (1977) 429 U.S. 545 for the proposition that there is no general constitutional right to discovery in criminal cases. However, *Weatherford* is inapposite because it concerned a prosecutor's obligation to disclose to the defense unfavorable evidence under a claimed *Brady* violation. (*Id.* at 559.) Here, we are not concerned with discovery between the prosecution and the defense, but with

a defendant's right to obtain relevant evidence from third-parties in order to obtain a fair trial. *Weatherford* is, therefore, unhelpful.

A. California Courts Are Authorized to Interpret the Federal Constitution on the Issue of Whether a Criminal Defendant's Has A Constitutional Right to Pretrial Access to Social Media Records.

It is well-settled that in the absence of controlling United States Supreme Court opinion, state courts can and must make an independent determination of federal law and are not bound by decisions in the lower federal courts. (*People v. Bradley* (1969) 1 Cal.3d 80, 86; *Barrett v. Rosenthal* (2006) 40 Cal.4th 33, 58; *California Assn. for Health Services at Home v. State Dep't of Health Care Servs* (2012) 204 Cal.App.4th 676, 684.) "Although the courts of California are bound by the decisions of the United States Supreme Court interpreting the federal Constitution, they are not bound by the decisions of lower federal courts, even on federal questions." (*People v. Superior Court* (*Moore*) (1996) 50 Cal. App. 4th 1202, 1211.) Given that the United States Supreme Court has yet to squarely address whether there is a constitutional right to access materials necessary to defend a case prior to trial, this Court should not hesitate to decide the constitutional issues in light of the important issues at stake for criminal defendants who need social media records to prove innocence at trial. To that end, Justice Mosk eloquently stated the following in his concurring opinion in *Hammon,* in which he argued that the California Supreme Court should hold that the Sixth Amendment right to confrontation includes the right to pretrial access to materials necessary to

cross-examine witnesses, despite that the United States Supreme Court in *Pennsylvania v. Ritchie* (1987) 480 U.S. 39, had not reached a majority on that issue:

> It should hardly need mention that "[w]e are under a solemn obligation to interpret and implement the United States Constitution" (*People v. Harris* (1994) 9 Cal.4th 407, 449 fn.1 (conc. and dis. opn of Mosk J.)) - - especially when, as here, the United States Supreme Court has itself defaulted. "We are no less capable of discharging that duty than any other court. *We 'should disabuse [ourselves] of the notion that in matters of constitutional law and criminal procedure we must always play Ginger Rogers to the high court's Fred Astaire–always following and never leading.'* " (*Hammon, supra*, 15 Cal. 4th at 1130-1131 (conc. opn. of Mosk, J,) quoting *People v. Cahill* (1993) 5 Cal.4th 478, 557-558 (conc. and dis. opn. of Kennard, J.)

Justice Mosk went on to state that the California Supreme Court should have accepted its responsibility to address whether an evidentiary privilege should yield to a criminal defendant's right to confrontation in pretrial discovery and not "wait until it receives word from Washington" to do so. (*Hammon, supra*, 15 Cal. 4th at 1131 (conc. opn. of Mosk, J.)

Real party Sullivan respectfully urges this Court to take the lead and hold that, upon a showing of good cause, a criminal defendant has a constitutional right to access prior to trial, social media records that are necessary for a fair trial, to present a complete defense, and that such records must be released to the defense following the trial court's *in camera* review subject to any protective orders deemed necessary by the trial court.

B. Real Party Sullivan's Due Process Right to a Fair Trial and to Present a Meaningful Defense Requires Access to Social Media Records Before Trial

Criminal defendants are unable to meaningfully defend a criminal case within the meaning of the Due Process Clause if they are forced to go to trial without first obtaining relevant social media records that are material to cross-examination or support the defense. Social media records are ubiquitous and play an increasingly important role in modern life and in the criminal justice system. Especially for the younger generation, social media is not a separate, stand-alone domain in which few of life's functions are carried out. Rather, it is the epicenter of their world, the primary vehicle by which opinions are expressed, friends are made, and news is shared. Because of the central role these records play, they are likely voluminous and important to both the prosecution and defense in criminal cases; thus, a defendant must have a parallel right pretrial access to social media records, upon a showing of good cause, following an *in camera* review at which time superior courts can withhold irrelevant information and issue whatever protective orders it deems necessary to protect privacy interests.

The Court of Appeal's position that criminal defendants do not have a constitutional right to pretrial access to evidence does not give due weight to a criminal defendant's sacrosanct and overarching constitutional right to fundamental fairness at trial and the right to meaningfully defend a case which are inviolate under the Fifth Amendment and guaranteed to the states by the Fourteenth Amendment. The reason there is not an abundance of case law regarding a criminal defendant's pretrial access to evidence is

because it is axiomatic that a criminal defendant's right to fundamental fairness, to present a defense, and to effective assistance of counsel at trial, hinge on the ability to obtain prior to trial, evidence in the possession of third-parties and the government that is material to the defense, either because the records impeaches a prosecution witness or because it demonstrates a defendant is actually innocent of the charges and/or allegations. Indeed, even without controlling precedent from the United States Supreme Court or this Court on the issues of the constitutional right to pretrial access to evidence, lower California courts have routinely granted pretrial access to evidence to criminal defendants under the due process clause even in the face of conflicting statutes and constitutional provisions involving privacy issues.[4]

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[4] See e.g., the *Department of Motor Vehicles v. Superior Court of Los Angeles County* (2002) 100 Cal.App. 4th 363, the DMV refused to disclose to the prosecutor or criminal defendant, both of whom jointly sought the records, confidential medical records in DMV's possession which were relevant to a vehicular manslaughter prosecution. DMV claimed the records were deemed confidential and not to be disclosed to the public pursuant to Vehicle Code section 1808.5. DMV asserted it was prohibited by statute from disclosing records of a mental and physical condition. (*Id* at. 367.) The DMV filed a writ of mandate in the Court of Appeal contending the trial court abused its discretion in ordering it to disclose the entirety of the records sought because the records were statutorily deemed confidential. The Court of Appeal denied the writ holding, "The People and [the defendant] have an interest in a document that is relevant to [the defendant's] defense to the vehicular manslaughter charge. 'A criminal defendant's right to discovery . . . is based upon the fundamental proposition that [an accused] is entitled to a fair trial and an intelligent defense in light of all relevant and reasonably accessible information.'" [citations ommitted.] *DMV v. Superior Court, supra*, 100 Cal.App.4th at 377. The Court held on balance, the DMV's interest is outweighed by the prosecution and defendant's interest in a fair trial in a criminal case. (*Ibid.*) As such, a criminal defendants right to a fair trial trumps a state statute declaring certain medical records held by the DMV to be exempt from disclosure despite public policy interests in promoting truthful exchanges between medical professionals and the DMV.

Also, California courts have long held that the right of a criminal defendant to a fair trial, guaranteed by the Fifth Amendment, prevails over a third party's constitutional right privacy. For example, in *Rubio v. Superior Court* (1988) 202 Cal.App.3d 1342, the defendant was charged with felony sex offenses against a minor. The defendant denied molesting the minor and claimed that she had made up the incident after watching a video tape of her parents

Whether rooted directly in the Due Process clause of the Fourteenth Amendment or in the Compulsory Process Clause of the Sixth Amendment, the Constitution guarantees criminal defendants "a meaningful opportunity to present a complete defense." (*Holmes v. South Carolina (2006) 547 U.S. 319, 324; Crane v. Kentucky* (1986) 476 U.S. 673, 690, (quoting *California v. Trombetta,* (1984) 467 U.S. 479, 485; citations omitted). The right of a criminal defendant to due process is "the right to a fair opportunity to defend against the State's accusations." *Chambers v. Mississippi*, 410 U.S. at 294; see *Crane v. Kentucky*, *supra*, 476 U.S. at 690 ("Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense'"). A defendant's right to present a complete defense is abridged by statutes and rules that "infring[e] upon a weighty interest of the accused" and are " 'arbitrary' or 'disproportionate to the purposes they are designed to serve.' " (*Rock v. Arkansas* (1987) 483 U.S. 44, 58, 56.)

To meaningfully defend a case, a criminal defendant must usually seek out the truth immediately. He cannot wait until the case is called to trial. A defense lawyer cannot develop a cogent trial strategy, decide on what defense to pursue, how to conduct *voir dire*, or do an opening

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engaging in sexual activity. (*Id.* at 1346.) The trial court granted the parents' motion to quash the defendant's *subpoena duces tecum* seeking the video on grounds it was protected by the marital privilege. (*Ibid.*) The defendant sought extraordinary relief in the Court of Appeal and then the Supreme Court, who directed that an alternate writ be granted. The Court of Appeal complied. Relying upon *Pennsylvania v. Ritchie*, the appellate court granted the writ and remanded the case back down to the trial court for the court to review the tape *in camera* to determine of the evidence was necessary to disclose to the defendant to ensure his right to due process when weighed against the parent's federal constitutional right to privacy in the marital relationship as well as the marital privilege set forth in Evidence Code section 980. (*Id.* at 1350.) The Court of Appeal also stated that if disclosure is required, the trial court "should recognize its concomitant power to issue whatever protective orders are necessary should any further disclosure be compelled to preserve petitioner's right to a fair trial." (*Ibid.*)

statement unless he or she can review the relevant evidence prior to trial and investigate leads that may exonerate the defendant or undermine the credibility of witnesses. Moreover, delaying disclosure of social media records until trial will lead to mistrial after mistrial if continuances are sought during trial so the parties can litigate subpoenas for social media records, to allow time for trial courts *in camera* reviews, and for defense counsel to investigate information gleaned from the social media records, because of juror attrition due to long mid-trial delays. Moreover, criminal defendants cannot mount an intelligent defense if voluminous social media records are received during trial the contents of which may change the defense entirely midway through the trial. Forcing defendants to wait until trial to access social media records is unworkable, does not promote the "orderly ascertainment of the truth" which is best served disclosure prior to trial. (*Jones v. Superior Court* (1962) 58 Cal.2d 56, 60.) A defendant cannot receive fundamental fairness at trial when he does not receive relevant evidence until trial commences. Thus, this Court should not hesitate to vindicate the demands of due process and require disclosure of relevant social media records prior to trial.

C. Denying Pretrial Access to Social Media Records to the Defense, but not Prosecution, Violates the Due Process Clause under *Wardius v. Oregon*

The Court of Appeal's ruling interpreting the SCA to grant the prosecution, but not the defense, pretrial access to social media records is arbitrary, unconstitutional, and cannot be squared with Sullivan's right to present a defense, let alone with the due process argument that such a

disparity in treatment is prohibited by *Wardius v. Oregon* (1973) 412 U.S. 470, 474. In *Wardius*, the Unites States Supreme Court struck down a state statute that required the defendant to disclose the names of his alibi witnesses but did not require the prosecution to disclose the names of its witnesses. The Court held that such inequitable discovery rules violated due process guarantees:

> The State may not insist that trials be run as a 'search for truth' so far as defense witnesses are concerned, while maintaining 'poker game' secrecy for its own witnesses. It is fundamentally unfair to require a defendant to divulge the details of his own case while at the same time subjecting him to the hazard of surprise concerning refutation of the very pieces of evidence which he disclosed to the State.

(*Wardius v. Oregon, supra*, 412 U.S. at 476.) Further, the Court ruled that [a]lthough the due process clause has little to say regarding the amount of discovery which the parties must be afforded [ ] it does speak to the balance of forces between the accused and his accuser." *(Wardius v. Oregon*, supra, 412 U.S. at 475-76, emphasis added.) Thus, the discovery statute in which defendants and prosecutors were treated differently was ruled unconstitutional.

The Court of Appeal is correct that law enforcement agencies are afforded access to means of investigation that are denied to others, including criminal defendants. But once a defendant is charged with a crime and held to answer following a preliminary hearing, the right to prepare for trial is indisputable and the access to evidence between the prosecution and the defense cannot be arbitrary, one-sided or unfair without running afoul of the due process clause under *Wardius*. The Court of Appeal does not address the problem of how a defendant is to prepare for

trial without access to relevant evidence: with no pretrial ability to subpoena records, significant pretrial preparation would be impossible. Because a fair trial depends on counsel well-prepared to meet the state's case with all evidence that will shed light on the truth, the Court of Appeals position that there is no right to pretrial discovery fails.

With regard to the *Wardius* issue, the Court of Appeal states that "[d]efendants do not suggest why they would not be entitled to receive copies of [social media records.] either as general criminal discovery required under Penal Code section 1054.1, [fn omitted] or as potentially exculpatory *Brady* material." (Exhibit A, p. 18.) Not so. Defendants have extensively explained that Penal Code section 1054.1 controls discovery between the prosecution and defense counsel only, and does not address a criminal defendants right to compel third parties such as Facebook to produce materials the defense needs for trial. Moreover, the state cannot compel third parties such a Facebook to produce exculpatory evidence to the defense because third parties are not part of the prosecution team and the state is not required to seek out evidence and investigate a case on behalf of the defendant under *Brady v. Maryland* (1963) 373 U.S. 83 and its progeny.

Finally, defendants cannot get the records they need from the state because the state chose to subpoena some, but not all of Joaquan Rice's social media records and none of Reneesha Lee's social records, all of which the defense needs to impeach her at trial and to present a complete defense. Criminal defendants cannot fully and fairly defend a criminal case

based solely upon social media records obtained by police and prosecutors by utilizing the statutory discovery scheme set forth in Penal Code section 1054.1. The prosecution team and defense attorneys seek very different records in support of their respective adversarial roles. Law enforcement issue search warrants to obtain evidence of criminal activity or contraband based upon a peace officers sworn affidavits establishing probable cause of criminal activity. (Cal. Pen. Code, § 1523-1524.) In contrast, the mechanism criminal defendants use to obtain evidence that is likely to facilitate the ascertainment of truth and a fair trial, such as evidence relevant to impeach a prosecution witness or establish an affirmative defense, is a third-party subpoena pursuant to Evidence Code section 1326. If contested, defense counsel is required to make a good cause showing, as an officer of the court, that the requested information will facilitate the ascertainment of facts and a fair trial. (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531; *People v. Superior Court (Barrett)* (2000) 80 Cal.App.4th 1305, 1313; *Alford v. Superior Court* (2003) 29 Cal.4th 1033, 1045.) A good cause showing can be established by a defense counsel's declaration detailing the records' relevancy, admissibility, and materiality to the defense case. (*People v. Superior Court (Barrett)*, *supra*, 80 Cal.App.4th at 1313.) The issuance of a third-party subpoena is a ministerial act, and the trial court has wide authority to review the records *in camera,* issue protective orders, redact irrelevant information, and engage in whatever balancing of interests that needs to occur to ensure a criminal defendant has access to records needed to present a complete defense as guaranteed by the