

Memorandum



Subject

Interception Of Voice-Mail
And Digital Display Pager
Used By Alfred W. Trenkler

Date

March 12, 1992

To

All Monitoring Agents

From

Paul V. Kelly
Frank Libby
Assistant U.S. Attorneys

I. Introduction

This memorandum will summarize the monitoring procedure and minimization instructions which will apply in this matter. Each agent who monitors the "Target Pager Device" must carefully read copies of the Application for Interception of Electronic and Wire Communications, Second Affidavit of Jeffrey S. Kerr, Special Agent (ATF) and Order Authorizing the Interception of Electronic and Wire Communications, and must then signify that he or she has done so by signing and dating the last page of this memorandum.

II. Monitoring Procedure

1. Only those agents who have reviewed this memorandum and been minimized by one of the above-named AUSA's may monitor the Target Pager Device.

2. All communications which are intercepted (wire and electronic) must be recorded. Failure to record intercepted communications, as outlined below, may result in the suppression of all evidence obtained by electronic surveillance.

A. Digital and Alpha-Numeric Display Feature

The monitoring agent must keep a log book and, for each digital or Alpha-Numeric display intercepted, record (1) the date, (2) the time, (3) the precise message, and (4) the initials of the monitoring agent.

B. Voice-Mail Feature

Incoming voice-mail messages are indicated by a digital display of telephone number (617)553-0778 on the target pager device. Retrieval of such messages is accomplished by first dialing (617)553-0778, and second by entering, on a touch-tone telephone, the four (4) digit passcode.

When retrieving voice-mail messages, the monitoring agent must tape-record the message as he or she is listening to it. Following retrieval and recording of each message, the monitoring agent should enter the following data in the log book: (1) the date, (2) the time, (3) the tape number, (4) the counter number (indicating footage), (5) the identity of the caller (if known), and (6) a summary of the voice-mail message.

3. The AUSA's are required to file written reports with the court summarizing the communications intercepted every ten (10) days. The monitoring agent(s) must make sure that copies of the applicable log book pages, or typewritten summaries thereof, are delivered to the above-named AUSA's prior the due date for the periodic reports.

III. MINIMIZATION

1. Monitoring agents must make every effort to minimize the interception of voice-mail communications which are not pertinent to this investigation.

2. If it is clear to the monitoring agent as he or she listens that the intercepted voice-mail message is non-criminal and not pertinent to the investigation, the agent must minimize the interception, ie. discontinue the call. Due to the use of verbal shorthand and the fact that communications of a criminal nature sometimes appear in the midst of otherwise irrelevant messages, it may be necessary to listen to substantial parts of non-pertinent conversation. This should occur more in the early stages of interception until possible patterns of criminal activity are noted.

3. Any questions or issues concerning minimization should be directed to one of the above-named AUSA's. (tel. 223-9476).

IV. PRIVILEGED COMMUNICATIONS

A. General privileges

1. You must not intercept any privileged, confidential communication between lawyer and client, doctor and patient, or priest and penitent, unless however, one of these privileged parties is a participant in the illegal activity being intercepted or is delivering messages from one party in the illegal activity to another. Great care should be taken, however, in determining the role of a privileged party before you

continue to intercept what might otherwise be a privileged conversation.

2. In the event a privileged conversation is intercepted, contact one of the above-named AUSA's immediately. In the event of interception of a privileged conversation, the following procedures should be employed: (i) the tape should be removed from the machine and the conversation should not be discussed with anyone; (ii) note in the log that a privileged communication has been intercepted so that portion of the recording may be isolated and not duplicated.

B. Interception of Other Crimes

1. In the event a monitoring agent intercepts an "other crime" conversation, i.e., conversation not involving or relating to the offenses described in the Court's order or the affidavit, the agent should:

- (a) Continue monitoring, making a special note in the log that a conversation regarding other crimes has been intercepted.
- (b) As soon as the monitoring is completed, immediately notify one of the above-named AUSA's as to the substance of the conversation and the identity of the speaker.

V. MISCELLANEOUS

In the event of recording equipment malfunction, erroneous or unauthorized interceptions, or any other unusual circumstances, note such events in the log and contact one of the AUSA's immediately.

