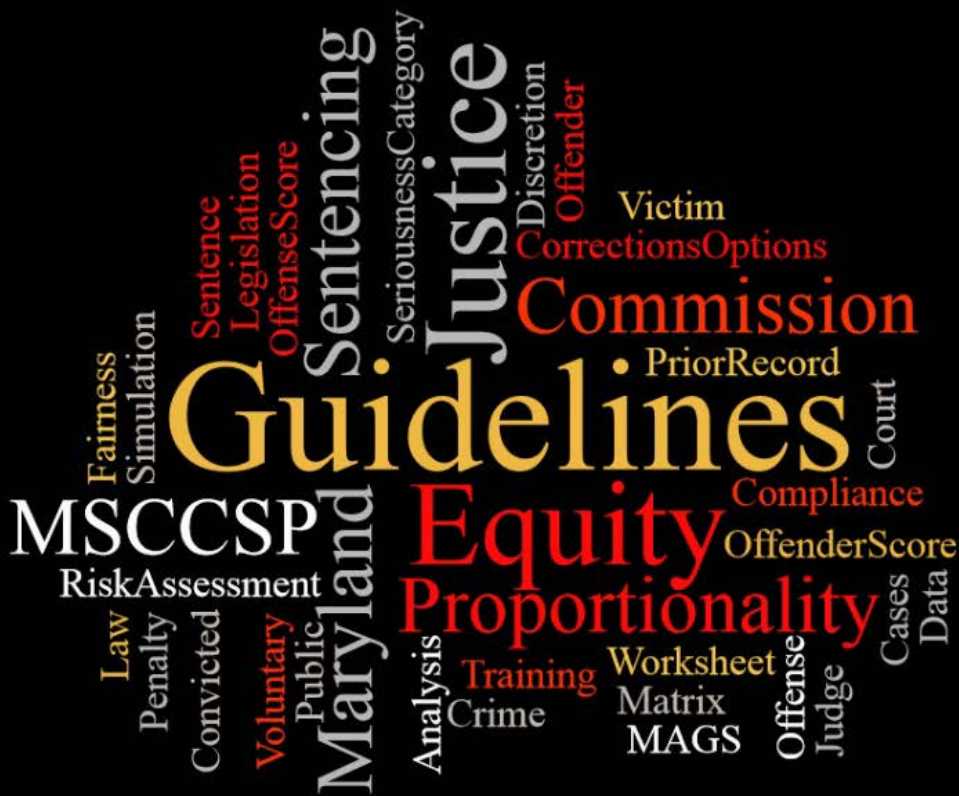


# 2015 ANNUAL REPORT



## MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY

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**Honorable Diane O. Leasure** (August 2011 – June 2015)

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## 2015 | Annual Report





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### **Research Director**

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## **INTERNS**

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

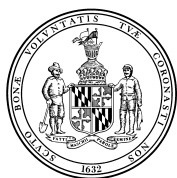
Rosy Shrestha

Hayley Ansell

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# MSCCSP

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## Maryland State Commission on Criminal Sentencing Policy

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### Vice-Chair

Hon. Shannon E. Avery

### Commissioners

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Sen. Robert G. Cassilly

LaMonte E. Cooke

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Sec. Stephen T. Moyer

Col. William M. Pallozzi

Hon. James P. Salmon

Del. Joseph F. Vallario, Jr.

### Executive Director

David A. Soulé, Ph.D.

January 2016

To: The Honorable Lawrence J. Hogan, Jr., Governor  
The Honorable Boyd K. Rutherford, Lt. Governor  
The Honorable Mary Ellen Barbera, Chief Judge of Maryland  
The Honorable Brian E. Frosh, Attorney General of Maryland  
The Honorable Members of the General Assembly of Maryland

Pursuant to Criminal Procedure Article, §6-209, Annotated Code of Maryland, the Maryland State Commission on Criminal Sentencing Policy (the MSCCSP or Commission) is required annually to review sentencing policy and practice and report upon the work of the Commission. In compliance with this statutory mandate, we submit respectfully for your review the 2015 Annual Report of the MSCCSP.

This report details the 2015 activities of the MSCCSP, highlighted by a vote to adopt changes to the sentencing matrix for certain drug offenses and review of the work of the Justice Reinvestment Coordinating Council to provide guidance on its analysis of sentencing guidelines data and offer feedback on proposed changes to the guidelines. Additionally, the report summarizes circuit court sentencing practices and trends in Maryland for fiscal year 2015, while providing a comprehensive examination of judicial compliance with the state's voluntary sentencing guidelines, describing information provided on the state's sentencing guidelines worksheets, and offering finally a description of planned activities for 2016. 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. Although the MSCCSP was not able (for budgetary reasons) to print and distribute hard copies of the report for public distribution this year, it is accessible for viewing and downloading at: <http://www.msccsp.org/Reports/>.

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

Sincerely,

Judge Glenn T. Harrell, Jr., (Ret.)

## TABLE OF CONTENTS

<b>Executive Summary .....</b>	<b>iii</b>
<b>The Maryland State Commission on Criminal Sentencing Policy .....</b>	<b>1</b>
Guidelines Background.....	1
MSCCSP Background .....	4
MSCCSP Structure.....	5
<b>MSCCSP Activities in 2015 .....</b>	<b>8</b>
Review of New and Amended Offenses Passed During the 2015 Legislative Session.....	8
Miscellaneous Modifications to the Guidelines Offense Table in 2015 .....	11
Review of Seriousness Category for <i>Criminally Negligent Manslaughter by Vehicle or Vessel</i> (CR, §2-210) .....	12
Revisions to the Sentencing Matrix for Drug Offenses .....	12
Review of <i>Commit a Crime of Violence in the Presence of a Minor</i> (CR, §3-601.1) ...	14
Training and Education.....	15
Information, Data Requests, and Outreach.....	19
Data Collection, Oversight, and Verification.....	20
Subcommittee Work .....	20
Maryland Automated Guidelines System (MAGS).....	21
Identification of Guidelines-Eligible Sentencing Events.....	23
Sentencing/Correctional Simulation Model .....	24
Risk Assessment at Sentencing.....	25
Juvenile Delinquency Score Project.....	26
Justice Reinvestment Coordinating Council.....	27
Public Comments Hearing .....	27
<b>Sentences Reported in FY 2015 .....</b>	<b>29</b>
Sentencing Guidelines Worksheets Received.....	29
Guidelines Case Characteristics .....	31
<b>Judicial Compliance with Maryland’s Voluntary Sentencing Guidelines .....</b>	<b>41</b>
Judicial Compliance Rates Overall .....	41
Judicial Compliance Rates by Circuit.....	43
Judicial Compliance Rates by Crime Category .....	45
Judicial Compliance Rates by Type of Disposition .....	46

## TABLE OF CONTENTS (CONTINUED)

Judicial Compliance Rates by Crime Category and Disposition .....	47
Departure Reasons.....	48
<b>Additional Information Collected .....</b>	<b>51</b>
Report on Adjustments from Reconsidered Sentences Involving Crimes of Violence.....	51
Economic Loss in Title 7 and Title 8 Crimes .....	51
Victim Information .....	52
<b>MSCCSP Planned Activities for 2016.....</b>	<b>55</b>
<b>Appendices.....</b>	<b>56</b>
Appendix A: Sentencing Guidelines Matrices.....	57
Appendix B: Maryland Sentencing Guidelines Worksheet.....	60
Appendix C: Sentencing Guidelines Compliance and Average Sentence by Offense Type, Fiscal Year 2015 .....	61
Appendix D: Description of Types of Disposition.....	62
Appendix E: Common Departure Reasons Listed on the Sentencing Guidelines Departure Reference Card .....	63

## EXECUTIVE SUMMARY

The Judiciary introduced the concept of judicial sentencing guidelines in Maryland in the late 1970s. The Court of Appeals formed the Judicial Committee on Sentencing in May 1978 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. The sentencing guidelines were developed based on extensive collection and analysis of data on past sentencing practices in Maryland, and their design accounts for both offender and offense characteristics in determining the appropriate sentence range. Beginning in June 1981, four jurisdictions representing a diverse mix of areas piloted the sentencing guidelines. At the conclusion of the test period in May 1982, the Judicial Conference decided to continue using 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, in 1983 the Judicial Conference voted favorably on (and the Maryland General Assembly approved) the guidelines, adopting them formally statewide.

The voluntary sentencing guidelines cover most circuit court cases and provide recommended sentence ranges for three broad categories of offenses: person, drug, and property. The guidelines recommend whether to incarcerate an offender and if so, provide a recommended sentence length range, based largely on the available data for how Maryland circuit court judges have sentenced for related convictions. The sentencing guidelines are advisory and judges may, at their discretion, impose a sentence outside the guidelines. Judges are asked, however, to document the reason or reasons for sentencing outside of the guidelines if they do so.

The Maryland General Assembly created the Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) in 1999 to oversee sentencing policy and to monitor the state's voluntary sentencing guidelines. The General Assembly established six goals to guide the work of the Commission: (a) sentencing should be fair and proportional and sentencing policies should reduce unwarranted disparity; (b) sentencing policies should help citizens understand how long a criminal will be confined; (c) the preservation of meaningful judicial discretion; (d) sentencing guidelines should be voluntary; (e) the prioritization of prison usage for violent and career criminals; and (f) the imposition of the most appropriate criminal penalties. The Commission consists of 19 members, including members of the Judiciary,



criminal justice practitioners, 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 may adopt changes to the guidelines consistent with the sentencing practices of Maryland circuit court judges.

In 2015, the MSCCSP reviewed new and amended criminal laws from the 2015 Legislative Session, reviewed and classified previously unclassified offenses, reviewed the seriousness category of criminally negligent manslaughter by vehicle or vessel, voted to adopt changes to cells in the sentencing matrix for certain drug offenses, and reviewed the sentencing guidelines' treatment of committing a crime of violence in the presence of a minor. 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 data verification and data entry reviews to improve the accuracy of the sentencing guidelines data. Additionally, the MSCCSP completed several key tasks towards the continued deployment of the Maryland Automated Guidelines System (MAGS). The Commission worked also to update, revise, and utilize the sentencing/correctional simulation model; moved forward with the risk assessment feasibility study and juvenile delinquency score project, both conducted with research teams from the University of Maryland, College Park; and contributed to the Justice Reinvestment Coordinating Council's justice reinvestment activities. Finally, the MSCCSP held an annual public comments hearing in December to provide a forum for the public to provide testimony and feedback on sentencing-related issues.

In fiscal year 2015, the MSCCSP received guidelines worksheets for 10,700 sentencing events in the state's circuit courts. A worksheet was submitted for 82% of guidelines-eligible cases. Worksheets for 1,268 of the 10,700 sentencing events were submitted electronically using MAGS in Calvert, Frederick, and Montgomery Counties. The vast majority of cases were resolved by either a non-ABA plea agreement (41.5%) or an ABA plea agreement (41.2%). Three-quarters of guidelines cases were sentenced to incarceration, and the median sentence length among those incarcerated (excluding suspended time) was 1.5 years.

The overall guidelines compliance rate in fiscal year 2015 well exceeded the Commission's goal of 65% compliance. When departures occurred, they were more often below the guidelines than above. All eight trial court judicial circuits met the benchmark rate of 65% compliance. 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 considering compliance rates by both crime category and disposition, the highest compliance rates were observed for person, drug, and property 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 2015. 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 2016. In addition to performing routine activities, such as, collecting sentencing guidelines worksheets, maintaining the sentencing guidelines database, monitoring judicial compliance with the guidelines, and providing sentencing guidelines education and training, the MSCCSP will review all criminal offenses and changes in the criminal laws passed by the General Assembly during the 2016 Legislative Session, adopt or revise seriousness categories for these offenses as needed, and will review any recommendations stemming from the Justice Reinvestment Coordinating Council's 2015 report. The MSCCSP will work also to implement the revisions to the sentencing matrix for drug offenses on which the Commission voted in December 2015. Furthermore, the MSCCSP will continue a gradual statewide roll-out of MAGS, working with individual jurisdictions to establish secure login procedures for access to MAGS while also providing orientation and training on the use of the application. The MSCCSP will work further with research teams from the University of Maryland to complete the risk assessment feasibility study and the juvenile delinquency score project. Finally, the MSCCSP will continue to work to refine and update the scope and accuracy of the sentencing/correctional simulation model. The activities described above are just a few of the many tasks that will be completed by the

MSCCSP in 2016 to support the consistent, fair, and proportional application of sentencing practice in Maryland.

# THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY

## Guidelines Background

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### History of the Maryland Sentencing Guidelines

The Judiciary introduced the concept of judicial sentencing guidelines in Maryland in the late 1970s 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 Court of Appeals formed the Judicial Committee on Sentencing in May 1978 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 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 their design accounts for both offender and offense characteristics in determining the appropriate sentence range. Beginning in June 1981, four jurisdictions representing a diverse mix of areas piloted the sentencing guidelines. At the conclusion of the test period in May 1982, the Judicial Conference decided to continue using 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, in 1983 the Judicial Conference voted favorably on (and the Maryland General Assembly approved) the guidelines, adopting them formally statewide.

Since that time, the sentencing guidelines have been subject to several important reviews. The first major review of the guidelines took place in 1984 resulting in revisions to both the sentencing guidelines worksheet and the sentencing guidelines manual. In 1987, the Advisory Board conducted a comprehensive review of the guidelines 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 sentencing 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, from 1991 through 1994, the Advisory Board conducted a three year review of the sentencing practices of circuit court judges. This review established the 65 percent guidelines compliance standard relied upon today by the Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) when considering potential modifications to the guidelines.<sup>1</sup> 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 Sentencing Guidelines**

Pursuant to Criminal Procedure Article (CP), §6-216, Annotated Code of Maryland, the circuit courts shall consider the sentencing guidelines in deciding the proper sentence. The voluntary sentencing guidelines apply to cases prosecuted in Maryland circuit courts generally, with several exceptions. Because the guidelines were designed to apply to incarcerable offenses for which the circuit court has original jurisdiction, the following categories of circuit court cases are excluded from the guidelines: prayers for jury trials from the District Court in which a pre-sentence investigation (PSI) was not ordered, criminal appeals from the District Court in which a PSI was not ordered, crimes that carry no possible penalty of incarceration, and violations of public local laws and municipal ordinances. Because they generally involve more serious and/or incarcerable offenses, prayers for jury trials and criminal appeals from the District Court in which a PSI is ordered, are defined as guidelines-eligible cases. Reconsiderations for crimes of violence and three-judge panel reviews are also defined as guidelines-eligible cases if there is an adjustment made to the defendant's active sentence. Table 1 provides a complete description of guidelines-eligible and ineligible cases.

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<sup>1</sup> In 1991, the Sentencing Guidelines Revision Committee of the Advisory Board established 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. Based on this previously adopted policy, the Commission adopted the goal of 65% as the benchmark standard for sentencing guidelines compliance.

**Table 1. Guidelines-Eligible and Ineligible Cases.**

<b>For Cases Originating in Circuit Court</b>	
<b>Guidelines-Eligible</b>	<b>Guidelines-Ineligible</b>
Offenses originally prosecuted in Circuit Court	Violations of public local laws and municipal ordinances
	Offenses that carry no possible penalty of incarceration
All pleas, including American Bar Association (ABA) pleas, nonbinding pleas, and pleas of <i>nolo contendere</i> (no contest) by the offender	Cases in which the offender was found not criminally responsible (NCR)
Sentences to probation before judgment (PBJ)	Revocations of probation
Initial sentences with a condition of drug court or an inpatient commitment under Health-General Article, Title 8, Subtitle 5, Annotated Code of Maryland	Sentences with a condition of drug court or an inpatient commitment under Health-General Article, Title 8, Subtitle 5, Annotated Code of Maryland, that result from a violation of probation
Reconsiderations for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland) if there is an adjustment to the active sentence	Reconsiderations for a crime of violence if there is <u>NOT</u> an adjustment to the active sentence
Three-judge panel reviews if there is an adjustment to the active sentence	Three-judge panel reviews if there is <u>NOT</u> an adjustment to the active sentence
<b>For Cases Originating in District Court</b>	
<b>Guidelines-Eligible</b>	<b>Guidelines-Ineligible</b>
Prayers for a jury trial if a pre-sentence investigation (PSI) is ordered	Prayers for a jury trial if a PSI is <u>NOT</u> ordered
Appeals from District Court if a PSI is ordered	Appeals from District Court if a PSI is <u>NOT</u> ordered

The sentencing guidelines cover three broad categories of offenses: person, drug, and property. The guidelines recommend whether to incarcerate an offender and if so, provide a recommended sentence length range, based largely on the available data for how Maryland circuit court judges have sentenced for related convictions. For each offense category, a separate matrix contains cells with recommended sentence ranges. Appendix A includes a copy of the three sentencing matrices. The grid cell at the intersection of an individual's offender score and offense seriousness category (for drug and property offenses) or offense score (for person offenses) determines the sentence recommendation. The offense seriousness category is an offense ranking ranging from I to VII, where I designates the most serious criminal offenses and VII designates the least serious criminal offenses. For person offenses, 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) together determine the offense score. The offender score is a measure of the individual's criminal history, 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 nonsuspended 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) 14.22.01.05A states that the judge shall document the reason or reasons for imposing a sentence outside of the recommended guidelines range.

## **MSCCSP Background**

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The Maryland General Assembly created the MSCCSP in May 1999, after a study commission (the Maryland Commission on Criminal Sentencing Policy) recommended creating 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, initially established in 1979 to develop and implement Maryland's sentencing guidelines. The General Assembly created the MSCCSP to oversee sentencing policy and to maintain and monitor the state's voluntary sentencing guidelines. CP, §6-202 sets out six goals for the MSCCSP, stating the General Assembly intends that:

- sentencing should be fair and proportional and that sentencing policies should reduce unwarranted disparity, including any racial disparity, in sentences for criminals who have committed similar crimes and have similar criminal histories;
- sentencing policies should help citizens to understand how long a criminal will be confined;
- sentencing policies should preserve meaningful judicial discretion and sufficient flexibility to allow individualized sentences;
- sentencing guidelines be voluntary;
- the priority for the capacity and use of correctional facilities should be the confinement of violent and career criminals;
- sentencing judges in the State should be able to impose the most appropriate criminal penalties, including corrections options programs for appropriate criminals.

The General Assembly designed and authorized the MSCCSP 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). The sentencing court is to consider these guidelines in selecting either the guidelines sentence for a defendant or sanctions under corrections options.

Pursuant to CP, §6-210, the MSCCSP collects sentencing guidelines worksheets, monitors sentencing practice and adopts 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 to meet these requirements. Criminal justice practitioners complete worksheets for guidelines-eligible criminal cases prosecuted in circuit court to determine the recommended sentencing outcome and to record sentencing data. Appendix B provides a copy of the current Maryland sentencing guidelines worksheet. The sentencing judges are expected to review worksheets for completeness and accuracy (COMAR 14.22.01.03F(4)). With the exception of worksheets completed via the Maryland Automated Guidelines System (MAGS), the court clerk mails a hard copy to the Commission’s office. The Commission staff is responsible for data entry of non-MAGS worksheets and monitoring all data collected within the sentencing guidelines worksheets. Data collected by the Commission permit analyses of sentencing trends with respect to compliance with the guidelines, particular offenses, specific types of offenders, and geographic variations. The MSCCSP uses the guidelines data to monitor circuit court sentencing practices and to adopt changes to the guidelines consistent with legislative intent, when necessary. The data also support the use of a correctional population simulation model designed to forecast the effect of proposed guidelines and/or statutory changes on the prison population.

The Commission’s enabling legislation also authorizes the MSCCSP to conduct guidelines training and orientation for criminal justice system participants and other interested parties. Additionally, the MSCCSP administers the guidelines system in consultation with the General Assembly and provides fiscal and statistical information on proposed legislation concerning sentencing and correctional practice.

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## **MSCCSP Structure**

The MSCCSP consists of 19 members, including members of the Judiciary, criminal justice practitioners, members of the Maryland Senate and House of Delegates, as well as public representatives.





In August 2015, Governor Lawrence J. Hogan, Jr. appointed the Honorable Glenn T. Harrell, Jr., Judge, Court of Appeals, 4th Appellate Judicial Circuit, Prince George's County (retired), as the chair of the MSCCSP. Judge Harrell replaced the Honorable Diane O. Leasure, Circuit and County Administrative Judge, Howard County Circuit Court (retired), who served as the Commission's Chair since 2011. Other Governor appointees include Paul F. Enzinna, a defense attorney, and Barbara Dorsey Domer, Frederick County Circuit Court Administrator, who serve as public representatives on the Commission; Colonel William M. Pallozzi, Secretary of State Police, who serves as the representative from law enforcement; LaMonte E. Cooke, Director of Correctional Services for Queen Anne's County, who serves as the local correctional facilities representative; Richard A. Finci, a 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. Brian D. Johnson, Associate Professor, University of Maryland Department of Criminology and Criminal Justice, who serves as the criminal justice/corrections policy expert. Ms. Domer replaced James V. Anthenelli, a defense attorney and one of the Commission's two public representatives. Mr. Anthenelli served as a member of the MSCCSP since 2003. It is with regret we report that Mr. Anthenelli passed away on May 26, 2015. Dr. Johnson replaced the Honorable Andrew L. Sonner, Judge, Court of Special Appeals, 7th Appellate Judicial Circuit, Montgomery County (retired), and the Commission's criminal justice/corrections policy expert. Judge Sonner served as a member of the Commission since 2013. Judge Sonner also served a previous term with the Commission from 1996 through 2003, serving as the Commission's chair from 1999 through 2003. The Honorable Joseph I. Cassilly, State's Attorney for Harford County and the Commission's representative of the Maryland State's Attorney's Association, resigned from the Commission, effective September 2015. Mr. Cassilly served as a member of the MSCCSP since 2009. The Honorable Brian L. DeLeonardo, State's Attorney for Carroll County, has been appointed as his replacement.

The Chief Judge of the Court of Appeals of Maryland is responsible for three appointments to the Commission. The judicial appointees are the Honorable James P. Salmon, Judge, Court of Special Appeals, 4th Appellate Judicial Circuit, Prince George's County (retired); the Honorable Patrice E. Lewis, Judge, District Court of Maryland, District 5, Prince George's County; and the Honorable Shannon E. Avery, Judge, Baltimore City Circuit Court, 8th Judicial Circuit. Judge Avery replaced the Honorable Alfred Nance, Chief Judge, Baltimore City Circuit Court, 8th Judicial Circuit, who served as a member of the MSCCSP since 2010.

The President of the Senate is responsible for two appointments: Senators Delores G. Kelley and Lisa A. Gladden. Senator Gladden's term expired December 2015, and Senator Robert G. Cassilly has been appointed as her successor. 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, Brian E. Frosh; the State Public Defender, Paul B. DeWolfe; and the Secretary of the Department of Public Safety and Correctional Services, Stephen T. Moyer.

The MSCCSP is a state agency within the Executive Branch of Maryland, with its office in College Park. In an effort to allow the Commission to benefit from the shared resources of the University of Maryland, the Commission's staff office was established with guidance from the



DEPARTMENT OF

Criminology &  
Criminal Justice

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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's 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 2015

The MSCCSP held three meetings in 2015. The meetings occurred on May 19, September 22, and December 8. In addition, the Commission also held its annual public comments hearing on December 8. The minutes for all Commission meetings are available on the Commission's website ([www.msccsp.org](http://www.msccsp.org)). The following discussion provides a review of the Commission's activities in 2015.

### **Review of New and Amended Offenses Passed During the 2015 Legislative Session**

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The MSCCSP reviewed new criminal laws from the 2015 Legislative Session to identify new and revised offenses requiring the adoption or modification of seriousness categories. The MSCCSP determines new seriousness categories 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 2015 Legislative Session resulted in important new criminal justice laws. These include, but are not limited to, Chapter 490 (House Bill 490), authorizing circuit courts to depart from mandatory minimum sentences for certain drug offenses, and the Maryland Second Chance Act (Chapter 313 / House Bill 244). The MSCCSP's review of the 2015 Legislative Session, however, did not identify any new offense with a maximum incarceration penalty greater than 1 year. (By MSCCSP rule, any offense with a maximum incarceration penalty of 1 year or less automatically receives a seriousness category VII (COMAR 14.22.01.09B(2)(f)) unless the Commission chooses to adopt a different seriousness category.) The MSCCSP also did not identify any 2015 legislation that increases the maximum penalty for an existing offense, with a previous maximum incarceration penalty of 1 year or less, to be more than 1 year. Neither did the MSCCSP's review of 2015 legislation identify any existing offense, with a maximum incarceration penalty greater than 1 year, which the General Assembly substantively revised in 2015 in a way relevant to the sentencing guidelines.

The MSCCSP reviewed the new offenses (i.e., with maximum incarceration penalties of 1 year or less) and the revised offenses and voted to take no action concerning seriousness categories for all of those offenses at its September 22 meeting. Taking no action allowed the default rule and existing seriousness categories to cover the new and revised offenses. Nonsubstantive changes to COMAR 14.22.02.02 and the Guidelines Offense Table were nevertheless

necessary to reflect minor statutory revisions (e.g., changes to statutory subsection designations). After promulgating those changes through the COMAR review process, the MSCCSP will adopt these updates effective February 1, 2016.

The 2015 laws that the MSCCSP considered at its September 22 meeting are:

- i. Chapter 393 (HB 9) – Maryland Licensure of Direct-Entry Midwives Act – Violation of any provision of Health Occupations Article, Title 8, Subtitle 6c (Licensed Direct-Entry Midwives) (HO, §8-6C-24);
- ii. Chapter 419 (HB 431) – Public Health & Safety, Crimes Against – Burying or disposing of a dead human body other than as permitted by law (HG, §5-514);
- iii. Chapter 444 (HB 630) – Motor Vehicle Offenses – Offer, sell, negotiate a mechanical repair contract if not a licensed vehicle dealer or registered obligor (TR, §5-311.2(c)(5), TR, §27-101(ff) (penalty));
- iv. Chapter 453 (HB 744) – Consumer Protection Laws – Failure to remove mug shot photo within 30 days without charge (CL, §14-1324, CL, §13-411 (penalty));
- v. Chapter 462 (HB 871) – Tax Preparer Prohibited Acts – Violating any provision of Business Occupations and Professions Article, Title 21 (Individual Tax Preparers), subsequent (BO, §21-405(b));
- vi. Chapter 5 (SB 69 / CF HB 181) – Pharmacists and Pharmacies Prohibited Acts – Violations of certain provisions of Health Occupations Article, Title 12 (HO, §12-701, HO §12-702, HO, §12-703, HO, §12-704, HO, §12-6B-12, HO, §12-6D-15, HO, §12-707(b) (penalty));
- vii. Chapter 69 (HB 106) – Public Health and Safety, Crimes Against – Unlawfully cause or unlawfully dump, deposit, throw, etc., litter, no more than 100 lbs. in weight or 27 cubic feet in volume (CR, §10-110(f)(2)(i)) – Unlawfully cause or unlawfully dump, deposit, throw, etc., litter, greater than 100 lbs. in weight or 27 cubic feet in volume (CR, §10-110(f)(2)(ii)) – Unlawfully cause or unlawfully dump, deposit, throw, etc., litter greater than 500 lbs. in weight or 216 cubic feet in volume or for commercial purposes (CR, §10-110(f)(2)(iii));
- viii. Chapter 140 (HB 942 / CF SB 772) – Apprenticeship and Job Training Standards – Knowingly offer, establish, maintain, or operate an apprenticeship or on-the-job training program other than as permitted (LE, §11-405(b)(6));
- ix. Chapter 198 (SB 767) – Election Offenses – Knowing and willful violation of Election Law Article, Title 14 (Disclosure by Persons Doing Public Business) (EL, §14-107(d)) – Knowing and willful violation of Title 14 Disclosure by Persons Doing Public Business (GP, §5-716(l));
- x. Chapter 261 (HB 566) – Fraud, Miscellaneous – Knowing and willful false statement in connection with an application under Health-General Article, Title 7, Subtitle 9 (HG, §7-910(b));

- xi. Chapter 293 (HB 1032) – Weapons Crimes—In General – Carrying or possessing firearm, knife, or deadly weapon on school property, other than handgun (CR, §4-102);
- xii. Chapter 312 (HB 485 / CF SB 593) – Election Offenses – Knowing and willful violation of General Provisions Article, Title 5, Subtitle 7 (GP, §5-903(a), (b));
- xiii. Chapter 321 (SB 67) – Burglary and Related Crimes – Home Invasion (CR, §6-202(d));
- xiv. Chapter 351 (SB 456) – CDS and Paraphernalia – Possession—unlawful possession or administering to another, obtaining, etc., substance or paraphernalia by fraud, forgery, misrepresentation, etc.; affixing forged labels; altering etc., label; unlawful possession or distribution of controlled paraphernalia—marijuana because of medical necessity (CR, §5-601(c)(3)) – Paraphernalia —use or possession, with intent to use, subsequent—marijuana because of medical necessity (CR, §5-619(c));
- xv. Chapter 357 (SB 520) – Prostitution and Related Crimes – Prostitution, etc.—General assignment and solicitation (CR, §11-306(a));
- xvi. Chapter 361 (SB 549 / CF HB 52) – Identity Fraud – Possess, obtain personally identifying information or willfully assume the identity of another, benefit \$100,000 or greater (CR, §8-301(b), (c), CR, §8-301(g)(1)(iii) (penalty)) – Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$10,000 but less than \$100,000 (CR, §8-301(b), (c), CR, §8-301(g)(1)(ii) (penalty)) – Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$1,000 but less than \$10,000 (CR, §8-301(b), (c), CR, §8-301(g)(1)(i) (penalty)) – Possess, obtain personally identifying information or willfully assume the identity of another, benefit less than \$1,000 (CR, §8-301(b), (c), CR, §8-301(g)(2) (penalty));
- xvii. Chapter 396 (HB 73) – Election Offenses – Violate election laws as defined in Election Law Article, §16-201, Annotated Code of Maryland (EL §16-201);
- xviii. Chapter 402 (HB 120) – Influence of Intimidating Judicial Process – Failure to appear in connection with a felony (CP, §5-211(c)(1)) – Failure to appear in connection with a misdemeanor or for appearance as witness (CP, §5-211(c)(2));
- xix. Chapter 410 (HB 236 / CF SB 705) – Assault and Other Bodily Woundings – Assault on law enforcement officer or parole or probation agent or first responder, 2<sup>nd</sup> degree (CR, §3-203(c));
- xx. Chapter 454 (HB 769) – Election Offenses – Knowing and willful violation of Election Law Article, Title 20 (EL, §14-107(d), (e));
- xxi. Chapter 470 (HB 1172) – Fraud, Miscellaneous – Knowing and willful false statement in connection with an application under Health-General Article, Title 7, Subtitle 9 (HG, §7-910(c)); and
- xxii. Chapter 490 (HB 121) – CDS and Paraphernalia – Unlawful distribution, manufacture, counterfeiting, possession, etc., of certain equipment for illegal use; keeping common nuisance, narcotics and hallucinogenics (e.g., heroin, cocaine, oxycodone, and methadone), subsequent (CR, §5-608(b), CR, §5-609(b), CR, §5-608(c), CR, §5-609(c), CR, §5-608(d), CR, §5-609(d)) – Unlawful distribution,

manufacture, counterfeiting, manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, MDMA, 750 grams or more, subsequent (CR, §5-609(b), CR, §5-609(c), CR, §5-609(d)) – Unlawful distribution, manufacture, counterfeiting, manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, Schedules I through V non-narcotics (e.g., amphetamines, marijuana, MDMA under 750g), and buprenorphine, subsequent (CR, §5-607(b)).

## Miscellaneous Modifications to the Guidelines Offense Table in 2015

In its continued review of seriousness categories for all criminal offenses sentenced in the state's circuit courts, the MSCCSP identified two additional offenses not previously classified by the Commission. The Commission reviewed the two offenses listed in Table 2 during its September 22 meeting and voted for seriousness categories and offense type classifications consistent with those for similar offenses. After promulgating the proposed offense table additions through the COMAR review process, the MSCCSP will adopt these updates effective February 1, 2016.

**Table 2. Adopted Seriousness Categories for Previously Unclassified Offenses**

Annotated Code of Maryland	Offense	Statutory Maximum	Offense Type	Adopted Seriousness Category
2B, §20-101, 2B, §20-102, 2B, §20-103, 2B, §20-103.1, 2B, §20-103.2, 2B, §20-105, 2B, §20-105.1, 2B, §20-106, 2B, §20-107.1, 2B, §20-108.1, 2B, §20-108.2, 2B, §20-110, 2B, §20-111, 2B, §20-112, 2B, §20-113	<b>Alcoholic Beverages</b> County-specific provisions concerning giving, serving, dispensing, keeping, or allowing alcoholic beverages without license; bottle clubs; places of public entertainment – Anne Arundel, Baltimore, Calvert, Caroline, Charles, Dorchester, Frederick, Kent, Prince George's, Queen Anne's, Somerset, Talbot, Wicomico, or Worcester Counties, or Baltimore City	2 years	Property	VII
HG, §13-3313	<b>CDS and Paraphernalia</b> Distribute, possess, manufacture, or use cannabis diverted from a qualifying patient, caregiver, licensed grower, or licensed dispensary	5 years	Drug	IV

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## **Review of Seriousness Category for *Criminally Negligent Manslaughter by Vehicle or Vessel* (CR, §2-210)**

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Effective October 1, 2011, individuals convicted of *criminally negligent manslaughter by vehicle or vessel* (Criminal Law Article (CR), §2-210, Annotated Code of Maryland) face a maximum penalty of 3 years and a maximum fine of \$5,000. When the Commission initially categorized this offense following its creation by the Legislature in 2011, the MSCCSP considered comparable offenses with seriousness categories ranging from IV to VI. The Commission ultimately decided to adopt the lowest possible seriousness category (VII) and to revisit the seriousness category in three years, with the expectation that after three years, enough offense-specific sentencing data would be available to permit an informed review of the seriousness category. *Criminally negligent manslaughter by vehicle or vessel* was added to the Guidelines Offense Table on March 1, 2012, and thus February 28, 2015 marked the end of the three year follow-up period.

The average sentence from the 25 sentencing guidelines worksheets received for *criminally negligent manslaughter by vehicle or vessel* was 2.8 years, with an average of 1.3 years not suspended. This was slightly higher than the 1 year average sentence (not including suspended time) for all other seriousness category VII person offenses (not controlling for the offender score). Most sentences (68%) were within the recommended guidelines range, while 20% were below and 12% above. The components of the offense score for the 25 instances of *criminally negligent manslaughter by vehicle or vessel* were very similar: all offenders received 1 point for the seriousness category VII; all received 2 points for the death of the victim; none received any additional points for weapon presence; and only one received 1 point for special victim vulnerability.

Pursuant to the Commission's 2011 decision to review the seriousness category for *criminally negligent manslaughter by vehicle or vessel* after a three year period, the Commission studied the sentencing and guidelines-related data for the offense at its May 19 meeting. At that meeting, the MSCCSP chose not to alter the seriousness category for *criminally negligent manslaughter by vehicle or vessel*.

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## **Revisions to the Sentencing Matrix for Drug Offenses**

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Review of compliance with the guidelines is one of the primary responsibilities of the MSCCSP. While overall compliance rates reflect a strong consensus for the guidelines in general, the MSCCSP has periodically conducted more in-depth reviews by examining compliance within

individual cells of each sentencing matrix (person, drug, and property). These detailed reviews have typically been undertaken every three to five years. The logic for performing the cell-by-cell analyses is that the more in-depth review might reveal compliance discrepancies that are masked by analyses at the aggregate level. At its May 2014 meeting, the Commission authorized MSCCSP staff to conduct updated analyses of guidelines compliance for individual sentencing guidelines matrix cells using data from fiscal years 2009 through 2013. The review and corresponding discussion spanned five Commission meetings, concluding in December 2015. The first step in the review was to identify sentencing guidelines matrix cells with a guidelines compliance rate of less than 65% (with at least 50 cases). The second step involved examining the sentences within these specific cells to determine what the range would need to be to capture the middle 65% of sentences. The third step was to consider the potential effects of changes to the guidelines on Maryland's Division of Correction's (DOC) population based on simulation model projections.

The review process showed that 27 (12%) of the 224 cells across the three matrices met the criteria of less than 65% compliance and a sample size of at least 50 offenders during the 5-year review period. The 27 cells meeting these criteria were largely scattered throughout the matrices. However, eight of these cells clustered together among the rows corresponding to seriousness category IV and V drug offenses. As such, the Commission agreed it was reasonable to consider revisions to these two rows of the sentencing matrix for drug offenses so that they more accurately reflect the current sentencing practices of judges, while also maintaining proportionality across rows and columns of the matrix to be consistent with the principles of the guidelines.

The Commission reviewed two proposals at its December 2015 meeting and also received feedback from the public regarding the proposed revisions at its annual public comments hearing held on the same date. Each proposal attempted to balance capturing the middle 65% of sentences and maintaining proportionality across offender scores and offense seriousness categories. Incorporating appropriate increases and decreases across rows and columns involved comparing adjacent cells and required changing ranges for cells that already had at least 65% compliance to preserve consistency and proportionality. Following a thorough discussion, the Commission voted to approve the following revisions:



**Cell Contents:**

Row 1 – Current range.

Row 2 – Approved revised range.



Compliance less than 65% for cases sentenced FY2009–FY2013 and total N at least 50.

Offense Seriousness Category	Offender Score							
	0	1	2	3	4	5	6	7 or more
V	P-6M	P-12M	3M-12M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y
	<u>P-1M</u>	<u>P-6M</u>	<u>P-1Y</u>	<u>1M-1Y</u>	<u>2M-18M</u>	<u>3M-2Y</u>	<u>4M-3Y</u>	<u>6M-4Y</u>
IV	P-12M	P-18M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y	3.5Y-10Y
	<u>P-3M</u>	<u>P-9M</u>	<u>1M-1Y</u>	<u>2M-18M</u>	<u>3M-2Y</u>	<u>4M-2.5Y</u>	<u>6M-3Y</u>	<u>8M-5Y</u>

*P=Probation, M=Months, Y=Years*

As with any changes to the sentencing guidelines, the Commission must promulgate the above revisions through COMAR. Promulgation is a multi-step process occurring over several months, and regulations do not become effective until the end of the process. In addition to the COMAR promulgation process, MAGS will require programming changes to reflect the revisions to the sentencing matrix for drug offenses. The MSCCSP staff will also need to update all of the various sentencing guidelines instructional materials, including the Maryland Sentencing Guidelines Manual (MSGM), the MAGS User Manual, and the MSCCSP website to reflect the guidelines revisions. Given these necessary steps, it is anticipated that the effective date for final adoption of the revisions will be July 1, 2016.

### **Review of *Commit a Crime of Violence in the Presence of a Minor* (CR, §3-601.1)**

During the 2014 legislative session, the Maryland General Assembly passed Senate Bill 337, which was signed into law by Governor O'Malley and effective October 1, 2014. Senate Bill 337 created CR, §3-601.1, *commit a crime of violence in the presence of a minor*, which provides an enhanced penalty for committing a crime of violence when the person knows or reasonably should know that a minor who is at least two years old is present in a residence within sight or hearing of the crime of violence. At the July 15, 2014, Commission meeting, the Commission voted to classify *commit a crime of violence in the presence of a minor* as a seriousness

category VI person offense. Subsequently, the Guidelines Offense Table was updated to reflect the new classification, effective December 1, 2014.

In 2015, the MSCCSP became aware of at least one instance in which the prosecutor had not charged *commit a crime of violence in the presence of a minor* as a separate substantive offense; this case had treated *commit a crime of violence in the presence of a minor* as a sentencing enhancement for the underlying crime of violence. The MSCCSP also learned that District Court Commissioners chose not to assign a separate CJIS code for CR, §3-601.1, considering it an enhanced penalty as opposed to a separate unique offense. The MSCCSP subsequently became aware of a second case where CR, §3-601.1 was specifically charged as a separate, unique offense. Given the confusion and the different ways this statute was handled in two different jurisdictions, the Commission revisited the question of how to treat *commit a crime of violence in the presence of a minor* for purposes of the sentencing guidelines.

Based on CR, §3-601.1's additional required element of a minor's presence and explicit reasonable doubt standard of proof, the Guidelines Subcommittee agreed not to recommend any change to the sentencing guidelines' treatment of *commit a crime of violence in the presence of a minor* as a separate offense from the underlying crime of violence for the purposes of guidelines calculations. At its September 22 meeting, the Commission discussed *commit a crime of violence in the presence of a minor* and the Guidelines Subcommittee's recommendation, and agreed to take no action.

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## Training and Education

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The MSCCSP provides sentencing guidelines training and MAGS orientation to promote consistent application of the guidelines and accurate completion of the sentencing guidelines worksheet. On-site guidelines trainings provide a comprehensive overview of the sentencing guidelines calculation process, detailed instructions for completing the offender and offense scores, an explanation of common omissions/mistakes, several examples of more complicated sentencing guidelines scenarios, and a demonstration of the Guidelines Calculator Tool (GLCT). The MSCCSP also provides on-site orientation sessions in advance of each jurisdiction's implementation of MAGS. In 2015, the MSCCSP provided 18 guidelines training seminars/MAGS orientations attended by approximately 350 total participants from 20 jurisdictions, including circuit court judges, prosecutors, public defenders, parole and probation agents, and law clerks. To ensure the accuracy of the sentencing guidelines, all parties involved in the sentencing process must understand the guidelines calculation process.

In 2015, the MSCCSP Executive Director, Dr. David Soulé, met with 6 of the County Administrative Judges. The meetings provided an opportunity for the MSCCSP to review sentencing guidelines-related data with the individual jurisdictions, discuss proper sentencing guidelines 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 28, 2015.

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 or the use of MAGS. The MSCCSP staff regularly responds to questions regarding the guidelines via phone and e-mail. These questions are usually from those responsible for completing the guidelines worksheets (i.e., parole and probation agents, prosecutors, 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, clarification on the rules for calculating an offender's prior adult criminal record score, and requesting guidance with accessing or navigating MAGS.

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

The MSCCSP also maintains a website ([www.msccsp.org](http://www.msccsp.org)) that it updates 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, 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 website offers links to the MAGS homepage and the GLCT. The GLCT is a stand-alone tool that anyone can use to calculate sample sentencing guidelines. The GLCT does not require login information and does not save or store any of the entered information, but the user is able to print a copy of the sample guidelines worksheet.

**Image 2. Guidelines Calculator Tool (GLCT)**

Last Name: SAMPLE First Name: JOE SID:

Offender Information Offender Score **List of Offenses**

Maryland Guidelines Calculator Tool Previous

Add Offense

Event #	Count	Offense Description	Guidelines	Case #	Select
1	1	Burglary, 4th degree	6M to 1Y		

Overall Guidelines Range: 6M To 1Y

In 2015, 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 June 2015 issue (Vol. 10, No. 2) highlighted revisions to the Guidelines Offense Table to reflect the addition of CJIS codes to the new and amended offenses enacted during the 2014 Legislative Session.

**Image 3. Sample Guidelines E-News**

MARYLAND STATE COMMISSION ON  
CRIMINAL SENTENCING POLICY

Guidelines E-News Vol. 10, No. 2 – June 2015

### Revisions to the Guidelines Offense Table, Effective June 1, 2015

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has revised the Guidelines Offense Table to reflect minor edits to the table. Most of these edits involved adding CJIS codes to the new and revised offenses passed during the 2014 Legislative Session.

These changes were adopted in the Code of Maryland Regulations (COMAR) **effective June 1, 2015**. A print friendly version of the updated Guidelines Offense Table (Appendix A of the Maryland Sentencing Guidelines Manual) is available on the MSCCSP website at: [www.msccsp.org/Files/Guidelines/offensetable.pdf](http://www.msccsp.org/Files/Guidelines/offensetable.pdf). This file is searchable by key word, CJIS Code, Source, etc. Please discard any prior versions of the Guidelines Offense Table, as information in prior versions may no longer be accurate.

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## Information, Data Requests, and Outreach

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The MSCCSP strives to be a valuable resource for both our criminal justice partners and others interested in sentencing policy. 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 2015, the Commission responded to multiple requests for data and/or specific information related to the sentencing guidelines and sentencing trends throughout the state. A variety of organizations and individuals, including the Governor's Office of Crime Control and Prevention (GOCCP), 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 persons submit requests for information. 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 2015, the MSCCSP provided sentencing information and/or data to several agencies including: Westat (to support the Bureau of Justice Statistics' National Judicial Reporting Program), the Maryland Crime Victims' Resource Center, Community Resources for Justice (to support Maryland's Justice Reinvestment Initiative), 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 available on the MSCCSP website. Appendix C provides an abbreviated version of this report.

During the past year, the MSCCSP provided a digital copy of the Guidelines Offense Table to the Maryland Department of Legislative Services (DLS) and the Montgomery County Circuit Court. Both agencies cited the Guidelines Offense Table as a valuable source for developing their own offense-based database. 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 2015, the Commission provided information for approximately 60 separate bills that proposed modifications to criminal penalties or sentencing/correctional policies.

Finally, the MSCCSP conducts outreach with other criminal justice stakeholders to provide updates on the activities completed by the Commission. During the past year, the Robina

Institute of Criminal Law and Criminal Justice invited the MSCCSP Executive Director to participate in a criminal history workshop, held at the University of Minnesota Law School on October 20, 2015. Additionally, the Conference of Circuit Judges (CCJ) invited Dr. Soulé to provide an update on the risk assessment feasibility study at its January 2015 meeting.

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

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The MSCCSP staff is responsible for compiling and maintaining the Maryland sentencing guidelines database, which contains data submitted on the sentencing guidelines worksheets. The MSCCSP staff reviews worksheets as they are received. The staff verifies that the worksheets are being accurately completed 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 reviewed, trained interns and staff enter the data into the Maryland sentencing guidelines database.

Each year, the staff spends considerable time checking and cleaning the data maintained within the Maryland sentencing guidelines database 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 sentencing 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 allow for increased confidence in the accuracy of the data and permit more reliable offense-specific analyses of the data.

## **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 Honorable Shannon E. Avery (Judge, Baltimore City Circuit Court) chairs the Guidelines Subcommittee. The other members of the Guidelines Subcommittee are Richard A. Finci (criminal defense attorney and Maryland Criminal Defense Attorneys' Association representative), Senator Delores G. Kelley (Baltimore County), and Laura L. Martin (State's Attorney for Calvert County and victims' advocacy group representative). Each year, the Guidelines Subcommittee reviews all new and revised offenses created by the General Assembly and provides recommendations to the full Commission for seriousness category

classification. Additionally, the Guidelines Subcommittee reviews suggested revisions to the guidelines calculation process and reports to the overall Commission on guidelines compliance data.

The Guidelines Subcommittee met prior to each of the 2015 Commission meetings. The Guidelines Subcommittee conducted the initial review and consideration of the classification for the new and amended offenses discussed above, as well as the previously unclassified offenses noted in Table 2. The Guidelines Subcommittee also provided recommendations for the following actions: reviewing the seriousness category for *criminally negligent manslaughter by vehicle or vessel* (CR, §2-210); reviewing *commit a crime of violence in the presence of a minor* (CR, §3-601.1); and reviewing MAGS access policies. Lastly, the Guidelines Subcommittee has continued its ongoing detailed review of sentencing guidelines compliance for cases sentenced in fiscal years 2009 to 2013. As part of that review, the Guidelines Subcommittee reviewed compliance data, two versions of proposed revisions to the sentencing matrix for certain drug offenses, and simulation model projections, and provided recommendations to the full Commission concerning the review and revisions process.

### **Maryland Automated Guidelines System (MAGS)**

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MAGS is a web-based application that permits electronic completion and submission of sentencing guidelines worksheets. MAGS calculates the appropriate sentencing guidelines range based on the offense and offender characteristics. The automated system was designed to mimic the flow of the paper guidelines worksheet. The State's Attorney's Office, Office of the Attorney General, or a parole and probation agent initiates the worksheet in MAGS. Defense attorneys have the ability to view, but not edit the initiated worksheet. MAGS creates a printable PDF of the sentencing guidelines worksheet that can be presented at sentencing. The sentencing judge or his/her designee enters the appropriate sentence information and then electronically submits the completed worksheet and provides a copy to the Clerk's Office for distribution. MAGS provides many benefits in comparison to the paper worksheet process, including the following: simplification of the sentencing guidelines calculation process; reduction in sentencing guidelines calculation errors; improvement in the accuracy and completeness of data; providing for more timely and accurate assessment of sentencing policy and practice; and offering a mechanism to monitor completion and submission of guidelines worksheets.

MAGS was first deployed as a pilot project in the Montgomery County Circuit Court in April 2012. Effective January 27, 2014, the CCJ approved the permanent adoption of MAGS through a gradual roll-out on a jurisdiction-by-jurisdiction basis. At year-end 2015, MAGS was available



for use in 7 of the 24 circuit courts. MAGS is accessible from the MSCCSP website at: [www.msccsp.org/MAGS](http://www.msccsp.org/MAGS) (see Image 4). The key tasks completed in 2015 to continue the development and deployment of MAGS are summarized below.

**March 2, 2015:** The Frederick County Circuit Court began use of MAGS to initiate, edit, and submit all official sentencing guidelines worksheets.

**June 1, 2015:** The MSCCSP released an updated version of MAGS (4.0) for immediate use. MAGS 4.0 provides several new features. The following is a summary of the most significant changes to MAGS.

- MAGS and GLCT feature updated homepages and logos.
- An updated MAGS homepage offers users quick access to the MAGS authorized user login, MAGS User Manual, FAQs, instructional videos, a brief history and description of MAGS, and the proposed deployment schedule.
- MAGS users are now able to search for cases by Worksheet ID (WS ID) as well as jurisdiction, first name, last name, SID number, and case number. The WS ID is a unique identifier assigned to each new sentencing event entered into MAGS. The WS ID enables users to easily identify multiple case numbers sentenced within the same sentencing event. When searching for a case by jurisdiction, first name, last name, SID number, case number, and/or WS ID, all case numbers sentenced within the sentencing event are displayed on the home screen of MAGS, linked by their shared WS ID.
- MAGS now prevents users from being able to accidentally select the attempt, conspiracy, and solicitation radio buttons on the Offense/Offense Score screen for select attempt, conspiracy and solicitation offenses in which the statutory maximum and/or seriousness category differ from that of the underlying offense.

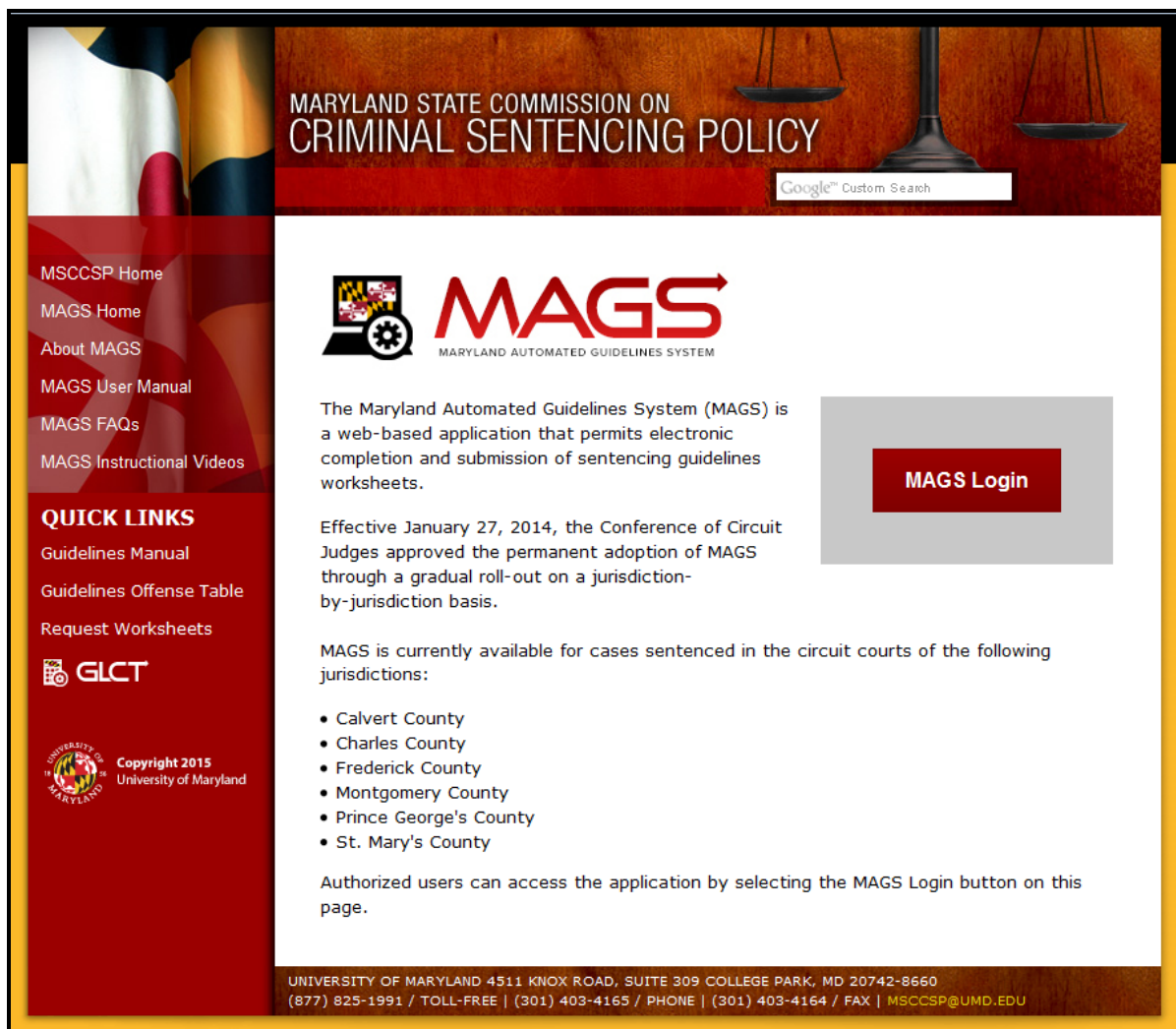
**July 1, 2015:** The Charles County Circuit Court began use of MAGS to initiate, edit, and submit all official sentencing guidelines worksheets.

**October 1, 2015:** The Prince George's County Circuit Court began use of MAGS to initiate, edit, and submit all official sentencing guidelines worksheets.

**October 22, 2015:** The Office of the Attorney General began use of MAGS to initiate sentencing guidelines worksheets for cases prosecuted by their office in those jurisdictions that have adopted use of MAGS.

**December 1, 2015:** The St. Mary's County Circuit Court began use of MAGS to initiate, edit, and submit all official sentencing guidelines worksheets.

**Image 4. MAGS page of MSCCSP website ([www.msccsp.org/MAGS](http://www.msccsp.org/MAGS))**



## Identification of Guidelines-Eligible Sentencing Events

To aid in guidelines worksheet submission, the MSCCSP staff worked with staff at various state agencies in 2015 to identify the universe of guidelines-eligible cases sentenced in circuit courts, match these cases to guidelines worksheets received by the MSCCSP, and provide feedback regarding worksheet submission rates to individual jurisdictions, in particular those jurisdictions utilizing MAGS. Each month, the Administrative Office of the Courts (AOC) sends to the MSCCSP a dataset containing case-level information for all guidelines-eligible cases sentenced in circuit courts during the previous month (see the section *The Present Sentencing Guidelines* of this report for a complete description of guidelines-eligible cases). The Montgomery County

Circuit Court and the Prince George's County Circuit Court also send to the MSCCSP monthly datasets containing case-level information for all guidelines-eligible cases sentenced in Montgomery and Prince George's Counties, respectively. MSCCSP staff then links these datasets to data containing case-level information for all paper and MAGS guidelines worksheets received by the MSCCSP. Using this data, MSCCSP staff is able to calculate worksheet submission rates for each jurisdiction. Jurisdictions using MAGS receive a monthly status report indicating the number of guidelines-eligible cases sentenced in their jurisdiction during the previous month, the number of worksheets that were submitted via MAGS, and the number of and case information for any worksheets that were not submitted. It is anticipated that, in providing individual jurisdictions with feedback regarding their worksheet submission rates, worksheet submission rates may near one hundred percent thus improving the reliability and accuracy of the MSCCSP's data.

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

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In its enabling legislation, the MSCCSP is tasked with using a correctional population simulation model to evaluate the impact changes to the guidelines and legislation may have on state and local correctional resources (CP, §6-213). To fulfill this mandate, the MSCCSP has developed a sentencing/correctional simulation model that forecasts the effects of changes to the guidelines and legislation on Maryland's DOC population. During 2015, the MSCCSP engaged in several activities to update, revise, and utilize the simulation model. In July 2015, the MSCCSP received three updated data files from the Department of Public Safety and Correctional Services (DPSCS), including records of all intakes and releases from the DOC from October 1, 2013, through June 30, 2014, as well as the DOC's active population as of July 4, 2014. The MSCCSP now has data containing DOC intakes and releases dating from January 2004 through June 2014, as well as DOC active population records for multiple dates during the same time period.

Using DOC data as well as the guidelines data collected by the MSCCSP, the MSCCSP staff conducted an extensive evaluation of the simulation model's validity and accuracy. As a result of the initial validity analyses, significant revisions were made to the simulation model, including revisions to the formulas used to select offenders for input into the model, to assign release type and length-of-stay among inmates, and to model legislative and guidelines scenarios. Additionally, the code for the simulation model was rewritten and the model redesigned to run in a single software program rather than the three software programs that were used to run the original model. Using only one software program simplifies the process of running the

simulation model, provides transparency, and allows the MSCCSP greater flexibility to update and revise the model as necessary and to test various guidelines and legislative scenarios. The results of the revised model were tested against current DOC population figures. Multiple validity analyses indicated that the model, in its current form, provides a valid method by which to reproduce the DOC population and can be employed with confidence to project future DOC populations and estimate the relative effects of guidelines and legislative changes on the DOC population.

Finally, in 2015, the Commission was presented with its first opportunity to test the simulation model's capabilities using a real-time policy scenario. In 2015, the Commission considered revisions to decrease the guidelines ranges for seriousness category IV and V drug offenses. The simulation model indicated that decreasing the guidelines ranges for seriousness category IV and V drug offenses could slightly decrease the DOC population. However, the size of the impact would vary significantly depending on judicial compliance with the new guidelines ranges. The results of the simulation model were used to support the Commission's decision to formally adopt revised guidelines ranges for seriousness category IV and V drug offenses. In addition, the use of the simulation model to test the proposed revisions to the drug matrix brought to light several important issues, including the importance of incorporating judicial compliance into the model and accounting for the impact that guidelines and legislative changes may have on local jail populations. In 2016, the MSCCSP will continue to refine and update the model as new data become available. Additionally, the simulation model may be used to test guidelines and legislative changes proposed in 2016.

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## **Risk Assessment at Sentencing**

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In 2015, the MSCCSP continued to coordinate with the Department of Criminology and Criminal Justice (CCJS) at the University of Maryland, College Park to conduct a feasibility study on the potential implementation of a sentencing risk assessment instrument in Maryland. In September 2014, the CCJS Department Chair, Dr. James Lynch, presented a white paper produced as part of the feasibility study to the MSCCSP. The initial white paper described several issues that the Commission would need to deliberate as it considered whether to implement a risk assessment tool at sentencing, and offered a recommendation for each of those issues. In December 2015, Dr. Jinney Smith, from the CCJS Department, presented a follow-up paper to address questions that arose during the 2014 presentation. The 2015 follow-up paper focuses on risk-needs instruments suitable for use at sentencing, the measurement of recidivism, conditions in Maryland that may affect the adoption of any assessment tool, and,

finally, a description of some practical issues involved in the implementation of an assessment tool. The Commissioners and an advisory group of five circuit court judges were able to provide feedback on the follow-up paper at the December 8, 2015, meeting.

## **Juvenile Delinquency Score Project**

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Juvenile delinquency is a key component in calculating a defendant's offender score. Included in the juvenile delinquency score is a determination as to whether the defendant has ever been committed to state custody. At the Commission's 2012 public comments hearing, an assistant public defender expressed concerns regarding purportedly inconsistent application of the term "commitment to state custody." Juvenile records throughout the state, he asserted, use the term to indicate various different types of punishment. Inconsistent use could have unintended consequences on the calculation of an offender score, thereby affecting the guidelines and the sentence imposed.

The commenter stated that in one locale in Maryland, "commitment to state custody" might show that a judge ordered a juvenile to a secure detention facility. But in another area, the same term might indicate that a court assigned in-home treatment services to the juvenile. Those two juvenile punishments are very different and carry different implications concerning the offense and the judgment of the juvenile court. However, since both punishments are "commitment to state custody," judges in separate jurisdictions might not account for the distinctions in use when considering a person's juvenile record during an adult sentencing hearing.

In light of those concerns, the MSCCSP agreed to examine empirically how juvenile records affect the sentencing guidelines and which aspects of a juvenile record in Maryland predict later adult offending. The MSCCSP is collaborating with the recently formed Maryland Data Analysis Center (MDAC) at the University of Maryland, College Park on this project. The University of Maryland's Institutional Review Board approved the research in May. MDAC submitted applications to Maryland's Department of Juvenile Services (DJS) and to DPSCS for access to juvenile data and adult recidivism data, respectively.

DPSCS approved the application, and MDAC and DPSCS then completed a memorandum of understanding. MDAC has now received the adult recidivism data. Due to heightened sensitivity of, and privacy protections afforded to, juvenile records, MDAC's application for the data from DJS required multiple rounds of revisions. The two reached a compromise solution,

in December 2015, which will allow the project to proceed. MDAC researchers anticipate being able to provide at least preliminary analyses of the data, linked across all three sources (juvenile data from DJS, sentencing and guidelines data from the MSCCSP, and adult recidivism data from DPSCS), in mid-2016.

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## **Justice Reinvestment Coordinating Council**

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Chapter 42 of the 2015 Laws of Maryland (Senate Bill 602) created the Justice Reinvestment Coordinating Council. The Council consisted of an inter-branch and bipartisan group of criminal justice stakeholders from across Maryland, including representatives from the General Assembly, judiciary, prosecutorial and defense bars, local and state corrections, law enforcement, and reentry services. The Council worked with the Public Safety Performance Project of the Pew Charitable Trusts to craft a framework of sentencing and corrections policies with the goals of safely reducing the number of inmates in Maryland prisons, controlling state spending on prisons, and reinvesting those savings into more effective strategies to increase public safety and at the same time help nonviolent offenders avoid returning to prison. As required by its governing legislation, the Council submitted its final report and recommendations to the Governor and General Assembly in December 2015.

Although not a member of the Council, the MSCCSP contributed to the Council's justice reinvestment activities in several ways. The MSCCSP provided circuit court sentencing data and analyses critical to the Council's review of existing practices. Dr. Soulé attended several meetings of the Council and its Sentencing Subcommittee. The MSCCSP kept abreast of developments with the Council and offered feedback, as requested, throughout its proceedings.

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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 2015 public comments hearing occurred on December 8. As in previous years, the MSCCSP sent an invitation to the hearing to various stakeholders throughout the state, and announced the hearing through the Commission's website, the Maryland Register, the Maryland General Assembly's hearing schedule, and a press release by DPSCS. The MSCCSP appreciates the testimony provided by members of the public, as it believes that the public's participation is essential to creating awareness of sentencing issues. The 2015 public comments hearing also afforded the Commission the opportunity to seek comment on proposed revisions to the sentencing matrix for certain drug offenses.

The 2015 public comments hearing received comment from four people. Ms. Margaret Teahan, Chair of the Legislative Subcommittee of the Maryland State Bar Association's Criminal Law and Practice Section Council, spoke on behalf of the Criminal Law and Practice Section Council, about revisions to rows IV and V of the sentencing matrix for drug offenses (discussed above in the section *Revisions to the Sentencing Matrix for Drug Offenses* of this report). Ms. Christine Dufour also spoke concerning the proposed revisions, representing the Maryland Criminal Defense Attorneys' Association. Mr. Scott Shellenberger, President of the Maryland State's Attorneys' Association, spoke on behalf of his organization on the proposed revisions then-under consideration and concerning possible future revisions to the other matrices. Lastly Mr. William Davis, the proxy representing Public Defender Paul B. DeWolfe's position on the Commission, read a statement on behalf of Mr. DeWolfe on the proposed changes and on reforming the sentencing guidelines for nonviolent drug offenders more generally to reduce recommended incarceration and promote alternatives to incarceration, including treatment.

These testimonials shed light on important issues that affect criminal justice practitioners and agencies throughout the state. The minutes of the public comments hearing contain a detailed account of each individual's testimony and a copy of the written statements provided by some of the speakers. The minutes will be available on the MSCCSP website after the Commission reviews and approves the minutes at its next meeting, scheduled for May 10, 2016.

## SENTENCES REPORTED IN FY 2015

The MSCCSP has the responsibility of collecting sentencing guidelines worksheets and automating the information to monitor sentencing practice and adopt changes to the sentencing guidelines matrices as warranted. From July 1983 through June 2000, the AOC compiled the sentencing guidelines worksheet data. Beginning in July 2000, this responsibility was given to the MSCCSP. Since that time, the MSCCSP has continued to update the data and check for errors. In the process, MSCCSP staff has made corrections to the database and obtained and incorporated additional sentencing guidelines worksheets, which may affect the overall totals reported in previous reports. The data and figures presented in this report reflect only guidelines-eligible cases where the MSCCSP received a sentencing guidelines worksheet.

### Sentencing Guidelines Worksheets Received

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In fiscal year 2015, the MSCCSP received sentencing guidelines worksheets for 10,700 sentencing events.<sup>2</sup> The Calvert County, Frederick County, and Montgomery County courts electronically submitted sentencing guidelines worksheets for 1,268 of the 10,700 sentencing events using MAGS. The remaining sentencing guidelines worksheets were submitted by mail to the MSCCSP office. Table 3 provides a breakdown of the number and percentage of sentencing guidelines worksheets submitted in fiscal year 2015 by circuit. Figure 1 illustrates the jurisdictions in each circuit. The Eighth Circuit (Baltimore City) submitted the largest number of sentencing guidelines worksheets (2,736), while the Fourth Circuit (Allegany, Garrett, and Washington Counties) submitted the fewest (485).

In fiscal year 2015, the MSCCSP staff, in combination with staff at the AOC and Montgomery County Circuit Court, identified 13,445 guidelines-eligible cases and received a paper worksheet or MAGS submission for 11,024 (82%) of the guidelines-eligible cases (see the section *The Present Sentencing Guidelines* of this report for a complete definition of guidelines-eligible cases).<sup>3</sup> Table 3 provides a breakdown of the percentage of guidelines-eligible cases with a worksheet submitted in fiscal year 2015 by circuit. Worksheet submission rates ranged from

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<sup>2</sup> A sentencing event will include multiple sentencing guidelines worksheets if the offender is being sentenced for more than three offenses and/or multiple criminal events. Sentencing guidelines worksheet totals throughout this report treat multiple worksheets for a single sentencing event as one worksheet.

<sup>3</sup> Whereas the majority of this section refers to worksheets or sentencing events, which may consist of several case numbers, a guidelines-eligible case is defined as one unique case number. Because case numbers, rather than sentencing events, are used to compute the number of guidelines-eligible cases, the number of guidelines-eligible cases is greater than the total number of worksheets received in fiscal year 2015.



71% to 90% for individual circuits. However, there is wide variability in worksheet submission rates when looking at individual jurisdictions within each circuit. In general, jurisdictions utilizing MAGS have higher submission rates. It is anticipated that worksheet submission rates will increase as more jurisdictions implement MAGS.

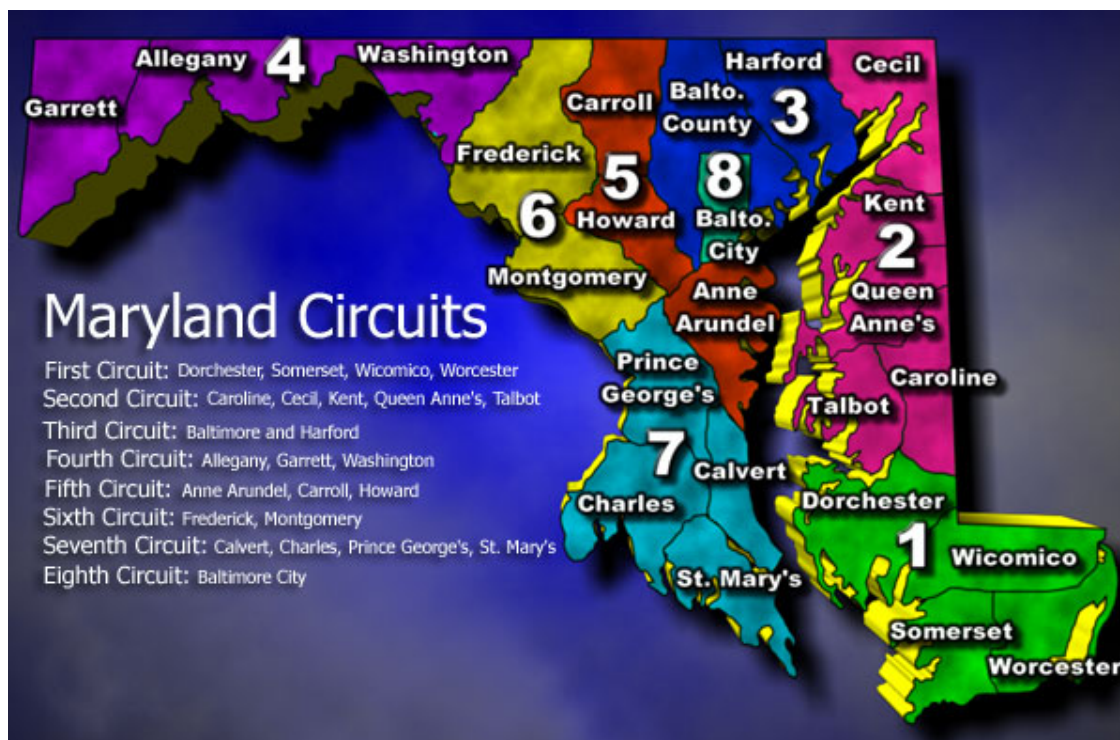
**Table 3. Number and Percentage of Sentencing Guidelines Worksheets Submitted by Circuit, Fiscal Year 2015**

<b>Circuit</b>	<b>Number of Worksheets Submitted</b>	<b>Percent of Total Worksheets Submitted*</b>	<b>Percent of Guidelines-Eligible Cases with Submitted Worksheet**</b>
1	866	8.1%	89.7%
2	623	5.8%	77.5%
3	1,789	16.7%	73.6%
4	485	4.5%	86.4%
5	1,383	12.9%	90.6%
6	1,238	11.6%	87.0%
7	1,580	14.8%	69.7%
8	2,736	25.6%	88.2%
<b>TOTAL</b>	<b>10,700</b>	<b>100.0%</b>	<b>82.0%</b>

\* Percentages may not total 100% due to rounding.

\*\* Guidelines-eligible cases in Montgomery County were identified by the Montgomery County Circuit Court using data from their case management system. Eligible cases in Prince George's County and Baltimore City were identified by Maryland's Administrative Office of the Courts (AOC) using mainframe data. Eligible cases in all other jurisdictions were obtained from data from the AOC using data entered into the Uniform Court System (UCS).

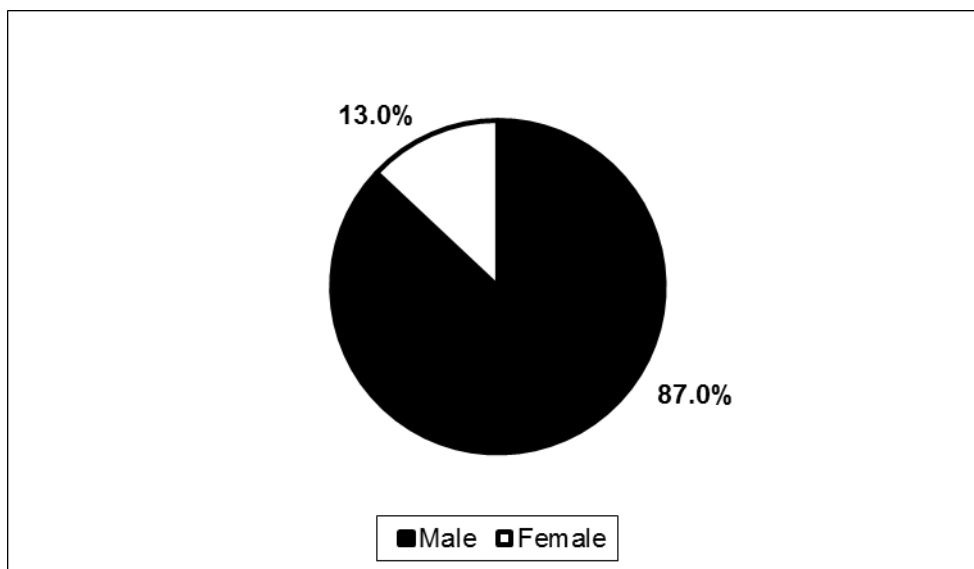
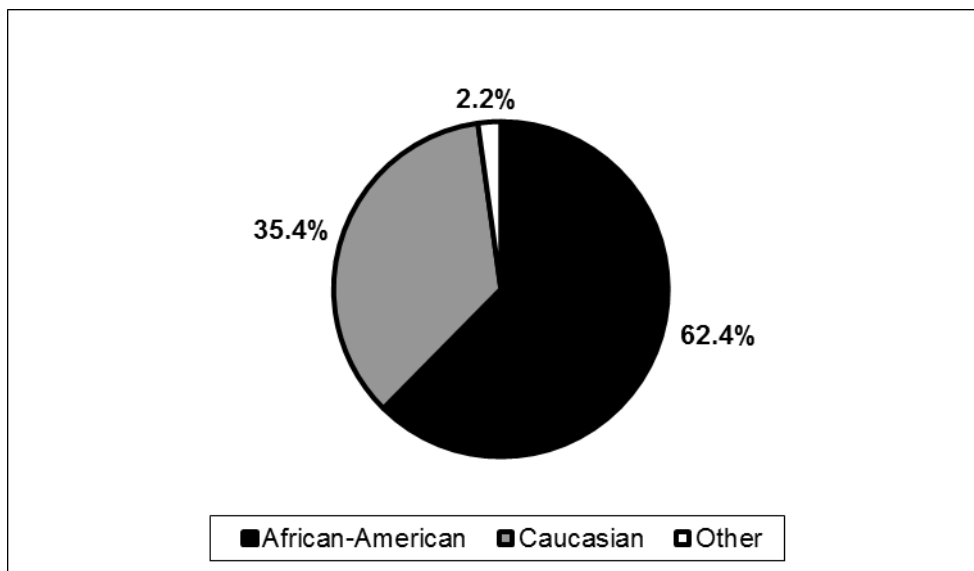
Figure 1. Maryland Judicial Circuits

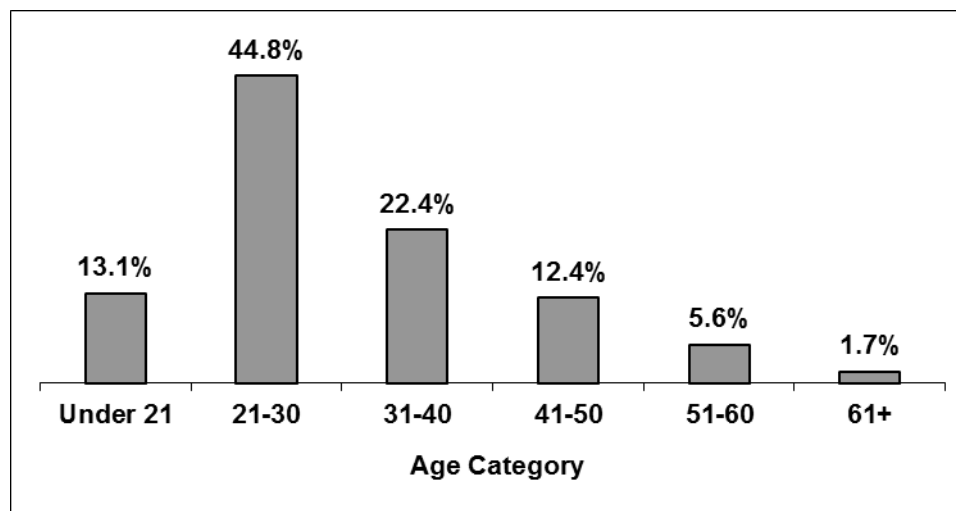


Source: <http://www.courts.state.md.us/clerks/circuitmap2.jpg> (extracted December 2010)

## Guidelines Case Characteristics

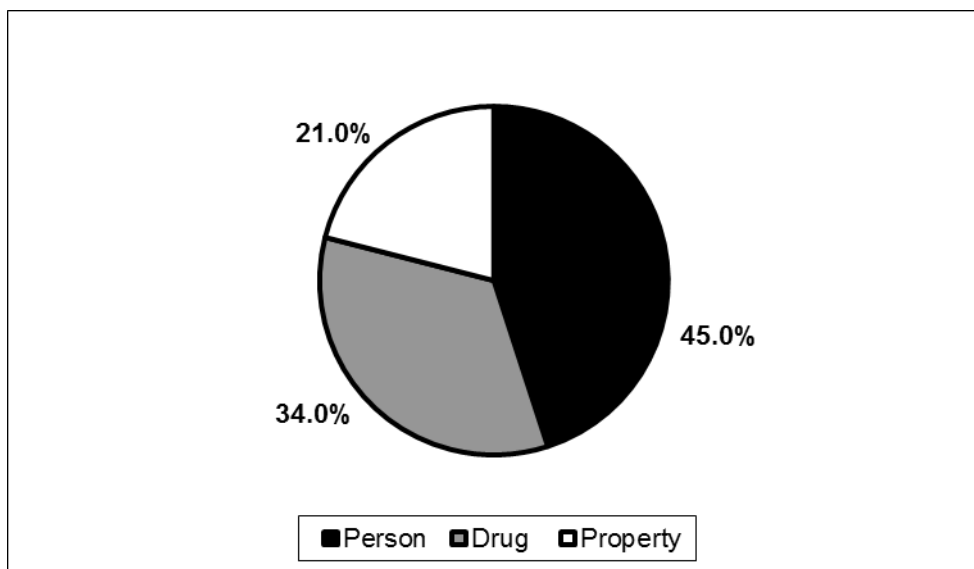
Figures 2 through 4 summarize the descriptive characteristics from the 10,700 sentencing guidelines worksheets submitted for offenders sentenced in fiscal year 2015. Most were male (87%) and African-American (62.4%). The median age of offenders at date of sentencing was 28 years. The youngest offender was 15, while the oldest was 87 years of age. Approximately 13% of offenders were under 21 years of age; 45% were 21-30 years old; 22% were 31-40 years old; and the remaining 20% were 41 years or older.

**Figure 2. Distribution of Guidelines Cases by Gender of Offender, Fiscal Year 2015****Figure 3. Distribution of Guidelines Cases by Race of Offender, Fiscal Year 2015**

**Figure 4. Distribution of Guidelines Cases by Age of Offender, Fiscal Year 2015**

Figures 5 through 10 show the distribution of cases by crime category, disposition type, and sentence type. Note that the total number of cases from which the figures and corresponding percentages derive excludes reconsiderations and three-judge panel reviews (N=16). Figure 5 provides a breakdown of cases by crime category. For cases involving multiple offenses, the figure considers only the most serious offense. Cases involving a person offense were most common (45%), followed by drug cases (34%). In 21% of cases, the most serious offense was a property crime. The distribution of cases by crime category was similar when limiting the analysis to defendants sentenced to incarceration (48.4% person, 30.6% drug, 21% property).<sup>4</sup>

<sup>4</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 2015**

Figures 6a, 6b, and 6c display the distribution of cases by offense seriousness category for each of the three crime categories. In cases involving a person offense, offenses with a seriousness category V were most common (33.6%), 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*.

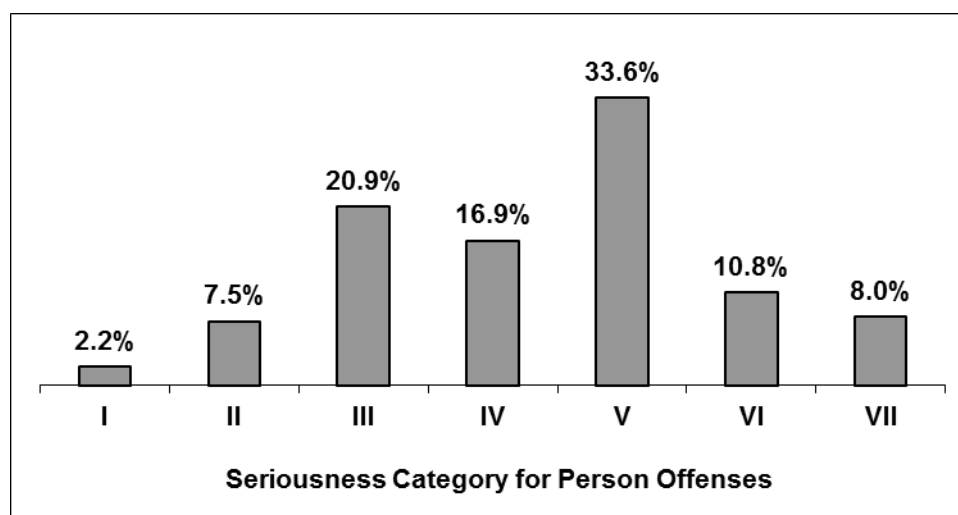
**Figure 6a. Distribution of Person Offenses by Seriousness Category, Fiscal Year 2015**

Figure 6b summarizes the distribution of drug offenses by seriousness category. More than three-fourths of drug cases involved an offense with either a seriousness category IIIB (52.2%) or a seriousness category IV (26.2%). *Distribution of heroin* and *distribution of cocaine* were the

most frequently occurring category IIIB offenses, while *distribution of marijuana* was the most frequently occurring category IV offense. Note that there are currently no seriousness category VI drug offenses.

**Figure 6b. Distribution of Drug Offenses by Seriousness Category, Fiscal Year 2015**

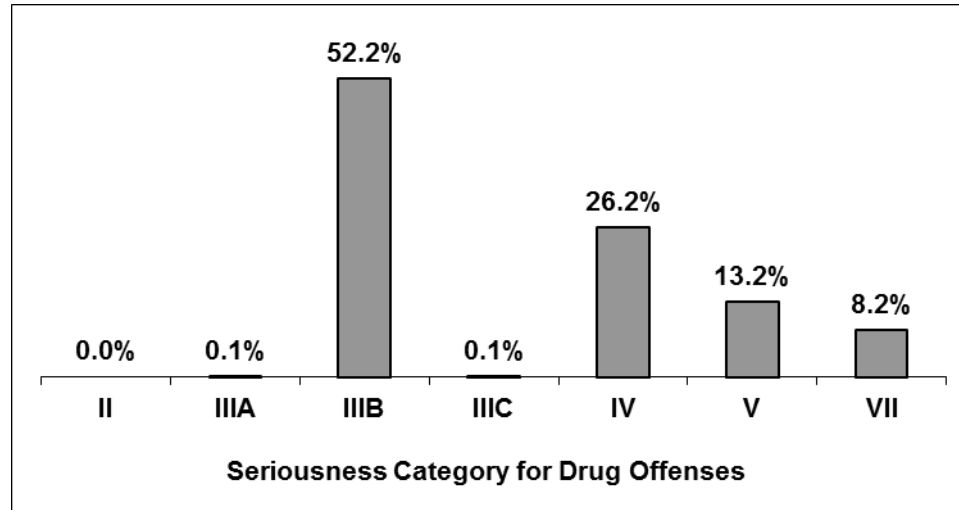


Figure 6c provides the distribution of offenses by seriousness category for property cases. Offenses with a seriousness category II (0.9%) or VI (3.7%) were far less frequent than offenses in the remaining seriousness categories. The most common property offenses included *first degree burglary* (III), *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 2015**

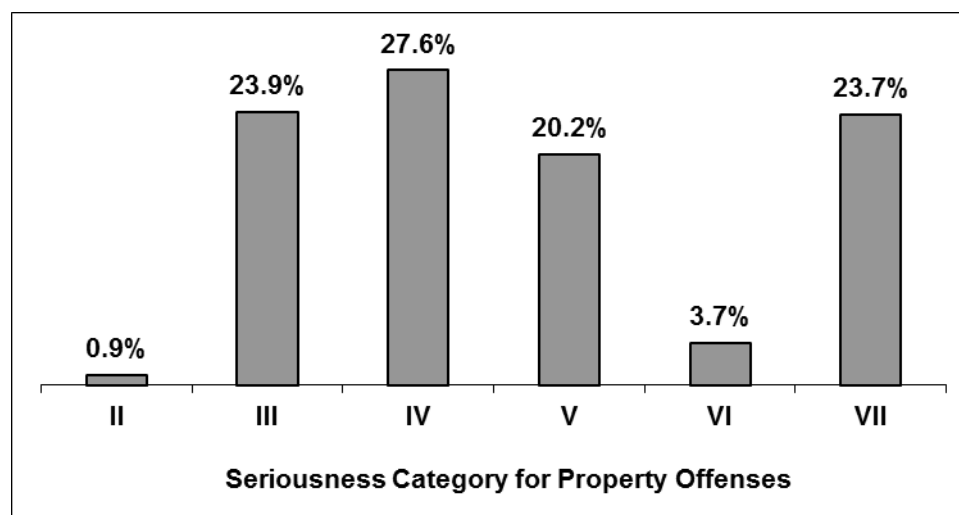


Figure 7 shows the distribution of cases by disposition type (Appendix D contains a description of the seven major disposition types listed on the sentencing guidelines worksheet). The vast majority of cases were resolved by either a non-ABA plea agreement (41.5%) or an ABA plea agreement (41.2%). An additional 11.3% were resolved by a plea with no agreement, and 6% of cases were resolved by either a bench or jury trial (1.3% and 4.7%, respectively). Roughly 13% of worksheets were missing disposition type. Since disposition type is a required field in the MAGS application, collection of this information is expected to increase as the number of jurisdictions using MAGS increases.

**Figure 7. Distribution of Guidelines Cases by Disposition, Fiscal Year 2015**

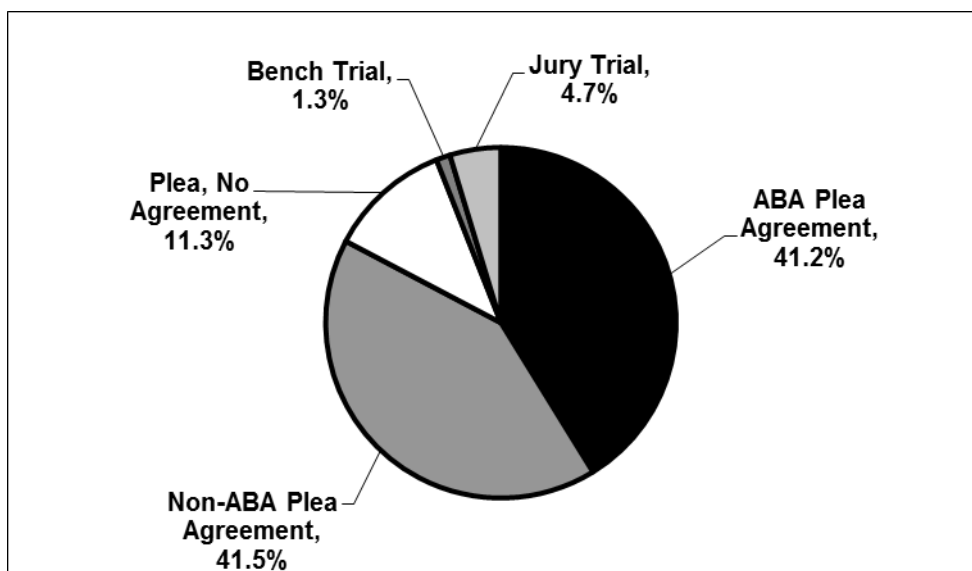
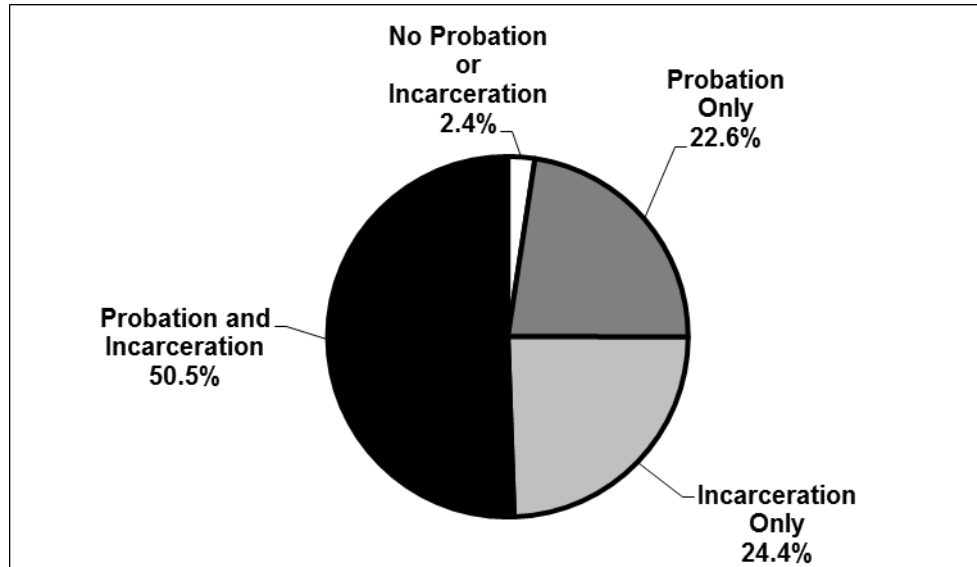


Figure 8 displays the distribution of cases by sentence type. Note that incarceration includes home detention and credited time, as well as post-sentence jail/prison time. Few offenders (2.4%) received a sentence that did not include either incarceration or probation. Nearly one-quarter (22.6%) received sentences to probation only. Similarly, approximately one-quarter (24.4%) of offenders received sentences to incarceration only. Slightly more than half (50.5%) of all cases resulted in a sentence to both incarceration and probation. Among those incarcerated, 24.9% did not receive post-sentencing incarceration.

**Figure 8. Distribution of Guidelines Cases by Sentence Type, Fiscal Year 2015**

Figures 9a and 9b provide a breakdown of the percentage of offenders incarcerated and the typical sentence length among those incarcerated for the past ten fiscal years (2006-2015). As in the previous figure, incarceration excludes suspended sentence time and includes jail/prison time, home detention time, and credit for time served. For offenders with multiple offenses sentenced together, the figures consider the sentence across all offenses. Figure 9a indicates that the percentage of guidelines cases sentenced to incarceration was lowest in fiscal year 2006 (72.4%) and highest in fiscal year 2008 (78.7%). Since then, rates have declined slightly landing at 75% in fiscal year 2015.



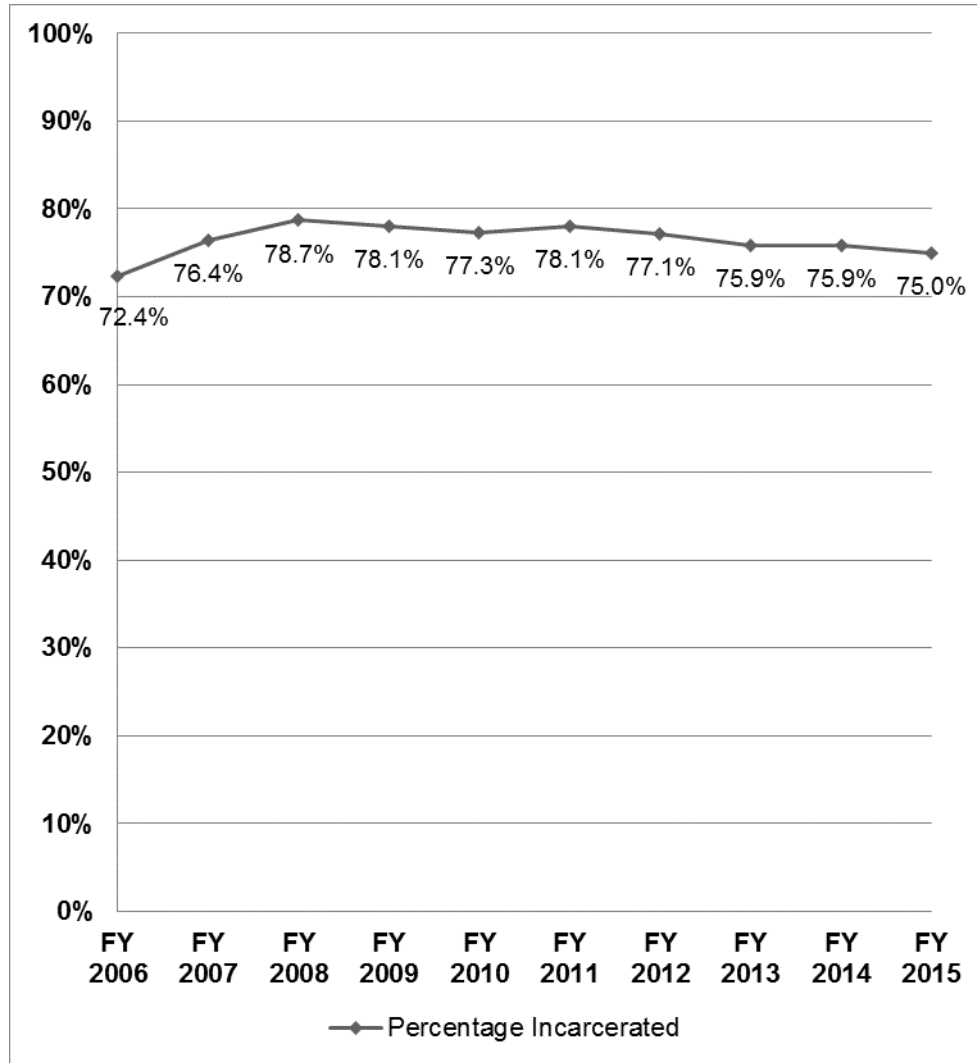
**Figure 9a. Percentage of Guidelines Cases Sentenced to Incarceration by Fiscal Year**

Figure 9b indicates that the typical sentence length among those incarcerated was also relatively stable during the ten year period. The mean (average) sentence ranged from a low of 3.9 years in fiscal year 2006 to a high of 4.7 years in fiscal year 2012. The median (middle) sentence was 1.5 years for most of the ten year period, except for 2009 when the median dipped slightly to 1.1 years. The fact that the mean is larger than the median indicates that the distribution of sentences has a positive skew, with a few extremely long sentences pulling the mean above the median.

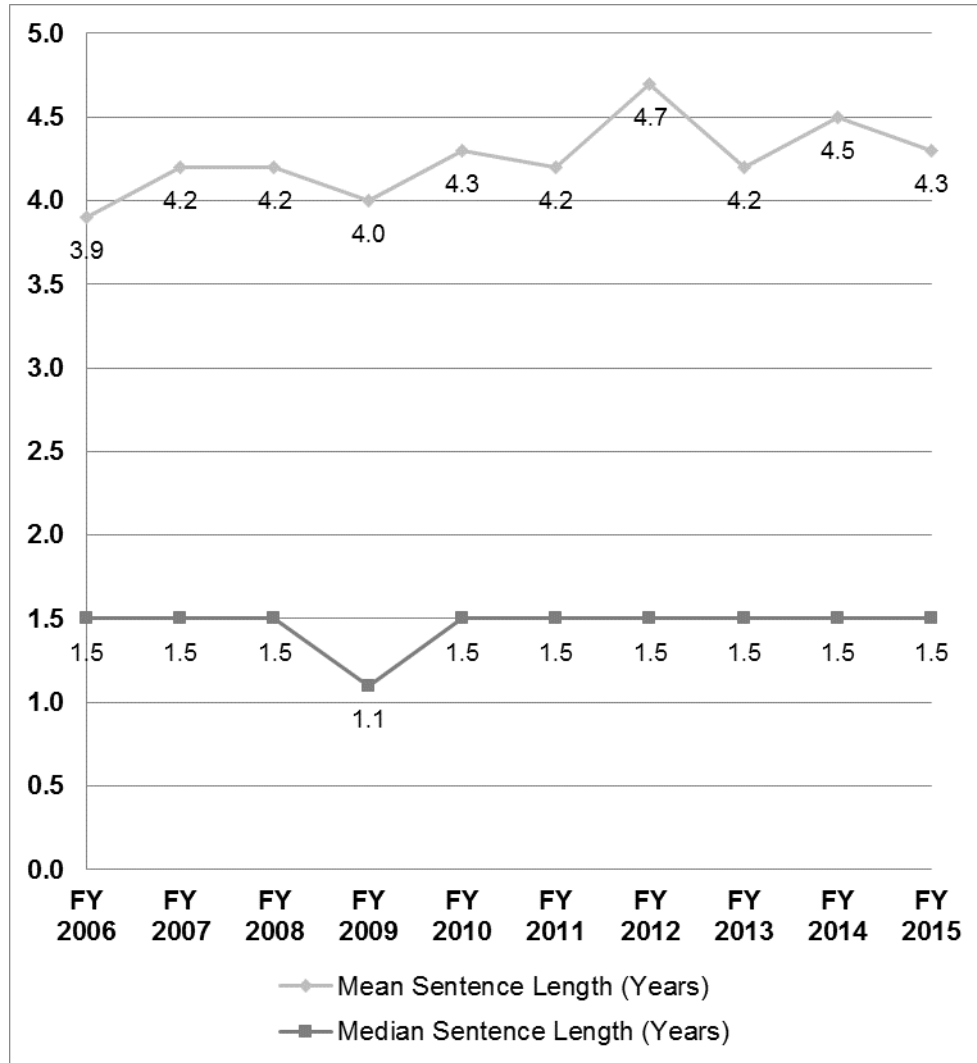
**Figure 9b. Length of Sentence for Guidelines Cases by Fiscal Year**

Figure 10 summarizes the percentage of sentences that included corrections options. COMAR 14.22.01.02 and the MSGM define corrections options 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 2015**

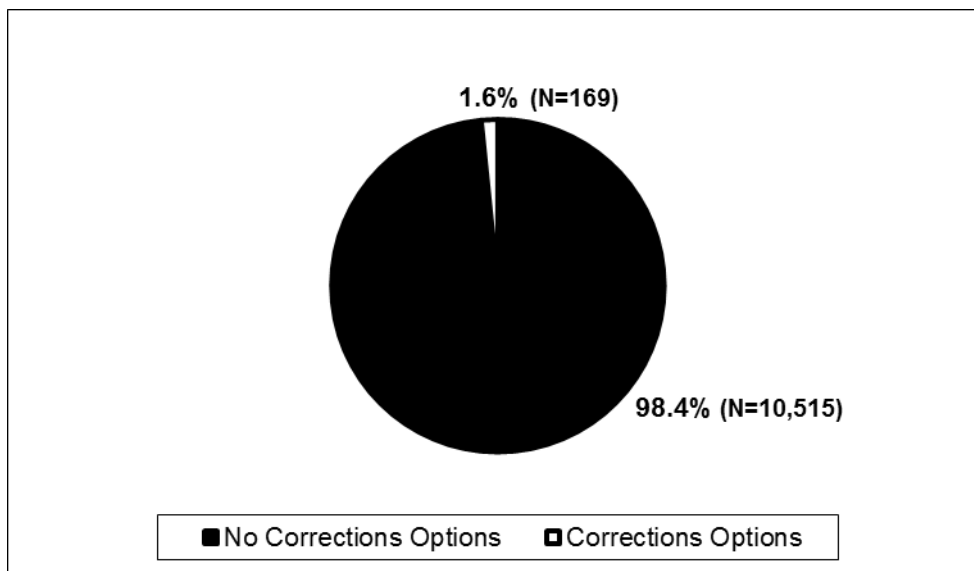


Figure 10 shows circuit courts sentenced only 1.6% of offenders (N=169) to a corrections options program in fiscal year 2015. The field for recording corrections options on the sentencing guidelines worksheet, however, is often left blank. The corrections options section of the worksheet was blank on 92% of the worksheets submitted to the MSCCSP for offenders sentenced in fiscal year 2015. The figure above assumes that in cases where the corrections options field was not completed, the court did not sentence the offender 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's governing legislation mandates the Commission to examine judicial compliance based on data extracted from the sentencing guidelines worksheets submitted after circuit courts sentence offenders. The following provides a detailed examination of judicial compliance with Maryland's voluntary sentencing guidelines.

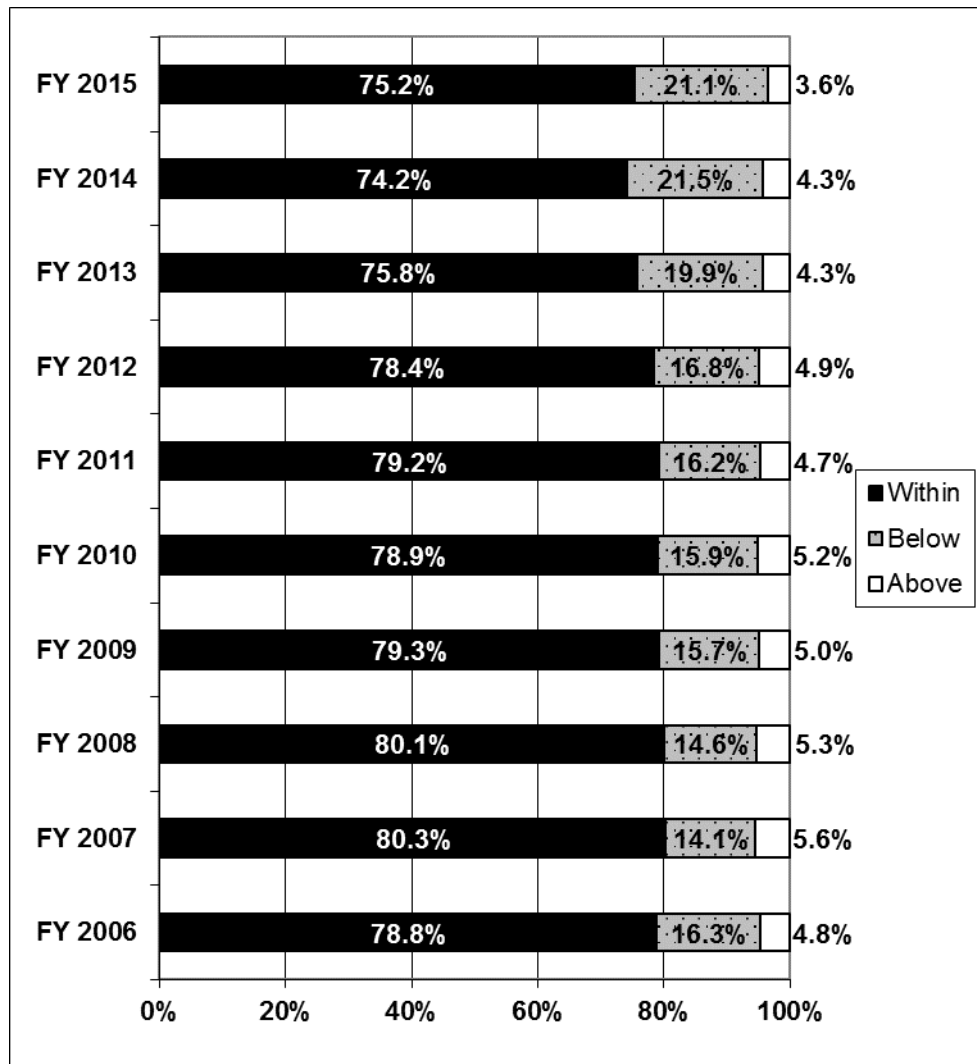
### Judicial Compliance Rates Overall

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The MSCCSP deems a sentence 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 deems 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. The MSCCSP has also deemed sentences to corrections options programs (e.g., drug court; Health-General Article, §8-507 commitments; home detention) 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. By doing so, the Commission recognizes the state's interest in promoting these alternatives to incarceration. Finally, sentences pursuant to an ABA plea agreement (one in which the judge, prosecutor, and defense have agreed to the terms of the sentence before the hearing) are guidelines-compliant (COMAR 14.22.01.17). The MSCCSP adopted the ABA plea agreement compliance policy in July 2001 to acknowledge that ABA pleas reflect the consensus of the local view of an appropriate sentence within each specific community. The corrections options and ABA plea agreement compliance policies allow the court to set a "guidelines compliant" sentence which considers the individual needs of the offender, such as substance abuse treatment, as opposed to incarceration.

Figure 11 contains a breakdown of the overall guidelines compliance rates for the past ten fiscal years (2006-2015). The figure indicates that in all ten years, the overall rate of compliance exceeded the Commission's benchmark standard of 65% compliance. The aggregate compliance rate has remained relatively unchanged from one year to the next, ranging from a low of 74.2% in fiscal year 2014 to a high of 80.3% in fiscal year 2007.

**Figure 11. Overall Sentencing Guidelines Compliance by Fiscal Year  
(All Cases)**

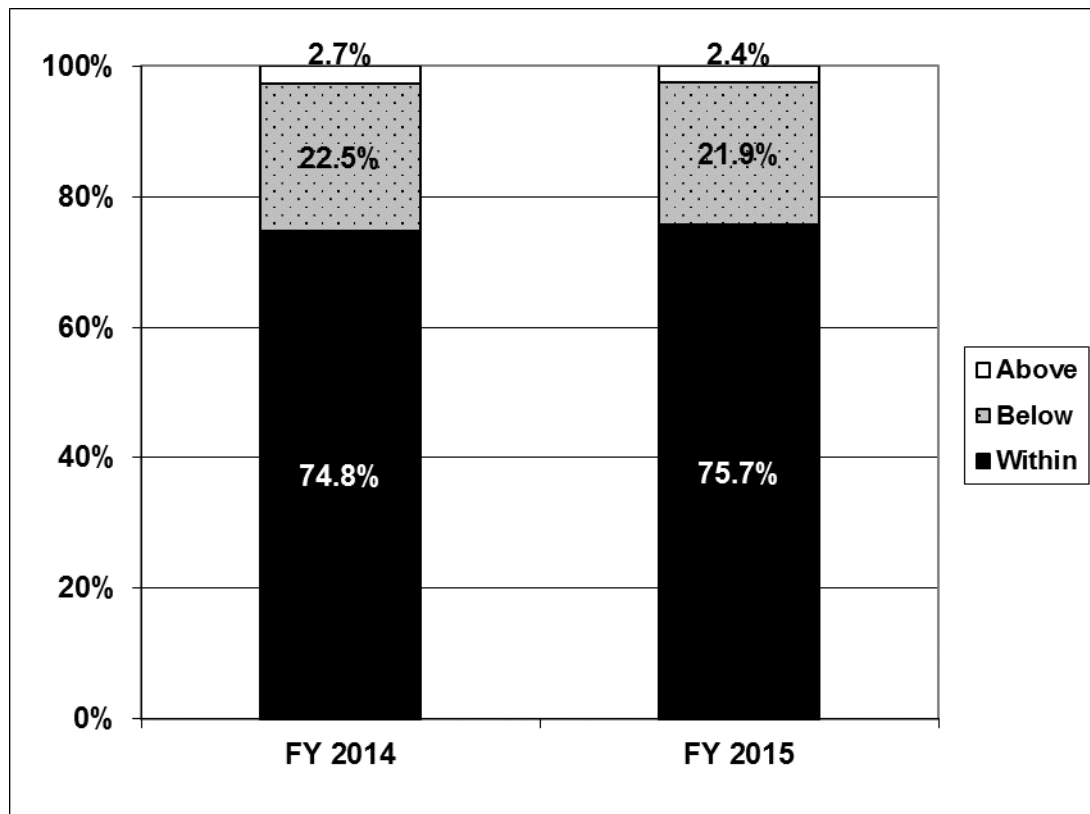


Analyses of judicial compliance in Maryland have traditionally focused on sentences for single-count convictions because they permit the most direct comparison of compliance by crime category and by offense type within the applicable cell of the sentencing matrix. Since multiple-count convictions can consist of any combination of person, drug, and property offenses, meaningful interpretations of sentencing patterns within matrices are not possible. Thus, the figures from this point forward focus on sentences for single-count convictions during fiscal years 2014 and 2015. Of the 10,700 sentencing guidelines worksheets submitted to the MSCCSP in 2015, 8,153 (76.2%) pertained to single-count convictions.

Figure 12 provides a breakdown of the overall guidelines compliance rates for fiscal years 2014 and 2015 based on single-count convictions. The rates are similar to those above. In both years, the overall rate of compliance exceeded the Commission's goal of 65% compliance.

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

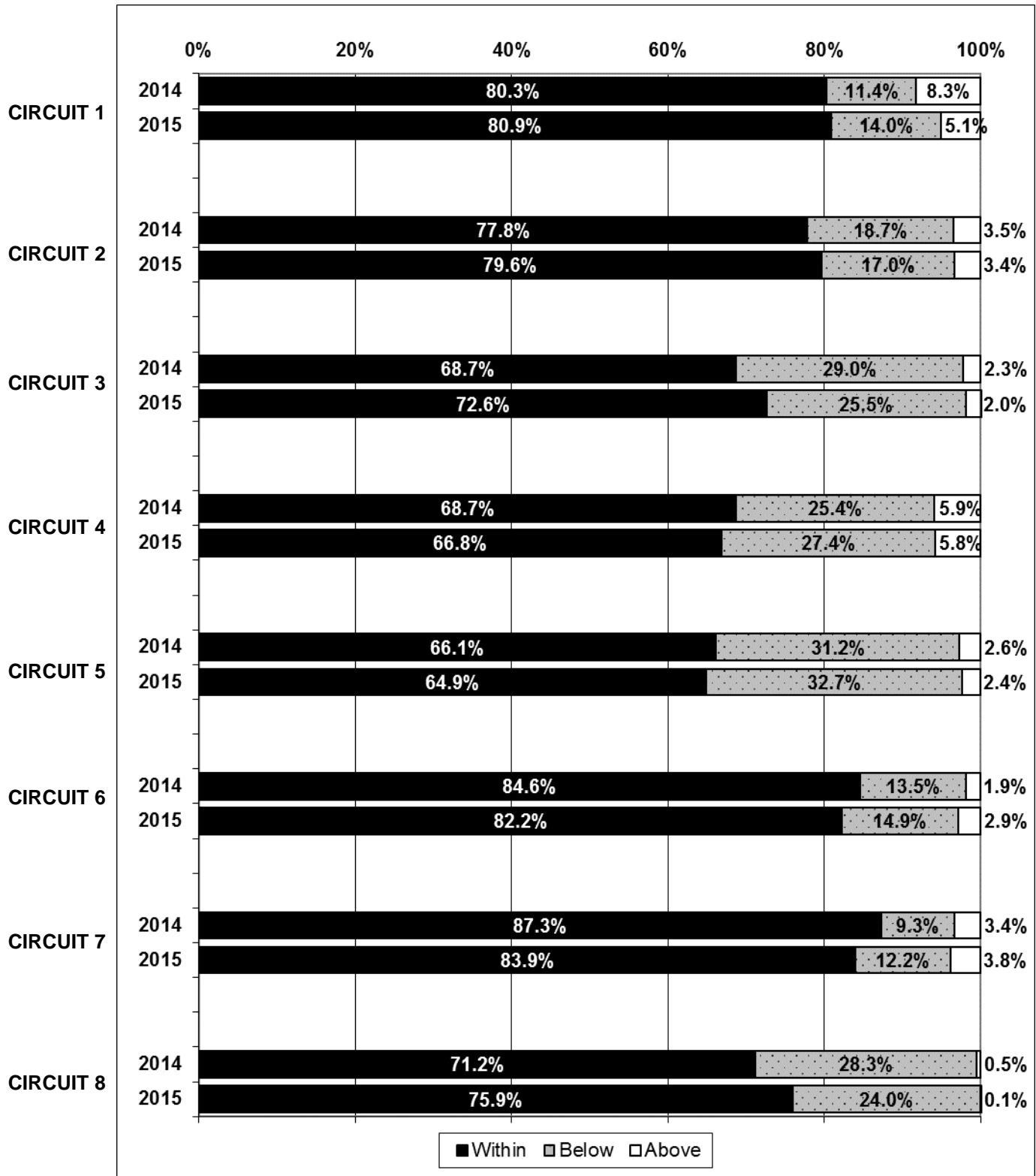
**Figure 12. Overall Sentencing Guidelines Compliance by Fiscal Year  
(Single-Count Convictions)**



### Judicial Compliance Rates by Circuit

As shown in Figure 13, all eight trial court judicial circuits met the 65% compliance benchmark in fiscal year 2015.<sup>5</sup> The Seventh Circuit had the highest compliance rate (83.9%). In contrast, compliance was lowest in the Fifth Circuit (64.9%). The largest change in compliance rates occurred in the Eighth Circuit, where rates increased 4.7 percentage points from 71.2% in 2014 to 75.9% in 2015.

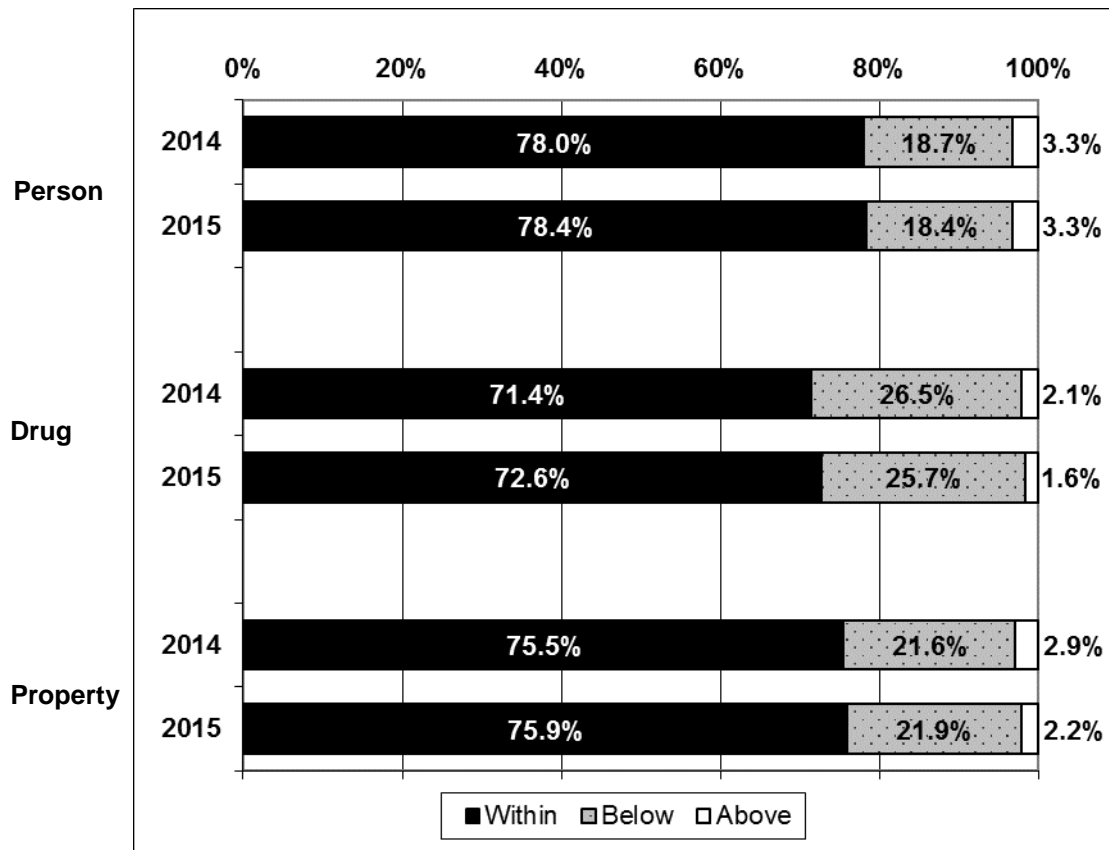
<sup>5</sup> Compliance rates were rounded to the nearest whole number to determine whether the 65% benchmark was met.

**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 2014 and 2015. Person offenses were the least likely to result in a departure from the guidelines in fiscal year 2015, 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 2014 to 2015, and the 65% benchmark was met for all three crime categories in both fiscal years.<sup>6</sup>

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



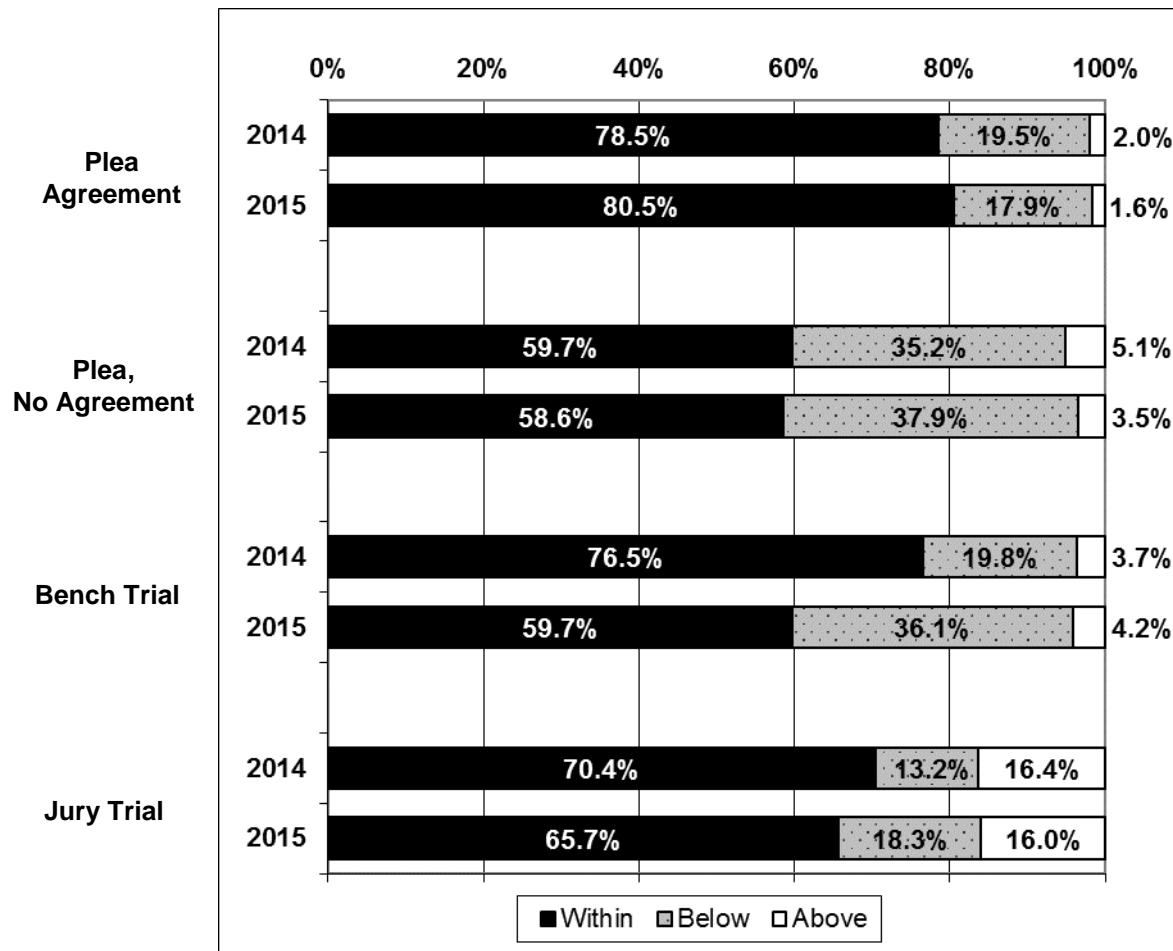
<sup>6</sup> See Appendix C for sentencing guidelines compliance and average sentence for the five most common offenses in each crime category.



## 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 (80.5%) in fiscal year 2015. This is not surprising given that the plea agreement category includes ABA pleas, which are compliant by definition. In contrast, cases resolved by a plea with no agreement had the lowest compliance rate (58.6%), followed closely by cases resolved by a bench trial (59.7%). This latter group of cases also saw the largest change in compliance rates, with rates decreasing from 76.5% in 2014 to 59.7% in 2015. Although this is a relatively large percentage change, bench trials represent a small percentage of dispositions (1.3%). Finally, jury trials were the only disposition type where upward departures occurred nearly as often as downward departures in fiscal year 2015.

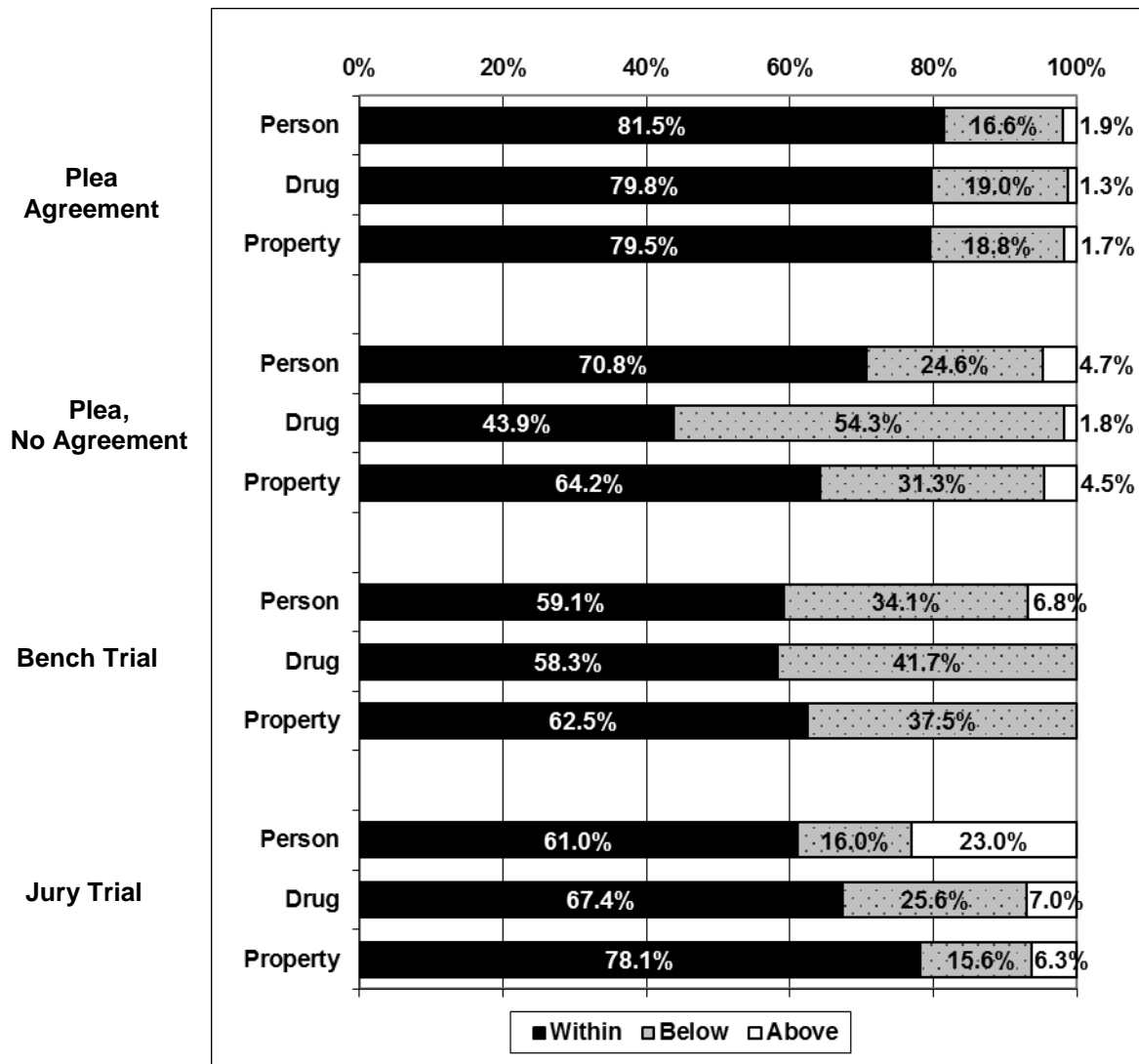
**Figure 15. Sentencing Guidelines Compliance by Type of Disposition and Fiscal Year**



## Judicial Compliance Rates by Crime Category and Disposition

Figure 16 displays compliance rates by crime category and disposition for fiscal year 2015. Some of the rates are based on a very small number of cases. For example, the MSCCSP received only 12 worksheets in fiscal year 2015 for single-count drug offenses adjudicated by a bench trial. Small numbers sharply limit the ability to provide meaningful interpretation.

**Figure 16. Sentencing Guidelines Compliance by Crime Category and Disposition, Fiscal Year 2015**



The highest compliance rates were observed for person, drug, and property offenses adjudicated by a plea agreement (81.5%, 79.8%, and 79.5%, respectively). Six of the twelve compliance rates fell short of the benchmark of 65%: drug and property offenses resolved by a plea with no agreement (43.9% and 64.2%, respectively); person, drug, and property offenses resolved by a bench trial (59.1%, 58.3%, and 62.5%, respectively), and person offenses

resolved by a jury trial (61%). Upward departures were most common among person offenses disposed of by a jury trial (23%), while downward departures occurred most often among drug offenses disposed of by a plea with no agreement (54.3%).

## 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 sentencing guidelines worksheet. 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 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, sentencing guidelines worksheets continue to underreport departure reasons. In fiscal year 2015, the reason for departure was provided in 40.9% of all departure cases. This represents a small decrease in reporting from fiscal year 2014 (45.4%). The MSCCSP staff will continue to emphasize the need to include a reason for departure when providing training sessions. Additionally, the continued deployment of MAGS to new jurisdictions will help facilitate the collection of departure reasons, as the departure reason is a required field necessitating completion prior to the electronic submission of any sentence identified as a departure from the guidelines. It is important for judges to provide the reason for departure, since those reasons will likely inform the Commission's consideration of potential guidelines revisions.

Tables 4 and 5 display the reasons given for departures from the guidelines in fiscal year 2015. The tables include all of the reasons listed on the reference card as well as the most commonly cited "other" reasons. Table 4 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 61.2% of downward departures, the reason for departure was missing. 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 4. Departure Reasons for Cases Below the Guidelines, Fiscal Year 2015\***

<b>Mitigating Reasons</b>	<b>Percent of Departures Where Reason is Cited</b>	<b>Valid Percent<sup>†</sup></b>
<i>No Departure Reason Given</i>	61.2%	---
The parties reached a plea agreement that called for a reduced sentence	16%	41.2%
Recommendation of State's Attorney or Division of Parole and Probation	9.2%	23.7%
Offender's commitment to substance abuse treatment or other therapeutic program	7.8%	20%
Offender's minor role in the offense	2%	5.1%
Offender's age/health	1.7%	4.5%
Offender's prior criminal record not significant	1.4%	3.6%
Offender made restorative efforts after the offense	1.3%	3.5%
Weak facts of the case	0.8%	2.2%
Offender is employed	0.7%	1.9%
Offender had diminished capability for judgment	0.7%	1.7%
Victim's participation in the offense lessens the offender's culpability	0.6%	1.4%
Offender was influenced by coercion or duress	0.2%	0.6%
Other reason (not specified above)	6.5%	16.8%

\* Each case may cite multiple reasons.

† Valid percent based on the number of cases below the guidelines with reason cited.

Table 5 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 40.4% 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 5. Departure Reasons for Cases Above the Guidelines, Fiscal Year 2015\***

<b>Aggravating Reasons</b>	<b>Percent of Departures Where Reason is Cited</b>	<b>Valid Percent<sup>†</sup></b>
<i>No Departure Reason Given</i>	40.4%	---
Recommendation of State's Attorney or Division of Parole and Probation	29.8%	50%
The level of harm was excessive	9.1%	15.3%
Special circumstances of the victim	7.6%	12.7%
Offender's major role in the offense	6.6%	11%
The vicious or heinous nature of the conduct	6.6%	11%
Offender's prior criminal record significant	6.1%	10.2%
Offender exploited a position of trust	6.1%	10.2%
Offender's significant participation in major controlled substance offense	3.5%	5.9%
Offender committed a "white collar" offense	1%	1.7%
Other reason (not specified above)	16.7%	28%

\* Each case may cite multiple reasons.

† Valid percent based on the number of cases below the guidelines with reason cited.

## ADDITIONAL INFORMATION COLLECTED

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

CP, §6-209 requires the MSCCSP's annual report to "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." Table 6 reviews reconsidered sentences reported to the MSCCSP for crimes of violence as defined in CR, §14-101 for fiscal year 2015 by circuit. The table uses data on reconsidered sentences for eleven offenders and twenty-four offenses. This represents a slight increase from fiscal year 2014 when the MSCCSP received worksheets on reconsiderations for crimes of violence for eight offenders and seventeen offenses. Robbery with a dangerous weapon (CR, §3-403) was the most common violent offense in reconsidered cases reported to the MSCCSP in fiscal year 2015.

**Table 6. Reconsiderations for Crimes of Violence (CR, §14-101), Fiscal Year 2015\***

Circuit	Offense	N
SECOND	Robbery with Dangerous Weapon	2
THIRD	Sex Offense, 1st Degree	1
SIXTH	Arson, 1 <sup>st</sup> Degree	2
	Assault, 1 <sup>st</sup> Degree	1
	Firearm Use in Felony or Crime of Violence	6
	Murder, 2 <sup>nd</sup> Degree	1
	Robbery	3
	Robbery with Dangerous Weapon	7
SEVENTH	Robbery	1

\* Table 6 is based on reconsidered sentences for 11 offenders and 24 offenses.

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

CP, §6-214 directs 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.<sup>7</sup> In fiscal year 2015, sentencing guidelines worksheets reported 1,436 sentences for theft, fraud, and related crimes to the MSCCSP. Only 502 (35%) of these cases recorded the amount of economic loss to the victim. However, statewide deployment of MAGS will help facilitate the collection of this information, as the automated system prompts the user to provide the amount of economic loss to the victim for any sentencing event involving a theft- or fraud-related crime. When reported, economic loss ranged in value from a minimum of no loss to a maximum of \$600,000. The mean (average) amount of loss was \$17,371, while the median (middle) amount of loss was \$3,185. The fact that the mean is larger than the median indicates that the distribution of economic loss has a positive skew, with a few extremely large loss amounts pulling the mean above the median. Finally, 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; felony theft or theft scheme, at least \$10,000 but less than \$100,000; or misdemeanor theft or theft scheme, less than \$1,000* (CR, §7-104).

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## Victim Information

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The sentencing guidelines worksheet contains several victim-related items designed to capture the rights of victims at sentencing and whether victim-related court costs were imposed pursuant to Courts and Judicial Proceedings Article (CJ), §7-409, Annotated Code of Maryland, and Maryland Rule 4-353. Figures 17 through 19 detail the responses to these items in fiscal year 2015. Note that the victim-related items are often left blank on the worksheet. For example, whether victim-related court costs were imposed was left blank on 65.1% of worksheets, and approximately half of all worksheets were missing information on whether there was a victim. The figures presented here are limited to the subset of cases with valid data.

Figure 17 indicates that victim-related court costs were imposed in 19.7% of cases. These court costs may be imposed for all crime types, not just those involving a direct victim. 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.

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<sup>7</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 14.22.01.02B(6-1)).

**Figure 17. Distribution of Guidelines Cases by Whether Victim-Related Court Costs Imposed, Fiscal Year 2015**

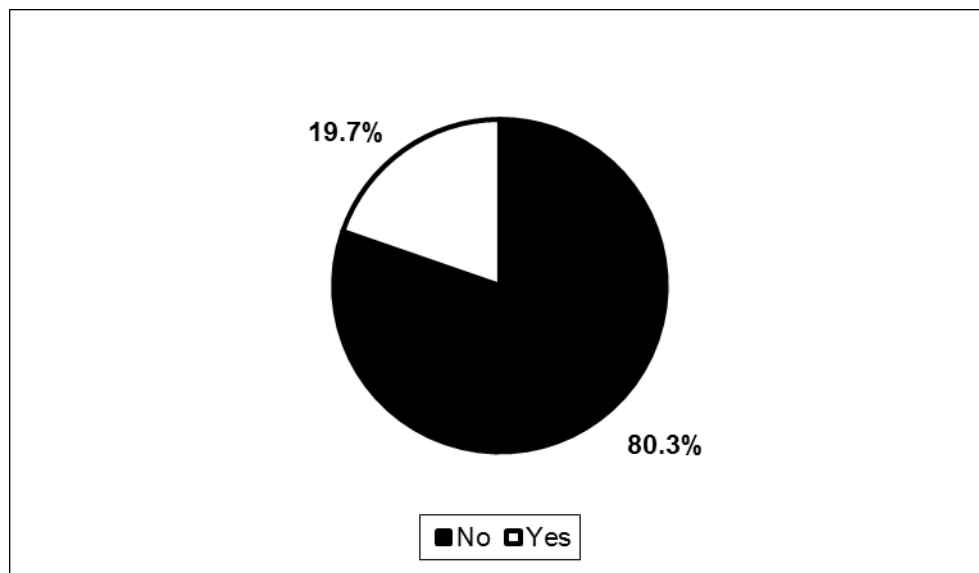
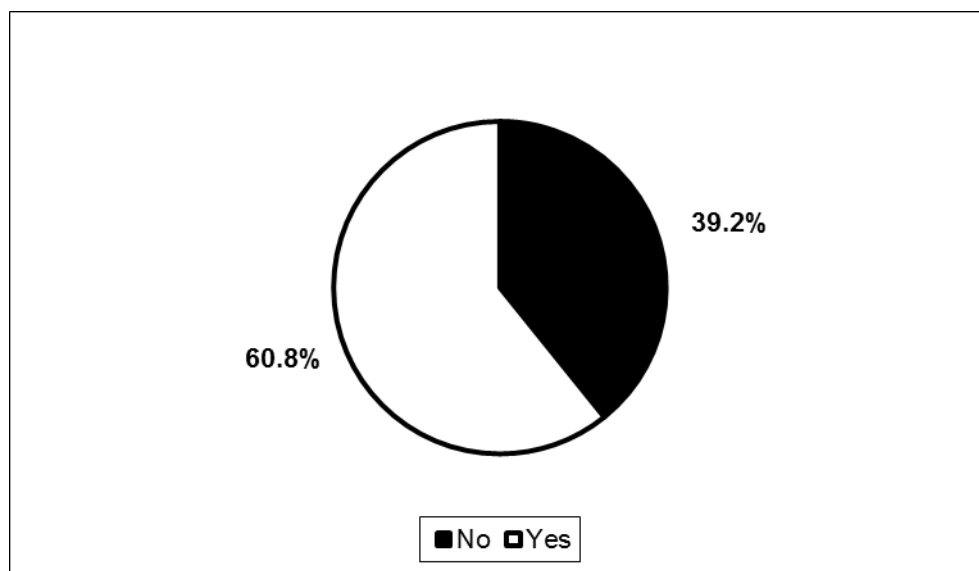


Figure 18 shows that 60.8% of worksheets indicated there was a victim. The responses to the items in the *Victim Information* section of the worksheet for cases involving a victim are summarized in Figure 19.

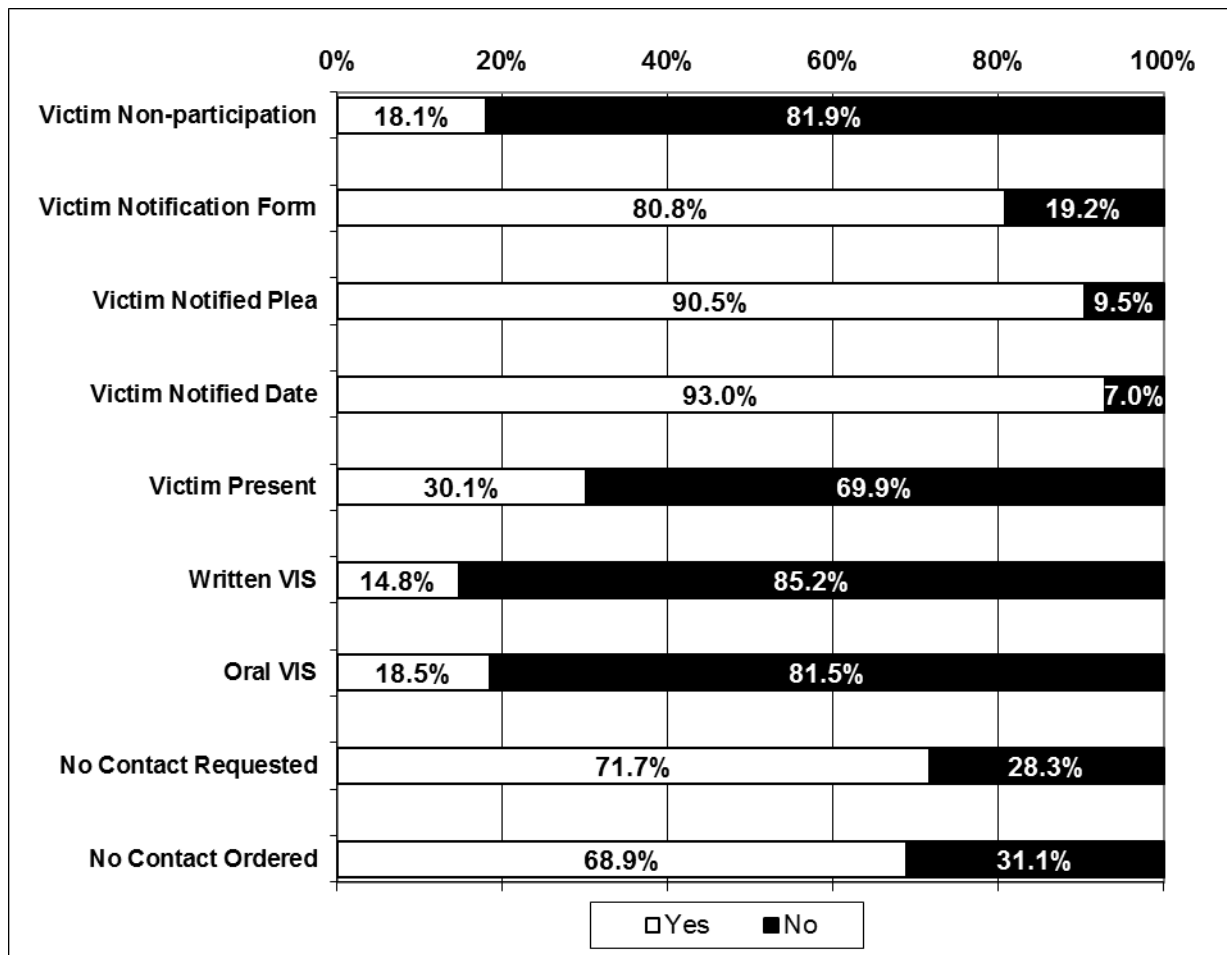
**Figure 18. Distribution of Guidelines Cases by Whether Victim Involved, Fiscal Year 2015**





In 18.1% of cases involving a victim, the victim did not participate, was not located, did not maintain contact with involved parties, or waived his/her rights. A Crime Victim Notification and Demand for Rights form was filed by the victim in 80.8% of cases. Most victims (90.5%) were notified of the terms and conditions of a plea agreement prior to entry of a plea. Similarly, 93% of victims were notified of the court date for sentencing. Slightly less than one-third of victims were present at sentencing. A written Victim Impact Statement (VIS) was prepared in 14.8% of cases involving a victim, while the victim or state made a request for an oral VIS in 18.5% of cases. Finally, the victim or state made a request that the defendant have no contact with the victim in 71.7% of cases, and the sentencing judge ordered the defendant to have no contact with the victim in 68.9% of cases involving a victim.

**Figure 19. Distribution of Guidelines Cases by Victim Information, Fiscal Year 2015**



## PLANNED ACTIVITIES FOR 2016

The MSCCSP has identified several important activities for 2016. The MSCCSP will continue to administer the state's sentencing guidelines. Specifically, the MSCCSP will work to implement revisions to the drug matrix voted on by the MSCCSP in December 2015, while also completing routine activities, such as, collecting sentencing guidelines worksheets, maintaining the sentencing guidelines database, monitoring judicial compliance with the guidelines, and providing sentencing guidelines education and training. Additionally, the MSCCSP will review all criminal offenses and changes in the criminal code resulting from the 2016 Legislative Session, adopt seriousness categories for these offenses, and will review any guidelines-specific recommendations resulting from the anticipated bill(s) that may be adopted as a result of the Justice Reinvestment Coordinating Council work in 2015.

Furthermore, the MSCCSP will continue to deploy MAGS in a gradual statewide roll-out of the automated system. The MSCCSP expects to deploy MAGS in four new jurisdictions in 2016. The MSCCSP staff will work with individual jurisdictions to establish secure login procedures for access to MAGS and will provide orientation and training on the use of the application. The MSCCSP will also coordinate with the AOC to continue planning for interoperability with the Judiciary's new case management system, Maryland Electronic Courts (MDEC).

The MSCCSP will work further with the research team at the CCJS Department at the University of Maryland, College Park to build on the work of the risk assessment feasibility study and develop a decision-tree framework to guide an appropriate course of action for providing judges a risk or risk-needs assessment instrument that can help inform their sentencing decisions. The MSCCSP will also collaborate with MDAC at the University of Maryland to complete an empirical review of the juvenile delinquency component of the offender score. Finally, the MSCCSP will continue to work to refine and update the sentencing/correctional simulation model.

The activities described above are just a few of the many tasks that will be completed by the MSCCSP in 2016 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 Marijuana import 45 kilograms or more, and MDMA over 750 grams</b>	P-18M	P-2Y	6M-2Y	1Y-4Y	2Y-6Y	3Y-8Y	4Y-12Y	10Y-20Y
<b>III-B Non-marijuana and non-MDMA, Except Import</b>	6M-3Y	1Y-3Y	18M-4Y	3Y-7Y	4Y-8Y	5Y-10Y	7Y-14Y	12Y-20Y
<b>III-C Non-marijuana and non-MDMA, Import</b>	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***

Note: At its December 8, 2015, meeting, the Commission approved revisions to the recommended ranges in the rows corresponding to seriousness category IV and V drug offenses. Final adoption of the revisions is expected July 1, 2016. See the section *Revisions to the Sentencing Matrix for Drug Offenses* of this report for a complete discussion of the forthcoming revisions.

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		MD CODE, ART, & SECTION		I-VII		CJIS CODE		STAT. MAX		MAND. MIN		CASE # / DOCKET #			
AT THIS SENTENCING, NUMBER OF:		CONVICTED CRIMINAL OFFENSES		WORKSHEET # _____ OF _____		CRIMINAL EVENT # _____				REPRESENTATION		ETHNICITY		RACE							
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										OFFENDER SCORE		GUIDELINES RANGE		ACTUAL SENTENCE – Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Home Detention, Etc.)	
<b>A. Seriousness Category</b> 1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off 1 = 1 = V – VII 3 = 3 = IV 5 = 5 = III 8 = 8 = II 10 = 10 = I										<b>A. Relationship to CJIS When Instant Offense Occurred</b> 0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision		<b>1<sup>st</sup> Con. Off.</b> _____ TO _____		<b>1<sup>st</sup> Convicted Offense</b> For Theft, Fraud, and Related Crimes, please indicate: ☐ Economic loss \$ _____; ☐ Restitution Requested _____; ☐ Unknown Amount _____ Subsequent Offender Fined _____ Yes _____ No _____ Subsequent Offender Proven _____ Yes _____ No _____	
<b>B. Victim Injury</b> 1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off 0 = 0 = No Injury 1 = 1 = Injury, Non-Permanent 2 = 2 = Permanent Injury or Death										<b>B. Juvenile Delinquency</b> 0 = 23 years or older or crime-free for 5 years or no more than 1 finding of a delinquent act 1 = Under 23 years old and: 2 or more findings of a delinquent act or 1 commitment 2 = Under 23 years and committed 2 or more times		<b>2<sup>nd</sup> Con. Off.</b> _____ TO _____		<b>2<sup>nd</sup> Convicted Offense</b> For Theft, Fraud, and Related Crimes, please indicate: ☐ Economic loss \$ _____; ☐ Restitution Requested _____; ☐ Unknown Amount _____ Subsequent Offender Fined _____ Yes _____ No _____ Subsequent Offender Proven _____ Yes _____ No _____	
<b>C. Weapon Presence</b> 1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off 0 = 0 = No Weapon 1 = 1 = Weapon Other Than Firearm 2 = 2 = Firearm or Explosive										<b>C. Prior Adult Criminal Record</b> 0 = None 3 = Moderate 1 = Minor 5 = Major		<b>3<sup>rd</sup> Con. Off.</b> _____ TO _____		<b>3<sup>rd</sup> Convicted Offense</b> For Theft, Fraud, and Related Crimes, please indicate: ☐ Economic loss \$ _____; ☐ Restitution Requested _____; ☐ Unknown Amount _____ Subsequent Offender Fined _____ Yes _____ No _____ Subsequent Offender Proven _____ Yes _____ No _____	
<b>D. Special Victim Vulnerability</b> 1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off 0 = 0 = No 1 = 1 = Yes										<b>D. Prior Adult Parole/Prob Violation</b> 0 = No 1 = Yes		<b>Overall Guidelines Range</b> Multiple Counts Only _____ TO _____		<b>Was the offender sentenced to a Corrections Options program under Commission criteria?</b> Drug Court _____ Yes _____ No _____ Other _____ Yes _____ No _____	

VICTIM INFORMATION		OFFENSE SCORE(S)		SENTENCE DEPARTURE INFORMATION	
<b>Victim</b> Yes _____ No _____ <b>Victim Non-participation</b> Yes _____ No _____ Victim Notification Form _____ Victim Notified Plea _____ Victim Notified Date _____ Victim Present _____ Written VIS _____ Oral VIS _____ No Contact Requested _____ No Contact Ordered _____		<b>OFFENDER SCORE</b> _____		If the actual sentence departs from the guidelines range, please indicate the Court's reason(s) using the numerical code(s) on the list of common departure factors in the manual, if applicable. _____ <b>Departure Code 9 or 18 (Please Explain):</b> _____	
				<b>Additional Information or Institutional/Parole Recommendation</b> _____ <b>Parole Notification</b> Yes _____ No _____ Sentencing Judge's Signature _____	

4/2013 (1.8)

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 2015 (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	869	83.5%	12.4%	4%	67.1%	5.3 years	1.2 years
Robbery	474	81.9%	16.9%	1.3%	89.9%	8.2 years	2.2 years
Assault, 1 <sup>st</sup> Degree	247	61.9%	36.4%	1.6%	91.5%	13.6 years	4.3 years
Robbery with Dangerous Weapon	243	68.7%	30.5%	0.8%	90.5%	12.2 years	4.2 years
Possession of Regulated Firearm by Restricted Person	167	71.3%	28.1%	0.6%	54.5%	3.8 years	1.6 years
<b>Drug Offenses</b>							
Distribution Marijuana	702	83.3%	15.9%	0.9%	51%	2.9 years	0.6 years
Distribution Heroin	640	62.5%	36.7%	0.8%	73.3%	8 years	2.1 years
Distribution Cocaine	519	65.8%	33.4%	0.8%	76.9%	7.9 years	2.6 years
Possession Marijuana	260	93.8%	1.5%	4.6%	33.8%	0.6 years	0.2 years
Distribution Narcotic (drug not identified)	157	61.8%	36.9%	1.3%	70.7%	7.9 years	3.2 years
<b>Property Offenses</b>							
Burglary, 1 <sup>st</sup> Degree	340	75.6%	23.5%	0.9%	81.8%	8.8 years	3 years
Theft or Theft Scheme, At Least \$1,000 but Less Than \$10,000	252	76.2%	19.8%	4%	71%	6.2 years	1.8 years
Burglary, 2 <sup>nd</sup> Degree	198	71.2%	28.3%	0.5%	79.3%	8.9 years	2.8 years
Theft or Theft Scheme, Less Than \$1,000	169	76.3%	21.3%	2.4%	61.5%	1.2 years	0.6 years
Theft or Theft Scheme, At Least \$10,000 but Less Than \$100,000	149	76.5%	20.1%	3.4%	67.8%	7 years	2 years

\* % *Incarcerated* includes those who are incarcerated pre-trial only, as well as those incarcerated after sentencing.



## 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 pleaded 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).