

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:

GENERAL ORDER

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

NO. 2021-1

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 [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require all parties to file certain highly sensitive documents, as defined herein, 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 filing of certain highly sensitive documents, as defined herein, shall be subject to the procedures and requirements set forth below. This General Order supersedes any and all inconsistent provisions in existing local rules, administrative procedures, or other general orders of this court. It is presumed that documents filed under seal through the court's current electronic filing system remain secure, and any party moving to file documents under this General Order bear the burden to justify such exceptional treatment. This General Order does not limit or preclude the filing of documents under seal (containing proprietary or confidential information) in accordance with existing procedures.

1. Documents Subject to this Order

The filing procedures set forth below apply to documents that contain highly sensitive information (“HSI”). Documents containing HSI shall be known as Highly Sensitive Documents (“HSDs”).

- a. HSI does not refer to all sensitive or confidential information. Instead, HSDs refer only to documents containing information that is likely to be of interest to the intelligence service of a foreign government and whose use or disclosure by a hostile foreign government would likely cause significant harm to the United States or its interests. HSDs include sealed documents involving national security, foreign sovereign interests, criminal activity related to cybersecurity or terrorism, investigation of public officials, the reputational interests of the United States, and extremely sensitive commercial information likely to be of interest to foreign powers.
- b. Applications for search warrants and applications for interception of wire, oral or electronic communications under 18 U.S.C. § 2518, including but not limited to applications for pen registers, trap and trace devices, and wiretaps, may contain HSI but are not presumptively HSDs. If the filer considers an application under this section 1.b. to contain HSI, the filer shall file a motion to designate the document as a HSD as provided in section 2 below.
- c. HSDs do not include presentence reports or related documents, pleadings related to cooperation in criminal cases, social security administrative records, immigration administrative records, and most sealed documents

in civil cases. Unless the documents identified in this section 1.c. are considered by the filer to contain HSI, they shall continue to be filed under existing sealing procedures.

- d. Any dispute as to whether a document is a HSD shall be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge. A judge may decide *sua sponte* to treat any document as a HSD, whether or not a party has sought such designation.
- e. If a document cannot be designated as a HSD, a party retains the ability to file such a document in the court's CM/ECF system under seal in accordance with local rules and administrative procedures.

2. Filing of Motions to Treat a Document as a HSD

- a. Any filer seeking to have a document treated as a HSD shall file a sealed motion to designate a document as a HSD and proposed order in accordance with the [Middle District's Administrative Procedures for Filing Electronic Documents](#), Section II, except that the proposed HSD shall not be filed electronically. The proposed HSD shall be filed in accordance with the procedures set forth in section 4.
- b. The motion to designate the document as a HSD shall set forth why the proposed document constitutes a HSD under the criteria set forth in section 1.a. and 1.b. or why it should otherwise be subject to the heightened protection for HSDs. The motion shall not disclose any information that divulges any HSI.

- c. The court will issue an order on 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 or a secure standalone computer system that is not connected to any network.

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 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. Procedures for Conventionally Filing a HSD

- a. Within 3 business days of filing the motion to designate a document as a HSD, the filing party shall deliver to the clerk's office (in-person or via U.S. Mail) the proposed HSD and certificate of service (if required by statute or rule), plus two copies. If the proposed HSD is voluminous (over 20 megabytes), the filing party may motion the court for permission to submit the proposed HSD to the clerk's office via secure alternative media deemed acceptable by the clerk's office.
- b. The upper right portion of the document's case caption shall include the designation of "SEALED" and "HSD".
- c. If submitted in person, the required documents, unfolded, 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). In the case of a voluminous exhibit submitted to the clerk's office after receiving leave of court as set forth in section 4.a., the media itself must be labeled and then placed inside a sealed opaque envelope marked "HIGHLY SENSITIVE DOCUMENT."

- d. If submitted by U.S. mail, the required documents shall be packaged as set forth in section 4.c., except that the package must be placed in an additional sealed opaque envelope that does not provide any indication of the envelope's contents.
- e. If a statute or rule requires service of a motion filed under section 2.a. on opposing parties, the proposed HSD shall be served, 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 \(a\)\(4\)](#).
- f. The clerk's office will make an informational docket entry in the court's electronic filing system indicating that the HSD was filed with the court and will maintain the HSD in a secure paper filing system or a secure standalone computer system that is not connected to any network.

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

- a. Upon the filing of a motion to remove HSD or HSI by a party (in accordance with the procedures set forth in section 2.a.) 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 or a secure standalone computer system that is not connected to any network.

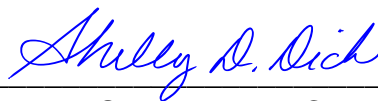
- b. A party's sealed motion to remove a HSD or a highly sensitive case from the court's electronic filing system shall identify the specific document number to be designated as a HSD and set forth why such document or case is highly sensitive under the criteria set out in section 1.a. or 1.b. or why it should otherwise be subject to the heightened protection for HSDs.

The motion shall not disclose any information that divulges any HSI.

6. Questions about HSD Filing Procedures

Any questions about how a HSD should be filed with the court pursuant to this General Order should be directed to the clerk's office at (225) 389-3500.

IT IS SO ORDERED, this 21st day of January 2021.



SHELLY D. DICK
CHIEF UNITED STATES JUDGE
MIDDLE DISTRICT OF LOUISIANA