

2014 ANNUAL REPORT



MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY

University of Maryland
(301) 403-4165 | phone

4511 Knox Road, Suite 309
(877) 825-1991 | toll free

College Park, MD 20742
www.msccsp.org



COMMISSION MEMBERS

Members Appointed by the Governor

Chair
Honorable Diane O. Leasure

Local Detention Center Representative
LaMonte E. Cooke

Criminal Defense Attorney
Richard A. Finci, Esquire

State's Attorney
Honorable Joseph I. Cassilly

Law Enforcement Representative
Colonel Marcus L. Brown

Victims' Advocacy Group Representative
Honorable Laura L. Martin

Criminal Justice/Corrections Policy Expert
Honorable Andrew L. Sonner

Public Representatives
James V. Anthenelli, Esquire
Paul F. Enzinna, Esquire

Members Appointed by the Chief Judge of the Court of Appeals of Maryland

Appellate Courts Representative
Honorable Arrie W. Davis (2000 – May 2014)
Honorable James P. Salmon (Sept. 2014 – Present)

Circuit Court
Honorable Alfred Nance

District Court
Honorable John P. Morrissey (2007 – May 2014)
Honorable Patrice E. Lewis (Sept. 2014 – Present)

Members Appointed by the President of the Senate

Senators
Honorable Delores G. Kelley
Honorable Lisa A. Gladden

Members Appointed by the Speaker of the House

Delegates
Honorable Joseph F. Vallario, Jr.
Honorable Curtis S. Anderson

Ex-Officio Members

Attorney General
Honorable Brian E. Frosh
(Megan Limarzi, Esquire, Attorney General's Representative)

Public Defender
Paul B. DeWolfe, Esquire
(William Davis, Esquire, Public Defender's Representative)

Acting Secretary of Department of Public Safety & Correctional Services
Carroll A. Parrish
(Kieran Dowdy, Secretary's Representative)

Maryland State Commission on Criminal Sentencing Policy

2014 | Annual Report



Cover photo courtesy of Deposit Photos.
© Depositphotos.com/panama555



MSCCSP
University of Maryland
4511 Knox Road, Suite 309, College Park, MD 20742
www.msccsp.org



COMMISSION STAFF

Executive Director

David A. Soulé, Ph.D.

Research Director

Stacy Skroban Najaka, Ph.D.

Administrative/Training Coordinator

Marlene Akas (through November 11, 2014)

Program Analyst

Sarah Bowles

Policy Analyst

Christina D. Stewart (through August 2014)

Justin P. Bernstein (August 2014 to Present)

INTERNS

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

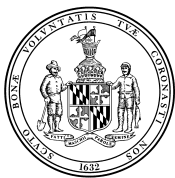
Josline Ali-Napo

John Krushat

Jessica Miller

Tina Vo

MSCCSP



Maryland State Commission on Criminal Sentencing Policy

Chair

Hon. Diane O. Leasure

Commissioners

Del. Curtis S. Anderson

James V. Anthenelli, Esq.

Colonel Marcus L. Brown

Hon. Joseph I. Cassilly

LaMonte E. Cooke

Hon. Arrie W. Davis

Paul B. DeWolfe, Esq.

Paul F. Enzinna, Esq.

Richard A. Finci, Esq.

Hon. Brian E. Frosh

Sen. Lisa A. Gladden

Sen. Delores G. Kelley

Hon. Patrice E. Lewis

Hon. Laura L. Martin

Hon. Alfred Nance

Acting Sec. Carroll A. Parrish

Hon. James P. Salmon

Hon. Andrew L. Sonner

Del. Joseph F. Vallario, Jr.

Executive Director

David A. Soulé, Ph.D.

January 2015

To: The Honorable Lawrence J. Hogan, Jr., Governor
The Honorable Mary Ellen Barbera, Chief Judge of Maryland
The Honorable Members of the General Assembly of Maryland
The Citizens of Maryland

Pursuant to Criminal Procedure Article, §6-209, Annotated Code of Maryland, the Maryland State Commission on Criminal Sentencing Policy (the MSCCSP or Commission) is required to annually review sentencing policy and practice and report upon the work of the Commission. In compliance with this statutory mandate, we respectfully submit for your review the 2014 Annual Report of the MSCCSP.

This report details the activities of the MSCCSP over the past year and provides an overview of circuit court sentencing practices and trends in Maryland for fiscal year 2014. Additionally, the report provides a comprehensive examination of judicial compliance with the state's voluntary sentencing guidelines, describes information provided on the state's sentencing guidelines worksheets, and finally provides a description of planned activities for 2015. We hope that this report and the other resources provided by the MSCCSP help inform and promote fair, proportional, and non-disparate sentencing practices throughout Maryland.

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

Sincerely,

Judge Diane O. Leasure, (Ret.)
Chair

University of Maryland
4511 Knox Road, Suite 309
College Park, MD 20742-8660
(301) 403-4165 / phone
(301) 403-4164 / fax
www.msccsp.org

TABLE OF CONTENTS

Executive Summary	iii
The Maryland State Commission on Criminal Sentencing Policy	1
Guidelines Background.....	1
MSCCSP Background	3
MSCCSP Structure.....	4
MSCCSP Activities in 2014	7
Modifications Related to New and Amended Offenses Passed During the 2014 Legislative Session	7
Additional Modifications to the Guidelines Offense Table in 2014.....	10
Change in Calculating Prior Adult Criminal Record Concerning Convictions for Use or Possession of Less than 10 Grams of Marijuana	10
Guidelines Effective Date.....	11
Identification of Guidelines-Eligible Cases	12
Instructions for Accessory Convictions.....	12
Subsequent Offender Status Indication on Presentence Investigation Orders	13
Analogous Offenses	14
Training and Education.....	14
Information, Data Requests, and Outreach.....	17
Data Collection, Oversight, and Verification	18
Subcommittee Work	19
Maryland Automated Guidelines System (MAGS).....	19
Sentencing/Correctional Simulation Model	24
Risk Assessment at Sentencing.....	26
Public Comments Hearing	26
Sentences Reported in FY 2014	28
Sentencing Guidelines Worksheets Received.....	28
Guidelines Case Characteristics	30
Judicial Compliance with Maryland’s Voluntary Sentencing Guidelines	39
Judicial Compliance Rates Overall	39
Judicial Compliance Rates by Circuit.....	41
Judicial Compliance Rates by Crime Category	43
Judicial Compliance Rates by Type of Disposition	44

TABLE OF CONTENTS (CONTINUED)

Judicial Compliance Rates by Crime Category and Disposition	45
Departure Reasons.....	46
Additional Information Collected in Response to Legislative Mandates	49
Report on Adjustments from Reconsidered Sentences Involving Crimes of Violence.....	49
Economic Loss in Title 7 and Title 8 Crimes	49
MSCCSP Planned Activities for 2015	51
Appendices	52
Appendix A: Sentencing Guidelines Matrices.....	53
Appendix B: Maryland Sentencing Guidelines Worksheet.....	56
Appendix C: Sentencing Guidelines Compliance and Average Sentence by Offense Type, Fiscal Year 2014	57
Appendix D: Description of Types of Disposition.....	58
Appendix E: Common Departure Reasons Listed on the Sentencing Guidelines Departure Reference Card	59

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, formally adopting them statewide.

The voluntary sentencing guidelines cover three categories of offenses: person, drug, and property. The guidelines recommend whether to incarcerate an offender and if so, provide a recommended sentence length range. 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, including: (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 adopts changes to the guidelines when necessary.

In 2014, the MSCCSP classified new and amended offenses passed during the 2014 Legislative Session; reviewed and classified previously unclassified offenses; amended the instructions for calculating a defendant's Prior Adult Criminal Record to exclude prior convictions for the use or possession of less than 10 grams of marijuana; adopted language to indicate that the State's Attorney or defense counsel may note to the sentencing judge as a consideration for departure from the guidelines whether the guidelines would be different if calculated using those in effect at the date of offense; worked with Judicial Information Systems (JIS) to implement an indicator on the criminal docket to identify guidelines-eligible cases; provided clarifying instructions for calculating the guidelines for accessory convictions; amended the Maryland Sentencing Guidelines Manual (MSGM) to encourage judges to indicate on a presentence investigation (PSI) order when the State's Attorney has filed a notice of subsequent offender; and revised instructions regarding utilizing analogous offenses when scoring the Prior Adult Criminal Record for defendants with prior records involving an offense that has not been assigned a seriousness category. The MSCCSP also provided training and education to promote the consistent application of the sentencing guidelines, provided data and sentencing-related information to state agencies and other interested parties, and completed several data verification and data entry reviews to improve the accuracy of the sentencing guidelines data. Additionally, the MSCCSP completed several key tasks towards the continued deployment of the Maryland Automated Guidelines System (MAGS). Finally, the Commission worked to enhance the scope and accuracy of the sentencing/correctional simulation model, moved forward with the risk assessment feasibility study guided by a research team in the Department of Criminology and Criminal Justice at the University of Maryland, and held an annual public comments hearing to provide a forum for the public to provide feedback on sentencing-related issues.

In fiscal year 2014, the MSCCSP received guidelines worksheets for 10,468 sentencing events in the state's circuit courts. Worksheets for 925 of the 10,468 sentencing events were submitted electronically using MAGS in Montgomery and Calvert Counties. The vast majority of cases were resolved by either an American Bar Association (ABA) plea agreement (37.7%) or a non-ABA plea agreement (44.5%). Approximately three-quarters of guidelines cases (75.9%) 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 2014 well exceeded the Commission's goal of 65% compliance. When departures occurred, they were more often below the guidelines than above. All eight judicial circuits met the benchmark rate of 65% compliance. 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, drug offenses adjudicated by a bench trial exhibited the highest compliance rates, followed by person offenses adjudicated by a plea agreement, and drug offenses adjudicated by a jury trial. 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 2014. 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 2015. The MSCCSP will perform 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 laws passed by the General Assembly during the 2015 Legislative Session and adopt Seriousness Categories for these offenses. 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 further work with the University of Maryland research team to complete the risk assessment feasibility study and to seek funding to conduct an empirical review of the juvenile delinquency component of the Offender Score. Finally, the MSCCSP will continue to work to enhance the scope and accuracy of the sentencing/correctional simulation model. The activities described above are just a few of

the many steps that will be taken by the MSCCSP in 2015 to support the consistent, fair, and proportional application of sentencing practice in Maryland.

THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY

Guidelines Background

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, formally adopting them 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 MSCCSP when considering potential modifications to the guidelines.¹ 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 cover three categories of offenses: person, drug, and property. The guidelines recommend whether to incarcerate an offender and if so, provide a recommended sentence length range. 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 Offense Score and Offender Score determines the sentence recommendation. For drug and property offenses, the seriousness of the offense (or "Seriousness Category") determines the Offense Score. For offenses against persons, 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 non-suspended time. The sentencing guidelines are advisory and judges may, at their discretion, impose a sentence outside the guidelines. If a judge chooses to depart from the sentencing guidelines, the Code of Maryland

¹ 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.

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

The Maryland General Assembly created the Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) 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, Annotated Code of Maryland sets out six goals for 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.

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.

Governor Martin O'Malley appointed the Honorable Diane O. Leasure, Judge, Howard County Circuit Court (retired), as the chair of the MSCCSP on August 8, 2011. Other Governor appointees include James V. Anthenelli and Paul F. Enzinna, defense attorneys who serve as the two public representatives on the Commission; Colonel Marcus L. Brown, Superintendent of the Maryland State Police, who serves as the representative from law enforcement; the

Honorable Joseph I. Cassilly, State's Attorney for Harford County, who serves as the representative for the Maryland State's Attorney's Association; LaMonte E. Cooke, Director of Correctional Services for Queen Anne's County, who serves as the local correctional facilities representative; Richard A. Finci, 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 the Honorable Andrew L. Sonner, Judge, Court of Special Appeals of Maryland (retired), who serves as the criminal justice/corrections policy expert.

The Chief Judge of the Court of Appeals of Maryland is responsible for three appointments to the Commission. The judicial appointees are Judge James P. Salmon, Court of Special Appeals of Maryland (retired); Judge Alfred Nance, Baltimore City Circuit Court; and Judge Patrice E. Lewis, District Court of Maryland, District 5, Prince George's County. Judge Salmon replaced the Honorable Arrie W. Davis, who served as a member of the MSCCSP since 2000. Judge Lewis replaced the Honorable John P. Morrissey when he was elevated to the Chief of the District Court of Maryland in June 2014. Judge Morrissey had served as a member of the MSCCSP since 2007 and was the Chair of the Sentencing Guidelines Subcommittee from 2012 through the end of his term.

The President of the Senate is responsible for two appointments: Senators Delores G. Kelley and Lisa A. Gladden. The Speaker of the House is also responsible for two appointments: Delegates Joseph F. Vallario, Jr. and Curtis S. Anderson.

Finally, ex-officio members include the State's Attorney General, Brian E. Frosh; the State Public Defender, Paul B. DeWolfe; and the Acting Secretary of the Department of Public Safety and Correctional Services, Carroll A. Parrish.

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



from the Department of Criminology and Criminal Justice (CCJS). The University of Maryland connection reinforces the independent status of the Commission by ensuring non-partisan review and analyses of sentencing

data. The MSCCSP and University of Maryland relationship is mutually beneficial, as the MSCCSP relies on student interns for a substantial portion of its data entry requirements, while also receiving administrative and information technology support from the university. In return, the university benefits from opportunities for students to develop research and practical skills through internships at the MSCCSP.

MSCCSP ACTIVITIES IN 2014

The MSCCSP held four meetings in 2014. The meetings occurred on May 6, July 15, September 30, and December 9. In addition, the Commission held its annual public comments hearing on December 9. The minutes for all Commission meetings are available on the Commission's website (www.msccsp.org). The following discussion provides a review of the Commission's activities in 2014.

Modifications Related to New and Amended Offenses Passed During the 2014 Legislative Session

The MSCCSP reviewed new criminal laws from the 2014 Legislative Session and identified fifteen new offenses which required the adoption of Seriousness Categories. The MSCCSP determined the newly adopted 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 MSCCSP reviewed the new offenses and voted for their respective Seriousness Categories, shown in Table 1, at the July 15 meeting. After promulgating the proposed classifications for these offenses through the COMAR review process, the MSCCSP adopted these updates effective December 1, 2014.

Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2014 Legislative Session

Bill	Annotated Code of Maryland	Offense	Statutory Maximum	Adopted Seriousness Category
SB 337/HB 306	CR, §3-601.1	Abuse and Other Offensive Conduct Commit crime of violence in the presence of a minor	5Y	VI
HB 807/SB 742	CR, §6-202(b) CR, §6-202(d) (penalty)	Burglary and Related Crimes Home invasion*	25Y	III
HB 453	HS, §4-411	False Statements, Other False statement—to Department of Housing and Community Development, in document required under or to influence action on a Rental Housing Program loan	5Y	VII

*The MSCCSP classified *Home invasion* as a person offense whereas the other offenses in Title 6 of the Criminal Law Article are classified as property offenses.

Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2014 Legislative Session (continued)

Bill	Annotated Code of Maryland	Offense	Statutory Maximum	Adopted Seriousness Category
HB 553	HS, §4-2005	False Statements, Other False statement—to Department of Housing and Community Development, in document required under or to influence action on an Energy-Efficient Homes Construction Loan Program loan	5Y	VII
SB 314/HB 402	HO, §14-5F-29	Fraud, Miscellaneous Practicing naturopathic medicine without a license	5Y	VI
HB 714/SB 810	CR, §8-301(b)(1) CR, §8-301(g)(4) (penalty)	Identity Fraud Use an interactive computer service to disclose personal identifying information of an individual in order to annoy, threaten, embarrass, or harass	18M	VII
HB 695	CR, §9-307	Influencing or Intimidating Judicial Process Tampering with or fabricating physical evidence	3Y	V
HB 957/SB 710	TR, §27-101(f)(2) TR, §21-902(b)	Motor Vehicle Offense Driving while impaired by alcohol, 3 rd or subsequent offense	3Y	V
HB 957/SB 710	TR, §27-101(q)(2)(iii) TR, §21-902(b)	Motor Vehicle Offense Driving while impaired by alcohol, while transporting a minor, 3 rd or subsequent offense	4Y	V
HB 957/SB 710	TR, §27-101(f)(2) TR, §21-902(c)	Motor Vehicle Offense Driving while impaired by drugs or drugs and alcohol, 3 rd or subsequent offense	3Y	V
HB 957/SB 710	TR, §27-101(q)(2)(iii) TR, §21-902(c)	Motor Vehicle Offense Driving while impaired by drugs or drugs and alcohol, while transporting a minor, 3 rd or subsequent offense	4Y	V
HB 1212/SB 348	TR, §27-115 TR, §21-1124.3	Motor Vehicle Offense Use of text messaging device or handheld telephone while driving that causes an accident resulting in death or serious bodily injury	1Y	VII
SB 50/HB 955	CR, §3-325	Sexual Crimes Use of personal identifying information of an individual to invite another to commit sexual crime	20Y	IV

Table 1. Guidelines Offenses and Adopted Seriousness Categories Related to New Offenses, 2014 Legislative Session (continued)

Bill	Annotated Code of Maryland	Offense	Statutory Maximum	Adopted Seriousness Category
HB 43	CR, §3-809	Stalking and Harassment Revenge porn	2Y	VII
HB 697	CR, §3-1001	Threat of Mass Violence Threatening to commit or cause a crime of violence that would place others at risk	10Y	V

The MSCCSP considered amended criminal laws from the 2014 Legislative Session and identified three offenses which required review due to changes to penalty structures. For one offense, the MSCCSP decided to maintain the existing Seriousness Category classification. However, the offense still required modification to the Guidelines Offense Table to reflect revisions to the underlying statute. Table 2 notes the three relevant amended offenses and the various revisions. After promulgating these proposed offense table updates through the COMAR review process, the MSCCSP adopted these revisions effective December 1, 2014.

Table 2. Guidelines Offenses and Adopted Seriousness Categories Related to Amended Offenses, 2014 Legislative Session and Earlier

Bill	Annotated Code of Maryland	Offense	Prior Stat. Max. / Seriousness Category	New Stat. Max. / Seriousness Category
SB 364*	CR, §5-601(c)(2)(ii)	CDS and Paraphernalia Possession of less than 10 grams of marijuana	90 days / VII	fine only / NA
SB 206/HB 175	CR, §9-417	Harboring, Escape, and Contraband Possess, possess with intent to deliver, receive telecommunication device or accessory	3 years / VI	5 years / VI
SB 454/HB 701	CR, §11-305	Prostitution and Related Crimes Abduction—Persuade, entice, secrete, or harbor individual younger than 16 years old for the purpose of committing a sexual crime	10 years / III	25 years / II

* This bill made *Possession of less than 10 grams of marijuana* a civil offense punishable by a fine effective October 1, 2014. Since the guidelines apply only to criminal offenses, this offense was removed from the Guidelines Offense Table. *Possession of less than 10 grams of marijuana* occurring on/after October 1, 2014 is not a guidelines offense.

Additional Modifications to the Guidelines Offense Table in 2014

In its continued review of seriousness categories for all criminal offenses sentenced in the state's circuit courts, the MSCCSP identified four additional offenses not previously classified by the Commission. The Commission reviewed the four offenses listed in Table 3 during the July 15 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 adopted these updates effective December 1, 2014.

Table 3. Adopted Seriousness Categories for Previously Unclassified Offenses

Annotated Code of Maryland	Offense	Statutory Maximum	Offense Type	Adopted Seriousness Category
SG, §9-124	Lotteries Prohibited acts relating to State lottery	3 years	Property	VII
CL, §14-1915 (penalty)	Maryland Credit Services Businesses Act Violation of any provision of Maryland Credit Services Businesses Act	3 years	Property	VI
CA, §11-705(a)(1) (penalty)	Securities Fraud and Related Crimes Securities fraud and other violations of Maryland Securities Act	3 years	Property	VII
CA, §11-305 CA, §11-705(a)(2) (penalty)	Securities Fraud and Related Crimes Use a senior or retiree credential or designation in a way that is misleading in connection with the offer, sale, or purchase of securities, etc.	5 years	Property	V

Change in Calculating Prior Adult Criminal Record Concerning Convictions for Use or Possession of Less than 10 Grams of Marijuana

On October 1, 2014, Senate Bill 364's changes to the Criminal Law Article became effective. Criminal Law Article (CR), §5-601, Annotated Code of Maryland, as amended by Senate Bill 364, now provides that the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$100 for a first violation, \$250 for a second violation, and \$500 for a third or subsequent violation. For a third or subsequent violation the court must order a person who is 21 or older to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to a substance abuse disorder assessment, and refer the person to substance abuse treatment, if necessary. For any violation by a person under the age of 21, the court must order the person to attend a drug education

program approved by the Department of Health and Mental Hygiene, refer the person to a substance abuse disorder assessment, and refer the person to substance abuse treatment, if necessary. In light of Senate Bill 364, the Commission considered whether revisions were needed for the instructions for how to score the Prior Adult Criminal Record for an individual with a prior convictions for marijuana possession for less than 10 grams. In deference to the general spirit of the General Assembly's decision to eliminate the collateral consequences which arise out of criminal convictions for small amounts of marijuana and disproportionately affect already disadvantaged groups, the Commission, at its September 30 meeting, agreed on proposed revisions to COMAR 14.22.01.10B(3)(a)(i) and corresponding language in Section 7.1.C of the Maryland Sentencing Guidelines Manual (MSGM), excluding prior convictions for the use or possession of less than 10 grams of marijuana from the calculation of a defendant's Prior Adult Criminal Record. The MSCCSP submitted the proposed revisions regarding the scoring for the Prior Adult Criminal Record for promulgation through the COMAR review process. The MSCCSP will adopt these changes effective February 1, 2015.

Guidelines Effective Date

During the past year, the MSCCSP reviewed the implications of *Peugh v. United States*, 569 U.S. ___, 133 S. Ct. 2072, 186 L. Ed. 2d 84 (2013), for the Maryland sentencing guidelines. After reviewing and discussing both the *Peugh* case and similarities and differences between the United States sentencing guidelines and the Maryland sentencing guidelines at the May 6, July 15, and September 30 meetings, the MSCCSP determined that *Peugh* does not require that the Maryland sentencing guidelines in effect on the date of offense determine the recommended guidelines range. The MSCCSP maintained that the sentencing guidelines and offense seriousness categories in effect at the time of sentencing determine the guidelines range. The MSCCSP decided, however, to amend COMAR 14.22.01.03B and corresponding language in the Preface, Section 5.2, and the Frequently Asked Questions chapter of the MSGM to clarify that:

If it is determined that the guidelines are different than what they would have been if calculated using the sentencing guidelines and offense seriousness categories in effect on the date the offense of conviction was committed, the State's Attorney or defense counsel may bring this to the attention of the judge as a consideration for departure from the guidelines.

The MSCCSP submitted the proposed clarifying language regarding the guidelines effective date for promulgation through the COMAR review process. The MSCCSP will adopt these changes effective February 1, 2015.

Identification of Guidelines-Eligible Cases

Over the past year, the MSCCSP continued to work closely with the Montgomery County Circuit Court (MCCC) and Judicial Information Systems (JIS) to implement key procedural changes regarding the completion and submission of guidelines worksheets. In Montgomery County during the MAGS pilot project, court personnel reported that it would be helpful if reports could be generated for law clerks to identify open cases in MAGS that require worksheet completion. In order to address this request, the MCCC, using guidelines eligibility criteria provided by the MSCCSP, made enhancements to its case management system by including a guidelines-eligible case indicator on the criminal docket and in the court's case management system. The indicator allows judges and their staff to easily identify cases scheduled for sentencing that require a sentencing guidelines worksheet. The identification of guidelines-eligible cases permits creation of a guidelines-eligible case file for any specified reporting period. Accordingly, the flag allows the MSCCSP to implement a monthly data worksheet reporting system for the MCCC, whereby a report is sent to the court that identifies all guidelines-eligible cases sentenced during the prior month and also identifies the sentencing guidelines worksheet completion status.

The MSCCSP worked diligently with staff at JIS to duplicate the worksheet reporting procedures established in Montgomery County for the other jurisdictions in the state. First, JIS staff developed programming code to identify guidelines-eligible cases on the criminal docket for the Calvert County Circuit Court (CCCC). Calvert County successfully deployed the guidelines-eligible case indicator prior to the start of the MAGS deployment in their jurisdiction on June 8, 2014. The Frederick County Circuit Court (FCCC) then deployed the guidelines-eligible case indicator in December 2014 in anticipation of their upcoming deployment of MAGS. JIS has indicated that they plan to implement the guidelines-eligible case flag in the remaining jurisdictions in early 2015.

Instructions for Accessory Convictions

Effective October 1, 2013, House Bill 709 amended CR, §1-301 to prescribe specific penalties for accessory after the fact to first degree murder and accessory after the fact to second degree murder. While the Commission previously assigned seriousness categories for these offenses at its June 25, 2013 meeting, the amendment to CR, §1-301 prompted a review of the accessory scoring instructions in the COMAR and corresponding text in the MSGM. Upon review, the MSCCSP concluded that further changes to the accessory scoring instructions were warranted. Specifically, the MSCCSP noted that since no other statute besides CR, §1-301

presently prescribes penalties for accessory after the fact, provision (d)(2) in COMAR 14.22.01.09B(2) referring to accessory after the fact offenses that have a penalty of greater than 5 years under a statute other than CR, §1-301, should be removed. Further, the MSCCSP noted that since accessory before the fact had been abrogated to be handled as a principal offense by CP, §4-204(b), provision (d)(4) in COMAR 14.22.01.09B(2) regarding accessory before the fact should also be removed. Finally, the MSCCSP noted that clarification to the remaining instructions was necessary because, under the current wording, a more stringent seriousness category could be assigned to accessory after the fact than to the underlying offense in certain instances. At the May 6 meeting, the MSCCSP voted to amend the accessory scoring instructions in the COMAR 14.22.01.08B(2), COMAR 14.22.01.09B(2), COMAR 14.22.10.10B(3), revise the corresponding text in the MSGM, and to relocate relevant language from Section 6.1.A to Section 5.2 of the MSGM. As revised, the accessory instructions provide:

Conspiracy, attempt, solicitation, or accessoryship. Unless placed in a different category or specifically addressed by separate statute, the individual completing the worksheet shall consider a conspiracy, attempt, or solicitation in the same seriousness category as the substantive offense.

- a. If the accessory after the fact has a penalty of 5 years or greater under CR, §1-301, a seriousness category V shall be assigned, *unless* the underlying offense has a seriousness category of less than V, in which case the accessory after the fact shall be assigned the same seriousness category as the underlying offense.
- b. If the accessory after the fact has a penalty of less than 5 years under CR, §1-301, the seriousness category shall be the same category as the underlying offense.

The MSCCSP submitted the proposed revisions regarding the accessory instructions for promulgation through the COMAR review process. The MSCCSP will adopt these changes effective February 1, 2015.

Subsequent Offender Status Indication on Presentence Investigation Orders

At its September 30 meeting, based on feedback from parole and probation agents, the MSCCSP voted to amend the MSGM to encourage judges to indicate, on a presentence investigation (PSI) order, when a defendant has been convicted as a subsequent offender. The MSCCSP learned that parole and probation agents are unlikely to be aware of a defendant's

subsequent offender status unless it has been noted on the PSI order. Since the practice of noting a defendant's subsequent offender status on the PSI order is not followed in all jurisdictions, it can be difficult for agents to calculate guideline ranges accurately, as the guidelines may need to be adjusted to account for subsequent offender status. Consequently, the MSCCSP adopted language to include in the planned February 1, 2015 release of the MSGM that requests judges to indicate on the PSI order when the State's Attorney has filed a notice of subsequent offender.

Analogous Offenses

At its December 9 meeting, the MSCCSP considered how to score offenses that are not listed in the Guidelines Offense table when calculating the Prior Adult Criminal Record. The COMAR and MSGM instructed persons completing guidelines worksheets to use the Seriousness Category of the closest analogous offense for crimes that have not been assigned a Seriousness Category, but did not provide guidance for determining the closest analogous offense. The MSCCSP, therefore, voted to amend COMAR 14.22.01.10B(3)(d), COMAR 14.22.02.02, and corresponding language in Section 7.1.C of the MSGM, to state:

If there is a question as to an analogous guidelines offense for an out of state conviction, that question should be brought to the attention of the judge at sentencing.

The MSCCSP will submit the proposed revised language regarding analogous offenses for promulgation through the COMAR review process in February 2015.

Training and Education

The MSCCSP provides sentencing guidelines training and education to promote consistent application of the guidelines and accurate completion of the sentencing guidelines worksheet. On-site 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, and several examples of more complicated sentencing guidelines scenarios. In 2014, the MSCCSP provided 17 guidelines training seminars attended by approximately 420 total participants from 14 jurisdictions, including circuit court judges, State's Attorneys, 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 2014, the MSCCSP Executive Director, Dr. David Soulé, met with 10 of the 24 County Administrative Judges. The meetings provided an opportunity for the MSCCSP to review sentencing guidelines-related data with the individual jurisdictions, discuss proper 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 29, 2014.

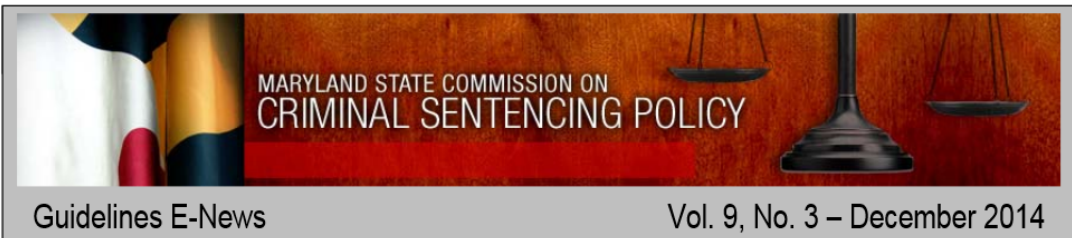
In addition to providing training and education programs, the MSCCSP staff is available via phone (301-403-4165) and e-mail (msccsp@umd.edu) from 8 a.m. to 5 p.m., Monday through Friday, to provide prompt responses to any questions or concerns regarding the sentencing guidelines. The MSCCSP staff regularly responds to questions regarding the guidelines via phone and e-mail. These questions are usually from those responsible for completing the guidelines worksheets (i.e., parole and probation agents, State's Attorneys, defense attorneys, and law clerks). Typical questions include asking for assistance in locating a specific offense and its respective Seriousness Category within the Guidelines Offense Table and clarification on the rules for calculating an offender's Prior Adult Criminal Record score.

Image 1. MSCCSP Website (www.msccsp.org)



The MSCCSP also maintains a website (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 a Guidelines Calculator Tool (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. Sample Guidelines E-News



**Revisions to the Guidelines Offense Table,
Effective December 1, 2014**

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has revised the Guidelines Offense Table to reflect:

- (1) new offenses passed during the 2014 Legislative Session;
- (2) amended offenses passed during the 2014 Legislative Session; and
- (3) minor edits to the table.

These changes were adopted in the Code of Maryland Regulations (COMAR) **effective December 1, 2014**. They are summarized briefly below. 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. 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.

New Offenses, 2014 Legislative Session

Legislation	Offense	Statute	Statutory Maximum	Adopted Seriousness Category
Chapter 115/116 SB 337/HB 306	Abuse and Other Offensive Conduct Commit crime of violence in the presence of a minor	CR, §3-601.1	5Y	VI
Chapter 238 HB 807/SB 742	Burglary and Related Crimes Home invasion ¹	CR, §6-202(d)	25Y	III
Chapter 229	False Statements, Other	HS, §4-411	5Y	VII

In 2014, 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 December 2014 issue (Vol. 9, No. 3) highlighted revisions to the Guidelines Offense Table to reflect the addition of new and amended offenses enacted during the 2014 Legislative Session.

Information, Data Requests, and Outreach

The MSCCSP strives to be a valuable resource for both our criminal justice partners and others interested in sentencing policy. 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 2014, 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, legislators, circuit court judges, law clerks, prosecutors, defense attorneys, parole and probation agents, victims and their family members, defendants and their family members, faculty/students of law and criminal justice, government agencies, media personnel, and other interested citizens 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 2014, the MSCCSP provided sentencing data to agencies such as the Governor's Office of Crime Control and Prevention (GOCCP), the Department of Legislative Services, 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 Juvenile Services (DJS). DJS 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 2014, the Commission provided information for 85 separate bills that proposed modifications to criminal penalties or sentencing/correctional policies.

Finally, the MSCCSP works to provide outreach to other criminal justice stakeholders to provide updates on the activities completed by the Commission. During the past year, the Judicial Institute of Maryland invited the MSCCSP Executive Director to present on the potential for the use of risk assessment at sentencing during a seminar entitled, *The Criminal Mind: The Impact of Neuroscience on Culpability and Sentencing*, held at the Judiciary Education and Conference Center in Annapolis, Maryland on October 22, 2014. Additionally, the Conference of Circuit Judges (CCJ) invited Dr. Soulé to provide two separate updates in January and November regarding the implementation of MAGS. Finally, Dr. Soulé provided an orientation on the pending deployment of MAGS for the 7th Circuit during their conference meeting in November.

Data Collection, Oversight, and Verification

The MSCCSP staff is responsible for the collection and maintenance of the Maryland sentencing guidelines database, which is compiled via data submitted on the sentencing guidelines worksheet. The MSCCSP staff reviews sentencing guidelines worksheets as they receive them. The staff verifies that the guidelines 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 allows for increased confidence in the accuracy of the data and permits more reliable offense-specific analyses of the data.

Subcommittee Work

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 Andrew L. Sonner (Judge, Court of Special Appeals (retired)) chairs the Guidelines Subcommittee. Other members of the Guidelines Subcommittee include Richard Finci (criminal defense attorney and Maryland Criminal Defense Attorneys' Association representative), Senator Delores Kelley (Baltimore County), Laura Martin (State's Attorney for Calvert County and victims advocacy groups representative), and Judge Alfred Nance (Circuit Court for Baltimore City). Each year, the Guidelines Subcommittee reviews all new and revised offenses adopted by the General Assembly and provides recommendations to the full Commission for Seriousness Category classification. Additionally, the Guidelines Subcommittee regularly reviews suggested revisions to the guidelines calculation process and reports to the overall Commission on guidelines compliance data.

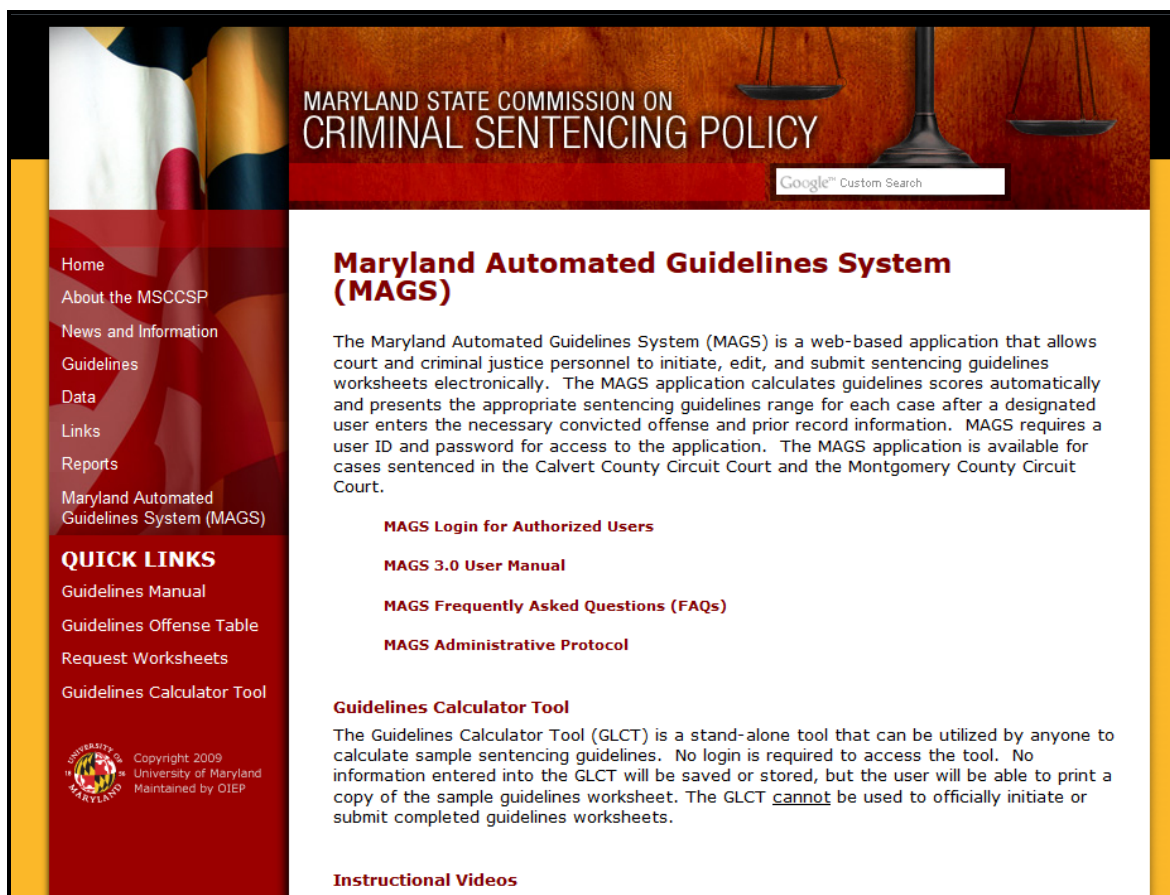
The Guidelines Subcommittee met prior to each of the 2014 Commission meetings. The Guidelines Subcommittee conducted the initial review and consideration of the classification for the new and amended offenses noted in Tables 1 and 2, as well as the previously unclassified offenses noted in Table 3. The Guidelines Subcommittee also provided recommendations for the following actions: revising language in the MSGM and the COMAR concerning convictions as an accessory; providing clarifying instructions regarding the guidelines effective date (in light of *Peugh v. United States*, 569 U.S. ____); amending the calculation of the Prior Adult Criminal Record (following Senate Bill 364's changes to the CR, §5-601 regarding the use or possession of less than 10 grams of marijuana); adding language to the MSGM encouraging judges to indicate on a PSI order, when a defendant has been convicted as a subsequent offender; and adding language to the MSGM and the COMAR concerning analogous offenses. Lastly, the Guidelines Subcommittee is conducting an ongoing detailed review of sentencing guidelines compliance for cases sentenced in fiscal years 2009 to 2013. As part of that review, the Guidelines Subcommittee is considering whether and how to adjust the recommended sentencing guidelines ranges in each of the three guidelines matrices.

Maryland Automated Guidelines System (MAGS)

The MSCCSP designed MAGS to fully automate guidelines calculation in a web-based application that allows court and criminal justice personnel to complete and submit sentencing guidelines worksheets electronically. The MAGS application calculates guidelines scores

automatically and presents the appropriate sentencing guidelines range for each case after a designated user enters the necessary convicted offense and prior record information. MAGS is accessible from the MSCCSP website at: www.msccsp.org/MAGS (see Image 3). MAGS is compatible with *Internet Explorer*, *Mozilla Firefox*, *Safari*, and *Google Chrome* web browsers.

Image 3. MAGS page of MSCCSP website (www.msccsp.org/MAGS)



MAGS allows users to run multiple sentencing scenarios, enabling them to determine the appropriate guidelines range under varying sentencing conditions. MAGS creates a printable Portable Document Format (PDF) of the sentencing guidelines worksheet. Users can present the PDF sentencing guidelines worksheet to the opposing counsel and to the judge for review prior to sentencing. The sentencing judge or his or her designee is responsible for entering all appropriate sentencing information into MAGS (see Image 4 for a sample screenshot from the GLS/Overall Sentence screen). The judge or his or her designee can then electronically submit the completed guidelines worksheet to the MSCCSP sentencing guidelines database. MAGS is hosted on web servers maintained by the Department of Public Safety and Correctional Services (DPSCS). DPSCS provides secure access to MAGS and hosts the webpage in a demilitarized zone with secure socket layer for communication to the site.

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

Offender Information				Offender Score		List of Offenses		Sentence		GLS/Overall Sentence		Victim Information		Departure / Submit			
Maryland Sentencing Guidelines Worksheet												Save this page		Previous		Next	
Sentence Overall (Across All offenses):																	
Total Sentence		Life x		4 Year(s)		Month(s)		Day(s)		* Date of Sentencing		12 / 23 / 2014 (MM/DD/YYYY)					
Suspended		2 Year(s)		Month(s)		Day(s)		Disposition Type		2 - Non-ABA plea agreement							
Credit		30 Day(s)						Parole Notification		Yes							
Home Detention		0 Month(s)						50% of Sentence Announced		No							
Jail/Prison		1 Year(s)		11 Month(s)		0 Day(s)		Community Service		50 Hours							
Guidelines Applicable Sentence		2.0 Year(s)						* Probation		3 Year(s)		Month(s)		Day(s)			
Overall Guidelines Range		1Y		To		4Y		Fine (\$ amount)		100							
								Victim Court Costs Imposed		Yes							
								Corrections Options		4 - None							
Additional Information or Institutional / Parole Recommendation (You may enter up to 275 characters.) Defendant recommended for work release program.																	
View worksheet PDF												Save this page		Previous		Next	
<p>Maryland State Commission on Criminal Sentencing Policy (MSCCSP)</p> <p>University of Maryland</p> <p>4511 Knox Rd, Suite 309, College Park MD 20742</p> <p>Help Desk Information: 877-825-1991 or 301-403-4165 / msccsp@umd.edu</p> <p>MSCCSP</p>																	

The MCCC has utilized MAGS to complete and submit sentencing guidelines worksheets since the start of the MAGS pilot project in 2012. The purpose of the pilot project was to allow the MSCCSP, in conjunction with the Administrative Office of the Courts (AOC) and the MCCC, to assess the ability of MAGS to offer a substantial technological improvement to the criminal justice community by providing a more efficient web-enabled application, and consequently more timely and accurate assessment of sentencing policy in the state of Maryland. The key tasks completed in 2014 to continue the development of MAGS are summarized below.

January 8, 2014: The MSCCSP released an updated version of the MAGS for immediate use in the MCCC. MAGS 3.0 enhancements include new features such as compatibility with Safari, Google Chrome and Firefox web browsers, as well as many other updates aimed at improving the automatic worksheet completion and submission process.

January 13, 2014: MSCCSP staff met with developers of the Judiciary's Maryland Electronic Courts (MDEC) as well as with JIS staff to discuss the potential for future interoperability between MAGS and MDEC. Additionally, the meeting provided an opportunity to review and discuss the appropriate mechanisms for capturing sentencing information in each agency's data management system.

January 27, 2014: Dr. Soulé met with the CCJ to provide an update on the MAGS project. The CCJ approved the following actions:

1. Adopting permanent use of the MAGS application in the MCCC.
2. Gradually rolling-out the MAGS application in the remaining circuit courts.
3. Moving ahead with the Calvert County Circuit Court (CCCC) as the next jurisdiction to adopt use of the MAGS application.

February 21, 2014: MSCCSP staff met with staff from JIS to establish procedures for creating a secure Virtual Private Network (VPN) tunnel connection between court users in the JIS active directory and the DPSCS server site for MAGS. Additionally, the group began deliberations on the creation of an indicator on the sentencing docket to identify guidelines-eligible cases using data collected by JIS.

April 12, 2014: The DPSCS Information Technology and Communications Division (ITCD) coordinated with the MCCC Technical Services Division to implement a move of the VPN tunnel connection between the MCCC and DPSCS to improve stability in the MAGS login authentication process for MCCC users.

April 22, 2014: MSCCSP staff conducted an orientation session for users in Calvert County in advance of the deployment of MAGS in the CCCC. The session provided training on the use of MAGS to initiate, edit, and submit guidelines worksheets electronically. Representatives from the Calvert County State's Attorneys' Office, the regional Office of the Public Defender, the regional Parole & Probation Office, courtroom clerks, and law clerks attended the session.

May 16, 2014: The MSCCSP deployed a revised version of MAGS to provide an indication on the PDF worksheet if a criminal record decay factor was applied in the calculation of the Prior Adult Criminal Record.

June 8, 2014: The CCCC began use of MAGS to initiate, edit, and submit all official sentencing guidelines worksheets.

July 8, 2014: Dr. Soulé met with the FCCC judges and the Frederick County Court Administrator to discuss deployment of MAGS in their jurisdiction. The FCCC agreed to support the recommendation that Frederick County become the third jurisdiction to adopt use of MAGS.

September 25, 2014: The MSCCSP, in consultation with the AOC, developed a proposed timeline for deployment of MAGS to the remaining jurisdictions, whereby MAGS will be deployed on a circuit-by-circuit basis. Since the MCCC was the first jurisdiction to use MAGS, the deployment schedule designates Frederick County as the next jurisdiction to begin using MAGS to complete the 6th Circuit. Next, since Calvert County was the second jurisdiction to utilize MAGS, the proposed schedule suggests deployment of MAGS in the remaining jurisdictions in the 7th Circuit (Charles, Prince George's, and St. Mary's Counties). The proposed schedule designates the remaining jurisdictions will deploy MAGS in three-month intervals, with the hope of statewide implementation of MAGS in four to five years. The Deputy Court Administrator, Faye Matthews, circulated the proposed deployment schedule to all of the Circuit Court Administrative Judges, Court Administrators, and Court Clerks with a request for feedback.

November 17, 2014: The CCJ invited Dr. Soulé to attend their bi-monthly meeting to provide an update on the status of the MAGS project. Dr. Soulé noted three major accomplishments relative to the MAGS project. First, he noted that the submission rate for guidelines worksheets in the two jurisdictions that are utilizing MAGS is higher than those in jurisdictions that are still utilizing the paper worksheet process. Dr. Soulé indicated he believed this was due to the monthly reporting process initiated in the MCCC and replicated in the CCCC. The second significant accomplishment highlighted by Dr. Soulé was the creation of the guidelines-eligible case indicator on the criminal docket. The MSCCSP worked closely with the MCCC and JIS to identify guidelines-eligible cases requiring a worksheet in Montgomery County and Calvert County, respectively. Using guidelines eligibility criteria provided by the MSCCSP, the MCCC and JIS have developed programming code to identify guidelines-eligible cases on the docket. The indicator allows judges and their staff to easily identify cases scheduled for sentencing that require a sentencing guidelines worksheet. JIS has indicated that they plan to implement the guidelines-eligible case indicator in other jurisdictions that have not yet adopted MAGS early in 2015. The final accomplishment highlighted by Dr. Soulé was the establishment of a secure login process for Calvert County users. The work to establish the login process for Calvert County court personnel will be extremely beneficial when MAGS is deployed in the remaining jurisdictions, as the login connection procedure established for Calvert County will be easily replicated for all court personnel whose user accounts are maintained by the JIS active directory. This is significant, as the JIS active directory maintains the user accounts for all judges, judges' designees, and court staff in the 21 Maryland counties that part are of the Unified Case System (UCS).

November 21, 2014: At the invitation of Judge Adams, the Administrative Judge for the 7th Circuit, Dr. Soulé attended the 7th Circuit conference meeting to acclimate their bench with MAGS and to provide a protocol for deploying MAGS in their jurisdictions.

December 1, 2014: MSCCSP staff conducted an orientation session for users in Frederick County in advance of the anticipated deployment of MAGS in the FCCC. The session provided training on use of MAGS to initiate, edit, and submit guidelines worksheets electronically. Representatives from the Frederick County Court Administrator's Office, the Frederick County State's Attorneys' Office, the regional office of the Public Defender, the regional Parole & Probation Office, courtroom clerks, and law clerks attended the session.

December 22, 2014: DPSCS programmers deployed minor updates to the MAGS application. These updates include: 1) expansion of the width of fields for last name and case number on the MAGS home page; 2) revision of the note on the additional comments box to indicate that the maximum number of allowable characters for the field is 275 so that the full comments will fit properly when printed on the PDF; 3) expansion of the number of allowable characters for departure reason from 180 characters to 450 characters; 4) addition of a feature whereby suffix of defendant's name will print on the worksheet PDF; 5) fixing a glitch whereby a user was able to submit a case without completion of all of the required fields; and 6) fixing a glitch relative to the submission capabilities for certain user groups.

Sentencing/Correctional Simulation Model

The MSCCSP, in conjunction with consultants at Applied Research Services Inc. (ARS), has developed a sentencing/correctional simulation model to help project the potential impact of proposed changes to the sentencing guidelines on Maryland's correctional population. The model can forecast the effects of legislative and guidelines changes on Maryland's Division of Correction's (DOC) population. In 2014, the MSCCSP took several steps to further enhance the scope and utility of the simulation model. In January 2014, the MSCCSP received updated data from the DPSCS. The data contain offender-level data, including offense, sentence, and length of incarceration information, for all inmates admitted to, released from, or incarcerated in Maryland's DOC facilities from February 2011 through September 2013. The simulation model has integrated these data to provide the most up-to-date forecasts.

Over the past year, the MSCCSP has also contacted staff at several agencies to inquire as to the availability of local jail data in Maryland. The simulation model forecasts the effects of

sentencing guidelines and criminal penalty changes, but without data from jails, the estimates for the impact of proposed changes on the correctional population is incomplete. As of 2014, approximately 16.5% of guidelines-eligible circuit court offenders sentenced in Maryland (or 33.7% of offenders sentenced to post-sentencing confinement) received sentences to local jails.² To improve the accuracy and scope of the simulation model, the MSCCSP has sought local jail data for use in the model. In May 2014, Dr. Soulé attended the Maryland Correctional Administrators Association (MCAA) general meeting and spoke to members regarding the MSCCSP's need for local jail data for use in the simulation model. In 2014, MSCCSP staff also spoke with staff at the DPSCS and the GOCCP regarding the local jail data availability. Each of these agencies confirmed that, at present, there is no single source of offender-level data for all local jails in Maryland. However, MSCCSP staff have identified two sources of local jail data that may be of use in the future, including local county jails and a centralized offender case management system (OCMS). The DPSCS has indicated that the local jails in each Maryland jurisdiction maintain their own, often automated system, of inmate records. Staff at some or all county jails could possibly provide the MSCCSP with offender-level data, though obtaining these data would require a significant amount of time and resources from both the staff at these local facilities and MSCCSP staff.

The future implementation of a centralized OCMS in Maryland's local jails may also provide a source of local jail data. At present, each jurisdiction in Maryland is able to make independent decisions regarding the type of case management system used in its county jails and the degree to which these systems work together with systems from other counties and state agencies. The DPSCS has been working to change this system and implement a single OCMS across all jurisdictions in Maryland. The OCMS would standardize information collected across jurisdictions, as well as the collection format, and would allow local jail staff to access offender records across jurisdictions and agencies. The proposed OCMS contains four modules: (1) Arrest/Booking, (2) Corrections, (3) Community Supervision, and (4) Parole Commission. The Corrections module would contain the offender-level data that the MSCCSP seeks, including offense, sentence, and length of incarceration information. At present, four counties have implemented the Arrest/Booking module of the OCMS, including Frederick, Harford, Howard, and St. Mary's Counties. Other jurisdictions may start using this module in the future. However, no jurisdiction in Maryland has implemented the Corrections module. Staff at the GOCCP reported that, in 2014, their office received a federal grant aimed, in part, at implementing the

² The sentencing guidelines worksheet for approximately 7.5% of guidelines-eligible offenders sentenced to a period of confinement greater than 1 year but less than or equal to 18 months did not specify the location of confinement (i.e., jail or prison). To the extent that these offenders went to jail rather than prison, the percentage of offenders sentenced to jail will be larger than reported here.

OCMS in its entirety across Maryland's jurisdictions. When one or more jurisdictions implements the Corrections module of the OCMS, MSCCSP staff hopes to obtain an offender-level file containing its data. The GOCCP has expressed support for the MSCCSP's work on this project and obtaining the OCMS data. MSCCSP staff will continue communications with the DPSCS and the GOCCP in 2015 to stay updated on the implementation of the OCMS and the availability of local jail data.

Risk Assessment at Sentencing

The MSCCSP continued moving forward with Phase II of the risk assessment project in 2014. The MSCCSP is coordinating with the CCJS Department at the University of Maryland. The Department sought and obtained a grant, awarded by the GOCCP, to conduct a feasibility study on the potential implementation of a sentencing risk assessment instrument in Maryland. At the MSCCSP's September 30 meeting, the study's research team, led by Department Chair Dr. James Lynch, presented a white paper produced as part of the feasibility study to the MSCCSP. The presentation concerned design decisions the Commission would need to make in trying to identify and implement a risk assessment tool. The decisions include what the instrument should seek to accomplish, whether to pursue a risk (only) assessment or a risk and needs assessment, and how to define recidivism for the purposes of the instrument. The presentation posed a series of questions, each followed by the research team's recommendation and rationale. The research team requested feedback throughout the presentation. The MSCCSP and the Judiciary Risk Assessment Advisory Group, which attended the meeting at the MSCCSP's invitation, discussed the presentation, offering comments and asking questions, which the research team will address and incorporate in the next stage of the feasibility study.

Public Comments Hearing

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 2014 Public Comments Hearing occurred on December 9. The MSCCSP sent an invitation to the hearing to various key stakeholders throughout the state, and announced the hearing on the Commission's website, the Maryland Register, the Maryland General Assembly's hearing schedule, and a press release by the DPSCS. 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.

During the 2014 Public Comments Hearing six individuals testified, addressing a range of topics. Ms. Lea Green, President of Maryland C.U.R.E. (Citizens United for the Rehabilitation of Errants), spoke about parole for prisoners serving life sentences. [REDACTED], Maryland C.U.R.E., discussed the federal Second Chance Act. [REDACTED], Maryland C.U.R.E., addressed the issue of unrepresented defendants receiving life sentences. [REDACTED], Maryland C.U.R.E., talked about a need for help for inmates serving life sentences. Messrs. Frank Dunbaugh (Maryland Justice Policy Institute) and Vincent Greco (Extra-Legalese Group Think-Tank) expressed concerns regarding sentences outside the guidelines range in which the sentencing judge has not provided a reason for the departure, and separately about the price of phone calls for inmates. In sum, 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 19, 2015.

SENTENCES REPORTED IN FY 2014

Maryland's voluntary sentencing guidelines apply to criminal cases prosecuted in circuit court, with the exception of the following: prayers for a jury trial from the district court, unless a PSI is ordered; appeals from the district court, unless a PSI is ordered; crimes that carry no possible penalty of incarceration; and violations of public laws and municipal ordinances. The data and figures presented in this report reflect only guidelines cases where the MSCCSP received a sentencing guidelines worksheet. 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. The AOC compiled this data between July 1983 and June 2000. Beginning in July 2000, the MSCCSP assumed the responsibility of compiling these data from the sentencing guidelines worksheets. 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.

Sentencing Guidelines Worksheets Received

In fiscal year 2014, the MSCCSP received sentencing guidelines worksheets for 10,468 sentencing events.³ The Calvert County and Montgomery County courts electronically submitted sentencing guidelines worksheets for 925 of the 10,468 sentencing events using MAGS. The remaining sentencing guidelines worksheets were submitted by mail to the MSCCSP office. Table 4 provides a breakdown of the number and percentage of sentencing guidelines worksheets submitted in fiscal year 2014 by circuit. Figure 1 illustrates the jurisdictions in each circuit. The Eighth Circuit (Baltimore City) submitted the largest number of sentencing guidelines worksheets (2,785), while the Second Circuit (Caroline, Cecil, Kent, Queen Anne's, and Talbot Counties) submitted the fewest (444).

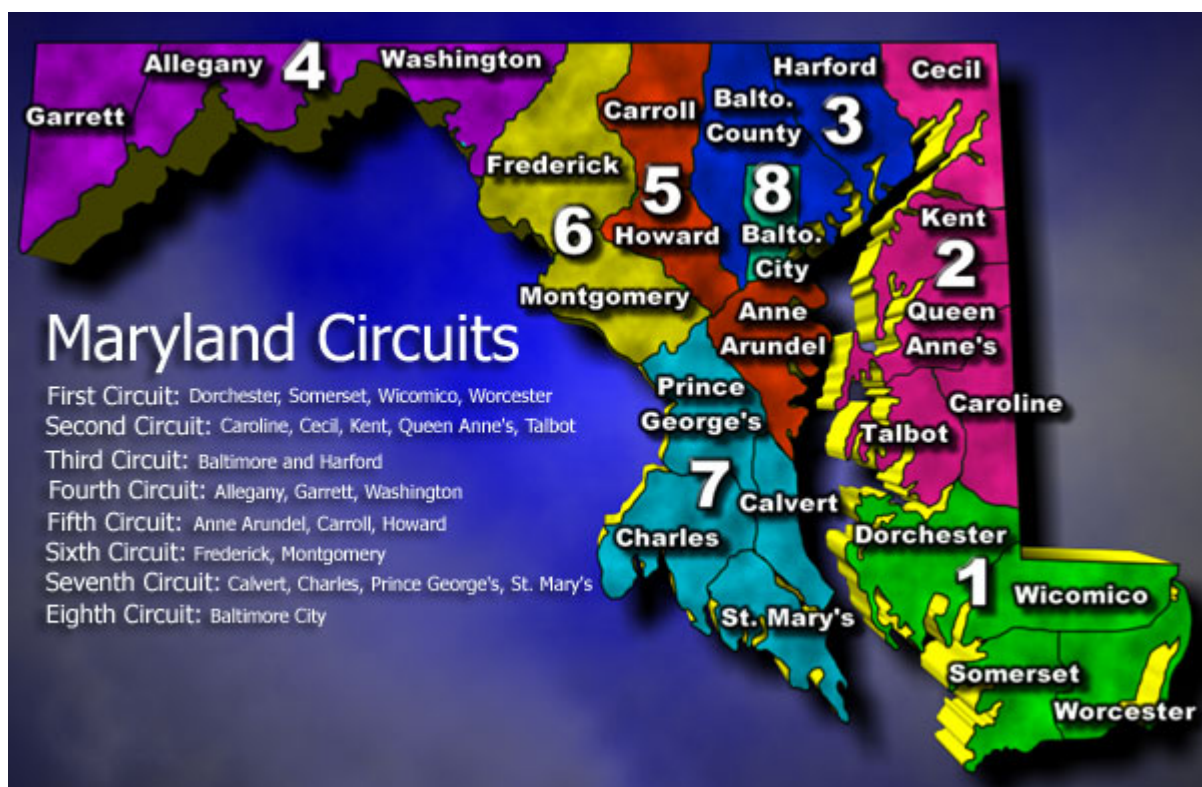
³ A sentencing event will include multiple sentencing guidelines worksheets if the offender is being sentenced for more than three offenses and/or multiple criminal events. Sentencing guidelines worksheet totals throughout this report treat multiple worksheets for a single sentencing event as one worksheet.

Table 4. Number and Percentage of Sentencing Guidelines Worksheets Submitted by Circuit, Fiscal Year 2014

Circuit	Number of Worksheets Submitted	Percent of Total Worksheets Submitted*
1	860	8.2%
2	444	4.2%
3	1,705	16.3%
4	536	5.1%
5	1,321	12.6%
6	1,176	11.2%
7	1,641	15.7%
8	2,785	26.6%
TOTAL	10,468	100.0%

* Percentages may not total 100% due to rounding.

Figure 1. Maryland Judicial Circuits



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

Guidelines Case Characteristics

Figures 2 through 4 summarize the descriptive characteristics from the 10,468 sentencing guidelines worksheets submitted for offenders sentenced in fiscal year 2014. Most were male (87.4%) and African-American (64.4%). The median age of offenders at date of sentencing was 28 years. The youngest offender was 14, while the oldest was 83 years of age. Approximately 15% of offenders were under 21 years of age; 43% 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 2014

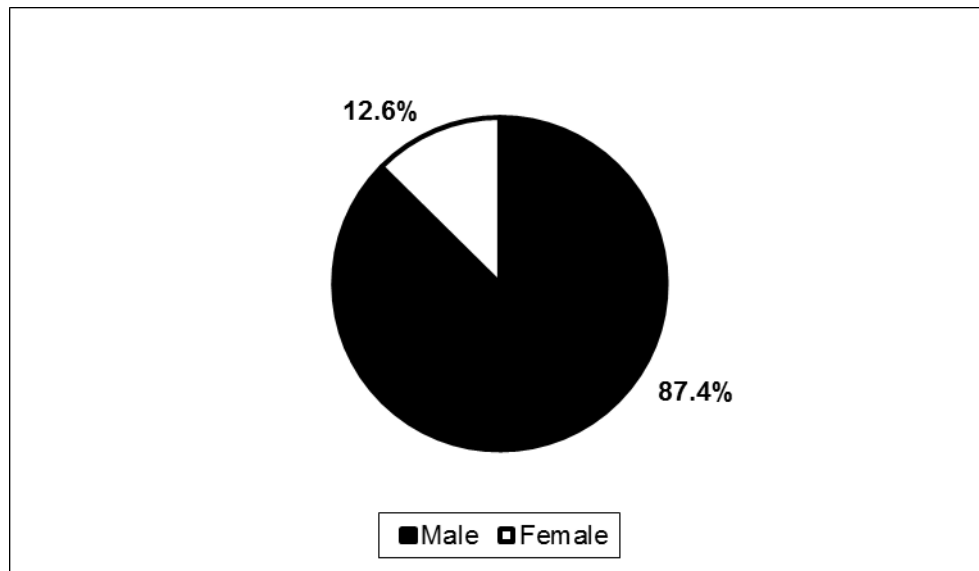


Figure 3. Distribution of Guidelines Cases by Race of Offender, Fiscal Year 2014

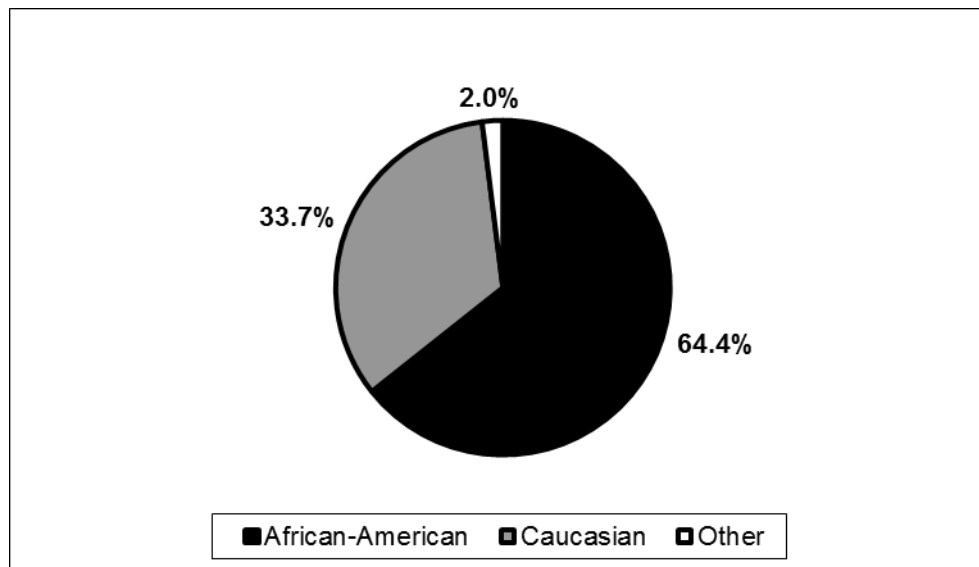
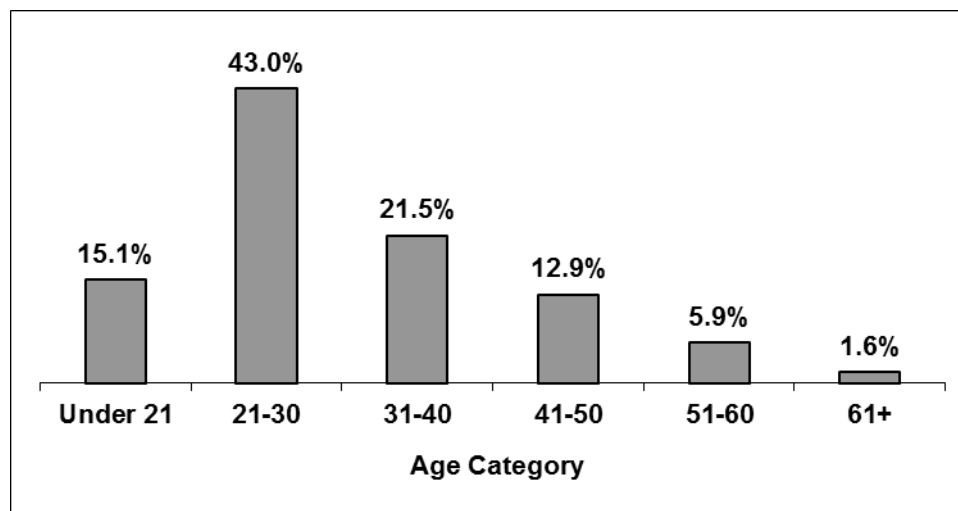
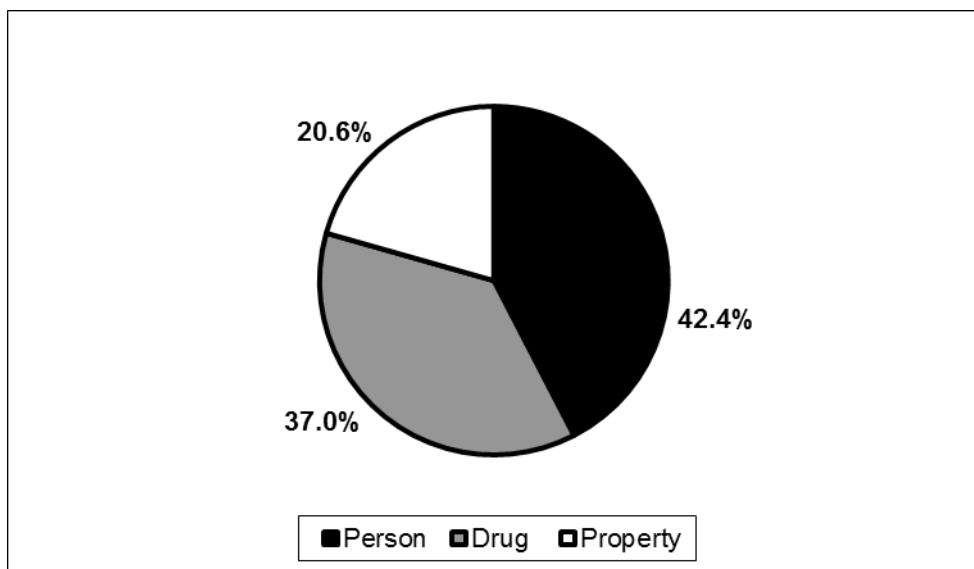


Figure 4. Distribution of Guidelines Cases by Age of Offender, Fiscal Year 2014

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 reconsideration, review, and probation revocation cases (N=8).⁴ Figure 5 provides a breakdown of cases by crime category. For cases involving multiple offenses, the figure only considers the most serious offense. Cases involving an offense against a person were most common (42.4%), followed closely by drug cases (37%). In 20.6% of cases, the most serious offense was a property crime. The distribution of cases by crime category was similar if one limits the analysis to defendants sentenced to incarceration (46.7% person, 32.5% drug, 20.8% property).⁵

⁴ Effective September 1, 2009, the MSCCSP determined that a Maryland Sentencing Guidelines Worksheet is unnecessary for probation revocations.

⁵ 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 2014

Figures 6a, 6b, and 6c display the distribution of cases by offense seriousness category for each of the three crime categories. In cases involving an offense against a person, offenses with a seriousness category V were most common (35.1%), 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*.

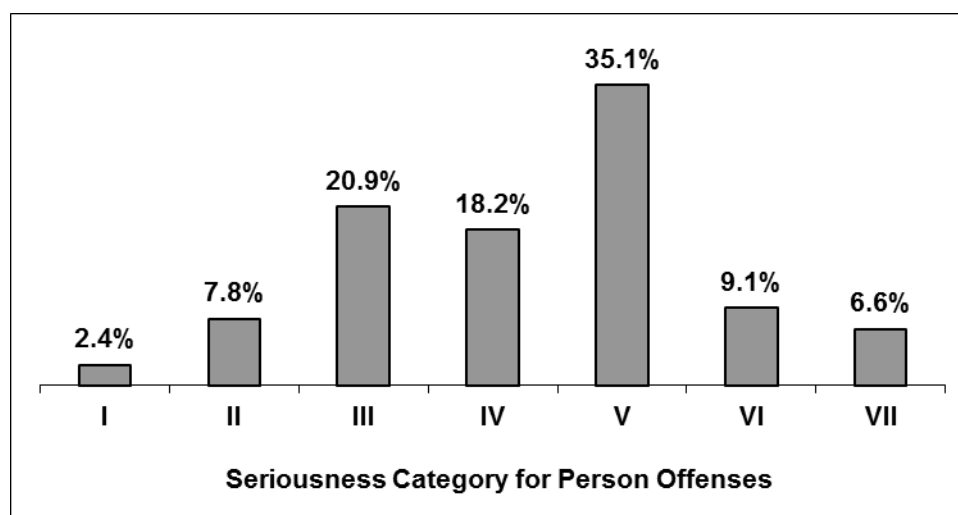
Figure 6a. Distribution of Person Offenses by Seriousness Category, Fiscal Year 2014

Figure 6b summarizes the distribution of drug offenses by seriousness category. Approximately 80% of drug cases involved an offense with either a seriousness category IIIB (51.7%) or a seriousness category IV (28.4%). *Distribution of cocaine* and *distribution of heroin* were the

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

Figure 6b. Distribution of Drug Offenses by Seriousness Category, Fiscal Year 2014

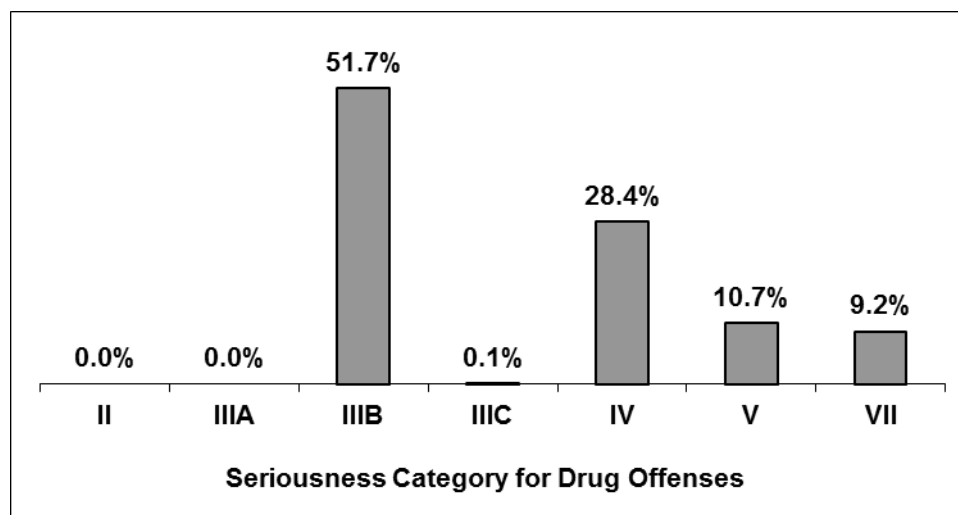


Figure 6c provides the distribution of offenses by seriousness category for property cases. Offenses with a seriousness category II (0.5%) or VI (3.3%) were far less frequent than offenses in the remaining seriousness categories. The most common property offenses included *first degree burglary* (III), *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 2014

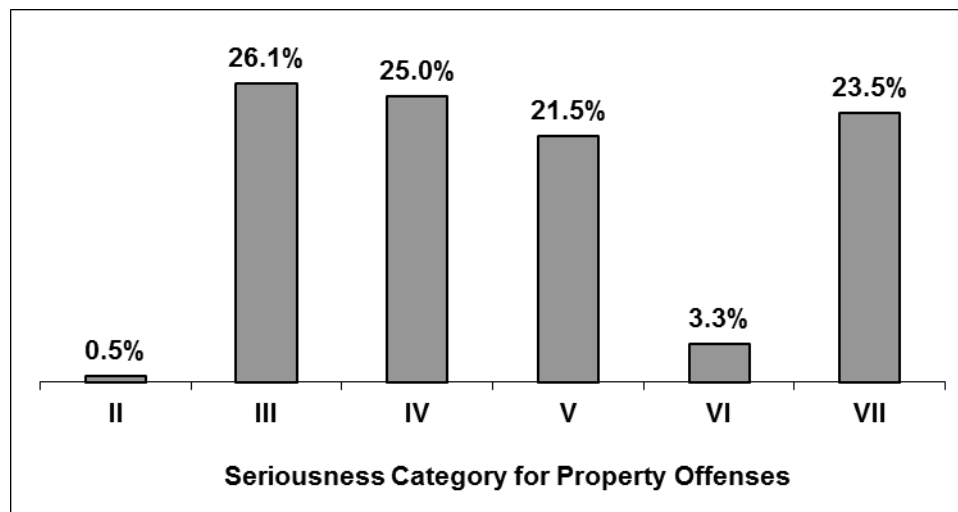


Figure 7 shows the distribution of cases by disposition type (Appendix D contains a description of the seven major disposition types listed on the sentencing guidelines worksheet). The vast majority of cases were resolved by either a non-ABA plea agreement (44.5%) or an ABA plea agreement (37.7%). An additional 11.7% were resolved by a plea with no agreement, and 6.1% of cases were resolved by either a bench or jury trial (1.4% and 4.7%, respectively). Roughly 14% of worksheets were missing disposition type. Since disposition type is a required field in MAGS, 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 2014

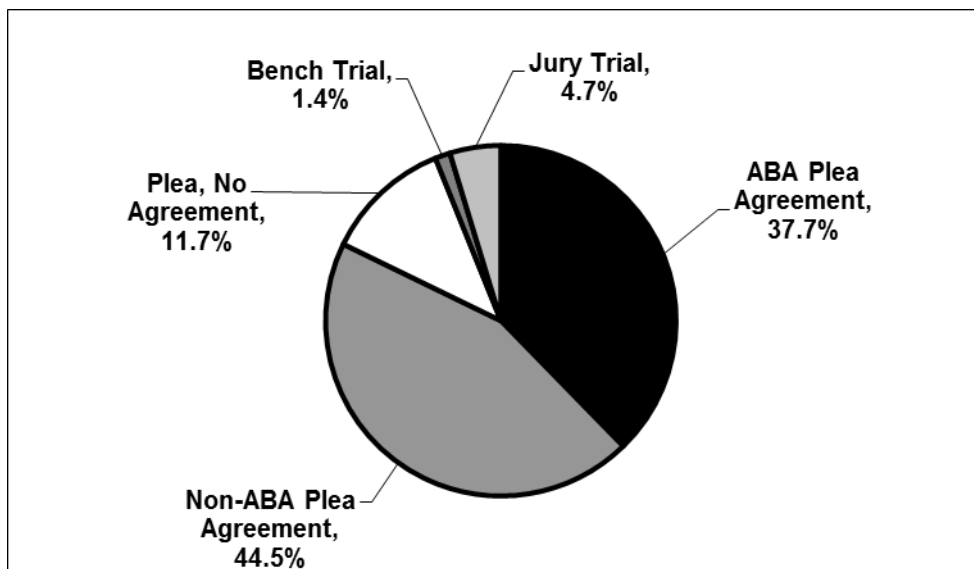
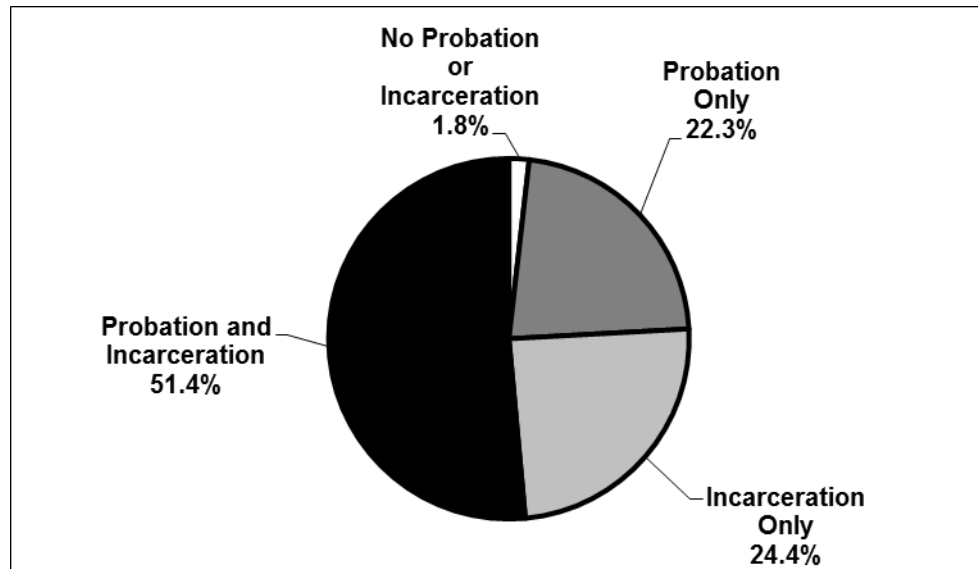


Figure 8 displays the distribution of cases by sentence type. Note that incarceration includes home detention and credited time, as well as post-sentence jail/prison time. Few offenders (1.8%) received a sentence that did not include either incarceration or probation. Nearly one-quarter (22.3%) received sentences to probation only. Similarly, approximately one-quarter (24.4%) of offenders received sentences to incarceration only. More than half (51.4%) of all cases resulted in a sentence to both incarceration and probation. Among those incarcerated, 24.3% did not receive post-sentencing incarceration.

Figure 8. Distribution of Guidelines Cases by Sentence Type, Fiscal Year 2014

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 (2005-2014). 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 sentence across all offenses. Figure 9a indicates that the percentage of guidelines cases sentenced to incarceration was lowest in fiscal year 2005 (69.9%) and highest in fiscal year 2008 (78.7%). Since then, rates have changed very little from one year to the next.

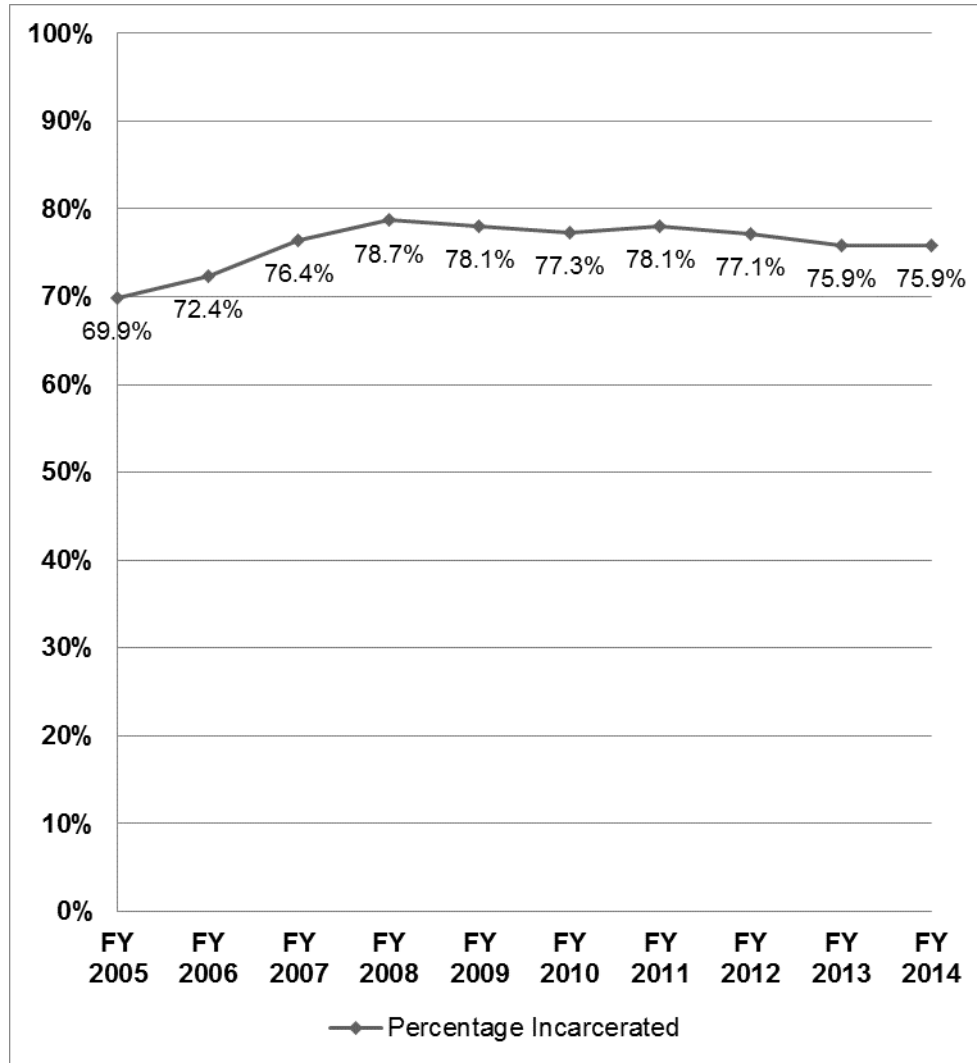
Figure 9a. Percentage of Guidelines Cases Sentenced to Incarceration by Fiscal Year

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 years 2005 and 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.

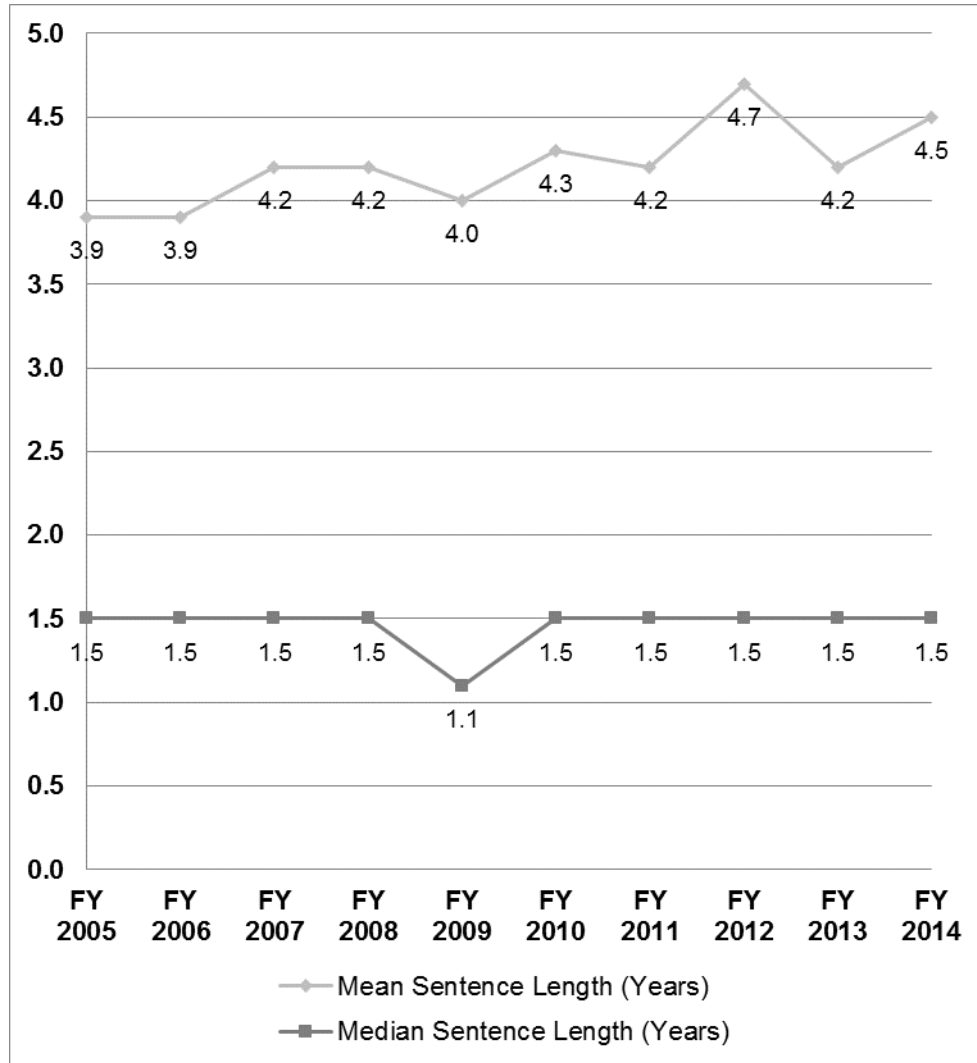
Figure 9b. Length of Sentence for Guidelines Cases by Fiscal Year

Figure 10 summarizes the percentage of sentences that included corrections options. COMAR 14.22.01.02 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 Corrections, 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 2014

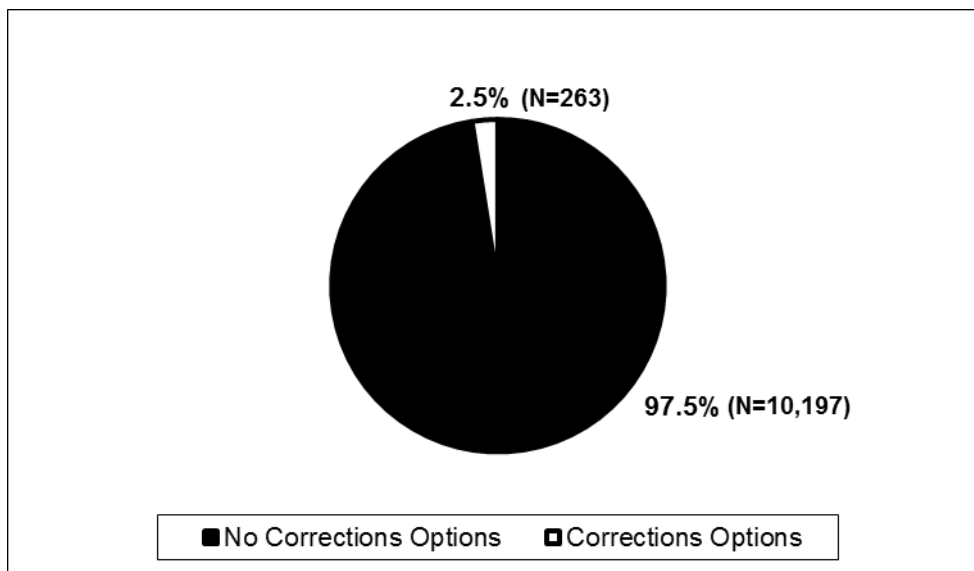


Figure 10 shows circuit courts sentenced only 2.5% of offenders (N=263) to a corrections options program in fiscal year 2014. The field for recording corrections options on the sentencing guidelines worksheet, however, is often left blank. The corrections options section of the worksheet was blank on 93.3% of the worksheets submitted to the MSCCSP for offenders sentenced in fiscal year 2014. 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

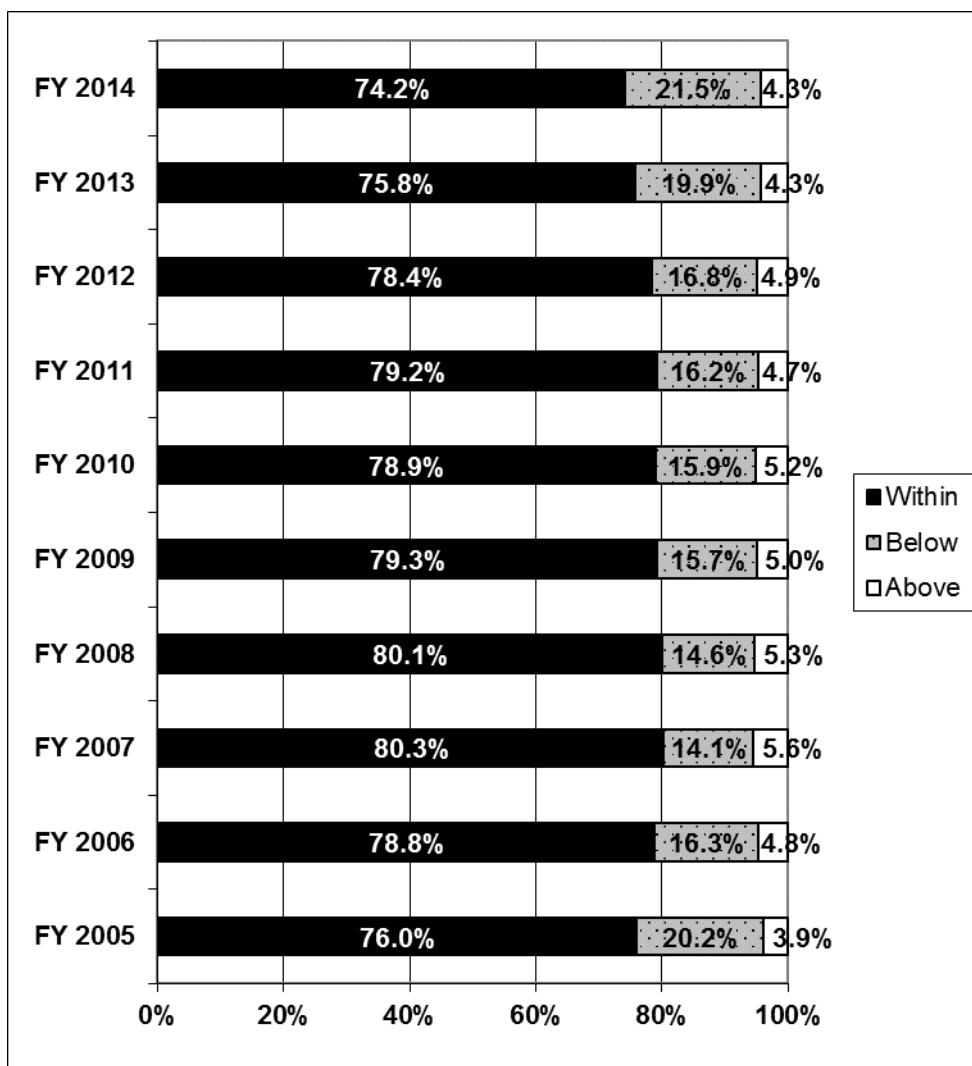
The MSCCSP's governing legislation mandates the Commission to examine judicial compliance based on data extracted from the sentencing guidelines worksheets submitted after Circuit Courts sentence offenders. The following provides a detailed examination of judicial compliance with Maryland's voluntary sentencing guidelines.

Judicial Compliance Rates Overall

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) comply 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 (2005-2014). 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)**

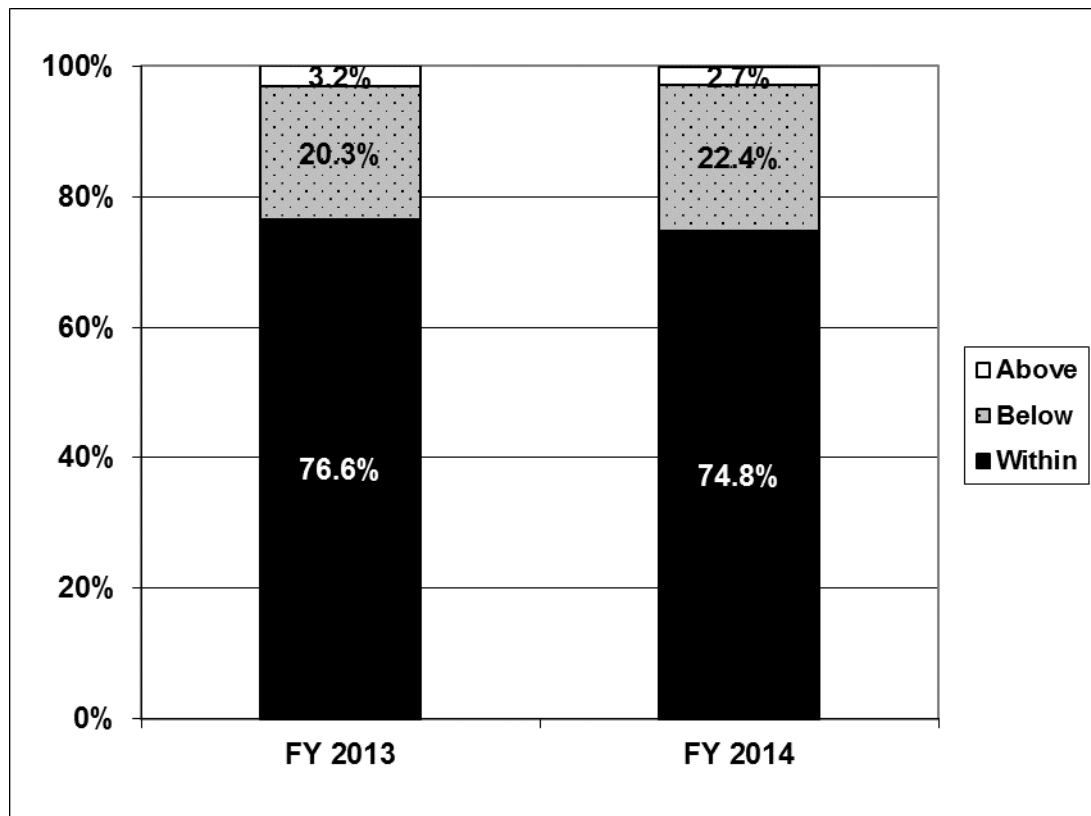


Analyses of judicial compliance in Maryland have traditionally focused on sentences for single-count convictions because they permit the most direct comparison of compliance by crime category and by offense type within the applicable cell of the sentencing matrix. Since multiple-count convictions can 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 2013 and 2014. Of the 10,468 sentencing guidelines worksheets submitted to the MSCCSP in 2014, 8,002 (76.4%) pertained to single-count convictions.

Figure 12 provides a breakdown of the overall guidelines compliance rates for fiscal years 2013 and 2014 based on single-count convictions. The rates are similar to those above. In both years, the overall rate of compliance exceeded the Commission's goal of 65% compliance.

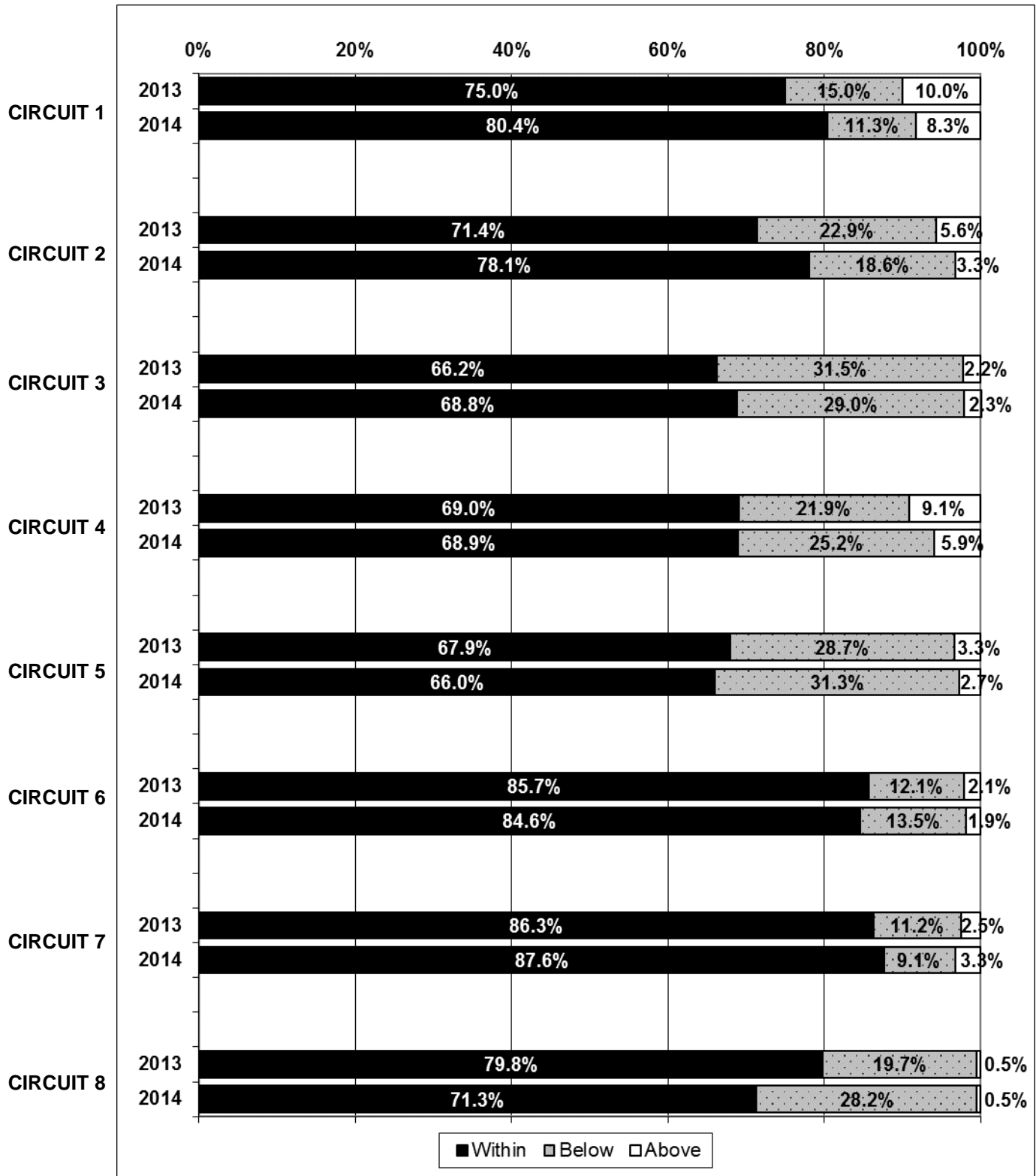
More than three-quarters of cases were compliant in both fiscal years. When departures occurred, they were more often below the guidelines than above.

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



Judicial Compliance Rates by Circuit

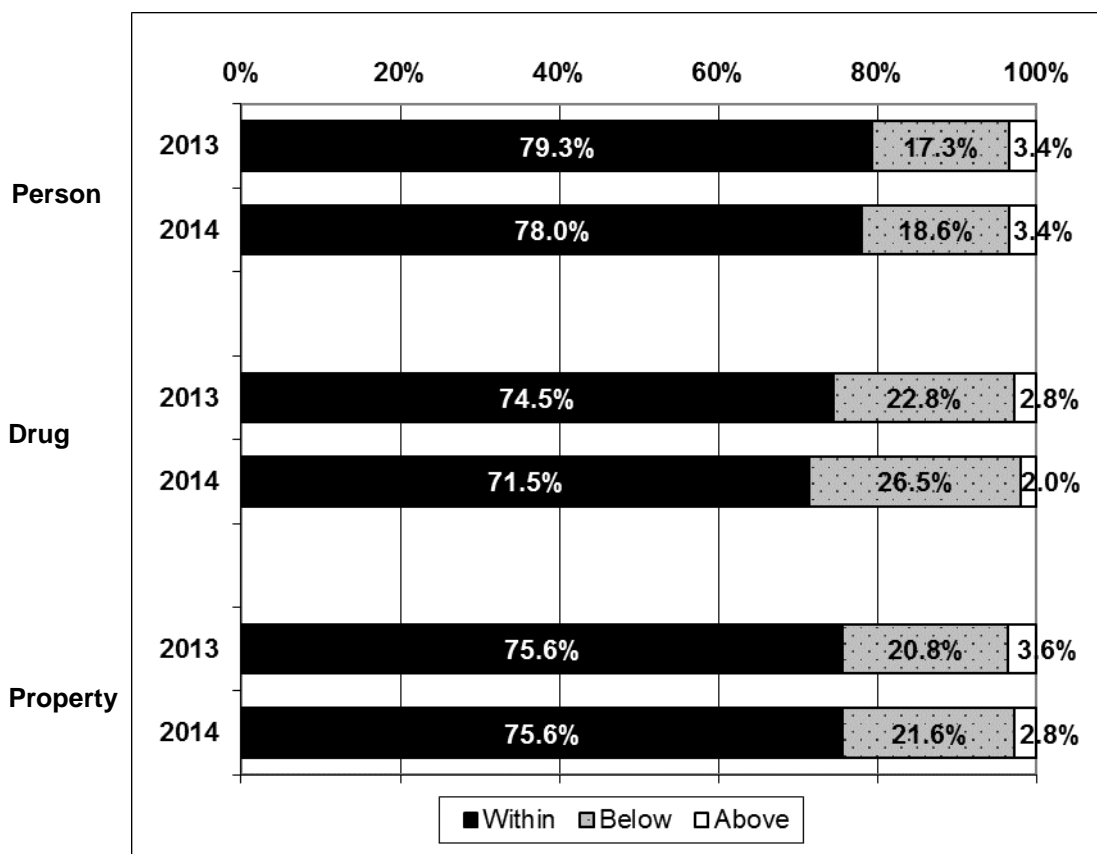
As shown in Figure 13, all eight circuits met the 65% compliance benchmark in fiscal year 2014. The Seventh Circuit had the highest compliance rate (87.6%). In contrast, compliance was lowest in the Fifth Circuit (66%). The largest change in compliance rates occurred in the Eighth Circuit, where rates decreased 8.5 percentage points from 79.8% in 2013 to 71.3% in 2014.

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 2013 and 2014. Person offenses were the least likely to result in a departure from the guidelines in fiscal year 2014, 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 2013 to 2014, and the 65% benchmark was met for all three crime categories in both fiscal years.⁶

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

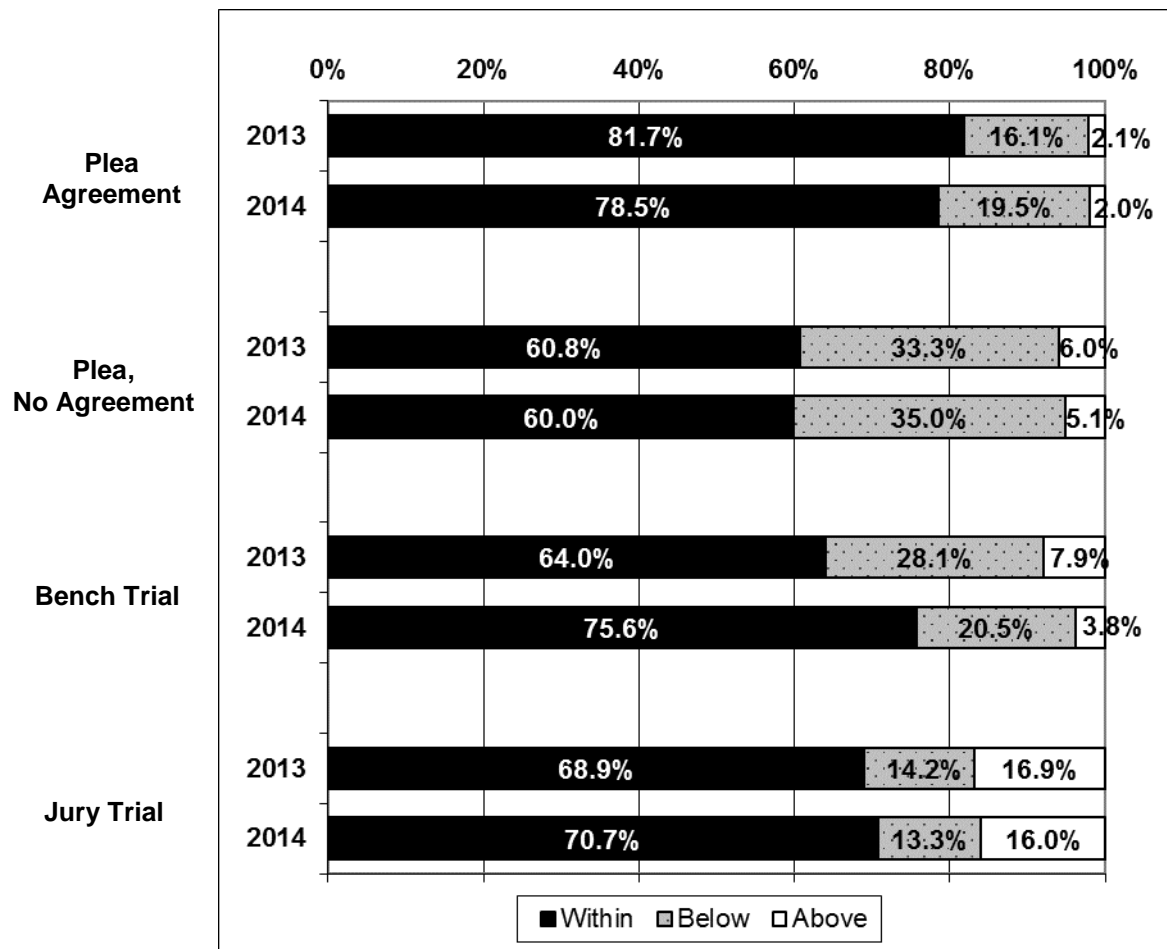


⁶ See Appendix C for sentencing guidelines compliance and average sentence for the five most common offenses in each crime category.

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 (78.5%) in fiscal year 2014. 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 (60%), falling below the 65% benchmark. The largest change in compliance rates occurred for cases adjudicated by a bench trial, where rates increased from 64% in 2013 to 75.6% in 2014. Finally, jury trials were the only disposition type where upward departures occurred more often than downward departures.

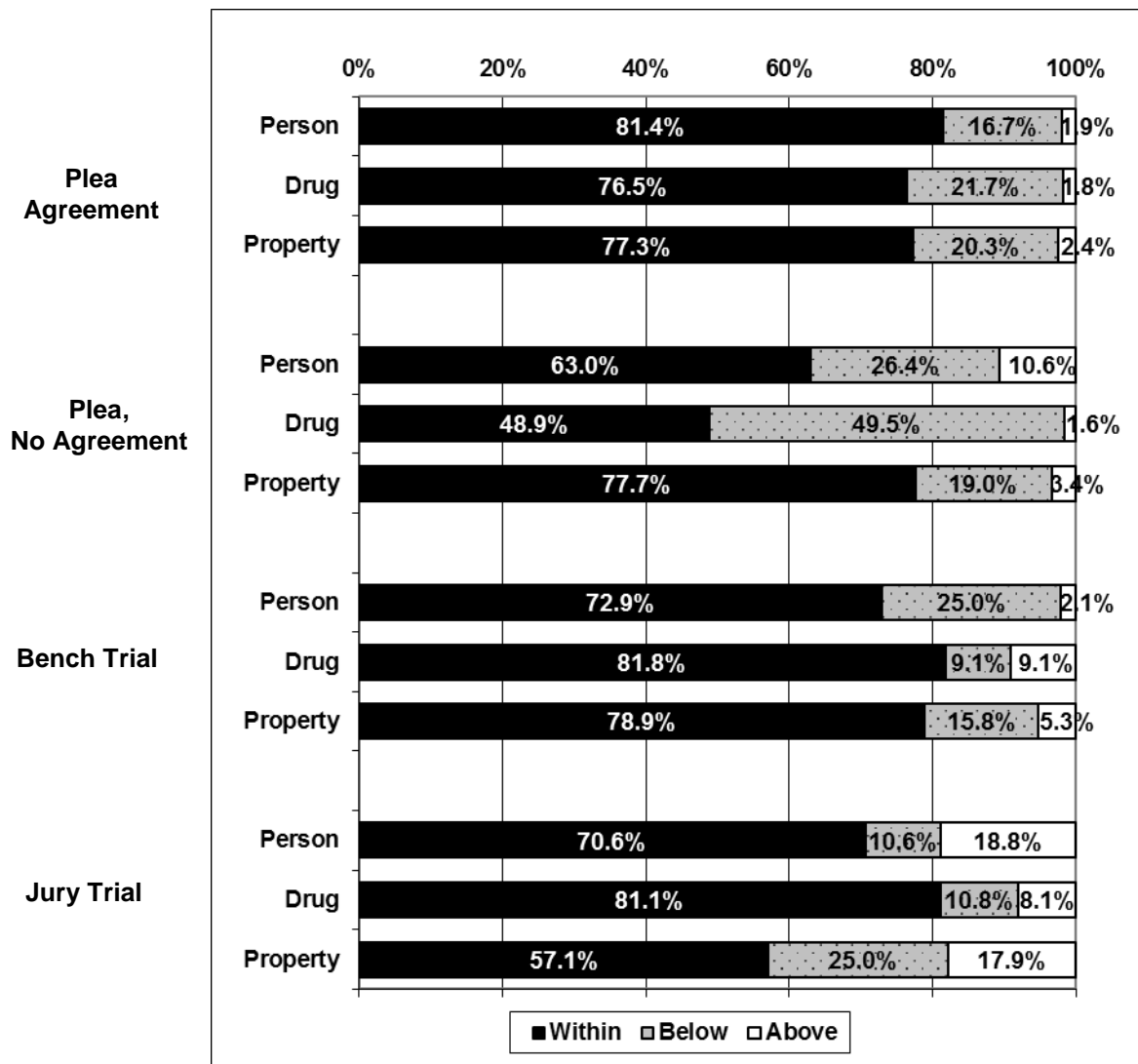
Figure 15. Sentencing Guidelines Compliance by Type of Disposition and Fiscal Year



Judicial Compliance Rates by Crime Category and Disposition

Figure 16 displays compliance rates by crime category and disposition for fiscal year 2014. Some of the rates are based on a very small number of cases. For example, the MSCCSP received only 11 worksheets in fiscal year 2014 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 2014



Drug offenses adjudicated by a bench trial (81.8%) had the highest compliance, followed closely by person offenses adjudicated by a plea agreement (81.4%) and drug offenses adjudicated by a jury trial (81.1%). Three compliance rates fell short of the benchmark of 65%: drug offenses resolved by a plea with no agreement (48.9%), property offenses resolved by a jury trial

(57.1%), and person offenses resolved by a plea with no agreement (63%). Upward departures were most common among person offenses disposed of by a jury trial (18.8%), while downward departures occurred most often among drug offenses disposed of by a plea with no agreement (49.5%).

Departure Reasons

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 2014, the reason for departure was provided in 45.5% of all departure cases. This represents a very slight increase in reporting from fiscal year 2013 (45.1%). The MSCCSP staff will continue to emphasize the need to include a reason for departure when providing training sessions. Additionally, the automated sentencing guidelines system will continue to help facilitate the collection of departure reasons, as the departure reason is a required field necessitating completion prior to the electronic submission of any sentence identified as a departure from the guidelines.

Tables 5 and 6 display the reasons given for departures from the guidelines in fiscal year 2014. The tables include all of the reasons listed on the reference card as well as the most commonly cited “other” reasons. Table 5 provides a rank order of the mitigating reasons judges provided for cases where the sentence resulted in a downward departure. The first row of the table shows that in 55.6% 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 5. Departure Reasons for Cases Below the Guidelines, Fiscal Year 2014*

Mitigating Reasons	Percent of Departures Where Reason is Cited	Valid Percent[†]
<i>No Departure Reason Given</i>	55.6%	---
The parties reached a plea agreement that called for a reduced sentence	21.1%	47.6%
Recommendation of State's Attorney or Division of Parole and Probation	9.4%	21.2%
Offender's commitment to substance abuse treatment or other therapeutic program	8.5%	19.2%
Offender's minor role in the offense	2.5%	5.5%
Offender's age/health	2.2%	4.9%
Offender made restorative efforts after the offense	2.1%	4.6%
Weak facts of the case	1.4%	3.3%
Offender's prior criminal record not significant	1.3%	2.9%
Offender had diminished capability for judgment	1.2%	2.6%
Victim's participation in the offense lessens the offender's culpability	0.9%	2%
Offender was influenced by coercion or duress	0.3%	0.6%
Other reason (not specified above)	7.5%	16.8%

* Each case may cite multiple reasons.

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

Table 6 provides a rank order of the aggravating reasons judges provided for cases where the sentence resulted in an upward departure. The first row of the table shows that in 45.6% 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) the vicious or heinous nature of the conduct.

Table 6. Departure Reasons for Cases Above the Guidelines, Fiscal Year 2014*

Aggravating Reasons	Percent of Departures Where Reason is Cited	Valid Percent[†]
<i>No Departure Reason Given</i>	45.6%	---
Recommendation of State's Attorney or Division of Parole and Probation	21.2%	39%
The level of harm was excessive	10.6%	19.5%
The vicious or heinous nature of the conduct	8.3%	15.3%
Offender's major role in the offense	6.9%	12.7%
Special circumstances of the victim	6%	11%
Offender's significant participation in major controlled substance offense	3.7%	6.8%
Offender's prior criminal record significant	2.8%	5.1%
Offender exploited a position of trust	2.8%	5.1%
Offender committed a "white collar" offense	0.9%	1.7%
Other reason (not specified above)	14.3%	26.3%

* Each case may cite multiple reasons.

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

ADDITIONAL INFORMATION COLLECTED IN RESPONSE TO LEGISLATIVE MANDATES

Report on Adjustments from Reconsidered Sentences Involving Crimes of Violence

CP, §6-209 requires the MSCCSP 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 7 reviews reconsidered sentences reported to the MSCCSP for crimes of violence as defined in CR, §14-101 for fiscal year 2014 by circuit. The table uses data on reconsidered sentences for eight offenders and seventeen offenses. This represents little change from fiscal year 2013 when the MSCCSP received worksheets on reconsiderations for crimes of violence for seven offenders and ten offenses. Robbery (CR, §3-402) was the most common violent offense in reconsidered cases reported to the MSCCSP in fiscal year 2014.

Table 7. Reconsiderations for Crimes of Violence (CR, §14-101), Fiscal Year 2014*

Circuit	Offense	N
SECOND	Murder, 1 st Degree	2
SIXTH	Assault, 1 st Degree	1
	Firearm Use in Felony or Crime of Violence	2
	Murder, 1 st Degree	1
	Robbery	5
	Robbery with Dangerous Weapon	1
SEVENTH	Firearm Use in Felony or Crime of Violence	1
	Murder, 1 st Degree	1
	Robbery	1
	Robbery with Dangerous Weapon	1
EIGHTH	Assault, 1 st Degree	1

* Table 7 is based on reconsidered sentences for 8 offenders and 17 offenses.

Economic Loss in Title 7 and Title 8 Crimes

CP, §6-214 instructs 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.⁷ In fiscal year 2014, sentencing guidelines worksheets reported 1,349 sentences for theft, fraud, and related crimes to the MSCCSP. Only 439 (32.5%) 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 \$1,007,457. The mean (average) amount of loss was \$17,739, while the median (middle) amount of loss was \$2,850. 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; misdemeanor theft or theft scheme, less than \$1,000; or felony theft or theft scheme, at least \$10,000 but less than \$100,000* (Criminal Law Article, §7-104).

⁷ The MSCCSP adopted the following definition of economic loss: the amount of restitution ordered by a circuit court judge or, if not ordered, the full amount of restitution that could have been ordered (COMAR 14.22.01.02.B(6-1)).

PLANNED ACTIVITIES FOR 2015

The MSCCSP has identified several important activities for 2015. The MSCCSP will continue to administer the state's sentencing guidelines. To this end, the MSCCSP will perform 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 enacted during the 2015 Legislative Session and adopt seriousness categories for these offenses.

Furthermore, the MSCCSP will deploy MAGS to continue a gradual statewide roll-out of the automated system. 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, MDEC.

The MSCCSP will further work with the research team at the CCJS Department at the University of Maryland to complete the risk assessment feasibility study to determine 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 the CCJS Department to seek funding to conduct an empirical review of the juvenile delinquency component of the Offender Score. Finally, the MSCCSP will continue to work to enhance the scope and accuracy of the sentencing/correctional simulation model.

The activities described above are just a few of the many steps that will be taken by the MSCCSP in 2015 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

Sentencing Matrix for Drug Offenses (Revised 10/2001)								
Offender Score								
Offense Seriousness Category	0	1	2	3	4	5	6	7 or more
VII	P	P	P	P-1M	P-3M	P-6M	3M-6M	6M-2Y
VI	Available for future use. There are currently no seriousness category VI drug offenses.							
V	P-6M	P-12M	3M-12M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y
IV	P-12M	P-18M	6M-18M	1Y-2Y	1.5Y-2.5Y	2Y-3Y	3Y-4Y	3.5Y-10Y
III-A Marijuana import 45 kilograms or more, and MDMA over 750 grams	P-18M	P-2Y	6M-2Y	1Y-4Y	2Y-6Y	3Y-8Y	4Y-12Y	10Y-20Y
III-B Non-marijuana and non- MDMA, Except Import	6M-3Y	1Y-3Y	18M-4Y	3Y-7Y	4Y-8Y	5Y-10Y	7Y-14Y	12Y-20Y
III-C Non-marijuana and non- MDMA, Import	1Y-4Y	2Y-5Y	3Y-6Y	4Y-7Y	5Y-8Y	6Y-10Y	8Y-15Y	15Y-25Y
II	20Y-24Y	22Y-26Y	24Y-28Y	26Y-30Y	28Y-32Y	30Y-36Y	32Y-37Y	35Y-40Y

P=Probation, M=Months, Y=Years

Sentencing Matrix for Property Offenses (Revised 7/2001)								
Offender Score								
Offense Seriousness Category	0	1	2	3	4	5	6	7 or more
VII	P-1M	P-3M	3M-9M	6M-1Y	9M-18M	1Y-2Y	1Y-3Y	3Y-5Y
VI	P-3M	P-6M	3M-1Y	6M-2Y	1Y-3Y	2Y-5Y	3Y-6Y	5Y-10Y
V	P-6M	P-1Y	3M-2Y	1Y-3Y	18M-5Y	3Y-7Y	4Y-8Y	8Y-15Y
IV	P-1Y	3M-2Y	6M-3Y	1Y-4Y	18M-7Y	3Y-8Y	5Y-12Y	10Y-20Y
III	P-2Y	6M-3Y	9M-5Y	1Y-5Y	2Y-8Y	3Y-10Y	7Y-15Y	15Y-30Y
II	2Y-5Y	3Y-7Y	5Y-8Y	5Y-10Y	8Y-15Y	10Y-18Y	12Y-20Y	15Y-40Y

P=Probation, M=Months, Y=Years

Appendix B:

Maryland Sentencing Guidelines Worksheet (version 1.8)

MARYLAND SENTENCING GUIDELINES WORKSHEET										OFFENDER NAME - Last, First, Middle				SID#		SEX M ___ F ___		BIRTHDATE		JURISDICTION															
PSI		DATE OF OFFENSE		DATE OF SENTENCING		DISPOSITION TYPE		MD CODE, ART, & SECTION		I-VII		CJIS CODE		STAT. MAX		MAND. MIN		CASE # / DOCKET #																	
AT THIS SENTENCING, NUMBER OF:		CONVICTED OFFENSES		CRIMINAL EVENTS		WORKSHEET # ___ OF ___		CRIMINAL EVENT # ___																											
CONVICTED OFFENSE TITLE 1 st Convicted Offense _____ 2 nd Convicted Offense _____ 3 rd Convicted Offense _____																																			
OFFENSE SCORE(S) – Offense Against a Person Only <table border="0" style="width: 100%;"> <tr> <td colspan="5">A. Seriousness Category</td> <td colspan="5">OFFENDER SCORE</td> </tr> <tr> <td>1st Off</td> <td>2nd Off</td> <td>3rd Off</td> <td>4th Off</td> <td>5th Off</td> <td> A. Relationship to CJS When Instant Offense Occurred 0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision 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 C. Prior Adult Criminal Record 0 = None 3 = Moderate 1 = Minor 5 = Major D. Prior Adult Parole/Prob Violation 0 = No 1 = Yes </td> </tr> </table>										A. Seriousness Category					OFFENDER SCORE					1 st Off	2 nd Off	3 rd Off	4 th Off	5 th Off	A. Relationship to CJS When Instant Offense Occurred 0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision 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 C. Prior Adult Criminal Record 0 = None 3 = Moderate 1 = Minor 5 = Major D. Prior Adult Parole/Prob Violation 0 = No 1 = Yes	GUIDELINES RANGE 1 st Con. Off. _____ TO _____ 2 nd Con. Off. _____ TO _____ 3 rd Con. Off. _____ TO _____									
A. Seriousness Category					OFFENDER SCORE																														
1 st Off	2 nd Off	3 rd Off	4 th Off	5 th Off	A. Relationship to CJS When Instant Offense Occurred 0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision 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 C. Prior Adult Criminal Record 0 = None 3 = Moderate 1 = Minor 5 = Major D. Prior Adult Parole/Prob Violation 0 = No 1 = Yes																														
ACTUAL SENTENCE – Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Home Detention, Etc.) 1 st Convicted Offense _____ 2 nd Convicted Offense _____ 3 rd Convicted Offense _____										ADDITIONAL INFORMATION For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____ For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____ For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____																									
OFFENSE SCORE(S) 1 st Off _____ 2 nd Off _____ 3 rd Off _____ 4 th Off _____ 5 th Off _____ 6 th Off _____ 7 th Off _____ 8 th Off _____ 9 th Off _____ 10 th Off _____										OFFENSE SCORE(S) 1 st Off _____ 2 nd Off _____ 3 rd Off _____ 4 th Off _____ 5 th Off _____ 6 th Off _____ 7 th Off _____ 8 th Off _____ 9 th Off _____ 10 th Off _____																									
VICTIM INFORMATION Victim _____ Yes _____ No _____ Victim Non-participation _____ Yes _____ No _____ Victim Notification Form _____ 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 Requested _____ Yes _____ No _____ No Contact Ordered _____ Yes _____ No _____										SENTENCE DEPARTURE INFORMATION 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. Departure Code 9 or 18 (Please Explain): _____ _____ _____ _____																									
ADDITIONAL INFORMATION Drug Court _____ Yes _____ No _____ Was the offender sentenced to a Corrections Options program under Commission criteria? _____ For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____ For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____ For Theft, Fraud, and Related Crimes, please indicate: Economic loss \$ _____; Restitution Requested _____; Restitution Proven _____										ADDITIONAL INFORMATION Additional Information or Institutional/Parole Recommendation _____ Sentencing Judge (Please Print) _____ 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 2014 (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 nd Degree	835	83.2%	12.8%	4%	69.6%	5.1 years	1.2 years
Robbery	476	83.8%	12.8%	3.4%	89.3%	8.1 years	2.3 years
Robbery with Dangerous Weapon	242	66.1%	33.9%	0%	92.1%	11.4 years	4 years
Assault, 1 st Degree	212	60.4%	37.7%	1.9%	93.4%	12.8 years	4.3 years
Handgun, unlawful wearing or carrying, 1 st weapon offense	160	86.2%	13.2%	0.6%	64.4%	2.3 years	0.8 years
Drug Offenses							
Distribution Marijuana	814	82.1%	17.6%	0.4%	51.8%	2.8 years	0.7 years
Distribution Cocaine	672	61.6%	38.1%	0.3%	72.9%	8 years	2.8 years
Distribution Heroin	639	63.5%	35.7%	0.8%	71.5%	8 years	2.3 years
Possession Marijuana	274	88.7%	2.2%	9.1%	37.6%	0.7 years	0.2 years
Distribution Narcotic (drug not identified)	113	67.3%	30.1%	2.7%	86.7%	9.5 years	3.8 years
Property Offenses							
Burglary, 1 st Degree	340	69.4%	28.8%	1.8%	80.6%	9 years	3 years
Theft or Theft Scheme, At Least \$1,000 but Less Than \$10,000	258	81.8%	17.1%	1.2%	74%	6 years	2 years
Burglary, 2 nd Degree	186	71%	28%	1.1%	79.6%	7.2 years	2.3 years
Theft or Theft Scheme, Less Than \$1,000	169	75.1%	19.5%	5.3%	63.9%	1.3 years	0.6 years
Burglary, 4 th Degree	117	76.1%	16.2%	7.7%	64.1%	2.2 years	0.8 years

Appendix D:

Description of Types of Disposition

Disposition Type	Description
ABA Plea Agreement	The disposition resulted from a plea agreement that the court approved relating to a particular sentence, disposition, or other judicial action, and the agreement is binding on the court under Maryland Rule 4-243 (c).
Non-ABA Plea Agreement	The disposition resulted from a plea agreement reached by the parties but that was not approved by, and thus not binding on, the court.
Plea, No Agreement	The defendant pled guilty without any agreement from the prosecutor or judge to perform in a particular way.
Bench Trial	The disposition resulted from a trial without a jury in which the judge decided the factual questions.
Jury Trial	The disposition resulted from a trial in which the jury decided the factual questions.
Reconsideration	Reconsideration of a previously imposed sentence.
Review	Pursuant to Criminal Procedure Article, §8-105, a panel review of a previously imposed sentence.

Appendix E:

Common Departure Reasons Listed on the Sentencing Guidelines Departure Reference Card

Departure Code	Mitigating Reasons
1	The parties reached a plea agreement that called for a reduced sentence.
2	Offender's minor role in the offense.
3	Offender was influenced by coercion or duress.
4	Offender had diminished capability for judgment.
5	Offender made restorative efforts after the offense.
6	Victim's participation in the offense lessens the offender's culpability.
7	Offender's commitment to substance abuse treatment or other therapeutic program.
8	Recommendation of State's Attorney or Division of Parole and Probation.
9	Other reason (not specified above).
Departure Code	Aggravating Reasons
10	Offender's major role in the offense.
11	The level of harm was excessive.
12	Special circumstances of the victim.
13	Offender exploited a position of trust.
14	Offender committed a "white collar" offense.
15	Offender's significant participation in major controlled substance offense.
16	The vicious or heinous nature of the conduct.
17	Recommendation of State's Attorney or Division of Parole and Probation.
18	Other reason (not specified above).