

LCrR32.2 SENTENCING PROCEDURES

(a) Sentencing proceedings shall be scheduled by each District Judge no earlier than 75-90 calendar days following a defendant's entry of a guilty plea or a verdict of guilty. ~~If, however, the Court orders the defendant to participate in a sex-offender evaluation, sentencing proceedings shall be scheduled by each District Judge no earlier than 110 calendar days following a defendant's entry of a guilty plea or a verdict of guilty.~~

(b) The draft presentence investigation report, including sentencing guideline computations and suggested conditions of supervised release, shall be completed and disclosed to the parties not less than 35-45 calendar days before the scheduled sentencing proceeding, unless the minimum period is waived by the Defendant. The draft presentence investigation report shall be deemed to have been disclosed upon docketing the report in the Court's CM/ECF docketing system, unless the case is sealed or a Defendant is *pro se*, in which case the report shall be deemed filed

- (1) when a copy of the report is delivered to the parties; or
- (2) three days after a copy of the report is mailed to the parties.

(c) If a party reasonably (1) disputes sentencing factors or material facts found in the draft presentence investigation report, (2) or seeks the inclusion of additional factors or material facts, or (3) objects to any proposed supervised release condition, that party shall notify the probation officer and the other party of such dispute within 14 days after disclosure of the draft presentence investigation report. The notification shall be in writing and filed in CM/ECF. It is the obligation of the complaining party to seek resolution of such factors or material facts through the probation officer prior to filing the pleading referenced in paragraph (d) below. A conference among the probation officer and the parties is mandatory when factors or material facts are in dispute. Disputes should be ~~Resolution of disputed factors or material facts should be~~ resolved to the extent possible, ~~and informal procedures, to include telephone conferences, for this resolution process are permissible.~~ Informal procedures, which include telephone conferences and e-mail correspondence between the probation office and the parties for this resolution process, are permissible. A party with no disputes or objections shall notify the probation officer and other party and such notification shall be in writing and filed in CM/ECF. ~~should file a statement with the United States Probation Office, articulating that position.~~

(d) Within 21 calendar days after disclosure of the draft presentence investigation report, any party, ~~Defendant and/or Government, having~~ maintaining an unresolved ~~dispute~~ objection shall file a sealed pleading entitled, "Position Paper Regarding Sentencing Factors-" in accordance with Policy Statements §§ 6A1.2 and 6A1.3 of the United States Sentencing Commission Guidelines Manual or any other rules issued by the United States Sentencing Commission. This pleading shall serve as a notice

of any factor important to the sentencing determination that is reasonably in dispute. This pleading shall be accompanied by a written statement certifying that the party has conferred with opposing counsel and the probation officer in a good faith effort to resolve the disputed matter(s). This pleading shall be filed with the Clerk of Court [in CM/ECF](#) and contemporaneously served upon the United States Probation Officer and opposing counsel. [Within 28 calendar days after disclosure of the draft presentence report, the non-objecting party shall file a sealed response.](#) The absence of a filing by either party, at this time, will be reported to the Court by the probation office and administratively handled by the United States Probation Office as no dispute.

(e) Not later than seven calendar days before the sentencing hearing, the United States Probation Office shall deliver to the Sentencing Judge the final presentence investigation report, including sentencing guideline computations, together with an addendum setting forth any unresolved objections, the grounds for those objections, and the probation officer's comments on the objections. At the same time, the probation officer must furnish the revisions of the presentence investigation report and the addendum to the Defendant, defense counsel, and the attorney for the Government.

(f) The presentence investigation report may be accepted by the Court as accurate if there are no unresolved factual disputes or objections. However, the Court, for good cause, may allow a new objection at any time prior to imposition of sentence. In resolving disputed facts, the Court may consider any reliable information presented by the Defendant, the Government or the probation officer. At the sentencing hearing, the Court must rule on any unresolved objections to the presentence investigation report. For each matter controverted, the Court must make either a finding on the allegation or a determination that no finding is necessary because the controverted matter will not be taken into account in, or will not affect, sentencing. A written record of these findings and determinations must be appended to any copy of the presentence investigation report made available to the Bureau of Prisons.

(g) The Defendant and Government may file sentencing memorandums regarding 18 § U.S.C. § 3553(a) factors no later than three business days prior to the sentencing hearing. [Any motion filed by the Government related to sentencing must be filed at least three business days before the sentencing hearing.](#)