

U.S. District Court
N.D.N.Y.
Filed
September 22, 2023
John M. Domurad, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

GENERAL ORDER #62

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

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 filing of certain highly sensitive documents shall be subject to the procedures and requirements set forth below. This General 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 filing procedures set forth below apply to documents that contain highly sensitive information.

- a. The following types of documents are deemed highly sensitive documents (HSDs): applications for electronic surveillance under 18 U.S.C. § 2518, Pen Registers, Grand Jury Target Letters, Grand Jury Non-Disclosure Orders, and Applications for 18 U.S.C. § 2703-d disclosures.
- b. The following types of documents generally are not considered HSDs: search warrants, presentence reports, pretrial release reports, pleadings related to cooperation in most criminal cases, social security records, Qui tam actions, administrative immigration records, and sealed filings in many civil cases.

- c. 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.
- d. It is in the U.S. Attorney's discretion as to whether a search warrant, sealed Grand Jury Indictment or sealed Criminal Complaint should be handled as a HSD document. No motion is necessary to treat these documents as HSD when requested by the AUSA. While search warrants, sealed Grand Jury Indictments and sealed Criminal Complaints are not considered HSD, the Court strongly recommends that electronic transmittal of these documents be done via encrypted email. Sealed Indictments and sealed Complaints will not be uploaded to CM/ECF until after the document has been unsealed by Court order.

2. Filing of Authorized HSDs

- a. A party filing an HSD pursuant to a court order or applicable law shall submit to the clerk's office the HSD, the certificate of service, and, if applicable, a copy of the court order authorizing the treatment of that document as highly sensitive in the form of two paper copies.
- b. The required documents, unfolded, shall be submitted to the clerk's office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope shall be affixed with a copy of the HSD's caption page (with confidential information redacted).
- 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 for service via the court's electronic filing system; or
 - ii. Criminal cases - by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4).
- d. The clerk's office will make an informational docket entry in the court's electronic filing system indicating that the HSD was filed with the court and will maintain the HSD in a secure paper filing system

3. Filing of Motions to Treat a Document as an HSD

- a. Represented parties
 - i. A represented party shall file a motion to treat a document as an HSD and a proposed order electronically under existing procedures [**General Order #22**], except that 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 heightened protection for HSDs.
 - ii. As soon as practicable after the motion is filed, the filing party shall deliver to the clerk's office the HSD sought to be filed along with a certificate of service in the form of two paper copies. These documents should be packaged as specified in paragraph 2.b.
 - iii. The filing party shall serve the proposed HSD on the other parties as specified in paragraph 2.c.
 - 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 or a secure standalone computer system that is not connected to any network.

b. Pro se parties

- i. Pro se parties shall submit to the clerk's office for filing a motion to treat a document as an HSD, the HSD sought to be filed, and a certificate of service in the form of either two paper copies. These documents should be packaged as specified in paragraph 2.b.
- ii. The filing party shall serve the proposed HSD on the other parties as specified in paragraph 2.c.
- 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.

4. 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 and will serve paper copies of the order on the parties via mail.

5. 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 and maintained by the clerk's office in a secure paper 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 under the criteria set out in paragraph 1 above or why it should otherwise be subject to the heightened protection for HSDs.

6. 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 Daniel McAllister, Chief Deputy Clerk, at (315) 234-8505.

IT IS SO ORDERED, this 22 day of September, 2023.



Hon. Brenda K. Sannes
Chief U.S. District Judge