

56-1. Filing Documents Under Seal in Criminal Cases

- (a) **Electronic Filing of Sealed Documents in Criminal Cases Not Permitted.** An administrative motion to file documents under seal, and the documents in support thereof, must be manually filed if the sealing of the motion itself is desired, otherwise the administrative motion must be e-filed. Until further notice, the electronic filing ("e-filing") of the documents sought to be sealed in criminal cases is not permitted. Under seal filings in criminal cases must be submitted manually, in hard copy form. Following the Court's ruling on a motion to seal, any publicly-filed documents shall be e-filed.
- (b) **Specific Court Order Required.** Except as provided in Crim. L.R. 56-1(c)(1), no document may be filed under seal, i.e., closed to inspection by the public, except pursuant to a court order that authorizes the sealing of the particular document, or portions thereof. A sealing order may issue only upon a request that establishes that a document is sealable because, for example, the safety of persons or a legitimate law enforcement objective would be compromised by the public disclosure of the contents of the document. The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Crim. L.R. 56-1(c).

Commentary

As a public forum, the Court has a policy of providing to the public full access to documents filed with the Court. The Court recognizes that, in some cases, the Court must consider information that, if made available to the public, would compromise the safety of persons (e.g., cooperating defendants) and/or thwart legitimate law enforcement objectives (e.g., the arrest of a defendant who poses a substantial risk of evading capture). This rule governs requests in criminal cases to file under seal documents or things, whether pleadings, memoranda, declarations, documentary evidence or other evidence. This rule is designed to ensure that the assigned Judge receives in chambers a confidential copy of the unredacted and complete document, annotated to identify which portions are sealable, that a separate unredacted and sealed copy is maintained for appellate review, and that, where appropriate, a redacted copy is filed and available for public review with the minimum redactions necessary to protect sealable information.

- (c) **Request to File Document, or Portions Thereof, Under Seal.** A party seeking to file a document, or portions thereof, under seal ("the Submitting Party") must:
- (1) File and serve (unless the motion is filed *ex parte*) an Administrative Motion to File Under Seal, in conformance with Civil L.R. 7-11. The administrative motion, and any attachments thereto, may be filed under seal before a sealing order is obtained. Any documents filed under seal must be contained in a sealed envelope or other suitable container with a cover sheet affixed to the envelope or container, setting forth the information required by Civil L.R. 3-4(a) and prominently displaying the notation "DOCUMENTS SUBMITTED UNDER SEAL."
 - (2) The administrative motion must be accompanied by the following attachments:
 - (A) A **declaration** establishing that the document sought to be filed under seal, or portions thereof, are sealable.

- (B) A **proposed order** that is narrowly tailored to seal only the sealable material.
 - (C) A **redacted version** of the document that is sought to be filed under seal. The redacted version shall prominently display the notation "REDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED." A redacted version need not be filed if the submitting party is seeking to file the entire document under seal.
 - (D) An **unredacted version** of the document sought to be filed under seal. The unredacted version must indicate by highlighting or other clear method the portions of the document that have been omitted from the redacted version, and prominently display the notation "UNREDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED."
- (3) Provide a courtesy copy of the administrative motion, declaration, proposed order, and both the redacted and unredacted versions of all documents sought to be sealed, in accordance with Civil L.R. 5-1(e)(7).

The courtesy copy of unredacted declarations and exhibits should be presented in the same form as if no sealing order was being sought; in other words, if a party is seeking to file under seal one or more exhibits, or portions thereof, to a declaration, the courtesy copy should include the declaration with all of the exhibits attached, including the exhibits, or portions thereof, sought to be filed under seal.

The courtesy copy should be an exact copy of what was filed. The courtesy copy must be contained in a sealed envelope or other suitable container with a cover sheet affixed to the envelope or container, setting forth the information required by Civil L.R. 3-4(a) and prominently displaying the notation "CHAMBERS COPY - DOCUMENTS SUBMITTED UNDER SEAL."

The courtesy copies of sealed documents will be disposed of in accordance with the assigned judge's discretion. Ordinarily these copies will be recycled, not shredded, unless special arrangements are made.

- (d) **Effect of Court's Ruling on Administrative Motion to File Under Seal.** Upon the Court's ruling on the Administrative Motion to File Under Seal, further action by the Submitting Party may be required.
- (1) If the Administrative Motion to File Under Seal is granted in its entirety then the document filed under seal will remain under seal and the public will have access only to the redacted version, if any, accompanying the motion.

- (2) If the Administrative Motion to File Under Seal is denied in its entirety, the document sought to be sealed will not be considered by the Court unless the Submitting Party files an unredacted version of the document within 4 days after the administrative motion is denied.
 - (3) If the Administrative Motion to File Under Seal is denied or granted in part, the document sought to be sealed will not be considered by the Court unless the Submitting Party files a redacted version of the document which comports with the Court's order within 4 days after the administrative motion is denied.
- (e) **Effect of Seal.** Unless otherwise ordered by the Court, any document filed under seal shall be kept from public inspection, including inspection by attorneys and parties to the action. Nothing in this rule is intended to affect the normal records disposition policy of the United States Courts.