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 falony cases may order that a presentence investigation (PSI) report be generated by a probation/purole agent from the Department of Corrections (DOC) so that the court has the fallest understanding possible of the defendant's life and discumstances at sentencing. Wis. Stat. § 972.15(1). See also Uloyd E. Ohlin & Frank J. Remington, Discousing to Criminal Associate The Totalon Between Individual/custom and Uniferentia 148 (1993).

This, of course, is so that the court will be able to make the most fielly-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 analterating an under prison sections recommendation in a court-ordered PSI report is for the defines 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 may by to counter an analthy hards state PSI recommendation by substitting 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.

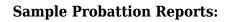
First is a state-mandated cover theef containing the basic personal information about the defendant, such as date of birth, sex, height, and weight and information about the county circuit court involved and the charged offense(s).

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 penaltog criminal charges (see Honder's, State, 74 Whs. 2d 699, 247 N.W. 2d 711 (1976) where the court hold a judge does not deny due process by considering penaltog estainable lengths is determining a seatenee's, past arrests and existing considering penaltog estainable prison programs of the defendant's acceptance or not of responsibility, and any possible prison programs or prison observatives that might be available for the defendant under the discumstances, such as oligibility 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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