

Local Rules of the United States District Court for the Western District of Missouri

99.8 GUIDELINE SENTENCING

- (a) **Generally.** An officer from the United States Probation and Pretrial Services Office must, without unreasonable delay, prepare a defendant's presentence investigation report and compute the applicable United States Sentencing Commission Guidelines, unless the Court:
1. Waives the presentence investigation under Fed. R. Crim. P. 32(b)(1); or
 2. Finds that there is sufficient information in the record to enable the meaningful exercise of sentencing authority in accordance with 18 U.S.C. § 3553.
- (b) **Interviewing the Defendant.** The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's attorney notice and a reasonable opportunity to attend the interview.
- (c) **Disclosing the Preliminary Report.** Immediately after completion, the probation officer must provide the preliminary presentence investigation report to the defendant, defense counsel, and the United States, in accordance with 18 U.S.C. § 3552(d).
- (d) **Reviewing the Report with the Defendant.** Defense counsel must review the report with, and explain it to, the defendant.
- (e) **Making Objections.** Defense counsel, a pro se defendant, or the United States may object to anything in the preliminary presentence investigation report. The objections must:
1. Be submitted in writing within 14 days after disclosure of the preliminary presentence investigation report;
 2. Be sent to the United States Probation and Pretrial Services Office and served on all other parties;
 3. Contain separately numbered paragraphs;
 4. List any and all objections believed material to application of the Sentencing Guidelines, including factual information, sentencing classifications, guideline ranges, and policy statements which are contained in the presentence investigation report; and
 5. List any additional matters which the submitter believes should be included in, or deleted from, the presentence investigation report.
- (f) **Investigating Objections.** Upon receiving timely written objections, the probation officer must immediately conduct a further investigation and make such revisions to the presentence investigation report as the probation officer deems appropriate. The probation officer may meet with each counsel or pro se defendant to discuss any unresolved factual issues.

- (g) **Submitting the Final Report.** The probation officer must submit the final presentence investigation report to the sentencing judge, the defendant, defense counsel, and the United States within 14 days after receiving objections, or 14 days after disclosing the preliminary presentence investigation report if no objections were received. The report must include an addendum which sets forth clearly and fairly any unresolved objections, and the comments of the probation officer.
- (h) **Preparing a Sentencing Recommendation.** At the same time the probation officer submits the presentence investigation report under Rule 99.8(g), the probation officer must also submit a confidential sentencing recommendation to the Court. The sentencing recommendation must be contained in a confidential memorandum. Unless the Court orders otherwise, this memorandum may not be further disclosed.
- (i) **Setting the Sentencing Date.** Unless waived by the defendant and defense counsel, the sentencing judge must set the sentencing date to be:
1. No fewer than 7 days after receiving the presentence investigation report under Rule 99.8(g); and
 2. No fewer than 35 days after the presentence investigation is disclosed under Rule 99.8(c).
- (j) **Submitting Unresolved Objections to the Court.** Within 7 days after the preliminary presentence investigation report is submitted under Rule 99.8(g), defense counsel, a pro se defendant, or the United States may submit to the Court, with copies to opposing counsel and to the United States Probation and Pretrial Services Office, notice of any unresolved objection or other matter pertaining to the presentence investigation report. Opposing counsel may then submit a response, and the probation officer may submit comments, to the additional objection as appropriate.
- (k) **The Court Need Not Consider Objections That Do Not Comply with Rule 99.8(e).** At the sentencing hearing, the Court will consider only unresolved objections raised under Rule 99.8(e), unless the Court finds good cause to allow an objection to be raised without complying with Rule 99.8(e).
- (l) **Modifying Deadlines.** Upon a showing of good cause, the Court may modify the times set forth in this Rule.
- (m) **Construction with Fed. R. Crim. P. 32.** This Rule must be construed consistently with Fed. R. Crim. P. 32.
- (n) **Providing the Report on Appeal.** If an appeal is taken under 18 U.S.C. § 3742, the Clerk must advise the United States Probation and Pretrial Services Office, which must provide a copy of the presentence investigation report to be maintained under seal as a part of the Court file.