

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: PROCEDURES FOR THE FILING,  
SERVICE, AND MANAGEMENT OF SEALED  
DOCUMENTS WITH HIGHLY SENSITIVE  
INFORMATION

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**GENERAL ORDER  
No. 1**

**WHEREAS** in response to the recent disclosure of widespread breaches of both private-sector and government computer systems as part of what is suspected to be an intelligence-gathering operation by a hostile foreign government, federal courts are immediately adding new security procedures to protect sealed documents with highly sensitive information (“HSI”);

**THE COURT FINDS** that, under [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require all parties to file sealed documents with HSI 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 sealed documents with HSI is subject to the procedures and requirements set forth below. This General Order supersedes all inconsistent provisions in the local rules or general orders of this Court.

The procedures set forth below apply only to sealed documents with HSI that are filed after the effective date of this order.

**1. Documents Subject to this Order**

- a. “HSI” does not refer to all sensitive or confidential information. Instead, HSI refers only to sensitive or confidential information that is likely to be of interest to the intelligence service of a hostile foreign government and whose use or disclosure by a hostile foreign government would likely

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JUDGMENT ENTD  
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cause significant harm. Very few documents filed under seal in federal court contain HSI.

- b. The Court anticipates that sealed documents containing HSI may often be filed in cases involving the following:
  - i. national security;
  - ii. foreign sovereign interests;
  - iii. cybersecurity;
  - iv. ongoing law-enforcement investigations or intelligence-gathering operations;
  - v. the extent of domestic or international interests;
  - vi. information that would put at risk the safety of public officials or the integrity of governmental operations;
  - vii. non-public intellectual property including trade secrets; or
  - viii. the reputational interests of the United States.
  
- c. The Court also anticipates that the following types of sealed documents may often contain HSI:
  - i. Applications for search warrants; and
  - ii. Applications for electronic surveillance under 18 U.S.C. § 2518.
  
- d. The Court anticipates that the following types of sealed documents are unlikely to contain HSI:
  - i. Presentence reports and pretrial-release reports and documents related to such reports;
  - ii. Pleadings related to cooperation in most criminal cases;
  - iii. Social Security records;
  - iv. Administrative records in immigration cases; and
  - v. Most sealed filings in most civil cases.
  
- e. Any dispute as to whether a document is a sealed document that contains HSI must be resolved by the presiding district or magistrate judge or, when no presiding judge is assigned, the chief judge.

## **2. Filing of Sealed Documents with HSI**

- a. A filing party must determine if a document that would be filed under seal contains HSI.
- b. If the filing party determines that a document contains HSI, the filing party must not file the document in the Court's electronic filing system but must instead:
  - i. Complete the "Sealed Document with HSI Placeholder Form," which can be found on the Court's website.
  - ii. File the Placeholder Form in ECF in place of the sealed document with HSI using the applicable ECF event, including adding any applicable parties when filing.
  - iii. Print the filed Placeholder Form from ECF as well as a copy of the Notice of Electronic Filing ("NEF") for the Placeholder Form and the sealed document with HSI.
  - iv. Place the following in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT" and addressed to the Clerk's Office:
    - A. A copy of the NEF;
    - B. A copy of the file Placeholder Form; and
    - C. The document with HSI.
  - v. Place two courtesy copies of these documents in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT" and addressed to the presiding district judge or magistrate judge (or, if no judge has been assigned to the case, to the Chief Judge).
  - vi. Contemporaneously with filing of the Placeholder Form in ECF, deliver or place in the mail the envelopes to the Clerk's Office.
- c. The filing party must serve the sealed document with HSI 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 Clerk's Office will maintain the sealed document with HSI in a secure paper filing system or a secure standalone computer system that is not connected to any network.

### **3. Court Review**

- a. The Court may review any document that is filed as a sealed document with HSI to determine if the document was appropriately filed as a sealed document with HSI.
- b. The Court on its own motion may also determine that any document that was filed in ECF as a sealed or restricted document must be filed as a sealed document with HSI. If the Court determines that a document that was filed in ECF as a sealed or restricted document must be filed as a sealed document with HSI, the Clerk's Office will remove the document from the case docket and add an informational entry on the case docket indicating that the document was refiled as a sealed document with HSI. The Clerk's Office will maintain the sealed document with HSI in a secure paper filing system or a secure standalone computer system that is not connected to any network.

### **4. Service of Highly Sensitive Court Orders**

If the Court determines that a Court order contains HSI, 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 by mail.

### **5. Questions about Sealed Documents with HSI Filing Procedures**

Any questions about how a sealed document with HSI should be filed with the Court under this General Order should be directed to the ECF helpdesk at: [ecfhelpdesk@mnd.uscourts.gov](mailto:ecfhelpdesk@mnd.uscourts.gov).

### **6. Sealed or Restricted Filing Procedures**

This General Order does not change any filing procedures for documents that are considered sensitive or confidential but do not meet the definition of a sealed document with HSI and are filed under LR 5.6 or LR 49.1.

This order takes effect immediately and applies to all sealed documents with HSI filed after the date and time of this order and will be in effect until further order of the Court.

The Court is developing a procedure for sealed documents already filed and expects to address such documents in a separate order as soon as possible.

DATED: January 8, 2021

6:45 PM

at Minneapolis, Minnesota



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JOHN R. TUNHEIM  
Chief Judge  
United States District Court