



**PROBATION AND PAROLE BUREAU
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 30-1	Subject: PRE-SENTENCE INVESTIGATION (PSI) and REPORT/POST-SENTENCE INVESTIGATION	
Reference: 46-14-301, MCA; 46-18-111, MCA; 46-18-112, MCA; 46-18-113, MCA; 46-18-242, MCA	Page 1 of 5	
Effective Date: 06/01/00	Revision Dates: 12/05/01; 06/17/02; 09/10/02; 03/06/04; 03/01/05; 08/01/05; 01/31/11	
Signature / Title: /s/ Ron Alsbury		

I. BUREAU DIRECTIVE:

Probation & Parole Bureau 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:

Pre-Sentence Investigation and Report (PSI) – 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. The report also guides the Board of Pardons and Parole and Adult Community Corrections Division programs/facilities in the management of the offender and in developing a case plan for the offender.

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

III. PROCEDURES:

A. PREDISPOSITION INVESTIGATION

Pursuant to §46-14-301, MCA, when a defendant is found not guilty for the reason that due to a mental disease or defect 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.

The Probation & Parole Officer (Officer) assigned to complete the predisposition investigation will use *P&P 30-1(B) Pre-Sentence Investigation (PSI)* form to provide the appropriate information, deleting the “Defendant’s Statement” section. 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. PRE-SENTENCE INVESTIGATION AND REPORT (PSI)

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 the Probation & Parole (P&P) Bureau to conduct and submit a pre-sentence investigation and report (PSI) pursuant to §46-18-111, MCA.

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The PSI is primarily designed to assist judges in making appropriate sentencing decisions, including the use of alternatives to incarceration. Secondly, it is often used after the defendant enters the corrections system by correctional, treatment and community alternative facilities to classify offenders, develop treatment plans, and make referrals. The Montana Board of Pardons and Parole and P&P Officers also use the PSI as a basis for parole release conditions, and the Sentence Review Division of the Montana Supreme Court may also consider the PSI contents.

Therefore, the PSI must be accurate, concise, and understandable to a wide range of users, and Officers required to conduct and prepare the PSIs should be thoroughly familiar with the basic requirements of the applicable statutes.

1. The court shall order a PSI unless it finds one is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in Section 3 below, which results in incarceration for one (1) year or more, may not be sentenced before a PSI is presented to and considered by the court.
2. 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.

3. Conviction of Sexual Offense

If the defendant was convicted of an offense under §45-5-502, §45-5-503, §45-5-504, §45-5-505, §45-5-507, §45-5-625, §45-5-627, §45-5-601(3), §45-5-602(3), §45-5-603(2)(c), MCA (sex offense codes), 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 therapist 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 defendant is determined by the district court 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.

4. 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(1), 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(1), MCA, the evaluation must also include a recommendation as to

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the care, custody, and 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.

5. If a PSI is ordered in a jurisdiction other than where the defendant resides or is on current supervision, the P&P region where the court resides will be responsible for completing the PSI. Exceptions may apply; therefore the Regional Administrators (RA) of the jurisdictions involved will discuss the circumstances of each applicable case and make a determination.

6. PROCEDURE: RESPONSIBILITY:

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| <ol style="list-style-type: none"> a. Pursuant to §46-18-112, MCA, the PSI writer will promptly inquire into and report upon: <ol style="list-style-type: none"> 1) the defendant’s characteristics, circumstances, needs, and potentialities; 2) the defendant’s criminal record, social history; 3) the circumstances of the offense; 4) time of the defendant’s detention for the offenses charged; 5) the harm caused to the victim, victim’s immediate family, and the community; 6) the defendant’s assets; and 7) the victim’s pecuniary loss. | P&P Officer |
| <ol style="list-style-type: none"> b. <i>P&P 30-1(B) Pre-Sentence Investigation</i> and <i>P&P 30-1(C) Instructions for the Pre-Sentence Investigation Report</i> will be used to fulfill statutory requirements. A PO Tech, under the guidance and direction of the PSI writer, may assist with gathering the information. <ol style="list-style-type: none"> 1) The investigation must include evaluations of the offender under guidelines established in III.A.3 and 4 above. 2) <i>P&P 30-1(D) Pre-Sentence Investigation Questionnaire and Medical Screening</i> will be completed and placed in offender’s file. <ol style="list-style-type: none"> a) Complete <i>P&P 30-1(G) Transcript Request/Release Form</i> to request high school or GED education information from the Office of Public Instruction or transcripts from other educational institutions. | P&P Officer |
| <ol style="list-style-type: none"> 3) When obtaining information from a victim(s), the Officer will provide the following to the victim: <ol style="list-style-type: none"> a) <i>P&P 30-1(E) Affidavit of Victim’s Pecuniary Loss</i>, which specifically describes the pecuniary loss and replacement value in dollars of the loss. <i>Affidavit</i> is attached to PSI if submitted by the victim. | P&P Officer/Defendant |

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- b) *P&P 10-4(A) Victim Information, P&P 10-4(B) Victim Information Form*, information about VINE and other Department programs that may be appropriate (see *P&P 10-4 Victim Rights and Notification*).
- 4) 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.
- c. Pre-Sentence Investigation Fee (in effect for offenses committed after July 1, 2005): Defendant
- Pursuant to §46-18-111 MCA, the defendant shall pay to the Department of Corrections (DOC) a \$50 fee at the time the PSI is completed, unless the court determines the defendant is not able to pay the fee within a reasonable time. The defendant is to submit this payment to the DOC by money order one week prior to the submission of the PSI. These fees will be forwarded to the DOC's Accounting Bureau and will be used to provide funds for offender day reporting programs.
- d. Reviews the PSI report. (Will be reviewed and signed off on for all probationary Officers.) RA/POII
- e. The PSI is distributed upon completion to the following: P&P Officer
- Sentencing Court (Original);
 - Prosecuting Attorney;
 - Defendant's Attorney;
 - Defendant;
 - Agency or institution to which the offender is committed; and
 - File
- 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.

C. POST-SENTENCE INVESTIGATION (Post-PSI)

1. If a PSI was not ordered on an offender placed on supervision with the DOC, an Officer in the committing county will be assigned to complete *P&P 30-1(F) Post-Sentence Investigation* on the offender within 30 days. The offender must have a completed *Post-PSI* prior to any transfer.

The *Post-PSI* information will include:

- *P&P 30-1(D) Pre-Sentence Investigation Questionnaire and Medical Screening*.
- Relevant Police Report(s) of current offense;
- Affidavit to File Information Direct or pertinent County Attorney Information;
- Plea Agreement;

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- Court Order (read for full understanding of conditions);
- Victim Information;
- NCIC or CJIN Criminal Record Check

The *Post-PSI* will serve as a resource to other Officers and entities within the DOC; therefore, Officers must ensure all pertinent information is detailed. Officers are required to complete the first two (2) pages of this report including the “Criminal History” section, but are strongly encouraged to complete the entire *Post-PSI* form, which includes family, medical, etc. If the officer chooses to complete the entire form, he/she will be given full PSI points on the monthly workload report.

2. If an offender coming in on an interstate transfer does not have a PSI in their file, a *Post-PSI* is not required; however, the Officer will have the offender complete *P&P 30-1(D) Pre-Sentence Investigation Questionnaire and Medical Screening* for placement in the offender’s field file.

IV. CLOSING

Questions concerning this procedure shall be directed to the RA or POII.

Forms

P&P 30-1(B)	Pre-Sentence Investigation
P&P 30-1(C)	Instructions for Pre-Sentence Investigation Report
P&P 30-1(D)	Pre-Sentence Investigation Questionnaire & Medical Screening
P&P 30-1(E)	Affidavit of Victim’s Pecuniary Loss
P&P 30-1(F)	Post-Sentence Investigation
P&P 30-1(G)	Transcript Request/Release Form
P&P 10-4(A)	Victim Information
P&P 10-4(B)	Victim Notification Form