

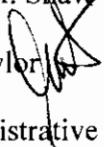
United States District Court
Eastern District of Missouri
111 South 10th Street
St. Louis, Missouri 63102

James G. Woodward
Clerk of Court

314-244-7900

MEMORANDUM

To: Chief Judge Catherine D. Perry
Judge Jean C. Hamilton
Judge Carol E. Jackson
Judge Rodney W. Sippel
Judge Henry E. Autrey
Judge Stephen N. Limbaugh, Jr.
Judge Audrey G. Fleissig
Judge Edward L. Filippine
Judge Donald J. Stohr
Judge E. Richard Webber
Judge Charles A. Shaw
Judge Mary Ann L. Medler
Judge David D. Noce
Judge Frederick R. Buckles
Judge Lewis M. Blanton
Judge Terry I. Adelman
Judge Thomas C. Mummert

From: Lori Miller-Taylor 

Re: Revised Administrative Order re: Sentencing Procedures

Date: December 15, 2010

Please find attached a copy of the revised Administrative Order re: Sentencing Procedures. The revised order was approved by the Courton December 13, 2010. The primary revisions to the order are as follows:

- 1) Directs the US Probation Office to electronically deliver via CM/ECF a copy of the presentence report to counsel for the defendant and the government.
- 2) Directs defense counsel to provide a copy of the presentence report to the defendant.
- 3) Directs the US Attorney's Office to file the restitution questionnaire electronically via CM/ECF under seal.

Please let me know if you need anything further.

pc: Jim Woodward
Douglas Burris
Cynthia Bochantin
Karen Moore
Richard Callahan
Lee Lawless
Criminal Justice Act (CJA) Lead Panel

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

DEC 15 2010

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

IN RE:)

BUSINESS OF THE COURT)

) **SENTENCING PROCEDURES**

ADMINISTRATIVE ORDER

Whereas, to provide adequate time for the U.S. Probation Office's preparation of the presentence report ("PSR"), disclosure of the PSR to the parties, the filing of presentence submissions by the parties, and such other and further procedures contemplated by the sentencing guidelines, Title 18 U.S.C. § 3553(a) and this order,

IT IS HEREBY ORDERED that:

1. Sentencing procedures shall be scheduled by each District Judge no earlier than 63 days following entry of a guilty plea or a verdict of guilty except when otherwise required by law, or upon the request of all parties and with the Court's concurrence after consultation with the U.S. Probation Office, for good cause shown.
2. Acceptance of a plea may be delayed by the District Judge pending receipt of the PSR pursuant to FED.R.Crim.P.11 (c)(3)(A).
3. At the time of a plea, or the offer of a plea agreement, unless otherwise ordered by the Court, counsel for the defendant and the government will submit a written stipulation of facts relevant to sentencing which will set forth the relevant facts and circumstances of the actual offense conduct and offender characteristics; not contain misleading facts; and set forth with meaningful specificity the reasons why the sentencing range resulting from the plea of guilty is appropriate. To the extent that the parties disagree about any facts relevant to sentencing, the

stipulation shall identify the facts that are in dispute. The Court will not be bound by the stipulation unless it is a binding plea agreement pursuant to FED.R. Crim. P. 11(c)(1)(C).

4. Upon acceptance of a guilty plea by the Court or a finding of guilt by the judge or jury, the Court shall fix and announce a sentencing date after conferring with the U.S. Probation Office as to how quickly an accurate and complete PSR can be furnished.

To the extent possible, defense counsel shall be available for the PSR interview the day of the plea or guilty verdict. At the time of the PSR interview or within 5 days after plea or verdict of guilty the defendant shall provide the financial affidavit required by 18 U.S.C. § 3664 (d)(3).

Except as provided in paragraph 5, not less than 35 days before the sentencing hearing, the PSR, including guideline computations, shall be completed and a copy electronically delivered via CM/ECF to counsel for the defendant and the government. It is the responsibility of the defendant's attorney to provide a copy of the presentence report to the defendant. The U.S. Probation Office's recommendation as to sentence will not be disclosed.

5. A modified presentence report ("MPSR") may be completed for illegal immigrant cases, any case where there will be no supervision to follow sentencing, escape cases and for offenses committed while under a term of federal probation or supervised release, cases involving defendants who reside in another district, and any other case determined appropriate by the Court. For cases in which a prior presentence report (PSR) exists for a defendant, the probation office will provide an electronic copy via CM/ECF of the PSR to the parties of record and to the Court.

All parties must agree to a MPSR and execute a consent form agreeing that a MPSR will be completed in lieu of a full presentence report.

Thirty (30) days after the plea, the MPSR will be disclosed to the government, defense

counsel, and the defendant. Within ten days, any objections to the MPSR should be submitted to the assigned U.S. Probation Officer, the opposing party and the Court. Defense counsel is responsible for submitting any family, medical, mental health, substance abuse history, etc., to the probation office for the Court's consideration in sentencing. This information will be appended to the MPSR and forwarded to the U.S. Bureau of Prisons. Seven (7) days before sentencing, the objections and any relevant background material submitted by the defense counsel, will be appended to the MPSR and forwarded to the court, and the parties. The government and defense counsel will address the objections directly to the Court at the time of sentencing and the probation officer will be prepared to respond to any objections, if a written response was not able to be prepared prior to sentencing.

6. At the plea hearing, or within 5 days of an acceptance by the Court of a plea, or a finding of guilt by the judge or jury the government shall file with the Court, on a form provided by the Clerk, a restitution questionnaire for each defendant setting forth the victims' names, addresses, dates of birth and social security numbers, and specific amount of restitution due to each victim. No unidentified victims shall be listed on the restitution questionnaire. Any supplemental documentation shall be appended to the restitution questionnaire. The questionnaires shall be filed electronically via CM/ECF under seal, to avoid disclosure of personal identifiers in the public file. Counsel for the government shall forward a copy of the restitution questionnaire to the U.S. Probation Office and the Finance department of the District Court and a redacted copy to defense counsel in accordance with the Local Rules for the Eastern District of Missouri.

7. If a party disputes sentencing factors or facts material to sentencing, or seeks the inclusion of additional factors or facts material to sentencing in the PSR, it is the obligation of

the complaining party first to seek administrative resolution of such factors or facts through opposing counsel and the U.S. Probation Office prior to filing the pleading referenced in paragraph 8, *infra*. This requirement is mandatory except when sentencing factors or facts are not in dispute.

Disputes concerning factors or facts material to sentencing should be resolved, to the extent practicable, through informal procedures, including telephone conferences, promptly confirmed in writing by the complaining party.

8. Within 14 days after receiving the presentence report, if there are unresolved disagreements as to material sentencing factors, the party objecting shall file a pleading entitled “Objection to Presentence Report.” The pleading will specify unresolved objections in numbered paragraphs, e.g.:

The following fact(s) or factor(s) important to the sentencing determination, remain(s) in dispute, to wit: 1, 2, etc.

In the pleading the complaining party will certify that the party has conferred with opposing counsel and with the U.S. Probation Office in a good faith effort to resolve the disputed matter(s). The pleading will be filed under seal with the Clerk of the Court and contemporaneously served upon opposing counsel.

9. Any objections not timely filed in accordance with this order and any supplemental objections shall likewise be filed under seal and must be accompanied by a motion for leave to file. If leave is granted, at the time of filing, copies are to be contemporaneously served upon opposing counsel.

10. Within 14 days after receiving the presentence report, if a party has no objections to the PSR, such a party shall so signify by filing a statement such as “accepted” or “no

objection". The statement will be filed electronically with the Clerk of the Court and contemporaneously served upon opposing counsel.

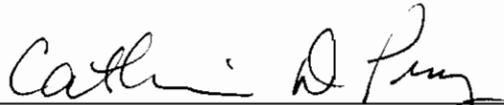
11. Not later than seven days before the sentencing hearing, the U.S. Probation Office shall transmit the PSR to the Sentencing Judge, and to counsel for the defendant, and counsel for the government. This report shall include the PSR with guideline computations, and an addendum indicating any unresolved factual disputes or objections by the parties with respect to the application of the guidelines. It is the responsibility of the defendant's attorney to provide a copy of the presentence report to the defendant.

12. To minimize and, if possible, to avoid invasion of privacy and to prevent unnecessary and unjust defamation, degradation, or discrediting of the defendant or contributing agencies and individuals or corporations, the parties and their counsel shall not disseminate the PSR, a confidential court document, or information contained therein. Unauthorized dissemination will be an act in contempt of court and may be punished accordingly.

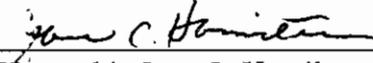
13. The U.S. Probation Office, with the approval of the Court, will formulate policies and procedures with respect to the implementation of the Order.

14. This order replaces the July 19, 2006 Administrative Order concerning sentencing guideline procedures. This Order shall apply to sentencing proceedings conducted on and after the date indicated below.

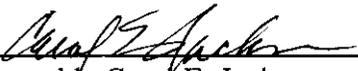
DATED this 13th day of December, 2010.



Honorable Catherine D. Perry, Chief Judge



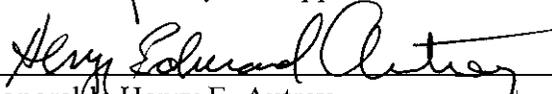
Honorable Jean C. Hamilton



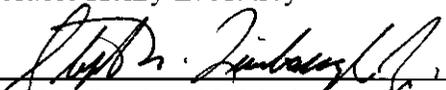
Honorable Carol E. Jackson



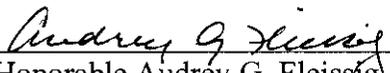
Honorable Rodney W. Sippel



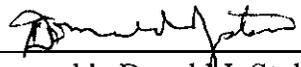
Honorable Henry E. Autrey



Honorable Stephen N. Limbaugh, Jr.



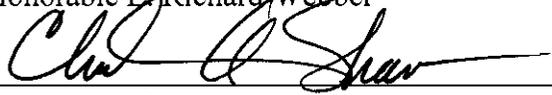
Honorable Audrey G. Fleissig



Honorable Donald J. Stohr



Honorable E. Richard Webber



Honorable Charles A. Shaw