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CLERK OF DISTRICT COURT
Apotuzek
2012 MAY 15 P 2:10

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN RE TELEPHONIC SEARCH WARRANTS.	Cause No. SB- 2012-57 ORDER
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Montana law authorizes law enforcement agencies to apply for search warrants by telephone. Montana Code Annotated § 46-5-222 authorizes telephonic search warrants and imposes specific requirements when a search warrant is requested by telephone. Subsection (3)(a) states, "Sworn or affirmed testimony given over the telephone must be electronically recorded by the judge or a peace officer on a recording device in the custody of the judge or peace officer when the application is made."

Additionally, when the electronic recording is made by a peace officer, subsection (3)(c) requires:

The peace officer making the recording shall, as soon as possible, provide the judge with the original recording and a transcription of the recording so that the judge may expeditiously verify the accuracy of the transcription. The original recording must be retained in the court records. The peace officer making the recording shall secure a copy of the recording and transcription of the recording in the same manner as other evidence is secured.

(Emphasis added.)


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The Judges of the First Judicial District understand that electronic recordings of telephonic search warrant applications will be recorded to one or more data storage devices (hard drives) maintained by the local law enforcement agencies in the district. Further, it is impracticable for those local law enforcement agencies to provide an entire data storage device to the issuing judge to be maintained in the court records.

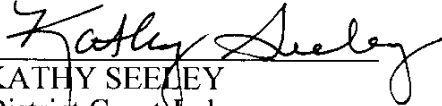
Therefore, the Judges of the First Judicial District issue this Order defining an "original recording" for purposes of Section 46-5-222, MCA, as a digital copy of the information on a data storage device (hard drive) that is filed with the issuing court.

IT IS SO ORDERED

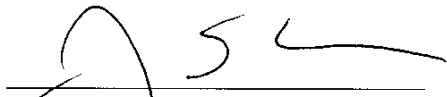
DATED this __ day of May 2012.



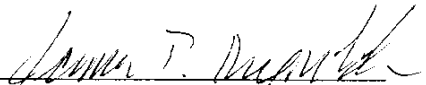
DOROTHY McCARTER
District Court Judge



KATHY SEELEY
District Court Judge
5-16-2012



JEFFREY M. SHERLOCK
District Court Judge
5-14-12



JAMES P. REYNOLDS
District Court Judge