

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

REVISED 4/7/2021

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 certain highly sensitive documents filed with the courts;

THE COURT FINDS that, pursuant to [Rule 5\(d\)\(3\)\(A\)](#) of the FEDERAL RULES OF CIVIL PROCEDURE and [Rule 49\(b\)\(3\)\(A\)](#) of the FEDERAL RULES OF CRIMINAL PROCEDURE, good cause exists to require all parties to file certain highly sensitive documents outside the court's electronic filing system until further order of the court.

THE COURT ALSO FINDS that, Highly Sensitive Documents (“HSDs”) are a narrow category of documents that qualify for sealing under applicable law and rules AND that are or contain “Highly Sensitive Information.” “Highly Sensitive Information” does not refer to all sensitive or confidential information. Instead, it refers only to information that is likely to be used by a hostile foreign government or its intelligence service to harm the interests of the United States, or to commit foreign or domestic crimes, making disclosure or use likely to cause information that is being used or is likely to be used to cause significant harm. Very few documents currently being filed under seal in federal court contain “Highly Sensitive Information” meeting these criteria.

IT IS ORDERED that, effective as of the date of this Order and until the court orders otherwise, the filing of certain highly sensitive documents shall be subject to the procedures and requirements set forth below. This General Order supersedes any and 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 to documents that contain highly sensitive information.

- a. The following types of documents are presumptively highly sensitive documents (HSDs), are authorized for filing as HSDs, and therefore require no motion before filing: applications for electronic surveillance under Title III of the Omnibus Crime Control and Safe Streets Act of 1998, including matters arising under 18 U.S.C. § 2518.
- b. The following types of documents generally are not considered HSDs: Applications for search warrants, presentence reports, pretrial release reports, pleadings related to cooperation in most criminal cases, social security records, administrative immigration records, and sealed filings in many civil cases.
- c. If the document is not presumptively an HSD under this Order, a motion to file as an HSD must be made in accordance with the procedures set forth in ¶3 of this Order. 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 chief judge.

2. Filing of Authorized HSDs

- a. A party filing a presumptive HSD or filing an HSD pursuant to a court order or applicable law, shall submit the documents to the presiding or duty Judge in the manner prescribed by the Judge with strong preference given to paper only submissions.
- b. In most cases, the Judges' staff 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.

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

- a. Represented parties
 - i. A represented party shall electronically file a motion to treat a document as an HSD and a submit a proposed order to chambers under the Court's existing procedures for the sealing of court records: Local Uniform Civil Rule 79, Administrative Procedures, etc. A copy of the proposed HSD shall not be filed electronically. The motion and confidential memorandum (when necessary) shall explain why the proposed document constitutes an HSD under the criteria set out above or why it should otherwise be subject to the heightened protection for HSDs.
 - ii. As soon as practicable after the motion is filed, the filing party shall deliver to the clerk's office the HSD sought to be filed. The filing party must present two paper copies of all filed documents. These documents should 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).
 - iii. In most cases, 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. Accompanying docket entries for HSD's will not include personal or other identifying details related to those HSDs.
 - iv. If applicable, the filing party shall serve the HSD on the other parties in the manner prescribed by the relevant rules.
 - v. The court will issue an order on the motion. The clerk's office will maintain informational entries on the docket accordingly, including entries related to the order and that the HSD has been filed with the court. The clerk's office will maintain both the order and the HSD in a secure paper filing system.
- b. Pro se parties
 - i. Pro se parties shall submit to the clerk's office for filing a motion to treat a document as an HSD. The HSD sought to be filed and the certificate of service, if applicable, must also be submitted. The filing party must present two paper copies of all filed documents. These documents should 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).

- ii. If applicable, the filing party shall serve the HSD on the other parties in the manner prescribed by the relevant rules.
- iii. The court will issue an order on the motion. The clerk’s office will maintain informational entries on the docket accordingly, including entries related to the order and that the HSD has been filed with the court. The clerk’s office will maintain both the order and the HSD in a secure paper filing system.

4. Service of Highly Sensitive Court Orders

If the court determines that a court order contains highly sensitive information, the clerk’s office will make an informational entry in the docket, file and maintain the order in the secure paper filing system described above, and serve paper copies of the order on the parties via mail when applicable.

5. 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 the secure paper filing system described above.
- b. A party’s motion to remove an HSD or highly sensitive case from the court’s electronic filing system shall be filed electronically under the Court’s existing procedures for the sealing of court records: Local Uniform Civil Rule 79, Administrative Procedures, etc. and explain why such document or case is highly sensitive under the criteria set out above or why it should otherwise be subject to the heightened protection for HSDs.

6. 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 the clerk’s office.

This ORDER is SO MODIFIED on this the 7th day of April 2021.

/s/ Sharion Aycock
SHARION AYCOCK
CHIEF U. S. DISTRICT JUDGE