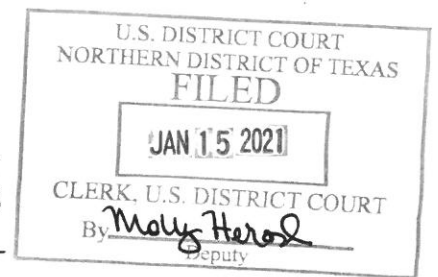


**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**



**MISCELLANEOUS ORDER NO. 61-1**

**RESTRICTIONS ON ELECTRONIC FILING OF  
HIGHLY SENSITIVE DOCUMENTS**

The Court has determined that, under Fed.R.Civ.P. 5(d)(3)(A) and Fed.R.Crim.P. 49(b)(3)(A), good cause exists to require parties to file highly sensitive documents (HSDs) outside of the judiciary's Case Management/Electronic Case Files (CM/ECF) system. Therefore, it is ORDERED that parties must file HSDs in paper and under seal as directed in this Order.

**Definition of HSDs**

The Court anticipates that relatively few documents filed in this Court will be classified as HSDs. An HSD is a document that contains sensitive or confidential information that may be of interest to the intelligence service of a hostile foreign government and whose use or disclosure by a hostile foreign government would likely cause significant harm. A document that meets these criteria may be filed under seal as an HSD without leave of court.

The Court expects that HSDs may be filed in cases involving:

1. national security;
2. foreign sovereign interests;
3. cybersecurity;
4. ongoing law-enforcement investigations or intelligence-gathering operations;
5. information that would put at risk the safety of public officials or the integrity of governmental operations; or
6. non-public intellectual property, including trade secrets.

The following types of documents may often be classified as HSDs:

1. applications for search warrants; and
2. applications for electronic surveillance under 18 U.S.C. § 2518.

The following types of documents are unlikely to be classified as HSDs:

1. presentence reports and pretrial-release reports and documents related to such reports;
2. Social Security records;
3. administrative records in immigration cases; and
4. most sealed filings in civil cases.

The filing party must determine if a document should be designated as an HSD as defined by this Order. Any dispute as to whether a document should be so designated will be resolved by the presiding district or magistrate judge or, when no presiding judge has been assigned, a duty judge or chief district judge.

### **Manner of Filing, Serving, and Maintaining an HSD**

The filing party must hand deliver or deliver by mail an original HSD and one judge's copy to the Clerk's Office in the appropriate division inside a sealed envelope that does not provide any indication of the envelope's contents. The HSD and judge's copy should be contained inside an inner sealed envelope that is clearly marked "Highly Sensitive Document." Required service of an HSD must not be made through CM/ECF but may be achieved in any other manner permitted under Fed.R.Civ.P. 5(b)(2) or Fed.R.Crim.P. 49(a)(3)(B) or (a)(4). If applicable, the HSD should be accompanied by a certificate of service.

The Clerk's Office will maintain HSDs in a secure paper filing system or a secure standalone computer system that is not connected to any network. The Clerk's Office will make an appropriate notation on the docket sheet of the filing of a sealed document but will not otherwise indicate the nature of the document or its classification as an HSD.

The Clerk's Office is authorized to issue other procedural instructions to facilitate the filing and storage of HSDs.

### **Court Review**

The presiding judge may direct a party to refile in CM/ECF any document that the party filed in paper as an HSD if the judge determines that the document does not meet the definition of an HSD under this Order.

### **HSDs Designated by a Presiding Judge**

The presiding judge may direct the Clerk's Office to file and maintain any order or other document that meets the definition of an HSD in a secure paper filing system or a secure standalone computer system that is not connected to any network. The Clerk's Office will serve paper copies of any order designated as an HSD on the parties by mail.

### **HSDs Previously Filed in CM/ECF**

A party may request removal from CM/ECF of a previously-filed document that meets the definition of an HSD by filing a sealed motion in the underlying case that identifies the docket number of the HSD, along with a certification of the movant's good faith belief that the document meets the definition of an HSD. Additionally, the presiding judge may, on the judge's own motion, direct the Clerk's Office to remove any previously filed HSD from CM/ECF and to maintain the document in a secure paper filing system or a secure standalone computer system that is not connected to any network.

This Order does not change any procedures for filing sealed documents that do not meet the definition of an HSD under LCR 79.3 or LCrR 55.3.

This Order takes effect immediately and will be in effect until further order of the Court. This Order supersedes all inconsistent provisions in local rules or orders of the Court. Any questions about how to file an HSD should be directed to the Clerk's Office CM/ECF helpdesk at: 214-753-2633 or 866-243-2866.

**SO ORDERED.**

January 15, 2021.



BARBARA M.G. LYNN  
CHIEF JUDGE