

Maryland State Commission on Criminal Sentencing Policy



Annual Report ♦ 2009



Members Appointed by the Governor

Chairman

Honorable Howard S. Chasanow

State's Attorney

Leonard C. Collins, Jr., Esquire

Criminal Defense Attorney

Richard A. Finci, Esquire

Victims' Advocacy Group

Laura L. Martin, Esquire

Law Enforcement

Chief Marcus L. Brown

Criminal Justice or Corrections Policy Expert

Charles F. Wellford, Ph.D.

Local Detention Center

Major Bernard B. Foster, Sr.

Public Representatives

James V. Anthenelli, Esquire

Paul F. Enzinna, Esquire

Members Appointed by the Chief Judge of the Court of Appeals of Maryland

Appellate Courts Representative

Honorable Arrie W. Davis

Circuit Court

Honorable John C. Themelis

District Court

Honorable John P. Morrissey

Members Appointed by the President of the Senate

Senators

Honorable Delores G. Kelley

Honorable Lisa A. Gladden

Members Appointed by the Speaker of the House

Delegates

Honorable Joseph F. Vallario, Jr.

Honorable Curtis S. Anderson

Ex-Officio Members

Attorney General

Honorable Douglas F. Gansler

(Mary Catherine O'Donnell, Esquire, Attorney General's Representative)

State Public Defender

Paul B. DeWolfe, Esquire

(Patrick Kent, Esquire, Public Defender's Representative)

Secretary of Department of Public Safety & Correctional Services

Gary D. Maynard

(Shannon E. Avery, Esquire, Secretary's Representative)

COMMISSION STAFF

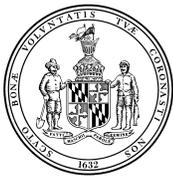
David A. Soulé, Ph.D., Executive Director

Stacy Skroban Najaka, Ph.D., Research Director

Jessica Rider, Coordinator

Eric Dunton, Policy Analyst

MSCCSP



Maryland State Commission on Criminal Sentencing Policy

Chairman

Hon. Howard S. Chasanow

Vice-Chairman

Charles F. Wellford, Ph.D.

Commissioners

Del. Curtis S. Anderson
James V. Anthenelli, Esq.
Chief Marcus L. Brown
Leonard C. Collins, Jr., Esq.
Hon. Arrie W. Davis
Paul B. DeWolfe, Esq.
Paul F. Enzinna, Esq.
Richard A. Finci, Esq.
Major Bernard B. Foster, Sr.
Hon. Douglas F. Gansler
Sen. Lisa A. Gladden
Sen. Delores G. Kelley
Laura L. Martin, Esq.
Sec. Gary D. Maynard
Hon. John P. Morrissey
Hon. John C. Themelis
Del. Joseph F. Vallario, Jr.

Executive Director

David A. Soulé, Ph.D.

January 2010

To: The Honorable Martin J. O'Malley, Governor
The Honorable Robert M. Bell, Chief Justice of Maryland
The Honorable Members of the General Assembly of Maryland
The Citizens of Maryland

Pursuant to Criminal Procedure Article, §6-209, Annotated Code of Maryland, the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) is required to annually review sentencing policy and practice and report upon the work of the Commission. In compliance with this statutory mandate, we respectfully submit for your review the 2009 Annual Report of the MSCCSP.

This report details the activities of the MSCCSP over the past year and provides an overview of circuit court sentencing practices and trends in Maryland for fiscal year 2009. Additionally, the report provides a comprehensive examination of judicial compliance with the state's voluntary sentencing guidelines, describes information provided on the state's sentencing guidelines worksheets, and finally provides a description of planned activities for 2010.

The work of the MSCCSP has been beneficial to a wide range of groups and individuals, including criminal justice practitioners, policy makers, and researchers. The efforts of the MSCCSP were recently recognized in an editorial in the *Baltimore Sun* (December 17, 2009), which praised the user-friendliness of the Maryland Sentencing Guidelines Manual and the detailed, yet concise development of the sentencing guidelines.

The Commission wishes to acknowledge and thank those agencies and individuals whose contributions to the sentencing guidelines and corresponding guidelines worksheets enable us to complete our work and produce this report. If you have any questions or comments regarding this report, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Howard S. Chasanow".

Judge Howard S. Chasanow, (Ret.)
Chairman

TABLE OF CONTENTS

| | |
|--|-----|
| Executive Summary | iii |
| The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) | 1 |
| Guidelines Background | 1 |
| Commission Background | 2 |
| Commission Structure | 3 |
| MSCCSP Activities in 2009 | 5 |
| Modifications Related to New and Amended Offenses Passed During the 2009 Legislative Session..... | 5 |
| Additional Modifications to the Guidelines Offense Table in 2009 | 7 |
| Guidelines Rules Modifications in 2009 | 8 |
| Guidelines Worksheet Submission Requirements Modifications in 2009 | 8 |
| Training and Education | 9 |
| Information and Data Requests..... | 11 |
| Data Collection, Oversight, and Verification..... | 12 |
| Subcommittee Work | 12 |
| NASC | 13 |
| Sentencing/Correctional Simulation Model | 14 |
| Maryland Automated Guidelines System (MAGS) | 20 |
| Public Comments Hearing..... | 21 |
| Sentences Reported in FY 2009 | 22 |
| Worksheets Received | 22 |
| Case Characteristics | 24 |
| Judicial Compliance with Maryland’s Voluntary Sentencing Guidelines | 28 |
| Judicial Compliance Rates Overall..... | 28 |
| Judicial Compliance Rates by Circuit | 30 |
| Judicial Compliance Rates by Crime Category | 32 |
| Judicial Compliance Rates by Type of Disposition..... | 33 |
| Judicial Compliance Rates by Crime Category and Disposition | 34 |
| Departure Reasons | 36 |
| Additional Information Collected in Response to Legislative Mandates | 39 |
| Report on Adjustments from Reconsidered Sentences | 40 |
| Economic Loss in Title 7 and Title 8 Crimes | 41 |

TABLE OF CONTENTS (CONTINUED)

| | |
|--|----|
| MSCCSP Planned Activities for 2010 | 42 |
| Appendices | 44 |
| Appendix A: Sentencing Guidelines Matrices | 45 |
| Appendix B: Maryland Sentencing Guidelines Worksheet | 48 |
| Appendix C: Description of Types of Disposition | 49 |
| Appendix D: Sentencing Guidelines Compliance and Average Sentence by Offense Type, FY 2009..... | 50 |
| Appendix E: Common Departure Reasons Listed on the Sentencing Guidelines Departure Reference Card | 51 |

EXECUTIVE SUMMARY

Maryland's voluntary sentencing guidelines were initiated statewide in 1983. In determining the appropriate sentence range, the guidelines were designed to take both offender and offense characteristics into account. The guidelines determine whether an individual should be incarcerated and if so, provide a recommended sentencing range. Maryland's guidelines are voluntary and therefore judges may impose a sentence outside the prescribed guidelines range. However, judges are required to document the reason for sentencing outside the guidelines.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) was created in 1999 to oversee sentencing policy and to monitor the state's voluntary sentencing guidelines. The General Assembly established six objectives to guide the work of the Commission, including, for example: (a) the reduction of unwarranted sentencing disparity; (b) the prioritization of prison usage for violent and career offenders; (c) the preservation of meaningful judicial discretion; and (d) the imposition of the most appropriate criminal penalties. The Commission consists of 19 members, including members of the judiciary, members who are active in the criminal justice system, members of the Senate of Maryland and House of Delegates, and representatives of the public.

The primary responsibilities of the MSCCSP include: collection and automation of the sentencing guidelines worksheets, maintaining the sentencing guidelines database, and conducting training and orientation for criminal justice personnel. In addition, the Commission monitors judicial compliance with the guidelines and adopts changes to the guidelines when necessary.

In 2009, the MSCCSP classified new and amended offenses passed during the 2009 Legislative Session; reviewed and amended the classification of current offenses to ensure consistency among offenses with similar penalties; adopted changes to the language on the guidelines worksheet and instructions for guidelines calculations regarding the application of weapons points in the offense score; completed an inventory on the availability of sentencing alternatives for drug offenders; continued review of judicial compliance rates; and clarified the guidelines worksheet submission requirements for both probation revocations and sentence reconsiderations. The MSCCSP also provided training and education to promote the consistent application of the sentence guidelines; provided data and sentencing related information to state agencies and other interested parties; completed several data verification and data entry

reviews to improve the accuracy of the sentencing guidelines data; and continued work on the development of an automated sentencing guidelines system, as well as the development of a sentencing/correctional simulation model. Finally, the MSCCSP hosted the National Association of Sentencing Commissions (NASC) 2009 annual conference in Baltimore, MD, as well as its annual public comments hearing in Annapolis, MD.

In fiscal year 2009, the MSCCSP received 10,965 sentencing guidelines worksheets for offenders sentenced in the state's circuit courts. The vast majority of cases were resolved by either an American Bar Association (ABA) plea agreement (47.9%) or a non-ABA plea agreement (34.2%). Approximately half of convicted defendants (56%) were sentenced to both incarceration and probation (as opposed to incarceration only, probation only, or neither). The overall guidelines compliance rate in fiscal year 2009 well exceeded the Commission's goal of 65% compliance. When departures occurred, they were more often below the guidelines rather than above. All eight judicial circuits met the benchmark rate of 65% compliance, and the circuit with the largest number of defendants (Eighth Circuit) had the highest compliance rate.

Departures were least likely for drug offenses, followed closely by person offenses and property offenses. A comparison of judicial compliance rates by type of disposition (plea agreement, plea with no agreement, bench trial, and jury trial) showed that compliance was most likely in cases adjudicated by a plea agreement. In contrast, compliance was least likely in cases adjudicated by a bench trial, and downward departures were more common than upward departures among these cases. When compliance rates by both crime category and disposition were considered, the highest compliance rate was observed for person offenses disposed of by a plea agreement. Drug offenses adjudicated by a bench trial had the lowest compliance rate, and all departures in this category were sentenced below the guidelines.

Reasons for departure continued to be underreported in fiscal year 2009. When sentences departed from the recommended guidelines range, the reason for departure was missing in the majority of cases sentenced. When reported, the most commonly cited reason for departures below the guidelines was that the parties reached a plea agreement that called for a reduced sentence. In comparison, the most commonly cited reason for departures above the guidelines was a recommendation of the State's Attorney or Division of Parole and Probation.

In 2010, the MSCCSP will continue to review sentencing practice throughout the state and will provide training and education to ensure the consistent application of the sentencing guidelines. The MSCCSP will update the Maryland Sentencing Guidelines Manual (MSGM) to incorporate

modifications to the guidelines adopted at the end of 2009. Additionally, the MSCCSP will continue work on the development of an automated sentencing guidelines system and will review projections from the sentencing/correctional simulation model with the Maryland Department of Public Safety and Correctional Services (DPSCS) to ensure accurate model specifications. The Commission's Guidelines Subcommittee will continue a detailed analysis of compliance rates and sentencing patterns within each cell of the three guidelines matrices, while the Subcommittee on Sentencing Drug Offenders will continue to assess sentencing alternatives for drug offenders. This sample of planned activities illustrates some of the efforts to be completed by the MSCCSP in 2010 to continue in working towards fulfilling its legislatively mandated mission to promote fair, proportional, and non-disparate sentencing policies and procedures.

THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY (MSCCSP)

Guidelines Background

Maryland was one of the first states to initiate a sentencing guidelines system. The concept of judicial sentencing guidelines was introduced in the late 1970s by the judiciary in response to judicial perceptions of unwarranted sentencing disparity. The Judicial Committee on Sentencing was formed by the Court of Appeals and a host of alternative sentencing systems were studied (e.g., determinate sentencing, mandatory sentencing, sentencing councils). In April 1979, the Committee approved a system of voluntary sentencing guidelines for use in circuit courts only. The sentencing guidelines were first piloted in four jurisdictions and were adopted statewide in 1983. In determining the appropriate sentence range, the guidelines were designed to take both offender and offense characteristics into account.

The voluntary sentencing guidelines cover offenses divided into three categories: person, drug, and property. The guidelines determine whether an individual should be incarcerated and if so, provide a sentence length range. For each offense category there is a separate grid or matrix, and there is recommended sentence range in each cell of the grid. Appendix A includes a copy of the three sentencing matrices. The sentence recommendation is determined in the grid by the cell that is the intersection of an offender's offense score and offender score. In drug and property offenses, the offense score is determined by the seriousness of the offense (or "seriousness category"). In offenses against persons, the offense score is determined by the seriousness of the offense, the physical or mental injury to the victim, the weapon used, and any special vulnerability of the victim, such as being under eleven years old, 65 years or older, or physically or mentally disabled. The offender score is a calculation of the individual's criminal history and is determined by whether or not the offender was in the criminal justice system at the time the offense was committed (i.e., on parole, probation, or on temporary release from incarceration, such as work release), has a juvenile record or prior criminal record as an adult, and has any prior adult parole or probation violations.

The guidelines sentence range represents only non-suspended time. The sentencing guidelines are advisory and judges may, at their discretion, impose a sentence outside the guidelines. If a judge chooses to depart from the sentencing guidelines, the Code of Maryland

Regulations (COMAR) 14.22.01.05(A) mandates that the judge document the reason or reasons for imposing a sentence outside of the recommended guidelines range.

Commission Background

The Maryland General Assembly created the State Commission on Criminal Sentencing Policy (MSCCSP) in May 1999, after a study commission (the Maryland Commission on Criminal Sentencing Policy) recommended the creation of a permanent commission in its final report to the General Assembly. The MSCCSP was created to oversee sentencing policy in Maryland and is primarily responsible for maintaining and monitoring the state's voluntary sentencing guidelines. The enabling legislation for the MSCCSP (Criminal Procedure Article, §§6-201 - 6-214, Annotated Code of Maryland) set out six legislative goals for sentencing in Maryland, stating that:

- Sentencing should be fair and proportional, and sentencing policies should reduce unwarranted disparity, including any racial disparity, in sentences for offenders who have committed similar offenses and have similar criminal histories;
- Sentencing policies should aid citizen understanding of the time that an offender will actually be incarcerated, if any;
- Sentencing guidelines are voluntary, and it is voluntary for the courts to sentence within the guidelines;
- Prison capacity and prison usage should give priority to the incarceration of violent and career offenders;
- Sentencing policies should preserve meaningful judicial discretion in the imposition of sentences and sufficient flexibility to permit individualized sentences; and
- Sentencing judges in every jurisdiction in the state should be able to impose the most appropriate criminal penalties, including corrections options programs for appropriate offenders.

The MSCCSP was designed and authorized with the purpose of fulfilling the above legislative intentions. The General Assembly authorized the MSCCSP to “adopt existing sentencing guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to, or who were found guilty of crimes in a circuit court.” The MSCCSP also has authority to “adopt guidelines to identify defendants who would be appropriate for participation in corrections options programs.” These guidelines are to be considered by the

sentencing court in selecting either the ordinary guidelines sentence for a defendant or sanctions under corrections options.

The Commission is responsible for the collection and automation of sentencing guidelines data. All sentencing guidelines data is provided on the sentencing guidelines worksheet, which is completed to determine the recommended sentencing guidelines outcome and to record sentencing data for offenses prosecuted in circuit court. A copy of the Maryland sentencing guidelines worksheet is provided in Appendix B. After worksheets are completed, the sentencing judge is expected to review the worksheet for completeness and accuracy (COMAR 14.22.01.03.D(4)) and a hard copy is mailed to the Commission's office. The Commission staff is responsible for data entry and monitoring of all data collected within the guidelines worksheets. Data collected by the Commission permit analysis of sentencing trends with respect to compliance with the guidelines, particular offenses, specific types of offenders, and geographic variations. The MSCCSP utilizes the guidelines data to monitor circuit court sentencing practice and to adopt changes to the guidelines consistent with legislative intent when necessary. The data collected are also expected to support the use of a correctional population simulation model designed to forecast prison bed-space and resource requirements. The Legislature mandated that forecasts exceeding available state resources would have to include alternative guidelines recommendations to bring prison populations into balance with state resources.

The Commission's enabling legislation also authorized the MSCCSP to conduct guidelines training and orientation for system participants and other interested parties. Additionally, the MSCCSP was selected to administer the guidelines system in consultation with the General Assembly and to provide formal fiscal and statistical information on proposed legislation concerning sentencing and correctional practice.

Commission Structure

The Commission consists of 19 members, including members of the judiciary, members who are active in the Maryland criminal justice system, members of the Senate of Maryland and House of Delegates, as well as public representatives.

The Honorable Howard S. Chasanow was appointed as chairman of the MSCCSP by Governor Martin O'Malley in June 2007. Other Governor appointees include James V. Anthenelli and Paul F. Enzinna who serve as the two public representatives on the Commission; Chief Marcus

L. Brown from the Maryland Transportation Authority Police; Major Bernard B. Foster, Sr., Director of the Cecil County Detention Center; Leonard C. Collins, Jr., State's Attorney for Charles County; Richard A. Finci, a criminal defense attorney from Prince George's County; Laura L. Martin, the victims' advocacy group representative; and Dr. Charles F. Wellford from the University of Maryland, the criminal justice or corrections policy expert.

The Chief Judge of the Court of Appeals of Maryland is responsible for three appointments to the Commission. The judicial appointees are Judge Arrie W. Davis, Court of Special Appeals of Maryland; Judge John C. Themelis, Circuit Court of Baltimore City; and Judge John P. Morrissey from the District Court of Prince George's County.

The President of the Senate is responsible for two appointments: Senators Delores G. Kelley and Lisa A. Gladden. The Speaker of the House is also responsible for two appointments: Delegates Joseph F. Vallario, Jr. and Curtis S. Anderson.

Finally, ex-officio members include the State's Attorney General, Douglas F. Gansler; the Secretary of the Department of Public Safety and Correctional Services, Gary D. Maynard; and the State Public Defender. In 2009, the State Public Defender position was occupied by Nancy S. Forster, Elizabeth Julian, and Paul B. DeWolfe.

MSCCSP ACTIVITIES IN 2009

The MSCCSP met four times during 2009. Meetings were held on May 5, 2009, June 30, 2009, September 14, 2009, and December 8, 2009. In addition, the Commission's annual Public Comments Hearing was held on December 8, 2009 at the House Office Building. The minutes for all Commission meetings are posted on the Commission's website (www.msccsp.org). The following discussion provides a review of the Commission's activities in 2009.

Modifications Related to New and Amended Offenses Passed During the 2009 Legislative Session

The MSCCSP reviewed new crime legislation from the 2009 Legislative Session and identified two bills (comprising six offenses) which required the adoption of seriousness categories for new criminal penalties. Newly adopted seriousness categories were recommended by reviewing the seriousness categories for similar offenses (i.e., offenses with similar penalties, misdemeanor/felony classification, and crime type) previously classified by the Commission. The new offenses and their respective seriousness categories shown in Table 1 were submitted to the Administrative, Executive, and Legislative Review (AELR) Committee and were adopted in the Code of Maryland Regulations (COMAR) effective November 1, 2009.

Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2009 Legislative Session.

| Legislation | Statute | Offense | Statutory Maximum | Adopted Seriousness Category |
|---------------|-----------------------|--|-------------------|------------------------------|
| House Bill 66 | CR, §7-104(g)(1)(iii) | Theft, Crimes Involving Felony theft or theft-scheme, \$100,000 or greater | 25 years | II |
| House Bill 66 | CR, §7-104(g)(1)(ii) | Theft, Crimes Involving Felony theft or theft scheme, at least \$10,000 but less than \$100,000 | 15 years | IV |
| House Bill 66 | CR, §7-104(g)(1)(i) | Theft, Crimes Involving Felony theft or theft scheme, at least \$1,000 but less than \$10,000 | 10 years | V |
| House Bill 66 | CR, §7-104(g)(2) | Theft, Crimes Involving Misdemeanor theft or theft scheme, less than \$1,000 | 18 months | VII |
| House Bill 66 | CR, §7-104(g)(4) | Theft, Crimes Involving Misdemeanor theft or theft scheme, less than \$1,000, 3 rd and subsequent | 5 years | VI |

Table 1 continued.

| Legislation | Statute | Offense | Statutory Maximum | Adopted Seriousness Category |
|------------------------------------|------------------|---|-------------------|------------------------------|
| House Bill 539/ Senate Bill 850 | CR, §4-109(e)(2) | Weapons Crimes—In General Illegal possession of electronic control device (e.g., stun gun, taser) while committing a separate crime of violence | 3 years | VI |

The MSCCSP considered amended crime legislation from the 2009 Legislative Session and identified two bills (comprising five offenses) which required the adoption of seriousness categories for altered criminal penalties. House Bill 9 increased the maximum imprisonment term for *possession of child pornography, 1st offense* from two years to five years and increased the penalty for a *subsequent violation of possession of child pornography* from five years to ten years. The bill also changed the classification of *possession of child pornography, subsequent violation*, from a misdemeanor to a felony. House Bill 267 increased the maximum imprisonment term for *abduction of a child younger than 16 by a relative outside the state for 30 days or less*, from 30 days to one year and raised the maximum fine from \$250 to \$1,000. The bill also increased the maximum imprisonment term for *abduction of a child younger than 16 by a relative outside the state for more than 30 days*, from one year to three years and raised the maximum fine from \$1,000 to \$2,500. Finally, this legislation increased the maximum imprisonment term for *international parental kidnapping* from three years to five years. Newly adopted seriousness categories were recommended by reviewing the seriousness categories for similar offenses (i.e., offenses with similar penalties, misdemeanor/felony classification, and crime type) previously classified by the Commission. The five offenses and their respective seriousness categories shown in Table 2 were submitted to the AELR Committee and were adopted in the COMAR effective November 1, 2009.

Table 2. Guidelines Offenses and Adopted Seriousness Categories Related to Amended Offenses, 2009 Legislative Session.

| Legislation | Statute | Offense | Prior Stat. Max. / Seriousness Category | New Stat. Max. / Seriousness Category |
|---------------------------------|-------------------|--|---|---------------------------------------|
| House Bill 9/ Senate Bill 99 | CR, §11-208(b)(1) | Obscene Matter Possession of visual representations of persons younger than 16 years old engaged in certain sexual acts, 1 st offense | 2 years / VI | 5 years / V |

Table 2 continued.

| Legislation | Statute | Offense | Prior Stat. Max. / Seriousness Category | New Stat. Max. / Seriousness Category |
|---------------------------------|---|---|---|---------------------------------------|
| House Bill 9/ Senate Bill 99 | CR, §11-208(b)(2) | Obscene Matter Possession of visual representations of persons younger than 16 years old engaged in certain sexual acts, subsequent | 5 years / V | 10 years / IV |
| House Bill 267 | FL, §9-305(a) FL, §9-307(b) (penalty) | Kidnapping and Related Crimes Abduction—child younger than 16 years old by relative outside state 30 days or less | 30 days / VII | 1 year / VII ^a |
| House Bill 267 | FL, §9-305(a) FL, §9-307(c) (penalty) | Kidnapping and Related Crimes Abduction—child younger than 16 years old by relative outside state more than 30 days | 1 year / VII | 3 years / VI |
| House Bill 267 | FL, §9-305(a) FL, §9-307(d) (penalty) | Kidnapping and Related Crimes Abduction—International parental kidnapping | 3 years / V | 5 years / V ^a |

^a No change to seriousness category.

Additional Modifications to the Guidelines Offense Table in 2009

In its continued review of seriousness categories for all criminal offenses sentenced in the state's circuit courts, the MSCCSP identified five destructive devices offenses that the Commission determined were not currently assigned an offense type category consistent with those for "similar" offenses and adopted the changes noted in Table 3. These changes were submitted to the AELR Committee and were adopted in the COMAR effective April 1, 2009.

Table 3. Offense Type Categories Modified and Adopted by the MSCCSP in 2009.

| Statute | Offense | Prior Offense Type | New Offense Type |
|---------------------|---|--------------------|------------------|
| CR, §4-503(a)(1) | Destructive Devices Manufacture, transport, possess, control, store, sell, distribute, or use a destructive device | Property | Person |
| CR, §4-503(a)(2) | Destructive Devices Possess explosive, incendiary, or toxic material with the intent to create a destructive device | Property | Person |
| PS, §11-114(a), (g) | Destructive Devices Explosives—unlawful manufacture or dealing without license | Property | Person |
| PS, §11-114(b), (g) | Destructive Devices Explosives—possession without a license | Property | Person |

Table 3 continued.

| Statute | Offense | Prior Offense Type | New Offense Type |
|---------------------|---|--------------------|------------------|
| PS, §11-114(c), (g) | Destructive Devices Explosives—sale without license | Property | Person |

Guidelines Rules Modifications in 2009

In late 2008, the MSCCSP voted to adopt a minor modification to the instructions for calculating victim injury in the offense score for person offenses. This change was submitted to the AELR Committee and was adopted in the COMAR effective April 1, 2009. The language was modified to allow counseling services, such as rape crisis hotlines and conferences with clergy, to be included as evidence of psychological injury to the victim. This change addresses a barrier faced by indigent victims who can not afford medical diagnosis or psychological treatment by allowing confirmed counseling services obtained at no cost to be included when determining whether one point should be awarded in the victim injury component of the offense score.

At the September 14, 2009 meeting, the MSCCSP voted to adopt language clarifying that prior adjudications of *not criminally responsible* (NCR) or *not guilty by reason of insanity* shall not be included when calculating the prior record portion of the offender score. This change was submitted to the AELR Committee and is expected to be adopted in the COMAR effective April 2010.

At the December 8, 2009 meeting, the MSCCSP voted to adopt changes to the language on the guidelines worksheet and instructions on guidelines calculations regarding the application of weapons points in the offense score for person offenses. Specifically, references to the “usage” or “use” of a weapon will be changed to “presence” in order to clarify that points should be awarded whenever a weapon is present, rather than utilized or employed. This change was submitted to the AELR Committee and is expected to be adopted in the COMAR effective April 2010.

Guidelines Worksheet Submission Requirements Modifications in 2009

In 2009, the MSCCSP revised the guidelines worksheet submission requirements for both probation revocations and sentence reconsiderations. The MSCCSP determined that a Maryland Sentencing Guidelines Worksheet does not need to be completed for probation

revocations. Additionally, the MSCCSP also clarified the policy for completing guidelines worksheets for reconsiderations. A Maryland Sentencing Guidelines Worksheet is required only for rulings on a motion to revise, modify, or reduce the sentence imposed on a defendant for a crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland. These updated worksheet submission requirements were submitted to the AELR Committee and were adopted in the COMAR effective September 1, 2009.

Training and Education

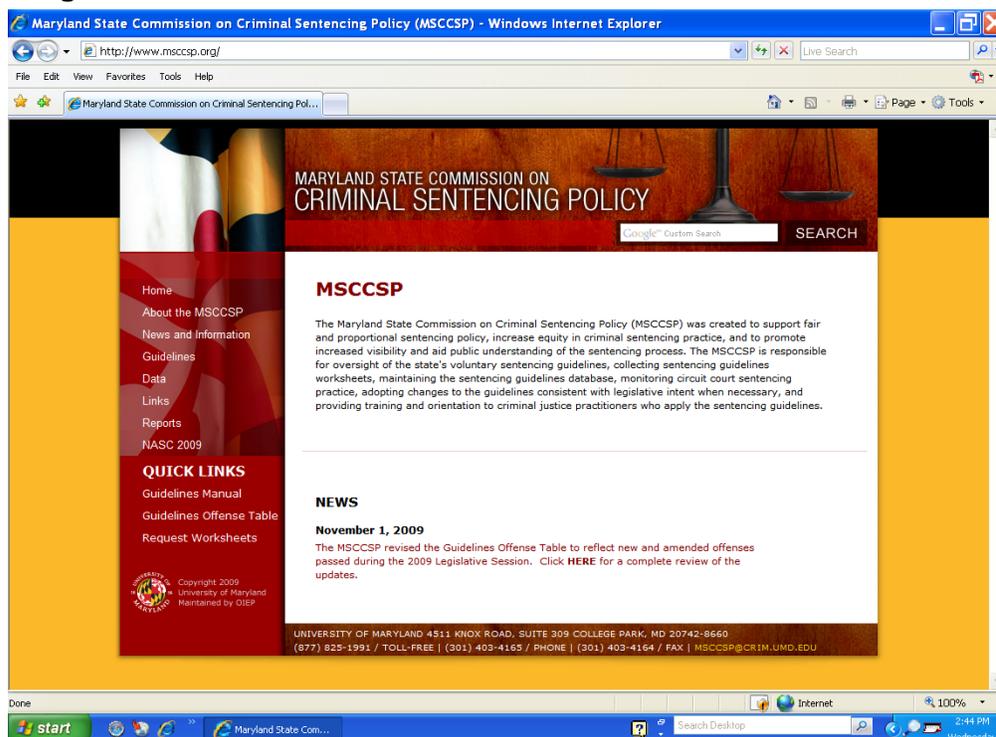
The MSCCSP continued to devote significant resources during 2009 to training and education in an effort to promote the consistent application of the guidelines and accurate completion of the guidelines worksheet. Training sessions provide a comprehensive overview of the sentencing guidelines calculation process and include detailed instructions for completing the offender and offense scores, an explanation of common omissions/mistakes, and several examples of more complicated sentencing guidelines scenarios. During this past year, the MSCCSP staff provided seven guidelines training sessions that were attended in total by approximately 85 participants, including circuit court judges, parole and probation agents, State's Attorneys, and Public Defenders. Training sessions were provided at the State's Attorney's Office for Anne Arundel County, the Public Defender's Office for Harford County, and regional offices for the Division of Parole and Probation in Charles and Prince George's counties. An educational session was also provided for new appointees to the circuit bench at the New Trial Judges Orientation at the Mt. Washington Conference Center in October 2009. Finally, in November 2009, Dr. Wellford, the chair of the Sentencing Guidelines Subcommittee and Dr. Soulé, the MSCCSP executive director presented an update on the sentencing guidelines and the work of the Commission to the Maryland State Bar Association (MSBA) Criminal Law & Practice Section.

In addition to providing training and education programs, the MSCCSP staff is available via phone (301-403-4165) and e-mail (mccsp@crim.umd.edu) from 8 a.m. to 5 p.m., Monday through Friday, to provide prompt responses to any questions or concerns regarding the sentencing guidelines. Each year the Commission staff responds to hundreds of questions regarding the guidelines via phone and e-mail inquiries. These questions are usually asked by those responsible for completing the guidelines worksheets (i.e., parole and probation agents, State's Attorneys, defense attorneys, and law clerks). Typical questions include asking for assistance in locating a specific offense and its respective seriousness category within the

Guidelines Offense Table and clarification on the rules for calculating an offender's prior adult criminal record score.

The MSCCSP also maintains a website (www.msccsp.org), which was redesigned in 2009 to provide a streamlined, more user friendly format. The website is continually updated to provide materials for criminal justice practitioners regarding the application of the guidelines, including text-searchable and print-friendly copies of the most recent version of the Maryland Sentencing Guidelines Manual and the Guidelines Offense Table, a list of offenses with non-suspendable mandatory minimum penalties, a list of offenses with seriousness category revisions, a sample of Frequently Asked Questions (FAQ) and their respective answers, and other relevant reports. The MSCCSP website also provides minutes from prior Commission meetings in addition to information such as the date, location, and agenda for upcoming meetings.

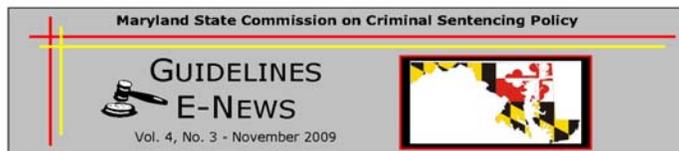
Image 1: MSCCSP Website.



In 2009, the Commission continued to deliver timely notice of guidelines relevant information via the dissemination of the Guidelines E-News. The Guidelines E-News is a periodic report delivered electronically via e-mail to criminal justice practitioners in the state. The Guidelines E-News provides information on changes and/or additions to the guidelines and contains tips on guidelines worksheet submission. The Guidelines E-News also provides periodic reports on sentencing trends using data collected and maintained by the Commission. Anyone who is

interested in receiving the Guidelines E-News may sign up to received the newsletter by sending a request to: msscsp@crim.umd.edu.

Image 2: Sample Guidelines E-News.



Revisions to the Guidelines Offense Table, Effective November 1, 2009

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has revised the Guidelines Offense Table to reflect:

- (1) new offenses passed during the 2009 Legislative Session;
- (2) amended offenses passed during the 2009 Legislative Session; and
- (3) minor edits to the table.

These changes were submitted to the Code of Maryland Regulations (COMAR) and were adopted **effective November 1, 2009**. They are summarized briefly below. A print friendly version of the updated Guidelines Offense Table (Appendix A of the Maryland Sentencing Guidelines Manual) is available on the MSCCSP website at: www.msscsp.org/Files/Guidelines/offensetable.pdf. This file is searchable by key word, CJIS Code, Source, etc. Please discard any prior versions of the Guidelines Offense Table, as information contained within may no longer be accurate.

New Offenses, 2009 Legislative Session

| Legislation | Statute | Offense | Statutory Maximum | Adopted Seriousness Category |
|---------------|-----------------------|--|-------------------|------------------------------|
| House Bill 66 | CR, §7-104(g)(1)(iii) | Theft, Crimes Involving Felony theft or theft-scheme, \$100,000 or greater | 25 years | II |
| House Bill 66 | CR, §7-104(g)(1)(ii) | Theft, Crimes Involving Felony theft or theft scheme, at least \$10,000 but less than \$100,000 | 15 years | IV |
| House Bill 66 | CR, §7-104(g)(1)(i) | Theft, Crimes Involving Felony theft or theft scheme, at least \$1,000 but less than \$10,000 | 10 years | V |
| House Bill 66 | CR, §7-104(g)(2) | Theft, Crimes Involving Misdemeanor theft or theft scheme, less than \$1,000 | 18 months | VII |
| House Bill 66 | CR, §7-104(g)(4) | Theft, Crimes Involving Misdemeanor theft or theft scheme, less than \$1,000, 3 rd and subsequent | 5 years | VI |

Note: The theft offenses contained in House Bill 66 replace *Felony theft or theft-scheme, \$500 or greater* and *Misdemeanor theft or theft scheme, less than \$500*.

4511 Knox Road, Suite 309 • College Park, MD 20742-8660 • (301) 403-4165 / phone • (301) 403-4164 / fax • www.msscsp.org

Information and Data Requests

In an effort to promote increased visibility and aid public understanding of the sentencing process in Maryland, the MSCCSP is also available to respond to inquiries for information related to sentencing in the state's circuit courts. In 2009, the Commission responded to approximately 45 requests for data and/or specific information related to sentencing trends throughout the state. In response to a common inquiry, the MSCCSP annually completes a topical report entitled, "Maryland Sentencing Guidelines Compliance and Average Sentence for the Most Common Person, Drug, and Property Offenses." This report summarizes sentencing guidelines compliance and average sentence for the five most common offenses in each crime category (person, drug, and property) and is posted on the MSCCSP website.

The MSCCSP is also responsible for responding to the Legislature's request for information to help produce fiscal estimate worksheets for sentencing related legislation while the General

Assembly is in session. Requests for information are also fielded from a variety of individuals, including the Governor's Office, circuit judges, law clerks, prosecutors, defense attorneys, parole and probation agents, victims and their family members, defendants and their family members, faculty/students of law and criminal justice, government agencies, media personnel, and other interested citizens. In these instances, the MSCCSP was able to provide a copy of the data contained within the sentencing guidelines database and/or produce special reports analyzing sentencing trends for specific offenses and/or specific time periods.

Data Collection, Oversight, and Verification

The MSCCSP staff is responsible for collection and maintenance of the Maryland sentencing guidelines database, which is compiled via data submitted on the Maryland sentencing guidelines worksheet. The Commission staff reviews guidelines worksheets as they are received. The staff verifies that the guidelines worksheets are being completed accurately and contacts those who prepared the worksheets to notify them of detected errors in an effort to reduce the likelihood of repeat mistakes. Once the guidelines worksheets are reviewed, they are data-entered into the Maryland sentencing guidelines database.

Each year, the staff spends considerable time checking and cleaning the data maintained within the Maryland sentencing guidelines database in an effort to maximize the accuracy of the data. These data verification activities typically involve: (1) identifying cases in the database with characteristics likely to result in data entry error, (2) pulling and reviewing the filed worksheets for these cases, and (3) making corrections to the records in the database when necessary. The MSCCSP staff also routinely researches missing values on key variables through the Maryland Judiciary Case Search website. Finally, the MSCCSP staff regularly verifies and updates the database containing the guidelines offenses. Checking and cleaning the data on a regular basis throughout the year allows for increased confidence in the accuracy of the data and permits more reliable offense-specific analyses of the data.

Subcommittee Work

The MSCCSP currently has two standing Subcommittees to review specific aspects of the state's sentencing guidelines. The Subcommittee on Sentencing Guidelines, chaired by Dr. Charles Wellford, plays a critical role in reviewing proposals regarding changes to the guidelines. In 2009, the Guidelines Subcommittee met prior to each Commission meeting and was responsible for the initial review and consideration of the classification for new and amended offenses noted

in Tables 1 and 2, as well as the reclassification of offenses noted in Table 3. Additionally, the Guidelines Subcommittee made recommendations to the full Commission regarding the adoption of: (a) revisions to the language on the guidelines worksheet and instructions on guidelines calculation regarding the application of weapons points in the offense score for person offenses; (b) revisions to the guidelines worksheet submission requirements for both probation revocations and sentence reconsiderations; and (c) language in the COMAR and the MSGM clarifying that prior adjudications of *not criminally responsible* (NCR) or *not guilty by reason of insanity* shall not be included when calculating the offender score. Finally, the Guidelines Subcommittee began work on a detailed analysis of guidelines compliance rates and sentencing patterns within each cell of the three guidelines matrices.

The Commission's other standing subcommittee, the Subcommittee on Sentencing Drug Offenders, chaired by Delegate Curtis Anderson, was established in 2007 to review sentencing alternatives for drug offenders. The Subcommittee on Sentencing Drug Offenders met two times in 2009 and completed an inventory that reviewed corrections options programs available to drug offenders at sentencing in each county, including drug courts and other initiatives favoring treatment over incarceration. The inventory has served as a tool to guide the Subcommittee in its review of sentencing options for drug offenders. In an effort to encourage alternatives to incarceration for appropriate cases, the Subcommittee recommended a campaign to raise awareness of what programs are defined as corrections options and how the utilization of these programs impacts the calculation of guidelines compliance. The Subcommittee recommended the distribution of Volume 4, No. 4 of the Guidelines E-News (distributed on December 14, 2009) to help inform judges, prosecutors, and defense attorneys about the use and reporting of corrections options.

NASC

On August 2-4, 2009, the MSCCSP hosted the 15th annual conference of the National Association of Sentencing Commissions (NASC) in Baltimore, MD. NASC was created to facilitate the exchange of information, ideas, data, expertise, and experiences on issues related to sentencing policies, guidelines, and commissions. Currently, the NASC membership includes representation from 23 formally-established sentencing commissions, each unique in its sentencing system and objectives. In addition, there are several other states that are considering the creation of a sentencing commission or related policy board. Every year, the NASC conference brings together judges, legislators, correctional officials, policy makers, academics, researchers, and practitioners from around the country to examine our nation's

experiences with sentencing laws and practices and to discuss emerging issues and innovations.

The 2009 NASC conference was an invitation for attendees to review what we have learned regarding sentencing policy and practice over the past 15 years and to discuss how this information can inform our decisions moving forward. The conference was attended by more than 125 sentencing policy experts from 27 states and 3 countries. The chairman of the MSCCSP, Judge Howard Chasanow, in conjunction with Lt. Governor Anthony Brown, provided the conference's welcome address. The Monday morning plenary session included presentations on the state of sentencing research from three prominent researchers: Dr. Charles Wellford (University of Maryland and vice-chairman of the MSCCSP), Dr. Alfred Blumstein (Carnegie Mellon), and Dr. Cassia Spohn (University of Arizona). The second day's plenary session included a lively debate on the consequences of escalating incarceration rates and featured discussion from Alex Busansky (Vera Institute of Justice), Dr. Anne Piehl (Rutgers University), and Kent Scheidegger (Criminal Justice Legal Foundation). The 2009 conference also provided a series of panel discussions on timely topics such as risk/needs assessment, the influence of the media on criminal penalty development, international sentencing developments, sentencing since the landmark *Booker* case, the evolving role of sentencing commissions, the role of victims in sentencing, how courts and corrections departments are dealing with shrinking budgets, release decisions, and the interdependence of jail and prison populations and policies. A copy of presentations and photographs from the conference can be found on the conference website at: www.msccsp.org/nasc2009.

Sentencing/Correctional Simulation Model

The MSCCSP continues to work to develop a sentencing/correctional simulation model. The Commission staff has worked closely with Applied Research Services, Inc. (ARS) to develop a computer simulation tool that mimics sentencing and correctional populations using different sentencing policies and laws, time-served practices, and sentence options/alternatives. ARS recently completed Phase II of the simulation model with incorporation of data from the Maryland Division of Correction (DOC), and the MSCCSP is currently testing the population projection component. The MSCCSP will use the simulation model to assess the impact that guideline revisions may have on correctional resources. The model relies on discrete-event simulation technology that allows Commission staff to manipulate sentencing records based on guideline revisions and assess the impact changes will have on guideline recommendations, as

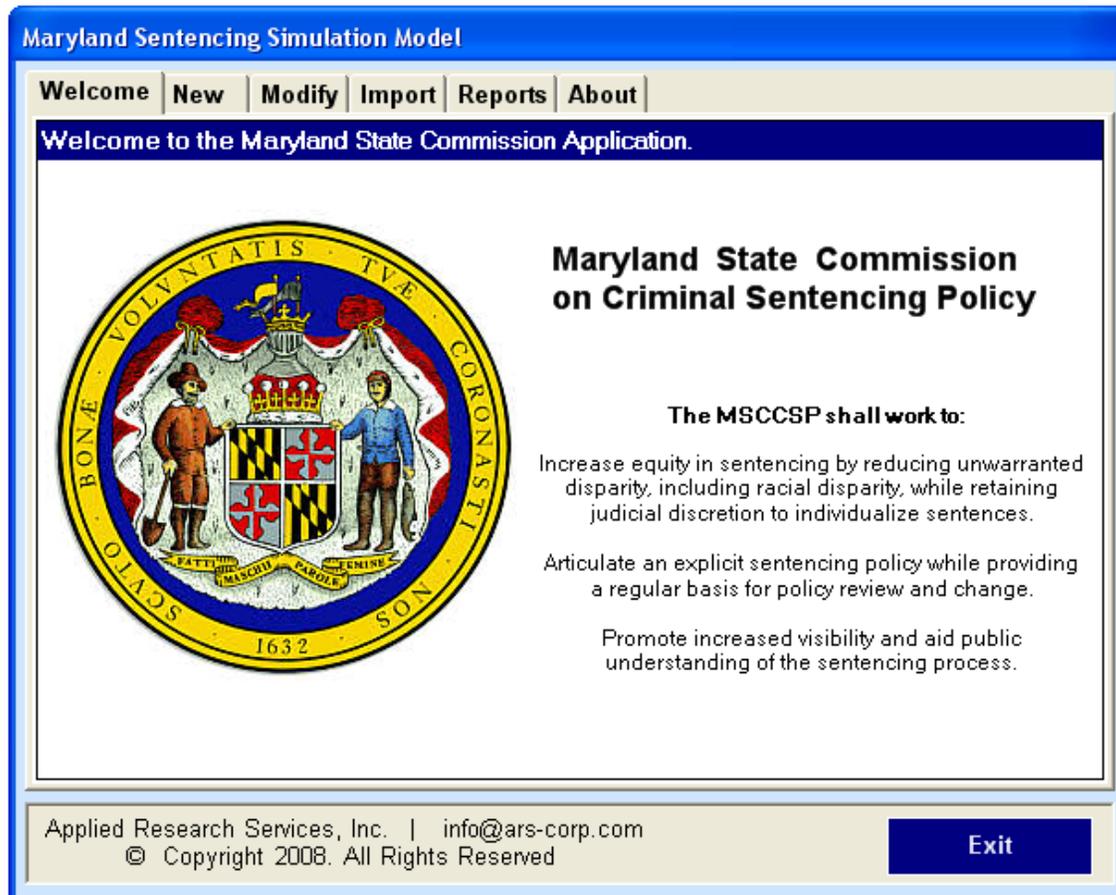
well as future prison populations. Given the wide range of potential revisions possible with Maryland's guideline system, the simulation model had to meet several key objectives:

- Import raw MSCCSP records stored in the Commission database and DOC prison population data.
- Allow users to revise all aspects of the guidelines, including the matrix, offender score, offense score computations, and changes in offense severity.
- Re-compute guideline recommendations using proposed changes and sentence computation rules.
- Estimate the probability of prison or non-prison for offenders using historical sentencing practices.
- Incorporate DOC data to estimate likely time-served for circuit and district court offenders.

To achieve these objectives, the new simulation model relies on different off-the-shelf software, including Microsoft-SQL, Visual Basic.Net, and Simul8 Professional simulation software. Together, these products created a seamless product that analyzes the raw DOC and guidelines data and rebuilds records and sentence recommendations based on scenarios created using easy-to-use interfaces.

A key aspect of the simulation model is the ability to apply proposed changes to the raw data to re-compute the recommendation if different revisions were made to the guidelines. In short, this requires the model to maintain a database of MSCCSP rules and tables to compute new recommendations. At this time, the model imports the MSCCSP MS-Access database. However, the model already incorporates the coding and logic to accept data from a SQL database when the MSCCSP deploys a web-based automated sentencing guidelines system.

To input and organize different policy scenarios, the model relies on a Scenario Manager that allows users to catalog hundreds of different policy scenarios (guideline revisions). The following screenshots illustrate the scenario manager, as well as different user interfaces used to manipulate various aspects of the guidelines. The first screen (Image 3) illustrates the opening interface used to access different model features, including: creation of new policy scenarios, modification of existing scenarios, importation of new data, and creation of reports.

Image 3: Simulation Model – Opening Interface.

In most instances, the MSCCSP will utilize the simulation model to create and revise proposed scenarios. To help with scenario creation, the model includes input screens to revise parameters used to compute sentence recommendations. Image 4 illustrates a simple matrix screen that allows users to change cell parameters by simply clicking on the cell.

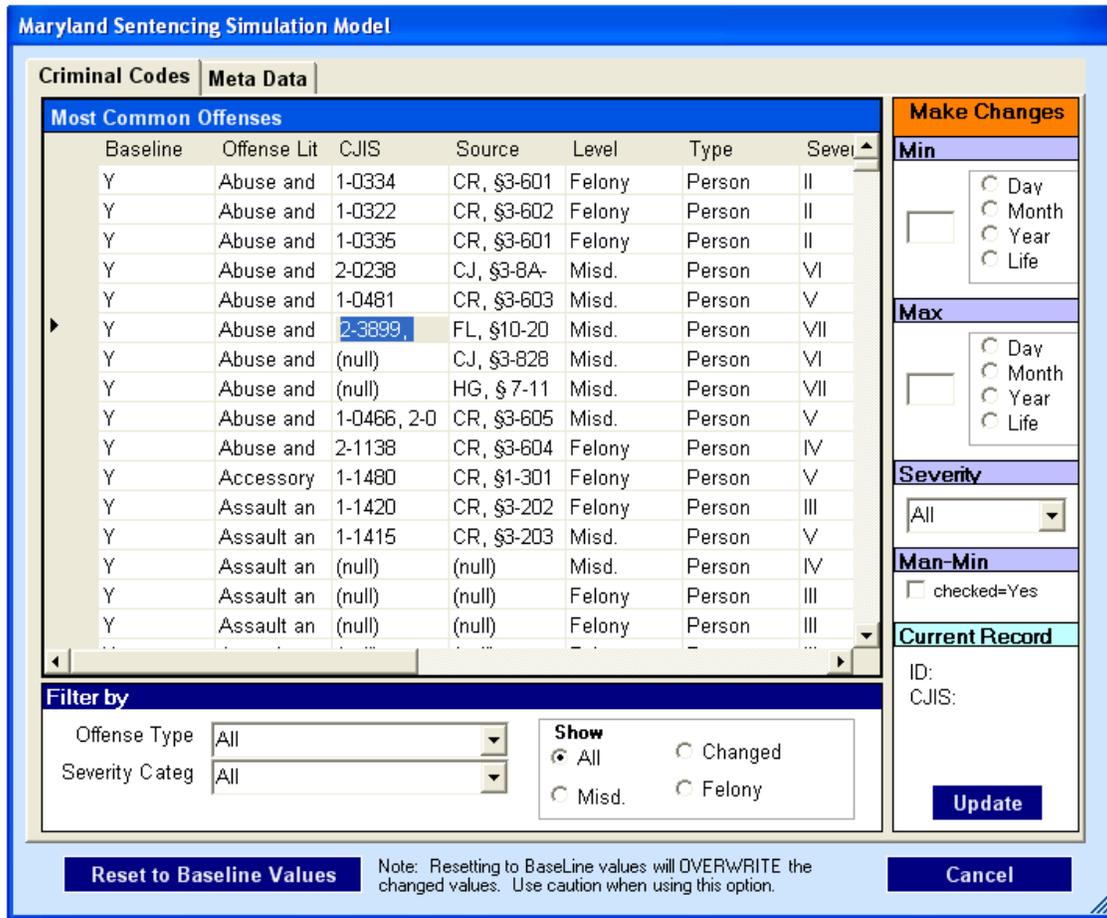
Image 4: Simulation Model – Matrix Parameters.

The screenshot displays the 'Sentencing Matrix for Drug Offenses' with an 'Offender Score' header. A pop-up window titled 'Maryland Sentencing Simulation Model' is open, showing 'Sentencing Guidelines [Row 2] | [Column 2]'. The dialog has two columns: 'MINIMUM' and 'MAXIMUM'. Each column has a 'Sentence Length' input field (with values 3 and 12) and a 'Duration' section with radio buttons for Probation, Months, Years, and Life. At the bottom of the dialog are 'Save', 'Reset', and 'Cancel' buttons. Below the dialog, a legend states: 'P=Probation, M=Months, Y=Year, L=Life' and 'Grid Text appears in RED if data has been changed from Baseline.' A 'Cancel' button is also present at the bottom right of the main window.

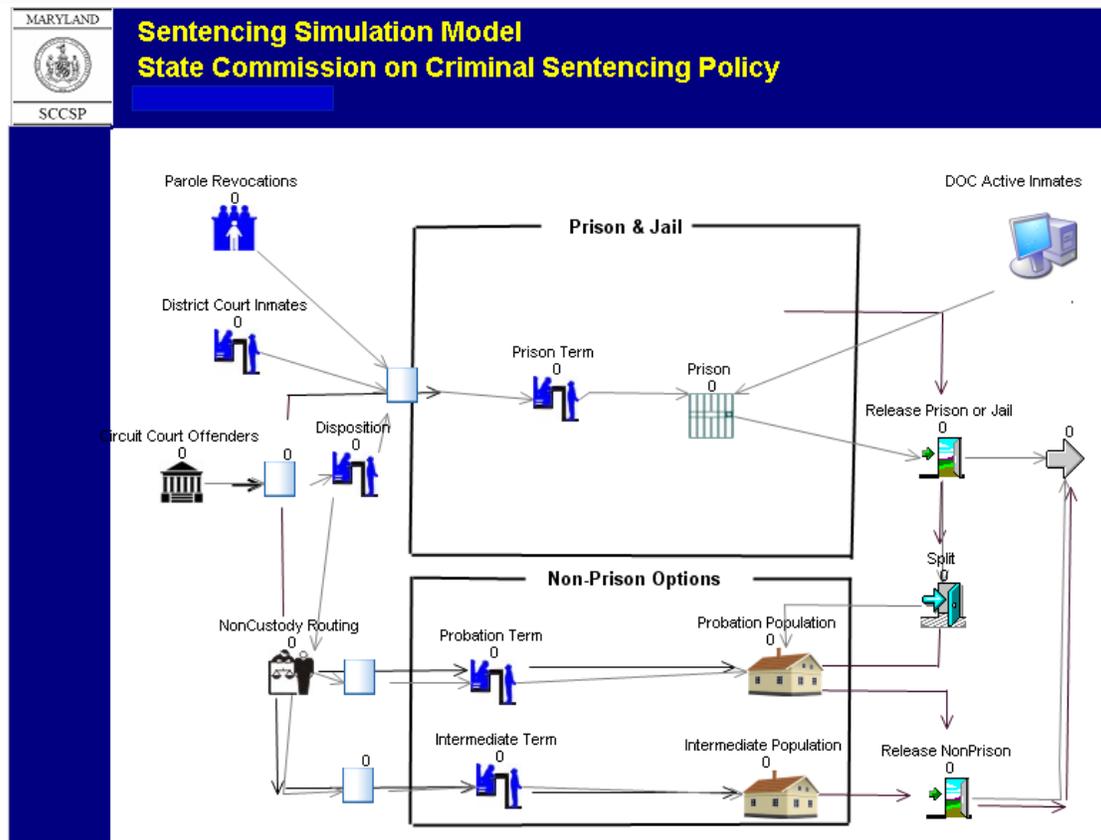
| Offender Score | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 OR MORE |
|----------------|---|---|---|---|---|---|---|---|-----------|
| Offense Score | | | | | | | | | |
| 1 | | | | | | | | | 6M-2Y |
| 2 | | | | | | | | | 3Y-4Y |
| 3 | | | | | | | | | 4Y-10Y |
| 4 | | | | | | | | | 10Y-20Y |
| 5 | | | | | | | | | 12Y-20Y |
| 6 | | | | | | | | | 15Y-25Y |
| 7 | 2 | | | | | | | | 35Y-40Y |

In addition to matrices and offender/offense scores, the MSCCSP routinely examines offense seriousness categories. The offense manager permits users to change seriousness categories or impose a mandatory minimum as part of a test scenario. To do this, users simply access the offense manager (Image 5), which includes the most current list of Maryland offenses.

Image 5: Simulation Model – Offense Manager.



Once the user has entered the proposed revisions into the scenario manager, the model’s MS-SQL database rebuilds the raw sentencing records using the new parameters to re-compute a new sentence recommendation. At the same time, the model is building a complex series of historical probability tables to estimate the actual sentence within the recommended range and whether the offender should receive a prison or non-prison sentence. The new sentence and probability tables are then passed to the simulation engine (Simul8) that has a user-friendly graphic interface (Image 6) that users can easily change to fit the particular scenario under investigation.

Image 6: Simulation Model – Graphic Interface.

At this point, the MSCCSP can analyze the results compared to the original sentence, or it can move to a more advanced stage where the new recommendation is used as part of the prison population projection. Because the MSCCSP database collects multiple sentences for the same defendant across different jurisdictions, the model has to consolidate these records to create a single, most serious sentence using personal identifiers and other record consolidation logic. These will now represent new prison sentence admissions based on how the user configured the different guideline parameters. To estimate time-served, the model also imports data from the DOC, including intake, active, and release files.

To date, the MSCCSP is conducting tests to verify the accuracy of the population projection component that relies on the DOC data, while working closely with the DOC to ensure the projections meet their standards. The MSCCSP continues to work with the program developers at ARS in order to learn about the capabilities of the model and how it can be used to inform MSCCSP decisions in the future.

Maryland Automated Guidelines System (MAGS)

In 2009, the MSCCSP continued to work on development of an automated web-based sentencing guidelines system that will allow criminal justice practitioners to complete and submit worksheets electronically. The MSCCSP has been working closely with programmers to develop the Maryland Automated Guidelines System (MAGS). MAGS will calculate scores automatically and present the appropriate sentencing guidelines range for each case. The automated system will also allow users to run multiple sentencing scenarios where they will be able to determine the appropriate guidelines range under varying sentencing conditions. The automated system will allow a user to print a hard copy of the computed guidelines for each case and submit completed forms to the Commission electronically.

Image 7: Maryland Automated Guidelines System – Offender Information.

The screenshot displays the 'Maryland Sentencing Guidelines Worksheet - Offender Information' form within a Windows Internet Explorer browser window. The browser's address bar shows the URL: <http://10.20.140.24:8080/csp/CaseMain.jsp?Edit=Yes&value=18mode=edit&pkey=71>. The page title is 'Maryland Sentencing Guidelines Worksheet'. The form is titled 'MARYLAND SENTENCING GUIDELINES WORKSHEET - OFFENDER INFORMATION' and includes navigation buttons for 'Previous', 'Next', and 'Save this Page'. The form fields are as follows:

- Last Name:
- First Name:
- Middle Name:
- Suffix:
- SID#:
- Sex: Male Female
- Date of Birth: / / (MM/DD/YYYY)
- PSI: Yes No
- Jurisdiction:
- Circuit:

Below the main form, there are three sections for representation, ethnicity, and race:

- REPRESENTATION:**
 - Private
 - Public Defender
 - Court Appointed
 - Self
- ETHNICITY:**
 - Hispanic/Latino Origin
 - Yes No
- RACE:**
 - Black
 - White
 - Asian
 - Native Hawaiian/Pacific Islander
 - American Indian/Alaskan Native
 - Other
 - Unidentifiable

The browser's taskbar at the bottom shows the Start button, several open Internet Explorer windows, and the system clock indicating 4:47 PM on Thursday.

There are many benefits to the automation of the sentencing guidelines worksheet completion and submission process. First, the MSCCSP believes automation will help to significantly reduce errors that can occur when the guidelines are manually calculated. These errors include

mathematical miscalculation, selection of an incorrect seriousness category, and selection of an incorrect cell within the sentencing matrix. In addition, the utilization of MAGS will ultimately reduce the amount of time that the Commission staff spends on data entry of the guidelines worksheets. Consequently, automation will lead to more timely and accurate assessment of sentencing policy and practice in Maryland.

A preliminary version of the model has been developed by the programmers and has been tested by MSCCSP staff. The development has steadily progressed in 2009 as the MSCCSP staff conducted several rounds of reviews to ensure the model is capable of calculating multiple complex sentencing scenarios. In November 2009, a focus group was held at the University of Maryland to review the MAGS application. The focus group was attended by two circuit court judges and their respective law clerks, a representative from the Montgomery County State's Attorney's Office, a representative from the Public Defender's Office, and a representative from the Maryland Division of Parole & Probation. The focus group provided an opportunity for these individuals to test a demonstration pilot of the MAGS program and provide feedback for suggested revisions to the model. The MSCCSP staff reviewed these suggestions with the programmers and is developing a plan to incorporate the suggested updates in the upcoming year. The MSCCSP expects the automated system will be operational by the end of 2010.

Public Comments Hearing

The MSCCSP held its annual public comments hearing at the House Office Building in Annapolis on December 8, 2009. The annual public comments hearing provides an opportunity for any interested person to address the Commission and discuss sentencing related issues. The Commission sent an invitation to various key stakeholders throughout the state and announced the meeting via the Commission's website, the Maryland Register, the Maryland General Assembly's hearing schedule, and a press release by the DPSCS. Seven individuals testified during the 2009 public comments hearing, speaking about a range of topics including parole eligibility for individuals serving life sentences, prison reform, incarceration of juvenile offenders, and sentencing alternatives for non-violent drug offenders.

SENTENCES REPORTED IN FY 2009

Maryland's voluntary sentencing guidelines apply to criminal cases prosecuted in circuit court, with the exception of the following sentencing matters: prayers for a jury trial from the district court, unless a pre-sentence investigation (PSI) is ordered; appeals from the district court, unless a PSI is ordered; crimes that carry no possible penalty of incarceration; first degree murder convictions if the death penalty is sought under CR, §2-303; and violations of public laws and municipal ordinances. The MSCCSP has been charged with the responsibility of collecting sentencing guidelines worksheets and automating the information in order to monitor sentencing practice and adopt changes to the sentencing guidelines matrices. The Administrative Office of the Courts (AOC) compiled this data between July 1983 and June 2000. Beginning in July 2000, the MSCCSP assumed the responsibility of compiling this data from worksheets. Since that time, the MSCCSP has continued to update the data and check for errors. In the process, corrections have been made to the database and additional worksheets have been located and incorporated which may affect the overall totals reported in previous reports.

Worksheets Received

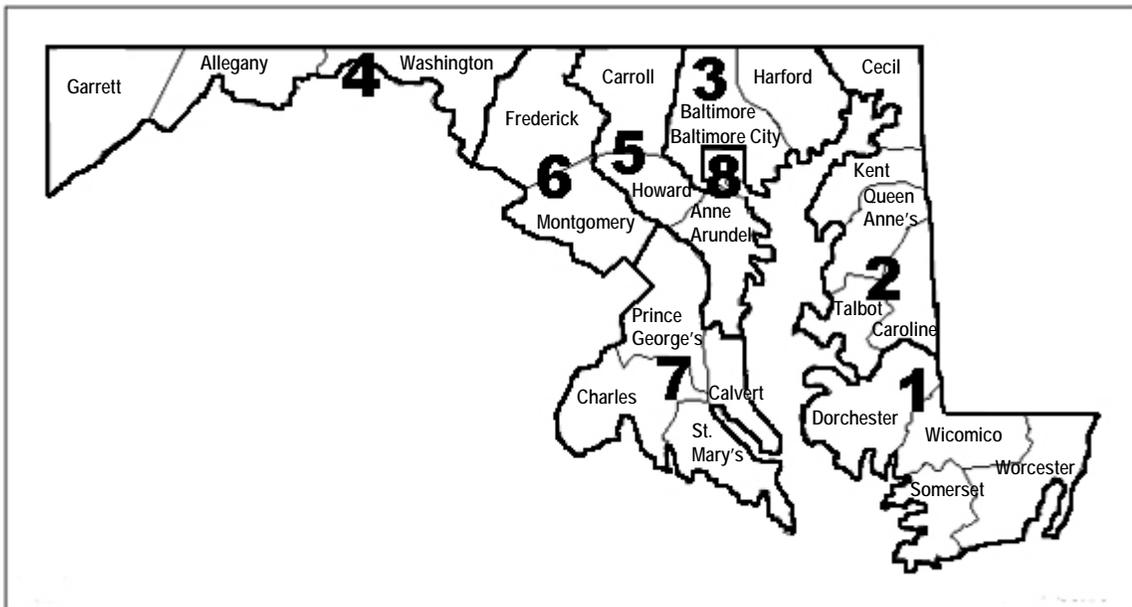
In fiscal year 2009, the MSCCSP received 10,965 worksheets. Table 4 provides a breakdown of the number and percentage of worksheets received in fiscal year 2009 by circuit. The jurisdictions in each circuit are shown in Figure 1. The largest number of guidelines worksheets (3,192) was received from the Eighth Circuit (Baltimore City), while the smallest number (359) was received from the Second Circuit (Caroline, Cecil, Kent, Queen Anne's, and Talbot Counties).

Table 4. Number and Percentage of Worksheets Submitted by Circuit, Fiscal Year 2009

| Circuit | Number of Worksheets Submitted | Percent of Total Worksheets Submitted^a |
|----------------|---------------------------------------|--|
| 1 | 759 | 6.9% |
| 2 | 359 | 3.3% |
| 3 | 1,596 | 14.6% |
| 4 | 631 | 5.8% |
| 5 | 1,549 | 14.1% |
| 6 | 722 | 6.6% |
| 7 | 2,157 | 19.7% |
| 8 | 3,192 | 29.1% |
| TOTAL | 10,965 | 100.0% |

^aPercentages may not total 100% due to rounding.

Figure 1. Maryland Judicial Circuits



Case Characteristics

Figures 2 through 4 summarize the descriptive characteristics from the 10,965 worksheets submitted for offenders sentenced in fiscal year 2009. Most were male (88%) and African-American (68.9%). The median age of offenders at date of sentencing was 27 years. The youngest offender was 13.5, while the oldest was 87 years of age. Approximately 22% of offenders were under 21 years of age; 40% were 21-30 years old; 19% were 31-40 years old; and the remaining 19% were 41 years or older.

Figure 2. Distribution of Cases by Gender of Offender, Fiscal Year 2009

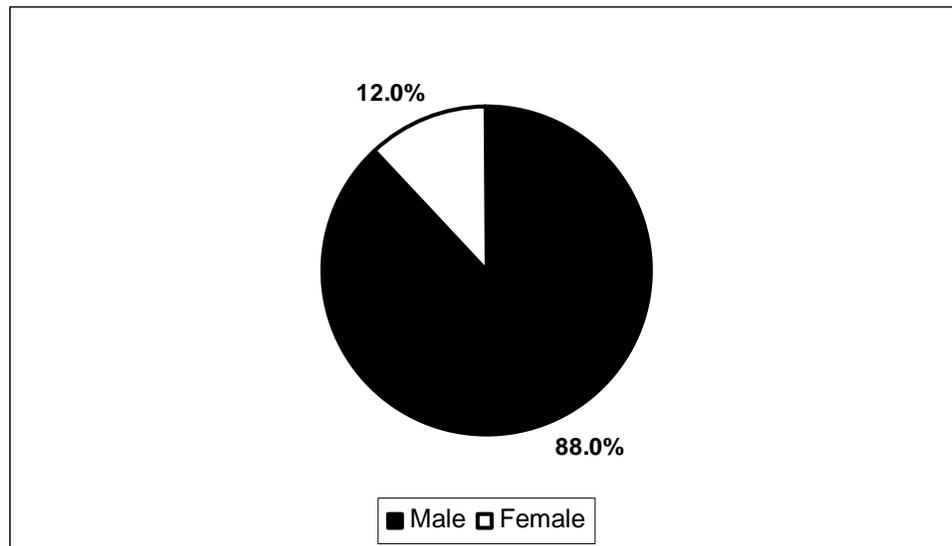


Figure 3. Distribution of Cases by Race of Offender, Fiscal Year 2009

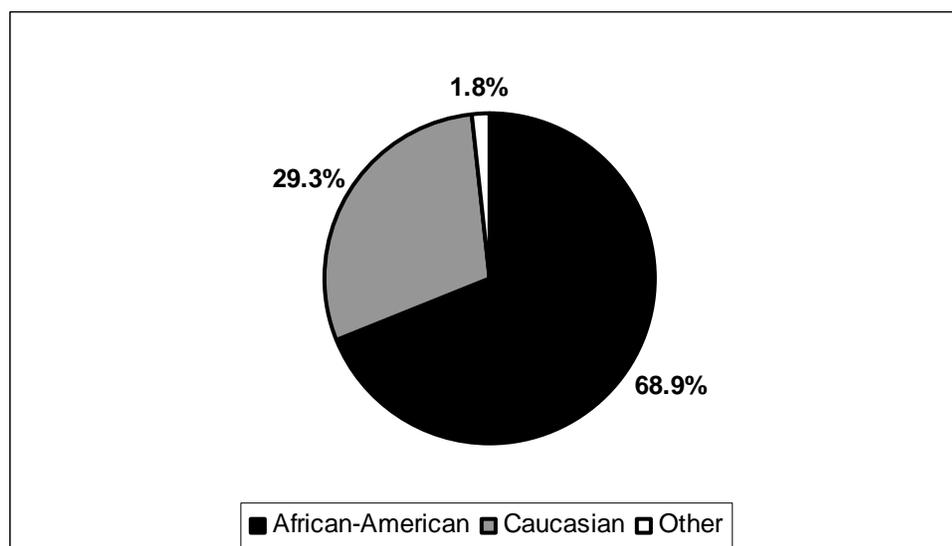
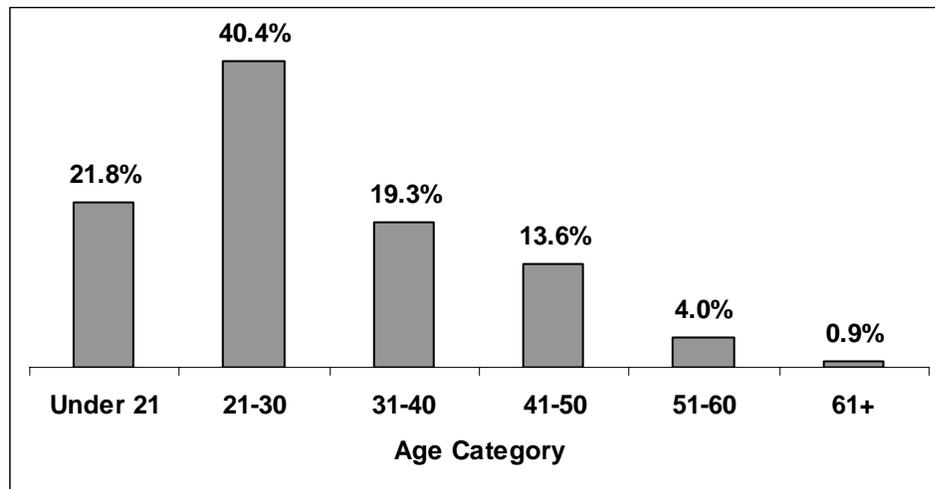
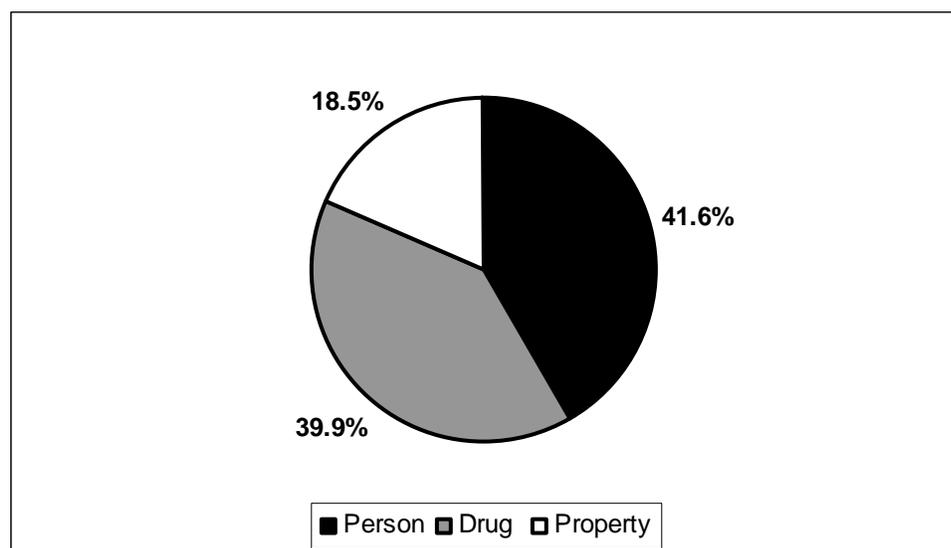


Figure 4. Distribution of Cases by Age of Offender, Fiscal Year 2009

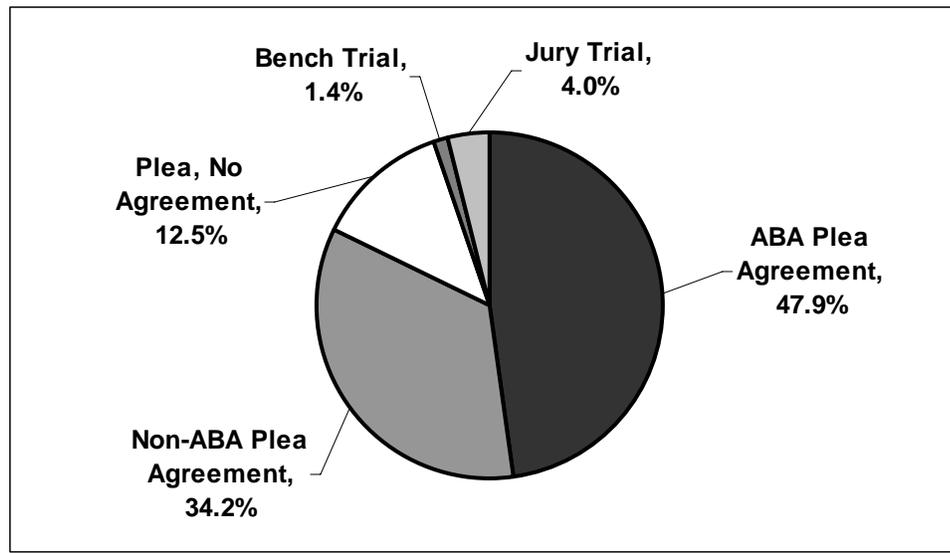
Figures 5 through 7 show the distribution of cases by crime category, disposition type, and sentence type. Note that the total number of cases on which the figures are based excludes reconsideration/review (N=19) and probation revocation cases (N=75). Figure 5 provides a breakdown of cases by crime category. For cases involving multiple offenses, only the most serious offense was considered. Cases involving an offense against a person were most common (41.6%), followed closely by drug cases (39.9%). In 18.5% of cases, the most serious offense was a property crime. The distribution of cases by crime category was similar when the analysis was limited to defendants sentenced to incarceration (45.3% person, 37.2% drug, 17.5% property).¹

Figure 5. Distribution of Cases by Crime Category, Fiscal Year 2009

¹ Incarceration includes home detention and credited time, as well as post-sentence jail/prison time.

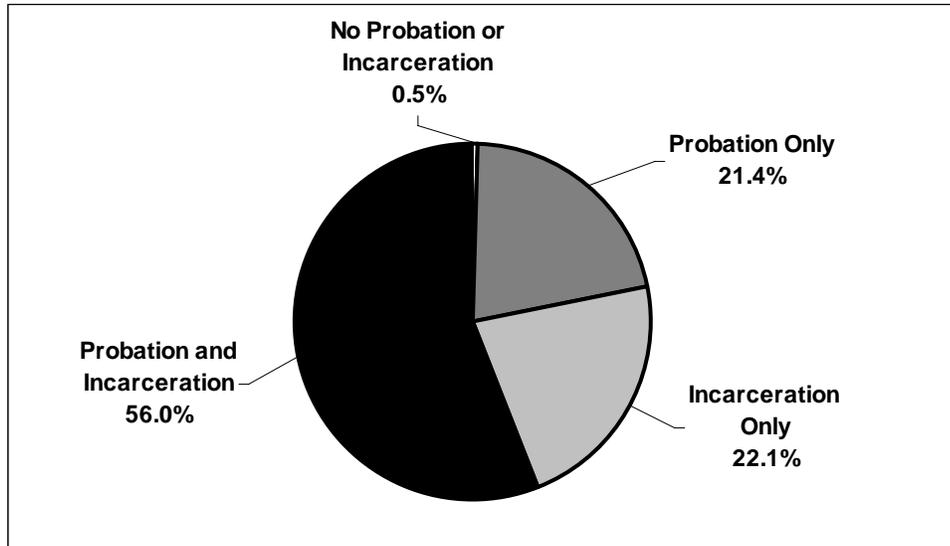
Figure 6 summarizes the distribution of cases by disposition type (Appendix C contains a description of the eight major disposition types listed on the sentencing guidelines worksheet). The vast majority of cases were resolved by either an ABA plea agreement (47.9%) or a non-ABA plea agreement (34.2%). An additional 12.5% were resolved by a plea with no agreement, and 5.4% of cases were resolved by either a bench or jury trial (1.4% and 4%, respectively).

Figure 6. Distribution of Cases by Disposition, Fiscal Year 2009



The distribution of cases by sentence type is displayed in Figure 7. More than half of all cases resulted in a sentence to both incarceration and probation. Approximately 22% of offenders were sentenced to incarceration only, and 21% were sentenced to probation only. Few defendants (<1%) received a sentence that did not include either incarceration or probation.

Figure 7. Distribution of Cases by Sentence Type, Fiscal Year 2009



JUDICIAL COMPLIANCE WITH MARYLAND'S VOLUNTARY SENTENCING GUIDELINES

The MSCCSP is mandated to examine judicial compliance based on data extracted from the sentencing guidelines worksheets submitted after each defendant is sentenced in circuit court. The following provides a detailed examination of judicial compliance with Maryland's voluntary sentencing guidelines.

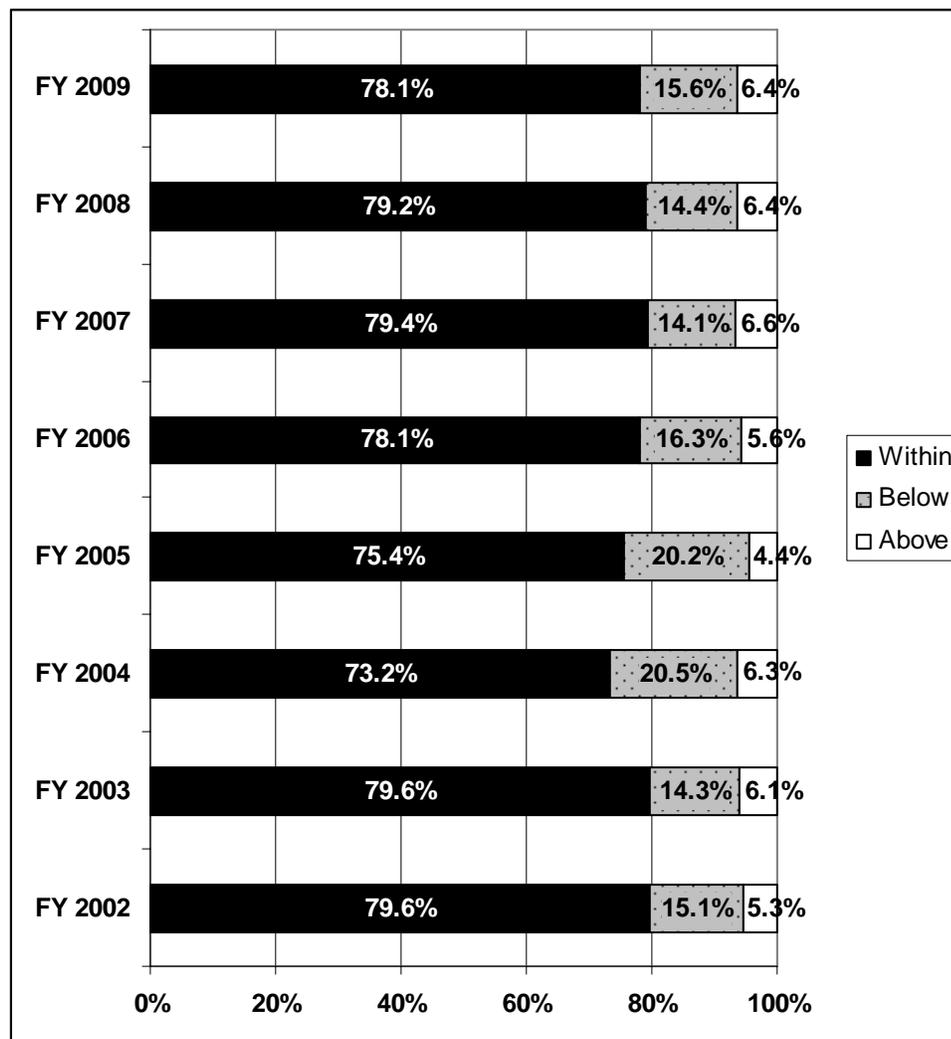
Judicial Compliance Rates Overall

A sentence is deemed compliant with the guidelines if the initial sentence (defined as the sum of incarceration, credited time, and home detention) falls within the applicable guidelines range. In addition, as of July 2001, all sentences pursuant to an American Bar Association (ABA) plea agreement are considered compliant (COMAR 14.22.01.17), as they represent an accurate reflection of the consensus of the parties and the court within the specific community they represent. Similarly, sentences to correctional options programs (e.g., substance abuse treatment, home detention) are deemed compliant provided that the initial sentence plus any suspended sentence falls within or above the applicable guidelines range and the case does not include a crime of violence, sexual child abuse, or escape.

Figure 8 contains a breakdown of the overall guidelines compliance rates for the past eight fiscal years (2002-2009). Fiscal year 2002 was selected as the initial year for this trend analysis because the changes to the definition of a compliant sentence noted above became effective at the start of fiscal year 2002. The figure indicates that in all eight years, the overall rate of compliance exceeded the Commission's goal of 65% compliance.² The aggregate compliance rate remained relatively unchanged from one year to the next, ranging from a low of 73.2% in fiscal year 2004 to a high of 79.6% in fiscal years 2002 and 2003.

² When the guidelines were originally drafted by the Judicial Committee on Sentencing in 1979, the Committee set an expectation that two-thirds of sentences would fall within the recommended sentencing range and when sentencing practice resulted in departures from the recommended range in more than one-third of the cases, the guidelines would be revised. Since that time, the Commission has adopted the goal of 65% as the benchmark standard for compliance.

**Figure 8. Overall Sentencing Guidelines Compliance by Fiscal Year
(All Cases)**

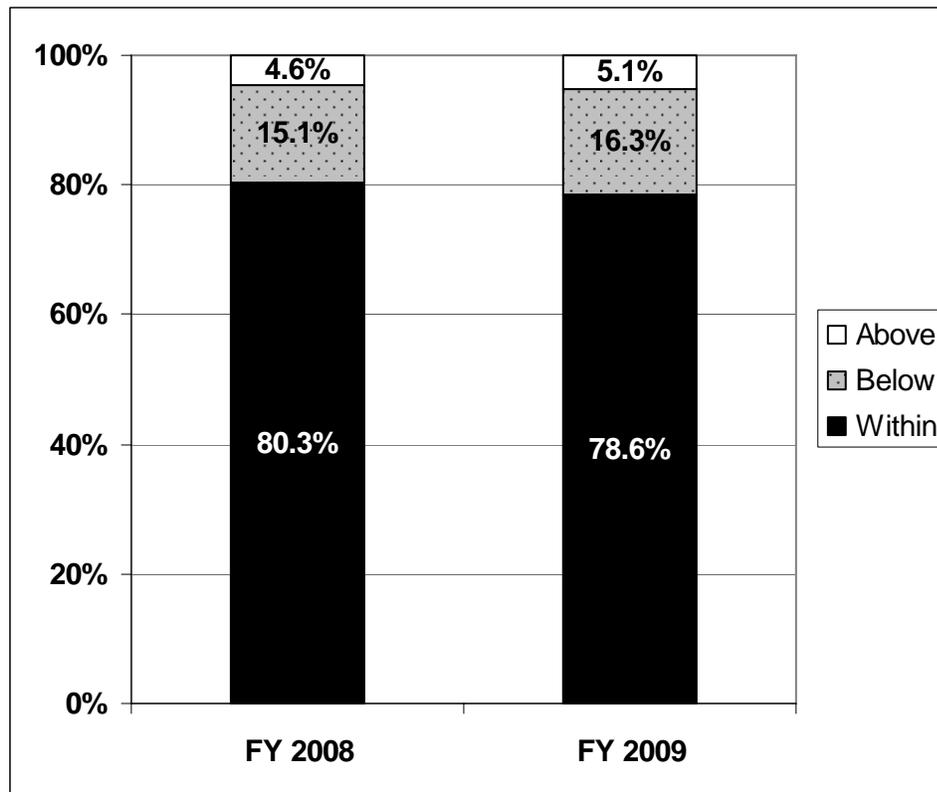


Analyses of judicial compliance in Maryland have traditionally focused on sentences for single count convictions because they permit the most direct comparison of compliance by crime category and by offense type, within the applicable cell of the sentencing matrix. Since multiple count convictions can consist of any combination of person, drug, and property offenses, meaningful interpretations of sentencing patterns within matrices cannot be obtained. Thus, the figures from this point forward focus on sentences for single count convictions during fiscal years 2008 and 2009. Of the 10,965 sentencing guidelines worksheets submitted to the MSCCSP in 2009, 8,469 (77%) contained single count convictions.

Figure 9 provides a breakdown of the overall guidelines compliance rates for fiscal years 2008 and 2009 based on single count convictions. The rates are similar to those above. In both years, the overall rate of compliance exceeded the Commission's goal of 65% compliance.

Approximately 79% of cases were compliant in fiscal year 2009, compared with 80% of cases in fiscal year 2008. When departures occurred, they were more often below the guidelines rather than above.

Figure 9. Overall Sentencing Guidelines Compliance by Fiscal Year (Single Count Convictions)

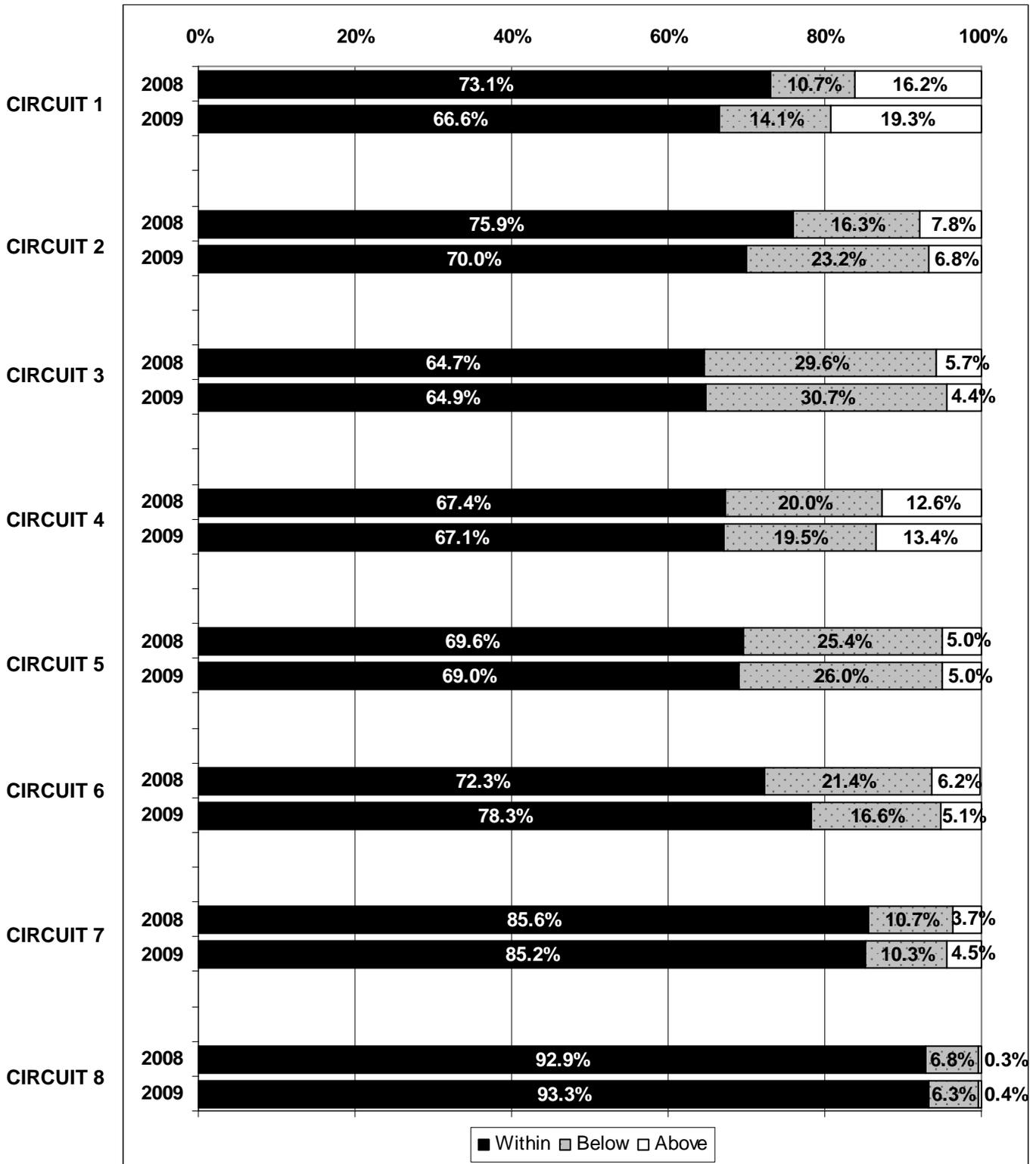


Judicial Compliance Rates by Circuit

As shown in Figure 10, all eight circuits met the 65% compliance benchmark in fiscal year 2009.³ The circuit with the largest number of defendants, the Eighth Circuit, had the highest compliance rate (93.3%). Compliance was lowest in the Third Circuit (64.9%). The Sixth Circuit experienced an increase of 6% in compliance. In contrast, compliance decreased by a similar amount in the First and Second Circuits (6.5% and 5.9%, respectively). Compliance rates were relatively unchanged in the remaining five circuits.

³ Compliance rates were rounded to the nearest whole number to determine whether the 65% benchmark was met.

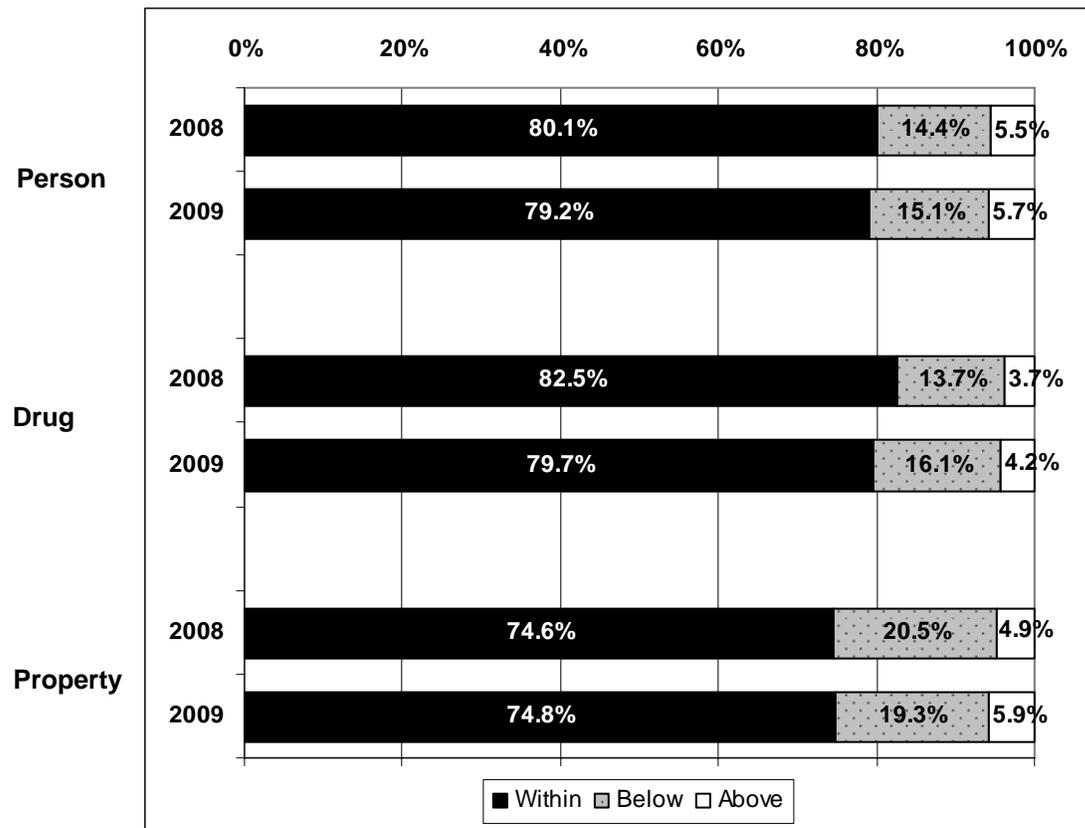
Figure 10. Sentencing Guidelines Compliance by Circuit and Fiscal Year



Judicial Compliance Rates by Crime Category

Figure 11 shows judicial compliance by crime category for fiscal years 2008 and 2009. Drug offenses were the least likely to result in a departure from the guidelines, although differences in compliance rates from one crime category to the next were negligible. The compliance rates for all three crime categories changed little from 2008 to 2009, and the 65% benchmark was met for all three crime categories in both fiscal years.⁴

Figure 11. Sentencing Guidelines Compliance by Crime Category and Fiscal Year

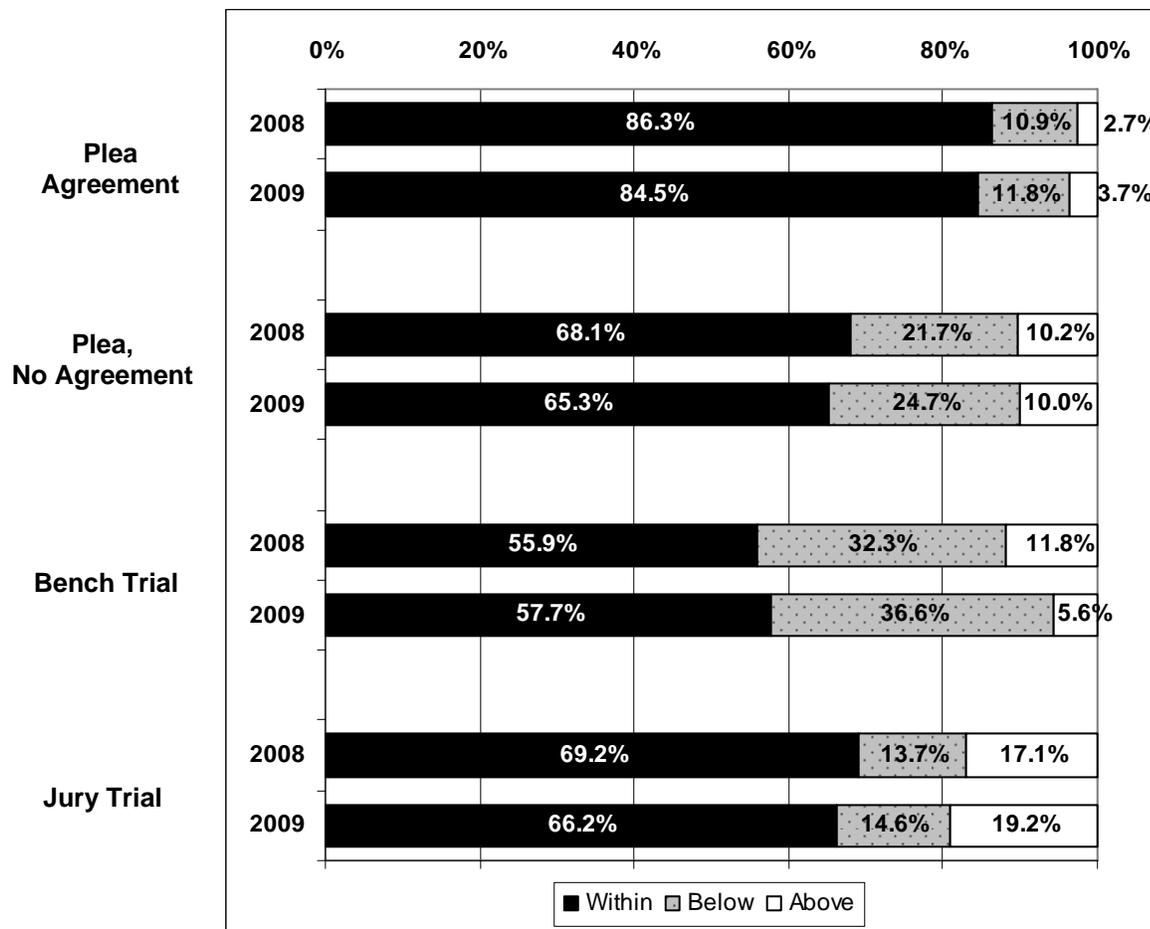


⁴ See Appendix D for sentencing guidelines compliance and average sentence for the five most common offenses in each crime category.

Judicial Compliance Rates by Type of Disposition

Figure 12 examines the extent to which judicial compliance rates varied by type of disposition (i.e., plea agreement, plea with no agreement, bench trial, and jury trial). Over the past two fiscal years, compliance rates remained relatively stable across all four disposition types. Plea agreements accounted for the highest percentage of compliant cases (84.5%) in fiscal year 2009. This is not surprising given that the plea agreement category includes ABA pleas, which as of July 2001, are defined as compliant. In contrast, cases disposed of by a bench trial fell short of the 65% compliance benchmark. Departures occurred 42.3% of the time among cases resolved by a bench trial, and downward departures were more common than upward departures. The compliance rate for cases adjudicated by a plea with no agreement was nearly identical to that of cases adjudicated by a jury trial. However, departures were more likely to be below the recommended guidelines for cases resolved by a plea with no agreement, while departures were more likely to be above the recommended guidelines for cases resolved by a jury trial.

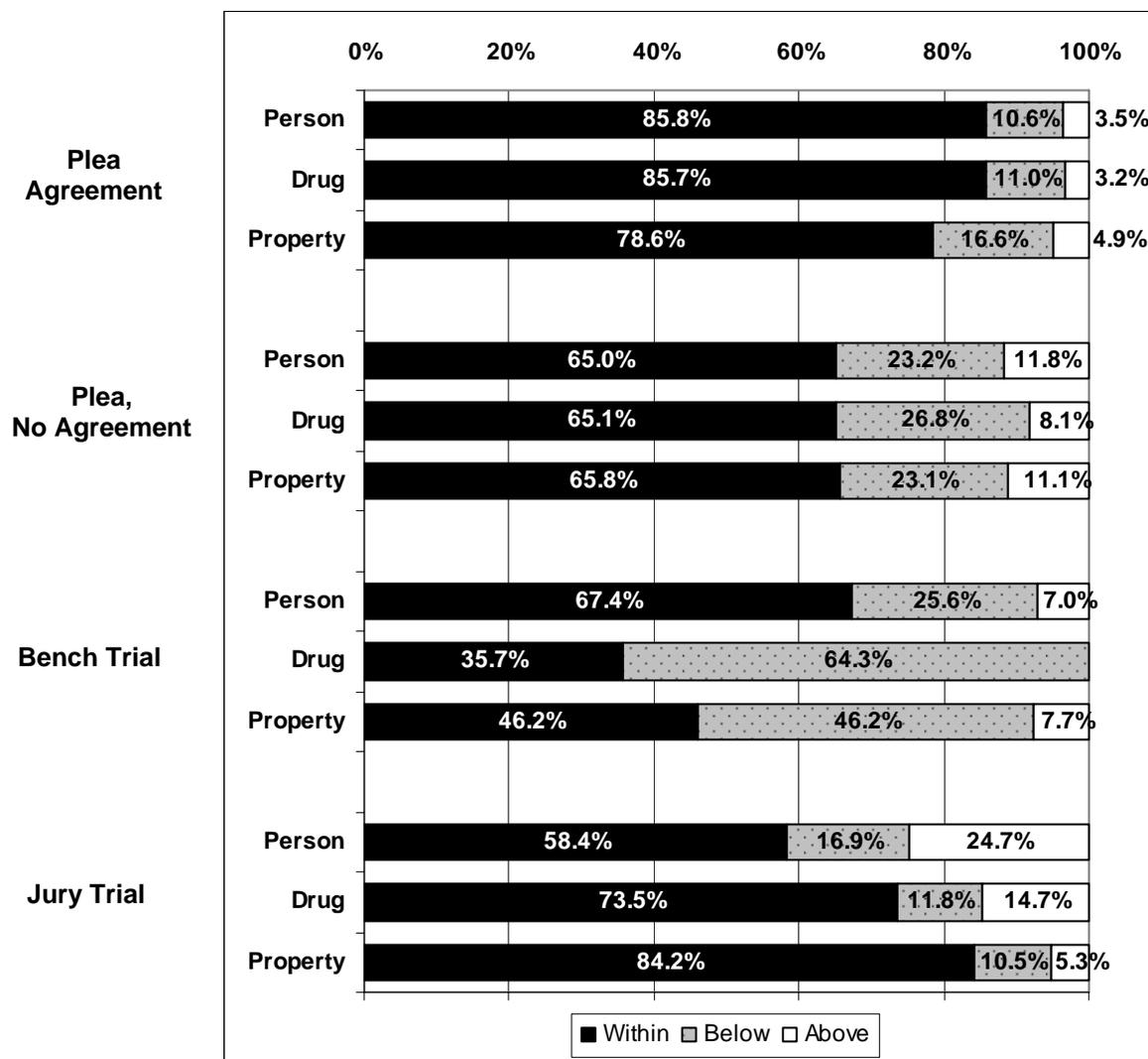
Figure 12. Sentencing Guidelines Compliance by Type of Disposition and Fiscal Year



Judicial Compliance Rates by Crime Category and Disposition

Compliance rates by crime category and disposition are displayed in Figure 13 for fiscal year 2009 and in Figure 14 for fiscal year 2008. It is important to keep in mind that some of the rates are based on a very small number of cases. For example, the MSCCSP received only 13 worksheets in fiscal year 2009 for single-count property offenses adjudicated by a bench trial.

Figure 13. Sentencing Guidelines Compliance by Crime Category and Disposition, 2009

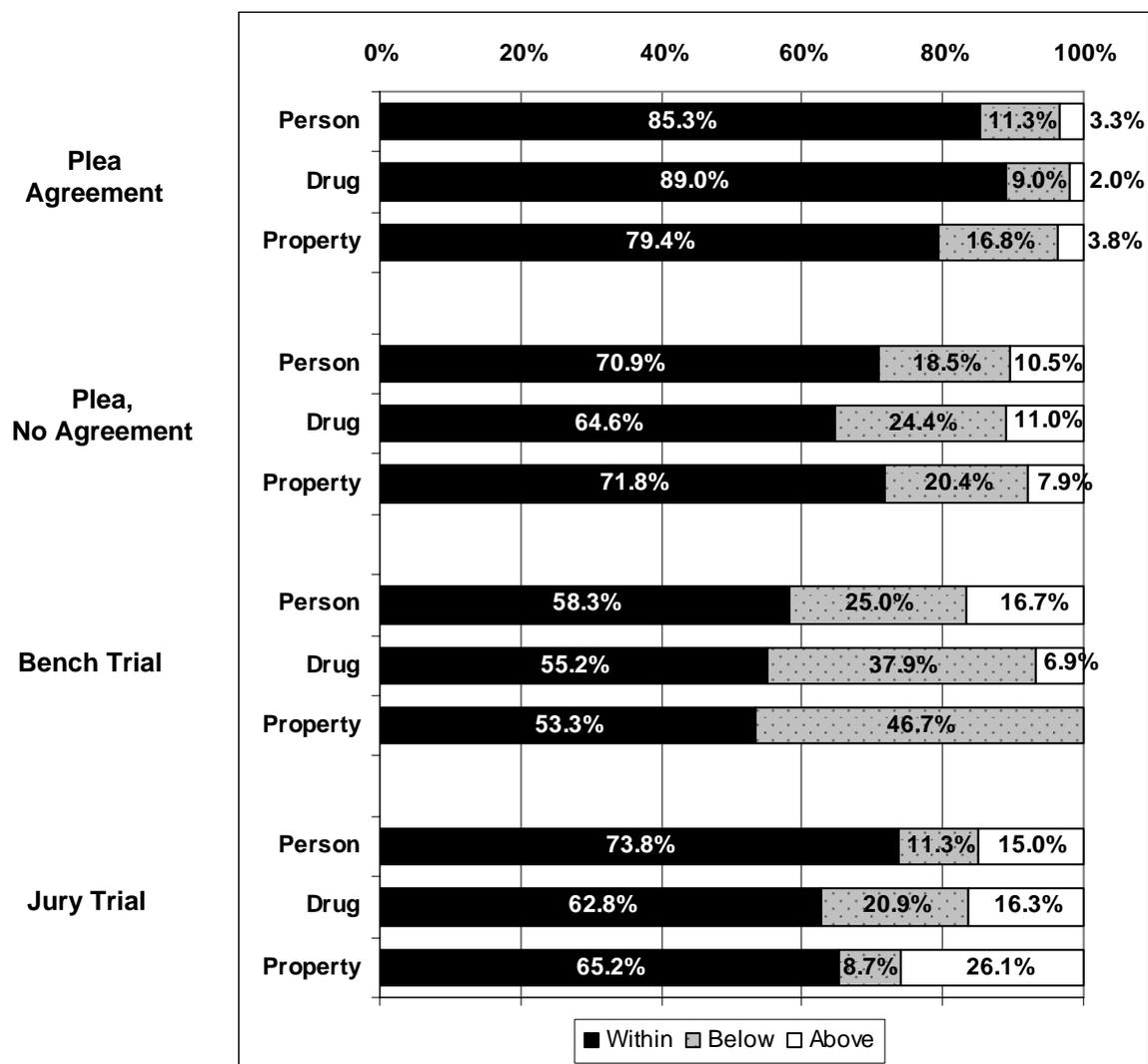


Looking first at the findings for 2009, the highest compliance rates were observed for person and drug offenses adjudicated by a plea agreement (85.8% and 85.7%, respectively) and property offenses adjudicated by a jury trial (84.2%). The other compliance rates to meet the benchmark of 65% were those for property offenses resolved by a plea agreement (78.6%); person, drug, and property offenses resolved by a plea with no agreement (65%, 65.1%, and 65.8%, respectively); person offenses resolved by a bench trial (67.4%); and drug offenses

resolved by a jury trial (73.5%). Drug offenses disposed of by a bench trial had the lowest compliance rate (35.7%), and all departures in this category were downward departures. Upward departures were most common among person offenses adjudicated by a jury trial (24.7%).

Figure 14 shows that the highest compliance rates for fiscal year 2008 were observed for person, drug, and property offenses adjudicated by a plea agreement (85.3%, 89%, and 79.4%, respectively). The other compliance rates to meet the benchmark of 65% were those for person, drug, and property offenses adjudicated by a plea with no agreement (70.9%, 64.6%, and 71.8%, respectively); and person and property offenses adjudicated by a jury trial (73.8% and 65.2%, respectively). Downward departures were most common among property offenses resolved by a bench trial (46.7%), while upward departures were most common among property offenses resolved by a jury trial (26.1%).

Figure 14. Sentencing Guidelines Compliance by Crime Category and Disposition, 2008



A comparison of Figures 13 and 14 indicates that the compliance rate dropped from above the 65% benchmark in fiscal year 2008 to below the 65% benchmark in fiscal year 2009 for person offenses resolved by a jury trial. Conversely, compliance rose from below the 65% benchmark in 2008 to above the 65% benchmark in 2009 for person offenses adjudicated by a bench trial, as well as drug offenses resolved by a jury trial.

Departure Reasons

COMAR regulation 14.22.01.05(A) directs the sentencing judge to document the reason or reasons for imposing a sentence outside of the recommended guidelines range on the guidelines worksheet. In order to facilitate the reporting of mitigating and aggravating departure reasons on the sentencing guidelines worksheet, the MSCCSP provides judges with a reference card which lists some of the more common departure reasons and includes a numerical departure code for each (Appendix E contains a list of these departure reasons). The worksheet allows for up to three departure codes to be reported and also provides a space for the judge to write in other reasons not contained on the reference card.

Tables 5 and 6 display the reasons given for departures from the guidelines in fiscal year 2009. The tables include all of the reasons listed on the reference card as well as the most commonly cited “other” reasons. Table 5 provides a rank order of the mitigating reasons judges provided for cases where the sentence resulted in a downward departure. The first row of the table shows that in 59.1% of downward departures, the reason(s) for departure was not provided.⁵ The most commonly cited reasons for downward departures were: 1) the parties reached a plea agreement that called for a reduced sentence; 2) recommendation of the State’s Attorney or Division of Parole and Probation; and 3) offender’s commitment to substance abuse treatment or other therapeutic program.

⁵ The MSCCSP is concerned that reasons for departure from the guidelines are underreported on the sentencing guidelines worksheet. Accordingly, the MSCCSP staff will continue to emphasize the need to include a reason for departure when providing training sessions. Additionally, the MSCCSP believes the eventual deployment of an automated sentencing guidelines system will help facilitate the collection of departure reasons by employing a “forced-field” that must be completed prior to the electronic submission of any sentence that is identified as a departure from the guidelines.

Table 5. Departure Reasons for Cases Below the Guidelines, Fiscal Year 2009^a

| Mitigating Reasons | Percent of Departures Where Reason is Cited | Valid Percent^b |
|---|--|----------------------------------|
| <i>No Departure Reason Given</i> | 59.1% | --- |
| The parties reached a plea agreement that called for a reduced sentence | 16.6% | 40.5% |
| Recommendation of State's Attorney or Division of Parole and Probation | 15.4% | 37.7% |
| Offender's commitment to substance abuse treatment or other therapeutic program | 5.3% | 12.9% |
| Offender's minor role in the offense | 3.3% | 8% |
| Offender made restorative efforts after the offense | 2% | 5% |
| Offender's age/health | 2% | 4.8% |
| Offender had diminished capability for judgment | 1.8% | 4.3% |
| Offender's prior criminal record not significant | 1.5% | 3.6% |
| Weak facts of the case | 1.5% | 3.6% |
| Victim's participation in the offense lessens the offender's culpability | 0.7% | 1.8% |
| Request of victim | 0.5% | 1.3% |
| Offender was influenced by coercion or duress | 0.2% | 0.5% |
| Other reason (not specified above) | 7.1% | 17.3% |

^a Multiple reasons may be cited in each case.

^b Valid percent is based on the number of cases below the guidelines where a reason is cited.

Table 6 provides a rank order of the aggravating reasons judges provided for cases where the sentence resulted in an upward departure. Here again, the first row of the table shows that in 58.1% of departures, the reason(s) for departure was not provided. The most commonly cited reasons for departures above the guidelines were: 1) recommendation of the State's Attorney or Division of Parole and Probation; 2) offender's major role in the offense; and 3) the level of harm was excessive or the vicious or heinous nature of the conduct.

Table 6. Departure Reasons for Cases Above the Guidelines, Fiscal Year 2009^a

| Aggravating Reasons | Percent of Departures Where Reason is Cited | Valid Percent^b |
|--|--|----------------------------------|
| <i>No Departure Reason Given</i> | 58.1% | --- |
| Recommendation of State's Attorney or Division of Parole and Probation | 18.7% | 44.7% |
| Offender's major role in the offense | 7.5% | 17.9% |
| The level of harm was excessive | 4.4% | 10.6% |
| The vicious or heinous nature of the conduct | 4.4% | 10.6% |
| Offender's significant participation in major controlled substance offense | 4.2% | 10.1% |
| Offender exploited a position of trust | 3.7% | 8.9% |
| Special circumstances of the victim | 3% | 7.3% |
| Offender's prior criminal record significant | 2.3% | 5.6% |
| Offender committed a "white collar" offense | 0.5% | 1.1% |
| Other reason (not specified above) | 12.9% | 30.7% |

^a Multiple reasons may be cited in each case.

^b Valid percent is based on the number of cases above the guidelines where a reason is cited.

ADDITIONAL INFORMATION COLLECTED IN RESPONSE TO LEGISLATIVE MANDATES

In 2002, the Maryland General Assembly passed House Bill 1143, requiring that the annual report of the MSCCSP “review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under §14-101 of the Criminal Law Article” and “categorize information on the number of reconsiderations of sentences by crimes as listed in §14-101 of the Criminal Law Article and by judicial circuit.” In anticipation of this mandate, the MSCCSP revised the sentencing guidelines worksheet to capture information on reconsidered sentences, adopted effective July 1, 2001. However, the MSCCSP has received a limited number of guidelines worksheets for sentence reconsiderations and therefore it is believed they are underreported to the MSCCSP. The MSCCSP communicated this belief to Chief Judge Robert Bell, and in February 2009, Judge Bell issued a memorandum to all circuit and county administrative judges reminding them that sentencing guidelines worksheets should be submitted for all reconsiderations of sentences involving a crime of violence. It is expected that this memorandum will help ensure that the MSCCSP is able to collect data on these reconsiderations.

More recently in 2004, the Maryland General Assembly passed House Bill 918, mandating the MSCCSP to include an entry location on the sentencing guidelines worksheet to allow for the reporting of the specific dollar amount, when available, of the economic loss to the victim for crimes involving theft and related crimes under Title 7 of the Criminal Law Article and fraud and related crimes under Title 8 of the Criminal Law Article. In response, the MSCCSP revised the sentencing guidelines worksheet to capture the amount of economic loss to the victim in theft and fraud related cases, adopted effective March 28, 2005.⁶ In the majority of cases with a conviction for a Title 7 or Title 8 offense, the amount of economic loss to the victim has been left blank on the worksheet. It is the belief of the MSCCSP that the initiation of the automated sentencing guidelines system will facilitate the state circuit courts in submitting this information. The available data on reconsidered sentences and economic loss for cases sentenced in fiscal year 2009 are summarized below.

⁶ The MSCCSP adopted the following definition of economic loss: the amount of restitution ordered by a circuit court judge or, if not ordered, the full amount of restitution that could have been ordered (COMAR 14.22.01.02.B(6-1)).

Report on Adjustments from Reconsidered Sentences

Although HB 1143 (2002) specifically calls for the review of reconsidered sentences for “crimes of violence” as defined in §14-101 of the Criminal Law Article, Annotated Code of Maryland, Table 7 reports the submissions of all reconsidered sentences reported to the MSCCSP for fiscal year 2009 by circuit. The table is based on reconsidered sentences for seventeen offenders and forty offenses. This represents an increase over fiscal year 2008 when the MSCCSP received worksheets on reconsiderations for thirteen offenders and twenty offenses. First degree assault [CR, §3-202] was the most common offense in reconsidered cases reported to the MSCCSP in fiscal year 2009.

Table 7. Case Reconsiderations, Fiscal Year 2009^a

| Circuit | Offense | # of Cases |
|----------------|---|-------------------|
| FIRST | Handgun Use in Felony or Crime of Violence | 1 |
| | Robbery with Dangerous Weapon | 1 |
| FOURTH | Assault, 1 st Degree | 1 |
| | Wear, Carry, Transport Handgun | 1 |
| FIFTH | Child Abuse, Sexual | 2 |
| | Assault, 2 nd Degree | 1 |
| | Misdemeanor Theft or Theft Scheme, Less Than \$500 | 1 |
| SIXTH | Assault, 1 st Degree | 1 |
| | Assault, 2 nd Degree | 1 |
| | Wear, Carry, Transport Handgun | 1 |
| | Driving While Under the Influence of Alcohol | 1 |
| | Robbery with Dangerous Weapon | 1 |
| | Sex Offense, 4 th Degree | 2 |
| SEVENTH | Assault, 1 st Degree | 2 |
| | Wear, Carry, Transport Handgun | 2 |
| | Carjacking, Armed | 3 |
| | Robbery | 1 |
| | Rape, 1 st Degree | 1 |
| | Sex Offense, 1 st Degree | 1 |
| | Distribution Non-narcotics (Drug Not Identified) | 1 |
| | Burglary, 1 st Degree | 4 |
| | Burglary, 4 th Degree | 1 |
| EIGHTH | Assault, 1 st Degree | 2 |
| | Handgun Use in Felony or Crime of Violence | 2 |
| | Robbery with Dangerous Weapon | 3 |
| | Robbery by Display of Written Instrument | 1 |
| | Possession of Firearm after COV or Felony Drug Conviction | 1 |

^a Table 7 is based on reconsidered sentences for 17 offenders and 40 offenses.

Economic Loss in Title 7 and Title 8 Crimes

In fiscal year 2009, 1,418 sentences for theft, fraud, and related crimes were reported to the MSCCSP. The amount of economic loss to the victim was recorded for only 313 (22.1%) of these cases. When reported, economic loss ranged in value from a minimum of no loss to a maximum of \$2,203,761. The average amount of loss was \$22,918. The majority of cases in which the amount of economic loss was reported on the sentencing guidelines worksheet involved a conviction for either misdemeanor theft or theft scheme, less than \$500 or felony theft or theft scheme, \$500 or greater (CR, §7-104).

MSCCSP PLANNED ACTIVITIES FOR 2010

The work of the MSCCSP in 2010 will largely be driven by pressing policy issues and concerns that develop throughout the course of the year. However, the MSCCSP has identified several activities that will likely be addressed in 2010.

The MSCCSP will work to update the Maryland Sentencing Guidelines Manual (MSGM) to incorporate modifications to the guidelines approved by the Commission at the end of 2009. Specifically, the MSGM will be revised to reflect the update in instructions for scoring the presence of a weapon, adopted at the December 8, 2009 meeting. Corresponding revisions will be made to the guidelines worksheet as well.

In 2010, the MSCCSP will continue to provide sentencing guidelines education and training and will work with the judiciary to maintain a guidelines orientation program for all new circuit court appointees. Furthermore, the MSCCSP will collaborate with programmers to finalize the development of the automated sentencing guidelines system and will provide orientation sessions for utilization of the automated sentencing guidelines system once it is fully implemented.

During the next year, the MSCCSP will continue to work closely with ARS to begin utilization of the sentencing/correctional simulation model to help determine the impact on the correctional population for any proposed changes to the guidelines. ARS will provide training for the MSCCSP staff and will review projections with the DPSCS to ensure accurate model specifications.

The Commission's Guidelines Subcommittee will continue to perform routine duties such as reviewing all criminal offenses and changes in the criminal code passed by the General Assembly during the upcoming legislative session, classifying the seriousness categories for these offenses, and submitting amendments to the AELR Committee for adoption in the COMAR. The Guidelines Subcommittee will also continue a detailed analysis of compliance rates and sentencing patterns within each cell of the three guidelines matrices. The Subcommittee on Sentencing Drug Offenders will continue to review alternatives to incarceration to ensure judges are able to utilize the most appropriate sanctions for offenders convicted of drug offenses.

The activities described above are just a few of the many steps that will taken by the Commission in 2010 to support the consistent, fair, and proportional application of sentencing practice in Maryland.

APPENDICES

Appendix A:

Sentencing Guidelines Matrices

| Sentencing Matrix for Offenses Against Persons (Revised 7/2001) | | | | | | | | |
|--|---------|---------|---------|---------|---------|---------|---------|-----------|
| Offender Score | | | | | | | | |
| Offense Score | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 or more |
| 1 | P | P | P-3M | 3M-1Y | 3M-18M | 3M-2Y | 6M-2Y | 1Y-3Y |
| 2 | P-6M | P-1Y | P-18M | 3M-2Y | 6M-3Y | 1Y-5Y | 18M-5Y | 3Y-8Y |
| 3 | P-2Y | P-2Y | 6M-3Y | 1Y-5Y | 2Y-5Y | 3Y-7Y | 4Y-8Y | 5Y-10Y |
| 4 | P-3Y | 6M-4Y | 1Y-5Y | 2Y-5Y | 3Y-7Y | 4Y-8Y | 5Y-10Y | 5Y-12Y |
| 5 | 3M-4Y | 6M-5Y | 1Y-6Y | 2Y-7Y | 3Y-8Y | 4Y-10Y | 6Y-12Y | 8Y-15Y |
| 6 | 1Y-6Y | 2Y-7Y | 3Y-8Y | 4Y-9Y | 5Y-10Y | 7Y-12Y | 8Y-13Y | 10Y-20Y |
| 7 | 3Y-8Y | 4Y-9Y | 5Y-10Y | 6Y-12Y | 7Y-13Y | 9Y-14Y | 10Y-15Y | 12Y-20Y |
| 8 | 4Y-9Y | 5Y-10Y | 5Y-12Y | 7Y-13Y | 8Y-15Y | 10Y-18Y | 12Y-20Y | 15Y-25Y |
| 9 | 5Y-10Y | 7Y-13Y | 8Y-15Y | 10Y-15Y | 12Y-18Y | 15-25Y | 18Y-30Y | 20Y-30Y |
| 10 | 10Y-18Y | 10Y-21Y | 12Y-25Y | 15Y-25Y | 15Y-30Y | 18Y-30Y | 20Y-35Y | 20Y-L |
| 11 | 12Y-20Y | 15Y-25Y | 18Y-25Y | 20Y-30Y | 20Y-30Y | 25Y-35Y | 25Y-40Y | 25Y-L |
| 12 | 15Y-25Y | 18Y-25Y | 18Y-30Y | 20Y-35Y | 20Y-35Y | 25Y-40Y | 25Y-L | 25Y-L |
| 13 | 20Y-30Y | 25Y-35Y | 25Y-40Y | 25Y-L | 25Y-L | 30Y-L | L | L |
| 14 | 20Y-L | 25Y-L | 28Y-L | 30Y-L | L | L | L | L |
| 15 | 25Y-L | 30Y-L | 35Y-L | L | L | L | L | L |

P=Probation, M=Months, Y=Years, L=Life

| Sentencing Matrix for Drug Offenses (Revised 10/2001) | | | | | | | | |
|---|---|----------|----------|----------|-----------|-----------|----------|------------------|
| Offender Score | | | | | | | | |
| Offense Seriousness Category | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 or more |
| VII | P | P | P | P-1M | P-3M | P-6M | 3M-6M | 6M-2Y |
| VI | Available for future use. There are currently no seriousness category VI drug offenses. | | | | | | | |
| V | P-6M | P-12M | 3M-12M | 6M-18M | 1Y-2Y | 1.5Y-2.5Y | 2Y-3Y | 3Y-4Y |
| IV | P-12M | P-18M | 6M-18M | 1Y-2Y | 1.5Y-2.5Y | 2Y-3Y | 3Y-4Y | 3.5Y-10Y |
| III-A Marijuana import 45 kilograms or more, and MDMA over 750 grams | P-18M | P-2Y | 6M-2Y | 1Y-4Y | 2Y-6Y | 3Y-8Y | 4Y-12Y | 10Y-20Y |
| III-B Non-marijuana and non-MDMA, Except Import | 6M-3Y | 1Y-3Y | 18M-4Y | 3Y-7Y | 4Y-8Y | 5Y-10Y | 7Y-14Y | 12Y-20Y |
| III-C Non-marijuana and non-MDMA, Import | 1Y-4Y | 2Y-5Y | 3Y-6Y | 4Y-7Y | 5Y-8Y | 6Y-10Y | 8Y-15Y | 15Y-25Y |
| II | 20Y-24Y | 22Y-26Y | 24Y-28Y | 26Y-30Y | 28Y-32Y | 30Y-36Y | 32Y-37Y | 35Y-40Y |

P=Probation, M=Months, Y=Years

| Sentencing Matrix for Property Offenses (Revised 7/2001) | | | | | | | | |
|--|----------|----------|----------|----------|----------|----------|----------|------------------|
| Offender Score | | | | | | | | |
| Offense Seriousness Category | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 or more |
| VII | P-1M | P-3M | 3M-9M | 6M-1Y | 9M-18M | 1Y-2Y | 1Y-3Y | 3Y-5Y |
| VI | P-3M | P-6M | 3M-1Y | 6M-2Y | 1Y-3Y | 2Y-5Y | 3Y-6Y | 5Y-10Y |
| V | P-6M | P-1Y | 3M-2Y | 1Y-3Y | 18M-5Y | 3Y-7Y | 4Y-8Y | 8Y-15Y |
| IV | P-1Y | 3M-2Y | 6M-3Y | 1Y-4Y | 18M-7Y | 3Y-8Y | 5Y-12Y | 10Y-20Y |
| III | P-2Y | 6M-3Y | 9M-5Y | 1Y-5Y | 2Y-8Y | 3Y-10Y | 7Y-15Y | 15Y-30Y |
| II | 2Y-5Y | 3Y-7Y | 5Y-8Y | 5Y-10Y | 8Y-15Y | 10Y-18Y | 12Y-20Y | 15Y-40Y |

P=Probation, M=Months, Y=Years

Appendix B:

Maryland Sentencing Guidelines Worksheet (version 1.5)

| MARYLAND SENTENCING GUIDELINES WORKSHEET | | | | OFFENDER NAME - Last, First, Middle | | | | SID# | | BIRTHDATE | | JURISDICTION | | | |
|---|--|--------------------|--|---|--|---|--|---|--|---|--|---|--|--|--|
| PSI | | DATE OF OFFENSE | | DATE OF SENTENCING | | DISPOSITION TYPE | | REPRESENTATION | | ETHNICITY | | RACE | | | |
| Yes ___ No ___ | | CORRECTED OFFENSES | | CRIMINAL EVENTS | | ABA plea agreement ___ Non-ABA plea agreement ___ Plea, no agreement ___ Court trial ___ | | Private ___ Public Defender ___ Court Appointed ___ Self ___ | | Hispanic/Latino Origin ___ Yes ___ No ___ | | Black ___ White ___ Native Hawaiian/Pacific Islander ___ American Indian/Alaskan Native ___ | | | |
| AT THIS SENTENCING, NUMBER OF: | | WORKSHEET # | | OF | | CRIMINAL EVENT # | | INDIGENOUS ESTABLISHED ___ Yes ___ No ___ | | STAT. MAX | | MAND. MIN | | | |
| CONVICTED OFFENSE TITLE | | | | I-VII | | | | MD. CODE, ART. & SECTION | | | | CASE # / DOCKET # | | | |
| 1 st Convicted Offense | | | | - | | | | - | | | | - | | | |
| 2 nd Convicted Offense | | | | - | | | | - | | | | - | | | |
| 3 rd Convicted Offense | | | | - | | | | - | | | | - | | | |
| OFFENSE SCORE(S) - Offense Against a Person Only | | | | OFFENSE SCORE | | | | GUIDELINES RANGE | | | | ACTUAL SENTENCE - Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Break the Cycle, Etc.) | | | |
| 1 st Off | | | | A. Relationship to CS When Instant Offense Occurred | | | | 1 st Con. Off. | | | | 1 st Convicted Offense | | | |
| 2 nd Off | | | | 0 = None or Pending Cases | | | | TO | | | | For Theft, Fraud, and Related Crimes, please indicate: (Economic loss \$, Restitution Requested, Subsequent Offense Proven) Yes ___ No ___ | | | |
| 3 rd Off | | | | 1 = Court or Other Criminal Justice Supervision | | | | | | | | | | | |
| 1 st Off | | | | B. Juvenile Delinquency | | | | 2 nd Con. Off. | | | | 2 nd Convicted Offense | | | |
| 2 nd Off | | | | 0 = 23 years or older or crime-free for 5 years or no more than 1 finding of a delinquent act | | | | TO | | | | For Theft, Fraud, and Related Crimes, please indicate: (Economic loss \$, Restitution Requested, Subsequent Offense Proven) Yes ___ No ___ | | | |
| 3 rd Off | | | | 1 = Under 23 years old and: 2. or more findings of a delinquent act or 1 commitment | | | | | | | | | | | |
| 1 st Off | | | | C. Prior Adult Criminal Record | | | | 3 rd Con. Off. | | | | 3 rd Convicted Offense | | | |
| 2 nd Off | | | | 0 = None 3 = Moderate | | | | TO | | | | For Theft, Fraud, and Related Crimes, please indicate: (Economic loss \$, Restitution Requested, Subsequent Offense Proven) Yes ___ No ___ | | | |
| 3 rd Off | | | | 1 = Minor 5 = Major | | | | | | | | | | | |
| 1 st Off | | | | D. Prior Adult Parole/Prob Violation | | | | Overall Guidelines Range | | | | Was the offender sentenced to a Corrections Options program under Commission criteria? Drug Court ___ Yes ___ No ___ Other ___ Yes ___ No ___ | | | |
| 2 nd Off | | | | 0 = No 1 = Yes | | | | Multiple counts Only | | | | Institutional/Parole Recommendation or Additional Information | | | |
| 3 rd Off | | | | | | | | TO | | | | Worksheet Completed By | | | |
| OFFENSE SCORE(S) | | | | OFFENDER SCORE | | | | 50% of Sentence Announced | | | | Parole Notification ___ Yes ___ No ___ | | | |
| SENTENCE DEPARTURE INFORMATION | | | | SENTENCE DEPARTURE INFORMATION | | | | Parole Notification | | | | Sentencing Judge's Signature | | | |
| If the actual sentence departs from the guidelines range, please indicate the Court's reason(s) using the numerical code(s) on the list of common departure factors in the manual, if applicable. | | | | If the actual sentence departs from the guidelines range, please indicate the Court's reason(s) using the numerical code(s) on the list of common departure factors in the manual, if applicable. | | | | Yes ___ No ___ | | | | Sentencing Judge (Please Print) | | | |
| Victim Unavailable | | | | Departure Code 9 or 18 (Please Explain): | | | | Title | | | | Sentencing Judge's Signature | | | |
| Victim Notified Date | | | | | | | | Parole Notification | | | | Sentencing Judge's Signature | | | |
| Victim Present | | | | | | | | Yes ___ No ___ | | | | Sentencing Judge's Signature | | | |
| Written VIS | | | | | | | | Yes ___ No ___ | | | | Sentencing Judge's Signature | | | |
| Oral VIS | | | | | | | | Yes ___ No ___ | | | | Sentencing Judge's Signature | | | |
| No Contact with Victim | | | | | | | | Yes ___ No ___ | | | | Sentencing Judge's Signature | | | |
| CIBC Cost Imposed | | | | | | | | Yes ___ No ___ | | | | Sentencing Judge's Signature | | | |

COPIES: White - Judge; Blue - Sentencing Commission; Green - Atty to Commitment or Probation Order; Yellow - File; Pink - Prosecution; Gold - Defense

Appendix C:

Description of Types of Disposition

| Disposition Type | Description |
|-------------------------|---|
| ABA Plea Agreement | The disposition resulted from a plea agreement that the court approved relating to a particular sentence, disposition, or other judicial action, and the agreement is binding on the court under Maryland Rule 4-243 (c). |
| Non-ABA Plea Agreement | The disposition resulted from a plea agreement reached by the parties but that was not approved by, and thus not binding on, the court. |
| Plea, No Agreement | The defendant pled guilty without any agreement from the prosecutor or judge to perform in a particular way. |
| Bench Trial | The disposition resulted from a trial without a jury in which the judge decided the factual questions. |
| Jury Trial | The disposition resulted from a trial in which the jury decided the factual questions. |
| Reconsideration | Reconsideration of a previously imposed sentence. |
| Review | Pursuant to Criminal Procedure Article, §8-105, a panel review of a previously imposed sentence. |
| Probation Revocation | Pursuant to Maryland Rule 4-347, a hearing to determine whether a violation has occurred, and if so, whether the probation should be revoked. |

Appendix D:

Sentencing Guidelines Compliance and Average Sentence by Offense Type, Fiscal Year 2009 (Most Common Person, Drug, and Property Offenses)

| Person Offenses | N | Guidelines Compliance | | | % Incarc. | Average Sentence Among Incarcerated | |
|---|-------|-----------------------|-------|-------|-----------|-------------------------------------|-----------------------|
| | | Within | Below | Above | | Total Sentence | Total, Less Suspended |
| Assault, 2 nd Degree | 879 | 82.5% | 11.8% | 5.7% | 71.7% | 4.8 years | 1 year |
| Robbery | 479 | 82.5% | 13.8% | 3.8% | 89.8% | 7.6 years | 2.4 years |
| Robbery with Dangerous Weapon | 251 | 71.7% | 23.1% | 5.2% | 88.8% | 10.7 years | 4.5 years |
| Wear, Carry, Transport Handgun | 219 | 95.4% | 4.6% | 0% | 75.8% | 2.4 years | 0.7 years |
| Assault, 1 st Degree | 207 | 62.8% | 32.4% | 4.8% | 87.4% | 13.2 years | 5.1 years |
| Drug Offenses | | | | | | | |
| Distribution Cocaine | 1,235 | 76.6% | 21.5% | 1.9% | 77% | 7.9 years | 2.7 years |
| Distribution Marijuana | 638 | 89.7% | 8.9% | 1.4% | 61.6% | 3.3 years | 0.8 years |
| Distribution Heroin | 618 | 88.7% | 10.8% | 0.5% | 70.4% | 7.3 years | 2 years |
| Possession Marijuana | 286 | 72% | 2.8% | 25.2% | 48.3% | .7 years | 0.2 years |
| Possession Cocaine | 238 | 77.7% | 16.8% | 5.5% | 72.4% | 2.8 years | 1.1 years |
| Property Offenses | | | | | | | |
| Theft or Theft Scheme, \$500 or Greater | 387 | 75.7% | 18.6% | 5.7% | 64.9% | 6.4 years | 1.9 years |
| Burglary, 1 st Degree | 226 | 76.5% | 21.2% | 2.2% | 78.9% | 7.2 years | 2.9 years |
| Burglary, 2 nd Degree | 185 | 73% | 23.8% | 3.2% | 75.1% | 7 years | 3 years |
| Theft or Theft Scheme, Less Than \$500 | 162 | 72.8% | 18.5% | 8.6% | 67.9% | 1.2 years | 0.6 years |
| Burglary, 4 th Degree | 137 | 67.9% | 18.2% | 13.9% | 62.8% | 2 years | 0.7 years |

Appendix E:

Common Departure Reasons Listed on the Sentencing Guidelines Departure Reference Card

| Departure Code | Mitigating Reasons |
|-----------------------|--|
| 1 | The parties reached a plea agreement that called for a reduced sentence. |
| 2 | Offender's minor role in the offense. |
| 3 | Offender was influenced by coercion or duress. |
| 4 | Offender had diminished capability for judgment. |
| 5 | Offender made restorative efforts after the offense. |
| 6 | Victim's participation in the offense lessens the offender's culpability. |
| 7 | Offender's commitment to substance abuse treatment or other therapeutic program. |
| 8 | Recommendation of State's Attorney or Division of Parole and Probation. |
| 9 | Other reason (not specified above). |
| Departure Code | Aggravating Reasons |
| 10 | Offender's major role in the offense. |
| 11 | The level of harm was excessive. |
| 12 | Special circumstances of the victim. |
| 13 | Offender exploited a position of trust. |
| 14 | Offender committed a "white collar" offense. |
| 15 | Offender's significant participation in major controlled substance offense. |
| 16 | The vicious or heinous nature of the conduct. |
| 17 | Recommendation of State's Attorney or Division of Parole and Probation. |
| 18 | Other reason (not specified above). |