IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT

IN RE: PROCEDURES FOR SEALED SEARCH WARRANTS	ADMINISTRATIVE ORDER 2015-28 (Amendment to Admin. Order 2009-6)

Generally, records filed in the office of the Clerk of Court are public records open to inspection under Iowa Code Chapter 22. There are certain limited statutory and constitutional exceptions to the contemporaneous right to examine public records and court documents. The Court issued Administrative Order 2009-6 setting forth Procedures for Sealed Search Warrants. Since 2009, the Court has converted to the EDMS systems. Therefore, the Procedures for Sealed Search Warrants shall be updated for the EDMS docketing system.

Under Iowa Section 803.13 search warrant information is a sealed confidential record until such time as a peace officer has executed the warrant and has made a return. Occasionally, an officer will request an order requiring the Clerk to continue to hold search warrant information confidential after the warrant is returned. This situation is not specifically covered by Section 803.13 or any other statutory exception to public disclosure although the content of some search warrant information may fall within certain exceptions provided in Section 22.7.

A Court is authorized to grant a request to seal search warrant information under the First Amendment of the Constitution of the United States and Article I, Sec. 7 of the Iowa Constitution when the Court is presented with statements indicating a specialized need and based thereon the Court makes specific and particularized findings that there is a compelling state interest and there are no less restrictive alternatives. See In Re Search Warrant for Secretarial Area Outside Office of Gunn, 855 F.2d 569 (8th Cir. 1988).

A uniform procedure should be established in the Fifth Judicial District of Iowa for the orderly handling of requests for sealed search warrants. The Court appointed an ad hoc committee of stakeholders to make recommendations for an appropriate procedure. Based upon input from this committee, the Court hereby establishes the following procedure to be followed by the judicial officers of this district.

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

At the time a search warrant is returned, the Court may consider a request by the peace officer or prosecutor for an order requiring the Clerk of Court to maintain search warrant information under seal.

If the Court decides to issue an order sealing search warrant information, the Court shall enter an order in the form of Exhibit "A" attached hereto and incorporated herein by reference. In the sealing order, the Court shall make specific and particularized findings articulating: (1) a compelling governmental interest that outweighs the contemporaneous access right; and (2)

whether less restrictive alternatives to sealing the records exist. The sealing order shall contain an expiration date as set forth in the form.

The order shall be docketed by the Clerk in a generic SW case entitled SEARCH WARRANT where all of the search warrant orders to seal are filed. The security level for this case and all of the filings into this generic SW case will be set at 0. The only litigant indexed to this case is SEARCH WARRANT. This provides notice to the public that a sealing order has been entered. The Clerk's docket shall state "Order Sealing Confidential Records; expires date." This docket entry shall be available to the public.

In addition, the Clerk shall open a new SW case specifically for docketing the search warrant application, endorsement, order, and return of service setting the case security level at a level 5 (if the search warrant does not have an order to seal, then all papers would be filed into this case at a security level 0). The individual(s) listed on the warrant would be indexed as INTERESTED PARTY in Litigants, not as a DEFENDANT.

If a party or person files an application to open sealed search warrant information, the Court shall schedule a prompt hearing with notice to the prosecutor, peace officer, the defendant if a case has been filed, and the person making the request. Upon hearing, the Court shall determine whether the search warrant information or parts thereof shall remain sealed and any additional terms, including whether it can be produced in redacted form.

The District Court Administrator shall disseminate copies of this order and the attached form orders to the County Attorneys of each county of the Fifth Judicial District. The County Attorney shall distribute these orders to each law enforcement agency in the county with instructions for use whenever sealed search warrants are requested in the Fifth District. The form orders shall be presented to the Court when a peace officer requests a sealed search warrant.

This Order shall be effective on April 3, 2015.

SO ORDERED this 3rd day of April, 2015.

ARTHUR E. GAMBLE, Chief Judge
Fifth Judicial District of Iowa

Cc: All 5th District Judges and Magistrates
All 5th District Clerks of Court
All 5th District County Attorneys
David Boyd, State Court Administrator
David Wiggins, Supreme Court Liaison Justice
Mark Cady, Chief Justice, Supreme Court
Adam Gregg, State Public Defender
Valerie Wilson, Polk County Public Defender
Kathy Miller, Polk County Juvenile Public Defender
Case Coordinators for Criminal and Jail Court

Exhibit "A"

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

In Re: Confidential Records	)	SWSW No. _____
	)	Generic SWSW No. _____

Now on this ____ day of _____, 20__, a peace officer and/or prosecutor has presented a request to the Court for an order sealing certain search warrant documents and statements supporting this request. Upon examination of the officer, the Court finds and concludes that an order sealing confidential records should be entered.

THEREFORE, IT IS HEREBY ORDERED:

The Clerk of Court shall file under seal the search warrant application, all affidavits submitted in support thereof, the endorsement, the search warrant and the return (hereafter "the search warrant documents").

In support of its decision to seal the search warrant documents the Court makes the following specific and particularized findings:

☐ There are unusual circumstances present in this particular case as set forth below where disclosure of the facts of this search and the information leading to this search would plainly and seriously jeopardize an ongoing criminal investigation.

☐ There are unusual circumstances in this particular case as set forth below where disclosure of this search and the facts leading to this search would pose a clear and present danger to the safety of an individual.

☐ There are unusual circumstances present in this particular case as set forth below where disclosure of this search or the facts leading to this search would plainly and seriously jeopardize the rights of persons involved to receive a fair trial without adverse pre-trial publicity.

The Court makes the following findings in support of its order sealing search warrant documents:

_____

_____

_____

Based upon the forgoing specific and particularized findings, the Court concludes the State has established a compelling governmental interest in keeping the search warrant documents confidential that outweighs the public's right to contemporaneous access. The Court further concludes there are no less restrictive alternatives other than sealing the search warrant documents at this time.

IT IS FURTHER ORDERED:

This Order shall expire ____ days from the date of filing or forty-five (45) days following the arrest of any person involved whichever occurs first. This expiration date may be extended by further order of the Court. Prior to the expiration of this order, the Clerk may provide copies of the search warrant documents to the prosecutor and the defense attorneys involved in the criminal prosecution of any person resulting from or concerned with the execution of the warrant. However, the search warrant documents shall not be disclosed to the public until the order expires unless otherwise ordered by the Court.

IT IS FURTHER ORDERED:

This sealing order is sealed to prevent disclosure of confidential information. In addition to docketing this order in the search warrant case, the Clerk of Court shall also docket this order under a generic search warrant case under a docket entry stating "Order Sealing Confidential Records; expires (_____date___)." Any order extending the expiration date shall be similarly docketed. This docket entry shall be available to the public.

This Order is subject to review upon notice and hearing by the Court upon the application of any party or person filed with the Clerk of Court.

At the time this Order or any extension expires, the Clerk may disclose it and the sealed search warrant documents to any person requesting access to them.

So ordered this ____ day of _____, 20__.

_____
Judge/Magistrate of the
Fifth Judicial District of Iowa