

AMENDMENTS TO THE CALIFORNIA RULES OF COURT
Adopted by the Judicial Council on December 12, 2014,
effective on January 1, 2015

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10		

1 **Rule 4.411. Presentence investigations and reports**

2
3 **(a) Eligible defendant**

4
5 If the defendant is eligible for probation or a term of imprisonment in county jail
6 under section 1170(h), the court must refer the matter to the probation officer for a
7 presentence investigation and report. Waivers of the presentence report should not
8 be accepted except in unusual circumstances.

9
10 *(Subd (a) amended effective January 1, 2015; previously amended effective January 1,*
11 *2007.)*

12
13 **(b) Ineligible defendant**

14
15 Even if the defendant is not eligible for probation or a term of imprisonment in
16 county jail under section 1170(h), the court should refer the matter to the probation
17 officer for a presentence investigation and report.

18
19 *(Subd (b) amended effective January 1, 2015.)*

20
21 **(c) * * ***

22
23 **(d) Purpose of presentence investigation report**

24
25 Probation officers' reports are used by judges in determining the appropriate term
26 of imprisonment in length of a prison or county jail sentence under section 1170(h)
27 and by the Department of Corrections and Rehabilitation, Division of Adult
28 Operations in deciding on the type of facility and program in which to place a
29 defendant. ~~The reports and~~ are also used by courts in deciding whether probation
30 is appropriate, whether a period of mandatory supervision should be denied in the
31 interests of justice under section 1170(h)(5)(A), and the appropriate length and
32 conditions of probation and mandatory supervision. Section 1203c requires a
33 probation officer's report on every person sentenced to prison; ordering the report
34 before sentencing in probation-ineligible cases will help ensure a well-prepared
35 report.

36
37 *(Subd (d) amended effective January 1, 2015; previously amended effective January 1,*
38 *2006 and January 1, 2007.)*

39
40 *Rule 4.411 amended effective January 1, 2015; adopted as rule 418 effective July 1, 1977;*
41 *previously amended and renumbered as rule 411 effective January 1, 1991; previously*
42 *renumbered effective January 1, 2001; previously amended effective January 1, 2006 and*
43 *January 1, 2007.*

1
2 **Advisory Committee Comment**
3

4 Section 1203 requires a presentence report in every felony case in which the defendant is eligible
5 for probation. Subdivision (a) requires a presentence report in every felony case in which the
6 defendant is eligible for a term of imprisonment in county jail under section 1170(h). Because
7 such a probation investigation and report are valuable to the judge and to the jail and prison
8 authorities, waivers of the report and requests for immediate sentencing are discouraged, even
9 when the defendant and counsel have agreed to a prison sentence or a term of imprisonment in
10 county jail under section 1170(h).

11
12 Notwithstanding a defendant's statutory ineligibility for probation or term of imprisonment in
13 county jail under section 1170(h), a presentence investigation and report should be ordered to
14 assist the court in deciding the appropriate sentence and to facilitate compliance with section
15 1203c.

16
17 This rule does not prohibit pre-conviction, pre-plea reports as authorized by section 1203.7.
18

19 Subdivision (c) is based on case law that generally requires a supplemental report if the defendant
20 is to be resentenced a significant time after the original sentencing, as, for example, after a
21 remand by an appellate court, or after the apprehension of a defendant who failed to appear at
22 sentencing. The rule is not intended to expand on the requirements of those cases.
23

24 The rule does not require a new investigation and report if a recent report is available and can be
25 incorporated by reference and there is no indication of changed circumstances. This is particularly
26 true if a report is needed only for the Department of Corrections and Rehabilitation because the
27 defendant has waived a report and agreed to a prison sentence. If a full report was prepared in
28 another case in the same or another jurisdiction within the ~~preceding~~preceding six months,
29 during which time the defendant was in custody, and that report is available to the Department of
30 Corrections and Rehabilitation, it is unlikely that a new investigation is needed.
31
32

33 **Rule 4.411.5. Probation officer's presentence investigation report**
34

35 **(a) Contents**
36

37 A probation officer's presentence investigation report in a felony case must include
38 at least the following:

39
40 (1)–(7) * * *

41
42 (8) Any available, reliable risk/needs assessment information.
43

1 (8)(9) An evaluation of factors relating to disposition. This section must include:

2
3 (A) A reasoned discussion of the defendant's suitability and eligibility for
4 probation, and, if probation is recommended, a proposed plan including
5 recommendations for the conditions of probation and any special need
6 for supervision;

7
8 (B) If a prison sentence or term of imprisonment in county jail under
9 section 1170(h) is recommended or is likely to be imposed, a reasoned
10 discussion of aggravating and mitigating factors affecting the sentence
11 length; ~~and~~

12
13 (C) If denial of a period of mandatory supervision in the interests of justice
14 is recommended, a reasoned discussion of the factors prescribed by rule
15 4.415(b);

16
17 (D) If a term of imprisonment in county jail under section 1170(h) is
18 recommended, a reasoned discussion of the defendant's suitability for
19 specific terms and length of period of mandatory supervision, including
20 the factors prescribed by rule 4.415(c); and

21
22 ~~(C)~~(E) A reasoned discussion of the defendant's ability to make restitution,
23 pay any fine or penalty that may be recommended, or satisfy any
24 special conditions of probation that are proposed.

25
26 Discussions of factors ~~(A) through (D) affecting suitability for probation and~~
27 ~~affecting the sentence length~~ must refer to any sentencing rule directly
28 relevant to the facts of the case, but no rule may be cited without a reasoned
29 discussion of its relevance and relative importance.

30
31 ~~(9)~~(10) The probation officer's recommendation. When requested by the
32 sentencing judge or by standing instructions to the probation department, the
33 report must include recommendations concerning the length of any prison or
34 county jail term under section 1170(h) that may be imposed, including the
35 base term, the imposition of concurrent or consecutive sentences, and the
36 imposition or striking of the additional terms for enhancements charged and
37 found.

38
39 ~~(10)~~(11) Detailed information on presentence time spent by the defendant in
40 custody, including the beginning and ending dates of the period or periods of
41 custody; the existence of any other sentences imposed on the defendant
42 during the period of custody; the amount of good behavior, work, or
43 participation credit to which the defendant is entitled; and whether the sheriff

1 or other officer holding custody, the prosecution, or the defense wishes that a
2 hearing be held for the purposes of denying good behavior, work, or
3 participation credit.

4
5 ~~(H)~~(12) A statement of mandatory and recommended restitution, restitution
6 fines, other fines, and costs to be assessed against the defendant, including
7 chargeable probation services and attorney fees under section 987.8 when
8 appropriate, findings concerning the defendant's ability to pay, and a
9 recommendation whether any restitution order should become a judgment
10 under section 1203(j) if unpaid.

11
12 *(Subd (a) amended effective January 1, 2015; previously amended effective January 1,*
13 *1991, July 1, 2003, and January 1, 2007.)*

14
15 **(b)–(c)** * * *

16
17 *Rule 4.411.5 amended effective January 1, 2015; adopted as rule 419 effective July 1, 1981;*
18 *previously amended and renumbered as rule 411.5 effective January 1, 1991; previously*
19 *renumbered effective January 1, 2001; previously amended effective July 1, 2003 and January 1,*
20 *2007.*

21
22 **Rule 4.415. Criteria affecting the imposition of mandatory supervision**

23
24 **(a) Presumption**

25
26 When imposing a term of imprisonment in county jail under section 1170(h), the
27 court must suspend execution of a concluding portion of the term to be served as a
28 period of mandatory supervision unless the court finds, in the interests of justice,
29 that mandatory supervision is not appropriate in a particular case. Because section
30 1170(h)(5)(A) establishes a statutory presumption in favor of the imposition of a
31 period of mandatory supervision in all applicable cases, denials of a period of
32 mandatory supervision should be limited.

33
34 **(b) Criteria for denying mandatory supervision in the interests of justice**

35
36 In determining that mandatory supervision is not appropriate in the interests of
37 justice under section 1170(h)(5)(A), the court's determination must be based on
38 factors that are specific to a particular case or defendant. Factors the court may
39 consider include:

40
41 (1) Consideration of the balance of custody exposure available after imposition
42 of presentence custody credits;

43

- 1 (2) The defendant’s present status on probation, mandatory supervision,
2 postrelease community supervision, or parole;
3
4 (3) Specific factors related to the defendant that indicate a lack of need for
5 treatment or supervision upon release from custody; and
6
7 (4) Whether the nature, seriousness, or circumstances of the case or the
8 defendant’s past performance on supervision substantially outweigh the
9 benefits of supervision in promoting public safety and the defendant’s
10 successful reentry into the community upon release from custody.

11
12 (c) **Criteria affecting conditions and length of mandatory supervision**

13
14 In exercising discretion to select the appropriate period and conditions of
15 mandatory supervision, factors the court may consider include:

- 16
17 (1) Availability of appropriate community corrections programs;
18
19 (2) Victim restitution, including any conditions or period of supervision
20 necessary to promote the collection of any court-ordered restitution;
21
22 (3) Consideration of length and conditions of supervision to promote the
23 successful reintegration of the defendant into the community upon release
24 from custody;
25
26 (4) Public safety, including protection of any victims and witnesses;
27
28 (5) Past performance and present status on probation, mandatory supervision,
29 postrelease community supervision, and parole;
30
31 (6) The balance of custody exposure after imposition of presentence custody
32 credits;
33
34 (7) Consideration of the statutory accrual of post-sentence custody credits for
35 mandatory supervision under section 1170(h)(5)(B) and sentences served in
36 county jail under section 4019(a)(6);
37
38 (8) The defendant’s specific needs and risk factors identified by a validated
39 risk/needs assessment, if available; and
40
41 (9) The likely effect of extended imprisonment on the defendant and any
42 dependents.
43

1 **(d) Statement of reasons for denial of mandatory supervision**

2
3 Notwithstanding rule 4.412(a), when a court denies a period of mandatory
4 supervision in the interests of justice, the court must state the reasons for the denial
5 on the record.

6
7 *Rule 4.415 adopted effective January 1, 2015.*

8
9 **Advisory Committee Comment**

10
11 Penal Code section 1170.3 requires the Judicial Council to adopt rules of court that prescribe
12 criteria for the consideration of the court at the time of sentencing regarding the court’s decision
13 to “[d]eny a period of mandatory supervision in the interests of justice under paragraph (5) of
14 subdivision (h) of Section 1170 or determine the appropriate period of and conditions of
15 mandatory supervision.”

16
17 **Subdivision (a).** Penal Code section 1170(h)(5)(A): “Unless the court finds, in the interests of
18 justice, that it is not appropriate in a particular case, the court, when imposing a sentence pursuant
19 to paragraph (1) or (2) of this subdivision, shall suspend execution of a concluding portion of the
20 term for a period selected at the court’s discretion.”

21
22 **Subdivisions (b)(3), (b)(4), and (c)(3).** The Legislature has declared that “[s]trategies supporting
23 reentering offenders through practices and programs, such as standardized risk and needs
24 assessments, transitional community housing, treatment, medical and mental health services, and
25 employment, have been demonstrated to significantly reduce recidivism among offenders in other
26 states.” (Pen. Code, § 17.7(a).)

27
28 **Subdivision (c)(7).** Under Penal Code section 1170(h)(5)(B), defendants serving a period of
29 mandatory supervision are entitled to day-for-day credits: “During the period when the defendant
30 is under such supervision, unless in actual custody related to the sentence imposed by the court,
31 the defendant shall be entitled to only actual time credit against the term of imprisonment
32 imposed by the court.” In contrast, defendants serving terms of imprisonment in county jails
33 under Penal Code section 1170(h) are entitled to conduct credits under Penal Code section
34 4019(a)(6).

35
36 **Rule 10.2. Judicial Council membership and terms**

37
38 **(a)–(d) * * ***

39
40 **(e) Restrictions on advisory committee membership**

41
42 Unless otherwise provided by these rules or the Chief Justice waives this provision,
43 neither council members nor nonvoting advisory council members may

1 concurrently serve on a council advisory committee. This provision does not apply
2 to members of the following advisory committees:

3
4 (1)–(3) * * *

5
6 *(Subd (e) amended effective January 1, 2015; previously amended effective January 1,*
7 *2007 and August 14, 2009.)*

8
9 *Rule 10.2 amended effective January 1, 2015; adopted as rule 6.2 effective January 1, 1999;*
10 *previously amended and renumbered effective January 1, 2007 and August 14, 2009.*

11
12 **Rule 10.50. Governing Committee of the Center for Judicial Education and**
13 **Research**

14
15 (a)–(c) * * *

16
17 **(d) Membership**

18
19 The committee consists of at least the following members:

20
21 (1) ~~Eight~~ Eleven sitting judicial officers, including at least one appellate court
22 justice and one immediate past presiding judge;

23
24 (2) Three judicial administrators, including a supervisor or manager from a trial
25 or appellate court;

26
27 (3) The Administrative Director ~~of the Courts~~ as an advisory member;

28
29 (4)–(5) * * *

30
31 *(Subd (d) amended effective January 1, 2015; adopted as subd (c); previously relettered*
32 *and amended effective December 18, 2001.)*

33
34 (e)–(f) * * *

35
36 *Rule 10.50 amended effective January 1, 2015; adopted as rule 6.50 effective January 1, 1999;*
37 *previously amended effective December 18, 2001; previously amended and renumbered effective*
38 *January 1, 2007.*

39
40 **Rule 10.65. Trial Court Facility Modification Advisory Committee**

41
42 **(a) Area of focus**

43

1 The committee makes recommendations to the council on facilities modifications,
2 maintenance, and operations; environmental services; and utility management.

3
4 **(b) Additional duties**

5
6 In addition to the duties specified in rule 10.34, the committee:

- 7
8 (1) Makes recommendations to the council on policy issues, business practices,
9 and budget monitoring and control for all facility-related matters in existing
10 branch facilities.
- 11
12 (2) Makes recommendations to the council on funding and takes additional
13 action in accordance with council policy, both for facility modifications and
14 for operations and maintenance.
- 15
16 (3) Collaborates with the Court Facilities Advisory Committee in the
17 development of the capital program, including providing input to design
18 standards, prioritization of capital projects, and methods to reduce
19 construction cost without impacting long-term operations and maintenance
20 cost.
- 21
22 (4) Provides quarterly and annual reports on the facilities modification program
23 in accordance with the council policy.

24
25 **(c) Membership**

26
27 The committee consists of members from the following categories:

- 28
29 (1) Trial court judges; and
30
31 (2) Court executive officers.

32
33 The committee includes the chair and vice-chair of the Court Facilities Advisory
34 Committee, as nonvoting members.

35
36 *Rule 10.65 adopted effective January 1, 2015.*

37
38 **Advisory Committee Comment**

39
40 The Judicial Council policy referred to in the rule is contained in the *Trial Court Facility*
41 *Modifications Policy* adopted by the council.

42

1 **Rule 10.66. Workload Assessment Advisory Committee**

2
3 **(a) Area of focus**

4
5 The committee makes recommendations to the council on judicial administration
6 standards and measures that provide for the equitable allocation of resources across
7 courts to promote the fair and efficient administration of justice.

8
9 **(b) Additional duties**

10
11 In addition to the duties specified in rule 10.34, the committee must recommend:

- 12
13 (1) Improvements to performance measures and implementation plans and any
14 modifications to the Judicial Workload Assessment and the Resource
15 Assessment Study Model;
16
17 (2) Processes, study design, and methodologies that should be used to measure
18 and report on court administration; and
19
20 (3) Studies and analyses to update and amend case weights through time studies,
21 focus groups, or other methods.

22
23 **(c) Membership**

- 24
25 (1) The advisory committee consists of an equal number of superior court
26 judicial officers and court executive officers reflecting diverse aspects of
27 state trial courts, including urban, suburban, and rural locales; size and
28 adequacy of resources; number of authorized judgeships; and for judicial
29 officers, diversity of case type experience.
30
31 (2) A judicial officer and court executive officer may be from the same court.
32

33 *Rule 10.66 adopted effective January 1, 2015.*

34
35 **Rule 10.67. Judicial Branch Workers' Compensation Advisory Committee**

36
37 **(a) Area of focus**

38
39 The committee makes recommendations to the council for improving the statewide
40 administration of the Judicial Branch Workers' Compensation Program and on
41 allocations to and from the Judicial Branch Workers' Compensation Fund
42 established under Government Code section 68114.10.
43

1 **(b) Additional duties**

2
3 In addition to the duties specified in rule 10.34, the committee must review:

- 4
5 (1) The progress of the Judicial Branch Workers' Compensation Program;
6
7 (2) The annual actuarial report; and
8
9 (3) The annual allocation, including any changes to existing methodologies for
10 allocating workers' compensation costs.

11
12 **(c) Membership**

13
14 The advisory committee consists of persons from trial courts and state judicial
15 branch entities knowledgeable about workers' compensation matters, including
16 court executive officers, appellate court clerk/administrators, and human resources
17 professionals.

18
19 *Rule 10.67 adopted effective January 1, 2015.*

20
21 **Advisory Committee Comment**

22
23 The Judicial Branch Workers' Compensation Program is administered by the Judicial Council
24 staff under rule 10.350.