



Arkansas Sentencing Commission

A Division of the
Arkansas Department of Corrections

2020 Report on Commission Proceedings
&
Compliance with Sentencing Guidelines for 2018 Court Data
(issued December 2020)

Arkansas Sentencing Commission
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MISSION STATEMENT - The purpose of the Arkansas Sentencing Commission is to establish sentencing standards and to monitor and assess the impact of practices, policies, and existing laws on the correctional resources of the State.

Commission Membership

<u>Name</u>	<u>Classification</u>	<u>Judicial Circuit</u>
Gordon Webb, Chairman	Judge	Fourteenth
Gordon “Mack” McCain	Judge	Fifth
Shannon Blatt	Judge	Twelfth
Nathan Smith	Prosecuting Attorney	Nineteenth
Daniel Shue	Prosecuting Attorney	Twelfth
Vacant	Public Defender	Vacant
Michael Robbins	Public Defender	Fifth
Keith Rutledge	Citizen Representative	Sixth
Pat Roberts	Citizen Representative	Twenty-Second
Robert Balfe, II	Advisory Member	Nineteenth

Staff

Lindsay Wallace, Director
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Report on Commission Proceedings

Commission Activities

The Arkansas Sentencing Commission (the Commission) is mandated to meet quarterly each year. The following is a summary of activities, beyond normal scope of business, that was conducted during calendar years 2019 and 2020.

2019 Calendar Year

During the second quarterly meeting, the Commission met and adopted initial rankings for new and modified offenses arising out of the 2019 legislation session. Following the retirement of long-time director, Sandy Moll, the Commission also appointed a new Director, Lindsay Wallace, at this meeting. These initial rankings were formally adopted during the third quarter meeting after the public comment period and after a public hearing was held. The 2019 seriousness rankings were subsequently reviewed and approved during the November 2019 Administrative Legislative Council meeting. At the fourth quarter meeting, the commission reviewed the legislative audit report, which found no reportable instances of noncompliance.

2020 Calendar Year

During the first quarterly meeting, the Commission heard a proposal from the Secretary of the Department of Corrections concerning the legal mechanisms by which an offender can be administratively transferred between the divisions of the Department of Corrections. Secretary Kelley's proposal would allow the Divisions the flexibility to identify the right people to fill treatment beds offered by the Division of Community Correction. This expanded discretion would allow the Department to invest in new treatment beds, either constructed or converted, because there would be an increased likelihood that the beds could remain filled with eligible offenders. The Commission voted to support Secretary Kelley's goal of modifying the boxes on the Sentencing order to allow more discretion in offender placement unless otherwise directed by the court.

During its second quarterly meeting, the Commission voted to propose legislation to clarify existing ambiguities found in A.C.A. §16-90-803(b) regarding criminal history calculations as it relates to Sentencing Guidelines. It was brought to the Commission's attention that crimes committed prior to sentencing might not be uniformly scored across the state. This clarification should further the Commission's goal of establishing more uniform sentencing practices across the state. The proposal would define "prior" for the purposes of computing criminal history scores, as all records previously entered against the offender up to the date of sentencing for the offense, thus removing any ambiguities as to the cut off point for calculation.

92nd General Assembly

During the 92nd General Assembly, Commission staff prepared approximately forty-five (45) fiscal impact assessments for proposed criminal legislation. Each impact is prepared using data supplied by various criminal justice and professional agencies throughout the state and nation. The impacts

are designated as (1) minimal, projected to affect fewer than ten (10) offenders per year; (2) medium, projected to require budgetary increases for the Division of Correction due to increased inmate daily cost of care; and (3) major, projected to require budgetary increases to the Division of Correction due to increased cost of care and construction costs for additional beds.

A micro-simulation model is used for proposed legislation that has the potential for significant impact on correctional resources. The baseline prison population model is produced through a professional services contract shared by the Sentencing Commission, the Division of Correction and the Division of Community Correction. The Commission monitors the accuracy of the baseline projection. National standards set accuracy ranges at +/- 2%. The projection model used for these impact statements was produced using data from calendar year 2018 and has an accuracy rate of -.52% over the past twenty months.

Training Seminars

Training continues to be an important mission of the Sentencing Commission. Members of the Commission and staff are available to present on various topics for any interested criminal justice constituent, agency, or group. Topics include the sentencing guidelines, criminal history calculations, preparation of sentencing forms, Division of Correction intake procedures and time computation, parole policy and procedures, sealing of records, legal ethics, Division of Community Correction policies and target offense classifications. The Commission strives to meet whatever training needs our constituents have and frequently tailor trainings to meet those needs.

All trainings, regardless of topic, are well attended by judges, prosecutors, members of the defense bar, and various administrative staff for various courtroom practitioners. The Commission is available for one-on-one training upon request and has expanded operations to accommodate virtual trainings.

Publications

Each biennium, the Commission publishes the Arkansas Sentencing Commission Sentencing Standards Grid, Offense Seriousness Rankings, and Related Materials book. Commonly referred to as the “Bench Book,” it is used by courtroom practitioners in determining the applicability of the sentencing standards. Just as the name implies, it contains the sentencing standards grid, the offense seriousness rankings, and other information pertinent to the criminal justice system. It is furnished to nearly a thousand courtroom practitioners throughout the state. It is also available to these practitioners and the public via the Commission’s website at <https://www.arsentencing.com/>.

Transformation

Pursuant to the Transformation and Efficiencies Act of 2019, the Arkansas Sentencing Commission is now a part of the cabinet-level Department of Corrections. While the Commission retains its statutory authority, administrative functions such as purchasing and human resources are now handled by the Shared Services division of the Department of Corrections.

Compliance with Sentencing Guidelines for 2018 Court Data

The Criminal Justice Efficiency and Safety Act of 2017, and subsequent actions of the Arkansas Sentencing Commission, brought with it sweeping changes to the Sentencing Guidelines. Amendments to the enabling legislation required the Commission to set a sentencing range for each grid cell, replacing the single-month duration for presumptive sentences found in the original Sentencing Grid. As a result, the Commission undertook a total reconsideration of every cell in the sentencing grid, as well as the seriousness ranking of several existing offenses.

A principal goal of the Arkansas Sentencing Guidelines is to seek equity in sentencing between similarly situated offenders who commit similar crimes and have similar criminal histories. This reconsideration of the Sentencing Grid allowed the Commission to consider whether the grid accurately represented average sentencing practice in Arkansas, or whether some changes should be adopted to better fit the practice of the state. As this summary and comparison will show, the changes made to the Sentencing Standards have resulted in higher compliance levels. However, compliance is reported based on a calendar year of court dates, and the change to the standards was based on the date of the offense committed. **This resulted in a year of data which was partially under old standards and partially under new standards. In order to create a clean report, this report analyzes only those offenses with both a court date during calendar year 2018 and an offense date after January 1, 2018. This change in reporting means that overall volume of cases reported on is significantly lower than in past years.** While this report has never represented the entire universe of criminal sentencing events, the difference was large enough to merit notification.

Significant finding: As expected, implementation of a presumptive range in grid cells with a presumptive sentence including a prison sentence has increased compliance with the Sentencing Guidelines. As shown in the table below, prior to the 2018 grid revision, compliance rates (those offenses with no departure) were remarkably stable, never lower than 63% or higher than 65%. Upon implementation of the revised sentencing grid, compliance increased to 80%. This is partially attributable to the switch from a single number to a range of punishment for Arkansas Division of Correction (ADC) sentences.

Year	Percentage No Departure	Percentage Upward Departure
2018	80%	17%
2017	65%	27%
2016	64%	29%
2015	65%	27%
2014	64%	29%
2013	63%	30%

Significant finding: The rate of upward dispositional departures, or instances in which the defendant is assigned to a more severe location than provided for in the presumptive sentence of his or her grid cell, has remained stable since the Commission began compliance reporting in CY 2012. This type of departure is most commonly seen when a defendant is sentenced to a term of incarceration at the ADC in a grid cell that is in the bottom-left of the grid, meaning he or she had a less serious offense and low criminal history. For CY2018, the upward dispositional departure rate is **9%**.

Significant finding: One important factor to consider when analyzing compliance with the Sentencing Guidelines is the average upward durational departure. This metric informs the Commission of the degree to which sentences to the ADC are longer than the term recommended by the guidelines. Starting with the first data report for CY2012, there has been a descending trend in the average upward durational departure. This indicates that sentences are getting closer to those recommended by the guidelines. As the table below shows, this trend continues into CY2018, which had an average upward durational departure of 48 months. This can be partially explained by the newly implemented presumptive range for ADC sentences but is also indicative of increased consideration of the guidelines when determining a defendant's sentence.

Year	Average Number of Months Above Presumptive Sentence
2018	48
2017	52
2016	54
2015	54
2014	58
2013	59

PART I: METHODOLOGY

Table A indicates how sentencing data is received by the staff of the Sentencing Commission. For those counties which submit electronic data, the office which creates the Sentencing Order (usually the prosecutor's office) exports the data from the Sentencing Order Program (either standalone or in conjunction with the Prosecutor Coordinator's Case Management) and sends the data to the staff of the Commission. For those counties which submit paper forms, Commission staff manually collect the necessary data from a hardcopy of the Sentencing Order. Two counties, St. Francis and Lee, did not provide any Sentencing Orders which met the criteria for consideration.

TABLE A

County	Electronic Submission	Paper Forms
Arkansas	X	
Ashley	X	
Baxter		X
Benton		X
Boone		X
Bradley	X	
Calhoun	X	
Carroll	X	X
Chicot	X	
Clark	X	
Clay		X
Cleburne		X
Cleveland	X	
Columbia	X	
Conway	X	
Craighead	X	X
Crawford		X
Crittenden		X
Cross		X
Dallas	X	X
Desha	X	
Drew	X	
Faulkner	X	
Franklin	X	
Fulton		X

County	Electronic Submission	Paper Forms
Garland	X	
Grant	X	
Greene	X	
Hempstead		X
Hot Spring	X	
Howard		X
Independence		X
Izard	X	X
Jackson	X	X
Jefferson	X	
Johnson	X	
Lafayette	X	
Lawrence	X	
Lee	-	-
Lincoln	X	
Little River		X
Logan		X
Lonoke	X	
Madison		X
Marion		X
Miller	X	
Mississippi	X	X
Monroe		X
Montgomery		X
Nevada		X

County	Electronic Submission	Paper Forms
Newton		X
Ouachita	X	
Perry		X
Phillips		X
Pike		X
Poinsett	X	X
Polk		X
Pope	X	
Prairie		X
Pulaski	X	
Randolph		X
Saline	X	
Scott	X	X
Searcy		X
Sebastian		X
Sevier		X
Sharp		X
St. Francis	-	-
Stone		X
Union	X	
Van Buren	X	X
Washington		X
White		X
Woodruff		X
Yell	X	X

After data was collected, a data cleaning and merging process was conducted. For those orders entered manually by Commission staff, only those offenses committed on or after January 1, 2018 were entered. For data received electronically, sentences for offenses committed prior to January 1, 2018 were removed as part of the data cleaning process summarized in Table B, below. Unless otherwise indicated, tables in this report consider only sentences for offenses which are both applicable to the guidelines and the most serious offense for a criminal case.

TABLE B

Total Number of Offenses	58,045
Average Number of Offenses Per Case	2.8
Total Number of Cases	26,087
Total Nolle Prossed/Dismissed/Acquitted	3,528
Total Misdemeanors	2,185
Total County Jail	343
Offense Date Prior to January 1, 2018	10,818
Offense Date Missing	85
Total Cases Eliminated	16,959
Total Number of Most Serious Offenses Per Case	9,128
No Case Number and/or Name	3
Missing Criminal History Score	210
No Offender Sentence	67
Cannot Determine Imposed Location	108
Total Number of Case-Offenders Included in Analysis	8,740

Hierarchy of Most Serious Offense Determination (Ranked highest to lowest)

- I. Capital Murder, § A.C.A. 5-10-101, which is not an attempt, solicitation, or conspiracy. This offense is excluded from the guidelines and will not have a seriousness level. Sort by the following sentence order:
 - A. Death
 - B. Life without parole
- II. Seriousness level as determined by the guidelines (10 – 1)
- III. Felony Class –Y, A, B, C, D, and U
- IV. The most serious sentence type in the following order:
 - A. ADC –use the offense with the longest imposed sentence,
 - B. Judicial Transfer –use the offense with the longest imposed sentence,
 - C. Probation –use the offense with the longest sentence, and
 - D. Suspended Imposition of Sentence (SIS) –use the offense with the longest sentence.
- V. If there are still duplicates, choose the first offense listed for the case which meets the above criteria.

PART II: COMPLIANCE ANALYSIS

Table 1 provides high-level compliance data for each county, as well as a statewide total. The “number of applicable cases” column indicates the number of cases considered for this report. The number of cases with no departure, an upward departure, and a downward departure, as well as corresponding percentages, are provided for each county. The final row provides a statewide accounting of cases analyzed for compliance.

It is important to note that the number of applicable cases should NOT be used as a means for determining or comparing overall caseloads. The numbers in this table have been through a robust cleaning process intended to isolate only those cases for which guidelines analysis is appropriate. District court cases, including those originally charged as a felony and disposed of as a misdemeanor, are NOT included in this report.

A sentence with no dispositional departure complied with the dispositional presumptive sentence (i.e.: ADC, CCC, Probation or SIS, etc.). A sentence with no durational departure complied with the presumptive sentence for ADC sentences (i.e.: the number of months in ADC recommended by the guidelines). A sentence with an upward departure was more severe, either by length or type of sentence, than the sentence recommended by the guidelines. A sentence with a downward departure was less severe than the sentence recommended by the guidelines.

TABLE 1
STATEWIDE CASES BY DEPARTURE TYPE BY COUNTY 2018

County	Number Applicable Cases	No Departure	Percent Applicable Cases	Upward Departure	Percent Applicable Cases	Downward Departure	Percent Applicable Cases
Arkansas	22	18	82%	2	9%	2	9%
Ashley	38	31	82%	7	18%	0	0%
Baxter	172	107	62%	58	34%	7	4%
Benton	461	409	89%	49	11%	3	1%
Boone	111	83	75%	23	21%	5	5%
Bradley	11	10	91%	1	9%	0	0%
Calhoun	4	2	50%	2	50%	0	0%
Carroll	73	65	89%	6	8%	2	3%
Chicot	11	6	55%	4	36%	1	9%
Clark	33	16	48%	15	45%	2	6%
Clay	104	87	84%	15	14%	2	2%
Cleburne	22	16	73%	6	27%	0	0%
Cleveland	15	9	60%	5	33%	1	7%
Columbia	72	61	85%	10	14%	1	1%
Conway	59	48	81%	11	19%	0	0%
Craighead	221	200	90%	11	5%	10	5%
Crawford	332	292	88%	34	10%	6	2%
Crittenden	209	196	94%	11	5%	2	1%
Cross	14	9	64%	5	36%	0	0%
Dallas	26	21	81%	5	19%	0	0%

County	Number Applicable Cases	No Departure	Percent Applicable Cases	Upward Departure	Percent Applicable Cases	Downward Departure	Percent Applicable Cases
Desha	13	11	85%	2	15%	0	0%
Drew	24	16	67%	8	33%	0	0%
Faulkner	256	215	84%	35	14%	6	2%
Franklin	57	50	88%	4	7%	3	5%
Fulton	14	13	93%	1	7%	0	0%
Garland	141	94	67%	44	31%	3	2%
Grant	33	21	64%	12	36%	0	0%
Greene	354	304	86%	44	12%	6	2%
Hempstead	81	49	60%	30	37%	2	2%
Hot Spring	90	56	62%	34	38%	0	0%
Howard	52	32	62%	17	33%	3	6%
Independence	154	119	77%	34	22%	1	1%
Izard	13	8	62%	5	38%	0	0%
Jackson	142	124	87%	18	13%	0	0%
Jefferson	91	67	74%	20	22%	4	4%
Johnson	118	89	75%	19	16%	10	8%
Lafayette	23	15	65%	7	30%	1	4%
Lawrence	53	50	94%	3	6%	0	0%
Lee	0	0	-	0	-	0	-
Lincoln	18	12	67%	3	17%	3	17%
Little River	82	39	48%	43	52%	0	0%
Logan	55	48	87%	4	7%	3	5%
Lonoke	198	164	83%	18	9%	16	8%
Madison	31	30	97%	1	3%	0	0%
Marion	40	31	78%	5	13%	4	10%
Miller	228	177	78%	45	20%	6	3%
Mississippi	51	51	100%	0	0%	0	0%
Monroe	20	17	85%	3	15%	0	0%
Montgomery	63	36	57%	18	29%	9	14%
Nevada	9	5	56%	4	44%	0	0%
Newton	11	10	91%	1	9%	0	0%
Ouachita	39	35	90%	4	10%	0	0%
Perry	15	14	93%	1	7%	0	0%
Phillips	22	19	86%	1	5%	2	9%
Pike	28	17	61%	9	32%	2	7%
Poinsett	489	425	87%	51	10%	13	3%
Polk	79	68	86%	9	11%	2	3%
Pope	335	268	80%	45	13%	22	7%
Prairie	4	4	100%	0	0%	0	0%
Pulaski	587	448	76%	117	20%	22	4%

County	Number Applicable Cases	No Departure	Percent Applicable Cases	Upward Departure	Percent Applicable Cases	Downward Departure	Percent Applicable Cases
Randolph	28	21	75%	7	25%	0	0%
Saline	223	192	86%	28	13%	3	1%
Scott	17	14	82%	0	0%	3	18%
Searcy	6	6	100%	0	0%	0	0%
Sebastian	718	487	68%	207	29%	24	3%
Sevier	96	56	58%	39	41%	1	1%
Sharp	39	24	62%	13	33%	2	5%
St. Francis	0	0	-	0	-	0	-
Stone	30	15	50%	15	50%	0	0%
Union	110	101	92%	9	8%	0	0%
Van Buren	19	17	89%	2	11%	0	0%
Washington	913	837	92%	65	7%	11	1%
White	265	224	85%	41	15%	0	0%
Woodruff	9	5	56%	4	44%	0	0%
Yell	11	7	64%	3	27%	1	9%
Total	8,607	6,943	80%	1,432	17%	232	3%

Source: Arkansas Sentencing Order Form

Table 2 provides a more in-depth analysis of upward durational departures. Upward durational departures are sentences in which the guidelines recommend a sentence to the ADC and the defendant is sentenced to the ADC, but the length of the sentence is above that which is provided for by the guidelines. This table details, for each county, the number of cases which were an upward durational departure from the guidelines, the corresponding percentage of cases for that county, and the average number of months above the presumptive range for those departures.

TABLE 2
STATEWIDE UPWARD DURATIONAL DEPARTURES BY COUNTY 2018

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
Arkansas	2	9%	150
Ashley	4	11%	45
Baxter	26	15%	41
Benton	35	8%	54
Boone	8	7%	50
Bradley	1	9%	120
Calhoun	0	0%	N/A
Carroll	2	3%	84
Chicot	1	9%	96
Clark	9	27%	77

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
Clay	7	7%	53
Cleburne	4	18%	17
Cleveland	3	20%	40
Columbia	1	1%	24
Conway	6	10%	76
Craighead	4	2%	12
Crawford	21	6%	50
Crittenden	1	0%	12
Cross	2	14%	24
Dallas	2	8%	24
Desha	1	8%	12
Drew	2	8%	30
Faulkner	22	9%	36
Franklin	2	4%	24
Fulton	1	7%	24
Garland	24	17%	36
Grant	7	21%	38
Greene	23	6%	27
Hempstead	25	31%	103
Hot Spring	20	22%	64
Howard	6	12%	28
Independence	25	16%	83
Izard	1	8%	240
Jackson	4	3%	54
Jefferson	11	12%	32
Johnson	6	5%	24
Lafayette	6	26%	56
Lawrence	2	4%	54
Lee	-	-	-
Lincoln	0	0%	N/A
Little River	19	23%	46
Logan	3	5%	28
Lonoke	10	5%	15
Madison	0	0%	N/A
Marion	1	3%	36
Miller	22	10%	25
Mississippi	0	0%	N/A
Monroe	0	0%	N/A
Montgomery	7	11%	19
Nevada	3	33%	28

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
Newton	1	9%	12
Ouachita	2	5%	36
Perry	1	7%	12
Phillips	0	0%	N/A
Pike	3	11%	36
Poinsett	7	1%	45
Polk	8	10%	59
Pope	13	4%	44
Prairie	0	0%	N/A
Pulaski	59	10%	48
Randolph	2	7%	12
Saline	14	6%	66
Scott	0	0%	N/A
Searcy	0	0%	N/A
Sebastian	99	14%	53
Sevier	16	17%	40
Sharp	7	18%	36
St. Francis	-	-	-
Stone	7	23%	50
Union	5	5%	55
Van Buren	2	11%	54
Washington	23	3%	39
White	29	11%	45
Woodruff	2	22%	36
Yell	1	9%	180
Total	693	8%	48

Source: Arkansas Sentencing Order Form

Table 3 provides destination-level upward departure information. For ADC sentences, the table provides (1) the total number of sentences to ADC from each county, (2) the percentage of those sentences which constitute an upward durational departure, and (3) the percentage of those sentences which are an upward dispositional departure. Because the guidelines treat all sentences to a CCC the same, regardless of length, a sentence to a CCC can only be a dispositional departure. When reviewing this table, please keep in mind that a sentence to CCC is unlikely to be an upward departure because there are only three (3) grid cells for which a sentence to a CCC is an upward departure.

TABLE 3
STATEWIDE COMPARISON OF UPWARD DEPARTURES WITH OFFENDER’S ASSIGNED
LOCATION TO ADC & CCC 2018

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Dispositional
Arkansas	7	29%	0%	3	0%
Ashley	9	33%	33%	15	0%
Baxter	89	29%	36%	6	0%
Benton	123	29%	11%	30	0%
Boone	50	16%	30%	3	0%
Bradley	3	33%	0%	2	0%
Calhoun	2	0%	100%	0	0%
Carroll	6	33%	67%	4	0%
Chicot	5	20%	60%	0	0%
Clark	19	47%	32%	3	0%
Clay	40	18%	20%	4	0%
Cleburne	6	67%	33%	4	0%
Cleveland	9	33%	22%	0	0%
Columbia	14	7%	64%	4	0%
Conway	25	20%	20%	1	0%
Craighead	68	6%	10%	16	0%
Crawford	99	21%	11%	72	0%
Crittenden	25	4%	40%	10	0%
Cross	6	33%	50%	0	0%
Dallas	8	25%	38%	1	0%
Desha	3	33%	33%	1	0%
Drew	10	20%	60%	7	0%
Faulkner	68	32%	19%	24	0%
Franklin	21	10%	10%	7	0%
Fulton	6	17%	0%	1	0%
Garland	79	30%	25%	10	0%
Grant	16	44%	31%	1	0%

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Dispositional
Greene	120	19%	18%	31	0%
Hempstead	43	58%	12%	0	0%
Hot Spring	50	40%	28%	0	0%
Howard	32	19%	34%	0	0%
Independence	52	48%	17%	19	0%
Izard	7	14%	57%	0	0%
Jackson	40	10%	35%	2	0%
Jefferson	46	24%	20%	0	0%
Johnson	48	13%	27%	16	0%
Lafayette	7	86%	14%	1	0%
Lawrence	3	67%	33%	12	0%
Lee	-	-	-	-	-
Lincoln	10	0%	30%	1	0%
Little River	49	39%	49%	6	0%
Logan	16	19%	6%	9	0%
Lonoke	61	16%	13%	30	0%
Madison	3	0%	33%	4	0%
Marion	10	10%	40%	1	0%
Miller	79	28%	29%	21	0%
Mississippi	6	0%	0%	1	0%
Monroe	10	0%	30%	0	0%
Montgomery	34	21%	32%	6	0%
Nevada	8	38%	13%	0	0%
Newton	3	33%	0%	0	0%
Ouachita	6	33%	33%	6	0%
Perry	2	50%	0%	0	0%
Phillips	2	0%	50%	1	0%
Pike	15	20%	40%	0	0%
Poinsett	140	5%	31%	61	0%
Polk	32	25%	3%	0	0%
Pope	128	10%	25%	28	0%
Prairie	3	0%	0%	0	0%
Pulaski	237	24%	25%	37	0%
Randolph	13	15%	39%	3	0%
Saline	64	22%	22%	16	0%
Scott	3	0%	0%	0	0%
Searcy	0	0%	0%	0	0%
Sebastian	377	26%	29%	43	0%
Sevier	55	29%	42%	4	0%
Sharp	19	37%	32%	3	0%

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Dispositional
St. Francis	-	-	-	-	-
Stone	15	47%	53%	1	0%
Union	19	26%	21%	4	0%
Van Buren	7	29%	0%	2	0%
Washington	179	12%	22%	118	2%
White	87	33%	14%	43	0%
Woodruff	9	22%	22%	0	0%
Yell	4	25%	50%	0	0%
Total	2,969	23%	25%	759	<1%

Source: Arkansas Sentencing Order Form

Table 4 provides a cell-by-cell breakdown of compliance with the Sentencing Standards Grid, which is used to determine a presumptive sentence based on an offender’s Criminal History Score and the Offense Seriousness Level. “Criminal History Score” refers to an offender’s criminal history score as determined by filling out the Criminal History Worksheet. “Offense Seriousness Level” refers to the seriousness ranking for an offense as determined by the Commission after careful consideration of the statutory definition and felony class of the offense. The table below contains information regarding the percentages of sentences with no departure, upward and downward dispositional departures, and upward and downward durational departures. For those sentences constituting a durational departure, the average number of months above or below the presumptive range is also included.

TABLE 4
STATEWIDE DEPARTURES BY SENTENCING COMMISSION STANDARDS GRID 2018
(NOT APPLICABLE EXCLUDED)

Offense Seriousness Level	Departure Type	Criminal History Score					
		0	1	2	3	4	5+
10	% No Departure						
	% Durational Up						
	% Durational Down						
	% Dispositional Up						
	% Dispositional Down						
	Average Below						
	Average Above						
9	% No Departure	57%	75%		100%		
	% Durational Up	43%					
	% Durational Down						
	% Dispositional Up		25%				
	% Dispositional Down						
	Average Below						
	Average Above	60					
8	% No Departure	61%	86%	82%	72%	75%	100%
	% Durational Up	8%					
	% Durational Down			9%	14%	25%	
	% Dispositional Up						
	% Dispositional Down	31%	14%	9%	14%		
	Average Below			60	36	60	
	Average Above	56					

Offense Seriousness Level	Departure Type	Criminal History Score					
		0	1	2	3	4	5+
7	% None	81%	54%	63%	78%	68%	69%
	% Durational Up	15%	14%	20%	3%		8%
	% Durational Down	4%	32%	17%		21%	15%
	% Dispositional Up						
	% Dispositional Down				19%	10%	8%
	Average Below	25	28	28		54	48
	Average Above	84	45	120	115		96
6	% No Departure	85%	79%	72%	73%	62%	62%
	% Durational Up	15%	18%	24%	15%	10%	
	% Durational Down		4%	4%	12%	10%	6%
	% Dispositional Up						
	% Dispositional Down					19%	31%
	Average Below		15	18	20	66	84
	Average Above	84	49	58	57	48	
5	% No Departure	87%	89%	81%	75%	74%	56%
	% Durational Up		7%	10%	19%	18%	10%
	% Durational Down		4%	9%	6%	5%	10%
	% Dispositional Up	13%					
	% Dispositional Down					3%	24%
	Average Below		12	21	24	27	37
	Average Above		34	57	106	70	146
4	% No Departure	87%	80%	86%	67%	74%	88%
	% Durational Up		18%	13%	21%	17%	2%
	% Durational Down		2%	1%	12%	10%	10%
	% Dispositional Up	13%					
	% Dispositional Down						
	Average Below		8	14	10	15	21
	Average Above		43	35	50	50	60
3	% No Departure	95%	76%	77%	73%	71%	65%
	% Durational Up			22%	24%	24%	16%
	% Durational Down			1%	3%	6%	18%
	% Dispositional Up	6%	24%				
	% Dispositional Down						
	Average Below			9	9	15	21
	Average Above			33	37	39	51
2	% No Departure	89%	63%	49%	50%	50%	58%
	% Durational Up		1%	1%	50%	47%	36%
	% Durational Down					3%	6%
	% Dispositional Up	11%	36%	50%			
	% Dispositional Down						
	Average Below				35	39	55
	Average Above					6	9
1	% No Departure	100%	43%				
	% Durational Up						
	% Durational Down						
	% Dispositional Up		57%	100%			
	% Dispositional Down						
	Average Below						
	Average Above						

Source: Arkansas Sentencing Order Form

Table 5 examines the average imposed length of sentence for commonly committed offenses at each seriousness level. The average imposed sentence provided in this table includes only the time imposed at ADC or a CCC and does not include any consecutive SIS terms. For example, a sentence of 120 months ADC followed by 120 months SIS would be considered a 120-month sentence. This table also considers all guidelines-applicable sentences for an offense, not just those for the most serious offense. Finally, this table does not make distinctions between differing criminal history scores.

TABLE 5
STATEWIDE AVERAGE SENTENCE LENGTH FOR COMMON CRIMES 2018

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
Seriousness Level 9			
5-10-103	A	Murder II	120
5-14-103	Y	Trafficking of Persons, Victim is a Minor	300
5-14-103	Y	Rape	334
5-13-201	Y	Battery I, Victim < 4 years old or Law Enforcement Officer	280
Seriousness Level 8			
5-12-103	Y	Aggravated Robbery	190
5-64-440	Y	Trafficking A Controlled Substance	189
5-39-204	Y	Aggravated Residential Burglary	126
5-13-201	B	Battery I	163
5-74-106	Y	Simultaneous Possession of Drugs and Firearms	177
5-26-303	B	Domestic Battery I	87
Seriousness Level 7			
5-14-124	A	Sexual Assault, 1st Degree	277
5-38-301	A	Arson (\geq \$15,000 < \$100,000 Damage)	222
5-12-102	B	Robbery	112
5-64-420(b)(3)	A	Possession of Methamphetamine or Cocaine w/ Purpose to Deliver (\geq 10g < 200g)	152
5-39-201	B	Burglary - Residential	109
5-64-422(b)(2)	B	Delivery of Methamphetamine or Cocaine with Purpose to Deliver (\geq 10g < 200g)	86
5-64-402	B	Offenses Relating to Records, Maintaining Premises, etc. – Drug Free Zone	123
Seriousness Level 6			
5-14-125	B	Sexual Assault, 2nd Degree	176
5-54-111	B	Escape II	60
5-64-443(b)	B	Use or Possession of Paraphernalia to Manufacture, etc. (but not store, contain or conceal) Methamphetamine or Cocaine	124
5-36-103(b)(1)(A)	B	Theft of Property Value \geq \$25,000	77
5-27-603	B	Computer Child Pornography	113
5-64-422(b)(1)	C	Delivery of Methamphetamine or Cocaine < 2g	82

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
5-36-106(e)(1)	B	Theft by Receiving, Value \geq \$25,000	107
5-64-420(b)(1)	C	Possession of Methamphetamine or Cocaine with Purpose to Deliver $<$ 2g	62
5-64-424(b)(3)(A)	A	Possession of Schedule I or II Controlled Substance not Methamphetamine/Cocaine with Purpose to Deliver	103
Seriousness Level 5			
5-73-103	B	Possession of Firearm by Certain Persons (Prior crime violent or present use to commit crime)	112
5-64-419(b)(1)(C)	B	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine (\geq 10g $<$ 200g)	92
5-54-119	B	Possession of Prohibited Articles by an Inmate or Person in Custody of a Correctional Facility	79
5-37-201	B	Forgery I	72
5-39-201	C	Burglary – Commercial	72
5-64-419(b)(2)(C)	B	Possession of Controlled Substance Schedule I or II not Methamphetamine or Cocaine (\geq 28g $<$ 200g)	51
Seriousness Level 4			
5-36-103(b)(2)(A)	C	Theft of Property $>$ \$5,000 $<$ \$25,000	87
5-36-106(e)(2)	C	Theft by Receiving	61
5-54-119	C	Furnishing, Possessing, or Using Prohibited Articles	61
5-26-304	C	Domestic Battery II	66
5-64-419(b)(1)(B)	C	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine (\geq 2g $<$ 10g)	63
5-13-202	D	Battery II	59
5-54-120	C	Failure to Appear	57
5-54-120(b)	D	Failure to Appear - Revocation Hearing	42
Seriousness Level 3			
5-13-204	D	Aggravated Assault	59
5-39-202	D	Breaking or Entering	63
5-36-106(e)(3)(B)	D	Theft by Receiving – Credit/Debit Card or Account Number or Firearm, Value $<$ \$2,500	49
5-54-125	D	Fleeing	54
5-64-419(b)(2)(A)	D	Possession of Controlled Substance Schedule I or II not Methamphetamine or Cocaine ($<$ 2g)	50
12-12-904(a)	C	Sex Offender Failing to Comply with Registration Requirements	48
5-64-443(a)(2)	D	Possession of Drug Paraphernalia to Ingest, Inhale, etc.	51
5-64-419(b)(1)(A)	D	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine ($<$ 2g)	45
5-37-201	C	Forgery II	68
Seriousness Level 2			
5-36-103(b)(3)(A)	D	Theft of Property, Value $>$ \$1,000 but \leq \$5,000	63
5-38-203(b)(2)	D	Criminal Mischief I – Damage $>$ \$1,000 but \leq \$5,000	64

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
5-73-103	D	Possession of Firearm by Certain Persons (Prior crime non-violent and present use mere possession)	57
5-36-106(e)(3)(A)	D	Theft by Receiving, Value > \$1,000 but ≤ \$5,000	49
5-13-301	D	Terroristic Threatening I	47
27-53-101	D	Failure to Stop After Accident with Injury or Death	35
Seriousness Level 1			
5-41-103	D	Computer Fraud	48

Source: Arkansas Sentencing Order Form