

ADMINISTRATIVE OFFICE OF THE COURTS  
Sentencing Guidelines Project

COURTS OF APPEAL BUILDING  
ANNAPOLIS, MARYLAND 21401

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TO: Users of Maryland Sentencing Guidelines Manuals

FROM: Patricia R. Nelson *BRN/ee*

DATE: March 17, 1982

SUBJECT: Guidelines Modifications/Clarifications

The Maryland Sentencing Guidelines Advisory Board has been meeting to evaluate use of the guidelines. The Board expects to consider extensive modification, probably in May or June, so it voted to defer most changes until then.

However, after discussion about the scoring of rape offenses, the Board decided to change the automatic injury in rape cases from non-permanent to permanent. Effective immediately, any offender convicted of rape will receive an automatic two points under "B. Victim Injury."

The Board also decided to readjust or clarify the handling of multiple convicted counts. Sentences for multiple counts growing out of one criminal event will be presumed to be concurrent unless the judge indicates otherwise and gives his reasons. The procedure for determining the guidelines sentence for multiple counts from the same criminal event is to determine the guidelines range for each count. The greatest of these would then be the guidelines range. For example, if the convicted counts were 2nd degree murder and a handgun violation with respective guidelines ranges of 15-30 years and 5-10 years, the overall guidelines range would be 15-30 years. If the net non-suspended time given is within this range the sentences are considered to be within the guidelines.

Sentences for multiple counts from more than one criminal event will be presumed to be consecutive. The procedure for determining the guidelines sentence for multiple counts from different criminal events is to add the guidelines ranges for all the counts. If an offender was convicted of two robberies with a deadly weapon (different events) and the guidelines range for each count

was 5-10 years, the overall guidelines range would be 10-20 years. Any sentence or combination of sentences totalling non-suspended time of 10-20 years would be within the guidelines. If the judge gave two consecutive 5 year sentences, the sentences would be within the guidelines, as would two 10 year concurrent sentences. As long as the net unsuspended sentence is within the overall range, the sentences would be considered within the guidelines.

A complication occurs if the sentencing event consists of a combination of counts for both same and different criminal events. In such cases, the procedure is to sentence the counts within each criminal event concurrently, and consecutive to the counts of the other criminal event. For example, if an offender was convicted of a robbery with a deadly weapon and a handgun violation (one event) and another robbery with a deadly weapon and a handgun violation (different event), the sentences for the robbery with a deadly weapon and the handgun violation of the first event should run concurrent to one another; the sentences for the second event should also run concurrent to each other but consecutive to the longest sentence in the first event. If the guidelines ranges for the first criminal event were 5-10 years for the robbery with a deadly weapon and 3-10 years for the handgun violation, the net unsuspended guidelines range for this event would be 5-10 years. If, for the second criminal event the guidelines ranges were 6-12 years for the robbery with a deadly weapon and 4-10 years for the handgun violation, the guidelines range for that criminal event would be 6-12 years. The guidelines range for the overall sentencing event would be 11-22 years

Please remember that in every case the guidelines are just that - guidelines. No judge should hesitate to sentence above the guidelines as well as below if he finds such a departure appropriate. The reasons provided will help in future adjustments of the guidelines.

P.S. Enclosed is a label which may be put at the top of page 7 in your Manual as a reminder.