



Minutes

Maryland State Commission on Criminal Sentencing Policy
Miller Senate Office Building
Annapolis, MD 21401
June 25, 2013

Commission Members in Attendance:

Honorable Diane O. Leasure, Chair
Delegate Curtis S. Anderson
William Davis, Esquire, *representing Public Defender Paul B. DeWolfe*
Richard A. Finci, Esquire
Senator Lisa A. Gladden
Senator Delores G. Kelley
Megan Limarzi, Esquire, *representing Attorney General Douglas F. Gansler*
Honorable Laura L. Martin
Secretary Gary D. Maynard
Honorable Alfred Nance
Delegate Joseph F. Vallario, Jr.

Staff Members in Attendance:

Marlene Akas
David Soulé, Ph.D.
Christina Stewart

Visitors:

Kieran Dowdy, Department of Public Safety and Correctional Services
Nicole Lang, MSCCSP Intern
Shaun Nash, MSCCSP Intern
Trey Parsons, MSCCSP Intern
Claire Rossmark, Department of Legislative Services
Webster Ye, Assistant to Delegate Vallario

1. Call to order

Judge Leasure introduced Kieran Dowdy as the new proxy for Secretary Maynard and called the meeting to order.

2. Roll call and declaration of quorum

The meeting began at 4:41 p.m. when quorum was reached.

3. Approval of minutes, May 14, 2013 meeting

The minutes were approved as amended.



4. Report from the Executive Director – Dr. David Soulé

Dr. Soulé introduced the MSCCSP summer interns Nicole Lang, Shaun Nash, and Trey Parsons.

Dr. Soulé then provided an update on the issue of defense attorneys in Montgomery County not receiving a copy of the MAGS-generated sentencing guidelines worksheet along with the pre-sentence investigation (PSI) report. Dr. Soulé reported that upon notification of this issue, Scott Adkins, Montgomery County Parole & Probation Field Supervisor took action immediately and instructed all Parole & Probation agents in Montgomery County to attach a copy of the MAGS PDF worksheet to PSI reports that are delivered electronically. Mr. Finci raised a new issue related to the electronic transmission of MAGS PDF worksheets. Mr. Finci noted that when the MAGS PDF worksheets are sent electronically from Parole & Probation agents, the information on the worksheets is being cut off. Dr. Soulé indicated that the staff would investigate this new issue.

Dr. Soulé next noted that he is continuing annual meetings with county administrative judges, trying to reach at least one-third of the state during the summer months. He reported that bench meetings with the 1st and 2nd Circuits are scheduled for September and November. These meetings provide an excellent opportunity to review guidelines compliance data from the respective jurisdictions, address areas of the guidelines worksheet in need of review, and solicit feedback from judges on the potential implementation of MAGS in their respective counties.

Last, Dr. Soulé reported that applications are currently being received for the new Program Analyst position and that the next steps will be the interview and selection process.

5. Report from the Guidelines Subcommittee – Laura Martin

Judge Leasure noted that Laura Martin would present the report of the Guidelines Subcommittee on behalf of Judge Morrissey.

A. Review and classification of new and/or revised offenses from 2013 Legislative Session

Ms. Martin reviewed the memorandum prepared by MSCCSP staff on recommended seriousness categories for new and/or revised offenses passed during the 2013 Legislative session.

i. HB 311 – Abuse and Other Offensive Conduct – Failure to report disappearance of a minor (CR, §3–608)

The Subcommittee recommended that HB 311, failure to report the disappearance of a minor and failure to report the death of a minor each be assigned a seriousness category of VI. Judge Nance questioned whether failure to report the disappearance of a minor should be assigned the same seriousness category as failure to report the death of a minor. Judge Leasure noted that both offenses were assigned the same maximum penalty by the Legislature, a fact that was considered by the Guidelines Subcommittee. Ms. Martin explained that Caylee Anthony’s law was the basis of the bill and that the length of time of the disappearance would lead to a parent being charged. Ms. Rossmark read the bill to the Commission members. Delegate Vallario emphasized that the bill states that parents may not “recklessly and willfully” fail to notify the disappearance of a child under the age of thirteen (13).



The Commission adopted the Guidelines Subcommittee's proposed seriousness category of VI for this offense with three (3) votes in opposition.

ii. HB 311 – Abuse and Other Offensive Conduct – Failure to report death of a minor (CR, §3-609)

The Commission adopted the Subcommittee's proposed seriousness category of VI for this offense, noting three (3) votes in opposition.

iii. HB 709/SB 444 – Accessory after the Fact – Accessory after the Fact – 1st degree murder (CR §1-301)

Ms. Martin reported that the Guidelines Subcommittee was unable to reach a consensus on a recommendation for the seriousness category for HB 709/SB 444, accessory after the fact to 1st degree murder and accessory after the fact to 2nd degree murder. She explained that a category IV was suggested by MSCCSP staff and agreed upon by some Subcommittee members because the Legislature felt that the offenses were serious enough to make separate from other accessory after the fact felony offenses, and thus raised the penalty from five to ten years. Ms. Martin noted that other Subcommittee members believed a category V should be assigned, as the seriousness of the offense would be accounted for in the additional points awarded for death or permanent injury for the murder in the calculation of the Offense Score. The Subcommittee requested additional statistical data from MSCCSP staff, which was included in the memorandum. Mr. Finci added that the Subcommittee discussed the unusual nature of accessory after the fact, as it is a person offense that only carries a five- (5) year statutory maximum penalty. He noted that the Legislature's purpose was answered by operation of increasing the maximum penalty. Under the current person sentencing matrix, without changing the classification of the offense, offenders with a longer criminal history will now receive a lengthier guidelines-recommended sentence, since previously the five-year statutory maximum was the cap. Delegate Vallario commented that accessory after the fact is a nonviolent crime and the Legislature acted to give judges the authority to sentence down with suspended time for this offense.

A motion was made to assign a seriousness category of V for accessory after the fact to 1st degree murder. The Commission adopted the proposed seriousness category of V for this offense, noting one (1) vote in opposition.

iv. HB 709/SB 444 – Accessory after the Fact – Accessory after the Fact – 2nd degree murder (CR, §1-301)

The Commission adopted the proposed seriousness category of V for this offense, noting one (1) vote in opposition.

v. HB 941/SB 770 – False Statements, Other – File false lien or encumbrance or make false statement on lien or encumbrance, 1st offense (CR, §3-807)

By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VII for this offense.



- vi. HB 941/SB 770 – False Statements, Other – File false lien or encumbrance or make false statement on lien or encumbrance, *subsequent offense* (CR, §3-807)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VI for this offense.
- vii. SB 19/HB 12 – Stalking and Harassment – Aiming laser pointer at aircraft (CR, §3-807)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VI for this offense.
- viii. SB 281/HB 294 – Weapons Crimes – In General – Possess or use restricted firearm ammunition in a Crime of Violence (CR, §4-110)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of V for this offense.
- ix. SB 281/HB 294 – Weapons Crimes – In General – Possession of ammunition by a restricted person or after having been convicted of a Crime of Violence or select drug crimes (PS, §5-133.1)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- x. SB 281/HB 294 – Weapons Crimes – In General – Failure by licensed firearms dealer to comply with record-keeping and reporting requirements, *subsequent offense* (PS, §5-145)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VI for this offense.
- xi. SB 383/HB 291 – Commercial Fraud, Other – Violation of any provision of Maryland Mortgage Assistance Relief Services Act (RP, §7-509(a))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VI for this offense.
- xii. HB 396/SB 1052 – Telecommunication and Electronics, Crimes Involving – Use an interactive computer service to inflict emotional distress on a minor or place a minor in fear of death or serious bodily injury (CR, §3-805(b)(2))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xiii. HB 631/SB 534 – Abuse and Other Offensive Conduct – Prevent or interfere with the making of a report of suspected child abuse or neglect (FL, §5-705.2)
Mr. Davis noted that the offense of child neglect has a seriousness category of VI and questioned why preventing or interfering with a report of neglect should carry a greater seriousness category than the neglect itself. Ms. Martin noted that the offense also pertains to preventing or interfering with a report of child abuse, and child abuse has a seriousness category of IV. She further explained that the Subcommittee likened the offense to an obstruction of justice, which is a category V offense. Mr. Davis stated his concern was that the actual neglect of the child is considered a less serious offense than a third party’s interference with a second



party's reporting of the neglect. Senator Kelley responded by noting that Maryland is one of three states with no statute to penalize parties who should report neglect or abuse but do not. Senator Kelley clarified that the statute was specific to law enforcement, social workers, teachers and medical practitioners, that is, only professionals with a license and not regular caretakers. She elaborated that the bill does not sanction the general public, but individuals who have a statutory requirement to report and fail to do so.

The Commission adopted the Subcommittee's proposed seriousness category of V for this offense, noting three (3) votes in opposition.

- xiv. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 2nd offense (BR, §5-610(a)(2), (b)(2))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VII for this offense.
- xv. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 3rd or subsequent offense (BR, §5-610(a)(3), (b)(2))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VI for this offense.
- xvi. HB 349 – Commercial Fraud, Other – Misappropriation or fraudulent conversion of perpetual care trust funds in excess of \$100 (BR, §5-610(c))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of V for this offense.
- xvii. HB 349 – Commercial Fraud, Other – Failure to deposit money received under or in connection with preneed burial contract, 2nd offense (BR, §5-712(b)(1)(II), (b)(2)(II))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VII for this offense.
- xviii. HB 349 – Commercial Fraud, Other – Failure to deposit money received under or in connection with preneed burial contract, 3rd or subsequent offense (BR, §5-712(b)(1)(III), (b)(2)(III))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VI for this offense.
- xix. HB 349 – Commercial Fraud, Other – Misappropriation or fraudulent conversion of preneed trust funds in excess of \$100 (BR, §5-712(c))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of V for this offense.
- xx. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 2nd offense (BR, §5-904(2))
By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of VII for this offense.



- xxi. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 3rd or subsequent offense (BR, §5-904(3))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VI for this offense.
- xxii. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 1st offense (BR, §5-610(a)(1), (b)(1))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xxiii. HB 349 – Commercial Fraud, Other – Failure to deposit money received under or in connection with preneed burial contract, 1st offense (BR, §5-712(b)(1)(I), (b)(2)(I))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xxiv. HB 349 – Commercial Fraud, Other – Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 1st offense (BR, §5-904(1))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xxv. HB 1088 – Commercial Fraud, Other – Returnable containers and returnable textiles – use registered returnable container of another with contents of a nature different from that delivered; sell, buy, rent, or otherwise traffic in a registered returnable textile of another; deface, remove, conceal or destroy an identifying name, mark, or device attached, impressed, or imprinted on a returnable container or returnable textile of another; break, destroy, or otherwise injure a returnable container or returnable textile of another; etc., 1st offense (BR, §19-304, BR, §19-308)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xxvi. HB 1088 – Commercial Fraud, Other – Returnable containers and returnable textiles – use registered returnable container of another with contents of a nature different from that delivered; sell, buy, rent, or otherwise traffic in a registered returnable textile of another; deface, remove, conceal or destroy an identifying name, mark, or device attached, impressed, or imprinted on a returnable container or returnable textile of another; break, destroy, or otherwise injure a returnable container or returnable textile of another; etc., subsequent offense (BR, §19-304, BR, §19-308)
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of VII for this offense.
- xxvii. HB 126 – Consumer Protection Laws – Violation of any provision of Title 13 – Consumer Protection Act (CL, §13-411)
Ms. Martin noted that the language which increased the penalty for this offense was stricken by the Legislature in the final enrolled version of this bill, and thus no action was required of the Commission.



xxviii. HB 1396 – Bad Checks - Misdemeanor theft or theft scheme, less than \$1,000 (CR, §8-106(c))

Ms. Martin explained that it was the Guidelines Subcommittee's understanding that the Legislature amended the offenses pertaining to bad checks, credit card crimes, extortion, and identity fraud to mirror the current theft laws. Accordingly, the Guidelines Subcommittee mirrored the theft laws in its recommended seriousness categories for these offenses.

Senator Kelley commented that her concern is with the presumption that if an individual writes a bad check, it is intentional. She noted that in thirteen jurisdictions in Maryland, State's Attorneys work with private vendors to utilize diversion contractors to obtain payment and avoid prosecution for bad checks. Ms. Martin indicated that vendors are required to send notice to and allow an individual time to pay the bad check prior to the case being brought for prosecution.

Mr. Finci pointed out the recent United States Supreme Court decision in *Peugh v. United States*, as it relates to the issue of increasing the seriousness categories for offenses. The Supreme Court held that applying higher sentencing guidelines retroactively is a violation of the Constitution's Ex Post Facto Clause. Mr. Finci noted that Maryland's current rule to apply the guidelines in effect at the time of sentencing may need to be revisited in light of this decision. Ms. Martin noted the discrepancy between sentencing practice in Maryland, which utilizes the guidelines currently in effect, and Maryland's charging practice, which uses the statute in place at the time of the offense. Dr. Soulé added that the current seriousness category for the offense would be used, but the sentencing guidelines would be capped at the statutory maximum that was in effect at the time of the offense. Dr. Soulé noted that logistically, the Commission's decision to use the guidelines in effect at the time of sentencing prevented the need to have multiple sets of guidelines available for each time seriousness category levels change. Ms. Martin suggested that this issue be placed on the agenda for the next meeting. Senator Kelley pointed out that Maryland's sentencing guidelines are not prescriptive nor presumptive, rather, they are descriptive of what judges are doing. Thus, it is the Conference of Circuit Court Judges, not the Commission, that should be concerned with the applicability of *Peugh*.

Delegate Vallario noted that writing a bad check is not a violent crime and the individual does not necessarily obtain goods from the commission of the act, unlike a theft. Delegate Vallario explained that the Legislature increased the penalty to empower judges and allow for discretion, but that he believes the seriousness category should not be changed. Mr. Finci commented that the revisions appear to mirror the federal sentencing guidelines, where the amount of loss is what is relevant; yet, as pointed out by Delegate Vallario, in the case of bad checks there is no actual loss. Mr. Finci suggested making a new departure reason for theft cases in which no actual loss occurred.

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.



- xxix. HB 1396 – Bad Checks – Felony Bad Check, at least \$1,000 but less than \$10,000 (CR, §8-106(a)(1))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.
- xxx. HB 1396 – Bad Checks – Felony Bad Check, at least \$10,000 but less than \$100,000 (CR, §8-106(a)(2))
A motion was made to amend the Subcommittee’s recommendation of seriousness categories for Felony Bad Check, at least \$10,000 but less than \$100,000 and Felony Bad Check, \$100,000 or greater so that they remain as seriousness category V offenses. The Commission adopted the proposed amendment to the Guidelines Subcommittee’s recommendation by a vote of 7-3 with one (1) abstention.
- xxxi. HB 1396 – Bad Checks – Felony Bad Check, \$100,000 or greater (CR, §8-106(a)(3))
The Commission adopted the proposed amendment to the Guidelines Subcommittee’s recommendation from a seriousness category II to a seriousness category V, noting three (3) votes in opposition and one (1) abstention.
- xxxii. HB 1396 – Bad Checks – Multiple bad checks within a 30-day period, each less than \$1,000 and totaling \$1,000 or more (CR, §8-106(b))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.
- xxxiii. HB 1396 – Credit Card Crimes – Misdemeanor credit card crimes, less than \$1,000 (CR, §8-206(c)(2), CR, §8-207(b)(2), CR, §8-209(b)(2))
A motion was made to amend the Guidelines Subcommittee’s recommendation of seriousness category II for Felony credit card crimes, \$100,000 or greater and seriousness category IV for Felony credit card crimes, at least \$10,000 but less than \$100,000 to seriousness category V for both of the offenses.

Senator Kelley inquired what else would constitute a credit card offense aside from identity theft. Ms. Martin responded that in this context, the offense is essentially a theft. Ms. Martin reminded the Commission that its role is to look at comparable offenses. She noted that this Commission decided that theft over \$100,000 is a seriousness category II offense, and the Guidelines Subcommittee’s recommendations for these offenses were made to mirror those for the theft offenses. Delegate Anderson questioned whether there are instances in which a credit card offense does not result in a loss. Ms. Martin responded that it often depends on the credit card company as to whether the victim is reimbursed for the loss. Delegate Anderson then asked if Ms. Martin had prosecuted any credit card cases in which the loss was greater than \$100,000. Ms. Limarzi replied that this is a routine scenario in State prosecutions, particularly where state employees have used state-issued credit cards for personal use. Delegate Vallario noted that the statutory maximum penalty for these offenses has increased from fifteen years of imprisonment to twenty-five years to give judges additional authority in sentencing.



No change was recommended by the Guidelines Subcommittee for Misdemeanor credit card crimes, less than \$1,000, with the offense to remain a seriousness category VII offense.

- xxxiv. HB 1396 – Credit Card Crimes – Felony credit card crimes, at least \$1,000 but less than \$10,000 (CR, §8-206(c)(1)(I), CR, §8-207(b)(1)(I), CR, §8-209(b)(1)(I))

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.

- xxxv. HB 1396 – Credit Card Crimes – Felony credit card crimes, at least \$10,000 but less than \$100,000 (CR, §8-206(c)(1)(II), CR, §8-207(b)(1)(II), CR, §8-209(b)(1)(II))

The Commission adopted the proposed amendment to the Guidelines Subcommittee's recommendation from a seriousness category IV to a seriousness category V, noting three (3) votes in opposition and two (2) abstentions.

- xxxvi. HB 1396 – Credit Card Crimes – Felony credit card crimes, \$100,000 or greater (CR, §8-206(c)(1)(III), CR, §8-207(b)(1)(III), CR, §8-209(b)(1)(III))

The Commission adopted the proposed amendment to the Guidelines Subcommittee's recommendation from a seriousness category II to a seriousness category V, noting three (3) votes in opposition and two (2) abstentions.

- xxxvii. HB 1396 – Extortion and Other Threats – Misdemeanor Extortion – by anyone, less than \$1,000 (CR, §3-701(d))

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.

- xxxviii. HB 1396 – Extortion and Other Threats – Felony Extortion by anyone, at least \$1,000 but less than \$10,000 (CR, §3-701(c)(1))

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.

- xxxix. HB 1396 – Extortion and Other Threats – Felony Extortion – by anyone, at least \$10,000 but less than \$100,000 (CR, §3-701(c)(2))

By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of IV for this offense.

- xl. HB 1396 – Extortion and Other Threats – Felony Extortion – by anyone, \$100,000 or greater (CR, §3-701(c)(3))

By unanimous vote, the Commission adopted the Subcommittee's proposed seriousness category of II for this offense.

- xli. HB 1396 – Extortion and Other Threats – Misdemeanor Extortion – by State or local officer, less than \$1,000 (CR, §3-702(f))

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.



- xlii. HB 1396 – Extortion and Other Threats – Felony Extortion – by State or local officer, at least \$1,000 but less than \$10,000 (CR, §3-702(c))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.
- xliii. HB 1396 – Extortion and Other Threats – Felony Extortion – by State or local officer, at least \$10,000 but less than \$100,000 (CR, §3-702(d))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of IV for this offense.
- xliv. HB 1396 – Extortion and Other Threats – Felony Extortion – by State or local officer, \$100,000 or greater (CR, §3-702(e))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of II for this offense.
- xliv. HB 1396 – Fraud, Financial Crimes Against Vulnerable Adults – Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, less than \$1,000 (CR, §8-801(c)(2))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.
- xlvi. HB 1396 – Fraud, Financial Crimes Against Vulnerable Adults – Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$1,000 but less than \$10,000 (CR, §8-801(c)(1)(I))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.
- xlvii. HB 1396 – Fraud, Financial Crimes Against Vulnerable Adults – Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$10,000 but less than \$100,000 (CR, §8-801(c)(1)(II))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of IV for this offense.
- xlviii. HB 1396 – Fraud, Financial Crimes Against Vulnerable Adults – Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, \$100,000 or greater (CR, §8-801(c)(1)(III))
By unanimous vote, the Commission adopted the Subcommittee’s proposed seriousness category of II for this offense.
- xlix. HB 1396 – Identity Fraud – Possess, obtain personally identifying information or willfully assume the identity of another; use a re-encoder or skimming device for purpose of identity theft – Benefit less than \$1,000 (CR, §8-301(b),(c),(d), CR, §8-301(g)(2) (penalty))
Judge Nance questioned the meaning of identity theft in this statute. Delegate Anderson commented that it was the use of someone’s Social Security Number to obtain a credit card and the subsequent use of that credit card. Ms. Limarzi expounded on this point by noting that identity theft is the taking on of someone’s personal information. Senator Kelley remarked that such crimes cause long-lasting



damage to the victim. Mr. Davis commented that the crime requires the defendant to have received some benefit.

No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.

- I. HB 1396 – Identity Fraud – Possess, obtain personally identifying information or willfully assume the identity of another; use a re-encoder or skimming device for purpose of identity theft – Benefit at least \$1,000 but less than \$10,000 (CR, §8-301(b),(c),(d), CR, §8-301(g)(1)(I) (penalty))
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category V offense.
- li. HB 1396 – Identity Fraud – Possess, obtain personally identifying information or willfully assume the identity of another; use a re-encoder or skimming device for purpose of identity theft – Benefit at least \$10,000 but less than \$100,000 (CR, §8-301(b),(c),(d), CR, §8-301(g)(1)(II) (penalty))
By unanimous vote, the Commission adopted the Guidelines Subcommittee’s proposed seriousness category of IV for this offense.
- lii. HB 1396 – Identity Fraud – Possess, obtain personally identifying information or willfully assume the identity of another; use a re-encoder or skimming device for purpose of identity theft – Benefit \$100,000 or greater (CR, §8-301(b),(c),(d), CR, §8-301(g)(1)(III) (penalty))
By unanimous vote, the Commission adopted the Guidelines Subcommittee’s proposed seriousness category of II for this offense.
- liii. HB 806 – Fraud, Miscellaneous – Violation of any provision of Health Occupations Article, Title 19, Subtitle 4 (HO, §19-407)
By unanimous vote, the Commission adopted the Guidelines Subcommittee’s proposed seriousness category of VII for this offense.
- liv. HB 900/SB 690 – Fraud, Miscellaneous – Misrepresentation as practitioner of medicine (HO, §14-602, HO, §14-606(a)(4) (penalty))
By unanimous vote, the Commission adopted the Guidelines Subcommittee’s proposed seriousness category of VI for this offense.
- lv. SB 69 – Fraud, Miscellaneous – Willful transportation of unstamped cigarettes or other tobacco products on which tobacco tax has not been paid (TG, §13-1015)
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense.
- lvi. SB 279/HB 224 – Election Offenses – Violate election laws as defined in Election Law Article, §16-201, Annotated Code of Maryland (EL, §16-201)
No change was recommended by the Guidelines Subcommittee, with the offense to remain a seriousness category VII offense



Ms. Martin noted that the legislation listed on pages twenty-four to thirty-one of the memorandum were listed only for informational purposes, as MSCCSP staff and the Guidelines Subcommittee recommended no action on these items. Since there was no change to the penalty structure for these offenses, no action was required.

Ms. Martin concluded by noting that the Guidelines Subcommittee recommended the approval of changes to the Maryland Sentencing Guidelines Manual (MSGM) and COMAR Title 14, Subtitle 22 as suggested by the MSCCSP staff to reflect the repeal of the death penalty. By unanimous vote, the Commission adopted the Subcommittee's proposed changes to the MSGM and COMAR as specified in the memorandum.

B. Review of juvenile delinquency component of Offender Score

Ms. Martin reported that the Guidelines Subcommittee discussed the issue of the juvenile delinquency component of the Offender Score at length and proposed that MSCCSP staff perform an exploratory review of the data sources to determine if there is data available on the correlation between juvenile offending and future recidivism. Senator Kelley noted an additional concern regarding situational aggravating factors and requested that the study include information on disparity in juvenile commitments. Judge Nance recommended that outside sources, such as prosecutors and defense attorneys who specialize in this area of law, also be contacted to conduct an informational presentation for the Commission. Mr. Finci added that the data should include information on what is deemed a commitment in different jurisdictions in Maryland.

6. Date, time, and location for the next Commission meeting

The next meeting was set for Tuesday, October 8, 2013 at the Judiciary Education and Conference Center in Annapolis, MD at 5:30 p.m.

7. Old business

There was no old business to address.

8. New business and announcements

There was no new business.

9. Adjournment

The meeting adjourned at 6:25 p.m.