

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**Amended Standing Order Regarding Implementation of
Sentencing Procedures under the
Sentencing Reform Act of 1984**

(Amended December 1, 1994)

The following procedures are hereby established pursuant to the Guidelines issued by the United States Sentencing Commission to govern sentencing proceedings under the Sentencing Reform Act of 1984 (effective November 1, 1987). Unless otherwise noted, references are to Chapter Six of those Guidelines. This amended order also complies with the amendments to Rule 32 which will become effective December 1, 1994.

Whereas, to provide adequate time for the United States Probation Office to prepare the presentence investigation report for disclosure of the presentence investigation report to the parties, for the filing of presentence submissions by the parties, and such other and further procedures contemplated by the Sentencing Guidelines and this order, it is hereby ordered and adjudged as follows:

1. Time for Sentencing Hearing. The sentencing hearing shall be scheduled by the court at least seventy (70) days following entry of a plea of nolo contendere, a plea of guilty or a verdict of guilty.
 - 1.1 Continuances. On a motion by the government and/or defense counsel sentencing may be continued by order of the court for good cause shown.
 - 1.2 Commencement of Investigation. The presentence investigation will not be commenced prior to defendant's adjudication of guilty unless in the opinion of the court there are extraordinary circumstances.
2. Disclosure. The presentence investigation report, including sentencing guideline computations, shall be completed and disclosed to the parties at least thirty-five (35) days prior to the scheduled sentencing hearing, unless waived by the defendant. This timetable contemplates that the presentence investigation report will be completed and disclosed to the parties on or before the thirty-fifth (35th) day following the defendant's adjudication of guilt.
3. Required Written Response. Within fourteen (14) days after disclosure of the presentence investigation report to the parties, the attorney for the defendant and the attorney for the government each shall file with the United States Probation Office and shall serve copies thereof on each other a pleading entitled "**Position with Respect to Sentencing Factors**" in accordance with Section 6A1.2 of the Sentencing Guidelines. Such pleading shall contain any factor important to the sentencing determination reasonably in dispute and/or any additional sentencing factors to be relied upon at sentencing, if any. In the

alternative, if a party does not dispute factors in the presentence investigation report or seek inclusion of additional factors, such pleading shall so indicate.

4. Required Presentence Conference. If a party disputes factors in the presentence investigation report and/or seeks inclusion of additional factors or facts material to sentencing in the presentence investigation report, it is the obligation of that party to seek administrative resolution of such factors or facts with opposing counsel and the United States Probation Office through a presentence conference. It is permissible for disputes to be resolved through informal procedures, such as telephone conferences. Objections not previously raised with the probation officer may be raised at the sentencing hearing for "good cause shown." The presentence conference is to be held no later than three (3) days beyond the fourteen (14) day objection period, if one is required by the parties.
5. Addendum. Within eleven (11) days following the presentence conference, the United States Probation Office shall prepare an addendum to the presentence investigation report. This addendum shall include: (1) the "Position with Respect to Sentencing Factors" filed by each party, (2) a statement of the results of the presentence conference, (3) any supporting documents or other evidence submitted by the parties in support of their positions such as affidavits, (4) a summary of remaining disputes, if any, or a statement that none remain, and (5) any amendments to or corrections of the presentence investigation report.
6. Delivery to Judge. The United States Probation Office shall deliver to the court at least seven (7) days prior to sentencing the Presentence investigation report, including guideline computations and the addendum. Copies of the addendum shall be provided to the attorney for the defense and to the attorney for the government.
7. Tentative Findings and Opportunity for Objections. The court shall, before imposing sentence, either at or before the sentencing hearing, notify the parties as to the court's tentative findings concerning disputed factors or facts and provide a reasonable opportunity for the submission of oral or written objections in support of any factors or facts which continue to be disputed by either party prior to the imposition of sentence. (Section 6A1.3b)). The court, for good cause shown, may also allow a new objection to be raised at any time before the imposition of sentence. The manner and form of such responses by the parties are subject to the informed discretion of the court on a case-by-case basis, i.e., whether the parties will have an opportunity to present written submissions or actual testimony prior to the imposition of sentence.

SO ORDERED this the 1st day of December, 1994.

FOR THE COURT

William H. Barbour, Jr.
CHIEF JUDGE