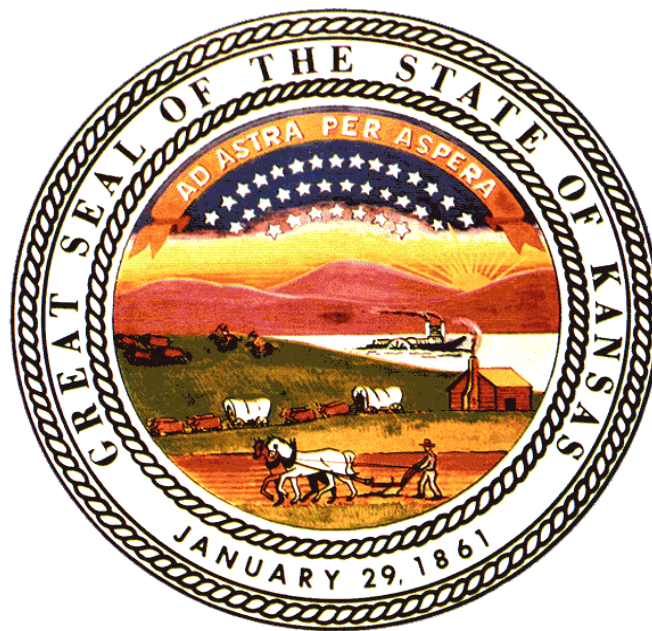


# KANSAS SENTENCING COMMISSION

FY 2003 ANNUAL REPORT



JANUARY 2004

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**KANSAS SENTENCING  
COMMISSION**

**ANNUAL REPORT  
FY 2003**

*Analysis  
Of Sentencing Guidelines  
In Kansas*

**Honorable Ernest Johnson  
Chair**

**Paul Morrison  
Vice Chair**

**Patricia Biggs  
Executive Director**



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The Sentencing Commission would like to acknowledge the contributions to this report by the Kansas Department of Corrections through their cooperative data sharing efforts.

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# KANSAS

KATHLEEN SEBELIUS, GOVERNOR

KANSAS SENTENCING COMMISSION  
HONORABLE ERNEST L. JOHNSON, CHAIRMAN  
DISTRICT ATTORNEY PAUL J. MORRISON, VICE CHAIRMAN  
PATRICIA A. BIGGS, EXECUTIVE DIRECTOR

January 8, 2004

To: The Honorable Kathleen Sebelius, Governor of Kansas  
The Honorable Kay McFarland, Chief Justice of the Kansas Supreme Court  
The Honorable Members of the Kansas Senate  
The Honorable Members of the Kansas House of Representatives  
The Citizens of Kansas

Among the mandatory duties assigned to the Kansas Sentencing Commission under K.S.A. 74-9101 is to develop post-implementation monitoring procedures and reporting methods to evaluate Sentencing Guidelines. Pursuant to this statutory obligation, we respectfully submit for your review the FY 2003 Annual Report of the Sentencing Commission.

Fiscal year 2003 marks the tenth anniversary of the implementation of the Sentencing Guidelines Act. During the past ten years, the Commission has been attentively monitoring and examining the effectiveness of sentencing guidelines in meeting specific objectives set forth by its designers. The Commission has reviewed issues of proportionality in sentencing and the impact of sentencing policies on prison population growth.

The intention of this annual report is to provide policy makers and law practitioners with an overview of felony sentencing practices and trends in the state of Kansas. Information provided in this report is extracted from the felony sentencing database that is maintained by the Sentencing Commission and mirrors sentencing data provided to the Commission through sentencing journal entry of judgment forms submitted from each Judicial District in the state. This report provides a comprehensive examination of felony sentences imposed during fiscal year 2003, evaluates the conformity to guidelines for both prison and nonprison felony sentences and demonstrates the sentencing trends for the state. Finally, the report presents the ten-year prison population projections for state correctional facilities.

The Commission would like to express our appreciation to those individuals whose hard work with the guidelines enables us to produce this report. If you have any questions regarding this report, please contact our office.

Respectfully Submitted,

Patricia Biggs  
Executive Director





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## EXECUTIVE SUMMARY

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During FY 2003, the Kansas Sentencing Commission continued its effort in monitoring the implementation of sentencing guidelines, examining and conducting research on sentencing issues related to sentencing guidelines. The activities the Commission focused on included processing all felony sentencing journal entries, monitoring both prison and nonprison guideline sentences statewide, serving as an information resource to respond to national, state, and county requests regarding sentencing data, conducting training seminars on guidelines and various sentencing issues, producing annual state prison population projections and custody classification forecasts and providing the state legislature with prison bed-space impacts under any policy change related to sentencing guidelines. The following summarizes the major sentencing issues presented in the annual report of FY 2003.

### INCARCERATION SENTENCES

In FY 2003, the Commission received a total number of 6,014 incarceration sentences. Reviewing the characteristics of offenders sentenced to prison, including gender, race and offense type, the Commission noticed that males continued to be the predominant offender group, accounting for 90% of all offenders sentenced to prison. In addition, males represented over 90% of the offenses of murder, sex offenses, burglary, robbery, abuse of child, criminal threat, kidnapping, possession of firearms, criminal damage to property, most aggravated crimes and sale of

drugs. Females were incarcerated more often for the offenses of forgery, theft including identity theft, criminal use of financial card and possession of drugs (pages 14, 15 & 17).

White offenders accounted for almost 62% of individuals incarcerated in state prisons, which indicated no change from that in FY 2002. More than 92% of all offenders were of non-Hispanic origin. Nearly 30% of offenders incarcerated were in the age group ranging from 31 to 40 years old at the time of admission, which is the highest percentage among the offender-age-groups admitted to prison in FY 2003. More than half of the offenders (52.6%) had attained either a high school diploma or GED equivalent.

The highest incarceration rates (over 80%) for whites were found in the offense categories of sex offenses, abuse of child, driving while suspended, DUI and nonsupport of child. Whereas blacks indicated the highest incarceration rates (over 50%) for the crimes of aggravated robbery, robbery, kidnapping, possession of firearm and criminal use of financial card (pages 14 & 15).

### PROBATION SENTENCES

A total of 7,425 felony probation sentences were reported to the Commission as well, during FY 2003, which represented convictions for 4,977 nondrug offenses and 2,448 drug offenses. The distribution of probation sentences indicates that 23.3% (N=1,731) of sentences were for person

offenses, while 76.7% (N=5,694) of sentences were for non-person offenses.

The analysis on probation sentences received in FY 2003 demonstrates that burglary, DUI, forgery and theft were the top four offenses for nondrug probation offenders representing approximately 53% of the total nondrug crimes (page 23) and nearly 62% of the drug probation sentences were for pure possession of drugs (page 26). An examination of criminal history classification indicates that nearly 40% of drug probation offenders fell within criminal history category I, whereas only 33% of non-drug probation offenders fell within that same criminal history category.

Approximately 87% of probation nondrug offenders fell within the presumptive probation grid cells compared to 53.3% of probation drug offenders. Meanwhile, only 3.5% of probation nondrug sentences fell within the designated border box grids compared to 33.4% of probation drug offenders. This percentage difference can be accounted for by the increased number of border boxes on the drug grid compared to the non-drug grid. The data also indicates that dispositional departures were one of the primary sources of non-prison sentences found on the drug grid.

## **DRUG SENTENCES**

The trend analysis on drug offenders sentenced to prison reveals an overall increase of 20% between FY 1999 and FY 2003. When compared to FY 2002, drug prison sentences in FY 2003 increased by 6.2%; however when individual drug grid severity levels are examined, all drug levels indicated an increase, with the exception of drug level three. The most significant increase in drug prison sentences was

noticed on drug severity level four, representing an increase of 13.6% or 92 sentences (page 62).

When examining the offenses of the drug incarceration sentences, 45% of the incarceration drug sentences were offenses of drug possession and 86.4% of the drug possession sentences fell at drug severity level four.

The drug crime of possession of precursor drugs under KSA 65-7006 was created during the 1999 Legislation. The penalty for a violation of this section was a drug severity level one felony. According to the Kansas Court of Appeals' ruling over *State vs. Frazier* in March 2002, the severity level of this crime was reclassified to drug severity level four. Consequently, the number of sentences at drug severity level four has grown as the number of sentences under this section increased from 2 sentences in FY 2000 to 51 sentences in FY 2002 and was comparatively stable in FY 2003 with 49 sentences (pages 16 & 17). The more recent *State vs. Campbell* Kansas Court of Appeals decision filed on November 7, 2003, however, moves this offense back to drug severity level one. Future data will be monitored closely to assess this decision's full impact on sentencing trends.

The analysis of the drug probation sentences demonstrates a more obvious trend than that of drug incarceration sentences in the past five years. In FY 2003, the number of drug probation sentences increased by 14.1% compared to that of FY 2002 and significantly increased by 64.3% compared to that in FY 1999. The largest number increase can be identified on drug severity level four (page 64). The further analysis on the types of offense reveals that drug



possession sentences represented approximately 62% of probation drug sentences in FY 2003 and more than 72% of the probation drug sentences fell at drug severity level four (pages 24 & 27).

## **VIOLATORS**

In examining the types and number of violators sentenced to prison during FY 2003, condition probation violators, parole/postrelease supervision condition violators and conditional release condition violators accounted for nearly 66% (3,954) of the total prison admissions in FY 2003, representing an increase of 1.2% over that in FY 2002. Of the total number of violators sentenced to prison, there were 1,497 probation condition violators, 2,406 parole/postrelease supervision condition violators and 51 conditional release condition violators (page 30). Further analyses indicated that probation condition violators and parole/postrelease supervision condition violators admitted to prison in FY 2003 increased by 3% and 0.4% respectively, while conditional release condition violators decreased by 10.5% compared with those of FY 2002. Though the total number of condition violators in FY 2003 is 1.2% over that of FY 2002, Senate Bill 323, which passed into law in May 2000 and modified periods of postrelease supervision, impacts the growth rate of condition violators returned to prison (page 61).

The highest number of males sentenced to prison for condition violations were classified as having offenses on severity level seven of the nondrug grid and severity level four of the drug grid. Females, however, were most often revoked and placed in prison for condition violations of offenses designated on severity level eight

of the nondrug grid and severity level four of the drug grid (page 33). This pattern of the female condition violators is consistent with data findings in the past five years.

Probation condition violators who were either sentenced to continued or extended on probation for a violation in FY 2003 increased to 2,026 from 1,504 in FY 2002. Meanwhile, probation violators with new convictions who had their probation sentence either continued or extended increased as well from 143 in FY 2002 to 173 in FY 2003. These offender groups represent 50% of the total 4,049 probation condition violators and 35.2% of the total 491 probation violators with new convictions respectively in FY 2003 (page 42).

## **CONFORMITY TO SENTENCING GUIDELINES**

In analyzing sentencing data, one area indicating the effectiveness of sentencing guidelines is the rate of conformity. 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 of sentence that differs from the sentence set forth under the guidelines. Thus departures, whether durational or dispositional, serve as a measure of conformity.

During FY 2003, 8,338 pure guideline sentences were analyzed to determine conformity to the guidelines. More than 82% (6,842 sentences) of the guideline sentences fell within the designated guideline sentence range. Dispositional

departures accounted for 11.3% of sentences and durational departures were found in 6.6% of sentences (page 45).

In examining presumptive prison sentences, 37% of the sentences imposed fell within the standard range of the grid cell. In addition, 11.2% of all sentences were designated in the aggravated range; 22.9% in the mitigated range and 28.9% were classified as border box sentences (page 46).

In an examination of durational departures, 68% of the durational departures were designated as downward durational departures, while 32% indicated upward durational departures (page 46). The percentage of downward durational departures was more than double that of the upward durational departures. This distribution of durational departures is exactly the same as that of FY 2002.

Further analysis of durational departures between drug and nondrug incarceration sentences demonstrates that 86.2% of drug departure sentences were downward compared to 51.7% for nondrug departure sentences (page 48).

Upward durational departures were found most frequently on severity levels one, two, three and four of the nondrug grid. Downward durational departures were most frequent on severity levels one and two of the drug grid (page 50). This pattern of durational departures has remained fairly consistent over the past five years.

Dispositional departures are indicated when the sentence imposed, prison or nonprison, is different from the sentence designated under the sentencing guidelines. Upward dispositional departures are only applicable to prison sentences imposed. When drug and

nondrug sentences are compared, nondrug sentences indicated a 25.2% upward dispositional departure rate while drug sentences only represented a 6.2% upward dispositional departure rate. When compared to the data of FY 2002, nondrug upward dispositional departures increased by 3.5% and drug dispositional departures increased by 2.8% in FY 2003 (page 50).

## **PRISON POPULATION FORECAST**

Developing annual prison population projections for state correctional facilities is a statutory task of the Kansas Sentencing Commission. In a cooperative effort with the Department of Corrections, 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 information provided by prison population projections is utilized by the Department of Corrections and various legislative committees in planning resource allocations, as well as policy development relating to sentencing and other criminal justice related areas.

The prison population forecast projects that by FY 2013, a total of 10,131 prison beds will be needed, indicating a total increase of 12.3% or 1,113 beds over the actual prison population in FY 2003. Although the total number of admissions has decreased compared with FY 2000 and remains constant compared with those in FY 2001 and FY 2002, a combination of several developing admission trends combined with the impact of the pronounced stacking effect have resulted in a slower but continual growth in the state's prison population. The recent three-year decrease in the state's

prison population is primarily due to the impact of Senate Bill 323 passed during the 2000 Legislative Session. Based on Senate Bill 323, the largest decrease in prison population is attributed to the retroactive application of sentence conversions under this law's criteria and a projected decline in the number of condition violators admitted to prison. Violators had a direct and sizable impact on the number of admissions annually to state correctional facilities.

During the next ten years, the largest projected prison bed increase is for nondrug severity level one offenses, followed by off-grid offenders, which reflects the pronounced "stacking effect" that results from very long sentences, even when the number of admissions to prison each year is limited. Drug severity level one also indicates a notable projected increase in the number of prison beds required over the forecast period due to both increase in admissions and lengths of sentences imposed (page 66).

The overall custodial classification projections indicate the needs of beds in terms of custodial types as the following by the end of FY 2004: 3,091 minimum beds, 3,815 medium beds, and 2,228 maximum beds (of which 169 are anticipated to be unclassified, 740 are special management and 1,319 are "regular" maximum). By the end of FY 2013, the custodial beds will include 3,422 minimum, 4,239 medium, and 2,470 maximum (of which, 184 are projected to be unclassified, 821 special management and 1,465 "regular" maximum). The percentage of each type of custodial beds remains fairly constant during the ten-year forecasting period (page 67).

## REPORT CONTENTS

The content of the Annual Report is presented in four chapters. Chapter One presents a descriptive statistical summary of statewide guideline sentencing practices in FY 2003. Chapter Two focuses on the types and characteristics of violators incarcerated in correctional facilities. Chapter Three evaluates the conformity to the sentencing guidelines of the presumptive prison and probation sentences imposed under the sentencing guidelines. Chapter Four contains analyses on sentencing trends and forecasts, including prison population and custody classification projections. Appendix I analyzes sentences of felony convictions from the top four counties of the state of Kansas. Appendix II evaluates the trends of the top five felonies, UCR offenses, offgrid and nongrid crimes. Female offenders are analyzed in this section as well.



## CHAPTER ONE SENTENCING IN KANSAS

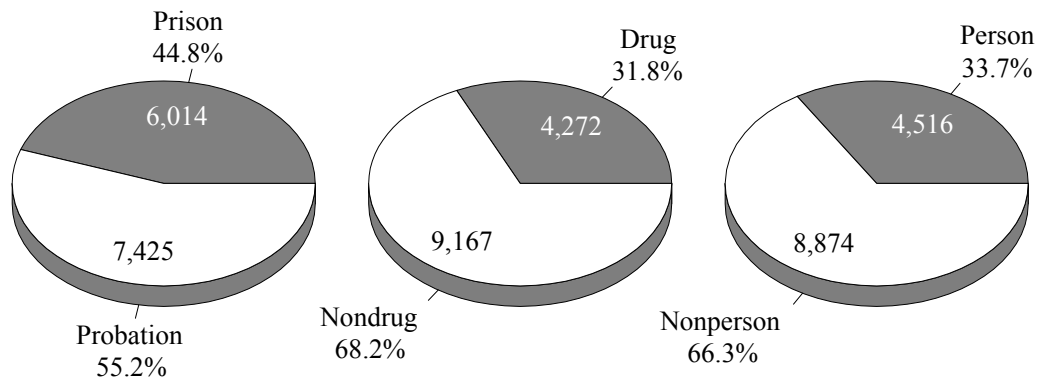
### SENTENCES REPORTED IN FISCAL YEAR 2003

The analyses of sentences and sentencing trends presented in this report are based upon the most serious felony offense of a single sentencing event. Sentences analyzed during fiscal year (FY) 2003 include both prison and non-prison/probation sentences.

In FY 2003, a total of 13,439 felony sentences were reported to the Commission, indicating an increase of 5.7% over FY 2002. Of that total number of sentences, 6,014 were prison sentences and 7,425 were probation sentences, which included 9,167

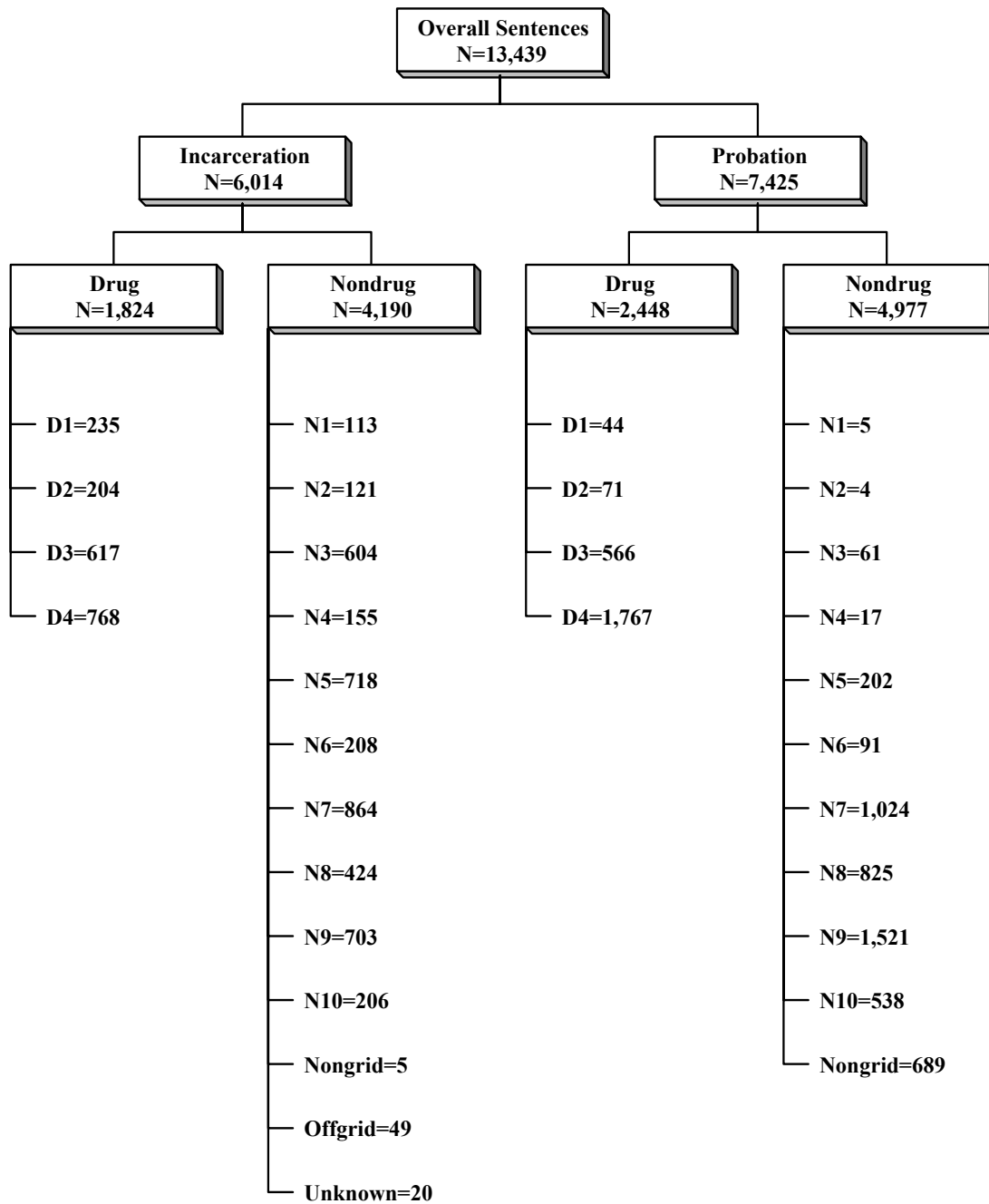
non-drug sentences and 4,272 drug sentences. Non-person offenses accounted for 66.3% (8,874 sentences) and person offenses accounted for 33.7% (4,516 sentences, Figure 1). The distribution of sentences at each severity level is presented in Figure 2. During FY 2003, 101 counties in the state reported sentences to the Commission. Table 1 displays the sentences reported by individual counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 50.6% of all sentences during FY 2003, a decrease of 0.3% from last year.

**Figure 1: Sentences Reported in FY 2003**



Based on 13,439 felony sentences reported in FY 2003 (July 1, 2002 through June 30, 2003)

**Figure 2: FY 2003 Sentencing Distribution**



**Table 1: FY 2003 Offender Characteristics by County - 1**

County	Number of Sentences	Gender		Race			Sentence Type		Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Nondrug	Drug	
Allen	57	48	9	51	6	0	17	40	43	14	29.0
Anderson	32	26	6	31	0	1	6	26	20	12	31.2
Atchison	67	66	1	45	22	0	49	18	40	27	29.0
Barber	10	9	1	10	0	0	3	7	8	2	38.7
Barton	131	113	18	118	11	1	51	80	77	54	32.5
Bourbon	72	63	9	60	10	2	29	43	57	15	32.3
Brown	48	35	13	44	1	3	10	38	13	35	32.4
Butler	245	203	42	228	14	2	74	171	147	98	30.0
Chase	20	14	6	19	0	1	4	16	7	13	35.3
Chautauqua	1	1	0	1	0	0	1	0	1	0	29.4
Cherokee	35	31	4	33	1	0	9	26	15	20	33.8
Cheyenne	11	10	1	11	0	0	3	8	5	6	27.8
Clark	2	2	0	2	0	0	2	0	1	1	36.3
Clay	25	19	6	25	0	0	3	22	12	13	27.6
Cloud	40	29	11	38	1	1	11	29	27	13	27.7
Coffey	40	34	6	38	0	2	19	21	22	18	30.8
Cowley	135	112	23	102	27	6	78	57	87	48	28.4
Crawford	204	175	29	176	23	4	76	128	133	71	30.7
Decatur	6	5	1	6	0	0	3	3	4	2	41.2
Dickinson	26	23	3	20	6	0	22	4	18	8	33.7
Doniphan	27	23	4	26	0	1	10	17	17	10	29.2
Douglas	294	251	43	178	96	15	80	214	197	97	31.1
Edwards	11	10	1	11	0	0	6	5	6	5	36.3
Elk	15	13	2	14	0	1	3	12	7	8	31.3
Ellis	122	106	16	109	11	1	34	88	59	63	30.0
Ellsworth	26	24	2	22	3	1	9	17	16	10	33.6
Finney	230	196	34	213	13	4	90	140	154	76	29.8
Ford	177	152	25	163	12	1	78	99	117	60	29.2

**Table 1: FY 2003 Offender Characteristics by County - 2**

County	Number of Sentences	Gender		Race			Sentence Type		Offense Type		Mean Age
		Male	Female	White	Black	Other	Prison	Probation	Nondrug	Drug	
Franklin	131	108	23	124	4	1	32	99	80	51	29.6
Geary	298	241	57	130	165	3	160	138	172	124	28.9
Gove	3	3	0	3	0	0	3	0	3	0	40.4
Graham	9	9	0	9	0	0	4	5	6	3	35.9
Grant	8	8	0	7	1	0	8	0	7	1	28.2
Gray	17	17	0	17	0	0	10	7	16	1	29.4
Greenwood	56	52	4	54	0	1	12	44	31	25	34.3
Hamilton	1	1	0	0	1	0	1	0	1	0	32.6
Harper	32	30	2	32	0	0	12	20	28	4	30.5
Harvey	223	182	41	191	26	6	98	125	138	85	31.5
Haskell	4	4	0	3	0	1	4	0	2	2	28.3
Jackson	41	32	9	32	1	8	10	31	26	15	30.7
Jefferson	47	41	6	46	0	1	26	21	36	11	34.8
Jewell	6	5	1	6	0	0	3	3	6	0	31.2
Johnson	1,634	1,336	296	1,153	459	16	634	1000	1,273	361	31.2
Kearny	35	28	7	35	0	0	9	26	32	3	26.7
Kingman	19	18	1	18	0	1	11	8	18	1	33.2
Kiowa	12	12	0	11	0	1	12	0	5	7	29.3
Labette	110	90	20	84	20	3	38	72	71	39	29.4
Leavenworth	222	182	40	145	71	6	112	110	162	60	31.2
Lincoln	3	3	0	3	0	0	3	0	1	2	24.2
Linn	57	53	4	54	2	1	22	35	41	16	30.3
Logan	5	4	1	5	0	0	2	3	2	3	31.0
Lyon	314	272	41	255	50	7	111	203	176	138	28.9
Marion	47	37	10	46	1	0	14	33	32	15	32.4
Marshall	47	43	4	45	2	0	20	27	31	16	29.2
McPherson	130	109	21	116	10	4	43	87	89	41	28.9
Meade	18	16	2	17	0	0	9	9	12	6	34.5



**Table 1: FY 2003 Offender Characteristics by County – 3**

County	Number of Sentences	Gender		Race			Sentence Type		Offense Type		Mean Age
		Male	Female	White	Black	Other	Prison	Probation	Nondrug	Drug	
Miami	73	70	3	58	14	1	40	33	57	16	29.7
Mitchell	12	9	3	10	2	0	8	4	7	5	27.1
Montgomery	288	235	53	193	85	10	143	145	170	118	30.9
Morris	19	19	0	18	1	0	7	12	9	10	29.3
Morton	3	3	0	2	1	0	3	0	2	1	26.6
Nemaha	13	12	1	13	0	0	7	6	8	5	29.9
Neosho	72	59	13	65	4	1	20	52	39	33	30.8
Ness	6	4	2	5	0	0	3	3	3	3	40.4
Norton	37	34	3	33	3	0	18	19	23	14	31.9
Osage	42	32	10	37	3	0	13	29	23	19	32.3
Osborne	14	14	0	14	0	0	3	11	9	5	34.4
Ottawa	4	4	0	4	0	0	4	0	3	1	30.7
Pawnee	43	39	4	36	7	0	22	21	35	8	29.0
Phillips	7	6	1	7	0	0	3	4	3	4	31.6
Pottawatomie	47	38	9	41	6	0	13	34	36	11	31.3
Pratt	79	72	7	73	6	0	45	34	38	44	31.0
Rawlins	7	3	4	7	0	0	2	5	4	3	35.0
Reno	429	353	76	366	51	11	213	216	267	162	30.1
Republic	28	21	7	25	2	1	7	21	18	10	28.1
Rice	56	46	10	53	3	0	24	32	32	24	31.2
Riley	186	150	36	135	47	4	56	130	113	73	28.9
Rooks	30	27	3	30	0	0	7	23	17	13	31.3
Rush	8	7	1	8	0	0	2	6	5	3	30.8
Russell	39	29	10	36	3	0	15	24	17	22	30.3
Saline	597	465	126	463	95	13	194	403	418	179	30.3
Scott	16	14	2	16	0	0	7	9	10	6	25.6
Sedgwick	2,899	2,411	488	1,720	1,087	75	1,555	1,344	2,036	863	31.3
Seward	102	80	22	77	24	1	58	44	75	27	27.5

**Table 1: FY 2003 Offender Characteristics by County – 4**

County	Number of Sentences	Gender		Race			Sentence Type		Offense Type		Mean Age
		Male	Female	White	Black	Other	Prison	Probation	Nondrug	Drug	
Shawnee	731	596	134	408	297	21	310	421	491	240	31.6
Sheridan	2	2	0	2	0	0	2	0	2	0	21.3
Sherman	29	23	6	28	0	0	6	23	13	16	30.2
Smith	7	7	0	7	0	0	1	6	2	5	32.1
Stafford	19	17	2	18	0	1	4	15	17	2	28.1
Stanton	3	2	1	3	0	0	3	0	3	0	32.7
Stevens	21	18	3	19	1	1	17	4	13	8	24.1
Sumner	101	88	13	95	5	1	38	63	67	34	31.5
Thomas	20	16	4	16	3	1	3	17	14	6	29.5
Trego	9	8	1	8	0	0	6	3	5	4	27.8
Wabaunsee	20	17	3	18	2	0	10	10	8	12	31.7
Wallace	1	1	0	0	1	0	1	0	1	0	53.9
Washington	30	26	4	28	1	1	10	20	21	9	27.1
Wichita	7	6	1	7	0	0	5	2	5	2	35.1
Wilson	59	54	5	59	0	0	24	35	37	22	32.5
Woodson	6	5	1	5	1	0	1	5	2	4	36.2
Wyandotte	1,534	1,353	177	721	792	12	833	701	1,147	387	30.5
Unknown	46	26	20	28	16	2	46	0	34	12	32.5
<b>TOTAL</b>	<b>13,439</b>	<b>11,250</b>	<b>2,175</b>	<b>9,450</b>	<b>3,634</b>	<b>263</b>	<b>6,014</b>	<b>7,425</b>	<b>9,167</b>	<b>4,272</b>	<b>30.8</b>

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,425; Race, N=13,347; Sentence Type, N=13,439; Offense Type, N=13,439; and Age, N=13,329.

\* Average age at time of sentencing.

## CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section provides an overview of the characteristics of the offenders who were sentenced during FY 2003, and their offense categories.

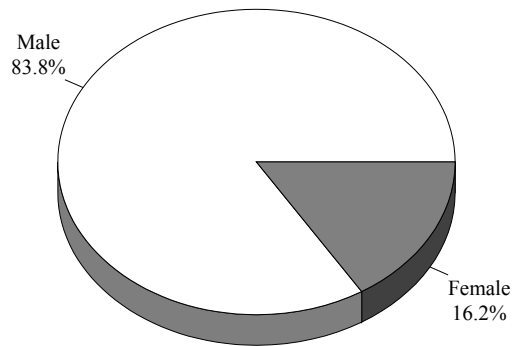
Figures 3, 4, 5 and 6 summarize graphically the distribution of offenders by gender, race, and age respectively. The characteristics of offense types are presented in Table 2.

Male offenders accounted for nearly 84% of all sentences (Figure 3) and in excess of 90% of most aggravated crimes, murders, rapes, sex offenses, burglaries, robberies, kidnapping, firearms, criminal threat, criminal damage to property, fleeing or eluding LEO and other types of offenses (Table 2).

The percentage of the Female offenders demonstrated a growing tendency with an increase of 0.6% over that in FY 2002 and 1.8% over that in FY 2001. The most frequently committed crimes by female offenders (over 30%) were non-violent offenses, such as criminal use of financial cards, forgery, making false writing, identity theft and obtaining prescription drugs (Table 2).

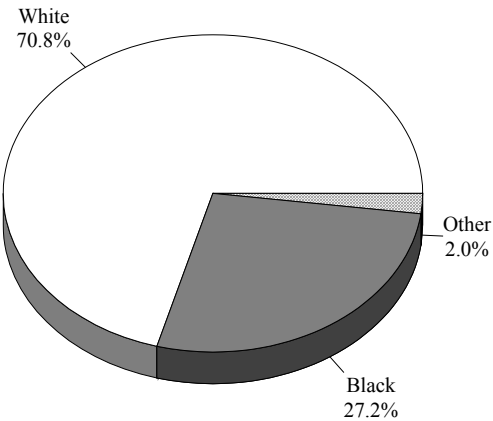
White offenders represented 70.8% of all sentences (Figure 4).

**Figure 3: Distribution of FY 2003 Sentences by Gender of Offenders**



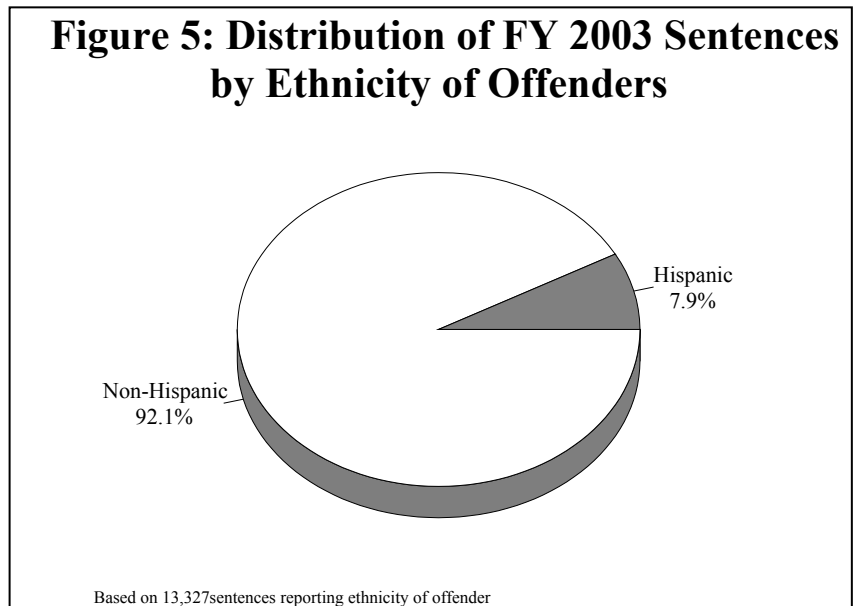
Based on 13,425 sentences reporting gender of offender

**Figure 4: Distribution of FY 2003 Sentences by Race of Offenders**

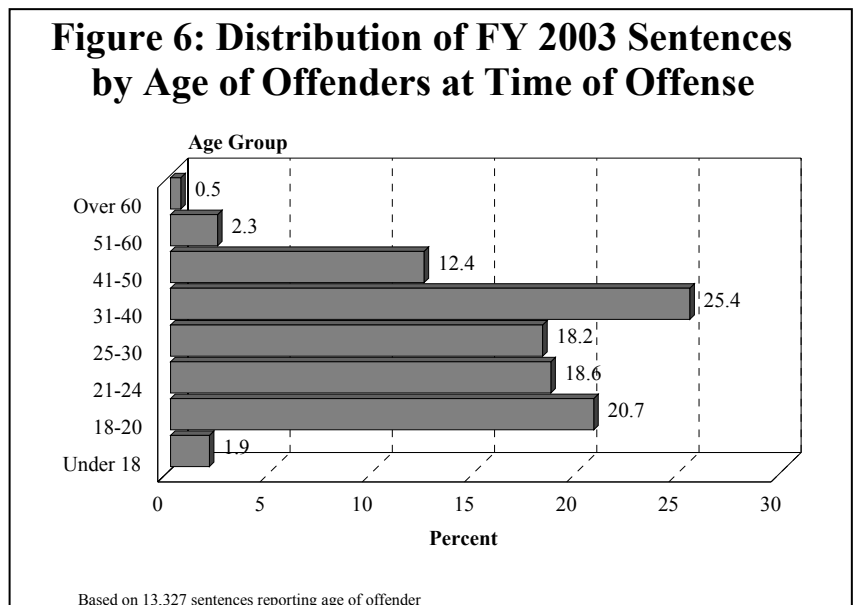


Based on 13,347 sentences reporting race of offender

The analysis of the ethnicity of offenders reveals that more than 92% of all offenders were of Non-Hispanic origin (Figure 5). This distribution is consistent with those in the past five years.



The highest percentage of offenders (25.4%) were identified in the age group between 31 and 40 at the time of committing the offense, which remains constant compared with those in the past five years (Figure 6).



**Table 2: FY 2003 Offender Characteristics by Type of Offense – 1**

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	46	89.1	10.9	91.3	6.5	2.2	30.9
Agg Arson	24	70.8	29.2	83.3	8.3	8.4	28.8
Agg Assault	275	90.2	9.8	65.9	31.5	2.6	29.7
Agg Assault on LEO	42	100.0	0.0	51.2	43.9	4.9	31.5
Agg Battery	740	88.2	11.8	63.9	33.6	2.6	29.1
Agg Battery on LEO	25	91.7	8.3	62.5	37.5	0.0	29.4
Agg Burglary	172	91.9	8.1	60.5	38.4	1.2	27.5
Agg Criminal Sodomy w/Child	68	97.1	2.9	86.8	11.8	1.5	31.7
Agg Escape from Custody	118	81.4	18.6	60.2	34.7	5.1	28.0
Agg Failure to Appear	52	76.9	23.1	65.4	30.8	3.8	31.2
Agg False Impersonation	17	88.2	11.8	70.6	11.8	17.6	31.2
Agg Robbery	346	93.6	6.4	41.9	56.4	1.7	24.5
Agg Incest	22	95.5	4.5	95.5	4.5	0.0	37.6
Agg Indecent Liberties w/Child	337	99.1	0.9	82.4	16.1	1.5	29.8
Agg Inter w/Parental Custody	8	50.0	50.0	87.5	12.5	0.0	28.5
Agg Indecent Solicit w/Child	100	99.0	1.0	86.0	12.0	2.0	29.1
Agg Intimidation of a Victim	15	86.7	13.3	66.7	33.3	0.0	27.8
Agg Kidnapping	16	100.0	0.0	62.5	37.5	0.0	28.6
Agg Sexual Battery	70	98.6	1.4	70.0	28.6	1.4	31.3
Agg Weapon Violation	8	87.5	12.5	62.5	37.5	0.0	30.6
Aid Felon	32	59.4	40.6	71.9	28.1	0.0	26.2
Arrange Sale/Purchase Drug	15	73.3	26.7	60.0	40.0	0.0	32.2
Arson	50	88.0	12.0	88.0	6.0	6.0	28.0
Battery on LEO	51	78.4	21.6	60.8	39.2	0.0	27.1
Burglary	1,198	93.2	6.8	78.6	19.9	1.5	26.3
Contribute Child's Misconduct	18	83.3	16.7	83.3	16.7	4.5	24.2
Computer Crime	6	50.0	50.0	66.7	33.3	0.0	34.0
Criminal Damage to Property	169	90.5	9.5	79.3	17.8	3.0	27.8
Criminal Discharge of Firearm	34	91.2	8.8	61.8	32.4	5.9	22.1
Criminal Sodomy w/Child	9	100.0	0.0	100.0	0.0	0.0	28.3
Criminal Threat	336	94.6	5.4	71.8	25.5	2.7	31.5
Criminal Use of Explosives	6	83.3	16.7	100.0	0.0	0.0	27.8
Criminal Use of Financial Card	52	59.6	40.4	65.4	34.6	0.0	29.5
Domestic Battery	19	100.0	0.0	81.3	12.5	6.3	33.7
Driving While a Habitual Viol	24	100.0	0.0	66.7	33.3	0.0	29.8
Driving While Suspended	15	80.0	20.0	93.3	6.7	0.0	30.4

**Table 2: FY 2003 Offender Characteristics by Type of Offense – 2**

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Drugs	4,272	80.1	19.9	72.4	26.1	1.5	30.9
Drug without Tax Stamps	87	83.9	16.1	73.3	24.4	2.3	29.1
DUI	706	86.6	13.4	87.8	9.9	2.3	38.3
Failure to Register	40	92.3	7.7	71.1	26.3	2.6	31.1
Fleeing or Eluding LEO	228	95.6	4.4	66.7	29.8	3.5	28.1
Forgery	832	52.2	47.8	70.8	27.0	2.2	30.4
False Writing	92	59.8	40.2	67.4	31.5	1.1	31.9
Giving Worthless Checks	74	72.6	27.4	83.6	13.7	2.7	33.2
Identity Theft	58	53.4	46.6	58.6	39.7	1.7	32.5
Indecent Liberties w/Child	132	100.0	0.0	79.5	18.2	2.3	26.9
Indecent Solicitation of Child	57	96.5	3.5	71.4	25.0	3.6	25.7
Involuntary Manslaughter	62	80.6	19.4	69.4	29.0	1.6	27.8
Kidnapping	76	100.0	0.0	46.1	52.6	1.3	26.9
Lewd and Lascivious Behavior	17	100.0	0.0	100.0	0.0	0.0	35.4
Murder in the First Degree	64	92.2	7.8	56.3	40.6	3.1	26.7
Murder in the Second Degree	67	92.5	7.5	49.3	47.8	3.0	28.6
Nonsupport of Child or Spouse	85	97.6	2.4	85.9	10.6	3.5	33.8
Obstructing Legal Process	108	88.8	11.2	60.4	34.9	4.7	28.8
Obtain Prescription Drug	13	30.8	69.2	100.0	0.0	0.0	38.5
Possession of Firearm	110	96.4	3.6	50.0	49.1	0.9	26.3
Rape	142	100.0	0.0	66.2	33.8	0.0	28.4
Robbery	368	93.2	6.8	37.3	61.3	1.4	26.6
Securities Crimes	16	93.8	6.3	86.7	6.7	6.7	44.4
Sex Exploitation of a Child	18	88.9	11.1	100.0	0.0	0.0	38.6
Stalking	7	100.0	0.0	85.7	14.3	0.0	33.0
Theft	959	77.8	22.2	70.2	28.0	1.9	29.8
Traffic in Contraband	74	77.0	23.0	78.4	16.2	5.4	28.0
Unlawful Voluntary Sex Relation	38	100.0	0.0	86.8	13.2	0.0	18.6
Voluntary Manslaughter	36	88.9	11.1	44.4	50.0	5.6	27.3
Weapons	6	100.0	0.0	50.0	50.0	0.0	23.7
Other	60	76.7	23.3	76.7	20.0	3.3	33.2
<b>TOTAL</b>	<b>13,439</b>	<b>83.8</b>	<b>16.2</b>	<b>70.8</b>	<b>27.2</b>	<b>2.0</b>	<b>29.9</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender, N=13,425; Race, N=13,347; and Age, N=13,327.

\* Average age at time of offense.

## INCARCERATION SENTENCES

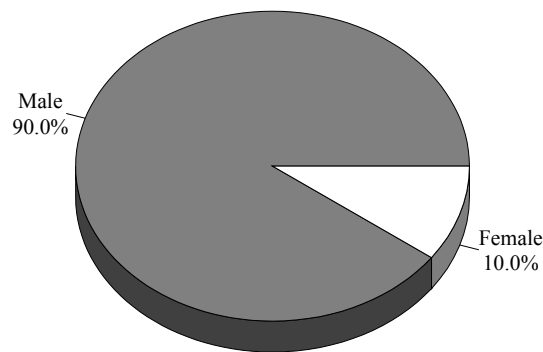
### Offenders Characteristics

The characteristics of offenders incarcerated in state correctional facilities during FY 2003 are exhibited in Figures 7, 8, 9, 10 and 11.

White males remained the predominant offender group admitted to prison during fiscal year 2003 (Figures 7 and 8). The majority of the offenders (93.2%) were Non-Hispanic (Figure 9). The general distribution of gender, race and ethnic origin of the offenders admitted to prison has been constant for the past five years.

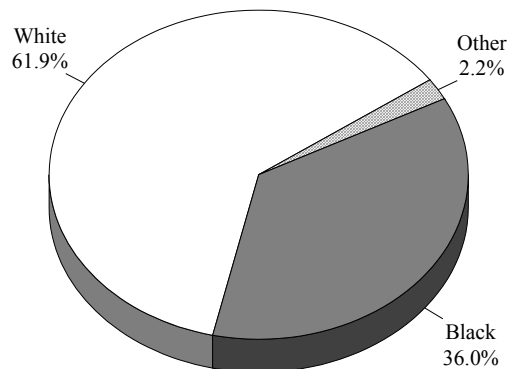
The largest proportion of incarcerated offenders were in their thirties (29.7%) at the time of admission to prison (Figure 10). More than half of the incarcerated offenders (52.6%) had obtained a high school diploma or GED equivalent (Figures 11).

**Figure 7: FY 2003 Incarceration Sentences by Gender of Offenders**



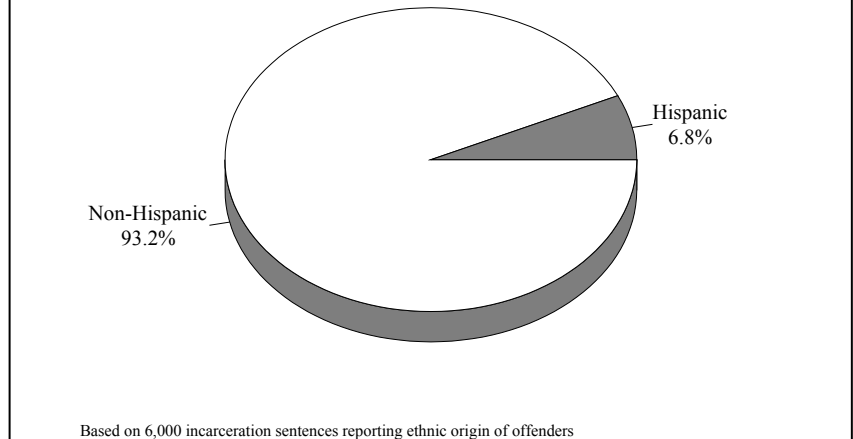
Based on 6,014 incarceration sentences reporting gender of offenders

**Figure 8: FY 2003 Incarceration Sentences by Race of Offenders**

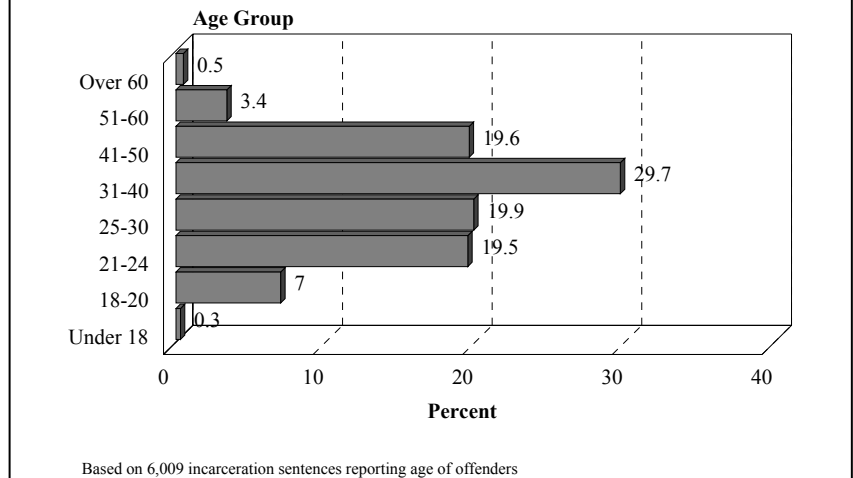


Based on 6,013 incarceration sentences reporting race of offenders

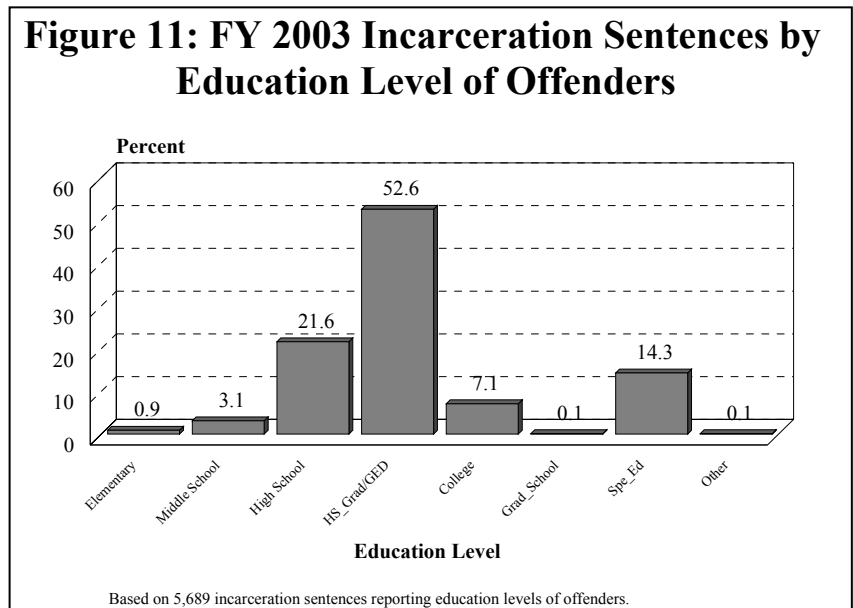
**Figure 9: FY 2003 Incarceration Sentences by Ethnic Origin of Offenders**



**Figure 10: FY 2003 Incarceration Sentences by Age of Offenders at Time of Admission**







### Incarceration Nondrug Offenses

In FY 2003, incarceration nondrug offenses represented 69.7% (4,190 sentences) of the total incarceration sentences (6,014). The top ten nondrug offenses included aggravated assault, aggravated battery, aggravated burglary, aggravated indecent liberties with a child, aggravated robbery, burglary, forgery, rape, robbery and theft (Table 3). Males represented the highest percentage (over 90%) of sentences in the top ten crime categories except forgery and theft. Most sex offenders were males, which indicated no change from the previous year. However, the highest percentage of sentenced females (over 30%) were only found in the offense categories of criminal

use of financial card, forgery, and identity theft (Table 3).

The analysis on race characteristics of offenders demonstrated that the highest incarceration rates for whites (over 80%) were found in the areas of sex offenses, abuse of child, driving while suspended, DUI and nonsupport of child or spouse. Nevertheless, blacks were incarcerated more often (over 50%) for the crimes of aggravated robbery, criminal use of financial card, kidnapping, possession of firearm and robbery. The average age of the nondrug offenders was 32.8 years old at the time of admission to prison in FY 2003 (Table 3).

**Table 3: FY 2003 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	25	96.0	4.0	92.0	8.0	0.0	30.1
Agg Arson	16	75.0	25.0	75.0	12.5	12.5	35.7
Agg Assault	144	92.4	7.6	64.6	31.9	3.5	30.7
Agg Assault on LEO	30	100.0	0.0	53.3	40.0	6.7	34.2
Agg Battery	353	91.5	8.5	57.2	41.1	1.7	32.7
Agg Battery on LEO	15	93.3	6.7	66.7	33.3	0.0	32.2
Agg Burglary	136	94.9	5.1	60.3	39.0	0.7	32.5
Agg Criminal Sodomy w/Child	64	96.9	3.1	87.5	10.9	1.6	38.5
Agg Escape from Custody	95	85.3	14.7	60.0	34.7	5.3	33.3
Agg Failure to Appear	12	83.3	16.7	50.0	50.0	0.0	33.0
Agg Incest	18	100.0	0.0	94.4	5.6	0.0	46.0
Agg Indecent Liberties w/Child	255	100.0	0.0	80.0	18.8	1.2	33.7
Agg Indecent Solicit w/Child	66	100.0	0.0	86.4	12.1	1.5	32.0
Agg Intimidation of a Victim	9	100.0	0.0	55.6	44.4	0.0	30.0
Agg Kidnapping	16	100.0	0.0	62.5	37.5	0.0	41.7
Agg Robbery	323	94.1	5.9	40.2	57.9	1.9	32.2
Agg Sexual Battery	50	98.0	2.0	66.0	32.0	2.0	34.1
Aid Felon	6	83.3	16.7	50.0	50.0	0.0	25.4
Arson	17	88.2	11.8	76.5	17.6	5.9	33.3
Battery on LEO	39	82.1	17.9	59.0	41.0	0.0	29.3
Burglary	463	95.9	4.1	70.6	27.4	1.9	30.7
Contribute Child's Misconduct	6	100.0	0.0	66.7	33.3	0.0	24.6
Criminal Damage to Property	49	93.9	6.1	77.6	18.4	4.1	31.8
Criminal Sodomy w/Child	5	100.0	0.0	100.0	0.0	0.0	27.1
Criminal Threat	113	94.7	5.3	56.6	38.9	4.4	33.3
Criminal Use Financial Card	11	63.6	36.4	45.5	54.5	0.0	33.2
Discharge of Firearm	21	100.0	0.0	57.1	38.1	4.8	23.8
Drug without Tax Stamps	10	90.0	10.0	70.0	30.0	0.0	32.2
Driving While a Habitual Viol	20	100.0	0.0	70.0	30.0	0.0	35.7
Driving While Suspended	14	78.6	21.4	92.9	7.1	0.0	36.2
DUI	36	86.1	13.9	88.9	11.1	0.0	42.0
Failure to Register	5	100.0	0.0	80.0	20.0	0.0	33.6
Fleeing or Eluding LEO	67	92.5	7.5	62.7	31.1	6.0	30.2
Forgery	263	62.0	38.0	63.5	33.5	3.0	33.8
False Writing	14	78.6	21.4	64.3	28.6	7.1	33.5

**Table 3: FY 2003 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	
Giving Worthless Checks	9	100.0	0.0	77.8	22.2	0.0	31.8
Identity Theft	14	64.3	35.7	50.0	50.0	0.0	33.4
Indecent Liberties w/Child	106	100.0	0.0	75.5	21.7	2.8	33.8
Indecent Solicitation of Child	32	100.0	0.0	75.0	18.8	6.3	26.6
Involuntary Manslaughter	48	89.6	10.4	64.6	33.3	2.1	32.3
Kidnapping	68	100.0	0.0	41.2	58.8	0.0	35.8
Lewd and Lascivious Behavior	8	100.0	0.0	100.0	0.0	0.0	41.3
Murder in the First Degree	64	92.2	7.8	56.3	40.6	3.1	30.8
Murder in the Second Degree	67	92.5	7.5	49.3	47.8	3.0	33.6
Nonsupport of Child or Spouse	29	100.0	0.0	89.7	0.0	10.3	39.4
Obstructing Legal Process	23	87.0	13.0	69.6	26.1	4.3	29.4
Possession of Firearm	49	95.9	4.1	40.8	57.1	2.0	28.1
Rape	135	100.0	0.0	65.2	34.8	0.0	36.0
Robbery	284	95.1	4.9	34.5	64.1	1.4	31.8
Sex Exploitation of a Child	11	81.8	18.2	100.0	0.0	0.0	42.7
Theft	320	88.4	11.6	61.6	36.3	2.2	32.3
Traffic in Contraband	39	82.1	17.9	71.8	20.5	7.7	30.0
Unlawful Voluntary Sex Relation	11	100.0	0.0	81.8	18.2	0.0	20.8
Voluntary Manslaughter	36	88.9	11.1	44.4	50.0	5.6	34.2
Other	51	90.2	9.8	72.5	21.6	5.9	35.0
<b>TOTAL</b>	<b>4,190</b>	<b>91.8</b>	<b>8.2</b>	<b>61.9</b>	<b>35.7</b>	<b>2.4</b>	<b>32.8</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender, N=4,190 Race, N=4,190; and Age, N=4,185.

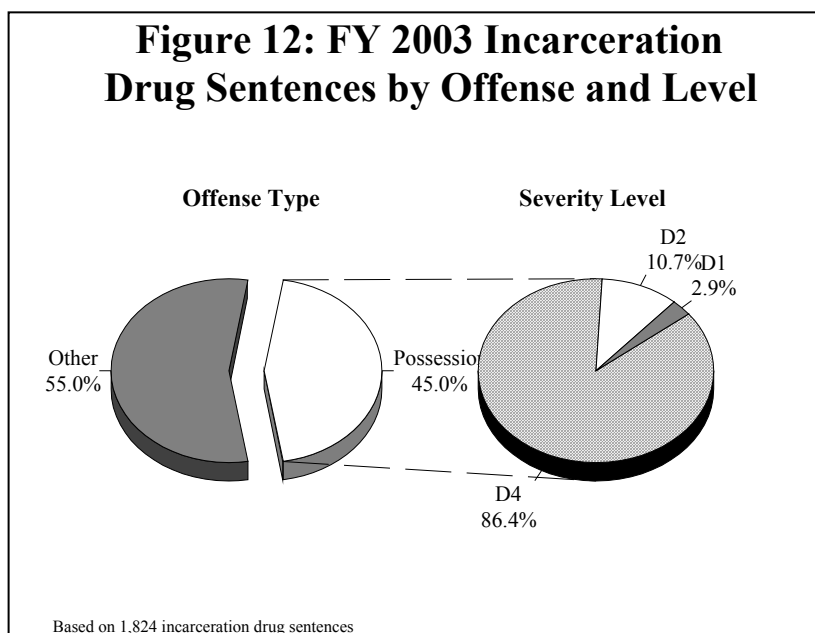
### Incarceration Drug Offenses

The incarceration drug sentences accounted for 30.3% (1,824 sentences) of the total admission to the State Correctional Facilities during FY 2003. Of the total 1,824 incarceration drug sentences, 45% were offenses of pure drug possession and 86.4% of the pure drug possession sentences fell at drug severity level four (Figure 12). Most of the drug offenders were males (85.9%) and female offenders represented the highest percent (over 20%) only in the drug offense of opiates or narcotics possession 2nd, 3rd and subsequent offenses. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of unlawfully manufacturing controlled substance, drug possession with intention to sale, possession of paraphernalia and possession of precursor drugs. Black offenders made up over 50% of incarceration drug sentences in the drug crimes of the opiate or narcotics sale for the

first and the second offenses, which remains the same with that of FY 2002. The average age of the drug offenders was 34.2 years old at admission to prison (Table 4), pretty close to that of the drug offenders in FY 2002 (34.5 years old).

The drug crime of possession of precursor drugs under KSA 65-7006 was created during the 1999 Legislation. The penalty for a violation of this section was a drug severity level one felony. During FY 2003, forty-nine drug offenders were sentenced to prison under this drug crime and the majority of the offenders were white males (Table 4). Compared with those in the past four years, the number of the incarceration sentences under this section increased from 2 sentences in FY 2000 to 13 in FY 2001, to 51 in FY 2002 and then dropped to 49 in FY 2003 (Figure 13). The total increase rate in the past four years is 2,350%

The incarceration drug possession sentences at drug severity level four included drug offenses for opiates or narcotics possession 1<sup>st</sup>; and depressants, stimulants, hallucinogenics, etc. possession 2<sup>nd</sup> and subs. Drug possession offenses at drug severity level two included opiates or narcotics possession 2<sup>nd</sup>. The possession of opiates or narcotics for the 3<sup>rd</sup> and subsequent offense fell at drug severity level one.

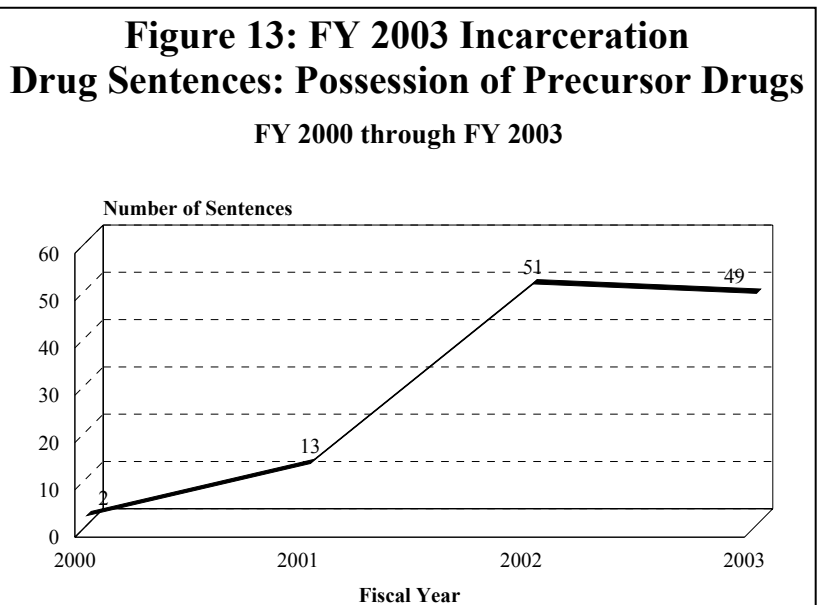


**Table 4: FY 2003 Incarceration Drug Offender Characteristics by Type of Offense**

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or narcotics; poss 1	617	84.8	15.2	57.5	41.4	1.1	33.7
Opiates or narcotics; poss 2	88	77.3	22.7	51.1	46.6	2.3	36.6
Opiates or narcotics; poss 3	24	75.0	25.0	50.0	50.0	0.0	39.3
Opiates or narcotics; sale 1	451	83.6	16.4	47.0	51.0	2.0	34.9
Opiates or narcotics; sale 2	43	81.4	18.6	30.2	69.8	0.0	39.2
Opiates or narcotics; sale 3	5	100.0	0.0	60.0	40.0	0.0	39.7
Opiates/ narcotics, depress, stim, hall; sale w/in 1,000 ft of school	57	84.2	15.8	68.4	29.8	1.8	34.6
Depress, stim, hall; poss 2	92	95.7	4.3	66.3	30.4	3.3	31.2
Depress, stim, hall, etc.; sale, poss w/intent to sale	164	90.2	9.8	70.1	26.8	3.0	31.7
Unlawful manufacture controlled substance	174	89.1	10.9	96.0	2.3	1.7	35.6
Possession of paraphernalia	57	96.5	3.5	94.7	5.3	0.0	30.4
Possession of precursor drugs	49	89.8	10.2	98.0	0.0	2.0	36.3
Other	3	100.0	0.0	66.7	33.3	0.0	29.6
<b>TOTAL</b>	<b>1,824</b>	<b>85.9</b>	<b>14.1</b>	<b>61.7</b>	<b>36.6</b>	<b>1.7</b>	<b>34.2</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender (N=1,824); Race (N=1,823); Age (N=1,824).

According to the Kansas Court of Appeals' ruling over *State vs. Frazier* in March 2002, the severity level for the crime of possession of precursor drugs is reclassified to drug severity level four. Consequently, the number of sentences at drug severity level four will grow in the future as the sentences of possession of precursor drugs increase (Figure 13).



**Types of Admission and Severity Levels**

The distribution of admission types of offenders incarcerated in the Kansas Department of Corrections (KDOC) in FY 2003 is illustrated in Table 5. Condition probation violators, condition parole/post-release violators, and conditional release condition violators accounted for 65.7% of all offenders admitted to state correctional facilities during FY 2003. This represents a percentage increase of 0.6% over FY 2002

and a decrease of 0.9% from FY 2001. New court commitments and violators with new sentences together contributed another 33.3% to the total admissions, indicating a decrease of 1.2% from that of FY 2002 and an increase of 0.6% over that of FY 2001. Condition violators admitted to prison always demonstrate a significant impact on the total admissions to the Department of Corrections.

**Table 5: Distribution of FY 2003 Incarceration Sentences by Admission Type**

<b>Admission Type</b>	<b>Number of Cases</b>	<b>Percent</b>
New Court Commitment	1,649	27.4
Probation Condition Violator	1,497	24.9
Probation Violator With New Sentence	205	3.4
Inmate Received on Interstate Compact	28	0.5
Parole/Post-release Condition Violator	2,406	40.0
Parole/Post-release Violator With New Sentence	144	2.4
Paroled to Detainer Returned with New Sentence	28	0.5
Conditional Release Condition Violator	51	0.8
Conditional Release Violator With New Sentence	4	0.1
Offender Returned to Prison in Lieu of Revocation	1	0.0
Other	1	0.0
<b>TOTAL</b>	<b>6,014</b>	<b>100.0</b>

Table 6 displays a distribution of all incarcerated offenders by offense severity level and gender. The highest percentages (over 15.5%) of all nondrug offenders are found in severity levels 5, 7 and 9 (Figure 14). This pattern of distribution has remained constant since FY 2001. More than 40% of all drug offenders fell on drug

severity level 4 (Figure 15). This indicates no change from that in FY 2002. Female offenders were convicted more often of drug offenses than of nondrug offenses (14.1% vs. 8.2%). The highest percentages of female offenders were found on drug severity level 2 (18.6%) and nondrug severity level 8 (25%, Table 6).

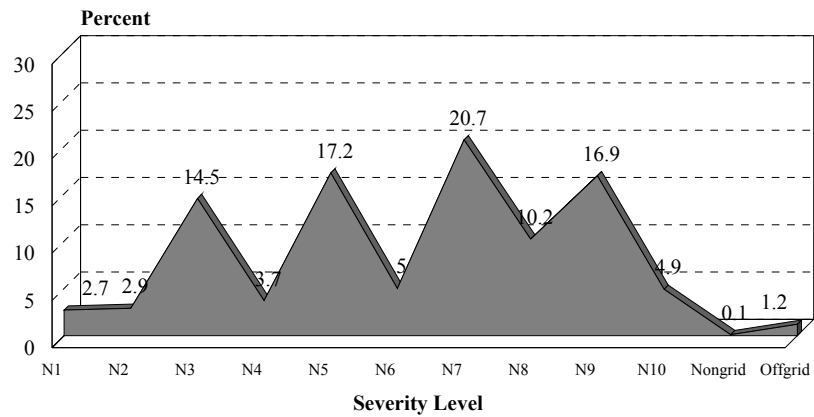
**Table 6: Distribution of FY 2003 Incarceration Sentences  
by Severity Level and Gender\***

Severity Level	Number of Cases	Gender (%)		Subtotal (%)
		Male	Female	
<b>Drug</b>				
1	235	88.1	11.9	12.9
2	204	81.4	18.6	11.2
3	617	85.3	14.7	33.8
4	768	87.0	13.0	42.1
<b>Subtotal</b>	<b>1,824</b>	<b>85.9</b>	<b>14.1</b>	<b>100.0</b>
<b>Nondrug</b>				
1	113	96.5	3.5	2.7
2	121	98.3	1.7	2.9
3	604	95.5	4.5	14.5
4	155	93.5	6.5	3.7
5	718	94.3	5.7	17.2
6	208	93.3	6.7	5.0
7	864	94.6	5.4	20.7
8	424	75.0	25.0	10.2
9	703	92.0	8.0	16.9
10	206	85.0	15.0	4.9
Nongrid	5	100.0	0.0	0.1
Offgrid	49	91.8	8.2	1.2
<b>Subtotal</b>	<b>4,170</b>	<b>91.8</b>	<b>8.2</b>	<b>100.0</b>
<b>TOTAL**</b>	<b>6,014</b>	<b>90.0</b>	<b>10.0</b>	<b>100.0</b>

\* Based on 1,824 drug offenders and 4,170 nondrug offenders.

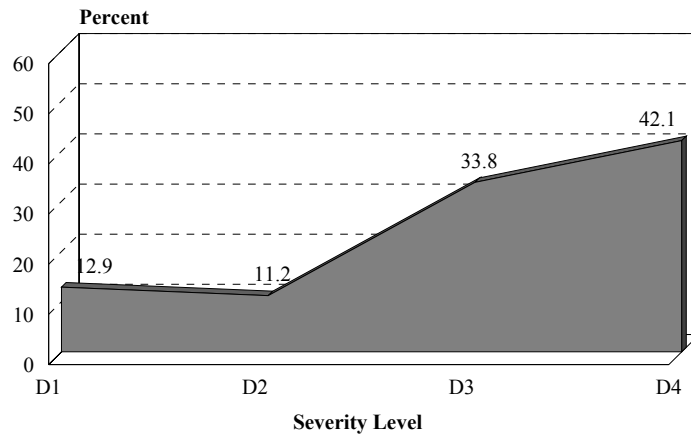
\*\* Total number includes 20 offenders whose severity levels are unknown.

**Figure 14: FY 2003 Incarceration Sentences  
Nondrug Offenders by Severity Level**



Based on 4,170 nondrug offenders

**Figure 15: FY 2003 Incarceration Sentences  
Drug Offenders by Severity Level**

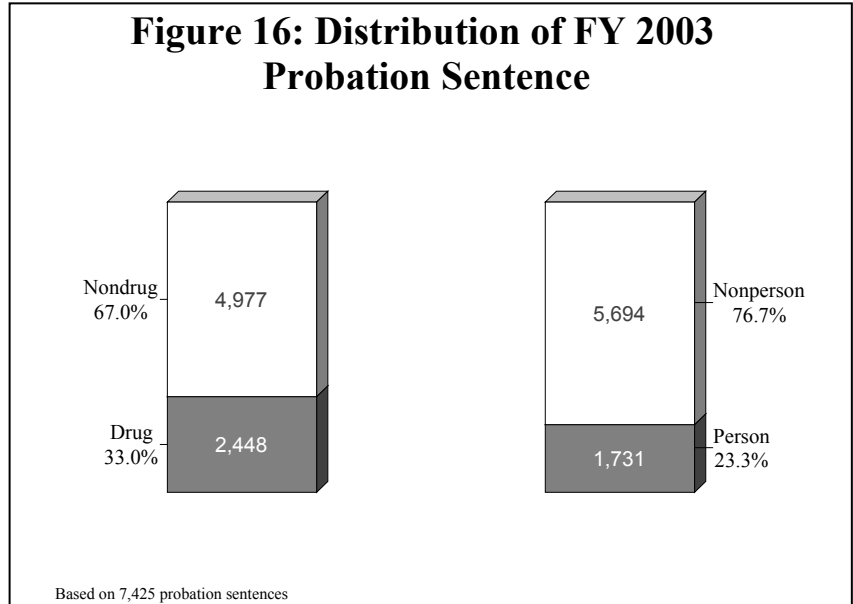


Based on 1,824 drug offenders

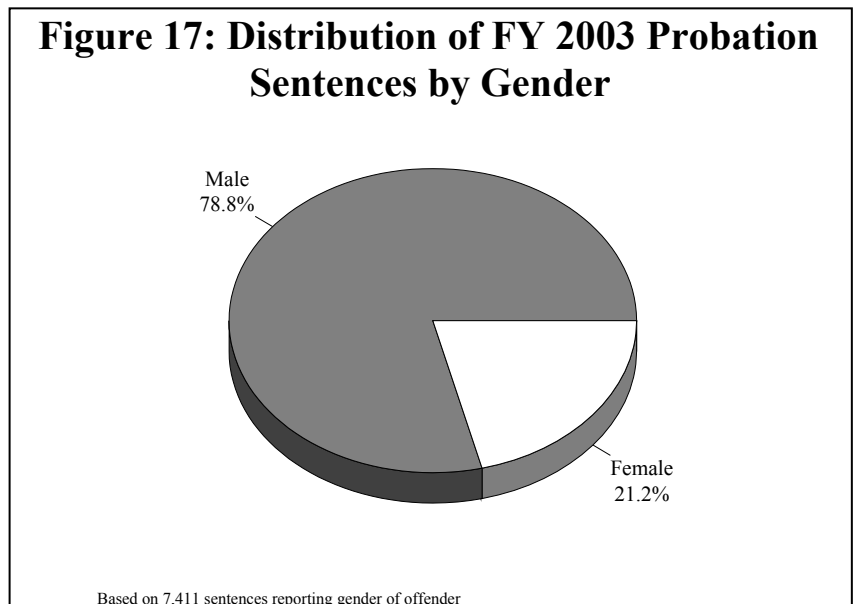


**PROBATION SENTENCES**

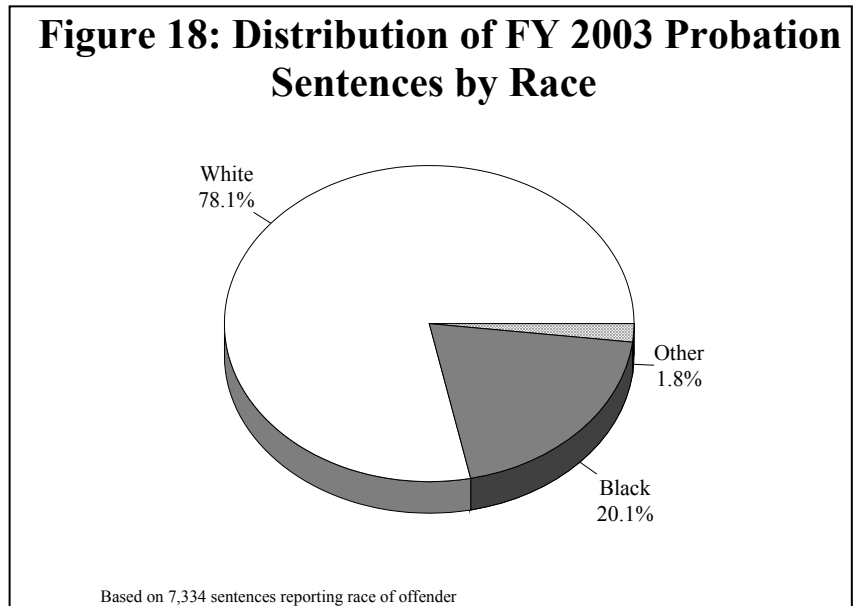
During FY 2003, the Kansas Sentencing Commission received a total number of 7,425 probation sentences, representing 4,977 non-drug sentences and 2,448 drug sentences. Of this number, non-person offenses made up 76.7% (5,694 sentences) and person offenses made up 23.3% (1,731 sentences, Figure 16). The characteristics of this offender group are illustrated in Figures 17, 18 and 19.



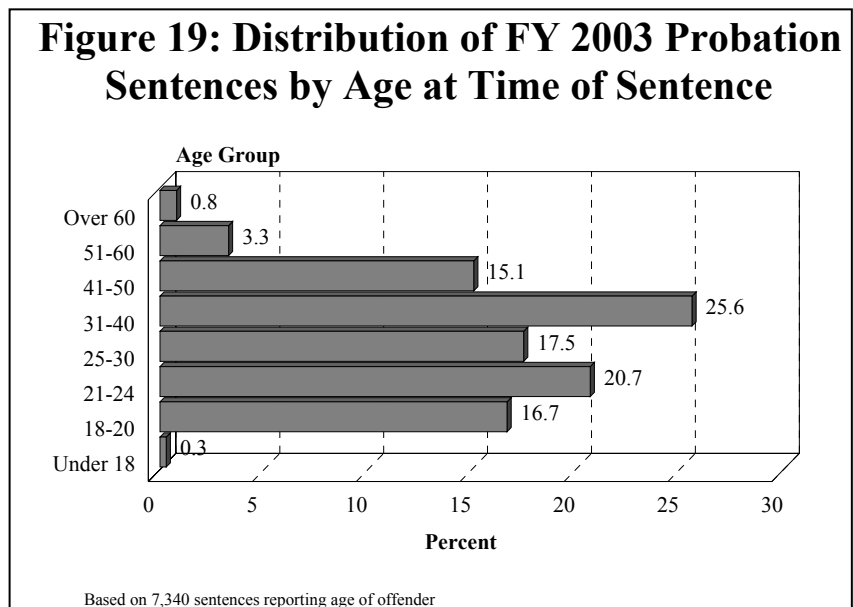
Male offenders represented nearly 79% of all probation sentences in FY 2003, indicating no change from that in FY 2002 (Figure 17).



Racial Distribution of probation sentences reveals that 78% of the offenders were white and 22% of the offenders were non-white (Figure 18). The proportion of the white offenders increased by 2% compared with that in FY 2002.



The highest percentage of probation offenders were found to be in their thirties at the time of sentence (25.6%), demonstrating no change in the past five years (Figure 19).



**Type of Offense and Severity Level**

Characteristics of probation offenders by offense type are exhibited in Tables 7 and 8. Aggravated assault, aggravated battery, burglary, criminal damage to property, criminal threat, fleeing LEO, forgery, Obstructing legal process, theft and DUI are classified as the top ten offenses for nondrug probation offenders, representing nearly 75% of the total nondrug crimes (Figure 20). In reviewing drug offenders with probation sentences, the largest number of sentences was for possession of drugs, accounting for almost 62% of all probation drug offenses (Figure 21).

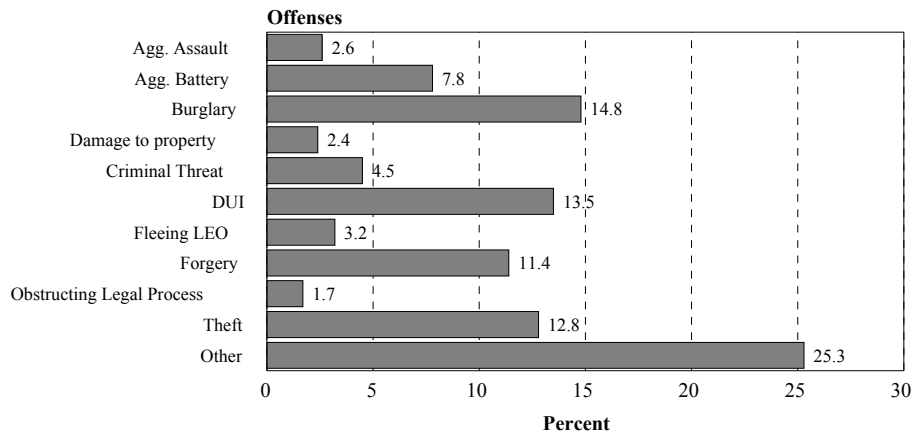
Males accounted for over 90% of the sex offenses and violent crimes such as: aggravated assault on LEO, burglary, criminal threat, domestic battery, fleeing LEO, kidnapping, possession of firearms and weapons. The highest percentages of female probation nondrug offenses (over 50%) included aggravated interference with parental custody, computer crime, forgery, identity theft, obtaining prescription drugs

by fraudulent means and involuntary manslaughter. Females were also found to be convicted of more drug offenses than nondrug offenses (24.2 versus 19.8%, Table 7 & Table 8).

Whites were responsible for 77% of all nondrug crimes and 80.4% of all drug offenses. Blacks had a little higher conviction percentage for nondrug offenses than drug crimes (21% versus 18.2%). The average age at the time of committing offense was 30 years old for nondrug offenders and 30.8 years old for drug offenders (Table 7 & Table 8), which indicates no difference from those in FY 2002.

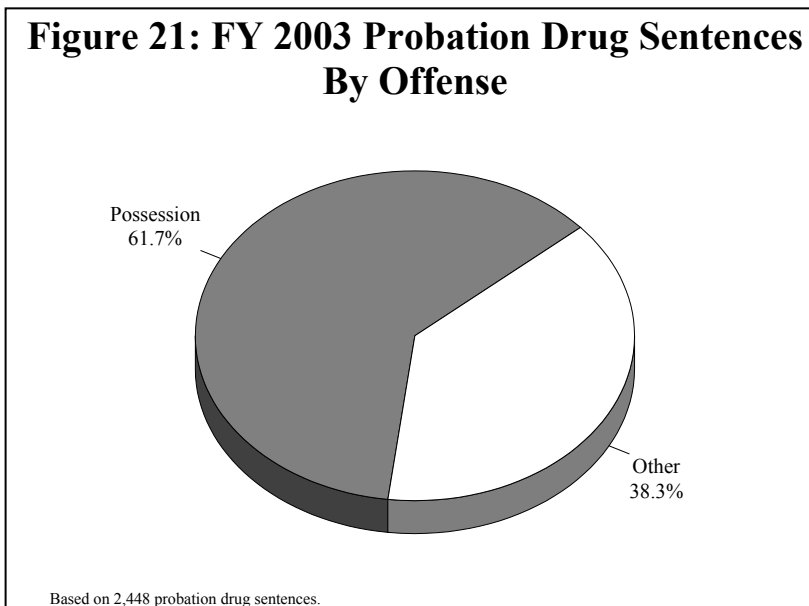
Characteristics of probation offenders by severity level are presented in Tables 9 and 10. The largest number of probation nondrug sentences fell within nondrug grid severity level 9 (30.6%) and the highest percentage of probation drug sentences fell at drug grid severity level 4 (72.2%). These distributions are consistent with those in FY 2002 (Figure 22 & Figure 23).

**Figure 20: FY 2003 Top Ten Offenses for Probation Nondrug Sentences**



Based on 4,977 probation nondrug sentences.

Offenses of drug possession included opiates or narcotics; possession 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and subsequent offenses; depressants, stimulants, hallucinogenics, etc. possession 2<sup>nd</sup> and subsequent offense (Figure 21). Opiates or narcotics possession 1<sup>st</sup> represented 48.9% of the total probation drug sentences in FY 2003 (Table 8).



**Table 7: 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	21	0.4	81.0	19.0	90.5	4.8	4.8	35.3
Agg Arson	8	0.2	62.5	37.5	100.0	0.0	0.0	26.6
Agg Assault	131	2.6	87.8	12.2	67.4	31.0	1.6	31.5
Agg Assault on LEO	12	0.2	100.0	0.0	45.5	54.5	0.0	32.2
Agg Battery	387	7.8	85.3	14.7	69.9	26.7	3.4	29.1
Agg Battery on LEO	10	0.2	88.9	11.1	55.6	44.4	0.0	28.4
Agg Burglary	36	0.7	80.6	19.4	61.1	36.1	2.8	26.8
Agg Criminal Sodomy w/ Child	4	0.1	100.0	0.0	75.0	25.0	0.0	19.5
Agg Escape from Custody	23	0.5	65.2	34.8	60.9	34.8	4.3	25.1
Agg Fail to Appear	40	0.8	75.0	25.0	70.0	25.0	5.0	31.7
Agg False Impersonation	13	0.3	84.6	15.4	69.2	15.4	15.4	31.6
Agg Incest	4	0.1	75.0	25.0	100.0	0.0	0.0	43.2
Agg Ind Lib with a Child	82	1.6	96.3	3.7	90.1	7.4	2.5	30.2
Agg Ind Solicit with a Child	34	0.7	97.1	2.9	85.3	11.8	2.9	31.3
Agg Int w/Parent Custody	6	0.1	33.3	66.7	83.3	16.7	0.0	28.9
Agg Intimidation of a Victim	6	0.1	66.7	33.3	83.3	16.7	0.0	28.7
Agg Robbery	23	0.5	87.0	13.0	65.2	34.8	0.0	24.6
Agg Sex Battery with Child	20	0.4	100.0	0.0	80.0	20.0	0.0	34.6
Agg Weapon Violation	4	0.1	75.0	25.0	50.0	50.0	0.0	28.3
Aiding Felon	26	0.5	53.8	46.2	76.9	23.1	0.0	26.9

**Table 7: Characteristics of Probation Nondrug Offenders by Type of Offense – 2**

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Arrange Sale/Purchase Drug	12	0.2	75.0	25.0	58.3	14.7	0.0	31.6
Arson	33	0.7	87.9	12.1	93.9	0.0	6.1	27.5
Battery on LEO	12	0.2	66.7	33.3	66.7	33.3	0.0	27.6
Burglary	735	14.8	91.6	8.4	83.7	15.1	1.2	25.3
Computer Crime	6	0.1	50.0	50.0	66.7	33.3	0.0	34.0
Contribute Child Misconduct	12	0.2	75.0	25.0	91.7	8.3	0.0	25.0
Crim Damage of Property	120	2.4	89.2	10.8	80.0	17.5	2.5	27.0
Crim Discharge of Firearm	13	0.3	76.9	23.1	69.2	23.1	7.7	22.5
Criminal Sodomy w/Child	4	0.1	100.0	0.0	100.0	0.0	0.0	36.3
Criminal Threat	223	4.5	94.6	5.4	79.7	18.4	1.8	31.6
Criminal Use of Explosives	6	0.1	83.3	16.7	100.0	0.0	0.0	27.8
Crim Use of Financial Card	41	0.8	58.5	41.5	70.7	29.3	0.0	29.0
Domestic Battery	19	0.4	100.0	0.0	81.3	12.5	6.2	33.7
Driving while Hab Violator	4	0.1	100.0	0.0	50.0	50.0	0.0	23.7
Drug without Tax Stamps	77	1.5	83.1	16.9	73.7	23.7	2.6	29.0
DUI	670	13.5	86.7	13.3	87.7	9.8	2.5	38.2
Failure to Register	35	0.7	91.2	8.8	69.7	30.3	0.0	30.9
False Writing	78	1.6	56.4	43.6	67.9	32.1	0.0	32.0
Fleeing/Eluding LEO	161	3.2	96.9	3.1	68.3	29.2	2.5	27.9
Forgery	569	11.4	47.7	52.3	74.2	24.0	1.8	30.0
Giving Worthless Check	65	1.3	68.8	31.3	84.4	12.5	3.1	33.7
Identity Theft	44	0.9	50.0	50.0	61.4	36.4	2.3	32.4
Ind Liberties with a Child	26	0.5	100.0	0.0	96.2	3.8	0.0	27.7
Ind Solicitation with a Child	25	0.5	92.0	8.0	66.7	33.3	0.0	28.8
Involuntary Manslaughter	14	0.3	50.0	50.0	85.7	14.3	0.0	25.1
Kidnapping	8	0.2	100.0	0.0	87.5	0.0	12.5	24.6
Lewd and Lascivious Behavior	9	0.2	100.0	0.0	100.0	0.0	0.0	31.1
Non-Support of a Child	56	1.1	96.4	3.6	83.9	16.1	0.0	33.5
Obstruct Legal Process	85	1.7	89.3	10.7	57.8	37.3	4.8	29.2
Obtain Prescription Drug	11	0.2	18.2	81.8	100.0	0.0	0.0	37.9
Possession of Firearms	61	1.2	96.7	3.3	57.4	42.6	0.0	26.4
Rape	7	0.1	100.0	0.0	85.7	14.3	0.0	22.3
Robbery	84	1.7	86.9	13.1	47.0	51.8	1.2	25.6
Securities Crimes	12	0.2	100.0	0.0	81.8	9.1	9.1	42.7
Sex Exploitation of a Child	7	0.1	100.0	0.0	100.0	0.0	0.0	35.0
Theft	639	12.8	72.4	27.6	74.5	23.8	1.7	29.7
Traffic in Contraband	35	0.7	71.4	28.6	85.7	11.4	2.9	29.0
Unlawful Voluntary Sex Rel	27	0.5	100.0	0.0	88.9	11.1	0.0	18.5
Weapon	4	0.1	100.0	0.0	50.0	50.0	0.0	26.1
Other	38	0.8	71.1	28.9	86.8	13.2	0.0	32.9
<b>TOTAL</b>	<b>4,977</b>	<b>100.0</b>	<b>80.2</b>	<b>19.8</b>	<b>77.0</b>	<b>21.0</b>	<b>2.0</b>	<b>30.1</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=4,965; Race, N=4,917; and Age, N=4,921.

**Table 8: Characteristics of Probation Drug Offenders by Type of Offense**

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or narcotics; poss 1	1,197	48.9	73.6	26.4	78.6	20.0	1.4	31.7
Opiates or narcotics; poss 2	47	1.9	63.8	36.2	61.7	36.7	2.1	35.4
Opiates or narcotics; poss 3	4	0.2	50.0	50.0	25.0	75.0	0.0	38.7
Opiates or narcotics; sale 1	279	11.4	74.9	25.1	73.0	25.2	1.8	30.5
Opiates or narcotics; sale 2	3	0.1	33.3	66.7	33.3	66.7	0.0	29.4
Opiates/ narcotics, depress, stim, hall; sale w/in 1,000 ft of school	21	0.9	71.4	28.6	90.5	9.5	0.0	32.6
Depress, stim, hall, etc.; sale, poss w/intent to sale	286	11.7	81.8	18.2	79.4	19.6	1.0	27.2
Depress, stim, hall; poss 2	263	10.7	91.6	8.4	80.8	18.1	1.2	30.4
Possession of paraphernalia	174	7.1	74.7	25.3	95.3	1.7	2.9	30.1
Possession of precursor drugs	122	5.0	64.8	35.2	99.1	0.9	0.0	31.7
Simulated controlled substances	15	0.6	46.7	53.3	93.3	6.7	0.0	29.4
Unlawful manufacture controlled substance	32	1.3	71.9	28.1	100.0	0.0	0.0	31.1
Other	5	0.2	100.0	0.0	100.0	0.0	0.0	34.8
<b>TOTAL</b>	<b>2,448</b>	<b>100.0</b>	<b>75.8</b>	<b>24.2</b>	<b>80.4</b>	<b>18.2</b>	<b>1.4</b>	<b>30.8</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=2,446; Race, N=2,417; and Age, N=2,418.

**Table 9: Characteristics of Probation Nondrug Offenders by Severity Level**

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	5	0.1	100.0	0.0	80.0	20.0	0.0	23.7
N2	4	0.1	100.0	0.0	75.0	25.0	0.0	19.5
N3	61	1.2	93.4	6.6	85.2	11.5	3.3	28.0
N4	17	0.3	70.6	29.4	82.4	17.6	0.0	24.8
N5	202	4.1	86.1	13.9	73.5	25.5	1.0	27.7
N6	91	1.8	88.9	11.1	83.1	15.7	1.2	29.8
N7	1,024	20.6	86.2	13.8	76.0	21.6	2.4	28.5
N8	825	16.6	58.0	42.0	72.9	25.3	1.8	29.6
N9	1,521	30.6	84.2	15.8	76.9	21.1	2.0	28.6
N10	538	10.8	77.7	22.3	71.3	27.3	1.3	29.9
Nongrid	689	13.8	87.0	13.0	87.6	9.9	2.5	38.1
<b>TOTAL</b>	<b>4,977</b>	<b>100.0</b>	<b>80.2</b>	<b>19.8</b>	<b>77.0</b>	<b>21.0</b>	<b>2.0</b>	<b>30.1</b>

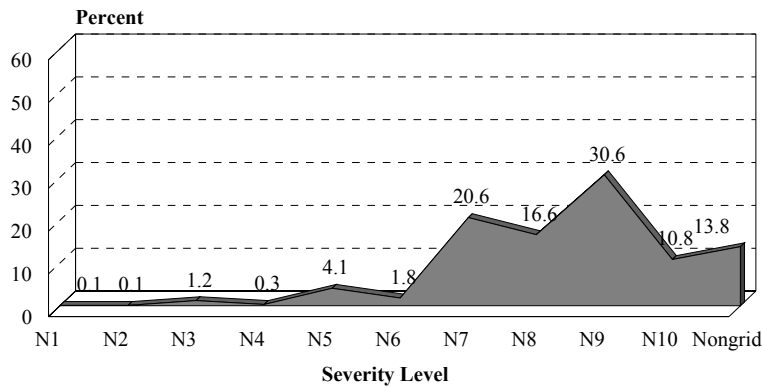
Note: Due to missing data, each category is based on different numbers: Gender, N=4,965; Race, N=4,917; and Age, N=4,921.

**Table 10: Characteristics of Probation Drug Offenders by Severity Level**

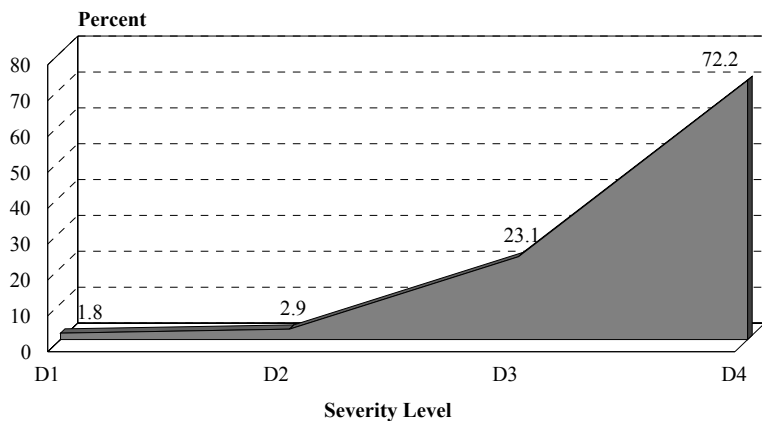
Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	44	1.8	68.2	31.8	90.7	9.3	0.0	31.0
D2	71	2.9	64.8	35.2	69.0	29.6	1.4	34.3
D3	566	23.1	78.4	21.6	76.3	22.3	1.4	28.8
D4	1,767	72.2	75.6	24.4	82.0	16.6	1.4	31.3
<b>TOTAL</b>	<b>2,448</b>	<b>100.0</b>	<b>75.8</b>	<b>24.2</b>	<b>80.4</b>	<b>18.2</b>	<b>1.4</b>	<b>30.8</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=2,446; Race, N=2,417 and Age, N=2,418.

**Figure 22: Distribution of FY 2003 Probation Nondrug Sentences by Severity Level**



**Figure 23: Distribution of FY 2003 Probation Drug Sentences by Severity Level**



### Criminal History and Length of Probation

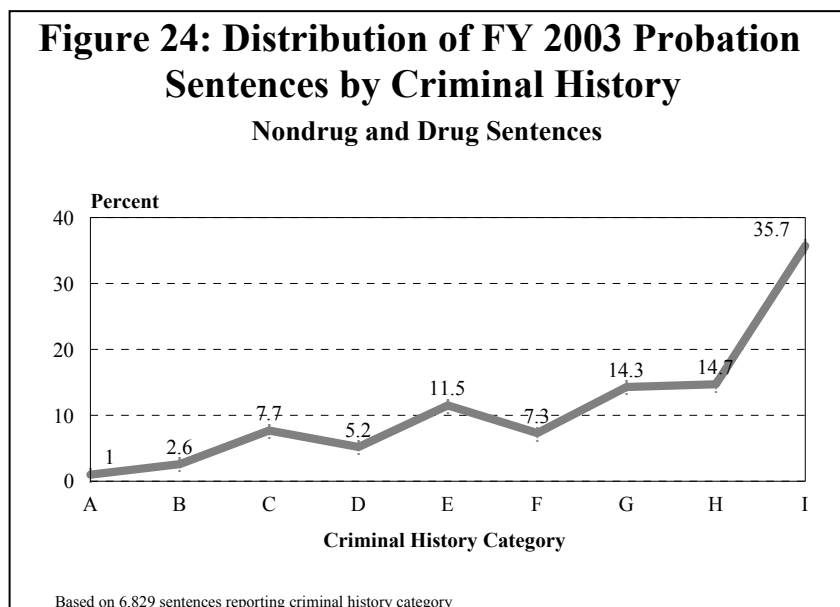
The data indicates that 6,829 probation sentences with assigned criminal history categories were reported in FY 2003, accounting for 92% of all probation sentences received by the Commission. The largest number of this group fell within criminal history category I (35.7%, N=2,437), representing no previous criminal history or one misdemeanor conviction (Figure 24).

Offenders with criminal history category I accounted for 33.3% of offenders on the nondrug grid and 40% of offenders on the drug grid. Approximately 87% of nondrug offenders fell within the presumptive probation boxes (Table 11), while 53.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 12).

Only 3.5% of nondrug offenders were found to be at severity level 5 criminal history

categories H and I and severity level 6 criminal history category G, while 33.4% of drug probation sentences fell within severity level 3 criminal history categories E to I and severity level 4 criminal history categories E and F, which are designated as border boxes (Tables 11 and 12). In comparison with drug and nondrug probation sentences, a significant difference was also found in the use of some downward dispositional departures to obtain a probation sentence. Nondrug probation sentences reported 6.5% downward dispositional departure, while drug probation sentences reported 12.4% downward dispositional departure.

Probation lengths of probation sentences by severity levels are exhibited in Tables 11 and 12. The average length of probation for nondrug offenders was 17.6 months, while the average length of probation for drug offenders was 15.2 months, which are almost constant with those in FY 2001 and FY 2002.





**Table 11: 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	5	0	0	0	1	0	1	0	1	2	50.4
N2	4	0	0	0	0	0	0	0	0	4	36.0
N3	61	0	4	1	3	5	4	4	7	33	41.4
N4	17	0	0	1	5	1	0	2	2	6	41.0
N5	202	2	3	9	12	8	11	14	27	116	35.8
N6	91	0	3	1	4	6	4	12	14	47	26.6
N7	1,024	10	31	127	80	103	65	125	133	350	23.5
N8	825	9	15	78	41	159	56	134	101	231	17.9
N9	1,521	24	44	172	100	209	126	185	201	460	12.8
N10	538	6	23	53	32	58	41	77	72	176	12.8
Nongrid	689	2	4	4	1	5	4	14	26	34	13.3
<b>TOTAL</b>	<b>4,977</b>	<b>53</b>	<b>127</b>	<b>446</b>	<b>279</b>	<b>554</b>	<b>312</b>	<b>567</b>	<b>584</b>	<b>1,459</b>	<b>17.6</b>

Note: Criminal history classes are based on 4,381 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
--------------------	--------------	-----------------------

**Table 12: 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	44	0	0	1	0	5	6	5	10	17	32.9
D2	71	1	2	7	3	8	4	19	6	21	35.5
D3	566	3	10	10	22	47	51	74	96	253	18.7
D4	1,767	14	36	64	53	171	125	310	307	687	12.8
<b>TOTAL</b>	<b>2,448</b>	<b>18</b>	<b>48</b>	<b>82</b>	<b>78</b>	<b>231</b>	<b>186</b>	<b>408</b>	<b>419</b>	<b>978</b>	<b>15.2</b>

Note: Criminal history classes are based on 2,448 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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## 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, who violate the conditions of their supervision but do not receive a new sentence are defined as “condition violators.” Both types of violations can result in revocation and subsequently, incarceration. This section presents an overview of both types of violators whose revocations resulted in incarceration. Violators with or without new convictions who continue on probation will be discussed after this section.

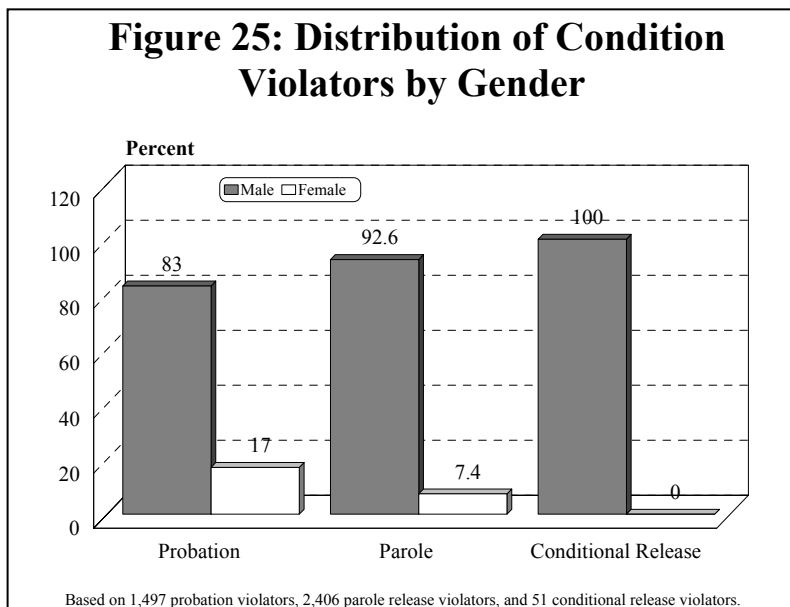
Condition violators alone accounted for 65.7% of all FY 2003 prison admissions. Characteristics of condition violators by gender, race, and age are shown in Figures 25, 26, and 27.

### Overview of Condition Violators

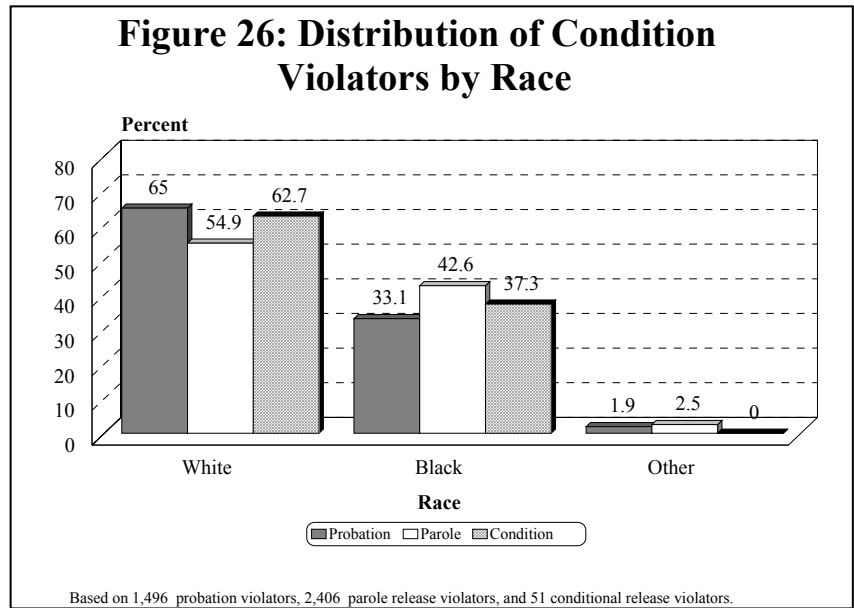
Violators in this section include offenders classified as probation, parole/postrelease supervision, and conditional release condition violators. For the purpose of this report, the term “condition violator” is defined as an offender who violates the conditions of his/her probation, parole, postrelease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

In FY 2003, there were a total number of 3,954 condition violators, representing 1,497 probation violators, 2,406 parole/postrelease supervision violators, and 51 conditional release violators respectively.

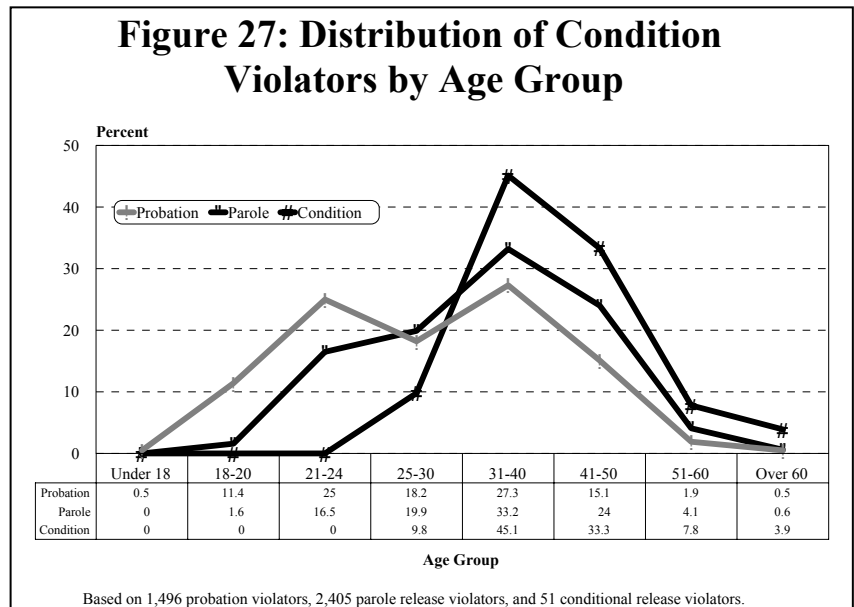
**Figure 25: Distribution of Condition Violators by Gender**



White males represented the highest percentages (Figures 25 and 26) of all three types of violators.

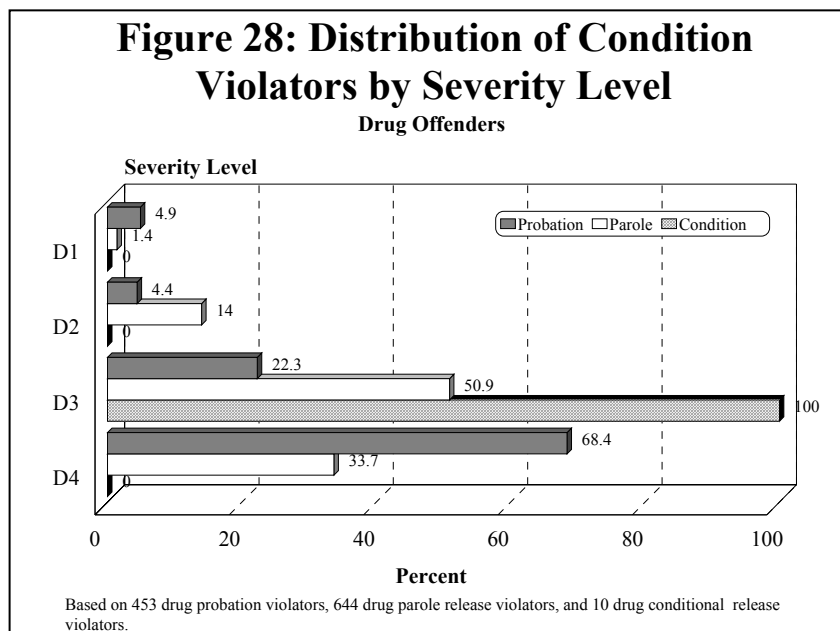


The largest proportions of violators of the three categories were found to be in the age group ranging from 31 to 40 at the time of admission to prison (Figure 27). This age pattern is consistent with that of the total incarceration sentences of FY 2003 (Figure 10) and demonstrates no change when compared with the age pattern of the group observed in FY 2002.



Characteristics of all violators by severity level are presented in Figures 28 and 29.

The highest percentages of parole and conditional release violators fell on drug severity level 3. The largest proportion of probation violators was found on drug level 4 (Figure 28). This severity level distribution is the same as those in FY 2002 and FY 2001.



The largest percentage of probation violators fell on nondrug severity level seven (30.5%, N=316), parole/postrelease supervision violators represented the largest number on nondrug severity level five (21.2%, N=373) and conditional release violators accounted for the highest percentage on nondrug severity level three (43.9%, N=18) (Figure 29). This pattern is slightly different from that of FY 2002.

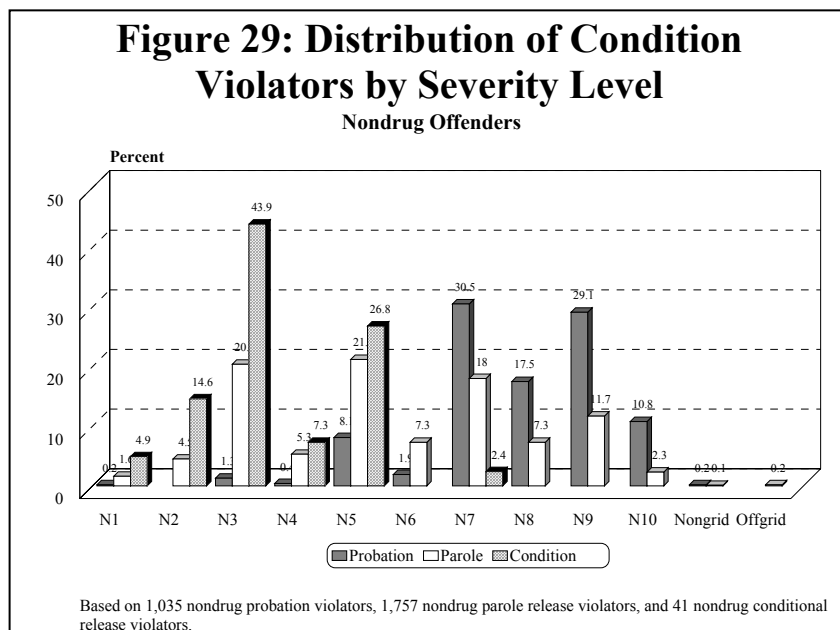


Table 13 exhibits the characteristics of all types of condition violators by severity level, race, and gender. The highest frequencies for males were found on nondrug severity level 7 (595 sentences) and drug severity level 4 (450 sentences). However, the largest numbers of females fell on nondrug severity level 8 (90 sentences) and drug severity level 4 (77 sentences). These gender characteristics by

severity level have not changed much compared with those of the previous year. Nondrug level 7 and drug level 4 accounted for the largest numbers of violators for both whites and blacks, with 404 sentences at nondrug level 7 and 303 sentences at drug level 4 for white offenders and 215 sentences at nondrug level 7 and 214 sentences at drug level 4 for black offenders (Table 13).

**Table 13: 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	31	23	8	24	7	0	35.8
D2	110	87	23	49	60	1	38.8
D3	439	367	72	217	210	12	35.0
D4	527	450	77	303	214	10	33.3
N1	32	31	1	18	14	0	40.9
N2	85	83	2	53	32	0	37.9
N3	390	383	7	192	191	7	36.3
N4	100	93	7	53	45	2	37.2
N5	468	445	23	267	197	4	33.5
N6	149	140	9	102	41	6	32.8
N7	633	595	38	404	215	14	31.3
N8	309	219	90	196	103	10	31.9
N9	506	461	45	344	143	19	32.2
N10	153	124	29	89	61	3	34.4
Offgrid	4	4	0	2	1	1	42.5
Nongrid	4	4	0	1	3	0	40.3
Unknown	14	13	1	11	3	0	32.8
<b>Total</b>	<b>3,954</b>	<b>3,522</b>	<b>432</b>	<b>2,325</b>	<b>1,540</b>	<b>89</b>	<b>33.7</b>

**Condition Probation Violators**

During FY 2003, 1,044 condition probation violators were admitted to the custody of the Department of Corrections (DOC). This number represents a decrease of 29 offenders, or a 3% decrease compared with the FY 2002 figure. Characteristics of this group, by the top 10 most frequent committing offenses, are shown on Tables 14 and 15.

Aggravated assault, aggravated battery, aggravated burglary, burglary, aggravated indecent liberties with a child, criminal damage to property, criminal threat, forgery, robbery and theft were among the top ten most frequent committing offenses for nondrug probation violators, representing 76.1% of all nondrug offenses. Burglary, forgery and theft were the three most

frequent sentencing offenses for which there were a large number of probation violators (Table 14).

Possession of drugs was the most frequent offense type for probation violators on the drug grid, accounting for 68.2% of all drug offenses, while the crime of opiates or narcotics possession 1<sup>st</sup> represented 55.8% of the total drug offenses for the condition probation violators (Table 15).

The average length of lag time from the age of offense to the age of admission to prison was 2.2 years for both nondrug and drug probation violators, which remains very close with the length of lag time of the probation violators in FY 2002. Distributions of probation violators by severity level and criminal history are exhibited in Table 16.

**Table 14: Top 10 Most Frequent Committing Offenses of Nondrug Probation Violators**

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Aggravated Assault	57	87.7	12.3	52.6	43.9	3.5	28.2	30.5
Aggravated Battery	96	86.5	13.5	69.8	28.1	2.1	30.4	32.3
Aggravated Burglary	26	92.3	7.7	65.4	34.6	0.0	24.8	26.7
Agg Indecent Liberties w/Child	27	100.0	0.0	85.2	14.8	0.0	26.2	29.1
Burglary	179	93.3	6.7	73.2	26.8	0.0	27.7	29.9
Criminal Damage to Property	23	91.3	8.7	78.3	21.7	0.0	29.1	31.1
Criminal Threat	57	89.5	10.5	57.9	36.8	5.3	31.8	33.6
Forgery	148	54.7	45.3	69.6	28.4	2.0	30.1	32.4
Robbery	35	94.3	5.7	45.7	51.4	2.9	23.5	25.2
Theft	146	82.2	17.8	57.5	39.7	2.7	28.8	31.3
<b>Subtotal</b>	<b>794</b>	<b>82.7</b>	<b>17.3</b>	<b>65.7</b>	<b>32.4</b>	<b>1.9</b>	<b>28.7</b>	<b>30.9</b>
Other	250	89.6	10.4	66.0	31.2	2.8	27.6	30.1
<b>TOTAL</b>	<b>1,044</b>	<b>84.4</b>	<b>15.6</b>	<b>65.8</b>	<b>32.1</b>	<b>2.1</b>	<b>28.5</b>	<b>30.7</b>

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

**Table 15: 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; poss 1	253	76.7	23.3	62.5	36.4	1.2	30.9	33.1
Opiates or narcotics; poss 2	14	85.7	14.3	50.0	42.9	7.1	32.9	34.7
Opiates or narcotics; poss 3	4	50.0	50.0	50.0	50.0	0.0	46.8	49.7
Opiates or narcotics; sale 1	73	78.1	21.9	47.9	50.7	1.4	28.5	31.0
Opiates /narcotics, depress, stim, hall, etc.; sale w/in 1,000 ft of school	5	40.0	60.0	60.0	40.0	0.0	31.9	34.1
Depress, stim, hall; poss 2nd	38	92.1	7.9	71.1	23.7	5.3	27.5	29.5
Depress, stim, hall, etc.; sale, poss w/intent to sale	28	89.3	10.7	64.3	32.1	3.6	24.9	27.0
Possession of paraphernalia	18	94.4	5.6	88.9	11.1	0.0	26.6	28.3
Possession of precursor drugs	11	81.8	18.2	100.0	0.0	0.0	33.5	34.8
Unlawful manufacture controlled substance	7	85.7	14.3	100.0	0.0	0.0	28.8	30.1
Other	2	100.0	0.0	50.0	50.0	0.0	30.2	33.1
<b>TOTAL</b>	<b>453</b>	<b>79.7</b>	<b>20.3</b>	<b>62.9</b>	<b>35.3</b>	<b>1.7</b>	<b>29.9</b>	<b>32.1</b>

**Table 16: 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	4	0	4	1	5	5	3	22
D2	1	1	0	1	1	2	3	3	8	20
D3	2	1	5	5	8	9	21	20	29	100
D4	4	9	27	15	41	21	56	64	73	310
N1	0	0	0	0	0	0	0	0	2	2
N2	0	0	0	0	0	0	0	0	0	0
N3	0	1	2	1	1	1	0	2	3	11
N4	0	0	0	1	0	1	1	0	1	4
N5	1	6	9	1	4	4	6	18	35	84
N6	0	1	1	0	3	1	4	0	10	20
N7	4	10	41	29	37	29	41	49	75	315
N8	3	10	15	10	33	14	33	37	25	180
N9	7	10	46	27	36	23	50	44	58	301
N10	2	4	10	6	15	8	22	14	30	111
<b>TOTAL</b>	<b>24</b>	<b>53</b>	<b>160</b>	<b>96</b>	<b>183</b>	<b>114</b>	<b>242</b>	<b>256</b>	<b>352</b>	<b>1,480</b>

\* Due to missing data, criminal history categories are based on 1,480 probation violators reporting criminal history.

**Condition Parole/Postrelease Supervision Violators**

Condition parole/postrelease supervision violators contributed the largest percentage of FY 2003 admissions. Totalling 2,406 admissions this group accounted for 40% of all admissions to DOC. Characteristics of this offender group are presented in Tables 17 and 18. The top 10 most frequent committing offenses of nondrug parole/postrelease violators included aggravated escape from custody, aggravated battery, aggravated burglary, aggravated indecent liberties with a child, burglary, indecent liberties with a child, rape, robbery and theft, accounting for approximately 65% of the total nondrug offenses. Nearly 95% of this group was males. Females represented the highest percentage (over 20%) for the crime of aggravated escape from custody.

The highest percentage of whites was found in the offense categories of aggravated indecent liberties with a child and indecent liberties with a child, whereas blacks indicated the highest representation in aggravated robbery and robbery (Table 17), which is consistent with the data observed in FY 2002. Drug parole/postrelease violators were convicted primarily for possession of opiates or narcotics (33.7%) and sale of opiates or narcotics (42.4%, Table 18).

Distribution of parole/postrelease supervision violators by severity level and criminal history is shown in Table 19. The largest number of parole/postrelease supervision violators fell on severity levels 3 and 4 of the drug grid and severity levels 5 and 7 of the nondrug grid. This distribution remains constant compared with that in FY 2002

**Table 17: Top 10 Most Frequent Committing Offenses of Parole/Postrelease Supervision Nondrug Violators**

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Agg Escape from custody	59	79.7	20.3	55.9	37.3	6.8	29.0	35.2
Aggravated battery	144	93.8	6.3	47.9	50.0	2.1	28.4	34.6
Aggravated burglary	64	96.9	3.1	53.1	46.9	0.0	27.9	35.9
Aggravated robbery	202	97.5	2.5	38.6	60.4	1.0	23.8	36.1
Agg Indecent Liberties w/Child	128	100.0	0.0	75.0	25.0	0.0	28.3	34.4
Burglary	162	98.1	1.9	66.7	29.6	3.7	27.5	31.8
Indecent Liberties w/Child	68	100.0	0.0	72.1	23.5	4.4	26.1	35.0
Rape	74	100.0	0.0	54.1	45.9	0.0	26.6	37.1
Robbery	160	96.3	3.8	30.0	68.8	1.3	27.5	35.0
Theft	75	94.7	5.3	62.7	36.0	1.3	30.6	34.4
Other	626	92.3	7.7	66.5	29.9	3.7	29.0	37.7
<b>TOTAL</b>	<b>1,762</b>	<b>94.9</b>	<b>5.1</b>	<b>57.8</b>	<b>39.7</b>	<b>2.5</b>	<b>27.8</b>	<b>34.8</b>



**Table 18: Characteristics of Parole/Postrelease 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	178	92.1	7.9	41.6	56.2	2.2	30.8	34.7
Opiates or narcotics; poss 2	33	60.6	39.4	39.4	60.6	0.0	34.3	39.5
Opiates or narcotics; poss 3	6	66.7	33.3	33.3	66.7	0.0	27.0	33.7
Opiates or narcotics; sale 1	248	82.7	17.3	43.1	54.0	2.8	30.1	37.1
Opiates or narcotics; sale 2	25	84.0	16.0	12.0	88.0	0.0	32.6	42.1
Opiates/narcotics, Depress, stim, hall; sale w/in 1,000 ft of school	20	100.0	0.0	50.0	50.0	0.0	30.7	36.9
Depress, stim, hall; poss 2	25	100.0	0.0	56.0	40.0	4.0	32.4	36.3
Depress, stim, hall, etc.; sale, poss w/intent to sale	80	87.5	12.5	65.0	31.3	3.6	26.7	34.3
Possession of paraphernalia	14	100.0	0.0	100.0	0.0	0.0	27.4	30.7
Unlawful manufacture controlled substance	13	92.3	7.7	92.3	7.7	0.0	35.5	40.2
Other	2	50.0	50.0	100.0	0.0	0.0	29.4	33.7
<b>TOTAL</b>	<b>644</b>	<b>86.3</b>	<b>13.7</b>	<b>47.0</b>	<b>50.6</b>	<b>2.3</b>	<b>30.3</b>	<b>36.2</b>

**Table 19: Distribution of Parole/Postrelease Supervision 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	0	0	2	1	1	0	0	4
D2	2	5	4	5	16	7	16	9	4	68
D3	11	5	23	14	36	22	37	37	31	216
D4	12	29	51	29	42	19	16	11	5	214
N1	0	0	0	3	3	0	0	3	1	10
N2	0	0	1	0	0	1	2	5	4	13
N3	0	0	11	12	13	8	15	27	42	128
N4	1	4	6	5	2	2	6	2	15	43
N5	3	8	36	30	27	29	36	37	60	266
N6	7	9	21	13	6	11	5	11	20	103
N7	21	55	57	15	39	19	29	21	27	283
N8	10	24	25	3	27	11	9	8	9	126
N9	35	49	30	8	25	11	11	6	11	186
N10	4	10	0	4	5	1	4	8	3	39
<b>TOTAL</b>	<b>106</b>	<b>198</b>	<b>265</b>	<b>141</b>	<b>243</b>	<b>142</b>	<b>187</b>	<b>185</b>	<b>232</b>	<b>1,699</b>

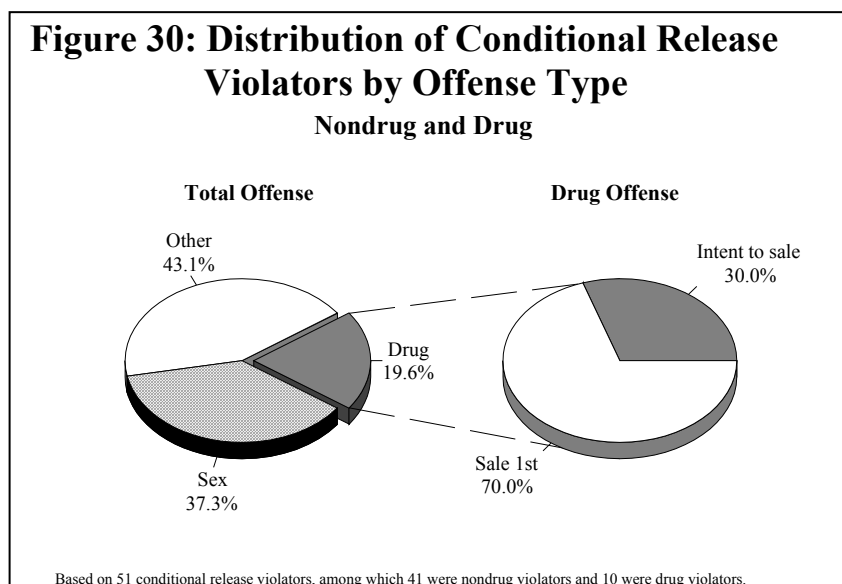
\* Due to missing data, criminal history categories are based on 1,699 violators reporting criminal history.

**Conditional Release Violators**

Conditional release violators made up the smallest group of condition violators totaling 51 in FY 2003, which decreased by 10.5% when compared with that in FY 2002 (N=57) and 53.2% compared with the number in FY 2001 (N=109). Conditional release violators are governed by pre-guideline sentences; therefore, they had missing criminal history categories. In

examining offense types, the analysis demonstrates that the highest percentage of conditional release violators was classified as sex offenders, which attributed to 37.3% of this group. Drug offenders represented the 19.6% of this specific population (Figure 30). Table 20 presents the characteristics of conditional release violators. All violators were males in this group. White offenders accounted for nearly 63% of this type of violators.

All the drug conditional release violators were convicted of the crime of drug sale. Other offenses included aggravated assault, aggravated battery, kidnapping, murder in the first degree and murder in the second degree (Figure 30).



**Table 20: Most Frequent Committing Offenses of Conditional Release Violators**  
Nondrug and Drug Offenders

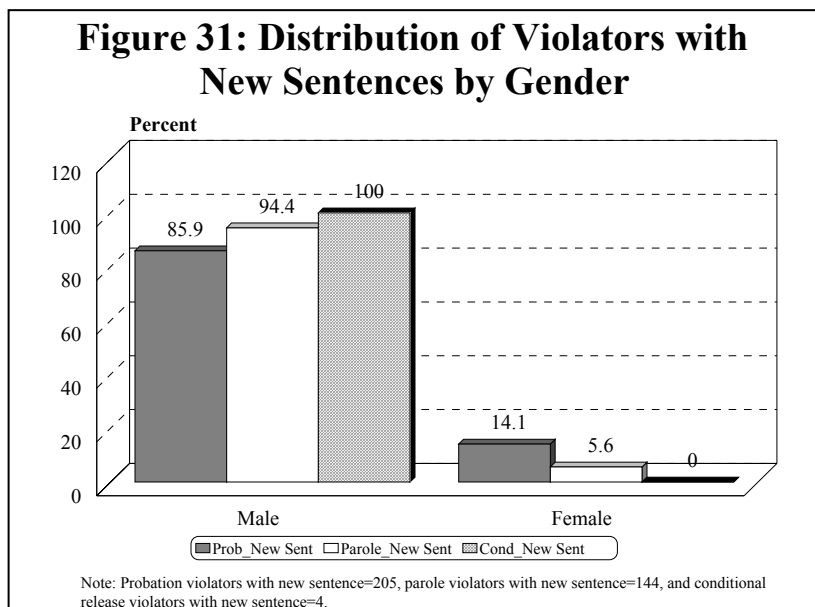
Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Aggravated Robbery	11	100.0		54.5	45.5		21.4	35.5
Involuntary Manslaughter	2	100.0		50.0	50.0		22.8	35.4
Voluntary Manslaughter	3	100.0		100.0			20.7	38.2
Sex offenses	19	100.0		73.7	26.3		30.2	43.3
Drug	10	100.0		50.0	50.0		29.8	42.4
Other	6	100.0		50.0	50.0		26.2	39.3
<b>TOTAL</b>	<b>51</b>	<b>100.0</b>		<b>62.7</b>	<b>37.3</b>		<b>26.9</b>	<b>40.4</b>

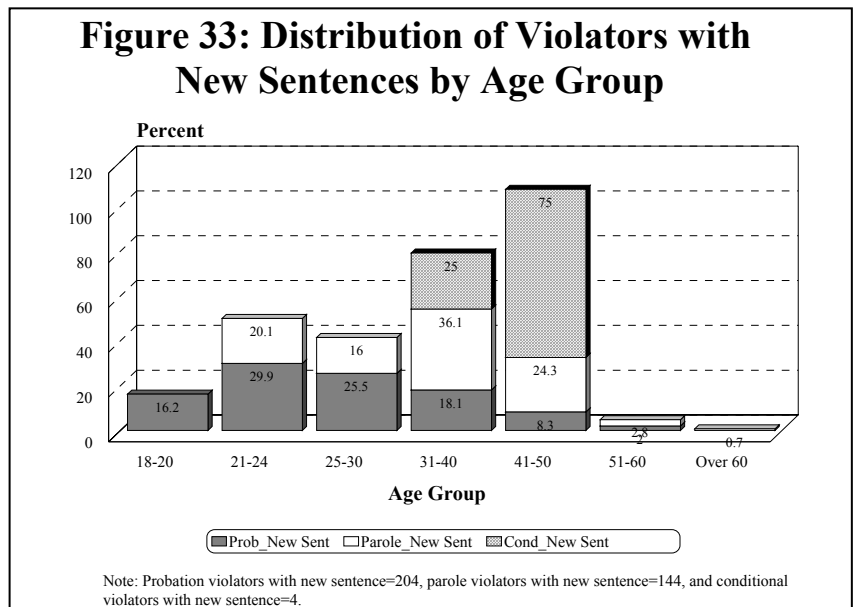
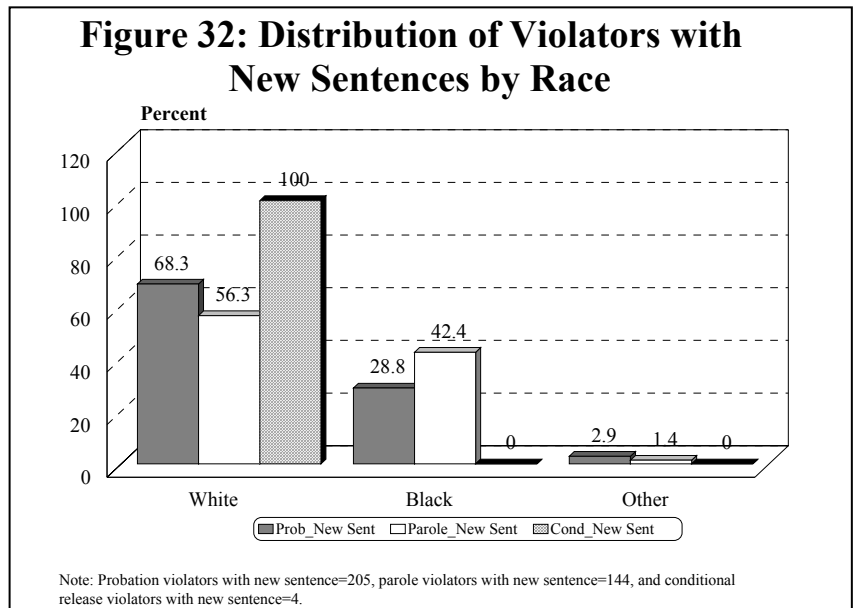
### Violators with New Sentences

Violators with new sentences include probation, parole/postrelease, and conditional release violators convicted of an offense for which they received a new sentence. This group represented 6% of the total prison admissions in FY 2003, indicating no percentage change compared with FY 2002 and FY 2001. Characteristics of this group are depicted in Figures 31 to 33. Drugs (35.6%), burglary (13.2%) and theft (6.5%) were the major committing offense categories for probation violators with new convictions. Drugs (28.5%), burglary/aggravated burglary (12.5) and robbery/aggravated robbery (13.9%) represented the top committing offenses for

parole/postrelease violators with new sentences. There were only four conditional release violators with new sentences who committed the crimes of sex offense (75%) and robbery (25%). Table 21 illustrates the distribution of the above offenders by severity levels. The largest numbers of probation violators with new sentences fell at nondrug severity level 7 (N=44) and drug severity level 4 (N=32), while nondrug severity level 7 (15.3%) and drug severity level 3 (11.1) represented the highest percentages of parole/postrelease violators with new sentences. The conditional release violators with new sentences in FY 2003 were all nondrug offenders at severity levels 2, 3 and 5.

White males were the predominant gender of this population (Figures 31 and 32). The highest percentages of probation violators (29.9%) were found in the age group from 21 to 24 at the time of admission to prison, while most of parole or post-release violators (36.1%) were between 31 and 40 years old and conditional release violators with new sentences represented the largest proportion (75%) in the age group between 41 and 50 (Figure 33).





**Table 21: Distribution of FY 2003 Violators with New Sentences  
by Severity Level**

Severity Level	Probation		Parole/Postrelease		Conditional Release	
	N	%	N	%	N	%
D1	10	4.9	8	5.6	0	0.0
D2	11	5.4	7	4.9	0	0.0
D3	20	9.8	16	11.1	0	0.0
D4	32	15.6	10	6.9	0	0.0
N1	2	1.0	4	2.8	0	0.0
N2	0	0.0	2	1.4	1	25.0
N3	7	3.4	18	12.5	1	25.0
N4	2	1.0	0	0.0	0	0.0
N5	16	7.8	20	13.9	2	50.0
N6	4	2.0	9	6.3	0	0.0
N7	44	21.5	22	15.3	0	0.0
N8	20	9.8	7	4.9	0	0.0
N9	28	13.7	16	11.1	0	0.0
N10	9	4.4	2	1.4	0	0.0
Off-grid	0	0.0	3	2.1	0	0.0
<b>TOTAL</b>	<b>205</b>	<b>100.0</b>	<b>144</b>	<b>100.0</b>	<b>4</b>	<b>100.0</b>

**VIOLATORS CONTINUING AND EXTENDING ON PROBATION**

In this section, 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 2003, there were 2,026 condition probation violators and 173 probation violators with new convictions who were continued or extended on probation, representing 50% of the total number of 4,049 condition

probation violators and 35.2% of the total number of 491 probation violators with new offenses, respectively. Drugs (30.2%), theft (11.1%), forgery (10.9%), burglary (10.8%) and aggravated battery (6.5%) were the top five committing offenses for the group of condition violators. Drugs (20.8%), burglary (14.5%) and forgery (14.5%) were the top three committing offenses for probation violators with new convictions. Tables 22 and 23 display criminal history by severity levels of the two types of violators who were sentenced to continued or extended probation.

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

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	6	0	0	0	0	0	0	1	2	3
D2	11	0	0	1	0	2	0	4	0	4
D3	144	2	2	4	6	13	14	19	20	59
D4	450	2	5	14	11	28	22	79	95	191
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	15	1	1	3	1	0	2	0	4	3
N4	4	0	0	0	1	0	0	2	0	1
N5	68	0	4	0	8	4	2	6	13	29
N6	20	0	3	0	1	0	1	1	2	12
N7	331	1	2	40	27	32	24	55	49	98
N8	256	3	0	27	13	31	21	37	43	80
N9	449	3	10	43	22	57	40	65	77	130
N10	168	2	3	11	11	13	20	24	19	65
Nongrid	104	3	0	3	1	2	1	8	2	2
<b>TOTAL</b>	<b>2,026</b>	<b>17</b>	<b>30</b>	<b>146</b>	<b>102</b>	<b>182</b>	<b>147</b>	<b>301</b>	<b>326</b>	<b>677</b>

Note: Criminal history classes are based on 1,928 cases reporting criminal history category.

Legend:

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

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	1	0	0	0	0	0	0	0	0	1
D2	0	0	0	0	0	0	0	0	0	0
D3	4	0	0	0	0	2	0	0	2	0
D4	31	0	0	1	1	1	0	10	12	5
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	2	0	0	0	0	0	0	1	0	1
N4	1	0	0	0	0	0	0	0	0	1
N5	2	0	0	0	0	0	0	0	0	2
N6	2	0	0	0	0	0	0	0	0	2
N7	27	0	0	3	3	7	2	4	3	5
N8	34	0	1	6	1	1	5	7	3	10
N9	52	0	3	4	5	7	5	8	9	11
N10	7	0	0	2	1	0	0	1	1	2
Nongrid	10	0	0	0	0	0	2	1	1	0
<b>TOTAL</b>	<b>173</b>	<b>0</b>	<b>4</b>	<b>16</b>	<b>11</b>	<b>18</b>	<b>14</b>	<b>32</b>	<b>31</b>	<b>40</b>

Note: Criminal history classes are based on 166 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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## CHAPTER THREE

# CONFORMITY TO THE SENTENCING GUIDELINES

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Conformity to the sentencing guidelines refers to presumptive prison and probation sentences imposed under the sentencing guidelines for offenders sentenced during FY 2003. 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 used 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 and to which a criminal history category was present in the database.

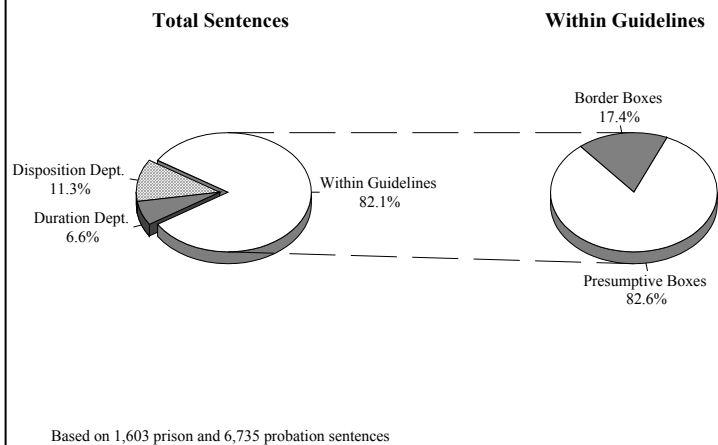
### OVERALL CONFORMITY RATES

In FY 2003, there were 8,338 pure guideline sentences, including 1,603 incarceration guideline sentences and 6,735 probation sentences. Figure 34 demonstrates that 82.1% (6,842 sentences) of the 8,338 guideline sentences fell within the presumptive guideline grids; 6.6% (550 sentences) indicated durational departures, and 11.3% (946 sentences) were dispositional departures. Of all the sentences within the presumptive guideline grids, 5,650 sentences (82.6%) fell within either the presumptive prison boxes or presumptive probation boxes, while 1,192 sentences (17.4%) were located on designated border boxes.

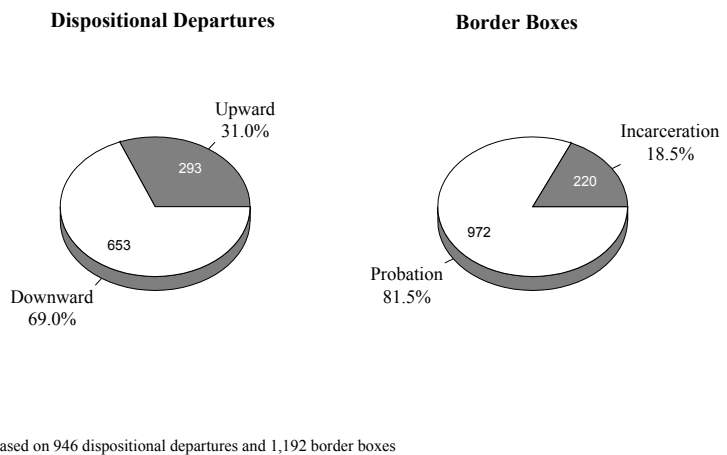
Figure 35 indicates that 69% (653 sentences) of the 946 dispositional departures were downward departures and 31% (293 sentences) were upward dispositional departures. Approximately 82% of the 1,192 border box sentences resulted in probation sentences with only 18% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.



**Figure 34: Distribution of FY 2003 Overall Guideline Sentences**



**Figure 35: Distribution of Dispositional Departure and Border Box Sentences**



**CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES**

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

grids. Revocations of probation, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,603 presumptive prison guideline sentences were utilized for this analysis.

Figure 36 indicates that more than 47% of total sentences fell within the presumptive incarceration range. Of this percentage, 37% fell within the standard range, 11.2% were within the aggravated range, and 22.9% were within the mitigated range. Almost 29% were located within designated border boxes.

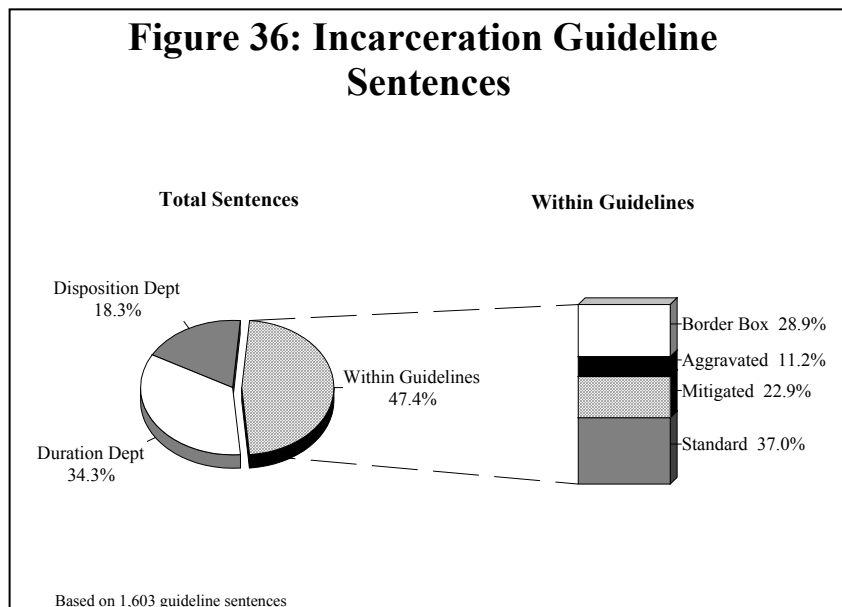
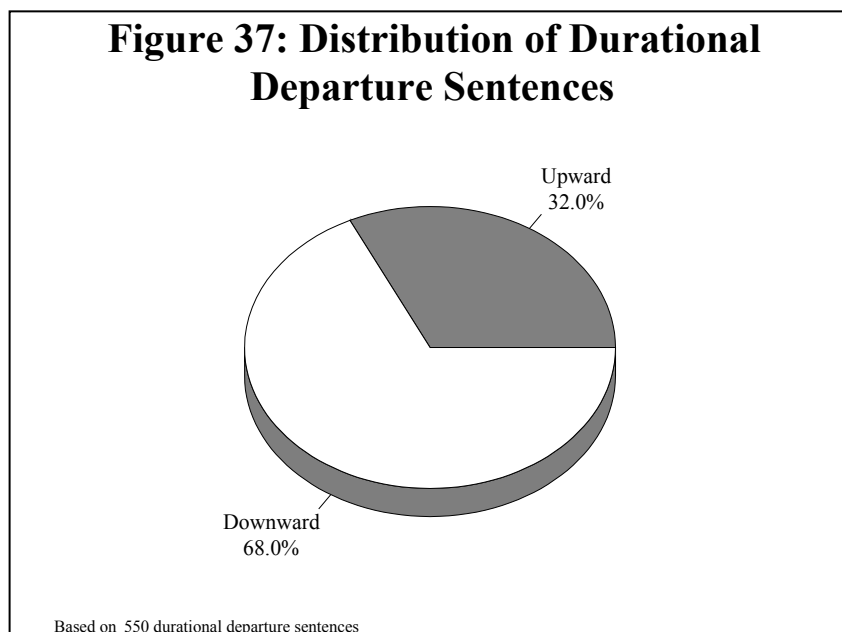


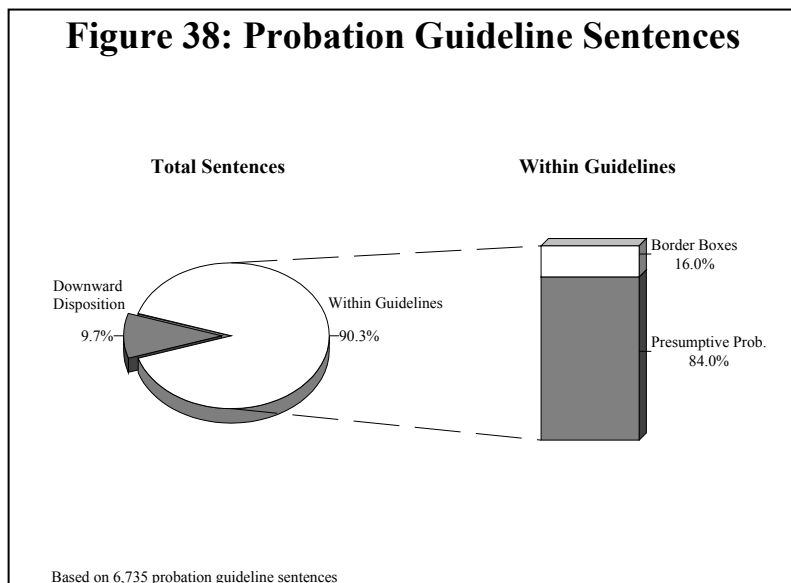
Figure 37 further reveals that among the durational departure sentences, only 32% departed upward from the presumptive guideline ranges, while 68% departed downward from the sentence lengths indicated on the presumptive range. The distribution of durational departure sentences indicates little change from that in FY 2002.



**CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES**

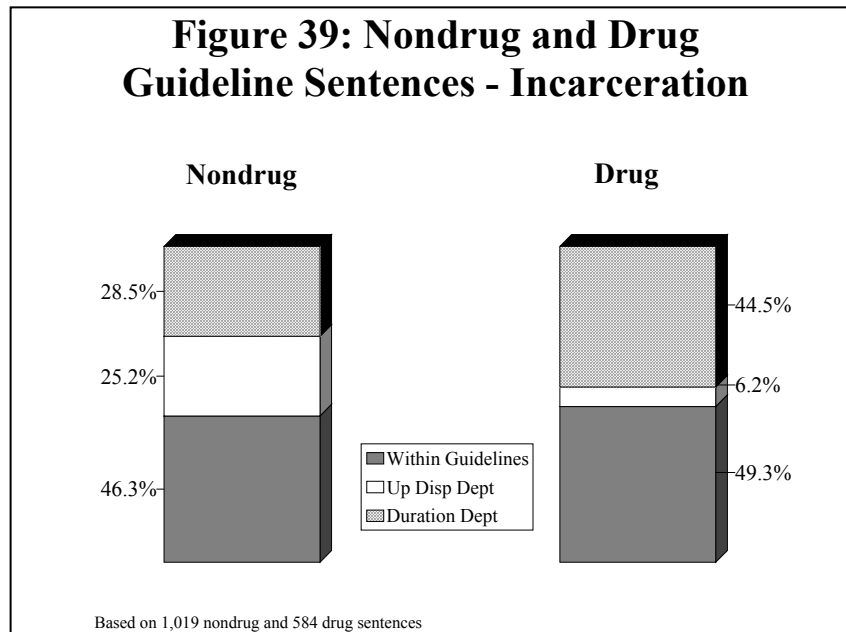
The analysis of probation guideline sentences demonstrated that as expected, the majority of probation guideline sentences (90.3% or 6,082 cases) fell beneath the incarceration line, among which 84% fell within presumptive probation grids and 16%

were within border boxes (Figure 38). This distribution accounted for nearly 82% of the total probation sentences during FY 2003 (7,425). Further analysis of the dispositional departures indicated that probation sentences reflected downward dispositional departures of 9.7% (Figure 38), while upward dispositional departure sentences were reflected in presumptive incarceration sentences (See Figure 36).

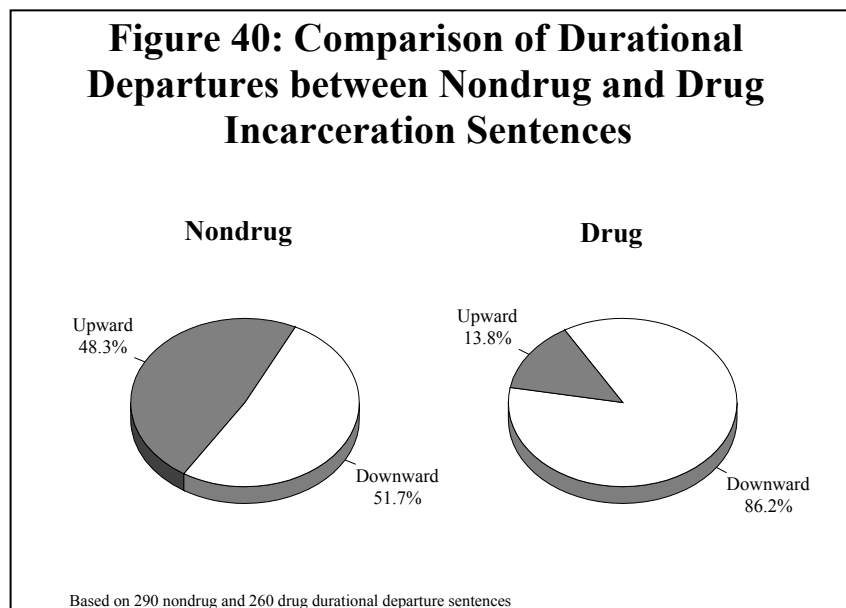


**CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES**

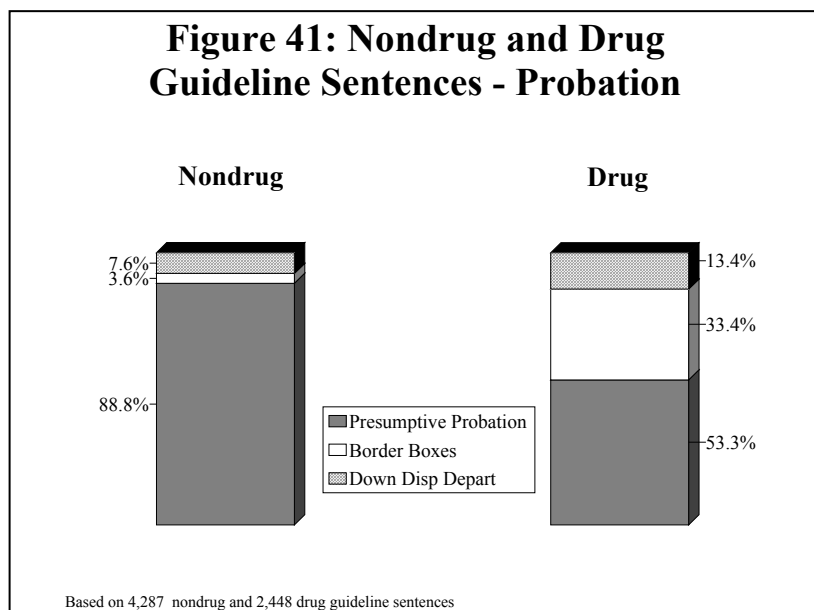
The analysis of guideline incarceration sentences indicates that among nondrug offenders, 25.2% showed upward dispositional departures, while drug offenders only revealed 6.2% upward dispositional departures. Nondrug offenders indicated 28.5% durational departures while drug offenders showed 44.5% durational departures (Figure 39).



Examination of durational departures in Figure 40 indicates that downward departures represented 86.2% of the total durational departures on the drug grid. However, on the nondrug grid, only 51.7% of durational departures were downward. The majority of the upward departures were found on severity levels 1, 2, 3 and 4 of the nondrug grid, which include the most serious person offenses.



Significant differences were also found between nondrug and drug grids with regard to probation sentences. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (13.4% vs. 7.6%). A lot more drug probation sentences resulted from border boxes than did nondrug probation sentences (33.4% vs. 3.6%, Figure 41).



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 fell within the border boxes (Figure 41).

**CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL**

Table 24 demonstrates that conformity rates vary depending on severity levels in addition to the drug or nondrug offense classifications. Drug incarceration sentences, as a whole, indicated a 13.7% standard, 2.1% aggravated, 10.3% mitigated

and 23.3% border box sentence distribution. Nondrug sentences revealed a 19.7% standard, 7.2% aggravated, 11.2% mitigated and 8.2% border box sentence distribution. As for the departure sentences, drug sentences showed 6.2% upward durational departures and 38.4% downward durational departures, whereas nondrug sentences showed a 13.7% upward durational departure rate and a 14.7% downward durational departure rate. When examining dispositional departures, nondrug sentences upward dispositional departures were present in 25.2%. By contrast, drug sentences showed only 6.2% 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 data over the past eight years.

**Table 24: Conformity Rates by Severity Level - Incarceration Sentences**

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg	Stand	Miti	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	185		7.0	7.6		3.8	81.6	
D2	75	5.3	28.0	20.0		9.3	37.3	
D3	131	3.1	13.7	3.1	64.9	5.3	9.9	
D4	193	2.1	14.5	14.0	26.4	7.8	16.6	18.7
<b>Subtotal</b>	<b>584</b>	<b>2.1</b>	<b>13.7</b>	<b>10.3</b>	<b>23.3</b>	<b>6.2</b>	<b>38.4</b>	<b>6.2</b>
N1	73	20.5	23.3	6.8		32.9	16.4	
N2	33	12.1	21.2	15.2		21.2	30.3	
N3	184	10.3	27.2	17.4		20.1	25.0	
N4	53	15.1	28.3	11.3		24.5	20.8	
N5	208	5.3	15.9	13.9	37.5	9.1	18.3	
N6	45	4.4	17.8	2.2	13.3	20.0	11.1	31.1
N7	160	2.5	15.0	8.1		9.4	8.1	56.9
N8	81	3.7	14.8	9.9		12.3	3.7	55.6
N9	142	4.9	19.7	8.5		4.2	5.6	57.0
N10	40		17.5	7.5			10.0	65.0
<b>Subtotal</b>	<b>1,019</b>	<b>7.2</b>	<b>19.7</b>	<b>11.2</b>	<b>8.2</b>	<b>13.7</b>	<b>14.7</b>	<b>25.2</b>
<b>TOTAL</b>	<b>1,603</b>	<b>5.3</b>	<b>17.5</b>	<b>10.9</b>	<b>13.7</b>	<b>11.0</b>	<b>23.3</b>	<b>18.3</b>

Table 25 displays conformity rates for probation sentences by severity levels. Probation drug sentences indicated 13.4% downward dispositional departures for sentences, which should have been presumptive incarceration, while only 7.6% of nondrug sentences experienced downward dispositional departures. The significant differences also occurred within the border box grids. Drug offenders received more probation sentences than

nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (33.4% versus 3.6%). Comparison of probation drug and nondrug sentences revealed 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 for the past eight years.

**Table 25: Conformity Rates by Severity Level - Probation Sentences**

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	44			100.0
D2	71			100.0
D3	566		92.0	8.0
D4	1,767	73.8	16.8	9.5
<b>Subtotal</b>	<b>2,448</b>	<b>53.3</b>	<b>33.4</b>	<b>13.4</b>
N1	5			100.0
N2	4			100.0
N3	61			100.0
N4	17			100.0
N5	202		70.8	29.2
N6	91	67.0	13.2	19.8
N7	1,024	96.0		4.0
N8	824	97.1		2.9
N9	1,521	95.5		4.5
N10	538	94.6		5.4
<b>Subtotal</b>	<b>4,287</b>	<b>88.8</b>	<b>3.6</b>	<b>7.6</b>
<b>TOTAL</b>	<b>6,735</b>	<b>75.9</b>	<b>14.4</b>	<b>9.7</b>

**CONFORMITY RATES TO THE GUIDELINES BY RACE**

Conformity rates to sentencing guidelines by race between drug and nondrug incarceration sentences are illustrated in Tables 26 and 27. The examination of drug incarceration sentences within guidelines indicates that blacks received more aggravated sentences (3.2% vs. 1.8%), standard sentences (17.6% vs. 12.6%) and mitigated sentences (15.2% vs. 9.1%) than whites. However, when examining sentence departures, whites indicated a much higher percentage in downward durational departures (42.8% vs. 21.6%) and a lower percentage in upward dispositional departures (6% vs. 7.2%) than blacks. Besides, black offenders represented higher

percentage in border box sentences than white offenders (28% vs. 22.2%, Table 26).

When analyzing nondrug incarceration sentences in Table 27, the data demonstrates that no significant percentage differences were identified between white and black nondrug offenders in aggravated sentences, standard sentences, border box sentences and upward dispositional departures. The only conformity rate variance appeared in mitigated sentences and durational departures, where blacks still received more mitigated sentences (13.4% vs. 9.9%) than whites, whereas whites represented higher percentages in upward durational departures (16.2% vs. 8.9%) and lower percentage in downward durational departures (12.7% vs. 17.6%) than blacks.

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

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	White	174		6.9	8.0		3.4	81.6	
	Black	7		14.3			14.3	71.4	
	Other	4						100.0	
D2	White	53	5.7	32.1	15.1		9.4	37.7	
	Black	20	5.0	15.0	35.0		5.0	40.0	
	Other	2		50.0			50.0		
D3	White	86	1.2	11.6	3.5	70.9	5.8	7.0	
	Black	44	6.8	18.2	2.3	52.3	4.5	15.9	
	Other	1				100.0			
D4	White	138	2.9	13.0	11.6	28.3	6.5	18.1	19.6
	Black	54		18.5	20.4	22.2	9.3	13.0	16.7
	Other	1					100.0		
<b>Total</b>	<b>White</b>	<b>451</b>	<b>1.8</b>	<b>12.6</b>	<b>9.1</b>	<b>22.2</b>	<b>5.5</b>	<b>42.8</b>	<b>6.0</b>
	<b>Black</b>	<b>125</b>	<b>3.2</b>	<b>17.6</b>	<b>15.2</b>	<b>28.0</b>	<b>7.2</b>	<b>21.6</b>	<b>7.2</b>
	<b>Other</b>	<b>8</b>		<b>12.5</b>		<b>12.5</b>	<b>25.0</b>	<b>50.0</b>	

Based on 584 drug incarceration guideline sentences reporting race of offenders.



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

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	White	46	15.2	26.1	8.7		32.6	17.4	
	Black	25	28.0	20.0	4.0		32.0	16.0	
	Other	2	50.0				50.0		
N2	White	26	7.7	26.9	11.5		23.1	30.8	
	Black	6	33.3		16.7		16.7	33.3	
	Other	1			100.0				
N3	White	118	11.9	29.7	13.6		25.4	19.5	
	Black	61	8.2	24.6	26.2		9.8	31.1	
	Other	5					20.0	80.0	
N4	White	37	13.5	21.6	16.2		32.4	16.2	
	Black	14	21.4	35.7			7.1	35.7	
	Other	2		100.0					
N5	White	128	3.9	17.2	13.3	40.6	8.6	16.4	
	Black	76	7.9	14.5	13.2	32.9	10.5	21.1	
	Other	4			50.0	25.0		25.0	
N6	White	38	5.3	13.2		15.8	23.7	10.5	31.6
	Black	5		60.0				20.0	20.0
	Other	2			50.0				50.0
N7	White	105	3.8	17.1	8.6		10.5	3.8	56.2
	Black	53		11.3	7.5		7.5	15.1	58.5
	Other	2						50.0	50.0
N8	White	51	5.9	13.7	5.9		15.7	2.0	56.9
	Black	29		17.2	17.2		3.4	6.9	55.2
	Other	1					100.0		100.0
N9	White	89	5.6	19.1	6.7		5.6	7.9	55.1
	Black	50	4.0	22.0	12.0		2.0	2.0	58.0
	Other	3							100.0
N10	White	21		14.3	4.8			9.5	71.4
	Black	17		23.5	11.8			5.9	58.8
	Other	2						50.0	50.0
<b>Total</b>	<b>White</b>	<b>659</b>	<b>7.1</b>	<b>20.3</b>	<b>9.9</b>	<b>8.8</b>	<b>16.2</b>	<b>12.7</b>	<b>24.9</b>
	<b>Black</b>	<b>336</b>	<b>7.4</b>	<b>19.3</b>	<b>13.4</b>	<b>7.4</b>	<b>8.9</b>	<b>17.6</b>	<b>25.9</b>
	<b>Other</b>	<b>24</b>	<b>4.2</b>	<b>8.3</b>	<b>16.7</b>	<b>4.2</b>	<b>12.5</b>	<b>29.2</b>	<b>25.0</b>

Based on 1,019 nondrug incarceration guideline sentences reporting race of offenders.

Conformity rates for probation sentences by race are presented in Tables 28 and 29. White offenders received more presumptive probation sentences (55.7% vs. 41%) than black offenders for drug offenses but black drug offenders indicated a higher rate in downward dispositional departures than white drug offenders (21.6% vs. 11.5%). A little percentage difference was shown in border box sentences between white and black drug offenders (Table 28). This sentence pattern is very close to that in FY 2002

The analysis of nondrug probation sentences in Table 29 indicates that no significant percentage difference was revealed between white and black offenders. Most of the downward dispositional departure sentences fell at offense severity levels one to six on the nondrug grid, and severity levels one and two on the drug grid for both white and black offenders sentenced to probation in FY 2003 (Tables 28 and 29), which is consistent with the data observed in FY 2002.

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	39			100.0
	Black	4			100.0
	Other	0			
D2	White	49			100.0
	Black	21			100.0
	Other	1			100.0
D3	White	431		93.7	6.3
	Black	126		85.7	14.3
	Other	8		100.0	
D4	White	1,425	76.0	16.4	7.6
	Black	288	62.5	19.4	18.1
	Other	25	60.0	24.0	16.0
<b>Total</b>	<b>White</b>	<b>1,944</b>	<b>55.7</b>	<b>32.8</b>	<b>11.5</b>
	<b>Black</b>	<b>439</b>	<b>41.0</b>	<b>37.4</b>	<b>21.6</b>
	<b>Other</b>	<b>34</b>	<b>44.1</b>	<b>41.2</b>	<b>14.7</b>

Based on 2,417 drug probation sentences reporting race of offenders.

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	4			100.0
	Black	1			100.0
N2	White	3			100.0
	Black	1			100.0
N3	White	52			100.0
	Black	7			100.0
	Other	2			100.0
N4	White	14			100.0
	Black	3			100.0
N5	White	147		70.7	29.3
	Black	51		68.6	31.4
	Other	2		100.0	
N6	White	74	68.9	10.8	20.3
	Black	14	57.1	21.4	21.4
	Other	1	100.0		
N7	White	771	96.6		3.4
	Black	219	93.2		6.8
	Other	25	100.0		
N8	White	595	97.5		2.5
	Black	205	96.1		3.9
	Other	15	93.3		6.7
N9	White	1,159	96.3		3.7
	Black	318	93.7		6.3
	Other	30	93.3		6.7
N10	White	381	94.2		5.8
	Black	146	95.9		4.1
	Other	7	100.0		
<b>Total</b>	<b>White</b>	<b>3,200</b>	<b>89.1</b>	<b>3.5</b>	<b>7.4</b>
	<b>Black</b>	<b>965</b>	<b>87.8</b>	<b>3.9</b>	<b>8.3</b>
	<b>Other</b>	<b>82</b>	<b>91.5</b>	<b>2.4</b>	<b>6.1</b>

Based on 4,247 nondrug probation sentences reporting race of offenders.

**CONFORMITY RATES TO THE GUIDELINES BY GENDER**

Conformity rates to the guidelines varied between male and female offenders for drug incarceration sentences (Table 30). Only males received aggravated sentences, which is consistent with data in the past two years. In addition, male drug offenders represented higher rates in mitigated sentences (10.6% vs. 7.3%), upward durational departures (6.6% vs. 1.8) and upward dispositional departures (6.2% vs. 5.5%) than female drug offenders. However, females represented a higher rate in standard sentences (20% vs. 13%), border box sentences (25.5% vs. 23.1%) and downward durational departures (40% vs. 38.2%) than males (Table 30).

Table 31 demonstrates the conformity rates by gender of the nondrug incarceration sentences. Within guidelines females received more mitigated sentences (17% vs. 10.9%) and border box sentences (13.2% vs. 8%), while males represented higher percentages in aggravated sentences (7.2% vs. 5.7%) and standard sentences (20.2% vs. 11.3%) than females. The examination of departure sentences indicates that males received a little bit more durational departure sentences in both upward and downward departures than females, but female non-drug offenders incarcerated received more upward dispositional departures than their counterparts (28.3% vs. 25.1%).

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	Male	167		6.6	7.8		4.2	81.4	
	Female	18		11.1	5.6			83.3	
D2	Male	64	6.3	28.1	18.8		9.4	37.5	
	Female	11		27.3	27.3		9.1	36.4	
D3	Male	120	3.3	13.3	3.3	64.2	5.8	10.0	
	Female	11		18.2		72.7		9.1	
D4	Male	178	2.2	13.5	15.2	25.3	8.4	16.9	18.5
	Female	15		26.7		40.0		13.3	20.0
<b>Total</b>	<b>Male</b>	<b>529</b>	<b>2.3</b>	<b>13.0</b>	<b>10.6</b>	<b>23.1</b>	<b>6.6</b>	<b>38.2</b>	<b>6.2</b>
	<b>Female</b>	<b>55</b>		<b>20.0</b>	<b>7.3</b>	<b>25.5</b>	<b>1.8</b>	<b>40.0</b>	<b>5.5</b>

Based on 584 drug incarceration guideline sentences.

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	Male	71	19.7	23.9	7.0		32.4	16.9	
	Female	2	50.0				50.0		
N2	Male	33	12.1	21.2	15.2		21.2	30.3	
	Female	0							
N3	Male	170	10.6	27.1	18.2		20.0	24.1	
	Female	14	7.1	28.6	7.1		21.4	35.7	
N4	Male	50	16.0	30.0	10.0		24.0	20.0	
	Female	3			33.3		33.3	33.3	
N5	Male	197	5.1	15.7	13.2	37.6	9.6	18.8	
	Female	11	9.1	18.2	27.3	36.4		9.1	
N6	Male	41	4.9	19.5		7.3	22.0	12.2	34.1
	Female	4			25.0	75.0			
N7	Male	157	2.5	15.3	8.3		9.6	8.3	56.1
	Female	3							100.0
N8	Male	73	4.1	16.4	8.2		13.7	4.1	53.4
	Female	8			25.0				75.0
N9	Male	136	5.1	20.6	8.1		3.7	5.9	56.6
	Female	6			16.7		16.7		66.7
N10	Male	38		18.4	7.9			10.5	63.2
	Female	2							100.0
<b>Total</b>	<b>Male</b>	<b>966</b>	<b>7.2</b>	<b>20.2</b>	<b>10.9</b>	<b>8.0</b>	<b>13.9</b>	<b>14.8</b>	<b>25.1</b>
	<b>Female</b>	<b>53</b>	<b>5.7</b>	<b>11.3</b>	<b>17.0</b>	<b>13.2</b>	<b>11.3</b>	<b>13.2</b>	<b>28.3</b>

Based on 1,019 nondrug incarceration guideline sentences.

The analyses of overall probation sentences show that females on both drug and nondrug grids received less downward dispositional departures than males (Tables 32 and 33). This finding indicates that except incarceration drug sentences in FY 2003, females were more likely to be incarcerated than males when both upward and downward dispositional departures are compared for incarceration and probation sentences. Females had a higher likelihood of an upward dispositional departure to

prison even when their offenses fell within the presumptive probation portion of the grid (Table 31). Females also had less chance for a downward departure to probation if their sentences fell within a presumptive prison box (Table 32 and 33). The above findings continue a trend that was present in the past seven years (Annual Reports of FY 1996, FY 1997 and FY 1998, FY 1999 and FY 2000, FY 2001 and FY 2002).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	30			100.0
	Female	14			100.0
D2	Male	46			100.0
	Female	25			100.0
D3	Male	444		90.8	9.2
	Female	122		96.7	3.3
D4	Male	1,335	71.0	17.5	11.5
	Female	430	82.3	14.4	3.3
<b>Total</b>	<b>Male</b>	<b>1,855</b>	<b>51.1</b>	<b>34.3</b>	<b>14.6</b>
	<b>Female</b>	<b>591</b>	<b>59.9</b>	<b>30.5</b>	<b>9.6</b>

Based on 2,446 drug probation sentences reporting gender of offenders.

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

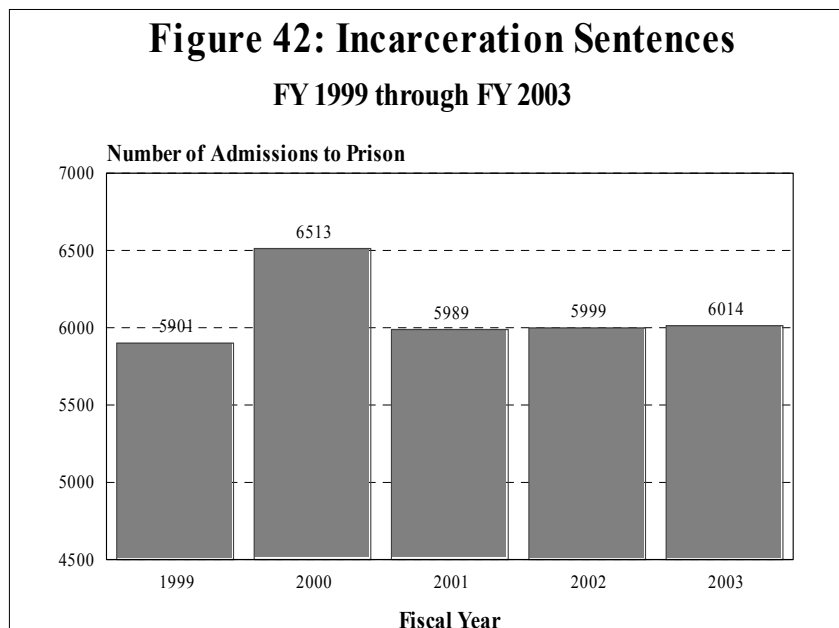
Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	5			100.0
N2	Male	4			100.0
N3	Male	57			100.0
	Female	4			100.0
N4	Male	12			100.0
	Female	5			100.0
N5	Male	174		70.7	29.3
	Female	28		71.4	29.6
N6	Male	80	65.0	15.0	20.0
	Female	10	80.0		20.0
N7	Male	882	95.5		4.5
	Female	141	99.3		0.7
N8	Male	476	95.6		4.4
	Female	346	99.1		0.9
N9	Male	1,277	94.9		5.1
	Female	239	99.2		0.8
N10	Male	417	94.0		6.0
	Female	120	96.7		3.3
<b>Total</b>	<b>Male</b>	<b>3,384</b>	<b>87.3</b>	<b>4.0</b>	<b>8.7</b>
	<b>Female</b>	<b>893</b>	<b>94.5</b>	<b>2.2</b>	<b>3.2</b>

Based on 4,277 nondrug probation sentences reporting gender of offenders.

## CHAPTER FOUR SENTENCING TRENDS AND FORECAST

### INCARCERATION SENTENCES

In FY 2003, the total number of incarceration sentences slightly increased compared with that of FY 2002. The total number of FY 2003 prison admissions indicated an increase of 1.9% from 5,901 admissions reported in FY 1999 (Figure 42). Monthly prison admissions are demonstrated in Table 34. When compared with previous years, the largest monthly admission in FY 2003 was in October, which is different from previous fiscal years.



**Table 34: Prison Admissions by Month**

Month by Fiscal Year	1999	2000	2001	2002	2003
July	486	493	559	489	523
August	479	456	616	517	569
September	457	493	501	339	521
October	441	593	463	462	577
November	427	500	440	558	479
December	554	530	384	533	475
January	436	532	446	501	472
February	500	592	488	487	440
March	586	593	584	542	460
April	539	592	443	531	520
May	471	507	523	490	466
June	525	632	542	550	512
<b>Total</b>	<b>5,901</b>	<b>6,513</b>	<b>5,989</b>	<b>5,999</b>	<b>6,014</b>



Table 35 presents the types of admissions to prison during the past five years. The admissions of new court commitments in FY 2003 indicate a decrease of 3.1% when compared with that of FY 2002 but an increase of 23.1% when compared with that of FY 1999. Probation condition violators display a reverse pattern. Probation condition violators increased by 3% over FY 2002 but decreased by 5.2% from FY 1999. Probation violators with new sentences in FY 2003 demonstrate a decreasing pattern from all previous years except from FY

2001. The admissions of parole and post-release supervision condition violators during FY 2003 indicate a slight increase of 10 admissions over FY 2002 but 7.6% increase over FY 1999. Parole and post-release violators with new sentences in FY 2003 have dropped to the second lowest admissions during the past five years. The large percentage decreases of conditional release violators and conditional release violators with new sentences since FY 1999 are due to the decrease of pre-guideline sentences (old law sentences).

**Table 35: Comparison of Prison Admissions by Type  
FY 1999 through FY 2003**

Admission Type	FY1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2003-1999 % Difference
New Court Commitment	1,340	1,328	1,601	1,702	1,649	23.1%
Probation Violator	1,579	1,441	1,330	1,454	1,497	-5.2%
Probation Violator with New Sentence	226	212	203	221	205	-9.3%
Parole/Postrelease Violator	2,236	3,084	2,552	2,396	2,406	7.6%
Parole/Postrelease Violator with New Sent	295	284	145	136	144	-51.2%
Conditional Release Violator	118	104	109	57	51	-56.8%
Conditional Release Violator with New Sent	13	7	10	3	4	-69.2%
Other Types*	94	53	39	30	58	-38.3%
<b>Total</b>	<b>5,901</b>	<b>6,513</b>	<b>5,989</b>	<b>5,999</b>	<b>6,014</b>	<b>1.9%</b>

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

As illustrated in Table 36, the overall drug sentences indicate a continuous increase during the past five years, especially drug levels 1 and 2. Drug level 1 has increased by 1,466.7% or 220 offenders over the past five years and drug level 2 increased by nearly 66% or 81 inmates. Table 37 demonstrates the different patterns of nondrug admissions to prison during the past five years from FY 1999 to FY 2003 by severity levels. The most significant changes of nondrug sentences were the increase of incarceration

of the serious offenders and decrease of lower level offenders. The overall incarceration rate of drug offenders during the past five years has increased by 19.7%, while the overall nondrug incarceration rate has decreased by 4.3%. However, when compared with FY 2002, the overall drug incarceration in FY 2003 increased by 6.2% while nondrug incarceration in FY 2003 decreased by 2.1% (Table 36 and Table 37). Further examination of the drug incarceration sentences indicated that the

number of drug level 1 increased by 3.5% in FY 2003 when compared with FY 2002 and increased significantly from 15 admissions in FY 1999 to 235 admissions in FY 2003 representing an increase of 1,467%. Drug level 2 increased by 65.9% during the past five years. The largest increase in number and percentage of drug offenders in FY 2003 fell on drug grid level 4, which increased by 13.6% over FY 2002. For nondrug offenses, the largest increase in

percentage during the past five years fell on nondrug level 5 (38.1%) and the largest decrease in percentage occurred in nondrug severity level 9, which dropped by 37% from that of FY 1999. As expected, the increase of incarceration of serious nondrug offenders and the decreases of incarcerations of less serious offenders reflect the legislative changes during the past five years with the philosophy that “incarceration should be reserved for serious offenders.”

**Table 36: Comparison of Drug Prison Admissions by Severity Level  
FY 1999 through FY 2003**

Severity Level	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2003-2002 % Difference	FY 2003-1999 % Difference
D1	15	33	108	227	235	3.5%	1466.7%
D2	123	146	163	186	204	9.7%	65.9%
D3	707	688	715	628	617	-1.8%	-12.7%
D4	679	769	655	676	768	13.6%	13.1%
<b>Total</b>	<b>1,524</b>	<b>1,636</b>	<b>1,641</b>	<b>1,717</b>	<b>1,824</b>	<b>6.2%</b>	<b>19.7%</b>

**Table 37: Comparison of Nondrug Prison Admissions by Severity Level  
FY 1999 through FY 2003**

Severity Level	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2003-2002 % Difference	FY 2003-1999 % Difference
N1	63	67	99	92	113	22.8%	79.4%
N2	78	109	138	121	121	0.0%	55.1%
N3	444	529	612	645	604	-6.4%	36.0%
N4	126	135	145	162	155	-4.3%	23.0%
N5	520	626	751	671	718	7.0%	38.1%
N6	173	196	207	195	208	6.7%	20.2%
N7	871	1,031	889	890	864	-2.9%	-0.8%
N8	531	630	454	449	424	-5.6%	-20.2%
N9	1,116	1,160	789	773	703	-9.1%	-37.0%
N10	267	284	194	227	206	-9.3%	-22.8%
Off-grid	56	45	36	38	49	28.9%	-12.5%
Other*	132	65	34	19	25	31.6%	-81.1%
<b>Total</b>	<b>4,377</b>	<b>4,877</b>	<b>4,348</b>	<b>4,282</b>	<b>4,190</b>	<b>-2.1%</b>	<b>-4.3%</b>

\* Other includes nongrid and unknown.

**PROBATION SENTENCES**

Distributions of probation sentences for the past five years are illustrated in Figure 43. Probation sentences demonstrate the highest increase in FY 2003 during the past five years. The decreasing trend in FY 2000 and FY 2001 was due to the reflection of the changes from felony provisions to misdemeanors for the offenses of driving while suspended and driving while a habitual violator as a result of the 1999 Legislation.

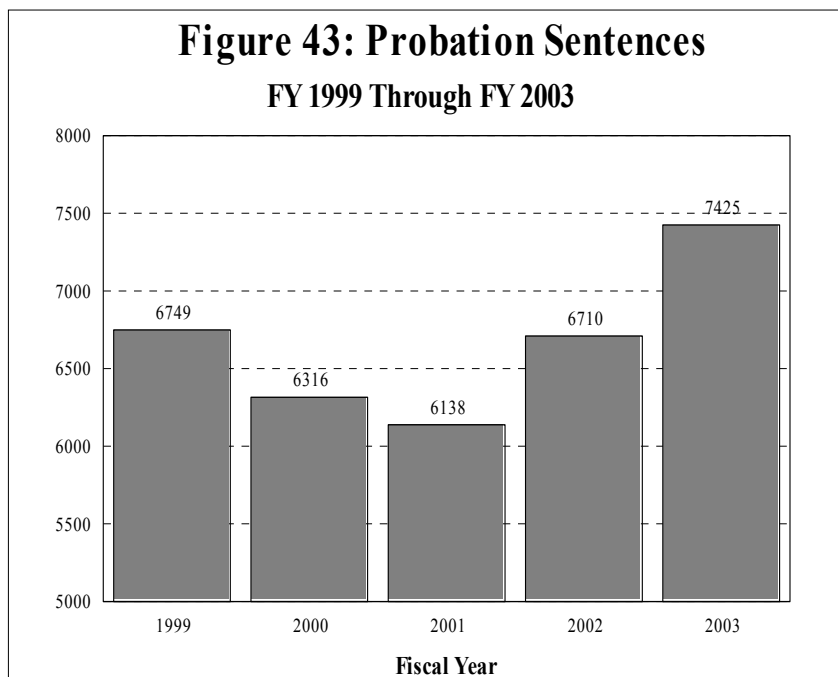


Table 38 displays the changes of probation sentences for drug offenses by severity levels during the past five years. The total number of drug probation sentences in FY 2003 increased by 14.1% from FY 2002 and 64.3% from FY 1999. The largest percentage increase of probation sentences for drug offenses fell within drug level 2. The largest increase in number for drug probation sentences is shown in severity level 4. The increase in drug sentences in Kansas mirrors the national trend of “war on drugs.” As demonstrated in Table 39, the FY 2003 probation sentences for nondrug

offenses indicated an increase of 9% over that of FY 2002 but a decrease of 5.4% compared to FY 1999. The largest decrease in numbers of probation sentences over the five years fell within nondrug severity level 9, while the largest increase in percentage is indicated on nondrug level 3. The decrease in numbers of nondrug severity level 9 offenses reflects the legislative changes during the past four years.

**Table 38: Comparison of Probation Drug Sentences by Severity Level  
FY 1999 through FY 2003**

Severity Level	FY 1999*	FY 2000	FY 2001	FY 2002	FY2003	FY 2003-2002 % Difference	FY 2003-1999 % Difference
D1	0	2	17	49	44	-10.2%	--
D2	42	34	41	44	71	61.4%	69.0%
D3	380	395	507	555	566	2.0%	48.9%
D4	1,067	1,186	1,313	1,498	1,767	18.0%	65.6%
<b>Total</b>	<b>1,490</b>	<b>1,617</b>	<b>1,878</b>	<b>2,146</b>	<b>2,448</b>	<b>14.1%</b>	<b>64.3%</b>

\*FY 1999 total number includes one unknown.

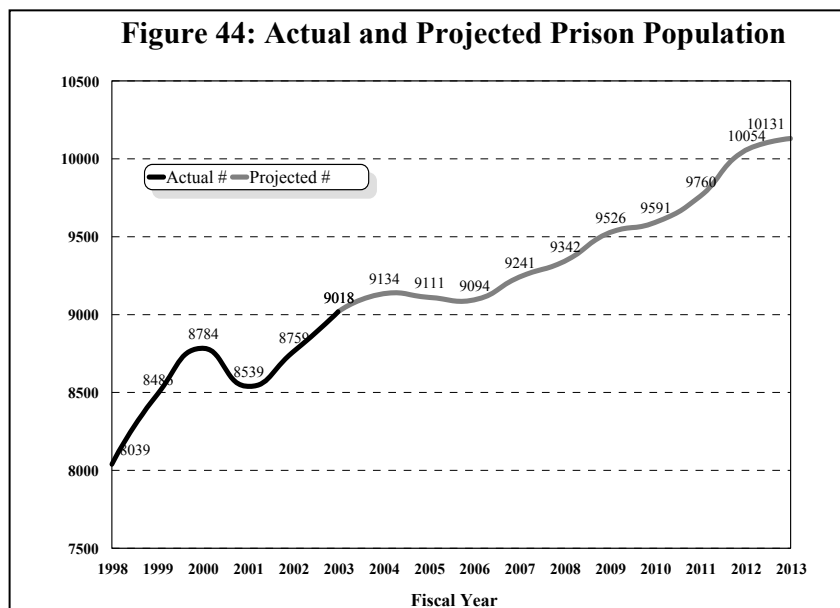
**Table 39: Comparison of Probation Nondrug Sentences by Severity Level  
FY 1999 through FY 2003**

Severity Level	FY 1999*	FY 2000	FY 2001	FY 2002	FY 2003	FY 2003-2002 % Difference	FY 2003-1999 % Difference
N1	3	5	3	5	5	0.0%	66.7%
N2	6	2	2	2	4	100.0%	-33.3%
N3	26	38	32	37	61	64.9%	134.6%
N4	25	17	15	16	17	6.3%	-32.0%
N5	167	198	180	225	202	-10.2%	21.0%
N6	80	91	89	76	91	19.7%	13.8%
N7	901	868	898	962	1024	6.4%	13.7%
N8	678	664	682	756	825	9.1%	21.7%
N9	2,508	1,927	1,419	1,451	1,521	4.8%	-39.4%
N10	448	472	485	546	538	-1.5%	20.1%
Non-grid	390	417	455	488	689	41.2%	76.7%
<b>Total</b>	<b>5,259</b>	<b>4,699</b>	<b>4,260</b>	<b>4,564</b>	<b>4,977</b>	<b>9.0%</b>	<b>-5.4%</b>

\*FY 1999 total number includes 27 unknowns.

## PRISON POPULATION FORECASTS

Figure 44 exhibits the actual and projected prison populations from FY 1998 through FY 2013.



Offenders incarcerated in state prisons are projected to reach 10,131 by June 30, 2013, which indicates an increase of 1,113 inmates or 12.3% over the FY 2003 actual prison population. Prison inmate population projections by severity levels are presented in Table 40.

As seen in Table 40, the largest increase both in number and in percentage of incarcerated populations during the next ten years falls on nondrug severity level 1 followed by off-grid and drug severity level 1. The largest decrease both in number and in percentage falls on drug severity level 2. The overall increases of drug sentences indicate a moderate increase over the ten-year forecast period. This reflects the penalty change of the Senate Bill 123 passed during the 2003 Legislation. The Senate Bill 123 diverts non-violent drug possession offenders to drug treatment programs and community supervision, rather than incarcerating them in prison, consequently

results in a bed savings of approximately 500 beds over the next ten years. The decision of Kansas Court of Appeals State vs. Frazier ruling on precursor drugs on March 15, 2002 (change of drug level 1 to drug level 4) has also had an impact on drug severity level 1 offenders. The future impact of the State vs. Frazier Ruling may be superseded by the more recent State vs. Campbell decision filed on November 7, 2003 which reestablishes possession of methamphetamine precursors to drug severity level one.

**Table 40: FY 2004 Adult Inmate Prison Population Projection  
Revised On November 10, 2003**

ID Group	June 30 2003*	June 30 2004	June 30 2005	June 30 2006	June 30 2007	June 30 2008	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013	Total # Increase	Percent Increase
D1	489	564	576	617	645	660	676	692	697	727	733	244	49.9%
D2	367	296	270	247	241	243	256	242	237	247	236	-131	-35.7%
D3	426	425	439	430	474	476	467	485	495	511	508	82	19.2%
D4**	564	672	696	652	654	626	660	638	637	639	639	75	13.3%
N1	702	751	799	848	899	948	992	1030	1071	1111	1138	436	62.1%
N2	501	508	510	512	504	504	505	503	502	506	510	9	1.8%
N3	1308	1298	1292	1280	1292	1290	1294	1297	1298	1304	1315	7	0.5%
N4	279	277	278	295	301	295	291	290	286	298	300	21	7.5%
N5	1024	1070	1067	1051	1034	1044	1090	1055	1090	1116	1122	98	9.6%
N6	158	165	175	162	167	165	162	166	162	178	164	6	3.8%
N7	708	701	683	696	692	683	684	674	697	708	704	-4	-0.6%
N8	203	238	221	208	194	193	204	204	205	228	207	4	2.0%
N9	227	202	175	177	195	182	195	176	176	196	211	-16	-7.0%
N10	41	42	41	34	39	34	42	41	42	42	41	0	0.0%
OFF GRID	690	716	756	801	842	889	928	980	1029	1073	1117	427	61.9%
Condition Parole/PIS Violators	1331	1209	1133	1084	1068	1110	1080	1118	1136	1170	1186	-145	-10.9%
<b>Total</b>	<b>9018</b>	<b>9134</b>	<b>9111</b>	<b>9094</b>	<b>9241</b>	<b>9342</b>	<b>9526</b>	<b>9591</b>	<b>9760</b>	<b>10054</b>	<b>10131</b>	<b>1113</b>	<b>12.3%</b>

\*. Based on the actual prison population on that date (for the purpose of forecasting, non-grid and missing are analyzed and assigned to each level).

\*\* The shaded cells indicate the changes of prison population based on the assumption that the offense date of the drug possession offenders is on or after July 1, 2003 and the sentence date is on or after November 1, 2003.

**CUSTODY CLASSIFICATION PROJECTION**

While Table 40 indicates the total beds needed over the ten-year forecast period, Table 41 demonstrates the kinds of beds needed over the next ten years. As illustrated in Table 41, the overall custodial classification projections indicate that 169

unclassified beds, 3,091 minimum beds, 3,815 medium beds, 1,319 maximum beds and 740 special management beds are needed by the end of FY 2004. The total projected prison beds, by the end of FY 2013, will include 184 unclassified beds, 3,422 minimum beds, 4,239 medium beds, 1,465 maximum beds and 821 special management beds.

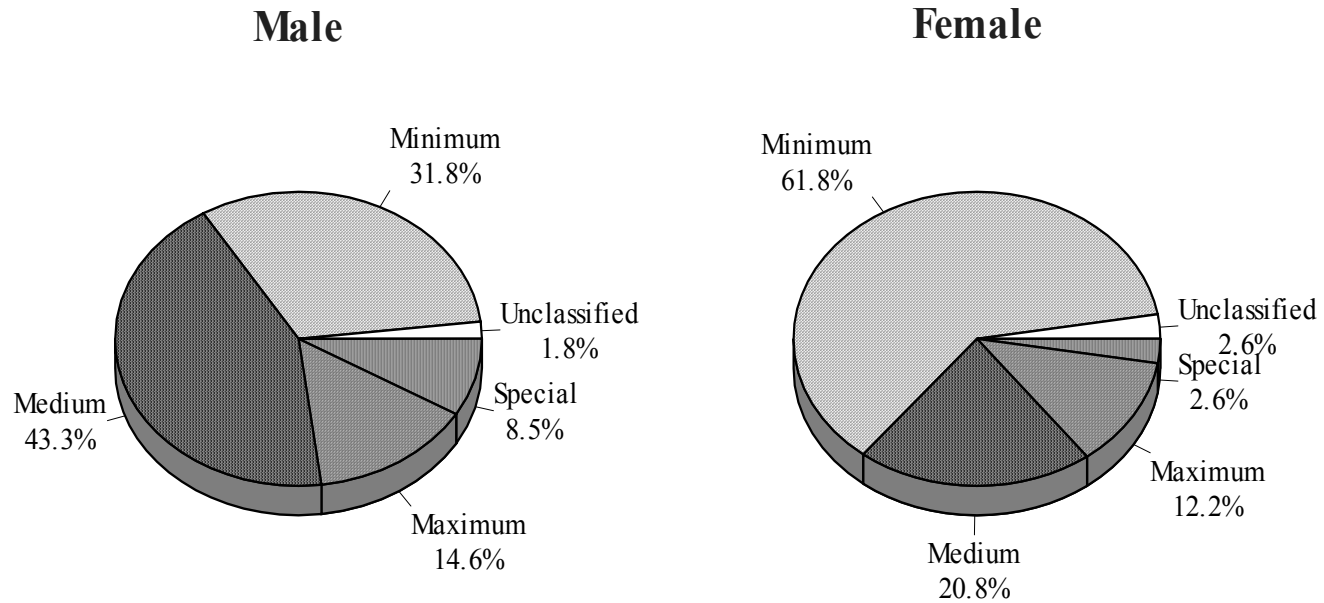
**Table 41: Ten Years Custody Classification Projection**

<b>Fiscal Year</b>	<b>Unclassified</b>	<b>Minimum</b>	<b>Medium</b>	<b>Maximum</b>	<b>Special</b>	<b>Total</b>
2004	169	3091	3815	1319	740	9134
2005	169	3092	3799	1315	736	9111
2006	166	3084	3795	1314	735	9094
2007	168	3128	3861	1336	748	9241
2008	171	3163	3902	1350	756	9342
2009	174	3234	3973	1376	769	9526
2010	175	3254	4002	1385	775	9591
2011	178	3310	4073	1411	788	9760
2012	183	3405	4199	1453	814	10054
2013	184	3422	4239	1465	821	10131

The percentage distributions of the custodial classifications in terms of types of beds needed demonstrate a significant difference between male and female (Figure 45). Female needs 2.6% unclassified, 61.8% minimum, 20.8% medium, 12.2% maximum custody, and 2.6% special management beds by the end of FY 2004. Male needs 1.8% unclassified, 31.8% minimum, 43.3% medium, 14.6% maximum custody, and 8.5% special management beds by the end of FY 2004. These classification percentages remain fairly constant during the ten-year forecasting period. All types of beds for female indicate a slight increase or remain constant over the ten-year forecast period. The largest increase for male is the medium

custody beds, which will increase by 416 beds. Minimum custody beds for male will increase by 305 beds and maximum beds will go up by 141 beds. Special management beds for male indicate an increase of 81 beds and the least increase of beds for male is the unclassified beds during the ten-year forecast period. This forecast assumes no changes in practice over the ten-year forecast period.

**Figure 45: Projected Percentage Distribution of Custody Classifications by Gender**



Based on the projected prison population on June 30, 2004 (male = 8,513 and female = 621).



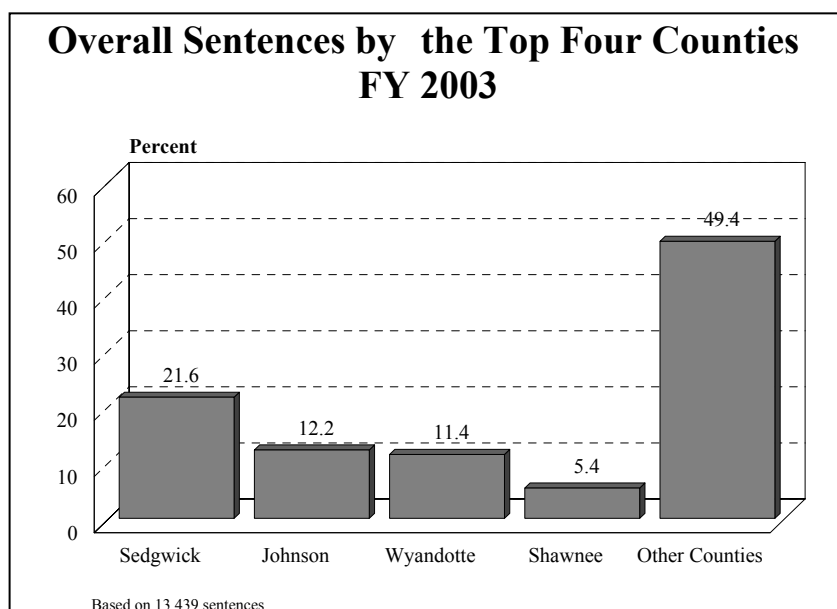
## APPENDIX I

### SENTENCES FROM THE TOP FOUR COUNTIES

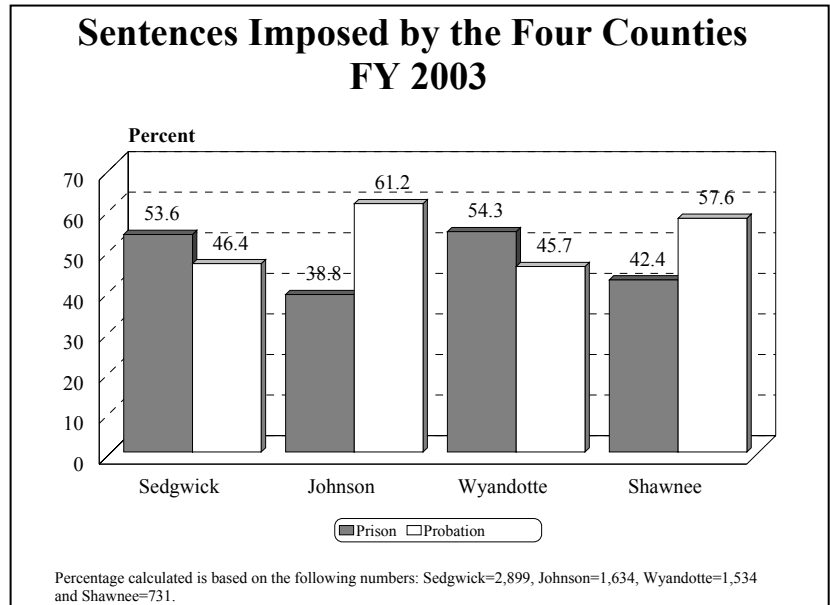
The analysis of the sentences reported to the Commission in FY 2003 demonstrates that Sedgwick, Johnson, Wyandotte and Shawnee counties accounted for 50.6% of the total state sentences. This percentage has decreased by 0.3% from FY 2002. Sedgwick remained the top-committing county followed by Johnson, Wyandotte and Shawnee counties. In comparison with FY

2002 sentences, the numbers of sentences from Sedgwick County and Wyandotte County decreased by 0.3%, while Johnson County and Shawnee County's sentences increased by 0.1% and 0.2%, respectively. Characteristics of offenses and offenders from the four counties in FY 2003 are displayed in the following figures and tables.

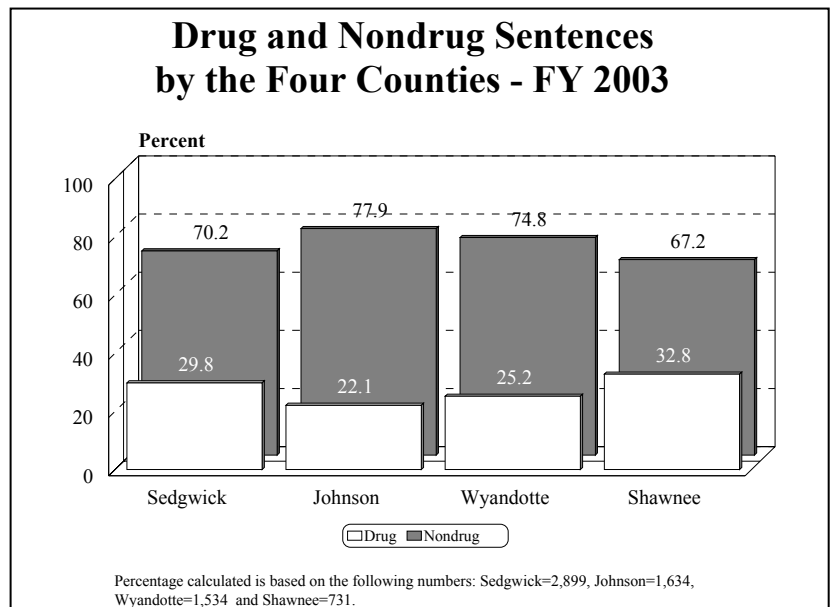
Sedgwick, Johnson, Wyandotte and Shawnee Counties accounted for 50.6% of the total state sentences in FY 2003.



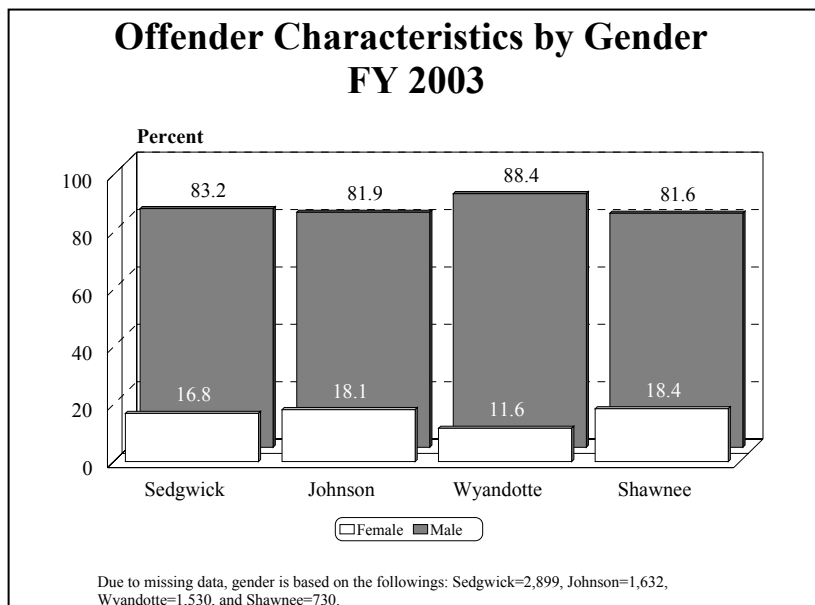
Wyandotte County had the highest percentage of prison sentences (54.3%) among the four counties, while Johnson County imposed more probation sentences (61.2%) than the other three counties.



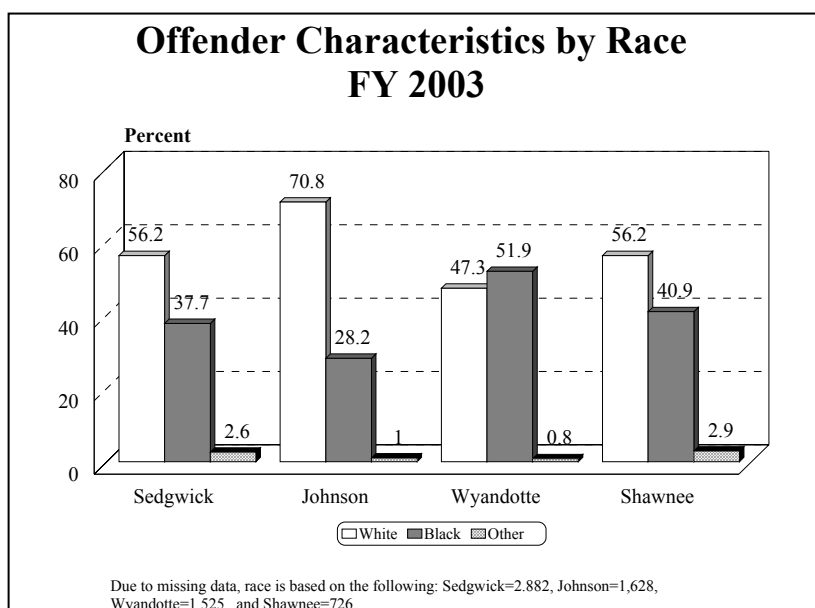
Shawnee County represented the highest percentage of drug sentences (32.8%), while Johnson County imposed the largest number of nondrug sentences (77.9%).



Wyandotte County indicated the most male offenders (88.4%), while Shawnee County indicated the highest percentage of female offenders (18.4%).



Wyandotte County reported more black offenders (51.9%), while Johnson County reported more white offenders (70.8%).



**FY 2003 Sentences from the Four Counties by Severity Level**

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	54	1.9	10	0.6	9	0.6	18	2.5
D2	102	3.5	7	0.4	10	0.7	5	0.7
D3	225	7.8	102	6.2	95	6.2	86	11.8
D4	482	16.6	242	14.8	273	17.8	131	17.9
N1	34	1.2	5	0.3	26	1.7	9	1.2
N2	35	1.2	5	0.3	20	1.3	9	1.2
N3	256	8.8	43	2.6	78	5.1	33	4.5
N4	39	1.3	11	0.7	32	2.1	11	1.5
N5	239	8.2	94	5.8	148	9.6	61	8.3
N6	66	2.3	18	1.1	41	2.7	5	0.7
N7	462	15.9	189	11.6	257	16.8	91	12.4
N8	343	11.8	160	9.8	79	5.1	52	7.1
N9	361	12.5	407	24.9	207	13.5	132	18.1
N10	71	2.4	233	14.3	182	11.9	41	5.6
Nongrid	118	4.1	104	6.4	66	4.3	46	6.3
Offgrid	12	0.4	4	0.2	11	0.7	1	0.1
<b>Total</b>	<b>2,899</b>	<b>100.0</b>	<b>1,634</b>	<b>100.0</b>	<b>1,534</b>	<b>100.0</b>	<b>731</b>	<b>100.0</b>

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**FY 2003 Top Ten Most Common Offenses by the Four Counties – 1**

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	863	29.8	Drugs	361	22.1
Burglary	240	8.3	Theft	265	16.2
Aggravated Battery	222	7.7	Burglary	144	8.6
Forgery	204	7.0	Forgery	135	8.3
Aggravated Robbery	158	5.5	DUI	101	6.2
DUI	114	3.9	Aggravated Battery	68	4.2
Robbery	101	3.5	Criminal Threat	56	3.4
Theft	101	3.5	Aggravated Assault	38	2.3
Aggravated Burglary	70	2.4	False Writing	36	2.2
Aggravated Assault	69	2.4	Nonsupport of Child or Spouse	36	2.2
<b>Total</b>	<b>2,142</b>	<b>74.0</b>	<b>Total</b>	<b>1,240</b>	<b>75.7</b>

**FY 2003 Top Ten Most Common Offenses by the Four Counties – 2**

Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	388	25.3	Drugs	240	32.8
Burglary	142	9.3	Burglary	64	8.8
Theft	125	8.1	Theft	61	8.3
Robbery	108	7.0	Forgery	46	6.3
Aggravated Battery	101	6.6	DUI	43	5.9
DUI	71	4.6	Robbery	33	4.5
Forgery	63	4.1	Aggravated Battery	32	4.4
Aggravated Assault	62	4.0	Aggravated Robbery	25	3.4
Agg Indecent Lib w/Child	54	3.5	Fleeing or Eluding LEO	24	3.3
Aggravated Robbery	41	2.7	Criminal Threat	16	2.2
<b>Total</b>	<b>1,155</b>	<b>75.2</b>	<b>Total</b>	<b>584</b>	<b>79.9</b>

## APPENDIX II TRENDS OF SELECTED OFFENSES

### TOP FIVE MOST FREQUENT OFFENSES

The top five most frequent offenses from FY 1999 through FY 2003 are drugs, burglary, theft, forgery and aggravated battery. Of the total offenses including both incarceration and probation sentences, these top five

offenses accounted for 57.1% (N=7,226) in FY 1999, 58.7% (N=7,529) in FY 2000, 60.4% (N=7,325) in FY 2001, 61.9% (N=7,865) in FY 2002 and 61% (N=8,198) in FY 2003. The following table displays the trends of the top five offenses from FY 1999 to FY 2003.

**Top Five Most Frequent Offenses: Incarceration and Probation Sentences  
FY 1999 through FY 2003**

Top Five Offenses	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
Drugs	3,014	3,254	3,517	3,863	4,272
Burglary	1,515	1,512	1,352	1,336	1,370
Theft	1,211	1,158	963	1,030	959
Forgery	873	967	791	850	832
Aggravated Battery	613	638	702	786	765
<b>Subtotal</b>	<b>7,226</b>	<b>7,529</b>	<b>7,325</b>	<b>7,865</b>	<b>8,198</b>
<b>Total Offenses</b>	<b>12,650</b>	<b>12,829</b>	<b>12,127</b>	<b>12,709</b>	<b>13,439</b>

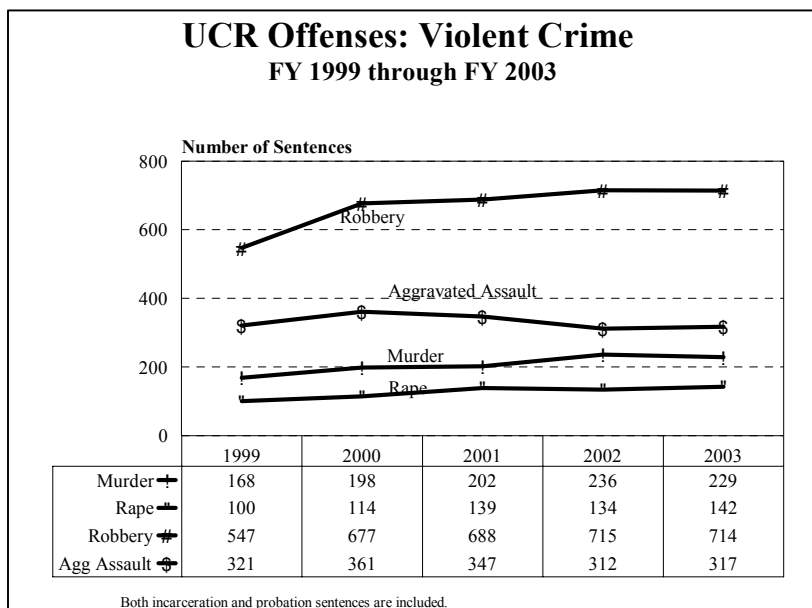
### UNIFORM CRIME REPORTING (UCR) OFFENSES

The UCR offenses are 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,

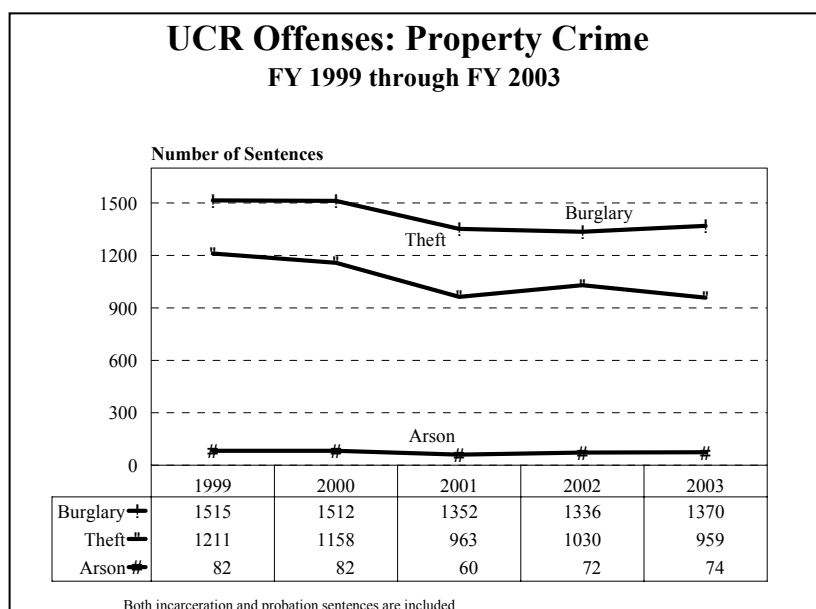
rape, robbery and aggravated assault are classified as violent crimes, while burglary, theft and arson are classified as property crimes. In the following trend analyses on the UCR offenses from FY 1999 to FY 2003, murder includes capital murder, murder in the first degree, murder in the second degree, 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 general tendency of violent crimes in the past five years demonstrated a rising trend except aggravated assault, which indicated non-significant fluctuations.



The analysis on the property crimes indicates that there was not much difference in the numbers of the crime of arson from FY 1999 to FY 2003. The crime of theft showed a dropping tendency since FY 2000. The crime of burglary had dropped since the new special sentencing rules passed in the 1999 Kansas Legislature but increased by 2.5% in FY 2003 compared with that in FY 2002.



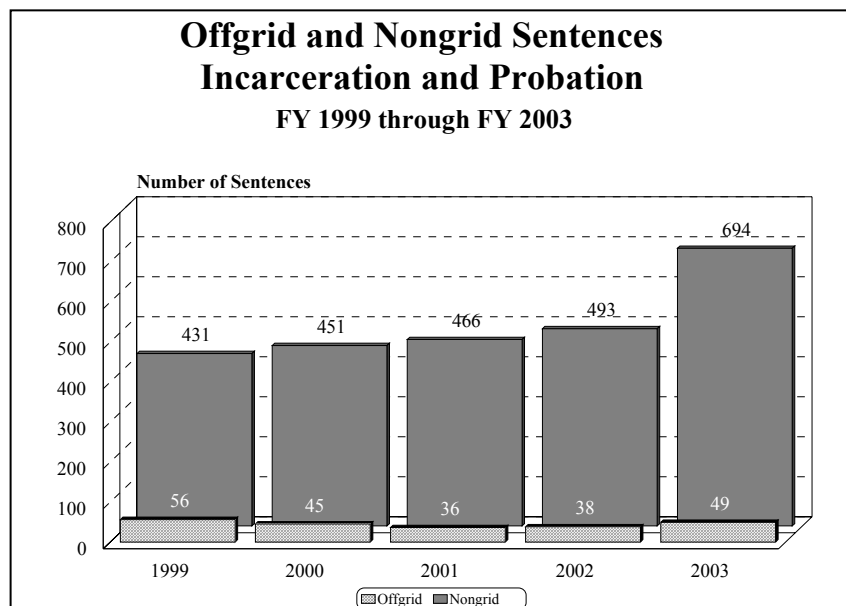
**OFF-GRID AND NON-GRID CRIMES**

Off-grid 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) and treason (K.S.A. 21-3801) are designated as offgrid crimes. Persons convicted of off-grid crimes will be parole eligible 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.

Non-grid 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) and felony “domestic battery” (K.S.A. 21-3412a) are categorized as non-grid crimes. The applicable sentence of each of the non-grid 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.

The sentencing trend of off-grid crimes revealed a decreasing trend from FY 2000 to FY 2002 with a slight increase in FY 2003. However, the nongrid sentences demonstrated an increasing trend starting from FY 2000. The number of non-grid sentences in FY 2003 increased significantly by 40.8% when compared with that in FY 2002



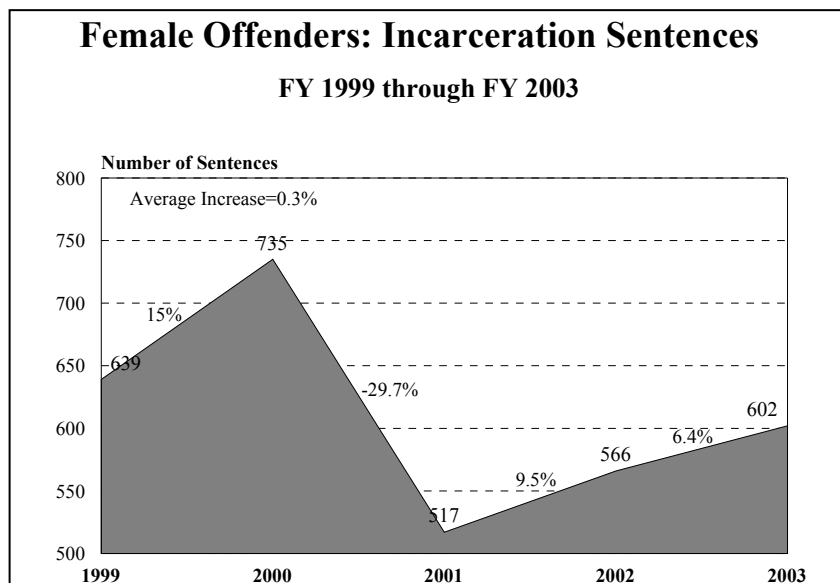


## FEMALE OFFENDERS

The female offenders admitted to prison increased by 15% in FY 2000 and decreased nearly 30% in FY 2001 when compared with those in the previous year, respectively. Then the number of female admissions started growing again with an increase of 9.5% in FY 2002 and another 6.4% increase in FY 2003. This admission pattern was consistent with the rising, falling and rising

again pattern of the total admission of incarceration sentences during this period (Page 60). The sentencing pattern of female offenders on probation was pretty much similar to that of the total probation sentences with an eventually rising tendency (Page 63). Females were sentenced to prison or probation most frequently for the offenses of drugs, forgery, and theft from FY 1999 to FY 2003.

The average growth rate for the female offenders sentenced to prison from FY 1999 to FY 2003 is 0.3% because of the offsetting effect of sharp decreasing (29.7%) in FY 2001. The highest annual increase rate during this period was 15% indicated in FY 2000.



Female probation sentences have steadily increased since FY 2001. The highest annual increase rate during this period was 17.4% in FY 2002 compared with its previous year. FY 2003 female probation data indicated an increase of 11% over that in FY 2002. The average increase rate from FY 1999 to FY 2003 is 6.3%.

