

Approved January 16, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~pm~~ on January 14, 1991 in room 313-S of the Capitol.

All members were present except: Senators Feleciano and Gaines who were excused.
Representatives Hochhauser and Parkinson, who were excused.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Jill Wolters, Office of Revisor or Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Ben Coates, Executive Director, Kansas Sentencing Commission

The Committee met jointly with the House Judiciary Committee. Senator Wint Winter, Chairman, opened the meeting by reviewing the background for establishment of the Kansas Sentencing Commission. The purpose of the joint hearings was to provide information on the topic of sentencing guidelines. Senator Winter added that legislation is expected to be introduced embodying the Commission's recommendations.

Ben Coates, Executive Director, Kansas Sentencing Commission, addressed the Joint House and Senate Judiciary Committees with an overview of the preliminary recommendations of the Kansas Sentencing Commission. (ATTACHMENT 1) He stated the final version of the recommendations would be sent to the printer on Friday of this week, and presented to the Committees as soon as it is available.

The Joint Committee adjourned at 11:45 a.m.

The Joint House and Senate Judiciary Committee will meet on Tuesday, January 15, 1991 at 10:00 a.m. in Room 313-S.

KANSAS SENTENCING COMMISSION



Overview Of The Preliminary Recommendations Of The Kansas Sentencing Commission

*Senate Judiciary Committee
1-14-91
Attachment 1 page 1 of 19*

INTRODUCTION

The Criminal Justice Coordinating Council recommended the development of a Kansas Sentencing Commission. These recommendations were presented during the 1989 legislative session in the form of Senate Bill 50. The Bill passed, was signed by the Governor and became law in the spring of 1989. Prison overcrowding was a major concern that prompted the Coordinating Council to recommend the Commission, and the Legislature to enact Senate Bill 50. The bill directs the Commission to:

- o establish appropriate sentencing dispositions for all felony crimes (ranges, placements, probation or incarceration);
- o minimize sentencing disparity, especially in the areas of race and geography;
- o make recommendations concerning the future role of the Parole Board and good time credits;
- o consider current practices and resources.

Commission members were appointed by August of 1989, an Executive Director was hired in late September, and four additional staff members began working November 1, 1989.

The Commission has met on a twice a month basis since its inception. One of the first activities undertaken was the development of a mission statement and the articulation of goals. These issues were formed after considerable debate and represent the consensus of the Commission.

Mission Statement

The Kansas Sentencing Commission is charged with the development of uniform sentencing guidelines that establish a range of presumptive sentences. These sentences will be based on the following assumptions:

- o Incarceration should be reserved for serious offenders;
- o The primary purposes of a prison sentence are incapacitation and punishment.

Goals

- o To develop a set of guidelines that promote public safety by incarcerating violent offenders;
- o To reduce sentence disparity to ensure the elimination of any racial, geographical or other bias that may exist;

- o To establish sentences that are proportional to the seriousness of the offense and the degree of injury to the victim;
- o To establish a range of easy to understand presumptive sentences that will promote "truth in sentencing;"
- o To provide state and local correctional authorities with information to assist with population management options and program coordination;
- o To provide policy makers information that will enhance decisions regarding resource allocations.

The mission statement represents a radical departure from the status quo. It clearly establishes that prison is not rehabilitation, it is punishment. The Commission endorsed this change, but maintained that rehabilitation efforts should not be diminished once the decision has been reached to incarcerate. The major difference lies in the reason for incarceration not the treatment available once incarcerated. Once this change in philosophy occurs, the nature of deciding who shall go to prison and the method for deciding how his decision is reached must undergo some radical changes.

These changes will challenge many existing, strongly held beliefs and practices. However, they will bring about a system that:

- o emphasizes public safety;
- o decreases racial and geographic disparity;
- o is predictable;
- o is easy to understand;
- o is based upon the criminal culpability of the offender, not demographic or socio-economic variables.

RATIONALE FOR GUIDELINES

Several other states, as well as, the federal government have adopted sentencing guidelines. In fact, almost half of the states either have guidelines, are in the process of developing them, or are considering their development. Minnesota, Washington and California have had structured sentencing since the early 1980's.

a) History in Other States

Guideline efforts in other states, notably Minnesota and Washington, have been successful. They do not control crime, but they do provide decision makers the ability to rationally plan for resource development and management. Guidelines reduce racial and geographical biases, by eliminating all but the severity of the current offense and past criminal history from the sentencing decision. This creates a "level playing field" for everyone being sentenced. Persons from all over the state and of all racial and socio-economic backgrounds are judged using a standard set of criteria. Guidelines states have been able to control the flow of inmates going into the system, by setting priorities on who should be incarcerated. This setting of priorities allows the legislature to make rational funding decisions. If there is a strong belief that certain types of crimes should be punished more severely, then the legislature must allocate adequate resources. If they are not willing to allocate adequate resources, they must forego the planned increase in punishment, or decide to reduce the penalties for other categories of crime.

b) Proportionality

Making the punishment proportional to the crime is a key ingredient in guideline systems. This concept involves the development of a hierarchy of harms that result from different levels of criminal activity. Once this ordering process takes place, guidelines sentence ensure that the punishment fits the harm. Criminal codes often grow in a patchwork fashion, with new crimes added every legislative session. These crimes are placed into an existing hierarchy, usually without a great deal of effort being expended to ascertain the harm relative to other crimes. The decision to rank the seriousness of a crime is sometimes an ad hoc event driven by some exceptional set of concerns.

Guidelines systems provide a rational basis for placing new crimes in a seriousness content. This contextual framework maximizes proportionality by placing crimes with similar harms within a given level. This exercise is usually a two step process: 1) the legislature determines the elements of the crimes; and 2) a guidelines review group places it at a severity level which is based upon established principles. This process reduces disparity among crimes.

c) Fairness

Like proportionality, fairness is a key concept. The elimination of non-offense and non-criminal history factors from the sentencing process provides a "level playing field" for all offenders. The disposition is a function of actual present and past criminal activity, not a judgment based upon demographic or socio-economic considerations. When factors external to the crime come into play, punishment may become a function of employment status, marital status, amount of education, or a subjective assessment of ones chances for rehabilitation. These factors often reflect social patterns of inequality and offenders may be punished due to these inequities. Most guidelines states do not use these external factors, in fact, some have adopted statutes that expressly prohibit their use.

Several guideline states, as well as, the federal government found racial and geographical disparity in their pre-guideline studies. Sentencing guidelines have been credited

with reducing or eliminating these conditions. A 1988 Rand Corporation study credits the California structured sentencing system with the virtual elimination of racial disparity.

The Kansas Commission found similar disparity in a survey of cases sentenced in FY 1989. Like other states, the disparity is not deliberate, and does not stem from the actions of any actor or group of actors. Instead the disparity appears to be an artifact of the factors used to make decisions. When socio-economic variables are utilized, non-whites are disadvantaged. When only the current offense and prior criminal history are considered these disadvantages disappear or are significantly reduced.

d) Violent Crime/Property Crime

Criminal codes reflect levels of punishment based upon operational definitions of harm. These punishments differentiate between violent crime and property crimes. Violent crimes usually carry greater potential punishments than property crimes. However, this is not always the case and a review of the criminal code may well reveal some "special property crimes" ranked higher than person crimes. Guidelines systems, punish violent crimes more severely. In fact, in Minnesota, Washington and Oregon, the penalties for current offenses are greater, and persons with prior histories of violent offense get additional penalties. The Oregon criminal history score makes real distinctions between person and non-person crimes. One prior person felony carries a greater weight than any amount of prior property offenses when the penalty is assessed for a current crime. Thus, guidelines systems provide a rational method to insure that violent person crimes routinely receive greater punishments. If prison is punishment, and punishment is to be proportional to the harm committed, then prison should be reserved for those who inflict the most harm.

e) Drug Crime Dilemma

The sale and possession of restricted substances is the most rapidly growing offense of conviction. In a sample of 3,285 cases sentenced in FY 1989, drug crimes made up 24 percent of the convictions. The U.S. Bureau of Prisons forecast that one-half of their population will soon be made up of drug offenders.

A hardening of penalties and increased law enforcement activities will likely continue this trend. It became apparent that the Commission must separate drug and non-drug offenses. Several guidelines states developed separate sentencing systems to deal with drug offenses.

It is apparent that drug crimes and other crimes grow at different paces and need different strategies. Current sentencing practices do not take these differential growth rates into account.

DECISIONS REACHED

The Commission reached a series of decisions, that will be briefly discussed throughout the remainder of the report. The Commission decided to recommend a presumptive sentencing system that provides an appropriate sentence for a crime based upon the crime of conviction and the persons past criminal history. The sentencing court may

depart from the presumptive sentence. However, reasons for a departure must be explained on the record and are appealable. This presumptive sentencing system is represented by a matrix or grid. The grid does not consider factors external to the crime of conviction.

Crime Seriousness: Non-drug Offenses (~~A list of crimes and~~ a sample grid is enclosed)

The primary determinant of crime severity is the harm or threat of harm produced by the criminal conduct. Harm is defined as the actual damage or threat of damage to the societal interests protected by the criminal statute.

Different societal interests have different weights with respect to assessing crime severity. The Kansas Sentencing Commission developed the following principles for determining crime seriousness rankings:

Society's greatest interest is to protect the individual from physical and emotional injury.

The second most important societal interest is to protect private and public property rights.

The third most important societal interest is to protect/preserve the integrity of governmental institutions, public peace, and public morals.

There are ten levels of crime severity. The most severe ranking is level one; and the least severe ranking is level ten. Present felony classifications served as benchmarks for determining offense severity, but the Commission was not bound by current classifications. (See enclosure for a detailed listing)

The Commission determined that three crimes will be "off-grid" because of their seriousness and the determinate nature of their penalties. These three crimes are:

21-3401 Murder I
21-3433 Aircraft Piracy
21-3801 Treason

The large breadth of several criminal statutes necessitated the recognition of different severity levels within the definition of a particular crime.

The following crimes were subclassified:

21-3414 Aggravated Battery
21-3415 Aggravated Battery on Law Enforcement Officer
21-3503 Indecent Liberties with a Child
21-3504 Aggravated Indecent Liberties with a Child
21-3603 Aggravated Incest
21-3604 Abandonment of a Child
21-3611 Aggravated Juvenile Delinquency

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- 21-3718 Arson
- 21-3719 Aggravated Arson
- 21-3742 Throwing Objects from a Bridge or Overpass
- 21-3810 Aggravated Escape from Custody

When a person is convicted of any felony or crime punishable by state imprisonment which is omitted from the crime seriousness scale, the sentencing judge shall determine the appropriate crime category for the current crime of conviction and shall state on the record the reasons for the offense classification. When classifying an unranked offense on the crime seriousness scale, the sentencing judge should refer to comparable offenses on the scale or refer to the principles of ranking which are presumed applicable to all felony crimes under sentencing guidelines.

A conviction for an attempted crime shall be ranked on the crime seriousness scale at two (2) crime categories below the appropriate category for the completed crime.

A conviction for a conspiracy crime shall be ranked on the crime seriousness scale at two (2) crime categories below the appropriate category for the completed crime.

A conviction for a solicitation crime shall be ranked on the crime seriousness scale at three (3) crime categories below the appropriate category for the completed crime.

Crime Seriousness: Drug Offenses (sample grid is attached)

Drug offenses are ranked within a separate drug grid. Four levels of crime seriousness are provided; level one is the most severe and level four is the least. All drug sale convictions pursuant to K.S.A. 65-4127a and 65-4127b are presumed incarceration offenses. Recidivist drug sale convictions for either 65-4127a or 65-4127b are placed on levels two and one of the grid.

Appellate Review

A departure sentence is subject to appeal by either the defendant or the prosecution. Presumptive sentences or court approved sentences resulting from plea agreements are not appealable. Departure sentence appeals will be reviewed according to the following two-pronged test:

- (A) Is the departure supported by sufficient factual evidence in the record; and
- (B) Do the factors stated by the judge constitute substantial and compelling reasons for a sentence departure.

The appellate review process anticipates reasonable appellate caseloads, and an expedited review process for the summary disposition of sentencing issues.

Departure Sentences and Criteria

Generally, the sentencing judge will impose the presumptive sentence provided by the guidelines. However, if the judge in his or her discretion finds substantial and compelling reasons to impose a departure, the sentencing judge may depart from the presumptive sentence. The judge shall state on the record at the time of sentencing substantial and compelling reasons for the departure. Such reasons may be aggravating factors (for example, vulnerability or age of victim) or mitigating factors (offender played a minor or passive role in the crime or participated under circumstances of duress). Departures may be either durational (length of sentence) or dispositional (probation or imprisonment), and are subject to appeal by either the state or the defendant. Specific drug-crime departure criteria also exist for departure sentences from the Drug Grid.

Presentence Investigation Reports

The commission has established that a presentence investigation report shall be required in all felony cases (including all unclassified felonies). The commission reached this decision to provide independent, complete criminal history scoring vital to the sentencing process. The presentence report has been changed to convey facts in support of guideline applications. Under guidelines the role of the presentence investigation report has been modified. Under the current system, the presentence investigation provides information critical to the sentencing decision. Besides pulling together information about the offender's criminal history, the report details relevant social factors and makes judgments about the defendant's amenability to supervision. This information when combined with the dispositional recommendation of the investigating agent has a significant influence on the sentence. Under guidelines, the severity of the present crime and the offender's criminal history become primary, and consideration of "social factors" becomes irrelevant. This information will still be used for supervision purposes in presumptive probation cases; however, it will be retained as internal supervision information and not information for sentencing decisions.

Presumptive Sentences

The Sentencing Guidelines Grid is an offender classification tool by which each offender is classified for each crime of conviction in one of ninety cells. The offender's grid block classification is used to establish a presumptive sentence for the crime of conviction. The grid itself is divided diagonally with what is called the dispositional line. This line divides the grid into two parts. The grid blocks located above the dispositional line establish presumptive prison sentences. The grid blocks below the dispositional line establish presumptive probationary sentences.

Presumptive Prison Sentence

If an offense is classified in a grid block above the dispositional line, the presumptive sentence shall be a term of imprisonment within the durational range of months stated in the grid block. The sentencing judge has the discretion to sentence at any place within the range. However, because one objective of the guideline system is the elimination of sentencing

disparity, the sentencing judge is advised to set the prison term for most cases at the center of the presumptive sentence range. The sentencing judge should select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

Terms of Post-Prison Supervision

A term of community supervision will continue to be imposed as part of the sentence for any offender who is sentenced to prison within the durational range of months stated in the grid block or as a departure. This community supervision is described as post-prison supervision.

The duration of post-prison supervision shall be determined by the crime seriousness category of the most serious current crime of conviction:

1) Non Drug Grid

- o Twenty-four months for Crime Categories 1 - 6; and
- o Twelve months for Crime Categories 7 - 10.

2) Drug Grid

- o Twenty-four months for Crime Categories 1 - 3; and
- o Twelve months for Crime Category 4.

The term of post-prison supervision shall begin upon completion of the offender's prison term. Post-release periods will be limited to these terms, enhancement will not be allowed. Aggravating or mitigating facts of the current crime of conviction should be recognized in the sentencing court's duration (incarceration term) or dispositional (prison versus probation) decision.

The commission's decision to maintain existing statutes for A felonies and classify them as "off-grid crimes" is also applied to post-prison supervision. The commission recommends that the Parole Board continue to set post-prison supervision terms for offenders serving life sentences.

The Parole Board will set post-prison supervision conditions for all offenders released under guidelines and oversee motions to revoke an offender's post-prison supervision status.

The duration of post-prison supervision vests and translates into time spent out of the institution on supervised release. If the Parole Board revokes the offender's post-prison supervision status, it may impose the remaining term of post-prison supervision to be served in prison. The commission has set the maximum sanction for technical violations at ninety days. Any offender returned to prison from post-prison supervision shall receive credit for incarceration time served pending revocation.

Presumptive Probation Sentences

If an offense is classified in a grid block below the dispositional line, the presumptive disposition is probation. Again, the sentencing judge has the discretion to sentence at any place within the range. The sentencing judge should select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The commission voted to eliminate the use of suspended sentences in presumptive probation cases. At the time of sentencing the court will state the term of imprisonment and, thereafter, suspend imposition of sentence by placing the defendant on probation.

Duration of Probation

The presumptive duration of probation shall be determined by the crime seriousness category of the most serious current crime of conviction:

Non Drug Grid

- o Thirty-six months for Crime Categories 1 - 5; and
- o Twenty-four months for Crime Categories 6 - 10.

Drug Grid

- o Thirty-six months for Crime Categories 1 - 3; and
- o Twenty-four months for Crime Category 4.

The above presumptive duration of probation has been established to help eliminate sentencing disparity. However, the sentencing judge, without departure, may set the duration of probation at his/her discretion up to a maximum of five years.

The commission voted to maintain existing statutes and not limit the court's discretion to impose conditions of probation, or jail time as a condition of probation and revocation of probation. There are no proposed changes in current revocation procedures.

Criminal History Scale

Prior criminal history will play a significant role in the sentencing process and will be used to determine increased culpability of an offender. This conforms with the philosophy of just deserts established by the commission.

The commission reached the decision that all person crimes should be weighted more heavily than non-person crimes. Therefore, any prior conviction for a person offense will always result in a higher criminal history classification than a prior conviction for a non-person offense. This decision follows the commission's assumption that incarceration should be reserved for serious offenders. There are nine distinct criminal history categories (A

through I in order of seriousness, the most serious being A and the least being D) that comprise the horizontal axis of the sentencing guidelines grid. (see the enclosed grid) An offender's criminal history is based upon the number of prior adult and juvenile felonies, class A person and non-person misdemeanors, and class B person misdemeanor convictions. The commission decided to elevate the seriousness of misdemeanor crimes against persons. This decision was reached to maintain consistency with the decision that all person crimes should be weighted more heavily than non-person crimes. From public testimony received and considering the serious nature of individuals driving under the influence of alcohol and/or drugs, the commission enhanced the scoring of prior D.U.I. convictions to the person felony level when the current charge is Aggravated Vehicular Homicide.

Criminal history will not be allowed to be bargained in negotiations before conviction. An independent agent (the Court Services Officer) will prepare a criminal history worksheet in every felony case to preserve the accuracy of this information. With criminal history becoming a primary factor in the sentencing process, verification of criminal history will be critical. To aid in the scoring and accuracy of criminal history reporting, the commission recommends that the Kansas Bureau of Investigation be required to maintain criminal history records of misdemeanor convictions as they are required to do in felony cases currently.

Criminal History Decisions Reached

- o Only verified convictions will be considered.
- o All prior adult felony convictions will be considered including expungements.
- o Adult convictions will always be counted regardless of the length of time between offenses.
- o Juvenile adjudications, which would have been a D or E felony or a misdemeanor, that occurred between the ages of 13 and 18 will decay (be forgiven) when the offender reaches age 25. A, B, and C felonies will not decay. Upon implementation of guidelines all person felonies will not decay.
- o The seriousness level of the most serious crime will decide the scoring category when multiple offenses are sentenced concurrently or consecutively.
- o All class A misdemeanor convictions will be counted, class B person misdemeanors will be counted, no class C misdemeanors will be counted.
- o Three person misdemeanor convictions will equal one person felony.

- o DUI's will be considered as person felonies when someone is convicted of aggravated vehicular homicide.
- o Non-person A misdemeanors, and the Unlawful Use of Weapons (21-4201 A - F) and Unlawful Possession of a Firearm (21-4204a), (class B misdemeanors) will only count toward the misdemeanor criminal history categories.

Scoring Prior Criminal History

One prior criminal history unit will be awarded for each previous conviction event. A conviction event is defined as: One or more convictions occurring on the same day, within a single jurisdiction. These convictions may result from multiple counts within an information, or from more than one information.

- 1) No distinction will be made between multiple or single prior convictions occurring on the same day in a single jurisdiction, both shall be treated as single conviction events.
- 2) When two or more convictions occur on the same day, but are in different jurisdictions, then one point will be scored for each jurisdiction. They would constitute different conviction events.
- 3) When convictions occur on different days, then all convictions that occur on a single day will count as one conviction event.
- 4) The most serious crime within the multiple counts making up a prior conviction event will be used to assess the prior history score for the current event.

Establishing Consecutive Sentences

Sentencing judges will have the discretion to impose consecutive sentences. However, in instances where multiple sentences are imposed:

- 1) The court must establish a base sentence. The base sentence is typically the most serious. In cases where all sentences carry equal weight than one count is selected as the base.
- 2) The base sentence is set using the total criminal history score assigned.
- 3) The total sentence assigned for all charges cannot exceed twice the base sentence.
- 4) Non-base sentences will not have criminal history scores applied, but base sentences will have the full criminal history score assigned. This will allow criminal history to impact the total sentence, since the base score is doubled to set the parameters for the total sentence.

- 5) Total sentences aggregating to greater than twice the base sentences will require a departure.

120 Day Call Backs

The Commission recommends that the statute which allows sentences to be modified with 120 days be repealed. This practice has become a method to impose short term incarceration and is an expensive option. Each evaluation costs between 12-14 thousand dollars. The Commission feels that short term incarceration can be provided via bootcamps, local jails or local community corrections residential facilities.

Good Time

The current good time system has been changed. The new system is premised on the idea that inmates will serve the entire amount of time sentenced. However, their sentence may be lengthened by up to 20 percent if they exhibit negative behavior while incarcerated. This means that sentences cannot be shortened, only lengthened. If they are lengthened, it will be as a result of negative behavior. This supports the Commission's emphasis on truth in sentencing.

Parole Board Role

The Parole Board will not have discretionary release power over persons sentence under the guidelines. The sentencing court will control the release date, the time sentenced will be the time served. The Parole Board will set conditions for the post release supervision period. They will also hold revocation hearings for persons who violate their post release conditions.

The Parole Board will continue to release persons sentenced under the current law, as well as, persons receiving life sentences.

Monitoring System

The Commission recommends that a common data base be developed so that all segments of the criminal justice system can communicate. This will allow the legislature to make rational resource decisions.

The Sentencing Commission will monitor the implementation of the guidelines. This will require sentencing courts to submit copies of Journal Entries and criminal history worksheets. This data will be analyzed on a regular basis.

Consolidation of Field Services Study

There has been considerable discussion concerning the possible consolidation of Probation, Community Corrections and Parole services. The Commission believes this issue

needs further study and recommends that a study be undertaken and recommendations forwarded to the 1992 legislative session.

Implementation Date

The Commission recommends that sentencing guidelines take effect July 1, 1992. They will not be retroactive. In general, the guidelines will change the mix of persons going to prison. Violent crimes and drug crimes will realize significant increases. Property offenders will not go as often and will be kept in the community.

1-14/19

Legend

-  Presumptive Incarceration
-  Presumptive Probation

Sentencing Range - Non Drug Offenses

	A	B	C	D	E	F	G	H	I
Severity Level	3+Person	2 Person	1 Person + 1 Non-person	1 Person	3 + Non-person	2 Non-Person	1 Non-Person	2 + Misdemeanor	No Record
I	227 216 205	214 203 192	199 189 179	185 176 167	171 162 153	157 149 141	142 135 128	129 122 115	114 108 102
II	171 162 153	160 152 144	150 142 134	139 132 125	128 121 114	117 111 105	107 101 95	96 91 85	86 81 75
III	114 108 102	105 100 95	99 94 89	92 87 82	86 81 76	77 73 69	71 67 63	65 61 57	57 54 51
IV	95 90 85	90 85 80	83 79 75	77 73 69	71 67 63	66 62 58	58 55 52	53 50 47	48 45 42
V	76 72 68	71 67 63	67 63 59	61 58 55	57 54 51	52 49 46	48 45 42	42 40 38	38 36 34
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

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Sentencing Range - Drug Offenses

	A	B	C	D	E	F	G	H	I
Severity Level	3+Person	2 Person	1 Person + 1 Non-person	1 Person	3 + Non-person	2 Non-Person	1 Non-Person	2 + Mis-demeanor	No Record
I	227 216 205	218 207 196	208 198 188	199 189 179	189 180 171	185 176 167	180 171 162	176 167 158	171 162 153
II	92 87 82	86 81 76	80 76 72	75 71 67	69 65 61	66 62 58	63 60 57	60 57 54	57 54 51
III	57 54 51	52 49 46	47 44 41	40 38 36	35 33 31	29 27 25	26 24 22	21/20/19	18/17/16
IV	47 44 41	40 38 36	35 33 31	29 27 25	24 22 20	20 19 18	18 17 16	15 14 13	13 12 11

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Legend

-  Presumptive Incarceration
-  Presumptive Probation

6/1/91-1

Average Minimum Sentence And Average Months Served For 1700 Inmates Released Fiscal Year 1989 By Total Crime, Selected Crimes And By Race

	All Crimes		Statistically Significant	No Previous Felony Convictions		Statistically Significant
	White	Non-white		White	Non-white	
Total Crimes						
Ave Min Sent (years)	2.3	2.8	YES	2.3	3.0	YES
Ave Mos Served	34.0	41.8	YES	32.5	41.6	YES
Drug Crimes						
Ave Min Sent (years)	2.5	3.0	YES	2.5	3.1	YES
Ave Mos Served	28.3	38.3	YES	27.3	36.1	YES
Theft						
Ave Min Sent (years)	1.5	1.3	NO	1.2	1.2	NO
Ave Mos Served	26.3	25.4	NO	20.8	21.0	NO
Burglary						
Ave Min Sent (years)	1.9	1.9	NO	1.5	1.4	NO
Ave Mos Served	29.7	35.2	YES	23.4	27.2	NO

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Comparison Of Percent Sent To Prison Under Current System Vs. Proposed Guidelines For Selected Crimes(1)

	Current	Proposed
Second Degree Murder	100	100
Aggravated Robbery	71	100
Indecent Liberties With a Child	42	90
Aggravated Battery	55	90
(2) Possession/Sale of Drugs	27	58
Burglary	32	15
Forgery	37	14
Theft	31	13
Worthless Checks	22	12

(1) Included crimes comprise 74.4% of all cases reviewed.

(2) All sales are presumed incarceration, first possessions are presumed probation

COMPTABL

Kansas Sentencing Commission
January 9, 1991

6/8/1-1

Comparison Of Number Of Persons Sent To Prison And Total Person-Months Of Imprisonment For Current System Vs. Proposed Guidelines

Number sent to prison	Current System [#]	Proposed Guidelines [#]
Drug Offenses	298	468
Non-Drug Offenses	995	651
Total ⁽¹⁾	1293	1119
Person Months of Imprisonment		
Drug Offenses	8959	11297
Non-Drug Offenses	28750	23869
Total ⁽²⁾	37709	35166

(1) Represents a 13.5% reduction

(2) Represents a 9.3% reduction

(3) Includes an adjustment for probation violation and 120 day callbacks

(4) Includes an adjustment for probation violation

PRSMNTHS

Kansas Sentencing Commission

January 9, 1991

6/1/61-1