

KANSAS SENTENCING COMMISSION

1995 ANNUAL REPORT



APRIL 1996

**KANSAS SENTENCING
COMMISSION**

**ANNUAL REPORT
FY 1995**

**ANALYSIS OF SENTENCING GUIDELINES
IN
KANSAS**

**Attorney General Carla J. Stovall
Chair**

**Barbara S. Tombs
Executive Director**

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SPECIAL ACKNOWLEDGEMENT

The Kansas Sentencing Commission would like to take this opportunity to express its appreciation and gratitude to past members whose terms have recently expired. Your contribution and dedication to the Sentencing Commission was a valuable asset and did not go unnoticed. Your presence will be missed. Our sincerest thanks to: John Burchill, Wendell Betts, Sister Therese Bangert, Ernestine Freeman, and Maritza Segarra.

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The Sentencing Commission would like to acknowledge the contributions to this report by Secretary Simmons and the Kansas Department of Corrections through their cooperative data sharing efforts. A special note of thanks to DOC staff members: **Dick Koerner, Jan Johnson, and Jeff Lewis** for their assistance in the development of the database utilized for this report.



State of Kansas
KANSAS SENTENCING COMMISSION

April 30, 1996

To: The Honorable Bill Graves, Governor of Kansas
The Honorable Kay McFarland, Chief Justice of Kansas
The Honorable Members of the Kansas Senate
The Honorable Members of the Kansas House of Representatives
The Citizens of Kansas

I am delighted to submit to you the Kansas Sentencing Commission Annual Report for Fiscal Year 1995. This is the first report prepared since the implementation of sentencing guidelines in July of 1993. The descriptive report focuses on the types of sentences reported, conformity of sentences to the guidelines, and sentences resulting from technical violators during FY 1995. The report concentrates on presumptive prison guideline sentences, since the database on presumptive probation guideline sentences is insufficient at the present time to perform any meaningful analysis. It is the goal of the Commission to eliminate this data deficiency and to develop a comprehensive probation database by the release of the next annual report.

The Kansas Sentencing Commission is committed to monitoring sentencing patterns and evaluating compliance with the sentencing guidelines. The Commission will continue to serve as a resource on important criminal justice issues for the State and to work with the legislature concerning changes in criminal sanctions.

Finally, it is my hope that this report will be useful to policymakers, criminal justice professionals, researchers and the public. We also would like to thank those of you in the field whose diligent work on a daily basis with the guidelines enables us to provide you with this report. As always, if you have questions or comments, please feel free to contact the Commission.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Barbara S. Tombs".

Barbara S. Tombs
Executive Director

**IN RECOGNITION AND APPRECIATION
THE FIRST ANNUAL SENTENCING COMMISSION REPORT
IS DEDICATED TO**

The Honorable James M. Macnish, Jr.
District Court Judge
Third Judicial District
Topeka, KS

The Honorable Richard B. Walker
District Court Judge
Ninth Judicial District
Newton, KS

Gary L. Marsh
Chief Court Services Officer
Fifth Judicial District
Emporia, KS

The Kansas Sentencing Commission proudly dedicates its first Annual Sentencing Commission Report to Judge Macnish, Judge Walker and Gary Marsh for their invaluable contributions to the Commission. All three members have served continuously on the Commission since its creation in 1989. They have devoted countless hours and a wealth of expertise to the development, implementation, and evaluation of the sentencing guidelines, in addition to participation on numerous subcommittees and task forces. Through all the hard choices and decisions faced by the Commission from the early years to the present, their opinions and positions have always demonstrated the sense of justice the Commission strives to achieve. Their leadership, insights, patience, and conflict resolutions skills often made sense out of chaos and brought about agreement from controversy. The Commission wishes to take this opportunity to extend its deepest thanks and appreciation.

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EXECUTIVE SUMMARY

During the past year, the Commission continued to monitor guideline sentences statewide, respond to inquiries concerning sentencing data, conduct training seminars on guidelines and sentencing issues, and provide sentencing information and prison bedspace impacts to the legislature. The following describes some of the major sentencing issues presented in the report and significant developments which occurred during FY 1995:

* **GUIDELINE PRISON ADMISSIONS:** Although sentencing guidelines were implemented on July 1, 1993, there has been a considerable amount of lag time in guideline sentenced offenders entering prison. An analysis of FY 1995 admissions indicate that offenders sentenced under guideline sentences represented only 41.6% of the total admissions for the year. The remaining 58.4% of admissions include offenders sentenced under "old law" or pre-guideline indeterminate sentences. Also included in this group are offenders sentenced under some combination of pre-guideline indeterminate sentences and guidelines sentences. This occurs most commonly when an offender is on parole or probation for an indeterminate sentence and is convicted of a new offense in which the sentence is governed by the sentencing guidelines. Since less than half of the prison admissions are pure guideline sentences, it is still a little premature to present a comprehensive analysis of the impact of guidelines on sentencing disparity or prison population. It is projected that by July 1997, all admissions to state prisons will be under sentencing guidelines.

* **CONFORMITY TO SENTENCING GUIDELINES:** The Annual Report examined the conformity of sentences received relative to sentences stated within the sentencing grids. This analysis was performed on pure guideline sentences for which a criminal history category was assigned. The data indicates that overall, 48.1% of sentences received under guidelines were within the range indicated on the sentencing grids. Dispositional departures were found in 21.1% of the cases and durational departures occurred in 30.8% of guidelines sentences (page 21). However, when the data was examined further, departure trends varied between the drug grid and the nondrug grid. Durational departures upward were found most often on the nondrug grid, Severity Levels I, II, and III (page 24). When the drug grid durational departures were examined, the analysis indicated a significant number of downward durational departures were located on Severity Levels II, III, and IV (page 25). Since the number of guideline sentences is still less than half of the total admissions, a comprehensive trend analysis is not possible at this time, but the preliminary findings do warrant close monitoring.

* **SENTENCING TRENDS:** Analysis of guideline sentences received during FY 1995 indicated that the largest number of offenders were sentenced during the month of June. Burglary (545) represented the primary offense on the nondrug grid for which offenders were most often sentenced (page 14). The second most frequently occurring sentencing offense on the nondrug grid was theft with a loss of less than \$25,000. The highest proportion of sentences on the drug grid (632) were for possession of opiates or narcotics (page 16). When the number of sentences were

examined by corresponding severity levels, a quarter (25.2%) of nondrug sentences were found on severity level 7. Severity level three of the drug grid accounted for 75.7% of all drug sentences (page 18).

* **TECHNICAL VIOLATORS:** Technical violators of probation and parole/post-release supervision accounted for 58.1% of all prison admissions during FY 1995 (page 17). The largest portion of technical violators were found on severity level 7 of the nondrug grid and severity level three of the drug grid. The profile of the average technical violator is a white male, age 31-40, and is either a high school graduate or obtained a GED. The sentencing offense on the nondrug grid which accounts for the highest number of technical violators of both probation and parole/post-release is burglary (page 36 & 42). Technical violators on the drug grid result from the sentencing offense of possession of opiates or narcotics.

The contents of the Annual Report are divided into two parts. Part I summarizes the background, history, and activities of the Sentencing Commission since its creation in 1989. Part II presents a descriptive statistical summary of statewide guideline sentencing practices, compliance to guideline sentences, offense categories and offenders sentenced to state prisons in 1995.

PART I: THE KANSAS SENTENCING COMMISSION

HISTORY OF THE KANSAS SENTENCING COMMISSION

Senate Bill 50, which became law in 1989, established the Kansas Sentencing Commission, and directed the Commission to: "Develop a sentencing guidelines model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices." L. 1989, Ch. 225, Sec. 1. The Commission membership was established under the new law to consist of thirteen members, as follows: The chief justice of the supreme court or the chief justice's designee; two district court judges appointed by the chief justice; the attorney general or the attorney general's designee; one public defender appointed by the governor; one private defense counsel appointed by the governor; one county attorney or district attorney appointed by the governor; the secretary of corrections or the secretary's designee; the chairperson of the Kansas parole board or such chairperson's designee, two members of the general public, at least one of whom shall be a member of a racial minority group, appointed by the governor; a director of a community corrections program appointed by the governor; and a court services officer appointed by the chief justice of the supreme court. In addition to the appointed members, four members of the legislature, to be appointed by the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader, are to serve on the Commission as ex-officio, nonvoting members. L. 1989, Ch. 225, Sec. 2.

By August, 1989, all Commission members had been appointed. An Executive Director and other necessary staff, appointed by the Commission pursuant to L. 1989, Ch. 225, Sec. 3, were in place by November of that year. (For a list of the original Commission members, see Recommendations of the Kansas Sentencing Commission (1991), p. 5.) After its formation, the Commission met semi-monthly in Topeka. The Commission decided early on to confine their activities to adult felony sentences. Further, the Commission identified a set of goals to be attained in developing a uniform sentencing guidelines system: 1) To develop a set of guidelines that promote public safety by incarcerating violent offenders; 2) To reduce sentence disparity to ensure the elimination of any racial, geographical or other bias that may exist; 3) To establish sentences that are proportional to the seriousness of the offense and the degree of injury to the victim; 4) To establish a range of easy to understand presumptive sentences that will promote "truth in sentencing"; 5) To provide state and local correctional authorities with information to assist with population management options and program coordination; and 6) To provide policy makers information that will enhance decisions regarding resource allocations.

Over the next two years, the Sentencing Commission considered a wide range of topics relevant to sentencing guidelines, reviewed information from other guidelines states (primarily Minnesota, Washington, Oregon and California), heard testimony from local and national criminal justice professionals, visited several correctional facilities, and held a series of public hearings throughout the state. In addition, the Commission conducted a comprehensive study of existing

sentencing practices. The study documented a history of racial and geographical bias in sentencing, attributable to a system which, because it directed decision makers to consider socio-economic factors in sentencing, reflected general societal inequities.

The Sentencing Commission submitted its recommendations at the commencement of the 1991 legislative session, as was required under L. 1989, Ch. 225, Sec. 4. The Commission recommended a presumptive sentencing system, represented by sentencing grids for both nondrug and drug offenses, that provides an appropriate sentence for a crime based upon the crime of conviction and the individual's past criminal history. It further recommended that the sentencing court be allowed to depart from the presumptive sentence provided that the court explain on the record the reasons for a departure, and that a decision to depart be subject to appeal. The Commission recommended that statutory enactments and amendments to implement a sentencing guidelines system become effective on July 1, 1992. See Recommendations of the Kansas Sentencing Commission (1991), p. 7.

The Commission's recommendations were first incorporated into Senate Bill 382, enacting a sentencing guidelines system. The bill was the subject of hearings in the Senate Judiciary Committee during the 1991 legislative session. At the close of the session, Senate Bill 382 was retained in committee, and recommended for an interim study. Hearings on the bill were held before the interim Special Committee On Judiciary in late 1991. Senate Bill 479 was a redraft of Senate Bill 382 to reflect the changes and recommendations of the 1991 interim Special Committee on Judiciary. Hearings on the new bill began in January, 1992. After much debate in the Senate and then the House of Representatives, the bill was referred to a conference committee, whose report was subsequently adopted by both chambers. The Governor signed Senate Bill 479 on May 11, 1992. The effective date of sentencing guidelines under Senate Bill 479 was deferred until July 1, 1993, to allow for further refinement of the law and to allow the Kansas Judicial Council to complete its work on a revision of the criminal code.

After further interim studies during the summer of 1992, Senate Bill 423 was introduced in the 1993 session. Senate Bill 423 incorporated both the final changes in the sentencing guidelines and the substantive changes to the criminal code proposed by the Judicial Council. Senate Bill 423 became law on July 1, 1993. L. 1993, Ch.291. The Kansas Sentencing Guidelines Act is set forth in K.S.A. 21-4071 et seq.

CURRENT ROLE OF THE KANSAS SENTENCING COMMISSION

Monitoring

Now that the sentencing guidelines have been implemented in Kansas, the primary focus of the Kansas Sentencing Commission has shifted to monitoring and evaluation of the sentencing guidelines system. Among the mandatory duties assigned to the Commission under K.S.A. 1995 Supp. 74-9101 are the following: To develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences; to advise and consult with the secretary of

corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, which includes review and determination of the impact of the sentencing guidelines on the state's prison population; to consult with and advise the legislature with reference to implementation, management, monitoring, maintenance and operations of the sentencing guidelines system; and to make recommendations to the legislature relating to modification and improvement of the sentencing guidelines. The Sentencing Commission performs two functions which are essential to the discharge of these statutory duties: On-going analysis of sentencing guidelines data; and prison population projections.

First, the Commission receives presentence investigation (PSI) reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993. See K.S.A. 1995 Supp. 74-9101(b)(5). Sentencing information extracted from the PSIs and journal entries is maintained in a database, from which the Commission staff can then monitor, evaluate, and analyze sentences imposed pursuant to the sentencing guidelines. For instance, the staff can determine the number of guidelines sentences imposed, the characteristics of offenders and the offenses committed, the number and types of departure sentences, and the overall conformity of sentences to the sentencing guidelines. More importantly, the staff can analyze the overall distribution of guidelines sentences by race, ethnic origin, gender, age, education level and geographic location to determine whether the sentencing guidelines have reduced or eliminated such biases, which were found to be inherent in the pre-guidelines sentencing system. Indeed, a primary purpose for the development of a sentencing guidelines system in Kansas was to "establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases..." K.S.A. 1995 Supp. 74-9101(b)(1). See also, Recommendations of the Kansas Sentencing Commission (1991), at pp. 2, 8-26.

Second, in FY 1996 the Sentencing Commission acquired the PROPHET Simulation Model, an interactive microcomputer software system designed by the National Council on Crime and Delinquency (NCCD). The PROPHET model permits staff analysts to construct a model which mimics the flow of offenders through the prison and parole populations based on the state of Kansas' sentencing structure and policy environment. With the PROPHET model, population and movement through the prison system can be forecasted monthly, yearly, or as far as twenty years into the future. The model also allows staff analysts to determine the impact of proposed legislation on the prison population, thus facilitating the Commission's duty to prepare and submit fiscal impact and correctional resource statements as required. See K.S.A. 1995 Supp. 74-9101(b)(8). The first official ten year baseline projections of the adult prison population, using the PROPHET model, were released in November, 1995. In January, 1996, the Sentencing Commission extended its contract with NCCD, through a grant from SRS, to allow for the development of a juvenile detention module for PROPHET. The juvenile detention module will enable staff researchers to analyze juvenile offenders housed in detention facilities throughout the state and to project and monitor detention center populations in a similar manner as the state prison population.

Training

Another duty of the Sentencing Commission is to assist in the process of training judges,

county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. K.S.A. 1995 Supp. 74-9101(b)(4). Since 1993 the Commission staff have initiated and conducted training seminars on sentencing guidelines across the state, and the Commission -- members as well as staff -- frequently participate in seminars and training conferences at the request of various criminal justice groups and associations. In addition, the Commission publishes the Sentencing Guidelines Desk Reference Manual. An updated edition of the Manual is issued each year by the Commission following the Kansas legislative session. The Manual is available either in print or on computer diskette.

Information Resource

The Commission has and continues to serve as an information resource for the legislature and various state criminal justice agencies. At the request of the legislature, the Commission has conducted various research projects and has published a selection of reports. Publications include: "Task Force on Field Services Consolidation", "Study of Intermediate Sanctions", "Task Force on Transition of Offenders into the Community", and "Report on Juvenile Offenders". In addition, the Commission provides sentencing information to various individual counties and judicial districts.

PART II: SENTENCING IN KANSAS

SENTENCES REPORTED IN 1995

In fiscal year 1995, a total of 6,165 sentences were reported to the Kansas Sentencing Commission, of which, 4,833 were incarceration sentences and 1,332 were probation sentences. Of the incarceration sentences, there were 3,603 nondrug sentences and 1,165 drug sentences. Sentences were reported from 93 counties. Table 1 displays all incarceration sentences reported to the Commission during fiscal year 1995 by month of sentence. Sentences reported by each county are displayed in Table 2.

This report includes all offenders admitted to custody with the Kansas Department of Corrections during FY 1995. In instances of multiple admissions of a single offender during FY 1995, each admission is counted as a separate admission or event. Because of insufficient probation data, this report primarily focuses on the characteristics of incarceration sentences.

Table 1: Number of 1995* Sentences Reported by Month

Month	Number of Sentences	Drug	Nondrug	Other	Percent
January	370	85	280	5	7.7
February	363	93	267	3	7.5
March	439	106	332	1	9.1
April	377	91	284	2	7.8
May	409	106	301	2	8.5
June	470	113	329	28	9.7
July	381	89	287	5	7.9
August	499	126	368	5	10.3
September	372	77	289	6	7.7
October	429	107	321	1	8.9
November	348	81	262	5	7.2
December	376	91	283	2	7.8
Total	4833**	1165	3603	65	100.0

* FY 1995 (July 1, 1994 through June 30,1995).

** Based on 4,833 incarceration sentences.

Table 2: 1995 Offender Characteristics by County

County	Number of Sentences	<u>Gender</u>		<u>Race</u>			<u>Offense Type</u>		<u>Age*</u>
		Male	Female	Black	White	Other	Drug	Nondrug	Mean
Allen	20	19	1	7	12	1	5	15	36.4
Anderson	4	3	1	1	3	0	2	2	38.7
Atchison	36	29	7	13	23	0	10	26	29.8
Barber	1	1	0	1	0	0	0	1	20.0
Barton	29	27	2	13	16	0	8	21	31.5
Bourbon	20	17	3	7	13	0	3	17	33.9
Brown	14	13	1	2	12	0	1	13	27.6
Butler	54	49	5	22	31	1	12	42	29.6
Chase	4	4	0	1	3	0	1	3	29.0
Cherokee	6	5	1	2	4	0	0	6	30.0
Cheyenne	1	1	0	0	1	0	0	1	25.0
Clark	1	1	0	0	1	0	1	0	49.0
Clay	10	10	0	4	6	0	1	9	24.8
Cloud	10	9	1	3	7	0	2	8	28.1
Coffey	6	5	1	3	3	0	0	6	33.7
Cowley	68	63	5	25	42	1	8	60	29.8
Crawford	42	39	3	13	27	2	13	29	26.3
Decatur	3	3	0	1	2	0	1	2	41.0
Dickinson	19	17	2	11	8	0	4	15	32.2
Doniphan	6	6	0	3	3	0	2	4	29.0
Douglas	70	62	8	35	34	1	13	57	31.9
Edwards	3	3	0	2	1	0	1	2	30.0
Elk	1	1	0	1	0	0	1	0	36.0
Ellis	20	19	1	8	11	1	3	17	29.0
Ellsworth	7	6	1	3	4	0	5	2	29.9
Finney	77	71	6	31	45	1	21	56	30.0
Ford	70	68	2	34	35	1	18	52	30.7
Franklin	38	36	2	15	23	0	9	29	30.0
Geary	104	90	14	42	59	3	45	59	29.1
Graham	3	3	0	0	3	0	1	2	28.7
Grant	8	8	0	6	2	0	3	5	29.3
Gray	3	3	0	3	0	0	1	2	27.7
Greeley	1	1	0	0	1	0	0	1	27.0
Greenwood	7	7	0	1	6	0	1	6	32.9
Hamilton	2	2	0	0	2	0	1	1	41.0
Harper	1	1	0	1	0	0	0	1	20.0

Table 2: 1995 Offender Characteristics by County (Continued)

County	Number of Sentences	<u>Gender</u>		<u>Race</u>			<u>Offense Type</u>		<u>Age*</u>
		Male	Female	Black	White	Other	Drug	Nondrug	Mean
Harvey	65	58	7	23	39	3	16	49	30.1
Haskell	3	3	0	2	1	0	1	2	25.7
Hodgeman	1	1	0	0	1	0	0	1	61.0
Jackson	8	7	1	3	5	0	1	7	33.8
Jefferson	15	14	1	9	5	1	2	13	27.4
Jewell	3	3	0	1	1	1	0	3	27.3
Johnson	572	508	64	239	327	6	154	418	29.9
Keamy	4	4	0	3	1	0	1	3	27.0
Kingman	5	5	0	2	3	0	0	5	28.0
Kiowa	1	1	0	1	0	0	0	1	31.0
Labette	64	57	7	19	44	1	19	45	30.5
Leavenworth	90	79	11	33	55	2	21	69	28.9
Lincoln	1	1	0	0	1	0	1	0	37.0
Linn	11	10	1	5	6	0	2	9	28.0
Lyon	92	85	7	32	58	2	23	69	29.6
Marion	7	7	0	1	6	0	1	6	34.1
Marshall	5	5	0	2	3	0	3	2	35.6
McPherson	34	34	0	10	23	1	10	24	30.7
Meade	1	1	0	1	0	0	0	1	24.0
Miami	28	25	3	5	22	1	7	21	28.6
Mitchell	4	3	1	1	3	0	1	3	24.8
Montgomery	121	107	14	47	70	4	17	103	28.8
Morris	5	5	0	3	2	0	0	5	29.4
Morton	1	1	0	1	0	0	0	1	20.0
Nemaha	1	1	0	0	1	0	0	1	35.0
Neosho	24	21	3	7	16	1	5	19	28.2
Ness	3	3	0	2	0	1	1	2	28.3
Norton	7	7	0	1	6	0	0	7	28.4
Osage	6	6	0	3	2	1	1	5	33.7
Ottawa	3	3	0	2	1	0	0	3	35.7
Pawnee	6	6	0	4	2	0	0	6	28.3
Pottawatomie	9	8	1	5	3	1	1	8	36.6
Pratt	14	14	0	3	11	0	3	11	27.2
Reno	148	137	11	57	86	5	39	109	30.6
Rice	6	6	0	6	0	0	0	6	35.7

Table 2: 1995 Offender Characteristics by County (Continued)

County	Number of Sentences	<u>Gender</u>		<u>Race</u>			<u>Offense Type</u>		<u>Age*</u>
		Male	Female	Black	White	Other	Drug	Nondrug	Mean
Riley	36	34	2	15	20	1	6	30	29.1
Rooks	2	2	0	1	1	0	0	2	20.5
Rush	1	0	1	0	1	0	1	0	41.0
Russell	1	1	0	0	1	0	0	1	18.0
Saline	153	140	13	53	96	4	49	104	30.5
Scott	3	3	0	1	2	0	0	3	31.7
Sedgwick	1160	1031	129	461	670	29	339	821	31.1
Seward	69	62	7	27	39	3	24	45	28.7
Shawnee	427	380	47	191	229	7	82	345	29.5
Sherman	6	4	2	4	2	0	0	6	24.8
Stafford	5	4	1	1	3	1	0	5	40.8
Stanton	3	3	0	1	2	0	1	2	26.3
Stevens	11	10	1	7	4	0	1	10	28.0
Sumner	43	39	4	20	23	0	4	39	30.7
Thomas	7	6	1	2	5	0	4	3	33.1
Trego	1	1	0	0	1	0	0	1	29.0
Wabaunsee	8	8	0	3	5	0	1	7	27.3
Washington	4	4	0	0	3	1	0	4	24.5
Wichita	4	4	0	3	1	0	2	2	26.8
Wilson	10	9	1	6	4	0	1	9	26.7
Woodson	9	8	1	6	3	0	0	9	29.4
Wyandotte	655	594	61	267	373	15	120	535	30.8
Unknown	78	68	10	29	47	2	2	12	32.1
Total	4833	4353	480	1945	2782	106	1165	3603	30.3

* Based on age at admission.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section reviews the overall characteristics of offenders who were sentenced and incarcerated in FY 1995, and the types of offenses committed. Figures A, B, C, D, and E summarize graphically the distribution of offenders by gender, race, ethnic origin, age, and education, respectively.

Male offenders accounted for 90% of all prison sentences (Figure A) and in excess of 90% of all murder in the first degree, murder in the second degree-reckless, rape, aggravated crimes, kidnapping, robberies, burglaries, sex crimes, and other types of offenses (Table 3). Female participation was highest (over 20%) for murder in the second degree-intentional, involuntary manslaughter, criminal damage of property greater than \$25,000, forgery, contribution to a child's misconduct, and financial crimes (Table 3). Females were convicted of drug offenses at higher percentages than nondrug offenses (Table 4).

White offenders represented 57.6% (Figure B) of all sentences, and 80.4% (Figure C) of all offenders were of Non-Hispanic origin. The highest percentage of offenders (24.4%) were between the ages of 25 to 30 at the time of the offense (Figure D). As for the educational levels of offenders, 25.8% had attended high school and 48.9% were high school graduates or had obtained a GED equivalent (Figure E).

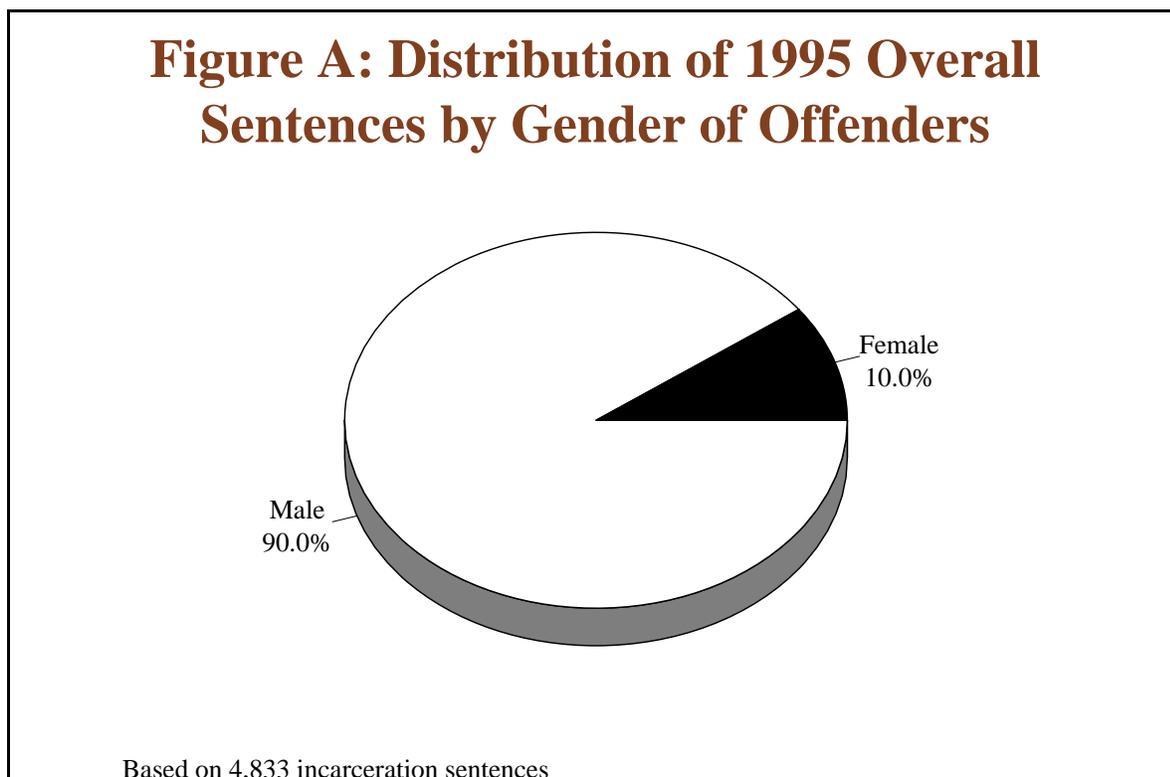
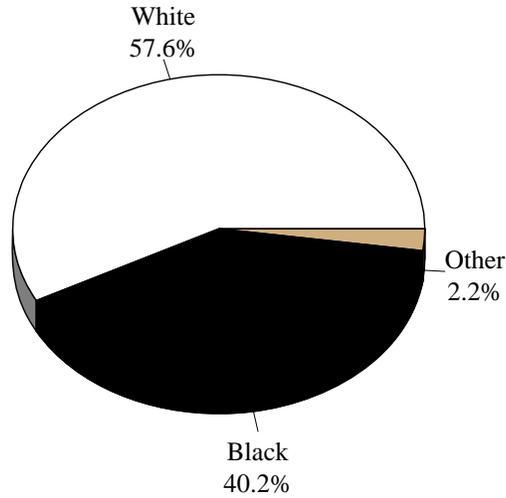
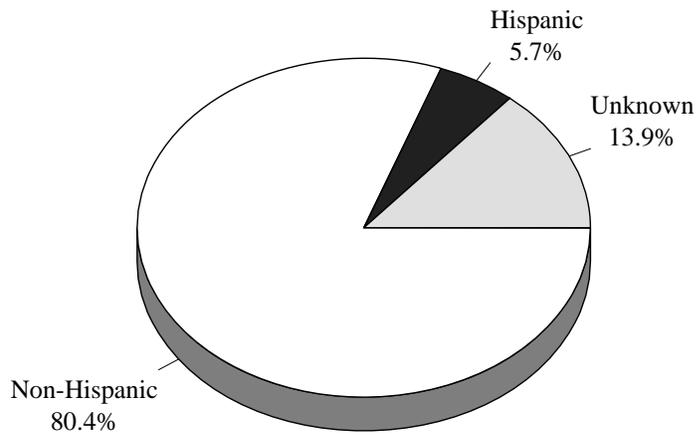


Figure B: Distribution of 1995 Sentences by Race of Offenders



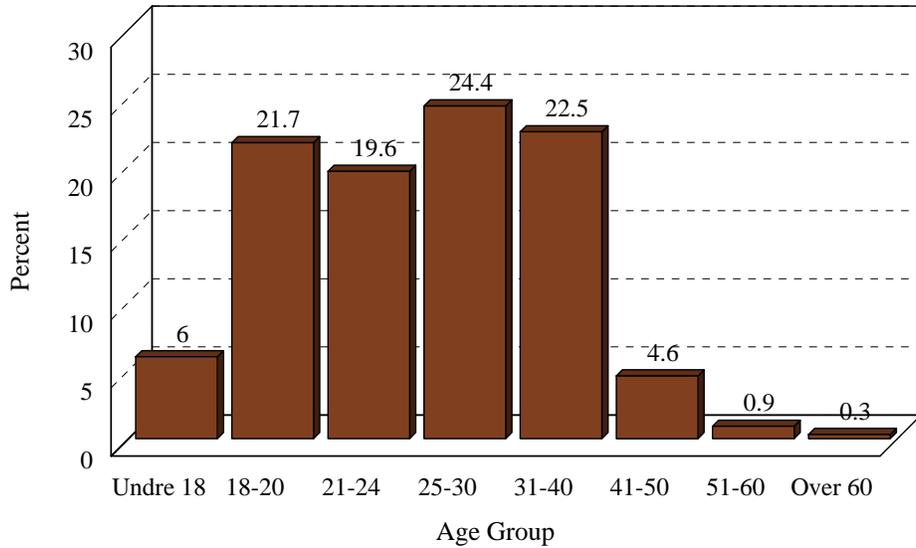
Based on 4,833 incarceration sentences

Figure C: Distribution of 1995 Sentences by Ethnic Origin of Offenders



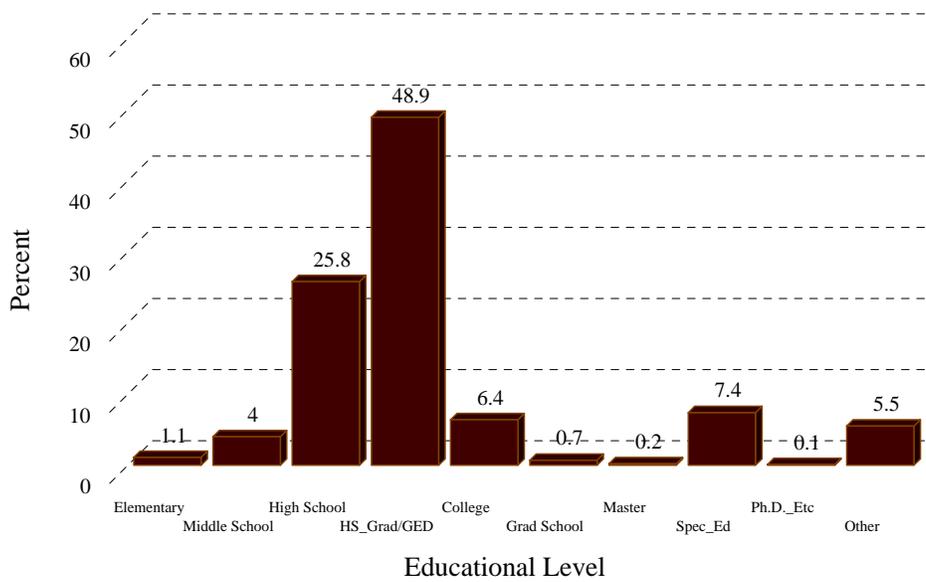
Based on 4,833 incarceration sentences

Figure D: Distribution of 1995 Sentences by Age of Offenders at Offense Date



Based on 4,830 incarceration sentences

Figure E: Distribution of 1995 Sentences by Education Level of Offenders



Based on 4,833 incarceration sentences

Table 3: 1995 Nondrug Offender Characteristics by Type of Offense

Offense Type	Number of Sentences	Race(%)			Gender(%)		Admit Age* Mean
		White	Black	Other	Male	Female	
Abuse of Child, <18 yoa	17	29.4	70.6		82.4	17.6	31.2
Aggravated Arson	3		100.0		100.0		33.7
Agg Arson, no Risk of Bodily Harm	1		100.0		100.0		32.0
Aggravated Assault	165	47.3	49.7	3.0	95.2	4.8	29.5
Aggravated Assault on LEO	27	51.9	48.1		92.6	7.4	27.7
Aggravated Battery-Intentional (B.H.)**	39	46.2	53.8		94.9	5.1	26.7
Agg Battery-Intentional(Grt. B. H.)**	131	54.2	45.0	0.8	95.4	4.6	30.6
Agg Battery on LEO-Intent. (B.H.) **	2	50.0	50.0		100.0		33.5
Agg Battery on LEO-Intent(Grt.B.H.)**	5	60.0	40.0		100.0		30.0
Agg Battery-Reckless(B. H.)**	9	55.6	44.4		88.9	11.1	24.6
Agg Battery-Reckless (Grt.B.H.)**	16	37.5	62.5		87.5	12.5	31.3
Aggravated Burglary	79	63.3	34.2	2.5	96.2	3.8	29.9
Aggravated Criminal Sodomy	23	47.8	47.8	4.3	95.7	4.3	40.3
Agg Escape from Custody	21	52.4	47.6		81.0	19.0	28.5
Agg Escape from Custody (Violence)	153	47.7	49.0	3.3	92.2	7.8	32.1
Agg Failure to Appear	4	50.0	50.0		100.0		29.0
Aggravated Incest, >16<18 yoa	36	58.3	38.9	2.8	100.0		38.1
Agg Incest-Relative, >14<18 yoa	9	55.6	44.4		100.0		33.2
Agg Indecent liberties w/child	41	56.1	43.9		100.0		32.8
Agg Indecent Lib w/child (lewd fond)	13	76.9	23.1		100.0		29.9
Agg Indecent Solicitation of a Child	17	76.5	23.5		88.2	11.8	33.9
Agg Intimidation of a Witness	5	20.0	80.0		100.0		27.6
Agg Juvenile Delinquency	1	100.0			100.0		24.0
Aggravated Kidnapping	13	53.8	46.2		100.0		31.9
Aggravated Robbery	191	55.0	42.9	2.1	96.3	3.7	31.0
Agg Sexual Battery-Intentional	65	46.2	49.2	4.6	96.9	3.1	32.8
Agg Vehicular Homicide	7	57.1	42.9		100.0		29.0
Agg Weapon Violation (b)(1)	6	66.7	33.3		83.3	16.7	34.8
Agg Weapons Violation (b)(2)	1	100.0			100.0		20.0
Aiding a Felon	13	30.8	69.2		84.6	15.4	26.0
Arson: Damage <\$25,000	14	57.1	42.9		92.9	7.1	30.6
Arson: Damage >\$25,000<\$50,000	30	60.0	40.0		90.0	10.0	33.9
Burglary	545	54.1	42.6	3.3	98.2	1.8	29.1
Burglary: Vehicle, Aircraft, etc.	131	51.9	45.8	2.3	97.7	2.3	27.3
Contribute to a Child's Misconduct	5	100.0			80.0	20.0	23.2
Criminal Damage of Property >\$25,000	5	20.0	80.0		80.0	20.0	27.2
Criminal Damage of Property <\$25,000	30	70.0	30.0		96.7	3.3	29.7
Criminal Discharge of a Firearm	9	55.6	44.4		88.9	11.1	22.1
Criminal Possession of Firearms	29	65.5	34.5		96.6	3.4	30.5
Criminal Sodomy	2	100.0			100.0		23.5
Criminal Threat	58	70.7	27.6	1.7	98.3	1.7	32.7
Criminal Use of Explosives	1	100.0			100.0		33.0
Criminal Use of Financial Card <\$25,000	7	71.4	28.6		71.4	28.6	31.1

Table 3: 1995 Nondrug Offender Characteristics by Type of Offense (Continued)

Offense Type	Number of Sentences	Race(%)			Gender(%)		Admit Age* Mean
		White	Black	Other	Male	Female	
Criminal Use of Fin Card >\$25,000	1	100.0			100.0		31.0
Criminal Use Weapons; Possessing	7	42.9	57.1		100.0		24.1
Driving while a Habitual Violator	63	55.6	41.3	3.2	95.2	4.8	33.2
Driving while Suspended-Third	64	59.4	39.1	1.6	100.0		32.9
Driving Under Influence of Alco/Drug-3rd	9	55.6	44.4		100.0		31.2
Drugs: Arranging Sale/Purchase	4	50.0	50.0		50.0	50.0	30.3
Enticement of a Child	10	80.0	20.0		100.0		35.3
Theft; Loss of < \$25,000	387	64.9	32.6	2.6	85.8	14.2	30.2
Theft: Loss of >=\$25,000	66	51.5	43.9	4.5	90.9	9.1	37.2
Theft of Services < \$25,000	2	100.0			100.0		28.0
Forgery	295	56.6	39.3	4.1	74.2	25.8	31.7
Giving a Worthless Check <\$25,000	13	38.5	61.5		69.2	30.8	30.7
Habitually Giving Worthless Check	8	50.0	37.5	12.5	100.0		40.0
Impairing a Security Interest < \$25,000	1	100.0			100.0		37.0
Incest	2	50.0	50.0		100.0		29.0
Indecent Liberties w/child	83	60.2	38.6	1.2	98.8	1.2	33.8
Indecent Solicitation of Child >14<16	3	66.7	33.3		100.0		26.7
Interference w/Parental Custody	1	100.0			100.0		21.0
Involuntary Manslaughter	36	52.8	47.2		72.2	27.8	30.0
Kidnapping	38	55.3	44.7		100.0		29.5
Lottery; Forgery of Ticket	2	50.0	50.0		100.0		33.0
Making a False Writing	12	83.3	16.7		100.0		34.7
Murder 1st	45	62.2	37.8		95.6	4.4	28.0
Murder 1st-Attempt	5	60.0	40.0		100.0		31.0
Murder 1st-Solicitation	1	100.0			100.0		50.0
Murder 2nd-Intentional	29	60.7	35.7	3.6	78.6	21.4	31.2
Murder 2nd-Reckless	20	60.0	35.0	5.0	95.0	5.0	25.5
Nonsupport of a Child or Spouse	11	63.6	36.4		100.0		41.6
Obstructing Legal Process	27	59.3	40.7		88.9	11.1	32.0
Obtaining a Prescription-Only Drug	1		100.0			100.0	48.0
Perjury: Felony Charge	1	100.0				100.0	55.0
Possession of Burglary Tools	3	33.3	66.7		100.0		30.3
Rape	56	67.9	30.4	1.8	96.4	3.6	33.4
Robbery	261	60.9	37.9	1.1	93.1	6.9	30.8
Securities-Intentional Violation	1	100.0			100.0		44.0
Sexual Exploitation w/child	3	100.0			100.0		44.0
Taxation; Drugs	6	66.7	33.3		100.0		35.3
Traffic in Contraband	12	58.3	33.3	8.3	83.3	16.7	29.1
Voluntary Manslaughter	40	65.0	35.0		87.5	12.5	30.2

* Age is based on age at time of admission to prison.

** B.H. = bodily harm; Grt.B.H. = great bodily harm.

Table 4: 1995 Drug Offender Characteristics by Offense Type

Type	Number of Sentences	Race(%)			Gender(%)		Admit Age*
		White	Black	Other	Male	Female	Mean
Opiates or Narcotics; poss. 4127a (a)	632	60.1	38.0	1.9	80.7	19.3	31.7
Opiat or Narco; sale, w/intent 4127a (b)	84	61.9	36.9	1.2	88.1	11.9	29.7
Opiates or Narcotics; poss/sale 4127a (c)	27	63.0	37.0		81.5	18.5	31.5
Opiat or Narco; poss/intent 4127a (d)**	12	58.3	41.7		58.3	41.7	30.3
Depress, stim, hall, poss.; 4127b(a)	55	50.9	43.6	5.5	94.5	5.5	28.7
Depre. stim; sale/poss. w/intent.; 4127b(b)	236	60.6	37.3	2.1	86.9	13.1	31.2
Opiat or Narco; sale w/intent 4127b(d)	7	42.9	57.1		57.1	42.9	34.1
Opiat or Narco or amphet.; 4127f	5	100.0			80.0	20.0	30.8
Depress, stim, hall, etc.; 4127g	5	60.0	40.0		80.0	20.0	30.8
Opiates or Narcotics; poss. 1st. 4160(a)	34	56.7	33.3	10.0	86.7	13.3	36.6
Opiates or Narcotics; poss. 2nd. 4160(b)	7	57.1	42.9		71.4	28.6	34.0
Opiates or Narcotics; poss. 3rd. 4160(c)	1	100.0				100.0	30.0
Opiates or Narcotics; sale, poss. 4161(d)**	1	100.0			100.0		36.0
Opiates or Narcotics; sale, poss 4161(a)	35	54.3	45.7		85.7	14.3	32.2
Depress, stim, hall, etc.; poss. 4162(a)	9	66.7	33.3		100.0		27.1
Depre. stim; sale/poss. w/intent; 4163(a)	16	56.3	43.8		100.0		35.6
Total	1,116	59.9	38.1	2.1	83.4	16.6	31.4

* Age is based on age at time of admission to prison.

** Sale, possession, w/intent to sell w/in 1,000 feet of a school.

TYPES OF ADMISSION AND SEVERITY LEVELS

Table 5 indicates the distribution of 1995 offenders by types of admission to the Kansas Department of Corrections (KDOC). Technical violators (probation, parole, post-release, and conditional) represented the highest percentage (60%) of offenders admitted to prison during FY 1995. New court commitments and violators with new sentences together contributed another 37.6% to admissions. Although technical violators do not have a length of stay equivalent to new court commitments, their volume alone is significant.

Table 5: Distribution of 1995 Offender Types of Admission

Type	Cases	Percent
New Court Commitment	1310	27.1
Probation Violators Technical Without New Sentences	989	20.5
Probation Violators With New Sentences	168	3.5
Inmate Receive on Interstate Compact	21	0.4
Presentence Evaluation	2	0.0
Parole/Post-release Violators Technical	1816	37.6
Parole/Post-release Violators With New Sentences	313	6.5
Paroled to Detainer	17	0.4
Conditional Release Technical	93	1.9
Conditional Release with New Sentences	24	0.5
Offenders Returned to Prison	80	1.7
Total	4833	100.0

Based on 4,833 offenders admitted in FY 1995.

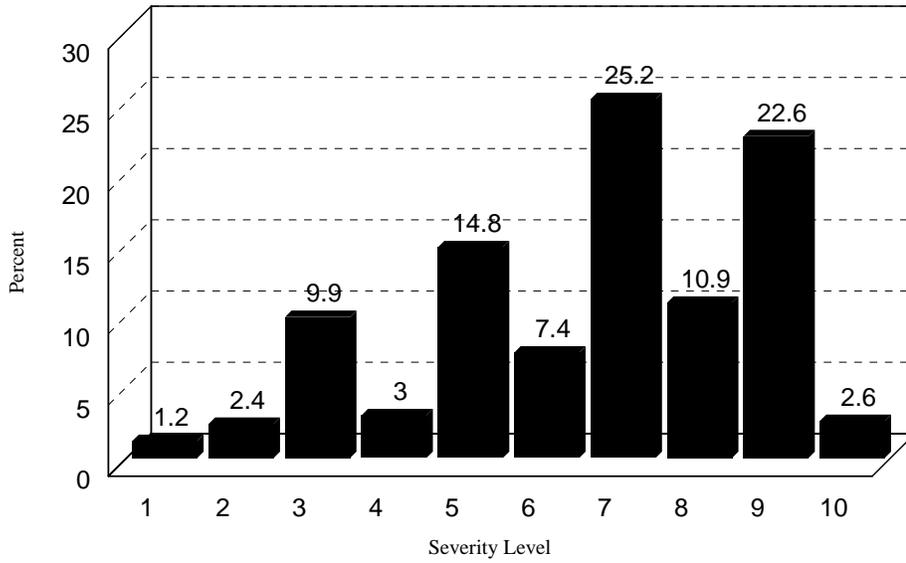
Table 6 indicates an overall distribution of all offenders by severity level and gender. Slightly over 25 % of all nondrug offenders were found in severity level 7 (Figure F) and over 75% of all drug offenders fell in drug severity level 3 (Figure G).

Table 6: Distribution of 1995 Offenders by Severity Level and Gender

Severity Level	Number Of Cases	Gender(%)		Subtotal
		Male	Female	
Drug				
1	5	0.2	0.2	0.4
2	54	3.5	1.1	4.6
3	881	63.2	12.5	75.7
4	225	16.5	2.8	19.3
Subtotal	1165	83.4	16.6	100.0
Nondrug				
1	43	1.0	0.2	1.2
2	84	2.3	0.1	2.4
3	351	9.6	0.3	9.9
4	108	2.9	0.1	3.0
5	527	13.7	1.1	14.8
6	262	6.8	0.6	7.4
7	897	24.3	0.9	25.2
8	386	8.5	2.4	10.9
9	803	20.8	1.8	22.6
10	92	2.3	0.3	2.6
Subtotal	3553	92.2	7.8	100.0
Total	4718	90.0	10.0	100.0

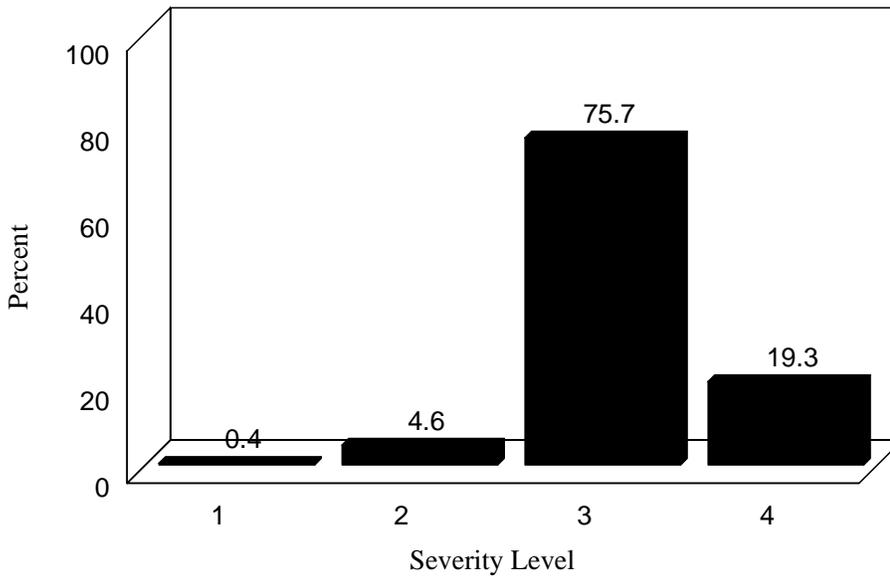
Based on 1,165 drug offenders and 3,553 nondrug offenders admitted in FY 1995.

Figure F: Distribution of 1995 Nondrug Offenders by Severity Level



Based on 3,533 nondrug offenders

Figure G: Distribution of 1995 Drug Offenders by Severity Level



Based on 1,165 drug offenders

CONFORMITY TO THE SENTENCING GUIDELINES

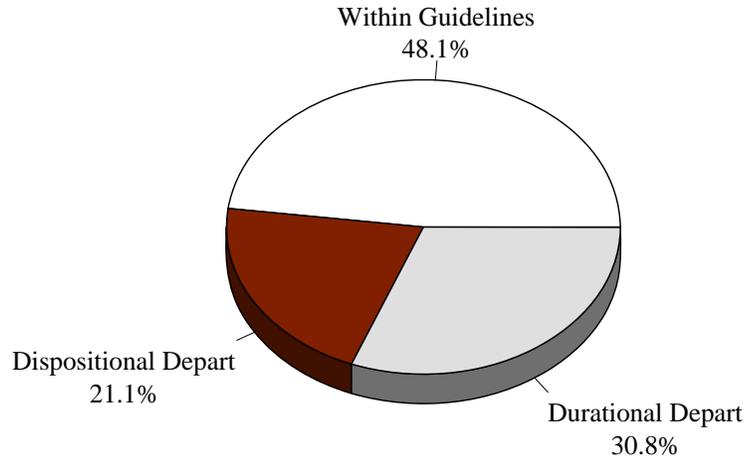
For this analysis, conformity to the sentencing guidelines refers only to incarceration sentences imposed under guidelines for offenders sentenced during FY 1995, due to insufficient probation data. A sentence is considered to conform to the guidelines if it falls within the range of sentence lengths in a guideline grid box for a specific criminal history category. A sentence which falls at the mid-point of a relative grid box is regarded as standard. A sentence which 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. A sentence length above the aggravated level is defined as "departure upward" and a sentence length lower than the mitigated level is defined as "departure downward".

Departures from the guidelines 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. 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 imposed by the guidelines. Only pure guideline sentences were used for this analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with an "old law" sentence and to which a criminal history category was present in the database.

Overall Conformity Rates

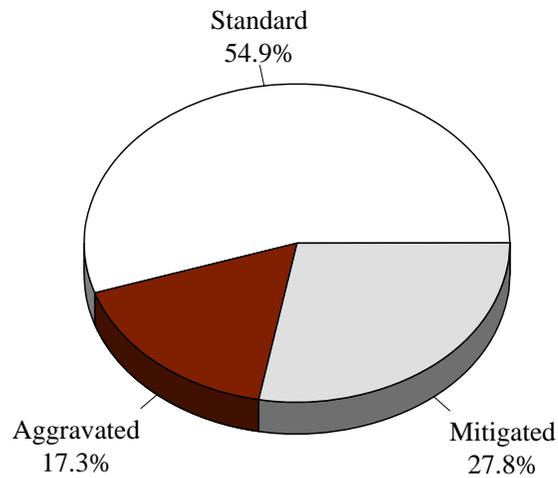
In FY 1995, there were 928 pure guidelines incarceration sentences. Figure H demonstrates that 48.1% were within the sentencing guidelines, 30.8% were durational departures, and 21.1% dispositional departures. Figure I indicates that 54.9% of all sentences within the guidelines fell within the standard range; 17.3 % were in the aggravated range; and 27.8 % were in the mitigated range. Distribution of durational departure sentences are illustrated in Figure J. Among the durational departure sentences, 40.2% departed upward from the guideline range, while 50.6% departed downward from sentences indicated on the grids.

Figure H: Distribution of 1995 Overall Guideline Sentences



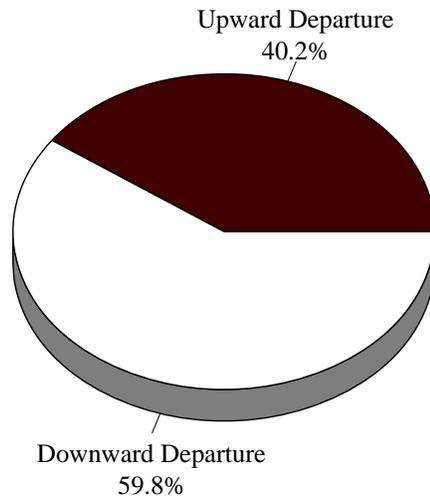
Based on 928 pure guideline sentences

Figure I: Distribution of Within Guideline Sentences



Based on 446 within guideline sentences

Figure J: Distribution of Durational Departures



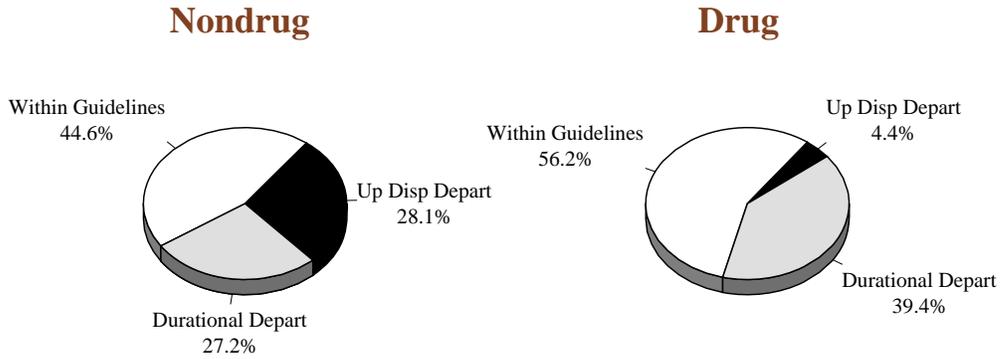
Based on 286 durational departure sentences

Comparison of Nondrug and Drug Guideline Sentences

Comparisons of conformity to the sentencing guidelines between the nondrug and drug grids are shown in Figures K and L. Figure K indicates that nondrug offenders showed 28.1% upward dispositional departures while drug offenders had only 4.4% upward dispositional departures. Nondrug offenders also had more upward durational departures and less downward durational departures than drug offenders (Figure L). Since our probation database at this time is insufficient for statistical analysis of dispositional downward departures, a valid percentage cannot be determined at this time.

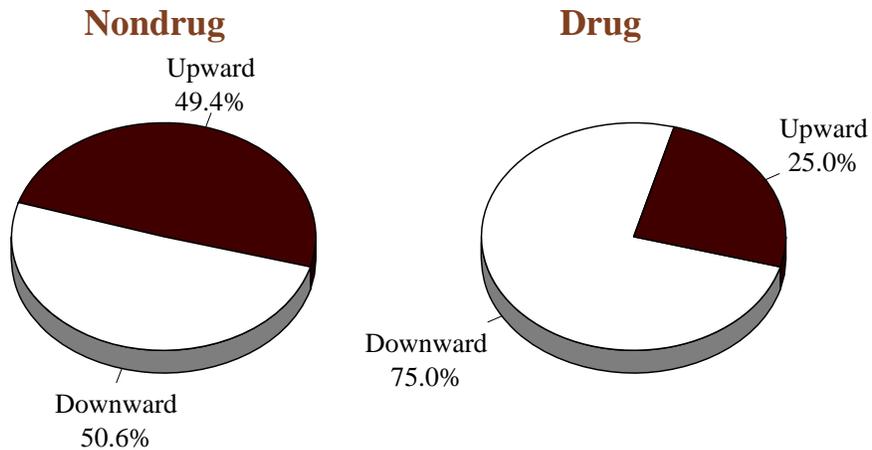
Examination of durational departures indicates that downward departures represent 75% of durational departures on the drug grid. However, the nondrug grid reveals that 49.4% of durational departures are downward. The majority of the upward departures are found on severity levels 1, 2, and 3 on the nondrug grid.

Figure K: Comparison of Nondrug and Drug Guideline Sentences



Based on 654 nondrug and 274 drug guideline sentences

Figure L: Comparison of Nondrug and Drug Durational Departure Sentences



Based on 178 nondrug and 108 drug durational departure sentences

Conformity Rates by Severity Level

Tables 7 and 8 demonstrate that conformity rates vary depending on severity levels, grid type, drug or nondrug. Nondrug sentences, as a whole, indicated 23.1% standard, 6.0% aggravated, and 12.5% mitigated sentences (Table 7), while drug sentences showed 34.3% standard, 6.6% aggravated, and 15.3% mitigated sentences (Table 8). As for the departure sentences, drug sentences indicated 9.9% upward durational departures, 29.6% downward durational departures, and 4.4% upward dispositional departures (Table 8). This would indicate that judges are giving shorter sentences than stated on the grid. Nondrug sentences showed 13.5% upward durational departures, 13.8% downward durational departures, and 28.1% upward dispositional departures (Table 7).

**Table 7: Conformity to the Sentencing Guidelines - Guideline Sentences
Nondrug Offenders by Severity Level**

Severity Level	Number of Cases	<u>WITHIN THE GUIDELINES(%)</u>			<u>DEPARTURE(%)</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	<u>Down</u>	<u>Dispositional</u> Up
Level I	27	22.2	18.5	7.4	29.6	22.2	
Level II	50	20.0	30.0	10.0	26.0	14.0	
Level III	121	9.1	29.8	20.7	19.0	21.5	
Level IV	36	16.7	30.6	13.9	11.1	27.8	
Level V	137	12.4	28.5	20.4	16.1	22.6	
Level VI	27		14.8	22.2	18.5	14.8	29.6
Level VII	99	1.0	15.2	3.0	7.1	3.0	70.7
Level VIII	39		20.5	2.6			76.9
Level IX	104	7.7	14.4	4.8	5.8	1.0	66.3
Level X	14		21.4	14.3		14.3	50.0
Total	654	9.0	23.1	12.5	13.5	13.8	28.1

Based on 654 pure guideline nondrug incarceration sentences.

**Table 8: Conformity to the Sentencing Guidelines - Guideline Sentences
Drug Offenders by Severity Level**

Severity Level	Number of Cases	<u>WITHIN THE GUIDELINES(%)</u>			<u>DEPARTURE(%)</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	<u>Down</u>	<u>Dispositional</u> Up
Level I	2					100.0	
Level II	31	3.2	29.0	12.9	19.4	35.5	
Level III	155	10.3	36.8	13.5	9.0	30.3	
Level IV	86	1.2	32.6	19.8	8.1	24.4	14.0
Total	274	6.6	34.3	15.3	9.9	29.6	4.4

Based on 274 pure guideline drug incarceration sentences.

Conformity Rates by Race

Tables 9 and 10 indicate the different conformity rates between drug and nondrug sentences by severity level and race. Table 9 shows that for nondrug sentences, as a whole, whites received more aggravated sentences (9.3%), less standard sentences (22.3%), fewer mitigated sentences (10.7%), greater number of upward durational departures (15.8%), fewer downward durational departures (9.3%), and more upward dispositional departure sentences. In comparison, blacks receives 8.7% aggravated sentences, 23.7% standard sentences, 15.3% mitigated sentences, 10.5% upward durational departures, 14.6% downward durational departures, and 27.2% upward dispositional departures. Examining drug sentences on Table 10 reveals a reversed trend except that whites had fewer downward durational departure sentences than blacks.

**Table 9: Conformity to the Sentencing Guidelines - Guideline Sentences
Nondrug Offenses by Severity Level and Race(%)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	<u>Down</u>	<u>Dispositional</u> Up
Level I							
White	15	26.7	13.3	6.7	26.7	26.7	
Black	11	18.2	27.3	9.1	27.3	18.2	
Other	1				100.0		
Level II							
White	32	15.6	31.3	12.5	31.3	9.4	
Black	15	26.7	26.7	6.7	20.0	20.0	
Other	3		33.3		33.3	33.3	
Level III							
White	57	7.0	31.6	15.8	26.3	19.3	
Black	61	11.5	26.2	26.2	11.5	24.6	
Other	3		66.7		33.3		
Level IV							
White	21	14.3	23.8	19.0	14.3	28.6	
Black	14	21.4	35.7	7.1	7.1	28.6	
Other	1		100.0				
Level V							
White	76	18.4	23.7	17.1	17.1	23.7	
Black	61	4.9	34.4	24.6	14.8	21.3	
Level VI							
White	11		9.1	27.3	27.3	18.2	18.2
Black	16		18.8	18.8	12.5	12.5	37.5
Level VII							
White	57	1.8	12.3	1.8	7.0	3.5	73.7
Black	41		19.5	4.9	7.3	2.4	65.9
Other	1						100.0
Level VIII							
White	24		25.0	4.2			70.8
Black	15		13.3				86.7
Level IX							
White	54	3.7	16.7		7.4	1.9	70.4
Black	47	12.8	12.8	10.6	4.3		59.6
Other	3						100.0
Level X							
White	8		37.5	25.0			37.5
Black	6					33.3	66.7
Total							
White	355	9.3	22.3	10.7	15.8	9.3	28.7
Black	287	8.7	23.7	15.3	10.5	14.6	27.2
Other	12	8.3	33.3		16.7	8.3	33.3

Based on 654 pure guideline nondrug incarceration sentences.

**Table 10: Conformity to the Sentencing Guidelines - Guideline Sentences
Drug Offenses by Severity Level and Race (%)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	<u>Down</u>	<u>Dispositional</u> Up
Level I							
White	1					100.0	
Black	1					100.0	
Level II							
White	15		20.0	20.0	26.7	33.3	
Black	16	6.3	37.5	6.3	12.5	37.5	
Level III							
White	91	9.9	37.4	16.5	12.1	24.2	
Black	62	11.3	33.9	9.7	4.8	40.3	
Other	2		100.0				
Level IV							
White	43		37.2	30.2	7.0	18.6	7.0
Black	40	2.5	30.0	10.0	7.5	30.0	20.0
Other	3				33.3	33.3	33.3
Total							
White	150	6.0	35.3	20.7	12.0	24.0	2.0
Black	119	7.6	32.8	9.2	6.7	37.0	6.7
Other	5		40.0		20.0	20.0	20.0

Based on 274 pure guideline drug incarceration sentences.

**Table 11: Conformity to the Sentencing Guidelines - Guideline Sentences
Nondrug Offenses by Severity Level and Race (Actual Number)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	<u>Down</u>	<u>Dispositional</u> Up
Level I							
White	15	4	2	1	4	4	
Black	11	2	3	1	3	2	
Other	1				1		
Level II							
White	32	5	10	4	10	3	
Black	15	4	4	1	3	3	
Other	3		1		1	1	
Level III							
White	57	4	18	9	15	11	
Black	61	7	16	16	7	15	
Other	3		2		1		
Level IV							
White	21	3	5	4	3	6	
Black	14	3	5	1	4	3	
Other	1		1				
Level V							
White	76	14	18	13	13	18	
Black	61	3	21	15	9	13	
Level VI							
White	11		1	3	3	2	2
Black	16		3	3	2	2	6
Level VII							
White	57	1	7	1	4	2	42
Black	41		8	2	3	1	27
Other	1						1
Level VIII							
White	24		6	1			17
Black	15		2				13
Level IX							
White	54	2	9		4	1	38
Black	47	6	6	5	2		28
Other	3						3
Level X							
White	8		3	2			3
Black	6					2	4
Total							
White	355	33	79	38	56	47	102
Black	287	25	68	44	30	42	78
Other	12	1	4		2	1	4

Based on 654 pure guideline nondrug incarceration sentences.

**Table 12: Conformity to the Sentencing Guidelines - Guideline Sentences
Drug Offenses by Severity Level and Race (Actual Number)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Standard	Miti	<u>Durational</u>		<u>Dispositional</u>
					Up	Down	Up
Level I							
White	1					1	
Black	1					1	
Level II							
White	15		3	3	4	5	
Black	16	1	6	1	2	6	
Level III							
White	91	9	34	15	11	22	
Black	62	7	21	6	3	25	
Other	2		2				
Level IV							
White	43		16	13	3	8	3
Black	40	1	12	4	3	12	8
Other	3				1	1	1
Total							
White	150	9	53	31	18	36	3
Black	119	9	39	11	8	44	8
Other	5		2		1	1	1

Based on 274 pure guideline drug incarceration sentences.

Conformity Rates by Gender

Table 13 illustrates that for nondrug sentences, conformity rates also vary depending on severity levels and gender. Males received more aggravated (9.3%) and upward durational departures (13.8%) sentences than females. However, females received more upward dispositional departures (33.9%) sentences and fewer mitigated (9.3%) sentences than males. Females also received fewer standard (20.4%) sentences than males (23.3%).

**Table 13: Conformity to the Sentencing Guidelines - Guideline Sentences
Nondrug Offenses by Severity Level and Gender (%)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Stand	Miti	<u>Durational</u> Up	<u>Dispositional</u> Down	Up
Level I							
Female	3	33.3	33.4			33.3	
Male	24	20.8	16.7	8.3	33.3	20.8	
Level II							
Female	2		50.0		50.0		
Male	48	20.8	29.2	10.4	25.0	14.6	
Level III							
Female	7		28.6	28.6	14.3	28.6	
Male	114	9.6	29.8	20.2	19.3	21.1	
Level IV							
Female	3					100.0	
Male	33	18.2	33.3	15.2	12.1	21.2	
Level V							
Female	16	12.5	43.8	12.5	12.5	18.8	
Male	121	12.4	26.4	21.5	16.5	23.1	
Level VI							
Female	2				50.0		50.0
Male	25		16.0	24.0	16.0	16.0	28.0
Level VII							
Female	6			16.7			83.3
Male	93	1.1	16.1	2.2	7.5	3.2	69.9
Level VIII							
Female	6						100.0
Male	33		24.2	3.0			72.7
Level IX							
Female	7						100.0
Male	97	8.2	15.5	5.2	6.2	1.0	63.9
Level X							
Female	2						100.0
Male	12		25.0	16.7		16.7	41.7
Total							
Female	54	5.6	20.4	9.3	9.3	16.7	38.9
Male	600	9.3	23.3	12.8	13.8	13.5	27.2

Based on 654 pure guideline nondrug incarceration sentences in FY 1995.

Table 14 indicates a different trend for drug sentences in that females received slightly more aggravated sentences (4.9%) and upward dispositional departure sentences (4.9%) than males (4.3% aggravated and 4.3% upward dispositional departure sentences). However, females had more mitigated sentences (19.5%) and downward durational departure sentences (34.1%) when compared to males.

**Table 14: Conformity to the Sentencing Guidelines - Guideline Sentences
Drug Offenses by Severity Level and Gender (%)**

Severity Level and Gender	Number of Cases	<u>WITHIN THE GUIDELINES</u>			<u>DEPARTURE</u>		
		Agg	Standard	Miti	<u>Durational</u> Up	Down	<u>Dispositional</u> Up
Level I							
Female	2					100.0	
Male	0						
Level II							
Female	9	11.1	11.1	11.1	33.3	33.3	
Male	22		36.4	13.6	13.6	36.4	
Level III							
Female	18	5.6	38.9	22.2		33.3	
Male	137	10.9	36.5	12.4	10.2	29.9	
Level IV							
Female	12		25.0	25.0	8.3	25.0	16.7
Male	74	1.4	33.8	18.9	8.1	24.3	13.5
Total							
Female	41	4.9	26.8	19.5	9.8	34.1	4.9
Male	233	4.3	35.6	14.6	9.9	28.8	4.3

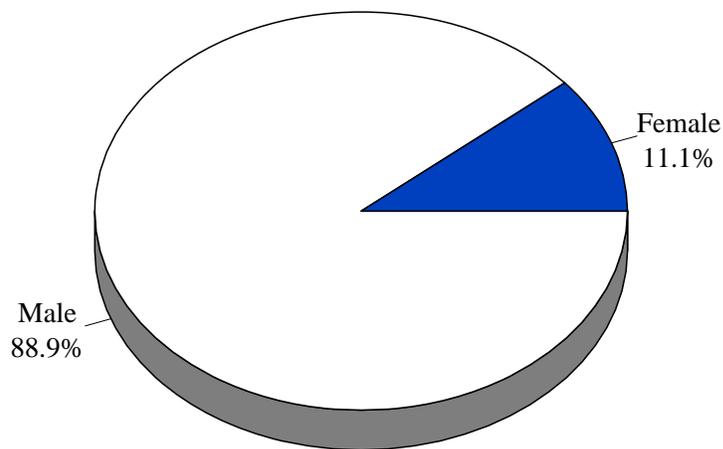
Based on 274 pure guideline drug incarceration sentences in FY 1995.

TECHNICAL VIOLATORS

Technical violators in this section include probation violators technical and parole/post-release violators technical, which accounted for 58.1% of all 1995 admissions. Characteristics of all technical violators by severity level are shown in Table 15. The largest proportion of these technical violators fell in drug severity level 3 and nondrug severity level 7. Figures M, N, O, and P summarize graphically the distributions of these violators by gender, race, age and education, respectively.

White (58.5%) and males (88.9%) represented the highest percentages in the categories of gender and race, respectively (Figures K and L). The highest percentages of technical violators' educational levels were found in the category either of high school attenders (26%) or high school graduates/GED equivalent (49.1%) (Figure N). Over 63% of technical violators at the admission date were between the ages of 25 and 40 (Figure M).

**Figure M: Distribution of Technical Violators
by Gender**



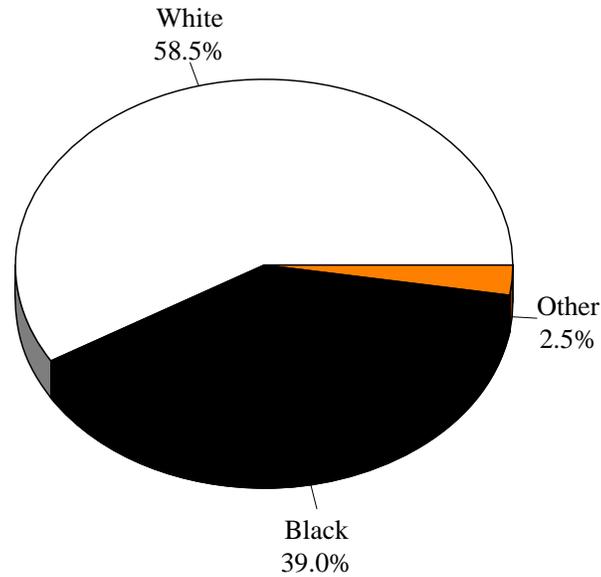
Based on 2,805 technical violators admitted in FY 1995.

Table 15: Characteristics of Technical Violators by Severity Level

Severity Level	Number of Cases	Race			Gender		Admission Age*
		White	Black	Other	Male	Female	Mean
D1	1		1			1	27.0
D2	5	4	1		4	1	33.4
D3	558	344	204	10	451	107	31.7
D4	88	53	32	3	72	16	29.4
N1	7	5	2		6	1	34.9
N2	14	8	6		14		34.4
N3	150	96	52	2	147	3	34.4
N4	54	30	24		53	1	34.8
N5	267	155	104	8	250	17	30.8
N6	181	99	78	4	163	18	31.4
N7	638	330	286	22	614	24	29.3
N8	238	141	87	10	174	64	30.5
N9	528	333	185	10	481	47	28.7
N10	43	24	19		37	6	30.4
OFF	4	2	2		4		43.3
UNK	29	18	10	1	23	6	29.6
Total	2805	1642	1093	70	2493	312	30.5

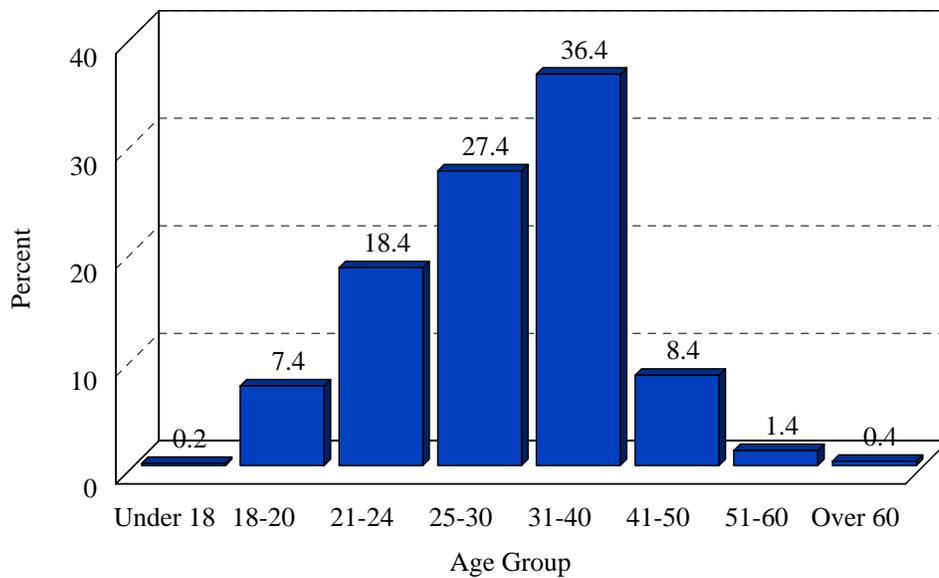
* Age is based on the age at time of admission to prison.

Figure N: Distribution of Technical Violators by Race



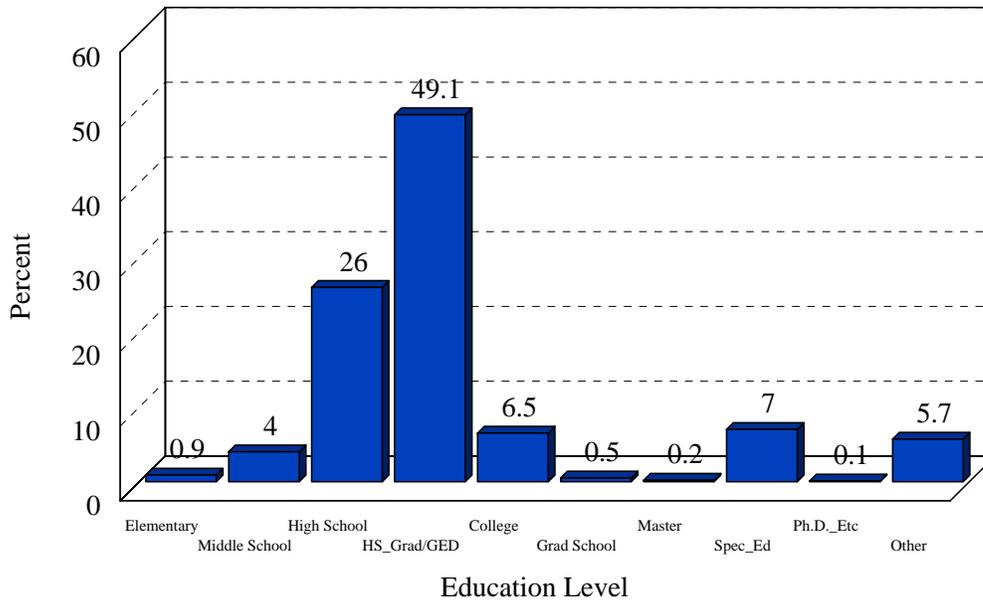
Based on 2,805 technical violators admitted in FY 1995.

Figure O: Distribution of Technical Violators by Age



Based on 2,803 technical violators admitted in FY 1995.

Figure P: Distribution of Technical Violators by Education Level



Based on 2,805 technical violators admitted in FY 1995.

Probation Technical Violators

During FY 1995, there were 986 technical probation violators admitted to the custody of KDOC. Of this number, 620 were guideline sentences, 304 pre-guideline/old law sentences, and 11 cases contained a combination of guideline and pre-guideline sentences. Characteristics of technical probation violators by offense type are shown in Tables 16 and 17.

Burglary, theft, and forgery were the most frequent sentencing offense for nondrug technical probation violators, while possession of opiates or narcotics and depressants, stimulants, hallucinogenics, etc. (sale/possession with intent to sell) were the most frequent offense types for technical probation violators on the drug grids. Aggravated assault, aggravated battery, driving while suspended (third time), and robbery were sentencing offenses for which there was a significant number of technical probation violators. The average length of time for nondrug technical probation violators from the age of offense to the age of admission to prison was 2.4 years, while the average length of time for drug violators was 2.5 years. Distributions of technical probation violators by severity level and criminal history are exhibited in Table 18.

**Table 16: Characteristics of Probation Technical Violators by Offense Type
Nondrug offenders**

Offense Type	Number of Cases	Race			Gender		Offense Age*	Admit Age*
		White	Black	Other	Male	Female	Mean	Mean
Aggravated arson	1		1		1		31.0	32.0
Aggravated assault	31	16	14	1	29	2	24.7	26.8
Aggravated battery	31	16	15		30	1	26.4	28.1
Aggravated burglary	9	6	2	1	9		21.6	24.2
Aggravated escape from custody	8	5	3		7	1	25.9	27.5
Aggravated incest	13	7	5	1	13		30.9	33.7
Aggravated kidnapping	1	1			1		14.0	18.0
Aggravated robbery	8	4	4		8		24.4	26.3
Aggravated sexual battery	9	3	6		9		27.6	31.2
Aggravated weapon violation	1		1		1		34.0	34.0
Aggravated assault on LEO	6	4	2		6		27.0	29.7
Agg indecent solicitation of a child	2	2			2		34.5	37.5
Aid a felon	5	2	3		4	1	21.2	23.6
Arson	3	1	2		3		19.0	21.3
Burglary	168	94	67	7	163	5	22.3	24.4
Child abuse	6	3	3		5	1	26.0	28.2
Contribute a child misconduct	3	3			3		21.0	22.3
Criminal damage	15	11	4		15		25.0	27.6
Criminal discharge of firearm	3	1	2		2	1	21.3	22.7
Criminal possession of firearm	1	1			1		24.0	25.0
Criminal use of financial card	1		1		1		17.0	18.0
Criminal threat	22	18	4		22		28.4	30.5
Driving while a habitual violator	13	8	4	1	10	3	30.5	33.4
Driving while suspended - 3rd	28	17	11		28		30.5	32.4
Forgery	82	51	26	5	50	32	26.1	28.5
Giving a worthless check	3	1	2		1	2	25.0	29.0
Indecent liberties w/child	23	12	10	1	22	1	25.8	28.8
Indecent solicitation of a child	3	3			3		24.3	26.0
Involuntary manslaughter	1		1			1	18.0	19.0
Making a false writing	7	6	1		7		32.1	35.9
Obstructing legal process	5	4	1		5		25.2	27.0
Robbery	26	17	9		22	4	25.3	27.6
Sexual exploitation of a child	1	1			1		64.0	65.0
Theft	109	71	37	1	91	18	26.1	28.7
Traffic in contraband	2	2			1	1	23.5	25.0
Other	41	23	17	1	34	7	27.2	29.9
Total	691	414	258	19	610	81	25.4	27.8

* Offense age and admission age at time of technical violation are based on 676 nondrug violators.

**Table 17: Characteristics of Probation Technical Violators by Offense Type
Drug Offenders**

Offense Type	Number Of Cases	Race			Gender		Offense Age*	Admit Age*
		White	Black	Other	Male	Female	Mean	Mean
Opiates or Narcotics; poss. 4127a (a)	209	130	77	2	153	56	28.6	31.2
Opiates or Narcotics; intent 4127a (b)	4	4			4		26.3	27.3
Opiates or Narcotics; poss/sale 4127a (c)	3	2	1		2	1	28.0	29.0
Opiat or Narco; poss/intent 4127a (d)	1	1				1	31.0	33.0
Depress, stim, hall, poss.; 4127b(a)	18	18			16	2	25.4	27.8
Depre. stim; sale w/intent.; 4127b(b)	57	35	20	2	46	11	25.7	28.4
Opiat or Narco or amphet.; 4127f	1	1			1		35.0	39.0
Depress, stim, hall, etc.; 4127g	1	1				1	26.0	30.0
Opiates or Narcotics; poss. 1st. 4160(a)	3	2	1		3		25.0	25.3
Opiates or Narcotics; sale, poss 4161(a)	1	1			1		16.0	17.0
Total	298	195	99	4	226	72	27.8	30.3

* Offense age and admission age at time of technical violation are based on 298 drug violators.

**Table 18: Distribution of Probation Technical Violators by Severity Level
And Criminal History**

Severity Level	Criminal History									Total
	A	B	C	D	E	F	G	H	I	
D1						1				1
D2					1	1			1	3
D3	1						1	4	2	8
D4		2		1	3	3	7	15	25	56
N5			1	1		1	1	3	7	14
N6									1	1
N7	1		13	3	10	7	15	8	17	74
N8			3	3	8	2	11	6	12	45
N9	3	2	9	6	13	5	15	14	21	88
N10			2			1	2	1	7	13
Total	5	4	28	14	35	21	52	51	93	303

Based on 303 probation technical violators reporting criminal history.

Parole/Post-Release Technical Violators

Parole/post-release technical violators represent the largest percentage of FY 1995 admissions. They totaled 1,816 and accounted for 37.6% of the total admissions. Characteristics of this offense group are illustrated in Figures Q, R, S, T, U and V. White males accounted for highest percentages of this group (Figures Q and R). The largest percentage (40.2%) of violators were found to be in their 30's at time of admission for the violation (Figure S). The majority of parole/post-release technical violators had attended high school or graduated from high school or had a GED equivalent (Figure T).

Figure U shows that 94.6% of the technical violators on the drug grid returned to prison were found on severity level 3, while Figure V indicated that 31.6% of the nondrug violators were on severity level 7. Seventy percent of drug violators had been convicted of a crime for possession of opiates or narcotics (Table 19). Most nondrug post-release technical violators had been convicted of burglary, robbery, theft, or escape from custody (Table 20).

Review of the data available indicated that very few parole/post-release violators had complete criminal histories available. This indicates that the data for this population needs to be monitored more closely.

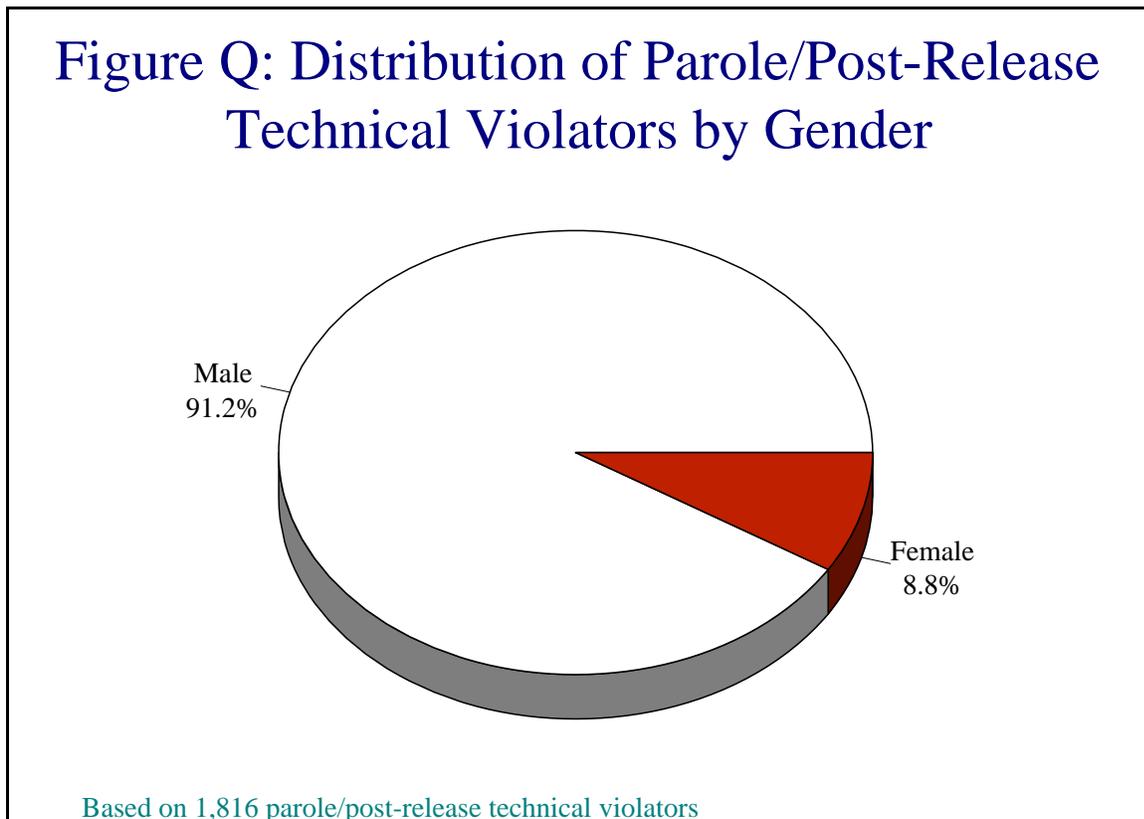
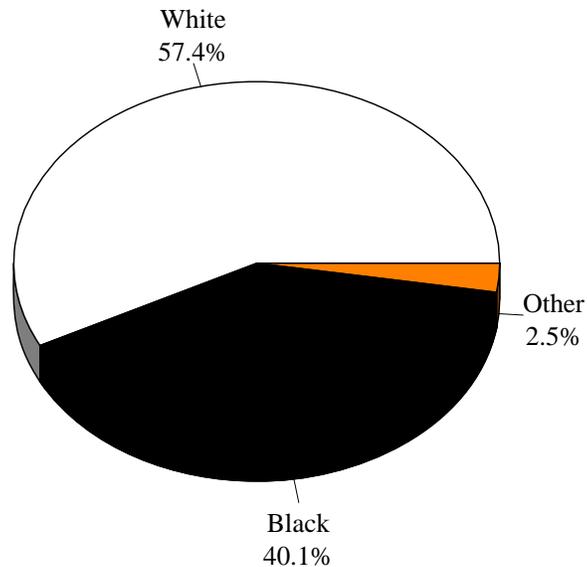
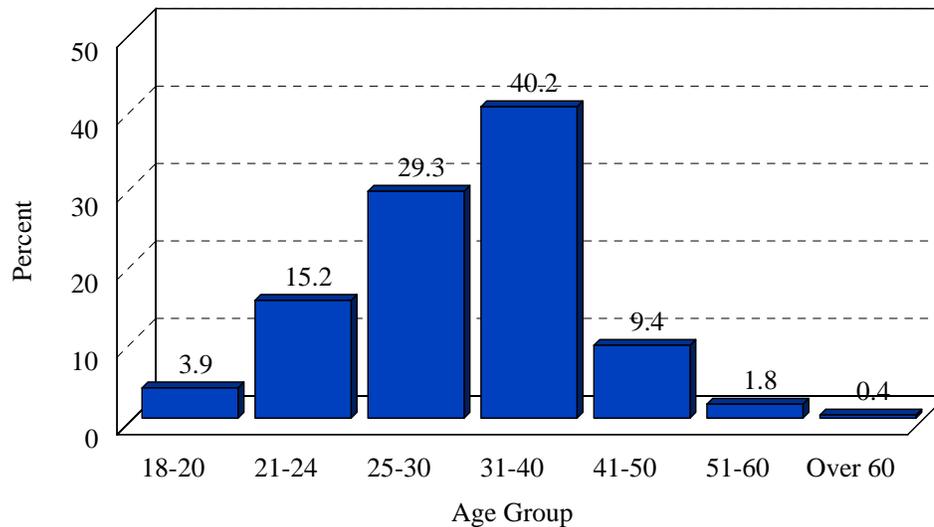


Figure R: Distribution of Parole/Post-Release Technical Violators by Race



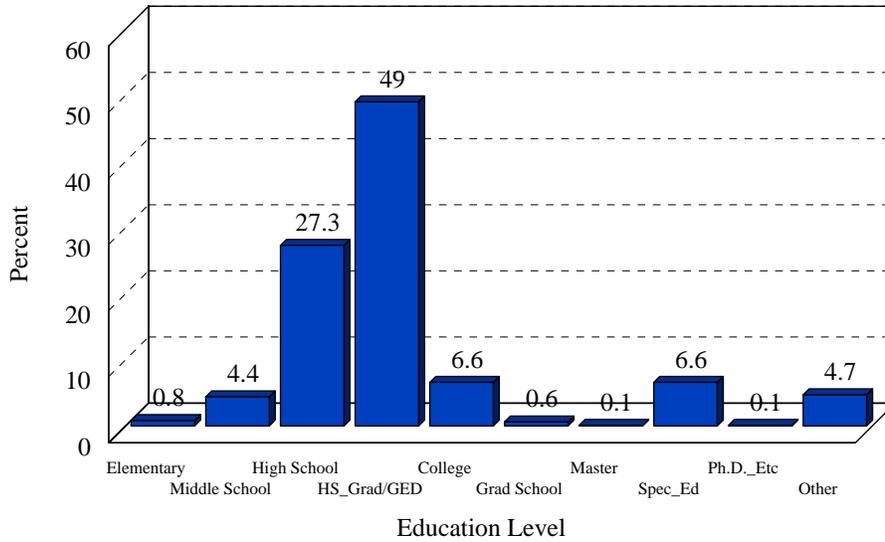
Based on 1,816 parole/post-release technical violators.

Figure S: Distribution of Parole/Post-Release Technical Violators by Age



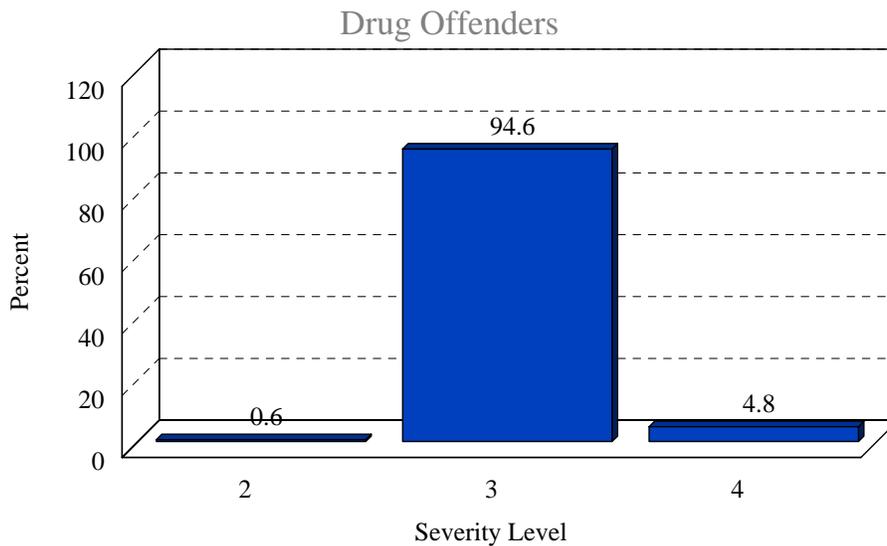
Based on 1,814 parole/post-release violators at age of technical violation admissions.

Figure T: Distribution of Parole/Post-Release Technical Violators by Education Level



Based on 1,816 parole/post-release violators.

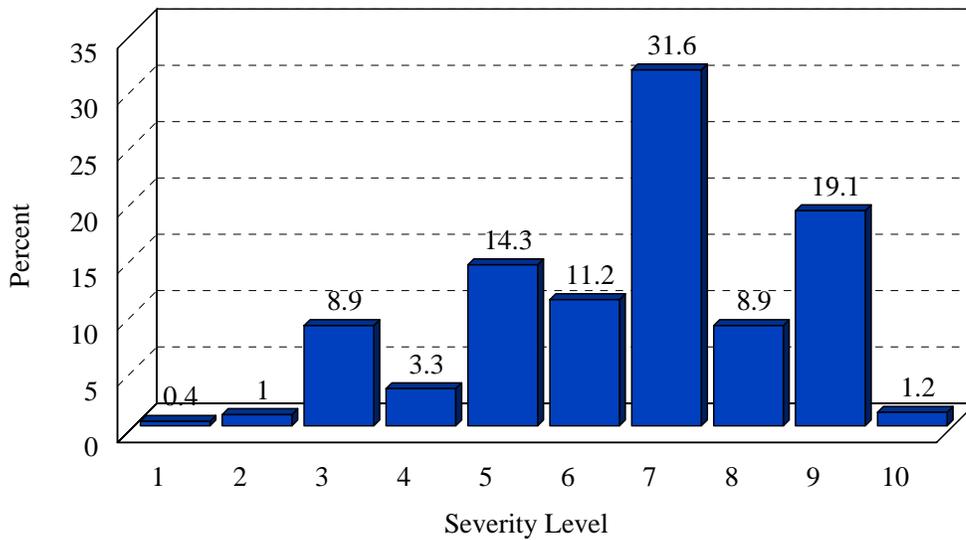
Figure U: Distribution of Parole/Post-Release Technical Violators by Severity Level



Based on 354 drug parole/post-release technical violators.

Figure V: Distribution of Parole/Post-release Technical Violators by Severity Level

Nondrug Offenders



Based on 1,443 nondrug parole/post-release technical violators

Table 19: Characteristics of Parole/Post-release Technical Violators by Offense Type Drug Offenders

Offense Type	Number Of Cases	Race			Gender		Age*
		White	Black	Other	Male	Female	Mean
Opiates or Narcotics; poss. 4127a (a)	248	147	95	6	208	40	31.2
Opiates or Narcotics; intent 4127a (b)	3	2	1		2	1	37.7
Depress, stim, hall, poss.; 4127b(a)	10	6	4		10		29.4
Depre. stim; sale w/intent.; 4127b(b)	86	54	31	1	75	11	33.7
Opiat or Narco or amphet.; 4127f	3	3			2	1	25.7
Depress, stim, hall, etc.; 4127g	4	2	2		4		38.3
Total	354	214	133	7	301	53	32.4

* Age is based 354 parole/post-release technical drug violators at the age of technical violation to prison.

**Table 20: Characteristics of Parole/Post-Release Technical Violators by Offense Type
Nondrug offenders**

Offense Type	Number Of Cases	Race			Gender		Age* Mean
		White	Black	Other	Male	Female	
Aggravated arson	1	1			1		44.0
Aggravated assault	73	31	40	2	70	3	31.0
Aggravated battery	70	34	36		67	3	33.3
Aggravated burglary	29	20	8	1	29		31.9
Aggravated escape from custody	120	58	58	4	109	11	31.4
Aggravated incest	5	4	1		5		38.2
Aggravated robbery	97	62	34	1	93	4	34.4
Aggravated sexual battery	31	16	12	3	29	2	29.7
Aggravated vehicular homicide	6	3	3		6		28.8
Aggravated weapon violation	3	3			2	1	34.0
Aggravated assault on LEO	7	5	2		6	1	31.9
Agg battery on LEO	2	2			2		36.0
Agg indec solicitation of a child	5	4	1		3	2	30.2
Agg criminal sodomy	5	2	3		5		35.4
Aid a felon	4	2	2		3	1	24.8
Arson	28	18	10		26	2	32.7
Burglary	332	176	145	11	326	6	29.5
Child abuse	2	2			1	1	28.0
Contribute a child misconduct	1	1			1		26.0
Criminal damage	10	6	4		9	1	27.6
Criminal discharge of firearm	2	1	1		2		21.5
Criminal possession of firearm	1		1		1		23.0
Criminal threat	17	12	5		17		31.9
Driving while a habitual violator	19	9	10		19		30.3
Driving while suspended - 3rd	15	11	4		15		33.6
Enticement of a child	5	4	1		5		29.0
Forgery	108	57	46	5	80	28	32.8
Giving a worthless check	6	1	5		4	2	29.7
Indecent liberties w/child	17	13	4		17		34.4
Involuntary manslaughter	6	3	3		4	2	29.3
Kidnapping	9	6	3		9		36.0
Making a false writing	2	2			2		36.0
Murder 1st	5	3	2		5		41.6
Murder 2nd	6	3	3		5	1	36.7
Obstructing legal process	5	4	1		3	2	33.2
Rape	13	8	5		13		36.7
Robbery	138	82	53	3	131	7	31.3
Theft	189	114	68	7	166	23	30.8
Traffic in contraband	3	3			3		28.3
Voluntary manslaughter	16	12	4		15	1	36.2
Other	49	35	13	1	47	2	31.0
Total	1,462	828	596	38	1,356	106	31.4

* Age is based on age at time admitted to prison for the technical violation.