

 GUIDELINES  
E-NEWS

Vol. 4, No. 2 - September 2009



## Update on Worksheet Submission Requirements for Probation Revocations and Reconsiderations, Effective September 1, 2009

### Probation Revocations

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has determined that a Maryland Sentencing Guidelines Worksheet no longer needs to be completed for probation revocations. The worksheet has been revised and *Probation Revocation* has been removed from the section pertaining to disposition type. This change was submitted to the Code of Maryland Regulations (COMAR) and adopted effective September 1, 2009.

### Reconsiderations

The MSCCSP has also clarified the policy for completing guidelines worksheets for reconsiderations. A Maryland Sentencing Guidelines Worksheet is required only for rulings on a motion to revise, modify, or reduce the sentence imposed on a defendant for a crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland. Guidelines worksheets for reconsiderations only need to be completed when there is an adjustment to an active sentence for crimes of violence.

### Tips on Completing the Worksheet for Reconsiderations

When completing the guidelines worksheet for a reconsideration, keep in mind the following:

- Disposition Type: Select *Reconsideration*.
- Sentence Date: Record the date of the reconsideration (not the original sentence date).
- Guidelines Range: Record the original guidelines range, as well as the original offender and offense scores.
- Actual Sentence: Record the original sentence and how it changed after the reconsideration. For example: An individual originally received 30 years incarceration for 2<sup>nd</sup> degree murder. However, the judge reconsidered the sentence and reduced the sentence to 20 years incarceration, suspend all but 15 years, credit for time served (344 days). The Actual Sentence box would reflect the reconsidered sentence as follows:

*Original sentence – 30 years*

*Adjusted sentence – 20 years, suspend all but 15 years, credit for 344 days time served*

A sample completed worksheet for reconsiderations is attached. In addition, the revised pages of the Maryland Sentencing Guidelines Manual reflecting the changes/clarifications detailed above are attached for your convenience (pp. 3-6, 9, 13, 54, 61-65). They may be printed and inserted in place of the affected pages of your hard copy of the January 2008 Guidelines Manual.

MARYLAND SENTENCING GUIDELINES WORKSHEET										OFFENDER NAME - Last, First, Middle Jones, Andrew									
PSI		DATE OF OFFENSE		DATE OF SENTENCING		DISPOSITION TYPE		REPRESENTATION		ETHNICITY		SEX		BIRTHDATE		JURISDICTION			
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	05	24	08	09	01	09	ABA plea agreement Non-ABA plea agreement Plea, no agreement Court trial	<input checked="" type="checkbox"/> Private <input type="checkbox"/> Public Defender <input type="checkbox"/> Court Appointed <input type="checkbox"/> Self	Hispanic/Latino Origin <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> M <input type="checkbox"/> F	06	25	81	24	Unidentifiable Asian Other			
AT THIS SENTENCING, NUMBER OF:		CONVICTED OFFENSES		WORKSHEET #		OF		CRIMINAL EVENT #		INDIGENOUS ESTABLISHED		STAT. MAX		MAND. MIN		CASE #/DOCKET #			
1		1		1		1		1		Yes No		30 Y		108054621					
CONVICTED OFFENSE TITLE										ACTUAL SENTENCE - Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Break the Cycle, Etc.)									
1 <sup>st</sup> Convicted Offense Murder, 2nd Degree										1 <sup>st</sup> Convicted Offense Original Sentence - 30 years Adjusted Sentence - 20 years, suspend all but 15 years, credit for 344 days, time served									
2 <sup>nd</sup> Convicted Offense										2 <sup>nd</sup> Convicted Offense									
3 <sup>rd</sup> Convicted Offense										3 <sup>rd</sup> Convicted Offense									
OFFENSE SCORE(S) - Offense Against a Person Only										GUIDELINES RANGE									
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off										1 <sup>st</sup> Con. Off. TO									
1 1 1 = V - VII										12 Y									
3 3 3 = IV										20 Y									
5 5 5 = III										3 <sup>rd</sup> Con. Off.									
8 8 8 = II										TO									
10 10 10 = I										TO									
OFFENDER SCORE										Was the offender sentenced to a corrections Options program under Commission criteria?									
A. Relationship to CJS When Instant Offense Occurred										Drug Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
0 = None or Pending Cases										Institutional/Parole Recommendation or Additional Information									
1 = Court or Other Criminal Justice Supervision										John Herndon Worksheet Completed By									
B. Juvenile Delinquency										ASA Title									
0 = 23 years or older or crime-free for 5 years or no more than 1 finding of a delinquent act										Sentencing Judge (Please Print)									
1 = Under 23 years old and: 2 or more findings of a delinquent act or 1 commitment										Sentencing Judge's Signature									
2 = Under 23 years and committed 2 or more times																			
C. Prior Adult Criminal Record																			
0 = None 3 = Moderate																			
1 = Minor 5 = Major																			
D. Prior Adult Parole/Prob Violation																			
0 = No 1 = Yes																			
OFFENSE SCORE(S)										50% of Sentence Announced									
11										X Yes ___ No									
VICTIM INFORMATION										SENTENCE DEPARTMENT INFORMATION									
Victim <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No										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.									
Victim Unavailable <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No										Departure Code 9 or 18 (Please Explain):									
NRF <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
Victim Notified Plea <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
Victim Notified Date <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
Victim Present <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
Written VIS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
Oral VIS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			
No Contact with Victim <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
CICB Cost Imposed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			

- Departure** A judicially imposed sentence that falls outside of the recommended sentencing guidelines range. Departure does not include any sentence that complies with at least one of the requirements that deem a sentence to be within the guidelines as set forth in MSGM 13.6.
- Drug Offense** An offense involving controlled dangerous substances or paraphernalia.
- Economic Loss** For all offenses involving theft and related crimes under CR, Title 7, or fraud and related crimes under CR, Title 8, economic loss equals the amount of restitution ordered by a Circuit Court judge or, if not ordered, the full amount of restitution that could have been ordered.
- Guidelines Offense** Offense prosecuted in a Circuit Court.  
 Guidelines offenses *include* new trials AND also reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland) and reviews<sup>1</sup>.  
 Guidelines offenses *do not* include:
- Prayers for jury trial from District Court, UNLESS a PSI is ordered;
  - Appeals from District Court, UNLESS a PSI is ordered;
  - Offenses that carry no possible penalty of incarceration;
  - First Degree Murder offenses if the death penalty is sought under CR, §2-303;
  - Public local laws and municipal ordinances.
- Guidelines Range** The recommended sentencing range for offenders who fall within a particular cell of the person, drug, and property offense sentencing matrices. The adjusted guidelines range refers to the range after adjusting for matters such as statutory maximums and mandatory minimums.
- Judge** The trial judge who imposes or alters a sentence or a panel of trial judges who alter a sentence.

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<sup>1</sup> A Guidelines Worksheet should be completed for reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland) and reviews if an adjustment was made to the active, original sentence.

<b>Multiple Criminal Events</b>	More than one criminal transaction committed over a period of time. Multiple criminal events being sentenced together may have occurred on the same or different dates. Offenses that occur on different dates are almost always separate criminal events.
<b>Offender Score</b>	A summary score ranging from 0 to 9 measuring an offender's prior criminal history and calculated for use in the person, drug, and property offense sentencing matrices.
<b>Offense Score</b>	A summary score ranging from 1 to 15 measuring the seriousness of a person offense and calculated for use in the person offense sentencing matrix.
<b>Person Offense</b>	An offense involving: <ul style="list-style-type: none"> <li>• a confrontation between the offender and the victim, including offenses with bodily harm or the threat of bodily harm to a victim; or</li> <li>• weapons.</li> </ul>
<b>Property Offense</b>	An offense where property is unlawfully damaged or taken.
<b>PSI</b>	A pre-sentence investigation prepared in accordance with Correctional Services Article (CS), §6-112, Annotated Code of Maryland.
<b>Sentencing Guidelines Worksheet</b>	The form issued by the State Commission on Criminal Sentencing Policy and used to determine the recommended sentence outcome and to record sentencing data.
<b>Seriousness Category</b>	An offense ranking ranging from I to VII, where I designates the most serious criminal offenses and VII designates the least serious criminal offenses.
<b>Single Criminal Event</b>	One or more crimes committed in the course of the same transaction.
<b>Special Vulnerability of Victim</b>	Cases in which the relative status of the victim tends to render actions of the perpetrator all the more serious. A vulnerable victim is anyone: <ul style="list-style-type: none"> <li>• Younger than 11 years old;</li> <li>• 65 years old or older; or</li> <li>• Physically or mentally handicapped. The handicap may be temporary or permanent. Physically or mentally handicapped shall include any person who is either physically or mentally limited in any material way.</li> </ul>
<b>Victim Injury</b>	Physical or psychological injury to the crime victim. The cause of physical or psychological injury is directly linked to the conduct of the defendant in the commission of the convicted offense.

**Weapon Usage** The use of any article or device which reasonably appears capable of causing injury or any article that could result in conviction under CR, §4-101. Specific rules regarding the application of the weapon usage enhancement are found in MSGM 6.1(C).

**‘White Collar’ Offense** A property offense, identified as an illegal act or series of illegal acts committed by other than physical means and by concealment or guile to obtain money or property, to avoid payment or loss of money or property, or to obtain business or professional advantage.

# Sentencing Guidelines Worksheet Completion and Distribution

## 3.1 When to Complete and Submit a Guidelines Worksheet

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The Sentencing Guidelines Worksheet should be completed and submitted for all “Guidelines Offenses” as defined in chapter 2. A Guidelines offense means an offense prosecuted in a Maryland Circuit Court. Guidelines offenses include new trials, reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland), and reviews. Guidelines worksheets for reconsiderations and reviews only need to be completed when there is an **adjustment** to an active sentence.

## 3.2 Single Criminal Event

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The Sentencing Guidelines Worksheet is to be used for up to three convicted offenses from a single criminal event. A single criminal event is defined as one or more crimes committed in the course of the same time. If there are more than three convicted offenses from a single criminal event, additional worksheets are to be used as needed.

## 3.3 Multiple Criminal Events

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Multiple criminal events means more than one criminal transaction committed over a period of time. Multiple criminal events being sentenced together may have occurred on the same or different dates. Offenses that occur on different dates are almost always separate criminal events.

The individual completing the worksheet is to use at least one worksheet for each event.

**\*Multiple events should not be compiled on a single worksheet.**

## Maryland Sentencing Guidelines Worksheet

MARYLAND SENTENCING GUIDELINES WORKSHEET				OFFENDER NAME - Last, First, Middle		JURISDICTION	
PSI		DATE OF OFFENSE		DATE OF SENTENCING		DISPOSITION TYPE	
Yes ___ No ___ AT THIS SENTENCING, NUMBER OF:		CONVICTED OFFENSES: _____ ORIGINAL EVENTS: _____ WORKSHEET # _____ OF _____ CRIMINAL EVENT # _____		___ Jury trial ___ Non-ABA plea agreement ___ Plea, no agreement ___ Court trial		___ ABA plea agreement ___ Reconsideration ___ Review	
CONVICTED OFFENSE TITLE				I-VII		CJS CODE	
1 <sup>st</sup> Convicted Offense				MD CODE, ART, & SECTION		STAT. MAX	
2 <sup>nd</sup> Convicted Offense				MAND. MIN		CASE #/DOCKET #	
3 <sup>rd</sup> Convicted Offense							
OFFENSE SCORE(S) – Offense Against a Person Only				OFFENDER SCORE		GUIDELINES RANGE	
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off A. Serousness Category 1 = I = V – VII 3 = 3 = IV 5 = 5 = III 8 = 8 = II 10 = 10 = I				A. Relationship to CJS When Instant Offense Occurred 0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision		1 <sup>st</sup> Con. Off. _____ TO _____ 2 <sup>nd</sup> Con. Off. _____ TO _____ 3 <sup>rd</sup> Con. Off. _____ TO _____	
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off B. Victim Injury 0 = 0 = No Injury 1 = 1 = Injury, Non-Permanent 2 = 2 = Permanent Injury or Death				B. Juvenile Delinquency 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		For Theft, Fraud, and Related Offenses, please indicate: Economic loss \$ _____; Unknown Amount Subsequent Offense Filed _____ Yes ___ No ___; Restitution Requested _____ Yes ___ No ___; Restitution Proven _____ Yes ___ No ___	
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off C. Weapon Usage 0 = 0 = No Weapon 1 = 1 = Weapon Other Than Firearm 2 = 2 = Firearm or Explosive				C. Prior Adult Criminal Record 0 = None 3 = Moderate 1 = Minor 5 = Major		For Theft, Fraud, and Related Offenses, please indicate: Economic loss \$ _____; Unknown Amount Subsequent Offense Filed _____ Yes ___ No ___; Restitution Requested _____ Yes ___ No ___; Restitution Proven _____ Yes ___ No ___	
1 <sup>st</sup> Off 2 <sup>nd</sup> Off 3 <sup>rd</sup> Off D. Special Victim Vulnerability 0 = 0 = No 1 = 1 = Yes				D. Prior Adult Parole/Prob Violation 0 = No 1 = Yes		For Theft, Fraud, and Related Offenses, please indicate: Economic loss \$ _____; Unknown Amount Subsequent Offense Filed _____ Yes ___ No ___; Restitution Requested _____ Yes ___ No ___; Restitution Proven _____ Yes ___ No ___	
VICTIM INFORMATION				OFFENSE SCORE(S)		OFFENDER SCORE	
Victim Yes ___ No ___ Victim Unavailable Yes ___ No ___ NRF Yes ___ No ___ Victim Notified Plea Yes ___ No ___ Victim Notified Date Yes ___ No ___ Victim Present Yes ___ No ___ Written VIS Yes ___ No ___ Oral VIS Yes ___ No ___ No Contact with Victim Yes ___ No ___ CICB Cost Imposed Yes ___ No ___				OFFENSE SCORE(S) _____		OFFENDER SCORE _____	
SENTENCE DEPARTURE INFORMATION				SENTENCE DEPARTURE INFORMATION		Overall Guidelines Range	
Departure Code 9 or 18 (Please Explain): _____				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. _____		Multiple Counts Only _____ TO _____	
				Was the offender sentenced to a Corrections Options program under Commission criteria? Drug Court ___ Yes ___ No ___ Other ___ Yes ___ No ___		Institutional/Parole Recommendation or Additional Information _____	
				Parole Notification ___ Yes ___ No ___		Worksheet Completed By _____ Title _____	
						Sentencing Judge (Please Print) _____ Sentencing Judge's Signature _____	

COPIES: White – Judge; Blue – Sentencing Commission; Green – Attach to Commitment or Probation Order; Yellow – File; Pink – Prosecutor; Gold – Defense 9/2009 (1.5)

**Example:** An offender is being sentenced for five offenses, two from one criminal event and three from another event that occurred a month later. Again, two worksheets should be prepared, however the numbering will be different. The first worksheet, containing the two offenses from the first criminal event, should be identified as WORKSHEET # 1 OF CRIMINAL EVENT # 1 and the second worksheet, containing the three offenses from the second criminal event, should be identified as WORKSHEET # 1 OF CRIMINAL EVENT # 2.

## 4.8 Disposition Type

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The disposition type refers to the nature and circumstances of the conviction and sentencing. Since the probation agent frequently lacks this information, **the sentencing judge should make sure it is included.** The “Disposition” box on the guidelines worksheet should be marked according to the conditions described in Table 4-2.

**Table 4-2. Disposition Types**

<b>ABA Plea Agreement</b>	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).
<b>Non-ABA Plea Agreement</b>	The disposition resulted from a plea agreement reached by the parties but that was not approved by, and thus not binding on, the court.
<b>Plea, No Agreement</b>	The defendant pled guilty without any agreement from the prosecutor or judge to perform in a particular way.
<b>Bench or Court Trial</b>	The disposition resulted from a trial without a jury in which the judge decided the factual questions.
<b>Jury Trial</b>	The disposition resulted from a trial in which a jury decided the factual questions.
<b>Reconsideration</b>	Reconsideration of a previously imposed sentence for a crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland.
<b>Review</b>	Pursuant to Criminal Procedure Article, §8-105, a panel review of a previously imposed sentence.



## Actual Sentence Completed By Judge

At sentencing, the actual sentence and any changes on the worksheet should be entered by the judge and recorded by the two attorneys on their copies.

### **12.1 Convicted Offense Sentence**

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Complete sentencing information for each convicted offense must be provided in the corresponding “Actual Sentence” box on the worksheet and should include information for the following:

- Incarceration time imposed;
- Amount of time suspended;
- Specific amount of credit for time served;
- Length of probation;
- Amount of home detention;
- Whether the sentence is concurrent or consecutive;
- Amount of fine and/or restitution; and
- Community service imposed.

Note: For reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland) and reviews, the worksheet should indicate how the original sentence was adjusted.

### **12.2 Subsequent Offender Filed/Proven and Restitution Requested/Proven**

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The person completing the worksheet shall mark whether the offender was filed as a subsequent offender and whether anyone is requesting restitution from the offender. The judge shall indicate if subsequent offender was proven and the amount of restitution ordered, if any.

## Frequently Asked Questions

This chapter contains a list of frequently asked questions and their respective answers. If you have a question that does not seem to be answered below, please do not hesitate to call the Maryland State Commission on Criminal Sentencing Policy staff at (301) 403-4165 for additional assistance.

**Q: Do I have to fill out a Sentencing Guidelines Worksheet if the possibility of incarceration is less than one year?**

A: Yes. A worksheet should be completed and submitted for all Guidelines Offenses. As a practical matter, this means that a worksheet should be completed for all offenses prosecuted in a Circuit Court, including new trials and reconsiderations imposed on a defendant for a crime of violence (as defined in Criminal Law Article, §14-101, Annotated Code of Maryland) and reviews. MSGM 3.1.

**Q: Why aren't some offenses included in the offense table?**

A: There are three main reasons why an offense would not be listed in the offense table.

The first reason is that the instant offense is not a Guidelines Offense. Offenses that carry no possible penalty of incarceration, along with a few other exceptions, are not Guidelines Offenses. No worksheet should be completed for these offenses.

Another reason is that the offense satisfies the definition of a Guidelines Offense but has a maximum penalty of 1 year or less. The Commission has determined that offenses that are not otherwise listed in the offense table and are punishable by a maximum of 1 year or less should automatically be assigned an offense seriousness category VII. A worksheet should be completed using seriousness category VII for these cases.

The final reason is that the offense, though it satisfies the definition of a Guidelines Offense, is newly enacted and has yet to be included in the offense table. If this is the case, a worksheet should be completed using the closest analogous Guidelines Offense to determine the seriousness category. If you believe there is an error or omission in the Guidelines Offense Table, please contact the MSCCSP staff by e-mail at [mcccsp@crim.umd.edu](mailto:mcccsp@crim.umd.edu) or by phone at (301) 403-4165.

**Q: Are weapon points awarded for offenses where a weapon was present but not used?**

For example, an offender is pulled over for a motor vehicle offense and a handgun is found in the car. Should the offender be given 2 points in the Offense Score for Firearm or Explosive under Weapon Usage?

A: Yes, weapon points are awarded for any Criminal Event where a weapon is present. MSGM 6.1(C).

**Q: Should an offender be given points for Victim Injury if the offender was involved in the Criminal Event, but not in the actual injury of the victim?**

For example, two co-offenders were found guilty of robbery. The victim suffered a permanent injury during the commission of the robbery. By all accounts, offender 1 was the only offender who touched the victim. Would offender 2 be given points for victim injury?

A: Yes, if a victim is injured in a Criminal Event, any offender guilty of the offense(s) constituting that event should be given points in the Offense Score for victim injury. MSGM 6.1(B).

**Q: If an offender injures a victim during a Criminal Event involving an automobile, is the automobile considered a weapon?**

A: No, except if deliberately used as a weapon, automobiles are not included as weapons. MSGM 6.1(C)(e).

**Q: Do I need to complete an Offense Score and Offender Score if the offender is charged with murder and the guidelines range is Life to Life?**

A: Yes. We ask that you still complete the entire worksheet so we can collect data on the offender's prior record and other information relevant to the case. MSGM 8.2.

**Q: How does the date of sentencing relate to changes in guidelines?**

A: The sentencing guidelines and seriousness categories in effect at the time of sentencing shall be used to calculate the guidelines. MSGM 5.2.

**Q: How many worksheets should be completed for a Single Criminal Event with multiple victims?**

A: It depends. If all of the victims were harmed during the same Criminal Event, each of the separate counts can be included on the same sheet provided that there is sufficient space. If there are more than three offenses, then at least one separate sheet should be used. When completing a worksheet for a Single Criminal Event with multiple victims, the victim section of the worksheet should be completed using the information relating to the victim in the most serious offense. MSGM 10.1

**Q: How do you calculate overall guidelines for a Single Criminal Event with multiple victims and less than two Category I or Category II offenses (i.e., “stacking rule”)?**

A: Identify the correct guidelines range for each offense. Calculate the overall upper guidelines range by adding the upper range for each victim. Calculate the overall lower guidelines range using the standard protocol. MSGM 10.1.

For example, an offender with an Offender Score of 0 has been adjudicated guilty for 2 counts of 1<sup>st</sup> degree Assault [CR, §3-202], a person offense, category III. There were two victims, neither of whom was injured, neither of whom had a special vulnerability, and the offender did not use a weapon – making a total Offense Score of 5. The guidelines range for Offender Score 0 and Offense Score 5 for each count of Robbery is 3M-4Y. The upper ranges should be added or “stacked” (to reflect two victims) so the correct overall guidelines range is 3M-8Y.

**Q: Are there instances when the guidelines should be adjusted due to unique circumstances (e.g., multiple victims, subsequent offender status)?**

A: Yes. See MSGM, Chapter 10 for a complete discussion of how to adjust the guidelines in these circumstances.

**Q: When determining an offender’s prior adult criminal record to determine the Offense Score, is a Nolo Contendre plea or a sentence to Probation Before Judgment (PBJ) considered an adjudication of guilt?**

A: Yes, a nolo contendere plea is an adjudication of guilt, as is a PBJ (unless expunged or proven by the defense to have been eligible for expungement prior to the date of offense). MSGM 7.1(C).

**Q: When calculating an offender’s prior adult criminal record, if an offender has been convicted of another offense but not yet sentenced—should that conviction be counted in the history?**

A: Yes, as stated above, an adjudication of guilt for each Criminal Event, regardless of whether it remains to be sentenced, should be included in calculating the adult criminal record. MSGM 7.1(C).

**Q: What is the difference between seriousness categories III-A, III-B, and III-C in the drug matrix?**

A: Seriousness category III-A is used for *Distribution of MDMA (ecstasy), 750 grams or more* [CR, §5-609(a)(9)] AND *Importation of marijuana, 45 kilograms or more* [CR, §5-614(a)(1)].

Seriousness category III-B is used for non-marijuana and non-MDMA offenses that have a seriousness category III, such as *Distribution of schedule I or II narcotics or hallucinogenics (e.g., heroin, cocaine, PCP, and LSD)* [CR, §5-608; CR, §5-609] or *Distribution of large amounts of controlled dangerous substance* [CR, §5-612(a)].

Seriousness category III-C is used for *Importation of certain controlled dangerous substances, other than marijuana* [CR, §5-614(a)].

**Q: What is the seriousness category of “violation of protective order, 1st offense”?**

A: Violation of protective order, 1st offense [FL, §4-509(a)(1)], is a person offense, with a seriousness category VII and a maximum term of 90 days.

**Q: Where is “uttering” located in the offense table?**

A: Uttering is now called Counterfeit Documents [CR, §8-602(a)] and is found under the Counterfeiting heading of the offense table. The offense is a property offense with a seriousness category V and a maximum term of 10 years.

**Q: Where is “reckless endangerment” located in the offense table?**

A: Reckless endangerment [CR, §3-204(a)] is found under the Assault and Other Bodily Woundings heading of the offense table. The offense is a person offense with a seriousness category V and a maximum term of 5 years.

**Q: Where is “resisting arrest” located in the offense table?**

A: Resisting arrest [CR, §9-408] is found under the Harboring, Escape, and Contraband heading of the offense table. The offense is a person offense with a seriousness category VI and a maximum term of 3 years.

**Q: What does section A under “Offender Score” on the worksheet mean?**

A: Section A of “Offender Score” corresponds to an individual’s relationship to the criminal justice system at the time the instant offense occurred. If the individual was on probation, parole, incarcerated, on work release, mandatory supervision, escape or comparable status at the time of the instant offense, s/he should be assigned 1 point for Section A. Otherwise, assign no points. MSGM 7.1(A).

**Q: When the non-suspendable mandatory minimum and/or maximum sentence falls outside the calculable guidelines range, which controls?**

A: If the non-suspendable mandatory minimum is greater than the lower guidelines range, the non-suspendable mandatory minimum should replace the lower guidelines range. If the statutory maximum is less than the upper guidelines range, the statutory maximum should replace the upper guidelines range. MSGM 8.5., 10.3-10.4.

This is especially likely to occur for those offenses where both a non-suspendable mandatory minimum and statutory maximum are identified. For example, possession of a regulated firearm after having been convicted of a crime of violence [CR §5-133(c)], is a person offense with a seriousness category V, a mandatory minimum of five years, and a statutory maximum of five years. When completing the worksheet for this charge, the correct guidelines range is always 5Y MM-5Y, this is because the lower range can never be less than the non-suspendable mandatory minimum and the upper range can never exceed the statutory maximum.

**Q: What authority does the Maryland State Commission on Criminal Sentencing Policy have?**

A: The MSCCSP can make recommendations and offer interpretations of the manual and the worksheets, but the ultimate authority lies with the sentencing judge. *See* Preface to MSGM.

**Q: How do I order more worksheets?**

A: Visit <http://www.msccsp.org> to place an electronic request for additional worksheets. You may also contact the MSCCSP staff by e-mail at [msccsp@crim.umd.edu](mailto:msccsp@crim.umd.edu) or by phone at (301) 403-4165 to place an order. Although some exceptions may occur, the worksheets will most likely be mailed to you the next business day.

**Q: How can I get another copy of the Maryland Sentencing Guidelines Manual?**

A. You can view and download a full-text version of the manual immediately online at <http://www.msccsp.org>. Both the manual and the offense table are text searchable for your convenience.

**Q: How can I learn more about sentencing guidelines worksheet preparation?**

A: The MSCCSP staff is available to conduct worksheet training sessions at your convenience. They regularly travel throughout the state to train and assist practitioners in guidelines worksheet completion. Judges, State's Attorneys, Public Defenders, and parole/probation agents have all participated in various forms of these training sessions. If you would like to schedule a session, please contact the MSCCSP staff by e-mail at [msccsp@crim.umd.edu](mailto:msccsp@crim.umd.edu) or by phone at (301) 403-4165.