
Pre-Sentence/Disposition Reports

504.1 PURPOSE AND SCOPE

This chapter will outline basic elements and contents of pre-sentence/disposition investigation reports (hereafter referred to pre-sentence reports). In all cases where the court orders that pre-sentence or disposition reports be submitted, the information contained in this policy as well as the service specific procedures shall be used in creating the report.

504.2 APPLICABILITY

This policy is applicable to all Department employees.

504.3 POLICY

All pre-sentence reports will be objective, thorough and completed in a timely manner.

504.4 PURPOSE OF PRE-SENTENCE REPORTS

The probation officer's pre-sentence report documents, in written format, the results of the probation officer's investigation into the offender's offense, social and criminal/delinquent history. It also summarizes the victim's information, and includes a case evaluation and recommendation. The importance of this document cannot be overstated, as it may be the only document which the judicial hearing officer refers to in determining a disposition. Additionally, this document, and the risk and needs assessment, completed during the investigation, are utilized for the basis of case planning, classification, and supervision at the local and state levels. Because the investigation report is so important, the document shall be factual, unbiased, accurate, comprehensive, and logically support the recommendation being offered to the court.

504.5 CONTENT OF THE PRE-SENTENCE REPORT

While some content will differ between juvenile investigative reports and adult investigative reports, the following is a basic summary of the minimum information to be included in all investigative reports generated by San Diego County Probation Officers.

504.5.1 BIOGRAPHICAL AND COURT INFORMATION

The offender's biographical data and court information may be pre-populated with data that is maintained in the Probation Case Management System (PCMS). At a minimum, this section will include information such as the offender's name, address, phone number, birthplace and physical description. This section will also include the offender's court information, such as the court case number, and the Defense Attorney's name. Although the information may be pre-populated, the officer writing the report shall confirm the information is accurate.

504.5.2 THE OFFENSE

Summarize concisely the offense(s) to include all relevant facts of each count for the which there has been a conviction/true finding or for which there is a Harvey Waiver, or the facts are

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transactionally related. The acts involved in each count should be clearly differentiated and the reader should clearly understand what acts are involved and any dismissed counts/cases.

Information concerning non-transactionally related dismissed counts for which there is not a Harvey Waiver, or counts for which there have been Not Guilty verdicts must not be included. If during the pendency of the case, there has been a Motion to Suppress (PC 1538.5) and the evidence contained in the police reports has been ruled inadmissible, it should not be included in the offense section.

The essence of the offense section is to answer who, what, where, when, why, and how. Officers should include facts that support the offense, facts that tend to aggravate or mitigate the offense and facts that might be useful in the supervision of the offender. The date of the arrest should also be noted if it differs from the offense date.

The summary of the facts should focus on what part the offender played. There is usually no need to thoroughly discuss the factors used by law enforcement officers to demonstrate probable cause. An exception to this occurs in narcotics cases when the arrest was a result of a search warrant that was obtained following an investigation. Information from the affidavit for the warrant should be included to demonstrate the extent and sophistication of the offender's actions.

Pertinent statements by witnesses should be summarized and identified by source. Statements made by the defendant and/or co-defendants to arresting officers (if not suppressed) should be summarized.

If the case(s) has been through trial, always check with the District Attorney's Office and defense counsel to see if additional facts relating to the offense surfaced during the trial, or if the evidence presented at the trial invalidated evidence previously reported in police reports or in the transcript of the preliminary hearing.

504.5.3 VICTIMS

The victim section of the report shall include the information obtained either verbally or in writing from the victim or representative. Victim rights are protected by Article 1, Section 28, subsection (b) of the California State Constitution and are outlined in PC 679.02 and PC 119.1.

The probation officer is charged with the duty to notify the victims of their rights and to ensure that the restitution recommendation is included in the probation report (PC 1203(b)(2)(C)). The provision of probation services is an essential element in the administration of criminal justice and the loss to the victim is one of the primary considerations in determining a proper disposition. The officer must make a reasonable effort to locate the victim. If attempted contact with the victim has failed, the Court shall be informed of all attempts. See section 361 (Recommendations and Victim Restitution) for additional information regarding victims.

504.5.4 OFFENDER'S STATEMENT

The author of the report shall provide a factual summary of the pertinent statements the offender made to the probation officer at the probation interview. The summary should be relatively free of editorial comment by the officer. The summary should include the offender's version of the offense, to include what they admit and what they deny. If the offender's version of the offense

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differs from the information contained in the police report or other supporting documents, this section should include the offender's reason(s) for the disparity.

The offender's statements should also include the motive for committing the offense; any present feelings or feelings of remorse; willingness and ability to make restitution; the impact of detention; any change in lifestyle, such as counseling or disassociation with peers since the arrest; and willingness to accept conditions of probation.

504.5.5 LAW ENFORCEMENT HISTORY

Juvenile investigation reports request a law enforcement history for not only the offender, but all of the persons residing in the offender's home. Adult investigation reports request the law enforcement history only of the offender. In both cases, the officer shall properly site all resources used in this section, including the names and dates of law enforcement clearances reviewed. Include all significant prior criminal and juvenile convictions/true findings, any pending legal cases and the instant offense. Pending cases must be labeled as such. An arrest entry is not to be included unless the officer can supply an official disposition for the arrest and the conviction or true finding resulted from the arrest. If the arrest did not result in a conviction or true finding, the arrest must be supported by the facts (from police reports) showing the offender committed an offense although there was no conviction or true finding.

504.5.6 LAW ENFORCEMENT ENTRIES NOT PERMITTED IN PRE-SENTENCE REPORTS

- Routine police field investigation or contacts.
- Arrests which result in acquittals (findings of not guilty) except for those acquittals where there was a finding of not guilty by reason of insanity.
- Arrests resulting in dismissals because the court has found that the evidence was insufficient.
- Arrests for marijuana offenses identified in H&S 11361.5 which are subject to record destruction (those where two or more years have elapsed since the defendant was arrested for or convicted/true found of the offense). The exceptions for this rule is where the offense was part of a multiple count case, which is noted as a "non-retainable offense," or the offender is still on probation for the offense, or has an outstanding warrant for the offense.
- Arrests for charges that were diverted pursuant to one of the PC1000 et. Seq, diversion, or deferred entry of judgement (DEJ), when the offender has successfully completed the diversion contract.
- Arrests as a juvenile or an adult which did not lead to either a sustained petition (W&I 602) in juvenile court or to a conviction in adult court and there is no factual evidence of wrong doing (police reports).
- Any juvenile petition that is sealed by the court cannot be addressed in the report (even if the offender tells the officer about it).

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504.5.7 LAW ENFORCEMENT ENTRIES PERMITTED IN PRE-SENTENCE REPORTS

- Arrests that resulted in convictions/true findings or dismissals in the furtherance of justice pursuant to a plea bargain.
- All offense allegations listed on Juvenile Court petitions, but later dismissed, except those allegations dismissed due to insufficient evidence.
- Juvenile arrests resulting in informal dispositions at the Probation Department level.
- Juvenile arrests resulting in informal disposition at the police level.
- Adult arrests leading to PC 1000 diversion/deferred entry of judgement if the offender did not successfully complete diversion or if the diversion period (usually 2 years) is still running, and Juvenile arrests resulting in the entry of a True Finding subsequent to a DEJ failure.
- Adult arrests for charges which resulted in a grant of probation or a straight term local prison commitment with mandatory supervision that were set aside pursuant to PC 1203.4, demonstrating the offender was successful on probation or mandatory supervision.
- Adult arrests for charges which resulted in a grant of probation pursuant to PC 1210 and the offender was successful and his conviction was set aside pursuant to PC 1210.1(d) or of the probation period is still running.
- Arrests for charges in which the offender admits culpability. (for example: the offender admits a conviction or true finding that could not be confirmed with Law Enforcement records.)

California Rules of Court 4.411.5(a)(3) requires only that the evidence/facts supporting the arrest be included with the arrest information. Entries concerning such arrests should be listed in narrative form under the marginal sub-heading which identifies them as Rule 4.411.5 entries. The narrative should include the source of the information which demonstrates the offender committed the offense, a concise summary of the offense, and the reason the case did not result in a conviction or True Finding. Included in this section should be appropriate juvenile cases that resulted in W&I 654 processing or "Counselled and Closed" cases if there is offense information available.

Arrests not leading to a conviction in adult court or to a sustained petition in juvenile court (e.g. where the offender is later deemed not arrested and released per PC 849(b)(1)), or where the DA refuses to prosecute or a case or is dismissed (in the furtherance of justice or by reason of insanity, etc.) may be included in the probation report if there are facts in police reports or elsewhere which indicates the offender committed the crime even though the offender was later released per PC 849(b)(1), or if the case was dismissed, or the DA refused to prosecute. Additionally, arrests for intoxication that resulted in PC849(b)(2) releases should be included here and can be summarized together if there are multiple instances.

Active warrants should also be noted, as well as sex, arson, gang or narcotic registration.

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504.5.8 ADJUSTMENT TO PROBATION OR COMMUNITY SUPERVISION

If the offender has previously been supervised by any law enforcement agency in the community, their adjustment to supervision shall be summarized. The source of information shall include the name and title of the officers/agents from whom the information is obtained, or the database from where the information is taken. It is important that the information be detailed, concise, and accurate.

504.5.9 PERSONAL HISTORY

The specific type of information in the personal history section is dependent on whether the officer is writing an adult or juvenile court report. In either case, the officer will use the subheadings in the report to supply the information provided by the offender and/or the offender's family. If information from other sources conflict with what the offender has provided, the officer will note the differences and explore the discrepancy with the offender. If information concerning their personal history is pertinent to the recommendation, it should be verified, or the court should be informed of what efforts have been made to verify it, and the results thereof.

504.5.10 RISK ASSESSMENT

As part of each investigation, the officer will conduct a validated risk screening/triage and needs assessment. The results of the assessment will be included in the appropriate section of the report prepared for the Court. AFS reports include risk assessment information under the heading, "Collateral Information", and JFS reports include the risk assessment information under the heading, "Screening Information". Subsequent to the Disposition or Sentencing Hearing, the assessment information will be utilized for effective case management where the supervision and treatment services for the offenders are case plan driven.

504.5.11 EVALUATION

The specific type of information in the evaluation section is a discussion of the factors evident in the case, which have been presented in the body of the report, should be analyzed and should fully support the recommendation.

This section shall include an analysis of information contained in your report, not just a recycling of the same information and should not introduce any new information. Do not editorialize, but provide justification for any nonstandard probation conditions. Officers shall consult policy section 362, Recommendations and Victim Restitution, and their service manuals for additional information on recommendations.