

MAR 22 2019

C/E

*SECOND JUDICIAL CIRCUIT OF THE UNITED STATES
UNITED STATES COURTHOUSE
40 FOLEY SQUARE-ROOM 2904
NEW YORK, NEW YORK 10007
(212) 857-8700 PHONE
(212) 857-8680 FACSIMILE*

ROBERT A. KATZMANN
CHIEF JUDGE

KAREN GREVE MILTON
CIRCUIT EXECUTIVE

**MEMORANDUM
March 21, 2019**

To: Second Circuit Judicial Council

From: Karen Greve Milton, Circuit Executive 

Re: Proposed Revisions to Local Civil Rules – District of Connecticut

The Board of Judges for the District of Connecticut approved a proposal to revise one Local Criminal Rule. The Board of Judges for the District of Connecticut requests the Second Circuit Judicial Council's final approval.

The proposed changes are reflected in the attached proposed revised Local Rule. Also attached is a redlined version of the Rule that illustrates the specific changes.

1. Local Criminal Rule 57(b) – Sealed Proceedings and Documents

Kindly return your ballot by fax 212 857-8680, or by email, by Thursday, March 28, 2019.

Thank you.

BALLOT

Judge: _____

_____ Yes, I approve the proposed revisions to Local Civil Rules – District of Connecticut

_____ No, I do not approve the proposed revisions to Local Civil Rules – District of Connecticut

_____ I request additional information and/or further discussion

RULE 57

RULES BY DISTRICT COURTS

(Amended ~~May 24, 2017~~ March , 2019)

....

(b) Sealed Proceedings and Documents

(1) Sealed Proceedings.

1. (a)(A) Orders to Seal Proceedings, Findings. ~~The power to close a courtroom or to court may~~ exclude the public from court proceedings to which a First Amendment public right to of access attaches ~~shall be used sparingly and only for clear and compelling reasons (e.g., the defendant's right to a fair trial; privacy interests of the defendant, a victim, or others; the integrity of significant government activities entitled to confidentiality, such as ongoing undercover investigations; and danger to persons or property). Before excluding the public from such proceedings, the Court must make if it makes~~ -particularized findings on the record demonstrating the need for the exclusion, and any court that -closure order shall be is essential to preserve compelling interests, and that the closure is narrowly tailored to serve the purpose of the closure those interests, unless a different standard applies. The court may make ~~Those findings may be made~~ in camera and under seal, provided that the requirements of paragraph 3, below, have been met with respect to the findings themselves only if there are compelling reasons to do so.

~~(b) Except when justified by extraordinary circumstances, no order closing a courtroom or excluding the public from proceedings to which a First Amendment right to access attaches shall be entered except upon advance notice to the public. Any motion seeking such relief, whether made by a party or by the Court sua sponte, must be docketed immediately in the public docket files of the Court; provided, however, that in extraordinary situations where even the contemporaneous notation in the docket that courtroom closure has been sought or has occurred would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the Court may order the docketing of closure proceedings be delayed for a reasonable time, but must place its particularized findings supporting that delay on the record, under seal if appropriate. When docketed under seal pursuant to an order of the Court, the docket entry for any motion seeking court closure shall reflect the fact that the motion was made, the fact that any supporting or opposing papers were filed under seal, the time and place of any hearing on the motion, the occurrence of such hearing, the disposition of the motion, and the fact and extent of courtroom closure. Any such motion shall be made as far in advance of the pertinent proceeding as possible in order to permit the public to intervene for the purpose of challenging the court closure.~~

(B) Advance Notice on Public Docket of Closed Proceedings. Any motion or order to exclude the public from proceedings to which there is a presumption of access under the First Amendment must be immediately entered on the public docket, except as provided in section (b)(10) of this Rule. The public docketing of any such motion or order must be made as far in advance of the pertinent proceeding as possible to permit any member of the public to intervene for the purpose of challenging any such order.

(2) Sealing of Criminal Complaints, Arrest Warrants, and Indictments.

2. ~~2.~~—A criminal complaint, arrest warrant, or indictment, and any supporting applications or affidavits, may be filed under seal and an indictment may be returned under seal when a judicial officer if the court finds that sealing is necessary for the safety of persons any person or a legitimate for any compelling law enforcement objective would be furthered by sealing or when one or more of the named defendants is found by a judicial officer to pose a substantial risk of evading capture. In that event, during the time that the charging document remains reason. During the time that any such documents remain sealed, the existence of the case shall must be reflected on the public dockets by use of the notation: “Sealed Case.” Unless otherwise ordered by the Court court based upon particularized findings sufficient to support further sealing, upon the initial appearance of the first defendant arrested in the case, the entire case shall must be unsealed and the full caption shall must be entered on the docket sheet. ~~Those~~ The court may make any findings may be made under this paragraph in camera and under seal, provided that the requirements of paragraph 3, below, have been met with respect only if there are compelling reasons to do so the findings themselves.

(3) Orders to Seal Documents.

(A) Common-Law Right of Access.

3. ~~3.~~—Every Any document used by parties moving for or opposing an adjudication by the Court, other than trial or hearing exhibits, shall be filed that a party presents to the court, which is relevant to with the Court. No judicial document shall be filed performance of a judicial function and useful to the judicial process, is a judicial document to which the public has a presumptive right of access under seal, except upon entry of an order of the Court either acting sua sponte or specifically granting a request to seal that the common law. The court may seal a document, Any such order sealing a judicial or any part of a document shall include, subject to the common-law right of public access only if it makes particularized findings on the record that the presumption of access to the particular document is outweighed by countervailing factors in favor of sealing, such as the danger of impairing law enforcement or judicial efficiency, and privacy interests.

(B) First Amendment Right of Access.

The court may seal a document, or any part of a document, to which the First Amendment right of access attaches only if it makes particularized findings on the record demonstrating that sealing is supported by clear and essential to preserve compelling interests, and that sealing in whole or in part reasons and is narrowly tailored to serve those interests reasons.

(C) Duration of Sealing Orders.

Any order sealing a document, or any part thereof, shall specify that sealing is for a specified duration, until the occurrence of a specific event, or until further order of the court but only upon a determination by the court that no fixed date or period of time can be ascertained at the time of the order or is required by law. A statute mandating ~~or permitting~~ the non-disclosure of a class of documents (e.g., personnel files, health care records, or records of administrative proceedings) provides sufficient authority ~~to support for~~ an order sealing such documents. ~~A judge may seal a Court order, including, until further order of the court without a set duration. The court may seal~~ an order to seal documents and the related findings, ~~when only if sealing a the Court order meets the standard for sealing a judicial document. In extraordinary situations where even the contemporaneous notation in the docket that sealing has been sought or has occurred would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the Court may order the docketing of a motion to seal and sealed documents be delayed for a reasonable time, but must place its particularized findings supporting that delay on the record, under seal if appropriate. No document shall the underlying document. No document may be~~ sealed merely by stipulation of the parties. Any document or part of a document that is filed under seal in the absence of a ~~Court court~~ order to seal ~~it~~ is subject to unsealing without prior notice to the parties if the court concludes that sealing is not warranted.

(4) Motions to Seal Documents; Procedures. A party may file a motion to seal a document in whole or in part. A party may seek to seal an entire document only if sealing of the entire document (apart from the case caption and signature block) meets the relevant standard for sealing in paragraph (b)(3). A party ~~4.~~ ~~Counsel~~ seeking an order to file a document under seal in whole or in part may choose among the following procedures:

(a) Counsel(A) A party may e-file (4i) a motion to seal, which may be e-filed as a public motion or a sealed motion, (2ii) a redacted version of each document sought to be sealed, which ~~shall~~ must be e-filed as a public document, (3iii) unredacted copies of each document sought to be sealed, which ~~shall~~ must be e-filed as sealed documents, and (4iv) any memorandum or other documents supporting the assertion that grounds exist for sealing all or part of the documents sought to be sealed, which may be e-filed as public or sealed documents. Upon ~~submission e-filing~~ by the party of a motion to seal, the contents of any sealed motion or sealed document ~~shall~~ must be treated as sealed unless the motion to seal is denied or until otherwise directed by the ~~Court court~~.

(b) (B) Counsel A party may e-file a motion to seal, which may be e-filed as a public motion or a sealed motion, along with a memorandum and supporting documents, without the documents sought to be sealed. If the ~~Court court~~ grants the motion to seal in whole or in part, ~~counsel shall~~ the party must e-file as public documents redacted copies of any documents required by the ~~Court's~~ sealing order, and ~~shall~~ must e-file as either sealed motions or sealed documents, unredacted copies of any motions or documents ordered sealed but not previously e-filed.

(c) Counsel(C) A party may seek the court's permission ~~of the presiding Judge~~ to submit ~~the~~ documents sought to be sealed for in camera consideration. If the ~~Judge court~~ agrees to

review documents in camera, ~~counsel shall~~the party must submit to ~~Chambers the court~~ and ~~must shall~~ serve on all ~~counsel parties~~ of record copies of the documents sought to be sealed and ~~shall must~~ e-file a motion to seal, a memorandum, and supporting documents. If ~~counsel wants a party wants~~ the motion to seal, memorandum, or supporting documents to be considered as documents to be sealed, ~~counsel shall the party must~~ e-file those submissions as sealed motions and/or sealed documents, and their contents ~~shall must~~ be treated as sealed unless the motion to seal is denied or until otherwise directed by the ~~Court court~~. If the ~~Court court~~ grants the motion to seal in whole or in part, ~~counsel shall the party must~~ e-file any redacted copies of the documents required by the ~~Court's court's~~ sealing order and ~~shall must~~ e-file the unredacted documents as sealed documents.

(5) Motions to Seal; Docketing. ~~5.~~—A motion to seal ~~shall must~~ be e-filed as either a “Motion to Seal” or a “Sealed Motion to Seal” along with a description of the items sought to be sealed (e.g., “Motion to Seal Sentencing Memorandum”). The documents sought to be sealed ~~shall must~~ be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal.

~~A party seeking to file a sealed document without a docket label description of the document (e.g., “Sealed Motion”) must make a particularized showing of good cause. If the court finds that a docketing entry without description is unjustified, it must strike the filing and direct the moving party to file the sealed document with a docket label description that describes the item(s) sought to be sealed. If the court finds that a docketing entry without a description is justified, the document may be entered on the docket simply as “Sealed Document” or “Sealed Motion.”~~

~~Pursuant to a Court order supported by a particularized showing of good cause, a filing or document may be entered on the docket simply as “Sealed Document” or “Sealed Motion.” Any documents ordered sealed by the Court shall be sealed by the Clerk on the docket, and; the Clerk shall docket any sealing order issued by the Court. The Court may condition any sealing order on the filing of documents less fully redacted than those submitted by the party seeking sealing. If the Court denies the motion to seal in whole or in part, any unredacted document, motion, memorandum or supporting document not ordered sealed will be unsealed by the Clerk.~~

(6) Opposing Motions to Seal. ~~6.~~—Any party may oppose a motion to seal ~~or may move to unseal~~ a case or ~~document document subject to a sealing order~~. Any non-party who ~~either~~ seeks to oppose a motion to seal ~~or seeks to unseal~~ a case or document ~~subject to a sealing order~~, may move for leave to intervene in a criminal case for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of opposing sealing, ~~and~~ objections to motions to ~~seal, and motions to unseal shall~~ seal must be decided expeditiously by the ~~Court court~~.

(7) Physical Custody of Sealed Documents. ~~7.~~—Except as ~~required~~ otherwise required by federal statute or the Federal Rules of Criminal Procedure (e.g., grand jury matters), and except as otherwise provided ~~in Local Criminal by this Rule 57(b)~~, all documents ordered sealed by the ~~Court shall court must~~ be e-filed as sealed motions or sealed documents. Custody of ~~the original all sealed~~ documents ~~shall filed under seal must~~ remain with the filing party,

unless ~~specifically~~ ordered otherwise by the ~~presiding judicial officer~~court, subject to the following exceptions:

(a)(A) Cooperation Agreements and ~~related~~Related Filings. When a defendant's plea agreement has been filed and the ~~Court~~court has ordered that the associated cooperation agreement ~~shall~~ be sealed, the executed cooperation agreement ~~and transcript of the canvass of a defendant regarding a cooperation agreement shall~~must be maintained by the ~~judicial officer~~judge who will sentence the defendant. ~~Docketing of~~Before the time of sentencing, the ~~minute entry~~United States Attorney's Office must retrieve the original cooperation agreement from the court, and the United States Attorney's Office must file a copy of the cooperation ~~colloquy may be delayed in extraordinary situations that would justify the delayed docketing of a sealed document.~~agreement on the docket under seal, either separately or as an attachment to the government's substantial assistance motion or sentencing memorandum.

(b)(B) Wiretap ~~applications~~Applications. ~~The United States Attorney's Office or its designee must maintain all~~All wiretap applications, supporting documents or affidavits, all orders addressing wiretap applications, and the fruits of all wiretap ~~authorizations~~authorizations shall be maintained by the ~~United States Attorney's Office or its designee.~~

(c)(C) Pen registersRegisters /~~trap and Trap~~ and ~~trace~~Trace Devices. ~~An application for a pen register or for trap and trace devices must be filed after review by the court. Any orders~~Orders authorizing pen registers or trap and trace ~~of telephone calls~~devices, along with related applications and supporting documents, ~~shall be delivered to the Office of the Clerk upon approval by a judicial officer. The papers submitted will~~must be file stamped and a sealed case will be opened~~e~~filed in accordance with 18 U.S.C. 3123(d), with the docket entry ~~caption, reflecting "In re Pen Register/Register filed" or "Trap and Trace filed."~~caption, reflecting "In re Pen Register/Register filed" or "Trap and Trace filed." At the request of the United States Attorney's Office, pen register/~~Trap and trace~~Trace. orders, along with related applications and supporting documents, may be held by the judicial officer for a reasonable period of time (i.e., until the related criminal case has been charged and publicly disclosed) ~~prior to presentation to the Clerk's Office for filing.~~

(d)(D) Search Warrants. ~~Any application for a search warrant must be filed after review by the court. The original paper copies of any reviewed search warrant, application, affidavit, Orders authorizing search warrants, along with all related applications and other supporting documents, shall be delivered to the Office of the Clerk upon approval by a judicial~~must be maintained by the officer or attorney seeking the warrant. At the request of the United States Attorney's Office, search warrants, along with search warrant applications and supporting affidavits or other ~~Copies of those~~documents may be held by the judicial officer for a reasonable period of time (i.e., until the related criminal case has been charged and publicly disclosed) prior to presentation to ~~must be e-filed with the case caption, "In Re Search Warrant."~~Such documents, as well the Clerk's Office for filing. ~~Unless otherwise directed by the Court for sufficient cause, search warrant returns, shall~~must be docketed ~~e-filed~~as unsealed filings~~documents, unless the court has ordered them sealed.~~

~~(e)~~ **(E) Other Ex Parte Applications/Motions.** Ex parte applications, motions, and requests, together with any supporting material, shall be electronically filed by the applicant and shall be filed in an existing case must reflect the general nature of the ex parte application or request, and must be e-filed by the applicant with the docket entry, "Ex Parte Motion Filed by [Party]." If the submission of an ex parte motion will result in the opening of a new matter, any materials submitted in connection with the ex parte motion must be submitted to the judicial officer. The motion and related materials must be docketed after review by the judicial officer. A party may also move to seal any such motion or request. In the event that materials for which the applicant seeks ex parte review are not appropriate for filing (i.e. due to volume or format), the ex parte submission should must include a Notice of Manual Filing Under Seal that generally describes the material and the need for filing the material manually. Any material submitted in connection with the ex parte motion must be e-filed after review as an exhibit to the motion.

~~(f)~~ *In Camera* Proceedings. A proceeding of the type to which a First Amendment right of access attaches may be held *in camera*, subject to the provisions of subsection (b)1(b) of this rule. A proceeding of the type to which a First Amendment right of access does not attach may be held *in camera* without complying with the provisions of subsection (b)1(b) of this rule.

~~(g)~~ **(F) Presentence Investigation Reports.** Presentence investigation reports prepared by the U.S. Probation Office to assist the Court with sentencing shall must be e-filed by the Probation Office and access to them must be restricted to counsel of record for the government, and counsel of record for the defendant, and the defendant, and may be disclosed only as permitted by law.

~~(8)~~ **Disposition of Sealed Paper Filings.** Any document sealed paper filing submitted to the Clerk clerk for filing under seal, once shall be filed in the case as a sealed motion or sealed document pursuant to L. Cr. R 57(b). Once uploaded to the electronic docket, the docket as a sealed paper filing shall document, must be destroyed. The Clerk shall not keep any sealed documents in a publicly available file nor make them available to any unauthorized person through any computerized docket or database destroyed by the clerk unless the filing party requests that it be returned.

~~(9)~~ **Unsealing.** Any case or document ordered sealed by the Court shall court must remain sealed pending further as directed in the court's order of this Court, or any Court sitting in review.

(A) Motions To Unseal. A party may at any time file a motion to unseal a case or document that has been sealed. A non-party who seeks to unseal a document may move for leave to intervene for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of unsealing a document must be decided expeditiously by the court.

(B) Notice of Motions To Unseal. Any party filing a motion to unseal or a response thereto must state whether there are non-parties who should be served with notice of the motion to unseal.

(C) Intervention and Objections By Non-Parties To Motions To Unseal. A non-party having an interest in the matter who wishes to object to a motion to unseal may move for leave to intervene in the proceeding for the limited purpose of pursuing that relief.

(D) Disposition of Motions To Unseal. Absent an objection, the court must grant the motion to unseal upon a finding that sealing is no longer appropriate under the law and these Rules.

(10) Delayed Docketing. Notwithstanding the docketing provisions above, in extraordinary situations where even a contemporaneous notation in the docket would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the court may order docketing of any document or minutes of any proceeding to be delayed for a reasonable time, but must place particularized findings supporting that delay on the record, under seal if appropriate. When such delayed docketing is employed, the delayed docket entry must reflect the fact that the motion was made, or proceeding held; the fact that any supporting or opposing papers were filed under seal; the time and place of any hearing on the motion; the occurrence of such hearing; the disposition of the motion; and the fact and extent of courtroom closure.

(11) The requirements of this rule for the court to make a finding prior to ordering the sealing of proceedings or documents shall not apply to any proceeding or document to which there is no constitutional, statutory, or common law right of public access.

....

RULE 57

RULES BY DISTRICT COURTS

(Amended March __, 2019)

....

(b) Sealed Proceedings and Documents

(1) Sealed Proceedings.

(A) Orders to Seal Proceedings, Findings. The court may exclude the public from court proceedings to which a public right of access attaches only if it makes particularized findings on the record that closure is essential to preserve compelling interests, and that the closure is narrowly tailored to serve those interests, unless a different standard applies. The court may make those findings in camera and under seal, only if there are compelling reasons to do so.

(B) Advance Notice on Public Docket of Closed Proceedings. Any motion or order to exclude the public from proceedings to which there is a presumption of access under the First Amendment must be immediately entered on the public docket, except as provided in section (b)(10) of this Rule. The public docketing of any such motion or order must be made as far in advance of the pertinent proceeding as possible to permit any member of the public to intervene for the purpose of challenging any such order.

(2) Sealing of Criminal Complaints, Arrest Warrants, and Indictments. A criminal complaint, arrest warrant, or indictment, and any supporting applications or affidavits, may be filed under seal if the court finds that sealing is necessary for the safety of any person or for any compelling law enforcement reason. During the time that any such documents remain sealed, the existence of the case must be reflected on the public docket by the notation: "Sealed Case." Unless otherwise ordered by the court based upon particularized findings sufficient to support further sealing, upon the initial appearance of the first defendant arrested in the case, the entire case must be unsealed and the full caption must be entered on the docket sheet. The court may make any findings under this paragraph in camera and under seal, only if there are compelling reasons to do so.

(3) Orders to Seal Documents.

(A) Common-Law Right of Access.

Any document that a party presents to the court, which is relevant to the performance of a judicial function and useful to the judicial process, is a judicial document to which the public has a presumptive right of access under the common law. The court may seal a document, or any part of a document, subject to the common-law right of public access only if it makes particularized findings on the record that the presumption of access to the particular document

is outweighed by countervailing factors in favor of sealing, such as the danger of impairing law enforcement or judicial efficiency, and privacy interests.

(B) First Amendment Right of Access.

The court may seal a document, or any part of a document, to which the First Amendment right of access attaches only if it makes particularized findings on the record demonstrating that sealing is essential to preserve compelling interests, and that sealing in whole or in part is narrowly tailored to serve those interests.

(C) Duration of Sealing Orders.

Any order sealing a document, or any part thereof, shall specify that sealing is for a specified duration, until the occurrence of a specific event, or until further order of the court but only upon a determination by the court that no fixed date or period of time can be ascertained at the time of the order or is required by law. A statute mandating the non-disclosure of a class of documents (e.g., personnel files, health care records, or records of administrative proceedings) provides sufficient authority for an order sealing such documents, until further order of the court without a set duration. The court may seal an order to seal documents and the related findings, only if sealing the order meets the standard for sealing the underlying document. No document may be sealed merely by stipulation of the parties. Any document or part of a document that is filed under seal in the absence of a court order to seal is subject to unsealing without prior notice to the parties if the court concludes that sealing is not warranted.

(4) Motions to Seal Documents; Procedures. A party may file a motion to seal a document in whole or in part. A party may seek to seal an entire document only if sealing of the entire document (apart from the case caption and signature block) meets the relevant standard for sealing in paragraph (b)(3). A party seeking an order to file a document under seal in whole or in part may choose among the following procedures:

(A) A party may e-file (i) a motion to seal, which may be e-filed as a public motion or a sealed motion, (ii) a redacted version of each document sought to be sealed, which must be e-filed as a public document, (iii) unredacted copies of each document sought to be sealed, which must be e-filed as sealed documents, and (iv) any memorandum or other documents supporting the assertion that grounds exist for sealing all or part of the documents sought to be sealed, which may be e-filed as public or sealed documents. Upon e-filing by the party of a motion to seal, the contents of any sealed motion or sealed document must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court.

(B) A party may e-file a motion to seal, which may be e-filed as a public motion or a sealed motion, along with a memorandum and supporting documents, without the documents sought to be sealed. If the court grants the motion to seal in whole or in part, the party must e-file as public documents redacted copies of any documents required by the sealing order, and must e-file as either sealed motions or sealed documents, unredacted copies of any motions or documents ordered sealed but not previously e-filed.

(C) A party may seek the court's permission to submit documents sought to be sealed for in camera consideration. If the court agrees to review documents in camera, the party must submit to the court and must serve on all parties of record copies of the documents sought to be sealed and must e-file a motion to seal, a memorandum, and supporting documents. If a party wants the motion to seal, memorandum, or supporting documents to be considered as documents to be sealed, the party must e-file those submissions as sealed motions and/or sealed documents, and their contents must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court. If the court grants the motion to seal in whole or in part, the party must e-file any redacted copies of the documents required by the court's sealing order and must e-file the unredacted documents as sealed documents.

(5) Motions to Seal; Docketing. A motion to seal must be e-filed as either a "Motion to Seal" or a "Sealed Motion to Seal" along with a description of the items sought to be sealed (e.g., "Motion to Seal Sentencing Memorandum"). The documents sought to be sealed must be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal.

A party seeking to file a sealed document without a docket label description of the document (e.g., "Sealed Motion") must make a particularized showing of good cause. If the court finds that a docketing entry without description is unjustified, it must strike the filing and direct the moving party to file the sealed document with a docket label description that describes the item(s) sought to be sealed. If the court finds that a docketing entry without a description is justified, the document may be entered on the docket simply as "Sealed Document" or "Sealed Motion."

(6) Opposing Motions to Seal. Any party may oppose a motion to seal a case or document. Any non-party who seeks to oppose a motion to seal a case or document may move for leave to intervene in a criminal case for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of opposing sealing and objections to motions to seal must be decided expeditiously by the court.

(7) Physical Custody of Sealed Documents. Except as otherwise required by federal statute or the Federal Rules of Criminal Procedure (e.g., grand jury matters), and except as otherwise provided by this Rule, all documents ordered sealed by the court must be e-filed as sealed motions or sealed documents. Custody of the original documents filed under seal must remain with the filing party, unless ordered otherwise by the court, subject to the following exceptions:

(A) Cooperation Agreements and Related Filings. When a defendant's plea agreement has been filed and the court has ordered that the associated cooperation agreement be sealed, the executed cooperation agreement must be maintained by the judge who will sentence the defendant. Before the time of sentencing, the United States Attorney's Office must retrieve the original cooperation agreement from the court, and the United States Attorney's Office must file a copy of the cooperation agreement on the docket under seal, either separately or as an attachment to the government's substantial assistance motion or sentencing memorandum.

(B) Wiretap Applications. The United States Attorney's Office or its designee must maintain all wiretap applications, supporting documents or affidavits, all orders addressing wiretap applications, and the fruits of all wiretap authorizations.

(C) Pen Registers and Trap and Trace Devices. An application for a pen register or for trap and trace devices must be filed after review by the court. Any orders authorizing pen registers or trap and trace devices, along with related applications and supporting documents, must be e-filed in accordance with 18 U.S.C. 3123(d) with the case caption, "In re Pen Register/Trap and Trace."

(D) Search Warrants. Any application for a search warrant must be filed after review by the court. The original paper copies of any reviewed search warrant, application, affidavit, and other supporting documents must be maintained by the officer or attorney seeking the warrant. Copies of those documents must be e-filed with the case caption, "In Re Search Warrant." Such documents, as well search warrant returns, must be e-filed as unsealed documents, unless the court has ordered them sealed.

(E) Other Ex Parte Motions. Ex parte motions filed in an existing case must reflect the general nature of the request, and must be e-filed by the applicant with the docket entry, "Ex Parte Motion Filed by [Party]." If the submission of an ex parte motion will result in the opening of a new matter, any materials submitted in connection with the ex parte motion must be submitted to the judicial officer. The motion and related materials must be docketed after review by the judicial officer. A party may also move to seal any such motion or request. In the event that materials for which the applicant seeks ex parte review are not appropriate for filing (i.e. due to volume or format), the ex parte submission must include a Notice of Manual Filing Under Seal that generally describes the material and the need for filing the material manually. Any material submitted in connection with the ex parte motion must be e-filed after review as an exhibit to the motion.

(F) Presentence Investigation Reports. Presentence investigation reports must be e-filed by the Probation Office and access to them must be restricted to counsel of record for the government, counsel of record for the defendant, and the defendant, and may be disclosed only as permitted by law.

(8) Disposition of Sealed Paper Filings. Any sealed paper filing submitted to the clerk for filing under seal, once uploaded to the electronic docket as a sealed document, must be destroyed by the clerk unless the filing party requests that it be returned.

(9) Unsealing. Any case or document ordered sealed by the court must remain sealed as directed in the court's order.

(A) Motions To Unseal. A party may at any time file a motion to unseal a case or document that has been sealed. A non-party who seeks to unseal a document may move for leave to intervene for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of unsealing a document must be decided expeditiously by the court.

(B) Notice of Motions To Unseal. Any party filing a motion to unseal or a response thereto must state whether there are non-parties who should be served with notice of the motion to unseal.

(C) Intervention and Objections By Non-Parties To Motions To Unseal. A non-party having an interest in the matter who wishes to object to a motion to unseal may move for leave to intervene in the proceeding for the limited purpose of pursuing that relief.

(D) Disposition of Motions To Unseal. Absent an objection, the court must grant the motion to unseal upon a finding that sealing is no longer appropriate under the law and these Rules.

(10) Delayed Docketing. Notwithstanding the docketing provisions above, in extraordinary situations where even a contemporaneous notation in the docket would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the court may order docketing of any document or minutes of any proceeding to be delayed for a reasonable time, but must place particularized findings supporting that delay on the record, under seal if appropriate. When such delayed docketing is employed, the delayed docket entry must reflect the fact that the motion was made, or proceeding held; the fact that any supporting or opposing papers were filed under seal; the time and place of any hearing on the motion; the occurrence of such hearing; the disposition of the motion; and the fact and extent of courtroom closure.

(11) The requirements of this rule for the court to make a finding prior to ordering the sealing of proceedings or documents shall not apply to any proceeding or document to which there is no constitutional, statutory, or common law right of public access.

....