



**Memorandum of Understanding:
Electronic Filing of Certain Sealed Applications and Orders**

This Memorandum of Understanding (“MOU”) is entered into by the Clerk of the United States District Court for the District of Columbia (“USDC”) and the United States Attorney’s Office for the District of Columbia (“USAO-DC”). The purpose of this MOU is to provide authorization and set forth the procedures for the electronic filing of sealed applications in criminal investigative matters. This MOU supersedes the prior MOU dated August 15, 2017.

A. Background:

At the request of the Chief Judge of the United States District Court for the District of the Columbia, the USDC Clerk’s Office developed a secure process by which sealed applications may be electronically docketed for review by the duty Magistrate Judge and processed in accord with any order of the duty Magistrate Judge. After an initial testing phase, which began on April 10, 2017 with limited types of sealed applications in criminal investigative matters, the Clerk’s Office and the USAO-DC adopted this secure process on August 15, 2017. The Clerk’s Office and USAO-DC have continued to work to expand the scope of this initiative to include the electronic filing and processing of more types of sealed applications.

B. Limited Scope:

1. The electronic filing of sealed applications is limited to the types of applications listed in **ATTACHMENT A**, which will be updated as appropriate. All other sealed applications will continue to be submitted for consideration in paper form.
2. All sealed applications submitted on weekends, outside of normal business hours, or in exigent circumstances, including those of types otherwise approved for electronic filing, may be submitted for consideration in paper form.

C. Process:

The following process will be followed for the electronic filing of certain sealed applications from the USAO-DC:

1. To file a sealed application, an Assistant United States Attorney (“AUSA”) or other authorized employee of the USAO-DC will open a sealed case on the USDC Case Management/Electronic Case Files (“CM/ECF”) system following guidance provided with respect to case types and in accordance with written instructions provided by the Clerk’s Office. The opening of a new sealed case will cause the generation of a case opening report in the USDC Clerk’s Office.
2. Designated Clerk’s Office staff will review new sealed case opening reports on an ongoing basis during regular business hours and perform quality control to identify any errors in the case opening. Once quality control has been completed, the Clerk’s Office will grant the designated AUSA or authorized employee docket access and notify him or her via email that the sealed application and proposed order may be filed.
3. The AUSA or authorized employee will then docket the sealed application and proposed order in accordance with written docketing instructions provided by the Clerk’s Office.

4. Designated Clerk's Office staff will identify newly filed sealed applications and proposed orders on an ongoing basis during regular business hours and will perform quality control on any such applications and proposed orders. Once quality control has been completed, Clerk's Office staff will assign the matter(s) to the duty Magistrate Judge and, following internal protocols, forward electronically any new applications and proposed orders to the duty Magistrate Judge for consideration.
5. Upon execution by the duty Magistrate Judge of an order either granting or denying an application, designated Clerk's Office staff will electronically certify and docket the order.
6. The USAO-DC will be advised through a notice of electronic filing (NEF) when an order has been signed and docketed.

D. Standard Format of Captions for Sealed Applications and Orders:

1. The case captions for sealed applications and orders will follow standard formats, as agreed upon by the USDC Clerk's Office and the USAO-DC. Each standard caption shall contain variable items of information, depending on the type of application. Except as provided in paragraph D.2, the USAO-DC AUSA or authorized employee must use the standard caption format, including the information responsive to the designated variables, when initiating or making successive applications in a sealed case. Every document filed in a particular sealed case shall use the same caption.
2. An AUSA may opt to omit one or more variables in the caption if disclosure of that information is considered by the USAO-DC to pose a risk of compromising an ongoing investigation.

E. Public Reporting of Caption Information for Sealed Cases:

1. The USDC Clerk's Office will generate biannually reports via CM/ECF reflecting the docket numbers and case captions associated with sealed applications ("docket reports") filed by the USAO-DC, except for applications related to the non-disclosure of grand jury subpoenas. These docket reports for sealed applications will be made publicly available on March 31 and September 30 of each year in electronic form.
2. The docket reports will contain docket numbers and case captions associated with certain sealed applications filed during the six-month period ending six months before the issuance of the report. For example, a sealed application filed in November 2018 would be included in the semi-annual report issued on September 30, 2019.
3. Any internal tracking or reference numbers used by the USAO-DC (e.g., "USAO #" or "USAO Ref. #") that are placed outside the caption of a sealed application will not be disclosed in the regular release of docket reports. Any such internal tracking or reference numbers are intended to remain under seal and shall not be disclosed.

F. Exception to Local Criminal Rules:

Sealed applications and orders filed electronically pursuant to this MOU are exempted from the requirements of Local Criminal Rule 49(e)(1) and (e)(4) that such documents be filed in paper form.

Signed and agreed:



Angela D. Caesar
USDC Clerk of Court

Date: 4/3/19



T. Patrick Martin
Chief, Criminal Division, USAO-DC

Date: 4/3/19

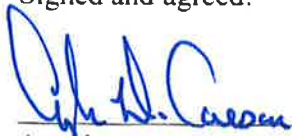
ATTACHMENT A

Sealed Applications and Orders Subject to Electronic Filing MOU

USAO-DC is authorized to file sealed documents pursuant to the following authorities electronically, as of the dates indicated and subject to the terms and conditions of this MOU:

1. As of August 15, 2017, sealed applications, proposed orders and related documents pursuant to 18 U.S.C. §§ 3122-27 for pen registers and trap and trace devices;
2. As of September 14, 2017, sealed applications, proposed orders and related documents pursuant to 18 U.S.C. § 2703(d);
3. As of May 10, 2018, sealed applications, proposed orders, and related documents pursuant to 18 U.S.C. § 2705(b) for nondisclosure orders for grand jury subpoenas;
4. As of May 10, 2018, sealed applications, proposed orders and related documents pursuant to 18 U.S.C § 3512 for orders pursuant to 18 U.S.C. § 2703(d);
5. As of October 15, 2018, sealed applications, proposed orders and related documents pursuant to 28 U.S.C. § 1651(a) for orders precluding notice of grand jury subpoenas;
6. As of November 1, 2018, sealed applications, proposed orders, proposed warrants and related documents for search warrants sought pursuant to 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) and/or Rule 41 of the Federal Rules of Criminal Procedure;
7. As of November 1, 2018, sealed applications, proposed orders and related documents for orders for nondisclosure of search warrants pursuant to 18 U.S.C. §§ 2705(b) and sealing, including applications and related orders for further periods of nondisclosure and omnibus or consolidated applications and related orders for further periods of nondisclosure; and
8. As of November 1, 2018, sealed applications, proposed orders, proposed warrants and related documents for search warrants sought pursuant to 18 U.S.C § 3512 and 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A).

Signed and agreed:



Angela D. Caesar
USDC Clerk of Court:
Date: 4/3/19



T. Patrick Martin
Chief, Criminal Division USAO-DC
Date: 4/3/19

MOU Effective: August 15, 2017; Revised April 3, 2019
Attachment A Amended: September 14, 2017; May 18, 2018; April 3, 2019