



# Arkansas Sentencing Commission

A Division of the Arkansas Department of Corrections  
1302 Pike Avenue, Suite E | North Little Rock, AR | (501) 682-5001 | Fax (501) 682-5018

November 30, 2022

To Whom It May Concern:

Arkansas Code Annotated § 16-90-802 requires the Arkansas Sentencing Commission to produce a biennial report and a report on guidelines compliance. Because submission of the biennial report coincides with submission of the compliance report for sentencing events in calendar year 2018, both reports are combined in the attached document. Please reach out to the staff of the Sentencing Commission with any questions.

Sincerely,

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A Division of the  
Arkansas Department of Corrections

**2022 Report on Commission Proceedings  
&  
Compliance with Sentencing Guidelines for 2019 Court Data  
(Issued December 2022)**

**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 COURT</u>
Gordon "Mack" McClain	Judge	Fifth
Shannon Blatt	Judge	Twelfth
Carlton Jones	Judge	Eighth
Nathan Smith	Prosecutor	Nineteenth
Daniel Shue	Prosecutor	Twelfth
KenDrell Collins	Defense Attorney	Sixth
Michael Robbins	Defense Attorney	Fifth
Keith Rutledge	Citizen Member	Sixth
Kathleen Bell	Citizen Member	First
Cory Cox	Advisory Member	Sixth
Diana Lowe	Advisory Member	Eighth

## STAFF

Tawnie Rowell, Director	Tawnie.Rowell@arkansas.gov
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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 the normal scope of business, that was conducted during calendar years 2021 and 2022.

### 2021 Calendar Year

During the beginning of calendar year 2021, Judge Gordon McCain was selected to replace Judge Gordon Webb as the chair of the Sentencing Commission. During the first quarterly meeting, Commission members received training from the Attorney General’s Office on the Freedom of Information Act and board member conduct. During the second quarter meeting, the Commission met to consider amendments to the Sentencing Guidelines and policy statements on statutory minimum sentences. In addition, the Commission reviewed and approved a policy governing the creation of impact assessments. During the fourth quarter meeting, the Commission considered the final adoption of amendments to the guidelines initiated during the second quarter meeting and received documentation about rankings of drug offenses.

### 2022 Calendar Year

During the first quarterly meeting of 2022, the Commission approved the agency Control Self-Assessment and discussed the request for proposals for population projections. During the second quarterly meeting, the Commission considered areas in the Arkansas Code which still referenced the Judgment and Commitment Order. In addition, the Commission reviewed rankings of drug offenses. During the third quarterly meeting, the Commission reviewed impact assessment procedure and considered areas in which the Arkansas Code Annotated contains ambiguities regarding statutory duties of Commission staff.

## **93<sup>rd</sup> General Assembly**

During the 93<sup>rd</sup> General Assembly, staff of the Commission created forty-three (43) fiscal impact assessments for bills which may have an impact on the correctional resources of the state, including one (1) projected to have a major impact on the correctional resources of the state and one (1) projected to have a medium impact on the correctional resources of the state.

## **Training Seminars**

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

In addition to training judges, prosecutors, defense attorneys, and support staff, Commission staff has created targeted training materials for records staff at the Divisions of Correction and Community Correction with the goal of creating consistent application of policies regarding sentencing. The increase in access to timely data made possible by transformation also allows for faster identification of frequently occurring issues and more effective training to court practitioners.

## **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 “benchbook” or the “guidelines manual,” it is used by courtroom practitioners in determining the applicability of sentencing standards. This publication contains a reproduction of the administrative rule promulgated by the Sentencing Commission, as well as reference materials and contact information that staff identifies as pertinent to criminal sentencing. Bound copies are provided free of charge to courtroom practitioners throughout the state. It is also available to these practitioners and the public via the Commission’s website. In addition, staff produces instructional documents on common issues as needed.

## **Transformation**

Pursuant to the Transformation and Efficiencies Act of 2019 the Arkansas Sentencing Commission is part of the cabinet-level Department of Corrections. While the Commission retained statutory authority, administrative functions such as purchasing and human resources were transferred to the Shared Services division of the Department of Corrections. In addition, the Secretary of Corrections has issued directives requiring that Commission staff review policies governing time computation and review time computation for individual offenders to ensure compliance with applicable laws and policies.

## Compliance with Sentencing Guidelines for CY 2019 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 the compliance report for 2018 court data to include a year of data which was partially under old standards and partially under new standards. To create a clean report, that report analyzed only those offenses with both a court date during calendar year 2018 and an offense date after January 1, 2018. This change in reporting meant that overall volume of cases reported on was 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. This iteration of the compliance report (for 2019 court data) still limits court data for offenses occurring on or after January 1, 2018, but has seen a significant increase in the number of cases for analysis as the cohort timeframe has expanded.

**Significant finding:** 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% in 2018 and remained at an elevated level in 2019 (78%). This higher rate of compliance 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
2019	78%	18%
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 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 CY 2019, the upward dispositional departure rate is **9%** (unchanged from the rate in CY 2018).

**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 CY 2012, 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 CY 2019, which had an average upward durational departure of **50 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
2019	50
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. Four counties, Cross, Lee, Lonoke, and St. Francis, did not provide any Sentencing Orders while Newton County did not provide any Sentencing Orders which met the criteria for consideration.

TABLE A

County	Electronic Submission	Paper Forms	County	Electronic Submission	Paper Forms	County	Electronic Submission	Paper Forms
Arkansas	X		Garland	X		Newton	-	-
Ashley	X		Grant	X		Ouachita	X	
Baxter	X		Greene	X		Perry		X
Benton		X	Hempstead		X	Phillips		X
Boone	X		Hot Spring	X		Pike		X
Bradley	X		Howard		X	Poinsett	X	X
Calhoun	X		Independence		X	Polk		X
Carroll	X	X	Izard		X	Pope	X	
Chicot	X		Jackson	X		Prairie		X
Clark	X		Jefferson	X		Pulaski	X	
Clay	X		Johnson	X		Randolph	X	X
Cleburne		X	Lafayette	X		Saline	X	
Cleveland	X		Lawrence	X	X	Scott	X	X
Columbia	X		Lee	-	-	Searcy	X	X
Conway	X		Lincoln	X		Sebastian		X
Craighead	X	X	Little River			Sevier		X
Crawford		X	Logan		X	Sharp	X	X
Crittenden		X	Lonoke	-	-	St. Francis	-	-
Cross	-	-	Madison	X		Stone		X
Dallas	X		Marion	X	X	Union	X	
Desha	X		Miller	X		Van Buren	X	X
Drew	X		Mississippi	X	X	Washington		X
Faulkner	X		Monroe		X	White		X
Franklin	X		Montgomery		X	Woodruff		X
Fulton		X	Nevada		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	90,735
Average Number of Offenses Per Case	2.4
Total Number of Cases	37,502
Total Nolle Prossed/Dismissed/Acquitted	1,532
Total Misdemeanors	2,448
Total County Jail	376
Offense Date Prior to January 1, 2018	6,305
Offense Date Missing	35
Total Cases Eliminated	10,696
Total Number of Most Serious Offenses Per Case	26,806
Court date not in 2019	8,703
No Case Number and/or Name	1
Missing Criminal History Score	148
No Offender Sentence	358
Cannot Determine Imposed Location	465
Total Number of Case-Offenders Included in Analysis	17,131

***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.**

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 2019

County	Number of Applicable Cases	Departure Type					
		No Departure	Percent County Applicable Cases	Upward Departure	Percent County Applicable Cases	Downward Departure	Percent County Applicable Cases
Arkansas	209	184	88%	14	7%	11	5%
Ashley	70	51	73%	17	24%	2	3%
Baxter	267	199	75%	65	24%	3	1%
Benton	801	731	91%	50	6%	20	2%
Boone	281	207	74%	68	24%	6	2%
Bradley	22	15	68%	5	23%	2	9%
Calhoun	18	13	72%	5	28%	0	0%
Carroll	67	57	85%	9	13%	1	1%
Chicot	21	12	57%	8	38%	1	5%
Clark	141	93	66%	40	28%	8	6%
Clay	182	158	87%	20	11%	4	2%
Cleburne	129	94	73%	28	22%	7	5%
Cleveland	53	39	74%	13	25%	1	2%
Columbia	1	1	100%	0	0%	0	0%
Conway	146	109	75%	36	25%	1	1%
Craighead	338	309	91%	12	4%	17	5%

County	Number of Applicable Cases	Departure Type					
		No Departure	Percent County Applicable Cases	Upward Departure	Percent County Applicable Cases	Downward Departure	Percent County Applicable Cases
Crawford	701	566	81%	75	11%	60	9%
Crittenden	190	177	93%	7	4%	6	3%
Cross	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Dallas	60	47	78%	11	18%	2	3%
Desha	24	11	46%	13	54%	0	0%
Drew	83	45	54%	34	41%	4	5%
Faulkner	910	701	77%	180	20%	29	3%
Franklin	202	136	67%	43	21%	23	11%
Fulton	2	0	0%	1	50%	1	50%
Garland	394	258	65%	115	29%	21	5%
Grant	78	42	54%	36	46%	0	0%
Greene	392	316	81%	54	14%	22	6%
Hempstead	280	163	58%	104	37%	13	5%
Hot Spring	191	113	59%	73	38%	5	3%
Howard	96	66	69%	22	23%	8	8%
Independence	138	87	63%	44	32%	7	5%
Izard	29	21	72%	8	28%	0	0%
Jackson	88	60	68%	26	30%	2	2%
Jefferson	335	259	77%	61	18%	15	4%
Johnson	156	102	65%	38	24%	16	10%
Lafayette	61	45	74%	14	23%	2	3%
Lawrence	103	78	76%	19	18%	6	6%
Lee	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Lincoln	74	50	68%	2	3%	22	30%
Little River	86	47	55%	36	42%	3	3%
Logan	79	71	90%	7	9%	1	1%
Lonoke	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Madison	123	111	90%	9	7%	3	2%
Marion	3	1	33%	2	67%	0	0%
Miller	436	345	79%	69	16%	22	5%
Mississippi	81	69	85%	10	12%	2	2%
Monroe	86	67	78%	10	12%	9	10%
Montgomery	13	10	77%	3	23%	0	0%
Nevada	69	30	43%	37	54%	2	3%
Newton	0	0	0%	0	0%	0	0%
Ouachita	8	8	100%	0	0%	0	0%
Perry	1	1	100%	0	0%	0	0%
Phillips	30	24	80%	2	7%	4	13%

County	Number of Applicable Cases	Departure Type					
		No Departure	Percent County Applicable Cases	Upward Departure	Percent County Applicable Cases	Downward Departure	Percent County Applicable Cases
Pike	60	35	58%	22	37%	3	5%
Poinsett	437	367	84%	52	12%	18	4%
Polk	135	99	73%	33	24%	3	2%
Pope	725	576	79%	97	13%	52	7%
Prairie	5	3	60%	2	40%	0	0%
Pulaski	2,223	1,685	76%	392	18%	146	7%
Randolph	38	27	71%	9	24%	2	5%
Saline	673	543	81%	118	18%	12	2%
Scott	61	55	90%	6	10%	0	0%
Searcy	9	8	89%	0	0%	1	11%
Sebastian	841	479	57%	330	39%	32	4%
Sevier	113	64	57%	47	42%	2	2%
Sharp	16	10	63%	5	31%	1	6%
St. Francis	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Stone	60	49	82%	11	18%	0	0%
Union	200	154	77%	44	22%	2	1%
Van Buren	74	51	69%	20	27%	3	4%
Washington	1,748	1,567	90%	144	8%	37	2%
White	545	482	88%	61	11%	2	0%
Woodruff	2	1	50%	1	50%	0	0%
Yell	16	5	31%	10	63%	1	6%
Total	16,329	12,659	78%	2,959	18%	711	4%

Source: Arkansas Sentencing Order Form; Note: "n/a" indicates no sentencing orders were provided. All sentencing orders provided by Newton County had a court date not in 2019 and are not applicable.

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 2019

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
Arkansas	10	5%	86
Ashley	14	20%	84
Baxter	25	9%	37
Benton	33	4%	50
Boone	33	12%	40
Bradley	3	14%	88
Calhoun	4	22%	57
Carroll	1	1%	120
Chicot	1	5%	60
Clark	26	18%	42
Clay	11	6%	71
Cleburne	17	13%	49
Cleveland	8	15%	74
Columbia	0	0%	0
Conway	19	13%	34
Craighead	4	1%	14
Crawford	49	7%	58
Crittenden	4	2%	96
Cross	n/a	n/a	n/a
Dallas	4	7%	33
Desha	5	21%	113
Drew	14	17%	69
Faulkner	66	7%	43
Franklin	17	8%	19
Fulton	1	50%	12
Garland	47	12%	39
Grant	23	29%	62
Greene	14	4%	23
Hempstead	74	26%	75
Hot Spring	52	27%	63
Howard	12	13%	22
Independence	32	23%	61
Izard	6	21%	48
Jackson	14	16%	31
Jefferson	37	11%	42

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
Johnson	18	12%	31
Lafayette	13	21%	37
Lawrence	3	3%	68
Lee	n/a	n/a	n/a
Lincoln	1	1%	24
Little River	12	14%	40
Logan	3	4%	100
Lonoke	n/a	n/a	n/a
Madison	9	7%	77
Marion	1	33%	24
Miller	45	10%	47
Mississippi	3	4%	24
Monroe	1	1%	36
Montgomery	1	8%	24
Nevada	24	35%	60
Newton	0	0%	0
Ouachita	0	0%	0
Perry	0	0%	0
Phillips	2	7%	18
Pike	7	12%	58
Poinsett	9	2%	25
Polk	20	15%	29
Pope	23	3%	42
Prairie	1	20%	24
Pulaski	192	9%	54
Randolph	1	3%	24
Saline	68	10%	46
Scott	0	0%	0
Searcy	0	0%	0
Sebastian	191	23%	48
Sevier	17	15%	36
Sharp	0	0%	0
St. Francis	n/a	n/a	n/a
Stone	2	3%	48
Union	23	12%	53
Van Buren	0	0%	0
Washington	83	5%	41

County	Upward Durational v. Presumptive Sentence		
	Number of Cases Above	Percent County Applicable Cases	Average Months Above
White	31	6%	43
Woodruff	0	0%	0
Yell	3	19%	28
Total	1,487	9%	50

Source: Arkansas Sentencing Order Form Note: "n/a" indicates no sentencing orders were provided. All sentencing orders provided by Newton County had a court date not in 2019 and are not applicable.

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 2019

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Departure
Arkansas	63	16%	5%	15	0%
Ashley	35	40%	9%	12	0%
Baxter	89	28%	45%	19	0%
Benton	89	37%	19%	21	0%
Boone	101	33%	34%	16	0%
Bradley	14	21%	14%	2	0%
Calhoun	6	67%	17%	1	0%
Carroll	10	10%	80%	1	0%
Chicot	11	9%	64%	2	0%
Clark	66	39%	21%	3	0%
Clay	39	28%	23%	12	0%
Cleburne	46	37%	24%	18	0%
Cleveland	16	50%	31%	4	0%
Columbia	1	0%	0%	0	0%
Conway	63	30%	27%	1	0%
Craighead	88	5%	9%	42	0%

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Departure
Crawford	141	35%	18%	79	0%
Crittenden	26	15%	12%	1	0%
Cross	n/a	n/a	n/a	n/a	n/a
Dallas	22	18%	32%	0	0%
Desha	16	31%	50%	3	0%
Drew	53	26%	36%	4	0%
Faulkner	324	20%	35%	83	0%
Franklin	101	17%	26%	14	0%
Fulton	1	100%	0%	0	0%
Garland	196	24%	35%	27	0%
Grant	53	43%	25%	0	0%
Greene	129	11%	31%	29	0%
Hempstead	168	44%	18%	2	0%
Hot Spring	114	47%	18%	0	0%
Howard	61	20%	16%	2	0%
Independence	78	41%	15%	18	0%
Izard	13	46%	15%	0	0%
Jackson	48	29%	25%	3	0%
Jefferson	170	22%	14%	10	0%
Johnson	86	21%	23%	19	0%
Lafayette	19	68%	5%	3	0%
Lawrence	28	11%	57%	13	0%
Lee	n/a	n/a	n/a	n/a	n/a
Lincoln	39	3%	3%	2	0%
Little River	49	25%	49%	1	0%
Logan	17	18%	24%	4	0%
Lonoke	n/a	n/a	n/a	n/a	n/a
Madison	20	45%	0%	10	0%
Marion	2	50%	50%	0	0%
Miller	136	33%	18%	41	0%
Mississippi	16	19%	44%	2	0%
Monroe	52	2%	17%	2	0%
Montgomery	5	20%	40%	1	0%
Nevada	54	44%	24%	6	0%
Newton	0	0%	0%	0	0%
Ouachita	1	0%	0%	0	0%
Perry	0	0%	0%	0	0%
Phillips	10	20%	0%	0	0%
Pike	33	21%	46%	3	0%

County	ADC Sentences			CCC Sentences	
	Total Number	Percent Upward Durational	Percent Upward Dispositional	Total Number	Percent Upward Departure
Poinsett	93	10%	46%	52	0%
Polk	68	29%	19%	12	0%
Pope	258	9%	29%	90	0%
Prairie	4	25%	25%	1	0%
Pulaski	815	24%	23%	105	0%
Randolph	17	6%	47%	5	0%
Saline	228	30%	22%	33	0%
Scott	2	0%	100%	5	0%
Searcy	0	0%	0%	0	0%
Sebastian	545	35%	26%	45	0%
Sevier	65	26%	46%	0	0%
Sharp	7	0%	71%	4	0%
St. Francis	n/a	n/a	n/a	n/a	n/a
Stone	23	9%	39%	7	0%
Union	61	38%	34%	10	0%
Van Buren	35	0%	57%	4	0%
Washington	337	25%	17%	146	1%
White	166	19%	18%	108	0%
Woodruff	2	0%	50%	0	0%
Yell	15	20%	47%	0	0%
Total	5,759	26%	25%	1,178	<1%

Source: Arkansas Sentencing Order Form Note: "n/a" indicates no sentencing orders were provided. All sentencing orders provided by Newton County had a court date not in 2019 and are not applicable.

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 GRID 2019**  
**(NOT APPLICABLE EXCLUDED)**

Offense SL	Departure Type	Criminal History Score					
		0	1	2	3	4	5+
10	% No Departure	93%	75%	100%		100%	
	% Durational Up						
	% Durational Down	7%	25%		100%		
	% Dispositional Up						
	% Dispositional Down						
	Average Below	84	240		124		
Average Above							
9	% No Departure	51%	90%	50%	100%		
	% Durational Up	30%		25%			
	% Durational Down	14%	10%	25%		100%	100%
	% Dispositional Up						
	% Dispositional Down	5%					
	Average Below	72	180	174		300	240
Average Above	89		90				
8	% No Departure	60%	72%	67%	48%	57%	64%
	% Durational Up	14%	3%	10%	3%		9%
	% Durational Down	9%	13%	8%	40%	29%	27%
	% Dispositional Up						
	% Dispositional Down	17%	12%	15%	9%	14%	
	Average Below	26	42	28	75	51	100
Average Above	74	90	120	120		120	
7	% None	84%	69%	51%	53%	62%	53%
	% Durational Up	11%	12%	15%	6%	7%	
	% Durational Down	5%	19%	23%	23%	22%	37%
	% Dispositional Up						
	% Dispositional Down			11%	18%	9%	10%
	Average Below	18	24	25	34	34	77
Average Above	110	69	63	90	84		
6	% No Departure	83%	81%	70%	55%	22%	39%
	% Durational Up	16%	14%	22%	16%	7%	10%
	% Durational Down	1%	5%	8%	8%	32%	29%
	% Dispositional Up						
	% Dispositional Down				21%	39%	22%
	Average Below	12	12	15	19	28	52
Average Above	79	62	71	71	135	103	
5	% No Departure	83%	80%	74%	73%	50%	35%
	% Durational Up		17%	19%	17%	18%	2%
	% Durational Down		3%	7%	10%	10%	22%
	% Dispositional Up	17%					
	% Dispositional Down					22%	41%
	Average Below		9	17	18	24	27

Offense SL	Departure Type	Criminal History Score					
		0	1	2	3	4	5+
	Average Above		50	58	66	103	60
4	% No Departure	86%	81%	78%	76%	72%	44%
	% Durational Up		18%	20%	20%	13%	8%
	% Durational Down		1%	2%	4%	15%	10%
	% Dispositional Up	14%					
	% Dispositional Down						38%
	Average Below		8	9	11	14	19
	Average Above		34	41	55	35	106
3	% No Departure	92%	72%	75%	72%	69%	69%
	% Durational Up			24%	27%	24%	18%
	% Durational Down			1%	1%	7%	13%
	% Dispositional Up	8%	28%				
	% Dispositional Down						
	Average Below			6	10	16	15
	Average Above			31	35	37	59
2	% No Departure	89%	66%	49%	50%	65%	50%
	% Durational Up				50%	33%	48%
	% Durational Down					2%	2%
	% Dispositional Up	11%	34%	51%			
	% Dispositional Down						
	Average Below					6	12
	Average Above				32	39	46
1	% No Departure					100%	33%
	% Durational Up						67%
	% Durational Down						
	% Dispositional Up	100%	100%	100%	100%		
	% Dispositional Down						
	Average Below						
	Average Above						114

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 BY MOST COMMON CRIMES 2019

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
Seriousness Level 9			
5-10-103	A	Murder II	270
5-14-103(a)(3)(A)&(c)(2)	Y	Trafficking of Persons, Victim is a Minor	380
5-14-103	Y	Rape	308
5-13-201	Y	Battery I, Victim under 4 years old or Law Enforcement Officer	190
Seriousness Level 8			
5-12-103	Y	Aggravated Robbery	201
5-64-440	Y	Trafficking A Controlled Substance	170
5-39-204	Y	Aggravated Residential Burglary	193
5-13-201	B	Battery I	153
5-74-106	Y	Simultaneous Possession of Drugs and Firearms	153
5-26-303	B	Domestic Battery I	174
Seriousness Level 7			
5-14-124	A	Sexual Assault, 1st Degree	232
5-38-301	A	Arson (≥ \$15,000 < \$100,000 Damage)	141
5-12-102	B	Robbery	155
5-64-420(b)(3)	A	Possession of Methamphetamine or Cocaine w/ Purpose to Deliver (≥ 10g < 200g)	136
5-39-201	B	Burglary - Residential	103
5-64-422(b)(2)	B	Delivery of Methamphetamine or Cocaine (≥ 10g < 200g)	105
5-64-402	B	Offenses Relating to Records, Maintaining Premises, etc. – Drug Free Zone	93
Seriousness Level 6			
5-14-125	B	Sexual Assault, 2nd Degree	144
5-64-443(b)	B	Use or Possession of Paraphernalia to Manufacture, etc. (but not store, contain or conceal) Methamphetamine or Cocaine	99
5-36-103(b)(1)(A)	B	Theft of Property Value ≥ \$25,000	99
5-27-603	B	Computer Child Pornography	156
5-64-422(b)(1)	C	Delivery of Methamphetamine or Cocaine < 2g	87
5-36-106(e)(1)	B	Theft by Receiving, Value ≥ \$25,000	94

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
5-64-420(b)(1)	C	Possession of Methamphetamine or Cocaine with Purpose to Deliver < 2g	86
5-64-424(b)(3)(A)	A	Possession of Schedule I or II Controlled Substance not Methamphetamine/Cocaine with Purpose to Deliver	79
Seriousness Level 5			
5-73-103	B	Possession of Firearm by Certain Persons	116
5-64-419(b)(1)(C)	B	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine (≥ 10g < 200g)	88
5-54-119	B	Furnishing, Using, or Possessing Prohibited Articles	90
5-37-201	B	Forgery I	81
5-39-201	C	Burglary – Commercial	86
5-64-419(b)(2)(C)	B	Possession of Controlled Substance Schedule I or II not Methamphetamine or Cocaine (≥ 28g < 200g)	79
Seriousness Level 4			
5-36-103(b)(2)(A)	C	Theft of Property > \$5,000 < \$25,000	80
5-36-106(e)(2)	C	Theft by Receiving	70
5-54-119	C	Furnishing, Possessing, or Using Prohibited Articles	70
5-26-304	C	Domestic Battery II	62
5-64-419(b)(1)(B)	C	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine (≥ 2g < 10g)	65
5-13-202	D	Battery II	62
5-54-120	C	Failure to Appear	55
5-54-120(b)	D	Failure to Appear Regarding an Order to Appear Issued Before a Revocation Hearing	40
Seriousness Level 3			
5-13-204	D	Aggravated Assault	66
5-39-202	D	Breaking or Entering	61
5-36-106(e)(3)(B)	D	Theft by Receiving – Credit/Debit Card or Account Number or Firearm, Value < \$2,500	44
5-54-125	D	Fleeing	62
5-64-419(b)(2)(A)	D	Possession of Controlled Substance Schedule I or II not Methamphetamine or Cocaine (< 2g)	55
12-12-904(a)	C	Sex Offender Failing to Comply with Registration Requirements	59
5-64-443(a)(2)	D	Possession of Drug Paraphernalia to Ingest, Inhale, etc.	53
5-64-419(b)(1)(A)	D	Possession of Controlled Substance Schedule I or II Methamphetamine or Cocaine (< 2g)	48
5-37-201	C	Forgery II	65
Seriousness Level 2			
5-36-103(b)(3)(A)	D	Theft of Property, Value > \$1,000 but ≤ \$5,000	63
5-38-203(b)(2)	D	Criminal Mischief I – Damage > \$1,000 but ≤ \$5,000	64
5-73-103	D	Possession of Firearm by Certain Persons	59
5-36-106(e)(3)(A)	D	Theft by Receiving, Value > \$1,000 but ≤ \$5,000	55

Statute Number	Class	Name of Crime	Average Imposed Sentence (mos.)
5-13-301	D	Terroristic Threatening I	58
27-53-101	D	Failure to Stop After Accident with Injury or Death	55
Seriousness Level 1			
5-41-103	D	Computer Fraud	78

*Source: Arkansas Sentencing Order Form*