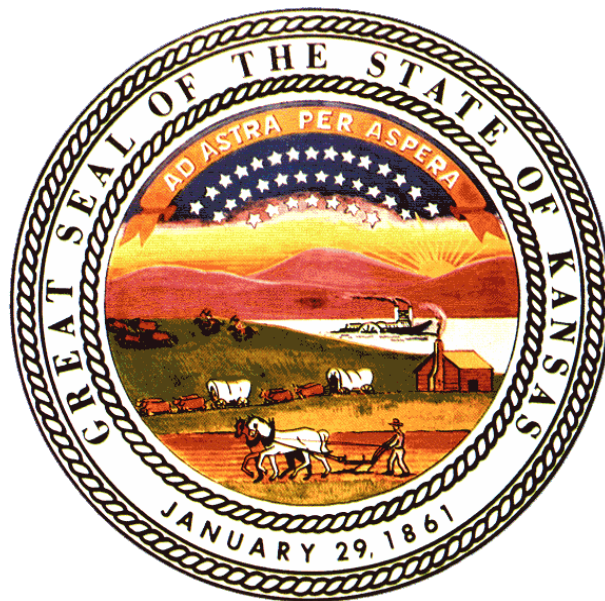


KANSAS SENTENCING COMMISSION

FY 2009 ANNUAL REPORT



March 2010

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KANSAS SENTENCING COMMISSION

**ANNUAL REPORT
FY 2009**

Analysis Of Sentencing Guidelines In Kansas

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Vice Chair**

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EXECUTIVE SUMMARY

During FY 2009, the Kansas Sentencing Commission continued its effort to accomplish the statutory obligations assigned to the Commission and performed the following major activities: presenting recommendations to the state legislature relating to modification and improvement of current sentencing guidelines through the functions of the Proportionality Subcommittee, Post-incarceration and Probation Subcommittee, Re-codification Commission, DUI Commission and the Sentencing Commission; providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to sentencing guidelines; producing annual prison population projections and custody classification forecasts for Kansas Adult Correctional Facilities; processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences; processing statewide transactions of 2003 Senate Bill 123 drug treatment programs and monitoring the implementation of the programs including the evaluation of recidivism after implementation of 2003 Senate Bill 123; updating Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2009 Legislative Session; producing annual statistic reports of sentencing practice and policies under Kansas Sentencing Guidelines; conducting training sessions on sentencing guidelines and various sentencing issues; and serving as an information resource to respond to national,

state and county requests regarding sentencing data.

A summary of the key sentencing issues discussed in the Annual Report is presented in this section. During FY 2009, the Commission received a total number of 13,401 felony sentences, indicating a decrease of 2.3% from that of FY 2008. Of the total number of sentences, 4,561 (34%) were prison sentences, 7,991 (59.6%) were probation sentences and 849 (6.3%) were county jail sentences. Nondrug sentences represented 72.3% or 9,684 sentences and drug sentences accounted for 27.7% or 3,717 sentences (page 2).

INCARCERATION SENTENCES

In FY 2009, a total number of 4,561 offenders were admitted to the Kansas Department of Corrections (KDOC). Male offenders represented 88.2% of the total admissions, a percentage decrease of 0.7% from that of FY 2008 (88.9%). Nearly 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 22 & 23). The analysis of drug crimes indicates that male offenders were convicted of more than 80% of drug sales and 89% 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 25).

White offenders made up 67.1% of the admissions to state prisons in FY 2009, indicating an increase by 1.1% over that of FY 2008 (66%). The offenders with non-Hispanic origin represented 89.4%, very close to that of FY 2008 (89.9%). The highest incarceration rates for white offenders (over 70%) were found in the offense categories of most sex offenses, burglary, DUI, fleeing or eluding LEO, criminal threat, forgery, identity theft and nonsupport of a child or spouse. Nevertheless, blacks were incarcerated more often (over 50%) for the crimes of aggravated robbery, robbery, kidnapping, possession of firearms, voluntary manslaughter and drug without tax stamps (pages 22 & 23).

The examination of offenders by age indicates that the largest population of incarcerated offenders (25.8%) was found in the age group ranging from 25 to 30 years old and the second largest number of offenders (25.3%) was identified in the group from 31 to 40 years old at the time of admission to prison in FY 2009. This age distribution is different from those of previous years when the largest number of offenders were found in their thirties. As for the educational background of the offenders admitted in FY 2009, more than 49% of the offenders had attained either a high school diploma or GED equivalent, which remains constant compared with FY 2008.

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 37.8%, 32.1% and 25.3%, respectively, of the total

prison admissions in FY 2009. Most of the drug offenders admitted to KDOC in FY 2009 fell at drug severity level 3 (28.9%) and drug severity level 4 (54.2%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 7 and 9 with admissions of 665 and 622, respectively, in FY 2009 (Pages 26 & 27).

During FY 2009, 56 sex offenders were sentenced and admitted to prison under Jessica's Law. Forty-five of them (98.2%) were new court commitments and only one offender (1.8%) was a parole violator with new sentence. While most jurisdictions identify the severity of these crimes as offgrid (82.1%), a few sentence them at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that approximately 59% of the sentences were downward departure to guidelines, with an average sentence length of 130.7 months, an increase of 35.2 months over that observed in FY 2008 (95.5 months). In addition, 2 offenders convicted under Jessica's Law were sentenced to probation during FY 2009, whose offense dates were before July 1, 2008. Their underlying prison terms were 72 months and 155 months respectively. The major departure reasons are that the defendant had no prior criminal history and accepted responsibility; the offender was physically or mentally impaired (Page 30).

PROBATION SENTENCES

A total number of 7,991 probation sentences were reported to the Commission in FY 2009. The analysis of the probation sentences reveals that DUI (15.9%), theft (14.7%), burglary (12.8%) and forgery (9.1%) continued to be the top four offenses committed by nondrug probation offenders representing 52.5% of the total nondrug

crimes (page 34), an increase of 0.4% when compared with the percentage of those crimes in FY 2008 (52.1%). The probation sentences for the crime of drug possession accounted for 71.9% of all drug probation sentences, a decrease of 3.7% from that (75.6%) of FY 2008 (pages 35 & 37).

Reviewing the criminal history categories of the offenders sentenced to probation in FY 2009, the Commission notices that offenders with criminal history category I accounted for 29.6% of offenders on the nondrug grid and 29.9% of offenders on the drug grid. More than 84% of nondrug offenders were within the presumptive probation boxes (Table 13), while 64.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 14). Meanwhile, only 4.6% of probation nondrug sentences were found to be within the designated border boxes compared to 19.5% 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 42).

COUNTY JAIL SENTENCES

During FY 2009, a total number of 849 felony jail sentences were reported to the Commission, a decrease of 20 sentences or 2.3% when compared with the data of FY 2008 (869 sentences). Of this number, male offenders accounted for 90.2% and female offenders accounted for 9.8%. White offenders represented 89.7%, black offenders represented 8.9% and other races represented 1.4% of the county jail sentences imposed in FY 2009. Their average age at sentencing is 43 years old (Page 43).

The analysis of the crimes demonstrates that 97.8% of the jail sentences were convictions of felony DUI (830 sentences), 1.4% were convictions of domestic battery (12 sentences), 0.4% were convictions of cruelty to animals (3 sentences) and 0.4% were convictions of other crimes (4 sentences). The average jail term was 8.1 months, very close to that of FY 2008 (8.4 months). Sedgwick County imposed the most jail sentences (243) representing 28.6%, followed by Johnson County with 194 jail sentences representing 22.9% of the total county jail sentences imposed in FY 2009 (page 45).

DRUG SENTENCES

In FY 2009, the number of drug incarceration sentences (1,202) decreased by 8% compared with that of FY 2008 (1,307) and significantly decreased by 25.6% compared with that of FY 2005 (1,616). When individual drug severity levels were compared, all drug severity levels in FY 2009 demonstrated a decrease from those of FY 2008 and FY 2005. The most significant decrease was identified at drug severity level 1, a decrease of 41.2%, followed by drug severity level 3, a decrease of 32.8% in the past five years (page 81).

The examination of the drug incarceration sentences demonstrates that 55.3% of the incarceration drug sentences were convictions of drug possession, decreasing by 2.3% compared with that of FY 2008 (57.6%). More than 94% of the drug possession sentences were found at drug severity level 4, representing an increase of 1% over that (93%) of FY 2008 (page 24).

The trend analysis of drug offenders on probation indicates that the total number of drug probation sentences in FY 2009

decreased by 8.6% compared with that of FY 2008 and by 9.5% compared with that of FY 2005. The number of drug probation sentences at all levels decreased except for drug level 2, which increased by 70% compared with that of FY 2005 (page 83). Probation sentences at drug severity level 4 accounted for 75.7% of the probation drug sentences imposed in FY 2009, a decrease of 2.5% from that (78.2%) of FY 2008 (page 38).

Further evaluation of probation drug offenders displays that a total number of 1,169 sentences were imposed to Senate Bill 123 (SB 123) drug treatment programs during FY 2009, representing 46.5% of the total drug probation sentences (2,514), a decrease of 1.5% compared with that of FY 2008 (48%). Of these offenders, more than 76% were convicted of the crime of drug possession under K.S.A. 65-4160 and 23.6% were convicted of the crime of drug possession under K.S.A. 65-4162. The offenders at drug severity level 4 accounted for 99.8%. White male offenders were still the majority of the treatment sentences. The average age of the drug treatment offenders was 33 years old, which remains very close to those of FY 2008 and FY 2007. Sedgwick County imposed the most SB 123 drug treatment sentences (219) followed by Wyandotte (130), Johnson (88), Geary (59) and Saline (57) counties (pages 39 and 40). In addition, 439 SB 123 drug treatment sentences were revoked during FY 2009. Of this number, 181 sentences were revoked to prison, representing 15.5% of SB 123 sentences imposed (1,169 sentences) in FY 2009. The average period between original sentence and the first revocation hearing was 14.7 months, very close to that of FY 2008 (14.8 months). The average lag time for the second revocation was 4.8 months.

VIOLATORS

In FY 2009, a total number of 2,616 condition violators were admitted to prison, accounting for 57.4% of the total prison admission events of the fiscal year. Of this number, 1,462 were probation violators, 1,152 were parole/postrelease supervision violators and 2 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 decreased by 3.9% compared with that (61.3%) of FY 2008 (page 46).

The admission trend by type of violators in the past five years indicates that the number of parole/postrelease and conditional release violators admitted to prison in FY 2009 decreased by 9% compared with that of FY 2008 and decreased significantly by 46% compared with that of FY 2005. The number of probation condition violators admitted to prison in FY 2009 decreased, as well, which decreased by 10% and 18%, respectively, from those of FY 2008 and FY 2005. FY 2009 represents the lowest number of prison admissions of probation condition violators in the past five years (page 80), which might be the continuous impact of House Substitute for Senate Bill 14 enacted in 2007.

The analysis of the violators by gender demonstrates that 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 9 of the nondrug grid and severity level 4 of the drug grid (page 49).

In addition, 2,477 probation condition violators and 267 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2009. This represents 56.9% of the total number of 4,303 condition probation violators and 41.7% of the total number of 641 probation violators with new offenses revoked during FY 2009 (page 57). Compared with the percentages of FY 2008, probation condition violators sentenced to continued or extended probation for a violation increased by 2.2%, while probation violators with new convictions who had their probation sentence either continued or extended increased by 6.5%.

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.

A total number of 7,033 pure guideline sentences of FY 2009 were utilized to determine the conformity rates to the sentencing guidelines in this Annual Report. Of this number, 1,372 were incarceration guideline sentences and 5,661 were

probation sentences. More than 83% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 9.9% of sentences and durational departures were found in 6.9% of sentences (page 60).

The evaluation of incarceration sentences within guidelines discloses that 41.1% of the sentences imposed fell within the standard range of the grid cell; 10.9% of all sentences were within the aggravated range; 21.5% were within the mitigated range and 26.5% were located within designated border boxes (page 61). This distribution of presumptive prison sentences does not fluctuate significantly compared with that of FY 2008.

The analysis of the durational departures of the incarceration guideline sentences reveals that 69.5% of the durational departures were downward durational departures, while 30.5% indicated upward durational departures (page 61). The percentage of downward durational departures decreased by 0.8% compared with that of FY 2008. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 78.1% of drug durational departure sentences were downward compared to 65.8% for nondrug downward durational departure sentences (page 63). 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 and 6 of the nondrug grid (page 65). This pattern of durational departures has remained 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 15.1% upward dispositional departure rate while drug sentences only represented a 3.3% upward dispositional departure rate (page 65).

The study of probation guideline sentences demonstrates that as expected, the majority (90.6%) of probation guideline sentences fell beneath the incarceration line, among which 87.6% were within presumptive probation grids and 12.4% were within border boxes. Downward dispositional departure was identified in 9.4% of the probation guideline sentences imposed in FY 2009 (page 62). 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. 7.7%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (21.5% vs. 5.4%), (page 64).

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 2009 Legislative Session, 28 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.

A number of 440 pure guideline prison sentences and 696 pure guideline probation sentences in FY 2009 were imposed with special sentencing rules, which accounted for 29.5% of prison pure guideline admissions (1,491 admissions) and 12% of pure guideline probation sentences (5,782) imposed in FY 2009. The percentage of offenders admitted to prison with special sentence rules increased from 27.6% in FY 2005 to 29.5% in FY 2009. The percentage of probation sentences imposed with special sentencing rules accounted for 9.7% in FY 2005 and increased to 12% in FY 2009. The total percentage of both prison and probation sentences applied with special rules increased from 13% in FY 2005 to 15.6% in FY 2009 (page 76).

PRISON POPULATION FORECAST

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2009, 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 projection predicts that by the end of FY 2019, a total of 9,969 prison beds will be needed. This represents a total increase of 15.9% or 1,367 beds over the actual prison population as of June 30th, 2009. 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 86 and 87).

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 784 offenders or 88%. 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 228 offenders or 24.5% over the ten-year forecast period. This is due to the "stacking effect" of long sentence lengths of most serious offenses. Prison population will increase by 20.8% or 60 offenders at nondrug severity level 4 and increase by 15.6% or 175 offenders at nondrug severity level 5 in the next ten years. As for population at other nondrug severity levels, no big changes are projected in the ten-year forecast period.

The projected prison population of drug offenders at all severity levels does not fluctuate much in the ten-year forecast. The number of offenders will increase by 27 at drug severity level 1, by 38 at drug severity level 2, by 7 at drug severity level 3 and by 2 at drug severity level 4 in the ten-year forecast period (Pages 86 & 87).

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 2010, KDOC will need 2,657 minimum beds, 2,497 medium low beds, 1,422 medium high beds, 1,149 regular maximum beds, 240 unclassified beds and 724 beds for special management. By the end of FY 2019, the custodial beds in demand will include 2,969 minimum, 2,680 medium low, 1,828 medium high, 1,369 regular maximum, 270 unclassified and 853 special management beds (page 88). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The FY 2009 Annual Report is presented in four chapters. A descriptive statistical summary of statewide guideline sentencing practices in FY 2009 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, Uniform Crime Reporting (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 2009

The analyses of sentences reported in Fiscal Year (FY) 2009 include prison sentences, non-prison or probation sentences and county jail sentences. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. 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 Kansas Sentencing Commission received a total number of 13,401 felony sentences during FY 2009, which decreased by 309 sentences or 2.3% from that of FY 2008. Of that total number of sentences, 4,561 were prison sentences, 7,991 were probation sentences and 849 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,684 nondrug sentences and 3,717 drug sentences. Non-person offenses accounted for 69.5% and person offenses accounted for 30.5% (Figure 1), which does not fluctuate much from those of FY 2008.

The overall sentencing distribution of FY 2009 at each severity level by sentence type and offense type are presented in Figure 2. Drug incarceration sentences at drug severity level 4 represented 54.2% (652 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 7 (665 sentences or 19.8%) followed by severity level 9 (622 sentences

or 18.5%) and severity level 5 (532 sentences or 15.8%). The examination of probation sentences in FY 2009 demonstrates that 1,903 probation sentences fell at drug severity level 4, representing 75.7% of the total drug probation sentences. Of these 1,903 probation sentences, 61.3% or 1,167 sentences were imposed to SB 123 drug treatment programs, which is pretty close to the percentage (61.2%) of FY 2008. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (30.2% or 1,654 sentences), nondrug severity level 7 (19.1% or 1,047 sentences) and nondrug severity level 8 (16.9% or 927 sentences). The analysis of county jail sentences discloses that 99.5% of the offenders were convicted of nongrid crimes with 0.5% convicted of other crimes at other severity levels.

During FY 2009, the Commission received felony sentences from 102 counties in the state. No sentences were reported from Cheyenne, Gove and Sheridan counties. Most of the counties reported 1 to 100 sentences. Ten counties reported 101 to 200 sentences. They are Atchison (110), Barton (147), Cowley (180), Crawford (150), Dickinson (101), Ellis (132), Harvey (174), Labette (107), Leavenworth (198) and Seward (194) counties. Ten counties reported 201 to 700 sentences. They are Butler (221), Douglas (255), Finney (269), Ford (253), Geary (316), Lyon (216), Montgomery (273), Reno (475), Riley (266), and Saline (562) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties,

accounting for 50% of all sentences imposed in FY 2009, no significant percentage change compared with that of FY 2008 (Figure 3).

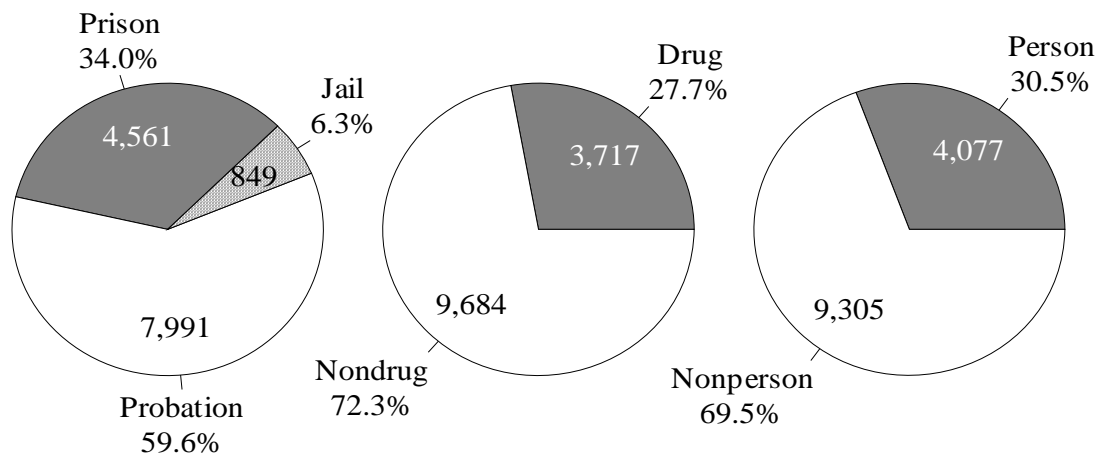
In FY 2009, the top five offenses committed, including prison, probation and county jail sentences, are crimes of drugs (27.7% or 3,717 sentences), DUI (13.6% or 1,819 sentences), burglary (9% or 1,207 sentences, including aggravated burglary), theft (8.3% or 1,108 sentences) and aggravated battery (5.7% or 766 sentences). These top five offenses accounted for 64.3% of the total 13,401 sentences in FY 2009 (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).

Most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (318 sentences) followed by Wyandotte County (188 sentences), Shawnee County (112 sentences) and Johnson County (96 sentences). The distribution of the violent crimes committed in the top four counties in FY 2009 is presented in Figure 5. Offenders' characteristics by individual counties are demonstrated in Table 1. The average age of offenders at sentencing is 32.9 years old, which is 0.2 year older than that of FY 2008.

Figure 1: Sentences Reported in FY 2009



Based on 13,401 felony sentences reported in FY 2009 including 849 jail sentences.

Figure 2: FY 2009 Sentencing Distribution

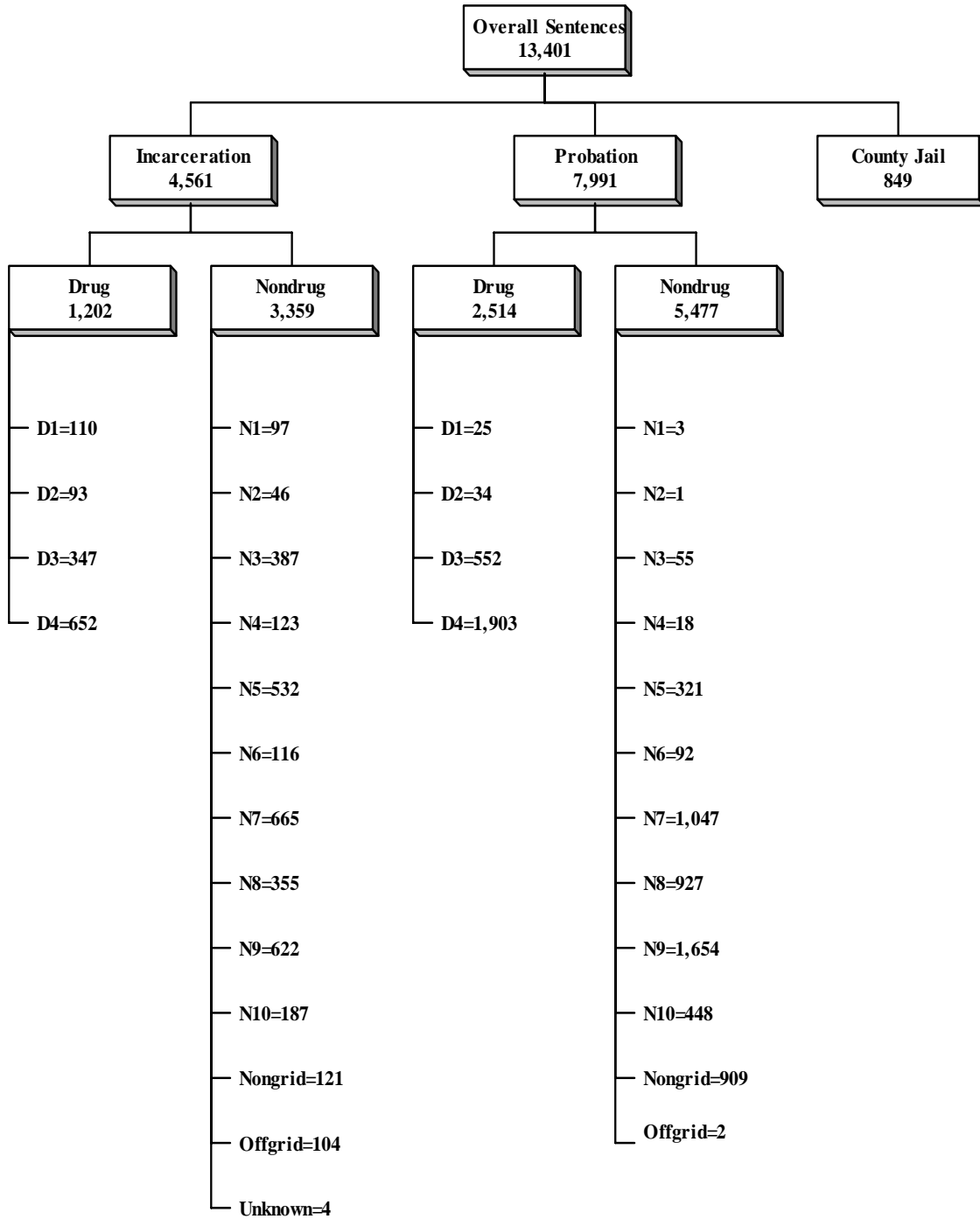


Figure 3: Sentences Reported in FY 2009 by County

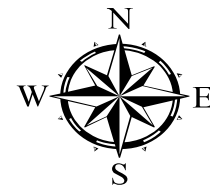
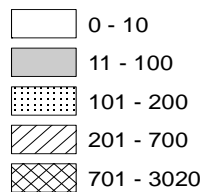
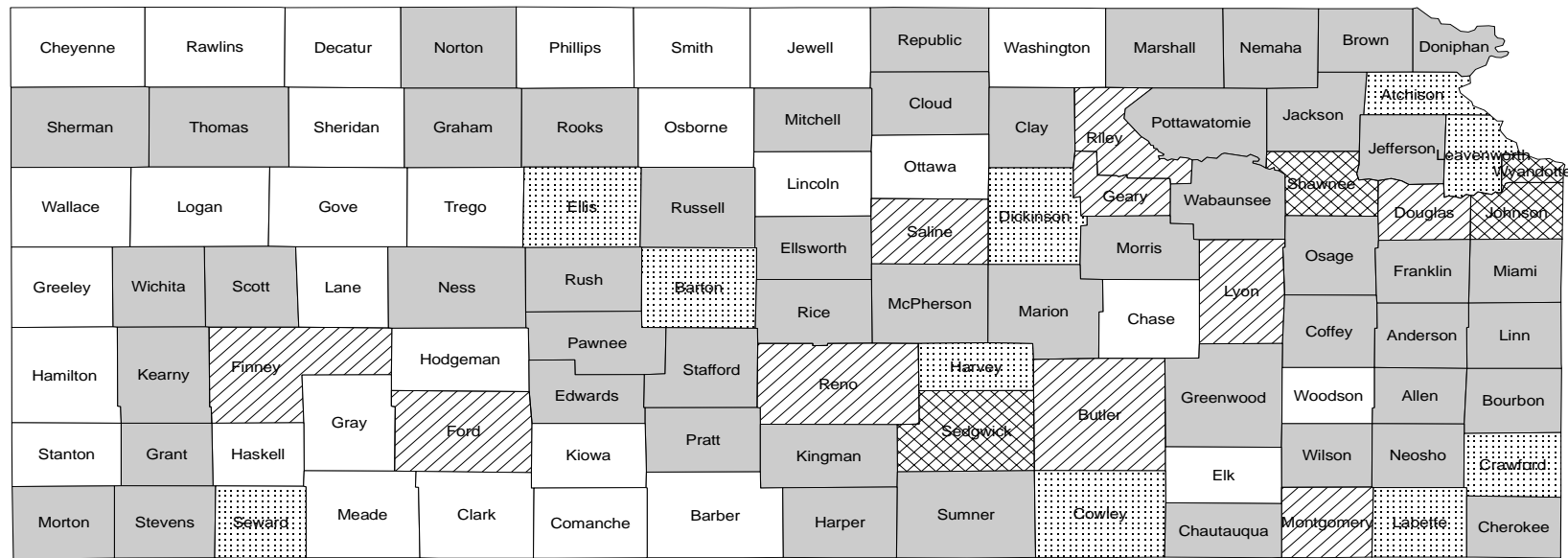
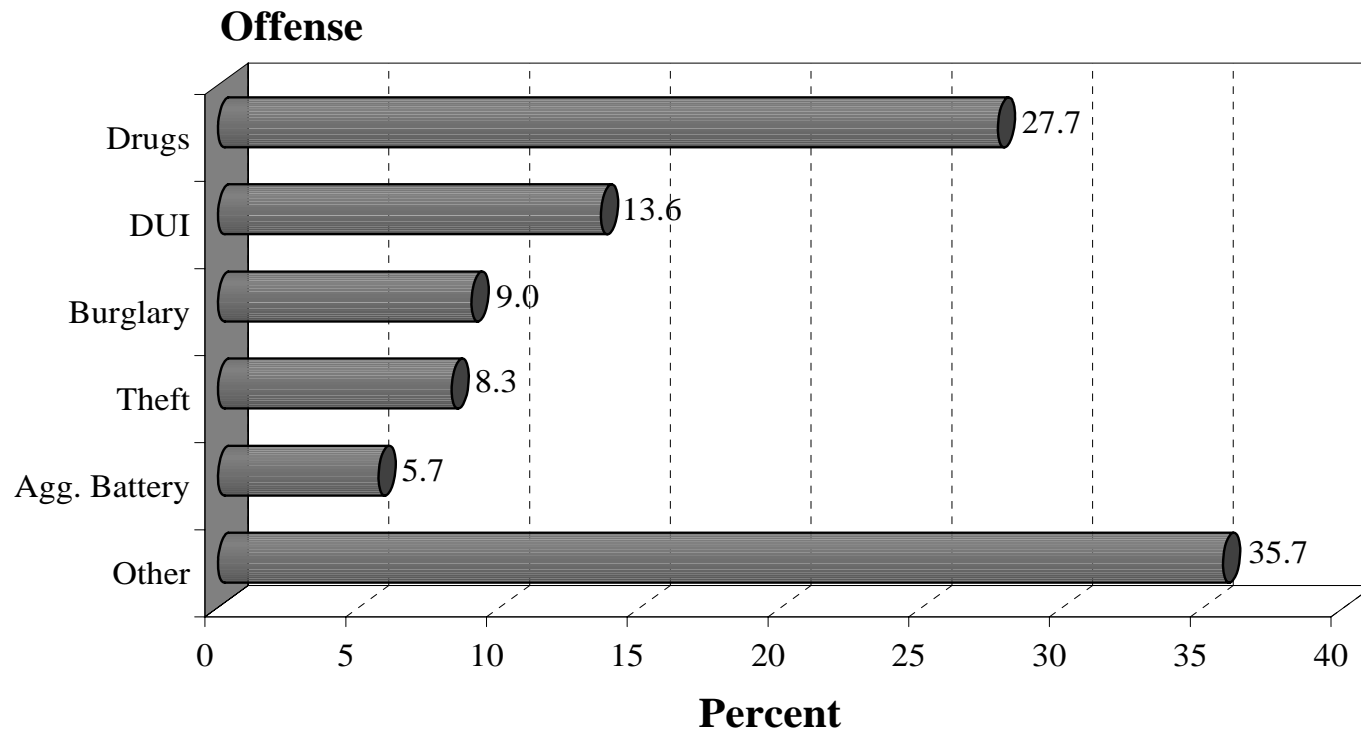
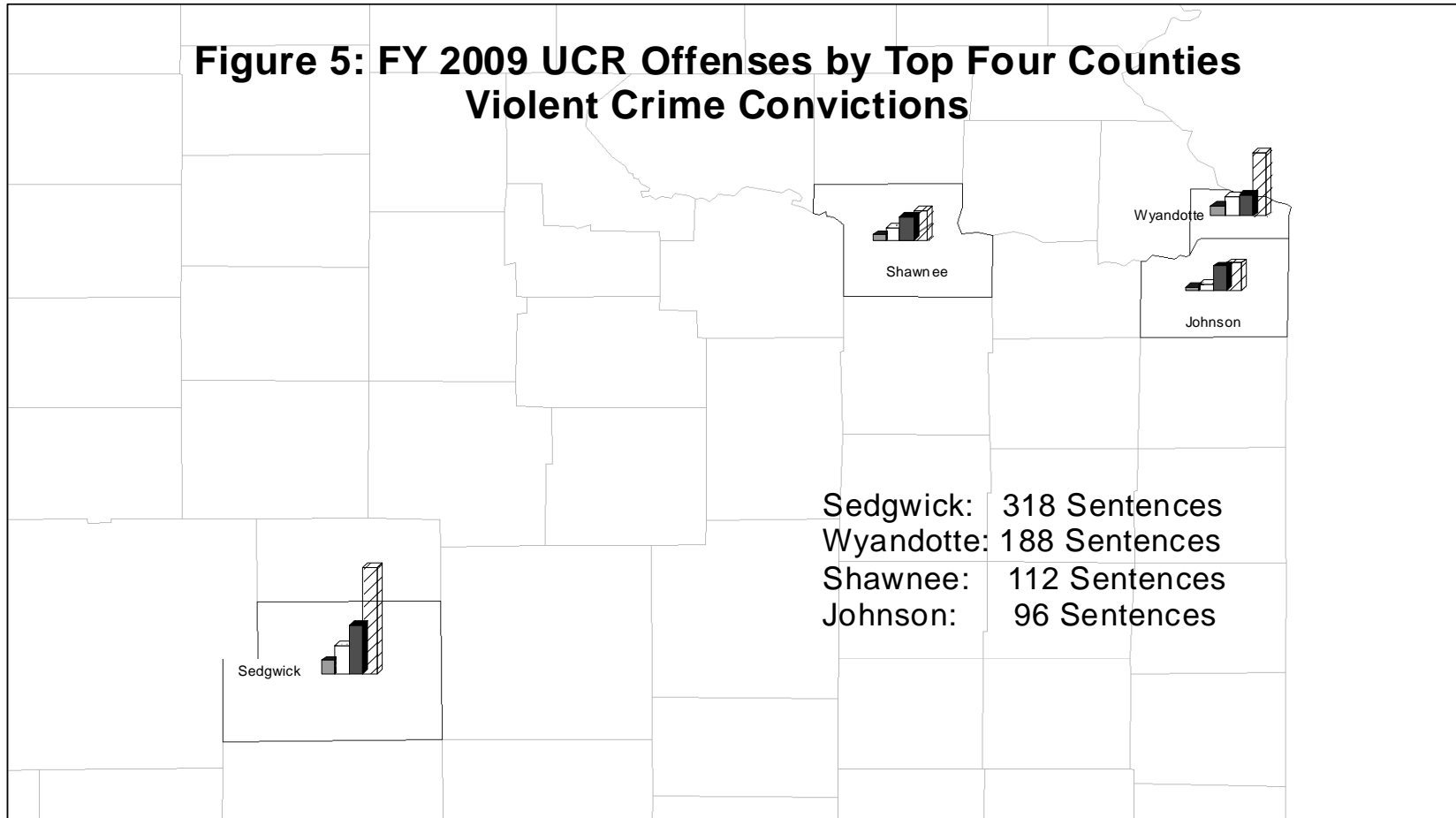


Figure 4: FY 2009 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 13,401 prison, probation and county jail sentences

**Figure 5: FY 2009 UCR Offenses by Top Four Counties
Violent Crime Convictions**



Sedgwick: 318 Sentences
 Wyandotte: 188 Sentences
 Shawnee: 112 Sentences
 Johnson: 96 Sentences

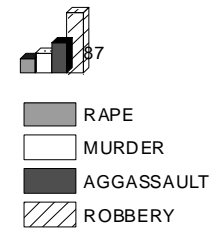
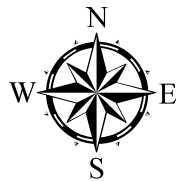


Table 1: FY 2009 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	90	68	22	79	7	1	24	59	7	62	28	32.4
Anderson	40	33	7	36	2	2	14	23	3	30	10	34.5
Atchison	110	83	27	86	19	5	37	62	11	87	23	31.9
Barber	6	6	0	6	0	0	3	3	0	6	0	39.1
Barton	147	117	30	140	5	2	35	103	9	90	57	33.8
Bourbon	78	58	18	59	13	3	22	48	8	53	25	34.6
Brown	67	55	12	50	3	14	9	49	9	41	26	32.3
Butler	221	184	37	201	18	1	71	138	12	156	65	32.2
Chase	9	8	1	9	0	0	3	4	2	7	2	41.5
Chautauqua	14	13	1	14	0	0	3	11	0	12	2	30.0
Cherokee	23	16	7	23	0	0	5	18	0	13	10	32.4
Clark	2	1	1	2	0	0	0	2	0	0	2	33.1
Clay	34	32	2	33	1	0	5	26	3	21	13	31.5
Cloud	12	10	2	12	0	0	6	6	0	9	3	31.8
Coffey	35	32	3	33	2	0	10	22	3	14	21	37.3
Comanche	6	4	2	6	0	0	2	4	0	1	5	34.4
Cowley	180	147	32	157	18	4	60	106	14	119	61	32.1
Crawford	150	122	28	127	22	1	42	102	6	117	33	32.3
Decatur	4	4	0	4	0	0	0	4	0	2	2	22.8
Dickinson	101	85	16	98	2	0	27	72	2	69	32	32.2
Doniphan	12	11	1	11	1	0	11	1	0	10	2	30.6
Douglas	255	225	30	155	82	18	103	145	7	208	47	30.6
Edwards	15	13	2	15	0	0	5	10	0	10	5	35.0
Elk	7	6	1	6	1	0	1	5	1	6	1	33.0
Ellis	132	115	17	113	18	1	36	93	3	102	30	31.5
Ellsworth	20	19	1	18	1	0	10	10	0	17	3	29.1
Finney	269	222	47	241	26	1	84	169	16	195	74	31.4
Ford	253	204	49	244	8	1	85	156	12	146	107	31.2

Table 1: FY 2009 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	
Franklin	98	84	14	85	12	1	35	55	8	68	30	31.5
Geary	316	236	79	152	138	11	93	219	4	165	151	30.2
Graham	11	10	1	10	0	1	3	7	1	11	0	32.1
Grant	20	15	5	19	1	0	6	9	5	15	5	37.4
Gray	10	8	2	10	0	0	4	6	0	3	7	32.5
Greeley	2	2	0	2	0	0	1	1	0	2	0	33.1
Greenwood	41	34	7	39	1	1	14	22	5	30	11	37.5
Hamilton	6	5	1	6	0	0	4	2	0	5	1	35.3
Harper	39	31	8	35	2	2	13	26	0	33	6	31.6
Harvey	174	133	41	160	14	0	74	98	2	90	84	33.0
Haskell	3	3	0	2	0	1	3	0	0	2	1	26.9
Hodgeman	2	1	1	2	0	0	0	2	0	2	0	46.9
Jackson	99	85	14	79	7	13	25	73	1	76	23	34.9
Jefferson	30	26	4	30	0	0	6	24	0	24	6	28.9
Jewell	3	3	0	3	0	0	2	1	0	3	0	35.2
Johnson	1,697	1,342	355	1,320	355	20	596	907	194	1,369	328	34.0
Kearny	18	18	0	18	0	0	6	8	4	16	2	32.9
Kingman	27	23	4	25	2	0	7	19	1	20	7	32.6
Kiowa	4	4	0	4	0	0	4	0	0	1	3	28.4
Labette	107	79	28	74	27	3	30	74	3	67	40	34.6
Lane	6	5	1	6	0	0	1	5	0	6	0	30.9
Leavenworth	198	151	47	119	72	2	62	122	14	138	60	32.3
Lincoln	4	3	1	4	0	0	0	4	0	4	0	40.1
Linn	19	16	3	17	2	0	8	11	0	15	4	30.6
Logan	9	7	2	9	0	0	2	7	0	6	3	33.3
Lyon	216	176	40	179	32	4	76	123	17	143	73	30.6
Marion	14	10	4	13	1	0	5	9	0	9	5	35.5
Marshall	55	49	6	53	1	1	19	32	4	34	21	31.5

Table 1: FY 2009 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	
McPherson	94	84	10	84	10	0	36	50	8	70	24	30.6
Meade	5	4	1	4	1	0	1	4	0	3	2	34.1
Miami	80	65	15	70	7	0	32	37	11	56	24	32.7
Mitchell	21	17	4	21	0	0	2	19	0	15	6	29.6
Montgomery	273	219	54	201	64	7	101	159	13	170	103	32.7
Morris	28	24	4	27	0	0	8	18	2	16	12	33.3
Morton	18	12	6	17	1	0	6	12	0	14	4	29.4
Nemaha	20	17	3	19	0	1	7	13	0	15	5	31.0
Neosho	74	60	14	69	4	1	30	38	6	51	23	31.9
Ness	11	9	2	11	0	0	1	10	0	8	3	33.5
Norton	12	11	1	12	0	0	4	7	1	11	1	36.9
Osage	64	53	10	62	1	0	15	38	11	53	11	38.0
Osborne	10	8	2	9	0	1	3	6	1	7	3	30.0
Ottawa	2	2	0	2	0	0	2	0	0	2	0	33.3
Pawnee	45	35	10	42	3	0	19	26	0	36	9	34.6
Phillips	6	6	0	5	0	0	3	1	2	5	1	27.7
Pottawatomie	64	47	17	56	7	0	7	53	4	57	7	32.6
Pratt	84	66	17	79	3	0	29	52	3	57	27	33.1
Rawlins	6	6	0	6	0	0	3	3	0	6	0	31.3
Reno	475	349	126	401	67	7	172	282	21	298	177	32.8
Republic	12	10	2	12	0	0	3	8	1	10	2	32.6
Rice	57	45	12	55	0	2	14	40	3	35	22	33.6
Riley	266	210	55	181	80	4	75	180	11	180	86	30.1
Rooks	20	18	2	20	0	0	5	11	4	16	4	35.5
Rush	14	13	1	14	0	0	5	9	0	10	4	28.2
Russell	44	38	6	35	8	1	11	32	1	33	11	28.3
Saline	562	420	139	441	105	3	156	375	31	391	171	32.2
Scott	18	17	1	18	0	0	1	17	0	13	5	34.2

Table 1: FY 2009 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	
Sedgwick	3,020	2,487	532	1,905	1030	84	1,064	1,713	243	2,323	697	33.7
Seward	194	164	28	168	21	3	92	97	5	150	44	30.3
Shawnee	774	645	129	497	263	11	253	474	47	618	156	33.4
Sherman	24	22	2	22	0	0	5	17	2	23	1	35.2
Smith	1	1	0	1	0	0	0	1	0	1	0	19.5
Stafford	20	16	4	20	0	0	8	12	0	7	13	35.4
Stanton	6	3	3	6	0	0	1	5	0	3	3	25.5
Stevens	18	13	5	16	1	1	7	11	0	9	9	28.8
Sumner	80	76	4	72	3	2	29	46	5	60	20	34.5
Thomas	13	12	1	12	1	0	5	8	0	12	1	36.3
Trego	3	3	0	3	0	0	1	2	0	1	2	38.7
Wabaunsee	24	20	4	21	3	0	5	18	1	22	2	36.4
Wallace	2	2	0	2	0	0	1	1	0	1	1	33.8
Washington	10	7	3	10	0	0	3	5	2	8	2	39.6
Wichita	17	16	1	17	0	0	4	11	2	16	1	32.7
Wilson	61	55	6	59	2	0	19	39	3	25	36	32.7
Woodson	8	6	2	7	0	1	0	8	0	3	5	37.7
Wyandotte	1,206	1,006	198	604	586	13	486	706	14	790	416	33.2
Unknown	15	12	3	9	5	1	15	0	0	14	1	35.3
TOTAL	13,401	10,883	2,503	9,877	3,192	257	4,561	7,991	849	9,684	3,717	32.9

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,386; Race, N=13,326; Sentence Type, N=13,401; Offense Type, N=13,401; and Age, N=13,328.

* Prison sentences are based on KDOC admissions in FY 2009. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2009.

** Average age at time of sentencing.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

The characteristics of the offenders who were sentenced during FY 2009 are illustrated in this section. The crime categories committed by the offenders are descriptively analyzed, as well.

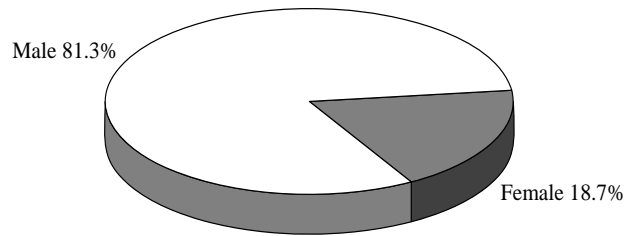
In FY 2009, male offenders accounted for 81.3% of the total sentences (Figure 6) and in excess of 85% of most aggravated crimes and violent crimes such as murder, rape, sex offenses, burglary, kidnapping, firearms, weapons, fleeing or eluding LEO and criminal threat (Table 2).

Female offenders represented 18.7% of the sentences in FY 2009, an increase of 1.1% compared with the percentage rate of FY 2008 (17.6%). The most frequently committed crimes by female offenders (over 40%) were forgery, giving worthless checks, criminal use of financial card, identity theft and aiding a felon.

White offenders made up 74.1% of the sentences in FY 2009 and 24% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2008 (Figure 7).

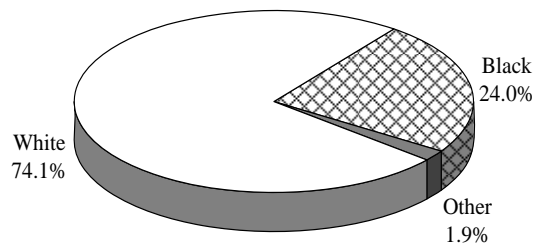
The distributions of offenders by gender, race and age are respectively exhibited in Figures 6, 7, 8, and 9. The demographic information of offenders by offense types is presented in Table 2.

Figure 6: Distribution of FY 2009 Sentences by Gender of Offenders



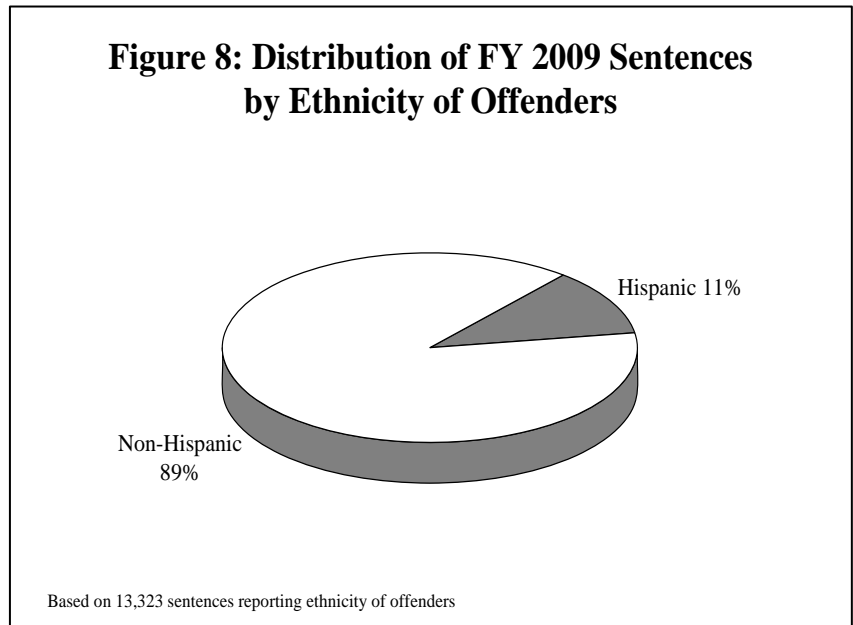
Based on 13,386 sentences reporting gender of offenders

Figure 7: Distribution of FY 2009 Sentences by Race of Offenders



Based on 13,326 sentences reporting race of offenders

The analysis of ethnicity of offenders discloses that 89% of the offenders sentenced in FY 2009 were of Non-Hispanic origin, indicating no significant percentage change compared with that of FY 2008 (Figure 8). This distribution of ethnicity of offenders has been comparatively constant in the past five years.



The largest group of offenders was found in the age group ranging from 31 to 40 at the time of committing the offense, which represented 22.5% of all offenders in FY 2009. This finding is consistent with those in the past five years (Figure 9).

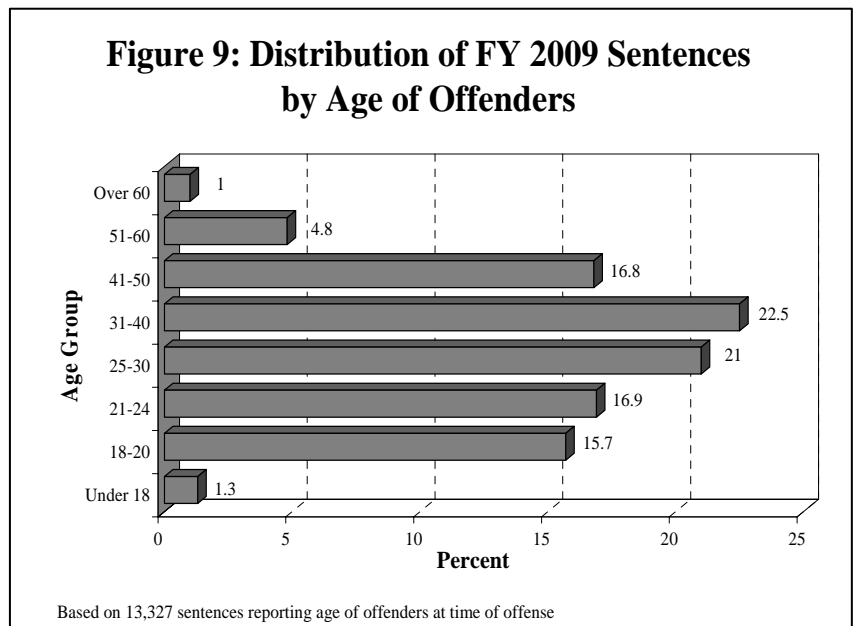


Table 2: FY 2009 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	27	66.7	33.3	77.8	18.5	3.7	30.8
Agg. Arson	18	88.9	11.1	66.7	33.3	0.0	28.2
Agg. Assault	294	91.8	8.2	69.6	27.0	3.4	30.5
Agg. Assault on LEO	36	91.7	8.3	75.0	25.0	0.0	30.6
Agg. Battery	750	88.5	11.5	65.7	30.7	3.6	29.9
Agg. Battery on LEO	16	93.8	6.2	87.5	6.3	6.2	30.8
Agg. Burglary	146	89.7	10.3	62.4	34.2	3.4	28.7
Agg. Criminal Sodomy w/Child	33	93.9	6.1	75.8	18.2	6.0	34.8
Agg. Endangering a Child	30	46.7	53.3	73.3	26.7	0.0	28.3
Agg. Escape from Custody	97	71.1	28.9	64.9	32.0	3.1	30.9
Agg. Failure to Appear	58	66.7	33.3	57.9	42.1	0.0	33.2
Agg. False Impersonation	11	63.6	36.4	63.6	27.3	9.1	31.0
Agg. Robbery	262	89.7	10.3	39.3	59.6	1.1	24.9
Agg. Indecent Liberties w/Child	179	97.2	2.8	83.7	13.5	2.8	30.0
Agg. Indecent Solicit w/Child	63	98.4	1.6	85.5	14.5	0.0	30.7
Agg. Intimidation of a Victim	27	88.9	11.1	55.6	37.0	7.4	27.8
Agg. Kidnapping	13	92.3	7.7	69.2	30.8	0.0	24.7
Agg. Sexual Battery	51	100.0	0.0	62.7	35.3	2.0	31.1
Agg. Weapon Violation	8	87.5	12.5	75.0	12.5	12.5	26.6
Aid Felon	40	59.0	41.0	71.8	20.5	7.7	24.8
Arrange Sale/Purchase Drug	12	66.7	33.3	83.3	8.3	8.4	33.7
Arson	58	82.8	17.2	81.1	17.2	1.7	30.5
Battery on LEO	61	80.3	19.7	59.0	36.1	4.9	29.1
Burglary	1,061	91.4	8.6	79.1	18.7	2.2	27.3
Capital Murder	8	100.0	0.0	62.5	37.5	0.0	30.8
Contribute Child's Misconduct	20	60.0	40.0	85.0	15.0	0.0	24.3
Computer Crime	16	56.3	43.7	68.8	31.2	0.0	30.9
Criminal Damage to Property	98	79.6	20.4	74.5	20.4	5.1	27.2
Criminal Discharge of Firearm	27	96.3	3.7	48.2	44.4	7.4	22.8
Criminal Sodomy w/Child	5	100.0	0.0	100.0	0.0	0.0	26.5
Criminal Threat	312	92.3	7.7	74.1	24.6	1.3	33.8
Criminal Use of Explosives	7	100.0	0.0	100.0	0.0	0.0	28.5
Criminal Use of Financial Card	18	38.9	61.1	72.2	27.8	0.0	26.9
Cruelty to Animals	8	87.5	12.5	100.0	0.0	0.0	28.1
Domestic Battery	48	100.0	0.0	72.3	27.7	0.0	35.0
Drugs	3,717	77.9	22.1	73.4	25.4	1.2	31.7
Drug without Tax Stamps	69	81.2	18.8	61.8	36.8	1.4	29.0

Table 2: FY 2009 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
DUI	1,819	87.5	12.5	89.7	8.3	2.0	40.4
Electronic Solicitation of Child	37	100.0	0.0	91.9	0.0	8.1	32.3
Failure to Register	143	95.8	4.2	74.1	24.5	1.4	31.9
Fleeing or Eluding LEO	329	92.1	7.9	70.7	27.7	1.6	29.8
Forgery	690	51.8	48.2	76.3	21.7	2.0	31.5
False Writing	117	60.3	39.7	68.1	30.2	1.7	34.0
Giving Worthless Checks	48	52.1	47.9	81.3	16.7	2.0	35.8
Identity Theft	192	56.3	43.7	81.3	17.2	1.5	32.8
Indecent Liberties w/Child	66	93.9	6.1	80.3	12.1	7.6	28.0
Indecent Solicitation of Child	23	95.5	4.5	90.9	9.1	0.0	27.6
Insurance Crimes	5	80.0	20.0	100.0	0.0	0.0	37.1
Involuntary Manslaughter	42	90.5	9.5	85.7	14.3	0.0	31.4
Kidnapping	47	93.6	6.4	53.2	46.8	0.0	26.0
Lewd and Lascivious Behavior	12	100.0	0.0	91.7	0.0	8.3	32.6
Medicaid Fraud	8	75.0	25.0	75.0	25.0	0.0	41.4
Murder in the First Degree	57	93.0	7.0	50.9	47.4	1.7	26.7
Murder in the Second Degree	54	87.0	13.0	51.9	42.6	5.5	26.9
Nonsupport of Child or Spouse	52	94.2	5.8	90.4	7.7	1.9	36.9
Obstructing Legal Process	148	79.7	20.3	72.3	27.0	0.7	29.7
Obtain Prescription Drug by Fraud	11	0.0	100.0	100.0	0.0	0.0	35.9
Possession of Firearm	118	96.6	3.4	53.8	43.6	2.6	29.0
Rape	103	100.0	0.0	74.8	23.3	1.9	31.0
Robbery	248	89.1	10.9	39.5	58.5	2.0	25.9
Sex Exploitation of a Child	36	100.0	0.0	100.0	0.0	0.0	36.5
Stalking	7	85.7	14.3	71.4	28.6	0.0	32.8
Street Gangs	5	100.0	0.0	100.0	0.0	0.0	17.1
Theft	1,108	70.2	29.8	72.6	26.5	0.9	33.2
Traffic in Contraband	54	61.1	38.9	77.8	16.7	5.5	28.3
Unlawful Sex Relations	6	100.0	0.0	83.3	16.7	0.0	28.3
Unlawful Voluntary Sex Relations	33	100.0	0.0	84.9	12.1	3.0	18.8
Voluntary Manslaughter	25	88.0	12.0	36.0	52.0	12.0	30.5
Weapons	8	100.0	0.0	87.5	12.5	0.0	21.7
Other	46	65.2	34.8	84.8	13.0	2.2	35.0
TOTAL	13,401	81.3	18.7	74.1	24.0	1.9	32.0

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=13,386; Race, N=13,326; and Age, N=13,327.

* Average age at time of offense.

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 were established. In the 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 2009, sentences convicted under this crime increased to 1,819 with 121 (6.7%) sentenced to prison, 868 (47.7%) sentenced to probation and 830 (45.6%) sentenced to county jails. The total number of sentences convicted under the crime of DUI increased by 2.6% and by 4.6%, respectively, compared with those of FY 2008 and FY 2005. When compared with that of FY 2001, the number significantly increased by 196.3%.

Figure 11 displays the distribution of felony DUI convictions in FY 2009 by county. Johnson and Sedgwick counties were the top two counties imposing 349 (19.2%) and 457 (25.1%) sentences convicted under K.S.A. 8-1567 (f) in FY 2009.

Probation condition violators, parole condition violators and parole violators with new sentences are the majority of the prison sentences, accounting for 97.5% in FY 2005, 100% in FY 2006, 98.1% in FY 2007, 97.2 in FY 2008 and 98.3% in FY 2009 (Figure 10).

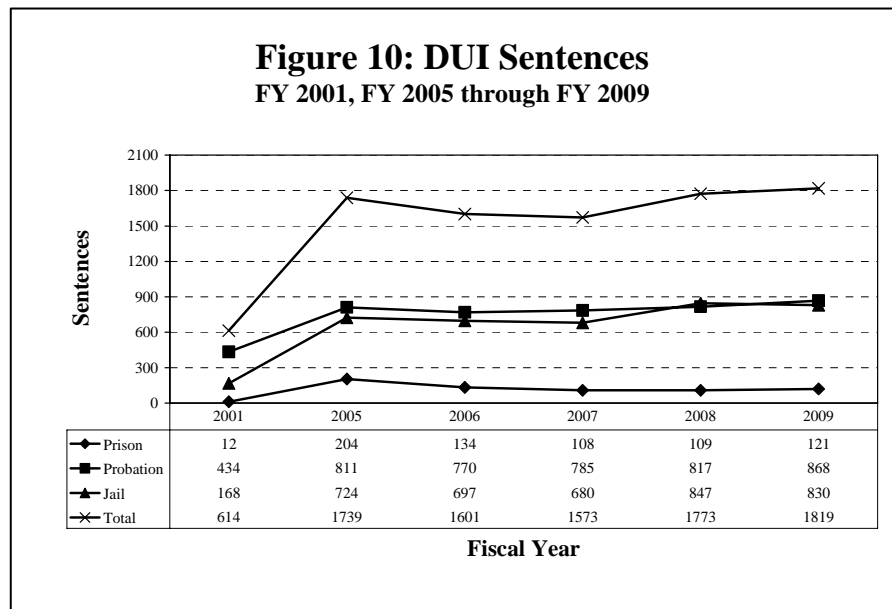
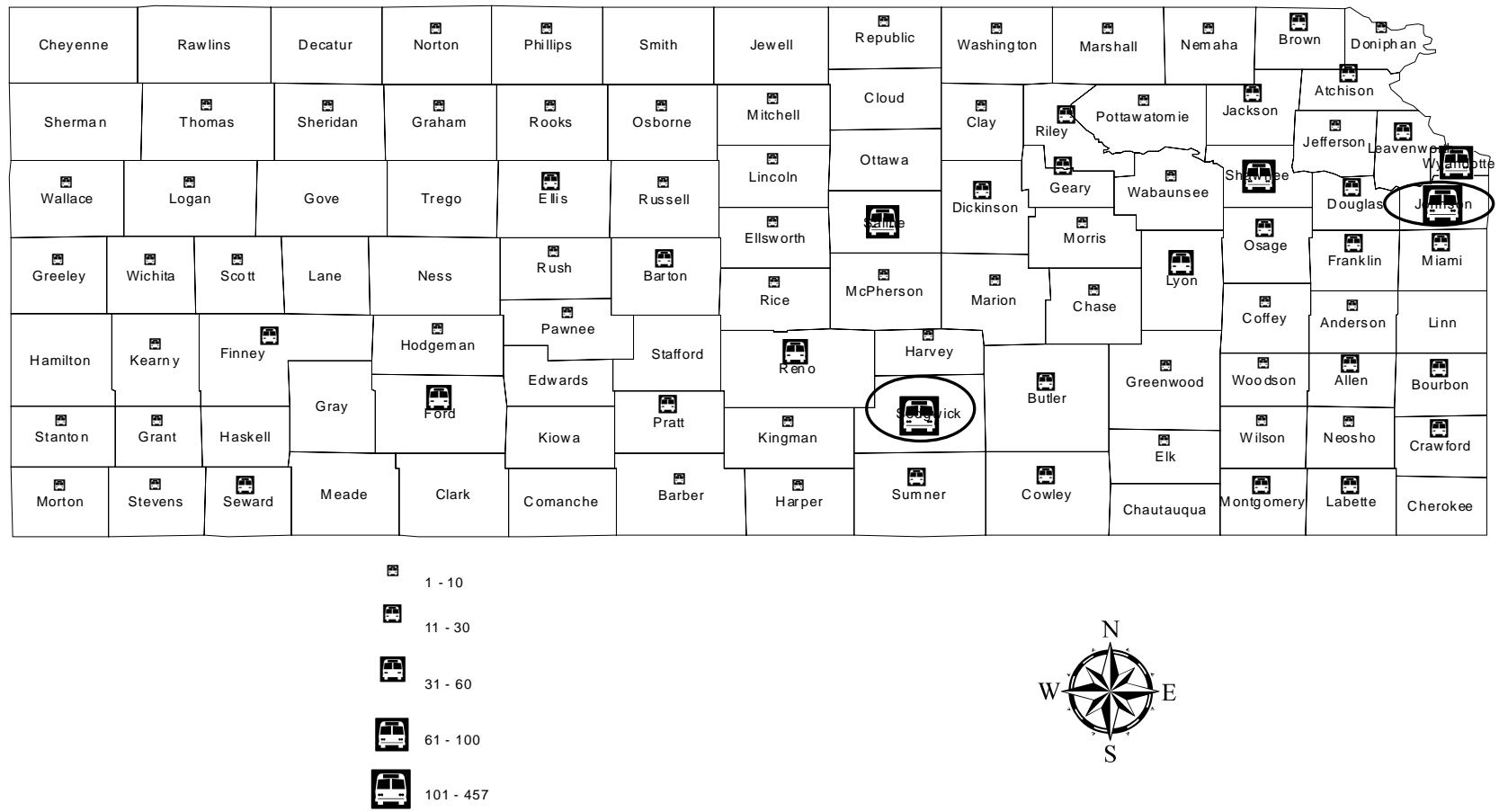


Figure 11: FY 2009 DUI Offense By County



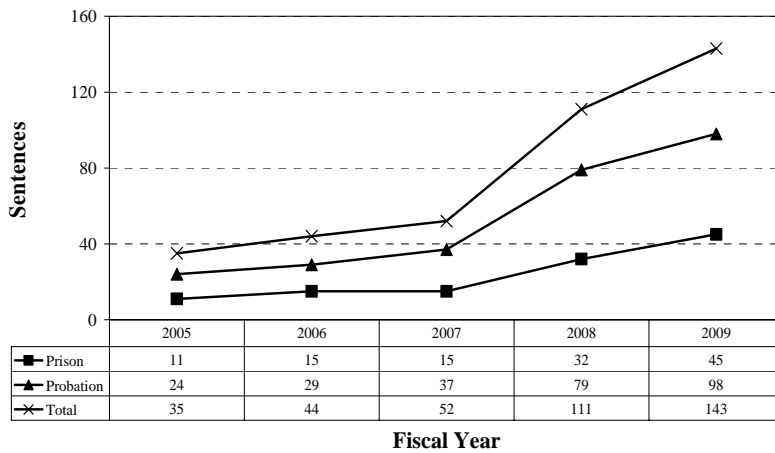
Sentences for Failure to Register under the Kansas Offender Registration Act

K.S.A. 22-4903 lists the penalty for a failure to register under the Kansas Offender Registration Act. The statute was amended to increase the penalty from a Class A, nonperson misdemeanor to a severity level 10, nonperson felony during the 1999

Legislative Session. The penalty for the crime was amended again in the 2006 Legislation Session, which increased the penalty to a severity level 5, person felony. Since then, the conviction of failure to register under the Kansas Offender Registration Act has been a severity level 5, person felony.

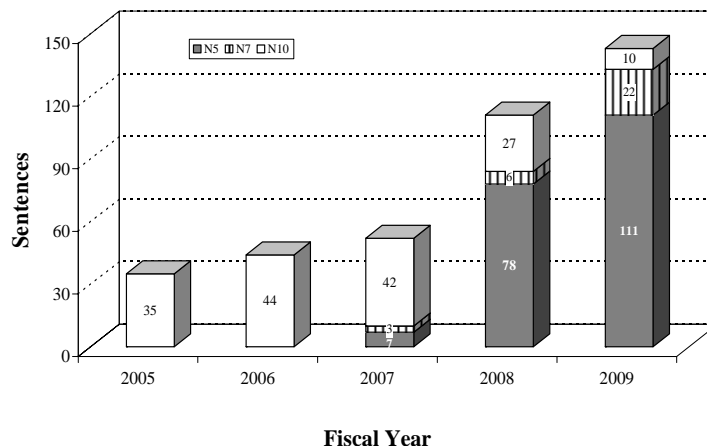
The total number of sentences imposed on the crime of failure to register has been increasing in the past five years. During FY 2009, 143 sentences were convicted under this crime, an increase of 28.8% and 309% respectively when compared with those of FY 2008 and FY 2005. Of these 143 convictions, 45 were sentenced to prison and 98 were sentenced to probation.

Figure 12: Failure to Register Sentences By Sentence Imposed - FY 2005 through FY 2009



In FY 2005 and FY 2006, all convictions under this crime were sentenced at nondrug severity level 10. Since FY 2007, the number of sentences at nondrug severity level 5 has increased from 13.5% (7 sentences) of the crime convicted in FY 2007 to 77.6% (111 sentences) of the crime convicted in FY 2009. Sentences at nondrug severity 7 were attempt convictions of the crime.

Figure 13: Failure to Register Sentences By Severity Level - FY 2005 through FY 2009



Burglary and Aggravated Burglary

Burglary including aggravated burglary is the top third crime committed in the past five years. The penalty for the crime is nondrug severity 5 for aggravated burglary, nondrug severity level 7 for residential and nonresidential burglaries and nondrug

severity level 9 for motor vehicle burglary. Two special sentencing rules related to burglary make a conviction of the crime a presumptive prison sentence. The number of burglary offenders sentenced to prison with the two special sentencing rules is 49 during FY 2009, 40 in FY 2008, 38 in FY 2007, 37 in FY 2006 and 29 in FY 2005.

The trend of burglary sentences is declining in the past five years. The total number of burglary in FY 2009 decreased by 4.3% and 13.2% respectively from those of FY 2008 and FY 2005. The number of prison sentences in FY 2009 decreased by 43 sentences compared with FY 2008 and decreased by 152 sentences compared with FY 2005. The probation sentences decreased by 11 and 32 respectively compared with FY 2008 and FY 2005.

The majority of the convictions were sentenced at nondrug severity level 7, representing 61.6% of burglary sentences imposed in FY 2009, 62.5% in FY 2008, 61.1% in FY 2007, 57.4% in FY 2006 and 59.8% in FY 2005.

Figure 14: Burglary Sentences
By Sentence Imposed - FY 2005 through FY 2009

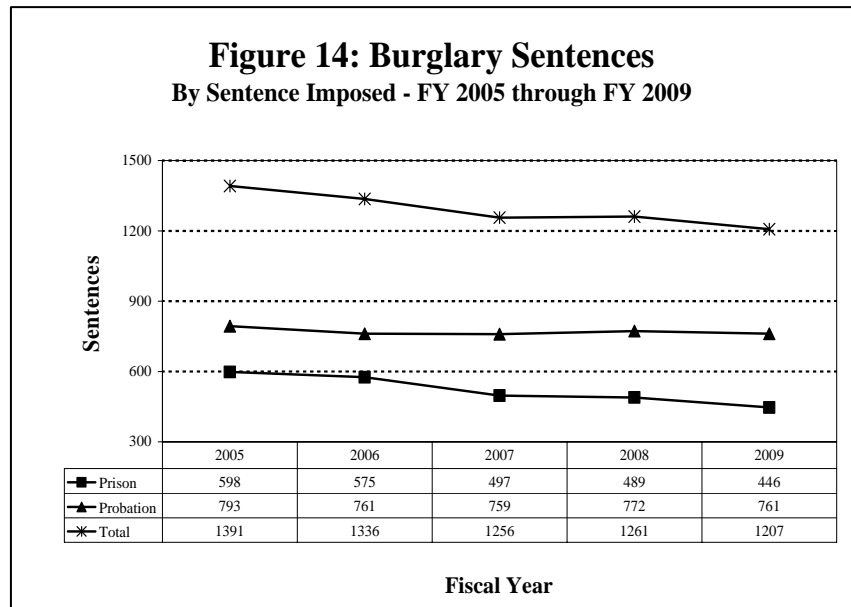
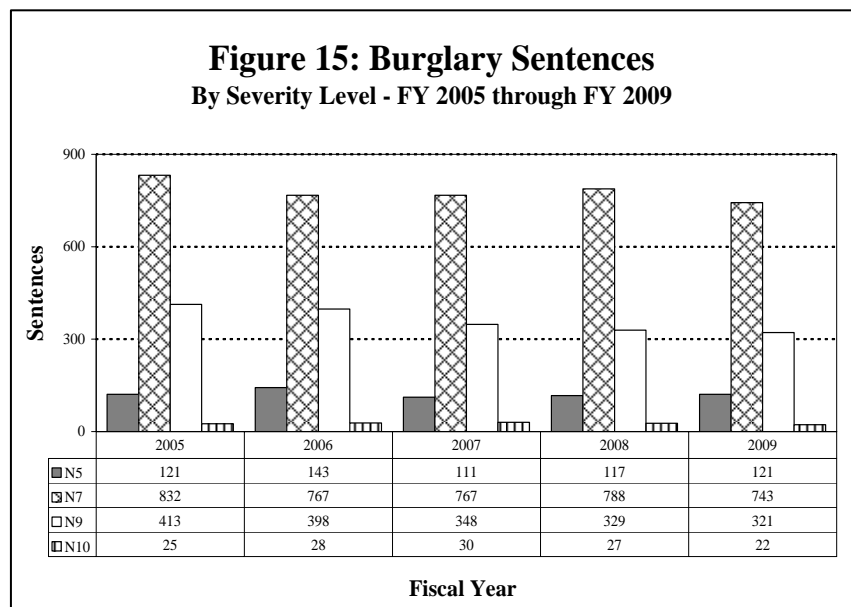


Figure 15: Burglary Sentences
By Severity Level - FY 2005 through FY 2009



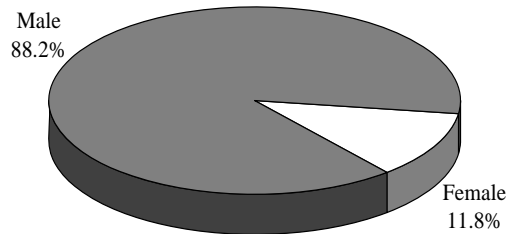
INCARCERATION SENTENCES

Characteristics of Offenders

Figures 16, 17, 18, 19 and 20 present the characteristics of offenders admitted to the state correctional facilities during FY 2009. White males continued to be the predominant offender group admitted to prison in FY 2009 (Figures 16 and 17). Non-Hispanic offenders represented 89.4% of the offenders sentenced to prison (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

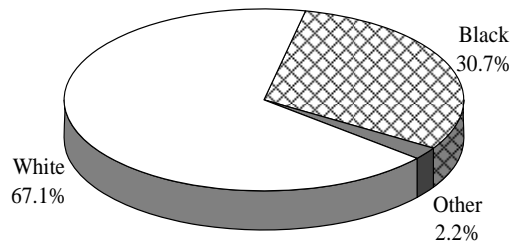
The largest number of incarcerated offenders were identified in the age group ranging from 25 to 30 years old (25.8%) at the time of admission to prison, which is different from those of previous years when the largest number of offenders were found in their thirties (Figure 19).

Figure 16: FY 2009 Incarceration Sentences by Gender of Offenders



Based on 4,561 incarceration sentences reporting gender of offenders

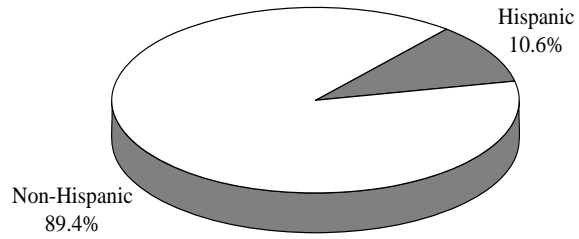
Figure 17: FY 2009 Incarceration Sentences by Race of Offenders



Based on 4,556 incarceration sentences reporting race of offenders

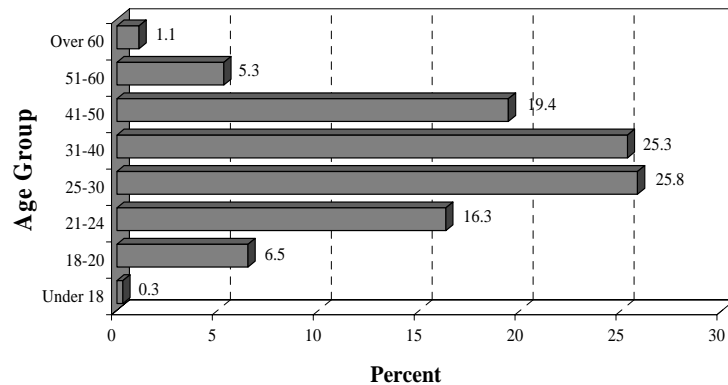
More than 49% of the incarcerated offenders had obtained a high school diploma or GED equivalent (Figure 20). This percentage remains very consistent in the past five years.

Figure 18: FY 2009 Incarceration Sentences by Ethnicity of Offenders

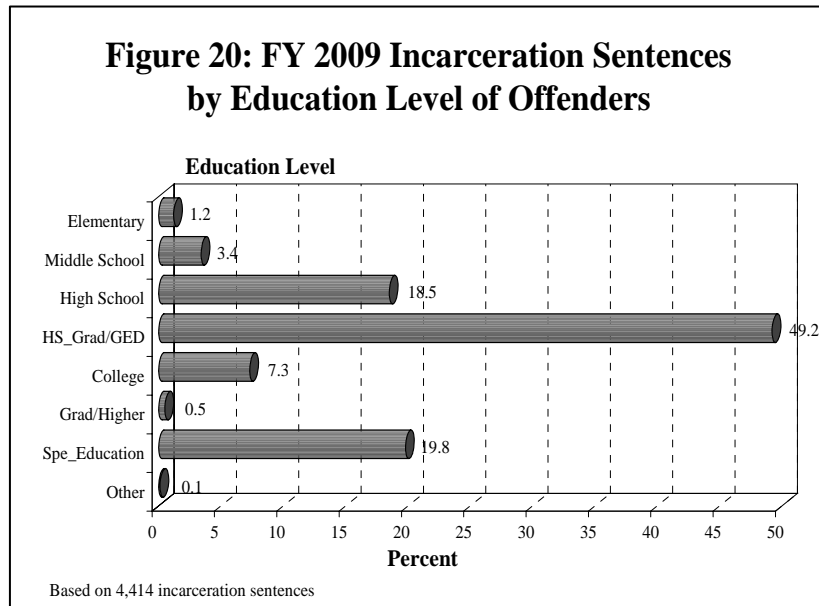


Based on 4,554 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2009 Incarceration Sentences by Age of Offenders at Admission



Based on 4,561 incarceration sentences reporting age of offenders



Incarceration Nondrug Offenses

A total number of 3,359 offenders were admitted to prison for convictions of nondrug crimes in FY 2009, representing 73.6% of the total incarceration sentences (4,561) of the fiscal year. The top ten nondrug crimes included aggravated battery (370 sentences), burglary (360 sentences), theft (301 sentences), aggravated robbery (214 sentences), forgery (192 sentences), robbery (162 sentences), aggravated indecent liberties with a child (151 sentences), DUI (121 sentences), aggravated assault (120 sentences) and fleeing or eluding LEO (108 sentences). These top ten crimes accounted for 62.5% of the total nondrug crimes committed by the offenders admitted to prison in FY 2009 (Table 3).

Male offenders committed almost 90% of the top ten crime categories, except DUI, 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, DUI, fleeing or eluding LEO, criminal threat, forgery, identity theft and nonsupport of a child or spouse. Nevertheless, blacks were incarcerated more often (over 50%) for the crimes of aggravated robbery, robbery, kidnapping, possession of firearms, voluntary manslaughter and drug without tax stamps. The average age of the nondrug offenders was 33.7 years old at the time of admission to prison in FY 2009, which remains very close to that of FY 2008 (Table 3).

Table 3: FY 2009 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	64.7	35.3	70.6	23.5	5.9	33.0
Agg. Arson	10	100.0	0.0	60.0	40.0	0.0	30.8
Agg. Assault	120	96.7	3.3	63.9	31.9	4.2	32.9
Agg. Assault on LEO	22	100.0	0.0	68.2	31.8	0.0	32.1
Agg. Battery	370	90.8	9.2	63.0	33.2	3.8	32.5
Agg. Battery on LEO	14	92.9	7.1	85.7	7.2	7.1	33.6
Agg. Burglary	86	94.2	5.8	58.1	38.4	3.5	32.8
Agg. Criminal Sodomy w/Child	32	96.9	3.1	75.0	18.8	6.2	42.0
Agg. Escape from Custody	65	73.8	26.2	64.6	33.8	1.5	35.6
Agg. Failure to Appear	7	71.4	28.6	71.4	28.6	0.0	33.2
Agg. Indecent Liberties w/Child	151	98.0	2.0	82.1	15.2	2.6	33.4
Agg. Indecent Solicit w/Child	40	97.5	2.5	85.0	15.0	0.0	32.0
Agg. Intimidation of a Victim	12	91.7	8.3	58.3	41.7	0.0	27.9
Agg. Kidnapping	12	91.7	8.3	66.7	33.3	0.0	33.1
Agg. Robbery	214	90.7	9.3	35.5	63.1	1.4	32.9
Agg. Sexual Battery	39	100.0	0.0	59.0	38.5	2.5	36.2
Aid Felon	5	40.0	60.0	60.0	40.0	0.0	32.5
Arson	20	95.0	5.0	65.0	30.0	5.0	35.3
Battery on LEO	37	83.8	16.2	56.8	40.5	2.7	31.0
Burglary	360	93.9	6.1	78.3	19.8	1.9	31.4
Capital Murder	8	100.0	0.0	62.5	37.5	0.0	32.4
Contribute Child's Misconduct	7	85.7	14.3	85.7	14.3	0.0	23.6
Criminal Damage to Property	11	54.5	45.5	72.7	18.2	9.1	30.3
Criminal Discharge of Firearm	17	94.1	5.9	64.7	35.3	0.0	24.0
Criminal Sodomy w/Child	5	100.0	0.0	100.0	0.0	0.0	29.9
Criminal Threat	106	92.5	7.5	73.3	24.8	1.9	35.7
Drug without Tax Stamps	11	90.9	9.1	27.3	72.7	0.0	36.1
DUI	121	86.8	13.2	91.7	6.6	1.7	43.3
Electronic Solicitation of Child	25	100.0	0.0	92.0	0.0	8.0	34.1
Failure to Register	45	93.3	6.7	73.3	22.2	4.5	33.8
Fleeing or Eluding LEO	108	93.5	6.5	71.3	26.9	1.9	32.6
Forgery	192	68.2	31.8	70.3	26.6	3.1	34.4
False Writing	21	85.7	14.3	61.9	33.3	4.8	34.9
Giving Worthless Checks	5	60.0	40.0	60.0	40.0	0.0	36.8
Identity Theft	44	70.5	29.5	72.7	25.0	2.3	35.5
Indecent Liberties w/Child	39	97.4	2.6	74.4	17.9	7.7	34.1
Indecent Solicitation of Child	8	100.0	0.0	87.5	12.5	0.0	30.5

Table 3: FY 2009 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	35	88.6	11.4	85.7	14.3	0.0	35.5
Kidnapping	42	92.9	7.1	50.0	50.0	0.0	32.0
Murder in the First Degree	57	93.0	7.0	50.9	47.4	1.8	33.2
Murder in the Second Degree	54	87.0	13.0	51.9	42.6	5.6	31.9
Nonsupport of Child or Spouse	22	100.0	0.0	100.0	0.0	0.0	43.5
Obstructing Legal Process	32	81.3	18.7	59.4	37.5	3.1	32.0
Possession of Firearm	42	95.2	4.8	45.2	50.0	4.8	30.1
Rape	99	100.0	0.0	74.7	23.2	2.0	37.6
Robbery	162	89.5	10.5	41.4	57.4	1.2	30.2
Sex Exploitation of a Child	13	100.0	0.0	100.0	0.0	0.0	43.0
Street Gangs	5	100.0	0.0	100.0	0.0	0.0	17.8
Theft	301	84.1	15.9	68.9	29.4	1.7	35.2
Traffic in Contraband	18	77.8	22.2	66.7	22.2	11.1	28.4
Unlawful Voluntary Sex Relation	10	100.0	0.0	100.0	0.0	0.0	21.9
Voluntary Manslaughter	25	88.0	12.0	36.0	52.0	12.0	36.7
Other	36	83.3	16.7	75.0	22.2	2.8	35.9
TOTAL	3,359	89.5	10.5	66.6	30.8	2.6	33.7

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

Incarceration Drug Offenses

During FY 2009, a total number of 1,202 drug offenders were admitted to prison, accounting for 26.4% of the total admissions to the State Correctional Facilities. Of this total number, 55.3% were incarcerated for convictions of drug possession offenses, indicating a decrease of 2.3% compared with that of FY 2008 (57.6%). More than 94% of the drug possession sentences were found at drug severity level 4 (Figure 21).

Males represented 84.9% of the drug offenders admitted to prison in FY 2009. Most female offenders were convicted of drug crimes for 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 paraphernalia, possession of precursor drugs 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 first, second, third and the subsequent offenses, which remains constant to those of FY 2008. The average age of the drug offenders was 34.2 years old at admission to prison (Table 4), indicating no change compared with the age of the drug offenders observed in FY 2008.

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 22 presents the conviction trend of the crime in the past ten 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).

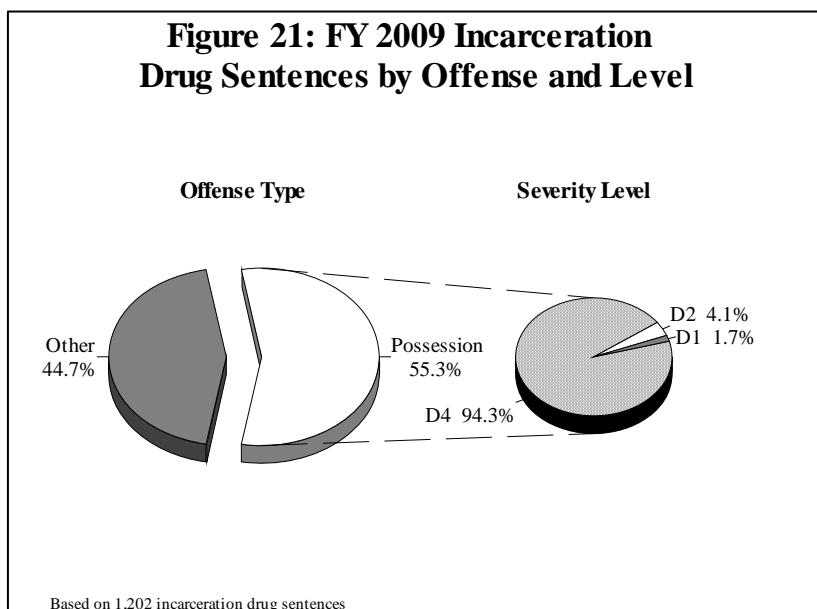
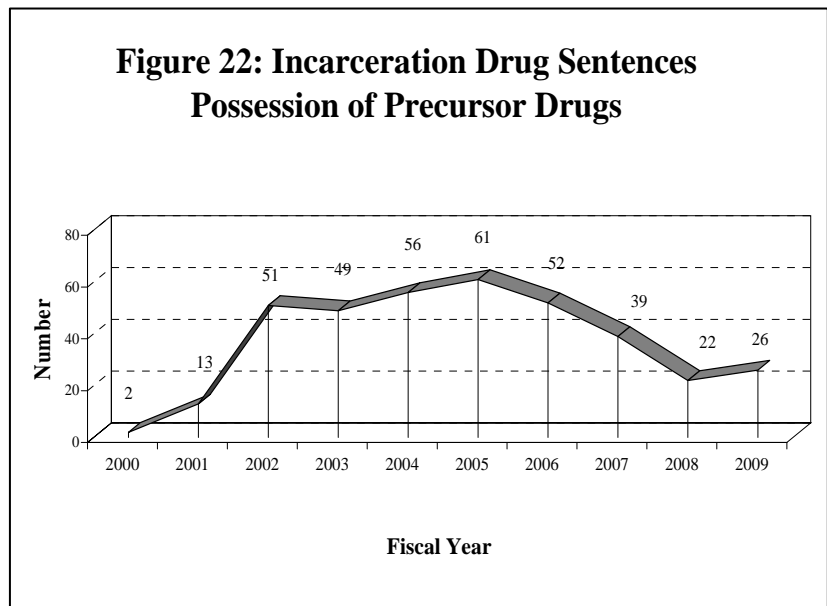


Table 4: FY 2009 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or Narcotics; Poss. 1	527	80.5	19.5	69.8	29.2	0.9	34.4
Opiates or Narcotics; Poss. 2	27	92.6	7.4	51.9	44.4	3.7	40.6
Opiates or Narcotics; Poss. 3	11	81.8	18.2	45.5	45.5	9.1	44.4
Opiates or Narcotics; Sale 1	235	83.0	17.0	57.9	41.7	0.4	34.4
Opiates or Narcotics; Sale 2	17	76.5	23.5	41.2	58.8	0.0	36.4
Opiates or Narcotics; Sale 3	4	100.0	0.0	0.0	100.0	0.0	38.0
Opiates/ Narcotics, Depress, Stim., Hall; Sale w/in 1,000 ft of School	31	80.6	19.4	58.1	35.5	6.5	36.2
Depress, Stim., Hall; Poss. 2	100	97.0	3.0	73.0	26.0	1.0	31.3
Depress, Stim., Hall, etc.; Sale, Poss. w/Intent to Sell	108	95.4	4.6	63.0	36.1	0.9	29.3
Unlawful Manufacture Controlled Substance	91	89.0	11.0	98.9	0.0	1.1	37.4
Possession of Paraphernalia	24	87.5	12.5	75.0	25.0	0.0	30.5
Possession of Precursor Drugs	26	84.6	15.4	100.0	0.0	0.0	37.1
Receive Proceeds from Violation of Controlled Substance	1	100.0	0.0	100.0	0.0	0.0	27.2
TOTAL	1,202	84.9	15.1	68.6	30.4	1.1	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 all the way from FY 2006 through FY 2008 with 22 admissions. In FY 2009, admissions increased to 26. They were all white offenders 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

The distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2009 is presented in Table 5. Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 57.4% of all offenders admitted to state correctional facilities during FY 2009. This represents a percentage decrease of 3.9% from that of FY 2008 (61.3%), indicating the lowest rate of admission in the past five years. 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 2009.

New court commitments made up another big proportion of prison admissions, representing 37.8% of total admissions in FY 2009. The percentage of this group increased by 6.1% compared with that of FY 2008 (31.7%), representing the highest rate of admission in the past five years. Violators with new sentences, including probation violators with new sentences, parole or postrelease violators with new sentences and conditional release violators with new sentences, accounted for 4.4%, a decrease of 2.2% compared with the percentage of this group of violators (6.6%) in FY 2008.

Table 5: Distribution of FY 2009 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,724	37.8
Probation Condition Violator	1,462	32.1
Probation Violator With New Sentence	89	2.0
Inmate Received on Interstate Compact	11	0.2
Parole/Postrelease Condition Violator	1,152	25.3
Parole/Postrelease Violator With New Sentence	108	2.4
Paroled to Detainer Returned With New Sentence	12	0.3
Conditional Release Condition Violator	2	0.0
Conditional Release Condition Violator with New Sentence	1	0.0
TOTAL	4,561	100.0

Table 6 demonstrates the distribution of all incarcerated offenders admitted in FY 2009 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 23). This severity level distribution of nondrug incarcerated

offenders has remained constant in the past five years. The examination of drug offenders indicates that 54.2% of all drug offenders fell at drug severity level 4 (Figure 24), a decrease of 1.3% compared with that of FY 2008 (55.5%). Female offenders were convicted more often of drug offenses than

of nondrug offenses (15.1% vs. 10.5%). The highest percentages of female offenders were found at drug severity level 4 (16.7%) and nondrug severity level 8 (23.1%). The

highest percentage rates of male offenders were identified at drug severity level 1 (88.2%) and nondrug severity level 1 for nondrug crimes (96.9%).

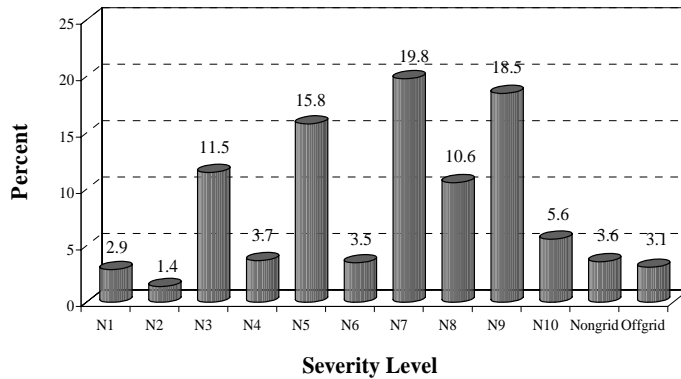
**Table 6: Distribution of FY 2009 Incarceration Sentences
By Severity Level and Gender***

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	110	9.2	88.2	11.8
D2	93	7.7	83.9	16.1
D3	347	28.9	87.0	13.0
D4	652	54.2	83.3	16.7
Subtotal	1,202	100.0	84.9	15.1
Nondrug				
N1	97	2.9	96.9	3.1
N2	46	1.4	93.5	6.5
N3	387	11.5	93.3	6.7
N4	123	3.7	90.2	9.8
N5	532	15.8	91.7	8.3
N6	116	3.5	95.7	4.3
N7	665	19.8	93.1	6.9
N8	355	10.6	76.9	23.1
N9	622	18.5	87.6	12.4
N10	187	5.6	82.9	17.1
Nongrid	121	3.6	86.8	13.2
Offgrid	104	3.1	94.2	5.8
Subtotal	3,355	100.0	89.5	10.5
TOTAL**	4,561	100.0	88.2	11.8

* Based on 1,202 drug offenders and 3,355 nondrug offenders.

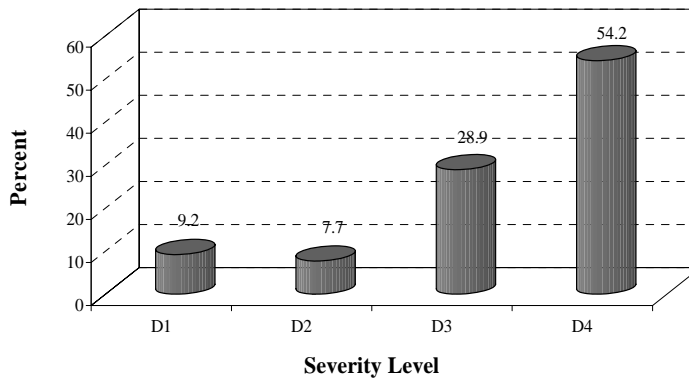
** Total number includes 4 nondrug offenders whose severity levels are unknown.

**Figure 23: FY 2009 Incarceration Sentences
Nondrug Offenders by Severity Level**



Based on 3,355 nondrug offenders

**Figure 24: FY 2009 Incarceration Sentences
Drug Offenders by Severity Level**



Based on 1,202 drug offenders

Table 7 presents the average length of sentences imposed by severity level for guideline new commitment offenders admitted to prison during FY 2009. 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.

Compared with FY 2008, the average length of sentence increased by 6.2 months at drug

severity level 1 and increased by 3.3 months at drug severity level 3. The average length of sentence significantly increased by 32.3 months and 59.3 months, respectively, at nondrug severity levels 1 and 2. The average length of sentence decreased by 11.3 months at drug severity level 2 and decreased by 6.5 months at nondrug severity level 4. As for other drug and nondrug severity levels, the average length of sentence did not fluctuate significantly from those observed in FY 2008.

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

Severity Level	FY 2008 LOS (Months)	FY 2009 LOS (Months)	Difference (Months)
D1	85.8	92.0	6.2
D2	67.3	56.0	-11.3
D3	27.4	30.7	3.3
D4	20.9	22.8	1.9
N1	217.5	249.8	32.3
N2	144.3	203.6	59.3
N3	92.0	90.9	-1.1
N4	70.3	63.8	-6.5
N5	54.4	54.9	0.5
N6	38.3	36.8	-1.5
N7	26.0	27.8	1.8
N8	16.8	16.7	-0.1
N9	12.1	12.2	0.1
N10	8.5	8.6	0.1

Note: Based on 3,197 and 3,163 guideline new commitment admissions in FY 2008 and FY 2009 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).

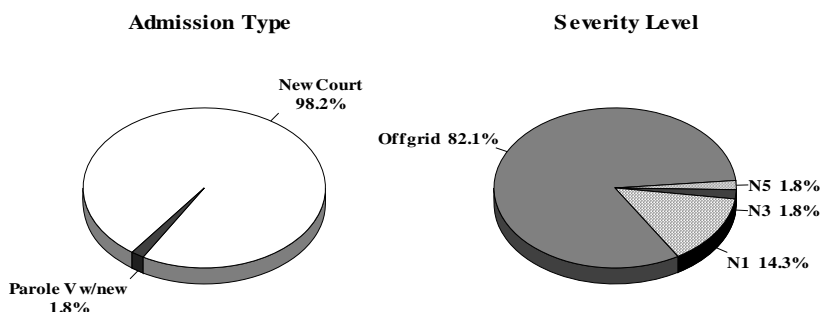
A total number of 56 offenders were sentenced and admitted to prison under Jessica’s Law during FY 2009. Fifty-five of them (98.2%) were new court commitments and only one offender (1.8%) was a parole violator with new sentence. While most jurisdictions identify the severity of these crimes as offgrid, a few sentence them at the severity level for a downward departure on the nondrug grid. Therefore, of these offenders, 82.1% (46 offenders) were sentenced at offgrid, 14.3% (8 offenders)

were sentenced at nondrug severity level 1, 1.8% (1 offender) was at nondrug severity levels 3 and 5, respectively (Figure 25). The analysis of the sentence length demonstrates that approximately 59% of the sentences were downward departure to guidelines, an increase of 9% compared with that of FY 2008 (50%). The average sentence length of the durational departures was 130.7 months, an increase of 35.2 months over that observed in FY 2008 (95.5 months).

Table 8 displays the distribution of the incarcerated offenders under Jessica’s Law by county. Sedgwick county imposed the most Jessica’s Law prison sentences (9) followed by Johnson (5), Saline (5) and Wyandotte (5).

In addition, two offenders were convicted under Jessica’s Law and sentenced to probation during FY 2009 with underlying prison terms of 72 months and 155 months respectively. Their major departure reasons are that the defendant had no prior criminal history and accepted responsibility; the offender was physically or mentally impaired.

Figure 25: FY 2009 Jessica's Law Incarceration Sentences

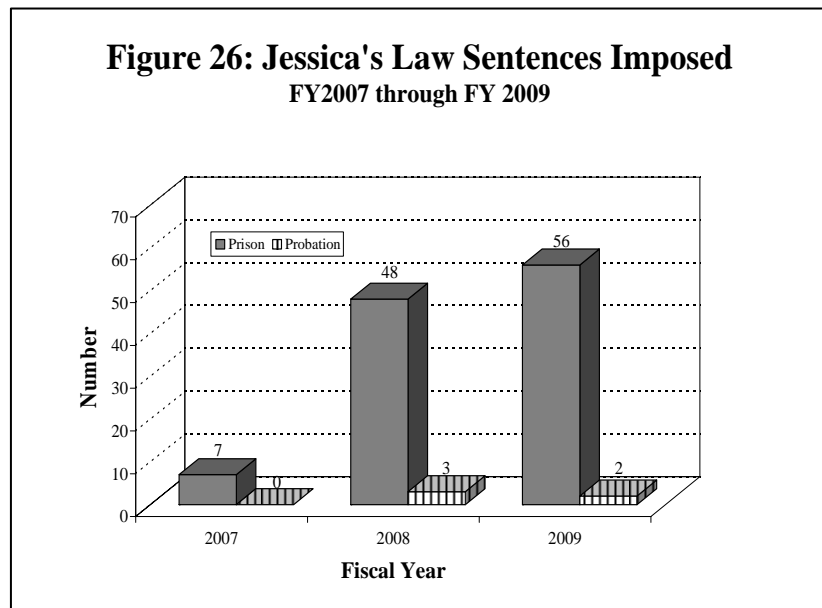


Based on 56 Jessica's Law incarceration sentences.

Table 8: FY 2009 Jessica’s Law Incarceration Sentences Imposed by County

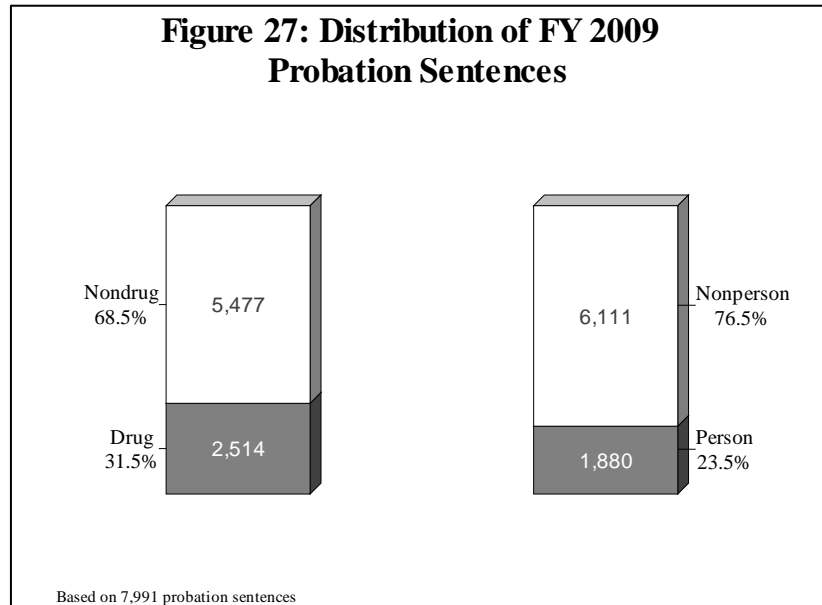
County	Number	County	Number
Allen	1	Montgomery	1
Bourbon	1	Marion	1
Butler	1	McPherson	1
Crawford	1	Pratt	1
Douglas	2	Riley	1
Dickinson	1	Reno	3
Ellis	1	Saline	5
Franklin	1	Sedgwick	9
Greenwood	2	Shawnee	2
Jackson	1	Sumner	2
Johnson	5	Seward	3
Leavenworth	1	Wyandotte	5
Lyon	4		
Total			56

Figure 26 presents the sentencing trend of Jessica’s Law convictions from FY 2007 through FY 2009. The total number of Jessica’s Law sentences imposed in FY 2009 was 58 including both prison and probation sentences, an increase of 7 sentences compared with that of FY 2008 (51 sentences) and an increase of 51 sentences compared with that of FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica’s Law.

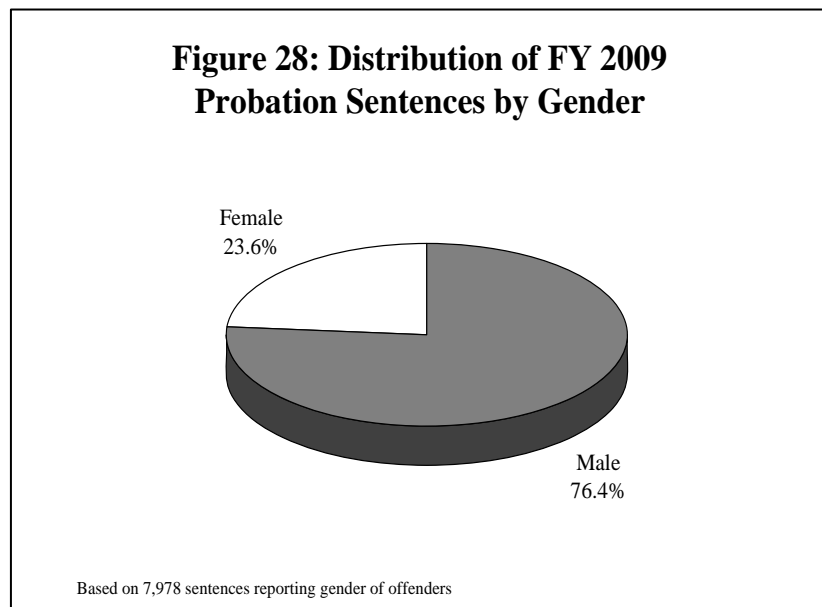


PROBATION SENTENCES

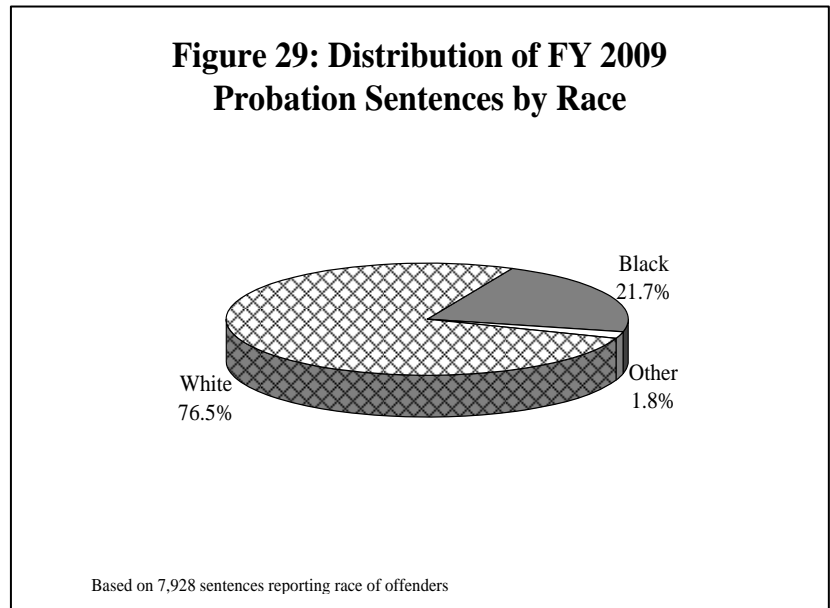
In FY 2009, the Kansas Sentencing Commission received 7,991 probation sentences. Of this number, 5,477 were nondrug sentences and 2,514 were drug sentences; non-person offenses made up 76.5% and person offenses made up 23.5% (Figure 27). The demographic information of this offender group was described in Figures 28, 29 and 30.



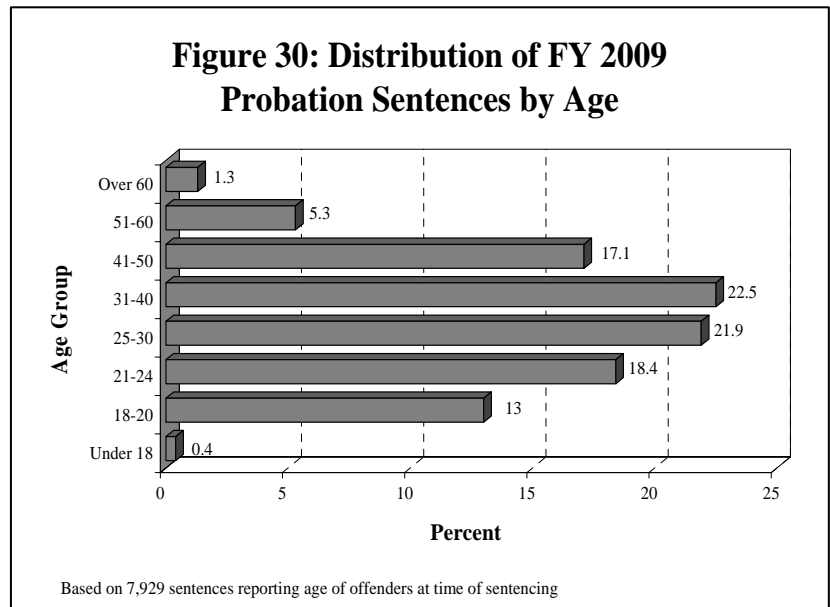
The distribution of offenders by gender demonstrates that male offenders accounted for 76.4% of all probation sentences imposed in FY 2009, indicating a decrease of 1.2% compared with that observed (77.6%) in FY 2008 (Figure 28).



Racial analysis discloses that white offenders made up 76.5% of the probation sentences imposed in FY 2009, a decrease of 1.4% compared with that of FY 2008 (77.9%). The percentages of black offenders increased by 1.3% in FY 2009 compared with that of FY 2008 (20.4%). The percentage of offenders in other races remains the same compared with that observed in FY 2008 (Figure 29).



The largest population of probation offenders was found in the age group ranging from 31 to 40 years old at the time of sentencing (22.5%) and the second largest group was identified in the age group ranging from 25 to 30 (21.9%). This distribution is different from that of FY 2008 but consistent with those of previous years before FY 2008 (Figure 30).



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 75.2% of the total nondrug probation sentences in FY 2009 (Figure 31), a decrease of 1.1% from that of the previous year (76.3%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 71.9% of all probation drug offenses (Figure 32) and demonstrating a decrease of 3.7% from that of FY 2008 (75.6%).

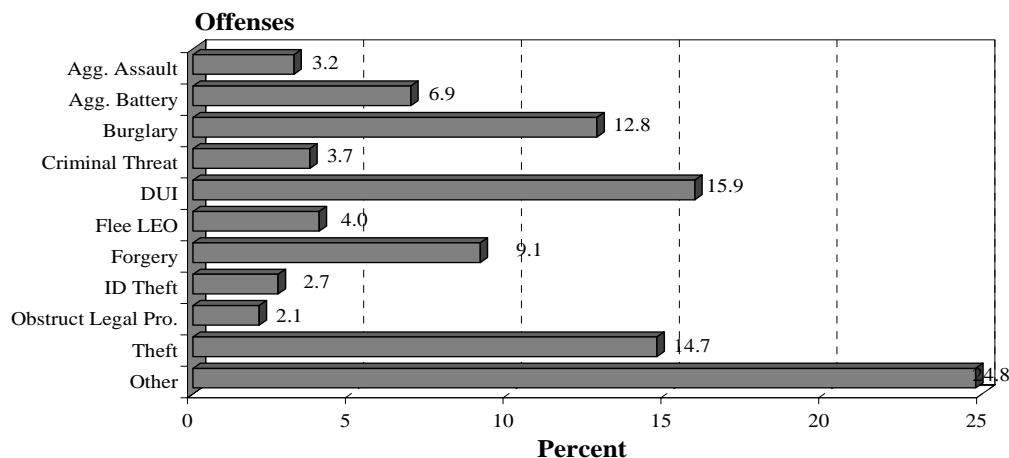
Tables 9 and 10 present the characteristics of offenders sentenced to probation in FY 2009 by offense type. Male offenders sentenced to probation during FY 2009 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: burglary, criminal threat, domestic battery, fleeing or eluding LEO, failure to register and possession of firearms. The

highest percentages of female probation nondrug offenses (over 45%) included forgery, criminal use of financial card, identity theft, giving worthless checks and traffic in contraband (Table 9).

White offenders represented 76.8% of all nondrug probation sentences and 75.8% of all drug offenders on probation in FY 2009. Black offenders on probation had a little lower conviction rate for nondrug offenses than drug crimes (21.1% versus 23%). The average age at the time of committing offense was 31.5 years old for nondrug offenders and 31.9 years old for drug offenders, which remains very close to those in FY 2008 (Table 9 & Table 10).

Tables 11 and 12 display the characteristics of probation offenders by severity level. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,654 sentences or 30.2%) and the majority of probation drug sentences were identified at drug grid severity level 4 (1,903 sentences or 75.7%). These distributions are pretty consistent with those in the past five years.

Figure 31: FY 2009 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,477 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 56.2% of the total probation drug sentences in FY 2009 (Table 10).

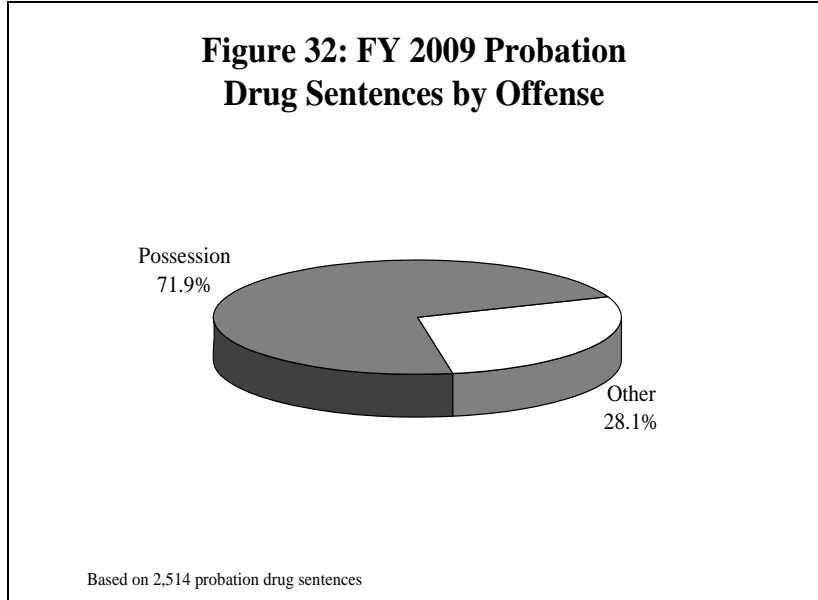


Table 9: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	10	0.2	70.0	30.0	90.0	10.0	0.0	30.8
Agg Assault	174	3.2	88.5	11.5	73.6	23.6	2.9	29.9
Agg Assault on LEO	14	0.3	78.6	21.4	85.7	14.3	0.0	31.1
Agg Arson	8	0.1	75.0	25.0	75.0	25.0	0.0	27.5
Agg Battery	380	6.9	86.3	13.7	68.4	28.2	3.4	30.1
Agg Burglary	60	1.1	83.3	16.7	68.3	28.3	3.3	27.0
Agg Endangering a Child	26	0.5	46.2	53.8	76.9	23.1	0.0	28.3
Agg Escape from Custody	32	0.6	65.6	34.4	65.6	28.1	6.3	26.9
Agg Fail to Appear	51	0.9	66.0	34.0	56.0	44.0	0.0	33.6
Agg False Impersonation	8	0.1	50.0	50.0	62.5	37.5	0.0	30.2
Agg Ind Lib with a Child	28	0.5	92.9	7.1	92.6	3.7	3.7	32.2
Agg Ind Solicit with a Child	23	0.4	100.0	0.0	86.4	13.6	0.0	34.1
Agg Intimidation of a Victim	14	0.3	85.7	14.3	57.1	28.6	14.3	29.5
Agg Robbery	48	0.9	85.4	14.6	56.3	43.8	0.0	21.6
Agg Sex Battery with Child	12	0.2	100.0	0.0	75.0	25.0	0.0	26.7
Agg Weapon Violation	6	0.1	83.3	16.7	83.3	0.0	16.7	27.9
Aiding Felon	35	0.6	61.8	38.2	73.5	17.6	8.8	24.0
Arrange Sale/Purchase Drug	12	0.2	66.7	33.3	83.3	8.3	8.3	33.7
Arson	38	0.7	76.3	23.7	89.5	10.5	0.0	29.7
Battery on LEO	24	0.4	75.0	25.0	62.5	29.2	8.3	29.5
Burglary	701	12.8	90.2	9.8	79.5	18.1	2.4	26.3
Computer Crime	16	0.3	56.3	43.7	68.8	31.3	0.0	30.9
Contribute Child Misconduct	13	0.2	46.2	53.8	84.6	15.4	0.0	26.2

Table 9: Characteristics of Probation Nondrug Offenders by Type of Offense – 2

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Criminal Damage of Property	87	1.6	82.8	17.2	74.7	20.7	4.6	27.1
Criminal Discharge of Firearm	10	0.2	100.0	0.0	20.0	60.0	20.0	23.4
Criminal Threat	205	3.7	92.2	7.8	74.9	24.1	1.0	33.7
Criminal Use of Financial Card	17	0.3	41.2	58.8	70.6	29.4	0.0	26.8
Criminal Use of Explosives	7	0.1	100.0	0.0	100.0	0.0	0.0	28.5
Cruelty to Animals	5	0.1	80.0	20.0	100.0	0.0	0.0	29.6
Domestic Battery	36	0.7	100.0	0.0	74.3	25.7	0.0	35.6
Drug without Tax Stamps	58	1.1	79.3	20.7	68.4	29.8	1.8	27.9
DUI	868	15.8	85.2	14.8	88.7	8.6	2.7	38.6
Electronic Solicitation of Child	12	0.2	100.0	0.0	91.7	0.0	8.3	30.8
Failure to Register	98	1.8	96.9	3.1	74.5	25.5	0.0	31.6
Failure to Remain at Accident	4	0.1	50.0	50.0	100.0	0.0	0.0	33.0
False Writing	96	1.8	54.7	45.3	69.5	29.5	1.1	34.4
Fleeing/Eluding LEO	221	4.0	91.4	8.6	70.5	28.2	1.4	29.4
Forgery	498	9.1	45.5	54.5	78.5	19.8	1.6	31.3
Giving Worthless Check	42	0.8	50.0	50.0	85.7	11.9	2.4	35.4
Identity Theft	148	2.7	52.0	48.0	83.8	14.9	1.4	32.4
Ind. Liberties with a Child	27	0.5	88.9	11.1	88.9	3.7	7.4	27.7
Ind. Solicitation with a Child	15	0.3	92.9	7.1	92.9	7.1	0.0	28.4
Insurance Fraud	5	0.1	80.0	20.0	100.0	0.0	0.0	37.1
Involuntary Manslaughter	7	0.1	100.0	0.0	85.7	14.3	0.0	27.6
Kidnapping	5	0.1	100.0	0.0	80.0	20.0	0.0	26.2
Lewd and Lascivious Behavior	8	0.1	100.0	0.0	87.5	0.0	12.5	29.7
Medicaid Fraud	8	0.1	75.0	25.0	75.0	25.0	0.0	41.4
Mistreatment of Dependant Adult	4	0.1	100.0	0.0	100.0	0.0	0.0	54.0
Non-Support of a Child	30	0.5	90.0	10.0	83.3	13.3	3.3	35.3
Obstruct Legal Process	116	2.1	79.3	20.7	75.9	24.1	0.0	29.6
Obtain Prescribed Drug by Fraud	10	0.2	0.0	100.0	100.0	0.0	0.0	36.3
Possession of Firearms	76	1.4	97.4	2.6	58.7	40.0	1.3	29.2
Rape	4	0.1	100.0	0.0	75.0	25.0	0.0	20.6
Robbery	86	1.6	88.4	11.6	36.0	60.5	3.5	25.6
Sex Exploitation of a Child	23	0.4	100.0	0.0	100.0	0.0	0.0	34.5
Stalking	6	0.1	83.3	16.7	66.7	33.3	0.0	34.4
Theft	807	14.7	65.1	34.9	74.0	25.4	0.6	33.2
Traffic in Contraband	36	0.7	52.8	47.2	83.3	13.9	2.8	29.5
Unlawful Sex Relations	6	0.1	100.0	0.0	83.3	16.7	0.0	28.3
Unlawful Voluntary Sex Relation	23	0.4	100.0	0.0	78.3	17.4	4.3	18.7
Weapon	6	0.1	100.0	0.0	83.3	16.7	0.0	21.9
Welfare Fraud	4	0.1	100.0	0.0	75.0	25.0	0.0	39.4
Other	20	0.4	55.0	45.0	95.0	0.0	5.0	25.9
TOTAL	5,477	100.0	77.2	22.8	76.8	21.1	2.1	31.5

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=5,468; Race, N=5,445; and Age, N=5,445.

Table 10: Characteristics of Probation Drug Offenders by Type of Offense

	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or Narcotics; Possession	1,413	56.2	68.4	31.6	76.6	22.4	1.0	33.6
Opiates or Narcotics; Sale 1	252	10.0	70.2	29.8	66.3	32.5	1.2	30.8
Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School	10	0.4	70.0	30.0	90.0	10.0	0.0	29.8
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	297	11.8	85.9	14.1	72.3	25.3	2.4	27.8
Depress, Stim, Hall; Poss 2	394	15.7	89.3	10.7	77.7	21.0	1.3	29.7
Possession of Paraphernalia	92	3.7	85.9	14.1	81.5	17.4	1.1	29.1
Possession of Precursor Drugs	25	1.0	60.0	40.0	92.0	4.0	4.0	40.4
Unlawful Manufacture Controlled Substance	23	0.9	60.9	39.1	95.7	4.3	0.0	30.9
Receive Proceeds from Violation of Controlled. Substance	5	0.2	100.0	0.0	100.0	0.0	0.0	38.7
Other	3	0.1	66.7	33.3	66.7	33.3	0.0	39.4
TOTAL	2,514	100.0	74.5	25.5	75.8	23.0	1.2	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,510; Race, N=2,483; and Age, N=2,484.

Table 11: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	3	0.1	100.0	0.0	100.0	0.0	0.0	24.8
N2	1	0.0	0.0	100.0	100.0	0.0	0.0	29.4
N3	55	1.0	96.4	3.6	61.1	35.2	3.7	24.0
N4	18	0.3	83.3	16.7	55.6	44.4	0.0	32.5
N5	321	5.9	87.9	12.1	69.8	29.3	0.9	28.8
N6	92	1.7	79.1	20.9	80.2	16.5	3.3	30.5
N7	1,047	19.1	88.3	11.7	73.0	23.5	3.5	28.2
N8	927	16.9	57.0	43.0	76.3	21.6	2.1	31.0
N9	1,654	30.2	76.4	23.6	76.5	22.2	1.3	31.2
N10	448	8.2	68.5	31.5	71.7	27.1	1.1	31.2
Nongrid	909	16.6	85.8	14.2	88.2	9.2	2.6	38.5
Offgrid*	2	0.0	100.0	0.0	100.0	0.0	0.0	53.3
TOTAL	5,477	100.0	77.2	22.8	76.8	21.1	2.1	31.5

Note: Due to missing data, each category is based on different numbers: Gender, N=5,468; Race, N=5,445; and Age, N=5,445.

* Jessica's Law offenders sentenced downward departure to guidelines, whose offense dates were before July 1, 2008.

Table 12: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	25	1.0	60.0	40.0	96.0	4.0	0.0	32.7
D2	34	1.3	61.8	38.2	91.2	5.9	2.9	37.1
D3	552	22.0	78.8	21.2	69.7	28.5	1.8	29.3
D4	1,903	75.7	73.7	26.3	77.0	21.9	1.1	32.6
TOTAL	2,514	100.0	74.5	25.5	75.8	23.0	1.2	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,510; Race, N=2,483 and Age, N=2,484.

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.

During FY 2009, a total number of 1,169 sentences were imposed to SB 123 drug treatment programs, representing 46.5% of the total drug probation sentences (2,514), a decrease of 1.5% compared with that of FY 2008 (48%). Of these sentences, more than 76% were convicted of the crime of drug possession under K.S.A. 65-4160 and 23.6% 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 94.4% of them were in the criminal history categories from E through I, an increase of 0.7% compared with that of FY 2008 (93.7%). This data implies that SB 123 was implemented very consistently during FY 2009.

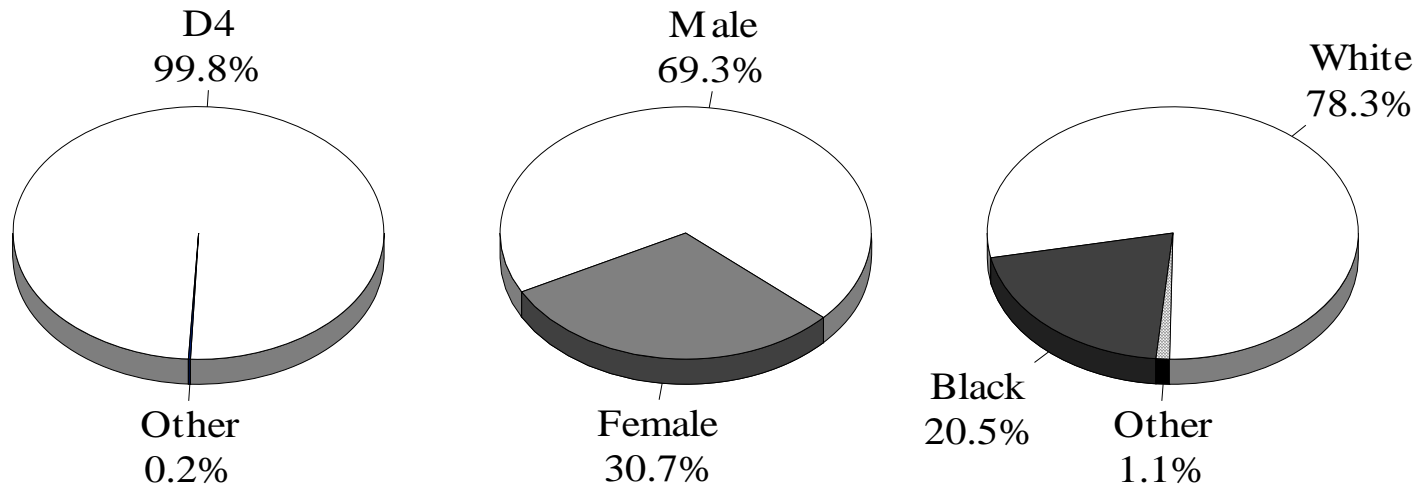
A summary of the offenders sentenced to SB 123 treatment programs in FY 2009 is

presented in Figure 33. The offenders at drug severity level 4 accounted for 99.8% and 0.2% of the offenders fell at other severity levels. White males were still the majority of the treatment offenders. The average age of the drug treatment offenders was 33 years old at sentencing, which remains pretty close to that of FY 2008 and FY 2007.

Figure 34 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2009 by county. Sedgwick County imposed the most SB 123 sentences (219) followed by Wyandotte (130), Johnson (88), Geary (59) and Saline (57) counties. No SB 123 sentences were reported from 33 counties. The average number of SB 123 sentences imposed by the 72 counties is 16, which is very close to that (17) of FY 2008.

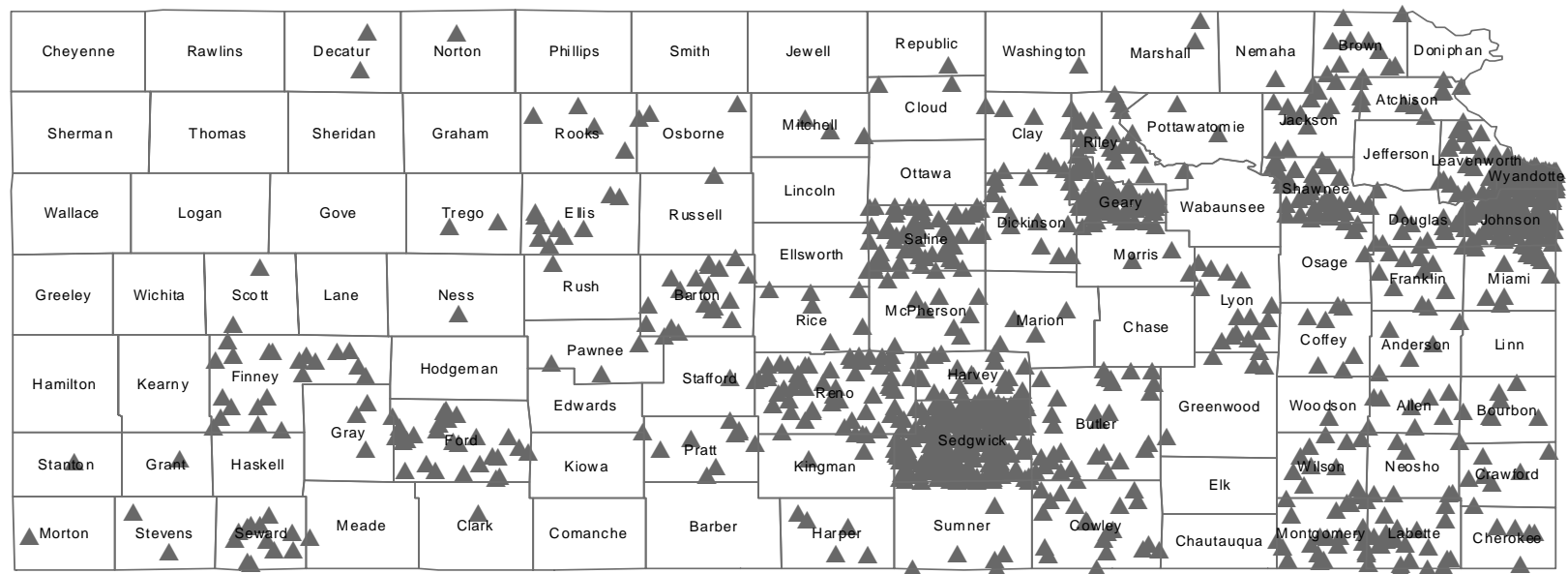
During FY 2009, 439 SB 123 drug treatment sentences were revoked. Of this number, 181 sentences were revoked to prison, representing 15.5% of SB 123 sentences imposed (1,169 sentences) in FY 2009. The average period between original sentence and revocation hearing was 14.7 months, very close to that of FY 2008. The average lag time for the second revocation was 4.8 months.

Figure 33: Distribution of FY 2009 Senate Bill 123 Drug Treatment Sentences

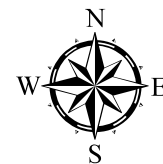


Note: Severity level, N=1,169; Gender, N=1,166; Race, N=1,144

Figure 34: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2009



Summary
 Total counties=105
 Total sentences=1,169
 Counties w/zero=33
 Minimum=1
 Maximum=219
 Mean=16



Criminal History and Length of Probation

In FY 2009, offenders sentenced to probation with assigned criminal history categories accounted for 88.9% of all the probation sentences (7,991) reported to the Commission, which decreased by 1.2% compared with that of FY 2008 (90.1%). The largest number of this group fell within criminal history category I (29.7% or 2,110 sentences), representing having no previous criminal history or one misdemeanor conviction (Figure 35). Further analysis of the offenders with criminal history category I reveals that they accounted for 29.6% of offenders on the nondrug grid and 29.9% of offenders on the drug grid.

Nondrug offenders who were within the presumptive probation boxes accounted for 84.3% (Table 13), while 64.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 14). 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 19.5% of drug probation sentences fell within severity level 3 with criminal history categories E to I, which are designated as border boxes (Tables 13 and 14).

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

Tables 13 and 14 present the probation terms of probation sentences by each severity level. The average length of probation for nondrug offenders was 17.6 months, very consistent with those of the past five years. The average length of probation for drug offenders was 15.4 months, a decrease of 1.1 months from that of FY 2008 (16.5 months).

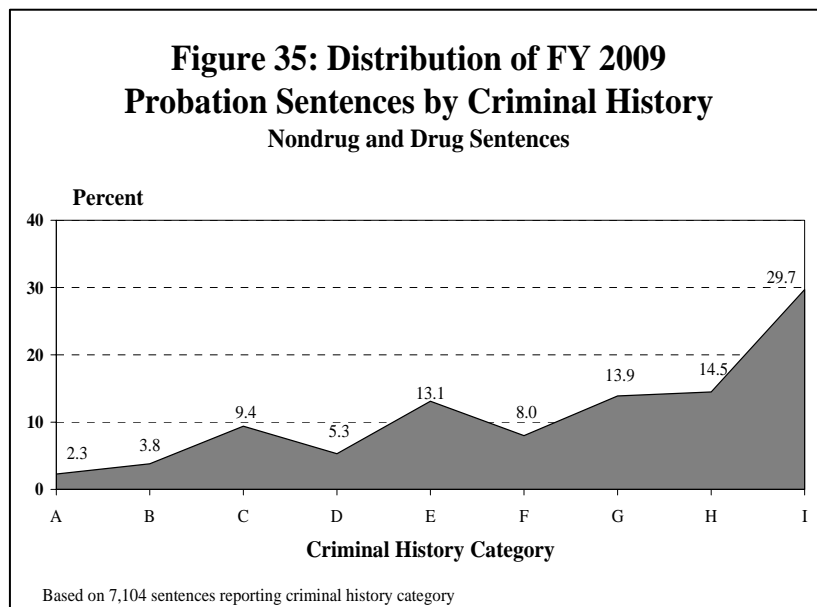


Table 13: Criminal History and Probation Length by Severity Level – Nondrug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	3	0	0	0	0	0	1	0	0	2	48.0
N2	1	0	0	0	0	0	0	0	0	1	60.0
N3	55	2	3	3	3	2	2	5	9	26	37.8
N4	18	1	1	3	2	2	0	0	3	6	37.3
N5	321	12	14	17	24	15	13	23	50	153	35.8
N6	92	1	2	3	1	4	1	9	22	49	25.6
N7	1,047	21	53	105	90	98	65	112	165	337	23.4
N8	927	21	32	95	34	166	72	131	126	250	17.7
N9	1,654	47	77	253	94	251	131	210	224	366	12.4
N10	448	11	12	48	26	50	40	65	39	157	12.7
Nongrid	909	2	2	1	2	1	0	5	1	11	13.2
Offgrid	2	0	0	0	0	0	0	1	0	1	36.0
TOTAL	5,477	118	196	528	276	589	325	561	639	1,359	17.6

Note: Criminal history classes are based on 4,591 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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Table 14: 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	25	2	2	0	1	7	3	3	4	3	37.0
D2	34	2	1	2	2	4	4	4	7	8	36.0
D3	552	5	18	18	21	43	53	90	83	221	18.3
D4	1,903	37	56	118	74	287	186	326	299	519	13.7
TOTAL	2,514	46	77	138	98	341	246	423	393	751	15.4

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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COUNTY JAIL SENTENCES

During FY 2009, the Commission received a total number of 849 jail sentences, a decrease of 20 sentences or 2.3% when compared with the data of FY 2008 (869 sentences). Of this number, male offenders accounted for 90.2% and female offenders accounted for 9.8% (Figure 36).

White offenders represented 89.7%, black offenders represented 8.9% and other races represented 1.4% of the county jail sentences imposed in FY 2009 (Figure 37).

Most offenders were in the age groups ranging from 41 to 50 years old (35.6%), which is consistent with the data observed in FY 2008. Their average age at sentencing is 43 years old (Figure 38).

The analysis of the sentence length reveals that the minimum jail term is 12 days, maximum jail term is 13 months and the average jail term is 8.1 months.

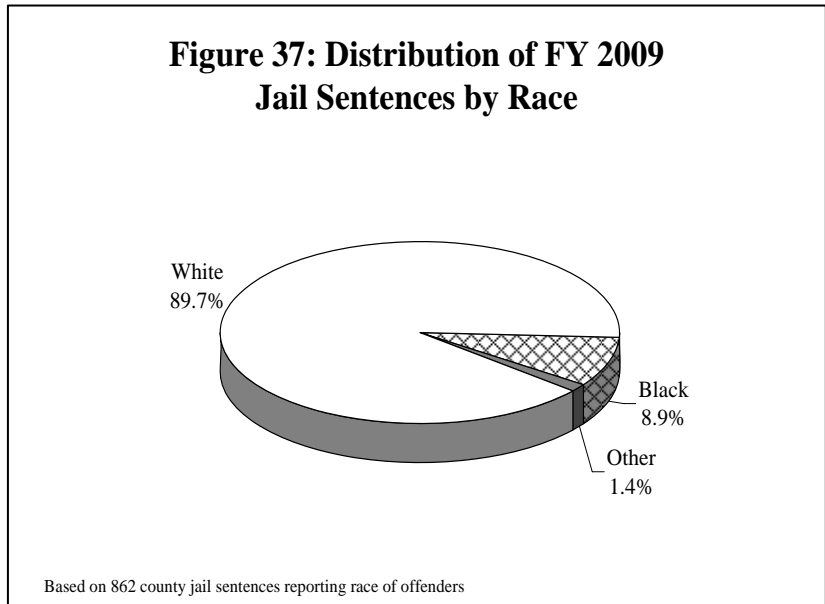
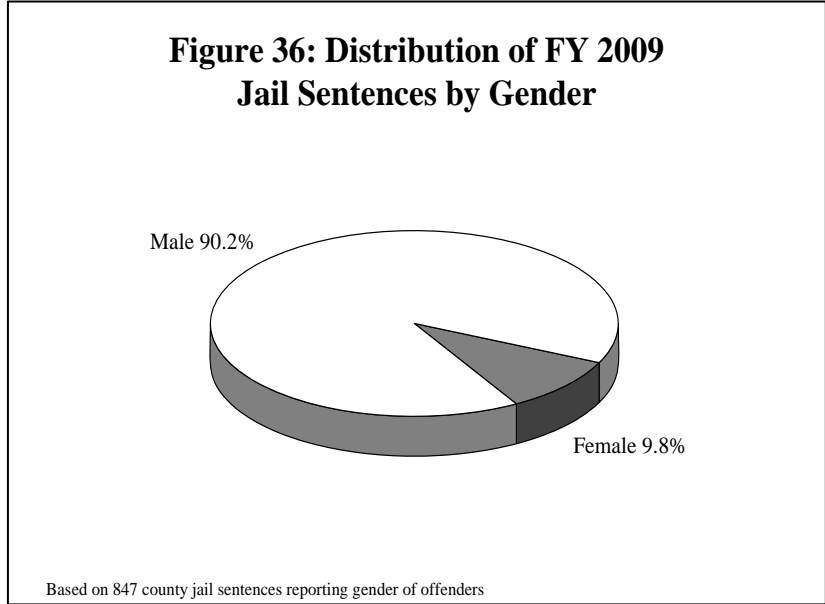


Figure 39 demonstrates the crimes committed by the offenders sentenced to county jails during FY 2009. Approximately 98% of the sentences were convicted of the crime of felony DUI (830 sentences), 1.4% were convicted of the crime of domestic battery (12 sentences), 0.4% were convicted of the crime of cruelty to animals (3 sentences) and 0.4% were convicted of other crimes (4 sentences). Detailed analysis on the crime of DUI is provided on Page 15 of this report.

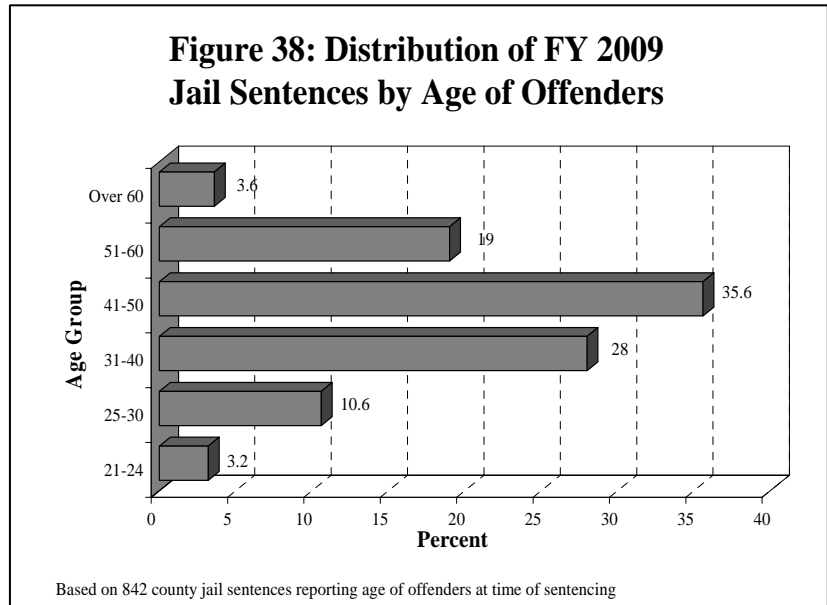


Figure 40 displays the distribution of FY 2009 jail sentences by county. Sedgwick County imposed the most jail sentences (243) representing 28.6% followed by Johnson County with 194 jail sentences representing 22.9% of the total county jail sentences imposed in FY 2009.

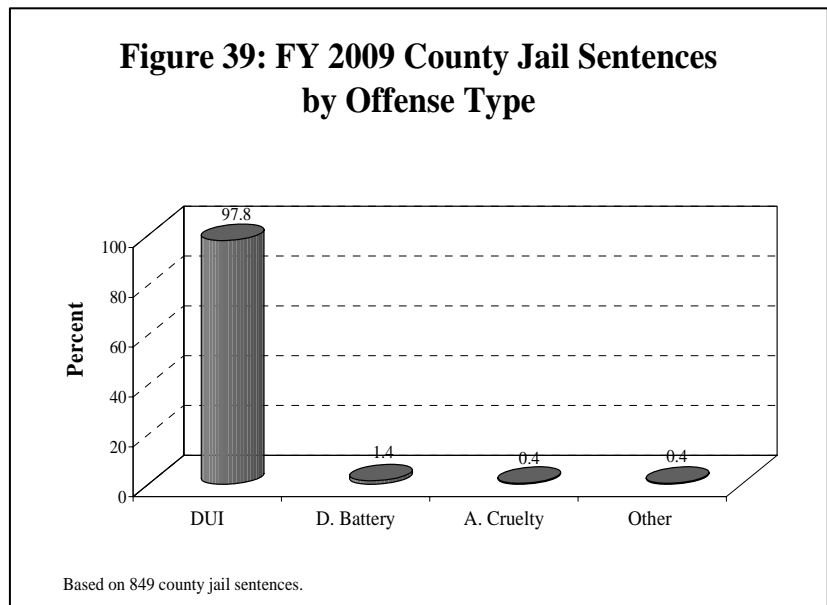
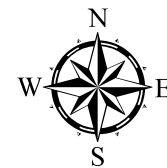
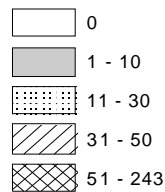
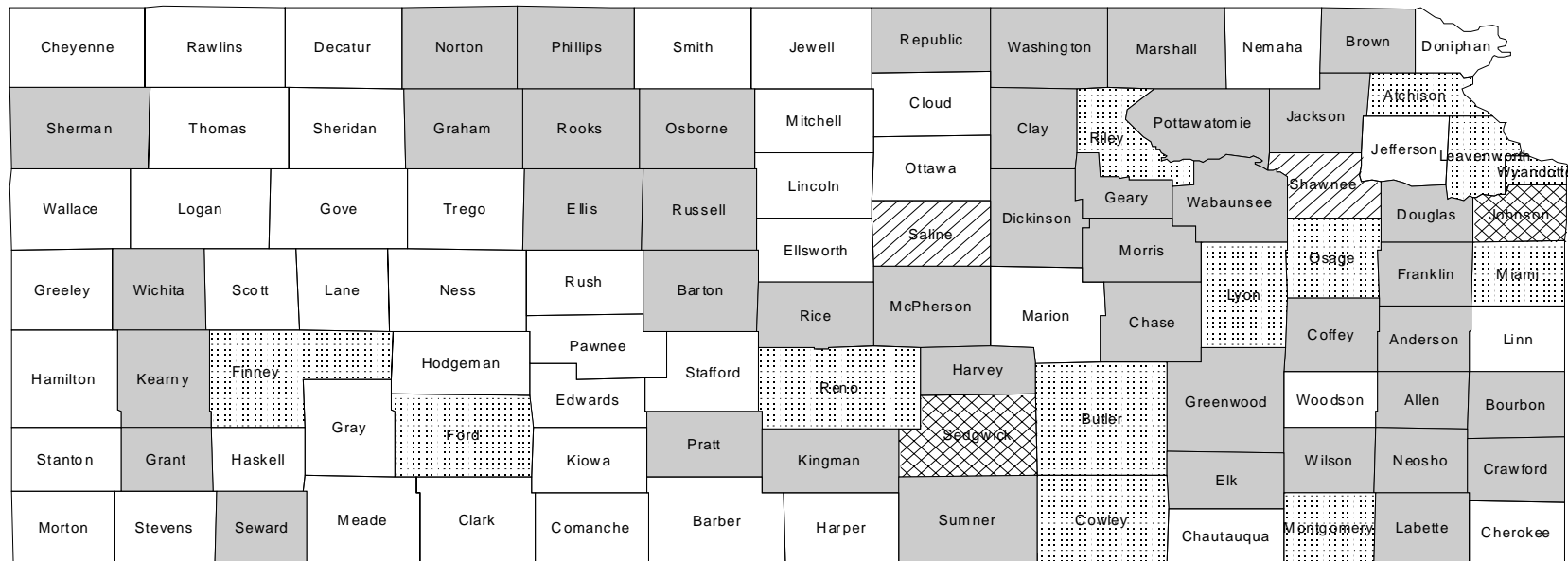


Figure 40: FY 2009 County Jail Sentences by County



CHAPTER TWO VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

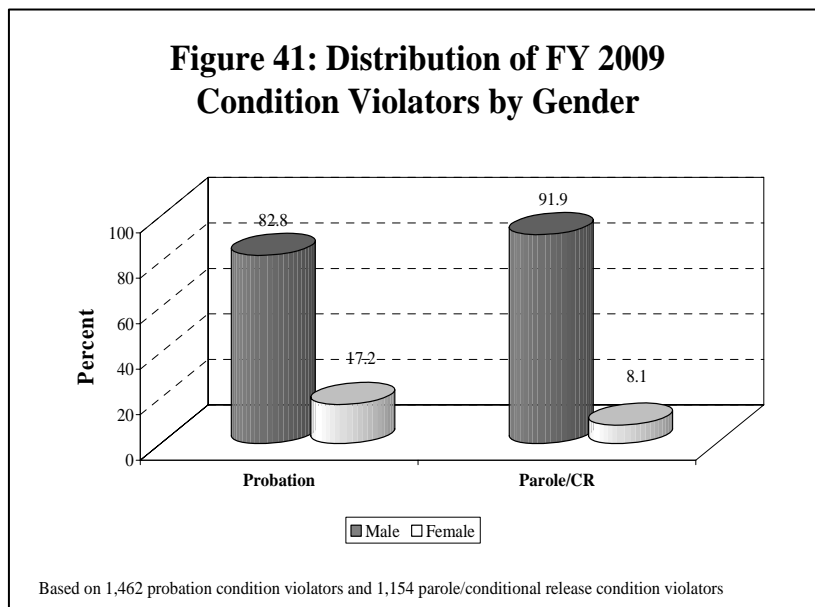
Violators are classified in two ways. Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as “violators with new sentences.” Offenders who are on probation, parole/postrelease supervision and violate the conditions of their supervision but do 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 accounted for 57.4% of all admissions to prison in FY 2009, indicating a decrease of 3.9% when compared with FY 2008 (61.3%). Characteristics of condition violators by gender, race, and age are depicted in Figures 41, 42, and 43. Conditional release violators (only 2) 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.

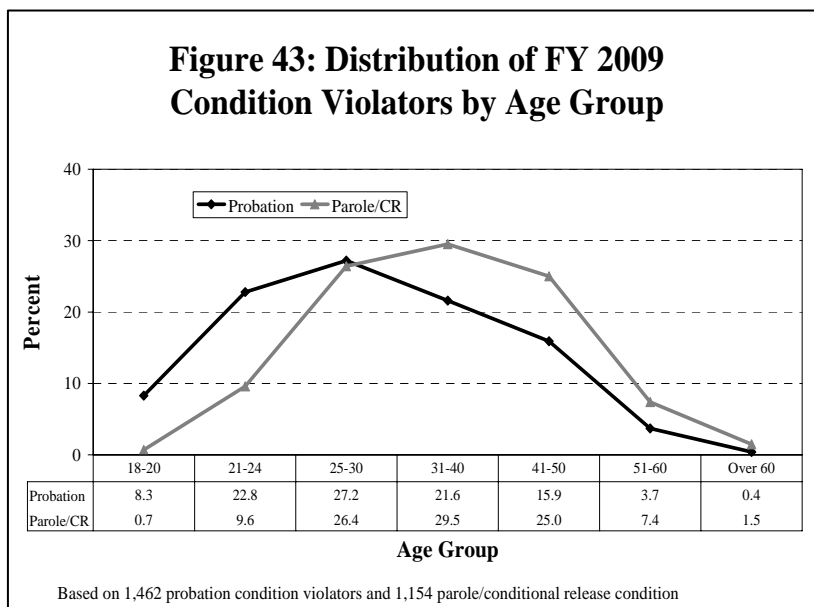
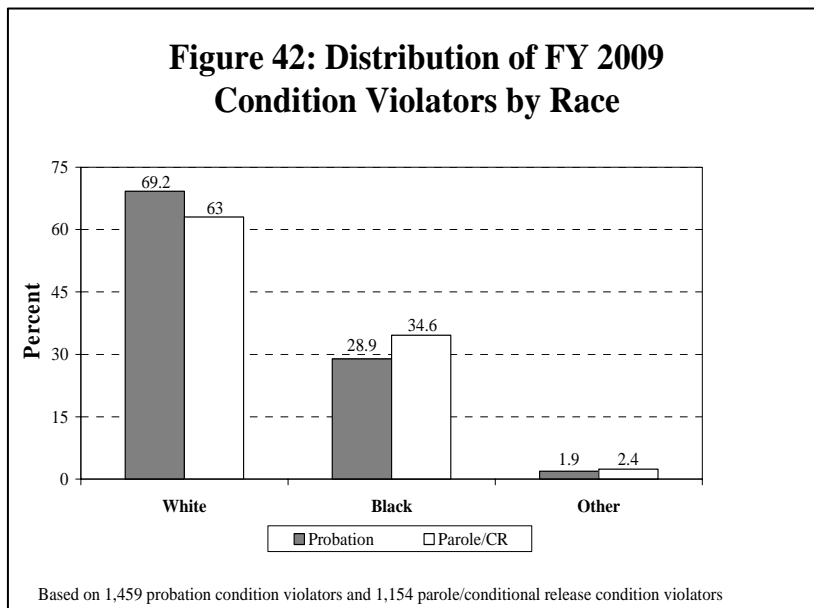
During FY 2009, a total number of 2,616 condition violators were admitted to prison for their violation of conditions, representing 1,462 probation violators, 1,152 parole or postrelease supervision violators, and 2 conditional release violators respectively.



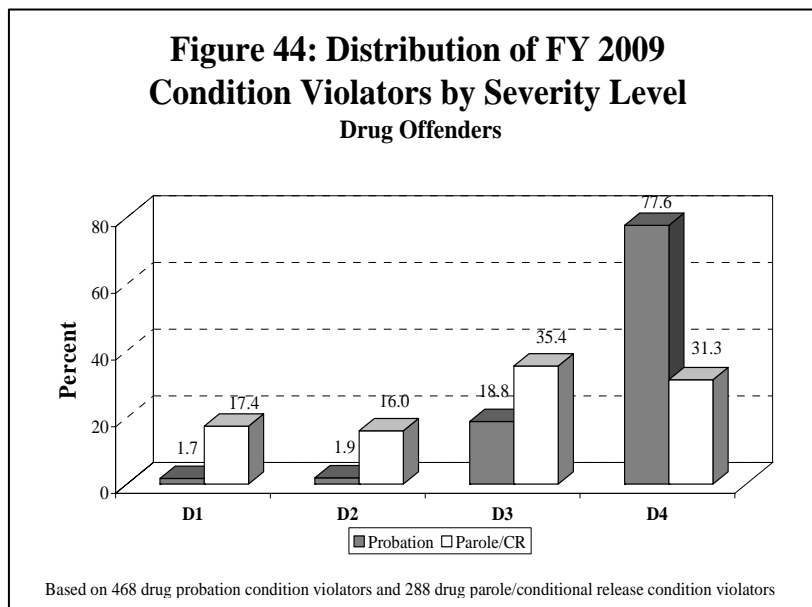
Male offenders were the majority of condition violators, representing 82.8% of probation violators and 91.9% of parole/conditional release violators admitted to prison in FY 2009 (Figure 41).

The highest percentage of white offenders was identified in the group of probation violators (69.2%), while black offenders represented a higher rate (34.6%) in the group of parole or postrelease supervision and conditional release violators (Figures 42).

Most probation violators were in the age group ranging from 25 to 30 (27.2%). The largest number of parole or postrelease supervision and conditional release violators was found in the age group of thirties (29.5%) at the time of admission to prison (Figure 43).



The distributions of all violators by severity level are exhibited in Figures 44 and 45. The largest proportion of drug probation violators was identified at drug severity level 4 (77.6%, 363 offenders) and the highest percentage of drug parole/postrelease and conditional release violators was at drug severity level 3, accounting for 35.4% or 102 offenders (Figure 44).



Nondrug probation violators represented the highest percentage at nondrug severity level 9 (31.1%, 309 offenders), which is the same with that of FY 2008, while the largest numbers of nondrug parole/postrelease and conditional release violators were found at nondrug severity levels 3 and 5, representing 19.9% or 172 offenders and 17.7% or 153 offenders respectively of this group in FY 2009 (Figure 45).

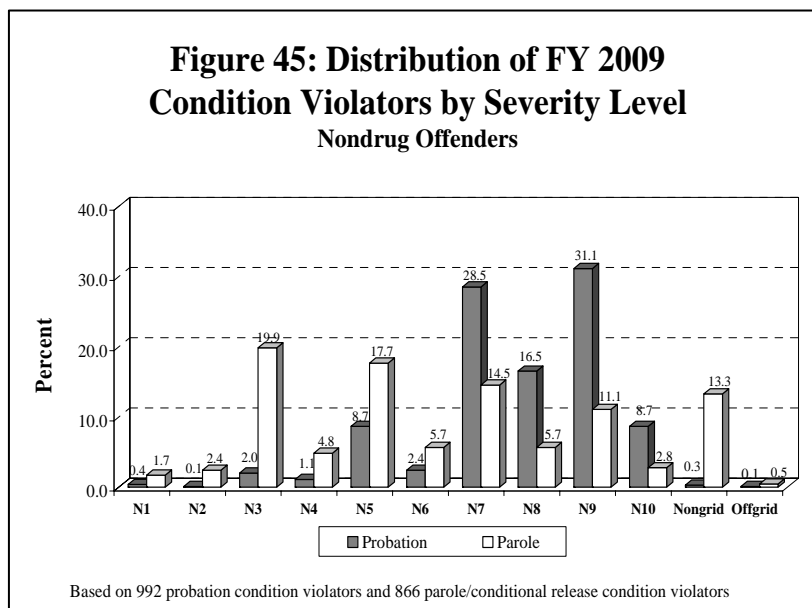


Table 15 describes the characteristics of all types of condition violators. The largest numbers of males were found at nondrug severity level 7 (380 sentences) and drug severity level 4 (369 sentences). However, the highest frequencies of females were at nondrug severity level 9 (58 sentences) and drug severity level 4 (84 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 316 sentences and black offenders made up 133 sentences at drug severity level 4. As for nondrug sentences, most white violators were found at nondrug severity level 9 (307 sentences) and black offenders accounted for the largest number at nondrug severity level 7 (122 sentences). The average age of the violators was 34 years old at the time of admission, which is constant with that of FY 2008.

Table 15: 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	58	51	7	52	5	1	38.1
D2	55	45	10	31	21	3	38.7
D3	190	164	26	113	76	1	33.0
D4	453	369	84	316	133	4	33.4
N1	19	19	0	9	9	1	40.0
N2	22	22	0	11	10	1	45.5
N3	192	181	11	85	100	7	36.3
N4	53	48	5	32	20	1	35.2
N5	239	221	18	130	103	6	32.0
N6	73	69	4	47	25	1	32.0
N7	409	380	29	272	122	15	31.8
N8	213	158	55	143	64	6	32.9
N9	405	347	58	307	91	5	32.5
N10	110	88	22	74	33	2	34.3
Offgrid	5	5	0	4	1	0	41.4
Nongrid	118	102	16	108	8	2	43.4
Unknown	2	1	1	2	0	0	25.3
Total	2,616	2,270	346	1,736	821	56	33.9

* Based on 2,613 sentences reporting race of offenders.

Condition Probation Violators

A total number of 1,462 condition probation violators were admitted to prison during FY 2009. Of this number, 68% (994) were nondrug offenders and 32% (468) were drug offenders. Compared with FY 2008, the admissions of condition probation violators demonstrated a decrease of 10% or 162 violators. The characteristics of this group of violators are presented in Tables 16 and 17.

The top ten offenses committed most frequently by nondrug probation violators in FY 2009 included aggravated escape from custody, aggravated assault, aggravated battery, aggravated robbery, burglary, criminal threat, fleeing or eluding LEO, forgery, robbery and theft. These ten offenses represented 76.8% of all nondrug convictions by probation violators. As the previous year, burglary and theft were the

most frequently committed offenses for which there were a large number of probation violators (Table 16).

The crime of possession of drugs was the most frequently convicted offense type by drug probation violators, accounting for 74.8% of all drug offenses, while the crime of opiates or narcotics possession represented 60.5% of the total drug offenses committed by the condition probation violators admitted to prison in FY 2009 (Table 17).

The average length of lag time from the age of offense to the age of admission to prison was 2 years for nondrug probation violators and 2.4 years for drug probation violators. The distribution of probation violators by severity level and criminal history is exhibited in Table 18.

Table 16: 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 Escape from Custody	24	62.5	37.5	62.5	37.5	0.0	34.7	36.1
Aggravated Assault	48	93.8	6.2	64.6	33.3	2.1	29.2	31.0
Aggravated Battery	123	85.4	14.6	66.7	28.5	4.9	29.7	32.2
Aggravated Robbery	16	81.3	18.7	31.3	68.8	0.0	27.2	29.3
Burglary	159	93.7	6.3	81.6	17.1	1.3	27.2	29.5
Criminal Threat	47	85.1	14.9	70.2	27.7	2.1	30.8	32.9
Fleeing or Eluding LEO	57	89.5	10.5	68.4	28.1	3.5	28.9	30.9
Forgery	96	63.5	36.5	64.6	30.2	5.2	30.1	32.9
Robbery	43	93.0	7.0	44.2	55.8	0.0	23.1	25.0
Theft	150	80.7	19.3	73.0	25.7	1.4	30.6	32.7
Subtotal	763	83.9	16.1	68.8	28.7	2.5	29.1	31.3
Other	231	85.7	14.3	71.4	26.4	2.2	28.9	31.3
TOTAL	994	84.3	15.7	69.4	28.2	2.4	29.1	31.1

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

Table 17: 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	283	73.9	26.1	71.0	28.3	0.7	31.1	33.4
Opiates or Narcotics; Sale 1	54	77.8	22.2	48.1	51.9	0.0	28.1	30.6
Opiates or Narcotics; Sale 2	3	66.7	33.3	66.7	33.3	0.0	36.4	38.1
Depress, Stim, Hall; Poss 2nd	67	98.5	1.5	70.1	28.4	1.5	29.0	31.4
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	34	91.2	8.8	61.8	35.3	2.9	25.9	28.5
Opiates/ Narcotics, Depress, Stim, Hall; Sale w/in 1,000 ft of School	3	100.0	0.0	66.7	33.3	0.0	38.3	40.3
Possession of Paraphernalia	12	83.3	16.7	83.3	16.7	0.0	28.5	31.1
Possession of Precursor Drugs	9	66.7	33.3	100.0	0.0	0.0	34.6	37.6
Other	3	100.0	0.0	100.0	0.0	0.0	23.2	25.7
TOTAL	468	79.5	20.5	68.6	30.6	0.8	30.1	32.5

Table 18: 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	0	1	0	1	0	2	2	2	8
D2	1	1	2	0	3	1	1	0	0	9
D3	3	4	7	5	11	6	13	17	22	88
D4	15	22	26	25	66	21	49	59	80	363
N1	0	0	1	0	1	0	0	0	2	4
N2	0	0	0	0	0	1	0	0	0	1
N3	2	1	4	3	1	1	1	3	4	20
N4	2	0	1	1	0	2	2	2	1	11
N5	4	5	8	6	3	1	10	22	27	86
N6	0	4	2	0	1	2	5	2	8	24
N7	8	27	53	27	24	21	28	48	47	283
N8	7	6	22	8	17	13	23	30	38	164
N9	9	14	36	21	49	26	36	61	56	308
N10	3	1	10	8	6	5	22	16	15	86
TOTAL	54	85	173	104	183	100	192	262	302	1,455

* Due to missing data, criminal history categories are based on 1,455 probation violators reporting criminal history.

Condition Parole/Postrelease Supervision and Conditional Release Violators

In FY 2009, 1,154 condition parole/post-release supervision and conditional release violators were admitted to prison, indicating a decrease of 114 violators or 9% when compared with the data observed in FY 2008. The characteristics of this offender group are presented in Tables 19 and 20.

The top ten offenses most frequently committed by parole/postrelease and conditional release violators were aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, forgery, rape, robbery and theft, accounting for 69.9% of the total nondrug offenses. Male offenders represented 92.7% of this group. White offenders committed more than 80% of crimes of aggravated indecent liberties with a child, burglary and DUI, which is very consistent with the data observed in FY 2008. Blacks indicated the

highest representation in aggravated battery, aggravated burglary and robbery (Table 19). Table 20 demonstrates that drug offenders of this group of violators were convicted primarily of the crimes of possession of drugs (41.3%) and sale of opiates or narcotics (26.7%).

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 2009, 115 DUI violators were admitted to prison, an increase of 12 violators when compared with those in FY 2008 (Table 19).

Table 21 displays the distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history. The largest numbers of this group of violators were found at severity level 4 of the drug grid (89 offenders) and severity level 5 of the nondrug grid (139 offenders).

Table 19: 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		
Aggravated Battery	88	95.5	4.5	47.7	46.6	5.7	27.3	33.6
Aggravated Burglary	25	96.0	4.0	36.0	60.0	4.0	29.1	35.1
Aggravated Robbery	103	93.2	6.8	34.0	63.1	2.9	25.2	37.7
Agg Indecent Liberties w/Child	54	100.0	0.0	83.3	16.7	0.0	26.1	33.4
Burglary	63	92.1	7.9	82.5	15.9	1.6	28.7	32.4
DUI	115	86.1	13.9	91.3	7.0	1.7	41.3	43.5
Forgery	30	76.7	23.3	70.0	30.0	0.0	34.1	37.8
Rape	29	100.0	0.0	44.8	51.7	3.4	25.2	40.9
Robbery	56	89.3	10.7	48.2	51.8	0.0	25.6	34.1
Theft	42	88.1	11.9	71.4	26.2	2.4	34.8	37.6
Other	261	95.4	4.6	60.2	36.4	3.4	28.8	35.9
TOTAL	866	92.7	7.3	61.9	35.5	2.7	29.8	36.7

Table 20: 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	75	92.0	8.0	62.7	36.0	1.3	32.6	36.0
Opiates or Narcotics; Poss 2	26	92.3	7.7	50.0	46.2	3.8	32.7	40.5
Opiates or Narcotics; Poss 3	10	90.0	10.0	50.0	50.0	0.0	37.1	44.4
Opiates or Narcotics; Sale 1	71	84.5	15.5	60.6	39.4	0.0	29.7	37.5
Opiates or Narcotics; Sale 2	6	83.3	16.7	16.7	83.3	0.0	31.5	38.9
Opiates/Narcotics, Depress, Stim, Hall; Sell w/in 1,000 ft of School	11	63.6	36.4	63.6	18.2	18.2	28.7	35.5
Depress, Stim, Hall; Poss 2	8	100.0	0.0	62.5	37.5	0.0	29.7	34.6
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	27	100.0	0.0	70.4	29.6	0.0	24.8	30.7
Possession of Paraphernalia	7	85.7	14.3	71.4	28.6	0.0	23.6	28.4
Possession of Precursor Drugs	4	100.0	0.0	100.0	0.0	0.0	32.1	38.6
Unlawful Manufacture Controlled Substance	43	88.4	11.6	97.7	0.0	2.3	30.3	36.9
TOTAL	288	89.2	10.8	66.3	31.9	1.7	30.5	36.6

Table 21: 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	2	2	10	2	10	5	7	8	4	50
D2	0	1	9	3	9	9	10	2	2	45
D3	4	9	11	6	8	9	10	15	15	87
D4	11	15	28	9	8	2	7	3	6	89
N1	0	0	0	1	0	0	1	0	3	5
N2	1	0	0	0	0	1	2	0	1	5
N3	13	3	13	14	9	12	11	14	40	129
N4	1	5	7	4	0	3	1	7	4	32
N5	7	16	25	18	13	15	7	22	16	139
N6	3	6	9	5	3	5	7	4	2	44
N7	25	34	29	4	17	4	6	5	2	126
N8	10	13	8	2	10	2	1	1	2	49
N9	22	22	17	3	17	0	5	9	1	96
N10	8	9	1	3	0	0	2	1	0	24
TOTAL	107	135	167	74	104	67	77	91	98	920

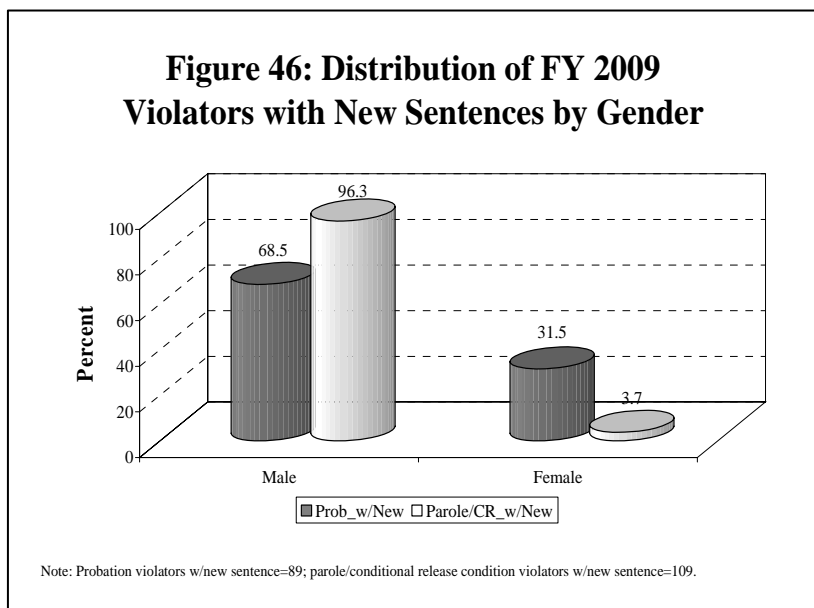
* Due to missing data, criminal history categories are based on 920 violators reporting criminal history.

Violators with New Sentences

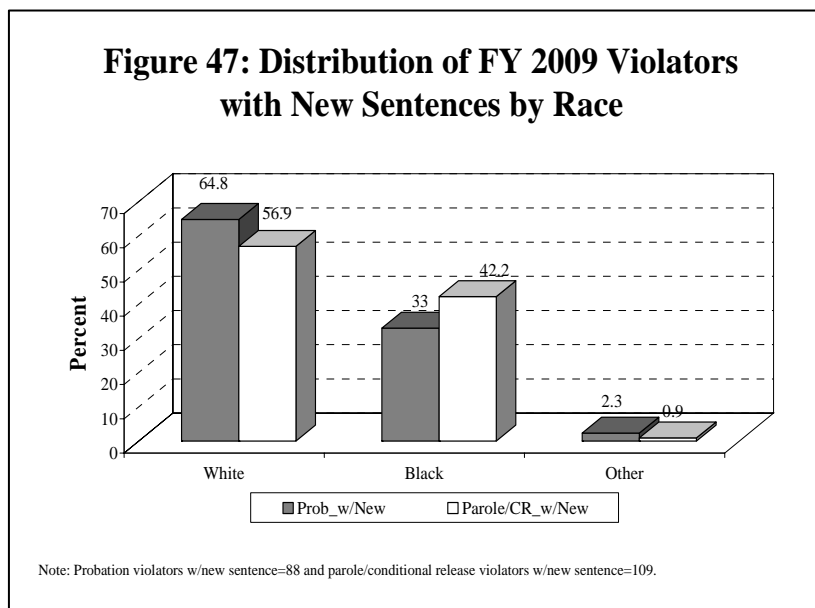
Violators with new sentences analyzed in this section include probation, parole/postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group of violators represented 4.3% (198 violators) of the total prison admissions in FY 2009, indicating a decrease of 2.3% compared with the percentage of FY 2008. Characteristics of this group are illustrated in Figures 46, 47 and 48. Drugs (27%), burglary (16.9%) and aggravated battery (10.1%) were the major offense categories committed by probation violators with new convictions. Drugs (17.4%),

burglary/aggravated burglary (17.4%) and aggravated robbery/robbery (16.5%), represented the top offenses committed by parole/postrelease/conditional release violators with new sentences. Table 22 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 (24, 17 and 11 violators) and drug severity level 4 (14 violators), while nondrug severity levels 3, 5 and 7 (18.3%, 13.8% and 21.1%) and drug severity levels 3 and 4 (5.5% and 7.3%) represented the highest percentages of parole/postrelease/conditional release violators with new sentences.

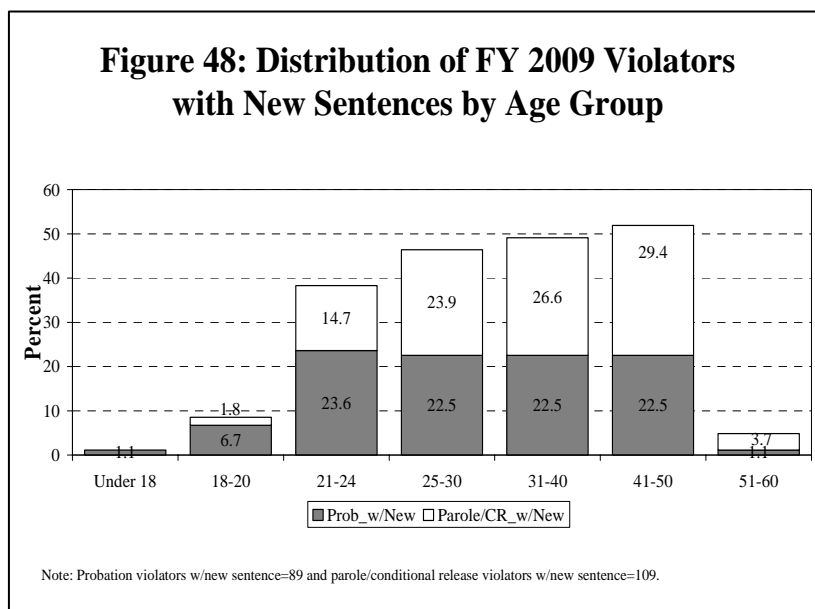
In FY 2009, male offenders remained the predominant gender of all types of violators with new sentences, representing 68.5% of probation violators with new sentences and 96.3% of parole/postrelease and conditional release violators with new sentences. This gender distribution is consistent with those of previous years (Figure 46).



White offenders made up the largest number of the violators with new sentences, representing 64.8% of probation violators with new sentences and 56.9% of parole/postrelease and conditional release violators with new sentences. More black offenders (42.2%) were found in the group of parole and conditional release violators with new sentences (Figure 47).



The highest percentage of probation violators with new sentences were in the age group from 21 to 24 (23.6%) at the time of admission to prison, which is different from that of FY 2008 (25-30 years old). However, parole or postrelease and conditional release violators with new sentences represented the largest proportion in the age group between 41 and 50 (29.4%), which is consistent with that of FY 2008 (Figure 48).



**Table 22: Distribution of FY 2009 Violators with New Sentences
By Severity Level**

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	1	1.1	4	3.7
D2	2	2.2	1	0.9
D3	7	7.9	6	5.5
D4	14	15.7	8	7.3
N1	0	0.0	6	5.5
N2	0	0.0	1	0.9
N3	2	2.2	20	18.3
N4	2	2.2	2	1.8
N5	3	3.4	15	13.8
N6	2	2.2	4	3.7
N7	24	27.0	23	21.1
N8	17	19.1	4	3.7
N9	11	12.4	12	11.0
N10	2	2.2	0	0.0
Offgrid	1	1.1	3	2.8
Nongrid	1	1.1	0	0.0
TOTAL	89	100.0	109	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 2009, there were 2,477 condition probation violators and 267 probation violators with new convictions who were continued or extended on probation, representing 56.9% of the total number of 4,303 condition probation violators and 41.7% of the total number of 641 probation violators with new offenses,

respectively. Drugs (29.3%), burglary (12.9%), theft (11.2%), forgery (9.1%), and DUI (6.5%) were the top five offenses committed by the group of condition probation violators. Drugs (28.8%), burglary (15%), forgery (10.9%) and theft (10.1%), 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 2008. Tables 23 and 24 present the criminal history categories by severity level for the two types of violators who were sentenced to continued or extended probation.

Table 23: 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	9	0	0	0	0	2	0	3	2	2	
D2	5	0	0	0	2	0	0	3	0	0	
D3	154	2	2	4	4	17	13	24	33	55	
D4	556	13	19	47	24	100	49	84	88	131	
N1	1	0	0	0	0	0	0	0	0	1	
N2	0	0	0	0	0	0	0	0	0	0	
N3	17	0	0	0	1	2	1	2	3	8	
N4	6	0	0	1	1	0	1	1	0	2	
N5	88	2	4	8	8	8	1	7	20	30	
N6	18	1	0	4	2	1	0	2	1	7	
N7	421	6	21	62	32	48	25	42	70	114	
N8	370	4	11	48	21	58	32	60	59	77	
N9	550	13	23	77	43	81	37	66	95	115	
N10	102	0	3	15	2	17	7	14	19	25	
Nongrid	180	0	1	2	0	0	0	2	4	3	
TOTAL	2,477	41	84	268	140	334	166	310	394	570	

Note: Criminal history classes are based on 2,307 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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Table 24: 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	2	0	0	0	1	0	0	0	0	1
D2	0	0	0	0	0	0	0	0	0	0
D3	19	0	0	1	2	1	6	2	0	7
D4	56	1	3	5	2	9	5	10	11	10
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	5	0	0	0	1	0	1	1	0	2
N4	1	0	0	0	0	0	0	0	1	0
N5	8	0	1	1	0	0	0	0	3	3
N6	5	0	0	0	0	1	0	0	0	4
N7	47	1	2	6	4	2	2	11	5	14
N8	40	0	1	4	1	14	2	9	3	6
N9	55	3	2	8	4	3	3	9	10	13
N10	10	0	0	1	0	0	1	2	0	6
Nongrid	19	0	0	0	0	0	0	0	0	0
TOTAL	267	5	9	26	15	30	20	44	33	66

Note: Criminal history classes are based on 248 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.

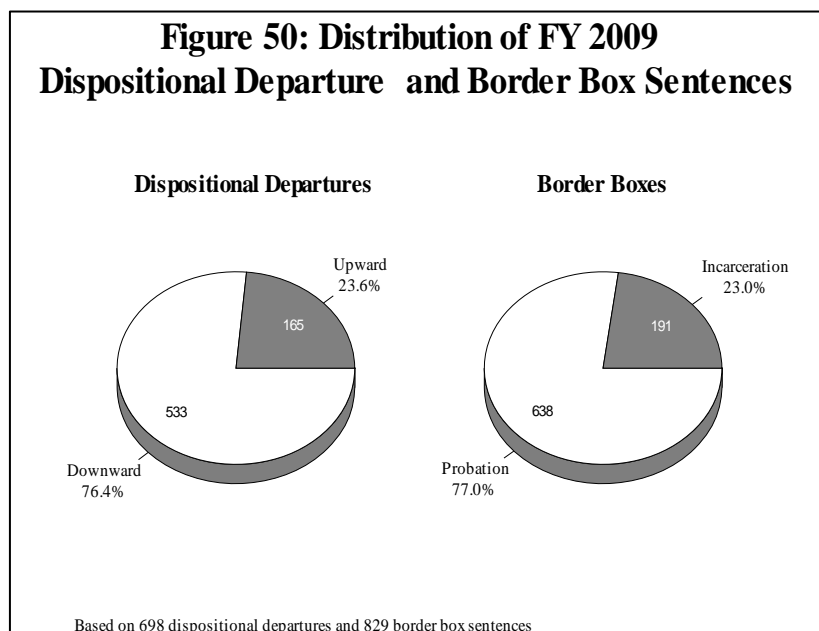
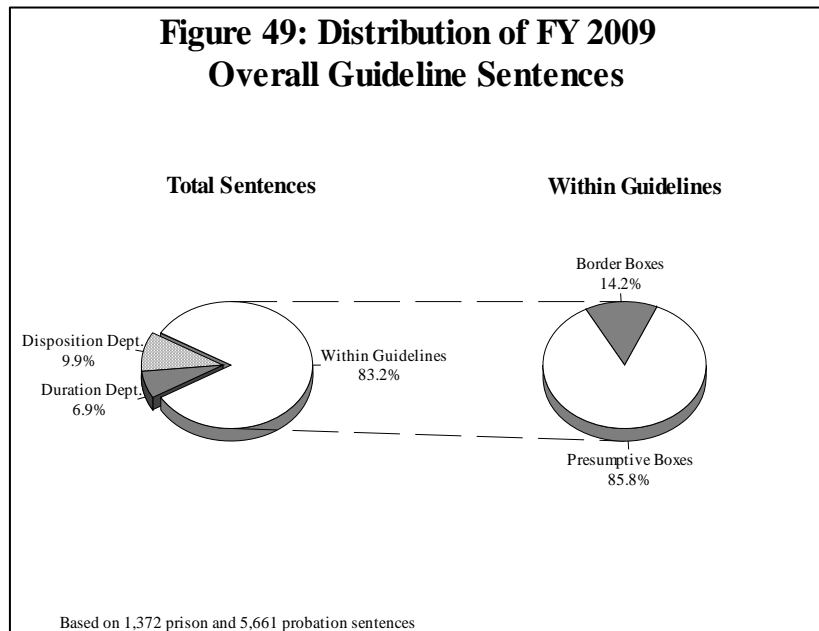
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and 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 7,033 pure guideline sentences in FY 2009 were utilized for this analysis, including 1,372 incarceration guideline sentences and 5,661 probation sentences. Figure 49 demonstrates that 83.2% of the 7,033 guideline sentences were within the presumptive guideline grids, 6.9% indicated durational departures and 9.9% were dispositional departures. Of all the sentences within the presumptive guideline grids, 5,021 sentences (85.8%) fell within either the presumptive prison boxes or presumptive probation boxes, while 829 sentences (14.2%) were located on designated border boxes. Figure 50 indicates that 76.4% (533 sentences) of the 698 dispositional departures were downward departures and 23.6% (165 sentences) were upward dispositional departures. Seventy-

seven percent of the 829 border box sentences resulted in probation sentences with only 23% 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

Presumptive prison guideline sentences refer to sentences that are designated above the incarceration line of the sentencing grids.

Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,372 presumptive prison guideline sentences of FY 2009 were analyzed for this purpose.

Approximately 53% of total sentences fell within the presumptive incarceration range. Of these sentences within the guidelines, 41.1% were within the standard range, 10.9% were within the aggravated range, 21.5% were within the mitigated range and 26.5% were located within designated border boxes (Figure 51).

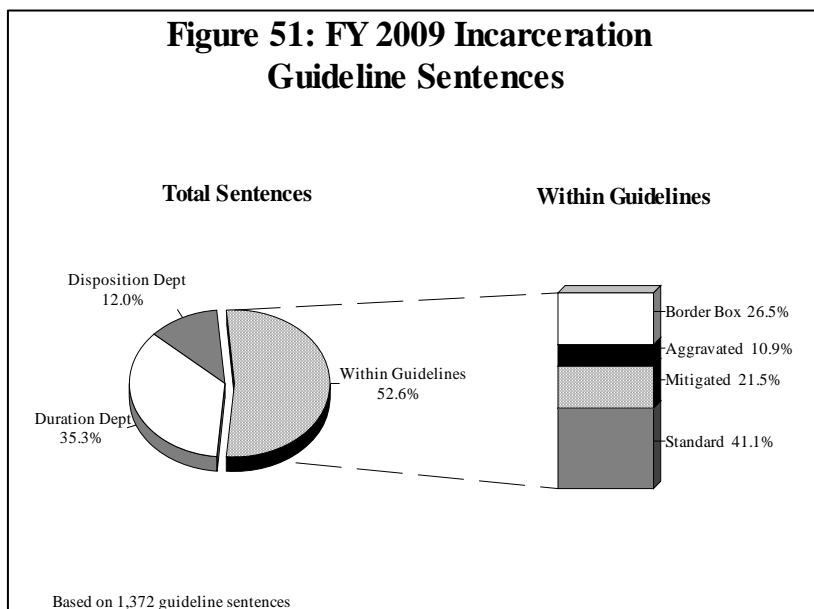
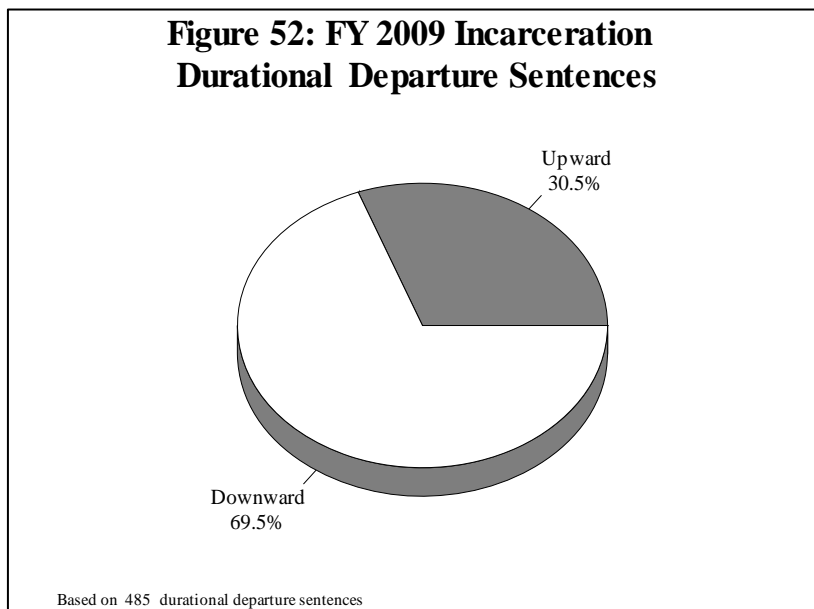


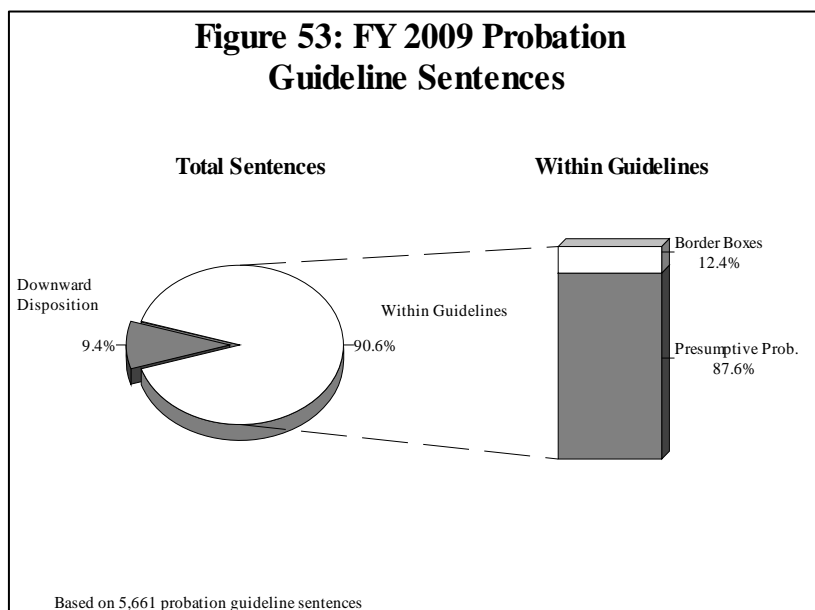
Figure 52 demonstrates that 69.5% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 30.5% departed upward from the presumptive guideline ranges. The percentage change of the downward durational departure sentences is a 0.8% decrease from that of FY 2008.



CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

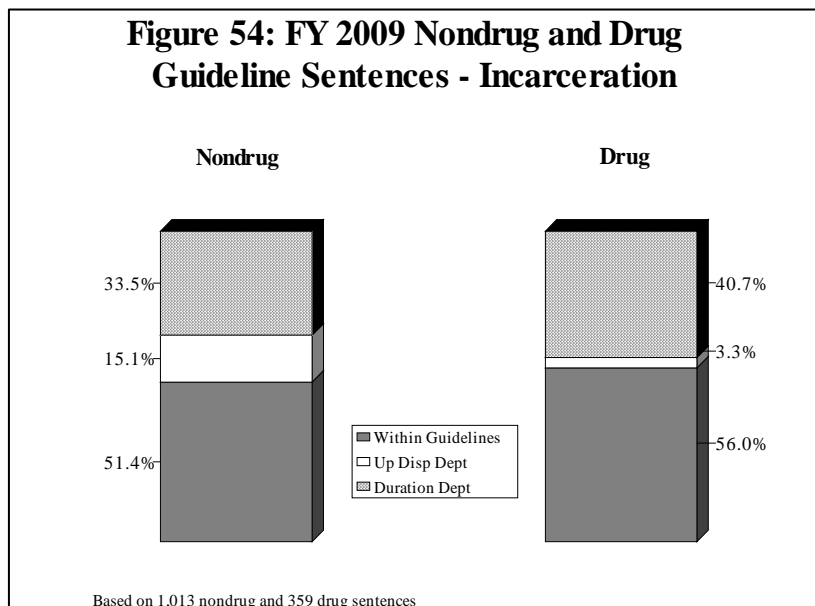
Sentences that are designated below the incarceration line of the sentencing grids are presumptive probation guideline sentences. The analysis of probation guideline sentences demonstrates that as expected, the majority of probation guideline sentences in FY 2009 (90.6% or 5,128 cases) fell within the presumptive guideline range, among which 87.6% were within presumptive probation grids and 12.4% were within

border boxes (Figure 53). The sentences within the presumptive guideline range (5,128) accounted for 64.2% of the total probation sentences imposed in FY 2009 (7,991), which decreased by 1.9% compared to the percentage rate of FY 2008 (66.1%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 9.4% of the total probation guideline sentences in FY 2009 (Figure 53). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 51).

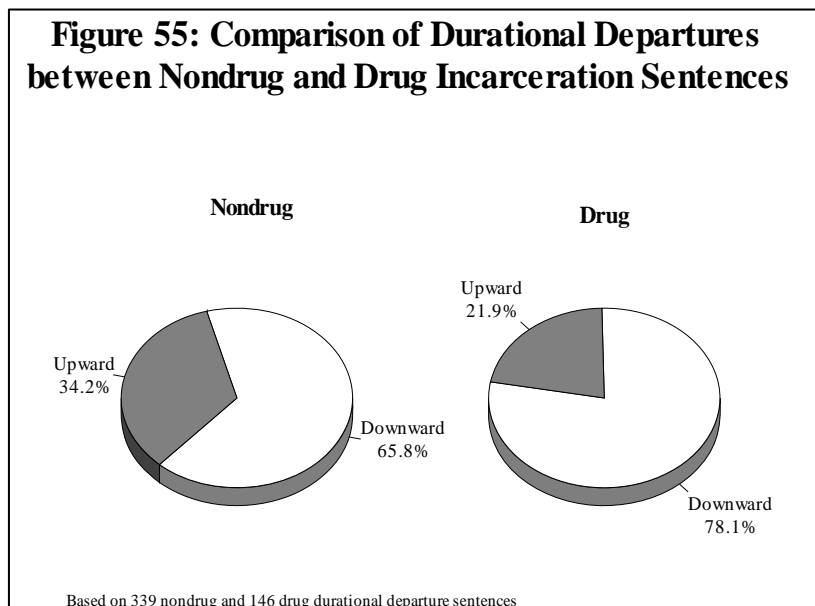


CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

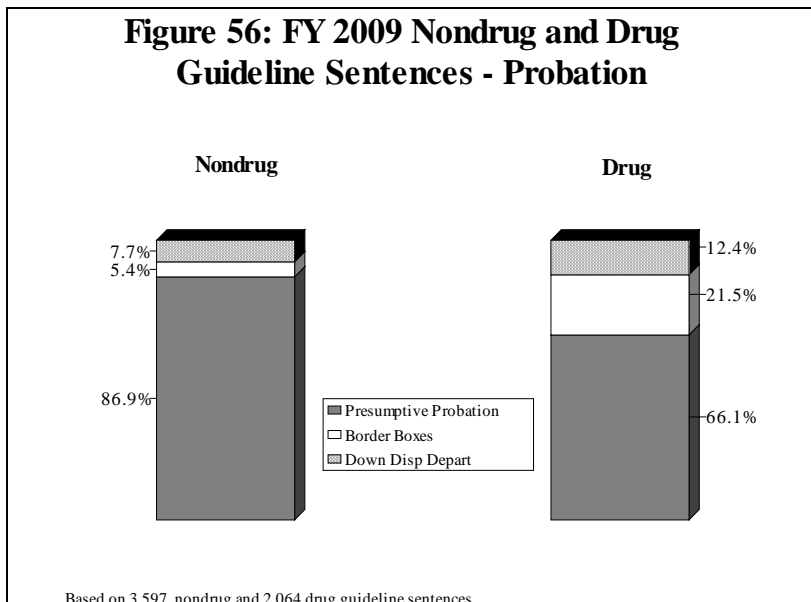
In terms of nondrug and drug sentences, the analysis of guideline incarceration sentences reveals that 15.1% of nondrug offenders showed upward dispositional departures, while 3.3% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 33.5% durational departures while drug offenders showed 40.7% durational departures (Figure 54).



The examination of durational departures indicates that downward departures represented 78.1% of the total durational departures on the drug grid. However, on the nondrug grid, 65.8% of durational departures were downward (in Figure 55). The majority of the upward departures were found at severity levels 1, 2, 3 and 6 of the nondrug grid, which include the most serious offenses (Table 25).



Disparities were identified between nondrug and drug offenders on probation, as well (Figure 56). Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (12.4% vs. 7.7%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (21.5% 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 56).

CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

The conformity rates of incarceration sentences to the guidelines at each severity level are presented in Table 25. Drug incarceration sentences, as a whole, indicated a 17% standard, 1.9% aggravated, 8.6% mitigated and 28.4% border box sentence distribution. Nondrug sentences revealed a 23.3% standard, 7.1% aggravated, 12.2% mitigated and 8.8%

border box sentence distribution. As for the departure sentences, drug sentences showed 8.9% upward durational departures and 31.8% downward durational departures, whereas nondrug sentences showed a 11.5% upward durational departure rate and a 22% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (84.8%) for drug incarceration sentences and nondrug severity level 4 (37.7%) for nondrug incarceration sentences. When examining dispositional departures, 15.1% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 3.3% 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 thirteen years.

Table 25: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg.	Standard	Mit.	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	46		2.2	6.5		6.5	84.8	
D2	34	2.9	32.4	2.9		17.6	44.1	
D3	126	0.8	10.3	7.1	57.9	7.9	15.9	
D4	153	3.3	23.5	11.8	19.0	8.5	26.1	7.8
Subtotal	359	1.9	17.0	8.6	28.4	8.9	31.8	3.3
N1	65	13.8	23.1	6.2		24.6	32.3	
N2	19	21.1	15.8			26.3	36.8	
N3	164	7.3	26.8	13.4		15.9	36.6	
N4	61	11.5	26.2	14.8		9.8	37.7	
N5	241	5.0	17.8	7.5	35.3	7.5	27.0	
N6	29	6.9	31.0	6.9	13.8	24.1	17.2	
N7	149	6.0	23.5	14.1		12.1	11.4	32.9
N8	75	1.3	26.7	12.0		10.7	5.3	44.0
N9	147	8.8	24.5	15.6		6.8	10.9	33.3
N10	63	4.8	23.8	25.4		3.2	7.9	34.9
Subtotal	1,013	7.1	23.3	12.2	8.8	11.5	22.0	15.1
TOTAL	1,372	5.8	21.6	11.3	13.9	10.8	24.6	12.0

Table 26 displays the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 12.4% downward dispositional departures, which should have been presumptive incarceration, while only 7.7% 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 (21.5% 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 thirteen years.

Table 26: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	11			100.0
D2	28			100.0
D3	484		91.3	8.7
D4	1,541	88.6	0.1	11.3
Subtotal	2,064	66.1	21.5	12.4
N1	2			100.0
N2	1			100.0
N3	37			100.0
N4	17			100.0
N5	263		71.9	28.1
N6	80	86.3	6.3	7.5
N7	850	96.4		3.6
N8	712	95.4		4.6
N9	1,282	94.9		5.1
N10	353	96.9		3.1
Subtotal	3,597	86.9	5.4	7.7
TOTAL	5,661	79.3	11.3	9.4

CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 27 and 28 present the conformity rates to the sentencing guidelines by race, respectively, for the drug and nondrug offenders admitted to prison in FY 2009. The examination of drug incarceration sentences within guidelines indicates that blacks received more standard sentences (17.5% vs. 16.6%), aggravated sentences (3.1% vs. 1.5%) and mitigated sentences (10.3% vs. 8.1%) than whites. However, white offenders represented a higher percentage in border box sentences (29% vs. 26.8%) than black offenders. When reviewing sentence departures, whites indicated a much lower percentage of upward durational departures (6.2% vs. 16.5%) and a much higher percentage of

downward durational departures (35.1% vs. 22.7%) than black offenders, while black offenders received a little lower rate of upward dispositional departures (3.1% vs. 3.5%) than white offenders (Table 27).

The analysis of nondrug incarceration sentences demonstrates that white nondrug offenders represented higher percentages in aggravated sentences (7% vs. 6.7%), border box sentences (9.6% vs. 7%), downward durational departures (22.2% vs. 21.5%) and upward dispositional departures (17.2% vs. 11.1%) than black nondrug offenders. Similar with drug sentences, blacks received higher rates of standard sentences (27.9% vs. 21.1%), mitigated sentences (13.4% vs. 11.9%) and upward durational departure sentences (12.4% vs. 11%) for nondrug offenses than whites (Table 28).

Table 27: 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	42		2.4	4.8		7.1	85.7	
	Black	4			25.0		75.0		
	Other	0							
D2	White	22		27.3	4.5		9.1	59.1	
	Black	12	8.3	41.7			33.3	16.7	
	Other	0							
D3	White	82	1.2	12.2	6.1	63.4	3.7	13.4	
	Black	43		7.0	9.3	46.5	16.3	20.9	
	Other	1				100.0			
D4	White	113	2.7	23.0	11.5	20.4	7.1	27.4	8.0
	Black	38	5.3	23.7	13.2	15.8	13.2	21.1	7.9
	Other	2		50.0				50.0	
Total	White	259	1.5	16.6	8.1	29.0	6.2	35.1	3.5
	Black	97	3.1	17.5	10.3	26.8	16.5	22.7	3.1
	Other	3		33.3		33.3		33.3	

Note: Based on 359 drug incarceration guideline sentences reporting race of offenders.

**Table 28: 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	48	16.7	18.8	8.3		20.8	35.4	
	Black	16	6.3	31.3			37.5	25.0	
	Other	1		100.0					
N2	White	14	28.6				28.6	42.9	
	Black	4		50.0			25.0	25.0	
	Other	1		100.0					
N3	White	102	5.9	26.5	14.7		14.7	38.2	
	Black	57	7.0	29.8	12.3		17.5	33.3	
	Other	5	40.0				20.0	40.0	
N4	White	46	8.7	21.7	19.6		13.0	37.0	
	Black	13	23.1	38.5				38.5	
	Other	2		50.0				50.0	
N5	White	159	5.7	14.5	6.9	39.6	7.5	25.8	
	Black	77	2.6	26.0	9.1	26.0	7.8	28.6	
	Other	5	20.0			40.0		40.0	
N6	White	22	9.1	31.8	9.1	13.6	18.2	18.2	
	Black	6		33.3		16.7	33.3	16.7	
	Other	1					100.0		
N7	White	98	6.1	20.4	11.2		13.3	13.3	35.7
	Black	46	4.3	28.3	21.7		10.9	8.7	26.1
	Other	5	20.0	40.0					40.0
N8	White	56	1.8	23.2	10.7		8.9	7.1	48.2
	Black	16		37.5	6.3		18.8		37.5
	Other	3		33.3	66.7				
N9	White	102	6.9	24.5	14.7		6.9	10.8	36.3
	Black	41	14.6	22.0	19.5		4.9	9.8	29.3
	Other	4		50.0			25.0	25.0	
N10	White	41	2.4	26.8	22.0			2.4	46.3
	Black	22	9.1	18.2	31.8		9.1	18.2	13.6
	Other	0							
Total	White	688	7.0	21.1	11.9	9.6	11.0	22.2	17.2
	Black	298	6.7	27.9	13.4	7.0	12.4	21.5	11.1
	Other	27	14.8	29.6	7.4	7.4	11.1	22.2	7.4

Note: Based on 1,013 nondrug incarceration guideline sentences reporting race of offenders.

The conformity rates by race for offenders sentenced to probation during FY 2009 are exhibited in Tables 29 and 30. White offenders received more presumptive probation sentences for drug offenses than black offenders (68.9% vs. 55.5%) but black drug offenders indicated a higher rate of border box sentences (25.8% vs. 20.4%) and downward dispositional departures (18.7% vs. 10.7%) than white drug offenders (Table 29). This racial conformity-rate pattern is consistent with that of FY 2008.

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 (88.7% vs. 80.6%), while black offenders represented a little higher percentage of border box sentences (5.7% vs. 5.4%) and a much higher percentage of downward dispositional departures than white offenders for nondrug offenses (13.6% vs. 6%). This sentencing conformity-rate distribution by race for nondrug offenders did not fluctuate much as compared with that of FY 2008 (Table 30).

Table 29: Conformity Rates by Race - Probation Sentences Drug Offenders

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	11			100.0
	Black	0			
	Other	0			
D2	White	25			100.0
	Black	2			100.0
	Other	1			100.0
D3	White	340		93.2	6.8
	Black	134		85.8	14.2
	Other	9		100.0	
D4	White	1,184	90.8	0.1	9.1
	Black	313	79.6	0.3	20.1
	Other	17	88.2		11.8
Total	White	1,560	68.9	20.4	10.7
	Black	449	55.5	25.8	18.7
	Other	27	55.6	33.3	11.1

Note: Based on 2,036 drug probation sentences reporting race of offenders.

**Table 30: Conformity Rates by Race - Probation Sentences
Nondrug Offenders**

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	2			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	2			100.0
N4	White	9			100.0
	Black	8			100.0
	Other	0			
N5	White	185		76.2	23.8
	Black	75		60.0	40.0
	Other	3		100.0	
N6	White	65	86.2	6.2	7.7
	Black	12	83.3	8.3	8.3
	Other	2	100.0		
N7	White	631	97.0		3.0
	Black	189	94.7		5.3
	Other	27	96.3		3.7
N8	White	544	97.6		2.4
	Black	146	87.0		13.0
	Other	16	100.0		
N9	White	983	96.4		3.6
	Black	274	89.1		10.9
	Other	20	95.0		5.0
N10	White	260	96.5		3.5
	Black	88	97.7		2.3
	Other	4	100.0		
Total	White	2,705	88.7	5.4	6.0
	Black	801	80.6	5.7	13.6
	Other	74	90.5	4.1	5.4

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

CONFORMITY RATES TO THE GUIDELINES BY GENDER

This section discusses the conformity rates to the sentencing guidelines between male and female offenders admitted to prison in FY 2009. Male drug offenders represented higher rates in standard sentences (17.2% vs. 15.6%) and mitigated sentences (8.9% vs. 6.7%). While females received a little more aggravated sentences (2.2% vs. 1.9%) and much more border box sentences for drug crimes than males (37.8% vs. 27.1%). The examination of departure sentences demonstrates that male drug offenders represented higher percentages in upward durational departures (9.9% vs. 2.2%) and upward dispositional departures (3.5% vs. 2.2%), while female drug offenders represented a higher rate in downward durational departures (33.3% vs. 31.5%) than their counterparts (Table 31).

The evaluation of nondrug incarceration sentences reveals that within guidelines, females represented higher percentages than males in aggravated sentences (7.7% vs. 7.1%) and mitigated sentences (12.8% vs. 12.2%), which is different from the data observed in FY 2008. Female nondrug offenders received more border box sentences than male nondrug offenders (14.1% vs. 8.3%). The analysis of departure sentences demonstrates that male nondrug offenders stood for the higher rates of upward durational departure sentences (12.1% vs. 3.8%) and downward durational departures (22.4% vs. 17.9%) than females. However, females represented a much higher percentage in upward dispositional departures (21.8% vs. 14.5%) than their counterparts, which is consistent with the findings of FY 2008 (Table 32).

Table 31: Conformity Rates by Gender - Incarceration Sentences Drug Offenders

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	Male	41		2.4	7.3		7.3	82.9	
	Female	5						100.0	
D2	Male	30	3.3	33.3	3.3		20.0	40.0	
	Female	4		25.0				75.0	
D3	Male	109		11.9	8.3	55.0	9.2	15.6	
	Female	17	5.9			76.5		17.6	
D4	Male	134	3.7	22.4	11.2	18.7	9.0	26.9	8.2
	Female	19		31.6	15.8	21.1	5.3	21.1	5.3
Total	Male	314	1.9	17.2	8.9	27.1	9.9	31.5	3.5
	Female	45	2.2	15.6	6.7	37.8	2.2	33.3	2.2

Note: Based on 359 drug incarceration guideline sentences.

**Table 32: 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	62	12.9	24.2	4.8		24.2	33.9	
	Female	3	33.3		33.3		33.3		
N2	Male	17	23.5	11.8			29.4	35.3	
	Female	2		50.0				50.0	
N3	Male	150	6.7	26.0	13.3		17.3	36.7	
	Female	14	14.3	35.7	14.3			35.7	
N4	Male	55	12.7	27.3	14.5		9.1	36.4	
	Female	6		16.7	16.7		16.7	50.0	
N5	Male	221	5.0	17.6	8.1	33.5	8.1	27.6	
	Female	20	5.0	20.0		55.0		20.0	
N6	Male	29	6.9	31.0	6.9	13.8	24.1	17.2	
	Female	0							
N7	Male	141	5.7	24.8	12.8		12.8	11.3	32.6
	Female	8	12.5		37.5			12.5	37.5
N8	Male	64	1.6	26.6	14.1		12.5	6.3	39.1
	Female	11		27.3					72.7
N9	Male	140	9.3	24.3	15.7		6.4	11.4	32.9
	Female	7		28.6	14.3		14.3		42.9
N10	Male	56	3.6	25.0	25.0		3.6	8.9	33.9
	Female	7	14.3	14.3	28.6				42.9
Total	Male	935	7.1	23.4	12.2	8.3	12.1	22.4	14.5
	Female	78	7.7	21.8	12.8	14.1	3.8	17.9	21.8

Note: Based on 1,013 nondrug incarceration guideline sentences.

The conformity rates of the probation sentences by gender are demonstrated in Tables 33 and 34. The analyses of the offenders on probation show that females on both drug and nondrug grids received less downward dispositional departures than males (7.4% vs. 14.1%), (Table 33); (2.9% vs. 9.3%), (Table 34). This finding indicates that except for incarceration drug sentences in FY 2003 and FY 2009, females were more likely to be incarcerated than males when both upward and downward dispositional departures were 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 31 and 32). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 33 and 34). The above findings continue the trend that was present in the past thirteen 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, FY 2007 and FY 2008).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	6			100.0
	Female	5			100.0
D2	Male	17			100.0
	Female	11			100.0
D3	Male	383		90.1	9.9
	Female	101		96.0	4.0
D4	Male	1,125	86.0	0.2	13.8
	Female	412	95.4		4.6
Total	Male	1,531	63.2	22.7	14.1
	Female	529	74.3	18.3	7.4

Note: Based on 2,060 drug probation sentences reporting gender of offenders.

**Table 34: Conformity Rates by Gender - Probation Sentences
Nondrug Offenders**

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	2			100.0
	Female	0			
N2	Male	0			
	Female	1			100.0
N3	Male	36			100.0
	Female	1			100.0
N4	Male	14			100.0
	Female	3			100.0
N5	Male	231		71.0	29.0
	Female	32		78.1	21.9
N6	Male	63	85.7	4.8	9.5
	Female	16	87.5	12.5	
N7	Male	749	95.9		4.1
	Female	101	100.0		
N8	Male	393	93.9		6.1
	Female	316	97.5		2.5
N9	Male	974	93.6		6.4
	Female	307	98.7		1.3
N10	Male	237	96.2		3.8
	Female	116	98.3		1.7
Total	Male	2,699	84.5	6.2	9.3
	Female	893	94.1	3.0	2.9

Note: Based on 3,592 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 2009 Legislative Session, twenty-eight 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 35 and 36 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 sentencing rules increased from 27.6% in FY 2005 to 29.5% in FY 2009. FY 2009 indicated the highest number (440 admissions) or percentage (29.5%) 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 9.7% in FY 2005 and increased to 12% in FY 2009 (Table 35). The total percentage of both prison and probation sentences applied with special rules increased from 13% in FY 2005 to 15.6% in FY 2009 (Table 36).

During FY 2009, a number of 440 pure guideline prison sentences and 696 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 29.5% of prison pure guideline admissions (1,491 admissions) and 12% of pure guideline probation sentences (5,782) imposed in FY 2009 (Tables 35).

The top three special sentencing rules applied to prison sentences in sentencing practice during FY 2009 were “person felony committed with a firearm” (107 sentences) representing 24.3% of 440 prison sentences applied with special sentencing rules; “crime committed while incarcerated or on probation, parole, etc.” (217 sentences) representing 49.3%; and “crime committed while on felony bond” (87 sentences) making up 19.8% of prison admissions with special sentencing rules during FY 2009 (Table 37).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2009, as well. The special rule of “person felony committed with a firearm” (82 sentences) accounted for 11.8% of the total 696 probation sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (296 sentences) accounted for 42.5% and “crime committed while on felony bond” (172 sentences) accounted for 24.7% (Table 38).

**Table 35: Pure Guideline Sentences Applied with Special Sentencing Rules*
By Prison and Probation
FY 2005 through FY 2009**

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
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
2009	1491	440	29.5	5782	696	12.0

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

**Table 36: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2005 through FY 2009**

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2005	7307	950	13.0
2006	7384	912	12.4
2007	7261	966	13.3
2008	7325	954	13.0
2009	7273	1136	15.6

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

Table 37: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2009

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	107	24.3
Aggravated battery of a LEO	2	0.5
Aggravated assault of a LEO	5	1.1
Crime committed for benefit of a criminal street gang	4	0.9
Felony domestic battery	1	0.2
Persistent sex offender	8	1.8
Crime committed while incarcerated or on probation, parole, etc.	217	49.3
Crime committed while on felony bond	87	19.8
Extended juvenile jurisdiction imposed	4	0.9
2 nd /subsequent manufacture controlled substance	1	0.2
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	22	5.0
Second forgery	1	0.2
Third or subsequent forgery	9	2.0
3 rd /subsequent drug possession	8	1.8
Burglary with 2 or more prior theft, burglary, aggravated burglary	9	2.0
Theft with 3 or more prior theft, burglary, aggravated burglary	3	0.7

Note: The number and percentage are mutually exclusive.

Table 38: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2009

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	82	11.8
Aggravated assault of a LEO	6	0.9
Crime committed for benefit of a criminal street gang	2	0.3
Persistent sex offender	2	0.3
Crime committed while incarcerated or on probation, parole, etc.	296	42.5
Crime committed while on felony bond	172	24.7
Extended juvenile jurisdiction imposed	3	0.4
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	12	1.7

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Special Rules Applied to Sentences	Number	Percent
Second forgery	37	5.3
Third or subsequent forgery	47	6.8
Third or subsequent drug possession	17	2.4
Burglary with 2 prior burglary convictions	30	4.3
Crime committed while incarcerated in a juvenile correction (felony)	3	0.4
Theft with 3 or more prior felony theft, burglary, aggravated burglary	6	0.9
KDOC intensive treatment program	2	0.3
Other	32	4.6

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR

SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The trend analysis of prison admissions demonstrates that the numbers of incarceration sentences were declining in the past five years. The number of admissions in FY 2009 decreased by 160 or 3.4% when compared with that of FY 2008 and decreased significantly by 1,180 offenders or 20.6% compared with that of FY 2005 (Figure 57). Table 39 displays the prison admission patterns by month in the past five years.

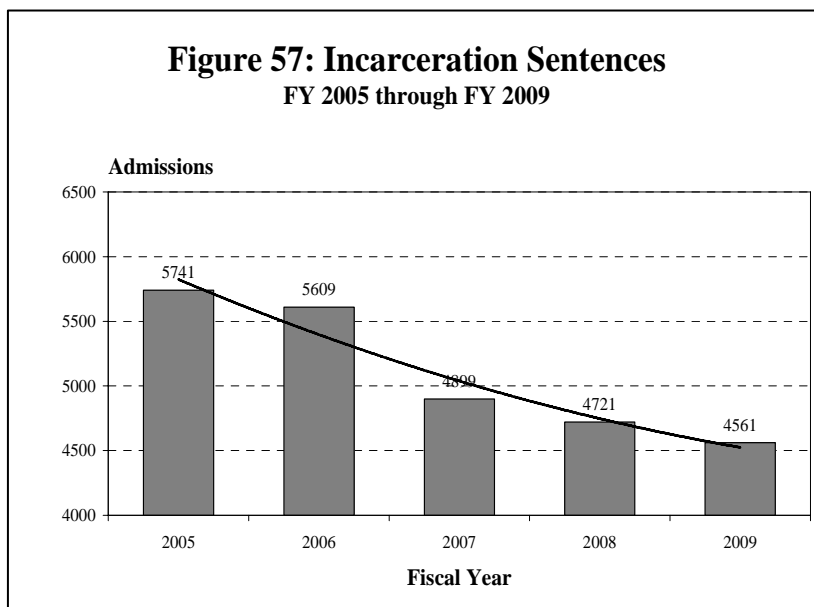


Table 39: Prison Admissions by Month

Month by Fiscal Year	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
July	439	407	417	436	417
August	497	570	420	422	308
September	501	534	390	362	398
October	413	473	448	451	366
November	466	473	375	392	345
December	441	459	354	312	364
January	407	461	442	431	359
February	471	443	355	371	361
March	575	472	422	385	451
April	491	409	397	380	408
May	486	492	502	395	333
June	554	416	377	384	451
Total	5,741	5,609	4,899	4,721	4,561

Table 40 presents the trend of admissions to prison by type in the past five years. Consistent with the declining tendency of total admission, admissions of different types of offenders decreased in FY 2009 except new court commitments. The admission number of new court commitments in FY 2009 increased by 15.1% compared with FY 2008 and by 15.8% compared with FY 2005. FY 2009 represents the highest number of admissions of new court commitments in the past five years. The number of probation condition violators admitted to prison in FY 2009 decreased by 10% from that of FY 2008 and

by 18% from that of FY 2005. Probation violators with new sentences admitted to prison in FY 2009 decreased significantly by 42.9% compared with FY 2008 and by 29.4% compared with FY 2005. The number of parole/postrelease/conditional release violators admitted to prison in FY 2009 greatly decreased by 46% compared with that of FY 2005 and decreased by 9% compared with that of FY 2008. The number of parole/post-release/condition release violators with new sentences in FY 2009 decreased by 34.3% from that of FY 2005 and by 30.1% from that of FY 2008.

Table 40: Comparison of Prison Admissions by Type

Admission Type	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2005 % Difference
New Court Commitment	1,489	1,610	1,605	1,498	1,724	15.8%
Probation Condition Violator	1,783	2,038	1,750	1,624	1,462	-18.0%
Probation Violator with New Sentence	126	142	99	156	89	-29.4%
Parole/Postrelease/CR Condition Violator	2,138	1,641	1,239	1,268	1,154	-46.0%
Parole/Postrelease/CR Violator with New Sentence	166	168	190	156	109	-34.3%
Other Types*	39	10	16	19	23	-41.0%
Total	5,741	5,609	4,899	4,721	4,561	-20.6%

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

Table 41 exhibits the admission trend of incarceration drug sentences by severity level in the past five years. In FY 2009, admissions at all drug levels indicated a decrease from those of the previous year. The overall admissions of drug offenders in FY 2009 decreased by 8% compared with that of FY 2008 and significantly decreased by 25.6% when compared with that of FY 2005. The largest decrease in the past five years was identified at drug severity level 1 by 41.2%, followed by drug severity level 3 by 32.8% and severity level 2 by 29.5%. The number of drug severity level 4 dropped

by 16.5% compared with FY 2005 and by 10.2% compared with FY 2008, which is the largest number of decrease by severity levels compared with FY 2008.

The admission trend of nondrug offenders in the past five years is demonstrated in Table 42. The total number of nondrug admissions only decreased by 1.6% compared with FY 2008 but greatly decreased by 18.6% from that of FY 2005. 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 58.9%, level 3 with a decrease of 31.1% and level 6 with a decrease of 26.6%. Certain fluctuations were also identified in the numbers of sentences at lower nondrug severity levels from FY 2005 to FY 2009 with a decrease of 17.8% at level 7, a decrease of 23.2% at level 8, a decrease of 15.6% at level 9 and a decrease of 20% at level 10. Nongrid offenders admitted to prison in FY 2009 were all violators under the crime of DUI (121 offenders), demonstrating a significant decrease of 41.3% compared with FY 2005 but an increase of 11% compared with FY 2008 (Table 42).

Except for admissions at nondrug severity levels 1, 4 and offgrid, numbers at all nondrug severity levels dropped in FY 2009 compared with FY 2005. The admissions at nondrug severity level 1 increased by 1% compared with FY 2005. As projected, offgrid sentences increased significantly by 215.2% or 71 admissions compared with FY 2005 and by 38.7% or 29 admissions compared with FY 2008. This increasing trend results from Jessica's Law passed in the 2006 Legislative Session. The number of admissions at nondrug severity level 4 in FY 2009 remains the same compared with FY 2005 (Table 42).

Table 41: Comparison of Drug Prison Admissions by Severity Level

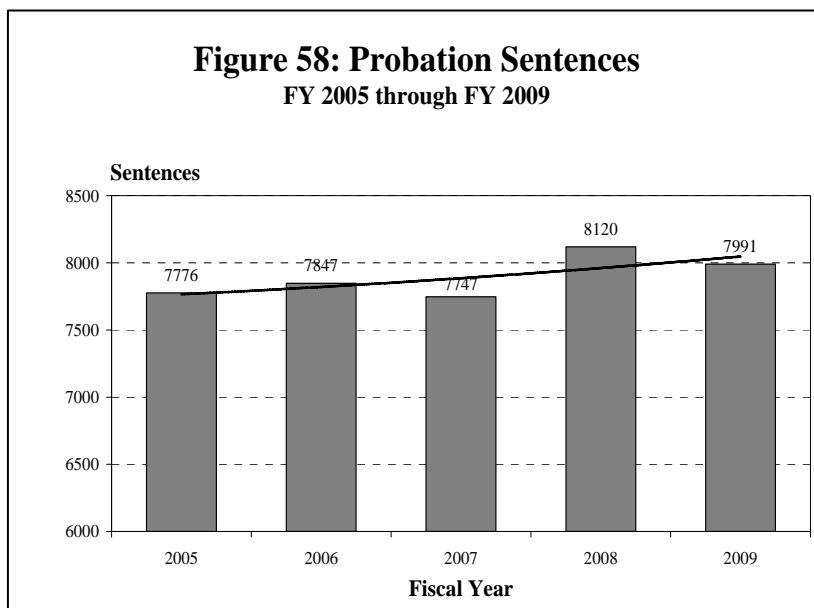
Severity Level	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2008 % Difference	FY 2009-2005 % Difference
D1	187	199	149	115	110	-4.3%	-41.2%
D2	132	136	91	99	93	-6.1%	-29.5%
D3	516	487	438	367	347	-5.4%	-32.8%
D4	781	820	841	726	652	-10.2%	-16.5%
Total	1,616	1,642	1,519	1,307	1,202	-8.0%	-25.6%

Table 42: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2008 % Difference	FY 2009-2005 % Difference
N1	96	101	86	113	97	-14.2%	1.0%
N2	112	84	70	59	46	-22.0%	-58.9%
N3	562	503	391	404	387	-4.2%	-31.1%
N4	123	125	99	99	123	24.2%	0.0%
N5	584	551	513	533	532	-0.2%	-8.9%
N6	158	147	120	126	116	-7.9%	-26.6%
N7	809	792	675	690	665	-3.6%	-17.8%
N8	462	445	396	349	355	1.7%	-23.2%
N9	737	804	662	635	622	-2.0%	-15.6%
N10	235	228	215	220	187	-15.0%	-20.4%
Offgrid	33	38	33	75	104	38.7%	215.2%
Nongrid	206	134	108	109	121	11.0%	-41.3%
Unknown	8	15	12	2	4	100.0%	-50.0%
Total	4,125	3,967	3,380	3,414	3,359	-1.6%	-18.6%

PROBATION SENTENCES

The sentencing trend of probation sentences in the past five years is presented in Figure 58. The number of probation sentences in FY 2009 decreased by 1.6% or by 129 sentences compared with that of FY 2008 but increased by 2.8% or by 215 sentences compared with that of FY 2005. The largest number of probation sentences imposed in the past five years is identified in FY 2008.



The sentencing trend of drug probation sentences by severity level in the past five years is demonstrated in Table 43. Compared with FY 2008, the analysis shows that drug probation sentences at all levels in FY 2009 increased except at drug severity level 4 with a decrease of 11.4%. The largest percentage increase of probation sentences for drug offenses was at drug severity level 1, by an increase of 25%. However, the total number of drug probation sentences in FY 2009 decreased by 8.6% from that of FY 2008. When compared with FY 2005, drug probation sentences significantly decreased by 79.3% at severity level 1, decreased by 15.5% at severity level 3 and decreased by 4% at drug severity level 4, but the number of drug probation sentences at severity level 2 significantly increased by 70%. However, the total number of drug probation sentences in FY 2009 decreased by 9.5% from that of FY 2005.

Table 44 presents the sentencing trend of nondrug probation sentences in the past five years. The total number of nondrug probation sentences in FY 2009 increased by 2% and 9.6%, respectively, over those of FY 2008 and FY 2005. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 4 (an increase of 350%) followed by nondrug severity level 6 (an increase of 50.8%) and nondrug severity level 5 (an increase of 43.9%) compared with the data observed in FY 2005. These increasing patterns at levels remains constant when compared with those of FY 2008. Two offenders at offgrid convicted under Jessica's Law were downward departure to guidelines and sentenced to probation, whose offense dates are before July 1, 2008.

**Table 43: Comparison of Probation Drug Sentences by Severity Level
FY 2005 through FY 2009**

Severity Level	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2008 % Difference	FY 2009-2005 % Difference
D1	121	63	33	20	25	25.0%	-79.3%
D2	20	18	18	31	34	9.7%	70.0%
D3	653	570	542	550	552	0.4%	-15.5%
D4	1,983	2,196	2,091	2,149	1,903	-11.4%	-4.0%
Total	2,777	2,847	2,684	2,750	2,514	-8.6%	-9.5%

**Table 44: Comparison of Probation Nondrug Sentences by Severity Level
FY 2005 through FY 2009**

Severity Level	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2008 % Difference	FY 2009-2005 % Difference
N1	4	4	4	4	3	-25.0%	-25.0%
N2	0	2	1	1	1	0.0%	N/A
N3	46	33	49	47	55	17.0%	19.6%
N4	4	17	15	24	18	-25.0%	350.0%
N5	223	211	236	295	321	8.8%	43.9%
N6	61	95	68	88	92	4.5%	50.8%
N7	1,053	997	1,013	1,067	1,047	-1.9%	-0.6%
N8	793	879	972	907	927	2.2%	16.9%
N9	1,539	1,534	1,479	1,671	1,654	-1.0%	7.5%
N10	454	422	420	414	448	8.2%	-1.3%
Offgrid	0	0	0	3	2	-33.3%	N/A
Nongrid	822	806	806	849	909	7.1%	10.6%
Total	4,999	5,000	5,063	5,370	5,477	2.0%	9.6%

COUNTY JAIL SENTENCES

The trend analysis of county jail sentences imposed in the past five years is depicted in Figure 59. The total number of jail sentences imposed in FY 2009 demonstrated a decrease of 2.3% or 20 sentences compared with that of FY 2008 but an increase of 16% or 117 sentences compared with that of FY 2005. FY 2008 represents the highest number of county jail sentences imposed in the past five years.

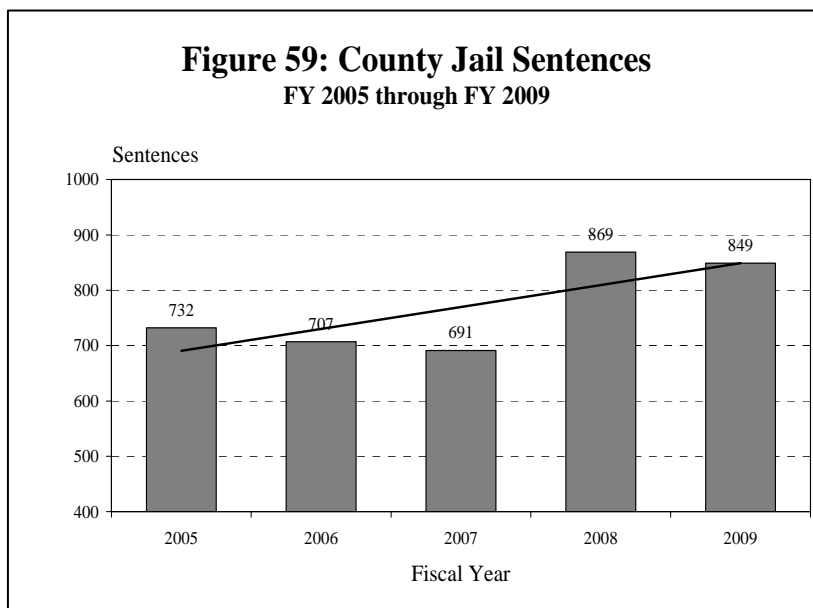


Table 45 presents the offense trend of county jail sentences from FY 2005 through FY 2009. Approximately 98% of the jail sentences were convictions of the crime of DUI. Further analysis of DUI crime reveals that the 4th or subsequent conviction of DUI accounted for more than 80% of total county jail sentences. In FY 2009, the number of the 4th or subsequent conviction of DUI decreased by 1.2% compared with FY 2008 but increased by 22.1% compared with FY 2005. The number of the 3rd conviction of

DUI in FY 2009 decreased by 8.2% and 22.6% respectively when compared with those of FY 2008 and FY 2005. Though small in number, the crime of domestic battery increased from 9 sentences in FY 2005 to 12 sentences in FY 2009. The crime of cruelty to animals was created in the 2007 Legislative Session. Only 1 offender was convicted of the crime in FY 2007, 2 offenders were convicted of the crime in FY 2008 and 3 offenders were convicted of the crime in FY 2009.

Table 45: Comparison of County Jail Sentences by Offense FY 2005 through FY 2009

Offenses	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009-2008 % Difference	FY 2009-2005 % Difference
3rd DUI	115	117	91	97	89	-8.2%	-22.6%
4th or Sub. DUI	607	579	588	750	741	-1.2%	22.1%
Domestic battery	9	11	11	15	12	-20.0%	33.3%
Cruelty to Animals	0	0	1	2	3	50.0%	N/A
Other	1	0	0	5	4	-20.0%	300.0%
Total	732	707	691	869	849	-2.3%	16.0%

PRISON POPULATION FORECASTS

Producing official inmate population projections annually for the state Department of Corrections is one of the statutory tasks of the Kansas Sentencing Commission. 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 projections predict that the offenders incarcerated in state prisons will reach 9,969 by June 30, 2019, which indicates an increase of 1,367 inmates or 15.9% over the actual prison population on the same date of year 2009. Although the total number of admissions has dropped compared with those of the past five years (Figure 57), 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 60).

Table 46 presents FY 2010 prison population projections by severity levels. 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 784 offenders or 88%. 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 228 offenders or 24.5% over the ten-year forecast period. This is due to the "stacking effect" of long sentence length of most serious offenses.

Prison population will increase by 20.8% or 60 offenders at nondrug severity level 4 and increased by 15.6% or 175 offenders at nondrug severity level 5 in the next ten years. As for population at other nondrug severity levels, no big changes are projected in the ten-year forecast period.

The projected prison population of drug offenders at all severity levels does not fluctuate much in the ten-year forecast. The number of offenders will increase by 27 at drug severity level 1, by 38 at drug severity level 2, by 7 at drug severity level 3 and by 2 at drug severity level 4 in the ten-year forecast period. Figure 60 depicts the trend of the actual and projected prison population from FY 1996 through FY 2019.

Figure 60: Prison Population Actual and Projected

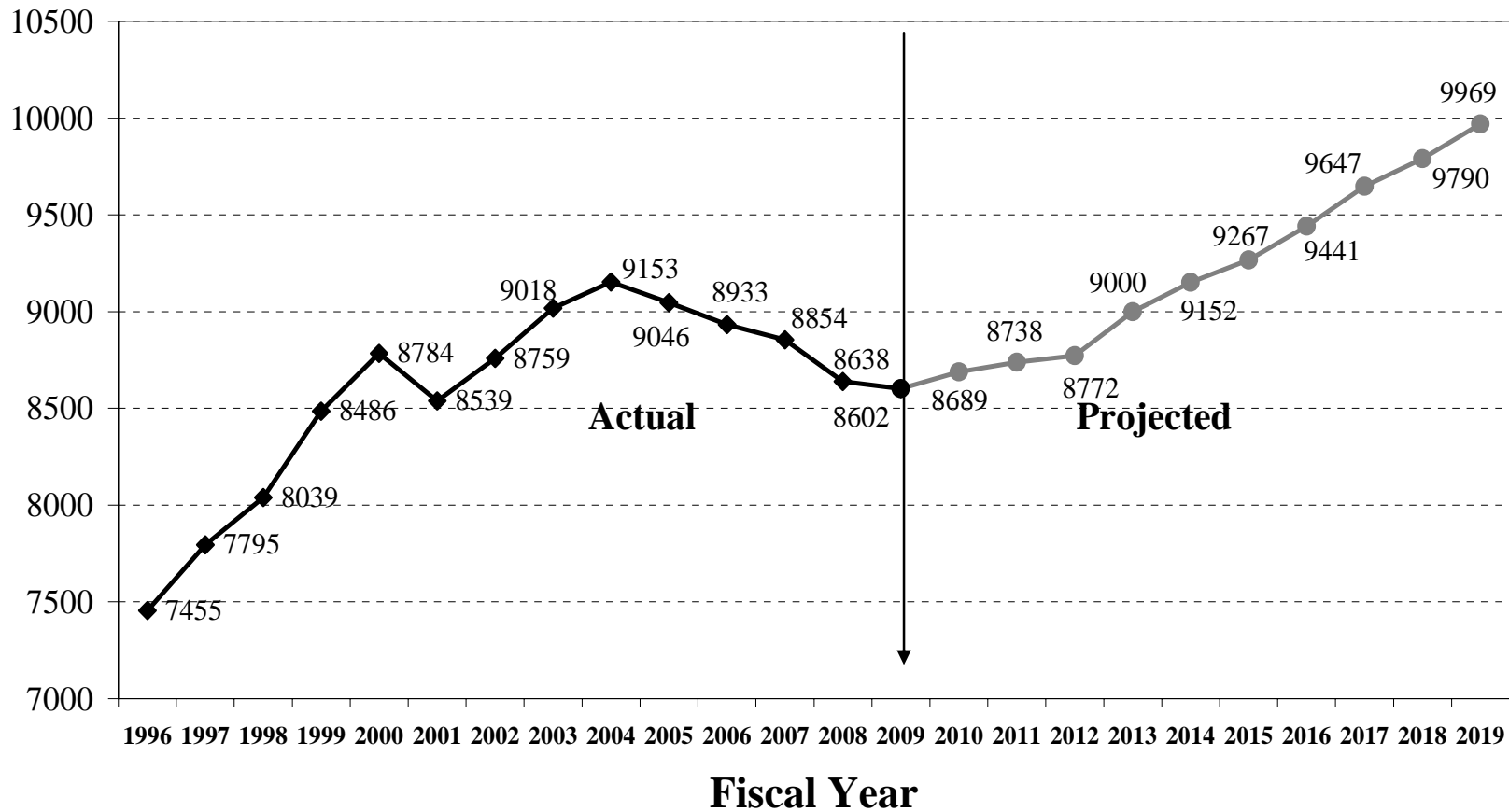


Table 46: FY 2010 Adult Inmate Prison Population Projections

Severity Level	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	June 30 2019	Total # Increase	Total % Increase
D1	321	318	312	305	316	318	314	320	340	344	348	27	8.4%
D2	150	136	151	151	161	167	166	179	192	182	188	38	25.3%
D3	415	418	422	418	419	390	407	410	409	426	422	7	1.7%
D4	630	621	597	578	589	583	558	585	597	591	632	2	0.3%
N1	930	961	991	1017	1047	1066	1085	1097	1122	1155	1158	228	24.5%
N2	415	420	420	424	427	429	441	438	433	436	428	13	3.1%
N3	1314	1276	1280	1287	1313	1301	1309	1320	1344	1359	1346	32	2.4%
N4	288	309	332	339	335	339	337	341	326	330	348	60	20.8%
N5	1120	1149	1164	1185	1212	1242	1269	1254	1262	1272	1295	175	15.6%
N6	153	153	154	145	134	145	147	143	146	144	153	0	0.0%
N7	746	772	767	762	746	747	732	715	748	774	751	5	0.7%
N8	197	191	176	169	166	181	190	199	201	189	200	3	1.5%
N9	233	209	192	195	204	193	207	202	204	212	230	-3	-1.3%
N10	35	43	39	42	41	57	50	47	48	49	45	10	28.6%
OFF GRID	891	958	1033	1096	1177	1262	1346	1429	1509	1586	1675	784	88.0%
Condition Parole/PIS Violators	760	755	708	659	713	732	709	762	766	741	750	-10	-1.3%
Total	8602	8689	8738	8772	9000	9152	9267	9441	9647	9790	9969	1367	15.9%

*. The numbers on June 30, 2009 are the actual prison population on that date. Total numbers include one non-grids and three missing.

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 240 unclassified beds, 2,657 minimum beds, 2,497 medium low beds, 1,422 medium high beds, 1,149 maximum beds and 724 special management beds will be needed by the end of FY 2010. The total projected prison beds, by the end of FY 2019, will include 270 unclassified beds, 2,969 minimum beds, 2,680 medium low beds, 1,828 medium high beds, 1,369 maximum beds and 853 special management beds (Table 47).

Figure 61 exhibits the projected percentage distribution of custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 4.8% unclassified, 51.7% minimum, 16.5% medium low, 12.2% medium high, 13.1% maximum custody and 1.7% special

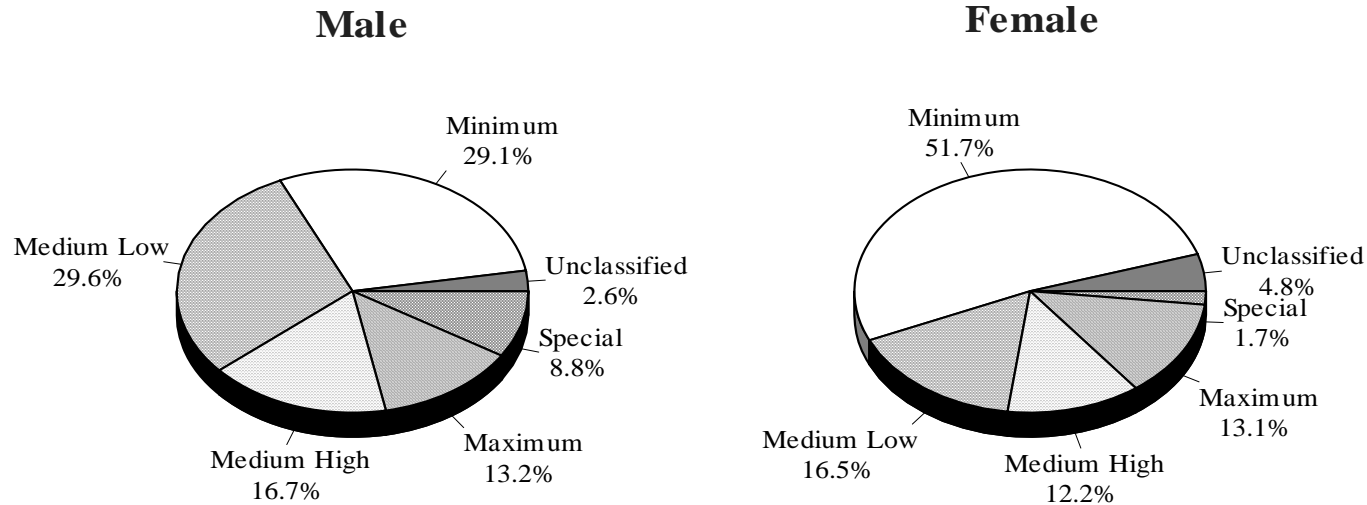
management beds by the end of FY 2010. Males will need 2.6% unclassified, 29.1% minimum, 29.6% medium low, 16.7% medium high, 13.2% maximum custody and 8.8% special management beds by the end of FY 2010. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

In the ten-year forecast period, the needs of male beds increase at all custody types. The largest increase is found at the type of medium high beds with an increase of 375. The second largest increase is at the type of minimum beds with an increase of 294 beds. The maximum custody beds, medium low custody beds, special management beds and unclassified beds demonstrate an increase of 218, 159, 121 and 25, 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 31 medium high beds, 24 medium low beds and 18 minimum beds. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 47: Ten Years Custody Classification Projection

June 30 Each Year	Unclassified	Minimum	Medium Low	Medium High	Maximum	Special	Total
2010	240	2,657	2,497	1,422	1,149	724	8,689
2011	244	2,645	2,499	1,447	1,151	752	8,738
2012	248	2,682	2,435	1,432	1,166	809	8,772
2013	250	2,757	2,478	1,476	1,216	823	9,000
2014	243	2,779	2,491	1,584	1,242	813	9,152
2015	262	2,880	2,419	1,665	1,243	798	9,267
2016	256	2,875	2,490	1,751	1,252	817	9,441
2017	268	2,890	2,581	1,821	1,271	816	9,647
2018	271	2,907	2,640	1,815	1,290	867	9,790
2019	270	2,969	2,680	1,828	1,369	853	9,969

Figure 61: Projected Percentage Distribution of Custody Classification by Gender



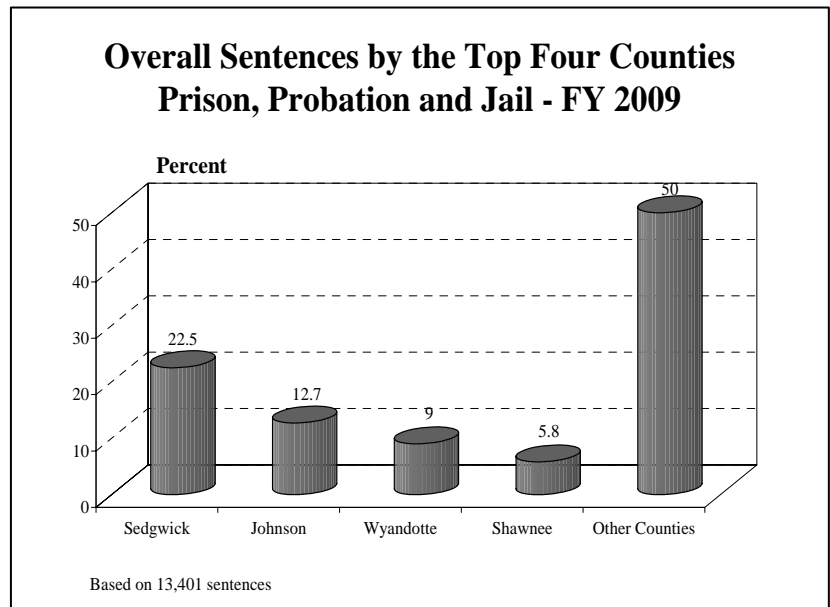
Based on the projected prison population on June 30, 2010 (male = 8,107 and female = 582).

APPENDIX I SENTENCES FROM THE TOP FOUR COUNTIES

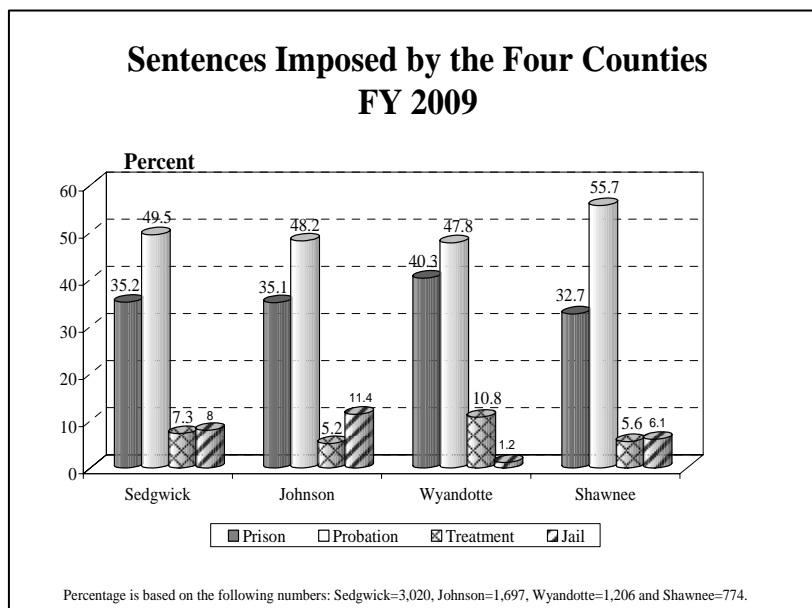
In this section, sentences utilized for analyses include incarceration, probation and county jail sentences submitted to the Commission during FY 2009. The analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 50% of the total state sentences. This percentage is very close to that of FY 2008. 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 2008, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County increased by 1.1%; sentences from Johnson County and Shawnee County decreased by 1.4% and 0.3% respectively; sentences from Wyandotte County indicate no percentage change. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2009.

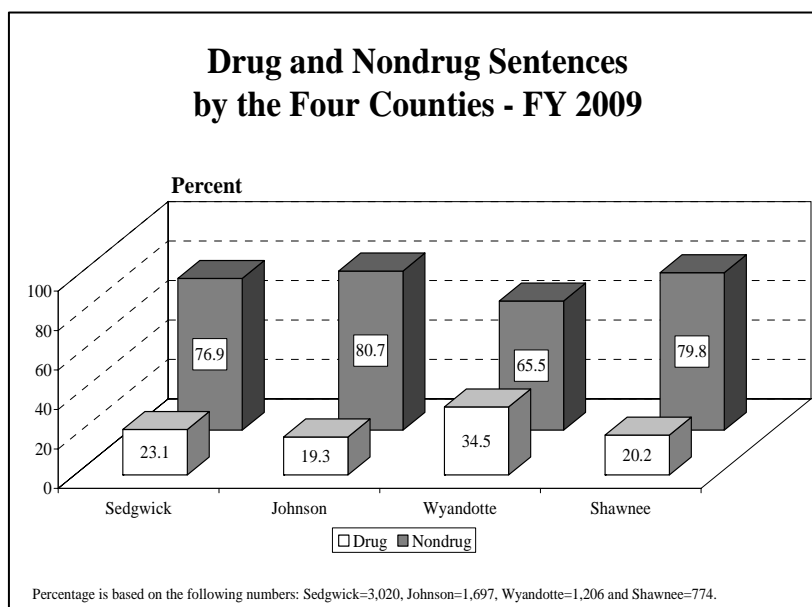
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events accounting for 50% of the total state sentences imposed in FY 2009, a decrease of 0.6% from that of FY 2008 (50.6%).



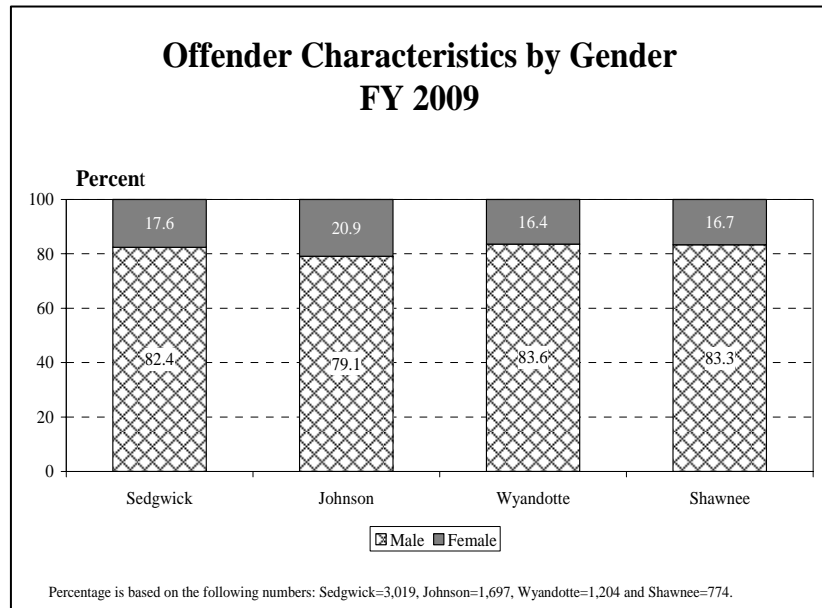
Wyandotte County imposed the higher percentage of prison sentences (40.3%) than the other three counties, while the highest rate of probation sentences was identified in Shawnee County (55.7%). Wyandotte County also imposed the highest rate of Senate Bill 123 drug treatment sentences (10.8%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (11.4%).



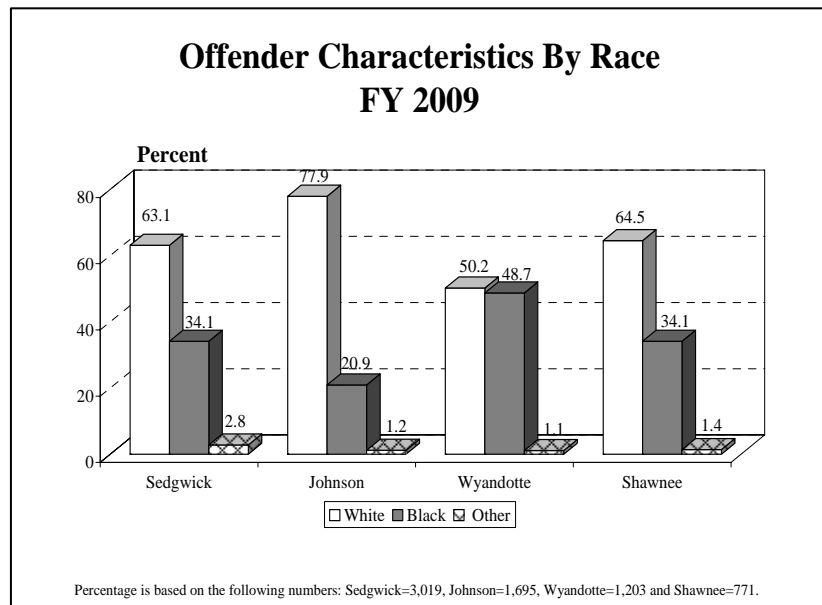
The examination of sentences imposed by types of drug and nondrug discloses that Wyandotte County represented the highest percentage of drug sentences (34.5%), while Johnson County imposed the largest proportion of nondrug sentences (80.7%) among the four counties.



The analysis of offenders by gender indicates that Johnson County represented the highest percentage of female offenders (20.9%), while Wyandotte County reported the highest rate of male offenders (83.6%).



Racial analysis on offenders reveals that Johnson County reported more white offenders (77.9%), while Wyandotte County reported more black offenders (48.7%) than the other three counties respectively, which remained constant as compared to FY 2008.



**FY 2009 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	20	0.7	2	0.1	1	0.1	7	0.9
D2	20	0.7	2	0.1	7	0.6	3	0.4
D3	155	5.1	109	6.4	81	6.7	45	5.8
D4	502	16.6	215	12.7	327	27.1	101	13.0
N1	24	0.8	5	0.3	11	0.9	8	1.0
N2	13	0.4	1	0.1	8	0.7	7	0.9
N3	133	4.4	49	2.9	81	6.7	47	6.1
N4	42	1.4	8	0.5	20	1.7	10	1.3
N5	260	8.6	82	4.8	95	7.9	43	5.6
N6	34	1.1	10	0.6	28	2.3	16	2.1
N7	411	13.6	138	8.1	141	11.7	142	18.3
N8	311	10.3	169	10.0	65	5.4	72	9.3
N9	544	18.0	290	17.1	157	13.0	146	18.9
N10	60	2.0	251	14.8	98	8.1	11	1.4
Nongrid	467	15.5	359	21.2	68	5.6	107	13.8
Offgrid	24	0.8	7	0.4	18	1.5	9	1.2
Total	3,020	100.0	1,697	100.0	1,206	100.0	774	100.0

FY 2009 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	697	23.1	DUI	349	20.6
DUI	457	15.1	Drugs	328	19.3
Theft	278	9.2	Theft	214	12.6
Burglary	217	7.2	Burglary	111	6.5
Aggravated Battery	194	6.4	Identity Theft	103	6.1
Forgery	157	5.2	Aggravated Battery	70	4.1
Fleeing or Eluding LEO	117	3.9	Forgery	68	4.0
Aggravated Robbery	105	3.5	Criminal Threat	41	2.4
Aggravated Assault	71	2.4	Nonsupport of a Child or Spouse	40	2.4
Robbery	68	2.3	Aggravated Assault	36	2.1
Total	2,361	78.3	Total	1,360	80.1

FY 2009 Top Ten Offenses Committed by Offenders in the Four Counties – 2

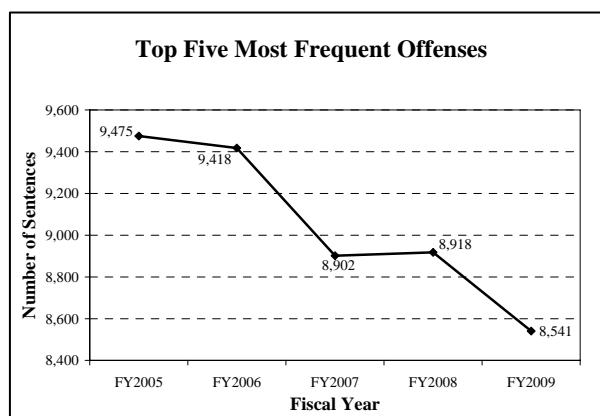
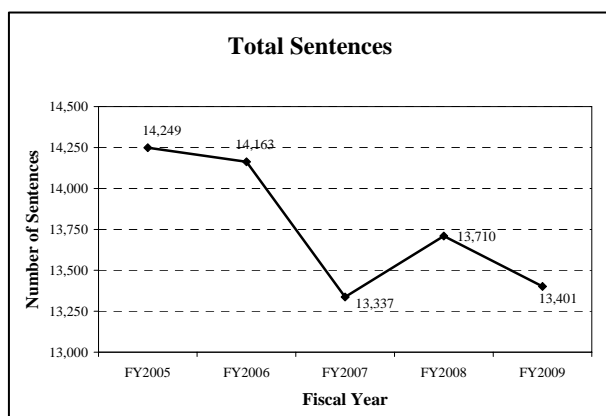
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	416	34.5	Drugs	156	20.2
Theft	91	7.5	DUI	96	12.4
Burglary	86	7.1	Burglary	91	11.8
Aggravated Battery	71	5.9	Theft	66	8.5
DUI	67	5.6	Aggravated Battery	48	6.2
Fleeing or Eluding LEO	58	4.8	Forgery	38	4.9
Robbery	52	4.3	Aggravated Assault	35	4.5
Aggravated Robbery	51	4.2	Aggravated Robbery	27	3.5
Forgery	32	2.7	Robbery	21	2.7
Aggravated Assault	28	2.3	Fleeing or Eluding LEO	20	2.6
Total	952	78.9	Total	598	77.3

APPENDIX II TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

The top five most frequently convicted offenses in the past five years were the crimes of drugs, DUI, burglary, theft and forgery. Of the total offenses, including incarceration, probation and county jail sentences, these top five offenses represented 66.5% in FY 2005, 66.5% in FY

2006, 66.7% in FY 2007, 65% in FY 2008 and 63.7% in FY 2009. The sentencing trends of the top five offenses from FY 2005 to FY 2009 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 2005	FY 2006	FY 2007	FY 2008	FY 2009
Drugs	4,393	4,489	4,203	4,060	3,717
DUI*	1,739	1,601	1,573	1,773	1,819
Burglary	1,391	1,336	1,256	1,261	1,207
Theft	1,082	1,090	1,048	1,074	1,108
Forgery	870	902	822	750	690
Subtotal	9,475	9,418	8,902	8,918	8,541
Total Offenses	14,249	14,163	13,337	13,710	13,401

* The offense of DUI includes county jail sentences.

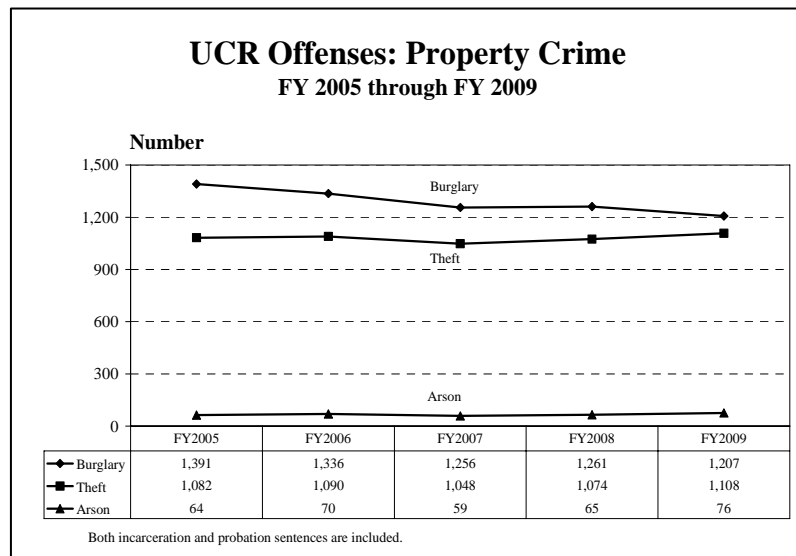
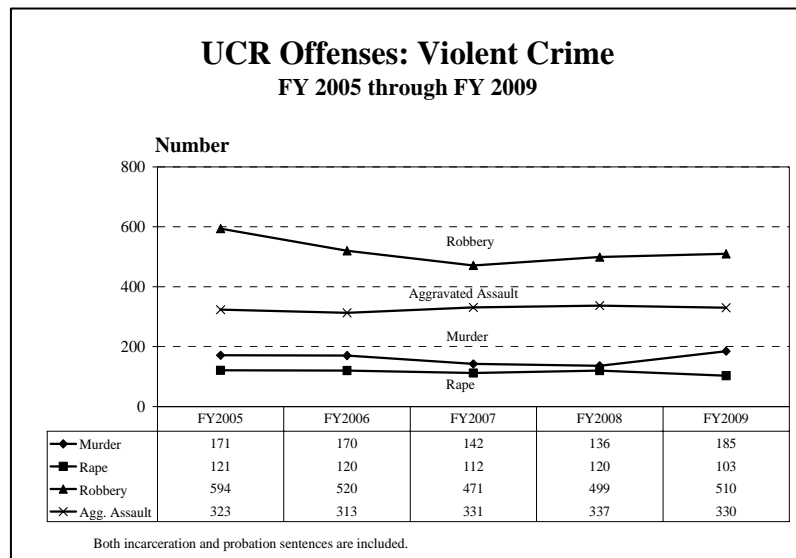
UNIFORM CRIME REPORTING (UCR) OFFENSES

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 2005 to FY 2009, 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.

The number of the murder crime sentenced in FY 2009 increased by 36% and 8.2% respectively compared with FY 2008 and FY 2005. The number of rape crime in FY 2009 decreased respectively by 14.2% and 14.9% compared with FY 2008 and FY 2005. The convictions of robbery in FY 2009 increased by 2.2% compared with FY 2008 but decreased by 14.1% compared with FY 2005. No significant change was identified in the numbers of convictions of aggravated assault in the past five years.

In FY 2009, burglary crime decreased by 4.3% and 13.2% respectively compared with FY 2008 and FY 2005; the crime of arson increased by 16.9% and 18.8% respectively over those of FY 2008 and FY 2005; the convictions of theft increased by 2% to 3% in the past five years.



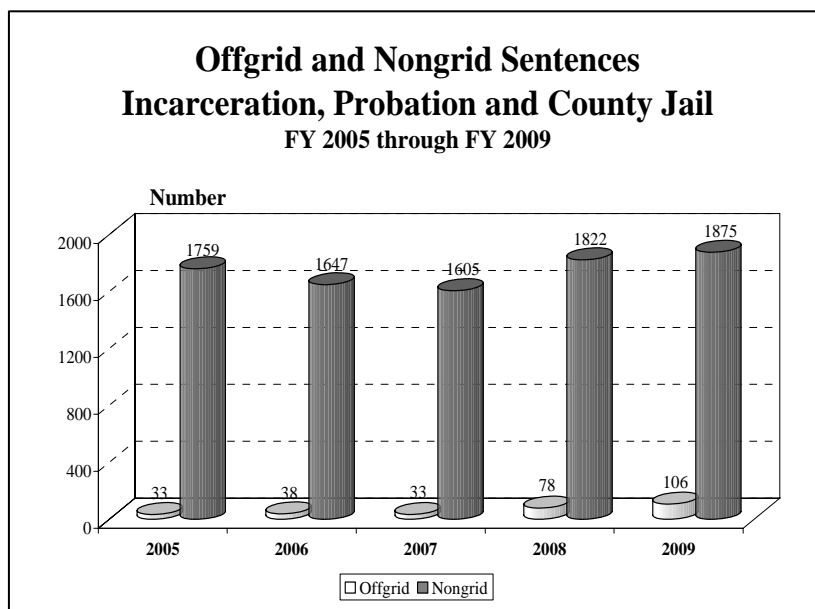
OFFGRID AND NONGRID CRIMES

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 (Senate Substitute for House Bill 2576) 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 for crimes committed on or after July 1, 1999.

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 significantly increased in FY 2009, with an increase of 28 offenders (35.9%) and 73 offenders (221%), respectively, compared with those of FY 2008 and FY 2005. Nongrid sentences in FY 2009, including incarceration, probation and county jail sentences, increased by 53 (2.9%) and 116 (6.6%), respectively, compared with FY 2008 and FY 2005.

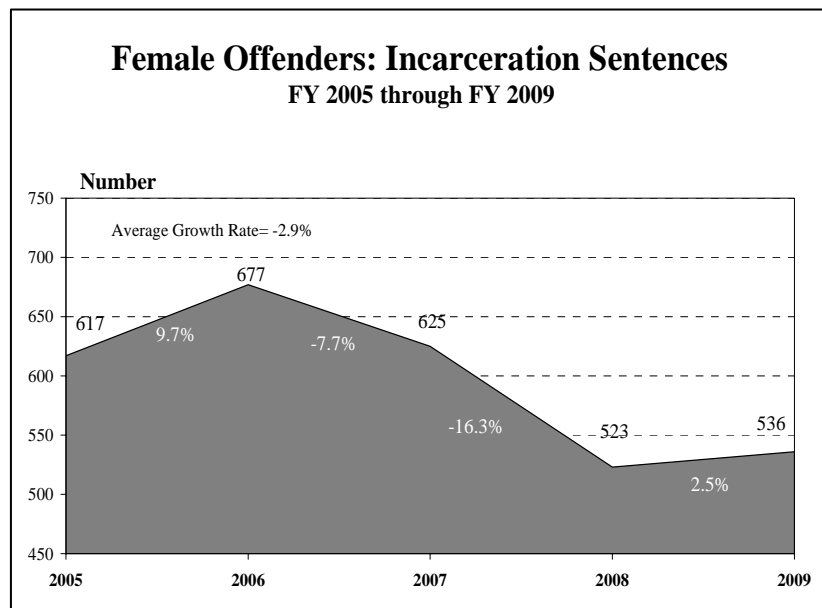


FEMALE OFFENDERS

In the past five years, the admission trend of female offenders was declining. However, the number of female admissions in FY 2009 increased by 2.5% compared with that of FY 2008 but decreased by 13.1% compared with that of FY 2005. This declining tendency is consistent with the pattern of total prison admissions (Page 79).

The average decrease rate in the past five years is 2.9%. On the contrary, the number of female offenders on probation kept increasing in FY 2006, FY 2008 and FY 2009. The average growth rate is 1.7% in the past five years. 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 increased by 9.7% in FY 2006, but decreased by 7.7% in FY 2007, 16.3% in FY 2008 and then increased by 2.5% in FY 2009 compared with those of the previous years. The population in FY 2006 is the highest number of female admissions to prison in the past five years.



The population of females sentenced to probation kept growing by 4.4%, 3.8% and 4%, respectively, in FY 2006, FY 2008 and FY 2009 over those of the previous years. However it decreased by 5.4% in FY 2007 when compared with that of FY 2006.

