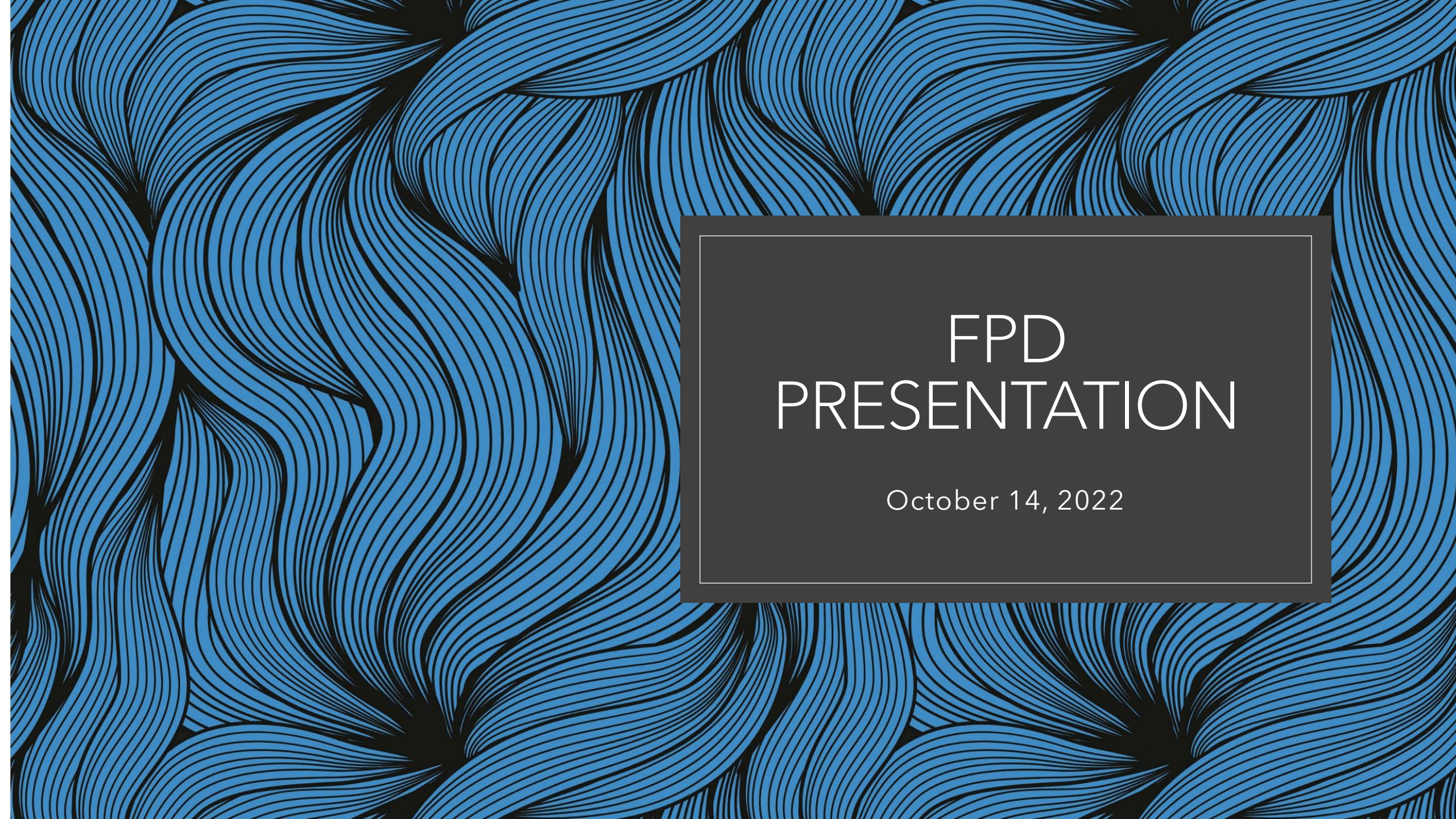




FPD PRESENTATION

October 14, 2022

Expectations of the CSU Officer

- The aim of the presentence investigation is to provide a timely, accurate, objective, and comprehensive report to the court.
- To be a neutral party throughout the process
- To be an independent fact finder
- Officers must operate under the time frames established in the Federal Rules of Criminal Procedure or under local rules established by the court.
- While time is limited, ***officers must endeavor to produce a quality report for the court.***
- Effective communication with all stakeholders
- Maintain a level of professionalism and respect for your role

Expectations of Attorneys



- Effective Communication with USPOs
- Maintain a level of professionalism and respect for your role
- Rule 32 of the Federal Rules of Criminal Procedure and Local Rules of Criminal Procedure
- Objections and Position Papers

Information within the Presentence Report

- Guide
- Statute
- Adjustment to Incarceration/Adjustment to Supervision-"The Good, the Bad, and the Ugly"
- Gang Validations
- ACEs
- Voluntarily Dismissed Conduct
- Sex Offender Reports

PREDICATES





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*RELEVANT CONDUCT IS GRAY
NEVER BLACK AND WHITE*

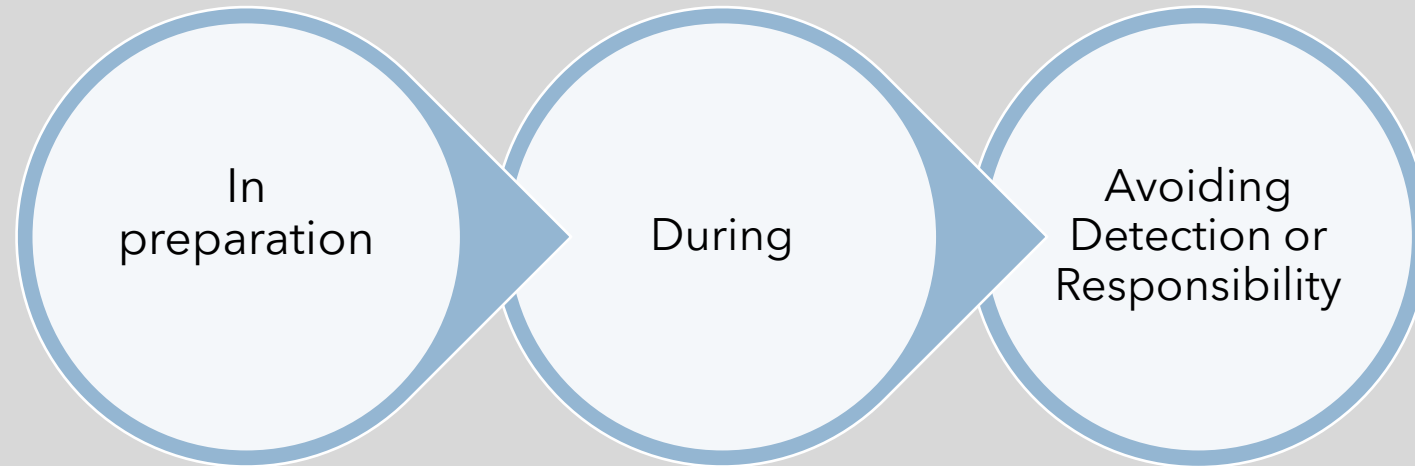
Relevant Conduct

- Relevant conduct specifies the conduct for which a defendant may be held accountable in determining the offense level. The Court may find the facts constituting relevant conduct by a preponderance of the evidence standard. Relevant conduct may include the defendant's conduct as well as the conduct of other participants in a jointly undertaken criminal activity.

Relevant Conduct Analysis

- Three main principles:
- **In Furtherance:** The defendant will be accountable for acts s/he did in furtherance of the offense of conviction.
- **Acts of Others:** The defendant may be accountable for certain acts of others that are in furtherance of the offense of conviction.
- **Common Scheme or Plan/Same Course of Conduct:** For certain offenses, the defendant may also be accountable for acts that are the same course of conduct or common scheme or plan as the offense of conviction.

Standard Time Frame for Relevant Conduct (All offenses)



EXPANDED RELEVANT CONDUCT

For some, but not all offense types, acts of the defendant and certain acts of others in a jointly undertaken criminal activity that are the ***same course of conduct*** or ***common scheme or plan*** as the ***offense of conviction*** are included as relevant conduct.

§2B1.1

§2D1.1

§2G2.2

§2K2.1

Common Scheme or Plan

For acts to be considered a common scheme or plan as the offense of conviction, they must be substantially connected to each other by at least one common factor, such as:

- Common victims (the societal interest harmed)
- Common accomplices
- Common purpose
- Similar modus operandi.

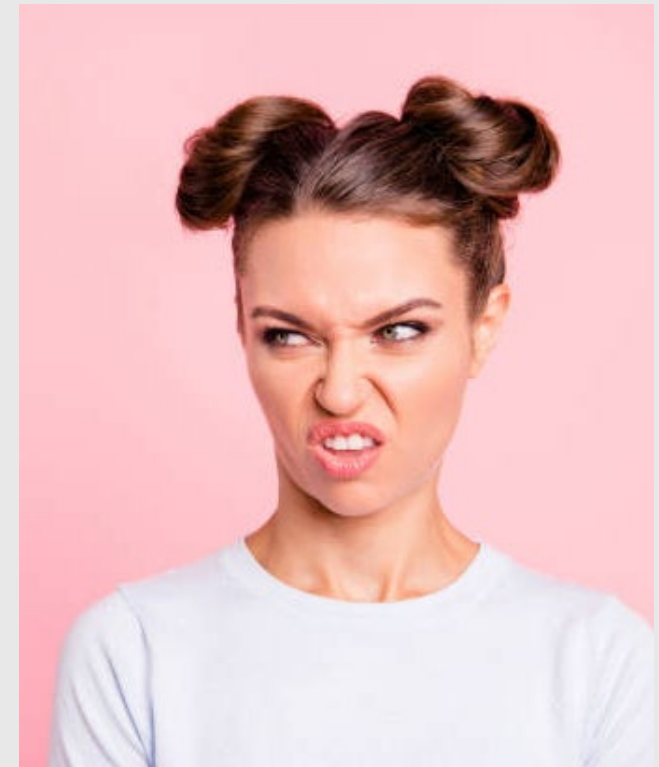
Common Scheme or Plan

The defendant is convicted of one count of mail fraud. The applicable guideline is §2B1.1. The offense of conviction involves the submission of a fraudulent claim of \$5,000 to an insurance company on June 1, 2019. In the same month that the defendant made the fraudulent claim in the count of conviction, he also submitted fraudulent \$5,000 claims of the same nature to ten additional insurance companies.

Same Course of Conduct

§1B1.3(a)(2)

“solely with respect to offenses of a character for which §3D1.2(d) would require grouping of multiple counts, all acts and omissions described in subdivisions (1)(A) and (1)(B) above that were part of the same course of conduct or common scheme or plan as the offense of conviction.”





§2K2.1

Unlawful Receipt,
Possession, or
Transportation of
Firearms or Ammunition;
Prohibited Transactions
Involving Firearms or
Ammunition

Same Course of Conduct

“solely with respect to offenses of a character for which §3D1.2(d) would require grouping of multiple counts”

****Applies to offenses for which grouping of counts would be required under §3D1.2(d) had the defendant been convicted of multiple counts. Application of this provision does not require the defendant to have been convicted of multiple counts****

The Easy Example...(never happens in MDNC)

The defendant is convicted of felon in possession of a firearm, a pistol, on a specific date. The applicable guideline is §2K2.1 (Firearms). A search of defendant's house the day after he had been arrested in possession of the firearm cited in the offense of conviction revealed two additional firearms, both pistols, one with an obliterated serial number.

**A great relationship
is about two things,
first, find out the
similarities,
second, respect the
differences.**



**WE
APPRECIATE
YOU!**