

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES,)	
)	
v.)	CRIMINAL ACTION NO.
)	X:XX-cr-XXXXX
[NAME])	
)	
<i>Defendant.</i>)	
)	

**PROCEDURAL ORDER
RE: SENTENCING HEARING
FOLLOWING A GUILTY PLEA**

GUZMAN, D.J.

A PLEA OF GUILTY having been entered on [DATE] it is hereby **ORDERED**:

1. Pre-Sentence Investigation

The United States Probation Office (the “Probation Office”) shall begin the pre-sentence investigation immediately. The Probation Office shall prepare Pre-Sentence Reports in the order in which the requests from the Court are received.

2. Statement of Relevant Facts

Not later than **seven (7) days** after the Guilty Plea/Verdict Date, the attorney for the Government shall provide to the Probation Office a written statement of relevant facts and any other materials that may be relevant under Fed. R. Crim. P. 32(d) and shall simultaneously serve on Defense counsel copies of all statements of fact and materials provided to the Probation Office.

3. (If Applicable) Information Regarding Identifiable Victims

Not later than **seven (7) days** after the Guilty Plea/Verdict Date, the attorney for the Government shall, to the extent practicable, provide to the Probation Office a written statement setting forth the names of the victims, their contact information/addresses, and the loss (including financial, social psychological,

and medical impacts) sustained by each victim, and, to the extent applicable, the amounts of any restitution owed to each victim pursuant to Fed. R. of Crim. P. 32(c)(1)(B).

If the victim's losses are not ascertainable by ten (10) days prior to the Sentencing Hearing Date (as defined below), the attorney for the Government or the Probation Officer shall so inform the Court, and the Court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing pursuant to 18 U.S.C. § 3664(d)(5).

4. Interview of Defendant

The Probation Office shall provide Defense counsel with a reasonable opportunity to attend any interview of the Defendant that occurs during the pre-sentence investigation.

a. Where the case has resolved by a plea, and the Probation Office has been timely notified, the Probation Office should ordinarily hold an interview with the Defendant on the Rule 11 Hearing Date. If an interview cannot be conducted on the Rule 11 Hearing Date, the Probation Office should ordinarily conduct an interview within **seven (7) days**.

b. If the Defendant is in custody, the United States Marshals Service shall, at the request of the Probation Office or Defense counsel, transport the Defendant to the Worcester Federal Courthouse for an interview at the earliest feasible time.

5. Responsibility of Pretrial Services

Pretrial Services shall provide to the Probation Office all documents in its possession that may be relevant to the pre-sentence investigation, including, for example, copies of the Pretrial Report, the Defendant's state, local, and national criminal record, police reports, copies of prior convictions, drug test results, reports of incidents, and any other reports and/or supporting documentation.

6. Sentencing Hearing Date

The sentencing is scheduled to occur on **[DATE & TIME]**. This date is intended to provide a period of at least **thirteen (13) weeks** between the Rule 11 Hearing Date and the Sentencing

Hearing Date.

7. Preparation & Delivery of Initial Pre-Sentence Report

a. The Probation Office shall have **seven (7) weeks** after the Guilty Plea/Verdict Date to prepare and disclose the Initial Pre-Sentence Report.

b. The Probation Office shall disclose the Initial Pre-Sentence Report to the attorney for the Government and to Defense counsel **at least six (6) weeks** before the Sentencing Hearing Date, unless the Defendant expressly waived the minimum five-week required notice period set forth in Fed. R. Crim. P. 32(e)(2).

c. The date of disclosure to each attorney shall be the date of the mailing/e-mailing of a copy to that attorney. An attorney may, in lieu of receiving disclosure by mail or e-mail, make arrangements with the Probation Office to pick up the report no later than 3:00 p.m. on the date disclosure is due.

d. It is the responsibility of the Defense counsel to disclose the Pre-Sentence Report to the Defendant and to discuss it with, and explain it to, the Defendant. Defense counsel are reminded of their obligation to ensure that the Defendant has personally reviewed and is able to understand the draft and final copies of the Pre-Sentence Report. Defense counsel should be aware that the Court will directly inquire of the Defendant whether they have personally reviewed the Pre-Sentence Report.

8. Objections Procedure

a. Within **fourteen (14) days** after the date of disclosure of the Initial Pre-Sentence Report, counsel for the Government and the Defense counsel shall serve on the Probation Office and opposing counsel any objections they may have to that document, including any objections as to material factual assertions, Sentencing Guideline calculations, policy statements, or any other information contained in or omitted from the Initial Pre-Sentence Report.

b. The Probation Office shall then conduct such further investigation and make any

revisions to the Pre-Sentence Report as may be necessary or appropriate. The Probation Office may require counsel for both parties to confer with the Probation Officer to identify and attempt to resolve any factual or legal disputes that may require hearing by the Court.

9. Final Pre-Sentence Report

Not less than **fourteen (14) days**¹ before the Sentencing Hearing Date, the Probation Office shall submit to the Court and disclose to the parties the Final Pre-Sentence Report, including any addenda setting forth any unresolved objections, the grounds for those objections, and the Probation Officer's comments on those objections. The Probation Officer shall certify that the contents of the Final Pre-Sentence Report, including any revisions, and the addendum have been disclosed to counsel for the Government and Defense counsel, and that the addendum fairly states any remaining unresolved objections.

Any undisputed portion of the Final Pre-Sentence Report may be accepted by the Court as a finding of fact at sentencing. The Court, however, for good cause shown, may allow a new objection to the Pre-Sentence Report to be raised at any time before the imposition of sentence.

10. Sentencing Memoranda

Any party may file a Sentencing Memorandum (and accompanying attachments) not less than **seven (7) days** before the Sentencing Hearing Date unless the Court orders otherwise. A copy of such memorandum (and accompanying attachments) shall also be provided to the Probation Officer.

Just as importantly, if a party does not wish to file a sentencing memorandum, they must inform the Clerk of this decision not less than **seven (7) days** before the Sentencing Hearing Date.

The Court does not distinguish between sentencing memoranda that call for a sentence within the Guideline Sentencing Range (as calculated by Probation in the Final Pre-Sentence Report) and those that call for a Non-Guideline sentence. Thus, all arguments may be made in a single filing.

¹ The Court thanks the Probation Office for their accommodating its request to receive the Final Pre-Sentence Report fourteen (14) days before the Sentencing Hearing Date.

11. Deadline for Timely Filing

All parties are reminded that per Local Rule in this District, all electronic filings must be completed by **6:00 PM EDT** to be considered timely filed that day. L.R., D. Mass. 5.4(d).

12. Hearing and Counsel's Obligations

Counsel are to advise the Court whether (a) there are legal questions not adequately addressed in the Pre-Sentence Report or not addressed at all; and/or (b) whether there are factual issues that a party contends require an evidentiary hearing. Counsel shall provide such notice to the Court not less than five (5) days before the Sentencing Hearing Date. Copies of such notices and/or sentencing memoranda shall also be provided to the Probation Office.

13. Parties'/Victims' Opportunity to Speak

Defense counsel are urged to inform their clients in advance of the sentencing hearing about their right of allocution under Fed. R. Crim. P. 32(i)(4)(A).

Similarly, attorneys for the Government are required to inform any victim(s) of their right to be reasonably heard on the Sentencing Hearing Date. 18 U.S.C. § 3771(a)(4); Fed. R. Crim. P. 32(i)(4)(B).

14. Modification of Schedule

The schedule set forth in this order may be modified by the Court for good cause shown.

SO ORDERED.

/s/ Margaret R. Guzman
Margaret R. Guzman
United States District Judge

Dated: