



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure No.: PPD 1.5.200	Subject: PRE-SENTENCE INVESTIGATIONS AND REPORTS
Reference: PPD 1.8.100; PPD 3.1.2400; DOC 1.8.1; 46-14-301, MCA; 46-18-111 through 113, MCA; 46-18-242, MCA;	Page 1 of 6
Effective Date: 02/11/16	Revision Dates: 07/18/16; 10/02/17; 12/06/17; 07/02/18
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

I. PURPOSE:

Probation and Parole Division employees will comply with District Court orders for pre-sentence investigations and reports and follow standardized procedures when preparing and distributing these reports.

II. DEFINITION:

MORRA-Montana Offender Reentry and Risk Assessment – A gender-neutral standardized and validated evidence-based instrument used to assess the probability of an offender recidivating and to identify risk factors and criminogenic needs to guide and prioritize appropriate programming; enhances sharing of offender information and assists in the efficient allocation of resources while an offender is under Department supervision. The Department may use the MORRA CSST as a screening tool for both male and female offenders, while using the remaining MORRA tools only for male offenders.

P&P Regional Intelligence Liaison – An individual appointed by the Deputy Chief to track street gang activity within a specific region/city and is the liaison to the Montana Analysis and Technical Information Center and Rocky Mountain Information Network.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices, interstate transfers and the facilities providing assessments and sanctions, prerelease, and treatment services.

PSI-Pre-Sentence Investigation Report – A confidential and official court document designed to provide essential information on a defendant and assist District Court judges in determining an appropriate sentence for the defendant.

Predisposition Investigation – A confidential and official court document prepared similarly to the PSI for defendants found not guilty pursuant to §46-14-301, MCA.

Victim – The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis.

VINE-Victim Information and Notification Everyday – An automated telephone, email, and text notification system that the Department purchases on contract from Appriss, Inc., which provides location and custody status updates about adult offenders under Department supervision.

WRNA-Women’s Risk and Needs Assessment – A gender-specific standardized and validated evidence-based instrument used to assess the probability of a female offender recidivating and to identify risk factors and criminogenic needs to guide and prioritize appropriate programming; enhances sharing

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of offender information and assists in the efficient allocation of resources while an offender is under Department supervision.

III. PROCEDURES:

A. PREDISPOSITION INVESTIGATION

1. Pursuant to §46-14-301, MCA, when a defendant is found not guilty for the reason that due to a mental disease or disorder the defendant could not have a particular state of mind that is an essential element of the offense charged, the court shall order a predisposition investigation in accordance with §46-18-112 and §46-18-113, MCA, which must include an investigation of the present mental condition of the defendant.
2. The PSI writer assigned to complete the predisposition investigation will use *PPD 1.5.200(B) Pre-Sentence Investigation Report* (PSI) form to provide the appropriate information, but will delete the Defendant's Statement section. The Officer will consult with his/her supervisor and amend the PSI form further as necessary, indicating that it is being used for a predisposition investigation.

B. *PPD 1.5.200(B) PRE-SENTENCE INVESTIGATION REPORT*

1. General Requirements:

- a. The PSI is primarily designed to assist judges in making appropriate sentencing decisions, including the use of alternatives to incarceration. It is often used for the defendant's initial entrance into the corrections system by correctional, treatment, and community alternative facilities to classify offenders, develop treatment plans, and make referrals; and the Sentence Review Division of the Montana Supreme Court may consider the PSI contents. However, the PSI should not be the primary factor in case planning and placement.
- b. The PSI must be accurate, concise, and understandable to a wide range of users, and the P&P Officers required to conduct and prepare the PSIs should be thoroughly familiar with the basic requirements of the applicable statutes.
- c. Upon acceptance of a defendant's plea, or upon a verdict or finding of a defendant's guilt to one or more felony offenses, the District Court orders P&P to conduct an investigation and submit a PSI pursuant to §46-18-111, MCA, unless a PSI has been provided to the court prior to the plea or the verdict or finding of guilty.
- d. The PSI writer will note in the PSI if there is a plea agreement when applicable. When there is no plea agreement in the case, the terms of the sentence will be decided by the Court. In all cases, PSI writer recommendations for special conditions will be based on the nexus to the crime, as well as the areas of risk as identified by the risk and needs assessment tool for the purpose of case planning.
- e. The PSI must be available to the court within 30 calendar days of the plea or the verdict or the finding of guilty unless additional information is required for Conviction of Sexual Offense, Conviction of Assault on Minor, Consideration of Mental Disease or Defect or Developmental Disability in Sentencing (see below), or more time is needed for victim input.
- f. Unless the court finds a PSI is unnecessary, a defendant convicted of any offense that may result in incarceration for one (1) year or more may not be sentenced before a PSI is presented to and

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considered by the court; however, the court must require a PSI for Conviction of Sexual Offense or Conviction of Assault on Minor (see below).

- g. The court may order a PSI for a defendant convicted of a misdemeanor only if the misdemeanor was originally charged by the state as a sexual or violent offense as defined in §46-23-502, MCA.
- h. The court may require that the PSI include a physical and mental examination of the defendant.
- i. **Conviction of Sexual Offense:** If the defendant was convicted of an offense under sex offense codes §45-5-502, §45-5-503, §45-5-504, §45-5-507, §45-5-601(3), §45-5-602(3), §45-5-603(2)(b), §45-5-625, §45-5-627, §45-5-704, §45-5-705, MCA, or §45-8-218, MCA (deviate sexual conduct), or §46-23-507, MCA (failure to register as sexual offender), the PSI must include a psychosexual evaluation of the defendant. This evaluation must also include a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under §46-18-219, MCA (life sentence without possibility of release). The evaluation must be completed by a sex offender evaluator who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the Department of Labor and Industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the P&P Officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the District Court determines the defendant to be indigent, all costs related to the evaluation are the responsibility of the court and must be paid by the county or the state, or both, under Title 3, Chapter 5, Part 9, MCA. The District Court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation.
- j. **Conviction of Assault on Minor (effective October 1, 2013):** If the defendant was convicted of an offense under §45-5-212(2)(b) or (2)(c), MCA, the PSI may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the Department of Labor and Industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the P&P Officer and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the District Court determines the defendant to be indigent, all costs related to the evaluation are the responsibility of the District Court and must be paid by the county or the state, or both, under Title 3, Chapter 5, Part 9, MCA.
- k. **Consideration of Mental Disease or Defect or Developmental Disability in Sentencing:** When, pursuant to §46-14-311, MCA (consideration of mental disease or defect or developmental disability in sentencing), the court has ordered a PSI, the PSI must include a mental evaluation by a person appointed by the Director (or designee) of the Department of Public Health and Human Services. This evaluation must also include an opinion as to whether the defendant suffered from a mental disease or defect or developmental disability with the effect as described in §46-14-311, MCA. If the opinion concludes that the defendant did suffer from a mental disease or defect or developmental disability with the effect as described in §46-14-311, MCA, the evaluation must also include a recommendation as to the care, custody, and

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treatment needs of the defendant. The mental evaluation becomes part of the PSI and must be made available to persons and entities as provided in §46-18-113, MCA.

1. When a PSI is ordered in a jurisdiction other than where the defendant resides:
 - i. If defendant is new, the jurisdictional P&P office is responsible for completing the PSI.
 - ii. If defendant is currently on supervision, his/her supervising P&P Officer will be responsible for completing the PSI.
 - iii. If the defendant is currently on supervision but is incarcerated in another county and cannot bond out, the P&P office where offender is detained is responsible for completing the PSI.

2. Pre-Sentence Investigation and Report Procedures and Responsibilities:

- a. Immediately upon entry of plea or finding of guilt, defendant is given *PPD 1.5.200(C) Pre-Sentence Investigation Questionnaire* while in the P&P office, courtroom, or jail (whichever is applicable). The *Questionnaire* must be completed and returned pursuant to the directions given on the *Questionnaire*, but within 48 hours.
- b. Upon receipt of the *Questionnaire*, Administrative Support staff will:
 - i. enter required data:
 - 1) in all sections on page one (1) of the PSI;
 - 2) in Background section and Defendant's Statement on page two (2) of PSI; and
 - 3) when applicable, attach (copy and paste) *PPD 1.5.200(D) Affidavit of Victim's Pecuniary Loss* and plea agreement to PSI.
 - ii. create OMIS record for the defendant and document the staff assigned to complete the PSI, a sentencing date, and a PSI due date in OMIS;
 - iii. take photo and add a picture of the defendant in OMIS record;
 - iv. enter applicable information into defendant's OMIS Financial Profile from *Questionnaire*;
 - v. complete a NCIC/CJIN report within 72 hours of receipt of *Questionnaire*; and
 - vi. upload the *Questionnaire* into OMIS and notify the staff member assigned to complete the PSI.
- c. Upon completion of *Questionnaire*, PSI writer will:
 - i. schedule a date for a PSI interview with defendant and enter date in defendant's OMIS Chronological History. It is strongly encouraged that the interview be scheduled to occur prior to day 24 of the 30-day period; and
 - ii. the interview can occur in person or via telephone or video conferencing (e.g., Skype/ VisionNet).
 - iii. A MORRA CST (male)/WRNA PPA (female) is completed for the PSI interview.
- d. If defendant does not return *Questionnaire* or schedule the interview by day 10 of the 30-day period and the PSI writer or Administrative Support has made a reasonable attempt to contact the defendant, they will notify the court, county attorney, and defense attorney of defendant's noncompliance using *PPD 1.5.200 (E) PSI Letter of Noncompliance*.
 - i. If defendant comes back into compliance with process by contacting PSI writer prior to expiration of the 30-day period, PSI writer will notify the court and request an extension for an additional 30 days.
- e. Victim Information: The PSI writer will make a reasonable effort, and document the effort, to provide to and/or obtain from all victim(s):
 - i. Victim impact statements for adults and children;

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- ii. *PPD 1.5.200(D) Affidavit of Victim's Pecuniary Loss*, which specifically describes the pecuniary loss and replacement value in dollars. *Affidavit* is attached to PSI if submitted by the victim;
- iii. Victim's preferred contact method for notifications (phone call, text, email, mail); and
- iv. Information that includes the following:
 - 1) www.cor.mt.gov/Victims – The Department's website that provides important information on victim rights, safety, programs, notification registration and contacts;
 - 2) how to get information, from whom, and when it will be available throughout the system;
 - 3) how supervision and post sentencing/adjudication work; and
 - 4) CONWeb information.
- f. The PSI will be used to fulfill statutory requirements. Administrative Support staff or PO Techs, under the guidance and direction of the PSI writer, may assist with gathering the information.
 - i. The investigation must include evaluations of the defendant under guidelines established in section B.1. above.
 - ii. Following the procedures of *PPD 3.1.2400 Security Threat Group and Street Gang Identification and Management*, *PPD 3.1.2400(A) STG/Street Gang Activity Questionnaire* is completed and forward to appropriate P&P Regional Intelligence Liaison. It is not made part of the PSI unless the defendant's crime is related to gang activity.
 - iii. Indicate all fines, fees and restitution ordered by the court and/or required by statute by listing each as separate conditions or completing chart at the end of the PSI.
- g. **PSI Fee** (in effect for offenses committed after July 1, 2005): Pursuant to §46-18-111, MCA, the defendant shall pay to the Department, by money order, a \$50 fee is due upon completion of the PSI, unless the court determines the defendant is not able to pay the fee within a reasonable time. These fees are forwarded to the Department's Collection Unit in Business Management Services.
- h. The PSI will be reviewed by a supervisor during a PSI writer's probationary period. After their probationary period, PSI writers are encouraged to have another staff member review the report prior to submission to the court.
- i. The PSI is distributed upon completion to the following:
 - i. Sentencing court (original);
 - ii. Prosecuting attorney;
 - iii. Defendant's attorney;
 - iv. Defendant;
 - v. Agency or institution to which the defendant is committed; and
 - vi. Offender's OMIS file. Amendments to PSI are also uploaded into offender's file.
 - vii. The prosecuting attorney may disclose the contents of the PSI to a victim of the offense.
- j. Pursuant to §46-18-113, MCA, the sentencing court may permit other access to the PSI as it considers necessary. A motion or petition requesting such access must be filed with the court.

IV. CLOSING

Questions concerning this procedure shall be directed to the POII, Deputy Chief, or P&P Bureau Chief.

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V. FORMS

PPD 1.5.200 (B)	Pre-Sentence Investigation Report
PPD 1.5.200 (C)	Pre-Sentence Investigation Questionnaire
PPD 1.5.200 (D)	Affidavit of Victim's Pecuniary Loss
PPD 1.5.200 (E)	PSI Letter of Noncompliance
PPD 3.1.2400 (A)	STG/Street Gang Activity Questionnaire
DOC 1.8.1 Attachments	Victim Information