

UNCLASSIFIED – FOR OFFICIAL USE ONLY  
Domestic Investigations and Operations Guide

§18

[Redacted]

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**18.5.8.3.3** (U//FOUO) [Redacted]

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(U//FOUO) [Redacted] in an FD-71, Guardian, an EC, or other appropriate form requesting Assistant Special Agent in Charge (ASAC) approval. (Note: The [Redacted] approval standard, renewable for additional [Redacted] is [Redacted])

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(U//FOUO) [Redacted]

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**18.5.8.3.4** (U) [Redacted]

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(U//FOUO) [Redacted]

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**18.5.8.3.4.1 (U//FOUO) APPROVAL REQUIREMENTS**

(U//FOUO) [Redacted] must document the reason and objective for its use and be approved by an ASAC. The request and approval must be documented [Redacted] Guardian, an EC, or other appropriate form and serialized into the appropriate investigative file.

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**18.5.8.3.4.2 (U//FOUO)** [Redacted]

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(U//FOUO) [Redacted]

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**18.5.8.3.4.2.1 (U//FOUO)** [Redacted]

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(U//FOUO) [Redacted]

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[Redacted]

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(U//FOUO) [Redacted]

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(U//FOUO) [Redacted]

b7E

1) (U//FOUO) [Redacted]

2) (U//FOUO) [Redacted]

3) (U//FOUO) [Redacted]

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4) (U//FOUO) [Redacted]

5) (U//FOUO) [Redacted]

(U//FOUO) [Redacted]

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18.5.8.3.4.3 (U//FOUO) [Redacted]

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(U//FOUO) [Redacted]

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*Note:* (U//FOUO) [Redacted]

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18.5.8.3.4.4 (U//FOUO) COMPLIANCE AND MONITORING

(U//FOUO) The request and approval documentation for the use of [Redacted] must be serialized into the appropriate investigative file.

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**18.7.1.3 (U) DEFINITION OF INVESTIGATIVE METHOD**

(U) ***Physical Search defined:*** A physical search constitutes any physical intrusion within the United States into premises or property (including examination of the interior of property by technical means) that is intended to result in the seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy.

(U) A physical search requiring a warrant does not include: (i) electronic surveillance as defined in FISA or Title III; or (ii) the acquisition by the United States Government of foreign intelligence information from international foreign communications, or foreign intelligence activities conducted according to otherwise applicable federal law involving a foreign electronic communications system, using a means other than electronic surveillance as defined in FISA.

**18.7.1.3.1 (U) REQUIREMENT FOR REASONABLENESS**

(U) By the terms of the Fourth Amendment, a search must be reasonable at its inception and reasonable in its execution. Whether a search meets Fourth Amendment standards will depend on the justification for the search and the scope of the search conducted. In all investigations, FBI employees must be prepared to articulate the basis for the search and the manner in which it was conducted.

**18.7.1.3.2 (U) REASONABLE EXPECTATION OF PRIVACY**

(U) The right of privacy is a personal right, not a property concept. It safeguards whatever an individual reasonably expects to be private. The protection normally includes persons, residences, vehicles, other personal property, private conversations, private papers and records. The Supreme Court has determined that there is no reasonable expectation of privacy in certain areas or information. As a result, government intrusions into those areas do not constitute a search and, thus, do not have to meet the requirements of the Fourth Amendment. These areas include: (i) open fields; (ii) prison cells; (iii) public access areas; and (iv) vehicle identification numbers. The Supreme Court has also determined that certain governmental practices do not involve an intrusion into a reasonable expectation of privacy and, therefore, do not amount to a search. These practices include: (i) aerial surveillance conducted from navigable airspace; (ii) field test of suspected controlled substance; and (iii) odor detection. A reasonable expectation of privacy may be terminated by an individual taking steps to voluntarily relinquish the expectation of privacy, such as abandoning property or setting trash at the edge of the curtilage or beyond for collection.

**18.7.1.3.3 (U) ISSUANCE OF SEARCH WARRANT**

(U) Under FRCP Rule 41, upon the request of a federal law enforcement officer or an attorney for the government, a search warrant may be issued by:

- A) (U) a federal magistrate judge, or if none is reasonably available, a judge of a state court of record within the federal district, for a search of property or for a person within the district;
- B) (U) a federal magistrate judge for a search of property or for a person either within or outside the district if the property or person is within the district when the warrant is sought but might move outside the district before the warrant is executed;