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| Sixth District Department of Correctional Services POLICY | Issue Date 07/24/92 | Effective Date 06/20/17 | Policy Number 305-17 |
| Subject PSI RECOMMENDATION | | Review Month June | Author 0483 (KSC) |
| Rescinds 305-04 | Reference: 901, 901B, 321J.2, 904.513, 709 of the Iowa Code Chapter 2 – Rules of Criminal Procedure | | |

POLICY:

Presentence Investigations include a recommendation for a specific sentence. Recommendations are based on the Iowa Code and are formulated in a manner consistent with the use of intermediate sanctions, Evidence Based Practices, restorative justice and in consideration of all factors related to the Defendant, the criminal offense, the safety of the community, and rehabilitative opportunities for the Defendant.

DEFINITION:

1. Deferred Sentence - A sentencing option whereby the Court enters an adjudication of guilt but does not impose a sentence. The Court retains the power to sentence the Defendant to any sentence it originally could have imposed subject to the Defendant's compliance with conditions set by the Court as a requirement of the deferred sentence.
2. Deferred Judgment - A sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the Court. The Court retains the power to pronounce judgment and impose sentence subject to the Defendant's compliance with conditions set by the Court as a requirement of the deferred judgment.
3. Suspended Sentence - A sentencing option whereby the Court pronounces judgment and imposes a sentence and then suspends execution of the sentence (or portion of the sentence) subject to the Defendant's compliance with conditions set by the Court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of the sentence already pronounced.
4. Incarceration - A sentencing option whereby the Court imposes a sentence of jail or prison.
5. Evidence Based Practices – A collective body of, research material which addresses the principles and practices of effective correctional programming.
6. Restorative Justice – A philosophy whereby the focus is on the crime when it occurs with emphasis on the underlying principles of repairing harm to the victim.

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DEFINITION: (continued)

7. Intermediate Sanctions – Sentencing options available under Iowa Code section 901B and through the resources and programs of the Judicial District. The emphasis is on the use of these options in lieu of incarceration in prison. The Intermediate Sanctions Continuum Plan is approved by the Director and Chief Judge of the District Court.
8. Plea – The response by an accused Defendant to each criminal charge. Pleas normally are guilty, not guilty, Alford plea or not guilty by reason of insanity.
9. Rule 2.10 Plea - An agreement between the prosecuting attorney and the attorney for the Defendant, upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney makes a charging or sentencing concession. If a plea agreement has been reached by the parties the Court requires the disclosure of the agreement in open Court at the time the plea is offered. The Court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until receipt of a presentence report.
10. Alford Plea –The Defendant does not admit to the act, but admits the prosecution could likely prove the charge.
11. Pre-Plea Investigation – A PSI prepared before a finding of guilt or entering of a guilty plea. Also a PSI form in ICON.
12. Post-Sentencing Investigation – A PSI prepared subsequent to the sentencing. Also a PSI form in ICON.

PROCEDURE:

1. The Presentence Investigator concludes the report with a recommendation for a specific sentence which includes:
 - A. Deferred/suspended sentence and/or term of incarceration;
 - B. Length of incarceration and/or probation;
 - C. Dollar amount of fine or civil penalty;
 - D. Intermediate Sanctions Continuum Placement, if applicable;
 - E. Victim restitution, if applicable.
 - F. Attorney fees, if applicable.

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PROCEDURE: (continued)

2. The Presentence Investigator concludes the report with a paragraph outlining the reasons and facts supporting the recommendation. Recommendations are made after all information is gathered and verified and required assessments are completed. The recommendation of the Presentence Investigation is that of the District, not the individual Presentence Investigator. All recommendations require Supervisor approval.
3. The presentence recommendation is based on the following information:
 - A. Age of the offender;
 - B. Offender's criminal record and correctional history;
 - C. Nature and circumstances of the current offense;
 - D. Results of any validated assessment instruments approved by the 6th Judicial District;
 - E. Victim impact and community safety;
 - F. Employment history;
 - G. Family circumstances;
 - H. Resources available to address offenders' rehabilitation;
 - I. Amenability towards treatment.
4. If the Presentence Investigator recommends probation, the recommendation may include specific conditions of probation (i.e. substance abuse programming, sex offender treatment, residential facility placement and other resources/programs both within the Department and within the community).
5. Pre-Plea Investigation – No sentencing recommendation is made for a Pre-Plea Investigation. If the Court requests a recommendation be made after the submission of the Pre-Plea Investigation report, the assigned Presentence Investigator completes an addendum in ICON. The addendum includes the sentencing recommendation in addition to the reasons for the recommendation.
6. Post-Sentencing Investigation – No sentencing recommendation is made for a Post-Sentencing Investigation report. The Presentence Investigator has the discretion whether or not to make a recommendation on the type of supervision or treatment deemed necessary.

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PROCEDURE: (continued)

7. If the Presentence Investigator is considering recommending residential placement, the Presentence Investigator consults with the Residential Division Manager/Residential Supervisor to determine the appropriateness of the placement and to secure a probable entry date. If a recommendation is made for residential placement, the Presentence Investigator enters a Transfer Instance to Residential into ICON.
8. If the Presentence Investigator is aware of a Rule 2.10 Plea, the Presentence Investigator documents the plea bargain details in the PSI report. The agreement made between the prosecution and the defense does not bind the recommendation of the Department.
9. The following offenses include special considerations in the recommendation:
 - A. Operating While Intoxicated (OWI) – Second or Subsequent Offense. If the recommendation of placement in the OWI Program appears appropriate, the Presentence Investigator completes the OWI Program Worksheet found in ICON to determine the appropriate placement decision per Iowa Code Sections 321J.2 and 904.513.
 - B. Sexual offenses as defined by Iowa Code 709 – A psycho-sexual evaluation or screening is conducted to provide justification for the recommendation. A recommendation of prison includes recommendation of placement in the Sex Offender Treatment Program. A recommendation of probation (suspended sentence) includes recommendation of referral to the District's Sex Offender Treatment Program.
 - C. Drug Treatment Court – All recommendations for placement in Drug Treatment Court must be reviewed by Drug Treatment Court staff per policy (2200) for admission or disqualification, prior to making the recommendation.
 - D. ANCHOR Center Residential – All recommendations for placement in ANCHOR Center Residential must be reviewed by ANCHOR Center Treatment Team per policy (2331) for admission or disqualification, prior to making the recommendation.
10. Per Iowa Code 901.11, the Department provides the outcome of a validated risk assessment as part of the recommendation on the following charges:
 - A. At the time of sentencing, the Court determines when a person convicted of **Prohibited Acts – Manufacturers, Possessors, Counterfeit Substances, Simulated Controlled Substances under section 124.401, subsection 1, paragraph "b" or "c"**, first becomes eligible for parole or work release within the parameters described in section 124.413, subsection 3, based upon all the pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

PROCEDURE: (continued)

- B. At the time of sentencing, the Court determines when a person convicted of **Child Endangerment as described in section 902.12, subsection 2**, first becomes eligible for parole or work release within the parameters specified in section 902.12, subsection 2, based upon all pertinent information including the person's criminal record, a validated risk assessment, and whether the offense involved multiple intentional acts or a series of intentional acts, or whether the offense involved torture or cruelty.

- C. At the time of sentencing, the Court determines when a person convicted of **Robbery in the Second Degree as described in section 902.12, subsection 3**, first becomes eligible for parole or work release within the parameters specified in section 902.12, subsection 3, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

BY ORDER OF:

Bruce Vander Sanden, Director