

**NOTICE TO DEFENDANT AND COUNSEL
CONCERNING THE PRESENTENCE INVESTIGATION REPORT**

The presentence report is prepared to assist the Court in determining an appropriate sentence which may include a period of incarceration, a term in a community treatment center, supervised release, probation, restitution, fine, etc. According to Rule 32(d)(2)(A), the report "shall contain information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant."

The attached Explanation of the Presentence Report provides some information as to the format of the report. The completed report will be disclosed to your attorney and the Assistant U.S. Attorney in accordance with the disclosure dates set by the Court.

Rule 32(d)(1) also mandates that the presentence report shall "identify all applicable guidelines and policy statements of the Sentencing Commission, calculate the defendant's offense level and criminal history category, state the resulting sentencing range and kinds of sentences available, identify any factors relevant to the appropriate kind of sentence or the appropriate sentence within the applicable sentencing range, and identify any basis for departure from the applicable sentencing range." Therefore, the Probation Office, in its report, will do an independent calculation of the advisory guideline sentencing range. These findings may differ from the ranges informally calculated by your attorney, the range recommended or proposed by the Assistant U.S. Attorney, or the range provided in a plea agreement. If you disagree with the guideline range as calculated in the presentence report, you and your attorney will have an opportunity to express your objections. The Court will resolve these disputes and make the final determination as to sentence.

If you intend to submit any letters written on your behalf by friends, relatives and/or business associates, please provide the original to the Court, a copy to the Government and a third copy to this office.

Explanation of the Presentence Investigation Report

This explanation is intended to acquaint the bench and bar with the format of the presentence report. The content and purpose of each section is described in the context of how the information reported is related to the guidelines issued by the United States Sentencing Commission.

THE FACE SHEET

The face sheet contains significant court-related information provided for ease of reference. It also contains demographic data provided for the use of the sentencing judge, probation officer, U.S. Sentencing Commission, U.S. Parole Commission, and the Bureau of Prisons.

PART A. THE OFFENSE

Charge(s) and Conviction(s)

This section provides a brief chronological history of the prosecution of the case from the filing of the initial charges to the referral to the probation office for a presentence report.

The Offense Conduct

The Offense Conduct section provides all pertinent information regarding the offense to assist the court in understanding the facts of the offense and the elements relevant to application of the sentencing guidelines in accordance with the provisions of Chapter Two of the guidelines. This section may also include information indicating whether the offense of conviction was part of a larger scheme or plan that included other criminal conduct which may be relevant to the determination of the appropriate guideline, the selection of a sentence within the guideline range, and the decision to depart from the guidelines. It further describes the role of the defendant and the conduct of codefendants and other participants during the offense, including planning, preparation for the offense, and the circumstances leading to the arrest or summons of the defendant. (See the guideline(s) pertaining to the conviction(s) in the case as specified by the Statutory Index in Appendix A and Chapter 1, Part B and Chapter 3, Part B of the Guidelines Manual.)

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Victim Impact

While the Victim Impact section is actually part of the offense conduct for which the defendant is responsible, this information is presented under a separate heading to emphasize its importance and the fact that this section includes the impact on all victims of the offense, regardless of whether the information affects guideline application. An assessment of the financial, social, psychological, and medical impact upon any individual victim of the offense is presented and any financial losses caused by the conduct in the offense is reported. (See Chapter 3, Part A of the Guidelines Manual.)

Adjustment for Obstruction of Justice

This section describes any efforts made by the defendant to impede the investigation or prosecution of this case. (See Chapter 3, Part C of the Guidelines Manual.)

Adjustment for Acceptance of Responsibility

This section contains an assessment of the defendant's acceptance of responsibility for the offense of conviction. (See Chapter 3, Guidelines Manual.)

Offense Level Computation

This section presents the application and calculation of the sentencing guidelines and includes a short synopsis of facts underlying each application, providing tentative findings for the court. For each count, it identifies the applicable guideline and shows the base offense level and any specific offense characteristics or adjustments that modify the base offense level. In cases involving multiple counts, the decision whether or not to group counts is explained. In all cases, the guideline application is displayed, resulting in the total offense level for the case. (See Chapter 3, Part D of the Guidelines Manual.)

The guidelines contain enhancements in Chapter 4 of the Guidelines Manual that may override the initial guideline calculation. For example, if the defendant is a career criminal or committed the instant offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income, the defendant's total offense level may be increased. Any such increase is set forth in this section, following the total offense level computation.

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Offense Behavior Not Part of Relevant Conduct

This section describes criminal behavior that has not been reported in The Offense Conduct section because it is not considered relevant conduct by the guidelines. (See Chapter One, Part B of the Guidelines Manual.) This section may include offense behavior described in dismissed counts that is not part of relevant conduct for guideline calculations.

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudications

This section contains a report of the defendant's record of juvenile adjudications of delinquency and diversionary dispositions based on a finding or admission of guilt. Adjudications are included in chronological order, whether or not they are used in calculating the criminal history category under the Guidelines. The value assigned to each sentence under Chapter 4 of the guidelines is also shown.

Criminal Convictions

This section contains a report of the defendant's adult criminal convictions as well as scoreable diversionary dispositions. It includes a description of the defendant's prior criminal convictions and the dispositions in each case as well as the defendant's adjustment while incarcerated or under supervision. Adult criminal convictions are included in chronological order, whether or not they are used in calculating the criminal history score under the guidelines. The value assigned to each sentence pursuant to Chapter 4 of the guidelines is also shown.

Criminal History Computation

This section displays the calculation of the criminal history category and the basis for the calculation. (See Chapter 4 of the Guidelines Manual.)

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Other Criminal Conduct

This section reports reliable information regarding other past criminal conduct which may indicate the criminal history category does not adequately reflect the seriousness of the defendant's past criminal conduct, or the defendant's likelihood to commit future crimes. The information is relevant in determining the adequacy of the defendant's criminal history category. (See U.S.S.G. § 4A1.3.)

Pending Charges

This section lists any pending charges against the defendant.

Other Arrests

All other arrests of the defendant are reported in this section in order to provide information to the court regarding the defendant's contact with law enforcement authorities.

PART C. OFFENDER CHARACTERISTICS

This part sets forth information relative to the defendant's personal background. Included is information concerning: (1) personal and family data, (2) physical-condition, (3) mental and emotional health, (4) substance abuse, (5) education and vocational skills, (6) employment, and (7) financial condition. (See Chapter 5, Part H of the Guidelines Manual pertaining to offender characteristics and Chapter 5, Part E for fines, restitution, and ability to pay.)

PART D. SENTENCING OPTIONS

This part sets forth the penalties authorized by statute along with the kinds of sentences available under the guidelines. Included are the statutory and guideline provisions for custody, impact of the plea agreement, supervised release, probation, fines, restitution, and for drug offenses, denial of benefits. By presenting the statutory and guideline provisions, the parameters of each may be compared. Guideline sentencing options are found in Chapter 5 of the Guidelines Manual.

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Impact of Plea Agreement

In this section, the Probation Officer identifies and explains any discrepancies between the Probation Officer's calculations and the joint calculations in the plea agreement. If the plea agreement is binding pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Probation Officer indicates such, and will identify the relevant advisory guideline and sentence related agreements.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

In this section, the Probation Officer identifies any basis for departure based on factors identified in the Guidelines Manual (See Chapter 5, Parts H and K., as well as various guideline provisions throughout the Guidelines Manual which are specific to particular guideline sections). Inclusion of information in this section does not constitute a recommendation by the probation officer for a departure.

PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE OF THE ADVISORY GUIDELINE SYSTEM

In this section, the Probation Officer identifies any factors pursuant to 18 U.S.C. § 3553(a) which may warrant a sentence outside of the advisory guideline range. Inclusion of information in this section does not constitute a recommendation by the probation officer for a sentence outside of the advisory guideline range.

ADDENDUM TO THE PRESENTENCE REPORT

In some courts, the presentence report is disclosed to the defendant, counsel for the defendant, and counsel for the Government before it is submitted to the judge. This procedure allows both counsel to communicate with the probation officer to resolve any concerns or objections regarding material information, sentencing classifications, or the sentencing guideline range contained in the presentence report. Early disclosure of the report to the attorneys allows the probation officer to conduct any further investigation and make revisions to the presentence report that may be necessary. Any unresolved issues or objections are reported to the sentencing judge in the addendum to the presentence report. The addendum also contains the probation officer's comments regarding the issues.