

news coverage, including coverage of Wake County, via the North Carolina News Network, WRAL-FM and WCMC. Capitol Broadcasting also disseminates its news coverage online at www.wral.com.

2. The News and Observer Publishing Company (“News and Observer”) is a North Carolina corporation that maintains its principal place of business in Raleigh, Wake County, North Carolina. Among other things, the company publishes *The News & Observer*, a general interest newspaper that is published in Wake County and distributed throughout the surrounding area of North Carolina. The News & Observer also publishes an online edition at www.newsobserver.com.

3. This motion is grounded in the North Carolina Public Records Law; the First Amendment to the United States Constitution; Article I, § 18 of the North Carolina Constitution; the common law; and this court’s Administrative Order dated May 20, 2008, concerning investigative orders and search warrants (Exhibit B). The specific grounds, which are explained in greater detail in the accompanying Memorandum of Law in Support of Motion to Unseal Search Warrants, include the following:

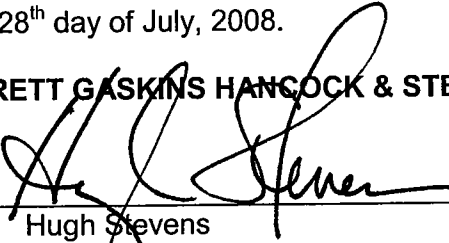
- a. The sealing order is not supported by a written motion setting forth the compelling government interests that purportedly justify the requested sealing;
- b. Because the sealing order apparently was issued before the search warrants were served or executed, it necessarily was grounded, at least in part, on speculation;
- c. The sealing order does not include findings of fact or conclusions of law sufficiently specific as to permit the public and/or appellate courts to understand what compelling government interests, if any, justified the sealing;
- d. The sealing order is not narrowly tailored in scope or duration.

Pursuant to N.C. Gen. Stat. §132-1.4(e) the movants request that this matter be accorded priority by the court and set down for hearing at the court's first opportunity.

Respectfully submitted this 28th day of July, 2008.

EVERETT GASKINS HANCOCK & STEVENS, LLP

By: _____


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Unseal Search Warrants and the memorandum of law in support of same were served on by hand delivery to:

Hon. Colon Willoughby
District Attorney, 10th Prosecutorial District
8th Floor, Wake County Courthouse
Raleigh, North Carolina 27602

This the 28th day of July, 2008.


Hugh Stevens

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT

ORDER PURSUANT TO NCGS 132.1.4(e)

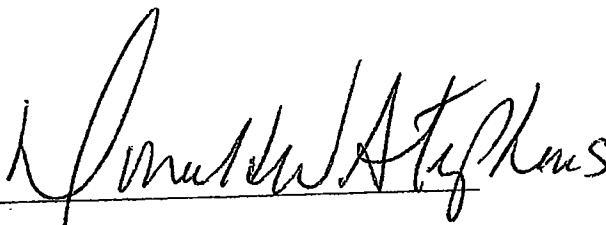
IN RE: Search Warrant – 104 Wallsburg Court, Cary, N.C. (Wake County)

This cause having come on to be heard by the undersigned Superior Court Judge upon motion by the State and it appearing to the court that:

1. That the information contained in the search warrant, application and possible return results thereof fall within the purview of NCGS 132.1.4 (c).
2. That the release of this information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to a fair trial or will undermine an ongoing or future investigation within the meaning of NCGS 132.1.4 (e).

It is therefore ORDERED, pursuant to NCGS 132.1.4 (e), (k), that this motion, order, search warrant, search warrant application and return results thereof be sealed and held by the Wake County Clerk of Court for an initial period of thirty (30) days from this date, subject to court order prior to this time.

This is the 16th day of July, 2008



Superior Court Judge

EXHIBIT A

STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE
COUNTY OF WAKE 2008 MAY 20 PM 4:51 SUPERIOR COURT DIVISION
WAKE COUNTY, C.S.C.

0800R 0460

IN RE: BY _____)
)
)
 INVESTIGATIVE ORDERS)
 AND SEARCH WARRANTS)
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ADMINISTRATIVE ORDER

The following procedure for the processing and secure custody of investigative orders and search warrants issued by judicial officials in Wake County is hereby adopted by the undersigned judges, after consultation with the District Attorney and the Clerk of Superior Court.

PROCESS FOR SEARCH WARRANTS THAT ARE NOT ORDERED SEALED

A judicial official issuing a search warrant pursuant to Article 11 of Chapter 15A of the General Statutes shall retain a copy of the warrant and the warrant application and shall, as soon as practicable, cause such documents to be filed with the Head of the Criminal Division in the office of Clerk of Superior Court. Unless the issuing judicial official directs otherwise, neither the warrant nor the warrant application shall be made available for public inspection until the warrant is served and executed or is returned unserved or more than 48 hours has expired from the time of its issuance, whichever event occurs first. However, in order to preserve the integrity of a criminal investigation, a judicial official may order that such documents be sealed for a reasonable period of time to complete the investigation.

EXHIBIT B

PROCESS FOR SEARCH WARRANTS THAT ARE ORDERED SEALED
PURSUANT TO COURT ORDER


1. Law enforcement officers seeking to seal a search warrant should notify the District Attorney's Office to obtain a Motion and Order to Seal Search Warrant to be presented to the judge at the time the search warrant is sought.
2. If the judge determines that it is appropriate to seal the search warrant, he shall execute the order. The order should state the length of time for which the search warrant is to be sealed.
3. The Court's copy of the search warrant and application for the search warrant should be placed in an envelope with the caption appearing on the outside of the envelope. The envelope and the order sealing the search warrant shall be delivered to the Head of the Criminal Division within the Clerk's office.
4. The Clerk shall establish a log, listing by caption search warrants that have been sealed, the date the order to seal was signed, the date the order expires and the name of the assistant district attorney assigned to the case. The log will be available for public inspection. The Clerk shall also maintain a copy of the order sealing the search warrant on file.
5. The envelope containing the Court's copy of the search warrant and the sealing order shall be safeguarded by the Clerk and held in a confidential file room.
6. Unless the order sealing the search warrant is extended, the Clerk shall notify the District Attorney's office on the date the order expires and return the search warrant to the Criminal Division to be filed with non-sealed search warrants.
7. Once the law enforcement officer has served the search warrant or after 48 hours has passed without execution of the search warrant, the search warrant shall be returned without

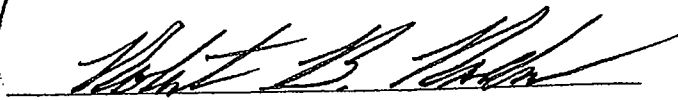
unnecessary delay to the Head of the Criminal Division in the Clerk's office with a copy of the order sealing the warrant. The law enforcement officer shall also provide a written inventory of items seized. If the order sealing the search warrant remains in effect, the search warrant and the inventory shall be filed in the confidential file room. If the order has expired, it will be filed with the other warrants.

PROCESS FOR INVESTIGATIVE ORDERS

Unless specifically required by statute to be filed with the Clerk of Superior Court, all investigative orders signed by judicial officials to obtain medical records, telephone records, business records and other information during the course of a criminal investigation shall be retained by the investigating agency and shall be included as part of the agency's Investigative Report to be provided to the District Attorney when a suspect is charged with a criminal offense. Public access to these records may be permitted only by court order upon a showing of good cause.

So ordered this, the 30 day of May, 2008 to be effective June 1, 2008.


DONALD W. STEPHENS
SENIOR RESIDENT SUPERIOR COURT JUDGE


ROBERT B. RADER
CHIEF DISTRICT COURT JUDGE