

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 07-mj-01221-MEH-1

UNITED STATES OF AMERICA,

Plaintiff,

vs.

1. CORY VOORHIS,

Defendant.

**DEFENDANT’S MOTION TO SEAL EXHIBITS 1 – 4 AND 7 – 8 TO MOTION
TO DISMISS BASED UPON SELECTIVE PROSECUTION, MOTION FOR
DISCOVERY, AND MOTION FOR AN EVIDENTIARY HEARING**

Pursuant to D.C. COLO.LCrR 47.1 and 47.2 and ECF Users Manual (Version 3.1), Defendant Cory Voorhis (“Voorhis”), through his attorneys, William L. Taylor and Danielle R. Voorhees of Holland & Hart LLP, and Patrick L. Ridley of Ridley, McGreevy & Weisz, P.C., respectfully requests that the Court seal Exhibits 1-4 and 7-8 to Voorhis’s Motion to Dismiss for Selective Prosecution, for Discovery, and for Evidentiary Hearing. In support of this Motion Voorhis states as follows:

1. Exhibits 1 – 4 and 7 – 8 to Voorhis’s Motion to Dismiss are Investigative Reports by the FBI and/or CBI (Exhibits 1 and 8), a CCIC/NCIC log (Exhibit 2), an email identifying an individual who accessed the CCIC/NCIC database (Exhibit 3), and letters to the CBI from Counsel for the gubernatorial campaign of A. William Ritter, Jr. (Exhibits 4 and 7). These

documents identify relevant individuals, including at least two individuals who accessed the NCIC database.

2. While judicial documents are generally available to the public, they may be sealed if the public's right to access "is outweighed by the interest favoring nondisclosure." *See United States v. McVeigh*, 119 F.3d 806, 811 (citing *Nixon v. Warner Commc'ns*, 435 U.S. 589, 599 (1978)). Even if the First Amendment would normally grant public access to the documents, they may be sealed upon a showing that closure "is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.* at 814 (internal citations and quotations omitted).

3. Voorhis only seeks to seal documents involved in the FBI and CBI investigation of this matter, which documents identify people who allegedly accessed the CCIC/NCIC database (Exhibits 1, 2, and 3), and others who are potential witnesses and who may have knowledge of this other access of the CCIC/NCIC database (Exhibits 4, 7, and 8). These documents are not the type of materials generally available to the public. "[D]ocuments generated during [a law enforcement] investigation and the conduct of the investigators are largely shielded from public view." *United States v. McVeigh*, 918 F. Supp. 1452, 1457 (W.D. Okl. 1996).

4. Voorhis intends to file his Motion to Dismiss publicly, removing the names of certain individuals whose identity he seeks to protect. The public will, therefore, have full access to Voorhis's arguments, as well as descriptions of the evidence on which he relies, including important quotations from that evidence. Voorhis's request to seal is narrowly limited to certain Exhibits.

5. No party will be prejudiced by the filing of the Exhibits under seal.

WHEREFORE, Voorhis respectfully requests that the Court allow Exhibits 1 – 4 and 7 – 8 to his Motion to Dismiss for Selective Prosecution, for Discovery, and for an Evidentiary Hearing be accepted as filed under Seal. A proposed order is attached for the Court's convenience.

Dated November 2, 2007

Respectfully submitted,

s/ William L. Taylor

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ATTORNEYS FOR DEFENDANT CORY VOORHIS

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2007, I have caused to be electronically filed the foregoing with the Clerk of Court using CM/ECF system which will send notification of such filing to the following via e-mail. Copies of the sealed documents will be e-mailed to the following:

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s/ Brooke Nicholson
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