PERFORMANCE AUDIT
OF THE

PRESENTENCE INVESTIGATION PROCESS

DEPARTMENT OF CORRECTIONS

December 1997

47-119-97

EXECUTIVE DIGEST

PRESENTENCE INVESTIGATION PROCESS

INTRODUCTION	This report, issued in December 1997, contains the results of our performance audit* of the Presentence Investigation* (PSI) Process, Department of Corrections (DOC).
AUDIT PURPOSE	This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.
BACKGROUND	The mission* of the Bureau of Field Operations Administration (FOA), as it relates to the PSI process, is to provide investigative support and sentencing recommendations to the courts. Section 771.14 of the *Michigan Compiled Laws* requires probation officers to provide to the court a report on the background, character, and circumstances of an offender charged with a felony* before the court sentences the offender. In 1996, FOA prepared 52,767 PSI's for the courts throughout the State.
AUDIT OBJECTIVES AND CONCLUSIONS	**Audit Objective:** To evaluate the effectiveness of FOA's preparation of PSI reports.

* *See glossary on page 22 for definition.*

Conclusion: We concluded that FOA provided the courts with accurate, reliable, and timely PSI reports. However, our assessment disclosed reportable conditions* relating to a continuous quality improvement process* and the effectiveness of the PSI reports (Findings 1 and 2).

Audit Objective: To determine if FOA's preparation of PSI reports complied with applicable statutes, rules, policies, and procedures.

Conclusion: We concluded that FOA generally complied with the applicable statutes, rules, policies, and procedures governing the PSI process. However, our assessment disclosed a reportable condition related to compliance with the rules and procedures for the preparation of PSI reports (Finding 3).

AUDIT SCOPE AND METHODOLOGY

Our audit scope was to examine the presentence investigation process administered by the Department of Corrections. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our methodology included the review of statutes, policies, and procedures for the period January 1994 through June 1997. Our methodology also included a preliminary survey to obtain an understanding of the PSI process; the selection of a sample to determine that PSI's were accurate, reliable, and timely; and a survey of stakeholders* , the results of which are presented as supplemental information.

* *See glossary on page 22 for definition.*

AGENCY RESPONSES	Our audit report contains 3 findings and 3 recommendations. The agency preliminary response indicates that FOA agrees with all 3 recommendations. FOA responded that it will take or has taken the necessary action to implement the recommendations.

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Mr. Kenneth L. McGinnis, Director
Department of Corrections
Grandview Plaza
Lansing, Michigan

Dear Mr. McGinnis:

This is our report on the performance audit of the Presentence Investigation Process, Department of Corrections.

This report contains our executive digest; description of presentence investigation process; audit objectives, scope, and methodology and agency responses; comments, findings, recommendations, and agency preliminary responses; a summary of survey responses, presented as supplemental information; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

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DEPARTMENT OF CORRECTIONS

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Description of Presentence Investigation (PSI) Process

The mission of the Bureau of Field Operations Administration (FOA), as it relates to the presentence investigation (PSI) process, is to provide investigative support and sentencing recommendations to the courts. Section 771.14 of the *Michigan Compiled Laws* requires probation officers to provide to the court a report on the background, character, and circumstances of an offender charged with a felony before the court sentences the offender.

The Michigan Supreme Court has indicated that the importance of PSI cannot be overemphasized. PSI is an integral part of the sentencing process, designed to provide the judge with sufficient information to make informed, individualized sentences that are appropriate for the offender and the offense. Thus, PSI must be complete, accurate, and timely so that sentencing may be tailored to the particular circumstances of the case and the offender.

In 1996, 1,074 probation officers from FOA prepared 52,767 PSI's for the courts throughout the State.

Audit Objectives, Scope, and Methodology and Agency Responses

Audit Objectives

Our performance audit of the Presentence Investigation (PSI) Process, Department of Corrections (DOC), had the following objectives**:**

1. To evaluate the effectiveness of the Bureau of Field Operations Administration's (FOA's) preparation of PSI reports.

2. To determine if FOA's preparation of PSI reports complied with applicable statutes, rules, policies, and procedures.

Audit Scope

Our audit scope was to examine the presentence investigation process administered by Department of Corrections. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures were conducted during the months of January through August 1997 and included the review of statutes, policies, and procedures for the period January 1994 through June 1997 and an examination of PSI records and activities for calendar year 1996.

We performed a preliminary survey to obtain an understanding of the PSI process. We selected for review a sample of PSI reports completed by DOC in calendar year 1996. We verified the information presented in the PSI's with supporting documentation at selected field offices. In addition, we performed a survey of stakeholders, the results of which are presented as supplemental information.

Agency Responses

Our report contains 3 findings and 3 recommendations. The agency preliminary response indicates that FOA agrees with all 3 recommendations. FOA responded that it will take or has taken the necessary action to implement the recommendations.

The agency preliminary response which follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require DOC to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

COMMENTS, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF THE PRESENTENCE INVESTIGATION (PSI) PROCESS

COMMENT

Audit Objective: To evaluate the effectiveness of the Bureau of Field Operations Administration's (FOA's) preparation of PSI reports.

Conclusion: We concluded that FOA provided the courts with accurate, reliable, and timely PSI reports. However, our assessment disclosed reportable conditions relating to a continuous quality improvement process and the effectiveness of the PSI reports.

FINDING

1. Continuous Quality Improvement

FOA had not established a continuous quality improvement process to monitor and improve the effectiveness of the PSI process.

A continuous quality improvement process consists of establishing goals* and objectives* related to the program's mission, identifying objective standards and performance measures*, implementing a management information system for monitoring results, and modifying the program to improve its effectiveness.

FOA had used portions of such a process to help manage the PSI process. However, FOA had not implemented several key elements of a continuous quality improvement process:

a. FOA had not established goals and objectives for the PSI process. Numerous court cases have stressed the importance of PSI as an integral part of the sentencing process designed to help the courts make informed, individualized sentences that are appropriate for the defendant and the public interest.

* *See glossary on page 22 for definition.*

FOA's operating procedure for PSI's states that PSI has a primary role of providing courts with accurate, relevant, and timely data. However, the procedure did not formally establish these attributes as goals or objectives for the PSI process.

b. FOA had not established outcome-related performance measures upon which to evaluate the overall effectiveness of the PSI process. Performance measures quantify goals and objectives. Although FOA established a performance measure for timeliness, it had not developed measures to determine if PSI's are complete, accurate, and up to date as stressed by various court cases. FOA informed us that probation officers maintain information relating to PSI accuracy and timeliness. However, FOA uses this information only to monitor the officers' and supervisors' performance. FOA had not incorporated these attributes in an overall evaluation of the effectiveness of the PSI process.

c. FOA had not established a management information system for monitoring the PSI process. Such a system would enable FOA to monitor the timeliness and accuracy of PSI on a Statewide basis. For instance, FOA could code on the system the reason a court returned a PSI. FOA could then monitor the number of inaccurate or incomplete PSI's returned by the courts on a Statewide basis. FOA informed us that it is in the process of automating the PSI process and that one of the objectives of the system is to monitor the PSI process.

A complete continuous quality improvement process is essential for the Department of Corrections (DOC) to make meaningful decisions related to program operations. Such a process is widely recognized as an invaluable tool in managing programs. For example, the Report of the National Task Force on Correctional Substance Abuse Strategies recommended that correctional substance abuse programs establish measurable goals for each program to measure effectiveness. Similarly, a report issued by the State of Florida recommended that the State Department of Corrections establish measures that could be used by it to measure the effectiveness of the prisoner intake process. Without such a continuous quality improvement process, DOC lacks objective evidence to show the effectiveness of the PSI process.

RECOMMENDATION

We recommend that FOA establish a continuous quality improvement process to monitor and improve the effectiveness of the PSI process.

AGENCY PRELIMINARY RESPONSE

FOA agrees that a continuous quality improvement process is necessary. However, FOA believes that such a process is already in place as indicated by this audit's generally low percentages of reportable conditions and overall conclusion that ". . . FOA provided the courts with accurate, reliable, and timely PSI reports."

As part of FOA's continuous quality improvement process, FOA has established goals and objectives for the PSI process. FOA's goal is 100% compliance with all standards set in applicable policy and procedure. An exhaustive review of the PSI policy and procedure was completed within the past year and the revised documents were effective November 3, 1997. FOA believes these policy and procedure revisions, which were also effective November 3, 1997, will enhance the quality of the agency's PSI reports.

FOA believes that the current manual review and audit process will be enhanced with the implementation of the automated Offender Management Network Information (OMNI) system within the next two years.

FINDING

2. Effectiveness of the PSI Reports

FOA did not always provide the court with complete PSI reports. As a result, the PSI can lose some of its effectiveness as a basis for the court to use in determining the length of sentence that it imposes.

Section 771.14 of the *Michigan Compiled Laws* requires probation officers to provide to the court a report on the background, character, and circumstances of an offender charged with a felony before the court sentences the offender. The purpose of PSI is to provide the court with sufficient information to make informed, individualized sentences that are appropriate for the offender and the offense.

From a total of 52,767 PSI reports completed by FOA in 1996, we selected 75 PSI reports to determine if the reports were accurate, relevant, and timely. We considered these attributes to be critical in providing the court with sufficient information to determine the appropriate sentence for an offender. We determined:

a. In 6 instances, FOA did not provide a complete description of the prior criminal convictions* of the offender as required by *Michigan Administrative Code* R 791.9910. In 1 of these instances, the PSI did not include two felonies committed by an offender in another state. In another instance, the PSI did not include 10 misdemeanors* committed by the offender in another state. None of the 6 instances appeared to impact on the sentences determined under the Michigan Sentencing Guidelines* . However, a complete criminal history could have affected the minimum sentence that the judge ultimately decided to give each offender.

b. In 7 instances, FOA did not provide the court or defense counsel a copy of the PSI at least two working days prior to sentencing as required by DOC operating procedure BFS-71.01 I.C.

c. In 3 of 63 instances, FOA miscalculated the score under the Michigan Sentencing Guidelines. The score established by the Michigan Sentencing Guidelines could impact the sentencing recommendation made by FOA. The Michigan Court of Appeals ruled that probation officers must consider the Michigan Sentencing Guidelines when making their sentencing recommendations.

d. In 2 instances, FOA did not provide a complete description of all criminal charges pending against the offender. In 1 of these instances, FOA did not include on the PSI an outstanding warrant from another state. As a result, the offender served probation and was released without facing extradition proceedings. *Michigan Administrative Code* R 791.9910 requires that the PSI include a description of all pending criminal charges.

* *See glossary on page 22 for definition.*

e. In 1 instance, FOA did not provide the court with a proper description of all the current crimes for which the offender was convicted. In this instance, 2 of the 3 crimes for which the offender had been convicted were not described in the PSI. *Michigan Administrative Code* R 791.9910 requires the probation officer to provide an objective description of the offense in the PSI.

f. In 1 instance, FOA improperly included an inaccurate felony charge on a PSI.

For the most part, FOA provided the courts with accurate, reliable, and timely PSI reports. However, FOA could enhance the PSI process by improving the supervisory review process and following up on potential out-of-State criminal convictions.

The PSI must be complete to provide assurance that sentences are tailored by the court to the particular circumstances of the case and the offender.

RECOMMENDATION

We recommend that FOA provide the court with complete PSI reports.

AGENCY PRELIMINARY RESPONSE

FOA adamantly concurs that it should provide the court with complete PSI reports. Again, FOA believes this is being accomplished, as supported by this audit and the low number of reportable conditions.

As a result of the audit findings, FOA will do the following:

(a) Within 30 days, FOA will issue instructions to clarify the type of Law Enforcement Information Network (LEIN) inquiry that must be performed by the PSI preparer in order to ensure that all available conviction and pending charge information is obtained from both Michigan and other states.

(b) Within 30 days, FOA will issue instructions reminding staff of the requirement to provide the court a copy of the PSI report at least two working days prior to sentencing. FOA will further instruct staff to obtain documentation from the court when time restrictions allow the report to be forwarded to the court in less than two working days prior to sentencing.

FOA concurs that the PSI report should be complete in providing all required information and will rely on the existing supervisory review and audit process to ensure that this continues. FOA believes that the recent revision of policy and procedure, as well as the development of the new recommendation guidelines procedure, will enhance the content, uniformity, and effectiveness of the PSI report.

COMPLIANCE WITH STATUTES, RULES, POLICIES, AND PROCEDURES

COMMENT

Audit Objective: To determine if FOA's preparation of PSI reports complied with applicable statutes, rules, policies, and procedures.

Conclusion: We concluded that FOA generally complied with the applicable statutes, rules, policies, and procedures governing the PSI process. However, our assessment disclosed a reportable condition related to compliance with the rules and procedures for the preparation of PSI reports.

FINDING

3. PSI Process Compliance

FOA did not always comply with the rules and procedures for the preparation of PSI reports.

We reviewed 75 PSI reports for various attributes to determine if the reports were accurate, relevant, and timely. We determined:

a. In 35 instances, the PSI report did not state whether the offender had been represented by counsel for each criminal conviction. The court may not use convictions to determine a sentence under the Michigan Sentencing Guidelines when the offender was not represented by counsel.

b. In 25 instances, the probation officer who prepared the PSI report did not sign it; in 9 instances, the supervisor who reviewed the PSI report did not sign it. DOC operating procedure 01.01.123-K requires the probation officer and, when possible, the supervisor to sign the PSI report.

c. In 22 instances, there was no evidence in the PSI file that the probation officer had verified information obtained from the offender through other sources, such as spouses, parents, friends, etc. DOC operating procedure 01.01.123-K states that verification of information in the report is critical because of the report's importance to sentencing.

d. In 9 instances, the PSI report did not include a medical history as required by *Michigan Administrative Code* R 791.9910.

e. In 6 instances, the probation officer did not include in the PSI report a statement relating to the applicability of consecutive sentencing as required by *Michigan Administrative Code* R 791.9910.

f. In 5 instances, the PSI report did not include a statement from the victim of the crime as required by statute.

g. In 4 instances, the PSI report did not include the offender's description of the crime as required by *Michigan Administrative Code* R 791.9910.

Although these attributes are not material on an individual basis, overall they contribute to the accuracy and reliability of PSI reports.

RECOMMENDATION

We recommend that FOA comply with the rules and procedures for the preparation of PSI reports.

AGENCY PRELIMINARY RESPONSE

FOA resolutely agrees that it should comply with the rules and procedures for the preparation of the PSI reports. As previously noted, FOA's goal is 100% compliance with all standards contained in applicable policy and procedures.

Within the next 30 days, FOA will issue an informational memorandum citing the audit findings in this area and stressing the expected 100% compliance with and enforcement of policy and procedure. Again, FOA believes that revised policy and procedures clarify the PSI report requirements and that implementation of an automated system (OMNI) will enhance the manual evaluation and audit process.

SUPPLEMENTAL INFORMATION

PRESENTENCE INVESTIGATION (PSI) PROCESS

Department of Corrections

Summary of Survey Responses

Summary Overview

We sent surveys to a sample of 56 Circuit and Recorder's Court judges who use presentence investigations prepared by the Bureau of Field Operations Administration and received 32 responses. The total number of responses for each item may not agree with the number of responses received because some judges did not answer all items. Overall, the comments were positive.

Following is a summary of the survey and the associated responses for each item.

1. Please circle the percentage figure that most closely identifies the extent to which you rely on the PSI to help determine the sentence recorded in the sentencing information report* (SIR).

12	100%	4	90 - 95%
1	80%	12	75%
1	50%	1	25 - 50%
1	None		

2. Do you use other sources of background information as a basis for determining the sentence?

24	Yes	7	No

	Always	Most of the Time	Sometimes	Never
3. How often do you receive the PSI in a timely manner so that it can be used in the sentencing process?	16	15	1	0

* *See glossary on page 22 for definition.*

	Always	Most of the Time	Sometimes	Never
4. How often does the PSI provide sufficient background information about the prisoner to assist in the sentencing process?	16	15	1	0
5. How often does the PSI provide sufficient information on prior convictions to assist in the sentencing process?	15	16	1	0
6. How often does the PSI present information in a clear and concise manner?	12	19	1	0
7a. How often do you find the PSI to be accurate?	4	27	1	0
7b. How often do you find the PSI to be complete?	7	21	4	0

Glossary of Acronyms and Terms

continuous quality improvement process	A continuous quality improvement process consists of establishing goals and objectives related to the program's mission, identifying objective standards and performance measures, implementing a management information system for monitoring results, and modifying the program to improve it effectiveness.
conviction	An adjudication of guilt in an adult criminal matter.
DOC	Department of Corrections.
effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical for the amount of resources applied or minimizing the amount of resources required to attain a certain level of outputs or outcomes.
felony	An offense punishable by more than one year of incarceration.
FOA	Bureau of Field Operations Administration.
goals	The agency's intended outcomes or impacts for a program to accomplish its mission.
Michigan Sentencing Guidelines	Last published in 1988, the guidelines provide standard sentences for various offenses. The sentence range is dependent on the number of points given to an offender for prior convictions and the current offense, as well as the crime group in which the current offense was committed.

misdemeanor	An offense punishable by one year or less of incarceration and falling into one of the following crime groups: assault, burglary, criminal sexual conduct, drug, fraud, larceny, property destruction, robbery, or weapons possession.
mission	The agency's main purpose or the reason the agency was established.
objectives	Specific outputs a program seeks to perform and/or inputs a program seeks to apply in its efforts to achieve its goals.
OMNI	Offender Management Network Information.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
performance measures	Information of a quantitative or qualitative nature indicating program outcomes (the actual impacts of the program), outputs (the products or services produced), or inputs (the resources consumed). Performance measures are typically used to assess achievement of goals and/or objectives.
presentence investigation (PSI)	A report into the background, character, and circumstances of a person charged with a felony. The report is produced by DOC after an offender is convicted of a felony and before the court declares a sentence.

reportable condition A matter coming to the auditor's attention that, in his/her judgment, should be communicated because it represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.

sentencing information report (SIR) The form used by judges to calculate the number of points to give to an offender for prior convictions and the instant offense. The number of points given and the crime group in which the instant offense was committed determine the sentence range on various grids published in the Michigan Sentencing Guidelines. The judge is ultimately responsible for the accuracy of an SIR. However, FOA is responsible for completing an SIR and submitting it to the judge along with a sentencing recommendation.

stakeholders Parties interested in DOC's program activities (e.g., direct users of services, advocacy groups, and local agencies interacting with the State program).