

**U. S. PROBATION DEPARTMENT
SOUTHERN DISTRICT OF OHIO**

Presentence Investigation Practices

Probation officers will always make themselves available to the parties to discuss the presentence investigation process, the sentencing guidelines and how the guidelines may apply to a certain set of facts arising out of a criminal investigation. This can occur at any time in the process. The parties must understand that such discussions must necessarily be non-binding and advisory until the probation officer has the opportunity to conduct an independent investigation following a referral for a presentence investigation from the Judge. Probation officers do not participate in the plea negotiations of the parties.

Once a referral is made, our department strives to complete the most important function of conducting presentence investigations and reports in the most objective, fair, professional manner possible. Our presentence investigation process must be fair. Our decisions about the facts of the case must be fair. How we apply the sentencing guidelines to those facts must be fair. Departure factors, when present, must be seriously considered and recommended when appropriate.

Almost all cases where there is a finding of guilty result in a referral to our department by the Judge for a presentence investigation and report. In the main, we conduct this work using the framework provided by Rule 32 of the Federal Rules of Criminal Procedure, Local Rule 32.1, and Monograph 107, which is a Judicial Conference approved set of policies and procedures for how to complete investigations and reports.

Probation officers are appointed by the Court to conduct the work assigned by the Judges of the Court. We are neutral in our role as preliminary fact finders for the Court. We value our independence and take seriously our obligation to make fair conclusions based upon the facts of each case. Our Court expects us to use only those sentencing facts which are established by a preponderance of the evidence. We use the input of both counsel for the defense and the government, as well as information from the defendant and our own investigative methods to arrive at the preliminary sentencing facts we find.

The great majority of criminal cases filed in our Court result in a guilty plea and in most of those cases a plea agreement has been established between the U. S. Attorney's office and the Defendant, through their respective attorneys. Plea agreements are important and we seriously consider them and their provisions; however, the probation officer is not bound by the terms and conditions of the plea agreement. We have the responsibility to conduct an independent investigation and make an independent report containing the sentencing facts we think apply to the case. We then apply the guidelines to those facts in accordance with our understanding of them.

The defendant and the government will review our presentence report before the Judge receives it and can raise any objections to the report. The probation officer will attempt to resolve objections pursuant to Local Rule 32.1. Those objections that remain will be resolved by the Judge prior to sentencing.