

FTP Subcommittee – (Proposed Amendments)

**Rule 32. Sentence and Judgment**

**(a) Presentence or Probation Investigation.**

**(1) When Investigation and Report Required.**

**(I) In General.** The probation officer must make a presentence investigation and written report to the court before the imposition of sentence or granting of probation:

(a) in any case in which the defendant is to be sentenced for a felony and the court has discretion as to the punishment, or

(b) when the court so orders in any case in which the defendant is to be sentenced for a misdemeanor.

**(II) Waiver.** The court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence investigation and report unless a presentence report is required by statute, including but not limited to the requirements of section 16-11-102(1)(b), C.R.S.

**(2) Court May Order Examination.** The court, upon its own motion or upon the petition of the probation officer, may order any defendant who is subject to presentence investigation or who has made application for probation to submit to a mental and physical examination.

**(3) Delivery of Report Copies.** The probation officer must provide copies of the presentence report, including any recommendations as to probation, to the prosecuting attorney and to defense counsel or the defendant if unrepresented. The copies must be provided:

(I) at least 72 hours before the sentencing hearing, or

(II) at least 7 days before the sentencing hearing if either the prosecuting attorney, defense counsel, or the defendant if unrepresented, so requests of the court within 7 days of the time the court sets the date for the sentencing hearing. If the probation department informs the court it cannot provide the report copies at least 7 days before the sentencing hearing, the court must grant the probation department additional time to complete the report and must reset the sentencing hearing so that it is held at least 7 days after the probation department provides the report copies.

**(b) Sentence and judgment.**

(1) Sentence shall be imposed without unreasonable delay. Before imposing sentence, the court shall afford the defendant an opportunity to make a statement in his or her own behalf, and to present any information in mitigation of punishment. The state also shall be given an opportunity to be heard on any matter material to the imposition of sentence. Alternatives in sentencing shall