

32.1 Presentence Reports.

(a) Initiation of the Presentence Investigation.

(1) Government's Information.

Within 7 days after receiving the probation and pretrial services officer's written request for information (e.g., investigative reports), the government must respond to the request and may supply other relevant information. The government must serve a defense attorney with a copy of any material given to the probation and pretrial services officer that the defense attorney does not already have.

(2) Interview.

On request, a defense attorney is entitled to notice and a reasonable opportunity to attend a probation and pretrial services officer's interview of the defendant during a presentence investigation. A defense attorney must advise the probation and pretrial services office within 2 days after the presentence report is ordered that the attorney wishes to be present at any interview of the defendant.

(b) Sentencing Schedule and Procedure.

After a guilty plea is tendered or a verdict of guilty is received, each sentencing judge, or a magistrate judge acting for the sentencing judge, may issue an order setting the sentencing schedule and procedure. If an order is not issued, or if the order does not address one or more of the matters listed below, the following schedules and procedures are followed.

- (1)** No later than 7 days after the date a guilty plea is tendered or a guilty verdict is filed, the attorneys must send their respective versions of the offense to the probation and pretrial services officer.
- (2)** No later than 21 days after the date set in subparagraph (1), the attorneys must send the probation and pretrial services officer all financial information, restitution proposals, and chemical or mental health information that they wish the probation and pretrial services officer to consider.
- (3)** No later than 14 days after the date set in subparagraph (2), the probation and pretrial services officer must distribute to the attorneys the initial version of the presentence report.

- (4) No later than 14 days after the date set in subparagraph (3), the attorneys must send the probation and pretrial services officer any objections to the initial version of the presentence report.
- (5) No later than 7 days after the date set in subparagraph (4), the probation and pretrial services officer must send the sentencing judge and the attorneys the final version of the presentence report including an addendum that addresses any of the parties' objections regarding the initial version of the presentence report.
- (6) No later than 7 days after the date set in subparagraph (5), the attorneys for both parties must file:
 - (A) any proposals for community service, community confinement, intermittent confinement, or home detention;
 - (B) motions by either party for departure, deviation, or variance; and
 - (C) statements of position regarding, or objections addressed to, the final presentence report. Any objections to the presentence report not filed under this subparagraph may be considered waived.

If documentary evidence will be offered in support of or in opposition to a motion, objection, or statement of position, the evidence must accompany the motion, objection, or statement of position. If oral testimony is desired, a request must also be made. The request for oral testimony must include (i) the nature of the expected testimony; (ii) an explanation of why oral testimony, instead of documentary evidence, including affidavits, is necessary; (iii) the proposed witness's identity; and (iv) the time length anticipated for presentation of the witness's direct examination. If a request for oral or documentary evidence is made by one party but not by the adverse party, the adverse party may promptly make a responsive request for oral or documentary evidence setting out the details required by this paragraph. It is expected that the court will not consider any sentencing issue first raised after the date set in this subparagraph for filing statements, objections, or motions for departure, deviation, or variance.

- (7) No later than 7 days after the date set in subparagraph (6), the sentencing judge may issue an order notifying the attorneys as to:

- (A) the judge's rulings on the presentence report (including a notice of the judge's intention to depart, deviate, or vary on the judge's own motion) and tentative findings regarding objections or motions for departure, deviation, or variance;
- (B) whether objections or motions for departure, deviation, or variance will be resolved at sentencing, and, if so, whether oral testimony will be permitted; and
- (C) when and how objections to the judge's rulings or tentative findings may be made.

If the judge does not issue an order, objections and motions for departure, deviation, or variance submitted by the parties will be decided at sentencing according to procedures as the judge may then specify.

- (8) A probation and pretrial services officer must submit a sentencing recommendation to the sentencing judge no later than seven days before the sentencing hearing. The probation and pretrial services officer is directed to provide copies of any sentencing recommendation to counsel for the government and counsel for the defendant at the time the recommendation is submitted to the sentencing judge.
- (9) If the court has not set a date for sentencing within 90 days after the date a guilty plea is tendered or guilty verdict is filed, the government's attorney must promptly file a motion requesting a sentencing date.