

RULE 3.713 | PRESENTENCE INVESTIGATION DISCLOSURE: PARTIES

(a) The trial judge may disclose any of the contents of the presentence investigation to the parties prior to sentencing. Any information so disclosed to one party shall be disclosed to the opposing party.

(b) The trial judge shall disclose all factual material, including but not limited to the defendant's education, prior occupation, prior arrests, prior convictions, military service, and the like, to the defendant and the state a reasonable time prior to sentencing. If any physical or mental evaluations of the defendant have been made and are to be considered for the purposes of sentencing or release, such reports shall be disclosed to counsel for both parties.

(c) On motion of the defendant or the prosecutor or on its own motion, the sentencing court may order the defendant to submit to a mental or physical examination that would be relevant to the sentencing decision. Copies of the examination or any other examination to be considered for the purpose of sentencing shall be disclosed to counsel for the parties subject to the limitation of rule 3.713(b).

Committee Notes

1972 Adoption. This rule represents a compromise between the philosophy that presentence investigations should be fully disclosed to a defendant and the objection that such disclosure would dry up sources of confidential information and render such report virtually useless. (a) gives the trial judge discretion to disclose any or all of the report to the parties. (b) makes mandatory the disclosure of factual and physical and mental evaluation material only. In this way, it is left to the discretion of the trial judge to disclose to a defendant or defendant's counsel any other evaluative material. The judicial discretion should amply protect the confidentiality of those sources who do not wish to be disclosed, while the availability of all factual material will permit the defendant to discover and make known to the sentencing court any errors that may appear in the report.

