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FEDERAL RULES OF CRIMINAL PROCEDURE

15 receiving the information in the performance of that  
16 official's duties.

17 (i) Any federal official who receives information  
18 under Rule 6(e)(3)(D) may use the information  
19 only as necessary in the conduct of that  
20 person's official duties subject to any  
21 limitations on the unauthorized disclosure of  
22 such information.

23 (ii) Within a reasonable time after disclosure is  
24 made under Rule 6(e)(3)(D), an attorney for the  
25 government must file, under seal, a notice with  
26 the court in the district where the grand jury  
27 convened stating that such information was  
28 disclosed and the departments, agencies, or  
29 entities to which the disclosure was made.

30 (iii) As used in Rule 6(e)(3)(D), the term "foreign  
31 intelligence information" means:

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32                   (a) information, whether or not it concerns a  
33                                 United States person, that relates to the  
34                                 ability of the United States to protect  
35                                 against —

36                                 ● actual or potential attack or other  
37                                 grave hostile acts of a foreign power  
38                                 or its agent;

39                                 ● sabotage or international terrorism  
40                                 by a foreign power or its agent; or

41                                 ● clandestine intelligence activities by  
42                                 an intelligence service or network of  
43                                 a foreign power or by its agent; or

44                   (b) information, whether or not it concerns a  
45                                 United States person, with respect to a  
46                                 foreign power or foreign territory that  
47                                 relates to —

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● the national defense or the security

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of the United States; or

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● the conduct of the foreign affairs of

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the United States.

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~~(D)~~(E) The court may authorize disclosure — at a time,

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in a manner, and subject to any other conditions

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that it directs — of a grand-jury matter:

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(i) preliminary to or in connection with a judicial

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proceeding;

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~~(E)~~(F) A petition to disclose a grand-jury matter under

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Rule ~~6(e)(3)(D)(i)~~ 6(e)(3)(E)(i) must be filed in

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the district where the grand jury convened.

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Unless the hearing is ex parte — as it may be

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when the government is the petitioner — the

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petitioner must serve the petition on, and the

64 court must afford a reasonable opportunity to  
65 appear and be heard to:

- 66 (i) an attorney for the government;  
67 (ii) the parties to the judicial proceeding; and  
68 (iii) any other person whom the court may  
69 designate.

70 ~~(F)~~(G) If the petition to disclose arises out of a judicial  
71 proceeding in another district, the petitioned  
72 court must transfer the petition to the other  
73 court unless the petitioned court can reasonably  
74 determine whether disclosure is proper. If the  
75 petitioned court decides to transfer, it must send  
76 to the transferee court the material sought to be  
77 disclosed, if feasible, and a written evaluation  
78 of the need for continued grand-jury secrecy.  
79 The transferee court must afford those persons

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80 identified in Rule ~~6(e)(3)(E)~~ 6(e)(3)(F) a  
81 reasonable opportunity to appear and be heard.

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**COMMITTEE NOTE\*\***

Rule 6(e)(3)(D) is new and reflects changes made to Rule 6 in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001. The new provision permits an attorney for the government to disclose grand-jury matters involving foreign intelligence or counterintelligence to other Federal officials, in order to assist those officials in performing their duties. Under Rule 6(e)(3)(D)(i), the federal official receiving the information may only

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\*\* The Committee Note explains proposed new amendments to the rule that conform to the USA PATRIOT ACT, which added provisions to Rule 6. The statutory amendment was made after the Judicial Conference had approved a comprehensive revision of the rules in October 2001. If approved by the Court, the text of the proposed conforming amendments and Committee Note will be integrated into the comprehensive revision of the rules, which was transmitted to the Court in November 2001. The conforming amendments to Rule 6 added a new subparagraph (D) to Rule 6(e)(3), which required the renumbering of later subparagraphs (D)-(F). The references to these subparagraphs in the Committee Note now before the Court have been changed consistent with the renumbered subparagraphs in the text of the rule. The amended cross-references in the Committee Note will be integrated into the comprehensive revision of the rules and include the following: Rule 6(e)(3)(D)(iii) changed to Rule 6(e)(3)(E)(iii); Rule 6(e)(3)(D)(iv) changed to Rule 6(e)(3)(E)(iv); Rule 6(e)(3)(E)(ii) changed to Rule 6(e)(3)(F)(ii); and Rule 6(e)(3)(D)(i) changed to Rule 6(e)(3)(E)(i).

use the information as necessary and may be otherwise limited in making further disclosures. Any disclosures made under this

provision must be reported under seal, within a reasonable time, to the court. The term “foreign intelligence information” is defined in Rule 6(e)(3)(D)(iii).

**Rule 41. Search and Seizure**

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**(b) Authority to Issue a Warrant.** At the request of a federal law enforcement officer or an attorney for the government:

**(1)** a magistrate judge with authority in the district — or if none is reasonably available, a judge of a state court of record in the district — has authority to issue a warrant to search for and seize a person or property located within the district; ~~and~~

**(2)** a magistrate judge with authority in the district has authority to issue a warrant for a person or property outside the district if the person or property is located within the district when the warrant is issued but might move or be moved outside the district before the warrant is executed; and

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15 (3) a magistrate judge — in an investigation of domestic  
16 terrorism or international terrorism (as defined in 18  
17 U.S.C. § 2331)—having authority in any district in which  
18 activities related to the terrorism may have occurred, may  
19 issue a warrant for a person or property within or outside  
20 that district.

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**COMMITTEE NOTE\*\*\***

Rule 41(b)(3) is a new provision that incorporates a congressional amendment to Rule 41 as a part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001. The provision explicitly addresses the authority of a magistrate

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\*\*\* The Committee Note explains proposed new amendments to the rule that conform to the USA PATRIOT ACT, which added provisions to Rule 41. The statutory amendment was made after the Judicial Conference had approved a comprehensive revision of the rules in October 2001. If approved by the Court, the text of the proposed conforming amendment and Committee Note will be integrated into the comprehensive revision of the rules, which was transmitted to the Court in November 2001.

judge to issue a search warrant in an investigation of domestic or international terrorism. As long as the magistrate judge has authority in a district where activities related to terrorism may have occurred, the magistrate judge may issue a warrant for persons or property not only within the district, but outside the district as well.



