

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

SEP 27 2012

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY

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**STANDING ORDER
REGARDING SEALING OF WARRANTS**

The Standing Order Regarding Sealing of Warrants entered by this court on July 8, 2009, is hereby withdrawn, and this order is entered in its place.

For purposes of this order, “search or seizure warrant” or “warrant” includes not only a traditional search or arrest warrant obtained pursuant to FED. R. CRIM. P. 41, but also any investigative order or warrant authorizing the interception of electronic data or acquisition of documents (other than a wiretap under 18 U.S.C. § 2510, *et seq.*), and includes, but is not limited to, tracking requests, orders issued pursuant to 18 U.S.C. § 2703, pen registers, trap and trace orders, and requests for access to income tax returns. Further, for purposes of this order, “warrant documents” consists of the application for warrant, the supporting affidavit, the warrant or order, the inventory or return (and their equivalents), as well as all related pleadings, including motions to maintain sealing and corresponding orders.

If the government is requesting that a warrant be sealed, it shall file a motion seeking that relief. The motion shall state the ground or grounds on which the government seeks to seal the documents. When seeking the sealing of a warrant, the government shall submit, and the court will enter, an order in the form attached as Exhibit A, sealing the warrant documents for 30 days from the issuance of the warrant.

When the government wishes to extend the sealing beyond 30 days, it shall file a second motion prior to the expiration of the 30 day period, requesting additional sealing consistent with the

directives set forth below. The government shall make a good faith effort to only seek the continued sealing of warrants when it is seeking the apprehension of a fugitive, when necessary to protect an ongoing investigation, or when there is other good cause to maintain the records under seal.

Extension of Sealing of Fugitive Warrants

In the case of warrants related to the apprehension of a fugitive, when submitting the initial warrant application, when filing a motion to seal the warrant, and when seeking to extend its sealing, the government shall note in the caption of the filing that the pleading relates to a fugitive investigation, and include the name of the fugitive being sought. Further, the government shall include on the upper right portion of the caption the USAO number related to that investigation and the last name of the responsible Assistant United States Attorney. In the event there is no USAO number assigned at the time the warrant is presented, the government shall provide the court the USAO number as soon as it is available.

A motion to extend the sealing of a warrant related to a fugitive shall be granted upon the representation of the government that the subject of the investigation remains a fugitive. When seeking the continued sealing of a warrant on such a basis, the government shall submit, and the court will enter, an order in the form attached as Exhibit B, which will continue the sealing of the warrant documents until the fugitive is apprehended. It is the affirmative duty of the United States Attorney to promptly notify the court of the apprehension of a fugitive.

Within fourteen days of the apprehension of a fugitive, all warrant documents related to the fugitive will be unsealed, unless the government files a motion requesting the continued sealing of the documents. To obtain continued sealing, the government must demonstrate a good faith belief and a compelling interest which necessitates continued restriction of public access to the warrant

documents. The granting of a motion to extend sealing after the apprehension of a fugitive shall be the exception and not the rule.

Extension of Sealing on Warrants Related to Ongoing Investigations

In the case of warrants related to an ongoing investigation, when submitting the initial warrant application, when filing a motion to seal the warrant, and when seeking to extend its sealing, the government shall include on the upper right portion of the caption the USAO number related to that investigation and the last name of the responsible Assistant United States Attorney. In the event there is no USAO number assigned at the time the warrant is presented, the government shall provide the court the USAO number as soon as it is available.

A motion to extend the sealing of a warrant related to an ongoing investigation shall be granted upon the representation of the government that the warrant relates to a specific ongoing investigation. When seeking the continued sealing of a warrant on such a basis, the government shall submit, and the court will enter, an order in the form attached as Exhibit C, which will continue the sealing of the warrant documents until the investigation results in the filing of a complaint, information, or indictment, or the United States Attorney informs the court that the investigation is otherwise closed. It is the affirmative duty of the United States Attorney to promptly notify the court of the completion of an investigation.

Within fourteen days of any of the events described above, all warrant documents related to the investigation will be unsealed, unless the government files a motion requesting the continued sealing of the documents. To obtain continued sealing, the government must demonstrate a good faith belief and a compelling interest which necessitates continued restriction of public access to the

warrant documents. The granting of a motion to extend sealing after the completion of an investigation that results in the filing of charges shall be the exception and not the rule.

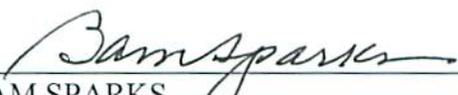
When an investigation is completed with no charges being filed, the warrant documents related to that investigation shall be ordered sealed indefinitely, and shall be retained in the same manner as records relating to wiretaps are retained, as set forth in 18 U.S.C. § 2518(8)(b).

United States Attorney's Certification

On November 1 and May 1 of each year, the court will provide the United States Attorney with a list of all warrants that are at that time under seal. On the following November 15 and May 15 of each year, the United States Attorney, or the Chief of the Austin Division of the United States Attorney's Office, shall file a certification that each of those warrants relates to ongoing investigations or fugitives who have not been apprehended, and, if they cannot so certify, identify those warrants that relate to completed investigations or apprehended fugitives. Nothing in this paragraph relieves the United States Attorney of his affirmative duty to give earlier notice to the court of the completion of an investigation or apprehension of a fugitive.

This standing order and the procedures set out herein are applicable in the Austin Division of the Western District of Texas.

SIGNED this 27th day of September, 2012.



SAM SPARKS
UNITED STATES DISTRICT JUDGE



ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE



LEE YEAKEL
UNITED STATES DISTRICT JUDGE



MARK LANE
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

USAO# _____

SEALED

In the Matter of the Search Of:

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XXXXXXXXXXXXXXXXXXXXXXXXXX
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NO. A-__-____ M

[Fugitive: _____]

ORDER

Before the Court is the Government’s Motion to Seal the Application and Affidavit for Search Warrant and the Search Warrant in the above-styled case, and after considering the same, the Court is of the opinion that it should be granted in the interest of law enforcement.

ACCORDINGLY, it is hereby ORDERED that the Clerk of the Court file the Application and Affidavit and the Warrant under seal for a period of 30 days. Should the government wish the warrant documents to remain sealed thereafter, it must file a motion seeking that relief in a manner consistent with the Standing Order of this Division on the sealing of warrants. Failure to seek the continuation of sealing will result in the warrant documents being unsealed.

IT IS FURTHER ORDERED that the Government’s Motion to Seal, as well as this order shall remain sealed until such time as the remaining warrant documents are unsealed.

SIGNED this ____ day of _____, 20__.

UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

USAO# _____

SE A L E D

In the Matter of the Search Of:

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[Fugitive: _____]

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NO. A-__ - ____ M

ORDER EXTENDING SEALING

Before the Court is the Government’s Motion to Extend the Sealing of the Application and Affidavit for Search Warrant and the Search Warrant in the above-styled case, and after considering the same, the Court is of the opinion that it should be granted.

ACCORDINGLY, it is hereby ORDERED that the Clerk of the Court maintain the Application and Affidavit and the Warrant under seal until fourteen days following the arrest of the fugitive identified above. Failure to seek the continuation of sealing beyond that time will result in the warrant documents related to this fugitive being unsealed.

IT IS FURTHER ORDERED that the Government’s Motion to Extend Sealing, as well as this order shall remain sealed until such time as the remaining warrant documents are unsealed.

SIGNED this ____ day of _____, 20__.

UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

USAO# _____

SE A L E D

In the Matter of the Search Of:

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NO. A-__ - ____ M

ORDER EXTENDING SEALING

Before the Court is the Government’s Motion to Extend the Sealing of the Application and Affidavit for Search Warrant and the Search Warrant in the above-styled case, and after considering the same, the Court is of the opinion that it should be granted.

ACCORDINGLY, it is hereby ORDERED that the Clerk of the Court maintain the Application and Affidavit and the Warrant under seal until fourteen days following the filing of a complaint, information, or indictment related to the USAO number identified above, or the United States Attorney informs the court that the investigation is otherwise closed. Failure to seek the continuation of sealing beyond that time will result in the warrant documents related to that USAO number being unsealed.

IT IS FURTHER ORDERED that the Government’s Motion to Extend Sealing, as well as this order shall remain sealed until such time as the remaining warrant documents are unsealed.

SIGNED this ____ day of _____, 20__.

UNITED STATES MAGISTRATE JUDGE

**EXHIBIT “C” TO STANDING ORDER
OF SEPTEMBER 27, 2012**