

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STANDING CRIMINAL ORDER REGARDING
PROCEDURES TO PROTECT COOPERATION
INFORMATION

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Consistent with the findings of the Committee on Court Administration and Case Management of the Judicial Conference of the United States on the need to protect cooperation information, the following procedures shall be followed in **all** criminal cases assigned to the undersigned pending on August 1, 2016 or thereafter so assigned:

1. **In every case**, all plea agreements shall have a public portion and a sealed supplement, and the sealed supplement shall either be a document containing any discussion of or references to the defendant's cooperation or a statement that there is no cooperation agreement. There shall be no public access to the sealed supplement unless ordered by the Court.

2. **In every case**, sentencing memoranda shall have a public portion and a sealed supplement. Only the sealed supplement shall contain either (a) any discussion of or references to the defendant's cooperation including any motion by the United States under 18 U.S.C. § 3553(e) or U.S.S.G. § 5K1.1; or (b) a statement that there has been no cooperation. There shall be no public access to the sealed supplement unless ordered by the Court.

3. **All** transcripts of guilty pleas shall contain a sealed portion containing a conference at the bench that will either contain any discussion of or references to the defendant's cooperation, or simply state that there is no agreement for cooperation. There shall be no public access to the

text of the conference at the bench provided under this paragraph unless ordered by the Court.

4. **All** sentencing transcripts shall include a sealed portion containing a conference at the bench, which reflects either (a) any discussion of or references to the defendant's cooperation, including the court's ruling on any sentencing motion relating to the defendant's cooperation; or (b) a statement that there has been no cooperation. There shall be no public access to the text of the conference at the bench provided under this paragraph unless ordered by the Court.

5. **All** motions under Rule 35 of the Federal Rules of Criminal Procedure based on the cooperation with the government shall be sealed and there shall be no public access to the motion unless ordered by the Court.

6. The Clerk of Court, when requested to provide a copy of docket entries in criminal matters to an inmate or any other requesting party, shall include in a letter transmitting the docket entries, a statement that, pursuant to this Order, all plea agreements and sentencing memoranda contain a sealed supplement which is either a statement that there is cooperation, including the terms thereof, or a statement that there is no cooperation, and, as a result, it is not possible to determine from examination of docket entries whether a defendant did or did not cooperate with the government.

8. All documents, or portions thereof, sealed pursuant to this Order shall remain under seal indefinitely until otherwise ordered by the Court on a case-by-case basis.

9. Nothing contained herein shall be construed to relieve the government in any case of its disclosure obligations, such as those under *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and *Jencks v. United States*, 353 U.S. 657 (1957) (as codified at 18 U.S.C. § 3500).

10. This Order shall be docketed in every criminal case assigned to the undersigned pending on August 1, 2016 or thereafter so assigned and shall be available on the Court's website.

SO ORDERED.

Dated: Central Islip, New York
July 22, 2016

/s/ Denis R. Hurley
DENIS R. HURLEY
United States District Judge