



METHODOLOGY

Data provided in Issue 5 (July 2021) of the *Sentencing Snapshot* were obtained from sentencing guidelines worksheets submitted to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) via the Maryland Automated Guidelines System (MAGS) or paper guidelines worksheets for sentences imposed from calendar year (CY) 2016 through CY 2020. A sentencing guidelines worksheet is completed for all sentencing events that originate in and are sentenced in Maryland circuit courts. Additionally, a guidelines worksheet is completed for sentencing events involving jury trial prayers and appeals from the District Court if a pre-sentence investigation (PSI) is ordered. A sentencing event is defined as one defendant, sentenced in front of the same judge, on the same day. A sentencing event may contain multiple offenses from multiple crime categories. These analyses exclude sentencing guidelines worksheets submitted for non-original sentencing events, including sentence reconsideration hearings and three-judge panel reviews. From 2016 through 2020, approximately 1% of sentencing events for which a guidelines worksheet was submitted were for sentence reconsideration hearings or three-judge panel reviews. The sentencing guidelines do not apply to violations of probation or parole. The sentencing guidelines do not apply to District Court cases.

Table 1 provides the total number of guidelines-eligible criminal sentencing events and offenses, sentenced from 2016 through 2020 and disaggregated by crime category, for which the MSCCSP received a sentencing guidelines worksheet. The MSCCSP received guidelines worksheets for 47,736 guidelines-eligible, original sentencing events, including 66,363 guidelines-eligible convicted offenses, sentenced in circuit courts in 2016 through 2020.¹ *Sentencing Snapshot #5* focuses specifically on offenses involving the sexual exploitation of minors, including the manufacture, distribution, etc. of child pornography, the possession of child pornography, and sexual solicitation of a minor. The MSCCSP received guidelines worksheets for 605 sentencing events, including 1,039 offenses involving the sexual exploitation of minors, sentenced in circuit courts in 2016 through 2020.

TABLE 1. GUIDELINES-ELIGIBLE CRIMINAL SENTENCING EVENTS AND OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	Offenses			Sentencing Events Included One or More:		
	#	% Total	% Person	#	% Total	% Person
Total person offenses	35,712	53.8%	-	25,578	53.6%	-
Offenses involving the sexual exploitation of minors	1,039	1.6%	2.9%	605	1.3%	2.4%
Total drug offenses	17,682	26.6%	-	15,799	33.1%	-
Total property offenses	12,969	19.5%	-	10,127	21.2%	-
Total offenses	66,363			47,736		

Note. Sentencing event percentages do not sum to 100% as a sentencing event may contain multiple offenses from multiple crime categories.

¹ The MSCCSP staff routinely conducts data checks and corrects errors identified in the data. Therefore, the numbers reported in this *Snapshot* may differ slightly from previous *Snapshots*.



Table 2 provides a count of offenses involving the sexual exploitation of minors, sentenced in Maryland circuit courts, from 2016 through 2020, their statutory sources, their maximum penalties, and their seriousness category classifications.

TABLE 2. OFFENSES INVOLVING THE SEXUAL EXPLOITATION OF MINORS, SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	# Offenses	# Sentencing Events Included One or More	Source	Statutory Maximum	Seriousness Category	Classification
Manufacture, distribution, etc. child pornography - 1st offense	333	234	CR, § 11-207(b)(1)	10Y	IV	Felony
Manufacture, distribution, etc. child pornography - subsequent offense	3	2	CR, § 11-207(b)(2)	20Y	III	Felony
Possession child pornography - 1st offense	564	277	CR, § 11-208(b)(1)	5Y	V	Misdemeanor
Possession child pornography - subsequent offense	8	7	CR, § 11-208(b)(2)	10Y	IV	Felony
Sexual solicitation of a minor or law enforcement officer posing as a minor- 1st offense ²	131	119	CR, § 3-324(d)(1)	10Y	IV	Felony
Sexual solicitation of a minor or law enforcement officer posing as a minor- subsequent offense ^{2,3}	0	0	CR, § 3-324(d)(2)	20Y	III	Felony
Total	1,039	605				

Note. A sentencing event may contain multiple offenses from multiple crime categories.

² Per Chapters 128/129 of the 2020 Laws of Maryland (House Bill 246/Senate Bill 231), effective October 1, 2020, CR, § 3-324 provides that a person may not, with the intent to commit a violation of Criminal Law Article (CR), §3–304, CR, §3–307, CR, §11–303, CR, §11–304, CR, §11–305, CR, §11–306, or CR, §11–30, knowingly solicit the consent of a parent, guardian, or custodian of a minor, or a law enforcement officer posing as a parent, guardian, or custodian of a minor, to engage in activities with the minor that would be unlawful for the person to engage in under CR, §3–304, CR §3–307, CR, §11–303, CR, §11–304, CR, §11–305, CR, §11–306, or CR, §11–307 of this article.

³ Per Chapters 128/129 of the 2020 Laws of Maryland (House Bill 246/Senate Bill 231), effective October 1, 2020, a subsequent violation of CR, § 3-324 is subject to a maximum penalty of 20 years incarceration, a \$50,000 fine, or both. Prior to October 1, 2020, both first and subsequent offenses were subject to a maximum penalty of 10 years, a \$25,000 fine, or both.



Table 3 provides the characteristics of defendants convicted of person offenses in Maryland circuit courts from 2016 through 2020.

TABLE 3. DEMOGRAPHICS OF DEFENDANTS SENTENCED FOR ONE OR MORE PERSON OFFENSES IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	Defendants Sentenced for One or More Person Offense		Defendants Sentenced for One or More Offense Involving the Sexual Exploitation of Minors	
Mean age (years)	31.1 years		37.8 years	
	#	Valid %	#	Valid %
Gender				
Male	21,918	90.2%	586	99.0%
Female	2,371	9.8%	6	1.0%
Missing	1,289		13	
Race				
Black	14,775	64.0%	89	15.9%
White	6,104	26.5%	405	72.5%
Hispanic	1,892	8.2%	51	9.1%
Other	300	1.3%	14	2.5%
Missing	2,507		46	
Prior Record Score				
None	9,332	36.7%	469	77.8%
Minor	5,663	22.3%	81	13.4%
Moderate	5,350	21.0%	37	6.1%
Major	5,096	20.0%	16	2.7%
Missing	137		2	
Total sentencing events	25,578		605	

Note. Each classification includes defendants who were convicted of at least one offense in that crime category. Defendants may be convicted of multiple offenses from multiple crime categories. Race and Ethnicity are separate fields on the sentencing guidelines worksheet. The following selections are available for Race: American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White, Other, and Unknown. The guidelines worksheet preparer may make more than one selection in the Race field. For the purposes of these analyses, the following races were collapsed into the other race category: American Indian or Alaskan Native, Asian, Native Hawaiian or Other Pacific Islander, and Other. Cases in which multiple race options were selected were also classified as other race for the purposes of these analyses. Cases in which “Unknown” race was selected were classified as missing. The Ethnicity field asks if the defendant is of Hispanic or Latino Origin. The possible responses are yes or no. If “yes” was marked in response to Hispanic or Latino Origin, the defendant was defined as Hispanic for the purposes of these analyses, regardless of selections made in the Race field. Valid percentages are based on non-missing data.



Table 4 through Table 7 provide the characteristics of and average sentences for offenses involving the sexual exploitation of minors sentenced in Maryland circuit courts from 2016 through 2020.

TABLE 4. CHARACTERISTICS OF OFFENSES INVOLVING THE SEXUAL EXPLOITATION OF MINORS, SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	All Offenses Involving the Sexual Exploitation of Minors		Manufacture, Distribution, Etc. Child Pornography		Possession Child Pornography		Sexual Solicitation of a Minor	
	#	Valid %	#	Valid %	#	Valid %	#	Valid %
Victim Injury⁴								
None	888	86.3%	283	84.7%	492	87.2%	113	86.3%
Non-permanent injury	136	13.2%	51	15.3%	68	12.1%	17	13.0%
Permanent injury or death	5	0.5%	0	0.0%	4	0.7%	1	0.8%
Missing	10		2		8		0	
Special victim vulnerability								
Yes	557	54.1%	171	51.2%	372	66.0%	14	10.7%
No	472	45.9%	163	48.8%	192	34.0%	117	89.3%
Missing	10		2		8		0	
Weapon Presence								
None	1,028	99.9%	334	100.0%	563	99.8%	131	100.0%
Weapon other than firearm	1	0.1%	0	0.0%	1	0.2%	0	0.0%
Firearm or explosive	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Missing	10		2		8		0	
Total	1,039		336		572		131	

Note. Victim injury is defined in the Maryland Sentencing Guidelines Manual (MSGM, Version 13.0, Chapter 6.1.B) as “physical or psychological injury to the crime victim, the cause of which is directly linked to the conduct of the defendant in the commission of the convicted offense.” Special victim vulnerability is defined in the MSGM (Version 13.0, Chapter 6.1.D) and “refers to cases in which the relative status of the victim tends to render the actions of the perpetrator more serious.” Per the MSGM, “[a] vulnerable victim is anyone: a. Younger than 11 years old; b. 65 years old or older; or c. Having a temporary or permanent physical or mental disability, including an individual who is physically or mentally limited in a material way. Examples of a temporary physical or mental limitation include, but are not limited to, instances when the offender knew or should have known the victim was pregnant, unconscious, asleep, or intoxicated.” Weapon presence is defined in the MSGM (Version 13.0, Chapter 6.1.C) as “the presence of an article or device which reasonably appears capable of causing injury or the presence of an article that could result in conviction under CR, §4-101.”

⁴ At its May 11, 2021, Commission meeting, the MSCCSP voted to revise the instructions for scoring victim injury to instruct that offenses involving photographic or video evidence of child pornography shall be scored as permanent victim injury. These revisions are on track to be adopted effective October 1, 2021.



TABLE 5. MEAN SENTENCES AND INCARCERATION RATES FOR OFFENSES INVOLVING THE SEXUAL EXPLOITATION OF MINORS, SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	All Offenses Involving the Sexual Exploitation of Minors		Manufacture, Distribution, Etc. Child Pornography		Possession Child Pornography		Sexual Solicitation of a Minor	
Mean total sentence	-		7.1 years		4.1 years		7.4 years	
Mean guidelines-applicable sentence	-		1.6 years		7.2 months		1.6 years	
	#	%	#	%	#	%	#	%
Incarcerated								
Yes	635	61.1%	248	73.8%	285	49.8%	102	77.9%
No	404	38.9%	88	26.2%	287	50.2%	29	22.1%
Missing	0		0				0	
Total	1,039		336		572		131	

Note. The total sentence is defined as the sum of incarceration, credit for time served, home detention and suspended time. The guidelines-applicable sentence is defined as the sum of incarceration, credit for time served, and home detention. It does not include suspended time.

TABLE 6. SENTENCING GUIDELINES COMPLIANCE FOR PERSON OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

	All Person Offenses		All Offenses Involving the Sexual Exploitation of Minors		Manufacture, Distribution, Etc. Child Pornography		Possession Child Pornography		Sexual Solicitation of a Minor	
	#	Valid %	#	Valid %	#	Valid %	#	Valid %	#	Valid %
Within	28,828	80.9%	917	88.3%	304	90.5%	495	86.7%	118	90.1%
Below	4,499	12.6%	40	3.9%	5	1.5%	28	4.9%	7	5.3%
Above	2,294	6.4%	81	7.8%	27	8.0%	48	8.4%	6	4.6%
Missing	91		1		0		1		0	
Total	35,712		1,039		336		572		131	

Note. For the purposes of these analyses, sentencing guidelines compliance is computed at the offense-level. A sentence is defined as guidelines-compliant if it meets at least one of the following conditions: the guidelines-applicable sentence (defined as the sum of incarceration, credit for time served, and home detention) is within the guidelines range; the guidelines-applicable sentence exceeds the upper guidelines limit but includes only credit for time served; the sentencing event was disposed of by an ABA plea agreement (effective April 1, 2021, this disposition type is referred to as an MSCCSP binding plea agreement); or the sentencing event involved the imposition of one or more correction options and the total sentence falls within or above the recommended guidelines range (excluding sentencing events that contain a crime of violence, child sexual abuse, or escape).



TABLE 7. MEAN GUIDELINES-APPLICABLE SENTENCES FOR OFFENSES INVOLVING THE MANUFACTURE, DISTRIBUTION, ETC., OR POSSESSION OF CHILD PORNOGRAPHY, SENTENCED IN MARYLAND CIRCUIT COURTS, BY VICTIM INJURY AND SPECIAL VICTIM VULNERABILITY, CY 2016 THROUGH 2020

	Manufacture, Distribution, Etc. Child Pornography			Possession Child Pornography		
	#	Valid %	Mean Guidelines-Applicable Sentence	#	Valid %	Mean Guidelines-Applicable Sentence
No victim injury or special victim vulnerability	141	42.2%	1.3 years	179	31.7%	6.4 months
With special victim vulnerability	171	51.2%	1.8 years	372	66.0%	7.6 months
With any victim injury	51	15.3%	1.7 years	72	12.8%	11.2 months
W/both victim injury and special victim vulnerability	29	8.7%	1.9 years	59	10.5%	1.1 years
Missing victim injury and/or special victim vulnerability	2			8		
Total	336			572		

Note. Percentages do not sum to 100% as the categories are not mutually exclusive. Victim injury is defined in the MSGM (Version 13.0, Chapter 6.3.B) as “physical or psychological injury to the crime victim, the cause of which is directly linked to the conduct of the defendant in the commission of the convicted offense.” Special victim vulnerability is defined in the MSGM (Version 13.0, Chapter 6.3.D) and “refers to cases in which the relative status of the victim tends to render the actions of the perpetrator more serious.” Per the MSGM, “[a] vulnerable victim is anyone: a. Younger than 11 years old; b. 65 years old or older; or c. Having a temporary or permanent physical or mental disability, including an individual who is physically or mentally limited in a material way. Examples of a temporary physical or mental limitation include, but are not limited to, instances when the offender knew or should have known the victim was pregnant, unconscious, asleep, or intoxicated.”



Table 8 illustrates the placement of offenses involving the sexual exploitation of minors on the person matrix and their corresponding recommended guidelines ranges. Cells highlighted in yellow start at probation. Approximately 82% of offenses involving the sexual exploitation of minors fall in cells with a recommended range that starts at probation.

TABLE 8. SENTENCING GUIDELINES RANGES FOR OFFENSES INVOLVING THE SEXUAL EXPLOITATION OF MINORS, SENTENCED IN MARYLAND CIRCUIT COURTS, CY 2016 THROUGH 2020

PERSON MATRIX											
OFFENDER SCORE											
		0	1	2	3	4	5	6	7+	Total # (% Valid total)	
OFFENSE SCORE	1	Range	P	P	P-3M	3M-1Y	3M-18M	3M-2Y	6M-2Y	1Y-3Y	-
	# (% Valid total)	138 (13.4%)	17 (1.7%)	1 (0.1%)	1 (0.1%)	15 (1.5%)	2 (0.2%)	3 (0.3%)	0 (0.0%)	177 (17.2%)	
	2	Range	P-6M	P-1Y	P-18M	3M-2Y	6M-3Y	1Y-5Y	18M-5Y	3Y-8Y	-
	# (% Valid total)	253 (24.6%)	17 (1.7%)	4 (0.4%)	9 (0.9%)	1 (0.1%)	12 (1.2%)	2 (0.2%)	15 (1.5%)	313 (30.5%)	
	3	Range	P-2Y	P-2Y	6M-3Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	-
	# (% Valid total)	224 (21.8%)	27 (2.6%)	13 (1.3%)	10 (1.0%)	12 (1.2%)	13 (1.3%)	1 (0.1%)	4 (0.4%)	304 (29.6%)	
	4	Range	P-3Y	6M-4Y	1Y-5Y	2Y-5Y	3Y-7Y	4Y-8Y	5Y-10Y	5Y-12Y	-
	# (% Valid total)	157 (15.3%)	17 (1.7%)	13 (1.3%)	3 (0.3%)	0 (0.0%)	3 (0.3%)	1 (0.1%)	2 (0.2%)	196 (19.1%)	
	5	Range	3M-4Y	6M-5Y	1Y-6Y	2Y-7Y	3Y-8Y	4Y-10Y	6Y-12Y	8Y-15Y	-
	# (% Valid total)	27 (2.6%)	1 (0.1%)	1 (0.1%)	0 (0.0%)	2 (0.2%)	0 (0.0%)	2 (0.2%)	1 (0.1%)	34 (3.3%)	
6	Range	1Y-6Y	2Y-7Y	3Y-8Y	4Y-9Y	5Y-10Y	7Y-12Y (%)	8Y-13Y	10Y-20Y	-	
# (% Valid total)	0 (0.0%)	1 (0.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (0.2%)	0 (0.0%)	3 (0.3%)	
Total	# (% Valid total)	799 (77.8%)	80 (7.8%)	32 (3.1%)	23 (2.9%)	30 (2.9%)	30 (2.9%)	11 (1.1%)	22 (2.1%)	1,039	

Note. The offender score is a composite measure scored for all defendants and based on the defendant’s prior adult record, involvement in the criminal justice system at the time of the instant offense, prior probation or parole violations, and, for defendants under the age of 23 years, prior juvenile record. The total offender score can range from zero to 11 points. For additional details on the offender score calculation, see the MSGM (Version 13.0 Chapter 7). The offense score is a composite measure scored for person offenses and based on the offense’s seriousness category classification, victim injury, weapon presence, and special victim vulnerability. The offense score can range from 0 to 15 points. The maximum possible offense score for offenses involving the sexual exploitation of minors is 10 points. From 2016 through 2020, no sentencing guidelines worksheet reported an offense score greater than six points for offenses involving the sexual exploitation of minors. For additional details on the offense score calculation, see the MSGM (Version 13.0, Chapter 6). Percentages are based on non-missing data. Twelve offenses involving the sexual exploitation of minors were missing the total offense score and/or total offender score.