



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

Procedure:	<b>PPD 1.5.200 PRESENTENCE INVESTIGATIONS AND REPORTS</b>
Effective Date:	02/11/2016 <span style="float: right;">Page 1 of 9</span>
Revision Date(s):	07/18/2016; 10/02/2017; 12/06/2017; 07/02/2018; 09/01/2019; 09/15/2021; 11/01/2023
Reference(s):	PPD 1.8.100; PPD 3.1.2400; DOC 1.8.1; 46-14-301, MCA; 46-14-311, MCA; 46-18-111 through 113, MCA; 46-18-242, MCA
Signature / Title:	/s/ Jim Anderson, Public Safety Chief

**I. PURPOSE:**

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

**II. DEFINITIONS:**

**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.

**Probation and Parole** – Oversees the Probation and Parole regional offices and interstate transfers.

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

**Presentence Investigation 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.

**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 which provides location and custody status updates about offenders 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) Presentence Investigation Report (PSI)* form to provide the appropriate information but will delete the Defendant's Statement section. The PSI Writer will consult with their 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) PRESENTENCE INVESTIGATION (PSI) REPORT:***

1. The PSI is primarily designed to assist judges in making appropriate sentencing decisions, including the use of alternatives to incarceration. The PSI is also used by correctional, treatment, and community alternative facilities to classify offenders, develop treatment plans, and make referrals upon the defendant's initial entrance into the corrections system. PSI content may also be considered by the Sentence Review Division of the Montana Supreme Court. However, the PSI should not be the primary factor in case planning and placement.
2. 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 may request and direct 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. However, the court shall order a PSI if the defendant is convicted of:
  - a. a violent offense as defined in 46-23-502, MCA; or
  - b. a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not contained in a plea agreement.
3. When a PSI has been requested or ordered, the PSI Writer will state in the PSI whether there is a plea agreement. PSI Writer recommendations for special conditions are based on a nexus to the crime and on the defendant's areas of risk identified by the risk and needs assessment tool designed for use in case planning.
4. If a PSI has been requested/ordered by the court, the PSI must be completed and delivered to the court within 30 business days of the plea of guilty, a verdict of guilty, or a court finding of guilty upon bench trial unless additional information is required for:
  - a. victim input;
  - b. a defendant convicted of a sexual offense (*outlined in III.B.7. below*);
  - c. a defendant convicted of Assault on Minor (*see III.B.8. below*);
  - d. a defendant convicted of a violent offense as defined in 46-23-502, MCA, or a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not contained in a plea agreement; or
  - e. consideration of mental disease or disorder or developmental disability in sentencing (*see III.B.9. below*).
5. 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.
6. The court may require that the PSI include a physical and mental examination of the defendant.

**7. Conviction of Sexual Offense:**

- a. If the defendant was convicted of an offense under sex offense codes 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b) or (2)(c), 45-5-625, 45-5-627, 45-5-704, 45-5-705, 45-8-218, or 46-23-507, MCA (failure to register as sexual offender), the court shall order a psychosexual evaluation of the defendant, unless the defendant was sentenced under 46-18-219, MCA (life sentence without possibility of release). This evaluation must 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.
- b. Unless a psychosexual evaluation has been provided to the court prior to the plea or the verdict or finding of guilty, the evaluation must be completed by a sex offender evaluator selected by the court. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the P&P Officer, and the sentencing judge.
- c. All costs related to the evaluation, including an evaluation ordered by the court as allowed in b. above must be paid by the defendant. If the District Court determines the defendant to be indigent, all costs related to the evaluation, including an evaluation ordered by the court as allowed in b. above 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.

**8. Conviction of Assault on Minor:** 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.

- a. The evaluation must 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.
- b. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, licensed clinical social worker, licensed clinical professional counselor, licensed marriage and family therapist, 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.
- c. 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.

**9. Consideration of Mental Disease or Disorder or Developmental Disability in Sentencing:**

When the court has ordered a PSI pursuant to 46-14-311, MCA (consideration of mental disease or disorder or developmental disability in sentencing), if requested, the PSI must include a mental evaluation by a person appointed by the Director of the Department of Public Health and Human Services (or their designee). This evaluation must also include an opinion as to whether the defendant suffered from a mental disease or disorder 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 disorder 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 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.

10. When a PSI is ordered in a jurisdiction other than where the defendant resides:
  - a. If defendant is new, the jurisdictional P&P office is responsible for completing the PSI.
  - b. If defendant is currently on supervision, their supervising P&P Officer will be responsible for completing the PSI.

**Note:** If the defendant is currently on supervision but is incarcerated in another county, the P&P office where the offender is detained is responsible for completing the PSI, unless virtual and/or telephonic options are available for the supervising P&P Officer.

### C. PROCEDURES FOR PRESENTENCE INVESTIGATIONS AND REPORTS:

1. When a PSI is requested/ordered by the court, immediately upon entry of a plea or finding of guilt, defendant is given *PPD 1.5.200 (C) Presentence 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.
2. Upon receipt of the *Questionnaire*, Administrative Support staff will:
  - a. complete a NCIC/CJIN report within 72 hours of receipt of *Questionnaire*;
  - b. enter required data:
    - 1) in all sections on page 1 of the PSI;
    - 2) in "Background" and "Defendant's Statement" on pages 1 and 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.
  - c. 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;
  - d. take photo and add a picture of the defendant in OMIS record; and
  - e. upload the *Questionnaire* into OMIS and notify the staff member assigned to complete the PSI.
3. Upon defendant's completion of *Questionnaire*, PSI Writer will:
  - a. 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
  - b. conduct the interview in person, by telephone, or by virtual meeting; and
  - c. complete a MORRA CST for the PSI interview and enter it into OMIS record.
4. 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*. The delay reason will be documented in the PSI module in OMIS.
  - a. 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, the county attorney, and defense attorney and request an extension for an additional 30 business days.

5. The PSI will be used to fulfill statutory requirements. Administrative Support staff, under the guidance and direction of the PSI Writer, may assist with gathering the information.
  - a. Pursuant to 46-18-112, MCA, the content of the PSI will include:
    - 1) the defendant's characteristics, circumstances, needs, and potentialities, as reflected in a validated risk and needs assessment;
    - 2) the defendant's criminal record and social history;
    - 3) other arrest cycle information, including a summary of dismissed charges and arrest cycles;
      - a) **Note:** This other information is included in its own section and should not be included in the criminal history.
    - 4) the circumstances of the offense;
    - 5) the time of the defendant's detention for the offenses charged;
      - a) **Note:** The PSI Writer does not express an opinion about whether a defendant receives credit. Credit will be granted for time served on any cause number for which the defendant had been arrested and bail was set and the person was not released pursuant to bail or otherwise.
    - 6) the harm caused, as a result of the offense, to the victim, the victim's immediate family, and the community; and
    - 7) the victim's pecuniary loss, if any.
      - a) The PSI should contain the victim's name and the specific amount owed. The PSI should not include addresses of the victim.
        - (1) However, the PSI victim information, including name and address, will be sent to the Department's Collections Unit.
  - b. The following information pertaining to the defendant may also be included or considered in the "Evaluation and Recommendation for Conditions" section of the PSI, which is used by the PSI Writer in recommending programming and placement of the defendant:
    - 1) prior criminal history;
    - 2) probation or parole history;
    - 3) official version of the offense or offenses;
    - 4) custody status;
    - 5) pending cases or charges against the defendant;
    - 6) gang affiliation;
    - 7) background and ties to the community;
    - 8) history of substance use disorder;
    - 9) physical and mental health;
    - 10) employment history and status;
    - 11) education history; and
    - 12) prescreening and placement options.
  - c. Placement options: A placement recommendation is provided as outlined in the attachment below.
  - d. Prescreening is completed when offender's plea agreement is for a DOC commitment.
  - e. The investigation must include evaluations of the defendant under guidelines established in III.B. above:
    - 1) If defendant is a sexual offender, the PSI designed for sexual offenders, *PPD 1.5.200 (B-SO)*, is used. The names of the sex offender risk assessment tools used in the psychosexual evaluation are listed and the tier level designation recommended from the evaluation is included in this PSI.
  - f. All fines, fees, and restitution ordered by the court and/or required by statute are listed as separate conditions or in the chart at the end of the PSI.

6. **PSI Fee** (in effect for offenses committed after July 1, 2005): Pursuant to 46-18-111, MCA, the defendant shall pay to the Department, online or by money order or cashier's check, a \$50 fee 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 Collections Unit.
7. The PSI will be reviewed by a supervisor during a PSI Writer's probationary period. After the probationary period, PSI Writers are encouraged to have another staff member review the report prior to submission to the court.
8. The PSI is distributed upon completion to the:
  - a. sentencing court (original);
  - b. prosecuting attorney;
  - c. defendant's attorney;
  - d. defendant;
  - e. agency or institution to which the defendant is committed; and
  - f. defendant's OMIS record as a P&P document. Amendments to PSI are also uploaded into offender's record.
9. The prosecuting attorney may disclose the contents of the PSI to a victim of the offense.
10. 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.

#### D. VICTIM INFORMATION

1. Victim Information:
  - a. The PSI Writer will make a reasonable effort, and document the effort:
    - 1) to obtain victim impact statements for adults and children;
    - 2) to obtain *PPD 1.5.200 (D) Affidavit of Victim's Pecuniary Loss*, which specifically describes the pecuniary loss and replacement value in dollars and which is attached to PSI if submitted by the victim;
    - 3) to provide the following information to all victims:
      - a) <https://cor.mt.gov/Victims/> – The Department's website that provides important information on victim rights, safety, programs, notification registration, and contacts;
      - b) how to get information, from whom, and when it will be available throughout the system;
      - c) how supervision and post sentencing/adjudication work; and
      - d) DOC website Offender Search (<https://app.mt.gov/conweb>) information.
  - b. Victim will be informed about possible notifications and their preference will be recorded in an OMIS chronological entry and marked "CONFIDENTIAL" for the following:
    - 1) offender travel (PO Responsibility)
    - 2) hearing outcomes (PO Responsibility)
    - 3) potential release from custody (VINE)
    - 4) date offender taken into custody (VINE)
  - c. PSI Writer ensures victim is included in offender's OMIS record and documents victim's decision regarding notifications, including the preferred method of contact.

**IV. CLOSING:**

Questions concerning this procedure should be directed to the POII, Deputy Chief, or Probation and Parole Chief.

**V. FORMS:**

<i>PPD 1.5.200 (B)</i>	<i>Presentence Investigation Report</i>
<i>PPD 1.5.200 (B-SO)</i>	<i>Presentence Investigation Report (sexual offenders)</i>
<i>PPD 1.5.200 (C)</i>	<i>Presentence Investigation Questionnaire</i>
<i>PPD 1.5.200 (D)</i>	<i>Affidavit of Victim's Pecuniary Loss</i>
<i>PPD 1.5.200 (E)</i>	<i>PSI Letter of Noncompliance</i>
<i>PPD 3.1.2400 (A)</i>	<i>STG/Street Gang Activity Questionnaire</i>
<i>DOC 1.8.1</i>	<i>Victim Information</i>

**VI. PROCEDURAL ATTACHMENTS:**

<i>PFB 6.1.201</i>	<i>DOC Placement Directive Attachment 1</i>
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## DOC PLACEMENT DIRECTIVE ATTACHMENT 1



**Greg Gianforte, Governor | Brian M. Gootkin, Director**

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TO: Probation and Parole Staff  
Programs and Facilities Bureau Staff  
The Court Administrator and Judicial Branch  
All County Attorneys  
All Public Defenders and Defense Attorneys  
Community Corrections Providers

FROM: Brian Gootkin, Director, Department of Corrections

DATE: June 30, 2021

RE: HB 2: Offender Prescreening and Placement

As directed by HB 2, effective July 1, 2021:

- Probation and Parole staff will complete prescreening of offenders where a PSI is ordered and there is a plea agreement for a DOC commitment.
  - Per HB 2: "Prescreening will not be completed for offenders who have a plea agreement for a suspended or deferred sentence, a prison commitment, or when no PSI is ordered."
- When a PSI is ordered and there is a plea agreement for a DOC commitment, Probation and Parole staff will provide a placement recommendation to the Court that is based on the risk/needs evaluation (assessment) of the offender using the guide provided on page 2 of this memo.
- When determining placement of an offender already on supervision or in cases where no PSI was ordered, DOC staff will do so based on a risk/needs assessment and using the guide provided on page 2 of this memo.
- In placing offenders in treatment facilities, DOC staff shall rely on risk and needs assessment tools and the underlying offense. Behavioral health assessment tools will be used to determine an offender's treatment dosage and needs. Clinical Substance Use Disorder (SUD) evaluations are no longer required by the DOC before placement in a treatment facility.
  - Treatment facilities will conduct SUD evaluations upon offender arrival at the facility and treatment and programming will be delivered according to the dosage indicated.
  - If the Court orders an SUD evaluation as part of the PSI process, the evaluation will be completed; however, it is not necessary for screening.



## DOC Placement Determination Guidance, per HB 2 (2021):

If the Court recommended a placement in an original sentence or revocation sentence, follow the recommendation. If the DOC is unable to follow the recommendation, DOC will document the reason and provide notification to the Court of the reason within 40 days, as required by SB 47.

If Court didn't recommend a placement:

- If low risk\*, community supervision placement UNLESS offender:
  - Is homeless,
  - Has a recent history of behavior that indicates a need for greater structure,
  - Was convicted of an offense that has a statutory requirement for placement,
  - The offense/violation represents a repeating offense pattern (i.e. repeated DUIs or multiple instances of domestic violence/violations of protective orders),
  - Has a victim under 12, or
  - Has a victim who died as the result of an offense.
- If moderate risk\*, a facility placement (treatment only or prerelease center only) or combination of placements (treatment + prerelease center) may be appropriate if a higher level of structure is indicated by:
  - Offense history,
  - Placement/treatment\*\* history,
  - Offender non-compliance on supervision,
  - Sustained drug use in the community despite interventions, and
  - Severity of the offense.
- If medium or high risk\* on the WRNA or high or very high risk\* on the MORRA, a facility placement or combination of placements\*\* is required. If no facility will accept the offender, the DOC will document the instance and determine the most appropriate alternative placement to address the offender's risk/needs while maintaining public safety; the placement will likely be prison. In rare circumstances, a recommendation might include community placement in a structured setting such as treatment court, ISP, etc. based on an offender's particular circumstances.

\*use the MORRA and WRNA. For sex offenders (SO), a SO-specific risk assessment, along with the MORRA or WRNA, will be used. Placement will be based on whichever assessment risk score is higher. The MORRA and WRNA risk levels are as follows:

MORRA	WRNA
Low	Low
Moderate	Moderate
High	Medium
Very High	High

\*\*if offender need for substance use treatment is indicated, placement should be at a shorter-length program (90-days) if the offender has no prior residential treatment placements. If offender need for substance use treatment is indicated and the offender has previously been to a residential treatment placement, the offender will be considered for the 9-month treatment placement.