

EXPLANATION OF THE PRESENTENCE REPORT

(Pursuant to *United States v. Booker*, the guidelines are advisory)

The presentence report (PSR) contains not only information about the defendant and the offense but also the statutory range of punishment and a calculation of the relevant sentencing guidelines (with a corresponding guideline sentencing range), as well as any bases that may exist for imposing a sentence outside of the applicable range. As part of the presentence process, United States Probation Officers will contact designated family members to verify the defendant's personal information for the PSR. It is incredibly important that the information contained in the PSR is accurate as this information will be used the supervising officer, as well as the Federal Bureau of Prisons. **Of note, the PSR is a confidential document that may not be disclosed to the public and must be filed under seal. Thus, officers will never divulge information contained in the PSR to unauthorized individuals, including the defendant's family and friends.** The PSR contains various sections, which are further described below. For additional information, please refer to the [United States Sentencing Commission's primer on Federal Sentencing: The Basics](#).

PART A: THE OFFENSE

Charge(s) and Conviction(s): This section reports the charges against the defendant, the present status of the charges, the title of the offense and statute violated, the date of the offense, and the status of any codefendant and their respective charges.

Related Cases: This section provides status information concerning other defendants with federal charges related to the instant offense.

Pretrial Adjustment: This section provides the status of a defendant's compliance and/or non-compliance with their pretrial supervision while on release or non-compliance while detained pending trial and/or sentencing.

The Offense Conduct: This section outlines the conduct underlying the offense as it pertains to determining the offense level under Chapter 2 of the guidelines. It also describes the role the defendant played in carrying out the offense pursuant to Chapter 3. The section identifies any victim of the offense and any harm the victim suffered. It includes information indicating if the offense of conviction was part of a scheme or plan that included other criminal conduct and information which may be relevant to the defendant's state of mind or motive in committing the offense. Such information may be relevant to the determination of the appropriate guideline, the selection of a sentence within the guideline range, and the decision to vary from the guidelines.

Defendant Statements/Admissions: This section provides an overview of a defendant's statements to investigators during the course of the investigation.

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 USSG §1B1.3). This section may include offense behavior described in dismissed counts that is not part of relevant conduct.

Victim Impact: This section details the impact on all victims of the offense, regardless of whether the information affects guideline application or is compensable under the count of conviction. An assessment of the financial, social, psychological, and medical impact upon any individual victim of the offense is presented and any financial loss caused by the conduct in the offense is reported.

PART B: THE DEFENDANT'S CRIMINAL HISTORY

This part contains a detailed accounting of the defendant's criminal record and convictions are assigned criminal history points, if appropriate, pursuant to USSG §4A1.1.

Juvenile Adjudication(s) and Adult Criminal Conviction(s): These sections contain a report of the defendant's record of juvenile adjudications, adult convictions, and diversionary dispositions. Adjudications and convictions are included in chronological order, regardless of whether they are used in calculating the criminal history category. The value assigned to each sentence under Chapter 4 is shown. Of note, convictions not used in the calculation may be considered by the sentencing judge in deciding whether to vary from the guideline range. In addition, the entire record of convictions may be relevant in selecting a sentence within the applicable guideline range and in determining conditions of probation or supervised release.

Criminal History Computation: This section assigns the criminal history category. It is based entirely on the criminal record reported in the Juvenile Adjudication(s) and Adult Criminal Conviction(s) sections. Refer to USSG §4A1.2 of the guidelines for definitions and instructions for calculating the criminal history category, including a list of convictions that are excluded.

Other Criminal Conduct: This section reports prior unadjudicated criminal conduct that may have made the defendant's commission of the offense of conviction more serious and, therefore, deserving of greater punishment. This information may also indicate a propensity

to engage in criminal conduct and therefore, a need to incapacitate the defendant. Such conduct may be relevant in determining whether the offense of conviction was part of a pattern of criminal conduct from which the defendant derived a substantial portion of income (see USSG §4B1.3). Additionally, convictions that were appealed and later dismissed and expunged convictions will be reflected in this section. The conduct reported in this section may also be relevant in determining conditions of probation or supervised release.

Pending Charges: This section lists any pending charges against the defendant.

Other Arrests: All other arrests of the defendant are reported in this section to provide information 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, as follows: (1) personal and family data, (2) physical conditions, (3) mental and emotional health, (4) substance use, (5) education and vocational skills, (6) employment, and (7) financial condition, including an assessment of the defendant's ability to pay restitution or a fine. For additional information regarding the financial condition, assessments, restitution and fine, please refer to Chapter 5, Part E of the Guidelines Manual.

PART D: GUIDELINE COMPUTATIONS

Offense Level Computation: This section presents the calculation of the total offense level. For each count, it identifies the applicable guideline and shows the base offense level, any specific offense characteristics, and any adjustments that affect the offense level. In cases involving multiple counts, the groups of closely related counts are displayed. The number of units for each count or group of closely related counts is identified and the combined adjusted offense level for the entire case is computed pursuant to Chapter 3, Part D. The total offense level may be increased if the defendant is a career offender, committed the instant offense as part of a pattern of criminal conduct from which he derived a substantial portion of income, is an armed career criminal, or a repeat and dangerous sex offender against minors.

PART E: 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 denial of benefits for drug offenses. Refer to Chapter 5 of the Guidelines Manual for additional information.

Impact of Plea Agreement: This part is relevant in the PSR when a Plea Agreement has been tendered to the court. The probation officer assesses the impact of the Plea Agreement on the guideline sentence by comparing the guidelines applicable under the Plea Agreement with the guidelines that would apply if the defendant were to plead to all counts. The analysis is based on the conclusion that the allegations of the counts to be dismissed could be proven by a preponderance standard and the additional relevant facts are accurate.

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

This part contains the probation officer's statement of any factors that may constitute a basis for a sentence outside the applicable sentencing range by virtue of a variance. Such factors include those set forth in 18 U.S.C. § 3553(a). Inclusion of a factor in this part does not necessarily constitute a recommendation by the probation officer for a variance.

PART G: SPECIAL CONDITIONS OF SUPERVISION WHICH MAY BE IMPOSED

This section contains information regarding the conditions of probation and/or supervised release that may be imposed based on the nature and circumstances of the instant offense and the defendant's history and characteristics. Refer to Other Resources under Investigative Resources for a list of the Mandatory and Standard Conditions of Supervision, as well as a list of Special Conditions, which the court may impose. Ultimately, the court will impose special conditions after making an individualized assessment and considered the factors set forth in 18 U.S.C. § 3583.

ADDENDUM TO THE PRESENTENCE REPORT

The Presentence Report is disclosed to the defendant, counsel for the defendant, and counsel for the government before it is submitted to the court. This procedure allows the parties to communicate with the probation officer to resolve any objections regarding material information, sentencing classifications, or the sentencing guidelines range. Disclosure of the draft report to the attorneys allows the probation officer to conduct further investigation and make necessary revisions. Any unresolved issues or objections are reported to the sentencing judge in the Addendum to the Presentence Report and will include a response to each of the objections noted by the parties.

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