

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

IN RE: *
PROCEDURES FOR THE HANDLING, FILING, * MISC. NO. 00-308
SERVICE, AND MANAGEMENT OF HIGHLY *
SENSITIVE DOCUMENTS *

SECOND AMENDED STANDING ORDER 2021-02

WHEREAS, in response to continued concerns regarding breaches of both private sector and government computer systems, federal courts are updating security procedures to protect highly sensitive documents that must, for their protection, be stored outside the Court's electronic systems;

THE COURT FINDS that, pursuant to Civil Rule 5(d)(3)(A) and Criminal Rule 49(b)(3)(A), good cause exists to require the filing of certain highly sensitive documents outside of the Court's electronic filing system.

THEREFORE, IT IS HEREBY ORDERED that, effective as of the date of this Order and until such time as the Court orders otherwise, the handling, filing, service, and management of certain highly sensitive documents shall be subject to the procedures and requirements set forth below. This Standing Order supersedes any and all inconsistent provisions in existing local rules or other standing orders of this Court.

1. Documents and Materials Subject to this Order

- a. **Definition:** A **Highly Sensitive Document (HSD)** is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized manner. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also qualify for HSD treatment.
 - i. **Examples of HSDs:** Examples include applications for interception of wire, oral, or electronic communications pursuant to 18 U.S.C. § 2518; *ex parte* sealed filings related to national security investigations, cyber investigations, and especially sensitive public corruption investigations; *ex parte* documents containing a highly exploitable trade secret, financial information, or computer source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.
 - ii. **Exclusions:** Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not

determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public should the document be accessed without authorization. The following types of documents generally are not considered HSDs: Presentence reports, pretrial release reports, filings and documents related to petitions for compassionate release and/or other sentencing relief, social security records, administrative immigration records, and sealed filings in most civil cases.

- b. HSDs vary in their physical form and characteristics. They may be paper, electronic, audiovisual, microform, or other media. The term “document” includes all recorded information, regardless of its physical form or characteristics.
- c. The Court may, on its own motion or on motion of a party pursuant to Section 4 below, in a civil or criminal case, direct that any document be designated as an HSD if it meets the HSD definition under paragraph 1.a.
- d. Any dispute as to whether a document is an HSD shall be resolved by the presiding judge or, when no presiding judge is assigned, the chambers judge.

2. Providing HSDs to Clerk or Judicial Officers

If an HSD or proposed HSD is provided to the Clerk or a judicial officer in advance of filing, it must be provided in physical copy by hand delivery or mail.

3. Filing through Judicial Officer

An HSD submitted to, or generated by, a judicial officer shall be filed by providing a physical copy to the Clerk. The Clerk’s Office will file and maintain the HSD in a secure paper filing system.

4. Filing of Motions to Treat a Document as an HSD

- a. If represented by counsel, a party shall file a motion to seal and treat a document as an HSD via CM/ECF under existing procedures, except that a copy of the proposed HSD shall not be filed electronically. Instead, a blank placeholder document shall be attached to the motion in place of the proposed HSD to reserve a docket number. The motion shall explain why the proposed document should be sealed and afforded treatment as an HSD under the criteria set out in paragraph 1.a. above or why it should otherwise be afforded the heightened protection for HSDs. As soon as practicable after the motion is filed electronically, the filing party shall deliver to the Clerk’s Office two physical copies of the HSD sought to be filed along with a certificate of service. These documents shall be submitted to the Clerk’s Office in a sealed envelope marked “HIGHLY SENSITIVE DOCUMENT.” The outside of the envelope shall be affixed with a copy of the

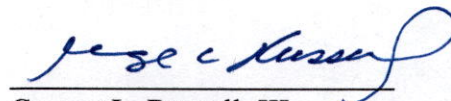
HSD's caption page (with confidential information redacted), along with the CM/ECF case and document number.

- b. If not represented by counsel, a party shall file by paper two copies of a motion to seal and treat a document as an HSD, together with the proposed HSD and a certificate of service. The motion shall explain why the proposed document should be sealed and afforded treatment as an HSD under the criteria set out in paragraph 1.a. above or why it should otherwise be afforded the heightened protection for HSDs. These documents shall be submitted to the Clerk's Office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope shall be affixed with a copy of the HSD's caption page (with confidential information redacted), along with the CM/ECF case number.
- c. The filing party shall serve the HSD on the other parties as follows:
 - i. Civil cases - by any manner specified in Civil Rule 5(b)(2), except for service via the Court's electronic filing system; or
 - ii. Criminal cases - by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4).
- d. The Court will issue an order deciding the motion and, if granted, 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.

5. 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 will serve paper copies of the order on the parties via mail.

IT IS SO ORDERED, this 24th day of July, 2024.



George L. Russell, III
Chief Judge