

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**GENERAL ORDER 21-1
JANUARY 15, 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.

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

The filing procedures set forth below apply to documents that contain highly sensitive information. This list designates filings that are presumptive HSDs:

- a. Title III applications for electronic surveillance under 18 U.S.C. § 2518; Motions pursuant to § 5K1.1 of the United States Sentencing Guidelines or pursuant to Fed. R. Crim. P. 35; and criminal case documents that may disclose the identity of a cooperator or cooperators.
- b. Any 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, or would breach national security.
- c. 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

- a. A party shall file a motion under seal to treat a document as an HSD, except that a copy of the proposed HSD shall not be filed electronically.
- b. The filing party shall deliver to the Clerk's Office two copies of the HSD sought to be filed. These documents should be securely packaged and labeled HIGHLY SENSITIVE DOCUMENT.

- c. The filing party shall serve the HSD on the other parties as follows:
 - i. 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
 - ii. Criminal cases - by any manner specified in Fed. R. Crim. P. 49(a)(3)(B) or (a)(4).
 - d. The Court will issue an order on the motion and, if granted, the Clerk will make an informational entry on the case docket showing that the 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.
4. **Storage of the Record**
- a. The Clerk's Office will maintain the HSD 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 15, 2021

/s/ F. Dennis Saylor IV, Chief Judge