

JULIA C. DUDLEY, CLERK
BY: /s/T. Taylor
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

IN RE:)
PROCEDURE FOR SECURE)
REVIEW OF PRESENTENCE REPORT)
BY DEFENSE COUNSEL WITH)
DETAINED DEFENDANTS)
DURING COVID-19 PANDEMIC)

STANDING ORDER 2020-11

1. Standing Order 2015-8 provides that “[i]n criminal cases in this district, a presentence report (“PSR”), or any copies or excerpts thereof, must not be provided to a defendant who is incarcerated, either before or after sentencing.” Rather, review of the PSR with a detained defendant must be done in the physical presence of defense counsel, or an associate or representative. Standing Order 2015-8 states that “[t]he purpose of this order is to insure that confidential information contained in such reports does not cause harm to a defendant or others or otherwise frustrate law enforcement purposes or the court’s proceedings.”

2. Social distancing and quarantine measures required to combat the COVID-19 pandemic have restricted defense counsel’s ability to be physically present with their detained clients. Nevertheless, because the CARES Act and Standing Order 2020-07 authorize video and teleconferencing of certain criminal proceedings, including sentencings, the physical presence requirement of Standing Order 2015-8 must be amended during the pandemic to allow counsel to review PSRs with their detained defendants by video or teleconference.

3. With the assistance and cooperation of the United States Marshal, the Probation Office, and local and regional jail facilities in the Western District of Virginia, the physical presence requirement of Standing Order 2015-8 is temporarily lifted to allow counsel to review PSRs with their clients by video or teleconference.

4. Depending on the requirements of the local or regional jail facility, review of PSRs may take place in one of two ways.

a. Method One – Paper Copy.

- i. Defense counsel schedules with the jail a video or teleconference with the inmate.
- ii. Defense counsel hand delivers, emails or faxes the PSR to the designated jail official at the jail on the date of the scheduled meeting.
- iii. The PSR is provided to the inmate in paper form for secure review and discussion with counsel during the scheduled video or teleconference.
- iv. After the video or teleconference, the PSR is shredded by the jail official.

b. Method Two – Flash Drive.

- i. Defense counsel schedules with the jail a video or teleconference with the inmate.
- ii. Defense counsel hand delivers a flash drive containing the PSR to the designated jail official at the jail at a reasonable time before the date of the scheduled meeting.
- iii. The PSR is provided to the inmate by means of the flash drive on a jail computer for secure review and discussion with counsel during the scheduled video or teleconference.
- iv. After the video or teleconference, defense counsel is required to collect the flash drive containing the PSR from the jail official within a reasonable time.

5. Defendants may access their PSR only while conferring with their counsel by video or teleconference.

6. Questions about implementation of the procedures outlined in this Order should be directed to United States Marshal's Service or United States Probation Office personnel in the appropriate division of court.

6. The temporary measures authorized by this Order will remain in effect while the threat posed by the COVID-19 pandemic continues and until further Order of the court.

It is so **ORDERED**.

Enter: This 24th day of April, 2020



Digitally signed by Michael F. Urbanski
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District of Virginia, ou=United States District
Court, email=mikeu@vawd.uscourts.gov, c=US
Date: 2020.04.24 16:24:34 -0400

Michael F. Urbanski
Chief United States District Judge