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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

SPECIAL ORDER NO. 2-3

*M. Eickman*

The attached Local Rule 10.9 was considered and unanimously adopted by the United States District Judges for the Northern District of Texas at a meeting December 18, 1987, in Lubbock, Texas. The Rule is effective with the entry of this Order. The Clerk of the Court is directed to provide copies of the Rule to all Northern District Judges and Magistrates, to the U.S. Probation Office, and to the Office of the United States Attorney for the Northern District of Texas.

This Local Rule should be made freely available to all counsel in criminal cases. The Court recommends that court-appointed counsel be provided a copy of this Rule immediately upon their appointment.

SO ORDERED.

DATED: DEC. 23 1987.

*Barefoot Sanders*  
BAREFOOT SANDERS  
Acting Chief Judge  
Northern District of Texas

*[Handwritten flourish]*

**Rule 10.9: Procedures For Guideline Sentencing**

Unless otherwise directed by the Presiding Judge, the following procedures shall apply to sentencing for criminal offenses committed on or after November 1, 1987:

(a) **Presentence Report.** Not less than 35 days prior to the date set for sentencing, the probation officer shall complete the presentence report and disclose it to the defendant and to counsel for the defendant and the government, and deliver the report to the Presiding Judge.

(b) **Objections to Presentence Report.** Not less than 25 days prior to the date set for sentencing, counsel for the defendant and the government shall deliver to the probation officer and to the Presiding Judge either

(1) a written statement of all objections they have to the presentence report, including any objections to material information, sentencing classifications, sentencing guideline ranges and policy statements that are contained in, or omitted from, the presentence report; or

(2) a written statement adopting the findings of the presentence report, or adopting such findings subject to certain specified exceptions or additions.

(c) **Investigation and Resolution of Objections.** After receiving these written objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may require counsel to meet with the officer to discuss, and to attempt to resolve, any of the objections made to the presentence report.

(d) **Addendum to Presentence Report.** Not less than 15 days before the date set for sentencing, the probation officer shall deliver to the Presiding Judge an addendum

(1) which identifies any revisions that have been made in the presentence report, and

(2) which sets forth any objections to the report that have not been resolved with counsel, together with the officer's comments on each remaining objection, and

(3) which certifies that the presentence report, the revisions, and the addendum have

been disclosed to the defendant and to counsel for the defendant and the government, and that the addendum fairly describes the remaining objections to the report.

(e) **Remaining Objections.** Not less than 7 days prior to the date set for sentencing, counsel for the defendant and the government shall deliver to the Presiding Judge and to the probation officer a written statement of any remaining objections which they contend are not fairly described in the addendum.

(f) **Acceptance of Presentence Report.** The Presiding Judge may accept the presentence report as accurate, with the exception of any remaining objections described in the addendum or in any statement of counsel which is timely delivered to the court under paragraph (e). However, upon a showing of good cause, the judge may allow a new objection to be raised at any time before the imposition of sentence.

(g) **Tentative Findings on Remaining Objections.** If the remaining objections concerning sentencing factors are the subject of reasonable dispute, the Presiding Judge should, where appropriate, notify the parties of its tentative findings and afford an opportunity for correction of oversight or error before sentence is imposed.

(h) **Resolution of Objections.** The Presiding Judge shall resolve the disputed sentencing factors in accordance with Rule 32(a)(1), Fed.R.Crim.P., and may consider any reliable information presented by the probation officer, the defendant, or the government.

(i) **Extensions of Time.** The times set forth in this rule may be modified by the Presiding Judge for good cause shown, except that the defendant shall not, without the defendant's written consent, be given less than ten (10) days to file the written statement required by paragraph (b) (1) or (2).

(j) **Definition of "Disclosure."** The presentence report and the addendum shall be deemed to have been disclosed by the probation officer

(1) when a copy is physically delivered, or

(2) one day after the availability of the report or the addendum is orally communicated, or

(3) three days after a copy of the report or the addendum is mailed, or three days after notice of its availability is mailed.

(k) **Non-Disclosure.** Nothing in this rule shall require the disclosure of any portions of the presentence report that are not discoverable under Rule 32, Fed.R.Crim.P.

(l) **Return of Presentence Report and Copies.** All copies of the presentence report provided to the parties shall be returned to the probation officer promptly after the completion of sentencing. No copies of the presentence report, or any part of it, shall be made or retained by the parties. Unauthorized copying or disclosure shall be subject to punishment as contempt of court.