

## Social Media (Facebook) Search Warrant

14 messages

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**Lisa Hewitt** <gogebic98oncall@gmail.com>

Wed, Sep 20, 2017 at 12:42 PM

Reply-To: madcm@googlegroups.com

To: madcm@googlegroups.com

Morning!

I just received a request to issue a search warrant for Facebook messages in relation to a drug case that resulted in death. The warrant included the following:

It is requested the release of the records not be disclosed to the page owner. Facebook policy requires the page owner to be notified unless otherwise ordered in the search warrant. It is my belief that notification will result in the loss of information and will aid the subject of this investigation in continuing his flight from justice. Furthermore, the signature of the issuing judge shall suffice as the issuance of an order not to disclose the release of information to the subscriber.

I didn't sign pending further research / Judge's review. Have any of you run into this?

Thank you,

Lisa Hewitt  
Gogebic County

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You received this message because you are subscribed to the Google Groups "MADCM" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [madcm+unsubscribe@googlegroups.com](mailto:madcm+unsubscribe@googlegroups.com).

To post to this group, send email to [madcm@googlegroups.com](mailto:madcm@googlegroups.com).

Visit this group at <https://groups.google.com/group/madcm>.

For more options, visit <https://groups.google.com/d/optout>.

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**James Patrick Brennan** <jbrennan@ferndalecourt.com>

Wed, Sep 20, 2017 at 12:54 PM

Reply-To: madcm@googlegroups.com

To: MADCM <madcm@googlegroups.com>

Hi Lisa. It's a warrant to be served out of state. We have a policy that the Judge has to sign those. Have a great day.

*Sent from my Verizon 4G LTE Droid*

[Quoted text hidden]

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**Wiewiora, John** <WiewioraJo@co.muskegon.mi.us>

Wed, Sep 20, 2017 at 1:09 PM

Reply-To: madcm@googlegroups.com

To: "madcm@googlegroups.com" <madcm@googlegroups.com>

To my knowledge, there is no authority under state law allowing us to make such an order. Where we have allowed it is under the federal code in regard to remote computing/telecommunication services. This allows courts of competent jurisdiction, which includes state district courts, to order that information not be released to any other party including the person whose account is being "searched." The order is pursuant to 18 USC Sec 2703(d), and there are requirements to meet this section.

However, if the order is included within the body of the affidavit, as yours appears to be, it would not be a valid order. The Warrant portion of an affidavit and search warrant contains the order made by the court; the affidavit is

supposed to be a statement of facts which is sworn to by the affiant. By placing the language within the body of the affidavit, attaching your signature does not grant the order but only shows that you have granted the warrant to search and that the affidavit was sworn to before you. It would be best to have a separate order of suppression signed which states that the requirements of 18 USC sec 2703(d) have been met and that it is ordered that the entity to whom the warrant is addressed is not to inform any other party as to the search.

**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Lisa Hewitt  
**Sent:** Wednesday, September 20, 2017 12:43 PM  
**To:** madcm@googlegroups.com  
**Subject:** Social Media (Facebook) Search Warrant

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**Liz Stankewitz** <liz@cheboygancounty.net>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, Sep 20, 2017 at 2:02 PM

We have a separate non-disclosure order provided to us by the officer. I would be happy to share it with you. In our court, the magistrate signs the search warrant if there is probable cause and then we have the judge sign the non-disclosure order.

**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Lisa Hewitt  
**Sent:** Wednesday, September 20, 2017 12:43 PM  
**To:** madcm@googlegroups.com  
**Subject:** Social Media (Facebook) Search Warrant

Morning!

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[Quoted text hidden]  
[Quoted text hidden]

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**gogebic98oncall** <gogebic98oncall@gmail.com>  
Reply-To: madcm@googlegroups.com  
To: MADCM <madcm@googlegroups.com>

Wed, Sep 20, 2017 at 3:11 PM

Please share.

On Wednesday, September 20, 2017 at 1:02:24 PM UTC-5, Liz Stankewitz wrote:

We have a separate non-disclosure order provided to us by the officer. I would be happy to share it with you. In our court, the magistrate signs the search warrant if there is probable cause and then we have the judge sign the non-disclosure order.

**From:** ma...@googlegroups.com [mailto:ma...@googlegroups.com] **On Behalf Of** Lisa Hewitt  
**Sent:** Wednesday, September 20, 2017 12:43 PM  
**To:** ma...@googlegroups.com  
**Subject:** Social Media (Facebook) Search Warrant

Morning!

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Thank you,

Lisa Hewitt

Gogebic County

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You received this message because you are subscribed to the Google Groups "MADCM" group.  
To unsubscribe from this group and stop receiving emails from it, send an email to [madcm+un...@googlegroups.com](mailto:madcm+un...@googlegroups.com).  
To post to this group, send email to [ma...@googlegroups.com](mailto:ma...@googlegroups.com).  
Visit this group at <https://groups.google.com/group/madcm>.  
For more options, visit <https://groups.google.com/d/optout>.

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**James Pahl** <[jbpahl0824@gmail.com](mailto:jbpahl0824@gmail.com)>  
Reply-To: [madcm@googlegroups.com](mailto:madcm@googlegroups.com)  
To: MADCM <[madcm@googlegroups.com](mailto:madcm@googlegroups.com)>

Wed, Sep 20, 2017 at 5:09 PM

John Wiewiora:

This sounds like an excellent article for the Docket. Would you be so kind as to write something up about search warrants and 18 USC Sec 2703(d) and what you need to comply with that federal law.

Jim  
Docket Editor  
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**Lisa Hewitt** <[gogebic98oncall@gmail.com](mailto:gogebic98oncall@gmail.com)>  
Reply-To: [madcm@googlegroups.com](mailto:madcm@googlegroups.com)  
To: [madcm@googlegroups.com](mailto:madcm@googlegroups.com)

Thu, Sep 21, 2017 at 4:51 PM

Thank you all for replying. Liz, please send a copy of the disclosure when you have a chance. I agree with James, excellent material for the docket.

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**James Patrick Brennan** <[jbrennan@ferndalecourt.com](mailto:jbrennan@ferndalecourt.com)>

Thu, Sep 21, 2017 at 5:19 PM

Reply-To: madcm@googlegroups.com  
To: MADCM <madcm@googlegroups.com>

Can I, also, get a copy of your order. Thanks, Pat.

*Sent from my Verizon 4G LTE Droid*  
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**James Patrick Brennan** <jbrennan@ferndalecourt.com>  
Reply-To: madcm@googlegroups.com  
To: MADCM <madcm@googlegroups.com>

Thu, Sep 21, 2017 at 6:44 PM

Hi John. I've reread your email and Lisa's original email and still don't see a magistrate having the authority to issue the warrant, a district Court judge, yes. Magistrates maybe? If I remember right, in the Kilpatrick case, it was argued that the suspeona was held unlawful but complied with. Curious. Brennan

*Sent from my Verizon 4G LTE Droid*  
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**Wiewiora, John** <WiewioraJo@co.muskegon.mi.us>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Fri, Sep 22, 2017 at 10:47 AM

2703 says it may be issued by any court of competent jurisdiction following that state's search warrant procedures. Since Magistrates are authorized to grant search warrant requests under state law as well as make any orders in furtherance of those, we have been allowed to sign such warrants and make such orders by our chief judge.

**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** James Patrick Brennan  
**Sent:** Thursday, September 21, 2017 6:45 PM  
**To:** MADCM  
**Subject:** RE: Social Media (Facebook) Search Warrant

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**James Patrick Brennan** <jbrennan@ferndalecourt.com>  
Reply-To: madcm@googlegroups.com  
To: MADCM <madcm@googlegroups.com>

Fri, Sep 22, 2017 at 11:00 AM

Thanks John. I can't unless, under emergency, a judge is not available, such as Friday afternoons. Lol

*Sent from my Verizon 4G LTE Droid*  
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**Liz Stankewitz** <liz@cheboygancounty.net>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Fri, Sep 22, 2017 at 11:34 AM


I've attached the Order for Non-Disclosure. Our judge asked that the hand written language be added to the final copy, which is in our other court, but you get the gist...

**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** gogebic98oncall  
**Sent:** Wednesday, September 20, 2017 3:12 PM  
**To:** MADCM  
**Subject:** Re: Social Media (Facebook) Search Warrant

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 **DOC092217.pdf**  
22K

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**James Patrick Brennan** <jbrennan@ferndalecourt.com>  
Reply-To: madcm@googlegroups.com  
To: MADCM <madcm@googlegroups.com>

Fri, Sep 22, 2017 at 11:44 AM

Thanks Liz. Have a great weekend. Pat

*Sent from my Verizon 4G LTE Droid*

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**Wiewiora, John** <WiewioraJo@co.muskegon.mi.us>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Fri, Sep 22, 2017 at 12:15 PM

I'm glad you put a 90 day period on it, as required by the law. Our officers submit it with open suppression "until further order of the court or until an arrest warrant is issued," which does not comply.

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**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Liz Stankewitz  
**Sent:** Friday, September 22, 2017 11:35 AM  
**To:** madcm@googlegroups.com  
**Subject:** RE: Social Media (Facebook) Search Warrant

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