



Guidelines E-News

Vol. 19, No. 1 – February 2024



IN THIS ISSUE

- *New Maryland Sentencing Guidelines Manual (Version 16.0)*
- *Animals Not Considered Victims in the Multiple Victims Stacking Rule*
- *Guidelines Scoring for Offenses with Statutorily Mandated Consecutive Sentences*
- *Offense Score Calculation for Offenses Involving a Feigned Weapon*
- *Guidelines Scoring for PBJ Pursuant to CP, § 6-220(c)*
- *2023 Annual Report and Updated COV Data Dashboard*

New Maryland Sentencing Guidelines Manual (Version 16.0)

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) released a new version of the [Maryland Sentencing Guidelines Manual](#) (MSGM; Version 16.0). The new MSGM reflects the guidelines revisions detailed below and adopted in the Code of Maryland Regulations (COMAR) effective February 1, 2024. Please discard any prior versions of the MSGM, as information in prior versions may no longer be accurate.

Animals Not Considered Victims in the Multiple Victims Stacking Rule

The MSCCSP clarified the instructions for applying the multiple victims stacking rule (MVSR) to explicitly exclude animals as victims. The MVSR provides that when there is a criminal event with multiple victims and not more than one seriousness category I or II offense, the person completing the sentencing guidelines worksheet shall add the highest of the upper limits of the guidelines ranges for each victim to determine the overall range for the criminal event.

In response to multiple inquiries questioning whether the MVSR may be applied in a criminal event with multiple counts of animal cruelty, each involving a different animal, the Commission considered the issue of animals as victims and concluded that most definitions of the term *victim* specifically cite references to a *person* or an *individual* and do not outwardly encompass animals. As such, the MSCCSP voted at its May 9, 2023, meeting to add clarifying language that explicitly excludes animals from the MVSR. The new language was adopted in COMAR and published in the [MSGM](#) (see Chapter 10.1), effective February 1, 2024.

Guidelines Scoring for Offenses with Statutorily Mandated Consecutive Sentences

The MSCCSP adopted instructions to stack the upper guidelines limits in criminal events involving an offense with a statutorily mandated consecutive sentence (see Table 1 for list of offenses). The instructions specify that when (1) there is a criminal event with multiple offenses and (2) the sentence for one of the offenses is statutorily required to run consecutive to the sentence for another offense in the

same criminal event, the person completing the sentencing guidelines worksheet shall add the upper limits of the guidelines ranges for the offense with a mandatory consecutive sentence and the offense to which its sentence must run consecutive to obtain the upper limit of the overall guidelines range.

The Commission voted at its May 9, 2023, meeting to add these instructions to reflect the increased severity of sentencing events involving offenses with mandatory consecutive sentences. The new language was adopted in COMAR and published in the [MSGM](#) (see Chapter 10.5), effective February 1, 2024.

Table 1. Offenses with Statutorily Mandated Consecutive Sentences

Annotated Code of Maryland	Offense	Statutory Maximum Penalty	Seriousness Category	Offense Type
CR, §3-601.1	Abuse and Other Offensive Conduct Commit crime of violence in the presence of a minor	5Y	VI	Person
CR, §4-306(b)(3)	Assault Weapons Use of assault weapon, rapid fire trigger activator, or magazine with a capacity of more than 10 rounds in the commission of a felony or crime of violence, subsequent	20Y	II	Person
CR, §5-608.1	CDS and Paraphernalia Knowingly violated CR, §5-602 with a mixture of heroin and fentanyl or any analogue of fentanyl; or fentanyl or any analogue of fentanyl	10Y	IIIC	Drug
CR, §5-627	CDS and Paraphernalia Manufacture, distribute, or dispense controlled dangerous substances near schools or on school vehicles, 1st offense	20Y	IIIB	Drug
CR, §5-627	CDS and Paraphernalia Manufacture, distribute, or dispense controlled dangerous substances near schools or on school vehicles, subsequent	40Y	IIIC	Drug
CR, §9-804(f)(1)(i)	Criminal Organizations Participate as member of criminal organization in commission of crime; in receipt and use or investment, of proceeds of \$10,000 or more from underlying crime in the acquisition of real property or establishment or operation of any enterprise; in acquisition or maintenance of any interest or control of any enterprise or property through an underlying crime, subsequent	15Y	One category more serious than most serious underlying offense. If no conviction on underlying offense, category = IV	Person
CR, §9-804(f)(1)(ii)	Criminal Organizations Participate as member of criminal organization in commission of crime—resulting in death of victim	25Y	One category more serious than most serious underlying offense. If no conviction on underlying offense, category = III	Person
CR, §9-805	Criminal Organizations Organize, supervise, finance, or manage a criminal organization	20Y	III	Person

Annotated Code of Maryland	Offense	Statutory Maximum Penalty	Seriousness Category	Offense Type
CR, §5-621(c)	Weapons Crimes—In General Possess, use, wear, carry, or transport a firearm in a drug offense, subsequent	20Y	III	Person
CR, §4-204(c)(2)	Weapons Crimes—In General Unlawful use of firearm in commission of felony or crime of violence, subsequent	20Y	II	Person

Important note regarding MAGS: Programmers are revising the Maryland Automated Guidelines System (MAGS) to account for the newly adopted instructions to stack the guidelines in criminal events involving an offense with a statutorily mandated consecutive sentence. Criminal justice partners will be notified as soon as those revisions are deployed. In the meantime, practitioners completing sentencing guidelines worksheets for affected sentencing events are advised to complete and submit a paper worksheet using the guidelines calculation instructions provided in MSGM 10.5. Paper worksheets may be scanned and emailed to mccsp@umd.edu.

Offense Score Calculation for Offenses Involving a Feigned Weapon

The MSCCSP modified the instructions for scoring weapon presence points for part C of the offense score when the offense involves the presence of a feigned weapon. The revisions address an inconsistency brought to the Commission's attention by an assistant state's attorney.

Weapon presence is scored on a scale from zero to two points, with one point scored for a weapon other than a firearm or explosive and two points scored for a firearm or explosive. The MSGM and COMAR define weapon presence as *the presence of an article or device which reasonably appears capable of causing injury*. Prior to February 1, 2024, the instructions stated that the score shall be zero points if *a weapon was feigned but no weapon was actually present*. Taken together, these instructions are confusing. Although feigned weapons are not real weapons, they can still appear reasonably capable of causing injury.

To eliminate the above inconsistency, the MSGM and COMAR now provide the following instructions concerning feigned weapons:

- If a weapon was feigned but no weapon was actually present, the score shall be 1 (weapon other than a firearm).
- A feigned weapon shall be scored 1 point when an individual intentionally creates the false impression that there is an actual weapon present, including: a finger used to simulate a gun, a written note stating that there is a dangerous weapon present, or a verbal statement that there is a dangerous weapon present.

Additionally, the instructions clarify the scoring of an unloaded firearm:

- An unloaded firearm is considered the same as a loaded firearm.

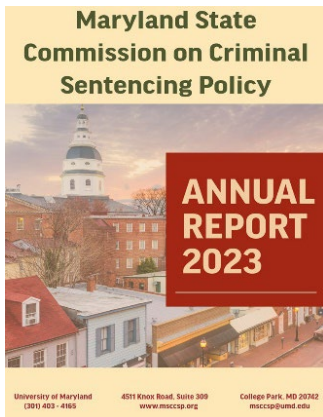
The Commission voted at its September 12, 2023, meeting to modify the instructions, and the new language was adopted in COMAR and published in the [MSGM](#) (see Chapter 2 and Chapter 6.1.C.), effective February 1, 2024.

Guidelines Scoring for PBJ Pursuant to CP, § 6-220(c)

The MSCCSP clarified guidelines scoring for sentences to probation before judgment (PBJ) pursuant to Criminal Procedure Article (CP), § 6-220(c), Annotated Code of Maryland. Effective October 1, 2023, CP, § 6-220(c) authorized a new form of PBJ that allows individuals to plead not guilty while still maintaining the benefits of a traditional PBJ, thus allowing them to avoid the adverse Federal consequences of a traditional PBJ.

The MSCCSP affirmed at its September 12, 2023, meeting that a PBJ pursuant to CP, § 6-220(c) counts towards the calculation of an individual’s prior adult criminal record score (part C of the offender score). Additionally, to provide clarity to practitioners, the MSCCSP approved at its September 12, 2023, meeting three sets of revisions to the MSGM and COMAR: (1) to add an explicit reference to the new PBJ in the definition of adjudication; (2) to replace all references to “adjudication of guilt” with simply “adjudication”; and (3) to replace references to “conviction” with “adjudication” in instances where the intended meaning of “conviction” includes both types of PBJs. These revisions were adopted in COMAR and published in the [MSGM](#), effective February 1, 2024.

2023 Annual Report and Updated COV Data Dashboard



The MSCCSP published its [2023 Annual Report](#). The report details the activities of the MSCCSP during the past year, highlighted by a report and corresponding recommendations addressing racial differences in guidelines-eligible sentencing events. Further, the annual report summarizes circuit court sentencing practices and trends in Maryland for fiscal year 2023, 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 offers a description of planned activities for 2024. Finally, the annual report includes a detailed report on sentences for crimes of

violence (COV) as required by CP, § 6-209(b)(iii). Information supplementing the COV report may be found on the recently updated [Crimes of Violence Data Dashboard](#) on the MSCCSP’s website.

