

Guidance for Filing Confidential Information in Criminal Cases

The following guidelines are offered to assist counsel with the filing of sealed, redacted and unredacted documents in criminal cases (ie. CR, MJ and PO case types).

Redacted Documents Containing Non-Material Personal Data Identifiers

Any document that contains non-material personal data identifiers must be filed in redacted format, as per Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1. The redacted document will be publicly available. Counsel are not required to file an unredacted version of the document.

Redacted / Unredacted Documents Containing Material Information

It is important to remember that the filing of redacted and unredacted versions of documents is different and separate from the filing of sealed documents. Whenever possible, the Judges prefer, and counsel are encouraged to file redacted and unredacted versions of documents rather than filing a document completely under seal.

Any document that contains material personal data identifiers must be filed in redacted and unredacted formats. An unredacted version is required so the court has access to the material-but-confidential personal data identifiers. The unredacted version will not be publicly available. The redacted version will be publicly available. A Motion to Seal is not required.

Any document that does not need to be sealed in its entirety but contains some material confidential information must be filed in redacted and unredacted formats, along with a Motion to Seal. An unredacted version is required so the court has access to the material-but-confidential information.

The proper way to file a redacted version and an unredacted version of a document is to first file the redacted (public) version by making a typical selection from one of the ECF menu items and attaching the redacted version of the document. If the document contains confidential material information counsel must file a Motion to Seal. The unredacted document must be submitted with the Motion to Seal to the Clerk's Office for docketing.

Notice of Electronic Filing and Access to Information

In criminal cases, the ECF system will not generate and send a Notice of Electronic Filing (NEF) to counsel of record notifying them of the filing. If service is required, all counsel must be served in a manner other than through ECF.

Personal Data Identifiers- Non-Material

Any main document or attachment that contains non-material personal data identifiers must be filed in redacted format per Fed. R. Crim. P. 49.1. The redacted document will be publicly available.

Step	Action
1	Redact the personal data identifier(s).
2	File the document in its redacted form.
3	Do not file an unredacted version.

Personal Data Identifiers- Material

Any main document or attachment that contains material personal data identifiers must be filed in redacted and unredacted formats. An unredacted version is required so the court has access to the material with confidential personal data identifiers. The unredacted version will not be publicly available. The redacted version will be publicly available. A Motion to Seal is not required.

Step	Action
1	Redact the personal data identifier(s).
2	File the document in its redacted form.
3	Using the event Unredacted Document , file the unredacted document.

Confidential Information-Material

Any main document or attachment that does not need to be sealed in its entirety but that contains some material confidential information must be filed in redacted and unredacted

formats. An unredacted version is required so the court has access to the material-but-confidential information. The unredacted document(s) must be submitted with the Motion to Seal. The unredacted version will not be publicly available. The redacted version will be publicly available. A Motion to Seal is required.

Step	Action
1	Redact the confidential information.
2	File the document in its redacted form.
3	Submit a Motion to Seal, and the confidential unredacted documents to the Clerk’s Office. The motion “must state the basis for sealing, the period of time during which the document is to be sealed and must set forth specific findings as to the need for sealing and the duration thereof.” D. Me. Loc. R. 157.6(b)

Non-Confidential Main Document with Confidential Attachment(s)

When an attachment cannot be redacted, and the filing party needs to seal an entire attachment, a Motion to Seal and a public placeholder are required.

Step	Action
1	For any confidential attachment, prepare a placeholder attachment. Note: it is not necessary to file a placeholder for each confidential attachment. Once placeholder listing all the confidential attachments is acceptable. See example on the last page of this document.
2	File the main document and attach to it all non-confidential attachments and the placeholder.
3	Submit a Motion to Seal, and the confidential unredacted attachment(s) to the Clerk’s Office. The motion “must state the basis for sealing, the period of time during which the document is to be sealed and must set forth specific findings as to the need for sealing and the duration thereof.” D. Me. Loc. R. 157.6(b)

Main Document- Confidential

When the filing party seeks to seal a main document in its entirety, a Motion to Seal is required.

Step	Action
1	Submit a Motion to Seal and the confidential unredacted main document(s) to the Clerk's Office. The motion "must state the basis for sealing, the period of time during which the document is to be sealed and must set forth specific findings as to the need for sealing and the duration thereof." D. Me. Loc. R. 157.6(b)

Responses and Replies to Sealed Motions

A Motion to Seal is not required when filing a response or a reply to a Motion to Seal or to a motion filed under seal.

Unredacted or Unsealed Documents Filed Publicly in Error

If a document is filed publicly and later discovered, it should have been redacted or sealed take the following steps:

Step	Action
1	Submit a Motion to Seal to the Clerk's Office. The motion "must state the basis for sealing, the period of time during which the document is to be sealed and must set forth specific findings as to the need for sealing and the duration thereof." D. Me. Loc. R. 157.6(b)
2	If the document does not need to be sealed in its entirety, redact the document.
3	Docket: Redacted Document . Attach the redacted document. When prompted link to the correct docket entry on ECF.

Trial and Hearing Exhibits

Exhibits containing non-material personal data identifiers must be redacted. Exhibits containing material personal data identifiers must be submitted in redacted and unredacted format to the Clerk of Court.

Example Placeholder

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)	
Plaintiff)	
v.)	Case No.: 1:25-cr-00123-ABC
)	
DEFENDANT'S NAME)	
Defendant)	

SEALED EXHIBITS TO DEFENDANT'S MOTION TO DISMISS

The below exhibits to Defendant's Motion to Dismiss are filed under seal:

1. Exhibit 2: Declaration
2. Exhibit 6: Medical Records