

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

IN RE: )  
PROCEDURES FOR THE FILING OF )       STANDING ORDER 2021-1  
HIGHLY SENSITIVE DOCUMENTS )

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;

Pursuant to [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require parties in the District of Kansas to file certain highly sensitive documents outside of the court’s electronic filing system.

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

**1. Documents Subject to this Order**

The filing procedures set forth below apply to documents that contain highly sensitive information. Highly sensitive documents (HSDs) are documents that contain highly sensitive non-public information that is likely to be of interest to the intelligence service of a hostile foreign government and whose use or disclosure would likely cause significant harm. **Very few documents filed under seal in the District of Kansas are HSDs.** Counsel in civil cases are strongly encouraged to carefully analyze whether their documents actually meet these standards.

- a. The court anticipates that HSDs may often be filed in cases involving the following:
  - i. National security issues;
  - ii. Foreign sovereign interests;
  - iii. Cybersecurity or major infrastructure security;
  - iv. Ongoing high-profile law enforcement investigations or intelligence-gathering operations;
  - v. Safety of law enforcement, public officials or government interests;
  - vi. Non-public intellectual property and/or significant trade secrets;
  - vii. Documents that would give foreign competitors of U.S. corporations a competitive advantage;

- viii. The reputational interests of the U.S. or any State, or local government; or
  - ix. False Claims or Qui Tam cases.
- b. The court also anticipates that where any of the above are referenced, the following types of sealed documents may constitute HSDs:
- i. Applications for search warrants;
  - ii. Applications for production of stored electronic communications under 18 U.S.C. § 2703; and
  - iii. Applications for electronic surveillance under 18 U.S.C. §2518.
- c. The following types of documents are generally not considered HSDs:
- i. Presentence reports, pretrial release reports, and documents related to such reports;
  - ii. Pleadings related to cooperation in most criminal cases;
  - iii. Items contained in Restricted Document Folders;
  - iv. Sealed indictments, criminal complaints, arrest warrants or petitions for action on conditions of release;
  - v. Grand jury proceedings;
  - vi. Social Security records;
  - vii. Most sealed filings and protective orders in most cases, including settlement agreements;
  - viii. Medical, mental health or rehabilitation records;
  - xi. Attorney discipline proceedings;
  - x. Administrative immigration records;
  - x. Juvenile proceedings;
  - xi. Documents containing personal or financial information; or
  - xii. Education records.
- 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. Filing of Motions to Treat a Document as an HSD**

Represented parties and pro se litigants

- a. A represented party or pro se party shall file a motion to treat a document as an HSD and a proposed order in the same fashion as a motion to file under D. Kan. Local Rules 5.4.6 and CR49.6(a) except that a copy of the proposed motion and accompanying HSD shall not be filed electronically. The motion shall explain, in detail, why the proposed document constitutes an HSD under the criteria set out in paragraph 1 above or why it should otherwise be filed without revealing the highly sensitive information contained within the HSD. The motion should be filed in paper along with the HSD in accordance with paragraph 2(b) below.

- b. The filing party shall deliver to the clerk's office three paper copies of the motion and HSD sought to be filed along with a certificate of service. These documents shall be submitted in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT" and marked with the applicable case number, attorney's name, street address, telephone number, and e-mail address. If paper cannot be used, please call the clerk's office to find out the requirements of submitting the information on an electronic device. Upon receipt, the clerk's office will make an informational docket entry that a motion to treat a document as an HSD has been filed.
- c. The filing party shall serve the proposed HSD on the other parties as follows:
  - i. Criminal cases – by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4), except for service via the court's electronic filing system; or
  - ii. Civil cases – by any manner specified in Civil Rule 5(b)(2), except for service via the court's electronic filing system.
- d. 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. Any order resulting from this Standing Order may be by text entry only, stating whether the motion is sufficient to classify the document as an HSD. 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.

**3. 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.

**4. 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 or a secure standalone computer system that is not connected to any network.
- b. A party's motion to remove an HSD or highly sensitive case from the court's electronic filing system shall explain, in detail, 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.

**5. Questions about HSD Filing Procedures**

Any questions about how a motion in an HSD should be filed with the court pursuant to this Standing Order should be directed to Jamie Haig at [Jamie\\_Haig@ksd.uscourts.gov](mailto:Jamie_Haig@ksd.uscourts.gov) or 316-315-4205.

This 19th day of January 2021.

s/Julie A. Robinson

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JULIE A ROBINSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT