

**FILED**

JAN 20 2021

PATRICK KEANEY  
Clerk, U.S. District Court

By \_\_\_\_\_  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

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

General Order No. 21-2

GENERAL ORDER

WHEREAS, in response to recent disclosures of wide-spread 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 highly sensitive documents (HSDs) filed with the courts.

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 the filing of 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 handling, filing, service, and management of HSDs shall be subject to the procedures and requirements set forth below. This General Order supersedes any and all inconsistent provisions in the Court's existing local rules, CM/ECF administrative guide, or other general orders.

1. Documents Subject to this Order
  - a. The procedures set forth below apply only to documents that contain highly sensitive information or which the filing party believes to contain highly sensitive information. HSDs are documents that contain highly sensitive 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 cause significant harm. Very few documents filed in federal court would be considered HSDs.
  - b. The Court nevertheless anticipates that HSDs may be part of cases involving the following subject matters: national security, foreign sovereign interests, cybersecurity, ongoing law enforcement investigations including search warrant applications and wiretaps involving highly sensitive information as defined above, intelligence gathering operations, information that would put at risk the safety of public officials or the integrity of governmental operations, non-public intellectual property including trade secrets whose disclosure would

benefit a hostile foreign government, and the reputational interests of the United States.

- c. The Court anticipates that the following types of documents will not generally be considered HSDs: presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases; grand jury proceedings, juvenile proceedings, Social Security records; Administrative records in immigration cases; and most sealed filings in civil cases.
  - d. Disputes as to whether a particular document is an HSD shall be resolved by the presiding district or magistrate judge or, when no presiding judge is assigned, by the chief judge.
2. Filing of Motions to Treat a Document as an HSD

a. Represented Parties

- i. A represented party shall file electronically a motion to treat a document as an HSD and a proposed order in the same fashion as a motion to file under seal in criminal cases by selecting the relief “sealed document(s)” under the criminal motion section and following the prompts and, in civil cases, by following the instructions under the Court’s CM/ECF Administrative Guide, pp. 7-8, except that in both instances a copy of the proposed HSD shall not be filed electronically. The 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 filing protection for HSDs. If the motion cannot be filed without revealing the highly sensitive information contained within the HSD, then the motion and proposed order should be filed in paper along with the HSD in accordance with paragraph a.ii. below.
- ii. As soon as practical after the motion is filed, the filing party shall deliver to the Clerk’s Office two paper copies of the HSD and shall electronically file a certificate of service. These paper copies shall be submitted in a sealed envelope marked “HIGHLY SENSITIVE DOCUMENT” and marked with the applicable case number, attorney’s name, mailing address, and telephone number.
- iii. The filing party shall serve the proposed HSD on the other parties as follows:
  - 1. Criminal cases – by any manner specified in Fed.R.Crim.P. 49(a)(3)(B) or (a)(4); or



**2. Civil cases – by any manner specified in Fed.R.Civ.P. 5(b)(2), other than service via the Court’s electronic filing system.**

- iv. The Court will issue an order on the motion and, if granted, an informational entry will be made on the case docket indicating that the HSD has been filed with the court. The Clerk’s Office will maintain the HSD in a secure paper filing system.**
- v. In the event the Court issues an order denying the motion, the Clerk’s Office will nonetheless maintain the proposed HSD in a secure filing system for purposes of preservation of the record and the filing party will be granted additional time to file the document via the Court’s electronic filing system.**

**b. Pro Se Parties**

- i. Pro se parties shall submit to the Clerk’s Office for filing two paper copies of a motion to treat a document as an HSD, the HSD sought to be file, and a certificate of service . These documents shall be submitted in a sealed envelope marked “HIGHLY SENSITIVE DOCUMENT” and marked with the applicable case number, party’s name, mailing address, and telephone number.**
- ii. The filing party shall serve the proposed HSD on the other parties as specified in paragraph 2(a)(iii).**
- iii. The Court will issue an order on the motion and, if granted, an informational entry will be made on the case docket indicating that the HSD has been filed with the Court. The Clerk’s Office will maintain the HSD in a secure paper filing system.**
- iv. In the event the Court issues an order denying the motion, the Clerk’s Office will nonetheless maintain the proposed HSD in a secure filing system for purposes of preservation of the record and the filing party will be granted additional time to file the document conventionally. i.e. via paper submission.**

**3. Service of Highly Sensitive Court Orders**

**If the Court determined that a court order contains highly sensitive information, the Clerk’s Office will file and maintain the order to that effect in a secure paper filing system and will serve paper copies of the order on the parties via mail.**

**4. Removal of Existing HSDs or Stripping of 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 or case that has been filed electronically is highly sensitive and direct that the HSD be removed or that the case information be stripped from the Court's electronic filing system and maintained by the Clerk's Office in a secure paper filing system.
- b. A party's motion to remove an HSD or to strip a highly sensitive case from the Court's electronic filing system shall explain why such case or document is highly sensitive under the criteria set out in paragraph 1 above or why it should otherwise be subject to the filing protections for HSDs.

**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 Clerk's Office at 918-684-7920.

It is so ordered this 20th day of January, 2021.



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RONALD A. WHITE  
CHIEF JUDGE, UNITED STATES DISTRICT COURT