

Rule 32. Sentence and Judgment

(a) Presentence or Probation Investigation.

(1) When Investigation and Report Required ~~and How Made.~~

(I) In General. ~~In any felony case where the court has discretion as to the punishment and on court order in any misdemeanor case, T~~ the probation officer ~~must~~ shall make an 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.

~~An application for probation shall be in writing upon forms furnished by the court, but when the defendant has been convicted of a misdemeanor or class 1 petty offense, the court, in its discretion, may waive the written application for probation.~~

(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.

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

(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