THE ALTERNATE DEFENSE PRE-SENTENCE INVESTIGATION REPORT: TEMPERING HARSH STATE SENTENCING RECOMMENDATIONS

By: Attorney Jeffrey L. Murrell*

In the Wiscousia circuit-court system, judges in followy cases may order that a presentence investigation (PSI) report be generated by a probation/passic agent from the Department of Corrections (DOC) so that the count has the follow understanding possible of the defendant's life and circumstances at sentencing. Wis. Stat. § 972.15(1). See also Uloyd E. Ohlin & Frank J. Remington, Discouring to Criminal Academ: The Tomales Between Individual/cution and Conferency 148 (1993).

This, of course, is so that the court will be able to make the most fully-informed and fairest dispositional decision possible. At times, PSI reports prepared by state corrections agents recommend prison sentences which are harsher than what the prosecutors recommend. One way of attalionating an under prison sentence recommendation in a court-ordered PSI report is for the definate to present its own alternate PSI report for the judge's information and consideration at sentencing. This article describes the main purposes of a PSI report, the typical structure of PSI reports, potentially prejudicial effects of state-generated PSI reports, and how defense coursed racy try to counter an anduly hards state PSI recommendation by submitting a defense afternate PSI report.

The Amatomy of a Pre-Sentence Investigation Report

In Wisconsin's state counts, a PSI report normally consists of two parts.

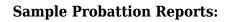
First is a state-mandated cover theet containing the basic personal information about the defendant, such as date of birth, sex, height, and weight and information about the county circuit court involved and the charged offense(s).

Second, the state form is assaulty stapled on top of a multi-page decument of varying styles and length which all present, more or less, separate pacagraphs and ining the information sources relied on by the PSI writer, a review of the defendant's general background, the offense(s) as alleged, the defendant's version of the offense(s), victim impact and restitution needs, a review of any pending criminal charges (see Planck) v. State, 74 Whs. 2d 699, 247 N.W. 2d 711 (1976) where the court hold a judge does not deay due process by considering pending criminal charges in determining a seatenee's, past arrests and existing considering pending criminal charges in determining a seatenee's, past arrests and existing considering pending of the defendant, an analysis of the defendant's acceptance or not of responsibility, and any possible prison programs or prison often determinatives that might be available for the defendant under the circumstances, such as cligibility for carried release or the Challenge lacasceration Program. Wis. Stat. 88, 972.15(2b) & (2c).

Finally, the writer's sentencing recommendation is given.

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