

Rule 4.12 | PRE-SENTENCE INVESTIGATION REPORTS; PRE-SENTENCING PROCEDURES

(a) Ordinarily, sentencing will occur within seventy-five (75) calendar days following the defendant's plea of guilt or nolo contendere, or upon being found guilty. The Court may either shorten or lengthen for good cause the time limits prescribed in this rule. On request, the defendant's counsel is entitled to notice and a reasonable opportunity to attend any interview of the defendant by the probation officer in the course of a presentence investigation.

(b) Not less than thirty-five (35) days prior to the date set for sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the Government, unless the defendant waives this minimum period. Within fourteen (14) days thereafter, counsel (or the defendant if acting pro se) shall communicate in writing to the probation officer and to each other any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

(c) After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The officer may require counsel for both parties as well as the defendant and/or the case agent to meet with the officer to discuss unresolved factual and legal issues. All counsel shall make themselves available to the officer for this purpose on short notice regardless of place of residence.

(d) No later than seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the Government, that the content of the addendum has been communicated to the defendant and to counsel, and that the addendum fairly states any remaining objections.

(e) Except for any objection made under subdivision (b) that has not been resolved, the Court, at the sentencing, may accept the presentence report as its findings of fact. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the probation officer, the defendant or the Government.

(f) The Court directs the probation officer not to disclose the probation officer's recommendation, if any, on the sentence, pursuant to its authority in Rule 32(e)(3).

(g) The presentence report shall be deemed to have been disclosed:

1. When a copy of the report is physically delivered.
2. One day after the report's availability for inspection is orally communicated.
3. Three (3) days after a copy of the report or notice of its availability is mailed.

(h) No confidential records of the Court maintained at the probation office, including presentence reports and probation supervision reports, shall be sought by any applicant except by written petition to the Court establishing with particularity the need for specific information believed to be contained in such records. When a demand for disclosure of such information for such records is made by way of subpoena or other judicial process served upon a probation officer of this Court, the probation officer may file a petition seeking instruction from the Court with respect to the manner in which he should respond to such subpoena or such process.

(i) Any party filing an appeal or cross appeal in any criminal case in which it is expected that an issue will be asserted pursuant to 18 U.S.C. Section 3742 concerning the sentence imposed by the Court shall immediately notify the probation officer who shall then file with the Clerk for inclusion in the record in camera a copy of the presentence investigation report. The probation officer shall also furnish, at the same time, a copy of the presentence report to the Government and to the defendant.