



METHODOLOGY

Data provided in Issue 7 (March 2022) 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 fiscal year (FY) 2012 through FY 2021. A sentencing guidelines worksheet is completed for all criminal sentencing events involving an incarcerable offense 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 FY 2012 through FY 2021, less than 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. Sentencing guidelines worksheets are not submitted to the MSCCSP for District Court cases.

The MSCCSP received guidelines worksheets for 98,460 guidelines-eligible, original sentencing events, including 135,844 guidelines-eligible convicted offenses, sentenced in circuit courts in FY 2012 through FY 2021.¹ *Sentencing Snapshot #7* focuses specifically on felony and misdemeanor marijuana offenses. For the purposes of these analyses, felony marijuana offenses are those defined in Criminal Law Article (CR), §§ 5-601 through 5-606, including the manufacture of, distribution of, and possession with intent to distribute marijuana and marijuana-related common nuisance offenses. Felony marijuana offenses are penalized pursuant to CR, § 5-607 (see Table 1 for offense-specific information, including statutory maximum penalties). Misdemeanor marijuana offenses are those defined and penalized pursuant to CR, § 5-601, including the possession and administration of marijuana (see Table 1).²

Per Courts and Judicial Proceedings Article (CJ), § 4-302(d)(2), a circuit court does not have jurisdiction to try a case charging a violation of § 5-601 unless one of the following circumstances are met: (1) the defendant properly demands a jury trial; (2) the defendant appeals as provided by law from a final judgment entered in the District Court; or (3) the defendant is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction. Therefore, if a misdemeanor marijuana offense appears in the MSCCSP's sentencing guidelines data, it is because the conviction was pled down from a more serious charge, convicted along with a more serious offense, and/or part of a jury trial prayer or appeal with a PSI ordered. **The MSCCSP data and the average sentence lengths provided in this Snapshot do not reflect statewide totals or average sentences for those offenses in which the District Court has exclusive jurisdiction, including misdemeanor marijuana offenses.**

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*.

² The present analyses exclude criminal convictions for the possession of less than 10 grams of marijuana that occurred from October 1, 2012, through September 30, 2014. Chapter 193 of the 2012 Laws of Maryland provided that the possession of less than 10 grams of marijuana was subject to a maximum penalty of 90 days imprisonment, a fine of \$500, or both, effective October 1, 2012. Chapter 158 of the 2014 Laws of Maryland provided that the possession of less than 10 grams of marijuana is a civil offense, effective October 1, 2014. The MSCCSP does not collect data pertaining to civil offenses.

Through September 30, 2017, the possession, distribution, obtainment, etc. of marijuana-related controlled paraphernalia, pursuant to CR, § 5-620, had the same statutory maximum penalty (1 year) as the possession, administration, etc. of marijuana, pursuant to CR, § 5-601. For sentences occurring on or before September 30, 2017, the MSCCSP's data did not distinguish between marijuana-related violations of CR, § 5-601 and CR, § 5-620. Therefore, the number of misdemeanor marijuana offenses cited through September 30, 2017, may contain some controlled paraphernalia offenses penalized pursuant to CR, § 5-620.



According to data obtained from the Maryland Judiciary’s Administrative Office of the Courts, approximately 46% of misdemeanor marijuana offense sentencings, pursuant to CR, § 5-601, in calendar year 2019 took place in the District Court. Approximately 11% of misdemeanor marijuana offense sentencings were jury trial prayers or appeals from the District Court, with no PSI ordered. The remaining 43% of misdemeanor marijuana offense sentencings were guidelines-eligible, in that they originated in and were sentenced in circuit courts or, in less than 1% of cases, were jury trial prayers or appeals with a PSI ordered. The misdemeanor marijuana offenses included in this Sentencing Snapshot refer to this final category of guidelines-eligible sentencings.

TABLE 1. FELONY AND MISDEMEANOR MARIJUANA OFFENSES, STATUTORY SOURCES AND MAXIMUM PENALTIES IN EFFECT FY 2012 THROUGH FY 2021

	Source	Acts	Statutory Maximum	Fine	Seriousness Category
Felony marijuana offenses	CR, §§ 5-602 – 5-606, CR, § 5-607 (penalty)	Distribution, PWID, manufacture, counterfeit substance, common nuisance, etc.	5Y	\$15,000	IV
Misdemeanor marijuana offenses	CR, § 5-601	Possession, administration, obtain or attempt to obtain by fraud, counterfeiting or alteration of a prescription, etc.	Through 9/30/2017: 1Y 10/1/2017-Present: 6M	\$1,000	VII

Table 2 and Table 3 provide the total number of guidelines-eligible criminal sentencing events and offenses, sentenced from FY 2012 through FY 2021 and disaggregated by crime category, for which the MSCCSP received a sentencing guidelines worksheet.

TABLE 2. GUIDELINES-ELIGIBLE CRIMINAL SENTENCING EVENTS AND OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, BY OFFENSE TYPE, FY 2012 THROUGH FY 2021

	Offenses			Sentencing Events Included One or More:		
	#	% Total	% Drug	#	% Total	% Drug
Total drug offenses	38,381	28.3%	-	34,353	34.9%	-
Felony marijuana offenses	7,847	5.8%	20.4%	7,646	7.8%	22.3%
Misdemeanor marijuana offenses	3,048	2.2%	7.9%	3,026	3.1%	8.8%
Total person offenses	69,268	51.0%	-	49,736	50.5%	-
Total property offenses	28,195	20.8%	-	21,694	22.0%	-
Total offenses	135,844			98,460		

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



TABLE 3. GUIDELINES-ELIGIBLE OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, BY YEAR AND OFFENSE TYPE, FY 2012 THROUGH FY 2021

	Total Offenses	Total Drug Offenses		Felony Marijuana Offenses		Misdemeanor Marijuana Offenses	
	#	#	% Total Offenses	#	% Drug Offenses	#	% Drug Offenses
FY 2012	14,025	4,441	31.7%	975	22.0%	347	7.8%
FY 2013	14,286	4,637	32.5%	1,061	22.9%	385	8.3%
FY 2014	14,518	4,488	30.9%	1,027	22.9%	373	8.3%
FY 2015	14,738	4,231	28.7%	875	20.7%	344	8.1%
FY 2016	14,378	3,858	26.8%	715	18.5%	275	7.1%
FY 2017	13,799	3,964	28.7%	727	18.3%	264	6.7%
FY 2018	15,169	4,179	27.5%	865	20.7%	355	8.5%
FY 2019	15,602	4,111	26.3%	841	20.5%	322	7.8%
FY 2020	10,673	2,641	24.7%	409	15.5%	217	8.2%
FY 2021	8,656	1,831	21.2%	352	19.2%	166	9.1%
Total	135,844	38,381	28.3%	7,847	20.4%	3,048	7.9%

(CONTINUED ON NEXT PAGE)



Table 4 through Table 11 provides the characteristics of defendants, average sentences, and guidelines compliance for defendants convicted of guidelines-eligible felony or misdemeanor marijuana offenses in Maryland circuit courts from FY 2012 through FY 2021.

TABLE 4. DEMOGRAPHICS OF DEFENDANTS SENTENCED FOR FELONY MARIJUANA OFFENSES IN MARYLAND CIRCUIT COURTS, FY 2012 THROUGH FY 2021

	FY2012-FY2016		FY2017-FY2021	
Mean age (years)	28.2 years		27.7 years	
	#	Valid %	#	Valid %
Gender				
Male	4,039	91.9%	2,780	92.4%
Female	358	8.1%	229	7.6%
Missing	131		109	
Race/Ethnicity				
Black	2,680	63.3%	1,903	63.4%
White	1,338	31.6%	882	29.4%
Hispanic	128	3.0%	147	4.9%
Other	86	2.0%	71	2.4%
Missing	296		115	
Prior Record Score				
None	1,721	38.9%	1,410	45.4%
Minor	1,218	27.5%	783	25.2%
Moderate	892	20.1%	581	18.7%
Major	596	13.5%	330	10.6%
Missing	101		14	
Total sentencing events	4,528		3,118	

Note. Includes defendants who were convicted of at least one felony marijuana offense. Defendant age is as of the date of the offense. 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. Worksheets with missing race, ethnicity, or gender, sentenced from calendar years 2018 through 2022, were supplemented with race, ethnicity, and gender data from the AOC, where available.



TABLE 5. DEMOGRAPHICS OF DEFENDANTS SENTENCED FOR GUIDELINES-ELIGIBLE MISDEMEANOR MARIJUANA OFFENSES IN MARYLAND CIRCUIT COURTS, FY 2012 THROUGH FY 2021

	FY2012-FY2016		FY2017-FY2021	
Mean age (years)	27.7 years		27.1 years	
	#	Valid %	#	Valid %
Gender				
Male	1,436	85.8%	1,153	90.9%
Female	237	14.2%	116	9.1%
Missing	35		49	
Race/Ethnicity				
Black	962	61.0%	844	67.6%
White	545	34.6%	343	27.5%
Hispanic	48	3.0%	47	3.8%
Other	21	1.3%	14	1.1%
Missing	132		70	
Prior Record Score				
None	711	43.0%	642	49.1%
Minor	519	31.4%	357	27.3%
Moderate	273	16.5%	203	15.5%
Major	149	9.0%	106	8.1%
Missing	56		10	
Total sentencing events	1,708		1,318	

Note. Includes defendants who were convicted of at least one misdemeanor marijuana offense. Defendant age is as of the date of the offense. 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. Worksheets with missing race, ethnicity, or gender, sentenced from calendar years 2018 through 2022, were supplemented with race, ethnicity, and gender data from the AOC, where available.



TABLE 6. MEAN TOTAL AND GUIDELINES-APPLICABLE SENTENCES FOR FELONY MARIJUANA OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, BY YEAR, FY 2012 THROUGH FY 2021

	#	Mean Total Sentence	Mean Guidelines-Applicable Sentence
FY 2012	975	2.8 years	7.9 months
FY 2013	1,061	2.5 years	7.0 months
FY 2014	1,027	2.6 years	6.6 months
FY 2015	875	2.5 years	6.6 months
FY 2016	715	2.6 years	5.9 months
FY 2017	727	2.4 years	5.0 months
FY 2018	865	2.6 years	5.0 months
FY 2019	841	2.6 years	5.4 months
FY 2020	409	2.6 years	6.0 months
FY 2021	352	2.6 years	3.4 months
Total	7,847		

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. One felony marijuana offense in FY 2013 and 1 felony marijuana offense in FY 2015 were missing sentence information.

TABLE 7. MEAN TOTAL AND GUIDELINES-APPLICABLE SENTENCES FOR GUIDELINES-ELIGIBLE MISDEMEANOR MARIJUANA OFFENSES SENTENCED IN MARYLAND CIRCUIT COURTS, BY YEAR, FY 2012 THROUGH FY 2021

	#	Mean Total Sentence	Mean Guidelines-Applicable Sentence
FY 2012	347	8.6 months	2.1 months
FY 2013	385	7.0 months	2.0 months
FY 2014	373	6.1 months	1.9 months
FY 2015	344	5.4 months	1.3 months
FY 2016	275	5.9 months	1.3 months
FY 2017	264	5.3 months	1.2 months
FY 2018	355	3.7 months	25.9 days
FY 2019	322	2.6 months	18.7 days
FY 2020	217	2.4 months	16.6 days
FY 2021	166	2.5 months	17.9 days
Total	3,048		

Note. One felony marijuana offense in FY 2016 was missing sentence information.



TABLE 8. MEAN SENTENCES FOR FELONY MARIJUANA OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, BY RACE/ETHNICITY AND YEAR, FY 2012 THROUGH FY 2021

	FY 2012 to FY 2016				FY 2017 to FY 2021			
	Total		Mean Total Sentence	Mean Guidelines-Applicable Sentence	Total		Mean Total Sentence	Mean Guidelines-Applicable Sentence
	#	Valid %			#	Valid %		
Black	2,760	63.4%	2.9 years	7.9 months	1,940	63.1%	2.7 years	5.8 months
White	1,375	31.6%	2.3 years	5.0 months	912	29.7%	2.4 years	4.0 months
Hispanic	130	3.0%	2.3 years	6.6 months	151	4.9%	2.5 years	4.1 months
Other	87	2.0%	1.8 years	4.6 months	72	2.3%	2.2 years	3.7 months
Total offenses	4,653		2.6 years	6.8 months	3,194		2.6 years	5.0 months

Note. 301 felony marijuana offenses were missing race/ethnicity in FY 2012 through FY 2016. 119 felony marijuana offenses were missing race/ethnicity in FY 2017 through FY 2021.

TABLE 9. MEAN SENTENCES FOR GUIDELINES-ELIGIBLE MISDEMEANOR MARIJUANA OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, BY RACE/ETHNICITY AND YEAR, FY 2012 THROUGH FY 2021

	FY 2012 to FY 2016				FY 2017 to FY 2021			
	Total		Mean Total Sentence	Mean Guidelines-Applicable Sentence	Total		Mean Total Sentence	Mean Guidelines-Applicable Sentence
	#	Valid %			#	Valid %		
Black	972	61.1%	7.1 months	2.2 months	849	67.7%	3.4 months	26.3 days
White	551	34.6%	5.4 months	27.0 days	344	27.4%	3.1 months	14.0 days
Hispanic	48	3.0%	7.7 months	2.8 months	47	3.7%	3.0 months	1.2 months
Other	21	1.3%	5.1 months	18.6 days	14	1.1%	3.4 months	3.2 days
Total offenses	1,724		6.6 months	1.8 months	1,324		3.4 months	23.9 days

Note. The statutory maximum penalty for misdemeanor marijuana offenses, pursuant to CR, § 5-601, was reduced from 1 year to six months, effective October 1, 2017. 132 misdemeanor marijuana offenses were missing race/ethnicity in FY 2012 through FY 2016. 70 misdemeanor marijuana offenses were missing race/ethnicity in FY 2017 through FY 2021.



TABLE 10. SENTENCING GUIDELINES COMPLIANCE FOR FELONY MARIJUANA OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, BY RACE/ETHNICITY AND YEAR, FY 2012 THROUGH FY 2021

	FY 2012 to FY 2016 ¹							FY 2017 to FY 2021 ²						
	Total	Within		Below		Above		Total	Within		Below		Above	
	#	#	Valid %	#	Valid %	#	Valid %	#	#	Valid %	#	Valid %	#	Valid %
Black	2,760	2,255	82.0%	435	15.8%	61	2.2%	1,940	1,703	87.8%	166	8.6%	70	3.6%
White	1,375	1,186	86.3%	152	11.1%	36	2.6%	912	810	88.8%	72	7.9%	30	3.3%
Hispanic	130	115	88.5%	13	10.0%	2	1.5%	151	140	92.7%	6	4.0%	5	3.3%
Other	87	79	90.8%	5	5.7%	3	3.4%	72	61	84.7%	6	8.3%	5	6.9%
Total offenses	4,653	3,877	83.5%	659	14.2%	107	2.3%	3,194	2,815	88.2%	264	8.3%	114	3.6%

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 via an ABA plea agreement or, effective April 1, 2021, 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). Ten felony marijuana offenses were missing offense-level compliance in FY 2012 through FY 2016, including 9 offenses involving a black defendant and 1 offense involving a white defendant. One felony marijuana offense was missing offense-level compliance in FY 2017 through FY 2021, including one offense involving a black defendant. 301 felony marijuana offenses were missing race/ethnicity in FY 2012 through FY 2016. 119 felony marijuana offenses were missing race/ethnicity in FY 2017 through FY 2021.

¹ The most common guidelines range for felony marijuana offenses sentenced from FY 2012 through FY 2012 was probation to one year (36.6% of offenses), followed by probation to 18 months (21.1% of offenses).

² The guidelines for seriousness category IV drug offenses, including felony marijuana offenses, were amended effective July 1, 2016. The most common guidelines range for felony marijuana offenses sentenced from FY 2017 through FY 2021 was probation to three months (42.7% of offenses), followed by probation to nine months (19.8% of offenses).

(CONTINUED ON NEXT PAGE)



TABLE 11. SENTENCING GUIDELINES COMPLIANCE FOR GUIDELINES-ELIGIBLE MISDEMEANOR MARIJUANA OFFENSES, SENTENCED IN MARYLAND CIRCUIT COURTS, BY RACE/ETHNICITY AND YEAR, FY 2012 THROUGH FY 2021

	FY 2012 to FY 2016 ¹							FY 2017 to FY 2021 ¹						
	Total	Within		Below		Above		Total	Within		Below		Above	
	#	#	%	#	%	#	%	#	#	%	#	%	#	%
Black	972	817	84.4%	24	2.5%	127	13.1%	849	783	92.2%	25	2.9%	41	4.8%
White	551	489	88.9%	6	1.1%	55	10.0%	344	316	91.9%	6	1.7%	22	6.4%
Hispanic	48	39	81.3%	0	0.0%	9	18.8%	47	42	89.4%	1	2.1%	4	8.5%
Other	21	20	95.2%	0	0.0%	1	4.8%	14	14	100.0%	0	0.0%	0	0.0%
Total offenses	1,724	1,479	86.0%	33	1.9%	207	12.0%	1,324	1,222	92.3%	34	2.6%	68	5.1%

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 via an ABA plea agreement or, effective April 1, 2021, 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). Five misdemeanor marijuana offenses were missing offense-level compliance in FY 2012 through FY 2016, including 4 offenses involving black defendants and 1 offense involving a white defendant. Zero misdemeanor marijuana offenses were missing offense-level compliance in FY 2017 through FY 2021. 132 misdemeanor marijuana offenses were missing race/ethnicity in FY 2012 through FY 2016. 70 misdemeanor marijuana offenses were missing race/ethnicity in FY 2017 through FY 2021.

¹ The most common guidelines range for misdemeanor marijuana offenses sentenced from FY 2012 through FY 2016 and FY 2017 through FY 2021 was probation to probation (72.5% and 74.9% of offenses, respectively).