

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: JUDICIAL PROCEDURE FOR RETURNS OF SEARCH WARRANTS)
)
) ADMINISTRATIVE ORDER
) NO. 3.16
)
)
)

Pursuant to Florida Statutes §§ 43.26 and 933.14; the authority of this Court conferred by Fla. R. Jud. Admin. 2.050; the provisions of Fla. R. Jud. Admin. 2.051(b)(3) and (c)(e); and the inherent authority of the Court to administer and regulate the courts of the Twentieth Judicial Circuit, the Court finds as follows:

1. Florida Statute 933.14(4) provides in pertinent part the following:

The judge or magistrate to whom said search warrant is returned shall file the same with the inventory and sworn return in the proper office, and if the original affidavit and proofs upon which the warrant was issued are in his or her possession, he or she shall apply to the officer having the same and the officer shall transmit and deliver all of the papers, proofs and certificates to the proper office where the proceedings are lodged.

2. There is no uniform procedure regarding returns of search warrants. In addition, neither the statute cited above nor any applicable case law provides a definition for the term “proper office.” Indeed, the Court is aware of at least three different procedures in place throughout the circuit for handling warrant returns depending on the county in question and the issuing judge.

3. It is imperative that a uniform procedure for the processing of search warrants be in place throughout this circuit so as to eliminate any potential confusion among judges, court personnel, law enforcement officers, counsel, their clients, and any other interested persons.

Based upon the foregoing, it is

ORDERED AND ADJUDGED as follows:

1. The Court finds by consent of the various offices that the Clerks of Courts of the five counties of the Twentieth Judicial Circuit are the “proper office” for the handling of search warrant returns as contemplated and referenced by Florida Statute § 933.14(4) and pursuant to Rule 2.051(b)(3).
2. When a return of search warrant, inventory, and related materials are returned to a member of the judiciary after execution, the judge shall review the materials to insure that they are proper. If the materials are in proper order, the judge shall forward these materials to the Office of the Clerk of Courts in that county.
3. Search warrants and their returns may be exempt from public disclosure if they are part of an ongoing criminal investigation. Section 119.07(3)(b), Fla. Stat.; *Florida Publishing Company v. State*, 706 So.2d 54 (Fla. 1st DCA), *review dismissed*, 717 So.2d 531 (Fla. 1998). An applicant for access to search warrant records (applicant) shall apply in writing to the proper office (Clerk) pursuant to the procedure set forth in Rule 2.051(e). The Clerks of Courts shall thereupon disclose these records unless the State Attorney’s Office or the law enforcement agency involved in the search warrant contends that it is part of an ongoing criminal investigation.
4. Disagreements between the law enforcement agencies and the applicant shall be resolved before the judge who issued the search warrant upon the filing of a motion by any affected party seeking a determination of the status of the criminal investigation involving the warrant.

5. The Clerk of Courts is a ministerial agency in this proceeding and has no responsibility or authority to resolve disputes regarding search warrants. If the Clerk of Courts is advised that there is a conflict regarding whether an executed search warrant is part of an ongoing criminal investigation, the Clerk shall not disclose the warrant or return until the applicant receives authority from the judge who issued the warrant to release the warrant and presents this authority to the Clerk of Courts.

6. Judges are no longer to retain copies or original records of search warrants in their office files. The Clerks of Courts, as the proper office for handling search warrant returns, is hereby designated to be the proper custodian of all such records pursuant to Chapter 119 of the Florida Statutes and Rule 2.051.

7. This order does not alter the procedure for the issuance of search warrants by a duty judge as set forth in Administrative Order 2.7

This order shall take effect on the date of its execution and shall thereafter remain in effect until and unless it is otherwise modified or repealed by further order of this Court.

DONE AND ORDERED in Chambers this 17th day of December, 2002.

STATE OF FLORIDA, COUNTY OF LEE

FILED FOR RECORD
This 18 Day of Dec, 2002 Record in CR. CT
Book 46 Page _____ and Record Verified.
CHARLIE GREEN By [Signature]
Clerk Circuit Court Deputy Clerk

[Signature]
William L. Blackwell
Chief Judge

History. - Administrative Order 3.16 (May 16, 2002); Administrative Order 3.16 (March 13, 2002).

I certify this document to be a true and correct copy of the original on file in my office, Charlie Green, Clerk Circuit Court, Lee County, Florida
Dated: 12-19-02
By [Signature]
Deputy Clerk