IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

IN RE SEARCH AND SEIZURE WARRANTS

GENERAL ORDER NO. 22

Because there is a compelling interest in protecting from public disclosure all search or seizure warrant-related documents until the warrant is executed or becomes un executable and because no less restrictive alternative is practical to protect that interest, the issuing District or Magistrate Judge must maintain the confidentiality of all warrant-related documents until they are delivered to the Clerk for filing. Upon receipt of the return inventory on an executed warrant, or upon expiration of the time specified in the warrant for its execution, the Judge must deliver all warrant-related papers to the Clerk of Court for filing in a miscellaneous warrant file.

In order to request that the Judge seal some or all of the documents in any miscellaneous warrant file, the United States Attorney must submit an *ex parte* motion to seal, along with a proposed Order granting that motion. This motion must state reasonably specific facts which establish that: (a) the government has a compelling interest in sealing the documents in question which outweighs the public's qualified first amendment right of access to review those documents; and (b) no less restrictive alternative to sealing is appropriate or practical. **Ordinarily, such a motion must be filed at the time of application for the warrant**. If grounds to seal arise after the warrant has been issued, the United States may, within five working days after the Clerk has filed the warrant papers, submit an *ex parte* motion to seal and a proposed order. The motion must establish, in addition to the above grounds, that the basis for sealing was not known at the time of the warrant application, despite due diligence.

Because there may be cases in which a person's or other entity's privacy interests rise

to the level of a compelling interest sufficient to justify sealing documents in a warrant file, such persons or entities may file a motion to seal, *ex parte*, within five working days after the Clerk has filed the warrant papers.

If no motion to seal has been filed within five working days after the Clerk has filed the warrant papers, the Clerk must open the file to the public for inspection and copying. If a motion to seal is filed, the miscellaneous warrant file must remain sealed until the Judge has ruled on the motion. The Judge must rule on any motion to seal within five working days after the motion is filed. If a motion to seal is denied, the miscellaneous warrant file must remain sealed during the period in which an appeal may be filed.

When the Judge delivers the warrant papers to the Clerk for filing, the Clerk must create and maintain a separate miscellaneous file which must contain the application for the warrant, all supporting affidavits and any return inventory, related motions or orders. The Clerk must also create and maintain a docket sheet, open to the public for inspection and copying, for every miscellaneous warrant file, including files in which an order to seal has been entered. The docket sheet must contain docket entries that describe generally each document in the file and reflect the number of pages of each such document. If the Judge enters an order granting a motion to seal, the Clerk must maintain all documents within the scope of the order to seal in a sealed miscellaneous file.

Any person or other entity seeking to challenge the grounds supporting an order to seal documents contained in a miscellaneous warrant file must submit a motion, directed to the Magistrate Judge or District Judge who signed the warrant, stating specific grounds supporting the release of the sealed documents. In opposing such a motion, the party who obtained the order

to seal has the burden of establishing that a compelling interest justifies a restriction of the public's qualified first amendment right of access to the documents in question and that no less restrictive alternative to sealing is appropriate or practical. In appropriate cases, the Judge may conduct an *in camera* hearing to develop the facts necessary to determine whether a compelling interest justifies sealing the documents in question. If the Judge concludes that the documents should remain under seal, the Judge will enter an order under seal containing specific findings that explain why sealing is necessary and why no less restrictive alternatives are practical or appropriate. The Clerk must open any sealed miscellaneous warrant file after a related indictment or information is filed.

DATED this 20th day of September, 2001.

/s/ Susan Webber Wright
SUSAN WEBBER WRIGHT, CHIEF JUDGE
UNITED STATES DISTRICT COURT