

<p>District Court, El Paso County, State of Colorado Court Address: P.O. Box 2980 270 South Tejon Colorado Springs, CO 80903-2203 Phone Number: (719)452-5000</p> <hr/> <p>PEOPLE OF THE STATE OF COLORADO, Plaintiff, vs. Letecia Stauch, Defendant.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: 20CR1358 Div.:15S Ctrm: S403</p>
<p>[O-06] ORDER GRANTING MOTION TO UNSEAL THE AFFIDAVIT OF PROBABLE CAUSE IN SUPPORT OF ARREST</p>	

This matter comes before the Court pursuant to a Motion to Unseal Forthwith the Affidavit of Probable Cause in Support of Arrest. The Court has considered the Motion, Response and Reply.

An arrest warrant is a criminal justice record as that term is defined in C.R.S. §24-72-302(4). Because this warrant is valid and has been used to investigate a crime it does meet the definition of a criminal justice record. *Harris v. Denver Post Corp.*, 123 P.3d 1166 (Colo. 2005). This Court is a criminal justice agency as that term is defined in C.R.S. §24-72-302(3). C.R.S. §24-72-305 permits inspection of a criminal justice record unless such inspection (1) would be contrary to a state statute or (2) such inspection is prohibited by rules promulgated by the supreme court or by order of any court. No one has argued that inspection in this case is contrary to a state statute or is otherwise prohibited by Court Rule. C.R.S. §16-5-203 permits a court to deny disclosure of names and addresses of witnesses to a defendant. C.R.S. §24-4.1-302.5(1)(v) allows a court to prevent disclosure of a victim’s current address, telephone number, place of employment or other locating information.

In addition to the applicable statutes, the Supreme Court has promulgated Chief Justice Directive 05-01, recently amended in September 2016, which governs public access to court records and other information. A Chief Justice directive on such a matter is such a rule the court must consider under C.R.S. §24-72-105. *Office of State Court Administrator v. Background Information Services, Inc.*, 994 P.2d 420 (Colo. 1999). Section 4.10 of CJD 05-01 provides that information in the court record is accessible to the public except as provided in Section 4.60. Section 4.60 provides a listing of a number of types of information, such as mental health records, medical records, etc, contained in court records that are not accessible to the public. However, nothing contained in Section 4.60 prohibits disclosure of an arrest affidavit.

In exercising its discretion regarding public inspection of its records, the Court should balance a number of factors including (1) the privacy interests of individuals who may be impacted by the decision to allow inspection; (2) the agency's interest in keeping confidential information confidential; (3) the agency's interest in pursuing ongoing investigations without compromising them; (4) the public purpose served by allowing inspection and (5) any other consideration relevant to the particular inspection request. *Madrigal v. City of Aurora*, 2014COA67.

In addition, in *Star Journal Publishing Corp. v. County Court*, 591 P.2d 1028 (Colo. 1979), the Colorado Supreme Court cited ABA Standard 8-3.2 which provides that a Court may properly prohibit release of a document if (1) the dissemination of information would create a clear and present danger to the fairness of the trial; and (2) the prejudicial effect of such information on trial fairness cannot be avoided by any reasonable alternative means. *Star Journal* further holds that "inherent in this standard are the requirements that *evidence be presented* as to the likelihood of interference with the impartiality of the jury."

The prosecution has advised the Court that it has no objection to release of the affidavit and that such release would not jeopardize ongoing investigative efforts. Defendant argues, without reference to *any* specific facts contained in the probable cause affidavit, that unsealing the affidavit is likely to lead to disclosure of information to the public that may be confidential, privileged, or ultimately inadmissible at trial, including statements made by Ms. Stauch. No doubt, there will be examination of potential jurors during *voir dire* regarding pre-trial publicity. That subject can be addressed at that time if necessary.

Defendant also argues that release of information to the public could jeopardize the defense's ability to effectively conduct an independent investigation. Again, however, Defendant fails to provide any evidence or even one concrete example of how that might occur in this case.

The Court has considered the privacy interests of the individuals who may be impacted by the decision to allow inspection. The Court has previously granted an Order providing notice to both sides of the Court's intent to unseal the probable cause affidavit. The Court has also redacted limited information in the PC affidavit in conformity with the above referenced rules and statutes. The Court has also redacted some information that may be the subject of the People's March 19, 2020 Request for Sealing of Additional Supporting Documents and Data Obtained from Interception of Wire and Electronic Communications. Otherwise, no specific example of how either side's investigative efforts could be compromised has been given to the Court. As such, the Court cannot weigh that factor in favor of non-disclosure. There is a significant interest in disclosure as demonstrated by the public interest in the case. The potential prejudice to Defendant's right to a fair trial is speculative at best. In any event, that issue can be addressed through appropriate *voir dire* and Court instruction on the matter to potential jurors.

Considering all of the arguments raised by the parties and after review of the probable cause affidavit, the Court GRANTS the Motion to Unseal Forthwith the Affidavit of Probable Cause in Support of Arrest. The Defendant has failed to establish that release of this document would be contrary to the public interest or would otherwise pose a substantial probability of harm to the fairness of the trial. The Defendant has also failed to establish, that to the extent any harm would result from release of the affidavit, the continued suppression of the affidavit would prevent such

harm. Stated another way, there have already been media stories regarding the incident of which the Defendant is accused. In fact, the Defendant herself has been interviewed by news agencies regarding the matter. The Court does not believe continued suppression of the affidavit will change media interest in the story. Even if the Court were to assume that any harm would result from publication of the affidavit, Defendant has simply failed to show the continued suppression of this affidavit will somehow prevent a substantial probability of harm to the fairness of the trial.

The People had previously filed a Motion for Advance Notice of the Unsealing and Permission to Share Sealed Arrest Warrant Affidavit with the Parent of the Victim. The Court granted that Motion by Order entered at 3:20 p.m. on April 2, 2020 and authorized the immediate release of the redacted arrest affidavit to the parents of the victim. In that Order, the Court indicated that it would order the probable cause affidavit be unsealed to the public at 10:00 a.m. on April 10, 2020. In the meantime, the Court has become aware that the arrest affidavit has since been shared on social media websites. As such, the delay requested by the People is no longer feasible or necessary. The Court ORDERS that the redacted affidavit of probable cause be IMMEDIATELY RELEASED to the public and posted on the publicly accessible webpage for this case.

SO ORDERED this 3rd day of April, 2020.

BY THE COURT:



Gregory R. Werner
District Court Judge