

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In the Matter of:

ADOPTION OF LOCAL RULES

MISC. NO. 03-115(RAM)

Amendment of Local Criminal Rule 132

ORDER

In accordance with 28 U.S.C. §2071(b), the United States District Court for the District of Puerto Rico is publishing amendments to Local Criminal Rule 132 for public comment. Pursuant to 28 U.S.C. §2071(e), the Court has determined that there is an immediate need for the amendments to take effect while affording prompt notice and opportunity for comment. Therefore, comments may be submitted to the Clerk of Court by mail, or personal delivery, to:

**Clerk of Court
Attn Public Comments
Federico Degetau Federal Bldg.
150 Carlos Chardón Avenue, Room 150
San Juan, PR 00918-1767**

The public comment period will end at close of business on Friday, April 14, 2023.

The Clerk is instructed to publish this Order and Local Criminal Rule 132, as amended, by web publication in www.prd.uscourts.gov, by notice to all members of the bar via mass email, and by having a copy of this Order and the amended local rule available for inspection at the Clerk's Office Intake Section.

IT IS SO ORDERED.

San Juan, Puerto Rico, March 14, 2023.

FOR THE COURT

s/ Francisco A. Besosa
Francisco A. Besosa
United States District Judge
Chair, Local Rules Committee

RULE 132

SENTENCING AND JUDGMENT

(amended on 03/14/2023)

(a) **Generally.**

Unless otherwise ordered by the court, sentencing shall be held without unnecessary delay.

(b) **Presentence Report.**

The probation officer shall prepare a presentence investigation report (PSR) in every case unless the court finds, pursuant to Fed. R. Crim. P. 32(c)(1)(A), that sufficient information exists in the record to enable the meaningful exercise of its sentencing authority. During the presentence investigation, the probation office shall provide notice and reasonable opportunity to defendant's counsel to attend any interview of the defendant. Counsel for the defendant shall contact the probation officer within fourteen (14) days from notice of the court's order for the preparation of the PSR within two (2) days from notice of the court's order. The presentence interview will be conducted no later than fourteen (14) days after the change of plea hearing. The probation officer may interview the defendant *ex parte* when the attorney has failed to communicate with the probation office, or if reasonable attempts to schedule an interview ~~in order~~ to complete the presentence investigation interview have been futile. Should the defendant refuse to be interviewed, the probation office shall proceed to prepare the PSR. The PSR shall indicate if the defendant declined to be interviewed.

(1) **Written Version of Facts.** No later than twenty-one (21) days following a plea or verdict of guilty, the government shall provide the probation office with a detailed written version of the facts, a detailed description of the evidence in their support, and information regarding restitution. The prosecutor assigned to the case and the primary case agent shall make themselves reasonably available to the probation office to answer any inquiries.

(2) **Disclosure.** At least thirty-five (35) days prior to the scheduled sentencing date, the probation officer must provide the presentence report to counsel for the defendant and the attorney for the government. Defense counsel shall review the PSR with the defendant. The defendant may waive the thirty-five (35) day prior notice requirement.

(3) **Objections to PSR.**

(A) **Informal Resolution.** Parties have an obligation to seek informal resolution of any disputed matter in the PSR by consultation with each other and the probation officer prior to filing written objections.

Within fourteen (14) days from disclosure of the PSR, counsel for the government and counsel for the defense shall file and deliver to the probation officer, and to each other, written objections to the facts or guideline application in the PSR. If counsel have no objections, each shall so notify the probation office, and each other, in writing. A party waives any objection to the PSR by failing to comply with this rule unless the court determines that the basis for the objection was not reasonably available prior to the deadline.

- (4) **Departure and Adjustments.** Any party requesting a sentence departure, variance or adjustment must submit a written motion, specifying the grounds and legal authority in support of the request for departure, variance, or adjustment. The motion shall be filed at least fourteen (14) days prior to the scheduled sentencing hearing, with copies served upon opposing counsel and the probation office. A request for departure, variance or adjustment may be included in a sentencing memorandum.
- (5) **Disclosure of Revised Presentence Report and Addendum.** If either party objects to the PSR in writing, the probation officer shall conduct such further inquiries, investigation or consultation with counsel as may be necessary to attempt to resolve the objections raised. The probation officer shall also prepare an addendum to the PSR that shall address the objections raised by counsel and identify those issues that remain unresolved. The revised PSR and addendum shall be submitted to the parties at least seven (7) days prior to sentencing.
- (6) **Presentence Conference.** Upon receipt of the PSR, the court may schedule a presentence conference with all counsel and the probation officer present, and with the defendant if proceeding pro se.

(c) ~~Modification of Time Limits.~~ **Recommendations as to Sentence or Revocation.**

Pursuant to Fed. R. Crim. P. 32(e)(3), probation officers shall not disclose their final sentence recommendation to anyone other than the court. Likewise, probation officers shall not disclose recommendations as to revocation proceedings to anyone other than the court. Recommendations are strictly for the benefit of the court and shall not be disclosed to the government, to the defendant or defendant's counsel, or to any other person or party, unless authorized by the presiding judge in a specific case.

(d) The times set forth in this rule may be modified by the court for good cause shown.