



United States District Court

# DISTRICT OF SOUTH DAKOTA

## LR 41.1 SEARCH AND SEIZURE

- A. Presentation.** A search warrant application ordinarily should be presented to a magistrate judge, but it may be presented to a district judge if no magistrate judge is reasonably available. If no federal magistrate or district judge is reasonably available, a search warrant may be presented to a state judicial officer.

Copies of the application, the proposed search warrant, and any supporting affidavits must be delivered to the judge for his or her private review before a request is made for the judge to sign the warrant. In an emergency situation, the judge may waive this requirement.

- B. Lawyer for Government.** Ordinarily, a law enforcement officer presenting a search warrant application to a judge should be accompanied by a lawyer for the government. If justified by unusual circumstances, a judge may entertain a search warrant application from an officer who is not accompanied by a lawyer for the government.
- C. Emergencies.** In an emergency situation, a magistrate judge may be contacted away from the courthouse, including at his or her home, for purposes of entertaining a search warrant application. If no magistrate judge is reasonably available, a district judge may be contacted away from the courthouse, including at his or her home, for purposes of entertaining a search warrant application.
- D. Initial Sealing of Search Warrant Documents.** When a search warrant is issued, a case is opened. The case is sealed until the warrant is returned, at which time the case is unsealed unless otherwise ordered by the court.