

Rule 4.8

**PROBATION - PRESENTENCE INVESTIGATIONS**

(a) **Probation.** In criminal cases where the defendants are placed on probation, such defendants shall be subject to the supervision of the Probation Office of the Court, unless otherwise ordered, and shall comply with such reasonable rules and regulations as the Probation Officer shall prescribe, subject to modifications by the Court for cause shown.

(b) **Presentence Investigation.** Upon conviction by trial or plea, a defendant shall not leave the District of Arizona until he or she has been interviewed by a Probation Officer, unless otherwise ordered by the Court.

(c) **Appeals.** In all cases where a defendant has been sentenced to a period of probation, and files a notice of appeal, the period of probation and supervision shall begin on the date of judgment, notwithstanding the pendency of the appeal.

(d) **Petition for Disclosure of Presentence or Probation Records.**

(1) No confidential records of this Court maintained by the Probation Office, including presentence and probation supervision records, shall be sought by any applicant except by written petition to this Court establishing with particularity the need for specific information in the records.

(2) When a demand for disclosure of presentence and probation records is made, by way of subpoena or other judicial process, to a Probation Officer of the Court, the Probation Officer may file a petition seeking instruction from the Court with respect to responding to the subpoena.

(3) Whenever a Probation Officer is subpoenaed for such records, he or she shall petition this Court in writing for authority to release documentary records or produce testimony with respect to such confidential Court information. In either event, no disclosures shall be made except upon an order issued by this Court.

(e) **Preparation and Use of Presentence Reports.**

(1) Plea agreements, whether a public record or sealed

by order of the Court, shall be made available to the Probation Office for the District of Arizona, for the limited use of the Probation Officer preparing the presentence report and exercising probation supervision.

(2) The initial disclosure of the presentence report to counsel and pro se defendant under Rule 32(e) of the Federal Rules of Criminal Procedure must not include the Probation Officer's recommendation on the sentence. The subsequent submission of the presentence report to the Court and the parties under Rule 32(g) of the Federal Rules of Criminal Procedure must include the Probation Officer's recommendation on the sentence, unless the Court directs the Probation Officer not to disclose the recommendation.

(3) When a copy of a presentence report is released, the probation Office will advise the defendant's counsel and the U.S. Attorney by cover letter or form letter that (A) the report is not to be copied, (B) the report is not a public record, and (C) that the content may not be disclosed to unauthorized individuals. A receipt or charge-out system will be utilized by the Probation Office to monitor distribution and location of the reports.

(4) If the presentence report contains any information or material that contains diagnostic opinions which might seriously disrupt a program of rehabilitation; source of information obtained upon a promise of confidentiality; or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other person; that information will be included in an addendum or attachment and not distributed to the defendant's counsel or the U.S. Attorney, and handled as provided in Rule 32(c)(3)(A) and 32(b)(5) of the Federal Rules of Criminal Procedure.

(5) The Probation Office, after sentencing, will retain the original copy of the presentence report on behalf of the Clerk of the Court. When a request is made to the Clerk's Office to view a copy of the presentence report, the request shall be referred to the Probation Office, which shall take care of the matter. If appropriate, the Probation Office shall prepare for the requestor of a copy of the presentence report exclusive of Rule 32(b)(5),

Fed.R.Crim.P., information and/or other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other person, if latter information is not specifically relied upon by the Court in sentencing.

(6) The Probation Office will send to the U.S. Sentencing Commission a complete final draft presentence report, sentencing guideline worksheets, plea agreement (if written), judgment and commitment order, and the Court's written reasons for imposing sentence.

(7) Nothing in this Rule shall prohibit the Probation Office from disclosing the presentence report to an Arizona Superior Court Probation Office if that office agrees in writing, on a form approved by the Chief Judge of this Court, to maintain confidentiality of matters so specified by this Court.

(f) **Release of Presentence Report to Parole Commission.** Any copy of defendant's presentence report which the Court releases to the United States parole Commission, pursuant to 18 U.S.C. §4205 (e), shall state thereon that:

(1) the presentence report is a confidential Court document;

(2) that the Court intends the report to remain confidential even though released to the Commission; and

(3) that the presentence report is merely loaned to the Commission in order for the Commission to serve its statutory functions and must be returned to the Court thereafter.