

## **PROTOCOL REGARDING DISCOVERY IN COMPLEX CASES**

Based on meetings with representatives from the Court, the United States Attorney's office, and the CJA Committee for the Northern District, the following is a protocol regarding discovery in wiretap and other complex, document-intensive cases. This document is not intended to expand the parties' discovery obligations under Federal Rule of Criminal Procedure 16, the Jencks Act, or other federal statutes or rules.

1. **Pertinent Call Tapes:** Audio versions of all wiretap pertinent tape-recorded conversations (defined as those included in the 10-day reports) will be provided on CDs or in other digital format, separately identified by call, except in the unusual case where unforeseen circumstances make production in digital format impractical. One copy of the original media will be provided to the discovery coordinator.
2. **Pleading Documents:** All pleading documents will be provided in hard copy and on electronic disk, including wiretap applications, periodic reports, search warrant affidavits, complaint affidavits, and sealing affidavits. (Exhibits, inventory, and attachments will be provided in hard copy only.) (Caveat: Electronic versions of some documents may have been changed after they were submitted to the court and thus may not exactly match the paper form.) The U.S. Attorney's office requires assurances that the drafts will not be used for purposes of cross-examination.
3. **Non-Pertinent Calls:** Audio versions of all non-pertinent calls will be provided on audio tape or in digital format. One copy of the original media will be provided to the discovery coordinator.
4. **Investigative Reports:** Investigative reports, including FBI 302, DEA 6, BNE and other local agency reports, will be provided in Bates-numbered hard copy. (All agencies do not have their reports in electronic format. Further discussions are required with agencies to promote electronic format in the future.) Per U.S. Attorney, subject to a reciprocal discovery agreement or when government believes early disclosure is appropriate.
5. **Pen Register Data:** Pen register data, including penlink data (agency notations would be deleted), when used by the agency, will be provided in electronic format.
6. **Monitoring Logs:** Monitoring logs are currently provided in hard copy. The U.S. Attorney's Office will provide the electronic format of the data base if the agency excises its work-product notes.
7. **Translations and Transcriptions:** Translations of pertinent calls (side by side English/Foreign Language Format when possible) will be produced in hard copy and on electronic disk. At the request of the AUSA, the defense will stipulate to not use errors in early-disclosed draft transcripts in later proceedings.

8. **Consensual and Surveillance Tapes and Videos:** Consensual tapes and videos will be provided on audio/video tape. Will provide any transcriptions when available.