

Rule 21A. Presentence investigation reports; Restitution.

(a) Presentence investigation reports shall be completed by order of the court as provided in Utah Code Sections 77-18-1 and 64-13-20. Presentence reports shall either be physically removed from the case file and kept in a separate storage area or retained in the case file in a sealed envelope marked "Protected".

(b) Full disclosure of the presentence investigation report shall be made to the prosecutor, defense counsel, or the defendant if the defendant is not represented by counsel, unless disclosure of the presentence report would jeopardize the life or safety of third parties. At least ~~three~~³ ~~working-business~~ days in advance of the scheduled sentencing date, the Department shall provide a copy of the presentence investigation report to the court, and to the defendant's counsel or the defendant if not represented by counsel, and the prosecutor. The presentence report shall also be made available to prosecutors, defense counsel and the defendant at the court on the date of sentencing. In cases where a party or a party's counsel notifies the court clerk, in writing, that the presentence investigation report is the subject of an appeal, the clerk shall include the sealed presentence investigation report as part of the record.

(c) Restitution.

(c)(1) The presentence investigation report prepared by the Department of Corrections shall include a specific statement of pecuniary damages as provided in Utah Code Section 77-18-1(4). This statement shall include, but not be limited to, a specific dollar amount recommended by the Department of Corrections to be paid by the defendant to the victim(s).

(c)(2) In cases where a specific dollar value is not known, and is not an accumulating amount, e.g. continuing medical expenses, the court may continue the sentencing. If sentencing occurs, it shall be done with the concurrence of defense counsel/defendant and the prosecutor and an agreement shall be reached as to how restitution shall be determined. In no instance shall the restitution amount be determined by the Department of Corrections without approval of the court, defendant, defense counsel and the prosecutor. If the parties disagree about the restitution amount, a restitution hearing shall be scheduled.