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1. Policy

1.1 It is the policy of Correctional Services to assist the court, pursuant to a request from the court following a determination of the offender's guilt, through the preparation and submission of pre-sentence reports (PSR) .

2. Standards

- 2.1 Pre-sentence investigations, and the subsequent reports, will be conducted and prepared by probation officers.
- 2.2 A probation officer may only initiate a pre-sentence investigation when a request is received from the court following a conviction being entered. **EXCEPTION:** Where a judge accepts a guilty plea from a young person but does not make a finding of guilt pursuant to section 36 YCJA and that judge is unable to be present for sentencing, a request for a PSR from that judge will be acted upon. In these situations however, the completed PSR will be held and will be provided to the youth justice court for distribution to the crown attorney and defence counsel once the finding of guilt under section 36 YCJA has been made on the day of sentencing.
- 2.3 PSR preparation is the first priority duty of a probation officer.
- 2.4 As a representative of the province and the criminal justice system, the probation officer must act in a courteous and professional manner at all times during the investigation process.
- 2.5 Pre-sentence reports must be:
 - 2.5.1 concise, informative and relevant to the current situation of the offender
 - 2.5.2 based on the offender's risk to re-offend and the identification of appropriate interventions to reduce and manage the risk presented by the offender, and
 - 2.5.3 prepared in a manner consistent with the following procedures and guidelines.

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3. Legislative Authority

- 3.1 Sections 721(1) of the *Criminal Code of Canada* (CCC) and 40(1) of the *Youth Criminal Justice Act* (YCJA) provide legislative authority for PSRs.
- 3.2 Sections 721 (3) CCC and 40(2) YCJA set out the required content for a PSR. Section 40(2) YCJA is limited by section 119 YCJA with respect to what may be reported and for the length of time it may be reported.
 - 3.2.1 A judge has jurisdiction pursuant to 721(3) CC to order that specific information be excluded from a pre-sentence report.
 - 3.2.2 A youth court judge does not have jurisdiction pursuant to the YCJA to order that information be excluded from a pre-sentence report. It is however, within the jurisdiction of the provincial director to determine what additional information should be included on the basis of relevancy.
- 3.3 In the case of adult offenders, the court is not obligated to request a PSR.
- 3.4 With respect to young persons, the court:
 - 3.4.1 is obligated to require a PSR where the report is specifically required under YCJA, and
 - 3.4.2 may require a PSR where it deems it advisable.

4. Secondary Purposes of the Pre-Sentence Report

- 4.1 In addition to assisting the court in sentencing, the PSR and supporting documentation is also used to provide an accurate assessment and background information to assist:
 - 4.1.1 the probation officer in the supervision of the offender in the community
 - 4.1.2 correctional facilities with supervision and programming, and

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4.1.3 decisions on releases of offenders on temporary absence or reintegration leave.

4.2 In addition, a copy of the PSR that was filed with the court may assist:

4.2.1 the Correctional Service of Canada in the penitentiary program selection process, and

4.2.2 the National Parole Board in the parole decision-making process.

5. The Investigation - General


5.1 All issues identified during the course of a pre-sentence investigation must be thoroughly probed and clarified to ensure that the information provided is accurate and that it has been accurately interpreted by the probation officer. The probation officer must be prepared to verify the accuracy of all information in the PSR in court if required to do so.

5.2 The offender interview and all interviews with collateral sources undertaken for the PSR are to be completed by the same probation officer who will be preparing the final report.

5.3 In situations where the offender is held in custody at a distance from the field office responsible for the report, the probation officer may travel to the correctional facility to interview the offender. Where this is not possible, the interview and the full report is to be completed by the field office closest to the correctional facility housing the offender.

5.3.1 In exceptional circumstances only, where the office closest to the facility is unable to complete the PSR within the time frame provided by the court, the PSR interview may be conducted by the probation officer at a distance by telephone. This practice is only to be utilized where the probation officer completing the interview has previously supervised and is very familiar with the offender and where approval to proceed has been provided by the senior probation officer.

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- 5.4 The probation officer must maintain detailed notes during the investigation process and all notes taken by the probation officer during the interview and from collateral contacts must be retained on the file for a period of no less than 60 days following sentence.

- 5.5 The probation officer will ensure the interview:
 - 5.5.1 is open minded
 - 5.5.2 is sensitive to cultural differences and subtleties
 - 5.5.3 deals with facts only, and
 - 5.5.4 avoids vague impressions.

- 5.6 Probation officer's are not to:
 - 5.6.1 recommend a specific lawyer to the offender
 - 5.6.2 comment to the offender, offender's family or other collateral sources on the likely disposition of the court
 - 5.6.3 comment to the offender, offender's family or other collateral sources about personal views regarding the offence or the criminal investigation
 - 5.6.4 permit interviews with the offender or the offender's family to become therapy sessions.


- 5.7 PSRs are prepared for the court. It is not appropriate during the preparation stage of the PSR to be influenced by requests from either crown attorney or defence counsel for the inclusion or exclusion of specific information in the PSR.

- 5.8 If citizenship is in doubt or if the offender is not a citizen of Canada, contact should be established with Canada Immigration for confirmation or notification purposes as appropriate.

6. The Investigation - Initial Interview with Offender

- 6.1 Offenders should be interviewed in the community corrections office rather than in their home where possible and appropriate. The office setting is a


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controlled environment which allows for focussed personal discussion with minimal disruption.

- 6.2 Before beginning the interview with the offender, the probation officer shall provide the offender with a copy of the PSR Information Sheet and clearly explain:
- 6.2.1 the purpose, nature and content of the report
 - 6.2.2 that other people will be interviewed for the report
 - 6.2.3 that the offender will receive a copy of the report from the clerk of the court or legal counsel
 - 6.2.4 that the offender has the right to challenge information in the report either directly or through legal counsel prior to sentence
 - 6.2.5 that any information provided by the offender may be included in the report, and
 - 6.2.6 the distribution of the report.
- 6.3 If the offender fails to report for the interview or fails to respond to reasonable efforts by the probation officer to arrange such an interview, e.g., telephone, letter, check with correctional facility to determine if the offender is in custody, the probation officer will inform the court of this fact in writing. The probation officer will not proceed with the investigation until further direction is received from the court.
- 6.4 If an offender is remanded pending PSR preparation and it appears that the offender may be transferred to another correctional facility or to a federal penitentiary, the probation officer shall contact the superintendent of the holding correctional facility and request that the offender be retained at that facility until the offender has been interviewed. The probation officer should give priority to this interview and conduct the interview within three working days of receipt of the request.
- 6.5 During the initial interview the probation officer may request that the offender authorize, where necessary, a release of information on the approved form (*see Chapter 4 Access and Disclosure of Information*) to facilitate access to relevant information from other agencies.

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6.6 Any refusal or lack of cooperation by the offender to provide information for the PSR, or to sign a release of information, is to be duly noted in the PSR.

7. The Investigation - Collateral Contacts


7.1 The probation officer will make collateral contacts to provide the court with necessary information about the offender. The level and extent of contacts shall be determined by the probation officer, not the offender.

7.2 The offender is to be informed that specific individuals will be contacted in order that the offender may inform them of the offence in advance, if necessary.

- 7.3 Collateral contacts may include:
- 7.3.1 parents, spouse or other family members
 - 7.3.2 employer or previous employer
 - 7.3.3 principal, teacher or other educational contact
 - 7.3.4 friends and neighbours
 - 7.3.5 clergy
 - 7.3.6 youth group leaders
 - 7.3.7 victim(s), and
 - 7.3.8 others who may be identified as significant in the offender's life.

7.4 If the parents or spouse of an offender are interviewed, the interview should be conducted in person rather than by telephone. Parents or spouses should be invited to come to the community corrections office if it is not appropriate to conduct a home interview.

- 7.5 The probation officer must inform all collateral contacts that:
- 7.5.1 they will be identified as a source of information if their comments are included in the PSR
 - 7.5.2 if they request anonymity, the information they provide will not be used in the PSR

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- 7.5.3 they are under no legal obligation to answer any questions
- 7.5.4 although this procedure is rarely used, they may be called upon to substantiate any information which they provide and may be called as a witness on sentencing
- 7.5.5 the PSR is a public document except as provided for in YCJA, and
- 7.5.6 the offender will have an opportunity to read the PSR.

7.6 The probation officer must exercise caution to ensure that the offender's right to confidentiality is not compromised during interviews with collateral contacts. The collateral contact should be provided with no more information about the offence than is necessary to conduct the interview.

8. The Investigation - Interviews with Family Members

- 8.1 It is important that the probation officer interview in person the parents, spouses or other members of the extended family, as appropriate, if the offender is:
 - 8.1.1 a young person pursuant to YCJA, including when:
 - 8.1.1.1 the young person has lived with their parents or other family member recently or
 - 8.1.1.2 the parents or other family member are interested in the proceedings
 - 8.1.2 under the age of 21 and lives with their parents or other family member or
 - 8.1.3 over the age of 21, lives with their parents or other family member and is dependent on them for financial support or
 - 8.1.4 living with their spouse.
- 8.2 Probation officers must ensure that:
 - 8.2.1 the offender is interviewed before family members
 - 8.2.2 the offender's views of the family are compared with the family's view of the offender
 - 8.2.3 if necessary and important, conduct a second interview with the offender.

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8.3 If safety is a concern, the parents, spouse, or extended family members should be interviewed in a community corrections office or in a neutral location, provided that safety can be reasonably assured.

9. The Investigation - Home Visits

9.1 The purpose of a home visit to meet with parents, spouse or member of extended family, is to provide the probation officer with:

- 9.1.1 a multi-sensory perception of the home environment of the offender, and
- 9.1.2 the impact that the home environment is having or may have had on the development of the offender.

9.2 Home visits are appropriate in all cases when the offender:


- 9.2.1 is a young person pursuant to YCJA
- 9.2.2 is under the age of 21 and lives with their parents or
- 9.2.3 is over the age of 21, lives with their parents and is dependent on them for financial support.

9.3 Home visits are also appropriate when any offender's parents contact the probation officer and request a meeting. In such cases, the probation officer may offer to come to their home unless the parents would prefer to have the meeting at the community corrections office.

9.4 A home visit should not be conducted when:

- 9.4.1 personal safety and security are a concern
- 9.4.2 the distance to the home is prohibitive or the road conditions are dangerous due to the season
- 9.4.3 the offender has lived away from the parental home for a number of years and such information would have little bearing on current circumstances or
- 9.4.4 any safety considerations governing home visits as set out in *Chapter 12 Staff Safety, section 12.05.00* cannot be met.

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10. Updated Pre-Sentence Reports

- 10.1 An updated report is an abridged PSR which is attached in letter form to a PSR which was previously submitted to the court.
- 10.2 An updated report may be submitted, rather than a regular PSR, in cases where the court has requested a PSR, and:
 - 10.2.1 the offender has been institutionalized, e.g., incarcerated hospitalized, since the original PSR was completed or
 - 10.2.2 the time between the original and subsequent PSR is one year or less and
 - 10.2.3 circumstances have not changed markedly since the original PSR was completed.
- 10.3 Where an updated report is prepared, the offender must be interviewed in person by a probation officer. Other sources may be re-contacted as necessary in order to confirm the current accuracy of the information as contained in the previous PSR. All sources contacted in the preparation of the updated report must be clearly identified.
- 10.4 The updated report should begin with a paragraph which identifies the court date, offence number and sentencing date.
- 10.5 Distribution of an updated report is the same as with regular PSRs.

11. Follow-Up Reports

- 11.1 A follow-up report is a report which is prepared in letter form when the judge requests a further report for follow-up purposes during the term of the court order.
- 11.2 A follow-up report shall be submitted in cases where:

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11.2.1 at the time of the initial sentence, the court has requested a follow-up report at a specified time during the term of the probation order or

11.2.2 the court has, for any reason, requested that the offender be returned to court for further review or monitoring of the offender's progress.

11.3 A follow-up report shall only be prepared at the request of the judge, not at the request of the crown attorney or defence counsel.

11.4 Where a follow-up report is prepared, the offender must be interviewed in person. Collateral contacts should be made as circumstances dictate. All sources contacted in the preparation of the follow-up report must be clearly identified.

11.5 The follow-up report should begin with a paragraph which identifies the court date, offence number and sentencing date.

11.6 Distribution of a follow-up report is the same as with regular PSRs.


12. Schedule of Submission to Court

12.1 When a pre-sentence report investigation request is received from the court, it is immediately to be entered into the *PSR Tracking Log* ([see form 15.01.00. A](#))

12.1.1 The *PSR Tracking Log* is to be maintained manually/by hand on an ongoing basis and is to be used exactly as provided and placed in a legal size binder specifically set-up for that purpose.

12.1.2 One *PSR Tracking Log* is to be maintained for each community corrections office location. Where PSRs are assigned from a central office location for a given community corrections area, one central *PSR Tracking Log* shall be maintained for the area.

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12.1.3 Specifics for completing the *PSR Tracking Log* are as follows:

- 12.1.3.1 Offender Name: name of offender who is the subject of the PSR
- 12.1.3.2 File / OCM #: offender file number and OCM number from JEIN
- 12.1.3.3 Date Received: date the PSR request is received at the Community Corrections office
- 12.1.3.4 Date Assigned: date the PSR is assigned to a Probation Officer
- 12.1.3.5 IN: initials of the staff person assigning the PSR
- 12.1.3.6 PO: name of the Probation Officer assigned the PSR
- 12.1.3.7 Sentence Date: date set by the Court for sentencing
- 12.1.3.8 Due Date: date the PSR is due to be submitted to the Court (three clear days prior to sentence date)
- 12.1.3.9 Submitted: date report is signed and submitted to the court and
- 12.1.3.10 IN: initials of the staff person who sent the PSR to the Court.


12.1.4 All PSRs are to be entered/recorded sequentially on the *PSR Tracking Log* as soon as the request is received from the Court - all dates are to be written as month/day/year, e.g., February 16, 2007.

12.1.5 The *PSR Tracking Log* must be maintained in a current and timely manner so as to accurately reflect all PSR traffic through community corrections offices.

12.2 Reports must be prepared and submitted as soon as possible after the request has been received rather than immediately prior to the due date. This practice will:

- 12.2.1 allow staff to control their time
- 12.2.2 minimize unnecessary stress within the office

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- 12.2.3 allow for unforeseen circumstances which may cause delays during the preparation process
- 12.2.4 provide the court sufficient time to distribute the PSR to counsel and
- 12.2.5 provide the court with time to give appropriate consideration to the content before sentencing.

12.3 Report dictation must be made available to secretarial staff at least two working days before the PSR is due for submission to the court.

12.4 Reports must be available to the clerk of the court no later than three clear working days prior to the sentencing date. For example, if an offender is to be sentenced on a Friday afternoon, the three clear days are Tuesday, Wednesday and Thursday, the PSR must be available to the court on the preceding Monday. If sentencing is on a Wednesday morning, the three clear days are Friday, Monday and Tuesday, therefore the PSR must be available on the preceding Thursday.


13. Distribution of Pre-Sentence Reports

13.1 The probation officer shall deliver the original and three copies, or four in the case of a young person, of the PSR to the clerk of the court no later than three clear working days prior to sentencing. The clerk of the court is responsible for delivering the original and copies of the PSR as follows:

- 13.1.1 original – sentencing judge
- 13.1.2 copy one – crown attorney
- 13.1.3 copy two – offender or defence counsel
- 13.1.4 copy three – court file
- 13.1.5 copy four – parent or guardian of a young person, when applicable.

13.2 Reports may be faxed to the court only in exceptional circumstances. In such cases, the sending office will contact the court to ensure that the appropriate individual is available at the fax machine to receive the

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document thereby ensuring confidentiality. The usual original and copies will be forwarded simultaneously to the court by mail.

- 13.3 The probation officer is not obligated to deliver copies of PSRs to either defence counsel, the crown attorney, or parent or guardian in the case of a young person.
- 13.4 The probation officer shall retain a copy of the PSR in the offender's community corrections file, and where the offender is presently serving a custody term, direct a copy to the superintendent of that correctional facility.
- 13.5 Probation officers will distribute PSRs after the offender is sentenced in accordance with the provisions of applicable legislation and the Division's policy and procedures.

14. Oral Pre-Sentence Reports

- 14.1 Oral Reports should only be presented to the court when a judge specifically requests this type of report or when prior approval has been received from the sentencing judge.
- 14.2 The information collected for oral reports must be verifiable, reliable and factual to the extent that time limitations for preparation permit.
- 14.3 An oral report must be transcribed into a typewritten report using the approved format ([see form 14.05.00 - A](#)) within ten (10) days after it has been presented.
- 14.4 The Youth Level of Service/Case Management Inventory (YLS/CMI) or Level of Service/Case Management Inventory (LS/CMI) interview guides, may also be used as a guide for the collection and organization of oral report material.
- 14.5 A copy of the documented oral report will be retained on the offender's file.


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15. Dictating and Preparing The Pre-Sentence Report

- 15.1 Probation officers are to ensure that information which is included in PSRs is relevant and factual.
- 15.2 Sources of information must be clearly identified. Information may not be included if the source requested anonymity.
- 15.3 Probation officers are not to include information in the PSR that cannot be substantiated if challenged by the court.
- 15.4 Probation officers shall include all headings from the standard approved format of the PSR in the report:
 - 15.4.1 Family Background
 - 15.4.2 Education and Training
 - 15.4.3 Employment
 - 15.4.4 Financial Situation
 - 15.4.5 Health and Lifestyle
 - 15.4.6 Offender Profile
 - 15.4.7 Interview with the Victim
 - 15.4.8 Corrections History
 - 15.4.9 Gladue Factors (Aboriginal offenders only)
 - 15.4.10 Assessment of Community Resources
- 15.5 If no relevant information is available or appropriate for inclusion with respect to a specific section, this fact should be stated in the PSR.
- 15.6 Probation officers must not attach letters of reference which are supplied by the offender to the PSR. Letters of reference normally lack the degree of objectivity which is necessary for a PSR. If the offender feels the letters are necessary, the probation officer is to suggest to the offender that the letters may be provided to the court by defence counsel.
- 15.7 When preparing PSRs the probation officer shall:

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- 15.7.1 be concise, yet informative
- 15.7.2 ensure that the tone of the PSR reflects objectivity
- 15.7.3 use proper sentence structure and grammar
- 15.7.4 use descriptive adjectives and phrases that accurately reflect the intent and do not overstate or understate the situation
- 15.7.5 use simple language that can be clearly understood by all parties including the accused and
- 15.7.6 not use jargon.

- 15.8 Where practical and possible, the probation officer may choose to refer to the offender by their surname.
- 15.9 Probation officers and secretaries have a shared responsibility to ensure that PSRs are proofread before they are distributed to the court.
- 15.10 All reports must be signed by the probation officer prior to submission to the court.
- 15.11 Reports prepared by new probation officers and assistant probation officers must be reviewed prior to submission and countersigned by the supervising probation officer for the first year of employment to ensure the reports are in compliance with established policy and procedures.
- 15.12 Students and Volunteers in Corrections are not permitted to prepare pre-sentence reports.

16. Pre-Sentence Report - Face Sheets

- 16.1 **Purpose:** The purpose of a face sheet is to identify the PSR and its routing, i.e., judge, court location, date.
- 16.2 **Types of Information:** The probation officer shall prepare a face sheet for the PSR that is consistent with the approved layout ([see form 15.01.00 - B](#)) specifically it should identify:

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- 16.2.1 the accused, surname in capital letters followed by first and second given names
- 16.2.2 name of the judge
- 16.2.3 the court level
- 16.2.4 location of court i.e., municipality, where sentencing will occur
- 16.2.5 date of sentencing
- 16.2.6 name of crown attorney
- 16.2.7 name of defence attorney
- 16.2.8 name of probation officer


- 16.2.9 location of Community Corrections office and
- 16.2.10 date the PSR was prepared.

17. Pre-Sentence Report - Identifying Data

- 17.1 **Purpose:** The purpose of identifying information is to provide the court with a summary of the offender's personal information.

- 17.2 **Types of Information:** The probation officer shall include identifying information in a manner consistent with the approved layout ([see form 15.01.00 - B](#)). This includes the offender's:
 - 17.2.1 surname, surname in capital letters, followed by first and second given names in regular type
 - 17.2.2 date of birth written in full, i.e., month followed by the day and year, e.g., December 1, 1947
 - 17.2.3 age
 - 17.2.4 municipality and province of birth
 - 17.2.5 citizenship or immigration status
 - 17.2.6 gender
 - 17.2.7 marital status, e.g., married, single or common law
 - 17.2.8 highest level of formal education completed
 - 17.2.9 civic address by including street address, municipality and province, and mailing address if different from the civic address
 - 17.2.10 current telephone number or alternate number where offender can be reached.

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18. Pre-Sentence Report - Offence Information

18.1 **Purpose:** The purpose of offence information is to provide the court with a summary of the offender's offence and conviction status.

18.2 **Types of Information:** The probation officer shall include the offence information in a manner consistent with the approved layout ([see form 15.01.00 - B](#)). This includes:

- 18.2.1 each offence identified separately
- 18.2.2 number of counts related to each offence
- 18.2.3 date(s) of the offence reported as year, month and day, e.g., 2003 04 01
- 18.2.4 location(s) of offence
- 18.2.5 offence section(s) and applicable legislation
- 18.2.6 brief narrative statement corresponding to the offence section and act, e.g., break, enter and theft.

18.3 The probation officer will also identify whether the offender pled guilty or was found guilty under the heading "conviction status" ([see form 15.01.00 - B](#)).


19. Pre-Sentence Report - Corrections Profile

19.1 **Purpose:** The purpose of offence information is to provide the court with a summary of the offender's correctional profile.

19.2 **Types of Information:** The probation officer shall indicate "yes", "no" or "unknown", but not details, to the categories included in the corrections profile in a manner consistent with the approved layout ([see form 15.01.00 - B](#)). This includes:

- 19.2.1 whether the offender has a history of offences or extrajudicial sanctions while a young person (see also Corrections History)
- 19.2.2 whether the offender has a prior criminal record, including discharges but not pardons

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- 19.2.3 whether the offender was on probation when charged with the current offence and
- 19.2.4 whether the offender is currently on probation.


20. Pre-Sentence Report - Sources of Information

- 20.1 **Purpose:** The purpose of a sources of information section is to provide the court with information on collateral sources consulted during the preparation of the PSR.
- 20.2 **Types of Information:** The probation officer shall include sources of information in a manner consistent with the approved layout ([see form 15.01.00 - B](#)).
 - 20.2.1 identify first and second name of the source and any titles or designations as appropriate, e.g., reverend, constable, doctor,
 - 20.2.2 identify the relationship of the source to the accused or the occupation of the source as appropriate.

21. Pre-Sentence Report - Family Background

- 21.1 **Purpose:** The purpose of this section is to provide the court with relevant information about the offender's upbringing and family relationships as they relate to the current situation of the offender.
- 21.2 **Nature of Investigation:** Information for this section will primarily be obtained from the offender, significant family members and through observations of the probation officer.
- 21.3 The parents should, unless exceptional circumstances exist, be interviewed if the offender is a young person or if the offender lives with them. If the offender is not living with parents, the decision to contact them should be based on the number of years since the offender has lived with them and their significance in the offender's life.
- 21.4 The probation officer must ensure this section of the PSR:

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- 21.4.1 is written about the offender, not the offender's family
- 21.4.2 focuses on how the offender relates to the family
- 21.4.3 does not provide details of family members unless they are significant and important in understanding the offender and the family dynamics, and
- 21.4.4 deals with facts and avoids vague impressions.

21.5 Where a home visit has been conducted, information should be included under this section.

21.6 **Young Persons:** With respect to young persons, section 40(2)(vi) YCJA requires that the PSR address:

- 21.6.1 the relationship between the young person and their parents
- 21.6.2 the parents' degree of control and influence over the young person
- 21.6.3 the relationship between the young person and the extended family and
- 21.6.4 the degree of control and influence of the extended family over the young person.

21.7 **Domestic Violence:** refer to section 28.1.


21.8 **Types of Information:** For easy reference by the reader, the probation officer shall separate the significant and relevant information on family background into two subheadings:

- 21.8.1 family of origin and
- 21.8.2 current family.

21.9 **Family of Origin:** The need for details regarding the family of origin is diminished by the number of years that have elapsed since the offender has lived with his/her parents. The probation officer shall determine the extent to which the age, marital status and living circumstances of the offender are important indicators in this regard. The specific areas the probation officer is to consider for inclusion are:

- 21.9.1 father and mother's names, ages, occupations if relevant
- 21.9.2 foster parent or group home experience

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- 21.9.3 how offender and other family members get along
- 21.9.4 any family member who has a significant impact on the offender
- 21.9.5 amount and nature, e.g., moral or financial, of support for the offender
- 21.9.6 offender attitude and behaviour toward parents
- 21.9.7 impact of cultural, ethnic and/or religious values on upbringing
- 21.9.8 family values and attitudes
- 21.9.9 transient nature of family
- 21.9.10 psychiatric history of family
- 21.9.11 situations in the home experienced by offender during the formative years, e.g., divorce, death of family members, desertion, history of violence, alcohol abuse, physical, emotional or sexual abuse - do not identify alleged abuser
- 21.9.12 offender's behaviour in the home
- 21.9.13 methods of discipline applied
- 21.9.14 number, age and gender of siblings
- 21.9.15 parents' knowledge of offence
- 21.9.16 parents' reaction to offence
- 21.9.17 corrective measures taken by parents
- 21.9.18 solutions suggested by family
- 21.9.19 family's willingness to participate in solution
- 21.9.20 criminal history of family
- 21.9.21 outside agency involvement with family
- 21.9.22 attempts within the family to improve situation and
- 21.9.23 age that offender left home and under what circumstances.

21.10 **Current Family:** With respect to the current family situation, the specific areas the probation officer is to consider for inclusion are:

- 21.10.1 marital status, e.g., married, single, common law, divorced
- 21.10.2 spouse's name, including maiden name where appropriate, age and occupation
- 21.10.3 length of marital or common law relationship
- 21.10.4 number, age and gender of children
- 21.10.5 former spouses and children from previous relationships including names and ages where appropriate

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- 21.10.6 family support obligations, e.g., child support, visitation
- 21.10.7 reasons for termination of prior relationships
- 21.10.8 transience of present family
- 21.10.9 stressors in family that may be contributing to dysfunction, e.g., substance abuse, physical abuse, criminal history
- 21.10.10 offender's feelings towards spouse and children
- 21.10.11 spouse and children's feelings toward offender

- 21.10.12 nature of relationship with spouse and
- 21.10.13 degree of support for offender within family.

22. Pre-Sentence Report - Education and Training

- 22.1 **Purpose:** The purpose of the education and training section is to identify the offender's previous, current, and future projections regarding academic achievement and skill development. This information, coupled with a statement of limitations and strengths, will assist in providing a picture of the offender in the job market and society.


- 22.2 The decision to interview education authorities will depend upon the length of time since the courses were taken.

- 22.3 Details of formal education and training become less significant as time passes.

- 22.4 **Young Persons:** With respect to young persons, school attendance and performance records shall be included in the PSR pursuant to section 40(2)(c)(vii) YCJA.

- 22.5 **Types of Information:** The probation officer shall ensure this section of the PSR includes to the extent relevant information on the offender's
 - 22.5.1 current educational and training
 - 22.5.2 tests and literacy
 - 22.5.3 specialized training and
 - 22.5.4 future educational or training plans.

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22.6 **Current Education:** The probation officer shall include, as appropriate, information on:

- 22.6.1 current grade/school enrolled in
- 22.6.2 highest level achieved
- 22.6.3 nature of program, e.g., academic, special education, community college, Bachelor degree
- 22.6.4 grades and academic standing
- 22.6.5 educational awards and achievement
- 22.6.6 attendance
- 22.6.7 behaviour in school
- 22.6.8 attitude toward school
- 22.6.9 motivation
- 22.6.10 extra curricular activities
- 22.6.11 reason for leaving
- 22.6.12
- 22.6.13 association with peer group and staff
- 22.6.14 significant problems affecting the offender's progress, e.g., attendance, motivation or peer group.

22.7 **Testing and Literacy:** The probation officer shall include as appropriate and to the extent it can be readily attained and is relevant:

- 22.7.1 educational problems
- 22.7.2 learning disabilities
- 22.7.3 aptitude/interest testing
- 22.7.4 functional ability to read and write
- 22.7.5 literate or illiterate.


22.8 **Specialized Training:** The probation officer shall include as appropriate:

- 22.8.1 special skills certifications
- 22.8.2 informal training and areas where the offender is self taught
- 22.8.3 seminars, workshops, et cetera.

22.9 **Future Plans:** The probation officer shall include, as appropriate:

- 22.9.1 the offender's stated future plans for education and training and

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22.9.2 whether such plans are realistic in terms of the offender's ability, motivation and financial means.

23. Pre-Sentence Report - Employment

- 23.1 **Purpose:** The purpose of the employment section in the PSR is to provide the court with an understanding of relevant aspects of the offender's employment history including:
- 23.1.1 employment pattern
 - 23.1.2 type of employment
 - 23.1.3 duration and frequency of jobs and
 - 23.1.4 reasons for leaving.
- 23.2 **Nature of Investigation:** The probation officer shall investigate as far in the past as is necessary to identify:
- 23.2.1 an employment pattern
 - 23.2.2 the most characteristic type of work the offender has performed, e.g., labour, trade
 - 23.2.3 reasons for termination or dismissal
 - 23.2.4 periods of unemployment and
 - 23.2.5 means of financial support during periods of unemployment.
- 23.3 When providing information regarding employment history, it is not appropriate or necessary for the probation officer to list all previous work experiences.
- 23.4 The probation officer will confirm current or most recent employment through direct contact with the employer. Permission is not required to contact employers. If the probation officer feels that the offender's employment may be jeopardized by such contact, employment may be confirmed through alternate means such as pay stubs.
- 23.5 With respect to previous employment the probation officer will make the decision on whether or not to contact a former employer based upon:
- 23.5.1 the length of time since the job was held
 - 23.5.2 the duration and significance of the job and
 - 23.5.3 the possibility of loss of recall opportunity if the former employer is made aware of the offence.

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- 23.6 Current and former employers can be useful sources of information regarding:
 - 23.6.1 reliability and attendance
 - 23.6.2 relationship with colleagues and supervisors
 - 23.6.3 attitude towards work
 - 23.6.4 how the offender handles responsibility and
 - 23.6.5 career potential.


- 23.7 **Young Persons:** With respect to young persons, section 40(2)(c)(vii) YCJA requires that the employment record of the young person be included.

- 23.8 **Types of Information:** Information which should be included in the employment section of the PSR, if significant and relevant, is:
 - 23.8.1 present employment
 - 23.8.2 work record and history and
 - 23.8.3 future plans.

- 23.9 **Present Employment:** With respect to present employment, the probation officer should include, as appropriate:
 - 23.9.1 occupation
 - 23.9.2 nature of current employment (employer, position, length of employment, schedule/hours of work, part-time, full-time, seasonal/cyclical)
 - 23.9.3 overtime required
 - 23.9.4 behaviour at work
 - 23.9.5 attitude toward job and co-workers
 - 23.9.6 dependability/promptness
 - 23.9.7 potential for job continuation
 - 23.9.8 relationship to co-workers and
 - 23.9.9 confirmation of salary.

- 23.10 **Work Record:** With respect to work record and history, the probation officer should include as appropriate:
 - 23.10.1 high school jobs, depending on offender's age and relevance
 - 23.10.2 number of jobs held
 - 23.10.3 previous employment patterns
 - 23.10.4 reasons for job terminations
 - 23.10.5 periods/times and lengths of unemployment
 - 23.10.6 volunteer work
 - 23.10.7 availability for employment and

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23.10.8 attitude toward work in general.

23.11 **Future Plans:** With respect to future plans, the probation officer should include as appropriate:

- 23.11.1 career goals
- 23.11.2 aspirations regarding current job and
- 23.11.3 employability of offender.

24. Pre-Sentence Report - Financial Situation

24.1 **Purpose:** The purpose of including a section on financial information in the PSR is to assist the Court in determining the appropriateness of a monetary penalty or restitution.

24.2 Nature of Investigation:

24.2.1 This section of the PSR should be used by the probation officer to assess whether the offender is properly managing financial obligations.

24.2.2 If unemployed, the probation officer shall identify:

- 24.2.2.1 the source of income in the family and
- 24.2.2.2 the significant effects that unemployment may be having on the offender and/or the offender's family during the period of unemployment.

24.2.3 Probation officers must base this section on information which is obtained from the offender. Probation officers shall not contact financial institutions for information or verification of financial information for the PSR.


24.2.4 **Types of Information:** Information which the probation officer shall include, if significant and relevant, is:

- 24.2.4.1 present income and
- 24.2.4.2 financial history.

24.2.5 **Present Income:** With respect to present income, the probation officer shall identify:

- 24.2.5.1 source of income including income from employment, spouse, disability pensions, Employment Insurance, social

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assistance, investments, parents, family support payments, et cetera

- 24.2.5.2 any income from employment, i.e., hourly, weekly biweekly, monthly or annually, as appropriate
- 24.2.5.3 household income
- 24.2.5.4 existence or lack of discretionary income at month end
- 24.2.5.5 stability of total family income
- 24.2.5.6 ability to manage income and money
- 24.2.5.7 assets, e.g., property, home, and liabilities and
- 24.2.5.8 standard of living, i.e., can the offender separate needs from wants.

24.2.6 **Financial History:** With respect to financial history, the probation officer shall identify:

- 24.2.6.1 use of credit
- 24.2.6.2 bankruptcies, orderly payments of debts and repossessions and
- 24.2.6.3 impact of financial matters on offender and offender's family.

25. Pre-Sentence Report - Health and Lifestyle

25.1 **Purpose:** The purpose of the health and lifestyle section is to provide noteworthy information about of the offender with respect to:


- 25.1.1 physical and mental health
- 25.1.2 lifestyle and
- 25.1.3 community involvement.

25.2 **Medical And Other Professional Reports:** Medical and other professional information is strictly confidential and must never be used without the signed consent of the offender or agency, as appropriate.

25.3 When including information from medical, psychological or other similar professional reports or sources, the probation officer must:

- 25.3.1 provide **only** significant, noteworthy or directly relevant details of past or present physical, emotional or mental health
- 25.3.2 not refer to psychiatric or psychological reports which are older than 24 months unless exceptional circumstances exist, e.g., incarceration since

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assessment, direct relation to the underlying personality development of a sexual offender

- 25.3.3 not offer a diagnosis and
- 25.3.4 not assume a clinical role.

- 25.4 Probation officers should not quote directly from professional reports. Probation officers may include factual information such as the diagnosis, recommended treatment and the offender's response to prior treatment, if relevant.
- 25.5 Psychological, psychiatric and medical reports may be appended to the PSR **only** if they are prepared for that specific sentencing pursuant to a request by either the probation officer or the court. Reports prepared for purposes other than the specific sentencing may have a different emphasis and information contained therein may be taken out of context.
- 25.6 Psychological, psychiatric or medical reports that are appended are not part of the PSR and are therefore not subject to public access.
- 25.7 With respect to young persons court-ordered psychological, psychiatric or medical reports pursuant to section 34 YCJA cannot be released to correctional authorities except as provided for in section 34(7)(b)(ii).
- 25.8 If the probation officer is aware of medical, psychiatric or psychological reports which were prepared at an earlier date for other reasons, the officer should refer to their existence in the PSR and indicate whether they are available to the court.
- 25.9 **Secondary Risk and Needs Assessments:**
 - 25.9.1 Where the offender has completed a secondary risk and need assessment, e.g., Domestic Violence Inventory (DVI), Substance Abuse Questionnaire (SAQ) or Adolescent Chemical Dependency Inventory (ACDI), the relevant treatment/program recommendations of the assessment report shall be used to support experienced staff judgement regarding necessary interventions.
 - 25.9.2 When making reference to the findings of a secondary assessment tool, the following criteria shall also apply:

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- 25.9.2.1 specific assessment scores are not to be referenced in the PSR
- 25.9.2.2 assessment results are designed to measure the severity of the problem and are not to be represented as predicting risk of re-offending
- 25.9.2.3 assessment results are not to be referenced in the PSR unless supported by collateral sources
- 25.9.2.4 assessment results which address non-problematic areas should be not be referenced in the PSR and
- 25.9.2.5 assessment reports, or parts thereof, shall not be included in or appended to the PSR.

25.10 In all cases where either a DVI, SAQ or ACDI assessment is utilized, any information provided on the assessment shall be prefaced as follows:

25.10.1 With respect to DVI: *“During the Pre-Sentence Report interview, the offender completed the Domestic Violence Inventory (DVI). This self report assessment tool is designed specifically for domestic violence risk and needs assessment. It is helpful in assessing substance abuse, violence and emotional disturbances. It also measures the likelihood of an individual’s resistance to treatment, if needed. The DVI includes six empirically based measures (scales) as follows: truthfulness/validity, violence, aggressivity, alcohol, drugs and stress coping abilities. Each DVI scale score is classified in terms of the risk range it represents, i.e., the possibility or probability of an offender being a danger to self, others or society. DVI results are used in conjunction with experienced staff judgement.”*

25.10.2 With respect to SAQ: *“During the Pre-Sentence Report interview, the offender completed the Substance Abuse Questionnaire (SAQ). This self report assessment tool indicates if an individual has a substance abuse problem and to what degree. It also measures the likelihood of an individual’s resistance to treatment, if needed. The SAQ includes eight empirically based measures (scales) as follows: truthfulness/validity, alcohol, drug, aggressivity, resistance, stress coping, antisocial and violence. Each SAQ scale score is classified in terms of the risk range it represents, i.e., the possibility or probability of an offender being a danger to self, others or society. SAQ results are used in conjunction with experienced staff judgement.”*

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25.10.3 With respect to ACDI: *“During the Pre-Sentence Report interview, the offender completed the Adolescent Chemical Dependency Inventory (ACDI). This self report assessment tool indicates if an individual has a substance abuse problem and to what degree. It also measures the likelihood of an individual’s resistance to treatment, if needed. The ACDI includes six empirically based measures (scales) as follows: truthfulness/validity, alcohol, drug, violence, adjustment and distress. Each ACDI scale score is classified in terms of the risk range it represents, i.e., the possibility or probability of an offender being a danger to self, others or society. ACDI results are used in conjunction with experienced staff judgement.”*

25.11 Where the case involves spousal or intimate partner violence and Correctional Services is provided access, either from the police or crown, to a copy of the Ontario Domestic Assault Risk Assessment (ODARA), the results of ODARA are not to be reported in the PSR.

25.11.1 Completion of the DVI for cases involving spousal or intimate partner violence is optional.


25.12 **Clarification:** If clarification is required regarding this section, the probation officer should seek advice from the senior probation officer or Manager, Community Corrections, as appropriate.

25.13 **Types of Information:** Probation officers must include in the health and lifestyle section, significant and relevant information with respect to:

- 25.13.1 physical health
- 25.13.2 mental health
- 25.13.3 medications
- 25.13.4 substance abuse or addictions and
- 25.13.5 community and leisure time activities.

25.14 **Physical Health:** Information which the probation officer should consider for inclusion with respect to physical health, if noteworthy, includes:


- 25.14.1 acute or chronic health problems and
- 25.14.2 current treatment or rehabilitation programs.

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- 25.15 **Mental Health:** Information which the probation officer should consider for inclusion with respect to mental health, if noteworthy, includes:
- 25.15.1 current psychological or psychiatric illness
 - 25.15.2 history of psychological or psychiatric illness and
 - 25.15.3 treatment received.
- 25.16 **Medications:** Information which the probation officer should consider for inclusion with respect to medications, if noteworthy, includes present prescription medications.
- 25.17 **Substance Abuse and Addictions:** Information which the probation officer should consider for inclusion with respect to substance abuse or addictions, if noteworthy, includes
- 25.17.1 type of addition or substance abuse, e.g., drugs, alcohol, gambling, other
 - 25.17.2 duration of addiction or abuse
 - 25.17.3 history of treatment program involvement, i.e., in-patient, outpatient
 - 25.17.4 response to treatment in the past,
 - 25.17.5 apparent awareness or acceptance of problem,
 - 25.17.6 apparent willingness to participate and deal with problem in a treatment program and
 - 25.17.7 impact on lifestyle, e.g., family, financial situation, education, leisure activities.
- 25.18 **Leisure Time:** This part of the PSR focuses on whether the offender uses leisure time constructively. Information which the probation officer should consider for inclusion with respect to community and leisure time activities, if noteworthy, includes:
- 25.18.1 recreational pursuits and hobbies
 - 25.18.2 community involvement, e.g. clubs and volunteer activities
 - 25.18.3 amount of free time
 - 25.18.4 degree of involvement with people, e.g., leader, follower
 - 25.18.5 influences of peer group and
 - 25.18.6 relationship between leisure activities and any substance abuse or addiction.


26. **Pre-Sentence Report - Offender Profile**

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- 26.1 **Purpose:** The intent of this section of the PSR is to describe the accused in both a social and a personal context.
- 26.2 **Role of the Probation Officer:** When completing this section of the PSR the probation officer must not diagnose or assume a clinical role.
- 26.3 Further the probation officer must always assume that the offender is guilty of the offence and conduct the assessment of the offender's character on that basis. If the offender states they are innocent, the probation officer must record this as a statement by the offender.
- 26.4 **Young Persons:** Section 40 (2)(d)(l) YCJA requires that the probation officer make reference in the PSR to the young person's age, maturity, character, behaviour and attitude, and their willingness to make amends.
- 26.5 **Types of Information:** The probation officer must include in the offender profile section of the PSR, significant and relevant information with respect to:
- 26.5.1 character and personality
 - 26.5.2 the offender's attitude and demeanor during the interview
 - 26.5.3 the offender's attitude towards the offence and
 - 26.5.4 the existence or absence of environmental and situational factors contributing to the offence.
- 26.6 **Character and Personality:** The probation officer should include in the offender profile section of the PSR information about the offender's:
- 26.6.1 personality, e.g., polite, pleasant, angry, manipulative, aggressive, defensive
 - 26.6.2 level of maturity and social adjustment
 - 26.6.3 personal strengths and weaknesses
 - 26.6.4 perception of self, e.g., feelings of self-worth, self-confidence and self-esteem
 - 26.6.5 attitude toward change, e.g., what the offender intends to do to change behaviour, what the offender feels would be appropriate to make up for the wrong that was done by the offence and
 - 26.6.6 coping mechanisms.
- 26.7 **Interview:** The probation officer should include in the offender profile section of the PSR information from the interview about the offender's:

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- 26.7.1 response to interviewer
- 26.7.2 attitude during interview, e.g., cooperative, interest level
- 26.7.3 sincerity
- 26.7.4 truthfulness
- 26.7.5 ability to communicate
- 26.7.6 awareness of seriousness of situation and
- 26.7.7 response to current social circumstances, e.g., indifferent, anxious.

26.8 **Offence:** The probation officer should include in the offender profile section of the PSR, information about the offender's:

- 26.8.1 acceptance of responsibility
- 26.8.2 level of remorse, if apparent (do not ask whether the offender is remorseful)
- 26.8.3 attitude toward the offence, e.g., rationalize behaviour, project, deny or minimize blame
- 26.8.4 willingness to make restitution
- 26.8.5 general attitude toward the justice system, e.g., police, probation and courts, but not including whether offender cooperated with police by implicating self in the offence
- 26.8.6 attitude toward victim and
- 26.8.7 anxiety.


26.9 **Environmental and Situational Factors:** The probation officer must include in the offender profile section of the PSR, with respect to the existence or absence of environmental and situational factors contributing to the offence, information on the presence or absence of:

- 26.9.1 stressful situations
- 26.9.2 compulsiveness of the offender and
- 26.9.3 peer group influences.

27. Pre-Sentence Report - Interview with Victim


27.1 PSRs for cases involving domestic, spousal or intimate partner violence must, where possible, contain the results of an interview with the victim. The interview with the victim is intended to reflect the views and feelings of the victim regarding the offence but is not a victim impact statement (see 28.5).

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- 27.2 With respect to young persons, section 40(2)(b) YCJA requires that the PSR include the results of an interview with the victim, if applicable and where reasonably possible.
- 27.3 Although an interview with the victim is required by YCJA, it is not mandatory in circumstances where such an interview would be inappropriate, e.g., child victims of sexual abuse. If doubt exists with respect to appropriateness, contact should be made with the senior probation officer or Manager, Community Corrections, as appropriate.
- 27.4 Common sense must be exercised in determining the reasonableness of conducting an interview with the victim for a PSR. For instance, in circumstances where multiple victims are involved, e.g., 14 cottage B&Es, 35 fraud charges, it would be excessively time consuming to interview all victims. In such situations, it would be appropriate to report on one or two representative interviews of the victims.
- 27.5 The victim interview section of the PSR is not a victim impact statement. Victim impact statements will be provided by the victim directly to the crown attorney, if required by the court. Arrangements for a victim impact statement can be made through the Policing and Victim Services Division of the Department of Justice.
- 27.6 The victim interview of a PSR is intended to provide the probation officer with information for inclusion in the PSR section on assessment of alternatives and resources with respect to the victim's views and feelings regarding:
- 27.6.1 the offence
 - 27.6.2 restitution or compensation or
 - 27.6.3 victim-oriented community service work by the offender.
- 27.7 The probation officer should respect the wishes of the victim in the event that the victim is reluctant to provide information pertaining to the offence. If such is the case, the probation officer should simply state that the victim offered no comment.
- 27.8 It is not the responsibility of the probation officer to assess damages which have resulted from an offence. These responsibilities continue to rest with the police and prosecuting officer.


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28. Pre-Sentence Report - Corrections History


- 28.1 **Purpose:** The purpose of this section of the PSR is to provide a corrections history of the offender to the court in accordance with section 721(3) CCC and sections 40(2) and 119 YCJA.
- 28.2 **Criminal Record Check:** The probation officer must obtain a *NS Offender Summary PSR Report* from JEIN as the primary source for criminal record information. CPIC must be checked as a secondary source where the offender may have convictions which pre-date JOIS/JEIN, or where there is reason to believe the offender may have convictions for offences outside of Nova Scotia, e.g., where the probation officer is aware that the offender has lived in another province or where the offender admits to an offence(s) outside of Nova Scotia. CPIC records must be requested through the designated staff member at the Central Nova Scotia Correctional Facility.
- 28.3 **Included Information:** The probation officer may, provided the information is current and, where the information pertains to a youth record the disclosure times included in section 119 YCJA have not expired, refer in the PSR to the details of:
- 28.3.1 youth records
 - 28.3.2 prior involvement in adult diversion and
 - 28.3.3 other correctional involvement.
- 28.4 **Excluded Information:** The probation officer will ensure that the following information is not included or referenced in the PSR:
- 28.4.1 outstanding charges
 - 28.4.2 charges which have been withdrawn
 - 28.4.3 charges for which the offender has been found not guilty
 - 28.4.4 offences for which the offender has been pardoned
 - 28.4.5 details of previous offences as this is contrary to decisions of the Appeal Court of Nova Scotia
 - 28.4.6 details of the present offence as this is contrary to decisions of the Appeal Court of Nova Scotia
 - 28.4.7 any finding of guilt under the *Youth Justice Act* when two years have elapsed from the day the young person was found guilty of the offence. (Section 33(1) YJA)

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- 28.4.8 any conviction under any provincial legislation when five years have elapsed from the day when the conviction was first entered by the court. (Section 11, *Summary Proceedings Act*.)
- 28.5 **Young Persons:** Section 119 YCJA details the information that a probation officer may include in a PSR, including:
- 28.5.1 information which cannot be referenced in a PSR under any circumstances and
 - 28.5.2 other information which can be included within legislated time frames.
- 28.6 **Reference to Criminal Record:** The PSR should state - *The records of the Justice Enterprise Information Network (JEIN) show a previous history for the offender as detailed in the attached NS Offender Summary PSR Report. Where a CPIC check is also completed, an additional statement will be included as follows: In addition, the records of the Canadian Police Information Centre (CPIC) show a previous history of the offender which includes: ...* followed by a list of offences including date of conviction, offence type (number) and sentence.
- 28.7 **Types of Information:** Information which should be considered for inclusion, if significant and relevant, includes:
- 28.7.1 adult diversion or extrajudicial sanctions
 - 28.7.2 non-custodial sentences
 - 28.7.3 custody sentences
 - 28.7.4 parole and
 - 28.7.5 police contacts.
- 28.8 **Adult Diversion and Extrajudicial Measures:** With respect to adult diversion and extrajudicial sanctions, the probation officer must include in the PSR:
- 28.8.1 previous involvement with adult diversion and extrajudicial sanctions, but not extrajudicial measures
 - 28.8.2 denial of the offence
 - 28.8.3 deciding to have the matter dealt with in court or
 - 28.8.4 admission of guilt may be mentioned, as section 717.4(5) CCC permits this record to be introduced into evidence by a person preparing a report under section 717.4(1)(c)(ii) CCC.
- 28.9 **Non-custodial Sentences:** With respect to non-custodial sentences, the probation officer must include in the PSR:

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- 28.9.1 number of previous periods of community supervision
- 28.9.2 the performance of the accused while on previous terms of, probation, supervised or unsupervised, conditional sentence, deferred custody and supervision, conditional supervision or custody & supervision
- 28.9.3 previous breaches of probation, conditional sentence, conditional supervision, custody & supervision
- 28.9.4 performance to date if the offender is currently under supervision
- 28.9.5 history of community service work compliance
- 28.9.6 offender response to prior restitution obligations and
- 28.9.7 comments regarding prior terms of supervision including offender response to referrals.

28.10 **Custodial Sentences:** With respect to custodial sentences, the probation officer must include in the PSR:

- 28.10.1 state whether the offender was previously incarcerated and
- 28.10.2 the number of prior periods of incarceration and duration, if information is readily available.

28.11 **Parole:** If the offender is on parole, the probation officer must establish contact with supervising Parole Officer and indicate in the PSR the offender's response to parole supervision.

28.12 **Police Comments:** The probation officer must make every reasonable effort to contact the police agency's community liaison officer or investigating police officer and include in the PSR:


- 28.12.1 police knowledge of offender, family and peers
- 28.12.2 police impression of offender behaviour and attitude in community, and
- 28.12.3 identification of corrective action which should be taken by the offender to stop offending.

28.13 The PSR must not include police comments regarding:

- 28.13.1 the offender's cooperativeness during the investigation, or
- 28.13.2 an appropriate sentence.


29. **Pre-Sentence Report - Gladue Factors**

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- 29.1 This section is to be completed for adult and youth offenders who, when queried by the probation officer, identify as Aboriginal; it will address the specific factors as set out by the Supreme Court of Canada in the Gladue decision.
- 29.1.1 The offender may identify as Aboriginal however, may waive his/her rights to have their individual circumstances, as per Gladue, considered. Where the offender waives his/her rights in this regard, this will be specifically noted in the **Assessment of Community Alternatives and Resources** section (see 29.1.1.1 below), and that section will be completed as per usual.
- 29.1.1.1 Where 29.1.1 applies, the following statement will be included - *During the interview, the offender identified as being Aboriginal however, specifically waived his/her rights to have their individual circumstances, as per the Gladue decision, considered.*
- 29.1.2 Where the **Gladue Factors** section is completed, it will take the place of the **Assessment of Community Alternatives and Resources** section and that section will not be completed by the probation officer.
- 29.2 In the Gladue decision, the Supreme Court of Canada references section 718.2(e) of the Criminal Code of Canada which states: "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders." The sentencing judge has a duty to consider the unique background and systemic factors which may have played a part in bringing the particular offender before the courts and the options available for sentencing because of his/her Aboriginal identity.
- 29.3 The purpose of this section is to provide the court with relevant information about the offender's upbringing, family and community relationships to provide the court with an assessment of the:
- 29.3.1 offender's specific areas of concern,
 29.3.2 availability of appropriate healing services/resources, and
 29.3.3 offender's willingness to use them.
- 29.4 Contact should be made with an Aboriginal organization, appropriate to the offender's identified community, to assist in confirming presenting issues/concerns and determining available corrective treatment options.


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Creative, non-traditional approaches, as appropriate and available within the specific Aboriginal community, should be identified for the court.

- 29.5 The following areas are to be considered, investigated and reported, as appropriate, in the Gladue Factors section of the pre-sentence report:
- 29.5.1 does the offender identify as an Aboriginal person,
 - 29.5.2 does the offender reside in a rural area, a First Nations community or an urban centre,
 - 29.5.3 does the offender identify with a specific Aboriginal community and, if yes,
 - 29.5.3.1 what is the name of the community,
 - 29.5.3.2 what is the relationship between the offender and the community,
 - 29.5.3.3 does the offender consider him/herself accountable to the community,
 - 29.5.3.4 does the community support the offender and think that he/she is capable of change,
 - 29.5.3.5 what are the main social issues affecting the community,
 - 29.5.3.6 how has the community addressed those issues,
 - 29.5.3.7 is there a willingness and capability of the community to assume responsibility for providing restorative approaches to criminal behaviour,
 - 29.5.3.8 does the community have a program or tradition of alternative sanctions,
 - 29.5.3.9 what culturally relevant alternatives to incarceration can be set in place that are healing for the offender and all others involved, including the community as a whole,
 - 29.5.3.10 does the community have resources to assist in supervision of the offender,
 - 29.5.4 what is the offender's understanding of and willingness to participate in traditional Aboriginal justice, whether through the identified Aboriginal community or local First Nations support agencies,
 - 29.5.5 what mainstream/non-traditional healing resources are available to the offender,
 - 29.5.6 what is the quality of the offender's relationship with family and extended family,
 - 29.5.7 who comprises the offender's support network: spiritual, cultural, family, community,


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- 29.5.8 identify unique circumstances that may have played a role in bringing the offender before the Court - describe, as appropriate, how the offender has been affected by:
 - 29.5.8.1 substance abuse personally, in the immediate family, extended family or community,
 - 29.5.8.2 economic conditions or poverty personally, in the immediate family, extended family or community,
 - 29.5.8.3 overt/covert racism personally, in the immediate family, extended family or community, by family members, strangers, school or workplace,
 - 29.5.8.4 family or community breakdown,
 - 29.5.8.5 unemployment, low income, or lack of employment opportunity,
 - 29.5.8.6 dislocation from family, aboriginal community, loneliness or community fragmentation,
 - 29.5.8.7 residential school education: where, how many years, what was their experience,
 - 29.5.8.8 foster care or adoption: at what age, for how long, was the foster/adopted family non-Aboriginal,
 - 29.5.8.9 lack of educational opportunities,
 - 29.5.8.10 loss of identity, culture, ancestral knowledge,
 - 29.5.8.11 family involvement in the criminal justice system,
 - 29.5.8.12 abuse: sexual, emotional, verbal, physical, spiritual, and
 - 29.5.8.13 witnessing violence: spousal, family, community.

29.6 **Healing Resources:** The probation officer must include information in the PSR on culturally relevant or mainstream/non-traditional healing resources, as appropriate, to assist in addressing identified issues.

- 29.7 The probation officer will include information in the PSR on these healing resources only if the officer is certain of availability and must:
 - 29.7.1 identify the specific culturally relevant and/or mainstream/non-traditional healing resources available to the offender,
 - 29.7.2 identify when and where such healing resources are available,
 - 29.7.3 identify what culturally relevant alternatives to incarceration can be set in place that are healing for the offender and all others involved, including the community as a whole,

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29.7.4 identify if there a willingness and capacity for the Aboriginal community to assume responsibility for providing restorative approaches to criminal behaviour, and

29.7.5 restrict comments to community-based treatment options only.

29.8 **Assessment and Treatment Costs:** The probation officer must include information in the PSR on costs associated with assessment and healing resources when the information is known and is available, to include:

29.8.1 the specific cost of identified resources, and

29.8.2 the offender's ability to pay for the resources.

29.9 **Motivation to Change:** The probation officer will include information in the PSR on the offender's apparent motivation to change by identifying the offender's:

29.9.1 willingness and motivation to participate in a healing plan, and

29.9.2 acknowledgement that they have a problem.

29.10 **Young Persons:** Section 40(2) YCJA requires that the PSR include:

29.10.1 a list of recommendations resulting from any conference convened by the youth justice court on an appropriate youth sentence (see section 40(2) (c) YCJA),

29.10.2 any plans which are put forward by the young person to change their conduct or to participate in activities or undertake measures to improve themselves (see section 40(2)(d)(ii) YCJA),

29.10.3 a statement regarding the availability and appropriateness of community services and facilities for young persons and the willingness of the young person to avail themselves of those services or facilities (see section 40(2)(d)(v) YCJA), and

29.10.4 information that may assist the court in determining whether there is an alternative to custody (see section 40(2)(e) YCJA).

30. **Pre-Sentence Report - Assessment of Community Alternatives and Resources**


30.1 **Purpose:** The purpose of this section of the PSR is for the probation officer to provide the court with an assessment of the:

30.1.1 offender's risk to re-offend,

30.1.2 specific areas of concern, and


30.1.3 availability of appropriate services and the offender's willingness to use them.

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- 30.2 **Types of Information:** This section will also, where appropriate, provide the court with a perspective regarding the offender's suitability for:
- 30.2.1 community service work,
 - 30.2.2 probation or other community sentence in the event that these dispositions are within a range of options that may be considered by the Court, or
 - 30.2.3 in the case of a young person, whether there is an alternative to custody available pursuant to sections 39(2) and 40(2)(e) YCJA.
- 30.3 The probation officer will exercise caution in the completion of this assessment. It is not appropriate for the probation officer to suggest or recommend a sentence to the court.
- 30.4 **Family Violence:** In circumstances where family violence including spousal or intimate partner abuse, battering and/or child abuse is a factor, contact should be made with agencies that are funded for the purpose of dealing with such problems in order to identify an appropriate plan for corrective treatment.
- 30.5 **Minority Offenders:** Where the offender is a member of a minority group and a strong cultural identity is apparent, contact should be made, where necessary, with an appropriate identifiable group which is representative of that culture in the community in order to obtain assistance in both identification of the presenting problem and the identification of an appropriate treatment option.
- 30.6 **Risk and Needs Assessments:** During preparation of the PSR, the probation officer must administer a risk and needs assessment, specifically the *Youth Level of Service/Case Management Inventory (YLS/CMI)* for young persons or the *Level of Service/Case Management Inventory (LS/CMI)* for adults - see *Chapter 28 - Risk Assessment*. The risk/need assessment will assist the pre-sentence report writer in focusing on specific domains, e.g., drug/alcohol usage, attitudes/orientation, education/employment, etc., which are known to be associated with re-offending; many of these items are dynamic and therefore subject to positive change with specific interventions, supports and services.
- 30.7 Although essential as a case management tool, YLS/CMI or LS/CMI scores or results are not to be referenced in PSRs.

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- 30.8 **Corrective Treatments:** The probation officer will include information in the PSR on corrective treatments only if treatment is required. Where treatment is indicated, appropriate treatment to correct the problem area shall be identified.
- 30.9 **Treatment Options:** The probation officer will include information in the PSR on treatment options only if the officer is certain of availability, and when treatment options are available:
- 30.9.1 identify the range of options which are available to treat the offender,
 - 30.9.2 identify the appropriate treatment option and when and where such treatment is available, and
 - 30.9.3 restrict comments to community-based treatment options only (do not refer to treatment options which may be available in custody).
- 30.10 **Assessment and Treatment Costs:** The probation officer must include information in the PSR on assessment and treatment cost when the information is known, and where the information is available identify:
- 30.10.1 the cost of both assessment and treatment where cost is a factor, and
 - 30.10.2 the offender's ability to pay for the assessment and treatment.
- 30.11 **Sex Offenders:** The probation officer will include the following statements for adult and adolescent sex offenders, as appropriate, in order to provide information with respect to assessment/treatment availability:
- 30.11.1 *Adult Sex Offenders: As this is a sexual offence, a comprehensive sexual offender assessment will be required to determine the match of offender risk level to treatment. The Provincial Sexual Offender Assessment and Treatment Program, as coordinated by the Provincial Forensic Psychiatry Service of the Capital District Health Authority, is designed at low to moderate intensity and is not designed to accommodate the treatment needs of high risk, entrenched sexual offenders - moderate to high intensity programs are appropriate for high risk offenders and are available primarily within federal facilities operated by the Correctional Service of Canada. Community based treatment includes cognitive behavioural relapse prevention programs and not individual therapy - treatment includes six months of structured weekly group sessions. Due to the volume of cases being processed, assessment/treatment could take two to three years to complete from the date of referral. Where the offender is deemed to have the financial*

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means, payment for the assessment portion of treatment will be required at a cost of \$1,000.

30.11.2 **Adolescent Sex Offenders:** *As this is a sexual offence, a sexual aggression risk assessment and a mental health assessment will be required for all accepted referrals to the program. The Nova Scotia Initiative for Sexually Aggressive Youth, as operated by the Child and Adolescent Mental Health Program of the IWK Health Centre, does not refuse treatment to youth based upon risk level however, the type of service provided will be modified in consideration of the identified risk factors. Youth are provided with either group or individual/family treatment for sexual offending behaviour based upon their individual needs within available local resources. Treatment is delivered weekly or biweekly in groups of three to eight youth where numbers are sufficient. The course of treatment is typically six to 12 months including follow-up however, the entire course from assessment to treatment termination may take up to 18 months. There is no cost to the youth for the assessment/treatment services provided.*

30.12 **Motivation to Change:** The probation officer will include information in the PSR on the offender's apparent motivation to change by identifying the offender's:


- 30.12.1 willingness and motivation to participate in a treatment plan, and
- 30.12.2 acknowledgement that they have a problem.

30.13 **Suitability for Community Service Work:** The probation officer will include a statement in the PSR on the offender's suitability for community service work.


30.14 Suitability may best be defined in the negative. An offender would not be suitable for a community service order if the offender:

- 30.14.1 presents a serious threat to the safety or security of the placement, employees or other participants,
- 30.14.2 has a mental disorder with explosive tendencies, or
- 30.14.3 has an offence history that makes them inappropriate for some types of placements, e.g., an offender convicted of sex offences against children would be inappropriate for a day care centre but may be appropriate for manual labour in an adult environment provided that the employer is aware of the offender's problem.

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- 30.15 **Suitability for Community Supervision:** The probation officer will include a statement in the PSR on the offender’s suitability for a non-custodial sentence.
- 30.16 Suitability for non-custodial sentence does not mean suitability for probation. It may be appropriate for a person to be placed on probation without community supervision, i.e., non-reporting order.
- 30.17 The probation officer must exercise considerable caution before identifying a person as being unsuitable for a non-custodial sentence. Factors such as multiple prior probation orders and long-term experience of non-compliance would suggest that a person is unsuitable for community supervision. However, it may be appropriate for the offender to receive a non-reporting order depending on the severity of the offence. The statement regarding suitability for community supervision must not suggest, by direct implication, that incarceration should be imposed.
- 30.18 Suitability may be assessed in terms of a situational offender who is remorseful for the offence and does not require supervision. An unsupervised probation order may be appropriate in such a case.
- 30.19 If probation conditions are suggested, the order should, by definition, be supervised unless extraordinary circumstances exist. Depending on the conditions, the supervision may be frequent or infrequent, e.g., several times during the term of the order based on the case supervision process.
- 30.20 The report should not suggest to the court that the offender has or has not had sufficient opportunities on probation and by implication suggest that a period of incarceration is now warranted. This is a matter for consideration by the court, not the probation officer. The report must be restricted to suitability for supervised or unsupervised probation.
- 30.21 Supervision should be purposeful. Comments regarding supervised or unsupervised probation should take into consideration the purpose that supervision may serve, e.g., supportive intervention, monitoring, enforcement. A more complete analysis would be conducted by the probation officer following the sentence.

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30.22 **No References to Fines or Custody:** Although reference may be made to the suitability of the offender for a non-custodial sentence, no comment shall be made regarding the suitability of the offender for other sentencing options such as a fine or a period of incarceration.

30.23 **Potential Conditions:** The probation officer may identify potential supervision conditions in the report and suggest that the court may wish to consider such conditions in the event that a period of community supervision is being contemplated.

30.24 **Young Persons:** Section 40(2) YCJA requires the PSR include:

30.24.1 a list of recommendations resulting from any conference convened by the youth justice court on an appropriate youth sentence (see section 40(2)(c) YCJA),

30.24.2 any plans which are put forward by the young person to change their conduct or to participate in activities or undertake measures to improve themselves (see section 40(2)(d)(ii) YCJA),

30.24.3 a statement regarding the availability and appropriateness of community services and facilities for young persons and the willingness of the young person to avail themselves of those services or facilities (see section 40(2)(d)(v) YCJA), and

30.24.4 information that may assist the court in determining whether there is an alternative to custody (see section 40(2)(e) YCJA).