

Federal Presentence Investigation Report: A National Survey

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ONE OF THE MOST important decisions to be made in the criminal justice system is the selection of an appropriate sentence. The primary vehicle to assist in fulfilling this responsibility is the presentence investigation report. U.S. probation officers are tasked with conducting presentence investigations and with producing a high-quality professional presentence report.

The Probation and Pretrial Services Office (PPSO) of the Administrative Office of the U.S. Courts (AO) contracted with Abt Associates to conduct an evaluation of the presentence investigation process and presentence reports (PSRs). Presentence investigations are designed to collect relevant, objective, and verifiable information on defendants accused of a federal offense. This information is compiled into a comprehensive report to assist the court in making a fair sentencing decision and to assist corrections and community corrections officials in managing offenders under their supervision. The more accurately and efficiently officers complete the PSR, the more effectively the court will be able to perform its duties.¹

The main objectives of the study were to: (1) determine PSR content most relevant to sentencing recommendations and decisions, and (2) understand tradeoffs of various investigative activities and approaches probation officers undertake. The surveys were designed to:

- Gauge overall perceptions of the “national PSR template” and perceptions about specific parts, sections, and other information within the PSR. (see Exhibit 1 for the parts and sections of the national PSR template as provided in Monograph 107.)
- Determine the extent of district-specific customizations to the template and understand the content of those customizations.
- Understand the degree to which various investigative activities occur across officer caseloads and the importance of those activities in informing judge and officer decisions.
- Identify potential improvements to the national template.

This study involved three key activities: (1) **survey development** consisted of identifying issues and content to be explored in the two surveys. It also included two focus groups (one group of 13 judges from the Criminal Law Committee and one group of 15 probation officers) that were used to develop draft surveys that were pilot-tested with focus group participants. (2) **Survey administration** comprised two electronic surveys: one sent to all 548 active district judges and another to 1,394 federal probation officers identified as “high-frequency users of current PSRs.”² (3) **Analysis and reporting** consisted of compiling and analyzing the survey data, which was summarized for this report.

Results from the surveys will ultimately be used to assist PPSO in finding ways to modify and improve its existing standards for reporting and provide guidance on when officers should be conducting various presentence investigation activities.

(See Exhibit 1, next page.)

Survey Administration

PPSO’s primary objective was to obtain survey results that were representative and generalizable to producers (officers) and users (judges) of the PSR. In service of that goal, the universe of judges and officers from whom PPSO wished to receive feedback was surveyed.

The response rate for judges was 47.6 percent and included responses from each circuit. For officers, the response rate was 79.6 percent and represented officers from 93 districts.³ Table 1 (next page) summarizes the response rates and time in position for judges and officers who responded to the surveys.

Themes from Survey Responses

Several themes emerged from the survey results. Some of the more common themes included overall satisfaction with depth of information provided in the PSR, overall perceptions of the PSR, district customizations to the national template, reactions to specific parts of the PSR, and perceptions of officers’ investigative activities related to the PSR.

¹ *Guide to Judiciary Policy* Vol. 8: Probation and Pretrial Services Pt D: Presentence Investigation Report (Monograph 107).

² High-frequency user was defined as an officer who completed 12 or more PSRs during an 18-month period that spanned from April 1, 2017, to September 30, 2018.

³ Officers in Northern Mariana Islands were not surveyed.

1. Judges and Officers Are Generally Satisfied with the Depth of Information in the PSR

In response to “how satisfied are you with the depth of information provided in the PSR,” 49.2 percent of judges indicated that they were “completely satisfied” and 45.5 percent were “satisfied” with the depth of information. Officers, in turn, were asked “how satisfied are you with the depth of information you need to provide in the PSR”; 45.7 percent of officers reported being “completely satisfied” and 46.7 percent are “satisfied” with the depth of information they need to provide.

Most judges and officers reported being satisfied regardless of tenure. Judges with more than 10 years of experience appear to be “completely satisfied” with the depth of information provided in the PSR (53.4 percent), while judges with 1-5 years of experience are merely “satisfied” (56.1 percent). Similar to judges, officers with the most experience are likely to be “completely satisfied” with the depth of information (48.5 percent), whereas those with the least amount of experience (less than one year) are more likely to be “satisfied” (58.8 percent).

Survey results indicate that the majority of judges (94.7 percent) and officers (92.4 percent) expressed being either “completely satisfied” or “satisfied” with the overall depth of information provided in the PSR, regardless

of tenure, district, or circuit. Furthermore, most judges and officers are also satisfied with the amount of information provided within each section of all parts of the PSR—a majority of judges and officers indicated that the level of detail provided in all sections of each part is “just right.”

In general, these findings suggest that although judges and officers find the depth of information provided in the PSR to be satisfactory, they also believe there is room for improvement.

2. Information within the PSR is Important for Judicial Sentencing Decisions and Officer Sentencing Recommendations

In addition to their overall satisfaction with the depth of information provided in the PSR, judges were asked to identify the importance of each section of the PSR to their sentencing decisions. Officers were asked their opinion about the importance of each section for informing judicial sentencing decisions and for sentencing recommendations.

Although all sections of the PSR are deemed important to some degree by both judges and officers, some sections are deemed significantly more important than others. Judges and officers agreed that the defendant’s criminal history was the most important section when it comes to sentencing decisions

(87.4 percent and 83.7 percent, respectively). However, judges reported that offender characteristics (78 percent) and the offense (69.8 percent) were the next two most important sections when making sentencing decisions; officers listed the offense (81.6 percent) and sentencing options (57.8 percent) as the second and third most important sections of the PSR for informing sentencing decisions.

When it came to sentencing recommendations, officers were consistent with the sections they thought were “very important”: defendant’s criminal history (89.8 percent), the offense (86 percent), and sentencing options (60.7 percent). These findings are interesting not principally because of the order of importance selected, but because of the disparity between the importance of the sections. For example, 78 percent of judges consider offender characteristics to be very important in sentencing decisions, but only 56.6 percent of officers felt the same. In contrast, 81.6 percent of officers thought the offense was very important, but only 69.8 percent of judges thought the same. Consequently, officers may be providing more detail than judges think necessary on certain sections.

3. Few Districts Have Made Significant Customizations to the National PSR Template

It is not uncommon for districts to customize national reports to better accommodate their local practices, and the national PSR template is no different. Officers were asked if their district had customized the national PSR template, and 39.3 percent (who represent 85 of the 93 districts surveyed) indicated that their district has made customizations. Another 41.2 percent were unsure if their district had made customizations, while 19.5 percent said their district had not made customizations.

Few officers said that their district modified

TABLE 1.
Response Rates and Time in Position of Respondents

Response Rates	Judges	Officers
Number Surveyed	548	1,394
Number Responded	261	1,110
Percent Responded	47.6%	79.6%
Time in Position	Judges	Officers
Less than 1 year	5.7%	1.5%
1 to 5 years	23.3%	29.8%
6 to 10 years	28.6%	22.3%
More than 10 years	42.4%	46.4%

EXHIBIT 1. Parts and Sections of the National PSR Template

Face Sheet	Part C: Offender Characteristics
Part A: The Offense	<i>Personal and Family Data</i>
<i>Charges and Convictions</i>	<i>Physical Condition</i>
<i>The Offense Conduct</i>	<i>Mental and Emotional Health</i>
<i>Victim Impact</i>	<i>Substance Abuse</i>
<i>Adjustments</i>	<i>Education and Vocational Skills</i>
<i>Enhancements</i>	<i>Employment Record</i>
<i>Offense Level</i>	<i>Financial Condition (Ability to Pay)</i>
Part B: The Defendant’s Criminal History	Part D: Sentencing Options
<i>Juvenile Adjudications</i>	<i>Custody</i>
<i>Adult Criminal Convictions</i>	<i>Impact of Plea Agreement</i>
<i>Criminal History Computation</i>	<i>Supervised Release</i>
<i>Other Criminal Conduct</i>	<i>Probation</i>
<i>Pending Criminal Charges</i>	<i>Fines</i>
<i>Other Arrests</i>	<i>Restitution</i>
	<i>Denial of Federal Benefits</i>
	Part E: Factors that May Warrant Departure
	Part F: Factors that May Warrant Variance
	Sentencing Recommendation

particular sections within each of the Parts. Officers provided free-text responses to describe some of the “other” customizations that took place in their district. District customizations included:

- Adding entire parts to the template (65.2 percent) added a section on reentry needs
- Streamlining or combining parts of the template (36.3 percent) added macros, building blocks, or drop-down menus
- Removing parts of the template (28.4 percent)
- Other changes (17.2 percent) changed the language or format

4. *There is Some Nuance to How Judges and Officers Responded*

Table 2 displays the combined percentages of “very important” and “important” responses that judges and officers provided about the importance of each part of the PSR for making sentencing decisions. Although both judges and officers believe all parts of the PSR are important for making a sentencing decision, on average, a higher proportion of officers than judges felt that way. Officers had a higher percentage on five of the eight parts identified on the national PSR template when it came to believing a part was “very important” and “important” for making a sentencing decision. With the exception of the *Face Sheet* and *Offender Characteristics*, the differences

TABLE 2.
Importance of Parts of the PSR for Making Sentencing Decisions

National PSR Template Parts	Judges	Officers
Face Sheet	70.7%	50.8%
A: The Offense	93.1%	95.9%
B: The Defendant’s Criminal History	99.6%	97.2%
C: Offender Characteristics	97.9%	84.2%
D: Sentencing Options	80.7%	85.8%
E: Factors that May Warrant Departure	69.3%	72.7%
F: Factors that May Warrant Variance	71.0%	75.0%
Sentencing Recommendation	64.5%	66.1%

EXHIBIT 2.
Example Paragraph

The defendant was first arrested at age 16 and his criminal conduct spans the next ten years. He has two prior drug-related felony convictions (age 20 and 24), a misdemeanor assault conviction (age 21), and petty offenses involving marijuana and public intoxication. He committed one prior felony while on probation and his supervision was revoked.

between judges’ and officers’ responses were slight.

5. *In General, Judges are More Likely than Officers to Support Potential Modifications to the National PSR Template*

There were three sections (*Part B: Defendant’s Criminal History*, *Part C: Offender Characteristics*, and *Part D: Sentencing Options*) in which judges and officers were asked to provide their reactions to potential modifications to the national PSR template. In each of the three sections, judges were more likely than officers to support the modifications.

In Part B: Defendant’s Criminal History, judges were asked if a summary paragraph (see Exhibit 2) of the defendant’s criminal history would be helpful to them while officers were asked if the summary paragraph would be something that judges would want.

Judges

- 46.1 percent said that it would be helpful to include in the Defendant’s Criminal History section.
- 33.5 percent said that a summary paragraph like this would NOT be helpful.
- 2.4 percent said it would be helpful to include, but not in the Defendant’s Criminal History section.

Officers

- 51.3 percent said that a summary paragraph like this would NOT be helpful.
- 19.8 percent reported that their district already provides a similar paragraph, but in a different place.
- 7.9 percent thought it would be helpful to include the summary paragraph in the Defendant’s Criminal History section.
- 6.2 percent thought it would be helpful to include the summary paragraph, but not in the Defendant’s Criminal History section.

In Part C: Offender Characteristics, judges were asked if a streamlined summary presenting major life events from *Part C: Offender Characteristics* with criminal history events from *Part B: The Defendant’s Criminal History* in which the information is

synthesized in a chronological narrative would be helpful to them (see Exhibit 3, next page). Officers were asked whether they thought the summary paragraph would be something judges within their district would want (if the technology was available and user friendly to prepare the summary).

Judges

- 73.3 percent thought it would be helpful if provided in addition to information already provided.
- 15.8 percent did not think it would be helpful.
- Officers
- 38.5 percent thought it would be something judges in their district would want.
- 28.4 percent did not think it would be something judges in their district would want.

Interestingly, officers were more likely to think the streamlined summary would be something other users of the PSR in their district would want (41.4 percent) than to think their judges would want it (38.5 percent).

Last, in the **Sentencing Options** section, judges and officers were provided with an example of an alternative format for presenting the applicable penalty range information that is currently in narrative format in the national PSR template (see Exhibit 4, next page). Judges were asked if the alternative format would be helpful to them, while officers were asked if they felt the alternative format would be something judges in their district would want. Both questions assumed that the *Impact of Plea Agreement* and the *Restitution* sections would remain unchanged.

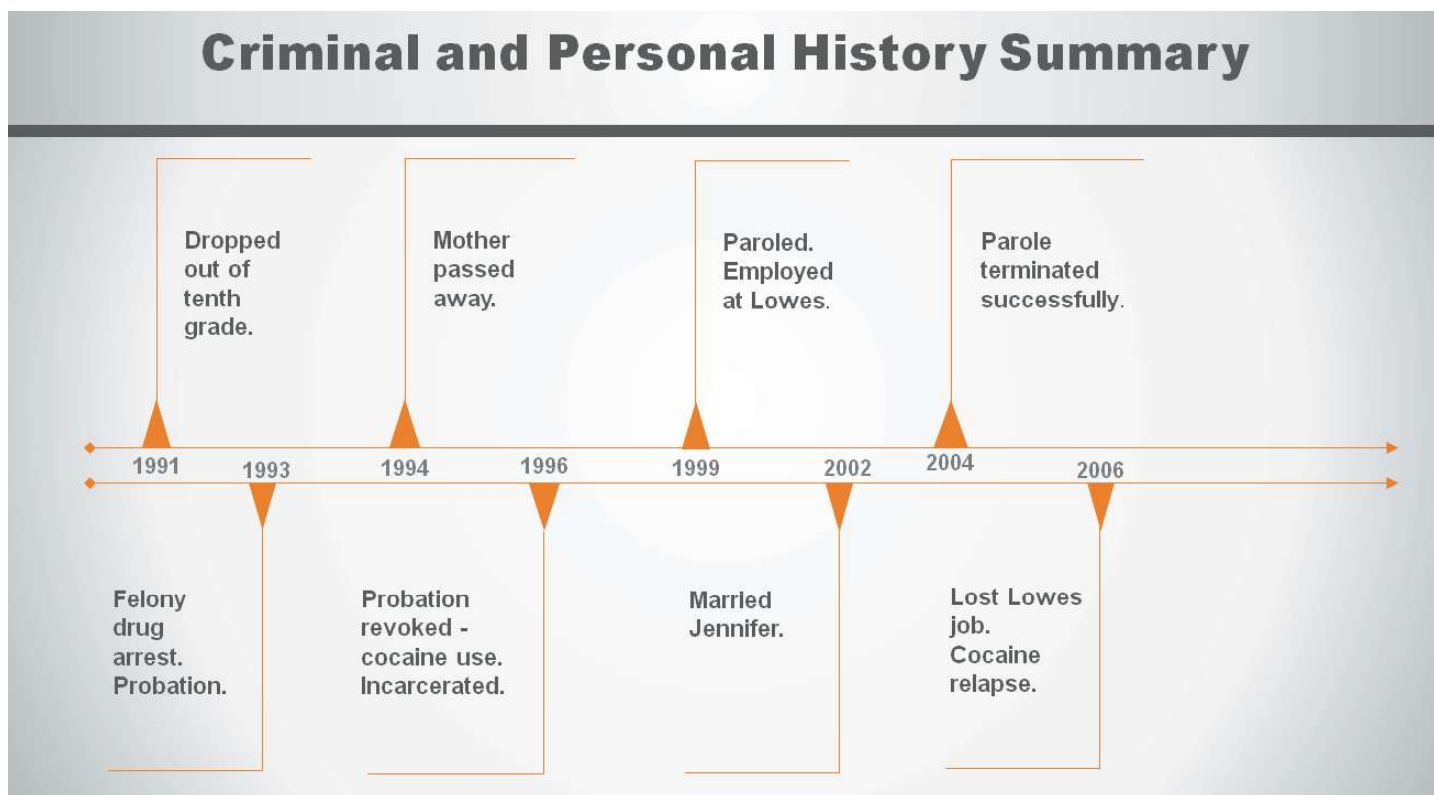
Judges

- 61.2 percent said “Yes,” the alternative formatting would be helpful to them.
- 24.9 percent reported that this information is already presented this way in their district.

Officers

- 40.6 percent thought judges would want the alternative format *in place of* the detailed narrative penalty sections.
 - 19.7 percent indicated that their district already uses an alternative format either *in addition to* (17.4 percent) or *in place of* (2.3 percent) the detailed narrative penalty sections.
 - 16.8 percent were unsure if their judges would want the alternative format.
- Judges were also asked if this format could

EXHIBIT 3.
Example of Streamlined Summary of Major Life and Criminal History Events



replace the detailed narrative penalty sections; 62.4 percent of judges replied “Yes,” and 11.4 percent were “Unsure.”

6. Judges and officers Agree that Not All Investigative Activities Are Important in All Cases

In general, most judges and officers feel that investigative activities should be conducted in at least some cases and these expectations were highest for the following activities:

- Defendant interview
 - 100 percent of *judges* indicated either in “some, most, or all” cases.

- 99.7 percent of *officers* indicated in “some, most, or all” cases.
- Verification of criminal history
 - 99.2 percent of *judges* specified in “some, most, or all” cases.
 - 99.7 percent of *officers* specified in “some, most, or all” cases.
- Collecting documentation of self-reported information
 - 96.6 percent of *judges* reported in “some, most, or all” cases.
 - 99.4 percent of *officers* reported in “some, most, or all” cases.
- Thorough financial investigation

- 95.9 percent of *judges* stated in “some, most, or all” cases.
- 99.2 percent of *officers* stated in “some, most, or all” cases.

Both judges and officers recognize that some investigative activities are not required in all cases, specifically in immigration/illegal reentry cases.

7. In General, Judges’ Expectations for and Officers’ Conduct of Investigative Activities Are Consistent

Judges expect officers to conduct all investigative activities for at least some of their cases, and for the most part there is agreement between judges’ expectations and officers’ actual conduct. Nearly all of the judges said the defendant interview (88.5 percent) and verification of criminal history (85.2 percent) should be conducted in “All” cases. Close to half of the judges expect officers to assess suitability for voluntary surrender (49.6 percent) and to collect documentation of self-reported information (44 percent). Similarly, 87.5 percent of officers indicated that they conduct defendant interviews, and 95.7 percent verify criminal history in all their cases. Three out of four officers collect documentation of

EXHIBIT 4.
Alternative Formatting for Applicable Penalty Range Information in Part D: Sentencing Options

	Statutory Provision	Guideline Provision	Plea Agreement
CUSTODY	NMT 20 years, 49 U.S.C. § 46504	4 to 10 months	None
SUPERVISED RELEASE	NMT 3 years, 18 U.S.C. § 3583(b) (2)	2 to 3 years	None
PROBATION	1 to 5 years, 18 U.S.C. § 3561(c)(1)	1 to 5 years	None
FINE	NMT \$250,000, 18 U.S.C. § 3571.	\$500 to \$5,000	None
RESTITUTION	\$0	None	\$0
SPECIAL ASSESSMENT	\$100	\$100	None

self-reported information, and nearly two-thirds conduct independent investigations of offense conduct. However, there are some exceptions to the synthesis of expectations and conduct, notably when it comes to conducting actuarial risk assessments as part of investigative activities. Although 68.1 percent of judges expect officers to complete the investigative activity in “some, most, or all” of their cases, 92.5 percent of officers indicated that they do not conduct actuarial risk assessments on any of their cases when completing the PSR.

8. Officers Are Not Using Actuarial Risk Assessment Tools when Completing the PSR

The vast majority of officers (94.3 percent) indicated that they never use an actuarial risk assessment tool (e.g., PCRA, LSI-R, LS/CMI, COMPASS) when completing the PSR. Of the 4.7 percent of officers who said they do use an actuarial risk assessment tool, 96.4 percent stated that they never include the score on the PSR. Additionally, officers were asked how much they agree with several statements about the utility of actuarial risk assessment tools:

Responses to these statements indicate that officers either mostly disagree with the statements or are unsure of the value of actuarial risk assessment tools relative to their other job activities.

Recommendations

Based on the themes identified from the

survey results, several recommendations were generated for PPSO to consider moving forward with any potential changes to the structure and content of the PSR.

Do Not Make Major Changes

We recommend that PPSO not make any major changes to the structure and content of the national PSR template without further investigation. Although there was consensus between judges and officers that modifications (i.e., presenting applicable penalty range) to Part D: Sentencing Options would be useful, PPSO could benefit from investigating changes districts have already made and the purpose for which they were made before instituting national changes.

Explore Reactions to Proposed Modifications

PPSO may want to consider exploring some of the nuances of the results, especially reactions to proposed modifications, in more detail. For example, regarding Part B: The Defendant's Criminal History, judges were more likely than officers to say that including a summary paragraph of defendants' criminal history would be helpful to have in this part. Given the value to judges of including a summary paragraph, and the lack of difficulty reported by officers who are already generating such a summary, we recommend that PPSO explore implementing this and similar modifications.

Collaborate with Districts and Judges

As part of their exploration of modifications, we recommend that PPSO work with officers to get a better understanding of what potential obstacles (e.g., lack of resources, training, time) they may face if modifications are made to the national PSR template and work with districts to minimize those obstacles. We also recommend that PPSO work with districts to facilitate buy-in with potential changes and to ensure that officers understand the value of such modifications to judges.

Additionally, we suggest that PPSO engage judges to investigate the possible tradeoffs in reducing or eliminating some details in sections of the PSR where officers feel they provide “too much detail.”

Educate Officers on Benefits of Actuarial Risk Assessment Tools

Actuarial risk assessment tools are of great importance to PPSO, and survey findings show that many judges expect officers to conduct an actuarial assessment as part of their investigative activities. However, the vast majority of officers are not using them nor do they seem to understand their value. If PPSO continues to move in the direction of promoting actuarial risk assessment tools as a best practice, we recommend that PPSO work with districts to educate officers on the benefits of these tools through trainings to increase understanding and buy-in.