

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.