

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

11/22, 2024

By Joanne Pesta
Deputy Clerk

IN RE:)
PROCEDURES FOR REQUESTING,) ORDER NO. 24-30
FILING, AND MANAGEMENT OF)
HIGHLY SENSITIVE DOCUMENTS)
)

WHEREAS federal courts are updating their security procedures to uniformly protect highly sensitive documents (HSDs), a narrow subset of sealed documents that must, for their protection, be stored outside the court’s electronic systems;

THE COURT FINDS that good cause exists to permit nonelectronic filing under [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), and to adopt this Order, which includes a standard definition of HSDs, a dedicated procedure for filing, serving, and maintaining HSDs, and factors to be considered by judicial officers in determining if a document is an HSD.

THEREFORE, IT IS HEREBY ORDERED that, effective as of the date of this order and until such time as the court orders otherwise, HSDs will be filed and served in paper form (or, if digital media, on a secure electronic device, such as a flash drive), in accordance with this Order, and will be maintained by the Clerk’s Office in a secure paper filing system or secure standalone computer system that is not connected to any network.¹ This Order supersedes any and all prior court orders and inconsistent local rules concerning HSDs.

1. Documents and Materials Subject to this Order

- a. **Definition: A Highly Sensitive Document (HSD)** is a recorded document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized manner. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also qualify for HSD treatment.
 - i. **Examples of HSDs:** Examples include *ex parte* sealed filings relating to: national security investigations, cyber investigations, and especially sensitive public corruption investigations; and documents containing a highly exploitable trade secret, financial information, or computer

¹ This guidance does not apply to classified information, which should be handled according to the Classified Information Procedures Act (CIPA) and the Chief Justice’s Security Procedures related thereto, 18 U.S.C. app 3 §§ 1, 9. The Chief Justice’s Security Procedures (criminal prosecutions) and the Department of Justice (DOJ) regulation 28 C.F.R. § 17.17(c) (civil actions) govern classified information in any form in the custody of a court.

source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.

- ii. **Exclusions:** Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public should the document be accessed without authorization. Most presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, medical or mental health records, juvenile proceedings, documents containing personal or financial information, administrative immigration records, sealed indictments, criminal complaints, arrest warrants, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, records of grand jury proceedings, and applications for pen registers, trap, and trace devices would not meet the HSD definition.

- b. HSDs vary in their physical form and characteristics. They may be paper, electronic, audiovisual, microform, or other media. The term “document” includes all recorded information, regardless of its physical form or characteristics.

2. Requesting HSD Designation

- a. Any party seeking to file an HSD must, before such filing, seek leave of court for such filing in the manner provided in paragraph 2(b).
 - i. A request for HSD designation must be accompanied by a certification of the movant’s good-faith belief that the material meets the HSD definition.
 - ii. The requesting party must articulate why HSD treatment is warranted, including, as appropriate: the contents of the document; the nature of the investigation or litigation; and the potential consequences to the parties, the public, or national interests, in the event the information contained in the document is accessed or disseminated without authorization.
 - iii. The requesting party must include a proposed order that provides the information stated in paragraph 3 below.
 - iv. The requesting party shall serve the proposed HSD on the other parties as follows:

Civil cases - by any manner specified in [Civil Rule 5\(b\)\(2\)](#), except for service via the court's electronic filing system; or
Criminal cases - by any manner specified in [Criminal Rule 49\(a\)\(3\)\(B\) or \(a\)\(4\)](#).

- b. The request shall be titled "Motion for Leave to File a Highly Sensitive Document." The proposed HSD material shall be submitted with the motion 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 case's caption page (with confidential information redacted). For cases that do not yet have an assigned CMECF docket number, the Clerk's Office shall present the motion to the judge who has been assigned to consider the matter.
- c. Upon motion of any party, the Court may determine that a previously filed document in any open or closed civil or criminal case is a highly sensitive document and direct the Clerk of the Court to remove the document or documents from the Court's electronic filing system and retain them non-electronically. A party's motion to treat a previously filed document as a highly sensitive document shall be filed electronically when possible, but a supporting statement explaining why the document is highly sensitive may be presented in hard copy to the Clerk of the Court if the explanation would reveal the highly sensitive information the party seeks to protect. If it is not possible to file the motion electronically, a hard copy of the motion may be presented to the Clerk's Office for filing.
- d. The Court may also, on its own motion, determine that a document is an HSD and should be removed from the Court's electronic filing system and retained non-electronically.

3. Order Granting HSD Designation

An order granting a motion seeking HSD designation, or directing the filing of a document as an HSD on the court's own motion, must:

- a. State the identity of the persons who are to have access to the documents without further order of court; and
- b. Set forth instructions for the duration of HSD treatment. HSDs are stored temporarily or permanently offline as the situation requires. When designating a document as an HSD, courts should indicate when the designation will automatically lapse or when the designation should be revisited by the judicial officer. HSDs should be migrated as sealed documents to the court's electronic docketing system and unsealed, as appropriate, as soon as the situation allows.

4. Filing An HSD

- a. A copy of the order granting HSD designation must be included with any document filed as an HSD.
- b. The clerk will file stamp the hard-copy submission and maintain the HSD in a secure paper filing system or a secure standalone computer system that is not connected to any network.
- c. 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. The docket entry shall not include personal or other identifying details related to or contained with the HSD. For example:

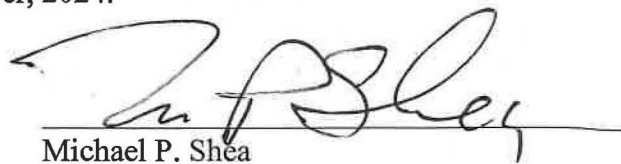
5/25/23 [no link] SYSTEM ENTRY-Docket Entry 92
Restricted until further notice (Entered 5/25/23).

- d. An opinion or order entered by the court related to an HSD may itself constitute an HSD if it reveals sensitive information in the HSD. If the court determines that a court order qualifies as an HSD, the Clerk's Office will file-stamp, file, and maintain the order as an HSD and will serve paper copies of any filing issued by the court.
5. **Order Denying HSD Designation:** If the motion is denied, the document will be subject to filing on the CMECF public docket by the Clerk's Office seven (7) calendar days after the motion has been denied absent a further motion granted to file the document under seal or for a stay or other relief.
 6. **Safeguarding Internal Communication:** Care should also be taken in internal court communications regarding HSDs, including notes and pre-decisional materials, not to include the protected substance of HSDs in any communication using the internet or a computer connected to a network.
 7. **Sealed Documents:** This order does not affect procedures for all documents containing confidential information routinely filed under seal pursuant to D. Conn. L. Civ. R. 5(e) and D. Conn. L. Crim. R. 57(b).

8. Questions about HSD Filing Procedures

Any questions about how an HSD should be filed with the court pursuant to this Order should be directed to the Clerk's Office at 203-773-2140 or CommentstotheClerkofCourt@ctd.uscourts.gov .

IT IS SO ORDERED, this 22nd day of November, 2024.

A handwritten signature in black ink, appearing to read "M. P. Shea", written over a horizontal line.

Michael P. Shea
Chief United States District Judge
District of Connecticut