

## **Rule 32.2 Presentence Report and Sentencing Proceedings**

(a) **Order for Presentence Report.** At such time as the Court orders a Presentence Report, it shall set a sentencing date not less than fourteen (14) weeks from the date the plea or conviction of guilty is entered. The defendant shall then report to the Probation Officer. Counsel for the defendant shall notify the Probation Officer if the defendant is in custody. Counsel for the defendant shall also notify the Probation Officer if counsel wishes to be present during interviews of the defendant conducted by the Probation Officer. The Probation Officer shall inform the defendant in advance of the interview that he or she has the right to have counsel present during presentence interviews.

(b) **Disclosure Procedures.**

(1) Not less than six (6) weeks prior to the date set for sentencing, the Probation Officer shall disclose the Presentence Report to the defendant, counsel for the defendant, and the United States Attorney (the parties).

The disclosable portion of the Presentence Report shall not contain reference to cooperation, pursuant to §5K1.1 of the Federal Sentencing Guidelines.

Pursuant to Fed. R. Crim. P. 32(b)(6)(A), effective December 1, 1994, the Northern District of Ohio hereby directs that the Probation Officer shall in no case disclose the Probation Officer's recommendation, if any, on the sentence.

The Presentence Report shall be deemed to have been disclosed three (3) days after a copy of the report is mailed to the defendant, counsel for the defendant and the United States Attorney.

The Presentence Report is not to be disclosed to anyone other than the defendant, counsel for the defendant, and the United States Attorney.

(2) Within two (2) weeks of disclosure of the Presentence Report, the parties shall, in writing, provide the Probation Officer with any objections they may have as to any material information or sentencing guideline information contained in or omitted from the report, or with notice that there are no objections.

(3) The Probation Officer shall consider the objections, conduct any necessary investigation, and revise the Presentence Report, if appropriate. Further, a statement setting forth unresolved objections, if any, including the Probation Officer's comments on the unresolved objections, shall be prepared.

(4) Not later than two (2) weeks prior to sentencing, the Probation Officer shall submit the Presentence Report and the statement of unresolved objections, if any, to the sentencing Judge, and shall provide to the parties, in the same manner

as in subsection (b)(1) of this Rule, the revised report, and statement of unresolved objections.

(5) The Court, upon motion of either party, or of the Probation Office, may modify the time requirements, subject to the provisions of 18 U.S.C. § 3552(d).

**(c) Position of Parties With Respect to Sentencing Factors.** No later than one (1) week prior to sentencing, the parties shall file with the Court any information required by the Court, and any information the parties intend to rely upon at the time of sentencing. Any responses by the parties shall be filed with the Court no later than three (3) business days prior to sentencing.

Copies of all sentencing information filed by any party shall be contemporaneously served upon all other parties and upon the Probation Officer.

**(d) Hearing on Unresolved Objections.** The Court, for good cause shown, may allow a new objection to be raised at any time before imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the Probation Officer or the parties.

**(e) Presentence Report as Part of the Record.**

(1) The Presentence Report shall be placed by the Clerk in the record under seal.

(2) The Clerk shall provide the Probation Officer with the Court's statement of reasons and the Court's finding on unresolved objections, and copies of any other documents pertinent to sentencing placed in the record during the sentencing hearing.

(3) Copies of the Presentence Report provided to the Bureau of Prisons by the Probation Officer shall include the Court's findings on unresolved objections.

(4) The Court's statement of reasons for the sentence shall accompany the Judgment Order to the Bureau of Prisons.

(5) Copies of the Presentence Report provided to the Court of Appeals by the Clerk shall include the Court's findings on unresolved objections.