

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

FILED

2005 DEC -8 P 1:50

Re: Privacy Protection for Criminal Filings
Made with the Court - Compliance
with E-Government Act

Administrative Order

No. 05-AO- 036

ADMINISTRATIVE ORDER

In compliance with the privacy policy of the Judicial Conference of the United States and the E-Government Act, this administrative order supersedes Administrative Order No. 04-AO-050 in re: Filing of Papers in Civil and Criminal Cases - Compliance with E-Government Act of 2002, as it applies to criminal cases. Privacy protection for civil filings made with the Court will be addressed in a separate administrative order.

(a) Redacting Filings. Unless otherwise ordered by the Court, an electronic or paper filing made with the Court that includes a social security number or an individual's tax identification number, a name of a person known to be a minor, a person's birth date, a driver's license number or a state-issued personal identification card number, a financial account number or the home address of a person may include only:

- (1) the last four digits of the social security number and tax identification number;
- (2) the minor's initials;
- (3) the year of birth;
- (4) the last four digits of the driver's license number or state-issued personal identification card number;
- (5) the last four digits of the financial account number; and
- (6) the city and state of the home address.

(b) Exemptions from Redaction Requirement. The redaction requirement referenced in (a) of this order does not apply to the following:

- (1) in a forfeiture proceeding, a financial account number or real property address that identifies the property alleged to be subject to forfeiture;
- (2) the record of an administrative or agency proceeding;
- (3) the official record of a state court proceeding;

- (4) the record of a court or tribunal whose decision is being reviewed, if that record was not subject to (a) of this order when originally filed;
- (5) a filing covered by (c) of this order;
- (6) a filing made in an action brought under 28 U.S.C. § 2254 or 2255;
- (7) a filing made in an action brought under 28 U.S.C. § 2241 that does not relate to the petitioner's immigration rights;
- (8) a filing in any court in relation to a criminal matter or investigation that is prepared before the filing of a criminal charge or that is not filed as part of any docketed criminal case;
- (9) an arrest or search warrant; and
- (10) a charging document and an affidavit filed in support of any charging document.

(c) Filings Made Under Seal. The Court may order that a filing be made under seal without redaction. The Court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

(d) Protective Orders. If necessary to protect private or sensitive information¹ that is not otherwise protected under (a) of this order, the court may by order in a case:

- (1) require redaction of additional information; or
- (2) limit or prohibit remote electronic access by a non-party to a document filed with the court.

(e) Option for Additional Unredacted Filing Under Seal. A party making a redacted filing under (a) of this order may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.

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"Private or sensitive information" may include, but not be limited to medical records, treatment and diagnosis; employment history; individual financial information; proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. § 114(s).

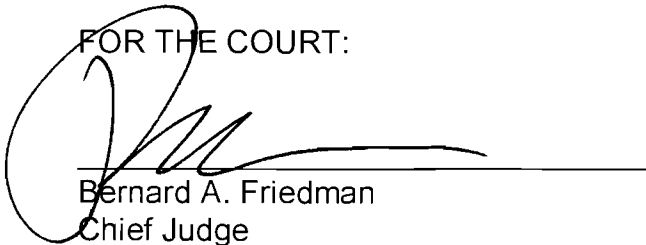
(f) Option for Filing a Reference List. A filing that contains information redacted under (a) of this order may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item of redacted information listed. The reference list must be filed under seal and may be amended as of right. Any reference in the case to an identifier in the reference list will be construed to refer to the corresponding item of information.

(g) Waiver of Protection of Identifiers. A party waives the protection of (a) of this order as to the party's own information to the extent that the party files such information not under seal and without redaction. Parties are advised that the Clerk's Office will not review documents filed with the court for compliance with this order. The responsibility to redact filings rests with counsel and the parties.

Pursuant to the E-Government Act, the Judicial Conference is drafting rules of procedure through the judiciary's formal rules process regarding privacy and public access to case documents. This administrative order, which closely follows proposed Fed. R. Crim. P. 49.1, is effective immediately and will serve as the Privacy Policy for the United States District Court for the Eastern District of Michigan in criminal cases until such time as the federal rule is approved and takes effect.

IT IS ORDERED.

FOR THE COURT:



Bernard A. Friedman
Chief Judge