

GENERAL ORDER NO. 28

ORDER REGARDING PROCEDURES FOR SENTENCING
UNDER THE SENTENCING REFORM ACT OF 1984

Proceedings pursuant to the Sentencing Reform Act of 1984, 18 U.S.C. § 3551 et seq., shall be governed by the following procedures, unless otherwise ordered:

1. If the parties prior to or at the time of the entry of a plea of guilty enter into a plea agreement and/or stipulation(s) regarding facts for consideration at the time of sentencing, then counsel for each party shall submit, in writing, three copies to the court and one copy to opposing counsel of the terms of any such agreement and/or stipulation(s).

The sentencing court is not bound by any such stipulation. The stipulation's primary purpose is to aid the court, together with the presentencing report and any other evidence before the court, in determining at sentencing the defendant's characteristics and the nature of the actual offense behavior.

2. Sentencing proceedings shall be scheduled no earlier than sixty (60) days (80 days where defendant is not in custody) following entry of a guilty plea or a verdict of guilty.

3. The presentence report, including sentencing worksheets, shall be completed and disclosed to the parties at least twenty (20) days prior to the scheduled sentencing hearing.

4. Within five (5) days of receipt of the report counsel for defendant and the government shall serve on the probation officer a written statement that they have no objections to the

report. If objections do exist, counsel shall within five (5) days of receipt of the report serve a written statement setting forth all such objections to the report and shall thereafter meet and confer with the probation officer in a good faith effort to resolve all matters in dispute. This presentence conference is mandatory except where none of the matters relevant to sentencing or contained in the presentence report are in dispute.

5. At least ten (10) days prior to the scheduled sentencing hearing the final presentence report, the sentencing worksheet(s) and recommendation, including all modifications made as a result of the presentence conference, shall be submitted to the sentencing judge and to counsel for the defendant and the government. If the parties have entered into a plea agreement, the presentencing report shall include a brief statement indicating the relationship between the sentencing guidelines applicable to the agreement and the sentencing guidelines applicable to the actual offense behavior.

6. At least three (3) days prior to the scheduled sentencing hearing counsel for the defendant and the government shall submit a written statement to the sentencing judge, the probation officer and opposing counsel setting forth:

a) all objections to the presentence report and all material facts in dispute, including how, if at all, the presentencing report's version of the facts differs from the party's;

b) the sentencing factors to be relied on if at variance with those relied on in the presentence report;

- c) a summary of the evidence in support of subparagraph (a);
- d) whether an evidentiary hearing is requested and, if so, :
 - i. the issues to be raised at the evidentiary hearing;
 - ii. the names of the witnesses to be called and a brief description of their testimony;
 - iii. any other matters that will assist the court at the time of sentencing.

Such a statement shall be no longer than five (5) pages in length unless the sentencing judge finds good cause for ordering otherwise. If the sentencing judge determines that an evidentiary hearing will be held, the parties shall produce the witnesses on the date set for the hearing.

7. The requirements of 18 U.S.C. § 3553(c) are deemed satisfied by the sentencing judge's written statement of reasons, which shall be made a part of the record, unless any party makes specific request for a reporter's transcript of the sentencing proceedings.

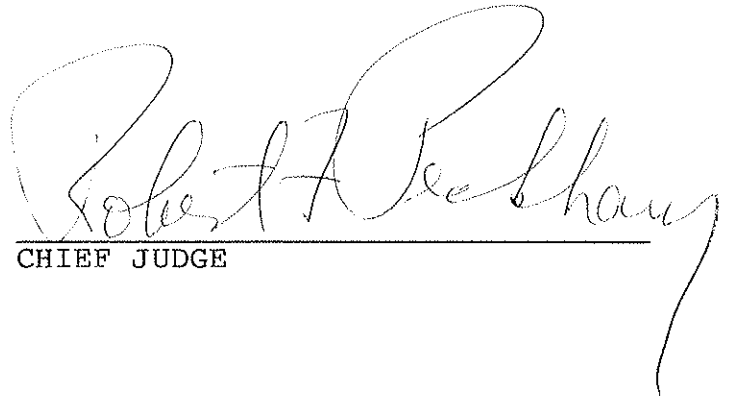
8. Unless otherwise ordered by the court the probation officer is relieved from preparing Part G of the presentence investigation report entitled "Impact of Plea Agreement."

9. The presentence report, worksheets and recommendation shall be filed under seal with the clerk of the court and remain under seal until the time for appeal has expired at which time the probation officer may retrieve them. All copies of the presentence investigation report and the sentencing recommendation provided to the parties shall be returned to the

probation officer after the sentencing hearing. No copies or other dissemination of the report or recommendation or information contained therein shall be made without court order. The report and the recommendation are confidential court documents. Unauthorized copying or disclosure may be treated as contempt of court and be punished accordingly.

10. The time periods set forth in this general order may be modified upon order of the sentencing judge.

ADOPTED: JANUARY 19, 1988


CHIEF JUDGE