

**COVID-19  
COMBINED PLEA AND SENTENCING HEARING  
AND  
PREPARATION AND DISCLOSURE OF A PRE-PLEA PRESENTENCE REPORT**

**“GUIDE FOR DEFENSE COUNSELS”**



## **COMBINED PLEA AND SENTENCING HEARING AND PREPARATION AND DISCLOSURE OF A PRE-PLEA PRESENTENCE REPORT**

As an alternative to the otherwise standard criminal sentencing process set forth in Local Rule 83.10, a presentence report may be initiated before the entry of a guilty plea or establishment of guilt if the parties and the Court agree that such is helpful to resolve a criminal matter. In such instance, the United States Probation and Pretrial Services Office will prepare a pre-plea presentence investigation and report that compiles and summarizes the information required under Rule 32 of the Federal Rules of Criminal Procedure.

The cases most appropriate for a pre-plea investigation and consolidated plea and sentencing hearing include the following:

- Cases in which the parties intend to jointly advocate for the same sentence, a particular sentence or sentencing range (i.e., Rule 11(c)(1)(C)), or a sentence at the mandatory minimum.
- Cases in which a detained defendant may be approaching time served due to time in pretrial detention.
- Cases in which, except for the Criminal History Category, there are no disputed advisory guideline factors.

The following steps apply when the parties agree that a case is appropriate for a combined guilty plea and sentencing process. The parties must file a joint motion for a pre-plea presentence investigation and consolidated plea and sentencing hearing. A template for the joint motion is available on the Court's website at [www.mnd.uscourts.gov](http://www.mnd.uscourts.gov) in the forms menu. Upon filing the joint motion, the proposed plea agreement must be provided to the United States Probation and Pretrial Services Office. The motion must contain the following information:

- The defendant's request that the Court order the United States Probation and Pretrial Services Office to conduct a presentence investigation and prepare a report prior to the entry of a plea of guilty.
- The defendant's consent to participate in the pre-plea investigation and to disclose the report to the Court before having been found guilty or entered a plea of guilty or nolo contendere.

The text-only order granting the motion will be issued with instructions that the consolidated plea and sentencing hearing will take place no earlier than 90 days after the date the joint motion is granted.

After the joint motion is granted, the United States Probation and Pretrial Services Office will proceed in completing a pre-plea investigation and report containing the same sections and information as a traditional presentence investigation report. The pre-plea investigation process will be as follows:

- The pre-plea presentence investigation report must be filed or disclosed to the parties within **49** days after the order granting the joint motion is granted.

- Within **14** days of the disclosure of the pre-plea presentence investigation report, counsel must file any objections or proposed amendments to the pre-plea presentence investigation report. Further, the defendant shall submit an acceptance of responsibility statement within that same time frame.
- The probation officer must file a final pre-plea presentence investigation report, accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, within **7** days after the receipt of the objections and proposed amendments.
- Within **10** days of receipt of the final pre-plea presentence investigation report and addendum, the parties must file their Positions Regarding Sentencing.
- The probation officer must file a confidential sentencing recommendation letter no later than **7** days before the consolidated plea and sentencing hearing. If necessary, any response to the opposing party's Position Regarding Sentencing must also be filed no later than **7** days before the hearing.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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UNITED STATES OF AMERICA,

Case No. \_\_\_\_\_ -cr- \_\_\_\_\_

Plaintiff,

v.

\_\_\_\_\_,

Defendant.

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**JOINT MOTION TO SCHEDULE CASE FOR COMBINED PLEA AND  
SENTENCING HEARING AND FOR PREPARATION AND DISCLOSURE OF A  
PRE-PLEA PRESENTENCE REPORT**

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Defendant \_\_\_\_\_, through attorney

\_\_\_\_\_, asks the Court to schedule a date for a combined guilty plea and sentencing hearing. Under Federal Rule of Criminal Procedure 32.1(e)(1), the defendant consents to the preparation and pre-plea disclosure of the presentence investigation report. In support of the motion, the defendant states that:

1. The defendant has been charged with \_\_\_\_\_.
2. The parties have reached a plea agreement and the defendant is prepared to plead guilty.
3. The defendant asks the Court to schedule a combined plea and sentencing hearing no earlier than 90 days from the date the Court grants this joint motion.

4. The defendant asks the Court to direct the United States Probation and Pretrial Services Office to prepare a presentence report under Fed. R. Crim. P. 32(d) and LR 83.10. The defendant has discussed with counsel the fact that under Fed. R. Crim. P. 32(e)(1), the probation office may not submit the presentence report to the Court or anyone else until after the defendant has pled guilty, unless the defendant has consented to early disclosure in writing. The defendant consents and asks the Court to allow the probation office to disclose the report to the Court and the parties no later than 49 days after this joint motion is granted.

5. Following disclosure of the presentence investigation report, the parties will submit objections within 14 days, and the defendant shall submit an acceptance of responsibility statement within that same time frame. The final presentence investigation report will be disclosed 7 days after receipt of objections. The parties' Positions Regarding Sentencing will be submitted within 10 days after receipt of the final presentence investigation report. The recommendation letter from United States Probation and Pretrial Services Office will be submitted at least 7 days prior to the combined plea and sentencing hearing. If necessary, any response to the opposing party's Position Regarding Sentencing must also be filed no later than 7 days before the hearing.

6. Assistant United States Attorney \_\_\_\_\_ does not object to this motion.

7. The defendant agrees that the Court may make a finding that the ends of justice served by the delay in setting the combined hearing outweigh the best interests of the public and the defendant in a speedy trial under 18 U.S.C. § 3161(h)(7)(A), (h)(7)(B)(i) and (h)(7)(B)(iv), and that the Court may exclude the time between the filing of this motion and the date of the combined hearing from the Speedy Trial calculation.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_

Counsel for the Defendant

\_\_\_\_\_

\_\_\_\_\_

Assistant U.S. Attorney

\_\_\_\_\_

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\_\_\_\_\_

# UNITED STATES DISTRICT COURT

\_\_\_\_\_ DISTRICT \_\_\_\_\_

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## Defendant's Approval To Institute a Presentence Investigation Before Conviction or Plea of Guilty

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I, \_\_\_\_\_, hereby consent  
(Name of Defendant)  
to a presentence investigation by the probation officers of the United States district courts. This investigation is for the purpose of obtaining information useful to the court in the event I should hereafter plead guilty or nolo contendere or be found guilty.

By this consent, I do not admit any guilt or waive any rights. I understand that any reports prepared will not be shown to the court or any one else unless and until I have been found guilty or entered a plea of guilty or nolo contendere. I understand, however, that I may hereafter agree in writing to disclosure of such reports to the court before I have been found guilty or entered a plea of guilty or nolo contendere.

I have read, or had read to me, the foregoing consent and fully understand it. No promise has been made to me as to what final disposition will be made of my case.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Defendant)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Defendant's Attorney)

# UNITED STATES DISTRICT COURT

\_\_\_\_\_ DISTRICT \_\_\_\_\_

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## **Defendant's Consent to the Court's Inspection of Presentence Report Prior to Plea of Guilty, Nolo Contendere, or Finding of Guilt**

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I, \_\_\_\_\_, hereby consent  
(Name of Defendant)  
to review of my presentence report by a judge at any time, including the time prior to entry of a plea of guilty or nolo contendere or a finding of guilt.

I have read, or had read to me, the foregoing consent and fully understand it. No promise has been made to me as to what the final disposition of my case will be.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Defendant)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Defendant's Attorney)