

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	MISC. NO.
v.	:	
	:	Violations:
JAMES VARNELL CUSICK JR,	:	18 U.S.C. §§ 1752(a)(1) and (2)
	:	40 U.S.C. §§ 5104(e)(2)(D) and (G)
	:	
Defendant.	:	<u>Filed Under Seal</u>

**GOVERNMENT’S MOTION TO SEAL
CRIMINAL COMPLAINT, SUPPORTING AFFIDAVIT, AND
RELATED DOCUMENTS, AND MEMORANDUM IN SUPPORT THEREOF**

The United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby respectfully moves this Court for an Order directing that the Criminal Complaint, Affidavit in support thereof, related documents, this Motion and the Court’s Order sealing the aforesaid documents be placed under seal until further order of the Court. In support of this Motion, the United States represents the following:

1. The sealing of this matter, at this time, is necessitated by the government’s ongoing criminal investigation into unlawful activity in and around the U.S. Capitol grounds on January 6, 2021. At this time, law enforcement continues to investigate not just the defendant, but other individuals who may have participated with him in the charged conduct. Immediate public disclosure of the Complaint, Affidavit in support thereof, and related documents would alert the subjects of the investigation about the details of the investigation, which may result in subjects fleeing, destroying evidence, and/or tampering with evidence.

2. Accordingly, the government submits that these facts present an extraordinary situation and a compelling governmental interest that justify sealing of the Complaint, Affidavit, and related documents until the existence and particulars of the Affidavit must be disclosed, pursuant to the government’s legal obligations, to counsel for the defendant, who may be arrested

in the future.

WHEREFORE, the government respectfully requests that this Motion be granted.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY
D.C. Bar Number 415793

By: /s/ Anne P. McNamara

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ORDER

Based on the representations in the Government's Motion to Seal Criminal Complaint, Affidavit in support thereof, and related documents, and to Delay Entry on the Public Docket of the Filing of this Motion to Seal, this Court makes the following:

FINDINGS OF FACT

Public disclosure of the existence of the Criminal Complaint, Affidavit in support thereof, arrest warrant, and other related documents at this time might alert the defendant and other subjects of the investigation that they are wanted for criminal charges, and this presents the risk that the defendant and other individuals who may have participated with him in the charged conduct might fleeing, destroy evidence, and/or tamper with evidence.

Based on the representations in the Government's Motion, *Washington Post v. Robinson*, 935 F.2d 282, 289 n.10 (D.C. Cir. 1991), and this Court's findings of facts, this Court finds that there is a compelling governmental interest in sealing the Criminal Complaint, Affidavit in support thereof, related documents, this Motion and the Court's Order sealing the aforesaid documents be placed under seal, and that an extraordinary situation exists which justifies a delay in the public docketing of any notice that the Government's Motion and this Order have been filed with the Criminal Clerk's office under seal.

It is **ORDERED** that this Order, the attached Motion to seal, Criminal Complaint, Affidavit in support thereof, arrest warrant and other related documents shall be filed under seal in the Criminal Clerk's office until further order of this Court, or until the arrest of the defendant, whichever occurs first. The Criminal Clerk's office shall unseal the Complaint upon notification that the defendant has been arrested, without the need for any further action by the Court.

It is further **ORDERED** that the Criminal Clerk's office shall not make any entry on the public docket in this case of the Motion to Seal and the Order granting such Motion, the Complaint, and other pleadings filed under seal in this case until further order of this Court.

It is further **ORDERED** that notwithstanding the other provisions of this ORDER, the government shall be permitted to disclose the Complaint, Affidavit in support thereof, arrest warrant and related materials in furtherance of its law enforcement needs and discovery obligations.

Dated: June 21, 2021

HONORABLE ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE

cc: Anne P. McNamara
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