

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

FILED ENTERED  
LOGGED RECEIVED

JUN 15 1988

CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

IN RE: )  
 )  
AMENDMENTS TO ) GENERAL ORDER  
LOCAL CRIMINAL RULES ("CrRs") )  
 )  
\_\_\_\_\_ )

The Local Criminal Rules ("CrRs") of this Court are hereby amended as follows:

Rule CrR 41 is amended to read:

(a) Telephonic search warrant applications may be made to a full-time Magistrate 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

1 District. Whenever possible:

2 (1) The application shall be made by conference call in  
3 which both a law enforcement agent and an Assistant United States  
4 Attorney are able to converse with the Magistrate.

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

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

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

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

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

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

25 (d) On the first court day following the issuance of a  
26 search warrant based on a telephonic application, the Magistrate  
shall have a duplicate tape made of the application, furnish that

1 tape to the United States Attorney's Office who shall cause a  
2 transcription of the tape to be made and returned to the  
3 Magistrate.

4 (e) Deviation from the procedures set forth in this rule may  
5 be grounds for the Magistrate to refuse a warrant application, but  
6 shall not be grounds for a motion to suppress evidence that has  
7 been seized.

8 This amendment shall be effective immediately upon the  
9 filing of this order.

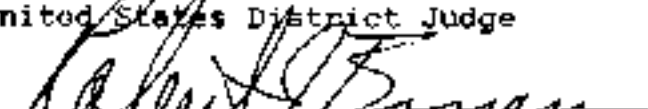
10 Dated this 15<sup>th</sup> day of June, 1988.


11   
12 BARBARA J. ROTHSTEIN  
13 Chief United States District Judge

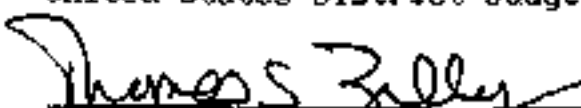
14   
15 JACK E. TANNER  
16 United States District Judge

17   
18 JOHN C. COUGHENOUR  
19 United States District Judge

20   
21 CAROLYN A. DIMMICK  
22 United States District Judge

23   
24 ROBERT J. BRYAN  
25 United States District Judge

26   
WILLIAM L. DWYER  
United States District Judge

  
THOMAS S. ZILLY  
United States District Judge