

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND



Highly Sensitive Document Filing Procedures

JANUARY 2021

What are HSDs?

Highly Sensitive Documents (HSDs) are documents containing information which, if disclosed, would pose a clear and present danger to life and limb or result in grave or extreme harm (e.g., documents containing cooperator information). HSDs are only filed by paper and never filed electronically on CM/ECF. **Most sealed documents are not HSDs.** Examples of documents that generally are not considered HSDs: presentence reports, pretrial release reports, documents related to compassionate release petitions or other sentencing relief, social security records, administrative immigration records, and sealed filings in most civil cases. In general, personal medical information will be sealed but will not receive HSD treatment.

Attorneys seeking to have a document sealed and treated as an HSD must do so by motion to the presiding judge. The motion to seal and treat a document as an HSD must be filed via CM/ECF, except that a copy of the proposed HSD is not filed electronically. The procedures for filing these requests will differ between criminal and civil cases.

Civil Cases:

1. Electronically file the Motion to Seal and Treat Document as an HSD.

The motion must explain why the proposed document should be sealed and afforded treatment as an HSD under the criteria set out above or why it should otherwise be afforded the heightened protection for HSDs. This motion must be filed electronically via CM/ECF using the event '*Motion to Seal and Treat a Document as an HSD.*' **Do not attach your proposed HSD.** Instead, attach a placeholder PDF to the main document indicating that the proposed HSD has been filed by paper.

2. File proposed HSD by paper.

Within 24 hours (not counting intervening weekends and legal holidays) deliver two paper copies of the proposed HSD along with a certificate of service to the Clerk's Office. These documents must be submitted in a sealed envelope conspicuously 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), along with the CM/ECF case and docket number. One copy will be provided to the presiding judge and the other copy will be filed by the Clerk's Office in a secure paper filing system. If the Clerk's Office is closed to the public, place the documents in the secure drop box located at the entrance to each courthouse between 9:00 a.m. and 4:00 p.m., Monday through Friday. Immediately after the documents have been submitted, call the main telephone number for the appropriate division, press '0' to speak to a clerk, and notify them that a proposed HSD has been submitted in the drop box for filing.

3. Serve the proposed HSD on the other parties by any manner specified in Fed. R. Civ. P. 5(b)(2), except for service via the Court's electronic filing system.
4. The Court will issue an order deciding the motion and, if granted, an informational entry will be made on the case docket indicated that the HSD has been filed with the Court.

If the order grants the motion to seal but denies treatment as an HSD, the filing party will have the opportunity to withdraw the document entirely. If you decide to withdraw the document entirely, notify the Court within 72 hours (not counting intervening weekends and legal holidays) by contacting your assigned case administrator to advise whether you would like the document physically returned by U.S. mail or destroyed. If no notification is received, the document will be destroyed. If the filing party would like to file the document under seal, but not as an HSD, promptly refile the document under seal through CM/ECF.

Criminal Cases (for documents other than those designated as HSDs in Sections 1.a and 1.b of Standing Order 2021-02):

1. Electronically file a Motion to Seal.

Motions to seal and treat a document as an HSD should make no mention of the request to treat a document as an HSD. Instead, all references to the HSD designation should **ONLY** be found in the proposed HSD document itself. The publicly filed motion to seal should contain only generic justifications to file a document under seal. The proposed HSD should be accompanied by a statement of the specific justifications explaining why the document should be afforded HSD treatment. The presiding judge will review the specific justifications and the proposed HSD document in determining whether it should be treated as an HSD.

2. Electronically file a Proposed Sealed Document containing placeholder PDF.

After filing the Motion to Seal, immediately file a placeholder PDF under seal indicating that the proposed HSD has been filed by paper using the '*Proposed Sealed Document*' CM/ECF event.

3. File the proposed HSD by paper.

Within 24 hours (not counting intervening weekends and legal holidays) deliver two paper copies of the proposed HSD, the specific justifications for HSD treatment, along with a certificate of service to the Clerk's Office. These documents must be submitted in a sealed envelope conspicuously 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), along with the CM/ECF case and docket number. One copy will be provided to the presiding judge and the other copy will be filed by the Clerk's Office in a secure paper filing system. If the

Clerk's Office is closed to the public, place the documents in the secure drop box located at the entrance to each courthouse between 9:00 a.m. and 4:00 p.m., Monday through Friday. Immediately after the documents have been submitted, call the main telephone number for the appropriate division, press '0' to speak to a clerk, and notify them that a proposed HSD has been submitted in the drop box for filing.

4. Serve the proposed HSD on the other parties by any manner specified in Fed. R. Crim. P. 49(a)(3)(B) or (a)(4). Do not serve via the Court's electronic filing system.
5. The Court will issue an order deciding the motion.

If granted, the order will make no mention of the document's treatment as an HSD and the clerk will delete "proposed" from the docket text of the proposed sealed document filing. If the order grants the motion to seal but denies treatment as an HSD, the filing party will have the opportunity to withdraw the document entirely. If you decide to withdraw the document entirely, notify the Court within 72 hours (not counting intervening weekends and legal holidays) by contacting your assigned case administrator to advise whether you would like the document physically returned by U.S. mail or destroyed. If no notification is received, the document will be destroyed. If the filing party wishes to file the document under seal, but not as an HSD, they should promptly electronically file the document under seal using the *'Proposed Sealed Document'* CM/ECF event.