

Survey to Chief APOs

Issue: PSI Sentencing recommendations

Question (from Franklin & Fulton County)

The 39th Judicial District (Franklin and Fulton) Counties, recently had a zoom meeting with our President Judge regarding PSI recommendations. Historically, our Probation Department's provide a written sentencing recommendation to the Judge, District Attorney and defense counsel as a part of the PSI. In the related case, the Superior Court vacated the Judge's sentence deeming it was "unreasonable". Part of the reasoning of the Superior Court, noted the Judge went double or triple the maximum sentence as recommended by the PSI. So, now the Board of Judges wants to end the Probation Department including written sentencing recommendations, so they can't be used against the Court. A concern that we (probation) have is that this eliminates the typical starting point and now the District Attorney and Defense Counsel will be making all kinds of recommendations.

- 1) In your County does the Probation Dept. make written sentencing recommendations?
- 2) If yes, is that recommendation provided to all parties or just to the Judge?

Adams County

We do not recommend sentences...just provide the facts for the Court to make the decision.

Allegheny County

Allegheny does not make recommendations on the PSI.

Armstrong County

We make recommendations at the end of our PSI's. We give the original to the sentencing Judge and distribute copies to the defense attorney/public defender, and the District Attorney.

Years ago, our Chief at the time approached the PJ and told him we shouldn't be putting recommendations in the PSI's. The PJ at that time denied that request and ordered that we continue to give recommendations for sentencing. It has been this way for at least 35 years!

Berks County

Berks County does not make sentencing recommendations to the courts on our PSIs.

Bradford County

1)Yes; 2) Provided to the court, defense counsel, and district attorneys office.

Bucks County

We provide sentence recommendations which are shared with the DA and defense, unless we are specifically ordered not to provide a recommendation (that happens less often) by the presiding judge.

Carbon County

We only do a small number of PSI's per year (usually 75-90).

Two of the 3 Judges like written recommendations and they are shared with all parties. I tried to stop this practice but was denied. One of the Judges (my preference) does not like sentence recommendations, we only provide recommendation on conditions.

Chester County

We do not make recommendations.

Clinton County

We do make sentence recommendations in the PSI and all parties receive it.

Dauphin County

We do not provide a sentencing recommendation. Our PSI's include the ORAS RNR Assessment, thus, we only provide a recommendation on interventions/treatment to reduce risk of reoffending (i.e. case plan if sentenced to community supervision)

Delaware County

Our probation department does not make sentencing recommendations to the Court.

Elk County

We provide Sentencing Guideline recommendations and provide them to the Judge, DA and Defense Attorney.

Erie County

Only makes therapeutic recommendations and the PSI's are made available to all parties.

Fayette County

Does not provide sentencing recommendations.

Greene County

Greene County does not do recommendations for sentencing. This was at the request of the PJ.

Jefferson County

We do make recommendations at the end of our PSI's. We give copies to the sentencing Judge, defense attorney/public defender, and the District Attorney.

Juniata County

1)Yes; 2) PSIs are submitted to the court and made available for review only by the DA & Defense counsel.

Lackawanna County

1)yes, to only two of the four criminal judges; 2) One of those Judges requests the recommendation be confidential and the other Judge's reports are provided to all parties with the recommendations.

Lancaster County

No, not on PSI reports. We make sentence recommendations on PV summaries only. To the PSI, we attach the sentencing guidelines (developed by our DA), original sentencing guidelines (if the PSI was ordered pursuant to a PV), and the LSI-R results.

Lawrence County

We do very few PSI's and we not do provide any sentencing recommendations.

Lebanon County

Lebanon County does not provide recommendations, other than our calculation of the Sentencing Guideline ranges for the case. We are also tasked with communicating any discrepancies of guideline ranges with the DA's Office if the offered plea agreement is not in line with our ranges so that any issues can be worked out prior to sentencing.

We do make recommendations at the time of a probation or parole violation hearings in relation to conditions and/or re-sentencing suggestions for probation cases.

Lehigh County

1)Yes; 2) All parties

Luzerne County

Does not provide specific sentencing recommendations to the Court at the sentencing phase.

We complete a substantial number of reports a year, 1500+, and are also responsible for the submission of sentencing information in SGS web for all county offenses, including those where a PSI was not ordered by the Court. All PSIs include the prior record information with notes on each offense as to how it was used to compute the PRS. The statutory limits; mitigated, standard, and aggravated ranges on the SG forms for each current charge; and notes on statutory requirements like SORNA and DNA submission are included in all reports.

We are using Microsoft SharePoint to electronically share reports with chambers and the District Attorney's Office. Defense counsel is currently coming to our office to review during COVID, to cut back on traffic in chambers. All defense counsel will ultimately be added to the SharePoint site so all parties will be able to review digitally, once I can bring that project home.

Lycoming County

Lycoming County also provides recommendations and all parties see those.

Montgomery County

Does not make recommendations on the PSI

Northampton County

Northampton County completes/attaches guidelines and gives a general statement of "prognosis" for community supervision but does not give sentence recommendations. Our PSI go to everyone involved.

Northumberland County

1) we do make sentencing recommendations in PSIs however we only complete PSIs on roughly 5 to 10 percent of our cases.

2)The full sentencing recommendation only goes to the Judge the rest of the parties only get whether we agree or disagree with the plea agreement and why.

Philadelphia

Our Department does not make numerical sentencing recommendations, for instance nine to 23 months incarceration followed by three years' probation or two and one half to five years state incarceration.

What we sometimes would recommend with a Defendant that has an extensive criminal history is to state that "it does not appear that the Defendant is amenable to Community supervision" implying a state sentence would be appropriate.

The email does not make mention of conditions, but we do provide recommended conditions based on information provided. For instance, drug treatment, GED, mental health, employment, etc. Recommendation are provided to all parties once the PSIs are downloaded to DMS (Document Management System).

Pike County

1) Yes; 2) PSIs are submitted to the court and made available for review only by the DA & Defense counsel

Schuylkill County

Does not provide recommendations to the court.

Snyder County

Snyder provides recommendation in PSI for all parties to see.

We do not recommend a time frame sentences (i.e. 3mo-12 mos.) but we do state whether we agree or oppose the plea. When we oppose we provide our reasons. The majority of the time our DAs office calculated PRS wrong or fail to consider enhancements. We also recommend services based off ORAS.

We conduct PSIs on almost every case that comes through Court.

Tioga County

Tioga used too but the DA didn't like our recommendations so he complained to the Judge so we stopped doing them.

Union County

we offer a written recommendation and it is provided at the end of the PSI for review by all parties.

Wayne County

Wayne provides recommendations to the Court for all sentencings, re-sentencings, and parole violations. All parties are provided with that info.

Westmoreland County

Does not provide sentencing recommendations in the PSI reports. We do provide information as to the sentencing guidelines for the judge and attorneys to review.

York County

1)Yes, although I would love to stop doing this; 2) all parties

Additional Information:

42 Pa.C.S. §9732 (Contents of Presentence Report)

42 Pa.C.S. §9733 (General principles of disclosure of presentence report)

234 Rule (Pa. Rule of Crim. Proc.) 703 (Disclosure of Presentence Reports)