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| MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE | | EFFECTIVE DATE 01/17/2022 | NUMBER 06.01.140 |
| SUBJECT PRE-SENTENCE INVESTIGATION AND REPORT | | SUPERSEDES 06.01.140 (09/13/2021) | |
| | | AUTHORITY MCL 28.721 et seq., 445-81 - 445.87, 771.14, 791.203-205, 791.223, 791.229, Administrative Rule 791.9910 | |
| | | PAGE 1 | OF 5 |

POLICY STATEMENT:

A Presentence Investigation (PSI) shall be conducted, and a report prepared when ordered by a court to provide the judge and the Michigan Department of Corrections (MDOC) with relevant and accurate information relating to the offender and the offense.

RELATED POLICY:

- PD 01.06.115 Sex Offenders Registration Act
- PD 04.04.113 Security Threat Groups
- PD 05.01.142 Special Alternative Incarceration Program

POLICY:

GENERAL INFORMATION

- A. A PSI shall be conducted, and a PSI report prepared after the offender has been found guilty of a felony. The PSI may be conducted, and the report prepared prior to adjudication when specifically ordered by the court (e.g., assignment as a youthful trainee under the Holmes Youthful Trainee Act (HYTA)).
- B. A PSI shall be conducted, and a misdemeanor conviction report prepared for an offender convicted of a misdemeanor when referred by the court. All requirements set forth below for a misdemeanor PSI report shall apply, however, information contained in the report shall be modified as appropriate for a misdemeanor conviction.
- C. In cases where the offender is deaf and/or hard of hearing, the Agent shall use the offender's preferred method of communication to conduct the PSI.
- D. Agents shall investigate the offender's background to ensure all information required is submitted to the court in a PSI report. A face-to-face interview with the offender shall be conducted to obtain this information unless the court has granted an exception for the interview to be conducted via telephone or video conference. If the offender is incarcerated in an MDOC facility the interview may be conducted via telephone or video conference in accordance with facility and Field Operations Administration (FOA) procedures. When requested by the offender's attorney, and unless the interview has already been completed, the Agent must give notice and a reasonable opportunity to the defense attorney to attend the presentence interview. The Agent shall attempt to interview the spouse, parents, other family members, or significant others to verify or dispute information provided by the offender. Additionally, the Agent shall attempt to verify the offender's legal name, criminal history, education history, employment history, substance use history, physical and mental health history, and financial situation.
- E. As part of the PSI, the Agent shall verify the offender's Social Security Number and enter the verified number in the Department's Computerized Database (DCD). Verification shall be made through submission of the Social Security card or other documentation containing the Social Security number (e.g., payroll record, federal or state tax form, etc.). If the offender does not have a Social Security Number or the number cannot be verified, that information shall be noted in the PSI report along with the action taken to attempt verification. The Social Security Number itself shall not be included in the PSI report or any other written document or displayed publicly.
- F. As part of the PSI, the Agent shall verify the offender's citizenship. If the offender is not a citizen of the United States, the Agent shall notify U. S. Immigration and Customs Enforcement (ICE) as set forth in Paragraph AA.

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|-----------------------------------|------------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 01/17/2022 | NUMBER 06.01.140 | PAGE 2 OF 5 |
|-----------------------------------|------------------------------|---------------------|-------------|

PSI REPORT

Content

- G. The PSI report shall contain information relevant to the offender's background including the following information:
1. An objective description of the offense, including the name and age of the victim(s).
 2. The offender's description of the offense and the circumstances surrounding it, as well as any other statement the offender requests to make.
 3. A description of the offender's adult and juvenile criminal history. For convictions that involve criminal sexual conduct with a victim under 18 years, the victim's name, age at the time of the offense, relationship to the offender, and the circumstances leading to the offense, to the extent known, shall be included.
 4. A written impact statement or summary of an oral impact statement submitted by the victim, if requested to be included by the victim. The Agent is not required to transcribe an oral statement. The Agent shall ensure that the victim understands that information in the PSI report will be disclosed to the offender unless the judge specifically exempts the statement.
 5. Unless included in the victim's impact statement, the financial, social, psychological, or physical harm suffered by any victim of the offense.
 6. A description and status of all criminal charges that are pending against the offender at the time of the PSI.
 7. The offender's education background; employment qualifications, background, and status; military record; and social history including family relationships, marital status, financial status, interests, activities and residence history.
 8. Medical and substance use history, including a psychiatric or psychological report when available and appropriate or when requested by the court.
 9. Information on any gang activity as set forth in PD 04.04.113 "Security Threat Groups."
 10. If the offender is to be sentenced for an offense involving the illegal delivery, possession, or use of alcohol or a controlled substance, a statement that the offender is a licensed or registered health care professional, if applicable.
 11. A statement by the prosecuting attorney on the applicability of any consecutive sentencing provision. It shall be noted if the statement has been requested but not provided by the prosecutor.
 12. Any other information requested by the court, subject to supervisory approval.
- H. The PSI report also shall contain a proposed plan for the offender that shall include the following:
1. An evaluation of the offender with respect to their strengths, weaknesses, abilities, established behavior patterns, and readiness for change.
 2. Information about available treatment centers, residential facilities, vocational training services, special educational facilities, rehabilitative programs or facilities to which the offender may be committed, special programs available through probation and other similar programs relevant to the offender's situation. This includes screening to determine eligibility for programs offered by the Office of Community Corrections under the Offender Success Administration. Additionally, the Agent shall determine eligibility for the Special Alternative Incarceration Program as set forth in PD 05.01.142 "Special Alternative Incarceration Program."
 3. If the offender is being considered for assignment as a youthful trainee under HYTA, information as to whether the offender is eligible for assignment pursuant to MCL 762.11 and, if so, the recommended

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|-----------------------------------|------------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 01/17/2022 | NUMBER 06.01.140 | PAGE 3 OF 5 |
|-----------------------------------|------------------------------|---------------------|-------------|

disposition, consistent with MCL 762.13.

4. A recommended disposition consistent with the calculated sentencing guideline range for the offense unless a departure is warranted. If probation is a possible disposition, the proposed terms and conditions of probation, the objectives to be achieved and the proposed supervision plan related to the offender's success.
5. The amount of restitution to be paid to the victim, if applicable.
- I. The Agent shall ensure that statements in the PSI report are clear, concise, and accurate. Repetitive information shall be avoided. All sources of information shall be documented in the report. For example, if information is based solely on a statement by the offender, it shall be noted in the report as "offender states."
- J. The Supervisor may modify the PSI report, including the Department's sentencing recommendation, to ensure the report complies with MDOC policy and procedure. The PSI report may be reviewed by the Probation Sentencing Specialists (PSS) for quality and appropriateness of recommendation, and the PSS has the authority to make or change the Department's sentencing recommendation.
- K. Pursuant to MCL 771.14, if the content of a PSI report is changed before sentencing by the Supervisor of the Agent who prepared the report or by any other person who has the authority to amend or alter a PSI report, the Agent may request that the court strike their name from the report and the court must comply with that request. An Agent who wants their name removed under these circumstances must complete a PSI Name Removal Request (CFJ-431) form and submit it to their Supervisor for forwarding to the court. Once the Agent's name is ordered removed from the report, the name shall be replaced with the phrase "Removed by court order."

Timeliness

- L. Unless otherwise authorized by the court, a PSI report shall be completed within three weeks of referral for a confined offender and within four weeks for an offender on bond unless unusual circumstances delay completion, as approved by the Supervisor. The PSI report shall be submitted to the court a minimum of two business days prior to the sentencing date unless otherwise required by the court.
- M. FOA Assistant Deputy Directors shall designate adequate staff resources to ensure timely submission of PSI reports. Agents may use nonprofessional staff (e.g., paraprofessionals, volunteers, student interns) to assist in the collection of information; however, in all cases the Agent assigned to the case shall be responsible for the accuracy of all the information included.

DISTRIBUTION TO PROSECUTOR AND OFFENDER

- N. PSI Report (All Formats): No less than three copies of the PSI report shall be forwarded to the Court. One copy shall be made available to the Prosecutor if local practice dictates. When a Sentencing Information Report (SIR) is prepared, the SIR shall be forwarded and/or distributed as directed by the Court. The Court is responsible for distributing the PSI to the offender's attorney. The copy of the report shall be provided not less than two business days before sentencing unless that period is waived by the offender. The Prosecutor and the offender's attorney, or the offender if they are not represented by an attorney, have the right to retain a copy of the report or any amended report.
 1. For prison commitments, one copy shall be provided to the Sheriff for delivery with the prisoner to the appropriate MDOC reception facility. A copy of the Parole Guideline Data Entry Form (CFJ-123) shall be forwarded with the PSI report required by this policy unless local practice dictates otherwise.

COURT ORDERED MODIFICATIONS/DISTRIBUTION WITHIN MDOC

- O. If the court finds during sentencing that the PSI report contains information that is inaccurate or irrelevant, the inaccurate or irrelevant information shall be completely removed from the report or otherwise rendered unreadable in all copies of the report before further distribution. If the court makes other changes to the PSI report or orders portions not be disclosed, it shall be reflected in all copies of the PSI report before further distribution.
- P. After sentencing, a copy of the PSI report shall be provided as set forth in PD 05.01.142 "Special Alternative

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|-----------------------------------|------------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 01/17/2022 | NUMBER 06.01.140 | PAGE 4 OF 5 |
|-----------------------------------|------------------------------|---------------------|-------------|

Incarceration Program” for offenders sentenced to that program. For all other offenders committed to the MDOC, one copy of the PSI report shall be transmitted to the Records Office at the appropriate facility when the offender is transferred. Records Office staff shall provide one copy to the prisoner. PSI information is fairly static and rarely changes, therefore, if a prisoner loses their copy of the PSI report, they may only receive a free copy of the report if it is their first request for a copy, it has been two years from the date of their last request for a copy, or at the time of the prisoner’s Parole Eligibility/Lifer Review Report (CSJ-123). For offenders not committed to the MDOC, copies shall be provided as set forth in OP 06.01.140 "Pre-Sentence Investigation and Report Preparation."

- Q. If, after sentencing, the court issues a written order requiring a change to the PSI report or orders portions not be disclosed, the PSI report shall be amended in accordance with the court order. If the defendant’s attorney requests to review the corrected PSI report, the Agent must give the attorney an opportunity to review the report prior to the report being used by the MDOC. The MDOC shall ensure no prior versions of the PSI report is used for classification, programming, and parole processing purposes.

For an offender committed to the MDOC, the Central Records Section of the Operations Division, Correctional Facilities Administration, shall be provided a copy of the court order. Central Records Section staff shall forward a copy of the order and the amended PSI report to the Records Office for the facility where the prisoner is incarcerated with instructions to provide the prisoner with a copy of the amended PSI report. For an offender not committed to a term of incarnation with the MDOC, copies shall be distributed as set forth in OP 06.01.140 "Pre-Sentence Investigation and Report Preparation."

- R. After sentencing, the MDOC shall not make any additions, corrections, or deletions to the PSI report not specifically ordered by the court.

MULTIPLE PSI REFERRALS

- S. The Agent shall conduct only one interview on an offender when multiple referrals from the same jurisdiction or county are received prior to submission of the original PSI report to the court. One PSI report shall be prepared and submitted to the court specific to each referral.

PSI REPORT UPDATES

- T. If a PSI report had been completed within three years prior to the date of the instant conviction, or the offender has been continuously incarcerated since the last PSI report was prepared, the Agent shall conduct a PSI interview to obtain any additional relevant information. A new conviction update report shall be prepared and attached to the most recently completed PSI report for submission to the court.
- U. A PSI shall be conducted when sentencing of an offender has been delayed by court order. A Delay of Sentence Update report shall be prepared and attached to the original PSI report prepared for the conviction for which sentencing was delayed. The reports shall be submitted to the court at least 30 calendar days prior to the expiration of the period identified in the court’s order.
- V. If an offender fails to appear for sentencing and is subsequently apprehended, the court may request additional information regarding the offender’s activities and/or whereabouts. The Agent shall update the original PSI report prepared for the conviction for which the offender was being sentenced with any additional and/or pertinent information.

CONFIDENTIALITY

- W. The PSI report and all information obtained, and records made to prepare the PSI report are confidential and shall only be released outside the MDOC to the court, the offender, the Department of Attorney General, the Auditor General, law enforcement agencies, and, as set forth in Paragraph N, to criminal defense counsel. An attorney representing the offender in appellate proceedings may obtain a copy of the PSI report through the sentencing court.
- X. Agents shall not make a promise of confidentiality to a source of information.
- Y. Information that an offender is HIV positive shall not be reported in the PSI report. If an Agent learns that the

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|-----------------------------------|------------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 01/17/2022 | NUMBER 06.01.140 | PAGE 5 OF 5 |
|-----------------------------------|------------------------------|---------------------|-------------|

offender is HIV positive, the court shall be provided this information in a separate letter to the court. The source of the information (e.g., offender, family member, victim) shall be identified. An offender's HIV status shall not be disclosed except as directed by the court.

SEX OFFENDER REGISTRATION

- Z. Agents shall identify and register those offenders required to be registered pursuant to the Sex Offenders Registration Act as set forth in PD 01.06.115 "Sex Offenders Registration Act." Where probation is a sentencing option for the offender, the Agent shall make a recommendation in the PSI report that the court impose a special condition requiring compliance with the Sex Offenders Registration Act.

REPORTING OF FOREIGN-BORN OFFENDERS

- AA. If the offender was born outside of the United States, the Agent shall ensure that an Immigration Notification (CFJ-204) is completed as required and sent to ICE. The form shall be completed for all persons convicted of a crime with a maximum penalty of imprisonment for more than one year. The form also shall be completed for all persons assigned to HYTA status where the underlying charge has a maximum penalty of imprisonment for more than one year.

PROCEDURES

- BB. The FOA Deputy Director shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive. Procedures shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director.

AUDIT ELEMENTS

- CC. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audit of Policies and Procedures."

APPROVED: HEW 12/16/2021