

FILED

JAN 13 2021

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY MFJ
DEPUTY

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

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 Federal Rule of Civil Procedure 5(d) and Federal Rule of Criminal Procedure 49(b), good cause exists to require all parties to file certain highly sensitive documents (HSDs) outside of the Court's electronic filing system.

THEREFORE, IT IS HEREBY ORDERED that, effective as of the date of this General Order and until such time as the Court orders otherwise, the filing of certain HSDs shall be subject to the procedures and requirements set forth below. Except as set out 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 will generally be considered HSDs: Any document filed under the Classified Information Procedures Act, 18 U.S.C. App. 3; and any other document containing information which, if disclosed, would pose a risk to national security, a clear and present danger to life and safety or result in grave or extreme harm, or as determined by the Court.
- b. Absent case-specific circumstances, the following types of sealed documents will generally not be considered HSDs:
 - (1) complaints, indictments, pretrial release reports, plea agreements and presentence reports;
 - (2) routine arrest and search warrants; and
 - (3) social security records, administrative immigration records, seizure warrants with sealed affidavits, verified complaints in civil forfeiture cases with sealed facts and sealed filings in other civil cases.
- c. Any dispute as to whether a document is an HSD shall be resolved by the presiding judge, the duty judge or the chief judge. A judge may decide *sua sponte*

to treat any document as an HSD, whether or not a party has sought such designation.

- d. If a document cannot be designated as an HSD, a party retains the ability to file such a document in the Court's CM/ECF system under seal.

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

- a. Any party wishing to treat any document as an HSD must file a sealed motion to designate the document as an HSD and a proposed order electronically under existing procedures, using the "motion for leave to file a sealed document" event, except that the proposed HSD shall not be filed electronically. The sealed motion shall explain why the proposed document constitutes an HSD under the criteria set out in paragraph 1 above, or why it should otherwise be subject to the heightened protection for HSDs.
- b. Unless excused by the Court, any motion under paragraph 2(a) for which service would be required by statute or rule shall be served on all parties. Motions requiring service may be served using the Court's CM/ECF system.

3. Filing of Authorized HSDs

- a. A party filing an HSD pursuant to a Court Order granting a motion under Paragraph 2 shall submit to the Clerk's office the HSD, any required certificate of service, and, if necessary, a copy of the Court Order authorizing the filing of that document as an HSD.
- b. If the Clerk's office receives the HSD in paper format, the HSD 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 half sheet containing only the caption of the case or matter.
- c. If the Clerk's office receives the HSD by way of the Court's approved content-sharing platform, the HSD shall not be filed in the Court's CM/ECF system, but rather will be maintained in a secure, separate repository.
- d. The Clerk's office will make a sealed 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.

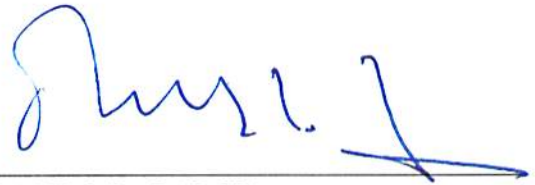
4. Highly Sensitive Court Orders

If a Court's 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 regular mail.

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 appropriate division of the Clerk's office.

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



ORLANDO L. GARCIA
Chief United States District Judge