|  |  |  |
| --- | --- | --- |
| UNITED STATES DISTRICT COURT  DISTRICT OF | | |
| UNITED STATES OF AMERICA  v.  DEFENDANTS | ) |  |
| ) |  |
| ) |  |
| ) | No. xx-cr-xx |
| ) |  |
|  | )  )  )  ) |  |
|  | )  ) |  |

**MODEL PROTECTIVE ORDER**

The Court, having considered the Joint Motion for a Protective Order, and for good cause shown, finds that a protective order is necessary and appropriate in this case to preserve grand jury secrecy and to prevent harmful disclosure of both the personal identifying information and sensitive information of various individuals, while preserving the Defendants’ rights to meaningful discovery and a fair trial. Under the Court’s authority under [Federal Rules of](https://www.westlaw.com/Link/Document/FullText?rs=USCLink&vr=3.0&findType=Y&cite=FRCRP%2B6%28e%29&clientid=USCourts) [Criminal Procedure 6(e)](https://www.westlaw.com/Link/Document/FullText?rs=USCLink&vr=3.0&findType=Y&cite=FRCRP%2B6%28e%29&clientid=USCourts) and 16(d)(1), it is hereby ordered:

1. This Protective Order authorizes the United States to provide to Defendants, and if appropriate, Defendants to provide to the United States, copies of discovery materials in this matter, including grand jury materials, materials resulting from search warrants, and documents that contain personal identifying information of third parties and other sensitive information (hereinafter “Protected Materials”). The Protected Materials also include documents voluntarily produced to the parties.
2. The United States or Defendants may designate discovery material as Protected Material based on a good-faith belief that production of the material without a protective order could lead to specific and serious harm. Should the receiving party dispute the propriety of any designation of discovery as Protected Material, counsel shall notify counsel for the producing party in writing. Within fourteen days of receiving notice, the producing party shall respond to the notice in writing. If, after this exchange of correspondence, the parties cannot resolve the dispute, they may apply to the Court for a ruling. The burden shall be on the producing party to show that the material qualifies as Protected Material. During the pendency of the dispute, the discovery material shall be treated as Protected Material subject to the terms of this Order. The failure to formally challenge designation of certain material as Protected Material shall not constitute a waiver of any party’s ability to challenge that designation at a later time.
3. The Protected Materials produced in discovery in this case shall not be disclosed or made available for inspection or copying to any person, other than as permitted in this Protective Order. As used in this Protective Order, the word “Defendants” means the individual Defendants; defense counsel actively representing the Defendants in the above- captioned matter; and partners, associates, secretaries, paralegals, and employees of those defense counsel.
4. Except as permitted by Federal Rule of Criminal Procedure 6(e), this Protective Order, or another court order, attorneys [for the United States and the Defendants](https://www.westlaw.com/Link/Document/FullText?rs=USCLink&vr=3.0&findType=Y&cite=FRCRP%2B6%28e%29&clientid=USCourts) shall not disclose the Protected Materials or their contents to anyone. Solely to effectuate the purposes of this Protective Order, which are to restrict the dissemination of the Protected Materials except as necessary for the preparation and conduct of this criminal trial, and any connected hearings, collateral proceedings, or appeals:
   1. defense counsel may disclose the Protected Materials to the Defendants;
   2. attorneys for the United States and defense counsel and/or their investigators or staff may use their knowledge of the Protected Materials to interview prospective witnesses;
   3. attorneys for the United States and defense counsel and/or their investigators or staff may display to a prospective witness or the witness’ counsel Protected Materials, but may not permit the witness or prospective witness to retain a copy;
   4. attorneys for the United States and defense counsel may provide a copy of the Protected Materials to consultants, investigators, experts, and any other third party retained for preparing for the above-captioned matter (“Designated Agents”), but only if such persons are provided with a copy of this Protective Order and informed of their obligation to comply therewith; and
   5. Protected Materials may be disclosed to court officials involved in this case.
5. Any party may apply to the Court for an order requiring that Protected Materials appended to any document filed with the court be filed under seal. Such application must be supported by an affidavit (i) describing with particularity the Protected Materials the moving party believes should be filed and maintained and under seal, and (ii) showing good cause why the requested order should be entered.
6. For each person to whom a copy of the Protected Materials has been provided by attorneys for the United States or defense counsel pursuant to Paragraph 4(a), 4(b), or 4(d) of this Protective Order, attorneys for the United States and defense counsel shall also provide that person a copy of this Protective Order. Attorneys for the United States and defense counsel shall not be required, absent further court order, to disclose the identities of persons to which they have disclosed or disseminated the Protected Materials. No person shall be required to disclose their receipt of Protected Materials pursuant to this Protective Order.
7. Attorneys for the United States, Defendants and all other individuals or entities who receive Protected Materials in this case shall maintain the Protected Materials in a manner consistent with the terms of this Protective Order. Protected Materials produced as hard copies shall be stored in a secure manner. Protected Materials produced in digital form shall also be stored in a secure manner with access to digital instances of such Protected Materials permitted only to the extent authorized in Paragraph 4(a)-(e).
8. The parties may apply to the Court for a modification or rescission of this Protective Order at any time.
9. Each person to whom Protected Materials have been disclosed or their contents disclosed pursuant to Paragraph 4(a), 4(b), or 4(d) of this Protective Order shall not discuss with, or disclose the contents of the Protected Materials to, anyone other than attorneys for the United States, defense counsel or members of the defense team, or his or her own counsel, and shall not be permitted to further disclose such Protected Material, unless otherwise authorized to do so by this Protective Order. Should either the Defendants’ counsel or the attorneys for the United States become aware of a disclosure in violation of this Protective Order, that party shall immediately notify the opposing counsel of the violation and shall use reasonable efforts to secure the return or destruction of the improperly disclosed Protected Materials.
10. Anyone in possession of Protected Materials is responsible for employing reasonable measures to control duplication of, and access to, the Protected Materials.
11. Any abstracts, summaries, or information derived from the Protected Materials and any notes or other records made relating to the contents of the Protected Materials (collectively “Derivative Materials and Information”) may only be disclosed to others if disclosure of the underlying Protected Materials to those recipients is also authorized by this Protective Order. Anyone in possession of the Protected Materials, copies thereof, or Derivative Materials and Information shall maintain their confidentiality under the terms of this Protective Order after this case is disposed of by trial, sentencing, or other judicial proceeding, appeal, if any, or other resolution of the charges against the Defendants.
12. Should any individual or entity in possession, custody, or control of Protected Materials receive a subpoena, document request, civil investigative demand, or similar request as part of a judicial or administrative proceeding that calls for any of the Protected Materials, that individual or entity (hereinafter the “Request Recipient”) shall promptly notify the requesting entity of the existence of this Protective Order. The Request Recipient shall also promptly notify attorneys of record on the case for the United States or the Defendant, who must then promptly notify opposing counsel. If, nonetheless, the Request Recipient is compelled by court order or other compulsory process to produce the Protected Materials, then production of such materials shall not be deemed a violation of this Protective Order.
13. This Protective Order shall in no way be construed to limit or prevent the production, use, or disclosure of any document or information produced in discovery that the receiving party, at the time of production, already lawfully possessed and had previously obtained through separate lawful means.
14. Subject to Federal Rule of Criminal Procedure 49.1, any document protected by this Protective Order may lose its status as Protected Materials by agreement among defense counsel and the United States. If counsel for the United States refuses to concur in any request by defense counsel under this paragraph, defense counsel may seek relief from the Court.
15. Willful violation of this Protective Order may be punishable by contempt of court or any other sanction or combinations of sanctions which are legally available.

The provisions of this order governing disclosure and use of the documents shall not terminate at the conclusion of this criminal prosecution.

Entered this day of .

NAME

United States District Judge