

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE

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Jan 15, 2021

**Vicki Kinkade**  
Chief Deputy Clerk

IN RE: )

PROCEDURES FOR THE FILING, )  
SERVICE, AND MANAGEMENT OF )  
HIGHLY SENSITIVE DOCUMENTS )  
RELATING TO CIVIL OR CRIMINAL )  
PROCEEDINGS )

Administrative Order No. 214

**ORDER**

This Order responds to recent disclosures of possible wide-spread breaches of both private sector and government computer systems. As a result, federal courts are adding new security procedures to protect from disclosure various highly sensitive documents (“HSD”) filed in the Court’s electronic filing system (CM/ECF). In particular, 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 parties to file HSD outside of CM/ECF.

Effective immediately, and until such time as the Court directs otherwise, the filing of HSD shall be subject to the procedures and requirements set forth below.

**1. Documents Subject to this Order**

The filing procedures described herein apply only to documents that are designated as HSD. Not all documents that contain confidential information are designated as HSD. To avoid confusion, the Court provides the following guidance for designating documents as HSD:

a. The following types of documents are per se considered HSD: (1) applications for search warrants; (2) applications for electronic surveillance under 18 U.S.C. § 2518; (3) applications for a pen register or trap and trace device under 18 U.S.C. § 3122; (4) applications for an order under 18 U.S.C. § 2703(d); and (5) grand jury disclosure and non-disclosure orders.

b. The following types of documents generally are not considered HSD but may be designated by the Court as HSD based on case-specific circumstances: (1) presentence reports; (2) pretrial release reports; (3) pleadings related to cooperation; (4) social security records; (5) administrative immigration records; and (6) sealed filings in civil matters. Parties who believe that a document in these categories is an HSD should make a motion to the Court.

## **2. Filing of HSD**

a. A party filing a document that has been designated an HSD, whether because it falls into a per se category of HSD or because the document has specifically been designated an HSD by the court, shall submit to the Clerk the HSD, the certificate of service, and, if applicable, a copy of the order designating the document as an HSD. The party shall submit the HSD in the form of either paper copy or an electronic copy on a secure electronic device, such as a USB flash drive that has a label showing the case number and date of filing. HSD submitted on a USB flash drive should be password protected. The password, along with the case number, should be e-mailed separately to the following e-mail address: [HSD@tnmd.uscourts.gov](mailto:HSD@tnmd.uscourts.gov).

b. The required HSD shall be submitted to the Clerk in a sealed envelope marked “HIGHLY SENSITIVE DOCUMENT” and upon receipt the Clerk shall stamp the document in red “HSD.” A copy of the HSD’s caption page (with confidential information redacted) shall be affixed to the outside of the envelope by the filing party.

- 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), except for service through the Court’s electronic filing system.

d. The Clerk will make an informational docket entry in the Court's electronic filing system indicating that the HSD was filed with the Court.

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


A party seeking to have a particular document designated as an HSD shall file a motion and supporting documentation with a Notice to the Clerk indicating that the motion involves HSD. The motion and supporting documentation shall be submitted to the Court in paper form or an electronic copy on a secure electronic device. The Clerk will make an informational docket entry in the Court's electronic filing system indicating that the motion was filed with the Court, so the filing party should take care to ensure that confidential information from the HSD does not appear in the motion itself. The Clerk will maintain the motion and supporting document in a secure paper filing system or a secure standalone computer system that is not connected to any network.

**4. Removal of Existing HSD or Highly Sensitive Cases from the Court's Electronic Filing System**

Upon motion of a party or upon its own, the presiding judge in a matter may determine that a document, case, or any portion of it, that has been filed electronically is highly sensitive and direct that the document or case be afforded HSD status and thus removed from the Court's electronic filing system and maintained by the Clerk in a secure paper filing system or a secure standalone computer system that is not connected to any network.

IT IS SO ORDERED.

FOR THE COURT

  
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WAVERLY D. CRENSHAW, JR.  
CHIEF UNITED STATES DISTRICT JUDGE