

JAN 13 2021

JAMES N. HATTEN, Clerk
By: *d. hawks* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

IN RE: PROCEDURES FOR THE FILING,
SERVICE, AND MANAGEMENT OF
HIGHLY SENSITIVE DOCUMENTS

GENERAL ORDER 21-01

WHEREAS, in response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are immediately adding new security procedures to protect highly sensitive documents filed with the courts;

THE COURT FINDS that, pursuant to Fed. R. Civ. P. 5(d)(3)(A) and Fed. R. Crim. P. 49(b)(3)(A), good cause exists to require all parties to file and otherwise transmit certain highly sensitive documents in paper and not electronically in the court's electronic filing system or by email or other electronic means.

THEREFOR, IT IS HEREBY ORDERED that, effective as of the date of this order and until such time as the court orders otherwise, the filing of certain highly sensitive documents will be subject to the procedures and requirements set forth below. This General Order supersedes all inconsistent provisions in existing local rules or other general orders of this court.

1. Documents Subject to this Order

The filing procedures set forth below apply only to documents that contain highly sensitive information, which is non-public information that, if obtained without authorization and improperly released, could cause harm to the United States, the Federal Judiciary, litigants, and others.

- a. The following types of documents may be deemed highly sensitive documents (HSDs): Applications for search warrants, applications for electronic surveillance under 18 U.S.C. § 2518, and documents related to cooperation in criminal cases.
- b. The following types of documents generally are not considered HSDs: Presentence reports, pretrial release reports, social security records, administrative immigration records, sealed qui tam cases, and sealed filings in most civil cases.
- c. Any determination as to whether a document is an HSD will be made by the presiding judge or referred magistrate judge or, when no judge is assigned, the duty judge.

2. Obtaining Authorization to File a Document as an HSD

A party seeking to file a document as an HSD first must obtain an order authorizing the filing of the document as an HSD as follows:

- a. Filing a Motion by *Represented* Parties
 - i. Except as set forth in paragraph 2.f below, a represented party must electronically file in CM/ECF a motion to treat a document as an HSD together with a proposed order. The proposed HSD itself must not be filed electronically. The motion must explain why the document constitutes an HSD.
 - ii. As soon as practicable after the motion is filed, the filing party must deliver to the clerk's office two paper copies of: the proposed HSD and a certificate of service demonstrating compliance with paragraph 2.c. The required documents, unfolded, must be submitted to the clerk's office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope must be affixed with a copy of the proposed HSD's caption page (with any confidential information redacted) and with a copy of the notice of electronic filing generated from CM/ECF upon the filing of the motion to treat the document as highly sensitive.

- b. Filing a Motion by *Pro Se* Parties

Pro se parties must submit to the clerk's office for filing two paper copies of: a motion to treat a document as an HSD that explains why the document constitutes an HSD, the proposed HSD, and a certificate of service demonstrating compliance with paragraph 2.c. The required documents, unfolded, must be submitted to the clerk's office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope must be affixed with a copy of the HSD's caption page (with any confidential information redacted).

- c. Service by *All* Parties

The filing party must serve the proposed HSD and any other documents submitted to the clerk's office in paper (including, for pro se filers, the motion to file a document as an HSD) on the other parties as follows:

1. *Civil cases* - by any manner specified in Fed. R. Civ. P. 5(b)(2), excluding service via the court's electronic filing system; or

2. *Criminal cases* - by any manner specified in Fed. R. Crim. P. 49(a)(3)(B) or (a)(4).

d. Issuance of Court Order

The court will issue an order on the motion to treat a document as an HSD. If the motion is granted, then, with no further action required from the parties, an informational entry will be made on the case docket indicating that the HSD has been filed with the court. The clerk's office will maintain the HSD in a secure paper filing system and/or a secure standalone computer system that is not connected to any network.

If the motion is denied, the proposed HSD will be deemed withdrawn and may be retrieved from the clerk's office by the filing party or counsel within ten calendar days from the date of entry of the order. After ten calendar days, the proposed HSD may be destroyed by the clerk's office without further notice.

e. Entire Case Deemed HSD

In rare cases in which most filings are expected to be HSD, a judge, *sua sponte* or upon motion, may deem an entire case highly sensitive. Once a case is deemed highly sensitive, further motions to treat a document filed within that case as an HSD are unnecessary.

f. Exceptions to the Requirement that a Represented Party File Electronically in CM/ECF a Motion to Treat a Document as an HSD

Exceptions to the requirement that a represented party file electronically in CM/ECF a motion seeking to treat a document as an HSD are the following: (1) Motions to be filed in sealed criminal and civil cases must be filed in paper with the clerk's office; (2) Applications for electronic surveillance under 18 U.S.C. § 2518 and duty magistrate judge matters, together with the motion, proposed order, and proposed HSD, must be presented in paper to the duty district judge or magistrate judge in chambers; (3) Motions to file a civil complaint as an HSD must be filed with the clerk's office in paper along with the complaint; and (4) Oral motions made in open court regarding a cooperating defendant in a criminal case must be accompanied by a proposed order.

3. Service of Highly Sensitive Court Orders

If the court determines that a court order contains highly sensitive information, the clerk's office will file and maintain the order in a secure paper filing system and/or a secure standalone computer system that is not connected to any network and will serve paper copies of the order on the parties via mail.

4. Removal of Existing HSDs or Highly Sensitive Cases from the Court's Electronic Filing System

- a. Upon motion of a party or upon its own motion, the court may determine that a document, case, or any portion of it that has been filed electronically is highly sensitive and direct that the HSD or case be removed from the court's electronic filing system and maintained by the clerk's office in a secure paper filing system and/or a secure standalone computer system that is not connected to any network.
- b. A party's motion to remove an HSD or highly sensitive case from the court's electronic filing system must explain why such document or case is highly sensitive under the criteria set out in paragraph 1 above or why it should otherwise be subject to the heightened protection for HSDs.

5. Questions about HSD Filing Procedures

Any questions about how an HSD should be filed with the court pursuant to this General Order should be directed to the clerk's office.

IT IS SO ORDERED, this 13 day of January 2021.



THOMAS W. THRASH, JR.
CHIEF UNITED STATES DISTRICT JUDGE