

PRE-PLEA AND SENTENCING REPORTS

AUTHORITY: Sections 1191, 1203, 1203.4, 1203.10, 1203a Penal Code, California Judicial Council Rules

RESCINDS: Procedure Manual Item 2-2-001, dated 12/30/11 (Major Revision)

FORMS:

Instructions for Applicant for Probation	(F0502-1013)
Presentence Report Worksheet	(F057-1020W.10)
Consent to Release Information from Service Records	(F0502-1025.8)
Application for Probation	(F057-1034)
Memorandum Regarding Probation Referral	(F057-1045)
Record Check Request	(F057-1064)
Request for Employment History	(F0502-1085)
Request for School Transcripts	(F0502-1114)
Adult Financial Statement	(F057-1115)
Diversion Agreement and Understanding	(F057-1124)
Document Request for Initial Interview	(F057-1260)
Agency/Institution Info Request (i.e. CYA, etc.)	(F057-1300AF)
Appointment Letter	(F057-1301AF)
Arrest Report Request to Police Agency	(F057-1303AF)
Docket Request	(F057-1305AF)
Arresting Officer Letter/ Reference Check Letter	(F057-1304AF)
Medical/Psych Letter	(F057-1308AF)
Victim's Notification Letter (Felony cases only)	(F057-1309AF)
Reference Letter	(F057-1315AF)
Prosecuting/Defense Attorney Letter	(F057-1314AF)
Victim's Letter - Restitution	(F057-1317AF)
Authorization for Release of Medical/Dental/ Psychiatric/Psychological Information	(F057-7004)
FBI Record Check	(F0502-9035)
Court Rules (Revised March 2006)	(Attachment A)
Recommended Adult Terms and Conditions of Probation	(Attachment B)
Social History Heading Recommendations	(Attachment C)
Static-99 Scoring Worksheet	(Attachment D)
SARATSO/STATIC-99	(Attachment E)

PURPOSE: To provide instructions for use in the preparation of regular adult probation reports.

I. PROCEDURE:

A. Face Sheet

1. In all cases, use the Presentence Report Worksheet to obtain information for the automated Face Sheet.

2. The automated Face Sheet is to be filled out completely and attached to each copy of the report.
3. Insert the words "Unknown" or "None" where applicable.
4. Where information must be verified, the source of the verification must also be indicated.

B. Court Status

1. Trace the major events leading to the referral through the courts.
 - a. The date the Complaint/Information was filed.
 - b. Name of the Court.
 - c. Date of arraignment.
 - d. Identification of the charges.
 - e. Date of plea should be presented in a sequential manner.
 - f. Status of co-defendants.
 - g. Date of findings, date report ordered, date of next hearing.
2. Include the status of counts not pled and any agreements made by the DA's Office regarding withdrawal of the plea forms (F057-1314AF, F057-1034.9, F057-1045.9 are applicable).
3. Information regarding an indicated sentence should also be presented.

C. Circumstances of the Offense

1. If it's a jury finding, disclaimer paragraph.
2. The first paragraph under this section should briefly summarize the elements of the crime.
3. The remainder of this section will include the facts of the crime for which the defendant has been arrested and convicted; including:
 - a. The date.
 - b. Time.
 - c. Location.
 - d. Police agency involved (include crime and arrest report numbers in parentheses).
 - e. The manner in which it was reported.

4. The elements of the offense and pertinent information obtained during the investigation should be noted, including a statement:
 - a. With regard to damages.
 - b. Injuries.
 - c. Companions involved and their current court status or disposition.
5. If available, relate the defendant's attitude, actions or statements when arrested.
6. Any data, which is to be used in evaluating the case pertaining to the crime, must be presented and verified in this section:
 - a. Armed.
 - b. Use of a weapon.
 - c. Degree of cooperation.
 - d. Blood alcohol content.
 - e. Weight of contraband.
7. If the matter was heard by a jury, this section should be quite brief as the Court is well aware of the circumstances.
8. More detail would be included in a pre-plea report form (F057-1300AF is applicable).

D. Victim's Statement (When Applicable)

1. Review Procedure Manual Item (PMI) 2-1-101 (Adult Restitution).
2. This section should be included in all cases where:
 - a. Restitution is involved.
 - b. Where there was personal injury.
 - c. Where information is obtained from the victim by the probation officer in addition to that contained in the police reports.
3. A Victim's Letter form should be sent immediately to the victim in appropriate cases.
4. All losses should be verified and any discrepancies noted for the Court's attention.
5. A Victim's Notification Letter form should also be sent to victims or the next of kin of victim notifying them of their right to attend the sentencing date in all Superior Court cases to express their views concerning the crime.

6. Personal Injury Cases

- a. In personal injury cases (rape, battery, etc.) or where the crime took place in the presence of the victim, a personal interview should be conducted and the victim's attitudes toward the defendant and an appropriate disposition should be included.
- b. If Section 13960 Government Code is applicable, ascertain if the victim was compensated by the State Restitution Fund.
- c. Personal injury victims must also be apprised by the Probation Officer of their right to civil recovery and their opportunity to be compensated by the State Restitution Fund. Written material prepared by the Judicial Council shall also be furnished to relevant victims.

7. A victim may obtain a redacted copy of the Pre-Sentence report by submitting a written request with the Custodian of Records (COR) or with the Resident Probation Officer (RPO) clerk's office. The written request shall be processed in accordance with PMI 2-1-107 (Release of Pre-Sentence report to victims per Marsy's Law/Victim's Bill of Rights).

8. Transmittal of Pre-Sentence report to victims shall be documented in accordance with PMI 1-1-101 (CORI).

E. Collateral (When Applicable)

1. This section may be used to include information concerning any other related offenses which are pending or were not prosecuted due to prosecution for the offense for which the defendant had been convicted.
2. Information should include the court case number, as well as the court and dates of hearings.
3. Current probation or parole status, "holds" from other jurisdictions, or any other pending cases should be reported.

F. Adjustment in Orange County Jail (When Applicable)

1. This section is used only in Superior Court cases wherein the individual is in custody and has had minor or major infractions of jail rules.
2. The jail records shall be reviewed during the course of the investigation, and if a major infraction has occurred, it will be summarized in this section.
3. This section should be completed in all cases with a state prison recommendation.

G. Defendant's Statement

Information herein is summarized from the defendant's written statement and the Deputy Probation Officer's (DPO's) interview. Subjects to be covered include:

1. Defendant's version of the offense, particularly as it differs from the police reports.
2. Defendant's explanation regarding motivation.
3. Contributing environmental and situational factors leading to his involvement in the present offense.
4. Extent to which guilt is admitted.
5. Whether impulsive or premeditated.
6. Defendant's attitude towards offense (remorseful, rationalizing, minimizing or anxious).
7. Defendant's feelings regarding offense, arresting officer, victim, manner of arrest, detention.
8. Addiction to or degree of use of alcohol and/or drugs.
9. Willingness to comply with probation.
10. Present ability to pay restitution or a fine.
11. Defendant's basis for requesting probation and his plans for the future if probation is granted.

Again, the DPO must verify any statements made by the defendant that will be used in determining a suitable disposition forms (F0502-1013.5, F057-1260, F057-1301AF are applicable).

H. Statement of References and Interested Parties

1. If reference names are supplied by the defendant, (form F057-1315AF) should be mailed to each.
2. The responses are summarized in the report and the originals of the letters are attached to the court's copy of the report.
3. Form F057-1304AF should be mailed to the arresting officer and/or interviewed to obtain a statement concerning the defendant's attitude when arrested and the officer's opinion concerning sentencing.
4. Information obtained through collateral contacts, such as witnesses, codefendants, neighbors, spouse, family members, etc., is reported here.

I. Psychiatric or Psychological Report (Not always included)

1. Summarize the significant portion.
2. Attach the complete report to the Court's copy of the probation report (form F057-7004).

- J. State Authorized Risk Assessment Tool for Sex Offenders (SARATSO – Static-99)R
1. Beginning July 1, 2008, the Static-99R evaluation became mandated per section 290.06PC for every defendant who has been found guilty of or pled to a registerable sex offense.
 - a. Complete the Static-99 scoring worksheet found on PROB-NET. (See Attachment D)
 - b. Include in the sentencing report the score results as worked in Attachment E.
- K. Prior Record
1. All entries in the adult prior record section must comply with the standards set out in People vs. Calloway, 37C.A. 3d 905 (1974).
 - a. Basically, offenses must be supported by facts.
 - b. Information must be reliable and accurate.
 2. Listed "police contacts" require additional facts which indicate the defendant was involved if there was:
 - a. No conviction.
 - b. No charges were brought.
 3. Juvenile record information gathered by a law enforcement agency relating to the taking of the minor into custody and adjudications (court findings) shall be considered:
 - a. For purposes of determining circumstances in aggravation pursuant to Section 1170 PC.
 - b. To deny probation.
 4. Present under separate headings:
 - a. The defendant's juvenile arrest record.
 - b. Adult arrest record.
 - (1) In a tabular format
 - (2) Including the date of the arrest
 - (3) Age of the defendant at that time
 - (4) Arresting agency
 - (5) Charges

(6) Dispositions

- c. All contact which reflect "deemed not arrested per Section 849b PC" shall be removed from the "Arrest Record" and are not to be considered.
 - d. All entries should be verified by obtaining copies of police reports or certified copies of the disposition.
 - e. With each entry include a brief description of the offense and the defendant's comments regarding the offense.
 - f. Also include a summary of prior probation, parole or institutional adjustment resulting from that offense.
 - g. Note the source of all information by agency and their identifying numbers.
 - h. In those cases wherein the defendant has an extensive record, the offenses occurring over ten years ago may be presented in a summarized narrative form.
5. Following the Prior Record or Criminal History section, present the defendant's traffic record in similar tabular format including drivers license status.
 6. FBI record check should be requested in ALL cases (forms F057-1064.9, F0502-9035.5 and F057-1300AF are applicable). If automated system shows that record is not automated, the written request is sent.

L. Social History

Summarize the family history and composition, including the social, economic, education, and emotional character of the family and the intra-family relationships. Review the defendant's:

1. Educational Background
 - a. Use Request for School Transcript, (form F0502-1114.6).
 - b. When indicated, comment upon difficulties, plans and goals.
 - c. Verify by transcripts, diplomas, awards, references.
2. Marital History
 - a. Dates
 - b. Places
 - c. Status
 - d. Children

- e. Relationships in the home
- f. Verify by marriage certificates, certified copies of court actions.

3. Military Record

- a. Branch
- b. Dates of service
- c. Military assignment and conduct
- d. Type of discharge and pension
- e. If the defendant is presently in the military service or if there was anything unusual about his/her prior service, a military record check (F0502-1025.8) should always be initiated.
- f. Verify this information by discharge papers, Form DD214, VA records and service records.

4. Employment Resume

Comment upon and verify:

- a. Stability or frequency of change.
- b. Types of employment.
- c. Special skills or training.
- d. Plans and goals.
- e. Employer's attitude.
- f. Verify by personal contact, check stubs, W-2 forms, etc.
- g. Use Request for Employment History (F0502-1085.4).

5. Health Factors

Significant physical and mental health history. Using Medical Release Form (F057-7004.7), resumes should always be obtained with regard to:

- a. Any prior or present psychiatric, psychological, or professional counseling care.
- b. Any physical problem related to the offense or the disposition.

6. Personal Activities

- a. Social interests

- b. Hobbies
- c. Vices (smoking, drinking, gambling, drug usage)
- d. Religious and fraternal affiliation and participation.

7. Financial

- a. Present income and expenditures.
- b. Assets and liabilities.
- c. Ability to pay restitution or fines and effect of such payments on dependents.
- d. An Adult Financial Statement (F057-1115) signed and witnessed may serve as a guide.
- e. Additional verification may be required if a fine to the State Restitution Fund is being considered.

M. Discussion and Evaluation

1. This section should repeat none of the information already contained in the report, except on an evaluative basis.
 - a. No new factual information should be presented in this section.
 - b. All data upon which the recommendation is based should have already been presented and verification noted in the preceding sections.
2. The defendant and the offense committed will be evaluated in terms of factors in mitigation and aggravation.
 - a. In Superior Court cases, the applicable Judicial Council Rules (see Attachment A) dealing with aggravation or mitigation will be cited in parentheses at the end of the sentence.
 - b. These rules will also serve as guidelines in evaluating the defendant's suitability for probation or granting probation in unusual cases.
3. Following the analysis of the crime, the defendant's suitability for probation, a suitable disposition of the case should be presented (See Attachment B).
 - a. It should establish why probation would be appropriate if probation is recommended, and a reasonable, meaningful supervision plan should be developed.
 - b. Jail, State Prison, detention in DJJ per 1731.5 WIC, or other in-custody time, should also be discussed if felt necessary as a condition of probation or if probation is denied.

- c. Important or unusual conditions of probation such as search and seizure on receiving stolen property cases, or on possession of flammable materials in arson cases should be discussed (See Attachment B).
 - d. "Tailor-made" supervision programming is encouraged.
 - e. Weekend commitments to jail are not to be recommended nor should work furlough be discussed unless the Work Furlough application has been processed (California Judicial Council rules 414, 416, 421, and 423 are applicable).
4. This section should conclude with a paragraph discussing all relevant financial concerns, taking into consideration the defendant's ability to pay (F057-1115).
- a. For example, Section 1203.04 PC is explicit regarding restitution to the victim or the State Restitution Fund.
 - b. In cases without a specific victim(s), a Restitution Fund fine will almost always be considered (see Attachment B) for the standardized Restitution Fund fine amounts.
 - c. If a specific victim is involved, it will normally be recommended that a Restitution Fund fine approximating the outstanding loss be ordered, but stayed pending payment of restitution and permanently stayed upon completion of restitution.
 - d. The issues of Cost of Probation and Cost of Incarceration should also be reviewed. Note that Harbor Court cases will not include any references to Cost of Incarceration.

N. Recommendation (See Attachment B)

- 1. If a recommendation for denial of probation is being made, it will normally be phrased as follows: "In view of the foregoing, it is respectfully recommended that probation be denied and the defendant be ordered to pay a Restitution Fund fine in the amount of _____."
- 2. If a recommendation for a grant of probation is being made, it will normally be phrased as follows: "In view of the foregoing, it is respectfully recommended that probation be granted under the following terms and conditions: (see Attachment B for most potential terms and conditions of probation and wording for Cost of Probation and Cost of Incarceration)."
- 3. For both recommendations above, include the recommendation as to whether the defendant has the ability to pay for the cost of the Probation report and that the defendant has been notified of the right to a financial hearing pursuant to section 1203.1b of the Penal Code. (See attachment C)

O. BP 803.6(b) (When Applicable)

1. Section 803.6 (b) BP states in part: "In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the board."

P. Distribution

1. Distribution of all Pre-Plea and Sentencing reports shall, as a minimum, be as follows:

Ordering Judge (Original)
RPO (copy)
District Attorney (copy)
Defense Attorney (copy) (or copy to defendant if Pro Per)
A-file (copy)
Investigator/DPO (copy if desired)
Victim (copy if applicable and/or desired processed in accordance with PMI 2-1-107)
State board (copy if applicable)

2. For multiple cases on the same defendant:

Ordering Judge (1 original and 1 copy)
RPO (1 copy and 2 Dispo sheets)
District Attorney (2 copies)
Defense Attorney (1 copy)

3. If the defendant is licensed by the State (see www.dca.ca.gov for listing of related professions) the assigned investigative DPO will notify the COR upon filing the Pre-Sentence report with the court and submit a copy of said report to the COR. At that time, the COR will mail or fax a redacted copy of the Pre-Sentence report to the appropriate board (refer to Business and Professions code 803.6(b)).

4. Transmittal of BP 803.6(b) reports to such licensing Boards shall be documented in accordance with PMI 1-1-101 (CORI).

REFERENCES:

Procedures:	2-1-101	Adult Restitution
	2-2-002	County Parole
	2-2-008	Probation Ineligibility
Policies:	A-1	Policy, Procedure and the Law
	E-3	Disclosure of Court Recommendations
	E-7	Restitution

ADULT COURT SERVICES

COURT RULES (REVISED MARCH 2006)

RULE 4.421

CIRCUMSTANCES IN AGGRAVATION

When citing an aggravator: 1) Note the count to which the aggravator applies: 2) State how and/or why it applies in this case.

Circumstances in aggravation include:

- (a) Facts relating to the crime, whether or not charges or chargeable as enhancements, including the fact that:
 - (1) The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness or callousness.
 - (2) The defendant was armed with or used a weapon at the time of the commission of the crime.
 - (3) The victim was particularly vulnerable.
 - (4) The defendant induced others to participate in the commission of the crime or occupied a position of leadership or dominance of other participants in its commission.
 - (5) The defendant induced a minor to commit or assist in the commission of the crime.
 - (6) The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury, or in any other way illegally interfered with the judicial process.
 - (7) The defendant was convicted of other crimes for which Consecutive sentences could have been imposed but for which concurrent sentences are being imposed.
 - (8) The manner in which the crime was carried out indicates planning, sophistication, or professionalism.
 - (9) The crime involved an attempted or actual taking or damage of great monetary value.
 - (10) The crime involved a large quantity of contraband,
 - (11) The defendant took advantage of a position of trust or confidence to commit the offense.

4.421 (b)

Facts relating to the defendant, including the fact that:

- (1) The defendant has engaged in violent conduct which indicates a serious danger to society.
 - (2) The defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness.
 - (3) The defendant has served a prior prison term.
 - (4) The defendant was on probation or parole when the crime was committed.
 - (5) The defendant's prior performance on probation or parole was unsatisfactory.
- (C) Any other facts statutorily declared to be circumstances in aggravation.

RULE 4.423

CIRCUMSTANCES IN MITIGATION

Cite all mitigators that apply. If the mitigation applies to only some counts, state to which count it applies.

Circumstances in mitigation include:

- (a) Facts relating to the crime, including the fact that:
- (1) The defendant was a passive participant or played a minor role in the crime.
 - (2) The victim was an initiator or, willing participant in, or aggressor or provoker of the incident.
 - (3) The crime was committed because of an unusual circumstance, such as great provocation, which is unlikely to recur.
 - (4) The defendant participated in the crime under circumstances of coercion or duress, or the criminal conduct was partially excusable for some other reason not amounting to a defense.
 - (5) The defendant with no apparent predisposition to do so was induced by others to participate in the crime.
 - (6) The defendant exercised caution to avoid harm to persons or damage to property, or the amounts of money or property taken were deliberately small, or no harm was done or threatened against the victim.

- (7) The defendant believed he had a claim or right to the property taken, or for other reasons mistakenly believed the conduct was legal.
 - (8) The defendant was motivated by a desire to provide necessities or his or her family or self.
 - (9) The defendant suffered from repeated or continuous physical, sexual, or psychological abuse inflicted by the victim of the crime; and the victim of the crime who inflicted the abuse was the defendant's spouse, intimate cohabitant, or parent of the defendant's child; and the facts concerning the abuse do not amount to a defense.
- (b) Facts relating to the defendant, including the fact that:
- (1) The defendant has no prior record, or an insignificant record of criminal conduct, considering the recency and frequency of prior crimes.
 - (2) The defendant was suffering from a mental or physical condition that significantly reduced culpability for the crime.
 - (3) The defendant voluntarily acknowledged wrongdoing prior to arrest or at an early stage of the criminal process.
 - (4) The defendant is ineligible for probation and but for that ineligibility would have been granted probation.
 - (5) The defendant made restitution to the victim.
 - (6) The defendant's prior performance on probation or parole was satisfactory.

CONSECUTIVE SENTENCING

RULE 4.425

MANDATORY consecutive sentence:

Example: The Court must impose a consecutive sentence for Count _____ as it is required by Judicial Court Rule 4.425 for a conviction of Penal Code Section _____.

Applicable sections include:

12022.1 PC	Any Felony while on bail or O.R.
139 (b)	Credible threat to a victim
451 (e)	Arson in prison
452 (e)	Unlawful fire in prison
462.5 (d)	Burglary in a custodial institution
667.6 (d)	Violent sex offense
1203.16	Absent from home detention
4501	A.D.W. by prisoner
4501.5	Battery by prisoner on non-inmate
4502 (a)	Possession of d.w. by prisoner
4502 (b)	Manufacture of d.w. by prisoner (Eff. 1-1-94)
4503	Holding a hostage
4530 (a,b,c)	Prison escape
4530.5	Escape from Deuel Vocational Institution
4532 (a,b)	Jail escape
4536	Escape from mental health facility

DISCRETIONARY consecutive sentencing.

- (a) [Criteria relating to crime] Facts relating to the crimes, including whether or not:
- (1) The crimes and their objectives were predominantly independent of each other (explain how this applies).
 - (2) The crimes involved separate acts of violence or threats of violence (explain).
 - (3) The crimes were committed at different times or separate places, rather than being committed so closely in time and place as to indicate a single period of aberrant behavior (state which applies).
- (b) [Other criteria and limitations] Any circumstances in aggravation or mitigation may be considered in deciding whether to impose consecutive rather than concurrent sentences, except:
- (i) a fact used to impose the upper term
 - (ii) a fact used to otherwise enhance the defendant's prison sentence; and
 - (iii) a fact that is an element of the crime shall not be used to impose consecutive sentences.

Example of recommendation:

- (c) Based on the above, it is recommended that the sentence for the offense alleged in Count _____, a violation of Penal Code Section _____ be ordered to be served concurrently with / consecutive to, (choose which applies) the sentence pronounced to Count _____.

RULE 4.426 VIOLENT SEX CRIMES (667.6 PC)

- (a) [Multiple violent sex crimes] When a defendant has been convicted of multiple violent sex offenses as defined in section 667.6, the sentencing judge shall determine whether the crimes involved separate victims or the same victim on separate occasions.

Violent sex offenses as described in section 667.6 PC:

220 w/prior	Assault w/ intent to commit sex crime with a similar conviction (Eff. 1-1-89)
261 (a) (2; 3; 6; 7)	Rape by force or threat, etc.
262 (a) (1; 4; 5)	Spousal rape (Eff. 1-1-95)
264.1	Rape, spousal rape or 289 in concert
286 (c)	Sodomy by force/ fear
286 (k)	Sodomy by threat to use authority of public off.
288 (b)	Lewd act upon child with force
288.5	Continuous sexual abuse
288a (c)	Oral copulation by force or fear
288a (k)	Oral copulation by threat to use authority of public office
289 (a)	Penetration with foreign object by force

- (a) (I) [Separate victims] If the crimes were committed against different victims, a full, separate, and consecutive term shall be imposed for a violent sex crime as to each victim, under Penal Code Section 667.6 (d).

Ex: There were _____ separate victims. The offense(s) alleged in count(s) ____, ____ occurred on ____ occasions. Count ____ was the first occasion.

- (c) [Same victim, separate occasions] If the crimes were committed against a single victim, the sentencing judge shall determine whether the crimes were committed on separate occasions. In determining whether there were separate occasions, the sentencing judge shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. A full, separate, and consecutive term shall be imposed for each violent sex offense committed on a separate occasion under section 667.6 (d).

Ex: It appears that violent sex crimes alleged in Count (s) ____, _____, occurred on _____ occasions. Count ____ was the first occasion. The second occasion includes the offense(s) as alleged in Count(s) ____ & _____. This (these) offense(s) occurred on a separate occasion because the defendant did have a reasonable opportunity to reflect on (his) (her) actions after the completion of original (set of) crime(s) in that _____.

OR

The defendant also had a reasonable opportunity to reflect on (his) (her) actions between the crime(s) previously mentioned and the crime(s) alleged in Counts ____, _____ in that _____. (Repeat as necessary.)

Based on the above evaluation, it appears that the Court must impose full, separate, and consecutive sentences for the offenses alleged in Counts ____, _____, because they involved separate victims or occurred on separate occasions (choose which applies).

RECOMMENDED ADULT TERMS AND CONDITIONS OF PROBATION

Denied:

1. In view of the foregoing, it is respectfully recommended that formal probation be denied and conditional sentence imposed. Further, the defendant be ordered to pay a restitution fine pursuant to Penal Code 1202.4(b)(1), in the amount of \$AMOUNT.

Denied:

2. In view of the foregoing, it is respectfully recommended that probation be denied and sentence imposed. Further, the defendant be ordered to pay a restitution fine pursuant to Penal Code 1202.4(b)(1), in the amount of \$AMOUNT.

Denied: Pre-Plea report

3. In view of the foregoing, if the defendant pleads or is found guilty of the pending charges, it is respectfully recommended that probation be denied and sentence imposed. Further, the defendant be ordered to pay a restitution fine pursuant to Penal Code 1202.4(b)(1), in the amount of \$AMOUNT.

Granted: Pre-Plea report

4. In view of the foregoing, should the defendant plead guilty or be found guilty of the pending charges, it is respectfully recommended that formal probation be granted under the following terms and conditions:

Granted:

5. In view of the foregoing, it is respectfully recommended that formal probation be granted under the following terms and conditions:

Granted: Pre-Plea report

6. In view of the foregoing, should the defendant plead guilty or be found guilty of the pending charges, it is respectfully recommended that five years formal probation be granted under the following terms and conditions:

Granted

7. In view of the foregoing, it is respectfully recommended that five years formal probation be granted under the following terms and conditions:
8. Be incarcerated in the Orange County Jail for an appropriate period of time.
9. Pay restitution in the amount of \$AMOUNT, to NAME as directed by the probation officer.
10. The probation officer is to conduct a financial investigation to determine the amount of restitution owed and the defendant's ability to pay. The defendant is ordered to pay restitution in an amount and manner as determined by the probation officer. If the defendant disagrees with the probation officer's determination, the probation officer is to refer this matter to the Court for resolution.

11. Submit, as directed by the probation officer, a statement of income, assets and liabilities and furnish all relevant documentation or information identifying income, assets, possessions and liabilities, actual or contingent.
12. Pay a restitution fine in the amount of \$AMOUNT pursuant to Penal Code 1202.4(b)(1), as directed by the probation officer.
13. Pay a criminal laboratory analysis fee in the amount of \$50.00 for each separate offense involving narcotics activity, pursuant to Health and Safety Code 11372.5.

Also see Macro #105 mandatory for convictions of 4383 B&P, 11350(a) H&S see 11350(c) H&S, 11377(a) see 11377(c) H&S, 11550(a) see 11550(b) H&S

14. Register pursuant to Health and Safety Code 11590.
15. Register pursuant to Penal Code 457.1.
16. Do not possess, use, or be under the influence of any drugs, narcotics, or controlled substances. Submit to drug or narcotic testing as directed by probation officer or police officer. Further, that the defendant be ordered to pay the reasonable cost of testing based on financial ability to pay.
17. Submit your person and property, including any residence, premises, container, or vehicle under your control, to search and seizure at any time of the day or night by any law enforcement or probation officer with or without warrant, and with or without reasonable cause or reasonable suspicion.
18. Do not possess or consume any alcoholic beverage and frequent no places where it is the chief item of sale.
19. Do not operate any motor vehicle with a measurable amount of alcohol in the blood.
20. Submit to a chemical test of blood, breath, or urine on the demand of any peace or probation officer.
21. Cooperate with the probation officer in any plan for psychiatric, psychological, alcohol and/or drug treatment, or counseling until mutual release of the treating agent/resource and the probation officer.
22. Enroll in and complete a probation-approved anger management program as directed by the probation officer.
23. Neither own, use, nor possess any dangerous or deadly weapons.
24. Violate no laws.
25. Obey all orders, rules, regulations, and conditions of the Probation Department and Court.
26. Obey all orders, rules, regulations, and conditions of the Probation Department, Court, and Jail.
27. Seek and maintain suitable training, schooling or employment as approved by the probation officer.

28. Disclose terms and conditions of probation when asked by any law enforcement or probation officer.
 29. Seek and maintain suitable training, schooling or employment as approved by the probation officer. Further, that the defendant be ordered to disclose to any employer, upon the direction of the probation officer, his/her conviction in the present matter and the circumstances surrounding it.
 30. Maintain a residence subject to the approval of the probation officer.
 31. Do not associate with any persons disapproved of by the probation officer.
 32. Have no contact with NAME.
 33. Do not associate with any persons known by you to be illegal narcotic or drug users or sellers and stay away from places where users and sellers congregate.
 34. That driver's license be suspended.
 35. That driver's license be revoked.
 36. That driver's license be revoked pursuant to Vehicle Code 13351.5.
 37. That driver's license be restricted.
 38. Do not operate a motor vehicle without proper insurance.
 39. Do not operate a motor vehicle without a valid California Driver's License.
 40. Have no blank checks in possession, nor write any portion of any check, nor have a checking account, nor use or possess credit cards or open credit accounts, unless approved by the probation officer.
 41. Do not seek or continue in any employment or volunteer work that is identical or similar to the employment or volunteer work in which the present offense occurred, as determined by the probation officer.
 42. Do not seek or continue any employment or volunteer work that involves direct access to the money or financial records of the employer or agency as determined by the probation officer.
 43. Perform an appropriate number of community service hours as directed by or subject to the approval of the probation officer.
- Mandatory for conviction of Penal Code 211, 215, 459, 470, 484, 487, 488 or 594
44. Pay an additional fine for larceny offenses pursuant to Penal Code 1202.5.

Child Abuse Terms and Conditions

Mandatory for conviction of Penal Code 273a and 273d

Granted: Pre-Plea report

45. In view of the foregoing, should the defendant plead guilty or be found guilty of the pending charges, it is respectfully recommended that four years formal probation be granted under the following terms and conditions:

Granted:

46. In view of the foregoing, it is respectfully recommended that four years formal probation be granted under the following terms and conditions:

Denied:

47. In view of the foregoing, it is respectfully recommended that four years informal probation be granted under the following terms and conditions:
48. Cooperate with the probation officer in any plan for participation in an approved child abuse treatment program until mutual release of the treating agent/resource and the probation officer. Further, that the Court issue a Protective Order protecting the victim from further acts of violence or threats.

Gang Terms and Conditions:

Mandatory for conviction of Penal Code 186.22

49. Register pursuant to Penal Code 186.30.
50. Cooperate with the Orange County Probation Department Adult Gang Terms and Conditions of Probation.
51. You are to report to your probation officer in person as directed. Transportation problems or poor weather conditions are not acceptable reasons for not reporting.
52. You are to comply with all directions of your probation officer.
53. You are to obey all laws, including traffic rules and regulations. You are not to operate a motor vehicle on any street or highway until properly licensed and insured. **YOU ARE TO REPORT TO YOUR PROBATION OFFICER ANY ARRESTS, LAW VIOLATIONS OR POLICE CONTACTS IMMEDIATELY.**
54. Obey curfew as directed by your probation officer.
55. You are not to leave the State of California or change your residence without prior permission from your probation officer. Prior to changing residence, you are to notify your probation officer of the new address. You are not to live with anyone unless they are approved by your probation officer.

56. Attend school or maintain employment as directed by your probation officer.
57. You are not to be on any school campus where not enrolled without the permission of the school administration.
58. You are not to be present in any known gang gathering area of the NAME gang as directed by your probation officer; specifically, the following locations: LOCATIONS.
59. Your associates are to be approved by your probation officer. You are not to associate with anyone whom you have met while in any of the County Institutions. You are not to associate with any member of the NAME gang or any other gang as directed by your probation officer.
60. You are not to possess weapons of any description including but not limited to firearms, knives of any description, nunchucks and martial arts weaponry. You are not to possess ammunition or weapon replicas. You are not to involve yourself in activities in which weapons are used including but not limited to hunting and target shooting. You are not to remain in any vehicle where anyone possesses a weapon, ammunition or weapon replica.
61. Do not remain in any vehicle either as a passenger or driver which you know or suspect to be stolen.
62. Do not possess nor remain in the presence of anyone whom you know possesses any master key, lock picks, dentpuller, "slim jim," slide hammer, or other device you know to be an auto theft or burglary tool.
63. Do not appear at any Court proceeding unless you are a party, defendant in a criminal action, or subpoenaed as a witness.
64. Do not possess a beeper, pager, cellular phone, or any other cordless or otherwise wireless communication device.
65. Do not possess graffiti in any form. Do not have in your possession or maintain paints, aerosol spray cans, pens, etching devices, or other instruments useable in applying graffiti. Do not apply yourself or assist others in application of graffiti.
66. Carry valid picture identification at all times.
67. Do not wear, display, use or possess any insignia, emblem, button, badge, cap, hat, scarf, bandanna, or any article of clothing which is evidence of affiliation with, or membership in the NAME street gang.
68. You are not to use or possess any intoxicants, narcotics, or other controlled substances, related paraphernalia, poisons, or illegal drugs - including marijuana. You are not to be with anyone who is using or possessing illegal intoxicants, narcotics, or drugs. Do not inhale or attempt to inhale or consume any substance of any type or nature, such as paint, glue, plant material, or any aerosol product. You are not to inject anything into your body unless directed to do so by a medical doctor.
69. Do not obtain tattoos except as permitted by your probation officer.
70. Have no contact with NAME.

Sex Offender Terms:

71. Cooperate with the Superior Court of California, County of Orange Sex Offender Terms and Conditions of Probation - Addendum.
72. Use only true name at all times.
73. While in public or any place open to the public, carry at all times a valid California Driver's License or Department of Motor Vehicles Identification Card containing your true name, true date of birth and current address, and display such license or card upon request of any peace officer at any time.
74. As a pedestrian, do not be in contact with occupants in vehicles of any city in Orange County.
75. Do not use or occupy any hotel or motel room, apartment, or other rented or leased residence without first registering or renting in your true name.
76. Submit to and cooperate in any field interview or investigation by any police officer, and provide only true information to such officer.
77. Do not be an employee of, nor participate in, nor reside in or at, nor derive any money or other form of consideration from any modeling, escort, massage, or sauna operation or business, or any outcall operation or business, or any acupressure or acupuncture operation or business.
78. Do not be an employee of, nor participate in or at, nor derive any money or other form of consideration from any operation, establishment, business, or residence used to conceal, or act as a front for prostitution activities.
79. Do not hitchhike and do not accept rides from any motorist on any street, highway, or other place open to the public.
80. Do not pick up hitchhikers or otherwise give rides to pedestrians.
81. Do not act as a prostitute or knowingly associate with any known or reputed prostitute, pimp, panderer, procurer, or "trick".
82. While in a vehicle on a public street or highway, do not be in contact with pedestrians.
83. Submit to AIDS testing pursuant to Penal Code 1202.1 [including convictions for Penal Code 288(a) where the Court finds probable cause to believe you have transferred any bodily fluid(s) to the victim(s).] Results of the testing are to be submitted to the Court by DATE.
84. Make full restitution to the victim(s), including cost incurred for medical or psychological treatment resulting from this case (mandatory where victim is a minor pursuant to Penal Code 1203.1g).
85. Reimburse the NAME Police Department for costs incurred in seeking a medical examination of the victim(s) for the purpose of collection and preservation of evidence

pursuant to Penal Code 1203.1h(b).

Mandatory if convicted of an offense defined in Penal Code 290(a) PC--(\$200 = 1st conviction; \$300 = 2nd and subsequent)

86. Pay a special fine of \$AMOUNT pursuant to Penal Code 290.3 as directed by the probation officer.

Mandatory for any offense listed in Penal Code 290(a)

87. Register pursuant to Penal Code 290; Initial registration within five (5) working days; re-registration if your residence changes within five (5) working days; annually, within five (5) working days of your birthday. Registration is a lifetime requirement; you must have a copy of your current and valid registration in your possession at all times.

88. Enroll in and complete an AIDS Education Program as directed by the probation officer.

Also Mandatory if convicted of any offense or attempt to commit any felony offense in Penal Code 290, or violation of 187, or attempt, 190, 190.05, 192, or attempt, felony 273.5, 269, 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 245.3, 235.5, 207, 208, 209, 209.5, 210, or attempt, 203, 205, or attempt, 206, or attempt, 460, 212.5, or attempt, 451, or attempt, 215, or attempt, 11418, 11419, felony 11418.5, or attempt, or mentally disordered sex offender, or severe mental disorder, or sexually violent predator:

89. Provide blood and saliva samples and thumb and palm prints in accordance with Penal Code 296.

90. Enroll in and complete and pay all costs of an outpatient and/or residential treatment program as directed by program provider, including psychological and psycho physical testing, to include periodic polygraph examinations. This does not constitute a waiver of your right against self-incrimination. (Treatment may include substance abuse component where deemed appropriate by the probation officer or the Court.)

91. Do not subscribe to, or have access to, any form of on-line Internet Service, without written permission of and subject to all restrictions as determined by the probation officer.

92. Do not own, use or possess any form of sexually explicit movies, videos, material or devices unless recommended by the therapist and approved by the probation officer. Do not frequent any establishment where such items are viewed or sold, and do not utilize any sexually-oriented telephone services.

93. Do not frequent massage parlors, live nude shows, or conventions where erotic materials and/or devices are sold.

94. Do not associate with minors, or frequent places where minors congregate, including but not limited to: schoolyards, parks, amusement parks, concerts, playgrounds, swimming pools and arcades, unless in the company of a responsible adult over the age of 21 who is approved by the probation officer or Court, knows of your offense(s) and is willing to monitor your behavior.

95. Do not own, use or possess any types of equipment designed for the taking or viewing of photographs, whether in still, digital or video form, without written permission of the probation officer.

96. Do not contact or attempt to contact the victim(s) in this case, namely: NAME in any manner, including written correspondence, telephone contact, or communication through a third party, except under circumstances approved in advance and in writing by the probation officer. Do not enter onto premises, travel past, or loiter near where the victim(s) reside(s), work(s), attend(s) school or any other places the victim(s) is/are known to frequent.
97. Do not use, possess or consume any alcoholic beverages or controlled substances without a valid prescription, or be present in any establishment where alcohol is the primary item of sale, such as bars and liquor stores.
98. Do not engage in volunteer work without permission from the probation officer or Court.
99. Do not reside with any child under the age of 18 including, but not limited to, your natural children, stepchildren, or any child with whom you have a parenting, guardianship, or supervisory relationship, unless approved in advance and in writing by the probation officer.
100. Do not date or marry anyone who has children under the age of 18, unless approved in advance and in writing by the probation officer.
101. Do not own, use, or possess any type of toys, video games, or similar items designed for the entertainment of children, without written permission of the probation officer.
102. Do not own, use, or possess any child erotica (pedophilic paraphernalia), nor any illustrated materials depicting unclothed children.
103. Submit to continuous electronic monitoring, Global Positioning System (GPS) monitoring, or other device as directed by your probation officer.
- 104a. Submit to testing for the presence of alcohol and/or controlled substances as directed by the probation officer.
- 104b. Do not associate with persons you know or reasonably should know to be parolees, convicted felons, users or sellers of illegal drugs, or otherwise disapproved by the probation officer.

Also mandatory for convictions of 4383 B&P, 11350(c) H&S, 11377(c) H&S, 11550(b) H&S, 264(b) PENAL CODE, 286(m) PENAL CODE, 288a(m) PENAL CODE, or 647.1 PENAL CODE

105. Pay a fine of \$AMOUNT to the Orange County Court Clerk to be used for "AIDS Education" as provided in Penal Code 1463.23.

Also Mandatory if convicted for violations of Penal Code Sections 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.5, 289, 12022.85 and 647(b) PENAL CODE.

106. Submit to blood test for AIDS, pursuant to Penal Code 1202.6.
107. Is further recommended the Court determine that the defendant does not have the ability to pay a fine pursuant to Penal Code 290.3.

108. Since the offense appears to have been committed as a result of sexual compulsion or for purposes of sexual gratification pursuant to Penal Code 290(a)(2)(E), register pursuant to Penal Code 290.

Domestic Violence Terms:

Mandatory for conviction of violation of Penal Code 273.5 and other qualifying convictions pursuant to Penal Code 1203.097 and Family Code 6211

109. Cooperate with the probation officer in any plan for participation in an approved Batterer's Treatment Program until mutual release of the treating agent/resource and the probation officer. Further, that the Court issue a Protective Order protecting the victim from further acts of violence, threats, stalking, sexual abuse and harassment.

The following are guidelines set forth in the Penal Code and are not terms and conditions.

- *If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following pursuant to Penal Code 1203.097:*
 - *A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.*
 - *A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.*
 - *Notice to the victim of the disposition of the case.*
 - *Book the defendant within one week of sentencing if the defendant has not already been booked.*
 - *A minimum payment by the defendant of two hundred dollars (\$200.00), based on ability to pay, for the domestic violence program special fund, pursuant to Penal Code 1203.097(a) (5).*
 - *Attend and complete domestic violence counseling/batterer's treatment program, as approved by the probation officer.*
 - *Attend and complete domestic violence counseling/batterer's treatment program with alcohol/drug component ordered, as approved by the probation officer.*
 - *Report to Victim Witness immediately, or if currently in custody, report immediately upon release from jail.*
 - *Make restitution for loss or damage to the victim in the amount as directed by Victim Witness.*
110. Pay \$AMOUNT to a battered women's shelter pursuant to Penal Code 1203.097(a)(11) (A).

111. Relinquish firearm(s) according to the Protocol for Handling Firearm Relinquishment Orders.
112. Attend and complete AB541 level 1, three-month program
113. Attend and complete AB541 level 2, six-month program.
114. Attend and complete AB541 level 2, nine-month program.
115. Attend and complete SB38, 18-month program.
116. Pay DUI lab/blood alcohol testing fee pursuant to Penal Code 1463.14(b).

Mandatory as defined in VC 23536-23556 for VC 23152 convictions (\$390 - \$1,000), as defined in VC 23560 – 23568 for 1st or 2nd VC 23153 convictions (\$390 - \$5,000) and as defined in VC 23566 for 3rd VC 23153 conviction (\$1,015 - \$5,000).

117. Pay a fine of \$AMOUNT.
118. Pay Alcohol abuse education fee pursuant to Penal Code 1463.25.
119. Pay \$100.00 Alcohol and Drug Assessment program fee pursuant to Vehicle Code 23649.
120. Pay citation processing fee.
121. Designate the defendant as a "habitual traffic offender" pursuant to Vehicle Code 13350(b).
122. Cooperate with probation officer in any plan for alcohol counseling.
123. Attend and complete Mother's Against Drunk Driving (MADD) Victim's Impact Panel.
124. Do not own/drive/possess vehicle without ignition interlock device pursuant to Vehicle Code 23575.

Financial Recommendations

125. The defendant has been notified of his/her right to a Financial Hearing pursuant to 1203.b PC. The Probation Department has conducted a financial evaluation and has determined that he/she has the ability to pay for the costs of probation, including the cost of this report in the amount of \$AMOUNT. It is recommended that he/she be ordered to pay for the costs of probation in the amount of \$AMOUNT per month until paid in full.
126. The defendant has been notified of his/her right to a Financial Hearing pursuant to 1203.b PC. If he/she failed to cooperate with a financial evaluator for a determination of his/her ability to pay the costs of probation, the Probation Department recommends the Court set a Financial Hearing to determine the defendant's ability to pay for the costs of probation.

127. The defendant has been notified of his/her right to a Financial Hearing pursuant to 1203.b PC. The Probation Department has conducted a financial evaluation and has determined he/she does not have the ability to pay, therefore, recommends the Court waive the costs of probation.
128. The defendant has been notified of his/her right to a Financial Hearing pursuant to 1203.b PC. The Probation Department has conducted a financial evaluation and has determined that he/she does not have the ability to pay the costs of probation at this time. It is therefore, recommended the Court set a Financial Hearing to determine the defendant's ability to pay for the costs of probation once he is released from custody.

Restitution Terms for State Prison Cases

Repeat as necessary in multiple victim cases

129. It is respectfully recommended the Court order \$AMOUNT restitution payable to NAME through the California Department of Corrections and Rehabilitation pursuant to Penal Code 1202.4 (f).
130. It is respectfully recommended the Court retain jurisdiction over the defendant as to the amount of restitution owed to the victim until such time as the loss may be determined and ordered pursuant to Penal Code 1202.46, set amount of restitution payable to NAME through the California Department of Corrections and Rehabilitation pursuant to Penal Code 1202.4(f).
131. It is respectfully recommended the Court retain jurisdiction over the defendant as to the amounts of restitution owed to the victims until such time as the losses may be determined and ordered pursuant to Penal Code 1202.46, set amounts of restitution payable to NAMES through the California Department of Corrections and Rehabilitation pursuant to Penal Code 1202.4(f).
132. It is respectfully recommended that if the Court cannot set the amount of restitution at sentencing, the Court retain jurisdiction over the defendant as to the amount of restitution owed to the victim until such time as the losses may be determined and ordered pursuant to Penal Code 1202.46, set amount of restitution to be payable to NAME through the California Department of Corrections and Rehabilitation pursuant to Penal Code 1202.4(f).
133. It is respectfully recommended that if the Court cannot set the amounts of restitution at sentencing, the Court retain jurisdiction over the defendant as to the amounts of restitution owed to the victims until such time as the losses may be determined and ordered pursuant to Penal Code 1202.46, set amounts of restitution to be payable to NAMES through the Department of Corrections and Rehabilitation pursuant to Penal Code 1202.4(f).
134. In order to protect the identity of the victim, the Court on its letterhead may wish to notify the California Department of Corrections and Rehabilitation as to the amount owed, name, and address of the victim.
135. In order to protect the identity of the victim, the Court on its letterhead may wish to notify the California Department of Corrections and Rehabilitation as to the amounts owed, names, and addresses of the victims.

PC1210 Terms:

136. It is felt the defendant has committed a qualifying offense and is entitled to drug treatment pursuant to Penal Code 1210.

Probation Violation/Reinstate

137. In that it is felt this is the NUMBER drug-related violation of probation, it is respectfully recommended the probationer be found in violation of probation, probation be revoked and probation reinstated under the provisions of Penal Code 1210, with the additional conditions the probationer be ordered to report to the probation officer forthwith and cooperate with any plan for reassessment of level of treatment as directed by the Health Care Agency.
138. In that it is felt this is a non-drug-related violation of probation, it is respectfully recommended the probationer be found in violation of probation, probation revoked, the provisions of Penal Code 1210 terminated and sentence imposed.
139. In that it is felt the probationer is a danger to the safety of others, and no longer appears entitled to Penal Code 1210, it is respectfully recommended the probationer be found in violation of probation, probation be revoked and reinstated with the additional conditions that the probationer be removed from the provisions of Penal Code 1210, serve an appropriate amount of time in jail, and be placed on regular, formal probation.
140. In that it is felt the probationer is unamenable to drug treatment, and no longer appears entitled to Penal Code 1210, it is respectfully recommended the probationer be found in violation of probation, probation be revoked and reinstated with the additional conditions that the probationer be removed from the provisions of Penal Code 1210, serve an appropriate amount of time in jail, and be placed on regular, formal probation.

Probation Violation/Prison

141. In that it is felt the probationer represents a danger to the safety of others, and no longer appears entitled to Penal Code 1210, it is respectfully recommended the probationer be found in violation of probation, probation revoked, the provisions of Penal Code 1210 terminated, and sentence imposed.
142. In that it is felt the probationer is unamenable to further drug treatment, and no longer appears entitled to Penal Code 1210, it is respectfully recommended the probationer be found in violation of probation, probation revoked, the provisions of Penal Code 1210 terminated, and sentence imposed.
143. In that it appears the defendant is not entitled to the provisions of Penal Code 1210, and is not eligible for probation, it is respectfully recommended probation be revoked, the provisions of Penal Code 1210 terminated and sentence imposed.

PV/P&S Recommendations (where the report is being written on the original case)

PV/P&S Pre Plea (terminate, deal with any outstanding restitution in a separate paragraph)

144. In view of the foregoing, it is respectfully recommended the probationer be found in violation, probation terminated and sentence imposed. Further, the defendant be ordered to pay a restitution fine pursuant to Section 1202.45 of the Penal Code in the amount of \$AMOUNT.

PV/P&S Pre Plea (reinstate)

145. In view of the foregoing, it is respectfully recommended the probationer be found in violation, formal probation be reinstated under the previous terms and conditions with the additional condition the probationer serve NUMBER OF DAYS in custody.

PV/P&S (terminate, deal with any outstanding restitution in a separate paragraph)

146. In view of the foregoing, it is respectfully recommended probation be terminated and sentence imposed. Further, the defendant be ordered to pay a fine pursuant to Section 1202.45 of the Penal Code, in the amount of \$AMOUNT.

PV/P&S (reinstate)

147. In view of the foregoing, it is respectfully recommended the probationer be reinstated on probation under the previous terms and conditions with the additional condition the probationer serve NUMBER OF DAYS in custody.

Revised 11/09/11

INCLUDE UNDER SOCIAL HISTORY HEADING LAST
PARAGRAPH

The defendant was given a “Notice of Right To A Financial Hearing” pursuant to 1203.1b PC and submitted/did not submit an “Adult Financial Statement” in which he/she declared \$_____ in assets and \$_____ in liabilities.

RECOMMENDATIONS

1) “The defendant has been notified of his/her right to a financial hearing, pursuant to PC1203.1b. The Probation Department has conducted a financial evaluation and determined that he/she has the ability to pay for the cost of the Probation report. It is recommended that he/she be ordered to pay for the cost of the Probation report in the amount of \$_____ per month, until paid in full”.

2) “The defendant has been notified of his/her right to a financial hearing, pursuant to PC1203.1b. He/she has failed to cooperate with a financial evaluation for a determination of his/her ability to pay the costs of the Probation report. The Probation Department recommends the Court set a financial hearing to determine defendant’s ability to pay for the cost of the Probation report”.

3) “The defendant has been notified of his/her right to a financial hearing, pursuant to PC1203.1b. The Probation Department has conducted a financial evaluation and has determined that he/she does not have the ability to pay and, therefore, recommends the Court waive the cost of the Probation report”.

STATIC-99R SCORING WORKSHEET

Probationer Name: _____ A# _____ CII _____ P.O. _____ Date _____

	Risk Factor	Codes	Score	Comments	
1	Young	Aged 18 to 34.9 <input type="checkbox"/> Aged 35 to 39.9 <input type="checkbox"/> Aged 40 to 59.9 <input type="checkbox"/> Aged 60 or older <input type="checkbox"/>	1 <input type="checkbox"/> 0 <input type="checkbox"/> -1 <input type="checkbox"/> -3 <input type="checkbox"/>	D.O.B: _____ AGE: _____	
2	Single	Ever lived with lover for at least two years? Yes <input type="checkbox"/> No <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>	Name: _____	
3	Index non-sexual violence (convictions only)	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>		
4	Prior non-sexual violence (convictions only)	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>		
5	Prior Sex Offences (Same rules as in RRASOR) (Higher column is final score)	Charges Convictions None <input type="checkbox"/> None <input type="checkbox"/> 1-2 <input type="checkbox"/> 1 <input type="checkbox"/> 3-5 <input type="checkbox"/> 2-3 <input type="checkbox"/> 6+ <input type="checkbox"/> 4+ <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/>	<u>Charges</u>	<u>Convictions</u>
6	Prior sentencing dates (excluding index)	3 or less <input type="checkbox"/> 4 or more <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>		
7	Any convictions for non-contact sex offences (includes index)	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>		
8	Any Unrelated Victims	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>	Name: _____	Age: _____ Sex: _____
9	Any Stranger Victims	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>	Name: _____	Age: _____ Sex: _____
10	Any Male Victims	No <input type="checkbox"/> Yes <input type="checkbox"/>	0 <input type="checkbox"/> 1 <input type="checkbox"/>	Name: _____	Age: _____
	TOTAL SCORE				

Risk Category	Score
Low	-3
Low	-2
Low	-1
Low	0
Low	1

Risk Category	Score
Low-Moderate	2
Low-Moderate	3
Moderate-High	4
Moderate-High	5
High	6
High	7

Risk Category	Score
High	8
High	9
High	10
High	11
High	12

Index Offense & Date: _____

P.O Signature _____

SPO Signature _____

Mr. _____ was scored on the Static-99R, which was an actuarial measure of risk for sexual offense recidivism. This instrument has been shown to be a moderate predictor of sexual re-offense potential. Mr. _____ received a total score of Ineligible which places him in the Low Risk Category for being charged or convicted of another sexual offense.

1. For the purposes of this attachment, Static-99R assessments are required for all defendants subject to registration pursuant to PC 290, except for those offenses called Category B Offenses. Examples of Category B Offenses that do not require Static-99R are:

- 10 years of offense-free time in the community
- Failure to register as a sex offender is only new offense
- Prostitution/pandering (excluding minor victim)
- Child pornography (possessing, selling, transporting, creating where only pre-existing images are used)
- Pimping
- Urinating in public
- A conviction for unlawful sexual intercourse with consenting victim (when it is defendant's only offense and he has no prior sexual offenses).

2. For Category B Offenses and when the defendant does not need a Static-99R because of a conflict with the coding rules, the following paragraph may be used:

Current law requires that the risk assessment score on the Static-99R be done for every eligible person (290.06 PC). Although the defendant is required to register pursuant to Penal Code Section 290, he is not eligible to be scored on the Static-99R under the official Coding Rules. His offense does not fit the criteria for those who can be assessed with this risk assessment tool.

3. For all other offenses requiring assessment, the following text shall be included in the investigator's report:

The defendant was convicted of an offense that requires him to register as a sex offender per Penal Code Section 290; therefore, pursuant to Penal Code Section 1203(c), the probation report shall include the results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) administered pursuant to Penal Code

Sections 290.04 to 290.06, inclusive, if applicable.

The Static-99R was developed by Dr. Karl Hanson and Dr. David Thornton in 2009 and serves as a revision to the Static-99 as an actuarial risk instrument to estimate the likelihood that a sex offender will be arrested for a new sexual offense. The Static-99R consists of 10 items and produces estimates of future risk based upon the number of risk factors present in any one individual. The risk factors included in the risk assessment instrument are the presence of prior sexual offenses, having committed a non-sexual violent offense, having a history of non-sexual violence, the number of previous sentencing dates, age less than 25 years old, having male victims, having never lived with a lover for two continuous years, having a non-contact sex offenses, having unrelated victims, and having stranger victims.

NOTE: A score is not statistically valid if information is missing on any factor except in an intimate relationship for 2+ years. Thus, a score is valid only if every factor is scored, with the one exception of the intimate relationship factor.

The defendant was scored on the Static-99R, which is an actuarial measure of risk for sexual offense recidivism. This instrument has been shown to be a moderate predictor of sexual re-offense potential with the recidivism rates now applying to scores from -3 to 10+. The defendant received a total score of _____ on the Static 99R, which places him in the _____ Risk Category. His risk on release from a prison sentence cannot be calculated until his age on release on parole is known, so the risk score stated herein is predictive of risk at release on probation. If the defendant has a prior conviction for a registrable sex offense, his risk score was calculated based on his age at release on the initial registrable sex offense. (Do not include if there are no prior convictions.)

[NOTE: The following sentence is to be added only if the offender has had a non-sexual violent offense after the index sex offense. If it does not apply, continue to the last two paragraphs.]

Because the defendant has had a non-sexually violent offense after his most recent sex offense then his risk is likely higher than that measured on the Static-99R. This is because offenses committed after the most recent sex offense are not considered in Static-99R coding.

The risk level on the Static-99R is measured for the purpose of determining conditions of supervision upon release, and may play a role in the level of community notification of an offender upon release or intensity of required treatment. The Static-99R risk level should not be used in isolation for the purpose of sentencing decisions, but should be used in conjunction with all considerations and recommendations of the deputy probation officer.

November 17, 2011