

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

GENERAL ORDER 25-0020

The full Court met in executive session on December 19, 2024 and approved the publication of the proposed Local Rule 5.8.1 – Highly Sensitive Material, with comments due on February 24, 2025. No public comments were received.

The Rules Advisory Committee met on March 4, 2025. The Rules Advisory Committee suggested further edits to this Local Rule.

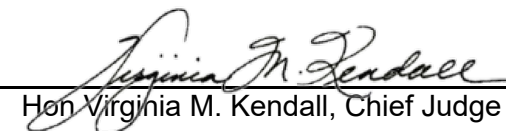
The Rules Committee considered the proposed amendments and the report of the Rules Advisory Committee. The Rules Committee approved the recommendations from the Rules Advisory Committee with an additional amendment and recommended that the full Court adopt Local Rule 5.8.1

The full Court considered the recommendation of the Rules Committee at its meeting on Thursday, May 22, 2025, and agreed to adopt the further amended Local Rule 5.8.1

By direction of the full Court,

IT IS HEREBY ORDERED that Local Rule 5.8.1 be implemented as attached (additions shown thus, deletions shown thus). The Rule is effective immediately, pending the approval of the Seventh Circuit Judicial Council.

ENTER:
FOR THE COURT


Hon Virginia M. Kendall, Chief Judge

Dated at Chicago, Illinois this 2nd day of June 2025

LR 5.8.1 Highly Sensitive Documents

1. Documents and Materials Eligible for Designation

- a. Definition: A Highly Sensitive Document (HSD) is a 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 source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.
- ii. Excluded Matters: 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. This local rule 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. Most presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap and trace devices would not meet the HSD definition.
- b. Format: 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:

(a) Civil cases - by any manner specified in Civil Rule 5(b)(2), except for service via the court's electronic filing system; or

(b) Criminal cases - by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4).

b. The request and the proposed HSD material 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).

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, the court will indicate when the designation will automatically lapse or when the designation should be revisited by the judicial officer. HSDs will 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 maintain the HSD in 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.

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 and maintain the order as an HSD and will serve paper copies of any filing issued by the court.

e. An HSD in the lower court's record will ordinarily be also regarded by an appellate court as an HSD.

5. Safeguarding Internal Communication

Litigants must safeguard 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, portable storage drives, or a computer connected to a network.

(DATE)

LR 5.8.1 Highly Sensitive ~~Documents~~ Material

1. ~~Documents and Materials Eligible for Designation~~ Eligibility

- a. Definition: ~~A~~ Highly Sensitive ~~Document~~ Material (~~HSD~~ HSM) is a document or other material ~~that contains found by the court to contain~~ sensitive, but unclassified, information that warrants storage in a secure standalone computer system that is not connected to any network, or in another similarly secure storage facility. A court may find ~~that~~ such storage exceptional handling and storage procedures is warranted when there is a serious risk that to prevent significant severe adverse consequences to the parties, the public, or national interests ~~that could result if~~ such the information ~~were is~~ obtained by or disclosed ~~in an unauthorized manner to people or entities not authorized to possess it. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also qualify for HSD treatment. HSM varies in its physical form and characteristics. It may be paper, electronic, audiovisual, microform, or other media. The term~~ “material document” includes all recorded information, regardless of its physical form or characteristics.

i. ~~Examples of HSDs~~ HSM: Examples include:

- (a) ~~ex parte sealed filings materials to be filed ex parte in a criminal or civil case~~ relating to: national security investigations; cyber investigations; and especially sensitive public corruption investigations; and

- i.(b) ~~Documents materials to be filed in a criminal or civil case containing a highly~~ exploitable sensitive information, ~~trade secret, financial information, or computer source code belonging to a private~~ person, or entity, or government, such as a trade secret, financial information, or computer source code, the disclosure of which could result in adverse consequences on ~~have significant a~~ national or international ~~repercussions~~ scale.

ii. ~~Excluded Matters~~ Examples of non-HSM:

- (a) Most materials ~~currently~~ filed under seal do not meet the definition of ~~an HSD~~ HSM and do not merit the heightened protections afforded to ~~HSDs~~ HSM. The form or nature of the ~~document~~ material, by itself, does not determine whether ~~HSD~~ HSM treatment is warranted. Instead, the focus is on the severity of the anticipated adverse consequences for the parties ~~or the public, or national interests, should if~~ the document ~~be is were to be~~ accessed

without authorization. For example, Most trade secret information (with rare exceptions), presentence reports, pretrial release reports, pleadingsfilings related to cooperation in criminal cases, social securitySocial Security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap and trace devices woulddo not meet the definition of HSDM definition.

~~ii.(b)~~ This local rule 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. ~~Most presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap and trace devices would not meet the HSD definition.~~

~~b. Format: 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-HSM Designation

- a. Any party ~~seeking-requesting~~ to file material as an HSD-HSM must, before such filing, seek leave of court ~~for such filingby submitting the following documents~~, in the manner provided in paragraph 2(b).
 - i. A ~~request for HSD designation must be accompanied by a~~ certification of the movant's ~~goodfaith~~good faith belief that the material meets the HSD-HSM ~~definition~~of HSM.
 - ii. ~~A memorandum articulatingexplaining~~ The requesting party must articulate why HSD-HSM treatment is warranted, including, as appropriate: the contents of the ~~document~~material; the nature of the investigation or litigation; and the potential

consequences to the parties, the public, or national interests, ~~in the event if~~ the information contained in the document is ~~accessed or disseminated~~ obtained ~~accessed~~ without authorization.

iii. ~~The requesting party must include a~~ 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:~~

~~(a) Civil cases — by any manner specified in Civil Rule 5(b)(2), except for service via the court’s electronic filing system; or~~

~~(b) Criminal cases — by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4).~~

b. The request to file and the proposed ~~HSD-HSM material~~ shall be submitted to the Clerk’s Office in a sealed envelope marked “HIGHLY SENSITIVE DOCUMENT MATERIAL.” The outside of the envelope shall be affixed with a copy of the ~~HSD’s HSM’s case~~ caption ~~page~~ (with confidential information redacted).

c. Unless the submission is made ex parte, The requesting party shall serve the motion and the proposed HSM on the other parties (unless ex parte) 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).

b.

3. Order Granting HSD-HSM Designation

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

a. State the identity of the persons who are to have access to the ~~documents~~ HSM without further order of court; and

b. Set forth ~~instructions-recommendations~~ for the duration of HSD-HSM treatment. ~~HSDs-HSMs are-is~~ stored temporarily or permanently offline as the situation requires. When designating a document as ~~an HSDHSM~~, the court will indicate when the designation will

automatically lapse or when the designation should be revisited by the judicial officer. ~~HSDs~~ HSMs will be migrated as sealed documents to the court's electronic docketing system and unsealed, as appropriate, as soon as the situation allows, but only after entry of an order by the court authorizing this.

4. Filing ~~An HSD~~ HSM

- a. A copy of the order granting ~~HSD~~ HSM designation must be included with any ~~document material~~ filed as ~~an HSD~~ HSM.
- b. The Clerk will maintain ~~the HSD~~ HSM in 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~~ HSM was filed with the court. The docket entry shall not include personal or other identifying details related to or contained with the ~~HSD~~ HSM.
- d. An opinion or order entered by the court related to ~~an HSD~~ HSM may itself constitute ~~an HSD~~ HSM if it reveals sensitive information in the ~~HSD~~ HSM. If the court determines that a court order qualifies as ~~an HSD~~ HSM, the Clerk's Office will file and maintain the order as ~~an HSD~~ HSM and will serve paper copies of any filing issued by the court.
- e. ~~An HSD~~ HSM in the lower court's record will ordinarily be also regarded by an appellate court as ~~an HSD~~ HSM.

5. Safeguarding Internal Communication

Litigants must safeguard internal court communications regarding ~~HSDs~~ HSMs, including notes and predecisional materials, and are not to include the protected substance of ~~HSDs~~ HSMs in any communication using the internet, portable storage drives, or a computer connected to a network.

LR 5.8.1 Highly Sensitive Material

1. Eligibility

- a. Definition: Highly Sensitive Material (HSM) is a document or other material found by the court to contain sensitive, but unclassified, information that warrants storage in a secure standalone computer system that is not connected to any network, or in another similarly secure storage facility. A court may find that such storage is warranted when there is a serious risk that severe adverse consequences to the parties, the public, or national interests could result if the information is obtained by or disclosed to people or entities not authorized to possess it. HSM varies in its physical form and characteristics. It may be paper, electronic, audiovisual, microform, or other media. The term “material” includes all recorded information, regardless of its physical form or characteristics.

- i. Examples of HSM include:

- (a) materials to be filed ex parte in a criminal or civil case relating to: national security investigations; cyber investigations; and especially sensitive public corruption investigations; and
 - (b) materials to be filed in a criminal or civil case containing highly sensitive information, belonging to a private person, entity, or government, the disclosure of which could result in adverse consequences on a national or international scale.

- ii. Examples of non-HSM:

- (a) Most materials filed under seal do not meet the definition of HSM and do not merit the heightened protections afforded to HSM. The form or nature of the material, by itself, does not determine whether HSM treatment is warranted. Instead, the focus is on the severity of the anticipated adverse consequences for the parties the public, or national interests if the document were to be accessed without authorization. For example, trade secret information (with rare exceptions), presentence reports, pretrial release reports, filings related to cooperation in criminal cases, Social Security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap and trace devices do not meet the definition of HSM.

- (b) This local rule 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.

2. Requesting HSM Designation

- a. Any party requesting to file material as HSM must, before such filing, seek leave of court by submitting the following documents, in the manner provided in paragraph 2(b).
 - i. A certification of the movant's good faith belief that the material meets the definition of HSM.
 - ii. A memorandum explaining why HSM treatment is warranted, including, as appropriate: the contents of the material; the nature of the investigation or litigation; and the potential consequences to the parties, the public, or national interests if the information contained in the document is accessed without authorization.
 - iii. A proposed order that provides the information stated in paragraph 3 below.
- b. The request to file and the proposed HSM shall be submitted to the Clerk's Office in a sealed envelope marked "HIGHLY SENSITIVE MATERIAL." The outside of the envelope shall be affixed with a copy of the case caption (with confidential information redacted).
- c. Unless the submission is made *ex parte*, the requesting party shall serve the motion and the proposed HSM 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
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May 22, 2025