

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: UPDATED GUIDANCE TO COURT OPERATIONS
UNDER THE EXIGENT CIRCUMSTANCES CREATED BY
COVID-19

**GENERAL ORDER
No. 11**

WHEREAS, the Court has issued a series of General Orders re: Court Operations Under the Exigent Circumstances Created by COVID-19, which are available on the Court's website at www.mnd.uscourts.gov;

WHEREAS, the President of the United States of America has declared a national emergency in response to COVID-19;

WHEREAS, the Governor of the State of Minnesota has declared a peacetime emergency to coordinate Minnesota's strategy to protect Minnesotans from COVID-19 and extended the peacetime emergency through May 13, 2020;

WHEREAS, the Governor of the State of Minnesota has issued Emergency Executive Order 20-33, Extending Stay at Home Order and Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation, through May 3, 2020;

WHEREAS, the Emergency Executive Order 20-33, Extending Stay at Home Order, does not limit, prohibit, or restrict in any way the operations of the federal government, or the movement of federal officials in Minnesota while acting in their official capacity, including federal judicial staff and personnel;

WHEREAS, local detention facilities continue to implement several COVID-19 related restrictions that impact the ability of pretrial detainees to consult with legal counsel; and the Bureau of Prisons has implemented modified operations that suspends most inmate movement;

WHEREAS, the Judges of the United States District Court, District of Minnesota, have considered and extensively discussed the various interests implicated by the COVID-19 outbreak and any court response to the outbreak, including: the health of jurors, witnesses, parties, attorneys, the public, court staff, and judges; the constitutional rights

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KATE M. FOGARTY

JUDGMENT ENTD
DEPUTY CLERK [Signature]

of criminal defendants and other parties; and the public's interest in, and the court's duty to ensure, the effective and expeditious administration of justice;

NOW THEREFORE, to continue to protect public health, respond to the COVID- 19 outbreak, and provide for the effective administration of criminal justice, **IT IS HEREBY ORDERED**, that:

1. 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 when the parties and the Court agree that a pre-plea investigation and consolidated guilty plea and sentencing process would be helpful to resolve a criminal matter. Under the alternative process, 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.
2. The cases most appropriate for a pre-plea investigation and consolidated plea and sentencing process include the following:
 - a. Cases in which the parties intend to jointly advocate for the same sentence, a particular sentence or sentencing range (e.g., Rule 11(c)(1)(C)), or a sentence at the mandatory minimum;
 - b. Cases in which a detained defendant may be approaching time served due to time in pretrial detention; or
 - c. Cases in which, except for the Criminal History Category, there are no disputed advisory guideline factors.
3. The following steps apply when the parties agree that a case is appropriate for a pre-plea investigation and consolidated guilty plea and sentencing process:
 - a. 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 in the forms menu. The motion must contain the following information:
 - i. The defendant's request that the Court order the United States Probation and Pretrial Services Office to conduct a presentence investigation and to prepare the report before the entry of a guilty plea.
 - ii. The defendant's consent to participate in the pre-plea investigation and consent to disclose the report to the Court before having been found guilty or entered a plea of guilty or nolo contendere.

- b. Upon filing the joint motion, the proposed plea agreement must be provided to the United States Probation and Pretrial Services Office.
 - c. The Court will enter an order granting the joint motion 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.
 - d. After the joint motion is granted, the United States Probation and Pretrial Services Office will proceed in completing a pre-plea investigation and report, which will include the same sections and information as a traditional presentence investigation and report.
4. The pre-plea investigation and consolidated guilty plea and sentencing process will include the following deadlines:
 - a. 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.
 - b. 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, and the defendant must submit an acceptance of responsibility statement.
 - c. 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 were not resolved within 7 days after the receipt of the objections and proposed amendments.
 - d. Within 10 days of receipt of the final pre-plea presentence investigation report and addendum, the parties must file their Positions Regarding Sentencing.
 - e. 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 consolidated hearing.
5. The series of General Orders entered by this Court since March 26, 2020, remain in effect, except for any changes addressed in this Order.
6. This order will remain in effect until further order of the Court.

Dated in Minneapolis, Minnesota, April 22, 2020 at 9:00 AM.

A handwritten signature in black ink, reading "John R. Tunheim". The signature is written in a cursive style and is underlined.

JOHN R. TUNHEIM
Chief Judge
United States District Court