

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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In the Matter of  
Release of Federal Probation  
Department Presentence  
Investigation Reports

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**ADMINISTRATIVE  
ORDER**

Whereas the U.S. Probation Department and the Monroe County Probation Department have entered into a Memorandum of Understanding concerning the cross-release of presentence reports, the terms and conditions of which are fully set forth in "A Memorandum of Understanding Between the U.S. Probation Department, Western District of New York and the Monroe County Probation Department Regarding the Release of Federal Presentence Investigations" dated the 10th day of January, 1997, and therefore, it is hereby

ORDERED, that the Chief Probation Officer of the Western District of New York shall, and he is hereby authorized, to release any presentence report to the Monroe County Probation Department having due consideration for the confidentiality of these reports.

SO ORDERED.



David G. Larimer  
Chief U.S. District Judge

DATE: Rochester, New York  
January 22, 1997

ATTEST: A TRUE COPY  
U.S. DISTRICT COURT, WDNY  
RODNEY C. EARLY, CLERK

By Sheila Mitchell  
Clerk

Original Filed 1/24/97

FILED  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
JAN 24 1997  
ROCHESTER

**MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. PROBATION DEPARTMENT,  
WESTERN DISTRICT OF NEW YORK AND THE MONROE COUNTY PROBATION DEPARTMENT  
REGARDING THE RELEASE OF FEDERAL PRESENTENCE INVESTIGATIONS**

**Background**

The U.S. Probation Department has historically denied release of the federal presentence report directly to the Monroe County Probation Department for use in developing a County presentence investigation. Federal regulations guard against release of federal presentence reports for these reasons: (1) unauthorized disclosure to third parties of information regarding drug, alcohol, and mental health treatment of offenders with federal funds; and, (2) dissemination of the presentence report beyond local probation departments (for example law enforcement authorities). The Monroe County Probation Department has periodically required the use of portions of the federal presentence report on select cases under their investigation. Although we allow County Probation Officers an opportunity to review the presentence report in our office, the ability to obtain a copy of a report for their use in developing a county presentence report within the confines of their office setting is preferred.

The Monroe County Probation Department has routinely disclosed county presentence investigations to federal Probation Officers who incorporate portions of the material in the federal presentence report. The lack of reciprocity of release of federal presentence reports to Monroe County Probation Departments has strained the relations between the two departments. In recent situations, defense attorneys who have received a copy of the federal presentence report have submitted their federal presentence report to local and county judicial officers who in turn have used the federal presentence report as a sentencing tool, bypassing both the U.S. Probation Department and the Monroe County Probation Department.

**Intent**

It is the intent of this agreement to gain control over the use of the federal presentence report and avoid unauthorized or unintended use of the presentence report such as noted in the above example. It is our desire to reinforce the spirit of cooperation and achieve a compatible working relationship between both departments to further enhance the service offered to both the federal and local/state courts.

**Agreement**

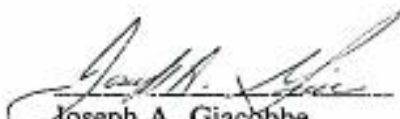
By way of this agreement, the U.S. Probation Office hereby acknowledges the understanding that federal presentence reports will be released to the Monroe County Probation Department once the appropriate consent to release form is signed by the offender. The consent will allow information relating to the offender's treatment (drug, alcohol, and mental health) to be disclosed in accordance to federal and New York State regulations.



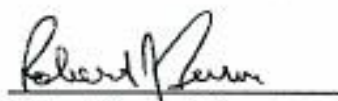
Additionally, federal presentence reports that do not contain treatment information will be released without a consent form, but with the understanding that the dissemination of the report is strictly restricted to the Monroe County Probation Department for investigation purpose. Each federal presentence report disclosed to the Monroe County Probation Department will contain the following statement stamped upon each page "DO NOT DUPLICATE, DISSEMINATION OF THIS REPORT IS STRICTLY LIMITED TO THE MONROE COUNTY PROBATION DEPARTMENT, FURTHER DISSEMINATION IS PROHIBITED". The Monroe County Probation Department agrees to shred each federal presentence report, in its entirety, upon completion of the county investigation, insuring that the report is not duplicated and/or released to a third party.

Finally, New York State regulations allow for the release of a copy of the county probation report to other probation departments and this practice will be reinstated between the Monroe County Probation Department and the U.S. Probation Department for the Western District of New York.

The United States Probation Office for the Western District of New York and the Monroe County Probation Department agree to provide services to each other as outlined in this Memorandum of Understanding.

  
Joseph A. Giacobbe  
Chief U.S. Probation Officer

12-12-96  
Date

  
Robert Burns, Director  
Monroe County Probation Department

1/10/97  
Date

*Attachment*