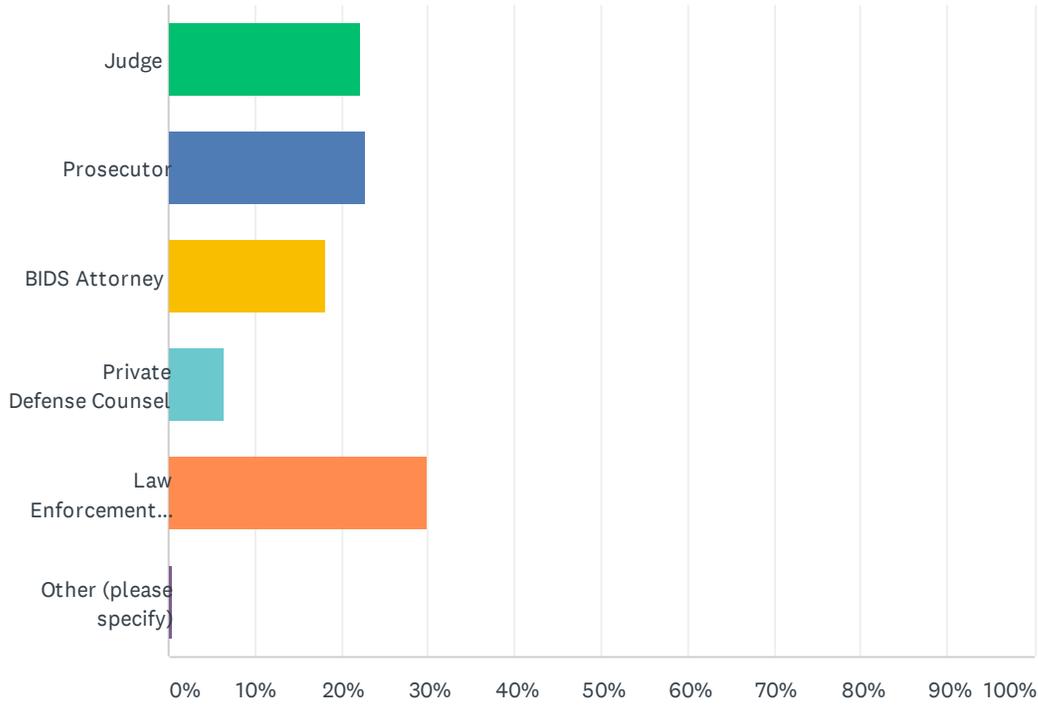


# Q1 What best describes your role?

Answered: 297 Skipped: 0

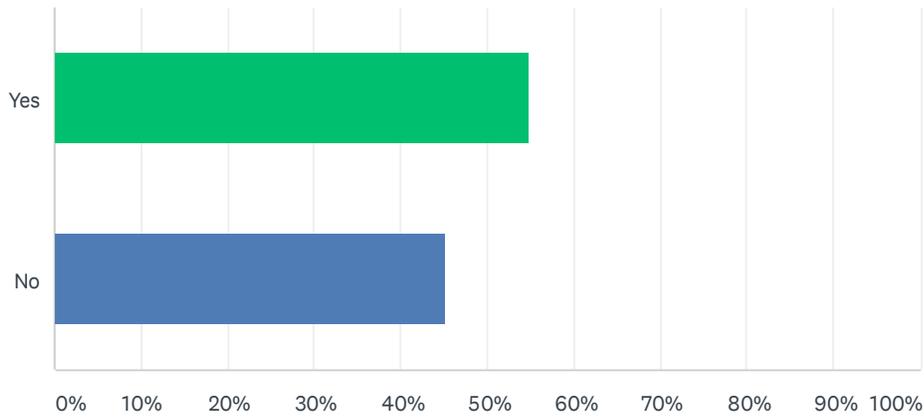


ANSWER CHOICES	RESPONSES
Judge	22.22% 66
Prosecutor	22.90% 68
BIDS Attorney	18.18% 54
Private Defense Counsel	6.40% 19
Law Enforcement Officer	29.97% 89
Other (please specify)	0.34% 1
<b>TOTAL</b>	<b>297</b>

#	OTHER (PLEASE SPECIFY)	DATE
1	Sheriff	9/1/2020 1:38 PM

## Q2 Would you support combining the current nondrug and drug sentencing grids?

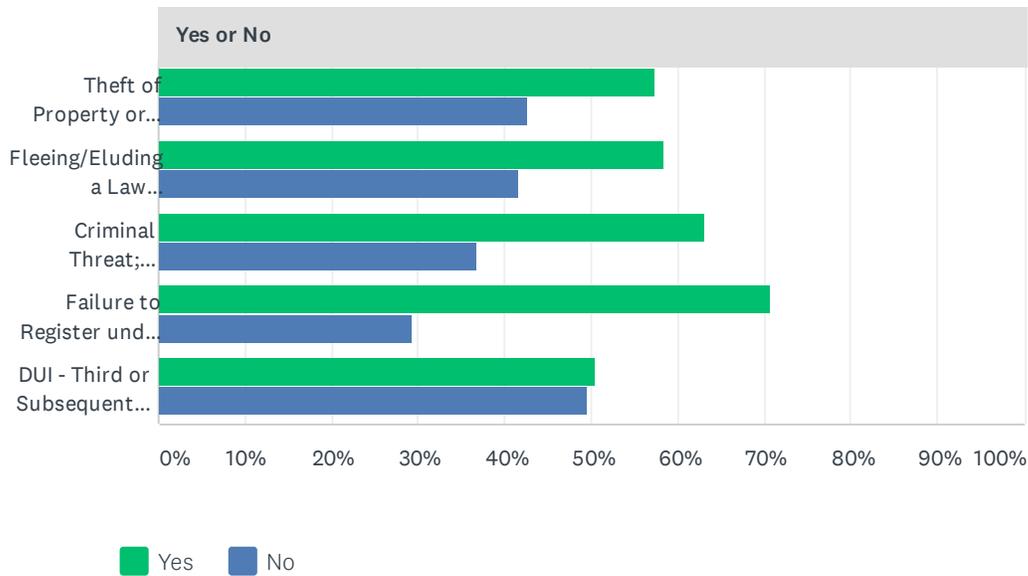
Answered: 292 Skipped: 5



ANSWER CHOICES	RESPONSES	
Yes	54.79%	160
No	45.21%	132
TOTAL		292

### Q3 Should the top five nondrug felonies in the state as set forth below have the incarceration ranges re-worked for proportionality?

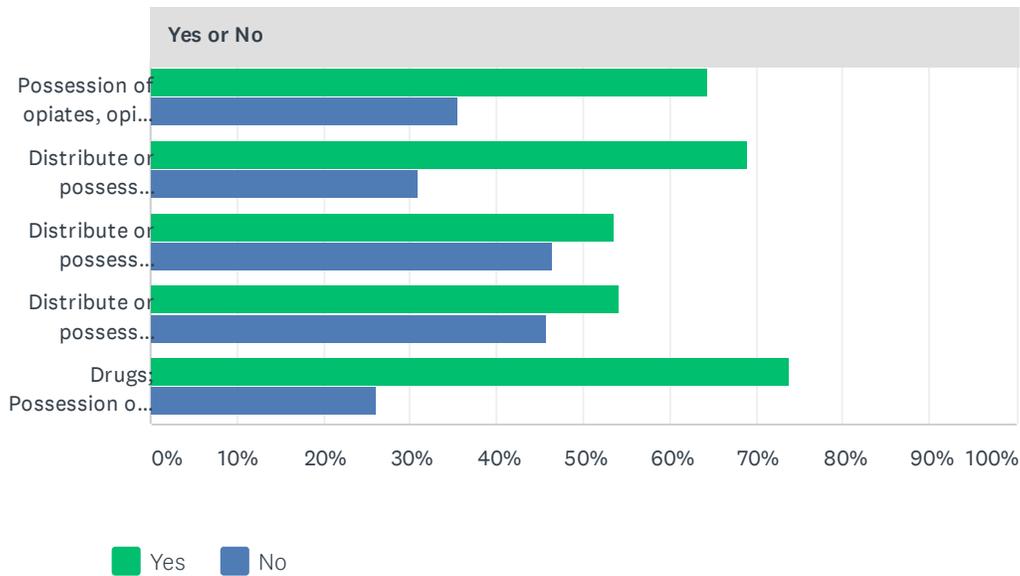
Answered: 293 Skipped: 4



Yes or No			
	YES	NO	TOTAL
Theft of Property or Services; Obtain or exert unauthorized control at least \$1,500 but less than \$25,000	57.39% 167	42.61% 124	291
Fleeing/Eluding a Law Enforcement Officer - 3rd or Subsequent	58.42% 170	41.58% 121	291
Criminal Threat; Threaten to commit violence w/intent to place another in fear, to cause evacuation, lock down	63.10% 183	36.90% 107	290
Failure to Register under the Kansas Offender Registration Act	70.79% 206	29.21% 85	291
DUI - Third or Subsequent Conviction	50.34% 146	49.66% 144	290

### Q4 Should the top five drug felonies in the state as set forth below have the incarceration ranges re-worked for proportionality?

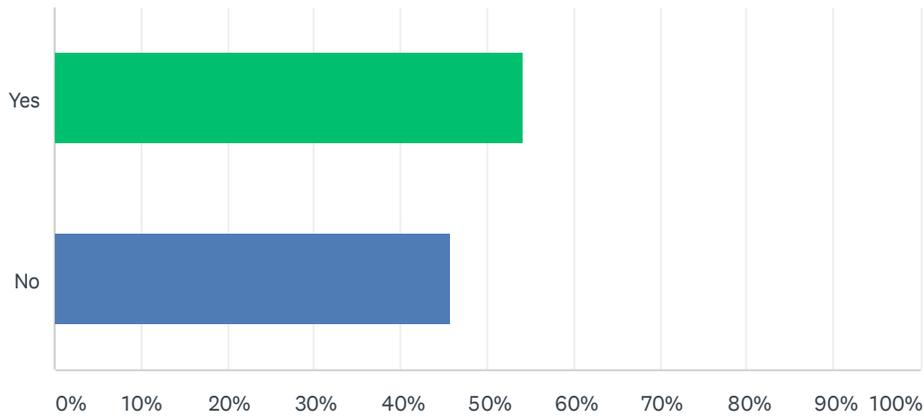
Answered: 295 Skipped: 2



Yes or No			
	YES	NO	TOTAL
Possession of opiates, opium, narcotic, stimulant (d)(1), (d)(3) or (f)(1) of 65-4107 or controlled substance analog	64.51% 189	35.49% 104	293
Distribute or possess w/intent to distribute; Marijuana; Quantity<25 grams	69.05% 203	30.95% 91	294
Distribute or possess w/intent to distribute; Heroin or Methamphetamine; Quantity=>1 gram<3.5 grams	53.58% 157	46.42% 136	293
Distribute or possess w/intent to distribute; Heroin or Methamphetamine; Quantity<1 gram	54.08% 159	45.92% 135	294
Drugs; Possession of hallucinogenic or analog; 3rd or Subsequent Offense-Marijuana	73.81% 217	26.19% 77	294

### Q5 Would you support severity level 5 drug possession crimes (not sales or distribution crimes) to be classified as nongrid, much like DUI?

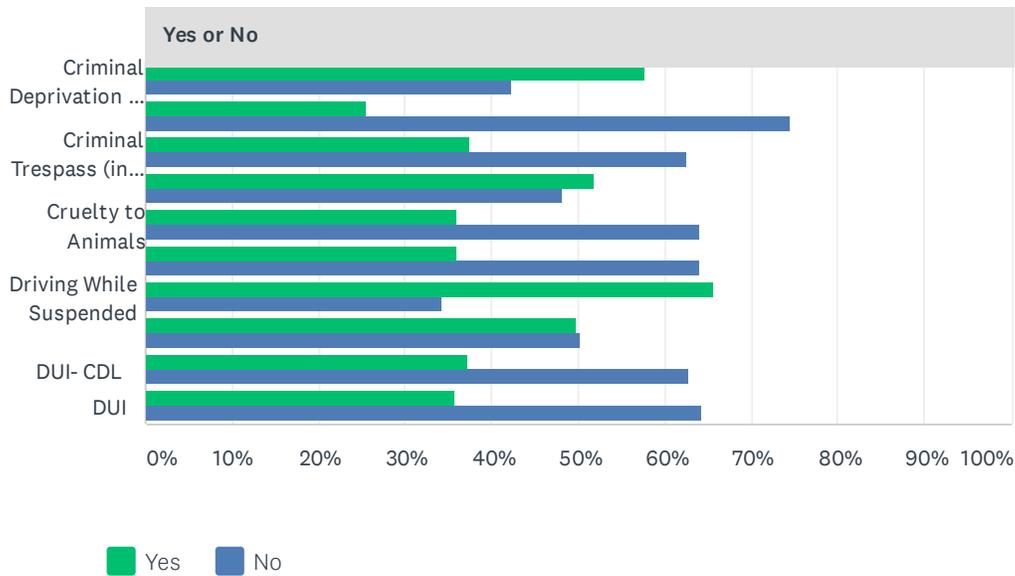
Answered: 293 Skipped: 4



ANSWER CHOICES	RESPONSES	
Yes	54.27%	159
No	45.73%	134
TOTAL		293

## Q6 Would you support removing mandatory minimums for certain misdemeanors?

Answered: 296 Skipped: 1



Yes or No			
	YES	NO	TOTAL
Criminal Deprivation of Property (Motor Vehicle) - 2nd	57.68% 169	42.32% 124	293
Domestic Battery - 2nd and 3rd	25.51% 75	74.49% 219	294
Criminal Trespass (in defiance of restraining order)	37.54% 110	62.46% 183	293
Forgery - 2nd and Subsequent	51.89% 151	48.11% 140	291
Cruelty to Animals	36.08% 105	63.92% 186	291
Harming or Killing Certain Dogs	35.96% 105	64.04% 187	292
Driving While Suspended	65.76% 194	34.24% 101	295
Habitual Violator	49.83% 145	50.17% 146	291
DUI- CDL	37.29% 110	62.71% 185	295
DUI	35.79% 102	64.21% 183	285

**Q7 Please include comments on previous survey questions or any other proportionality concerns you would like the subcommittee to consider.**

Answered: 111 Skipped: 186

#	RESPONSES	DATE
1	Drugs should be decriminalized. Since this won't happen, all but the most serious should be misdemeanors or infractions. There should be no registry for drugs. We do not take person crimes as seriously as we should. Domestic battery is less serious than theft of a lawnmower. How can that be right? Which is worth more a person or a mower? Person crimes should have longer sentences. Disobeying a lawful order should have mandatory minimums with no tolerance. No client I have ever had has been rehabilitated from a drug addiction by being sent to prison.	9/16/2020 7:28 PM
2	I don't see the point of making possession crimes a non-grid. Should have more treatment options and maybe make the range on all charges bigger so the judges have more discretion. DUI's third or more should possibly have harsher sentences, especially with a high BAC (Say double or more of the limit). Eluding should be a much higher crime or sentence given the overall danger to the community, especially for people with subsequent convictions or if they cause a wreck. The drug grid needs to be reworked but not combined. When a possession charge can get the same (or more) amount of time as an agg assault at some criminal history levels, there's something wrong.	9/16/2020 5:31 PM
3	Mandatory minimums cannot be removed from DUI violations withing exposing the state to federal penalties. The State's current minimums comport with federal minimums and are not in excess of those requirements. Simple possession of drugs should be a level 9 or 10 felony. Get rid of the special rule that makes a third offense presumptive prison. Minimum mandatory jail sentences can be an important tool for crimes such as DV Battery so I oppose removing them from some crimes. Other violations, such as DWS, I have no problem removing the minimum mandatory. You inquire as to essentially 3rd possession of marijuana; marijuana penalties need to be scaled downwards as more and more communities choose not to enforce marijuana laws at all. These creates a significant statewide proportionality issue.	9/15/2020 2:20 PM
4	Vehicular Homicide should be a felony, there should be an aggravated section for when it is done with a CDL holder. Rape should not have to prove lack of consent. Furthermore force or fear should be aggravating factors, not the standard.	9/15/2020 1:05 PM
5	Some penalties should be increased, some should be decreased. This survey does not include how they should be modified.	9/15/2020 11:22 AM
6	We need to make sure we prioritize prison space for violent offenders.	9/15/2020 10:49 AM
7	I said yes to number 5 but they should in all reality be made misdemeanors.	9/15/2020 10:44 AM
8	It is too easy for theft and especially criminal damage to property to become a felony with the monetary limits at their current state. Most vehicles incur felony-level damage at the slightest amount of force. This should be reviewed frequently. The punishment for DUI homicide is disproportionately low. It is often hard to explain to a family why their deceased loved one's life is worth such a short sentence.	9/15/2020 10:43 AM
9	You can tinker with the numbers, but to get real change that helps offenders and public safety you need resources to work with them and time to allow change to happen. Inadequate resources=little likelihood of lasting change.	9/15/2020 10:38 AM
10	I support removal of mandatory minimum jail sentences for non-violent property crimes that do not pose a public safety risk - forgery, temp dep, ect. DUI and DV Battery are another matter, though. As for registration offenses, and possession drug crimes, making them non-grid would be fine (more thoughts on possession drug crime below). I'd be careful about making flee and elude a nonperson offense -- as the risk that crime poses to the public and LEOs is substantial. Another possibility for SL5 drug possession cases would be to create a new category -- not non-grid (which pushes responsibility back to the county jail) but maybe a range that goes up only incrementally if at all. 6-9-12 months per conviction, from criminal history E or below, with 9-12-18 for CH A or B. Get creative. Keep Crim Threat a person felony. Its a great plea negotiation tool for all parties. The Agg Assault or DV assault charges plead to that because its a PF but defendants like it because its only a SL9, not a SL7. Change that and your other, more serious PF convictions (and consequent incarceration) will go up exponentially.	9/15/2020 10:15 AM
11	End the war on drugs, End the war on the poor	9/14/2020 1:01 AM
12	Distribution of meth/heroin/opiates should not be touched. Even though touted as "non-violent" offenses they most certainly are accompanied with violence and other crimes committed in	9/11/2020 12:50 PM

conjunction with it. Criminal possession of a weapon (firearm) penalties need to increase especially if the prior felony is for a person crime or for a drug crime. Our current penalty for that offense is a joke.

13	I really think there needs to be a fix to Special Rule #26 (3rd or subsequent conviction for felony drug offense). The PSI writers are told to mark that the Special Rule applies when the three drug felonies are all in the same complaint. I don't think that was the legislative intent. Please look at replacing the language "third or subsequent" with "prior convictions." I think that could eliminate that issue, and actually penalize repeat offenders instead of someone who happens to possess three kinds of felony drugs at once. (Or what I usually see is that they have one prior, and then have two pending meth cases. For purposes of plea, I combine the meth cases into one complaint because the person needs treatment. Instead, they're put into the presumptive prison category.) Additionally, if you're looking at forgeries anyway, the same could be done there, which could help reduce the frequency of minimum jail penalties.	9/11/2020 12:47 PM
14	The drug grid is so harsh compared to other crimes. Felon in possession of a firearm is HALF the punishment of simple possession of drugs. Need to be much harsher on person crimes and need to chop level 4 and 5 drug offenses in half.	9/11/2020 9:54 AM
15	With respect to the drug crimes, the jump in quantity the moves a distribution from a level 3 to a level 2 and a level 1 is HUGE. I think the drug grid would be more reasonable if the quantities were more evenly spread out. Sometimes major distributors are getting level 2's (with 50-100g) and sometimes "smaller" street level distributors are getting the same level 2 charge for having 4 - 10g. ALSO, the grid time for level 5 possessions is pretty extreme for someone who's NOT a dealer, but primarily a user. There has been discussion that the D5 possession might change to be closer to regular-grid level 8 - I think that is a great idea. Many Judges hesitate to ever impose the underlying time because it's such a long amount of time; thus, most D5 probationers know they will rarely face any type of revocation no matter how many times they violate probation.	9/11/2020 9:52 AM
16	The drug grid is absolutely draconian and needs to be substantially revamped.	9/11/2020 9:48 AM
17	Felony flee/elude should be higher on the grid, it usually is incredibly dangerous; the maximum penalty for 3rd and subsequent DUI should not be one year, there needs to be some proportionality to intoxication and number of priors convictions that does not exist when the maximum is the same for second and subsequent offenses; drug distribution sentences are fine where they are, felony drug possession could be reworked from "A-D" on the grid to where the maximum sentence was consistent with what is now a 5E or 5D box.	9/11/2020 8:45 AM
18	No additional comments	9/11/2020 8:42 AM
19	We should move away from non-grid felonies in general, but particularly felony DUI.	9/11/2020 8:26 AM
20	Meth is a problem. Do not lessen the punishment. We have seen manufacturing go down, in part, because of the severe punishment. Now distribution is up (filling the demand). Lessening the consequence would be unwise. The vast majority of theft cases are tied to individuals who are involved with meth. Victims of theft feel violated by the criminal and ignored by the justice system with little punishment to the criminal other than probation requiring them to simply follow the law. This typically results in years of probation violations resulting in very little repayment to the victim. Criminal prosecution of marijuana is an inefficient use of resources unless tied to dui or what would be the equivalent of an open container charge. Criminal threat is too broad and can turn a heated argument into a felony prosecution. Driving while suspended is a vicious cycle for most and the system feels broken. People who can't pay fines, lose their right to drive which inhibits their ability to get to work to pay the fines. They drive out of desperation and it snowballs. We should re-work what can cause a suspension and limit the use of that restriction. Fleeing and alluding is an extremely dangerous crime putting officer and civilian lives in danger. It is not punished proportionately.	9/10/2020 10:45 PM
21	None	9/10/2020 8:55 PM
22	Property crimes need more severe/mandatory jail/prison. It makes no sense that you have to do 48 hours for a DUI 1st, but a Residential Burglary has no minimum	9/10/2020 8:02 PM
23	It is a shame that we treat addiction so harshly. To receive the same sentence as an addict, a person must pull a deadly weapon on another (If they are an I).	9/10/2020 6:26 PM
24	Nothing good comes from reducing the penalties for most of the offenses referenced above given that most involve presumptive or agreed probation by plea agreement and there is little	9/10/2020 5:09 PM

to no likelihood that prison sentence will ever be served. If prison is ordered after multiple probation violations the defendant inevitably receives a McGill modification substantially reducing prison time. I am unsure of basis for concern about "proportionality" as it strikes me as just another reason to continue going softer on crime and criminals.

25	Felony DUIs need a greater range in maximum sentence. It is incomprehensible that a 7th offense DUI has the same maximum sentence of 12 months as a 3rd offense DUI (or even 2nd offense DUI). Courts should be permitted to sentence repeat felony DUI offenders to more than 12 months jail.	9/10/2020 4:49 PM
26	None	9/10/2020 4:43 PM
27	I think exit mechanisms for lifetime postrelease and parole would be advisable. Not having lifetime postrelease on lower level (6+) felonies may also be advisable. The sentence for attempts, conspiracies, and solicitations to commit offenses (especially Jessica's law offenses) should not be the same as completed offenses. Removing that would allow for better plea deals. And some Jessica's law offenses should not carry life sentences. Be careful removing low-level felonies from the grid. You may well end up with longer jail sentences if they become misdemeanors. Low-level offenses are typically mandatory probation, whereas the court has absolute discretion to impose jail time for misdemeanors.	9/10/2020 4:23 PM
28	I would like the subcommittee to consider removing the 3rd or subsequent felony drug possession conviction special to requires imprisonment. I would also like the subcommittee to consider implementing a mandatory minimum imprisonment for any kind of felony domestic battery including strangulation.	9/10/2020 4:05 PM
29	n/a	9/10/2020 3:59 PM
30	Please keep marijuana illegal.	9/10/2020 3:57 PM
31	the juvenile sentencing matrix needs attention, including reworking the habitual violator provisions.	9/10/2020 3:52 PM
32	Dui should become a grid charge and come with heavy penalties, flee and elude as well	9/10/2020 3:50 PM
33	Place DUI - 3rd on the grid, as Level 9 offenses. put on a mandatory minimum jail sentence and fine (like we do with forgery-3rd or subsequent) if you feel that is necessary, but get rid of Post-Imprisonment Supervision and just make it post-release. On offender registration violations, remove the special rule under 21-6804(m) that requires all of these convictions to be presumptive imprisonment (but it allows for border box findings on Level 5 offenses, which are second offenses - this is not allowed on Level 6 first time offenses, which seems unjust). Allow the placement on the grid control prison/probation, not the special rule. Also, first offenses could be a level 7, second offenses could be a level 5, and third or subsequent offenses could be a 3.	9/10/2020 3:49 PM
34	There should be more time on severity level 3 crimes; there is a big jump from a 3 to a 2. Also should be a more gradual jump from a "C" to a "B" on level 5-1 (adjustment made to "C" and down).	9/10/2020 3:46 PM
35	I selected yes, but want to be sure my thoughts are understood. There are crimes I actually feel to be quite low on the underlying time with presumptive probation, that I think should be re-worked to increase the time (criminal threat and aggravated domestic battery are two that come to mind.) Likewise, there are many I find to be disproportional and should be lowered (the idea that the A history necessarily supports the time listed for simple possession offenses has always confused me.) If a kid gets a few person felonies as a teen and then at 30 has a drug problem, it's hard for me to say he deserves an A-5 drug box sentence and a person who habitually possesses and is convicted for possessing drugs routinely never gets over the "E" amount. Not to say they should be higher, but that the A person's time doesn't seem that proportional.	9/10/2020 3:45 PM
36	There is no reason to lighten any sentences anywhere, offenders get too many chances at probation as it is. Too many departures granted.	9/10/2020 3:44 PM
37	On question 5, my answer would be, "It depends." I believe that the current penalties for felony drug possession offenses on the grid are disproportionate and need to be substantially reduced. But it's hard to answer that question without knowing what the penalties under the nongrid scheme would be.	9/4/2020 12:10 PM
38	N/A	9/3/2020 8:30 AM

39	Simple drug possession crimes should all be misdemeanors. The state should fund treatment centers similar to JOCO's Residential Center for drug possession violators.	9/2/2020 11:27 AM
40	Failure to register should be a non-person crime, without a \$20 fee, and it should go back to a level 10 felony. There is absolutely no scientific data to back up the idea that registration makes our communities safer or that it reduces recidivism. There should be no registration for violent crimes or drug crimes at all. If anything, the registries for drug/violent crimes should be for law enforcement only. These laws on registration are Draconian. As for sex offenders, there should definitely be a way for people to apply to be removed from the registry, but again, there is no data to support the idea that registration helps anyone.	9/2/2020 9:19 AM
41	The guidelines are a joke. A felony fleeing and eluding a level 9 is stupid, it should be a 5 or higher. People want people that commit crimes to be in prison, not probation all the time. The Court takes blame for this, but it is what the legislature does.	9/2/2020 8:09 AM
42	I personally do not support the lessening or removal of mandatory minimums. It provides the public with a sense of "wiggle room" when it comes to committing crime. If anything I would like to see some of these options be taken more seriously rather than being diverted.	9/2/2020 6:28 AM
43	Sections 3 and 4, I feel some could have the range lowered and some could be raised. But all of them should be considered for change.	9/2/2020 2:28 AM
44	I believe that, if we have to prioritize measures, that modifications to the drug statutes and sentencing grid and eliminating mandatory minimums should receive the most focus. The drug statutes and distribution presumptions are based on outdated information and product costs. What used to be distribution level amounts are now commonplace and not indicative of an intent to distribute, only that they got a bonus on Friday and have some extra cash to spend. Another huge problem is the weight difference between a level II and a level III. It's illogical that someone who has 3.6 grams is going to be charged and potentially convicted at the same level as someone with 99.5 grams.	9/1/2020 11:37 PM
45	25 grams of marijuana is FAR TOO SMALL an amount to be designated a Level 3 drug sales felony. The sales "presumption" is 450 grams, so a small quantity distributor is designated as a distributor in the criminal charge, but is not, by law, presumed to be a distributor. Why is meth and heroin singled out from cocaine and other drugs for harsher treatment as to levels charged based on quantity? They should be treated the same. Re Marijuana: There is no limit to how much a person can possess (just limits on sales amounts) but I find that any arrestee who possesses more than a small quantity (less than an ounce) is charged with distribution, even with no evidence of sale or possession with intent to sell. The reality is that marijuana users have increasing access to "quality" product and oftentimes will buy quantities for personal use when they find something they like. If people are arrested based on quantity, the levels should be increased. The statutes on drugs are aimed at cartel level distributors, and are too harsh for the reality of the small time Kansas weed seller, which is the majority of arrests and reflects reality. Weed should not be illegal to possess, but as long as it is illegal, the laws should be realistic. For example, I have a college age client with NO criminal history, who sold \$80.00 of "dab" and is charged with a Level 4 distribution crime! Another client sold 40 grams and no criminal history, and is charged at a Level 3. The sentences are presumptive prison in both cases, though neither client has ever been in trouble. These are 21 year old kids who make a stupid error and who are punished so disproportionately it is incredible. Both graduated from college this year and face a dismal employment future due to selling a friend a bit of weed. This hurts Kansas, it is unfair, and needs to be corrected.	9/1/2020 7:00 PM
46	The huge disparity in possible juvenile sentencing options for felonies needs attention, and likely closing of the gap.	9/1/2020 4:57 PM
47	The survey was not well constructed! For example, what do you mean about combining the drug and non-drug grids? Does this were to mean that there would be 15 severity levels or just 10. Also, what does proportionality mean in this context? A sentence for a particular crime must be tied to some other sentence in order to consider proportionality. If the questions were intended to determine if survey members think certain sentences are too harsh then that's a different conversation.	9/1/2020 3:45 PM
48	Having watched the time portion of the Grid grow and minimum sentences being added over 30 years of practicing law, it is well pass time to rethink locking people up for long periods of time, and for driving while poor.	9/1/2020 2:11 PM
49	Drug offenses are very disproportionate to other offenses. Burglary of a dwelling should be	9/1/2020 1:57 PM

more severe - registration should be less so. Often times the offense for failing to register is greater than the crime for which registration is required - more drug offenses should be presumptive probation with treatment - should allow SB 123 treatment without the necessity of a conviction.

50	Sentences have over the years been reduced and it seems as though few are really being held accountable for much of anything these days. The more leniency shown, the bigger joke this system of ours is becoming. Offenders already know if you have a simple drug charge nothing will happen, or if you commit a property crime, nothing much happens. There is very little accountability already. Let's not make it worse.	9/1/2020 1:57 PM
51	I'm not sure it matters much how crimes are classified, as counsel will simply craft plea agreements and amend charges (even with no factual basis) to obtain the sentence they agree on.	9/1/2020 1:41 PM
52	I would like a definition of proportionality!!	9/1/2020 1:38 PM
53	I think we need to rethink the length of incarceration on all of our guidelines. There should be some factor for how old the prior convictions are that are increasing the criminal history. All the math is used to increase sentences and that should no longer be the norm. Supervision is cheaper than incarceration and more effective. Parole is underfunded and overworked and too many people are a in the revolving door of violation, back to prison.	9/1/2020 1:36 PM
54	Please change (lower) the sentencing range for Level 5 possession and mandatory prison for third offense. Prison does very little to address the underlying issue of addiction. We also need a better mental health system so folks don't self-medicate with illegal substances and could instead get the mental health treatment they often need.	9/1/2020 1:26 PM
55	The penalties should be more harsh. Anyone having been convicted of two or more felonies should not be eligible for probation. After you have been convicted of possession of CDS three times you should go to prison and not fall into a probation box. Defendants know the grid and they know what they can do and not do to fall into a prison box.	9/1/2020 1:21 PM
56	Mandatory minimums on misdemeanors are a bad idea. Also, we should allow diversions for 1st time DUI's for people with CDL's.	9/1/2020 1:18 PM
57	The Sentencing "Special Rules" like mandatory imprisonment for drug crimes, etc. need to be changed.	9/1/2020 1:15 PM
58	drug felonies should have weight increased in each offense to reduce penalties	9/1/2020 1:09 PM
59	A felony should be prison, not jail. Possession of drugs should be less severe, distribution more severe, but prosecutors will simply plea the distribution to possession.	9/1/2020 1:00 PM
60	Many Qs left black due to lacking adequate knowledge or a strong position.	9/1/2020 12:54 PM
61	In light of the public safety risk posed by the crime, the maximum sentence in a felony DUI case should be longer than 12 months. The maximum sentence should increase with each additional conviction instead of remaining the same whether it is the fourth or the fourteenth.	9/1/2020 12:42 PM
62	Fleeing and eluding should be presumptive prison.	9/1/2020 12:42 PM
63	Do not reduce mandatory penalties.	9/1/2020 12:32 PM
64	The questions regarding proportionality are not good questions. I am not sure my understanding of what "reworked for proportionality" means is the same of what it means in this questionnaire.	9/1/2020 12:32 PM
65	The issue with drug possession being non-grid crime is the burden it would impose on the local jails for incarceration. If reclassified as a non-grid crime you shift financial responsibility to county jails that cannot handle the burden.	9/1/2020 12:20 PM
66	The missing piece is providing appropriate therapy: drug therapy, anger management, etc. In order to promote rehabilitation, therapy is essential & unavailable to the extent necessary.	9/1/2020 12:20 PM
67	Judges should have more discretion in sentencing.	9/1/2020 12:04 PM
68	We need to address registration violations. They should not carry a more severe sentence than the original underlying crime in some offenses.	9/1/2020 11:54 AM
69	1 jury trial 2019, if judges would work it would be helpful, and prosecutors do nothing but plea	9/1/2020 11:42 AM

	deals	
70	The drug felonies really need to be reworked. The quantities used to separate the severity levels are not realistic, especially meth and marijuana. The prosecutors even think they are ridiculous.	9/1/2020 11:25 AM
71	Safety of others beyond the individual should be considered. Would this put others at risk if the current were to be changed?	9/1/2020 11:08 AM
72	MJ poss. (Even 3rd subsequent) Should be infraction.	9/1/2020 11:05 AM
73	The KORA registration penalties are out of proportion and basically punish people who are poor and have mental health issues. We are locking up homeless people because they fail to register. These laws are inhumane. The laws for sex offenders who go to prison--life time post release with ankle bracelet--are ridiculous. While there may be some sex offenders who may deserve this, others are given no hope of ever getting out of the system. This is particularly true for young men who get caught in the system over a he said/she said case. We should not be locking people up for selling marijuana when it is legal in other states. I have represented people stopped in Greenwood county for possession of drugs with intent to distribute. These are not big quantities which are found, but there they are locking up out of state people in our prison. I doubt Kansans would want to pay to incarcerate people for years in our system when they don't even live here. This county stops everyone who has an out of town plate and then they proceed to impound their vehicles and have them forfeited to our state. The aggravated burglary statute should not include inherently dangerous felony of stalking in it. I see people charged with going back to their own home and then charged with aggravated burglary which carries a penalty which is too severe. Proportionality concerns--I currently have a case where the client beat up his girlfriend, posted bond, they got back together and the cycle repeated. Now, he is looking at spending more time in prison than he would had he killed her. There should be a maximum to how the State may stack charges when the person is out on bond and picks up new offenses.	9/1/2020 10:48 AM
74	You ask "reworked for proportionality" ... that is a bad question and means different things to different people. It should ask "increase or decrease." Any small quantity drug possession should be a misdemeanor. Failure to register is an absolute joke. It's nothing more than a tool of oppression, and cannot be said to do anything for public safety. Kansas is one of only a few states that require violent and drug offender registration.	9/1/2020 10:44 AM
75	Mandatory minimums should be eliminated and DUIs should be treated as all other cases that can be plea bargained.	9/1/2020 10:43 AM
76	I don't think this survey appropriately allows for the right questions to be asked and answered. The sentences are not proportional to the crimes committed, but some are more disproportional than others (KORA, for example). Additionally, mandatory minimums are an absolute travesty that do not actually deter future conduct, similar to three-strikes rules. Finally, it is clear that the "war on drugs" has failed and just leads to mass incarceration. Drug crimes should not be punished as harshly as they are. While I said the two grids should be combined, I could be persuaded that different grids are appropriate if the drug grid takes into consideration actual needs of those who are investigated and convicted of drug crimes and doesn't simply chuck someone in prison based on an arbitrary weight set by a legislature that seems to change the grids on a whim.	9/1/2020 10:40 AM
77	There needs to be a difference between DWS due to inability to pay fines and DWS because of DUI. The current law unfairly lumps the two groups together.	9/1/2020 10:36 AM
78	Mandatory sentencing has really removed the ability of the lawyers and the judges to manage cases well. In jurisdictions where I practice my hands are largely tied when it comes to sentencing due to mandatory sentences combined with judges who are very reluctant to do departures. And, further, mandatory sentences do not necessarily take into account relatively reformed behavior (i.e. 2x DUI in 2005 then a 3rd in 2020 will require 90 days in jail despite 15 years of sobriety. The court is unable to take into account individual circumstances of the defendant which might have caused the issue. ).	9/1/2020 10:35 AM
79	Need to work on reducing the amount of special rules and mandatory minimums	9/1/2020 10:30 AM
80	Criminal offenses need to have proportional sentences attached. Probation in its current form is a failure as it does nothing to discourage future criminal acts.	9/1/2020 10:29 AM
81	We need to have more punishment especially for repeat offenders	9/1/2020 10:28 AM

82	I did not answer many of the questions. I am concerned that my support for attempts to achieve proportionality or remove minimums will not lead to less crime, and there is no information regarding increases in mandatory treatment for drug and alcohol crimes that could reduce crime. All of these concerns are not based on how I personally feel, but I believe these well-intentioned efforts neglect past, current and future victims. Are we asking them (at least past and current victims) how they feel about these changes? Forty years ago, mental health hospitals began to empty with the promise that reduce costs in MH hospitals would be redirected to communities where local treatment would be provided. We saw what happened around the country and the mess was laid at the feet of law enforcement, families and new victims. I may be digressing so I will stop what may read like a rant, but I assure you it is genuine concern for the safety of our communities.	9/1/2020 10:15 AM
83	Drug sentencing is way out of line, and needs to come down significantly. Criminal threat needs to be a misdemeanor, or needs to have some sort of equivalent misdemeanor available. Mandatory minimums are a problem that make it a lot harder to negotiate palatable pleas.	9/1/2020 9:44 AM
84	We must take dramatic action if we want to meaningfully address our mass incarceration crisis. I'm concerned that "combining the grids" will increase sentences for nondrug felonies, rather than dramatically reduce sentences for drug crimes. Our drug grid is absolutely draconian. The prevalence of the special rules, which apply more often than not and always increase the controlling sentence, is another reason to dramatically reduce sentences. I urge the committee to seek input from public defenders in a more substantive and meaningful way than this survey.	9/1/2020 9:26 AM
85	If you build up regional resources for mental health instead you will likely not need to rework the crime issue as those who really need help will get it instead of leaving it up to law enforcement to solve. Spend your time wisely working on that issue instead. Mental Health is a MEDICAL issue; not a Law Enforcement issue.	9/1/2020 8:56 AM
86	Drug offense's need to be tied to rehab!	9/1/2020 8:11 AM
87	What are the ranges of proportionality you are considering. These are very open ended questions!	9/1/2020 7:45 AM
88	The system is broken....the lack of sentencing has sent the wrong "impression" to criminals, thus creating the sense nothing will happen....build more prisons.....society is out of hand....	9/1/2020 7:36 AM
89	Need to make the charges more severe	9/1/2020 6:31 AM
90	If you don't make drug users spend time in jail and prison they will not change. Not enough time clean. You can not reduce penalties on victim crimes. If an offender has no consequence he will continue to strike. This will cause the death of many victims. Property crime should be punished harder. The offender never learns and believes that is their only way of life	8/31/2020 9:41 PM
91	The fleeing and eluding laws should be strengthened. Pursuits have become to common place.	8/31/2020 9:09 PM
92	This is poorly written. Answers can easily be misinterpreted.	8/31/2020 8:49 PM
93	NA	8/31/2020 8:33 PM
94	The sentencing guidelines should be firm and proportional to the crime and less ability for deviation agreements by attorneys or judges. The lack of fear for the criminal justice system enables criminals and subverts justice. It should be called the "victim/society justice system. But then defense attorneys would be out of a job.	8/31/2020 7:36 PM
95	Drug crimes are currently disproportionate to non-drug crimes. Sentencing on drug possession would be better as a non-drug as long as drug treatment was still provided. Also, remove the 3rd or subsequent special rule. It prevents treatment in some situations which is greatly needed and unjust (for example two priors from many years ago or two picked up in a very short time so only one chance at treatment because the first two were sentenced together).	8/31/2020 7:11 PM
96	Drug offenses, if off grid, would make drug offenders spend too much time in the county jail.	8/31/2020 7:07 PM
97	Build more prisons. Drugs are the underlying issues with most crimes. Need more mental health facilities as it is ridiculous to have officers sit with patience for up to 16-24 hours before can get them into state hospital. Need more drug treatment facilities. Focus on the issues and quit bashing law enforcement wjmhen they don't have resources to do the job.	8/31/2020 6:43 PM
98	The penalties on the drug grid are ridiculous. I understand the intent to punish people who are	8/31/2020 5:34 PM

selling drugs to prevent others from being addicted or over-dosing. But most cases we see are possession with the intent and not actual selling. Most of the time, they are drug addicts themselves who are struggling to get by and support their own addiction. It's ridiculous that person who has over 3.5 grams of meth or heroin--which is NOT a large amount to get to-- could do more time in prison than people charged with high-level, violent offenses. In fact, it's not a could do more time-- it does happen. All the time. In doing this job, I don't think I've ever seen a meth PWID case be charged from the beginning as a level 3 drug felony. Most of the time, they are level 2s because the minimum gram requirement is so low that it easily bumps up to a level 2. As far as making the level 5 drug felony a non-grid-- I'm torn. It has positives and negatives. Clients would lose good-time credit they would otherwise receive and no opportunity for program credit. Serving the sentencing in KDOC vs. the county jail. I'm sure the county isn't going to want to pay for that since those cases are numerous. However, it would cap the penalty at 12 months as opposed to the 42 months that is the current maximum. It's ridiculous that a person with two or more priors for marijuana can go to prison for 42 months (incorporates another survey question) or someone who possesses a small quantity of meth/heroin/cocaine could face that much time. Once again, that's more time than what some people could/would do for higher-level person/violent offenses. They're addicts--they need treatment. It's a waste of resources to incarcerate them for the amount of time the grid currently requires. On the other hand, they won't get the KDOC programming in the jail. The best solution would be just to re-work the drug grid or at least a MINIMUM re-work the level 5 drug grid (or incorporate the grids and put this at lower level) so the client would be subjected to less time overall, but could still receive the benefits of KDOC should the person be remanded to serve time. Another negative of making it nongrid is the graduated sanctions don't apply, though they don't exist much anymore anyway. The courts wouldn't be required to do a two/three-day sanction before remanding a client to serve a sentence. Plus, most of my clients prefer to go to KDOC and serve time as opposed to in the county jail. Penalties under KORA are also ridiculous. Especially since it's supposedly not punishment to require people to register. Clients can and do have larger sentences for failing to register than for the original offense that required registration in the first place. Criminal threat being a felony is absurd. If a person physical touches/injures a person, it's a simple misdemeanor battery. But using words instead is a felony? And a person felony at that where the client's criminal history is more significantly impacted. Not sure why forgery requires the mandatory jail time. However, that's preferred than if it were mandatory imprisonment like ID theft. The "fleeing/eluding a third or subsequent" current rule is bizarre and doesn't really do much. It's just mandatory imprisonment and imposed consecutively. However, that's just obvious anyway. Fleeing and eluding is a person felony. So if it's a third or subsequent, then that person has 2 prior felony convictions for fleeing/eluding. So they should be presumptive prison anyway based on criminal history. If it elevated the severity level of the offense from a 9 to something a little higher, that would make more sense. Or if there were aggravating factors, that would make more sense.

99	I believe that offender registration violations should be severely reduced in penalties. I believe that DUI should have an escalating penalty and be moved to the grid. I believe that criminal threat should also be a misdemeanor.	8/31/2020 4:30 PM
100	Most of my clients are in prison for drug crimes. I do not believe they are a harm to the public and they should not incarcerated, at least not at the length at which they are currently sentenced.	8/31/2020 3:52 PM
101	none	8/31/2020 3:45 PM
102	I'm not sure what you mean by "proportionality". You should not increase L9 sentences to match the current 5Ds. You should reduce the 5D crime to match the L9s. In fact, consider making 1st time possession of ANY drug a misdemeanor. Also, Drug Distribution should not be chargeable as a 3D or 4D on weight alone.	8/31/2020 3:43 PM
103	I am not quite sure what the thinking is on question 3--is it asking whether I think sentences are currently too high and need to be reduced for proportionality purposes, or too low and need to be adjusted upward? If it is that they are currently too high, I would agree. Not addressed by the survey: There needs to be adjustment to shrink the gap between the sentence for A and B offenders and the sentence for C offenders on higher level crimes. Where there are aggravating factors, the state has the ability to up-depart, but baseline sentences shouldn't start out so high. Definitely shouldn't be so high when comparing them to C box offenders. Also, not all person crimes are equal--there is a huge difference between someone who is in the A box because of 3 prior attempted murders or even aggravated batteries committed at different times and someone who is in the A box because of 9 prior violations of a protection order that	8/31/2020 3:27 PM

have been converted or 3 prior criminal threats. These less serious, nonviolent "person" crimes should be treated differently and shouldn't result in a person being presumptive for prison on all cases.

104	Possession and use of illicit drugs should be properly addressed as a public health issue, meaning individuals should be given access to effective medical treatment. Many of the crimes committed stem from or are related to drug use. Incarceration does not address or treat the underlying addiction/mental health issues, instead it often worsens the individual's condition and makes it more difficult for them to recover/lead a productive life.	8/31/2020 3:27 PM
105	The overall length of sentences has spun out of control, particularly on the left hand side of the grid, and we incarcerate people for entirely too long. Frankly, almost every sentence in the A, B, and C ranges are incredible punitive, and probably longer than can be justified for any peneological reason but retribution, which is the least important justification in my opinion. It makes absolutely no sense to have grid sentences that are longer than the hard 25, and just shows how ridiculous some of the grid sentences are. In fact, when the grid was introduced in 1993, the highest sentence possible was around 200 months, whereas now it is over 600. This is simply outrageous, as i do not think we are any more criminal in 2020 than we were in 1993, and if i had to guess, would guess that we are less so. Also, regarding Number 5, i do not think that any sort of drug possession without any distribution or sale should ever result in a prison sentence. i struggled with how to answer 5 though. This is because our DUI scheme is an absolute mess and it makes no sense to have that crime follow different rules for any other crime. In my estimation the idea of non-grid felonies is dumb and unnecessary. As such, I do not favor making anything like our DUI sentencing scheme because it is convoluted and nearly unworkable; ask three attorneys exactly how DUI post-imprisonment supervision works, and i would not be surprised to get three different answers. I would instead support simply decriminalizing possession all together. However, if we insist to continue making simple possession a crime, in no circumstance should it ever be a felony. Ever. So i support decriminalizing possession, but if they must remain crimes, they should become misdemeanors, and preferably Class C or B. Simply put, we are over incarcerating, both in length of sentence and number of acts criminalized.	8/31/2020 3:24 PM
106	I would need additional context for #5 to answer definitively. This list is a good start (esp. the drug offenses and KORA violations), and there are so many other proportionality concerns that the subcommittee could consider. The problems that sentencing in Kansas present go way beyond these offenses - in the words of Danielle Sered, we must reckon with how we treat "violent" offenders as well. And there are so many offenses with life sentences. That said, I understand the Commission already has a huge scope -- perhaps the Commission could work with the Sentencing Commission or the Criminal Justice Reform Commission (the former has decades of experience with trying to pass proportionality measures, building support for merging grids, etc. -- as for the latter, honestly, I don't hold out a lot of hope for them to change the sentencing provisions). I don't know if you are bringing non-Commission members onto your subcommittee, but I would highly suggest that you consult further with public defenders and appointed counsel - as far as felonies go, we handle 85% of the cases in this state so we have a lot of information about how it all plays out.	8/31/2020 3:21 PM
107	Mandatory minimums for nonviolent crimes that pose no potential for danger should be removed (keep and raise mandatory minimums for cruelty to animals and keep them for DUI/DWS). Drug possession should have a treatment emphasis - incarceration serves little purpose except to institutionalize addiction.	8/31/2020 3:16 PM
108	Mainly--ORV	8/31/2020 3:12 PM
109	Grid Boxes for Severity Level 1 and 2 at Criminal History A and B are not proportionate to off-grid homicides.	8/31/2020 3:11 PM
110	When the guidelines were first enacted in 1993, the longest sentence allowed was 204 months. Now it is 653 months. No science or expertise led the legislature to make such draconian changes. K DOC is going to one day have to reckon with a large population of geriatric individuals whom the State has chosen to lock in cages and forget. Guidelines, Hard 50, Hard 25, aggravated/persistent offenders, etc., are going to cost a lot of money, deprive a lot of people of their humanity, and do nothing to make communities safer and reform individuals. In no realm do our guidelines make LESS sense than in the context of offender registration penalties. I've represented people looking at 30+ years on offender registration cases even though there was absolutely no cognizable harm done by my client not registering. That has to change.	8/31/2020 3:08 PM

