

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**STANDING ORDER 21-1**

**as amended**

**JANUARY 26, 2021**

**ORDER REGARDING HIGHLY SENSITIVE DOCUMENTS**  
**FILING, SERVICE, AND MANAGEMENT**

**SAYLOR, C.J.**

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, this court is adding new security procedures to protect highly sensitive documents filed with the courts. This order is not intended to increase the number of matters designated as “confidential” or filed under seal, or to change the standards for making such a designation. Rather, its purpose is to define a small subset of “confidential” documents that contain certain types of “highly sensitive” information, and to create a procedure for the designation and secure handling of such documents.

The Court finds that, pursuant to Fed. R. Civ. P. 5(d)(3)(A) and Fed. R. Crim. P. 49(b)(3)(A), good cause exists to require all parties to file certain highly sensitive documents in accordance with the procedures listed below.

**IT IS HEREBY ORDERED** that, effective as of the date of this order and until the Court orders otherwise, the filing of certain Highly Sensitive Documents (HSD) shall be subject to the procedures and requirements set forth below. This General Order supersedes all inconsistent provisions in existing local rules or other general orders of this Court.

**1. Documents Subject to this Order**

- a. The following are HSDs: Title III applications for electronic surveillance under 18 U.S.C. § 2518.
- b. The following may be HSDs:
  - Documents where disclosure would breach national security;
  - criminal case documents that could compromise the safety of a cooperator by disclosing his/her identity including search warrants,
  - motions pursuant to § 5K1.1 of the United States Sentencing Guidelines or pursuant to Fed.R. Crim. P. 35;
  - and any other document that a party believes contains information that is so sensitive that disclosure would cause a high risk of imminent and extreme harm to an identifiable person or entity.

Not all documents that could be considered HSDs need be treated as such where ordinary sealing is deemed sufficient.

- c. The following types of documents generally are not considered HSDs:
  - Presentence reports,
  - pretrial release reports,
  - pleadings related to cooperation in most criminal cases,
  - social security records,
  - administrative records,
  - and sealed filings in many civil cases.
- d. Any dispute about whether a document is an HSD will be resolved by the presiding judge or emergency judge.

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

The filing procedures set forth below apply to documents that contain highly sensitive information:

- a. A party shall submit an HSD under seal or file a motion to seal that includes the request that a document be treated as an HSD, except that a copy of the HSD or proposed HSD shall not be filed electronically.
- b. The filing party shall deliver to the Clerk's Office or the presiding judge two copies of the HSD or proposed HSD. These documents should be securely packaged and labeled HIGHLY SENSITIVE DOCUMENT.
- c. The filing party shall serve the HSD or proposed HSD on the other parties as follows:
  - Civil cases - by any manner specified in Fed. R. Civ. P. 5(b)(2), except for service through the Court's electronic filing system; or
  - Criminal cases - by any manner specified in Fed. R. Crim. P. 49(a)(3)(B) or (a)(4).
- d. For HSDs and proposed HSD's deemed to be HSD's by the Court following review of the motion, the Clerk will make an informational entry on the case docket showing that an HSD has been filed with the Court.

## **3. 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.
- b. A party's motion to remove an HSD or highly sensitive case from the court's electronic filing system shall explain why such document or case is highly sensitive and why it should otherwise be subject to the heightened protection for HSDs.
- c. If granted, the Court will issue an order on the motion and the Clerk will make an informational entry on the case docket showing that the HSD or case has been

removed from CM/ECF.

- d. If there is no longer a need to treat a filing as an HSD, the Court may order or a party may seek to have the document or case returned or added to the Court's electronic filing system.

**4. Storage of the Record**

- a. The Clerk's Office will maintain HSDs in a secure paper filing system or in any other manner determined by the Court to provide sufficient security for HSDs.

**IT IS SO ORDERED.**

By the Court:

January 26, 2021

/s/ F. Dennis Saylor IV, Chief Judge