

Crim. LR 32 – Sentencing and Judgment

(See Fed. R. Crim. P. 32)

Crim LR 32-1 Sentencing and Judgment

(a) Time of Sentencing.

(1) *In General.* The Court must impose sentence without unnecessary delay. However, sufficient time between adjudication and sentencing is required to enable the parties to review the completed presentence report, offer any objections, and allow the probation officer to revise the report where appropriate and attempt to resolve disputed facts. Therefore, the sentencing date shall be set at or after eighty-four (84) calendar days following entry of a guilty plea or verdict.

(2) *Changing Time Limits; Waiver of Disclosure and Objection Time Requirements.*

(A) With the approval of the Court, the parties may, for good cause, waive the minimum disclosure periods required by Fed. R. Crim. P. 32 and Local Rules. In such cases, the parties shall confer with the probation office and the Court, and the Court will approve the timeline for disclosure of the presentence report and sentencing.

(B) With the approval of the Court, the parties may, for good cause, waive the fourteen (14)-day period, set forth under Fed. R. Crim. P. 32(f)(1), to review and file objections to the presentence report. In such cases, the parties shall submit any objections to the presentence report directly to the Court with their sentencing materials; unless directed by the Court, the probation officer will not be required to respond to any objections or otherwise prepare an addendum to the report.

(b) Disclosing the Report and Recommendation.

(1) *Pre-Plea Presentence Reports.* For good cause, and with the approval or order of the Court, the probation office may prepare and disclose a presentence report to the parties and the Court prior to a guilty plea, provided that:

- (A) defense counsel provides the probation office with advance consent on the defendant's behalf for the preparation and disclosure of the pre-plea report; and
- (B) the government indicates it has no objection.

If a sentencing date has not been set at the time of the commencement of the pre-plea presentence investigation, the probation office shall confer with the parties and the Court to propose an appropriate disclosure timeline based upon an anticipated sentencing date. The pre-plea presentence report shall otherwise be prepared and disclosed according to the requirements set forth in Fed. R. Crim. P. 32 and Local Rules.

(2) *Minimum Required Notice.* Consistent with Fed. R. Crim. P. 32(e)(2), at least thirty-five (35) calendar days prior to the sentencing date, the probation officer shall provide a copy of

the presentence report to the attorney for the government and to defense counsel. Defense counsel shall be responsible for disclosing the report to the defendant.

(c) Submitting the Report. No later than ten (10) days prior to the sentencing date, the presentence report, including the addendum and any attachments, shall be filed with the Court and disclosed to the parties.

(d) Sentencing.

(1) Objections that are not submitted to the probation officer within the 14-day timeline set forth in detail in Fed. R. Crim. P. 32(f) or provided to the Court prior to sentencing may be raised at the sentencing hearing only for good cause shown.

(2) The Court's findings on disputed facts or controverted matters contained in the presentence report will be documented in the Statement of Reasons.

Crim LR 32-2 Confidentiality of the Presentence Report

(a) Disclosure of the presentence report (whether in draft or final form) is made to the government and to the defense, subject to the following limitations:

(1) The attorney for the government must not provide a copy of the draft or final presentence report in written or electronic form to any person other than the case agents, experts, investigators, or consultants hired by the government and the Financial Litigation Unit of the United States Attorney's Office when a fine or any other financial obligation is imposed.

(2) The attorney for the defendant must not provide a copy of the draft or final presentence report in written or electronic form to any person other than the defendant, any attorney, experts, investigators, or consultants hired by or assisting the defense. The defendant must not provide a copy of the draft or final presentence report in written or electronic form to any person other than his or her attorney, spouse, registered domestic partner, or parent(s). A defendant who ~~appears pro se~~ is self-represented is considered an "attorney for the defendant" for purposes of this Rule.

(3) The defendant, the attorney for the defendant, and the government may retain their copies of the presentence report, subject to the limitations on disclosure set forth in this Rule. This Rule does not limit use of copies of the presentence report necessary for litigation or appeal of the case. Any copy of the presentence report used for this purpose must be filed under seal.

(4) If a defendant is engaged in pre- or post-sentencing litigation related to a criminal charge filed in this district, and the defendant has a prior federal conviction in this district for which a presentence report was prepared, the probation office shall, upon request, disclose the final presentence report for the prior conviction to the attorneys for the government and the defendant unless otherwise directed by the Court. Any presentence report for a prior conviction that is disclosed to the government or the defense is subject to the same redisclosure limitations set forth above.

(b) The presentence report must remain a confidential court document, disclosure of which is controlled by the Court. Any copies must be marked "Not For Further Disclosure Without Prior Authorization From the Court."

Amendment History	
August 1, 2019	
Crim. LR. 32-1	New rule promulgated to replace Standing Order 2013-2.
Crim. LR. 32-2	<p>Renumbered from LR 3003. Added subsection letters "(a)" and "(b)" for clarity and consistency. Added subsection (a)(4): "If a defendant is engaged in pre- or post-sentencing litigation related to a criminal charge filed in this district, and the defendant has a prior federal conviction in this district for which a presentence report was prepared, the probation office shall, upon request, disclose the final presentence report for the prior conviction to the attorneys for the government and the defendant unless otherwise directed by the Court. Any presentence report for a prior conviction that is disclosed to the government or the defense is subject to the same redisclosure limitations set forth above."</p> <p>After the second sentence in subsection (b), deleted: "A knowing violation of any of the above provisions may be treated as a contempt of Court."</p>
September 3, 2024	
<u>Crim. LR 32-2(a)(2)</u>	<u>Replaced "appears pro se" with "is self-represented."</u>