METHODOLOGY

Data provided in Issue 6 (October 2021) of the *Sentencing Snapshot* were obtained from sentencing guidelines worksheets submitted to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) via the Maryland Automated Guidelines System (MAGS) or paper guidelines worksheets for sentences imposed from fiscal year (FY) 2017 through FY 2021. A sentencing guidelines worksheet is completed for all sentencing events that originate in and are sentenced in Maryland circuit courts. Additionally, a guidelines worksheet is completed for sentencing events involving jury trial prayers and appeals from the District Court if a pre-sentence investigation (PSI) is ordered. A sentencing event is defined as one defendant, sentenced in front of the same judge, on the same day. A sentencing event may contain multiple offenses from multiple crime categories. These analyses exclude sentencing guidelines worksheets submitted for non-original sentencing events, including sentence reconsideration hearings and three-judge panel reviews. From FY 2017 through FY 2021, approximately 1% of sentencing events for which a guidelines worksheet was submitted were for sentence reconsideration hearings or three-judge panel reviews. The sentencing guidelines do not apply to violations of probation or parole. Sentencing guidelines worksheets are not submitted to the MSCCSP for District Court cases.

Table 1 provides the total number of guidelines-eligible criminal sentencing events and offenses, sentenced from FY 2017 through FY 2021 and disaggregated by crime category, for which the MSCCSP received a sentencing guidelines worksheet. The MSCCSP received guidelines worksheets for 45,685 guidelines-eligible, original sentencing events, including 63,550 guidelines-eligible convicted offenses, sentenced in circuit courts in FY 2017 through FY 2021.[1] *Sentencing Snapshot #6* focuses specifically on third degree sex offenses, as defined in Criminal Law Article (CR), § 3-307. The MSCCSP received guidelines worksheets for 626 sentencing events, including 781 third degree sex offenses, sentenced in circuit courts in FY 2017 through FY 2021.

TABLE 1. GUIDELINES-ELIGIBLE CRIMINAL SENTENCING EVENTS AND OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021

	Offenses			Sentencing Events Included One or More:		
	#	% Total	% Person	#	% Total	% Person
Total person offenses	34,784	54.7%	-	25,011	54.7%	-
3rd degree sex offense	781	1.2%	2.2%	626	1.4%	2.5%
Total drug offenses	16,633	26.2%	-	14,846	32.5%	-
Total property offenses	12,133	19.1%	-	9,406	20.6%	-
Total offenses	**63,550**			**45,685**		

Note. Sentencing event percentages do not sum to 100% as a sentencing event may contain multiple offenses from multiple crime categories.

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[1] The MSCCSP staff routinely conducts data checks and corrects errors identified in the data. Therefore, the numbers reported in this *Snapshot* may differ slightly from previous *Snapshots*.

Table 2 provides a count of third degree sex offenses, sentenced in Maryland circuit courts, from FY 2017 through FY 2021, their statutory sources, their maximum penalties, and their seriousness category classifications. Currently, the MSCCSP classifies two types of third degree sex offense: (1) third degree sex offense, involving age-based elements; and (2) third degree sex offense, involving a dangerous weapon, serious physical injury, impaired victim, etc. Table 3 provides a list of acts defined in Maryland as third degree sex offense. The MSCCSP voted at its September 14, 2021, meeting to reclassify third degree sex offense, involving age-based elements, from a seriousness category V offense to a seriousness category IV offense. This change will take effect, at the earliest, February 1, 2022.

TABLE 2. THIRD DEGREE SEX OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021

	# Offenses	# Sentencing Events Included One or More	Source	Statutory Maximum	Seriousness Category		Classification
					Current	Revised [1]	
Sex offense, 3rd degree, involving age-based elements	670	526	CR, § 3-307(a)(3) CR, § 3-307(a)(4) CR, § 3-307(a)(5)	10Y	V	IV	Felony
Sex offense, 3rd degree, involving a dangerous weapon, serious physical injury, impaired victim, etc. [2]	111	101	CR, § 3-307(a)(1) CR, § 3-307(a)(2)	10Y	IV	IV	Felony
Total	**781**	**626**					

Note. A sentencing event may contain multiple offenses from multiple crime categories.

[1] This change will take effect, at the earliest, February 1, 2022.

[2] This category of third degree sex offense is abbreviated in the *Sentencing Snapshot* as "3rd degree sex offense, weapon, impairment, etc."

TABLE 3. ACTS DEFINED IN MARYLAND AS THIRD DEGREE SEX OFFENSE, PER CR, § 3-307

	Source	Act
Sex offense, 3rd degree, involving age-based elements	CR, § 3-307(a)(3)	Engage in sexual contact if victim is under 14 years old and offender is at least 4 years older than victim
	CR, § 3-307(a)(4)	Engage in sexual contact if victim is 14 or 15 years old and offender is at least 21 years old
	CR, § 3-307(a)(5)	Engage in vaginal intercourse if victim is 14 or 15 years old and offender is at least 21 years old
Sex offense, 3rd degree, involving a dangerous weapon, serious physical injury, impaired victim, etc.	CR, § 3-307(a)(1)	Engage in sexual contact without consent and (1) employ or display a dangerous weapon; (2) suffocate, strangle, disfigure, inflict serious physical injury; (3) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or (4) commit crime while aided and abetted by another
	CR, § 3-307(a)(2)	Engage in sexual contact if victim is substantially cognitively impaired, mentally incapacitated, or physically helpless

Table 4 provides the characteristics of defendants convicted of offenses in Maryland circuit courts from FY 2017 through FY 2021.

TABLE 4. DEMOGRAPHICS OF GUIDELINES-ELIGIBLE DEFENDANTS SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021								
	All Defendants		Defendants Sentenced for One or More Person Offense		Defendants Sentenced for One or More 3rd Degree Sex Offense, Involving Age-Based Elements		Defendants Sentenced for One or More 3rd Degree Sex Offense, Involving Weapon, Impairment, Etc.	
Mean age (years)	31.5 years		31.1 years		35.0 years		35.5 years	
	#	Valid %	#	Valid %	#	Valid %	#	Valid %
Under 21 years old	7,780	17.0%	4,901	19.6%	50	9.5%	14	13.9%
Gender								
Male	37,265	87.0%	21,263	90.2%	491	97.6%	98	97.0%
Female	5,589	13.0%	2,308	9.8%	12	2.4%	3	3.0%
Missing	2,831		1,440		23		0	
Race								
Black	25,243	61.7%	14,310	63.5%	168	34.4%	47	49.0%
White	12,478	30.5%	5,992	26.6%	136	27.8%	28	29.2%
Hispanic	2,630	6.4%	1,924	8.5%	174	35.6%	19	19.8%
Other	567	1.4%	305	1.4%	11	2.2%	2	2.1%
Missing	4,767		2,480		37		5	
Prior Record Score								
None	15,620	34.4%	9,251	37.2%	319	60.9%	47	46.5%
Minor	10,529	23.2%	5,575	22.4%	91	17.4%	18	17.8%
Moderate	9,664	21.3%	5,217	21.0%	68	13.0%	19	18.8%
Major	9,612	21.2%	4,858	19.5%	46	8.8%	17	16.8%
Missing	260		110		2			
Total sentencing events	**45,685**		**25,011**		**526**		**101**	

Note. Each classification includes defendants who were convicted of at least one offense in that crime category. Defendants may be convicted of multiple offenses from multiple crime categories. Defendant age is as of the date of the offense. Race and Ethnicity are separate fields on the sentencing guidelines worksheet. The following selections are available for Race: American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White, Other, and Unknown. The guidelines worksheet preparer may make more than one selection in the Race field. For the purposes of these analyses, the following races were collapsed into the other race category: American Indian or Alaskan Native, Asian, Native Hawaiian or Other Pacific Islander, and Other. Cases in which multiple race options were selected were also classified as other race for the purposes of these analyses. Cases in which "Unknown" race was selected were classified as missing. The Ethnicity field asks if the defendant is of Hispanic or Latino Origin. The possible responses are yes or no. If "yes" was marked in response to Hispanic or Latino Origin, the defendant was defined as Hispanic for the purposes of these analyses, regardless of selections made in the Race field. Valid percentages are based on non-missing data.

Table 5 through Table 8 provide the characteristics of and average sentences for third degree sex sentenced in Maryland circuit courts from FY 2017 through FY 2021.

TABLE 5. CHARACTERISTICS OF THIRD DEGREE SEX OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021				
	3rd Degree Sex Offense, Involving Age-Based Elements		3rd Degree Sex Offense, Involving Weapon, Impairment, Etc.	
	#	Valid %	#	Valid %
Victim Injury				
None	453	67.9%	49	44.1%
Non-permanent injury	208	31.2%	61	55.0%
Permanent injury or death	6	0.9%	1	0.9%
Missing	3		0	
Special victim vulnerability				
Yes	299	44.8%	35	31.5%
No	368	55.2%	76	68.5%
Missing	3		0	
Weapon Presence				
None	661	99.1%	92	82.9%
Weapon other than firearm	6	0.9%	18	16.2%
Firearm or explosive	0	0.0%	1	0.9%
Missing	3		0	
Total	**670**		**111**	

Note. Victim injury is defined in the Maryland Sentencing Guidelines Manual (MSGM, Version 13.1, Chapter 6.1.B) as "physical or psychological injury to the crime victim, the cause of which is directly linked to the conduct of the defendant in the commission of the convicted offense." Special victim vulnerability is defined in the MSGM (Version 13.1, Chapter 6.1.D) and "refers to cases in which the relative status of the victim tends to render the actions of the perpetrator more serious." Per the MSGM, "[a] vulnerable victim is anyone: a. Younger than 11 years old; b. 65 years old or older; or c. Having a temporary or permanent physical or mental disability, including an individual who is physically or mentally limited in a material way. Examples of a temporary physical or mental limitation include, but are not limited to, instances when the offender knew or should have known the victim was pregnant, unconscious, asleep, or intoxicated." Weapon presence is defined in the MSGM (Version 13.1, Chapter 6.1.C) as "the presence of an article or device which reasonably appears capable of causing injury or the presence of an article that could result in conviction under CR, §4-101." Valid percentages are based on non-missing data.

TABLE 6. MEAN SENTENCES AND INCARCERATION RATES FOR THIRD DEGREE SEX OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021

	3rd Degree Sex Offense, Involving Age-Based Elements		3rd Degree Sex Offense, Involving Weapon, Impairment, Etc.	
Mean total sentence	8.1 years		8.0 years	
Mean guidelines-applicable sentence	2.5 years		3.2 years	
	#	%	#	%
Incarcerated				
Yes	514	76.7%	96	86.5%
No	156	23.3%	15	13.5%
Total	**670**		**111**	

Note. The total sentence is defined as the sum of incarceration, credit for time served, home detention and suspended time. The guidelines-applicable sentence is defined as the sum of incarceration, credit for time served, and home detention. It does not include suspended time. The percentage incarcerated includes those sentenced to home detention and credit for time served.

TABLE 7. MEAN GUIDELINES-APPLICABLE SENTENCE FOR THIRD DEGREE SEX OFFENSES, INVOLVING AGE-BASED ELEMENTS, SENTENCED IN MARYLAND CIRCUIT COURTS, BY AGE GROUP, FY 2017 THROUGH FY 2021

	# Sentencing Events	%	Mean Guidelines-Applicable Sentence
Under 21 years old	50	9.5%	1.7 years
21 to 24 years old	88	16.7%	2.3 years
25 to 29 years old	88	16.7%	2.5 years
30 to 39 years old	148	28.1%	5.0 years
40 to 49 years old	76	14.4%	4.9 years
50 years or older	76	14.4%	4.2 years
Total	**526**		

Note. The guidelines-applicable sentence is defined as the sum of incarceration, credit for time served, and home detention. It does not include suspended time.

TABLE 8. SENTENCING GUIDELINES COMPLIANCE FOR THIRD DEGREE SEX OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH 2021

	3rd Degree Sex Offense, Involving Age-Based Elements		3rd Degree Sex Offense, Involving Weapon, Impairment, Etc.	
	#	%	#	%
Within	479	71.5%	89	80.2%
Below	13	1.9%	11	9.9%
Above	178	26.6%	11	9.9%
Total	**670**		**111**	

Note. For the purposes of these analyses, sentencing guidelines compliance is computed at the offense-level. A sentence is defined as guidelines-compliant if it meets at least one of the following conditions: the guidelines-applicable sentence (defined as the sum of incarceration, credit for time served, and home detention) is within the guidelines range; the guidelines-applicable sentence exceeds the upper guidelines limit but includes only credit for time served; the sentencing event was disposed of via an ABA plea agreement or, effective April 1, 2021, an MSCCSP binding plea agreement; or the sentencing event involved the imposition of one or more correction options and the total sentence falls within or above the recommended guidelines range (excluding sentencing events that contain a crime of violence, child sexual abuse, or escape).

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Table 9 and Table 10 illustrate the placement of the two categories of third degree sex offense on the person matrix and their corresponding recommended guidelines ranges. Cells highlighted in yellow start at probation. Approximately 78% of third degree sex offenses, involving age-based elements, fall in cells with a recommended range that starts at probation. Approximately 42% of third degree sex offenses, involving a dangerous weapon, serious physical injury, impaired victim, etc., fall in cells with a recommended range that starts at probation.

TABLE 9. SENTENCING GUIDELINES RANGES FOR THIRD DEGREE SEX OFFENSES, INVOLVING AGE-BASED ELEMENTS, SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021

			PERSON MATRIX								
			OFFENDER SCORE								
			0	1	2	3	4	5	6	7+	Total # (% Valid total)
OFFENSE SCORE	1	Range	P	P	P-3M	3M-1Y	3M-18M	3M-2Y	6M-2Y	1Y-3Y	-
		# (% Valid total)	165 (24.8%)	37 (5.6%)	7 (1.1%)	19 (2.9%)	13 (2.0%)	8 (1.2%)	6 (0.9%)	9 (1.4%)	264 (39.8%)
	2	Range	P-6M	P-1Y	P-18M	3M-2Y	6M-3Y	1Y-5Y	18M-5Y	3Y-8Y	-
		# (% Valid total)	166 (25.0%)	41 (6.2%)	19 (2.9%)	7 (1.1%)	15 (2.3%)	8 (1.2%)	16 (2.4%)	6 (0.9%)	278 (41.9%)
	3	Range	P-2Y	P-2Y	6M-3Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	-
		# (% Valid total)	68 (10.2%)	14 (2.1%)	5 (0.8%)	3 (0.5%)	4 (0.6%)	8 (1.8%)	12 (1.2%)	2 (0.3%)	116 (17.5%)
	4	Range	P-3Y	6M-4Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	5Y-12Y	-
		# (% Valid total)	1 (0.2%)	2 (0.3%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)	0 (0.0%)	0 (0.0%)	4 (0.6%)
	5	Range	3M-4Y	6M-5Y	1Y-6Y	2Y-7Y	3Y-8Y	4Y-10Y	6Y-12Y	8Y-15Y	-
		# (% Valid total)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)
	6	Range	1Y-6Y	2Y-7Y	3Y-8Y	4Y-9Y	5Y-10Y	7Y-12Y	8Y-13Y	10-20Y	-
		# (% Valid total)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)	0 (0.0%)	0 (0.0%)	1 (0.2%)
	Total	# (% Valid total)	400 (60.2%)	94 (14.2%)	31 (4.7%)	29 (4.4%)	33 (5.0%)	30 (4.5%)	30 (4.5%)	17 (2.6%)	670

Note. The offender score is a composite measure scored for all defendants and based on the defendant's prior adult record, involvement in the criminal justice system at the time of the instant offense, prior probation or parole violations, and, for defendants under the age of 23 years, prior juvenile record. The total offender score can range from zero to 11 points. For additional details on the offender score calculation, see the MSGM (Version 13.1 Chapter 7). The offense score is a composite measure scored for person offenses and based on the offense's seriousness category classification, victim injury, weapon presence, and special victim vulnerability. The offense score can range from 0 to 15 points. The maximum possible offense score for third degree sex offenses, involving age-based elements, is 6 points. For additional details on the offense score calculation, see the MSGM (Version 13.1, Chapter 6). Percentages are based on non-missing data. Five third degree sex offenses, involving age-based elements, were missing the total offense score and/or total offender score. The offense score for one third degree sex offense, was miscalculated and excluded from the present table.

TABLE 10. SENTENCING GUIDELINES RANGES FOR THIRD DEGREE SEX OFFENSES, INVOLVING A DANGEROUS WEAPON, SERIOUS PHYSICAL INJURY, IMPAIRMENT, ETC., SENTENCED IN MARYLAND CIRCUIT COURTS, FY 2017 THROUGH FY 2021

		PERSON MATRIX								

		OFFENDER SCORE
		0	1	2	3	4	5	6	7+	Total # (% Valid total)
1	Range	P	P	P-3M	3M-1Y	3M-18M	3M-2Y	6M-2Y	1Y-3Y	-
	# (% Valid total)	1 (0.9%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.9%)
2	Range	P-6M	P-1Y	P-18M	3M-2Y	6M-3Y	1Y-5Y	18M-5Y	3Y-8Y	-
	# (% Valid total)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.9%)	0 (0.0%)	1 (0.9%)
3	Range	P-2Y	P-2Y	6M-3Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	-
	# (% Valid total)	12 (10.8%)	7 (6.3%)	1 (0.9%)	3 (2.7%)	0 (0.0%)	3 (2.7%)	2 (1.8%)	1 (0.9%)	29 (26.1%)
4	Range	P-3Y	6M-4Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	5Y-12Y	-
	# (% Valid total)	27 (24.3%)	6 (5.4%)	0 (0.0%)	3 (2.7%)	3 (2.7%)	4 (3.6%)	5 (4.5%)	2 (1.8%)	50 (45.0%)
5	Range	3M-4Y	6M-5Y	1Y-6Y	2Y-7Y	3Y-8Y	4Y-10Y	6Y-12Y	8Y-15Y	-
	# (% Valid total)	9 (81%)	4 (3.6%)	0 (0.0%)	2 (1.8%)	5 (4.5%)	0 (0.0%)	5 (4.5%)	0 (0.0%)	25 (22.5%)
6	Range	1Y-6Y	2Y-7Y	3Y-8Y	4Y-9Y	5Y-10Y	7Y-12Y	8Y-13Y	10-20Y	-
	# (% Valid total)	0 (0.0%)	0 (0.0%)	1 (0.9%)	0 (0.0%)	1 (0.9%)	1 (0.9%)	1 (0.9%)	1 (0.9%)	5 (4.5%)
Total	# (% Valid total)	49 (44.1%)	17 (15.3%)	2 (1.8%)	8 (7.2%)	9 (8.1%)	8 (7.2%)	14 (12.6%)	4 (3.6%)	111

The leftmost column of the data rows is labeled vertically as **OFFENSE SCORE**.

Note. The offender score is a composite measure scored for all defendants and based on the defendant's prior adult record, involvement in the criminal justice system at the time of the instant offense, prior probation or parole violations, and, for defendants under the age of 23 years, prior juvenile record. The total offender score can range from zero to 11 points. For additional details on the offender score calculation, see the MSGM (Version 13.1 Chapter 7). The offense score is a composite measure scored for person offenses and based on the offense's seriousness category classification, victim injury, weapon presence, and special victim vulnerability. The offense score can range from 0 to 15 points. The maximum possible offense score for third degree sex offenses, involving a dangerous weapon, serious physical injury, impairment, etc., is 10 points. From FY 2017 through FY2021, no sentencing guidelines worksheet reported an offense score greater than six points for offenses involving the sexual exploitation of m for third degree sex offenses, involving a dangerous weapon, serious physical injury, impairment, etc. For additional details on the offense score calculation, see the MSGM (Version 13.1, Chapter 6). Percentages are based on non-missing data.