

Pre-sentence Investigation Reports Proposal

History

The pre-sentence investigation report is “considered among the most important documents in the criminal justice field.”¹ Its primary purpose is to collect information about the defendant to assist the court in determining the appropriate sentence.^{2, 3, 4, 5} This information promotes individualized sentencing by informing judges of a person’s characteristics and/or the circumstances of the offense when determining the appropriate sentence. It is also used by probation officers to assist in probation and parole and by correctional officials for inmate classification, programming, and release planning.^{6, 7}

In 1988, the Washington legislature added language in the Revised Code of Washington that directed the superior courts to order the Department of Corrections to complete a pre-sentence investigation prior to sentencing for anyone convicted of a felony sex offense.⁸ From there, the list of individuals on whom the court could order a PSI grew. In 1998⁹, individuals the court determined may be mentally ill were added, and the court was given authority in 1999¹⁰ to request a Risk Assessment Report, **which is different than a PSI**, on any individual except those sentenced to life without the possibility of parole or sentenced to death for aggravated murder. In the past, PSIs were requested frequently, but as budgets were impacted by the recession, requests are limited to only those who have been convicted of a sex offense or who may be mentally ill. DOC policy states that “Risk Assessment Reports (RARs) are completed when ordered by the Superior Court when the crime is not eligible for a PSI.”¹¹

Current Practice

According to court rule, the court may order a risk assessment or presentence investigation report “at the time of, or within 3 days after, a plea, finding, or verdict of guilt of a felony.”¹² DOC staff complete the investigative work and submit the PSI to the Superior Court. On average, it takes staff approximately 23

¹ Center on Juvenile and Criminal Justice. (2008). *The history of the pre-sentence investigation report*. Retrieved from: http://www.cjcj.org/uploads/cjcj/documents/the_history.pdf.

² Administrative Office of the United States Courts. (1984, April). *The presentence investigation report, Publication 105*. Retrieved from: <https://www.ncjrs.gov/pdffiles1/Digitization/101715NCJRS.pdf>.

³ United States Probation Office Eastern District of Pennsylvania. (2019). Presentence Investigation. Retrieved February 21 from URL <https://www.paep.uscourts.gov/presentence-investigation>.

⁴ Center on Juvenile and Criminal Justice. (2008). *The history of the pre-sentence investigation report*. Retrieved from: http://www.cjcj.org/uploads/cjcj/documents/the_history.pdf.

⁵ American Probation and Parole Association. (n.d.) *Probation pre-sentence investigation*. Retrieved on February 21 from URL: https://www.appa-net.org/eweb/Dynamicpage.aspx?&webcode=IB_PositionStatement&wps_key=24e1c1d8-c753-4710-8f89-6085c6191128.

⁶ Administrative Office of the United States Courts. (1984, April). *The presentence investigation report, Publication 105*. Retrieved from: <https://www.ncjrs.gov/pdffiles1/Digitization/101715NCJRS.pdf>

⁷ United States Probation Office Eastern District of Pennsylvania. (2019). Presentence Investigation. Retrieved February 21 from URL <https://www.paep.uscourts.gov/presentence-investigation>.

⁸ [Laws of 1988, ch. 60 § 1.](#)

⁹ [Law of 1998, ch. 260 § 2](#)

¹⁰ [Laws of 1999, ch. 196 § 4](#)

¹¹ Washington Department of Corrections. (2014). *Pre-Sentencing Investigations and Risk Assessment Reports Ordered by the Court (DOC 320.010)*. Olympia, WA: Author.

¹² [Washington CrR 7.1](#)

hours to complete a PSI and DOC policy dictates that the reports will be submitted to the court at least 10 calendar days before sentencing, or per local practice.¹³

While DOC completes the PSIs requested by the superior court, requests by the juvenile court are fulfilled by dedicated juvenile probation counselors or supervision probation staff. An informal survey of juvenile court administrators found that their PSI process varies by county.¹⁴ Some counties conduct the PSI and then have the disposition hearing, while others reach a plea agreement, conduct the PSI and then take the plea and impose disposition on the same day. Some counties conduct PSIs on all cases and other limit them to certain cases like sex offenders, decline cases, manifest injustice cases, or when ordered by the court. All PSIs are submitted to the court, the prosecuting attorney, and the defense attorney. It was reported that from two to four weeks is the goal for completing the reports, although in some cases, such as with a sex offense, it may take longer.

District Court Probation Officers also complete pre-sentence and post-sentence investigations requested by district court judges. There may be variations by county in this PSI process as well.

Recommendations

Increase the occasions when a PSI can be requested

While making PSIs mandatory for all crimes is not necessary, an increase in available PSIs would complement the increase in judicial discretion found in the SGC's two proposed sentencing grids and provide judges additional information when using either of the proposed sentencing grids.

Make PSIs available earlier in the court process

Much of the information collected in PSIs would be helpful to prosecuting attorney, judge and defense attorney in the time leading up to sentencing.

Relocate the duty to complete PSIs for the Superior Court to the Superior Court

While the DOC does utilize information from the PSI, the primary stakeholders are the players in the court: judge, defense and prosecution. Additionally, if there is a broadening of the types of cases in which a PSI would be ordered, DOC could possibly be charged with completing PSIs for individuals who may not come under their jurisdiction. It is for these reasons the SGC feels that the duty would best be placed within a unit in the superior court, similar to the way the state's juvenile courts and district courts complete their PSIs. The judges would then be able to tailor the PSI for information that they find most relevant. Because other entities do use the PSI, it is also recommended that the superior court work with all stakeholders to make the form as universally functional as possible.

Increase cultural competency and reduce disproportionality in PSIs

The SGC recognizes that there exists the risk of perpetuating racial disproportionality by increasing the amount of PSI information provided to the courts. Some of the information reported can be subjective in nature and there may be barriers to obtaining all the relevant information for persons from different cultures. The SGC recommends to whichever agency has the duty to complete PSIs that they actively look for ways to increase cultural competence so as to help reduce disproportionality.

Exclude risk-assessment information and sentencing recommendation

The reasoning behind the expanded use of the PSI is to provide additional information related to the defendant and the circumstances of the crime to the judge, the prosecution and the defense. Not all risk

¹³ Washington Department of Corrections. (2014). *Pre-Sentencing Investigations and Risk Assessment Reports Ordered by the Court (DOC 320.010)*. Olympia, WA: Author.

¹⁴ Email correspondence with Mike Fenton on 2/26/2019.

assessments are of equal quality and efficacy and the tools used by an agency or county can varies. This creates too much uncertainty about the risk assessment provided and SGC members felt the PSIs were better without that information. Likewise, probation or community supervision staff providing recommendations for sentencing outcomes was deemed unnecessary.

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