

Revised version of Crim L.R. 56-1 (effective 8/21/24)

56-1. Filing Material Under Seal in Criminal Cases

- (a) **Right of Access.** The public has a right of access to the Court’s files. The Court nevertheless recognizes that, in some criminal matters, the Court must consider privacy, safety, and law enforcement interests.

This rule governs requests in criminal cases to file under seal documents or things, whether pleadings, memoranda, declarations, documentary evidence or other evidence (referred to collectively in this Rule as “material”).

- (b) **Necessity of Filing a Motion to Seal.** A party must file a motion to seal a document at the same time that the party submits the document. Filing a motion to seal permits the party to provisionally file the document under seal, pending the Court’s ruling on the motion to seal. The motion must be narrowly tailored to seek sealing only of sealable material and must conform with Crim. L.R. 56-1(c).

A party need not file a motion to seal if a federal statute or a prior court order in the same case expressly authorizes the party to file certain material under seal.

- (c) **Procedure for Moving to Seal Material in a Criminal Case.** A party seeking to file material under seal must:

- (1) File and, unless the motion is filed ex parte, serve an Administrative Motion to File Under Seal, in conformance with Civil L.R. 7-11.

- (2) Include with the administrative motion the following attachments:

- (A) A declaration:

- (i) establishing that the material sought to be filed under seal, or portions thereof, are sealable; and
(ii) whether the sealing is sought against only the general public or also against opposing counsel and party(ies).

- (B) A proposed order that is narrowly tailored to seal only the sealable material. If a party seeks sealing of multiple items, the motion must list in table format each item or portion thereof that is sought to be sealed.

- (C) If sealing is sought for only portions of the submitted material, a redacted version of the material that is sought to be filed under seal. The redacted version shall prominently display the notation “REDACTED VERSION OF MATERIAL SOUGHT TO BE SEALED.”

- (D) An unredacted version of the material sought to be filed under seal. If sealing is sought for only portions of material submitted, the unredacted version must indicate, by highlighting or other clear method, the portions that have been omitted from the redacted version, and prominently display the notation “UNREDACTED VERSION OF MATERIAL SOUGHT TO BE SEALED.”

- (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 filing party may be required.

- (1) If the Administrative Motion to File Under Seal is granted in its entirety, then the material 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 material sought to be sealed will not be considered by the Court unless the filing party files an unredacted version of the material within 7 days after the motion is denied.
- (3) If the Administrative Motion to File Under Seal is denied or granted in part, the material sought to be sealed will not be considered by the Court unless the filing party files a redacted version of the material which comports with the Court's order within 7 days after the motion is denied.

(e) Effect and Duration of Court's Ruling on Motion to Seal.

- (1) When the Court grants a motion to seal or otherwise permits material to remain under seal, the material filed under seal shall be kept from all public inspection until further order of the Court, unless the order sealing the material indicates otherwise.
- (2) When the Court denies a motion to seal, it will determine whether to consider the information sought for sealing and require its public filing, permit its withdrawal without considering the information, or order any other disposition it deems proper.
- (3) Parties or non-parties may, at any time, file a motion requesting that the Court unseal sealed material.
- (4) Nothing in this rule is intended to affect the normal records disposition policy of the United States Courts.

Commentary

The Court historically required that material sought to be sealed in criminal cases be submitted manually to the court in all instances. While manual filing remains the process for pro se parties who are not e-filers, all attorneys and e-filers are now expected to electronically file these requests via ECF. Please refer to the Court's website for instructions on these procedures to avoid filing errors.

Redline version of Crim L.R. 56-1 (effective 8/21/24)

56-1. Filing ~~Documents~~Material 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(e)(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(e).~~

~~Commentary~~

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~~(a) **Right of Access.** The public *forum, the Court* has a *policy of providing to the public full right of access to documents filed with the Court.* Court’s files. The Court nevertheless recognizes that, in some eases criminal matters, 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. (referred to collectively in this Rule as “material”).*~~

~~(e) **Request to File Document, or Portions Thereof, Under**~~

~~(b) **Necessity of Filing a Motion to Seal.**~~

~~(1) A party must file a motion to seal a document at the same time that the party submits the document. Filing a motion to seal permits the party to provisionally file the document under seal, pending the Court’s ruling on the motion to seal. The motion must be narrowly tailored to seek sealing only of sealable material and must conform with Crim. L.R. 56-1(c).~~

~~A party need not file a motion to seal if a federal statute or a prior court order in the same case expressly authorizes the party to file cer~~

~~(2) tain material under seal.~~

~~(3) A sealing order may issue only upon a request that establishes that a filing 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 filing.~~

~~(b)(c) **Procedure for Moving to Seal Material in a Criminal Case.** A party seeking to file a document, or portions thereof, material under seal (“the Submitting Party”) must:~~

(1) File and ~~serve~~ (, unless the motion is filed ex parte), serve an Administrative Motion to File Under Seal, in conformance with Civil L.R. 7-11. ~~The~~

~~Include with 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:

(i) establishing that the ~~document~~material sought to be filed under seal, or portions thereof, are sealable; ~~and~~

(ii) ~~(B)~~ whether the sealing is sought against not only from the general public but also from opposing counsel and parties.

(B) A proposed order that is narrowly tailored to seal only the sealable material, ~~and which lists. If a party seeks sealing of multiple items, the motion must list~~ in table format each ~~document~~item or portion thereof that is sought to be sealed.

(C) If sealing is sought for only portions of the submitted material, a redacted version of the ~~document~~material that is sought to be filed under seal. The redacted version shall prominently display the notation "REDACTED VERSION OF DOCUMENT(S) MATERIAL 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~~material sought to be filed under seal. ~~The~~If sealing is sought for only portions of material submitted, 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) MATERIAL 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 to a declaration, or portions thereof, 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, with the portions to be sealed highlighted or clearly noted as subject to a sealing motion. 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 "COURTESY [or 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)~~ Commentary

The Court historically required that material sought to be sealed in criminal cases be submitted manually to the court in all instances. While manual filing remains the process for pro se parties who are not e-filers, all attorneys and e-filers are now expected to electronically file these requests via ECF.

Please refer to the Court's website for instructions on these procedures to avoid filing errors.

~~(e)~~(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 ~~filing party~~ may be required.

- (1) If the Administrative Motion to File Under Seal is granted in its entirety, then the ~~document~~material 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~~material sought to be sealed will not be considered by the Court unless the Submitting Party ~~filing party~~ files an unredacted version of the ~~document~~material within 7 days after the motion is denied.
- (3) If the Administrative Motion to File Under Seal is denied or granted in part, the ~~document~~material sought to be sealed will not be considered by the Court unless the Submitting Party ~~filing party~~ files a redacted version of the ~~document~~material which comports with the Court's order within 7 days after the motion is denied.

(e) Effect and Duration of Court's Ruling on Motion to Seal. Unless

- (1) When the Court grants a motion to seal or otherwise ordered by the Court, any ~~document~~permits material to remain under seal, the material filed under seal shall be kept from all public inspection, including inspection by attorneys and until further order of the Court, unless the order sealing the material indicates otherwise.
- (2) When the Court denies a motion to seal, it will determine whether to consider the information sought for sealing and require its public filing, permit its withdrawal without considering the information, or order any other disposition it deems proper.
- (3) Parties or non-parties to the action may, at any time, file a motion requesting that the Court unseal sealed material. If a motion to unseal is filed more than 3 years after the case is closed and all appeals exhausted, there will be a strong presumption that the material will be unsealed.

~~(4)~~(4) Nothing in this rule is intended to affect the normal records disposition policy of the United States Courts.