

In the
Indiana Supreme Court

CAUSE NUMBER: 94S00-1003-MS-128



ORDER AMENDING INDIANA RULES OF CRIMINAL PROCEDURE

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Indiana Criminal Rule 25 is amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

Rule 25. Wiretap

~~(A) — **Review of Decision to Permit Wiretap.** A review by the Indiana Court of Appeals of a decision to permit interception (wiretap) of telephonic or telegraphic communications pursuant to IC 35-33.5-1-1 et seq., shall be available as this rule provides, notwithstanding any provision in the Rules of Appellate Procedure to the contrary.~~

~~(B) — **Issuance of Warrant—Ex Parte Review—Stay.** Where a circuit or superior court issues a warrant for a wiretap, the prosecuting attorney shall file a petition for review of the warrant for wiretap with the Court of Appeals within ten (10) days of the issuance of the warrant by the circuit or superior court. The petition for review shall be accompanied by a certified record which contains the application for warrant and accompanying documents filed in the circuit or superior court together with the warrant and an electronic transcription (tape) of the hearing on the necessity to issue the warrant. Implementation of a warrant shall be stayed pending approval of its issuance by the Indiana Court of Appeals.~~

~~(C) — **Notification of the Court of Appeals.** On the day a warrant is issued, the prosecuting attorney who obtains a warrant shall notify the Chief Judge of the Court of Appeals by telephone that a warrant has been issued and when the documents will be tendered for review.~~

~~(D) **Secrecy of Application and Review.** Initially the public shall not be permitted to view any documents filed in a circuit or superior court in connection with an application for issuance of a wiretap warrant, nor shall the public be permitted to attend any hearing in connection with the application. In addition, the public shall not be permitted to view any documents filed in connection with the review of the issuance of a wiretap warrant filed in the Indiana Court of Appeals, nor shall the public be permitted to attend any hearing conducted in the Indiana Court~~

~~of Appeals. Court personnel, and personnel from the clerks' offices at the trial and appellate level shall not disclose the pendency of an action under this rule. The records from a warrant application, the issuance of a warrant, and the review of a warrant shall only become public record upon the date a warrant or an extended warrant terminates pursuant to statute.~~

~~(E) **Report.** Within twenty eight (28) days after the termination of a warrant or an extension, or the denial of an application for a warrant or an extension, the court to which application for the warrant or an extension was made shall submit a report to the executive director of the division of court administration in accordance with I.C. 35-33.5-2-5. [Deleted, eff. August 17, 2010]~~

...

This amendment shall take effect the date of this Order.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 17th day of August, 2010.

/s/Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

All Justices concur.