final minutes

Criminal Justice Policy Commission Meeting
9:00 a.m. • Wednesday, February 6, 2019
Senate Hearing Room • Ground Floor of the Boji Tower Building
124 W. Allegan • Lansing, MI

Members Present:
Senator Bruce Caswell, Chair
D.J. Hilson
Sheryl Kubiak (via teleconference)
Barbara Levine (via teleconference)
Laura Moody
Jennifer Strange (via teleconference)
Judge Paul Stutesman (via teleconference)
Andrew Verheek (via teleconference)
Judge Raymond Voet (via teleconference)

Members Excused:
Kyle Kaminski

I.   Call to Order and Roll Call

The Chair called the meeting to order at 9:00 a.m. and asked the clerk to take the roll. A quorum was not present, but the Chair announced that two other members are expected to join the meeting shortly and the approval of the minutes will be postponed until the other members arrive. Absent members were excused. Judge Stutesman joined the meeting via teleconference at 9:12 a.m. and Commissioner Moody joined the meeting at 9:35 a.m.

II and III. Data Subcommittee Update - Discussion of Class E Straddle Cell Analysis and Approval of December 5, 2018 CJPC Meeting Minutes

The Chair called on Grady Bridges. Mr. Bridges began with a recap of the E grid and then presented the results (see attached handout for more details). Commissioner Hilson noted that the percentage for Attorney Status found in Table 4 on page 4 needs to be corrected. Mr. Bridges will make that correction along with some other formatting errors and redistribute the document. The conversation of statistics for case-specific and offender demographic variables continued. Commissioner Kubiak commented that the crimes on the E grid are less severe for sentences and hopes the observation of the state average of 28.97% sentenced to prison is clear in the report. Chair Caswell asked if it would be helpful to include the statewide average of those sentenced to prison in the legend found in Figure 1 on page 5. After discussion, Mr. Bridges noted he will add that information to the legend. Commissioner Hilson added it would helpful to add the percentage for each circuit court and Mr. Bridges noted that information is found on page 8. Commissioner Levine inquired about looking at OUIL verses the concealed weapons in the public safety group and Mr. Bridges will look into that to see if it yields any significant results.

The Chair paused the discussion to take up the approval of the December 5, 2018 CJPC meeting minutes.

The Chair asked members if there were any additions or corrections to the proposed December 5, 2018 CJPC meeting minutes. There were none. **Commissioner Hilson moved, supported by Commissioner Moody, to approve the minutes of the December 5, 2018 Criminal Justice Policy Commission meeting as proposed. There was no further discussion. The minutes were approved by unanimous consent.**

Mr. Bridges continued through the analysis and then provided a comparison of some the groups as it relates to Class D offenses.

Mr. Bridges proceeded with a proposed timeline for moving forward. He explained that he will take the comments from today and fine tune and re-run the numbers over the next week. He will then begin drafting the first draft of the report and meet with the data subcommittee to discuss the potential changes. He will send a first draft report to members one week before the next CJPC meeting and expects to incorporate additional comments with a final draft expected to be sent out in April and a final vote taken at the May CJPC meeting. A discussion of the possibility of combining B, C, F, and G grids into one report followed. Mr. Bridges noted the data subcommittee had discussed a total of four reports—one on the D grid which is completed, the E grid, a combination of the B and C grids, and a combination of the F and G grids—followed by a summary. The Chair asked work on the B and C grids begin at the

same time as work on the E grid continues. The data subcommittee agreed to try. Commissioner Levine commented that the addition of the F grid may provide enough information to answer the research questions. Commissioner Verheek responded that many of the offenses found in the straddle cells of the F grid are not going to go to prison and may be an opposite effect of the B and C grids.

A discussion of the extension of the Commission to September 30, 2019 and the reappointment of members whose terms expire March 1, 2019 followed. Judge Voet mentioned that he was going to give another judge the opportunity to serve on the Commission and the Chair noted that Governor Whitmer's office is aware, but that the timing of any action on the reappointments and appointments to the Commission is unknown.

IV.   Discussion of Scoring Prior Record Variables (PRV) and Habitual Offender Status
The Chair called on Mr. Bridges who provided a brief explanation of the 10-year gap rule that is applied in determining what crimes in an offender's past are included in their prior record variable. A discussion of the Commission bringing this issue to the Legislature's attention followed. Commissioner Hilson noted that the Legislature is already talking about this topic in discussions over what is being termed "clean slate" legislation. Commissioner Levine brought up the issue of double-counting which sometimes pushes an offender's minimum sentence upward on the sentencing grid. The Chair inquired about the formation of a subcommittee to look into PRV scoring and the double-counting issue that was raised. Commissioners Levine and Kubiak affirmed the idea of a subcommittee, with no other comments. The Chair announced that the Commission will not get involved at this time and may reconsider the issue in a few months.

V.   Commissioner Comments
The Chair asked if there were any Commissioner comments. Commissioner Voet expressed his appreciation for the opportunity to serve on the Commission. Commissioner Kubiak commented that she hopes the Commission makes the most of the next 9 months and pick up some other questions along the way.

VI.   Public Comments
The Chair asked if there were any public comments. There were no public comments.

VII.   Next CJPC Meeting Date
The next CJPC meeting is scheduled for **Wednesday, March 6, 2019, at 9:00 a.m.** in the Senate Hearing Room in the Boji Tower Building.

VIII.   Adjournment
There being no further business before the Commission and seeing no objection, the Chair adjourned the meeting, the time being 11:00 a.m.

(These minutes were approved at the March 6, 2019 Criminal Justice Policy Commission meeting.)

Criminal Justice Policy Commission
Straddle Cell Sentencing Study
- Discussion of Class E Straddle Cell Analysis -

1. **Study Goals:**

Using data made available by the Michigan Department of Corrections our analysis seeks to provide answers to the following questions:

Research Question 1: To what extent are prison sentences, relative to intermediate sanctions, imposed on those who score in straddle cells on the E Grid?

Research Question 2: For offenders with similar offense and offender characteristics, are there disparities in the rate of prison sentences? If so, what factors or characteristics are contributing to such disparities?

Research Question 3: Does the recidivism rate for those receiving a prison sentences differ significantly from those receiving intermediate sanctions?

2. **Review of Class E Sentencing Grid**

Table 1: Straddle Cells Across Sentencing Guideline Grids

Crime Class	Statutory Maximum Penalty[1]	Straddle Cells in Grid	Number of Obs.[2]	Percent of Obs.
M2	Life	0	*NA*	*NA*
A	Life	0	*NA*	*NA*
B	20 Years	2	666	2.83%
C	15 Years	5	1,732	7.35%
D	10 years	11	4,823	20.48%
E	**5 years**	**14**	**11,219**	**47.64%**
F	4 years	9	4,074	17.30%
G	2 years	3	1,037	4.40%
H	Jail	0	*NA*	*NA*
Total		**44**	**23,551**	**100%**

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[1] According to the SGM, "In most cases, using the statutory maximum to divide the guidelines offenses into discrete crime classes resulted in categories of offenses that shared the same statutory maximum penalty. There are offenses that do not adhere to the standard."

[2] The observations reported here include individuals sentenced between 2012-2017 and scored within a straddle cell, excluding habitual offenders and those with a special status during the offense (HYTA, Probation, District Court Probation, Delay of Sentence, Parole, Jail, State Prisoner, Bond, Juvenile Court Supervision, Federal Probation, Federal Parole).

Table 2: Sentencing Grid for Class E Offenses --- MCL 777.66

Includes Ranges Calculated for Habitual Offenders (MCL 777.21 (3)(a)-(c))

PRV Level

OV Level	A (0 Points)		B (1-9 Points)		C (10-24 Points)		D (25-49 Points)		E (50-74 Points)		F (75+ Points)		Offender Status
I 0-9 Points	0	3*	0	6*	0	9*	5	23	7	23	9	23	
		3*		7*		11*		28		28		28	HO2
		4*		9*		13*		34		34		34	HO3
		6*		12*		18*		46		46		46	HO4
II 10-24 Points	0	6*	0	9*	0	11*	7	23	10	23	12	24	
		7*		11*		13*		28		28		30	HO2
		8*		13*		16*		34		34		36	HO3
		12*		18*		22		46		46		48	HO4
III 25-38 Points	0	9*	0	11*	0	17*	10	23	12	24	14	29	
		11*		13*		21		28		30		36	HO2
		13*		16*		25		34		36		43	HO3
		18*		22		34		46		48		58	HO4
IV 35-49 Points	0	11*	0	17*	5	23	12	24	14	29	19	38	
		13*		21		28		30		36		47	HO2
		16*		25		34		36		43		57	HO3
		22		34		46		48		58		76	HO4
V 50-74 Points	0	14*	5	23	7	23	14	29	19	38	22	38	
		17*		28		28		36		47		47	HO2
		21		34		34		43		57		57	HO3
		28		46		46		58		76		76	HO4
VI 75+ Points	0	17*	7	23	12	24	19	38	22	38	24	38	
		21		28		30		47		47		47	HO2
		25		34		36		57		57		57	HO3
		34		46		48		76		76		76	HO4

For the E grid, there are six offense variable levels (I-VI) and six prior record levels (A-F), totaling 36 cells. Intermediate cells are marked by asterisks, straddle cells are shaded grey, and prison cells are unmarked. Within each, the recommended minimum sentence length is expressed as a range of months. The number on the left side of the cell denotes the lower limit of this range. The four values on the right of each cell represent the upper limit of the minimum sentencing range for that cell, depending on whether an offender is being charged as a habitual offender. The number in the top right corner of each cell indicates the upper limit for a non-habitual offender. A series of three additional upper limits are included in each cell for sentencing habitual offenders (HO2, HO3, HO4). Because our analysis excludes habitual offenders, these additional upper limits shown are not particularly relevant for our purposes. As an example, for class E felonies the recommended range for non-habitual offenders scoring in cell D-III (i.e., having a prior record level D and offense variable level III) would be 10-23 months.

Table 3: Total Observations and Prison Sentences for Class E Offenses by Offense Variable and Prior Record Levels[3]

OV Level	A 0 Points	B 1-9 Points	C 10-24 Points	D 25-49 Points	E 50-74 Points	F 75+ Points
I 0-9 Points				**2,770** Prison: 417 15.05%	**1,134** Prison: 254 22.40%	**703** Prison: 173 24.61%
II 10-24 Points				**2,669** Prison: 580 21.73%	**1,129** Prison: 368 32.60%	**704** Prison: 267 37.93%
III 25-38 Points				**583** Prison: 183 31.39%	**244** Prison: 111 45.49%	
IV 35-49 Points			**493** Prison: 133 26.98%	**309** Prison: 130 42.07%		
V 50-74 Points		**109** Prison: 20 18.35%	**251** Prison: 102 40.64%			
VI 75+ Points		**36** Prison: 14 38.89%	**85** Prison: 49 57.65%			

In the table above, we present the sentencing outcomes for varying offenders' OV levels and PRV levels. Table 3 shows the number of observations within each straddle cell on the E grid, followed by number and percentage of those observations that received a prison sentence. For example, in cell D-III, there are 583 observations. Of those 583 cases, 183 or 31.39% received a prison sentence.

The rate of prison sentences reported in Table 3 range from a low of 15.05% of cases (D-I) to a high of 57.65% (C-VI). It is important to note that differences across these straddle cells do not imply sentencing disparities, but rather demonstrate an intended function of the guidelines. Consider offenders in adjacent cells DIII (31.39%) and DIV (42.07%). These individuals have the same prior record level in both cells, while individuals in DIV were convicted of a higher severity offense. Given this, it is not surprising that individuals in cell DIV are more often sentenced to prison than cell DIII. The same can be applied when comparing DIII (31.39%) to EIII (45.49%). In this scenario, offenders have committed similarly severe offenses, but those in cell EIII have more extensive prior criminal records. The data in Table 3 shows that this pattern of difference across adjacent cells is consistent for the E grid.

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[3] The sample for this analysis includes individuals sentenced between 2012-2017 and scored within a straddle cell for Class E offenses, excluding habitual offenders and those with a special status during the offense (HYTA, Probation, District Court Probation, Delay of Sentence, Parole, Jail, State Prisoner, Bond, Juvenile Court Supervision, Federal Probation, Federal Parole).

Table 4: Descriptive Statistics for Case-Specific and Offender Demographic Variables[4]

Variable	Obs.	Percent	Variable	Obs.	Percent
Cell (PRV, OVL)	**11,219**		**Offense Group 1 & 2**	**11,219**	
B, V	109	0.97%	Group 1 (Assaultive)	4,290	38.24%
B, IV	36	0.32%	Group 2 (Non-Assaultive)	6,929	61.76%
C, IV	493	4.39%	**Attorney Status**	**11,219**	
C, V	251	2.24%	Appointed	9,032	489.54%
C, VI	85	0.76%	Retained	2,187	118.54%
D, I	2,770	24.69%	**Gender**	**11,219**	
D, II	2,669	23.79%	Female	1,378	12.28%
D, III	583	5.20%	Male	9,841	87.72%
D, IV	309	2.75%	**Race**	**11,219**	
E, I	1,134	10.11%	American Indian or Alaskan Native	131	1.17%
E, II	1,129	10.06%	Asian	16	0.14%
E, III	244	2.17%	Black or African American	4,877	43.47%
F, I	703	6.27%	Native Hawaiian or Other Pacific	14	0.12%
F, II	704	6.28%	White	6,181	55.09%
Sentence Guideline Crime Group	**11,219**		**Ethnicity**	**11,219**	
Person	1,445	12.88%	Hispanic	442	6.25%
Property	4,242	37.81%	Non-Hispanic	10,777	152.28%
Controlled Substance	358	3.19%	**High School Diploma/GED**	**11,219**	
Public Order	348	3.10%	Yes	7,077	63.08%
Public Safety	4,776	42.57%	No	4,142	36.92%
Public Trust	50	0.45%	**Employed**	**11,219**	
Convicted By	**11,219**		Yes	4,416	39.36%
Bench	24	0.21%	No	6,803	60.64%
Jury	101	0.90%	**Drug Abuse**	**11,219**	
Nolo Contendere	1,168	10.41%	Yes	6,913	61.62%
Plea	9,830	87.62%	No	4,306	38.38%
Plea Under Advisement	96	0.86%	**Alcohol Abuse**	**11,219**	
Sentencing Year	**11,219**		Yes	5,308	47.31%
2012	1,845	16.45%	No	5,911	52.69%
2013	1,846	16.45%	**Drug or Alcohol Abuse**	**11,219**	
2014	1,738	15.49%	Yes	8,224	73.30%
2015	1,890	16.85%	No	2,995	26.70%
2016	1,912	17.04%	**Mental Health Treatment**	**11,219**	
2017	1,988	17.72%	Yes	4,123	36.75%
			No	7,096	0.681694

[4] The sample for this analysis includes individuals sentenced between 2012-2017 and scored within a straddle cell for Class E offenses, excluding habitual offenders and those with a special status during the offense (HYTA, Probation, District Court Probation, Delay of Sentence, Parole, Jail, State Prisoner, Bond, Juvenile Court Supervision, Federal Probation, Federal Parole).

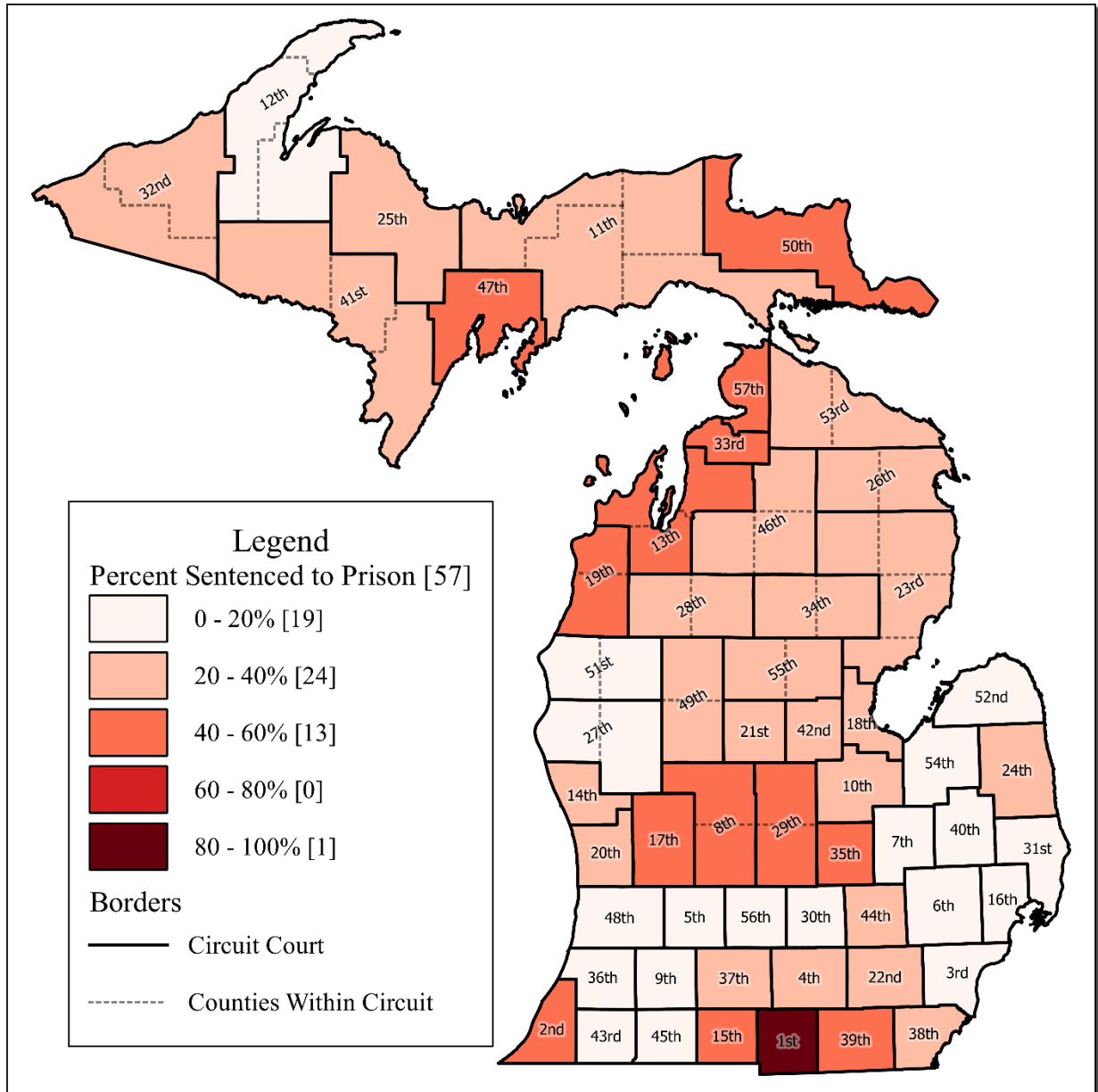**Figure 1: Percent of Class E Convictions Sentenced to Prison by Circuit Court[5]**

Figure 1 shows the percent of offenders in each circuit court who were sentenced to prison after being convicted of a Class E felony and scoring within a straddle cell. As the map indicates, 19 circuit courts sentenced less than 20% of these cases to prison. Twenty-four courts sentenced between 20 and 40% of these offenders to prison. Similarly, twenty courts sentenced between 40 and 60% of cases to prison. There were no courts that imposed prison sentences between 60 and 80% of the time. Lastly, the 1st circuit court was the only one to sentence greater than 80% of these offenders to prison.

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[5] Figure 1 shows the percent of offenders in each circuit court who were sentenced to prison after being convicted of a Class E felony and scoring within a straddle cell. Habitual offenders and those with a special status during the offense (e.g., HYTA, Probation, Parole) are not included in these comparisons.

Table 5 summarizes the results from our regression analysis, indicating which factors were statistically significant and the direction of the relationship. For example, the row for attorney status indicates that there was a statistically significant difference between those who retained their attorney and those who were appointed counsel. The third column indicates that offenders who retained an attorney were less likely on average to receive a prison sentence when compared to similar offenders with an appointed attorney.

Table 5: Summary of Regression Results[6]

Variable	Statistically Significant	Average Relationship to Prison Sentence
Sentence Guideline Crime Group	**Yes**	Dependent on the Crime Group
Crimes Against Property	*Yes*	Compared to the average of the crime groups, convictions for "Property" crimes were _**less**_ likely to be sentenced to prison.
Crimes Against Public Safety	*Yes*	Compared to the average of the crime groups, convictions for "Public Safety" crimes were _**more**_ likely to be sentenced to prison.
Crimes Against A Person	*No*	*Prison sentencing for "Crimes Against a Person" crimes did not differ significantly from the average of the crime groups.*
Controlled Substance Crimes	*No*	*Prison sentencing for "Controlled Substance" crimes did not differ significantly from the average of the crime groups.*
Crimes Against Public Order	*No*	*Prison sentencing for "Public Order" crimes did not differ significantly from the average of the crime groups.*
Crimes Against Public Trust	*No*	*Prison sentencing for "Public Trust" crimes did not differ significantly from the average of the crime groups.*
Conviction Method **Found Guilty vs. Pled Guilty**	**Yes**	Those found guilty at trial were _**more**_ likely to receive a prison sentence than those who pled guilty.
Gender **(Female vs. Male)**	**Yes**	Female offenders were _**less**_ likely to receive a prison sentence than male offenders.
Attorney Status **(Retained vs. Appointed)**	**Yes**	Those who retained their attorney were _**less**_ likely to receive a prison sentence than offenders with appointed attorneys.
Employed	**Yes**	Employed offenders were _**less**_ likely to receive a prison sentence than unemployed offenders.
Age	**Yes**	On average, the probability of being sentenced to prison _**decreases**_ as the offender becomes older.
Circuit Court	**Yes**	Compared to the statewide average: • 12 Circuits were _**more**_ likely • 22 Circuits were _**less**_ likely • 23 Circuits didn't differ significantly
Offense Group **(Assaultive vs. Non-Assaultive)**	No	No statistically significant relationship to the "In/Out" of prison sentencing decision.
Race	No	
Ethnicity	No	
High School Diploma/GED	No	
Drug Abuse	No	
Alcohol Abuse	No	
Mental Health Treatment	No	

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[6] The sample for these results included individuals sentenced between 2012-2017 and scored within a straddle cell for Class E offenses, excluding habitual offenders and those with a special status during the offense (HYTA, Probation, District Court Probation, Delay of Sentence, Parole, Jail, State Prisoner, Bond, Juvenile Court Supervision, Federal Probation, Federal Parole).

**Figure 2: Probability of Receiving a Prison Sentence
- Comparing Circuit Courts to the State Average[7] -**
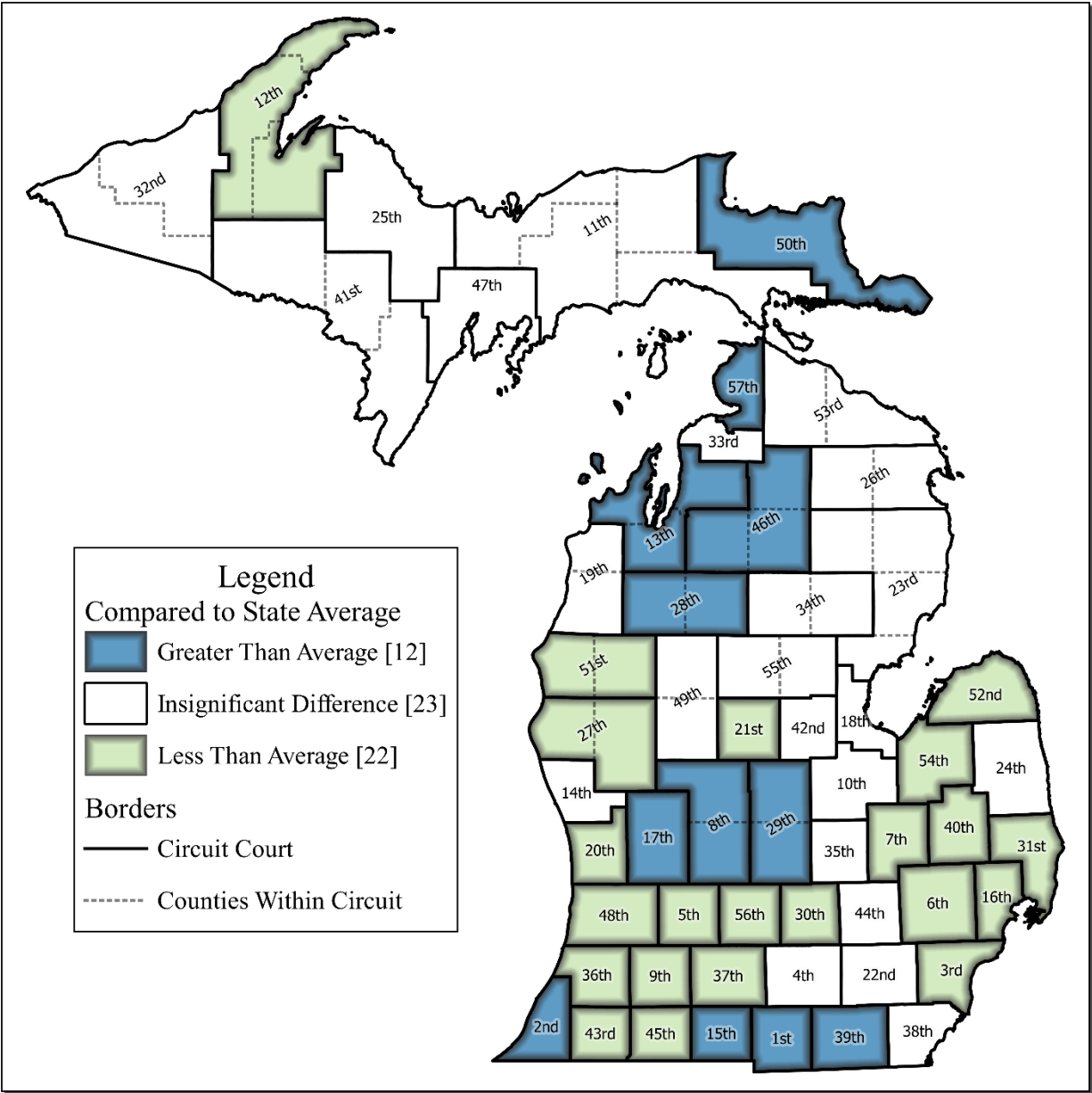
The circuit court results included in Table 5 identified whether courts sentenced offenders to prison significantly more often, less often, or approximately the same as the state average of 28.9%. Figure 1 maps the 12 above-average circuits in blue, 22 below-average circuits in green, and 23 circuits that did not differ significantly for the state average in white.

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[7] Figure 2 shows how each circuit court compares to the statewide average for imposing prison sentences on offenders convicted of Class E felonies and scoring within a straddle cell. Habitual offenders and those with a special status during the offense (e.g., HYTA, Probation, Parole) are not included in these comparisons.

Table 6: Probability of an Offender Receiving a Prison Sentence by Circuit Court, And Compared to the State Average (28.9%)

Circuit	Number of Cases	Percent Sentenced to Prison	Difference from State Average		Counties
			Estimate	Std. Error	
1	38	0.895	0.606***	0.047	Hillsdale
2	455	0.411	0.122***	0.023	Berrien
3	2,860	0.160	-0.129***	0.009	Wayne
4	269	0.323	0.034	0.028	Jackson
5	55	0.164	-0.125**	0.045	Barry
6	357	0.185	-0.104***	0.020	Oakland
7	541	0.185	-0.104***	0.017	Genesee
8	182	0.516	0.228***	0.034	Montcalm and Ionia
9	345	0.099	-0.19***	0.017	Kalamazoo
10	132	0.235	-0.054	0.034	Saginaw
11	50	0.220	-0.069	0.052	Luce, Mackinac, Schoolcraft, and Alger
12	39	0.103	-0.186***	0.048	Houghton, Baraga, and Keweenaw
13	129	0.450	0.161***	0.042	Leelanau, Antrim, and Grand Traverse
14	141	0.312	0.023	0.037	Muskegon
15	71	0.521	0.232***	0.057	Branch
16	554	0.161	-0.128***	0.016	Macomb
17	991	0.432	0.143***	0.017	Kent
18	159	0.245	-0.044	0.033	Bay
19	30	0.433	0.144	0.082	Benzie and Manistee
20	224	0.201	-0.088**	0.027	Ottawa
21	103	0.204	-0.085*	0.038	Isabella
22	429	0.284	-0.005	0.021	Washtenaw
23	74	0.284	-0.005	0.051	Iosco, Arenac, Alcona, and Oscoda
24	38	0.342	0.053	0.076	Sanilac
25	48	0.208	-0.081	0.055	Marquette
26	51	0.216	-0.073	0.055	Alpena and Montmorency
27	103	0.078	-0.211***	0.026	Oceana and Newaygo
28	96	0.396	0.107*	0.049	Wexford and Missaukee
29	114	0.404	0.115*	0.045	Gratiot and Clinton
30	315	0.190	-0.098***	0.021	Ingham
31	151	0.152	-0.137***	0.028	St. Clair
32	23	0.348	0.059	0.088	Ontonagon and Gogebic
33	14	0.500	0.211	0.126	Charlevoix
34	111	0.297	0.008	0.041	Ogemaw and Roscommon
35	51	0.412	0.123	0.068	Shiawassee
36	139	0.165	-0.123***	0.031	Van Buren
37	226	0.235	-0.054*	0.027	Calhoun
38	173	0.358	0.069	0.036	Monroe
39	87	0.529	0.24***	0.052	Lenawee
40	95	0.137	-0.152***	0.033	Lapeer
41	36	0.222	-0.067	0.060	Iron, Dickinson, and Menominee
42	47	0.298	0.009	0.060	Midland
43	91	0.165	-0.124***	0.035	Cass
44	85	0.282	-0.007	0.046	Livingston
45	126	0.167	-0.122***	0.034	St. Joseph
46	90	0.389	0.1*	0.050	Otsego, Crawford, and Kalkaska
47	29	0.414	0.125	0.087	Delta
48	144	0.132	-0.157***	0.029	Allegan
49	132	0.356	0.067	0.041	Osceola and Mecosta
50	38	0.474	0.185*	0.076	Chippewa
51	41	0.171	-0.118*	0.058	Mason and Lake
52	23	0.130	-0.159*	0.068	Huron
53	53	0.302	0.013	0.066	Cheboygan and Presque Isle
54	35	0.114	-0.175***	0.052	Tuscola
55	101	0.257	-0.032	0.042	Clare and Gladwin
56	45	0.133	-0.156**	0.050	Eaton
57	40	0.475	0.186**	0.071	Emmet

Significance Levels: * p<0.05, ** p<0.01, *** p<0.001

Additional Statistically Significant Results

The size of the sentencing disparity can be quantified for each factor using the average effect or average marginal effect (AME). AMEs compare the average difference in the <u>probability</u> of receiving a prison sentence for two groups. For example, to determine the AME of gender, the estimated probability for each female offender is compared to an otherwise identical male offender. The AME is then calculated by taking the average of all these differences. Table 7 below provides the AME for each of the statistically significant factors.

Table 7: Logistic Regression Results
Average Marginal Effects of Variables[8]

Variable	Statistically Significant	Average Marginal Effect (Percentage Points)
Crime Group	**Yes**	
Crimes Against Property	*Yes*	**-2.0**
Crimes Against Public Safety	*Yes*	**1.4**
Crimes Against A Person	*No*	*Did not differ significantly*
Controlled Substance Crimes	*No*	*Did not differ significantly*
Crimes Against Public Order	*No*	*Did not differ significantly*
Crimes Against Public Trust	*No*	*Did not differ significantly*
Conviction Method Found Guilty vs Pled Guilty	**Yes**	**+44.4**
Gender (Female vs Male)	**Yes**	**-6.0**
Attorney Status (Retained vs Appointed)	**Yes**	**-3.9**
Employed	**Yes**	**-9.9**
Age	**Yes**	**-.07 per year**
Offense Group (Assaultive vs. Non-Assaultive)	No	No statistically significant relationship to the "In/Out" of prison sentencing decision.
Race	No	
Ethnicity	No	
High School Diploma/GED	No	
Drug Abuse	No	
Alcohol Abuse	No	
Mental Health Treatment	No	

<u>Example:</u> For those who retain their attorney, we found a modest and statistically significant decrease in the likelihood of receiving a prison sentence compared to those whose attorney was appointed. Controlling for the offender's cell, crime type, circuit court, and demographic factors, those who retain an attorney are 3.9 percentage points less likely on average to receive a prison sentence than those with appointed attorneys.

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[8] The sample for these results included individuals sentenced between 2012-2017 and scored within a straddle cell for Class E offenses, excluding habitual offenders and those with a special status during the offense (HYTA, Probation, District Court Probation, Delay of Sentence, Parole, Jail, State Prisoner, Bond, Juvenile Court Supervision, Federal Probation, Federal Parole).

Table 8: Three Most Common Class E Felonies by Crime Group[9]

MCL	Number of Cases	Percent of Cases	Description
Crimes Against a Person	**1,445**	**12.9%**	
750.81 (4)	523	36.2%	Domestic assault with prior convictions
750.110 a (4)	372	25.7%	Home invasion – third degree
257.625 (5) (a)	155	10.7%	Operating a vehicle while intoxicated or impaired or with the presence of a controlled substance causing serious impairment
Crimes Against Property	**4,242**	**37.8%**	
750.356 c	1,012	23.9%	Retail fraud – first degree
750.249	687	16.2%	Uttering and publishing forged records
750.535 (7)	403	9.5%	Receiving or concealing stolen motor vehicle
Controlled Substance	**358**	**3.2%**	
333.7401 (2) (b) *(ii)*	278	77.7%	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances
333.17766 c (2) (c)	68	19.0%	Purchasing or possessing ephedrine or pseudoephedrine knowing or having reason to know that it is to be used to manufacture methamphetamine
333. 7402 (2) (b)	6	1.7%	Delivery or manufacture of schedule 1, 2, or 3 counterfeit controlled substance
Crimes Against Public Order	**348**	**3.1%**	
445.65	187	53.7%	Identity Theft
750.505	42	12.1%	Common Law Offenses
445.433 (2)	37	10.6%	Knowingly buying or selling stolen nonferrous metal articles
Crimes Against Public Safety	**4,776**	**42.6%**	
257.625 (7) (d)	2,000	41.9%	OUIL – third offense
750.227	1,056	22.1%	Carrying a concealed weapon
750.224 f (5)	707	14.8%	Possession or sale of firearm by felon
Crimes Against Public Trust	**50**	**0.4%**	
*333.7413 (1)**	38	76.0%	Subsequent controlled substance violations [333. 7401 (2) (b) *(ii)* - Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances]
451.2508	4	8.0%	Securities act violation
750.356C	3	6.0%	Retail fraud – first degree

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[9] Offenses listed in MCL 777.18 require the commission of an underlying offense. One such offenses, MCL MCL 333.7413(1), were prevalent in our dataset of class E felony convictions. MCL 333.7413(1) -subsequent controlled substance violations- is classified as a crime against public trust. For this felony, the underlying offense is included within the description column.