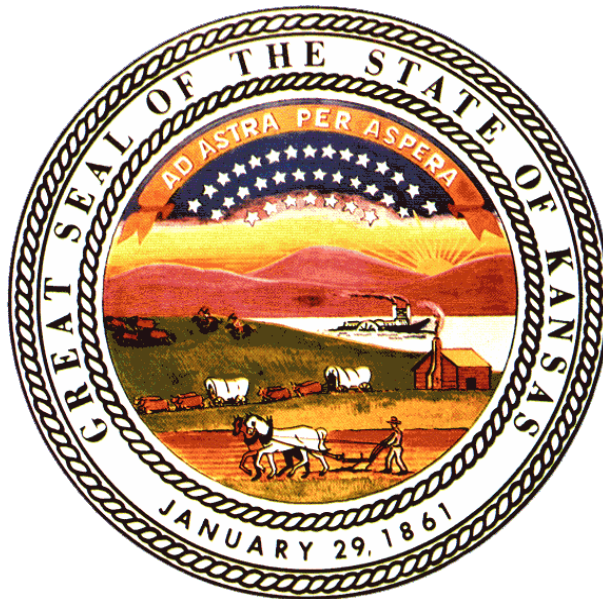


KANSAS SENTENCING COMMISSION

FY 2008 ANNUAL REPORT



MARCH 2009

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KANSAS SENTENCING COMMISSION

**ANNUAL REPORT
FY 2008**

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

WHAT IS NEW

- FY 2008 Annual Report is the first report which extends its analyses on county jail sentences. The crime of felony DUI is systematically analyzed. Detailed discussions are presented in Chapter One, Chapter Four and Appendices.
- Sentences convicted under Jessica's Law are fully analyzed in Chapter One.
- Sentences applied with special sentencing rules are discussed at the end of Chapter Three.

During FY 2008, the Kansas Sentencing Commission performed the following major activities pursuant to the statutory obligations assigned to the Commission:

1. Presenting recommendations to the state legislature relating to modification and improvement of current sentencing guidelines through the functions of the Proportionality Subcommittee, Recodification Commission and the Sentencing Commission;
2. Providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to sentencing guidelines;
3. Producing annual prison population projections and custody classification forecasts for Kansas Adult Correctional Facilities;
4. Processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences;
5. Processing statewide transactions of 2003 Senate Bill 123 drug treatment

- programs and monitoring the implementation of the programs including the evaluation of recidivism after 36-months implementation of 2003 Senate Bill 123;
6. Updating Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2008 Legislative Session;
7. Participating in the project to establish the Kansas Electronic Sentencing Journal Entry Database sponsored by Kansas Criminal Justice Information System (KCJIS);
8. Conducting training sessions on sentencing guidelines and various sentencing issues;
9. Serving as an information resource to respond to national, state and county requests regarding sentencing data.

The following provides a brief summary of the major sentencing issues presented in the Annual Report. During FY 2008, the Commission received a total number of 13,710 felony sentences, indicating an increase of 2.8% from that of FY 2007. Of the total number of sentences, 4,721 (34.4%) were prison sentences, 8,120 (59.2%) were probation sentences and 869 (6.3%) were county jail sentences. Nondrug sentences represented 70.4% or 9,650 sentences and drug sentences accounted for 29.6% or 4,060 sentences (page 2).

INCARCERATION SENTENCES

A total number of 4,721 offenders were admitted to the Kansas Department of

Corrections (KDOC) in FY 2008. Male offenders represented 88.9% of the total admissions, a percentage increase of 1.7% over that of FY 2007 (87.2%). More than 90% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, aggravated robbery, burglary, murder, rape and aggravated indecent liberties with a child. However, female offenders were incarcerated more frequently for the crimes of forgery, theft and identity theft (pages 20 & 21). The analysis of drug crimes indicates that male offenders were convicted of more than 80% of drug sales and more than 90% of unlawful manufacture of controlled substance, while most female offenders committed drug crimes of opiates or narcotics possession first offense and opiates or narcotics sale first offense (page 23).

The analysis of offenders by race reveals that white offenders made up 66% of the admissions to state prisons in FY 2008, indicating a decrease by 0.7% from that of FY 2007 (66.7%). The offenders with non-Hispanic origin represented 89.9%, very close to that of FY 2007 (90%). The highest incarceration rates for white offenders (over 70%) were found in the offense categories of most sex offenses, burglary, aggravated assault on LEO, aggravated kidnapping, criminal damage to property, nonsupport of a child or spouse, DUI, failure to register, identity theft and false writing. Nevertheless, blacks were incarcerated more often (over 60%) for the crimes of aggravated robbery, aggravated arson, aggravated false impersonation and drug without tax stamps (pages 20 & 21).

The examination of offenders by age indicates that the largest population of incarcerated offenders (26.1%) was found in the age group ranging from 31 to 40 years

old and the second largest number of offenders (23.8%) was identified in the group from 25 to 30 years old at the time of admission to prison in FY 2008. This age distribution is consistent with those of previous years. As for the educational background of the offenders admitted in FY 2008, more than 49% of the offenders had attained either a high school diploma or GED equivalent.

The analysis of offenders by type of admissions demonstrates that new court commitments, probation condition violators and parole/post-release violators are the three largest groups representing 31.7%, 34.4% and 26.7%, respectively, of the total prison admissions in FY 2008. Most of the drug offenders admitted to KDOC in FY 2008 fell at drug severity level 3 (28.1%) and drug severity level 4 (55.5%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 7 and 9 with admissions of 690 and 635, respectively, in FY 2008 (Pages 24 & 25).

The observation of sex offenders convicted under Jessica's Law discloses that 48 offenders were sentenced and admitted to prison under Jessica's Law during FY 2008. Forty-four of them (91.7%) were new court commitments, 2 (4.2%) were probation violators with new sentences and 2 (4.2%) were parole/postrelease violators with new sentences. While most jurisdictions identify the severity of these crimes as offgrid (77.1%), a few note them as the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that 50% of the sentences were downward departure to guidelines, with an average sentence length of 95.5 months. In addition, 3 offenders convicted under Jessica's Law were sentenced to probation during FY 2008 with

underlying prison terms of 32 months, 61 months and 147 months respectively. Their major departure reasons are that age of defendant was young with no prior criminal history, victim requested and victim was an aggressor or participant (Page 28).

PROBATION SENTENCES

In FY 2008, the Commission received 8,120 probation sentences. The analysis of the probation sentences reveals that DUI (15.2%), theft (13.8%), burglary (13.3%) and forgery (9.8%) continued to be the top four offenses committed by nondrug probation offenders representing 52.1% of the total nondrug crimes (page 32), a decrease of 3.1% when compared with the percentage of those crimes in FY 2007 (55.2%). The probation sentences for the crime of drug possession accounted for 75.6% of all drug probation sentences, an increase of 1.7% over that of FY 2007 (73.9%), (pages 33 & 35).

The analysis of the criminal history categories of the offenders sentenced to probation in FY 2008 demonstrates that offenders with criminal history category I accounted for 28.6% of offenders on the nondrug grid and 31.2% of offenders on the drug grid. Approximately 85.3% of nondrug offenders were within the presumptive probation boxes (Table 12), while 66.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 13). Meanwhile, only 4.6% of probation nondrug sentences were found to be within the designated border boxes compared to 17.8% of probation drug sentences. This significant percentage difference indicates that drug offenders were more likely to receive probation sentences than nondrug offenders when their offense

types and criminal history categories fell within the border boxes (page 40).

COUNTY JAIL SENTENCES

During FY 2008, a total number of 869 felony jail sentences were reported to the Commission. Of this number, male offenders accounted for 90.8% and female offenders accounted for 9.2%. White offenders represented 89.8%, black offenders represented 7.9% and other races represented 2.3% of the county jail sentences imposed in FY 2008. Their average age at sentencing is 42.1 years old (Page 41).

The analysis of the crimes demonstrates that 97.5% of the jail sentences were convicted of the crime of felony DUI (847 sentences), 1.7% were convicted of the crime of domestic battery (15 sentences), 0.2% were convicted of the crime of cruelty to animals (2 sentences) and 0.5% were convicted of other crimes (5 sentences). The average jail term was 8.4 months. Sedgwick County imposed the most jail sentences (268) representing 30.8%, followed by Johnson County with 206 jail sentences representing 23.7% of the total county jail sentences imposed in FY 2008 (page 43).

DRUG SENTENCES

The number of drug incarceration sentences (1,307) decreased by 14% in FY 2008 compared with that of FY 2007 (1,519) and significantly decreased by 23.3% compared with that of FY 2004 (1,703). When individual drug severity levels were compared, all drug severity levels in FY 2008 demonstrated a decrease from those of FY 2007 and FY 2004 with the exception of drug severity level 2 with an increase of 8.8% over that of FY 2007. The most

significant decrease was identified at drug severity level 1, a decrease of 49.8%, followed by drug severity level 2, a decrease of 44.7% in the past five years (page 78).

In terms of offense types, the analysis of the drug incarceration sentences demonstrates that 57.6% of the incarceration drug sentences were convictions of drug possession, increasing by 0.9% compared with that of FY 2007 (56.7%). More than 93% of the drug possession sentences were found at drug severity level 4, representing a decrease of 1.5% from that (94.5%) of FY 2007 (page 22).

The trend analysis of drug offenders on probation indicates that the total number of drug probation sentences in FY 2008 increased by 2.5% compared with that of FY 2007 and by 12.7% compared with that of FY 2004. The number of drug probation sentences at all levels decreased except for drug level 4, which increased by 24.4% compared with that of FY 2004 (page 80). Probation sentences at drug severity level 4 accounted for nearly 78.2% of the probation drug sentences imposed in FY 2008, very little variation from that (78%) of FY 2007 (page 36).

Further evaluation of probation drug offenders displays that a total number of 1,319 sentences were imposed to Senate Bill 123 (SB 123) drug treatment programs during FY 2008, representing 48% of the total drug probation sentences (2,750), an increase of 1% compared with that of FY 2007 (47%). Of these offenders, more than 80% were convicted of the crime of drug possession under K.S.A. 65-4160 and 19.3% were convicted of the crime of drug possession under K.S.A. 65-4162. The offenders at drug severity level 4 accounted for 99.7%. White male offenders were still

the majority of the treatment sentences. The average age of the drug treatment offenders was 32.7 years old, which remains very close to those of FY 2007 and FY 2006. Sedgwick County imposed the most SB 123 drug treatment sentences (179) followed by Wyandotte (131), Johnson (108), Shawnee (81) and Saline (68) counties (pages 37 and 38). In addition, 443 SB 123 drug treatment sentences were revoked during FY 2008. Of this number, 196 sentences were revoked to prison, representing 14.9% of SB 123 sentences imposed (1,319 sentences) in FY 2008. The average period between original sentence and the first revocation hearing was 14.8 months, 2.4 months longer than that of FY 2007 (12.4 months). The average lag time for the second revocation was 5.4 months, very close to that of FY 2007.

VIOLATORS

A total number of 2,892 condition violators were admitted to prison in FY 2008, accounting for 61.3% of the total prison admission events of the fiscal year. Of this number, 1,624 were probation violators, 1,261 were parole/postrelease supervision violators and 7 were conditional release violators, who are merged with the group of parole/postrelease supervision violators in the analyses of the report. The total percentage of condition violators increased by 0.3% compared with that (61%) of FY 2007 (page 44).

Trend analyses on the admission types of condition violators indicate that the number of parole/postrelease and conditional release violators admitted to prison in FY 2008 decreased significantly by 44.7% compared with that of FY 2004. Senate Bill 323, which has modified the periods of postrelease supervision and was passed into law in May 2000, continues its impact on the admission

rate of parole/postrelease condition violators returned to prison. The number of probation condition violators admitted to prison in FY 2008 decreased, as well, which decreased by 5% from that of FY 2004 and represented the second drop in number of admissions in the past five years (page 77).

Male condition violators sentenced to prison represented the largest number of offenses at severity level 7 of the nondrug grid and severity level 4 of the drug grid. However, females were most often revoked and placed in prison for condition violations of offenses designated at severity level 8 of the nondrug grid and severity level 4 of the drug grid, which is consistent with the findings of condition violators observed in FY 2007 (page 47).

In addition, 2,336 probation condition violators and 201 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2008. This represents 54.7% of the total number of 4,274 condition probation violators and 35.2% of the total number of 571 probation violators with new offenses revoked during FY 2008 (page 55). Compared with the percentages of FY 2007, probation condition violators sentenced to continued or extended probation for a violation increased by 1.4%, while probation violators with new convictions who had their probation sentence either continued or extended decreased by 7.3%.

CONFORMITY TO SENTENCING GUIDELINES

The comparison of the actual sentence imposed to the sentence identified under the Sentencing Guidelines Act provides a measure of whether the designated sentence is viewed as appropriate. Under sentencing

guidelines, departures may be imposed to sentence an offender to a sentence length or type that differs from the sentence set forth under the guidelines. Therefore departures, whether durational or dispositional, serve as a measure of conformity. Only new court commitments of guideline sentences were utilized for this specific analysis.

Consecutive sentences and sentences applied with special sentencing rules related to sentence disposition are excluded from this analysis. In addition, the analysis is based on computed variables regarding departures.

In this Annual Report, a total number of 7,119 pure guideline sentences of FY 2008 were utilized to determine the conformity rates to the sentencing guidelines. Of this number, 1,208 were incarceration guideline sentences and 5,911 were probation sentences. Approximately 85% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 9.7% of sentences and durational departures were found in 5.7% of sentences (page 58).

The analysis of incarceration sentences within guidelines discloses that 42.2% of the sentences imposed fell within the standard range of the grid cell; 12.8% of all sentences were within the aggravated range; 21.3% were within the mitigated range and 23.6% were located within designated border boxes (page 59). This distribution of presumptive prison sentences does not fluctuate significantly compared with that of FY 2007.

When reviewing the durational departures of the incarceration guideline sentences, the Commission noticed that 70.3% of the durational departures were downward durational departures, while 29.7% indicated upward durational departures (page 59). The

percentage of downward durational departures decreased by 1.3% compared with that of FY 2007. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 84.8% of drug durational departure sentences were downward compared to 63.4% for nondrug durational departure sentences (page 61). Downward durational departures were most frequently identified at severity levels 1 and 2 of the drug grid. Upward durational departures were found most frequently at severity levels 1, 2, 3, 4 and 6 of the nondrug grid (page 63). This pattern of durational departures has remained fairly consistent over the past five years.

Dispositional departures are identified when the sentence imposed, prison or nonprison, is different from the sentence disposition designated under the sentencing guidelines. Upward dispositional departures are only applicable when prison sentences are imposed. When drug and nondrug sentences were compared, nondrug sentences indicated a 13.7% upward dispositional departure rate while drug sentences only represented a 6.9% upward dispositional departure rate (page 63).

The examination of probation guideline sentences demonstrates that as expected, the majority (90.7%) of probation guideline sentences fell beneath the incarceration line, among which 88.1% were within presumptive probation grids and 11.9% were within border boxes. Downward dispositional departure was identified in 9.3% of the probation guideline sentences imposed in FY 2008 (page 60). Durational departures are not applicable to probation sentences.

Further analysis of downward dispositional departures of probation sentences discloses that drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (12.4% vs. 7.3%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (19.2% vs. 5.4%), (page 62).

SPECIAL SENTENCING RULES

Special sentencing rules provide special treatment of certain crimes and sanctions. There were small numbers of special sentencing rules at the initial years of implementation of the guidelines, such as five special rules in 1994 and 1995. With the modification of sentencing guidelines and amendments of sentencing policies in each legislative year, the number of special sentencing rules has increased. As of the 2008 Legislative Session, twenty-five special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: person felony committed with a firearm; crime committed while incarcerated or on probation, parole, etc. and crime committed while on felony bond.

During FY 2008, a number of 352 pure guideline prison sentences and 602 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 26.7% of prison pure guideline admissions (1,316 admissions) and 10% of pure guideline probation sentences (6,009) imposed in FY 2008. The percentage of offenders admitted to prison with special sentence rules increased from 22.3% in FY 2004 to 26.7% in FY 2008. The percentage of probation sentences imposed with special sentencing rules accounted for 8.9% in FY 2004 and increased to 10% in FY 2008. The

total percentage of both prison and probation sentences applied with special rules increased from 11.5% in FY 2004 to 13% in FY 2008 (page 74).

PRISON POPULATION FORECAST

One of the statutory tasks of the Kansas Sentencing Commission is to produce official inmate population projections annually for the state Department of Corrections. Sentencing data from felony journal entries, prison admission files, inmate stock population files and release files are analyzed and programmed into a simulation projection model known as Prophet, which is used to forecast prison population over a ten-year projection period. The projection is utilized by the Kansas Department of Corrections and various legislative committees in planning resource allocations, as well as policy development involving sentencing and other criminal justice areas.

The prison population projection predicts that by the end of FY 2018, a total of 9,477 prison beds will be needed. This represents a total increase of 9.7% or 839 beds over the actual prison population as of June 30th, 2008. Although the total number of admissions has dropped compared with those of the past five years, a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies had resulted in a continual growth in the state's prison population. The decrease of prison population after FY 2007 results from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes 20% reduction of probation revocation rate, modifies some good time rates from 15% to

20% and provides potential credit for program completion (Pages 83 and 84). When looking into projected population at individual severity levels over the next ten years, the most significant increase in both number and percentage of incarcerated population is identified in the group of offgrid offenders, an increase of 910 offenders or 112.1%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session. The second largest increase in number falls at nondrug severity level 1, an increase of 321 offenders or 36.4% over the ten-year forecast period. This is due to the "stacking effect" of long sentence length of most serious offenses.

The largest decrease in number is found at nondrug severity levels 7 and 2 with a deduction of 103 and 64 offenders, respectively, in the next ten years. This decreasing tendency reflects the implementation of House Bill 2576, as well, which reclassifies certain sex offenses at these levels as offgrid felonies.

The prison population of drug offenders at all severity levels displays a declining trend in the ten-year forecast period except drug severity level 2 with a slight increase of 3 offenders. This tendency may result from the implementation of Senate Bill 123, which reclassifies all drug possession offenses under K.S.A. 65-4160 and K.S.A. 65-4162 to drug severity level 4 and establishes a non-prison sanction of certified drug abuse treatment programs for the eligible drug offenders supervised by community correctional services (Pages 83 & 84).

In terms of types of prison beds needed for custody over the next ten years, custodial

classification projections demonstrate that by the end of FY 2009, KDOC will need 2,905 minimum beds, 2,568 medium low beds, 1,402 medium high beds, 940 regular maximum beds, 243 unclassified beds and 685 beds for special management. By the end of FY 2018, the custodial beds in demand will include 3,049 minimum, 2,674 medium low, 1,715 medium high, 995 regular maximum, 245 unclassified and 799 special management beds (page 85). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The FY 2008 Annual Report is presented in four chapters. A descriptive statistical summary of statewide guideline sentencing practices in FY 2008 is illustrated in Chapter One. Chapter Two describes the types and characteristics of violators incarcerated in the state correctional facilities. In Chapter Three, the pure prison and probation sentences imposed under the sentencing guidelines are examined to evaluate the conformity to the sentencing guidelines. Chapter Four contains analyses on sentencing trends and prison population projections.

Appendix I analyzes sentences of felony convictions from the top four contributing counties of the State of Kansas. Appendix II tracks the trends of the top five felonies, UCR offenses and offgrid and nongrid crimes in the past five years. Admissions and population of female offenders are analyzed in this section as well.

CHAPTER ONE

SENTENCING IN KANSAS

SENTENCES REPORTED IN FISCAL YEAR 2008

In this report, sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analyses of sentences reported in Fiscal Year (FY) 2008 include prison and non-prison or probation sentences. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. Besides, county jail sentences are statistically analyzed in FY 2008 Annual Report, which is new compared with the Reports of previous ten years.

During FY 2008, the Kansas Sentencing Commission received a total number of 13,710 felony sentences, which increased by 373 sentences or 2.8% over that of FY 2007. Of that total number of sentences, 4,721 were prison sentences, 8,120 were probation sentences and 869 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,650 nondrug sentences and 4,060 drug sentences. Non-person offenses accounted for 70.4% and person offenses accounted for 29.6% (Figure 1), which remains constant with those of FY 2007.

Figure 2 presents the overall sentencing distribution of FY 2008 by sentence type and offense type at each severity level. Drug incarceration sentences at drug severity level 4 represented 55.5% (726 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration

offenders was identified at severity level 7 (690 sentences or 20.2%) followed by severity level 9 (635 sentences or 18.6%) and severity level 5 (533 sentences or 15.6%). The examination of probation sentences in FY 2008 demonstrates that 2,149 probation sentences fell at drug severity level 4, representing 78.1% of the total drug probation sentences. Of these 2,149 probation sentences, 61.2% or 1,315 sentences were imposed to SB 123 drug treatment programs. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (31.1% or 1,671 sentences), nondrug severity level 7 (19.9% or 1,067 sentences) and nondrug severity level 8 (16.9% or 907 sentences). The analysis of county jail sentences discloses that more than 99% of the offenders were convicted of nongrid crimes with 1% convicted of other crimes at other low severity levels.

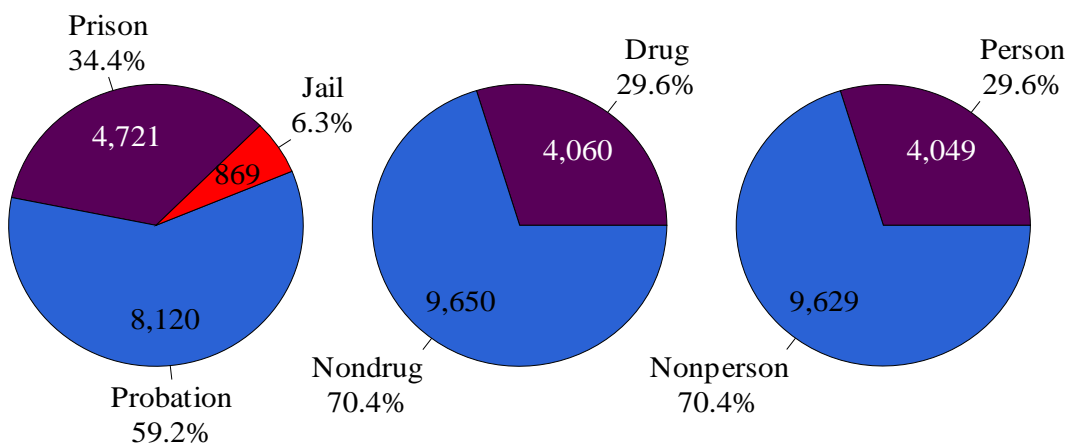
One hundred and three counties in the state submitted sentences to the Commission during FY 2008. No sentences were reported from Gove and Sheridan counties. Most of the counties reported 1 to 100 sentences. Thirteen counties reported 101 to 200 sentences. They are Atchison (115), Barton (148), Cowley (193), Crawford (147), Ellis (156), Franklin (121), Harvey (194), Jackson (104), Leavenworth (198), McPherson (113), Miami (126), Neosho (112) and Seward (150) counties. Ten counties reported 201 to 800 sentences. They are Butler (240), Douglas (262), Finney (275), Ford (301), Geary (271), Lyon (247), Montgomery (207), Riley (253), Reno (455)

and Saline (534) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 50.6% of all sentences imposed in FY 2008, no significant percentage change compared with that of FY 2007 (Figure 3).

The top five offenses committed in FY 2008, including prison and probation and county jail sentences, are crimes of drugs (29.6% or 4,060 sentences), DUI (12.9% or 1,773 sentences), burglary (9.2% or 1,261 sentences, including aggravated burglary), theft (7.8% or 1,074 sentences) and aggravated battery (5.6% or 759 sentences). These top five offenses accounted for 65.1% of the total 13,710 sentences in FY 2008 (Figure 4).

According to the definition of the Uniform Crime Reporting (UCR) Handbook, violent crimes refer to murder (including all types of murder and manslaughter), rape, robbery (including aggravated robbery) and aggravated assault (including aggravated assault on LEO). The distribution of the violent crimes in FY 2008 by county is presented in Figure 5. Most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (329 sentences) followed by Wyandotte County (189 sentences), Johnson County (114 sentences) and Shawnee County (96 sentences). Table 1 demonstrates the offenders' characteristics by individual counties. The average age of offenders at sentencing is 32.7 years old, which is 0.7 year older than that of FY 2007.

Figure 1: Sentences Reported in FY 2008



Based on 13,710 felony sentences reported in FY 2008 including 869 jail sentences.

Figure 2: FY 2008 Sentencing Distribution

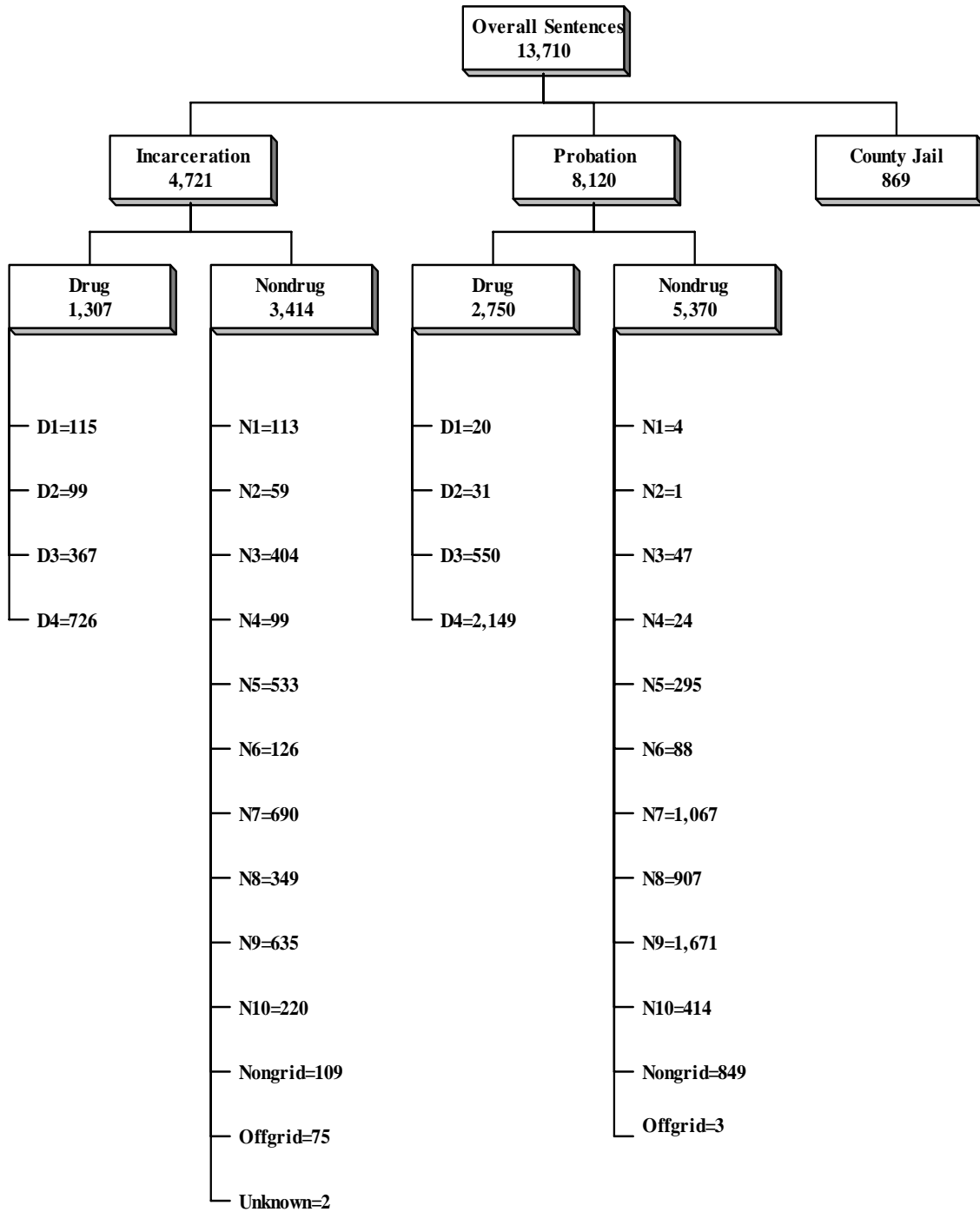


Figure 3: Sentences Reported in FY 2008 by County

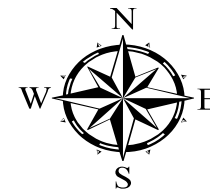
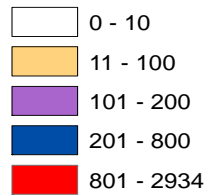
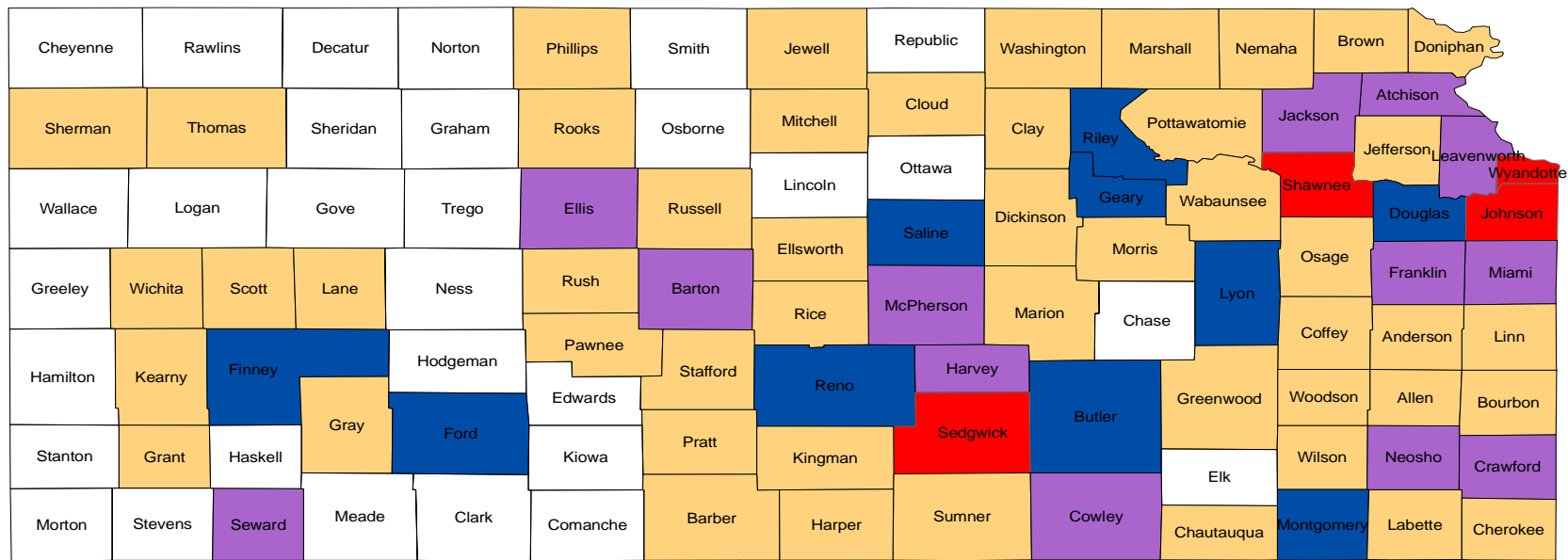
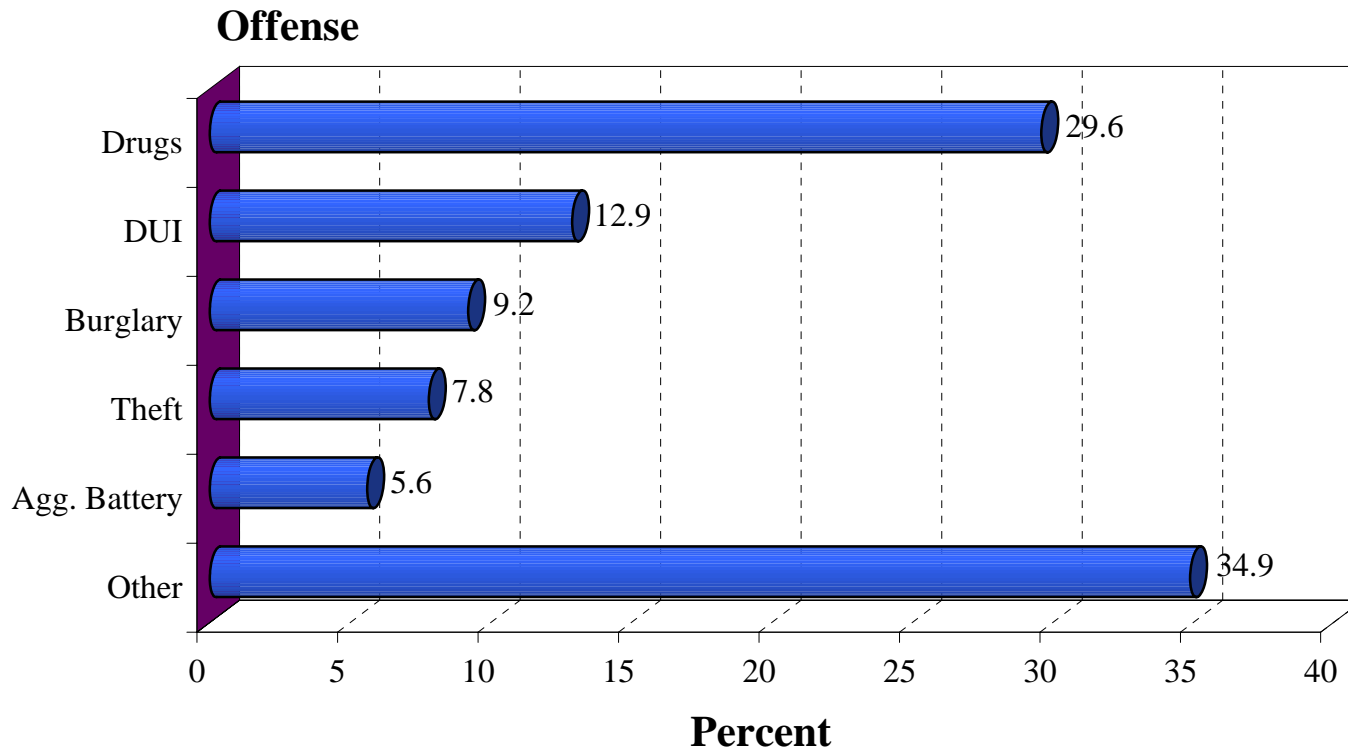
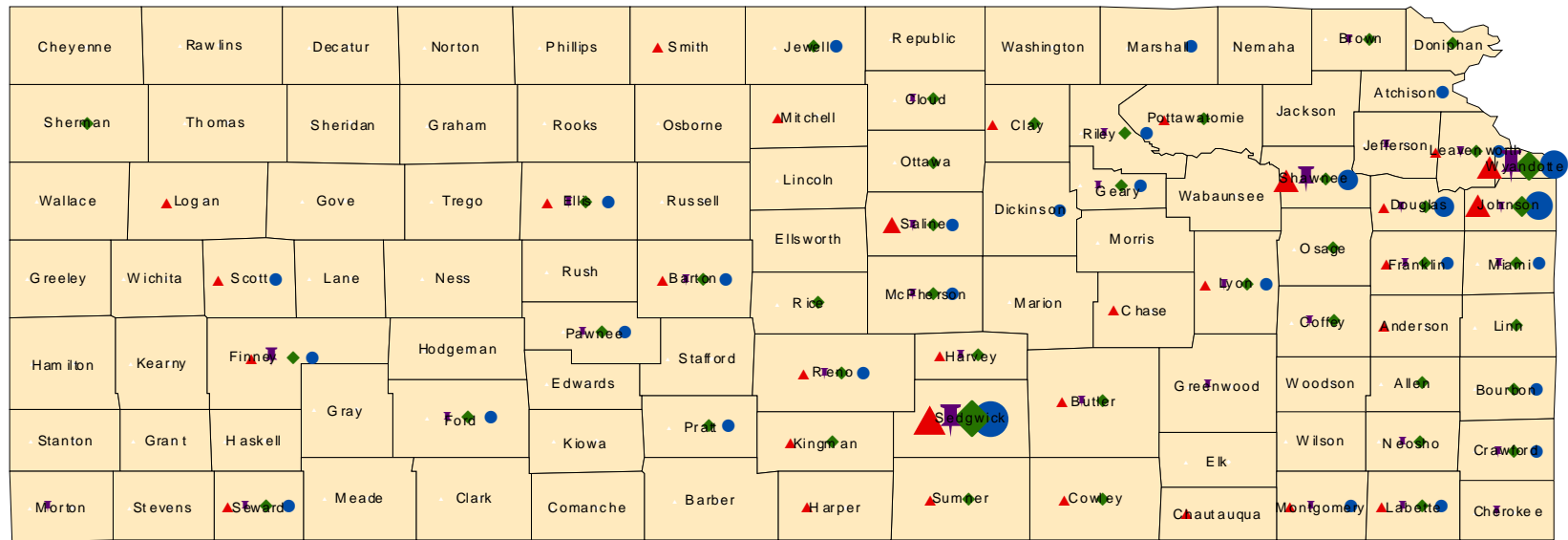


Figure 4: FY 2008 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 13,710 prison, probation and county jail sentences

**Figure 5: FY 2008 UCR Offenses by County
Violent Crime Convictions**



Rape	Murder	Agg. Assault	Robbery
▲ 1 - 5	♣ 1 - 5	◆ 1 - 20	● 1 - 25
▲ 6 - 10	♣ 6 - 10	◆ 21 - 50	● 26 - 50
▲ 11 - 20	♣ 11 - 20	◆ 51 - 75	● 51 - 100
▲ 21 - 27	♣ 21 - 33	◆ 76 - 102	● 101 - 167

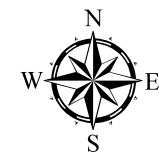


Table 1: FY 2008 Offender Characteristics by County – 1

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	68	51	15	63	2	1	16	47	5	32	36	32.1
Anderson	34	29	5	33	0	1	13	15	6	29	5	32.5
Atchison	115	91	24	95	18	2	28	80	7	87	28	31.7
Barber	11	9	2	11	0	0	2	8	1	8	3	39.0
Barton	148	117	30	138	6	3	25	114	9	77	71	32.3
Bourbon	77	65	12	60	17	0	32	41	4	53	24	33.9
Brown	58	44	14	45	4	9	13	39	6	39	19	34.8
Butler	240	191	49	220	14	6	76	154	10	172	68	31.2
Chase	9	8	1	9	0	0	3	3	3	6	3	33.8
Chautauqua	15	12	3	14	0	1	5	10	0	10	5	36.6
Cherokee	24	22	2	23	0	1	7	17	0	16	8	32.3
Cheyenne	1	1	0	1	0	0	0	1	0	1	0	21.7
Clark	3	2	1	3	0	0	0	3	0	1	2	29.6
Clay	43	36	7	40	2	1	16	21	6	26	17	32.0
Cloud	22	21	1	19	3	0	8	14	0	21	1	32.0
Coffey	46	36	10	43	2	1	18	25	3	21	25	34.0
Comanche	1	1	0	1	0	0	0	1	0	0	1	28.3
Cowley	193	155	38	164	24	5	52	122	19	120	73	32.6
Crawford	147	122	24	124	19	3	54	91	2	92	55	32.8
Decatur	3	3	0	3	0	0	1	2	0	2	1	43.7
Dickinson	74	62	12	63	11	0	22	51	1	48	26	32.3
Doniphan	29	26	3	27	0	2	11	15	3	26	3	35.6
Douglas	262	220	42	181	61	20	91	162	9	226	36	32.3
Edwards	6	6	0	5	1	0	2	4	0	4	2	22.4
Elk	6	3	3	6	0	0	1	5	0	3	3	38.8
Ellis	156	134	22	131	24	1	43	106	7	110	46	31.3
Ellsworth	18	14	4	18	0	0	4	12	2	14	4	37.5
Finney	275	246	29	248	25	0	84	178	13	204	71	29.7

Table 1: FY 2008 Offender Characteristics by County – 2

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Ford	301	259	41	284	10	6	73	207	21	172	129	31.8
Franklin	121	98	23	111	7	3	44	74	3	95	26	33.4
Geary	271	202	69	155	111	5	95	175	1	138	133	30.7
Graham	9	9	0	9	0	0	2	7	0	9	0	25.1
Grant	22	17	5	18	4	0	3	16	3	18	4	38.4
Gray	14	13	1	14	0	0	1	13	0	8	6	27.2
Greeley	8	7	1	8	0	0	0	7	1	5	3	41.9
Greenwood	52	42	10	52	0	0	14	36	2	28	24	37.0
Hamilton	6	5	1	6	0	0	4	1	1	6	0	32.5
Harper	28	23	5	28	0	0	10	18	0	24	4	33.9
Harvey	194	149	44	170	19	3	58	132	4	106	88	30.9
Haskell	2	2	0	1	0	1	2	0	0	1	1	25.5
Hodgeman	2	2	0	2	0	0	1	1	0	2	0	31.3
Jackson	104	76	28	83	4	17	20	74	10	61	43	34.6
Jefferson	44	33	11	38	3	3	8	31	5	35	9	35.1
Jewell	14	10	4	14	0	0	8	6	0	12	2	33.7
Johnson	1,934	1,594	340	1,489	419	25	722	1,006	206	1,510	424	32.8
Kearny	18	14	4	18	0	0	3	14	1	15	3	34.9
Kingman	25	23	2	24	1	0	5	20	0	21	4	31.6
Kiowa	5	5	0	5	0	0	5	0	0	0	5	31.4
Labette	100	78	22	81	16	3	31	66	3	64	36	33.9
Lane	14	12	2	14	0	0	1	12	1	1	13	34.8
Leavenworth	198	154	44	127	64	5	73	119	6	138	60	33.6
Lincoln	3	3	0	3	0	0	1	2	0	3	0	50.4
Linn	42	38	4	41	0	1	16	24	2	35	7	30.9
Logan	4	4	0	4	0	0	1	3	0	4	0	36.9
Lyon	247	195	52	192	46	9	77	159	11	154	93	30.7
Marion	17	15	2	17	0	0	3	13	1	11	6	40.7

Table 1: FY 2008 Offender Characteristics by County – 3

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Marshall	45	39	6	43	2	0	14	30	1	30	15	28.5
McPherson	113	89	23	107	5	0	28	82	3	80	33	31.4
Meade	6	5	1	5	0	0	1	5	0	3	3	37.3
Miami	126	106	20	111	14	1	57	58	11	92	34	29.8
Mitchell	13	11	1	9	1	2	3	9	1	11	2	31.5
Montgomery	207	157	50	138	67	2	107	98	2	112	95	32.2
Morris	19	17	2	18	0	1	3	15	1	10	9	29.1
Morton	10	9	1	9	0	1	3	7	0	7	3	30.7
Nemaha	27	19	8	26	1	0	7	20	0	19	8	32.0
Neosho	112	87	24	100	9	2	27	76	9	66	46	31.9
Ness	5	3	2	5	0	0	0	5	0	2	3	36.8
Norton	5	4	1	5	0	0	4	1	0	4	1	22.3
Osage	67	56	11	62	4	1	14	53	0	51	16	32.7
Osborne	5	4	1	4	0	1	4	0	1	5	0	29.4
Ottawa	4	4	0	4	0	0	4	0	0	1	3	25.1
Pawnee	61	47	14	50	10	1	14	45	2	45	16	35.4
Phillips	11	11	0	10	0	1	4	6	1	10	1	31.5
Pottawatomie	100	71	28	89	7	2	10	87	3	70	30	32.4
Pratt	68	56	12	65	2	1	21	44	3	49	19	32.1
Rawlins	1	1	0	1	0	0	0	1	0	0	1	27.9
Reno	455	340	113	369	77	7	138	289	28	277	178	33.2
Republic	7	6	1	7	0	0	2	5	0	7	0	29.4
Rice	33	25	8	32	1	0	10	23	0	16	17	31.5
Riley	253	204	46	184	61	4	43	193	17	174	79	30.7
Rooks	13	9	3	11	1	0	6	6	1	11	2	33.1
Rush	11	9	2	10	0	1	3	8	0	5	6	30.4
Russell	26	22	4	24	2	0	10	13	3	24	2	32.4
Saline	534	423	106	433	92	4	149	351	34	329	205	32.1

Table 1: FY 2008 Offender Characteristics by County – 4

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Scott	26	26	0	26	0	0	7	19	0	11	15	28.1
Sedgwick	2,934	2,465	467	1,863	992	75	1,122	1,544	268	2,309	625	33.7
Seward	150	114	36	120	29	1	71	76	3	110	40	31.1
Shawnee	831	694	134	555	269	4	307	491	33	591	240	34.1
Sherman	26	21	5	25	0	0	1	23	2	19	7	40.7
Smith	8	7	1	8	0	0	3	5	0	3	5	37.1
Stafford	17	14	3	15	1	1	6	11	0	11	6	39.6
Stanton	2	2	0	2	0	0	2	0	0	1	1	22.7
Stevens	8	6	2	8	0	0	6	2	0	3	5	28.7
Sumner	82	72	10	78	3	0	30	46	6	63	19	30.0
Thomas	19	19	0	19	0	0	5	14	0	13	6	26.1
Trego	4	3	1	4	0	0	1	2	1	3	1	42.3
Wabaunsee	22	20	1	20	1	0	1	19	2	21	1	37.3
Wallace	3	3	0	3	0	0	1	2	0	2	1	31.8
Washington	14	11	3	14	0	0	5	7	2	11	3	33.6
Wichita	12	11	1	11	0	1	1	10	1	9	3	28.4
Wilson	76	56	20	71	5	0	15	55	6	44	32	34.0
Woodson	13	9	4	11	0	2	3	9	1	5	8	39.7
Wyandotte	1,237	1,066	168	601	624	8	534	678	25	781	456	32.4
Unknown	6	5	1	4	1	1	6	0	0	6	0	34.8
TOTAL**	13,710	11,267	2,413	10,185	3,218	263	4,721	8,120	869	9,650	4,060	32.7

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,680; Race, N=13,666; Sentence Type, N=13,710; Offense Type, N=13,710; and Age, N=13,669.

* Average age at time of sentencing.

** Prison sentences are based on KDOC admissions in FY 2008. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2008.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section illustrates the characteristics of the offenders who were sentenced during FY 2008. The crime categories committed by the offenders are descriptively analyzed, as well.

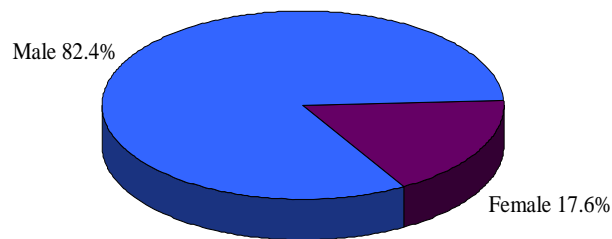
Male offenders represented 82.4% of the total sentences in FY 2008, (Figure 6) and in excess of 90% of most aggravated crimes and violent crimes such as murder, rape, sex offenses, burglary, robbery, kidnapping, firearms, weapons, fleeing or eluding LEO and criminal threat (Table 2).

Female offenders accounted for 17.6% of the sentences in FY 2008, a decrease of 1.2% compared with the percentage rate of FY 2007 (18.8%). The most frequently committed crimes by female offenders (over 40%) were forgery, giving worthless checks, criminal use of financial card and aiding a felon.

White offenders made up 74.5% of the sentences in FY 2008 and 23.5% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2007 (Figure 7).

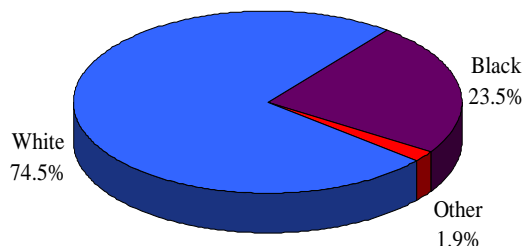
Figures 6, 7, 8, and 9 respectively exhibit the distributions of offenders by gender, race and age. The demographic information of offenders by offense types is presented in Table 2.

Figure 6: Distribution of FY 2008 Sentences by Gender of Offenders



Based on 13,680 sentences reporting gender of offenders

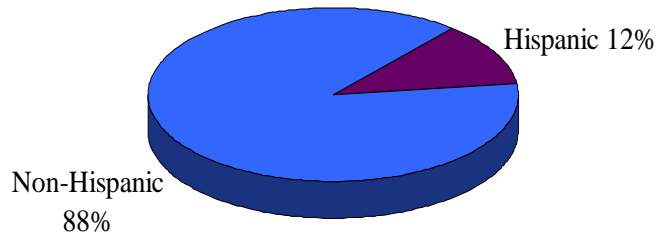
Figure 7: Distribution of FY 2008 Sentences by Race of Offenders



Based on 13,666 sentences reporting race of offenders

The distribution of ethnicity of offenders discloses that 88% of the offenders sentenced in FY 2008 were of Non-Hispanic origin, indicating no significant percentage change compared with that of FY 2007 (Figure 8). This distribution of ethnicity of offenders has been comparatively constant in the past five years.

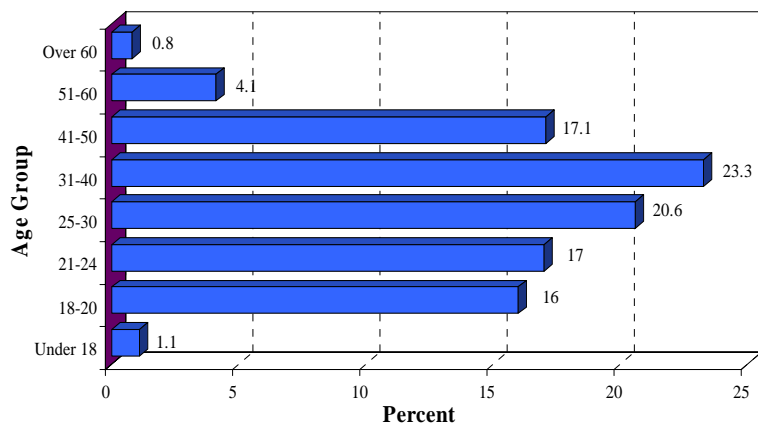
Figure 8: Distribution of FY 2008 Sentences by Ethnicity of Offenders



Based on 13,592 sentences reporting ethnicity of offenders

When analyzing offenders by age at the time of committing the offense, the largest group of offenders was found in the age group ranging from 31 to 40, representing 23.3% of all offenders in FY 2008. This finding is consistent with those in the past five years (Figure 9).

Figure 9: Distribution of FY 2008 Sentences by Age of Offenders



Based on 13,668 sentences reporting age of offenders at time of offense

Table 2: FY 2008 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	34	76.5	23.5	63.6	36.4	0.0	28.3
Agg Arson	11	72.7	27.3	63.6	36.4	0.0	38.0
Agg Assault	293	91.5	8.5	67.9	30.7	1.4	30.7
Agg Assault on LEO	44	97.7	2.3	75.0	22.7	2.3	31.2
Agg Battery	737	88.8	11.2	66.2	31.3	2.5	30.4
Agg Battery on LEO	22	81.8	18.2	54.5	40.9	4.5	29.3
Agg Burglary	146	93.2	6.8	63.7	34.2	2.1	28.2
Agg Criminal Sodomy w/Child	27	100.0	0.0	85.2	14.8	0.0	34.7
Agg Endangering a Child	26	50.0	50.0	84.6	7.7	7.7	32.3
Agg Escape from Custody	93	81.7	18.3	67.0	31.9	1.1	31.9
Agg Failure to Appear	49	71.4	28.6	67.3	32.7	0.0	31.9
Agg False Impersonation	17	70.6	29.4	64.7	35.3	0.0	32.2
Agg Robbery	233	91.8	8.2	34.8	63.9	1.3	25.3
Agg Incest	5	80.0	20.0	100.0	0.0	0.0	38.8
Agg Indecent Liberties w/Child	245	95.1	4.9	86.4	11.5	2.1	29.6
Agg Indecent Solicit w/Child	55	98.2	1.8	80.0	18.2	1.8	27.9
Agg Inter w/Parental Custody	11	90.9	9.1	72.7	27.3	0.0	29.9
Agg Intimidation of a Victim	23	95.7	4.3	60.9	39.1	0.0	27.7
Agg Kidnapping	16	100.0	0.0	75.0	18.8	6.3	29.6
Agg Sexual Battery	48	100.0	0.0	72.9	27.1	0.0	31.2
Agg Weapon Violation	12	100.0	0.0	66.7	33.3	0.0	30.0
Aid Felon	29	48.3	51.7	75.9	20.7	3.4	28.2
Arrange Sale/Purchase Drug	14	35.7	64.3	85.7	7.2	7.1	27.7
Arson	54	94.4	5.6	83.3	13.0	3.7	28.0
Battery on LEO	49	73.5	26.5	73.5	26.5	0.0	31.0
Burglary	1,115	90.7	9.3	81.1	17.3	1.5	27.6
Contribute Child's Misconduct	9	55.6	44.4	77.8	22.2	0.0	27.3
Computer Crime	11	72.7	27.3	54.5	36.4	9.1	28.9
Criminal Damage to Property	118	88.1	11.9	86.4	12.7	0.8	26.7
Criminal Discharge of Firearm	28	96.4	3.6	53.6	46.4	0.0	23.4
Criminal Sodomy w/Child	8	100.0	0.0	62.5	37.5	0.0	35.5
Criminal Threat	337	93.2	6.8	72.2	26.0	1.8	33.0
Criminal Use of Financial Card	24	54.2	45.8	95.8	4.2	0.0	30.7
Domestic Battery	46	95.7	4.3	52.2	45.7	2.2	31.6
Drugs	4,060	78.1	21.9	73.7	24.4	1.8	31.7
Drug, Deliver Simulated Cont. Subs.	5	60.0	40.0	80.0	20.0	0.0	30.0
Drug without Tax Stamps	63	90.5	9.5	61.9	36.5	1.6	29.2

Table 2: FY 2008 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
DUI**	1,773	87.8	12.2	89.3	8.3	2.4	39.7
Electronic Solicitation of Child	37	100.0	0.0	86.5	13.5	0.0	30.3
Failure to Register	111	97.3	2.7	77.5	18.9	3.6	34.5
Fleeing or Eluding LEO	325	92.0	8.0	71.6	26.5	1.9	29.0
Forgery	750	54.0	46.0	75.2	21.6	3.2	30.7
False Writing	93	68.8	31.2	73.1	26.9	0.0	33.5
Giving Worthless Checks	48	59.6	40.4	87.2	12.8	0.0	34.3
Identity Theft	185	63.8	36.2	84.2	14.7	1.1	31.1
Indecent Liberties w/Child	82	92.7	7.3	87.8	9.8	2.4	27.3
Indecent Solicitation of Child	38	97.4	2.6	89.5	7.9	2.6	26.6
Involuntary Manslaughter	25	80.0	20.0	72.0	28.0	0.0	35.3
Kidnapping	43	100.0	0.0	60.5	37.2	2.3	27.8
Lewd and Lascivious Behavior	12	100.0	0.0	100.0	0.0	0.0	30.3
Murder in the First Degree	47	91.5	8.5	48.9	44.7	6.4	29.8
Murder in the Second Degree	46	89.1	10.9	58.7	41.3	0.0	28.2
Nonsupport of Child or Spouse	63	95.2	4.8	77.8	22.2	0.0	37.5
Obstructing Legal Process	132	83.3	16.7	70.5	29.5	0.0	29.5
Obtain Prescription Drug by Fraud	16	18.8	81.2	93.8	6.2	0.0	35.9
Perjury	6	33.3	66.7	83.3	16.7	0.0	33.3
Possession of Firearm	113	97.3	2.7	51.3	47.8	0.9	27.7
Rape	120	98.3	1.7	70.0	27.5	2.5	30.2
Robbery	266	91.7	8.3	48.5	49.2	2.3	26.7
Securities Crimes	5	80.0	20.0	80.0	20.0	0.0	46.3
Sex Exploitation of a Child	22	100.0	0.0	100.0	0.0	0.0	39.9
Stalking	11	90.9	9.1	81.8	18.2	0.0	31.8
Theft	1,074	73.8	26.2	70.9	27.5	1.6	32.8
Traffic in Contraband	50	74.0	26.0	72.0	20.0	8.0	28.3
Unlawful Voluntary Sex Relation	25	100.0	0.0	87.5	12.5	0.0	18.9
Voluntary Manslaughter	18	94.4	5.6	61.1	33.3	5.6	25.2
Weapons	10	100.0	0.0	40.0	60.0	0.0	24.6
Other	47	78.7	21.3	78.7	19.2	2.1	32.9
TOTAL	13,710	82.4	17.6	74.5	23.6	1.9	31.8

Note: Offenses with number of cases smaller than 5 are included in the offense type of "Other".
Due to missing data, percentages in each category are based on different numbers: Gender, N=13,680; Race, N=13,666; and Age, N=13,668.

* Average age at time of offense.

** The number of DUI offense includes 109 prison sentences, 817 probation sentences and 847 county jail sentences.

Felony DUI under K.S.A. 8-1567 (f)

Felony DUI under K.S.A. 8-1567(f) (driving under the influence of alcohol or drugs for the third or subsequent conviction) was classified as a severity level 9, nonperson felony offense in 1993, when the Sentencing Guidelines was established. In 1994 Legislative Session, the crime was amended as a nongrid crime subjected to the specific sentencing provisions of K.S.A. 8-1567. Additionally, the offender cannot be sent to a state correctional facility to serve the sentence imposed, K.S.A. 2000 Supp. 21-4704 (i). The crime was further amended by Senate Bill 67 of 2001. As a result, it is possible for an offender convicted of a fourth or subsequent DUI to serve time in the KDOC in the event he/she violates conditions of postrelease supervision, K.S.A. 2001 Supp. 8-1567 (g).

Figure 10 demonstrates the sentencing trends of DUI under K.S.A. 8-1567(f) in FY

2001 and the past five fiscal years. During FY 2001, 614 offenders were convicted of the crime of DUI. Of this number, 12 (2%) were sentenced to prison as condition violators, 434 (70.7%) were sentenced to probation and 168 (27.3%) were sentenced to county jail. During FY 2008, sentences convicted under this crime increased to 1,773 with 109 (6%) sentenced to prison, 817 (46%) sentenced to probation and 847 (48%) sentenced to county jails. The total number of sentences convicted under the crime of DUI increased by 12.7% and by 17.3%, respectively, compared with those of FY 2007 and FY 2004. When compared with that of FY 2001, the number significantly increased by 189%.

The distribution of felony DUI convictions in FY 2008 is displayed in Figure 11 by county. Johnson and Sedgwick counties were the top two counties imposing 354 (20%) and 451 (25.4%) sentences convicted under K.S.A. 8-1567 (f) in FY 2008.

Probation condition violators, parole condition violators and parole violators with new sentences are the majority of the prison sentences, accounting for 99.3% in FY 2004, 97.5% in FY 2005, 100% in FY 2006, 98.1% in FY 2007 and 97.2 in FY 2008 (Figure 10).

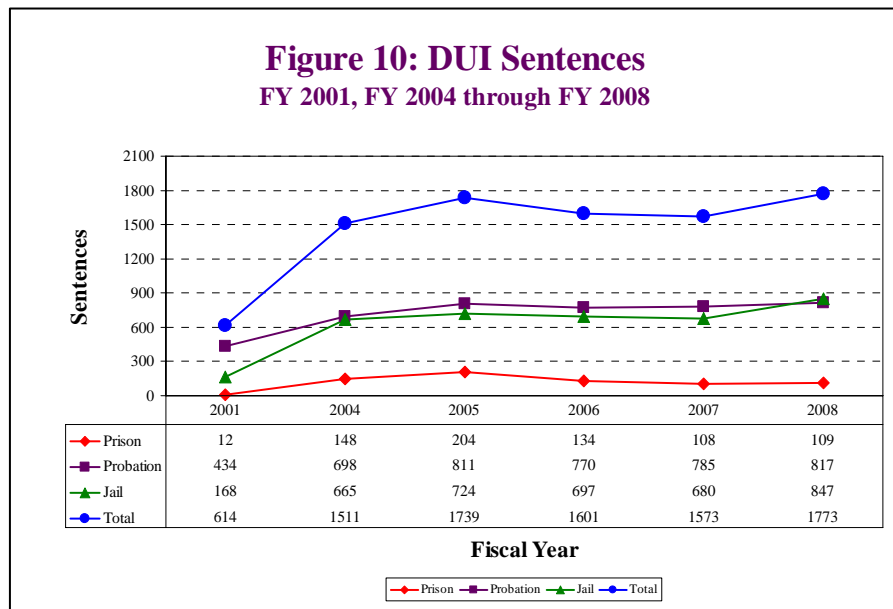
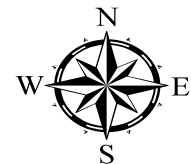
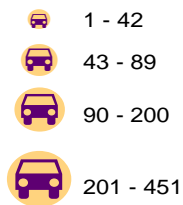
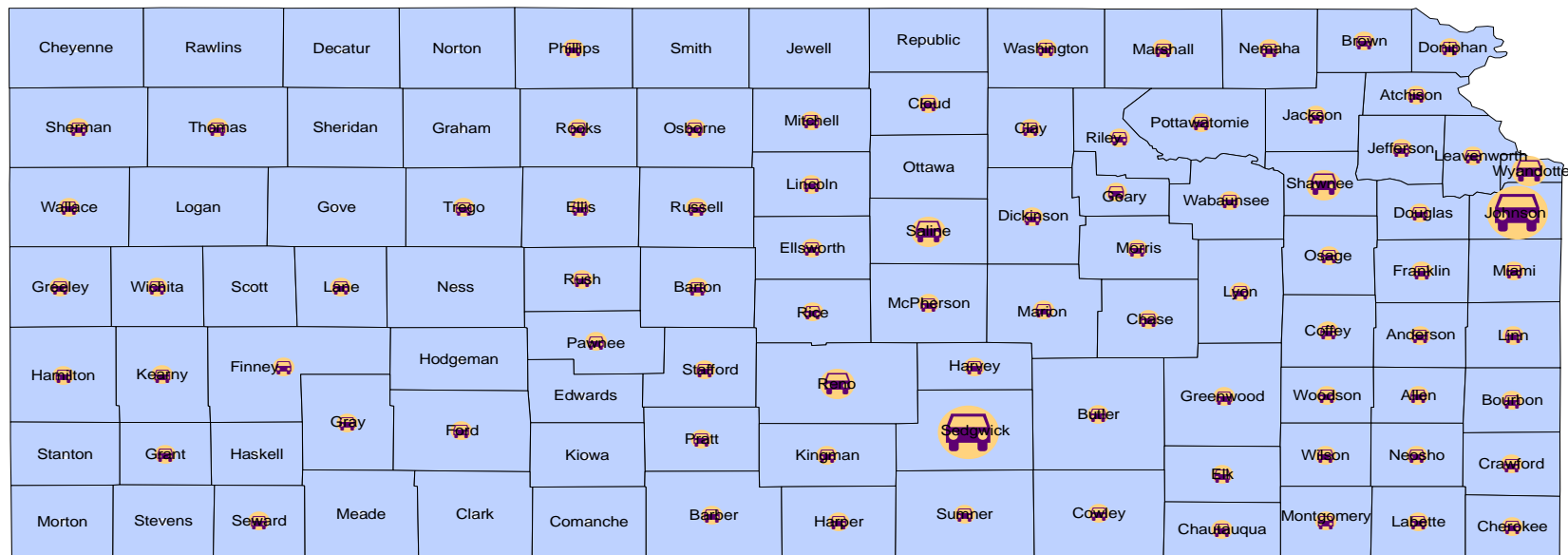


Figure 11: FY 2008 DUI Offense by County



INCARCERATION SENTENCES

Characteristics of Offenders

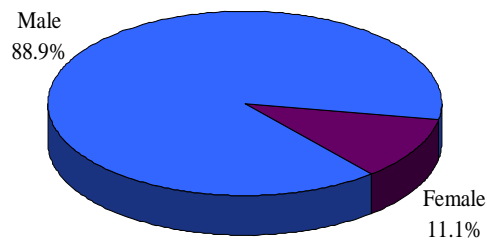
The characteristics of offenders admitted to the state correctional facilities during FY 2008 are presented in Figures 12, 13, 14, 15 and 16.

White males continued to be the predominant offender group admitted to prison in FY 2008 (Figures 12 and 13). Non-Hispanic offenders represented 89.9% of the offenders sentenced to prison (Figure 14). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

The largest number of incarcerated offenders were identified in their thirties (26.1%) at the time of admission to prison (Figure 15).

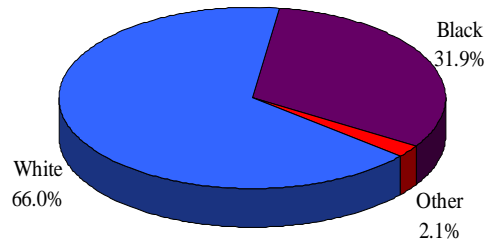
More than 49% of the incarcerated offenders had obtained a high school diploma or GED equivalent (Figure 16).

Figure 12: FY 2008 Incarceration Sentences by Gender of Offenders



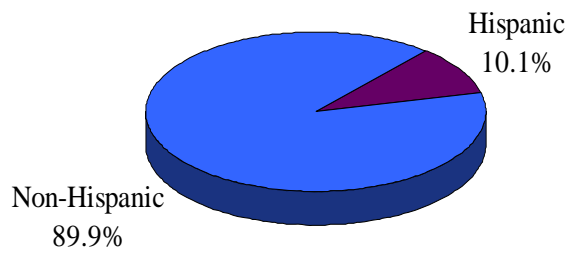
Based on 4,721 incarceration sentences reporting gender of offenders

Figure 13: FY 2008 Incarceration Sentences by Race of Offenders



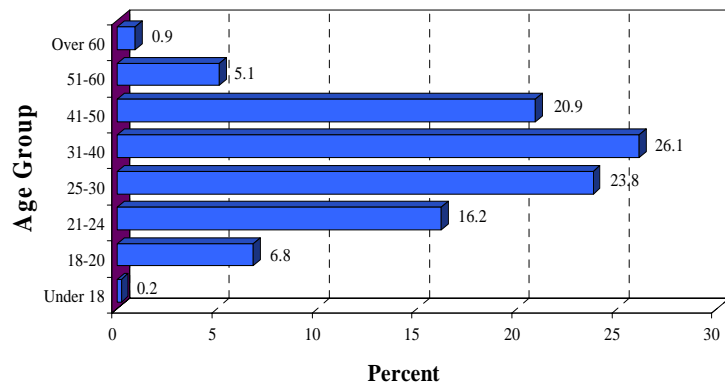
Based on 4,718 incarceration sentences reporting race of offenders

Figure 14: FY 2008 Incarceration Sentences by Ethnicity of Offenders



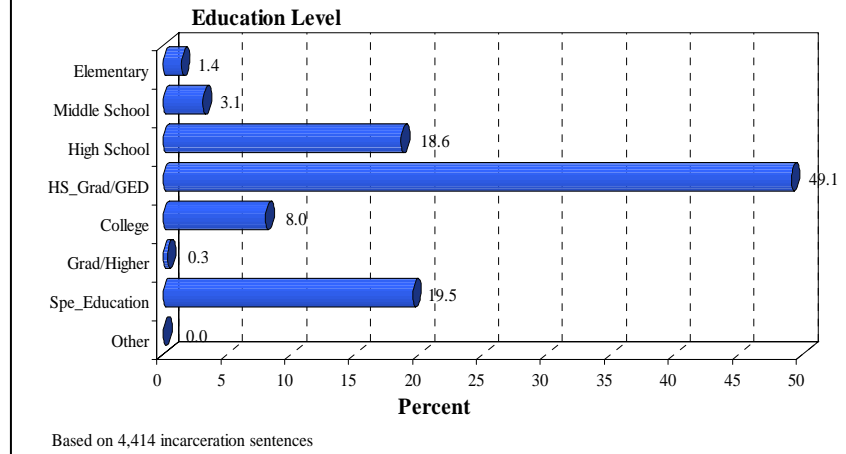
Based on 4,647 incarceration sentences reporting ethnicity of offenders

Figure 15: FY 2008 Incarceration Sentences by Age of Offenders at Admission



Based on 4,721 incarceration sentences reporting age of offenders

Figure 16: FY 2008 Incarceration Sentences by Education Level of Offenders



Incarceration Nondrug Offenses

During FY 2008, 3,414 offenders were admitted to prison for convictions of nondrug crimes, representing 72.3% of the total incarceration sentences (4,721) of the fiscal year. The top ten nondrug crimes included burglary (400 sentences), theft (334 sentences), aggravated battery (315 sentences), forgery (226 sentences), aggravated robbery (203 sentences), aggravated indecent liberties with a child (200 sentences), robbery (170 sentences), aggravated assault (125 sentences), rape (115 sentences) and criminal threat (112 sentences). These top ten crimes accounted for 64.4% of the total nondrug crimes committed by the offenders admitted to prison in FY 2008 (Table 3).

Male offenders committed more than 90% of the top ten crime categories, except forgery and theft. Most sex offenders were

males, indicating no change from the previous year. However, the most frequently committed offenses by female offenders were found in the offense categories of forgery, theft and identity theft (Table 3).

Racial analysis on nondrug offenders reveals that the highest incarceration rates for white offenders (over 70%) were discovered in the areas of most sex offenses, burglary, aggravated assault on LEO, aggravated kidnapping, criminal damage to property, nonsupport of a child or spouse, DUI, failure to register, identity theft and false writing. Nevertheless, blacks were incarcerated more often (over 60%) for the crimes of aggravated robbery, aggravated arson, aggravated false impersonation and drug without tax stamps. The average age of the nondrug offenders was 34 years old at the time of admission to prison in FY 2008, which remains the same with that of FY 2007 (Table 3).

Table 3: FY 2008 Incarceration Nondrug Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Abuse of Child	17	94.1	5.9	76.5	23.5	0.0	28.6
Agg Arson	6	83.3	16.7	33.3	66.7	0.0	39.2
Agg Assault	125	92.0	8.0	63.2	35.2	1.6	32.1
Agg Assault on LEO	30	96.7	3.3	80.0	16.7	3.3	35.2
Agg Battery	315	94.3	5.7	56.8	40.6	2.5	32.5
Agg Battery on LEO	15	93.3	6.7	46.7	46.7	6.6	33.0
Agg Burglary	89	96.6	3.4	66.3	31.5	2.2	33.1
Agg Criminal Sodomy w/Child	26	100.0	0.0	84.6	15.4	0.0	40.5
Agg Escape from Custody	65	87.7	12.3	65.1	33.3	1.6	36.0
Agg Failure to Appear	7	100.0	0.0	42.9	57.1	0.0	32.3
Agg False Impersonation	6	66.7	33.3	33.3	66.7	0.0	40.7
Agg Indecent Liberties w/Child	200	95.0	5.0	85.5	12.5	2.0	34.3
Agg Indecent Solicit w/Child	39	97.4	2.6	76.9	20.5	2.6	29.3
Agg Inter w/Parental Custody	5	100.0	0.0	60.0	40.0	0.0	27.5
Agg Intimidation of a Victim	15	100.0	0.0	53.3	46.7	0.0	31.6
Agg Kidnapping	16	100.0	0.0	75.0	18.8	6.3	38.5
Agg Robbery	203	92.6	7.4	31.0	67.5	1.5	33.9
Agg Sexual Battery	29	100.0	0.0	62.1	37.9	0.0	34.4
Aid Felon	7	100.0	0.0	42.9	57.1	0.0	32.0
Arson	18	100.0	0.0	88.9	11.1	0.0	31.9
Battery on LEO	25	80.0	20.0	64.0	36.0	0.0	32.9
Burglary	400	94.0	6.0	74.5	23.8	1.8	31.3
Criminal Damage to Property	27	100.0	0.0	85.2	14.8	0.0	29.7
Criminal Discharge of Firearm	15	100.0	0.0	66.7	33.3	0.0	22.6
Criminal Sodomy w/Child	7	100.0	0.0	71.4	28.6	0.0	36.8
Criminal Threat	112	93.8	6.3	67.0	31.3	1.8	34.3
Criminal Use Financial Card	6	83.3	16.7	100.0	0.0	0.0	30.4
Drug without Tax Stamps	9	88.9	11.1	33.3	66.7	0.0	31.1
DUI	109	89.0	11.0	85.3	11.0	3.7	43.4
Electronic Solicitation of Child	31	100.0	0.0	87.1	12.9	0.0	31.4
Failure to Register	32	100.0	0.0	71.9	25.0	3.1	35.3
Fleeing or Eluding LEO	82	97.6	2.4	67.1	28.0	4.9	31.8
Forgery	226	68.6	31.4	67.3	28.8	4.0	34.5
False Writing	26	80.8	19.2	73.1	26.9	0.0	36.1
Identity Theft	43	76.7	23.3	76.2	23.8	0.0	34.8
Indecent Liberties w/Child	47	89.4	10.6	80.9	17.0	2.1	34.0
Indecent Solicitation of Child	17	100.0	0.0	82.4	11.8	5.9	29.4

Table 3: FY 2008 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Involuntary Manslaughter	18	88.9	11.1	72.2	27.8	0.0	39.1
Kidnapping	37	100.0	0.0	62.2	37.8	0.0	35.5
Lewd and Lascivious Behavior	5	100.0	0.0	100.0	0.0	0.0	31.4
Murder in the First Degree	47	91.5	8.5	48.9	44.7	6.4	36.6
Murder in the Second Degree	46	89.1	10.9	58.7	41.3	0.0	36.0
Nonsupport of Child or Spouse	27	100.0	0.0	77.8	22.2	0.0	45.2
Obstructing Legal Process	32	90.6	9.4	50.0	50.0	0.0	34.5
Possession of Firearm	36	100.0	0.0	52.8	44.4	2.8	29.1
Rape	115	98.3	1.7	68.7	28.7	2.6	37.2
Robbery	170	92.9	7.1	48.2	49.4	2.4	32.4
Sex Exploitation of a Child	11	100.0	0.0	100.0	0.0	0.0	40.7
Theft	334	82.3	17.7	63.8	34.7	1.5	35.8
Traffic in Contraband	19	84.2	15.8	57.9	26.3	15.8	32.5
Unlawful Voluntary Sex Relation	7	100.0	0.0	85.7	14.3	0.0	21.2
Voluntary Manslaughter	18	94.4	5.6	61.1	33.3	5.6	31.4
Weapons/Agg. Weapons	5	100.0	0.0	40.0	60.0	0.0	34.0
Other	40	77.5	22.5	87.5	12.5	0.0	33.5
TOTAL	3,414	90.8	9.2	65.7	32.2	2.1	34.0

Note: Offenses with number of cases smaller than 5 are included in the offense type of "Other".

Incarceration Drug Offenses

Drug offenders, totaling 1,307, accounted for 27.7% of the total admissions to the State Correctional Facilities during FY 2008. Of this total number, 57.6% were incarcerated for convictions of drug possession offenses, indicating an increase of 0.9% compared with that of FY 2007 (56.7%). More than 93% of the drug possession sentences were found at drug severity level 4 (Figure 17).

Males represented 84% of the drug offenders admitted to prison in FY 2008. Most female offenders were convicted of drug crimes of opiates or narcotics possession first offense and opiates or narcotics sale first offense. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of depressants, stimulants or hallucinogenic second offense, possession of depressants, stimulants or hallucinogenic with intent to sell and unlawfully manufacturing controlled substance. Black offenders were incarcerated more frequently (over 40%) for convictions of drug crimes of

opiate or narcotics possession for the second, third and subsequent offenses, and opiate or narcotics sale for the second, third and the subsequent offenses, which remains constant to those of FY 2007. The average age of the drug offenders was 34.2 years old at admission to prison (Table 4), indicating no significant change compared with the age of the drug offenders observed in FY 2007.

The drug crime of possession of precursor drugs under K.S.A. 65-7006 was created in the 1999 Legislative Session. The penalty for a violation of this section was a drug severity level 1 felony. In 2002, the severity level for the crime was reclassified to drug severity level 4 according to the Kansas Court of Appeals' ruling in *State vs. Frazier* and reconfirmed as a drug severity level 1 with length of sentence at drug severity level 4 in the Kansas Supreme Court's decision in *State vs. Campbell* in 2005. However, the crime was amended to a felony drug severity level 2 during the 2006 Legislative Session. Figure 18 presents the conviction trend of the crime in the past nine years.

The drug possession sentences at drug severity level 4 included drug crimes under K.S.A. 65-4160 and K.S.A. 65-4162. Drug possession offenses at drug severity levels 1 and 2 reflected the drug crimes committed before November 1, 2003 (before the implementation of Senate Bill 123).

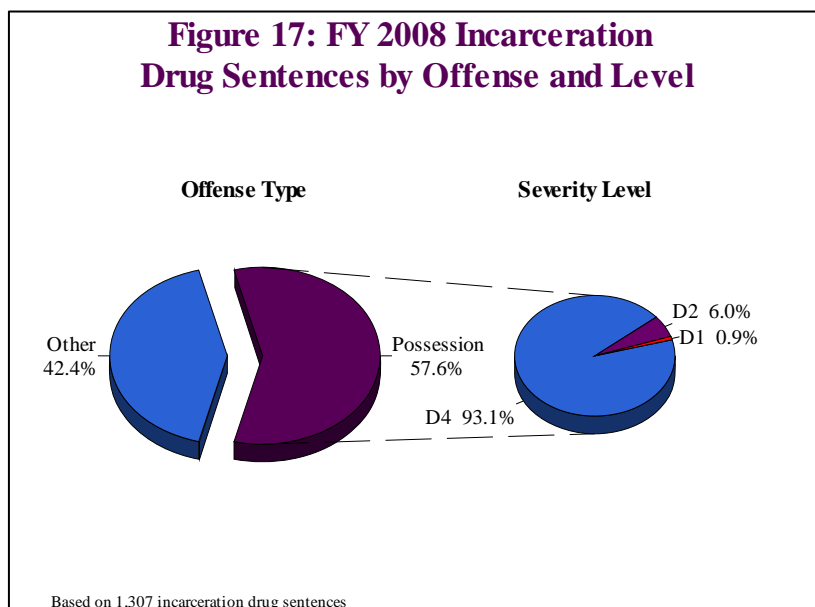
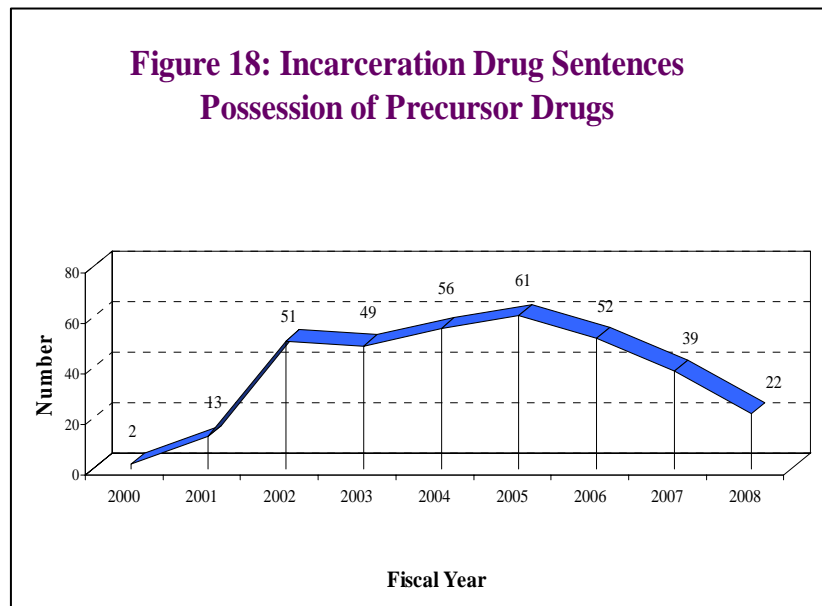


Table 4: FY 2008 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or Narcotics; Poss 1	600	77.2	22.8	65.4	31.8	2.8	34.1
Opiates or Narcotics; Poss 2	45	88.9	11.1	42.2	55.6	2.2	41.2
Opiates or Narcotics; Poss 3	7	85.7	14.3	14.3	85.7	0.0	46.4
Opiates or Narcotics; Sale 1	235	86.4	13.6	54.9	43.4	1.7	34.1
Opiates or Narcotics; Sale 2	13	84.6	15.4	38.5	61.5	0.0	36.6
Opiates or Narcotics; Sale 3	3	33.3	66.7	0.0	100.0	0.0	38.8
Opiates/ Narcotics, Depress, Stim, Hall; Sale w/in 1,000 ft of School	32	84.4	15.6	78.1	21.9	0.0	33.3
Depress, Stim, Hall; Poss 2	101	95.0	5.0	76.2	23.8	0.0	32.6
Depress, Stim, Hall, etc.; Sale, Poss w/Intent to Sell	127	91.3	8.7	70.9	28.3	0.8	31.5
Unlawful Manufacture Controlled Substance	97	91.8	8.2	96.9	0.0	3.1	37.4
Possession of Paraphernalia	24	95.8	4.2	79.2	16.7	4.2	28.3
Possession of Precursor Drugs	22	100.0	0.0	100.0	0.0	0.0	37.2
Receive Proceeds from Violation of Controlled Substance	1	100.0	0.0	0.0	100.0	0.0	31.6
TOTAL	1,307	84.0	16.0	66.8	31.1	2.1	34.2

The drug crime of possession of precursor drugs under K.S.A. 65-7006 kept increasing from FY 2001 through FY 2005. However the admissions to prison under this drug crime dropped to 52 in FY 2006, 39 in FY 2007 and 22 in FY 2008. The offenders were all white males and the average age of the offenders was 37 years old at the time of admission to prison (Table 4).



Types of Admission and Severity Levels

Table 5 presents the distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2008. Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 61.3% of all offenders admitted to state correctional facilities during FY 2008. This represents a percentage increase of 0.3% over that of FY 2007 (61%). As in the past years, condition violators admitted to prison had a significant impact on the total admissions to the Department of Corrections in FY 2008.

The analysis on new commitments indicates that new court commitments made up another big proportion of prison admissions, representing 31.7% of total admissions in FY 2008. The percentage of this group decreased by 1% compared with that of FY 2007 (32.7%). Violators with new sentences, including probation violators with new sentences, parole/postrelease violators with new sentences and conditional release violators with new sentences, accounted for 6.6%, an increase of 0.7% compared with the percentage of this group of violators (5.9%) in FY 2007.

Table 5: Distribution of FY 2008 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,498	31.7
Probation Condition Violator	1,624	34.4
Probation Violator With New Sentence	156	3.3
Inmate Received on Interstate Compact	4	0.1
Parole/Post-release Condition Violator	1,261	26.7
Parole/Post-release Violator With New Sentence	155	3.3
Paroled to Detainer Returned With New Sentence	15	0.2
Conditional Release Condition Violator	7	0.1
Conditional Release Condition Violator with New Sentence	1	0.0
TOTAL	4,721	100.0

Table 6 demonstrates the distribution of all incarcerated offenders admitted in FY 2008 by offense severity level and gender. The highest percentages (over 15%) of all nondrug offenders are found at severity levels 5, 7 and 9 (Figure 19). This severity level distribution of nondrug incarcerated

offenders has remained constant in the past five years. The examination of drug offenders indicates that 55.5% of all drug offenders fell at drug severity level 4 (Figure 20), which is very close to that of FY 2007 (55.4%). Female offenders were convicted more often of drug offenses than of nondrug

offenses (16% vs. 9.2%). The highest percentages of female offenders were found at drug severity level 4 (19.7%) and nondrug severity level 8 (22.6%). The highest

percentage rates of male offenders were identified at drug severity level 1 (90.4%) and offgrid for nondrug crimes (97.3%).

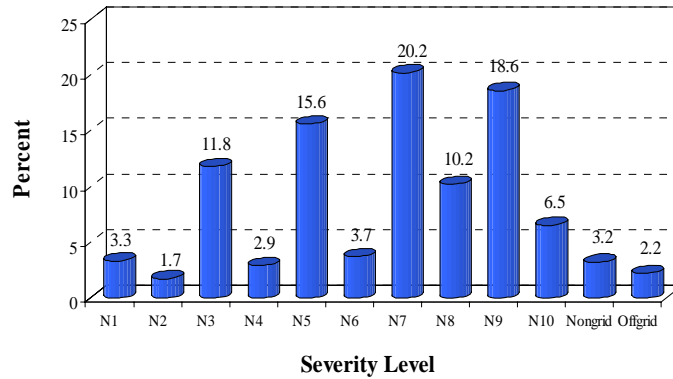
Table 6: Distribution of FY 2008 Incarceration Sentences By Severity Level and Gender*

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	115	8.8	90.4	9.6
D2	99	7.6	87.9	12.1
D3	367	28.1	88.3	11.7
D4	726	55.5	80.3	19.7
Subtotal	1,307	100.0	84.0	16.0
Nondrug				
N1	113	3.3	96.5	3.5
N2	59	1.7	93.2	6.8
N3	404	11.8	95.5	4.5
N4	99	2.9	91.9	8.1
N5	533	15.6	93.6	6.4
N6	126	3.7	93.7	6.3
N7	690	20.2	93.9	6.1
N8	349	10.2	77.4	22.6
N9	635	18.6	87.4	12.6
N10	220	6.5	89.5	10.5
Nongrid	109	3.2	89.0	11.0
Offgrid	75	2.2	97.3	2.7
Subtotal	3,412	100.0	90.8	9.2
TOTAL**	4,721	100.0	88.9	11.1

* Based on 1,307 drug offenders and 3,412 nondrug offenders.

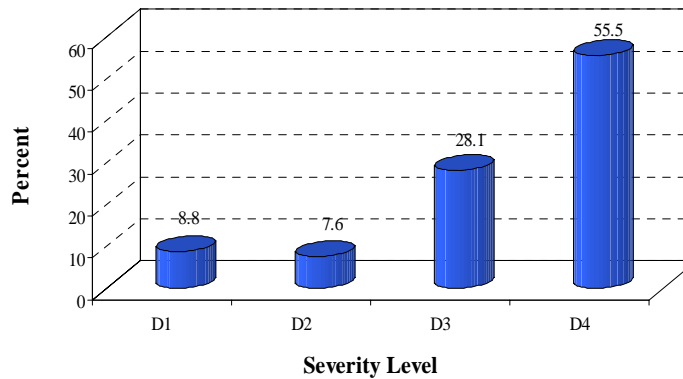
** Total number includes 2 nondrug offenders whose severity levels are unknown.

**Figure 19: FY 2008 Incarceration Sentences
Nondrug Offenders by Severity Level**



Based on 3,412 nondrug offenders

**Figure 20: FY 2008 Incarceration Sentences
Drug Offenders by Severity Level**



Based on 1,307 drug offenders

Table 7 presents the average length of sentence imposed by severity level for guideline new commitment offenders admitted to prison during FY 2008. This group of offenders includes new court commitments, probation condition violators and probation violators with new sentence. Pre-guideline offenders are excluded from this analysis.

drug severity level 1, increased by 16.7 months at drug severity level 2 and increased by 5.1 months at nondrug severity level 6. The average length of sentence at nondrug severity levels 1 and 2 decreased by 46.3 months and 14.1 months respectively. As for other drug and nondrug levels, the average length of sentence did not fluctuate significantly from those observed in FY 2007.

Compared with FY 2007, the average length of sentence increased by 13.9 months at

**Table 7: Guideline New Commitment Admissions
Average Length of Sentence (LOS) Imposed by Severity Level**

Severity Level	FY 2007 LOS (Months)	FY 2008 LOS (Months)	Difference (Months)
D1	71.9	85.8	13.9
D2	50.6	67.3	16.7
D3	30.0	27.4	-2.6
D4	20.5	20.9	0.4
N1	263.8	217.5	-46.3
N2	158.4	144.3	-14.1
N3	89.5	92.0	2.5
N4	71.8	70.3	-1.5
N5	51.9	54.4	2.5
N6	33.2	38.3	5.1
N7	26.3	26.0	-0.3
N8	16.2	16.8	0.6
N9	11.5	12.1	0.6
N10	8.3	8.5	0.2

Note: Based on 3,414 and 3,197 guideline new commitment admissions in FY 2007 and FY 2008 respectively.

Jessica’s Law Sentences

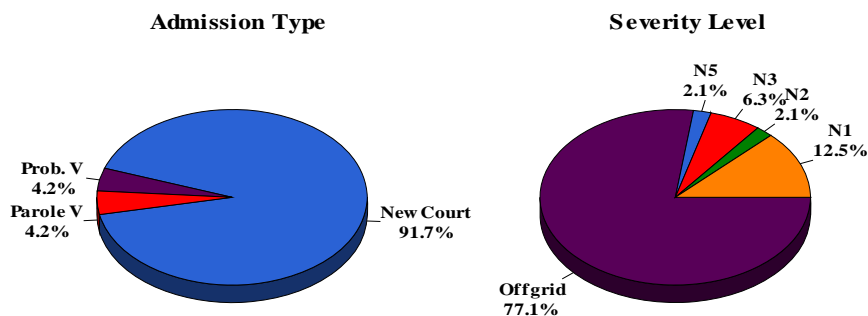
House Bill 2576 became law (Jessica’s Law) in the 2006 Legislative Session. According to this law, aggravated habitual sex offenders shall be sentenced to life imprisonment without possibility of parole (K.S.A. 2006 Supp. 21-4642); child sex offenses, where the offender is 18 years of age or older and the victim is less than 14 years of age, shall be sentenced to mandatory minimum of Hard 25 years for the first offense, mandatory minimum of Hard 40 years for the second offense and life imprisonment without parole for the third offense (K.S.A. 2006 Supp. 21-4643).

During FY 2008, 48 offenders were sentenced and admitted to prison under Jessica’s Law. Forty-four of them (91.7%) were new court commitments, 2 (4.2%) were probation violators with new sentence and 2 (4.2%) were parole/postrelease violators with new sentence. While most jurisdictions identify the severity of these crimes as offgrid, a few note them as the severity level for a downward departure on the nondrug grid. Therefore, of these

offenders, 77.1% (37 offenders) were sentenced at offgrid, 12.5% (6 offenders) were sentenced at nondrug severity level 1, 6.3% (3 offenders) were at nondrug severity level 3 and 2.1% (1 offender) was at nondrug severity levels 2 and 5, respectively (Figure 21). The analysis of the sentence length demonstrates that 50% of the sentences were downward departure to guidelines, with an average sentence length of 95.5 months. Figure 22 displays the distribution of the incarcerated offenders under Jessica’s Law by county. Sedgwick county imposed the most Jessica’s Law prison sentences (13) followed by Wyandotte (5), Shawnee (4) and Saline Counties (4).

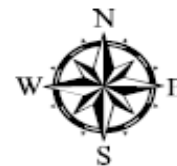
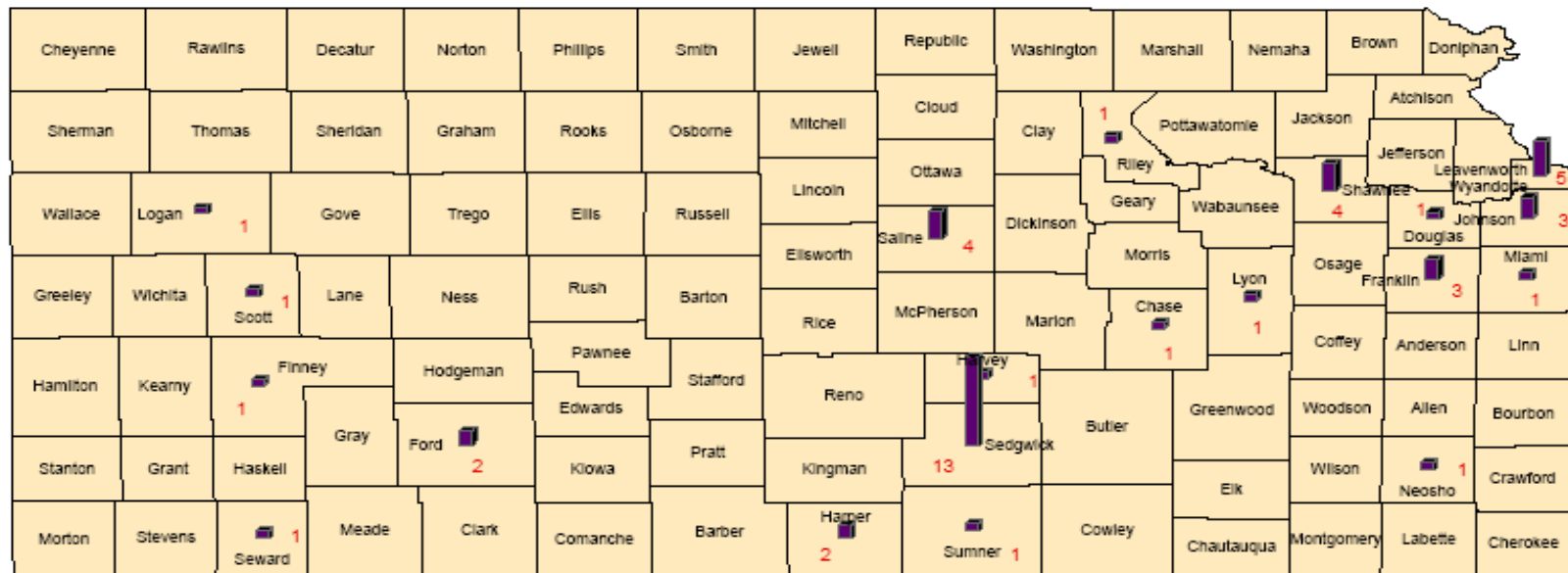
In addition, three offenders were convicted under Jessica’s Law and sentenced to probation during FY 2008 with underlying prison terms of 32 months, 61 months and 147 months respectively. Their major departure reasons are that age of defendant was young with no prior criminal history, victim requested and victim was an aggressor or participant.

Figure 21: FY 2008 Jessica's Law Incarceration Sentences



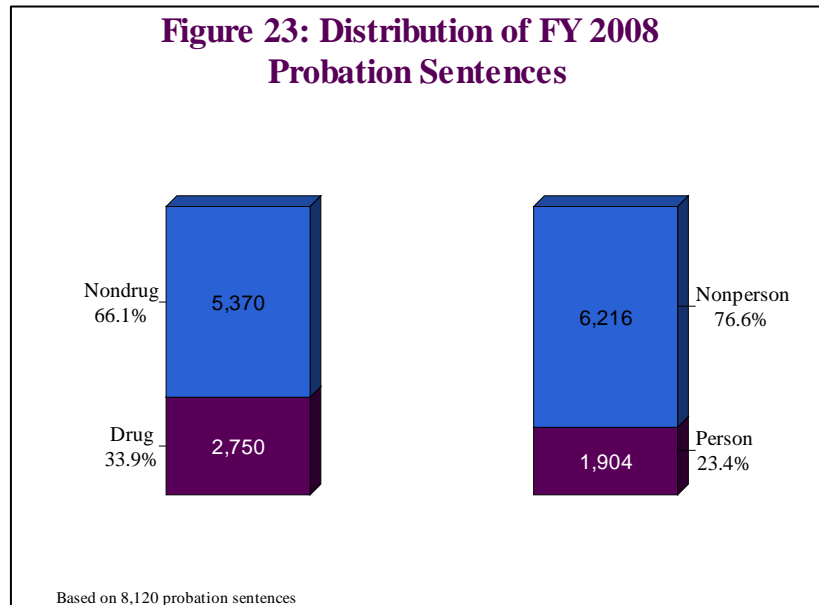
Based on 48 Jessica's Law incarceration sentences.

Figure 22: FY 2008 Jessica's Law Incarceration Sentences by County

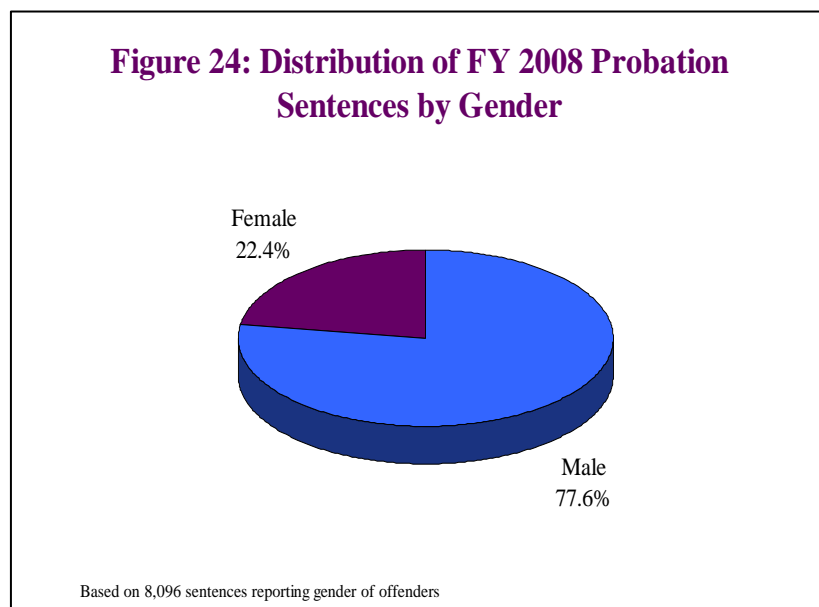


PROBATION SENTENCES

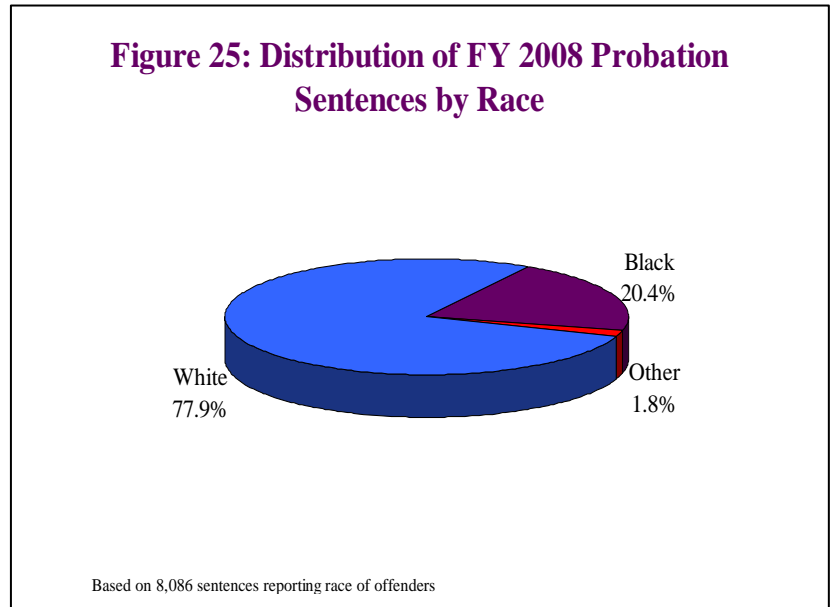
A total number of 8,120 probation sentences were reported to the Kansas Sentencing Commission during FY 2008. Of this number, 5,370 were nondrug sentences and 2,750 were drug sentences; non-person offenses made up 76.6% and person offenses made up 23.4% (Figure 23). The demographic information of this offender group was described in Figures 24, 25 and 26.



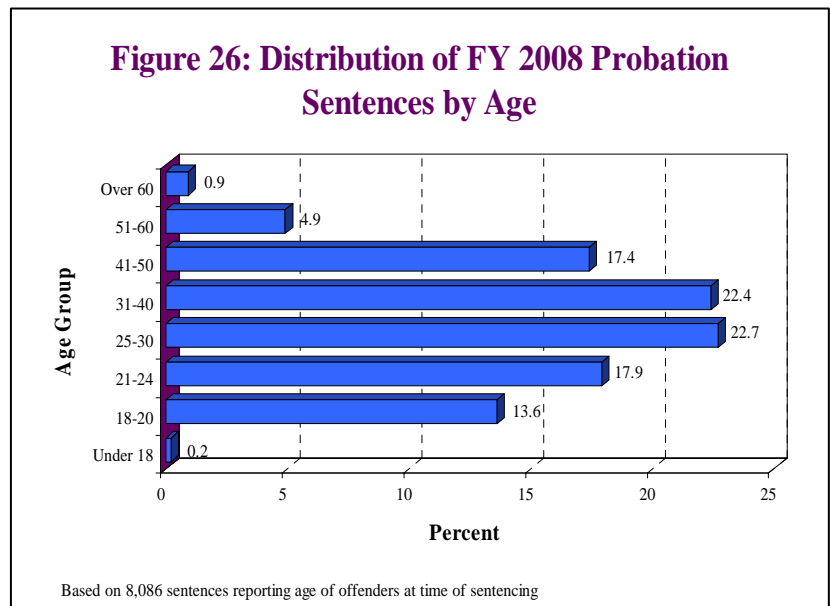
The distribution of offenders by gender demonstrates that male offenders accounted for 77.6% of all probation sentences imposed in FY 2008, indicating an increase of 0.2% compared with that observed (77.4%) in FY 2007 (Figure 24).



Racial analysis discloses that white offenders made up 77.9% of the probation sentences imposed in FY 2008, indicating no percentage change compared with that of FY 2007. The percentages of black offenders and offenders in other races remain comparatively constant compared with those observed in FY 2007 (Figure 25).



The largest population of probation offenders was found in the age group ranging from 25 to 30 years old at the time of sentencing (22.7%), which is different from the age group ranging from 31 to 40 in the past five years (Figure 26).



Type of Offense and Severity Level

The top ten offenses committed by nondrug probation offenders include aggravated assault, aggravated battery, burglary, criminal threat, DUI, fleeing LEO, forgery, identity theft, obstructing legal process and theft. These ten offenses accounted for 76.3% of the total nondrug probation sentences in FY 2008 (Figure 27), a decrease of 0.7% from that of the previous year (77%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 75.6% of all probation drug offenses (Figure 28) and demonstrating an increase of 1.7% compared with that of FY 2007 (73.9%).

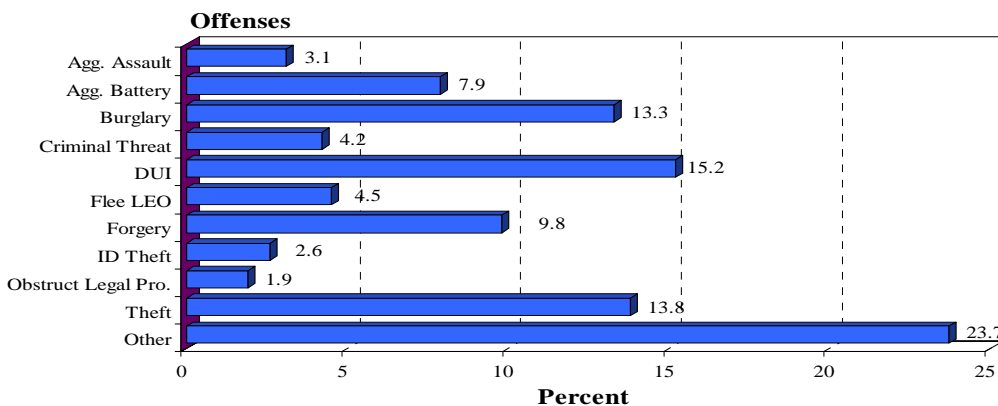
The characteristics of offenders sentenced to probation in FY 2008 are presented by offense type in Tables 8 and 9. Male offenders sentenced to probation during FY 2008 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: aggravated assault, arson, criminal threat, failure to register, fleeing or eluding LEO and possession of firearms. The highest percentages of female probation

nondrug offenses (over 50%) included forgery, aiding a felon, criminal use of financial card and obtaining prescribed drug by fraud (Table 8).

White offenders represented 78.3% of all nondrug probation sentences and 77% of all drug offenders on probation in FY 2008. Black offenders on probation had a little lower conviction rate for nondrug offenses than drug crimes (19.9% versus 21.2%). The average age at the time of committing offense was 31.2 years old for nondrug offenders and 31.9 years old for drug offenders, which remains constant with those in FY 2007 (Table 8 & Table 9).

The characteristics of probation offenders by severity level are displayed in Tables 10 and 11. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,671 sentences or 31.1%) and the majority of probation drug sentences were identified at drug grid severity level 4 (2,149 sentences or 78.2%). These distributions are pretty consistent with those in the past five years.

Figure 27: FY 2008 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,370 probation nondrug sentences

Drug possession crimes included opiates or narcotics possession offenses under K.S.A. 65-4160, and depressants, stimulants, hallucinogenic, etc. possession 2nd and subsequent offense under K.S.A. 65-4162. The conviction of opiates or narcotics possession offenses represented 61.3% of the total probation drug sentences in FY 2008 (Table 9).

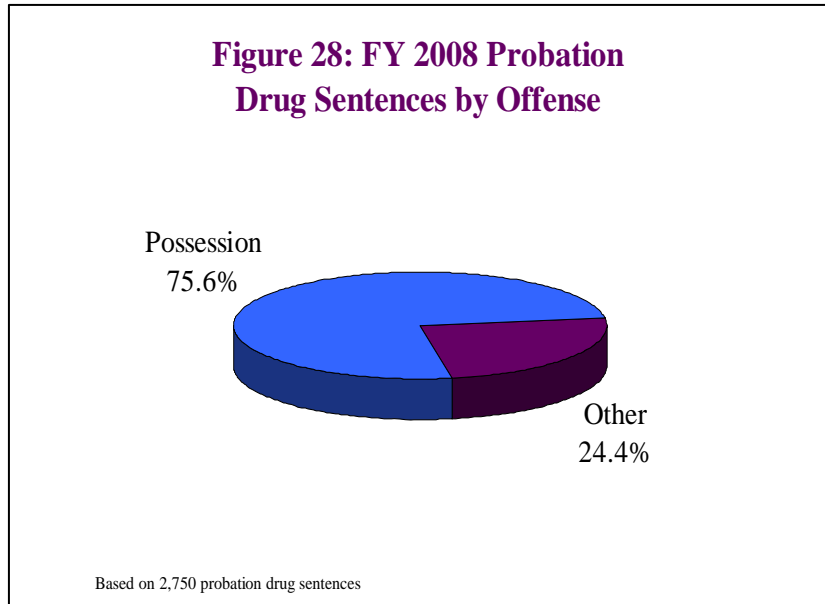


Table 8: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	17	0.3	58.8	41.2	50.0	50.0	0.0	30.7
Agg Assault	168	3.1	91.1	8.9	71.4	27.4	1.2	31.1
Agg Assault on LEO	14	0.3	100.0	0.0	64.3	35.7	0.0	26.9
Agg Arson	5	0.1	60.0	40.0	100.0	0.0	0.0	45.3
Agg Battery	422	7.9	84.7	15.3	73.3	24.3	2.4	30.9
Agg Battery on LEO	7	0.1	57.1	42.9	71.4	28.6	0.0	36.5
Agg Burglary	57	1.1	87.7	12.3	59.6	38.6	1.8	26.4
Agg Endangering a Child	24	0.4	50.0	50.0	83.3	8.3	8.3	32.3
Agg Escape from Custody	28	0.5	67.9	32.1	71.4	28.6	0.0	28.1
Agg Fail to Appear	42	0.8	66.7	33.3	71.4	28.6	0.0	32.1
Agg False Impersonation	11	0.2	72.7	27.3	81.8	18.2	0.0	28.8
Agg Ind Lib with a Child	45	0.8	95.5	4.5	90.7	7.0	2.3	26.0
Agg Ind Solicit with a Child	16	0.3	100.0	0.0	87.5	12.5	0.0	31.4
Agg Inter w/Parental Custody	6	0.1	83.3	16.7	83.3	16.7	0.0	33.2
Agg Intimidation of a Victim	8	0.1	87.5	12.5	75.0	25.0	0.0	24.5
Agg Robbery	30	0.6	86.7	13.3	60.0	40.0	0.0	26.9
Agg Sex Battery with Child	19	0.4	100.0	0.0	89.5	10.5	0.0	34.8
Agg Weapon Violation	8	0.1	100.0	0.0	75.0	25.0	0.0	28.3
Aiding Felon	22	0.4	31.8	68.2	86.4	9.1	4.5	27.3
Arrange Sale/Purchase Drug	13	0.2	30.8	69.2	84.6	7.7	7.7	28.4
Arson	36	0.7	91.7	8.3	80.6	13.9	5.6	27.1
Battery on LEO	24	0.4	66.7	33.3	83.3	16.7	0.0	31.6

Table 8: Characteristics of Probation Nondrug Offenders by Type of Offense – 2

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Burglary	715	13.3	88.8	11.2	84.9	13.7	1.4	26.9
Computer Crime	9	0.2	66.7	33.3	44.4	44.4	11.2	28.6
Contribute Child Misconduct	5	0.1	60.0	40.0	80.0	20.0	0.0	29.6
Criminal Damage of Property	91	1.7	84.6	15.4	86.8	12.1	1.1	26.4
Criminal Discharge of Firearm	13	0.2	92.3	7.7	38.5	61.5	0.0	26.1
Criminal Threat	225	4.2	92.9	7.1	74.8	23.4	1.8	33.1
Criminal Use of Financial Card	18	0.3	44.4	55.6	94.4	5.6	0.0	31.6
Criminal Use of Explosives	4	0.1	100.0	0.0	75.0	0.0	25.0	33.2
Domestic Battery	30	0.6	96.7	3.3	46.7	53.3	0.0	31.8
Drug without Tax Stamps	54	1.0	90.7	9.3	66.7	31.5	1.9	29.1
DUI	817	15.2	84.6	15.4	88.8	8.9	2.3	37.8
Electronic Solicitation of Child	6	0.1	100.0	0.0	83.3	16.7	0.0	29.4
Failure to Register	79	1.5	96.2	3.8	79.7	16.5	3.8	34.8
False Writing	66	1.2	63.6	36.4	72.7	27.3	0.0	33.3
Fleeing/Eluding LEO	243	4.5	90.1	9.9	73.1	26.0	0.8	28.7
Forgery	524	9.8	47.7	52.3	78.7	18.5	2.9	30.2
Giving Worthless Check	47	0.9	58.7	41.3	87.0	13.0	0.0	34.0
Identity Theft	142	2.6	59.9	40.1	86.6	12.0	1.4	30.6
Ind. Liberties with a Child	35	0.7	97.1	2.9	97.1	0.0	2.9	26.9
Ind. Solicitation with a Child	21	0.4	95.2	4.8	95.2	4.8	0.0	26.4
Involuntary Manslaughter	7	0.1	57.1	42.9	71.4	28.6	0.0	34.1
Kidnapping	6	0.1	100.0	0.0	50.0	33.3	16.7	26.3
Lewd and Lascivious Behavior	7	0.1	100.0	0.0	100.0	0.0	0.0	31.2
Mistreatment of Dependant Adult	4	0.1	25.0	75.0	75.0	25.0	0.0	39.3
Non-Support of a Child	36	0.7	91.7	8.3	77.8	22.2	0.0	36.5
Obstruct Legal Process	100	1.9	81.0	19.0	77.0	23.0	0.0	28.5
Obtain Prescribed Drug by Fraud	14	0.3	21.4	78.6	92.9	7.1	0.0	36.1
Perjury	6	0.1	33.3	66.7	83.3	16.7	0.0	33.3
Possession of Firearms	77	1.4	96.1	3.9	50.6	49.4	0.0	28.0
Possess Simulated Contr. Subs.	4	0.1	75.0	25.0	100.0	0.0	0.0	32.8
Rape	5	0.1	100.0	0.0	100.0	0.0	0.0	25.7
Robbery	96	1.8	89.6	10.4	49.0	49.0	2.0	24.6
Sex Exploitation of a Child	11	0.2	100.0	0.0	100.0	0.0	0.0	41.3
Stalking	7	0.1	85.7	14.3	71.4	28.6	0.0	34.6
Theft	739	13.8	69.9	30.1	74.1	24.3	1.6	32.4
Traffic in Contraband	31	0.6	67.7	32.3	80.6	16.1	3.2	28.4
Unlawful Voluntary Sex Relation	18	0.3	100.0	0.0	88.2	11.8	0.0	19.0
Weapon	9	0.2	100.0	0.0	44.4	55.6	0.0	24.3
Other	27	0.5	77.8	22.2	70.4	29.6	0.0	36.1
TOTAL	5,370	100.0	78.8	21.2	78.3	19.9	1.8	31.2

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".
 Due to missing data, each category is based on different numbers: Gender, N=5,354; Race, N=5,346; and Age, N=5,346.

Table 9: Characteristics of Probation Drug Offenders by Type of Offense

	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or Narcotics; Possession	1,686	61.3	71.7	28.3	77.6	20.7	1.7	33.2
Opiates or Narcotics; Sale 1	270	9.8	73.6	26.4	66.9	31.6	1.5	30.4
Opiates or Narcotics; Sale 2	4	0.2	25.0	75.0	75.0	25.0	0.0	29.9
Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School	12	0.4	75.0	25.0	58.3	41.7	0.0	24.7
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	279	10.2	82.3	17.7	76.2	22.4	1.4	28.4
Depress, Stim, Hall; Poss 2	394	14.3	88.8	11.2	79.0	18.9	2.0	29.7
Possession of Paraphernalia	56	2.0	71.4	28.6	85.7	10.7	3.6	32.5
Possession of Precursor Drugs	19	0.7	57.9	42.1	100.0	0.0	0.0	34.3
Unlawful Manufacture Controlled Substance	20	0.7	63.2	36.8	100.0	0.0	0.0	34.2
Receive Proceeds from Violation of Controlled. Substance	4	0.2	100.0	0.0	100.0	0.0	0.0	27.7
Deliver Any Drug Paraphernalia	6	0.2	83.3	16.7	83.3	16.7	0.0	41.5
TOTAL	2,750	100.0	75.3	24.7	77.0	21.2	1.8	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,742; Race, N=2,740; and Age, N=2,739.

Table 10: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	4	0.1	100.0	0.0	100.0	0.0	0.0	21.8
N2	1	0.0	100.0	0.0	100.0	0.0	0.0	13.1*
N3	47	0.9	89.1	10.9	71.7	28.3	0.0	28.6
N4	24	0.4	83.3	16.7	54.2	41.7	4.2	30.4
N5	295	5.5	90.5	9.5	72.0	24.9	3.1	29.0
N6	88	1.6	85.2	14.8	80.7	14.8	4.5	28.7
N7	1,067	19.9	87.2	12.8	77.7	20.8	1.5	29.2
N8	907	16.9	58.4	41.6	77.2	20.6	2.2	30.0
N9	1,671	31.1	79.2	20.8	77.3	21.3	1.4	30.4
N10	414	7.7	76.2	23.8	73.5	25.5	1.0	31.9
Nongrid	849	15.8	85.1	14.9	87.3	10.4	2.2	37.6
Offgrid**	3	0.1	100.0	0.0	100.0	0.0	0.0	21.1
TOTAL	5,370	100.0	78.8	21.2	78.3	19.9	1.8	31.2

Note: Due to missing data, each category is based on different numbers: Gender, N=5,354; Race, N=5,346; and Age, N=5,346.

* A teenage sex offender

** Jessica's Law offenders sentenced downward departure to guidelines.

Table 11: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	20	0.7	60.0	40.0	100.0	0.0	0.0	34.1
D2	31	1.1	58.1	41.9	80.6	19.4	0.0	29.1
D3	550	20.0	78.0	22.0	71.6	26.9	1.5	29.4
D4	2,149	78.2	75.0	25.0	78.2	20.0	1.8	32.6
TOTAL	2,750	100.0	75.3	24.7	77.0	21.2	1.7	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,742; Race, N=2,740 and Age, N=2,739.

SB 123 Drug Treatment Offenders

Senate Bill 123, which became law in 2003, has established a non-prison sanction of certified drug abuse treatment programs for a defined target population of nonviolent adult drug offenders who are sentenced on or after November 1, 2003 with the convictions of drug crimes under K.S.A. 65-4160 or 65-4162.

A total number of 1,319 sentences were imposed to SB 123 drug treatment programs during FY 2008, representing almost 48% of the total drug probation sentences (2,750), an increase of 1% compared with that of FY 2007 (47%). Of these sentences, more than 80% were convicted of the crime of drug possession under K.S.A. 65-4160 and 19.3% were convicted of the crime of drug possession under K.S.A. 65-4162. The evaluation of the criminal history of the offenders demonstrates that 93.7% of them were in the criminal history categories from E through I, a decrease of 0.7% compared with that of FY 2007 (94.4%). This data implies that SB 123 was implemented very consistently during FY 2008.

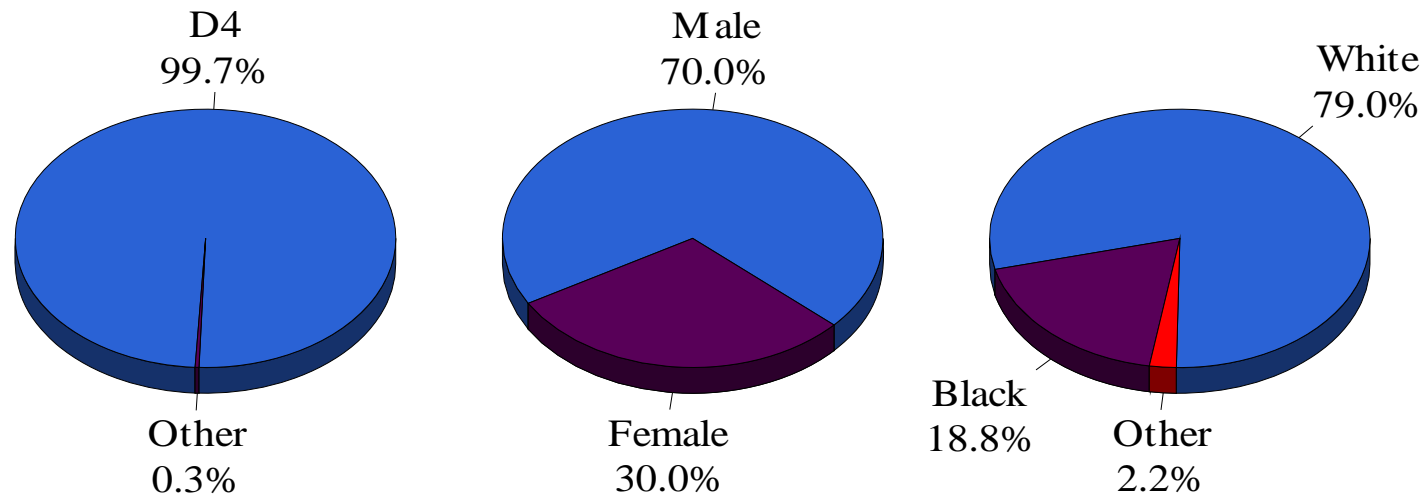
Figure 29 presents a brief summary of the offenders sentenced to SB 123 treatment

programs in FY 2008. The offenders at drug severity level 4 accounted for 99.7% and 0.3% of the offenders fell at other drug severity levels. White males were still the majority of the treatment offenders. The average age of the drug treatment offenders was 32.7 years old, which remains pretty close to that of FY 2007 and FY 2006.

The analysis of the SB 123 drug treatment sentences by county reveals that Sedgwick County imposed the most SB 123 sentences (179) followed by Wyandotte (131), Johnson (108), Shawnee (81) and Saline (68) counties. No SB 123 sentences were reported from 27 counties. The average number of SB 123 sentences imposed by the 78 counties is 17, which is the same with that of FY 2007 (Figure 30).

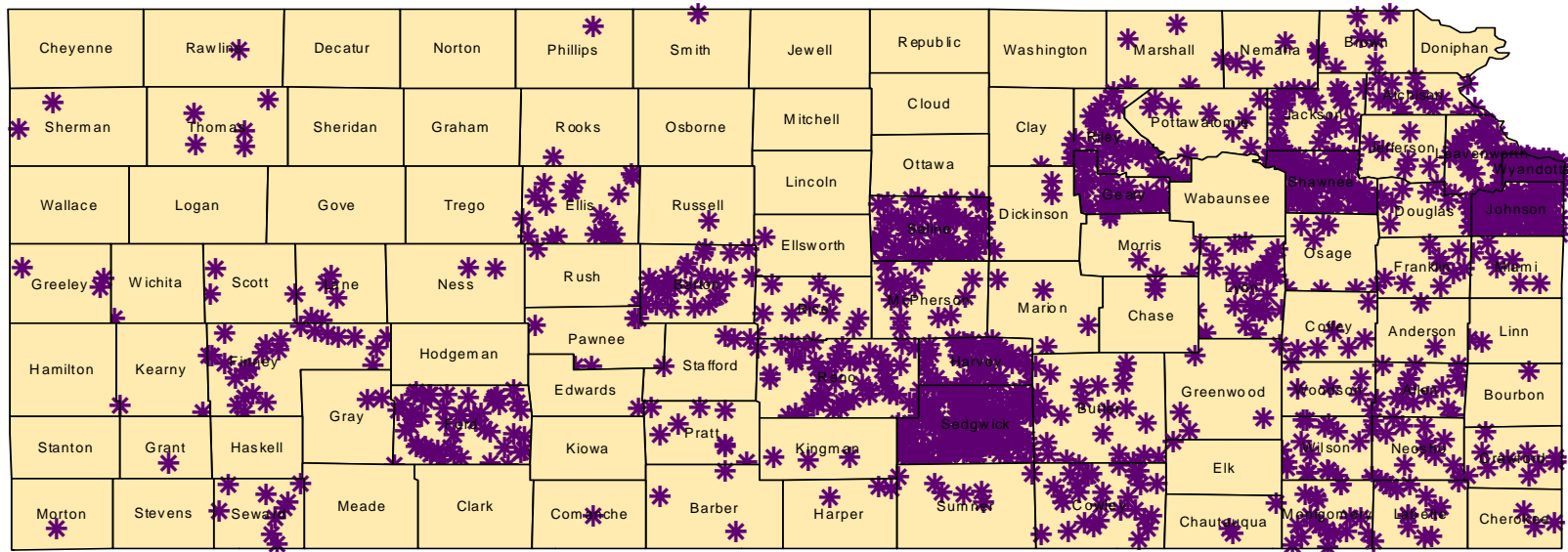
During FY 2008, 443 Senate Bill 123 drug treatment sentences were revoked. Of this number, 196 sentences were revoked to prison, representing 14.9% of SB 123 sentences imposed (1,319 sentences) in FY 2008. The average period between original sentence and revocation hearing was 14.8 months, 2.4 months longer than that of FY 2007 (12.4 months). The average lag time for the second revocation was 5.4 months, very close to that of FY 2007.

Figure 29: Distribution of FY 2008 Senate Bill 123 Drug Treatment Sentences

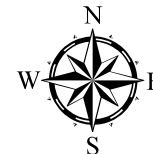


Note: Severity level, N=1,319; Gender, N=1,316; Race, N=1,316

Figure 30: Distribution of Senate Bill 123 Drug Treatment Sentences Imposed by County - FY 2008



Summary
 Total county=105
 Total sentences=1,319
 County w/zero=27
 Minimum=1
 Maximum=179
 Mean=17



Criminal History and Length of Probation

Offenders sentenced to probation with assigned criminal history categories accounted for 90.1% of all the probation sentences (8,120) reported to the Commission in FY 2008, which decreased by 0.3% compared with that of FY 2007 (90.4%). The largest number of this group fell within criminal history category I (29.6% or 2,165 sentences), representing having no previous criminal history or one misdemeanor conviction (Figure 31). Further analysis of the offenders with criminal history category I reveals that they accounted for 28.6% of offenders on the nondrug grid and 31.2% of offenders on the drug grid.

Nondrug offenders who were within the presumptive probation boxes accounted for 85.3% (Table 12), while 66.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 13). In reviewing border box sentences, only 4.6% of nondrug offenders were found to be

at severity level 5 with criminal history categories H and I and severity level 6 with criminal history category G, while 17.8% of drug probation sentences fell within severity level 3 with criminal history categories E to I, which are designated as border boxes (Tables 12 and 13).

Drug severity level 4 with criminal history categories E and F have been reclassified as presumptive probation boxes effective on November 1, 2003. The sentencing data in border boxes implies that drug offenders tend to be sentenced to probation more frequently than do nondrug offenders.

The probation terms of probation sentences by each severity level are presented in Tables 12 and 13. The average length of probation for nondrug offenders was 17.7 months, while the average length of probation for drug offenders was 16.5 months. This is very consistent with the average probation lengths over the past five years.

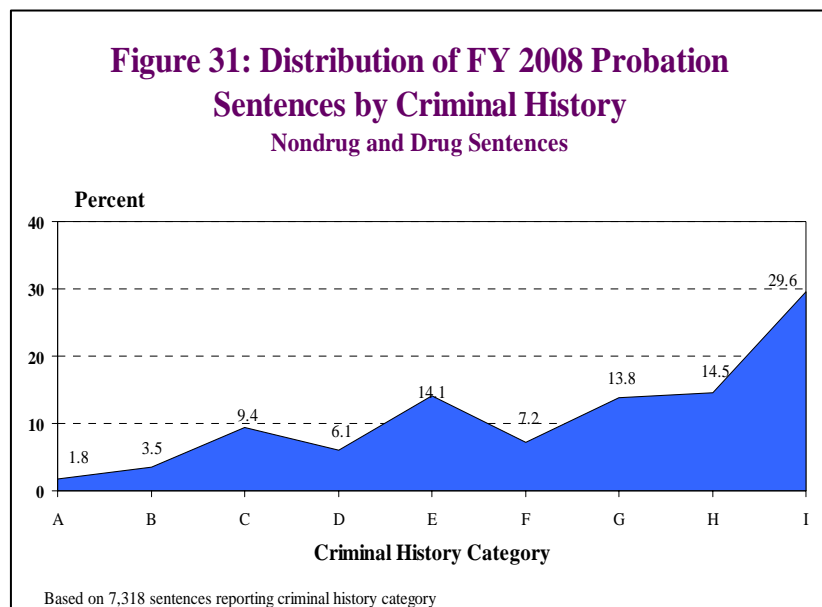


Table 12: Criminal History and Probation Length by Severity Level – Nondrug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	4	0	0	0	0	0	0	0	0	4	48.0
N2	1	0	0	0	0	0	0	0	0	1	36.0
N3	47	2	4	5	3	2	2	5	4	20	39.7
N4	24	2	0	4	4	1	2	4	1	6	38.0
N5	295	6	14	17	15	13	6	27	48	149	35.7
N6	88	2	2	4	0	3	1	13	19	44	24.3
N7	1,067	20	45	137	96	126	65	135	140	302	23.7
N8	907	12	40	110	50	169	68	121	105	232	18.1
N9	1,671	37	56	225	124	269	103	187	245	425	12.7
N10	414	6	8	48	30	57	44	60	55	106	12.4
Nongrid	849	1	3	1	1	5	2	7	12	17	13.1
Offgrid	3	0	0	0	0	0	0	0	0	2	40.0
TOTAL	5,370	88	172	551	323	645	293	559	629	1,308	17.7

Note: Criminal history classes are based on 4,568 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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Table 13: Criminal History and Probation Length by Severity Level – Drug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
D1	20	0	0	0	0	5	1	6	5	3	33.5
D2	31	1	0	4	2	4	3	4	4	9	35.6
D3	550	6	12	24	19	55	36	86	81	231	18.5
D4	2,149	35	74	112	105	320	193	355	341	614	15.5
TOTAL	2,750	42	86	140	126	384	233	451	431	857	16.5

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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COUNTY JAIL SENTENCES

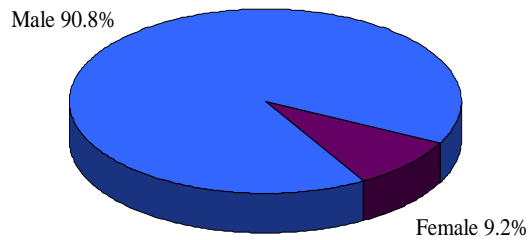
This is the first time that the Commission evaluates county jail sentences statistically in its annual report. During FY 2008, the Commission received a total number of 869 jail sentences. Of this number, male offenders accounted for 90.8% and female offenders accounted for 9.2% (Figure 32).

White offenders represented 89.8%, black offenders represented 7.9% and other races represented 2.3% of the county jail sentences imposed in FY 2008 (Figure 33).

Most offenders were in the age groups ranging from 41 to 50 years old (36.9%) and 31 to 40 years old (27.1%). Their average age at sentencing is 42.1 years old (Figure 34).

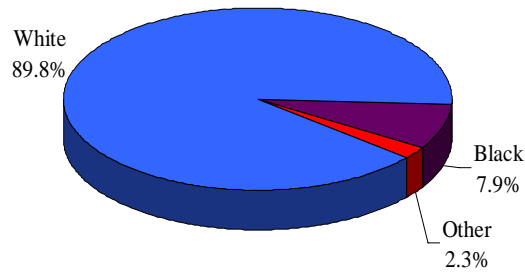
The analysis of the sentence length reveals that the minimum jail term is 3 months, maximum jail term is 16 months and the average jail term is 8.4 months.

Figure 32: Distribution of FY 2008 Jail Sentences by Gender



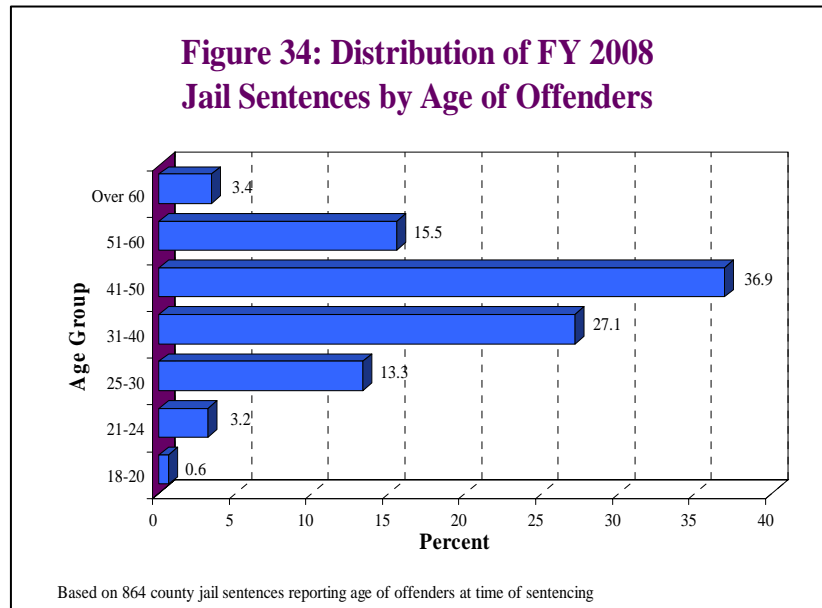
Based on 863 county jail sentences reporting gender of offenders

Figure 33: Distribution of FY 2008 Jail Sentences by Race



Based on 862 county jail sentences reporting race of offenders

The analysis of the crimes of the county jail sentences demonstrates that 97.5% of the sentences were convicted of the crime of felony DUI (847 sentences), 1.7% were convicted of the crime of domestic battery (15 sentences), 0.2% were convicted of the crime of cruelty to animals (2 sentences) and 0.5% were convicted of other crimes (5 sentences). Detailed analysis on the crime of DUI is provided on Page 15 of this report (Figure 35).



The distribution of the county jail sentences is illustrated in Figure 36. Sedgwick County imposed the most jail sentences (268) representing 30.8% followed by Johnson County with 206 jail sentences representing 23.7% of the total county jail sentences imposed in FY 2008.

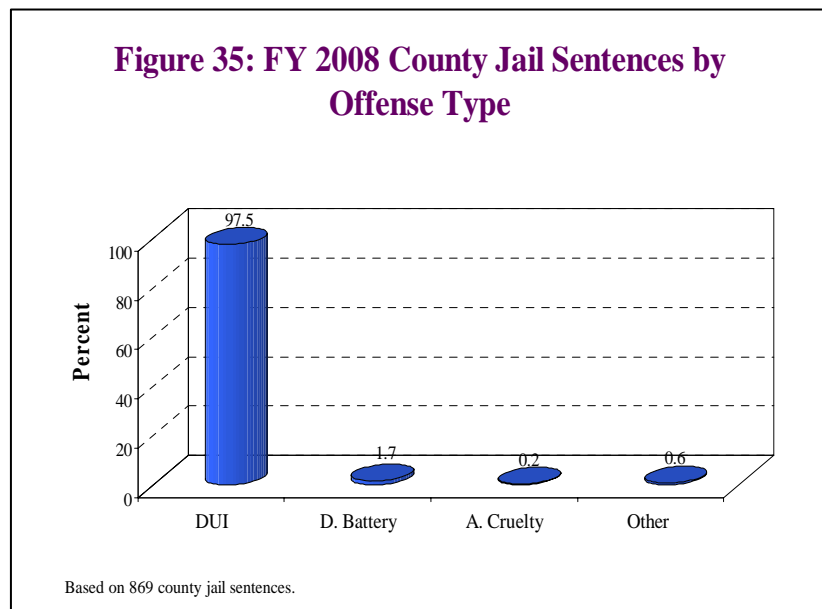
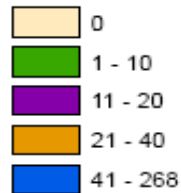
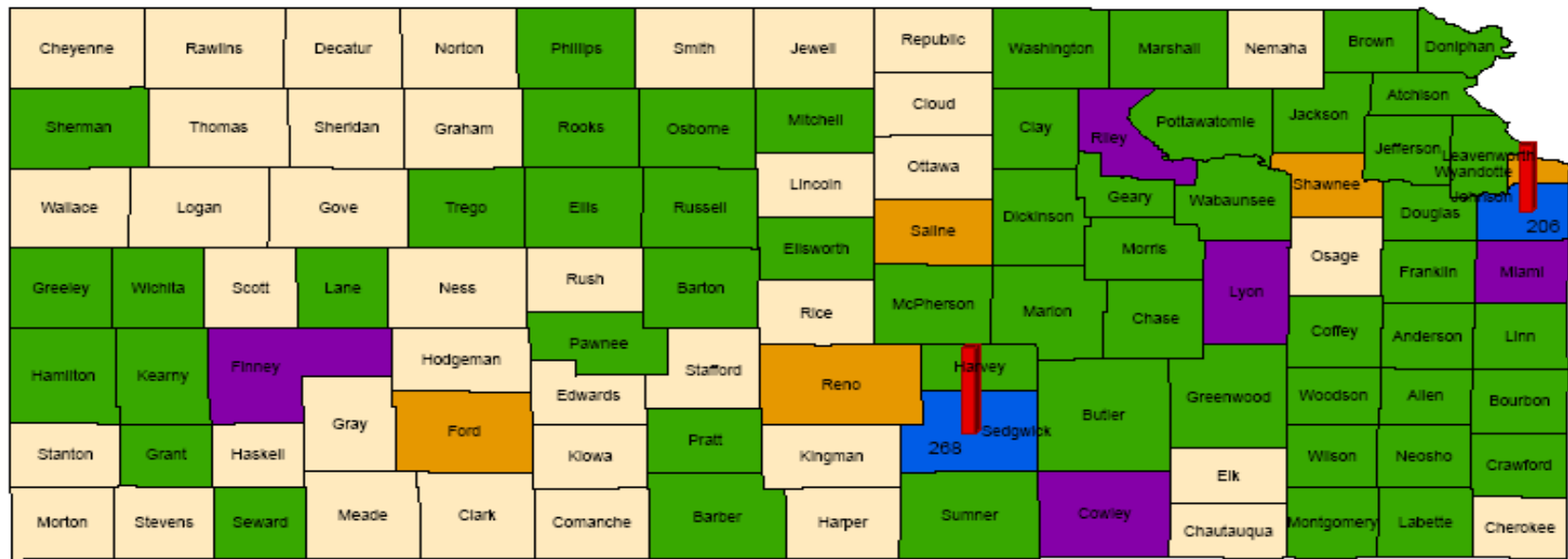


Figure 36: FY 2008 County Jail Sentences by County



CHAPTER TWO VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified in two ways. Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as “violators with new sentences.” Offenders who are on probation, parole/postrelease supervision and violate the conditions of their supervision but do not receive a new sentence are defined as “condition violators.” Both types of violations can result in revocation and subsequently, incarceration. This section presents an overview of both types of violators whose revocations resulted in incarceration. Violators with or without new convictions who continue on probation will be discussed after this section.

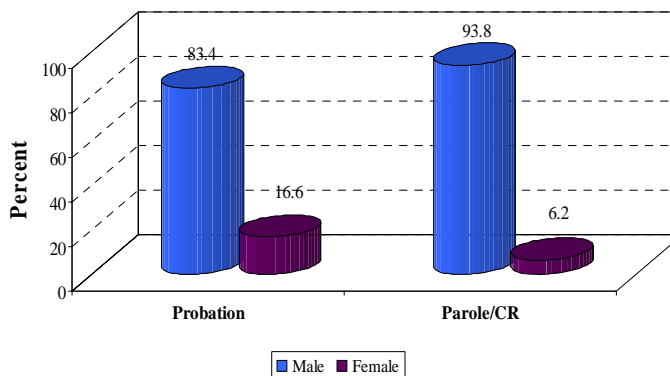
Condition violators alone accounted for 61.3% of all admissions to prison in FY 2008, indicating an increase of 0.3% when compared with FY 2007 (61%). Characteristics of condition violators by gender, race, and age are depicted in Figures 37, 38, and 39. Conditional release violators (only 7) are merged with the group of parole or postrelease supervision violators in the following analyses.

Overview of Condition Violators

Violators analyzed in this section include offenders classified as probation, parole/postrelease supervision and conditional release condition violators. For the purpose of discussion, the term “condition violator” is defined as an offender who violates the conditions of his/her probation, parole, postrelease or conditional release that does not result in a conviction for a new criminal offense but results in a revocation and subsequent placement of the offender in a state correctional facility.

In FY 2008, a total number of 2,892 condition violators were admitted to prison for their violation of conditions, representing 1,624 probation violators, 1,261 parole or postrelease supervision violators, and 7 conditional release violators respectively.

Figure 37: Distribution of FY 2008 Condition Violators by Gender

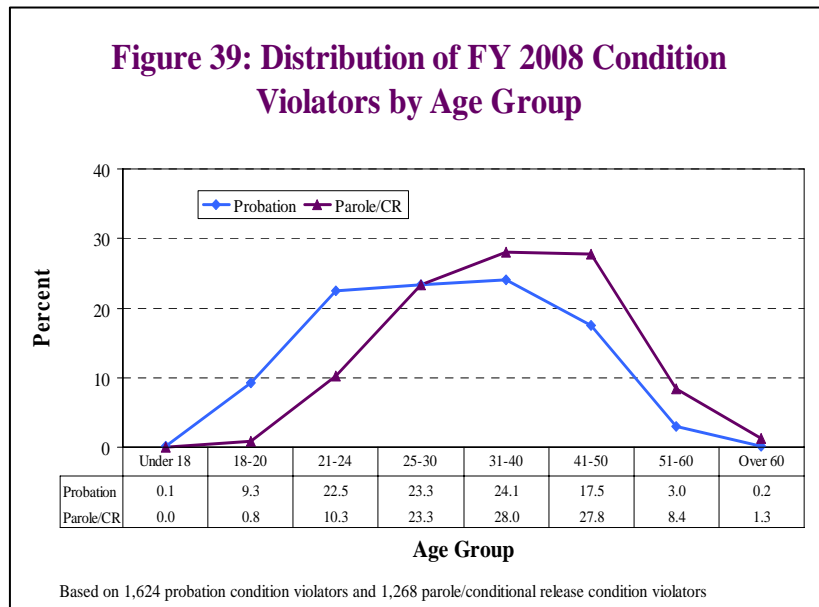
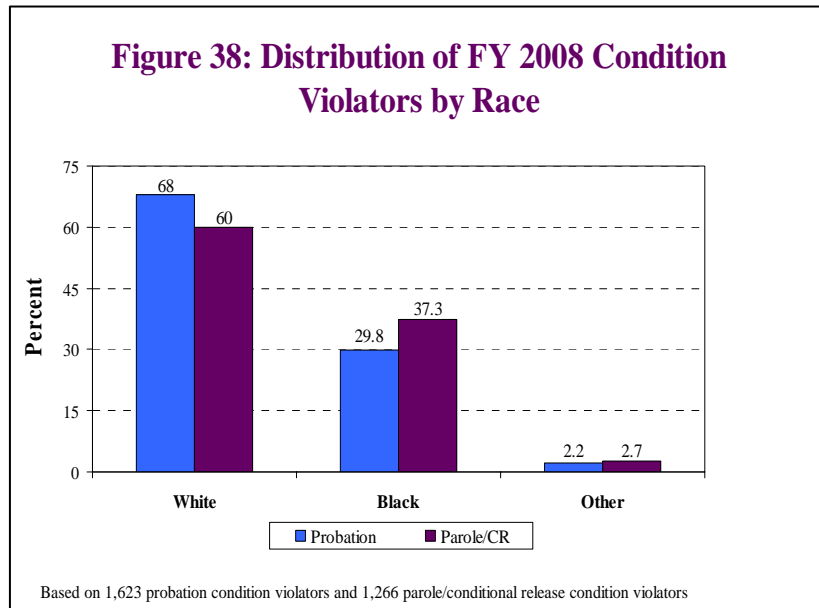


Based on 1,624 probation condition violators and 1,268 parole/conditional release condition violators

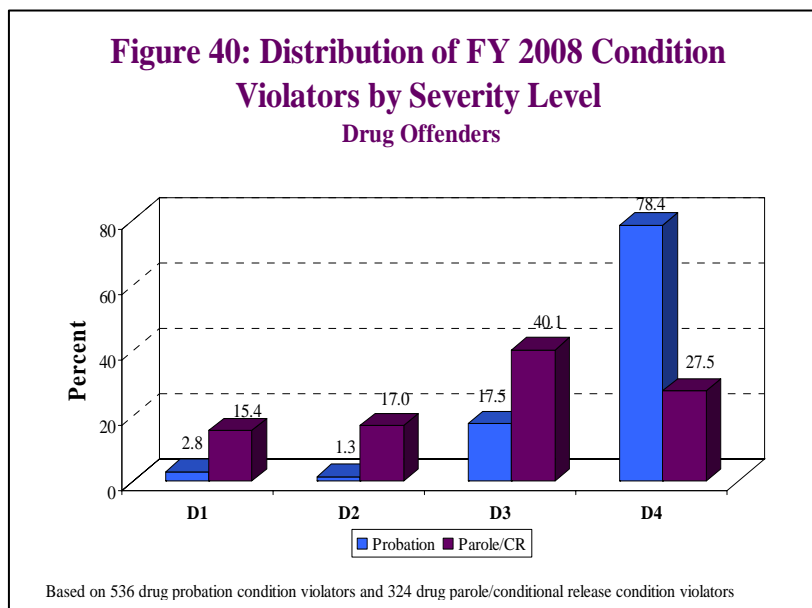
Male offenders were the majority of condition violators, representing 83.4% of probation violators and 93.8% of parole/conditional release violators admitted to prison in FY 2008 (Figure 37).

The highest percentage of white offenders was identified in the group of probation violators (68%), while black offenders represented a higher rate (37.3%) in the group of parole or postrelease supervision and conditional release violators (Figures 38).

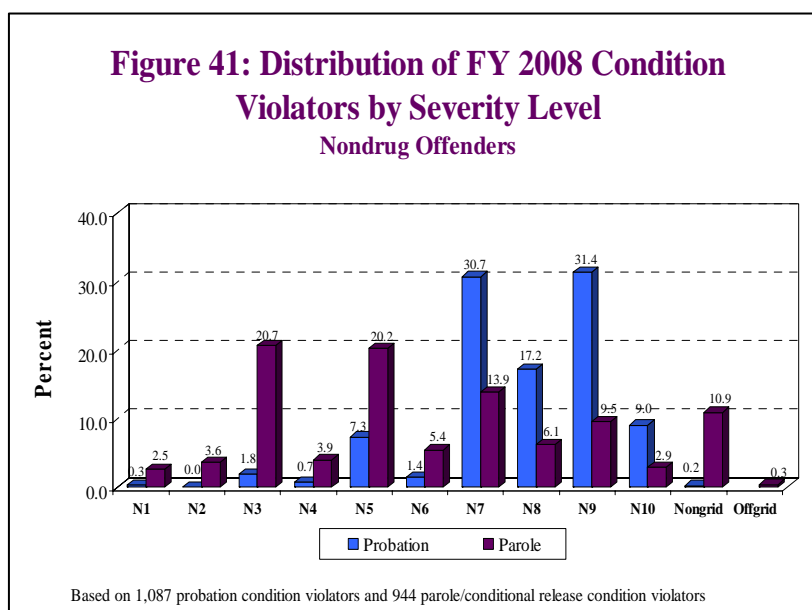
Most probation violators were in the age group ranging from 31 to 40 (24.1%). The largest number of parole or postrelease supervision and conditional release violators was found in the age group of thirties, as well (28%), at the time of admission to prison (Figure 39).



Figures 40 and 41 exhibit the distributions of all violators by severity level. The largest proportion of drug probation violators was identified at drug severity level 4 (78.4%, 420 offenders) and the highest percentage of drug parole/postrelease and conditional release violators was at drug severity level 3, accounting for 40.1% or 130 offenders (Figure 40).



Nondrug probation violators represented the highest percentage at nondrug severity level 9 (31.4%, 341 offenders), which is the same with that of FY 2007, while the largest numbers of nondrug parole/postrelease and conditional release violators were found at nondrug severity levels 3 and 5, representing 20.7% or 195 offenders and 20.2% or 191 offenders respectively of this group in FY 2008 (Figure 41).



The characteristics of all types of condition violators are described in Table 14. The largest numbers of males were found at nondrug severity level 7 (433 sentences) and drug severity level 4 (403 sentences). However, the highest frequencies of females were at nondrug severity level 8 (59 sentences) and drug severity level 4 (106 sentences). Racial analysis of the condition violators demonstrates that drug severity level 4 represented the largest numbers of

violators for both whites and blacks. White offenders accounted for 345 sentences and black offenders made up 152 sentences at drug severity level 4. As for nondrug sentences, most white violators were found at nondrug severity level 7 (319 sentences) and black offenders accounted for the largest number at nondrug severity level 9 (134 sentences). The average age of the violators was 34.3 years old at the time of admission, which is constant with that of FY 2007.

Table 14: Characteristics of Overall Violators by Severity Level, Race and Gender

Severity Level	Number of Cases	Gender		Race*			Average Age at Admission
		Male	Female	White	Black	Other	
D1	65	62	3	57	5	3	38.3
D2	62	54	8	38	23	1	39.1
D3	224	199	25	136	86	2	33.1
D4	509	403	106	345	152	12	33.7
N1	27	27	0	17	10	0	43.3
N2	34	34	0	20	13	1	43.1
N3	215	209	6	97	113	5	36.8
N4	45	42	3	22	22	1	37.3
N5	270	249	21	148	110	10	33.1
N6	66	63	3	42	22	2	31.4
N7	465	433	32	319	133	13	31.5
N8	245	186	59	159	79	7	34.2
N9	431	376	55	290	134	7	33.4
N10	125	110	15	80	42	2	34.0
Offgrid	3	3	0	2	1	0	54.0
Nongrid	105	93	12	91	10	4	43.6
Unknown	1	1	0	0	1	0	20.9
Total	2,892	2,544	348	1,863	956	70	34.3

* Based on 2,889 sentences reporting race of offenders.

Condition Probation Violators

During FY 2008, a total number of 1,624 condition probation violators were admitted to prison. Of this number, 67% (1,088) were nondrug offenders and 33% (536) were drug offenders. Compared with FY 2007, the admissions of condition probation violators demonstrated a decrease of 7.2% or 126 violators. The characteristics of this group of violators are presented in Tables 15 and 16.

The top ten offenses committed most frequently by nondrug probation violators in FY 2008 include aggravated assault, aggravated battery, aggravated burglary, burglary, criminal damage to property, criminal threat, fleeing or eluding LEO, forgery, robbery and theft. These ten offenses represented 77.9% of all nondrug convictions by probation violators. As the previous year, burglary, theft and forgery

were the three most frequently committed offenses for which there were a large number of probation violators (Table 15).

The most frequently convicted offense type by drug probation violators is the crime of possession of drugs, accounting for 76.7% of all drug offenses, while the crime of opiates or narcotics possession represented 65.7% of the total drug offenses committed by the condition probation violators admitted to prison in FY 2008 (Table 16).

The average length of lag time from the age of offense to the age of admission to prison was 2.3 years for both nondrug and drug probation violators, which remains no change with the average length of lag time of the probation violators in FY 2007. The distribution of probation violators by severity level and criminal history is exhibited in Table 17.

Table 15: Top 10 Offenses Committed by Nondrug Probation Violators

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Aggravated Assault	57	87.7	12.3	68.4	28.1	3.5	28.0	30.0
Aggravated Battery	106	92.5	7.5	65.1	32.1	2.8	29.0	31.0
Aggravated Burglary	20	90.0	10.0	80.0	20.0	0.0	29.7	31.7
Burglary	213	92.0	8.0	76.1	21.6	2.3	27.3	29.5
Criminal Damage to Property	21	100.0	0.0	81.0	19.0	0.0	27.7	29.7
Criminal Threat	54	90.7	9.3	68.5	29.6	1.9	32.1	33.6
Fleeing or Eluding LEO	38	94.7	5.3	68.4	23.7	7.9	29.1	31.1
Forgery	143	64.3	35.7	67.1	28.7	4.2	31.1	33.6
Robbery	30	96.7	3.3	36.7	63.3	0.0	24.7	26.8
Theft	166	82.5	17.5	65.1	34.3	0.6	31.3	33.7
Subtotal	848	85.6	14.4	68.5	29.0	2.5	29.3	31.5
Other	240	88.3	11.7	68.2	30.5	1.3	29.0	31.7
TOTAL	1,088	86.2	13.8	68.4	29.3	2.2	29.3	31.6

* Average age at time of offense.
 ** Average age at time admitted to prison.

Table 16: Characteristics of Drug Probation Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or Narcotics; Possession	352	73.3	26.7	67.0	30.7	2.3	31.3	33.5
Opiates or Narcotics; Sale 1	59	79.7	20.3	57.6	39.0	3.4	26.6	28.8
Opiates or Narcotics; Sale 2	4	75.0	25.0	75.0	25.0	0.0	28.2	31.6
Depress, Stim, Hall; Poss 2nd	59	91.5	8.5	69.5	30.5	0.0	29.4	31.6
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	35	82.9	17.1	65.7	34.3	0.0	27.6	30.6
Possession of Paraphernalia	8	100.0	0.0	62.5	25.0	12.5	24.3	26.7
Possession of Precursor Drugs	9	100.0	0.0	100.0	0.0	0.0	30.4	33.4
Unlawful Manufacture Controlled Substance	7	85.7	14.3	100.0	0.0	0.0	30.0	33.0
Other	3	100.0	0.0	66.7	33.3	0.0	28.7	33.4
TOTAL	536	77.8	22.2	67.2	30.8	2.0	30.1	32.4

Table 17: Distribution of Probation Violators by Severity Level and Criminal History*

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	0	1	2	4	2	0	3	2	1	15
D2	0	0	1	0	1	0	3	1	1	7
D3	1	1	8	3	8	11	14	15	33	94
D4	7	16	40	13	67	47	62	72	96	420
N1	0	0	0	0	0	0	0	1	2	3
N2	0	0	0	0	0	0	0	0	0	0
N3	0	4	2	2	0	0	1	3	8	20
N4	1	1	0	0	2	3	0	1	0	8
N5	2	4	10	2	8	0	8	16	29	79
N6	0	0	0	0	0	1	3	3	8	15
N7	13	13	50	30	33	28	50	51	66	334
N8	7	6	28	9	36	18	24	21	38	187
N9	10	14	61	24	68	20	37	52	55	341
N10	4	6	12	7	14	16	10	12	17	98
TOTAL	45	66	214	94	239	144	215	250	354	1,621

* Due to missing data, criminal history categories are based on 1,621 probation violators reporting criminal history.

Condition Parole/Postrelease Supervision and Conditional Release Violators

In FY 2008, 1,268 condition parole/post-release supervision and conditional release violators were admitted to prison, indicating an increase of 29 violators or 2.3% when compared with the data observed in FY 2007. The characteristics of this offender group are presented in Tables 18 and 19.

Aggravated escape from custody, aggravated battery, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, indecent liberties with a child, rape, robbery and theft were the top ten offenses most frequently committed by parole/postrelease and conditional release violators, accounting for 69.5% of the total nondrug offenses. Male offenders represented 94.1% of this group. White offenders committed more than 80% of crimes of aggravated indecent liberties with a child and DUI, which is consistent with the data observed in FY 2007. Blacks

indicated the highest representation in aggravated robbery and aggravated battery (Table 18). Table 19 demonstrates that drug offenders of this group of violators were convicted primarily of the crimes of possession of drugs (35.8%) and sale of opiates or narcotics (26.5%).

Postrelease supervision violators for the crime of DUI are subject to imprisonment if the offenders committed the crime on or after July 1, 2001. In FY 2008, 103 DUI violators were admitted to prison, an increase of 3 violators when compared with those in FY 2007 (Table 18).

The distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history category is displayed in Table 20. The largest numbers of this group of violators were found at severity level 3 of the drug grid (112 offenders) and severity level 5 of the nondrug grid (169 offenders).

Table 18: Top 10 Offenses Committed by Parole/Postrelease/Conditional Release Nondrug Violators

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Agg Escape from Custody	28	96.4	3.6	53.8	42.3	3.8	33.9	38.1
Aggravated Battery	77	94.8	5.2	40.3	55.8	3.9	28.5	35.3
Aggravated Robbery	106	96.2	3.8	24.5	73.6	1.9	24.6	39.3
Agg Indecent Liberties w/Child	70	98.6	1.4	81.4	15.7	2.9	25.4	32.9
Burglary	71	95.8	4.2	69.0	29.6	1.4	29.8	34.5
DUI	103	88.3	11.7	86.4	9.7	3.9	41.5	43.7
Indecent Liberties w/Child	29	86.2	13.8	69.0	27.6	3.4	25.2	34.6
Rape	43	100.0	0.0	53.5	41.9	4.7	26.8	41.1
Robbery	71	91.5	8.5	40.8	53.5	5.6	27.6	35.6
Theft	58	91.4	8.6	65.5	32.8	1.7	36.2	38.9
Other	288	94.4	5.6	58.0	39.6	2.4	29.3	36.7
TOTAL	944	94.1	5.9	57.6	39.4	3.0	30.0	37.4

Table 19: Characteristics of Parole/Postrelease/Conditional Release Drug Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or Narcotics; Poss 1	64	89.1	10.9	64.1	31.3	4.6	33.5	37.2
Opiates or Narcotics; Poss 2	31	87.1	12.9	35.5	61.3	3.2	35.4	42.2
Opiates or Narcotics; Poss 3	6	83.3	16.7	16.7	83.3	0.0	39.3	46.4
Opiates or Narcotics; Sale 1	84	92.9	7.1	47.6	52.4	0.0	30.5	37.6
Opiates or Narcotics; Sale 2	2	100.0	0.0	0.0	100.0	0.0	36.2	42.5
Opiates/Narcotics, Depress, Stim, Hall; Sell w/in 1,000 ft of School	15	80.0	20.0	100.0	0.0	0.0	27.9	34.5
Depress, Stim, Hall; Poss 2	15	100.0	0.0	86.7	13.3	0.0	34.6	38.7
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	42	97.6	2.4	83.3	16.7	0.0	26.0	32.2
Possession of Paraphernalia	10	100.0	0.0	80.0	20.0	0.0	25.1	29.0
Possession of Precursor Drugs	8	100.0	0.0	100.0	0.0	0.0	38.3	42.7
Unlawful Manufacture Controlled Substance	47	97.9	2.1	93.6	6.4	0.0	31.8	38.0
TOTAL	324	92.9	7.1	66.7	31.2	2.1	31.4	37.3

Table 20: Distribution of Parole/Postrelease/Conditional Release Violators By Severity Level and Criminal History*

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	3	2	8	1	13	7	4	6	6	50
D2	1	8	4	0	14	15	8	1	4	55
D3	12	5	17	8	19	10	16	9	16	112
D4	8	11	21	12	20	8	3	5	1	89
N1	0	1	2	1	3	0	0	3	0	10
N2	2	0	1	1	0	0	5	2	2	13
N3	11	7	12	7	9	9	15	12	43	125
N4	0	1	4	2	2	3	2	2	6	22
N5	11	22	26	11	25	18	12	21	23	169
N6	8	8	7	1	4	6	4	6	6	50
N7	25	33	22	9	13	9	7	4	4	126
N8	15	14	9	1	10	4	2	1	2	58
N9	24	24	11	2	20	2	0	1	5	89
N10	7	6	4	2	3	0	3	1	1	27
TOTAL	127	142	148	58	155	91	81	74	119	995

* Due to missing data, criminal history categories are based on 995 violators reporting criminal history.

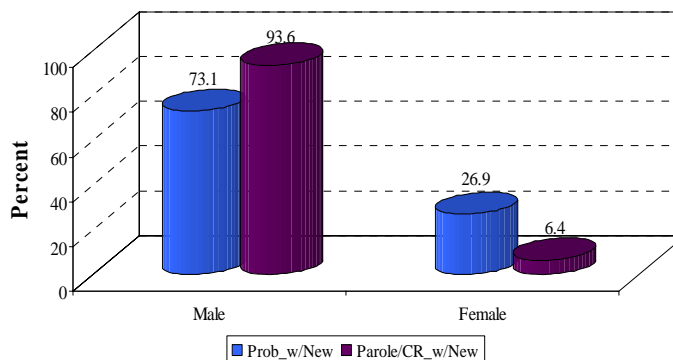
Violators with New Sentences

Violators with new sentences analyzed in this section include probation, parole/postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group of violators represented 6.6% (312 violators) of the total prison admissions in FY 2008, indicating an increase of 0.7% compared with the percentage of FY 2007. Characteristics of this group are illustrated in Figures 42, 43 and 44. Drugs (31.4%), burglary (10.3%), forgery (8.3%) and theft (12.8%) were the major offense categories committed by probation violators with new convictions. Drugs (30.1%), aggravated

robbery/robbery (13.5%), aggravated burglary/burglary (12.9%) and sex offenses (10.3%) represented the top offenses committed by parole/postrelease/conditional release violators with new sentences. Table 21 presents the distribution of the above offenders by severity levels. The largest numbers of probation violators with new sentences were identified at nondrug severity levels 7, 8 and 9 (25, 23 and 32 violators) and drug severity level 4 (31 violators), while nondrug severity levels 3, 5 and 7 (12.2%, 17.9% and 11.5%) and drug severity levels 2, 3 and 4 (7.7%, 8.3% and 9%) represented the highest percentages of parole/postrelease/conditional release violators with new sentences.

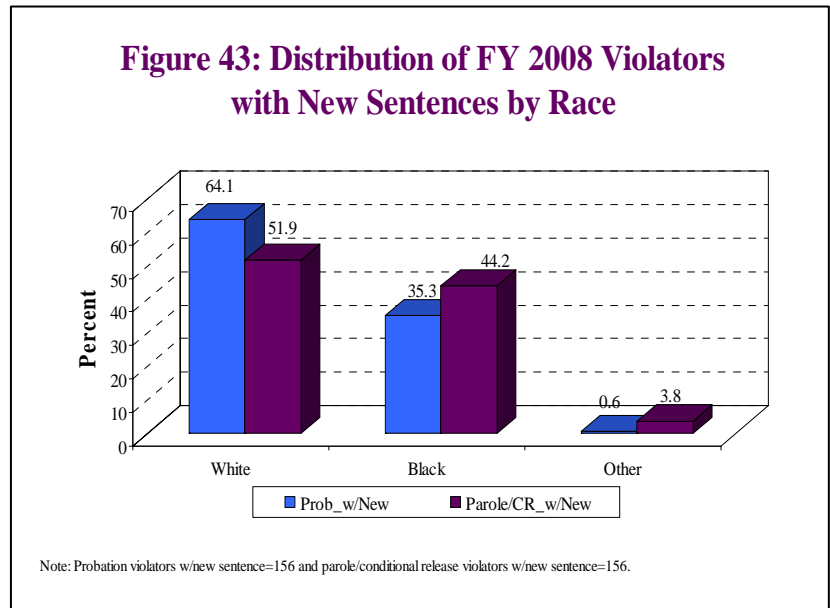
Male offenders remained the predominant gender of all types of violators with new sentences in FY 2008, representing 73.1% of probation violators with new sentences and 93.6% of parole/postrelease and conditional release violators with new sentences. This gender distribution is consistent with those of previous years (Figure 42).

Figure 42: Distribution of FY 2008 Violators with New Sentences by Gender

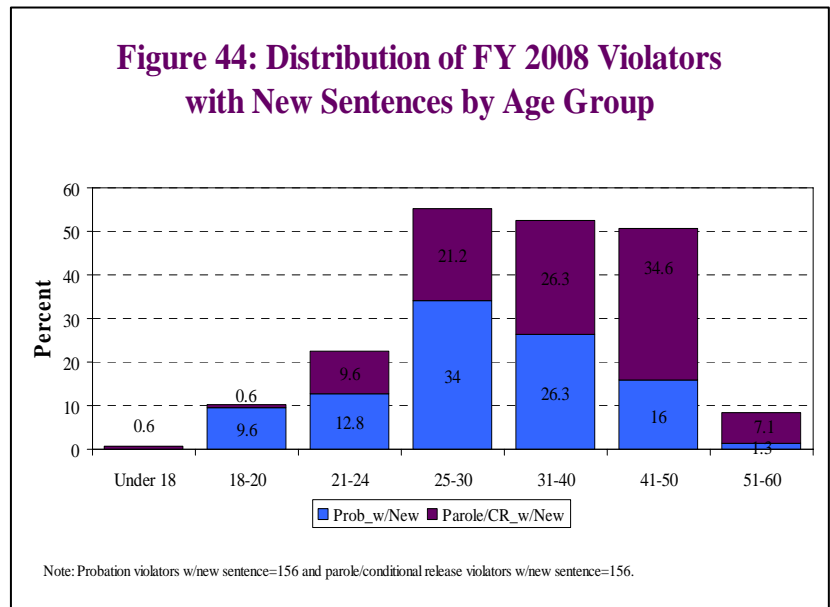


Note: Probation violators w/new sentence=156; parole/conditional release condition violators w/new sentence=156.

White offenders made up the largest number of the violators with new sentences, representing 64.1% of probation violators with new sentences and 51.9% of parole/postrelease and conditional release violators with new sentences. More black offenders (44.2%) were found in the group of parole and conditional release violators with new sentences (Figure 43).



The highest percentage of probation violators with new sentences were in the age group from 25 to 30 (34%) at the time of admission to prison, which remains constant to that of FY 2007. However parole/postrelease and conditional release violators with new sentences represented the largest proportion in the age group between 41 and 50 (34.6%), which is different from that (31-40 years old) of FY 2007 (Figure 44).



**Table 21: Distribution of FY 2008 Violators with New Sentences
By Severity Level**

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	3	1.9	8	5.1
D2	1	0.6	12	7.7
D3	14	9.0	13	8.3
D4	31	19.9	14	9.0
N1	1	0.6	8	5.1
N2	0	0.0	2	1.3
N3	4	2.6	19	12.2
N4	0	0.0	2	1.3
N5	10	6.4	28	17.9
N6	0	0.0	3	1.9
N7	25	16.0	18	11.5
N8	23	14.7	6	3.8
N9	32	20.5	15	9.6
N10	10	6.4	3	1.9
Offgrid	2	1.3	4	2.6
Nongrid	0	0.0	1	0.6
TOTAL	156	100.0	156	100.0

VIOLATORS CONTINUING AND EXTENDING ON PROBATION

Violators continued or extended on probation refer to probation violators with or without new convictions, whose violations did not result in incarceration but rather a continuation or an extension of the probation. In FY 2008, there were 2,336 condition probation violators and 201 probation violators with new convictions who were continued or extended on probation, representing 54.7% of the total number of 4,271 condition probation violators and 35.2% of the total number of 571 probation violators with new offenses,

respectively. Drugs (29.8%), burglary (13.3%), theft (10.6%), forgery (9.2%), and aggravated battery (5.7%) were the top five offenses committed by the group of condition probation violators. Drugs (28.9%), theft (14.4%), burglary (14.4%) and forgery (9%) were the top four offenses committed by probation violators with new convictions. Most top offenses committed by both groups were the same when compared with those of FY 2007. Tables 22 and 23 present the criminal history categories by severity level for the two types of violators who were sentenced to continued or extended probation.

Table 22: Criminal History by Severity Levels of Condition Probation Violators Continuing and Extending on Probation

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	13	0	0	0	1	2	3	1	3	3
D2	1	0	0	0	0	0	0	0	1	0
D3	147	3	3	4	12	13	9	21	30	52
D4	536	12	24	39	21	75	41	88	103	132
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	23	1	1	1	3	0	0	3	4	10
N4	4	0	0	1	0	1	0	0	2	0
N5	96	2	4	1	4	6	1	5	23	50
N6	26	1	2	1	1	2	0	6	1	12
N7	401	13	16	46	35	45	25	41	68	112
N8	325	3	9	51	13	51	28	44	56	69
N9	521	12	15	79	48	71	31	69	90	105
N10	116	0	2	12	8	13	11	15	25	30
Nongrid	127	0	2	2	0	0	0	1	4	2
TOTAL	2,336	47	78	237	146	279	149	294	410	577

Note: Criminal history classes are based on 2,217 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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Table 23: Criminal History by Severity Levels of Probation Violators with New Convictions Continuing and Extending on Probation

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	0	0	0	0	0	0	0	0	0	0
D2	0	0	0	0	0	0	0	0	0	0
D3	7	0	0	0	1	0	0	0	3	3
D4	51	0	0	3	3	8	7	12	9	9
N1	1	0	0	0	0	0	0	0	0	1
N2	0	0	0	0	0	0	0	0	0	0
N3	3	0	0	0	0	1	1	0	1	0
N4	0	0	0	0	0	0	0	0	0	0
N5	2	1	0	0	0	0	0	0	1	0
N6	2	0	0	0	0	0	0	1	0	1
N7	35	0	0	3	2	3	5	5	7	10
N8	30	0	1	1	1	7	4	5	5	6
N9	48	0	0	6	6	10	5	5	8	8
N10	11	0	0	2	1	1	1	2	1	3
Nongrid	11	0	0	0	0	0	0	0	1	2
TOTAL	201	1	1	15	14	30	23	30	36	43

Note: Criminal history classes are based on 193 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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CHAPTER THREE

CONFORMITY TO THE SENTENCING GUIDELINES

The analysis of conformity to the sentencing guidelines involves the comparison of the actual sentence imposed to the sentence identified under the Sentencing Guidelines Act. A sentence is considered to conform to the guidelines if it falls within the range of sentence lengths for a guideline grid box at a specific designated severity level and criminal history category. A sentence that falls at the mid-point of a relative grid box is regarded as standard. A sentence that falls at either the upper end or lower end of the relative grid box is considered as an aggravated or mitigated sentence, respectively. All other sentence lengths imposed are considered to be a departure from the guidelines unless the grid box is a designated border box. A sentence length above the aggravated level is defined as "departure upward" and a sentence length less than the mitigated level is defined as "departure downward."

Departures from the designated guideline sentence can be further categorized into two types: dispositional departures and durational departures. A dispositional departure occurs when the guidelines recommend a period of incarceration or probation but the reverse type of sentence is imposed. For example, the grid box indicates a period of incarceration, but a probation sentence is imposed. Sentences imposed in "border boxes" or violations resulting from a probation sentence are not considered departures. A durational departure occurs when a sentence is pronounced but the imposed length of incarceration is either greater or less than the

number of months designated by the guidelines.

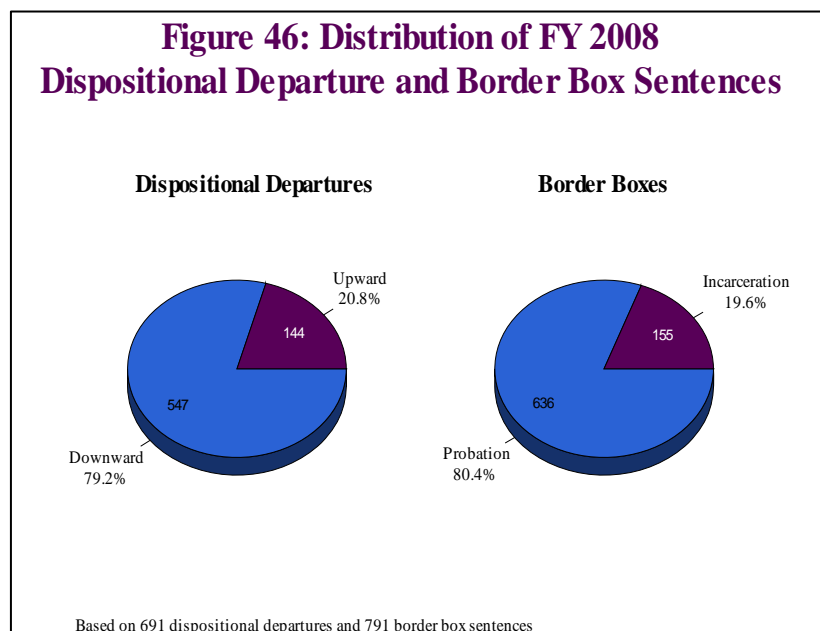
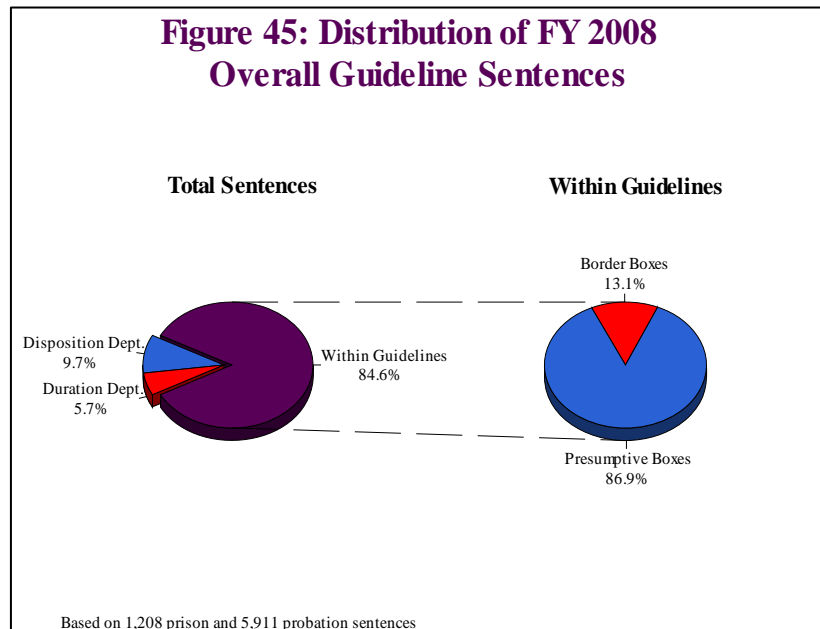
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and the consecutive sentences are excluded from this analysis. Sentences applied with special sentencing rules related to sentence disposition are excluded from this analysis, as well. The analyses on sentences applied with special sentencing rules are discussed at the end of the Chapter.

OVERALL CONFORMITY RATES

A total number of 7,119 pure guideline sentences in FY 2008 were utilized for this analysis, including 1,208 incarceration guideline sentences and 5,911 probation sentences. Figure 45 demonstrates that 84.6% of the 7,119 guideline sentences were within the presumptive guideline grids, 5.7% indicated durational departures and 9.7% were dispositional departures. Of all the sentences within the presumptive guideline grids, 5,229 sentences (86.9%) fell within either the presumptive prison boxes or presumptive probation boxes, while 791 sentences (13.1%) were located on designated border boxes. Figure 46 indicates that 79.2% (547 sentences) of the 691 dispositional departures were downward departures and 20.8% (144 sentences) were upward dispositional departures. More than

80% of the 791 border box sentences resulted in probation sentences with only 19.6% of this group sentenced to prison. The analysis of durational departure sentences is

only applicable to presumptive prison sentences.

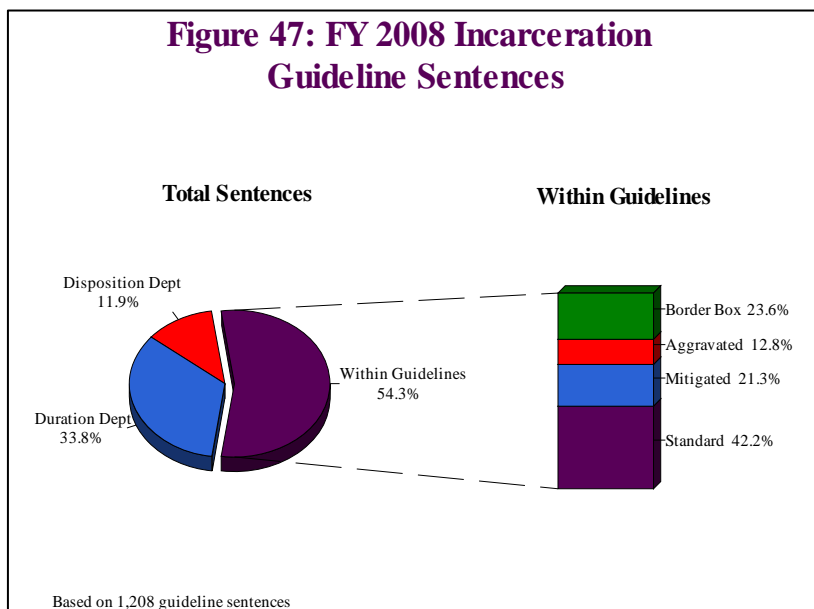


CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

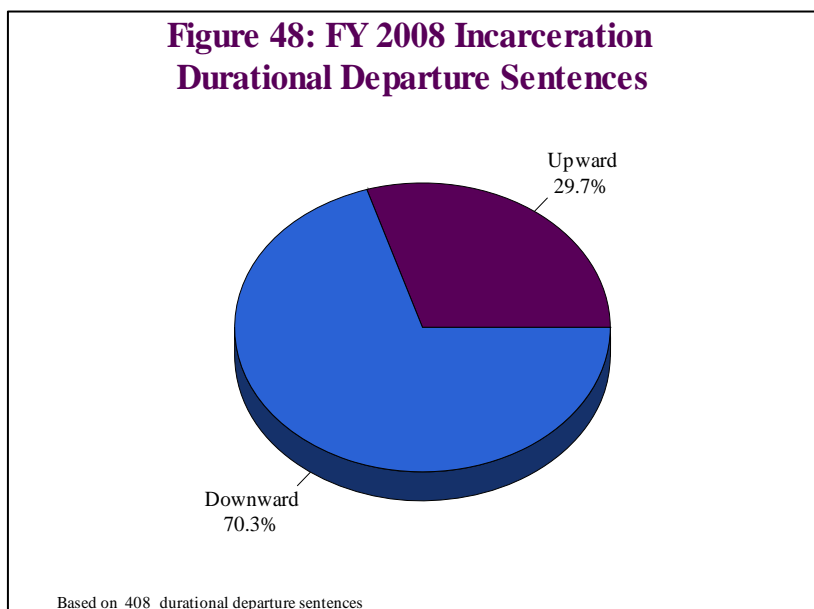
Sentences that are designated above the incarceration line of the sentencing grids are presumptive prison guideline sentences.

Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,208 presumptive prison guideline sentences of FY 2008 were analyzed for this purpose.

More than 54% of total sentences fell within the presumptive incarceration range. Of these sentences within the guidelines, 42.2% were within the standard range, 12.8% were within the aggravated range, 21.3% were within the mitigated range and 23.6% were located within designated border boxes (Figure 47).



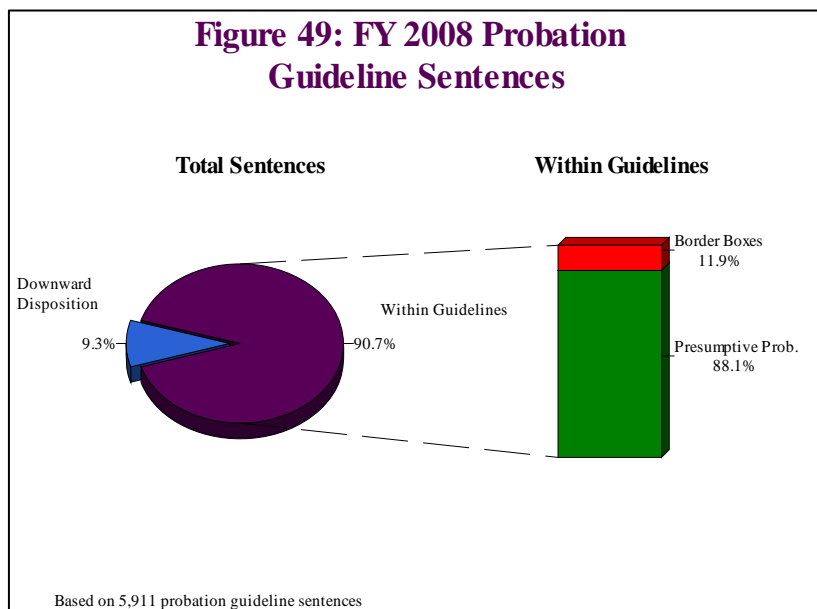
The analysis of durational departures demonstrates that 70.3% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 29.7% departed upward from the presumptive guideline ranges. The percentage change of the downward durational departure sentences is a 1.3% decrease from that of FY 2007 (Figure 48).



CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

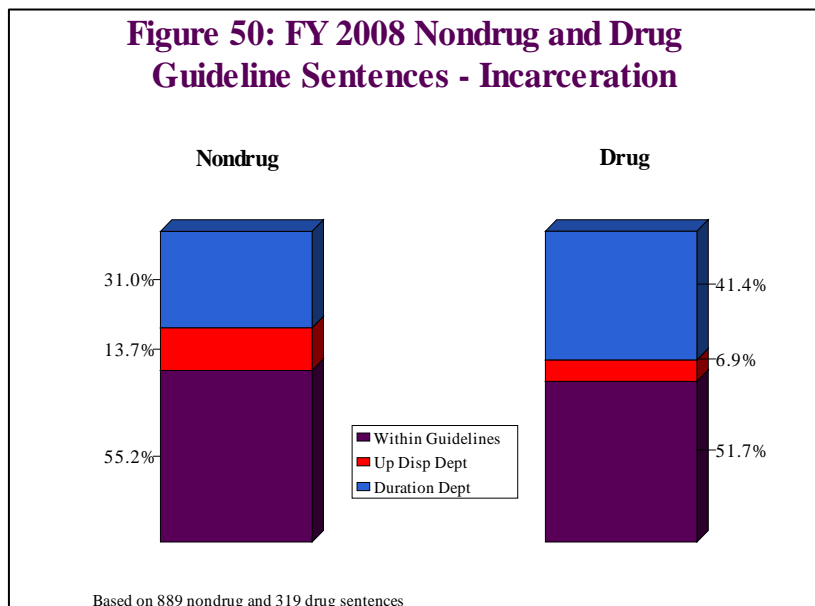
Presumptive probation guideline sentences refer to sentences that are designated below the incarceration line of the sentencing grids. The analysis of probation guideline sentences demonstrates that as expected, the majority of probation guideline sentences in FY 2008 (90.7% or 5,364 cases) fell within presumptive guideline range, among which 88.1% were within presumptive probation grids and 11.9% were within border boxes

(Figure 49). The sentences within presumptive guideline range (5,364) accounted for almost 66.1% of the total probation sentences imposed in FY 2008 (8,120), which decreased by 0.9% compared to the percentage rate of FY 2007 (67%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 9.3% of the total probation guideline sentences in FY 2008 (Figure 49). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 47).

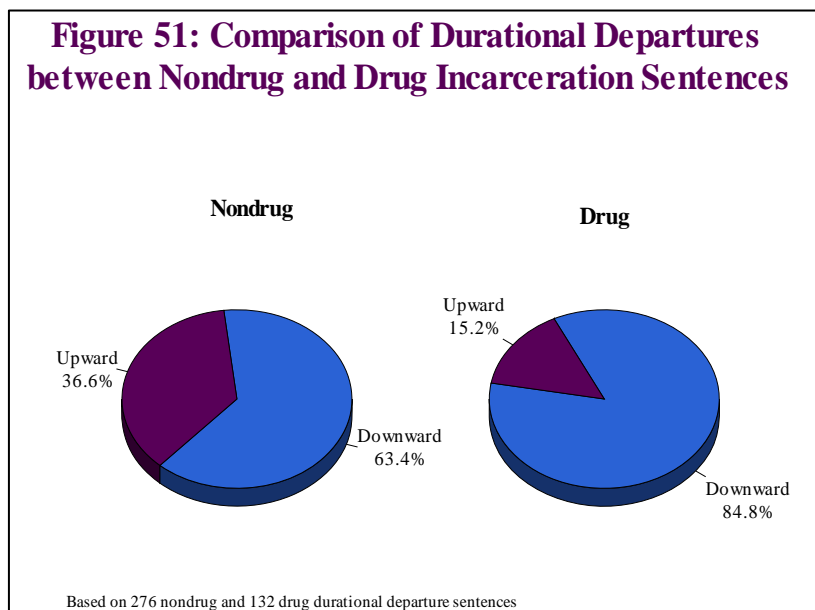


CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

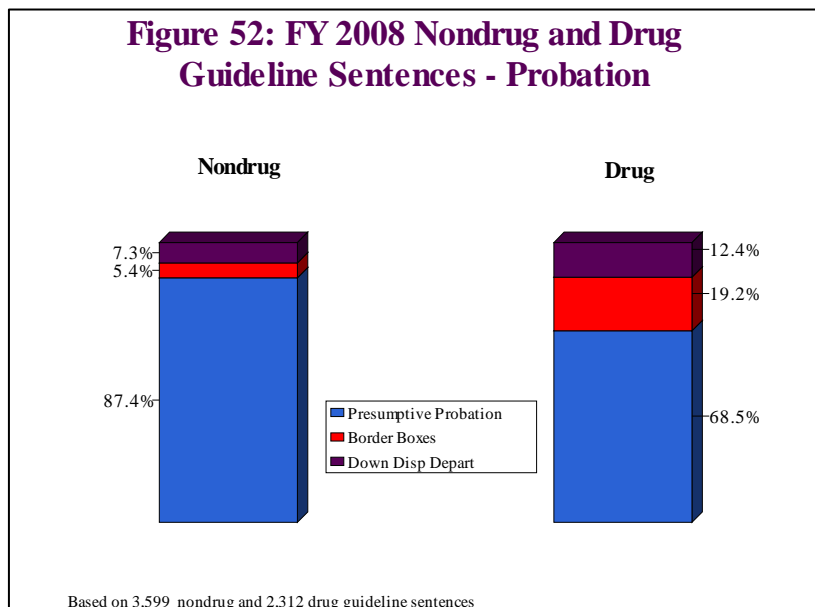
In terms of nondrug and drug sentences, the analysis of guideline incarceration sentences reveals that 13.7% of nondrug offenders showed upward dispositional departures, while 6.9% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 31% durational departures while drug offenders showed 41.4% durational departures (Figure 50).



The examination of durational departures indicates that downward departures represented 84.8% of the total durational departures on the drug grid. However, on the nondrug grid, 63.4% of durational departures were downward (in Figure 51). The majority of the upward departures were found at severity levels 1, 2, 3, 4 and 6 of the nondrug grid, which include the most serious offenses (Table 24).



Disparities were identified between nondrug and drug offenders on probation, as well (Figure 52). Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (12.4% vs. 7.3%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (19.2% vs. 5.4%).



The sentencing trend in Kansas seems to indicate that there is a tendency to depart downward more often with drug sentences than with nondrug sentences. The sentencing trend also indicates that drug offenders tend to be sentenced to probation sentences more frequently than do nondrug offenders when their offense types and criminal history categories are within the border boxes (Figure 52).

CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

Table 24 presents the conformity rates of incarceration sentences to the guidelines at each severity level. Drug incarceration sentences, as a whole, indicated a 15.4% standard, 3.8% aggravated, 7.8% mitigated and 24.8% border box sentence distribution. Nondrug sentences revealed a 25.6% standard, 8.1% aggravated, 12.9% mitigated and 8.5% border box sentence distribution.

As for the departure sentences, drug sentences showed 6.3% upward durational departures and 35.1% downward durational departures, whereas nondrug sentences showed a 11.4% upward durational departure rate and a 19.7% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (81.1%) for drug incarceration sentences and nondrug severity level 3 (32.5%) for nondrug incarceration sentences. When examining dispositional departures, 13.7% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 6.9% of drug incarceration sentences were upward dispositional departures. This would imply that judges are more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders. This finding has been supported by the data observed in the past twelve years.

Table 24: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg.	Standard	Mit.	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	37	5.4	2.7	8.1		2.7	81.1	
D2	23	4.3	13.0	13.0		8.7	60.9	
D3	107	3.7	9.3	7.5	54.2	4.7	20.6	
D4	152	3.3	23.0	7.2	13.8	7.9	30.3	14.5
Subtotal	319	3.8	15.4	7.8	24.8	6.3	35.1	6.9
N1	71	14.1	19.7	9.9		25.4	31.0	
N2	21	14.3	28.6	23.8		14.3	19.0	
N3	154	11.7	26.6	13.6		15.6	32.5	
N4	46	10.9	26.1	13.0		19.6	30.4	
N5	198	5.6	18.7	8.1	36.4	6.6	24.7	
N6	50	4.0	22.0	16.0	8.0	30.0	12.0	8.0
N7	119	5.0	26.1	14.3		9.2	12.6	32.8
N8	48	6.3	31.3	8.3		4.2	10.4	39.6
N9	117	7.7	35.0	15.4		4.3	7.7	29.9
N10	65	7.7	30.8	20.0		1.5	1.5	38.5
Subtotal	889	8.1	25.6	12.9	8.5	11.4	19.7	13.7
TOTAL	1,208	7.0	22.9	11.6	12.8	10.0	23.8	11.9

The conformity rates of probation sentences to the guidelines by severity level are displayed in Table 25. Probation drug sentences indicated 12.4% downward dispositional departures, which should have been presumptive incarceration, while only 7.3% of probation nondrug sentences experienced downward dispositional departures. A significant difference also occurred within the border boxes of the grids. Drug offenders received more

probation sentences than nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (19.2% versus 5.4%). The comparison of probation drug and nondrug sentences reveals the same trend as indicated with incarceration sentences: the tendency is to impose more non-prison sentences for drug offenders than for nondrug offenders. This trend has been consistent in the past twelve years.

Table 25: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	11			100.0
D2	25			100.0
D3	486		90.1	9.9
D4	1,790	88.4	0.3	11.3
Subtotal	2,312	68.5	19.2	12.4
N1	4			100.0
N2	1			100.0
N3	35			100.0
N4	17			100.0
N5	247		74.5	25.5
N6	74	81.1	12.2	6.8
N7	875	95.1		4.9
N8	678	95.9		4.1
N9	1,347	95.8		4.2
N10	321	97.5		2.5
Subtotal	3,599	87.4	5.4	7.3
TOTAL	5,911	80.0	10.8	9.3

CONFORMITY RATES TO THE GUIDELINES BY RACE

The conformity rates to the sentencing guidelines by race are presented in Tables 26 and 27, respectively, for the drug and nondrug offenders admitted to prison in FY 2008. The examination of drug incarceration sentences within guidelines indicates that blacks received more standard sentences (19.4% vs. 13.4%) and mitigated sentences (9.2% vs. 7.4%) than whites. However, white offenders represented a higher percentage in aggravated sentences (4.2% vs. 3.1%) and border box sentences (25.9% vs. 22.4%) than black offenders. When reviewing sentence departures, whites indicated a lower percentage of upward durational departures (5.1% vs. 8.2%) and downward durational departures (34.7% vs.

35.7%), while black offenders received fewer upward dispositional departures (2% vs. 9.3%) than white offenders (Table 26).

The analysis of nondrug incarceration sentences demonstrates that white nondrug offenders represented higher percentages in mitigated sentences (13.8% vs. 10.8%), border box sentences (9.5% vs. 6.5%), upward durational departures (12.6% vs. 7.8%) and upward dispositional departures (14.4% vs. 10.8%) than black nondrug offenders. Similar with drug sentences, blacks received higher rates of standard sentences (27.7 vs. 24.8%) and downward durational departure sentences (26% vs. 17.5%) for nondrug offenses than whites. In addition, blacks received more aggravated sentences (10.4% vs. 7.3%) than whites (Table 27).

Table 26: Conformity Rates by Race - Incarceration Sentences Drug Offenders

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	White	37	5.4	2.7	8.1		2.7	81.1	
	Black	0							
	Other	0							
D2	White	11	9.1	9.1	18.2			63.6	
	Black	12		16.7	8.3		16.7	58.3	
	Other	0							
D3	White	68	2.9	8.8	10.3	61.8	2.9	13.2	
	Black	38	5.3	10.5	2.6	42.1	5.3	34.2	
	Other	1					100.0		
D4	White	100	4.0	21.0	4.0	14.0	8.0	29.0	20.0
	Black	48	2.1	27.1	14.6	12.5	8.3	31.3	4.2
	Other	4		25.0		25.0		50.0	
Total	White	216	4.2	13.4	7.4	25.9	5.1	34.7	9.3
	Black	98	3.1	19.4	9.2	22.4	8.2	35.7	2.0
	Other	5		20.0		20.0	20.0	40.0	

Note: Based on 319 drug incarceration guideline sentences reporting race of offenders.

**Table 27: Conformity Rates by Race - Incarceration Sentences
Nondrug Offenders**

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	White	56	14.3	19.6	10.7		28.6	26.8	
	Black	13	15.4	23.1			15.4	46.2	
	Other	2			50.0			50.0	
N2	White	18	16.7	22.2	27.8		16.7	16.7	
	Black	3		66.7				33.3	
	Other	0							
N3	White	108	10.2	25.9	15.7		18.5	29.6	
	Black	45	15.6	26.7	8.9		8.9	40.0	
	Other	1		100.0					
N4	White	35	11.4	34.3	14.3		17.1	22.9	
	Black	9	11.1		11.1		22.2	55.6	
	Other	2					50.0	50.0	
N5	White	150	4.0	20.0	8.7	38.7	7.3	21.3	
	Black	47	8.5	14.9	6.4	29.8	4.3	36.2	
	Other	1	100.0						
N6	White	35	2.9	17.1	17.1	8.6	28.6	14.3	11.4
	Black	14	7.1	35.7	14.3	7.1	28.6	7.1	
	Other	1					100.0		
N7	White	78	3.8	25.6	14.1		9.0	11.5	35.9
	Black	41	7.3	26.8	14.6		9.8	14.6	26.8
	Other	0							
N8	White	36	5.6	36.1	11.1		5.6	11.1	30.6
	Black	10	10.0	20.0				10.0	60.0
	Other	2							100.0
N9	White	77	6.5	29.9	15.6		6.5	5.2	36.4
	Black	37	10.8	45.9	16.2			13.5	13.5
	Other	3		33.3					66.7
N10	White	51	7.8	25.5	19.6		2.0	2.0	43.1
	Black	12	8.3	41.7	25.0				25.0
	Other	2		100.0					
Total	White	644	7.3	24.8	13.8	9.5	12.6	17.5	14.4
	Black	231	10.4	27.7	10.8	6.5	7.8	26.0	10.8
	Other	14	7.1	28.6	7.1		14.3	14.3	28.6

Note: Based on 889 nondrug incarceration guideline sentences reporting race of offenders.

Tables 28 and 29 exhibit the conformity rates by race for offenders sentenced to probation during FY 2008. White offenders received more presumptive probation sentences for drug offenses than black offenders (70.3% vs. 60.7%) but black drug offenders indicated a higher rate of border box sentences (21.1% vs. 18.9%) and downward dispositional departures (18.3% vs. 10.8%) than white drug offenders (Table 28). This racial conformity-rate pattern is consistent with that of FY 2007.

The analysis of conformity rates of the probation sentences of the nondrug

offenders reveals that similar to the drug sentence pattern, white nondrug offenders received more presumptive probation sentences than black nondrug offenders (88.8% vs. 82.6%), while black offenders represented a little higher percentage of border box sentences (5.4% vs. 5.3%) and a much higher percentage of downward dispositional departures than white offenders for nondrug offenses (12% vs. 5.8%). This sentencing conformity-rate distribution by race for nondrug offenders did not fluctuate much as compared with that of FY 2007 (Table 29).

Table 28: Conformity Rates by Race - Probation Sentences Drug Offenders

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	10			100.0
	Black	0			
	Other	0			
D2	White	21			100.0
	Black	4			100.0
	Other	0			
D3	White	358		93.0	7.0
	Black	122		82.0	18.0
	Other	5		80.0	20.0
D4	White	1,400	89.8	0.4	9.9
	Black	350	82.6		17.4
	Other	35	91.4		8.6
Total	White	1,789	70.3	18.9	10.8
	Black	476	60.7	21.0	18.3
	Other	40	80.0	10.0	10.0

Note: Based on 2,305 drug probation sentences reporting race of offenders.

**Table 29: Conformity Rates by Race - Probation Sentences
Nondrug Offenders**

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	4			100.0
	Black	0			
	Other	0			
N2	White	1			100.0
	Black	0			
	Other	0			
N3	White	25			100.0
	Black	9			100.0
	Other	0			
N4	White	11			100.0
	Black	5			100.0
	Other	1			100.0
N5	White	180		78.9	21.1
	Black	58		63.8	36.2
	Other	7		42.9	57.1
N6	White	61	86.9	8.2	4.9
	Black	9	33.3	44.4	22.2
	Other	4	100.0		
N7	White	668	96.0		4.0
	Black	190	92.1		7.9
	Other	13	92.3		7.7
N8	White	525	96.8		3.2
	Black	140	92.1		7.9
	Other	11	100.0		
N9	White	1,042	97.0		3.0
	Black	277	91.0		9.0
	Other	20	95.0		5.0
N10	White	241	98.3		1.7
	Black	76	94.7		5.3
	Other	2	100.0		
Total	White	2,758	88.8	5.3	5.8
	Black	764	82.6	5.4	12.0
	Other	58	82.8	5.2	12.1

Note: Based on 3,580 nondrug probation sentences reporting race of offenders.

CONFORMITY RATES TO THE GUIDELINES BY GENDER

The conformity rates to the sentencing guidelines between male and female offenders admitted to prison in FY 2008 are discussed in this section. For drug incarceration sentences, only males received aggravated sentences, which is consistent with the data observed in FY 2007. In addition, male drug offenders represented higher rates in standard sentences (17% vs. 2.7%) and mitigated sentences (8.5% vs. 2.7%). While females received more than double border box sentences for drug crimes than males (48.6% vs. 21.6%). The examination of departure sentences demonstrates that male drug offenders represented higher percentages in both upward and downward durational departures (6.4% vs. 5.4%; 35.5% vs. 32.4%), while female drug offenders represented a higher rate in upward dispositional departures

(8.1% vs. 6.7%) than their counterparts (Table 30).

The evaluation of nondrug incarceration sentences reveals that within guidelines, males represented higher percentages than females in aggravated sentences (8.4% vs. 3.6%), standard sentences (25.8% vs. 23.2%) and mitigated sentences (13.1% vs. 10.7%), which is pretty consistent with the data observed in FY 2007. Female nondrug offenders received more border box sentences than male nondrug offenders (12.5% vs. 8.3%). The analysis of departure sentences demonstrates that female nondrug offenders stood for the lower rates of upward durational departure sentences (5.4% vs. 11.8%) and downward durational departures (19.6% vs. 19.7%) than males. However, females represented a much higher percentage in upward dispositional departures (25% vs. 13%) than their counterparts (Table 31).

Table 30: Conformity Rates by Gender - Incarceration Sentences Drug Offenders

Severity Level	Gender	N	Within Guidelines (%)			Departures (%)			
			Agg	Standard	Mit.	Box	Durational Upward	Durational Downward	Dispositional Upward
D1	Male	32	6.3	3.1	9.4		3.1	78.1	
	Female	5						100.0	
D2	Male	20	5.0	15.0	15.0		10.0	55.0	
	Female	3						100.0	
D3	Male	96	4.2	10.4	7.3	51.0	4.2	22.9	
	Female	11			9.1	81.8	9.1		
D4	Male	134	3.7	25.4	8.2	9.0	8.2	31.3	14.2
	Female	18		5.6		50.0	5.6	22.2	16.7
Total	Male	282	4.3	17.0	8.5	21.6	6.4	35.5	6.7
	Female	37		2.7	2.7	48.6	5.4	32.4	8.1

Note: Based on 319 drug incarceration guideline sentences.

**Table 31: Conformity Rates by Gender - Incarceration Sentences
Nondrug Offenders**

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	Male	68	14.7	20.6	8.8		25.0	30.9	
	Female	3			33.3		33.3	33.3	
N2	Male	18	16.7	27.8	16.7		16.7	22.2	
	Female	3		33.3	66.7				
N3	Male	143	12.6	25.2	14.0		16.8	31.5	
	Female	11		45.5	9.1			45.5	
N4	Male	42	9.5	21.4	14.3		21.4	33.3	
	Female	4	25.0	75.0					
N5	Male	186	5.4	19.4	8.6	34.9	7.0	24.7	
	Female	12	8.3	8.3		58.3		25.0	
N6	Male	45	4.4	20.0	15.6	8.9	28.9	13.3	8.9
	Female	5		40.0	20.0		40.0		
N7	Male	114	5.3	27.2	14.9		9.6	12.3	30.7
	Female	5						20.0	80.0
N8	Male	45	6.7	33.3	8.9		4.4	11.1	35.6
	Female	3							100.0
N9	Male	111	8.1	36.9	16.2		4.5	7.2	27.0
	Female	6						16.7	83.3
N10	Male	61	8.2	31.1	19.7		1.6	1.6	37.7
	Female	4		25.0	25.0				50.0
Total	Male	833	8.4	25.8	13.1	8.3	11.8	19.7	13.0
	Female	56	3.6	23.2	10.7	12.5	5.4	19.6	25.0

Note: Based on 889 nondrug incarceration guideline sentences.

Tables 32 and 33 demonstrate the conformity rates of the probation sentences by gender. The analyses of the offenders on probation show that females on both drug and nondrug grids received less downward dispositional departures than males (6.5% vs. 14.4%), (Table 32); (4% vs. 8.2%), (Table 33). This finding indicates that except for incarceration drug sentences in FY 2003, females were more likely to be incarcerated than males when both upward and downward dispositional departures are compared for incarceration and probation sentences. Females had a higher likelihood

of an upward dispositional departure to prison even when their offenses were designated within the presumptive probation portion of the grid (Tables 30 and 31). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 32 and 33). The above findings continue the trend that was present in the past twelve years (Annual Reports of FY 1996, FY 1997, FY 1998, FY 1999, FY 2000, FY 2001, FY 2002, FY 2003, FY 2004, FY 2005, FY 2006 and FY 2007).

**Table 32: Conformity Rates by Gender - Probation Sentences
Drug Offenders**

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	7			100.0
	Female	4			100.0
D2	Male	14			100.0
	Female	11			100.0
D3	Male	373		89.0	11.0
	Female	112		93.8	6.2
D4	Male	1,328	85.7	0.3	14.0
	Female	458	96.3	0.2	3.5
Total	Male	1,722	66.1	19.5	14.4
	Female	585	75.4	18.1	6.5

Note: Based on 2,307 drug probation sentences reporting gender of offenders.

**Table 33: Conformity Rates by Gender - Probation Sentences
Nondrug Offenders**

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	4			100.0
	Female	0			
N2	Male	1			100.0
	Female	0			
N3	Male	30			100.0
	Female	4			100.0
N4	Male	14			100.0
	Female	3			100.0
N5	Male	223		75.8	24.2
	Female	24		62.5	37.5
N6	Male	62	82.3	11.3	6.5
	Female	12	75.0	16.7	8.3
N7	Male	757	95.0		5.0
	Female	115	95.7		4.3
N8	Male	400	93.5		6.5
	Female	276	99.3		0.7
N9	Male	1,067	95.2		4.8
	Female	276	97.8		2.2
N10	Male	245	97.1		2.9
	Female	74	98.6		1.4
Total	Male	2,803	85.6	6.3	8.2
	Female	784	93.9	2.2	4.0

Note: Based on 3,587 nondrug probation sentences reporting gender of offenders.

SPECIAL SENTENCING RULES

Special sentencing rules provide special treatment of certain crimes and sanctions. These special rules establish policies for the determination of criminal history and the imposition and computation of sentences in atypical situations which are not otherwise addressed by the sentencing guidelines. In addition, these special rules serve to assign appropriate severity rankings to crimes that are in some significant respect unusual and therefore not readily amenable to the standardized treatment afforded by the grids.

There were small numbers of special sentencing rules at the initial years of implementation of the guidelines, such as five special rules in 1994 and 1995. With the modification of sentencing guidelines and amendments of sentencing policies in each legislative year, the number of special sentencing rules has increased. As of the 2008 Legislative Session, twenty-five special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: person felony committed with a firearm; crime committed while incarcerated or on probation, parole, etc. and crime committed while on felony bond.

SB 123 mandatory drug treatment has not been considered as a special sentencing rule since 2006, therefore it is excluded in the following analyses. Tables 34 and 35 present numbers and percentages of sentencing practice with special sentencing rules in the past five years. The percentage of offenders admitted to prison with special sentence rules increased from 22.3% in FY 2004 to 26.7% in FY 2008. FY 2007 indicated the highest number (428 admissions) or percentage (29.3%) of special sentencing rules applied to prison

sentences in the past five years. The percentage of probation sentences imposed with special sentencing rules accounted for 8.9% in FY 2004 and increased to 10% in FY 2008 (Table 34). The total percentage of both prison and probation sentences applied with special rules increased from 11.5% in FY 2004 to 13% in FY 2008 (Table 35).

During FY 2008, a number of 352 pure guideline prison sentences and 602 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 26.7% of prison pure guideline admissions (1,316 admissions) and 10% of pure guideline probation sentences (6,009) imposed in FY 2008 (Tables 34).

The top three special sentencing rules applied to prison sentences in sentencing practice during FY 2008 were “person felony committed with a firearm” (83 sentences) representing 23.6% of 352 prison sentences applied with special sentence rules; “crime committed while incarcerated or on probation, parole, etc.” (193 sentences) representing 54.8%; and “crime committed while on felony bond” (49 sentences) making up 13.9% of prison admissions with special sentencing rules during FY 2008 (Table 36).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2008, as well. The special rule of “person felony committed with a firearm” (73 sentences) accounted for 12.1% of the total 602 probation sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (262 sentences) accounted for 43.5% and “crime committed while on felony bond” (170 sentences) accounted for 28.2% (Table 37).

**Table 34: Pure Guideline Sentences Applied with Special Sentencing Rules*
By Prison and Probation
FY 2004 through FY 2008**

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
2004	1393	310	22.3	5592	495	8.9
2005	1345	371	27.6	5962	579	9.7
2006	1448	418	28.9	5936	494	8.3
2007	1459	428	29.3	5802	538	9.3
2008	1316	352	26.7	6009	602	10.0

* Sentences with special rules exclude those with special rule of SB123 mandatory drug treatment.

**Table 35: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2004 through FY 2008**

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2004	6985	805	11.5%
2005	7307	950	13.0%
2006	7384	912	12.4%
2007	7261	966	13.3%
2008	7325	954	13.0%

Note: The total number and percentage include both prison and probation sentences.

Table 36: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2008

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	83	23.6
Aggravated battery of a LEO	3	0.9
Aggravated assault of a LEO	5	1.4
Crime committed for benefit of a criminal street gang	2	0.6
Persistent sex offender	14	4.0
Felony DUI	2	0.6
Crime committed while incarcerated or on probation, parole, etc.	193	54.8
Crime committed while on felony bond	49	13.9
Extended juvenile jurisdiction imposed	2	0.6
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	23	6.5
Second forgery	2	0.6
Third or subsequent forgery	4	1.1

Note: The number and percentage are mutually exclusive.

Table 37: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2008

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	73	12.1
Aggravated battery of a LEO	4	0.7
Aggravated assault of a LEO	10	1.7
Crime committed for benefit of a criminal street gang	5	0.8
Crime committed while incarcerated or on probation, parole, etc.	262	43.5
Crime committed while on felony bond	170	28.2
Extended juvenile jurisdiction imposed	1	0.2
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	13	2.2
Second forgery	27	4.5
Third or subsequent forgery	37	6.1
Third or subsequent drug possession	5	0.8
Burglary with 2 prior burglary convictions	12	2.0
Other	27	4.5

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The trend of prison admissions in the past five years is exhibited in Figure 53, demonstrating a declining tendency. The number of admissions in FY 2008 decreased by 178 or 3.6% when compared with that of FY 2007 and decreased significantly by 1,120 offenders or 19.2% compared with that of FY 2004. Table 38 displays the prison admission patterns by month in the past five years.

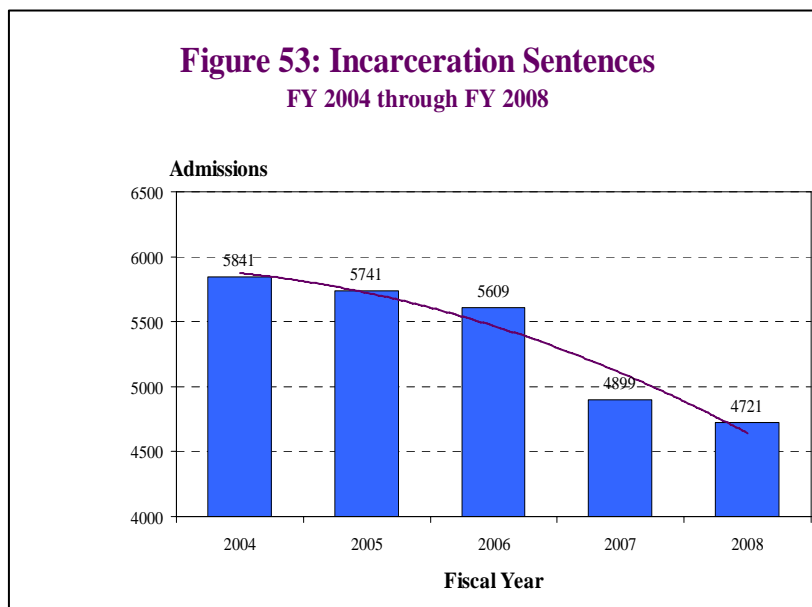


Table 38: Prison Admissions by Month

Month by Fiscal Year	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
July	525	439	407	417	436
August	441	497	570	420	422
September	460	501	534	390	362
October	500	413	473	448	451
November	418	466	473	375	392
December	550	441	459	354	312
January	445	407	461	442	431
February	435	471	443	355	371
March	560	575	472	422	385
April	491	491	409	397	380
May	469	486	492	502	395
June	547	554	416	377	384
Total	5,841	5,741	5,609	4,899	4,721

Table 39 presents the trend of admissions to prison by type in the past five years. The admissions of new court commitments in FY 2008 decreased by 6.7% compared with FY 2007 and decreased by 0.9% compared with FY 2004. The number of probation condition violators admitted to prison in FY 2008 decreased by 7.2% from that of FY 2007 and by 5% from that of FY 2004. This is the second declining of admissions of probation condition violators in the past five years. Probation violators with new sentences admitted to prison in FY 2008 increased significantly by 57.6% compared with FY 2007 and by 5.4% compared with FY 2004.

Conditional release violators and conditional release violators with new sentences are small in number. Therefore, they are included in the groups of parole condition violators and parole violators with new sentences in trend analysis. The number of parole/postrelease/conditional release violators admitted to prison in FY 2008 greatly decreased by 44.7% compared with that of FY 2004 though increased by 2.3% compared with that of FY 2007. On the contrary, the number of parole/post-release/condition release violators with new sentences in FY 2008 increased by 4.7% over that of FY 2004 but decreased by 17.9% from that of FY 2007.

Table 39: Comparison of Prison Admissions by Type

Admission Type	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2004 % Difference
New Court Commitment	1,512	1,489	1,610	1,605	1,498	-0.9%
Probation Condition Violator	1,709	1,783	2,038	1,750	1,624	-5.0%
Probation Violator with New Sentence	148	126	142	99	156	5.4%
Parole/Postrelease/CR Condition Violator	2,292	2,138	1,641	1,239	1,268	-44.7%
Parole/Postrelease/CR Violator with New Sentence	149	166	168	190	156	4.7%
Other Types*	31	39	10	16	19	-38.7%
Total	5,841	5,741	5,609	4,899	4,721	-19.2%

* Other admissions include inter-jurisdictional transfers, pre-sentence evaluations, return from court appearances, and returned escapees.

Table 40 exhibits the admission trend of incarceration drug sentences by severity level in the past five years. In FY 2008, admissions at all drug levels indicated a decrease from those of the previous year, with the exception of admissions at drug level 2 with an increase of 8.8%. The overall admissions of drug offenders in FY 2008 indicated a decrease of 14% compared with FY 2007.

The total number of drug admissions in FY 2008 decreased by 23.3% when compared

with that of FY 2004. The largest decrease was identified at drug severity level 1 by 49.8%, followed by drug severity level 2 by 44.7% and severity level 3 by 35.3%. The number of drug severity level 4 dropped by 0.3%, as well (Table 40).

The admission trend of nondrug offenders in the past five years is provided in Table 41. The total number of nondrug admissions only increased by 1% compared with FY 2007 but decreased by 17.5% from that of FY 2004. The most notable decrease of

nondrug admissions in the past five years were identified at the severity levels containing offenders with the most serious crimes: level 2 with a decrease of 40.4%, level 3 with a decrease of 27.7%, level 4 with a decrease of 34.4% and level 6 with a decrease of 26.3%. Certain fluctuations were also identified in the numbers of sentences at lower nondrug severity levels from FY 2004 to FY 2008 with a decrease of 16.4% at level 7, a decrease of 23.8% at level 8, a decrease of 12.8% at level 9 and a decrease of 15.7% at level 10. Nongrid offenders admitted to prison in FY 2008 were all violators under the crime of DUI (109

offenders), demonstrating a decrease of 26.4% compared with FY 2004 (Table 41).

Except for admissions at nondrug severity level 1 and offgrid, numbers at all nondrug severity levels dropped in FY 2008 compared with FY 2004. The admissions at nondrug severity level 1 increased by 4.6% compared with FY 2004 and by 31.4% compared with FY 2007. As projected, offgrid sentences increased significantly by 102.7% or 38 admissions compared with FY 2004 and by 127.3% or 42 admissions compared with FY 2007. This increasing trend results from Jessica’s Law passed in the 2006 Legislative Session (Table 41).

Table 40: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
D1	229	187	199	149	115	-22.8%	-49.8%
D2	179	132	136	91	99	8.8%	-44.7%
D3	567	516	487	438	367	-16.2%	-35.3%
D4	728	781	820	841	726	-13.7%	-0.3%
Total	1,703	1,616	1,642	1,519	1,307	-14.0%	-23.3%

Table 41: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2004	FY 2005	FY 2006	FY2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
N1	108	96	101	86	113	31.4%	4.6%
N2	99	112	84	70	59	-15.7%	-40.4%
N3	559	562	503	391	404	3.3%	-27.7%
N4	151	123	125	99	99	0.0%	-34.4%
N5	586	584	551	513	533	3.9%	-9.0%
N6	171	158	147	120	126	5.0%	-26.3%
N7	825	809	792	675	690	2.2%	-16.4%
N8	458	462	445	396	349	-11.9%	-23.8%
N9	728	737	804	662	635	-4.1%	-12.8%
N10	261	235	228	215	220	2.3%	-15.7%
Offgrid	37	33	38	33	75	127.3%	102.7%
Nongrid	148	206	134	108	109	0.9%	-26.4%
Unknown	7	8	15	12	2	-83.3%	-71.4%
Total	4,138	4,125	3,967	3,380	3,414	1.0%	-17.5%

PROBATION SENTENCES

Figure 54 presents the sentencing trend of probation sentences in the past five years. The number of probation sentences in FY 2008 increased by 4.8% or by 373 sentences compared with that of FY 2007 and greatly increased by 12.7% or by 912 sentences compared with that of FY 2004. The largest number of probation sentences imposed in the past five years is identified in FY 2008.

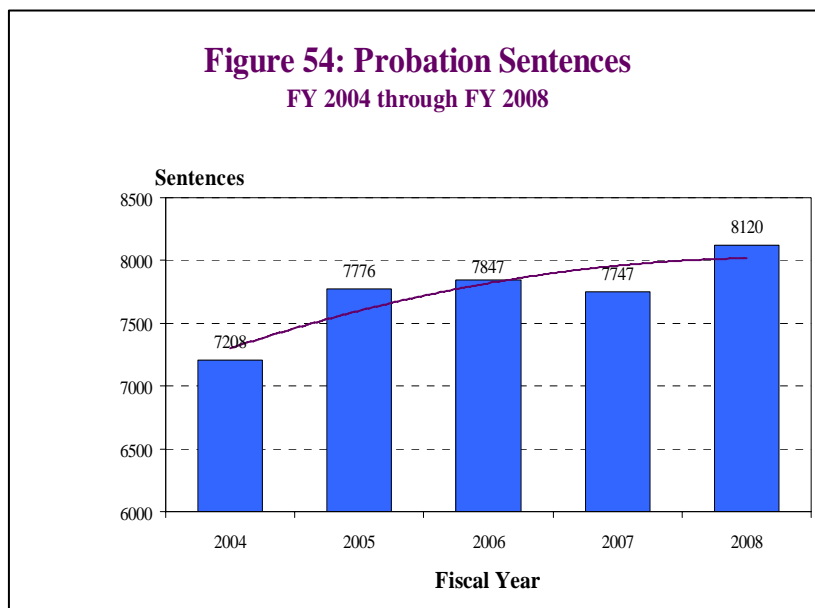


Table 42 demonstrates the sentencing trend of drug probation sentences by severity level during the past five years. Compared with FY 2007, the analysis shows that drug probation sentences at all levels in FY 2008 increased except at drug severity level 1 with a decrease of 39.4%. The largest percentage increase of probation sentences for drug offenses was at drug severity level 2, by an increase of 72.2%. The total number of drug probation sentences in FY 2008 increased by 2.5% over that of FY 2007. When compared with FY 2004, drug probation sentences at severity levels 1, 2 and 3 reduced by 44.4%, 29.5% and 13.1% respectively, while drug probation sentences at severity level 4 increased by 24.4%. This increase at drug severity level 4 continues mirroring the implementation of Senate Bill 123 effective on November 1, 2003, wherein convictions under K.S.A. 65-4160 are all sentenced at drug severity level 4, no matter if the conviction is the first or second

offense. Consequently, the numbers of probation sentences at drug severity levels 1 and 2 decreased. However, the total number of drug probation sentences in FY 2008 increased by 12.7% over that of FY 2004.

Trend analysis of nondrug probation sentences indicates that the total number of nondrug probation sentences in FY 2008 increased by 6.1% and 12.6%, respectively, over those of FY 2007 and FY 2004. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 4 (an increase of 84.6%) followed by nondrug severity level 6 (an increase of 41.9%) and nondrug severity level 5 (an increase of 39.2%) compared with the data observed in FY 2004. Three offenders at offgrid convicted under Jessica's Law were downward departure to guidelines and sentenced to probation (Table 43).

**Table 42: Comparison of Probation Drug Sentences by Severity Level
FY 2004 through FY 2008**

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
D1	36	121	63	33	20	-39.4%	-44.4%
D2	44	20	18	18	31	72.2%	-29.5%
D3	633	653	570	542	550	1.5%	-13.1%
D4	1,728	1,983	2,196	2,091	2,149	2.8%	24.4%
Total	2,441	2,777	2,847	2,684	2,750	2.5%	12.7%

**Table 43: Comparison of Probation Nondrug Sentences by Severity Level
FY 2004 through FY 2008**

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
N1	7	4	4	4	4	0.0%	-42.9%
N2	0	0	2	1	1	0.0%	N/A
N3	48	46	33	49	47	-4.1%	-2.1%
N4	13	4	17	15	24	60.0%	84.6%
N5	212	223	211	236	295	25.0%	39.2%
N6	62	61	95	68	88	29.4%	41.9%
N7	934	1,053	997	1,013	1,067	5.3%	14.2%
N8	781	793	879	972	907	-6.7%	16.1%
N9	1,430	1,539	1,534	1,479	1,671	13.0%	16.9%
N10	557	454	422	420	414	-1.4%	-25.7%
Offgrid	0	0	0	0	3	N/A	N/A
Nongrid	723	822	806	806	849	5.3%	17.4%
Total	4,767	4,999	5,000	5,063	5,370	6.1%	12.6%

COUNTY JAIL SENTENCES

The trend analysis of county jail sentences imposed in the past five years is depicted in Figure 55. FY 2008 is the year when the most county jail sentences were imposed in the past five years. The total number of jail sentences compared with that of FY 2007 and an increase of 29.1% or 196 sentences compared with that of FY 2004.

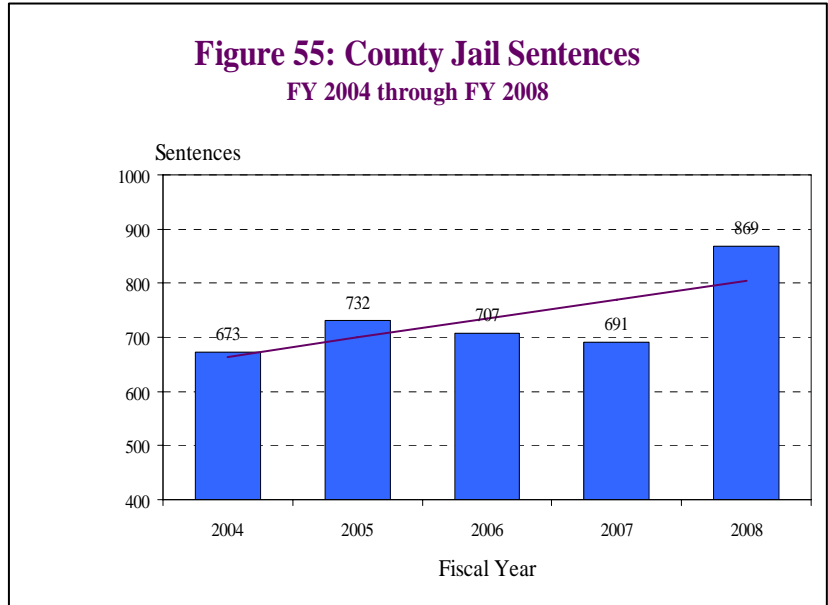


Table 44 presents the offense trend of county jail sentences from FY 2004 through FY 2008. More than 97% of the jail sentences were convicted under the crime of DUI. Further analysis of DUI crime reveals that 4th or subsequent conviction of DUI accounted for more than 80% of total county jail sentences. In FY 2008, the number of 4th or subsequent conviction of DUI increased by 27.6% and 34.2% respectively compared with FY 2007 and FY 2004, while the

number of 3rd conviction of DUI decreased by 7.6% in FY 2008 when compared with that of FY 2004. Though small in number, the crime of domestic battery increased from 4 sentences in FY 2004 to 15 sentences in FY 2008. The crime of cruelty to animals was created in the 2007 Legislative Session. Only 1 offender was convicted of the crime in FY 2007 and 2 offenders were convicted of the crime in FY 2008.

Table 44: Comparison of County Jail Sentences by Offense FY 2004 through FY 2008

Offenses	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
3rd DUI	105	115	117	91	97	6.6%	-7.6%
4th or Sub. DUI	559	607	579	588	750	27.6%	34.2%
Domestic battery	4	9	11	11	15	36.4%	275.0%
Cruelty to Animal	0	0	0	1	2	100.0%	N/A
Other	5	1	0	0	5	N/A	0.0%
Total	673	732	707	691	869	25.8%	29.1%

PRISON POPULATION FORECASTS

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2008, and the input assumptions formulated by the experts from various criminal justice agencies, who are the members of the Prison Population

Consensus Group. The prison population projections predict that the offenders incarcerated in state prisons will reach 9,477 by June 30, 2018, which indicates an increase of 839 inmates or 9.7% over the actual prison population on the same date of year 2008. Although the total number of admissions has dropped compared with those of the past five years (Figure 53), a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies has resulted in a continual growth in the state's prison population. The decrease of prison population after FY 2007 results from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes 20% reduction of probation revocation rate, modifies some good time rates from 15% to 20% and provides potential credit for program completion. The effective date of the Bill is January 1, 2008 (Figure 56).

FY 2008 prison population projections by severity levels are presented in Table 45. The most significant increase in both number and percentage of incarcerated populations in the next ten years is identified in the group of offgrid offenders, an increase of 910 offenders or 112.1%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The second largest increase in number falls at nondrug severity level 1, an increase of 321 offenders or 36.4% over the ten-year forecast period. This is due to the "stacking effect" of long sentence length of most serious offenses.

The largest decrease of nondrug population is found at nondrug severity level 7 with a deduction of 103 inmates or 13.3% followed by nondrug severity level 2 with a decrease of 64 inmates or 14.7%, nondrug severity level 4 with a decrease of 8.7% and nondrug severity level 3 with a decrease of 0.9% in the next ten years. This decreasing tendency reflects the implementation of House Bill 2576, as well, which reclassifies certain sex offenses at these levels as offgrid felonies.

The projected prison population of drug offenders at all severity levels displays a declining trend in the ten-year forecast period except drug severity level 2 with a slight increase of 3 offenders. The greatest decrease is identified at drug severity level 3 with a decrease of 121 offenders or 28.7% followed by drug severity level 1 with a decrease of 82 offenders or 21.7% in the next ten years. This declining tendency may result from the implementation of Senate Bill 123, which reclassifies all drug possession offenses under K.S.A. 65-4160 and K.S.A. 65-4162 to drug severity level 4 and establishes a non-prison sanction of certified drug abuse treatment programs for the eligible drug offenders supervised by community correctional services. Figure 56 depicts the trend of the actual and projected prison population from FY 1996 through FY 2018.

Figure 56: Prison Population Actual and Projected

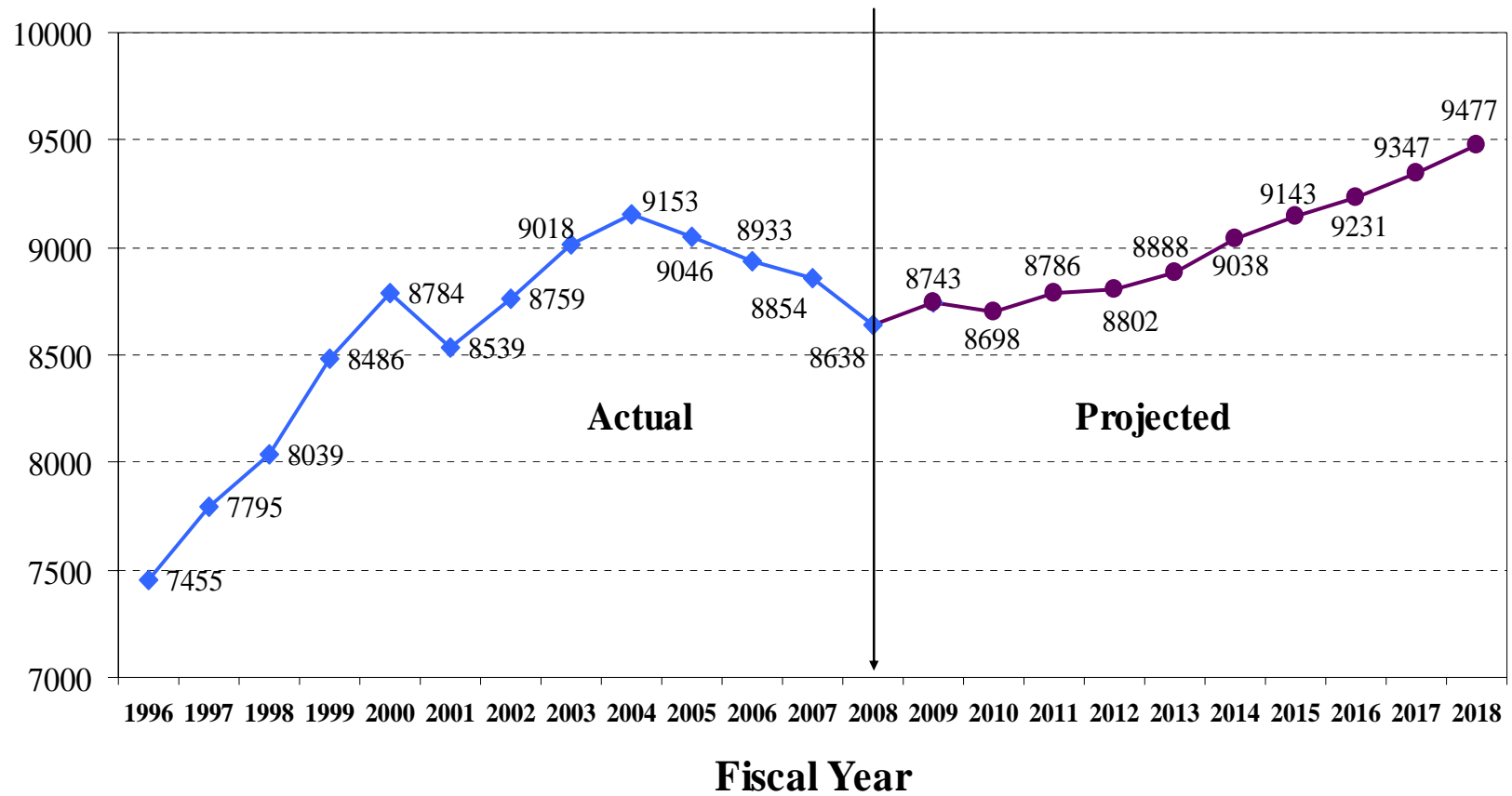


Table 45: FY 2009 Adult Inmate Prison Population Projections

Severity Level	June 30 2008*	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017	June 30 2018	Total # Increase	Total % Increase
D1	378	358	354	345	333	318	310	306	298	287	296	-82	-21.7%
D2	160	146	142	138	143	150	156	162	163	172	163	3	1.9%
D3	421	398	376	356	340	335	325	301	320	313	300	-121	-28.7%
D4	659	617	562	556	509	509	527	533	566	565	590	-69	-10.5%
N1	882	928	960	988	1027	1066	1096	1131	1164	1189	1203	321	36.4%
N2	435	430	421	414	416	415	414	409	405	383	371	-64	-14.7%
N3	1321	1310	1311	1330	1343	1328	1320	1327	1300	1309	1309	-12	-0.9%
N4	275	270	278	293	291	271	263	281	266	253	251	-24	-8.7%
N5	1091	1094	1130	1126	1103	1091	1132	1109	1111	1100	1104	13	1.2%
N6	151	171	178	158	171	170	175	161	160	164	167	16	10.6%
N7	775	754	693	723	674	658	652	642	625	653	672	-103	-13.3%
N8	199	215	194	190	177	189	191	199	194	196	192	-7	-3.5%
N9	223	291	300	285	301	282	303	281	278	291	297	74	33.2%
N10	34	54	51	40	34	49	44	47	43	47	42	8	23.5%
OFF GRID	812	893	981	1063	1159	1251	1345	1438	1528	1628	1722	910	112.1%
Condition Parole/PIS Violators	819	814	767	781	781	806	785	816	810	797	798	-21	-2.6%
Total	8638	8743	8698	8786	8802	8888	9038	9143	9231	9347	9477	839	9.7%

*. The numbers on June 30, 2008 are the actual prison population on that date. Total numbers include two non-grids and one missing.
 Note: Based on House Bill 2707 enacted into law on July 1, 2008.

CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the kinds of beds needed for custody in the next ten years. The overall custodial classification projections reveal that 243 unclassified beds, 2,905 minimum beds, 2,568 medium low beds, 1,402 medium high beds, 940 maximum beds and 685 special management beds will be needed by the end of FY 2009. The total projected prison beds, by the end of FY 2018, will include 245 unclassified beds, 3,049 minimum beds, 2,674 medium low beds, 1,715 medium high beds, 995 maximum beds and 799 special management beds (Table 46).

The projected percentage distribution of custodial classifications by gender is exhibited in Figure 57, which demonstrates a significant difference between male and female offenders. Females will need 4.8% unclassified, 60.8% minimum, 13.6% medium low, 9.8% medium high, 10% maximum custody and 1% special

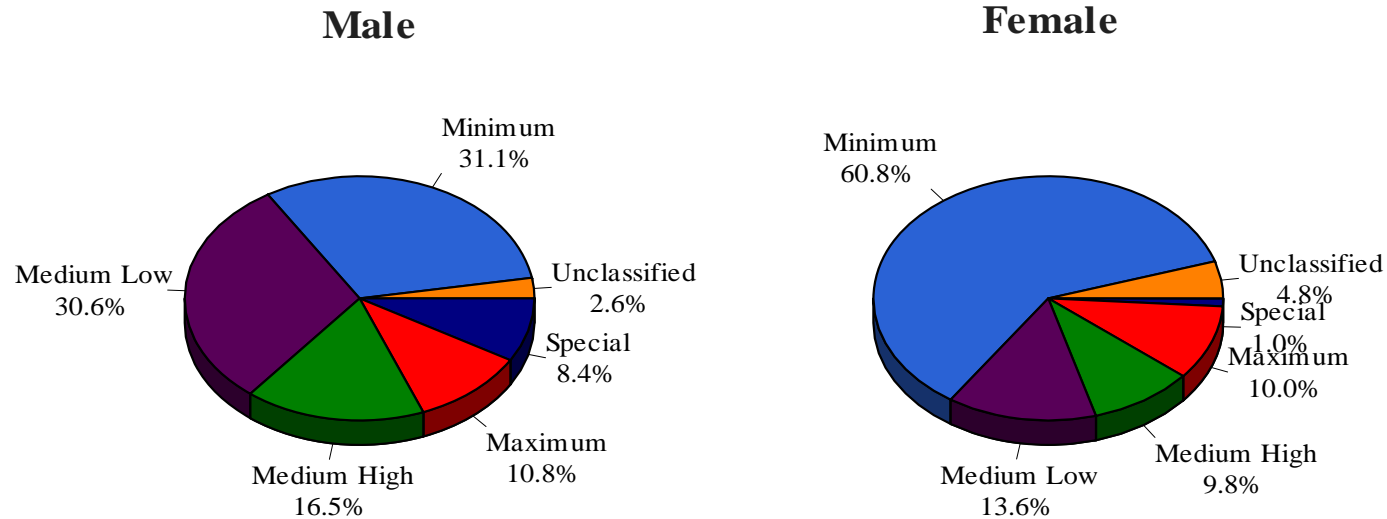
management beds by the end of FY 2009. Males will need 2.6% unclassified, 31.1% minimum, 30.6% medium low, 16.5% medium high, 10.8% maximum custody and 8.4% special management beds by the end of FY 2009. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

Male beds needed increase at all custody types in the ten-year forecast period. The largest increase is found at the type of medium high beds with an increase of 307. The second largest increase is at the type of minimum beds with an increase of 146 beds. The special management, medium low, maximum custody and unclassified beds demonstrate an increase of 110, 92, 39 and 13, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, do not fluctuate much in the next ten years with an increase of 16 maximum beds and 14 of medium high beds but a decrease of 11 beds for the unclassified group. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 46: Ten Years Custody Classification Projection

June 30 Each Year	Unclassified	Minimum	Medium Low	Medium High	Maximum	Special	Total
2009	243	2,905	2,568	1,402	940	685	8,743
2010	247	2,912	2,499	1,427	904	709	8,698
2011	240	2,950	2,457	1,496	929	714	8,786
2012	249	2,915	2,486	1,459	953	740	8,802
2013	256	2,927	2,454	1,560	972	719	8,888
2014	266	2,938	2,512	1,589	990	743	9,038
2015	247	2,967	2,563	1,593	981	792	9,143
2016	257	3,002	2,569	1,651	942	810	9,231
2017	264	2,975	2,632	1,695	985	796	9,347
2018	245	3,049	2,674	1,715	995	799	9,477

Figure 57: Projected Percentage Distribution of Custody Classification by Gender



Based on the projected prison population on June 30, 2009 (male = 8,120 and female = 623).

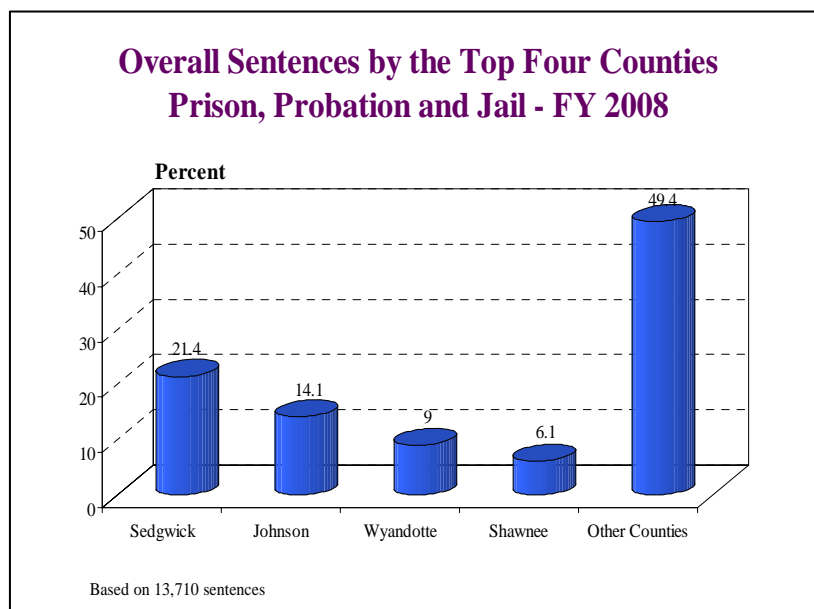
APPENDIX I

SENTENCES FROM THE TOP FOUR COUNTIES

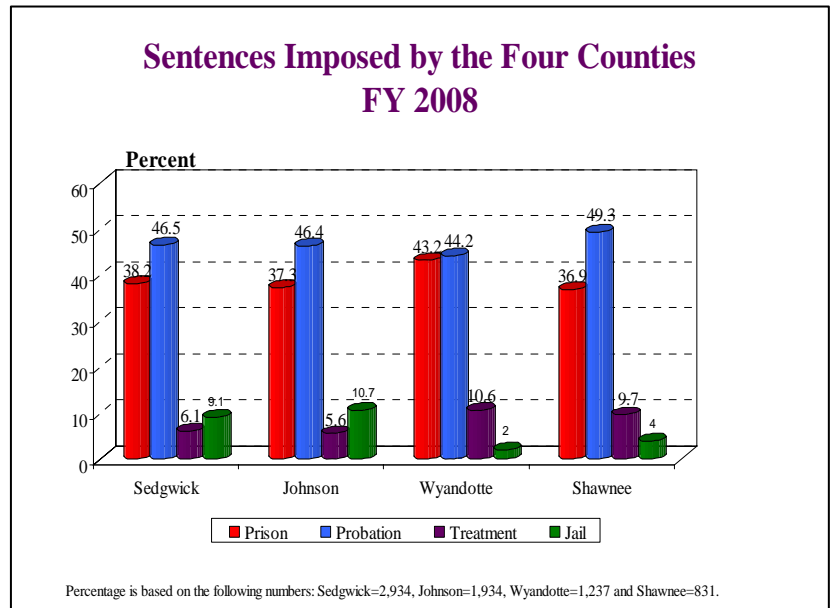
Sentences utilized for analyses in this section include incarceration, probation and county jail sentences submitted to the Commission during FY 2008. The Analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 50.6% of the total state sentences. This percentage is very close to that of FY 2007. Sedgwick continued to be the top-committing county followed by Johnson, Wyandotte and Shawnee counties, which is consistent with

the distributions of previous years. In comparison with the sentencing data of FY 2007, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County and Johnson County increased by 0.7% and 0.4% respectively, while sentences from Wyandotte County and Shawnee County decreased by 0.3% and 0.7% respectively. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2008.

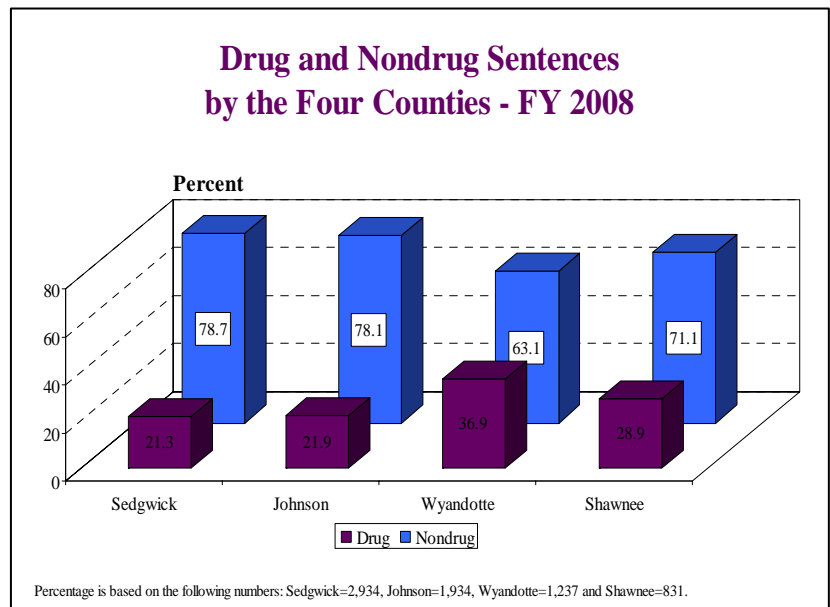
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events accounting for 50.6% of the total state sentences imposed in FY 2008, an increase of 0.1% over that of FY 2007 (50.5%).



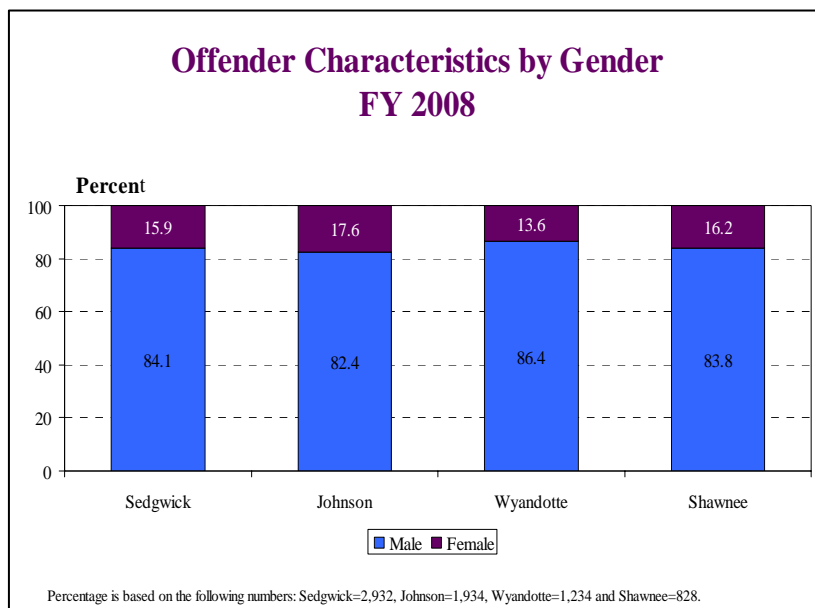
Wyandotte County imposed the higher percentage of prison sentences (43.2%) than the other three counties, while the highest rate of probation sentences was identified in Shawnee County (49.3%). Wyandotte County also imposed the highest rate of Senate Bill 123 drug treatment sentences (10.6%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (10.7%).



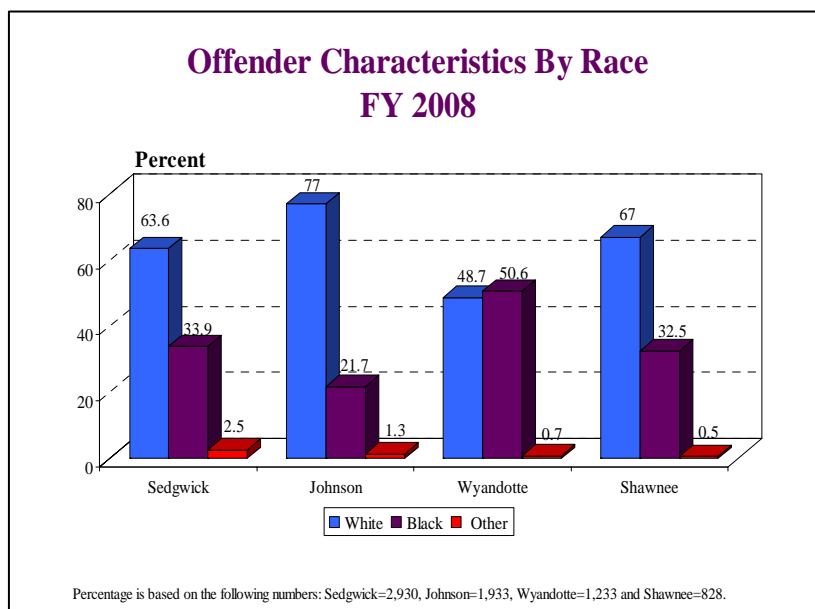
The examination of sentences imposed by types of drug and nondrug discloses that Wyandotte County represented the highest percentage of drug sentences (36.9%), while Sedgwick County imposed the largest proportion of nondrug sentences (78.7%) among the four counties.



In terms of gender of offenders, Johnson County represented the highest percentage of female offenders (17.6%), while Wyandotte County reported the highest rate of male offenders (86.4%).



Racial analysis on offenders reveals that Johnson County reported more white offenders (77%), while Wyandotte County reported more black offenders (50.6%) than the other three counties respectively, which remained constant as compared to FY 2007.



**FY 2008 Sentences from the Four Counties by Severity Level
Prison, Probation and County Jail Sentences**

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	18	0.6	8	0.4	0	0.0	6	0.7
D2	35	1.2	4	0.2	3	0.2	7	0.8
D3	137	4.7	123	6.4	83	6.7	63	7.6
D4	435	14.8	289	14.9	370	29.9	164	19.7
N1	24	0.8	11	0.6	13	1.1	16	1.9
N2	14	0.5	5	0.3	9	0.7	5	0.6
N3	129	4.4	62	3.2	75	6.1	27	3.2
N4	29	1.0	11	0.6	22	1.8	14	1.7
N5	247	8.4	97	5.0	78	6.3	53	6.4
N6	42	1.4	17	0.9	21	1.7	10	1.2
N7	453	15.4	176	9.1	152	12.3	100	12.0
N8	327	11.1	158	8.2	62	5.0	69	8.3
N9	503	17.1	345	17.8	174	14.1	177	21.3
N10	42	1.4	262	13.5	102	8.2	21	2.5
Nongrid	470	16.0	362	18.7	64	5.2	93	11.2
Offgrid	29	1.0	4	0.2	9	0.7	6	0.7
Total	2,934	100.0	1,934	100.0	1,237	100.0	831	100.0

FY 2008 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	625	21.3	Drugs	424	21.9
DUI	451	15.4	DUI	354	18.3
Theft	226	7.7	Theft	249	12.9
Burglary	222	7.6	Burglary	113	5.8
Aggravated Battery	219	7.5	Identity Theft	87	4.5
Forgery	183	6.2	Aggravated Battery	85	4.4
Fleeing or Eluding LEO	97	3.3	Forgery	83	4.3
Criminal Threat	89	3.0	Criminal Threat	55	2.8
Aggravated Assault	85	2.9	Nonsupport of a Child or Spouse	49	2.5
Robbery	84	2.9	Aggravated Assault	42	2.2
Total	2,281	77.8	Total	1,541	79.6

FY 2008 Top Ten Offenses Committed by Offenders in the Four Counties – 2

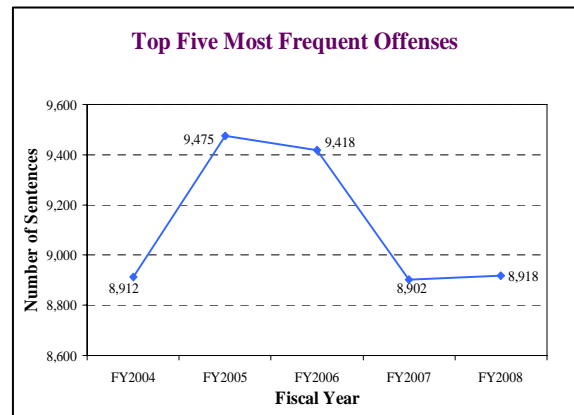
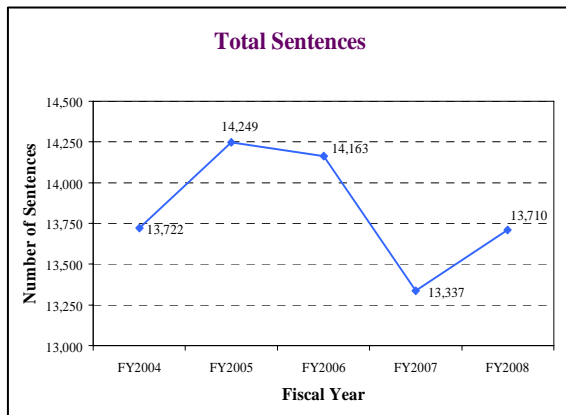
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	456	36.9	Drugs	240	28.9
Burglary	98	7.9	DUI	89	10.7
Theft	76	6.1	Theft	82	9.9
Fleeing or Eluding LEO	70	5.7	Burglary	80	9.6
DUI	64	5.2	Aggravated Battery	40	4.8
Aggravated Battery	60	4.9	Forgery	40	4.8
Robbery	52	4.2	Fleeing or Eluding LEO	27	3.2
Aggravated Robbery	44	3.6	Robbery	26	3.1
Aggravated Assault	43	3.5	Aggravated Robbery	21	2.5
Forgery	37	3.0	Aggravated Assault	18	2.2
Total	1,000	81.0	Total	663	79.7

APPENDIX II TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

The crimes of drugs, DUI, burglary, theft and forgery were the top five most frequently convicted offenses in the past five years. Of the total offenses, including incarceration, probation and county jail sentences, these top five offenses represented 64.9% in FY 2004, 66.5% in FY

2005, 66.5% in FY 2006, 66.7% in FY 2007 and 65% in FY 2008. The sentencing trends of the top five offenses from FY 2004 to FY 2008 are exhibited in the following figures and table. The sentence number of the top five offenses was up and down generally in the pattern of the total number of incarceration, probation and county jail sentences in the past five years.



Top Five Most Frequent Offenses Incarceration, Probation and County Jail Sentences

Top Five Offenses	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Drugs	4,143	4,393	4,489	4,203	4,060
DUI*	1,511	1,739	1,601	1,573	1,773
Burglary	1,390	1,391	1,336	1,256	1,261
Theft	987	1,082	1,090	1,048	1,074
Forgery	881	870	902	822	750
Subtotal	8,912	9,475	9,418	8,902	8,918
Total Offenses	13,722	14,249	14,163	13,337	13,710

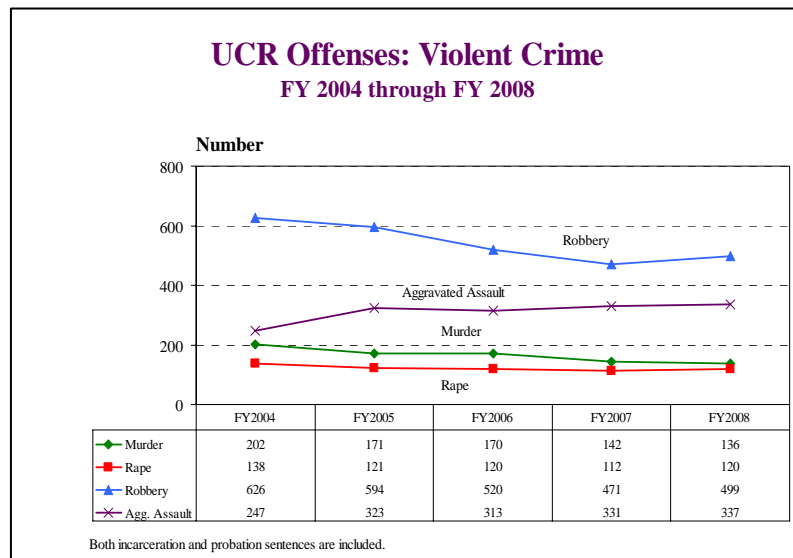
* The offense of DUI includes county jail sentences.

UNIFORM CRIME REPORTING (UCR) OFFENSES

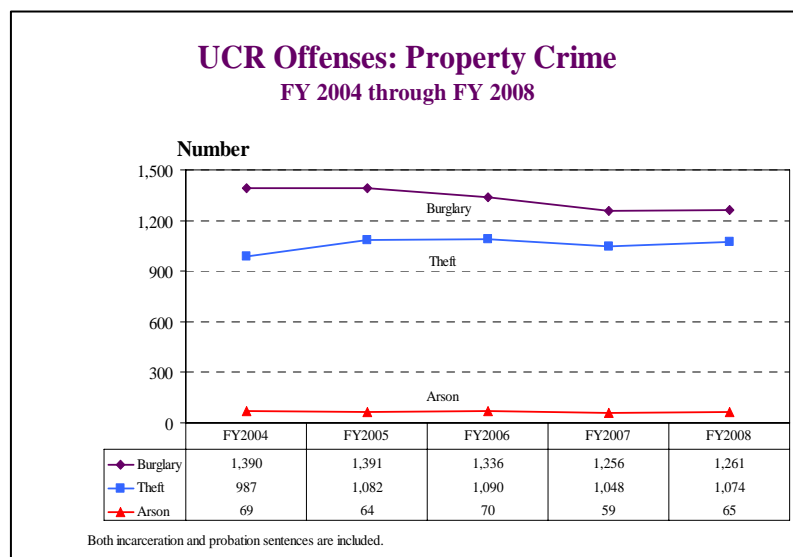
The UCR offenses include murder, rape, robbery, aggravated assault, burglary, larceny-theft/motor vehicle theft and arson. These are serious crimes by nature and/or volume, which are most likely to be reported and most likely to occur with sufficient frequency to provide an adequate basis for comparison (UCR Handbook). Murder, rape, robbery and aggravated assault are classified as violent crimes, while burglary, theft and arson are classified as property

crimes. In the following trend analyses on the UCR offenses from FY 2004 to FY 2008, murder includes capital murder, murder in the first degree, murder in the second degree, voluntary manslaughter and involuntary manslaughter; robbery includes aggravated robbery; aggravated assault includes aggravated assault on LEO; burglary includes aggravated burglary, residential, non-residential and motor vehicle burglaries; theft includes motor vehicle theft; and arson includes aggravated arson.

In FY 2008, the numbers of all violent crimes increased except the crime of murder with a decrease of 4.2% compared with FY 2007. When compared with FY 2004, all violent crimes dropped except the crime of aggravated assault with an increase of 36.4%. The crime of murder indicated the highest percentage drop (32.7%) in the past five years.



The number of all property crimes increased, as well, during FY 2008. Burglary increased by 0.4%, theft increased by 2.5% and arson increased by 10.2% over those of FY 2007. Compared with FY 2004, burglary and arson dropped by 9.3% and 5.8% respectively, while theft increased by 8.8%.



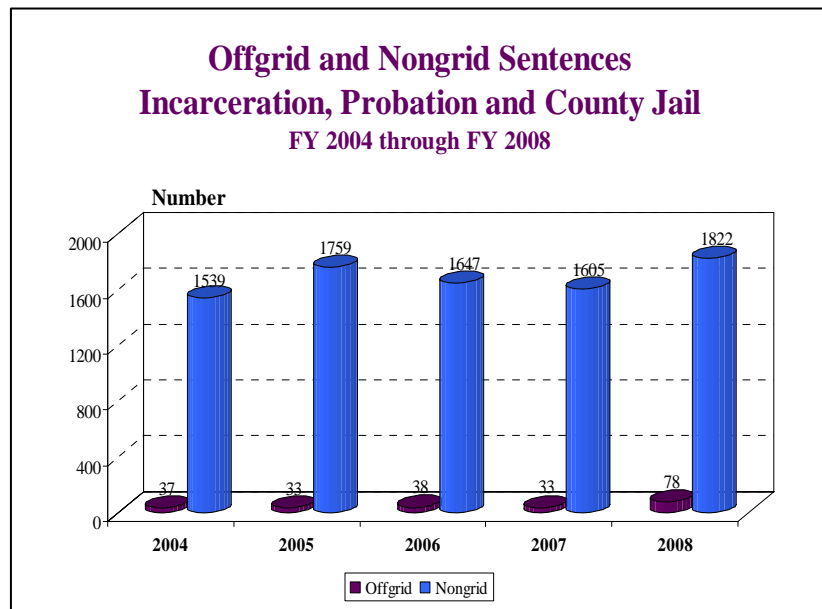
OFFGRID AND NONGRID CRIMES

Offgrid crimes are crimes that carry “life” sentences, meaning the length of imprisonment is life. The crimes of capital murder (K.S.A. 21-3439), murder in the first degree (K.S.A. 21-3401), treason (K.S.A. 21-3801) and certain sex offenses under Jessica’s Law are designated as offgrid crimes. Persons convicted of offgrid crimes will be eligible for parole after serving 25 years in confinement for premeditated first-degree murder, or 40 or 50 years in certain premeditated first-degree murder cases, in which aggravating circumstances are found by the sentencing court. Offenders convicted of intentional second-degree murder for crimes committed prior to July 1, 1999, will be eligible for parole after serving 10 years of confinement. The Kansas law also provides for the imposition of a death penalty, under specified circumstances, for a conviction of capital murder. Felony murder and treason carry a term of life

imprisonment with a 20-year parole eligibility date.

Nongrid crimes are not assigned severity levels on either sentencing guideline grid under the Kansas Sentencing Guidelines Act (K.S.A. 21-4701, *et seq.*). The crimes of felony “driving under the influence of alcohol or drugs” (K.S.A. 8-1567), felony “domestic battery” (K.S.A. 21-3412a) and felony “cruelty to animals” (K.S.A. 2006 Supp. 21-4310 and 21-4318) are categorized as nongrid crimes. The applicable sentence of each of the nongrid crimes is specified within the individual criminal statute defining the crime. For example, the “sentence” for the crime of felony domestic battery specifies that the offender “shall be sentenced to no less than 90 days nor more than one year’s imprisonment.” Further, a felony domestic battery offender must serve at least 48 consecutive hours imprisonment before being eligible for any type of release program.

With the implementation of Jessica’s Law, the number of offgrid crimes was more than doubled in FY 2008, with an increase of 45 offenders (136%) and 41 offenders (111%), respectively, compared with those of FY 2007 and FY 2004. Nongrid sentences in FY 2008, including incarceration, probation and county jail sentences, increased by 217 (13.5%) and 283 (18.4%), respectively, compared with FY 2007 and FY 2004.

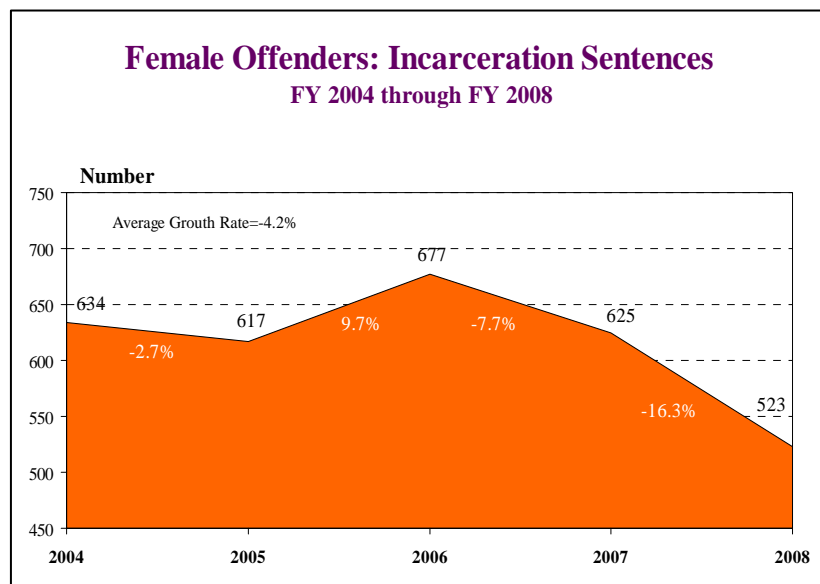


FEMALE OFFENDERS

The admission trend of female offenders was declining in the past five years. In FY 2008, the number of female admissions decreased by 16.3% and 17.5% respectively compared with those of FY 2007 and FY 2004. This declining tendency is consistent with the pattern of total prison admissions (Page 76), which is primarily due to the implementation of Senate Bill 123. The average decrease rate in the past five years is 4.2%. On the contrary, the number of female

offenders on probation kept increasing in FY 2005, FY 2006 and FY 2008. The average growth rate is 5.1% in the past five years. This increasing pattern is similar with that of the total probation population in the past five years (Page 79), which mirrors the implementation of Senate Bill 123, as well, wherein pure drug possession offenders shall be sentenced to drug treatment programs instead of prison. Females were sentenced to prison or probation most frequently for the crimes of drugs, forgery and theft in the past five years.

The number of females incarcerated in prison decreased by 2.7% in FY 2005, 7.7% in FY 2007 and 16.3% in FY 2008 compared with those of the previous years. However, the population increased by 9.7% in FY 2006, which is the peak of female admissions to prison in the past five years.



The population of females sentenced to probation kept growing by 17.5%, 4.4% and 3.8, respectively, in FY 2005, FY 2006 and FY 2008 over those of the previous years. However it decreased by 5.4% in FY 2007 when compared with that of FY 2006.

