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35.0 WIRE INTERCEPTS

In the Washington State Privacy Act, the legislature finds that the unlawful manufacturing, selling, and distribution of controlled substances is becoming increasingly prevalent and violent. Therefore, the legislature further finds that conversations regarding illegal drug operations should be intercepted, transmitted, and recorded in certain circumstances without prior judicial approval in order to protect the life and safety of law enforcement personnel and to enhance prosecution of drug offenses. (RCW 9.73.200)

35.01 OFFICER SAFETY WIRE INTERCEPTS

Officer safety wires can be approved by Everett Police Officers above the level of first line supervisor (lieutenant or above). The approving supervisor must have a reasonable suspicion that the consenting party's safety is in danger and that there will be a face to face conversation (does not include telephonic communications or conversations). In addition, the approving supervisor must complete a written authorization that includes the following information:

- The date and time of the authorization;
- The persons, including the consenting party, expected to participate in the conversation, to the extent known (no CI exception);
- The expected date, location and approximate time of the conversation; and
- The reasons for believing the consenting party's safety will be in danger.

With some exceptions a recording obtained under this statute is not admissible in criminal or civil cases. In most cases the recording is destroyed and no judicial review is required. However, nothing bars the admission of testimony of a participant in the conversation unaided by the officer safety wire. (RCW 9.73.210)

Refer to Sections 35.03, 35.04 and 35.05 for required procedures following authorization of an officer safety wire.

35.02 EVIDENCE WIRE INTERCEPTS

Evidence wires can be approved by Everett Police Officers above the level of first line supervisor (lieutenant or above) designated by the Chief. The approving supervisor must have probable cause that there will be a drug conversation and that the crime is above mere possession. In addition, the approving supervisor must prepare and sign a written report at the time of authorization, indicating:

- The circumstances that meet the requirements of RCW 9.73.230(1) (bona fide criminal investigation, at least one party has consented to the wire,

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and PC exists to believe that it will be a drug conversation and that the crime is above mere possession);

- The names of the authorizing and consenting parties, except CI;
- The names of the officers authorized to intercept, transmit, and record the conversation/communication;
- The identity of the particular person or persons, if known, who may have committed or may commit the offense;
- The details of the particular offense or offenses that may have been or may be committed and the expected date, location, and approximate time of the conversation/communication;
- Whether there was an attempt to obtain authorization pursuant to RCW 9.73.090(2) and, if there was such an attempt, the outcome of the attempt; and
- The exact date and time of the authorizing supervisor's signature on the authorization.

An evidence wire authorization is only valid for 24 hours from the time it is signed by the authorizing officer. The authorization may be extended not more than twice for an additional consecutive 24-hour period based upon the same PC regarding the same suspected transaction. Each extension must be signed by the authorizing officer.

With some exceptions a recording obtained under this statute is admissible in criminal and civil cases. The recording is retained for evidence. Judicial review is required. (RCW 9.73.230)

Refer to Sections 35.03, 35.04 and 35.05 for required procedures following authorization of an evidence wire

35.03 PAPER FLOW

If an authorized supervisor is not available in person, written authorizations can be e-mailed or faxed for signature.

There are stringent timelines for paper flow following officer safety and evidence wires. Written authorizations of approved safety wires and evidence wires will **immediately** be sent to the ACT Sergeant for processing.

For any evidence wire authorization that results in an interception, the ACT Sergeant must, within 15 days of the signing of the authorization, send a report that complies with the specific requirements of RCW 9.73.230(6) to the District Court Clerk for judicial review.

The ACT Sergeant will also forward all approved safety wire and evidence wire authorizations to the Chief's Administrative Assistant, who will complete a monthly report and file it with the administrator for the courts.

35.04 MONTHLY REPORTS

The monthly reports will include the following information:

- The number of authorizations granted;
- The date and time of each authorization;
- Interceptions made;
- Resulting arrests; and
- Invalidations. RCW 9.73.230(6).

35.05 RECORDINGS

Any recording made that is not required to be destroyed should be handled according to the guidelines provided in Training Bulletin 2011-04 "Handling Digital Evidence".