

SEXUAL OFEENDERS ASSESSMENT BOARD

Module 3
Pre-Sentence Investigations

Transcript

Table of Contents

Section 1: Introduction..... 3
Section 2: Roles in The PSI 5
Section 3: Document Review..... 7
Section 4: Interviewing..... 8
Section 5: Completing the PSI Report 13
Section 6: SOAB Assessment..... 24
Section 7: Conclusion 25

Section 1: Introduction

Screen Number	Character	Narration
3001	Judge:	<p>In this module, we're going to focus on a very important tool in the criminal justice system: the Pre-Sentence Investigation or PSI. This investigation looks at:</p> <ul style="list-style-type: none">- the offender- the offense- the impact of the offense on the victim and community, and- the offender's criminal history and offense record. <p>This information is then gathered into a document called a PSI Report.</p>
3002	Judge:	<p>There are a few rules about the PSI report that as a sentencing judge, I must follow. First, a PSI report can be ordered at my discretion for any case. Second, if I decide not to order a report, I must record the reasons for not doing in the following instances:</p> <ul style="list-style-type: none">- when incarceration for one year or more is a possible disposition- when the offender is less than 21 years old at the time of conviction or entry of a guilty plea, or- when a defendant is a first offender and has not been sentenced before as an adult. <p>The third rule about a PSI is that it shall include information regarding the circumstances of the offense and the character of the defendant. It is important that this information is sufficient enough to assist me in determining the sentence. Finally, a PSI report must also include a victim impact statement.</p>
3003	Judge:	<p>It shouldn't be a surprise that there's a presumption out in the field that PSIs are primarily a legal tool for the courts. The name may also have something to do with that perception, but the reality is that the PSI's usefulness extends far beyond sentencing.</p>
3004	Judge:	<p>For this program, we want you to start thinking about the PSI as a dynamic document used by anyone who has a role in the offender's movement through the criminal justice system into the community.</p>

3005

Judge:

We call the PSI a “foundation document.” This document (or report) can be used by all criminal justice agencies that come in contact with the offender. For instance, the information in a PSI can be used in the Corrections system to determine appropriate offender programs. It’s also used with Treatment and Supervision for effective sex offender management planning. Let’s take a closer look at how each member in the Sex Offender Containment is involved in the Pre-Sentence Investigation.

Section 2: Roles in The PSI

Screen Number	Character	Narration
3006	Judge:	While a PSI should be completed for <u>every</u> sex offense case, they are especially valuable in borderline cases where the court will need more information to make a decision between a county or state sentence, <i>or</i> probation versus incarceration. As a judge, I want to know if there are extenuating circumstances that would cause me to consider a reduced sentence. Or conversely, the PSI might indicate a history of deviant sexual behavior that would lead me to hand down a lengthier maximum, through a consecutive probationary period.
3007	Law Enforcement:	As Judge Hyatt just mentioned, the PSI is useful to a lot of us who work with sex offenders. The PSI report gives us the big picture on the offender and the offense, as well as his criminal record and sexual history. As an arresting authority, I am responsible for preparing the arresting report. The arresting report is one of the documents that feeds into the PSI. In addition to the <u>offender's</u> information, the PSI also contains details about the victim and the victim's family. This is highly personal, <u>confidential</u> material, and it has to remain that way. The PSI is for criminal justice eyes only. We can't release it to any agencies outside of our system, without the permission of the Court.
3008	Treatment Provider:	Treatment providers use the PSI when we're completing evaluations and developing treatment plans. If a PSI indicates prior treatment, it may say to us that the offender recognizes his need for help. Defense counsel may use the offender's prior treatment information to make the point that the offender is less of a risk in the community. However, prior treatment may also indicate an offender of greater risk, where past treatment has not been effective. It is important to note that the treatment provider must get permission of the Court to release the PSI. While we are collaborative partners, we are not criminal justice agencies.
3009	Law Enforcement:	The victim's statement and possibly their interview are critical elements of the PSI. As a victim advocate, I will counsel the victim about her statement and help her prepare for the interview, but I'm not likely to see the final PSI. Nor will the victim – <u>or</u> the defendant. The PSI, as we've told you, is confidential. But if I feel I <u>need</u> to see it, I will make arrangements with the DA.

3010	Victim Advocate:	<p>If you review the report as part of your work with a sex offender, it's very important to know something about the way victims think. You may find discrepancies between the victim's statement and what she says in an interview, for example. DON'T presume she's lying or being deceptive. There is a <u>real</u> connection between trauma and information recall. Evolving or modified victim statements over time reflect the impact of trauma, not deception.</p>
3011	State Parole Agent with Supervision:	<p>Supervising agents – either state parole or county probation – are the ones who actually gather the information for the PSI. Our job is to conduct a thorough and objective investigation. This investigation includes:</p> <ul style="list-style-type: none"> - A review of all relevant documents - Interviews with the offender, and - Interviews with the victim, witnesses and others who have knowledge about the offender and the offense. <p>Then, after the investigative work is done, the agent will complete the PSI report.</p>
3012	State Parole Agent with Supervision:	<p>This is just a high level overview of the Pre-Sentence Investigation process. In the next three sections of this module we are going to focus specifically on reviewing documents, interviewing, and completing the PSI report. Let's get started with document review.</p>

Section 3: Document Review

Screen Number	Character	Narration
3013	State Parole Agent with Supervision:	First, the probation or supervising agent should gather and review all of the available documents and reports related to the offender and the offense.
3014	State Parole Agent with Supervision:	<p>The documents to be reviewed fall into the following four categories:</p> <ul style="list-style-type: none">- Reports related to the offense- The offender's criminal history or offense record- The offender's current and prior correctional experience, and- Miscellaneous records and reports.
3015	State Parole Agent with Supervision:	<p>However, the two most important documents the agent should review are the police report, which is a detailed description of the instant offense and the RAP sheet, which provides a scope of the criminal history. These two documents should be reviewed because you need to understand the detailed behavior of the sex offense and past behavior is the best indicator of future behavior and the scope of this offending.</p> <p>To learn more, about documents to review and sources of information, check out the Report Preparation information in the program library.</p>
3016	State Parole Agent with Supervision:	Once all of these documents have been reviewed, the agent will need to conduct interviews with the offender and others who may have information relevant to the case. These interviews will help us learn the about offender, across his lifespan and across all domains of his life. We'll get into interviewing strategies in the next section.

Section 4: Interviewing

Screen Number	Character	Narration
3017	Judge:	The interview can be one of the key pieces to the PSI. Ideally, wherever possible, there will be <u>several</u> interviews conducted as the investigation process goes along. The initial interview with the offender takes place early in the investigation. Then a second and possibly a third interview will occur as additional information is discovered. However, you have to be careful not to have the offender going over the offending behavior multiple times. This may help to reinforce his denial because he is practicing denial or minimization, which makes it harder for him to move forward. There may also be multiple interviews with the victim, the victim’s family members, and other collateral sources.
3018	Judge:	The purposes of these multiple interviews are to sort out any conflicting or contradictory information and because people remember information at different times. There’s also another reason for conducting a series of interviews: they provide multiple views of the offender. These views are very helpful in forming a complete picture of the offender. In this section we are going to provide you with helpful insights related to interviewing offenders, victims, and collateral sources.
3019	State Parole Agent with Supervision:	Interviewing a sex offender requires skill and advanced planning. The agent should be thoroughly prepared and knowledgeable about this type of offender and about the individual being investigated or interviewed. The scope of the interview, the intrusive nature of questions, and the discussion of sensitive, personal issues will probably create discomfort and embarrassment for the offender. It’s obviously difficult to obtain useable answers if the offender is uncomfortable. So agents should conduct the interview in a professional and non-judgmental manner. It’s critical to set a non-combative tone, establish rapport, and gain the offender’s cooperation. Something else agents should do – establish a foundation for a constructive relationship – they may be seeing a lot of the offender if he is placed on supervision.

- 3020 **State Parole Agent with Supervision:** If you're only going to interview the offender one time, there are two main things that you want to learn. First, you need to learn everything that is not contained in the police report. Second, you need to learn how the offender developed the relationship with the victim. In this situation the best thing you can do to begin your interview with information related to family history. This will give you an opportunity to establish rapport with the offender, before discussing sexual history. What you don't want to do is start with sexual history, because the offender is going to shut down and you will lose your main source of information.
- 3021 **State Parole Agent with Supervision:** Now that you know what you need to find out, here are some accepted strategies to getting the most useful information from an offender interview:
- Respond to offender responses in a non-judgmental manner, without showing shock or surprise.
 - Acknowledge the difficulty in discussing personal, intimate behaviors.
 - Explain the importance of acknowledging the offense, accepting responsibility, and disclosing troublesome behaviors, fantasies, and arousal patterns. And
 - Explain the potential for negative consequences if the offender continues to deny or minimize the seriousness of the offense.

3022	State Parole Agent with Supervision:	<p>Let's look at a good and bad example for each of these strategies.</p> <p>A good example of responding to an offender in a non-judgmental manner would be to say something like "Tell me how things happened". Compare that to this bad example: "What were you thinking when you grabbed that innocent child?!?".</p> <p>Or how about acknowledging the difficulty in discussing personal, intimate behaviors? What would make you want to talk "I know the material we'll be discussing is very personal" or "Look, you plead guilty to this; you need to answer my questions"? I think we can all say that we prefer the good example!</p> <p>Similarly, when discussing the importance of acknowledging the offense, you should say something like "I'm not going to expect complete disclosure of every detail of your history right now, but at some point you'll find it useful to tell me a bit more" rather than "If you don't want to talk about this, I'll just take you back to court."</p> <p>Finally you can get useful information by explaining the negative consequences for denial or minimization by saying something like: "Talking about this truthfully demonstrates your intent to stay out of trouble, and to stay out of jail." This is a much better approach than telling the offender "You'll get thrown out of group and go to jail".</p> <p>Remember that if you incorporate these strategies into your offender interviews, you will be able to get the most useful information from the offenders.</p>
3023	State Parole Agent with Supervision:	<p>If the offender communicates openly, the agent may learn how the offender gained access to the victim and learn about the fantasy and arousal pattern that led to the assault. Offenders will often describe the offense as an isolated incident that would never happen again. That it was a "set-up" by the victim or the victim's family. The offender may claim it was a "misunderstanding."</p>
3024	State Parole Agent with Supervision:	<p>Using a non-threatening approach, the agent should challenge these explanations by reviewing details of the victim statement and other source documents with the offender. This is why it's important for the agent to review the facts of the sex offenses before interviewing the offender.</p>

- 3025 **State Parole Agent with Supervision:** Now, let's look at an example of how an agent should and shouldn't confront an offender regarding a discrepancy. When an offender states something that conflicts with other sources of information, the agent say something like "Help me understand how the police would say you did this 40 times, while you're saying it happened once?". This approach still challenges the discrepancy, but is less threatening than confronting the offender head on with this response "Now you know that's not true!".
- While it is important to challenge these explanations, we must note that during the first interview, the agent should be gathering as much information as possible, rather than actively confronting the offender on the discrepancies.
- 3026 **Victim Advocate:** Interviewing a victim is completely different from interviewing an offender. Agents need to have a high level of skill and sensitivity to victim issues. If agents can't show victim empathy, they should leave this interview to someone who can. In this difficult situation, agents must understand the trauma experienced by victims of sexual assault. They need to realize there is a lot of emotional pain and discomfort that is stirred up when victims have to remember and discuss the details of the offense.
- It is important to note that all victims can be re-traumatized by repeated interviews.
- 3027 **Victim Advocate:** Victims may show distrust and a reluctance to talk. Be patient. Compassionate. We all wish victim interviews weren't necessary, but the information we gain from the victim's perspective is critical to completing a thorough and objective investigation. The court needs to know information about the offense and its impact on the victim – *from the victim herself*.

- 3028 **Victim Advocate:** During the victim interview, it is important for the agent to learn things from the victim that are not already in the police reports or victim statement. Let's take a closer look at a good and bad example of what an agent could say to encourage a victim to share. Let's look at a good example first.
- If the victim is showing a reluctance to talk, the agent should say "I apologize for asking you something you've already answered/been asked. I know things come to us over time, and I wondered if there's anything you want to add?" This simple question is much more patient and compassionate than asking the victim something like this "Why would you say these things about your father?"
- Which of these questions would make you more likely to open up? Think about it!
- 3029 **Victim Advocate:** The scope of the interview, the type of questions, the individuals present, and the location will all vary for a victim interview. In some cases, the victims may be interviewed directly. In other cases, members of the victim's family or others related to the victim may be interviewed.
- 3030 **Victim Advocate:** Now there are times when victims may refuse to be interviewed. They may not want to have any part in the criminal investigation. In these cases, the victim's decision must be respected. The agent should then rely on the investigator or police reports for available victim statements and medical reports, as well as information from other sources. Using these materials, the agent can obtain a description of the offense and the impact on the victim.
- 3031 **Victim Advocate:** A final note on the victim interview portion of the PSI: interviews with child victims are usually not necessary and should be avoided. I'm sure you're aware children could be re-traumatized if they had to talk about the offense. The police or Child Protection Services personnel may be able to provide the necessary information to complete the PSI.

Section 5: Completing the PSI Report

Screen Number	Character	Narration
3032	Victim Advocate:	<p>During the investigation process, agents may identify “collateral sources” that can provide additional information about the case. It may be necessary to interview a number of these individuals to get the information needed. These sources could include:</p> <ul style="list-style-type: none">- Investigating officers- A Victim Advocate- Treatment providers- Employers- Current Partners and others. <p>If you are interested in viewing a full list of collateral sources, check out the Collateral Sources document available in the program library.</p>
3033	State Parole Agent with Supervision:	<p>We’ve shared with you the purpose of the PSI and how to gather the information to complete it. Now there’s one last step: filling out the report. Most PSIs are written by probation officers – in those counties that have a probation department. Usually one person writes the PSI regarding an individual offender. Some counties have special PSI units where they focus exclusively in writing these reports.</p>
3034	State Parole Agent with Supervision:	<p>Before we get started, it’s important to note that the number, format and quality of PSIs vary widely from county to county. In fact, some PSIs offer little more than a face sheet, while others are very comprehensive.</p>
3035	State Parole Agent with Supervision:	<p>There are even some templates that can automatically populate from databases, which can save agents a lot of time. For example, the Administrative Office of Pennsylvania Courts (the AOPC), which has supervisory and administrative authority over the state court system, has created a PSI summary document that pulls information directly from Pennsylvania’s Common Pleas Case Management System. This summary document can be added to the offender’s PSI.</p>

3036 **State Parole Agent with Supervision:** The most useful PSI has documented sources of information (going beyond offender self-report), including:

- police reports
- official versions of the crime
- probable cause documents, and
- Other records and reports.

3037 **State Parole Agent with Supervision:** For the purposes of this program we've created a PSI Report template, which is available in the library.

The template consists of eight sections that are typically found in a PSI. These sections include:

- The Present Offense
- The Offender's Version
- Co-Defendant's Statement
- Victim's Statement
- Offender's Prior Record
- Family Background
- Personal History, and
- Conclusions

We'll describe each of these here and then fill out the PSI Report based on a case study.

It is important to note that most PSIs start with a Demographics section. For the purpose of this program, we are going to focus solely on the eight sections that are listed on screen.

Let's get started with The Present Offense!

3038 **Law Enforcement:** The Present Offense section summarizes information obtained from documents related to the offense. It should include a detailed account of the offense, including the severity of the injuries, level of violence, and potential for sadistic behavior. It should also include the time frames, lengths of the assaults, as well as the number and sex of the victims.

3039

**Law
Enforcement:**

Now let's begin with our case study.

According to the official documents related to the case, the offender is a 25 year old male, and the victim is a 19 year old female. The offender had vaginal sexual intercourse with the victim. She screamed to stop the intercourse, but the offender did not stop until he ejaculated. Other than the penetration, no other physical injuries were reported, and the victim did not report any additional levels of violence associated with the rape. The offense was a single occurrence, and lasted for an estimated ten minutes.

3040

**Law
Enforcement:**

The **Offender's Version** summarizes the offender's description of the offense and should provide the reader with a sense of the offender's level/stage of denial, his perception of the victim, and justification for the behavior.

The information gathered for the Offender's Version is acquired through multiple sources, including the police report, offender interviews, victim statements, witness statements, and court documents. When you acquire information from these different sources, remember you must give proper identification to the source of that information in the PSI.

3041

**Law
Enforcement:**

This section specifically contains the following four parts:

- The offender's detailed description of the offense
- The motivation for committing the offense
- Terms of the plea agreement if applicable, and
- The circumstances preceding the offense

If you'd like to see a full list of circumstances preceding an offense, a knowledge document is available in the library.

3046

**Victim
Advocate:**

The Victim's Statement should contain:

- Victim's date of birth
- Appearance
- Gender
- Description of the offense
- Effects of the offense
- Victim's comments or recommendations for sentencing
- Victim's comments or recommendations for conditions of supervision

Keep in mind: the details are extremely important – don't over-summarize.

3047

**Victim
Advocate:**

Now let's see what information in the case should be captured in the PSI:

The Victim's Statement says that the 19 year old female, with no apparent disabilities, fell asleep alone in her boyfriend's bedroom, after having too much to drink at the party. She awoke to the subject on top of her engaged in penis to vagina sexual intercourse. She screamed for him to stop and get off of her, which he did after he ejaculated.

The victim also stated she met the offender for the first time several weeks prior when her boyfriend introduced her to him at a darts tournament at a local bar. The victim indicated she did not remember seeing or speaking with the offender the night of the rape.

The victim indicated she missed 3 days of work and is usually afraid to leave her house. She does not want to engage in any social activities, has broken up with her boyfriend, and says she does not normally drink. She is afraid of what people think of her and is afraid she has a venereal disease, because she heard the offender has VD. Furthermore, the victim recommends that she wants him to stay away from her and wants him to pay for the counseling she begins next week.

3048

**Victim
Advocate:**

As you can tell, most of this information comes from the victim interview. However, victims have the option to refuse to be interviewed. If a victim chooses not to be interviewed, the agent should not:

- Focus on the victim's refusal or lack of response
- Detail the agent's many fruitless attempts to locate the victim, or
- Describe the victim as uncooperative or irresponsible.

Rather than emphasizing any of these things, the agent should briefly summarize the actions taken to contact the victim and the results, without adding negative comments or attempting to interpret the reasons for the victim's refusal.

3049

**Law
Enforcement:**

The **Offender's Prior Record** is a summary document with four sections:

- **The Juvenile/Adult Record.** This is the offender's previous arrest and conviction record, with a description of all prior offenses.
- **Pending Charges.** This section lists all pending criminal matters.
- **Correctional Experience.** This section indicates the offender's prior correctional experiences. And
- **The Offender's Explanation of Record.** This is an explanation of the criminal record from the offender's perspective.

3050

**Law
Enforcement:**

Now let's see what information we need to enter in the PSI for the case:

Due to the offense, you will need to make sure you know where the offender grew up, so that you can check that area for juvenile records. You'll also want to check the Prothonotary office for PFA orders, especially given the nature of this assault. Based on the information gathered, you learn that the offender currently resides in Smith County, but grew up in Jones County. There he has juvenile record for Arson, committed at age 13. In addition, his adult record consists of one DUI, where he received ARD probation for one year. He successfully completed this two years ago. Finally, the offender explained his record as follows: "The juvenile thing never happened. And the only other thing I had was a DUI."

3051

**State Parole
Agent with
Supervision:**

The **Family Background** section of the PSI report has three parts: Identifying Information, Stability and Values, and Family Attitudes.

Identifying Information should provide complete and accurate data about the offender's parents, siblings, step-siblings, and other members of the extended family.

The **Stability and Values** section should include information about behavior patterns within the family that may have influenced the offender's early development.

The **Family Attitudes** section should include a description of the family's attitude and perceptions of the offender.

3052

**State Parole
Agent with
Supervision:**

In order to complete this section, you must gather information from the offender at the first interview. Then you can seek additional information from siblings, parents and even the police. By asking the police you are able to see if the offender is known to the local police.

For the case, you need to find out the names of the offenders family members, their addresses, ages, and occupation. In addition you learn that the offender was raised by both parents until his age 5, when parents divorced. The father is currently serving a 5 – 10 year sentence for Burglary. The offender also has two brothers, both older and one sister, who died in a DUI related accident 3 years ago. The offender's mother reports a lifelong contentious relationship with her son because he is just like his father. In contrast the father reports having a close relationship with his son.

3053

**State Parole
Agent with
Supervision:**

The **Personal History** section – the next-to-last section – consists of fourteen parts:

- Academic, Vocational Skills
- Employment
- Financial Management
- Marital, Alternative Family Relationships - Companions
- Emotional Health
- Physical Health
- Mental Ability
- Chemical Usage
- Sexual Behavior
- Military
- Religion
- Leisure Activities
- Residential History

Some of these areas will require reports from organizations like the offender's former school, employer, military unit and other places. To obtain these reports, agents will need to get a DOC-1163 Confidential Information Release Authorization signed by the offender. More information regarding Personal History is available in the program's library.

3054

**State Parole
Agent with
Supervision:**

In order to complete this part of the PSI for the offense, the agent must review school records and rely on information gathered during the offender interview,

Let's see what the investigation determined:

The offender is a high school graduate and has been employed for the past 3 years at a landscaping business. His prior employment was at Lowes and Home Depot, where he worked in their warehouses. The offender's annual earnings are \$24,000, which means that he makes approximately \$2,000 dollars each month. In contrast his monthly expenses add up to \$1,500, excluding costs associated with the case. The DA is unconcerned about the financial situation. However, there is a concern that the offender will be unable to handle expenses related to the offense.

3061

**State Parole
Agent with
Supervision:**

It is important to note that in some cases, the PSI (including the agent recommendations) may not be the only investigation that the court takes into consideration. In the last section of this program we are going to discuss the role the Sexual Offenders Assessment Board – or SOAB – has in court recommendations and how it differs from the PSI.

Section 6: SOAB Assessment

Screen Number	Character	Narration
3062	Judge:	In Pennsylvania, a second and <u>separate</u> investigation takes place for certain convicted sex offenders. These are offenders who will be considered for classification as “sexually violent predators” or SVPs.
3063	Judge:	Under Megan’s Law, the court is required to identify these offenders prior to sentencing. The investigation is carried out by the investigative staff of the SOAB. Their job is to <i>assess</i> the offender and determine if he meets the criteria for SVP.
3064	Judge:	The SOAB investigation and assessment contains much of the same information as a PSI, but they’re two different animals. A PSI addresses the offender’s general risk and character issues. It’s a compilation of information – no SVP opinion is offered. On the other hand, an SOAB assessment addresses only specific points under Megan’s Law that deal with sexually violent predators.
3065	Judge:	Both the PSI and the SOAB investigations take place concurrently. This works to everyone’s benefit. Having two separate investigations in cases involving SVPs helps agencies gain greater insight into this type of offender. We’ve also found that offenders will react differently depending on if they’re being interviewed by the SOAB or by Probation. Offenders often manipulate the truth, so parallel investigations offer balance and verification, as information evolves. It is important to note that the offenders are not required to submit to an SOAB interview.
3066	Judge:	In addition to the pre-sentencing assessment, the SOAB is also called in later – when any Megan’s Law sex offender comes up for parole consideration. At this point, the SOAB will conduct a <u>pre-release</u> investigation and assessment for the Pennsylvania Board of Probation and Parole. This investigation will include many of the same areas as the pre-sentence investigation. Here, the focus is on gathering the information necessary to determine what the offender’s risks and treatment needs are, and whether the offender’s risks and needs can be managed, should he be released.

Section 7: Conclusion

Screen Number	Character	Narration
3067	Judge:	<p>As you can see, there may be overlap between the SOAB assessment and the PSI; but a PSI should still be conducted when a SOAB assessment has been ordered. Conducting both investigations should be considered a best practice, because we learn more details about the offender, his offense, and his criminal record. Think of it this way: the more information you have, the more effective containment will be.</p> <p>For more information related to this topic, you should check out Pre-Sentence Investigations document in the program's library.</p>