

EXHIBIT

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

PUBLIC ENGINES, INC., a Delaware
corporation,

Plaintiff,

vs.

REPORTSEE, INC., a Delaware corporation,

Defendant.

**DECLARATION OF MARK COLIN
DRANE.**

Case No. 2:10-cv-317

Judge Tena Campbell

I, Mark Colin Drane, hereby declare under penalty of perjury as follows:

1. I am a resident of Baltimore, Maryland and I am over 18 years old.
2. I am competent in every respect to make this declaration, and I make it upon personal knowledge.
3. I founded ReportSee, Inc. and am the company's sole investor and stockholder.

4. In or about 2007, I had the idea to improve the method by which crime information is delivered to the public, and so in late 2007 I started with a test site called CrimeBaltimore.com.

5. I founded ReportSee Inc. ("ReportSee") as a Delaware Corporation in February of 2008 for the purpose of collecting news and user reported data and geo-locating that data on a website using Google Maps type interface.

6. ReportSee's initial approach was to map news reported crimes for Baltimore. Subsequently, ReportSee began collecting data from the Baltimore police department mapping system and re-representing the data on a Google map on CrimeBaltimore.com.

7. About a month after forming ReportSee – in or about March of 2008 -- the SpotCrime brand was created to use this approach of combining news and police data on a national level. In about March of 2008, SpotCrime.com began providing daily crime alerts to subscribers through SMS and email.

8. SpotCrime now covers more than 300 areas, which I define to be a city or county. Approximately 98% of SpotCrime's data comes directly from police reports in the form of emails from police, police websites, police mapping vendors and direct delivery from police agencies to SpotCrime's servers.

9. There are approximately 212 police departments around the nation that either supply ReportSee directly with crime data or from which ReportSee obtains crime data from public feeds. Examples of Police Departments providing data directly to our servers include Phoenix, Portland (WA), Montgomery County (MD), Raleigh, Fremont (CA), and Harrisburg (PA).

10. ReportSee uses multiple criteria for requesting data from police agencies. How an agency is selected depends on the size of the population that the agency serves, the agency's proximity to a SpotCrime media partner, and evidence of the agency's ability to provide data. If the data is automatically published on the agency's site, and if the data is easily automated, then ReportSee creates an automation script to get the data. Example cities that provide fully public feeds in this manner include Dallas, Washington D.C., Orlando, Tampa, Milwaukee, and San Francisco.

11. Agencies without direct data feeds have many different methods as to how they make data public. Output can vary from .pdf reports, written blotters and in some cases faxed reports. Additional sources include email alerts and email press releases.

12. In situations where the police department is reluctant to provide public crime data, ReportSee relies on open access or public information act request laws of the various states to request access to the crime data. In most cases, ReportSee's efforts are successful – meaning that the Police Agency either provides data directly to ReportSee or instead elects to publish crime data in a fully open format for everyone (including SpotCrime) to access. Example cities that have done this include, Madison (WI), St. Petersburg (FL), Omaha (NE), Detroit (MI), San Francisco, Annapolis (MD), Tacoma (WA), Cary (NC), and Round Rock (TX).

13. ReportSee has been the least successful in areas where CrimeReports has a contract with the police department. Examples include Salt Lake (UT), Monterey County (CA), Palm Springs (CA), Boston (MA), Reno (NV) and Palm Beach County (FL).

14. Most major metro area police agencies in the United States provide accessible data to SpotCrime. There are only three major cities in the nation that do not provide any type of fully public crime feed: New York, Seattle and Salt Lake City.

15. Both New York and Seattle have indicated intent to create open data feeds similar to San Francisco and Washington DC, but Salt Lake City has given no indication of its future plans.

16. In addition to making requests to police departments for crime data, SpotCrime also receives unsolicited requests from police departments seeking to place their data on SpotCrime, at a rate of about one unsolicited request per month.

17. ReportSee does not charge the departments a fee to report crime data on SpotCrime.com, nor does it charge the public or require the public to subscribe to any service (although they are able to elect to receive email alerts from SpotCrime).

18. Instead, ReportSee earns income from entering into contracts with media outlets and by providing a crime mapping widget for those media outlets' websites. To date, ReportSee has contracted with more than 100 media outlets whose owners include New York Times, Cox, Tribune, Hearst, CBS, Fisher Communications, Newport Television and Belo.

19. Of all the media relationships ReportSee has had over the last few years, it has terminated only one, which was with ABC4 in Salt Lake City. ReportSee requested the termination on April 27, 2009, because it was not able to obtain data from the Salt Lake City Police Department (for reasons described above) and because the station had entered into a marketing arrangement with Public Engines.

20. ABC4 Salt Lake still displays the SpotCrime widget on its website, although ReportSee has had nothing to do with that decision.

21. Even in areas where SpotCrime is the sole mapping provider for agencies, it does not charge any fee for the service. Examples include Harrisburg (PA), West Haven (CT),

Leland (NC), Lakeland (FL), and Cibolo (TX). ReportSee does not have contracts with these agencies and requires no exclusivity with them.

22. SpotCrime does not know the identities of all third parties to whom it has provided information because third parties may log onto and obtain information from SpotCrime.com for free, much like they can from CrimeReports.com.

23. ReportSee considers all of its crime data to be public data. In fact, ReportSee redistribute crime data through RSS feeds and Twitter without any restrictions.

24. ReportSee believes that providing the public with full, unfettered access to all crime data is in the public interest and believes it sets a dangerous precedent that is contrary to the free expression of ideas and criticism, to give police the ability to modify or even delete data that is already available to the general public. Police are free to issue statements correcting the data, or to add their commentary or responses to commentary or criticism, should police determine that it is necessary. As evidenced by the many police departments that have contacted ReportSee, unsolicited, to request to post data on SpotCrime.com, most law enforcement agencies believe that public dissemination of crime data in a timely manner is essential to public safety.

25. ReportSee also believes that it is in the public interest to not charge a fee to police agencies, many of which are struggling for funds to provide crime data and mapping services.

26. A “scraper” is an industry term for a computer program that looks for information or data – and it is one of many automated means of data collection. Scrapers and other automated programs are commonly-used methods of information and data collection. Scraping is by no means an act that is reserved for internet outlaws or hackers. Thus, any implication in

the Complaint (whether intended or not) that only unscrupulous businesses and people employ scrapers or other automated data collection means, is inaccurate.

27. For example, Google® launches scrapers, or spiders (another industry term for programs that automate the search and retrieval of data), that look inside virtually every site on the Internet and collect data that Google then indexes on its massive database. If SpotCrime.com was inoperable on a certain date (so that a user that typed www.spotcrime.com into his or her internet browser was unable to open the site), that user may be able to obtain data from the SpotCrime database on that same date through a Google search because Google indexes, through an automated means of collecting data, more than 100,000 pages from SpotCrime. Thus, Google scrapes and stores on its own servers hundreds of thousands of data points from SpotCrime – and it does it automatically, and posts that data to users who seek it in a Google search.

28. In or about early 2008, ReportSee began collecting publicly available and accessible crime data from CrimeReports.com by automated means – a scraper.

29. ReportSee stopped scraping upon receiving a letter from Public Engines dated June 16, 2008, not because it agreed that Public Engines' Terms of Use were valid or that it agreed to abide by them, or that it believed that the data that had been collected was not public data, but because of the simple economics that favored avoiding a legal fight and continuing to attempt to obtain crime data from police departments across the country, whether or not those departments had a contractual or other relationship with Public Engines.

30. Between June of 2008 and July of 2009, ReportSee did not scrape or otherwise collect any data from CrimeReports.com.

31. In or about July, 2009, ReportSee again began collecting data from CrimeReports.com by automated means, though a CrimeReports.com window access point on

the San Jose Police Department. ReportSee had made a request to that agency for crime data and was told, as many agencies have told ReportSee, to obtain the requested data from CrimeReports.com. The San Jose Police Department Website had a window, or portal, in which a user could access the CrimeReports.com database from the San Jose Police Department website.

32. The portal on the San Jose Police Department website did not contain the CrimeReports.com terms of use that are attached to Public Engines' Complaint in this lawsuit.

33. The San Jose Police Department did post its own terms of use with respect to the CrimeReports portal on the site, but those terms of use did not restrict the collection, use or publication of crime data accessible and obtained through the portal. A copy of the current San Jose Police Department terms of use are attached to my Declaration at Tab A, and these terms appear to be consistent with the terms of use that were posted on the San Jose Police Department during the times that ReportSee scraped data through the agency's portal.

34. Because the portal on the San Jose Police Department website provided complete access to the CrimeReports data around the country, ReportSee scraped data for many areas of the CrimeReports database. CrimeReports provided these same portals or access points to many departments and news outlets without terms of service. ReportSee simply elected to use San Jose Police Department as our primary access point.

35. ReportSee has been instructed by various police agencies that are under contract with Public Engines, that ReportSee can and should access the agency's crime data on CrimeReports.com.

36. ReportSee stopped collecting data in late March 2010, after it discovered that CrimeReports.com had placed its Terms of Use on the access window on the San Jose Police

Department site and at least a week prior to being notified of Public Engines lawsuit. The scraping was stopped to avoid any legal dispute over the issue – albeit unsuccessfully.

37. At no time did the crime data collected from Public Engines' CrimeReports.com database exceed approximately 2% of all of the total crime data on the ReportSee's database.

38. In addition, as of the date of this Declaration, no crime data that was collected from Public Engines' CrimeReports database is available to the public or for public view on SpotCrime.

39. If the preliminary injunction that Public Engines requests is entered against ReportSee, the damage to my company could be enormous. I have personally seen the press release that Public Engines released when it sued ReportSee and believe that, if an injunction is issued in which ReportSee is found substantially likely to be liable for violating the law in connection with its business activities, police departments and other government officials may not continue trusting SpotCrime with their data. It also is possible that a law enforcement agency, knowing of a federal injunction against SpotCrime.com (regardless of the breadth or scope of the injunction), would consider ReportSee's requests for information, much less trust ReportSee with crime data.

40. I am also concerned that ReportSee's media partners with whom it has contractual relationships may discontinue doing business if they believed that CrimeReports was engaging in the unlawful collection of crime data, and that the media partners were linking to or using that data. If anything, ReportSee's media partners might be concerned about legal liability to Public Engines. In addition, it is possible that negative publicity fanned by a press release from Public Engines regarding an injunction may cause the advertisers that support SpotCrime and advertise

on its site to pull their endorsement and advertisements, much as advertisers often pull advertising when connected with a controversial topic or celebrity.

41. If there is a party whose entire livelihood is threatened in this case – it is ReportSee's, by the negative publicity and potential devastating damage that an injunction could cause to its relationships with police departments, its media partners and advertisers, and to its financial health. That finding also could have serious implications to SpotCrime's ability to secure financing to operate its business – particularly in today's economic climate.

42. Regarding Public Engines' claims (both expressly and by implication) that its Publisher program is uniquely-developed, very expensive software that gives it a unique capability to "de-identify" crime data, those claims are untrue as I understand them.

43. Because of ReportSee's success rate in obtaining data directly from police agencies, it also has developed the technical means to de-identify the data. Also, because most crime data is recorded in a database and eliminating victim and other personal information from crime data is a relatively simple process, we have requested each department to provide similar output that is being provided to CrimeReports.

44. It is my understanding that most RMS and CAD systems used by police departments are built on basic database structures. Removing the victim data and specific address information has been accomplished through simple database instructions for years by many departments that already supply media outlets. Many agencies already publish de-identified data on their websites through this same process and some provide that data directly to ReportSee.

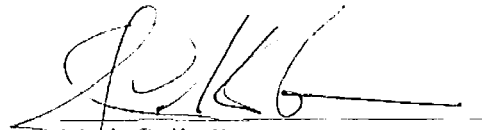
45. The figure that Public Engines' Complaint sites for investment in software that queries police CAD and RMS systems (\$3,000,000) is excessively high. It is not a particularly

advanced or difficult process to create software that queries databases and pull out specific information ("de-identified data" for example). ReportSee creates software to scrub identifying information from police database reports that are sent to, and it takes about 4-hours to create that software for each brand of CAD or RMS system.

46. ReportSee has not intended to defraud or mislead anyone by any activity, and I disagree with the proposition that ReportSee does not have a lawful right to compete for business with Public Engines -- even if that means requesting basic crime data from Public Engines' customers, which are government agencies.

I hereby affirm under penalty of perjury that the foregoing information is truthful.

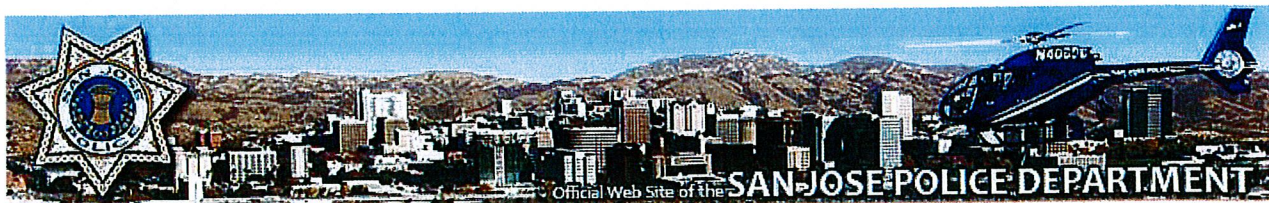
Date: May 14, 2010



Mark Colin Drane

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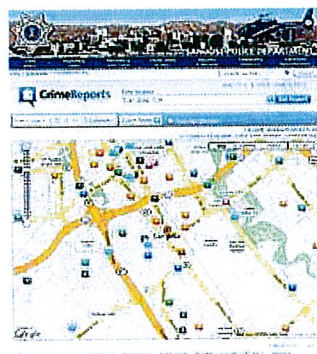
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Crime Stats & Maps

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CrimeReports.com FAQs

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What is CrimeReports.com? CrimeReports.com is an online mapping and analysis service provided by Public Engines, Inc., headquartered in Salt Lake City, Utah. CrimeReports.com combines the value of police data with the ease-of-use of Google-based mapping and an analytics module so that members of the public can view police data in a high-impact map or summary descriptive format. Members of the public may also sign up to receive free email alerts based on user-defined parameters (e.g., geography, crime types, frequency, etc.).

What type of San Jose Police Department (SJPD) data is used in CrimeReports.com? The CrimeReports.com service utilizes calls-for-service (CFS) data from the SJPD CAD system. CAD stands for Computer Aided Dispatch. CAD is a highly specialized application that allows for the coordinated communication, assignment and tracking of Police Department resources in response to citizen and police generated calls-for-service.

What specific types of data from CAD are used in CrimeReports.com? Calls-for-service data is utilized for CrimeReports.com, including the following data fields: *entry date, entry time, event number, event location, final event type, and final event disposition.*

Is there a description for the CAD data fields included in CrimeReports.com? Yes:

- **Event Number:** Electronically generated by the Police Department's CAD system, this number catalogues an event reported to the Police Department. The Event number consists of 9 characters (9 numeric). In the following example event number, 070731041, 07= year, 073= Julian Date (73rd day of the year), 1041= event number
- **Entry Date & Time:** This is the date and time that the event was entered into the Police Department's CAD system. In the following example, 2007-03-14 19:34:20, the event was entered on March 14, 2007 at 7:34:20 PM (note: the time is expressed in 24-hour format).
- **Event Location:** This is the 100th block address and intersection information. CrimeReports.com translates address data into block level data. This means that if an incident occurs at 123 Main Street, it will show up as 100 Block Main Street in the CrimeReports.com application. Some location fields will be populated with "address could not be mapped" if the data was not geo-processed accurately.

The following table provides several examples to demonstrate the block translation process:

Street Number	Block Translation
0 - 99	0 Block
100 - 199	100 Block
1000 - 1099	1000 Block
12000 - 12099	12000 Block

- **Final Call Type:** The final event type is designated with one of the following final event type codes:

[Click Here to Expand and Collapse Panel -- Code Descriptions for Final Call Types](#)

- **Final Call Disposition:** The final event status is designated with one of the following final call dispositions:

Final Disposition Code	Final Disposition Status
A	Arrest made, on-view
B	Arrest by warrant
C	Criminal citation
D	Traffic citation issued, hazardous violation
E	Traffic citation issued, non-hazardous

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F	Field interview (FI) filed
G	Gone on arrival/unable to locate
H	Courtesy service/citizen or agency assist
M	Stranded motorist assist
N	No report required; dispatch record only
O	Report, other than a primary report, is filed
P	Prior case, follow-up activity only
R	Primary report filed
T	Turned over to (TOT) other agency
U	Unfounded event
ADV	Advised event
CAN	Cancelled event
DUP	Duplicate event
DUPNCAN	Duplicate and cancelled event

How can I use the data from CrimeReports.com in support of community safety goals? Data from CrimeReports.com can be reviewed and used to improve community safety. CrimeReports.com data is appropriate to consider and discuss as part of coordinated crime prevention initiatives. Members of the community are encouraged to continue partnering and problem-solving with the SJPD while using CrimeReports.com data toward shared police-community goals. For related Strong Neighborhood Initiative (SNI) information, please [click here](#).

Is every CAD event type included in CrimeReports.com? Not every CAD event type is included in CrimeReports.com. Reports submitted online (TRAC), faxed or mailed are not included in CrimeReports.com.

Why was CAD chosen as the data source for CrimeReports.com? While most agencies furnish data to the public for only those select incidents in which a report was created or an arrest was made, CrimeReports.com offers a broader view of police-community contacts based on calls-for-service, including less serious quality of life call data. It is important to note that there may be multiple calls for a single incident in the CAD system (as compared to official crime statistics whereby each count represents one incident; please see crime statistics section below). Also, please keep in mind that CAD calls-for-service do not always equate to a criminal incident resulting in a report or arrest.

How often is data updated in CrimeReports.com? CrimeReports.com data is updated automatically once per day and contains the most recent thirty days of data online.

If I find an event and have additional information to provide to the police, what do I do?

Information provided within CrimeReports.com is intended for the expressed purpose of educating the public on police activity in the City of San Jose. Beyond that intended outcome, the Police Department is hoping to enhance our partnerships with the community and is asking the public to provide the Department with any information that would assist the SJPD to resolve crimes. Follow-up information should be directed to the Police by either calling 408-947-STOP(7867) or by the Internet at <http://www.crimestoppers.sjcv.com/>. Information of an emergency nature should be passed through the Department's 9-1-1 emergency or 3-1-1 non-emergency notification systems.

Under no circumstances should any member of the public take any action on their own behalf as it relates to the information provided on this website, other than notifying the San Jose Police Department with information they wish to share.

Who can I contact if I have trouble using the CrimeReports.com website? Click on the link below for assistance in utilizing CrimeReports.com:

<http://www.crimereports.com/company/contact>

What are the minimum Browser requirements to use CrimeReports.com?

The CrimeReports.com system takes advantage of advanced features that are only available in more recent versions of web browsers. To ensure an optimal experience while using the site, you may need to update your web browser. All of the listed browsers can be downloaded for free:

Windows Users

The CrimeReports.com system supports the following web browsers:

- Firefox 0.9 or newer (Firefox is recommended for best performance)
- Mozilla 1.4 or newer
- Internet Explorer 5.5 or newer

Macintosh Users

The CrimeReports.com system supports the following web browsers:

- Firefox 0.9 or newer (Firefox is recommended for best performance)
- Mozilla 1.4 or newer
- Internet Explorer 5.5 or newer

Linux Users

The CrimeReports.com system supports the following web browsers:

- Firefox 0.9 or newer (Firefox is recommended for best performance)
- Mozilla 1.4 or newer

In addition, Java script and Cookies must be enabled to use the site. These features are usually enabled by default.

Are there any issues I should keep in mind when checking CrimeReports.com data?

CrimeReports.com utilizes Computer Aided Dispatch (CAD) calls for service data. CAD event type data is NOT the same as reported crime data. For official crime statistics, please refer to the FBI Uniform Crime Reporting (UCR) program and related data for San Jose by clicking the [crime data page](#). There may be more than one call for service for any given event within these reports (e.g., several observers may call 911 after witnessing a motor vehicle accident, disturbance or serious criminal incident). Some call types (e.g., murder, kidnapping, robbery) may include "courtesy call" information from other law enforcement agencies (e.g., a call detailing information pertaining to a homicide suspect from another jurisdiction may be received locally and added to the "murder" call type). Finally, CAD calls-for-service do not always equate to a criminal incident resulting in a report or arrest, with many calls relating to non-criminal or quality of life issues.

I called San Jose PD to report a crime or request assistance for an issue not occurring at my location, but the icon on the map reflects the location from which my call was placed (my residence) and not the location of where I reported the crime to have occurred. Why doesn't the map reflect the location of where the event actually occurred?

The CrimeReports.com application receives event location information from the Department's Computer Aided Dispatch (CAD) system. Data from the CAD system is meant to reflect service demands based on citizen generated calls-for-service and officer initiated activity; it reflects where the calls-for-service originated from primarily because that's where police resources respond to and make contact with residents to learn more about the crime or quality of life issue. Based on CAD data, the event location will reflect the address of the reporting party, which is in the vast majority of events, also the actual event location. All event location information is geo-processed to the 100th block or to the nearest intersection. If you view a map that depicts information incorrectly, please do not hesitate to [contact the department](#).

Does CrimeReports.com have a FAQ site? Yes. FAQ and other related information (e.g., company, partners, legal) can be found near the bottom of the CrimeReports.com site at <http://www.crimereports.com/>

Does CrimeReports.com have a DISCLAIMER? Yes. Disclaimer:

The information displayed on this website is susceptible to some degree of error due to the collection, entry, and geo-processing of the data. No warranty or guarantee is made nor implied regarding the content, geographic accuracy, timeliness, completeness, sequence, or accuracy of any of the information provided herein. The reader should not rely on the data provided herein for any reason. The information is provided strictly as a courtesy to the public.

To view Calls For Service Maps in your area, select the button below.

I Agree With The Listed Terms And Conditions.

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