FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

APR 20 1981

JOE R. ROMANE, Clerk
By..... Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In the Matter of the Local Rules for the Western District of Washington	ORDER

The local rules for the Western District of Washington are hereby amended by the adoption of a new Criminal Rule 41 to read as follows:

CrR 41

TELEPHONIC SEARCH WARRANT APPLICATIONS

(a) Telephonic search warrant applications may be made only to the Seattle full-time Magistrates unless otherwise ordered by a United States District Judge of this District.

(1) One Magistrate shall be designated at all times, on a rotating basis, to receive warrant applications.

(2) Whenever possible, the Magistrate shall have voice recording equipment available to record all telephonic applications for search warrants.

(b) A telephonic application for a search warrant shall only be made with the prior approval of the United States Attorney, or an Assistant United States Attorney, for this District. Whenever possible:

(1) The application shall be made by conference call in which both a law enforcement agent and an Assistant

United States Attorney are able to converse with the Magistrate.

(2) Prior to calling the Magistrate, the law enforcement agent and the Assistant United States Attorney shall have agreed to a form of affidavit which can be read to the Magistrate verbatim insofar as circumstances permit.

(c) The Magistrate must decide whether it is reasonable to dispense with a written affidavit before authorizing a telephonic search warrant application. Among the factors the Magistrate may consider in making this determination are:

(1) Whether the agent can appear before the Magistrate during regular court hours;

(2) Whether the agent requesting a search warrant is a significant distance from the Magistrate;

(3) Whether the factual situation is such that it would be unreasonable for a substitute agent, who is located near the Magistrate, to present a written affidavit in person to the Magistrate in lieu of proceeding with a telephonic application; and,

(4) The possibility that if a search warrant were not issued pursuant to the telephone application, there would be a significant risk that evidence would be destroyed.

(d) On the first court day following the issuance of a search warrant based on a telephonic application, the Magistrate shall have a duplicate tape made of the application, furnish that tape to the United States Attorney's Office who shall cause a transcription of the tape to be made and returned to the Magistrate.

(e) Deviation from the procedures set forth in this rule may be grounds for the Magistrate to refuse a warrant application, but shall not be grounds for a motion to suppress evidence

that has been seized.

This rule shall be effective May 8th, 1978.

Walter T. McGovern, Chief Judge,
United States District Court

Morell E. Sharp, Judge
United States District Court

Donald S. Voorhees, Judge
United States District Court