

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:

PROCEDURES FOR THE FILING,  
SERVICE, AND MANAGEMENT OF  
HIGHLY SENSITIVE DOCUMENTS

MISC. NO: 3:21-mc-6

**ORDER**

**WHEREAS**, in response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are immediately adding new security procedures to protect highly sensitive documents filed with the courts;

**THE COURT FINDS** that, pursuant to [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require all parties to file certain highly sensitive documents outside of the court's electronic filing system.

**THEREFORE, IT IS HEREBY ORDERED** that, effective as of the date of this order and until such time as the Court orders otherwise, the handling, filing, service and management of certain highly sensitive documents shall be subject to the procedures and requirements set forth below. This Standing Order supersedes any and all inconsistent provisions in existing local rules or other general orders of this court.

**1. Documents Subject to this Order**

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

- a. The following types of documents are deemed highly sensitive documents (HSDs) without further court order:
  - i. Applications for interception of wire, oral or electronic communications, under 18 U.S.C. § 2518,
- b. The court may, on its own motion or on the motion of a party pursuant to section 4 of this Order, direct that the following material be designated as HSD:
  - ii. Under seal search warrants or criminal complaints, where the United States Attorney moves for such designation, for good cause shown. A motion to seal search warrant materials or a criminal complaint, if granted, does not deem such documents as HSDs absent a specific request from the United States Attorney to do so in the motion;
  - iii. Material which, if disclosed, could jeopardize national security or place human life or safety at risk; and

- iv. Materials which, if disclosed to a foreign power or its agents (as defined by 50 U.S.C. § 1801), would be unlawful under U.S. law or would substantially assist a foreign power or its agents in the development of that foreign power in competing commercial product or products with military applications.
- c. The following types of documents generally are not considered HSDs: Presentence reports, pretrial release reports, filings and documents related to petitions for compassionate release and/or other sentencing relief, pleadings related to cooperation in most criminal cases, social security records, administrative immigration records, and sealed filings in many civil cases.
- d. Any dispute as to whether a document is an HSD shall be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge.

## **2. Providing HSDs to Clerk or Judicial Officers**

When an HSD or proposed HSD is provided to the Clerk or a judicial officer in advance of filing, it must be provided in paper copy by hand delivery or mail.

## **3. Filings through Judicial Officer**

An HSD submitted to, or generated by, a judicial officer shall be filed in paper form to the Clerk. The Clerk's Office will file and maintain the HSD in a secure paper filing system.

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

- a. If represented by counsel, a party shall file a motion to seal and treat a document as an HSD via CM/ECF under existing procedures, except that a copy of the proposed HSD shall not be filed electronically. Instead, a blank HSD placeholder document shall be attached to the Motion in place of the proposed HSD to reserve a docket number. The motion shall explain why the proposed document should be sealed and afforded treatment as an HSD under the criteria set out in paragraph 1.a. or 1.b. above or why it should otherwise be subject to the heightened protection for HSDs. As soon as practicable after the motion is filed electronically, the filing party shall deliver to the Clerk's Office, by deposit in the Clerk's drop box, two (2) paper copies of the HSD sought to be filed along with a certificate of service. These documents shall be submitted to the Clerk's Office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT". The filing party shall place a paper copy of the NEF for the motion filed seeking to treat the document as an HSD, which includes the CM/ECF case number and document number, on the outside of the opposite side of the envelope, and place the proposed HSD and a certificate of service inside the envelope.
- b. If not represented by counsel, a party shall file by paper two (2) copies of a motion to seal. The motion shall explain why the proposed document should be sealed and afforded treatment as an HSD under the criteria set out in paragraph 1.a. or 1.b. above or why it should otherwise be subject to the heightened protection for HSDs. These documents shall be submitted to the Clerk's Office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT". On the outside of the envelope

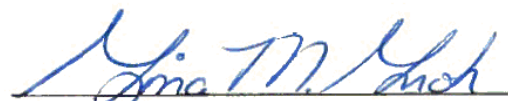
the filing party shall provide the style of the case and the CM/ECF case number and place the proposed HSD and a certificate of service inside the envelope.

- c. The filing party shall serve the HSD on the other parties as follows:
  - i. Civil cases – by any manner specified in Civil Rule 5(b)(2), except service via the Court’s electronic filing system; or
  - ii. Criminal cases – by any means specified in Criminal Rule 49(a)(3)(B) or (a)(4).
- d. The court will issue an order deciding 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.

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

If the court determines that a court order contains highly sensitive information, the Clerk’s Office will file and maintain the order in a secure paper filing system or a secure standalone computer system that is not connected to any network and will serve paper copies of the order on the parties via mail.

**IT IS SO ORDERED**, this 14th day of January, 2021.



GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE