

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

January 19, 2021

Nathan Ochsner, Clerk of Court

IN RE: PROCEDURES FOR §
THE FILING, SERVICE, AND §
MANAGEMENT OF HIGHLY §
SENSITIVE DOCUMENTS (“HSDs”) §

By Deputy Clerk 

GENERAL ORDER NO. 2021-3

ORDER

In response to recent disclosures of widespread breaches of both private sector and government computer systems, federal courts are adding new security procedures to protect “Highly Sensitive Documents” (“HSDs”) filed with the courts.

Under [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require all parties to file certain HSDs outside the court’s electronic filing system. As of the date of this General Order, and until the court orders otherwise, the filing of certain HSDs is subject to the procedures and requirements set forth below. This General Order supersedes inconsistent provisions in Local Rule 83.1 and paragraph 6 of the Administrative Procedures for Electronic Filing, and in other orders of this court.

This Order does not apply to Bankruptcy Court proceedings. A separate Bankruptcy Court Order addresses those proceedings.

1. Documents Subject to this General Order

The filing procedures set forth below apply to Highly Sensitive Documents (“HSDs”), which are documents that are or in part contain “Highly Sensitive Information” (“HSI”).

- a. “Highly Sensitive Information” (“HSI”) does not refer to all sensitive or confidential information. Instead, it refers only to information that is likely to be used by a hostile foreign government or its intelligence service to harm the interests of the United States, or likely to be used to commit foreign or domestic crimes, so that disclosure or use will cause significant harm. Very few documents currently being filed under seal in federal court contain HSI meeting these criteria.
- b. HSDs include applications for electronic surveillance under 18 U.S.C. § 2518.
- c. The court anticipates that HSDs may also include documents that, in the judgment of the filing party, are or contain HSI that is substantially likely to adversely affect:
 - i. the nation’s security;
 - ii. a foreign sovereign interest;

- iii. the ability of an entity to maintain cybersecurity;
 - iv. ongoing law-enforcement investigations or intelligence-gathering operations involving documents that are substantially likely to be used to commit domestic or international crimes;
 - v. the safety of public officials, individuals cooperating with law enforcement in criminal investigations or prosecutions, or the integrity of government operations;
 - vi. nonpublic intellectual property, trade secrets, or confidential commercial information; or
 - vii. the reputational interests of the United States.
- d. The court anticipates that the following do not contain HSI and are not HSDs, and that these documents will continue to be filed under existing sealing procedures:
- i. search warrant applications and search warrants;
 - ii. presentence reports and pretrial-release reports and documents related to those reports;
 - iii. social security records;
 - iv. administrative records in immigration cases; and
 - v. most sealed filings in civil cases.

2. Filing HSDs Under These Procedures

- a. The filing of any sealed documents is discouraged.
- b. A document filed under these HSD procedures must be filed in paper form in a sealed envelope labeled “Highly Sensitive Documents” and with the case style and number, inside an outer mailing or delivery envelope. These documents may be filed only: (i) in person; (ii) by United States Mail; or (iii) by a commercial delivery service (such as Federal Express or UPS).
- c. HSDs filed under these procedures must be filed with the Clerk of Court in the Division where the case is filed.
- d. Two physical copies of each HSD filed under these procedures must be filed. One copy is the court record; the second is for the presiding judge. No separate courtesy copy is needed unless specifically requested.

- e. HSDs filed under these procedures must have a completed cover sheet filed with both copies, using the form attached to this Order. The address for each Division is included on the cover sheet.
- f. On receipt of an HSD, the Clerk will make a docket entry on the CM/ECF record reflecting receipt of that document. This entry will be the only notice of receipt by the Clerk, unless there is a request for a file-stamped copy under paragraph 2h.
- g. The Clerk's Office will file and maintain HSDs in a secure paper filing system, or the Clerk's Office may determine to maintain them on a secure standalone computer system that is not connected to any network.
- h. Requests by a filing party for a file-stamped copy of any sealed document will not be honored while this Order is in effect, unless the requesting party provides the Clerk with a written request, an extra copy, and a self-addressed stamped envelope as part of the filing. For documents filed in person, a filing party must present the requested extra copy to be file-stamped at the time of filing. Due to the COVID-19 pandemic, a secure drop box has been placed in the lobby of each of the District's seven courthouses. The drop boxes are available to in-person filers.
- i. If some, but not all, of a document consists of or includes HSI, a redacted version must be electronically filed using the CM/ECF Code titled "Redacted Document."
- j. Documents filed under seal must be served by the filing party on any parties in interest entitled to receive the sealed document, and the documents must include a certificate of service if service is required by the applicable Rules.

3. Service of Court Orders Containing HSDs

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 may determine that the order will be maintained on a secure standalone computer system that is not connected to any network. The Clerk's Office will serve the copies of the order to entitled parties via mail.

4. Objections to Filing Under These Procedures

- a. Disputes as to whether all or part of a document is an HSD and subject to this General Order may be raised by motion or under the procedures of the presiding judge and will be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge or delegee.
- b. Any party may object to a document designated as an HSD and file a motion to have it filed in CM/ECF.

- c. The challenged document will remain subject to these HSD procedures pending the court's ruling on the motion raising the objection. The motion must explain why the document should not be subject to protection as an HSD.
- d. If the court determines that a document should not be treated as an HSD, it will be filed on CM/ECF.

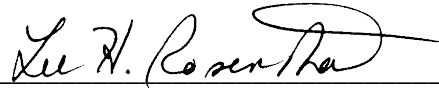
5. Removal of Existing HSDs from the Court's Electronic Filing System

- a. On motion of a party or on its own motion, the court may determine that a document that has previously been filed electronically is an HSD, in whole or in part. The court may direct that the document or case filing be removed from the court's electronic filing system and maintained by the Clerk's Office in a secure paper filing system or, if applicable, a secure standalone computer system that is not connected to a network.
- b. A party's motion to remove a document from the court's electronic filing system must explain why the document or filing is an HSD under the criteria set out in paragraph 1 above.

6. Questions About Filing Procedures for HSDs

Any questions about how HSDs should be filed under this General Order should be directed to the Clerk's Office, not the judge's chambers, at the email or telephone number for each division listed on the attached cover sheet.

ORDERED, this 19th day of January 2021.



Lee H. Rosenthal
Chief Judge

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

Plaintiff §
§
vs. § **Case Number**
§
Defendant §

COVER SHEET TO SEALED DOCUMENT

Title of Sealed Document	
Name of attorney filing document	
CM/ECF number of redacted document (per General Order 2021-3, paragraph 2.i.)	
Filing date of redacted document	

**FILE THIS COMPLETED COVER SHEET
WITH ANY SEALED FILING**

Submitted on [DATE]

[Signature Block of Attorney]

Brownsville Division

Reynaldo G. Garza-Filemon B. Vela
United States Courthouse
600 East Harrison Street
Brownsville, Texas 78520
956-548-2500
brownsville_operation@txs.uscourts.gov

Houston Division

Bob Casey United States Courthouse
515 Rusk Avenue
Houston, Texas 77002
713-250-5500
houston_operation@txs.uscourts.gov

Corpus Christi Division

United States Courthouse
1133 North Shoreline Boulevard
Corpus Christi, Texas 78401
361-888-3142
corpus_operation@txs.uscourts.gov

Laredo Division

George P. Kazen Federal Building &
United States Courthouse
1300 Victoria Street
Laredo, Texas 78040
956-723-3542
laredo_operation@txs.uscourts.gov

Galveston Division

United States Post Office and Courthouse
601 Rosenburg, Room 411
Galveston, Texas 77550
409-766-3530
galveston_operation@txs.uscourts.gov

McAllen Division

United States Courthouse
1701 West Business Highway 83
McAllen, Texas 78501
956-618-8065
mcallen_operation@txs.uscourts.gov

Victoria Division

Martin Luther King, Jr. Federal Building
312 South Main Street, Room 406
Victoria, Texas 77901
361-788-5000
victoria_operation@txs.uscourts.gov