

Utah Presentence Investigation Reports: User Group Perceptions of Quality and Effectiveness

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Introduction

DESPITE THE MANY CHANGES

that have occurred in the provision of probation services during recent years, two essential functions remain at the core of all probation systems. These are the preparation of presentence investigation reports (PSI) and the supervision of offenders granted probation by the courts.

The PSI is typically prepared after conviction but prior to sentencing. Presentence reports are frequently required for any felony offense and are sometimes used in misdemeanor cases as well. Latessa and Allen (1999) estimated that more than 85 percent of states require the report for felony offenses. In other jurisdictions, the preparation of a PSI is discretionary with the court.

Historically, the presentence investigation report developed as probation became a more widely used sentencing practice. Initially, judges used probation officers to gather background information on the accused as a means of individualizing the sentence (Sieh, 1993). Today, the presentence report is usually prepared by a probation officer, although some jurisdictions contract with private agencies for the report. In addition, defense attorneys occasionally commission the preparation of a private presentence report to submit to the sentencing court as an alternative to the probation department report. Private PSIs are allowed in many states and in the federal courts. Available evidence suggests that they are not widely used, however (Granelli, 1983; Kulis, 1983; Hoelter, 1984).

Different groups use the presentence investigation report for different reasons. The primary purpose of the PSI is to provide the judge

with relevant information on which to base an equitable sentence. Since most cases are resolved through negotiated guilty pleas, judges typically have very little information about the offender. They rely heavily on the PSI for pertinent information about both the offense and the offender. Additionally, the presentence report can be used by prison officials if the offender is incarcerated, by paroling authorities for consideration in prison release decision-making, and by probation and parole officers as a tool for community supervision. The PSI also provides important data for research purposes (Abadinsky, 2000).

Cromwell and del Carmen (1999) have asserted that historically the presentence investigation report was considered an offender-based document which focused upon understanding as much as possible about the offender's background, the causes of the offense, and the likelihood of rehabilitation. As the popularity of the indeterminate sentence and rehabilitation declined in the 1980s, the traditional offender-based PSI gave way to the offense-based presentence report. The offense-based PSI focused more extensively on the circumstances surrounding the crime, aggravating and mitigating case factors, the offender's involvement, and his criminal history.

In addition, some observers maintain that the PSI today has become a less significant part of the sentencing process for several reasons. First, judicial discretion in sentencing has been reduced since the passage of determinate and mandatory minimum sentencing laws. Second, most convictions occur as the result of plea bargaining. Often, the eventual sentence has been the subject of negotiations between the defense attorney and the prosecutor, thus lessening the

need for a sentencing recommendation in the PSI. Finally, statutory language and sentencing guidelines further limit the authority of the judge in deciding sentences (Clear & Dammer, 2000).

This study examined the attitudes of four specific user groups toward the quality and effectiveness of the PSI in the state of Utah. These four groups were judges, prosecuting attorneys, public defenders, and probation/parole officers engaged in the supervision of offenders. Specifically, the 227 respondents identified the strengths and weaknesses of the current report, quantified the relative importance of the various content areas in the document, revealed how they read the PSI, and offered their views on selected PSI issues.

The objective of the study was to provide specific recommendations to the Utah State Department of Corrections for improving the quality and usability of the PSI.

Study Design and Participants

A survey instrument was developed to ascertain the attitudes of 227 publicly employed individuals who are primary users of the presentence investigation report in the state of Utah. The questionnaire consisted of 37 items. Two questions were open-end, one was multiple choice, and the other 34 items were closed-end. A four-point Likert Scale was used for the 34 closed-end items. Experienced members of the Utah Department of Corrections and the Utah State Judiciary tested a draft of the survey instrument. Data collection ensued after revisions were made to the questionnaire.

During April 1999, the questionnaire was distributed statewide to 378 potential respondents representing four distinct PSI user

groups. These included 77 district court judges, 101 prosecutors, 150 adult probation/parole officers, and 50 public defenders. Rather than using random samples, the research team identified the total number of individuals from each of the four subgroups and attempted to include the entire population in the study.

Each survey included a cover letter explaining the study's purpose and assuring confidentiality. Pre-addressed postage-paid envelopes were enclosed with each survey for convenience of return. The respondents were given three weeks to complete and return the questionnaires. Follow-up phone calls were made to ensure that the surveys were received and to answer potential questions.

The participants returned 227 questionnaires providing a response rate of 60 percent. All of the returned surveys contained useable data.

The tables were based on simple frequency analysis. Where the frequency analysis came from cross tabulation, the chi square (.05 or less) test of statistical significance was met to ensure that the relationship was not due to chance.

The population was predominately male (80 percent), between the ages of 31 and 50. Among the four PSI user subgroups judges made up 22 percent of the total respondents, prosecutors 34 percent, public defenders 4 percent, and probation/parole officers 40 percent.

Many PSI Users Do Not Read the Entire Report

One question asked respondents to identify their approach to reading the presentence investigation report. This question stated:

When reading a PSI, I: a) start at the beginning and read the entire report section by section; b) skip over most of the report and focus on the evaluative summary and sentencing recommendation sections; c) skim and scan the entire report; d) other.

We included this question for two reasons. First, some critics have asserted that judges sometimes do not bother to read the report (Cromwell and del Carmen, 1999; Blumberg, 1970). This research quantified not only judicial responses to this question but those of other PSI user groups as well. Second, developing an understanding of how various user groups read the PSI provided a framework for recommending methods of improving the existing document.

Overall, 55 percent of the respondents indicated that they start at the beginning and read the entire report section by section. Among the subgroups, 90 percent of the judicial respondents claimed to read the entire report. Fewer than half (47 percent) of all prosecutors stated that they read the entire PSI. Many of the prosecutors either skim and scan the entire report or ignore most of it and focus on the

sentencing recommendation and evaluative summary sections. Probation and parole officers had the lowest percentage (40 percent) of subgroup users who read the entire report and the highest percentage (38 percent) of respondents who skim and scan the document. "Other" approaches to reading the PSI frequently took two distinct forms. Most commonly, respondents who chose the "other" approach indicated that they would read the evaluative summary and sentencing recommendation sections first and then other sections which they deemed most important. In addition, some respondents stated that they chose to read only certain sections of the report they considered important while ignoring the rest. This might or might not have included the evaluative summary and sentencing recommendation sections.

A relatively high percentage of the PSI users (45 percent) acknowledged that they do not read the entire document. While this finding might surprise some, we believe that it is consistent with other communications research on selective reading. As a result of time constraints, working professionals skim and scan documents and read only what they deem important. Given the pressure and time limitations confronting the various PSI user groups, there was no reason for us to assume that they would behave any differently.

TABLE 1

N=277

Lowest Ranked Presentence Investigation Sections

Section Title	Percent of Respondents	Number of Respondents
1. Military Record	87.6%	(198)
2. Physical Health	79.2%	(179)
3. Mental Health	79.1%	(178)
4. Marital History	79.1%	(178)
5. Financial Record	72.8%	(163)
6. Education	68.1%	(154)
7. Plea Bargain	62.6%	(159)
8. Collateral Contacts	59.1%	(133)
9. Custody Status	49.1%	(110)
10. Employment History	47.3%	(107)

Denotes "Extremely Important" and "Very Important" Response Totals

Inaccurate and Unverified Information is a Problem in the PSI

The study asked the PSI user groups two open-end questions. The first question was:

In my opinion, the greatest area(s) of weakness in the current PSI is/are?

Many respondents expressed concern about inaccurate information left uncorrected in the PSI. Two areas were mentioned most often. The first was the accuracy of information contained in the criminal history section of the report. Some respondents stated that the case disposition portion of the criminal history section of the PSI either omitted case dispositions altogether or recorded incorrect case outcomes. In addition, many respondents complained that the information obtained from the defendant and included in the PSI was often self-serving, deceptive, or simply untrue. Perhaps of most concern was the complaint that the probation officer preparing the report frequently made no attempt to verify the accuracy of the information supplied by the defendant. Prosecutors and probation/parole officers were the user group members most likely to make this assertion.

Some respondents indicated that the underlying cause of this problem was the large volume of presentence reports and the time limitations placed on those individuals preparing them.

The second open-end question asked the following:

In my opinion, the greatest area(s) of strength in the current PSI is/are?

The respondents appeared to have more difficulty articulating specific strengths in the PSI than they did weaknesses. The respondents identified two strengths most frequently: They reported that the current PSI provided a broad, comprehensive background history on the defendant, including detailed information related to the present offense. In addition, many respondents reported that the PSI is a useful tool in managing/supervising the offender, regardless of whether the defendant is ultimately incarcerated or sentenced to a community corrections program.

Beyond these two observations, the respondents focused their positive comments on specific sections of the PSI that they believed to be most valuable. These included the past adult criminal record information and the probation/parole supervision history.

Utah's felony Presentence Investigation Report contained 23 separate sections. The respondents were asked to rank the importance of each section using a Likert scale. The four-point scale included the following response choices: Extremely Important, Very Important, Somewhat Important, and Not Important At All.

Lowest Rated PSI Sections Reflect Less Interest in the Offender's Personal Life

Table 1 identified those sections of the PSI deemed "Somewhat Important" or "Not Important At All" by the respondents. Clearly, there appeared to be a pattern reflecting a lower level of interest in those sections of the PSI containing information about the defendant's personal life. These sections included 1. military record; 2. physical health; 3. mental health; 4. marital history; 5. financial situation; 6. education; and 7. employment history.

While it is difficult to understand precisely why some of these sections received such low rankings, several factors might have contributed. First, during the past 20 years or so, the United States has seen a significant philosophical shift in sentencing away from rehabilitation toward a system focused on offender accountability and retribution. This philosophical change has resulted in a variety of public policy initiatives such as the passage of truth in sentencing laws, three strikes legislation, and minimum mandatory sentencing statutes. These changes share at least two common elements. They increased the severity of punishment afforded criminals while reducing the discretion of judges, prosecutors, defense attorneys, and parole boards. Second, they focused more attention on the crime committed and less at-

TABLE 2

N=277

Highest Ranked Presentence Investigation Sections

Section Title	Percent of Respondents	Number of Respondents
1. Adult Record	97.8%	(221)
2. Probation/Parole	96.5%	(218)
3. Victim Impact Statement	92.5%	(209)
4. Pending Cases	88%	(198)
5. Official Version of Offense	72.8%	(193)
6. Drug History	84.9%	(191)
7. Agency Recommendation	83.6%	(189)
8. Alcohol History	80.1%	(181)
9. Gang Affiliation	78.8%	(178)
10. Evaluative Summary	78.3%	(177)

Denotes "Extremely Important" and "Very Important" Response Totals

TABLE 3

*PSI Category Rankings by User Group Type
Number () and Percent %*

JUDGES	ADULT PROBATION AND PAROLE	PROSECUTING ATTORNEYS	PUBLIC DEFENDERS
Adult Record (48) 100%	Adult Record (82) 96.5%	Adult Record (77) 100%	Adult Record (9) 100%
Probation/Parole History (48)100%	Probation/Parole History (82)96.5%	Probation/Parole History (75)97.4%	Probation/Parole History (8)88.9%
Victim Impact Stmt.(47)97.9%	Victim Impact Stmt.(81)95.3%	Pending Cases (72)94.7%	Background & PLS (8)88.9%
Official V. of Off. (44) 91.7%	Official V. of Off. (80) 94.1%	Victim Impact Stmt.(71)92.2%	Pending Cases (7) 77.8%
Agency Recomm. (43) 83.3%	Drug History (78) 91.8%	Agency Recomm.(70) 90.9%	Agency Recomm. (7) 77.8%
Drug History (40) 83.3%	Alcohol History (75) 88.2%	Gang Affiliation (63) 81.8%	Drug History (7) 77.8%
Pending Cases (40) 83.3%	Pending Cases (72) 84.7%	Evaluative Summ.(62)80.5%	Alcohol History (7) 77.8%
Alcohol History (39) 81.3%	Juvenile Record (69) 81.2%	Official V. of Off.(60) 78.9%	Mental Health (7) 77.8%
Defendant V. of Off.(38)79.2%	Evaluative Summ.(68) 80%	Defendant V. of Off.(60)77.9%	Employment Hist.(7)77.8%
Gang Affiliation (38) 79.2%	Agency Recomm.(66) 77.6%	Drug History (60) 77.9%	Custody Status (7) 77.8%
Juvenile Record (35) 72.9%	Gang Affiliation (66) 77.6%	Juvenile Record (59) 76.6%	Evaluative Summ.(6) 66.7%
Evaluative Summ.(35) 72.9%	Mental Health (56) 65.9%	Alcohol History (55) 71.4%	Defendant V. of Off. (6)66.7%
Custody Status (32) 68.1%	Background & PLS(52)61.2%	Background & PLS(44)57.1%	Gang Affiliation (6) 66.7%
Background & PLS(32)66.7%	Employment Hist. (49) 57.6%	Mental Health (43) 55.8%	Victim Impact Stmt.(4) 44.4%
Mental Health (31) 64.6%	Defendant V. of Off.(45)52.9%	Employment Hist. (39) 50.6%	Collateral Cont. (4) 44.4%
Collateral Cont.(21) 43.8%	Custody Status (38) 45.2%	Custody Status (34) 44.2%	Official V. of Off. (3) 33.3%
Employment Hist. (21) 43.8%	Plea Bargain (36) 43.4%	Collateral Cont.(27) 35.1%	Education (3) 33.3%
Plea Bargain (17) 37.8%	Collateral Cont.(35) 41.7%	Plea Bargain (26) 34.2%	Financial Situation(3)33.3%
Education (18) 37.5%	Education (28) 32.9%	Education (20) 26%	Physical Health (2) 22.2%
Marital History (13) 27.7%	Financial Sit. (27) 32.1%	Financial Sit. (20) 26%	Marital History (2) 22.2%
Financial Sit. (11) 23.4%	Marital History (19) 22.4%	Physical Health (16) 20.8%	Military Record (2) 22.2%
Physical Health (8) 16.7%	Physical Health (19) 22.4%	Marital History (13) 16.9%	Plea Bargain (1) 11.1%
Military Record (4) 8.3%	Military Record (10) 11.8%	Military Record (11) 14.3%	Juvenile Record (1) 11.1%

This frequency distribution includes responses rated "Extremely Important" or "Very Important" by the respondents.

attention on the characteristics of the offender that might contribute to treatment programming.

In addition, while de-emphasizing the rehabilitation of offenders, the justice system has focused increasingly on victims' rights. Many states today (including Utah), require by statute the inclusion of a "victim impact statement" in all presentence reports (Clear & Dammer, 2000).

Highest Rated PSI Sections Reflect Greater Emphasis on the Offense, the Victim, and the Offender's Past Adult Record

Table 2 provides a breakdown of those sections of the PSI deemed Extremely Important or Very Important by the respondents. Again, something of a pattern emerged. Only two of the top 10 rated sections have direct offender treatment planning implications. Those were the Alcohol and Drug History sections. Even those sections might have been considered by the respondents more as indications of the likelihood of re-offending than as elements of a rehabilitation plan.

Most of the highest rated sections of the PSI focused upon the current offense (Official Version of Offense and Pending Cases sections), harm to the victim (Victim Impact Statement), and the offender's prior adult record and supervision history (Adult Record and Probation/Parole History sections).

The high rating of these sections further underscored the shift from a rehabilitation approach to one of punishment and retribution. Moreover, we believe that these rankings reflected the commitment of the Utah Department of Corrections to the goal of public safety through risk assessment and effective offender classification and management.

The ranking outcomes may have been influenced by two additional factors. First, the Utah Department of Corrections has recently gone through an approximate 13-year period in which executive leadership concentrated heavily on a law enforcement philosophy with public safety issues taking precedence over offender rehabilitation concerns. Only in the past two years have we seen new executive leadership in the department attempting to enhance public safety not only through appropriate risk assessment and offender management practices, but by increasing the opportunities for offenders to lead law-abiding lives through treatment programming.

The second issue that might have influenced the rankings is an inherent limitation of this

study. While we received excellent participation in the study from judges, prosecutors, and probation/parole officers, the response rate from the public/legal defender community was disappointing. Fifty survey instruments were distributed statewide to public defenders, with only nine returned. Larger numbers of defense attorney participants might well have produced changes in the ranking of the PSI sections.

Table 3 provides a breakdown of how each user group ranked each of the 23 categories of the Utah PSI. Among the four user groups, there was remarkable consistency both in the highest and lowest rated areas. The highest valued PSI sections included the 1. adult record; 2. probation/parole history; 3. victim impact statement; 4. official version of the offense; and 5. pending cases. Conversely, the lowest rated sections were fairly consistent across the four groups. These included 1. military record; 2. marital history; 3. financial situation; 4. physical health; and 5. education.

The final part of the study asked the respondents to identify the extent of their agreement or disagreement with five statements. The questionnaire used a four-point Likert scale with the following response choices: Strongly Agree, Agree, Disagree, Strongly Disagree. The statements focused on several different themes. They include:

- What the most important purpose of the presentence report is
- Whether the report presents a fair, objective view of the crime committed and the defendant's background
- Whether the presentence report is factually accurate
- Whether the PSI contains the biases of the probation officer preparing the report

Historically, the PSI has served multiple purposes. Chief among those was assisting the court in reaching an appropriate sentencing choice. However, with the recent expansion of determinate and mandatory sentencing laws, some observers have suggested that the PSI is less important today than it once was in aiding the court in the sentencing process. This study asked the PSI user groups to address this issue by responding to the following statement:

The most important purpose of the PSI is to assist the court in reaching a fair sentencing decision.

Among these respondents, there was overwhelming agreement with this statement. Two

hundred nine respondents (92.5 percent) either agreed or strongly agreed with the statement. Only seventeen respondents (7.5 percent) disagreed or strongly disagreed with the statement. Clearly in Utah, the primary function of the PSI remains assisting the court in reaching an appropriate sentencing choice.

In an attempt to gain an overall assessment of the perceived quality of the presentence report, the respondents were asked to agree or disagree with the following statement:

In general, the PSI is an accurate, well-written document that provides a fair, objective view of the offense committed and the background of the defendant.

Again, there was overwhelming agreement with this statement. Two hundred nine respondents (92.5 percent) either agreed or strongly agreed with this statement. Sixteen respondents (7.1 percent) either disagreed or strongly disagreed with the statement. These data would support the notion that the PSI user group members are generally satisfied with the overall quality of the document. Regarding the accuracy of information contained in the PSI, we asked the participants to respond to the following statement:

The presentence investigation report rarely contains factual errors.

One hundred forty-four respondents (63.7 percent) either agreed or strongly agreed with this statement. However, 79 respondents (35 percent) either disagreed or strongly disagreed with the statement.

In order to determine which user groups were more likely to believe that the PSI contained factual errors, the data was cross-tabulated by user group. Public defenders and judges were the user groups who most frequently reported factual errors in the document. Sixty-six percent of the public defenders and 57 percent of the judges believed that the PSI contained factual errors. Probation and parole officers were the user group least likely to agree that the document contained errors (25 percent).

This finding should be a cause for concern given the surprisingly large number of respondents who believed that the PSI does contain inaccurate information. While this is speculative on our part, we believe that if this study included a larger number of defense lawyer respondents, the 35 percent figure would probably be even higher.

An area of concern from defense attorneys in the preparation of the presentence report has long been the issue of bias on the part of the probation officer who prepares the report. In

an attempt to ascertain the views of the PSI user group members, we included in the survey instrument two statements regarding probation officer bias. Again, the responses here should be viewed with caution because of the small number of defense counsel who responded to the survey. The first statement reads:

Probation officers who prepare the PSI usually refrain from including personal biases and opinions in the report.

One hundred seventy-five respondents (77.4 percent) either agreed or strongly agreed with this statement. Forty-eight respondents (21.2 percent) either disagreed or strongly disagreed with the statement. Similar responses were found with the second statement which read:

Probation officers who prepare the PSI are frequently biased against defendants and identify greatly with the interests of prosecutors and police.

One hundred ninety-six respondents (86.4 percent) either disagreed or strongly disagreed with this statement. Only 30 respondents (13.2 percent) agreed or strongly agreed with it. There is very little support from these user group members for the notion that the probation officers preparing the reports are biased against defendants either through over-identification with police or prosecutors or by including personal biases and opinions in the document.

Summary and Recommendations

Clearly, the survey results revealed that many PSI user group members were selective readers. Nearly half (45 percent) of all the respondents indicated that they do not read the entire report and instead use some form of skimming and scanning in order to identify those sections they deemed most important.

The PSI format currently used in Utah contained 23 separate sections. This study quantified the relative importance the user group members placed on each section. The PSI category rankings demonstrated a pattern of preferences on the part of the respondents that favored offense-based sections over those involving offender characteristics such as physical and mental health, education, employment history, financial situation, and marital history. The sections ranked highest by the user group members included factors related to the current offense, the offender's culpability in the crime, harm done to the victim, and risk assessment characteristics such as gang affiliation, substance abuse problems, prior adult record, and

probation/parole supervision history.

In significantly large numbers, the user group members expressed concerns about the accuracy of the presentence report. More than one-third of the respondents (35 percent) raised concerns about incorrect information in the PSI. Two issues were raised most frequently. First, errors in the prior adult record section of the report: The respondents asserted that case disposition information contained errors or was sometimes omitted altogether. Second, many prosecutors and probation/parole officers expressed concerns that statements made by the defendant and included in the PSI were often self-serving, untrue, and largely unverified. Many respondents asserted that accuracy problems in the PSI were caused by the pressures of too many PSIs to prepare and too little time to complete them. Not a single respondent attributed this problem to a lack of diligence on the part of the probation officer preparing the report.

Aside from the problem of accuracy in the report, most respondents indicated that the PSI, as currently prepared, provided a fair, objective view of the defendant and the offense committed. Further, there was little support for the notion that the probation officer preparing the report is biased against the defendant or over-identified with the interests of police or prosecutors. As mentioned previously, we believe that had the respondents included a larger number of defense attorneys, the PSI might not have received such glowing reviews.

Regarding specific recommendations to improve the quality and usability of the PSI in Utah, we offer the following recommendations in the spirit of generating further study and discussion by those inside the system who understand the intricacies of this process better than we.

- We recommend reorganizing the report using a "Most Important to Least Important" style. We suggest moving the Evaluative Summary and Agency Recommendation sections to the front, followed by those PSI sections rated most important by the user group members. The evaluative summary section could be significantly improved by including more evaluation or assessment information about the defendant.

- We recommend that representatives from the various user groups meet to consider eliminating some sections of the report and consolidating others. In its present form, the

PSI inundates the reader with more information than can be easily absorbed

- We recommend that representatives from the various user groups seriously examine resource allocation, considering both the time necessary to prepare the PSI as well as the large number of reports required annually.

Those responsible for revising the current presentence report should recognize that the sentencing purpose of the document as required by the judiciary may be different from the myriad functions the PSI serves for the Department of Corrections. For example, judges may not want, for sentencing purposes, some of the personal characteristics about the defendant that are important to the department in offender management planning. Revisions to the existing PSI should be made accordingly.

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