

# MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY

## 2013 | ANNUAL REPORT



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**(Kieran Dowdy, Secretary's Representative)**

# **Maryland State Commission on Criminal Sentencing Policy**

**2013 | Annual Report**



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The MSCCSP would like to acknowledge the assistance of the following student interns who worked with the MSCCSP during the past year:

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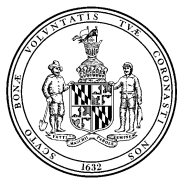
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# MSCCSP

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## Maryland State Commission on Criminal Sentencing Policy

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Hon. Diane O. Leasure

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James V. Anthenelli, Esq.  
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### Executive Director

David A. Soulé, Ph.D.

January 2014

To: The Honorable Martin J. O'Malley, Governor  
The Honorable Mary Ellen Barbera, Chief Judge 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 2013 Annual Report of the MSCCSP.

2013 was an important year for the MSCCSP, as it marked the 30<sup>th</sup> anniversary of statewide implementation of sentencing guidelines in Maryland. In recognition of this significant milestone, the 2013 Annual Report provides an in-depth history of Maryland's sentencing guidelines. This report also 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 2013. 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 2014. We hope that this report and the other resources provided by the MSCCSP help inform and promote fair, proportional, and non-disparate sentencing practices throughout Maryland.

The MSCCSP 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,

Judge Diane O. Leasure, (Ret.)  
Chair

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## EXECUTIVE SUMMARY

2013 marks the 30<sup>th</sup> anniversary of Maryland's sentencing guidelines, which were formally implemented statewide on July 1, 1983. As one of the first states to adopt sentencing guidelines, Maryland has a sentencing guidelines system with a noteworthy history. The Judicial Committee on Sentencing was formed in May 1978 by the Court of Appeals and recommended a system of voluntary, descriptive sentencing guidelines for use in circuit courts. Later in 1979, Maryland received a grant from the National Institute of Justice to participate in a multijurisdictional field test of sentencing guidelines. The sentencing guidelines were developed based on extensive collection and analysis of data on past sentencing practices in Maryland and were designed to account for both offender and offense characteristics in determining the appropriate sentence range. Beginning in June 1981, the sentencing guidelines were test piloted in four jurisdictions selected to represent a diverse mix of areas. After two years of experience with sentencing guidelines in Maryland on a test basis, the guidelines were formally adopted statewide in 1983 following approval by the Maryland General Assembly and a favorable vote by the Judicial Conference.

The present day guidelines are based on the same format used at the time when the guidelines were initially developed. The guidelines recommend whether an individual should be incarcerated and if so, provide a recommended sentence length 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 or reasons for sentencing outside the guidelines if they do so.

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: (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 the 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 2013, the MSCCSP classified new and amended offenses passed during the 2013 Legislative Session; reviewed and classified previously unclassified offenses; adopted an updated policy regarding retroactive completion of sentencing guidelines worksheets; specified the definition for a sentencing event and provided corresponding instructions to clarify when a guidelines worksheet should be submitted; and revised the victim-related questions on the sentencing guidelines worksheet. The MSCCSP also provided training and education to promote the consistent application of the sentencing guidelines, provided data and sentencing-related information to state agencies and other interested parties, and completed several data verification and data entry reviews to improve the accuracy of the sentencing guidelines data. The MSCCSP continued to assess the Maryland Automated Guidelines System (MAGS) pilot project and took steps to enhance the application, while preparing for the gradual roll-out of MAGS to other jurisdictions in the state. Finally, the Commission worked to enhance the scope of the sentencing/correctional simulation model by securing additional resources to guide its future use, continued to pursue funding opportunities for a proposed risk assessment feasibility study, and took preliminary actions for studying the juvenile delinquency component of the Offender Score.

In fiscal year 2013, the MSCCSP received guidelines worksheets for 10,295 sentencing events in the state's circuit courts. Worksheets for 940 of the 10,295 sentencing events were submitted electronically as part of the MAGS pilot in Montgomery County. The vast majority of cases were resolved by either an American Bar Association (ABA) plea agreement (42.3%) or a non-ABA plea agreement (39.6%). Approximately half of convicted defendants (52.5%) were sentenced to both incarceration and probation (as opposed to incarceration only, probation only, or neither). The average sentence length among those who were incarcerated (excluding suspended time) was 4.2 years.

The overall guidelines compliance rate in fiscal year 2013 well exceeded the Commission's goal of 65% compliance. When departures occurred, they were more often below the guidelines than above. All eight judicial circuits met the benchmark rate of 65% compliance, with the Seventh Circuit having the highest compliance rate. Departures were least likely for person

offenses, followed closely by property offenses and drug 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 plea with no agreement. When compliance rates by both crime category and disposition were considered, the highest compliance rate was observed for person offenses adjudicated by a plea agreement. Drug offenses resolved by a plea with no agreement had the lowest compliance rate, and the majority of departures in this category were below the guidelines.

Reasons for departure continued to be underreported in fiscal year 2013. 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.

The MSCCSP has several important activities planned for 2014. The MSCCSP will continue to provide sentencing guidelines education, training, and individual circuit court guidelines feedback sessions. Furthermore, the MSCCSP will continue to work with the Judiciary to establish a protocol for the expanded use of MAGS, as well as the development of a sentencing guidelines worksheet submission and tracking protocol. In January 2014, the MSCCSP will release MAGS 3.0, which will provide updates requested by MAGS users during the pilot period as well as additional enhancements identified by the MSCCSP. The MSCCSP will also consider the impact of 2013 Supreme Court decision *Peugh v. United States* on the Maryland sentencing guidelines, continue to pursue funding opportunities for the proposed risk assessment feasibility study, move forward with an empirical review of the juvenile delinquency component of the Offender Score, and continue to work to enhance the scope and accuracy of the sentencing/correctional simulation model. Finally, the Commission's Sentencing Guidelines Subcommittee will continue to perform routine duties, including reviewing all new criminal offenses and changes in the criminal code passed by the General Assembly during the upcoming legislative session and providing proposed seriousness category classifications for these offenses. The activities described above are just a few of the many steps that will be taken by the MSCCSP in 2014 to support the consistent, fair, and proportional application of sentencing practice in Maryland.

# THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY (MSCCSP)

## Guidelines Background

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### History of the Guidelines

2013 marks the 30<sup>th</sup> anniversary of Maryland's sentencing guidelines, which were formally implemented statewide on July 1, 1983. As one of the first states to adopt sentencing guidelines, Maryland has a sentencing guidelines system with a noteworthy history. The concept of judicial sentencing guidelines was introduced in Maryland in the late 1970s by the Judiciary in response to a growing concern regarding unwarranted sentencing disparity and a general interest in sentencing by the public, legislators, and other elected officials. The Judicial Committee on Sentencing was formed in May 1978 by the Court of Appeals to review recent developments in sentencing in the United States, study the major proposals for reform (e.g., determinate sentencing, mandatory sentencing, sentencing guidelines, sentencing councils), and consider sentencing practices in Maryland. In its report to the Maryland Judicial Conference, the Committee on Sentencing recommended a system of voluntary, descriptive sentencing guidelines for use in circuit courts only, which the Judicial Conference unanimously approved in April 1979. Propitiously, later that year Maryland received a grant from the National Institute of Justice to participate in a multijurisdictional field test of sentencing guidelines. Under the grant, a system of sentencing guidelines for Maryland's circuit courts was developed, along with an Advisory Board to oversee the guidelines. The sentencing guidelines were developed based on extensive collection and analysis of data on past sentencing practices in Maryland and were designed to account for both offender and offense characteristics in determining the appropriate sentence range. Beginning in June 1981, the sentencing guidelines were test piloted in four jurisdictions selected to represent a diverse mix of areas. At the conclusion of the test period in May 1982, the Judicial Conference decided to continue use of the sentencing guidelines in the pilot jurisdictions for an additional year, given the initial success of the guidelines. After two years of experience with sentencing guidelines in Maryland on a test basis, the guidelines were formally adopted statewide in 1983 following approval by the Maryland General Assembly and a favorable vote by the Judicial Conference.

Since that time, the sentencing guidelines have been subject to several important reviews. The first major review of the guidelines took place in 1984 and resulted in revisions to both the sentencing guidelines worksheet and the sentencing guidelines manual. In the beginning of

1987, a comprehensive review of the guidelines was conducted that was informed by over three years of sentencing data collected from the time of guidelines implementation. In addition to changes to the sentencing guidelines matrices and to the type of information collected on the guidelines worksheet, this revision added arson of a dwelling, escape, and perjury to the guidelines and provided that an offender's prior record remain the same across all convicted offenses in multiple event cases. Subsequently, in 1991, the Advisory Board began a complete review of the sentencing practices of circuit court judges, which ultimately spanned three years. Although the proposed revisions to the guidelines were eventually suspended, this review established the two-thirds guidelines compliance standard relied upon today by the MSCCSP when considering potential modifications to the guidelines. In addition to these notable revisions, there have been many other changes throughout the history of the guidelines, as it has always been the intention that the guidelines remain an accurate reflection of current sentencing practices in Maryland.

### **The Present Guidelines**

Pursuant to Criminal Procedure Article, §6-216, Annotated Code of Maryland, the circuit courts are required to consider the sentencing guidelines in deciding the proper sentence. The voluntary sentencing guidelines cover three categories of offenses: person, drug, and property. The guidelines recommend whether an individual should be incarcerated and if so, provide a recommended sentence length range. For each offense category, there is a separate grid or matrix in which each cell contains a recommended sentence range. 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 individual's offense score and offender score. For drug and property offenses, the offense score is determined by the seriousness of the offense (or "seriousness category"). For offenses against persons, the offense score is determined by the seriousness category, the physical or mental injury to the victim, the presence of a weapon, 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 measure 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 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.

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## **MSCCSP Background**

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The Maryland General Assembly created the Maryland 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 assumed the functions of the Sentencing Guidelines Advisory Board of the Judicial Conference, which was initially established in 1979 to develop and implement Maryland's sentencing guidelines. 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 through 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” (1999 Md. Laws ch. 648). The MSCCSP also has authority to “adopt guidelines to identify defendants who would be

appropriate for participation in corrections options programs” (1999 Md. Laws ch. 648). 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.

Pursuant to Criminal Procedure Article, §6-210, the MSCCSP is required to collect sentencing guidelines worksheets, automate the information contained in the worksheets, monitor sentencing practice and adopt changes to the sentencing guidelines matrices. The Maryland sentencing guidelines worksheet enables the MSCCSP to collect criminal sentencing data from Maryland state and local agencies involved in criminal sentencing in order to meet these requirements. Worksheets are completed by criminal justice practitioners for guidelines-eligible criminal cases prosecuted in circuit court to determine the recommended sentencing outcome and to record sentencing data. A copy of the Maryland sentencing guidelines worksheet is provided in Appendix B. After a worksheet is completed, the sentencing judge is expected to review the worksheet for completeness and accuracy (COMAR 14.22.01.03. F(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 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.

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## **MSCCSP Structure**

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The MSCCSP 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 the House of Delegates, as well as public representatives.

The Honorable Diane O. Leasure was appointed as the chair of the MSCCSP by Governor Martin O'Malley on August 8, 2011 for a term of four years from July 1, 2011. Other Governor appointees include James V. Anthenelli and Paul F. Enzinna, defense attorneys who serve as the two public representatives on the Commission; Colonel Marcus L. Brown, Superintendent of the Maryland State Police who serves as the representative from law enforcement; the Honorable Joseph I. Cassilly, State's Attorney for Harford County who serves as the representative for the Maryland State's Attorney's Association; LaMonte E. Cooke, Director of Correctional Services for Queen Anne's County who serves as the local correctional facilities representative; Richard A. Finci, criminal defense attorney who serves as the representative for the Maryland Criminal Defense Attorneys' Association; the Honorable Laura L. Martin, State's Attorney for Calvert County who serves as the victims' advocacy group representative; and Dr. Charles F. Wellford from the University of Maryland, the criminal justice/corrections policy expert.



On June 30<sup>th</sup>, 2013, Dr. Wellford stepped down as a Commissioner of the Maryland Sentencing Commission. Dr. Wellford devoted more than 18 years to the Commission, serving first as a member of the original Study Commission beginning in 1996 and then also as a member of the permanent Commission since its inception in 1999. During his tenure, Dr. Wellford made many significant contributions to the Sentencing Commission. He was appointed as the chair of the Research and Statistical Modeling Subcommittee in 1996 and he then assumed the role of chair of the Guidelines Subcommittee in 1998. Dr. Wellford served as chair of the Guidelines Subcommittee from 1998 until June of this past year and also served as Vice-Chair of the Commission since 2001. As an academic researcher, Dr. Wellford authored Commission reports on unwarranted sentencing disparity and a report examining time served practices in Maryland. Dr. Wellford's invaluable contributions to the MSCCSP were recognized in a ceremony on June 30, 2013. The Honorable Andrew L. Sonner was appointed by Governor O'Malley on December 27, 2013 to serve as Dr. Wellford's successor for the criminal justice/corrections policy expert position.

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 Alfred Nance, Circuit Court of Baltimore City; and Judge John P. Morrissey, 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 State Public Defender, Paul B. DeWolfe; and the Secretary of the Department of Public Safety and Correctional Services, Gary D. Maynard. Effective December 12, 2013, Gregg L. Hershberger was appointed as the Acting Secretary of the Department of Public Safety and Correctional Services, as Secretary Maynard moved to a new position with the Criminal Justice Institute.

The MSCCSP is a state agency within the Executive Branch of Maryland, and its office is located at the University of Maryland in College Park. In an effort to allow the Commission to benefit from the shared research resources of the university, the Commission's staff office was set up under the guidance of the Department of Criminology and Criminal Justice. The University of Maryland connection reinforces the independent status of the Commission by ensuring non-partisan review and analyses of sentencing data. The MSCCSP and University of Maryland relationship is mutually beneficial, as the MSCCSP relies on student interns for a substantial portion of its data entry requirements, while also receiving administrative and information technology support from the university. In return, the university benefits from opportunities for students to develop research and practical skills through internships at the MSCCSP.





## MSCCSP ACTIVITIES IN 2013

The MSCCSP held two meetings in 2013. The meetings were held on May 14, 2013 and June 25, 2013. In addition, the Commission had planned to hold meetings on October 8, 2013 and December 10, 2013, as well as its annual public comments hearing on December 10, 2013. However, the October meeting was postponed to allow additional time for research on the topics for discussion, and the December meeting and annual public comments hearing were cancelled due to inclement weather. The minutes for all Commission meetings, as well as the written testimony submitted in advance of the annual public comments hearing, are posted on the Commission's website ([www.msccsp.org](http://www.msccsp.org)). The following discussion provides a review of the Commission's activities in 2013.

### Modifications Related to New and Amended Offenses Passed During the 2013 Legislative Session

The MSCCSP reviewed new crime legislation from the 2013 Legislative Session and identified many new offenses which required the adoption of seriousness categories. The 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 reviewed by the MSCCSP at the June 25, 2013 meeting. The new seriousness categories were submitted to the Administrative, Executive, and Legislative Review (AELR) Committee and were adopted in the COMAR effective November 1, 2013.

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session**

Legislation	Statute	Offense	Statutory Maximum	Adopted Seriousness Category
Chapter 366 HB 311	CR, §3-609	<b>Abuse and Other Offensive Conduct</b> Failure to report death of a minor	3 years	VI
Chapter 366 HB 311	CR, §3-608	<b>Abuse and Other Offensive Conduct</b> Failure to report disappearance of a minor	3 years	VI
Chapter 380 SB 534/HB 631	FL, §5-705.2 (penalty)	<b>Abuse and Other Offensive Conduct</b> Prevent or interfere with the making of a report of suspected child abuse or neglect	5 years	V

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session (continued)**

<b>Legislation</b>	<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Adopted Seriousness Category</b>
Chapter 635 SB 444/HB 709	CR, §1-301(b)(1)	<b>Accessory after the Fact</b> Accessory after the fact to 1 <sup>st</sup> degree murder	10 years	V
Chapter 635 SB 444/HB 709	CR, §1-301(b)(2)	<b>Accessory after the Fact</b> Accessory after the fact to 2 <sup>nd</sup> degree murder	10 years	V
Chapter 415 HB 1396	CR, §8-103 CR, §8-106(a)(3)	<b>Bad Check</b> Felony bad check, \$100,000 or greater	25 years	V
Chapter 415 HB 1396	CR, §8-103 CR, §8-106(a)(2)	<b>Bad Check</b> Felony bad check, at least \$10,000 but less than \$100,000	15 years	V
Chapter 415 HB 1396	CR, §8-103 CR, §8-106(a)(1)	<b>Bad Check</b> Felony bad check, at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §8-103 CR, §8-106(c)	<b>Bad Check</b> Misdemeanor bad check, less than \$1,000	18 months	VII
Chapter 415 HB 1396	CR, §8-103 CR, §8-106(b)	<b>Bad Check</b> Multiple bad checks within a 30-day period, each less than \$1,000 and totaling \$1,000 or more	10 years	V
Chapter 99 HB 349	BR, §5-712(b)(1)(ii), (b)(2)(ii)	<b>Commercial Fraud, Other</b> Failure to deposit money received under or in connection with preneed burial contract, 2 <sup>nd</sup> offense	2 years	VII
Chapter 99 HB 349	BR, §5-712(b)(1)(iii), (b)(2)(iii)	<b>Commercial Fraud, Other</b> Failure to deposit money received under or in connection with preneed burial contract, 3 <sup>rd</sup> or subsequent offense	3 years	VI
Chapter 99 HB 349	BR, §5-610(c)	<b>Commercial Fraud, Other</b> Misappropriation or fraudulent conversion of perpetual care trust funds in excess of \$100	10 years	V
Chapter 99 HB 349	BR, §5-712(c)	<b>Commercial Fraud, Other</b> Misappropriation or fraudulent conversion of preneed trust funds in excess of \$100	10 years	V
Chapter 99 HB 349	BR, §5-610(a)(2), (b)(2) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 2 <sup>nd</sup> offense	2 years	VII

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session (continued)**

<b>Legislation</b>	<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Adopted Seriousness Category</b>
Chapter 99 HB 349	BR, §5-610(a)(3), (b)(3) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 3 <sup>rd</sup> or subsequent offense	3 years	VI
Chapter 99 HB 349	BR, §5-904(2) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 2 <sup>nd</sup> offense	2 years	VII
Chapter 99 HB 349	BR, §5-904(3) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 3 <sup>rd</sup> or subsequent offense	3 years	VI
Chapter 464 SB 383/HB 291	RP, §7-509 (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Maryland Mortgage Assistance Relief Services Act	3 years	VI
Chapter 415 HB 1396	CR, §8-206(c)(1)(iii) CR, §8-207(b)(1)(iii) CR, §8-209(b)(1)(iii)	<b>Credit Card Crimes</b> Felony credit card crimes, \$100,000 or greater	25 years	V
Chapter 415 HB 1396	CR, §8-206(c)(1)(ii) CR, §8-207(b)(1)(ii) CR, §8-209(b)(1)(ii)	<b>Credit Card Crimes</b> Felony credit card crimes, at least \$10,000 but less than \$100,000	15 years	V
Chapter 415 HB 1396	CR, §8-206(c)(1)(i) CR, §8-207(b)(1)(i) CR, §8-209(b)(1)(i)	<b>Credit Card Crimes</b> Felony credit card crimes, at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §8-206(c)(2) CR, §8-207(b)(2) CR, §8-209(b)(2)	<b>Credit Card Crimes</b> Misdemeanor credit card crimes, less than \$1,000	18 months	VII
Chapter 415 HB 1396	CR, §3-701(c)(3)	<b>Extortion and Other Threats</b> Felony Extortion—by anyone, \$100,000 or greater	25 years	II
Chapter 415 HB 1396	CR, §3-701(c)(2)	<b>Extortion and Other Threats</b> Felony Extortion—by anyone, at least \$10,000 but less than \$100,000	15 years	IV
Chapter 415 HB 1396	CR, §3-701(c)(1)	<b>Extortion and Other Threats</b> Felony Extortion—by anyone, at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §3-701(d)	<b>Extortion and Other Threats</b> Misdemeanor Extortion—by anyone, less than \$1,000	18 months	VII

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session (continued)**

<b>Legislation</b>	<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Adopted Seriousness Category</b>
Chapter 415 HB 1396	CR, §3-702(e)	<b>Extortion and Other Threats</b> Felony Extortion—by State or local officer, \$100,000 or greater	25 years	II
Chapter 415 HB 1396	CR, §3-702(d)	<b>Extortion and Other Threats</b> Felony Extortion—by State or local officer, at least \$10,000 but less than \$100,000	15 years	IV
Chapter 415 HB 1396	CR, §3-702(c)	<b>Extortion and Other Threats</b> Felony Extortion—by State or local officer, at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §3-702(f)	<b>Extortion and Other Threats</b> Misdemeanor Extortion—by State or local officer, less than \$1,000	18 months	VII
Chapter 656 SB 770/HB 941	CR, §3-807(b)(1)	<b>False Statements, Other</b> File false lien or encumbrance or make false statement on lien or encumbrance, 1 <sup>st</sup> offense	1 year	VII
Chapter 656 SB 770/HB 941	CR, §3-807(b)(2)	<b>False Statements, Other</b> File false lien or encumbrance or make false statement on lien or encumbrance, <b>subsequent</b>	5 years	VI
Chapter 415 HB 1396	CR, §8-801(c)(1)(iii)	<b>Fraud, Financial Crimes Against Vulnerable Adults</b> Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, \$100,000 or greater	25 years	II
Chapter 415 HB 1396	CR, §8-801(c)(1)(ii)	<b>Fraud, Financial Crimes Against Vulnerable Adults</b> Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$10,000 but less than \$100,000	15 years	IV
Chapter 415 HB 1396	CR, §8-801(c)(1)(i)	<b>Fraud, Financial Crimes Against Vulnerable Adults</b> Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$1,000 but less than \$10,000	10 years	V

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session (continued)**

<b>Legislation</b>	<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Adopted Seriousness Category</b>
Chapter 415 HB 1396	CR, §8-801(c)(2)	<b>Fraud, Financial Crimes Against Vulnerable Adults</b> Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, less than \$1,000	18 months	VII
Chapter 415 HB 1396	CR, §8-301(b), (c) CR, §8-301(g)(1)(iii) (penalty)	<b>Identity Fraud</b> Possess, obtain personally identifying information or willfully assume the identity of another, benefit \$100,000 or greater	25 years	II
Chapter 415 HB 1396	CR, §8-301(b), (c) CR, §8-301(g)(1)(ii) (penalty)	<b>Identity Fraud</b> Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$10,000 but less than \$100,000	15 years	IV
Chapter 415 HB 1396	CR, §8-301(b), (c) CR, §8-301(g)(1)(i) (penalty)	<b>Identity Fraud</b> Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §8-301(b), (c) CR, §8-301(g)(2) (penalty)	<b>Identity Fraud</b> Possess, obtain personally identifying information or willfully assume the identity of another, benefit less than \$1,000	18 months	VII
Chapter 415 HB 1396	CR, §8-301(d) CR, §8-301(g)(1)(iii) (penalty)	<b>Identity Fraud</b> Use a re-encoder or skimming device for purpose of identity theft, benefit \$100,000 or greater	25 years	II
Chapter 415 HB 1396	CR, §8-301(d) CR, §8-301(g)(1)(ii) (penalty)	<b>Identity Fraud</b> Use a re-encoder or skimming device for purpose of identity theft, benefit at least \$10,000 but less than \$100,000	15 years	IV
Chapter 415 HB 1396	CR, §8-301(d) CR, §8-301(g)(1)(i) (penalty)	<b>Identity Fraud</b> Use a re-encoder or skimming device for purpose of identity theft, benefit at least \$1,000 but less than \$10,000	10 years	V
Chapter 415 HB 1396	CR, §8-301(d) CR, §8-301(g)(2) (penalty)	<b>Identity Fraud</b> Use a re-encoder or skimming device for purpose of identity theft, benefit less than \$1,000	18 months	VII

**Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2013 Legislative Session (continued)**

<b>Legislation</b>	<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Adopted Seriousness Category</b>
Chapter 415 HB 1396	CR, §6-301(b)	<b>Malicious Destruction and Related Crimes</b> Destruction of property, \$1,000 or greater	3 years	VII
Chapter 415 HB 1396	CR, §6-301(c)	<b>Malicious Destruction and Related Crimes</b> Destruction of property, less than \$1,000	60 days	VII
Chapter 415 HB 1396	CR, §8-509 CR, §8-510 CR, §8-511 CR, §8-512 CR, §8-513 CR, §8-514 CR, §8-515 CR, §8-516	<b>Public Fraud</b> State health plan fraud, \$1,000 or greater	5 years	V
Chapter 415 HB 1396	CR, §8-509 CR, §8-510 CR, §8-511 CR, §8-512 CR, §8-513 CR, §8-514 CR, §8-515 CR, §8-516	<b>Public Fraud</b> State health plan fraud, less than \$1,000	3 years	VII
Chapter 164 SB 19/HB 12	CR, §3-807	<b>Stalking and Harassment</b> Aiming laser pointer at aircraft	3 years	VI
Chapter 369 SB 1052/HB 396	CR, §3-805(b)(2) CR, §3-805(e) (penalty)	<b>Telecommunications and Electronics, Crimes Involving</b> Use an interactive computer service to inflict emotional distress on a minor or place a minor in fear of death or serious bodily injury	1 year	VII
Chapter 427 SB 281/HB 294	PS, §5-145	<b>Weapons Crimes—In General</b> Failure by licensed firearms dealer to comply with record-keeping and reporting requirements, <b>subsequent</b>	3 years	VI
Chapter 427 SB 281/HB 294	CR, §4-110	<b>Weapons Crimes—In General</b> Possess or use restricted firearm ammunition in a crime of violence	5 years	V
Chapter 427 SB 281/HB 294	PS, §5-133.1	<b>Weapons Crimes—In General</b> Possession of ammunition by a restricted person or after having been convicted of a crime of violence or select drug crimes	1 year	VII

The MSCCSP considered amended crime legislation from the 2013 Legislative Session and identified five offenses which required review due to changes to the penalty structure. The MSCCSP also identified one offense amended prior to the 2013 Legislative Session that had not yet been considered by the Commission and therefore required review. For each offense, the MSCCSP decided to maintain the existing seriousness category classification. However, the offenses still required modifications to the Guidelines Offense Table to reflect revisions to the statutory maximum penalties. The six amended offenses and the various revisions are noted in Table 2. The offense table updates were submitted to the AELR Committee and were adopted in the COMAR effective November 1, 2013.

**Table 2. Guidelines Offenses and Adopted Seriousness Categories Related to Amended Offenses, 2013 Legislative Session and Earlier**

Legislation	Statute	Offense	Prior Stat. Max. / Seriousness Category	New Stat. Max. / Seriousness Category
<i>(Amendment occurred prior to 2013)</i>	EN, §9-343(b) (penalty)	<b>Public Health and Safety, Crimes Against</b> Pollutants—dispersing into State waters, falsification	6 months / VII	2 years / VII <sup>a</sup>
Chapter 146 HB 1088	BR, §19-304(a)-(d) BR, §19-304(f)	<b>Commercial Fraud, Other</b> Violations of law relating to returnable containers and returnable textiles, 1 <sup>st</sup> offense	1 year / VII fine only / NA	no change 1 year / VII
Chapter 146 HB 1088	BR, §19-304(a)-(d) BR, §19-304(f)	<b>Commercial Fraud, Other</b> Violations of law relating to returnable containers and returnable textiles, <b>subsequent</b>	1 year / VII fine only / NA	3 years / VII 3 years / VII
Chapter 146 HB 1088	BR, §19-308(e)(1)	<b>Commercial Fraud, Other</b> Violations of law relating to plastic secondary packaging, 1 <sup>st</sup> offense	fine only / NA	1 year / VII
Chapter 146 HB 1088	BR, §19-308(e)(2)	<b>Commercial Fraud, Other</b> Violations of law relating to plastic secondary packaging, <b>subsequent</b>	fine only / NA	3 years / VII
Chapter 391 HB 806	HO, §19-407	<b>Fraud, Miscellaneous</b> Violation of any provision of Health Occupations Article, Title 19, Subtitle 4	90 days / VII	2 years / VII <sup>a</sup>

<sup>a</sup> No change to seriousness category.

### **Additional Modifications to the Guidelines Offense Table in 2013**

In its continued review of seriousness categories for all criminal offenses sentenced in the state's circuit courts, the MSCCSP identified four additional offenses that were not previously classified

by the Commission. The Commission reviewed the four offenses listed in Table 3 during the June 25, 2013 meeting and adopted seriousness categories and offense type classifications consistent with those for similar offenses. These offenses and their respective classifications were submitted to the AELR Committee and were adopted in the COMAR effective November 1, 2013.

**Table 3. Adopted Seriousness Categories for Previously Unclassified Offenses**

<b>Statute</b>	<b>Offense</b>	<b>Statutory Maximum</b>	<b>Offense Type</b>	<b>Adopted Seriousness Category</b>
BR, §5-610(a)(1), (b)(1) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 1 <sup>st</sup> offense	1 year	Property	VII
BR, §5-712(b)(1)(i), (b)(2)(i)	<b>Commercial Fraud, Other</b> Failure to deposit money received under or in connection with preneed burial contract, 1 <sup>st</sup> offense	1 year	Property	VII
BR, §5-904(1) (penalty)	<b>Commercial Fraud, Other</b> Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 1 <sup>st</sup> offense	1 year	Property	VII
HO, §14-601 HO, §14-602 HO, §14-606(a)(4) (penalty)	<b>Fraud, Miscellaneous</b> Practicing medicine without a license or misrepresentation as practitioner of medicine	5 years	Person	VI

### **Retroactive Completion of Sentencing Guidelines Worksheets**

During the course of the Maryland Automated Guidelines System (MAGS) pilot project, the MSCCSP staff has worked closely with the Montgomery County Circuit Court (MCCC) staff to track guidelines worksheet initiation, completion, and submission. The MCCC developed programming code within their court case management system to identify all guidelines-eligible cases based on criteria developed by the MSCCSP. The MCCC researchers were able to use this programming code to identify eligible cases where a worksheet was not initiated in MAGS. In instances where the guidelines worksheet was missing, the MCCC asked whether the judge or the judge's designee was expected to initiate and complete a guidelines worksheet in MAGS after the sentencing hearing had already taken place.

The MSCCSP reviewed this issue at the May 14, 2013 meeting. The primary intention of the guidelines worksheet process is to calculate the guidelines in advance of sentencing, so that the guidelines can help inform the sentencing decision. However, a second priority of the guidelines



worksheet completion and submission process is to collect data on all guidelines cases so that the MSCCSP can analyze the sentences and use that information to inform future decisions regarding the sentencing guidelines. The MSCCSP staff researched this issue to determine whether the Administrative Office of the Courts (AOC), who collected the guidelines worksheets prior to the establishment of the MSCCSP, had established a policy regarding retroactive completion of guidelines worksheets. The staff located a memorandum written in May 1999 from the Study Commission staff addressed to Judge McAuliffe, Chair of the Study Commission. The memorandum provided a summary of a Study Commission staff meeting with AOC staff regarding the guidelines worksheet process. The AOC indicated that they employed a quality assurance group to “chase paper.” If it was determined that a sentencing guidelines worksheet was missing for a specific case, then a blank worksheet was sent to the judge for retroactive completion.

Given the procedures employed by the AOC for collection of guidelines worksheets after sentencing, the MSCCSP agreed to adopt a similar policy regarding retroactive completion of sentencing guidelines worksheets to ensure that the work of the MSCCSP is informed by data from a complete enumeration of guidelines-eligible cases. Accordingly, the MSCCSP approved the following revision to Section 3.1 of the MSGM, adopted effective November 1, 2013 (new language is underlined):

The Sentencing Guidelines Worksheet should be completed and submitted for all “Guidelines Offenses” as defined in chapter 2. A Guidelines offense means an offense prosecuted in a Maryland Circuit Court. Guidelines offenses include new trials, reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland), and reviews. Guidelines worksheets for reconsiderations and reviews only need to be completed when there is an adjustment to an active sentence. If it is determined that a guidelines worksheet was not completed for a guidelines eligible case at the time of the sentencing hearing, the judge or judge’s designee is encouraged to complete and submit the guidelines worksheet retroactively to ensure that the data analyzed by the MSCCSP is a comprehensive enumeration of guidelines eligible cases.

At the May 14, 2013 meeting, the MSCCSP also reviewed whether a guidelines worksheet should be submitted for a re-sentencing aside from reconsiderations for a COV and reviews, which already require a guidelines worksheet. Given the vast number of re-sentencing scenarios that can and do occur, the MSCCSP determined that it should be left to the discretion of the sentencing judge as to whether a worksheet should be completed for a re-sentencing.

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## Defining a Sentencing Event

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At the May 14, 2013 meeting, the MSCCSP reviewed a proposal to establish a definition for a sentencing event. COMAR 14.22.01.02 provides the definition of a “criminal event” for purposes of calculating the guidelines. The *criminal event* definition is critical to the guidelines calculation process in cases involving multiple convicted offenses, as the overall guidelines are determined based largely on whether the convicted offenses occurred during the course of one *single criminal event* or during *multiple criminal events*. The MSGM instructs that the individual completing the worksheet is to use at least one worksheet for each event (MSGM, p. 6). During the course of the MAGS pilot project, it became evident that these instructions may be causing confusion, as some were interpreting this to mean that they should initiate an entirely new and separate set of guidelines worksheets for each criminal event. As a result, guidelines were being calculated for each criminal event, but not for the overall sentencing event. To minimize the confusion, the MSCCSP unanimously approved the addition of the definition of a *sentencing event* to the COMAR (and corresponding language in the MSGM), as well as adding instructions to indicate that only one set of guidelines should be completed for each sentencing event. The following language was adopted in the COMAR, effective November 1, 2013 (new language is underlined):

COMAR 14.22.01.02, Definitions:

(16) “Sentencing event” means a sentencing disposition or hearing for an individual defendant conducted in front of one judge on the same day.

COMAR 14.22.01.03, Sentencing Guidelines Worksheet:

### E. Sentencing Event.

- (1) One set of sentencing guidelines should be completed for each sentencing event.
- (2) Multiple criminal events (as often indicated by multiple unique case numbers) sentenced by the same judge on the same day constitute one sentencing event, and only one set of guidelines worksheets should be completed for all of the counts in the sentencing event.
- (3) The offender score includes any adjudication of guilt prior to the current sentence date and is the same for each offense in the sentencing event.
- (4) The overall sentence across all included offenses is compared to the overall guidelines for the sentencing event to determine if the sentence is a departure from the guidelines.

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## Updates to the Maryland Sentencing Guidelines Worksheet

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In April 2013, the MSCCSP began distribution of version 1.8 of the Maryland Sentencing Guidelines Worksheet. Version 1.8 implemented changes to the *Indigence Established* and *Victim Information* sections of the Maryland Sentencing Guidelines Worksheet. The MSCCSP revised the *Indigence Established* section of the Maryland Sentencing Guidelines Worksheet to more clearly indicate that the field pertains to whether or not victim-related court costs were imposed. The language on the worksheet was amended from *Indigence Established* to *Victim Court Costs Imposed*. The instructions on page 14 of the MSGM indicate that this item asks “Were the victim related court costs imposed pursuant to Courts and Judicial Proceedings Article, §7-409 and Maryland Rule 4-353?” The costs outlined in CJ, §7-409 include a \$45 circuit court fee that is divided among the State Victims of Crime Fund, the Victim and Witness Protection and Relocation Fund, and the Criminal Injuries Compensation Fund. The instructions further note that this question should be answered regardless of whether the case involved a direct victim because the victim related court costs are expected to be imposed for all crime types, including drug offenses.

The MSCCSP also revised the *Victim Information* section of the Maryland Sentencing Guidelines Worksheet. These changes are detailed below.

1. *CICB Cost Imposed* question was removed from the guidelines worksheet, as it was redundant with the *Victim Court Costs Imposed* question noted above.
2. *Victim Unavailable* question was changed to *Victim Non-participation*. The instructions in the MSGM indicate that this question should be answered YES if the victim did not participate, was not located, did not maintain contact with involved parties, or waived his/her rights.
3. *NRF* question was changed to *Victim Notification Form*, as this latter term is regularly used by prosecutors and is more clearly understood to refer to the Crime Victim Notification & Demand for Rights form. Few are familiar with the *NRF* abbreviation; as a result, this question was often left blank.
4. *No Contact with Victim* question was changed to *No Contact Requested* to more clearly indicate that this question is asking, “Did victim or State make a request that defendant have no contact with victim?”
5. Added *No Contact Ordered* question to the guidelines worksheet. The purpose of this question is to distinguish whether a judge ordered the defendant to have no contact with the victim, as opposed to whether a request for no contact was made by the victim or the State.

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## Training and Education

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The MSCCSP provides sentencing guidelines training and education in a variety of manners in an effort to promote the consistent application of the guidelines and accurate completion of the guidelines worksheet. On-site training sessions are offered to 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. In 2013, the MSCCSP provided 16 guidelines training seminars that were attended in total by approximately 120 participants from 12 jurisdictions, including circuit court judges, State's Attorneys, public defenders, parole & probation agents, and law clerks. It is important for all parties involved in the sentencing process to understand the guidelines calculation process to ensure the accuracy of the sentencing guidelines.

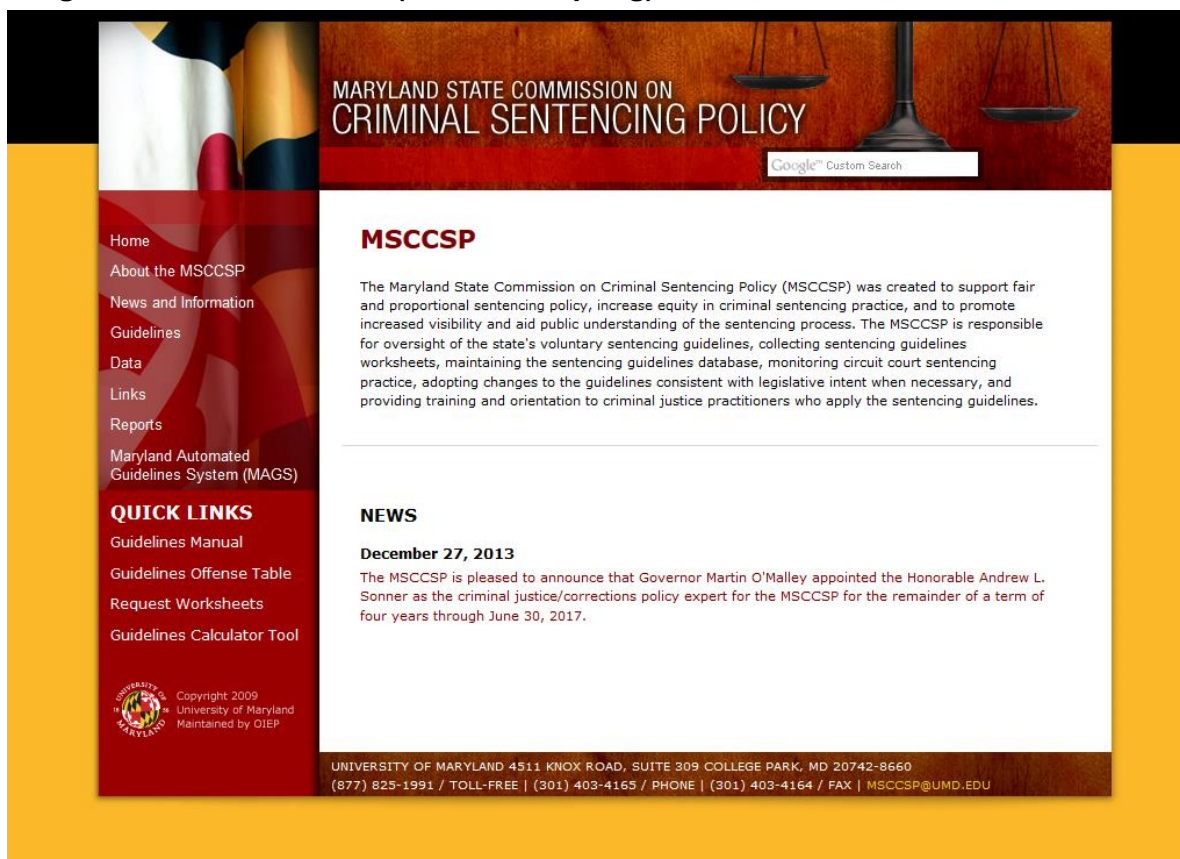
In 2013, the MSCCSP Executive Director, Dr. David Soulé, met with 17 of the 24 county administrative judges. The meetings provided an opportunity for the MSCCSP to review sentencing guidelines-related data with the individual jurisdictions, discuss proper worksheet completion procedures, and receive feedback from the judges on areas of interest or concern regarding the activities of the MSCCSP. Additionally, the Executive Director provided training for newly-appointed judges at the annual new trial judges' orientation on April 23, 2013.

In addition to providing training and education programs, the MSCCSP staff is available via phone (301-403-4165) and e-mail ([mcccsp@umd.edu](mailto:mcccsp@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. The MSCCSP staff regularly responds to questions regarding the guidelines via phone and e-mail. 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.mcccsp.org](http://www.mcccsp.org)) that is updated regularly 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 MSGM and the Guidelines Offense Table, a list of offenses with non-suspendable mandatory minimum penalties, a list of offenses that have undergone seriousness category revisions, a sample of

Frequently Asked Questions and their respective answers, reports on sentencing guidelines compliance and average sentences, 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. Finally, the MSCCSP added a Guidelines Calculator Tool (GLCT) to the MSCCSP website in 2013. The GLCT is a stand-alone tool that can be utilized by anyone to calculate sample sentencing guidelines. No login is required to access the tool and no information entered into the GLCT is saved or stored, but the user is able to print a copy of the sample guidelines worksheet.

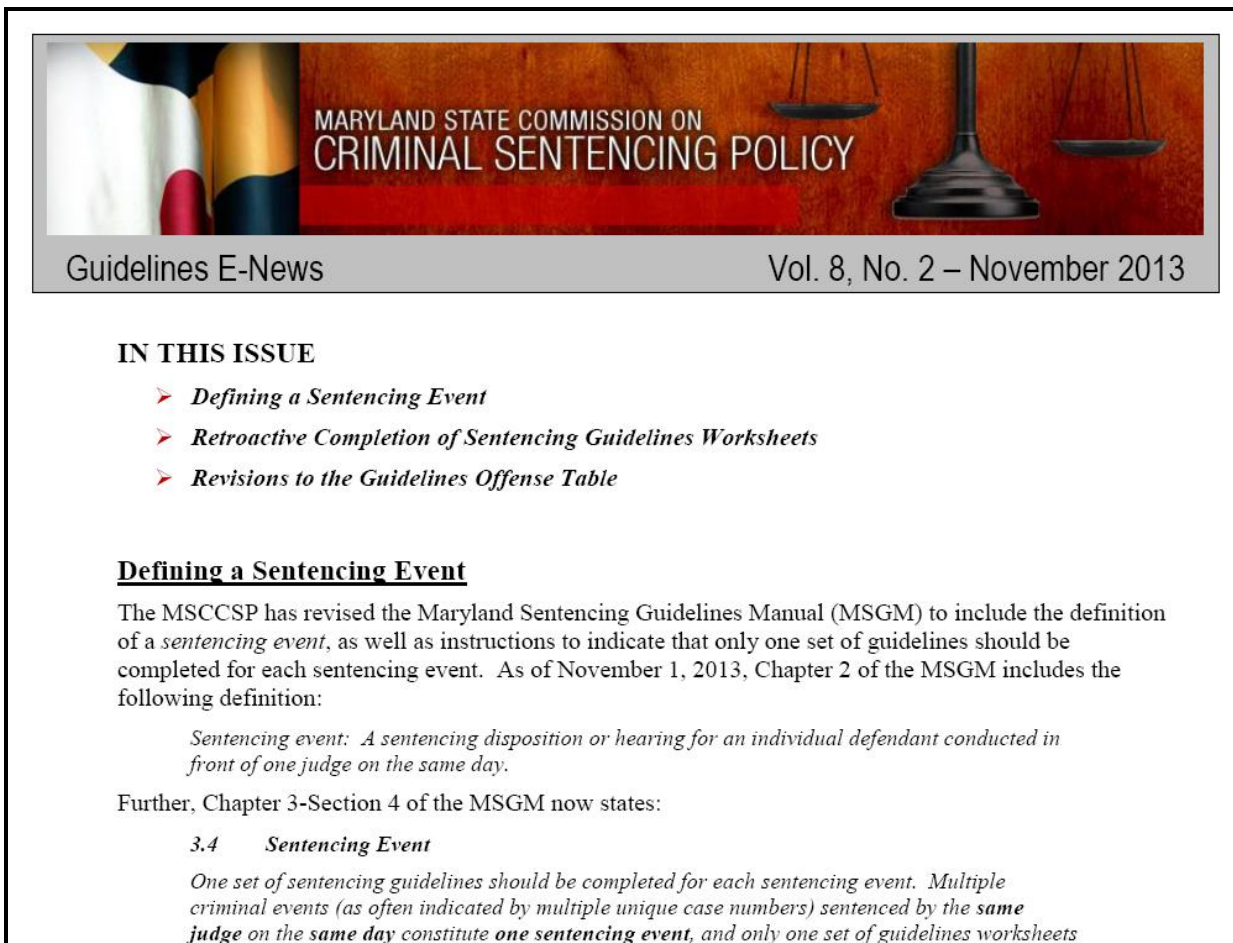
**Image 1. MSCCSP Website ([www.msccsp.org](http://www.msccsp.org))**



In 2013, the MSCCSP 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 serves as an information source on sentencing policy decisions. For example, the November 2013 issue (Vol. 8, No. 2) highlighted revisions to the Guidelines Offense Table to reflect the addition of new and amended offenses passed during the 2013 Legislative Session. It also highlighted new policies regarding retroactive completion of sentencing guidelines worksheets and provided

a definition of a sentencing event and corresponding instructions for submitting one set of guidelines for each sentencing event. This issue of the Guidelines E-News highlighted these updates to raise awareness regarding the most recent revisions to the guidelines.

## Image 2. Sample Guidelines E-News



## Information, Data Requests, and Outreach

The MSCCSP strives to be a valuable resource for both our criminal justice partners and others interested in sentencing policy. In an effort to aid public understanding of the sentencing process in Maryland, the MSCCSP is available to respond to inquiries for information related to sentencing in the state's circuit courts. In 2013, the Commission responded to multiple requests for data and/or specific information related to the sentencing guidelines and sentencing trends throughout the state. Requests for information and data are submitted by a variety of organizations/individuals, including the Governor's Office, legislators, circuit court 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. The MSCCSP typically responds to requests for data by providing an electronic data file created from the information collected on the sentencing guidelines worksheets. In 2013, the MSCCSP provided sentencing data to agencies such as the Maryland Crime Victims' Resource Center as well as to several attorneys representing individual clients. Additionally, 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. An abbreviated version of the report is provided in Appendix C.

In 2013, the MSCCSP provided a digital copy of the Guidelines Offense Table to both the Office of Forensic Services in the Maryland Department of Health and Mental Hygiene and the Office of the State's Attorney for Baltimore City. Both agencies cited the Commission's Guidelines Offense Table as a valuable source for developing their own offense-based databases. Additionally, the Commission responded to the Legislature's requests for information to help produce fiscal estimate worksheets for sentencing-related legislation. This is an annual task performed while the General Assembly is in session. In 2013, the Commission provided information for 81 separate bills that proposed modifications to criminal penalties or sentencing/correctional policies.

Finally, the MSCCSP works to provide outreach to other criminal justice stakeholders in an effort to provide updates on the activities completed by the Commission. During the past year, the MSCCSP Executive Director was invited to present to the Conference of Circuit Judges regarding the continued development of the Maryland Automated Guidelines System and also provided a detailed review of the Maryland sentencing guidelines for visiting officials from the Shanghai, China Bureau of Justice.

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### **Data Collection, Oversight, and Verification**

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The MSCCSP staff is responsible for the collection and maintenance of the Maryland sentencing guidelines database, which is compiled via data submitted on the Maryland Sentencing Guidelines Worksheet. The MSCCSP 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. Detected errors and omissions are resolved when

possible. Once the guidelines worksheets are reviewed, they are data-entered into the Maryland sentencing guidelines database by trained interns and staff.

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 have resulted from data entry error, (2) reviewing the guidelines 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.

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## **Subcommittee Work**

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The Commission's Sentencing Guidelines Subcommittee (Guidelines Subcommittee) plays a critical role in reviewing all proposed amendments and updates to the sentencing guidelines. The Guidelines Subcommittee is chaired by the Honorable John Morrissey (Judge, District Court of Prince George's County). Other members of the Guidelines Subcommittee include Richard Finci (criminal defense attorney and Maryland Criminal Defense Attorneys' Association representative), Senator Delores Kelley (Baltimore County), Laura Martin (State's Attorney for Calvert County and victims advocacy groups representative), and Judge Alfred Nance (Circuit Court for Baltimore City). Each year, the Guidelines Subcommittee reviews all new and revised offenses adopted by the General Assembly and provides recommendations to the full Commission for seriousness category classification. Additionally, the Guidelines Subcommittee regularly reviews suggested revisions to the guidelines calculation process and reports to the overall Commission on guidelines compliance data. In 2013, the Guidelines Subcommittee met prior to each Commission meeting and was responsible for the initial review and consideration of the classification for the new and amended offenses noted in Tables 1 and 2, as well as the previously unclassified offenses noted in Table 3. The Guidelines Subcommittee also played a critical role by providing recommendations for the following: updates to the Maryland sentencing guidelines worksheet; retroactive submission of guidelines worksheets; defining a sentencing event; reviewing the juvenile delinquency component of the offender score; and assessing the impact of *Peugh v. United States* (2013).



## Maryland Automated Guidelines System (MAGS)

The Maryland Automated Guidelines System (MAGS) was designed by the MSCCSP to fully automate guidelines calculation in a web-based application that allows court and criminal justice personnel to complete and submit sentencing guidelines worksheets electronically. The MAGS application calculates guidelines scores automatically and presents the appropriate sentencing guidelines range for each case after a designated user enters the necessary convicted offense and prior record information. Image 3 displays a sample screenshot from the Offense/Offense Score screen which allows the user to enter the convicted offense information, calculate an offense score, and calculate the guidelines range for the individual offense.

**Image 3. Maryland Automated Guidelines System – Offense/Offense Score Screen**

The screenshot shows the 'Maryland Sentencing Guidelines Worksheet - OFFENSE/OFFENSE SCORE' interface. At the top, there are buttons for 'Save this page', 'Delete this Offense', and 'Cancel'. The form is divided into several sections:

- Event #**: A text field with a help icon and a 'Count' label.
- Offense Date**: A date picker (MM/DD/YYYY) and a **Case #** field with the value '04 K'.
- Convicted Offense Title**: A text field with a 'Most Common Offenses' button and a 'Search' button.
- Enhancement**: A dropdown menu set to 'None'.
- Flag offense for multiple victim stacking rule**: Radio buttons for 'Yes' and 'No' (selected).
- Offense Score (Against a Person Only)**: A section with four categories:
  - A. Seriousness Category**: A text field.
  - B. Victim Injury**: Radio buttons for 'No Injury', 'Injury, Non-Permanent', and 'Permanent Injury or Death'.
  - C. Weapon Presence**: Radio buttons for 'No Weapon', 'Weapon Other than Firearm', and 'Firearm or Explosive'.
  - D. Special Victim Vulnerability**: Radio buttons for 'No' and 'Yes'.
- Offense Score**: A text field.
- Guidelines Range for Offense**: Two text fields for 'To' and 'From', with a 'Calculate Guidelines Range' button.
- Overall Guidelines Range**: Two text fields for 'To' and 'From'.

At the bottom right, there are buttons for 'Save this page', 'Delete this Offense', and 'Cancel'.

Additionally, MAGS allows users to run multiple sentencing scenarios, enabling them to determine the appropriate guidelines range under varying sentencing conditions. Users are able to print a hard copy of the computed guidelines for each case. This hard copy may be presented to the opposing counsel and to the judge for review prior to sentencing. The sentencing judge or his/her designee is responsible for entering all appropriate sentencing information into MAGS (see Image 4 for a sample screenshot from the GLS/Overall Sentence screen). The judge or his/her designee can then electronically submit the completed guidelines worksheet to the MSCCSP sentencing guidelines database. MAGS is hosted on web servers

maintained by the Department of Public Safety & Correctional Services (DPSCS). DPSCS provides secure access to MAGS and hosts the webpage in a demilitarized zone with secure socket layer for communication to the site. To access MAGS, users follow a link on the MSCCSP website which directs them to a secure website on a DPSCS server.

**Image 4. Maryland Automated Guidelines System – GLS/Overall Sentence Screen**

Offender Information				Offender Score		List of Offenses		Sentence		GLS/Overall Sentence		Victim Information		Departure / Submit		
Maryland Sentencing Guidelines Worksheet																
Sentence Overall (Across All offenses):																
Total Sentence	Life x 0		12 Year(s)		Date of Sentencing		12 / 23 / 2013 (MM/DD/YYYY)									
Suspended	0 Year(s)		Month(s)		Disposition Type		5 - Jury Trial									
Credit	48 Day(s)				Parole Notification		Yes									
Home Detention	0 Month(s)				50% of Sentence Announced		Yes									
Jail/Prison	11 Year(s)		10 Month(s)		Community Service		20 Hours									
Guidelines Applicable Sentence	12.0 Year(s)				Probation		3 Year(s)		Month(s)		Day(s)					
Overall Guidelines Range	12Y To 20Y				Fine (\$ amount)		100									
					Victim Court Costs Imposed		Yes									
					Corrections Options		4 - None									
Additional Information or Institutional / Parole Recommendation (You may enter up to 375 characters.)																
View worksheet PDF																
Save this page Previous Next																

In May 2012, the Montgomery County Circuit Court (MCCC) began utilizing MAGS to complete and submit sentencing guidelines worksheets as part of a pilot project that continued into 2013. The purpose of the pilot project was to allow the MSCCSP, in conjunction with the Administrative Office of the Courts (AOC) and the MCCC, to assess the ability of MAGS to offer a substantial technological improvement to the criminal justice community by providing a more efficient web-enabled application and consequently more timely and accurate assessment of sentencing policy in the state of Maryland. In 2013, the MSCCSP continued to work with the AOC to evaluate the MAGS pilot project in the MCCC. The key tasks completed in 2013 are summarized below.

**February 22, 2013** – The MCCC completed their evaluation of the MAGS pilot project. The report was distributed to the AOC, MSCCSP Commissioners, and the Conference of Circuit Judges (CCJ).

**March 18, 2013** – Researchers from the MCCC provided a presentation to the CCJ to summarize their findings on the evaluation of the MAGS pilot project. The researchers noted that MAGS had achieved many of its stated goals, including more accurate and efficient calculation of the sentencing guidelines. The evaluation also revealed a few implementation issues, namely that sentencing guidelines worksheets were not being initiated and/or submitted for all eligible cases, that duplicate worksheets were being created for some cases, and that worksheets were being initiated in the system, but not completed and submitted to the MSCCSP. The CCJ agreed to extend the MAGS pilot project in Montgomery County for an additional six months so that the MSCCSP could work with the MCCC to develop an improved MAGS protocol and implement a data sharing plan.

**March 26, 2013** – MSCCSP staff met with MCCC staff to review potential implementation changes. It was noted that the automated guidelines system could be enhanced if procedural changes were adopted in coordination with the use of MAGS. For example, the MAGS users reported it would be helpful if reports could be generated for law clerks to identify open cases in MAGS that require completion. MCCC staff agreed to work with their programmers to clearly identify all guidelines-eligible cases based on data from the MCCC case management system. A plan was developed to create a monthly data file that would identify a list of guidelines-eligible cases sentenced in a particular month and that file would then be cross referenced with cases initiated in MAGS to help track sentencing guidelines worksheet initiation, completion, and submission rates. Additionally, the MSCCSP staff and MCCC agreed that a “guidelines-eligible” checklist should be incorporated as a first step in MAGS. This checklist would serve to remind users of specific cases that are guidelines eligible and to help inform the user whether it is necessary to initiate a worksheet in MAGS. MSCCSP staff agreed to include this feature in the next round of requested updates to MAGS (MAGS 3.0).

**April 15, 2013** – MAGS 2.0 was released. In conjunction with the release, a revised version of the MAGS User Manual, together with “What’s New in MAGS” and “Frequently Asked Questions” documents were made available. Furthermore, updated training videos for MAGS were posted on the MSCCSP website (see Image 5).

## Image 5. Maryland Automated Guidelines System Instructional Videos

**Instructional Videos - Updated May 2013**

Note: You may need to install a media player such as **RealPlayer** or **QuickTime** to view the instructional video. Real Player will allow Window users to download the video and play it full screen if preferred.

**Video 1: Instructional Video for State's Attorneys, P&P Agents, and Defense Attorneys**

Click here to view Video 1 utilizing Windows Media Player

**Video 2: Instructional Video for Judges and Judges' Designees**

**July 9, 2013** – MSCCSP Chair, Judge Diane Leasure, sent a memo to Montgomery County Circuit Court Administrative Judge John Debelius. The memo noted that the MSCCSP staff worked with the MCCC staff to identify all guidelines-eligible cases during a recent four-month period to review sentencing guidelines worksheet submission rates. The memo also noted that the MSCCSP was pleased to report that guidelines worksheets were being submitted for almost 90% of all eligible cases. The MSCCSP asked that the judges please emphasize to the State's Attorney's Office that a guidelines worksheet must be completed in MAGS for all guidelines-eligible cases and provided a one-page reference table as a guide for the various circumstances in which a sentencing guidelines worksheet is or is not required. The reference table was also shared with the State's Attorney's Office.

**September 3, 2013** – DPSCS programmers began working on updating the MAGS application for the eventual release of MAGS 3.0. The updates were based largely on feedback from MCCC judges and staff. Enhancements will include new features such as compatibility with Safari, Google Chrome and Firefox web browsers, as well as many additional updates aimed at improving the automatic worksheet completion and submission process.

**September 16, 2013** – The AOC granted permission for the continued use of MAGS in the Circuit Court for Montgomery County beyond the extended pilot period. The MSCCSP requested permission to meet with the CCJ in January 2014 to provide an update on the changes related to MAGS 3.0, report on the status of the Commission’s work with Montgomery County to implement a data sharing protocol, and provide a plan for a gradual roll-out of the MAGS application to the remaining circuit courts.

**October 16, 2013** – The MCCC, via a letter from Suzanne Schneider, Acting Court Administrator for Montgomery County, to Pamela Harris, State Court Administrator, provided a review of the extended MAGS pilot project. The review included three recommendations:

1. MAGS should be permanently utilized at the MCCC and expanded to other circuit courts;
2. Develop MAGS business protocol and performance goals; and
3. Integrate MAGS into the statewide case management system.

Additionally, the review discussed many accomplishments achieved by both the MCCC and the MSCCSP with respect to MAGS. In particular, the MCCC made enhancements to its case management system and implemented procedures to improve and track the sentencing guidelines worksheet business process. The enhancements included displaying an indicator on assignment sheets and in the court’s case management system when a case scheduled for a specific event (e.g., sentencing, plea, pre-indictment plea, reconsideration, etc.) may require a guidelines worksheet. In addition, the MCCC, in conjunction with the MSCCSP, developed a monthly data file of guidelines-eligible cases. This file is merged with data elements collected via MAGS, such as the date of sentencing and submission status, and the merged data is then returned to the MCCC where judge information is incorporated. This file is subsequently used to develop reports that are e-mailed to the appropriate judge’s law clerk. Finally, the review detailed many of the programming enhancements to MAGS that were deployed in April 2013 and those forthcoming in January 2014. The enhancements were largely guided by feedback provided by users over the course of the pilot project.

**November 18, 2013** – MSCCSP staff began a comprehensive review and testing of the latest updates to the MAGS application completed by the DPSCS programmers. The testing and feedback process for these updates continued through November and December in anticipation of the release of MAGS 3.0 in January 2014.

**November 25, 2013** – MSCCSP staff met with State Court Administrator Pamela Harris and Deputy State Court Administrator Faye Matthews to discuss the next steps for MAGS and to develop a recommendation to present to the CCJ at the January 27, 2014 meeting. The group agreed to recommend permanent utilization of MAGS in Montgomery County and a gradual rollout of MAGS to the remaining circuit courts. The group also agreed to recommend the Calvert County Circuit Court (CCCC) as the next jurisdiction to adopt use of MAGS, as the group believed the use of MAGS in the CCCC would provide a good opportunity to test the MAGS application in a Unified Case System (UCS) environment as well as in a smaller-sized jurisdiction.

### **Sentencing/Correctional Simulation Model**

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The MSCCSP, in conjunction with consultants at Applied Research Services Inc. (ARS), developed a sentencing/correctional simulation model to help project the potential impact of proposed changes to the sentencing guidelines on Maryland's correctional population. At the September 18, 2012 Commission meeting, the MSCCSP noted that the simulation model has the potential to be a powerful analytic tool. However, the MSCCSP also concluded that additional resources were needed so that the model could reach its full potential. For example, the model needs input on predicted arrest patterns and changes in Maryland's Division of Correction (DOC) policies in order to build assumptions that will lead to accurate projections of the impact of new laws and policies. These data and assumptions would need to be reviewed and updated regularly. Additionally, the model would benefit from the incorporation of local correctional facilities data so the model can also project the impact of proposed changes on the local jail populations.

Effective July 1, 2013, the MSCCSP received approval from the Governor's Office to hire a full-time Program Analyst to maintain and operate the simulation model. In September 2013, Sarah Bowles joined the MSCCSP staff as the Program Analyst. In October 2013, Ms. Bowles attended a 2-day training session on the simulation model with the model's developer, Dr. John Speir, ARS Co-founder, in Atlanta, Georgia. Presently, the simulation model is capable of providing projections of the potential impact proposed changes in sentencing guidelines and legislation may have on Maryland's DOC population. The MSCCSP is now working to enhance both the accuracy and scope of the model. The MSCCSP is in the process of obtaining the most recent DOC data for use in the model. The DPSCS, who manage the DOC data, anticipate having new data available to the MSCCSP in 2014. This data would provide intake,

active population, and release data on all DOC inmates from December 2011 through September 2013.

The MSCCSP also began the process of inquiring about the availability of local jail data in Maryland. As of 2013, about 35% of guidelines-eligible, circuit court offenders were sentenced to local jails. Incorporating jail data into the simulation model would enable the MSCCSP to more accurately assess the potential impact of proposed changes to sentencing guidelines and legislation. In December 2013, MSCCSP staff held a conference call with the President of the Maryland Correctional Administrators Association (MCAA) and Warden/Commander of the St. Mary's County Sheriff's Office, Captain Michael Merican, regarding the availability of local jail data. The MCAA reported that a new centralized case management system for local jails in Maryland is being developed and will likely be deployed to select counties starting in 2014. This new case management system has the potential to offer the MSCCSP a new centralized and easily accessible source of jail data. The MSCCSP plans to review the goals of the simulation model and discuss the need for local jail data at the April 2014 meeting of the MCAA, and to stay in touch with the MCAA regarding the new centralized case management system. The MSCCSP hopes to utilize the simulation model on a limited basis during the 2014 Legislative Session to test the model's capabilities and determine the necessary resources for the Commission's use of the model in future years.

### **Risk Assessment at Sentencing**

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In 2011, the MSCCSP completed the first phase of its risk assessment project. The project was borne out of a meeting with the Judiciary Ad Hoc Committee on Sentencing Alternatives, Reentry, and Best Practices, during which the MSCCSP was invited to investigate the possibility of developing a risk assessment instrument to be utilized at sentencing. Phase I of the risk assessment project involved a review of research on risk assessment, a discussion of how other states such as Virginia and Missouri have incorporated risk assessment into the sentencing process, and a review of the risk assessment instruments being utilized by other agencies in Maryland. This phase was completed on May 17, 2011 with the Guidelines Subcommittee's recommendation that, given the work being done in risk assessment by other criminal justice agencies in Maryland as well as in other states, it would make sense for the MSCCSP to proceed to Phase II of the project by examining how risk assessment might be incorporated to augment the sentencing decision. The MSCCSP unanimously approved the recommendation of the Guidelines Subcommittee, agreeing to seek the funding necessary to begin research on developing or adopting an existing risk instrument to be utilized at sentencing.

This past year, the MSCCSP initiated Phase II of the risk assessment project by preparing and submitting to the Governor's Office of Crime Control & Prevention a proposal for funding to conduct a risk assessment feasibility study. The feasibility study will enable the MSCCSP to formally and comprehensively examine the potential implementation of a sentencing risk assessment instrument in Maryland by assessing several fundamental considerations. In particular, the feasibility study will focus on the specific objective(s) of risk assessment, the definition of recidivism to be used by the risk assessment instrument, the types of information that would be required for the risk assessment instrument, the availability of this information at sentencing, and the procedures for involving the Maryland Judiciary in the research and development process. The second major part to the feasibility study will be an exploration of the options for developing the risk assessment instrument. To this end, the study will consider whether a new risk assessment instrument should be developed or an existing instrument could be refined for this particular purpose, and whom should be hired to develop or refine the instrument.

### **Juvenile Delinquency and Adult Recidivism Study**

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At the annual Public Comments Hearing on December 11, 2012, an issue was raised regarding the role of the juvenile delinquency component in the calculation of the offender score. In particular, it was requested that the MSCCSP reexamine whether juvenile court adjudications of delinquency and commitments serve as the most appropriate indicators of an individual's delinquent conduct for the purposes of the offender score. As a preliminary step, the MSCCSP decided to empirically examine juvenile court involvement in Maryland, with a specific interest in which aspects, if any, of an individual's juvenile record are predictive of later adult criminality.

In preparing to undertake this study, the MSCCSP sought the advice of John Irvine, Director of Research and Evaluation at the Maryland Department of Juvenile Services (DJS). In doing so, the MSCCSP learned that the DJS potentially would be willing to provide data assistance to the MSCCSP for its study. Accordingly, in September 2013, members of the MSCCSP staff met with Mr. Irvine and his associate, Claire Souryal, to discuss the proposed juvenile delinquency and adult recidivism study and the data maintained by the DJS. Subsequent to this meeting, the MSCCSP prepared and submitted a proposal to obtain data from the DJS on juvenile offending in Maryland. At present, the MSCCSP is working with the DJS to refine its proposal in accordance with specific data availability and to identify a statistical method of analysis.



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## **Public Comments Hearing**

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The MSCCSP recognizes the importance of providing a forum for the public to discuss sentencing-related issues. To this end, the MSCCSP holds an annual Public Comments Hearing. The 2013 Public Comments Hearing was scheduled for December 10, 2013. The MSCCSP sent an invitation to the hearing to various key stakeholders throughout the state, and announced the hearing on the Commission's website, the Maryland Register, the Maryland General Assembly's hearing schedule, and a press release by the DPSCS. Unfortunately, the 2013 Public Comments Hearing was cancelled due to inclement weather. However, all of the written testimony submitted in advance of the meeting was forwarded to each of the Commissioners. Additionally, the submitted written testimony was compiled into one document and has been posted to the MSCCSP website. The MSCCSP is appreciative of the testimony provided by members of the public, as it believes that the public's participation is essential to creating awareness of sentencing issues.

## SENTENCES REPORTED IN FY 2013

Maryland's voluntary sentencing guidelines apply to criminal cases prosecuted in circuit court, with the exception of the following: 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; and violations of public laws and municipal ordinances. The data and figures presented in this report are limited to guidelines cases where a guidelines worksheet was submitted to the MSCCSP. 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 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

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In fiscal year 2013, the MSCCSP received guidelines worksheets for 10,295 sentencing events.<sup>1</sup> Worksheets for 940 of the 10,295 sentencing events were submitted electronically as part of the MAGS pilot project in Montgomery County. The remaining worksheets were submitted by mail to the MSCCSP office. Table 4 provides a breakdown of the number and percentage of worksheets submitted in fiscal year 2013 by circuit. The jurisdictions in each circuit are shown in Figure 1. The largest number of guidelines worksheets (2,878) was received from the Eighth Circuit (Baltimore City), while the smallest number (358) was received from the Second Circuit (Caroline, Cecil, Kent, Queen Anne's, and Talbot Counties).

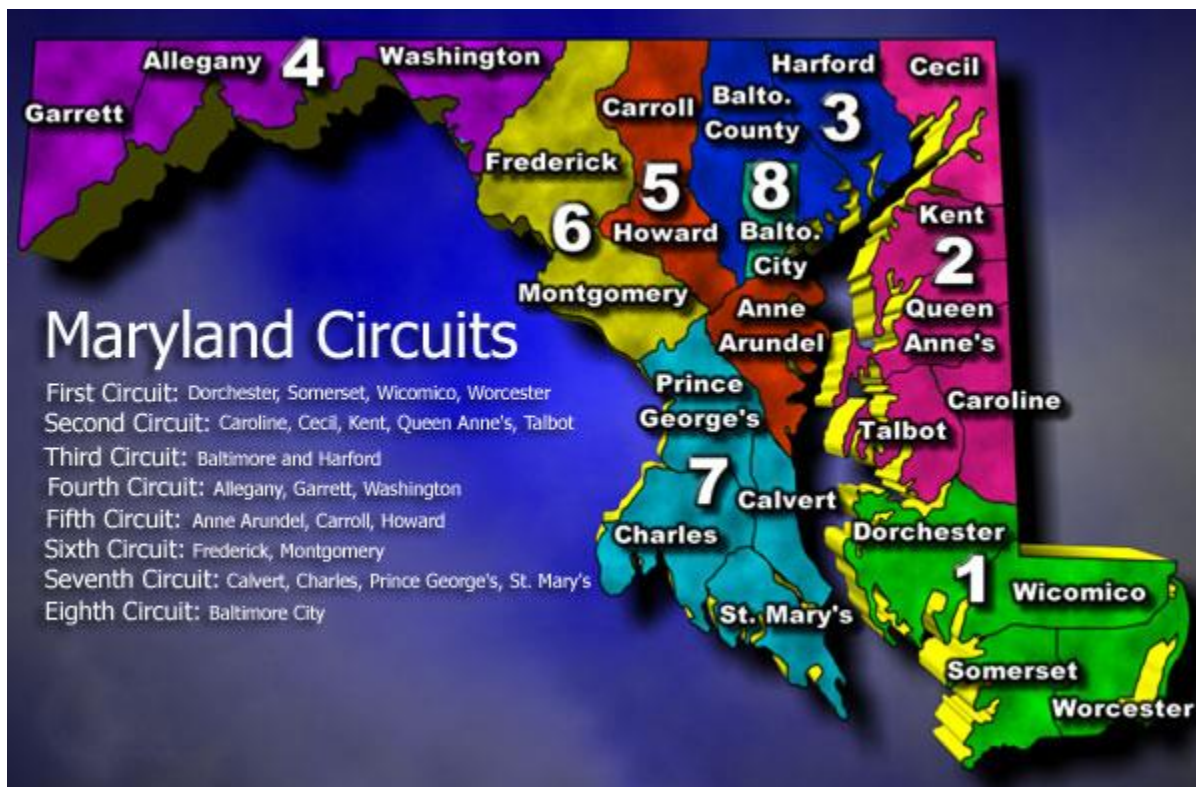
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<sup>1</sup> A sentencing event will include multiple worksheets if the offender is being sentenced for more than three offenses and/or multiple criminal events. Worksheet totals throughout this report treat multiple worksheets for a single sentencing event as one worksheet.

**Table 4. Number and Percentage of Worksheets Submitted by Circuit, Fiscal Year 2013**

<b>Circuit</b>	<b>Number of Worksheets Submitted</b>	<b>Percent of Total Worksheets Submitted<sup>a</sup></b>
1	964	9.4%
2	358	3.5%
3	1,415	13.7%
4	567	5.5%
5	1,255	12.2%
6	1,201	11.7%
7	1,657	16.1%
8	2,878	28%
<b>TOTAL</b>	<b>10,295</b>	<b>100.0%</b>

<sup>a</sup> Percentages may not total 100% due to rounding.

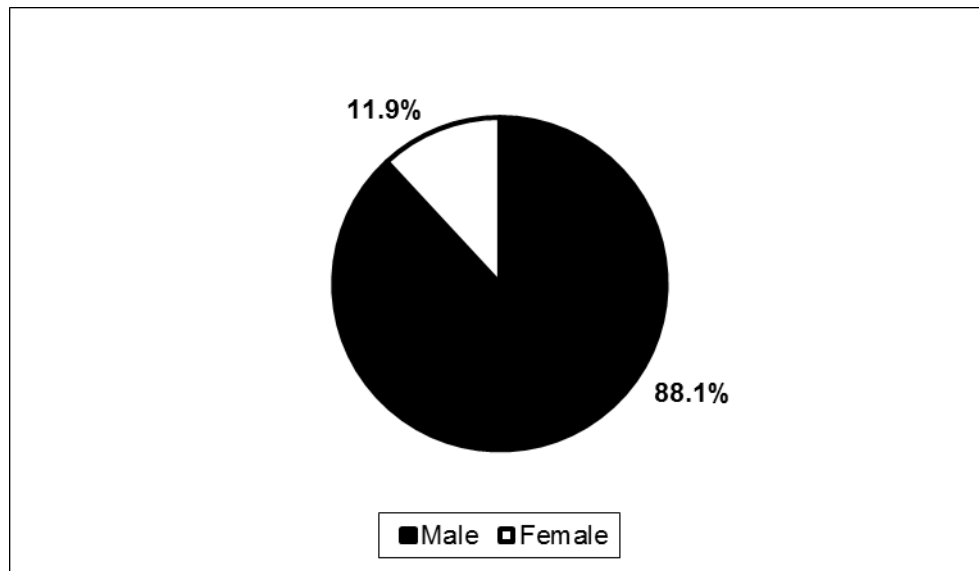
**Figure 1. Maryland Judicial Circuits**

Source: <http://www.courts.state.md.us/clerks/circuitmap2.jpg>

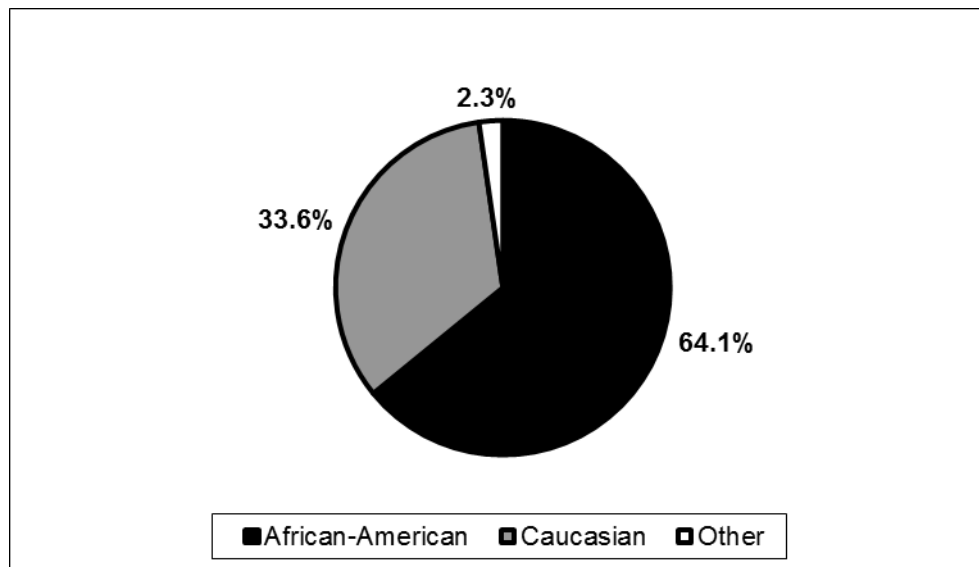
## Guidelines Case Characteristics

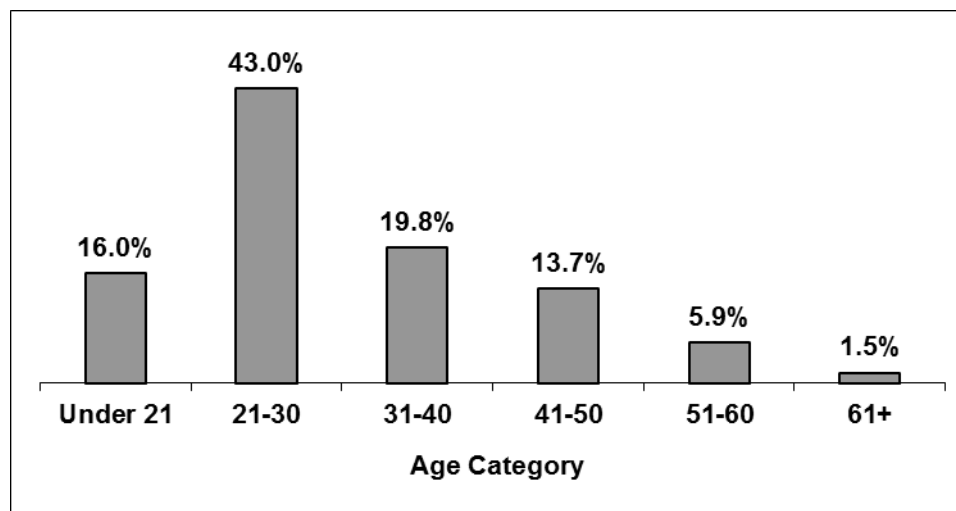
Figures 2 through 4 summarize the descriptive characteristics from the 10,295 worksheets submitted for offenders sentenced in fiscal year 2013. Most were male (88.1%) and African-American (64.1%). The median age of offenders at date of sentencing was 28 years. The youngest offender was 14, while the oldest was 80 years of age. Approximately 16% of offenders were under 21 years of age; 43% were 21-30 years old; 20% were 31-40 years old; and the remaining 21% were 41 years or older.

**Figure 2. Distribution of Guidelines Cases by Gender of Offender, Fiscal Year 2013**



**Figure 3. Distribution of Guidelines Cases by Race of Offender, Fiscal Year 2013**

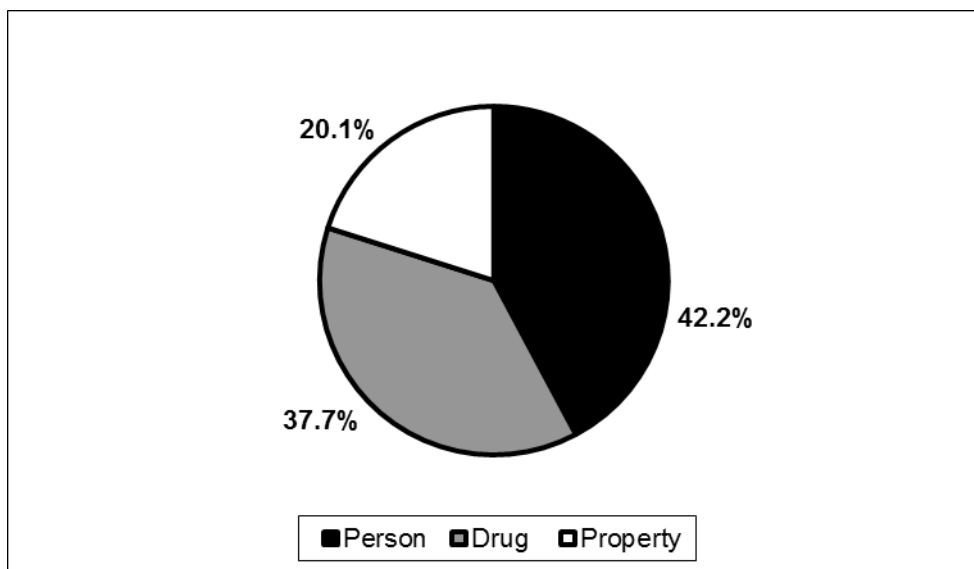


**Figure 4. Distribution of Guidelines Cases by Age of Offender, Fiscal Year 2013**

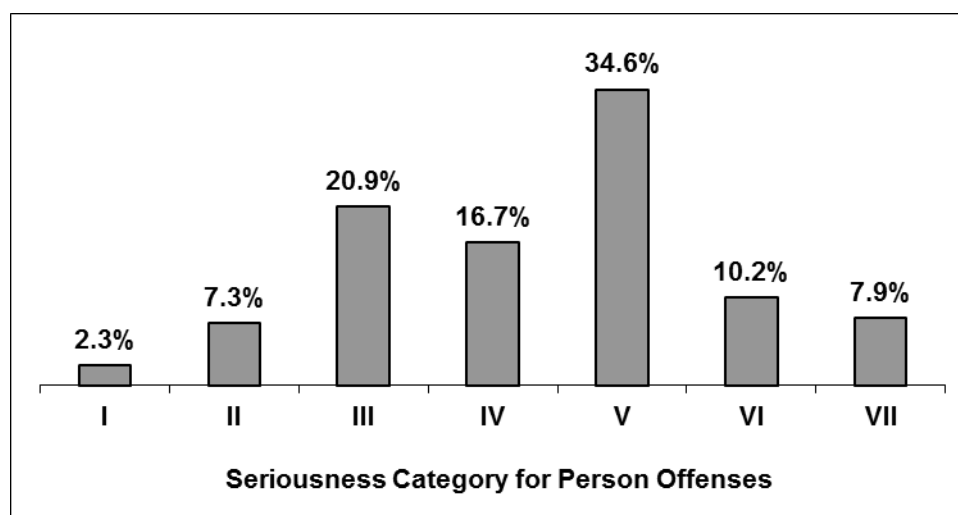
Figures 5 through 10 show the distribution of cases by crime category, disposition type, and sentence type. Note that the total number of cases on which the figures are based excludes reconsideration, review, and probation revocation cases (N=16).<sup>2</sup> Figure 5 provides a breakdown of cases by crime category. For cases involving multiple offenses, only the most serious offense was considered. Cases involving an offense against a person were most common (42.2%), followed closely by drug cases (37.7%). In 20.1% 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 (46.1% person, 33.5% drug, 20.4% property).<sup>3</sup>

<sup>2</sup> Effective September 1, 2009, the MSCCSP determined that a Maryland sentencing guidelines worksheet does not need to be completed for probation revocations.

<sup>3</sup> Incarceration includes home detention and credited time, as well as post-sentence jail/prison time.

**Figure 5. Distribution of Guidelines Cases by Crime Category, Fiscal Year 2013**

Figures 6a, 6b, and 6c display the distribution of cases by offense seriousness category for each of the three crime categories. In cases involving an offense against a person, offenses with a seriousness category V were most common (34.6%), followed by offenses with a seriousness category III (20.9%). *Second degree assault* was the most frequently occurring category V offense, while the most frequently occurring category III offenses included *robbery with a dangerous weapon* and *first degree assault*.

**Figure 6a. Distribution of Person Offenses by Seriousness Category, Fiscal Year 2013**

The distribution of drug offenses by seriousness category is summarized in Figure 6b. Approximately 83% of drug cases involved an offense with either a seriousness category IIIB (54%) or a seriousness category IV (29.2%). *Distribution of cocaine* and *distribution of heroin*

were the most frequently occurring category IIIB offenses, while *distribution of marijuana* was the most frequently occurring category IV offense.

**Figure 6b. Distribution of Drug Offenses by Seriousness Category, Fiscal Year 2013**

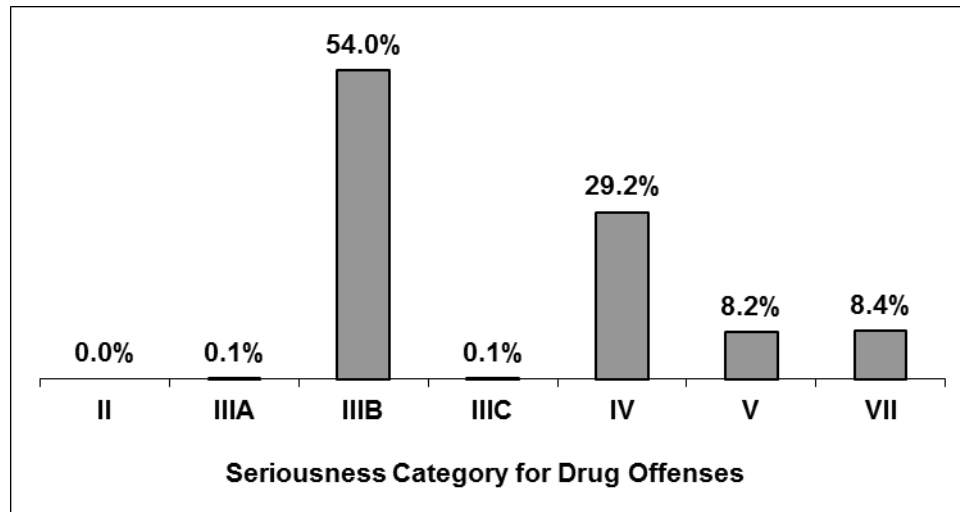


Figure 6c provides the distribution of offenses by seriousness category for property cases. Offenses with a seriousness category II (0.5%) or VI (2.9%) were far less frequent than offenses in the remaining seriousness categories. The most common property offenses included *first degree burglary* (III), *second degree burglary* (IV), *theft or theft scheme of at least \$1,000 but less than \$10,000* (V), and *theft or theft scheme of less than \$1,000 and fourth degree burglary* (VII).

**Figure 6c. Distribution of Property Offenses by Seriousness Category, Fiscal Year 2013**

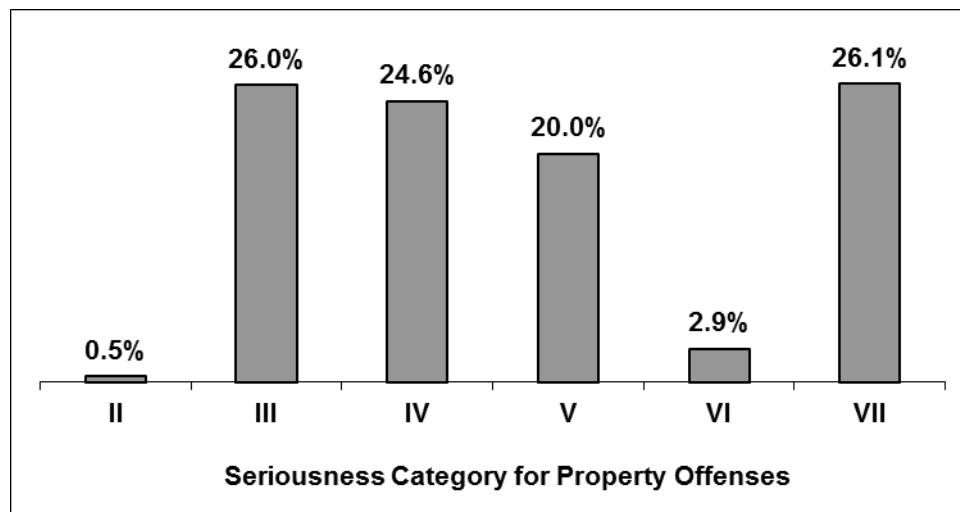
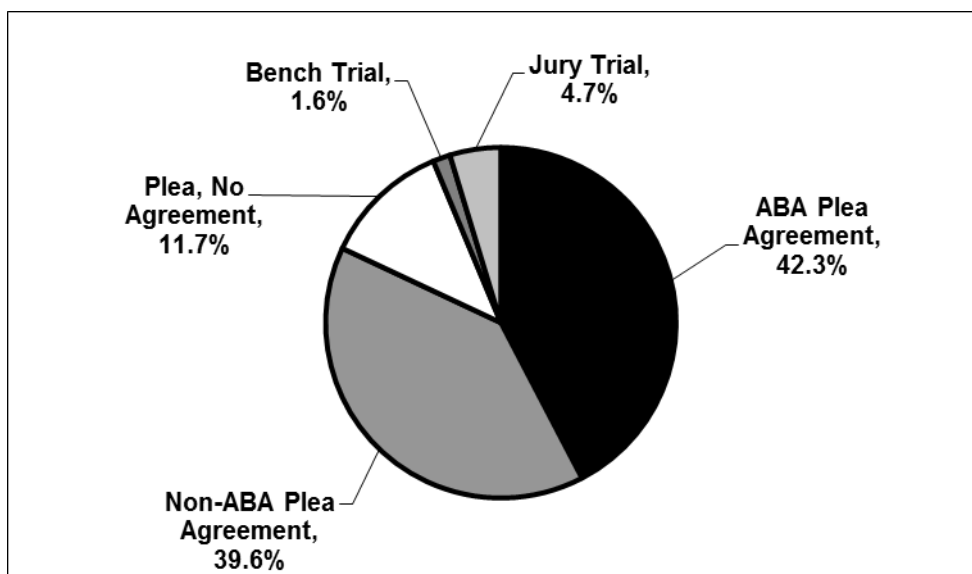


Figure 7 shows the distribution of cases by disposition type (Appendix D contains a description of the seven major disposition types listed on the sentencing guidelines worksheet). The vast majority of cases were resolved by either an ABA plea agreement (42.3%) or a non-ABA plea agreement (39.6%). An additional 11.7% were resolved by a plea with no agreement, and 6.3% of cases were resolved by either a bench or jury trial (1.6% and 4.7%, respectively).

**Figure 7. Distribution of Guidelines Cases by Disposition, Fiscal Year 2013**



The distribution of cases by sentence type is displayed in Figure 8. Few offenders (1.4%) received a sentence that did not include either incarceration or probation. Nearly 23% were sentenced to probation only. Similarly, approximately one-quarter (23.6%) of offenders were sentenced to incarceration only. More than half (52.5%) of all cases resulted in a sentence to both incarceration and probation. Among those who were incarcerated, 24.3% were incarcerated prior to sentencing only. That is, the sentence did not include any incarceration time post-sentencing.



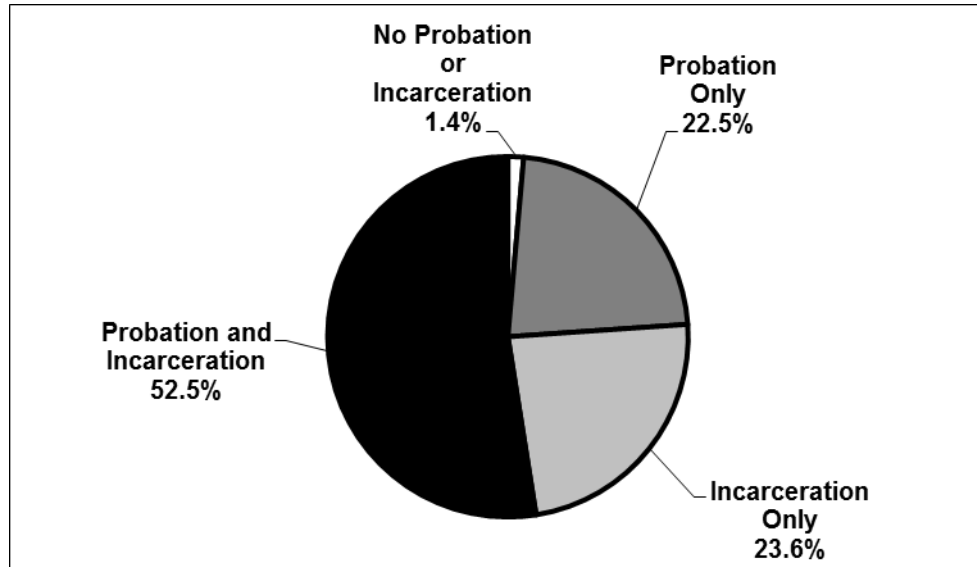
**Figure 8. Distribution of Guidelines Cases by Sentence Type, Fiscal Year 2013**

Figure 9 contains a breakdown of the average sentence length for the past ten fiscal years (2004-2013) among those sentenced to incarceration. The average is based on non-suspended sentence time and includes jail/prison time, home detention time, and credit for time served. For offenders with multiple offenses sentenced together, the sentence across all offenses was considered. The figure indicates that the average sentence length among those incarcerated was relatively stable from one year to the next, ranging from a low of 3.9 years in fiscal years 2005 and 2006 to a high of 4.7 years in fiscal year 2012. The largest decrease occurred between fiscal years 2004 and 2005 and fiscal years 2012 and 2013 (decrease of .5 years), while the largest increase occurred between fiscal years 2011 and 2012 (increase of .5 years).

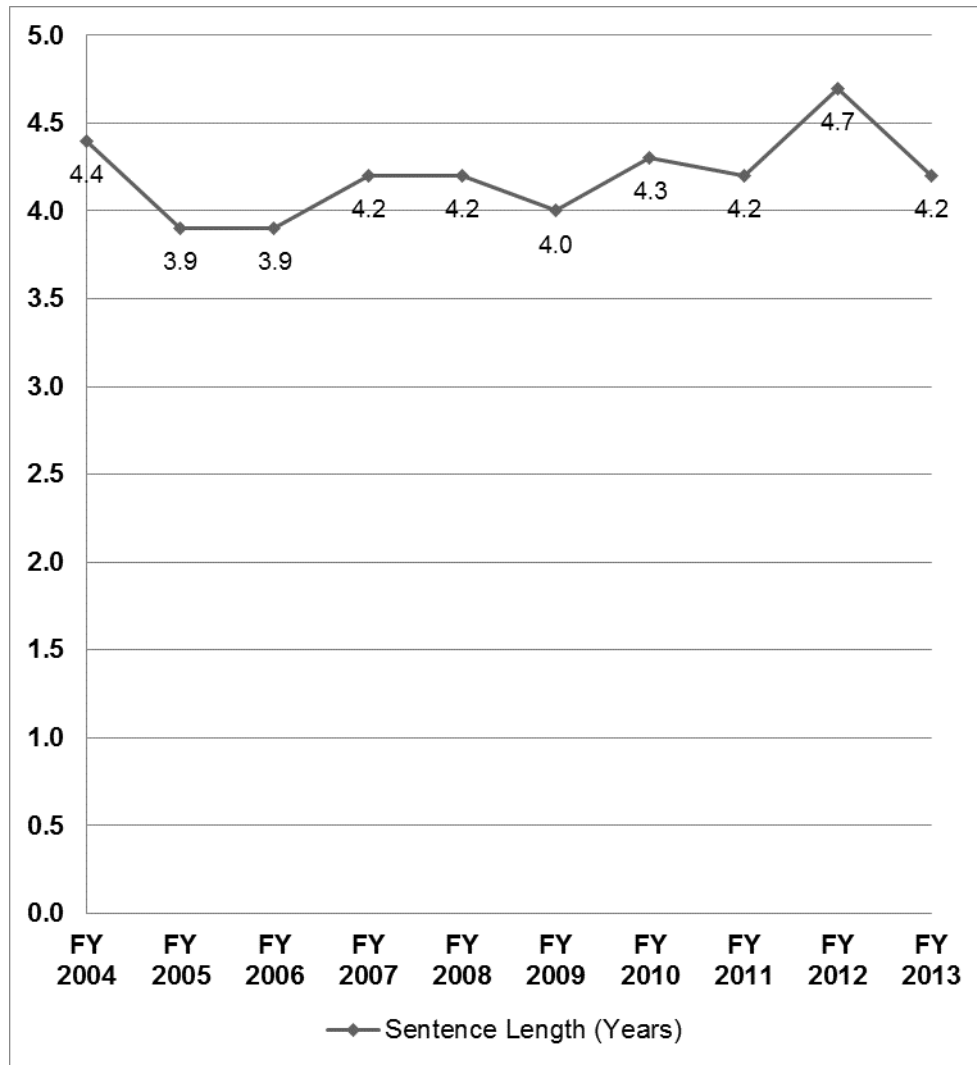
**Figure 9. Average Length of Sentence for Guidelines Cases by Fiscal Year**

Figure 10 summarizes the percentage of sentences that included corrections options.

Corrections options are defined in COMAR 14.22.01.02 (and on page 2 of the MSGM) as:

- Home detention;
- A corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar programs involving terms and conditions that constitute the equivalent of confinement;
- Inpatient drug or alcohol counseling under Health General Article, Title 8, Subtitle 5, Annotated Code of Maryland; or
- Participation in a drug court or HIDTA substance abuse treatment program.

Further, corrections options include programs established by the State Division of Correction, provided that the program meets the Commission's criteria, as described above. A program such as the Felony Diversion Initiative in Baltimore City, which provides inpatient drug treatment, meets the Commission's criteria of a corrections options program.

**Figure 10. Distribution of Guidelines Cases by Corrections Options, Fiscal Year 2013**

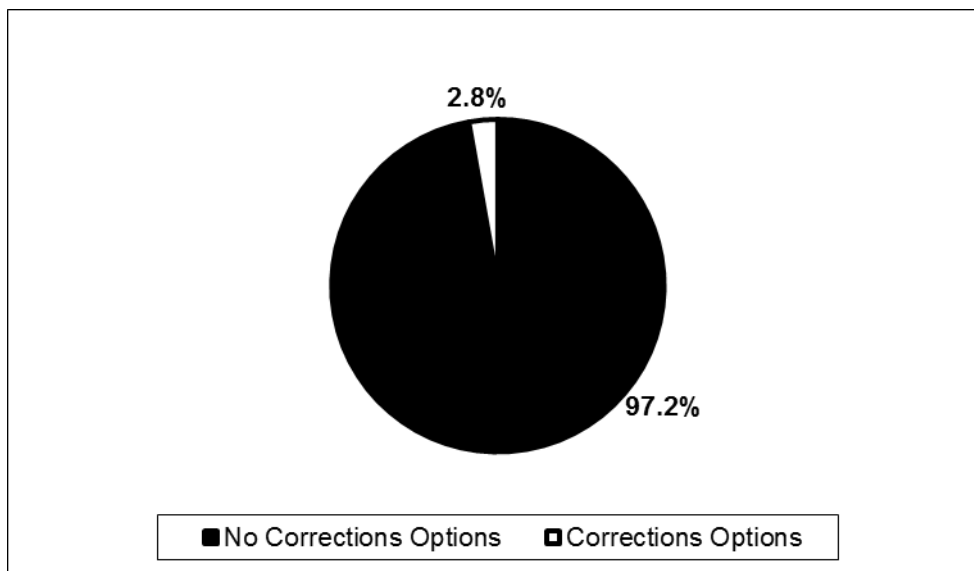


Figure 10 shows that only 2.8% of offenders were sentenced to a corrections options program in fiscal year 2013. It is important to note that the field for recording corrections options on the sentencing guidelines worksheet is often left blank. For example, the corrections options section of the worksheet was blank on 94.9% of the worksheets submitted to the MSCCSP for offenders sentenced in fiscal year 2013. The figure above assumes that in cases where the corrections options field was not completed, the offender was not sentenced to a corrections options program. To the extent that this assumption is not accurate, Figure 10 may underreport sentences to such programs.

## 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 offender is sentenced in circuit court. The following provides a detailed examination of judicial compliance with Maryland's voluntary sentencing guidelines.

### Judicial Compliance Rates Overall

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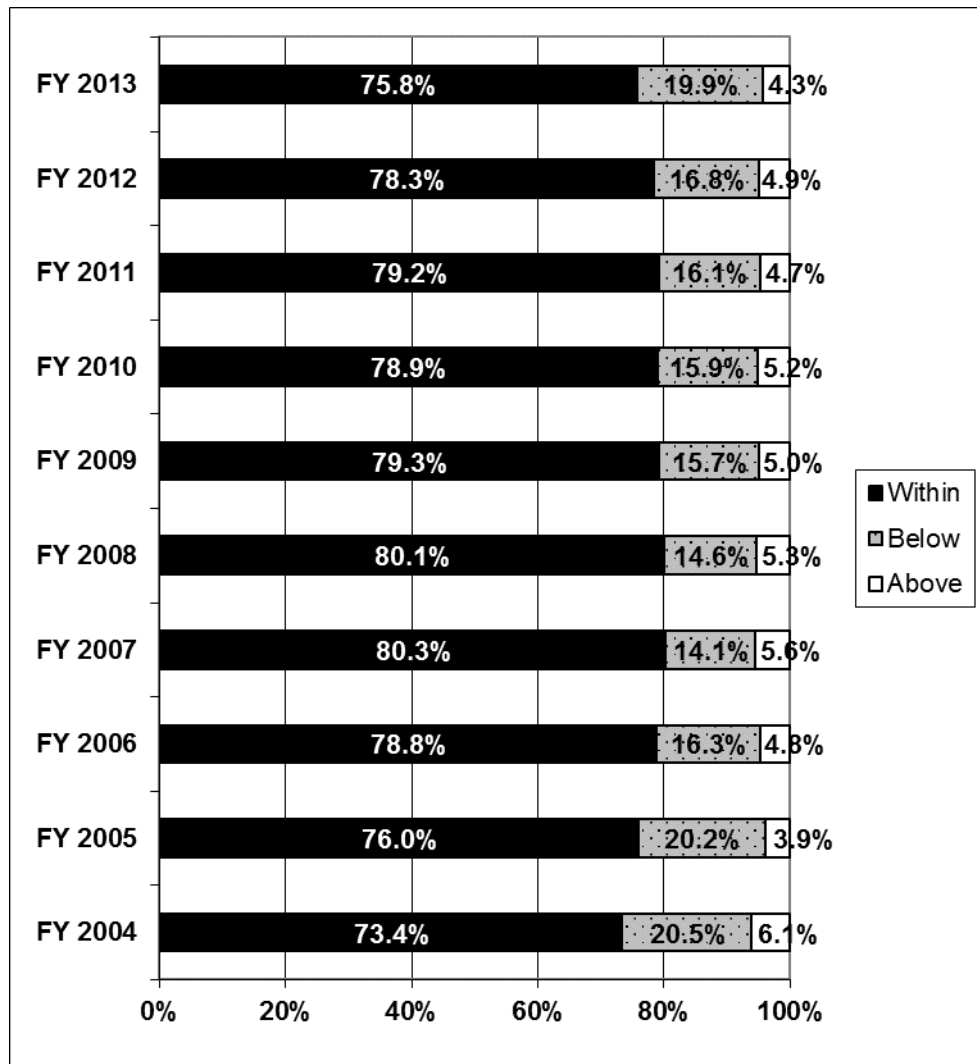
A sentence is deemed compliant with the guidelines if the initial sentence (defined as the sum of incarceration, credited time, and home detention) falls within the applicable guidelines range. In addition, the MSCCSP has deemed a sentence compliant if the judge sentenced an offender to a period of pre-sentence incarceration time with no additional post-sentence incarceration time and the length of credited pre-sentence incarceration exceeds the upper guidelines range for the case. As of July 2001, all sentences pursuant to an ABA plea agreement are considered compliant (COMAR 14.22.01.17), as ABA plea agreements represent the consensus of the parties and the court within the specific community they represent. Similarly, sentences to corrections options programs (e.g., drug court; Health General Article, §8-507 commitments; 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, child sexual abuse, or escape.

Figure 11 contains a breakdown of the overall guidelines compliance rates for the past ten fiscal years (2004-2013). The figure indicates that in all ten years, the overall rate of compliance exceeded the Commission's goal of 65% compliance.<sup>4</sup> The aggregate compliance rate remained relatively unchanged from one year to the next, ranging from a low of 73.4% in fiscal year 2004 to a high of 80.3% in fiscal year 2007.

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<sup>4</sup> In 1991, the Sentencing Guidelines Revision Committee of the Advisory Board 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 11. Overall Sentencing Guidelines Compliance by Fiscal Year  
(All Cases)**

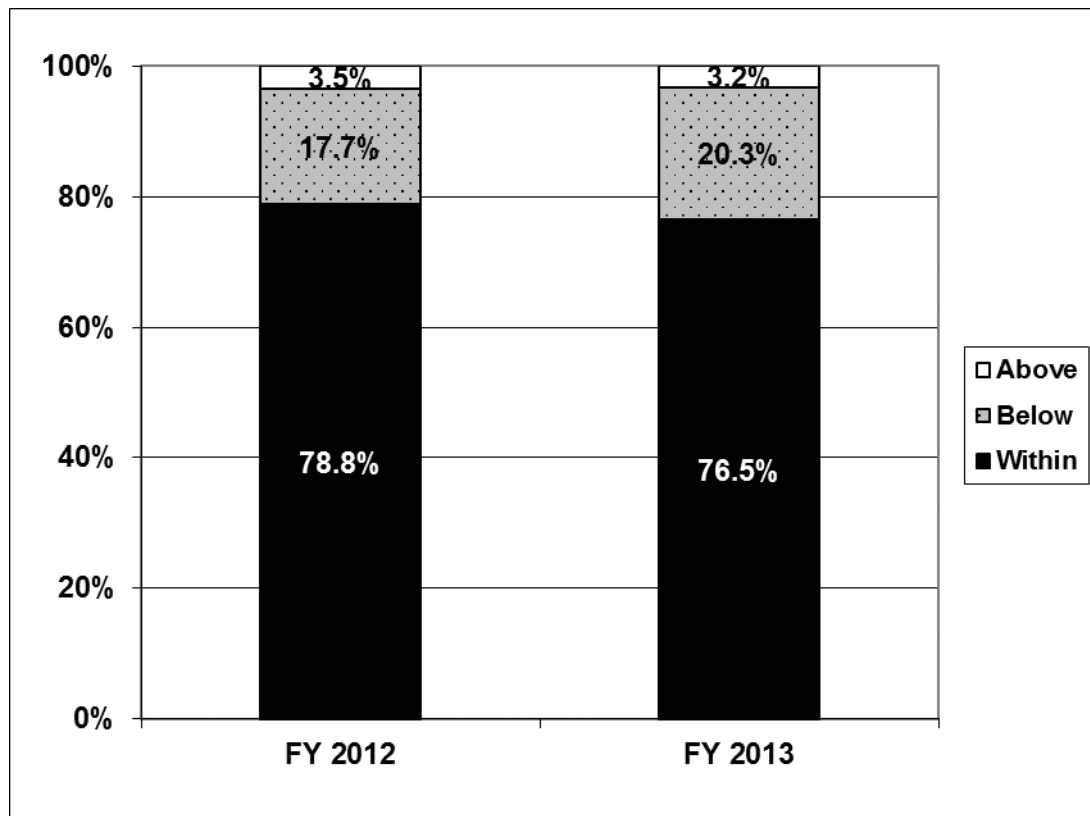


Analyses of judicial compliance in Maryland have traditionally focused on sentences for single-count convictions because they permit the most direct comparison of compliance by crime category and by offense type within the applicable cell of the sentencing matrix. Since multiple-count convictions can 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 2012 and 2013. Of the 10,295 sentencing guidelines worksheets submitted to the MSCCSP in 2013, 7,830 (76.1%) contained single-count convictions.

Figure 12 provides a breakdown of the overall guidelines compliance rates for fiscal years 2012 and 2013 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.

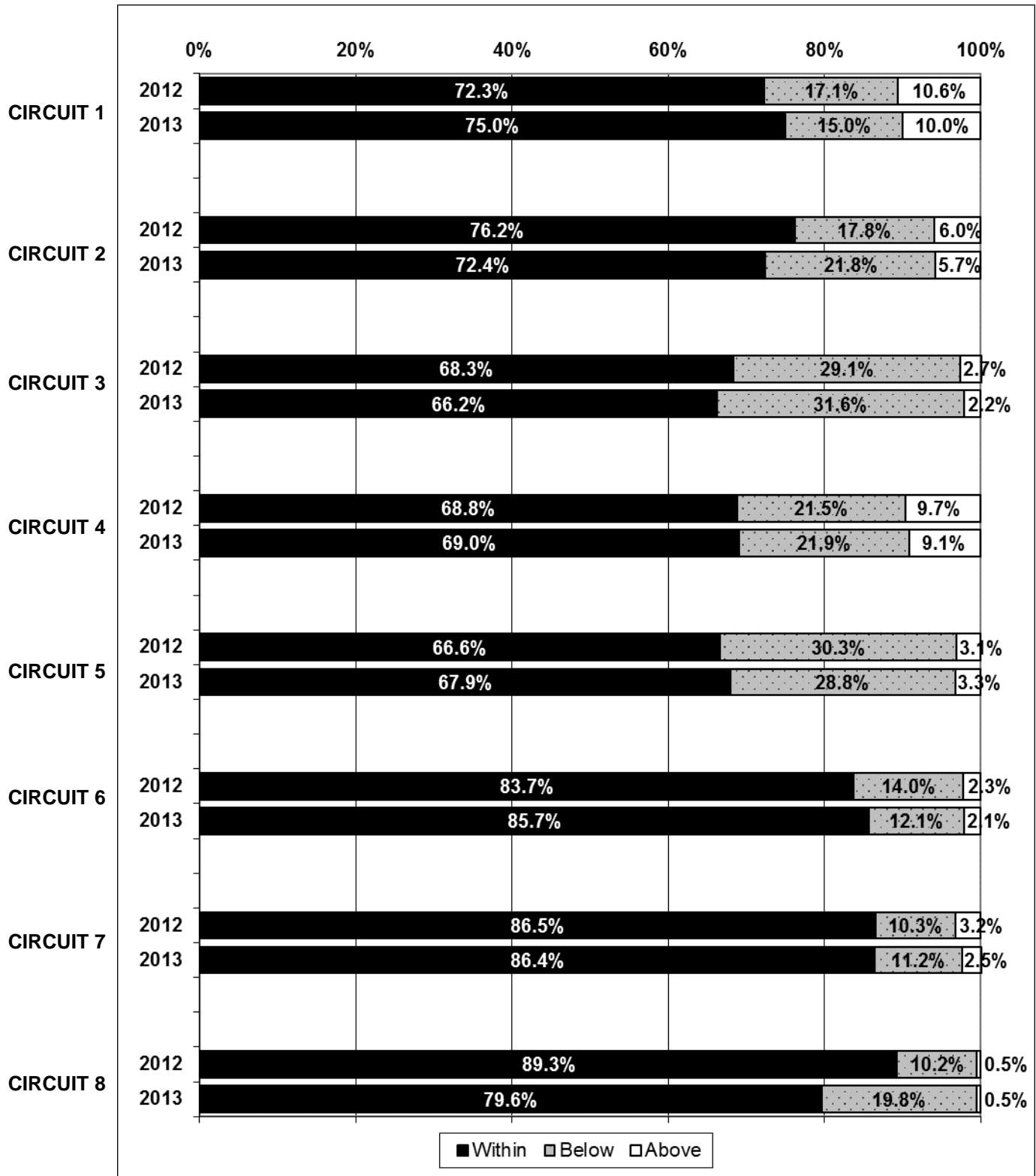
More than three-quarters of cases were compliant in both fiscal years. When departures occurred, they were more often below the guidelines than above.

**Figure 12. Overall Sentencing Guidelines Compliance by Fiscal Year  
(Single-Count Convictions)**



### Judicial Compliance Rates by Circuit

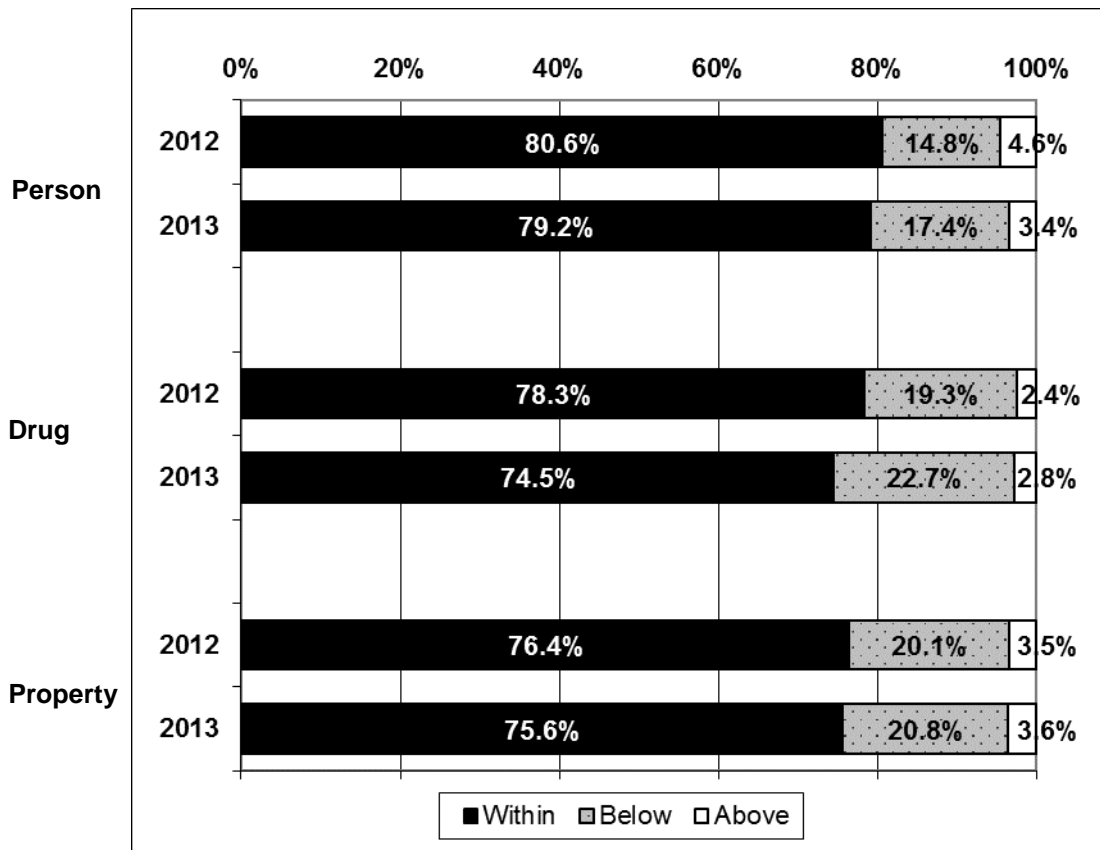
As shown in Figure 13, all eight circuits met the 65% compliance benchmark in fiscal year 2013. The Seventh Circuit had the highest compliance rate (86.4%). In contrast, compliance was lowest in the Third Circuit (66.2%). The largest change in compliance rates occurred in the Eighth Circuit, where rates decreased 9.7% from 89.3% in 2012 to 79.6% in 2013.

**Figure 13. Sentencing Guidelines Compliance by Circuit and Fiscal Year**

## Judicial Compliance Rates by Crime Category

Figure 14 shows judicial compliance by crime category for fiscal years 2012 and 2013. Person offenses were the least likely to result in a departure from the guidelines in fiscal year 2013, 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 2012 to 2013, and the 65% benchmark was met for all three crime categories in both fiscal years.<sup>5</sup>

**Figure 14. Sentencing Guidelines Compliance by Crime Category and Fiscal Year**



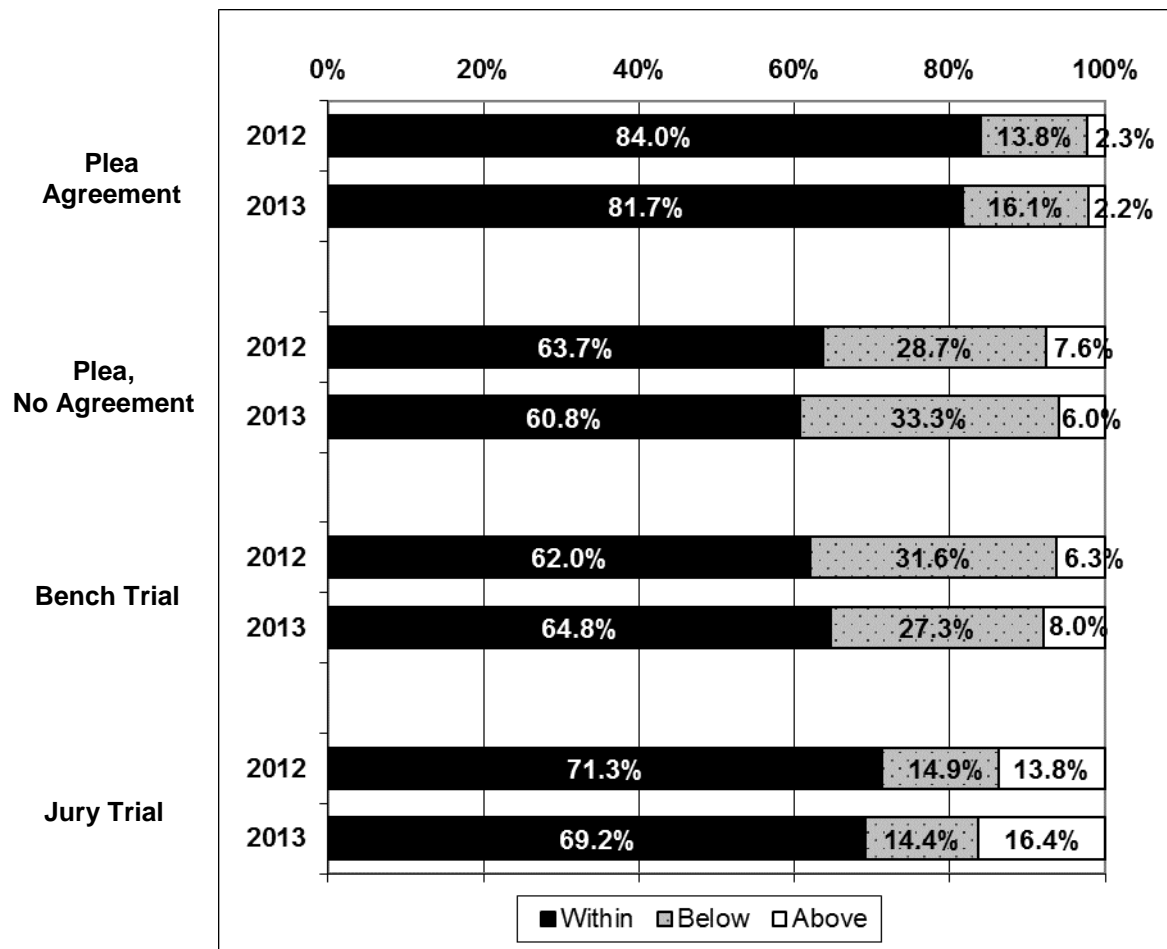
<sup>5</sup> See Appendix C for sentencing guidelines compliance and average sentence for the five most common offenses in each crime category.



## Judicial Compliance Rates by Type of Disposition

Figure 15 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). Plea agreements accounted for the highest percentage of compliant cases (81.7%) in fiscal year 2013. 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 resolved by a plea with no agreement had the lowest compliance rate (60.8%). Compliance rates increased over the past two fiscal years only for cases adjudicated by a bench trial, rising to just shy of the 65% benchmark in 2013. Finally, 69.2% of jury trials were compliant in fiscal year 2013, and upward departures were most frequently observed with this disposition type.

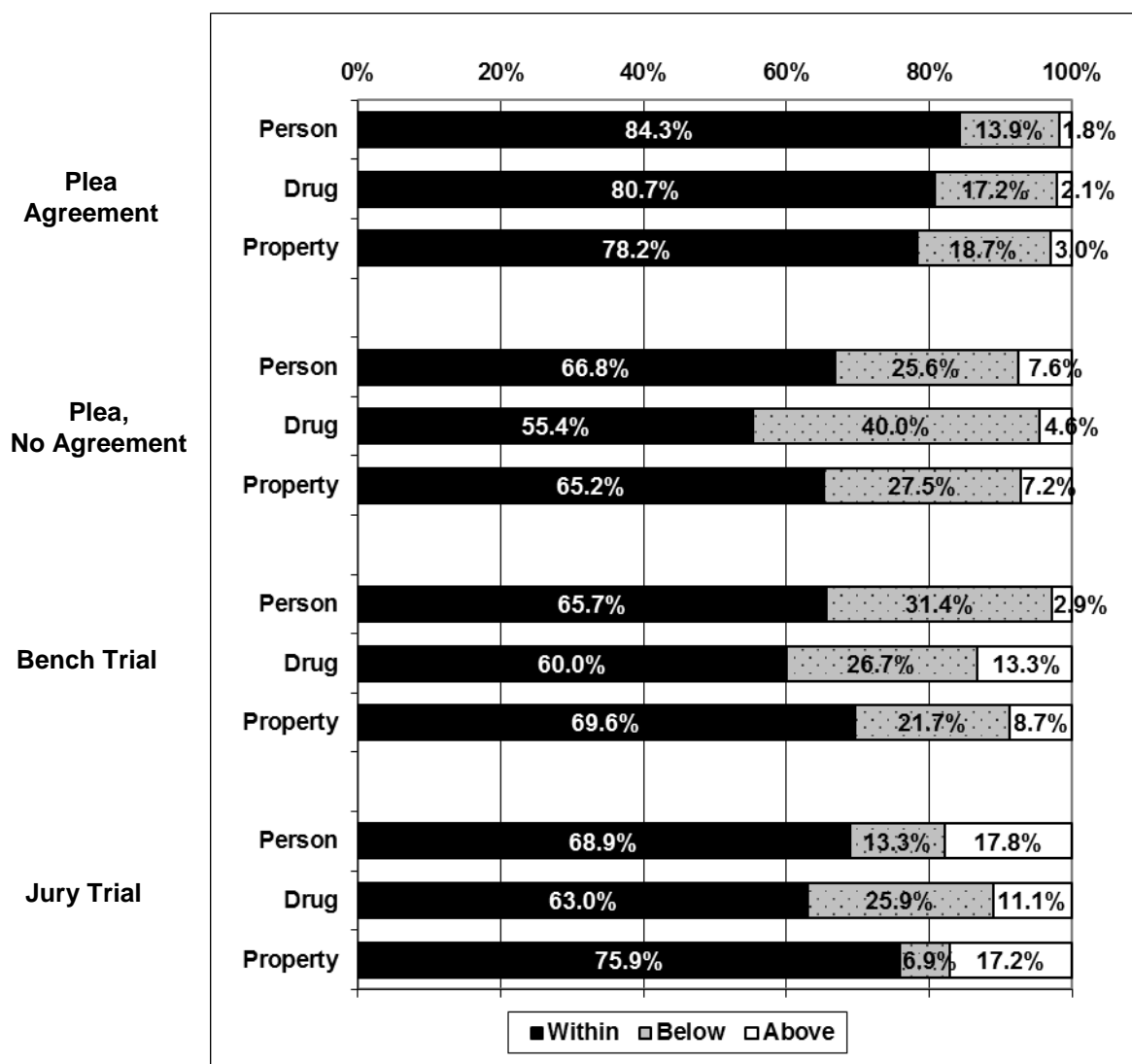
**Figure 15. Sentencing Guidelines Compliance by Type of Disposition and Fiscal Year**



## Judicial Compliance Rates by Crime Category and Disposition

Compliance rates by crime category and disposition for fiscal year 2013 are displayed in Figure 16. 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 23 worksheets in fiscal year 2013 for single-count property offenses adjudicated by a bench trial.

**Figure 16. Sentencing Guidelines Compliance by Crime Category and Disposition, Fiscal Year 2013**



The highest compliance rates were observed for person, drug, and property offenses adjudicated by a plea agreement (84.3%, 80.7%, and 78.2%, respectively). Three compliance rates fell short of the benchmark of 65%: drug offenses resolved by a plea with no agreement (55.4%), bench trial (60%), or jury trial (63%). Upward departures were most common among

person offenses disposed of by a jury trial (17.8%), while downward departures occurred most often among drug offenses disposed of by a plea with no agreement (40%).

## Departure Reasons

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COMAR 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 an accompanying numerical departure code (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.

Despite these efforts to facilitate the reporting of reasons for departing from the guidelines, departure reasons continue to be underreported. In fiscal year 2013, the reason for departure was provided in 45.2% of all departure cases. This represents a slight decrease in reporting from fiscal year 2012 (46.9%). The MSCCSP staff will continue to emphasize the need to include a reason for departure when providing training sessions. Additionally, the automated sentencing guidelines system will continue to help facilitate the collection of departure reasons, as the departure reason is a required field that must be completed prior to the electronic submission of any sentence that is identified as a departure from the guidelines.

Tables 5 and 6 display the reasons given for departures from the guidelines in fiscal year 2013. 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 57.2% of downward departures, the reason for departure was not provided. 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.

**Table 5. Departure Reasons for Cases Below the Guidelines, Fiscal Year 2013<sup>a</sup>**

<b>Mitigating Reasons</b>	<b>Percent of Departures Where Reason is Cited</b>	<b>Valid Percent<sup>b</sup></b>
<i>No Departure Reason Given</i>	57.2%	---
The parties reached a plea agreement that called for a reduced sentence	24.2%	56.5%
Recommendation of State's Attorney or Division of Parole and Probation	13%	30.4%
Offender's commitment to substance abuse treatment or other therapeutic program	6.3%	14.7%
Offender made restorative efforts after the offense	1.8%	4.3%
Offender's minor role in the offense	1.7%	4%
Offender's age/health	1.4%	3.2%
Offender had diminished capability for judgment	1.1%	2.7%
Offender's prior criminal record not significant	1.1%	2.5%
Weak facts of the case	0.8%	1.9%
Victim's participation in the offense lessens the offender's culpability	0.8%	1.8%
Offender was influenced by coercion or duress	0.3%	0.7%
Other reason (not specified above)	6.4%	15%

<sup>a</sup> Multiple reasons may be cited in each case.

<sup>b</sup> 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. The first row of the table shows that in 39.4% of upward departures, the reason 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) the level of harm was excessive; and 3) special circumstances of the victim.

**Table 6. Departure Reasons for Cases Above the Guidelines, Fiscal Year 2013<sup>a</sup>**

<b>Aggravating Reasons</b>	<b>Percent of Departures Where Reason is Cited</b>	<b>Valid Percent<sup>b</sup></b>
<i>No Departure Reason Given</i>	39.4%	---
Recommendation of State's Attorney or Division of Parole and Probation	24.1%	39.7%
The level of harm was excessive	11.6%	19.2%
Special circumstances of the victim	8.8%	14.6%
The vicious or heinous nature of the conduct	8%	13.2%
Offender's major role in the offense	7.6%	12.6%
Offender exploited a position of trust	6.4%	10.6%
Offender's significant participation in major controlled substance offense	5.2%	8.6%
Offender committed a "white collar" offense	2.4%	4%
Offender's prior criminal record significant	2.4%	4%
Other reason (not specified above)	14.9%	24.5%

<sup>a</sup> Multiple reasons may be cited in each case.

<sup>b</sup> 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, effective July 1, 2001.

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, effective March 28, 2005.<sup>6</sup> The available data on reconsidered sentences and economic loss for cases sentenced in fiscal year 2013 are summarized below.

### Report on Adjustments from Reconsidered Sentences Involving Crimes of Violence

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Table 7 reviews reconsidered sentences reported to the MSCCSP for crimes of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, for fiscal year 2013 by circuit. The table is based on reconsidered sentences for six offenders and nine offenses. This represents little change from fiscal year 2012 when the MSCCSP received worksheets on reconsiderations for crimes of violence for six offenders and eleven offenses. *Assault, 1<sup>st</sup> degree* (Criminal Law Article, §3-202) was the most common violent offense in reconsidered cases reported to the MSCCSP in fiscal year 2013.

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<sup>6</sup> 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)).

**Table 7. Case Reconsiderations for Crimes of Violence (CR, §14-101), Fiscal Year 2013<sup>a</sup>**

<b>Circuit</b>	<b>Offense</b>	<b># of Cases</b>
SIXTH	Assault, 1 <sup>st</sup> Degree	3
	Firearm Use in Felony or Crime of Violence	1
	Murder, 1 <sup>st</sup> Degree, Attempted	1
SEVENTH	Firearm Use in Felony or Crime of Violence	1
	Murder, 2 <sup>nd</sup> Degree, Attempted	2
	Carjacking, Unarmed	1

<sup>a</sup> Table 7 is based on reconsidered sentences for 6 offenders and 9 offenses.

### **Economic Loss in Title 7 and Title 8 Crimes**

In fiscal year 2013, 1,306 sentences for theft, fraud, and related crimes were reported to the MSCCSP. The amount of economic loss to the victim was recorded for only 348 (26.6%) of these cases. When reported, economic loss ranged in value from a minimum of no loss to a maximum of \$1,419,000. The average amount of loss was \$27,287. The majority of cases in which the amount of economic loss was reported on the sentencing guidelines worksheet involved a conviction for *felony theft or theft scheme, at least \$1,000 but less than \$10,000*; *misdemeanor theft or theft scheme, less than \$1,000*; or *felony theft or theft scheme, at least \$10,000 but less than \$100,000* (Criminal Law Article, §7-104).

## PLANNED ACTIVITIES FOR 2014

The MSCCSP has several important activities planned for 2014. First, 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. The Commission will also continue to meet individually with circuit court county administrative judges to review sentencing guidelines data and obtain feedback on their experiences with the guidelines.

Furthermore, the MSCCSP will continue to work with the Judiciary to establish a protocol for the expanded use of MAGS, as well as the development of a sentencing guidelines worksheet submission and tracking protocol. The MSCCSP hopes to build on the experiences of the use of the application in the MCCC to begin a gradual statewide roll-out of the automated system to the remaining jurisdictions. In January 2014, the MSCCSP will release MAGS 3.0, which will provide updates requested by MAGS users during the pilot period as well as additional enhancements identified by the MSCCSP. The MSCCSP will also work with the AOC to continue planning for interoperability with the Judiciary's new case management system, Maryland Electronic Courts (MDEC).

The MSCCSP will further review the 2013 decision of the Supreme Court in *Peugh v. United States* and consider its impact on Maryland's sentencing guidelines. The Commission will also continue to pursue funding opportunities for the proposed risk assessment feasibility study, while moving forward with an empirical review of the juvenile delinquency component of the offender score. Additionally, the MSCCSP will work to enhance the scope and accuracy of the sentencing/correctional simulation model. Finally, the Commission's Guidelines Subcommittee will continue to perform routine duties such as reviewing all new criminal offenses and changes in the criminal code passed by the General Assembly during the upcoming legislative session and providing proposed seriousness category classification for these offenses.

The activities described above are just a few of the many steps that will be taken by the MSCCSP in 2014 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*

<b>Sentencing Matrix for Drug Offenses</b> (Revised 10/2001)								
<b>Offender Score</b>								
<b>Offense Seriousness Category</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7 or more</b>
<b>VII</b>	P	P	P	P-1M	P-3M	P-6M	3M-6M	6M-2Y
<b>VI</b>	Available for future use. There are currently no seriousness category VI drug offenses.							
<b>V</b>	P-6M	P-12M	3M-12M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y
<b>IV</b>	P-12M	P-18M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y	3.5Y-10Y
<b>III-A</b> 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
<b>III-B</b> Non-marijuana and non- MDMA, Except Import	6M-3Y	1Y-3Y	18M-4Y	3Y-7Y	4Y-8Y	5Y-10Y	7Y-14Y	12Y-20Y
<b>III-C</b> Non-marijuana and non- MDMA, Import	1Y-4Y	2Y-5Y	3Y-6Y	4Y-7Y	5Y-8Y	6Y-10Y	8Y-15Y	15Y-25Y
<b>II</b>	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 1.8)

MARYLAND SENTENCING GUIDELINES WORKSHEET										OFFENDER NAME - Last, First, Middle		SID#		SEX M F		BIRTHDATE		JURISDICTION	
PSI		DATE OF OFFENSE		DATE OF SENTENCING		DISPOSITION TYPE		REPRESENTATION		ETHNICITY		RACE		MAND. MIN		CASE #/DOCKET #			
AT THIS SENTENCING, NUMBER OF:		CONVICTED 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 Victim Court Costs Imposed Yes No		Black White Native Hawaiian/Pacific Islander American Indian/Alaskan Native							
CONVICTED OFFENSE TITLE		I-VII		CJIS CODE		MD CODE, ART, & SECTION		STAT. MAX											
1 <sup>st</sup> Convicted Offense																			
2 <sup>nd</sup> Convicted Offense																			
3 <sup>rd</sup> Convicted Offense																			
OFFENSE SCORE(S) - Offense Against a Person Only										GUIDELINES RANGE		ACTUAL SENTENCE - Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Home Detention Etc.)							
A. Seriousness Category										1 <sup>st</sup> Con. Off.		1 <sup>st</sup> Convicted Offense							
1 = 1 = V - VII												For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ Restitution Requested Subsequent Offender Piled Subsequent Offender Proven							
3 = 3 = IV																			
5 = 5 = III																			
8 = 8 = II																			
10 = 10 = I																			
B. Victim Injury										2 <sup>nd</sup> Con. Off.		2 <sup>nd</sup> Convicted Offense							
0 = 0 = No Injury												For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ Restitution Requested Subsequent Offender Piled Subsequent Offender Proven							
1 = 1 = Injury, Non-Permanent																			
2 = 2 = Permanent Injury or Death																			
C. Weapon Presence										3 <sup>rd</sup> Con. Off.		3 <sup>rd</sup> Convicted Offense							
0 = 0 = No Weapon												For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ Restitution Requested Subsequent Offender Piled Subsequent Offender Proven							
1 = 1 = Weapon Other Than Firearm																			
2 = 2 = Firearm or Explosive																			
D. Special Victim Vulnerability										Overall Guidelines Range		Was the offender sentenced to a Corrections Options program under Commission criteria?							
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off												Drug Court Yes No Other Yes No							
0 = 0 = No												Additional Information or Institutional/Parole Recommendation							
1 = 1 = Yes												Title							
												Sentencing Judge (Please Print)							
												Sentencing Judge's Signature							

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

## Appendix C:

### Sentencing Guidelines Compliance and Average Sentence by Offense Type, Fiscal Year 2013 (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 <sup>nd</sup> Degree	817	83.1%	12.9%	4%	72.2%	5.2 years	1.3 years
Robbery	447	85.5%	12.5%	2%	87%	8.5 years	2.4 years
Robbery with Dangerous Weapon	234	75.2%	23.9%	0.9%	92.7%	10.8 years	4.1 years
Assault, 1 <sup>st</sup> Degree	218	61.9%	35.3%	2.8%	89.4%	13.1 years	4.1 years
Handgun, unlawful wearing or carrying, 1 <sup>st</sup> weapon offense	156	91%	9%	0%	60.3%	2.4 years	0.8 years
<b>Drug Offenses</b>							
Distribution Marijuana	858	87.3%	11.6%	1.2%	54.3%	2.9 years	0.7 years
Distribution Cocaine	732	67.1%	31.4%	1.5%	72.4%	8.1 years	2.9 years
Distribution Heroin	558	69.2%	29.7%	1.1%	71.7%	8.3 years	2.2 years
Possession Marijuana	251	88%	1.2%	10.8%	39.8%	0.6 years	0.3 years
Distribution Narcotic (drug not identified)	141	63.8%	32.6%	3.5%	83%	10.2 years	2.8 years
<b>Property Offenses</b>							
Burglary, 1 <sup>st</sup> Degree	348	73%	25.3%	1.7%	82.8%	8.6 years	2.8 years
Theft or Theft Scheme, At Least \$1,000 but Less Than \$10,000	211	80.6%	14.7%	4.7%	73%	5.2 years	1.7 years
Burglary, 2 <sup>nd</sup> Degree	184	67.9%	32.1%	0%	76.6%	7.8 years	2.3 years
Theft or Theft Scheme, Less Than \$1,000	182	73.6%	23.6%	2.7%	67%	1.2 years	0.6 years
Burglary, 4 <sup>th</sup> Degree	127	69.8%	24.6%	5.6%	59.8%	1.9 years	0.8 years

## Appendix D:

### 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.

## 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).